

**2011 Periodic Reexamination Report of the Master Plan and Development Regulations for  
Hopewell Township, Mercer County, New Jersey  
Adopted December 15, 2011**

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

“The governing body shall, at least every ten years, provide for a general reexamination of its master plan and development regulations by the planning board which shall prepare and adopt by resolution a report on the findings of such reexamination, a copy of which report and resolution shall be sent to the county planning board and the municipal clerk of each adjoining municipality.”

The most recent reexaminations completed by the Planning Board were adopted in 1992, 1998, 2002, 2007 and 2009. The adoption of the 1992 Reexamination Report occurred at the same time as the adoption of a revised Master Plan in 1993 (the 1992 Master Plan), which was prompted by recommendations in the Reexamination Report to update the Master Plan. The 2002 Reexamination Report followed the 2002 Master Plan and preceded the zoning ordinance amendments adopted by the Township Committee in December 2002.

The December 1998 Reexamination Report (the 1998 Reexamination) recommended a series of revisions to the Master Plan and Land Use and Development Ordinance affecting a wide range of policy issues, as further discussed below.

In 2002 the Planning Board adopted a new Statement of Goals and Objectives, Land Use Plan Element and Conservation Plan Element (the 2002 Master Plan), which recommended a series of changes to the Land Use Plan and Land Use and Development Ordinance, including revisions to the density and distribution of housing; changes to the existing Master Plan and zoning boundaries; the incorporation of creative land subdivision techniques; and, the incorporation of creative development alternatives.

Conservation Plan policies and strategies addressed the preservation, conservation and utilization of the full range of natural resources, specifically addressing energy and air quality, forest resources and native vegetation, groundwater, scenic resources, steep slopes, stream corridors, surface waters, threatened and endangered plant and animal species, and wetlands.

In December 2002 the Township Committee adopted amendments to the development regulations (Chapter XVII, Land Use and Development Ordinance,

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also known as the land use or zoning ordinance) to implement the 2002 Master Plan.

Prior to the 2007 Reexamination Report, the Planning Board completed the following Master Plan elements:

- Farmland Preservation Plan Element (adopted May 27, 2003)
- Open Space and Recreation Plan Element (adopted December 9, 2004)
- Historic Preservation Plan Element (adopted December 9, 2004)
- Stormwater Management Plan Element (adopted March 22, 2005)
- Housing Plan Element and Fair Share Plan (adopted November 29, 2005)
- Circulation Plan Element (adopted March 9, 2006)
- Community Facilities Plan Element (adopted April 12, 2007)

In 2007 the Planning Board adopted a Master Plan Reexamination Report giving consideration to the requirements found in N.J.S.A. 40:55D-89a-e, and recommending specific changes to the Master Plan and land development regulations. Subsequent to the 2007 Reexamination, the Planning Board adopted another Reexamination in 2009 and adopted subsequent amendments to the Master Plan including:

- 2009 Land Use Plan Element, and
- 2011 Utility Services Plan Element

The inquiry required by the MLUL is addressed below.

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

Finding that the Township had made substantial progress addressing its comprehensive planning agenda for beneficial growth and effective resource conservation, the 2009 Reexam recommended:

- preparation and adoption of a utility service plan element, and
- preparation and adoption of a Scenic Roads and Views subplan element of the conservation plan, including an inventory, analysis and design standards

Recognizing that most recommendations for amended regulations from the 2002 Master Plan had been addressed through the Township's continuing planning

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program, the 2009 Reexam identified the following objectives as requiring further regulatory or other action:

- Ordinance design standards for Scenic Roads and Views;
- Conservation Plan recommendations regarding energy and air quality, forest resources and native vegetation, groundwater, scenic resources, steep slopes, stream corridors, surface waters, threatened and endangered plant and animal species, and wetlands; and
- Procedural issues and organizational problems with local land use regulations.

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

Since the time of the last Reexamination Report in 2009, the Township Committee and Planning Board have been actively pursuing refinements to the Township's land use planning program to address the concerns expressed in the Report, as well as subsequent concerns. The Township Committee and Planning Board continue to make progress in refining the ordinances that apply to land development activities, with the goal of addressing the problems that were seen relative to the protection of public health, safety and welfare, natural resources and the Township's rural character.

With the resolution of lawsuits stemming from the 2002 Master Plan, the Township turned its attention to issues of concern raised in its master plan elements and reexamination reports since 2002. These included:

- Historic preservation – award winning design guidelines and the start of historic designations on private property
- Open space and recreation initiatives
- Farmland preservation planning and receipt of \$5M funding for farmland preservation activities
- Circulation plan update with data from the Hopewell Valley Transportation Management Coalition

***C. 40:55D-89c "The extent to which there have been significant changes in the assumptions, policies and objectives forming the basis for the master plan or development regulations as last revised, with particular regard to the density and distribution of population and land uses, housing conditions, circulation, conservation of natural resources, energy conservation, collection, disposition and recycling of designated recyclable materials, and changes in State, county and municipal policies and objectives."***

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The 2007 Master Plan Reexamination generally acknowledged that the policies of the 2002 Master Plan were working, having responded to a comprehensive assessment of local needs and opportunities. While there have not been significant changes in the assumptions underpinning the Master Plan, some adjustments to the density and distribution of population and land uses in certain areas are appropriate at this time, including:

- Pennytown Redevelopment
- Traprock Zone Boundary Adjustment<sup>1</sup>
- R-100 Zone grandfathering
- Hampton's Property (Briarcliff)

Additional areas of concern at this time include:

- Residential Agricultural Standards
- Lawrence Hopewell Trail (LHT)

***Changes in State, County and Municipal Policies and Objectives***

The following identify changes, updates, or progress updates to State, County and regional policies and objectives have occurred since the last Reexamination Report conducted by the Township and are provided here for informational purposes.

**State**

**The State Development and Redevelopment Plan/Draft State Strategic Plan**

Since the 2007 Master Plan Reexamination, the State Planning Commission continued to conduct a review of the State Development and Redevelopment Plan (SDRP) adopted in March 2001. This review, which was initiated with the release of the 2004 Preliminary Plan in April 2004, commenced the cross-acceptance process, which is the mechanism in the State Planning Act for the analysis of State, County and municipal policies with the intent of providing consistency in policies among the various levels of government. The initial part of the cross-acceptance process is termed the comparison phase, during which each County, which is the negotiating entity for its municipalities, conducts a detailed analysis of State, County and local policies and identifies consistencies and inconsistencies.

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<sup>1</sup> this portion of Reexamination prepared by Township Engineer

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During this phase the County and the Township reviewed the SDRP's Resource Planning and Management Structure (RPMS) that divides the State into five Planning Areas (PA-1 to PA-5), ranging from urban to rural and environmentally sensitive, and provides policy objectives for each Planning Area.

The State Plan established a process for endorsement of local plans by the state, through 'Plan Endorsement' which begins with a comparison of local plans to the State Plan and concludes with reconciliation of policies and an action plan for all participants. State agencies are directed to assist in advancing the endorsed municipal plans and funding and technical assistance are prioritized to towns with endorsed plans.

A new State Strategic Plan, New Jersey's "Proposed Final Draft State Development and Redevelopment Plan," was released on October 11, 2011 as a replacement for the adopted State Plan. This draft plan focuses on growth and economic development, characterizing "New Jersey's process of planning...and regulating..." as an "outdated approach" that is diminishing the State's quality of life. The goals of the State Strategic Plan include:

Goal 1: Targeted Economic Growth: Enhance opportunities for attraction and growth of industries of statewide and regional importance.

Goal 2: Effective Planning for Vibrant Regions: Guide and inform regional planning so that each region of the State can experience appropriate growth according to the desires and assets of that region.

Goal 3: Preservation and Enhancement of Critical State Resources: Ensure that strategies for growth include preservation of the State's critical natural, agricultural, scenic, recreation, and historic resources, recognizing the role they play in sustaining and improving the quality of life for New Jersey residents and attracting economic growth.

Goal 4: Tactical Alignment of Government: Enable effective resource allocation, coordination, cooperation and communication among those who play a role in meeting the mission of this Plan.

Hopewell Township's master plan has responded to all these goals with a balanced plan for growth and preservation. The State Strategic Plan suggests a shift from a mapped expression of areas intended for growth to a criteria-based approach and recommends that the "following types of areas should be

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at the core of these criteria, to be established by the SPC through revisions to the State Planning Rules:

- Major Urban Centers, as previously identified by the 2001 State Plan;
- Areas identified as Priority Industry Clusters according to Goal 1;
- SPC Designated Centers (currently or previously designated as such by the SPC)
- Port areas;
- Existing Communities and/or Growth areas, as designated by Regional or County Master Plans;
- Municipally designated redevelopment areas and receiving areas under Municipal Transfer of Development Rights Programs;
- Areas designated by existing or future federal and/or State targeted public investment programs;"

The State Strategic Plan also sets out a set of "Garden State Values", including:

- #1) Concentrate Development and Mix Uses
- #2) Prioritize Redevelopment, Infill, and Existing Infrastructure
- #3) Increase Job and Business Opportunities in Priority Growth Investment Areas
- #4) Create High-Quality, Livable Places
- #5) Provide Transportation Choice & Efficient Mobility of Goods
- #6) Advance Equity
- #7) Diversify Housing Opportunities
- #8) Provide for Healthy Communities through Environmental Protection and Enhancement

### **NJDEP Stormwater Management Rules**

In 2005, the NJDEP adopted long-awaited stormwater management rules, which resulted in the requirement for municipalities to adopt an individual Stormwater Management Plan, and established new standards for stormwater treatment and discharge. In addition, these rules established a 300' buffer around all Category 1 (C-1) waters in the State. Mandatory stormwater management ordinances were also required to be adopted by all NJ municipalities.

The Municipal Stormwater Regulation Program has assigned New Jersey municipalities into Tier A or Tier B. Tier A municipalities, which includes

Hopewell Township, are generally located within the more densely populated regions of the state or along or near the coast and Tier B municipalities are located in a more rural, non-coastal region. The Tier A permit addresses stormwater quality issues related to both new and existing development. The Municipal Stormwater Pollution Prevention Plan should be revised to automatically incorporate revisions mandated by the Township's NJPDES Stormwater Permit.

### **NJ Council on Affordable Housing**

The Council on Affordable Housing (COAH) proposed and adopted new rules for the provision of affordable housing (Third Round rules) in December 2005, which were overturned in part by the Appellate Division in January 2007. Subsequently, COAH published revised 3<sup>rd</sup> Round rules in the NJ Register and in May 2008, COAH adopted the revised 3<sup>rd</sup> round rules. In June 2008, COAH published amendments to the regulations adopted in May 2008. Subsequent litigation as a result of the revised 3<sup>rd</sup> round regulations resulted in a decision by the Appellate Division on October 8, 2010 which invalidated key components of the 3<sup>rd</sup> Round rules while upholding others. Of particular note the Appellate Division decision invalidated the growth share methodology for allocating prospective need for affordable housing, directs COAH to revert back to the 1<sup>st</sup> and 2<sup>nd</sup> round system and provides 5 months for COAH to amend their regulations. The decision did not provide a blanket stay on municipal Housing Elements and Fair Share Plans, but provides for a case-by-case determination if a stay is requested.

Governor Christie's June 29, 2011 issuance of Reorganization Plan, No. 001-2011, eliminated the 12-member Council on Affordable Housing effective August 29, 2011. Duties of the Council were transferred to the Department of Community Affairs and the Governor transferred all functions, powers, duties, and personnel of COAH to the Commissioner of DCA.

Legal challenges to this action are pending and the ultimate mechanism for determining whether a municipality has met its fair share affordable housing obligation is not clearly established at this time. Although the Township's constitutional obligation remains, and continues to be addressed, a comprehensive amendment to the Housing Element, addressing the full extent of Hopewell Township's fair share, cannot be prepared at this time. Nonetheless, surgical amendments are needed to the Fair Share Plan to reflect the Township's current compliance approach, which will substitute the Zaitz tract (Block 85, Lot 3) located on Washington Crossing-Pennington Road, for the Weidel tract (Block 88, Lot 5.021), located on Route 31/Pennington Road.

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**Municipal Land Use Law**

Green Plan Element - On August 8, 2008, the Municipal Land Use Law was amended at N.J.S.A. 40:55D-28.b. to include provisions authorizing a municipality to prepare and adopt a "Green Plan Element" as follows:

(16) A green buildings and environmental sustainability plan element, which shall provide for, encourage, and promote the efficient use of natural resources and the installation and usage of renewable energy systems; consider the impact of buildings on the local, regional and global environment; allow ecosystems to function naturally; conserve and reuse water; treat storm water on-site; and optimize climatic conditions through site orientation and design.

Local regulators may find that concerns will emerge since the hardware used for harnessing solar or wind power can have significant visual impacts on community character. This may require the development of policies and regulations to minimize the intrusion of these changes into the built environment, particularly as they affect historic resources and districts. Additionally, as municipalities seek to encourage innovative conservation and sustainable development techniques, an evaluation should be undertaken as to how the local Master Plan and Zoning Ordinance can influence and incentivize desirable changes.

Time of Application Rule - The headlines that followed Governor Christie's May 5, 2010 signing of P.L. 2010, c.9, ("New Time of Application Rule Will Help Developers") were a warning to municipalities to carefully review their land use regulations before May 2011, when the new law takes effect.

Unlike current law, where the applicable regulations are those in effect at the time the approving authority makes its decision on a land development application, this amendment to the Municipal Land Use Law now applies the regulations "...in effect on the date of submission of an application for development...", not those adopted subsequent to the submission of a complete application. The only exceptions to this new rule will be those relating to health and public safety.

Under the new law, a planning board would be required to make its decision on an application for development in accordance with the ordinances (zoning, subdivision, site plan, official map or other development regulation) in effect on the date the application for development is submitted. This time of application rule was intended to provide developers a measure of certainty

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that the local regulations in effect when they file their applications will govern any development approvals. It is thus incumbent upon municipalities concerned about possible outcomes of current zoning to make any necessary revisions, adjustments or wholesale changes to current zoning before the effective date of this legislation next May.

**Inherently Beneficial and Renewable Energy Uses** - On April 22, 2010, Governor Christie signed new legislation to facilitate solar panel development and advance New Jersey's position as a green energy leader. Under S-921, solar panels are exempt from zoning limitations on impervious cover although the base or foundation of a solar panel array may still be regulated as impervious cover. The following definitions now apply:

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

"Wind, solar or photovoltaic energy facility or structure" means a facility or structure for the purpose of supplying electrical energy produced from wind, solar, or photovoltaic technologies, whether such facility or structure is a principal use, a part of the principal use, or an accessory use or structure. Master Plan Reexamination requirements were amended to revise the interval for completion of the reexamination from six (6) years to ten (10) years.

### **Renewable Energy Facilities on Preserved Farmland**

When a farm is preserved, the landowner covenants that the preserved farm will only be used for agricultural purposes in a restriction that runs with the land. An amendment to the Agricultural Retention and Development Act to permit the installation and operation of biomass, solar or wind energy generation facilities on preserved farmland was enacted on January 16, 2010.

### **Wastewater Management Plans**

On March 24, 2010, the Commissioner of the New Jersey Department of Environmental Protection issued Administrative Order No. 2010-03 extending the deadline for wastewater management planning entities to submit revised wastewater management plans (WMPs), until April 7, 2011. WMPs govern where new sanitary sewer lines can be built, by defining the sewer service area (SSA). Properties outside the SSA are to be served by septic

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systems. Properties outside the SSA are to be served by septic systems. The Utility Element of the Master Plan identifies the service areas.

**Permit Extension Act**

On January 18, 2010, A-4347 was signed into law extending the protections of the Permit Extension Act of 2008 for an additional 2.5 years beyond the initial "extension period" (January 1, 2007 through July 1, 2010). The "extension period" will now last until December 31, 2012, after which the running of the approval periods will resume for up to 6 months, until June 30, 2013.

**Recent Development Trends**

Trends in the national economy are clearly reflected in the level of development experienced by Hopewell Township in recent years. The table below illustrates the reduction in construction and occupancy of housing units that has followed the Great Recession. From 2004 to 2007, Hopewell Township issued 248 permits for C.O.'s for new dwelling units, while since 2008, only 15 residential Certificates of Occupancy have been issued.

**Residential CO's Authorized for New Construction  
(January 1, 2004 through July 2011)**

<b>Year</b>	<b>Total</b>	<b>1&amp;2 Family</b>	<b>Multifamily</b>	<b>Mixed Use</b>
2004	90	47	43	0
2005	130	46	84	0
2006	16	16	0	0
2007	12	12	0	0
2008	6	6	0	0
2009	4	4	0	0
2010	2	2	0	0
7/2011	3	3	0	0
<b>TOTAL</b>	<b>263</b>	<b>136</b>	<b>127</b>	<b>0</b>

**County/Regional**

**Sourland Comprehensive Management Plan**

The Sourland Mountain Comprehensive Management Plan (CMP) is intended to provide guidance on land development and conservation strategies to protect the fragile ecosystem of the Sourland Mountain. The CMP is not a regulatory document, but seeks to coordinate regional planning

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efforts to carefully manage the fragile environmental resources of the mountain.

The priority goal of the CMP is for the Sourland mountain communities to form a partnership and advance the following goals:

- Expand and regenerate forests, and protect wetlands, wildlife habitats, and scenic vistas;
- Maintain the rural character of the communities including the preservation of farmland and shifting farmland practices to those more harmonious with the environment;
- Identify environmentally sensitive natural areas and protect them from development;
- Protect, defend and manage the region's scarce water resources;
- Develop a series of model environmental ordinances;
- Become leaders and educators in the effort to build awareness of the biodiversity of the Sourlands as a "living classroom";
- Work to identify and preserve scenic corridors, byways and vistas, recognizing their importance in helping to create the special quality of the Sourlands;
- Strengthen our commitment to identify and preserve historic resources;
- Seek agreement among stakeholders on matters such as road widths, allowable speed limits, and clearing and removal of brush along roads;
- Strengthen commitment to "dark skies";
- Develop rational consensus on treatment of undersized lots in light of water and other resource limits;
- Work towards creating an extensive new NJ State park designated strictly for passive recreation - The goal should be to acquire as much of the contiguous undeveloped forestland as possible from Bald Pate in the West to East Mountain Road in the East.

**C. 40:55D-89d**      *"The specific changes for the master plan or development regulations, if any, including underlying objectives, policies and standards, or whether a new plan or regulations should be proposed."*

**Marshall's Corner/Pennytown Area In Need of Redevelopment**

In August 2009, the Township completed "An area in need of redevelopment" investigation, under the requirements of the New Jersey Local Redevelopment and Housing Law (NJSA 40A:12A-1) for the Marshall's Corner/Pennytown Area consisting of Block 33, Lot 1.02; Block 37, Lots 17.01, 17.02, 17.03, and 17.04; and

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Block 37, Lot 21. The conclusion of the study identified that the conditions such as building conditions, utilities, environmental conditions, applicable land use and zoning regulations and property records were sufficient to designate the area as an “area in need of redevelopment”. During this time, the Township was actively seeking to purchase the properties and completed the purchase in December of 2009 using affordable housing trust fund dollars. Upon designation as a redevelopment area, the Township must then prepare a Redevelopment Plan, which creates goals and objectives for the site, proposed land use including density and public utilities and recreational or community facilities, and the relationship of the redevelopment to regional master plans and the State Development and Redevelopment Plan.

Upon completion, and designation of the “area in need of redevelopment”, the Township established the Marshall’s Corner/Pennytown Task Force as an advisory group to help assist in assembling the pertinent information about the redevelopment area comprising of residents, Township representatives and various community interests. In June of 2011, the Task Force presented its Findings and Recommendations.

The Task Force reviewed a variety of information including historic review of the area, wastewater and well capacity, sustainable planning and stormwater management, recreation and open space and form-based zoning. In addition the Task force met with a variety of stakeholders at various meetings in order to develop a consensus document that describes the overall vision for the redevelopment area.

The Planning Board is supportive of this redevelopment designation, and the Task Force made a series of recommendations for creation of a design framework for the redevelopment area. Using the information provided by the Task Force, the Township’s next steps will be to create a Redevelopment Plan/ordinance to define the uses and arrangements that can fulfill the overall vision for the Redevelopment Area. The Redevelopment Plan will be subject to review and action by the Planning Board and Township Committee.

**Residential Agricultural Standards**

Hopewell Township has an active agricultural community and includes large contiguous agricultural lands. The Township is ranked 1<sup>st</sup> in Mercer County and 9<sup>th</sup> in New Jersey for active agricultural land, including cropland and pastureland, based on the 2007 Farmland Assessment data. The Township recognizes the statewide Right-to-Farm and strives to incorporate agricultural retention strategies through the Right-To-Farm Ordinance, the Valley Resource

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Conservation District and through promotion of the Farmland Preservation Program and Jersey Fresh initiatives. However, much of this effort is focused on larger scale production.

Trends in home agriculture have been increasing over the last decade, with many homeowners progressively more interested in raising products such as vegetables, fruits, poultry and other small scale goods for home consumption as part of a more sustainable and healthy lifestyle and often selling or donating any surplus. In addition, farms and agricultural uses are permitted uses in all districts (§17-147 and §17-159) of the Township's Land Development Ordinance, in accordance with specific standards and the provisions of the Right-To-Farm Ordinance.

In an effort to provide relief for homeowners seeking these types of activities, the Right-To-Farm Ordinance provides the following definition:

"Home agriculture" shall mean the production principally for home use or consumption of plants, animals or their products and for sale to others where such sales are incidental, including, but not limited to, gardening, fruit production and poultry and livestock products for household use only. (§22-3)

However, according to the current Land Development Ordinance, "farm":

"shall mean any large tract of land, and premises, containing five contiguous acres or more, plus acreage for the home, used for raising crops and rearing livestock or fowl and containing one or two dwelling units." [emphasis added] (§17-181).

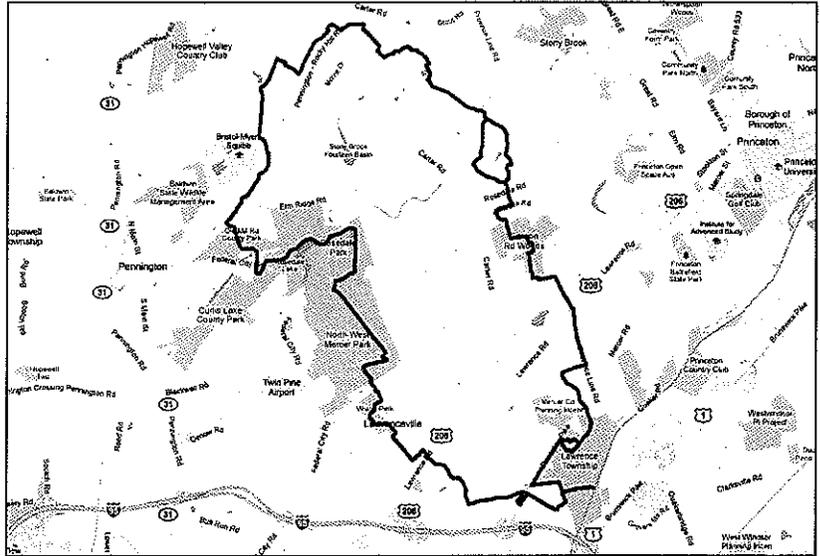
Therefore, parcels over five acres are permitted to raise agricultural products for sale while those practicing home agriculture, as defined by the Right-To-Farm Ordinance, are not permitted to undertake those practices.

In order to bring the Township's Land Development Ordinance and Right-To-Farm Ordinance into alignment, it is recommended several steps be taken. First, the definition of Home Agriculture in the Right-to-Farm Ordinance should be amended to eliminate the word "livestock". Second, Section 17-181 "Words Defined", should be amended to include this change to the definition of Home Agriculture as noted above. The definition should also be amended to include a reference to the Right-To-Farm Ordinance.

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**Lawrence Hopewell Trail**  
**(LHT)**

The Lawrence Hopewell Trail (LHT) consists of 20 miles of bicycle and pedestrian trails through public and private lands in Lawrence and Hopewell Townships. The LHT was originally conceived by employees of the Bristol-Myers Squibb Lawrenceville campus in 2001 and was officially incorporated in 2002. As of 2008, public access to over 50% of the LHT was achieved with a goal for completion by 2012. The trail map shown here depicts existing trail sections in blue and proposed sections in red.



The 2006 Hopewell Township Circulation Plan identified the benefits of providing safe and convenient methods of pedestrian mobility, including providing bicycle access and linkages. The adopted 2006 Circulation Plan included the Lawrence Hopewell Trail as a regional trail that was supported by the Planning Board. The Plan specifically stated:

“At the local level the Lawrence Hopewell Trail (LHT) is a joint effort of the municipalities, Bristol Myers Squibb (BMS), Environmental Testing Service (ETS), the County, non-profit groups and the public to create a 20-mile loop in the two Townships. The trail would link the BMS and ETS campuses with the open space network using both off-street bicycle paths and on-street bicycle lanes. Lawrence Township and BMS have recently dedicated segments of the trail. The Township is also pursuing a pedestrian and bicycle link between the Boroughs of Pennington and Hopewell. The Planning Board supports these efforts, and emphasizes that pedestrian and bicycle paths should be designed to accommodate both forms of transportation.”

The Township should establish a trails plan to develop connections between Borough and Township neighborhoods and intervening open spaces. Such a trails plan should identify the impact of the proposed trail on properties located along potential trail networks, as well as locations for trail head parking. It should also examine the feasibility of establishing additional trail networks including feeder paths to connect other open space, historic resources and

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community facilities to the main path. Once completed, the trails plan should be incorporated into the Township's circulation element of the Master Plan.

**R-6 Zone**

The purpose of the R-6 district was to provide low and moderate income age-restricted housing for persons 55 or older with permitted housing types limited to higher density apartments, townhouses, quadplexes or similar forms of multi-family housing. The R-6 District also is identified in only one part of the Township, immediately to the northwest of Pennington Borough on either side of Route 31. Included in this district is the existing development of Pennington Point East, consisting of 50 age-restricted townhouses. On the west side of Route 31 is the proposed development of Pennington Point West, comprised of 44 affordable apartments open to the general public and 244 age-restricted units. This development also provides a mix of uses, including offices, retail and child care.

The development of a portion of the lot and the sale of the remaining area to the Township has made the R-6 designation obsolete and the area should be rezoned to reflect the existing character and development potential of the area.

**R-100 Zone**

This zone includes 1,907 parcels totaling 2,373 acres located in a series of largely developed areas. The prevailing character of subdivided lots averages between 0.6 acres and 1.6 acres per lot, not including some larger remainder lands. In the past, the Master Plan has provided for a dual density standard, where a minimum lot area of nearly one acre (40,000 square feet) is required for lots served by wells and septic systems, while a smaller lot area (20,000 square feet conventional or 7,000 square feet cluster) could be permitted if centralized sewer facilities became available.

At this time, sewer service cannot be expected to serve these areas in the foreseeable future. As a result, lot area requirements based on future sewer service are no longer appropriate and the dual lot size approach should be abandoned. The current 80,000-square foot minimum should prevail and the alternative lot area requirements should be eliminated.

**Green Plan Element**

As Hopewell Township continues to strive to conserve and preserve natural resources and reduce waste, pollution and other factors that deteriorate

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environmental health, it appears that adoption of a green plan element would serve the Township well. As increased interest in finding clean renewable energy is taking hold, residents and businesses strive to save on energy costs and achieve a more sustainable lifestyle. At the same time, renewable energy is generating controversy when solar collectors overtake farmlands or when wind turbines seek out windswept ridgelines.

As the Township expands its green initiatives, a Green Plan Element of the Master Plan can help shape the agenda for creating a sustainable community. The Green Plan Element can offer recommendations with regard to:

- Municipal Planning and Site Design
- Resource Conservation and Protection
- Energy
- Operations & Maintenance
- Promoting Public Awareness

As more residents, businesses, and municipal facilities seek out alternative energy resources, the Green Plan Element will be a critical starting place for mapping out how that will progress. Regulations which encourage the use of alternative energy sources while minimizing their impacts on landscape function and the aesthetic character of the Township will be a key planning tool for the community. In addition, the Green Plan Element can bring various initiatives such as recycling, design standards, water conservation, and wastewater management together into one concise document. This will advance the goals of municipal, as well as regional, planning efforts.

**Natural Resources Inventory**

The Hopewell Township Environmental Commission prepared an Environmental Resource Inventory in 2010 with the assistance of The Delaware Valley regional Planning commission (DVRPC) and several other municipal and regional contributors which identify and describe the natural resources of a community. The natural resources analysis in the document include soils, water, geology, land cover, agricultural resources and several other natural and man made resources. Preparing an Environmental Resource Inventory requires gathering all the existing information that can be found about a township's resources and presenting it in a form that is useful to a broad audience. The inventory reflects a particular moment in time, and it is assumed that it will be updated as new data becomes available. The Environmental Commission included in the preparation of the ERI several documents and reports previously prepared by the Township, including the Hopewell Township's 2002 Master Plan

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and the 2001 Hopewell Township Groundwater Resources Report, as well as a number of reference works. The end product of the ERI is a detailed analysis of the natural and man made environment in the Township and the underlying foundation for the need to preserve and protect the ecosystem, not only for the Township for the region and beyond.

**Recreation Uses and Activities**

Recreation uses and activities pose evolving planning challenges in the 21st century. The range of backyard activities that homeowners may seek today, such as full sized playing fields or off road vehicle tracks, can depart from the realm of customary accessory uses to single family dwellings. Additionally, some private recreation activities, like ATV and other off road vehicle riding, have noise and other impacts on nearby neighbors. The Planning Board should examine the range of public and private recreation uses and review emerging trends to assist the Township Committee in developing land use policies and regulations that address changing circumstances without compromise to Hopewell Township's desirable neighborhood character.

**Other Recommendations**

Recommendations from the Zoning Board of Adjustment have also been considered in this reexamination report and the following changes to development regulations are proposed:

**Zoning vs. Design Standards**

The Hopewell Township Zoning Board of Adjustment's (ZBA) 2010 Annual Report identified a series of recommendations for consideration by the Township. The ZBA recommends that the ordinance be reorganized to clarify the distinction between design standards (which require waivers/exceptions) and zoning standards (which require a variance). Specifically, items such as fence height and the number of permitted signs on any given lot have been the most common issues. The Board recommends a review of the zoning and design standards sections to clarify their purpose and move specific regulations between the two sections to provide more guidance and clarity.

An example of this is the standards for signs, which appear as a design standard but which actually are a zoning standard (the Planning Board also has dealt with this issue). The ZBA further recommends amendments to the grandfathering provision in the ordinance, as the Board has found that confusing and

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contradictory language has made the application of the grandfathering section difficult. The ZBA has provided specific language to address this concern.

Sign Ordinance Section 17.106

The ZBA identifies that sign regulations appear both in the zoning and design standards sections of the ordinance. The duplication confuses issues further since the ordinance does not permit signs, requiring many applicants to appear before the zoning board for a d(1) variance. The ZBA recommends the sign ordinance be re-crafted and placed in the zoning ordinance after such time as any application requiring approval could be classified as a c(1) rather than a use variance.

Grandfathering Provisions Section 17-160(m)

The ZBA reported specific changes to the grandfathering provisions for the MRC and VRC districts. The ZBA recommended that "this section should be revised to eliminate some confusing and contradictory language that has made the application of this provision of the ordinance very difficult and confusing for the Board." The identified solutions, as outlined below, will need to be reviewed for consistency with the existing Land Development Ordinance, as well as, ensure that amendments to the provisions are in compliance with any prior zoning litigation.

The ZBA identified the following revisions as a potential solution to some of the more common issues:

Section 17-160m:

m. *"Grandfathering" of Nonconforming Properties in the MRC and VRC Districts.*

1. A single family detached dwelling located in the MRC and VRC Districts, which has received a certificate of occupancy or temporary certificate of occupancy prior to September 20, 2001, may be enlarged without an appeal to the approving authority even though the dwelling may be on a nonconforming lot, provided that:

(a) For properties located in the MRC District:

(1) The proposed enlargement conforms with the use, ~~area~~, front-yard, side-yard, rear-yard, building height and lot coverage requirements of the former R-250 Zoning District; and

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- (2) The proposed enlargement does not increase any the nonconformity of ~~any dimensional setback violations~~ existing prior to September 20, 2001; or
- (b) For properties located in the VRC District:
  - (1) The proposed enlargement conforms with the use, area, front-yard, side-yard, rear-yard, building height and lot coverage requirements of the former R-200 Zoning district; and
  - (2) The proposed enlargement does not increase any the nonconformity of ~~any dimensional setback violations~~ existing prior to September 20, 2001;
- (c) The area, yard, building height and lot coverage requirements for the former R-250 and R-200 Zoning Districts are as follows:

	<i>R-250 District</i>	<i>R-200 District</i>
<del>Minimum lot area</del>	<del>3 acres</del>	<del>80,000 sf</del>
<del>Minimum lot width</del>	<del>250 ft.</del>	<del>200 ft.</del>
<del>Minimum lot depth</del>	<del>300 ft.</del>	<del>200 ft.</del>
Minimum front yard	100 ft.	100 ft.
Minimum side yard	60 ft. each	50 ft. each
Minimum rear yard	60 ft.	50 ft.
Maximum building height	35 ft.	35 ft.
Maximum lot coverage	10%	10%

- 2. Accessory building or structures may be added to single family detached dwellings on nonconforming lots located in the MRC or VRC Zoning District, without an appeal to the approving authority, provided that:
  - (a) The dwelling received a certificate of occupancy or temporary certificate of occupancy prior to September 20, 2001; and
  - (b) If the property is located in the MRC Zoning District, then:
    - (1) The accessory building or structure, by itself, conforms with all requirements of the former R-250 Zoning District; or
  - (c) If the property is located in the VRC Zoning District, then:
    - (1) The accessory building or structure, by itself, conforms with all requirements of the former R-200 Zoning District.

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3. A lot located in the MRC or VRC Zoning District may be developed with a single-family dwelling without an appeal to the approving authority, provided that:
  - (a) For properties located in the MRC District, the lot is an existing isolated vacant lot with an area measuring at least three acres and the setback and other requirements of the former R-250 Zoning District as set forth above can be satisfied; or
  - (b) For properties located in the VRC District, the lot is an existing isolated vacant lot with an area measuring at least 80,000 square feet and the setbacks and other requirements of the former R-200 Zoning District as set forth above, can be satisfied; or
  - (c) The lot had received final subdivision approval from the planning board prior to September 20, 2001.

Any lot that qualifies for development in accordance with the standards of this section 17-160m,3 shall also be entitled to receive the benefits referenced in section 17-160m,1 and 2, as set forth above.

Grandfathering Provisions Section 17-159(j)

The ZBA also recommended that a grandfather provision be included for the R-100 District. The ZBA recommend that a new Section 17-159(j)(4) be added, and the Planning Board further refined these provisions to read as follows:

- j. *R-100 District; Residential Uses.*
  4. "Grandfathering" of existing single family residences in R-100 Zoning District. A single-family, detached dwelling located in the R-100 District, which received a certificate of occupancy or temporary certificate of occupancy prior to September 20, 2001, shall be considered a permitted use in the zoning district, and may be improved without an appeal to the approving authority even though the dwelling may be on a lot less than 80,000 square feet in size, provided that:
    - (a) The lot is at least 40,000 square feet in size; and
    - (b) No adjoining lot or lots are in common ownership with the existing lot being improved; and
    - (c) The proposed improvement does not increase any non-conformity existing prior to September 20, 2001, except that no front yard shall be less than the average setback of the nearest four (4) dwellings and no side yard shall be less than 25'.

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- (d) For purposes of this Section, "improvement" shall mean any proposed enlargement of the existing single-family dwelling, the demolition and replacement of the single-family dwelling if replaced as a result of a fire or natural disaster, and/or the addition of an accessory building or structure on the lot.

Other Comments

Changes recommended by the Planning Board for the R-100 District are as follows:

<i>Minimum</i>	<i>R-100 District</i>	<i>Conventional Development</i>
Lot Area		80,000 s.f.
Lot Width		150 ft.
Lot Depth <sup>1</sup>		200 ft.
Front Yard <sup>2</sup>		75 ft.
Side Yard		40 ft. ea.
Rear Yard		50 ft.
Open Space		N/A
<i>Maximum</i>		
Building Height <sup>3</sup>	35 ft. and 2 sty.	
Lot Coverage		15%
Density:		
Single Family		0.5/acre

NOTES:

- Note 1. All lots requiring reverse frontage along arterial and collector streets shall have an additional 25 feet of depth to allow for the establishment of the buffers outlined in section 17-89j.
- Note 2. Whenever a pattern of existing building setbacks or front yards, involving four or more dwellings adjacent to and located on each side of the proposed structure are established at less than the minimum front yard required above, a new structure may be built no closer to the street line than the average setbacks of such existing buildings.
- Note 3. Any development located in an airport hazard area shall be limited to such lower height as required in an airport hazard area. The maximum height allowed shall be dependent on the distance of the structure or tree from the side or the end of the runway and shall be limited in height as defined in section 17-159d,8.

Additional comments in the ZBA report described concern and problems with other sections of the ordinance. In particular, the ZBA felt that zoning ordinance review and amendments should include driveway and off-street parking and

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loading areas (§17-83 & §17-95), rewording of the Temporary Activities Permit (§17-19), setbacks; standards for pods/pack-rats (storage containers); setbacks for detached and attached structures; location of solar panels, heat houses and windmills; and, outdoor displays. The Planning Board encourages the use of renewable energy technologies and places a high priority on the issue of windmill and solar panel locations, but these facilities require sensitivity to the visual impact at selected locations, particularly as it relates to front yard areas.

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

The Township has not adopted a redevelopment plan pursuant to the "Local Redevelopment and Housing Law", but has designated the Pennytown area in Marshall's Corner as an Area in Need of Redevelopment. A redevelopment plan for this area is currently being prepared.