

MINUTES

PRESENT: R. Dodds
D. Haywood
T. Kratzer
P. Lubitz
J. Mathieu
S. McNicol
E. Niemann
L. Sensus
J. Strasser
M. Synchron, Alt #1
D. Banisch, Planner
T. Decker, Engineer
D. Pierce, Attorney

CALL TO ORDER

The meeting was called to order by R. Dodds at 7:31 PM.

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 Hunterdon County Democrat and Courier News, 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

E. Niemann recused herself from her position on the Board for the following matter.

Laurelton/Belmont – Block 22, Lots 16 & 16.01 – Muddy Run Road, Request for Extension

G. Dilts was present for the request this evening. The applicant is requesting the third and final extension for the development. The property is not affected by the Permit Extension Act due to the sensitive nature of the wetlands present on the property.

D. Pierce stated under the MLUL final major subdivision approval is good for a certain period of time. The statute provides that the applicant can request three one year extensions. After the expiration of the last extension, the application is subject to any changes in the zoning ordinance since receiving their original approval.

It was moved by D. Haywood, seconded by J. Strasser and carried to grant an extension of time on the final major subdivision approval until October 2012. All members present voted **AYE** on **ROLL CALL VOTE**.

E. Niemann resumed her position on the Board.

Maser Consulting – Route 12 Scenic Corridor Overlay – Presentation

J. Burke, Committeeman, 110 Tumble Falls Road, stated the Township Committee last year heard the cries of the community about the Route 12 corridor and having served on the Board for many years realized the difficulty a lot of these projects initiated. The Board members have received all the materials of the Gateway Village Overlay, which is a result of the items discussed by the Board and tying it with the COAH plan. The Eastern Gateway Village Center will keep the scenic areas of Route 12.

David Roberts of Maser Consulting presented a powerpoint presentation on the Route 12 Scenic Corridor, Baptistown Village and Eastern Gateway. He stated the presentation can be loaded onto the Township website. Maser Consulting provided draft boundaries for some of the districts and some draft language for proposed ordinances. The presentation this evening is to get the input from the Planning Board. He stated there is a little bit of a sense of urgency in that there is a statute that was enacted entitled “Time of Application Rule”. Originally, the Township had the ability to change the zoning after an application had been submitted and the application would be required to adhere to the new zoning. With the “Time of Application Rule”, the zoning that is in effect when the application is filed provides some vested rights to the applicant. He inquired what happens if Route 12 develops as the current zoning allows. He stated this is a backdrop on what Maser Consulting is trying to accomplish.

J. Scott stated there are 1,500 acres in the Route 12 corridor. 1,100 are currently zoned for some type of commercial development. The current exposure to Kingwood is strip malls. The proposed plan is to take the 1,100 acres currently zoned for some type of commercial development and concentrate it to a 300 acre parcel. It will take 800 acres out of the development exposure. There is incredible exposure in the current zoning. He stated the existing development along the corridor is hodge-podge. The current area contains professional offices, a kennel, HVAC business and a commercial water supply business. The presentation looked at what is existing and the long term objective to preserve the corridor. He inquired how the Township can address both needs. He inquired if there is a market to sell those properties to someone else because of the narrow use. The property would be surrendered and reverted to a property more appropriate in the scenic corridor. The concept of non-contiguous parcels is a bridge to deal with whatever period of time there is between the adoption and the proposed recommendations. In regard to the TDR (Transfer Development Rights), it is a win-win-win situation for the property owner, Township and developer interested in a town center.

D. Roberts stated the provision that allows the property owner to cluster on non-contiguous properties comes from a very simple section of the MLUL. The MLUL provides that the Township can allow for that situation in their ordinance. The concept is a person owns both properties. It is the same idea as clustering on one property but allowing the clustering at a higher density. The zone allows for one acre zoning but with clustering the owner would be allowed to create lots with a half acre, with preserving the remaining.

J. Scott stated the Board has to look at the 1,500 acres and how it is currently zoned and consider a new zoning strategy for the entire corridor. There are a lot of other steps that have to be done to implement the planning

after it has been adopted by the Township Committee. He stated the TDR is very important. Under TDR, the development rights are transferred and developed according to the AR-zone requirements.

D. Roberts stated if someone wanted to develop a shopping center on Route 12, they would look for a property in the center and if they wanted to use the benefit of the land area outside of the center, they would have to transfer the development rights. He stated within the center you would be allowed to connect to sewers.

J. Scott stated, as the Township's consultants, they started with the details such as what has been the market industry, what has happened in the past and look at what other experiences have been. He said he can date himself by remembering what Route 18 and Route 22 looked like in the past. There is no coherent development being presented with the current zoning. The plan is what the Township would like to see in the long term. The plan provides for appropriate development along Route 12, parcel by parcel. The plan requires the developer to meet the Township's vision rather than the Township meeting the applicant's vision.

D. Roberts stated the plan is setting up the framework. The zoning is a kind of framework for the corridor. The plan did not get into a lot of the specifics. The plan preserves the scenic quality, creates a center and a consolidated center. The plan provides for sustainable development standards and architectural design standards with a mixing of the styles. The center will be developed all at once but will have a look like it occurred over time. A requirement of the proposed ordinance is that the Township creates a review committee consisting of board professionals, architects and other professionals that can provide expertise on the design developments. The review will be paid for by the applicant's escrow. A lot of the provisions are in the ordinance to beef up the Township's control of the zoning ordinance. If the Township were to adopt the draft ordinances, it will provide for a proactive Route 12 corridor zoning. The way it will more than likely be is the developer will purchase a property in the corridor and look for other property along the other section. The system can be as flexible as possible. The value is based on as if it was an incentive.

J. Burke stated once the TDR process is in place, it will add so much value to a property. The credit a developer would get on a 10 acre parcel would provide him higher density in the center area.

P. Lubitz inquired if someone could build a major subdivision in the scenic corridor area and gain additional credits for the Town center. D. Banisch responded not as it is structured now. There is some development allowed but it is limited. The proposal creates additional permitted uses where there is likely to be a market. A property owner in the scenic corridor will be able to sell their land for increased development in the center. The creation of new uses in the center is not provided in the plan.

J. Scott stated he is not a big fan of the May 4th deadline. The political perspective in Trenton changed last year. The Township can have a standard in place by the May 4th deadline. The concerns discussed this evening can be addressed after the zoning change. Maser Consulting was sensitive when it put together this plan. The current properties in the extended corridor have a market value that is real. The plan provides the type of development that the community would embrace. The two questions the Board should review is do they want to see zoning along the Route 12 corridor that promotes and protects the scenic nature that currently exists and direct the development that the Township would embrace in the corridor where it fits.

D. Pierce, to explain the "Time of Application" rule, he stated with the Equestrian Village Development, the Board of Health made a change in the well ordinance. The applicant had to comply to the new well ordinance requirements. If the "Time of Application" had been in effect, Equestrian Village would not have had to

comply with the new ordinance. His expectation is that it will be applicable to a complete application. The Board can adopt their own ordinances providing for time frames and when an application is deemed complete.

T. Kratzer stated he liked the plan's idea of preserving the Route 12 corridor. He inquired when will the Township have applications for a northern, southern or western corridor and have a total build out. D. Roberts stated the only planned development is in the 300 acres of the Route 12 corridor. It is the only place created in the plan. D. Roberts stated, in his opinion, that the piece in the southeast quadrant will be the first to be developed. The part of the center that is on the north side of Route 12 has environmental challenges. D. Roberts stated any additional corridors will be under the control of the Township. The plan sets in place the zoning for the Route 12 corridor before the market comes back. The Township will be in a proactive rather than a reactive mode.

T. Kratzer inquired how many doors would it open for other development in other locations. J. Scott responded that it starts at the Planning Board, goes to the Township Committee and then to the public for their perspective. It is not an applicant's perspective. The plan is trying to look at it from the Kingwood point of view of what Route 12 represents in terms of development exposure and how that can be better shaped for tomorrow recognizing the "Time of Application" rule. It puts the Township in a possible place to defend the Township's vision of what Kingwood can become. He stated how it gets refined and whether it is broadened or narrowed is subject to what the Township does as a community. There is nothing in the proposal that provides for the creation of any other town center.

D. Roberts stated they chose this area because it has been identified by the Township as a higher density area. The plan will provide more than the Township's fair share of affordable housing.

J. Mathieu stated the Board is not under the gun to do something by May 4th. He doesn't think the Board should feel that they have to rush something through by May 4th. The Board needs some time to deliberate. He inquired of D. Roberts that in this higher intensity development area what does he anticipate as the threshold of maximum development and what would be the bonus development. D. Roberts responded they have not planned out a site plan and a model for all scenarios. The limit would be dictated by the height and bulk requirements. The developer may accumulate enough bonus credits to generate "x" units but because of height and bulk requirements he might only be able do "y" units.

J. Scott stated not only do they incorporate the existing bulk standards that are in place for this type of zoning but also specific design criteria that go along with the scale and standards. This is not going to be Jersey City on the eastern border of Route 12. The items controlled in the ordinance are the landscaping along the Route 12 corridor and buffering. These are things that go beyond what the Township has right now. There are certain realities that the Township is facing. The plan is trying to present an opportunity to assert the Township's vision before someone comes in and tells the Township what its vision will be. There will be plenty of opportunities to argue over the details.

D. Banisch stated this ordinance will provide for a range of development. He stated it is difficult to nail down because you cannot really know what will show up, how much residential or commercial.

E. Niemann stated the Township Committee had a little more lead time to review these suggestions. It is a big deal for the Township to consider. The Board members have concerns on the implementation and details. The details are going to be sealed by the adoption of these ordinances. This will be the beginning. It takes some

vision and courage if this is what the Township wants to do and move forward. The Township has to have trust that the issues will work out. When the market turns around, the plan laid out is going to be an attractive option to a developer. Kingwood has a plan and it will pick up on the builder's interest. The plan will attract builders that are ready to do these types projects. It will cue us on the top of the list for builders.

D. Roberts stated the plan suggests the kind of development the Township is trying to encourage. From a fiscal standpoint, there is an advantage. A mixed use building has a higher cost per square foot. It is a good mix for value. It creates a ratable center as well as getting some of the strip development. It will be a lower value ratable for a higher value ratable.

J. Strasser inquired with the "Time of Application" rule if someone came in with a complete application, the Township cannot change the zoning. D. Banisch stated if they submit an application for something undesirable in the highway corridor, the Township cannot change the zoning. Towns were allowed to change the zoning until now.

D. Roberts stated when they started developing the plan they had a bigger area and then got honed into a smaller area. It is better to be conservative rather than start too big. When designing the plan, they tried to make the center as small as it needs to be but large enough as well. They might need to adjust the boundaries.

J. Burke stated the Township is creating the opportunity for someone who is starting a business to be around other businesses. The Township is creating the center.

J. Scott stated he has had the experience with ten years on the Board's side of the table as well as on the professional side of the table. He stated the zoning ordinance is a fluid document. It is a document the Board will always review, reconsider and rethink.

J. Burke stated in regard to the incentive to the current property owners is the value of the commercial property. They can move their business or sell it to someone in the center. D. Roberts stated if the plan is adopted, once the property is transferred to a new owner, they will have to convert it to comply with the new plan or tear it down.

D. Banisch stated the plan is well thought out with a strategic approach. Younger people will be looking for a residential mixed use product. He stated non-contiguous clustering adds value to a property. By taking away their zoning, it is preserving and enhancing the value with this strategic plan.

E. Niemann stated it is setting the table for the development community by letting them know where this development can occur. Kingwood will be first when the market comes back.

D. Pierce stated there are some things that the ordinance is presumptive for validity. The non-contiguous clustering is a great insulation for reverse condemnation claims. He thinks the main issues are in the details. It is something the Township will have to be very careful about. The quality of the preservation in the scenic overlay corridor is not being achieved as it is currently written. There is a section where you can get the bonus acquired within the scenic overlay corridor as long as they are deed restricted to be used in a scenic overlay corridor. As he reads it now, you can give a property owner a development bonus in the scenic overlay corridor for a solar farm.

R. Dodds requested the Board spend the next month reviewing the proposal. The Board should be ready next month to discuss the matter in more detail and see if they want to go this way.

D. Roberts stated the plan put in some strict landscaping requirements that are not in the AR-2 zone. The plan only allows driveways to get to the properties. He stated 150'-200' have to be landscaped. The main goal is to preserve the scenic quality.

R. Dodds stated the solar ordinance amendment will be discussed next month.

Windpowered Generation Towers

T. Kratzer inquired if any thought has been give to the shadows the towers would create. D. Banisch responded it hadn't been discussed.

S. McNicol stated the Environmental Commission is requesting fencing and landscaping similar to the ones required around solar facilities for the wind generation towers.

Checklist Amendment – Environmental Impact Study

T. Decker stated the comments he raised have to do with the Wastewater Management Plan for DEP. The Environmental Impact Study should be consistent with the ordinances for steep slopes and riparian zones.

Proposed Ordinance No. 16-04-2011

T. Decker stated the DEP has generated a model ordinance for steep slopes. The language is basically what the State is looking for towns to adopt. The biggest change is the percentage that is classified as steep slope. He inquired who grants relief from the requirements of the ordinance. D. Pierce stated the current ordinance provides for the Planning Board to grant relief.

After a brief discussion, it was moved by J. Mathieu, seconded by P. Lubitz and carried to recommend adoption of Proposed Ordinance No. 16-04-2011 with the following amendments:

VI. STEEP SLOPE LIMITS

3. *No more than fifteen percent (15%) of areas with a slope of 15% or more, but less than 20% shall be developed, regarded and/or stripped of vegetation.*
4. *A steep slope analysis showing slope classes: 1) 0% to 14.99%; 2) 15% to 20%; and 3) greater than 20% shall be delineated on a plat conforming to the requirements of 115.9A and 115-9B(1)(a) through (d), (e), (g), (h), (k), (l), (n) and (r). The slope classifications shall be calculated using a two-foot contour interval.*

The applicant shall demonstrate through site plan to the appropriate board having jurisdiction over the development application that the proposed development and topography of the new disturbance is not located in areas with a 20 percent or greater slope and does not exceed the limit of development in subsection 3 above.

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

Proposed Ordinance No. 16-05-2011

T. Decker stated the Township does not have a riparian zone ordinance. It ties into the Flood Hazard Area Control Act Rules. The proposed ordinance is based on NJDEP regulations.

S. McNicol inquired if the ordinance should contain any reference to conservation easements. T. Decker responded there are DEP permits available for activities in the Flood Hazard area.

It was moved by E. Niemann, seconded by S. McNicol and carried to recommend adoption to the Township Committee of proposed Ordinance No. 16-05-2011 with the following amendment:

VI. APPEALS, CONFLICTS AND SEVERABILITY

Any party aggrieved by the location of the riparian zone boundary line determination under this Ordinance may appeal to the appropriate board having jurisdiction over the development application under the provisions of this Ordinance.

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

Resolution No. 2011-02 -Open Space and Recreation Plan Element

D. Banisch stated there is one amendment to the map that is still needed.

R. Dodds announced that hearing on the Open Space and Recreation Plan Element has been adjourned to the March 10, 2011 meeting, 7:30 PM, Kingwood Township municipal building without further advertisement.

Appointment of Planner

It was moved by T. Krazter, seconded by J. Mathieu and carried to appointment David Banisch of Banisch Associates as the Planner for the Kingwood Township Planning Board for 2011. All members present voted **AYE** on **ROLL CALL VOTE**.

Appointment of Engineer

It was moved by D. Haywood, seconded by S. McNicol and carried to appoint Thomas Decker of Van Cleef Engineering Associates as the Engineer for the Kingwood Township Planning Board for 2011. All members present voted **AYE** on **ROLL CALL VOTE**.

R. Dodds excused the professionals.

Approval of Minutes

It was moved by D. Haywood, seconded by S. McNicol and carried to approve the minutes of January 13, 2011 and place on file. All members present voted **AYE** on **ROLL CALL VOTE**, except J. Mathieu and E. Niemann

APPLICATION STATUS

CORRESPONDENCE

ANJEC – Planning Grants

E. Niemann stated the Environmental Commission made a decision to not pursue a grant this year in part because the Open Space and Recreation Plan Element is still open and they want to focus on something they can get their teeth into.

Franklin Township – Ordinance No. 2010-12;
Franklin Township – Ordinance No. 2011-01;

PRIVILEGE OF THE FLOOR

Delaware River Tubing

T. Kratzer commented the State is reviewing the businesses on the Delaware River. If anyone has any information or concerns about these businesses, it is requested they write them down and submit them to the Environmental Commission. R. Dodds indicated he has had a conversation with C. Tindal, a member of the Delaware River Basin Commission, who has indicated they have some regulatory ability. The Township has some regulatory authority in zoning of what can be constructed on the islands. D. Pierce stated T. Kratzer is referring to what is taking place in the river. The person purchased the former HIG property. He appeared before the Board of Adjustment last spring. He never completed the application. D. Pierce stated it is his understanding that the business uses the Roller Rink property for a staging area and parking. There was never any site plan submitted or approved with respect to the use of the Roller Rink property. D. Pierce stated until he receives a use variance, he is not allowed to use the HIG property. He stated he has heard that he has cut trails from the property across state property to the river. J. Mathieu stated Lambertville and New Hope got together to ban jet skis off the river from the sewer plant to as far as you can go. He will contact them to get the procedure. T. Kratzer stated there is a section in the Lower Delaware Management Plan that pertains to all the municipalities along the river.

Hunterdon County Planning Board Awards

E. Niemann thanked D. Kratzer for her efforts in getting Kingwood Garage's Solar System in the running for a Green and Sustainable Award from the Hunterdon County Planning Board.

ADJOURNMENT

It was moved by J. Strasser, seconded by S. McNicol and carried to adjourn the meeting at 10:14 PM. All members present voted **AYE**.

Respectfully submitted,

s/Diane Laudenbach

Diane Laudenbach, Secretary