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2012 MASTER PLAN REEXAMINATION REPORT

BOROUGH OF OAKLAND BERGEN COUNTY, NEW JERSEY

PREPARED FOR BOROUGH OF OAKLAND PLANNING BOARD BA #2595.02

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Introduction

Overview

The 2012 Borough of Oakland Master Plan Reexamination Report is part of the Borough's continuing comprehensive planning effort that has been undertaken by the Borough over the past twenty-four years. The planning board has adopted a number of master plan reports and documents since the adoption of the Borough's initial 1988 comprehensive master plan. During the course of these intervening years the Borough has engaged in a continuing planning process that has been the subject of periodic review, refinement and reexamination.

The 2012 periodic reexamination report builds upon without replacing the 2008 periodic reexamination report, the two reports should be read as an integrated whole. The focus of the 2012 periodic reexamination report is rather limited. The scope of this current periodic reexamination report is on that portion of the Corporate Office land use classification that is identified on the Borough tax maps as Block 3703 Lot 38 and which is developed with a single family dwelling fronting along Yawpo Avenue and those properties in this land use classification fronting upon McCoy Road that remain undeveloped. With the limited scope of this report it mind, it should be understood that this 2012 report is intended to supplement and enhance, but not replace the previously adopted 2008 reexamination report.

The Borough planning board adopted its current reexamination report in 2008. Prior to the reexamination report adopted in 2008, the planning board had adopted earlier reexamination reports in 2000 and July 1994. Included with the 1994 reexamination report but as a distinct document was a Land Use Element. The 1994 Land Use Element is the most recent Land Use Element adopted by the board. Each of these earlier reports and amendments was designed to guide the future development of the community in a manner consistent with sound planning criteria and the applicable statutory requirements.

In addition to the 1994 periodic reexamination report and Land Use Element, the board also adopted a Housing Element in that year. The 1994 Housing Element represented the Borough's response to the Supreme Court's Mount Laurel decisions that every community in New Jersey has a constitutional obligation to provide a realistic opportunity to create housing affordable to lower income households. The Housing Plan was prepared consistent with the Council on Affordable Housing (COAH or Council) regulations as then applicable. COAH is the state agency created as a result of the Fair Housing Act of 1985 which was the Legislature's response to the Supreme Court's affordable housing decisions.

The Borough's most recent housing plan adopted in 2010, replacing the earlier 2006 housing plan and addresses the Borough's cumulative affordable housing obligation. The 2010 housing plan has been endorsed by the governing body. The governing body then petitioned the Department of Community Affairs for substantive certification. Court action has challenged significant portions of the third round rules and the methodology adopted by COAH, especially with regard to allocation of affordable housing obligation based upon anticipated market rate growth and development that occurs in any given community. This court action has created uncertainty in determining municipal housing obligations and has delayed the review of municipally endorsed housing plans by the Department of Community Affairs.

Additional significant planning documents adopted by the planning board include a 1990 Wastewater Management Plan. This plan, in conjunction with the 1994 Water Management Plan, attempt to systematically address the physical restrictions and infrastructure limitations operating in and upon the Borough and the manner in which both existing and proposed development is affected. It is acknowledged that the Borough has begun the preliminary work necessary to prepare a new waste water management plan.

Oakland has adopted a 2006 Open Space Plan. This plan inventories and describes the natural features and recreational resources of the Borough and makes recommendations to enhance and maintain these important community attributes. Adoption of this plan was an important milestone since as a result of its adoption along with the Open Space and Recreation Tax referendum previously approved by the Borough's voters, Oakland is now eligible to receive additional county and state funding to acquire and improve open space and recreation areas within the Borough.

No recommendations contained within the Open Space Plan directly impact the properties which are the subject of this periodic reexamination report.

2006 was also the year the Borough planning board adopted a plan to revitalize the community's Central Business District along the Ramapo Valley Road corridor. The Borough recognized the necessity to establish a strong vision for the business district within the community in order to steer the local and regional economic growth of the Borough while establishing a downtown that welcomes pedestrians. The adopted plan is intended to encourage future business investment in the community by improving both the functional and aesthetic characteristics of the district. This Central Business District Plan was adopted as a specific component to the Land Use Element of the Borough's master plan.

As presented herein, the 2012 and 2008 reexamination reports, taken as one, together constitute the official guide for future growth and development in the Borough until such time as an up-to-date comprehensive master plan is drafted and adopted in accordance with the procedures established in the Municipal Land Use Law (MLUL). It is to be utilized by the planning board, governing body, zoning board of adjustment and the citizens of Oakland in making land use planning and policy decisions that will enhance the character of the community.

This master plan reexamination report represents the culmination of the planning board's review of the Borough master plan and subsequent reexamination report as it pertains to four properties within the Corporate Office land use classification. It provides the obligatory background data required by statute and also offers the basis for future master plan goals, objectives, and land use policies which will be part of a forthcoming comprehensive land use element.

This document addresses the community's planning and zoning issues within the framework of the statutory requirements contained within the New Jersey Municipal Land Use Law and its master plan reexamination provisions. The MLUL requires municipalities to periodically reexamine their master plan and development regulations. The statute mandates that the report must include, at a minimum, five key elements, which identify:

- 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 problems 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 use, housing conditions, circulation, conservation of natural features, energy conservation, collection, disposition and recycling of designated recyclable materials, 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 regulation 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", into the land use plan element of the municipal master plan, and recommended changes, if any, in the local development regulations necessary to effectuate the redevelopment plans of the municipality.

The Legal Requirement for Planning

The Municipal Land Use Law establishes the legal requirement and criteria for the preparation of a master plan and reexamination report. The planning board is responsible for the preparation of these documents, which may be adopted or amended by the board at the conclusion of a public hearing. The board is required to prepare a review of the master plan at least once every ten years.

The MLUL identifies the required contents of a master plan and the periodic report which re-examines a master plan. The reexamination provisions are set forth above. The statute requires that a master plan include a statement of goals, objectives, and policies upon which the proposals for the physical, economic and social development of the municipality are based. The plan must include a land use element which takes into account physical features, identifies the existing and proposed location, extent and intensity of development for residential and non-residential purposes, and states the relationship of the plan to any proposed zone plan and zoning ordinance. The MLUL also requires municipalities to prepare both a housing plan and recycling plan, and additionally identifies a number of other optional plan elements such as circulation, recreation, community facilities, historic preservation and similar elements, which may be incorporated into a comprehensive master plan document.

Adoption of the required components of a master plan, including the preparation and adoption of periodic reexamination reports, provides the community the legal basis to regulate development in the municipality. This is accomplished through the adoption of development ordinances such as a site plan ordinance, a subdivision ordinance, a tree preservation ordinance, the zoning ordinance and other ordinances which are designed to implement the master plan's recommendations.

The Major Problems and Objectives Relating To Land Development in the Borough of Oakland at the Time of the Adoption of the Last Master Plan/Reexamination Report

The MLUL initially requires a reexamination report to identify the major land use problems and planning objectives that were enumerated in the most recently adopted master plan/reexamination report. The following is noted with respect to Oakland's 2008 Periodic Reexamination Report of the Master Plan as pertains to the Corporate Office Land Use classification.

Major Problems Relating to the Corporate Office Land Use Classification as Identified In The 2008 Periodic Reexamination Report.

The Oakland 2008 report identifies land use planning and development issues that the Borough faced at the time of the preparation of that document. The 2008 plan text identified and discussed a number of land use issues that had implications concerning the potential growth and development of properties included within the Corporate Office land use classification. These are summarized as follows:

1. Extension of appropriate levels of community infrastructure in a cost effective and environmentally sensitive manner. Most properties in the Borough are connected to the Borough's potable water supply system. Unfortunately this system needs substantial improvements including transmission improvements as well as capacity enhancements. Since a community's potable water supply is an essential utility affecting the carrying capacity of the land, the board recommended a review was necessary to examine the realistic capacity of the potable water supply and distribution system to insure that additional development does not overwhelm the ability of the Borough to meet demand both for normal consumption as well as emergency situations. This examination should explore both a short term planning horizon as well as a longer term time horizon.

The potential development of large scale office buildings has ramifications upon the Borough's water supply and distribution system. Large office buildings significantly increase the day time population of the Borough. These type buildings also require fire fighting emergency supplies not typically demanded by single-family homes. The ability to produce and supply sufficient potable water resources to a complex of large scale office buildings in a cost effective and environmentally responsible manner remains a significant unresolved issue.

Most development in the Borough, regardless of whether residential or non-residential in nature, is not connected to a central sanitary wastewater system. Instead the overwhelming majority of developed properties in the Borough rely on individual on-site septic systems. The lack of a sanitary sewer system has been one of the primary impediments to the delivery of affordable housing solutions. It has impeded revitalization of the central business district and thwarted the Borough's long term planning goals associated with the Corporate Office zone.

This problem potentially affected the marketability of certain properties within the Corporate Office classification as there is no provision to extend sanitary sewer facilities to these properties. The Borough's approved waste water management plan does not include this portion of Oakland in a sanitary sewer service area. These properties are therefore reliant on individual on-site sanitary septic systems. The ability to adequately serve large scale, class 'A' office buildings by individual septic systems in an environmentally sound and cost effective fashion is questionable.

2. Need to establish a fully diverse and sustainable economic base. Since at least the 1980's the

community has sought to spur the construction of large scale office development in selected locations within the Borough. Due to a number of reasons such as varying economic conditions, lack of necessary infrastructure (water, sewer and transportation), competition from other communities and market issues this goal of fostering the development of large scale office buildings has generally remained unfulfilled. The goal of creating a fully diverse and sustainable economic base retains its validity. The need is to comprehend the complex dynamics of what a fully diverse and sustainable local economy requires and then insuring the Borough has the necessary foundation in place in order to attract and support such an economy.

The corporate office classification was created at least in part to respond to this particular issue of creating and fostering a fully diverse and sustainable economic base. In 25 years this classification has not delivered the large scale office buildings that have been planned for the McCoy Road properties. Simply put, these properties may not be suitable candidates for this type of land use.

3. <u>Need to Review Zoning Designations of Selected Properties.</u> The Oakland Planning Board last adopted a Land Use Element in 1994. As this is written a significant period of time has elapsed. Factors affecting land development have evolved and ones that did not exist in 1994 have come into existence.

With this brief background in mind the planning board recognizes the need and desirability of reviewing the current zoning regulations affecting selected properties in order to offer recommendations to the Mayor and Council on the continued appropriateness of the application of certain zone districts to specific properties. Locations where the current zoning designation should be investigated include many parcels including but not limited to a large parcel along the Ramapo River at the end of Spruce Street, the Natural Heritage Priority Site located south of Post Road, and a large tract located along Ramapo Valley Road which has a House of Worship on a portion of the property.

Although this section of the 2008 periodic reexamination report did not specifically identify the Corporate Office classification as being among the properties to be studied, the list of properties for which a zoning review was appropriate and warranted was never intended to be all inclusive. The intent was simply to acknowledge the need to review zoning designations as applied under current regulations. Once this review was initiated, it was anticipated that properties within the Corporate Office classification would also be studied.

Extent to Which Problems and Objectives Have Been Reduced Or Have Increased Subsequent To the Last Master Plan

Pursuant to the MLUL, this section of the Reexamination Report examines the extent to which problems and objectives have been addressed. A number of the Borough's goals and objectives as well as the planning challenges highlighted in the 2008 reexamination document have been satisfactorily addressed while others remain relatively static. The static nature of some of these problems and planning objectives is a function of the type of long range planning concerns that they represent, the general nature of most of these problems and objectives and the extent and type of development that Oakland has experienced. The general planning concerns regarding the impact of traffic on the community, land use compatibility and protection of the desirable residential neighborhoods comprising the Borough all represent long-term issues that focus on the inherent character of the community, and consequently necessitate continual assessment and reassessment on the part of the Borough. It is noteworthy that some of these issues have been partially addressed, while others continue to remain a critical concern.

Extent to Which Problems Have Been Addressed

1. <u>Lack of Available Infrastructure</u>. The solutions for this problem have proven most elusive. The Borough has explored and examined several different approaches of providing sanitary sewer service to the proposed multi-family sites, areas of the Borough experiencing widespread septic failures and the central business district. As this 2012 Reexamination Report is being drafted the Borough is continuing to work with its sewer consultant and the New Jersey Department of Environmental Protection to find environmentally responsible ways to provide centralized sanitary sewer service to the above referenced sections of the Borough. The Borough has been ably assisted by the New Jersey Highlands Council which has offered Oakland both its expertise and generous financial resources.

The issue of infrastructure is significant to the Corporate Office classification since without such service the size and occupancy of buildings is limited by the capacity of sanitary septic systems.

In addition, the long desired improvements to the water system have not materialized to date. The need to enhance the water supply and make improvements to the water distribution system is still with the Borough. As development pressure increases in the Borough the need for a safe and reliable water delivery system only increases.

On the traffic and transportation front the Borough continues to be an active participant with the County on fostering improvements to several strategic locations in the Borough. It is also noted that at this time passenger service has not been resumed on the railroad.

These above two issues (infrastructure and traffic) also have ramifications with regard to the Corporate Office classification. Companies seeking new corporate office space have many options to choose from, both in occupying currently vacant space and the construction of new space. Locations that can not offer satisfactory transportation services find themselves in a significant marketing disadvantage to those areas that can offer enhanced transportation services.

2. <u>Lack of Large Scale Office Development</u>. There has been little change in the status of this problem since the adoption of the most recent reexamination report. In some regards the lack of meaningful office construction may implicate forces outside the control of the Borough. Oakland first identified construction of large scale office buildings as planning goal in the 1980's.

The problems identified in earlier sections of this report involving the Corporate Office land use

designation are continuing. No new corporate office buildings have been constructed in several years. Specifically many of the properties in the Corporate Office zone are either underdeveloped or vacant. In addition, the factors that have combined to prevent the development of large scale office buildings within the Corporate Office land use classification do not seem ripe for resolution in the foreseeable future.

Based on the long standing failure of the Corporate Office land use designation to deliver the desired large scale office buildings and the likelihood that conditions will remain static for an extended timeframe, the time to adjust Borough thinking with regard to certain properties in this land use designation seems to be upon us.

3. Need to Review Zoning Designations of Selected Properties. This problem has not been addressed to date. However, it is anticipated that upon completion of this periodic reexamination report and the amended Land Use Plan Element that will follow it, the zoning of Corporate Office properties will be examined and adjusted as deemed appropriate by the governing body.

The Extent to Which There Have Been Significant Changes In The Assumptions, Policies And Objectives Forming The Basis For The Master Plan Or Developmental Regulations As Last Revised, With Particular Regard To Specific Planning Issues And Government Policy

Oakland has planned for and encouraged the development of a large scale office building complex along McCoy Road for over a generation. For numerous reasons the desired office building complex has not materialized.

The time to align Borough thinking concerning these parcels with the infrastructure and market constraints confronting these parcels has arrived. Without the necessary water and sewer infrastructure in place to service these parcels large scale office buildings will not be constructed along McCoy Road.

Even if utility services were extended to these parcels the development of large scale corporate office space will still be hampered by the disadvantaged location shared by these parcels. McCoy Road in front of these sites only provides one lane of traffic in each direction. These properties are somewhat remote in that they only have frontage upon a residential municipal street.

In addition to the lack of necessary utility services and the location fronting upon a local street there are other factors limiting the potential development of large scale office buildings on this tract. One of these additional limiting factors is the lack of requisite support services. A certain level of business support services and amenities are typically necessary to foster the development of large scale office buildings. The nature of the built environment adjacent to these properties is not conducive to the development of large scale office buildings.

Due to the above noted constraints inhibiting the development of large scale office buildings it is appropriate to adjust Oakland's planning and zoning documents in order to further the public interest. One of the purposes of the MLUL is to provide sufficient space in appropriate locations for a variety of uses to meet the needs of all New Jersey citizens. The long term planning and zoning designations that have been applied to this property have not furthered the public interest nor served the needs of New Jersey's citizens. Therefore it is time to plan for a use that will serve citizen's needs.

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.

After careful consideration, the Planning Board has determined, and so recommends, that the public interest will be furthered if the Land Use Plan is amended to encourage residential development of the McCoy Road property that is presently within the Corporate Office land use designation.

The Borough's constitutional obligation of providing housing affordable to low-and moderate-income households must be furthered by any future development that occurs on this property.

The Planning Board's overall goal is to limit the development of these 40 acres to no more than twenty-one (21) market rate single-family detached dwellings. Accompanying these detached single-family dwellings will be five (5) deed restricted affordable dwellings containing a mixture of two and three bedrooms. These affordable dwellings are not required to be single-family dwellings. To encourage the efficient use of land and the efficient delivery of affordable housing, the Borough should permit up to three (3) affordable deed restricted dwellings to be within a single structure that is designed to replicate a single family dwelling with regard to the number of exterior doors seen from the street and the number, size and location of driveway spaces.

Depending upon soil conditions and regulations concerning on-site septic systems, the Planning Board would prefer each of the dwellings within the triplex have independent and distinct septic systems.

Three (3) of the affordable dwellings shall contain no less than two-bedrooms each. The two (2) remaining affordable dwellings shall contain no less than three-bedrooms each.

The remaining property (Block 3703 Lot 38) that is the subject of the periodic reexamination report is presently developed with a single-family dwelling. Despite the developed nature of this lot and it's relatively modest size it was placed within the Corporate Office land use designation nearly 25 years ago. This periodic reexamination report recommends that the land use plan be amended with respect to this lot by amended and extended the adjacent medium density residential zone be extended to include this property.

Recommendations concerning the incorporation of redevelopment plans into the land use plan element and recommended changes in the local development regulations necessary to effectuate the redevelopment plans of the municipality.

In 1992, the Local Redevelopment and Housing Law (LHRL) was enacted into law. The LRHL replaced a number of former redevelopment statutes, including the Redevelopment Agencies Law, Local Housing and Redevelopment Corporation Law, Blighted Area Act, and Local Housing Authorities Law, with a single comprehensive statute. At the same time, the MLUL was also amended to require, as part of a master plan reexamination, that the issues raised in the LRHL be addressed.

The LRHL provides the statutory authority for municipalities to designate areas in need or "redevelopment", prepare and adopt redevelopment plans, and implement redevelopment projects. Specifically, the governing body has the power to initially cause a preliminary investigation to determine if an area is in need of redevelopment, determine that an area is in fact in need of redevelopment, adopt a redevelopment plan, and/or determine that an area is in need of rehabilitation.

A planning board has the power to conduct, when authorized by the governing body, a preliminary investigation and hearing and make a recommendation as to whether an area is in need of redevelopment. The planning board is also authorized to make recommendations concerning a redevelopment plan, and prepare a plan as determined to be appropriate. The board may also make recommendations concerning a determination if an area is in need of rehabilitation.

The statute provides that "a delineated area may be determined to be in need of redevelopment if" after investigation, notice and hearing... the governing body of the municipality by resolution concludes that within the delineated area "any of the following conditions are found":

- A. The generality of buildings are substandard, unsafe, unsanitary, dilapidated or obsolescent, or posses any of such characteristics, or are so lacking in light, air, or space, as to be conducive to unwholesome living or working conditions;
- B. The discontinuance of the use of buildings previously used for commercial, manufacturing, or industrial purposes; the abandonment of such buildings; or the same being allowed to fall into so great a state of disrepair as to be untenantable;
- C. Land that is owned by the municipality, the county, a local housing authority, redevelopment agency or redevelopment entity, or unimproved vacant land that has remained so for a period of ten years prior to adoption of the resolution, and that by reason of its location, remoteness, lack of means of access to developed sections or portions of the municipality, or topography or nature of the soil, is not likely to be developed through the instrumentality of private capital;
- D. Areas with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health, morals, or welfare of the community;
- E. A growing lack or total lack of proper utilization of areas caused by the condition of the title, diverse ownership of the real property therein or other conditions, resulting in a stagnant or not

fully productive condition of land potentially useful and valuable for contributing to and serving the public health, safety and welfare;

- F. Areas in excess of five contiguous acres, whereon buildings or improvements have been destroyed, consumed by fire, demolished or altered by the action of storm, fire, cyclone, tornado, earthquake or other casualty in such a way that the aggregate assessed value of the area has been materially depreciated.
- G. In any municipality in which an enterprise zone has been designated pursuant to the "New Jersey Urban Enterprise Zones Act," P.L. 19833, c.303 (C.52:27H-60 et srq.) the execution of the actions prescribed in that act for the adoption by the municipality and approved by the New Jersey Urban Enterprise Zone Authority of the zone development plan for the area of the enterprise zone shall be considered sufficient for the determination that the area is in need of redevelopment pursuant to sections 5 and 6 of P.L.1992,c79 (C.40A:12A-5 and 40A:12A-6).
- H. The designation of the delineated area is consistent with smart growth planning principles adopted pursuant to law or regulation.

The statute defines redevelopment to include "clearance, replanning, development, and redevelopment; the conservation and rehabilitation of any structure or improvement, the construction and provision for construction of residential, commercial, industrial, public or other structure and the grant or dedication of spaces as may be appropriate or necessary in the interest of general welfare for streets, parks, playgrounds, or other public purposes, including recreation and other facilities incidental or appurtenant thereto, in accordance with a redevelopment plan." It is noteworthy that the statute specifically states that a redevelopment area may include lands which of themselves are not detrimental to the public health, safety or welfare, but the inclusion of which is necessary for the effective redevelopment of an area.

The review of the master plan and associated planning and zoning documents and land use pattern in the community indicates that it is not necessary at this time to utilize the Local Redevelopment and Housing Law to facilitate redevelopment in the community. It is anticipated that upon adoption of a zoning ordinance amendment that places the McCoy Road properties into a residential zone the development community will respond accordingly.