

**2011 Periodic Reexamination Report of the Master Plan and Development
Regulations for Kingwood Township, Hunterdon County, New Jersey**

Adopted: October 13, 2011; Memorialized: November 10, 2011

<i>Introduction</i>	1
<i>C. 40:55D-89a ... “The major problems and objectives relating to land development in the municipality at the time of the adoption of the last reexamination report.”</i>	1
Nonresidential Development:	1
Growth Management and Natural Resource Protection:	2
Affordable Housing:	2
2004 Periodic Reexamination Report Recommendations	2
Master Plan	2
Land Development Ordinance	5
<i>C. 40:55D-89b . “The extent to which such problems and objectives have been reduced or have increased subsequent to such date”</i>	9
Nonresidential Development:	10
Growth Management and Natural Resource Protection:	10
Affordable Housing:	12
Master Plan	12
Housing Plan Element and Fair Share Plan	12
Conservation Plan Element	13
Farmland Preservation Plan Element	13
Open Space and Recreation Plan	13
Land Development Ordinance	13
<i>C. 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.”</i>	17
Demographics	17
Cross-Acceptance III	17
Hunterdon County Strategic Growth Management Plan	18
Stormwater Management Rules and Category 1 Waters	18
Council on Affordable Housing	20
Wastewater Management	21
Energy Conservation	21
Smart Growth & Conservation Local Planning Initiatives	24
Green and Renewable Energy Planning	26
<i>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.</i>	29
Master Plan	29
Land Development Ordinance	30
<i>40:55D-89d. The recommendations of the Planning Board concerning the incorporation of redevelopment plans adopted pursuant to the “Local Redevelopment and Housing Law,” P.L. 1992, c. 79 (C.40A:12A-1 et al.) into the land use plan element of the municipal master plan, and recommended changes, if any in the local development regulations necessary to effectuate the redevelopment plans of the municipality.</i>	34
<i>Appendices</i>	35

Introduction

The Municipal Land Use Law (MLUL), at N.J.S.A. 40:55D-89, includes the following statement relative to the periodic examination of a municipal Master Plan:

“Periodic reexamination. The governing body shall, at least every 10 years, provide for a general reexamination of its master plan and development regulations by the planning board which shall prepare and adopt by resolution a report on the findings of such reexamination, a copy of which report and resolution shall be sent to the county planning board and the municipal clerk of each adjoining municipality. The first such reexamination shall have been completed by August 1, 1982. The next reexamination shall be completed by August 1, 1988. Thereafter, a reexamination shall be completed at least once every 10 years from the previous reexamination, . . . ”

The Kingwood Township Planning Board adopted the most recent Periodic Reexamination on November 9, 2004. The Planning Board adopted the 1992, 1988, 1986 and 1988 Periodic Reexamination reports in accordance with N.J.S.A. 40:55D-89, which during that time period, was required to be completed once every six years. As a result in a change to the statute signed by the Governor into law in 2011, the general reexamination is now required to be undertaken once every 10 years. During the most recent reexamination period (11/2004 – 8/2011, the Planning Board adopted a Conservation Plan Element in 2008, Housing Plan Element and Fair Share Plan in 2008, Farmland Preservation Plan Element in 2009 and an updated Open Space and Recreation Plan Element in 2011. The last comprehensive revision of the Master Plan was adopted in 1973.

The impetus for this report is N.J.S.A. 40:55D-89, which requires municipalities to reexamine their Master Plan and Land Development Ordinances every 10 years. This section of the Municipal Land Use Law requires consideration of five subsections of the statute (N.J.S.A. 40:55D-89, subsections a-e) within the Periodic Reexamination Report (Reexamination Report), which are identified and addressed below.

C. 40:55D-89a ***“The major problems and objectives relating to land development in the municipality at the time of the adoption of the last reexamination report.”***

The major problems and objectives relating to land development identified in Kingwood Township in the last Periodic Reexamination Report are listed in a summary fashion below.

Nonresidential Development:

The Township’s nonresidential zoning districts had not substantially developed with new, high value, employment generating nonresidential development. Despite robust growth and economic prosperity in the region, Kingwood Township’s

nonresidential zoning districts that are situated primarily along Route 12, contain an ample supply of available land and include generous development standards. Those Lands, however, failed to attract substantial development or a variety of nonresidential uses permitted in local zoning. Permitted uses include businesses, laboratories and research facilities, light manufacturing and assembly uses, professional offices, and a wide range of retail uses and commercial services. As a result, there was no appreciable improvement toward addressing the imbalance in residential vs. nonresidential land use in the community, no meaningful employment generation, little improvement in the local availability of goods and services and little in the way of a tax ratable offset for residential taxpayers. In 2004, the development provisions of the Township's nonresidential zoning districts had been established as presently constituted since approximately 1988. Thus, following approximately 16 years of time the existing nonresidential zoning districts witnessed very little change and economic development growth.

Growth Management and Natural Resource Protection:

The need to effectively control residential growth, retain agricultural land, avoid the conversion of agricultural land to residential development and protect the Township's natural resources were locally identified objectives requiring strategic planning responses.

The steady pace of residential development averaging approximately 20 new dwelling units per year evidenced a continued, steady and sustained pace of growth in residential development since 1995. This pace of growth highlighted the need to increase the required minimum lot size and establish design criteria requiring a substantial open space set aside in conjunction with residential major subdivisions.

The need to comprehensively coordinate and implement farmland preservation, open space preservation, and recreation programs and strategies was identified as priority land use objective and community need.

Affordable Housing:

The need to continue to address the Township's affordable housing obligation. In 2004, however, when the NJ Council on Affordable Housing hadn't adopted the updated methodology for calculating municipal affordable housing obligations and regulations for municipal compliance with those obligations.

2004 Periodic Reexamination Report Recommendations

In addition to these broad categories of problems and objectives, the Planning Board's 2004 Periodic Reexamination Report identified a number of recommendations to update the Master Plan and Land Development Ordinances and the Township's Code.

Master Plan

1. The Planning Board should organize one set of goals and objectives for each Master Plan element and incorporate them into a master list of goals and objectives statement for the Master Plan (N.J.S.A. 40:55D-28.b.(1)).
2. The Planning Board should prepare a Land Use Plan amendment for incentives to create larger lots and conserve environmentally sensitive land features, including one or more of the following zoning techniques:
 - a. Rural Estate Minor Subdivision Option – the Planning Board should prepare and the Township Committee should adopt a Minor Subdivision Rural Estate Residence ordinance amendment. This land development option would authorize 10 acre subdivisions with limited submission requirements and under certain conditions, such as but not limited to:
 - i. No natural resource mapping or site capacity calculations,
 - ii. Allow frontage access on a common driveway,
 - iii. Deed restriction prohibiting further subdivision; and
 - iv. Minimum of two off-street parking spaces per unit.
 - v. Appropriate limitations as the Board may require
 - b. Well ordinance incentive – Based on Township’s groundwater capacity report as it relates to underlying geology, consider an incentive such as a waiver from well ordinance requirement if lots substantially larger than the minimum lot size requirement are proposed at the time of subdivision. In conjunction with this recommendation, identify a conservative lot size standard that will ensure that adequate groundwater supplies are protected when this subdivision option is utilized.
 - c. Examine the recent Fair Haven & Atlantic Highlands court decision, which nullified the Manalapan decision relating to the calculation of density and determine whether a major subdivision density adjustment zoning technique should be incorporated into the Land Development Ordinance to adequately protect environmentally sensitive land features such as, but not limited to steep slopes, bodies of water, areas of floodplains, wetlands, stream corridors, wetlands, wetland transition areas, area of 300’ buffer to Category 1 Waters, open space and conservation easements, etc;
 - d. Examine a minimum improvable lot area standard to identify the minimum development area on a parcel of land that is unencumbered by environmental constraints;
 - e. Examine a minimum lot circle standard to identify a minimum diameter circle for major subdivisions, which must fit inside of all proposed lot lines to be created through subdivision, to ensure that lots created are not irregularly shaped.
3. Following substantive certification of the Housing Element and Fair Share Plan by COAH, update the Housing element using 2000 Census information, and addressing the requirements of proposed N.J.A.C. 5:94-1 et seq. and N.J.A.C. 5:95-1 (new rules) for the 3rd Round.

4. Prepare a Policy Statement as required by N.J.S.A. 40:55D-28.d. of the MLUL, indicating the relationship of the proposed development of the municipality, as developed in the master plan to (1) the master plans of contiguous municipalities, (2) the master plan of the county in which the municipality is located, (3) the State Development and Redevelopment Plan adopted pursuant to the "State Planning Act," sections 1 through 12 of P.L. 1985, c.398 (C. 52:18A-196 et seq.) and (4) the district solid waste management plan required pursuant to the provisions of the "Solid Waste Management Act," P.L. 1970, c.39 (C. 13:1E-1 et seq.) of the county in which the municipality is located”.
5. The Planning Board should prepare a Recycling Plan Element as required by the Solid Waste Management Act”, P.L. 1970, c.39 (C. 13:1E-1 et seq.) and the Municipal Land Use Law at Section 28.b.(12).
6. Update the Circulation and Community Facilities Plan elements of the Master Plan.
7. With the completion of an Environmental Resource Inventory in 2004, the Planning Board should review the provisions of a Conservation Plan element of the Master Plan in accordance with the M.L.U.L., and consider preparing a Conservation Plan and an updated Land Use Plan taking into consideration the utility of the Environmental Resource Inventory.
8. The ERI also included an inventory of historic sites. The Planning Board should prepare and adopt a Historic Preservation Plan Element in accordance with the M.L.U.L. requirements found at Section 28.b.(10).
9. There have been a number of changes in regulations, State law, regional and State planning initiatives, and local assumptions forming the basis of the master plan and development regulations since adoption of the last Land Use Plan element that suggest the need for an updated Land Use Plan, including:
 - State Development and Redevelopment Plan Cross Acceptance III;
 - Hunterdon County Strategic Growth Management Plan;
 - Highlands Water Protection and Planning Act;
 - Transfer of Development Rights legislation;
 - Stormwater management rules and the requirement that each municipality develop its own stormwater management plan;
 - 3rd Round COAH rules publication and anticipated adoption in 2004;
 - Demographics/growth – increased pace of development within the Township and a shift of development opportunities within the region as a result of new State regulations which include (1) the designation of C-1 streams in Kingwood Township with required 300’ setbacks from these water courses, (2) new State stormwater management regulations, and (3) new COAH rules and methodology soon to be adopted. Because of these developments, the Planning Board should update the Land Use Plan element of the Master Plan.

In addition to changes in the State and County regulatory and planning environment, this report (2004 Reexamination Report) identifies numerous recommendations, some of which are carried forward from the 1998 Reexamination Report. As recommended in the 1998 Reexamination Report, this report recommends that the Planning Board update the Land Use Plan Element of the Master Plan. As a result of the significant regulatory and policy changes that have occurred at the regional, county and State levels, it is recommended that the Planning Board prepare an updated statement of goals and objectives, and other Master Plan elements to bring the Master Plan up-to-date with current conditions. In addition, this Reexamination Report recommends that the Master Plan be compiled and organized as a single bound document for ease of use and reference in the future.

10. With the adoption of the new stormwater rules the Planning Board is required to adopt a Stormwater Management Plan and to recommend a Stormwater Control Ordinance to the Township Committee
11. The Planning Board should reexamine identified wastewater management areas and potable water issues in the Township.

Land Development Ordinance

In the 2004 Periodic Reexamination Report, the Planning Board identified the following recommended changes and modifications to the Land Development Ordinance and actions to support the implementation of the Township's Master Plan. They are:

1. Based on the recommendations of the ERI the Township Committee should adopt a stream buffer ordinance.
2. The bulk standards for AR-2 zone are for 4-acre lots. Due to the large number of lots in this zone that have been developed under prior bulk standards, the Planning Board recommends that the Township Committee adopt grandfather provisions for these under sized lots. The grandfather provision should identify appropriate bulk standards for maximum building coverage, lot width, and depth and yard requirements. This will permit additions to and/or reconstruction of legally existing dwellings in accordance with appropriate bulk standards and at the same time minimize the need for Zoning Board of Adjustment relief for alterations to existing dwellings that were built in accordance with prior zoning standards.
3. The Planning Board recommends that the Township Committee 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 resulting from the introduction of new development, built to current standards, adjacent to existing development that is situated in close

proximity to existing roads. This will help bring uniformity to front yard setbacks and also serve to reduce the undesirable condition of the front yard of a new dwelling being located rearward of the rear of existing dwellings.

4. The Planning Board identified an issue associated with single family dwelling units resulting from minor subdivisions encountering problems with the siting of septic systems. Therefore the Board recommends that the Township Committee amend the Land Development Ordinance to require that the Board of Health certify suitability of the proposed location of septic systems at the time a proposed subdivision plan is submitted to the Planning Board.
5. Based on the recent Atlantic Highlands and Fair Haven Decisions (Reversal of Manalapan decision) the Planning Board recommends an investigation into whether the Land Development ordinance should be amended to provide a partial credit for constrained land, reduce development of critical resource areas and increase the required lot size to avoid such areas at the time of subdivision.
6. The Planning Board recommends that the Township committee adopt an amendment to the Land Development ordinance that requires all accessory structures to be setback rearward of the principal structure.
7. The Planning Board recommends that the Township Committee amend the sign provisions of the Land Development Ordinance for the following:
 - a. 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.
 - b. Establish sign requirements for non-agricultural activities
 - c. Establish a permit/review approval process for signs of non-residential uses in residential zones, and for placement of property identification signs.
 - d. Establish requirements for Farm market signs in terms of advertising non-farm agricultural uses.
 - e. Establish a limit on the number and size of signs permitted in conjunction with nonresidential development.
 - f. Establish permitted signage also needs to be established for the BP and the PO/R zones.
 - g. Adopt the Route 12/Barbertown Study sign design recommendations.
8. As a result of increases to ordinance amendments that increased minimum lot size and bulk requirements, a large number of preexisting developed lots in the Township have been made non-conforming. An ordinance amendment is needed to permit preexisting developed dwellings on undersized lots to be expanded, enlarged, extended, or added onto within bulk standards tailored to classes of lot sizes, or in accordance with the setbacks that applied immediately prior to the adoption of changes in lot area and bulk requirements. This will serve to reduce the need for setback variance relief for lawfully existing structures that previously conformed to setback requirements, but have been made nonconforming due to

changes in the ordinance. In addition, the amendment should permit the expansion of a non-conforming structure, provided that the expansion does not further extend the nonconforming condition, such as a non-conforming setback condition.

9. Changes in State environmental regulations such as increased wetland and state open waters transition area requirements for C-1 (Category 1 waters) have resulted in the need for increasing minimum lot size provisions in the Class III subdivision option in the ordinance. The Planning Board should reevaluate the required minimum lot size requirement for the interior lots (not fronting on an existing street) in a Class III subdivision and consider increasing the current minimum lot size requirement of four acres to a minimum lot size of six or seven acres. This recommendation is designed to encourage the design of minor subdivisions that will inherently account for and comply with new regulations, with which major subdivisions must comply.
10. There is a continuing concern regarding the groundwater yield of new wells and the potential effect a new well may have on neighboring wells serving existing residences in certain portions of the Township. Individual well groundwater yield data recently gathered suggests that certain areas of Township may have severely limited capacity for groundwater yield and may not be able to support development at currently permitted densities. The Planning Board should conduct investigations into this situation, including the collection of data to determine whether certain areas of the Township should be designated “Critical Groundwater Resource Areas”, where either permitted densities could be reduced, and/or within which well testing could be required to determine whether the well for a new home or other permitted use will produce sufficient yield and will not negatively impact the production of existing wells. The Planning Board and Township Committee should make this a high priority.
11. The Township has established a building permit application review procedure requiring an applicant to document the presence/absence of surface watercourses and wetlands within 300’ of proposed disturbance prior to the issuance of a building permit. In response to new State regulations requiring 300’ buffers to surface watercourses and wetlands, the subdivision/site plan checklist should be revised to require applicants to show all surface watercourses and wetlands within 300’ of a subject parcel because of this change.
12. In anticipation of COAH’s adoption of 3rd Round affordable housing methodology and municipal obligations, the Planning Board and Township Committee should jointly assess the feasibility of constructing age-restricted housing in Baptistown, either in connection with mixed-use nonresidential development or as single-use attached residential housing. The Planning Board and Township Committee should also assess the feasibility of permitting limited non-age restricted townhouse development (i.e. total of 10 two bedroom units) to provide an additional affordable housing resource, which will respond to local

demand for this type of housing that is not currently provided through the local housing market.

13. The Planning Board should prepare, and the Township Committee should adopt an ordinance amendment requiring that a standard condition be attached to all Planning Board and Zoning Board approvals, which requires an applicant to return to the approving regulatory Board to document that all conditions of approval have been fulfilled, prior to final approval in the case of major subdivisions, prior to the issuance of a certificate of occupancy in the case of minor subdivision, site plan and/or variance approvals. The ordinance amendment should provide the Board with the authority to determine on an individual basis whether a personal appearance or professional sign-off will satisfy this condition. In cases where zoning board variance relief has been granted, a procedure should be established to ensure that the Construction Code Official does not issue a construction permit until the zoning officer certifies that all conditions of a variance(s) have been satisfied.

14. The Planning Board recommends that the Township Committee reconsider the following recommendations from the 1998 Reexamination Report. They are:
 - a. Amend the HC District to include a sliding scale Floor Area Ratio (FAR) similar to that permitted in the Business Park District. Higher FAR's should be permitted for larger sites to encourage the retention of larger sites and minimize small piecemeal development of the zone. The amount of FAR permitted should be defined during ordinance development.
 - b. The Board of Adjustment has experienced many variance requests concerning the addition of decks to the side and rear of homes, which encroach into the minimum side and rear yards. This situation should be examined as to the possibility of amending the ordinance to increase required setbacks for principal buildings or to make some limited encroachment permissible for patios or decks into required side and rear yards, provided these encroachments are not enclosed and therefore part of the principal structure. Increased rear and side yard setbacks may also help reduce potential conflicts with adjacent agricultural parcels.
 - c. The design standards for development adopted in the Route 12/Barbertown Plan should be fully incorporated into the land development and/or subdivision ordinance. Unless otherwise modified by the Township Committee, there should be substantial consistency between the Master Plan and the Zoning Ordinance.
 - d. The required buffer area separating residential use from nonresidential use should be increased to 100 feet in the Business Park zone to be consistent with the required buffer in the Highway Commercial zone. The Business Park buffer is only 50 feet and, as an industrial zone, this district has the potential for generating greater development intensity and potential conflict with abutting residential uses. Such a change can be accommodated within the context of the larger lot sizes promoted in the district.

- e. The ordinance should be amended identifying the preferred location of on-site parking in the various nonresidential zones. The location of parking has a significant impact on the visual quality of sites and on strip commercial character. The location of parking may also impact adjacent land uses. For example, parking in the front yard in the PO/R zone is not recommended since a design objective of this zone is to maintain a residentially-scaled appearance and to permit nonresidential development compatible with residential development. A minimum setback distance for parking areas is needed to provide sufficient area to accommodate landscape planting that is currently required by ordinance. There is currently no required setback for parking areas related to the street right-of-way -or property lines.
- f. Due to the large size and depth of some lots fronting on Route 12 and the desire to keep commercial use located in the area adjacent to the highway, current zoning divides a few lots into a commercial zone along the road and a residential district in the rear. The ordinance should be amended to permit residential driveways and / or roads through commercially zoned parcels that are located along the highway frontage to access residentially zoned portions of these lots to the rear, which do not have alternate access. There are situations along Route 12 where this is the only access available.
- g. The submission requirements for subdivision and site plan applications should be reviewed and amended as may be determined necessary to ensure that adequate information is being provided and is being provided in a format conducive to review by the Board and Board consultants. For example, the need to identify additional environmental information such as the incidence and location of steep slopes should be evaluated. The Board has also noted that site plan and subdivision key maps need to be provided on plans submitted for review.
- h. The Board has identified the need to develop an escrow fee ordinance to allow for conceptual / informal review of site plans and subdivisions. Concept review should be strongly encouraged as this would result in better designed developments while reducing potential conflict between developers and the reviewing Board. The Board has also identified a need to review and revise the escrow fees charged for site plan review.

The 2004 Periodic Reexamination Report identified additional recommendations that are reproduced in the appendices in this report, some of which are duplicative of the recommendations listed above.

C. 40:55D-89b *“The extent to which such problems and objectives have been reduced or have increased subsequent to such date”.*

Since the adoption of the 2004 Periodic Reexamination Report, the United States has experienced a severe economic recession that began in the autumn of 2008. Between 2004 and 2008, New Jersey and Kingwood Township continued to experience land use

pressures associated with a robust housing market and a healthy economy. Following the onset of what has become known as the “Great Recession,” the housing market collapsed, the nation has witnessed widespread and persistently high unemployment, and land development has virtually ceased. Against that backdrop, the following discussion addresses the extent to which the problems and objectives related to land development at the time of the 2004 Periodic Reexamination have been reduced or increased subsequent to 2004.

Nonresidential Development:

The Township’s nonresidential zoning districts oriented primarily along Route 12 experienced modest growth up until 2008. At the easterly end of Route 12, a small clinical software development office complex was constructed along Route 12 in the BP Zone, as was approximately 89,000 sq. ft. of flex commercial / light assembly warehouse-style development. The flex space project is approximately two-thirds occupied. The 89,000 sq. ft. flex space project approval included an additional 34,000 of flex development, which has not been constructed due to a lack of market demand. That project included an additional storage component, which was also not constructed due to a regional oversupply of self-storage units.

At the westerly end of the Route 12 corridor, a nursery has been established, which includes composting operations that appear to have been conducted in violation of zoning, and an auto repair garage has been constructed. In addition, two commercial scale solar-photovoltaic electric generating facilities are under construction and are expected to be in service by the autumn of 2011. One of the solar facilities is located in the BP Zone and the other is located in the VC-2 Zone. Recently enacted State legislation combined with State and federal economic subsidies to construct commercial solar facilities have created a “boom” in this type of development in 2010 and 2011.

Since 2004, the Route 12 corridor and Kingwood Township’s existing nonresidential zoning districts witnessed only a very modest amount of new employment generating nonresidential development, despite the economically robust years of 2004 through 2008. The Township’s existing nonresidential zoning has permissive and generous development standards that have remained in place for approximately 20 years. During that time, zoning has not attracted the variety of nonresidential uses permitted in local zoning. As was the case in 2004, there was no appreciable improvement toward addressing the imbalance in residential vs. nonresidential land use in the community, no meaningful employment generation, little improvement in the local availability of goods and services and little in the way of a tax ratable offset for residential taxpayers.

Growth Management and Natural Resource Protection:

Between 2004 and 2008, Kingwood Township experienced residential growth at approximately the same rate of growth as the years 1995 through 2004. Based upon residential subdivision approvals in place, the pace of residential growth and loss of farmland would have continued as it had since 1995, were it not for the collapse in

housing demand. In 2006, the Township Committee enacted zoning amendments, which increased the minimum lot area requirement from 4-acres to 7-acres for major subdivisions, established mandatory clustering or lot-size averaging with a 50% open space set aside on parcels of land greater than 40-acres in area, and implemented a Maximum Tract Yield ordinance requiring natural resource calculations. The Maximum Tract Yield natural resource calculations component of the ordinance calibrates overall residential unit yield to the amount of unconstrained land available on a tract of land. Despite these zoning changes aimed at controlling growth and retaining agricultural land in conjunction with residential development, the Planning Board continued to receive and approve applications for residential subdivisions. However, two farms approved for major subdivision development have become applications for commercial solar facilities. One application is in process and the second application has not yet been submitted.

The Township's objective of controlling growth, protecting natural resources and retaining farmland was aided with the enactment of residential subdivision zoning ordinance amendments. These include the mandatory cluster/lot size averaging provisions with 50% open space set aside, and the natural resource calculations to determine residential unit development yield. The natural resource calculations require the applicant to quantify "Constrained areas" including bodies of water, floodplains, wetlands, NJDEP-required wetlands transition areas, areas deemed by NJDEP to be unavailable for development due to the presence of special water resource protection areas for C-1 waters, required stream buffer conservation areas, land under water and areas of slopes 25% or greater. In the natural resources calculation, one-half of the area of a tract occupied by these features is added to the area of a tract that is free of constraints. The net acreage is then divided by the minimum lot size to determine the maximum number of residential lots that may be created (Maximum Tract Yield Calculation).

A new threat to the loss of farmland and open space in the Township has emerged, which was unforeseen in 2004. This is the emergence of the commercial scale solar photovoltaic electric generating facility, which surfaced in 2010 in the form of applications for development on farmland. The Township's inventory of relatively flat farmland is attractive to the commercial scale solar photovoltaic electric generating community. In 2010, the Township adopted an ordinance adding the development of these facilities as a conditional use in the Township. Subsequent to adoption of the ordinance, a number of applications for commercial scale solar photovoltaic electric generating facilities came forth. In recognizing that a proliferation of development of farmland for this use threatens the Township's objective of retaining and preserving farmland as an important goal and objective in the Master Plan, the Township Committee amended the ordinance implementing restrictions on the amount of land on a tract that may be utilized for this use. The emergence of this use to the degree witnessed in Kingwood Township directly conflicts with the Township's objective to protect and retain farmland. This use is a more imminent threat to protection of the Township's farmland base than the concern in 2004, which focused on the need to develop strategies to retain farmland under threat of residential development.

Working with partners including the State of New Jersey, Hunterdon County, the Hunterdon Land Trust Alliance (HLTA), the New Jersey Conservation Foundation (NJCF) and others, Kingwood Township achieved significant progress toward the objective of preserving farmland and open space preservation since 2004. The Township's May 2011 Open Space and Recreation Plan (OSRP) identifies 289-acres of municipal parkland; 392-acres of land under conservation easements held by the State, HLTA and/or NJCF; and 1,012-acres of land owned by the State. A recent acquisition totaling 240-acres of municipal parkland was completed in June 2011, which was purchased by the Township, Green Acres and grants procured through NJCF and HLTA. Most of the inventory of preserved land Kingwood Township occurred since 2004. Land preservation is documented in the OSRP.

Affordable Housing:

The Kingwood Township Committee has remained active in implementing the Township's Fair Share Plan since its adoption. As a result of an October 2010 Appellate Division decision on a challenge to COAH's 3rd Round methodology for calculating municipal affordable housing obligations, and appeals of that decision now pending before the Supreme Court, statewide municipal 3rd Round affordable housing obligations may soon change. In addition, Governor Christie recently signed a reorganization plan, which abolishes COAH and reorganizes the Council's functions in the NJ Department of Community of Affairs.

The Township's petition for substantive certification was not acted on by COAH prior to the October 2010 Appellate Division decision. As a result of that decision, COAH ceased to grant municipal substantive certifications because the Court invalidated COAH's 3rd Round growth share methodology embodied in N.J.A.C. 5:97-1 et seq. and ordered COAH to recalculate 3rd Round affordable housing obligations applying the prior round methodology. At the time of this report, it cannot be ascertained whether the Township's 3rd Round affordable housing obligation will increase or be reduced because the Supreme Court will determine whether the Appellate Division order will stand; whether the growth share methodology will be reinstated; or whether the Court will determine that another methodology for determining municipal affordable housing obligations is appropriate.

Master Plan

The 2004 Reexamination Report recommended a number of updates to the comprehensive Master Plan based on changes in population and population densities, local and State regulations and planning initiatives and the need to conduct a thorough review of MLUL requirements. There were five priority recommendations.

Housing Plan Element and Fair Share Plan.

The Planning Board adopted a revised Housing Element and Fair Share Plan on December 9, 2008 as part of the Master Plan and COAH's revised rules.

Conservation Plan Element

With the completion of an Environmental Resource Inventory (ERI) in 2004 the 2004 Reexamination Report recommended the preparation of a Conservation Plan Element.

Utilizing funding provided through a smart Growth Grant from the Association of New Jersey Environmental Commissions (ANJEC), the Planning Board adopted a Conservation Plan Element on October 14, 2008. The Environmental Commission also received a grant from ANJEC to update the 2004 ERI, which was completed in 2009.

Farmland Preservation Plan Element

Because of significant regulatory changes adopted by the State Agriculture Development Committee (SADC) on the requirements for and content of Farmland Preservation Plan Elements (FPP), the Planning Board was required to comprehensively update the Township's FPP to maintain eligibility to receive planning incentive grant funding from the SADC. On December 8, 2009 the planning Board adopted a Farmland Preservation Plan Element consistent with updated SADC regulations.

Open Space and Recreation Plan

One of the priority recommendations of the 1998 Reexamination Report was to develop an Open Space and Recreation Plan to identify existing and potential active and passive recreation sites, needed recreation facilities and potential open space/greenway connections in coordination with information being developed by the Environmental Commission. The Planning Board developed an Open Space and Recreation Plan (OSRP), which was adopted on August 14, 2000 as an element of the Master Plan.

Using a 2009 ANJEC grant, the Planning Board adopted an Updated Open Space and Recreation Plan in May 2011.

Land Development Ordinance

The 2004 Periodic Reexamination Report made numerous recommendations for the Township Committee to amend the Land Development Ordinance.

1. Incentives for larger lot / land preservation zoning;

The Township adopted ordinance amendments requiring mandatory clustering and lot –averaging in the Township's AR-2 Zone, which provided included mandatory open space set asides to retain agriculture and preserve open space in connection with residential subdivisions .

2. Maximum Tract Yield Calculation

The Planning Board considered techniques for increasing minimum required lot size in light of the Supreme Court Fair Haven and Atlantic Highlands decisions, which nullified the Manalapan decision relating to the calculation of density based upon environmental resource constraints. Ordinance requirements for environmental constraints calculations in conjunction with residential subdivision yield have been adopted.

Associated with this provision are a number of requirements and definitions that were either added or modified such as, buildable area, buildable envelope, constrained lands, minimum lot circle and qualifying plan.

3. Growth Share and Development Fees

As recommended in the Housing Plan, the Township Committee adopted an ordinance authorizing the collection of development fees in accordance with COAH's regulations. These funds are collected by the municipality, deposited in the Township's Affordable Housing Trust Fund, and are dedicated address the Township's low- and moderate-income housing obligation. Changes in State law have temporarily suspended the collection of development fees in connection with nonresidential development. The suspension in fee collection for nonresidential development was an effort by State legislators to incentivize investment in nonresidential development, which all but ceased statewide since the onset of the Great Recession. S-2947, passed by both Houses of the Legislature on June 27, 2011 calls for an extension of the suspension of collection of the statewide nonresidential development fee and will maintains the moratorium on the collection of such fees if signed into law by the Governor.

4. Well Records and Pumping Test

A 1995 groundwater study conducted for the Planning Board put forth a number of recommendations on well records and pumping tests. As a result, the Township adopted a well ordinance requiring the submission of a hydrogeological report and well pump testing for the construction of all wells.

5. Steep Slope

The Planning Board determined that existing steep slope ordinance does not adequately protect and conserve sensitive environmental areas consisting of steep slopes and that steep slope protections need to be extended to all lots, not merely limited to newly subdivided lots. In addition, the Township adopted a State model steep slope ordinance promulgated in conjunction with NJDEP wastewater management planning rule requirements. Ordinance No 16-04-2011 establishes controls that prevent development on areas of 20% slope or greater and limits development of areas with a slope gradient of between 15% and more to less than 20% to 15% of these areas.

6. Conservation Easements

This requirement was added to the subdivision ordinance by the Township Committee, which establishes a mechanism to create conservation easements and/or deed notice and conservation area delineations with respect to environmentally sensitive land areas as a part of the land development approval process. The Planning Board developed and the Township Committee adopted an ordinance standard for conservation easement markers when conservation easements are required.

7. Junkyards

The Township Committee revised and reenacted ordinance provisions for the licensing and regulation of junkyards, as well as to amend portions of the Township Code relating to inoperable vehicles and the definition in the zoning ordinance of “automobile body repair shop.”

8. Floodplain District

Amendments to federal and state regulations were adopted regarding the standards which must be contained in a municipal ordinance in order to qualify property owners for flood insurance under the National Flood Insurance Program. The Township Committee being desirous that such insurance continue to be available in this Township adopted the required ordinance.

9. Definitions and Checklists

In response to Planning Board recommendations, the Township amended the Zoning Ordinance by adding and amending certain ordinance definitions and the subdivision, site plan and conditional use checklists relating to definitional changes. Amendments included changes to the schedule of lot and building requirements.

10. Storage Containers

The Township Committee adopted an ordinance amendment regulating the use and placement of storage containers in response to the emergence of cargo containers used by various businesses. The ordinance regulates the temporary deployment of storage containers on residential properties for temporary storage during renovation projects; and storage container use for packing in advance of, or unpacking subsequent to, moving to a new residence. This ordinance was adopted in response to current practical applications of temporary storage containers and the businesses that support such uses.

11. Solar photovoltaic energy facilities and structures

The Planning Board determined that there exists the need to regulate the use and placement of alternative energy facilities and structures in light of the current national and regional trend toward the development of renewable energy generating systems and that existing zoning regulations do not address this emerging trend as it may impact the use of valuable natural resources and farmland in Kingwood Township

Also, the Planning Board recognized recent legislation enacted in the State of New Jersey declaring certain alternative and renewable energy generating systems inherently beneficial uses to the citizens of the State. This prompted the Planning Board to recognize the need to balance the development of these uses with State and local land use goals and objectives to protect the natural resources of Kingwood Township and allow for the development of alternative solar photovoltaic energy facilities and structures in an orderly way. The Planning Board developed and the Township Committee adopted an ordinance regulating solar photovoltaic electric generating facilities in 2010 (Ordinance #16-16-2010).

Based upon the number of applications for this type of development that began to emerge in the Township in the beginning of 2011, the Planning Board and Township Committee developed amended regulations for these uses to attempt to minimize the loss of land resulting from the development of these facilities on farmland. The Township Committee adopted the amended regulations in Ordinance #16-13-2011. This ordinance was subsequently challenged by an applicant, and the challenge was ultimately settled, however, it became apparent that additional ordinance amendments should be considered to avoid additional costly litigation in the future. The need to again amend the standards pertaining to these uses has been recognized.

The Planning Board developed, and the Township Committee will soon consider adoption of an ordinance amendment regulating the development of wind energy facilities.

12. Establishment and Protection of Riparian Zones.

The Township Committee adopted Ordinance No. 16-05-2011, which establishes and protects Riparian Zones along all surface water courses in the Township. The ordinance establishes a 300' wide riparian zone along both sides of any Category One (C1) surface waterway in the Township and all upstream tributaries of designated C1 waters. The ordinance also establishes a 150' riparian zone along both sides of any non C1 surface water, including (1) any trout production water and all upstream waters (including tributaries); (2) any trout maintenance water and all upstream waters (including tributaries) within one linear mile as measured along the length of the regulated water; (3) any segment of water flowing through an area that contains documented habitat for a threatened or endangered species of plant or animal, which is critically dependent on the surface water body for

survival and all upstream waters (including tributaries) within one linear mile as measured along the length of the regulated water; and (4) any segment of a water flowing through an area that contains acid producing soils. This ordinance is a model ordinance promulgated in conjunction with NJDEP wastewater management planning rule requirements.

C. 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.”

Demographics

Kingwood Township’ population in 2000 was 3,782 with 3,415 persons residing in family households. There were a total of 1,345 households reported in the 2000 Census with 537 households including children less than 18 years of age. In 2000, individuals living in the same house over 5 years numbered 2,723 persons, which comprised 72% of the Township’s population. 90% (957) of new residents located to Kingwood from within Hunterdon County. Of the 2,004 persons comprising the Township’s workforce, 61% worked in Hunterdon County. Median Income was \$71,551 in 2000, an increase of 43% from 1990.

The US Census Bureau estimates that the Township’s population in 2003 was 3,982. This reflects an increase of 5.3% in three years. The Hunterdon County Planning Board has prepared population projections as part of its Smart Growth Management Plan. The County’s April 2004 projection for Kingwood Township’s population for is 4,893 for the year 2020, which is a projected increase of 29% for the 20-year period 2000 to 2020.

As of October 2011, the 2010 Census has been conducted but detailed data for Kingwood Township and many other municipalities in New Jersey has not been released. An initial release of data from the US Census Bureau has been made available through the Hunterdon County Planning Board. This initial release identifies a total population of 3,845 persons and a total of 1,446 households for Kingwood Township in the 2010 Census.

Cross-Acceptance III

On April 28, 2004, the State Planning Commission (SPC) released the Preliminary State Development and Redevelopment Plan (PSDRP) for the purpose of updating the State Development and Redevelopment Plan (SDRP). The Hunterdon County Planning Board has assumed the responsibility of coordinating the cross-acceptance process in

Hunterdon County for all of its municipalities and to act as the County's Negotiating Entity with the Office of Smart Growth and the State Planning Commission.

The Draft Final State Plan was released on January 10, 2010, and comments on the draft final Plan have been solicited. However, the Christie Administration has relocated the State Planning Commission from the Division of Community Affairs to the Secretary of State's Office within the New Jersey Business Action Center. More important, the Administration has created the State Strategic Planning Process which is a cabinet-level effort that will result in a set of recommendations that will transform the existing statewide framework for land use planning into one that prioritizes and supports sustainable economic growth. This project was initiated February 28, 2011 and is to be completed by June 29, 2011. This initiative seeks to direct and focus statewide interagency planning efforts toward opportunities for economic growth and development.

Hunterdon County Strategic Growth Management Plan

The Hunterdon County Strategic Growth Management Plan was completed in 2007. The County's Strategic Growth Management Plan was developed with the intent of securing endorsement from the State Planning Commission. The 2007 Plan replaced the County's 1986 Growth Management Plan. The Strategic Growth Management Plan was partially funded by the State, and addresses many of the requirements that the State Planning Commission requires for Plan Endorsement. The County has encouraged municipal participation to reach consistency with the County's Plan and the County's petition to the State for Plan Endorsement to extend Plan Endorsement status to the participating municipalities.

Plan Endorsement typically requires master plan and zoning ordinance amendments to vertically integrate plans at all levels (i.e. municipal, County and State) Despite the extensive planning and implementation efforts that the County Planning Board has undertaken over the past several years, it should be expected that municipalities that endorse the County Strategic Growth Management Plan will likely be required to undertake revisions to their local planning documents (master plan or land development ordinance) so that inconsistencies between local plans and any of the recommendations in the County's Plan may be reconciled. The likelihood for local plan and ordinance amendments also extends to any inconsistencies between the County's Plan and the SDRP, which may have to be reconciled.

Stormwater Management Rules and Category 1 Waters

Two sets of new stormwater rules were enacted on January 6, 2004 and were published in the February 2, 2004 issue of *the New Jersey Register*. Together the two sets of rules established a comprehensive framework for addressing water quality impacts associated with existing and future stormwater discharges.

The first 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 are intended to

address and reduce pollutants associated with existing stormwater runoff. The Rules establish a regulatory program for existing stormwater discharges as required under the Federal Clean Water Act. Under this program, permits must be secured by municipalities, certain public complexes such as universities and hospitals, and State, interstate and federal agencies that operate or maintain highways. The permit program establishes the Statewide Basic Requirements that must be implemented to reduce nonpoint source pollutant loads. The Statewide Basic Requirements include measures such as: the adoption of ordinances (litter control, pet waste, wildlife feeding, proper waste disposal, etc.); the development of a municipal stormwater management plan and implementing ordinance(s); requiring certain maintenance activities (such as street sweeping and catch basin cleaning); implementing solids and floatables control; locating discharge points and stenciling catch basins; and a public education component.

The second set of regulations is known as the Stormwater Management Rules (N.J.A.C. 7:8). These Rules set forth the required components of regional and municipal stormwater management plans, and establish the stormwater management design and performance standards for new (proposed) development. The design and performance standards for new development include groundwater recharge, runoff quantity controls, runoff quality controls and Category One buffers.

As a Tier B municipality, the Township was required to concentrate on new development and redevelopment projects and public education. The minimum requirements for the Township are to adopt a Stormwater Management (SWM) Plan, adopt and implement stormwater control ordinance, ensure compliance with Residential Site Improvement Standards for stormwater management, ensure adequate long-term operation and maintenance of Best Management Practices (BMP), new storm drain inlets must meet the design standards specified in an attachment of the permit, copy and distribute educational brochure provided by the Department annually to residents and businesses, and conduct a yearly educational “event” and label all municipal storm drain inlets that are next to sidewalks, or within plazas, parking areas or maintenance yards. Municipalities are also required to coordinate efforts with watershed groups and volunteer organizations.

In implementing the rules, the Planning Board was required to adopt a Stormwater Management Plan and to recommend a Stormwater Control Ordinance to the Township Committee. The Stormwater Management Plan describes the municipality’s stormwater program, including details on the implementation of required statewide basic requirements. The ordinance(s) will control stormwater from nonresidential development and redevelopment projects. The Board must use the Residential Site Improvement Standards (RSIS) for stormwater management for residential projects. The ordinance also must address control aspects of residential development and redevelopment projects that are not pre-empted by the Residential Site Improvement Standards; and special area standards approved by the Site Improvement Advisory Board for residential development or redevelopment projects under N.J.A.C. 5:21-3.5 or special area standards which could be redevelopment areas, special improvement districts, historic districts, designated centers and rural preservation areas, such as agriculture development areas (ADA).

Because Kingwood encompasses Category One (C-1) streams the rules emphasize the use of non-structural stormwater management techniques including minimizing disturbance, minimizing impervious surfaces, minimizing the use of stormwater pipes and preserving natural drainage features. The rules also set forth requirements for groundwater recharge, stormwater runoff quantity control, stormwater runoff quality control and a buffer adjacent to Category One waters and their immediate tributaries. The Category 1 waters in Kingwood include the entire length of the Warford Creek, Lockatong Creek including Muddy River, Little Nishisakawick Creek, Nishisakawick Creek and Wickecheoke Creek

Council on Affordable Housing

COAH adopted new rules for a 3rd round of affordable housing, which became effective on December 20, 2004. Key features in the rule package were:

- The rehabilitation share (substandard units the municipality is responsible for rehabilitating);
- The remaining new construction obligation or net prior round obligation, (the municipality's past obligation from rounds one and two);
- Growth share or prospective need, which is a portion of municipally determined growth (One affordable unit for each eight (8) new homes or 25 jobs); and
- The initially adopted 3rd Round Methodology was for the period 1999 to 2014.

Kingwood petitioned for substantive certification to address its Round One and Two obligations, which amounted to a 19-unit obligation, and its 3rd Round growth share obligation.

The Legislature amended the Fair Housing Act in 2001 which required affordable housing obligations to be addressed on a ten-year cycle so that municipalities and COAH could use up-to-date Census information (the decennial Census results). In response to the new rules promulgated by COAH on December 20, 2004, Kingwood prepared an amended Housing Plan Element and Fair Share Plan in accordance with those rules. Subsequent to the Township petitioning COAH for substantive certification, the Appellate Division invalidated the 3rd Round rules and ordered revised rule-making by the agency.

The Round One and Two COAH municipal affordable housing calculation methodologies relied upon complicated formulas that assigned a fair share number to municipalities. Under the revised growth share approach developed by COAH in response to the Appellate Division's ruling, the level of residential and non-residential growth in the municipality was estimated to derive the municipal affordable housing obligation for the 3rd Round.

Under the revised 3rd Round rules, Kingwood was assigned a rehabilitation obligation of eleven (11); a prior round recalculated obligation of 19 (1986-1999) and a calculated growth share of 65. The Planning Board adopted a Housing Plan Housing Element and

Fair Share on December 9, 2008 and petitioned COAH for substantive certification with the Township Committee's endorsement of the revised 3rd Round Fair Share Plan.

During COAH's review of the Township's planning documents demonstrating the compliance with the 3rd Round Plan, the Appellate Division issued a second decision on October 8, 2010 again invalidating COAH's 3rd Round growth share regulations and ordering COAH to recalculate municipal affordable housing obligations statewide. The Court ordered COAH to complete the recalculation of municipal 3rd Round affordable housing obligations by March 8, 2011. The recalculation of 3rd Round municipal fair share obligations is being held in abeyance, along with revised rule-making, pending the outcome of an appeal of the Appellate Division's decision to the NJ Supreme Court. No timeframe for a Supreme Court decision in the matter is known at the present time.

Wastewater Management

In July 2008 DEP adopted amendments to the Water Quality Management Rules. The revised rules assigned primary wastewater management authority to each of the 21 counties. Hunterdon County has assumed the responsibility as the lead planning agency and has coordinated wastewater planning for Hunterdon municipalities, including Kingwood. Working with the NJDEP, the County has created draft sewer service maps which were released prior to a public information meeting on March 9, 2011. Comments were accepted by the County through April 8, 2011.

Because of Kingwood's natural resource base, proposed sewer service areas are limited to four locations as outlined on the attached map. However, recent local planning efforts have been identified by the Township, which will create an "Eastern Gateway Village Center Overlay" to be located on lands occupying the intersection of Route 12 and Barbertown-Point Breeze Road. This type and intensity of development suggest that additional proposed sewer service areas should be requested by the Township through the County's Wastewater Management Planning process.

Energy Conservation

In November of 2009, the Legislature adopted and the Governor signed P.L. 2009, c 146, into law, which included certain definitions as amendments to the Municipal Land Use Law (P.L.1975, c.291.) that relate to the regulation of solar facilities and structures. These include the following two definitions:

"Inherently beneficial use" means a use which is universally considered of value to the community because it fundamentally serves the public good and promotes the general welfare. Such a use includes, but is not limited to, a hospital, school, child care center, group home, or a wind, solar or photovoltaic energy facility or structure.

"Wind, solar or photovoltaic energy facility or structure" means a facility or structure for the purpose of supplying electrical energy produced from wind,

solar, or photovoltaic technologies, whether such facility or structure is a principal use, a part of the principal use, or an accessory use or structure.

In C. 4, L 2010, adopted on April 22, 2010, the M.L.U.L. was again amended (NJSA 40:55D-38.1) to provide that solar panels may not be included in any calculation of impervious surface or impervious coverage, for purposes of planning board approval of a subdivision or site plan. . The language of concern in this law is as follows (underlined emphasis added):

“Solar panels not included in certain calculations relative to approval of subdivisions, site plans.

9. An ordinance requiring approval by the planning board of either subdivisions or site plans, or both, shall not include solar panels in any calculation of impervious surface or impervious cover.

As used in this section, “solar panel” means an elevated panel or plate, or a canopy or array thereof, that captures and converts solar radiation to produce power, and includes flat plate, focusing solar collectors, or photovoltaic solar cells and excludes the base or foundation of the panel, plate, canopy, or array.”

10. Section 3 of P.L.1981, c.32 (C.40:55D-95) is amended to read as follows:

Section 95 of the M.L.U.L. “Storm water management plan, ordinance; requirements.

3. A storm water management plan and a storm water management ordinance or ordinances shall conform to all relevant federal and State statutes, rules and regulations concerning storm water management or flood control and shall be designed: a. to reduce flood damage, including damage to life and property; b. to minimize storm water runoff from any new land development where such runoff will increase flood damage; c. to reduce soil erosion from any development or construction project; d. to assure the adequacy of existing and proposed culverts and bridges; e. to induce water recharge into the ground where practical; f. to prevent, to the greatest extent feasible, an increase in nonpoint pollution; g. to maintain the integrity of stream channels for their biological functions, as well as for drainage; and h. to minimize public safety hazards at any storm water detention facilities constructed as part of a subdivision or pursuant to a site plan. A storm water management plan shall also include such structural changes and such additional nonstructural measures and practices as may be necessary to manage storm water. A storm water management plan and a storm water management ordinance or ordinances shall not be construed to prohibit solar panels to be constructed and installed on a site. Solar panels shall not be included in any calculation of impervious surface or impervious cover.

For purposes of this act:

“Solar panel” means an elevated panel or plate, or a canopy or array thereof, that captures and converts solar radiation to produce power, and includes flat plate, focusing solar collectors, or photovoltaic solar cells and excludes the base or foundation of the panel, plate, canopy, or array.”

C. 35, L 2009, adopted March 31, 2009 (Section 66.11 of the M.L.U.L), provides that:

“1. 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. For the purposes of this section: “renewable energy facility” means a facility that engages in the production of electric energy from solar technologies, photovoltaic technologies, or wind energy.

S2006 was adopted by the Senate on June 28, 2010. An identical bill, A3125, was reported out of the Assembly 2/3/2011. This bill prohibits a municipality from adopting a zoning ordinance regulating the installation on residential property of photovoltaic solar energy systems when 1) for a roof-mounted system the panels and equipment extend 12 inches or less beyond the roofline or the highest point of the roof structure or 2) for a ground-mounted system, the system consists of 10 or less panels and is situated more than 50 feet from the nearest property boundary line.

This legislation also provides that if a municipality adopts an ordinance regulating solar systems that do not meet the above standards, nothing shall preclude the applicant from seeking a variance.

The legislation states that fees charged by municipalities are limited to processing costs for an application. (This includes “small wind energy systems”)

In summary, adopted legislation provides that:

1. 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 situations 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.

2. Solar panels may not be included in any calculation of impervious surface or impervious coverage.
3. An ordinance shall not include solar panels in any calculation of impervious surface or impervious cover.
4. 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.

Smart Growth & Conservation Local Planning Initiatives

In 2010, Kingwood Township began developing smart growth, mixed use, scenic corridor protection overlay zoning ordinances that are aimed at (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 situate 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. These ordinances were introduced on April 7, 2011. The titles and purpose statements of these ordinances are provided below.

(1) Ordinance No. 16 – 14 - 2011 - An Ordinance Of The Township Of Kingwood, County Of Hunterdon, State Of New Jersey To Amend And Supplement The Land Use Regulations Of The Township Of Kingwood, Specifically "Zoning, Chapter 132" Of The General Ordinances Of The Township Establishing The Route 12 Scenic Corridor Overlay (SCO) Zone And Route 12 Scenic Corridor Overlay Zone Regulations.

A. Purpose. The purpose of the Scenic Corridor Overlay Zone is to revise the zoning to be more in conformance with the development opportunities that realistically exist in the subject area , to preserve the rural character and rare scenic beauty in and along the subject zone and to promote design compatibility for the development, redevelopment, and changes in land use along the Route 12 corridor in Kingwood Township by employing design standards intended to preserve existing viewsheds, especially the open vistas in the section of the Corridor west of Baptistown, and to avoid the perpetuation of strip highway commercial sprawl development along the corridor. The planning objective of this Ordinance is to replace a zone plan that currently allows linear highway commercial development as close to the Highway as possible and which has not resulted in significant development of the zone within the last thirty (30) years or more with a zone plan that allows the zone to provide realistic opportunities for development while preserving the corridor's existing scenic beauty and rural character.

B. The Scenic Corridor Overlay Zone is intended for properties that front the Route 12 corridor as shown on the Township's zoning map. Any lot or parcel of

land located at least partially within the overlay zone shall follow the requirements of this section for that portion of the lot or parcel.

(2) Ordinance No. 16 – 15 - 2011 - An Ordinance Of The Township Of Kingwood, County Of Hunterdon, State Of New Jersey To Amend And Supplement The Land Use Regulations Of The Township Of Kingwood, Specifically “Zoning, Chapter 132” Of The General Ordinances Of The Township Establishing Eastern Gateway Village Center Overlay (EGVCO) Zone And Regulations.

Purpose. The purpose of the Eastern Gateway Village Center Overlay District 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.

These proposed ordinance amendments were developed in recognition of several factors that have prompted the Township Committee to develop a new strategic approach to expanding and diversifying the Township’s nonresidential development options, which would be tailored to include residential development opportunities.

1. Existing zoning within and adjacent to the Route 12 corridor has failed to attract high quality, employment generating nonresidential uses to aid with the objective of nonresidential ratable generation. Zoning has remained essentially unchanged for a period of time in excess of twenty years, and does not appear to be likely to attract the desired diversification in the Township’s tax ratable base.
2. Lifestyle choices in the 21st Century for live / work communities that are developed at relatively high densities have become an emerging trend in the nation as ‘smart growth.’ By establishing zoning to accommodate these lifestyle choices, the goal of providing a variety of housing and employment choices can be addressed within Kingwood Township. Substantial numbers of people in the generations following baby boomers are increasingly choosing to live and work in such arrangements as those that would be permitted in the proposed Eastern Gateway Village Center Overlay District.
3. It is recognized that Route 12 possesses unique scenic qualities and characteristics that define the essential character of the Township. Rural, open landscapes along Route 12 can be protected, which will reinforce community character, while at the same time concentrated new community development will consume less of Kingwood Township’s rural lands. In addition, it is recognized that existing zoning will ultimately over time result in a strip highway development pattern that will erode and transform community character in a way that will forever alter rural and scenic aspects of the community, the protection of which are highly important to Kingwood Township’s residents.
4. Affordable housing strategies can be accommodated by coordinating the provision of affordable housing within the new community development option

that has been developed. The Township's existing fair share plan identifies an area within the proposed Eastern Gateway Village Center Overlay District for affordable housing development to be annexed to flex nonresidential development. The proposed Eastern Gateway Village Center Overlay District is a vision that better integrates affordable housing within a diverse market-rate residential community. The proposed housing choices within the proposed Overlay District will offer Kingwood Township residents of all ages with a wider variety of housing choice than is currently available within the Township.

5. The proposed Overlay District provides a range of employment, business, and commercial service development options that appear to better reflect emerging lifestyle living choices of the 21st Century. The existing reliance in zoning on individual freestanding large-scale light industrial, manufacturing, office and assembly uses is not expected to come to fruition in the near term or over the long term (i.e. 20-30 years). Until such time as new or expanded centralized wastewater collection facilities become available within the proposed Overlay District, future permitted development will remain somewhat limited due to the reliance on individual on-site septic systems. This reliance on on-site septic systems will serve as a limiting factor supporting this future development view.

Green and Renewable Energy Planning

In response to recently enacted legislation at the State level pertaining to green and renewable energy production in New Jersey, the Planning Board and the Township Committee undertook an extensive planning effort to respond to the potential for these types of energy facilities to be developed in Kingwood Township. This included an evaluation of the designation of "wind, solar or photovoltaic energy facility or structure"(s) as "inherently beneficial" uses in the Municipal Land Use Law, and a flurry of statutory changes directed at encouraging the development of these types of alternative energy facilities through the State of New Jersey.

After investigating the potential ramifications of these statutory changes, 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 conditional use standards in the ordinance 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. The ordinance established vigorous visual buffering requirements toward these objectives.

Kingwood Township's relatively flat terrain and open farm fields, combined with electric lines capable of transmitting electricity generated into the electric grid has resulted in a substantial level of interest by the solar electric generating industry in the development of "major solar or photovoltaic energy facilities and structures" in Kingwood Township. Indeed, a larger number of applicants than anticipated to develop these facilities in the

Township has emerged, which in the opinion of the Township Committee and Planning Board could result in the proliferation of these land uses in agricultural and residential areas of the Township.

After reconsideration, it was determined by the Township Committee and the Planning Board that additional standards were desirable to regulate the percentage of lot or development area that may be occupied by these facilities and structures. It was further determined that standards were needed to limit and regulate these structures and the extent of the use of land in consideration of other municipal land use objectives – specifically the retention of open land, agricultural land and lands unconstrained by a variety of factors, including:

- Areas of existing road and transmission rights-of-way and proposed new roads within the tract,
- Areas of easements or rights-of-way required for widening of existing roads abutting the tract boundaries;
- Areas of all existing easements and restrictive covenants;
- Natural resource limitation areas including flood plains, wetlands, NJDEP-required wetlands transition areas, areas deemed by NJDEP to be unavailable for development due to the presence of Special Water Resource Protection Areas for C-1 waters, streams, required stream buffer conservation areas, land under water and areas of slopes 20% or greater

An ordinance amending the conditional use provisions related to major solar or photovoltaic energy facilities and structures was adopted by the Township Committee on April 25, 2011.

The concept of employing a regulatory technique similar to existing development standards in the Township's ordinances that require the retention of open land in conjunction with development was found to be desirable. On that basis, the Township Committee adopted amended ordinance standards limiting the percentage of a tract that may be occupied by major solar or photovoltaic facilities and structures to fifty percent (50%) of a tract, with the additional limitation that a minimum 50% "open lands" set aside be required in conjunction with the development of these facilities, and further that the open lands required should include at least thirty percent (30%) of the unconstrained tract area. This open lands regulatory technique established in the ordinance amendment, as authorized in Section 65b. of the M.L.U.L., was further supplemented by a provision that would allow the provision of the open lands on an off site tract, at the Planning Board's discretion with the consent of the Township Committee. The open lands regulation addressed two concerns (1) that the extent of a tract occupied by the facility and its structures would not exceed limits for development that already exist in the Township's ordinance; and (2) that the loss of valuable natural resource open lands would be moderated to a degree appropriate to the zoning district(s) in which the Township Committee established the major solar or photovoltaic facility and structures conditional use, and in districts in which State law does not mandate their development.

The open lands standard in the ordinance amendment reads as follows:

- (a) On all tracts of land 40 acres or greater in size, or a tract or tracts of land of any size adjacent to land which has been deed restricted for farmland or open space preservation, or a tract identified as or adjacent to greenway or open space lands in the Kingwood Township Master Plan, Open Space Plan or Farmland Preservation Plan, no major solar or photovoltaic energy facility shall occupy more than 50% of the gross tract area, provided that the remaining 50% of gross tract area shall be dedicated as open lands, which shall contain a minimum of 30% of the unconstrained tract area.
- (b) Farm structures and not more than one residential farm dwelling supporting continuing farm operations on the open lands portion of the site shall be permitted, provided however that areas occupied by farm buildings, the residential farm dwelling, and appurtenant residential areas shall not be counted toward the open lands requirement set forth in §132-102.P.(1)a. above.
- (c) At the sole discretion of the reviewing Board and with the consent of the Township Committee, the open lands requirement set forth in §132-102.P.(1)a. above may be provided off site on one or more tracts of land, provided however that there shall be not less than 110% of the open lands requirement provided (including 110% of the gross tract area and 110% of the unconstrained tract area) on the off site tract or tracts of land.

Thus, clear regulations are established identifying the percentage of lot or development area that may be occupied by the major solar or photovoltaic energy facilities and structures as well as a clear standard identifying the percentage of open lands required in connection with the development of such structures on land. In addition, the regulations limit and restrict the placement of buildings according to the nature and extent of the use of land, for trade or industry, as well as open lands, in a manner that is appropriate to the zoning district in which the open lands regulations apply. A provision is established that permits the reasonable additional land use of a residential farm dwelling in connection with the retention of open lands required. Finally, the off-site provision in the ordinance amendment is permissive, that is, it is not a mandatory requirement. Therefore and should an applicant for the development of major solar or photovoltaic energy facilities and structures choose not to avail itself of the optional off site open lands provision, the clear standards established as to the extent of the percentage of land permitted to be developed as well as the percentage of open lands required on the development tract may be relied upon by the applicant.

During the course of the public hearing on this ordinance amendment, it was opined by a concerned party that the option of providing open lands off site may only be permitted in connection with “Planned Development” or “Planned Industrial Development” as defined at Section 6 of the M.L.U.L. As an option to the existing provision that permits the

provision of open lands off site, the Township Committee could amend the ordinance to establish another class of these uses, defined as a “limited planned industrial development option,” within which the off site provision of open lands may be identified.

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.

After review of the Master Plan, land development ordinances, and a series of background papers on a series of planning issues in preparation of the 2011 Periodic Reexamination Report, the Planning Board has identified the following recommendations.

Master Plan

1. The Planning Board should organize one set of goals and objectives for each Master Plan element and incorporate them into a master list of goals and objectives statement for the Master Plan.
2. The Planning Board should prepare a Land Use Plan Element that evaluates and addresses the updated land use planning policies, goals and objectives that are discussed in this periodic reexamination report into a single updated document.
3. Prepare a Policy Statement as required by N.J.S.A. 40:55D-28d of the M.L.U.L., indicating the relationship of the proposed development of the municipality, as developed in the master plan to (1) the master plans of contiguous municipalities, (2) the master plan of the county in which the municipality is located, (3) the State Development and Redevelopment Plan adopted pursuant to the "State Planning Act," sections 1 through 12 of P.L. 1985, c.398 (C. 52:18A-196 et seq.) and (4) the district solid waste management plan required pursuant to the provisions of the "Solid Waste Management Act," P.L. 1970, c.39 (C. 13:1E-1 et seq.) of the county in which the municipality is located”.
4. The Planning Board should prepare a Recycling Plan Element as required by the Solid Waste Management Act”, P.L. 1970, c.39 (C. 13:1E-1 et seq.).
5. Update the Circulation and Community Facilities Plan elements of the Master Plan. In addition, a Utility Services Plan Element is needed to assess wastewater treatment capacities for centralized sewer facilities in connection with the proposed Eastern Gateway Village Center Overlay District.
6. The ERI also included an inventory of historic sites. The Planning Board should prepare and adopt a Historic Preservation Plan Element in accordance with the M.L.U.L. requirements.
7. There have been a number of changes in regulations, State law, regional and State planning initiatives, and local assumptions forming the basis of the master plan and

development regulations since adoption of the last Land Use Plan element that suggest the need for an updated Land Use Plan, including:

- a. State Development and Redevelopment Plan Cross Acceptance III;
- b. Hunterdon County Strategic Growth Management Plan;
- c. Transfer of Development Rights legislation;
- d. Stormwater management rules and the requirement that each municipality develop its own stormwater management plan;
- e. Enactment of the Highlands Water Protection and Planning Act in June of 2004 and the Highlands Regional Master Plan, which together dramatically reduce opportunities for growth within the Highlands Region, which lies just to the north of Kingwood Township. The Highlands Region was the fastest growing region in the New Jersey at the time that the Act became law. The anticipated impact on Kingwood Township in the future is that growth and development pressures will emerge locally that will need to be managed in a planned and coordinated fashion. The proposed Route 12 Scenic Corridor Overlay Zone and Eastern Gateway Village Center Overlay Zone are two planning such planning responses that should be adopted and incorporated into an updated Land Use Plan Element of the Master Plan.
- f. Demographics/growth – increased pace of development within the Township and a shift of development opportunities within the region as a result of new State regulations which include (1) the designation of C-1 streams in Kingwood Township with required 300’ setbacks from these water courses, (2) State stormwater management regulations, (3) new COAH rules and methodology soon to be adopted and the results of the 2010 Census. Because of these developments, the Planning Board should update the Land Use Plan element of the Master Plan.

In addition to changes in the State and County regulatory and planning environment, this report identifies numerous recommendations, some of which are carried forward from the 2004 Reexamination Report. As recommended in the 2004 Reexamination Report, this report recommends that the Planning Board update the Land Use Plan element of the Master Plan. As a result of the significant regulatory and policy changes that have occurred at the regional, county and State levels, it is recommended that the Planning Board prepare an updated statement of goals and objectives, and other Master Plan elements to bring the Master Plan up-to-date with current conditions. In addition, this Reexamination Report recommends that the Master Plan be compiled and organized as a single bound document for ease of use and reference in the future.

Land Development Ordinance

The Planning Board has identified the following recommended changes and modifications to the Land Development Ordinance and actions to support the implementation of the Township's Master Plan. They are:

1. As has been noted the Township has adopted an ordinance providing regulations to site and develop Solar Facilities in the Township. The Planning Board in concert with the Township Committee should again reevaluate the existing regulations in the context of the discussion addressing the statutory requirements of Section 89c. above. The Planning Board has determined that it is desirable to regulate major solar and photovoltaic energy generating facilities as a conditional use in various zones in the Township in order to avoid a proliferation of applications for use variances before the Board of Adjustment. The Planning Board endorses and supports the goals sought to be achieved in the ordinances previously adopted. Because of a legal challenge to Ordinance 16-13-2011, the Planning Board supports the readoption of the ordinances permitting major solar and photovoltaic energy generating facilities as a conditional use in residential zones, subject to appropriate conditions, including limitations designed to balance the conversion of agricultural lands into such solar facilities. This recommendation includes consideration of adopting a "limited planned industrial development option" for major solar or photovoltaic energy facilities and structures, such that the open lands requirement may be addressed off site in accordance with the provisions of Section 65c. of the M.L.U.L., which may better reflect the land use policies of the Township and goal of retaining open lands and protecting the Township's natural resources as identified in ERI.

As an alternative to the limited planned industrial development option mentioned above, the Planning Board in concert with the Township Committee should evaluate whether the extent of permitted development may be better regulated through the use of an impervious coverage standard that has the effect of limiting the extent of a tract that may be occupied by solar photovoltaic electric generating facilities as provided for in State statute. Because of the nature of the use, the impingement of the use upon the Township's farmland retention and rural character objectives, and the impact of introducing an industrial use into residential zones, a sufficiently low impervious coverage standard should be developed to limit the extent of development permitted on a tract of land as provided for at N.J.S.A. 40:55D-65.b. In addition, and in accordance with N.J.S.A. 40:55D-61.a., the Township may establish different impervious coverage standards for different classes or kind of uses and structures, which would not be inconsistent with the second paragraph of Section 61.a. where it is stated that ". . . The regulations in the zoning ordinance shall be uniform throughout each district for each class or kind of buildings or other structures or uses of land, . . ." The authorization in the law, combined

with the unique nature of the use and the need to balance opportunities for renewable energy development with other important local objectives such as farmland retention, protection of rural character and community character, establishes the basis for identifying a very low impervious coverage standard for the solar photovoltaic electric generating facility, especially within the Township's residential zones.

2. The Township Committee desires to establish a mixed use smart growth land development option at a location 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 area identified for this mixed use development overlay is situated generally along Route 12 in the vicinity of the intersection of Barbertown-Point Breeze Road and Pittstown Road (County Route 615), which has been found to be the most advantageous location in Kingwood Township for smart growth, mixed use high-density development opportunities. This location possesses (1) proximity to Flemington and regional development located to the east of Kingwood Township, (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. The Planning Board, as part of this Master Plan Re-Examination Report endorses and supports revision of the existing development regulations to include an ordinance that establishes the Eastern Gateway Village Center Overlay (EGVCO) Zone and appropriate development regulations to promote and govern the development of that mixed use area. . The proposed ordinance is provided in the Appendices to this report, which provides specific detail for the uses, standards, arrangements of development permitted. A rezoning map may also be found in the Appendices to this report.
3. The Township Committee's desire to preserve and enhance the undeveloped rural lands situated along the Route 12 Corridor in such a manner that will maintain and reinforce the Township's rural character and existing scenic views and vistas within and along the Route 12 Corridor should be implemented. Ordinance 16-14-2011 addresses this objective, while at the same time providing for reasonable land use opportunities for lands situated within the Route 12 Corridor. It is recommended that the ordinance be adopted to establish the Route 12 Scenic Corridor Overlay (SCO) zone and Route 12 Scenic Corridor Overlay zone regulations. . The proposed ordinance is provided in the Appendices to this report, which provides specific detail for the uses,

standards, arrangements of development permitted. A rezoning map may also be found in the Appendices to this report.

4. Based on the recommendations of the ERI the Township Committee should adopt a stream corridor buffer ordinance.
5. The Planning Board recommends that the Township Committee 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 resulting from the introduction of new development, built to current standards, adjacent to existing development that is situated in close proximity to existing roads. This will help bring uniformity to front yard setbacks and also serve to reduce the undesirable condition of the front yard of a new dwelling being located rearward of the rear of existing dwellings.
6. The Planning Board identified an issue associated with single-family dwelling units resulting from minor subdivisions encountering problems with the siting of septic systems. Therefore the Board recommends that the Township Committee amend the Land Development Ordinance to require 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.
7. The Planning Board recommends that the Township committee adopt an amendment to the Land Development ordinance that requires all 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.
8. The Planning Board recommends that the Township Committee amend the sign provisions of the Land Development Ordinance for the following:
 - 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 agricultural 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.
7. As a result of increases to ordinance amendments that increased minimum lot size and bulk requirements, a large number of preexisting developed lots in the Township have been made non-conforming. An ordinance amendment is needed to permit preexisting developed dwellings on undersized lots to be expanded, enlarged, extended, or added onto within bulk standards tailored to classes of lot sizes, or in accordance with the setbacks that applied immediately prior to the adoption of changes in lot area and bulk requirements. This will serve to reduce the need for setback variance relief for lawfully existing structures that previously conformed to setback requirements, but have been made nonconforming due to changes in the ordinance. In addition, the amendment should permit the expansion of a non-conforming structure, provided that the expansion does not further extend the nonconforming condition, such as a non-conforming setback condition.
8. The Planning Board should prepare, and the Township Committee should adopt an ordinance amendment requiring that a standard condition be attached to all Planning Board and Zoning Board approvals, which requires an applicant to return to the approving regulatory Board to document that all conditions of approval have been fulfilled, prior to final approval in the case of major subdivisions, prior to the issuance of a certificate of occupancy in the case of minor subdivision, site plan and/or variance approvals. The ordinance amendment should provide the Board with the authority to determine on an individual basis whether a personal appearance or professional sign-off will satisfy this condition. In cases where zoning board variance relief has been granted, a procedure should be established to ensure that the Construction Code Official does not issue a construction permit until the zoning officer certifies that all conditions of a variance(s) have been satisfied.
9. The Planning Board recommends that the Township Committee reconsider the recommendations from Section 89d. of the 2004 Reexamination Report.

40:55D-89d. The recommendations of the Planning Board concerning the incorporation of redevelopment plans adopted pursuant to the "Local Redevelopment and Housing Law," P.L. 1992, c. 79 (C.40A:12A-1 et al.) into the land use plan element of the municipal master plan, and recommended changes, if any in the local development regulations necessary to effectuate the redevelopment plans of the municipality.

The Planning Board has developed no recommendations for the Township to consider for designation of redevelopment plans pursuant to the Local Redevelopment and Housing Law.

Appendices

1. The 2004 Periodic Reexamination report identified the following recommendations to the Township Committee. These recommendations specifically address amendments to the Township's Land Development and Zoning Code.
 - 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 requiring new personal wireless telecommunication providers to utilize existing towers as well as identifying appropriate Township sites, which may 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 structures as well as the method of measuring building height.
 - h. Amend the ordinance to require that principal uses be constructed prior to accessory uses.
 - 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. Reduce 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 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.)