

### Maurice River Township Land Use Board

The Chairman announced that this meeting was being held in accordance with Open Public Meetings Act of New Jersey.

Present: B. Stowman, C. Thompson, J. Oliver, R. Chard, G. Gross, T. Imbaratto  
M. Benson, T. CuvIELLO, C. Morrissey

Flag Salute

Motion to approve previous minutes Chard, 2<sup>nd</sup> Oliver, AIF

#### Correspondence

\*Notification of application submitted by Atlantic City Electric  
Coastal Permit #27, Freshwater Wetlands General Permit #12 and Flood Hazard Individual Permit, Water Quality Certificate, and Coastal Consistency.

\*Application by Robert C. Grenon Estate, 4019 Route 47, Block 260, Lot 7.04  
General Permit Authorization/Replace Malfunction Septic System

\*Copy of letter from Gordon Gross to Jerry Pantelidis in reference to a Home Occupation permit and the operation of a wholesale bamboo business at 3266 Route 47, Millville.

Ben Stowman announced a Resolution #83-2015, from the Township Committee authorizing the MRT Land Use Board to investigate and render a report to the Township Committee regarding a possible revision to the Township Land Use Ordinance to permit the keeping of pigs.

The sub-committee and Tiffany CuvIELLO will email possible dates for a meeting to the secretary and a meeting of the sub-committee will be scheduled.

T. Imbaratto asked how the township would get a product banned in the township, like bamboo.

M. Benson stated that it is a regulatory issued and would go to the Township Committee.

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Michael Manno  
63 Bay Ave.  
Heislerville, NJ  
Block 327, Lot 31

Adoption of Resolution #2015-06

The copy that was giving to the Board does not have the roll call vote listed on it. The Secretary read the vote from the official resolution prior to voting for the adoption of the resolution.

Motion to adopt Resolution #2015-06 Chard, 2<sup>nd</sup> Imbaratto, Roll Call Vote, All in Favor

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Anchor Marina  
Block 294, Lot 1

This matter was tabled from the June 3, 2015 meeting. A letter was received from Anchor Marina requesting an extension for the temporary trailer being used at the marina. At the April 3, 2015 LUB meeting, the Board interpreted Section 35-9.9 A.1 of the MRT Land Development Ordinance as permitting the use of a temporary trailer for continuation of Anchor Marina’s business operations pending completion of the reconstruction or replacement of their business structure(s) destroyed by Super Storm Sandy.

Dexter Grant and Bob Myers from Anchor Marina were sworn in.

Mr. Grant spoke on the request for an 18 month extension and why they were requesting it. They just paid off the mortgage, which is substantial, and that will free up the money to finish the project. The main building sustained damage during Super Storm Sandy. He stated he has the drawings and the price.

There was a discussion on given them a 1 year extension.

R. Chard made a motion to grant a 1 year extension.

G. Gross stated he would rather see the 18 month extension in case there are any issues.

R. Chard changed his motion, he made a motion to grant an 18 month extension, 2<sup>nd</sup> Imbaratto. Roll Call Vote, All in Favor

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Whibco

Major Site Plan Application-Resource Extraction Site #1

Block 124, Lots 11-14

Block 215, Lots 1, 2, & 3

Block 216, Lots 1 & 2

Modification to Resource Extraction Plan for Agricultural Use

Ben Stowman announced the application.

Michael Benson stated that the purpose to amend is to divert about 101 acres on Site 1 to agricultural use, in a buffer area.

Richard Hluchan, attorney for Whibco

Jessie Dougherty, Professional Engineer

Walter Sjogren, Whibco

Rick Ricciardi, Professional Planner

Mr. Dougherty, Mr. Sjogren, and Mr. Ricciardi were sworn in.

Mr. Hluchan gave a brief overview of application:

Whibco has approval to mine for their 5 year increment a large portion of site 1, also there are areas of site 1 reserved for future mining which has been seen on previous plans, they do not have approvals for that yet. This application is to utilize the area reserved for future mining in the interim for agriculture. Agriculture is a permitted use as a matter of right, the ordinance specifies that you can have two principal uses, where agriculture is one of them. So, they would have mining on part of the site and agriculture on the rest of the site. They are making no changes whatsoever to the mining operation. Everything approved last time and all of the conditions imposed, they are not proposing to change any of that. They are taking the future mining property, that is currently being used for woodland management and changing it to agriculture.

Clarification: They are only proposing agriculture in the PC zone, the plan seem to indicate within PVC 3 zone they are also doing agriculture; that is incorrect. The application is only for agriculture in the PC zone. Also, the plan shows agriculture within the wetlands transition area which was a mistake, they are not doing agriculture in the wetlands transition area. Revised plans will show that they are not doing agriculture in the wetlands in the transition are.

Cormac Morrissey reviewed his report dated July 1, 2015.

Background on project:

October 2, 2013, approval to mine Site 1

Area 1A, Area 1B, Area 1C, Area 1D, Existing Pond: totaling 154.90 acres. Which is consistent what they are applying for now. The area of resource extraction is consistent with what they were approved for.

They also were approved for a variance allowing the reduction of the 200 foot buffer to a 100 foot along the top of the property, block 215, Lot 1 to allow for stockpiling of mining material on an area of approx. 110' x 1000'. And a variance to pave the gravel site access road at the northerly boundary of Block 216, Lot 2, which is their current access road.

They were also denied a variance request to construct a haul road off of Weatherby Rd. between the adjoining property.

They are applying for Mr. Hluchan has indicated to continue their mining rights while having the agricultural use on the southern boundary of the limit of their resource extraction. They want to mine the entirety between that boundary and Weatherby Rd and the adjoining property line to the south west.

#### Waivers Requested

P2-Plan scale, this has been granted in the past, no problem with recommending this waiver be granted.

P3-site plan certified by a NJ Licensed Land Surveyor, in the past they are represented the basis of this plan has been based on other surveys that have been prepared, this has been granted in the past. There has been a recent survey done in between the previous approval and now. It is not referenced in their notes and Mr. Morrissey is not sure if all the information is shown on the plan. The applicant can address that as to whether the information is shown on the plan. They may need to update it to show the information.

P9-Existing and proposed contours at two foot intervals. This has been approved before. They haven't changed the slopes or grades. They do provide some base information in terms of the pond elevation and they have shown the side slopes down, in terms of the mining operation this is adequately addressed. There is some information down the line in terms of the agriculture use and the cross section of the mining that Mr. Morrissey would like to see. One thing not included in this plan is the cross sections of the pond slope that were part of the original application. It should include those cross sections of the pond because they are part of the plan and those side slopes were part of the condition and should be seen on the plan. It could be a condition of any revised plans.

P24-Circulation plans detailing access to and from the site. The applicant states the agriculture precludes the need for a circulation plan and the Board has previously granted this waiver for the circulation on the mine. The agriculture use does present some questions that should be addressed to the Board's satisfaction either tonight or through submission. It is unclear and has not been adequately represented. It is roughly 100 acres that is going to be cleared for agriculture with roughly 3300+ linear feet along Weatherby Rd. How is the agriculture use going to access this section? What type of traffic? What type of agriculture/crop? How is the site going to be circulated? Is there anticipation for the two uses to have some overlap? Will they be having traffic going between the agriculture use and the mining activity? Mr. Morrissey feels these are important questions to be answered by the applicant by testimony or through some additional plan. With a 3300 linear foot opening you could have trucks pull in anywhere.

#### P25-Natural Resource Plan

Size and species of all trees eight inches or greater in diameter. This has previously been granted in the mining area. With the agricultural area being cleared Mr. Morrissey is not sure if it would be appropriate to maintain any specimen trees. B. Stowman stated, or if not maintained they be photographed and recorded. Mr. Morrissey stated that has not been addressed and maybe it can be tonight.

#### Buffer areas, including intended screening devices and buffers

One thing substantially different from this application and previous applications is that the wooded buffers that were previously approved and identified on the plan, have not been identified as buffers as such. So, if they are not saving them as buffers then what is happening with those areas? Which is an important issue that needs to be resolved. How is this operation going to be affected because with

screens because there is still a resource extraction operation going on? Which over 3300 feet of open frontage is a wide area and should be adequately addressed by the applicant before moving forward.

#### P26-Landscaping Plan

There is no planting in the wetlands buffer so that comes out of the review. However it is appropriate for the applicant to discuss what type of planting will be out there, what the seasonal period will be, what kind of harvesting will there be and how the buffer areas will be treated.

P29-Lighting Plan, waiver approved previously since resource extraction is done during the daytime areas. Mr. Morrissey believes that the applicant has agreed to that, recognizing that there will be periodic times when they are moving equipment on site. If they ever wanted to do a full night time operation that would require an approval of a lighting plan.

P-30-All required State and Federal approvals for environmental consideration. As previously agreed to the waiver in the past. Mr. Morrissey did have a conversation with a review officer from Pinelands, the agriculture use is not an issue with them, as long as they were consistent with what they were approved for their certificate of filing will still be in effect. He believes that is enough to satisfy their submission requirements. The Board could require the applicant to ask the Pinelands for an interpretation.

P-31-Drainage Facilities. The applicant's justification for requesting the waiver, the nature of agriculture precludes the need for drainage facilities. Prior plans for this site have been granted this waiver and they ask that it extends to this application. Drainage in the mining area, everything drains to the wet pond. Mr. Morrissey is concerned with the 100 acre clear cut area. Are there any elevations in that area, what are the drainage patterns and flow paths. If it drains to the pond the concern is less, but if it drains to Weatherby Rd or the adjoining properties, some level of drainage control would be appropriate. It may be as simple as verifying that the contours are not flowing in an area that would harm anyone off site or that some level of drainage was put in. When you go from woods to farmland you will have an increase in run-off.

Stowman questioned the contours shown, Morrissey stated it isn't enough to show the drainage.

P-32-Environmental Impact Statement, they are requesting a waiver from that, it was submitted with previous applications. Mr. Morrissey believes that clearing 100 acres will have some environmental impact and the Planner, Ms. CuvIELLO should comment on that.

P-35-Property Survey-The Board has previously granted this waiver. Mr. Morrissey believes they can grant the waiver condition upon providing some accurate representation of the topography to indicate that the drainage is properly protected. Previously this application included lot 12 of block 124, this plan does not show it as being mapped within the boundary area. The zoning plan and property owners list does have lot 12 included. We should get clarification if lot 12 is in or out.

Tiffany CuvIELLO reviewed her report that pertains to completeness.

She stated some things need clarification and there are some things that need to be depicted on the plans.

The required set back lines need to be on the plan. The buffer setbacks, for the mining operation that need to be addressed as well as the setbacks for the agriculture use. It appears the agriculture use will go right up to the property line. There needs to be some clarification as to the agriculture use, better definition of setback allowing and boundaries should be on the plan so the Board better understands the application. Without it on the plan we don't really understand the extent of the agricultural operations. (Items 2 and 3)

(Item 4) She asked Mr. Hluchan that there will be no agriculture in the PVC 3 zone. Lot 12 is the PVC 3 zone.

(Item 5) There needs to be some type of description of the agriculture. Because there are two uses there are site plan concerns that need to be addressed. How will the agriculture be separate or combined with the mining?

The existing Environmental Impact Statement deals with the mining. Environmental considerations for the agriculture may be the use of pesticide or chemicals. Will those operations have any run off? Is there an environmental impact. It goes back to what are the agriculture activities and how they mesh with the mining activities.

#### Variances

They show a 500 ft distance to the existing residential use, an 200 ft distance to the property lines. The plans were approved to include the 500 ft and 200 ft buffers. The Board spent a lot of time requiring those buffers, which are required in the ordinance. If they are going to remain and not be part of the agricultural operation, then no variances are needed. If they are going to be cleared and become part of the agricultural use then you do not have the buffers approved for the mining operations and variances would be required. The same variances that were dealt with in 2013 with Resolution 2013-13. The current application does not request for any variances. They are shown on the plan but they are also shown as agriculture. Clarification needs to be provided. If the buffers are being disturbed then they are no longer the buffers that the Board and ordinance require.

Mr. Hluchan spoke:

Item B, in respect to the survey.

Mr. Dougherty he stated the survey has not been updated to include the most current portion of the survey, it says lot 12 but it is not part of this application.

Mr. Morrissey asked if he recalled the changes with the survey. There was an issue with the taxable area of the lot.

Mr. Sjogren stated it was probably the survey of the westbound property line as well as other areas not previously surveyed. They put down ground control. They did an outbound survey. There was confusion that the Board thought the Lafferty property was part of the Whibco property and it is not. The reason this information is not on the plan is because they are just amending a survey that was previously approved. But, he stated they could put that information on the plan. There were issues dealing with the assessor's office. He stated that they would codify it into one document. Mr. Morrissey stated that is their obligation. Mr. Sjogren stated that they are just modifying an existing approval so they just wanted to show on the plan what was changing, they have no problem putting additional information on the plan.

Mr. Morrissey stated the other thing is that there are some areas where the meets and bounds are obscured. For future, it is important that those bearings and distances are clearly legible. Mr. Dougherty stated that they are.

Mr. Stowman asked if the orange triangles on the left side are accurate. Mr. Dougherty stated that they are accurate as far as the previous survey. There was also a question about the black line. Mr. Dougherty stated that comes with some of the updates.

Item C, Mr. Hluchan stated they do not need to address that.

Item D, regarding circulation. They are not proposing any new egress on the property, from Weatherby Rd or anywhere else.

Mr. Sjogren spoke on the agriculture use. He stated they will covert approx. 101 acres currently wooded and under a Woodland Management Plan and Forest Stewardship. He stated throughout Maurice River Twp. they have plants on over 7000 acres that have to be managed. They harvest wood, take care of the forest, thin the forest. All consistent with the Woodland Management Plan and Q Farms. On this site they are going to plant Rye Grass. It will be used for erosion control and nutrient recycling. As the end of and during the 5 year cycle they will improving the soil. By introducing bio mass into the soil. It will prevent weed control, increase the water concentrate in the soil. Ultimately they will harvest dry hay and haylage. (wet hay, wrapped in plastic) It will be used for horses and cows. They will be subcontracting with local MRT farmers to perform different services for them. He stated they will proceed with a no till process. They will drill seed the Rye Grass. It uses a drill seeder, it basically drills

the see in the ground. It is drawn behind a tractor. Their plan is not to use pesticide or fertilizers. There will also be no irrigation. Rye Grass is very drought tolerant. There will no new egress. They will use the existing roads previously approved. Once the field is established, on a periodic basis the hay will be cut, raked, and either bailed in round or square bails. It will not interfere with any mining and the mining will not interfere with any agriculture.

Mr. Stowman questioned the green areas, they should all add up to 101 acres. He also asked how the equipment would come in to the site, Port Cumberland Rd and/or Weatherby. Mr. Sjogren stated yes to both.

Mr. Benson asked what the nature of the buffer that is being removed currently? It is wooded. This area will be clear cut. Mr. Sjogren stated that this area ultimately will be removed from the Woodland Management Plan. Once it is suited for agriculture purposed they will amend their Woodland Management Plan. When the area is reviewed for different things they will modify their WD1s and their FA1s showing that this area is agriculture.

Mr. Imbaratto questioned the reason for clearing for 101 acres to plant hay. Mr. Sjogren stated that all the uses they have are transitional. Mr. Imbaratto made comment on the revenue of the hay. Mr. Sjogren stated they run a business enterprise that is driven by profit. There are sound business plans to what they are doing.

Mr. Morrissey questioned the access points, there is one on Weatherby Rd. Mr. Sjogren stated that is correct and there is one on Estell Manor Rd.

Mr. Stowman asked if they are clear cutting 101 acres how they will maintain the buffers for the residents and the road buffer that is needed. How does the first primary use, the buffer that was being maintained, if it is suddenly clear cut, what is the buffering for dust and noise near the pond further back. It seems like one would interfere with the other. Mr. Benson stated that is getting ahead, it should be discussed after completeness.

The next item is the 8" trees. Are they willing to identify anything over 8", specimen trees, take pictures. Mr. Sjogren stated that they had a survey conducted. Mr. Stowman stated that if they have a giant oak that they identify it. Mr. Sjogren stated that they do have a survey with that information. They do not believe that there are any specimen trees. Mr. Chard stated it should be clear what is there and what is not before the property is cleared. Mr. Sjogren stated that what separates Whibco from other mining in MRT, the level of impact, their total acreage in MRT is 7000 acres. 101 acres is a fractional percentage of their land holdings.

Mr. Imbaratto commented on the fact that does impact the people around it.

Ms. Cuiello stated she feels the Board is concerned not with clearing, it's the 200 and 500 ft buffers that are being cleared and the protection under the mining requirements. Mr. Morrissey stated it is a completeness issues. Mr. Sjogren stated that the 500 ft line is not a buffer or setback.

Mr. Benson asked if they would be addressing the question as to whether it is a distance vs. a buffer. Mr. Hluchan stated according to the ordinances plain terms. One of the definitions is "buffer" and he read the definition:

An Area within a property or site, generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or created by the use of trees, shrubs, fences, and /or berms, designed to continuously limit vie, the glare of lights, and /or sound form the site to adjacent sites or properties.

The word buffer is defined as a barrier to lights/sound. The word buffer is not in the ordinance pertaining to resource extraction. Mr. Hluchan stated that buffers are not required as so defined. The ordinance does say they are required to have two setbacks. Section 35-9.16C requires that any resource extraction or mining operation must demonstrate that the operation is designed so that no area of extraction, sedimentation pond, storage area equipment or machinery or other structure or facility is closer than 200 feet to any property line; or 500 feet to any residential or non-resource extraction related commercial use which is in existence on the date the permit is issued.

Mr. Hluchan stated that it is not a buffer, it is a setback or distance. He stated that they have always complied with that and will continue to comply with that. The only arguable standard in the ordinance respecting agriculture, in the PC district, agriculture is a permitted use. Minimum Yard 50' front, 30' side, 50' rear, 35' height, 10% lot coverage. They are not proposing any building in this area. The definition of yard is defined as an open area with no buildings that lie between the permitted principal or accessory building or buildings and the nearest lot line. Mr. Hluchan stated that it obviously pertains to building, so there is no buffer. The mining is at all times meeting the 500' and 200' setbacks. The application submitted complies with the letter of the Ordinance. The applicant would be happy to discuss some type of buffer or area of the trees that are not cleared even though it is not required. Mr. Benson stated that all the previous applications have addressed buffers, referred to areas as buffers and blazed areas for buffers. Mr. Hluchan stated the fact that they used that word does not change a thing. They never agreed to a buffer as defined in the Ordinance because they are not required to. Mr. Benson stated that it has been well established in practice for every mining application in this township. Mr. Benson stated he did respond to Mr. Hluchan's argument about buffers. He quoted his response

You are correct in pointing out that section 39-9.16C does not specifically make reference to "buffer" in connection with its requirements for 200 and 500' distances to property lines. The Ordinance requires a resource extraction operation to maintain a 200' distance to any property line and 500' distance to any residential use or non-resource extraction related use. Significantly the Ordinance further provides in section 35-11.4B.1 for buffers along all lot lines or street lines which separate a non-residential use from an existing residential use or residential zoning district. That provision clearly qualifies the distance requirement between residential and non-residential uses found in 35-9.16C above, that is where the 500' distance is required it must be read in conjunction with and be subject to the buffer requirement. This has in fact been a practice in the case of Whibco Site # 1 where the site plan specifically refers to the 500' mining buffer to non-resource extraction or non-residential use. Quoting the very language we are talking about. The site plan approvals have referred to the distance has a "buffer", the site plan discussion, testimony, approvals have been premised and relied upon the recognition of the distance as a buffer. Likewise the 200' distance between mining and property lines has been specifically referred to as a buffer in plans and approvals. Moreover in recognition of these distances as buffers the Board has required blazing lines along your lines, demonstrating that these areas between mining and property lines, unless specifically accepted by variance, are to remain as buffers in their natural state to the approved mining operations.

T. Cuviallo added that the Board has interpreted the Ordinance as Mr. Benson just indicated on all mining applications. In respect to the law, the court has deferred to the long standing interpretation of the both boards of adjustment and administration of officers so if you disagree with this interpretation, you could have appealed the interpretation in 2013, you could also ask for an interpretation before the Board of this Ordinance formally. But, this Board and Township has considered it a buffer

Mr. Hluchan stated, respectfully that is decision is wrong because it is contrary to the plain language of the Ordinance. A custom for an interpretation over a course of time does not change what the Ordinance says. Responding to Mr. Benson's argument of 35-11.4 which he says requires buffers along all lot and street lines which separate a non-residential from and existing residential use. He stated if you read that section it says all developments shall be subject to the specific provisions and standards contained in this section. A: Agriculture and when you get down to D: wherever buffers and screening are required it shall be installed according to the follow so he questioned, where that is required, it is not.

B. Stowman stated that in D.1 it is, it is required on all lot lines and street lines which separate a non-residential use and a residential use or residential zoning district.

Mr. Hluchan stated that right above it, where ever buffers or screening are required it shall require buffers. You don't even get to number 1 unless you can say where buffers or screening is required.

There is nowhere in the Ordinance where buffer is screening is required for resource extraction or agriculture.

There was a discussion on the Ordinance and the requiring of buffers or screenings.

Mr. Hluchan stated they are prepared to discuss with the Board what an appropriate screening, setback, area where trees are not cut.

Mr. Benson stated that Rye grass is not a buffer, Mr. Hluchan stated that if a buffer were required he would agree but nothing that requires a buffer for resource extraction.

Mr. Benson asked if they are proposing that the Board abandons the whole concept of buffers. Mr. Hluchan stated they are proposing that they read the Ordinance as it is written. Mr. Benson stated that have interpretation and practice. Mr. Hluchan stated he will take that to a judge if he has too but they do not want to.

Mr. Imbaratto asked if we are discussing completeness. He stated this is too much to absorb. He would like to a make a motion to table this application. Mr. Benson stated he would recommend not to table it and to get through completeness and determine that first.

Cuviallo stated that there is a time frame for determining completeness. Mr. Imbaratto agreed and no motion was made.

Mr. Hluchan continued with the checklist items.

G-Nothing will be done at night so no lighting is necessary.

H-all required state and federal approvals. 35-8.10 pertains to forest area, under 12, agriculture is listed as a permitted use. 35-10.1B, the chapter on certificates of filing form Pinelands, agriculture is exempt from Pinelands certificate of filing.

Morrissey stated his question wasn't in reference to the agriculture use, but to the change in the mining operation. There are no buffers now from what was previously approved by buffers.

Mr. Hluchan stated the Pinelands rules also do not require buffers as defined by MRT Ordinance.

I-Drainage-Mr. Dougherty stated that when converting the area, Rye grass and wooded areas use rainfall differently, because of that you do have run off. The roadways are higher than the surrounding properties. The runoff will return to the pond and they will add that to the plan if the Board would like.

Mr. Morrissey stated he would like to see evidence to show that they are not having any adverse effects on neighboring properties.

Discussion on other farm areas that do flood the road and the concern with this property doing the same.

Mr. Dougherty also spoke on soil erosion and sediment control measures. Agriculture is typically exempt form soil erosion and sediment control measures. There is a drainage plan that was submitted in the past. (2011) It does point the majority of the drainage in towards the pond. If the area is cleared is would be able to be directed towards the pond.

Mr. Morrissey questioned the agriculture being exempt from the major development classification, clearing more than an acre. Mr. Dougherty stated there is no fee schedule set up for agriculture use.

Mr. Benson stated that isn't a pass on drainage, if it is a potential impact on public safety or nuisance issues that arise after that. Mr. Morrissey asked if it falls outside of the definition of major development. He thinks it would but he is not sure. If it is non regulated then its fine. Mr. Dougherty stated he does not believe it is because they are not proposing any impervious coverage. Mr. Morrissey stated he would just like that clarified.

Mr. Morrissey spoke on a section of the mining ordinance 35-16:C-10, clearing of no more than 20 acres next to a wet pond. They are two different uses but you still have agriculture next to a wet pond. What latitude does the Board have to approve that?

Mr. Hluchan stated his understanding of the 20 acre provision that applies to a mining operation, that they do not want you to mine more than 20 acres at a time. He does not believe that it pertains to agriculture.

Mr. Morrissey stated under a conditional use, Mr. Hluchan stated this is a permitted use, resource extraction should be approved for a maximum of 5 years, Mr. Hluchan stated they are not changing anything with the resource extraction. Mr. Benson asked if all conditions remain in regards to buffers? Mr. Hluchan stated they are providing the 200 and 500' as required by the Ordinance. Mr. Benson stated the resolutions also refer to buffers. Mr. Hluchan stated they never intended to incorporate the definition of buffer into the resource extraction. Mr. Benson stated that they accepted the resolution with the buffers in them.

Mr. Morrissey stated with C10. What they are applying for is an amendment to a resource extraction approval. Mr. Hluchan stated they are applying for agriculture. Ms. CuvIELLO stated the entire site is part of the condition use approval for the mining. The entire site is governed under the conditional use approval, under the conditional use you can clear more than the 20 acres next to a pond. Mr. Hluchan stated they are not giving up any rights to mine, that is a resource extraction requirement not an agriculture requirement. They are amending their site plan to provide agriculture in an area reserved for future mining. Ms. CuvIELLO stated you still have to demonstrate how you meet all the conditions of the conditional use. Agriculture is a permitted use but the mining operation has to continue to stand as approved and agree to under the conditional use standards. Mr. Hluchan stated those conditional use standards pertain to the area approved for mining. Mr. Benson asked what the standard that require this Board is to approve the application to amend. Simply because you have a right to have agriculture doesn't necessarily mean the Board is bound to modify their previous approvals. Mr. Hluchan stated they are entitled to a second principal use, agriculture as a matter of right. There was a discussion on impacting the one use with the new use. Mr. Morrissey stated the mining application has side slope requirements, do the standards still apply if you say you are going to plant agriculture on the side slope? Mr. Hluchan stated they are not changing any of the provisions of the mining approval. Mr. Benson stated other than buffers. Mr. Hluchan again stated that buffers are not required.

There was more discussion on buffers.

Mr. Morrissey stated the basis of the previous of the approval was no more than 20 acres would be cleared next to the pond. Mr. Hluchan stated they are not clearing anything for additional mining. Mr. Morrissey stated it is plain language that states you cannot clear more than 20 acres.

Ms. CuvIELLO stated the only thing that was not addressed was the EIS comment, if there was any requirement to amend the EIS. Mr. SJOGREN stated this site has been studied by environmental sciences repeatedly throughout the years. During the 2011 renewal additional studies were done for the Northern Pine Snake. A three season survey came back with a negative result. The last study with an agreed upon protocol with the Pinelands, they furnished the report, it came back with no findings. There is going to be no impact on anything environmental. The whole site was studied. Mr. STOWMAN asked if all the information from the studies have been sent in. Mr. SJOGREN stated that a copy of the no call up letter was submitted which addresses the studies. In 2011 the Board approved the application and the Pinelands imposed different requirements. Discussion on the no call up letter. Does it include the additional environmental results? Pinelands accepted the three season survey and the no call up letter was issued in 2013. Ms. CuvIELLO asked if the T & E study accepted the 200 and 500' area as part of the study. Mr. SJOGREN stated the study was to all lot lines, all of Site 1.

Mr. Hluchan asked the Board find the application complete.

Mr. Benson directed the completeness to the Board Planner and Engineer if there were any matters that still need to be addressed for purposes of completeness.

Mr. Morrissey stated the drainage issue has to be resolved and made comments as to why.

Ms. CuvIELLO stated she believes they require variances and an application for variances should be submitted. She stated it the variances do not go away just because it is agriculture. She also stated it would be beneficial to have a written description of how you plan to operate it should accompany the application.

Mr. Sjogren stated he limited his comments to the first five year cycle of planning, agriculture use, like any business enterprise, you are dealing with an activity that is in motion. Something could occur that it may require something, as a business enterprise, we will do what is in compliance with the law and best practices. Ms. Cuvillo stated there is no documentation on circulation, using no additional roads. There was application form with the application, it needs to have a clear description of what you are asking for.

Mr. Stowman asked about the end use of a mining application, all of our plans have to slope when something gets to the end. Is there anything missing here for end use? Mr. Morrissey stated the application is not seeking the end use approval. There was a discussion on end use.

Mr. Stowman commented that there will now be a pond in the middle with a big open area right up to the resident properties and the road.

Mr. Morrissey stated the access ways need to be properly gated. Mr. Stowman stated that now there is no forest so there is no buffer. In the plan how would the notations mark how you would be protected? How would you protect people coming to the backside of the pond? Mr. Sjogren stated they are willing to have a dialogue now or after the application is deemed complete on what tree line would remain between the agriculture activities and the different boundaries.

#### Board Discussion:

Mr. Oliver asked if as a Class II member he is permitted to vote. Mr. Benson stated yes, there is no variance issue at this time and it is just for completeness.

Mr. Benson stated you can move to deem complete and vote either yes or no. The motion is whether or not it is complete.

Imbaratto made a motion that the application is incomplete. Mr. Benson stated if you believe it to be incomplete your response should be "yes." Chard seconded the motion.

All in Favor to deem application incomplete on a roll call vote.

Mr. Hluchan stated he would like the Board to give a definitive list of what they need to be deemed complete.

#### Drainage

##### Circulation Notes on Plan

Mr. Imbaratto stated the Board needs time to gather what they need on the list. Mr. Morrissey stated that the Board has not waived any of the items that were asked to be waived. You can use the reports as the basis, if the Board wants some additional correspondence to further define that, but there will not be able to be a list as to what the Board may or may not waive. Mr. Hluchan stated they are sticking with the request for waivers, so if there is additional information needed to get to completeness the Board should tell them why.

Ms. Cuvillo believes there should be a waiver, Mr. Hluchan stated they responded to that. Ms. Cuvillo stated that doesn't make it complete. IF the Board responded and said you are incomplete, you can say you don't want to do it, but you need to do it. Mr. Hluchan stated then they could use that as a basis for denial, it is not a completeness issue. They have requested waivers for the reason listed or given the Board the information.

Mr. Sjogren stated to narrow it down, the Board is looking for P24, P31, and P35. Which will be supplied. They are the only outstanding issues.

Mr. Imbaratto stated you have to give our professionals time to not make a mistake.

Mr. Stowman asked the Board if they feel it would require a variance. Ms. Cuvillo stated this is an interesting situation. If they refuse to apply for the variance. We have to deal with completeness as submitted. We can deal with the variance later on. Mr. Hluchan agrees with that. Ms. Cuvillo stated that in terms of the site plan they have submitted, the items addressed by Mr. Sjogren were correct.

Mr. Benson stated same. Mr. Sjogren stated the only other matters were already approved in the 2011 approval. They are only changing part of the site form Woodland Management to Agricultural. The issues that were discussed were P24, P25 and P31.

Mr. Morrissey asked Mr. Benson about one of the waivers being about the buffers. They have asked for a waiver because they do not believe it is required. Does that satisfy the requirement? Waivers will be voted on the next time.

Mr. Sjogren also stated P35 for the survey, so there are 4 items to submit.

Mr. Morrissey stated P3 and P35 are both the survey.

Mr. Hluchan stated they will need P3, P24, P31, P35.

And also P25 to submit the study for this site and other sites.

Mr. Morrissey asked about the site inspection committee. Mr. Stowman stated the committee should go out there. Mr. Sjogren stated it might be better to address the completeness items then they will have the information for when they review the activity. Mr. Morrissey stated that may prolong the technical review by the Board. The Board may deem it complete and then say they want to go out. Mr. Sjogren stated that the Board would have the information soon.

Mr. Stowman determined that the committee would be Stowman, Imbaratto, Chard and Gross.

Mr. Sjogren stated he would send an email to the secretary with dates they are available. There was a discussion on the site inspection and where they need to inspect.

Mr. Benson announced that there is no need for additional notice, the current meeting is continued until the August 5, 2015 meeting. Mr. Stowman stated that if anyone in the audience was here to speak on the application they will need to wait until the August meeting.

Ms. Cuviallo stated that they cannot do anything while the trees are still there, no development can occur until the application is approved.

Mr. Benson stated they will not be hearing any comments in reference to this matter tonight.

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Other:

Swine Ordinance Sub-Committee will meet:

July 15<sup>th</sup> at 6:00pm. Oliver, Thompson, Stowman, Imbaratto, Cuviallo

Stowman spoke briefly on the mouth of the river grant.

Motion to open the meeting to the public Chard, 2<sup>nd</sup> Imbaratto AIF

Jerry Dilks came forward to speak. He asked the Board how they address issues about things that aren't even there and talk about them when they do not even happen?

Mr. Benson speaking at that as a hypothetical question stated the Board can do that because it will all come out during the application process

Ms. Cuviallo stated if we go out of order it does no good.

Mrs. Dilks stated the Board would be getting a letter from her. Mr. Stowman stated that they should plan to attend the next meeting if they have an interest. Ms. Cuviallo stated letters are not admissible.

Mr. Benson stated everyone will get an opportunity to have talk about whatever they want to talk about.

Motion to close the public hearing Chard, 2<sup>nd</sup> Oliver, AIF

Motion to adjourn the meeting Oliver, 2<sup>nd</sup> Chard, AIF

Respectfully Submitted,

  
Lillian Johnson, Secretary