

The Regular Meeting of the Planning Board of the Township of Upper Deerfield was held on Monday, October 18, 2010 at 7:00 P.M. in the Municipal Building, Seabrook, N.J.

Vice Chairman: Ed Overdevest called the meeting to order and read the following notice:

This is a regularly scheduled meeting of the Planning Board of the Township of Upper Deerfield. In compliance with the "Open Public Meeting Act" a schedule of regular meetings containing the location and time and date of each meeting was approved at the Annual Organization Meeting of the Board, and within seven days following such Organization meeting, a copy of such schedule of regular meetings was posted in the Municipal Building at Seabrook, New Jersey, which Notice has remained so posted throughout the year, and copies of the schedule of regular meetings have been mailed to The News of Cumberland County and filed with the Township Clerk in compliance with said Act.

Present:

Vice Chairman: Ed Overdevest

Members: Ernest Holt, Bruce Peterson, alternate # 1 Russ Vanella, alternate # 4 Pauline Smith

Staff: Planner Randy Scheule, PP, AICP, Solicitor Theodore H. Ritter, Esq., Secretary Vicki Vagnarelli.

Absent: Chairman: Bruno Basile, Robert Comer, Edward Fleetwood, Jodi Hirata, Terry O'Neil, Gene Stoms, alternate # 2 John Timberman alternate # 3 Gary Barbeck, Engineer Robert C. DuBois, P.E.,

On motion of Ernest Holt, seconded by Pauline Smith the following Resolution was memorialized.

RESOLUTION NO. 20-2010

UPPER DEERFIELD TOWNSHIP

PLANNING BOARD

WHEREAS, Barbara and Josef Grabski have made application to the Upper Deerfield Township Planning Board for a Bulk Variance

for installation of a solar energy generating facility in the front yard at their residence property; and,

WHEREAS, a Public hearing was held by the Board on October 13, 2010, at the Municipal Building, 1325 State Highway 77, Seabrook, Cumberland County, New Jersey, and the Board having heard the testimony presented by the applicant and having heard the sentiment of all

persons wishing to speak;

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Township of Upper Deerfield that the Board does find as facts the following:

1. That all property owners within 200 feet of applicants' premises were properly served with a Notice of Hearing.
2. That compliance has been had with each of the various requirements of the Open Public Meetings Law, P.L. 1975 c. 231
3. The property affected by this application is known as #121 Old Burlington Road. The lot comprises 3.9 acres and is zoned agricultural.
4. The property is designated as Lot 7.03, of Block 801, and has 454 feet of frontage on unimproved Reynolds Road.
5. A variance is required because applicant seeks to erect a ground mounted solar energy generating facility in the front yard of this residential property. Pursuant to Upper Deerfield Code § 98-24.1(C)(2)(b), ground mounted solar panels are not permitted in residential yards. Applicants' proposal is to locate the solar panels within thirty (30) feet of Reynold's Road right-of-way. The minimum front yard setback in the Agricultural zone is fifty (50) feet.
6. Applicant Barbara Grabski was sworn and testified that compliance with the ordinance would require the removal of at least a dozen trees from both sides, and the front of this property. This is a heavily wooded lot, and is surrounded by a nursery farm on three sides.
Applicants wish to preserve the trees, as well as the shade and coolness they supply.
7. Placing the solar panels on the roof of the home, or in the side or back yard would cause destruction of even more trees.

8. Applicant testified that the positioning of the panels in the front of the house, as proposed, would only require the removal of two or three trees, and, in applicant's words, "would not disrupt much of the natural order of nature around our house"

9. The evidence indicated that the home is situated approximately 500 feet off Old Burlington Road, and access to the dwelling is from Reynolds Road, an unimproved right of way.

10. Applicant also testified that she and her husband wish to maintain their privacy, while "going green".

11. Also, received in evidence were drawings and diagrams generated by Mercury Solar Systems together with aerial photographs, and a plat drawing by applicant superimposed on a survey dated May 8, 1989.

12. The Board also received and considered

(a.) The September 23, 2010, report of Ed Fleetwood, Zoning Code Official.

(b.) The Board received and considered the report of the Upper Deerfield Township Environmental Commission, and

(c.) The Board received and considered the report of Planning Board Planner, Randall Scheule, dated October 7, 2010.

13. Applicant also requested the following waivers from Schedules "A" and "C" as follows:

Schedule "A"

Documentation regarding wetlands. (6)

Schedule "C"

1. Metes and bounds data based on current survey is required
2. Property lines in degrees, minutes and seconds (6)
3. Names of property owners within 200 feet (13)
4. Environmental impact report (41f-k)
5. Drainage calculations (44)

14. No one appeared in opposition to the application.

15. The Board has carefully considered this matter and finds that good cause exists for the granting of the variance and the waivers sought.

16. The Board further finds that such relief can be granted without substantial detriment to the public good and that the granting of such variance and waivers would not substantially impair the intent or purpose of the zone plan, or that of the Zoning Ordinance of the Township of Upper Deerfield. The Board further finds that the benefits to the applicant, the neighborhood, and the general public, outweigh any detriments attendant to deviating from the strict enforcement of the Ordinance prohibiting the placement of solar panels in the front yard setback of this residential property.

BE IT FURTHER RESOLVED, that this Board does hereby grant a bulk variance with waivers listed aforesaid, to applicant, pursuant to N.J.S.A. 40-55D-70(c) and the provisions of Chapter 98 of the Code of Upper Deerfield provided that the following conditions are met:

1. That compliance be had with all other applicable requirements of the Upper Deerfield Township Zoning Ordinance and Building.

BE IT FURTHER RESOLVED, that a certified copy of this Resolution be furnished to applicants, and note that this action be advertised as required by law.

**TOWNSHIP OF UPPER DEERFIELD
PLANNING BOARD**

By: _____
BRUNO A. BASILE, CHAIRMAN

ATTEST: _____
VICKI VAGNARELLI, Secretary

Memorialized: October 18, 2010

Roll Call

Bruno Basile – Absent

Robert Comer – Absent

Jody Hirata – Absent

Terry O’Neill – Cannot Vote

Gene Stoms – Absent

Russell Vanella, Alt #1 – No Vote

Gary Barbeck, Alt #3 – Absent

Ed Overdevest – Aye

Ed Fleetwood – Cannot Vote

Ernest Holt – Aye

Bruce Peterson – Cannot Vote

John Timberman, Alt #2 – No Vote

Pauline Smith, Alt # 4 - No Vote

On motion of Ernest Holt, seconded by Russ Vanella the following Resolution was memorialized.

RESOLUTION # 21-2010

Township of Upper Deerfield Planning Board

Applicant’s Name: Comet Land Development, L.L.C.

Property: Block 1101, Lots 13, 14, 18, and 21.02

Application: Final Major Site Plan Approval

Final Major Site Plan Approval (Use, Preliminary Site Plan and Bulk Variances and Waivers previously granted)

Final Major Site Plan Hearing: October 13, 2010

Findings of Fact:

1. Applicant was represented by Alan P. Fox of the Capehart and Scatchard Law Firm.
2. Applicant was granted a Use Variance by this Board's Resolution #11-2010, following a Use Variance Public Hearing conducted on April 19, and May 17, 2010.
3. Thereafter, Applicant was granted Preliminary Major Site Plan Approval with bulk variances and waivers by this Board's Resolution #18-2010.
4. Compliance has been had with each of the various requirements of the Open Public Meetings Law, P.L. 1975 c. 231
5. The property affected by this application is situated northwest of the intersection of Silver Lake Road, and DuBois Road, in the R-1 Zone. It comprises Lot Nos. 13, 14, 18 and 21.02, of Block 1101 as shown on the Upper Deerfield Township Tax Map.
6. Applicant now seeks final major site plan approval from this Board in furtherance of the preliminary major site plan approval granted on September 13, 2010, and documented by aforesaid Board Resolution #18-2010.
7. The Board accepts as factual the plans and documents submitted by and on behalf of applicant as enumerated in Board Resolution #18-2010.
8. The Board also received and considered the following additional data:
 - (a) Development application form dated September 22, 2010, and
 - (b) Comet Power Production System final major site plan drawings revised September 30, 2010.
9. At the public hearing of October 13, 2010, Applicant presented the expert testimony of Mr. Joseph Raday, and the lay testimony from Bruce Martin.
10. Engineer Raday explained changes made to the final major site plan drawings which will be filed as a perfected plan.

11. Mr. Martin gave testimony regarding fencing which will be vinyl coated, and which will have, small animal migration apertures in the fencing adjacent to the western and northern property lines at approximately 500-foot intervals as requested by the Upper Deerfield Township Environmental Commission.

12. No one appeared in opposition to the application. The only member of the public testifying during the public hearing on October 12, 2010, was Sandy Morrissey, of the Upper Deerfield Township Environmental Commission.

13. The revised major site plan bearing the revision date of September 30, 2010, documents the size of the lot as 87.08 acres.

14. The Board also received and considered the October 12, 2010, report of Robert C. DuBois, Planning Board Engineer, and the October 6, 2010, report of Planning Board Planner, Randall Scheule, PP/AICP. Both engineer DuBois and planner Scheule were present for and participated in the hearing on applicant's final major site plan.

15. The Board received and considered the report of the Upper Deerfield Environmental Commission dated October 7, 2010, and a reply to that report from Joseph J. Raday, P.E., and Nicole Maslanich, Environmental Consultant on the letterhead of A. B. R. Consultants, L.L.C., dated October 8, 2010.

16. The Board discussed several provisions that had been incorporated in its Resolution #18-2010.

(a) Specifically, a lot consolidation deed has been prepared and will be augmented with a new metes and bounds description of the consolidated tract.

(b) The Board agrees with applicant's request that a written abandonment of the forty-nine lot subdivision approval need not occur until sixty days after the Board adopts a memorializing resolution granting final major site plan approval. However, such deadline will be tolled in the

event an appeal from the Board's action granting final major site plan approval is filed.

- (c) Comet consents that no solar panels will be installed at the property until it delivers such written abandonment of the forty-nine lots subdivision approval.
- (d) The Board deletes the requirement previously mentioned in paragraph "J" on page nine, of its Resolution #18-2010, requiring a Cumberland County Soil Conservation District Certification that the new groundcover has been established. Instead, the Board will rely upon an inspection by Planning Board Engineer, DuBois and/or Planning Board Planner Scheule to verify that sufficient groundcover has been established prior to applicant installing any solar panels.

17. A redraft of the landscape buffer agreement was presented to Board staff at the October 13, 2010 meeting. The agreement will be circulated among Board Members for input and its text will be finalized as a condition of this final approval.

18. An outline and rough draft Developer's Agreement has been exchanged between counsel for applicant, and the Solicitor to the Board. The text of the Developer's Agreement will be finalized and the Developer's Agreement executed as a condition of this final approval.

19. The Board finds and determines that applicant's major site plan can receive final approval without causing substantial detriment to the public good, and without impairing the intent and purpose of the Zoning Ordinance and master plan.

20. The Board further finds and determines that the applicant has substantially complied with the conditions of preliminary site plan approval.

NOW, THEREFORE, BE IT RESOLVED that the Upper Deerfield Township Planning Board does hereby grant final major site plan approval to Comet Land Development, L.L.C., conditioned upon the following:

- A. A perfected plan addressing all representations made by applicant, and all outstanding

comments contained in the Planning Board Planner's Report is to be filed by applicant.

- B. Applicant is permitted to include the aforementioned, spaced apertures, for small animal migration, in the perimeter fence bordering the westerly and northerly sides of the project.
- C. The chain-link fencing will be vinyl coated. The color will be selected by applicant and will be either green, or black, at applicant's option.
- D. Applicant will post a cash deposit, or other form of surety that is acceptable to the Township Solicitor in the amount of \$75,000.00, or in such other amount as deemed necessary and appropriate by the Planning Board Engineer to guarantee the installation of the landscaping buffer.
- E. The terms of the landscaping buffer agreement shall be finalized between the Planning Board Planner, Planning Board Solicitor, and applicant's attorney, after Planning Board members have been afforded the opportunity for input.
- F. Applicant will record the lot consolidation deed, after the new metes and bounds description has been approved by Engineer DuBois, and the form of the lot consolidation deed is approved by the Board Solicitor.
- G. Applicant will furnish a written abandonment of the previously approved forty-nine lot subdivision within sixty days of the Board's adoption of this Resolution granting final major site plan approval. Otherwise, the Final Site Plan approval will automatically expire. However, if an appeal from this approved Resolution is filed, such deadline is tolled until sixty days after the appeal is either (i) withdrawn, or dismissed, or (ii) litigated in a court with appropriate jurisdiction which thereafter renders a decision affirming such final major site plan approval.
- H. The Board Planner and/or Engineer will inspect and verify that groundcover has been

established prior to the installation of any solar panels.

- I. Applicant must enter into a Developer's Agreement with the Township memorializing the conditions of approval. Said Developer's Agreement may be recorded.

BE IT FURTHER RESOLVED that a Certified copy of this Resolution be furnished to applicant and Notice of this action be advertised as required by Law.

Upper Deerfield Planning Board

BRUNO A. BASILE, Chairman

ATTEST: _____
VICKI VAGNARELLI, Secretary

Memorialized: October 18, 2010

Roll Call

Bruno Basile – Absent

Robert Comer – Absent

Jody Hirata – Absent

Terry O'Neill – Cannot Vote

Gene Stoms – Absent

Russell Vanella, Alt #1 – No Vote

Gary Barbeck, Alt #3 – Absent

Ed Overdevest – Aye

Ed Fleetwood – Cannot Vote

Ernest Holt – Aye

Bruce Peterson – Cannot Vote

John Timberman, Alt #2 – No Vote

Pauline Smith, Alt # 4 - No Vote

COMMITTEE/COMMISSION

Site Plan Review Committee Recommendations dated September 27, 2010 was Tabled for further discussion. Board approved with Bruce Peterson Abstaining.

Master Plan Review Sub-Committee: Randy Scheule handed out 2011 Planning Program dated October 18 which established order of priority for recommendations from their meeting of Oct. 7, 2010. Randy reviewed with the Board and will make adjustments and have for the Dec. 8th or 15th meeting.

Memorandum

To: Planning Board

Upper Deerfield Township

From: Randall Scheule, PP/AICP

Planning Board Planner

Date: October 18, 2010

Re: **2011 Planning Program**

The Planning Board adopted the Master Plan Reexamination Report at a public hearing on August 9, 2010. This Report contains specific recommendations for the master plan and development regulations. Listing these recommendations in order of priority will enable the Township to establish an achievable schedule of tasks in conjunction with its on-going planning efforts.

The Planning Board Subcommittee established the following order of priority for these recommendations at their meeting on October 7th.

These Master Plan recommendations have been organized into two timeframes – those that can be accomplished within 6 months, and those to be completed within 24 months. It is anticipated that a number of these tasks will be progressing simultaneously.

Immediate – the following items to be completed within 6 months

1. Rezone the following parcels – [subject to public notice to all affected property owners]

a. A portion of the area on the northwest side of Deerfield Village between Friesburg Road and West Deerfield Road from R-1 Zone to Agriculture Zone (refer to Map 3).

b. An area adjacent to the eastern boundary with Deerfield Township north of Richard"s Road from R-1 to Agriculture (refer to Map 4).

2. Residential Accessory Structures. Add a new Section 98-28 to the Code that recognizes existing residentially-zoned lots that do not conform to the minimum Lot Area and Lot Width requirements, and permit accessory structures subject to the following requirements:

a. Maximum Building Height = 15 feet

b. Minimum Side Yard = 10 feet

c. Minimum Rear Yard = 10 feet

d. Maximum Lot Coverage – as specified in the Schedule of District Regulations

3. Fences, Walls and Hedges (§98-17) – Add provisions that limit fence height and specify design relative to front yard, and require maintenance access

4. Signs (§98-23) – Amend sign code to prohibit rooftop signs, and develop/adopt regulations to regulate light emitting diode (LED), changeable copy and other unwanted sign types

5. Schedule of District Regulations (R1 and R2 zones) – Specify parking area requirement within the Cluster Development (§98-27) provisions to require adequate space for two stacked vehicles on driveway (parking area) to prevent encroachment into public ROW or sidewalk.

6. Develop and adopt an administrative site plan ordinance that will enable the Planning Board"s professional staff to review and approve minor changes to approved site plans

[The Subcommittee noted the need to re-examine administrative mechanisms to assure compliance of site improvements with approved plans]

7. Community Impact – Add standards to Section 98-66.C that will apply to major residential development and require an impact statement addressing the development's fiscal impact on schools and community services

Short term – the following items to be completed within 6-24 months

1. Update the Master Plan consisting of the following elements:

a. Land Use

b. Housing and Fair Share (subject to court settlement)

c. Utility Services

d. Economics

e. Historic (and archaeological) Preservation

f. Recycling

g. Educational Facilities

h. Green Buildings and Environmental Sustainability

i. A specific policy statement indicating the relationship of the proposed development of the municipality, as developed in the master plan to:

i. The master plans of contiguous municipalities

ii. The master plan of the county

iii. The State Development and Redevelopment Plan

iv. The district solid waste management plan

2. Dubois Road – In conjunction with the Master Plan Circulation element update re-classify Dubois Road as a Local Road pursuant to FHA Functional Classification criteria

3. Develop and adopt an off-tract improvements ordinance that will enable the Township to require in conjunction with development, water, sewage, drainage and street improvements (NJS 40:55D-39, NJS 40:55D-42)

4. Industrial Park – In conjunction with the Master Plan update describe and promote the Industrial Park within Master Plan Land Use and Economic Development elements; identify on Zoning Map; revise standards contained in Section 98-30 of the Township Code, as appropriate

5. Cluster Development (§98-27)

a. Mandate preparation and submission of a „Yield Plan“ to enable the Planning Board to evaluate the design/layout in conceptual form.

b. Consider revising the township's cluster ordinance, using a conservation design model such as “Growing Greener” to provide greater protection and better design of the open space/farmland on a site. Require that the conserved open space or farmland be linked to greenways or to contiguous farmland and especially to permanently protected farms whenever possible.

6. Environmental Impact Report – Expand requirements in Section 98-66.C(23) to specifically include the affect of habitat disturbance on indigenous wildlife, and to address archaeological resources when warranted

7. As recommended in the Open Space and Recreation Plan –

a. Enact critical area ordinances to protect surveyed vernal pools, floodplains, and high groundwater recharge lands.

- b. Develop a multiple use trail plan that links new and existing parklands.
- c. Pursue the identification and listing of Upper Deerfield Township historic sites and place unlisted sites on the state and federal registers.
- 8. Develop and adopt a Municipal Access Code consistent with RS 40:67-1
- 9. Air Hazard Safety – Revise/update Section 98-14.3 of the Township Code to comport with the 1992 amendments to NJS 6:1-80 et seq.
- 10. Develop and adopt a Sustainable Energy Ordinance
- 11. Residential Site Improvement Standards (RSIS) – Add or reference applicable RSIS standards within the Zoning and Development Code

Ordinance #98-24.1 Solar and Wind Energy Generating Facilities – Board approved to Table

Ordinance Review: Randy Scheule (9/21 Pl. Bd reviewed, sent to Twp introduced 10/7/10, Twp. sent back to Pl. Bd)

Ordinance amending Section 98-40.3 of the Code of the Township of Upper Deerfield

Ordinance amending the “Upper Deerfield Redevelopment Area Redesign Guidelines”

Ordinance amending “Exhibit F” of the Township of Upper Deerfield Redevelopment Plan

Randy reviewed with the Board and on motion of Ernest Holt, seconded by Pauline Smith the Planning Board approved to send back to the Township Committee for a Public Hearing scheduled for November 18.

Roll Call

Bruno Basile – Absent

Robert Comer – Absent

Jody Hirata – Absent

Terry O’Neill – Absent

Gene Stoms – Absent

Russell Vanella, Alt #1 – Aye

Gary Barbeck, Alt #3 – Absent

Ed Overdeest – Aye

Ed Fleetwood – Absent

Ernest Holt – Aye

Bruce Peterson – Abstain

John Timberman, Alt #2 – Absent

Pauline Smith, Alt # 4 - Aye

Cumberland County Department of Planning Development:

Matt Pisarski spoke to Board on CC Farmland Preservation Plan per letter to Mayor Crilley dated Sept. 10:

Gave out and explained colored maps 17F & 17G both revised October 2010 to the Board members.

Being no further business on motion of Ernest Holt, seconded by Robert Comer the meeting adjourned at 7:46pm.

Respectfully Submitted,

Vicki Vagnarelli

Planning Board Secretary