The Meeting was called to order at 7:30 p.m. by President Fitzpatrick. The Salute to the Flag was recited, followed by the reading of the Open Public Meetings Act Statement by Clerk Donna Costello.

ROLL CALL: GABEL, GOLINSKI, KUSER, SCOLLANS, SMITH, FITZPATRICK.

ABSENT: LYDEN

Mrs. Costello noted that Councilwoman Lyden called to advise that she will not be here tonight.

ALSO IN ATTENDANCE: MAYOR ANDES, ADMINISTRATOR WARD, TOWNSHIP ENGINEER RUSCHKE AND TOWNSHIP PLANNER KASLER.

President Fitzpatrick advised that there is a change in the Agenda. He said that recognition of the Mayor’s Committee for People with Challenges is being rescheduled to the September 10th Council meeting.

OPEN PUBLIC PORTION:

Ted Einhorn of the law firm of Einhorn and Harris located in Denville. Mr. Einhorn, speaking as a citizen of Denville, congratulated all who are involved with the various celebrations of Denville’s Centennial. He said that they have been doing a wonderful job.

Mr. Einhorn then stated that he is here on behalf of the hotel on Morris Avenue to comment on the proposed hotel/motel ordinance that is on tonight’s Agenda.

Attorney Einhorn commented that there are two important areas that he feels that the Council should consider before this proposed ordinance is even discussed.

1. Traffic issues on Morris Avenue. Mr. Einhorn said that in 2006 there was an application for a use variance to erect a hotel right next to the existing hotel. He noted that the application was denied after two years based upon the expert testimony, from the applicant’s expert, that the Green Pond intersection with Morris Avenue is in a failure mode and is a less than ideal situation. Mr. Einhorn advised that this report was submitted in 2008 and contained further comments by the expert indicating that the conditions would worsen after the build out. He said that now, six years later, the conditions have surely deteriorated and there is talk of at least one more hotel being added to that. Attorney Einhorn quoted from the Board’s denial of the variance, indicating that the entire Morris Avenue area is problematic from a traffic standpoint. He suggested that, before the Council goes any further, a traffic study should be conducted.

2. Mr. Einhorn stated that, before taking any action on this proposed ordinance, the occupancy rate for hotels/motels in this area of Morris County should be investigated.

Attorney Einhorn advised that the Council seek more information on these two issues before taking any action. He said that it would be a wise step, in light of the fact that
the Township’s own Board of Adjustment denied the variance that was sought because of traffic issues.

President Fitzpatrick thanked Mr. Einhorn and said that he has brought up some very good questions. He noted that the Council is scheduled to workshop this ordinance this evening with our Planner. Mr. Fitzpatrick added that many of those questions have come up in subcommittee meetings.

CLOSE PUBLIC PORTION.

President Fitzpatrick turned the meeting over to the Mayor and Administrator for an overview of the Estling Lake Road Rehabilitation Project.

Mayor Andes noted that he has had many developers who wanted to build very large projects on virgin land in Denville and he turned them away. The Mayor said that Mr. Forgione came in about a year ago with a proposal that sparked his interest because it involved rehabilitating the old manufacturing facility adjacent to the railroad tracks on Estling Lake Road. He cited the lack of payment of taxes and the unsightly conditions that exist on the property currently.

Mayor Andes advised that it is a modest project of 100 units, which include 15 COAH units, and the developer would bring sewers into the neighborhood.

The Mayor stated that, after being discussed in a subcommittee, the Council is ready to hear from the Planner about a rehabilitation plan. He added that he has been e-mailing the neighbors in the area about any meetings that are held on this issue. Mayor Andes stated that he did e-mail the eight or nine neighbors and advise them of tonight’s meeting.

Planner Jason Kasler gave a power point presentation on the rehabilitation project. A copy is attached to these minutes.

Mr. Kasler explained that the process for the rehabilitation ordinance is that it would be introduced by the Council on first reading, as with any other ordinance, and it would then be sent to the Planning Board for a consistency review. He said that, when it comes back to the Council, there is a second reading, the Township would enter into a developer’s agreement and finally, it would be submitted to the Department of Community Affairs where all rehabilitation and redevelopment is taken care of.

President Fitzpatrick noted that, through the rehabilitation program, we have the opportunity to be very specific in what we will allow. He asked if the Township has ever done a rehabilitation area before.

Administrator Ward replied that, as far as he knows, we have not. He said that there may be other qualifying sites that would enable us to declare another site in need of rehabilitation or redevelopment in the future.

President Fitzpatrick noted the Councilwoman Smith, Councilman Gabel and himself met as a subcommittee on this issue. He opened the floor to the Council for questions. Councilman Scollans commented that, in previous discussions, a turnaround was mentioned. He said that he gathered, from Mr. Kasler’s presentation, that a turnaround
would not be necessary with this plan.
Mr. Kasler replied that there was originally a discussion of a "kiss and ride" with the Department of Transportation regarding the train station to the east. He said that his understanding is that that whole area is wetlands and is not a viable option. Mr. Kasler noted that if there is no guard or gate at the guardhouse, vehicles would be able to come in and turn around.
Mr. Scollans asked if this project has a positive or negative effect on the ability of vehicles to turn around, instead of having to back all the way out of the road.
Mr. Kasler replied that drop-off at the train station has been an on-going problem, which would have been abated by the "kiss and ride" next to it; he said that he does not know if this site can accommodate that as well.
Councilman Golinski thanked Mr. Kasler for his thorough report. He asked about the taxes in arrears for 2012. Mr. Golinski said that the figure is much lower than previous years and he asked if they were partially paid. Mr. Kasler replied that he acquired this number from the Tax Assessor and his guess is that the Township has received payment for part of the taxes owed. Councilman Golinski cited a Daily Record article regarding the change in demographics and in housing that gives the resident the luxury of walking to the downtown area or to a train station. He said that this may be just the right time for Denville to jump on that bandwagon. Mr. Golinski noted that having people in apartments would be a lot better than having an empty box factory.
Mr. Golinski asked if this would be spot zoning and how would it could be used here if spot zoning is prohibited. Mr. Kasler replied that, the short answer is that this would be "legalized spot zoning" because it is a rehabilitation.
Councilwoman Smith asked for an explanation of taxes owed and how the Township would be paid during the building of this project.
Mr. Kasler replied that, in a rehabilitation project, the town is offered a PILOT, which is Payment In Lieu Of Taxes. He explained that the municipality gets 100% of the income instead of taxes and the municipality gets to decide how it wants to divvy up that income. Mr. Kasler said that there are two parts: taxes on the land and taxes on the structures. He said that, during construction the town will collect taxes on the land and once the structures start being built and there is stabilization, the town will collect a percentage, which would be worked out with the developer. Mr. Kasler noted that with rehabilitation projects PILOTs are limited to a short term of five (5) years after which it returns to the normal tax structure. He said that the income will be a percentage of the rents and, as the rents rise, the town will receive more money. Mr. Kasler noted that how it is divvied up by the town is designated in a PILOT plan.
Mayor Andes interjected that the land is assessed at $1,080,000 and all the entities-the two school boards and the County- would share in the taxes, as they normally would. He said that through the five-year PILOT plan, that segment of the taxes would remain the same. The Mayor advised that, with the PILOT program, the taxes are estimated to be roughly $240,000 per year, in addition to the property taxes on the land. He said that the Township will be able to decide how that $240,000 will be disbursed
among the other entities.  
Administrator Ward noted that the PILOT doesn’t kick in until a certain percentage of the development is completed but the land assessment and those taxes continue throughout.  
Councilwoman Smith noted that there are many aspects involved in getting this project started and, in the meantime, we have a building that is in serious disrepair. She asked what we have done so far to prevent the mischievous actions that have been taking place on the site. 
Administrator Ward replied that, without the property maintenance ordinance which is in the process of being adopted, we have very little teeth with which to address these types of issues. He added, however, that the prospective developer has been very cooperative and has taken steps to clean up the property. Mr. Ward advised that he has seen the site since the clean up and it is buttoned up as well as an abandoned factory can be.  
Councilman Kuser asked, with regard to the five-year distribution plan for payment in lieu of taxes, if the Council votes on how it is divvied up, or is it an Administration decision.  
Administrator Ward replied that he would defer to the Township Attorney on that, but he believes that anything of that nature would involve the Township Council.  
Mayor Andes added that he thinks it is something that we would all want to be in agreement on.  
Councilman Kuser commented that he thinks it is a good project and there were not many objections from the neighbors in the area.  
Mayor Andes noted that there are some concerns but the neighbors mainly feel that it is an improvement to the neighborhood. He said that a certain percentage were against it because it will change the neighborhood but most saw the validity of the project.  
Councilman Gabel asked what the probability is that this area might be developed as an indoor recreational facility.  
Mr. Kasler replied that he does not see that happening as that type of facility needs highway access.  
Mr. Gabel asked if Mr. Kasler can visualize any other uses for this site.  
Mr. Kasler replied that, looking at it, it calls out to multi-family. He said there would not be single family because of the proximity to the railroad right of way. Mr. Kasler noted that this project is well designed and fits in perfectly.  
Mr. Gabel stated that he thinks this is the best thing we could do with this property.  
Councilwoman Smith asked what the downside of a rehabilitation project is; why would someone not do it. Mr. Kasler replied that he does not see a downside with this project. He said that you may not see a lot about it but, if you do a Google search, you will see that a lot of towns are doing rehabilitation and redevelopment.  
Mrs. Smith asked what would happen if the developer defaults. Mr. Kasler replied that the ordinance provides some protection by then allowing single family homes.  
Councilman Scollans commented that everyone seems to be in favor of this project but
we have to look at the reality of the problems that exist. He said that there is a huge problem in that area with traffic. Mr. Scollans noted that this project will add to that issue and he asked what we can do with this project to improve the traffic problem. Mr. Kasler replied that the rehabilitation is a tool for both the developer and the municipality. He said that if this site was left as an Industrial Zone, the tractor trailers that could be on that property would be a worse devastation than the traffic generated from a multi-family development there. Mr. Kasler noted that Administration has been working with N. J. Transit and the timing of lights would have to be addressed. Administrator Ward added that, in the site’s current industrial use, at the peak hours when people are being dropped off for the train, that would be the typical flow of the industrial traffic. He said that the traffic from this development would have little or no impact since it would be going in the opposite direction. Mr. Ward commented that the alternate road options are not all dead and will be discussed later. He said that three of them are due to private property issues, but there is one that is still a potentially viable option.

Mr. Scollans said that he feels that we need to put together the best engineering and planning plan, working with the developer, to solve these issues.

Township Engineer John Ruschke advised that there were discussions with the developer concerning road improvements. He said that there was also discussion regarding an area that would be available for a turnaround as part of the plan.

Mayor Andes explained the scenario that he has observed of how people cross the tracks, turn around and, when the train comes, go to the gate and let their children out to catch the train. Mr. Ward commented that the Mayor had gone out early in the morning on two or three occasions to observe the traffic situation at the train station. He said that it was an eye-opener because the situation is not exactly what had been described to the Township.

President Fitzpatrick asked if the rehabilitation plan is becoming the norm. Mr. Kasler replied that it is being used more often but is not necessarily the norm.

President Fitzpatrick asked what our options would be if the project fell through.

Mr. Kasler replied that the ordinance is written for a specific project and would have to be re-written for something else but, single family homes could be built there.

President Fitzpatrick noted that this is an opportunity to change an eyesore and listed the following options for the site:

1. Remain a manufacturing facility - not considered a good option.
2. Residential opportunity - not often this small with such small disruption to the area.

President Fitzpatrick commented that another mayor and council in the future might let a much larger development go in on this site. He said that there are issues but some of them are independent of this project.

President Fitzpatrick directed the discussion to the search for an alternate egress from that area. He asked if there is information on how often people are stranded due to a train break-down.

Administrator Ward replied that based upon the investigation and inquiries to N. J.
Transit, there have been two (2) occasions over the past forty (40) years when the train broke down and either completely, or partially, blocked the tracks into that neighborhood. Mr. Ward explained that every five (5) to seven (7) years N. J. Transit performs a track alignment to repair the widening of the tracks that occurs due to the weight of the trains. He added that, in these instances, the neighbors are forewarned so that they can park in the N. J. Transit lot over the weekend while the work is being done.

Administrator Ward spoke about his memo of June 14, 2013 and explained each option for an alternate egress in that area. A copy of that memo is attached to these minutes. Mr. Ward noted that Option #4 - an access road along the N. J. Transit Right-of-Way between Estling Lake Road and Lackawanna Avenue is still under consideration.

Engineer Ruschke advised that there is a significant, approximately 30 ft., rock outcrop very close to Estling Lake Road. He said that he did a quick and dirty profile and it looks like the maximum reasonable grade that we can work with is about 10%. Mr. Ruschke added that it would require a substantial amount of excavation. He said that, best case scenario, the construction costs could be in the area of $200,000, or more. Mr. Ruschke noted that the N. J. Transit requirements could be a considerable addition to the cost.

Administrator Ward interjected that, in speaking with the developer, the Mayor, Engineer, Planner and himself have discussed, as part of the developer’s agreement, developer contributions that would be paid to the municipality. He said that it would help us considerably in potentially putting in this road. Mr. Ward noted that, since there has been so little need over the past forty (40) years for an emergency access road, he asked might there not be a better expenditure for improvement in that neighborhood.

President Fitzpatrick opened the floor for questions from the Council. Councilmen Gabel and Kuser had no questions. Councilwoman Smith said that maybe the Mayor would prefer a neighborhood park. Mayor Andes replied that that was something that the last Administration talked about. He said that they wanted to put a destination playground on the Falconieri property and he was adamantly against that idea. The Mayor noted that he does not ever want to see a playground up against railroad tracks.

Mayor Andes asked Engineer Ruschke to clarify exactly what type of road we would get for the costs that he quoted. Mr. Ruschke replied that he was concentrating on a twenty (20) foot wide road, just as an emergency access. He said that he even looked at the practicality of reducing that width, given that rock outcropping. Mr. Ruschke added that, if the requirements of N. J. Transit are what he thinks they will be, it will be cost-prohibitive to even get this road in. He said that if N. J. Transit indicates that they are willing to be more flexible, we may be able to get a one-way road in. Mr. Ruschke advised that he was thinking of gravel and his projections were the bare minimum for that $200,000.

President Fitzpatrick asked the Mayor and Administrator what the next step will be on this project.
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Mayor Andes replied that they are going to continue to work on the emergency access road, no matter what happens with this project. The Mayor noted that Mr. Forgione has a time frame on his contract so this would have to be introduced next week and adopted at the July 16th meeting because the building will go into foreclosure on August 1st. He said that this is the time line that they have been working on for some time now.

President Fitzpatrick asked the Council members if there is anything they want to have added to the ordinance.

Councilman Scollans said that he believes we need to keep looking at the options and find the best and safest solution.

Councilman Golinski thanked everyone involved for pulling this together. He said that he supports the resolution designating this area as in need of rehabilitation.

Councilwoman Smith said that she understands the concerns that this project may increase some of the traffic issues but she feels that it will be an improvement to the neighborhood. Mrs. Smith stated that she has faith in our Administration to develop an access road if at all possible.

Councilman Kuser commented that he thinks it is a great project.

Councilman Gabel stated that he can support the resolution as presented.

President Fitzpatrick said that he supports the resolution as well and thinks it is a good opportunity to do something where it is obviously needed.

PROPOSED HOTEL/MOTEL ORDINANCE

Administrator Ward noted that this ordinance was discussed at a workshop in February and sent back to a subcommittee with comments from the Council. He said that Planner Kasler made some modifications to clean up the existing ordinance, which has some inconsistencies, and modernized some of the definitions.

Mr. Kasler provided a packet to each Council member which explained the legislative intent of the ordinance and indicated the modifications that he has made to the ordinance. A copy of that packet is attached to these minutes.

Mr. Kasler noted that the ordinance would prohibit motels in B2 and B2A zones, which is permitted under the current ordinance. He said that it would remove hotels from the "Primary Intended Use" of the I-1 zone.

Mr. Kasler went through the other modifications in detail.

President Fitzpatrick opened the meeting to the Council members for questions.

Councilman Gabel asked for clarification of the areas within our boundaries where this would be applicable.

Mr. Kasler replied that, right now, the Township ordinance allows for motels on Route 10 and Route 46. He said that this ordinance proposes to prohibit them, adding that motels are no longer fashionable. He noted that they lead to security and safety issues so this ordinance is removing motels as a permitted use throughout the town.
Councilman Kuser asked who owns the eight properties that will be in this newly created one. Mr. Kasler replied that when he drafted this ordinance he was unaware of property ownership. He said that he worked from tax maps and GIS information. Mr. Kasler advised that it is his understanding that, on Enterprise Road, four or five properties are held by one owner. He said that he does not know who owns the property on Vanderhoof.

Mr. Kuser noted that the issue of traffic was raised and he asked if there is going to be a traffic study. He commented that the lights have been reconfigured and it is a different area than it was six years ago. Mr. Kuser stated that he disagrees with the argument concerning the occupancy rate. Mr. Kasler said that he did not look at occupancy rate when drafting this ordinance.

Mr. Kuser asked about hotels being used for low income housing. Mr. Kasler replied that affordable housing is an issue that no one really understands. Mr. Kuser clarified his question by adding that he does not mean that he wants to see hotels housing low income clients. He said he was referring to the County putting people up in hotels.

Mr. Kasler replied that Denville has satisfied its obligation, and then some. He said that if the Council is uncomfortable with extended stays, provided by the County renting rooms, a section prohibiting extended stays can be added to the ordinance.

Mr. Kuser asked for a definition of extended stay. Mr. Kasler replied that it comes down to how the hotel operates. He said that he would have to do research on the industry standard as to whether extended stay means more than seven (7) days. Mr. Kasler noted that he could specify in the ordinance that the hotel is for transient hotel use, not extended stay.

Mr. Kuser asked about the exclusion of motels on the highways and whether hotels are also excluded. Mr. Kasler responded that only motels are excluded but hotels are permitted only in the I-2 zone as a conditional use. He added that there are only three (3) I-2 zones but only one of them is within a half mile of a federal highway.

Councilwoman Smith asked if a conditional use is something that can be overridden. Mr. Kasler explained the difference between permitted use, conditional use and prohibited use.

Mrs. Smith commented that her concern is that, people can go before the Planning Board or Board of Adjustment and make a case for a variance and, after having crafted a specific ordinance, the board approves the variance and it doesn’t turn out the way we expected. She asked how we can tighten it further so that our intents are carried forward. Mr. Kasler said that with any zoning ordinance, a request can be made for a variance.

Mrs. Smith asked Mr. Kasler to obtain information on how many free-standing hotels are still out there, as opposed to hotels in a cluster. Councilman Golinski asked if it is correct that this ordinance allows for a five (5) story hotel. Mr. Kasler said that is correct.
Mr. Golinski commented that he feels that we do have a need for more hotel space in town. He said that he has tried to make reservations for himself and his family in the existing hotel and has been told that nothing was available. Mr. Golinski stated that he thinks hotel space is more efficient than motel space.

Mr. Golinski asked what the response should be if someone asks if the town is doing spot zoning. Mr. Kasler replied that this ordinance deletes motels from different zones so it affects not only the nine properties in a specific area, but also all of the properties along Route 10 and Route 46. He noted that, while we look at the entire I-2 zone, we put conditional use standards on it so that it doesn't impact the local streets as much. Mr. Kasler added that this ordinance was drawn in such a way that it is not spot zoning.

Councilman Scollans asked why the generator distance from the property line is set at 45 ft. instead of 25 ft. Mr. Kasler replied that, in looking at it, he thinks it should be dropped to 40 ft. instead of 45 ft. because a 40 ft. side yard is required. He said the concept is that the generator for a hotel will be much larger, and louder, than that of a single family home generator.

Mr. Scollans asked if there is any way to control pricing of rooms in a hotel so that they don't drop to the level of "undesirables".

Mr. Kasler replied that, not being an attorney, he can't answer that, but he thinks the price will be based upon the room size and the amenities.

Mr. Scollans said that his concern, with two hotels next to each other, is that there could be a pricing war which could attract undesirables.

Mr. Scollans asked how Mr. Kasler would address the overlay in general as being designed specifically for this project. Mr. Kasler replied that this is not being done as an overlay; it is a modification to allow for hotels, as conditional uses, in the I-2 zone.

Mr. Kasler explained that the overlay process would be that there would be a separate ordinance that is created for a specific area. He said that this ordinance not only looks at the I-2 zone but the B-2 and the B-2A zones as well.

Administrator Ward interjected that an overlay ordinance was before the Council last year and was permanently tabled. Mr. Ward noted that this ordinance is structured differently because there were the same concerns that have been brought up now and the two ordinances are completely different animals.

Councilman Kuser asked if the current hotel will be brought into conformance with this new ordinance. Mr. Kasler replied that, as to the use, it would be conforming but he did not check the standards.

Mr. Kuser asked what the floor area ratio is now. Mr. Kasler replied that right now in the I-2 zone it is a 25% floor area ratio. He said that this ordinance will allow up to 55% floor area ratio. Mr. Kuser asked what the current hotel's floor area ratio is. Mr. Kasler replied that he is not sure but thinks it is in the 60's. Mr. Einhorn interjected that it is between 43 and 45%.

Mr. Kuser asked if the current hotel could increase its floor area ratio. Mr. Kasler said that it would, if it could meet the conditions of the ordinance.

President Fitzpatrick asked how traffic will be handled with another hotel in the area.
Mr. Kasler replied that it would have to be handled at the Board level. Councilman Golinski commented that he thinks there would be less of a traffic impact with a hotel than with a business or other type of industrial use coming into that area. President Fitzpatrick asked the Council members to comment as to whether or not they support the ordinance.

Councilman Scollans said that he agrees that there should be a traffic study to determine the traffic impact on the area.

Councilman Golinski noted that Mr. Scollans misunderstood his comments. He said that he does not see a need for a traffic study because something could go into that area that would create a much greater traffic impact than a hotel.

Administrator Ward interjected that, if one of the property owners wished to develop in accordance with the revised ordinance, it would be their burden, before the appropriate Land Use Board, to do a traffic study.

Councilman Scollans asked if this will have to go before the Board of Adjustment. Mr. Kasler advised that, if it meets the standards and there are no variances, it would go before the Planning Board.

Councilwoman Smith said that she agrees that, with the type of community that Denville is, we could support this. She stated that she agrees to move forward and also to keep an open mind when hearing testimony from interested parties, and from the public.

Councilman Kuser noted that he is in favor of the project and thinks it is a good enhancement. He said that his only question concerns the floor area ratio, but that Mr. Kasler has said that 55% is an appropriate number for a hotel.

Councilman Gabel commented that he is in favor of the ordinance.

President Fitzpatrick noted that there are still things to be worked out but Administration now has an idea of the Council's inclinations towards this ordinance.

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

MEETING ADJOURNED AT 9:55 P.M.

Respectfully submitted by:

Kathleen A. Costello
Deputy Township Clerk
2013 Township of Denville New Jersey
30 Estling Lake Road Determination
of Area in Need of Rehabilitation

PREPARED FOR
THE MAYOR & COUNCIL
OF THE
TOWNSHIP OF Denville, NJ

PREPARED BY
KASLER ASSOCIATES, PA
34 Little Brook Road
SPRINGFIELD, NEW JERSEY 07081
June 12, 2013
The original document was signed and sealed on June 12, 2013 in accordance with Chapter 41 of Title 13 of the State Board of Professional Planners.

Jason L. Kasler, AICP, PP
Kasler Associates, PA
Professional Planner #5240

Kasler Associates, PA ©
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Introduction

The purpose of this report is to determine whether 30 Estling Lake Road of the Township of Denville qualifies as an Area in Need of Rehabilitation as defined by the Local Redevelopment and Housing Law (NJSA 40:12A-1 et seq., hereafter referred to as LRHL). This analysis has been conducted pursuant to the LRHL, which specifies the conditions that must be met within the delineated areas.

The area under consideration is comprised of a single tax lot located on the north side of Estling Lake Road west of its intersection with East Main Street (heretofore referred to as the “subject property”). The scope of work for the study encompassed the following: surveys of land uses, building and property conditions, occupancy and ownership status within the study area; review of municipal tax maps; review of the existing zoning ordinance and map for the Township of Denville; review of the relevant sections of the Denville Master Plan; evaluation of water and sewer conditions in the study area in conjunction with Denville’s Township Engineer; and review of the official tax records of the Township of Denville.

The following describes the existing conditions of the subject property, its locational context and the condition of water and sewer infrastructure in the study area and vicinity. This report discusses the existing zoning regulations for the subject property and the area’s relationship to the Township’s Master Plan, the statutory criteria used to determine whether an area is in need of rehabilitation and then applies those criteria to the subject property to determine whether it qualifies for rehabilitation designation. As more fully described in the body of the report, it is conclude that the study area meets the statutory criteria for designation as “an area in need of rehabilitation” in accordance with the LRHL.
Existing Conditions of the Subject Property

The study area consists of a single tax lot located on the northern side of Estling Lake Road west of its intersection with East Main Street. The lot is identified as Block 30601, Lot 6, on the Township’s official tax maps (displayed below in green).

To get a better understanding of the relationship between lot 6 and the surrounding properties, a more complete portion of the tax map is present below (again with the subject property outlined in green).

The boundaries of the study area are Estling Lake Road to the south, the Morris and Essex Main Railroad tracks to the north, lot 9 to the east and lot 2 in block 3001 to the west. The subject property encompasses a total area of approximately 7.04 acres, according to the Township’s tax records.

The study area is located in the western portion of the I-1 (industrial) district of the Township of Denville. This lot is the former site of a box manufacturing facility. This is the only industrial
zoned property on the south side of the rail road right of way in this area. The lands to the south and west of the subject property are utilized for single family development.

Criteria for Rehabilitation Area Determination

An area may be designated in need of rehabilitation by the municipal governing body if it is determined that the area exhibits one of the following conditions:

- A significant portion of structures in the area are deteriorated or substandard; there is a continuing pattern of vacancy, abandonment, or underutilization of properties in the area; and a "persistent arrearage" of property-tax payments; or
- More than half the housing stock in the delineated area is at least 50 years old, or a majority of the water and sewer infrastructure in the delineated area is at least 50 years old and is in need of repair or substantial maintenance.

Zoning of the Subject Property

The study area is located in the I-1 Industrial District of Denville. The I-1 zone has the following regulations:

19-5.2201 Primary Intended Use.

This zone is designated for offices for business, professional, executive or administrative purposes, scientific or research laboratories, hotels, industrial and manufacturing uses and indoor commercial recreation. The intensity of operations shall not exceed the limitations imposed by the performance standards hereinafter set forth in this Section. Also permitted in this District are:

a. Public utility uses as a conditional use, as set forth in Section 19-5.10.

b. Parking conforming to Section 19-5.8.

c. Signs conforming to Section 19-5.9.

d. Accessory uses customarily incident to the above uses. For indoor commercial recreation centers, accessory uses include locker and changing rooms, showers, day care facilities, related medical, chiropractic or physical therapy professionals, small cafes, snack bars and pro shops provided that access to such accessory uses is only from within the facility. No outdoor advertisement is permitted for such accessory uses.

(Ord. #2-77, §19-5.2201; Ord. #3-99, §1; Ord. #12-02, §10)
19-5.2202 Prohibited Uses.

No land or building shall be used or occupied which does not conform to the performance standards of subsection 19-5.2205. In addition, the following uses are specifically prohibited.

a. Residential construction or conversion.
b. Commercial incineration.
c. Junk yards.
d. Rubbish, garbage or trash dumps.
e. Outside storage unless in conformance with subsection 19-5.714.
f. Nursing homes.
g. Institutional uses as set forth in Section 19-5.10.
h. Retail sales except as may be accessory to a permitted use and accessible only through the principal use.

(Ord. #2-77, §19-5.2202; Ord. #12-02, §11)

19-5.2203 Required Conditions.

a. Height. No structure shall exceed a height of two (2) stories provided the building is not higher than thirty (30') feet.
b. Front Yard. There shall be a front yard of not less than twenty-five (25') feet. Off-street parking is permitted in the front yard as regulated in subsection 19-5.803f.
c. Side Yard. There shall be two (2) side yards and no side yard shall be at less than twenty (20%) percent of the average lot width provided that in no event shall any side yard be less than twenty (20') feet. Off-street parking is permitted in the side yard provided no parking area is closer than ten (10') feet to any property, nor five (5') feet to any building.
d. Rear Yard. There shall be a rear yard of not less than fifty (50') feet. Where any alley or railroad right-of-way abuts the rear of the property, such space may be counted as part of the rear yard. Off-street parking is permitted in the rear yard provided no parking area is closer than ten (10') feet to any property line nor five (5') feet to any building.
e. Special District Boundary Buffer Area. No building shall be built within seventy-five (75') feet of any residence zone line and off-street parking and access drives shall be set back twenty-five (25') feet from such zone line to establish a buffer area as defined herein. Said buffer area shall be suitably landscaped as approved by the Planning Board.
f. Lot Area. Each lot in the I-1 Industrial District shall contain a minimum lot area of at least one (1) acre and shall have a frontage at the front street property line of at least one hundred seventy-five (175') feet.
g. Maximum Floor Area Ratio. The gross floor area of all floors of all buildings shall not exceed twenty-five (25%) percent of the total lot area.
h. Landscaping. The requirements of subsection 19-5.2003 g shall be met.

i. Loading. Loading and unloading shall be done in other than front yard.

Before the issuance of a building permit within this zone, the Planning Board shall review and approve a site development plan of the proposed use and shall ascertain that all requirements of this Article are complied with. (Ord. #2-77, §19-5.2203; Ord. #28-81, §10)

19-5.2204 Permits and Operations.

In addition to the usual required building permit application, an application for any building permit or certificate of occupancy in the I-1 Industrial District shall be submitted to the Building Inspector in duplicate on forms prepared by the Planning Board. The applicant shall also submit in duplicate all plans of the proposed construction and development; including a description of the proposed operation. If it appears from the application that the intended use may not conform to the performance standards established for this zone, the Planning Board shall request the applicant to submit a deposit of five hundred ($500.00) dollars which will be used to defray the cost of special reports required to process the application. The Planning Board shall refer the application for investigation and report to one (1) or more expert consultants selected by the Board as qualified to advise on conformance to the required performance standards. Such consultants shall make a written report within thirty (30) days after his receipt of such application. At the next regular meeting of the Board or within thirty (30) days of receipt of consultant's report, whichever comes sooner, the Board shall render a decision in the form of a written report regarding the application. Any permit authorized and issued shall be conditioned on, among other things, the applicant's completed buildings and installations in operation conforming to the applicable performance standards and the applicants paying fees in excess of five hundred ($500.00) dollars if needed to cover experts' above-mentioned reports. All monies not used to pay for the services of the expert consultant shall be returned to the applicant at the time the Board renders the written decision. A copy of all reports or decisions shall be promptly furnished to the applicant. (Ord. #2-77, §19-5.2204)

19-5.2205 Performance Standards.

Before the issuance of any building or occupancy permit for any use in the I-1 District, all of the following minimum standards must be complied with:

a. Fire and Explosion Hazard. All activities shall be carried on only in structures which conform to the standards of the National Board of Fire Underwriters or the Township Building Code or Fire Ordnance, whichever is more restrictive. All operations shall be carried on and explosive raw materials, fuels, liquids and finished products shall be stored in accordance with the standards of the Board of Fire Underwriters.

b. Radioactivity. Any industrial activity which emits dangerous radioactivity at any point is prohibited.

c. Smoke, Dust, Fumes, Odors, Gases. There shall be no emission of any smoke, fumes, gas, dust or odors. These and any other atmospheric pollutant which is detectable to the human senses at the boundaries of the lot occupied by such use is prohibited.
d. **Liquid or Solid Wastes.** No operation shall discharge wastes of any kind into any reservoir, pond, lake, underground stream or underground water source. The discharge of untreated wastes into a stream is prohibited. All methods of sewage and industrial waste treatment and disposal shall be approved by Township and New Jersey State Health Departments. Effluent from a treatment plant shall at all times comply with the following standards:

1. **Maximum five (5) day biochemical oxygen demand** - five (5) parts per million.
2. **Maximum quality of effluent** - ten (10%) percent of minimum daily stream flow.
3. **Maximum five (5) day biochemical oxygen demand after dilution** (B.O.D.) of effluent multiplied by quantity of effluent divided by quantity of stream flow - one-quarter (0.25) part per million.
4. **Maximum total solids** - five thousand (5,000) parts per million.
5. **Maximum phenol** - one-tenth (0.10) part per million.

No effluent shall contain any other acids, oils, dust, toxic metals, corrosive or other toxic substance in solution or suspension which would create odors, discolor, poison or otherwise pollute the stream in any way.

e. **Vibration.** There shall be no vibration which is discernible to the human sense of feeling beyond the immediate site on which such use is conducted.

f. **Noise.** There shall be no noise emanating from any operation which will be audible beyond the boundaries of the immediate site.

g. **Landscaping.** There shall be established along the line of any lot that is contiguous to any residential district a belt of landscaping or fence or wall as the Planning Board may require which will be adequate to screen the operations of such lot from normal observation from within such residential district.

h. **Loading.** Loading and unloading shall be done in other than the front yard.

Before the issuance of a building or occupancy permit, the Planning Board shall review and approve a site development plan of the proposed use and shall ascertain that all the requirements of this Section are complied with.

(Ord. #2-77, §19-5.2205)

19-5.2206 **Permitted Conditional Uses.**

Permitted conditional uses are established as follows:

a. Wireless telecommunications towers in compliance with subsection 19-5.727a, 2, 3 and 4 and subsection 19-5.1009 of this Chapter.

b. Bank and/or financial uses subject to development standards found in subsection 19-5.1011.

(Ord. #3-99, §2; Ord. #16-07, §10)
Master Plan Recommendation

Section 19-5.2201 1-1 Industrial use should be modified to delete retail uses as a permitted use. Much of this zone is located along Route 53. This location is constrained as to being favorable for retail uses. It should also not draw retail uses away from the nearby central business district. Commercial recreation uses, such as the indoor volleyball use, martial arts instruction, and potentially others might be added to the list of permitted uses for this zone.

Master Plan Compatibility

A rehabilitation/redevelopment plan can be looked at as a master plan for the subject property. In fact such a plan, supersedes a general master plan recommendations. When looking at the subject property, as it is currently zoned, it is compatible with the master plan recommendations. At the time of the last comprehensive master plan, this site was an active manufacturing site, a land use at odds with the surrounding land uses. Rather than recommend making this one lot non-conforming, the current master plan recommends potentially re-utilizing sites such as this one for indoor active recreation. The continued use of this property for manufacturing conflicts with the surround land use to the south. In fact, this one property is the only I-1 zoned property south of the rail road right of way. While the use of this property for residential uses is not...
compatible with the master plan recommend land use, it does however, further many of the goals and objectives of the master plan. The land use plan speaks of

Standard by which to preserve the charter and quality of established neighborhoods and business areas should be promulgated by the Township Council. The two and uses and the occupants therein need each other and need to peacefully co-exist.

The continued utilization of this property for its currently zoned uses conflicts with the surrounding land uses to the south and if re-established, could negatively impact the residential land uses to the south. The master plan also recognizes that as conditions change, so must the planning efforts.

6. Recognizing and adjusting land use planning efforts where necessary to address changing demographic characteristics and conditions found within the municipality.

The affordable housing coordinator has validated that currently there are no one bedroom affordable housing units in the Township of Denville. This is a demographic that has been overlooked in the master plan and the proposed rehabilitation of this site would address this overlooked demographic. Furthermore, the master plan states as one of its goals:

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

a. Establishing zone designations according to existing neighborhood development patterns and according to the environmental limitations found within the respective residential uses;

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

c. Establishing regulations to preserve and enhance the visual appearance of residential neighborhoods.

8. 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.

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 site’s proximity to this mode of transportation, almost dictates a higher density residential land use be contemplated.
10. 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.

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 properties on both sides of Estling Lake Road in the immediate area of the subject property and improved access to the all property that has frontage along this right-of-way.
Subject properties Evaluation for Compliance with Rehabilitation Criteria

An analysis of the subject properties existing land uses, site layout and physical characteristics was conducted utilizing tax maps / records, physical inspection of the area, review of aerial photography, Master Plan studies and maps. Photos were taken and a property survey form completed for each property.

Block 30601 Lot 6

The study area consists of a single tax lot located on the northern side of Estling Lake Road west of its intersection with East Main Street. The lot is identified as Block 30601, Lot 6, on the Township's official tax maps.

The boundaries of the study area are Estling Lake Road to the south, the Morris and Essex Main Railroad tracks to the north, lot 9 to the east and lot 2 in block 3001 to the west. The subject property encompasses a total area of approximately 7.04 acres, according to the Township's tax records.
Aerial Photograph (Viewing to the North)
Approximate site boundary outlined in green.

Aerial Photograph (Viewing to the South)
Approximate site boundary outlined in green.
Aerial Photograph (Viewing to the West)
Approximate site boundary outlined in green.
Aerial Photograph (Viewing to the East)
Approximate site boundary outlined in green.
Aerial Photograph (Western side of building – while occupied)

Three dimensional perspective viewing South
Evaluation:
A significant portion of structures therein are in a deteriorated or substandard condition and there is a continuing pattern of vacancy, abandonment or underutilization of properties in the area, with a persistent arrearage of property tax payments thereon;

1) The photos demonstrate that the structure on the site is deteriorated, substandard and vacant.

2) The site contains a use/building that represents an underutilization of the property.

Improvement to land ratio
2:1 is an acceptable ratio, anything under, is an underutilization.

Tax info (2012)

| Land Value | $1,080,900 |
| Improvements | $1,325,600 |
| Net taxed | $2,406,500 |

$1,325,600/$1,080,900 = 1.226385

3) Persistent arrearage of property taxes:

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Conclusion
This investigation reveals several key findings that indicate and verify that 30 Estling Lake Road meets the statutory criteria found in N.J.R.A. 40A:12A-5 of the Local Redevelopment Housing Law for an area in need of Rehabilitation.
Resolution

RESOLUTION REQUESTING PLANNING BOARD REVIEW OF A RESOLUTION DESIGNATING CERTAIN PROPERTY IN THE TOWNSHIP AS AN AREA IN NEED OF REHABILITATION

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the "LRHL") authorizes municipalities to determine whether certain parcels of land in the municipality constitute areas in need of rehabilitation; and

WHEREAS, in accordance with the LRHL, the Municipal Governing Body of the Township of Denville (the "Governing Body") has determined that Block 30601 Lot 6 in the Township of Denville, in the County of Morris (the "Property") should be designated as an area in need of rehabilitation (the "Rehabilitation Area"); and

WHEREAS, the Property is deteriorated, substandard and vacant; and

WHEREAS, the Tax Assessment illustrates that the current Improvement to land value ratio is less than 2:1 and represents underutilization of land; and

WHEREAS, the Tax Assessor has confirmed by the Property has a history of persistent delinquency of tax payments; and

WHEREAS, the designation of the Rehabilitation Area as an area in need of rehabilitation is expected to prevent further deterioration and to promote the overall development of the Township in accordance with the requirements of N.J.S.A. 40:12A-14; and

WHEREAS, N.J.S.A. 40:12A-14 also provides that prior to the adoption of a resolution designating the Rehabilitation Area as an area in need of rehabilitation, the Governing Body must first submit a copy of the proposed Resolution designating the Rehabilitation Area to the Township Planning Board for review; and

WHEREAS, the Township intends to designate the Rehabilitation Area by the adoption of the Resolution substantially in the form attached hereto; now therefore

BE IT RESOLVED by the Governing Body of the Township of Denville as follows:

1. Transmittal of Attachment to Planning Board for Review. The Governing Body hereby directs that the Township Clerk transmit a copy of this Resolution, the proposed Resolution Designating the Property to the Township Planning Board for review pursuant to N.J.S.A. 40A:12A-14.

2. Effective Date. This resolution shall take effect immediately.
RESOLUTION DESIGNATING CERTAIN PROPERTY IN THE TOWNSHIP AS AN AREA IN NEED OF REHABILITATION

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the "LRHL") authorizes municipalities to determine whether certain parcels of land in the municipality constitute areas in need of rehabilitation; and

WHEREAS, in accordance with the LRHL, the Governing Body of the Township of Denville (the “Governing Body”) has determined that Block 30601 Lot 6 in the Township of Denville, in the County of Morris (the “Property”) should be designated as an area in need of rehabilitation (the “Rehabilitation Area”); and

WHEREAS, N.J.S.A. 40:12A-14 provides that prior to the adoption of a resolution designating the Rehabilitation Area as an area in need of rehabilitation, the Governing Body must first submit a copy of the proposed resolution designating the Rehabilitation Area as an area in need of rehabilitation to the Township Planning Board for review; and

WHEREAS, the Governing Body, acting by resolution, referred a copy of this resolution to the Township Planning Board for review and comment pursuant to N.J.S.A. 40A:12A-14; and

WHEREAS, based upon the findings of this Report, the Governing Body found that the Rehabilitation Area satisfied the statutory criteria to be designated as an area in need of rehabilitation; and

WHEREAS, the Planning Board reviewed this resolution and recommends its adoption and the designation of the Rehabilitation Area as an area in need of rehabilitation in accordance with N.J.S.A. 40A:12A-14, now therefore

BE IT RESOLVED, by the Township Governing Body of the Township of Denville as follows:

1. Designation of the Area. The Township Council hereby designates the Rehabilitation Area as an area in need of rehabilitation.

2. Transmittal of Resolution to State Department of Community Affairs. The Township Council hereby directs that the Township Clerk transmit a copy of this Resolution to the Commissioner of the Department of Community of Affairs for review in accordance with the LRHL.

3. Effective Date. This resolution shall take effect immediately.
Proposed Rehabilitation Plan

The following terms are added to section 19-1.2 entitled “Definitions”

Patio or Terrace
A level, landscaped, and/or surfaced area directly adjacent to a building and not covered by a permanent roof that is designed for or intended to be utilized for outdoor enjoyment.

The following terms are modified in section 19-1.2 entitled “Definitions”

Story, half shall mean a partial story under a mansard, gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than four (4’) feet above the floor of such story.

Building height shall mean the vertical distance from the average grade to the top of the highest roof beams of a flat roof, the top most portion of any facade, knee wall or similar structure, or the mean level of the highest gable or slope of a hip, mansard, or gambrel roof.

Block 30601 Lot 6

Permitted Uses
The redevelopment of this site shall contain one of the following permitted uses:

1) Single Family Residential Units
2) Garden Apartments
3) Townhouse dwelling units
4) Mid Rise Apartments

Permitted Accessory Uses
Any and all uses of land that is customarily, habitually, and by long practice as being established by reasonably association with, incidental and subordinate to the principal use of the property, including, but not limited to the following:

1) Decks
2) Patios/Terraces
3) Gate House / Guard Booth / Welcome Booth
4) Clubhouse
5) Passive and active recreation
6) Open Space
Density
Single family development shall follow density requirements for the R-3 zone district but in no event shall exceed 6 dwelling units per acre.

Multi family development of this site allows a maximum of 100 dwelling units be constructed on site.

Bulk Standards

For single family residential development, the bulk standards found in the R-3 zone shall apply.

For multi-family dwellings the following bulk standards shall apply:

Principal Building Setbacks:
Front yard setback (from Estling Lake right-of-way) 25 feet
Side yard setback 20 feet
Rear yard setback 20 feet

Accessory Building Setbacks
Front yard setback (from Estling Lake right-of-way) 50 feet
Side yard setback 20 feet
Rear yard setback 5 feet

Parking spaces setback
Front yard setback (from Estling Lake right-of-way) 20 feet
Side yard setback 20 feet
Rear yard setback 5 feet

Building to building minimum distance*
25 feet

Maximum Building Height
35 feet

Maximum Coverage
Building Coverage 25%
Impervious Coverage 65%

* This measurement shall the shortest distance between the two buildings including decks, balconies, or other projections from the building façade.
**Units per building**
In any multi-family dwelling there shall be no more than eight units per building.

**Bedroom Distribution**
In any multi-family development there shall be the following distribution of bedrooms:

- One (1) bedrooms: 40 percent of the development.
- Two (2) bedrooms: 60 percent of the development.

In no case shall any building contain only one bedroom dwellings.

**Open Space Requirement**
There shall be a minimum of 25 percent of the site to be left in a natural or landscaped open area.

**Trash**
Each dwelling unit must be designed so as to have a dedicated location for the interior storage of trash or designed in such a way that said trash shall be stored in a dedicated exterior storage facility. If there is no interior trash storage provided for, said external facility shall be constructed in such a way as to be a part of the building with no dissertation between construction material, shall be designed for the trash of a signal unit, and designed in such a way as to prevent wildlife from gaining access. In no instance shall trash be allowed to store trash outside and in no case shall dumpsters be permitted.

**Mailboxes**
Mailboxes must be provided in either gang mailboxes or located in a club house, or other type of facility.

**Parking**
The parking requirements shall comport with the Residential Site Improvement Standards (RSIS). All parking spaces located within a detached garage shall be separated from adjacent parking spaces so as to provide a secured parking space. No more than 40 percent of all garaged parking spaces may be located in detached garages.

**Lighting**
The light requirements shall comport with the section 19-5.731 (Outdoor Lighting) of the Township of Denville’s zoning ordinance.
Utility Meters
All utility meters may be located in the interior of the building so long as said meters are located within a common area and not within an individual dwelling unit. If utility meters are located on the exterior of a structure, landscaping must be provided in the vicinity to aid in the screening of said meters.

Air conditioning units, emergency generators, or other sound producing equipment
Any emergency generators, air conditioning units, or other sound producing equipment must be adequately screened by either fencing or landscaping so as to reduce its impact to surrounding land uses.

Singage
With the exception of street signs, traffic control signs, and building identification signs, there shall be a single development identification sign permitted. Said identification sign shall be a groundmounted monument sign, a freestanding sign or if an accessory building is utilized for a guard booth / welcome booth a wall sign may be permitted.

A proposed monument or freestanding sign shall be located on the property, but outside any area required sight triangle, shall contain no more than twenty-four (24) square feet per side and no more than two (2) sides. A proposed monument or free standing sign shall not exceed three feet in height from the base of the sign and may be externally lit.

A proposed wall sign may be permitted only if a guard booth / welcome booth is proposed and said sign is incorporated into this accessory structure. This wall sign shall contain no more than twenty-four (24) square feet and may be externally lit. No development identification may be permitted on any building that houses a dwelling unit, garage or club house.

Access
If only one permanent point of access is proposed, two emergency access points must be provided through the use of grass pavers or other suitable methods.

If gates or other methods of excluding the vehicular traffic are proposed, the application must provide adequate provisions for emergency vehicles as well as turnaround provisions for visitors who have been refused entry.
COAH

The redevelopment of this site must provide affordable housing consistent with the New Jersey Counsel On Affordable Housing (COAH). All said units shall be constructed on site and integrated among all buildings and throughout the development so as to be indistinguishable from the exterior of the building.

For multi-family development, the application shall be required to provide a minimum of 15 percent of the entire number of dwelling units for low and moderate income housing. These affordable housing units can be 1 or 2 bedroom units in compliance with COAH regulations.
MEMORANDUM

TO: Council President Fitzpatrick
Members of the Township Council

FROM: Steven Ward, Business Administrator

DATE: June 14, 2013

RE: ESTLING LAKE ROAD REHABILITATION PROJECT – DENVILLE MEWS

At the April 12, 2013 Council Work Session, the Township Council asked Administration to review alternatives for an emergency egress for the Estling Lake Road neighborhood. During the past two (2) months, Administration has investigated four (4) alternatives that were either suggested to us from members of the Township Council or determine to be potentially feasible alternatives based upon our professionals’ examination of topographical maps of the neighborhood. This examination of each of the alternatives included a meeting with the property owner whose property we would need to obtain an easement or outright acquire in order to construct a means of emergency egress. The following is a detail of the alternatives explores and current disposition:

1. EMERGENCY CROSSING OF NJ TRANSIT RAILROAD

Brief Description: Administration examined the potential installation of a locked/gated emergency crossing of the NJ Transit Railroad tracks.

Examination: On April 24, 2013, the Mayor, Township Engineer and I met with officials from NJ Transit to discuss the potential of installing an emergency locked/gated access point across the tracks (at one of various locations). In our meeting with NJ Transit, they made it very clear that it was their mission to reduce the number of crossings (including emergency crossings) throughout the State and they indicated they would not provide permission for a crossing of this nature to be installed. This was despite our emphasis on the fact that it would be for emergency purposes only and locked at all other times. Furthermore, NJ Transit
indicated that in the few locations throughout the State where these type of emergency crossings had been historically approved, the cost of initial installation would be approximately $250,000 and that approximately every 5 to 7 years when the tracks are re-aligned, the emergency crossing grates require replacement at a duplicative cost of approximately $250,000.

Disposition: As NJ Transit would not permit us to construct an emergency point of egress, this option is considered closed.

2. CONSTRUCTION OF EMERGENCY ACCESS ROAD OVER BLOCK 30611/LOTS 1 – 5 (FALCONIERI TRACT)

Brief Description: Administration examined constructing an emergency access road across Block 30611/Lots 1 – 5, which would connect Estling Lake Road/Thurmont Road to Lackawanna Avenue.

Examination: This option was initially discussed between Councilman Scollans and Township Engineer Ruschke. As the Township Engineer deemed this as a potentially feasible alternative, the Mayor and I met with Martin Falconieri, the owner of the subject property, on May 3, 2013. Mr. Falconieri had met with the Mayor, myself and other Township professionals in the recent past with a proposal to construct a 250 – 350 unit development on this property, which we rejected. When asked if he would consider granting/selling the Township a permanent easement in order to construct an emergency means of egress from the Estling Lake Road neighborhood, he emphatically indicated he would not be willing to grant/sell an easement for the requested purpose unless the zoning is changed to permit him to develop as indicated above.

Disposition: As property owner is unwilling to grant/sell easement to the Township for construction of an emergency egress, this option is considered closed.

3. CONSTRUCTION OF EMERGENCY ACCESS ROAD OVER BLOCK 30001/LOT 1 (ESTLING LAKE CONSERVATION TRACT)

Brief Description: Administration examined constructing an emergency access road across Block 30001/Lot 1, which would connect Thurmont Road to Birch Run Road.

Examination: This option sought to construct an emergency access road roughly through the center of an 80.26 acre parcel of land owned by the Estling Lake Property Owner Association and identified as a conservation tract. The difference in elevation between Thurmont Road and Birch Run Road is rather severe but according to the Township Engineer, with appropriate stabilization and grading, a road could potentially be constructed in this location. On May 23, 2013, I met with Richard Price, President of the Estling Lake Property Owners Association, to discuss this matter. Mr. Price indicated that there may be willingness amongst Estling Lake to selling the entire 80.26 acre conservation tract or a sizeable portion thereof to the Township. The idea of a simple easement to construct an emergency access road was not an alternative that would be considered.

Disposition: The acquisition costs of such a large tract of land would be cost prohibitive. Furthermore, this option would likely be the most controversial option for both current Thurmont Road and Birch Run Road residents. Therefore, this option is considered closed.
4. CONSTRUCTION OF EMERGENCY ACCESS ROAD THROUGH NJTRANSIT ROW

Brief Description: Administration examined constructing an emergency access road within the NJ Transit Right-of-Way ("ROW") between Estling Lake Road and Lackawanna Avenue.

Examination: As part of our April 24, 2013 meeting with representatives from Administration and NJ Transit, we discussed the potential of installing an emergency locked/gated access road within the NJ Transit ROW immediately adjacent to the train tracks. In our discussion with NJ Transit, they indicated that they would be willing to potentially entertain this option and grant us permission, albeit in accordance with their construction requirements/standards, to construct an emergency access road within their ROW.

At the present time, the Township Engineer is performing calculations related to the cost of constructing such an emergency access road, which we anticipate will be available early next week. The distance is roughly 1400 linear feet (1/4 of a mile) and the construction conditions for approximately 400 feet are considerably challenging as there is a large outcropping (30' in height at one point) that would require blasting to remove. Furthermore, NJ Transit indicated they would likely require flag men to be posted during the entire period of road construction project to ensure the safety of the construction crews, train passengers and train tracks.

Disposition: Open for consideration

We’ve discussed these options with the prospective developer, JMF Properties, and indicated that we would seek to include development impact fee for this sort of neighborhood improvement as part of the developer’s agreement, if the rehabilitation ordinance is adopted. They’ve indicated that they would be willing to submit a letter of intent to make such a contribution, if desired. However, even with the preliminarily negotiated contribution of $100,000 to $150,000, there will need to be a large financial commitment from the municipality to construct such an emergency access road.

It should also be noted that in reviewing NJ Transit records over the past forty (40) years, there have purportedly been only two (2) occasions when due to mechanical or other reasons broke down on the tracks. This, of course, is in addition to the track realignment that occurs every five (5) to seven (7) years wherein the tracks are typically closed for a two (2) or three (3) day period but where the residents are provided ample notice to move their vehicles to the opposite side of the tracks prior to commencement of track realignment activities.

In conclusion, the cost estimate ultimately developed by the Township Engineer will determine if Administration can support the expenditure of taxpayer dollars for a road that would have been utilized so infrequently based upon the history from the past forty (40) years. Furthermore, even if Administration and the Township Council agree that the cost outweighs the benefit, Administration would still seek a development impact fee from the developer in order to perform other dedicated improvements aimed at enhancing the quality of life and increasing property values in the subject neighborhood.

If you have any questions, please feel free to contact Mayor Andes, Township Engineer Ruschke or myself.

cc: Mayor Andes
    Township Engineer Ruschke
MEMORANDUM

TO: DENVILLE TOWNSHIP GOVERNING BODY
FROM: JASON L. KASLER, AICP, PP
SUBJECT: PROPOSED HOTEL/MOTEL ORDINANCE

Legislative Intent:

It is the intent of this ordinance to control the location of hotels and motels in the Township of Denville. This ordinance removes motels as permitted uses in the Township of Denville and conditionally allows hotels in the I-2 zone only. The intent of this ordinance is to restrict the location of these uses to parcels within the municipality that would have access to the Federal Highway system without significant impact upon the local road network and hence utilized a distance requirement to access to a federal highway. The ordinance utilizes a combination of floor area ratio, height limitations as well as maximum building footprints to control the total amount of development on a specific site. The ordinance implements a floor area ratio bonus for hotel uses in the I-2 zone. For each percent in excess of the minimum required landscaped area, this ordinance permits an additional two percent of floor area ratio to a maximum floor area ratio of 0.55. This ordinance does not allow for the maximization of the floor area ratio and building footprint at the same time. This was intentionally done to allow for flexibility in the design process. This ordinance would allow hotels to contain accessory uses in accordance with specific regulations.
The following terms are added to section 19-1.2 entitled “Definitions”

Canopy:
A rooftop cover that is temporary or portable in nature and that projects from the wall of a building for the purpose of shielding a doorway or window from the elements and is periodically retracted into the face of the building.

Canopy, fixed:
A canopy that is constructed with a rigid frame that can not be retracted, folded or collapsed.

Hotel:
A facility offering transient lodging accommodations to the general public and which may include additional facilities and services such as restaurants, fitness and health centers, meeting rooms, entertainment, personal services, recreational facilities and limited retail.

Landscaping:
To adorn or improve (a section of ground) by contouring and by planting flowers, shrubs, or trees.

Motel:
An establishment providing sleep accommodations for transients often with rooms having direct access to the outside without the need to pass through a lobby.

Parapet:
The extension of the main walls of a building above the roofline.

Portico:
An open sided structure attached to a building and sheltering an entrance or serving as a semi enclosed space.

Recommend the removal of motels from the B2 and B2A zone.

19-5.1501 Primary Intended Use.

This zone is designed for commercial use of the highway sales and distribution type as well as those uses permitted in the B1 District unless herein prohibited. Also permitted in this zone are:

a.— Motels, provided all of the following requirements are complied with:
1. No motel building or buildings shall be erected or constructed upon any lot containing an area of less than one (1) acre and no such lot shall have less than two hundred (200) feet of frontage upon an improved highway providing the principal means of access.
2. Not more than twenty-five (25%) percent of the lot area devoted to a motel development may be occupied by the principal and accessory buildings.

3. There shall be a minimum of forty (40) units in any single motel development.

4. Notwithstanding the provisions of subsection 19-5.1503e, all motel developments shall provide side yards of at least twenty (20') feet, however, all other provisions of subsection 19-5.1503 shall be complied with.

5. One (1) parking space shall be provided for each motel unit plus additional parking adequate to serve the needs of accessory uses such as restaurants, all in compliance with the provision of subsections 19-5.802 and 19-5.803.

6. Type of construction shall meet with the requirements of the fire zone.

7. No building permit shall be issued for a motel building or buildings until a site plan shall have been submitted and approved in accordance with Section 19-4, Subdivision and Site Plan Review.

Remove Hotels from a “Primary Intend Use” of the I-1 zone.

19-5.2201 Primary Intended Use.

This zone is designated for offices for business, professional, executive or administrative purposes, scientific or research laboratories, hotels, industrial and manufacturing uses and indoor commercial recreation. The intensity of operations shall not exceed the limitations imposed by the performance standards hereinafter set forth in this Section. Also permitted in this District are:

Modify retail sales and service prohibition in the I-2 primary intended use description.

19-5.2301 Primary Intended Use.

This zone is designed for offices for business, professional, executive or administrative purposes, scientific or research laboratories and industrial and manufacturing uses as well as anything permitted in the I-1 Zone, provided, however, retail sales and services are [only permitted as accessory uses to a permitted or conditional use as specified below] specifically prohibited. (Ord. #2-77, §19-5.2301)

Add Hotels as conditional uses standards for the I-2 Zone as follows:

19-5.2307(b) Hotels

a. Minimum lot size: 2 acres

b. Setbacks

1. Front Yard: 75 feet

   Allowable incursions into front yard setback
   i. Portico may extend 40 feet into front yard
ii. Canopy may extend 5 feet into front yard

2. Side Yard: 40 feet
3. Rear Yard: 75 feet

c. Locational Requirements:
   1. Must be within 2,640 feet (1/2 mile) from access to and from a federal highway. Measurements shall be made as the site is accessed and not “radially”.
   2. May not be located in “A”, “AE” FEMA Flood Zones as these are high risk flood areas.

d. Floor Area Ratio
   1. Notwithstanding the maximum floor area ratio, for each one-percent increase in landscaped pervious area over and above the 10% required, an increase in floor area ratio of .02 will be permitted up to a maximum floor area ratio of 0.55.
      a. For a landscaped area to be included in this calculation, it must be at least 5 feet in depth.
      b. To take advantage of this FAR bonus, no variance for the number of parking spaces or to exceed the impervious surface variance may be requested.

e. Maximum Height in Stories: 5
f. Maximum Height in Feet: 55
   1. Allowable extension of height
      i. HVAC and similar mechanical equipment and roof appurtenances.
         a. Only if all such appurtenances do not occupy more than 10 percent of the total roof surface; and
         b. Is less than 10 feet in height; and
         c. And is screened from visibility.
      ii. Parapet may extend 5 feet above maximum height.

g. Maximum Height of portico: 22 feet
h. Maximum Building Coverage: 0.20
   1. Any proposed portico or fixed canopy shall be included in the building coverage calculation.

i. Maximum Impervious Coverage (total): 0.85
j. Parking: Shall be provided in accordance with Section 19-5.8
k. Mixture of hotel use and any use below with the following regulations:
   1. Conference center: Maximum of 50% the square footage of entire hotel use.
   2. Restaurant: Maximum 7,500 Square Feet
   3. Retail or personal services shall be allowed provided that they must be entirely contained within the hotel building, have no direct access to the outside and shall not have exterior signs or other appurtenances.

l. Central Entrance Required
All hotel buildings shall contain a central entrance leading to a common lobby area, which lobby area shall contain the registration and service desk, which service desk shall be manned 24 hours a day and be so situated in said lobby area that guests entering or leaving the hotel may be clearly observed. Access to the sleeping rooms shall be only through hallways extending from the common lobby area. The door to each sleeping room shall open upon such hallways. No sleeping room on the first floor of the building shall contain exterior doors other than the door opening upon such hallways.

m. Landscaping: A minimum 10 percent of the lot must be landscaped; parking lots must include landscaping along any property line abutting adjoining uses.

n. Garbage collection:
   1. All garbage and other refuse storage shall be in compliance with Section 3-13A.
   2. No garbage or other refuse collection container shall be located closer than 10 feet from a property line.

o. Generator:
   1. If a generator is utilized, it must be located on the roof of the structure, or be adequately screened with either fencing, landscaping or both
   2. A generator shall not be located closer than 45 feet from a property line.

p. Signs: Signs shall comply with the provisions found in section 19-5.908

q. There shall be no overnight storage of any vehicles, trailers or commercial vehicles unless the operator is a registered guest of the hotel.

Modify Parking Requirements.

19-5.802 Off-Street Parking in Nonresidential Zones.

Hotel

<table>
<thead>
<tr>
<th></th>
<th>4.2 parking spaces for each 10 guest rooms</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1.2 parking spaces per room plus additional spaces for other facilities available to persons other than hotel guests as follows: [the parking required for the sum of all other uses on site including, but not limited to:]</td>
</tr>
</tbody>
</table>

Restaurant

As specified elsewhere in
<table>
<thead>
<tr>
<th>Facility Type</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conventional/Conference Facilities</td>
<td>1 for each 150 sq. ft. GFA</td>
</tr>
<tr>
<td>Banquet/Ballroom Facilities</td>
<td>1 for each 100 sq. ft. GFA</td>
</tr>
</tbody>
</table>