

REEXAMINATION OF THE MASTER PLAN AND DEVELOPMENT REGULATIONS

**TOWNSHIP OF MILLBURN
ESSEX COUNTY, NEW JERSEY**

Township of Millburn Planning Board

in consultation with

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I. INTRODUCTION

The Municipal Land Use Law of the State of New Jersey mandates at N.J.S.A. 40:55D-89 that the governing body shall, at least every six years, provide for a general reexamination of its master plan and development regulations by the planning board, which shall prepare and adopt by resolution a report on the findings of such reexamination.

There are five elements which the reexamination report must include:

- 1) A section outlining the major problems and objectives relating to land development in the municipality at the time of the adoption of the last reexamination report.
- 2) A section describing the extent to which such problems and objectives have been reduced or have increased subsequent to that date.
- 3) A section discussing 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 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) A section setting forth the recommended changes to 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) A section setting forth 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 Township of Millburn completed its last comprehensive master plan in 1991. Reexamination reports of the master plan and development regulations were subsequently prepared, the most recent of which was adopted in 2002. Consequently, there is a need to reassess Millburn's 2002 reexamination report in compliance with N.J.S.A. 40:55D-89.

II. MAJOR PROBLEMS AND OBJECTIVES RELATING TO LAND DEVELOPMENT IN THE 2002 MASTER PLAN REEXAMINATION

The following outlines the major problems and objectives relating to land development as set forth in the 2002 Master Plan Reexamination. The 2002 document indicates that a number of the problems and objectives highlighted in the prior Master Plan Reexamination had been addressed and/or fulfilled in the intervening years. At the same time, the 2002 Reexamination revealed that some of the problems and objectives identified in the prior Master Plan Reexamination had either remained relatively static or had actually increased over time.

The Township's major problems and objectives as set forth in the 2002 Master Plan Reexamination may be summarized as follows:

1. Significant Development Activity in the Surrounding Area

It was noted there had been significant development activity in the years leading up to 2002 in the areas surrounding Millburn, particularly in the adjacent municipalities of Florham Park and Livingston. Traffic volume had increased on Passaic Avenue due to this new development.

2. Continued Lack of Development Activity on the Saks Fifth Avenue Site

The former Saks Fifth Avenue store in Springfield Township along the Millburn border near Millburn Avenue is large parcel which has not redeveloped due to land use applications and litigation. The reexamination indicated this site's redevelopment could have substantial impacts on Millburn.

3. Substantial Development Activity in Residential Areas

Development activity in the Township from 1994 to 2002 largely involved single-family homes, including both additions and replacement of existing houses. The reexamination stated that new homes were generally one-for-one replacements of existing dwelling units – all of which had market values in excess of \$1,000,000. As a result, certain changes were recommended to zoning regulations for the Township's residential areas, including possible changes to dimensional, height and coverage limits.

It was indicated there was limited development activity in non-residential areas, which consisted primarily of renovations of commercial buildings.

4. Changes in Public School Enrollment

By 2002, a trend of declining public school enrollment had reversed. The Millburn School District had an increase of 28 percent (over 900 students) in Kindergarten to Grade 12 between the 1998-1999 and 2002-2003 school years. This growth resulted in the expansion of school facilities including additions as well as the reopening of a formerly closed school.

5. Shifts in Population Groups

The increase in public school enrollments was concurrent with growth in certain age brackets in Millburn. The Township's population increased 6.1 percent between 1990 and 2000. There was a large increase during the 1990s in the population between 5 and 14 years, and the 0 to 5, 35 to 44 and 45 to 54 years age brackets also grew during this period. The following population cohorts decreased in size from 1990 to 2000: 15 to 24, 25 to 34 and 55 to 64 years and 65 years and over.

6. Modifications to the Development Regulations and Zoning Ordinance

A number of modifications were made to the Township's zoning and land use regulations between the adoption of the 1991 Master Plan and 2002. These changes were characterized in the 2002 reexamination as "minor modifications which are intended to reinforce the integrity of the established zones."

In addition to the changes recommended to residential zoning regulations noted above, other recommended changes included the following: allowing medical offices in one or more zones, particularly the OR-2 Office Research District; modifying development review procedures including when site plan review is necessary; reviewing tree removal regulations; and examining development application fees.

7. Adequacy of Open Space

It was indicated there was a need to reevaluate the adequacy of active and passive open space in the Township, particularly lands that were currently utilized for water supply purposes and functioning as open space.

8. Downtown Business District

The reexamination continued to recommend the need for the master plan to focus on the downtown business district.

9. Parking and Traffic Issues

The particular areas of concern related to parking included providing for the needs of downtown businesses, a mechanism to monitor variance approvals that were conditioned upon the securing of municipal parking permits and a desire for greater specificity in parking standards (e.g., separating broad categories into subcategories). It was also noted that "traffic circulation in the downtown should be viewed with the goal of business promotion and not only with the traditional goal of facilitating through-traffic."

In addition, the goals and objectives of the 1991 Master Plan as listed in its Land Use Plan Element were restated in the 2002 Master Plan Reexamination. These are as follows:

- a. To coordinate and integrate appropriate land uses that will promote the character of the township as a small suburb of the highest quality and that will preserve the quality of life that makes this community desirable.
- b. To protect the character of established neighborhoods.
- c. To promote the opportunities for higher quality retail commercial activity in the central business district and the Glenwood business area.
- d. To maintain a pedestrian scale in the central business district and the Glenwood business area.
- e. To provide for park and recreation area in adequate amounts to meet the needs of township residents.
- f. To prohibit development of areas inappropriate for development, such as flood plains, water reserves, wetlands and other environmentally sensitive area.
- g. To provide for the continuing educational and cultural needs of the community, including recognition of the role of the Paper Mill Playhouse.
- h. To recognize and encourage the preservation of areas and sites of historic interest.

III. CURRENT STATUS OF PROBLEMS AND OBJECTIVES SET FORTH IN THE 2002 MASTER PLAN REEXAMINATION

This chapter examines the extent to which there have been significant changes in the assumptions, policies and objectives forming the basis for the 2002 Master Plan reexamination. Although many of the policies and objectives identified in the preceding chapter remain valid at this time, several of the specific master plan recommendations have been addressed in the intervening period.

Development has continued, both within and outside the Township's borders. As in 2002, a large part of the construction activity in the prior six years has been in residential areas. There has been limited additional development in non-residential areas, including additional renovations of commercial buildings. New retail activity in adjacent municipalities will likely have impacts on commercial uses and properties in Millburn. However, the former Saks Fifth Avenue store in Springfield Township still has not been redeveloped.

Enrollment in the Millburn School District has increased since 2002, although not by as much as during the previous six-year period. Population changes at the age cohort level will not be definitively determined until the results of the 2010 Census are available.

The downtown area remains a concern. As discussed in Chapter VI, the Township has undertaken an initiative to redevelop a portion of the downtown business district.

The following ordinances amending the Township's Development Regulations and Zoning Ordinance have been adopted since 2002:

Ordinance Number	Date of Adoption	Subject
2197-02	3/5/02	Amended Article 7, "Flood Damage Prevention" in its entirety
2203-02	9/12/02	Modified garage regulations in the R-3, R-4, R-5 and R-6 zones
2214-03	6/10/03	Added Article 9, "Well Head Protection"
2241-04	12/16/04	Amended certain definitions, expiration of variances clause and fence and wall regulations
2246-05	3/1/05	Added "advance practice nurses" to the definition of a medical-professional office
2254-05	6/21/05	Modified minimum side yard, building coverage and maximum building height requirements in the R-3 and R-4 zones
2257-05	8/16/05	Modified garage regulations in the R-3, R-4, R-5 and R-6 zones

2259-05	8/16/05	Changed the maximum gross leasable area permitted in the B-1 zone
2262-05	9/6/05	Repealed regulations guiding use variance applications to the Planning Board
2264-05	12/6/05	Added gross floor area requirements for the R-3 and R-4 zones
2274-06	9/5/06	Created a stormwater control ordinance for the Township
2286-07	5/1/07	Amended steep slope regulations in the R-3, R-4, R-5 and R-6 zones
2300-07	10/23/07	Created a Conservation-Educational/Cultural CE zone
2311-08	3/18/08	Created a Commercial/Medical Office CMO zone
2313-08	5/20/08	Modified bulk regulations in the R-3, R-4, R-5, R-6 and R-7 zones
2314-08	5/6/08	Regulated the placement and use of portable on-demand storage containers in residential zones
2318-08	5/20/08	Repealed regulations permitting appeal of Board of Adjustment decisions to the Township Committee to be consistent with the appeal procedure for Planning Board decisions
2325-08	8/19/08	Re-adopted Ordinance No. 2300-07
2326-08	8/19/08	Re-adopted Ordinance No. 2311-08

IV. THE EXTENT TO WHICH THERE HAVE BEEN SIGNIFICANT CHANGES IN ASSUMPTIONS, POLICIES AND OBJECTIVES FORMING THE BASIS FOR THE MASTER PLAN OR DEVELOPMENT REGULATIONS AS LAST REVISED

For the most part, the goals and objectives which formed the basis for the Township's Master Plan as last revised remain valid at the present time. Nonetheless, some changes have occurred in Millburn that were not envisioned at the time of the 2002 reexamination report. Such changes have taken place not only at the municipal level, but at other levels of government as well.

The Township has remained generally stable in terms of population and development. Table 1 shows the estimated population of Millburn from 2002 to 2007. According to State estimates, the Township's population has decreased by nearly five percent since 2002. Table 2 indicates that an average increase of 25.8 dwellings per year from 2002 to 2007 as determined by building permits was offset by an average of 27.5 residential demolitions per year during the same period. This pattern is not uncommon in desirable built-up suburban communities like Millburn, where the trend has been for redevelopment of existing properties with larger and more expensive homes.

Table 1: Estimated Population, Township of Millburn, 2002 to 2007

Year	Residents	Change	Percent Change
2002	19,684	--	--
2003	19,569	-115	-0.58%
2004	19,381	-188	-0.96%
2005	19,164	-217	-1.12%
2006	18,947	-217	-1.13%
2007	18,755	-192	-1.01%
Change, 2002 to 2007		-929	-4.72%

Source: State of New Jersey, Department of Labor and Workforce Development

Table 2: Residential Building and Demolition Permits Issued, Township of Millburn, 2002 to 2007

Year	Building Permits	Demolition Permits
2002	12	16
2003	26	25
2004	30	33
2005	44	33
2006	29	29
2007	14	29
Total	155	165

Source: State of New Jersey Department of Community Affairs, Division of Codes and Standards

Since the 2002 Master Plan Reexamination, there have been other governmental actions that relate to Township land use policies and objectives.

At the local level, an investigation was undertaken to determine whether a small portion of downtown Millburn met the criteria for designation as an “area in need of redevelopment” as defined by the New Jersey Local Redevelopment and Housing Law. A redevelopment study adopted in early 2007 concluded that this area indeed qualifies as an “area in need of redevelopment.” Additional information regarding this study area is included in Chapter VI.

Also, in 2008 the Township of Millburn purchased the Paper Mill Playhouse, a regional theater located on a four-acre site adjacent to downtown Millburn that had experienced financial difficulties in recent years. The Township has agreed to lease the theater back to the non-profit corporation that runs it.

At the state level, a mandate that has been put in place since 2002 is the adoption of the New Jersey Department of Environmental Protection’s Stormwater Management and Water Quality Rules. These rules, which comprise of two sets of rules published in February 2004, address the reduction of pollutants associated with existing stormwater runoff and establish the stormwater management design and performance standards for new development. Millburn has incorporated these rules into its development regulations.

V. SPECIFIC CHANGES RECOMMENDED FOR THE MASTER PLAN AND DEVELOPMENT REGULATIONS

The current Development Regulations and Zoning Ordinance document has been updated a number of times over the past few years. However, there are some items within this document that should be evaluated for potential amendments to reflect changed conditions and better planning techniques.

The regulations for the Township's "B" zones, which encompass Millburn's main business districts, should be evaluated. Items that should be examined include permitted uses, height, density and intensity and parking standards. Design guidelines should be considered for the downtown area.

Consideration should be given to addressing needed changes in the Township's steep slope regulations. The zoning ordinance currently mandates reduction of the permitted building and lot coverages on parcels in the R-3, R-4, R-5 and R-6 zones that are over one-third encumbered by slopes in excess of 15 percent. However, this provision does not protect the actual steep slope areas from disturbance, as a steep slope ordinance generally does.

It is also recommended that the Township look for ways to become a more sustainable community. Revisions to the Development Regulations and Zoning Ordinance could help further this objective, such as through changes to site design standards and incorporation of "green" building techniques.

VI. RECOMMENDATIONS OF THE PLANNING BOARD CONCERNING THE INCORPORATION OF REDEVELOPMENT PLANS INTO THE LAND USE ELEMENT AND LOCAL DEVELOPMENT REGULATIONS

In 1994, the Municipal Land Use Law in New Jersey was amended to include, as part of the Master Plan Reexamination report, recommendations of the Planning Board concerning the incorporation of redevelopment plans (adopted pursuant to the Local Redevelopment and Housing Law of 1992) into the land use element, and accompanying changes to the development regulations. The Local Redevelopment and Housing Law affords municipalities the authority to designate areas "in need of redevelopment," provided they meet specific statutory criteria, as well as to prepare and implement redevelopment plans for such areas.

There is one section of the Township of Millburn to which this section applies. As noted, the downtown area has been the subject of planning concern dating back to at least the 1991 Master Plan. On July 18, 2006, the Township Committee of the Township of Millburn authorized the preparation of an investigation to determine whether portions of three tax blocks located in the downtown portion of the municipality (more particularly referred to as the "study area") meet the requirements for designation as an "area in need of redevelopment" as established under NJSA 40A:12A. The area that was under consideration for redevelopment area designation comprises approximately 13 acres and is made up of 13 property assemblages which encompass a total 18 tax lots on portions of two tax blocks. This area is generally bounded by the New Jersey Transit railroad tracks on the north; Lackawanna Place on the east; Millburn Avenue, Essex Street and Douglas Street on the south; and Spring Street and Douglas Street on the west.

The redevelopment area investigation for this area concluded that the majority of the properties and over 90 percent of the acreage within the study area met one or more of the statutory conditions for redevelopment area designation. It was further noted that the remaining properties that do not in and of themselves meet any of the statutory criteria could be properly included as part of the designated redevelopment area, in accordance with Section 3 of N.J.S.A. 40A:12A. Therefore, the study area qualifies as "an area in need of redevelopment" in accordance with the Local Redevelopment and Housing Law, as set forth in the redevelopment study adopted in early 2007. The Township Committee retained a consultant in mid-2007 to prepare a redevelopment plan for this area. The plan has not yet been adopted.