

MINUTES

7:30 PM

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

CALL TO ORDER

The meeting was called to order at 7:32 by R. Dodds.

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

Re-Examination Report of the Master Plan

D. Banisch stated he will be referring to his memo of September 1, 2011. The first section contains the related problems and objectives. The Land Use section of the periodic examination reviews the problems or objections that have increased or decreased since the last time of the reexamination report. Sections C & D are the heart of the matter. The memo has been provided in a summary fashion focused on the most needed items for review. He stated, previously, the Master Plan, needed to be reexamined every six years. There was a change which required the reexamination of the Master Plan every ten years. It is the Planning Board's job to prepare and adopt the Master Plan. Zoning changes, if any, must be done by the Township Committee. The Planning Board is the local agency charged with planning in the community. It adopts a series of recommendations for ordinance amendments. He has provided some mapping to go with the recommendations.

D. Banisch reviewed his memo of September 1, 2011 to the Planning Board in regard to the above matter:

The purpose of this memorandum is to provide the Board with a summary of the major points listed and discussed in the following two subsections of the draft 2011 Periodic Reexamination Report:

1. N.J.S.A. 40:55D-89c “The extent to which there have been significant changes in the assumptions, policies and objectives forming the basis for the master plan or development regulations as last revised, with particular regard to the density and distribution of population and land uses, housing conditions, circulation, conservation of natural resources, energy conservation, collection, disposition and recycling of designated recyclable materials, and changes in State, county and municipal policies and objectives.”
2. N.J.S.A. 40:55D-89d. The specific changes recommended for the master plan or development regulations, if any, including underlying objectives, policies and standards, or whether a new plan or regulations should be prepared.

In addition to the bullet point summaries of these two sections of the Periodic Reexamination Report that are provided in the memorandum below, we are providing a revised draft (3rd revision) of the report . This includes attachments to the Periodic Reexamination Report, including proposed ordinances for the Eastern Gateway Village Overlay Zone, the Route 12 Scenic Corridor Overlay Zone, proposed rezoning maps and the Hunterdon County Draft Sewer Service Area map for Kingwood Township.

Subsection c. of Section D-89 of the Municipal Land Use Law (M.L.U.L.) begins on Page 16 of the draft report. The major planning considerations discussed in this section are listed in summary fashion below each topic heading from the report:

Demographics (population change):

| | | |
|-------------------------------------|----------------|------------------------------------|
| Census 2000 | 3,782 persons; | 1,345 households |
| Census Projection (2003): | | 3,982 persons (+5.3%) |
| Hunterdon County Projection (2004): | | 4,893 persons <u>for year 2020</u> |
| Census 2010: | 3,845 persons; | 1,446 households |

State Development and Redevelopment Plan (SDRP) Cross Acceptance III (2004):

- Cross Acceptance III – maintains all prior SDRP designations, including Rural Planning Area (Planning Area (PA) 4), Rural Environmentally Sensitive Planning Area (PA 4B) and Environmentally Sensitive Planning Area (PA 5); and
- In 2011, Governor reorganized and transferred the State Planning and Office of Smart Growth from Department of Community Affairs to Secretary of State’s Office within the NJ Business Action Center. Initiative created the State Strategic Planning Process that prioritizes and supports sustainable economic growth.

Hunterdon County Strategic Growth Management Plan (2007)

- County Plan mirrors SDRP designations for Kingwood Township;
- Attaining consistency with County Plan typically involves Master Plan and Zoning Ordinance amendments for consistency to vertically integrate local, county and State Plans;

- Shift in organization of SDRP to State Strategic Planning Process calls into question the future of the Cross Acceptance III designations as they relate to vertical integration of local, county and State Plans; and
- **Opportunities for growth aligned with State Strategic Planning Process may be pursued by municipalities and counties.**

Stormwater Management Rules and Category 1 Water Designations (2004)

- Comprehensive framework for water quality planning;
- 1st set of rules is the Phase II New Jersey Pollutant Discharge Elimination System Stormwater Regulation Program Rules (N.J.A.C. 7:14A). These rules require adoption of Municipal Stormwater Management Plan and adoption of ordinances (litter control, pet waste, wildlife feeding, proper waste disposal, etc.) and certain maintenance activities (street sweeping and catch basin cleaning); implementing solids and floatables control; locating discharge points and stenciling catch basins; and a public education component;
- 2nd set of rules identified Category 1 waters and buffers -Special Water Resource Protection Areas (SWRPAs). SWRPAs are those areas within 300 feet of Category One (C1) –limitations on development within SWRPA. Designated C1 waters in Kingwood Township include the entire length of the Warford Creek, Lockatong Creek including Muddy River, Little Nishisakawick Creek, Nishisakawick Creek and Wickecheoke Creek; and
- Under Stormwater Management Rule, Kingwood Township is designated a Tier B municipality that requires adoption of a Municipal Stormwater Management Plan and ordinances.

Council on Affordable Housing

- Two rounds of 3rd Round affordable housing rules identifying municipal obligations;
- First set of 3rd Round rules (Chpt. 94) struck down by Appellate Division; revised rule-making resulted in second set of 3rd Round rules (Chpt 97);
- Kingwood Township adopted two separate Housing Plan Elements and Fair Share Plan corresponding to each iteration of the rules;
- Second set of 3rd Round rules (Chpt. 97) struck down in October 2010, appeal currently pending in NJ Supreme Court; and
- Municipal obligation currently stands at 11 rehabilitation units, a prior round new construction obligation of 19 units, and an as yet undetermined 3rd Round new construction obligation as a result of the October 2010 Appellate Division decision invalidating 3rd Round methodology for calculating 3rd Round need.

Wastewater Management Planning Rule Amendments (2008)

- Assigned Counties as lead agency in preparing Wastewater Management Plan (WMP) for all municipalities in the county;
- Each municipality is a separate chapter in the County WMP;
- Current iteration of County Plan identifies four (4) future sewer service areas for existing facilities, including the Kingwood Township School, MEL Chemicals, Route 12 Business Park, and Treasure Island Boy Scouts of America camp; and
- Additional future sewer service area designations should be identified by the Township for increased density development for the Eastern Gateway Village Center Overlay identified in the Periodic Reexamination Report – **the Hunterdon County Planning Board staff may prepare the documentation and background studies needed for this designation.**

Energy Conservation

- In March and November of 2009 and in April of 2010, State legislative determinations and amendments to the Municipal Land Use Law, raised wind and solar energy production to a heightened importance under the law. These amendments imposed certain limitations on local land use boards in consideration of alternative energy development applications. In summary, adopted legislation provides that:
 - A wind, solar or photovoltaic energy facility or structure has been deemed by the legislature to be an inherently beneficial use. Inherently beneficial uses satisfy the positive criteria for a use variance in development applications where an applicant seeks approval of a use that may not be permitted in a zoning district. The “d (1)” use variance (N.J.S.A. 40:55D-70d. (1) May be granted “in particular cases and for special reasons.” This is the so-called positive criteria of a “d (1)” variance. Our courts have held that the promotion of the general welfare is the zoning purpose that most clearly amplifies the meaning of “special reasons.”
“Inherently beneficial” essentially means that, by definition, the use per se promotes the general welfare.
 - Solar panels may not be included in any calculation of impervious surface or impervious coverage.
 - An ordinance shall not include solar panels in any calculation of impervious surface or impervious cover.
 - A renewable energy facility on a parcel or parcels of land comprising 20 or more contiguous acres owned by the same person or entity shall be a permitted use within every industrial district of a municipality.
- These alternative energy amendments constrain local government in the regulation of these uses where municipalities may attempt to limit the proliferation of such uses.

Smart Growth & Conservation Local Planning Initiatives

- In 2010, Kingwood Township investigated and developed smart growth, mixed use, scenic corridor protection overlay zoning ordinances. These include:
 - (1) designating a Route 12 Scenic Corridor and establishing zoning and development design standards to protect the scenic qualities for lands located along nearly the entire length of the Route 12 highway corridor through Kingwood Township; and
 - (2) establishing a mixed use node called the Eastern Gateway Village Center Overlay designating lands situated at the intersection of Route 12 and Barbertown-Point Breeze Road as an overlay zone and establishing zoning and development standards to implement the Township’s “smart growth” vision for this node.

Green and Renewable Energy Planning

- The Kingwood Township Planning Board and Township Committee responded to alternative energy legislative amendments by investigating the potential ramifications of these statutory changes. As a result, the Kingwood Township Committee adopted Ordinance No. 16-16-2010, which established a class of major solar or photovoltaic energy facilities and structures” as conditional uses, and set forth a series of design standards to assimilate these uses into the Township’s rural and environmentally sensitive environment;

- The ordinance conditional use standards were primarily directed at protecting the visual quality of the Township’s rural character and preventing unsightly intrusions of these relatively large-scale commercial/industrial grade electric generating facilities into residential areas, and included vigorous visual buffering requirements toward these objectives.
- Despite adoption of an ordinance regulating these uses, a large number of applicants to develop these facilities has emerged in the Township;
- In response to the number of applicants for solar energy facilities on Kingwood Township’s relatively flat, open farmlands and the apparent loss of farmland that would result, the Township Committee and Planning Board prepared additional ordinance standards aimed at preserving as much of the Township’s rural landscape as deemed appropriate, based upon the Township’s open space existing requirements for residential subdivisions;
- The Township Committee adopted Ordinance No. 16-13-2011 with enhanced performance, design and safety standards; and
- Litigation initiated by a developer of a proposed solar energy facility resulted from the amended ordinance standards, which has again focused the Planning Board and Township Committee on the potential need for additional changes to the solar facilities ordinance.

Subsection d. of Section D-89 of the Municipal Land Use Law (M.L.U.L.) begins on Page 28 of the draft report. The major planning considerations and recommendations identified in this section of the report are listed in summary fashion below each topic heading from the report. This section addresses:

“The specific changes recommended for the master plan or development regulations, if any, including underlying objectives, policies and standards, or whether a new plan or regulations should be prepared.”

Master Plan

1. Organize the statement of goals and objectives for each Master Plan Element and incorporate each statement into a master statement of goals and objectives.
2. Prepare a Land Use Plan Element that evaluates and addresses updated local planning policies, goals and objectives that are identified in the Periodic Reexamination Report.
3. In accordance with N.J.S.A. 40:55D-28.d. of the M.L.U.L., prepare a policy statement indicating the relationship of the Township’s Master Plan to (1) the master plans of contiguous municipalities; (2) the County Master Plan; (3) the State Development and Redevelopment Plan; and (4) the District solid waste management plan.
4. Prepare and adopt a Recycling Plan Element as required by the Solid Waste Management Act.
5. Update the Circulation and Community Facilities Plan Elements of the Master Plan. Prepare a Utility Services Plan Element to assess wastewater treatment capacities for centralized sewer facilities in connection with the proposed Eastern Gateway Village Center Overlay District (EGVCO).
 - **Coordinate future sewer service area designations for the EGVCO with the draft Hunterdon County Wastewater Management Plan.**

Please note: In response to a question raised by the Board as to whether the solar facilities should be addressed in the Utility Services Plan Element of the Master Plan, we have reviewed Section 28b.(5), of the M.L.U.L., which provides the basis for the Utility Services Plan Element. It does not appear that policies regarding solar facilities development in the municipality would be appropriately addressed in this section of the master plan, in which the law calls for the following:

“(5) A utility service plan element analyzing the need for and showing the future general location of water supply and distribution facilities, drainage and flood control facilities, sewerage and waste treatment, solid waste disposal and provision for other related utilities, and including any storm water management plan required pursuant to the provisions of P.L.1981, c.32 (C.40:55D-93 et al.). If a municipality prepares a utility service plan element as a condition for adopting a development transfer ordinance pursuant to subsection c. of section 4 of P.L.2004, c.2 (C.40:55D-140), the plan element shall address the provision of utilities in the receiving zone as provided thereunder;”

6. Prepare and adopt a Historic Preservation Plan Element of the Master Plan.
7. Update the Land Use Plan addressing the changes in State and County law and policies described in Subsection c. of the Periodic Reexamination Report summarized above. Compile and organize all Master Plan Elements into a single bound document.

Land Development Ordinance

1. Reevaluate existing regulations for solar facilities development.
 - Consider designation of a “limited planned industrial development option” (in accordance with requirements of Section 65c. of M.L.U.L.) to permit off site open space contributions as part of open lands or open space required in conjunction with solar facilities development.
 - As an alternative to open space requirements in conjunction with solar facilities development, consider use of a sufficiently low impervious coverage standard that would effectively limit the extent of development that is possible. This approach may assist the Township in achieving the objective of retaining farmland and natural resource lands in connection with solar facilities development.
2. Adopt the draft Eastern Gateway Village Center Overlay Zone ordinance amendment that has been developed to establish a mixed use, smart growth land development option to (1) accommodate the future population growth of the Township, (2) accommodate reasonable opportunities for affordable housing development, (3) attract beneficial growth and tax ratable development, and (4) Reevaluate existing regulations for solar facilities development.
3. Adopt the draft Route 12 Scenic Corridor Overlay Zone ordinance amendment to protect existing scenic views and vistas within and along the Route 12 Corridor.
4. Adopt an ordinance amendment establishing an average front yard setback standard based upon existing / adjacent development along existing roads. This is recommended to minimize the evolving condition of a piecemeal and staggered setback pattern of development.
5. Adopt an ordinance amendment requiring that the Board of Health certify the suitability of the proposed location of septic systems at the time a proposed subdivision plan is submitted to the Planning Board, not as a condition of approval.
 - The major subdivision checklist requirements should be revised to require that locations for a primary and a reserve septic system are identified on each proposed subdivision lot.
6. Adopt an ordinance amendment that requires accessory structures to be setback rearward of the principal structure. The amendment should include a grandfather provision for existing accessory structures and an exception for agricultural structures, such as barns, sheds, coops and similar agricultural use or farm structures.
7. Adopt sign ordinance amendments:
 - i. Review and amend existing ordinances for political advertising signs, specifically as regulations relate to (1) the permit process for posting such signs, (2) identifying regulations for placement of

- signs before and removal after political event, and (3) number of signs permitted on a single property.
 - ii. Establish sign requirements for non-agricultural activities.
 - iii. Establish a permit/review approval process for signs of non-residential uses in residential zones, and for placement of property identification signs.
 - iv. Establish requirements for farm market signs in terms of advertising non-farm and agricultural products, services or uses.
 - v. Establish a limit on the number and size of signs permitted in conjunction with nonresidential development.
 - vi. Establish permitted signage also needs to be established for the BP and the PO/R zones.
 - vii. Adopt the Route 12/Barbertown Study sign design recommendations.
- 8. Adopt an ordinance amendment for preexisting dwellings on undersized lots, which have been made nonconforming by changes to minimum lot size requirements. The amendment should permit such dwellings to be expanded, enlarged, extended, or added onto, provided that it does not further increase the existing non-conforming condition, and should identify a series of graduated standards calibrated to ranges of lot sizes.
- 9. Adopt an ordinance amendment that establishes a procedure for, and requires that, all conditions of approval are certified as having been met by the appropriate approving Board professional or local official prior to issuance of a building permit by the construction code official.
- 10. The Township Committee should reconsider the following recommendations for ordinance amendments identified in Section 89d. of the 2004 Periodic Reexamination Report, as reiterated, updated and modified below:
 - a. Amend the Highway Commercial District to include a sliding scale FAR based on the size of the property with an increase in permitted FAR for larger properties.
 - b. Adopt an ordinance to regulate development of steep slopes and limit disturbance of steep slope areas. (adopted in 2011)
 - c. Reexamine the Township's sign regulations in terms of number and size with nonresidential development as well as establishing permitted signs for the Business Park and Professional Office/Residential Districts. Also incorporate the sign recommendations of the Route 12/Barbertown Study.
 - d. Develop a co-location ordinance that require new personal wireless telecommunication providers to utilize existing towers where possible. Identify a list of preferred Township-owned sites, if any, which should be used for future personal wireless telecommunications transmission facilities.
 - e. Amend the zoning ordinance to increase setbacks for principal buildings, or allow some limited encroachment into required principal building setbacks for patios and decks, provided that they are not enclosed.
 - f. Increase rear and side yard setbacks to reduce potential conflicts with adjacent agricultural parcels.
 - g. Investigate/review permitted heights of accessory and principal structures, and the method of measuring building height.
 - h. Amend the ordinance to require that principal uses be constructed prior to accessory uses, with the possible exception of structures that directly support agricultural use.
 - i. Adopt the design standards from the Route 12/Barbertown Study and modify Master Plan and Land Development Ordinance to achieve consistency between the two.
 - j. Amend the required buffer in the Business Park District from 50 feet to 100 feet as recommended in the Board of Adjustment's 1996 Annual Report.
 - k. Define the preferred location of on-site parking in the various nonresidential zones.

- l. Establish a minimum distance of parking from the right-of-way and lot lines for landscaping, which is required by the ordinance.
- m. Examine the possibility of reducing the minimum required parking stall size to 9 feet by 18 feet for purposes of reducing impervious cover and related stormwater runoff.
- n. Reduce the number of required parking stalls for auto service station use.
- o. Amend the ordinance to permit driveways or roads through commercially zoned parcels located along the highway frontage to access residential portions of lots especially those, which rely upon such access as the only means to an existing residential use.
- p. Require a stream corridor buffer along all streams where the required width is dependent on the classification of the waterway; and require a stream corridor conservation buffer to prevent disturbance adjacent to these corridors, to reduce potential stream erosion, protect water quality, encourage groundwater recharge and protect natural greenways that are formed by streams. (adopted in 2011)
- q. Amend the site plan checklist requiring nonresidential development applications to provide information on projected water consumption and wastewater discharge.
- r. Continually examine and amend, as needed, the submission requirements for subdivision and site plan applications to ensure that the Board is provided with adequate information in a format conducive for Board review.
- s. Amend the ordinance requirements for escrow fees to establish a fee for conceptual/informal site plan reviews.
- t. Continue to update local ordinances in accordance with the MLUL amendments.
- u. Amend the ordinance to authorize shared access or common driveway in conjunction with the development of flag lots.
- v. Investigate Township regulations related to individual well pump tests and results being provided to Board of Health before the issuance of a certificate of occupancy. (now required as per §153-24A.)

D. Banisch stated the organization structure of this report can be a little bit confusing. In the first section, which is page 3, the Board is required to identify the problems and objections to the land development and is basically assessing the situation since the last report in 2004. The first two section of the report are a historical look back. Section C indicates what has changed and what needs to be done and Section D are the recommendations.

It was confirmed that a notice was published indicating this as the public hearing on the Master Plan Reexamination Report.

R. Dodds opened the hearing to the public.

A. Bell stated he was unable to obtain a copy of the Reexamination Report prior to the meeting. D. Banisch stated the documents were on file with the Township since September 1, 2011. It has been advertised as a public hearing. R. Dodds stated it was noticed in August and on the September agenda.

R. Runion, Route 12, inquired about the Eastern Village Gateway Village Overlay (EGVCO) zone. D. Banisch stated the lands that are shown in the crosshatch are divided into three subdistricts:

Permitted Uses.

(1) Mixed Use Core Subdistrict:

1. All uses permitted in the Village Commercial (VC-1) Zone, except that supermarkets are also permitted.

2. Multifamily Units Above Ground-level Retail (Mixed-Use).
3. Townhomes, with or without Co-housing units.
4. Multifamily Residential Buildings, with or without co-housing units, on sites served by a centralized wastewater collection system.
5. Planned Unit Development, inclusive of all uses permitted in 1-4 above, on tracts of 10 acres or greater served by a centralized wastewater collection system.

(2) Commercial & Artisan Subdistrict:

1. All uses permitted in Business Park (BP) except for warehousing, manufacturing and lumber yards.
2. Live-Work Dwelling Units.
3. Artisan Loft Buildings.
4. Planned Unit Development, inclusive of all uses permitted in 1-3 above, on tracts of 10 acres or greater served by a centralized wastewater collection system.

(3) Professional Office/Residential Subdistrict:

1. All uses permitted in the Professional Office/Residential (PO/R) Zone.
2. Townhomes on sites served by a centralized wastewater collection system.
3. Multifamily Residential Buildings on sites served by a centralized wastewater collection system.
4. Planned Unit Development, inclusive of all uses permitted in 1-3 above, on tracts of 10 acres or greater served by a centralized wastewater collection system.

D. Banisch stated there will be some limited development on a short term basis but the plan would evolve over a long period of time. He stated it is difficult to say when the economy will recoup. R. Runion inquired why the Township chose the far eastern portion rather than other parts of the Township. D. Banisch responded the Township looked at extending the Baptistown area, which would be the logical area. They held some meetings and asked the public their opinion. The reaction from the residents of the Baptistown area was very negative to increasing Baptistown. The planned area is located in the farthest area to the east and to the developed areas to the east. It is a crossroads location with relatively direct access to the interstate highway network. The plan would require minimal traffic through local Township roads. High traffic volumes would be generated but it would be on Route 12. The area did not seem to be an offending location. It will provide opportunities for employment and address the Township's COAH requirements.

F. Floyd, Chief of the Kingwood Township Volunteer Fire Company (KTVFC), commented the plan provides for high density development. Has the Township done a study to determine the water supply for those buildings? D. Banisch stated that type of study is recommended in the Reexamination Report and has not been undertaken as yet. F. Floyd inquired if the studies should be done before the planning and designating. D. Banisch stated in a perfect world, yes. Once this sort of thing is designated with a flushed out vision, it is conceivable the Township would be able to get some support from the State and County. F. Floyd stated the plan shows the project on both sides of Route 12. The area is highly prone to accidents. The plan shows a crosswalk across Route 12. D. Banisch stated the plan talks about a crossroads and if the development plays out as planned, limited access and cuts to Route 12 are recommended. F. Floyd inquired about the height of the buildings. D. Banisch stated the proposal is recommending a maximum height of 35' with 45' allowed due to Transfer Development Rights (TDR). The first step in the TDR is for Kingwood to preserve the outlying areas. F. Floyd stated the fire company does not have any ladders that will reach the 45' height. He also stated having residential and commercial uses in one structure is not a good thing. If you add those 10', the KTVFC would have to purchase approximately \$500,000 in equipment.

A. Belle inquired about the proposed density in the EGVCO area. D. Banisch stated the densities permitted are variable. The proposed plan has calculated a maximum buildout. It will permit 12 units to the acre but with a TDR, 24 units to the acre is permitted. The plan proposes a mixed use pattern for development. The planned development will be apartments and townhomes with essential service uses for the first floor. There is a potential for some very mixed use development in the future. A. Belle inquired if he had calculated the total number of acres involved in the EGVCO. D. Banisch stated he has not calculated the total. A. Belle stated if the Township proposes something, should it not know the maximum number of units. R. Dodds responded the size of the area may change depending on which area the development credits are generated. He stated Route 12 is open for development. D. Banisch stated in a piecemeal pattern. R. Dodds stated the Township heard from the community in a survey the Planning Board undertook previously. The response on the survey was that the residents did not want Route 12 to turn into strip malls. The plan is to start in one spot and if things don't work out, make a different plan. Currently, there is no area designated. E. Niemann stated the other thing that would complicate any project would be the water supply and wastewater management in that area. Some people might see the EGVCO as the cart before the horse. She stated the Township is a municipal body that does not have the ability to pay for the study. The EGVCO is a vision of what the Township would like to see. The Township may be able to avail themselves of the County and State to fund the studies. It might be the groundwork for a developer or several developers. The plan directs the development in one area to the best that the Township can. The Township does not know if it can actually pull the pieces together. The plan is based on what Kingwood residents have responded in the survey they want to see.

A. Belle stated he would like the matter to be put off to another meeting.

R. Runion stated a survey was mentioned earlier. R. Dodds stated a survey was done about 2 years ago. It was a written survey sent to every household in the Township. The Township received 334 responses to the survey. R. Runion stated he has lived in his home for 30 years and will be darned if he got that survey in the mail. E. Niemann stated we still have the form and will gladly provide him with a copy. R. Runion stated the horse is out of the barn and the door is shut. R. Dodds stated what has happened in the past is that decisions were made without any input from the public. The survey asked generic things like what would you want to see changed and what do you want not to see changed. Most of the responses stated they did not want to see the character of Kingwood change. If the Township does not do anything on Route 12, it will become a nightmare. There is nothing in place that would stop everyone in the commercial district to put up a strip mall. P. Lubitz inquired if the results of the survey were available. E. Niemann responded the Township has tabulated a sampling but have not tabulated the entire survey. She stated the responses are in an electronic format.

F. Floyd stated it was mentioned that there were no planned areas in the Township. He stated at some point there were villages planned in certain parts of the Township. R. Dodds responded if you go back into the old Master Plan you will find one planned for Barbertown and one further down Route 651. J. Mathieu stated there was one planned at Locketong Road and Route 651 in 1972. He stated the residents need to understand that this is a visioning and/or guiding document. He stated planning in the prior versions did not take place. It is a document for the Township to consider in the future.

E. Niemann stated the adoption of the Reexamination Report must be done first and then ordinances that support some of the planning in the Reexamination Report would need to be adopted.

R. Dodds closed the public hearing on the Reexamination Report.

It was moved by J. Mathieu, seconded by E. Niemann and carried to adopt the Reexamination Report. All members voted **AYE** on **ROLL CALL VOTE**.

P. Lubitz inquired if the Township adopted a sewer service area would they be able to limit the capacity of those areas so it wouldn't permit more development than the Township might want. D. Banisch stated he could not tell him if it can be limited if the Township is not going to own the sewerage treatment facility. The limitations would come from the ability to discharge the water to groundwater. He doesn't feel they would be able to obtain a surface water discharge permit.

P. Lubitz, in correlation to A. Belle's question on water, is concerned with MEL being so close and with increasing the contaminated water in the Township with the increased density of development in the EGVC. Is it possible to perform tests that would adequately inform the Township if they are jeopardizing the water supply in the area? D. Banisch stated the intensity of the development that can be supported in the area can be limited to 2,000 gpd. He stated the Township's COAH responsibility under the 3rd round rules, is 86. There is a 19 unit prior round obligation. D. Banisch stated the Route 12 Business Park's developer offered to construct 60 to 63 units with the waste water treatment facility on site to serve those units. He stated the State overestimated the growth. The affordable housing units had limited number of bedrooms so there would not be a significant pupil impact. P. Lubitz stated although there was an increase of 100 households in Kingwood in the last ten years, there are sixty fewer people.

D. Banisch stated the Reexamination Report contains planning recommendations. If the plan is unworkable, it will have to be reworked.

It was moved by J. Mathieu, seconded by E. Niemann and carried to adopt the Reexamination Report. All members present voted **AYE** on **ROLL CALL VOTE**.

EffiSolar – Block 23, Lot 11 – County Road 519 – Preliminary Approval – Continuation of Public Hearing

R. Dodds stated the hearing is a continuation of the hearing started at the September 26, 2011 meeting.

J. Giunco, attorney for the applicant, stated R. Roseberry, engineer for the applicant, will be continuing his testimony.

J. Giunco stated at the last meeting the applicant was instructed to review the views from Opdyke Road, which is to the south of the proposed site. R. Roseberry was able to meet with the planner, Mr. Bellin and three residents.

R. Roseberry testified he had a meeting with the neighbors on Opdyke Road and D. Banisch. As a result of the meeting, the applicant has made some revisions to the plan from the one before the Board on September 26, 2011. Their meeting started on the east side of the site at the 5th house from the cul-de-sac. The resident was present at the September 26th meeting. The property is higher in elevation than the other properties and it slopes towards the creek. The elevation between this resident's property and the site is relatively the same. They started their tour at that residence and moved to the cul-de-sac of Opdyke Road. At the very end of the cul-de-sac, the residence closest to their site at a distance of 1200', there is a large wooded area between the properties. There is very little visibility to their site given the time of year. When the leaves fall from the trees there will be visibility from the residence. The consensus of the residents of Opdyke Road is that installing plantings on the applicant's property is the preferred method of landscaping buffer. He has met with the landscape architect and along the south side of their site, the landscape buffer will be similar to the other ones on the northern side, evergreen and deciduous trees. The original plan of removing a couple of rows of trees has changed and they will be retaining those trees. They could not make a 100% determination of what is needed because the leaves

are not down. They are proposing to meet with the Township Engineer and Planner during the winter months to assess the visibility.

J. Giunco marked as Exhibit A-2 – Revised Landscape Plan.

R. Roseberry stated the two cross-sections that were revised were “d” and “i”. Exhibit A-2 is a colored rendition of the landscaping plan. He stated the lot that abuts the proposed site is the detention basin lot on Opdyke Road. R. Roseberry stated the revised “dd” and “ii” demonstrate the effectiveness of the proposed view.

J. Giunco marked as Exhibit A-3 – Sight Line Section DD.

R. Roseberry stated it is the same cross section as the last meeting. It is drawn to scale vertically and horizontally. The Exhibit shows several sight lines and the location of the house. The plan shows the sight line at 30’ and at the first and second floor. The property line is several hundred feet from the proposed site with a 400’ wood stream corridor. The resident testified they can see through the wooded area. The applicant will install at their property line further to the west a landscaping buffer of a combination of evergreens, shade trees and fence. The distance from the house to the panels is 1070’. It is roughly 1000’ from the landscape buffer to the house. The sight line is adequately screened to the solar arrays.

J. Giunco marked as Exhibit A-4 – Sight Line Section II.

R. Roseberry stated Exhibit A-4 is at a higher elevation. At this residence he took a cross section to the closest point of where the panels are located. The closest location is 1540’ from the house to the panels. The wooded buffer is wider in this area. The landscaping buffer will contain evergreen and shade trees. The applicant will be buffering as if the existing wooded buffer was not there. The highest point of the development on Opdyke Road is near the entrance on the east side. He took the sight lines from the highest house of the resident who was present at the meeting. He does not know if it is the highest point of the development as he does not have the contours. It was not the closest house nor the furthest house but one of the residents who was present at last month’s meeting. The difference in elevation is approximately 20’. He stated the landscaping buffer makes a good faith effort to screen what exists. The applicant will install the landscaping buffer on their site in between the Opdyke residences and the commencement of the panels. There will be a site inspection during the winter months or a time period and any gaps will be identified and can be cured with additional plantings. The plan will show a finite number and will be added to the plan. D. Banisch inquired if the additional plantings will be without limitation. J. Giunco stated they will be no limitations within the context of achieving the blocking effect. The applicant is requesting some reasonable discretion. The additional planting will be for the purpose of creating a barrier. The ordinance refers to adjacent lots. The applicant recognizes the impact and will address it. The applicant is agreeable to a bit beyond of what they think is reasonable, if more is required but there is a limit. D. Banisch stated a reasonable limit. D. Banisch stated he will meet with the residents in the development. R. Roseberry suggested the applicant install the fence which would provide a nice visual target before meeting with the residents. He stated the additional buffering will be the same size of plant material that is proposed throughout the site.

R. Dodds asked if D. Banisch could confirm that he met with R. Roseberry at the site. D. Banisch stated he had met with him. R. Dodds inquired if the testimony provided by R. Roseberry was an accurate rendition of what occurred at the site. D. Banisch stated they had evaluated a couple of different options, such as offsite landscaping. It will be difficult to achieve a continuous screen for all the residents. It is his conclusion that putting the landscaping plantings adjacent to the panels will be most effective. It is his independent determination.

T. Decker stated R. Roseberry reviewed his letter at the September meeting.

D. Banisch inquired if R. Roseberry characterized what the landscaping was from the 2nd floor window. R. Roseberry stated the lines converge as you hit the fence so the distance doesn't matter. D. Banisch inquired how effective did he think the screening would be to the top of the landscaping to the higher portions of the site. R. Roseberry stated the property slopes up. It is 2000' away from the residences before you can see the site. J. Giunco stated the panels are 4.5'.

R. Dodds inquired if D. Banisch was satisfied. D. Banisch responded he was reasonably satisfied.

R. Dodds opened the hearing to the public.

M. Ailara inquired why the map drew the lines from her house down and not straight out. R. Roseberry responded it is actually the closest point to the solar panels. The solar panels angle to the north. The tree row gets wider further to the east. The wooded buffer is deeper from this side of the site. M. Ailara inquired from where in the development was the other cross section taken. R. Roseberry stated it was from the Johnson house. M. Ailara inquired if the buffers are put up, she will not be able see the panels from her house. R. Roseberry stated he could not see the property from her house. The applicant is installing a landscaping buffer which will be an adequate screen. M. Ailara stated at times, during certain parts of the year, she can see the barn and silo, which will be removed. She can still see through the woods and it is not a permanent block. R. Roseberry stated the applicant will provide a landscape screen but he is not saying she will never see the solar panels. In prior testimony R. Roseberry stated the fence will be installed first so there is a better idea of what the residents of Opdyke Road can see in the winter time. If the residents can see the fence from Opdyke Road, he will be landscaping it. M. Ailara stated she is not concerned with seeing the fence, but doesn't want to see the panels. She likes her view the way it is. J. Giunco stated the structures will be removed. M. Ailara stated she does not want the structures removed. She stated she does not want to see the panels at all and not just the fence and first string.

J. Giunco stated R. Roseberry testified that he cannot say M. Ailara will not see the panels. R. Roseberry stated he projects she will be able to see the panels in the interior of the field from 2000'. The topography rises 16' westerly. He does not know what it will look like in the winter that is why they are doing a site visit in the winter. The stream buffer contains 60-80' tall trees.

C. Ailara stated the applicant had a landscape architect work on the project and what is the price of the landscaping? J. Giunco stated it is not a reasonable question. C. Ailara stated the applicant was referring to reasonable in the additional landscaping and would they be willing to double or triple the landscaping already proposed if it was determined that the buffers were inadequate. R. Dodds responded the Board will have D. Banisch present during the landscaping. C. Ailara stated reasonableness can be debated forever. It is legal language that lawyers use all the time to get what they want. C. Ailara inquired what reasonableness means. D. Banisch stated certain areas will need additional landscaping. If he can see the panels, he will request more landscaping. C. Ailara stated if pricing comes in effect, the applicant will say it is not reasonable. R. Dodds stated the ordinance requires the landscape buffer. The applicant may say it is not reasonable. If they do not install the additional landscaping buffers, the project comes to a screeching halt. C. Ailara stated it seems to him that it cannot cost that much more to make sure they do not see the panels. J. Giunco stated no one but C. Ailara raised the issue of cost. There is a standard set in the ordinance. The applicant has exceeded the standards required in the ordinance by addressing his property. He inquired if it is reasonable that a person can see for 3,000 or 4,000 feet. It is reasonable to block the view. The applicant is not going to put in trees that do not have any effect just to make a number of trees. The applicant recognizes the distances involved and it is

reasonable to not waste the installation of plant material where it is not needed. R. Dodds inquired if the applicant is prepared to say that if they can see it, they will buffer it. C. Ailara stated seeing it a 3,000' is a good issue. His wife has good eyesight and he does not. J. Giunco stated he is not saying that the applicant does not care if they want to see them or not. The applicant will make a reasonable effort to block their view. It is reasonable on the applicant's side to expend the funds necessary to block the view. R. Dodds suggested it is reasonable to put something in the field the size of a solar panel so a base can be established. J. Giunco stated that sounds reasonable. R. Dodds stated D. Banisch has enough experience to determine the appropriate landscaping buffer. It will not cost D. Banisch a dime to put in a tree or ten trees. D. Banisch stated, as per the applicant's testimony, there will be a narrow field of view on the horizon in which the residents will be able to see the panels for such time until the trees grow up with no gaps between the trees. J. Giunco stated the Board is talking about starting the view 30' in the air.

R. Dodds stated at the last meeting the treatment of the fence was discussed. J. Giunco stated the applicant is proposing a black vinyl clad 8' fence. R. Roseberry stated the fencing will not have any screening. D. Banisch inquired if the applicant expects, at the time the landscaping buffer is planted, the fence will be visible from Opdyke Road. R. Roseberry stated he does not know. The applicant will be installing 10-12' evergreen and 13-15' shade trees. Right now the residents would not be able to see the fence. R. Roseberry stated the applicant has agreed to put in the fence first. D. Pierce stated his notes indicate there would be the installation of green fabric to screen S. Doyle's property. R. Roseberry responded the screening would be installed during construction for S. Doyle's property.

D. Ortega, 9 Opdyke Road, stated no one knocked on her door. She is between the two houses they were discussing earlier. She is close to the cul-de-sac. In speaking about the elevation, she stated the proposed site is higher. She currently has a water issue now. Their houses go into the storm drains. The applicant is not proposing any berms or storm drainage and she has a concern of the water from the proposed site coming onto her property. R. Roseberry responded the properties on Opyke Road drain to the creek and the proposed site drains to the creek. It is not possible for the water to cross the creek and affect the properties on Opdyke Road. D. Ortega requested her property be added on the list to be evaluated. She is located further than the other properties and she may see more panels. J. Giunco stated she will be added to the list.

E. John, 8 Opdyke Road, commented on the water issue and the residents who are downstream. He inquired who will get the water runoff from the proposed site. He thinks there will be approximately 61,000 panels which equate to 549,00 sq ft of panels. He stated there is this location and the possible location on Muddy Run Road. He stated an analysis of the water runoff of those two locations should be done. It is very important and should be addressed. R. Roseberry stated a stormwater management plan has been prepared. It has been reviewed by the Township, D&R Canal Commission and the County. Groundwater runoff is based on surface conditions. Solar panels are not impervious. The runoff will not be increased. E. John stated berms will not be installed because of a concern about water runoff. R. Roseberry responded the berms are used to raise the heights of the plantings. The applicant is proposing 12-14' evergreen and 13-15' deciduous trees. Berms concentrate the runoff and erosion issues. E. John requested R. Roseberry provide his reference documentation. J. Mathieu stated under the stormwater management rules, in any type of development, they cannot put more water off site than what existed prior to that development. R. Roseberry stated he agreed the applicant will comply with the stormwater management rules. T. Decker stated his office has reviewed the stormwater management report. The state has made a decision that solar panels above grade are not impervious. He stated soil types, slope and vegetative cover go into the statement calculations. The property is currently farmed and the applicant is proposing a permanent stand of vegetation that improves runoff. The proposed vegetation will slow down the water and infiltrate the soils better than an agricultural field. It will improve one of the three elements used in the calculation. P. Lubitz stated during the construction period, there is less ground cover than exists currently. R. Roseberry responded it is currently used as an agricultural property. The ground gets

cleared every year. There are bare soil conditions in the spring. T. Decker stated the Hunterdon County Soil Conservation District has jurisdiction on the soil issues by requiring silt fences and other measures which need to be implemented during construction. R. Roseberry responded there are weekly inspections by the Hunterdon County Soil Conservation District. J. Giunco stated the same controls are in effect as with any other construction. They are not exempt from those rules and regulations. R. Roseberry stated there have been no actual studies to see if the panels are pervious. There will be 6.5' between the solar panels.

P. O'Boyle, 11 Opdyke Road, requested he be added to the list. He stated his house sits on the highest elevation and he can see the house and silo.

J. Cameron stated he co-resides with S. Doyle. He stated his reading of the rewording of the amended ordinance is that no part of the installation can be visible from 30'. D. Pierce responded the ordinance states in all zoning districts the facility cannot be visible from adjacent residential uses at a height of 30' above ground level. He stated he lives approximately 150' from the property. He can see the silo. An 8' fence will not cut it. He inquired when the visibility from his property will be blocked, at the beginning, conclusion of construction or 5 years down the road. R. Roseberry stated the project will install the fence first and in the first growing season the plantings will be installed. He stated in J. Cameron's area the plantings will be higher. The ordinance does not provide a time frame of when visibility will be blocked. R. Roseberry responded all the exhibits presented this evening are based on the time of plantings. They will be installing 16-18' evergreen and 18-20' deciduous trees. There will be some ornamentals and the fence. The deciduous trees will provide cover in the summer and the evergreens will provide cover in the winter.

J. Saenger, 10 Opdyke Road, requested to be put on the list. His property is directly behind and can look straight into their field. It is why he bought our here with the farmlands and views as they are now and not to have anyone build behind him. By this development going in, it will drastically change the view. He looks out his window and it looks nice out here. He will open his shade in the morning and what will it look like. He inquired since the property is currently farmland, did anyone look into farmland preservation. J. Mathieu responded the Hunterdon Land Trust Alliance looked into preserving the property but the owners wanted to have a 14 home development. This property was targeted for preservation and the owners chose not to preserve it. P. Lubitz inquired if there would have been any affordable housing units in the proposed major subdivision. D. Banisch stated there would have been three housing units by retaining the existing ranch house to be an affordable unit and one additional house on the right hand side being a two family group home. R. Dodds stated the area not in solar panels will be conserved. J. Saenger inquired about the restrictions on developing the wetlands. R. Dodds responded the development of the wetlands is in the jurisdiction of the State DEP. If the DEP grants a permit, they are allowed to perform the permitted activities. J. Saenger inquired if the applicant gets approval to enlarge the system, will they have to appear before the Board. R. Dodds responded the applicant is showing the proposed project with the maximum amount of panels indicated on the plan. J. Saenger wanted to know about the safety of the panels. He inquired if they create an electromagnetic field. R. Dodds responded the applicant is proposing tying into the existing power lines. There will not be an additional power lines. J. Giunco stated the facility generates DC power and turns it into AC power with the inverters. R. Roseberry stated the point of interconnect is in the northwest portion of the property. He stated he did some research and he could not find any studies correlating any electromagnetic field issues negatively or positively. J. Saenger stated it is a new technology. R. Roseberry stated the power is underground and it is DC power not AC power. It is lower voltage. J. Saenger stated it is overhead versus underground. The cable is 18" underground. R. Roseberry responded when the power lines are overhead the electromagnetic power is from the lines. J. Saenger stated he does not want to be used as a guinea pig and see how many people have grown three eyes. It is not a joke. Everyone in this development has kids. He stated does the Township want to use his development as a case study. R. Dodds stated the State of New Jersey has determined this use as an "inherently beneficial" use. P. Lubitz stated if someone could present the Township with a study that solar

facilities are a hazard it would balance the “inherently beneficial” use. Without such a study, the Township cannot make a determination that it is a hazard. J. Mathieu stated the comments bring up an interesting point. No one knew that asbestos was hazardous originally. He is personally going to look into it and it is a very valid point.

R. Dodds, based on the comments this evening, the residences who will be impacted by the facility will be looked at in regard of a view.

R. Runion stated there are already two projects near completion on Route 12. One is in his backyard. He can take a baseball, throw it and hit the solar panels. In regard to the questions about magnetic fields, a doctor on behalf of Con Ed answered all those questions. It will not happen with the way these solar panels are constructed. He extended an invitation for the residents of Opyke Road to see the facility by his house. It is 20 acres of solar panels. He wished he had the problem of being a distance of 1000’ from the solar panels. R. Dodds stated the facility by R. Runion was approved prior to the adoption of the amended ordinance. It was one of the things the Board strove to look at in the amendment. The project by R. Runion’s home is in the Highway Commercial zone rather than in a residential zone.

F. Floyd stated it has been two weeks and if they have had any progress on their permits for Phase 2. R. Roseberry responded he doesn’t believe anything has been done in the last two weeks. J. Giunco stated the applicant has been focusing on the Opyke Road area. R. Roseberry stated it will take some time. F. Floyd inquired if it was the applicant’s intent to complete Phase 2 before they exit Phase 1. R. Roseberry responded no. F. Floyd inquired if the house will be torn down in Phase 1. R. Roseberry stated a cultural resource review is being conducted and as soon as the structures are cleared by the State they will be removed. F. Floyd stated with the house on the property it will contain a mixed use and vacant houses are subject to vandals and fires. J. Giunco stated if the Township is concerned about vandalism, the applicant is willing to secure the house with plywood sheets over the doors and windows. The first construction element will be the fence. F. Floyd stated an 8’ high fence is not something kids cannot get over. He inquired if the Township has received feedback on the ratables for the solar facilities. P. Lubitz stated the matter is being addressed at the County tax board and State levels.

E. Niemann stated they have not been proactive. F. Floyd inquired when the Township expects an answer. P. Lubitz stated the Township can ask the question but cannot guarantee when an answer will be received but the Township is actively working on it. F. Floyd inquired about the open space access. J. Giunco stated the consensus was that to have the open space access readily available would have a detrimental effect on the community. There will be a gate for the farmer to utilize. P. Lubitz stated it is not open space, it is open land. F. Floyd requested a knox box. R. Roseberry was in agreement a knox box would be provided. R. Dodds inquired if knox boxes will be provided at all gates. J. Giunco stated yes.

R. Nicolato stated he is the detention basin property. He inquired if any trees were going to be removed. R. Roseberry stated some trees near the farmstead will be removed but no trees will be removed along the Lockatong Creek. The light green area on the overhead is the open area currently in agricultural use and it will remain as an agricultural use. R. Nicolato inquired if there would be any access to his property. R. Roseberry responded no. R. Nicolato stated he would like to have a sight inspection from his house since it gives a good view into the field. J. Giunco stated he is an adjacent property and is entitled to the inspection.

D. Ortega inquired, since the ordinance requires a 50% set aside, what are the Township’s intentions for the set aside land. R. Roseberry stated the applicant is not deeding the property to the Township but granting an easement. It will have a conservation easement to prevent future development and will be owned by the applicant. D. Ortega inquired if the Township was getting anything from the facility. P. Lubitz stated the Township will tax the facility. D. Ortega stated it sounded like the Township was going to have public fields.

J. Giunco stated the applicant did not indicate there would be any improvements on the property. There will be an agricultural use on 50% of the land. The farm fields will be retained. The gates will provide access for the farmers to get their equipment to the fields. D. Ortega stated it was discussed as public use. J. Giunco stated it was discussed as public access and used as a conservation easement.

M. Smith, 250 County Road 519, stated he was here for the next application but with the technology business, what is the next technology. J. Giunco responded solar facilities. M. Smith inquired if the facilities have a 25 year life span. J. Giunco stated the panels are warranted for 25 years. There has been testimony that panels have been in use for 30-45 years. They do degenerate and produce less energy as they age. M. Smith stated his concern is that new technology would obsolete solar panels. It is his concern that the Township has 160 acres of solar panels waiting for the scrap man. An assumption is also being made that there is nothing hazardous in the panels. J. Giunco stated it is an affirmative assumption that all the materials in the solar panels are not hazardous materials. M. Smith inquired if a bond for the removal will be required. D. Pierce stated the ordinance requires a decommissioning plan. When the facility is no longer in use, the decommissioning plan is enforced. Unfortunately, the Township looked at when it was preparing the ordinance and there is no ability under the MLUL for the Township to require the posting of a bond or financial assurance at the time of construction and maintain the bond for the life of the activity. There is no other use that requires that type of bond. Solar facilities are no different than any other commercial or industrial use. If it becomes derelict or an eyesore, there is no ability for the Township as part of their approval to protect against the removal by requesting a bond. J. Giunco stated the applicant has submitted a decommissioning plan with the application. M. Smith stated he is looking at 15 to 20 years out and, if Effisolar goes out of business, who is responsible for executing the decommissioning plan. D. Pierce responded the owner of the property is responsible for the decommissioning plan. The Township can remove the facility themselves and place a lien on the property. There have been representations that the materials for the construction of the panels and racking systems have a value for recycling that will give them every incentive to undertake that decommissioning and recover that value. M. Smith inquired how deep the supports will be installed. R. Roseberry stated they will be 6' deep. They reached bedrock at 8-10'.

E. John inquired if the application is approved does it ban the housing development in perpetuity. R. Dodds stated the owner of the property can come in with a new development application. D. Pierce stated the lands not devoted to the solar panels are deed restricted so only the lands with the solar panels would be able to be developed. J. Giunco stated the easements will go beyond the life of the solar panels.

M. Smith inquired if the hours of construction were determined. J. Giunco stated construction will be during the daylight hours and not on Sundays. M. Smith requested they not start on Saturdays until 8:00 AM. J. Giunco agreed to construction during the daylight hours, work to begin not before 8:00 AM on Saturdays and no work on Sundays. D. Pierce stated he had construction hours would be from 7-7 with noise generated activities from 8-6, which is in accordance with the ordinance. Construction will be Monday-Friday and Saturday. Deliveries will not be made a half hour before and a half hour after the dismissal of the school day.

R. Dodds stated the Board does not grant final approval until the preliminary work is done.

It was moved by E. Niemann, seconded by D. Haywood and carried to grant preliminary approval and design waivers for the installation of the berm and a deviation from the 20' access road for EffiSolar, Block 23, Lot 11 with the following conditions:

1. The applicant shall provide secondary containment for fluids that could be leaked from the transformer, with the design and capacity of such secondary containment to be approved by the Board's engineer and planner.

2. Hours of construction shall be limited to 7am to 7pm and noise generating activities shall be limited, per ordinance, to 8 am to 6pm.
3. The applicant shall not engage in any construction activities on Sundays.
4. The construction of the proposed facility shall occur in the following phasing sequence:
 - a. Signs shall be installed first;
 - b. After installation of the signs, the interior road shall be constructed;
 - c. After the interior road is completed, the applicant shall install the perimeter security fencing;
 - d. Once the security fencing is finished, the applicant shall install the landscaping unless construction is commenced after the growing season in which event the applicant shall complete the installation of the landscaping during the next growing season immediately following the start of construction;
 - e. The Applicant shall complete the installation of the landscaping before the issuance of a Certificate of Occupancy. Alternatively, the Applicant shall post a performance bond to cover the installation of the landscaping, in an amount approved by the Township engineer prior to securing the issuance of a Certificate of Occupancy; and
 - f. Once the signs, road and security fencing is complete, and subject to item d above, the applicant may then begin the installation of the solar panel racking system.
5. The applicant shall submit copies of all NJDEP wetland permit approvals before issuance of a building permit for phase 2.
6. The applicant shall receive and submit to the Board a Cultural Resource Analysis review which concludes that demolition of the existing farmhouse, barn and silo is appropriate.
7. Upon commencement of construction of phase one, the applicant shall be deemed to have abandoned the residential use of the Property.
8. Prior to the issuance of a Certificate of Occupancy or Certificate Of Completion for phase one the applicant shall fence in and board up the existing residence until such time as its removal occurs.
9. The applicant shall comply with the requirements of the Kingwood Township Conservation Easement ordinance, including:
 - a. Recordation of a Conservation Easement that shall be subject to review and approval by the Board's professionals;
 - b. Installation of Conservation Easement markers; and
 - c. Submission of a baseline documentation report before the issuance of a building permit;
10. Submission of plans revised to show or include:
 - a. An existing feature plan depicting area and limits of unconstrained and constrained areas;
 - b. A calculation of constrained and unconstrained areas;
 - c. A correction of the total of unconstrained areas on Sheet 2;
 - d. Notes containing excerpts from the Maintenance Plan Report summarizing maintenance procedures and frequency added to the plan set;
 - e. A Grading Plan and notes showing the depth of excavation of foundations, fill material and compaction proposed/required in basements;
 - f. A revised racking detail showing a maximum solar panel height of 4.5 feet;
 - g. Notes containing excerpts from the Decommissioning Plan Report summarizing decommissioning procedures added to the plan set;
 - h. The locations of conservation easement markers;
 - i. Details of the proposed transformer;
 - j. A note on Sheets 3, 4 and 5 indicating that open lands areas will be deed restricted against further development;
 - k. A revised sign detail showing the location, content and specifications for the sign;
 - l. A stone access road detail;
 - m. Staging areas including security, parking plans, storage areas and details;

- n. A note stating that the applicant is responsible for repair of damage to areas in right-of-way and beyond that occur during construction;
 - o. A detail for the secondary containment for the transformer;
 - p. The location of all shut off switches; and
 - q. The revisions to the size of the proposed staging areas.
11. Submission of a Maintenance Plan revised to be consistent with Paragraph 4, page 4 of the review letter of August 8, 2001 from Van Cleef Engineering Associates, subject to review and approval by the Board engineer.
 12. Submission of a Maintenance Plan revised to be consistent with Paragraph 10 of the review memorandum of August 8, 2011 from Banisch Associates, subject to review and approval by Board planner.
 13. Receipt and submission to the Board of a determination from the NJDEP confirming that proposed installation of solar facilities and fence in Riparian zone are permitted activities.
 14. Submission of a notice of intent to engage in activity within the riparian zone authorized under a Permit By Rule.
 15. Submission of the NJDEP wetlands line verification for review and approval by the Board engineer for consistency with approved plans.
 16. Submission of an Emergency Response Plan to be approved by the Fire Company.
 17. The applicant shall obtain a street address for the facility from the 911 coordinator.
 18. The Applicant shall be responsible for the repair of damage occurring during construction to the area of the public right of way and public roadways caused by the applicant's employees, agents, contractors, vendors and/or invitees.
 19. The Applicant shall, prior to issuance of a building permit, complete any further investigation and remediation recommended by Phase I Site Assessment in conformance with Technical Requirements for Site Remediation.
 20. The project shall be subject to the review and approval by the Kingwood Volunteer Fire Company.
 21. Recordation, after review and approval by Board professionals, of deeds memorializing the deed restriction of the open lands, and an access easement.
 22. Receipt and submission of County Planning Board approval.
 23. Receipt and submission of approval from Hunterdon County Soil Conservation District.
 24. Receipt and submission of approval from Delaware and Raritan Canal Commission.
 25. Submission of a 2 year performance guarantee for the landscape buffer plantings and vegetative cover.
 26. Subject to a post installation inspection of the landscape buffer plantings and vegetative cover by the Board planner and supplementation of the plantings with additional plantings of similar quality to address any areas of deficiency identified.
 27. The Applicant must attend a pre-construction conference with the Township engineer.
 28. The Applicant must provide 48 hours notice to Township engineer in advance of commencement of construction activities.
 29. No maintenance shall be conducted after dark except in the case of emergency.
 30. The Applicant shall provide site specific training for the Kingwood Township Volunteer Fire Company before the facility becomes operational.
 31. The Applicant shall submit one copy of all revised plans in electronic format.
 32. The Applicant shall attend on site conferences with the Board planner in the winter and also during landscape installation and shall supplement the landscaping in accordance with the recommendations of, as reasonably determined by, the Board planner, particularly with respect to buffering for properties on Opdyke Road and also the Nicolato property on Thatcher Road.
 33. The Applicant shall provide additional interior fencing , 8' high, with a man gate around

the switch gear and transformer.

34. No fill material shall be used on site unless approved in advance by the Township engineer.
35. All parking, including during construction, shall be on site; no parking or idling shall be permitted on or along the public road.
36. All foundations are to be removed in accordance with the recommendations of the geotechnical soils report to the depth necessary to allow future farming of the site.
37. The Applicant shall install landscaping to screen proposed transformer, subject to the review and approval of the Board planner.
38. The Applicant shall install landscaping with enhanced planting heights for landscaping along the boundaries with Block 23, Lots 6.01, 10, 10.01, 10.02, 10.05, 11.01 and 20.04.
39. No grading shall be permitted in areas of prime soils and soils of statewide significance except for the purpose of installing roads and equipment pads.
40. No soil shall be removed from the Property.
41. Submission of a cost estimate for landscaping subject to review and approval by the Board's professionals.
42. The Applicant shall submit copies of any wetlands individual and general permit applications and approvals necessary to allow the work proposed for phase 2 for review and approval of the Board's professionals before the issuance of a building permit for phase 2.
43. The Applicant shall remove any staging area fence upon completion of the perimeter fencing.
44. There shall be no security lighting allowed in the staging area.
45. All components of the facility must be designed to withstand winds with a 90 mph ground level wind velocity.
46. Subject to the de-compaction of the staging and other areas as deemed necessary by the Board engineer
47. All shale excavated from the Property shall be used to enhance the internal road.
48. The Maintenance Plan shall be revised to provide that the Applicant shall promptly remove any and all trees falling on adjacent properties.
49. The Maintenance Plan shall be revised to provide that no pruning or trimming of landscape plantings for shading that would open up visibility of the solar arrays will be allowed.
50. A landscape architect or certified arborist shall be on site to supervise the installation of the landscaping.
51. The Applicant shall install a green fabric on the security fence during construction for the purpose of screening the Doyle Property, with the material to be approved by the Board Planner.
52. Subject to the installation of temporary traffic control signs that designate the construction entrance, the prohibition on idling and warning of the approach to the construction entrance, all subject to approval by the Board engineer as to location and content.
53. No deliveries or contractors shall be permitted to access the Property during the following times:
 - a. Mon-Fri: from ½ hour before start time for Kingwood Elementary School to ½ hour after school start time for Kingwood Elementary School
 - b. Mon-Fri: from ½ hour before dismissal time for Kingwood Elementary School to ½ hour after dismissal time for Kingwood Elementary School
 - c. Sat: from ½ hour before start time for events at for Kingwood Elementary School to ½ hour after start time for events at for Kingwood Elementary School
 - d. Sat: from ½ hour before end time for events at for Kingwood

Elementary School to ½ hour after end time for events at for Kingwood
Elementary School

54. The Applicant shall make a preconstruction announcement to the contractor regarding the need for compliance with local laws, including speed limits, and the parking and idling restrictions contained in this resolution.
55. The Applicant shall provide a certification from all contractors and subcontractors that no employee, if they were residing on the Property, would be required to provide a Megan's law certification.
56. The Applicant shall provide Board professionals with print copies of all revised plans that are submitted in electronic form.
57. The location of all emergency shut off switches shall be approved by the Board planner, Board engineer and first responders.
58. The Applicant shall submit a list of materials of construction of the solar panels.
59. The Applicant shall comply with the Decommissioning Plan.
60. The proposed staging areas shall be increased in size subject to the review and approval by the Board's engineer & planner.
61. The access road to the open lands shall be gated at both ends and fenced on each side to separate the open lands from the solar facility. In addition, the Applicant shall install a turnaround (hammerhead) at end of the road to the open lands.
62. The Township of Kingwood is dedicated to providing affordable housing and has established an affordable housing program with supporting land use ordinances and a housing trust fund based on the Fair Housing Act of 1998. In the event that the calculation to be performed under the growth share ordinance determines that there is no growth share obligation associated with the proposed development, then the development fee ordinance shall be applicable. The development fee ordinance requires a developer, pursuant to 132-13 of the Kingwood Township Code, to pay a development fee to the Kingwood Township Affordable Housing Trust Fund.
The applicant shall pay fifty percent (50%) of the estimated developer's fee, if any, to the Kingwood Township prior to the issuance of building permits based on the Tax Assessor's estimated assessed value and his determination of the appropriate developer's fee. Building plans and as-built building plans for each development subject to payment of the developer's fee must be provided to the Tax Assessor and the remaining portion of the developer's fee shall be paid at the time of issuance of a Certificate of Occupancy for the new development. This paragraph does not constitute any determination by the Board as to whether the applicant is required to pay a developer's fee.
63. 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. This memorializing resolution shall not be released to the applicant unless all outstanding escrow fees have been paid and the applicant's escrow account contains sufficient funds to cover anticipated unbilled expenses.
64. The applicant shall have two (2) years from the date of the adoption of this memorializing resolution to obtain a construction permit and complete construction of this project. If during said two (2) year period, or extension thereof as granted by the Board pursuant to N.J.S.A. 40:55D-52, a construction permit is not obtained, or if such permit is obtained but work not completed within 24 months of the issuance of the permit, all relief granted in this memorializing resolution shall expire and automatically become null and void.
65. Approval of this application by the Planning Board shall not and is not to be considered as an approval of any other requirements or approvals of permits as may be necessary to allow construction.
66. 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 department shaving 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 approvals(s) required by the above, the terms and conditions of the within approval shall prevail unless and until changed by the Board upon property application.

67. The Kingwood Township 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.
68. All improvements shall conform to building standards and other regulations as set forth in Federal, State, County and Municipal Statues, Regulations, Codes and Ordinances, at the time of installation of the said improvement.
69. 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 application, 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.
70. The Applicant shall submit Plans revised to include Notes listing each condition of approval.

J. Giunco stated Phase 1 approval will exclude all the cultural resource items. D. Pierce stated the ordinance does not permit a mixed use on the property. If the applicant does not obtain DEP approval, there will be a solar facility, barn and house on the property. J. Giunco stated, whether or not the applicant builds Phase 2, the structures will be removed. They might exist but they will not be used. The applicant would like to proceed with Phase 1 as soon as possible. It is their intention to remove the buildings.

R. Dodds stated the applicant would have a residence on the property. J. Giunco stated it would only be a residence if someone could occupy the house. The applicant is willing to remove the kitchen and bathroom. J. Mathieu stated the issue is not resolved by removing the kitchen or bathroom. Kingwood is not a Continued Certificate of Occupancy municipality. D. Pierce stated the demolition of the house, barn and silo can be a condition of approval indicating that they cannot be utilized in any way, which would eliminate the conflict of two uses. J. Giunco stated the applicant intends to abandon those uses and is willing to acknowledge the abandonment. There was some concern with regard to the appearance of the buildings if there were boarded up and the buildings becoming eyesores. J. Giunco stated it is the intention of the applicant that there will be no issues with removing the structures.

All members presented voted **AYE** on **ROLL CALL VOTE**, except T. Kratzer, S. McNicol, L. Senus, J. Strasser and M. Syrnick, who **ABSTAINED**.

EffiSolar – Block 38, Lots 17, 18 and 19.01 – County Road 519 – Preliminary Approval – Public Hearing;

D. Pierce stated he has reviewed the affidavit of notice and proof of publication and the notice requirements satisfy the MLUL and the Board can open the hearing.

It was moved by J. Mathieu, seconded by S. McNicol and carried to adjourn the hearing to October 27, 2011 beginning at 7:30 PM. All members present voted **AYE** on **ROLL CALL VOTE**, except P. Lubitz and L. Senus, who voted **NAY** and J. Strasser who **ABSTAINED**.

J. Giunco stated the applicant consents to grant an extension of time to hear the matter.

P. Lubitz stated he is going to object. The Board moved ahead on an agenda item for its benefit. There is a good deal of the public present with the hopes of commenting of the application. He is objecting to the adjourning more for the public's benefit than the Board's benefit. R. Dodds stated he does not disagree and thinks the point is well taken. He does not like to cut off public comment. If there was the same amount of public comment as the last application, the public would not be heard until 12 or 1 AM. J. Mathieu stated he understands P. Lubitz's concern and sympathizes with it. The Re-Examination Report is important to the Township and its citizens. To have the public start commenting on an application at midnight does not serve them well. If the applicant is willing to carry it over and the public is willing to come again, he does not have a problem with it.

The Board took a short break.

Resolution No. 2011-11 – Sundancer Capital – Block 24, Lots 4 & 7 – Muddy Run Road and Barbertown Point Breeze Road – Preliminary Approval

D. Pierce stated it is his recommendation to the Board to table the resolution. The applicant has an escrow deficiency.

It was moved by J. Mathieu, seconded by M. Synchron to table the adoption of Resolution No. 2011-11 – Sundancer Capital – Block 24, Lots 4 & 7 – Preliminary Approval. All members present voted **AYE** on **ROLL CALL VOTE**.

Draft Noise Ordinance

Draft Ordinance Environmental Impact and Assessment (SEIA) and Preservation of Threatened and Endangered Species and Suitable Habitats

D. Banisch stated the SEIA is a sample ordinance from the DEP. P. Lubitz stated if the Township diverges from the sample ordinance, they will have to ask permission from the DEP. It is a pretty straight forward ordinance.

It was moved by E. Niemann, seconded by L. Senus and carried to table the above two agenda items to the November meeting. All members present voted **AYE**.

Open Space and Agricultural Advisory Committees – Request to Amend Open Space/Recreation Plan

R. Dodds stated the request from the Open Space and Agricultural Advisory Committee is to encourage those who develop along the Lockatong Creek or any other open water be encouraged to grant a public access easement to the Township.

D. Banisch will prepare the appropriate draft language to amend the Open Space/Recreation Plan for the November meeting.

Approval of Minutes of September 8, 2011

It was moved by J. Mathieu, seconded by S. McNicol and carried to adopt the minutes of September 8, 2011 and place on file with the following correction:

Page 5 – replace cadium with cadmium (corrected on original set)

All members present voted **AYE** on **ROLL CALL VOTE**, except T. Kratzer, who **ABSTAINED**.

T. Kratzer inquired about the status of the MSDS sheets. D. Pierce stated the applicants have testified to the Board that they cannot obtain them from the manufacturers.

Approval of Minutes of September 26, 2011

It was moved by J. Mathieu, seconded by E. Niemann and carried to adopt the minutes of September 26, 2011 and place on file with the following corrections:

L. Senus and M. Synchron were absent (corrected on original set)

All members present voted **AYE** on **ROLL CALL VOTE**, except T. Kratzer, L. Senus and M. Synchron, who **ABSTAINED**.

APPLICATION STATUS

CORRESPONDENCE

PRIVILEGE OF THE FLOOR

A. Belle inquired about the placement of the open space markers on the solar facilities. T. Decker responded the markers cannot be in the open farm fields.

E. Niemann requested an announcement that the attendees of the meeting, when leaving, try to remain quiet outside the building. The acoustics are terrible for the neighbors.

ADJOURNMENT

It was moved by E. Niemann, seconded by M. Synchron and carried to adjourn the meeting at 11:05 PM. All members voted **AYE**.

Respectfully submitted,

Diane Laudenbach, Secretary