

**MONTGOMERY TOWNSHIP PLANNING BOARD  
MONTGOMERY TOWNSHIP, SOMERSET COUNTY, NEW JERSEY  
REGULAR MEETING  
DECEMBER 8, 2014**

Chairman Conforti called the meeting to order at 7:31 p.m. and read the opening statement that adequate notice of the meeting had been posted and sent to the officially designated newspapers.

**BOARD MEMBERS PRESENT:** Chairman Conforti; Ms. Davis; Mr. DeRochi; Mr. Sarle; Mayor Smith; Mr. Glockler, Alternate #1; Mr. Mani, Alternate #2; David Cheskis, Advisor (arrived 7:45 p.m.)

**ALSO PRESENT:** Mr. Linnus, Board Attorney; Mr. Cline, Board Engineer; Ms. Coppola, Board Planner; Mr. Bartolone, Board Landscape Architect; Ms. Savron, Secretary

**I. SALUTE TO THE FLAG**

**II. PUBLIC COMMENT**

There was no public comment.

**III. APPLICATIONS**

**Case PB-06-10**                      **Applicant: Constructural Dynamics, Inc.**  
Block 1001 Lot 45  
Submission Waiver and Minor Site Plan  
Expiration Date: 1/31/2015  
Affidavit of Notification and Publication Required (Previously Submitted)

Richard Schatzman, Esquire represented the applicant. The hearing is a continuation from December 1, 2014.

Dr. Richard A. McLaughlin, 108 Stone Ridge Drive, Capitol Hill, NC, was sworn in. Dr. McLaughlin gave his educational background and his qualifications. Dr. McLaughlin was offered to provide testimony on the flocculent, how it works, how it will work in this project and what it really is. Dr. McLaughlin was accepted as an expert.

Dr. McLaughlin explained there is turbidity which is composed of suspended solids. Anytime there is erosion or a process that generates the fine particles, they get up in the water column and it is difficult to settle because they are so small. The water would have to be set aside for months or years and wait for them to slowly fall to the bottom. A small amount of chemical is added to the water which causes the particles to stick together and that greatly accelerates the speed and time it takes to clear up the water. It is a common process that is used in all kinds of manufacturing processes. The chemicals used are food grade. They are allowed to be used in cosmetics, food and water treatment. There are really no alternatives in this instance. It is nontoxic to humans and the environment. The amount of flocculent is less than the amount that is in drinking water. Flocculants are widely used in mining and in quarries and on construction sites to clear up water before it is discharged. The turbidity is usually worse for the environment than the polyacrylamide.

Mr. Schatzman said the flocculent is subject to DEP review but Dr. McLaughlin is providing testimony in order to provide the Board information.

Dr. McLaughlin testified that the MSDS information regarding "Environmental precautions: Do not contaminate water" is referring to accidental spillage of raw material, not treating and releasing the water within the limits of the regulations.

Edward Potenta, 166 Main Street, Flemington, was sworn in. Mr. Potenta gave his educational background and his qualifications. Mr. Potenta was accepted as a noise expert. Mr. Potenta described the State noise standards which are 65 decibels during the day and 50 decibels at night. There is also an impulse noise standard of 80 decibels which is for a sharp noise. Those three standards are mirrored in the Township ordinance. The State ordinance night hours are from 10:00 p.m. until 7:00 a.m. The Township ordinance night hours are from 8:00 p.m. until 8:00 a.m. Mr. Potenta evaluated the existing conditions around the site and they added on the new sources proposed and then compared the results. The facility is and will remain in compliance with the standards. They evaluated the coupling noise (which is the impact noise), idling of the train, the truckload out, the pump for the pond and the conveyor. The measurements of plant noise at the receptors taken were a little

conservative because there was ambient traffic and airplane noise. The natural site topography, the dense woods or the on-site structures that would shield those sources from the receptors were not taken into account because the noise level numbers were below the standards so they didn't need to be adjusted. The three receptors analyzed were all on Dutchtown-Zion Road. One was at a residence near Route 601, the second was further to the west and the third was at the nearest residence to the quarry access road.

Aiden Kilcoyne, 403 Long Hill Road, was sworn in. Mr. Kilcoyne is the Director of Mining for Silvi. Mr. Kilcoyne said that the current operations at the quarry will not be impacted during the construction of these projects. At selected times the production process will be adjusted to link in all the new upgrades. All criteria on site are governed by Mine Safety Health Administration (MSHA). There is a very strict criterion the ponds are designed to that give access to equipment. The quarry is monitored twice a year by a routine inspection. The design of the ponds is governed by that standard and there will be access for equipment, for maintenance of the ponds and for safe upkeep of the ponds both for equipment and miners. There are various processes on site. Depending on the process it could operate from 10 hours a day up to 18 to 20 hours a day. The goal of the project is to reduce the impact of trucks on the roads. The design of the pond is large enough to reduce the velocity of the water going through to use the least amount of flocculent to settle out the material. The geometry and shape of the pond is a best practice for optimizing the settling process.

Sean Earlen, 11 Flemish Way, was sworn in. Mr. Earlen is the VP of Environmental Real Estate and Public Affairs. Mr. Earlen gave a history of the site with regard to the fines pile and the associated stormwater. The fines pile itself is completely stabilized and grown over. The outfall locations that drain from the fines pile no longer have any readings outside the standards set by the DEP. An Administrative Consent Order has been entered into with the DEP which gave the applicant relief from the NJPDES permit standards and set up a time frame to set up a system to handle the wash water used to clean the stone on site. The Order has been extended several times by DEP as the plans are being finalized. The NJPDES permit will be amended to accommodate the new improvements. The suspended solids, dissolved solids and testing of the flocculent will be included in the new ACO testing parameters. Mr. Earlen is not aware of any impact to the receiving waters of any sediment if sediment was to leave the basin but it will be regulated by the DEP.

Mr. Bartolone testified that he has been to the site and reviewed the trees with the forester. Many trees on the site came down during Hurricane Sandy. The forest is less than ideal and the quality of the trees to be removed is less than typical.

Ms. Coppola asked about the control of the runoff from the existing and proposed piles on site. Mr. Kilcoyne responded that the nature of the aggregate that is stored on site does not erode and wash away. The finer material will have a controlled runoff area with a basin. They are working on a design with the DEP.

Mr. Cline questioned Mr. Kilcoyne. The bottom of the basin for the finer material will be constructed of rock. MSHA would regulate the condition of the basin when they come out for their biannual inspection. When a truck enters the property it goes over the scale and travels  $\frac{3}{4}$  of a mile uphill, gets loaded, travels back down the hill and goes back over the scale. The benefit of the new system would be removing the haul process of going up the hill, being loaded and coming back down. There could be between 50-200 trucks depending on how busy the quarry is that day. The volume of the pond and flow rate was looked at in the design of the basin.

Mr. Cline questioned Mr. Potenta. Mr. Potenta did not look at the tunnel itself. The whole conveyor system is not the most significant source compared to other sources on the property. The conveyor is about 10 decibels lower than the noise generated by the truck activity itself. He would not expect the tunnel to have an impact. The impulse noises are the air brakes on the truck, the tailgate banging on the trucks and the train coupling. They are well below the 80 decibel standard at the property line. The tailgate noise ranged from 59-67 decibels.

Mr. Cline noted that he had two sets of material safety data sheets. Dr. McLaughlin testified that the aluminum chlorohydrate is added first. It is a coagulant which overcomes the negative charge on the particles that makes them want to repel each other. The aluminum part of that is positively charged and sticks between the two and holds them together. The flocculent is added to take those particles and bring them further together into larger particles.

Mr. Sarle questioned the applicant's professionals. Mr. Kilcoyne said the basin would not be lined. The quality of water that will be in those ponds is going to be of drinking quality. Mr. Sarle asked if the flocculent would settle to the bottom and with the fissures would it eventually end up in the groundwater. Dr. McLaughlin said the flocculants stick to the particles and does not stay in the water. Mr. Kilcoyne said the goal of this project is to have zero waste produced at the facility. When the fines are made in the process they will be recovered and

sold as a product. They can be used in certain construction tasks. Mr. Potenta gave instances of different sound levels. The sound instruments were on site for one day. When measuring a source noise it could be measured for one minute. Measurements were taken for as long as ten minutes.

Mr. DeRochi asked about the flocculent. He wondered if it is concentrated at the bottom if it is more in the danger zone than the minimal amount in the water. Dr. McLaughlin said it doesn't get concentrated. It binds to the sediment and settles out. Just because it is with the sediment does not mean it is in a high concentration. It doesn't leave the sediment. When they muck out the sediment, it is degraded over time and stays with the sediment. When it degrades, it changes to carbon dioxide and water.

Ms. Davis asked if the truck traffic would increase because of this project. Mr. Kilcoyne testified the benefits of the conveyor would reduce the number of trucks travelling up and down the mountain. The extension of the railroad will increase the size of the train that can be accepted on the property and will allow for more rail business. The benefits of increasing rail service will be to reduce truck traffic.

Mr. Kilcoyne testified that the larger trains have between a 4,000 and 6,000 ton capacity which is equivalent to approximately 240 trucks. At this time when a train is brought in, the dimensions of the siding cause the train to block traffic on Route 601. The increase in the siding length will reduce the impact on Route 601.

Chairman Conforti opened the meeting to the public for questions.

Susan Guileford, 4 Hunt Club Road, questioned the applicant's professionals. Mr. Stires explained that he did not represent 3M when they owned the property but when he performed his evaluation of Basin 5 he found it did not meet the dam safety standards. It is full of sediment and there is no proper outlet structure. The capacity of the new basin is an 11 acre feed and is 16' deep. Mr. Stires showed a picture of Basin 5. The basin will be de-watered before it is opened. The muck from the new basin will be mixed with clean stone and will create dense grade aggregate. There is 1.7 acres of disturbance for Basin 5, 5.8 acres of disturbance for the new basin and 1.2 acres of disturbance for the rail. Mr. Potenta testified the removal of the trees will not change the noise results. The trees that are on site are not the type of trees that stop sound from traveling.

Rich Miner, 226 Dutchtown-Zion Road, questioned the applicant's professionals about the removal of trees and its impact to the water flow down the mountain. Mr. Stires said there is a slope where the proposed basin will be. Any water now going down that slope will go into the basin. The runoff from the haul road will go into the rip rap swale along the road as opposed to out to Dutchtown-Zion. The applicant will work with Mr. Bartolone to replant the area around the new basin. Mayor Smith mentioned posting money into the tree bank. Mr. Potenta said that the only source they used data for that wasn't an existing source on the property was the train activity; the coupling and the idling of the train.

Peg VanPatton, Box 339, questioned the applicant's professionals. Dr. McLaughlin testified that the largest site he worked on was approximately 300 acres and it was for short term construction; 2-3 year project. The flocculent in this application is a liquid form. Accidental spillage means a bag of material in granular form spills off the truck and on to the ground. Dr. McLaughlin has not looked into the types of soils on the site. Ms. VanPatton noted the soils that are on the site and that they have been recorded as having seasonal high water table ½' to 1' from the surface with underlying bedrock. Dr. McLaughlin said the standard practice for a spill on this type of soil would be to scoop it up with a shovel. In the context of construction sites, the water would be treated and sent into a ponding mechanism of some kind to settle out the floccs. The floccs should not leave the site. Dr. McLaughlin has discussed the constraints of the Sourland Mountain with the applicant.

Maria Kautzman, 139 Fairview Road, said she was concerned about the flocculent and impact on well water. She asked if there would be continued monitoring for years. Mr. Earlen said as a condition of the Administrative Consent Order with the DEP there will be additional monitoring required monthly and quarterly of the discharge. The DEP will also test the muck.

Caroline Katmann, 258 Longhill Road, is the Executive Director of the Sourland Conservancy. Mr. Potenta said there is a similar pump in the existing basin to the one to be installed in the new basin and the conveyor that runs to the rail load that is the same conveyor to be installed that were used to measure the sound.

Mr. Cline said he looked at environmental constraints per DEP GIS mapping. There wasn't anything that came up on any of the layers that DEP provides which includes habitat, groundwater contamination and wetlands. It includes information on endangered and threatened species.

Mr. Earlen said the applicant will work with Mr. Bartolone regarding deer exclusion fencing to protect the new landscaping in the areas where exclusion fencing is possible.

Allan Bien, Hollow Road, was sworn in. Mr. Schatzman said DEP has approved the basins. The only thing the DEP has not approved yet is the use of the flocculent. If the Board grants approval of the project it will be subject to DEP approval of the flocculent. Mr. Bien said he is concerned that there is no backup overflow system and wondered if DEP was reviewing that. Mr. Stires replied that it is meant to be a discharge basin and it will be monitored where it exits the overflow of the basin. DEP is not requiring them to monitor any wells in the area.

Mike Pisaro, 31 Titus Mill Road, is the Policy Director for the Stony Brook Millstone Watershed Association. The applicant's professionals responded to Mr. Pisaro's questions. The applicant did not perform a Threatened and Endangered Study since the Township Ordinance does not require one for this application. The basin has been designed and is awaiting DEP approval. The stormwater calculations have been provided to the Board and reviewed by the Board Engineer. Eighty to ninety percent of the water supplied to the basin is from pumping out the quarry and treating the water to be used in the process. The only stormwater component for the basin is the drainage area of installing the basin and some of the area above it; approximately 9 acres. The water going to Basin 5 is a combination of process water and stormwater. By removing the process water the demand is reduced on the entire system so it negates the need for Basin 5.

The public question portion of the meeting was closed unanimously on a motion by Mayor Smith and second by Mr. Sarle.

Mayor Smith commented that this project, once properly designed and monitored, is a total upgrade from what was going on up there under the previous owner. He is concerned with the noise but thought the Township could request noise reports if there are complaints. His biggest concern is the well water in the area. Mayor Smith questioned Dr. McLaughlin. Dr. McLaughlin confirmed that the flocculent can't leach into the water, it is added at 1 part per million, the polyacrylamide is not toxic and it meets drinking water standards.

Chairman Conforti asked if the goal of the project is to take most of the water and recycle and reuse it. Mr. Schatzman confirmed that is the goal.

Mr. Schatzman noted that if the Board approves the project, the outside agency approval will be final approval of the flocculent by the DEP. If approved, the applicant would like to begin construction of the ponds right away.

Ms. Van Patton submitted to the Board the official State DEP Bureau of Freshwater Wetlands identifying the exceptional value wetlands and State Open Waters (Exhibit P-1); Report entitled "Toxicology and Carcinogenesis Studies of Acrylamide" (Exhibit P-2); World Health Organization Acrylamide in Drinking-water (Exhibit P-3); Powerpoint by Melanie McCaleb (Exhibit A-4); Sourland Mountain Smart Growth Project prepared by Banisch Associates, Demicco & Associates and M2 Associates (Exhibit A-5).

Ms. Van Patton was sworn in. Ms. Van Patton urged the Township to hire a chemist or scientist to independently review and assess the use of the proposed flocculent. The applicant has failed to provide an accurate environmental audit of the site. There are Cooper Hawks, Red Shoulder Hawks and Barred Owl on the property. The applicant should be required to do a complete audit that shows the constraints of the site. The site also sits on the Hopewell Fault. The Bureau of Water Allocation set limitations on the amount of groundwater withdrawal. She asked how much water will be used. DEP is discussing with a special team a beneficial use designation. The applicant should be required to supply that information.

Mayor Smith asked Mr. Cline if he reviewed the MSDS sheets for the product. Mayor Smith asked if his firm was qualified from a chemist standpoint to review that information. Mayor Smith would be in favor of having a review of the conflicting comments about the product. Mr. Cline said there are people in his office who could review the information.

Dr. McLaughlin responded that in reference to the acrylamide, there is the use of polyacrylamide which has traces of acrylamide in it, and they are following the drinking water standard for the World Health Organization as well as the US EPA. They are less than what the government regulations require; they are allowed .05% of free acrylamide in the product and all of those were less than .01%.

Mayor Smith said he is very concerned about the comments made by the public regarding the drinking water. He wants to be sure that what is being put in the water is 100% safe. Mr. Schatzman responded that DEP will review it and either approve or deny its use. Mr. Stires noted that DEP is also seeking input on this project from the Science Advisory Board of New Jersey which has scientists from different NJ universities.

Mr. Linnus summarized that the applicant is seeking site plan approval and submission waivers. Conditions of the application include the satisfaction of all professional reports where indicated on the record, the approval of outside agencies such as the DEP and DRCC, DEP approval includes issuing all the required approvals including the non-jurisdictional claim that dam safety act does not apply, the approval of the process and the product.

A motion to approve the application subject to the conditions was made by Ms. Davis, which was seconded by Mr. Sarle. This was carried on the following roll call vote:

Ayes: Davis, DeRochi, Sarle, Smith, Conforti, Glockler and Mani

Nays: None

**Case PB-06-14**

**Applicant: Baker Chrysler Jeep Dodge, Inc.**

Block 35001 Lot 16

Amended Preliminary and Final Major Site Plan with Bulk Variance for Signage

Expiration Date – 1/31/2015

Affidavit of Notification and Publication Required

Richard Schatzman, Esquire and David Schmidt represented the applicant. The applicant re-noticed since the meeting the application was first continued to was cancelled. Notice was in order.

Mr. Schmidt, who remains under oath, said the application is for façade signs and a monument sign. When they were at the last meeting there was a question about how high the Honda sign was and that this sign shouldn't be higher than that. Mr. Schmidt found out that the Honda sign is 12'. The monument sign will be 66.3 square feet and 12' high. It will replace the existing 20' high flagstaff sign. The new monument sign will be lit with LED light which is a softer light. The existing sign is internally lit with high intensity fluorescent lights. The front of the building has existing Baker Chrysler Jeep and Dodge façade signs that will be replaced with a Baker Chrysler Jeep Dodge and Ram signs. The Chrysler and Ram signs have symbols. The total façade signage will be 136.48 square feet where 114.5 currently exists. The applicant investigated the removal of the symbols to try to reduce the square footage but the dealership and corporation won't allow their removal. Mr. Schmidt pointed out that the Township measures signage by drawing a box around the letters and measuring the space. This adds 17.5 square feet of open area that isn't really used for signage. The signs on the building use high intensity fluorescent lighting which will be replaced with the LED lighting. The proposal is better than what is currently there.

Mr. DeRochi said he is favor of the monument sign but is against granting additional square footage for the building mounted signs. Mayor Smith agreed.

Mr. Sarle said he is upset with the way they pruned the Maple trees.

Ms. Coppola asked if the addition of the RAM vehicle will create a vehicle storage problem on the site. Mr. Baker said there would not be.

Chairman Conforti opened the meeting to the public. There being no public comment, a motion to close the public hearing was made by Mr. Sarle, which was seconded by Mayor Smith and carried unanimously.

A motion to approve the variance for the monument sign and building mounted signage at the existing square footage of 114.5 square feet subject to the conditions was made by Mr. DeRochi, which was seconded by Mr. Sarle. This was carried on the following roll call vote:

Ayes: Davis, DeRochi, Sarle, Smith, Conforti, Glockler and Mani

Nays: None

The Board thanked Cindy Coppola for both her and Richard's service. Richard has been with the Township since the 70's and Cindy started in the 80's. Clem Fiori thanked Cindy on behalf of the Open Space Committee for her work on the Open Space Master Plan.

**Case PB-09-12KH**                      **Applicant: K. Hovnanian Companies**  
Block 28001 Lots 5.02 and 5.03  
Amendment to Phasing Plan  
Expiration Date – 2-22-15  
Affidavit of Notification and Publication Required

Richard Schatzman, Esquire represented the applicant. Notice was in order. Mr. Schatzman said they have also asked for permission for a sign which he requested be carried to the next meeting.

The application is for a phasing plan amendment that will allow the applicant to install infrastructure in other than Phase I. The applicant met with Ms. Smith, Township Engineer, and agrees to the modifications suggested by Ms. Smith. Conditions of the approval will be to post the required bonds and final approval of the revised phasing map by Ms. Smith.

Carl Erler, 1832 Cable Drive, was sworn in. Mr. Erler is in-house counsel with K. Hovnanian. Mr. Erler described the changes to the phasing line.

The Developers Agreement will be revised if required by the Township Attorney.

Chairman Conforti opened the meeting to the public. There being no public comment, a motion to close the public hearing was made by Mr. DeRochi, seconded by Ms. Davis and carried unanimously.

A motion to approve the request subject to the conditions was made by Ms. Davis, which was seconded by Mr. Sarle. This carried on the following roll call vote:

Ayes: Davis, DeRochi, Sarle, Smith, Conforti, Glockler and Mani

Nays: None

#### **IV. CLOSED SESSION**

Chairman Conforti read the resolution to close the public hearing to discuss the Kosinski vs. Planning Board, 601 Corridor, LLC and Lanwin Development Corp. litigation.

The Board voted unanimously to go into closed session on a motion by Mr. Glockler and a second by Mr. DeRochi.

The Board voted unanimously to re-open the meeting on a motion by Mr. DeRochi and a second by Mr. Sarle.

The meeting was adjourned at 11:00 p.m.