

MASTER PLAN REEXAMINATION REPORT

BOROUGH OF MADISON
MORRIS COUNTY, NEW JERSEY



FEBRUARY 2011

SUSAN G. BLICKSTEIN, AICP/PP, PhD

2011 MASTER PLAN REEXAMINATION

PREPARED FOR:

THE BOROUGH OF MADISON PLANNING BOARD

ADOPTED MARCH 15, 2011

SUSAN G. BLICKSTEIN, AICP/PP, PH.D.

A handwritten signature in black ink, appearing to read "Susan G. Blickstein", written in a cursive style.

NJ PLANNER'S LICENSE 5134

MADISON BOROUGH OFFICIALS

PLANNING BOARD:

Steven R. Tombalakian, Chairperson
Peter R. Flemming, Vice Chairperson
John Forte
Dr. Vincent A. Esposito
Tom Johnson
Michael Kopus
Carmela Vitale
Jeffrey Gertler
Mary-Anna Holden, Mayor

Frances Boardman, Administrative Official
Vincent Loughlin, Planning Board Attorney

BOROUGH COUNCIL:

Mary-Anna Holden, Mayor
Jeannie Tsukamoto
Robert G. Catalanello
Sam Cerciello
Robert H. Conley
Dr. Vincent A. Esposito, President
Donald R. Links

BOROUGH OFFICIALS:

Mary-Anna Holden, Mayor
Raymond M. Codey, Borough Administrator
Joseph Mezzacca, Jr., Borough Attorney
Robert A. Vogel, Borough Engineer

I. INTRODUCTION

NJSA 40:55D-89 of the Municipal Land Use Law requires that a Master Plan be reexamined every six (6) years. The Reexamination Report is a distinctly different document from a Master Plan both in content and requirements.

The Reexamination Report evaluates the community's planning and development regulation documents and identifies whether the community's policies or objectives have changed since the completion of the Borough's last Reexamination Report in 2004. The Reexamination Report serves both to identify changes in the community and development arena, as well as determine a course of action for future planning efforts. Future efforts that may be identified in the Reexamination Report include: the amendment of Master plan elements, the addition of new elements, as well as recommendations for ordinance changes.

A Reexamination Report addresses specific statutory questions that evaluate the current Master Plan and development regulations of the Borough. The statutory questions posed are as follows:

- a. Identify major problems and objectives relating to land development at the time of the last Reexamination Report (2004);
- b. Determine the extent to which such problems have been reduced or have increased subsequent to that date;
- c. Identify changes in assumptions, policies and objectives that formed the basis for the Master Plan and development regulations;
- d. Identify specific changes recommended for the Master Plan or development regulations, if any, or whether a new plan or regulations should be prepared;
- e. Address recommendations of the planning board concerning the incorporation of redevelopment plans into the Land Use Element of the Master Plan.

This Reexamination Report first presents the goals and objectives identified in the 2004 Reexamination Report, along with additional goals and objectives added to the Master Plan in the 2009 Land Use Element Amendment. This is followed by a concise summary of the problems related to land development identified in the 2004 Master Plan Reexamination Report, as well as a discussion of the extent to which the major problems related to land development have been reduced or increased since adoption of that report. This Report, as required by the MLUL, also addresses changes in the

assumptions, policies and objectives forming the basis for the Master Plan or development. Specific changes to the Master Plan and development regulations are also identified. Finally, this Report concludes with a statement regarding the incorporation of redevelopment into the Borough's Land Use Element.

A. MAJOR PROBLEMS/OBJECTIVES RELATING TO LAND DEVELOPMENT AT TIME OF ADOPTION OF 2004 REEXAMINATION REPORT

The 2004 Reexamination Report presents the goals and objectives of the 1992 Master Plan, with several slight modifications, as noted below.

LAND USE & DEVELOPMENT OBJECTIVES IN 2004

GOALS

1. To promote a balanced variety of residential, commercial, recreational, public, and conservation land uses.
2. To preserve the existing single-family residential character of the Borough while providing a mix of housing types and uses.
3. To promote the preservation of natural systems and environmentally sensitive areas, particularly wetlands, flood hazard and aquifer recharge areas.
4. To maintain and improve the downtown business district.
5. To guide the proper development of the remaining large parcels and scattered vacant sites within neighborhoods.
6. To provide adequate community facilities and services in order to maintain the quality of life for existing and future Borough residents.
7. To encourage preservation of historic buildings and the downtown district.
8. To provide for additional parkland and preserve existing open spaces.
9. To insure that the Borough's Land Use Plan is compatible with those of adjacent municipalities, the County, and State.

OBJECTIVES

Land Use Plan Element

Residential

1. To preserve the integrity of existing residential areas: by preventing intrusion of nonresidential uses into residential neighborhoods; and by maintaining existing development intensity and population density consistent with residential neighborhood patterns.
2. To permit multi-family residential use at appropriate densities in locations accessible to major roadways, commercial services, and public facilities.
3. To encourage the preservation of open space within future multi-family and single-family residential developments.
4. To provide for single-family cluster housing on large developable parcels where appropriate.

Commercial

1. To enhance existing commercial areas through rehabilitation programs for curbing, landscaping, front façade, rear façade, parking signage, and buffering.
2. To improve the existing commercial areas on East Main Street and limited commercial areas of Park Avenue. The automotive uses along East Main Street are considered to be highway oriented uses and inappropriate for the approach corridor to the historic Central Business District.
3. To strengthen the downtown shopping area.
4. To insure that signage enhances commercial and adjacent residential areas.
5. To explore creative strategies to maximize the use of existing parking facilities and to create additional parking resources to serve both the commercial and residential sectors of the Central Business District.

Housing Plan Element

1. To provide a variety of housing opportunities for all income levels in appropriate locations consistent with environmental constraints.
2. To meet the Borough's affordable housing obligation.
3. To maintain the quality of existing housing by updating maintenance codes and enforcement regulations.
4. To continue the rehabilitation program of existing housing within the Borough.
5. To develop senior citizen housing at appropriate locations to meet future needs of an aging Borough population.

Circulation Plan Element

1. Develop strategies for reducing traffic demand through carpooling, “flextime” and staggered work hours (note: 2004 Reexamination recommends no longer relying on this approach for mitigating land use impacts due to challenges with implementation and enforcement).
2. Develop techniques for reducing through traffic on residential streets.
3. Encourage the use of mass transportation.
4. Encourage pedestrian circulation facilities (sidewalks and bikeways) serving as connections between community facilities, commercial areas and employment sites.

Utility Service Plan Element

1. To monitor potable water supply and encourage programs to provide adequate supply of potable water for future needs in accordance with the principles of federal and state law.
2. To provide adequate sanitary sewer service to all residents and in accordance with principles of federal and state law.
3. To regulate storm drainage effectively and alleviate flooding damage in the Borough and in downstream areas.
4. To control the proliferation of cellular communications facilities through the adoption of zoning standards controlling aesthetics and placement of antennas and supporting structures.
5. To recognize the importance of various information transmission technologies in providing support to both the residential and nonresidential sectors of the community.

Community Facilities Plan Element

1. To encourage the establishment of convenient well-located community facilities for all residents of the Borough.
2. To coordinate construction and installation of improvements with the Borough’s Capital Improvement Program to insure that community facilities are available when needed.

Historic Preservation

1. To preserve and enhance historic places, buildings and districts.
2. To build on the documentation gathered from past studies prepared by the Morris County Heritage Commission and the Madison Borough Historic Preservation Commission.

3. To consider implementing preservation goals through the adoption of preservation ordinances.

Park, Recreation and Open Space Plan Element

1. To provide a network of publicly owned park areas and permanently preserved open space.
2. To provide, maintain and upgrade the recreation facilities, both active and passive, to meet the needs of all Borough age groups.
3. To acquire and retain passive open space as development occurs by encouraging cluster development, conservation easements and other preservation methods.

Conservation Plan Element

1. To identify and preserve environmentally sensitive areas within the Borough.
2. To encourage cluster development to protect environmentally sensitive areas and to maintain open space.
3. To promote conservation easements on environmentally sensitive lands in private ownership to prevent future disturbance.
4. To encourage the preservation of existing vegetation.
5. To protect streams, waterways, wetlands, and aquifer recharge areas through careful stormwater and wastewater management practices.
6. To take advantage of improved techniques for managing stormwater runoff by adopting a Best Management Practices policy.
7. To recognize the additive results of small property improvements which increase the amount of impervious coverage.

Compatibility with Other Planning Efforts

1. To provide for compatibility between the zoning of Madison Borough and of adjoining municipalities.
2. To be consistent with the Morris County Master Plan and County planning policies.

In addition to the Borough goals and objectives discussed above in the 1992 Master Plan or most recent Reexamination Report (2004), the legislated purposes of the Municipal Land Use Law were also adopted as general Borough planning objectives.

LAND USE & DEVELOPMENT PROBLEMS IDENTIFIED IN 2004

The 2004 Reexamination Report notes that planning efforts are likely by the Borough to continue to address the following issues:

- Preservation of open space;
- Control of traffic flows in residential neighborhoods;
- Maintenance of a diverse housing stock;
- Maintenance of an attractive and thriving business/professional districts;
- Residential tear-downs resulting in oversized replacement dwellings;
- The need for private housing options for seniors and young adults;
- Continuance of a sound tax ratable base; and,
- Addressing parking demand in the downtown.

In addition to these issues, the 2004 Reexamination Report notes that while several recommendations in the 1992 Master Plan had not been implemented at the time the 1999 Reexamination Report was prepared, most of the recommendations in the 1999 Master Plan Reexamination Report had indeed been implemented. Outstanding issues identified in the 2004 Reexamination Report include the following:

- The zoning along Park Avenue west of the CBD should be reevaluated (note: this was done in the 2009 Land Use Element Amendment);
- The East Main Street business area should be evaluated, particularly with respect to automotive sales and repair businesses, and additional planning efforts are warranted to attract alternative uses (note: part of this area was also addressed in the 2009 Land Use Element Amendment);
- The 1992 Master Plan recommended that conditions for institutional uses be revised to provide different standards for various types of institutions; the 2004 Report notes that this has been implemented for assisted living facilities, but not for houses of worship, public and private schools, recreational facilities, and other institutional uses.
- Kings Road should be reexamined to determine if any additional zoning changes are warranted with respect to the R-3/R-4 boundaries in the area between Cross Street and the railroad overpass.
- The 2004 Reexamination Report notes that national security concerns have the potential to shape future land use decisions and architectural considerations for public and private development projects.
- The level of development activity within the Borough has shifted such that application volume with ZBA had doubled while the number of Planning Board applications had declined.

- The need to increase zoning enforcement activity was identified by the 2004 Report to better ensure that zoning standards and conditions of approval are satisfied.
- Impacts of new development were a concern in the 2004 Report, particularly with respect to the cumulative impacts of stormwater runoff from many small increases in impervious coverage. Additionally, the report noted concerns about traffic/parking impacts, as well as the lack of affordable housing within the Borough, the habitability of half-stories, and the heights of buildings.
- Giralda Farms' transition from a predominantly corporate office park with single-user buildings to multiple tenant users was raised with respect to parking demand and traffic generation impacts.
- Preservation of the Luke-Miller Historic property was underway at the time the 2004 Report was drafted. Since that time, the Borough, in conjunction with the Madison Historical Society, has ensured its preservation through a public/private partnership to purchase the homestead and ensure its preservation. First, the borough subdivided the lot to prevent future development and placed a historic preservation and conservation easement in place on The Luke Miller House and .39 acres of the land that surround it. The easement is overseen by the NJ Historic Trust and prevents the destruction of historically significant features inside and outside the house, and on the surrounding property. The remaining 1.21 acres of land became Borough-owned, preserved open space that is also protected by the same easement. A total of \$750,000 in grant money was obtained by the Borough to fund the purchase of the open space with the balance of the purchase price obtained through resale of the house.

In addition to the above, the 2004 Reexamination also identifies two major new issues, development pressure in general and perimeter development in particular, as noted below:

- Development Pressures: The 2004 Reexamination Report identifies several factors that had resulted in increased demand for new development, including low interest rates, improved train service, and state/local regulations limiting new development in rural parts of the State. The 2004 Report thus anticipated pressure for new development, including tear-downs, subdivisions of larger residential lots, and redevelopment opportunities in business areas of the Borough.
- Perimeter Development: The 2004 Report identified two areas adjacent to the Borough which were targeted for development with high

likelihood of adverse impacts on the Borough in terms of traffic, lighting, and noise: the former Exxon Corporation campus just north of the Borough boundary in Florham Park between Park Avenue and Route 24 (the Florham Green development) which was slated for office development and further development of athletic fields by the Chatham Board of Education on lands adjacent to and partially within the Borough.

B. EXTENT TO WHICH PROBLEMS HAVE BEEN REDUCED OR INCREASED

The problems and issues related to land development and regulation identified in the 2004 Reexamination Report generally remain relevant. In particular, the general issues identified in the 2004 Report, presented as 1 through 8 in Section A (see page 6) continue to be relevant concerns within the Borough. Changes to these issues, along with updates (as relevant) on more specific issues addressed in the 2004 Report, are briefly noted below:

- Preservation of open space: Since the adoption of the 2004 Reexamination Report, the Borough has prepared a new Open Space & Recreation Plan to guide continued preservation of open space and development of recreational activities.
- Maintenance of a diverse housing stock: Since adoption of the 2004 Report, the Borough has undertaken the rezoning of several properties to allow for a diversification of the Borough's housing stock. In particular, the Gateway District was created at the eastern end of Main Street to allow a mix of commercial office space and age-restricted multi-family residential. The property at the corner of Cook and Ridgedale Avenues was also rezoned to R-5A to allow for multi-family residential uses consistent with transit-oriented design and sustainable design principles. Finally, the Borough recently rezoned the former Green Village Road School site to permit both multi-family residential uses in the rear of the site near the location of the school, as well as apartments or condominiums above commercial uses along the Kings Road frontage. In addition, the Borough Housing Authority recently completed a 12-unit affordable senior housing development on Central Avenue. While the Borough should continue to provide housing options for seniors, young adults, and those who need affordable options, progress has certainly been made in diversifying the Borough's housing supply.
- Maintenance of an attractive and thriving business/professional districts: The Borough continues to work to maintain policies to ensure attractive

and thriving commercial districts. In particular, the Borough has reduced the maximum height of buildings in the downtown to three stories, consistent with the scale of the core of the downtown and has lowered the base parking requirements for non-residential uses in the downtown to better reflect the mixed-use, transit accessible nature of the downtown. In addition, as part of the 2009 Land Use Element Amendment, the following land use objectives were added to the Master Plan to guide development of the downtown:

- To encourage development opportunities that incorporate transit-oriented design principles in locations within 1/4 mile of the NJ Transit train station with densities, amenities and uses reflective of the specific neighborhood context and site-related features and opportunities;
 - To encourage downtown design and infill development that reflects the unique scale, context, and character of the core of the downtown;
 - To support and encourage locally owned and oriented retail businesses and services within the downtown;
 - To encourage pedestrian accessibility, including street level pedestrian interest and activity within the downtown.
- Residential tear-downs resulting in oversized replacement dwellings: This continues to be a concern within the Borough's residential districts, though the pace of subdivision activity has been recently impacted by the tightening of credit and the general downturn in the economy. Nonetheless, infill subdivisions are challenging in terms of impacts on neighboring residential areas as well as the character of the larger District. The Borough should consider incorporating provisions that discourage cookie cutter design into the land development ordinance, as well as provisions to measure and regulate the height of new homes based on pre-development grades.
 - Parking demand in the downtown: In recent years, the Borough has placed greater emphasis on shared parking and parking management in the core of the downtown. Several parking lots are now available for public use after hours, including the Central Avenue school lot, the former YMCA lot on Cook Avenue and the Provident Bank parking lot on Elmer Street. Continued public-private cooperation to maximize the use of parking resources is encouraged. On the edges of the downtown, however, as new development occurs, additional off-street parking will likely need to be incorporated into projects to address new demand.
 - The zoning of Park Avenue west of CBD was examined in the 2009 Land Use Element Amendment and is discussed in Section C of this report.

- East Main Street Business area: Part of the Main Street corridor east of Greenwood Avenue was addressed in the 2009 Land Use Element Amendment. In addition, the easternmost section of Main Street was rezoned as Gateway to promote opportunities for higher density senior/age-restricted housing as well as commercial uses. However, the balance of East Main Street has not been evaluated from a zoning or planning perspective in many years.
- Institutional uses: The 2004 Report notes that while specific conditional use standards have been developed for assisted living facilities, specific standards have not been provided for houses of worship, public and private schools, recreational facilities, and other institutional uses. The Borough has modified the zoning of Bayley Ellard High School consistent with the 2009 Land Use Element Amendment, which is also discussed in Section C of this report.
- Kings Road R-3/R-4 Districts: While the 2004 Reexamination Report identified the area along Kings Road between Cross Street and railroad overpass for review in terms of the R-3/R-4 boundary, similar concerns may be relevant in other areas of the Borough where R-3 and R-4 Districts abut. A general review of these areas should be undertaken to adjust boundaries as needed.
- National security concerns: The 2004 Reexamination Report notes that national security concerns have the potential to shape future land use decisions and architectural considerations for public and private development projects. This continues to be a relevant concern for future planning and development.
- Development impacts: The impacts of new development were a concern in the 2004 Report, particularly with respect to the cumulative impacts of stormwater runoff from small increases in impervious coverage. Stormwater management continues to be a concern within the Borough and the use of low impact development techniques such as rain gardens and bio-swales is encouraged, along with porous pavement, pervious paving systems and engineered green roofs. In addition, the Borough should consider reviewing the impervious coverage and building coverage standards in the land development ordinance and determine how best to encourage low impact development techniques.
- Development Pressures: While there is pressure for new development within the Borough, the pace of development has slowed in recent years with the trend largely comprised of the revitalization of previously developed sites, including residential tear-downs and nonresidential redevelopment opportunities. The 2009 Land Use Element Amendment

addresses nonresidential redevelopment opportunities in the downtown along Main Street between Greenwood and Alexander Avenues, as well as along Park Avenue; see Section C for a discussion of these areas.

- Perimeter Development: Florham Green, originally slated for office development, has been modified as a mixed-use project including a 325,000 square foot corporate office building (slated to be LEED Platinum certified by the U.S. Green Building Council), the New York Jets Headquarters and Training Center, which is occupied, a Marriott hotel with high end sports club and a 425-unit active adult community on the site directly adjacent to the Borough boundary. As part of settlement with Florham Park over adverse impacts of this development, the Borough received 50 acres of land behind Madison High School that have been annexed to the Borough and are slated for recreational use as the Madison Recreation Center. The Borough continues to be very concerned about the traffic impacts from this neighboring development and participated in a Regional Traffic Needs Assessment Study undertaken by Morris County in 2009. In addition to the Florham Green development and its impacts on Madison, further development and lighting of the Chatham Board of Education fields continues to be a concern for the Borough, specifically the noise and lighting impacts on abutting residences.

C. SIGNIFICANT CHANGES IN ASSUMPTIONS, POLICIES, AND OBJECTIVES FORMING BASIS FOR MASTER PLAN & DEVELOPMENT REGULATIONS

Since the 2004 Reexamination Report, there have been notable changes within the Country, State and Borough. Most notable is the national recession which has not spared New Jersey or Madison, though perhaps the Borough has weathered the recession better than many communities throughout the state and nation. The national economic downturn, which began late in 2007, has had a chilling effect on the economy, including local and regional job and housing markets. The effect of the recession on an individual level has resulted in a reduction in housing values and lost jobs. Additionally, recent cuts in state aid have led to renewed emphasis on both personal and public fiscal responsibility. The following Section reviews policy changes at the local, regional and State level that merit consideration in future local planning directions within the Borough.

2009 LAND USE ELEMENT AMENDMENT

The following additional Land Use Element objectives were adopted in the 2009 Master Plan Amendment, largely in response to the rise of green building and sustainable design practices and the numerous challenges continuing to face New Jersey's downtowns, in particular maintaining their historic character and scale, and preserving the locally-oriented retail businesses and services that are so closely tied to the unique character of the downtown and its vitality:

- To promote the use of sustainable design and green building practices;
- To encourage development opportunities that incorporate transit-oriented design principles in locations within 1/4 mile of the NJ Transit train station with densities, amenities and uses reflective of the specific neighborhood context and site-related features and opportunities;
- To encourage downtown design and infill development that reflects the unique scale, context, and character of the core of the downtown;
- To support and encourage locally owned and oriented retail businesses and services within the downtown; and,
- To encourage pedestrian accessibility, including street level pedestrian interest and activity within the downtown.

In addition, the 2009 Land Use Element Amendment also examined the land use patterns and zoning along Park Avenue and identified some changes to the OR District for the site formerly occupied by Verizon at the Borough's western gateway. In addition to encouraging the continued commercial use, reuse and occupancy of the existing site infrastructure, the Amendment recommended that the bulk requirements of the OR District be modified and that any reuse of the site for permitted office uses incorporate green building and design techniques to minimize the effects of this largely impervious site on surrounding land uses. The Borough implemented these recommendations through an amendment to the OR District in 2010. In addition, some minor changes were also recommended for the balance of Park Avenue, specifically providing opportunities to enhance and encourage preservation of documented historic resources within the corridor through allowing a limited number of commercial uses, such as Bed & Breakfasts, within the R-4 District as conditional uses.

The 2009 Amendment also examined the area of the downtown along Main Street between Greenwood and Alexander Avenues, noting that New Jersey's downtowns continue to be confronted with numerous challenges, including maintaining their historic character and scale, as well as preserving the locally-oriented retail businesses and services that are so closely tied to the unique

character and vitality of the central business district. These challenges are particularly evident in blending infill and edge development opportunities into the fabric of the downtown in a way that enhances the overall viability of a central business district. In addition, the Amendment identified several goals to guide future infill and edge development opportunities on the north side of Main Street between Greenwood and Alexander Avenues:

- Site circulation and access should be coordinated to limit the addition of curb cuts onto Main Street and to minimize the separation between buildings given that there is no required side yard setback within the CBD Zones;
- Parking areas should be connected to facilitate access between adjoining uses and sites, consistent with the layout of the core of the downtown;
- Dense planted buffers should be provided to fully screen adjacent residential areas;
- Site lighting should reflect the minimum intensities necessary to safely light the site and should incorporate the use of cut-offs, downward facing fixtures, and other technologies to eliminate glare and spillage, while promoting energy efficiency;
- Streetscape elements, including pedestrian street lamps, sidewalk detailing, benches, and street trees should be seamlessly extended along the public street frontages, including Main Street and Greenwood Avenues;
- Mixed-use buildings should be encouraged in the CBD Districts in general, with the inclusion of housing specifically encouraged in mixed-use developments to help anchor this gateway block;
- Site layout, building design and architecture should reflect pedestrian accessibility, encourage the use of non-motorized modes of transport, reflect the human scale, and provide visual interest at the street level.

2009 OPEN SPACE & RECREATION PLAN UPDATE

The Madison Planning Board adopted the 2009 Open Space and Recreation Plan Update as an amendment to the Conservation, Historic and Recreation Element of the Borough Master Plan on January 26th, 2010. The Updated Open Space & Recreation Plan includes a vision and goals statement, an updated inventory of open space and outdoor resources within the Borough, as well as an action program and implementation recommendations. It should be noted that since the Borough created an Open Space, Recreation and Historic Preservation Trust Fund in 2004, several major properties have been preserved, including the Madison Recreation Center, the Bayley Ellard fields, the Luke Miller House, and Livesey Park. The Borough has successfully

leveraged funding from the County and NJDEP Green Acres Municipal Planning Incentive Program to preserve these properties.

2005 PHASE 2 MUNICIPAL STORMWATER MANAGEMENT PLAN

In response to the State's 2004 update of the rules regulating stormwater management, the Borough adopted a Phase 2 Municipal Stormwater Management Plan in May of 2005. This plan contains the required elements outlined by the State in NJAC 7:8 Stormwater Management Rules. The Plan addresses groundwater recharge, stormwater quantity, and stormwater quality impacts by incorporating stormwater design and performance standards for major new development disturbing one or more acres of land. The Plan has been implemented through modifications to the Borough's stormwater management regulations.

MADISON TRAFFIC CALMING GUIDELINES

The Borough established a Traffic Calming Policy Task Force in 2006 to develop and recommend policy and guidelines for the use of traffic calming on Borough roads. While recognizing common concerns about speeding in residential neighborhoods, the Guidelines note that traffic calming measures should be selected on a case-by-case basis as either stand-alone projects or as part of roadway reconstruction projects. The report identifies specific factors to be considered in determining the appropriate traffic calming method, including: cost, effectiveness relative to need, snow removal, stormwater management, and effects on neighboring streets. In addition, the report recommends that traffic calming be included in future Master Plans, along with a borough-wide sidewalk plan and bike lane plan.

LOCAL LAND DEVELOPMENT ORDINANCE AMENDMENTS

The following table summarizes all changes to the Borough’s land development ordinance since the adoption of the 2004 Master Plan Reexamination Report.

ORD #	DATE	DESCRIPTION
18-2005	6/13/05	Provisions for Apartments above Commercial uses in the CC Zone
19-2005	6/13/05	Affordable Housing Development Fees
22-2005	6/13/05	Parking Requirements (Shared parking and RSIS parking standards)
43-2005	9/12/05	Zoning Permit/Site Plan for Change of Use, Occupancy, Ownership
53-2005	12/12/05	Cluster Development Provisions for RC Zone
5-2006	4/24/06	Amendments to Article VI, Stormwater Management Requirements
19-2006	5/8/06	To permit Municipal Judge discretion re: penalties for violating ordinance
47-2006	10/23/06	Establish Article IX, Affordable Housing
50-2006	10/23/06	Regulations for Excavation and Site Grading
53-2006	11/13/06	Create Municipal Housing Liaison to Administer Affordable Housing Program
57-2006	12/11/06	Establish Affordable Housing Growth Share Requirements and Amend Development Fees
59-2006	12/11/06	To correct Code section references in Ordinance 47-2006
36-2007	5/30/07	To Replace Article VIII, Entitled "Affordable Housing Development Fees
59-2007	9/10/07	To Replace Article VIII, As Amended By Ordinance 36-2007, to comply with NJAC 5:94-6.1.
71-2007	11/26/07	Regulations for Fences and Walls
7-2008	3/24/08	Establish a Minimum Building Height of Two Stories and Maximum of Three Stories in CBD Zones
20-2008	4/28/08	To Rezone the East End of Main Street from CC to Gateway Zone (Gateway I and II)
59-2008	9/22/08	To Clarify Prohibition of Drive Thrus in the CBD Zones
65-2008	10/15/08	To Update Current Definition of "Building Coverage" and to Amend Yard Exemptions Relating to Projections and Encroachments
6-2009	3/9/09	Amend RC Single-Family Residential Cluster Zone Purposes and Permitted Uses
11-2009	4/13/09	Rezone Certain Properties Along Cook Avenue and Ridgedale Avenue to R-5A Zone
53-2009	12/14/09	To Establish Riparian Buffer Zone Including Permitted Uses, Standards & Procedures
54-2009	11/9/09	Amendments to CBD-1 to Permit Upper Floor Signage, Signage Standards for Gateway Zone, Setback/Buffer Standards in CBD Zones, and Reduce Off-Street Parking for Non-residential Uses in the CBD Zones
17-2010	5/10/10	Establish Minimum Floor Area Standards for Residential Units in R-5A, CBD, CC, Gateway Zones
34-2010	6/14/10	Establish Hours of Operation Standards in Non-Residential Zones Proximate to Residential Zones
20-2010	7/12/10	Establish Standards for Outdoor Dining in Certain Non-residential Districts
45-2010	9/13/10	Clarify No Outdoor Dining is Permitted within 200' of Residential Districts
46-2010	9/27/10	Establish New Lighting Requirements
55-2010	11/8/10	Establish Regulations for Temporary Exterior Storage Units
56-2010	11/8/10	Establish Wellhead Protection Areas & Regulations
57-2010	12/13/10	Establish Green Village Road Special Use Area District & Regulations

SUSTAINABLE DESIGN PRACTICES & POLICIES

With the increasing awareness of climate protection and interest in sustainable planning and development practices, the Municipal Land Use Law (MLUL) was amended in 2008 identifying the Green Buildings & Environmental Sustainability Plan Element or Green Plan Element as a component of a municipal master plan. This element encourages the conservation and efficient use of natural resources; consideration of renewable energy systems; consideration of building impacts on the environment at all scales; and conservation and reuse of water resources.

In addition, the Municipal Land Use Law was also amended in 2009 to allow wind and solar facilities as permitted uses on parcels of land comprising 20 or more contiguous acres in industrial zones and to make renewable energy facilities an “inherently beneficial use” (i.e., one that serves the public interest by its very existence), and was further amended in 2010 to prevent municipalities from unreasonably limiting small wind energy systems that generate power primarily for on-site consumption, as well as to exempt solar panels from impervious coverage. These changes in State law are intended to make it easier for property owners to install wind turbines, solar panels and other renewable energy facilities, but it is recognized that there may be impacts on nearby properties from such installations, particularly in built-out communities like Madison. It is recommended that the Borough consider the need for zoning changes to properly guide the installation of renewable energy facilities to minimize negative impacts and promote appropriate design. Potential standards could include prohibiting facilities in front yard areas, mandating setbacks from side and rear property lines, setting maximum height regulations and requiring screening for such facilities.

In terms of local planning efforts, the 2009 Land Use Element Amendment also identified the growing popularity and desirability of sustainable design practices as a potential tool for use within the Borough. As noted in the 2009 Amendment, the past few years have seen a tremendous surge in municipal green building policies and a growing number of local governments in New Jersey and throughout the country recognize that changing building practices is important not only for conserving scarce natural resources and preventing pollution, but also for improving health and achieving economic sustainability. Some communities are requiring the use of green design techniques for large-scale projects in an effort to offset the negative impacts of development on natural resources. Madison’s land use policies have been amended to incorporate provisions that promote and encourage the use of sustainable

design and green building practices in new zoning districts that have been created in the past few years. In addition, the Borough's Green Team has been working toward Sustainable Jersey certification and received bronze level certification in November 2010. Sustainable Jersey is a municipal recognition and incentive program started in 2009 that includes required and elective actions that municipalities can implement to receive the certification. While a municipality can cite zoning and master plan changes as part of its application for certification, Sustainable Jersey does not dictate zoning or supersede local authority. As of December 9, 2010, 321 of New Jersey's 566 municipalities had registered but only 67 had been certified. This program requires periodic renewal (every three years). It also will require the Borough to take additional steps beyond the initial application in order to renew its certification.

TIME OF DECISION RULE

Probably the most significant amendment to the MLUL in 2010 was the abolition of the long followed time of decision rule that permitted a municipality to make zoning changes up to final moment of a development/land use approval. The new rule, which will go into effect in May of 2011, favors the developer by requiring that the zoning that is in place at the time of the filling of a development application will govern the review and approval of that application. Any zoning ordinances adopted subsequent to the date of submission of a complete application will no longer be applicable to that application. This change requires municipal diligence that the zoning ordinances remain current and that the consequences of those ordinances are understood.

PERMIT EXTENSION ACT of 2008 (Amended 2010)

As has been done in past economic downturns, this legislation was in response to the current economic crisis and protects approvals from expiring. The Permit Extension Act of 2008 protected against the expiration of certain state, county and municipal land development approvals which were "tolled" from January 1, 2007, to July 1, 2010. The Act is intended to protect approvals and prevent the abandonment of projects due to the difficult and uncertain economic conditions. In January of 2010, the tolling provision within the Act was extended through December 31, 2012.

STATE TRANSFER DEVELOPMENT RIGHTS (2004)

In 2004, the State Transfer of Development Rights (TDR) Act was signed into law, authorizing transfer of development rights by municipalities throughout the state. To utilize a TDR program, a municipality needs to meet some onerous requirements including the adoption of additional Master Plan Elements (Transfer Plan Element, Utility Service Plan Element, a Capital Improvement Plan), conducting a real estate market analysis, as well as receiving Plan Endorsement from the State Planning Commission. While intra-municipal transfers could be an effective tool within the Borough, the process is unlikely to be used due to the complexity and cost of document preparation required prior to the adoption of a local ordinance which would permit such a transfer of rights.

REDEVELOPMENT LAW

Since the landmark federal case of *Kelo vs. New London* in 2005, there has been a tightening on redevelopment law across the country. While New Jersey's Local Redevelopment and Housing Law (LRHL) was already considered mature and advanced when compared with that of the rest of the nation, the case brought to the attention of the general public one of the permissible components of redevelopment or blighting law, which is the use of eminent domain to acquire private property. Since that case, there has been a continued evaluation of the use of redevelopment in New Jersey and a refinement by the courts as to the use and application of the specific criteria. While use of redevelopment is still acknowledged as an effective tool in some cases, the required notice and proofs in redevelopment investigation have been enhanced, thus improving the quality of redevelopment investigations and perhaps limiting its use.

STATE DEVELOPMENT & REDEVELOPMENT PLAN

The New Jersey State Planning Commission and Office of Smart Growth have been slowly moving towards adoption of an updated State Development and Redevelopment Plan (SDRP), though the timing and certainty of that process are presently unknown. According to the State Planning Act, the purpose of the SDRP is to: coordinate planning activities and establish Statewide planning objectives in the following areas: land use, housing, economic development, transportation, natural resource conservation, agriculture and farmland retention, recreation, urban and suburban redevelopment, historic preservation, public facilities and services, and intergovernmental coordination. Originally adopted in 1992, the SDRP was revised by the State Planning Commission in 2001. While required by the State Planning Act to be revised and re-adopted

every three years, the SDRP has only been re-adopted once during the 18 years since its original adoption.

COUNCIL ON AFFORDABLE HOUSING (COAH):

In December 2004, the NJ Council on Affordable Housing (COAH) adopted its Third Round rules, which apply a “growth share” methodology to determine the amount of affordable housing a municipality must provide during the ten-year period of 2004 to 2014 (subsequently extended to 2018). Third Round Housing Elements and Fair Share Plans were to address three affordable housing components: the rehabilitation share, the prior round recalculated obligation, as well as the “growth share” obligation. The growth share methodology marked a significant departure from COAH’s two prior rounds of affordable housing obligation as the growth share approach directly linked the production of affordable housing with residential and non-residential development in each municipality. However, COAH’s third round rules met with severe opposition and litigation beginning in 2007 and the rules have been in a state of turmoil since that time. As a result of the lawsuits and general discontent with the provision of affordable housing and ineffectiveness of COAH, legislation was proposed in 2010 to eliminate COAH or at least markedly change the Council’s authority. There are also court cases pending that address growth share in particular, with a recent case throwing out the growth share methodology used by COAH. All of these factors point towards major potential changes to affordable housing requirements, and it is unclear what their exact form will be. Regardless, it has been determined that municipalities have a constitutional obligation to provide a realistic opportunity for affordable housing and this obligation will not go away without amending the state constitution. While the Borough of Madison adopted a revised Housing Element in 2008 based on the third-round rules and filed it with COAH, that plan has not been certified. It is anticipated that the Borough will need to revise its Housing Element and development regulations most likely to eliminate growth share and respond to the rules arrived at as a result of pending litigation. At the same time, the Borough should continue to encourage affordable housing and support the efforts of the Madison Housing Authority, including continuing its policy of supporting affordable housing development through the Housing Authority or other not-for-profit entities, as well as through scattered site inclusionary housing development.

NJ STATE ENERGY MASTER PLAN

A statewide energy master plan was adopted in October of 2008 as both a blueprint and guide as to how New Jersey will address global warming while

meet its future energy needs. The Plan identifies how transportation, land use and energy are the major determinants of climate changes in NJ and offers a multifaceted approach to addressing this challenge through improved energy efficiency, development of clean energy businesses, and by controlling energy costs. It is anticipated that the State will meet its mandate for a 20% reduction in carbon emissions by the year 2020 through the initiatives proposed. At the local level, incorporation of energy efficiency goals would likely involve adoption of a Green Plan as a first step to elicit public involvement and development of fundamental goals, policies and objectives.

MORRIS COUNTY PLANNING EFFORTS

Morris County prepared a new County Wastewater Management Plan to comply with the regulations adopted by the State of New Jersey in 2004. The Borough has subsequently adopted several ordinances to comply with the County's plan, including a fertilizer ordinance, riparian buffer ordinance, well-head protection ordinance, and amendments to the Borough's stormwater management regulations. In addition to the Wastewater Management Plan, the County also prepared a Draft Circulation Plan Update in 2005.

D. SPECIFIC CHANGES TO MASTER PLAN & DEVELOPMENT REGULATIONS

As noted elsewhere in this Report, the Borough should consider the following changes to the development regulations:

- Consider incorporating provisions that discourage cookie-cutter subdivision design in single- and two-family residential districts and that regulate building height based on pre-development grades.
- Amend sign ordinance to prohibit the use of LED (light-emitting diode) signs.
- Review the R-3/R-4 District boundaries and regulations and make minor adjustments as necessary.
- Review the zoning along East Main Street between the CBD and Gateway Districts.
- Review the impervious coverage and building coverage standards in the land development ordinance and determine how best to encourage low impact development techniques and other sustainable design practices.
- Consider standards to properly guide the installation of renewable energy facilities to minimize negative impacts and promote appropriate design.

In addition to these changes to the development regulations, the Borough should consider preparing a new Master Plan with sustainability as the grounding principle or a Green Plan Element as a logical extension of the Borough's Sustainable Jersey planning effort. While the 1992 Master Plan continues to encompass relevant planning goals and objectives especially related to land use, the growing importance and relevance of sustainable design and development was not anticipated in the early 1990s. In addition, the scale and extent of perimeter and adjacent development in surrounding communities has the potential to greatly impact traffic flows and transportation options within the Borough. As a result, the Borough should consider preparing a Sustainable Transportation Element either as part of a new Sustainable Master Plan or as a stand alone Master Plan Element. In addition to incorporating sustainability as a guiding planning principle within the Borough's land development regulations and Master Plan, the Borough should update its inventory of potential historic resources.

E. INCORPORATION OF REDEVELOPMENT PLANS INTO LAND USE ELEMENT

No redevelopment investigations have been prepared for the Borough and no redevelopment plans have been adopted by the Borough Council. However, the process available through the Local Housing and Redevelopment Law may be appropriate for use within the Borough, specifically the procedures that allow for designation of areas as in "need of rehabilitation," which does not permit acquisition of properties by eminent domain but does allow for site specific master planning and zoning tools. In addition, the use of the area in need of redevelopment designation may offer some similar advantages in terms of site-specific design on publicly owned parcels within the Borough.