

# 2013 MASTER PLAN REEXAMINATION REPORT

## TOWNSHIP OF EAST AMWELL HUNTERDON COUNTY, NEW JERSEY

**ADOPTED  
SEPTEMBER 11, 2013**

**In consultation with:  
The Township of East Amwell Planning Board**

**Prepared by:**



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The original of this document has been signed and sealed pursuant to N.J.A.C. 13:41-1.3

## INTRODUCTION

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

*“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 first such reexamination shall have been completed by August 1, 1982. The next reexamination shall be completed by August 1, 1988. Thereafter, a reexamination shall be completed at least once every 10 years from the previous reexamination.”*

The Township of East Amwell Planning Board adopted the most recent Periodic Reexamination on October 15, 2003. Prior that that, a reexamination report was completed on December 1999. In addition, the Township of East Amwell Planning Board last adopted the following comprehensive master plans and amendments as follows:

- Land Use Plan adopted November 30, 2005
- Open Space and Recreation Plan Element adopted on October 19, 2005
- Housing Plan Element and Fair Share Plan adopted December 10, 2008 to address the Third Round COAH regulations

The Municipal Land Use Law requires consideration of five areas (N.J.S.A. 40:55D-89a-e) within the Reexamination Report, which are discussed below:

- a. The major problems and objectives relating to land development in the municipality at the time of the adoption of the last reexamination report.
- b. The extent to which such problems and objectives have been reduced or have increased subsequent to such date.
- c. 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.
- d. The specific changes recommended for the master plan or development regulations, if any, including underlying objectives, policies and standards, or whether a new plan or regulations should be prepared.
- e. The recommendations of the Planning Board concerning the incorporation of redevelopment plans adopted pursuant to the “Local Redevelopment and Housing Law,”

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.

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

The previous reexamination report identified a series of problems and objectives that existed in 2003. The following is a summary of those issues:

1. Threats to the sustainability of water resources and protection of the fragile ecosystem of the Sourland Mountains from land use impacts. This includes concerns over increased clearing of forest in the Sourland Mountains associated with logging/farming operations and site disturbances associated with residential use (lawns, pools, outdoor recreation areas, etc.).
2. The continuing pattern of minor frontage subdivision activity throughout the agricultural area remains a concern.
3. As regional traffic has increased, peak hour delays have become more frequent on the state highways and Route 31 traffic has become more of a problem than ever.
4. Concerns about the adequacy of septic systems in the village of Ringoes.
5. The potential for road frontage development to destroy the scenic corridors and viewsheds in the Township.

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

Many of the issues present in 2003 continue to guide long-term planning initiatives in the Township, as detailed below:

1. The Sourland Mountain District remains a concern for long-term planning. In 2003 the Township adopted changes to the Land Management Ordinance that reduced permitted densities and increase minimum lot area in the Sourland Mountain District to 15 acres and prevented flag lot development, which fragments the interior forest and reduces habitat potential. The ordinance amendments will be detailed below, however, the general guiding principle is to ensure that new or expanded uses in the district do not negatively impact forest canopy, water quality or quantity, or other sensitive environmental resources.
2. Minor subdivision activity in the Amwell Valley Agricultural District (AVAD) continues to fragment the agricultural landscape and valuable agricultural resources. The Township continues to seek a balanced approach to providing appropriate development in the AVAD while maintaining the rural characteristics associated with the district and the increasingly threatened agricultural resources that are highly valued in East Amwell. To this end, the Township continues to investigate the possibility of implementing design standards to help

assure that the location and placement of development reinforces or enhances neighborhood character and retains the rural quality of the area and its scenic corridors. The AVAD intent is to encourage agricultural activity and maintain the rural character of the district. Design standards will help to ensure that future development is appropriately placed and will either enhance or retain the rural character without being out of scale or detract from the functionality or appearance of the districts overall makeup.

3. Regional traffic on State Route 31, especially at rush hour intervals, was identified in the 2003 Reexamination Report as a concern to the overall safety. The Reexamination Report had recommended that a traffic study, or updated circulation plan element, be prepared in order to identify the safety implications and address land use policies to promote the public good. Since the time of the 2003 Reexamination report, traffic along State Route 31 has not seen an attributable increase or been associated with a marked increase in safety concerns. To this end, the Township does not see the current or future traffic levels on Route 31 as requiring local investigation of their impacts at this time. Coordinated efforts and dialog with New Jersey Department of Transportation (NJDOT) should continue and any future issues should be addressed through Country, regional and State entities as needed.

However, while traffic on Route 31 has not seen an attributable increase, traffic issues on local and county roads continue to be of concern throughout the Township. A Circulation Plan Element of the Master Plan should be reviewed and updated accordingly to determine strategies to ease congestion, review safety concerns and develop strategies to reduce and calm traffic within East Amwell.

4. The 2003 Reexamination Report identified a need for continued monitoring of water quality in Ringoes in light of the continuing reliance on private, individual wells and septic systems on each lot. In 2008 amendments to the New Jersey Department of Environmental Protection (NJDEP) Wastewater Management Plan Regulations (N.J.A.C. 7:15) included provisions that will require municipalities to develop a septic system inventory and tracking system through ordinance, or other means, which will ensure that septic systems are functioning properly through a mandatory maintenance program. The Township continues to work with the County and NJDEP as the draft WMP is being developed.
5. As identified previously, development along road frontages can have a significant impact, not only in the AVAD district, but throughout the Township. While the Sourland Mountain requires limited clearing for new development and places any such clearing toward the front of the lot to reduce interior forest fragmentation, such development can create breaks in the scenic viewsheds and character of the roadway. Design standards in general will provide a means to have an open discussion regarding new development to determine the appropriate placement of new development to ensure that resources and viewsheds are protected while still providing flexibility and ensuring landowner rights.

**C. 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.”**

### **EAST AMWELL TOWNSHIP LAND USE REGULATIONS**

Since the adoption of the 2003 Reexamination Report, the Township has instituted new and amended ordinances to address ongoing concerns and emerging issues as follows:

#### **Sourland Mountain District Ordinance (2003)**

The Township significantly amended the Sourland Mountain District land use regulation (section 92-89) in 2003 to address ongoing concerns over degradation of water quality and quantity, forest habitat and ecological resources. The ordinance amendments increased the minimum lot area to 15 acres for single family residential uses and home occupations and 30 acres for farms and secondary living units. Permitted uses in the district were amended to allow low-impact uses including detached single family homes, public areas for passive recreation and conservation and co-location of new wireless cellular antennas on existing cell towers or other structures. Conditional uses were identified as those uses that require increased water and wastewater demands and clearing, including conversion of an existing structure to a secondary living unit, public utilities, firehouses, expanded or new agricultural facilities and new wireless communication towers. In addition, maximum lot coverage and floor area is limited on a sliding scale to ensure new development and redevelopment is consistent with the overall parcel size and does not exceed the ability of the Sourlands ecosystem to handle water and wastewater demands and prevent additional fragmentation of the forest canopy and disturbance of soils. Design standards were also created to minimize forest clearing and fragmentation.

#### **Resource Conservation Ordinance (2009)**

The Township adopted a Resource Conservation Ordinance in 2009 to further align the goals of protecting environmental resources, and their ability to adequately absorb development, while still allowing for appropriate levels of new development. The resource conservation ordinance provides a net lot area calculation to determine the maximum permitted yield of development after areas of critical environmental resources have been removed from the gross tract area. This ensures to the greatest extent practical, that development activities are suitable to the site. The resource conservation ordinance is applicable to all zones in the Township.

### **Tree Harvesting Ordinance (2012)**

The Township adopted amendments to the Tree Harvesting ordinance (Section 129) to align the tree harvesting ordinance with the amended Sourland Mountain district as well as provide for more definition and clarity to the ordinance. The Tree Harvesting ordinance requires a permit for the cutting of more than five trees in any six month period and requires best management practices are followed. Tree removal greater than 20 trees requires additional review and inspection and may require remediation or replanting. The intent of the ordinance is to ensure that tree removal in the Township is properly planned and executed, minimizes adverse environmental impacts, protects water quality and quantity and protects forest habitat.

### **Solar or Photovoltaic Energy Facilities Ordinance**

One of the larger planning issues that emerged since 2003 was the expansion of the interest in installation of large scale solar or photovoltaic energy facilities. These facilities are designed to produce energy and send the energy back into the overall electrical grid. Hunterdon County, with expansive open farm land and high solar capture area, saw a rapid influx of applications for these large scale facilities spurred on by State legislation favoring such installations. These legislative amendments included [emphasis added]:

- C. 146, L 2009, adopted November 20, 2009, made a wind, solar or photovoltaic energy facility or structure an inherently beneficial use.
- C. 35, L 2009, adopted March 31, 2009 (N.J.S.A. 40:55D-66.11), provides that “1. A renewable energy facility on a parcel or parcels of land comprising 20 or more contiguous acres owned by the same person or entity shall be a permitted use within every industrial district of a municipality.
- C. 4, L 2010, adopted April 22, 2010, provides that solar panels may not be included in any calculation of impervious surface or impervious coverage, for purposes of planning board approval of a subdivision or site plan.

East Amwell Township, seeking to accommodate the legislation while also assuring not to undermine the Township’s agricultural resources or character, created and adopted regulations for development of such facilities (Section 92-100 and 92-101). The Township previously permitted solar panels in all districts, but the intent of the ordinance was for those used to generate electricity to offset a single users overall annual electrical demand, not large scale facilities.

The installations of major solar facilities generally will occur on the Township’s Amwell Valley Agricultural District (AVAD), where land is already cleared. Nonetheless, the ordinance regulates solar facilities throughout the Township. The Township’s long-term planning initiatives for the AVAD has been the continued use and viability of agricultural. The Township’s AVAD 10-acre zoning was sustained by the Appellate Division based on the rationale for retention of the Township’s rural character, farm industry and viable farmland and soils.

The Solar Facilities Ordinance permits solar generation facilities as a conditional use, with specific regulations for site development and requiring solar generation facilities to submit a site plan. AVAD residential development options are designed to retain prime agricultural soils and large contiguous areas of farmland, with lot yield resource conservation calculations that further protect agriculturally significant soils. It is long recognized that the placement of development in the center of agricultural lots, with extensive setbacks, fragments viable farm soils and reduces contiguous farmland area. The solar ordinance mimics the residential standards with the underlying principals that disturbance and fragmentation of agricultural areas is a detriment to the goal of retaining viable agriculture. Thus the ordinance identifies setbacks to address the placement of solar facilities, provide for extensive landscape and buffering, cap the acreage of development limiting the overall size and associated disturbance, all to ensure that continued agricultural practice can occur during the facilities use and after decommissioning and abandonment has occurred.

## HUNTERDON COUNTY PLANNING

### **Hunterdon County 2007 Growth Management Plan**

While the County has no formal land use policymaking role in the adoption of local master plans and zoning ordinances, Counties are the negotiating entities for the State Plan processes. In this role, they negotiate the state plan policies with municipalities and the State to help reconcile policy differences.

The smart growth strategies advanced in the State Plan were embraced in the County's December 2007 Growth Management Plan, which examined and ranked the natural resource values found throughout the county. "Inherently valuable natural resources... include: aquifer yield; ground water recharge values; the habitat value defined by the Landscape Project and by the Natural Heritage Priority."

Hunterdon's Growth Management Plan advances rural conservation strategies to retain farmland and scenic character and protect environmentally sensitive lands, suggesting that the Transfer of Development Rights (TDR) be used for preservation in certain areas (farmland or environmentally sensitive areas), with growth areas planned to receive any transferred development.

Hunterdon's Growth Management Plan also suggests strategies for suburban redesign and downtown redevelopment to address the full range of places and landscapes found throughout the county.

### **Hunterdon County Farmland Preservation Plan**

Hunterdon County's farmland preservation policies are outlined in the Farmland Preservation Plan.

Hunterdon County's Farmland Plan also advances TDR as a land use planning tool to shift development from one location to another, allowing preservation in certain areas and designating other areas for growth. "Development should be transferred to ... optimal growth areas where infrastructure can be provided while simultaneously preserving open space or farmland...".

### SOURLAND MOUNTAIN REGIONAL PLANNING

The Sourland Mountain Region includes the Townships of East Amwell, Hillsborough, Hopewell, Montgomery and West Amwell and extends into Lambertville and Hopewell Borough. East Amwell has been a productive participant in the long term planning and study of the Sourland Mountain Region and continues to be an active member in the Sourland Mountain Alliance, tasked with continuing the efforts of the Sourland Mountain Region's protection. In 2010, the Sourland Planning Alliance prepared and adopted a Comprehensive Management Plan, as a result of years of background study and information. The goals of the Sourland Alliance and the Sourland Mountain Region Comprehensive Plan are:

- 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.

### STATE PLANNING INITIATIVES

#### **State Strategic Plan: New Jersey's State Development & Redevelopment Plan (SSP)**

In response to Governor Christie's Executive Order No. 78 issued October 19, 2011, the State Planning Commission (SPC) voted on November 14, 2011 to adopt a final draft of the State Plan which differs significantly from the existing *State Development and Redevelopment Plan* (SDRP). Following a series of public hearings and revisions if required, the SPC will consider approving the new plan, entitled *Proposed Final Draft – State Strategic Plan: New Jersey's State Development & Redevelopment Plan* (SSP).

The new SSP does away with the State Plan Policy Map which divides the State into Planning Areas to delineate growth and preservation areas. The SSP also eliminates the Plan Endorsement process and Center designation opting for “*priority industry clusters...complemented with a local agenda...*” to determine where development and redevelopment can be supported by existing, expanded and new infrastructure. A primary goal of the SSP seeks to achieve better inter-agency coordination of such efforts in contrast with the experience under the SDRP. At the other end of the spectrum the SSP proposes “*priority preservation investment areas*”.

The goals of the SSP include:

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

Objectives

- 1.1 Map priority industry clusters for sectors of statewide significance
- 1.2 Improve conditions for sectors of statewide significance
- 1.3 Support of land and water based industries
- 1.4 Align partnerships and working groups

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.

Objectives

- 2.1 Establish “priority growth investment area” criteria
- 2.2 Increase readiness and availability of redevelopment sites
- 2.3 Invest in growth infrastructure
- 2.4 Influence implementation of priority growth investment area development
- 2.5 Assist urban center evolve into components of healthy metropolitan areas
- 2.6 Strengthen county planning role to facilitate regional collaboration

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.

Objectives

- 3.1 Provide for the continued success of the State’s preservation programs
- 3.2 Coordinate functional plans related to transportation, energy and the environment with land use and economic development initiatives
- 3.3 Coordinate State preservation and economic development initiatives
- 3.4 Strengthen and expand regional and municipal land use tools

4. Tactical Alignment of Government

Ensure effective resource allocation, coordination, cooperation and communication among those who play an imperative role in meeting the mission of the Plan.

Objectives

- 4.1 Cohesive State government
- 4.2 Connect spending to the State’s goals and values
- 4.3 Re-focus the State Planning Commission for local government coordination
- 4.4 Reposition the Office for Planning Advocacy

The SSP also outlines a series of growth areas to be identified through a process to determine “priority growth investment areas” which are to include:

- Major Urban Centers, as previously identified by the 2001 State Plan
- Areas identified as —Priority Industry Clusters
- 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 SSP establishes what are known as the *Garden State Values* to assist in establishing the priority growth investment areas. The ten elements comprising the *Garden State Values* are:

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 and efficient mobility of goods
6. Advance equity
7. Diversity housing opportunities
8. Provide for healthy communities through environmental protection and enhancement
9. Protect, restore and enhance agricultural, recreational and heritage lands
10. Make decisions within a regional framework

## MUNICIPAL LAND USE LAW

The Municipal Land Use Law has incorporated many amendments since 2003 as follows:

### **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**

On May 5, 2010 the Governor signed P.L. 2010, c.9, dubbed the “Time of Application Rule”, making applications for development subject to applicable regulations 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 that the local regulations in effect when they file their applications will govern any development approvals. The only exceptions to this new rule will be those relating to health and public safety.

### **Renewable Energy**

A number of statutory changes to the MLUL have been adopted concerning wind and solar energy facilities. Wind, solar and photovoltaic systems are now defined in the MLUL:

“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.” [40:55D-7]

In addition, the definition of “Inherently beneficial use” in the in the MLUL has been amended and reads as follows:

“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.” [40:55D-4]

Wind, solar and photovoltaic systems, under the MLUL, are accorded permitted use status in any industrial zone district on a parcel consisting of at least 20 acres. In terms of solar panels, local ordinances cannot include solar panels when calculating impervious coverage limits, although the base of such structures does count towards impervious coverage.

Small wind energy systems can be regulated by municipalities subject to certain limitations, which are set forth in the MLUL. The ordinance cannot impose unreasonable limits or hinder the functional ability of such facilities by prohibiting them in all zone districts and it must account for the type of towers associated with wind turbines when setting height restrictions. It cannot require setbacks from property boundaries greater than 150 percent of the system height while restrictions on noise levels cannot be set below 55 decibels.

## Master Plan Reexamination Report

The MLUL was amended in May 2011 to modify the requirement for municipalities to conduct a periodic examination of the Master Plan and development regulations at least once every ten years. The standard had been every six years. [NJS 40:55D-89]

## OTHER LEGISLATIVE ACTIONS

### Conversion Bill

On July 2, 2009, legislation took effect that impacts approved age-restricted developments. The Conversion Bill enables the developer holding a development approval for an age-restricted development to change the development to a converted development. "Converted development" is defined in the law as "a proposed age-restricted development that will be marketed instead with no age restrictions." The law requires that an application be made to the approving authority (Land Use Board) and to comply with certain requirements, including setting aside 20% of the units as affordable housing. The law also provides that the developer address certain basic requirements to convert the development, such as:

- Recreation improvements and other amenities;
- Provision of adequate water supply and sewer capacity;
- Provision of adequate parking;

If the approving board determines that the requirements of the Law have been satisfied, *and* the conversion can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance, the application for the conversion "shall be approved."

### 2.5% Non-Residential Development Fee

The 2.5% fee on non-residential development, made collectible pursuant to the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1-8.7) was later suspended under the New Jersey Stimulus Act of 2009. This legislation (S-2974/A-4221) suspended the 2.5% fee on non-residential development for a total period of 36 months, from July 1, 2011 through July 1, 2013.

This legislation does the following:

1. Suspends the housing obligation generated by non-residential development in the same manner, so that a municipality is not left with an unfunded housing obligation.
2. Allows for reimbursement to the developer, unless the municipality has expended the dollars. Municipalities eligible to collect the fee would not be required to refund monies that have been spent on affordable housing. In this case, the developer would need to submit a claim for a refund within 120 days of the effective date of the Act.

## **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.

On June 3, 2013, new rules regarding solar energy generation on preserved farms went into effect as a means to provide an offset of costs to farmers for energy consumption while limiting the area of farm resources dedicated to such uses (N.J.A.C. 2:76-24). Under the new rules solar energy facilities may not occupy more than one percent of the farm as authorized pursuant to N.J.S.A. 4:1C-32.4. Draft rules regarding the construction of wind generating systems on preserved farmland are still under review. N.J.A.C. 2:76-25.1 proposes to limit the area and total income and/or offset to electric production as seen in the adopted solar generation rules.

## **Proposed AMP for On-Farm Direct Marketing Facilities, Activities and Events, and Revised Right to Farm Procedure Rules**

Other pending rules which may have a significant impact on farm activities in the Township are the proposed agricultural management practice (AMP) for On-Farm Direct Marketing Facilities, Activities and Events (N.J.A.C. 2:76-2A.13). The proposed rule seeks to establish “performance-based standards for commercial farms seeking to qualify for right-to-farm protection for on-farm direct marketing facilities, activities and events that are used to facilitate and provide for direct farmer-to-consumer sales, such as farm stands, farm stores, community-supported agriculture and pick-your-own operations, and associated activities and events that fit within the scope of the Right to Farm Act”. The goal of implementing rules regarding marketing of farm products is to provide more flexibility to commercial farms while providing clear standards, not only for applications and permitting, but also for Right-to-Farm complaints and mediation. The proposed AMP seeks to clarify and enhance language related to:

- Definitions
- Hours of operation
- Lighting
- Sanitary facilities
- Safety
- Signs
- Parking areas
- Buffers
- Outdoor sales areas
- Use of structures & improvements
- Use of land
- OFDM activities
- Event management plan
- Overnight lodging (NO)

- Approval of site plan elements
- Relevant federal & state laws & regulations

In addition, many of proposed rules include language to more adequately seek municipal input and consideration of municipal zoning when applications are submitted regarding farm market activities. The proposed rules were published in June 2013 and became available for the 60 day public comment period.

### **Wastewater Management Plans**

The Department readopted the Water Quality Management Planning rules on May 20, 2008, with the rule readoption effective May 21, 2008 and adopted rule amendments, repeals and new rules effective July 7, 2008 (see 40 N.J.R. 4000(a)). The rule amendments and new rules provide the following:

- Reassign wastewater management planning responsibility to the county boards of chosen freeholders and require them to update WMPs;
- Establish clear standards for delineating appropriate sewer service areas to protect environmentally sensitive areas as well as clear, environmentally protective standards for the review of WQM plan amendments;
- Set forth clear standards to require identification of adequate wastewater management alternatives, address water supply, and control nonpoint source pollution (including controls related to stormwater, riparian zones and steep slopes);
- Require updated WMPs to address septic density in a manner that demonstrates compliance with a 2 mg/L (ppm) nitrate planning target on a HUC 11 watershed basis or as required by development type and location.
- Makes provisions to allow the withdrawal of sewer service areas and re-designate these areas as general wastewater service area of 2,000 gallons per day or less and less than six residential units (restricted septic service areas) where the applicable WMP is not in compliance with the mandatory update schedule contained in the rules;
- Require municipalities to develop a septic system inventory and tracking system through an ordinance or other means which will ensure that septic systems are functioning properly through a mandatory maintenance program;

Additionally, the rules now require a consideration of the cumulative impact on ground water quality that would result from the density of individual wastewater discharges to ground water by demonstration of compliance with the Groundwater Quality Standard of 2 mg/L (ppm) nitrate planning target on a HUC 11 watershed basis. These considerations will not only limit the degradation of ground water but will also assist in the protection of natural resources and surface water quality from nonpoint source impacts by limiting the density of development. The rules also include strict limitations on the disturbance of riparian zones and steep slopes and reinforce the Department's stormwater management requirements as required to protect water quality from nonpoint sources of pollution. Ultimately the WMPs help determine where wastewater infrastructure investments should occur to promote efficient and sustainable development. The Water Quality Management Planning rules required the transition of wastewater management

planning responsibility from 161 wastewater management planning agencies to New Jersey's 21 counties.

### **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 December 31, 2014.

### **The 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 are generally located within the more densely populated regions of the state or along or near the coast. East Amwell is a Tier B municipality because it is located in a more rural, non-coastal region. A Tier B Municipal Stormwater General Permit authorizes the discharge of stormwater from small municipal separate storm sewers. The Tier B permit focuses on new development and redevelopment projects and public education.

### **Affordable Housing**

East Amwell prepared its Third Round Housing Element and Fair Share Plan (HE/FSP) in accordance with COAH's Third Round rules. A decision at the Appellate Division level invalidated substantial parts of the Third Round rules, prompting extensive revisions and delays in approval.

On October 8, 2010 the Appellate Division again issued a decision [In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing] which invalidated the "growth share" methodology along with a number of other provisions in COAH's third round rules. This matter is now pending before the New Jersey Supreme Court.

COAH has since been replaced by Governor Christie with a new entity known as Local Planning Services within the Department of Community Affairs.<sup>1</sup> As of this Reexamination Report there are no specific changes recommended in the HE/FSP until such time as the NJ Supreme Court issues a decision and appropriate rule changes are instituted.

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<sup>1</sup> The Appellate Division issued a decision on March 8, 2012 finding that the abolition of COAH by the Governor's Reorganization Act is invalid.

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

East Amwell's long-term planning goals and objectives vigilantly seek to provide for appropriate development while retaining the rural characteristics, agricultural viability, preservation and protection of unique ecological resources and scenic viewsheds (Appendix A identifies the guiding principals and goals and objectives identified in the 2006 Master Plan which remain relevant). Significant changes to the Township's land development ordinances for the Amwell Valley Agricultural District and the Sourland Mountain District have furthered these goals and objectives. Since 2003, the Township has continued to amend and modify land development ordinances to ensure the intent of land use regulations meet the overarching principles of the Township's Planning Documents but also provide for development that's meaningful and in scale with existing land uses.

The Township actively endorses land preservation efforts as a means to protect valuable ecological and agricultural resources. Partnerships with non-profit organizations, Hunterdon County, State and other regional entities have provided a fiscal balance when purchasing lands which maximizes the overall amount of preserved lands and minimizes the Township's financial contributions. To date, 41% (7,530 acres) of the Township's total land area is deed restricted from further development either through farmland preservation, public open space, private easement donations and recreation areas. In conjunction with these preservation efforts, developers seeking major subdivision approval in the AVAD have increasingly taken advantage of the Open Lands development option which grants a density bonus and smaller residential lots in exchange for retaining a larger deed restricted parcel for open space or agricultural uses. The two combined efforts have resulted in an overall retention of farmland, open space and rural character cherished by Township residents.

**Recommendations**

The following land development ordinance amendments and revisions are recommended to further the Township planning goals and objectives.

**Land Development Ordinance Amendments**

***AVAD Design Standards***

As identified previously, the planning board continues the investigation into preparing design standards in the AVAD. Any new development, either minor or major subdivisions, can have a significant impact on road frontage, as well as agricultural viability and resources. Identifying appropriate placement of new development can help assure that the location and placement of development reinforces or enhances neighborhood character and retains the rural quality of an area and its scenic corridors. The AVAD intent is to encourage agricultural activity and maintain the rural character of the district. Design standards will help to ensure that future development is appropriately placed and will either enhance or retain the rural character without being out of scale or detract from the functionality or appearance of the district's overall makeup.

### *Sourland Mountain District*

The Sourland Mountain region has long been a key area of concern for the Township. In the 1978 “Township of East Amwell’s Master Plan”, the area that is today the Sourland Mountain District was known as the Mountain District. The Mountain District was described as an area with steep slopes, dense forests, poor aquifer recharge areas, difficulty placing septic systems, limited groundwater supply and limited ability for groundwater recharge. The Master Plan identified that estimating water resources and availability on areas larger than one-square mile provide only general estimates and that water availability in the Mountain area is not evenly distributed. Thus, the Plan identified a minimum lot size of three acres for the Mountain District, but stated that five acres or more would likely result based on difficulty with placing on-site septic systems.

The 1984 Master Plan identified a basic land use consideration that, “Minimal, low density development in the Sourland Mountain area because of the terrain, natural features, septic system problems and limited water supply (page 34).” Water supply in the Mountain area was described as, “Clearly, the distribution of the ground water availability within a square mile of rock cannot be, and is not, evenly distributed. As a result, the drilling of individual wells and finding adequate water supply is a hit-or-miss proposition. Likewise with the treatment of sewage (Page 36).” The Plan goes on to state that a transitional area east of Runyon road and north to Wertsville Road should be considered because of interfacing Brunswick Shale with the Lockatong formation, formations that make water quality and supply difficult to secure. Subsequent zoning amendments were made in 1987 that increased the minimum lot size in the Mountain District from three acres to five acres.

The 1992 Master Plan Amendment for the Sourland Mountain Region was prepared in response to litigation stemming from the increase of minimum lot size from three acres to five acres in 1987. Based on the Court’s decision, the Township undertook a review of the entire Mountain Zone, now officially renamed the Sourland Mountain District. Concerns over impacts of development on natural resources and water quantity and quality in the Sourlands remained constant and future zoning amendments were recommended but not specified. In addition, uses that required extensive clearing and water consumption, such as farming, were recommended to be made conditional uses. The 1992 Master Plan amendment also gave rise to the Stony Brook District, located along the lower portion of the south slope of the Sourland Mountain. The identified minimum lot size for the area was three acres with strict requirements for forest protection and erosion prevention. Again, uses, such as farming, that required forest clearing, high water use and large areas of impervious coverage should be made conditional uses.

In 2002, the Planning Board prepared two reports, “A Groundwater Resource Evaluation of the Sourland Mountain and Stony Brook Districts” by Demicco and Associates followed by the “Land Use Plan Amendment for the Sourland Mountain and Stony Brook Districts” which was adopted in December 2002. The new hydrogeologic study and review of the zones was the basis for the ordinance amendments in 2003 which increased the minimum lot size to 15 acres from single-family dwellings and 30 acres for farms. In addition, the data proved that the geology and aquifers in the Stony Brook District were akin to those in the Sourland Mountain District, thus the District was removed and those lands were subsumed back into the Sourland Mountain District.

Based on the long history of the Township's desire to protect the Sourland Mountain area, the Planning Board recommends continued review and evaluation to ensure that the land development ordinances and Master Plan are consistent with the Township's desire to protect the Sourlands fragile ecosystem and water resources. Scientific data, along with East Amwell's long-term planning goals, have provided a sound basis for planning policy and land use decisions in the past and should continue to do so as advancements in data collection, analysis and an increase in the awareness of interconnected ecosystems progress. The planning board therefore recommends continuing analysis of the Sourland Mountain district to ensure that the current land use policies, zoning and land development ordinances align with the underlying hydrogeology, water availability, water quality and protection of the valuable natural resources in Sourland Mountain area.

### *Historic Preservation Ordinance*

Historic preservation of sites and districts is an ongoing concern for the Township. Such resources are valuable not only for their historic significance, but also to retain the characteristics of the Township cherished by residents and visitors alike. In coordination with the Historic Preservation Commission, the Planning Board seeks to create an inventory of local cultural and historically significant sites, structures and districts and create an ordinance aimed at preserving as many resources as possible.

### *Renewable Energy Ordinance*

The movement to utilize renewable energy sources continues to grow as new technology and awareness of the need to reduce the use of traditional energy sources continues. The Township, as a leader in the planning initiatives aimed at supporting the protection of natural resources, seeks flexible land development ordinances that will provide for new technologies while maintaining the resources and characteristics of the lands in the Township. Wind, geothermal, biomass and solar are some, but not all, of the technologies frequently sought in an effort to decrease consumption of traditional energy sources. The Township should continue to review and implement ordinances that will strike the balance between development of such energy systems and the Township's other planning goals.

### *Circulation Plan Element of the Master Plan*

The Township has seen an increase in traffic and safety issues on local and county roads since 2003. The Township may consider creating a Circulation Plan Element of the Master Plan to review and address, where applicable, these issues. A circulation plan element is an optional element of Master Plan and defined as (40:55D-28b(4)):

“A circulation plan element showing the location and types of facilities for all modes of transportation required for the efficient movement of people and goods into, about, and through the municipality, taking into account the functional highway classification system of the Federal Highway Administration and the types, location, conditions and availability of the existing and proposed transportation facilities, including air, water, road and rail;”

The Township last prepared a Master Plan Traffic Circulation Plan Element in 1996. In 2002, the Township prepared the Old York Road Pedestrian and Traffic Study to provide an analysis of traffic and safety concerns in Ringoes. In 2007, the Planning Board prepared an analysis and characterization of the three main highway corridors that bisect East Amwell Township; US Highway 202, State Highway 31 and State Highway 179. The Township should consider an updated circulation plan element to review existing conditions and provide recommendations to alleviate ongoing traffic and safety concerns Township wide and provide updated information regarding alternative modes of transportation including pedestrian, bicycling, public transportation and initiatives regarding the Federal and State Complete Streets initiatives to encourage access to transportation for all users.

### *Miscellaneous Ordinance Revisions*

The Planning Board should review the ordinance for any revisions that may help to provide consistency and clarity. In particular, the following amendments have been identified:

- Provide a definition for corner lots,
- Review and provide technical corrections to the fire protection systems for major developments ordinance (92-54)
- Review and resolve any conflicts in reference to Right-to-Farm language throughout the ordinance
- Revisions to Application Checklist. The current checklist utilized for subdivisions and site plans combines items for preliminary and final applications. The Board should separate out these checklists, providing one for preliminary and one for final applications. This will allow for a clearer process for both the applicant and the Township when reviewing materials for completeness.

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: 12 A-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," and therefore the Planning Board does not need to comment on its incorporation into the Land Use Plan Element.

## APPENDIX A

### *2006 EAST AMWELL TOWNSHIP MASTER PLAN GOALS AND OBJECTIVES*

#### **EAST AMWELL'S VISION**

This Master Plan is dedicated to preserving, protecting and enhancing East Amwell's natural and cultural resources, and promoting a sustainable future for the Township and the region. The vision for East Amwell's future is reflected in these key objectives:

Maintaining the community's prevailing agricultural character by promoting the industry of farming and preserving the productive agricultural land base.

Ensuring the integrity of the fragile Sourland ecosystem and biological diversity.

Conserving community character by carefully managing the scale and intensity of new development and retaining farmland and open spaces.

Preserving the cultural landscape by recognizing historic structures and districts, and managing change within the historic villages.

Protecting scenic vistas of the rural countryside and the village and hamlets that impart the special character of East Amwell.

Maintaining an efficient circulation system that promotes important circulation linkages, retains the rural road system and provides for pedestrian, equestrian and bicycle movements.

Evolving a Greenway system linking significant public open spaces along a network of pathways, waterways and significant natural features.

Realization of this vision will require a combination of public actions, such as farmland preservation, open space and development rights acquisition, private conservation efforts and sustainable land use strategies and zoning techniques.

#### **GOALS AND OBJECTIVES OF THE MUNICIPAL LAND USE LAW**

##### Statement of Purpose

The purposes of the Municipal Land Use Law articulate the objectives of the State in providing municipalities with the power to plan and zone. These purposes of the enabling legislation, in concert with specific local goals and objectives, guide East Amwell's Master Plan.

Purposes of the Municipal Land Use Law

The purposes of the Municipal Land Use Law (NJSA 40:55D-2) are as follows:

- a. To encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare;
- b. To secure safety from fire, flood, panic and other natural and manmade disasters;
- c. To provide adequate light, air and open space;
- d. To ensure that the development of individual municipalities does not conflict with the development and general welfare of neighboring municipalities, the County and the State as a whole;
- e. To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment;
- f. To encourage the appropriate and efficient expenditure of public funds by the coordination of public development with land use policies;
- g. To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens;
- h. To encourage the location and design of transportation routes, which will promote the free flow of traffic while discouraging location of such facilities and routes which result in congestion or blight;
- i. To promote a desirable visual environment through creative development techniques and good civic design and arrangements;
- j. To promote the conservation of historic sites and districts, open space, energy resources and valuable natural resources in the State and to prevent urban sprawl and degradation of the environment through improper use of land;
- k. To encourage planned unit developments, which incorporate the best features of design and relate the type, design and layout of residential, commercial, industrial and recreational development of the particular site;
- l. To encourage senior citizen community housing construction;
- m. To encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land;
- n. To promote utilization of renewable energy sources; and
- o. To promote the maximum practicable recovery and recycling of recyclable materials from municipal solid waste through the use of planning practices designed to incorporate the State Recycling Plan goals and to compliment municipal recycling programs.

## LOCAL GOALS AND OBJECTIVES

East Amwell's land use policies and regulations should preserve and enhance the quality of life for current and future generations, protect the environment and provide opportunities for recreation, housing and commercial services appropriate in size and scale to a small rural community. East Amwell seeks the preservation of as much environmentally sensitive land and productive agricultural land as practicable, to protect critical resources, promote continued agriculture and maintain a desirable quality of life for East Amwell residents.

1. Provide a pattern of growth management that preserves the rural character of the Township by balancing the desirable qualities of open space and agricultural activities.
2. Assure that planned development densities and intensities throughout the Township can be adequately served by the natural infrastructure, including geology, soils, groundwater and surface water.
3. Expand and implement the Greenways and Open Space Plan so that it links environmentally sensitive areas, historic places, existing State, County and Municipal land holdings and provides for opportunities for a network of open space.
4. Provide a variety of housing opportunities for the existing and future residents of the Township, consistent with the rural setting in which these are located. Affordable housing should be provided, and the township should comply with COAH regulations, choosing locations and types of housing that are appropriate and suitable for a rural town without infrastructure.
5. Provide a mechanism for the inventory of historic resources, and establish zoning and design regulations which support their protection and preservation, and encourage their rehabilitation, renovation and improvement.
6. Plan recreational facilities in accordance with the needs of a small rural community and provide a balance between active recreation and passive open space. Recreational facilities, whenever possible, should be located within walking distances of the population centers they serve. Provision for additional active public recreation should avoid the sensitive character of environmentally fragile lands, farmland, cultural resources and historic sites.
7. Develop review procedures and recommendations which encourage the location of buildings, roads, and the landscape quality and which respect the existing visual quality that is presently found in the Township's viewsheds and scenic vistas.
8. Conform and protect the roads that service the Township to rural road service standards with simple shoulders.
9. Plan traffic circulation improvements that are appropriately scaled to the limited demands of a low-density community, so as to preserve the remaining rural residential character.
10. Design and construct the roadways within the township with the minimum improvements necessary to provide safe travel.
11. Explore pedestrian and bicycle connections as linkages between existing neighborhoods, community services and recreation areas.
12. Design bulk standards that work to encourage efficient lot design and use of land, with minimal road construction being desirable.

13. Consider development plans of adjoining municipalities, proposed plans and goals of Hunterdon County and the State Development and Redevelopment Plan.
14. Explore and encourage methods to control the deer population.

Agriculture is important in East Amwell's history and its future, providing a rural lifestyle valued by farmers and non-farmers alike, while also contributing breathtaking scenic views, promoting the local economy, and utilizing a valuable natural resource. Therefore, East Amwell should

15. Recognize agriculture as a significant economic industry in the community and encourage economic opportunities in this industry.
16. Promote the potential for the success of the agricultural industry, through the preservation of agricultural lands and productive soils.
17. Preserve the large contiguous land base required to assure that agriculture remains a viable, permanent land use.
18. Encourage agricultural land preservation through the use of techniques such as agricultural easements, clustering provisions for housing development.
19. Distribute the benefits and burdens of farmland and open space preservation among all of the citizens of the Township.
20. Encourage a harmonious existence between agricultural operations and neighboring non-agricultural development.

The Sourland mountain region is a unique natural resource in central New Jersey, which should be managed very carefully and, wherever possible, preserved. Toward this end, East Amwell should

21. Relate the intensity of permitted development to conservative estimates of available water resources and the ability of the soil and ground water to sustain on-lot disposal systems without degrading or impairing surface or ground water quality.
22. Limit impervious cover to foster maximum recharge and sustainable yields in the district and regional watersheds dependent on groundwater supply.
23. Ensure the integrity of the fragile Sourland ecosystem and biological diversity (especially migrating birds) through the maintenance of large contiguous tracts of forest and prevention of forest fragmentation.
24. Support the Special Resource Designation afforded in the State Development and Redevelopment Plan for the Sourland Mountain region, and cooperate with neighboring municipalities to secure this designation.