

MINUTES

7:30 PM

PRESENT:	R. Dodds	ABSENT:	T. Kratzer
	J. Mathieu		J. Strasser
	S. McNicol		D. Floyd, Alt #1
	E. Niemann		
	M. Syrnick		
	D. Banisch, Planner		
	D. Pierce, Attorney		

CALL TO ORDER

The meeting was called to order at 7:32 PM 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 MATTER

Perrotti – Block 23, Lot 11 – Route 519 – Request for Extension of Preliminary Approval

P. Henry, attorney, was present for the request this evening. He stated originally when the subdivision approval was granted, the application was in anticipation that with the passage of time, the owner would find a developer for a project that was ready. When the approval was granted, it seemed as if the residential slump was still present. I. Perrotti did a number of things to satisfy the compliance requirements of the approval. She had submitted an application to the D&R Canal Commission with a \$10,000 check for the fee and a number of things that could be done as a matter of course. She has not recorded any documents since she planned on selling the development. There were no inquiries about purchasing the property. A group came along located in Canada and made a proposal to purchase the property for a solar facility. The purchase proposal was contingent on the company obtaining approval from the Township. The proposed purchaser obtained preliminary and final approval for Phase I and preliminary approval for Phase 2. They are pursuing the satisfaction of the conditions of approval. The solar industry, particularly the SRECs market, fell apart. The financing options have changed for the construction of the facility. The old financing mechanisms of constructing whole fields have gone away. At that time, I. Perrotti decided to discontinue pursuing satisfying the conditions of approval. She hopes the solar facility goes forward. The residential subdivision approval is coming up on its three year protection for preliminary approval. The Board can extend the time period by one year and not to exceed two years. On larger tracts of property, the approval can be extended for a longer period of time. In his discussions with the developers of the solar facility, it does not seem as if they are not going to

ultimately come up with a plan to construct the facility. If the facility does not get built, a two year extension will give I. Perrotti sufficient time to satisfy her conditions of preliminary approval. I. Perrotti still owns the property.

D. Pierce stated he is not aware of anything in the Municipal Land Use Law that prohibits a property owner from having two different approvals on a property. It is an unusual circumstance. The key to the request is whether the Board believes that there was evidence in connection with the solar application on this property to abandon the residential development.

P. Henry stated there is a case in the Appellate Division which resulted in an old approval being valid. The applicant is trying to shelve their approval.

D. Pierce stated there have been no changes in the underlying residential zoning since the application was granted preliminary approval.

R. Dodds stated he requested the secretary to go back and listen to the audio tape of the public hearing on the solar facility. The following is an excerpt:

“R. Dodds: If this goes in, the subdivision disappears, correct?”

J. Guinco: My understanding is

R. Dodds: You can't have it both ways.

J. Guinco: You can't have 2 developments. Our client Effisolar is contracted to purchase the property. So assuming everything goes forward on the contract, it actually serves as another means of cutting off anybody else's rights to develop it. Those rights are subject to this approval.

R. Dodds: So Effisolar becomes our neighbor.

J. Guinco: Effisolar becomes the neighbor.”

R. Dodds stated it seems as if the contract has not gone forward. P. Henry stated I. Perrotti is waiting for the solar developer to satisfy their approval requirements. R. Dodds stated he has discussed the matter with D. Pierce and D. Pierce does not know of anything legally barring someone from having two applications. P. Henry responded, ultimately, they will be pursuing only one approval. He stated economic conditions have hit both of the approvals. The applicant is requesting an extension of time for the residential approval and for the Board not to throw out the solar facility approval. Their number one goal is for the solar facility to work. The extension is being requested in case the solar facility does not work out.

D. Pierce stated the case P. Henry was referring to was Price vs. Martinelli, Union City. The Court specifically stated a Board cannot authorize the approval of one development on the rescision of the approval of a different development on the same property. The references were that there is no reason to discourage a property owner or developer from applying for an alternate development and make the choice at that time to give up their previous approvals. The case makes reference that a condition of approval was not the rescision of the first on the approval of the second. There is no authorization under the Municipal Land Use Law. P. Henry stated there is no provision in Municipal Land Use Law to compel the rescision of the first approval but the Board could require such a condition on the approval of the second.

After some discussion, the Board requested the applicant issue an update report by October 10, 2013 on the developments.

It was moved by E. Niemann, seconded by P. Lubitz and carried to grant an extension of the preliminary major subdivision approval with variances for a period of two years to November 9, 2014 and require the applicant to provide the Board with an update not later than October 10, 2013 as to whether the applicant plans to proceed with this project or with the solar facility development also approved for the property. All members present voted **AYE** on **ROLL CALL VOTE**.

Proposed Ordinance 17-15-2012

D. Pierce stated proposed Ordinance 17-15-2012 was introduced by the Township Committee and referred to the Planning Board for recommendation.

It was moved by E. Niemann, seconded by J. Mathieu and carried to postpone the recommendation until the October 11, 2012 meeting.

The foregoing motion was withdrawn by E. Niemann.

- C. **Applicability.** A Statement of Environmental Impact and Assessment must be submitted with any application for development resulting in the creation of two (2) or more new lots; and for any site plan application that proposes any combination of disturbance of and/or new impervious coverage for more than 1/4 acre of land.*

P. Lubitz inquired does the ordinance apply if you have one large lot and subdivide it in half. D. Pierce stated in that case it would be one new lot not two so it would not apply.

- E. **Information and Documentation Required for an EIA.** The information and documentation required below shall be considered the minimum data needed to make an informed engineering and planning review under the provisions of this Article. Said information and documentation shall be considered supplementary to the other standards and design requirements mandated by this Chapter with respect to development applications.*

- 1. As part of the EIA, all development applications subject to the requirement to submit an EIA shall include the following documentation:*
 - (a) A copy of the Natural Heritage Database report;*

P. Lubitz recommended the above section be at the beginning of the ordinance rather than its current location at E.1(a).

- E. **Information and Documentation Required for an EIA.***
 - (c) A list of all threatened or endangered species present on the Property*

After some discussion, E.1(c) will be deleted.

D. Banisch stated the Natural Heritage Database provides a listing of the quality of the habitat, a key that explains the designation for the critical habitat and a classification for each species of what is existing and logged in that database.

G. Standards For Analysis Review and Approval by Review Agencies.

2. *No application for development shall be approved if the proposed development would result in:*

(d) *the degradation of the quality of potable water supplies.*

D. Pierce stated the above refers to the well approval process. A person would have to perform a test on the well water to demonstrate that it has complied with the water quality standards. There could be an application for an industrial or commercial use on Route 12 that could be using a process that if it leaks the use does not have sufficient containment.

P. Lubitz stated there would have to be a value to see that it has degraded. A property can have a non-potable well with a plan to mitigate the issue.

E. Niemann stated it does not seem as if it fits into this ordinance. It does not address Threatened and endangered Species.

J. Mathieu inquired if the review would be covered in the D&R Canal Commission regulations. D. Banisch responded if the Township feels the regulations of the D&R Canal Commission sufficiently protect the quality of water.

P. Lubitz stated the ordinance has to do with the habitat and an application would have to comply with G.2(b).

G. Standards For Analysis Review and Approval by Review Agencies.

2. *No application for development shall be approved if the proposed development would result in:*

(b) *the unmitigated and permanent destruction of threatened or endangered species habitat where the presence of such threatened or endangered species has actually been documented;*

After some discussion, it was decided the following would be deleted as they are referenced in another ordinance:

G. Standards For Analysis Review and Approval by Review Agencies.

2. *No application for development shall be approved if the proposed development would result in:*

(c) *the erosion or degradation of areas of steep slopes; or*

(d) *the degradation of the quality of potable water supplies.*

H. *Conditions When a Full EIA report is not required.* The approving authority, upon recommendation of the Environmental Commission and/or Township Professionals may waive the requirements for an EIA, in whole or in part, if the Natural Heritage database search reveals no known threatened or endangered species in the project area is submitted by an applicant, to support a conclusion that the proposed project will have a negligible environmental impact or that a complete Statement of Environmental Impact and Assessment need not be prepared in order to adequately evaluate the environmental impact. Notwithstanding the foregoing, however, the EIA requirements remain in effect for any development application that proposes development within areas of the property containing streams, ponds, lakes, flood zones, wetlands, wetlands transition areas, steep slopes of, highly eroded soils, with a seasonal high water table of forty-eight (48) inches or less, prime agricultural soils, or any habitat in which any threatened and/or endangered species has been identified as present at any time of the year.

After a brief discussion, it was decided to insert the above paragraph between “C” and “D” on page 3 of the draft.

C. *Applicability.* A Statement of Environmental Impact and Assessment must be submitted with any application for development resulting in the creation of two (2) or more new lots; and for any site plan application that proposes any combination of disturbance of and/or new impervious coverage for more than ¼ acre of land.

D. *Enforcement.* The Planning Board and Board of Adjustment shall be responsible for enforcing the provisions of this section in conjunction with their review of development applications.

D. Banisch stated an applicant can request a design exception if they cannot comply with “H”. They would not have to prove the negative side of a variance. There would be no substantial detriment to the zoning. The bar of relief would not be so great as with a variance.

D. Pierce stated he would agree. If the purpose is to deal with Threatened and Endangered species and the Heritage database does not indicate anything, why is the ordinance requiring an analysis in the area?

After some discussion, the Board decided to remove the reference to an “Environmental” Impact Assessment from the ordinance. The ordinance deals with Threatened and Endangered Species and Impact Assessment.

SECTION III - CHAPTER 115 – SUBDIVISION OF LAND, of the Ordinances of Kingwood Township, ARTICLE III, Definitions, §115-6.7. Threatened And Endangered Species is hereby added, as follows:

A. *Applicability.* Prior to any development application for which an EIA is required being deemed complete by either the Township Planning Board or Zoning Board of Adjustment, a threatened and endangered species investigation as outlined in this section shall be filed as part of the application. The Board Engineer, Planner and the Environmental Commission shall review and comment on the results of the Threatened and Endangered Species Survey.

P. Lubitz inquired if the Environmental Commission will be reviewing all of the applications. D. Banisch responded the review may be pre-empted by the Municipal Land Use Law. E. Niemann commented she thought “shall” was removed and “may” was inserted. D. Banisch stated the Environmental Commission will be on the distribution list for the report but it cannot be required as a completeness issue under the Municipal Land Use Law. D. Banisch stated the review by the Environmental Commission will not cause any delay with an application.

D. Pierce stated the Planning Board or Board of Adjustment will be the Board that is charged with the enforcement of the ordinance and it can be referred to the Environmental Commission for review and comment. The Environmental Commission does not have any authority to impose any conditions.

SECTION III - CHAPTER 115 – SUBDIVISION OF LAND, of the Ordinances of Kingwood Township, ARTICLE III, Definitions, §115-6.7. Threatened And Endangered Species is hereby added, as follows:

2. *Time Frame of Survey. The Threatened and Endangered Species Survey must occur during the time periods in which the targeted species can be readily observed and identified. For plants, this may be the flowering period. For wildlife, this may be during the breeding season. A survey for a wildlife species that uses different habitat types to meet different needs must be designed so that the evaluators are investigating the study area during the season or time period that the species might be using the habitat.*

P. Lubitz inquired if the above section is just in the event that an endangered species is indicated in the Natural Heritage database. R. Dodds responded yes. P. Lubitz stated using the time frame of the survey in the ordinance may delay projects for a minimum of a year in some places.

E. Niemann stated the objective of the ordinance is to protect the threatened and endangered species. If the section is removed, the Township will not accomplish its objective. She personally feels it is a fundamental piece of the ordinance.

- D. Protective Measures. In the event that a threatened or endangered species is identified on the subject property, the following minimum protective measures shall be required:***
2. *Prior to construction, protective fencing shall be required to be installed a minimum of fifteen (15) feet from the perimeter of any area relied upon by any threatened or endangered species identified to be present on the property that is the subject of the development application. Protective fencing shall consist of silt fence installed in accordance with the Standards for Soil Erosion and Sediment Control in New Jersey. Fencing shall be installed prior to any site work and be maintained in good condition throughout all phases of construction. Protective fencing location shall be detailed on the grading plan along with a note stating the duration of fencing requirements.*

P. Lubitz stated the above paragraph references silt fencing but the Board had discussed fencing which abuts a solar facility to be placed at a height that permits the species to travel in and out.

D. Pierce stated the fencing referenced in the above paragraph is only during construction which protects the silt from eroding out of the site. P. Lubitz suggested adding “in such that it does not inhibit the movement of any species present”.

**APPENDIX A
THREATENED/ENDANGERED SPECIES SURVEY DATA SHEET**

17. *Conclusions—If species or suitable habitat exists, provide explanation of how the proposed development has been designed to comply with threatened/endangered species standards.*

After a brief discussion, it was decided to remove “or suitable habitat” from the above section.

F. Conditions of the Statement of Environmental Impact and Assessment (EIA).

(c) *The EIA shall describe the existing environmental conditions of the subject property that may be affected by the proposed development. The description of such environmental conditions and features shall include, at a minimum, steep slopes, surface water bodies, flood zones, fresh water wetlands and wetland transition areas, prime agricultural soils, and the extent and type of habitat in which any threatened and/or endangered species are present at any time of the year. The habitat important to the threatened and endangered species must be described according to A Preliminary Natural Community Classification for New Jersey by Thomas F. Bredon¹. List the dominant species found.*

D. Pierce stated the second sentence is not really directed to whether an threatened and endangered species is present. The site plan will depict the referenced items. The first sentence goes well beyond threatened and endangered species.

D. Banisch stated you can obtain the primary soils map from the soil surveys. The extent of habitat is not normally submitted in conjunction with those other regulated areas.

R. Dodds stated if you take the first sentence it has nothing to do with threatened and endangered species. It is a development issue.

E. Niemann suggested revising the paragraph to read: *“The extent and type of habitat in which any threatened and/or endangered species are present at any time of the year.”*

R. Dodds stated possibly the first sentence could be modified.

P. Lubitz stated once you identify the presence you then have to consider the habitat.

S. McNicol inquired if the appendix incorporates those questions into it. She suggested the following language: *The EIA shall describe the habitat important to the threatened and endangered species must be described according to A Preliminary Natural Community Classification for New Jersey by Thomas F. Bredon². List the dominant species found.* She stated if the appendix provides for the required information than it would not be needed in this paragraph.

D. Pierce stated #19 in the appendix provides:

19. Provide area of threatened and/or endangered species habitat within the subject property in square feet or acres:

¹ <http://mss3.libraries.rutgers.edu/dlr/outputds.php?pid=rutgers-lib:27264&ds=PDF-1>

² <http://mss3.libraries.rutgers.edu/dlr/outputds.php?pid=rutgers-lib:27264&ds=PDF-1>

P. Lubitz stated #21e in the appendix provides:

- a. *Map of subject property identifying survey area. If species or suitable habitat is present, identify the location on the map including GPS coordinates.*

D. Banisch stated it could be included in the impact statement itself.

D. Pierce stated the focus of the ordinance has shifted. The original focus of the ordinance was environmental impact. The Board had discussion and decided that environmental impact, such as steep slope and wetlands, are already regulated by existing ordinances. This ordinance should be revised to primarily deal with threatened and endangered species.

P. Lubitz stated part of dealing with threatened and endangered species is acknowledging the habitat of the species. Once you identify the species, she/he has to have a place to live so some narrative is necessary.

R. Dodds stated there might be some words missing from letter “C” or is it described someplace else.

D. Pierce stated his problem with “C” is that the first sentence talks about existing environmental conditions. There are no threatened and endangered species mentioned. The first part of the second sentence describes all sorts of environmental features that are not necessarily related to threatened and endangered species. They are related to the environmental conditions. D. Pierce suggested: *“The EIA shall describe the extent and type of habitat in which any threatened or endangered species are present at any time of the year. The habitat important to the threatened and endangered species must be described according to A Preliminary Natural Community Classification for New Jersey by Thomas F. Bredon³. List the dominant species found.*

E. Niemann stated the main thing that brought this to the Township is when it realized that it would not necessarily be true that every application will have to get an LOI or some other state required approval. If the State does not get involved, the Township does not have any way of knowing if any of these things are going on in the application. The Township is not focused on wetlands or steep slopes but want to make sure that threatened and endangered species have some way of getting addressed in all cases not just where the State is involved.

R. Dodds stated the Township was trying to address the impact in a development where there might be Bobolinks and grassland species and no other environmental issues which would require State approval.

M. Syrnick inquired if the following should be included:

- (e) *The EIA shall contain a concise summary of the environmental impact assessment of the proposed project. This summary will evaluate the adverse and positive environmental effect of the project, should it be implemented, and the public benefits expected to derive from the project, if any.*
- (f) *The EIA shall identify and describe in detail all environmentally protective measures that are proposed for purposes of avoiding or mitigating any adverse effects of the proposed development and describe the manner and effectiveness of such mitigation*

³ <http://mss3.libraries.rutgers.edu/dlr/outputds.php?pid=rutgers-lib:27264&ds=PDF-1>

D. Pierce stated “e” and “f” should be deleted. He stated “g”

- (g) *The EIA shall contain a summary list, without discussion, of the potential adverse environmental impacts which cannot be avoided or mitigated should the proposed development be approved and implemented. Short-term impacts should be distinguished from long-term impacts. Reversible impacts should be distinguished from irreversible impacts.*

should be revised to be more specific to the impacts to the threatened and endangered species.

R. Dodds stated the ordinance needs to go back to the drawing board. The changes discussed were fundamental changes.

M. Syrnick stated what the Board accomplished was good and focuses on the threatened and endangered species and the environment. It was an important change.

R. Dodds stated the ordinance needs to be given to D. Pierce to make the revisions discussed this evening. D. Pierce had agreed to a flat fee on the original revisions.

D. Pierce stated the flat fee was for the first rewrite from the Environmental Commission. He has actually written off time after that first rewrite. He agreed to make the revisions without any further billing.

R. Dodds inquired if there was a potential for the ordinance to be modified to provide time for the Board members to provide comments prior to the next meeting.

D. Pierce stated he will make the changes and provide the Board members with a red-line copy by the end of next week.

M. Syrnick inquired if the title of the ordinance should be changed to remove “environmental” in the last line. D. Pierce stated he will remove “environmental” from the title.

Land Use Element – Discussion

D. Banisch stated he had taken the discussion the Board had in July and went out and researched comments and direction that T. Kratzer has recommended the Township look in to in terms of nitrate dilution, water quality and water quantity. He has taken the policy statement that was discussed in July talking about Agricultural Protection Zone (APZ) and nitrate dilution and has expanded the discussion, based on some of the research documents that T. Kratzer recommended. T. Kratzer also had referenced a study that is currently underway that is assessing groundwater recharge and surface runoff. T. Decker’s comment refers, on page 26, to the following paragraph: *Results of stormwater quality and quantity monitoring within the Lockatong and Wickechoke watersheds by the NJ Water Supply Authority is expected to be available in the autumn of 2012. Preliminary data from this study suggests that surface runoff rates are higher and actual groundwater recharge rates are lower than published data and prevailing assumptions. If this proves to be the case, aquifer recharge estimates would have to be lowered and nitrate dilution requirements adjusted.* T. Decker was concerned with creating a stormwater management data baseline rather than calculating nitrate dilution. The New Jersey Water Supply Authority study could be a double edged sword. To make the argument to have decreased density based

on nitrate dilution could also lower the bar for stormwater recharge. It is T. Decker's understanding the data available in Kingwood is being generated at Kingwood park. It is too site specific to hold it into comparative consideration. T. Decker is suggesting replacing the paragraph with: *At the time of the Land Use Plan update, the New Jersey Water Supply Authority is conducting stormwater quality and quantity monitoring within the Lockatong and Wickecheoke watersheds. Upon availability, final results and conclusions of the study may be utilized in further evaluation of aquifer recharge estimates and nitrate dilution requirements within Kingwood Township.* D. Banisch suggested the above paragraph replace the one in the draft.

P. Lubitz stated his understanding is that the Land Use Plan is a planning guide document and would not contain the level of detail in the draft.

D. Banisch responded the Land Use Plan sets forth the policy for zoning and should translate into the zoning map. It can be as broad brushed or detailed as the board chooses. The studies referenced by T. Kratzer were generated by municipalities that looked very closely at the nitrate dilution, groundwater recharge, surface water conditions and the impact development's impervious surfaces on surface water bodies and, in particular, base flow conditions in streams. The groundwater hydrogeology is very significantly impacted when it comes to carrying capacity. The municipalities hired a hydrogeologist to go out and conduct a groundwater resource evaluations. Those evaluations became the underpins on zoning recommendations that were made in a number of towns. He used one of the studies in Greenwich Township to rezone the township. The Township is fairly well endowed with water with very substantial groundwater reserves which could support a high density. They had significant nitrate dilution capacity. In the rezoning, the Township took into account the APZ and their designation in the Highlands Regional Planning. The rezoning resulted in a density of one unit per 20 acres except when the development was clustered which averaged one unit per 10 acres. The Township had so much water and the Highlands Regional Planning was designed to protect the regional water that the Township could be called upon to support the needs of other populations. They have developed their own policies and own Land Use Plan that translated to their zoning ordinance. Kingwood does not have the benefit of a hydrogeology study but has the benefit of several other studies.

P. Lubitz inquired if some of the information can be accomplished through footnotes. D. Banisch responded he can take a lot of the specifics and conclusions and footnote them. E. Niemann suggested an encapsulating summary with footnotes. R. Dodds suggested inserting an executive summary.

D. Pierce stated he has reviewed the draft and stated the Board had discussed having the science to zone the Township. Having science is not absolutely necessary. Greenwich had great water and decided on other policy reasons to not permit very dense development. He inquired what was the Township's policy. The Township should decide what they are trying to promote and preserve. The Township went through an exercise analyzing the statistics. Numbers can be manipulated to obtain the nitrate dilution the Township would like to see, such as using a higher residential number of 4 rather than in a dilution model. The Township is analyzing as the Highlands did but someone can make an argument that Kingwood was not included in the Highlands. If Kingwood should have been in the Highlands it would have been in it. If you increase the number of people in a household, you have a greater percentage of the population. Hopewell Township's zoning was based upon a very detailed hydrogeological analysis done by M. Mulhall. M. Mulhall relied on the calculation that an average household has 4.2 members. The Township's average household has 2.6 members. How can the Township justify 4? It is not a very good ordinance to stand scrutiny in court. An attorney can indicate that the Township wanted to restrict development. The attorney could state the number you picked resulted in restricting development by requiring a smaller density. The Township needs to decide what they want to protect and what type of scale should be used. He inquired if it is appropriate for D. Banisch to engage in these calculations and conclusions. It should be based on a detailed study done by a hydrogeologist. He discussed study data that T. Kratzer is working on at the park with T. Decker. He cannot believe there is zero recharge

and 100% is runoff. If that was the case, why is the grass at the park not dried out? The park is one point in the Township and it cannot be said that it is representative of the entire Township. T. Kratzer had spoken about the different geology formations throughout the Township. D. Pierce stated, after he had reviewed the numbers in the report, everyone talked about the Lockatong formation as being very terrible. The Lockatong formation covers 35% of the Township. The Township cannot legitimately justify increasing the zoning for more than part of the Township based on the geology formation for the southern part of the Township. M. Mulhall lumped different formations together and developed different lot size requirements for those zones. He stated the Township should not put everything on science that can be manipulated and other people can easily attack to achieve certain results. The Township is better off if it has a strong policy of preserving agricultural uses, promoting open space and maintaining the rural characteristics of the Township, which are all legitimate zoning purposes. He would prefer the Township focus on the previous goals and refer to those other studies and numbers as support for the particular zoning not as the basis for it. Figure 7 shows the geologic formations of the Lockatong in orange and the Passaic in blue.

D. Banisch stated if the Township were going to rezone along the geology lines, they could follow the roads for most of the zone lines.

D. Banisch stated on the basis of D. Pierce's recommendations, the numbers in the Plan should be used as support but not included as extensively as it is currently in the document.

D. Pierce stated he has an issue with the definition of a national organization for the APZ zone as a zone with a minimum of 20 acres per dwelling unit. He is reluctant to use that specific term to describe the zone as the Township is proposing 10 acres not 20. Someone could make an argument that the Township was talking about the APZ and it should be 20 acres and an error was made in putting in 10.

D. Banisch stated the Township defines the APZ itself based on the average lot size for the farm assessed parcels in the Township. He does not have the number this evening. It is possible it might be 10 but not 6 or 20. In Greenwich they also found that it had to do with sustainable agriculture, while preserving agricultural as an economy. He found that there were instances a sustainable agricultural use could be done on 4 acres in Pennsylvania and a couple of acres in Vermont. In both instances it was very specialized crops. The definition of sustainable agriculture should be inserted into the Plan. It might be added to the policy discussion.

D. Banisch stated the purpose behind the APZ zoning is to use it as a holding pattern to protect the agricultural base in the Township. If you have a 20 acre minimum lot size for conventional subdivision, you are talking about the pattern and arrangement of the lots, when you provide a 100% density bonus. The strategic approach is agricultural protection zoning. The conventional zoning will be one dwelling unit per 20 acres. In a major subdivision if it is clustered or lot size averaged and the developer provides 80% open space set aside, he would be required to provide 10 acres of deed restricted agricultural use. It would be consistent with the policy to protect the pattern of existing agricultural land in the Township and agriculture as an industry and retain that resource for agriculture in the future. It can also be done with the 10 acre minimum. The Township already has mandatory clustering and lot size averaging in the zoning as it stands right now.

D. Banisch stated the Township wants to par down the science discussion but maintain it, enhance the policy discussion and come up with a clearer rationale for how the Township would define APZ on its own as 10 acres.

D. Pierce commented on the phrase "public equity" on page 32. It talks about equity being fairness but it means many other things. Equity has other meanings. Equity also means investment. He has an issue of someone

down the road coming to argue that clearly we have an interest in that property because there is public equity in a property.

D. Banisch stated a flipside to that is a discussion on equity and that the rezoning is respectful of the landowner's equity in the property but advances the public policy even after consideration of their equity position.

D. Pierce stated the other side is the power to zone is vested in the government as part of the general police power to protect the public health, safety and welfare. To protect the public health, safety and welfare should be the basis for the Township's zoning ordinance not some euphemism of public equity. The Township should focus on what is the benefit to the public health, safety and welfare. The Township should not try and create some other term that the Township is justifying using. He would not want to defend using public equity as a zoning tool.

D. Banisch stated in regard to the following paragraph on page 32, if the first two sentences of the last paragraph on the page is removed: *APZ also protects public equity. Webster's New World Dictionary defines "equity", in part as fairness; impartiality; justice; and anything that is fair or equitable."* In Kingwood Township, there has been significant public investment in preserving farmland and open space. Steady growth in preserved farmland demonstrates the public interest in preserving farmland, which will be best served through APZ strategies that reinforce these public expenditures and protect the Township's agricultural base. Zoning strategies should be implemented that effectively assure the protection of these limited resources, protect public equity, build upon prior public investments and enhance quality of life.

R. Dodds stated it gets to the public welfare piece of people coming to Kingwood because of the environment, in its general way that they desire. People often come to Kingwood because they want to get away from the typical community, the typical suburban development. They want to be out on their own and tend to be fairly rugged individualists who have no interest in participating in government. People come to Kingwood because it does not have one house on top of each other. There is no town center which is as much by design as by happenstance. People did not want to get that together in Kingwood. They want to be allowed to live and do their thing on their own, which is the reason the Township makes a public investment to preserve open space and farmland so that does not change in Kingwood. It will always allow its residents to look at open space and not have to worry about close neighbor.

E. Niemann requested the words "~~protect public entity~~" in the last sentence should be stricken also.

D. Banisch inquired if the Board would like him to review T. Kratzer's comments. T. Kratzer has added some goal and objective statements. T. Kratzer highlighted: *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.* There was no comment but just a need to adopt a Utility Services Plan Element. There were a couple of minor editorial comments. On Page 7, T. Kratzer indicates the additional goals and objectives as follows:

- *To promote and apply the Lower Delaware Management Plan for protection of the Lower Delaware Wild and Scenic River.*
- *To utilize the Delaware and Raritan Canal protection criteria for safeguarding a potable-water supply.*
- *To implement source-water protection strategies for the Delaware and Raritan Canal as detailed in the NJ Water Supply Authority's Lockatong and Wickecheoke Creek Watersheds Restoration and Protection Plan.*

D. Banisch stated these are studies, which one of them T. Kratzer co-authored. P. Lubitz stated he feels they are too specific.

R. Dodds stated they are good supporting arguments in the appendices.

E. Niemann stated some of the references could be put into the introductory comments. D. Banisch suggested he will find the appropriate place to insert the references. E. Niemann stated in an abbreviated fashion draw in the Lower Delaware Management Plan.

S. McNicol stated the management plan is very detailed and has been developed for a long time as to how to manage and encourage Townships to work on ordinances that would protect water coming into the Delaware River. D. Banisch stated he can place it in the introductory statement as well addressing the importance. S. McNicol stated it is an important management plan and it is a shame it is not a good living breathing document people use. It should be referenced in the Plan.

D. Banisch suggested adding a recommendation to address the Lower Delaware Management Plan's recommendations.

D. Banisch stated T. Kratzer added the following language to page 8 under Circulation:

- *To encourage stormwater controls through pervious paving, innovative roadside-drainage stabilization, and minimization/elimination of curbing (or curb cuts).*

T. Kratzer added a comment, page 9, under Historic and Cultural Resources:

- *To promote and apply the Lower Delaware Management Plan for protection of historical resources within the Lower Delaware Wild and Scenic River management area.*

T. Kratzer made the following editing to the page 12 under Land Use Plan:

This policy approach responds to the goal of providing for beneficial economic growth in a manner that prevents sprawl development patterns. This focused growth strategy also serves to maintain the Township's rural character as perceived from the Route 12 corridor. This policy advances the goal of ~~protecting groundwater and surface water quality, and better accomplishes the goals of~~ rural conservation, ~~environmental protection~~, agricultural retention and protection of the scenic attributes of Kingwood Township.

D. Banisch stated the above paragraph is in regard to the Eastern Gateway Village Center Overlay (EGVCO). He does not agree with the strike out in the paragraph. He will look at the paragraph and rework it. E. Niemann stated possibly T. Kratzer simply disagrees that it will protect the groundwater in anyway. D. Banisch stated that may be the case.

Under the EGVO on page 14, D. Banisch, there are a series of comments:

The enhanced setback requirement west of Baptistown seeks to preserve existing distant scenic views from Route 12. A majority of the parcels along this stretch of the State Highway include lot depths exceeding several hundred feet, which permits the placement of development farther back on the lots, which will serve to maintain existing distant scenic views.

Eastern Gateway Village Center Overlay

Following the recommendation of the 2011 Reexamination Report this Land Use Plan also desires to further the public interest by establishing mixed use smart growth land development options. The location of this overlay designation that is supported by appropriate existing and planned infrastructure to (1) accommodate the future population growth of the Township, (2) accommodate reasonable opportunities for affordable housing development, and (3) attract beneficial growth and tax ratable development. The Planning Board has identified lands situated generally along Route 12 in the vicinity of the intersection of Barbertown-Point Breeze Road and Pittstown Road (County Route 615) as the most advantageous location in Kingwood Township for smart growth, mixed use high-density development opportunities, owing to (1) proximity to Flemington and regional development located to the east, (2) County Route 615 access to the regional interstate highway system located to the north, (3) an undeveloped land reserve capable of supporting smart growth, mixed use high-density development, and (4) ~~lands that currently possess centralized wastewater treatment facilities capable of expansion to support smart growth, mixed use high-density development.~~ (NOT validated)

The existing nonresidential and industrial zoning within this general area of Route 12 ~~that~~ has been established in the Township's zoning ordinances for decades and has failed to produce significant high-value tax ratable, employment-generating land uses as zoned. ~~Also,~~ It is in the public interest generally for the citizenry of the State and more specifically in the interest of the citizenry of Kingwood Township to provide smart growth, mixed use high-density development opportunities that promote a diversity in the type and price of housing, and commercial development that will serve a broad range of the population and helps to satisfy employment needs of the community in a location convenient to the citizens of Kingwood Township.

The Planning Board has identified this general area with an ample supply of undeveloped land and ~~centralized wastewater treatment facilities capable of expansion to accommodate the municipality's affordable housing obligations~~ (NOT validated) as evidenced in the Township Housing Plan Element and Fair Share Plan now pending substantive certification by the State. The purpose of the Eastern Gateway Village Center Overlay District (EGVCO) is to establish a framework for planned development with a diversity of uses that enables a transition from conventional strip highway commercial zoning along the Route 12 Corridor to a "Center-based" zoning approach.

The regulations governing the District will allow for the design of sub districts. The Mixed Use Core Sub district will permit all uses in the Village Commercial (VC-1) Zone, except that supermarkets are also permitted, multifamily units above ground-level retail (Mixed-Use), townhomes, with or without co-housing units, multifamily residential buildings, with or without co-housing units, ~~on sites served by a centralized wastewater collection system and Planned Unit Development, inclusive of all uses permitted above, on tracts of 10 acres or greater served by a centralized wastewater collection system.~~ (Wastewater treatment system NOT validated) (Figure 3)

The other sub districts are commercial & artisan sub district and professional office/residential sub district. In the commercial & artisan sub district all uses permitted Business Park (BP) District except for warehousing, manufacturing and lumberyards. Live-work dwelling units artisan loft buildings will be permitted and 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** are allowed. In the professional office/residential sub district all uses permitted in the Professional Office/Residential (PO/R) Zone and also townhomes on sites **served by a centralized wastewater collection system**, multifamily residential buildings on sites **served by a centralized wastewater collection system** and 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.**

Maintenance/operations/discharge of wastewater collection and treatment system is not addressed. Environmental constraints (see attached maps)? Costs?

D. Banisch stated, on page 14, it is the same sentence that was there twice, that T. Kratzer has deleted. He feels you could leave that sentence in the Plan as it is written and add a couple of words. T. Kratzer's comment at the

end of the strikeout is “not validated.” D. Banisch stated what T. Kratzer is referring to in the “not validated” is that lands currently that possess centralized wastewater treatment facilities capable of expansion to Smart Growth mixed use high density development is not validated. T. Kratzer also highlighted the need for the Utility Services Element. He feels they tied together nicely. He suggests adding the wording “that may be” between the word “facilities” and “capable”. If those words are added, the statement can stand. The Township knows that MEL and Route 12 Properties have functioning wastewater treatment facilities. R. Dodds stated Route 12 Properties has extra capacity. D. Banisch stated T. Kratzer might not like the idea of the statements or technically the statements are not validated and should qualify by inserting “may be”. In regard to the last edit on the bottom on page 14, T. Kratzer’s strikeout of “on sites collection system”, D. Banisch stated it is a long sentence. He read the entire sentence. D. Banisch stated technically one of the overlays may not overlay or be in the same tax block MEL or Route 12 Properties. He suggested: “*on sites that may be served by a centralized wastewater collection system, in the future, Planned Unit Development, inclusive of all uses permitted above, on tracts of 10 acres or greater served by a centralized wastewater collection system.*” which would qualify the statement vision. It is a vision the Township is dealing with and not a reality.

T. Kratzer has highlighted the following on page 15: *The other sub districts are commercial & artisan sub district and professional office/residential sub district. In the commercial & artisan sub district all uses permitted Business Park (BP) District except for warehousing, manufacturing and lumberyards. Live-work dwelling units artisan loft buildings will be permitted and 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 are allowed. In the professional office/residential sub district all uses permitted in the Professional Office/Residential (PO/R) Zone and also townhomes on sites served by a centralized wastewater collection system, multifamily residential buildings on sites served by a centralized wastewater collection system and 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. Maintenance/operations/discharge of wastewater collection and treatment system is not addressed. Environmental constraints (see attached maps)? Costs?*

D. Banisch, in regard to the above comments of T. Kratzer, he will need to speak to T. Kratzer for clarification on what T. Kratzer is suggesting. The maintenance/operations/discharge of wastewater collection and treatment system is not addressed. The size of the system is going to be driven on how much groundwater recharge is possible. T. Kratzer referenced the environmental constraints maps and costs. There will be a cost to developing this type of infrastructure. He can insert those comments.

P. Lubitz inquired if the discussion of cost should be included. R. Dodds stated this is the Township’s vision.

D. Banisch stated he will add a groundwater discharge system is anticipated.

Under the AR-2 discussion, the following was edited by T. Kratzer:

AR-2 Agricultural and Single-Family Residential District

The AR-2 District has long been established in recognition of the rural and agricultural characteristics of the District and the combination of soil types, geology and topography that occur throughout the Township. Relatively large residential lots are required in this District in response to a range of carrying capacity considerations. Characteristics of this district include severe limitations of the land to adequately drain and filter septic effluent; the lack of centralized public water distribution and sewage collection systems; a narrow rural road system, weight-restricted bridges which limit traffic volume; and the desire to preserve agriculture as an industry and protect natural resource areas including forests and stream corridors. The AR District is the largest zoning district in the Township with a maximum density of one dwelling unit per seven (7) acres of land.

At the recommendation of the Planning Board, the Township Committee adopted a definition for constrained lands and incorporated a Maximum Tract Yield Calculation formula, which requires reductions in permitted development based upon the amount of constrained land contained on a given tract of land. Constrained land includes floodplains, wetlands; wetlands transition area as determined by NJDEP, stream channels, stream corridors and areas of slope 25% or greater. *Where these conditions exist, unit yield can be ~~is~~ reduced and the resulting density can be somewhat greater than one dwelling unit per seven (7) acres of land.*

D. Banisch stated T. Kratzer raised the question about why is the lack of centralized public water distribution and sewage collection systems, a narrow rural road system, weight-restricted bridges which limit traffic volume listed as limitations. The lack of water and sewer argue against supporting any increase development or more intense development in the AR-2 zone. The narrow rural road system can be a hot button issue. The simple fact of the matter is that towns have actually used as an objective the preservation of their narrow rural road system as part of the rationale of maintaining the zoning. D. Banisch stated Bedminster Township left their roads unpaved. It is in their Land Use and Circulation Plans to keep them unpaved. It is consistent with their rural vision for that town. There are a couple of others who have done that also. He suggests the comment is appropriate. He suggests it is something the Township should be careful about and maybe develop a little more policy about maintaining the narrow rural road system. It does keep the traffic slower.

D. Banisch stated T. Kratzer added the following: *Where these conditions exist, unit yield can be ~~is~~ reduced and the resulting density can be somewhat greater than one dwelling unit per seven (7) acres of land.*

E. Niemann stated the seven acres does not apply unless a new road way is created. Two acres are allowed on existing roads.

D. Banisch responded yes. The statement should be “in the future Land Use Plan” and it should be 10 acres. At one time, there was an idea of the minimum of two acres had to be raised somewhat. Maybe the whole minor subdivision regime needs to be revisited in the ordinance. It is only a minor subdivision provision. Does the Township wanted to increase the minor subdivision minimum lot size option or do away with it all together? It is a policy decision to be made by the Township Committee. He had previously suggested doubling that to a minimum of four acres and limiting the minor subdivision potential to a smaller number than the ordinance currently permits, only permitting one per lot on a lot on an existing road as of record as of the date indicated in the ordinance. The Township might consider having every minor subdivision, irrespective of whether it is not located on an existing road in existence as of that particular point, to conform to a minimum lot size requirement of 10 acres. At the time that the minimum lot size was raised from 4 acres to 7, the minor subdivision option was focused on as something that was being left on the table. There was a discussion about how generous that provision should be at that time. The Township, at that time, did not want to limit it to a fixed number. D. Pierce stated currently a subdivision can be done every 2 or 3 years. P. Lubitz stated the time limit could be extended.

E. Niemann stated the Board of Health is considering requiring alternate septic locations which might increase minimum lot size.

D. Banisch stated reserve septic systems are frequently called out. They can be put on the checklist ordinance or put them on the plan. Some towns require that you qualify one of the septic systems and show the reserve septic system as an area of the lot that is reserved but you don’t have to qualify the second one or the applicant has to qualify both sites.

E. Niemann stated she sees so many perc holes dug it would seem that there must be an easy opportunity if there is more than one place on the property they will find it.

D. Banisch inquired if the Township would like them to qualify both areas or qualify the primary but show a suitable area for the reserve.

D. Banisch stated the three factors are the size of the minor, period of time between when the minor subdivisions can occur and the primary and reserve septic which need discussion. The Board can make a general recommendation rather than a specific one. When it comes to rezoning, the Plan has to be specific as to the recommendation for the prevailing density for the AR-2 zone.

D. Banisch stated T. Kratzer highlighted an area which needs to be changed to 10 acres or the acreage decided on by the Township.

T. Kratzer made the following comment on page 16, paragraph 3: *Groundwater availability and wastewater disposal are significant limitations to development that vary throughout the AR-2 District in the Township based upon soil classifications. This plan calls for no public water supply or centralized wastewater collection in the AR-2 District. The Township's Environmental Resource Inventory (ERI) cites the 1974 USDA Soil Survey with respect to the Neshaminy, Mount Lucas, and Legore soils, and states "Ground water is limited and barely adequate for residential wells." The ERI states that most soils in Kingwood have limitations from at least one of the following factors: poor drainage, high water table, shallow bedrock or steep slopes.⁴ Groundwater supply is limited throughout the Township, and poor potable well yield is a concern relative to the carrying capacity of lands in the AR-2 to support new development. (Redundant from 1st sentence).* D. Banisch suggested striking out the words "~~is limited throughout the Township~~" which will eliminate the redundancy or remove it entirely.

D. Banisch stated the next couple of comments are of no consequence. Next is the discussion that was added which the Board has already seen concerning nitrate dilution which is going to be pared down. D. Banisch stated D. Pierce has suggested the Township add some more headings to the table so it is easier to understand.

T. Kratzer added on page 23 the following:

(Include "plowpan" in crop-producing agricultural areas.)

In some cases, a fragipan (fra-ji-pen) layer is encountered with or without the presence of shallow bedrock. A fragipan is a subsoil layer, typically high in clay, which is a higher density than the soil above it. A fragipan layer becomes cemented and very hard when dry, and brittle when moist. The layer is low in organic matter and slowly or very slowly permeable to water and also restricts root growth (Soil Science Society of America, 2008). When present in Kingwood, the fragipan layer varies in depth between 15 and 36 inches in depth.⁵ This is also identified on Figure 5.

T. Kratzer added on page 24: Regional data for stream base flows used for modeling may not be representative of local streams⁸.

T. Kratzer inquired on page 25, what was the significance of the following information:

Significance of this information? Relative to Dr. Robert Hordon's report? (does not reference seasonality)
Having considered the challenge of recharge of the rock formations the following table prepared by M2 Associates, Inc. in 2004 from in a study entitled "Evaluation Of Groundwater Resources of Delaware

Township, Hunterdon County,” demonstrates the regional yields, well depth and median capacity of each of the formations within Kingwood Township.

<i>Formation</i>	<i>Area of Twp. Underlain by rock type</i>	<i>Median Yield (gpm)</i>	<i>Median Depth</i>	<i>Median Capacity Gpm/ft</i>
<i>Stockton</i>	<i>13 acres</i>	<i>15/18</i>	<i>110</i>	<i>0.448</i>
<i>Lockatong</i>	<i>8,017 acres</i>	<i>7</i>	<i>140</i>	<i>0.115</i>
<i>Passaic</i>	<i>14,455 acres</i>	<i>15</i>	<i>140</i>	<i>0.462</i>
<i>Diabase</i>	<i>390 acres</i>	<i>5</i>	<i>100</i>	<i>0.109</i>

D. Banisch stated the Plan started to reference well water capacity because the Township talks about the bedrock being a limiting factor in water availability from the aquifer. He is not sure what editing needs to be done except make it part of the truncated discussion on science in the reference section and appendix.

D. Banisch stated he is obtaining a copy of the report from M. MacConnell. Some of the assumptions made in the report were a scientist’s educated assumptions. There has been some additional data developed that has replaced Dr. Hordon’s assumptions in the study.

D. Banisch stated it will be summarized.

D. Banisch inquired, on page 34, if there was any reaction to the proposed Historic and Significant Settlements and Nodes and if the Board wanted to take the recommendation any further or comfortable with the recommendations:

Proposed Historically Significant Settlements & Nodes

This Land Use Plan calls for the zoning classification of “Historically Significant Nodes,” which acknowledge the value, charm and integrity of the Township’s historic crossroad settlements, such as Baptistown and Barbertown. This classification could also include other crossroad locations within the Township, or farmsteads, houses of worship, cemeteries, “nodes” or collections of potentially historic buildings that may be designated by private party nomination. The purpose of this designation is to establish zoning standards in the ordinance that would require buffering, setbacks, or other forms of visual mitigation when development is proposed on lands adjacent to the Township’s historically significant settlements and structures.

The purpose of this designation is not to impose historic district development standards on the maintenance of potentially historically significant buildings in these areas of the Township. Rather, the purpose is to ensure that change does not detract from these areas or impose unwanted development impacts. An example would be to establish minimum setback distances buffering standards in the zoning and site plan ordinance for new development when it is proposed adjacent to a designated historically significant settlement or node. Another example might be to establish standards to ensure that redevelopment or expansion of existing development adjacent to a historically significant settlement or node is required to establish appropriate buffering and screening to protect from modern visual, noise, or traffic impacts.

It would begin to identify areas in the Township of some significant historic value, particularly settlements where there are clusters of houses and commercial uses and if the Township would like to put standards in place in those areas. The area that comes to mind, recently, was a Board of Adjustment application on the garage on Route 12. The project directly adjoins residential units which are permitted in the zoning. There was a disagreement as to whether residential uses should be buffered from the increase activity of the proposed

commercial use. He feels those conflicts will continue to arise overtime where there is commercial uses, particularly on a state highway, that will more than likely continue to grow. He inquired if the Township would like to adopt some policy statement in the Master Plan that directs the Board of Adjustment in situations such as the one mentioned above to protect the adjoining residential neighbors.

D. Banisch stated T. Kratzer asked for clarification at the bottom of page 38,

While property classification is annually updated, DEP's Land Use/Land Cover is only periodically updated due to the expense of creating the information on a statewide basis. There have been periods in the last several decades when Land Use/Land Cover data was not generated by the State because of budget constraints.

as well as the footnote on the bottom of page 39:

¹ Information on environmental factors is taken from the 2008 Kingwood Township Environmental with the Kingwood Township Committee and Kratzer Environmental Services and written by Deborah J. Kratzer Resources Inventory prepared by The Kingwood Township Environmental Commission in consultation

¹ Kasabach, Haig F. 1966 Geology and Ground Water Resources of Hunterdon County, Special Report No. 24 Bur. Of Geology and Topography, Div. of Resource Development, Dept. of Conservation and Economic Development

¹ Page 16, Evaluation of Groundwater Resources of Delaware Township, Hunterdon County, New Jersey, Mulhall, Matthew J. PG, February 15, 2004.

D. Banisch stated there is a word missing at the bottom of page 38:

For example the work was conducted by the State in 2002, but not 1991-92 because of budget constraints.

T. Kratzer requested, in his edited version of the Plan, the references on page 46 contain the years as they are reassessed periodically.

P. Lubitz inquired if a statement could be placed in the Land Use Plan that would discourage additional development due to repetitive flooding and consider returning the properties, as they become available, to their natural state, enhance the Township's ability to obtain grants. D. Banisch recommended inserting the statement in the Flood Plain District Zone on page 36.

D. Banisch, on page 41, under the Forested Areas, stated there were some Conservation Plan recommendations that were developed by the Board that were not included in the discussion under the Forested Areas. Those goals and objectives required some strategic approach to protecting forest and should be added to the Forested Area section.

S. McNicol, on page 6, indicated Frenchtown is a "city" but it should be "borough".

D. Banisch stated the Board discussed 10 acres and there seems to be a comfort level that the density prescription for the AR-2 should be 10 acres. He stated a little more discussion is needed to justify that policy.

M. Synchronic stated J. Strasser had a concern about using the science to develop the zoning as well as T. Kratzer. D. Banisch responded the Land Use Plan has enough reference to the science to support the policy. He suggested keeping enough of the science in the Plan so someone can see the numbers that put the Township in that neighborhood. On Page 26, T. Kratzer took what D. Banisch had taken from M. Mulhall's study for Delaware Township. M. Mulhall used 5.6 milligrams per liter as the nitrate dilution target. He concluded minimum lot size requirements of 4.1 in the Passaic and 13.1 in the Lockatong. T. Kratzer extrapolated the

result of 2 milligrams per liter standard and T. Kratzer came up with 8.2 as the minimum lot size in the Passaic and 26.2 in the Lockatong. D. Banisch will have to review the number, verify it and present it in a way that it makes sense which is part of the science and an appendix to this document. It is not part of the science that this document or that zoning recommendation rests upon solely.

P. Lubitz stated the Township is creating with the requirement of 10 acres in the AR-2 zone agricultural opportunities and not to create big lots. D. Banisch stated the 10 acre requirement is to create agricultural protection zoning.

D. Pierce stated the requirement is to protect the rural character of the Township.

R. Dodds stated the nitrate dilution is some of the science but the reason why the Township is making the recommendation is to create the agricultural protection zones which protect the character of the Township that allow for the small farms to continue. If you go smaller than the certain amount they will disappear. They cannot support themselves.

J. Mathieu stated when D. Banisch arrived at the lot sizes those were based on science on nitrate dilution and water availability. He does not know the process of taking the science and translate it over to agricultural protection.

D. Banisch stated they are two separate discussions that are not inconsistent. D. Pierce stated if the Board is indicating they want 10 acres because it is more protective and promotional of agricultural. If the science is reviewed the Township it is in the range of 8-9 acres. It is not a big leap to say 10.

R. Dodds stated 10 acres is closer to the economic model. To sustain a farm, it is possible to go a little bit smaller but you would need a very specific crop and may or may not have the right mixture.

D. Banisch stated when you review the definition of APZ and reference Maryland, there are references to a different set of circumstances than in New Jersey. Maryland has really strong counties and they make the development decisions. They have real hard edges where the infrastructure is extended and where farmland areas are maintained. Under those set of circumstances, 20 acres was deemed to be APZ. In New Jersey, there is a different set of circumstances. In New Jersey, there is a different organization of the government and different variables based on historic land use pattern and the land use pattern as it has evolved in the last 20 years. There are enough differences for the Township to define agricultural protection zoning on its own using local factors.

M. Syrnick inquired if the requirement will be the same for the entire AR-2 zone. D. Banisch responded it will be the same for the entire AR-2 zone.

After some discussion, the Board decided to hold a Special Workshop meeting on September 26, 2012 beginning at 7:30 PM. The Board also decided to schedule the public hearing on the Land Use Plan Element for October 11, 2012, beginning at 7:30 PM.

MINUTES

It was moved by P. Lubitz, seconded by E. Niemann and carried to approve the minutes of August 9, 2012 and place on file. All members present voted **AYE**, except J. Mathieu and M. Syrnick.

APPLICATION STATUS

CORRESPONDENCE

R. Dodds reviewed as per the agenda.

PRIVILEGE OF THE FLOOR

ADJOURNMENT

It was moved by E. Niemann, seconded by P. Lubitz and carried to adjourn the meeting at 10:27 PM. All members present voted **AYE**.

Respectfully submitted,

Diane Laudenschach, Secretary