

AMENDED

2011 MASTER PLAN REEXAMINATION REPORT

HOLLAND TOWNSHIP
Hunterdon County, New Jersey

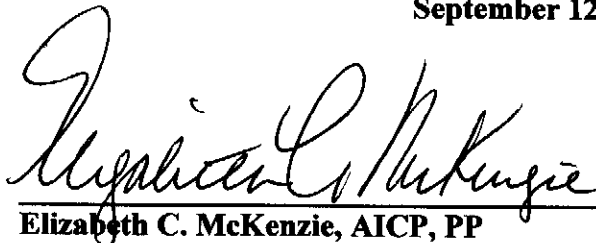
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OCTOBER, 2011

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September 12, 2011



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**HOLLAND TOWNSHIP
2011 MASTER PLAN REEXAMINATION REPORT**

Introduction

1. The New Jersey Municipal Land Use Law (MLUL) (N.J.S.A. 40:55D-1 et seq.) provides that each municipality within the State of New Jersey periodically reexamine its Master Plan policies and assumptions, and its zoning restrictions and site plan and subdivision regulations, and prepare and adopt by resolution, a report on the findings of such reexamination. The Reexamination Report must include the following components (N.J.S.A. 40:55D-89): The major problems and objectives relating to land development in the municipality at the time of the adoption of the last reexamination report.
2. The extent to which such problems and objectives have been reduced or have increased subsequent to such date.
3. 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.
4. 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.
5. 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.

The current Holland Township Master Plan was adopted by the Planning Board pursuant to Article 3 of the MLUL (N.J.S.A. 40:55D-28) on May 14, 2001. The Board subsequently adopted amendments to the Master Plan in April of 2004, January of 2007, March of 2007, and December of 2007, affecting the following Master Plan Elements, respectively: Open Space Plan, Periodic Reexamination Report, Environmental Resource Inventory, and Farmland Preservation Plan. The Farmland Preservation Plan element was amended and readopted in May of 2010 and then resubmitted to the SADC for approval.

Since the time of adoption of the last amendment to the Master Plan, the assumptions, policies, and objectives upon which the Master Plan is based have changed by virtue of: a) the enactment of the Highlands Water Protection and Planning Act (“Highlands Act,” N.J.S.A. 13:20-1 et seq.) by the State Legislature on August 10, 2004; b) the adoption of the Highlands Regional Master Plan by the Highlands Water Protection and Planning Council (“Highlands Council”) on July 17, 2008, which became effective on September 8, 2008; c) the requirement of the Highlands Act that municipal Master Plans and regulatory provisions be brought into alignment with the Highlands Regional Master Plan for lands located within the Highlands Preservation Area; d) the authorization within the Highlands Act for voluntary municipal Master Plan and regulatory conformance with the Highlands Regional Master Plan with respect to lands located within the Highlands Planning Area; and e) the affirmative decision of the Holland Township Governing Body to conform to the Highlands Regional Master Plan for municipal lands located in both the Preservation Area/Planning Area, as set forth by Resolution adopted on December 1, 2009. In addition, the Township has become aware of a relatively new type of land use, major commercial solar energy systems, not currently permitted and regulated in Holland Township. Consequently, there is a need to amend the Reexamination Report and Master Plan and ultimately the Land Use Ordinance to provide for the location and regulation of such installations.

Accordingly, the Planning Board has reexamined the Township Master Plan and development regulations to determine the specific changes necessary to achieve consistency with the Highlands Regional Master Plan and thereby, to incorporate the specific changes in State policies, goals, and objectives as set forth by the Highlands Act as well as to address major commercial solar installations. It is the intent of this Report to identify the specific revisions needed to bring the Township Master Plan and development regulations into conformance with the Highlands Regional Master Plan and the specific changes needed to accommodate major commercial solar installations.

1. Major Land Development Problems & Objectives

The major problems and objectives relating to land development in the Township at the time of the adoption of the last reexamination report which have changed, specifically as a result of the passage of the Highlands Act, the adoption of the Regional Master Plan, and/or the decision of the Governing Body to conform its planning documents to the Regional Master Plan, and to address wind and solar regulations to include the following:

- a. To continue to recognize, give consideration to, and take action on the planning goals and objectives contained in the Township's 2007 Periodic Reexamination Report as amended through January 18, 2007 and presented in Section I on pages 8 thru 11.
- b. To promote the Highlands Preservation and Planning Area Goals as identified in the Township's New Jersey Highlands and Holland Township "Initial Assessment Grant Report" dated March 3, 2009. Reference to goals and objectives can be found on pages 13 and 14.
- c. To recognize that Major Highlands development must comply with a series of very stringent environmental standards governing septic system densities, impervious surfaces, open waters buffers, flood hazard areas, steep slopes, upland forests, historic and archaeological areas, rare, threatened or endangered plant and animal species, and unique or irreplaceable land types including vernal habitats and ecological communities.
- d. To acknowledge the need to manage growth in ways that respects the Township's rural and sensitive environmental context.
- e. To receive the benefit of a potential reduction in affordable housing obligations if the Township's Master Plan conforms with to the Highlands Regional Master Plan.
- f. To recognize the need to amend the Land Development Ordinance to establish requirements for clean renewable energy systems that can be utilized effectively and without detriment to adjoining properties.

2. Extent of Reduction/Increase in Problems & Objectives

The extent to which each of the problems and objectives listed in item 1 above, have been reduced or have increased subsequent to the date of the last reexamination report, specifically as a result of passage of the Highlands Act, the adoption of the Regional Master Plan, and/or the decision of the Governing Body to conform its planning documents to the Regional Master Plan, as indicated below, in the same order provided at 1, above and to address locations and regulations for major commercial solar energy facilities:

- a. In June of 2010, the Planning Board adopted and submitted to COAH its Third Round Housing Element and Fair Share Plan.
- b. On May 19, 2011 the Highlands Planning Council adopted Resolution 2011-15 which approved the Holland Township "Petition for Plan Conformance".
- c. The Planning Board has prepared a draft "Highlands Element" Master Plan Supplement with input from the Highlands Council staff. The Planning Board intends to adopt this element after a thorough review.
- d. The Planning Board has prepared a draft (Approved by the Highlands Council) "Highlands Environmental Resource Inventory" dated August 2011. The Township's Environmental Commission will conduct a thorough review prior to the adoption of the environmental inventory. The Planning Board intends to incorporate this inventory, by reference, into its Master Plan.
- e. The Planning Board has prepared a draft "Highlands Area Land Use Ordinance (A Supplement to the Land Use Ordinance of the Township) with input from the Highlands. The Planning Board intends to recommend to the Governing Body that this Ordinance be adopted after a thorough review.
- f. The Governing Body has introduced proposed Ordinance 2011-14 - An Ordinance to Petition the Highlands Council for Plan Conformance for the Planning Area. The Planning Board finds that this Ordinance is consistent with its desire to adopt the Highlands Master Plan Supplement for the Township and the proposed Land Use Ordinance.
- g. The Governing Body has introduced proposed Ordinance 2011-15 - An Ordinance amending Chapter 100 (Land Use) of the Code of the Township of Holland by adding Checklist Requirements for applications for development in the Preservation Area and the Planning Area of the Highlands Region within the Township of Holland. The Planning Board finds that this Ordinance is consistent with its desire to adopt the Highlands Master Plan Supplement for the Township and the proposed Land Use Ordinance.
- h. The Planning Board believes there is a need to amend the Master Plan and the Land Use Ordinance to permit, where appropriate, and to regulate major commercial solar energy facilities.

3. Significant Changes in Assumptions, Policies, Objectives

Since the adoption of the Township Master Plan on May 14, 2001, the passage of the Highlands Act, adoption of the Regional Master Plan by the Highlands Council, and the adoption by the Governing Body of its resolution to conform the municipal planning documents to the Regional

Master Plan, have significantly altered and increased the objectives that must be addressed in the Township Master Plan, including but not limited to incorporating a variety of Highlands Resource protections, providing an emphasis on infrastructure and environmental carrying capacities, and initiating a substantial modification to the methodology to be used in determining permitted densities of development within the municipality.

4. Specific Recommended Changes to the Master Plan

The Planning Board recommends that specific changes to the Holland Township Master Plan be adopted, including modifications to the underlying objectives, policies and standards, all as outlined in detail, in the “Highlands Preservation/Planning Area Master Plan Element” approved by the Highlands Council as part of the Township’s Petition for Plan Conformance. The Board also recommends that the Environmental Resource Inventory component of the Township Master Plan be modified by the adoption (by reference) of the aforementioned “Highlands Environmental Resource Inventory” as prepared by the Board and approved by the Highlands Council. In addition, the Board recommends changes to the Master Plan to provide the opportunity for major commercial solar energy facilities to be located in the Township, specifically in its Industrial zones, where such uses would be permitted and regulated as conditional uses, based upon the national and statewide importance of promoting the use of renewable energy resources.

5. Specific Recommended Changes to Development Regulations

The Planning Board recommends that the specific changes, as detailed in the document titled “Holland Township Highlands Preservation/Planning Area Land Use Ordinance,” approved by the Highlands Council as part of the Township’s Petition for Plan Conformance be adopted by the Governing Body to implement the objectives, policies and standards as outlined in the Highlands Preservation/Planning Area Element of the Master Plan. In addition, the Board recommends the adoption of the aforementioned interim checklist ordinance, introduced by the Governing Body, Ordinance 2011-15 – “An Ordinance amending Chapter 100 (Land Use) of the Code of the Township of Holland by adding Checklist Requirements for applications for development in the Preservation Area and the Planning Area of the Highlands Region within the Township of Holland”.

The Planning Board also recommends that the Governing Body adopt amendments to the Land Use Ordinance permitting and regulating major commercial solar energy facilities as conditional uses in the Township’s Industrial zones, consistent with New Jersey state law. Ordinances providing for the installation of small wind and solar energy systems as accessory uses to permitted uses in all zones have already been adopted by the Governing Body. These provisions need to be amended, as well, to define the limits of such systems when installed in connection with a preserved farm or a commercial farm consistent with State law.

The types of regulations that should be included in the amendments to the Land Use Ordinance are enumerated in the Master Plan amendment appended to this Reexamination Report

6. Changes Recommended for Incorporation of Redevelopment Plans

At this time the Planning Board makes no findings or recommendations regarding the incorporation of redevelopment plans pursuant to the Local Redevelopment and Housing Law, P.L. 11992, c.79 (C.40A:12A-1 et al.).

**AMENDMENT TO LAND USE PLAN ELEMENT OF
HOLLAND TOWNSHIP MASTER PLAN
ADDRESSING SOLAR ENERGY FACILITIES (MAJOR/COMMERCIAL) AS
PRINCIPAL USES OF LAND IN THE IND LIMITED INDUSTRIAL PARK DISTRICTS**

Prepared by Elizabeth C. McKenzie, AICP, PP

October 5, 2011

Introduction and Purpose

The purpose of this amendment to the Holland Township Master Plan is to address the issues associated with and to recommend permitting the installation of Solar Energy Facilities (Major/Commercial) as a principal use of land in the Township's IND Limited Industrial Park District.

In 2010, the Township adopted amendments to the Land Use Ordinance permitting and regulating small wind and solar energy facilities as accessory uses throughout the Township. In the IND zones, small wind energy systems are permitted as conditional accessory uses. In no zones, however, are wind or solar energy facilities permitted as a principal use of land. This Master Plan Amendment focuses on allowing major commercial solar energy facilities to be installed within the Township's IND Limited Industrial Park District as a principal use of land. There is a different set of site selection, visual, noise and environmental issues associated with major commercial wind energy systems, and at this time such uses are not considered to be an appropriate or viable use of land within Holland Township.

Background

Holland Township, along with other municipalities in the State of New Jersey, has come to recognize the growing trend in the use of various sources of renewable energy to offset the power demands (and hence the environmental impact) of residential, commercial, public and industrial land uses. In connection with this, the Township has identified a need to develop appropriate zoning and land development ordinance

provisions to permit and regulate the kinds of facilities and equipment required to harness such renewable energy sources.

The New Jersey Legislature recently amended the Municipal Land Use Law (N.J.S.A. 40:55D-1, *et seq.*) on separate occasions to specifically permit renewable energy facilities to be installed in industrial zones on sites of 20 acres or larger, to exempt solar panels from the calculation of impervious surface coverage, and also to redefine the term “inherently beneficial use” to include solar, wind and photovoltaic energy generating facilities.

An “inherently beneficial use” now “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.”

Holland’s Land Use Ordinance needs to be amended to provide standards for locating large scale solar energy generation facilities as principal uses of sites that are 20 acres or larger in the Township’s only industrial zones, its IND Limited Industrial Park districts.

Although the Township also has the option of allowing these uses as principal uses of land in other non-industrial districts, the Planning Board has recommended that the Township proceed cautiously in this area in view of the fact that Holland Township lies wholly within the Highlands Region (partly within the Highlands Preservation Area and partly within the Highlands Planning Area). The Township has committed to conforming its Master Plan and development regulations to the policies and principles of the Highlands Regional Master Plan within both the Preservation and Planning Areas, given the environmental sensitivity of much of the land encompassed within the Township’s boundaries. To date, the Highlands Council has not issued a policy regarding the installation of major commercial renewable energy facilities of any kind, and the Planning Board, while recognizing the necessity of complying with existing State law as to the installation of such facilities within industrial zones, does not recommend taking

any additional steps to introduce such uses elsewhere in the Township on the grounds that this could jeopardize the Township's conformance with the Highlands Council's requirements.

The New Jersey Legislature also enacted P.L. 2009, c. 213, which was signed into law on January 16, 2009. P.L. 2009, c. 213, modified several existing statutes pertaining to preserved farms, commercial farms, the right to farm, and farmland assessment to incorporate provisions permitting and regulating the generation of energy from renewable sources.

On commercial farms, the Right to Farm Act now permits up to 10 acres of land to be devoted to the production of renewable energy, or, alternatively, up to 2 megawatts (2 MW) of electricity may be generated on a commercial farm (provided it is not subject to farmland preservation), as long as the acreage devoted to the energy generating facility does not exceed a ratio of 1 acre of energy facility to 5 acres of agricultural land or approximately 17% of the farmland. On preserved farms, the Act now permits the dedication of a maximum of 1% of the acreage of a preserved farm for the production of renewable energy, or, alternatively, permits renewable energy generation up to 110% of the farm's previous year's energy demand. Some of these limitations need to be added to the Land Use Ordinance amendments that were adopted last year.

Regulatory Issues

Grid-scale, multi-megawatt generating solar facilities are extremely consumptive of land and as such are competitors with agriculture for the use of prime agricultural soils and soils of statewide importance. This is a principal reason NOT to allow such uses in Holland Township's R-5 zones. Most of Holland Township's designated Agricultural Development Areas (ADAs) are located in the R-5 zones. These uses also require a large open area, free of trees and other obstructions, so they are not appropriately permitted on the heavily wooded slopes that comprise most of the rest of Holland's R-5 zones. Limiting such uses to the IND districts is thus consistent with and protective of

both the Township's agricultural preservation and conservation objectives for the R-5 zones in addition to respecting the objectives of the Highlands Regional Master Plan for the protection of wooded slopes and agricultural land.

Large arrays of solar and photovoltaic panels have the potential to create undesirable visual intrusions that could negatively impact the use and enjoyment of surrounding residences, businesses, and public lands and rights of way and that could significantly alter the character and aesthetic value of the surrounding area, especially in historic and scenic areas. In addition to limiting these uses to the Township's established IND districts, there is also a need to provide for the buffering and screening of such uses so as not to compromise the overall scenic and historic character of the nearby residential neighborhoods that are likely to be most affected by such installations due to their proximity to the IND zones.

Moreover, the useful life of solar panels is understood to be approximately twenty-five years, and there is a concern that if the technology becomes obsolete or the facility ceases to be productive, the owner may simply abandon the facility, leaving a scar on the landscape and a deterrent to a productive re-use of the land. Provisions governing the decommissioning of such facilities and the restoration of the sites occupied by them are necessary to ensure this does not occur.

There are a number of safety issues that are of concern to the Township - and there need to be appropriate regulations to ensure that volunteer fire fighters and emergency response personnel can safely address any emergency situation that may develop on the site. Additionally, provisions requiring compliance with certain performance standards and industry guidelines and regulations will help to ensure that such facilities will function properly and safely and not create a hazard or neighborhood nuisance.

Summary of Recommendations

In sum, it is recommended that an Ordinance be developed and adopted that will permit and regulate major commercial solar energy facilities as a principal use of land on sites of 20 or more acres within the Township's IND Limited Industrial Park districts. The regulations should address at least the issues identified in the preceding section of this report.

In addition, amendments need to be made to the provisions adopted by the Township in 2010 to reference compliance with the safety regulations to be included in the new Ordinance and to limit the production of energy and use of farmland for energy production consistent with P.L. 2009, c. 213.

At this time, it is not recommended that major commercial solar energy facilities be permitted as the principal use of land in any of the Township's other zoning districts, nor are major commercial wind generating facilities contemplated anywhere in Holland Township.