The Meeting was called to order at 7:30 p.m. by President Fitzpatrick. The Salute to the Flag was recited, followed by an Invocation given by Councilman Scollans. The Open Public Meetings Act Statement was read by Township Clerk Donna Costello. ROLL CALL: KUSER, GABEL, GOLINSKI, LYDEN, SCOLLANS, FITZPATRICK ABSENT: SMITH

ALSO IN ATTENDANCE: ADMINISTRATOR WARD, TOWNSHIP ATTORNEY JANSEN AND TOWNSHIP PLANNER KASLER

President Fitzpatrick advised that Mayor Andes will try to make it to the meeting but it is unlikely that he will be here. He explained that the Mayor’s mother underwent surgery today and he is with her this evening.

LIAISON REPORTS:
Councilman Gabel reported that the search for a new Superintendent of Schools for the Denville schools continues. He added that a new architect and a new attorney have been hired by the School Board. Mr. Gabel noted that the schools are ready to open for the new year, with just a few small items to be completed for the first year of full-day Kindergarten.

Mr. Gabel advised that, earlier this year, the Community Development Committee applied for grant money to install a generator and do some improvements in our community center. He noted that the Centennial Picnic, planned by the Events and Celebrations Committee, is coming up on September 22nd from noon to 5 p.m. at Gardner Field. Mr. Gabel said that work on the centennial yearbook is progressing. Councilman Kuser reported that the Recreation Committee canceled its August meeting and the September meeting will be held tomorrow night.

Councilwoman Lyden advised that teen volunteers are needed at the Library. She said that anyone wishing to volunteer may call Mary Ellen at the Library. Mrs. Lyden noted that an adult I-Pad user group will meet tomorrow at 7:00 p.m. and there will be a meeting of the Adult Book Club on Wednesday, September 18th at 7:00 p.m. Councilman Golinski had no report.

Councilman Scollans reported that he attended the Men’s Senior Group meeting and he thanked Mr. Ward for his attention to all of the issues voiced by this group.

Mr. Scollans noted that the Rockaway River meeting will take place on September 11th at the Municipal Building.

Mr. Scollans advised that the next Senior Social will be held in September and the dates of all of these events will be posted in the Neighbor News. Councilman Scollans said that the Green Sustainability Committee will be meeting on the 4th Thursday of September. He noted that he was able to get the re-certification deadline changed from this year to June of 2014. Mr. Scollans advised that he will be meeting with Mark London to discuss what needs to be done to achieve re-certification. Mr. Scollans reported that the Historical Society will be meeting on the second
Wednesday in September.
President Fitzpatrick advised that next week, September 10th, at the workshop meeting there will be a presentation by the Green Sustainability Committee of some of their plans. He said that they will provide the Council with an update and present some of the ideas that they are working on. Mr. Fitzpatrick said that, of course, if there is any change to that schedule he will notify the Council.
President Fitzpatrick noted that, although the big river clean-up has been completed, there are small groups, under the guidance of George Strother, who are periodically doing smaller clean-ups. He said that anyone who is interested, at any time, in volunteering may call Administration or himself.
President Fitzpatrick added a few comments on the Centennial Picnic; the picnic is free so anyone can come and bring their food or buy food that will be for sale. He said that there will be entertainment and activities for the children, an old time baseball game, the opening of the previous time capsule and a town-wide group photo.

ADMINISTRATOR’S REPORT:
Administrator Ward reported that the annual Senior Citizens Picnic was held at Gardner Field last Thursday. He said that it was well attended, a beautiful day and was enjoyed by all.
Mr. Ward advised that the Township has closed on ten of the eleven FEMA buyout houses and the closing for the eleventh house will be this Friday. He said that five of the first houses that were acquired have been demolished. Mr. Ward added the contractor received the permits for the demolition of the next five houses and plans to have those demolitions completed by the end of September.
Administrator Ward reported that the road paving went very well this year. He said that it culminated in the repaving of Franklin Road, which was funded by a DOT grant. Mr. Ward advised that funds had been set aside for the paving of Lakewood, Cherokee and Sioux but the gas company has advised the Township that they plan to upgrade the gas main service some time in the coming months. He explained that the money will be reserved until the gas company completes its work and the roads have settled. Mr. Ward said that the affected roads will be paved later this year or, more likely, next spring.
Administrator Ward reported that, due to some unforeseen delays, the contractor anticipates the completion of the Valley View Firehouse in mid to late October 2013.

President Fitzpatrick stated that he will open the Public Portion but reminded everyone that there will be a separate Public Hearing for the Estling Lake ordinance.

OPEN PUBLIC PORTION:
Gerry Idec, 1 E. Longview Trl., asked if the dog park will be worked on at the same time as the ball fields.
Administrator Ward explained that the schedule is being worked out but, at some point,
the dog park will be relocated to avoid any interruption of dog park service. He said that it will be moved to Cook’s Pond. Mr. Ward added that the goal is to finish the new dog park before the bidding on the new fields. Mr. Idec asked for a time of completion. Mr. Ward replied that they do not have a date because it has not even gone out to bid yet but a rough estimate would be mid-summer of 2014 for everything to be completed. Mr. Idec asked if the dog park will be out of service while the fields are being built. Mr. Ward replied that there may be a brief closing, perhaps a week or two, but there will be an alternative location if the park has to be closed. Mr. Idec asked if lights will be installed at the dog park. Mr. Ward replied that it is undecided at this point.

CLOSE PUBLIC PORTION.

CORRESPONDENCE: All copied to Council.

MATTERS OF OLD AND/OR NEW BUSINESS: None.

President Fitzpatrick read the following statement concerning ordinance #17-13: “THE PUBLIC HEARING ON ORDINANCE #17-13 WAS OPENED AT THE 8-13-13 MUNICIPAL COUNCIL MEETING. THE PUBLIC HEARING WAS CONTINUED TO THE SEPTEMBER 3, 2013 MEETING.”

Attorney John Jansen advised that he had received a call from Mr. Mike DeAngelis of the Estling Lake Property Owners who advised that there is some confusion regarding this ordinance. Attorney Jansen explained that the ordinance is directed at Block 30601, Lot 6, also known at 30 Estling Lake Road. He said that it is an industrial zoned piece of property that formerly housed a box factory that went by the name of Dorwood Industries, also known as Elm Manufacturing. Attorney Jansen added that the ordinance does not, in any way, concern the zoning around Estling Lake or the seasonal homes that are located there.

Administrator Ward read a statement from Mayor Andes into the record. A copy of that statement is attached to these minutes.

President Fitzpatrick, before opening the Public Hearing, asked that each member of the public limit their comments to three minutes in order for everyone to be heard.

CONTINUE PUBLIC HEARING ON ORDINANCE #17-13:

During the Public Hearing, the following residents expressed concerns and raised issues regarding Ordinance #17-13:
Scott Welch  59 Thurmont Rd.  Gerry Idec  1 E. Longview Trl.
Barry Mushala  35 Thurmont Rd.  Margaret Whitlock  35 Estling Lk. Rd.
The preponderance of negative comments concerned issues such as: a second access road, improvements to Thurmont Rd. and the streets off Thurmont Rd, traffic at the foot of Thurmont Rd. for drop-off and pick-up at the train, crossing closures due to train breakdowns, parking at the development, contamination clean-up, taxes, number of bedrooms in each new unit, number of children in the new apartments and the safety of children who have to cross the tracks to board the school bus. It was suggested that an industrial use be solicited for the site such as, a storage facility or Fed Ex facility. All concerns were addressed and explained by President Fitzpatrick, Administrator Ward, Planner Kasler and Attorney Jansen. It was explained that contamination issues are the purview of the N J Dept. of Environmental Protection and that the site is on the DEP’s list of “Known Contaminated Sites”.

One resident, who advised that he lives directly across from the site in question, stated that he feels that the current situation is not only unsightly, but dangerous to him and his family. He noted that a residential facility would be much preferred to the current conditions.

CLOSE PUBLIC HEARING ON ORDINANCE #17-13

President Fitzpatrick opened the floor to the Council for questions and/or comments. Councilman Scollans stated that the property does need to be re-developed, but in a way that is good for Denville and for the surrounding community. Mr. Scollans listed the following issues that he has with the project:

1. A turn-around is needed and it is unsatisfactory to him that it has not been provided for.
2. The Rehabilitation Ordinance can supersede the Master Plan and he does not feel that any ordinance should bypass either the Planning Board or Board of Adjustment.
3. Great effort has been made to find a solution for an additional access road but, as the ordinance is right now, he cannot support it.

Councilman Golinski thanked everyone for coming out this evening. He spoke about the great effort that the Township has made to solve various problems and noted how frustrating it is that the problem of traffic and illegal parking at the train station has not been successfully addressed. Mr. Golinski asked Administration to request that the
police renew their efforts to solve this ongoing problem. Mr. Golinski commented that whatever goes on on that site, it has a legal right to generate traffic. With regard to a single point of access, Mr. Golinski said that he lives on such a street and bought his house knowing that condition existed. He noted that there are many other places in town with one point of access, although they may not have railroad tracks to cross. Mr. Golinski commented that he feels that working with this developer is our best shot at getting another access road. Concerning the contamination issue, Mr. Golinski stated that, again, he feels taking advantage of the developer’s obligation to clean the site to residential standards is a benefit to the Township. Councilman Golinski noted that he knows of some people who would like to give up their house and live in an apartment. He said that they want to live in Denville, but there are no apartments available. Mr. Golinski stated that he feels that this project fulfills a need in Denville. He also noted the change in demographics whereby people want to get off the crowded roadways and commute by train. Mr. Golinski said that he feels there are many benefits to the proposed project.

Councilwoman Lyden noted that she sees a lot of benefits to the proposed project as well. She said that this developer has a proven track record and has been doing this a long time. Mrs. Lyden commented that his projects in other towns are beautiful and well maintained. She said that she understands the traffic issue but, after doing some research, she believes that it will be basically commuter transit residents who will walk to the train station. Mrs. Lyden advised that she has spoken to the Mayor about an access road and she feels that they have done their due diligence and will proceed with whatever can be done to address that issue. Mrs. Lyden stated that she understands all of the residents’ concerns but after all the information she has reviewed and all the research she has done, she believes that this will have a positive impact on Denville overall.

Councilman Kuser stated that he would like to go through the questions that he raised and the answers that he received.

1. Mr. Kuser asked about where Denville is with regard to our COAH obligation since some of these units will be affordable housing units. He said that he feels these affordable units will do well because of the nearby transit availability.

2. Mr. Kuser asked about the projected rents for these units. He noted that the rents are expected to be $2,100 per month for a one bedroom apartment, $2,350 per month for a two bedroom and $1,100 for an affordable housing unit. Mr. Kuser noted that there will be amenities within the complex such as a gym and community room. He said that this will be the kind of facility that will be well maintained so that there will be no concern about the owner paying his taxes.

3. Councilman Kuser questioned what kind of use could go onto this site. He said that it could be considered a prime location for an industrial use, in part due to its proximity to the railroad and major highways. Mr. Kuser cited several industrial uses that fit the current zoning of this site that could operate 24 hours a day and be much less desirable to the neighborhood than the proposed residential
4. Mr. Kuser stated that the number of children that will be residing in these apartments is estimated to be 6 to 7 children. He said that this is obviously an educated guess based upon similar, existing facilities owned by this developer.

5. Councilman Kuser noted that he, too, wanted a “kiss and ride” turnaround and feels that it is still on the table. He said that he thinks we should pressure N. J. Transit, especially if a facility like this is approved.

6. Mr. Kuser suggested that the new parking enforcement officer be assigned to the train station during commuting hours and issue summonses to violators.

Councilman Kuser addressed some of the suggestions that were brought up this evening for uses on this site. He noted that former Mayor Hussa suggested Trader Joe’s which is a retail use, not allowed in this zone, and would generate infinitely more congestion than a residential building. Mr. Kuser stated that he feels that this project is a responsible facility for this site.

Councilman Kuser addressed the issue of an access road and said that the issue is still being pursued. He noted that, after speaking to members of the Fire Dept., he discovered that in the past when the tracks were closed for repair the Fire Dept. parked a truck on the Estling Lake side of the tracks in order to be able to respond to an emergency during the time the crossing was closed. Mr. Ward added that the police also keep a car there and assist residents in getting to their homes.

Councilman Kuser stated that it is a tough decision but he has faith in the builder and the project and feels it will bring value to the town. He said that he supports the ordinance.

Councilman Gabel stated that he has listened to the plans as they have been presented as well as the concerns expressed by the residents. He said that what it comes down to, for him, is that he must put himself into their community. Mr. Gabel noted that he has to take the facts that have been presented, which are not necessarily 100% answers to the issues that we are attempting to address, and make his decision on those facts. Councilman Gabel posed the question, “Would I want to live in a community with an abandoned factory that I have to look at every day, that has contamination and graffiti?” He said that his answer to that question would have to be no. Mr. Gabel noted that there is a real chance to provide sewers to a good number of homes in the area. The issue of the number of school children cannot factually be determined, but the school enrollment is in a decline. Mr. Gabel assured everyone that all permits and standards that any builder would be required to have will be required for this project.

Mr. Gabel advised that Administration has been, and will remain, vigilant with regard to finding a way to solve the problem of an additional access road. He said that he will support this ordinance because he feels that it will be a benefit to Denville.

President Fitzpatrick stated that, in his opinion, this abandoned property is completely unacceptable. He said that, looking at other options, this one is the most benign and the most beneficial to the Township. Mr. Fitzpatrick noted that everyone is committed
Township Council  
9-3-13  
Page 7

to finding a solution for the access road issue and this opportunity gets us closer than anything else does. President Fitzpatrick noted that he has made every effort tonight to let everyone be heard, this is not an easy decision and the Council, Mayor and Administrator have worked diligently to research every aspect of this ordinance. He said that he feels that this is the right thing to do and he has to follow what’s in his gut.

Mayor Andes arrived at 8:55 p.m.

Mayor Andes apologized for being late and said that he appreciated having his comments read into the record. The Mayor noted that, when he took office, he had no thought of doing anything with this area, as far as seeing an apartment complex built. He said that it surfaced and every developer of virgin land that came to him with plans for 300 or 400, or more, apartments was given a big no. Mayor Andes commented that this is not about virgin property, it is about doing the best that we can to fix a bad situation. The Mayor said that if we do nothing, it will deteriorate further. He noted that he has made a commitment to try and find a way to build an emergency access road. Mayor Andes commented that this is the best avenue for it. He advised that the PILOT program gives us some money and the developer’s contribution gives us some money. The Mayor commented that the developer will be bringing some big equipment in there and we are going to try to work with him and try to get as much of an emergency access road in there as we possibly can. Mayor Andes said that in his statement he noted that if there was an easy solution it would have been done already. He commented that twenty-two mayors have sat where he is sitting and have done nothing on this. The Mayor added that they may have tried but it was never completed and that, frankly, he doesn’t know if he will succeed but he will try. Mayor Andes explained that there are two plans being considered right now. He said that asking the Council to pass a bond ordinance for $1 million is not an easy thing, asking them to pass a bond ordinance for $500,000 is a little easier. The Mayor stated that he thinks this is the best scenario for this parcel of land. He said that he believes it is the right thing to do and only time will tell. The Mayor asked Planner Kasler to respond to the statement that Estling Lake Road is merely a traveled way like Mary Avenue. Mr. Kasler advised that the developer will have to improve Estling Lake Road to residential site improvement standards and it will become not only a traveled way, but a road. He gave the residential site improvement standards definition of a street. Mr. Kasler noted that the developer has indicated the willingness to upgrade Estling Lake Road to meet the residential site improvement standards. Attorney Jansen interjected that, with Mary Avenue, it was a question of whether the road had ever been dedicated to and accepted by the Township. He said there it was clear that some of the property owners took the position that there had been no
dedication of the road across their property. Mr. Jansen continued that here, the road had been dedicated to the Township and, although there may not have been a formal acceptance, certainly by plowing and maintaining the road and all of the other things the town has done, it has accepted it and, therefore, the road is both dedicated and accepted.

Before moving on to Ordinances for Adoption, Attorney Jansen said that he would like to address a couple of issues that were raised. Attorney Jansen said that, with respect to notice, there may be some confusion as to what kind of notice was required. He explained that one letter that was received indicated that no notice was provided for the introduction of the ordinance. Mr. Jansen noted that no notice is required prior to the introduction of an ordinance. He explained that the process is that an ordinance is introduced and is published in the newspaper, and where there is a statutory requirement that the residents receive individualized notices of the public hearing, it is provided by certified and regular mail. Mr. Jansen advised that the hearing was held last month and the hearing was continued to this meeting. He added that no further notice was required for the continuation of the hearing.

It was noted that several courtesy notices were sent out for workshop meetings as well. Attorney Jansen also clarified that the Planning Board was considering whether or not this property was in need of rehabilitation and no individualized notice was required for that either. He emphasized that all required notices have been sent. Attorney Jansen commented, with regard to the objection to the Council bypassing the Board of Adjustment and Planning Board, as previously indicated, this project will have to go to the Planning Board for site plan approval. He added that there is a strong legislative policy favoring land use planning by ordinance rather than by variance, so the granting of a “D” variance will always be the exception rather than the rule. Attorney Jansen advised that, several years ago the N. J. Supreme Court revisited the issue and made it clear that municipalities should make zoning decisions by ordinance rather than variance. He added that the mandate is always to avoid variances to the greatest extent and proceed by ordinance.

Attorney Jansen explained that the resolution he is about to read into the record (a copy is attached to these minutes) is intended to do two things. One, this re-zoning is inconsistent with the Land Us element of the Master Plan because the Land Use element of the Master Plan calls for the property to be zoned industrial. He said that governing bodies are allowed to deviate from the Master Plan, provided they state their reasons on the record and the ordinance must be adopted by a majority of the full membership of the governing body. Attorney Jansen noted that the other thing that this resolution will do is address the concerns that the Planning Board raised when the ordinance came to the Planning Board for its review between introduction and final adoption.
ORDINANCE(S) FOR ADOPTION:

#17-13 AN ORDINANCE OF THE TOWNSHIP OF DENVILLE, COUNTY OF MORRIS AND STATE OF NEW JERSEY TO AMEND CHAPTER 19, LAND USE TO IMPLEMENT THE ESTLING LAKE REHABILITATION PLAN

Attorney Jansen then read the resolution described in the preceding paragraph into the record. The resolution ended with the following statement:

For all of the foregoing reasons, BE IT RESOLVED, by the Municipal Council of the Township of Denville that an ordinance entitled, “AN ORDINANCE OF THE TOWNSHIP OF DENVILLE, COUNTY OF MORRIS AND STATE OF NEW JERSEY TO AMEND CHAPTER 19 LAND USE, TO IMPLEMENT THE ESTLING LAKE REHABILITATION PLAN” be passed on final reading and that a notice of the final passage be published in the 9-11-13 issue of the Citizen.

MOTION TO ADOPT: MOVED BY MEMBER GOLINSKI, SECONDED BY MEMBER GABEL

AYES: GOLINSKI, GABEL, KUSER, LYDEN, FITZPATRICK

NAY: SCOLLANS

ABSENT: SMITH

Attorney Jansen noted that the ordinance passed by a vote of 5 to 1.

President Fitzpatrick asked if anyone from the public or the Council wished to have anything removed from the Consent Agenda. No one responded.

CONSENT AGENDA:

R-13-185 RESOLUTION AUTHORIZING THE REFUND OF MONEY DUE TO THE REDEMPTION OF A TAX SALE CERTIFICATE - $480.70

R-13-186 RESOLUTION REFUNDING THE PAYMENT OF TAXES OVERPAID FOR CALENDAR YEAR 2013 IN THE AMOUNT OF $1,845.73

R-13-187 RESOLUTION AUTHORIZING ACCEPTANCE OF FUNDS FOR CLICK IT OR TICKET 2013 HIGHWAY SAFETY GRANT IN THE AMOUNT OF $4,000.00

R-13-188 RESOLUTION AUTHORIZING REINSTATEMENT OF THE ORIGINAL SEWER ASSESSMENT INSTALLMENT PLAN FOR CERTAIN PROPERTIES IN THE TOWNSHIP OF DENVILLE

R-13-189 RESOLUTION AUTHORIZING RAFFLE LICENSES IN THE TOWNSHIP OF DENVILLE

MOTION TO APPROVE CONSENT AGENDA: MOVED BY MEMBER GOLINSKI, SECONDED BY MEMBER LYDEN

AYES: GOLINSKI, LYDEN, GABEL, KUSER, SCOLLANS, FITZPATRICK
NON-CONSENT RESOLUTIONS:

R-13-190  RESOLUTION REFUNDING THE PAYMENT OF OVERPAID TAXES FOR 2013 TOTALING $5,347.13
MOTION TO APPROVE R-13-190: MOVED BY MEMBER SCOLLANS, SECONDED BY MEMBER GOLINSKI
AYES: SCOLLANS, GOLINSKI, GABEL, KUSER, LYDEN, FITZPATRICK
ABSENT: SMITH

R-13-191  RESOLUTION AUTHORIZING SETTLEMENT OF CERTAIN TAX APPEALS
MOTION TO APPROVE R-13-191: MOVED BY MEMBER SCOLLANS, SECONDED BY MEMBER GOLINSKI
AYES: SCOLLANS, GOLINSKI, GABEL, KUSER, LYDEN, FITZPATRICK
ABSENT: SMITH

R-13-192  RESOLUTION AUTHORIZING THE REFUND OF MONEY DUE TO THE REDEMPTION OF A TAX SALE CERTIFICATE - $17,047.23
MOTION TO APPROVE R-13-192: MOVED BY MEMBER GABEL, SECONDED BY MEMBER LYDEN
AYES: GABEL, LYDEN, KUSER, GOLINSKI, SCOLLANS, FITZPATRICK
ABSENT: SMITH

R-13-193  RESOLUTION AUTHORIZING AN APPROPRIATION IN AN AMOUNT NOT TO EXCEED $50,000.00 FROM THE TOWNSHIP OF DENVILLE AFFORDABLE HOUSING TRUST FUND FOR UPGRADING AND REHABILITATION OF THE EMERGENCY LIGHTING SYSTEM AT COOK’S POND SENIOR HOUSING, 455 DIAMOND SPRING ROAD, DENVILLE, NJ
MOTION TO APPROVE R-13-193: MOVED BY MEMBER LYDEN, SECONDED BY MEMBER GOLINSKI
AYES: LYDEN, GOLINSKI, GABEL, KUSER, SCOLLANS, FITZPATRICK
ABSENT: SMITH

R-13-194  RESOLUTION AUTHORIZING APPLICATION FOR FUNDS FOR DRUNK DRIVING ENFORCEMENT PROGRAM GRANT PURSUANT TO N.J.S.A. 39:4-50.8/N.J.A.C. 13:86
MOTION TO APPROVE R-13-194: MOVED BY MEMBER SCOLLANS, SECONDED BY MEMBER LYDEN
AYES: SCOLLANS, LYDEN, GABEL, KUSER, GOLINSKI, FITZPATRICK
ABSENT: SMITH

MOTION TO APPROVE MINUTES OF 8-13-13: MOVED BY MEMBER SCOLLANS,
SECONDED BY MEMBER LYDEN
AYES: SCOLLANS, LYDEN, GABEL, FITZPATRICK
ABSTAIN: KUSER, GOLINSKI
ABSENT: SMITH

MOTION TO ADJOURN: MOVED BY MEMBER GOLINSKI, SECONDED BY MEMBER
LYDEN
AYES: UNANIMOUS
ABSENT: SMITH

MEETING ADJOURNED AT 10:57 P.M.

Respectfully submitted by,

Kathleen A. Costello
Deputy Township Clerk
RESOLUTION

WHEREAS, the Municipal Council of the Township of Denville has introduced Ordinance #17-13 entitled, "AN ORDINANCE OF THE TOWNSHIP OF DENVILLE, COUNTY OF MORRIS, AND STATE OF NEW JERSEY TO AMEND CHAPTER 19, LAND USE, TO IMPLEMENT THE ESTLING LAKE REHABILITATION PLAN"; and

WHEREAS, pursuant to N.J.S.A. 40:55D-26, the aforesaid ordinance was forwarded to the Planning Board for a report and recommendation; and

WHEREAS, the Planning Board considered the proposed ordinance amendment on July 24, 2013 and, after providing an opportunity for public input on this proposed rezoning and after receiving comments from the public, the Planning Board found that the Ordinance effectuates the goals and objectives of the Master Plan but requested that the Council consider several items, including sidewalk and pathway access, emergency access, alternative energy systems, parking setbacks and a prohibition on electric signs; and

WHEREAS, Ordinance #17-13 proposes to rezone Block 30601, Lot 6 from an industrial use classification to permit residential development in accordance with the Estling Lake Rehabilitation Plan and hence is inconsistent with the Land Use Plan Element of the Master Plan; and

WHEREAS, N.J.S.A. 40:55D-62 provides in pertinent part that, "the governing body may adopt a zoning ordinance or amendment or revision thereto which in whole or part is inconsistent with or not designed to effectuate the land use plan element and the housing plan element, but only by affirmative vote of a majority of the full authorized membership of the governing body, with the reasons of the governing body for so acting set forth in a resolution and recorded in its minutes when adopting such a zoning ordinance;" and
WHEREAS, the Municipal Council is convinced that Ordinance #17-13 furthers the purposes of the Municipal Land Use Law by:

a. promoting the public health, safety and general welfare;

b. providing adequate light, air, and open space;

c. preserving the environment;

d. preserving the character and quality of established neighborhoods;

e. promoting a desirable visual environment;

f. preventing the degradation of the environment through improper use of land;

g. adjusting land use planning efforts where necessary to address changing demographic characteristics and conditions;

h. preserving and protecting the suburban character of existing residential neighborhoods; and

WHEREAS, the Municipal Council wishes to spread upon the minutes of this meeting its reasons for proceeding with the adoption of this ordinance despite any inconsistencies with the land use plan element and/or any other elements of the Master Plan as well as the concerns raised by the Planning Board.

NOW, THEREFORE, BE IT RESOLVED by the Municipal Council of the Township of Denville in the County of Morris and State of New Jersey, as follows:

The governing body has determined to proceed with the adoption of Ordinance #17-13 for the following reasons:

1. Block 30601, Lot 6 is currently developed as an industrial use but the use has been abandoned and the buildings are deteriorated or substandard.

2. The continued use of this property for manufacturing conflicts with the surrounding residential uses to the south.
3. The Municipal Council has adopted Resolution R-13-154 declaring this property to be an area in need of rehabilitation. Both the Planning Board and the Commissioner of the Department of Community Affairs have concurred with that designation.

4. The proposed rezoning will allow for residential development which is compatible with the surrounding neighborhood.

5. The Land Use Element of the Master Plan encourages the adoption of standards to preserve the character and quality of established neighborhoods.

6. The Master Plan also recognizes that land use planning efforts must be adjusted where necessary to address changing demographic characteristics and conditions found within the municipality.

7. The Master Plan further states among its goals:

   a. To preserve and protect the suburban character of existing residential neighborhoods by:

      (1) Establishing zone designations according to existing neighborhood development patterns and according to the environmental limitations found within the respective residential uses;

      (2) Establishing bulk, density and design standards which are appropriate for the various dwelling types in their respective zones;

      (3) Establishing regulations to preserve and enhance the visual appearance of residential neighborhoods.

   b. Maintaining the Township’s supply of housing types in a well-maintained, safe and healthful condition for all residents including the supply of low and moderate income affordable housing resources for present and future citizens.

8. The redevelopment of this site for an industrial use would have a detrimental effect on the surrounding residential land uses. While single family development is possible on the subject site, the sites proximity to railroad transportation almost dictates a higher density residential land use be contemplated. The Master Plan provides as a goal:
Maintaining the Township's system of streets and roads to continue to provide for the safe and efficient movement of traffic and to discourage routes which adversely impact existing and future residential neighborhoods.

9. The redevelopment of this site will result in improvements for Estling Lake Road along the entire length of the subject property. This will result in improved access to properties on both sides of Estling Lake Road in the immediate area of the subject property and improved access to all property that has frontage along this right-of-way.

10. It is desirable to encourage the development of affordable housing units, particularly one-bedroom units which are not available in the Township.

11. Concerns about access, including sidewalks and pathways, signage, traffic, and alternative energy sources can be addressed during Planning Board review of any proposed development.

12. With regard to the Planning Board’s concern about alternative energy sources, the site is not conducive to micro windmills and the proposed development utilizes a mansard roof which is not conducive to solar energy systems.

13. The Planning Board’s concern about electric signs is addressed in the ordinance since, the ordinance being permissive, these signs are prohibited by omission.

14. The parking standards are in compliance with the Residential Site Improvement Standards.

15. With regard to a requirement for enhanced setback requirements for the rear yard and accessory structures, as it relates to detached garages, the ordinance provides the same setback for a detached garage as is required for a parking space.

16. Issues of access do not involve the site but are off-site issues which may be addressed during site plan review.
For all of the foregoing reasons, BE IT RESOLVED, by the Municipal Council of the Township of Denville that an ordinance entitled, "AN ORDINANCE OF THE TOWNSHIP OF DENVILLE, COUNTY OF MORRIS, AND STATE OF NEW JERSEY TO AMEND CHAPTER 19, LAND USE, TO IMPLEMENT THE ESTLING LAKE REHABILITATION PLAN" be passed on final reading and that a notice of the final passage be published in the issue of The Citizen.