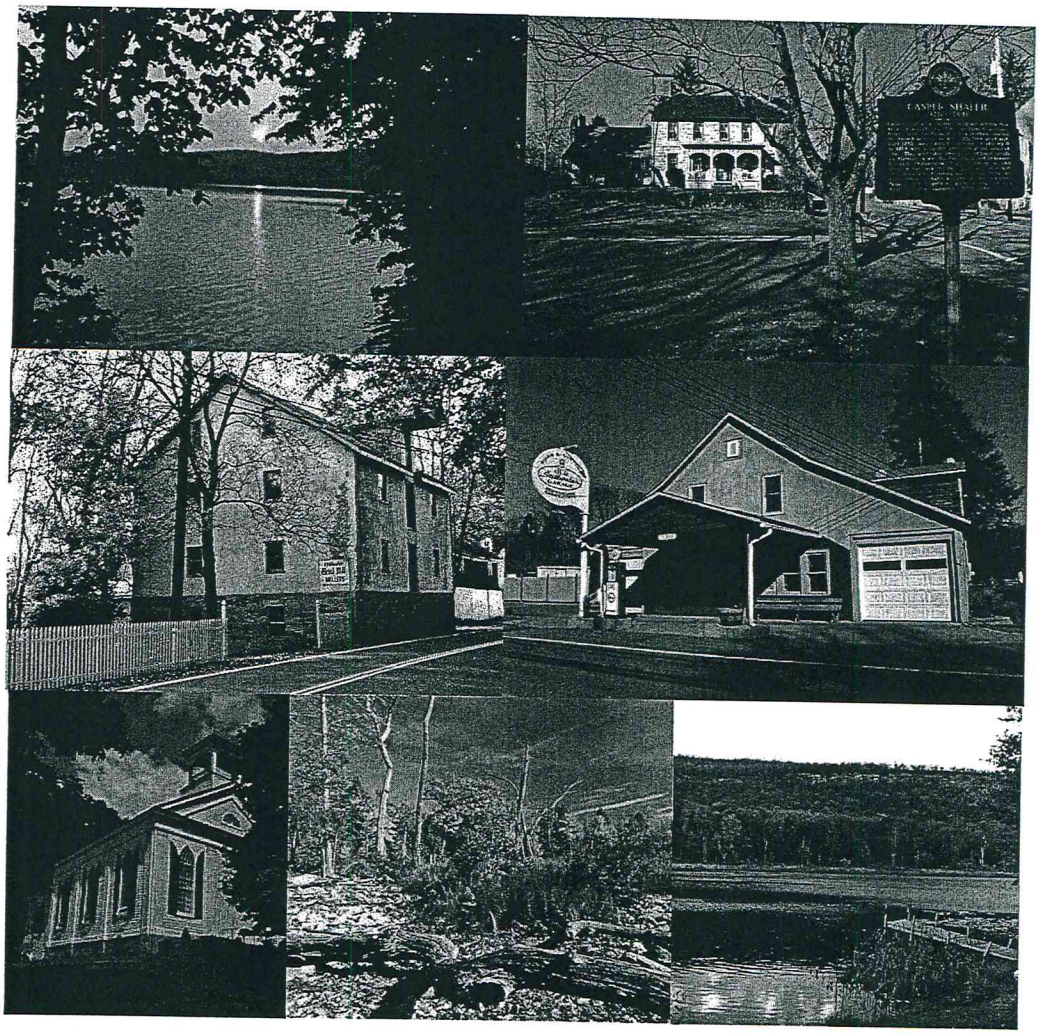
MASTER PLAN REEXAMINATION REPORT

STILLWATER TOWNSHIP

SUSSEX COUNTY, NEW JERSEY



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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 current Master Plan for Stillwater Township was adopted in 1999 and was last reexamined on December 20, 2006. This Master Plan replaced the prior Master Plan, which was adopted in 1983, with a reexamination in 1989.

Reexamination Criteria

N.J.S.A. 40:55D-89 provides for the preparation of a Periodic Reexamination Report using the following five criteria:

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", P.L.1992, c79(C4OA:12A-1 et al) into the land use plan element of the municipal master plan, and recommend changes, if any, in the local development regulations necessary to effectuate the redevelopment plan of the municipality."

Master Plan Reexamination

a. The major problems and objectives relating to land development in the municipality at the time of the adoption of the last reexamination report.

On December 20, 2006, the Stillwater Township Planning Board examined the Stillwater Township Master Plan and concluded that certain amendments should be made to the Land Use Plan Element. Because of experiences that the Planning Board was having with application for development, they found it necessary that each newly created subdivided lot have a minimum area of one acre of contiguous developable land that is unconstrained and is not contained in environmentally sensitive areas as defined by the Stillwater Township Ordinance. Environmentally sensitive areas would include wetlands, flood plains, flood hazard areas, areas having a seasonally high water table at the surface, streams, brooks, rivers, and lands with steep slopes or shallow depth to bedrock. This was to insure that the homeowner or lot owner could utilize the lot or land for its intended purpose.

The Land Use Element of the Stillwater Township Master Plan was amended to read as follows: It is recommended that the vast majority of lands lying within the Township be placed within a very low density residential category. This designation is intended to replace those areas of the Township previously zoned for R-5, 5 acre development. The maximum permitted density in this Zone District in one unit per a minimum of 7.5 acres. A portion of the Township should be and is designated as being in the R5 Residential District. The maximum density in this Zone District is one unit per a minimum of 5 acres. A minimum net lot size of two acres is recommended for cluster subdivisions. Given the pattern of scattered development within the Township which has taken place under zoning prior to the regulations, it is recommended that a "grandfather" clause be enacted which allows for the development of existing developed and undeveloped lots in excess of 60,000 square feet. That is, lots of less than the Ordinance specified minimum can be developed with single family homes if they are in excess of 60,000 square feet in all residential zones, or 15,000 square feet if the property is located in the R30 Zone.

Each newly created subdivided lot shall have a minimum area of one acre of contiguous developable land that is unconstrained and is not contained in environmentally sensitive areas as defined in the Stillwater Township Ordinances.

b. The extent to which such problems and objectives have been reduced or have increased subsequent to such date.

The Township Planning Board has had good success with the constraints ordinance as adopted in the prior reexamination and felt it addressed the issue of adequate space on a parcel to develop a residential use. To protect the cultural heritage and economic diversity of the Township, farmland needs to be preserved. Now the Board has a growing concern related to open space areas in the Township and their ongoing preservation. The Township Planning Board has also been reviewing the need to protect scenic vistas along with those open space areas. The growing demand for alternative energy facilities such as solar farms is a concern to the

Township as well. The need for these facilities needs to be balanced with open space and farmland protection as well as protection of scenic vistas. The potable water supply must be protected as Stillwater Township relies almost entirely on groundwater from individual wells for its water supply. It also relies upon individual sewage treatment systems (septic systems) for its sewage disposal as there are no public sewage treatment plants within the Township. Therefore, the development of residential dwellings must be carefully regulated in order to preserve the water supply. Natural resources including streams, lakes, woodlands and wetlands must be protected. Areas containing karst geology are also a concern and should be addressed to insure that development of those areas properly considers the underlying geologic formations.

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.

Planning and Policy Changes

Changes in local, regional and state plans and policies have occurred since 2006 that impact the Township's Master Plan including: Adoption of new rules by the Council on Affordable Housing for Round 3 Growth Share Obligation, new NJDEP Water Quality Management Planning rules impacting the development of the Sussex County Wastewater Management Plan and an updated Sussex County Solid Waste Management Plan, have all changed the dynamics of planning for municipalities. Changes in the NJDEP Stormwater Regulations also require the municipality to update its Stormwater Management Master Plan and Ordinances, which the Township has completed.

Council on Affordable Housing Substantive Rules

COAH adopted its Third Round Regulations on December 20, 2004, requiring Stillwater Township to petition for Third Round Substantive Certification. On January 25, 2007, the Appellate Division issued a decision on an appeal of COAH's Third Round regulations, which required COAH to revise its Third Round Rules and precluded COAH from issuing Third Round Substantive Certifications until the new rules were adopted. On December 17, 2007, COAH voted to propose its Third Round Regulations, which were published in the January 22, 2008 New Jersey Register. Following a comment period and public hearing process, COAH voted to adopt the rules on May 6, 2008 with minor clarifications. The adopted rules became effective on June 2, 2008. At the same time, COAH proposed amendments to the adopted revised rules. Those amendments were published in the New Jersey Register on June 16, 2008. The amendments were adopted on September 22, 2008, with an additional amendment proposed on the same day. The amended rules were then adopted on October 20, 2008. As a result of the newly adopted Third Round Substantive Rules, communities petitioning to COAH for Third Round Substantive Certification were required to submit updated Housing Elements and Fair Share Plans that met the new rules by December 31, 2008. As a result, Stillwater was required to petition COAH under the revised rules and did so on December 31, 2008. Stillwater's petition was deemed complete on April 20, 2009. The public comment period ended on June 8, 2009 with no objections received.

On October 8, 2010, the Appellate Division of the Superior Court of New Jersey issued a ruling on several actions against COAH and the third round rules. The court dismissed the majority of COAHs third round rules and appeals of this decision are pending. In March 2012, the Appellate Division ruled that Governor Christie's abolishment of COAH was improper. The Council has not yet been reinstated and affordable housing compliance continues to be conducted through DCA. It remains unclear how municipalities will continue their compliance with affordable housing requirements due to the issues referenced above as well as several pending court cases on the rules themselves. Clear direction as to how the DCA and/or COAH will

ascertain compliance with the Fair Housing Act on behalf of municipalities is still needed. Stillwater Township will respond to requirements as they become known.

Stillwater Township had its spending plan approved by COAH. The Township is relying mainly upon the rehabilitation of housing units in need of rehabilitation to meet its affordable housing goals and objectives. In addition, the Township continues to work with Sussex County Habitat for Humanity for the development of single-family dwellings qualifying as affordable housing. The Township has donated a lot for the site of such a home and will continue to explore opportunities for the construction of affordable housing units by Sussex County Habitat for Humanity within the Township. In addition, the Township provides for affordability assistance to qualified homeowners and tenants.

Water Quality Management Planning Rules

The NJDEP adopted new Water Quality Management Planning Rules that impact the Township by limiting new development on septic systems to discharge a maximum of 2,000 gallons per day. The way this is calculated has been changed. Formerly, each residential unit was evaluated to determine if the flow is less than 2,000 gallons per day. The new calculation limits the entire development to 2,000 gallons per day. Residential density will be limited based on the number of bedrooms per unit proposed.

The New Jersey legislature passed a bill to enact a one year delay in the WQMP process, and to also require that NJDEP give all affected property owners notice. This will, at a minimum, delay the requirement to conform to the new rules. Governor Christie also signed an executive order limiting the NJDEP's ability to cut out environmentally sensitive areas from sewer service areas.

Changes in the septic system rules will impact subdivisions in the Township in the future. Densities in various zones are likely to be determined by the impact of these rules; however the Township should continue to utilize densities it feels are

appropriate in each zone, even though ultimately lot sizes may be much larger. All of these compliance mechanisms may be on hold until the WQMP Rules are implemented.

NJDEP Stormwater Management Rules

Newly adopted Stormwater Management Rules emphasize low impact building techniques that will prevent and minimize impact on new development sites using both structural and non-structural techniques such as minimizing land disturbance, minimizing impervious cover, infiltration basins and vegetative filters. These Rules set forth the required components of regional and municipal stormwater management plans and establish the stormwater management design and performance standards for new (proposed) development. The design and performance standards for new development include groundwater recharge, runoff quantity controls, runoff quality controls, and Category One buffers. In addition to the Stormwater Management Rules, the Phase II New Jersey Pollutant Discharge Elimination System Stormwater Regulation Program Rules were also adopted. The Township reviews its Stormwater Management Plan and Ordinances annually. The Township has updated its Stormwater Management Plan and Ordinance to reflect the most current NJDEP regulations.

Sussex County Solid Waste Management Plan

The New Jersey Statewide Mandatory Source Separation and Recycling Act of 1987 required all municipalities to create recycling programs. Under the statute, the NJDEP has the overall authority to regulate recycling in the state. The statute is implemented through the county, with Sussex County being required to adopt a county-wide Solid Waste Management Plan (SWMP). Once the SWMP is certified by the NJDEP, all municipalities in the county are required to update their Recycling Plans and Ordinances to be consistent with the SWMP. The Sussex County SWMP was approved by the NJDEP in August 2007 and currently all municipalities in Sussex County must update their Recycling Elements and Ordinances to be consistent

with the County's SWMP. Stillwater Township should adopt updated Recycling Ordinances to be consistent with the County SWMP.

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.

Many of the issues, goals and objectives of the current Master Plan remain relevant and therefore a complete update is not recommended to the Master Plan at this time. However, some new issues and changes in policies impacting the Township need to be addressed through an amendment to the current Master Plan as noted below.

1. *Prepare an amendment to the Master Plan including the following:*
   a. *Updated goals and objectives;*
   b. *An updated proposed Land Uses Map incorporating the proposed amended RC Recreation/Conservation District. This existing zone district ordinance should be amended and supplemented to expand the land area included within this zone district and to expand the permitted uses within the zone district. This zone district already includes publicly owned lands including public parks, and lands owned by charitable and nonprofit organizations such as the Boy Scouts of America, Girl Scouts of America, the YMCA, the Diabetes Foundation or religious organizations. This zone district will serve to preserve public parks and recreational lands and facilities, camps and camping facilities, passive and active recreation facilities, open space, scenic vistas and farmland;*
   c. *An updated Recreation and Open Space Map dated September 2012 was completed by the Land Conservancy and should be incorporated into the Township Master Plan; and*

d. An updated Housing Element and Fair Share Plan should be developed following guidance from the COAH/DCA as to how municipalities will be required to comply with the Fair Housing Act.

2. Township ordinances should be updated as required by the updated plans and elements including an updated Zoning Map to show the expanded RC Recreation/Conservation District. Cluster ordinances should be reviewed for conformity with the new Water Quality Management Planning Rules. An alternative energy ordinance should be developed to address solar, wind and other forms of alternative energy generation, with special attention paid to the protection of scenic vistas and prime agricultural land. The Township Recycling Ordinance should be updated to be in conformance with the SCWMP.

e. The recommendations of the Planning Board concerning the incorporation of redevelopment plans adopted pursuant to the "local redevelopment and housing law", P.L.1992, c79(C4OA:12A-1 et al) into the land use plan element of the municipal master plan, and recommend changes, if any, in the local development regulations necessary to effectuate the redevelopment plan of the municipality."

No redevelopment plans have been adopted by the municipality.

Conclusion

The conclusion of this reexamination report is for Stillwater Township to complete the above listed recommended changes to the Township Master Plan and subsequently Land Use Ordinances:

The Master Plan is in need of an update to the 1999 version as noted in this report in order to update proposals for proposed land uses, the updated recycling goals and objectives. Attached are updated goals and objectives and an updated parcel list to be added to the Recreation/Conservation District as outlined in the report.

APPENDIX A – MASTER PLAN AMENDMENTS

Update Goals & Proposed Land Uses

Introduction

The following proposed goals and land use district are to update the Township's zoning in order to create more appropriate zones for the existing land use. Adoption of the proposed land use will better define the permitted uses and bulk requirements in the proposed zone. Adoption of the proposed land use will also make the application process more streamlined for future development in the proposed zone.

On page 2, under **Land Use Plan, Goal 1: To Preserve the Rural Character of Stillwater Township, Implementation Policies** add:

11. Protect scenic vistas, hillsides and viewsheds from incompatible development, which includes the removal of trees so that a viewshed is impaired. Viewsheds are important for the overall quality of life and sense of place they provide. The conservation of viewshed lands also helps achieve other related goals:
    - conservation of open space;
    - conservation of natural resources and habitats, including threatened and endangered species;
    - limiting public exposure to natural and geologic hazards to development;
    - parks and recreational opportunities;
    - heritage resource preservation, and,
    - protection of water quality.

12. Ensure that all qualified (tax exempt) parcels are included in the Recreational Conservation District so that they maintain protected from development.

13. Stillwater Township is historically an agricultural community. Farmland remains a large part of the Township's landscape. A substantial portion of the Township is assessed as agricultural land and combined with publicly owned park land and

government owned land, this represents over 50% of the total land use in Stillwater Township. Unguided development will cause the irreparable loss of farmland and agriculture in the Township. The loss of farmland will not only result in the loss of community heritage, but will also contribute to a loss of the open rolling land, stone rows, tree lines, barns, outbuildings and other structures that are characteristic of farmland and the rural scenic quality that the Township desires to retain. Losing farms in Stillwater Township may also affect water quality. Farmers in Stillwater Township have historically been good stewards of the land. Farm and forest lands hold soils and reduce erosion. Thus farmland should be preserved and protected as much as possible.

14. The Township of Stillwater contains areas with karst geology. The term karst describes a distinctive topography that indicates dissolution of underlying carbonate rocks (such as limestone and dolomite) by surface water or ground water over time. This dissolution process causes surface depressions and the development of such features as sinkholes, sinking streams, enlarged bedrock fractures, caves, and underground streams. Sinking streams and sinkholes direct surface water runoff into karst aquifers with little or no attenuation of any transported contaminants. In addition to ground water concerns, karst areas present safety concerns as sinkholes can have damaging effects to large manmade objects. Understanding the relevant land use concerns in carbonate rock areas can facilitate planning and development in those areas. The Township of Stillwater should review the mapped areas with karst geology and identify methods for reducing the potential for aquifer contamination and safety concerns such as sinkholes.

On page 3, under **Land Use Plan, Goal 1: To Provide for the Economic Development of Stillwater Township, <u>Implementation Policies</u>** add:

4. Consider locations for "value-added" farm goods production, such as canning of farm vegetables, producing cheese from milk, making sauces or jams from fruits or vegetables, etc.

5. Consider appropriate locations and regulations to govern alternative energy facilities such as wind and solar facilities such that these uses can be developed without impacting the rural and scenic character of the Township.

6. Preserve, promote, and maintain active farms in the Township, particularly supporting farms that work together such as feed farms that supply dairy farms, etc.

At the end of Paragraph 11 on Page 13 add the following: "Steep slopes should be protected from erosion."

On Page 13 at the end of Paragraph 4 add: "The Township should encourage agri-business and agri-tourism. This would include the encouragement of such uses as the following:

(a) Cut your own Christmas Trees;

(b) Pick your own facilities for the picking of apples, pumpkins, strawberries and the like;

(c) Hayrides;

(d) Agricultural education programs for school children and adults."

At the end of Paragraph 5 at the end of Page 13 the following could be added: "A solar ordinance should be developed to address solar and other forms of alternative energy and regulate its use and restrict its location. Special attention should be paid to the protection of scenic vistas and view sheds. Appropriate screening and appropriate setbacks should be inserted in the regulatory ordinances."

Page 14 should be amended to read as follows: "On Page 22 under Land Use Plan, add the following: "The RC Recreation/Conservation District Ordinance presently regulates land owned by governmental entities and publicly or semi-publicly owned land used for recreational purposes such as public parks, publicly owned recreation lands and facilities, camps, camping facilities and other active and passive recreation facilities. This zone district should be expanded in area to include substantially all government owned land within the Township as well as the above designated lands owned by charities and religious institutions in order to protect and preserve open space, farmland, public parks, recreational facilities, educational facilities, seasonal campgrounds, the protection of water quality, including groundwater as the potable water supply, natural resources, threatened and endangered species and the rural character of Stillwater Township."

The Land Use Plan Map following page 20 should be updated to include the new parcels shown in Appendix B and from time to time as new parcels are dedicated to open space or conservation purposes. The Recreation and Open Space Map dated September 12, 2012 should be incorporated into the Master Plan following the Land Use Plan Map.

APPENDIX B - Updated Parcel List for Inclusion in the Recreation/Conservation District

Block	Lot	Block	Lot	Block	Lot	Block	Lot
101	1	1501	18	2401	14	3601	3
101	2.01	1501	20	2401	39.01	3601	7
102	1.01	1501	21	2401	42	3601	11.20
102	1.02	1502	1	2401	45	3601	11.22
102	1.04	1502	2	2401	46	3601	13
416	1	1502	3	2401	52.07	3601	14
701	3	1502	4	2401	52.10	3601	15
701	4	1601	6.01	2501	1	3601	23.01
704	1.04	1602	6.01	2501	12	3601	23.03
704	3.01	1602	11	2501	49	3601	24
704	3.02	1602	17	2501	62	3602	3
704	4	1602	18.01	2501	64	3602	14
801	3.02	1602	18.03	2501	67	3602	16
801	13	1605	6	2501	69	3602	17
801	15	1605	7	2601	1.01	3602	18.01
801	16	1702	6.01	2601	2	3701	5
801	24	1801	2	2601	7.01	3701	23
801	26	1801	3	2601	10	3701	27
801	28	1801	4	2702	2	3701	28
902	10	1801	5.01	3207	1.02	3701	29
903	1.01	1801	6	3302	22	3705	4
903	16	1801	9.01	3303	5	3705	14.01
903	22	1801	20	3304	4	3705	16
903	40	1801	23	3306	2.02	3802	2
903	42	1801	34	3306	12	3803	1
903	45	2001	1	3501	12	3804	1.01
1001	47.02	2001	4	3503	6	3804	10
1201	5	2101	12	3504	1	3805	20
1201	7	2101	28	3504	2	3806	2
1401	2	2104	7	3504	3	3807	3
1401	26.02	2201	19	3504	4	4006	1
1401	28.02	2301	2.02	3504	5.01	4205	1
1401	29.01	2301	5.02	3504	5.02	4306	2
1401	30.03	2301	8	3504	6.01		
1401	30.09	2301	8.01	3504	15.04		
1501	1	2301	8.02	3601	1		
1501	2.02	2301	51	3601	2		