

RE-EXAMINATION REPORT OF THE MASTER PLAN



BOROUGH OF HAMPTON
HUNTERDON COUNTY | NEW JERSEY

DRAFT: JANUARY 16, 2020



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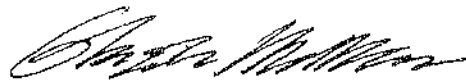
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ADOPTED _____, 2020

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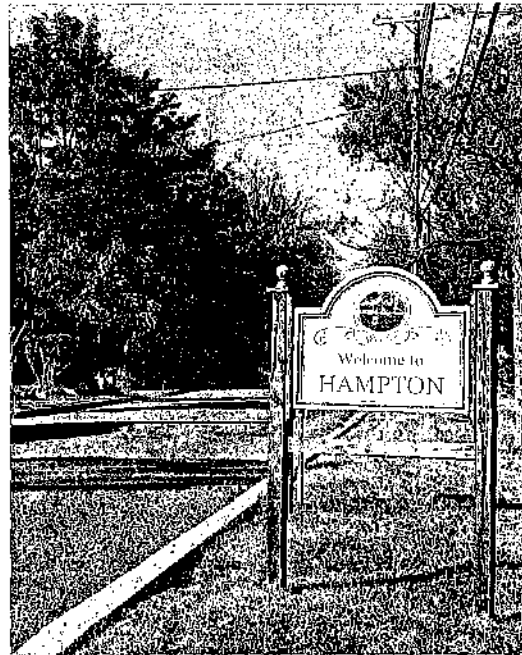


POLICY
PLANNING
DESIGN

1. INTRODUCTION

The municipal Master Plan is a document, adopted by the Planning Board, which sets forth the Borough's land use policies. The Master Plan is the principal document that addresses the manner and locations in which development, redevelopment, conservation and/or preservation occur within a municipality. It is intended to guide the decisions made by public officials and those of private interests involving the use of land. Through its various elements, the Master Plan sets out a vision for the community in the coming years.

The Master Plan forms the legal foundation for the zoning ordinance and zoning map. New Jersey, among a handful of other states, specifically ties the planning of a community as embodied in the Master Plan with the zoning ordinance and zoning map. The zoning ordinance and map, which are adopted by the Borough Council, constitute the primary law governing the use of land at the local level. Under New Jersey's Municipal Land Use Law N.J.S.A. 40:55D-1 et seq., (hereinafter "MLUL") a zoning ordinance must be substantially consistent with the land use plan.



1. MacKenzie Road

A Reexamination Report is a review of previously adopted Master Plans, amendments and local development regulations to determine whether the ideas and policy guidelines set forth therein are still applicable. Under the Municipal Land Use Law, the Planning Board must conduct a general reexamination of its Master Plan and development regulations at least every ten years. The Municipal Land Use Law now includes a waiver provision, where a municipality may waive the reexamination requirement through a determination by the State Planning Commission and the municipal Planning Board that the municipality is built-out, defined as there being no significant parcels, whether vacant or not, that currently have the capacity to be developed or redeveloped for additional use of the underlying land. This provision does not currently apply to the Borough of Hampton.

A Reexamination Report must include the following components (N.J.S.A. 40:55D-89):

- 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 planning, 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," into the Planning 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.

A Reexamination Report may contain recommendations for the Planning Board to examine certain land use policies or regulations or even prepare a new Master Plan. Alternatively, if the recommendations set forth in the Reexamination Report are themselves substantially in such form as might or could be set forth as an amendment or addendum to the Master Plan, the reexamination report, if adopted in accordance with the procedures prescribed by the MLUL for adoption of a Master Plan, may be considered to be an amendment to the Master Plan.

Since the time of adoption of the last amendment to the Master Plan, the assumptions, policies, and objectives upon which the Master Plan is based have changed by virtue of: a) the enactment of the Highlands Water Protection and Planning Act ("Highlands Act," N.J.S.A. 13:20-1 et seq.) by the State Legislature on August 10, 2004; b) the adoption of the Highlands Regional Master Plan by the Highlands Water Protection and Planning Council ("Highlands Council") on July 17, 2008, which became effective on September 8, 2008; c) the requirement of the Highlands Act that municipal Master Plans and regulatory provisions be brought into alignment with the Highlands Regional Master Plan for lands located within the Highlands Preservation Area, and e) the affirmative decision of the Hampton Brough Governing Body to conform to the Highlands Regional Master Plan for municipal lands located in the Preservation Area.

Accordingly, the Planning Board has reexamined the Borough Master Plan and development regulations to determine the specific changes necessary to achieve consistency with the Highlands Regional Master Plan and thereby, to incorporate the specific changes in State policies, goals, and objectives as set forth by the Highlands Act. It is the intent of this Report to identify the specific revisions needed to bring the Hampton Borough Master Plan and development regulations into conformance with the Highlands Regional Master Plan.

This Reexamination Report includes all required components pursuant to the Municipal Land Use Law, albeit in a reorganized manner. Section 2 herein identifies the master plan elements and reexamination reports previously adopted by Hampton. Section 3 identifies relevant changes in assumptions, policies and objectives at the local, county and state levels. Section 4 identifies major problems and objectives at the time of adoption of the 2003 Reexamination Report, the extent to which they have changed, and recommendations, including those related to redevelopment. Lastly, Section 5 provides a summary of the recommendations contained herein.

2. PAST PLANNING EFFORTS

The Borough of Hampton adopted several master plans and master plan elements since its first Master Plan in 1972. The following provides lists these adopted policy documents:

- 1972 – Master Plan
- 1982 – Master Plan
- 1988 - Reexamination Report of the Master Plan
- 2003 – Reexamination Report of the Master Plan
- 2007 – Housing Element and Fair Share Plan
- 2010 – Housing Element and Fair Share Plan
- 2016 – Amendment to the 2010 Housing Element and Fair Share Plan



2. *Veteran's Park Along Main Street*

In addition to these adopted documents, the Borough also engaged the Highlands Council for the conformance process. Notwithstanding, the Borough did not proceed with conformance, nor did it adopt the requisite Highlands Council documents.

3. RELEVANT CHANGES IN ASSUMPTIONS, POLICIES & OBJECTIVES AT THE LOCAL, COUNTY AND STATE LEVELS

Several state, regional, county and local planning events have occurred subsequent to preparation of the 2003 Master Plan Reexamination Report. The following section identifies the relevant changes in assumptions, policies and objectives that have occurred and the impact on land use and planning policies in Hampton Borough.

A. **Highlands**

The Highlands Act was enacted by the State Legislature on August 10, 2004 for the purpose of protecting, enhancing, and restoring Highlands natural resources, in particular water resources, which provide drinking water to over 5 million New Jersey residents. The Highlands Act created the Highlands Water Protection and Planning Council (the "Highlands Council") and charged it with crafting a comprehensive master plan for the Highlands Region. The Highlands Region encompasses some 1,343 square miles in the northwest part of New Jersey. The Highlands Act designates about half of the



3. *Highland Preservation Area (Block 24, Lot 2)*

seven-county Region as Preservation Area (415,000 acres) and the other half as Planning Area (445,000

acres). The Act requires that jurisdictions having lands in the Preservation Area conform to the Highlands RMP with respect to that area, while for lands located in the Planning Area, conformance is voluntary.

As a result of the passage of the Highlands Act, the future of land use planning has significantly changed for both municipalities and counties in the Highlands Region. The New Jersey Supreme Court, in upholding the constitutionality of the Highlands Act in *OFF, LLC v. State*, 197 N.J. 418 (2008), affirmed the Appellate Division's decision, which emphasized the broad scope of the Highlands Act to protect the natural and agricultural resources of the Highlands through a coordinated system of regional land use controls. The Highlands Act creates a system in which a regional plan (referred to as the Regional Master Plan or "RMP") is designed to be implemented primarily through local government units. The net effect is that the statutory authority of local government units in the Highlands Region, inclusive of that provided under the Municipal Land Use Law (MLUL), is not preempted by the Highlands Act, but rather is supplemented through the passage of the Highlands Act and the adoption of the Highlands Regional Master Plan. The Highlands Act provides, through the conformance of municipal master plans and ordinances with the Highlands RMP, authorities for municipal regulation that are in addition to those of the MLUL. The Highlands Act requires that lands in the Preservation Area comply with the RMP but permits compliance in the Planning Area to be optional, as the discretion of the municipality.

Hampton Borough is one of 88 municipalities located in the New Jersey Highlands Region. It is located partially in each, the Preservation and Planning Area, with 823 acres (86%) in the Preservation Area and 134 (14%) in the Planning Area.

The Borough filed a Petition for Plan Conformance in October 14, 2010, and closed November 9, 2010. On November 19, 2010, after due consideration, the Highlands Council approved Hampton Borough's Petition for Plan Conformance with conditions as set forth in Resolution 2010- 9, the Final Consistency Review and Recommendations Report and the Highlands Implementation Plan and Schedule. On December 28, 2010, Hampton Farm LLC filed a Notice of Appeal in the Appellate Division of the Superior Court challenging the Highlands Council's approval of Hampton Borough's Petition for Plan Conformance. On April 26, 2011, Hampton Borough formally requested an Amended Petition for Plan Conformance to address the potential to provide affordable housing on Block 23, Lot 1. The Highlands Council reviewed the request submitted by Hampton Borough and the objection filed by Hampton Farms LLC and recommended that the Borough's request for an Amended Petition was premature and recommended that prior to formal consideration of an Amended Petition for Plan Conformance, the Borough to examine: 1) the feasibility of the provision affordable housing on Block 23, Lot 1 consistent with the Regional Master Plan; 2) the feasibility of a community on-site wastewater treatment plant to serve this site and proximate existing development in Hampton Borough presently served by individual subsurface systems; and 3) the feasibility of Highlands Center and/or Redevelopment Area designation(s) in the Borough associated planning and development activities offering opportunities to improve the economic sustainability of the Borough. The Borough had Omni Environmental conduct a feasibility study in January 2012 and filed it with the Highlands Council. The Borough worked through the Court's settlement process to amend the development planned for the Haberman site – see subsection J. herein for additional information on the Settlement. As a result, of the Settlement, the Borough rescinded the petition for Plan Conformance in 2017. Notwithstanding, it is recommended the Borough pursue Highlands Plan Conformance for the Preservation Area.

B. State Development and Redevelopment Plan

In March 2001 a new State Development and Redevelopment Plan was adopted by the State Planning Commission. As with the first State Plan (adopted in 1992), the 2001 State Plan delineated a series of Planning Areas based on natural and built characteristics and sets forth the State's vision for the future

development of those areas. The five Planning Areas (listed in descending order from the most developed to the least developed condition) include the Metropolitan Planning Area (PA1), Suburban Planning Area (PA2), Fringe Planning Area (PA3), Rural Planning Area (PA4) and Environmentally Sensitive Planning Area (PA5.).

In April 2004, the State Planning Commission released a Preliminary Plan proposing amendment to the 2001 State Plan, triggering a third round of the State Plan Cross-Acceptance process. While significant input was gathered from municipalities and Counties during the Cross-Acceptance process, this Plan was never adopted.

Rather a new State Plan, the “State Strategic Plan: New Jersey’s State Development & Redevelopment Plan”, was drafted and released in 2012. This draft State Plan takes a significantly different approach than the 2001 State Plan with the elimination of Planning Areas in favor of “Investment Areas”. After a series of public hearings at various locations throughout the State, the 2012 Plan was scheduled for adoption by the State Planning Commission on November 13, 2012. However, the adoption was delayed to further refine the Plan and to better account for the impact of Superstorm Sandy which occurred on October 30, 2012. No Plan revisions have been released to date and no further public hearings on the Plan have been scheduled. Until such time as a new State Plan is adopted, the 2001 State Plan remains in effect. The Borough should monitor the State’s efforts toward adopting a new State Plan and respond accordingly.

C. Time of Application Law

The “Time of Application” Law was signed on May 5, 2010 and took effect on May 5, 2011. The effect of this statutory change is that the municipal ordinance provisions that are in place at the time an application for development is filed are those which are applicable, regardless of whether an ordinance is amended subsequent to such an application. Subsequent caselaw has clarified the legislation to state the applicable municipal ordinances are those that are in place at the time an application, which includes all “documents required by ordinance for approval”, is submitted. This is a departure from previously established case law, where courts in New Jersey previously held that the ordinance that is in place at the “time of decision” (the moment a Planning Board or Zoning Board of Adjustment votes on the application) is the law that applies to the application. The Borough should review and update its land development regulations and Board practices, as necessary, to address the time of application law.

D. Renewable Energy Legislation

The New Jersey Legislature was active legislating to facilitate the production of alternative forms of energy. The following three new statutes, in particular, have changed the way alternative energy can be produced in New Jersey.

- **Industrial Zones.** The Municipal Land Use Law was amended March 31, 2009 to pre-empt local zoning authority and to permit, by right, solar, photovoltaic, and wind electrical generating facilities in every industrial district of a municipality. To be eligible for this permitted use, a tract must be a minimum size of 20 contiguous acres and entirely under one owner.
- **Inherently Beneficial Use.** The Municipal Land Use Law was amended to define inherently beneficial uses and to include solar, wind and photovoltaic energy generating facilities in the definition.
- **Solar Not Considered Impervious.** On April 22, 2010 an act exempting solar panels from being considered impervious surfaces was signed into law. This bill exempts solar panels from impervious surface or impervious cover designations. It mandates that NJDEP shall not include

solar panels in calculations of impervious surface or impervious cover, or agricultural impervious cover and requires that municipal stormwater management plans and ordinances not be construed to prohibit solar panels to be constructed and installed on a site.

E. Wireless Telecommunications Facilities

There have been two changes to regulation of wireless telecommunication facilities. The first, a federal law, prohibits municipalities from denying a request by an “eligible facility” to modify an existing wireless tower or base station if such a change does not “substantially change” the physical dimensions of the tower or base station. The term “substantial change” is not defined by the law. Until regulation or case law is issued on this topic, the Borough will need to carefully interpret this on a case by case basis.

The second regulatory change is an amendment to the Municipal Land Use Law, N.J.S.A. 40:55D- 46.2. This new section states applications for collocated equipment on a wireless communications support structure shall not be subject to site plan review provided three requirements are met: 1) the structure must have been previously approved; 2) the collocation shall not increase the overall height of the support structure by more than 10 percent, will not increase the width of the support structure, and shall not increase the existing equipment compound to more than 2,500 square feet; and 3) the collocation shall comply with all of the terms and conditions of the original approval and must not trigger the need for variance relief.

Borough ordinances have been revised to reflect federal law.

F. Stormwater Management

The NJDEP updated its stormwater management rules in 2004. Specifically, it adopted the Phase II New Jersey Pollutant Discharge Elimination System Stormwater Regulation Program Rules (N.J.A.C. 7:14A), which addresses the reduction of pollutants associated with existing stormwater runoff, and the Stormwater Management Rules (N.J.A.C. 7:8), which set forth the required components of regional and municipal stormwater management plans and establishes the stormwater management design and performance standards for new (proposed) development. As such, stormwater management plans are now required to be adopted by municipalities, as set forth in N.J.A.C. 7:8. The Borough previously adopted a stormwater management plan.

G. Hunterdon County Comprehensive Economic Development Strategy (CEDS)

The Hunterdon County CEDS Plan was adopted and approved by the Federal government in the spring of 2015. Findings from research and public participation were compiled into a Strengths, Weaknesses, Opportunities and Threats (SWOT) Analysis and recommendations are provided to address those findings. Many of these recommendations are relevant to the Borough.

Below are the key recommendations from the Plan.

- Repurposing vacant and underutilized commercial and industrial properties will provide additional housing (affordability) and jobs (rateables).
- Implement transportation projects leading to the provision of public transit, addressing affordability challenges and automobile-dependency.
- Create a friendlier business environment through the provision of quality and adequate capacity infrastructure (water/sewer/broadband/electric redundancy) and workforce training, ensuring a healthier Hunterdon County labor supply.

- Channel development to appropriate areas, focusing on “centers of development,” maintaining and improving Hunterdon County’s current quality of life and rural atmosphere.
- Encourage collaboration and cross-education, communication, and sharing of information within the county and between municipalities creating a collective impact.
- Foster local economic development by enhancing the tourism industry in Hunterdon County through its cultural, recreational, historic, and agricultural assets.

H. Demographic Changes

Hampton’s population has remained relatively stable after a growth spurt in the 1960’s and 1970’s. As shown by the 1990 US Census, the Borough began to lose population in the 1980’s and this continues today. Notwithstanding, between April 2010 and January 2017, the Borough issued 18 building permits for new single family homes. This shift is a continuing transition to single family units from multi-unit housing along with non-replacement of trailer home park units. Additionally, this demographic shift is typical to small communities with a distance to employment centers, and typical for many communities in Hunterdon County. Consistent with this trend, the lack of demand has also reduced the median home value – although it must be noted that the value increased between 2000 and 2010 and decreased between 2010 and 2017. The Borough’s rental occupancy rate is greater than Hunterdon County’s, which was 16.3% in 2017. In the same year, the Borough’s rental occupancy rate was 35.2%, which was a small increase since 2000 when the rate was 33.5%.



4. Homes Along Main Street

Population & Households							
	1960	1970	1980	1990	2000	2010	2017
Population	1,135	1,386	1,614	1,515	1,546	1,401	1,286
Housing Units		435	593	629	574	612	591
Median Age					34.7 years	37.2 years	46.5 years

*Data Sources: 2000 and 2010 US Census, 2017 American Community Survey

Median Household Income			
	2000	2010	2017
Hampton Borough	\$51,111	\$63,681	\$70,833

*Data Sources: 2000 and 2010 US Census, 2017 American Community Survey

Median Home Value (owner-occupied)			
	2000	2010	2017
Hampton Borough	\$164,800	\$296,400	\$233,900

*Data Sources: 2000 and 2010 US Census, 2017 American Community Survey

The growth that has occurred in Hunterdon County could influence future development in the Borough. Hunterdon County's growth was about 13% between 1990 and 2000, half the rate of previous decades starting in 1950, but still making it the third fastest growth rate among New Jersey's 21 counties. The eastern part of the county functions as a bedroom community for employment centers in Somerset and more eastern counties made possible by the completion of I-78 in 1985 and improvements to Rt. 202. Increasingly, homegrown job opportunities will be created and with its residential development pressure. Notwithstanding the Borough's small land area - only 1.54 square miles – perhaps 50% remains in agriculture and woodland. Undeveloped lands are most prominent in the northwestern portion of the municipality, such as the Haberman Tract and the Apgar Farm, but are also present south of Hampton School. All but the Haberman tract fall in the Highlands Planning areas which severely limit the ability to build out any significant housing. Inevitably, the Haberman land will come under development because of recent settlement and court required improvement to the property by the owner. The Hunterdon Planning Board is in the process of developing a "smart growth" plan for the county that will tie into the State Development and Redevelopment Plan's planning framework. The County's work in its farmland preservation plan, community character design handbook, open space and recreation plan all imply that growth should be directed to existing settlements such as Hampton rather than into more rural townships. This is consistent with the State Plan's policies for development and is discussed in the following section.

I. Affordable Housing at the State

On December 20, 2004, COAH's first version of the Third Round rules became effective some five years after the end of the Second Round in 1999. At that time, the Third Round was defined as the time period from 1999 to 2014 but condensed into an affordable housing delivery period from January 1, 2004 through January 1, 2014. The Third Round rules marked a significant departure from the methods utilized in COAH's Prior Round. Previously, COAH assigned an affordable housing obligation as an absolute number to each municipality. These Third Round rules implemented a "growth share" approach that linked the production of affordable housing to residential and non-residential development within a municipality.

However, on January 25, 2007, the New Jersey Appellate Court decision, *In re Adoption of N.J.A.C. 5:94 and 5:95*, 390 N.J. Super. 1, invalidated key elements of the first version of the Third Round rules, including the growth share approach. The Court ordered COAH to propose and adopt amendments to its rules within six months to address the deficiencies identified by the Court. COAH missed this deadline but did

issue revised rules effective on June 2, 2008 (as well as a further rule revision effective on October 20, 2008). COAH largely retained the growth share approach, but implemented several changes intended to create compliance with the 2007 Appellate Court decision. Additionally, the Third Round was expanded from 2014 to 2018.

Just as various parties challenged COAH's initial Third Round regulations, parties challenged COAH's 2008 revised Third Round rules. On October 8, 2010, the Appellate Division issued its decision, In re Adoption of N.J.A.C. 5:96 and 5:97, 416 N.J. Super. 462, with respect to the challenge to the second iteration of COAH's third round regulations. The Appellate Division upheld the COAH Prior Round regulations that assigned rehabilitation and Prior Round numbers to each municipality but invalidated the regulations by which the agency assigned housing obligations in the Third Round. Specifically, the Appellate Division ruled that COAH could not allocate obligations through a "growth share" formula. Instead, COAH was directed to use similar methods that had been previously used in the First and Second rounds. The Court gave COAH five months to address its ruling and provide guidance on some aspects of municipal compliance.

COAH sought a stay from the NJ Supreme Court of the March 8, 2011 deadline that the Appellate Division imposed in its October 2010 decision for the agency to issue new Third Round housing rules. The NJ Supreme Court granted COAH's application for a stay and granted petitions and cross-petitions to all of the various challenges to the Appellate Division's 2010 decision. On September 26, 2013, the NJ Supreme Court upheld the Appellate Court decision in In re Adoption of N.J.A.C. 5:96 and 5:97 by New Jersey Council On Affordable Housing, 215 N.J. 578 (2013), and ordered COAH to prepare the necessary rules.

Although ordered by the NJ Supreme Court to adopt revised new rules on or before October 22, 2014, COAH deadlocked 3-3 at its October 20th meeting and failed to adopt the draft rules it had issued on April 30, 2014. In response, FSHC filed a motion in aid of litigant's rights with the NJ Supreme Court, and oral argument on that motion was heard on January 6, 2015.

On March 10, 2015, the NJ Supreme Court issued a ruling on the Motion in Aid of Litigant's Rights (In re Adoption of N.J.A.C. 5:96 & 5:97, 221 NJ 1, aka "Mount Laurel IV"). This long-awaited decision provides a new direction for how New Jersey municipalities are to comply with the constitutional requirement to provide their fair share of affordable housing. The Court transferred responsibility to review and approve housing elements and fair share plans from COAH to designated Mount Laurel trial judges. The implication of this is that municipalities may no longer wait for COAH to adopt Third Round rules before preparing new Third Round housing elements and fair share plans and municipalities must now apply to the Courts, instead of COAH, if they wish to be protected from exclusionary zoning lawsuits. These trial judges, with the assistance of an appointed Special Master to the Court, review municipal plans much in the same manner as COAH previously did.

While the NJ Supreme Court's decision set a process in motion for towns to address their Third Round obligations, it did not assign those obligations. Instead, that must be done by the trial courts. However, the NJ Supreme Court did direct that the method of determining municipal affordable housing obligations were to be "similar to" the methodologies used in the First and Second Round rules. Additionally, the Court stated that municipalities should rely on COAH's Second Round rules (N.J.A.C. 5:93) and certain components of COAH's 2008 regulations that were specifically upheld (including but not limited to Redevelopment Bonuses), as well as the Fair Housing Act (N.J.S.A. 52:27D – 301 et seq.), in their preparation of Third Round housing elements and fair share plans.

On January 17, 2017, the NJ Supreme Court rendered a decision, In Re Declaratory Judgment Actions Filed By Various Municipalities, 227 N.J. 508 (2017), that found that the "gap period," defined as 1999-2015, generates an affordable housing obligation. This obligation requires an expanded definition of the

municipal Present Need obligation to include low- and moderate-income households formed during the gap period; however, this component of the obligation is a new-construction obligation rather than a rehabilitation obligation.

Accordingly, the municipal affordable housing obligation is now composed of the following 4 parts:

- Present Need (rehabilitation),
- Prior Round (1987-1999, new construction),
- Gap Present Need (Third Round, 1999-2015, new construction), and
- Prospective Need (Third Round, 2015 to 2025, new construction).

In addition to the State agency activity and judicial decisions, the New Jersey Legislature has amended the Fair Housing Act in recent years. On July 17, 2008, Governor Corzine signed P.L. 2008, c. 46 (referred to as the “Roberts Bill”, or “A500”), which amended the Fair Housing Act. Key provisions of the legislation included the following:

- It established a statewide 2.5% nonresidential development fee instead of requiring nonresidential developers to provide affordable housing;
- It eliminated new regional contribution agreements (hereinafter “RCAs”) as a compliance technique available to municipalities whereby a municipality could transfer up to 50% of its fair share to a so called “receiving” municipality;
- It added a requirement that 13% of all affordable housing units and 13% of all similar units funded by the state’s Balanced Housing Program and its Affordable Housing Trust Fund be restricted to very low-income households (30% or less of median income); and
- It added a requirement that municipalities had to commit to spend development fees within four (4) years of the date of collection after its enactment, which commenced on the four-year anniversary of the law (July 17, 2012).

These amendments to the Fair Housing Act are not promulgated in any valid COAH regulations. However, the requirement to expend development fees within four-years of their collection was determined in a Middlesex County Superior Court case to instead have the first four-year period to begin upon a Judgment of Compliance, or upon a finding by the Court that the municipality is determined to be non-compliant (IMO of the Adoption of the Monroe Township Housing Element and Fair Share Plan and Implementing Ordinances). Superior Courts around the State have been guided by this decision.

J. Affordable Housing in the Borough

In 2016 the Borough received a Judgment of Compliance for its 2016 Amended Housing Element and Fair Share Plan. This Judgment provides the Borough with immunity from exclusionary zoning litigation (a.k.a. builder's remedy litigation) until July 2025. In addition, in 2016 the Borough also settled the "Haberman" or "Hampton Farm" litigation pertaining to Block 23, Lot 1 and Block 24, Lot 2. The terms of the Settlement are reflected in the Judgment. The Settlement and Judgment concluded decades of litigation regarding this tract. As required by the Judgment of Compliance, the Borough in 2016 adopted zoning standards for the site that permit the inclusionary development.



5. Haberman Development Site; Block 23, Lot 1

It should be noted that the 2016 Judgment of Compliance began with builder's remedy litigation that resulted in a Settlement Agreement and Judgment of Compliance in 1991. This litigation was restarted in 2012 at the time the Borough petitioned for Highlands Plan conformance. The 2012 litigation resulted in a Settlement Agreement addressing development of the "Haberman" site, as well as the 2016 Judgment of Compliance.

The Judgment permits development of 333 dwelling units, including 45 low and moderate income units, and 6,000 s.f. of nonresidential use on the "Haberman" or "Hampton Farm" north site – Block 23, Lot 1. The "Haberman" or "Hampton Farm" south site – Block 24, Lot 2 may not be developed as it is in the Highlands Preservation Area. Development of the tract requires installation of a sewage treatment plant and water infrastructure upgrade, improvements and installations. The Borough lacks any sanitary sewer infrastructure and if this development goes forward as approved, it raises the crucial issue of whether such a facility should service only the Haberman tract or if it should also be designed to service existing development in the Borough. Sanitary sewer infrastructure typically increases pressure for development. Additionally, the water system capacity upgrade would require installation of third well to service the tract.

Satisfaction of the Borough's 12 unit rehabilitation obligation will occur through a rehabilitation program funded by a payment of \$96,000 from the development. The 2 unit prior round obligation and the 58 unit third round obligation will be satisfied through development of 45 units of low and moderate income housing, and 15 rental bonus credits, developed on the "Haberman" or "Hampton Farm" north site – Block 23, Lot 1.

While the structure of the obligation established through the Borough's Judgment of Compliance is different from the findings of this recent Supreme Court decision (i.e. no redefined Present Need (1999-2015) and a Prospective Need specific to 2015-2025), the Borough's obligation therein reflects that which was calculated for the entire third round period (1999-2025).

4. THE MAJOR PROBLEMS AND OBJECTIVES AT THE TIME OF ADOPTION OF THE LAST REEXAMINATION REPORT, THE EXTENT TO WHICH THEY HAVE CHANGED & CURRENT RECOMMENDATIONS (N.J.S.A. 40:55D-89, A, B, D AND E).

A. Goals and Objectives

The Borough's Master Plan goals and objectives were developed as part of the 1982 Master Plan. Each subsequent Reexamination Report, 1988 and 2003, reviewed these goals and objectives and recommended their continuation. As such, the Borough's current Master Plan goals and objectives are listed below.

Land Use and Housing

Goal: Preserve the rural atmosphere of the Borough while providing planned development in harmony with the present character of the community.

Objective: Demolition or renovation of vacant or dilapidated structures.

Objective: Enforcement of standards and guidelines for the improvement or upgrading of existing structures.

Objective: Preservation of existing open spaces and the encouragement of in-fill development.

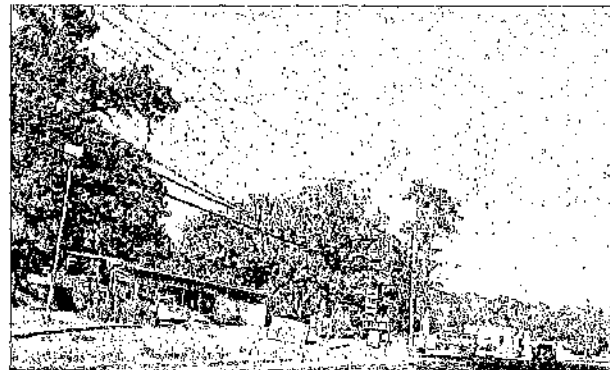
Objective: Improvement of educational and municipal facilities to reflect the needs of the Borough.

Objective: Establishment of flexible guidelines that will enable the utilization of creative design concepts in the development of the Borough's land.

Objective: Provide for adequate retail and commercial uses to serve the needs of the community.



6. Residences and House of Worship Along Main Street



7. Commercial Uses Along Route 31

Recreation

Goal: Provide for the development of open space reflecting the current and anticipated recreational needs of the Borough.

Objective: Development of additional areas into recreational sites to meet the active and passive recreational needs of the residents.



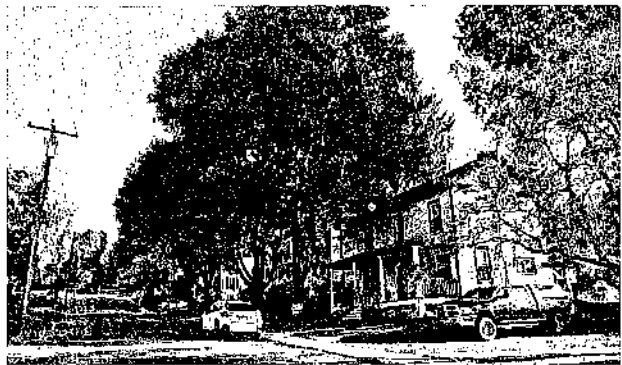
8. Hampton Borough Park on Valley Road

Environmental

Goal: Evaluate and provide for a healthy and clean environment for the present and future.

Objective: Development of land use strategies which promote the efficient use of land and the conservation of energy and natural resources.

Objective: Upgrade the system for storm run-off control.



9. Neighborhood Along Lower Skillman Street

Transportation

Goal: Upgrading of existing roadways.

Objective: Widen, pave or resurface existing roads and establish standards for future road development.

Objective: Establish standards for street lighting, sidewalks and curbs.

Objective: Encourage the development of railroad facilities to better serve the present and future passenger needs of the community.



10. Valley Road

These goals and objectives remain appropriate for the Borough. However, the Borough should modify them in future master plan documents to better reflect current challenges and opportunities.

B. Housing

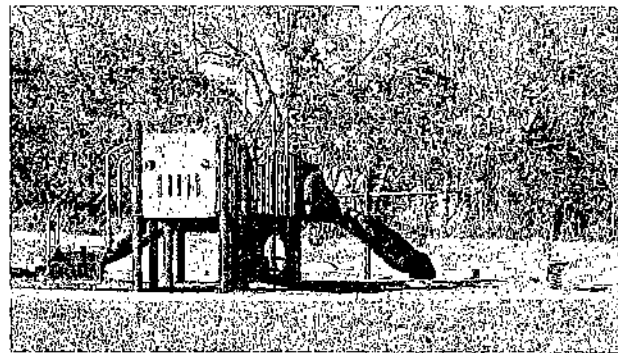
The 2003 Reexamination Report noted the Borough’s housing stock was in generally good condition and that funding earmarked for housing rehabilitation remains a minor problem. The Borough’s housing stock, in 2019, remains in good condition though the financial crisis left a number of properties vacant and in disrepair. As such, there are homes in the Borough that would benefit from rehabilitation. Additionally, as the lot sizes in the Borough are predominantly less than one acre in size and all lots are served by individual and privately-owned septic systems, the Borough has experienced problematic septic systems (see the “Environmental” section herein for additional information).

The Borough's settlement of the Haberman litigation will result in significant new housing stock as well as funding from the developer that will be reserved for a rehabilitation program for the Borough's low and moderate income households who live in substandard homes. This funding will be helpful for qualified households who need improvements to building systems (heating, roof, windows, etc.), as well as failing septic systems. Funding for housing rehabilitation from the Haberman litigation is a welcome source for housing rehabilitation in that it will provide \$96,000 which is estimated to fund the rehabilitation of 12 units at \$8,000 per unit.

Settlement of the Haberman litigation, and the subsequent adoption of the 2016 Amended Housing Element and Fair Share Plan, also fulfilled the Borough's goal of addressing its affordable housing obligation. The Borough should continue to implement the policies in the 2016 Amended Housing Element and Fair Share Plan. Doing so will continue immunity from builder's remedy litigation through July 2025, the end of the third round. The Borough should be watchful of future changes to affordable housing policy and regulations so that it may be responsive in the fourth round, or as otherwise necessary, and maintain its immunity from builder's remedy litigation.

C. Recreation

The Borough seeks to provide varied passive and active recreation options for residents. The need for recreation in the community is largely satisfied through Hampton Borough Park and Heights of Hampton and the Hampton School, which provides passive and active recreation opportunities. Development of the Haberman site, which includes preservation of the south side of Valley Road may also expand passive open space opportunities.



11. Playground Along Junction Road

D. Transportation and Circulation

State Highway 31 curves through Hampton and provides regional access to other parts of New Jersey for its residents and businesses via Interstate 78 and State Highway Routes 46 and 57. In years past the Borough has worked to improve intersections, provide crosswalks along Main Street, conduct street repairs and lower the speed limit to 25 mph. The need for ongoing street repairs and paving remains. The need for improvements to Route 31 to ensure appropriate speed and safety through the Borough remains. As such, the Borough should continue to coordinate with NJDOT.



12. Route 31 Corridor

Since the 2003 Reexamination Report, the Borough implemented crosswalk safety measures and traffic calming speed table installations throughout the town to improve pedestrian safety and improve circulation. Additionally, the county road system that was last improved in 1979 along Route 31 corridor was updated starting in 2012 with a safety improvement project along Route 31 in Glen Gardner and Hampton boroughs. The \$7.8 million federally-funded project replaced the existing, structurally deficient Route 31 bridge over an inactive NJ TRANSIT rail line and resurfaced the bridge approaches with expansion

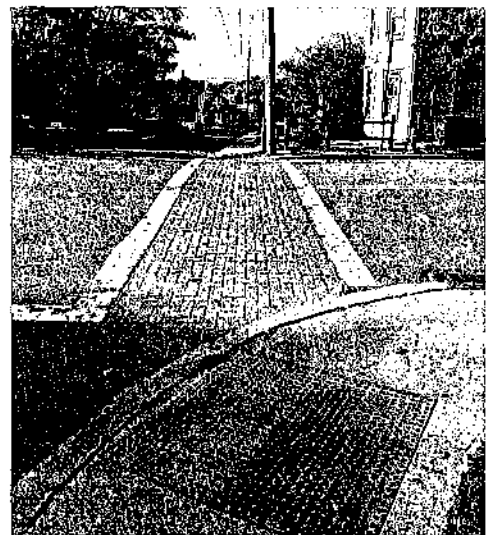
of travel lanes both north and south. Safety improvements were then made to the Route 31 intersection with Main Street.

The 2003 Reexamination Report noted the need for a circulation element of the Master Plan to examine access issues to Route 31 and the logical extension of existing streets depending on the findings of the land use plan element. Also addressed was the need for improved access to Route 31 for various streets, such as Lackawanna Street, Bowlby Street, MacKenzie Road, stating unsignalized intersections with Route 31 are problematic due to high volumes of traffic and geometric design. MacKenzie Road in particular is problematic because it is the primary access to Route 31 for Borough lands north of Route 31; alternative access requires a circuitous route on narrow roads through New Hampton hamlet in Lebanon Township. These recommendations remain



13. Main Street Streetscape

appropriate. The addition of the 333 units, permitted by the Haberman Settlement, on the western side of the Borough along Valley Road that could add more than 600 vehicles throughout the Borough on the existing early 1900's transportation infrastructure. An in-depth study and review of infrastructure improvements is recommended and it should encompass all primary and secondary roadways from Route 31 to the Borough's western most boundary with Bethlehem Township.



14. Crosswalk and Barrier-free Ramp at the Intersection of New and South Streets

Additionally, consistent with the Borough's Transportation Objectives, the Borough should revise its regulations to provide improved standards for street lighting, curbs and sidewalks. Lastly, the Borough should support improved rail service in this area of the State (High Bridge and Annandale NJ Transit stations, for example) as a method of boosting the appeal and convenience of living in Hampton, and therefore property values.

The Borough should also update its development regulations to provide safe and convenient pedestrian and bicycle facilities along all roads that can accommodate them. As part of this, the Borough should consider adopting a complete streets policy that promotes street design that can accommodate all users (cars, bikes, pedestrians, mass transit, young, old, and those with disabilities). Such policies will help promote alternative forms of transportation, recreation and health, and quality of life.

E. Environmental

Hampton's location in the Highlands region and along the Musconetcong River, a Category 1 waterway, serves to emphasize Borough's environmental goal of providing a healthy and clean environment into its future. As part of these efforts the Borough should update zoning and design standards to reduce the environmental footprint of new development and redevelopment.

The 2003 Reexamination Report noted that development on steep slopes had been a concern but that the land development regulations had been sufficiently updated to address the concern.

Development on steep slopes is regulated through Article VIII of the land development regulations (Steep Slopes Development Control) and §157-30, soil erosion and sediment control, to the extent that the concern raised in the previous report has now been addressed. The Borough adopted the mandatory NJ Stormwater Management plan in 2010 plus filed and received Highlands Plan conformance approval in 2011 though was subject to revision as outlined in this reexamination under the State Development and Redevelopment Plan section. Additionally, an evaluation/study was undertaken related to 'Wastewater Disposal via



15. Hampton Borough Park on Valley Road

Discharge to Groundwater' that was completed by Omni Environmental LLC in January 5, 2012 specific to a large undeveloped farmland tract (Haberman, Duva and Apgar) located in northwest section of the Borough. The Haberman property is subject to a future 333 unit major subdivision. Lastly, the Borough took steps to alleviate areas subject to frequent past flooding by taking the following steps over the course of past 10 years:

- Removing an undersized sewer pipe along McKensie Estates with increased capacity flow size piping;
- Installation of two detention basins (Heights of Hampton and Route 31);
- Culvert improvements to a series of downstream open and closed channels running through the Borough; and
- Riparian buffer installed at the Borough Park adjoining the Musconetcong River.

Updated standards should address regrading of development sites. Borough ordinances should require redistribution of topsoil moved for construction purposes such that not less than four inches of soil should cover disturbed areas and that all disturbed areas should be stabilized with seeding and planting.

Also of environmental concern are problematic septic systems. The Borough currently lacks any public or private sewer systems, although a sewer system will be constructed in the future to serve the Haberman development. First in the 1982 Master Plan and most recently in the 2003 Reexamination Report, problems were noted with septic fields in the central eastern portion ("MacKenzie Estates") of the Borough due to small lots coupled with poor soils and geologic strata. In the 1982 Master Plan, a survey found respondents reporting problems with their septic systems that ranged from 18% in the Valley and Orchard Roads areas to 38% in MacKenzie Estates. This issue has not yet been addressed but continues. As a result of the lack of public sewer, problems with individual septic systems must be resolved by the property owner. The Borough should review and update, as necessary, the septic system maintenance plan and associated regulations.

The Borough should review and update, as may be necessary, regulations and policies regarding water use and conservation, habitat conservation and management, and land preservation and stewardship. Each of these topics are critical to maintaining the environmental quality and resident quality of life in the Borough.

The Borough should consider reengaging the Highlands Council for conformance for the Preservation Area lands in the Borough. Doing so would provide assistance, and potentially funding, to assist in the review and preparation of plans and/or regulations of the various environmental and land use topics addressed herein.

F. Public Facilities

The 2003 Reexamination Report addressed the need for improvements to the Borough water supply, then operated by the Hampton Water Company. Since then, the Hampton Water Company is now operated as a utility by the municipality and a second public well head has been installed. The public water system has been functioning with adequate capacities and pressures, however, any significant growth would potentially require a new public well and increases in storage capacity and/or pressure. The Borough since 2004 reexamination installed a 2nd well head as backup to the existing water system. The aging loop water system is over 20 years in age and will require future planning for replacement of sections along the existing system.



16. Borough Hall along Wells Avenue

Within the last several years the Borough has also been able to upgrade other municipal facilities, such as improved roofing, HVAC, windows and playground at Hampton Public School, purchase of a new fire truck and communications equipment.

G. Highlands

The Highlands Municipal Build-Out Report for Hampton Borough was completed by the Highlands Council in collaboration with the municipality prior to a finding of Administrative Completeness of the Petition. The Report is dated July 2009 and was posted to the Highlands Council website on July 24, 2009. The Borough filed a Petition for Plan Conformance in October 14, 2010, and closed November 9, 2010. On November 19, 2010, after due consideration, the Highlands Council approved Hampton Borough's Petition for Plan Conformance with conditions as set forth in Resolution 2010- 9, the Final Consistency Review and Recommendations Report and the Highlands Implementation Plan and Schedule. The conditions are as follows:

- Adoption of Ordinance Petitioning for Planning Area
- Completion & Adoption of ERI
- Completion & Adoption of Master Plan Highlands Element
- Completion & Adoption of Highlands Land Use Ordinance
- Adoption of Updated Zoning Map

- Wastewater Management Plan (County Chapter)
- Compliance with Fair Housing Act (COAH Certification)
- Update/Development & Implementation of:
 - Water Use & Conservation Management Plan
 - Stormwater Management Plan (updates only)
 - Habitat Conservation & Management Plan
 - Land Preservation & Stewardship Program
 - Septic System Management/Maintenance Plan
 - Right to Farm Ordinance

The Borough has not acted on these conditions, except for adoption of a Housing Element and Fair Share Plan and the subsequent receipt of a Judgment of Compliance. The Borough should reengage the Highlands Council and amend the petition for Plan Conformance to seek Conformance of the Preservation Area lands only. Doing so will better ensure the environmental and scenic quality of these lands and will also allow the Borough to participate in various technical assistance and grant funding offered by the Highlands Council. This process requires adoption of several documents.

The Planning Board recommends that specific changes to the Hampton Borough Master Plan be adopted, including modifications to the underlying objectives, policies and standards, all as outlined in detail, in the “Highlands Preservation Area Master Plan Element”. This Master Plan Element, in addition to being adopted by the Planning Board, must be approved by the Highlands Council as part of the Borough’s Petition for Plan Conformance.

The Planning Board also recommends, as part of the Highlands Conformance process, the Borough adopt the “Highlands Preservation Area Land Use Ordinance,” once approved by the Highlands Council, to implement the objectives, policies and standards as outlined in the Highlands Preservation Area Element of the Master Plan. In addition, the Board recommends interim changes to the Borough Development Application checklist ordinance(s), effective until such time as the Highlands Area Land Use Ordinance is adopted and put into effect by the Governing Body. These changes would require that evidence of consistency with the Highlands Regional Master Plan be submitted with Development Applications as a requirement of Application completeness.

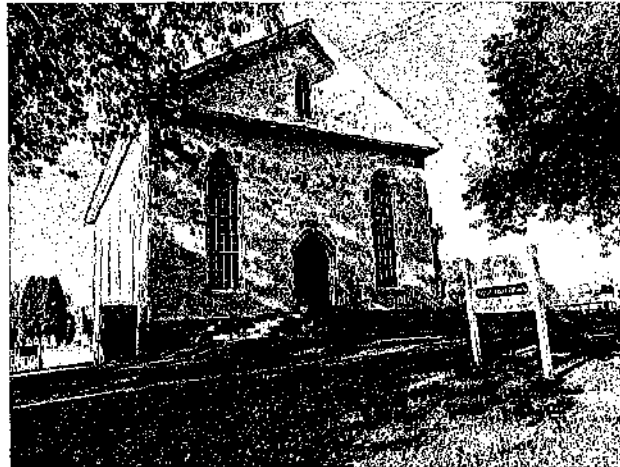
Once these documents are adopted, the Borough should adopt other required, and perhaps optional, Highlands documents using available funding from the Highlands Council. Such documents include but are not limited to an environmental resource inventory and zoning map.

H. Land Use (excluding Highlands)

The Borough is a rural village that grew in support of the farming economy of northern Hunterdon and southern Warren Counties and then expanded due to the influence of the railroad. The Borough's land use goals are designed to preserve the rural and small-town quality of life that makes Hampton a special place in New Jersey and Hunterdon County. Preservation of this quality of life should include maintaining existing and removing/repairing dilapidated structures, as well as encouraging infill development that is complementary to the character of the surrounding neighborhood. As part of this, the Borough should review development standards to ensure they provide flexibility to encourage new development and redevelopment in a way that adds to, rather than detracts from, the Borough's quality of life.

The 2003 Reexamination Report included a half dozen recommendations. Each of these remains valid today and should be implemented:

1. Integrating the Residential Site Improvement Standards (N.J.A.C. 5:21-1.1 et seq.) into the land development standards of the municipality. Several the standards in the ordinance have been preempted by state law.
2. Incorporating references in the districts intended to permit telecommunications towers to Chapter 216 of the codified ordinances for the standards in the siting of such structures.



18. House of Worship on Valley Road



17. Recent Development Along Junction Road



19. Historic Character Along Main Street

3. Reexamining building heights and/or how height is calculated given the existing buildings in the Borough.
4. Revising the zoning map to depict all public streets in the Borough.
5. Adopt a new land use element of the master plan to address competing policies of land preservation, land development, State Plan guidelines and extension (or not) of utilities.
6. Review and revise development regulations, as needed, in light of county growth projections. This recommendation is now updated to also address the County CEDS report.



20. Main Street

The Borough should also update regulations to require tree parts, litter, brush, and other debris to be removed from sites timely and disposed of properly. Doing so will improve the aesthetics of the applicable site and the Borough as a whole.

The Borough should adopt requirements for homeowners' associations' management of open spaces and recreation areas. Such standards should address the participation in and management of the association and the open space requirements for the lands therein.

The Borough should review and update the right to farm ordinance. Revised State standards and associated policy guidance and caselaw will serve as a roadmap to identify any necessary amendments.



21. Commercial Use Along New Street

Lastly, the Borough should adopt an updated landscape and planting ordinance. Updated standards should address tree and buffer planting standards, which improve the scenic quality of the Borough, as well as providing wildlife habitat, cooling, and improved stormwater management and sediment control. These standards should address not only the locational requirements for trees and buffers, but also appropriate species, planting techniques, tree replacement and maintenance.

I. Redevelopment

The Borough has no existing redevelopment or rehabilitation areas. Designation of such areas are not currently anticipated.

5. SUMMARY OF RECOMMENDATIONS

The following provides a summary of the recommendations herein. See the preceding pages for additional detail.

1. Monitor the State's efforts toward adopting a new State Plan and respond accordingly.
2. Review and update land development regulations and Board practices, as necessary, to address the time of application law.
3. Modify the goals and objectives to better reflect current challenges and opportunities.
4. Continue to implement the policies in the 2016 Amended Housing Element and Fair Share Plan and be watchful of future changes to affordable housing policy and regulations at the State level and in case law.
5. Prepare a circulation element of the master plan.
6. Maintain the ongoing program of regular street maintenance and repairs.
7. Coordinate with NJDOT on necessary safety improvements of the Route 31 corridor, including but not limited to intersection crossings with local roads.
8. Revise regulations to provide improved standards for lighting, curbs and sidewalks along Borough roads.
9. Support improved rail service in this area of the State (High Bridge and Annandale NJ Transit stations, for example).
10. Update development regulations to provide safe and convenient pedestrian and bicycle facilities along all roads that can accommodate them and consider adopting a complete streets policy.
11. Update regrading and topsoil moving and distribution requirements.
12. Address problematic septic systems through review and update, as may be necessary, Borough septic maintenance regulations and policies.
13. Review and update, as may be necessary, regulations and policies regarding water use and conservation, habitat conservation and management, and land preservation and stewardship.
14. Reengage the Highlands Council for conformance for the Preservation Area lands in the Borough. Proceed with adoption of the various required documents such as the Highlands Master Plan Element and Land Use Ordinance.
15. Integrate the Residential Site Improvement Standards (N.J.A.C. 5:21-1.1 et seq.) into the land development standards of the Borough.
16. Reexamining building heights and/or how height is calculated given the existing buildings in the Borough.
17. Revising the zoning map to depict all public streets in the Borough.
18. Adopt a new land use element of the master plan to address competing policies of land preservation, land development, State Plan guidelines and extension (or not) of utilities.
19. Review and revise development regulations, as needed, in light of county growth projections. This recommendation is updated to also address the County CEDS report.

20. Update the wireless telecommunications facility regulations to be better coordinated with district requirements and to reflect current federal requirements.
21. Update regulations to require tree parts, litter, brush, and other debris to be removed from sites timely and disposed of properly.
22. Adopt requirements for homeowners' associations' management of open spaces and recreation areas.
23. Review and update the right to farm ordinance.
24. Adopt an updated landscape and planting ordinance.

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