

The Regular Meeting of the Planning Board of the Township of Upper Deerfield was held on Monday, February 13, 2017 at 7:00 pm in the Municipal Building, Seabrook, N.J.

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 Daily Journal and The Press of Atlantic City and filed with the Township Clerk in compliance with said Act.

Present:

Chairman Ed Overdevest,

Members: Ed Fleetwood, Joseph Spoltore, Anthony Buono, Terry O'Neill, Robert Comer, Michele Mooney alt 2, Kenneth Jackson alt 3

Staff: Engineer J Michael Fralinger, Jr. PE, CME, Planner Randy Scheule, PP, AIC, Solicitor Matthew Ritter Esq., and Secretary Vicki Vagnarelli

Absent: Vice Chairman: Russ Vanella, Scott Smith, Jack Waselik, Laura Hayes alt 1, Theodore H. Ritter, Esq.

On motion of Ed Fleetwood seconded by Anthony Buono, (Executive minutes) of September 19, 2016, November 14, 2016, November 21, 2016, December 12, 2016 along with (regular minutes) of January 30 2017 were Approved.

On motion of Ed Fleetwood seconded by Anthony Buono the following resolution was memorialized.

RESOLUTION 1-2017

TOWNSHIP OF UPPER DEERFIELD PLANNING BOARD

APPLICANT'S NAME: K & E Holdings I, LLC

PROPERTY: Block 707, Lots 2 and 5

APPLICATION FOR: Preliminary and Final Major Site Plan and Conditional Use Approvals, and Expansion of Mining Permit onto Lot 2

HEARING DATE: January 30, 2017

I. PROCEDURAL HISTORY:

1. The Upper Deerfield Township Planning Board (hereafter "the Board" or "the Planning Board") heard the application of K & E Holdings I, LLC over the time period stretching from May 11, 2015 through adoption of Board Resolution #4-2016 on June 13, 2016.

2. The Board's action was incorporated in the Board's Resolution adopted on June 13, 2016.

3. K & E Holdings, I, LLC (hereafter “K & E”) filed a suit in lieu of prerogative writ in the New Jersey Superior Court, Law Division, Cumberland County, which was assigned Docket Number Cum-L-520-16 (“the litigation”).

4. While the litigation was pending, the parties engaged in settlement negotiations which resulted in a proposed settlement. The proposed terms were incorporated in a Consent Order of Remand to Consider Settlement (hereafter “Order of Remand”) entered by the Honorable Georgia M. Curio on December 16, 2016.

5. Pursuant to the Order of Remand, a public hearing was conducted by the Planning Board on January 30, 2017, with a public notice published in the township newspaper of record and also with certified mail notice given to all property owners within 200 feet of the subject property. The purpose of the public hearing was for the Planning Board to receive public input regarding the fairness of the proposed settlement.

6. The Court retained jurisdiction when entering the Order of Remand.

II. THE FAIRNESS HEARING:

7. At the fairness public hearing, conducted January 30, 2017, the Planning Board heard from applicant’s counsel, applicant’s representative, Richard Pierson, applicant’s expert, Mark V. Shourds, P.E., objectors’ attorney, Gerald Neski and numerous members of the public including Lou Camilli, Dean Hawk, Joseph Lacotte, Linda Tasso, Michael Taylor, Alan Roller and Mary Christian.

8. Applicant, through its expert engineer Mark V. Shourds, introduced a drawing marked “APP-1 January 30, 2017” to which the witnesses and members of the public frequently referred during the fairness public hearing. APP-1 is a colorized version of the site plan for the subject property prepared by Mark Shourds.

9. As a result of public comments received before and during the January 30, 2017 fairness public hearing, applicant offered to include five additional terms in the Stipulation of Settlement. They are:

- A. Applicant will add vegetative screening to the South side of the property. The planting heights, at the time of installation, will range from 4 to 7 feet, more or less. The vegetative screening details will be subject to the reasonable satisfaction of Planning Board Planner Randall Scheule, PP, AIC, and will ultimately be included on the perfected plan.
- B. The fencing along the property line on the Southeast and southerly perimeter of the property shall be set approximately ten feet inside the property line. This represents a change to Condition E as contained on page 53 of Planning Board Resolution #4-2016. The entire perimeter of the subject site will be fenced. The perfected plan will indicate the fence location and note the fence type.

- C. The berm location on the South side of the property will be moved to approximately 60 feet from the edge of the mining excavation. This represents a change to Condition D on page 53 of Board Resolution #4-2016. The perfected plan will indicate the location of the berm.
- D. Applicant will include, on a perfected plan, the dimensions of the proposed irrigation pond referenced in Stipulation of Settlement item “g” as contained on page 3 of the Order of Remand. The depth of the irrigation pond will be maintained at 8 feet or less.
- E. Point “h” on page four of the Order of Remand is expanded to read as follows:
 - “If in the future K & E or a related entity to K & E (or a successor to K & E) acquires any property contiguous to existing Lot 2 or Lot 5, K & E (or the successor, as the case may be) shall have the right to apply to the Planning Board for re-evaluation of the mining setbacks adjacent to any such newly acquired property. For avoidance of all doubt, this paragraph only regards mining setbacks on existing Lots 2 and 5. This paragraph is not to be interpreted as having any affect or impact on the future use of any such newly acquired property.”

10. Those five additional terms were unanimously approved, by a separate roll call vote of the Planning Board, and will be incorporated into the proposed Stipulation of Settlement.

11. Following the Board’s roll call vote approving the five additional terms of settlement, as set forth immediately above (in Item 9.A-E), the Board next took up the question of whether or not the Board should approve the revised terms of the Settlement in light of the input received from the public at the fairness public hearing.

12. The Planning Board of Upper Deerfield Township has carefully considered the terms of the proposed settlement, as modified by the five additional terms enumerated above. The Board finds that the terms of settlement, as revised on January 30, 2017, are in the best interests of the Township of Upper Deerfield and the Board, by roll call vote, unanimously approved the settlement.

NOW, THEREFORE, BE IT RESOLVED that this Board does hereby approve the settlement as set forth in the Order of Remand augmented by the five additional terms listed in paragraph 9, *supra*. All of the remaining conditions of approval set forth in Board Resolution #4-2016 are ratified and reaffirmed except as modified by the terms of the Stipulation of Settlement contained in the Order of Remand and in this Resolution.

Roll Call

Ed Overdevest – Aye

Ed Fleetwood – Aye

Scott Smith – Absent

Joseph Spoltore, Aye

Robert Comer, Aye

Laura Hayes, Alt #1 Absent

Kenneth Jackson, Alt #3 Aye

Russell Vanella – Absent

Terry O’Neill – no vote

Jack Waselik – Absent

Anthony Buono, Sr. Aye

Michele Mooney, Alt #2 no vote

Vacant Alt # 4

On motion of Ed Fleetwood, seconded by Robert Comer the Public Portion of the meeting was opened with no one coming before the Board so on motion of Anthony Buono seconded by Ed Fleetwood the public portion was closed.

Master Plan Reexam Recommendation packet dated February 10, 2017 from Planner, Randall Scheule, was given to Board members for review and updates.

Being nothing further on the agenda on motion of Joseph Spoltore seconded by Ed Fleetwood the meeting was adjourned.

Respectfully Submitted,

Vicki Vagnarelli