WEST AMWELL TOWNSHIP
PLANNING BOARD MEETING
APRIL 20, 2009

The West Amwell Township Planning Board meeting was called to order at 7:38 PM by Chairman Pfeiffer followed by the salute to the Flag.

The following statement of compliance with the Open Public Meetings Act as listed on the meeting agenda was read into the record by Chairman Pfeiffer: This meeting is called pursuant to the provisions of the Open Public Meetings Act. This meeting was included in a list of meetings transmitted to the Hunterdon County Democrat and Trenton Times on January 29, 2009. Notice has been posted on the bulletin board at Town Hall on April 16, 2009, and has remained continuously posted as to required notices under the Statute. A copy of this notice is available to the public and is on file in the Office of the Planning Board and Township Clerk.

The following general policy statement of the Board was read into the record by Chairman Pfeiffer: The Board's general policy is to end the presentation of testimony on applications by 10:30 PM and to conclude all Board business by 11:00 PM. When necessary, the Chair may permit a reasonable extension of those time limits.

The meeting was recorded via digital recording system and a copy of the CD is on file in the Office of the Planning Board.

Attendance - Roll Call
Present: Bill Corboy
Alex Greenwood
John Haug
Tom Molnar
Sean Pfeiffer – Chairman
Ron Shapella
Chester Urbanski
Joan Van der Veen
Joan Smith – Alt. #1
David English – Alt. #2 *(arrived at 8:15 PM)*
Attorney Shurts
Planner Hintz

Absent: Tom Davis

Approval of Bill List
A motion by Urbanski, seconded by Smith to pay the vouchers as listed on the 4/20/09 bill list was unanimously approved by roll call vote.

There were no Resolutions of approval listed on the agenda.

There were no applications listed on the agenda.

Unfinished Business
Public Hearing – Master Plan Reexamination

Planner Hintz presented a Power Point presentation prepared by former Board Member Alison Sommers-Sayre. He noted that he revised the presentation to include the Municipal Land Use Law (MLUL) requirements for Master Plan Reexamination reports. Planner Hintz presented and discussed each slide. A copy of the Power Point presentation is attached.

Chairman Pfeiffer opened the floor to public comment. Bruce Gage of 346 Rock Road East came forward and encouraged the Board to continue their efforts to preserve the rural character of the Township. He noted he has been in Real Estate for several years and it has been his experience that property values increase if they are in close proximity to preserved land.

Richard Storcella of 40 Woodsville Road came forward and read the following letter for the record: *Over the past several months we have attended several Committee meetings and Planning Board meetings regarding the Township's modification of the Conservation Easement on the above noted property (Block 23 Lot 19.04) on Woodsville Road. We asked both groups to explain their decision making process in granting relief, as this is very rare. The Planning Board made a recommendation to the Township Committee, in 2004, agreeing to allow a reduction in the Conservation Easement subject to certain conditions. The Mayor then signed the modified Conservation Easement in 2007.*

After some due diligence it has come to our attention that the modification of the Conservation Easement was granted under certain specific pretenses and promises. It is our request that more specific language be incorporated into the easement language and recorded with the deed consistent with these promises. It is very clear that the current owner of Lot 19.04, Mr. Von Sasse, his Attorney, Mr. Moreland, and the then owner, AMD LLC, stated in 2004 that the intent of this modification was for the purpose of creating a horse pasture with fencing and run-in sheds. We have attached and highlighted the documents from the Township's files that show this. There was also a clearly delineated 6 acre area of disturbance that is filed on a map and was made part of the revised deed.

In 2008, Mr. Von Sasse applied to the Township's Zoning Board for the construction of a 10,000 sq. ft. indoor riding rink and a 10 stall barn. We hardly think this is in keeping with the intent of the Planning Board's recommendations and the Township Committee's agreement to grant relief on the basis of some pasture land and a run-in shed or two.

Our fear is that there is no language in the current deed to prevent Mr. Von Sasse or future owners of Lot 19.04 from constructing farm structure(s) under the right to farm provisions. While Mr. Von Sasse has rescinded his current plans for the barn for now, there is no guarantee what he or any future owner may want to do.

We feel the Township needs to act on behalf of the public and hold people to the promises they made. In this case, language needs to be inserted into the deed that this 6 acre area of disturbance shall be used only for fenced horse pasture with run-in sheds.

Sincerely Yours,
Thomas McMillan
Richard Storcella

Mr. Storcella commented that the reason he was here this evening was to express concern for the Township removing or altering Conservation Easements. He requested the Board implement some sort of policy outlining the circumstances for easements to be changed. Additionally, he commented that any changes to easements should require public notice be given to the surrounding property owners.

Mr. Storcella also commented on the existing definition in the Township Ordinance for “Farm” and “Accessory Structures” and suggested the Board implement a size restriction on accessory structures.

Chairman Pfeiffer noted that tonight’s agenda referenced a discussion item concerning a change in the By-Laws regarding easements. He also commented that the Board has indicated their desire to review implementing size limitations on accessory structures and will continue to look into the matter during the Master Plan Reexamination process.

Mr. Storcella referenced Township Committee Resolution#64-2007 saying action was taken based on the Planning Board’s recommendation in 2004. Chairman Pfeiffer explained that the Planning Board never drafted or memorialized a resolution in this matter. He said his understanding of the situation is that an informal presentation was made before the Planning Board and that was it. Subsequent conversations apparently took place between the Township Committee and the property owner in 2006 and 2007, but nothing was ever brought back to the Planning Board. He noted he doesn’t endorse modifying Conservation Easements and commented that if there are changes made, something should come back to the Planning Board so they are aware of the modification. He noted that in some cases there may be a compelling argument to modify an easement, but there should be a process for which to do this with a public hearing and review by professionals.

Mr. Corboy commented that the whole situation is troubling. He believed that in 2007 when the matter came before the Township Committee, modifying the easement appeared to be a reasonable thing to do. He said the property owner had an easement predicated on wetlands that upon reexamination by the New Jersey Department of Environmental Protection (NJDEP) did not exist. Mr. Corboy clarified that the prior land owner Tom McMillan offered the Conservation Easement to the Township when he subdivided the lot, to protect the land, and not because wetlands were evident at the time.

Mr. Storcella stated he believes the system has been manipulated and is affecting his quality of life. He noted the two maps that were submitted do not show or propose any structures on the property. He said relief was granted for a specific use with no mention of horse barns or accessory structures.

Mr. Corboy asked Attorney Shurts if a land owner can be held accountable for relief granted on what was presented at the time. Attorney Shurts commented that he doesn’t know how things can be changed after the fact. He said there is a recorded deed from 2007 releasing the land from the easement with no conditions.

Mr. Urbanski commented the only thing the Board may be able to do at this point is limit the size of farm buildings since the Township currently has no limitations on the size of these structures. Chairman Pfeiffer indicated this matter will be reviewed in the process of Master Plan Reexamination. Planner Hintz noted he will review the ordinance and provide the Board with a recommendation on limiting the size of structures throughout all zones in the Township. Mr. Shapella suggested that Floor Area Ratio (FAR) in the Commercial Zone(s) be reviewed as well.

Mr. Storcella commented on the Board’s protocol for modifying easements and expressed his frustration with the current situation. Chairman Pfeiffer stated that he wasn’t on the Board at the time, but from his review of the matter it appears there was no formal procedure for modifying easements. He commented that the issue came before the Planning Board informally and that was it. Mr. Storcella asked if there were any State guidelines governing this type of situation. Attorney Shurts indicated he was not aware of any and commented that the Board was in the process of holding a public hearing for the purpose of Master Plan Reexamination and stated the current discussion has nothing to do with the topic and suggested Mr. Storcella’s concerns may be better

served by the Board conducting an Ordinance review. Chairman Pfeiffer noted that this matter does concern the Master Plan Reexamination because it reinforces the fact that size limitations on structures needs to be reviewed.

Mr. Corboy noted that the rationale taken by the Township Committee was based on the fact that wetlands did not exist on the property. He said when the new property owner came to the Township Committee with an NJDEP Letter of Interpretation (LOI) indicating there were no wetlands on the property, the Committee justified modifying the easement.

Bruce Gage of 346 Rock Road East came forward again and reiterated his prior comments that properties located near preserved land have added value. He explained that in his business you often hear that conservation easements, protected land and restricted development areas diminish the value of property. Mr. Gage stated that he has sold farms with conservation easements on them and the value has remained with the property. Chairman Pfeiffer added that since 2003 Open Space and Farmland Preservation appraisals have increased. Mr. Gage concluded by saying there are fewer and fewer areas in New Jersey that are protected. As the population continues to increase, those areas with open space become more valuable.

Ms. Van der Veen compared unique properties to valuable antiques. Mr. Gage noted that antiques are rare, not unique, and that is what gives them their value. Regarding open space, Mr. Gage said as land becomes more developed, open space will become more rare and essentially more valuable.

A brief discussion on age restricted housing came up. Chairman Pfeiffer explained that many Planning Boards approved age restricted housing with higher density than allowed under the zoning and now builders are returning to the Planning Boards requesting the age restricted housing requirements be removed. He said the legislature has just passed a bill awaiting the Governor's signature saying builders can make the request to remove the age restriction requirement and if the Board doesn't approve it, they can go to Court and have it removed. Chairman Pfeiffer suggested that age restricted housing may be something the Board may want to remove from the Master Plan given that the developers who have come before the Planning Board claim the restricted housing can't be supported without infrastructure. Mr. Shapella commented that there really isn't any demand for age restricted housing in this area.

A motion by Urbanski, seconded by Haug to close to the public was unanimously approved by roll call vote.

Discussion – Master Plan Reexamination: Status of Review by Board Members
Chairman Pfeiffer noted that the Department of Agriculture commented that the Park and Open Space map should show a delineation between Open Space and Farmland. He commented that by the end of the year there should be close to 5000 acres preserved.

Chairman Pfeiffer reminded the Board that the Natural Resource Inventory (NRI) should be considered when reviewing the Master Plan. He also commented on the Historic component of the Master Plan and suggested that someone from the Master Plan Reexamination subcommittee should contact the Historic Committee to determine if the list in the Master Plan should be updated.

With regard to schools, police and rescue referenced during prior Board discussions, Ms. Smith stated she had information. She explained she heard from West Amwell School who has 16 classrooms now totaling 27,350 sq. ft. with 268 students enrolled for the 2008-2009 school year. Ms. Smith indicated she has not heard back from South Hunterdon High School. Chairman Pfeiffer asked about the disaster preparedness aspect previously brought up by Ms. Smith. She commented that the West Amwell Fire Company has a wonderful Web site. She

has not heard back from the Township's Office of Emergency Management (OEM) director. Mr. Shapella noted there is a two volume OEM plan in the Township Clerk's office if Ms. Smith wished to review it.

Chairman Pfeiffer commented that a member of the Environmental Commission recently approached him and asked if the Planning Board was considering doing a Green Element in the Master Plan including sustainable practices and energy efficiency strategies. Planner Hintz explained that he has done this for the Town of Clinton and has several people in his office qualified to do such a plan. He stated he would forward something to the Board for their review.

Chairman Pfeiffer encouraged the Master Plan Reexamination Subcommittees to continue their review work and be prepared with revised text at the next Board meeting.

Final Site Plan Application/Checklist Procedures – Draft Ordinance Update
Chairman Pfeiffer noted this matter will be listed on the Board's May 19, 2009 meeting agenda since Engineer Clerico is not present at tonight's meeting.

Discussion – Agricultural Advisory Request for Clarification of Chapter 109
Mr. Urbanski commented that the Agricultural Advisory Committee has been reviewing all of the ordinances in the Township to determine whether or not they have a negative impact on agriculture. He noted they have found some inconsistencies in the definition section of the ordinance. For example, Group Homes are defined as any single family dwelling used in the placement of children pursuant to all or recognizes a group home by the Department of Institutions and Agencies in accordance with rules and regulations adopted by the Commissioner of Institutions and Agencies provided however that no group home shall contain more than 12 children. He commented that this definition is clearly not the same as the one contained in all of the Township's Council on Affordable Housing (COAH) documentation.

Mr. Urbanski also noted that the definition of Farm should also be reviewed.

Chairman Pfeiffer explained that when the Master Plan Reexamination is complete, the Board will conduct zoning ordinance revisions. Planner Hintz suggested Mr. Urbanski forward any comments to him so he can begin reviewing the suggested revisions.

Discussion – Planning Board By-Laws Addendum: Easements
Mr. Urbanski suggested an addendum to the Planning Board's By-Laws regarding easements. He would like the By-Laws to read: *Easements: Any requests for change or modification of any easement to the Township that comes before this Planning Board shall require public notice and a hearing wherein the public shall be allowed to participate.* Mr. Urbanski suggested the revision become part of Section (G) – Miscellaneous in the By-Laws.

Chairman Pfeiffer commented that the suggested revision is a good one and thought the Board may want to add notification of the neighbors within 200 ft. of the subject easement/property since a general public notice would be published in the newspaper but would not specifically address neighboring property owners. Attorney Shurts agreed.

Chairman Pfeiffer asked Attorney Shurts to draft the proper language for the By-Laws addendum to be reviewed at the Board's May 19, 2009 meeting.

Mr. Shapella suggested a sentence be added stating: It should be the policy of the Planning Board of West Amwell that easements remain in effect in perpetuity. There was some discussion among Board members about

land owners being able to request easement modifications which would contradict the perpetuity language. It was the consensus of the Board to add this sentence to the beginning of the Easement section addendum of the By-Laws.

Discussion – Possible Amendment to Conditional Uses Section of the Zoning Ordinance
Chairman Pfeiffer commented that he had received the last drafted changes from previous Board Planner Mercantante. He noted that he had forwarded the information to Planner Hintz for his review. Planner Hintz noted the following suggestions in addition to Mr. Mercantante's amendments:
Public Utility: New (C), (E) and (F)
C – Adequate fences and other safety devices shall be provided to enclose all equipment, structures and buildings within a secure compound as required by the Approving Authority consistent with any State or Federal laws or regulations in effect at the time of the construction.

E – All equipment, structures and buildings shall be screened from public view and from adjacent properties in accordance with the standards set forth in Article XXXI Section 109-197. All landscaping and other improvements comprising the buffer area shall be visually impervious after 5 years of maturity and shall be maintained to provide an effective buffer in perpetuity. Landscaping which is dead, diseased or damaged by wildlife shall be replaced with landscaping which is of like maturity to that which was dead, diseased or damaged. Any structure approved as part of the buffer requirement shall be maintained in good condition.

F – All equipment, structures and buildings shall maintain a minimum distance of (100) feet from the public street right of way and (300) feet from side and rear lot lines adjoining a residential use or a residential zone district and (200) feet from side and rear lot lines adjoining a non-residential use or a non-residential zone district.

The Board agreed with these proposed changes.

Riding Academy, Livery or Boarding Stable
Planner Hintz commented that he did not have any additional revisions for this section but after hearing the discussions this evening he wanted to go back and review this section again.

Mr. Urbanski indicated that he would like the Board to establish size limitations on farm buildings. He also commented that if a land owner has a riding academy, livery or boarding stable they are allowed to put up accessory dwellings and he said there is no definition in section 109 for accessory dwellings. Planner Hintz will review this section and come back to the Board with a recommendation.

Planner Hintz commented on a huge horse show/event he had noticed taking place in Hopewell Township last weekend with tents and trailers. He asked if this was something the Board would consider allowing in West Amwell. Mr. Urbanski indicated he didn't think West Amwell could handle something of this magnitude.

Ms. Van der Veen commented that people want to sell their land to someone who will use it in the best and wisest manner so they can get the maximum value for the property. She suggested the Board maintain an open mind when reviewing this section of the ordinance and not be too
quick to establish limits on agricultural uses. Mr. Greenwood commented that there are certain areas in the Township where horse shows may not have a negative impact on neighbors, he specifically noted lots with highway access.

It was noted that the Agricultural Advisory Committee meets May 5, 2009. Chairman Pfeiffer asked Planner Hintz to get his recommendations to Mr. Urbanski by May 4, 2009 so the Committee can discuss the matter and provide comments to the Planning Board at their May 19, 2009 meeting.

Mr. Shapella commented that the ordinance should be clear on stormwater compliance for farm building and accessory structures/dwellings.

Bed-and-Breakfast Guest House

There was discussion on whether or not the building(s) have to be historic structures of a certain age. Mr. Urbanski and Ms. Van der Veen indicated they liked the suggestion of using historic structures or establishing a certain age requirement. Chairman Pfeiffer commented that someone could build new construction to model a 100 year old farmhouse and asked if there was any reason why that shouldn't be considered. Ms. Van der Veen commented that utilizing historic structures is a benefit to the Township because it preserves the Township's history. Mr. Urbanski and Mr. Haug agreed with Ms. Van der Veen's sentiment.

Mr. Shapella commented that existing or new structures could be made to comply with historic guidelines of neighboring structures within the Township.

Ms. Smith commented that the ordinance currently states the maximum uninterrupted length of a stay at a guest house shall be 14 days and this didn't address an emergency situation if someone had to stay at a guest house longer than 14 days due to a natural disaster or some other circumstance that rendered them homeless or displaced. Mr. Shapella suggested a line simply be added stating *except in the event of declared emergencies.* Chairman Pfeiffer commented the intent of the 14 day limitation is to avoid someone becoming a permanent tenant.

Planner Hintz will review this section and provide a recommendation to the Board.

Veterinary Office or Clinic

Planner Hintz suggested a landscape buffer of 30' – 50' be required. The Board agreed that 50' was a reasonable standard. Chairman Pfeiffer asked if kennels should be included as well. Planner Hintz stated a kennel is any structure, premises or refuge wherein or whereon the business of boarding or selling or breeding of small animals is carried on with the exception of establishments such as animal shelters and animal hospitals. He commented that kennels don't seem to relate to the veterinary office or clinic section.

Planner Hintz will review this section and provide a recommendation to the Board.

Golf Courses

Planner Hintz noted that a number of towns have reconsidered the idea of allowing golf courses because of the issues of water usage, fertilizers and pesticides. He said he provided a portion of Tewksbury Township's ordinance regarding golf courses because they recently amended much of the language in their old ordinance to address these concerns.

Ms. Van der Veen asked if the Township could simply deem golf courses a non-permitted use. Ms. Smith commented that she would prefer to see a golf course over a housing development. She said she believes they both probably use the same amount of water, fertilizer and pesticides. Other Board members disagreed saying golf courses utilize a tremendous amount of water and also hold banquets. Ms. Van der Veen suggested golf courses be required to implement a "green" (environmentally friendly) approach to maintaining their facility.

Chairman Pfeiffer asked Planner Hintz if golf courses generate a COAH requirement. He indicated the club house portion of a golf course would.

Chairman Pfeiffer took a poll of the Board Members asking who thought golf courses should be a permitted use in the Township. The outcome was as follows:
Mr. Shapella – Yes, if the golf course incorporated natural features and habitat areas
Mr. Haug – No
Mr. Greenwood – Yes, with restrictions on water usage
Mr. Urbanski – Yes, with development restrictions
Mr. English – No, because golf courses are not good natural habitats
Mr. Corboy – Yes, with restrictions
Ms. Smith – Yes
Ms. Van der Veen – Yes, with restrictions
Mr. Molnar – No
Mr. Pfeiffer – Maybe, on the proper location with a very specific list of criteria as opposed to eliminating golf courses entirely

It was the consensus of the Board to have golf courses considered as a permitted conditional use within the Township. Planner Hintz will rework the Tewksbury ordinance to fit the needs of West Amwell in accordance with the comments made by the Board Members. He estimated he will spend approximately 2 hours of time on this matter.

Places of Worship
Planner Hintz commented that there should be a reference to required parking for places of worship. He also noted that in the definitions section of the ordinance parking for a Church/Synagogue is listed as a subcategory under Cemeteries and commented that the term in the parking standard should be changed to Places of Worship. The Board agreed.

Master Plan Amendment Update – Municipal Farmland Preservation Plan
Chairman Pfeiffer indicated there was nothing new to report at this time.

Discussion – Natural Resource Inventory
Planner Hintz indicated the Natural Resource Inventory will be referenced as part of the Master Plan Reexamination. It was noted that this item can be removed from the agenda.

Plan Endorsement Update
Chairman Pfeiffer and Planner Hintz commented that neither of them had heard anything back from the Office of Smart Growth (OSG). Mr. Shapella asked if a meeting should be scheduled with OSG to follow up on the matter. Planner Hintz suggested the Board wait for OSG to respond. Chairman Pfeiffer asked Planner Hintz to send OSG an email asking them if there are any updates to the Mayor's letter from last month in order to make them aware that the Planning Board has not forgotten about the matter.

Approval of Minutes
Regular Meeting 3/17/09: It was noted that the suggested revisions to the 3/17/09 minutes received by Ms. Andrews prior to the meeting from Chairman Pfeiffer will be incorporated into the final version of the minutes. The following additional revisions were made:
Page 4 Paragraph 1: Reference to the LHC Zone will be spelled out – Limited Highway Commercial and reference to the SRPD Zone will be spelled out – Sourlands Regional Planning District

Page 5 Paragraph 4: Planner Hintz confirmed that an **NJDEP** Letter of Interpretation (LOI) can now be required…*NJDEP will be added for clarification*
Page 6 Paragraph 1: Reference to **V**illage and **I**ndustrial/**C**ommercial zones will be *capitalized and the word Commercial added*
Page 7 Paragraph 2: **NJ** will be added to the DEP (NJDEP) reference for clarification and COAH will be spelled out – Council on Affordable Housing

Ms. Smith suggested Ms. Andrews begin compiling and maintain a glossary of frequently used acronyms to be attached to the end of every set of minutes. Chairman Pfeiffer commented that he believed the current practice of spelling out acronyms the first time they are used in each month's minutes is sufficient. Ms. Andrews agreed it would be easier to continue with the established practice and not create a glossary.

A motion by Urbanski, seconded by Van der Veen to approve the minutes from 3/17/09 as corrected was approved by roll call vote with Haug abstaining.

Executive Session 3/17/09: It was noted that Attorney Shurts advised the Board that upon approval these minutes could be released. A motion by Shapella, seconded by Smith to approve and release the Executive Session minutes from 3/17/09 was approved by roll call vote with Haug abstaining.

New Business
Correspondence: Letter dated 3/16/09 from the State of NJ, re: Green Acres/Open Space
Chairman Pfeiffer commented this letter received from Gary Rice requests the Board respond to them by April 30, 2009 to inform them of the Board's efforts regarding Green Acres and Open Space Preservation. Chairman Pfeiffer asked Ms. Andrews to reply via email saying the Board has just begun their Master Plan Reexamination and this will be reviewed as part of the process with any necessary updates made.

Adjournment
A motion by Shapella, seconded by Urbanski to adjourn was unanimously approved. The meeting adjourned at 10:21 PM.

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Maria Andrews, Planning Board Secretary