

NJ Department of Environmental Protection



Consistency Review and Comments On the Petition for Initial Plan Endorsement

**Submitted by the
Township of West Amwell**

April 14, 2006

Petition for Initial Plan Endorsement Submitted by the Township of West Amwell

NJ DEP Consistency Review and Comments

Introduction

The Township of West Amwell submitted a petition for Initial Plan Endorsement to the Office of Smart Growth in November 2005. As part of the process established in the State Planning Commission's Plan Endorsement Guidelines, the Department (DEP) reviewed the petition and supporting materials submitted by the Township for completeness and found the petition to be incomplete. In addition to the Commission's Plan Endorsement Guidelines, the Department has developed its own guidelines and review criteria (NJDEP Initial Plan Endorsement Program and Process Guide) to assist municipalities in the Plan Endorsement process, and to assist in determining consistency with both the State Development and Redevelopment Plan and Department-related plans and programs.

The Department notified the Office of Smart Growth (OSG) that the petition did not include all of the required items and materials related to the Department's programs and regulations as prescribed in the Plan Endorsement Guidelines and the Department's Initial Plan Endorsement Program and Process Guide. Without this information the Department felt that it did not have a complete picture of current conditions and future activities in the Township. The items the Department cited as missing were:

- **Community Vision and Public Participation:** The petition does not present any vision of the Township, referring back only to the master plan. This section is supposed to be a summary of municipal direction and recent planning initiatives or issues, not simply a referral to the master plan. opportunity for a municipality to articulate a vision based on e guidelines
- **Statement of Planning Coordination:** This section is supposed to be a multi-part opportunity for a petitioner to bring forward new information regarding planning, development and any other activities that have arisen since the master plan completion. The petition provides little insight into current development activities, critical issues, other planning initiatives in adjacent municipalities or the region.

The Township subsequently submitted a Petition Addendum satisfying the completeness review, and the Office of Smart Growth officially deemed the West Amwell Township petition for Initial Plan Endorsement complete on February 28, 2006.

West Amwell Township is a 21.9 square mile Township in western Hunterdon County. Primarily an agricultural community, there are also areas of low-density residential lands, and significant areas of vacant forested lands. West Amwell Township is bisected by the Sourland Mountains, and the Township has been active in efforts to protect and preserve sensitive features and the rural character of the Sourlands. There are no public water or wastewater systems in the Township. The State Plan Policy Map delineates West Amwell into the Rural, Rural/Environmentally Sensitive, and the Environmentally Sensitive Planning Areas. The Township does not propose any centers or Planning Areas where growth would be encouraged.

Consistency Review

It is the Department's intent to review the information submitted by an applicant for consistency with provisions of the State Development and Redevelopment Plan, primarily those related to resource protection and also with the plans and programs of the Department. To do this, the Department will use the applicable State Plan Planning Areas and their Policy Objectives as benchmarks for determining consistency. As the State Plan's key concepts, the Statewide Policies are applied to the natural and built resources of the state through the designation of the five Planning Areas. The Planning Areas reflect distinct geographic units within the state and serve as the organizing framework for application of the Statewide Policies.

State Development and Redevelopment Plan

Rural Planning Area Policy Objectives

The Department evaluated West Amwell's petition against a subset of the Rural Planning Area Policy objectives. The policies addressed in this review are either directly linked to the Department's mission or are significantly influenced by the Department's regulatory authority. The policy objectives for Housing, Economic Development, Transportation, Agriculture/Farmland Preservation, Redevelopment, and Intergovernmental Coordination are not addressed by this review because these policy areas are fundamentally grounded in the responsibilities of other State Agencies.

Applicable Policies

Land Use: Enhance economic and agricultural viability and rural character by guiding development and redevelopment into Centers. In the Environs, maintain and enhance agricultural uses, and preserve agricultural and other lands to form large contiguous areas and greenbelts around Centers. Development and redevelopment should use creative land use and design techniques to ensure that it does not conflict with agricultural operations, does not exceed the capacity of natural and built systems and protects areas where public investments in farmland preservation have been made. Development and redevelopment in the Environs should maintain or enhance the character of the area.

Department Review: West Amwell Township has conducted its Land Use planning in a manner largely consistent with this policy.

- The Master Plan notes the importance of protecting the rural agricultural character of the community. Approximately 68% of the Township is currently in agriculture, establishing the community's character. Much of the Township's land use planning is based on preserving this rural character, including a proposal to remove sewer service areas from the municipality.
- The West Amwell Township master plan provides for several types of land uses; the zoning ordinance accommodates residential clustering and the Township has been innovative in developing a "mini-clustering" provision in order to accommodate smaller farms. The Township does not propose any centers. Residents shopping and other commercial and economic needs are accommodated in Lambertville, an existing town center adjacent to the southwest end of the Township, and in the Flemington area to the northeast, which is a designated regional center. The Master Plan and zoning ordinance guide higher-intensity commercial and retail uses to commercial highway corridors and the area adjacent to Lambertville, to accommodate some daily need of residents.
- The Township has pursued an aggressive campaign to protect and preserve large contiguous tracts of farmland and open space throughout the municipality. The Township has adopted a \$0.06 open space tax and has currently preserved approximately 25% of its total land area.
- West Amwell completed an *Evaluation of Groundwater Resources* report that addresses the capability of groundwater resources to accommodate both natural and built systems, consistent with master plan objectives.

Natural Resource Conservation: Minimize potential conflicts between development, agricultural practices and sensitive environmental resources. Promote agricultural management practices and other agricultural conservation techniques to protect soil and water resources. Protect and preserve large, contiguous tracts and corridors of recreation, forest or other open space land that protect natural systems and natural resources.

Department Review: West Amwell Township has conducted its Land Use planning in a manner largely consistent with this policy.

- The Township's Master Plan and zoning ordinance effectively limit development in areas of sensitive environmental resources. The Sourland Region Planning District covers some of the largest areas of wetlands in the Township, as well as the Goat Hill Natural Heritage Priority Site.
- The Township has prepared several documents and studies to guide planning initiatives and minimize potential conflicts:
 - Sourland Mountain Region Natural Resource Inventory (Banisch Associates, 2004)
 - Natural Resource Inventory, Vol. 1 (South Branch Watershed Association)
 - Conservation Plan Element & Map in 2003 Master Plan
 - 2003 Groundwater Resources Report (M2 Associates)
- The Township has pursued an aggressive campaign to protect and preserve large contiguous tracts of farmland and open space throughout the municipality. The Township has adopted a \$0.06 open space tax and has currently preserved approximately 25% of its total land area.
- The Township adopted a Stream Corridor Protection ordinance in October, 2005.
- The Land Use Element and Recreation Master Plan identify rural and environmentally sensitive areas that will remain in low-density uses or targeted for open space acquisition.
- The Goat Hill Natural Heritage Priority Site contains high-quality habitat for endangered and threatened species plant and animal species. It is unclear if the Township has provisions in its zoning and site plan/subdivision ordinances to adequately protect habitat. The Department would like to work with the Township to develop and implement habitat protection measures.

Recreation: Provide maximum active and passive recreational and tourism opportunities at the neighborhood and local levels by targeting the acquisition and development of neighborhood and municipal parkland within Centers. Provide regional recreation and tourism opportunities by targeting parkland acquisitions and improvements that enhance large contiguous open space systems and by facilitating alternative recreational and tourism uses of farmland.

Department Review: West Amwell Township has conducted its Land Use planning in a manner consistent with this policy.

- The Township has pursued an aggressive campaign to protect and preserve large contiguous tracts of farmland and open space throughout the municipality. The Township has adopted a \$0.06 open space tax and has currently preserved approximately 25% of its total land area.
- The Township's Recreation and Open Space Inventory list 2,300 acres of protected land by state and local agencies, and private landowners.

Historic Preservation: Encourage the preservation and adaptive reuse of historic or significant buildings, Historic and Cultural Sites, neighborhoods and districts in ways that will not compromise either the historic resource or the ability for a Center to develop or redevelop. Outside Centers, coordinate historic preservation needs with farmland preservation efforts. Coordinate historic preservation with tourism efforts.

Department Review: The Department cannot determine the consistency of West Amwell Township's Master Plan with this policy objective without additional information regarding implementation of the Historic Preservation Plan Element.

- West Amwell Township has prepared a Historic Preservation Plan Element which sets forth a series of suggestions to aid citizen planners in determining the location, significance, potential for adaptive reuse, and means for preservation of historic resources in the Township. The element includes a listing of Historic Resources which identifies several historic structures in this planning area.

Although the element as a whole encourages the preservation and adaptive reuse of historic or significant buildings, historic and /or cultural sites and neighborhoods, the Department is unable to determine from the materials submitted with the petition whether the activities suggested to be undertaken have been or will be undertaken. In order to make a positive determination concerning this policy objective, West Amwell Township should demonstrate that the historic preservation strategies contained in the Master Plan Element have been or will be implemented.

- The Township has adopted a Historic District Zoning Overlay for the Mount Airy section of the Township, located in the Rural/Environmentally Sensitive Planning Area. This district covers approximately 100 acres of the Township's 21.9 square miles.

Public Facilities and Services: Phase and program for construction as part of a dedicated capital improvement budget or as part of a public/private development agreement the extension or establishment of public facilities and services, particularly wastewater systems, to establish adequate levels of capital facilities and services to support Centers; to protect large contiguous areas of productive farmlands and other open spaces; to protect public investments in farmland preservation programs; and to minimize conflicts between Centers and surrounding farms. Encourage private investments and facilitate public/private partnerships to provide adequate facilities and services, particularly wastewater systems, in Centers. Make community wastewater treatment a feasible and cost-effective alternative.

Department Review: West Amwell Township has conducted its' public facilities and services planning in a manner largely consistent with this policy.

- The Master Plan notes the importance of protecting the rural agricultural character of the community. Approximately 68% of the Township is currently in agriculture, establishing the community's character. Much of the Township's land use planning is based on preserving this rural character, including a proposal to remove sewer service areas from the municipality.
- The Township has pursued an aggressive campaign to protect and preserve large contiguous tracts of farmland and open space throughout the municipality. The Township has adopted a \$0.06 open space tax and has currently preserved approximately 25% of its total land area.
- West Amwell Township is not served by any public water or sewer system. As such, the Township has completed an *Evaluation of Groundwater Resources* report that addresses the capability of groundwater resources to accommodate both natural and built systems, consistent with the master plan.
- Currently, a portion of the Rural Planning Area is in an approved Sewer Service Area. The Township filed a dissenting report as part of the Cross-Acceptance process proposing to remove all sewer service areas from the municipality. The Township has recently applied to the Department for a Wastewater Management Plan Amendment to complete this process and remove the Sewer Service Area. This is consistent with the master plan and this policy objective

Rural/Environmentally Sensitive Planning Area Policy Objectives

The policy objectives for the Rural/Environmentally Sensitive Planning Area are the same as those for Environmentally Sensitive Planning Areas (*See Department comments on Environmentally Sensitive Planning Area Policy Objectives.*)

Environmentally Sensitive Planning Area Policy Objectives

The Department evaluated West Amwell's petition against a subset of the Environmentally Sensitive Planning Area Policy objectives. The policies addressed in this review are either directly linked to the Department's mission or are significantly influenced by the Department's regulatory authority. The policy objectives for Housing, Economic Development, Transportation, Agriculture/Farmland Preservation, Redevelopment, and Intergovernmental Coordination are not addressed by this review because these policy areas are fundamentally grounded in the responsibilities of other State Agencies.

Applicable Policies

Land Use: Protect natural systems and environmentally sensitive features by guiding development and redevelopment into Centers and establishing Center Boundaries and buffers and greenbelts around these boundaries. Maintain open space networks, critical habitat and large contiguous tracts of land in the Environs by a variety of land use techniques. Development and redevelopment should use creative land use and design techniques to ensure that it does not exceed the capacity of natural and infrastructure systems and protects areas where public investments in open space preservation have been made. Development and redevelopment in the Environs should maintain and enhance the natural resources and character of the area.

Department Review: West Amwell Township has conducted its land use planning in a manner largely consistent with this policy.

- The Master Plan notes the importance of protecting the rural agricultural character of the community. Approximately 68% of the Township is currently in agriculture, establishing the community's character. Much of the Township's land use planning is based on preserving this rural character, including a proposal to remove sewer service areas from the municipality.
- The West Amwell Township master plan provides for several types of land uses; the zoning ordinance accommodates residential clustering and the Township has been innovative in developing a "mini-clustering" provision in order to accommodate smaller farms. The Master Plan and zoning ordinance guide higher-intensity commercial and retail uses to commercial highway corridors and the area adjacent to the City of Lambertville, an existing Town Center.
- West Amwell completed an *Evaluation of Groundwater Resources* report that addresses the capability of the groundwater resources to accommodate both natural and built systems, consistent with the master plan and this policy objective.

Natural Resource Conservation: Protect and preserve large, contiguous tracts and corridors of recreation, forest or other open space land that protects natural systems and sensitive natural resources, including endangered species, ground and surface water resources, wetland systems, natural landscapes of exceptional value, critical slope areas, scenic vistas and other significant environmentally sensitive features.

Department Review: West Amwell Township has conducted its land use planning in a manner largely consistent with this policy.

- The Township has pursued an aggressive campaign to protect and preserve large contiguous tracts of farmland and open space throughout the municipality. The Township has adopted a \$0.06 open space tax and has currently preserved approximately 25% of its total land area.
- Both the Township Natural Resource Inventory and the Sourlands Mountain Region NRI include extensive data and descriptions of the natural resources in the West Amwell Township area, including maps and other baseline information that inform planning policies, initiatives, local ordinances and environmental reviews of proposed developments.

- The Conservation Plan identifies open space goals, including establishment of a greenway system, establishment of a community land trust, and recognition of the importance of woodlands protection.
- The Township adopted a Stream Corridor Protection ordinance in October, 2005.
- Undeveloped portions of the Township have species habitat that is ranked as suitable, special concern, and state threatened, on the Department's Landscape Project maps. The habitat ranked as state threatened is located in the northern portion of the municipality and is located within Rural, Rural/Environmentally Sensitive, and Environmentally Sensitive Planning Areas.
- Another undeveloped portion of the Township is within the Goat Hill Natural Heritage Priority Site. This area is located in the south-western tip of the Township and is in both Rural and Rural/Environmentally Sensitive Planning Areas. The Site is also located partly within both the Sourland Regional Planning and Rural Residential South (RR-6) Zoning Districts. This Site may be in conflict with the Highway Commercial Zone in that area. The Township should consider working with the Department to implement measures to protect this area.

Recreation: Provide maximum active and passive recreational and tourism opportunities at the neighborhood and local levels by targeting the acquisitions and development of neighborhood and municipal parkland within Centers. Provide regional recreation and tourism opportunities by targeting parkland acquisitions and improvements that enhance large contiguous open space systems. Ensure meaningful access to public lands.

Department Review: West Amwell Township has conducted its land use planning in a manner largely consistent with this policy.

- The Township has pursued an aggressive campaign to protect and preserve large contiguous tracts of farmland and open space throughout the municipality. The Township has adopted a \$0.06 open space tax and has currently preserved approximately 25% of its total land area.

Historic Preservation: Encourage the preservation and adaptive reuse of historic or significant buildings, Historic and Cultural Sites, neighborhoods and districts in ways that will not compromise either the historic resource or the ability for a Center to develop or redevelop. Outside Centers, coordinate historic preservation needs with open space preservation efforts. Coordinate historic preservation with tourism efforts.

Department Review: The Department cannot determine the consistency of West Amwell Township's Master Plan with this policy objective without additional information regarding implementation of the Historic Preservation Plan Element.

- West Amwell Township has prepared a Historic Preservation Plan Element which sets forth a series of suggestions to aid citizen planners in determining the location, significance, potential for adaptive reuse, and means for preservation of historic resources in the Township. The element includes a listing of Historic Resources which identifies several historic structures in this planning area.

Although the element as a whole encourages the preservation and adaptive reuse of historic or significant buildings, historic and /or cultural sites and neighborhoods, the Department is unable to determine from the materials submitted with the petition whether the activities suggested to be undertaken have been or will be undertaken. In order to make a positive determination concerning this policy objective, West Amwell Township should demonstrate that the historic preservation strategies contained in the Master Plan Element have been or will be implemented.

Public Facilities and Services: Phase and program for construction as part of a dedicated capital improvement budget or as part of a public/private development agreement the extension or establishment of

public facilities and services, particularly wastewater systems, to establish adequate levels of capital facilities and services to support Centers; to protect large contiguous areas of environmentally sensitive features and other open spaces; to protect public investments in open space preservation programs; and to minimize conflicts between Centers and the Environs. Encourage private investments and facilitate public/private partnerships to provide adequate facilities and services, particularly wastewater systems, in Centers. Make community wastewater treatment a feasible and cost-effective alternative.

Department Review: West Amwell Township has conducted its land use planning in a manner consistent with this policy.

- *West Amwell Township is not served by any public water or sewer system. As such, the Township completed an Evaluation of Groundwater Resources report in February, 2003. This report identifies the capability of groundwater resources to accommodate both development and protection of natural resources.*
- Currently, a portion of the Rural/Environmentally Sensitive Planning Area is in an approved Sewer Service Area. The Township filed a dissenting report as part of the Cross-Acceptance process proposing to remove all sewer service areas from the municipality. The Township has recently applied to the Department for a Wastewater Management Plan Amendment to complete this process and remove the Sewer Service Area. This is consistent with the master plan and this policy objective

Additional Issues and Recommendations

Wastewater Management Plan

The Township's Wastewater Management Plan is currently out of date. The Township must submit to DEP an amended Wastewater Management Plan that removes lands not already served by existing sewer connections or have a documented pre-existing sanitary health problem due to on-site wastewater disposal.

Historic Preservation

The Department cannot determine the consistency of West Amwell Township's Master Plan without additional information regarding implementation of the Historic Preservation Plan Element. We would like the Township to submit a narrative demonstrating how the Historic Preservation Plan element is being implemented.

Environmental Justice/Contaminated Sites/Hazardous Waste Generators

As part of the Plan Endorsement process and in accordance with Executive Order 96, effective February 19, 2004, the Department provided Upper Township with an Environmental Justice Inventory. The State's Environmental Justice Policy Executive Order seeks to address the disproportionate impacts that environmental degradation presents to low income and minority communities throughout the State by encouraging community involvement in decisions that will impact local environmental quality.

The Department provides an Environmental Justice Inventory to all municipalities that initiate the Plan Endorsement process, regardless of the racial, ethnic and income characteristics of a community. The inventory provides detailed information that can be used to indicate the extent to which low-income communities and communities of color might be located in close proximity to regulated sites or other negative environmental conditions. The Department strongly urges municipalities to pro-actively address Environmental Justice issues in their Master Plans. Environmental Justice Inventory information can ensure that land use planning does not create or perpetuate situations that disproportionately expose citizens to environmental hazards. While the information included in the inventory is not exhaustive, it provides a starting point for West Amwell Township to consider Environmental Justice issues for on-going planning efforts.

There are a number of possible policy actions available to West Amwell Township to address an existing or potential Environmental Justice situation, should the information provided raise concerns. These include, but are not limited, to:

- Meet with community stakeholders to inform them of planning initiatives and their impact on community environmental assets and liabilities.
- Disseminate planning, environmental, and public health information in languages other than English according to community demographics.
- Eliminate existing permitted land uses that create conditions whereby existing or proposed residential uses are in proximity to present public health and environmental hazards, and adopt flexible zoning techniques to better prevent these use conflicts.
- Establish overlay zones that impose additional requirements for environmental protection for hazardous uses or restrict residential uses in proximity to existing pollutant dischargers.
- Improve controls on existing industrial facilities, including zoning regulations, hours of operation, truck routes, noise control, hazardous and noxious materials storage, onsite waste storage and timely collection of residual wastes. Planners should recognize the significant health implications of fine particulate air emissions and work to reduce impacts from these sources.
- Collect and analyze data on community health issues.
- Designate a municipal Single Point of Contact for residents concerned about environmental health issues arising from local conditions and train municipal staff on environmental justice concerns. This designee should be advertised with the community.
- Assess the distribution of open and natural spaces as they relate to housing demographics.

Please note that members of low-income and ethnic and minority community members can file a petition with the Environmental Justice Task Force if they feel that there are pertinent environmental justice concerns in the Township. More information about this process can be found at <http://www.nj.gov/ejtaskforce/> and at <http://www.state.nj.us/dep/ej/index.html>. To date, no petitions have been filed with the Environmental Justice Task Force due to issues within West Amwell Township.

Planning and Implementation Agreement

The Department recommends that West Amwell Township undertake the following actions to be added to the Planning and Implementation Agreement:

- ❑ Update wastewater management plan. The Township has recently applied to the Department for a Wastewater Management Plan Amendment to remove all sewer service area from the Township. The Department has met with Township staff on this matter and has agreed to work cooperatively with the Township to review the amendment request in a timely manner.
- ❑ Work with the Department on protecting habitat of threatened and endangered species. The Department has noted undeveloped areas in the Township that include State Threatened Species Habitat and a Natural Heritage Priority Site (Goat Hill) that contains rare plant species. The Department would like to work with the Township toward developing measures to implement habitat protection to safeguard highly sensitive environmental resources.

Staff Recommendation

The Office of Policy, Planning and Science believes that the municipal policies and guidance contained in the West Amwell Township Master Plan and supporting elements are compatible with Policy Objectives of the Rural, Rural/Environmentally Sensitive, and Environmentally Sensitive Planning Areas and supporting Statewide Policies. The Township has undertaken its own studies to ensure a sustainable water supply, and implemented an ordinance to protect its waterways. The Township has also enacted land use tools that protect large contiguous tracts of land, such as its zoning ordinance, residential clustering, and an aggressive open space program and tax. We believe that the plans and policies of the Township are largely consistent with the State Development and Redevelopment Plan, and the plans and programs of the Department.