

**MASTER PLAN REEXAMINATION REPORT & AMENDMENT**

**Middletown Township Planning Board  
Monmouth County, New Jersey**

**September 12, 2011**

Prepared by:

A handwritten signature in black ink, appearing to read 'Jason A. Greenspan', with a horizontal line extending to the right from the end of the signature.

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**TABLE OF CONTENTS**

**INTRODUCTION .....1**

**PROBLEMS & OBJECTIVES IN 2009 .....2**

**PROBLEMS & OBJECTIVES CHANGES SINCE 2009.....3**

**CHANGES IN ASSUMPTIONS, POLICIES & OBJECTIVES .....6**

**CHANGES TO MASTER PLAN AND DEVELOPMENT REGULATIONS.....8**

**REDEVELOPMENT PLANS .....11**

**APPENDIX:    Master Plan Amendment prepared by Cheryl Bergailo, PP/AICP of Taylor Design Group,  
                  LLC dated September 9, 2011**

## Introduction

The Municipal Land Use Law (MLUL) at N.J.S.A. 40:55D-89 requires a municipality to conduct a general reexamination of its master plan and development regulations at least once every ten years from the previous reexamination.

The Middletown Township Planning Board adopted a comprehensive Master Plan in October 2004. Consistent with the provisions of the MLUL, the Planning Board periodically reexamines and updates certain elements of its Master Plan to proactively plan for future development. The last time the Planning Board formally reexamined the Township's Master Plan was in July 2009, at which time the Land Use Element of the Master Plan was amended to ensure consistency with the Housing Element. Since that time, the Middletown Township Committee and the Township Planning Board jointly entered into a settlement agreement with Bamm Hollow, LLC, the owners of a 279 acre tract of land flanking the Lincroft and Oak Hill neighborhoods. This settlement agreement, which was fully executed on June 7, 2011, quieted many years of litigation related to the Township's Housing Plan, and obligates the Township to set the foundation for the rezoning of the Bamm Hollow tract to produce up to 190 residential units. This residential yield is a significant change from former Master Plan policies. Accordingly, a formal reexamination of the Master Plan is now in order, which also provides the Township with an opportunity to review shifts in local, regional and statewide policy changes since mid-2009.

This Reexamination Report contains a discussion of the following:

- 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 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.
- 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 regulations 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, N.J.S. 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.

Moreover, specific amendments to Master Plan Elements including Land Use, Circulation, Conservation/Open Space/Recreation, Utilities and Community Facilities are included both in the text of this Reexamination Report and in the Report Appendix.

## **Problems & Objectives in 2009**

- a. The Reexamination Report should include a discussion of the major problems and objectives relating to land development in the municipality at the time of the adoption of the last reexamination report.*

The Township's 2009 Reexamination Report identified the following principal problems and objectives relating to land development:

- 1. The need to address the Township's affordable housing obligations per regulations established by the New Jersey Council on Affordable Housing (COAH) was considered an objective.*
- 2. The need to further tighten floor area ratio limits in residential zones was considered an objective, or identifying another means of limiting the construction of oversized houses that are out of scale with either the lot size or the character of surrounding development.*
- 3. The need to lower residential dwelling unit densities in areas where significant environmental constraints exist and where significant amounts of potentially developable land exists was considered an objective, in order to limit excessive growth and its associated community impacts. Overuse and overdevelopment of environmentally constrained land was considered a problem, particularly in the McClees Creek and Navesink River watershed.*
- 4. The need to adopt regulations that would establish minimum dimensions for the buildable area of lots for single family dwellings was considered an objective.*

## Problems & Objectives Changes Since 2009

*b. The Reexamination Report should explain the extent to which such problems and objectives have been reduced or have increased subsequent to such date.*

- 1. The need to address the Township's affordable housing obligations per regulations established by the New Jersey Council on Affordable Housing (COAH) was considered an objective.* The provision of fair housing opportunities for low and moderate income households is continually addressed by the Township through implementation of its adopted Housing Element and Fair Share Plan, which was granted substantive certification by COAH on October 14, 2009. Subsequent to COAH's certification the Township implemented zoning changes in November 2009 to achieve consistency with the Master Plan Land Use and Housing Elements.

No changes to the Township's Housing Element and Fair Share Plan are recommended at this time. However, there are a number of changes occurring at the State level and through the courts that may have an impact on the Township's housing policies at a future date:

- In October 2010, the Appellate Division invalidated substantive portions of COAH's revised 3<sup>rd</sup> round regulations, including a declaration that the "growth share" methodology as applied by COAH was unconstitutional. It is these revised 3<sup>rd</sup> round regulations that help to form the policy basis of the Township's Housing Element and Fair Share Plan. The court ultimately remanded the regulations back to COAH so that new regulations could be developed more in alignment with 1st and 2nd round methodologies by March 2011.
  - In March 2011, the New Jersey Supreme Court granted petitions for certification of the Appellate Division decision invalidating COAH's 3rd round regulations. This allows appeals of the Appellate Division's decision to proceed before the Supreme Court. The Supreme Court stayed portions of the Appellate Division decision, including the deadline for developing new affordable housing regulations.
  - In late June 2011, Governor Chris Christie issued Reorganization Plan #001-2011 formally abolishing COAH. This Reorganization Plan became effective at the end of August 2011, and all of COAH's responsibilities and duties have officially been transferred to the Department of Community Affairs (DCA). COAH was abolished before any revisions to 3<sup>rd</sup> round regulations were developed, as these are still under appeal to the Supreme Court. Despite the unsettled regulatory and legal milieu, Middletown remains keenly aware of the "Mount Laurel" doctrine that a municipality may not engage in exclusionary zoning, and of its continued obligation to provide reasonable affordable housing opportunities to all households.
- 2. The need to further tighten floor area ratio limits in residential zones was considered an objective, or identifying another means of limiting the construction of oversized houses that are out of scale with either the lot size or the character of surrounding development.* Following the 2009 Reexamination Report's recommendation, the Zoning Ordinance was amended in 2010 to control the overwhelming scale of homes on lots containing greater than

75' of frontage and/or up to 1-acre of land. Specifically, the maximum permitted height of single family dwellings on lots 100' wide or less as measured at the street line was reduced from 35' to 28'. Building height may increase by 1' for every 5' of lot width above 100', but in no case can residential building height exceed 35'. Accordingly, the concern regarding the overwhelming scale of residential homes has been sufficiently addressed.

3. *The need to lower residential dwelling unit densities in areas where significant environmental constraints exist and where significant amounts of potentially developable land exists was considered an objective, in order to limit excessive growth and its associated community impacts. Overuse and overdevelopment of environmentally constrained land was considered a problem, particularly in the McClees Creek and Navesink River watershed. This objective remains valid, particularly in areas in the Township that are designated as Planning Area 5 by the State Development and Redevelopment Plan, and in light of amendments to Monmouth County's Wastewater Management Plan which are intended to bolster NJDEP policies of preserving environmentally constrained lands.*
4. *The need to adopt regulations that would establish minimum dimensions for the buildable area of lots for single family dwellings was considered an objective. Zoning regulations were further refined in March 2010 providing flexibility in Performance Residential Development (aka. "clustering") provisions that allow reduced lot sizes in exchange for critical area preservation regardless of tract size. Density provisions were altered slightly in order to encourage the preservation of natural features while maintaining certain standards for minimum dimensions for buildable lot area. Accordingly, the issue of adopting regulations to establish minimum dimensions for the buildable area of lots has been sufficiently addressed.*
5. *Flood Hazard Areas – The 2009 Reexamination Report recommended updating Planning and Development Regulations for the prevention of flood damage before September 25, 2009, which was the effective date of the Federal Emergency Management Agency's (FEMA) updated Flood Insurance Rate Maps (FIRM). Updated regulations were adopted by the Township on September 21, 2009. Adoption of significant elements of the Model Flood Damage Prevention Ordinance prepared by the NJDEP has permitted the Township to continue participation in the National Flood Insurance Program (NFIP) as administered through FEMA. Some enhancements to the Model Ordinance have allowed the Township to obtain a rating of "8" in FEMA's Community Rating System (CRS), which will likely result in substantial flood insurance policy savings to property owners.*
6. *Energy Efficiency and Conservation – As recommended by the 2009 Reexamination Report, the Township developed an Energy Efficiency and Conservation Strategy (EECS) in order to efficiently utilize grant funds made available by the federal government. The EECS prioritizes the retrofitting of municipal facilities with more energy efficient equipment, and the purchase of more fuel-efficient vehicles. The EECS can serve as the foundation for developing a Green Building and Environmental Sustainability Element of the Master Plan, which would also include a Climate Action Plan and a Greenhouse Gas Reduction Plan. The need for this new Master Plan Element has increased, as it would encourage the efficient use*

of natural resources and plan for the impacts of buildings on the local, regional and global environment through site orientation and design.

7. *North Middletown Neighborhood Preservation* – As noted by the 2009 Reexamination Report, a Neighborhood Revitalization Strategy (NRS) was prepared and implemented for the “threatened but viable” North Middletown neighborhood. The NRS serves as a background study to the Township’s overall Master Plan in establishing policies for the long-term stabilization of this neighborhood, particularly regarding housing rehabilitation, public facility needs and infrastructure improvements.
8. *Monmouth County Wastewater Management Plan* - Monmouth County proceeded with updating the County Wastewater Management Plan (WMP) throughout 2009, 2010 and 2011, and continued to broker negotiations between the NJDEP, the Middletown Township Sewerage Authority (TOMSA) and the Township to ensure policy consistency. The final draft WMP was completed on May 2, 2011, and public comments were accepted until August 8, 2011. Certain comments were submitted by TOMSA to ensure that existing sewer properties were included in sewer service areas, particularly near the intersection of Highway 35 and Kanen Lane, and to ensure that facilities on municipal parkland had opportunities to connect to public sewers. The degree to which any public comments will impact the final WMP remains to be seen.

## Changes in Assumptions, Policies & Objectives

- c. The Reexamination Report should discuss 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.*

There are no significant changes to the assumptions, policies or objectives that form the basis of the Master Plan. However, certain issues are worth noting:

1. Census 2010 – Population results from the 2010 Census show that Middletown’s official population stands at 66,522. This represents a population decline of 957 since 2000, or a 1.4% decrease. The following table shows Middletown’s population trends since 1940:

**MIDDLETOWN POPULATION, 1940-2010**

<b>Year</b>	<b>Population</b>	<b>Number Change</b>	<b>% Change</b>
1940	11,018	-	-
1950	16,203	5,185	47.1
1960	39,375	23,172	143.0
1970	54,623	15,248	38.7
1980	62,574	7,951	14.6
1990	68,183	5,609	9.0
2000*	67,479	-704	-1.0
2010	66,522	-957	-1.4

\*Adjusted from 66,327 by the US Census Bureau on 12/5/03

The County Planning Board has noted population declines in more than 50% of Monmouth County municipalities, and only a nominal county-wide population increase of 15,079.

While it does not seem plausible that Middletown’s population has decreased when a net 1,099 new dwelling units were constructed in the Township between 2001 and 2010, population decrease can be attributed to a number of factors such as increased housing vacancy rates and decreasing household sizes. Township Planning Department staff will continue to track census data as it is released throughout 2011 to help determine Township’s population and housing trends.

2. Municipal Land Use Law Amendments – Certain amendments to the Municipal Land Use Law (MLUL) have been made since the 2009 Reexamination Report was adopted and are worth highlighting:

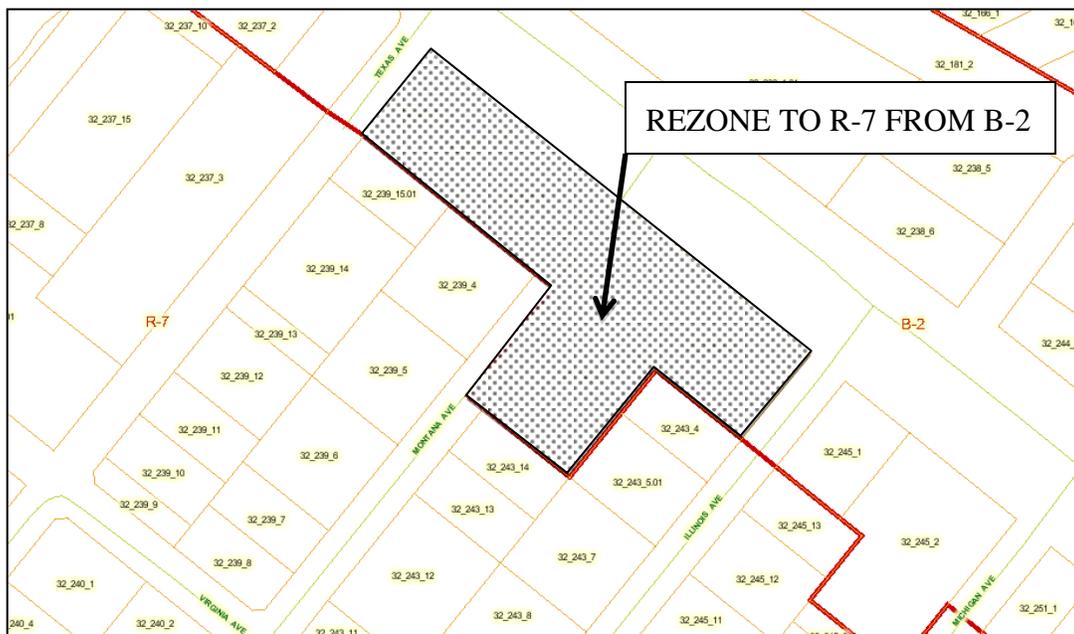
- General development plan (GDP) protection can now be extended to large development projects situated on sites less than 100 acres. GDP's can now be sought for projects with a nonresidential floor area of 150,000 square feet or more, or with 100 residential dwelling units or more, on sites of 100 acres or less.
- The MLUL now defines "inherently beneficial use" to specifically include facilities and structures that supply electrical energy produced from wind, solar, or photovoltaic technologies. Additionally, the MLUL now provides for regulation of "small" wind energy systems; such facilities may not be prohibited outright, and specific height and setback standards shall be developed.
- A Reexamination Report is now required every 10 years at minimum instead of every 6 years. While this flexibility certainly will be a cost savings to smaller municipalities, it is not recommended that Middletown wait a full decade to review its Master Plan policies and objectives.

## Changes to Master Plan and Development Regulations

- d. *The Reexamination Report should include 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 Planning Board should amend the Master Plan as follows:

1. Bamm Hollow – On June 7, 2011, the Middletown Township Committee and the Township Planning Board jointly entered into a settlement agreement with Bamm Hollow, LLC, the owners of a 279 acre tract of land flanking the Lincroft and Oak Hill neighborhoods. This settlement agreement quieted many years of litigation related to the Township’s Housing Plan, and obligates the Township to set the foundation for the rezoning of the Bamm Hollow tract to produce up to 190 residential units. While this residential yield represents an increase in residential density from former Master Plan policies, a substantial amount of land will be dedicated to the Township for municipal purposes to offset impacts. Amendments dated September 9, 2011 to the Land Use, Circulation, Conservation/Open Space/Recreation, Utilities and Community Facilities Elements of the Master Plan as they relate to the Bamm Hollow site and its environs have been prepared by Cheryl Bergailo, PP/AICP of Taylor Design Group, LLC and are included in the Appendix of this Reexamination Report.
2. Highway 36 Commercial Zoning - An area in the Port Monmouth neighborhood on the southwesterly side of Highway 36 extending from Texas Avenue north to Illinois Avenue is currently zoned as commercial B-2. Based on the existence of residential homes in this area adjacent to residential uses, Block 239, Lots 1, 2 and 3, and Block 243, Lots 1 and 2.01 should be rezoned to residential R-7 to more accurately reflect established development patterns. **The Master Plan Land Use Element is hereby amended to assign a residential land use designation to these lots.**



## **New Comprehensive Master Plan**

While a new Master Plan is not recommended at this time, certain elements should be comprehensively updated and/or added consistent with 2009 Master Plan Reexamination Report recommendations, including:

1. Circulation Element (update) – Substantial changes to traffic circulation patterns, transit initiatives and policies have occurred since 2004, including:
  - Red Hill Road/Dwight Road/Van Schoick realignment
  - Newman Springs Road roundabout installation
  - Harmony Road traffic signal installation near Route 35
  - Dock and Roll local transit shuttle
  - Policies and plans for road improvements and realignments (e.g. Newman Springs Road in Lincroft, Kings Highway/Church Lane, Navesink Ave/Monmouth Ave/Valley Drive) have been further developed by Monmouth County
  - Old Country Road circulation concerns
  - Access to and within municipally owned property located adjacent to Hillside Avenue and Unity Road
  - Potential connection between Kanes Lane and Kings Highway East through the PD Zone

A substantially updated Circulation Element should be prepared that analyzes these and other emerging issues in further detail.

2. Recreation and Open Space Element (update) – In 2008 the Township Committee and the Department of Parks, Recreation and Cultural Affairs prepared a comprehensive Parks, Recreation and Open Space Master Plan. This Plan, which includes a detailed inventory of all Township park facilities, was prepared in response to issues raised by residents about desired facilities including athletic field improvements, an indoor swimming pool, an ice rink, as well as the need to improve the existing parks. The Plan includes a “Vision for the Future” and a series of action strategies to accomplish the vision. The Township’s Open Space, Recreation and Conservation Element of the Master Plan should be updated to ensure consistency with this Plan.
3. Economic Element (new) – The Master Plan should include an Economic Element that considers all aspects of economic development and sustained economic vitality in the Township. The Plan would include an inventory of the Township’s current employers and overall labor characteristics. An analysis would be completed of the types of employment to be expected by the economic development to be promoted with the characteristics of the labor pool resident in the Township and nearby areas. An analysis of the stability and diversity of the economic development to be promoted would be completed.

4. Port of Belford - In January 2009, the Township completed the Port of Belford Economic Feasibility Study and Conceptual Development Plan, which was a initiative funded by the State Office of Smart Growth (OSG). The Plan makes recommendations to ensure the economic and physical viability of commercial development at the Port that would complement and support the established commercial fishing industry and, ultimately, the redevelopment of the overall area. **This Study and Plan is hereby incorporated into the Master Plan as a background study, and efforts should be made to seek additional resources for plan implementation.**
  
5. Green Building and Environmental Sustainability Element (new) - The purposes of this new master plan Element include encouraging and promoting the efficient use of natural resources; reducing fossil fuel emissions and total energy use; improving energy efficiency; weighing the impact of development on the local, regional and global environment through site orientation and design. This Element would establish the foundation for enacting “green” development standards in the Zoning Ordinance.

## Redevelopment Plans

- e. The recommendations of the planning board concerning the incorporation of redevelopment plans adopted pursuant to the Local Redevelopment and Housing Law (LRHL), N.J.S. 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.*

While the Township Committee has not formally adopted any redevelopment plans per the Local Redevelopment and Housing Law, nine locations are recommended for investigation to determine if conditions are present for designating a redevelopment area.

1. In the Spring of 2009, the Township Committee directed the Planning Board to conduct a redevelopment investigation for a section of the North Middletown neighborhood situated along Port Monmouth Road generally located between Pacific Avenue and Hudson Ave. This area includes a series of non-residential uses that continue to show certain levels of deterioration.
2. The area generally located along and between Rt. 36, Church Street, Main Street and Railroad Avenue in Belford should be investigated.
3. The area generally encompassed by Block 599, lots 1.01, 4, 9, 37, 40 & 41. located at the northwest corner of Rt. 35 and Old Country Road should be investigated.
4. The location of the former "Middletown Tool Rental" facility and its environs located at Block 502, Lots 1, 2 & 7 should be investigated.
5. The location of the former Steak & Ale restaurant located at Block 615, Lot 94 should be investigated.
6. The entire Port of Belford area at the eastern terminus of Port Monmouth Road should be investigated.
7. The property containing a massive vacant office building adjacent to Garden State Parkway Exit 114 located at Block 1045, Lot 1 should be investigated. Other sites throughout the Township containing large, outmoded, and/or vacant commercial buildings may also be considered for investigation.
8. The Middletown Swim Club property located at Block 607, Lot 6 should be investigated.
9. The variety of land uses, including a former gasoline service station, located at Block 500, Lots 11, 12 and 13 should be investigated.

**APPENDIX:  
AMENDMENT TO MASTER PLAN  
LAND USE, CIRCULATION, CONSERVATION/OPEN  
SPACE/RECREATION, UTILITIES AND COMMUNITY  
FACILITIES ELEMENTS**

**Middletown Township  
Monmouth County, New Jersey**

**Prepared by Cheryl Bergailo, PP, AICP of Taylor Design Group, LLC**

**September 9, 2011**