

**BOROUGH OF FOLSOM
PLANNING/ZONING
BOARD OF ADJUSTMENTS
MINUTES
SPECIAL MEETING**

November 29, 2016

CALL MEETING TO ORDER: 7:04 PM

SALUTE TO THE FLAG

CERTIFICATION: Adequate notice of this meeting has been given in accordance with the Open Public Meeting Act pursuant to Public Law 1975, Chapter 231. Said notice has been advertised in The Hammonton Gazette and is posted on the bulletin board showing the time and place for the meeting.

Members Present: Charles Pitale, Joe Pino, Glen Smith, Ron Esposito, Lou DeStefano, Dave Cappuccio, Ben Pagano, and Michael Veneziani,

Members Absent: Joel Spiegel, John LaPollo, Cluade Jones

Others Present: Solicitor: Jorge F. Coombs, Esq.
 Board Engineer: Vince Polistina, PE, PP
 Board Secretary: Susan Carroll

APPLICATION: FERRIS ASSOCIATES

Application # 06-ZB-14 – Linda Bloomfield, 111 N. Ocean Ave., Seaside Park, N. J. is seeking to renew a permit for resource extraction for the Ferris Associates properties – Block 1101 – Lots 3, 4, & 5; Block 2004 – Lots 3, 5; and Block 2201 – Lot 4. The parcels are located along 13th Street on both sides of 4th Rd. in the Borough of Folsom.

Mr. Pagano recused himself from the Application.

Mr. Tom Darcy Council for Ferris Associates. He confirmed the Public Hearing. Due notice was sent to all property owners within 200 feet for Ferris's property in accordance with the Municipal Land Use Law and as shown on the Certified list of properties owners provided by the Borough of Folsom Tax Assessor. The notice was published in the Atlantic City Press and Proof of Notice and Publication was provided to the Board Administrator. He also confirmed the number of voting members present was seven (7) and anyone with a conflict of interest had already stepped down.

Mr. Darcy spoke to Council prior to the meeting and reaffirmed the following Exhibits entered into record previously and will be made a part of the permanent file:

- 1.) A revised Site Plan prepared by Monarch Associates Mr. McKenna. It consisted of six sheets. The most recent revision of 7-12-16. Mr. Coombs made a correction of the most recent revision was 7-13-16.
- 2.) A packet with the history of past for Ferris dated 6-21-16.
- 3.) A narrative review of Applicant's compliance with Chapter 200-55 dated 6-30-16.
- 4.) The Operations and Maintenance Plan by Bruce McKenna dated 8-5-2016.

All of the documents were submitted to the Board in bulk and also to the professionals.

The exhibits for the presentation included:

- 1.) Exhibit A-1 Monarch Site Plan – Sheet 4 of 6
- 2.) Exhibit A-2 Resource Extraction Restoration Plan. It was also Sheet 4 of 6, but had an Aerial Photo

There was also a location map showing conditions within 300 feet of the site.

The purpose Ferris was appearing before the Board was to get an approval to renew a resource extraction permit. Ferris owned the property since 1986. It was an active resource extraction facility when they bought it. It was approved in 1986 by Pinelands Commission and the governing body of the Borough of Folsom. There have been various approval which have taken place over the course of the last 30 years. The most recent was August 15, 2012. It was the date of the last Resolution by the Board. The extraction facility probably predated 1986 for several decades. There was a letter in the history package where the Mayor, in 1986, indicated the facility dated back to the 1950's. It has been a very long standing existing resource extraction facility. Ferris was seeking Conditional Use Approval and Site Plan Approval for the same facility which was presented to the Board in August 2012. There were no changes except for having a new Engineer and the plans were updated, but no changes were proposed to the horizontal or vertical components of the mining facility. It was an 18.9 acre facility which could be mined. It was approved in 1986 and it is exactly what Ferris Associates was proposing.

The Board imposed certain Conditions in the 2012 renewal. Ferris assumed the same Conditions would be imposed and had no objection to them. Ferris was asking to have their application renewed as it was renewed in 2012.

There were some administrative changes by The Pinelands in dealing with the renewal of resource extraction permitting since Ferris's last meeting. Pinelands now reviews the resource extraction renewals in two year periods which starts the date of the Resolution of Approval and will run in two year increments. Ferris's last approval was dated August 15, 2012. From that time it would be renewable August 15, 2014, and then August 15, 2016, and then August 15, 2018. Every subsequent two years on the exact same date.

Previously Pineland would granted a No Call Up Letter. And the date would run from the particular time period. If the time period went over 2 years, they were not concerned. The last approval for Ferris was August 15, 2012 and it ran to August 15, 2014. It was based on the February 3, 2015 Certificate of Filing. Pinelands allowed Ferris to use the particular Certificate

of Filing for that two year period. Pineland will not allow Ferris to utilize that Certificate of Filing for the subsequent renewal. Ferris needed to go back to the Pinelands because they had a new Engineer. When they went back to Pinelands, they found out they needed to get a new Certificate of Filing. They had discussions with Ernie Deman of the Pinelands Commission and the method by which the renewal will take place will be a permit renewal from the period August 15, 2014, two years after the Board's last approval, to August 15, 2016. It was based on the February 3, 2015 Certificate of Filing.

Ferris needed to get a new Certificate of Filing because they were past the August 15, 2016 time period. The new Certificate of Filing was dated September 29, 2016. It will be perspective and they were asking to be approved for the two year cycle from August 15, 2016 thru August 15, 2018 based on the September 29, 2016 approval. There were two time periods the Resolution needed to reflect in order to provide the continuity Pinelands now requires under their administrative procedures.

There were no Variances associated with the Application. It was strictly Conditional Use and Site Plan Approval. Demonstration would be done through testimony and documentary evidence. Every standard in the Conditional Use standards from Chapter 200-55 would be met as it was in 2012.

Mr. Darcy introduced Keith Davis Esquire. He was co-council for Ferris Associates and will step in when necessary.

Mr. Darcy introduced the witnesses. Mr. Coombs swore in Bruce McKenna of Monarch Surveying & Engineering, N. J. Professional Engineer, Professional Land Surveyor and Professional Planner. Linda Bloomfield Manager Member of Ferris Associates, and potential future operator John Callahan of Callahan Soil and Stone, Turnersville, N. J.

Mr. McKenna was the first witness. He had a Bachelor's Degree in Mathematics from Rowen's University, a Bachelor's Degree in Civil Engineering from Drexel University, a Bachelor's Degree in Surveying from NJIT, two Associates Degrees from Gloucester County College. He was a licensed Engineer, Surveyor and Planner in the State of New Jersey, a Professional Engineer and Professional Surveyor in Pennsylvania and Professional Land Surveyor in Delaware. He also had experience and education in environmental work through his employment with several environmental firms for over five years. The Board recognized Mr. McKenna as an expert in Engineering, Surveying, Planning, and Environmental Consultant.

Mr. McKenna was familiar with Chapter 200-55 Resource Extraction Zoning Ordinance. He had the opportunity to review all of the standards entailing the Ordinance. He acknowledge Ferris Site Plan Application included all of the standards of Chapter 200-55 and there were no variances. Mr. Darcy and Mr. McKenna reviewed Chapter 200-55 Section A. They went through them individually to demonstrate to the Board they satisfied the requirements. They used a standard narrative review dated 6-30-2016. They reviewed each Section of the entire Chapter 200-55 for compliance with Ferris Application submission.

The west and the north of the property is heavily wooded. To the east and south east is the railroad track Pennsylvania Rail Line and there is access with a driveway off Fourth Road. The nearest house at least 500 feet out either way. The property size is approximately 58.8 acres. The approximate size of the mining limit is 18.9 acres. It was the same limitation set by Pinelands Commission and the Borough in 1986 and the same limit approved by the Board in 2012.

The application was known for resource extraction. The grading limits and the depths of resource extraction were shown on Sheet 3 of the Plan – The Grading and Excavation Plan. It encompassed the 18.9 acres in the center of the site. It was the same approval as in the past.

The Cover sheet showed the requisite application map as well as in the operation maintenance plan. The zoning designation was on the Cover Sheet.

The Topographic Map showing the proposed dimensions, location, and operation of the subject property was included on Sheet 3- The Excavation Plan. It also had both the existing contours and post contours.

There were no buildings currently on the site. The location of points of ingress and egress are shown off of Fourth Road which was an entrance on the south. There were no changes in the access from the 2012 Approval except the driveway was blacktopped as per the 2012 Resolution.

The location map expanding 300 feet beyond each boundary of the subject property, showing all streams, wetlands and significant vegetation, forest associations and wildlife habitats was shown on the Cover Sheet with the Quadrangle and aerial photograph and included in the Operations Maintenance Plan which had two site location maps. One showed soil limits and quadrangle.

The general site conditions were toward the south along the southern boundary line just north of the railroad track was a designated wetlands area reviewed by the Pinelands, the remaining areas were wooded, and the center was occupied and utilized for resource extraction operation. Across the street were some homes.

Fourth Road and Thirteenth Street right-of-ways, the back part which was relocated on Thirteenth Street, and the eastern boundary of the rail road track which takes up the entire eastern boundary of the site was shown on the plan. There were no proposed streets.

The soils map was included in the Operation Maintenance Plan, and the soil line was shown on the Existing Conditions plan – Sheet 2 to overlay the soil lines and gave a general sense of the soil conditions for the site.

The Ordinance included a reclamation plan. A larger site it might be developable mining 20 acre parcels at a time. When they finish mining 20 acre parcel and then it has to be reclaimed. In this case the mining limits permitted are 120 acres. There will be only one mining cell that will be mined. The reclamation will take place after full mining operations have taken place.

The method of stockpiling, top soil, and overburden was shown on the Excavation Plan – Sheet 3 and the topsoil will not be within any 200 foot buffer.

Proposed grading and final elevations were on Sheet 3 Excavation Plan.

The final grading of the bottom of the mining operation cannot go below elevation 70 as indicated on the Pinelands Certificate of Filing and the plan complied with it.

The proper notations were provided on the plan throughout the full set of plans for topsoil material application and preparation;

Type, quantity and age of vegetation to be used were designated on the Restoration Plan and in the notes throughout the plan. They were dictated by the Pinelands Commission New Jersey Administrative Code.

Fertilizer application, including method and rates; and the Planting method and schedule were included on the Restoration Plan.

Maintenance requirements schedule was included in Operation & Maintenance Plan as a separate document.

A signed acknowledgment from both the owner and the applicant that they are responsible for any resource extraction activities which are contrary to any provision of this chapter or of the approved resource extraction plan done by any agent, employee, contractor, subcontractor or any other person authorized to be on the parcel by either the owner or the applicant; It will be signed by Linda Bloomfield as the Managing Member of Ferris Association Associates. Ms.

Bloomfield submitted a notarized statement on 9-11-12 and updated it on 6-29-16. The Boards Engineer asked for an original with respect to this application. It will be updated.

A financial surety, guaranteeing performance of the requirements of the Sections.

The surety was to cover the guarantee the eventual reclamation/restoration when 18.9 acres is finally mined to its end. It has been in place since 2011 and represented to the Board the

Financial Surety will be good until July 17, 2017. It was an automatic renewal Letter of Credit.

The Letter of Credit will renew automatically on a two year cycle unless the Borough receives an official notice that the bond will not be renewed.

There was a current Certificate of Filing from the Pinelands Commission for the period August 2016 to August 2018. It is dated September 29, 2016. There was another Certificate of Filing from Pinelands for the previous period August 2014 to August 2016 dated February 3, 2015. Both were submitted to the Board.

A No Call Up Letter was issued by the Pinelands Commission for the Approval granted by the Board August 15, 2012. It was issued on September 4, 2014. It was a Notification of Review of Local Agency Approvals. It had two Conditions contained in the No Call Up Letter.

1.) They shall be at least 300 feet from any Wetlands area.

2.) No resource extraction shall occur lower than elevation 70.

The plans conformed with the August 15, 2012 Approval by the Board and by the No Call Up Letter by The Pinelands Commission dated September 4, 2014.

200-55 Section B

Resource extraction standards. Resource extraction operations shall be approved only if the applicant can demonstrate that the proposed resource extraction operation complied with the following

(1) Will not result in a substantial adverse impact upon those significant resources depicted on the Special Areas Map. In the Resolution and Approval in 2012 it was found there was no adverse

impact found on the Special Areas Map and it still complied with the Pinelands Regulation for the Wetland Setbacks of the 300 foot buffer from the Wetlands and no extraction activity lower than 70 feet on the plan. There has been no change in those particular standards from the time the Board approved in 2012 until, your thoughts. Mr. McKenna's stated there have been no changes and it was his opinion they complied with the Section.

The plans have to show no area of excavation, sedimentation pond, storage area, equipment, or machinery or other structure is located closer than 200 feet. There will be no mining operation within 200 feet. There will be activity of restoration of those areas which were over excavated by the previous owner.

The site size is over 50 acres.

Provides that all topsoil that is necessary for restoration will be stored on the site but not within 200 feet of any property line.

The site is fenced or blocked so as to prevent unauthorized entry into the resource extraction operation through access roads. The access road was located off of 4th Road toward the east and across into the site. There is a gate for trucks.

The condition of the access driveway in the facility starting at 4th Road has paved apron right off of 4th Road and gravel to the railroad tracks, and gravel and sand until entry to the site.

There was no storm water discharge off site. Everything was being kept on site.

Pinelands standards were an elevation of 70 and is the depth of excavation. The approximate highest elevation is about 110. The bottom elevation of the depth is 70 feet below that. It is 110 at the approximate highest point and 70 feet at the lowest point. It was about 40 feet. They cannot go any deeper than 60 feet and were well/less than the 65 foot depth.

Will be carried out in accordance with an extraction schedule which the anticipated sequence, that each of the twenty-acre units will be worked. There was only one 20 acre unit. There was no need to sequence there.

It was secured by a Letter of Credit and at the end of the mining when it is done the applicant will have to reclaim it in accordance with the Borough requirements and the Pinelands requirements.

There were no ponds associated with the site. There was some standing water, but was part of the fact it had not been actively excavated. Once the operation starts moving forward, the standing water will disappear very quickly. The standing water will not remain as a permanent part of the operation.

Section C

Restoration standards. The standards will only come into play when the final mining operations is complete. There was no need to provide details of it because the mining was still ongoing.

When the mining is complete the application of the applicant will have to comply to Chapter 200-55-C Restoration Standard and the financial surety Letter of Credit guarantees. Mr. Darcy addressed the October 25, 2016 Engineers Report and some of the concerns raised. Mr. Polistina confirmed it was Ferris Associates Report.

Item A10 of the Checklist requested a location Map. It was testified the Operations Maintenance Plan had the map on it and it was on the site plan.

Item A14 requested a signed acknowledgement. It was represented to the Board that Ferris signed two already and will provide an original for the Boards permanent file in both this renewal period and any other renewal period they had.

Item A15 was the financial surety. The Letter of Credit was in place with an automatic renewal. The renewal date was 2017 and well within the time period.

Mr. Darcy addressed page 6 of the Engineers Report was verbatim.

Mr. Darcy addressed the General Review Comments on page 7 of the Engineers Report. Some were conditions of approval from the 2012 approval. Others were added in.

Letter A: Addresses trash. Mr. McKenna had an opportunity to examine the site. He believed the intent of this section was addressed. When the operator starts mobilizing on site any of the trash, equipment, or debris not used for the extraction will not be part of the operation. Mr. Darcy quoted Mr. LaPollo in the October 15, 2014 Planning Board Minutes, "Mr. Callahan has cleaned the property up quite a bit and it actually looks pretty good. He put the asphalt apron in like we required him to do. He is doing a pretty good job as far as cleanup is concerned. He got all of the trash out of there which we asked for." It was consistent with Mr. McKenna observation as well.

Letter B: Addressed the asphalt material dumped there by Ted Ellsworth. It had to be removed. Ferris was prepared to remove it any time the Board authorized them to remove it. The asphalt will be trucked offsite to a proper disposal facility. Mr. Callahan indicated he was willing to utilize one of the reclamation facilities such as the one in Gloucester County in Sewell, N. J. There was concerns raised in past hearings was about contamination of ground surface water as a result of the asphalt being there. Mr. McKenna testified he was an expert in environmental studies. Testing was done on the water. Mr. McKenna was there the day the sample was taken by Mr. Callahan. An analytical report was issued by Test America dated 6-9-2015. At the time Ms. Bloomberg's Engineer was Mark Herman from PS & S. Mr. Herman issued a report dated 6-15-2015 and submitted it to the Board and Professionals. He summarized based on the results of the test the water accumulated on the bottom of the extraction facility was free from contamination by EPH compounds. The understanding was the piles of debris caused some contamination from the standing water pocket on the site, but a sample was taken and tested and it was well below some of the requirements by the DEP for petroleum hydrocarbons. It was believed the water was not contaminated from that perspective. It was only standing rain water which had yet to dissipate into the sub-soil. It was his opinion the water was not contaminated. The silt was built up from inactivity and caused the water to become stagnant. The water

receded because of drought conditions. He took the initiative to locate the piles on the extraction plan and put the cubic yardage so they would know how much would need to be removed from the site. The material on the site did not pose any kind of hazard or danger to any property owner.

Letter C: Addressed restoration. The restoration was ongoing since 1986. There were various points in time where the Pineland Commission Certificate of Filing called for additional restoration and other time when the restoration was done and The Pinelands did not cite it as a condition in the Certificate of Filing. There was no condition that there was some problem with restoration in the current Certificate of Filing, but the restoration would be an ongoing process. It was an active site and a continual operation to restore some of the areas which were impacted by the operations. Mr. Darcy quoted Mr. LaPollo talking about Mr. Callahan from the he October 15, 2014 Minutes: “He is the contact and he has been out there and planted close to 300 or more new seedlings. He put grass down and mulch fertilizer on the grass seed. He cleaned up the property quite a bit and it actually looks pretty good.” Mr. McKenna’s current observation of the site with respect to restoration was consistent with the characterization. His only issue was toward the northern part of the boundary. It needed to be reworked and revitalized. On his Exhibit from the Site Plan he pointed out the areas of restoration which will be ongoing throughout the process. There were five acres identified in purple and two strips of water areas which were about a half-acre right along the frame and needed to be maintained and restored during the operation. Bi-annual inspections of the site of both the mining operation and the restoration in the spring and in the fall was suggested to the Board. Mr. McKenna thought it was a good plan for the municipality to be able to go out and inspect the site and confirm restoration is ongoing. When he filed the New Jersey Soil Erosion and Control Standard, it was the optimal planting time to be utilizing for the types of scenario for the project.

Letter D: In 2015 an Outbound Survey was done by Mr. McKenna to verify the boundary limits of the property because there were some discrepancy. It was submitted to the Boards Engineer for review. The borders to be set were found and identified. He demonstrated where the property markers were placed. Every corner except in one general area which he pointed out were set out in the field as rebar and caps. A couple of old markers were identified toward the north area. One of the corner markers were knocked out and it was reset on the north boundary.

Letter E: It was not required to have a Forester in the Zoning Ordinance. It was not a requirement by the Pinelands Commission to have a Forester and it was not a Condition in the 2012 Resolution, but it came up in subsequent meetings onsite and in the reports for Ferris to provide a Forester to monitor or review the clearing of the site and restoration. It was Mr. McKenna’s opinion the site could be adequately monitored and restored without a Forester because they were following standards in New Jersey for Soil Erosion Sediment Control Standards and the Pinelands. It was believed the bi-annual inspections by the Township Engineer meeting onsite and review with Mr. Callahan would facilitate the same types of oversight a Forester would do.

Letter F: A financial guarantee was requested for any impact on existing Borough roads. A financial surety guarantee was not required in the 2012 approval or required by the Pinelands Commission or the Borough for truck traffic improvements like paving on 4th Road. At present

Fourth Rd. is generally in fairly good condition. It did not have a lot of truck activity in recent events and expected if there were an issue, a biannual inspection of the road for its condition and address it accordingly from there. It was suggested to take photographic evidence of the condition of road right now and submit it to the Board Engineer as the condition of the street as a base line in determining if Ferris truck traffic is actually having that much impact. To monitor the road accordingly by having a start off base line and establish the condition of it today and then look at it on Municipal record planned periods. Imposing a financial guarantee right now there was no evidence Ferris Associates trucks in the past have broken up the road and it would be arbitrary and would be better to do the monitoring. It was suggested to look at it during this renewal period and then review it again at the next renewal period to see how the condition of the road has fared during the activity conducted on the site. The Board and Engineer will do a bi-annual look at 4th Rd. and will take a formal look at it as part of the two year renewal.

Letter G: Trespasser's/Access points were addressed on the Operation Maintenance Plan. There were a couple access cascades which go onto the site. Debris was being used to deter people from accessing the property. There will be a much more diminished trespassing once there is a presence on site. There is probably a voice out there saying it is owned by the Borough or by the County and people think they use it at their will. Once Mr. Callahan begins operating the facility, that type of activity will not be to the extent it today. The best way to deal with trespassers is to get the site up and operational so people won't go out there.

Letter H: It was required in the 2012 Resolution for No Trespassing Signs be posted. Mr. Callahan put up 200 signs. There were markers there. It would have to be a contingency to monitor it to make sure people know they are not supposed to be trespassing. It should be made an ongoing requirement to keep up with it.

Letter I: Concerned street sweeping. Mr. McKenna advised it would have to be done on an as needed basis with the action of the apron installed and the gravel roadway. A gravel tracking pad would be onsite on the side of the railroad tracks to keep sediment on the site. Mr. Callahan will monitor it on a daily bases and order a sweeper as needed to clean the impact as it goes along. In addition to the requirement in 2101 Resolution for the driveway be paved from 4th Rd. a significant distance going toward the railroad, Ferris will add an additional component to try to keep from tracking back onto 4th Rd.

Letter J: The hours of operation previously was 6:00 am to 6:00 pm – Monday thru Saturday. There is a statement the applicant will have to comply with the Noise Ordinance for the hours of operation.

Letter K: Monument markers. It was marked with six inch PVC pipes about six foot high. The perimeter of the mining limits were marked and for those which were not already there were reestablished in the field. There was a field meeting about a month ago. One of them was knocked down. It was found it and put it back up. The mining boundary lines have a marker and an identification on it. If one of the markers is knocked out, it isn't difficult to replace because everything was GPS field coordinated. At any point at any given time the marker can be reestablished. The likelihood of over excavating has been significantly diminished in the marking of the mining and helped in the restoration operation.

3. A financial guarantee was requested for the restoration of the buffer area which was previously disturbed. Mr. McKenna didn't think a guarantee was necessary because the Board Engineer will be out there every six months. It gave the ability to reestablish the sites that had to be redone. There will be an opportunity to reexamine the areas and making sure there is enough dirt and become stabilized. The areas which were disturbed had topsoil, mulch, and seeded. There was evidence of seedlings starting to grow. Some actually came up 2 to 3 feet. They seemed to be taking. It will be an ongoing process. The Pinelands Commission standard for the additional seedlings planted there for the final reclamation was 10,000 per acre. The restoration that is post here will be similar, but they were trying to maintain the method of restoration.

4. The estimated schedule of activities on the front page of the plans was updated and made current.

5. Talked about the time periods between 2012 and 2014 and also the periods from 2014 up to the present and whether there were operations taking place connected with the mining operation itself. Mr. McKenna was out at the site in two capacities as a land surveyor doing an Outbound Survey and preparing a Site Plan. He was retained by Ferris in 2014 to re-establish an Existing Conditions plan as part of the Pinelands Certificate of Filing Application and was part of the process he thought was issued in February 2015 and thereby move on with the project. He was doing work during both the 2012 / 2014 and 2014 / 2016 time periods. It was connected with connected with the mining operation. He was not removing soil, but was doing things necessary in order to continue the permitting process. At the time Mr. Callahan was doing some of the restoration. He was putting traction pads and putting the apron down. They were conditions in order to comply with Pinelands.

6. Addressed the wooded area to the west of the site. Mr. McKenna pointed out the area to the left of the site. It was indicated Mr. Polistina wanted to put in additional clearing at the site given the time no resource extraction activities have occurred. There were special rules and regulations for extraction exceptions. Courts recognize the ongoing mining of the entire site starts and builds out. This is what Ferris was doing. They were concentrating toward north and working their way to the west and to the south. The wooded area was included in the original 1986 Approval by the Pinelands and also the Borough. The wooded area was included in every subsequent Approval by Pinelands and the Borough. The section was Approved for mining in the 2012 Resolution. It was included in the plans submitted to Pinelands Commission for which there was a Certificate of Filing.

7/8. They will have to resubmit to Cape Atlantic Soil once they get their Approval for recertification by district for outside Agency Approval.

The Pinelands reviewed the Application and had no comment on the plans and that they satisfied the requirement by the Borough.

Mr. Darcy called Ms. Bloomfield the Managing Member and Owner of the property. She signed the acknowledgement she owned and was responsible for the activities at the site. She may not be doing it herself. She signed one of them in 2009, re-signed an affidavit / statement in 2014 a

provision clause, will submit an original copy of the acknowledgment, and will correct everything.

Ms. Bloomfield discussed the issue of the amount of time it took from the time the Board granted the approval in 2012 for her to get the No Call up Letter from the Pinelands Commission. Mr. Darcy reviewed a timeline with Ms. Bloomfield to demonstrate to the Board she was making good faith efforts. She revised and completed Mr. Polistina's reports, got the Letter of Credit posted with the Town, and got the Pinelands. There were delays in it. It was part of the process to keep the mining operation ongoing. The resolution was adopted August 15, 2012. There was a communication between Mr. Darcy, and Mr. Coombs dated October 2012 asking for a copy of the Resolution. They did not receive the Resolution. The meeting was August 15. They received the Resolution in October.

The next contact she had she was working with Lance Lansgraf the Engineer for the site. Mr. Lansgraf submitted plans on March 11, 2013 to Mr. Polistina to comply with the requirements with the 2012 Resolution. About a month later, on April 4, 2013, Marathon requested an update on the status of the plan. Mr. Polistina's office requested a revision to the paved apron location on April 9, 2013. There were questions about where it should be and the length of it. Ms. Bloomfield agreed to do the paving recommended by Mr. Polistina. It was part of the Resolution. On April 18, 2013 revised plans were submitted to Mr. Polistina by Marathon. There was an email communication to Mr. Lansgraf and Mr. Polistina on April 22, 2013. It indicated Mr. Polistina okayed the plan. On May 7, 2013 Marathon confirmed the plans were Okayed and the bond could be obtained. The plans were submitted to the Board of the Borough for signatures because the Pinelands needed signed plans. In June 2013 in connections with the Pinelands. Ms. Bloomfield took a draft Letter of Credit which meant it needed to be signed off for the bank to issue. She brought a draft Letter of Credit for the Borough to give her a sign off. On June 25, (2013) Ms. Bloomfield had a communication from the Borough's Planning/Zoning Board secretary directed through Mr. Lansgraf. She indicated the plans approved by Mr. Polistina as being ok and submitted by Marathon to the Borough. The Board Administrator told her in June 2013 the plans would be signed that week. July 2, 2013 she got approval for the Letter of Credit from the Borough. About July 17, (2013) the Letter of Credit was issued by the bank and sent directly to the Borough. There was an original Letter of Credit. The Pinelands Commission was also beneficiary on the Letter of Credit. The plans and the Letter of Credit was at the Borough. Around July of 2013 she would have been able to send the plans to Pinelands and get the No Call Up Letter if the Board had signed the plans. It was a year before the permit period expired. She never received the signed plans back from the Borough. On September 24 (2013) she contacted Mr. Polistino's, but there were no signed plans received yet from the Borough. She contacted Mr. Polistino again December 31, 2013, but there were no signed plans from the Borough. On January 6, (2014) she found out the Letter of Credit was never submitted to the governing body. Apparently the Letter of Credit was put in a file and not shown to anybody. After months of asking, somebody looked and found it. The Letter of Credit had to be approved by the Borough before they would sign the plans. Around January 21, (2014) new Council came into the Borough and Mr. Lansgraf contacted them to move the process forward. On January 31, (2014) Mr. Lansgraf advised the Borough Attorney needed her to contact the Clerk. On February 7, 2014, the Clerk confirmed the Letter of Credit will be put on the Borough Council Agenda for Approval. The Letter of Credit was at the Borough in 2013, but didn't get to

the Governing Body Approval for seven or eight months. Then they acted quickly on it. February 13th (2014). Ms. Bloomfield received notice the Letter of Credit was Approved by the Borough and she needed to post about \$5,000.00 escrow for inspections. She still didn't have the signed plans. On March 13, (2014) she still didn't have signed plans. Ms. Bloomfield felt there was Administrative Staff with the town and Polistina and Pinelands, as to how many sets of plans. They were going back and forth about it, but she still didn't get signed plans to give to the Pinelands. Around May 23 (2014) there was a letter from Mr. Cruz re-iteration the conditions of Approval which she needed to respond to. May 30 (2014) she was advised the Site Plan were signed by the Planning Board and they would be mailed to Marathon. Marathon received the plans June 9 (2014) and June 11 (2014) the plans were forwarded to Pinelands for review which takes 60 day and she received her No Call Up Letter. There was a long extended period of time from the time she was told the plans were approved to the time she got them and have Pinelands to sign off. She thought over a year was a very long time to wait. She also engaged Mr. Callahan to do restoration work at the site in 2014 and to replant in some of the areas in 2015. He set up the mining limits properly, paved the apron, and put no trespassing signs. They were all things which were conditions of the 2012 approval. She believed she and Mr. Callahan were actively engaged in both administrative and physical work to continue the mining operation. She was not extracting dirt, but was still ongoing with doing things she needed to do. There was never any intent to abandon the site and there was no lack of activity for two years.

Mr. Darcy called Mr. Callahan who pioneered in soil and stone for over 30 years. He runs a company which supplies mostly top soil and till dirt to large contractors and government. He is a tier contractor for the Army Core of Engineers. He does large volume of fills and supplies the environmental remediation industry from refineries along the Delaware River to projects such as 12th Street in Hammonton. He operated three large pits in Blackwood, Pine Hill, and Franklinville, N. J. He reclaimed them, had bonding released, he did a nice jobs and had nice relationship with people in the town while he was there.

Mr. Callahan had a need for some material. He spoke to some Hammonton boys he did a lot of work with. They told him of a woman who owned the pit. He introduced himself to Patty Gatto at the Borough. She gave him the information. He wrote a letter to her (Ms. Bloomfield) who responded around the fall of 2013. He met her (Ms. Bloomfield) in the winter time. There was a laundry list which needed to get done. The town Engineer had to get an actual physical copy from the Borough's John LaPollo. It involved the paving in the spring of 2013. He did estimates and got the paving work done. Mr. Polistina sent inspectors to check the work. It was documented with photos. He had some of the photos and they were marked Exhibit A-3. He cut the road on 4th Road with a machine. He cut it right and paved it. He went 55 ft. – 60 ft. with nice asphalt which didn't break off. He brought tractor trailer loads of composted mulch topsoil and began to spread it in certain areas to pick up seeding. It was June. He needed to plant this time of the year if he wanted trees to grow. Where Ted planted trees it wasn't top soil, but he composted it and seeded it. He figured a way to get grass. It will hold the water and then seedling in the trees will start to develop. He had a machine attachment in there and put in in 1,500 seedling trees. They will grow six to eight inches to a foot. He hoped 30 % of them will grow and then will plant them again. If a three foot tree is planted, it will not grow. They have to be planted small, let them grow, and keep re-planting them. He thought he would have a crew to load a truck and continue to do more work and improve the site, but it never happened. He

kept the site secure with the fencing. He put logs and telephone poles in front of the pine trees. They grow four feet apart. It is the natural way they grow and the ATV's are 2 ½ feet wide and they go where they want to go. He had a lot of experience dealing with ATV's and the law. He spoke extensively with the woman from the state police barracks who monitors the situation in the neighborhood. At one point he got them out of the pit and they went over to the ball fields. It was a matter of being there and monitoring it and dealing with the situation. Bruce came around fall 2014 and 2015 and discovered there was another area which needed to be reclaimed and top soiled because one of the markers was missing. He brought in 25 truckloads of good farm topsoil. He put it down 46 inches and put it down in the marker areas and had grass in there. He planted trees in there, but they got washed out and burned up. The grass grew though. Over time he will get it worked to winter, spring, summer, and getting through the drought of August.

He submitted bills to Ms. Bloomfield in the month of August 2014 for work he did. He did paving and signage which were part of the Conditions of the 2012 Approval by the Board. Referred to as a laundry list which kept growing. In 2014 he got truckloads of mulch and operators for his machines. He bought seed and seedlings and planted them. He put 15 loads of compost and fertilizer and lime in there.

In 2015 Feb 5 to Sept. he supplied plastic stakes and worked with Monarch survey and installed all the markers in there, put 300 more black pines with equipment, compost and more topsoil, graded everything out and fertilized the buffer area and put a lot more seed. He put straw in that area. He took the water to Test America and had it tested. They ran the water test and it came out clean. He had a problem with purchasing the saplings because they could only be brought at certain times of the year. He bought fifty 2 ½ inch caliber pine saplings in June because Mr. Polistina wanted see some higher saplings. He put them in the area they were trying to make up for lost time in the one corner. He wasn't sure if it did any good because some took. Usually 25% will take. Another twenty loads of compost were brought in. He worked with Mr. LaPollo & the Borough with all leaf compost and the blueberry farm. Another fifty pitch pine samplings were brought in with more fertilizer and purchased and installed 200 more No Trespassing signs. The gate in front was painted. He did everything he could possibly do without loading dirt. He would have hauled out 20 loads of asphalt and brought in 25 tri-axle loads of topsoil, but he was told to leave it there so he did.

Mr. Darcy concluded his initial presentation and hope he demonstrated to the Board the Site Plan and Application complies with every single requirement of Chapter 200-55 in the same manner it was done in August of 2012. He believed he demonstrated the site was never abandoned by Ferris, it has been an ongoing operation, and acted in good faith to try to get the Approvals during the 2014 and 2016 periods, the application should be approved by the Board and the operation should get up and running. It will solve a lot of the issues with trespassers on the site. Mr. Callahan's testimony showed he was a diligent guy and will run the facility the way it should be run.

Chairman Pitale asked the Board Members if there were any questions for Mr. Darcy or any of the witnesses he presented.

There were questions for Mr. Callahan and the Engineer, Mr. McKenna. Mr. Callahan testified he had been sand mining for quite a while. Based on Mr. Callahan's experience he was asked if he saw anything which troubled him on his first visit to the sand pit or if the sand pit looked common to how he would run his operations. He was asked if anything looked deficient or possibly admirable.

When Mr. Callahan went to the pit for the first time he loved the site and liked the material on the site. He knew it was mostly all government work and had to meet a specification. It had the properties of that kind of material. The previous operator tried to manufacture ball field mix. There was one thing which concerned him and asked where all of the topsoil went. They stripped the whole site for years and years. He didn't know what happened to all of the trees. He usually clears the land for trees when he does work like that. He used an example where he just finished flipping a farm which had a hill. He had to take twenty acres of topsoil, put it into a pile, cut the farm into a football field type of grade and put twenty acres of topsoil back on it, and re-farm it again.

With every pit there was always something to deal with. Here he wouldn't have to clear land and there was no topsoil so he had to buy topsoil. When he saw it he knew he would have to make deals to bring the topsoil in. His email address is top soiler. It was he knew how to do it and it is what he does. He is a tier contractor with the Army Core of Engineers. He was responsible to his employees and neighbors and looked forward to working with the town to get over the maintenance hurdles.

Based on the condition of the sand pit as Mr. Callahan had seen it he would have done things a lot differently. He would make it level so a vehicle could be driven over it and keep it graded. He would re-grade it to control the water. There was no control of the water there. It would be easier on a daily basis. Control the water to neutralize it and have a handle on it. Then mine the materials according to the job. There are landfill job who only want sandy silt. Some jobs want only silted gravelly and material. He knew Ted the old operator. He didn't deal with him much. He had a supply yard on the Black Horse Pike in Blackwood. He would run the mining activity a lot different. He preferred to perform as he goes and not one to cut the whole site out then restore it. The first thing he would do is cut some of the slopes in there and topsoil them up and have progress going on all fronts and welcome the town in to see what was going on. He was confident.

Mr. Callahan also worked at the Blackwood pit. The pit was never fenced. He was also familiar with the Tri-Borough pit. It was not fenced either. Usually pits were controlled by the work force and employees in the pits are controlled by the State of New Jersey Work Force Development. They gave out little booklets on how to operate a mine and how they are fenced in etc. Smaller sites he fenced in partially and used tree limbs and tree stumps. Tree stumps are big and block everybody. He put anchor fences up, but the ATV's clip the top and corkscrew them up. He will hire the people with ATV's to help put seed down and straw down and tells them not to come back and run all over it with the ATV. It needed to be always worked until the square footage of orange to brown and green and have something growing on it.

The New Jersey State Law will not allow you to chase people on ATV'S even if they are on your property. They have a lot of rights. The large pits in South Jersey he had experience with Southern New Jersey are not fenced. They are controlled to trespassers by the people who work there. There is a laundry list which kept on growing. It was 98% completed. It would be nice to be able to put another 500 to 800 trees there and a couple loads of topsoil in the area where it was beat up bad. He put up over 200 no trespassing signs posted and most of them were still up. He also insured the property. He wanted to know if someone was hurt he did everything he could possibly do within our rights, legal obligation, and moral obligation he could possibly do.

On the aerial photograph where either the motorcycles or ATV'S were entering at the embankment next to the railroad there was a lot of sediment washing down toward the railroad impacting their property. Mr. Callahan tried to mitigate the wash out by pushing the dirt up there once. The railroad did what was shown now. They went in with grubbers and cut trees down and rubbed both sides of the railroad. He tried to stabilize it. The water was coming from the Ferris property. Mr. Callahan had a loader there, but became busy. He wasn't there on a daily basis.

Mr. McKenna was questioned about his dealings with mining operation. Mr. Callahan and Mr. McKenna worked on a couple projects together. The purpose of a surety bond from the Ordinance perspective was to insure when the mining operation was completed all of the requirements requested by Ordinance were done on the site. He equated it to inspections being equal as far as the Borough being assured restoration would be completed. He didn't think the bond extra requested by Mr. Polistina, the Board's engineer, wasn't necessary because he believed Mr. Callahan had done a very adequate job as well as what has been done over the years in those areas. It will be a continuous operation. When all the seedlings were planted in the area, it was understood it was why 1,000 per acre is planted.

The guarantee was for the mining operation going on. It was asked for another bond be provided for the areas which have not been restored. It will be continuous. Mr. Callahan will be there and continue to operate the facility. The areas will be restored and up kept and adjusted accordingly. The drought and weather areas which need to be re-top soiled with seed and plantings will be put in the areas which are beyond the mining limits. The bond in place is for the 18 ½ acres of the mining area. Once the operation is completed in the next 2 to 4 years, all of the area is getting restored back with plain equipment based on the problem.

If a bond is put up for \$125,000 and paid for on an annual basis, \$125,000 will be charged if it is defaulted. It will protect the Borough if there is a bankruptcy or someone dies. It will provide something to start to reclaim the land. When Mr. Callahan begins a project, he has a plan to restore. He will not wait until he is 98% done excavating the site. He started restoring the property and hasn't taken a load of dirt yet. He would normally start with one slope. Get it seeded and covered. He gave an example from September 9th he would have it all cut in and top soiled and seeded with rye grass and things of the nature so he will have something growing on it. He will have areas complete.

It was understood there was a pro-active approach to mining and not to catch up. It was how it ended up in this situation. It was recalled on November 28th it (reclaiming) didn't have to be

done until the end, and if it was under 20 acres it (reclaiming) didn't have to be done until the end, but Mr. McKenna stated that wasn't what was said. It is done in 20 acre cells. It was debated there was no guarantee it would be done. It was understood everything (reclaiming) had to be done at the end. Mr. McKenna used Pine Hill as an example. At Pine Hill they did (reclaim) on each side and put clover leave on the side. It was debated when it (the mining) was done, \$125,000.00 bond would not be enough to do the job (reclaim) if it isn't done as going ahead. Mr. McKenna agreed. The Resolution of 2012 wasn't started until 2014. Nothing was done for a year and a half from Resolution 2012 which was passed. Mr. Darcy noted in part it was due to the delays in getting the plans signed and getting the bond approved. Nothing could be done because the plans were not approved. Mr. Polistina Board Engineer disagreed. It was not accurate because these have been conditions of approval since 1986. The conditions talked about have been in place from the first approval by Pinelands from 1986 to the Borough's Planning Board Approval in 1992 and all the way through the buffers and private property. It wasn't just buffers were disturbed. There was material taken out on private property. Until the Conditions of Approval were satisfied they didn't have the ability to go forward. The Borough was saying the Conditions needed to be addressed and at this point in time your 98 in different numbers, but never fully adequately addressed the Conditions of Approvals from the Borough and Pineland's from 1986. It was the issue being spoken to. Mr. Darcy agreed in some respects. Full restoration has not taken place over the course of time, but thought there were periods of time when even Ted Ellsworth did restoration on a regular basis. Pineland's was inspecting it. There were Certificates of Filing which talked about restoration needed to be done and Certificates of Filing which did not raise the issue. There was some effort on the part of the past operators to try to get the restoration done. It needed to get restored. A lot of it was done. The site is in decent condition. It did need more plantings. It was what Ferris intended to do.

There was a lot of frustration from the Borough because these have been Conditions. Some work was done along the railroad to restore the area by Ted Ellsworth. There were plantings done, but the private property in the area to the west were never addressed until 2014 / 2015. It was when they finally went out there and started doing that kind of work. The frustration was the Board was trying to get the Conditions which were asked and haven't been able to do it.

The issue of the Borough right-of-way was addressed. Mr. McKenna had no experience with any of the mining operations with right-of ways through them. He worked on excavations plans with activity in right-of-way areas, but they were to clean up contaminated sites. Mr. Callahan had a site in Pine Hill on West Branch Ave. with two paper streets. They were one on the side and one along the back hall corridor of the dirt pit. Along with Mr. McKenna and other Planners, he went to Pine Hill Borough. He asked for a Site Plan Approval, an Ordinance for the removal of material, and an abandonment of the paper streets. It was granted. He got the Ordinance because if he got into a contract with the federal government, The Army Core of Engineers, he needed to know he would be able to excavate. He also picked up 25 feet of each side of the road. The Board applauded Mr. Callahan for following the necessary protocol, but it recalled it was a point of contention from prior meetings because the paper road was never addressed. Approval was by insinuation, action, or inaction. It was recalled, at the meeting prior to the last meeting, there was an agreement to go before the Council to once and for all address the issue as Mr. Callahan had (with the Pine Hill property). It was agreed to proceed in that direction. Mr. Darcy responded. He made a formal application to the governing body to vacate

the paper streets of 4th Road and 13th Street. It was recalled in the package in 1992 the Planning Board at the time in granting the Approval made a recommendation to because the streets didn't serve any public purpose. They had a condition in the Approval the Applicant should go before the governing body and request the street vacation. There was some evidence the attorney for Ferris at the time, contacted the Borough with respect to the street vacations. They couldn't find any action by the Borough in either denying or approving the Vacation. The issue of this particular case as re-surfaced again at a meeting. They went to the governing body and made a formal request. They went to great lengths by testimony of their Engineer to demonstrate the paper street will never be Approve and will never pass. It will never happen. As an Attorney, a Planner, and Land Surveyor it was Mr. Darcy's opinion it will not happen. The Borough itself decided a long time ago they were willing to put it. He pointed out the original intersection of 13th Street and 4th Road. The Borough decided decades ago the extension of 4th Road after 13th Street was impractical because of the railroad. They actually brought additional right-of-way from the property owners. He demonstrated where the road was. It was a fairly good indication the Borough agreed the street system was never going to get sent through. It was presented to the governing body. A first reading on the Ordinance was done, but they declined to vacate the street. Ferris would like to have the streets vacated. They thought it was a good idea. It was in the Borough's interest and in the Applicants interest. The planning Board made a correct decision in 1992 when they recommended the streets did not serve any purpose, but Ferris didn't have any control over it. It was up to the governing body and at this point are not receptive to vacate the right-of-ways out. There was an effort made. Mr. McKenna addressed the Board. Thirteenth Street goes east/west and Fourth Road is more south. The Borough required a couple of lots which run along the east side of the railroad track to re-align 13th Street and tie into 4th Road because there was two railroad crossings which would be very costly to grade those crossing. Also, there was a popular wetland from the tributary to the west which doesn't allow 13th Street to go all the way thru and down to the Black Horse Pike. In order to get to 4th Road you would have to go through most of Ferris's property to get out to 14th Street. To utilize the two right-of-ways within the specific area he didn't see happening. The property only property to be affected by the vacation of the streets would be Ferris. They own both sides of the road. Their interest runs out to the center line of the street and they own the land underneath the paper street.

The Board questioned if they had the authority, if they were in agreement with all testimonies, to proceed if the road is not vacated by the Borough. Keith Davis, Esquire for Ferris responded. There is often a misperception about paper streets and the Municipality in question actually owns the paper streets. It was not the case. He thought the historical analysis was the road structure 4th Road and 13th Street was laid out in the 1850's. It was not been established or constructed for the better part of that period of time. To date, it only becomes a public road when the road is actually constructed, inspected, and then accepted by the municipality. It has not happened here. Right now the municipality is not an owner of the road. The owner is Ferris Associates. Ferris Associates owns the entirety of the tract of land and no one else including the Borough of Folsom has a legal interest in that real estate. It is Ferris Associates alone. It would be preferable to clean this up and to vacate the streets. It would be the preferable course of action, but it takes two parties to cooperate in the venture. Ferris petitioned the governing body. They did not act upon it. He spoke to Borough Solicitor Mr. Coombs about it. If there were a recommendation from the Board to make another application to the governing body for the

vacation of the streets, Ferris will do it. The could not allow for this permitted use of a mining extraction operation to be held up by the governing body's inaction on vacating the streets which were not necessary for the continuation of the mining operation because the road were not going to be constructed as Mr. McKenna testified. It gives the municipality the right to construct a road. No one indicated to his client (Ferris Associates) or to Mr. Darcy, or Mr. McKenna that Folsom Borough will construct 4th Road and 13th Street across the property because it would be a waste of tax dollars. It will not serve any purpose. It was laid out hundreds of years ago and assumed in contemplation of the development of the area with residential housing or other uses to be laid out as a city block by block and to be developed accordingly. It never happened. Then a lot of things changed in Folsom Borough. One thing was in the 1970's the Pinelands Act came into effect which regulates land use here in the Municipality and restricts the intensity to a large degree and the level of land use development in the Municipality. The circumstances changed since the map was laid out. The only thing the paper street gives the Borough the right to do is to put the road in. It was no hindrance or obstacle to proceed with the Application.

Mr. Coombs responded. Mr. Davis did write a letter and he was back and forth with Mr. Darcy. It was a misconception with paper streets. They could only exist in two conditions. Accept it or vacate it. There is a third position which is what the Borough has done. The third was do nothing. Part of the stress the Board has had was that it was not accepted, therefore it must be vacated. The third position has occurred historically here which was do nothing because there was no necessity to do it. Typically to accept a dedication. The lines were there on the tax maps, but the Borough hasn't accepted them because those rights were never been approved. A right-of-way can be improved and still not be accepted by a Municipality. It was in the Applicants best interest as testified to have it vacated. Mr. Coombs had a Resolution from August 12, 1992; page 3 paragraph 5. Ms. Bloomfield could not recall if she was at that meeting, but thought there was a good chance she was. He read directly from it. The applicant proposed the vacation of portions of 4th & 13th Street. It was not the Boroughs idea. It was the Applicants idea because it was in their best interest to do so. In the verbiage of the Decision Resolution it did not say it was a Condition of Approval. It said, neither of the rights-away were approve and the Planning Board did not recommend the retention for public access, but the Applicant was required to submit a request. Based on the testimony they have done it.

There are three stages to paper streets not just two. They could be accepted, they could be vacated, or can do nothing. If you do nothing, the owner of the property can do whatever he or she desires to do with the property as long as it does not interfere with the Municipality right to accept the dedication at a future date. The Municipality could accept it because they have been improved. When it starts looking like a road, and acting like a road, and looking like an intersection which in view of the proximity of the railroad tracks it appears it was too close to ever be a true intersection. This was where the confusion had been with the issue.

There were no other questions from the Board.

ENGINEERS REPORT

Vincent J. Polistina, PE, PP, CME
Craig R. Hurless, PE, PP, CME
Samuel Agresta, PE, CME



Civil / Municipal Engineering
Site Plan and Subdivision Design
Surveying
Land Use Planning
Water and Wastewater Design
Environmental Consulting
Inspection / Construction Management

MEMORANDUM

DATE: October 25, 2016

TO: Planning / Zoning Board of Adjustment
Borough of Folsom

FROM: Polistina & Associates
Vincent J. Polistina, PE, PP, CME *wp*
Planning / Zoning Board Engineer

RE: Ferris Associates
Application No. 02-ZB-09
PA No. 4109.04

LOCATION: Fourth Road & Thirteenth Street
Block 1101, Lots 3-5; Block 2004, Lots 3 & 5;
Block 2201, Lot 4

STATUS: Resource Extraction Permit Renewal

EXISTING USE: Resource Extraction

PROPOSED USE: Resource Extraction

JURISDICTIONAL AREA: Pinelands

The materials submitted and subject to review are as follows:

NO.	TITLE	PREPARED BY	DATE	REVISION
	Application Materials	Applicant	12-5-14	
	Correspondence	Tom Darcy, Esquire	06-30-16	
	History of Past Permitting	Tom Darcy, Esquire	06-21-16	
6 of 6	Preliminary/ Final Major Site Plan	Monarch Surveying & Engineering	06-13-16	07-13-16
	Certificate of Filing	Pinelands Commission	09-29-16	

DESCRIPTION: Ferris Associates, LLC previously submitted an application to the Borough of Folsom Planning / Zoning Board to allow for the continued use of an existing resource extraction operation located at the intersection of Fourth Road &

Thirteenth Road. The property for the resource extraction operation is referenced as Block 1101, Lots 3 – 5; Block 2004, Lots 3 -5; and Block 2201, Lot 4 on the site plans most recently submitted to the Board.

The resource extraction operation at the site has had a long regulatory history with the Pinelands Commission and the Borough of Folsom. In the correspondence from Tom Darcy dated 06-21-2016, he provides an overview of the historical permitting for the site.

The records reflect that the resource extraction at the site began before the inception of the Pinelands Commission. There are statements from Borough Officials that they were aware of the resource extraction at the site prior to the 1980's but there is no indication that the applicant received any approvals for the resource extraction operation prior to the mid 1980's.

In 1986 the applicant was required to seek approval from the Pinelands Commission pursuant to Application No. 86-0496. The applicant at the time of the initial application to the Pinelands Commission was George Smith of SMD, Inc.

The Pinelands Commission issued a Certificate of Compliance for the site dated June 3, 1986. The Certificate of Compliance was necessary for the Borough of Folsom to review the proposed plans for the resource extraction operations. Pursuant to correspondence from Mayor Gandolfini of Folsom in 1986, no local approval was required since the operation was considered pre-existing. The Pinelands Commission issued their final approval on July 1, 1986.

There were a number of conditions in the 1986 Pinelands Commission approval. Most of the conditions were fairly standard with the exception of the requirement to complete restoration of the "illegally mined area located within 200 feet of the property line". The restoration of the illegally mined areas was to be completed by November 15, 1986. The approval for the resource extraction from the Pinelands Commission was for a period of two (2) years.

The applicant received a subsequent approval from the Pinelands Commission in 1998. On December 11, 1991, a new Certificate of Filing (previously referred to as the

Certificate of Compliance) was issued by the Pinelands Commission. The Certificate of Filing and subsequent final approval from the Pinelands in 1991 – 1992 contained many of the same conditions as the 1986 approval including the requirement to restore areas within 200 feet of the property line.

The first review by the Borough of Folsom Planning / Zoning Board occurred in 1992 and the applicant appeared at a meeting of the Board on August 12, 1992. A Decision and Resolution was adopted on October 16, 1992. Similar to the Pinelands Commission requirements, the Decision and Resolution included a condition that indicated the buffer area encroachments were to be restored. It also included a condition that indicated that the Borough right-of-ways through the site had to be formally vacated by the Borough Council and the applicant was required to submit the request for the vacation within 60 days.

The Pinelands Commission resource extraction permit granted in 1991 expired in October of 1993. The applicant didn't return to seek approvals from the Pinelands Commission and the Borough of Folsom until 2000 at which time both the Pinelands Commission and local approval were granted.

The approvals again expired on October 11, 2002. The applicant finally resubmitted an application to the Pinelands Commission and Borough in 2009 and the Pinelands Commission required the applicant to demonstrate that the prior use had not been abandoned as resource extraction operations were no longer permitted within the Pinelands designated Forest Area where the property is located.

The applicant appeared before the Planning Board in 2009. Questions were raised regarding the lack of restoration of areas illegally mined at the site and the need for performance guarantees that would allow the Borough to restore the site if the applicant didn't comply with the on-going efforts to require reclamation. The applicant did not receive approval in 2009 because of these concerns.

The application was again heard in 2012 and the Borough granted approval for the continuation of the resource extraction operation. According to the findings at that

time, the application had demonstrated that resource extraction operation had continued illegally from the expiration of the approvals in 2002 through 2009. The same conditions from the prior approvals regarding reclamation of the site were contained in the 2012 Planning Board approval. It appears that the applicant neglected to resubmit the 2012 Borough approval to the Pinelands Commission as the final approval from the Pinelands Commission wasn't dated until September 4, 2014 and indicated that the 2012 resource extraction approval had already expired on August 15, 2014.

The applicant resubmitted to the Pinelands Commission and the Borough in December of 2014. The Pinelands Commission issued a new Certificate of Filing dated February 3, 2015 and the applicant appeared before the Planning / Zoning Board in March of 2015. At that hearing, the Board again raised concerns regarding the items which had not been addressed for many years including the restoration of areas which had been cleared without any approvals within 200 feet of the property lines.

Over the course of the next several months, we worked with the applicant to address the concerns that the Borough had raised. Some restoration was completed and the applicant attempted to address some of the items raised by the Board at the hearing in March.

The applicant was attempting to return to the Board in June of 2015. One of the requirements from the Borough was an updated survey of the site which was provided just prior to the June Planning / Zoning Board meeting. Upon review of that plan, I questioned why the survey didn't show that they had the rights to a portion of Fourth Road as they were required to obtain vacations of the streets pursuant to the 1992 Planning / Zoning Board approval.

During the course of investigation into the survey and street vacation issue, it was confirmed that the applicant had never received approval for the vacation of Fourth Road and Thirteenth Street through the site. The applicant has been working on getting those right-of-ways properly vacated by Borough Council but no action has yet been taken by the Borough. To this point, the Planning Board has deferred action on the site plan application pending resolution of the street vacations.

COMPLETENESS REVIEW: This application has been reviewed using the Borough's checklist for resource extraction contained in Section 200-55 of the Borough's Land Use Ordinance. The following items have generated concerns:

A2. The owners name and address, if different from the applicant's, and the owner's signed consent to the filing of the application. *The applicant has not provided consent from the Borough of Folsom for the use of existing Borough rights-of-way for Fourth Road and Thirteenth Street. The Board should make a determination whether this should be required in conjunction with the completeness review.*

A10. A location map, including the area extending at least 300 feet beyond each boundary of the subject property, showing all streams, wetlands and significant vegetation, forest associations and wildlife habitats. *The location map depicting all features within 300 feet must be provided on the plans.*

A14. A signed acknowledgement from both the owner and the applicant that they are responsible for any resource extraction activities which are contrary to any provision of this chapter or of the approved resource extraction plan done by any agent, employee, contractor, subcontractor or any other person authorized to be on the parcel by either the owner or the applicant. *The acknowledgement has been provided but an original signature is required.*

A15. A financial surety, guaranteeing performance of the requirements of Subsections B and C in the form of a letter of credit, certified check, surety bond or other recognized form of financial surety acceptable to the Pinelands Commission. The applicant has provided a Letter of Credit for future restoration. *The applicant must also provide a guarantee that covers areas previously mined illegally and all amounts for restoration must be reviewed as the previous estimates are approximately five (5) years old.*

We recommend that the application proceed to the Board for review. At a minimum, the Applicant shall provide all of the required items as a condition of final approval.

ZONING REQUIREMENTS: The property is located in the F-20 (Forest) zoning district. The existing resource extraction operation is permitted as a

conditional use in this zone. New resource extraction uses are not permitted. Resource extraction operations shall be approved only if the applicant can demonstrate that the proposed resource extraction operation:

1. Will not result in a substantial adverse impact upon those significant resources depicted on the Special Areas Map, Figure 7.1;
2. Is designed so that no area of excavation, sedimentation pond, storage area, equipment, or machinery or other structure or facility is closer than 200 feet to any property line; unless it can be demonstrated that a distance between 100 and 200 feet will not result in greater off-site environmental impacts;
3. Is to be located on a parcel of land of at least 20 acres;
4. Provides that all topsoil that is necessary for restoration will be stored on the site but not within 200 feet of any property line unless the area for proposed storage is unforested and will be restored; and that the topsoil will be protected from wind and water erosion;
5. Is fenced or blocked so as to prevent unauthorized access into the resource extraction operation through access roads;
6. Provides ingress and egress to the resource extraction operation from the public roads by way of gravel or porous paved roadways;
7. Is designed so that the surface water runoff will be maintained on the parcel in a manner that will provide for on-site recharge to groundwater;
8. Will not involve excavation exceeding 65 feet below the natural surface of the ground existing prior to excavation unless it can be demonstrated that a depth greater than 65 feet will result in no significant adverse impact relative to the proposed final use or on off-site areas;
9. Will be carried out in accordance with an extraction schedule which depicts the anticipated sequence, as well as the anticipated length of time, that each of the twenty-acre units of the parcel proposed for extraction will be worked.
10. Will involve restoration of disturbed areas at the completion of the resource extraction operation in accordance with the requirements of Subsection C, and the implementation of the restoration plan is secured by a letter of credit, surety bond, or other guarantee of performance;
11. Will not involve clearing adjacent to ponds in excess of 20 acres or an area necessary to complete scheduled operations; or will not involve unreclaimed clearing exceeding 100 acres or 50% of the area to be mined, whichever is less, for surface excavation at any time.

The applicant must demonstrate compliance with these issues in order to receive approval for the proposed resource extraction operation.

GENERAL REVIEW COMMENTS:

1. A Certificate of Filing from the Pinelands Commission was submitted with the application. The Applicant is bound to satisfy all of the requirements of this Certificate of Filing, in addition to any requirements conditioned by any possible approval from this Board. Upon approval of this application, the Applicant must submit the existing conditions plan / post-restoration plan, provided with this application for permit renewal, to the Pinelands Commission with the resolution of approval from the Board.
2. The Applicant received a conditional approval in accordance with Decision & Resolution 02-ZB-09 from the Board in 2012. There were issues that remained unresolved from the 2012 approval and other concerns raised during the hearings in 2015. The applicant must address the conditions / concerns raised as follows:
 - A. *All trash, equipment and debris not actively utilized in extraction operations must be removed.*
 - B. *The asphalt material illegally transported to the site must be removed. The applicant must also demonstrate that there was no contamination of ground or surface waters as a result of the asphalt material being illegally located on the site.*
 - C. *The "illegally mined area located within 200 feet of the property line" referenced all the way back in the initial approval from the Pinelands Commission in 1986 has never been fully resolved. Very little, if any, action was taken to address the illegal clearing until 2015 when the applicant returned to the Board seeking an extension of the resource extraction permit. The applicant has restored some areas and has made some attempts at other areas but has indicated that some attempts continue to be thwarted by erosion and ATVs. All areas must be fully restored.*
 - D. *A new survey was requested in 2015 due to discrepancies with property corners at the site. The plans must depict where property corners were set in conjunction with the new survey.*
 - E. *The Borough requested that Ferris provide a forester to review all clearing at the site and restoration plan in order to ensure there are no off-site impacts from the proposed operations. The applicant should indicate if a forester has been obtained.*

- F. Due to the anticipated heavy truck traffic, the Borough requested a financial guarantee for any impact to existing Borough roads necessary for access to the site.*
 - G. All access points into the site must be blocked including preventing access from ATVs and other motorized vehicles and all efforts to prevent access must be on-going. The applicant has indicated that debris, such as fallen trees and branches, will be used to prevent access. The Board should discuss if this method of prevent access is sufficient and whether security cameras are necessary to ensure that illegal access to the site does not occur.*
 - H. The applicant was required to post no trespassing signs at the perimeter of the site. The status of all signage must be provided.*
 - I. The Borough required periodic street sweeping for existing Borough roadways. The Operations and Maintenance Plan indicates that street sweeping will be completed on an as needed basis. This should be updated to reflect to set a minimum street sweeping schedule and that additional sweeping will be undertaken as necessary.*
 - J. The applicant has indicated that the hours of operation will be from 6 A.M. to 6 P.M. Monday through Saturday. The Board should review these proposed hours of operation.*
 - K. All markers which indicate the limits of the mining operations must be reinstalled as some markers are now not present.*
- 3. The applicant must provide cost estimates for the work required to complete the remaining restoration for the areas which were previously mined illegally and for ultimate restoration of the site. Performance guarantees for each must be provided after the amounts are reviewed by the Borough.
 - 4. The estimated schedule of activities on the front page of the plans must be updated to reflect the revised schedule.
 - 5. The Pinelands CMP contain provisions that state the cessation or discontinuation of a use for more than two (2) years constitutes prima facie evidence that the use has been abandoned. Since new resource extraction uses are not permitted within the F-20 zone, the Applicant must provide evidence that the mining operation was in continuous use, or not stopped for more than two years, since the last permit expired in 2014. The applicant must address the gap between the permit expiration in 2014 and the submission of plans for the renewal of the resource extraction permit to the Borough in 2015.
 - 6. The applicant must address the additional clearing and resource extraction activities proposed for the forested areas to the west of the site. In previous communications, we indicated that we could not support any additional clearing at the site given the length of

time that no resource extraction activities have occurred. At a minimum, the applicant must address impacts on what appears to be man-made wetlands that have been created in the area of the proposed clearing and provide confirmation from the Pinelands Commission that the clearing may occur.

7. The applicant must provide the status of approval from the Cape Atlantic Soil Conservation District.
8. This application is subject to approval from any other agencies having jurisdiction over the project.

Should there be any questions regarding the contents of this report, please feel free to contact this office.

Mr. Polistina commented on the Engineers Report. The Report was dated October 25, 2016. He gave the background of the regulatory history of the site back to 1986. It operated prior to the inception of the Pinelands Commission. The first Approval occurred in 1986 by the Pinelands Commission.

One of the Condition of the Approval was the restoration of the illegally mined areas at the site. It was some of the frustration with the Application. There were requirements in the history from 1986 to do the restoration. Some of it was done. It was indicated previously, very little was done in terms of restoration. The areas discussed were where the private property was disturbed and the western portion. Nothing was done for a long period of time. Mr. Callahan came on he undertook some of the work and restoration. Seedlings were planted, top soiling was done, and it was graded in some of the areas. It was much better since the 2014 and primarily the 2015 time frame. They were back before the Board to get Approval. The Condition came up again. They returned to the site and aggressively tried to address some of the Conditions which date back to 1986.

There were several other Approvals throughout the history of it. There were a number of gaps in the Approvals. They would get a Pinelands Approval and a Borough Approval and would not return within the two years. In 2002 the Borough Approved the Application. Again there was a gap where there was no legal mining done from the expiration of the final permit October 11, 2002. They returned in 2009 for the next two year renewal. The same Conditions came up in 2009. The Applicant did not address them until 2012. They appeared back in 2012 and were already after and beyond with the abandonment issue and some of the restoration issues. They received an Approval to commence excavation at the site again.

One of the comments discussed because of the frustration with getting some of the areas restored were two separate bonds. One of the issues which came up was to get it perfected and get conditions met and bonds posted, but there was a lot of discussion about a bond for the reclamation only for the mined areas after they were done; and also one (bond) because the Borough was very frustrated they could not get the buffers areas restored and the private property restored. There was conversation with the Applicant about posting two separate bonds. One they did for the ultimate reclamation, but one specifically to deal with the buffers. The second bond was not posted. It was one of the issues as to why there were some gaps in getting the Approval perfected and some of the plans signed. Ultimately they were granted an Approval in 2012.

They gave the history with what happened after they received the 2012 Approval. They indicated they didn't do some of the restoration and have plans signed. The Borough felt the reclamation should have started in 1986, but did not happen. They came back to the Borough in December 2014 and appeared before the Planning Board in March 2015. The same issues were again raised. At that point in 2015, they tried to start addressing the restoration the Borough had been requesting for a long period of time. A lot of work was done. There were a lot of site inspections with Mr. LaPollo and Mr. Polistina. They returned and did some work. The Borough was comfortable with them coming back to the Board.

One of the requirements in 2015 was an updated survey which Mr. McKenna provided in June of 2015. The Borough didn't realize the condition of the request to seek vacation of those right-of-way had not been done. There was communication back and forth between the Borough and the Applicant and their Attorney about the vacations, but found out when they were showing the right-of-ways were still there and only had interest to the center line. It was discovered the right-of-ways were never vacated. It was correct the Borough had a right-of-way easement. It's called an easement. The Borough could build a road. If it gets Approved, it should be recommended the right-of-ways be vacated. The Borough should not want right-of-ways with mining operations. If the Application is approved, the Planning Board should make a recommendation to the governing body to vacate it. Ferris owns the property. They own both sides. They own the entire right-of-way. The Borough has an easement if they ever wanted to build a road. The Applicant should not do anything that would impede the Borough's ability to build a road. It wasn't that the Borough would ever build 4th Road, but the applicant unquestionably impeded the Borough's ability to build 4th Road if they wanted to because it is now 20 or 30 feet deeper than what was natural grade there. The situation definitely impeded the Borough's ability to build 4th Rd. There was a question whether it would get done. The Borough network was complete in the area. Thirteenth Street now turns before the railroad tracks. It was questionable whether there was any public use ever being necessary for either of the roads, but it was one of the requirements not to impact the Borough's ability to build a road if they chose to.

COMPLETENESS REVIEW:

In the Completeness Review they addressed the easement issue with the right-of-ways in Item A-2. It was talked about at length. Exhibit A-10 had a number of maps on the plans. It addressed specifically the uses, streams and wetlands. It didn't necessarily comply with the letter of the law, but with the various maps provided they met the intent and new code requirement to give an actual location map showing all the uses. There are some houses and residences adjacent on 4th road. If you wanted to see all of this on the location map, showing all the uses and all the wooded areas, streams, and wetlands within 300 ft. the Board was entitled to request that map from the applicant.

Exhibit A-14 was the signed acknowledgement Ms. Bloomfield provided.

A-15 was the financial surety. There was conversation about the time when it was done to now and potential impact on some if the pricing used five years ago. It was recommended in A-15 the applicant provide a new performance guarantee estimate. It needed to be reviewed and make sure the Bond estimate amount or the Letter of Credit posted were sufficient to cover whatever was necessary at the end of the excavation process.

The next section was one they went through verbatim with what the requirements were. There were a couple things to note. One of the reasons it had been going through it repeatedly over time is new resource extraction operations are not permitted both by the Pineland Commission more than the Borough's Ordinance. It was a preexisting non-conforming Use which had been there for a number of years and had rights to request the continuance of the Use. New ones are not permitted. It was important to note because it was one of the comments. In terms of the specific requirements it was mentioned a couple times in the report.

One of the requirements was the site is fence or blocks to prevent access into the resource extraction operation through access roads. There was only one main access road, but there were a number of access points created into the pit all over the place. It was a topic of conversation every time they go out there. Mr. Callahan tried to block the access by using either stumps or trees, but many cases those means of preventing the access were just driven over by ATV's. It was up to the Borough to determine what they think if the site was properly blocked or fenced. When Mr. Polistina went out there last month, there were obvious signs of ATV use at the site. It was unmistakable there are ATV's and other vehicles still accessing and still using the site for recreational vehicle use.

GENERAL REVIEW COMMENTS:

The Pineland's Certificate of Filing conditions needed to be addressed. There was minor debris which will be removed if it is approved. The asphalt will be removed. The Borough should request or require another Bond or a couple other Bonds. One to deal with the buffer issues. There was private property disturbed and buffer areas disturbed. The Borough had an obligation to make sure the areas get restored. The work which had been done there was appreciated and there was no reason not to believe the Applicant wouldn't follow through and keep doing it. The Borough should get some protection for the area. There were private property owners impacted by some of the operations there. The Borough had an obligation to protect them moving forward. It was one of the things the Board Engineer wanted to see. In addition, the roadway and financial guarantee was necessary, but the Applicant will be responsible for damage to 4th Road or 13th Street which happened as a result of the operation. The Borough should get something from the Applicant to indicate they will restore it at a minimum or get some type of financial guarantee for when damage occurs to be responsible to fix it.

Item D: The survey submitted in 2015 had all the rebar and monuments on it. The one submitted with the current package did not show the rebar and monuments. He wanted to make the 6 sheets which will be approved as part of the package had everything it should and wouldn't need to refer back to a 2015 survey. The layer with the rebar and the monuments was not in the 6 sheets, but Mr. McKenna intentionally left the rebar and monuments off because he normally doesn't show them on a site plan. Mr. Polistina clarified it was the same Title Block, same Deeds Sheet, and same name shown in 2015 and 2016. Everything is the same, but on 2015 they (rebar and monuments) are on but the packages for 2016 they are off. He needed to see them on so when the Borough, Mr. LaPollo, or whoever goes out there has a set of plans that could be referred to and shows where each rebar is and each monument is and will know where private property is and will know where Ferris property is and know where the buffers are. Mr. Polistina needed to have a complete set which showed rebar and monuments so when someone is out there they have something that shows where everything was set. He asked for it to be incorporated into the package.

A forester was a request made by the Borough. There was no Ordinance or requirement to support it. The Borough can request it if desired.

The truck traffic impact on 4th Road and 13th Street was mentioned.

The access points were reiterated.

The No Trespassing Sign was reported on.

A definite schedule for periodic street sweeping was requested to avoid an argument about whose decision “as needed” is. To avoid to not have a situation going forward when it says “as needed” where the borough says it is needed and Ferris says it is not needed. To avoid any argument after the operation is going about when the streets will be swept. The Borough’s decision making on “as needed” will probably be much different than the applicants. It was requested something be specified on it. Verbatim language that could be referred to and make sure it gets done.

It was requested to push the hours of operation to a 7:00 am start. The hours of operations were discussed in a prior meeting as 6:00 am to 6:00 pm Monday thru Saturday. The hours were outside of the Noise Ordinance and the noise of heavy equipment starting up in the pit at 5:00 could be heard at times on Backline Rd. Probably prepping for a client. The hours of operation should be within the Noise Ordinance due to the circumstances with heavy equipment having to operate at those hours.

Generally the hours of operation were from 7:00 to 2:30 or 3:30. It would be nice to be at least neighborly to say 6:30 in the morning so trucks could come in. They couldn’t load and be on the job site at 7:30. It varied and was later in summer. Some called at 6:30 in the morning right now, but in the summertime they will be. The hours of operation were generally done by 3:00 o’clock in the afternoon.

The Board advised, if the Applicant agrees to times of operation from 7:00 to 2:30 or 3:30; the Borough will hold them to it. The Applicant had the ability to go longer than that. They could get them set again so there would be no argument about it.

The last Resolution from 2012 it was 8:00 am to 6:00 pm Monday through Friday and Saturday mornings 8:00 am to 12:00 noon. It was based on testimony by Mr. Langraf. Mr. Callahan requested to work from 6:30 in the morning to at least to 4:30 at night. The issue was the noise. The trucks would be driving in at 6:30 and the last load would be 2:30 in the afternoon. They would get to the job site at 3:30 and then would be home for the night. They work an early day. There was a company behind the Wawa, Severson, who worked 4 – 10’s. It would be a challenge to deliver dirt to 4:30 in the afternoon if they work 4 – 10’s. They generally worked from 6:30 in the morning. In the winter time, November, December, January, February when it is frozen solid wouldn’t start until 7:30. Normally the hours of operation would be from 6:30 in the morning until 4:00 in the afternoon. Even though it starts at 6:30 the State has a Noise Ordinance and would have to comply with the Noise Ordinance. It was State law. The Applicant would have to comply with the Noise Ordinance. There wasn’t a choice. It would be a stipulation. Mr. Callahan wanted to start at 6 and end at 4:30 or 5. Saturday mornings he would have a crew in to clean up and get ready for Monday.

The Board Solicitor read from the Noise Ordinance Section 134-3b11:

No person shall operate or cause to be operated on private property any source of sound in such manner as to create a sound level which exceeds 65 decibels (dBA) from 7:00

a.m. to 11:00 p.m. and/or 50 decibels (dBA) from 11:00 p.m. to 7:00 a.m. when measured at or within the property boundary of the receiving land use.

The road noise on 4th Road was a separate issue because it was a State Law. The Board Engineer added, it mimicked the State Noise Control Act was at the period in time. It was changed since. The Applicant was required to comply with the State Noise Control Act. The Applicant's Attorney did not have a problem with it.

It was suggested the street sweeping be performed mandatory twice a month and as needed. If the mining operation has to do more, it should be done on an as needed basis as a memo. If Mr. LaPollo sees something he doesn't like, he would go right to John Callahan. The street sweeping will be on 4th and 13th Street. There was no need for 13th. The trucks will go in and out 4th. One of The Approvals required the use of 4th only exclusively for truck traffic, but then subsequent Boards and subsequent Approvals may have said they needed to use 4th and 13th. The impact was not just on one street. They would have to park on 13th. The Board Engineer suggested the Applicant get in to the State Highway as quickly as possible was the best solution. They would use 4th. Any streets impacted will have to be swept.

The Applicant was receptive to the 2nd Bond / Letter of Credit /Cash posting for the restoration areas. Mr. McKenna did a site inspection of the restoration area. He figured an estimate of what he thought was a reasonable posting of currency to protect the interest of the municipality with the understanding it was one of the process and relied on the township engineer to come out and do the bi-annual inspections to inspect the mining operation and restoration. He came up with a Bond estimate for \$8,600.00 for the 5 ½ acres in purple area (on the Exhibit) and encompassed the area by the entrance, the area along the railroad tracks, and the area towards the rear. He felt those were the areas of immediate concern. Fertilizer, top soil, seeding, and some seedlings about 350 per acre – 1,000 for the seedlings which were planted at least twice already. It was assumed there was diligent watering afterwards and included continuing to 200 in seedlings. They continued to plant stuff and it died and tried to get those things fully restored and fully planted.

The amount of \$8,600 was questioned by the Board and if the estimate included labor.

The Applicant responded yes, definitely. Basically those things were pretty darn possible. There was topsoil already in the area which were cleaned up. It was just planting trees. The seedlings were out there.

The Board Engineer responded it sounds like, but you get equipment there to plant seedlings, do the grading, and do the top soiling, but it could be reviewed if the Applicant was receptive to posting something. It could be reviewed and come up with something that we think protects the Borough.

In the meantime if more restoration was done the Borough would reduce what was necessary with the Borough. The Applicant agreed to cooperate and post something. It was separate from the bi-annual inspections. For example, the engineer would go out for inspection and noticed half of the plantings died last season at your renewal it will be revisited.

Mr. Davis, co-council for the Applicant, addressed the Bond issue. He wanted to make sure the record was clear. He read the 2012 Approval. There was a paragraph in Section 5 on page 2 where the Board Engineer referenced in 2009 the Board required two Performance Bonds. Mr. Davis did not see a 2009 Approval.

Mr. Polistina responded it was accurate. The Applicant ceased operation in 2002 and returned in 2009 to seek Approval for the next two years. At that time because the restoration was not done the Board requested two estimates. One would be for all of the reclamation and one for the buffers. After the hearing before the Board, Mr. Ellsworth passed away. He was still the Applicant who came before the Board. After he passed away and there was a gap. There was a hearing. Mr. Davis did not have a Resolution from 2009 or no Approval because the restoration still wasn't completed. The 2012 Resolution referenced the 2009 Application. The Application approved in 2012 was actually the 2009 Application. There was a paragraph in the 2012 Resolution which spoke about two estimates.

The bonds were submitted in 2011 and were accepted, but only one bond. It was in the 2012 Resolution. It was not a condition of the 2012 Resolution. Mr. Davis spoke to his client and advised for the sake of receiving approval and cooperating with the Borough and making sure the Borough was protected on the reclamation areas as long as it was in the range of the \$8,600.00 cost estimate Mr. McKenna prepared he recommended strongly to his client she agree to it as a Condition of Approval. She wanted to make sure the Board understood in 2009 there was no record of an Approval or anything in the Minutes which gives rise to two Bond requirement. Then when she submitted a Letter of Credit for \$125, 000.00 in 2011 it was accepted and there was no indication either way there was a second Bond requirement she had to adhere to. She believed she did what she was supposed to do. She submitted the \$125,000.00 Letter of Credit and it was all she had to do. If a second Bond was required to deal with the reclamation of the buffer areas, as long as it doesn't exceed \$10,000.00 would be something they would agree to do.

Ms. Bloomfield objected. She would never submit because it didn't make sense to have two (Bonds). It would always be one for the charges incurred. It was suggested to increase the existing Letter of Credit by an additional approximately \$10,000.00. Once the reclamation was address will make application to the governing body for reduction as appropriate.

The Board Engineer recommended to review the numbers for the existing Bond. It has been there for five years. The numbers needed to be looked at again. He wasn't certain if a \$10,000.0 cap could be held because there may be a \$10,000.00 increase just for the increase in pricing over the last five years. A Bond estimate was needed from Mr. McKenna. It would need to be reviewed and to set appropriate numbers.

Mr. Davis requested there be an overall reduction for the reclamation work which actually occurred on site. There would need to be a reflection of the work which was done, update the numbers, and something around the \$8,000.00 to \$10,000.00 range for the additional type of work. The Applicant thought it was acceptable but clarified Mr. Ellsworth died in 2011. In 2009 when the two Bonds were suggested Mr. Ellsworth was operating and she had no idea anything was going on improperly. The Bond which was estimated was pretty big. Mr. Ellsworth did a

tremendous amount of work there from 2009 to the point in 2011 he passed away. He did a lot of work there to the extent what was referred to in the 2012 Resolution for the Bonding for the over excavation which was done. There would have been one Bond required. Mr. McKenna testified the Bonding numbers in place. With the economy for the last five years the price estimates if anything could get people there to do it for a lesser price. Mr. Davis believed the 2012 Resolution called for two bonds. One to cover the over excavation which was done. It was represented the work for the over excavation was completed was the Applicants position.

It was agreed there would be one overall Bond. A portion of the Bond will cover ultimate reclamation and will cover the buffer areas and any private property. The cost estimate could only be reflective of the remaining work.

Mr. Polsitina clarified the \$125,000.00 Bond in place was the ultimate reclamation after all of the work was done and did not include the buffer areas.

Ms. Bloomfield thought they had shown tremendous good faith with the work which was done in the pit and suggested looking at the Bond issue next year because of the large amounts of paperwork involved for \$10,000.00. The Bond will renew in July 17, 2017. She requested to look at it in the spring of 2017. If the estimate is more than 125,000.00, then increase the Bond amount at that time.

The Board was agreeable with the suggestion. The Bond would be submitted July of 2017 and will reflect both the reclamation and the buffer. The amount of the Bond will be submitted to the Boards Engineer to review and will set the number (amount).

GENERAL REVIEW COMMENTS continued:

Item 5: There was a gap from the 2012 Approval to now where there was reclamation, but no excavation. There was another two year gap which the Applicant had already addressed.

Item 6: A portion of the site was disturbed. There was a wooded area which remains to the west which is adjacent to the wetlands buffer. There was what appeared to be some manmade wetlands. Pinelands hasn't called it out or hasn't referenced it, but given the long history and the lack of activity in terms of excavation to the site it was difficult to recommend the Borough allow it to go to the additional wood given the fact their resource extraction activities were no longer allowed by the Pinelands or by the Borough. It needed to be discussed. The Board Engineer's recommendation was the Applicant had rights to what has been excavated and what has been cleared, but it was difficult for the Board's Engineer to recommend not point out there were woods there and will be cleared if the Approval is allowed to go forward as requested.

Items 7 & 8: Deal with the other Approvals which were discussed.

Mr. Darcy responded to Item 6 of the Engineers Report. In general principal, Mr. Polistina's recommendation would apply to a pre-existing non-conforming use. The law was very clear. The expansions of the Use beyond the original limits are prohibited by law. The general principle was correct, but the general principle did not apply to resource extraction facilities.

There was a whole set of case law about it. It was called the Diminishing Asset Theory. The reason for it was the Approval was granted the area was included as part of the mining operation, but there was no requirement for the whole facility to be mined out in a month, a year, two years, or five years. The courts position on extraction facilities is the property had to be dedicated for the Use. There had to be something which shows there was always an intention the particular area in question would be mined. This particular case it was clear. The 1986 Approval included the area and every Approval since included the area, and the most recent 2012 included the area. It was part of the 18.93 acres. There also needed to be an objectively manifest intent by the owner. All of the Approvals by Pinelands and the Borough always included the area. The site was already limited in the size of the resource extraction facility. Pinelands approved 18.9 acres which included the wooded area. Mr. Darcy believed it was a matter of law and a matter precedent and prior Approval the Board's Approval should include the wooded area as part of the permitted mining operation.

Mr. Polistina couldn't predict how things would work out, but nobody had an obligation to go out and clear 18.9 acres within a two year period. There was an obligation to receive Approvals. There were so many gaps in the Approvals with this Use and thought a case could be made because they did not pursue the Approvals and get the Approvals over the two years which are required. Some of the rights went away to be able to clear additional property. The issue needed to be discussed because it was not permitted to clear more property and dig more holes for a Use which was not allowed.

Mr. Darcy understood the rationale behind it. The law says even when the activity there is illegal does not extinguish the non-conforming Use. The fact Ferris operated without permits some may remember it was an argument about abandonment with the issue in 2009 & 2012. He didn't have permits and was operating illegally or abandoned the site. It is not what the law says. The law says a non-conforming Use, unless there is a specific intent to abandon it, remains and can be continued. They have an absolute right under the law to mine it (wooded area) out.

It was clarified by the Board's Engineer the owners by removing any dirt cannot impede the ability of the Borough to create a road. It was correct. The Board asked doesn't it conflict with the 3rd option of the paper road? Board Engineer explained the private property owners own it and put fences and sheds up and use the property for what they want. They cannot put permanent structures on it and can't put a foundation because they cannot impede the Borough's ability to build the road when the Borough wants to. In this case, removing 20 or 30 feet of soil it went back on the Borough's ability to build the road. There is an issue here. If the Application gets approved there wasn't a question the Borough's right-of-way should be vacated. The Borough should not leave it in place if at all possible if the excavation continues.

A Motion was made by Mr. Pino and seconded by Mr. Esposito to accept the Engineers Report. There was a roll call vote with ayes all.

The meeting was opened to the public for questions or comments.

Mr. Coombs swore in Mr. Ben Pagano, 2201 14th Street. Mr. Pagano commented he heard so many different things so many different ways. The general review comments were just comments. There was a Resolution in 2009 and 2012 which clearly depicted actions which had to be taken care of. The four wheeler access all around had to have weekly inspections of the perimeter of the property and work with neighbors and State Police on a weekly basis to comply the blockage of the accesses and new ones which may come to be. To the best of his knowledge, there has only been one behind his property which had been blocked frivolously and a least a dozen more between Mr. Marchetti and his property. He has suffered immense damage on his property to where the four wheelers have come on to his property and nailed nails in the trees which glow at night. It is a race track all through the 20 acres. Prior to this, Mr. Pagano spent over \$10,000.00 on 14th Street with concrete waste blocks to block over 700 feet to stop the four wheelers. He only had to stop there because they went on the next person's property. He has made a very big effort to stop four wheelers from going anywhere in the block of woods.

He heard testimony of all the things which had been done. He went on an inspection and pointed all for the places out to the Board Engineer. There was another inspection where he asked to go along so he could show the different areas they (the four wheelers) were coming on his property. He was asked to sign a 4 page release that if he was to get hurt they (Ferris Assoc.) could sue him. It didn't sound friendly and neighborly like the Resolution said. The Resolution said they (Ferris Assoc.) has to deal with the neighbors and State Police in a friendly manner. Mr. Pagano didn't go and it continued and the damage went on and they (Ferris Assoc.) never blocked it.

He didn't want to speak for Mr. Marchetti (his neighbor), but he did call Mr. Pagano and said this special meeting correlated with Pennsylvania had their gunning season. He was somewhere way up north gunning and was very sorry he couldn't be here because he said he has a loss. Which he does. Mr. Pagano thought a lot of the plans show it (a loss). Mr. Polistina was out there and can verify they (Ferris Assoc.) took his dirt. He spent money for a lawyer and brought a lawyer here. The lawyer went through. Mr. Pagano did not want to speak for Mr. Marchetti. Mr. Marchetti wished he could be here, but because it was a special meeting and he was set up for this week for gunning season and he went hunting. He has been actively working his property using 4th Road and planting trees in the back. There was quite a few different trees he planted in the back.

Mr. Pagano discussed the accessibility and 4th Road. He asked, when there is a couple feet of water in a right-of-way, is it steward even though they own both side of the road? He asked doesn't it denigrate the Borough's ability not only to build a road, but to let the residents use the right-of-way. It hasn't been vacated and he had property along there. He asked the Board Engineer how much percentage was completed from the last inspection for the restoration and the inspection prior to it. Although Ferris said it was 98% completed, Mr. Polistina thought it was a number less than 98. It was not the quantity. There were a couple other things going. They went on private property. There were a lot of buffers being done. There were top soil issues and seeding issues. It was difficult to quantify, but would say it was less. There was a lot of work he believed still left to be done. Mr. Pagano noted the Resolution of 2012 clearly stated all restoration had to be done before any mining could start. Mr. Polistina concurred. Mr.

Pagano stated he wasn't there to stop Ferris, but was very sorry. All this time they've allowed Mr. Pagano's property become damage by the four wheelers when he was the steward of his side. Mr. Pagano believed was not fair. He believed Bonds were needed to protect people like himself. He needed to be made whole again and he wanted to have his property restored. He knew it couldn't always be stopped, but believed they had to make an attempt. You don't laugh at me, do nothing, and then ask me to sign a four page release that ultimately said you (Ferris) could sue him if he got hurt. Mr. Pagano carried insurance at his home and if he invited Ferris Associates to have a cup of coffee and they fell on his step he carried insurance to make them whole again because he was a friendly neighbor and a good neighbor. The Borough knew what was going on. They testified they planted 1,500 trees and they were supposed to plant 10,000 per acre for the restoration if they let them go per acre for the final restoration according to pinelands. Mr. Pagano knew it was late and the Board Members needed to make a decision. Mr. Pagano needed to be made whole. He needed his property fixed and a fence or blocks put up along his line just like he put up along the street to protect them. We have to work together as a neighbor. Mr. Pagano worked with the State Police. They came with him also. It was Officer Reyes and the Lieutenant who was a very fine woman. Mr. Pagano believed they (Ferris Assoc.) was not ready to be Approved and he wanted his property fixed and a fence posted at the back of his yard.

They testified all the work they have done may be so, but wanted the Board to remember it was their job and they were supposed to do it. It wasn't like they were doing anything extra. They did a lot of work, but it was what they were supposed to do.

Mr. Pagano showed the Board where his property was on the map and begged the Board not to allow them to go in there and clear anymore. They created a wetland and the asphalt was still laying out there with the stewardship they were allowed. He was in a meeting and they were told they could remove the asphalt and he thought it was still lying there. There were a lot of things were said. It was how he remembered. He thought he could be mistaken, but wanted to point it out. He did block off one side. He knew Ferris Associates was there long before him and should be able to mine, but they have to do what they were supposed to do by Resolution and haven't done it. He didn't want to be told the ATV's couldn't be stopped because he stopped them on 14th Street. Mr. Pagano thanked the Board and hoped the Board would keep the residents in mind.

There were no other comments from the public and the public portion was closed.

Mr. Darcy responded to Mr. Pagano. He appreciated his concerns about the ATV's and wanted to stop them as well. He thought the best way to do it was as Mr. Callahan testified to get the site open. This way somebody is there 6 days a week. They will do as much as he can to block access to those trail and will have the no trespassing signs up.

The Board replied it was a playground on the weekends and they lived right there. Mr. Darcy thought the best self-regulation will be when the pit gets operational again and have people there 5 or 6 days a week would be the best method monitoring and getting the ATV people to not go into the site. The Board questioned how it would work on the days they are not there. Mr. Darcy responded if he is there 6 days per week they couldn't prevent trespassers. There was no

method he knew of by which you could prevent someone trespassing on your ground. The ATV people are very aggressive. If they want to get in, they will get in. If a fence is put up, they will cut it out, unravel it, and get in there. He thought he could limit the amount of time they are in there. They will work with the State Police and the Borough. If Mr. Pagano hears people in there on a Sunday, we could get him a phone number to call Mr. Callahan and will try to do as much as they can.

The Board explained the ATV's were leaving the Ferris property and going through Mr. Pagano's property and coming from his property and into Ferris property. Mr. Darcy didn't not expect him to stop people from coming across his property and coming onto Ferris property. It is a mutual cooperation and Ferris wanted to do it.

Mr. Pagano added it wasn't his property they were crossing. It was the pit inherently. They were still using his property. He was there to stop them the two ways they come through. Every single Sunday he was there to tell them. He has been shot at. There was a shot which went through his glass. He knew what he was dealing with, but you can stop them. The sheriff also saw the shot. Mr. Pagano suggested Ferris could fence it in and when they cut it, fix it. Then put a camera. Then catch them. Just catch just a handful of them. The word will get out they will have a problem where they buy their automotive parts for their four wheelers. They're going to go to jail and have your vehicle confiscated. That is how you stop them. You have to do something. Don't just think somebody's presence there for a few hours will stop them. You have to put a barrier to slow them up. Mr. Pagano had them slowed up to where they go around. Now at least you can grab them and they can be seen on the road and could get them for unlicensed vehicle, no registration, and no driver's license on an asphalt road.

Mr. Pagano informed there was 5 ½ million dollars of gravel out in the hole (pit). There was a lot of money out there if it was done right. Mr. Pagano spent over \$10,000.00 and was just a land owner. It was all out of his pocket. He thought he has been very patient. He wasn't trying to stop them. They were there before him, but they need to do it right. Mr. Pagano needed the Board Engineer to come out to his property and formulate a number of his loss. When you see what it looks like out there. It's unbelievable. They made an enduro tract. Mr. Polistina was supposed to address the access points, but never have. Mr. Pagano's point was he wanted to be made whole. He paid taxes on all of his property and he was being damaged. Miles on 20 acres is romper room. There were nails in trees which glow at night and headlights at night and they know just where to go. It scared Mr. Pagano especially after being shot at.

There were no other questions from the Board.

A Motion was made by Mayor DeStefano and seconded by Mr. Smith to approve the permit renewal or issuance of two year resource extraction permit for the two year period from August 15, 2014 through August 15, 2016 based on the February 3rd, 2015 Pinelands Certificate of Filing; and for the two year period from August 15, 2016 to August 15, 2018 based on the September 29, 2016 Certificate of Filing.

Mr. Pagano asked if it would be pursuant to the 2012 Resolution. Mr. Coombs will get to it because he was taking notes all along and had a lapse summary page of some of the highlights of

the Conditions. He wanted to make sure everyone was on the same page as far as what they are. Some things were mentioned casually and didn't know if there was necessarily approval on what The particular things were:

- Hours of Operation: 6:30 am to 4:00 pm Monday thru Saturday plus meeting the Borough Noise Ordinance.
- Street Sweeping: 4th Road, twice per month minimum, plus as needed.
- Bi-Annual Inspections: Inspections by the Borough Engineer. Both in spring and in fall.
- Bond: The Bond will remain as is with the amount it currently has. It renews until July 15, 2017. At that point, the Borough Engineer will inspect the property again along with the Applicant and will agree to possibly an increase of the bond to reflect on the work which will need to be done to restore the mined portion plus the areas previously being restored and shall take into account any work which has been successfully done towards restoration. NOTE: There was a definitional problem because the applicant in their opinion had done restoration type work. There was a difference between restoring and restored. Restored is a final point. With a property which has had all this permeability, whether it was restored it doesn't stay restored.
- Once on the two year cycle described by Mr. Darcy there was a continuing obligation on behalf of the applicant to seek renewals every two years so there are no gap issues again.

There were Review Comments made by Mr. Polistina in his report and his recommendations there.

- The Applicant already addressed the top soil stock piling on the property.
- The performance guarantee was addressed.
- It was indicated through testimony any additional trash or debris would be removed from site if not actively being utilized in the resource extraction operation.
- Ingress and Egress shall be only on 4th Road so to avoid the park on 13th Street.
- Continue to reclaim the site which had been torn up as specified in Borough Ordinance.

There were requests from the Board:

- Applicant responsible to restore 4th Road. There was a recommendation from the Engineer to somehow include it into the Bonding. There was discussion of the Engineer photographing the current condition of the road and then in 2 years' time when the Board is looking at renewal see what the damage has been to 4th Road. At the time, request if there is damage the Applicant at the time contributes money towards the repaving.
- A Site Plan which showed all of the concrete monuments and rebar's set at the site. One copy filed with the Borough to utilize. The plan set will become 7 of 7 as opposed to 6 of 6. One of those sheets which reads the zoning will be one which shows the rebar and concrete monuments.
- Clearing additional woods. The permit will be for the full 18.93 acres as has been requested.
- Continuing efforts to limit access from off road vehicles. There were 12 access point which have never been touched. There were 12 openings which never have been blocked since 2012.

There was a question posed to the Chairman by Board Member Cappuccio. How could we approve this if they haven't done what they were supposed to do since 2012? Shouldn't it be corrected before it is approved for them to go ahead? It should have been done. There was no certainty of how much had been done and how much still needed to be done.

Discussion ensued between Mr. Darcy, Mr. Davis and Mr. Cappuccio. Ferris agreed to put up no trespassing signs and put up 200 of them. Ferris agreed to block access and efforts were made to do it. Ferris agreed to restoration and made good faith efforts to go in there and restore the site.

Mr. Cappuccio's was concerned because the restoration had not been done. From 2012 to 2016 it was not done. It has been 4 years. Ferris had 4 years to do this and it was not done, but the Borough is supposed to give you a permit or permission to start digging again with this not being done. Then maybe not do it again. Like it wasn't done the last time.

There was a Letter of Credit.

It wasn't thought to be enough.

The Letter of Credit was going to be adjusted.

They only want to raise it \$10,000.00. The Letter of Credit should be raised \$100,000.00. If Ferris walks out and leave the mess, who will clean up.

Mr. Davis replied, there was a financial guarantee to protect the Borough and the taxpayers here to ensure the work gets done. Ferris's Engineer will prepare a cost estimate which will go to Mr. Polistina with Board Members engaged to represent the Boroughs interest.

The Bond amount would not increase more than \$10,000.00. If the road was included, there would be trucks driving and passing each other on 4th Road. They will hit the edges of the road.

It was never agreed to put the road in the process. It was agreed in 2017 they will look at the road to determine whether or not improvements in the road need to be made.

Where would the money come from if they are not around?

There was an inherent interest in Mr. Davis client continuing to cooperate with the Borough because if she doesn't will not be able to continue to mine the site.

She hasn't done nothing. It was not done. For 4 years it was not done. Mr. Cappuccio did not understand. Some has been done, but not all of it. He didn't understand if in 2012 it had to be done before they could start and they didn't do it and now they want to start again. The restoration was not 100% complete, but it wasn't 10%, but it was something closer to substantial completion. It was an ongoing operation.

It seemed like they come when they need dirt. They disappear and don't do anything. Then they do something when they need dirt again. They came in and got a permit and took dirt. They don't renew the permit until they need dirt again and it is two or three years later and didn't do what they were supposed to do before. Mr. Cappuccio didn't understand.

It was an ongoing process because some of the plantings die. They made a good faith effort to do the top soiling, seeding, and plant seedlings. Dirt hasn't been removed since 2009.

Then it has been more than 2 years it was not used.

It was 7 years.

It had been used because they were doing the reclamation.

Board Member Cappuccio asked if the reclamation counted.

Mr. Davis responded yes it counts because it was ongoing.

They were doing restitution which was supposed to be done. Does it count for mining?

Mr. Davis answered it did because the restitution was all being done as part of the overall mining operation. Mining was market driven. It couldn't be controlled when somebody wants to order gravel and take it off the site.

Board Member Cappuccio questioned, if it has been 2 years it hasn't been touched then it comes under the law it is abandonment.

According to testimony it had been touched because there were plantings and they were bringing soil to the site.

Did it mean the excavation was still going normal? They were just doing the restoration which was supposed to be done before.

It was all being done as part of the prior approvals the Board granted since 2012. They were before the Board in good faith and were making progress addressing these issues. They were agreeing to every condition outlined through the Board attorney.

Board Engineer explained, Ferris agreed to everything in 2012 and were still not done.

Ferris Attorney didn't want to argue over 5 to 10 %, but added they did a lot and was a lot better than 4 years ago.

It was done in the last 2 years. It wasn't started in 2012. Nothing was done. It was started 1 ½ years ago.

Today the work substantially performed.

Mr. Callahan explained Ted Ellsworth was here and died. There was a big gap where nothing got done. If you look at the age of the seedlings, there is a timeline in the trees growing out there. There has been things done. If it doesn't get approved, none of it will get done. He thought everybody was trying to start up the wheel and blame the past.

Board Member Cappuccio clarified. In other words, if the Board doesn't approve it Ferris will not finish the reclamation. It was what Mr. Callahan just stated.

Mr. Darcy thought one of the things they have been trying to do to address the concern would be to have a bi-annual inspection. Instead of having an inspection once every two years. They would get Mr. Polistina out every planting season and he would have the opportunity to say whether he likes or dislikes what he sees. It was the hope the additional inspections will mitigate the problem.

Board Engineer informed everything required in 2012 has not been fully completed. As part of the Resolution they were required to comply with the Conditions of the Approval of 2012.

Mr. Pagano informed the Board of access to his property which was supposed to be done. Mr. Darcy explained some of it was done.

There was one clarification for street sweeping. There was a critical month where there was no activity and asked for no street sweeping. Only in the months when there will be activity in the month two times a month. There will be a period of 2-3 months over the winter where there may be no gravel or dirt removed from the site it wouldn't be necessary to have the street cleaned off.

Mr. Polistina clarified the Applicant wanted something in the Resolution that if the Borough is experiencing problems with materials on the street they will have the ability to clean every other week or twice a month.

Mr. Darcy clarified the hours of operation were 6:30 to 4:00. Mr. Callahan requested the hours to be 6:30 to 4:30. If he didn't need to be there until 4:30 he won't be there.

Mr. Darcy added a technical item. This was for a Conditional Use Approval and Preliminary and Final Site Plan Approval in addition to the Permit Renewal.

A Motion was made by Mayor DeStefano and seconded by Mr. Smith to accept the Conditional Use Approval and two year Permit.

Some of the Board Members were not clear on the Conditions. They talked about a lot of them. Some were mentioned and they didn't agree on some. The Board Solicitor requested a recess to write down all of the Conditions. This way they would be absolutely 100% clear after the recess.

Chairman Pitale granted a recess.

Mr. Coombs clarified the Motion and those who voted were asked to vote again and reaffirm their votes.

A Motion was made for the Approvals of Renewal of the Resource Extraction Permit for a two year period from August 15, 2014 to the August 15, 2016 based on the February 3rd Pinelands Certificate of Filing; and for the two year period August 15, 2016 to August 15, 2018 based on September 29, 2016 Pinelands Certificate of Filing; Preliminary and Final Site Plan Approval for the continued Use on the existing Resource Extraction Facility specifically 18.9 acres.

Conditional Use Approval:

- Hours of operation 6:30 am to 4:30 pm Monday thru Saturday - plus compliance with the Boroughs Noise Ordinance
- Street sweeping two (2) times per month in months where there is fill being removed from the premises.
- Biannual Inspections by the Board Engineer in spring and fall.
- 4th Road ingress and egress to the site only.
- Improvements to 4th Road to be re-visited at 2018 renewal.
- Spring inspection 2017 inspection recommending it be on April 14th, 2017 if the Board Engineer inspects the property for possible adjustment to the Bond estimate to reflect numbers for the full reclamation within the mined areas and incremental work which needs to be done within the buffer areas.
- Two (2) year cycle of permitting.
- The releasing of money 2012 Decision Resolution.
- The Borough remind the Applicant 6 months prior to re-apply for the permit.
- All other Board Engineer recommendation unless otherwise litigated to the contrary.
- To continue to reclaim the site as mining ceases and the various areas of the site. There was areas to the south. There was area which needed to be reclaimed.
- Survey Sheet 7 be included with the set of plans and include all boundary markers recommended by the Engineer.
- The installation of no trespassing signs in coordination with neighbors, Borough Officials, and State Police to validate compliance. There be no trespassing in addition to initiating weekly site inspections to block ATV motorcycle trespassing. Same Condition as 2012.

The past restoration prior to new mining will be addressed by calling the Board's Engineer recommendation for varying site restorations and there is a continuing obligation to reclaim as mining ceases in various areas.

A new Motion was made by Mayor DeStefano and seconded by Mr. Smith as stated. There was a roll call vote with 4 ayes, two of the ayes were with the Conditions imposed, and 3 nays.

ROLL CALL	Charles Pitale	Nay
	Joe Pino	Yea
	Glen Smith	Yea
	Ron Esposito	Yea
	Lou DeStefano	Yea
	Dave Cappuccio	Nay
	Michael Veneziano	Nay

The application was passed.

The next scheduled meeting will be December 21, 2016.

The meeting was adjourned at 10:48 pm with ayes all.

Respectfully submitted,

Susan Carroll
Board Secretary