

SUSSEX COUNTY AGRICULTURE DEVELOPMENT BOARD

MINUTES

JUNE 20, 2016

The meeting opened at 7:30 p.m. by Chairperson Brodhecker in the Freeholder Meeting Room at the Sussex County Administrative Center, One Spring Street, Newton, New Jersey. The meeting was held in compliance with the Open Public Meetings Act, N.J.S.A. 10:4-1 of 1975, as amended. Notice has been forwarded to the newspapers and posted on the bulletin board maintained at the Sussex County Administrative Center for public announcement.

**ROLL CALL:**

MEMBERS PRESENT: Jane Brodhecker, Chairperson  
Lori Day, Vice Chairperson  
Brian Hautau  
Jim Hunt  
Cece Pattison

MEMBERS EXCUSED: Joan Snook Smith

STAFF PRESENT: Autumn Sylvester, Program Manager  
John Williams, Esq., County Counsel  
Bill Koppenaar, County Engineer  
Rudy Dragan, Planning Aide  
Antoinette Wasiewicz, Recording Secretary

ALSO PRESENT: Jason Wessling, Sunset Inn Road, LLC  
Debra Lynn Nicholson, Esq., for Sunset Inn Road, LLC  
Owen Dykstra, P.E., for Sunset Inn Road, LLC  
Jason Dunn, P.P., for Sunset Inn Road, LLC  
Cliff Lundin, Soil Conservation District  
Kathy Little, Mayor, Sussex Borough  
Frank McGovern, Esq., Attorney for Sussex Borough

**MINUTES CORRECTION/APPROVAL:**

Minutes were not available.

**CORRESPONDENCE:**

A. SADC UPDATE;

A monthly update was received from the SADC on the status of the County Planning Incentive Grant process and the municipal Planning Incentive Grant applications. There was also a note that the Bill that was sent to the Governor to allocate the Corporate Business Tax funds that were set aside for Green Acres and Farmland Preservation funding was conditionally vetoed by the Governor. There was also a questionnaire that was sent out for the Special Occasion Events on wineries on preserved farms and the cluster agricultural deed restrictions.

**AG. AGENT'S REPORT:**

Steve Komar reported that on Wednesday, June 22 there will be trials on malt, barley and hops production. There will be a discussion on what the industry wants and needs.

**OLD BUSINESS:**

None

**NEW BUSINESS:**

The Agenda was amended to New Business, B.

A. RTF – 56 & 58 SUNSET INN ROAD, LLC:

Debra Nicholson said she is the attorney for the applicant, 56 & 58 Sunset Inn Road, LLC. She said that last month, the Board requested information and that the information has been provided. Ms. Nicholson said Jason Dunn and Owen Dykstra are also here to discuss the details of the project. Mr. Dykstra was sworn by Autumn Sylvester.

Owen Dykstra said he is a Professional Engineer and is the President of Dykstra and Associates. He developed this plan over the last few years to accommodate a farm-based project.

Ms. Nicholson said the Board members were provided with a report, as requested at the last meeting, which outlines what the law is, what the applicant is proposing, where they comply with the law, where they do not comply and why.

Jason Dunn, the Project Planner, said they resubmitted more documents and a comprehensive site plan which has more details on grading, construction, landscaping and lighting. In addition, they evaluated what they are proposing with all the items of the Agricultural Management Practices (AMP) regulations. For the most part, they are compliant with the legislation. Mr. Dunn said it is his understanding that the Board can grant deviations from the regulations as long as the applicant shows that there is valid farm-based reason to allow the deviations.

Mr. Dunn said the first deviation is a 50' front yard setback from the paved portion of the road right-of-way to the building. The applicant wants to use an existing building, an old farm house, which is very close to the road. The alternative would be to tear down the building and rebuild something else at the 50' setback or to physically move the house. The farm-based reason would be that it is not economically sensible and it would take up valuable land which could be used for parking and other farm practices.

The second setback is for side yard. The justification is similar but also because they are looking to do site improvements on the smaller parcel of land. This existed before the entire farm was preserved. The law says that the setback to the nearest property line should be 50'. They have 30' to the closest property line, but the farm envelops Lot 18.03. If you include the whole unit, then they meet that buffer. Mr. Dunn said they are proposing an addition to the rear of the building and that does not exacerbate the setback issue. He also said that they do comply with the 50' rear yard setback, and that even with the building addition, they will be 178' away.

The front yard setback, from the paved portion of the road right-of-way to any parking area is 25' feet. They meet and exceed that setback, they have 43'. A 50' side yard setback from the property line to the parking area is required. They are proposing 8.60' to the side property line. They request relief from the strict compliance to the standard. The farm-based reason is that an effective buffer goes to the property lines of the larger farm lot and it wouldn't be developed, because it is preserved. The setback distance from that is 77'. They feel the parking area is in a convenient and safe location and provides and promotes good circulation of pedestrians and vehicles. To try to meet that setback in its strictest sense would go against what they're trying to do as a farm market and would defeat the purpose of running an effective farm. The rear yard setback to a parking area is 103' where 50' is required, so they meet the rear yard setback as well.

The AMP talks about the exhibit or event activity areas. The applicant does not anticipate having a lot of events because of the parking issues and the control of traffic. The events they plan will be small. He pointed out an area on the plans that is designated for events or activities. He gave an example of a small, cheese-making demonstration or a fenced-in area for newborn animals. Brian Hautau asked if there were any official criteria for small and large events. Mr. Dunn said there were none in the regulations. The only thing the regulations say is that they must have a plan

prepared for events. Lori said on Page nine, Section four, I it says you can park on hayfields. Mr. Dunn said on the plans, the event areas are right up to the property line. They feel this is appropriate because of the surrounding farm around it. It operates as one property even though, legally, they are two.

Ms. Nicholson said that Autumn requested testimony on a number of items. One item was handicap parking. She asked Mr. Dunn to explain that. Mr. Dunn said he did not include the access drive as part of the setback discussion, but it is shorter than the 50' requirement. Autumn questioned the parking alongside the building. There is some angled, head-on parking that is being proposed and a paved, handicapped designated spot would have line striping. He said it is important to keep the handicap spot there because it provides the shortest route to the building, which also taking into consideration the grades around the building. The actual main entrance is in the back of the building, but there are three steps from the parking lot to the building. In the front of the building, it is nearly at grade and more easily reached. Ms. Nicholson confirmed that the entrance would facilitate access by a handicapped individual and that it meets the State regulations on handicap access where it needs to be the shortest access point.

There was also a question regarding graveled parking lot and the size of the parking spaces. The parking spaces are 9' x 18' which is considered the norm. There are 24' wide aisles which are large enough for cars to back out and move freely. Regarding the gravel parking lot, the applicant is looking to reduce costs; however, he also feels that the gravel parking is more line with a farming atmosphere. A few Board members said gravel parking areas are more ecological, less impervious cover. Mr. Dunn said gravel parking does require more maintenance but that it is a smooth enough surface and acceptable for public safety. There were questions about the number of parking spaces in the front of the building. There are 25 parking stalls. Taking into account the number of employees and the retail use, there will be one stall per 250 sq. ft. of retail. There will be a few extra stalls and they feel it is important to keep those for when they have the small events or for busy days throughout the year.

Ms. Nicholson asked Mr. Dunn to talk about proposed use, the specific goods that are planned to be sold, and compliance to Health Department standards for packaging. Mr. Dunn said there was some testimony on this last month. He said the farm market is going to be a variety of many things, until they see what sells the best. They will rely heavily on jarred foods and canning techniques, from products grown on the farm. They understand that 51% of the products sold must come from the farm. Jason Wessling has expressed an interest in having beef cows and offer packaged meats. These activities are regulated by the Sussex County Health Department. Lori asked if there was a commercial kitchen on the facility. Mr. Dunn said they do not have one now, but it is proposed for the front part of the building.

Ms. Nicholson asked Mr. Dunn to talk about the building exterior façade. Mr. Dunn said the existing building is not proposed to change as far as the dark brown siding

and the red roof, as will the addition. The new addition will also have an open porch wrapping around three sides of it. It will have rustic wood columns and perhaps stone veneer at the bottom of the columns.

Ms. Nicolson asked Mr. Dunn to talk about the frequency of events and times of operation. Would the hours of operation be in keeping with the regulations, 6:00 a.m. to 10:00 p.m.? Mr. Dunn said they will not exceed those hours of operation. They do intend to be open year round. He added that the AMP allows for hours of operation to extend to 11:00 p.m. under certain circumstances. Mr. Dunn said the applicant does not foresee the market being opened every day from 6:00 a.m. to 10:00 p.m.

Ms. Nicholson said there seems to be a disconnect between what the municipal standard is for signage and what the applicant is proposing. Mr. Dunn said the applicant is proposing a sign that is allowed in the AMP standards. The AMP contemplates that the market will be in a non-commercial area, so it allows for a certain size sign. They propose a 29.25 sq. ft. sign which is 11' tall. The standards allow 32'. They are in compliance with the AMP. Because they are technically residential zone in the town, the town only allows a home-business type of sign, which is 2' x 2'. The applicant is asking for this Board to approve the sign which is fitting with the AMP standards. Mr. Dunn said the size of the proposed sign is necessary and is also in scale with its surrounds. The house is a two-story house and there are large trees around it. The sign will be lit from a down light affixed to the top of the sign. It will be lit just enough to be visible. It is a dark area, without street lights. They do not want to cause a lot of glare.

Regarding sanitary facilities, Mr. Dunn said there is an existing septic system on site. As a precaution, test pits were done that were witnessed by the County Health Department. It was determined that it would support a septic system if needed. If it weren't for the proposed tables around the site, they probably wouldn't need a new septic system. There is a restroom in the house, but it will have to be modified for handicap access.

Mr. Dunn said the new plans that were submitted showed a lighting design for 14' tall ornamental pole lights which are downward focused and are dark sky compliant. They also meet the minimum standards of IAP manual.

Regarding trash removal, Mr. Dunn said to the north corner of the parking lot, there is a trash storage area where the dumpsters will be kept. They will be steel, bear-proof dumpsters. Turning movements have been checked. Garbage trucks are able to move in and out. There will be regularly scheduled pick-ups for garbage disposal.

Ms. Nicholson asked Mr. Dunn to discuss DEP and County Planning Board approvals. Mr. Dunn said that the applicant has a permit and a Letter of Interpretation (L.O.I.) from the DEP. It was necessary to apply to the DEP for the building addition because there are wetlands across the street and the buffer extends to the applicant's property.

In 2014, the applicant received an approval from the County Planning Board. The deviations are minor. In 2014, they were anticipating a farm-to-table restaurant with 50 seats and a retail component. The proposed use is less intense. The gravel parking is also different; however the County Engineer does not object to this. The curb radii changed because turning movements were needed for a box truck. The turning movements found that a 25' radius fell just short of being able to make right turn into the site. It was increased to 35'.

Ms. Nicholson asked Mr. Dunn if the proposed free standing sign would impede egress free and clear in the line of sight. Mr. Dunn said the new sign was placed so that it would not be in any sight triangles. When asked if the proposed seasonal display area, outdoor merchandise area or activity area impacting traffic ingress or egress in any way compared to the restaurant/retail use. Mr. Dunn said the sight functions nearly the same with or without the above-mentioned areas. When asked how the tables change what was originally proposed, Mr. Dunn said the original idea was for a farm-to-table restaurant and now they are proposing a farm market. The applicant thought it was important to provide some tables, not to serve customers, but for the convenience of customers who want to consume a product bought at the market. The AMP provides for this. The previous plan provided for tables indoors and perhaps on the porch, but not outside and on the site. They believe it is part of the ambiance of the whole experience.

Ms. Nicholson asked Mr. Dunn if the applicant will comply with the Comments/Recommendations as outlined in Bill Koppenaal's report dated June 20, 2016. Mr. Dunn said they would. There was some discussion regarding the recommendation that the minimum AASHTO sight distance sight triangles be depicted. Mr. Dykstra said when they received County approval, they had the sight distances established and they were provided on the plan. They did not meet the minimum for one of the directions. They will not meet the minimum but they will provide them on the plans. Bill Koppenaal said the original County approval included a group of waivers for this site. One was a reduction of what would normally be a 60'x300' sight triangle. It was reduced to 30'x300'. It is not depicted on the current proposal. He said these are up for renegotiation and the Ag. Board has the option of reevaluating the need for them. At a minimum, he wants to know what the AASHTO sight distances are and put a triangle or a line of sight in for that. Ms. Nicholson said they agree to do that. Mr. Dykstra said they will put in the sight distances that were approved by the County Planning Board.

When asked about discharge easements, Mr. Dunn said they continue to agree to do that. He said he spoke to Alice Brees about this. He said they will put in an amended application to the County Planning Board. Ms. Nicholson said under the Right to Farm Act, it's all supposed to be here so that you don't have to go to multiple venues. They have an approval and there are some deviations. She proposed that the waivers and approvals from the previous application be implemented in this plan for Engineering's review. This can be used for the Road Opening Permit. Bill said one thing that wasn't

clear to him was the difference in intensity of use between the site that was presented to the Planning Board in 2013 and the site that is currently being proposed and heard by the Board now. In 2013/2014, the Sussex County Planning Board heard the application with a set of criteria attached to it and they used that information to grant waivers. At this time, they want to be clear that whatever the intensity of use is with the current application, that it is at or below the intensity of use that was considered at the time of the waivers. Sight distance is one of the more critical operational safety functions of an access point. Mr. Dykstra said the intensity of use has been reduced, going from a 50 seat farm-to-table restaurant to the proposed retail with some outdoor seating. He believes it is significantly reduced. He said that a restaurant use has more of a peak hour and the intensity of use is more spread out in a retail use. There may be the same number of trips during the course of the day, but the intensity for a restaurant is more during peak hours.

Ms. Nicholson said this concludes their presentation for the deviations from the AMP Standards, reviewing Autumn's report and Mr. Koppenaar's report. She asked if there were any questions.

Cece asked what the feelings of Lafayette Township were. Ms. Nicholson said she spoke with the Land Use Board and Council and verified, as Autumn did, that they are mindful of the Right to Farm and the issues. They took no exception with it. They had the opportunity to attend this meeting and deliberately decided not to. The Board attorney met with the Land Use Board to explain the project. Essentially, they said under their zoning regulations, they could not say yes because it would require a Use Variance. They have not raised an objection or sent a representative to this meeting. Autumn said she spoke with the Land Use Board Attorney, the Land Use Administrator and the Township Clerk, and they discussed this issue at a Public Hearing in May. They did not take any exception to the plan as proposed.

Jim Hunt asked for an explanation of the Gateway Overlay Standards. Ms. Nicholson said Lafayette created a circumstance where they wanted to have a rural, farm-type feeling as people were developing in Lafayette, coming down Route 15 and spreading off it, similar to what their Main Street looks like. They created an overlay zone for their design standards but it didn't include their zoning standards. You had to apply the zoning standards in the zone but the architectural standards on the overlay. Autumn said it also included more commercial uses in the area that's around parallel to Route 15 and then it goes out as far as the subject property. There is also a stipulation in their zoning ordinance that says the stricter use would apply. This overlay district included a huge swath of territory where it wasn't really applicable.

Jim also asked about the two tax lots. Ms. Nicholson said there are two lots, one for the preserved farm and one for the farm house. Lot 18.03 is the lot with the farm house, where the farm market would be located. Autumn said the lots have the same owner, the same business entity and they are contiguous lots. The farm was already preserved when the applicant purchased it.

Autumn asked about the 51%/49% stipulation. Ms. Nicholson said she has not come across any protocol that's been established to report the 51%/49% stipulation. Jim said the only time that becomes an issue is if someone makes a complaint. He questioned if the Board wants to monitor this. Autumn said it could be acknowledged in the Resolution.

Autumn said on the site plan, the parking spaces and the loading area are delineated. She asked how that will be maintained on a gravel parking area. Mr. Dunn said it is very difficult to delineate parking spaces on gravel. They were shown on the plan to demonstrate the layout to the Board. In reality, the customers would have to self-regulate where they park, based on the where the curbs are and where the gravel is. There would not be any delineation of the parking stalls. The "No Parking" designation was left over from when they were thinking about paving the lot. That should not be on this plan. Autumn asked how customers would be kept from parking in the loading area and blocking the trash storage. Mr. Dunn said that would be done by owner enforcement. She asked how parking would be handled if the applicant decided to have special events. Mr. Dunn said they would have an employee directing people where to park.

Cece asked what was planned for the outdoor merchandise areas. Mr. Dunn said they would be seasonal displays, flower baskets, pumpkins, etc. of items for sale. He said it would be an extension of the store.

Autumn asked if there were plans for school class trips. Mr. Dunn said there are no plans for school class trips at this time. He said during a quiet time of day, a school bus come in, and the circulation does allow for that. Ms. Nicholson it would be likely that a van from a pre-school than a school bus for a class trip.

No other questions were raised.

Bill Koppenaal said what normally happens at the Planning Board level is that his report would go from draft to be finalized and then it would be distributed to the applicant. The Board could do an approval subject to the conditions that were discussed tonight that are in the report. Autumn said she would prepare a memorializing Resolution to be voted on at the next meeting.

**MOTION:**

A motion was made by Brian Hautau to approve the AMP subject to the conditions that were discussed and are in the report. The motion was seconded by Lori Day and carried unanimously.

B. SUSSEX BOROUGH WATER LINE;

Autumn Sylvester said a few months ago, she received a telephone call from the DEP advising her that Sussex Borough was interested in pursuing the water line from Lake Rutherford which would go through a preserved farm. The water line is needed to resolve their water quality issues. Shortly after, the review of the non-agricultural development projects package was received from Houser Engineering. Mr. Frank McGovern, attorney for Sussex Borough is here to provide additional information.

Frank McGovern said he is here on behalf of Sussex Borough and that Kathy Little, Mayor of Sussex Borough is also present. Mr. McGovern said although tonight is not an actual formal presentation, he did serve a notice to Autumn for the Board's initial consideration. This is a new process to the Borough.

Mr. McGovern said Sussex Borough's main water source comes from Lake Rutherford, which is located in Wantage Township. The lake is in the middle of High Point State Park. The water runs downstream through the properties which are preserved farmland owned by Mr. Amwell. The properties continue to Colesville and then Sussex Borough. There is a problem with the quality of the water. The turbidity levels are not DEP compliant and the Borough has been told to correct this.

The best solution is to have a direct pipeline connection from Lake Rutherford to the reservoir. The pipeline will be underground pipeline which would run under the preserved farmland up through and under the State Park to the lake. Mr. McGovern said he did not have the dimensions and is aware that he will need to provide that information. Mayor Little said they said the pipeline would be 10' for the work but that they would allow 20' to allow for the equipment.

Mr. McGovern said the next best alternative is to run the pipeline over Route 23 and down, which would double to cost, from \$1.3 million to about \$2.3 million, possibly even triple the cost. This would also involve getting Department of Transportation approval to tear up Route 23. He said he filed the same application with the SADC and it is under review there. The SADC is coming back with some recommendations for additional information.

Brian asked if the project would cut across any tillable acres. Mayor Little said the project does not involve tillable acres. It is all forest land. Lori Day asked if after the project was complete, would the area would be left denuded of trees. Mr. McGovern said it would be necessary to keep the easement area denuded to prevent tree roots from growing into the pipes.

Autumn said there are some issues and if the Board agreed, she would draft a letter outlining those issues. Mayor Little said the Borough is "under the gun" by the State regarding the Borough's water issues. Because of the delay with paperwork at the State level, they are behind schedule by about a month. The Borough is at risk of being fined

by the State. Jane Brodhecker asked if she was assured that this project will provide good water to the Borough. Mayor Little said the Borough's Engineer said the pipeline will solve the problem because Lake Rutherford is a pure source of water. Jim Hunt asked if there was any way to expedite the process. Autumn said the regulations are pretty straightforward regarding the condemnation process. Jim asked if the Board could make a decision this evening. Autumn said the Board could recommend an approval for the pipeline, but that there issues that must be addressed. There is also a separate process through the DEP-owned land.

Autumn said she needs more information regarding the size of the pipe; whether or not there is temporary access; the size of the easement; the alternative solutions need to be expanded upon and need more detail; and there needs to be a clear justification on why the pipeline needs to take this route. There also needs to be a costs breakdown and the physical landscape needs to be considered. It also was not clear whether the pipeline was going to run above or below the ground.

Jim asked if the Engineer was comfortable that 10 or even 20' is enough to not have root issues. Mr. McGovern said he will make sure that it is clearly spelled out, especially for access. John Williams asked if there are any other residential private properties involved. Mr. McGovern said there are not. Mr. Williams asked if this would be a condemnation. Mr. McGovern said that the Statute requires condemnation. The landowner is agreeable to the pipeline. It is the farmland preservation easement that requires condemnation. There was some discussion on an easement by agreement. Mayor Little said they've already met with the SADC with Senator Oroho. Autumn said that water quality is very important, but the CADB is bound by State regulations.

**MOTION;**

Lori Day made a motion that the Board authorizes Autumn to draft a letter outlining the issues she discussed above and a review of the proposal from Sussex Borough. The motion was seconded by Brian Hautau and carried unanimously.

Jim asked if the Board would get a chance to see the letter before it is sent out. Autumn said she can provide the Board with a copy of the letter, but any comments or discussions from the Board need to be done at a public hearing.

The Agenda returned to New Business, A.

**PUBLIC COMMENT:**

Cliff Lundin, Sussex County Soil Conservation District, said that Fred Hough has been on his Board for 48 years. He retired from the Board last year, but since they have not been able to get someone from the agricultural community to serve on the Board, Fred has stayed on. There is an advertisement out and the vacancy is open until July 15. He said if the Board knows anyone from the agricultural community that would be willing

to service on the District's Board; the application is on their website. There is a nominating committee which will make recommendations to the State Soil Conservation Committee. The District's Board meets approximately nine to 10 times per year, typically on the fourth Wednesday of the month, from 4:30 – 6:30 p.m.

There was a brief discussion on the Governor's conditional veto for distribution of the Open Space funds.

**ADJOURNMENT:**

All business having been completed, a motion to adjourn the meeting was made by Jim Hunt. The motion was seconded by Brian Hautau and carried unanimously. The meeting adjourned at 8:50 p.m.