

MASTER PLAN REEXAMINATION REPORT
INDEPENDENCE TOWNSHIP
WARREN COUNTY, NEW JERSEY

Prepared for:

INDEPENDENCE TOWNSHIP
LAND USE BOARD

Prepared by:

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Adopted:

March 19, 2008

Independence Township

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March 19, 2008

Dear Residents:

This 2008 Master Plan Reexamination for the Township of Independence presents the findings and recommendations of your Planning Board concerning the future of our community. This reexamination is a continuation of the planning process in Independence and represents an update of the Master Plan Reexamination that was adopted in 2002. This document is prepared according to N.J.S.A. 40:55D-89, Periodic Master Plan Reexamination, that requires every municipality to examine their master plan every six years.

Very truly yours,

Frank Arch, Chairman
Independence Township Land Use Board

MASTER PLAN REEXAMINATION – 2008

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Reexamination Report

The Municipal Land Use Law ("MLUL") requires that all New Jersey municipalities reexamine their master plans every six (6) years. The last Independence Township Master Plan Reexamination was adopted on March 18, 2002. The MLUL requires each municipality, in this reexamination process, to assess its planning objectives, problems, etc., by addressing the following five (5) topics in the reexamination report.

- 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 problem 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, 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, c. 79 (C.40A:12A-et al.) 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.**

This reexamination document is the result of a coordinated and comprehensive effort undertaken by the Township Land Use Board, its professionals, Township officials and the public.

Master Plan History

The earliest Master Plan in recent history for the Township was adopted on December 13, 1977. It was the first time land use recommendations were to be determined based upon natural resource information. The second Master Plan was adopted on July 19, 1982. It was undertaken in response to the new mandate in the MLUL that required, for the first time, that all municipal Master Plans periodically be reviewed, updated, and modified as needed. The third plan in this series is dated June, 1988 and is a "Master Plan Reexamination Report and Revised Land Use Plan". It sought to address, in part, the land use implications of new state laws: State Planning Commission Act; Freshwater Wetlands Protection Act of 1987, the Agricultural Retention and Development Act of 1983 and the Fair Housing Act of 1985.

The fourth plan is the 1994 Master Plan Reexamination. Several of the major issues discussed in this plan include: the State Development and Redevelopment Plan (1992) and its land use designations for the Township, and underground water pollution in the Asbury Road area. The

plan notes that Independence Township received substantive certification from the N. J. Council on Affordable Housing ("COAH") on October 17, 1988. The Township had a first round obligation of 27 low and moderate housing units. The 1994 Plan points out that in the second round of COAH's housing obligations, Independence has a need (1993 -1999) for 5 units. Lastly, the 1994 Plan made several land use plan/zoning change recommendations.

The last Master Plan Reexamination was adopted on March 18, 2002. This Plan contained a Hydrogeologic Plan Element that concluded the residential carrying capacity of underground water supply required a significant downward adjustment in the ultimate buildout density of the Township. The Plan concluded with recommendations for substantial reductions in residential density zoning. The Plan also proposed other land use changes.

The Master Plan – Land Use Plan Element was amended on March 31, 2003. This amendment recommended rezoning several properties fronting Old Allamuchy Road to B Business from R Residential. The rezoning was effectuated on May 29, 2003.

The Warren County Planning Board prepared in 2004 a "Cross Acceptance Report". This document sought to reconcile local plans with County and State Plans. On June, 2005 the Township adopted a "Stormwater Management Plan". This Plan essentially proposes strategies to address storm-related impacts as required by the State of New Jersey. Lastly, the Township adopted a "Housing Plan Element and Fair Share Plan" on November 21, 2005 to address COAH's third round low and moderate housing mandate. Its third round numbers were: rehabilitation 9 units, prior round need 8 units and growth share 14 units. The plan is still under review by COAH.

In November 2007 the New Jersey Highlands Council published a new Master Plan for this region of which Independence is wholly a part. For this municipality, the new plan does not substantially differ from the old plan. A significant portion of the Township is in the "preservation area," so designated by the New Jersey State Legislature. The impact of this designation is to drastically reduce density and intensity of development in this area. Upon adoption of the Highlands Master Plan, scheduled for June or July 2008, all local plans and ordinances relative to "preservation areas" must conform to Highlands plans and regulations. The remaining land of the Township, designated "planning area," may also be regulated by the Highlands Master Plan if the municipality so opts to conform. "Opting in" would remove many land use policies from local control.

On January 22, 2008, COAH published new rules and regulations for determining the obligation of New Jersey municipalities to accommodate their "growth share" of housing for low and moderate income household. These rules are proposed to be adopted on or about June 2, 2008. The consequence of the new rules is that Independence's obligation is projected to increase to 80 units from 31 units. The Township will, of necessity have to prepare a new Housing Plan Element and Fair Share Plan to address this new number before the end of 2008.

The conclusion to these preliminary State, Highlands, environmental, housing and land use controls is that while they are still being discussed and modified, it leaves local planning and zoning at this time in limbo. Until all plans, rules and regulations are adopted and decisions are made by the Township governing body as to how to respond, i.e., whether to "opt in" or not, to these new mandates, land use planning is operating in a very uncertain environment.

Master Plan Reexamination

This reexamination examines each of the five paragraphs required by the MLUL. The first two are:

- a. **The major problems and objectives relating to land development in the municipality 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.**

The following problems and objectives (*italics*) were itemized in the 1995 Master Plan Reexamination. The 2002 reexamination responded and commented as to the extent these problems and objectives have been reduced or have increased. To provide continuous reexamination, these earlier problems and objectives are again commented upon in this 2008 reexamination.

1. *Concern was expressed regarding impact of development on wetlands.*

2002 Response

The Township maintains its concern regarding the impact of development on wetlands. It typically addresses this concern by requiring an environmental impact statement or a letter of interpretation from the NJ Department of Environmental Protection (NJ DEP) for development applications. The Township thus relies upon State regulatory oversight to identify wetlands, its resource value and extent of use and/or development of land proximate to wetlands.

2008 Response:

The Township continues its concern of development proximate to wetlands and wetland buffers. All development applications must obtain a letter of interpretation ("LOI") from NJ DEP prior to review by the Land Use Board.

2. *Concern was expressed over development near stream corridors which may impact their ability to sustain wildlife, protect water resources and maintain landscape beauty.*

2002 Response:

The Township continues to be concerned over development near stream corridors. Reliance upon an environmental impact statement is a useful indicator of potential degradation of a stream corridor. In addition, it may be appropriate in the future to require a non-disturbance buffer bordering the stream corridor in the form of a conservation easement as an appropriate regulatory safeguard.

2008 Response:

NJ DEP now requires a 300 ft. buffer adjacent to C-1 or trout production streams, such as portions of the Pequest River. Recently, the land use board drafted and forwarded a waterways buffer ordinance to the Township committee, not as yet adopted.

3. *Concern was expressed about the maintenance of quality and quantity of the Township's groundwater resources.*

2002 Response:

The Township continues to be concerned about the maintenance of groundwater quality and quantity. Older potable water wells serving individual single family homes are typically shallow. There is a potential for pollution from nearby individual septic systems and infiltration of contaminated surface water. The quality of the Township groundwater resources has become a major problem in the Asbury Road area due to groundwater contamination by Area Lighting, an electronic industry located on that road.

The groundwater contamination problem in the Asbury Road area is being addressed jointly by both the Township and NJDEP. As a result, the groundwater impact area was identified and all homes in that area are now being served by public water from the Hackettstown Municipal Utilities Authority. The NJDEP maintains monitoring wells immediately outside the groundwater impact area. To date, there is no clean-up program to eliminate the contamination.

To address Township wide ground water quality and quantity issue, the Township Planning Board has retained the services of a hydrogeologist and their recommendations are included in a separate chapter of the reexamination.

2008 Response:

To date, there is no cleanup of the groundwater contamination in the Asbury Road area. Nor is any cleanup scheduled. The recommendations of the hydrogeologist pertaining to residential density and groundwater quality and quantity have been implemented through lower density zoning.

4. *A percentage of the Township's population, about 18%, were estimated to be "overhoused" due to lack of small housing options available within the community.*
5. *Future housing policy should recognize that demographic and economic forces will continue to move in the direction of a demand for small homes.*

2002 Response:

Since these problems were enunciated, there have been substantial changes to the housing stock of Independence Township. Oak Hill PRD consisting of 570 townhouses is substantially built out. Towpath apartments fronting Route 517 was recently approved for an additional 74 apartments, to date not built. There is zoning (PRD-IH) in place for ±230 multifamily units fronting Route 46 (Stonemill), also unbuilt. A portion of these units are to be built for low and moderate income households. In addition, since 1995 the Township rezoned a parcel fronting Old Allamuchy Road for 275 senior age-restricted housing, nursing beds and congregate care facilities. These actions by the Planning Board and Township Committee have significantly broadened the range of housing choices in Independence.

2008 Response: The parcel fronting Old Allamuchy Road has been approved for 118 age-restricted housing units of that number, 14 are for low and moderate income households: "Heritage at Independence." The PRD-IH zoning ("Stonemill") remains in place. However, both these parcels are in the Highlands preservation area that effectively precludes their development.

6. *Concern was expressed regarding the loss of farms to development and the means to retain agricultural land.*

2002 Response:

The Township environment committee surveyed all owners of farmland assessed property to interest them in the various state and county farmland preservation programs. Unfortunately, there was no interest. This issue remains one of deep concern to the Township as there is a continuing loss of farmland as a consequence of development.

2008 Response:

The Township continues its concern of loss of farmland to development. However, this concern has been mitigated by Highlands regulations that place severe restrictions on density and intensity of development in Highlands preservation area: approximately 45% of the Township. One consequence, of the strict Highlands regulations in the preservation area, is the resultant substantial devaluation of farmland equity. Farmland in the planning area that is not presently Highlands regulated may still be subject to development. Other factors, such as the national economy and housing markets also affect development of farmland.

7. *The Plan expressed a need for more acreage of municipal park land.*

2002 Response:

The Township has acquired park land acreage and the current policy is to concentrate active park land and athletic fields in a central location next to the elementary school. Adding to this park land remains highly desirable.

2008 Response:

Additional park land adjacent to the existing athletic fields and elementary school has been acquired.

8. *Sidewalks should be required in all developments of a density of one or more units per acre.*

2002 Response:

This objective is consistent with the State's regulations contained in the Residential Site Improvement Standards ("RSIS"). The RSIS governs all major subdivision site improvements: roads, drainage, sidewalks, etc. To date, no new sidewalks have been built. With larger lots and low density development which characterize most residential development in the Township, sidewalks may conflict with the rural character of the neighborhood. The exception is the need for sidewalks in proximity to schools to provide safe pedestrian access.

2008 Response:

The 2002 response remains valid.

9. *There should be bicycle paths through the Township.*

2002 Response:

This remains a goal and objective of the Township although none have to date been developed. Areas which have the potential to accommodate bicycle paths include: major subdivisions proximate to schools and parks, along stream corridors, abandoned rail line rights-of-way, and the Morris Canal.

2008 Response:

The 2002 response remains valid.

10. *There is a need for a Historic District Commission and a Historic Preservation Plan Element to recognize and protect the significant historic resources of Independence.*

2002 Response:

To date the Township has not established a historic district committee although this remains an important Township goal. A Historic chapter is contained in this Master Plan Reexamination.

2008 Response:

The Township continues to encourage the use, maintenance and preservation of historic and/or architectural interest sites.

11. *All future higher density residential developments in either the PRD or RM zones should contain an amount of low and moderately priced units.*

2002 Response:

This goal has been implemented as the PRD-IH (Stonemill) zone, and a proposed amendment that all senior housing also requires some low and moderately priced housing units.

2008 Response:

This inclusionary requirement for Stonemill remains in the land development ordinance. In 2007 "Heritage at Independence," an age-restricted project, was approved for 118 units of which 14 are for low and moderate income households.

12. *The Township should allow intra-family housing arrangements, allow congregate care and communal care housing and accessory housing in certain non-residential situations.*

2002 Response:

The Township has implemented these goals by allowing ECHO housing for the elderly plus nursing and congregate care housing in the PRD-SC zone fronting Old Allamuchy Road.

2008 Response:

The recently approved "Heritage at Independence" project (PRD-SC zone) is solely for age-restricted households. There is no nursing or congregate care housing in that approval.

13. *Pristine streams should be protected by creating buffer setbacks for development or grading along stream corridors of 50 to 150 feet.*

2002 Response:

This remains an important land use goal.

2008 Response:

A waterways buffer zone ordinance has been forwarded to the Township Committee by the Land Use Board. C-1 streams are required by NJDEP to maintain a 300 ft. buffer.

14. *Creation of a town center of 160 acres to be located in the Village of Vienna was recommended.*

2002 Response:

This objective is no longer operational. The size of the town center and its component land uses as outlined in the earlier 1988 Master Plan was too large. In retrospect, it would overburden the area's infrastructure and dramatically change the village and the hamlet character of the Vienna community. A subsequent proposal for a more scaled down, all age-restricted residential planned development in this same area was, upon review by the governing body, not approved as appropriate to that village or Township.

2008 Response:

The large town center concept continues to be deemed inappropriate for the Vienna village area.

15. *Strip commercial type of development should be avoided.*

2002 Response:

This remains a valid Township land use objective.

2008 Response:

This remains a valid Township land use objective. Rather, business development along the Township's corridors should provide appropriate architecture, buffering and landscaping that reflects the rural and historic characteristics of the neighborhood and Township.

The following narrative is a reexamination of solely the 2002 Master Plan Reexamination Report. The plan elements in the 2002 Reexamination Report are presented in italics and are followed by the 2008 response:

The Hydrogeologic Plan Element recommendations:

The Township should develop and implement an ordinance that will require an Aquifer Test and Analysis Plan for every proposed residential and non-residential development to be served by on-site wells. The purpose of the Aquifer Test and Analysis Plan would be to obtain pertinent information of the hydrogeologic characteristics and water supply potential of the ground-water system that underlies a targeted area. The ordinance would require that aquifer testing be performed to verify the capability of the aquifer to supply water to a proposed development without adversely affecting the aquifer or neighboring property well supplies.

2008 Response: Upon review, this type ordinance was concluded to be unnecessary for the present, given the new lower density residential zoning and oversight by the Township Department of Health.

The Township should develop and implement an ordinance that will require the plans for all proposed commercial developments to be submitted for planning board review and approval. The purpose of this review would be to identify environmental concerns that could adversely impact the quality of the groundwater, surface water, soils, and air within the Township, and to ensure that the Best Available Technology (BAT) and proper controls be utilized. We envision that this review would encompass spill prevention and control, underground storage tanks, fugitive dust control, toxic air releases, sanitary disposal systems, and emergency response issues.

2008 Response: The Planning Board encourages submission of concept plans prior to a formal site plan application at which time these issues are discussed. During site plan review, the above environmental features are presented and reviewed. Upon review, it was determined that the present critical areas and environmental impact statements ordinances address these issues.

The Township should perform an inventory of all known and potential sources of groundwater contamination within the Township. Such an inventory would be used as part of the development of Well Head Protection Areas for known and potential public wells in the Township.

2008 Response:

The Township is aware of the two pollution areas in Independence: former Southland property north of Alphano Road and Area Lighting property fronting Asbury Road. The Township in concert with NJDEP is monitoring these areas. The inventory remains appropriate to undertake.

The Township should consider expansion of the Independence Municipal Authority (IMU) to include the completion of several high yield wells within the carbonate aquifer underlying the Pequest River Valley. As discussed in this report, this aquifer is considered one of the most prolific in New Jersey. For example, the well field associated with the Pequest Fish Hatchery in adjacent Liberty Township is capable of over 8,600,000 million gallons of groundwater per day (6,000 gpm). Under average stream flow and recharge conditions, the maximum yield of the carbonate aquifer in the vicinity of the hatchery has been estimated to be about 30,000,000 gpd

(nearly 21,000 gpm). Under severe drought conditions and extremely low stream flow, the maximum yield should be reduced to about 20,000,000 gpd (nearly 14,000 gpm).

Response: Expansion of IMU was not undertaken and is still advisable but may be influenced by Highlands regulations.

Land Use Plan Recommendations

The import and consequences of these hydrogeologic findings is a Township modification of the minimum density of development. Overlaying the present zone district map on the "Residential Carrying Capacity..." map shows, in general, a close correlation between carrying capacity minimum lot size, categories and zone districts. The major differences, however, are the existing zone districts allow for a higher density of residential development than recommended by the various carrying capacity lot sizes.

To bring the zone densities into closer conformance to the land's carrying capacity and environment, this reexamination is recommending the minimum lot sizes, throughout the Township, be modified and increased. There are two major residential zone categories: R-2 and R-3, which characterize most of the Township and have substantial growth potential. The R-1/2 and R-1 zones are for all practical purposes fully developed. Thus, the present R-2 zone will become R-3 and the present R-3 zone will become R-4; a 4-acre minimum lot size.

2008 Response: Rezoning has been implemented.

The development of the more rugged and environmentally constrained land in these zones will be tempered by the "critical areas" requirements presently in the Land Development Ordinance.

2008 Response: Critical areas requirements in Land Development Ordinance remain operative.

Recycling Plan Element:

Consistent with these goals and objectives, the Township adopted a recycling ordinance on Jun 25, 1988. This ordinance requires all occupants of both residential and non-residential property to separate recyclable material for the purpose of their collection, disposition and recycling.

It is recommended that recycling regulations be incorporated into the Township site plan ordinance to be applicable to development proposals that come before the Township Boards.

2008 Response: While recycling regulations have not been incorporated into the site plan ordinance, recycling is required to be included in all site plans by the Planning Board during normal site plan review.

Historic Plan Element

Historic Recommendation: The sites discussed herein are of particular historic and/or architectural interest to Independence Township. It is recommended that the Township encourage the continued use of historic properties in keeping with their original purpose or in the alternate a suitable and appropriate adaptive reuse. The Township should explore means to implement this recommendation. The Township should also encourage ways by which these historic structures and houses are not diminished by activities in the immediate environment within they are located.

2008 Response: The Township continues to encourage the use, maintenance, and preservation of historic and/or architectural interest sites.

Land Use Plan Element

Recommendations:

- 1. The present R-2 zone permitting one single family home on a lot of 2 acres be modified to require a 3 acre minimum lot size.*
- 2. The present R-3 zone permitting one single family home on a lot of 3 acres be modified to require a 4 acre minimum lot size.*
- 3. The area north of Shades of Death Road, presently R-2 be modified to require a 4 acre minimum lot size. This change recognizes both the hydrogeologic study recommendation of lot size 4.1 – 4.5 acres and the severe slopes that characterize most of this district.*
- 4. The area between Alphano Road and the Pequest River presently zones R-2 be modified to require a 4 acre minimum lot size. This change recognizes both the hydrogeologic study recommendation of lot size 4.1 – 4.5 acres and the severe slopes that characterize this district.*
- 5. Rezone the present L1 zone district fronting Asbury Road to residential consistent with the surrounding neighborhood. The single user of this property has vacated the site. when operational in the past, the traffic from employees and trucks conflicted with the rural/residential character of Asbury Road and the area. Similarly, industrial use and activity conflicts with proximate residential use.*
- 6. Maintain the PRD-IH inclusionary housing zone fronting Route 46 as the major means of satisfying the low and moderate housing obligation as mandated by the NJ Council On Affordable Housing.*
- 7. Maintain the residential densities as presently allowed in the R-1 and R-2 zones. Similarly, maintain the one acre single family density in the B zone. The two residential zones are substantially built-out with only a few in-fill opportunities. Similarly, while the B zone allows one-acre home sites, relatively few are anticipated in the near future.*

2008 Response: The above rezoning recommendations have been implemented.

8. *A presentation was made to the Planning Board for age-restricted housing on property fronting Route 517 (between Route 517 and Oak Hill). These areas in the B business zone district. The Board at the time was receptive to the concept, wherein this type housing would be allowed on property that:*
 - a. *Fronts a major arterial: Router 46 or Route 517*
 - b. *Is served by public water and public sewers, and*
 - c. *Is wholly in the B Business zone district*

Given the size of properties in the B zone satisfying these criteria, it is anticipated the development or developments will be modest in size and density. This concept should be implemented through appropriate zoning regulations.

2008 Response: Senior and assisted living housing was added as a permitted use to the B Business zone on February 11, 2003. A senior housing plan, "Bilby Estates" (28 units) for property between Route 517 and Oak Hill PRD was approved by the Planning Board in 2004.

9. *The Planning Board adopted a Housing Plan Element and Fair Share Plan on September 17, 2001. That document recommended an amendment to the PSCRD Planned Residential Development – Senior Citizen zone wherein 5% of all units and/or beds be low and moderate units and/or beds. Second, the plan recommended rezoning the Liberty House property at the corner of Route 46 and Petersburg Road to a category wherein the present senior units are permitted plus allowing for modest expansion.*

2008 Response: A plan for the PSCRD zone: Heritage at Independence was approved by the Planning Board in 2007. It will contain 118 age-restricted units: 14 low and moderate income units and 104 market units. As the property is in the Highlands Preservation area, it is questionable whether this project will be allowed to be constructed. Liberty House property rezoning was not implemented.

10. *Study the appropriate land use and zoning of Island Dragway and abutting land currently zoned AR.*

2008 Response: The Island Dragway was studied and it was determined to maintain the AR zoning for this property. An operative site plan is needed from Island Dragway, however.

Development Regulations Review

The reexamination report requires an examination of Township development regulations.

The following recommendations are presented:

1. *Review the critical areas (116-79,1) section of the ordinance. In particular, the "shallow depth to bedrock" adjustment may be redundant to percolation testing*

and as such should be eliminated. Recent court decisions appear to disallow a 0.0 adjustment for wetlands areas. Similarly, there may have to be some "credit" for "flood hazard" and "stream, pond or lake" areas, which presently have a 0.0 adjustment.

2008 Response: Adjustments to the critical areas section of the ordinance have not been undertaken. A ridgeline protection ordinance has been adopted (2006) and a stream buffer ordinance has been forwarded to the Township Committee.

2. *Review driveway ordinance to eliminate common driveways as permitted access alternative to the construction of a minor and or local street.*

2008 Response:

Common driveways are not permitted but exceptions have been granted on a special needs justification basis.

3. *Review entire ordinance.*

2008 Response: Ordinance under continuing review as to consistency with Master Plan and Master Plan reexamination documents.

4. *Review buffer requirements where non-residential and residential uses and zones abut.*

2008 Response: Ordinance under continuing review.

5. *Review environmental recommendations pertaining to ordinance protection of ridge lines and stream buffers.*

Response: Review continuing. Ridgeline protection ordinance adopted (2006), stream buffer ordinance forwarded to Township Committee.

Future Plan Elements

The reexamination report requires the municipality identify new plan elements which should be prepared. This reexamination recommends the following plan element be reviewed and brought current:

1. *Circulation Plan Element. The Garman Associates Plan was prepared in 1987. There have been several events which require review of this document.*
 - a. *After the passage of 14 years, are the recommendations still appropriate?*
 - b. *Review of several development applications in the path of proposed new roadways have revealed the proposed new roadway not to be feasible. The plan should be modified to reflect these practical realities.*
 - c. *The publication of the Residential Site Improvement Standards ("RSIS") which mandate street and roadway classifications and right-of-way standards conflict with those recommended in the Garman Plan.*

- d. *A proper circulation plan element can be used to assess impact fees on development which generates additional traffic volumes*

2008 Response: The Circulation Plan Element has not been reviewed in its entirety. However, several major components have been studied. First, the Township traffic consultant drafted a Hackettstown bypass road from Petersburg Road to Old Allamuchy Road and Route 517. It involved the cooperative land development of large contiguous parcels. Introduction of Highlands regulations precludes development of those parcels and thus does not allow for the construction of this new roadway.

The approval (2007) but unbuilt Liberty Square shopping center triggered the possibility of a major intersection realignment of Old Allamuchy Road and Route 517. The realignment, consistent with Warren County standards will not only involve realignment of an obtuse angled intersection but will introduce a traffic light. The major cost of this improvement was to be borne by the developer. As a consequence of Liberty Square being located in the Highlands Preservation Area, this shopping center may not be built, thus removing their contribution to the intersection improvements. The County, however, will install a traffic light, but the Old Allamuchy Road/Route 517 intersection will not be realigned.

Stormwater Management Plan. The MLUL (40:55D-93) requires that "every municipality in the State shall prepare a storm water management plan and a storm water ordinance or ordinances to implement said plan."

2008 Response: A Storm water Management Plan (2005) has been adopted.

New Ideas and Trends

Several municipalities are introducing new ideas and concepts to address issues similar to those found in Independence. The following is a brief outline of several trends that warrant future study:

1. *Mandatory cluster. All major subdivisions and minors which have the potential to become major in the future are required to develop as an open space cluster. Creating open space and channeling development away from environmentally critical areas are the major objectives of this type development.*

2008 Response: Still under study and review.

1. *Agricultural Cluster. To preserve prime farmland the ordinance would allow very tight clustering on large farmland properties. For example, if a 100 acre parcel has a conventional single family development potential of 30 homes, these homes could be clustered on small lots or even be built as attached housing wherein the majority of the parcel: + 80% will remain deed restricted as farmland. The homes would have to be serviced by a common sewer facility.*

2008 Response: Still under study and review.

2. *Identify scenic corridors and roadways which contribute to the rural and aesthetic character of the Township. Protection of critical features which contribute to their scenic quality is important. Means to achieve this objective should be explored.*

2008 Response: Still under study and review.

Housing Plan Element and Fair Share Plan

The Housing Plan Element and Fair Share Plan was adopted by the Independence Township Planning Board on September 17, 2001. The plan acknowledged the NJ Council on Affordable Housing ("COAH") 1993-1999 fair share number for Independence to be a total need for 48 low and moderate income housing units. Against this number, COAH gave the Township credits including the existing senior housing: Liberty House and the inclusionary multifamily PRD-IH zoning for "Stonemill" fronting Route 46. This reduces the total calculated need to 5 units.

This 5 unit indigenous need can be addressed in several ways. The Township retains the PRD-IH inclusionary housing zone district (Stonemill) which is mandated to develop 27 low and moderate income housing units. The Township has already received credit by COAH of this 27 unit provision.

The Township proposes to modify the Planned Senior Citizen Residential Development zone (PSCRD) fronting Old Allamuchy Road to include 5 percent of all units to be for low and moderate income senior citizens as defined by the New Jersey Council On Affordable Housing.

Lastly, the zone ordinance and zone district may be amended to create a new zone district describing the Liberty House property. Presently, the property accommodates 40 subsidized senior citizen households. The new zoning will allow it to expand to 48 units. This property is at the corner of Route 46 and Petersburg Road and can accommodate an additional building and parking.

2008 Response: The PSCRD zone was modified to require the inclusion of low and moderate income senior housing (14 low and moderate units). Rezoning of Liberty House was not approved by the governing body. On November 21, 2005, the Independence Planning Board adopted a "third round" Housing Plan Element and Fair Share Plan." It was forwarded to COAH as part of the Township request for substantive certification. Then the Township's "growth share" or third round housing obligation was calculated to be: rehabilitation – 9 units, prior round – 8 units and growth share – 14 new units. The inclusionary zones (PSCRD and PRD-IH) and Bilby Estates would have addressed the Township's obligation. However, since both zone districts are in the Highlands Protection Area, these zones cannot be developed as zoned. The Township also requested "lack of land" and "lack of water and sewer" adjustments. Presumably, this plan is no longer operative as COAH's new rules (January 22, 2008) show a rehabilitation need of 19, prior round 8 units and a growth share need of new 62 units: total need is 88 units. Upon the adoption of these new rules, the Township will prepare a new housing plan and fair share plan.

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, and changes in the State, County, and Municipal policies and objectives.

The Highlands Water Protection and Planning Act and the Effect on the Township of Independence.

On June 10, 2004, the "Highlands Water Protection and Planning Act" passed both Houses of the New Jersey Legislature and was signed into law on August 10, 2004. The Act establishes a comprehensive approach to the protection and preservation of the drinking water and natural resources of the New Jersey "Highlands Region".

By way of background as to the reasons the Act was introduced and passed, the New Jersey "Highlands Region" consists of about 800,000 acres, or about 1,250 square miles, stretching from Ringwood in the northeast to Phillipsburg in the south west. The area encompasses portions of the Bergen, Hunterdon, Morris, Passaic, Somerset, Sussex and Warren Counties and ninety (90) municipalities within those counties.

The difference between a municipality being included within the "Preservation Area" of the "Highlands Region", versus the "Planning Area", is quite significant. Municipalities within the "Preservation Area" will be required to conform their master plans and development ordinances with the regional master plan developed by the Highlands Council and in which the strict NJDEP permitting requirements will apply. Land development can only proceed at extremely low densities and coverage maximums.

Lands within the "Planning Area" will have the option or not to conform their master plans and development ordinances with the regional master plan. The NJDEP permitting requirements will not apply. The Highlands Council recently published their master plan for the Highlands Region and it is under review.

The Plan shows 12,224 acres in Independence Township. Of that number, 6723 acres are in the Planning Area and 5501 acres are in the Preservation Area.

Zoning Flexibility Under Case Law

Decided August 5, 2003 by the Appellate Division were two cases in Fair Haven, Rumson Est. v. Mayor of Fair Haven, 177NJ338, and Atlantic Highlands which reversed and modified an earlier decision known as Manalapan Builders Alliance, Inc. V. Township Comm. Of Manalapan (256 N.J. Super 295: 1992). This new decision frees municipalities to adopt zoning definitions different from MLUL definitions so long as that definition is within the intent of the MLUL unless the MLUL provides otherwise. Independence has gained greater latitude in considering land development definitions such as those involving density, floor area ratios and maximum limits on residential floor areas.

Additionally, the Fair Haven and Atlantic Highlands decisions allow consideration of ecologically sensitive areas as a limiting land use factor.

New Jersey Council on Affordable Housing (“COAH”)

On November 22, 2004, the New Jersey Council on Affordable Housing adopted new regulations for determining Mt. Laurel housing responsibilities for its third round. Termed by COAH as a “growth share” system, future low and moderate housing responsibilities are to be calculated at a rate of one Mt. Laurel unit for every eight new market rate housing units and one low and moderate unit for each twenty-five jobs created through new development. As an example of job creation rates, the regulations stipulate a ratio of 3 jobs per 1,000 square feet of office use or one affordable housing unit for each 8,333 square feet of newly occupied office space.

COAH, responding to a court order, published on January 22, 2008, new rules and procedures to address an expanded need for low and moderate (“L & M”) income housing. The new growth share numbers for Independence are:

1. Housing growth share 2004-2018: 306 units. L & M obligation: 20% or 61.2 units. That is 61.2 new L & M housing units must be generated in the Township between 2004-2018.
2. Employment growth 2004-2018: -6. L & M obligation: 0
3. Rehabilitation need 2004-2018: 19 units. The Township must produce a plan to fund the rehabilitation of 19 units.
4. Prior round needs: 8 units.
5. Total: 88.2 units.
6. The January, 2007 Court decision that invalidated some of COAH’s rules and regulations has the effect (and purposely so) of increasing the number of low and moderate income housing statewide over previous COAH numbers. The old Statewide need number (2004-2014) was 57,747 housing units. The new number (2004-2018) is 115,666; approximately a doubling of the state’s need.
7. The Township has three choices. First, it can adopt a new Housing Plan/Fair Share Plan that addresses the projected 88 unit number. Second, it can challenge the 88 number; the 306 housing unit growth is questionable given the extent of the Highland’s Preservation Area in the Township. Third, the Township can do nothing. This is a gamble as the Township will be vulnerable to a builders’ remedy suit.

Population and Housing 1970-2018

As a consequence of new rules and regulations published by NJ COAH, this agency has generated present and future housing and employment information for all municipalities in New Jersey. The table below shows the historic and future housing for Independence:

**HOUSING AND POPULATION
INDEPENDENCE TOWNSHIP 1970-2018**

	<u>Housing Units</u>	<u>Population</u>	<u>Persons per Unit</u>	<u>Average Annual Housing Unit Increase</u>	
1970	604	2057	3.41		
1980	1033	2829	2.74	1970-1980	4.3
1990	1575	3940	2.50	1980-1990	5.4
2000	2210	5603	2.54	1990-2000	6.4
2002*	2281	5794*	2.54*	2000-2002	35.5
2004*	2325	5906*	2.54*	2000-2004	28.8
2018*	2631	6683*	2.54*	2000-2018	23.4

* Housing unit information from NJ COAH; population figures determined by dividing housing units by 2.54 household size.

The above information illustrates several important points. First, the growth of 1177 housing units (1980-2000) is in large part due to multi-family development of Oak Hill (570 units) and Hills of Independence (124 units). Second, the housing projections by COAH, as analyzed in the “average annual housing unit increase” column show questionable present estimates and exaggerated projections. These 2002 to 2018 figures will be challenged in the new Housing Plan Element and new Comprehensive Master Plan envisioned to be undertaken in 2008.

Warren County Planning

The Warren County Planning Department prepared a “Cross Acceptance Report” in 2004. The purpose of this report is to reconcile Township, County, and State Master Plans and offer recommendations appropriate thereto. Major cross-acceptance recommendations include: “develop passive recreation and eco-tourism,” -C-1 classification for all the Pequest River in Independence Township, giving it a 300 foot buffer, and respect and acquisition of the Morris Canal that is on the State and National Register of Historic Places. Presently, the Pequest River is classified by State DEP as a C-1 or trout production stream only in adjoining Allamuchy

Township and Liberty Township, but is not so classified as it traverses through Independence. To close this gap, the governing body is considering adopting a local ordinance establishing the 300 foot buffer.

The Warren County Planning Department projects Township population to increase to 6,094 in 2010 and 6,877 in 2020 from 5,603 in 2000. It is unknown if these projections account for significant areas in the Township restricted from growth as a consequence of the Highlands legislature and Master Plan.

In contrast, COAH projects 2,631 housing units in 2018 compared to 2,210 in 2000. Assuming a household size of 2.5 persons per household, the 2,631 housing unit number will account for 6,578 persons in 2018. This figure is lower than the 6,877 County number for 2020.

The preparation of the new Housing Plan Element will have to sort through these conflicting figures to arrive at reasonable/realistic housing and population figures that can be utilized for housing and planning purposes.

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.

The last "comprehensive" Master Plan was adopted in 1988. That document did not have all elements or chapters as recommended in the MLUL. Given the subsequent new State plan policies and regulations that impact Independence, there is a need to produce a new comprehensive Master Plan.

The existing development regulations: site plan, subdivision, and zoning are a mixture of historic regulations and ad hoc amendments. Following the adoption of a new comprehensive Master Plan, the land development ordinance should be entirely reviewed and brought in line with master plan recommendations, State regulations, and state-of-the-art regulations and procedures.

The recommendation of the planning board concerning the incorporation of redevelopment plans adopted pursuant to the "Local Redevelopment and Housing Law," P.L. 1992, c. 79 (C.40A:12A0-I et al) 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.

2008 Response: Does not apply to Independence Township.

P. David Zimmerman, P.P./A.I.C.P.
Township Planner
March 19, 2008



FRELINGHUYSEN TOWNSHIP

LIBERTY TOWNSHIP




ALLAMUCHY TOWNSHIP

TOWNSHIP

MANSFIELD TOWNSHIP

HACKETTSTOWN TOWNSHIP

TOWN OF INDEPENDENCE TOWNSHIP
WARREN COUNTY, NEW JERSEY

- LEGEND**
-  HIGHLANDS PRESERVATION AREA
 -  HIGHLANDS PLANNING AREA
 -  COUNTY ROUTE NUMBER

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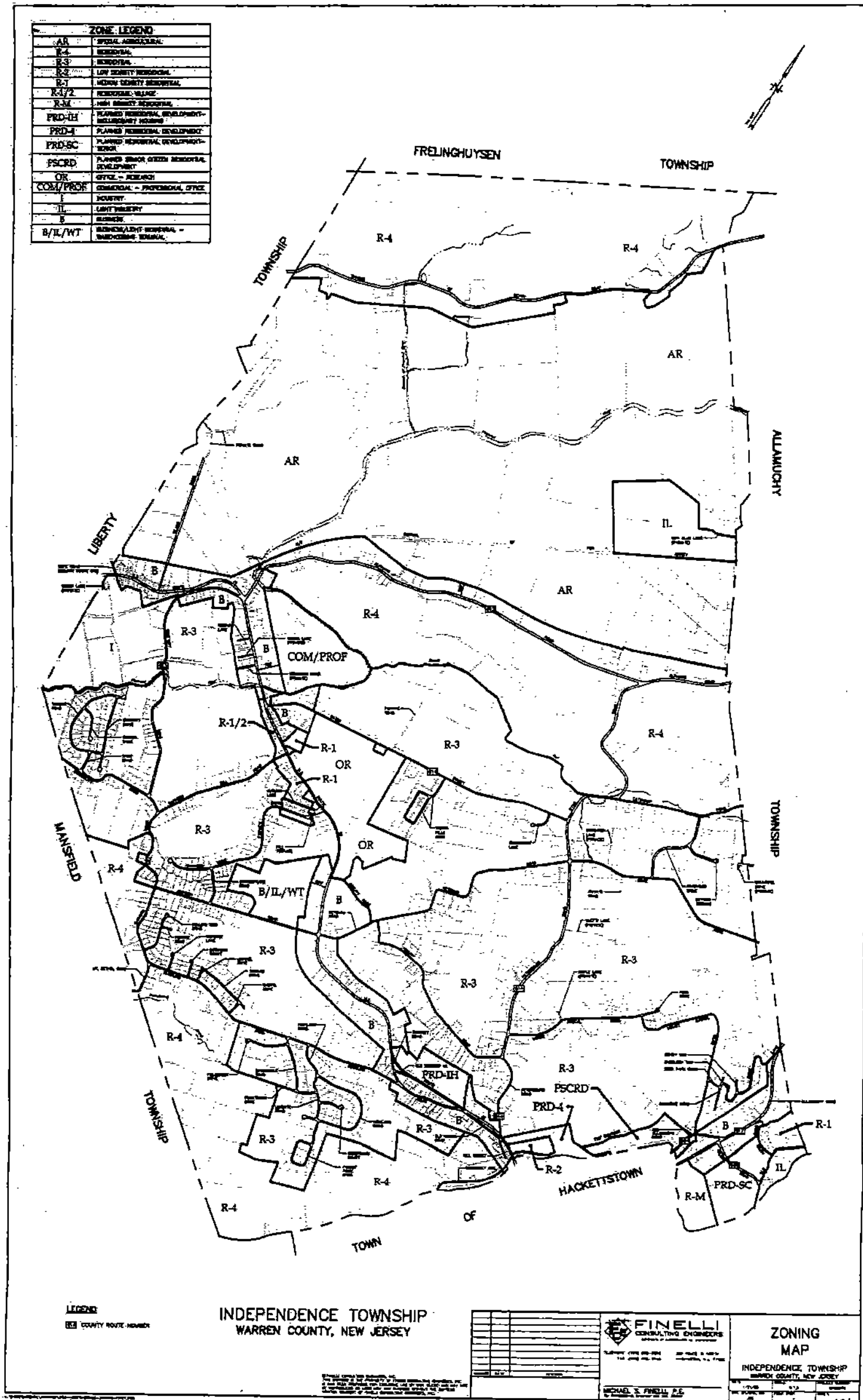
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HIGHLANDS PLANNING AREA AND PRESERVATION AREA PLAN			
INDEPENDENCE TOWNSHIP WARREN COUNTY, NEW JERSEY			
DATE	SCALE	PROJECT NUMBER	SHEET
1/21/05	1"=1000'	000045	1 of 1
DATE PREPARED BY	SCALE	PROJECT NUMBER	SHEET
JED	1"=1000'	000045	1 of 1



LAND DEVELOPMENT

255 Attachment 2

Township of Independence