

Memorandum

To: Hopewell Township Planning Board
From: Frank Banisch, PP/AICP
Date: August 19, 2015
Re: *Preparing the 2015 Housing Element and Fair Share Plan*

The purpose of this memorandum is to assist the Planning Board in preparing the 2015 Housing Element and Fair Share Plan (HE/FSP). To aid the Planning Board in this task, this memorandum outlines:

Hopewell Township Master Plan Policies
Prior Fair Share Plans
Determination of Need
Addressing the Obligation

The Supreme Court's March 10 decision regarding municipal affordable housing obligations has prompted the Township to file a declaratory judgment action in Superior Court and Hopewell Township's Planning Board must adopt and the governing body must endorse a housing plan element and fair share plan prior to the December 8, 2015 deadline for submission to Judge Mary Jacobsen. This will be particularly challenging, since the fair share obligation is not yet known and the time needed to propose a suitable housing plan, hold public hearings, adopt the plan and have it endorsed by the Township Committee involves months. Nonetheless, Hopewell Township will clearly have a prospective need obligation equal to or exceeding the 500+ units of fair share addressed in the 2008 HE/FSP, and must now identify suitable sites for inclusionary housing developments and/or 100% affordable housing.

HOPEWELL TOWNSHIP MASTER PLAN POLICIES

Planning for affordable housing is an important part of Hopewell's Master Plan but it is not Hopewell's only planning objective. The established policies of the Hopewell Township Master Plan should guide the search for sites for affordable housing. A brief summary of Hopewell Township Master Plan policies, (APPENDIX A) reviews major planning policy initiatives and provides the appropriate context for land use decisions related to affordable housing constitutional compliance. A consistent smart growth theme is followed in Hopewell's master plan elements, which arrays broad farmland and environmental conservation sectors, away from sewers and provides for compact growth focused where water and sewer infrastructure are available and roadway access is best. Thousands of acres of farmland and woodlands have been actively preserved and protected through acquisition of lands and easements, while land use regulations have also focused growth and conservation areas in alignment with the State Development and Redevelopment Plan.

Collectively, these land use and other master plan policies direct the search for areas appropriate for inclusionary housing away from the Mountain and Valley Resource Conservation zoned areas and to the areas with sewer service. Using Hopewell’s smart growth policies to direct the search for inclusionary sites is also consistent with the relevant COAH rule regarding the criteria of N.J.A.C. 5:93-5.6 (Zoning for Inclusionary Development), attached as APPENDIX B. This rule requires sites proposed for inclusionary development to be “...**approvable, available, developable and suitable pursuant to N.J.A.C. 5:93-1.3**” and requires “the site’s conformance with the SDRP pursuant to N.J.A.C. 5:93-5.4”. As defined by COAH rules:

An “**approvable site**” may be developed consistent with the rules or regulations of all agencies with jurisdiction. A site may be approvable although not currently zoned for low and moderate income housing.

An “**available site**” is free of title or other encumbrances that would preclude development for low and moderate income housing.

A “**developable site**” has access to appropriate water and sewer infrastructure, and is either:

- consistent with the applicable areawide water quality management plan or
- is included in an amendment to the areawide water quality management plan submitted to and under review by DEP.

A “**suitable site**” is adjacent to compatible land uses, has access to appropriate streets and is consistent with the environmental policies in N.J.A.C. 5:93-4.

Agricultural lands can be excluded when the development rights to these lands have been purchased or restricted by covenant and environmentally sensitive lands, active recreation lands and historic and archaeological sites may also be excluded according to N.J.A.C. 5:93-5.6 (e). Thus, if Hopewell decides to address all or part of its fair share obligation through set aside zoning, the search area for these inclusionary zoning sites, should be limited to the sewer service areas where appropriate water supply is, or would become, available.

PRIOR FAIR SHARE PLANS

APPENDIX C details the several housing plans that Hopewell prepared and submitted to COAH for the second and third round. In summary, the 2008 plan (updated in 2011) indicates that Hopewell’s affordable housing units/credits are as follows:

Hopewell Township- Prior Round Credits / Reductions per 2008 Housing Element				
<i>Category/Development</i>	<i>Affordable Units</i>	<i>Rental Credits</i>	<i>Age-Restricted</i>	<i>Units / Credits</i>
Regional Contribution Agreements	198			198
Pennington Pointe	5		5	5
CIFA Group Home	4	4		8
Brandon Farms	138			135
Substantial Compliance Bonus	46			46
Hopewell Gardens	149			
Handicapped	15	15		30
Age-Restricted*	134	28	85	113
Total				535

Hopewell Township’s compliance plan, adopted in 2008 and updated in 2011 to replace the Weidel site with the better-positioned Zaitz parcel, includes the components outlined in the chart below:

1.	Scattered Site Projects (Community Options, HomeFront, Wick Avenue, Minnietown Lane) PARTLY COMPLETED	15
2.	Accessory Apartments	10
3.	Block 78, Lot 10.04 (Project Freedom) COMPLETED	70
4.	Block 33, Lot 1.02 (Pennytown)	70
5.	Block 91, Lot 3.96 (Capital Health Systems)*	70
6.	Block 93, Lot 5 (Burroughs tract)	7
7.	Block 88, Lot 5.02 (Zaitz tract)	180
8.	Residential development (ongoing, inclusionary zoning distributed throughout Hopewell Township)	50

Hopewell Township’s 2011 fair share plan includes accessory apartments, scattered small scale inclusionary development and 100% affordable projects on Township-owned land. Units formerly expected to be delivered by Capital Health and “ongoing inclusionary zoning” are no longer a viable part of the plan.

APPENDIX D includes the provisions governing Accessory Units (§17-219) and Inclusionary Zoning without Sewers (Article XVI (Growth Share and Affordable Housing Provisions), which requires “All residential development in the R-50, R-75, R-100, R-150, VRC and MRC zoning districts that results in the construction of four or more market-rate dwelling units in accordance with N.J.A.C. 5:94-1 et seq., shall be subject to the "growth share" provisions of this article”. However, growth share was invalidated and inclusionary sites must have access to sewer and water to be approved as part of the fair share plan, as noted above.

The 2008/2011 fair share plan calls for 100% affordable housing on Township properties, as seen with compliance elements numbered 1, 4, 6, and 7, which were to provide a total of 272 affordable units.

DETERMINATION OF NEED

Hopewell Township’s affordable housing fair share obligation is not yet known, despite the tight timeline for preparation and adoption of a fair share plan. Preliminary information from Dr. Burchell has just become available, and his final report is expected to be issued at the end of September.

ADDRESSING THE OBLIGATION

As noted above, some of Hopewell’s 2008/2011 fair share plan compliance elements are no longer viable, reflected in the strikethroughs in the table below:

The 2008/2011 fair share plan compliance elements rely heavily on the production of 100% affordable housing on Township properties, assuming a total of 272 affordable units. Verifying the viability of these

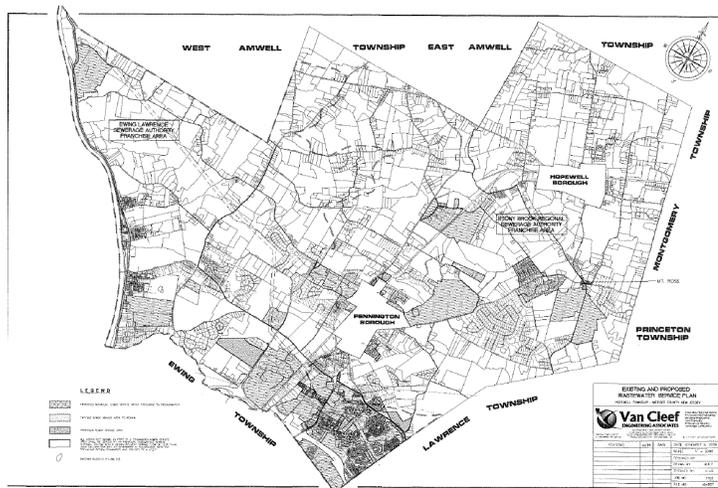
sites for continuing inclusion in the fair share plan is an important first step in building the 2015 Housing Element and Fair Share Plan (HE/FSP).

Developing 100% affordable housing generally relies upon the securing of low-income housing tax credits (LIHTC) and these tax credits are a limited commodity. Hillsborough Township recently agreed to provide a \$928,000 grant and long-term tax abatement to RPM Development to construct a 54-unit low and moderate income apartment complex on a 3.7-acre site in a redevelopment area. Because rental apartments receive double credit (108 units), Hillsborough's \$928,000 grant to RPM will produce one affordable housing unit and/or bonus credit for each \$8,592.

Assuming a comparable opportunity could arise in Hopewell Township, (i.e. -\$8,500/affordable unit/credit), the proposed 272-unit 100% affordable project would cost Hopewell Township roughly \$2,312,000. If this cost to the Township is deemed unacceptable and these 100% affordable projects cannot be developed during the 10-year horizon of the 2015 plan, up to 272 affordable units from the 2008/2011 compliance plan will have to be replaced.

Confirming the viability of these projects and all remaining viable elements of the 2008/2011 compliance plan will be important to developing a fair share plan that can achieve constitutional compliance. And it is clear that the previously submitted 2008/2011 compliance package can no longer deliver at least 120 units previously proposed at Capital Health (70) and through growth share inclusionary development on septic (50). As a result, the Township may need to make inclusionary zoning part of the compliance package, and, although the target number to be achieved is as yet unknown. Hopewell needs to determine whether and where to zone for inclusionary development, since it is the most likely available technique.

Inclusionary developments of any practical size can only be constructed with water and sewer infrastructure. As a result, Hopewell should examine the implications of inclusionary development, including how and where it might be permitted, so the Township can proactively plan rather than reactively responding to a builders remedy lawsuit. As the Planning Board reviews areas for such development, it should be guided to areas where the necessary infrastructure is available or consistent with wastewater planning and approval requirements. These areas are reflected on the sewer service area map above.



Each 100 units of affordable housing to be produced by inclusionary zoning would result in construction of at least 500 for-sale units (20% set aside) or 666 rental units (15% set aside). Thus, meeting a 500-unit third round obligation through inclusionary zoning would result in a total development of between 2,500 and 3,333 units.

CF Hopewell filed to intervene in the Township’s Declaratory Judgment action, and submitted the plan below titled “TEST FIT – CF Hopewell, June 26, 2015” for the 200 acre site that was the subject of discussion during 2014.

The accompanying June 30 letter to Laurie Gompf from Mark Solomon, Esq. regarding CF Hopewell’s “Request for Inclusionary Development”, indicated that the proposal would include 209 affordable units as a 15% set aside in a 1,388-unit inclusionary development that could also include “a neighborhood commercial center” including “a convenience store, restaurant, cleaners, etc.”.

Planning Board members may recall the discussion of Scotch Road during 2014, wherein a planned development was proposed that would array growth and preservation areas in a study area extending between Nursery Road and Route 546 from Reed Road to the residential neighborhood west of the CF Hopewell site. Our preliminary approach was expressed in a plan that identified farmland and woodland conservation areas as well as a compact growth area, seen below.



Scotch Road
Concept Areas
Hopewell Township
Mercer County
June 2014

Legend

Category

- Existing Development
- Farmland Reserve Area
- Future Development Area
- Woodland Reserve Area

Data Sources:
NJDEP
Mercer County

This map was developed using New Jersey Department of Environmental Protection Geographic Information System. All data for this map were provided from the NJDEP website and/or in 2014 data submitted.

BANISCH
A S S O C I A T E S P C
Planning and Design



APPENDIX A
Hopewell Township’s Adopted Master Plan Policies:
The Right Context for Affordable Housing Constitutional Compliance

Effective community planning must respond to a wide range of policy concerns, as Hopewell Township has done for decades. A well balanced plan should aspire to accomplish much good on many fronts and should not be driven exclusively or primarily by affordable housing mandates.

As the Township reviews and reconsiders the housing policies of the prior housing element and fair share plan, it is important that the primary growth-shaping policies of the master plan guide the selection of affordable housing sites.

A brief review of Hopewell’s adopted conservation and growth policies, is provided to assist the Planning Board in revising the fair share plan to conform to the requirements of the Supreme Court and achieve constitutional compliance.

The master plan underwent a major revision in 2002, with the advent of conservation-based zoning for the Sourland Mountain and the Hopewell Valley. Embracing the adopted State Development and Redevelopment Plan concept of protecting the “environs” and focusing growth in appropriate compact locations, the 2002 plan was guided by the following principles:

“Guiding Principles

This Master Plan is dedicated to preserving, protecting and enhancing Hopewell’s natural and cultural resources, and promoting a sustainable future for the Township and the region. The vision for managing change in Hopewell’s future is reflected in these key principles:

*Design and performance standards should **protect environmentally sensitive areas** with the goal of maintaining the quality of the air and water that flow through Hopewell.*

Development** should be sustainable in meeting the needs of the present without compromising the future, and **should be based on capacity limits established by natural resource capabilities and infrastructure.

***Community character should be conserved** by carefully managing the scale and intensity of new residential and non-residential development, retaining farmland, woodlands and other open lands, preserving historic structures and districts, and by managing change to complement historic resources.*

Scenic vistas** of the rural countryside and the villages and hamlets **should be protected.

*A **variety of housing** and a balance of opportunities to live, work and play in safe and attractive surroundings should be provided, **in part by** identifying locations and developing criteria for **mixed-use development.***

2002 Master Plan
Goals and Objectives
Land Use Plan Element
Conservation Plan Element

Township of Hopewell
Mercer County, New Jersey

Final Draft

Prepared by the Hopewell Township Planning Board
in consultation with Banitch Associates, Inc.

Prepared January 2002

An efficient circulation system that promotes important circulation linkages, retains the character of the rural road network and provides for safe vehicular, pedestrian, equestrian and bicycle movements should be maintained.

The Greenway system, a network of pathways, waterways and natural features linking significant public and private open spaces, should be expanded.

Farmland and open lands should be retained and the impacts of development should be limited throughout the valley and mountain areas, in part by allowing the use of techniques to encourage developers to transfer development to designated villages and hamlets.

A long-range policy for Route 31 should be developed to manage community design, circulation and safety considerations.

The realization of these objectives will require a combination of public actions, such as farmland and open space preservation and sustainable land use strategies and zoning techniques, as well as a variety of private conservation efforts.”

During the 13 years since the 2002 Master Plan was adopted, conservation-based zoning was adopted for most of the township and aggressive farmland and open space preservation have expanded the footprint of protected lands throughout the Township. A major tool in this endeavor, the Farmland Preservation Plan, calls attention to the expanse of valuable farmland that dominates the township and details the trends in farmland use and preservation efforts to date.

Much of central New Jersey experienced a significant loss of prime farmland to development during the massive suburbanization of the late 20th century. In Hopewell, fully 25% of all harvested cropland (nearly 2,000 acres) was lost between 1983 and 2007, while pastured cropland increased by over 500 acres. Woodlands assessed as farmland saw

COMPREHENSIVE FARMLAND
PRESERVATION PLAN



HOPEWELL TOWNSHIP
Mercer County, NJ

December 12, 2007
Revised through January 9, 2012
Adopted January 26, 2012

Table 7: Agricultural Land Use

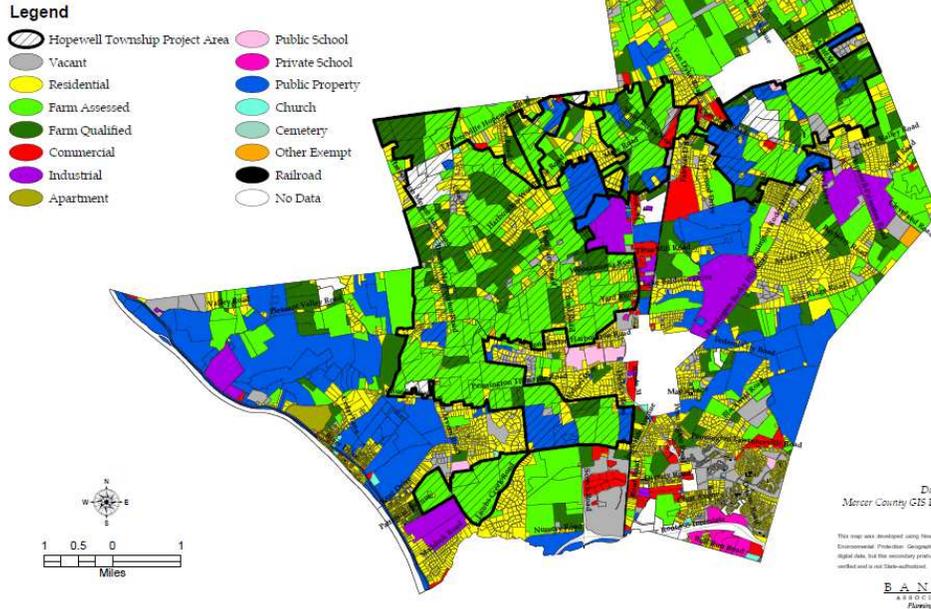
Use	1983	1990	2000	2004	2007 (Acres)	Change 1983- 2007 (Acres)	%
Cropland Harvested	7,657	8,612	7,073	6,203	5,739	-1,918	-25
Permanent Pasture	2,451	2,871	3,413	2,591	2,781	330	13
Attached Woodland	N/A	3,766	3,459	3,206	2,787	-979	-30
Cropland Pastured	994	1,447	1,454	1,510	1,546	552	-44
Unattached Woodland	N/A	3,586	3,519	2,627	2,888	-698	-19
Equine Acres	N/A	N/A	42	106	66	24	57
Woodland/wetland	5,902	N/A	N/A	N/A	N/A	N/A	N/A
Total for Ag Use	16,999	20,568	18,960	16,243	15,807	-1,192	-7

**based on most recent available year reported*

significant losses, with over 7,000 woodland acres in 1990 being reduced by nearly 1,700 acres by 2007. The expansive distribution of farmland (green) throughout the Township is easily observed on the map of

property tax class below. When combined with permanent open space (blue), the open aspect of Hopewell’s landscape is clearly seen.

Figure 2
Property Class
 Hopewell Township, Mercer County
 November 2011



The high quality of Hopewell’s farmland is reflected on the map below, which shows nearly all of Hopewell occupied by the most productive categories of “Prime Farmland”, Soils of Statewide Importance” and “Soils of Local Importance”.

Figure 6
Farmland Capability
 Hopewell Township, Mercer County

November 2011

Legend

- Hopewell Project Area
- Target Farms
- Prime Farmland
- Soils of Statewide Importance
- Soils of Local Importance



As of 2007, which is the latest aerial photo interpretation from NJDEP, over 9,800 farmland acres remained, equaling roughly a quarter of the Township's land area. Developed areas, reflected in the "urban" classification, account for another quarter of Hopewell's land area with 9,630 developed acres. Forested areas occupied over 14,000 acres, the biggest slice of land as of 2007, when wetlands and water covered 10% of the Township, producing the largely open and undeveloped landscape character that permeates the township. The list of preserved farms as of 2007 is below:

Table 1: 2007 Land use/Land Cover for Hopewell Township

Land Use/Land Cover	Total	%
Agriculture	9,805	26
Barren Land	357	1
Forest	14,069	37
Urban	9,630	26
Water	700	2
Wetlands	3,148	8
TOTAL	37,709	100

Table 3 - Preserved Farmland

Block	Lot	Property Location	Owner Name	Type of Acquisition	GIS Acreage
4	00019 01	182 VAN DYKE RD	Faille	SADC EP	40.29
4	20		Widman	SADC EP	12.6
16	4.011		D&R Greenway/St. Michaels	NPG	211.63
20	12		Huebner	Cty EP	55.3
21	5	195 PENN HOPEWELL RD	Bluestone Farms	Cty EP	61.68
26	1	HARBOURTON MT AIRY RD	Princeton Research	Cty EP	50.04
26	2	HARBOURTON MT AIRY RD	Lanwin	Cty EP	108.44
26	6		Hollendonner/Krutz	SADC EP	29.57
26	16	LAMBERTVL HOPEWELL RD	Princeton Research	Cty EP	83.81
27	2	35 HARBOURTON MT AIRY RD	Martindell	Cty EP	43.0
28	00002 01	46 HARBOURTON MT AIRY RD	Weidel (Jr.)	Cty EP	45.60
28	00002 03	42 HARBOURTON MT AIRY RD	Benioff	Cty EP	109.6
29	5		Mokros	SADC EP	94.32
31	00006 03	HARB WOODSVILLE RD	County of Mercer	Cty EP	94.4
31	13.03	MARSH CORNER WOODSVILLE ROAD	County of Mercer	Cty EP	139.5
37	23	91 TITUS MILL RD	Hart	Cty EP	15.2
37	00023 01	91 TITUS MILL RD	Hart	Cty EP	58.0
37	00025 01	TITUS MILL RD	Niederer	PIG	14.5
37	00025 03	TITUS MILL RD	Niederer	PIG	6.4
39	16	333 CARTER RD	Martin	SADC EP	95.15
39	17	333 CARTER RD	Martin	SADC EP	32.15
39	30	37 BAYBERRY RD	Martin	SADC EP	19.56
40	5	42 BAYBERRY RD	Martin	SADC EP	21.34
44	5		DiDonato	Cty EP	.15
44	00011 03	OLD MILL RD	Chowdbury	SADC FS	92.7
46	1.04	TITUS MILL RD	Niederer	Cty EP	63.8
46	00005 01	TITUS MILL RD	Niederer	Cty EP	60.7
50	4	257 PENN HARBOURTON RD	Hollinger	Green Acres	28.22
50	13	1412 TRENTON HARB RD	Gallo	Cty EP	54.44
50	00015 02	321 PENN HARBOURTON RD	Ferrette	Cty EP	42.51

51	23		Foster	PIG	48.29
52	5	121 PLEASANT VAL HARB RD	Newhouse	Donation	213.6
52	54	1429 TRENTON HARB RD	Weidel	Cty EP	36.7
61	3.01		Niederer	PIG	23.95
61	3.02		Niederer	PIG	88.19
61	5.01		Niederer	PIG	103.92
62	1.01	1310 BEAR TAVERN RD	Fedor	Cty EP	60.9
62	2.011		Patricelli	Cty EP	25.69
62	4.03	1258 BEAR TAVERN RD.	Smith	Green Acres	78.43
62	24	349 PENN.-TITUSVILLE RD	Batcha	Green Acres	143.76
62	26.041		Lovaro	NPG	69.89
72	00006 20	163 BLACKWELL ROAD	Radvany	Cty EP	26.4
75	00001 01	164 BLACKWELL RD	HART	Cty EP	16.3
					2,720.62

The project area includes 1,109 acres of preserved farmland and 2,911 acres of dedicated open space for a total of 4,020 acres (37%).

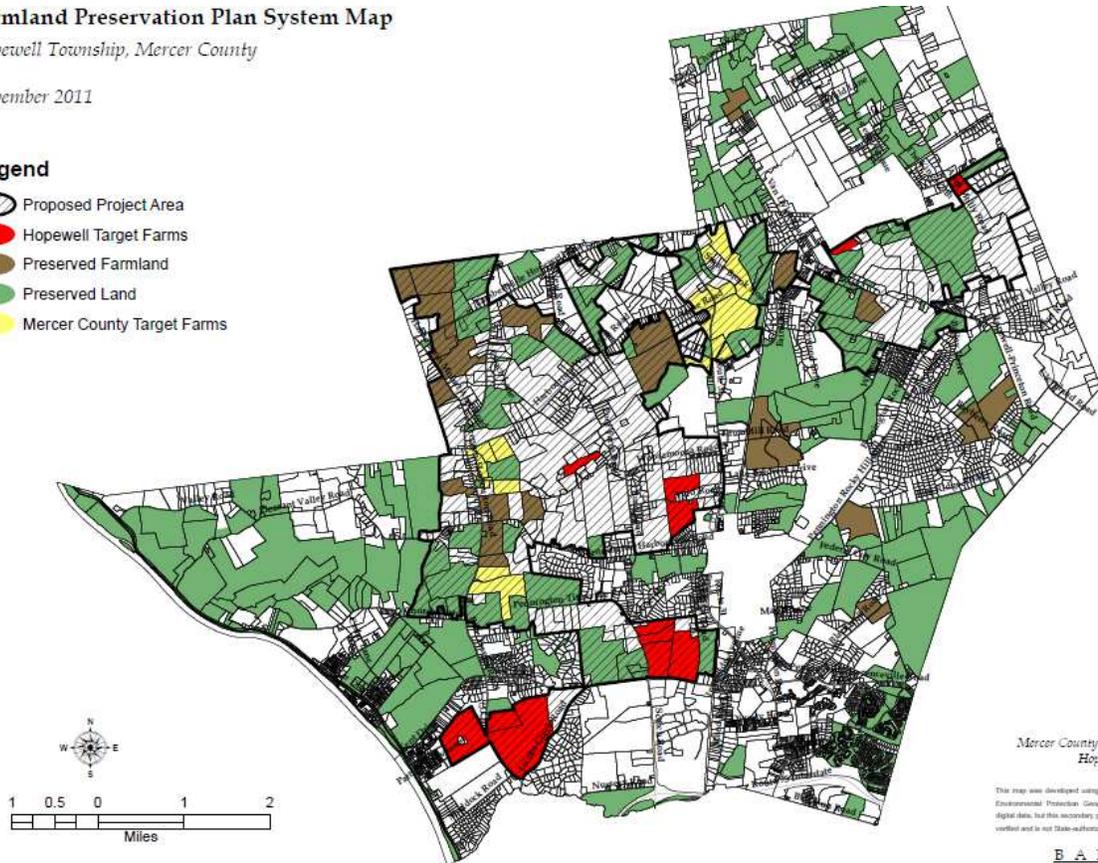
Farmland Preservation Plan System Map

Hopewell Township, Mercer County

November 2011

Legend

-  Proposed Project Area
-  Hopewell Target Farms
-  Preserved Farmland
-  Preserved Land
-  Mercer County Target Farms



The Farmland Preservation Plan System Map from 2011 illustrates preserved farms in brown and the “target farms” that are current acquisition priorities in red. It is noteworthy that, while the earlier acquisitions are generally clustered in the northern portion of Hopewell, current target farms are all found in the central and southern parts of town.

State Planning Policy Areas

The State Development and Redevelopment Plan included a policy map that identified areas of the state for growth and conservation. Five (5) Planning Areas were mapped to show where growth should be encouraged and where conservation should be the priority around the State. Planning Areas are numbered PA-1 through PA-5, with growth to be directed primarily to Planning Area 1 (Metropolitan) and Planning Area 2 (Suburban).

There is no area in Hopewell Township designated as PA-1 according to the SDRP, making Planning Area 2 a priority area for future development. The portions of the Township that contain the Suburban Planning Area (PA-2) are confined to the area east of Scotch Road and south of Washington Crossing-Pennington Road as well as the Washington Crossing and Titusville areas in the Township’s southwest corner. The intent of the State Plan for PA 2 is to:

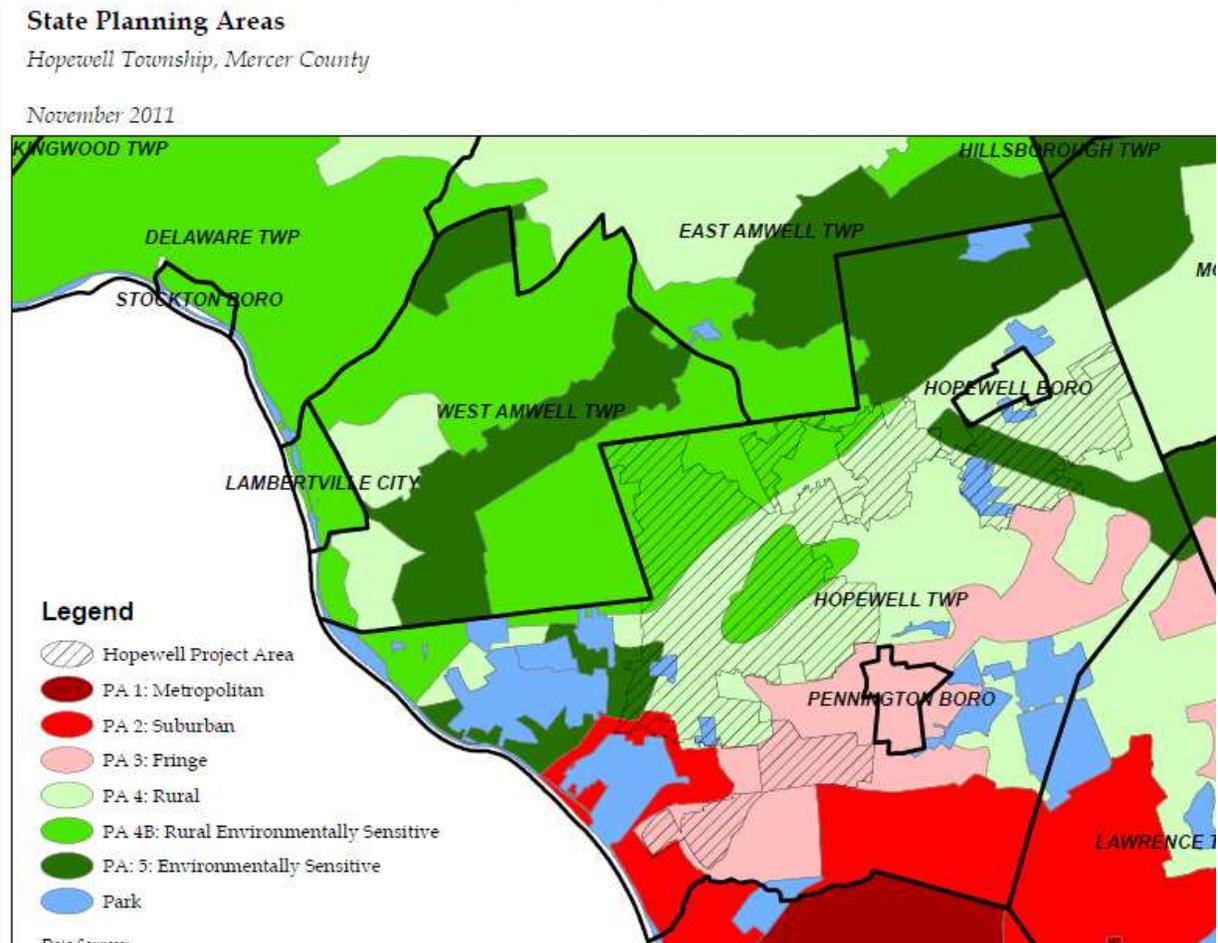
- Provide for much of the State’s future development
- Promote growth in Centers and other compact forms
- Protect the character of existing stable communities
- Protect natural resources

- Redesign areas of sprawl
- Reverse the current trend toward further sprawl
- Revitalize cities and towns

Planning Area 3, the Fringe Planning Area, has a rural landscape with freestanding residential and commercial development. The Fringe Planning Area in Hopewell is primarily situated between the Suburban Planning areas and the Rural Planning areas, and acts as a transition zone between the two. The Fringe Planning Area extends from Route 579 on the west, and then northeasterly through the municipal and school district properties, Pennington Borough, Bristol Myers-Squibb and Elm Ridge Park, terminating at Princeton Farms, Hopewell Hunt and a portion of the Townsend properties. The intent of the SDRP for PA 3 is to:

- Accommodate growth in centers
- Revitalize cities and towns
- Protect the character of existing stable communities
- Protect natural resources
- Provide a buffer between more developed and less developed Planning Areas
- Confine programmed sewers and public water services to Centers

Planning Area 4, the Rural Planning Area, is sparsely populated and are intended to act as greenways throughout the State. These often contain agriculturally prime soils, environmentally sensitive areas, and



continuous portions of wooded tracts. The Rural Planning Area is found throughout the central portions of the Township, extending from Route 579 on the west through Hopewell Borough to the Township’s eastern boundary with Princeton and Lawrence Townships.

Planning Area 4B, the Rural/Environmentally Sensitive Planning Area, represents lands in the State that have environmentally sensitive features, yet still possess agriculturally productive soils or may have a prevalence of farming as an industry. Planning Area 4B occurs in the north-central and northwestern portions of the Township. The intent of the State Plan for PA-4 is to:

- Maintain the Environs as large contiguous areas of farmland and other lands
- Revitalize cities and towns
- Accommodate growth in Centers
- Promote a viable agricultural industry
- Protect the character of existing, stable communities
- Confine programmed sewers and public water services to Centers

Planning Area 5 lacks the farming and productive soils found in Planning Areas 4 and 4B but is characterized by significant environmental resources, including wetlands, forests, steep slopes and scenic views. Planning Area 5 is found in the Sourland Mountains, near Baldpate Mountain, and along the diabase ridge that outcrops along Crusher Road and extends through Mount Rose.

The SDRP cites PA 5 as “highly vulnerable to damage of many sorts from new development...including fragmentation of landscapes, degradation of aquifers and potable water, habitat destruction, extinction of plant and animal species and destruction of other irreplaceable resources .” These environmental sensitivities prompted concern in the SDRP that “new development (in PA 5) has the potential to destroy the very characteristics that define the area.”

The intent of the SDRP for PA 5 seeks to:

- Protect environmental resources through the protection of large contiguous areas of land
- Accommodate growth in Centers
- Protect the character of existing stable communities
- Confine sewers and programmed water services to centers
- Revitalize cities and towns

Most of the Township (71%) is targeted for limited growth and conservation, while the SDRP only designated 29% of Hopewell within the Planning Areas intended to accommodate growth. As a result, the Suburban Planning Area (PA-2) is geographically the portion of Hopewell that is best suited to growth and development, according to the State Plan.

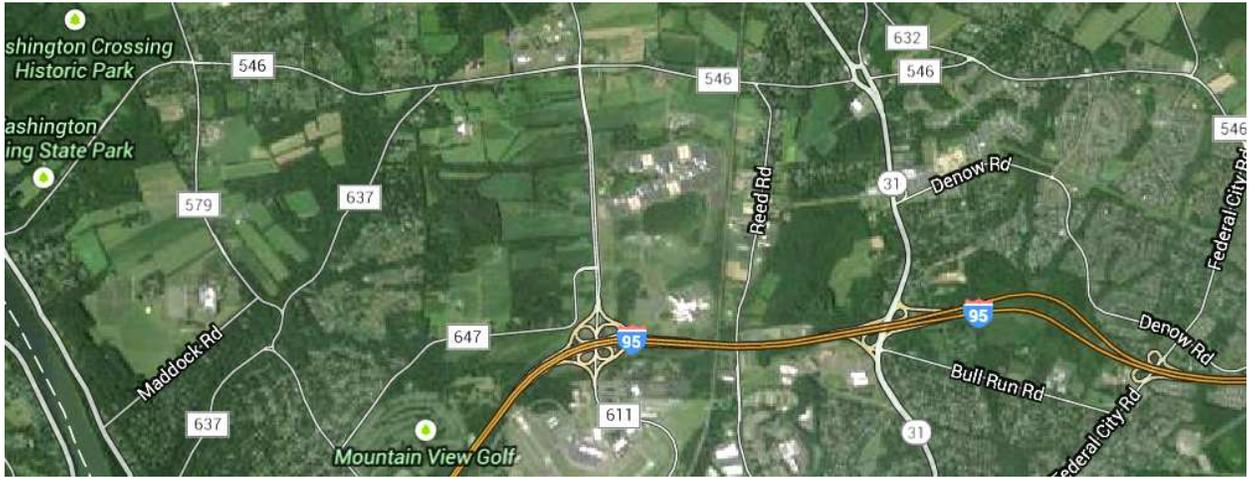
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Water	700	2
Wetlands	3,148	8
TOTAL	37,709	100

In the illustration below, pink depicts the extent of centralized public sewer service available in Hopewell Township. In general these areas are within the PA-2 Suburban Planning Area designation.

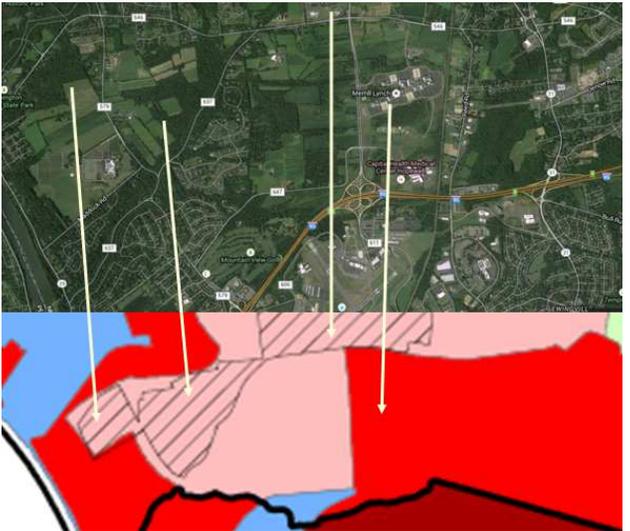


The aerial photo below, which depicts the same area, illustrates the landscape character of the area, with stream corridors, farmlands and woodlands clearly evident.



The mosaic of farmland, woodlands and suburban neighborhoods found in southern Hopewell blended among the farms and woodlands that impart the distinctly rural feeling to, despite rural

The illustration at right keys locations on the aerial photo to the Planning Area mapping. Pink denotes Planning Area 3 (Fringe), red areas are Planning Area 2 (Suburban) and blue signifies Park.



The Municipal Land Use Law specifies that the Circulation Plan Element is to “take into account the functional highway classification system of the Federal Highway Administration (FHWA).”

Arterials

Circulation Plan Element

Township of Hopewell
Mercer County, New Jersey

February 2006

Prepared by the Hopewell Township Planning Board
in consultation with Banisch Associates, Inc

Adopted on March 9, 2006

Arterial roads serve the primary function of carrying traffic in a continuous route across or through an area, connecting collector streets that serve neighborhoods to freeways, expressways or other limited access highways.

Principal arterials form an interconnected network of continuous regional corridors having the highest traffic volumes and the longest trip lengths. In Hopewell they include Interstate I-95 and State highways (Routes 31 and 29), which are augmented by the minor arterials (Routes 546 and 579).

Collectors

Collectors are roads that carry traffic between arterials and local streets as well as provide access to abutting properties.

Local

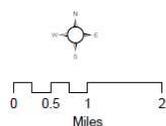
Local roads provide access to abutting properties. Usually fronted with single family units, these streets typically have low speeds and low traffic volumes.

Figure 4
Functional Classifications

Hopewell Township
Mercer County
February 2006

Legend

- Rural Major Collector
- Rural Minor Collector
- Urban Collector
- Urban Interstate
- Urban Minor Arterial
- Urban Minor Collector
- Urban Principal Arterials



Data Sources:
Hopewell Township
BANISCH
ASSOCIATES, INC.
Planning and Design

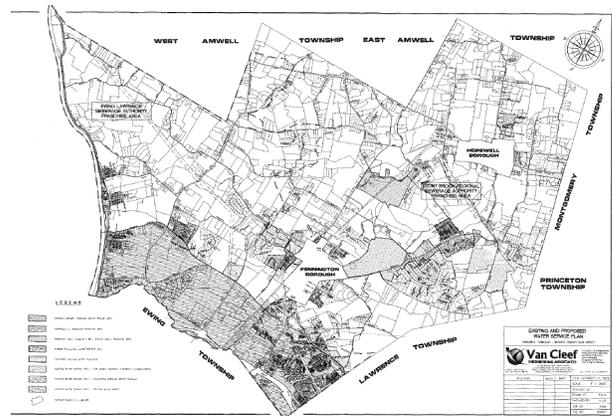
The Hopewell Township Master Plan recognizes that the capacity for growth is directly related to the infrastructure needed to support it. The illustration below highlights the arterial highways in Hopewell, illustrating whether they have one or two lanes. The only roads with four travel lanes are the interstate highway, Route 31 and Scotch Road. These high-capacity roads make southern Hopewell the most regionally accessible portion of the township.



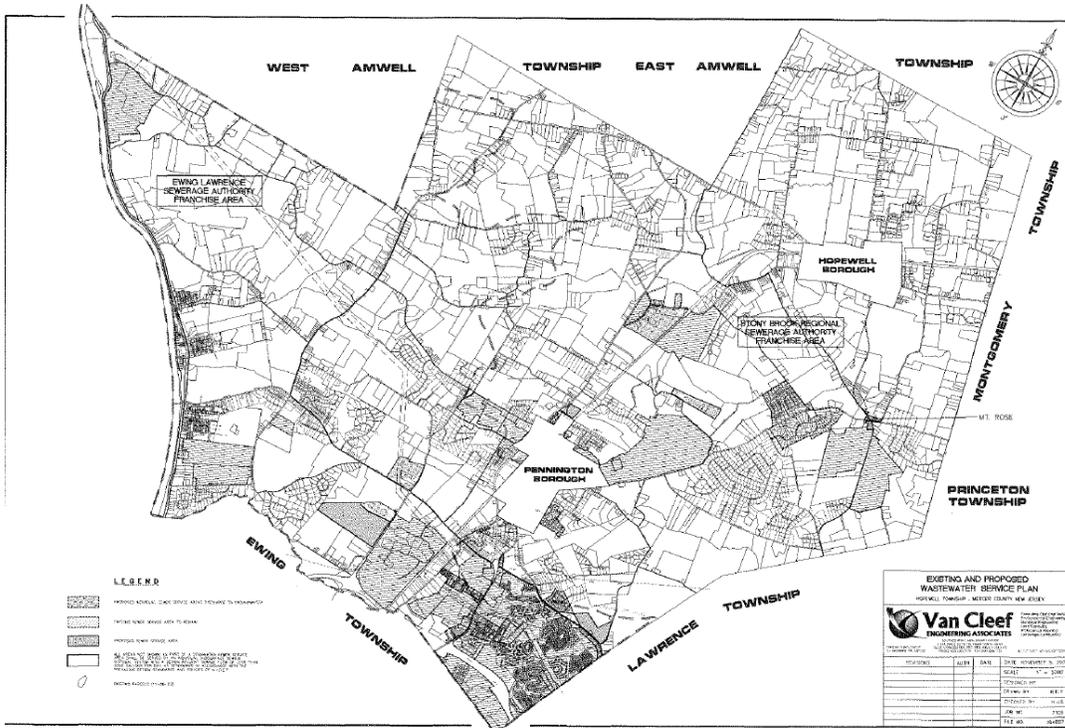
Utility Services Plan Element

Township of Hopewell
Mercer County, New Jersey

November 19, 2009



In addition to regional accessibility, southern Hopewell is also endowed with substantial areas of undeveloped land served by public water service between the southern Township boundary and County Route 546, as seen above. Southern Hopewell is also where sewer service areas have been designated for service by centralized sewerage facilities like ELSA, as seen below.



APPENDIX B
Excerpt from N.J.A.C. 5:93-5.6 Zoning for Inclusionary Development

N.J.A.C. 5:93-5.6 includes the following requirements for selection of inclusionary sites:

(a) Municipalities that choose to provide zoning for inclusionary development shall select sites that conform to the criteria in N.J.A.C. 5:93-5.3 and shall submit the information required in N.J.A.C. 5:93-5.3.

(b) The Council's review of municipal plans to zone for inclusionary development shall include, but not necessarily be limited to: the existing densities surrounding the proposed inclusionary site; the need for a density bonus in order to produce low and moderate income housing; whether the site is approvable, available, developable and suitable pursuant to N.J.A.C. 5:93-1.3; the site's conformance with the SDRP pursuant to N.J.A.C. 5:93-5.4; the existence of steep slopes, wetlands and floodplain areas on the site; the present ability of a developer to construct low and moderate income housing at a specific density; the length of time an inclusionary site has been zoned at a specific density and set-aside without being developed; and the number of inclusionary sites that have developed within the municipality at specific densities and set-asides.

"Approvable site" means a site that may be developed for low and moderate income housing in a manner consistent with the rules or regulations of all agencies with jurisdiction over the site. A site may be approvable although not currently zoned for low and moderate income housing.

"Available site" means a site with clear title, free of encumbrances which preclude development for low and moderate income housing.

"Developable site" means a site that has access to appropriate water and sewer infrastructure, and is consistent with the applicable areawide water quality management plan (including the wastewater management plan) or is included in an amendment to the areawide water quality management plan submitted to and under review by DEP.

"Suitable site" means a site that is adjacent to compatible land uses, has access to appropriate streets and is consistent with the environmental policies delineated in N.J.A.C. 5:93-4.

The criteria used to remove land from the vacant land inventory for an adjustment for "lack of land" are outlined in N.J.A.C. 5:93-4.3 (e) as follows:

(e) Municipalities may present documentation that the Council shall use to eliminate a site or part of a site from the inventory of sites described in (d) above. Partial elimination of a site shall not necessarily eliminate an entire site as unsuitable. Municipalities may seek to eliminate sites from the inventory described in (d) using the criteria set forth in 1 through 6 below. Municipalities shall submit transparent overlays drawn to the same scale as the existing land use map depicting those sites which the municipality maintains are inappropriate for development.

1. Agricultural lands shall be excluded when the development rights to these lands have been purchased or restricted by covenant.

2. Environmentally sensitive lands shall be excluded as follows:

i. Within the areas of the State regulated by the Pinelands Commission, Division of Coastal Resources of the DEP and the Hackensack Meadowlands Development Commission of DCA, the Council shall adhere to the policies delineated in The Pinelands Comprehensive Management Plan, N.J.A.C.7:50; the Coastal Permit Program Rules, N.J.A.C.7:7-1; Coastal Resource and Development Rules, N.J.A.C.7:7E- 1; and the Zoning Regulations of the Hackensack Meadowlands District, N.J.A.C. 19:4.

ii. In areas of the State not regulated by the Pinelands Commission, the Division of Coastal Resources and the Hackensack Meadowlands Development Commission, municipalities may exclude as potential sites for low and moderate income housing: inland wetlands as delineated on the New Jersey Freshwater Wetlands Maps, or when unavailable, the U.S. Fish and Wildlife Service National Wetlands

Inventory; or as delineated on-site by the U.S. Army Corps of Engineers or DEP, whichever agency has jurisdiction; when on-site delineation is required by the Council; flood hazard areas as defined in N.J.A.C.7:13; and sites with slopes in excess of 15 percent, as determined from the U.S.G.S. Topographic Quadrangles, which render a site unsuitable for low and moderate income housing. In cases where part of a site is unsuitable for low and moderate income housing because of flood hazard areas or inland wetlands, the Council shall not permit low and moderate income housing to be constructed on that unsuitable part of the site; provided however, that this rule shall not prohibit construction of low and moderate income housing on the remainder of the site. In the case of slopes in excess of 15 percent, a municipality may regulate inclusionary development through a steep slope ordinance, provided the ordinance also regulates non-inclusionary developments in a consistent manner. The Council reserves the right to exclude sites in whole or in part when excessive slopes threaten the viability of an inclusionary development.

iii. Where the Legislature adopts legislation that requires the mapping of other natural resources and provides a mechanism for their regulation, the Council shall include such resources in its criteria and guidelines for municipal adjustment.

3. Historic and architecturally important sites may be excluded as follows:

i. Historic and architecturally important sites shall be excluded if such sites were listed on the State Register of Historic Places in accordance with N.J.A.C.7.4 prior to the submission of the petition of substantive certification.

ii. Municipalities may apply to exempt a buffer area to protect sites listed on the State Register of Historic Places. The Council shall forward such request to the Office of New Jersey Heritage for a recommendation pertaining to the appropriateness and size of a buffer.

iii. Upon receipt of the Office of New Jersey Heritage's recommendation, the Council shall determine if any part of a site should be eliminated from the inventory described in (d) above.

iv. Within historic districts, a municipality may regulate low and moderate income housing to the same extent it regulates all other development.

4. Active recreational lands may be excluded as follows:

i. Municipalities may reserve three percent of their total developed and developable acreage for active municipal recreation and exclude this acreage from consideration as potential sites for low and moderate income housing. However, all sites designated for active recreation must be designated for recreational purposes in the municipal master plan. In determining developable acreage, municipalities shall calculate their total vacant and undeveloped lands and deduct from that total number the lands excluded by the Council's rules regarding historic and architecturally important sites, agricultural lands and environmentally sensitive lands. Municipalities shall also exclude from this calculation of total vacant and undeveloped lands, those owned by nonprofit organizations, counties and the State or Federal government when such lands are precluded from development at the time of substantive certification. Municipalities shall submit appropriate documentation demonstrating that such active recreational lands are precluded from development. Existing active municipal recreation areas shall be subtracted from the three percent calculation of total developed and developable acreage to determine additional land that may be reserved for active municipal recreation.

ii. Sites designated for active recreation must be purchased and limited to active recreational purposes within one year of substantive certification. Sites that are not purchased and limited to active recreational purposes shall, if determined necessary by the Council, be zoned to permit inclusionary development.

APPENDIX C
SUMMARY OF HOPEWELL TOWNSHIP FAIR SHARE PLANS

A builder remedy lawsuit in 1997 resulted in the construction of 138 affordable units at Brandon Farms. Thereafter, Hopewell elected to participate in the COAH process and submitted a petition for substantive certification, along with a Housing Element and Fair Share Plan on February 23, 1995. COAH granted second round substantive certification on January 8, 1997 which was extended, with a expiration date of December 20, 2005.

Hopewell Township prepared affordable housing compliance plans for the third round in 2005 and 2008 to address the changing third round obligations identified by COAH. Hopewell Township's 2005 Housing Element and Fair Share Plan identified the Townships eligibility for 541 affordable unit credits and reductions against the prior round obligation of 565 units, leaving a shortfall of 24 units to be addressed as part of the 2005 third round plan.

COAH's growth share calculations in 2005 indicated a third round obligation for 186 additional affordable units in Hopewell Township. The 2005 Fair Share Plan applied 47 excess age-restricted credits, not usable in the prior round, toward the third round obligation and proposed another 140 affordable units from three sources:

- regional contribution agreements (93 units)
- group homes (12 units) and
- municipally sponsored construction (35 units).

On December 31, 2008, Hopewell Township filed another third round petition for substantive certification. The 2008 Housing Element and Fair Share Plan found the Township to be eligible for 535 affordable unit credits and reductions from its recalculated prior round obligation of 520 units, as outlined below:

Hopewell Township- Prior Round Credits / Reductions per 2008 Housing Element				
<i>Category/Development</i>	<i>Total Affordable Units</i>	<i>Rental Credits</i>	<i>Age-Restricted Units</i>	<i>Housing Units / Credits</i>
Regional Contribution Agreements	198			198
Pennington Pointe	5		5	5
CIFA Group Home	4	4		8
Brandon Farms	138			135
Bonus for Substantial Compliance	46			46
Hopewell Gardens	149			
Handicapped	15	15		30
Age-Restricted*	134	28	85	113
Total				535

While the 2008 petition for substantive certification was not approved by COAH after objector comments were received and the COAH process broke down, the Fair Share Plan was nonetheless eligible for substantive certification by COAH.

As seen in the table below, the 2008 plan indicated that Hopewell Township was entitled to apply 64 affordable units toward the third round, including 15 excess units from its prior round and 49 age-restricted rental units that could be carried to the Third Round.

Fair Share Summary of Planned Compliance Per the 2008 and 2011 Round Three Housing Elements			
	Required	Delivered	
Total Fair Share Obligation	UNKNOWN	NA	
<i>Rounds One and Two</i>	520	535	
Rehabilitation Share	5	5	
Round Three Fair Share Requirement	UNKNOWN		
Excess	--	15	
Not Counted in Prior Rounds, Eligible in Round Three	--	<u>49</u>	
Excess Applicable to Round Three	--	64	
<i>2008-2011 Round Three Compliance Elements:</i>			
1.	Scattered Site Projects (Community Options, HomeFront, Wrick Avenue, Minnietown Lane)	--	15
2.	Accessory Apartments	--	10
3.	Block 78, Lot 10.04 (Project Freedom)	--	70
4.	Block 33, Lot 1.02 (Pennytown)	--	70
5.	Block 91, Lot 3.96 (Capital Health Systems)*	--	70
6.	Block 93, Lot 5 (Burroughs tract)	--	7
7.	Block 88, Lot 5.02 (Zaitz tract)	--	180
8.	Residential development (ongoing, inclusionary zoning distributed throughout Hopewell Township)	--	<u>50</u>
Total Units including Excess Applicable to Round Three		--	536

Properties included in the Fair Share Plan, identified in the table above, are as follows:

- Block 2, Lot 8 is a 1.1 acre parcel on Minnietown Lane and Hopewell-Wertsville Road where 2 modular units were constructed and occupied. (Reference # 1 above)
- Block 130, Lot 77.01 on Wrick Avenue, a 0.5 acre parcel which the Township obtained through a tax foreclosure. The Township has entered a contract to construct a modular home on this

property. The property is located in a residential zoning district and has a well and septic system available. (Reference # 1 above)

- Block 33, Lot 1.02 is a 25 acre parcel with frontage on Marshall's Corner-Woodsville Road, Pennington-Hopewell Road (County Route 654), and Route 31. (Reference #4 above)
- Block 93, Lot 5 on Scotch Road, is a 34 acre parcel acquired by the Township specifically for affordable housing purposes. The Township is seeking an experienced developer of affordable housing to provide 30 to 50 units on this property, and intends to prepare a Request for Proposals (RFP) to solicit such a developer. However, wastewater treatment limitations may only permit seven units if conventional on-site disposal is utilized. If possible, wastewater treatment will be provided through an on-site community wastewater treatment system or connection to ELSA, and potable water through a public water supply system or an on-site well. The property is adjacent to major employers and in close proximity to the municipal complex, and is located in a residential zoning district. (Reference #6 above)
- Block 85, Lot 3 The 44-acre Zaitz tract (Block 85, Lot 3) was substituted for the previously designated Weidel Tract (Block 88, Lot 5.021), since it is more particularly well suited for housing. This open agricultural lot has frontage along Mercer County Route 546, and is disconnected from other major agricultural tracts, making it less desirable for agriculture related uses. The Zaitz tract is within close proximity to retail services and has access to mass transit. The Township plans to construct approximately 200 affordable units on the tract, utilizing an experienced developer of affordable housing and subject to a forthcoming Request for Proposals. (Reference #7 above)

APPENDIX D

HOPEWELL TOWNSHIP REGULATIONS GOVERNING ACCESSORY APARTMENTS AND INCLUSIONARY ZONING WITHOUT SEWER SERVICE

Accessory Apartments

Hopewell Township's Land Use Ordinance addresses accessory apartments in §17-219, which are permitted to provide "additional opportunities for low and moderate income housing". **According to 17-219.2 :**

"An accessory apartment is a self-contained, residential unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance which is created to be occupied by a low- or moderate-income household. The accessory apartment may be created within an existing dwelling unit, may be created within an existing structure on a lot or be in addition to an existing home or accessory building"

Section 17-219.3 also includes the following "Additional Requirements":

"The following additional conditions shall apply to accessory apartments:

- a. Accessory apartments, as defined hereinabove, shall be permitted within all zoning districts within the Township of Hopewell except the R-5 and R-6 districts and provided further that the lot upon which the accessory apartment shall be created meets all zoning requirements for said zone unless a variance is obtained from the appropriate Township Land Use Board; and*
- b. Accessory apartments shall comply with all applicable statutes and regulations of the State of New Jersey in addition to all local building and health codes; and*
- c. Accessory apartments shall be rented only to a household which is either a low or moderate income household at the time of the initial occupancy of the unit as defined by the Hopewell Township Affordable Housing Program; and*
- d. The accessory apartment shall, for a period of at least ten years from the date of the issuance of a certificate of occupancy for said apartment, be rented only to low- or moderate-income households; and*
- e. Rents of accessory apartments shall be affordable to low- or moderate-income households as per the substantive regulations of the New Jersey Council on Affordable Housing (COAH) and shall include a utility allowance; and*
- f. No more than ten accessory apartments shall be utilized to address the Hopewell Township Fair Share Obligation unless this ten unit cap is changed or waived by COAH; and*
- g. There shall be a recorded deed or dedication of covenants and restrictions applied to the property upon which the accessory apartment is located running with the land and limiting its subsequent rental or sale within the requirements of paragraphs c. and d. above; and*

- h. *Each accessory apartment shall have a gross floor area of at least 350 square feet, but shall not exceed more than three bedrooms of living space, or 1200 square feet, or 25 percent of the floor area of the dwelling, whichever is greater, and shall have cooking facilities, a kitchen sink and a complete sanitary facility for the exclusive use of the occupants; and*
- i. *The accessory apartment shall have a separate door with direct access to the outdoors; and*
- j. *The accessory apartment shall have a potable water supply and a sanitary disposal system for the accessory apartment which shall be reviewed and approved by the township health officer; and*
- k. *The accessory apartment shall be affirmatively marketed to the housing region wherein the Township of Hopewell is located; and*
- l. *In the case of an accessory apartment created illegally or without proper permits which the property owner desires to legitimize as an accessory apartment under this section, all of the requirements of this section in addition to meeting COAH criteria shall apply and the subsidy provided for herein below may be made available by the township to said owner; and*
- m. *At least one off-street parking space per bedroom or a maximum of two spaces shall be provided for each apartment.”*

Thus, accessory apartments are permitted in almost every district in the Township (except R-5 and R-6) on a conforming lot provided they are only rented to low and moderate income households at affordable rents. These must be self-contained, complete dwelling units accessible from outdoors (without entering through another unit) and must have approved water and sanitary facilities. The current requirements also offer a path to legitimacy for illegal apartments. It is important to note that limitations to the use of septic systems can be a severe impediment to creating these units, but, as this condition is variable, it should not be construed to mean that accessory units on septic systems are not approvable.

Inclusionary Zoning without Sewers

Article XVI (Growth Share and Affordable Housing Provisions) specifies the following affordable housing requirements for residential and non-residential developments:

“b. *Residential Development.* All residential development in the R-50, R-75, R-100, R-150, VRC and MRC zoning districts that results in the construction of four or more market-rate dwelling units in accordance with N.J.A.C. 5:94-1 et seq., shall be subject to the "growth share" provisions of this article.

c. *Nonresidential Development.* All nonresidential development in the HBO, O/CC and SI zoning districts that results in an increase in gross floor area of any existing nonresidential structure or the construction of a new nonresidential structure in accordance with N.J.A.C. 5:94-1 et seq., shall be subject to the "growth share" provisions of this ordinance.”

On August 24, 2011, Acting New Jersey Gov. Kim Guadagno signed into law a two-year moratorium on the imposition of nonresidential affordable housing fees (2.5 percent of a project’s equalized assessed value including land and improvements). While the 2009 Economic Stimulus Act suspended the

collection of such fees until July 1, 2010, the current moratorium (until July 1, 2013) provides for the following:

- Non-residential projects that have or will receive preliminary or final approval prior to July 1, 2013 are exempt from paying the 2.5 percent fee, provided a building permit is issued prior to January 1, 2015.
- the moratorium is retroactively extended back to the end of the last moratorium. Thus, any non-residential fees paid between the expiration of the earlier moratorium (July 1, 2010) to the present must be refunded unless the municipality can demonstrate it has already spent the monies on an affordable housing project.
- claims for refunds must be submitted to a municipality in writing within 120 days of the effective date of the law, *i.e.*, December 22, 2011.

As a result of this moratorium, non-residential developments cannot be made to contribute funds for affordable housing, despite the fact that they may generate additional affordable housing obligations for the host municipality. Hopewell Township's ability to assess fees on such uses in the future is uncertain at the present time.

With regard to Section 17-253 (Residential Growth Share Provisions), Hopewell Township currently requires that:

a. All residential development which results in the construction of four market-rate dwelling units in Hopewell Township in the R-50, R-75, R-100, R-150, VRC and MRC zoning districts shall provide one affordable unit for every four market rate units constructed. If the affordable unit is constructed on site the applicant shall receive one additional market-rate unit for each affordable unit. If it is not feasible to construct the affordable unit on site, then it may be constructed off site, and the applicant shall receive 0.5 additional market rate unit for each affordable unit.

Since the four market rate units, one affordable unit and one additional market rate unit will exceed the 2,000 gallons of wastewater flow that are permitted with a standard septic system, the development shall be served by either public sewers or a small, community wastewater treatment system approved by the N.J. Department of Environmental Protection.

b. For developments that result in a number of market-rate residential units not evenly divisible by four, the developer may construct the additional affordable unit on site or alternatively, the developer may make a payment in lieu of constructing the additional affordable unit. If the developer selects the latter option, the amount of said payment shall be established by subtracting any whole multiples of four from the total number of market-rate residential units being created, dividing any remaining number of units by four and multiplying the resulting fraction by the subsidy required to create an affordable housing unit in Hopewell Township.

The actual payment in lieu of construction made by the developer may be negotiated with the township considering the actual land cost of the site(s) identified for affordable housing construction elsewhere within Hopewell Township or the substitution of land, site preparation and/or construction services for all or a portion of the monetary payment otherwise required.

c. All residential development in the R-50, R-75, R-100, R-150, VRC and MRC zoning districts consisting of less than four residential units is subject to the payment of development fees as set forth in section 10-7 of the Township Code.

d. As an alternative to fulfilling the affordable housing requirements set forth in a. through c. above, developers of residential units in the R-50, R-75, R-100, R-150, VRC and MRC zoning districts may elect to construct an affordable housing unit elsewhere in Hopewell Township or purchase an existing residential unit elsewhere in Hopewell Township in accordance with Hopewell Township's market to affordable program, and/or municipally-sponsored rental program which shall comply with applicable COAH rules at N.J.A.C. 5:94-1 et seq.

e. All residential development not subject to the provisions of a. through d. above, including residential developments of three units or less, shall be subject to the provisions governing development fees as set forth in section 10-7 of the Township Code and N.J.A.C. 5:94-8.3(c)2.

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