

# Hopewell Township 2009 Reexamination Report

## Adopted March 12, 2009

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### **2009 Periodic Reexamination Report of the Master Plan and Development Regulations for Hopewell Township, Mercer County, New Jersey**

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 six 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 6 years from the previous reexamination.”

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

The December 1998 Reexamination Report (the 1998 Reexamination) recommended a series of revisions to the Master Plan and Land Use and Development Ordinance. The recommended revisions to the Land Use and Development Ordinance included, in addition to those relating to an amended Master Plan, recommendations to include changes in the MLUL, revisions to refine issues dealing with procedures, and revisions to clarify language. The 1998 Reexamination Report also recommended the examination of a wide range of policy issues, as further discussed below in the context of the 2002 Master Plan.

To implement the recommendations of the 1998 Reexamination, in May 2002 (action memorialized in June 2002), the Planning Board adopted a new Statement of Goals and Objectives, Land Use Plan Element and Conservation Plan Element (the 2002 Master Plan). These Plan Elements recommended a series of changes to the Land Use Plan and Land Use and Development Ordinance, including revisions to the density and distribution of housing; revisions to the existing Master Plan and zoning boundaries; the incorporation of creative land subdivision techniques; and, the incorporation of creative development alternatives. The new Conservation Plan Element recommended a series of policies and strategies to address the preservation, conservation and utilization of a range of natural resources, including energy and air quality, forest resources and native vegetation, groundwater, scenic resources, steep slopes, stream corridors, surface waters, threatened and endangered plant and animal species, and wetlands.

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The 2002 Reexamination Report followed the 2002 Master Plan and preceded the zoning ordinance amendments adopted by the Township Committee in December 2002.

In December 2002 the Township Committee adopted amendments to the development regulations (Chapter XVII, Land Use and Development Ordinance, also known as the land use or zoning ordinance) to implement the 2002 Master Plan.

In 2007 the Township Committee authorized the preparation of a Reexamination Report to address the changes in land use policies that had occurred over the prior five years. In particular, there were changes in land use designations as a result of settlements of zoning challenges. These changes had been endorsed by the Planning Board as zoning ordinance amendments that were referred to the Board as part of the statutory requirements for Board review.

Prior to the 2007 Reexamination Report, adopted on October 18, 2007, the Planning Board completed the following Master Plan elements:

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

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.

**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.”*

At the time of the last reexamination report in October 2007 the Planning Board recently had completed the Master Plan elements noted above. In addition, with the adoption of the land use ordinance amendments in December 2002, the Township addressed and implemented the recommendations of the 2002 Master Plan relative to the development regulations. By adoption of this comprehensive land use ordinance amendment, the Township reconciled and made consistent the municipality’s Land Use Plan Element and land use ordinance. The adoption of zoning amendments to create new Valley Resource Conservation (VRC) and Mountain Resource Conservation (MRC) districts was the culmination of a four year process. In addition to the establishment of these two zoning districts, the ordinance amendments included a reduction in acreage of the nonresidential districts in the Township; and, a reduction in the permitted floor area ratio (FAR) in the Research Office districts.

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The 2007 Reexamination Report examined all of the recommendations contained in prior reexamination reports. The 2007 Report identified nine items relative to the Master Plan that had been identified in the 2002 Report, and reviewed the status of each. The 2007 Report indicated that six of the nine items had been completed, and that three were being addressed in some manner. The three items that were addressed and not completed are identified below, with the commentary from the 2007 Report included.

1. The preparation of a Traditional Neighborhood Development (TND) design study, including a process of consensus-building and public involvement, culminating in a design study that specifies the development regulations and design guidelines for the TND.
2. The preparation and adoption of a Utility Services Plan Element, analyzing the need for and showing the future general location of water supply and distribution facilities, sewerage and waste treatment facilities, solid waste facilities and related utilities.
3. The preparation and adoption of a Scenic Roads and Views subplan element of the Conservation Plan, including an inventory, analysis and design standards.

The 2007 Report also referenced the 2002 Master Plan with regard to revisions to the development regulations that were recommended in September 2002. Of the 12 recommended revisions, the 2007 Report noted that the Township Committee adopted the bulk of these recommendations. The four items that were partially or not addressed are listed as items 1 through 4 below. Item 1 has not been addressed; Item 2 has been partially addressed through the acquisitions of the Martin tract on Carter Road and Bayberry Road, and the St. Michael's tract on Hopewell-Princeton Road and Aunt Molly Road, both of which provide scenic corridors on gateways to the Township, and the designation of the Harbourton Rural Historic District as a Historic District by an ordinance amendment to Chapter 17; Item 3 has been addressed in part through the adoption of stream corridor, steep slope and stormwater management ordinances; and, Item 4 has been addressed in part through amendments to the Checklist and General Development Plan sections of the ordinance.

1. The development regulations should incorporate standards for the design of a Traditional Neighborhood Development, following the preparation of a design study and implementation of a community consensus-building process.
2. The development regulations should be amended to include the design standards that are developed as part of the Scenic Roads and Views study.
3. The development regulations should be revised to incorporate the recommendations of the Conservation Plan Element relative to energy and air quality, forest resources and native vegetation, groundwater, surface water, threatened and endangered plant and animal species and wetlands.
4. The development regulations should be revised to address procedural issues and organizational problems.

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

As noted above, the principal problems and objectives that were identified in the 2007 Reexamination Report largely have been addressed. The 2007 Report also addressed the legal challenges to the validity of the 2002 land use ordinance amendments. Many of the challenges were dropped, and some resulted in settlement agreements. The following is a brief summary of the settlement agreements:

- To settle the Garden Properties litigation, the OP, Office Park District was extended to the west side of Scotch Road, covering 200 acres and permitting 500,000 to 1,000,000 square feet of office. The settlement also provided a 170 acre public recreation area to the Township, and 65 acres were retained in the VRC District.
- To settle the Else litigation, an 8 acre parcel was zoned C-1, Neighborhood Retail Commercial District, while a 100 acre parcel was retained in the VRC District.
- To settle the Trap Rock litigation, a 44 acre parcel was included in a new zone termed the OLI, Office-Light Industrial District. The remaining 400 acres were retained in the VRC and MRC Districts.
- To settle the Pennwell/Kooltronics litigation, Kooltronics was given the right to approximately double the facility, and the remainder of the tract was designated for a Hamlet to accept the transfer of development potential. The new zoning district that was designated is termed the VRC-HLI, Valley Resource Conservation – Hamlet Light Industrial District.

The most significant lawsuit, that which challenged the revised zoning for the VRC and MRC districts, which encompass approximately 78 percent of the Township, went to trial in May 2006. In August 2006 Judge Feinberg issued an 86 page written decision that upheld the Township’s actions. In 2007 this decision was appealed to the Appellate Division of Superior Court and upheld by the Appellate Division. The plaintiff appealed the Appellate Division decision to the N. J. Supreme Court, which denied certification in December 2008, thus concluding the judicial challenges in this matter.

Additional initiatives in the Township have further addressed the Reexamination Report’s recommendations concerning historic preservation, farmland and open space retention, and traffic. After the Township established a Historic Preservation Commission (HPC), the HPC identified, and the Township Committee designated, numerous historic sites and structures in order to maintain the Township’s heritage. Equally important was the HPC’s preparation of a Historic Preservation Plan Element, which was adopted by the Planning Board in December 2004. This Historic Preservation Plan Element has been used as a model at historic preservation conferences, and led to the preparation of an award-winning set of Historic Design Guidelines,

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titled “A Guide for Maintaining and Rehabilitating Historic Buildings and Landscapes”, September 2005.

In 2008 the Township authorized the first local designation of a historic property that was in private ownership. This designation followed meetings with the affected property owner, discussions with the HPC and Township Committee, and ultimately consent and participation by the property owner. This type of historic designation on a private property, and the process that was followed, is a model as to how the Township may preserve its history.

With the adoption of the Open Space and Recreation Plan (OSRP) in December 2004, the Township established a comprehensive list of open space and recreation initiatives. In 2003 the Township also commissioned an analysis of the Township and Board of Education facilities by Kinsey Associates. The final report, titled “A Recreation Report for Hopewell Township’s Outdoor Recreation System”, included recommendations concerning needs, facilities, administration and maintenance. The Planning Board agreed in large part with the analysis, but outlined a series of disagreements and recommendations in the 2004 OSRP.

The Township’s Agricultural Advisory Committee (AAC), in accordance with the farmland preservation planning incentive program, prepared a Farmland Preservation Plan (FPP), which was adopted in May 2003 by the Planning Board and endorsed by the AAC. The adoption of this plan element led to the receipt by the Township of a \$5 million Planning Incentive Grant (PIG). The AAC also has been active in the preparation of grant applications, and conducting other outreach and educational programs. In December 2007 the Township submitted a revised FPP to the State Agricultural Development Committee (SADC) in order to preserve any funding opportunities that may materialize.

To address traffic and circulation issues, the Township initiated, with the cooperation of Mercer County, the NJ Department of Transportation and, most importantly, the Township’s major corporate citizens, a unique study of the Township’s traffic patterns. The group, termed the Hopewell Valley Transportation Management Coalition, developed an interactive program that allowed employees to chart the routes that were taken to work, utilizing 57 intersections as reference points. These data were then compiled into a composite view of the use of roadways and intersections in the Township, providing an invaluable database for future recommendations concerning roadway improvements. This report was incorporated into the Circulation Plan Element adopted by the Planning Board in March 2006.

The Delaware Valley Regional Planning Commission (DVRPC), which is the metropolitan planning organization for the Township, established the Central Jersey Transportation Forum, which has brought increased focus on the traffic problems in Mercer County. The most recent analysis by the DVRPC focused on County Route 518.

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

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*conservation, collection, disposition and recycling of designated recyclable materials, and changes in State, county and municipal policies and objectives.”*

Since the time that the 2007 Reexamination Report was adopted, the primary influences on the Master Plan and development regulations have occurred on the State level, although there also have been changes in municipal policies and objectives. On the State level the following changes have occurred:

- Baldwins Creek, which drains into Baldwin Lake, was designated in the NJDEP’s surface water quality rules as a Category 1 (C-1) stream. This designation established a 300’ buffer.
- In May 2007, the NJDEP proposed the designation of the Stony Brook from the Pennington-Hopewell Road (Route 654) to Lake Carnegie in Princeton as a C-1 waters, affecting approximately half of the Township in the south and east, or approximately 35 square miles (60 percent of the Township). These rules were modified to reduce the area included in the designation to approximately 25 square miles (42 percent of the Township), and were adopted in May 2008.
- The Council on Affordable Housing (COAH) proposed and adopted new rules for the provision of affordable housing (Third Round rules) in December 2004. The Township prepared and submitted a new Housing Plan Element and Fair Share Plan (HPE/FSP) to COAH in December 2005. In January 2007 the Appellate Division of the NJ Superior Court issued a decision invalidating portions of COAH’s Third Round rules. In October 2008 new Third Round rules were finalized, and the Township submitted a revised HPE/FSP to COAH in December 2008.
- In December 2007 the Township submitted a revised FPP to continue its participation in the PIG funding program.
- The NJDEP finalized rules establishing Counties as the lead wastewater management planning entity.
- The State Planning Commission (SPC) and the Office of Smart Growth (OSG) continued their review of the State Development and Redevelopment Plan (SDRP). More significantly, the SPC readopted revised rules recommending that municipalities seek plan endorsement in order to address municipal proposals to State agencies.
- The Township, through the Environmental Commission, received a grant from the Association of New Jersey Environmental Commissions, and the technical assistance of the DVRPC, has prepared an updated Natural Resources Inventory (NRI). This NRI is an important component of the Township’s wastewater management planning amendments and the plan endorsement process.

In terms of population, land uses and housing conditions, the Township currently has an estimated population of approximately 18,600 persons with an estimated build-out of 23,300

