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**AMENDED LAND USE ELEMENT
OF THE MASTER PLAN OF
THE BOROUGH OF OAKLAND**

**PREPARED FOR:
BOROUGH OF OAKLAND PLANNING BOARD**

The original document was appropriately signed and sealed on February 16, 2012 in accordance with Chapter 41 of Title 13 of the State Board of Professional Planners.

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INTRODUCTION

Legal Requirements for Master Plan

The Municipal Land Use Law establishes the legal requirement and criteria for the preparation of a municipal master plan. The planning board is the local governmental body responsible for the preparation of the community's master plan. The documents comprising a master plan may be adopted or amended by the planning board only after a public hearing.

The MLUL identifies the required contents of a master plan. The statute requires that the master plan include the following:

- A statement of goals, objectives and policies upon which the proposals for the physical, economic and social development of the municipality are based.
- A land use element that 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 preparation of a housing plan and recycling plan by the municipality.
- A policy statement indicating the relationship between the municipality and the master plans of contiguous communities, the county and the State Development and Redevelopment Plan as well as both the county's district solid waste management plan and the Highlands Council Regional Master Plan.

In addition, the MLUL identifies a number of other plan elements that may be incorporated into a comprehensive master plan document, such as circulation, open space, recreation, community facilities, and historic plan elements, but these are not obligatory elements.

The master plan provides the community the legal basis to regulate land use activities within the municipality. Controlling the location, type and intensity of development is accomplished through the adoption of development ordinances such as subdivision and site plan ordinances and the zoning ordinance that are designed to implement the recommendations as contained within the land use element and the housing element of the master plan.

STATEMENT OF OBJECTIVES, PRINCIPLES, ASSUMPTIONS, POLICIES AND STANDARDS

Each master plan is required to contain a statement of objectives, principles, assumptions, policies and standards upon which the constituent proposals for the physical, economic and social development of the municipality are based.

Earlier master plan elements have contained the required statement. These statements have been reviewed and have found to retain their validity as pertains to the limited nature of this amended land use element which is limited to the Corporate Office land use classification. These earlier statements are incorporated herein as if repeated at length and continue to serve as the objectives, principles, assumptions, policies and standards for this amended land use element.

EARLIER BOROUGH MASTER PLAN ELEMENTS

The Borough planning board adopted its current land use plan element in July 1994. Consistent with its statutorily imposed responsibilities the Oakland Planning Board has reexamined this plan on numerous occasions. The most recent full periodic reexamination report was adopted in 2008. The planning board adopted a limited purpose reexamination report in 2012.

Oakland is a municipality with land included in the Highlands Region of New Jersey, Oakland therefore is one of the 88 New Jersey municipalities directly impacted by the Highlands Water Protection and Planning Act ("Act"). As required by the Act the Highlands Council has adopted its Regional Master Plan (RMP). Oakland has been diligently working with and with the financial support of the New Jersey Highlands Council on achieving plan conformance between Oakland's locally generated master plan elements and the Highlands Council adopted RMP.

Consistent with plan conformance activities it is anticipated that a new land use plan will be adopted either later this year or sometime next year by the Oakland Planning Board. Despite the anticipation of adoption of a new land use plan, adoption of a limited scope land use plan amendment at this time is in the public interest.

SCOPE OF THE 2012 LAND USE PLAN AMENDMENT

The Land Use Plan Element updated and presented herein is limited to certain properties within the Corporate Office Land Use Classification. This land use classification formerly included two distinct areas of the Borough. One such area is located in the Ramapo Mountains east of Edison Avenue. This area was subsequently removed from the Corporate Office classification and therefore is not included within this analysis.

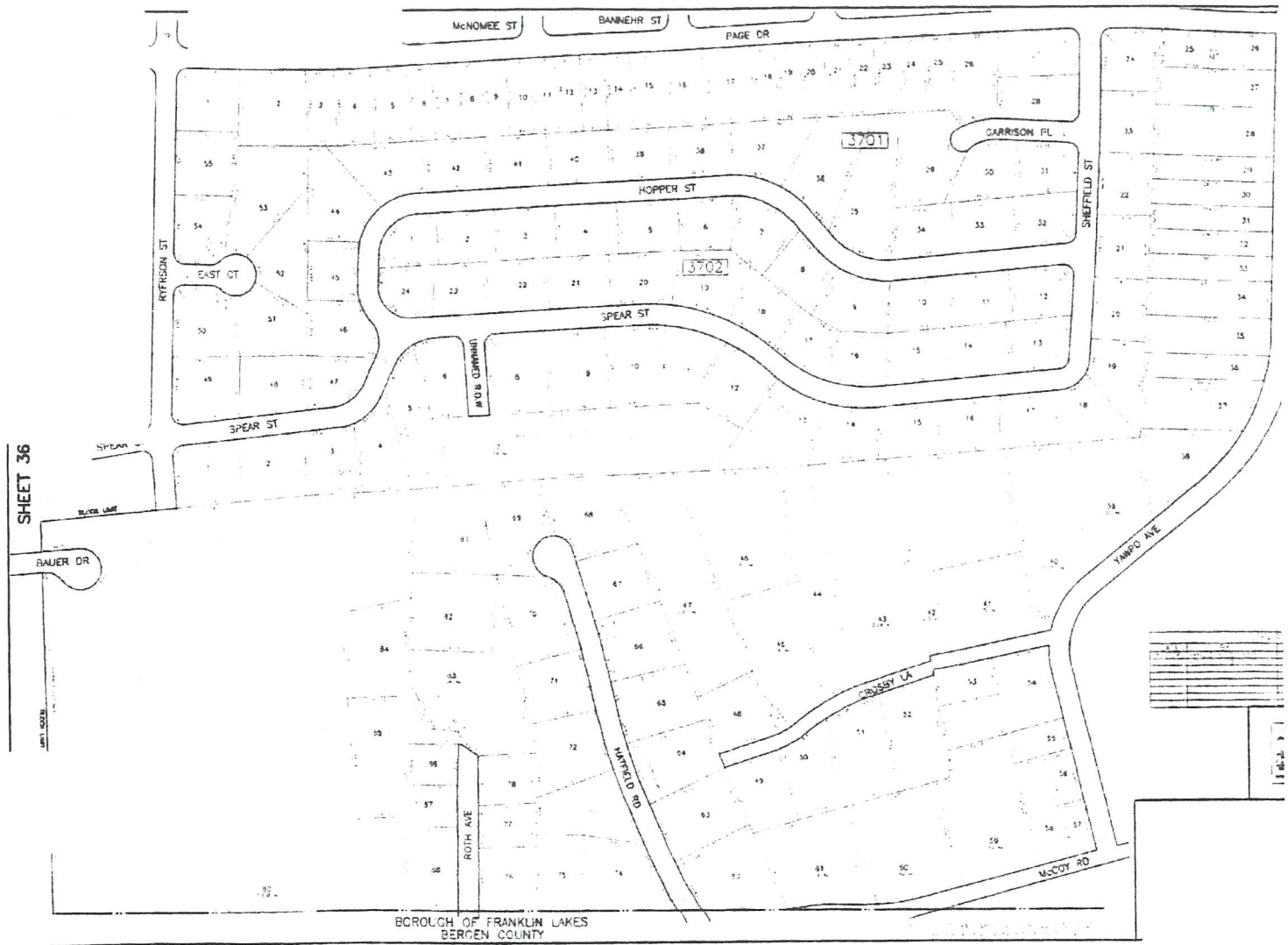
The second area included within the Corporate Office Land Use Classification includes the property upon which Indian Hills High School has been constructed and lands both east and north of the school property. The second area extends to the Route 287/202 corridor in the north and McCoy Road and the municipal border between Oakland and Franklin Lakes in the east. This is the specific area under study by this amended land use element.

The particular lots that are included as part of this amended land use plan element are designated on the Oakland tax maps as Block 4202 Lots 1, 2 and 3. These three properties are under common ownership and are located on the northerly side of McCoy Road adjacent to the municipal boundary line with the Borough of Franklin Lakes. These lots when combined form a single parcel somewhat irregular in shape that totals approximately 40 acres. Its dimensions include nearly 700 feet of frontage on McCoy Road and a depth of 2,600 feet. A number of driveways have been cut across these properties, an adjacent property owner potentially has an easement to access his property across these lots. The property also shares 1,900 feet of frontage along the New York Susquehanna and Western rail line that extends along its entire northeasterly dimension.

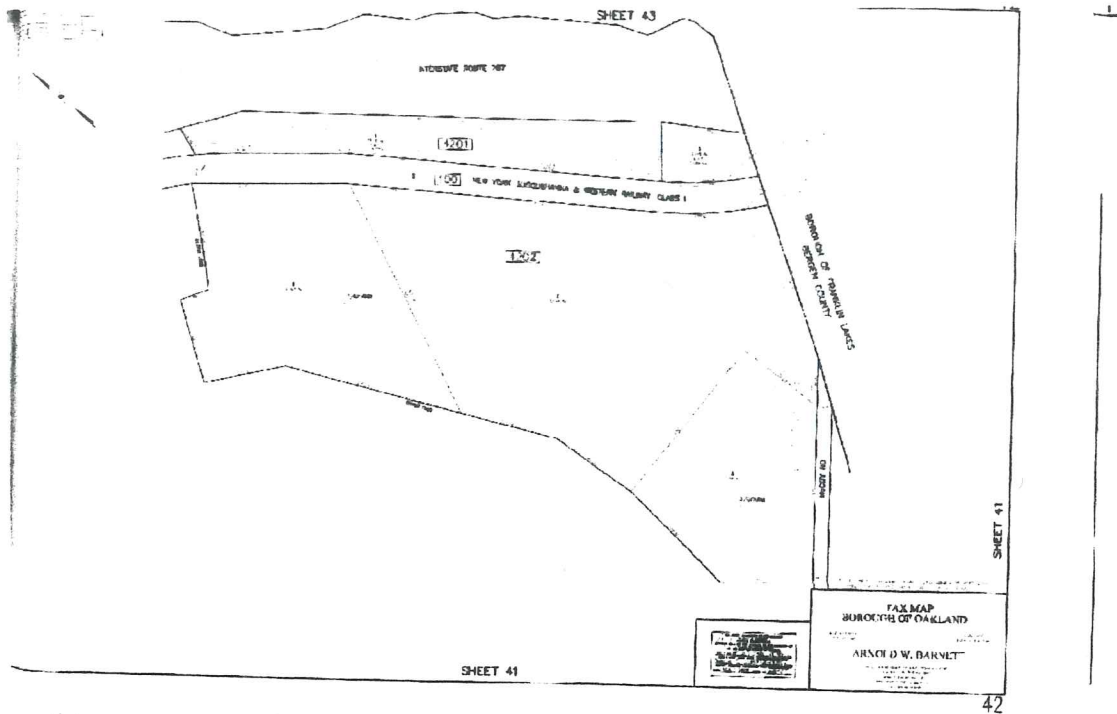
Lot 1 in Block 4202 is landlocked that is it lacks frontage upon a public right of way. Lot 2 has approximately 150 feet of frontage along McCoy Road. This frontage is not particularly useful for access purposes as a stream and freshwater wetlands have been identified and delineated just inside the property line paralleling McCoy Road. Lot 3 in Block 4202 has nearly 550 feet of frontage along McCoy Road.

This amended land use plan includes one additional property which is within the Corporate Office land use classification despite being developed with a single-family dwelling. This particular property is identified on the Oakland tax maps as Block 3703 Lot 38. It is notable that this property is much smaller than the minimum ten (10) acre lot size requirement established for the Corporate Office Zone. In addition, it is the only property within said zone on the south side of Yawpo Avenue. Properties neighboring this lot are all developed with single family dwellings.

Block 3703 Lot 38 is depicted on tax map sheet 37 of the Oakland tax maps. This sheet has been reproduced and is depicted below.



Block 4202 Lots 1, 2 and 3 are among the properties depicted on tax map sheet 42. This tax map sheet is reproduced below.



Block 4202 Lots 1, 2 and 3 consist of two physical features that merit attention. These include:

- a. **Slopes:** The property is characterized by a moderate-to-steep slope condition. Elevations on-site range from 320 feet to 422 feet. The site's steeper sloped areas are found adjacent to the railroad. A slope analysis reveals that eight acres, or twenty percent of the site, are characterized by steep slopes, and these areas are found in the northeasterly portion of the property.
- b. **Wetlands and Wetland Buffers:** The available data indicates that a wetlands area is located in the southerly portion of the site. In addition to the wetlands, a pond or two exist in this area of the site. These site features drain down slope toward the railroad, eventually entering the Callie Brook. A total of eight acres, representing another twenty percent of the property, are comprised of wetlands. An additional two acres, or five percent of the site, is encompassed by the New Jersey Department of Environmental Protection required wetland buffers.

Consequently, a substantial percentage of the site is characterized by environmentally sensitive land and water features, accounting for somewhat less than half of the overall tract. These features have a significant impact in limiting the site's development potential. The presence of these features may also favor one type of land use over other potential development scenarios.

Within the Regional Master Plan the Highlands Council has established various land use planning zones. As mentioned above, the subject property is included within the Highlands Planning Area, not the more restrictive Highlands Preservation Area. The properties under study have been included within the Planning Area's Protection Zone as described in the RMP. The subject properties were most likely included within the Protection Zone due to the presence of freshwater wetlands, the stream that is tributary to the Callie Brook and the tree cover that has been established on the steeper portions of the property.

The property in question is located in an area of the Borough containing a variety of land uses. The following distribution of land uses is noted:

- ❖ Residential and farm property is located immediately to the north of the subject site.
- ❖ The NY Susquehanna & Western Rail line is located to the northeast, and is adjacent to the site's east lot line. Farther east is the Route 287/208 transportation corridor.
- ❖ Indian Hills High School adjoins the property to the west. Detached single-family dwellings have been developed on those Yawpo Avenue properties adjacent to the school.
- ❖ Single family dwellings and the property now or formerly owned by Temple Emanuel in neighboring Franklin Lakes are to the south. This temple property is no longer needed as a house of worship and this multi-acre property is likely to be developed for residential purposes.

The high school and its athletic fields adjoining the subject site are factors which influence the parcel's development potential. Another factor which the Planning Board and Governing Body should consider as they consider which zone district may be most appropriate for this property are the single family dwellings, both in Oakland as well as in Franklin Lakes, which have been developed in the immediate area, especially along Yawpo Avenue and McCoy Road.

A land use that is conspicuously absent from the adjacent area is large scale office buildings. If the property were to be developed consistent with its current zone designation, the resultant large scale office buildings would represent a new land use for the area, one that is not necessarily compatible with the existing development pattern that has evolved in Oakland or in neighboring Franklin Lakes.

Zoning Considerations

The four properties that are the subject of this amended land use element are all within the Corporate Office (CO) zone. Permitted uses in this zone include:

1. A professional or business office, including medical and dental facilities,
2. Executive and administrative offices,
3. Research, experimenting and testing for scientific laboratories,

Bulk zoning standards in this zone are reproduced in the table below:

**Table 1
CO Zoning Standards**

Zoning Criteria	Zone Requirement
Min. Lot Area (ac.)	10
Min. Lot Frontage (ft.)	200
Min. Front Yard (ft.)	100
Min. Side Yard (ft.)	60
Min. Rear Yard (ft.)	50
Max. Building Coverage (%)	25
Max. Lot Coverage (%)	50
Max. Building Height (ft./ sty.)	40/3

Source: Oakland Ord, Chapter 59.

In addition, developments within the CO zone are required to create and maintain a 100 feet wide buffer strip along the inside perimeter of said zone. This 100 foot buffer zone is required to remain undisturbed unless the natural vegetation is not suitable to adequately screen on-site activities, in which case the applicant is permitted to supplement the existing vegetation and enhance the native plant material within the buffer zone.

It is notable that developments within this zone are permitted to achieve impervious lot coverage of 50%, or roughly 20 acres as applied to the property under study, pursuant to the provisions of the current zone regulations.

Planning Analysis

This amended land use element builds upon and continues the work established by the 1994 land use element. When the 1994 land use element was being prepared Oakland was considered to be substantially developed community, especially those portions of the Borough east of the Ramapo River. The 1994 land use element depicted the McCoy Road area under study as Planning Area 7 and performed a detailed review of this section of the Borough. The Corporate Office Zone had already been applied to the study area at the time the 1994 land use element was prepared.

Various alternative development scenarios were explored for Planning Area 7 during the preparation of the 1994 land use plan. More specifically, the planning board explored use of this area for low density single-family residential development, moderate/high density multi-family residential development and retaining the existing corporate office designation. Upon completion of this review, a determination by the planning board was made to retain the existing corporate office designation throughout the length and breadth of Planning Area 7. As such, upon completion of the Land Use Element the planning board recommended to the Mayor and Council to maintain the status quo with regard to the zoning of Planning Area 7.

It is now nearly 20 years later and this particular section of the Borough has not witnessed the construction of large scale office buildings in the Corporate Office zone.

Since adoption of the 1994 land use plan element the most significant governmental action as affects planning

and zoning in Oakland was the adoption of the Highlands Water Protection and Planning Act by the legislature and the subsequent adoption of the Highlands Regional Master Plan by the Highlands Council. As suggested by its name, the preservation and wise stewardship of the region's water resources is the overall purpose and objective forming the basis for the RMP.

PLANNING BOARD ACTION AND SUBSEQUENT RECOMMENDATIONS

As stated in the Introduction section of this amended land use element, a land use element 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.

For nearly 25 years the planning board objectives concerning the parcels identified above have not materialized. These parcels are much the same condition today as they were during the 1980's. Large scale office buildings have not been constructed on any of these properties. These parcels still do not have access to a centralized sanitary sewer treatment facility. The environmental constraints that existed on these properties 25 years ago continue to affect the development potential of these lots. These parcels continue to lack frontage along and access to a suitable regional roadway. These parcels continue to be adjacent to a regional high school and single-family dwellings, thereby lacking the supportive land use environment typically necessary for the establishment of a successful corporate office park.

Recognizing the likelihood that the underlying conditions, both market driven and infrastructure driven are not anticipated to significantly change, the time to adjust Borough expectations as they pertain to the study area has arrived.

For the reasons detailed within this amended land use element the planning board is herein revising the Land Use Element as pertains to the four lots which are the subject of this amended land use element. Each of these properties is to be placed within a residential land use classification.

More specifically, Block 3703 Lot 38 is herein now included in the High Density Residential land use classification. This designation is consistent with the adjacent residential properties along Yawpo Avenue to the west.

Block 4202 Lots 1, 2 and 3 are herein included within a new residential land use classification. This classification will encourage the development of a mixture of market rate detached single-family dwellings on individual lots as well as no fewer than five (5) dwellings affordable to low-and moderate-income households. To encourage efficient land use and a variety of design, these deed restricted affordable dwellings may be included within a triplex dwelling as well as a two-family dwelling. A triplex dwelling is a dwelling designed to look similar to a large single-family dwelling but consists of three independent self-contained dwelling units.

For the reasons outlined within this amended land use plan the planning board herein respectfully recommends to the governing body that the zoning designations of these properties be amended as detailed below.

The Oakland Zoning Map should be amended to incorporate Block 3703 Lot 38 into the RA-3 zone. Properties to the west of this property along both sides of Yawpo Avenue are within this designation. This proposed modification will enhance neighborhood compatibility. The zoning amendment as proposed herein will also eliminate the non-conforming use designation from this property and therefore remove unnecessary regulatory burdens should the owner ever desire to make improvements to the property.

Block 4202 Lots 1, 2 and 3 shall be placed in a residential zone district yet to be created. This proposed district shall permit the construction of both market rate, single-family dwellings and a minimum number of dwellings

affordable to low-and moderate-income households on lots containing no less than 30,000 square feet each. The maximum number of lots to be developed with single-family dwellings shall not exceed 21. Each of these 21 lots to be developed with a market rate single-family dwelling shall be limited to no more than one dwelling per lot.

A requirement attached to and part of this zone shall be the on-site construction of minimally five (5) dwellings affordable to low-and moderate-income households as these terms are defined by the New Jersey Department of Community Affairs (DCA). Each of these five affordable dwelling units shall be deed restricted consistent with DCA regulations so they continue to remain affordable. Each of these affordable dwelling units shall comply with all relevant DCA adopted requirements applicable at the time of occupancy, including but not limited to, affirmative marketing and tenant selection so that Oakland will receive affordable housing credits for all five dwellings. Three of the affordable dwellings shall consist of no less than two (2) bedrooms. The remaining affordable dwellings shall consist of at least three (3) bedrooms each. All affordable rents, if rental, or all affordable sales prices, if offered for sale, shall be consistent with and comply with New Jersey Department of Community Affairs' price stratification requirements applicable at the time of sale or rent of the dwellings.

The residential zoning applicable to Block 4202 Lots 1, 2 and 3 shall permit the development of no more than one (1) triplex building. This triplex building shall be constructed on its own independent lot. Said building will allow for the construction of three distinct and independent deed restricted and affordable dwelling units in one building. The architecture of the triplex units shall be consistent with the balance of the housing constructed on these lots with the exception that additional parking areas shall be permitted. All off-site parking facilities serving the triplex units shall be screened from public rights of way as well as adjacent single-family dwellings.

In addition to the triplex dwelling described above, a single building containing two (2) deed restricted affordable dwelling units is permitted to be developed on the subject property. This two-family dwelling shall be constructed on its own independent lot. The subject parcel may be subdivided to contain no more than 23 residential lots and one or more open space and/or stormwater management lots.

HOUSING ELEMENT AND FAIR SHARE PLAN

The Oakland Planning Board has adopted several housing plans. The most recent Oakland housing plan formed the basis for the Borough's petition to the Council on Affordable Housing seeking substantive certification. Earlier housing plans relied on a variety of properties to comply with the constitutional obligation to provide a realistic opportunity for the construction of affordable housing. Block 4202 Lots 1, 2 and 3 has never been expected to produce or contribute towards affordable housing solutions. It is then not unexpected that Oakland's current Housing Element and Fair Share Plan does not include these properties as sites contributing to affordable housing solutions.

Oakland's affordable housing plan has not received substantive certification from DCA due to the many court challenges filed against the current affordable housing procedural and substantive regulations.

It is uncertain when these challenges to the regulations will finally be resolved. Also unknown are the modifications to the regulations that will be necessary to conform the existing regulations to the upcoming court decision.

With this brief background in mind, it has been determined that it is premature at this time to amend the Oakland Housing Element and Fair Share Plan to include these properties and the affordable housing units that will be constructed thereon. Upon resolution of the court challenges and the promulgation of new affordable housing regulations by the Department of Community Affairs the Oakland Housing Element and

Fair Share Plan will be revised to include both the affordable units to be constructed on this property and to respond to the new regulations.

RELATIONSHIP TO OTHER PLANS

The properties (Block 4202 Lots 1, 2 and 3 and Block 3703 Lot 38) that are subject of this amendment to the land use plan are relatively small when compared to the overall size of Oakland, combined they consist of approximately 40.5 acres. The proposed modifications to the Master Plan Land Use Element and subsequent modifications to the Oakland Zoning Map are not expected to generate significant changes with regard to the plans of other agencies with two exceptions. More specifically, the modifications proposed herein will not have any significant effect on or impact to the Bergen County Master Plan nor the Bergen County solid waste management plan.

The State Development and Redevelopment Plan includes this portion of the Borough within the Metropolitan Planning Area. This planning area is anticipated to absorb much of the state's future growth and development. The proposed modification from intensive non-residential development to inclusionary residential development will continue to be consistent with the current state plan.

There are two instances where the recommended change from non-residential office complex to residential development will have an impact. In both cases, the impacts are perceived to be positive.

The properties under review are in close proximity to the Borough of Franklin Lakes along Oakland's eastern boundary. The current Land Use Plan adopted by the Franklin Lakes Planning Board is dated August 24, 1998. This Land Use Plan designates properties in Franklin Lakes adjacent to the subject property for very low residential density development. The portion of Franklin Lakes is within the single-family A-40 zone. This zone requires individual lots to minimally contain 40,000 square feet of area with no less than 200 feet of lot width.

Properties in Franklin Lakes are predominately large lot single-family residential. Oakland's current land use classification calls for the introduction of large scale office buildings to the area.

The modification proposed herein to the land use element will increase compatibility and consistency between the master plan and zoning documents of Oakland with those of neighboring Franklin Lakes. In addition, the proposed modification will also increase compatibility between existing developments in Oakland and Franklin Lakes and the potential future development of the property under review.

The Highlands Council has designated the subject property within the Protection Zone of the Planning Area. We believe the modifications proposed herein attain a greater degree of compatibility between the RMP and the Borough's planning documents.

The current zoning as it affects the properties under investigation would allow for the construction of large scale office buildings. The level of development under current zone regulations is rather intense. Present day regulations permit development to cover half the properties with impervious materials. In addition, to service the contemplated office buildings parking for hundreds of cars would need to be provided. Since the land form slopes, construction of buildings and parking lots would require much of the property to be re-graded, thus removing large expanses of mature forest from the property.

The day time population of these properties would swell, placing additional demands on the Borough's

potable water system.

In contrast the recommended changes will preserve much larger areas of the site in their current condition. The amount of impervious coverage will be significantly less than permitted under current zoning. Earth grading activities and tree removal will impact far less of the property.

For these reasons, the modification to the land use plan and the recommended zone changes contained in this amended land use plan are consistent and compatible with the stated purpose of the Highlands Water Protection and Planning Act as well as the subsequent RMP as adopted by the Highlands Council.