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Master Plan Reexamination Report: 2021 Amendment

August 12, 2021

**Borough of Hillsdale
Bergen County, New Jersey**

Adopted by the Planning Board

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Introduction

The New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-89 et seq., requires that Planning Boards review municipal master plans and zoning and land development regulations at least once every ten years. Although once every ten years is the minimum requirement, Planning Boards may undertake a reexamination report at any time to address changes in municipal assumptions, policies regarding land use or emergent land use issues. The statute requires that the reexamination report be adopted by the Planning Board by resolution and distributed to the State Office of Planning Advocacy and the County Planning Board. A notice that the report and resolution have been prepared must be sent to the municipal clerk of each adjoining municipality.

The purpose of a reexamination report, prepared in accordance with the Municipal Land Use Law, is to periodically reexamine the master plan, zoning, and land use and development regulations of a municipality to determine whether they continue to address the development goals and objectives of the municipality and to provide recommendations that will address proposed changes in development goals, the impact of development within the municipality, and the impact of planning and development regulations by the County, the State of New Jersey, and the federal government. The Municipal Land Use Law requires that municipalities review the master plan and zoning and land development regulations in terms of the following:

1. The major problems and objectives relating to land development in the municipality at the time of the adoption of the last reexamination report.
2. The extent to which such problems and objectives have been reduced or have increased subsequent to such date.
3. The extent to which there have been significant changes in the assumptions, policies and objectives forming the basis for such plan or development regulations as last revised, with particular regard to the density and distribution of population and land uses, housing conditions, circulation, conservation of natural resources, energy conservation, collection, disposition, and recycling of designated recyclable materials, and changes in State, County and municipal policies and objectives.
4. 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.
5. The recommendations of the Planning Board concerning the incorporation of redevelopment plans adopted pursuant to the "Local Redevelopment and Housing Law", P.L. 1992, c.79 (C.40A:12A-1 et seq.) 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.

6. The recommendations of the Planning Board concerning locations appropriate for the development of public electric vehicle infrastructure, including, but not limited to, commercial districts, areas proximate to public transportation and transit facilities and transportation corridors, and public rest stops; and recommended changes, if any, in the local development regulations necessary or appropriate for the development of public electric vehicle infrastructure.

The last Master Plan Reexamination Report was adopted on April 27, 2010. This report was subsequently amended in 2012 by An Amendment to the Borough of Hillsdale's Master Plan Reexamination Report (hereinafter "2012 Amendment") that was adopted May 2, 2012. The 2012 Amendment included recommendations pertaining to the Commercial Zone and conditional use standards for public utilities. Then in 2013, the Borough adopted The 2013 Amendment to the Borough of Hillsdale's Master Plan Reexamination Report (hereinafter "2013 Amendment"), which dealt with recommendations on cluster zoning, the New Jersey State Development and Redevelopment Plan, and "Sustainable Jersey".

The Hillsdale Planning Board is now amending the 2010 Master Plan Reexamination Report for a third time as described herein. The remainder of the text describes the amendments, which are limited to changes impacting the Industrial Zone.

Components of the Reexamination Report

- 1. *The major problems and objectives relating to land development in the municipality at the time of the adoption of the last reexamination report.***

No change.

- 2. *The extent to which such problems and objectives have been reduced or have increased subsequent to such date.***

No change.

- 3. *The extent to which there have been significant changes in the assumptions, policies and objectives forming the basis for such plan or development regulations as last revised, with particular regard to the density and distribution of population and land uses, housing conditions, circulation, conservation of natural resources, energy conservation, collection, disposition, and recycling of designated recyclable materials, and changes in State, County and municipal policies and objectives.***

On March 10, 2015, the Supreme Court ruled that the New Jersey Council on Affordable Housing (hereinafter “COAH”) failed to act and as a result, the Courts would be assuming jurisdiction over the Fair Housing Act. The Order divided municipalities into one of three categories – those that achieved Third Round Substantive Certification, those that filed or petitioned COAH and those that had never participated in the COAH process.

The transitional process created by the Supreme Court tracked the Fair Housing Act procedures for compliance. In this regard, the process permitted municipalities to file a Declaratory Judgment Action during a thirty-day window between June 8 and July 8, 2015 that sought an adjudication as to their fair share. This enabled a municipality to comply voluntarily with its constitutional obligation to provide a realistic opportunity for the construction of affordable housing. Hillsdale was proactive and filed its Declaratory Judgement Complaint on June 16, 2015.

On January 18, 2017, the Supreme Court ruled that municipalities are responsible for obligations purportedly accruing during the so-called “gap period,” the period of time between 1999 and 2015. However, the Court stated that the gap obligation should be calculated as a never-before-calculated component of Present Need (also referred to as Rehabilitation Obligation), which would serve to capture Gap Period households that were presently in need of affordable housing as of the date of the Present Need calculation (i.e. that were still income eligible, were not captured as part of traditional present need, were still living in New Jersey and otherwise represented a Present affordable housing need). This obligation is commonly referred to as the Gap Need.

The Borough of Hillsdale negotiated with the only interested party in the case – Fair Share Housing Center (hereinafter “FSHC”) over the course of the litigation. Eventually the Borough and FSHC reached a settlement. On October 10, 2017 the Borough Council executed a Settlement Agreement with FSHC. Following that, a Fairness Hearing was held before Judge Farrington, which resulted in an Order declaring the Settlement Agreement fair and reasonable, on February 12, 2018. After adopting the required compliance documents, Hillsdale received a Final Judgment of Compliance and Repose on September 25, 2019.

4. The specific changes recommended for the Master Plan or development regulations, if any, including underlying objectives, policies and standards, or whether a new plan or regulations should be prepared.

The 2017 Settlement Agreement included a portion of the Industrial Zone located off Patterson Street as a mechanism to be applied towards the Third Round Unmet Need. The Agreement indicates that a redevelopment designation of a portion of the Industrial Zone will occur and after the area is designated, the Borough will adopt a Redevelopment Plan that will permit inclusionary housing at a maximum density of 28 units to the acre.

Thereafter, the Planning Board adopted a Housing Element & Fair Share Plan (hereinafter “HEFSP”) on April 24, 2018 to effectuate the terms of the 2017 Settlement Agreement. The HEFSP specifies the block and lots that were included in the potential redevelopment area, they are:

- Block 1207, Lots 8, 9, 10 and 11
- Block 1208, Lots 1 through 5
- Block 1209, Lots 2 through 6
- Block 1210, Lots 6 through 11
- Block 1211, Lots 1 and 2
- Block 1212, Lot 13

However, the preliminary investigation concluded that only 17 of the 23 properties met the criteria to be designated as an Area in Need of Redevelopment. Following the redevelopment designation in 2019, the Borough authorized a redevelopment plan to be prepared. The Hillsdale-Patterson Street Redevelopment Plan was adopted in 2020, permits inclusionary development as per the 2017 Settlement Agreement, and includes the following blocks and lots:

- Block 1207, Lots 8, 9 and 10
- Block 1208, Lots 1 through 5
- Block 1209, Lots 2, 3 and 4
- Block 1210, Lots 8 through 11
- Block 1211, Lots 1 and 2

Therefore, 6 of the 23 lots were not rezoned in accordance with the 2017 Settlement Agreement and HEFSP. These lots are:

- Block 1207, Lot 11
- Block 1209, Lots 5 and 6
- Block 1210, Lots 6 and 7
- Block 1212, Lot 13

Therefore, it is recommended that the Borough's development regulations be amended to create a new overlay zone for the six above-mentioned lots, which would permit inclusionary development at a maximum density of 28 units to the acre in accordance with the 2017 Settlement Agreement. The underlying Industrial Zone would remain in place, but the overlay would provide the option for inclusionary residential development.

5. The recommendations of the Planning Board concerning the incorporation of redevelopment plans adopted pursuant to the "Local Redevelopment and Housing Law", P.L. 1992, c.79 (C.40A:12A-1 et seq.) 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.

No change.

Conclusion

This amendment to the 2010 Master Plan Reexamination Report addresses the need to create an overlay zone for six lots in the Industrial Zone to comply with the 2017 Settlement Agreement and the HEFSP. No other revisions are proposed to the Borough's master plan or development regulations at this time.

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