

**MINUTES**

**PRESENT:** M. Augustine  
R. Dodds  
D. Haywood  
T. Kratzer  
J. Mathieu  
S. McNicol  
E. Niemann  
L. Sensus  
J. Strasser  
M. Syrnick, Alt #1  
D. Posey, Alt #2  
A. Clerico, Planner  
D. Banisch, Planner  
T. Decker, Engineer  
D. Pierce, Attorney

**CALL TO ORDER**

The meeting was called to order by J. Mathieu at 8:01 PM. The meeting was a joint meeting with the Township Committee for the Housing Plan and Fair Share Element.

**NOTIFICATION**

In order to ensure full public participation at this meeting, all members of this Board, and members of the public are requested to speak only when recognized by the Chair so that there is no simultaneous discussion or over-talk, and further, all persons are requested to utilize the microphones which are provided for your use by the Township. Your cooperation is appreciated.

Notification of the time, date and place of this meeting has been published in the Delaware Valley News and Express Times and sent to the Hunterdon County Democrat, and has been posted in the Kingwood Township Municipal Building at least 48 hours prior to this meeting and has been filed with the Municipal Clerk.

**NEW AND PENDING MATTERS**

Housing Plan Element and Fair Share Plan – Public Hearing

D. Banisch stated the Plan has been prepared in accordance with COAH's revised regulations which took effect on October 22, 2008. There was a substantial amendment to the draft plan on file with the clerk's office at least ten days prior to the public hearing. The change in the plan deletes inclusionary zoning for the AR-2 zone and replaces it with the Route 12 Business Park proposal.

D. Banisch provided the following memo to the Board:

The purpose of this memorandum is to identify an alternative affordable housing compliance mechanism to the inclusionary zoning that is identified in the draft Housing Plan Element and Fair Share Plan. The Township has been approached by the owner/developer of the Route 12 Business Park with a proposal to construct affordable housing in a possible mixed use configuration on the site and adjoining lands near the corner of Pittstown Road and Route 12. We met with the owner/developer on Thursday, December 4 to discuss his proposal. The number of affordable units that has been discussed would effectively close the gap between the number of affordable units that are now identified in the plan without an inclusionary zoning overlay and COAH's growth share projection, which is approximately 35 affordable units.

This memorandum identifies (1) a list of pros and cons related to inclusionary zoning; and (2) a brief description of the mixed use housing proposal for the Boards and the Township Committee to consider as an alternative to inclusionary zoning. If the Boards and Township Committee decide to eliminate inclusionary zoning in the plan, the change should be made to the Housing Element and Fair Share Plan prior to adoption on Tuesday night.

Inclusionary zoning – overview provided in the draft Housing Element and Fair Share Plan:

COAH's regulations require a 40% increase over the existing density that is currently permitted in the ordinance. Although the Township's zoning does not specify density for the AR-2 zone, the 40% increase in density over Kingwood's minimum lot size requirement of 7 acres translates into a requirement of one dwelling unit per 5 acres ( $.1428 \text{ du/ac} \times 140\% = .2 \text{ du/ac}$  or 5-acres). This density does not include environmentally constrained areas, which may be deducted under the zoning ordinance today. COAH's regulations also require mandatory clustering or lot size averaging in the inclusionary zoning ordinance. This will result in the Township being able to include specific performance standards, such as a minimum open space requirement or farmland set-aside as a by-product of subdivision (i.e. 50% open requirement). In essence, this compliance mechanism allows for the municipality to capture the affordable housing obligation that accrues from new development at the time of approval, and shifts the cost and construction burden to the developer.

COAH's inclusionary zoning ordinance provisions permit the Township to give the developer the option of (1) constructing affordable units off site; or (2) making a payment in lieu of construction. If the Township includes this provision in the ordinance, it must be provided so that the developer may exercise the option at his discretion. If no such option is provided in the Township's ordinance, the developer must construct the affordable units on site at COAH's growth share ratio of one affordable unit for every four market-rate units approved.

The inclusionary zoning technique that is proposed in the fair share plan would apply to all zoning, township-wide. The idea being that by applying the inclusionary zoning regulations to the entire AR-2 zone, the potential impact is diluted as a market preference. In other words, if inclusionary zoning were to be adopted for selected areas of the Township, it could be expected that the additional unit yield available under inclusionary zoning may render these areas more attractive for development, and thereby

incentivize development with the density bonus provision over other lands in the Township that do not include the density bonus (i.e. straight 7-acre minimum lot size areas).

The inclusionary zoning component in Kingwood's plan is effectively the default strategy in the plan, because it serves as a back-stop against any potential failure of the strategies and techniques that are identified in the plan to address the actual affordable housing obligation to date (i.e. prior cycle 1987-1999; and 3<sup>rd</sup> Round growth share to date). There are a number of partnerships identified in the draft Plan, which may be difficult to bring to fruition. These partnerships, along with the accessory apartment compliance mechanism address the actual 2004 to present growth share.

- Actual growth share to date: 47.02 units;
- Partnership and accessory apartment compliance mechanisms: 49 units in draft Plan.

Therefore, the inclusionary zoning may be viewed as the means to address the 'prospective' growth share obligation. However, COAH requires that inclusionary zoning become effective as a condition of substantive certification. In essence, if inclusionary zoning is identified in the plan, it must become law in order for the municipality to receive 3<sup>rd</sup> Round substantive certification from COAH. Inclusionary zoning is not subject to COAH's implementation schedule provisions, which allow the municipality to defer the full implementation of an affordable housing mechanism by two years (initially).

#### Summary of Route 12 Business Park Proposal:

The Route 12 Business Park proposal is to eliminate the self-storage units approved in the plan and to construct a total of 450,000 sq. ft. of nonresidential and commercial development, including the existing Building B (89,000 sq. ft.) and approved Building A (34,500 sq. ft.) The approved self storage units would be eliminated and replaced with 60,000 sq. ft. of affordable housing (60 units averaging approximately 1,000 sq. ft. per unit) and approximately 265,000 sq. ft. of flex commercial / light assembly use. The developer has advised us that he has reached agreement with the adjoining landowner to the east to acquire additional land, and his plan is to expand the existing wastewater treatment facility to accommodate the new development. The developer has conducted feasibility analyses and determined that the proposal is supportable, based upon upland area that is confirmed in a Letter of Interpretation from the NJDEP. The additional nonresidential development and residential development would be provided in separate buildings, however, common driveways and parking areas may be developed. All development would be constructed in phases, depending on the market absorption rate.

As part of the proposal, the developer would seek zoning adjustments to accommodate the proposal and a series of assurances and other agreements with the Township. These include:

- Reasonable development standards, including reasonable requirements for landscaping, building facade treatment, and topography/grading;
- Expedited local Planning Board approvals;
- Sign standards appropriate to multi-tenant nonresidential occupancy on a State Highway;
- Additional incentives, such as limited market-rate housing, which may become necessary as project pro-forma is developed and actual development costs are obtained;
- Township asked to consider assuming roadway dedication and road maintenance.

Based upon preliminary calculations, the development would generate an affordable housing obligation of approximately 48 affordable units. The 60 units proposed could effectively address the Township's entire 33 unit family rental obligation. A maximum of 16 units could be age-restricted under COAH's rules. If the 11 remaining units were family rentals, the number of affordable housing credits resulting from the project would be approximately 71 affordable housing credits.

### Pros / Cons - Inclusionary Zoning

#### PROS

- Includes both market-rate and the affordable units that are required under COAH's growth share methodology.
- Guarantees that affordable housing will be built, in accordance with COAH regulations, with every market-rate development over 4 units, and avoids shifting the responsibility to construct affordable housing to the Township.
- Affordable units are constructed by the developer.
- Would require reduced lot sizes for single-family in the form of mandatory clustering and/or lot-size averaging – would identify mandatory open space set aside requirements and assist in reducing sprawl development and conversion of open lands to large residential lots.
- Variety of housing options within a development provides more affordable options for housing within the community.
- May be designated in areas served by individual well and septic systems (i.e. outside of sewer service areas).
- Density bonuses or incentives may be provided to encourage the construction of additional affordable units (i.e. greater than 20% affordable).
- Can be sale or rental with added incentives for developers to build rentals.
- May provide opportunities for partnerships with developers to address other affordable housing obligations – shift the burden of construction to experienced home builders.
- COAH's regulations accept inclusionary zoning as presumptively valid – not subject to zoning challenge.
- Distributes affordable housing throughout the Township – the idea of locating affordable housing in one area of town may be found to be undesirable.

#### CONS

- Increases density wherever inclusionary zoning is designated. Would increase number of units that developer may build in the Township (changes density from 1:7-acres to 1:5-acres).
- Mandatory increases in density and reduced lot size criteria required under inclusionary zoning.
- Mandatory reduced bulk standards such as reduced lot sizes, setbacks, result in a change from current zoning, lot sizes and bulk requirements, which may be seen as inconsistent with community expectations for development.
- Requires affordable housing units to be built in accordance with COAH's fixed schedule for delivery of affordable units, based on percentage of market-rate units constructed.
- Administrative capacity will be required for resales or rentals – potential administrative burden on local government from small developments vs. private nonprofit and private for profit affordable housing developers/operators normally bear the administrative burden.

- Locates affordable housing in all developments 4 market-rate units and larger and may situate affordable housing in remote locations in the Township, transportation could be a problem for residents in affordable housing.
- Increased density could result in accelerated pace of development when economy improves. In light of pending zoning changes in nearby municipalities in the Highlands, increased density could enhance attractiveness of developing within inclusionary zoning overlay.
- Accelerated pace of development would result in increased local services cost burden.
- Increasing density may not be necessary at this time because COAH's regulations are now subject of Court challenge. The COAH provisions adopted in 2008 may not survive Court challenge.

The pros and cons listed above are intended to provide the Boards and the Township Committee with a range of considerations to evaluate the question as to whether the Route 12 Business Park proposal should replace inclusionary zoning in the Township's Fair Share Plan. While the feasibility of the Route 12 Business Park is not fully determined, the Township could identify the proposal in the Fair Share Plan and subsequently amend the plan in the future if the proposal fails.

A more detailed explanation of the Route 12 Business Park will be provided for Monday night's Housing Board meeting and Tuesday night's public hearing. We will prepare an amendment to the draft plan to replace the inclusionary zoning overlay proposal in the plan, if it is determined that the change should be made prior to adoption of the plan.

We trust that the Board and the Township Committee will find this information useful in its consideration of this matter.

The following slide show presentation was made by D. Banisch:

Business Park Mixed Use Development Proposal. It designates the new business park mixed use affordable housing development overlay option. The proposed plan addresses the prior cycle obligation, the COAH growth share requirement of 65 units and the rehabilitation obligation of 11 units.

Kingwood Township's need for affordable housing is the sum of:

1. The rehabilitation share of 11 units;
2. The prior round obligation (1987-1999) of 19 units; and
3. The growth share obligation of 65 units.

Rehabilitation share - the number of existing housing units as of April 1, 2000 that is both deficient and occupied by households of low or moderate income as determined by COAH at Appendix B of N.J.A.C. 5:97-1 et seq.

11 units.

Prior round recalculated need - 1987 through 1999; assigned by COAH in Appendix C.

19 units.

Third Round Growth Share – Based upon projected growth – C/Os for residential housing units and nonresidential employment creation January 1, 2004 through December 31, 2018 - assigned by COAH; COAH’s ratios of 1:4 (housing units) and 1:16 (jobs). At Appendix F of their rules, COAH projects:

284 Housing Units; and  
128 jobs.

Total projected growth share: 65 units

Plan for addressing Rehabilitation share – 11 units

- To be addressed through municipal rehabilitation program:
- Minimum of \$10,000 required per rehabilitation.
- To be funded through Township’s Affordable Housing Trust Fund & State grant funding (to be sought).

Prior Round and Actual Third Round Growth Share Calculation

Prior round recalculated need - 1987 through 1999; assigned by COAH in Appendix C. 19 units.

Actual Third Round Growth Share Calculation

- Residential development between 1/1/04 & 8/31/08 generates an obligation of 11.75 affordable housing units;
- Non-residential square footage developed between 1/1/04 & 8/31/08 generates an obligation of 16.27 affordable housing units;

Combined Prior Round and Third Round Growth Share to Date:

<u>Prior Round</u>	<u>19</u>
<u>Third round Residential growth share</u>	<u>11.75</u>
<u>Third Round nonresidential growth share</u>	<u>16.27</u>
	<u>47.02</u>

Plan for addressing Prior Cycle and Actual Growth Share to Date, the Township has identified the following affordable housing projects, techniques and approvals, which total 53 affordable housing units:

	Total units
<b>Project/Name:</b>	
Easter Seals	5
Ukarish / Habitat	8
Melnyk / Habitat	10
Melnyk / Rental	10
Melnyk / ARC of Hunterdon	4
Municipal Park Cottage	1
BDAC	1
Galleria	1
Van Holten	1
Community Hope	8
Cooperative Housing Corp.	4
<b>Total Units In Plan</b>	<b>53</b>

Remaining Third Round Obligation – COAH Projection:

New construction units	84	
Identified Credits	-53	
Remaining New Construction Obligation		31

Plan for addressing remaining Third Round COAH Projection:

The Draft Housing Plan Element and Fair Share Plan called for inclusionary zoning to address balance of COAH growth share projection.

COAH’s minimum inclusionary zoning regulations (40% increase over the existing density) as an overlay zone for the AR-2 zoning district.

- 7 acres reduced to one dwelling unit per 5 acres with affordable units constructed in development.
- applicable to all single-family developments involving at least 4 market rate units;
- require mandatory clustering or lot size averaging in the inclusionary zoning ordinance and will require the developer to construct one affordable dwelling unit for every four market rate residential units approved.
- At Township’s discretion, overlay ordinance may require
  - (1) constructing affordable units off site;
  - (2) or alternatively may permit construction off site or making a payment in lieu of construction.

Business Park Mixed Use Affordable Housing Development Option

- Alternative proposal to replace inclusionary zoning compliance mechanism;
- Route 12 Business Park 60 affordable units;
- To be built in phases in tandem with phased nonresidential mixed use development at Route 12 Business Park.

Proposal:

- Owner/developer to acquire adjacent land to expand the site from 36 to approximately 74 acres;
- Eliminate approved self-storage units from approval;
- Construct a total of 450,000 sq. ft. of nonresidential and commercial development within maximum Floor Area Ratio of .14 - .15.

Includes:

- Retain Existing Building B (89,000 sq. ft.);
- Construct approved Building A (34,500 sq. ft.);
- Construct approximately 265,000 sq. ft. of flex commercial / light assembly use;
- Residential - 60,000 sq. ft. of affordable housing;
- Confirmed upland based upon valid NJDEP Letter of Interpretation;
- To be phased, based upon market absorption rate;
- New nonresidential development and residential development to be constructed in separate buildings utilizing common driveways and parking areas;
- To be designed and constructed utilizing Green Design techniques and strategies.

Requested municipal assistance/cooperation/assurances:

- Reasonable development standards, including reasonable requirements for landscaping, building facade treatment, and topography/grading;
- Expedited schedule for local Planning Board approvals;
- Sign standards appropriate to multi-tenant nonresidential occupancy on a State Highway;
- Incentives such as limited market-rate housing, which may become necessary as project pro-forma is developed and actual development costs are obtained.
- Municipal acceptance of roadway dedication for road maintenance.

(Aerial Map with boundary line of proposed development site)

(Scanned site plan with wetlands delineated)

Proposed Changes to Fair Share Plan

- Delete inclusionary zoning for AR-2 District and
- Replace with Rte 12 mixed use development proposal by designating new Business Park (BP) Mixed Use Affordable Housing Overlay Option.

J. Mathieu called for comments from the public. No response was heard.

T. Kratzer stated he preferred the prior proposal. D. Banisch stated the plan can be amended.

R. Dodds stated that whatever development might be constructed, a mixture of housing should be included. D. Banisch stated the residents would be working class individuals. The units would be approximately 750 to 1250 sq ft, possibly up to 1400 sq ft.

It was moved by J. Mathieu, seconded by R. Dodds and carried to close the public hearing. All members present voted **AYE** on **ROLL CALL VOTE**, except T. Kratzer, who abstained.

It was moved by S. McNicol, seconded by D. Haywood and carried to amend the Housing and Fair Share Plan Element. All members present voted **AYE** on **ROLL CALL VOTE**.

Resolution No. 2008-24 – Adopting Housing Plan Element and Fair Share Plan

**RESOLUTION No. 2008-24**

**RESOLUTION OF THE KINGWOOD TOWNSHIP PLANNING BOARD AMENDING AND ADOPTING THE DECEMBER 2008 HOUSING PLAN ELEMENT & FAIR SHARE PLAN**

**WHEREAS**, the Planning Board of Kingwood Township, State of New Jersey, adopted its current Housing Element and Fair Share Plan of the Master Plan pursuant to N.J.S.A. 40:55D-28.b.(3) on December 13, 2005; and

**WHEREAS**, N.J.A.C. 5:97-2.1(a) requires the adoption of the Housing Plan Element by the Planning Board and endorsement by the Planning Board; and

**WHEREAS**, N.J.A.C. 5:97-3.1(a) requires the preparation of a Fair Share Plan to address the total 1987-2018 fair share obligation of Kingwood Township; and

**WHEREAS**, N.J.A.C. 5:97-3.1(b) requires the adoption of the Fair Share Plan by the Planning Board and endorsement by the Planning Board; and

**WHEREAS**, upon notice duly provided pursuant to N.J.S.A. 40:55D-13, the Planning Board of Kingwood Township held a public hearing(s) on the Housing Plan Element and Fair Share Plan on December 9, 2008; and

**WHEREAS**, the Planning Board has determined that the Housing Plan Element and Fair Share Plan are consistent with the goals and objectives of Kingwood Township’s Master Plan and that adoption and implementation of the Housing Plan Element and Fair Share Plan are in the public interest and protect public health and safety and promote the general welfare.

**NOW THEREFORE BE IT RESOLVED** by the Kingwood Township Planning Board, Kingwood Township, Hunterdon County, State of New Jersey, that the Planning Board hereby adopts the December 2008 Housing Plan Element and Fair Share Plan.

A **MOTION** for the adoption of the within Resolution was made by R. Dodds and seconded by D. Haywood.

**ROLL CALL** of eligible Members:

	AYE	NAY	ABSENT	ABSTAIN	INELIGIBLE
AUGUSTINE	x				
DODDS	x				
HAYWOOD	x				

KRATZER	x				
MATHIEU	x				
MCNICOL	x				
NIEMANN	x				
SENUM	x				
STRASSER	x				
SYRNICK	--				
POSEY	--				

Motion carried.

This Resolution shall take effect immediately upon publication. This resolution is being submitted at a Regular Meeting of the Kingwood Township Planning Board, held on December 9, 2008.

The Township Committee held their meeting.

J. Mathieu informed D. Banisch and A. Clerico their services were no longer needed for this evening.

Hewitt – Block 40, Lot 25 – Byram Kingwood Road Boundary Line Adjustment

T. Decker stated the applicants have made the changes requested in the following memo:

The proposed application proposes lot line adjustment between existing Lots 25 & 25.01 in Block 40. Applicant proposes to merge 8.72 acres from Lot 25 to Lot 25.01 resulting in lot areas of 2.39 acres and 10.95 acres for Lots 25 & 25.01 respectively. Upon review our office offers the following comments:

1. The existing frame dwelling on Lot 25 is located 28.4 feet from the front property line in violation of the 75-foot front setback requirement. This is an existing nonconformance.
2. All other aspects of the Boundary Line Adjustment are in conformance with the zoning requirements with the AR-2 Zone.
3. Existing property lines for existing Lot 25.01 should be clearly noted as to be removed.
4. We recommend realigning the portion of the proposed property line noted as having a bearing of S 84°01'01" E 284.51 feet to intersect at the iron located along the outbound where courses of 111.52 feet and 197.63 feet merge. This would eliminate the narrow wedge in the western portion of Lot 25 while still preserving the family memorial.

It was moved by J. Strasser, seconded by R. Dodds and carried to approve the boundary line adjustment with the following conditions:

1. Review and approval by the Board’s professionals, and recordation within 190 days, of deeds perfecting the boundary line adjustment.
2. Neither the Board nor its employees or professionals will perform any service in furtherance of this approval if there is a deficiency in any escrow or inspection fee account. The applicant shall be under a continuing duty to maintain a positive balance in

all accounts until all conditions have been satisfied and all charges have been paid. Approved deeds shall not be released for recordation unless all outstanding escrow fees have been paid and the applicant’s escrow account contains sufficient funds to cover anticipated unbilled expenses.

3. The within approval and the use of all property subject to the within approval are conditioned upon and made subject to any and all laws, ordinances, requirements, and/or regulations of and/or by any and all Municipal, County, State and/or Federal governments and their agencies and/or departments having jurisdiction over any aspect of the property and/or use of the property. The within approval and the use of all property subject to the within approval are also conditioned upon and made subject to any and all approvals by and/or required by any and all municipal, county, State and/or Federal governments and their agencies and/or departments having jurisdiction over any aspect of the property and/or the use of the property. In the event of any inconsistency(ies) between the terms and/or condition of the within approval and any approval(s) required by the above, the terms and conditions of the within approval shall prevail unless and until changed by the Board upon proper application.
4. The Township of Kingwood Planning Board reserves the right to revoke and withdraw any approval hereby granted in the event that there is any deviation from or alterations of the plan hereby approved, unless prior written approval for any such deviation or alteration has been obtained from the Planning Board. Minor deviations and field changes may be authorized in writing by the Township Engineer.
5. All improvements shall conform to building standards and other regulations as set forth in Federal, State, County and Municipal Statutes, Regulations, Codes and Ordinances, at the time of installation of the said improvement.
6. The acceptance by the applicant of this approval and reliance thereon by the applicant for the purpose of commencement of construction of improvements within the project in accordance with the approval, shall operate as an acknowledgment and agreement by the applicant, its successors and assigns, that it accepts the official action herewith memorialized as being subject to the terms and conditions as contained herein, and agrees to fully comply and be bound thereby.

All members present voted **AYE** on **ROLL CALL VOTE**.

Phillips- Block 41, Lot 13 – Boundary Line Adjustment

T. Decker stated the applicants have made the changes requested in the following memo:

Our office is in receipt of revised plans in support of the above mentioned application titled “Property Line Adjustment for Sarah & Richard Phillips, David & Katherine Hewitt situated in Lots 13 & 13.01 in Block 41” as prepared by Stanley M. Norkevich, Land Surveyor last revised November 21, 2008. This application is for a lot line adjustment and merger of lands between Lots 13 and 13.01 in Block 41. Applicant proposes to merge 26.14 acres from existing Lot 13 to 13.01 resulting in total lot areas of 15.20 acres and 28.95 acres for Lot 13 and 13.01 respectively. Upon review our office offers the following comments:

1. By way of the lot merger, existing structures within Lot 13.01 currently in violation of rear and side yard setbacks will be brought into conformance. The configuration as proposed is in full compliance with the zoning requirements for the AR-2 Zone.
2. The existing lot lines for Lot 13.01 should be clearly noted as being removed.

It was moved by J. Strasser, seconded by R. Dodds and carried to approve the boundary line adjustment for Block 41, Lot 13 with the following conditions:

1. Review and approval by the Board's professionals, and recordation within 190 days, of deeds perfecting the boundary line adjustment.
2. Neither the Board nor its employees or professionals will perform any service in furtherance of this approval if there is a deficiency in any escrow or inspection fee account. The applicant shall be under a continuing duty to maintain a positive balance in all accounts until all conditions have been satisfied and all charges have been paid. Approved deeds shall not be released for recordation unless all outstanding escrow fees have been paid and the applicant's escrow account contains sufficient funds to cover anticipated unbilled expenses.
3. The within approval and the use of all property subject to the within approval are conditioned upon and made subject to any and all laws, ordinances, requirements, and/or regulations of and/or by any and all Municipal, County, State and/or Federal governments and their agencies and/or departments having jurisdiction over any aspect of the property and/or use of the property. The within approval and the use of all property subject to the within approval are also conditioned upon and made subject to any and all approvals by and/or required by any and all municipal, county, State and/or Federal governments and their agencies and/or departments having jurisdiction over any aspect of the property and/or the use of the property. In the event of any inconsistency(ies) between the terms and/or condition of the within approval and any approval(s) required by the above, the terms and conditions of the within approval shall prevail unless and until changed by the Board upon proper application.
4. The Township of Kingwood Planning Board reserves the right to revoke and withdraw any approval hereby granted in the event that there is any deviation from or alterations of the plan hereby approved, unless prior written approval for any such deviation or alteration has been obtained from the Planning Board. Minor deviations and field changes may be authorized in writing by the Township Engineer.
5. All improvements shall conform to building standards and other regulations as set forth in Federal, State, County and Municipal Statutes, Regulations, Codes and Ordinances, at the time of installation of the said improvement.
6. The acceptance by the applicant of this approval and reliance thereon by the applicant for the purpose of commencement of construction of improvements within the project in accordance with the approval, shall operate as an acknowledgment and agreement by the applicant, its successors and assigns, that it accepts the official action herewith memorialized as being subject to the terms and conditions as contained herein, and agrees to fully comply and be bound thereby.

All members present voted **AYE** on **ROLL CALL VOTE**.

Perrotti – Block 23, Lots 11 & 11.01 – Determination of Completeness

P. Henry, attorney, was present for the application this evening. C. Stires, engineer, was present for the application this evening.

T. Decker provided the following memo:

Our office has reviewed the above stated documents for completeness and offers the following comments with regards to the Preliminary Major Subdivision Checklist:

**Item #1 – Copy of Plat in Electronic Format**

Copy of plat and electronic format has not been received by our office. Planning Board Secretary should confirm by receipt. *Satisfied.*

**Item #6 – Plans Prepared by a Licensed NJ Professional Engineer or Land Surveyor**

The plan set contains preliminary plats, which have been signed by a Professional Engineer. A Professional Land Surveyor's signature and seal is required. *Satisfied.*

**Item #8 – Based On a Current Survey Prepared by a Licensed NJ Land Surveyor**

The plans set contains a plan titled "Topographical Survey" signed and sealed by a Professional Land Surveyor, however there are no certifications as to a boundary survey being conducted. *Satisfied.*

**Item #12 – Proposed Block & Lot Number as Approved by a Tax Assessor**

Our office has not received copies of correspondence from the Tax Assessor approving the Lot and Block numbers. Planning Board Secretary should confirm receipt. *C. Stires, engineer, stated the applicant requested the information in October and has not received a response from the tax assessor.*

**Item #15 – Certified List of Property Owners Within 200 Feet**

Our office has not received a copy of the Certified List. The Planning Board Secretary should confirm receipt. *Satisfied.*

**Item #21 – Contours and Topography Within 200 Feet**

All site topography does not extend to 200 feet limit. *C. Stires stated the applicant is seeking a waiver for this item. C. Stires stated doing the topography has no net effect on the overall project. The project is self-contained and any off site topography drains to the subject property. The applicant is continuing with the development of the detention basin.*

**Item #22 – Existing Proposed Drainage Facilities Within 200 Feet**

Limits of existing features as shown do not extend to 200 feet beyond the property limits. *C. Stires stated the applicant is seeking a waiver for this item.*

**Item #42 – Right to Farm Notation**

Right to farm text should be added to the Subdivision Plans. *Satisfied.*

**Item #43 – Hydrogeological Report and Pump Testing**

The applicant has requested a temporary waiver citing that the testing and report are in progress and therefore not submitting at this time. *Applicant has requested a waiver citing “delays by various reviews”.* C. Stires stated Maser Consulting has submitted a plan and the plan has been approved but the window for testing has closed. *The testing cannot be done until next year.*

**Item #47 – Affordable Housing Plan**

Our office has not received a copy of the Affordable Housing Plan for the proposed subdivision on Lot 13.03. *Outstanding.*

**Item #51 – Depiction of Septic Systems and Wells Within 100 Feet**

Location of the existing onsite septic for the remaining lot should be shown on the plan set. *Satisfied.*

C. Stires stated the applicants would like to request the above waivers to keep the project moving forward.

T. Decker stated, regarding the topography, the proposed layout is a cluster. There is substantial space where there are no proposed improvements. There should be documentation on how the drainage occurs so future property owners of these lots will have the knowledge of how the drainage came onto their property before the development. Those requirements will address the area of the development without the expense of the areas that will not be impacted. C. Stires stated the applicant will provide that information on the next set of drawings supplied to the Board.

T. Kratzer stated the results of the hydrogeological report might affect the lots. He has a concern for the offsite topography. The orientation of the lots depends on the hydrogeological report. There might be a lot that does not pass the requirements and the development will have to be reconfigured. C. Stires states the topography relates to the 200' surrounding the property. P. Henry responded if any reconfiguration is needed as a result of the hydrogeology, the applicant's will have to deal with it. C. Stires stated the results would not expand the project but contract it.

C. Stires stated the LOI is almost done. They have gone back and forth with the DEP numerous times. The property is located along the County Road 519. From the County Road to the Lockatong, the property runs down hill.

P. Henry stated, in regard to Lot 11, as per the Township's ordinance, it must be deed restricted with a cluster development.

D. Pierce stated he has no comments for completeness. The applicant is requesting, for completeness purposes, waivers of Item Nos. 12, 21, 22 & 43. The applicant has not submitted Checklist Item No. 47, acknowledging the application would be deemed incomplete for that item.

It was moved by D. Haywood, seconded by R. Dodds and carried to grant waivers for Checklist Item Nos. 12, 21, 22 & 43 but deem the application incomplete due to Checklist Item No. 47. All members present voted **AYE** on **ROLL CALL VOTE**.

Errickson/Precision Drilling – Block 12, Lot 8

J. Mathieu stated he has spoken with Mr. Errickson and was informed he would be withdrawing his request. Mr. Errickson was not present this evening. There is no action for the Board to take on the matter.

J. Mathieu left the meeting.

R. Dodds chaired the meeting.

## **MINUTES**

October 14, 2008

T. Kratzer inquired if any information was received regarding the water usage on the Gross, Block 5, Lot 4, application. S. McNicol stated she had requested the secretary to review the tape of the meeting and add information regarding the current well usage. The comment was added on page 5, paragraph 6.

It was moved by S. McNicol, seconded by D. Haywood and carried to adopt the minutes of October 14, 2008 and place on file. All members present voted **AYE** on **ROLL CALL VOTE**, except M. Augustine, who abstained and J. Mathieu, who was absent.

J. Mathieu returned to the meeting.

November 11, 2008

It was moved by S. McNicol, seconded by D. Haywood, and carried to adopt the minutes of November 11, 2008 and place on file with the following corrections:

*“Page 6 – first sentence, second line – should be “site” instead of side;  
Page 6 – third sentence reworded to state “lead tire weights”;  
Page 7 – fourth paragraph, second line from the bottom should be “Master Plan”.*

All members present voted **AYE** on **ROLL CALL VOTE**, except M. Augustine, who abstained.

November 11, 2008 Executive Session

It was moved by S. McNicol, seconded by D. Haywood and carried to adopt the minutes of November 11, 2008 Executive Session. All members present voted **AYE** on **ROLL CALL VOTE**, except M. Augustine, who abstained.

## **RESOLUTIONS**

It was moved by D. Haywood, seconded by S. McNicol and carried to adopt **Resolution No. 2008-25 – Laurelton Belmont – Block 22, Lot 16 – Minor Subdivision/Boundary Line Adjustment.** All members present voted **AYE** on **ROLL CALL VOTE** except M. Augustine and E. Niemann, who abstained and T. Kratzer who was ineligible.

It was moved by D. Haywood, seconded by T. Kratzer and carried to adopt **Resolution No. 2008-26 – Schick – Block 14, Lot 39 – Extension of Time to File.** All members present voted **AYE** on **ROLL CALL VOTE**, except M. Augustine, who abstained.

**Re-Organization Meeting**

The 2009 Re-Organization meeting was scheduled for January 13, 2009 beginning at 8:00 PM.

**EXECUTIVE SESSION**

It was requested T. Decker and D. Pierce leave the meeting at this point.

**RESOLUTION NO. 2008-27**

**WHEREAS**, Section 7 of the Open Public Meetings Act, Chapter 231 P.L. 1975 (R.S. 10:4-13) permits the exclusion of the public from a meeting or a portion of a meeting of this public body in certain circumstances; and

**WHEREAS**, this public body is of the opinion that such circumstances presently exist;

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Board of the Township of Kingwood, County of Hunterdon, State of New Jersey as follows:

- 1. The public shall be excluded from the meeting or a portion of a meeting at which this public body discusses the hereinafter specified subject matter.
- 2. The general nature of the subject matter to be discussed is as follows:

**Personnel**

- 3. The time when the circumstances under which the discussions conducted in closed session of this public body can be disclosed to the public is as follows:

The minutes of the closed session will be made public upon conclusion, dismissal or settlement of litigation; or final resolution of agreements or personnel matters; and in any event, when appropriate pursuant to N.J.S.A. 10:4-7 and -13.

- 4. This resolution shall take effect immediately.

5. The Planning Board may take additional action upon returning to regular session.

It was moved by J. Mathieu, seconded by D. Haywood and carried to adopt Resolution No. 2008-27. All members present voted **AYE**.

J. Matheiu announced the Board is returning to regular session.

T. Decker and D. Pierce returned to the meeting.

**APPLICATION STATUS**

**CORRESPONDENCE**

J. Mathieu reviewed as per the agenda.

**PRIVILEGE OF THE FLOOR**

Honeymar – Block 26, Lot 4

D. Pierce stated he has received a letter from the Honeymar’s attorney commeting the draft conservation easement form, first item, section 7.1, prohibits liens and obligations incurred by the property owner. The Honeymar’s attorney believes it could be interpreted as preventing the homeowner from obtaining a mortgage on the property. The Honeymar’s attorney felt the language seems to make the payment of the property taxes a personal obligation of the person granting the conservation easement rather than the owner of the property. The Board requested D. Pierce provide the suggested changes to the Board for their review.

Code Enforcement Report

E. Niemann stated the Board was expecting a report from the Code Enforcement Officer.

J. Mathieu stated in September several board members expressed concern about signage in the Township and the proliferation of vehicles and potential violations of the site plan of Chris’ Citgo. He took those concerns and wrote a letter to M. DeSapio and asked M. DeSapio to provide a report to the Board for the October meeting. He tried reaching him several times on the phone and they have not been able to connect. He heard from him in late November and inquired if he wanted him to appear before the Board or provide a written report. J. Mathieu responded a written report would be acceptable. The request was specified in a letter. The letter went out several days after the September meeting. He has had ample notice. J. Mathieu has received a complaint from a resident that Chris’ Citgo has migrated down Lower Oak Grove Road. The complaint was accurate. Would the Board like him to contact the Code Enforcement Official again? The Board felt it was appropriate for the Code Enforcement Official to attend a meeting.

The Board thanked M. Augustine for her service to the Board.

Expiring Terms

E. Niemann inquired if T. Kratzer was interested in continuing on the Planning Board. T. Kratzer stated he would like to continue.

J. Mathieu wished everyone Happy Holidays.

**ADJOURNMENT**

It was moved by R. Dodds, seconded by J. Mathieu and carried to adjourn the meeting at 10:18 PM. All members present voted **AYE**.

**Respectfully submitted,**

**s/ Diane Laudenbach**

**Diane Laudenbach, Secretary**