

The Regular Meeting of the Planning Board of the Township of Upper Deerfield was held on Monday, April 13, 2015 at 7:00 pm in the Municipal Building, Seabrook, N.J.

Chairman Bruno Basile 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 South Jersey Times South and The Press of Atlantic City and filed with the Township Clerk in compliance with said Act.

Present:

Chairman: Bruno Basile,

Vice Chairman: Ed Overdevest

Members: Terry O'Neill, Scott Smith, Russ Vanella, Jack Waselik, Joseph Spoltore, Anthony Buono, Robert Comer alt 1, Michele Mooney alt 2, Laura Hayes alt 3, **Staff:** Engineer J Michael Fralinger, Jr. PE, CME, Planner Randy Scheule, PP, AIC, Solicitors Theodore H. Ritter, Esq., Matthew Ritter, Esq., and Secretary Vicki Vagnarelli.

Absent: Edward Fleetwood, Kenneth Jackson alt 4

On motion of Russ Vanella, seconded by Anthony Buono, Minutes of March 16, 2015 meeting Approved.

On motion of Russell Vanella, seconded by Jack Waselik, the following resolution was memorialized

RESOLUTION 3-2015

Township of Upper Deerfield Planning Board

Applicant's Name: K & E Holdings, I, Limited Liability Company

Application No.: P 2-15

Application: For Conditional Use (Land Mining) and Major Site Plan Approval

Completeness Hearing: March 16, 2015

Property: Block 707, Lots 2 and 5, Centerton and Fox Roads

Findings of Fact:

1. Applicant was represented by Michael P. Fralinger, who appeared for the Completeness Hearing with witnesses and exhibits.

2. The Board accepts as factual the plans and documents submitted by and on behalf of the applicant:

- a. Correspondence to Vicki Vagnarelli from Michael Fralinger dated February 13, 2015;
- b. Upper Deerfield Development Application Form and Checklists, February 13, 2015
- c. Site Plan (5 sheets), Fralinger Engineering;

SP-1, Cover Sheet, October 22, 2013, last revised October 16, 2014

SP-2, Boundary and Topographic Survey West, October 22, 2013, last revised October 16, 2014

SP-3, Boundary and Topographic Survey East, October 22, 2013, last revised October 16, 2014

SP-4, Mining Plan West, October 22, 2013, last revised October 16, 2014

SP-5, Mining Plan East, October 22, 2013, last revised October 16, 2014

Hydrogeologic Analysis report of GPM Associates, Inc., dated January 14, 2015

3. The Board received and considered the Completeness Review Report of Planning Board Conflict Engineer, Robert C. DuBois, dated February 26, 2015.

4. The Board received and considered the Completeness Review Report of Planning Board Planner Randall Scheule, PP/AICP dated March 9, 2015.

5. The Board, upon recommendations of its professionals, granted waivers for:

- a. Photograph of the property
- b. Predominant species and size of trees
- c. Location of trees six inches or more in diameter.

6. The Board conditions its finding of completeness upon applicant complying with the right-of-way dedication respecting Fox Road. Any right-of-way dedication that may be required for Centerton Road is deferred to Cumberland County.

7. The Board's conditional completeness finding is also contingent upon applicant producing testimony at the public hearing regarding the extent of site changes caused by ongoing mining at the site since the field survey was last updated on July 31, 2013.

8. The Planning Board has received the recommendations of its professional staff and the above-referenced data submitted by and on behalf of applicant is sufficiently complete for the purpose of scheduling the public hearing.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board of the Township of Upper Deerfield deems the Application of K & E Holdings, I, Limited Liability Company conditionally complete and schedules the public hearing thereon for Monday, April 20, 2015, or for such later time as may be fixed. The public hearing will be conducted at the Upper Deerfield Township Municipal building in Seabrook, New Jersey.

Upper Deerfield Planning Board

Roll Call

Bruno Basile – no vote

Ed Fleetwood – Absent

Terry O'Neill – Aye

Jack Waselik – Aye

Anthony Buono, Sr. Aye

Michele Mooney, Alt #2 no vote

Kenneth Jackson, Alt #4 Absent

Ed Overdevest – Aye

Russell Vanella – Aye

Scott Smith – Aye

Joseph Spoltore – no vote

Robert Comer, Alt #1 Aye

Laura Hayes, Alt #3 Aye

On motion of Anthony Buono, seconded by Russ Vanella, the following resolution was memorialized

UPPER DEERFIELD TOWNSHIP PLANNING BOARD
RESOLUTION 4 - 2015
RESOLUTION RECOMMENDING ORDINANCE AMENDMENT

WHEREAS, the Planning Board of the Township of Upper Deerfield, has considered the topic of changes of the use of properties; and

WHEREAS, the Planning Board believes that an Amendment to the Township Development Ordinance respecting changes of use would be beneficial; and

WHEREAS, Planning Board Planner, Randall Scheule, in conjunction with Planning Board Attorneys Theodore and Matthew Ritter, have provided to the Board suggested text for amendments to Ordinance §405-69 and §405-3 by adding terms and definitions for “use category” and “use, change of”; and

WHEREAS, the Planning Board discussed these issues at its meeting on March 16, 2015; and

WHEREAS, the Board wishes to recommend to the Township Committee, specific revisions to the Development Ordinance based upon its discussions and the recommendations of its Planner and Solicitors.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board of the Township of Upper Deerfield does hereby recommend to the Township Committee that Ordinance §405-69 and §405-3 be amended as follows:

Change of Use

1. Revise §405-69 to require a change of use to be reviewed/approved by the Planning Board as follows:

A. Review required.

(1) All subdivisions and/or resubdivisions of land within Upper Deerfield Township, as defined in § 405-3 herein, shall be reviewed and approved by the Planning Board in accordance with provisions of this chapter.

(2) Except as otherwise provided, no zoning or building permit shall be issued for any building or use or any enlargement or alteration of any building or use unless a site plan for said building or use is first submitted to and approved by the Planning Board of the Township of Upper Deerfield, and no certificate of occupancy shall be given or remain valid unless all construction and site utilization conforms to an approved site plan. This requirement shall pertain to all uses and structures in all zoning districts, except that:

(a) Site plans shall not be required for any single-family detached dwelling; for permitted accessory uses to a single-family, detached dwelling, such as a private garage or swimming pool; or permitted accessory uses to a farm, such as barns, silos, farm offices, storage sheds or related structures. [Amended 1-19-1996 by Ord. No. 449]

(b) Site plan review and approval will not be required in connection with the alteration and repair of an existing structure or use when the Zoning Officer determines that said alteration and/or repair:

[1] Will not result in additional lot coverage;

[2] Will conform to the maximum and minimum building standards as set forth in this chapter;

[3] Will not increase the number of off-street parking or loading spaces required as set forth in §§ 405-27 and 405-28 of this chapter; and

(3) Any change of use, except for uses and structures described in §2(a) and (b) above, shall be reviewed and approved by the Planning Board in accord with this chapter.

[Note: The only change to § 405-69 is the addition of paragraph (3).]

2. Revise §405-3 by adding the following terms and definitions:

“Use Category” - A group of similar use types that are associated with each other to such an extent that they perform a specific land-use function. Use categories are: civic, commercial, essential public facilities, office/business, industrial, residential, resource, and utilities.

“Use, Change of” - A change from one use category to another or the addition of a new category of use to an existing use, but not including a change of ownership, tenancy, or management where the previous nature of the use, line of business, or other function is substantially unchanged.

BE IT FURTHER RESOLVED, this 13 day of April, 2015, by the Planning Board that this Resolution be forwarded to the Township Committee for study and possible action.

**TOWNSHIP OF UPPER DEERFIELD
PLANNING BOARD**

Roll Call

Bruno Basile – no vote

Ed Fleetwood – Absent

Terry O’Neill – Aye

Jack Waselik – Aye

Anthony Buono, Sr. Aye

Michele Mooney, Alt #2 no vote

Kenneth Jackson, Alt #4 Absent

Ed Overdevest – Aye

Russell Vanella – Aye

Scott Smith – Aye

Joseph Spoltore – no vote

Robert Comer, Alt #1 Aye

Laura Hayes, Alt #3 Aye

Full report is as follows:

SCHUELE PLANNING SOLUTIONS, LLC *Master Plans Zoning Codes Redevelopment*
33 Buckingham Drive, Egg Harbor Township, NJ 08234 – 609.365.2642

TOWNSHIP OF UPPER DEERFIELD

Master Plan Consistency Report

“CHANGE OF USE ORDINANCE”

Introduction.

Chapter 405, Zoning and Development of the Code of the Township of Upper Deerfield, New Jersey is proposed to be amended by adding new terms and definitions, and by expanding the activities that will require review and approval from the Planning Board. These proposed amendments to the Township Code are intended to provide regulations to ensure that future use changes to the use of properties are consistent with the Upper Deerfield master plan and zoning ordinance.

The “Municipal Land Use Law” provides that the Planning Board prepare, review, adopt and transmit their report describing the consistency of these proposed amendments with the Township Master Plan. This report is being transmitted to the Township Committee in conjunction with the Planning Board’s recommendation that this ordinance be considered for adoption by Township Committee.

NJS 40:55D-26 describes the Planning Board’s responsibility regarding the master plan consistency review as follows:

“ . . . the planning board shall make and transmit to the governing body, within 35 days after referral, a report including identification of any provisions in the proposed development regulation, revision or amendment which are inconsistent with the master plan and recommendations concerning those inconsistencies and any other matters as the board deems appropriate.”

While formerly only zoning ordinances and amendments thereto were required to be submitted to the planning board, it is now clear from the wording in NJS 40:55D-26 that all “development regulations” adopted and filed pursuant to the Municipal Land Use Law must be referred to the planning board for comment and report. The statute requires that every zoning ordinance must “either be substantially consistent with the land use plan and housing plan of the master plan, or designed to effectuate such plan elements.” The “Master Plan” referred to herein is the Township of Upper Deerfield Master Plan adopted January 1988, as subsequently amended by the Planning Board, and including the Master Plan Reexamination Report adopted by the Planning Board in August 2010. Change of Use Master Plan Consistency Report

MARCH 30, 2015 PAGE 2

Ordinance Summary.

This ordinance proposes new terms and definitions, and expands the scope of development-related activities that will require review and approval from the Planning Board.

Section 405-3 of the Township Code is revised to add the following terms and definitions.

“Use Category” – A group of similar use types that are associated with each other to such an extent that they perform a specific land-use function. Use categories are: civic, commercial, essential public facilities, office/business, industrial, residential, resource, and utilities.

“Use, Change of” - A change from one use category to another or the addition of a new category of use to an existing use, but not including a change of ownership, tenancy, or management where the previous nature of the use, line of business, or other function is substantially unchanged.

Section 405-69.A of the Township Code is amended by addition of the following new subsection.

(3) Any change of use, except for uses and structures described in §2(a) and (b) above, shall be reviewed and approved by the Planning Board in accord with this chapter.

Findings and Recommendations.

The Upper Deerfield Township Planning Board seeks to enhance the quality of life in the Township, to implement the goals and recommendations of the Master Plan through its review of development applications, and to recommend the adoption of ordinances to further these goals. In order to achieve this mission, the Upper Deerfield Planning Board identifies the following responsibilities:

- ◆ Judge land use applications in accordance with state and local regulations and strive to ensure that all permitted development is designed to make the most of the land’s attributes and to enhance surrounding land uses in conformance with the zone plan.
- ◆ Make recommendations to the Township Committee regarding revisions to land use ordinances in response to new demands for housing, commercial, and industrial uses and demands for open land and farm preservation while adhering to the goals and objectives of the Master Plan. Change of Use Master Plan Consistency Report

MARCH 30, 2015 PAGE 3

The Township’s 1979 Master Plan set out three major goals. These goals were acknowledged and carried forward by the 1988 Master Plan, and have been reviewed and re-validated as part of the reexamination process in 2010. These three goals are the foundation for more specific goals, objectives, principles and recommendations found in the Master Plan.

1. The preservation of the Township’s character and the physical features, both natural and man-made, from which it [the community’s character] emanates and is derived.
2. Enhancement of the quality of life for all the community’s residents through the improvement of the Township’s ability to deal with development.
3. Innovation in and continual evaluation of the approaches and methods used for resolving the conflicts, problems and pressures in the community’s evolution.

Within the context of these goal statements, the Township seeks to maintain a well-balanced community in which to live, work and recreate in a clean and safe environment. This includes housing, business, industrial, recreation, and open space opportunities to meet the diverse needs of the citizenry’s dissimilar ages, ethnic groups, and income levels.

In summary, the goals of the land use plan are:

1. The preservation of agriculture and the character of the community which derives from it.
2. To provide for a variety of development in appropriate areas
3. To address development based on the entire Master Plan, and encourage vigilance in the community to continually monitor and adjust for the effects of growth relative to the plan’s goals and objectives.

As noted above the Planning Board’s responsibility regarding the master plan consistency review is to identify any provisions in the proposed development regulation, revision or amendment which are inconsistent with the

Master Plan, and make recommendations concerning those inconsistencies and any other matters as the Board deems appropriate.

In defining “substantial consistency” the Supreme Court in *Manalapan Realty v. Township Committee* made it clear that some inconsistency is permitted “provided it Change of Use Master Plan Consistency Report

MARCH 30, 2015 PAGE 4

does not substantially or materially undermine or distort the basic provisions and objectives of the Master Plan.”

The “Municipal Land Use Law” does not define the term *inconsistent*.

The Planning Board reviewed and discussed the proposal dated March 2, 2015 regarding ‘change of use’, solicited public input and authorized Solicitor Theodore Ritter to prepare a resolution regarding this matter. The proposed ordinance and resolution are appended to this report as Exhibit A and Exhibit B, respectively.

The primary objective of the amendments is to maintain consistency with the master plan as changes to land use occur. For these reasons, it is my professional opinion that the proposed revisions regarding ‘change of use’ will advance the purposes and objectives of and are consistent with the Upper Deerfield Master Plan.

Respectfully submitted,

Randall E. Scheule, PP/AICP

New Jersey Professional Planner License No. LI003666

March 30, 2015 Change of Use Master Plan Consistency Report

MARCH 30, 2015 PAGE 5

“Exhibit A”

TOWNSHIP OF UPPER DEERFIELD

ORDINANCE XXX

ORDINANCE AMENDING CHAPTER 405

OF THE CODE OF THE TOWNSHIP OF UPPER DEERFIELD

“CHANGE OF USE”

WHEREAS, Section 405-3 of the Code of the Township of Upper Deerfield contains the terms and definitions pertaining to municipal zoning and land development regulations; and

WHEREAS, Section 405-69 of the Code of the Township of Upper Deerfield describes the development-related activities that require subdivision and site plan review and approval, and contains the procedures and requirements pertaining thereto; and

WHEREAS, the Township Committee of the Township of Upper Deerfield has received a report, resolution and draft ordinance from the Planning Board recommending revisions to the Township Zoning and Development Code regarding “Change of Use”; and

WHEREAS, the Township Committee of the Township of Upper Deerfield recognizes the merits of the Planning Board’s recommendations; and

WHEREAS, the Township Committee of the Township of Upper Deerfield is desirous of amending the aforesaid ordinance sections to address the Planning Board’s recommendations;

NOW THEREFORE BE IT ORDAINED by the Township Committee of the Township of Upper Deerfield that Chapter 405 Zoning and Development of the Township Code is amended as follows. Change of Use Master Plan Consistency Report

MARCH 30, 2015 PAGE 6

1. Revise §405-3 by adding the following terms and definitions:

“Use Category” – A group of similar use types that are associated with each other to such an extent that they perform a specific land-use function. Use categories are: civic, commercial, essential public facilities, office/business, industrial, residential, resource, and utilities.

“Use, Change of” - A change from one use category to another or the addition of a new category of use to an existing use, but not including a change of ownership, tenancy, or management where the previous nature of the use, line of business, or other function is substantially unchanged.

2. Revise §405-69 to require a change of use to be reviewed/approved by the Planning Board as follows:

A. Review required.

(1) All subdivisions and/or resubdivisions of land within Upper Deerfield Township, as defined in § 405-3 herein, shall be reviewed and approved by the Planning Board in accordance with provisions of this chapter.

(2) Except as otherwise provided, no zoning or building permit shall be issued for any building or use or any enlargement or alteration of any building or use unless a site plan for said building or use is first submitted to and approved by the Planning Board of the Township of Upper Deerfield, and no certificate of occupancy shall be given or remain valid unless all construction and site utilization conforms to an approved site plan. This requirement shall pertain to all uses and structures in all zoning districts, except that:

(a) Site plans shall not be required for any single-family detached dwelling; for permitted accessory uses to a single-family, detached dwelling, such as a private garage or swimming pool; or permitted accessory uses to a farm, such as barns, silos, farm offices, storage sheds or related structures. [Amended 1-19-1996 by Ord. No. 449] Change of Use Master Plan Consistency Report

MARCH 30, 2015 PAGE 7

(b) Site plan review and approval will not be required in connection with the alteration and repair of an existing structure or use when the Zoning Officer determines that said alteration and/or repair:

[1] Will not result in additional lot coverage;

[2] Will conform to the maximum and minimum building standards as set forth in this chapter;

[3] Will not increase the number of off-street parking or loading spaces required as set forth in §§ 405-27 and 405-28 of this chapter; and

(3) Any change of use, except for uses and structures described in §2(a) and (b) above, shall be reviewed and approved by the Planning Board in accord with this chapter.

BE IT FURTHER ORDAINED by the Township Committee of the Township of Upper Deerfield that in all other respects the provisions of Section 405 of the Code of the Township of Upper Deerfield shall remain as heretofore and unaltered by the provisions hereof.

James Crilley, Chairman

Finally

Attested:

Roy J. Spoltore, Township Clerk

First Reading:

Publication:

Publication of Final Adoption: Change of Use Master Plan Consistency Report

MARCH 30, 2015 PAGE 8

“Exhibit B”

**UPPER DEERFIELD TOWNSHIP PLANNING BOARD
RESOLUTION NO. 4-2015**

RESOLUTION RECOMMENDING ORDINANCE AMENDMENT

WHEREAS, the Planning Board of the Township of Upper Deerfield, has considered the topic of changes of the use of properties; and

WHEREAS, the Planning Board believes that an Amendment to the Township Development Ordinance respecting changes of use would be beneficial; and

WHEREAS, Planning Board Planner, Randall Scheule, in conjunction with Planning Board Attorneys Theodore and Matthew Ritter, have provided to the Board suggested text for amendments to Ordinance §405-69 and §405-3 by adding terms and definitions for “use category” and “use, change of”; and

WHEREAS, the Planning Board discussed these issues at its meeting on March 16, 2015; and

WHEREAS, the Board wishes to recommend to the Township Committee, specific revisions to the Development Ordinance based upon its discussions and the recommendations of its Planner and Solicitors.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board of the Township of Upper Deerfield does hereby recommend to the Township Committee that Ordinance §405-69 and §405-3 be amended as follows:

Change of Use Master Plan Consistency Report

MARCH 30, 2015 PAGE 9

1. Revise §405-69 to require a change of use to be reviewed/approved by the Planning Board as follows:

A. Review required.

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(2) Except as otherwise provided, no zoning or building permit shall be issued for any building or use or any enlargement or alteration of any building or use unless a site plan for said building or use is first submitted to and approved by the Planning Board of the Township of Upper Deerfield, and no certificate of occupancy shall be given or remain valid unless all construction and site utilization conforms to an approved site plan. This requirement shall pertain to all uses and structures in all zoning districts, except that:

(a) Site plans shall not be required for any single-family detached dwelling; for permitted accessory uses to a single-family, detached dwelling, such as a private garage or swimming pool; or permitted accessory uses to a farm, such as barns, silos, farm offices, storage sheds or related structures. [Amended 1-19-1996 by Ord. No. 449]

(b) Site plan review and approval will not be required in connection with the alteration and repair of an existing structure or use when the Zoning Officer determines that said alteration and/or repair:

[1] Will not result in additional lot coverage;

[2] Will conform to the maximum and minimum building standards as set forth in this chapter;

[3] Will not increase the number of off-street parking or loading spaces required as set forth in §§ 405-27 and 405-28 of this chapter; and

(3) Any change of use, except for uses and structures described in §2(a) and (b) above, shall be reviewed and approved by the Planning Board in accord with this chapter.

[Note: The only change to § 405-69 is the addition of paragraph (3).] Change of Use Master Plan Consistency Report

MARCH 30, 2015 PAGE 10

2. Revise §405-3 by adding the following terms and definitions:

“Use Category” – A group of similar use types that are associated with each other to such an extent that they perform a specific land-use function. Use categories are: civic, commercial, essential public facilities, office/business, industrial, residential, resource, and utilities.

“Use, Change of” - A change from one use category to another or the addition of a new category of use to an existing use, but not including a change of ownership, tenancy, or management where the previous nature of the use, line of business, or other function is substantially unchanged.

BE IT FURTHER RESOLVED, this 13 day of April, 2015, by the Planning Board that this Resolution be forwarded to the Township Committee for study and possible action.

**TOWNSHIP OF UPPER DEERFIELD
PLANNING BOARD**

APPLICANT/DEVELOPMENT

George & Carol Gianaris – Minor Subdivision w D-2 Variance 2602/14.01 & 13, 106 S. Woodruff Rd & 341 Rosenhayn Ave. create separate residential lot containing existing dwelling upon lot 14.01. Consolidate remainder of 14.01 Ag parcel with adjoining lot 13 Ag parcel.

Attorney Howard Melnicove represented applicant Mr. George Gianaris. Attorney Melnicove reviewed professional reviews and agreed to all recommendation. Planner and Engineer had no objects to approving application for completeness and subdivision. On motion of Jack Waselik seconded by Robert Comer Board Approved Completeness.

Roll Call

Bruno Basile – Aye

Ed Fleetwood – Absent

Terry O’Neill – no vote

Jack Waselik – Aye

Anthony Buono, Sr. Aye

Michele Mooney, Alt #2 no vote

Kenneth Jackson, Alt #4 Absent

Ed Overdevest – Aye

Russell Vanella – Aye

Scott Smith – no vote

Joseph Spoltore – Aye

Robert Comer, Alt #1 Aye

Laura Hayes, Alt #3 no vote

On motion of Robert Comer seconded by Jack Waselik the public hearing opened with no person(s) coming forward for or against applicant. On motion of Robert Comer seconded by Jack Waselik the public hearing was closed.

On motion of Robert Comer seconded by Joseph Spoltore Gianaris Subdivision with D 3 Variance was Approved.

Roll Call

Bruno Basile – Aye

Ed Fleetwood – Absent

Terry O’Neill – no vote

Jack Waselik – Aye

Anthony Buono, Sr. Aye

Michele Mooney, Alt #2 no vote

Kenneth Jackson, Alt #4 Absent

Ed Overdevest – Aye

Russell Vanella – Aye

Scott Smith – no vote

Joseph Spoltore – Aye

Robert Comer, Alt #1 Aye

Laura Hayes, Alt #3 no vote

PROFESSIONALS/COMMITTEE/COMMISSION

Reviewed copy of Routine Conditions of Approval to include with all approval Resolutions due to last line being added from public suggestion at March 16 meeting. Is as follows:

UPPER DEERFIELD TOWNSHIP PLANNING BOARD

Routine conditions of approval to include with all approval Resolutions:

1. That compliance be had with all other applicable requirement of the Upper Deerfield Township Development Ordinance and Building Code.
2. That applicant obtain approvals from all other agencies having jurisdiction.
3. The Planning Board Planner and Planning Board Engineer are hereby delegated the authorization to approve minor site plan changes requested by applicant or applicant's professionals, provided that such minor changes are consistent with the Planning Board's approval conditions.
Any such changes will be reported to the Planning Board at its next regular meeting.

Public portion of meeting was open and closed with no public comment.

BOARD MEMBER ADDITIONAL INFORMATION

Board members were reminded to complete Financial Disclosure forms online so no fines are implemented. Emailed ANJEC information regarding SJ Water Savers-Kirkwood-Cohansey Aquifer: Water Availability & Techniques to Conserve held at CCC Monday April 27, 2015.

Being no further business the meeting was adjourned on motion of Jack Waselik with all in favor at 8:09pm

Respectfully Submitted,

Vicki Vagnarelli