

**PERIODIC REEXAMINATION REPORT
OF THE
MASTER PLAN
AND
DEVELOPMENT REGULATIONS**

Mount Olive Planning Board
Township of Mount Olive
Morris County, New Jersey

June 20, 2013

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The original of this document has been signed and sealed pursuant to N.J.A.C. 13:41-1.3

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June 20, 2013

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INTRODUCTION

The Municipal Land Use Law (MLUL), at N.J.S.A. 40:55D-89, includes the following statement relative to the periodic examination of a municipal Master Plan, as amended in May 2011:

The governing body shall, at least every ten 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, a copy of which Report and resolution shall be sent to the county planning board and the municipal clerk of each adjoining municipality. The first such reexamination shall have been completed by August 1, 1982. The next reexamination shall be completed by August 1, 1988. Thereafter, a reexamination shall be completed at least once every 10 years from the previous reexamination.

Mount Olive Township last adopted a comprehensive Master Plan in December 2003. Subsequently, the Planning Board amended the Land Use Plan Element in December 2004 to clarify policies with regard to the C-2 zone, adopted a Stormwater Management Plan in March 2005, adopted a Natural Resources Inventory in January 2007, further amended the Land Use Plan Element in July 2007 to establish the R-7 Active Adult/Inclusionary Housing Zone district, adopted a new Housing Element and Fair Share Plan in September 2009 to address COAH's Third Round, a Master Plan Reexamination Report in June 2010, as amended in July 2010, and an Amendment to the Land Use Plan in October 2010. On March 15, 2011 the Planning Board adopted a Master Plan Reexamination Report pursuant to the requirements of Highlands Plan Conformance.

STATUTORY REQUIREMENTS

The **Municipal Land Use Law (MLUL)** sets forth the following five questions to be addressed in preparing the Reexamination Report:

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| <u>C. 40:55D-89a</u> | The major problems and objectives relating to land development in the municipality at the time of the adoption of the last reexamination Report. |
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| <u>C. 40:55D-89b</u> | The extent to which such problems and objectives have been reduced or have increased subsequent to such date. |
| <u>C. 40:55D-89c</u> | 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. |
| <u>C. 40:55D-89d</u> | The specific changes for the master plan or development regulations, if any, including underlying objectives, policies and standards, or whether a new plan or regulations should be proposed. |
| <u>C. 40:55D-89e</u> | The recommendations of the planning board concerning the incorporation of redevelopment plans adopted pursuant to the “Local Redevelopment and Housing Law”, P.L. 1992, c. 79 (C. 40A:12A-1 et seq.) into the land use plan element of the municipal master plan, and recommended changes, if any, in the local development regulations necessary to effectuate the redevelopment plans of the municipality. |

Section I

[40:55D-89a] The major problems and objectives relating to land development in the municipality at the time of the adoption of the last reexamination Report.

The last Master Plan Reexamination Report approved by the Mount Olive Planning Board on June 17, 2010 and revised on July 15, 2011 called attention to the Highlands Plan Conformance process and the need to adopt the appropriate Master Plan documents and

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development regulations for the Preservation Area portion of the Township. The Planning Board also took note of the changing state-wide regulations pertaining to solar and wind energy facilities and called for an evaluation of the Light and General Industrial zone districts and the FTZ districts to determine if any changes would be necessary. Other recommendations were as follows:

- Consider reduction of the permitted intensity in the Commercial/Residential-3 zone district which currently allows up to 10,000 square feet of nonresidential use within converted residential dwellings.
- Update and consolidate all definitions into one section
- Review and update all applicable fees for reviews, inspections, etc.
- Eliminate subsection ‘C’ in §400-77 which allows the Zoning Officer to modify a zone boundary under limited circumstances. Such decisions should not be resolved on an administrative basis.
- Modify sign regulations to reduce the permitted height of signs, particularly in the commercial zone districts.
- Eliminate the procedure for an “informal discussion” pertaining to potential subdivisions as presently provided in §400-32, subsection B.

Further, the Planning Board recommended certain modifications to the Township’s zone plan, specifically to lots 2 and 3 in Block 4400 to establish a new zone district focusing on recreational facilities; Lot 8 in Block 4500 to be placed in the P-Public zone district; and lots 19, 20, and 21 in Block 8500 to be rezoned to a new district similar to the Professional-Business zone in place in Budd Lake along Route 46. The Planning Board, with assistance from the Mount Olive Open Space Committee, set forth a Vision Statement and a series of Goals and Objectives to plan effectively for trails. Lastly, the Board acknowledged the Township Council’s support for the Sustainable Jersey Program and incorporated the Sustainable Land Use Pledge approved by the Council.

The Conservation Plan Element of the 2003 Master Plan called for the adoption of ordinances to implement wellhead protection and ridgeline protection regulations.

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Section II

[40:55D-89b] The extent to which such problems and objectives have been reduced or have increased subsequent to such date.

Mount Olive Township's mandatory Petition for Plan Conformance for the Preservation Area was approved by the Highlands Council on January 20, 2011 thus completing the initial Plan Conformance phase. The Planning Board adopted the Highlands Master Plan Element on October 18, 2012.

The zoning district changes called for in the 2010 Reexamination Report were implemented with Township Ordinance No. 28-2010, adopted by the Township Council in November 2010 thus creating the AR/Active Recreation zone district for lots 2 and 3 in Block 4400, the Professional/Commercial - 2 Zone District to cover lots 19, 20, and 21 in Block 8500, and replaced residential zoning on Lot 8 in Block 4500 to the Public zone classification in recognition of its status as a municipal park.

Other modifications recommended to the Township's Land Use Code have been refined through the work of the Planning Board's Ordinance Committee and are addressed in Section IV of this Reexamination Report.

Township Ordinance No. 22-2010, adopted on September 20, 2010, implemented regulations for wellhead protection, thus satisfying one of the recommendations in the 2003 Master Plan, as noted above. This new set of regulations, codified in §400-76.1 of Chapter 400, includes a recommendation to incorporate certain policy statements and technical information in the Township's Master Plan, as follows:

- (3) Inclusion of wellhead protection area zoning into Master Plan. The municipal Master Plan provides the legal basis for zoning and land use regulation at the local level. The technical foundation for local wellhead protection in this municipality should be incorporated into the Master Plan. A technical report on the need for wellhead protection in the Township of

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Mount Olive may be adopted as part of the Master Plan [N.J.S.A. 40:55D-28b(11)]. The technical report should include the following information:

- (a) A statement setting forth the rationale and need to protect the public water supply through a program of wellhead protection for public community wells and public nontransient noncommunity wells.
- (b) Reference to the method used to delineate the wellhead protection areas according to the "tiered" level of protection for public community wells and public nontransient noncommunity wells based upon the time of travel for groundwater, as developed by the New Jersey Geological Survey.

Any modification to the Township's Master Plan should take note of the extensive discussion on the subject of wellhead protection set forth in the Highlands Preservation Area Master Plan Element adopted by the Mount Olive Planning Board in October 2012 in accordance with plan conformance requirements.

Section III

[40:55D-89c] 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.

Highlands Water Protection and Planning Act

The most significant change in assumptions, policies and objectives impacting Mount Olive Township has been the requirement to conform to the Highlands Preservation Area portion of the Township which encompasses 80 percent of the municipality. In addition, there is a

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need to revise the Township's land use regulations to be consistent with current land use policies and established case law.

Affordable Housing

Mount Olive Township prepared its Third Round Housing Element and Fair Share Plan (HE/FSP) in accordance with COAH's Third Round rules. The Township officially petitioned COAH for substantive certification and was scheduled for approval at that agency's February 2007 meeting, however; a decision at the Appellate Division level several weeks earlier invalidated substantial parts of the Third Round rules, prompting extensive revisions and delays in approval. Mount Olive has subsequently revised its Third Round HE/FSP, adopted by the Planning Board on September 17, 2009 and submitted to COAH shortly thereafter. On October 8, 2010 the Appellate Division again issued a decision [In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing] which invalidated the "growth share" methodology along with a number of other provisions in COAH's third round rules. The matter has been argued before the New Jersey Supreme Court which, as of the date of this Report, has yet to issue its decision.

The Township prepared and approved a revised Spending Plan in June 2012 to comply with a deadline to "commit" the funds or risk forfeiture to the State. This deadline is the result of legislation adopted in July 2008, [P.L. 2008, Chapter 46, *Affordable Housing Reform Statutes*] mandating that all fees in a municipal Housing Trust Fund as of the date of the Act (July 17, 2008) be "*committed for expenditure*" within four years hence the July 17, 2012 deadline.

Municipal Land Use Law

Mount Olive may wish to adopt zoning regulations for wind and solar facilities particularly in light of recent statutory changes, as follows:

- Wind, solar and photovoltaic systems are to be treated as a "*renewable energy facility*" and have been accorded permitted use status in any industrial zone district on a parcel consisting of at least 20 acres. [40:55D-66.11] Wind, solar and photovoltaic

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systems are also to be treated as permitted uses on any landfill or “closed resource extraction operation”. [40:55D-66.16]

- Local ordinances cannot include solar panels when calculating impervious coverage limits. [40:55D-38.1]
- Where an application for a wind, solar or photovoltaic system requires a use variance putting the matter under the Board of Adjustment’s jurisdiction, the “positive criteria/special reasons” test is satisfied by the inclusion of such facilities within the definition for an inherently beneficial use in the MLUL. [40:55D-4]

Section IV

[40:55D-89d] The specific changes for the master plan or development regulations, if any, including underlying objectives, policies and standards, or whether a new plan or regulations should be proposed.

This Reexamination Report recommends the Land Use Plan Element of the Mount Olive 2003 Master Plan be amended to reflect the recommendations set forth in this section. To the extent the recommendations offered herein require modification to other elements of the 2003 Master Plan such amendments should likewise be prepared and adopted. Further, Chapter 400, the Township of Mount Olive Land Use Ordinance, should be revised to achieve consistency with the amended Master Plan and with the suggested changes to the Township’s development regulations as set forth in this Reexamination Report.

1. Highlands

Mount Olive continues to implement the requirements of Highlands Plan Conformance applicable to the Preservation Area portion of the Township.

- Master Plan Reexamination Report-done
- Highlands Area Checklist Ordinance-done
- Highlands Environmental Resource Inventory-done
- Highlands Master Plan Element-done
- Highlands Checklist Ordinance-done
- Highlands Preservation Area Ordinance-pending
- Highlands Exemption & Waiver Ordinance-pending

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2. Rezoning

a) Eliminate the Office Research (OR) Zone District

The only property remaining in the Township zoned Office Research is Lot 1 in Block 8200, a 53 acre parcel located at the northwest intersection of Smithtown Road and Route 46. It is now owned by the Land Conservancy of New Jersey and is recommended to be rezoned to the Public/Conservation Zone District as indicated above. As there are no other properties within Mount Olive zoned Office Research, this zone district should be removed from the nonresidential zone districts set forth in §400-101, D of Chapter 400 and removed from the Township's Zoning Map.

b) Rezone Lot 12 and Portion of Lot 9 in Block 5800

Lot 9 (24 Ironia Road) and Lot 12 (34 Ironia Road) are developed with industrial facilities. The front portion of Lot 9 falls within the Light Industrial (LI) zone district, however, the rear portion of the property was placed in the R-1 Residential zone district following a comprehensive revision to the Township's zone plan in 1998. Lot 12 was likewise rezoned in its entirety at the same time. This error was to be corrected subsequent to the adoption of the Township's 2003 Master Plan as depicted on the Land Use Plan (Map No. 11) contained therein but was not implemented.

c) Rezone certain properties to the Public/Conservation Zone District

Some 38 parcels ranging in size from less than one acre to 251 acres, located in various residential and non-residential zone districts, should be rezoned to the Public/Conservation zone district in recognition of their ownership by the, Township of Mount Olive, the New Jersey Department of Environmental Protection, the Land Conservancy of New Jersey and, in several instances, by neighboring municipalities. These properties, listed in Table I below, are intended to be preserved in their undeveloped condition in perpetuity.

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Table I
Properties Proposed to be Rezoned to Public Classification

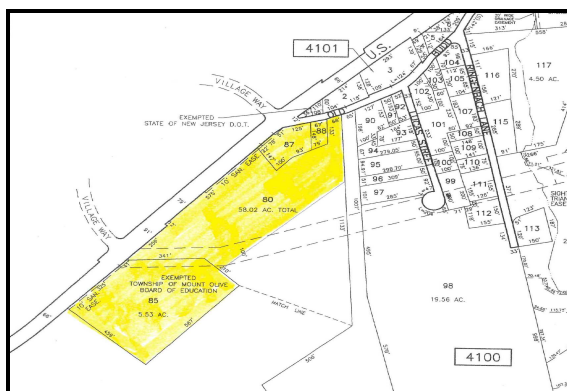
| Block | Lot | Acres | Current Zoning |
|-------|-------|-------|---|
| 106 | 2.01 | 3.10 | GI / General Industrial |
| 500 | 6 | 100.2 | RR-AA / Residential |
| 500 | 7 | 251.2 | RR-AA / Residential |
| 500 | 10 | 33.0 | RR-AA / Residential |
| 600 | 1 | 168.1 | M / Mining |
| 800 | 7 | 10.7 | RR-AA / Residential |
| 900 | 44 | 16.5 | RR-AA / Residential |
| 900 | 52 | 22.1 | RR-AA / Residential |
| 1103 | 6 | 36.4 | RR-AA / Residential |
| 1201 | 9 | 8.8 | RR-AA / Residential |
| 1300 | 28 | 40.6 | RR-AA / Residential |
| 1300 | 29 | 59.0 | RR-AA / Residential |
| 1300 | 56 | 72.6 | RR-AA / Residential |
| 1300 | 65 | 0.23 | R-2 / Residential |
| 1300 | 67 | 0.53 | R-2 / Residential |
| 1300 | 68 | 0.36 | R-2 / Residential |
| 1300 | 69 | 0.37 | R-2 / Residential |
| 1400 | 21 | 0.53 | R-2 / Residential |
| 1400 | 26 | 12.5 | R-2 / Residential |
| 2100 | 33 | 16.8 | R-2 / Residential |
| 2801 | 15.01 | 15.1 | RR-A / Residential |
| 2801 | 49 | 8.0 | R-4 / Residential |
| 2801 | 68 | 2.3 | R-4 / Residential |
| 4100 | 89 | 17.9 | C-LI / Commercial -Industrial |
| 5300 | 8 | 178.9 | RR-A / Residential |
| 5300 | 8.01 | 10.9 | C-2 / Commercial |
| 6900 | 9.01 | 73.6 | RR-AA / Residential |
| 6900 | 33 | 28.6 | RR-AA / Residential |
| 7000 | 63 | 10.3 | RR-AA / Rural Residential |
| 7000 | 64.01 | 100.0 | RR-AA / Rural Residential |
| 7000 | 65 | 37.4 | RR-AA / Rural Residential |
| 7100 | 53 | 21.9 | RR-AA / Residential |
| 7702 | 1 | 49.5 | R-2 / Residential |
| 7600 | 48 | 71.0 | RR-A / Residential |
| 7600 | 89 | 9.2 | R-1 / Residential |
| 8000 | 8 | 18.9 | RR-AA / Rural Residential |
| 8100 | 61 | 110.4 | C-2 / Commercial (portion) & R-2 / Residential (portion) |
| 8200 | 1 | 52.7 | OR / Office Research |
| 8500 | 22 | 14.22 | R-2 / Residential |

d) Consider rezoning portion of R-6 zone along Route 46

The Planning Board has been approached by a principal of Mt. Olive Center Associates, owner of lots 80, 83 and 84 in Block 4100, totaling 63 acres, with a request to modify the R-

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6 Zone District in order to establish commercial zoning covering approximately 6-to-7 acres along eastbound Route 46. The Planning Board approved an age-restricted residential project (215 units) with a non-age-restricted affordable housing component (54 units) in April 2008 for this area. Mt. Olive Center Associates subsequently received Planning Board approval to convert the market units to a non-age-restricted classification in September 2011 in accordance with P.L. 2009 c.82 (“Conversion Legislation”). The rezoning proposal will not impact the placement of any units or site improvements, and upon a preliminary analysis, appears to have no adverse impact on other requirements regarding the approved site plan i.e. density, coverage, setbacks, etc. The area under consideration extends from the Trading Post (Lot 87) to the Board of Education building (Lot 85), [see insert, below]. An option discussed by the Planning Board would rezone this area which includes not only the R-6 zoning on Mt. Olive Associates site but also the C-LI/Commercial Light Industrial zoning currently in place on the Board of Education property.



The idea has merit in that the R-6 portion of the area in question is not utilized for the approved residential development and the C-LI zoning applicable to the Board of Education property is actually a remnant of the former zoning prior to the implementation of the R-6 district. This area also has the benefit of the traffic signal on Route 46 to facilitate access. It is recognized that certain environmental constraints e.g. freshwater wetlands, steep slopes are present in the vicinity of the proposed area, however; as with any municipal zoning, such constraints must be addressed with any proposed development with local and state regulations.

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3. Establish a new Conditional Use in certain residential zones for affordable accessory apartments

This Reexamination Report recommends a modification to the RR-AA and RR-A zone districts to add a new conditional use to permit accessory apartments within existing single family dwellings for the express purpose of creating affordable housing. Among the strategies to address the Township's affordable housing obligation included in the current Housing Element and Fair Share Plan and in the Township's revised Spending Plan, approved by COAH in June 2012, is the "accessory apartment" program. As the name indicates, this program is designed to create apartments within existing residential dwellings, or within accessory buildings or structures associated with residential dwellings, for low and moderate income households. An "accessory apartment" is defined in COAH's Third Round rules (N.J.A.C. 5:97-1.4) as follows:

Accessory apartment means a self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is created within an existing home, or through the conversion of an existing accessory structure on the same site, or by an addition to an existing home or accessory building, or by the construction of a new accessory structure on the same site.

COAH's rules limit the number of accessory apartments to either 10 units or an amount equal to 10 percent of the municipality's fair share obligation which for Mount Olive is 50 units (based on total obligation of 505 units). At present the Township has projected a total of 16 units for this program. COAH requires that an accessory apartment program be managed by a qualified "administrative agent" and Mount Olive has now contacted with a qualified firm for this purpose. The accessory apartment program will be designed in accordance with N.J.A.C. 5:97-6.8. Funding for such units will be provided through the Township's Affordable Housing Trust Fund in accordance with the Township's approved Spending Plan. COAH requires the Township provide a subsidy of \$25,000 for every low-income unit and \$20,000 for every moderate-income unit to fund actual construction and/or

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provide compensation to the homeowner for reduced rental rates. Ordinance details must include:

- Control periods for rental units (N.J.A.C. 5:80-26.11(a)); accessory apartments may have 10-year controls on affordability;
- Bedroom distribution (N.J.A.C. 5:80-26.3(b) and (c)); however, the ordinance shall not restrict the number of bedrooms per unit;
- Affordability average (N.J.A.C. 5:80-26.3(d) and (e)); however, the maximum rent for a moderate-income unit shall be affordable to households earning no more than 60 percent of median income and the maximum rent for a low-income unit shall be affordable to households earning no more than 44 percent of median income;

4. Revise and Update the Mount Olive Land Use Code

This Master Plan Reexamination Report recommends significant revisions to Chapter 400, the Township's Land Use Ordinance.

Article II - Definitions

(a) §400-6 should be modified to include new definitions for the following land use activities:

- Banners
- Bar
- Certified Floodplain Manager (CFM)
- Deck-dwelling/building
- Hotel
- House of worship
- Motel
- Motor-vehicle dealership
- Motor-vehicle repair
- Nightclub
- Patio
- Restaurants
- Veterinary clinic

Certain existing definitions should be modified. These are:

- Approving authority
- Deck
- Health club
- Medical offices
- Vehicle

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A couple of definitions have been superseded by new terms and should be eliminated, as follows:

- Approved plan
- Housing region

Article III – General Administration; Building Construction; Permits

(b) §400-10 BUILDING CONSTRUCTION: eliminate reference to “Route 46, P.O. Box 450”

(c) §400-12 CLERICAL PERSONNEL FOR PLANNING BOARD: eliminate reference to “and applications for garden apartments or medical office buildings” and “the Planning Board”

(d) §400-15 CONDITIONAL USES; ISSUANCE OF PERMITS: eliminate reference to “junkyard” and “sand and/or gravel pit” as said uses are not permitted within the Township. Also see Section IV, page 21 for additional changes to this section.

(e) §400-18, FEES: eliminate reference to the Board of Adjustment; eliminate provision to refund fees if an appeal is decided in the applicant’s favor; increase the escrow fee from \$250 to \$500 per lot; eliminate reference to “monthly” and eliminate “...to the approving authority...” with regard to accounting of funds in subsection H8.

(f) §400-20 OFF-SITE IMPROVEMENTS: eliminate reference to the Board of Adjustment.

(g) §400-23 ZONING PERMITS AND CERTIFICATES OF OCCUPANCY; FEES: add “detached garages”.

(h) §400-24 PLANNING BOARD: modify subsection F(4) to eliminate “but not a variance pursuant to Subsection d of N.J.S.A. 40:55D-70,” and eliminate reference to the Board of Adjustment here and in subsection F(7). Modify subsection F(4)(a) to include: “and d” with regard to the type of variances to be heard by the Planning Board, acting as a combined board.

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(i) §400-25 PUBLIC HEARINGS AND NOTICES: revise to include the following new language:

Notice Requirement for Public Hearing

Public Notice of a hearing shall be given for the following cases:

- a. Application for preliminary approval of major subdivision
- b. Application which requires a variance, direction for issuance of permit (N.J.S.A. 40:55D-34; 36), interpretation of the Zoning Map or Zoning Ordinance (N.J.S.A. 40:55D-70(b), appeal of order of an administrative officer of the Township (N.J.S.A. 40:55D-70(a), certification of pre-existing nonconforming use (N.J.S.A. 40:55D-68), and a Conditional Use (N.J.S.A. 40:55D-67)
- c. Application for preliminary major site plan approval
- d. Extension of preliminary major subdivision or a preliminary major site plan (pursuant to subsection d. of N.J.S.A. 40:55D-49) or extension of final major subdivision or a final major site plan (pursuant to subsection b. of N.J.S.A. 40:55D-52) for period of five (5) years or more.
- e. Modification or elimination of a significant condition or conditions in memorializing resolution in any situation wherein the application for development to which the resolution pertains required public notice.

Revise subsection B to eliminate the following: "...except that for all public hearings relating to preliminary site plans, preliminary major subdivisions and use variances, the applicant shall provide for the stenographic recording of the same and shall furnish the approving authority with a typewritten copy of the transcript by a certified shorthand reporter before rendering a decision on said application."

Replace the above with: "Minutes of every regular or special meeting shall be made available for public inspection during normal business hours at the office of the Secretary of the Board. Any interested party shall have the right to request copy of minutes by filing an

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Information Request form with the Township Clerk. In accordance with Ordinance 3-2011 copy of the minutes of the meetings of the Planning Board shall be free of charge.”

Revise subsection C (1) to eliminate the following: “There shall be a charge of \$0.25 per page for each additional copy of the decision or minutes transmitted to interested parties.”

Replace the above with: “In accordance with Ordinance 3-2011 copy of the decision of the Planning Board shall be free of charge.”

(j) §400-27 SUBDIVISION APPROVAL REQUIRED; AUTHORITY OF PLANNING BOARD; EXEMPTIONS: eliminate the following: “Except where a use variance is involved as outline in this Article under Board of Adjustment” and “...to the same extent subject to the same restrictions as the Board of Adjustment.” In Subsection B, replace reference to Board of Adjustment with Planning Board.

(k) §400-29 SITE PLAN REVIEW, subsection D(1): revise to reflect the jurisdictional responsibilities of the Planning Board for all development matters, including appeals, interpretations and variance relief per N.J.S.A. 40:55D-70 and to require plans, etc. at least four weeks in advance of hearing; revise subsection I(2) to replace “Office of Smart Growth” with “Office of Planning Advocacy”.

(l) §400-32 SUBDIVISION PLAN REVIEW, subsection C(3): replace existing language with requirement to determine administrative completeness review within 45 days of a complete application submission and the issuance of a letter to applicant either confirming completeness or detailing the basis for an incomplete status.

Article V – Design Guidelines and Technical Standards

(a) §400-43 DRIVEWAY STANDARDS FOR SINGLE-FAMILY RESIDENCES; EXCEPTIONS; VIOLATIONS AND PENALTIES, subsection C(2): add “Applicant is required to post escrow fee

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in the amount of \$500 for any professional review fees incurred with a review by the Township Engineer.”

(b) §400-45 FIRE HYDRANTS, subsection B(3): revise to remove reference to “Zoning Board of Adjustment”.

(c) §400-46 FIRE LANES, subsection B: eliminate: “...also known as A&P Shopping Center”; subsection C: replace “Foodtown Shopping Center” with “The Mall at 206”; subsection D(1): replace “A&P Building” with “primary anchor store”

(d) §400-48 FLOOD DAMAGE PROTECTION, subsection E: change “Route 46” and “Mount Olive” to “204 Flanders Drakestown Road” and “Budd Lake”, respectively; and replace “Planning Official” with “Certified Floodplain Manager”; replace all references to “variance” with the term “relief”; eliminate all references to “Zoning Board of Adjustment”; change “Comprehensive Plan” to “Master Plan”.

(e) §400-49 “Floodplain construction”, subsection C(5): increase fee from \$10 to \$25; subsection D(1): increase filing fee of \$50 to \$100 and add: “professional review (escrow) fee of \$500”; D(2): eliminate reference to “Zoning Board of Adjustment”.

(f) §400-57 OFF-STREET PARKING AND LOADING, subsection I, “Minimum loading requirements” to be revised to eliminate the following land use categories as they are either duplicative or will be modified or eliminated in the respective zoning districts in accordance with the recommendations of this Reexamination Report:

Airport, Auto sales, Cemetery, Church, Dwelling unit, Finishing operation,
Golf course, Hospital, Mines, Mortuary, Neighborhood convenience center,
Pilot plants, Tennis courts, Truck sales, Quarries, Veterinarian hospital

Add the following land use categories, along with loading standards, to subsection I:

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Hotel, House of worship, Motel, Motor-vehicle dealership, Motor-vehicle repair, Nightclub, Veterinary clinic

Revise subsection J, “Minimum parking requirements” as follows: “The number of parking spaces for all residential uses shall be provided in accordance with the Residential Site Improvement Standards (N.J.A.C. 5:21-1.1 et seq.). Parking for nonresidential uses shall be determined by the amount of gross floor area as defined in this chapter or such other measure as noted below. Where a particular function contains more than one use, the minimum parking requirements shall be the sum of the component parts.”

Also revise subsection J to eliminate the following land use categories as they are either duplicative or will be modified or eliminated in the respective zoning districts in accordance with the recommendations of this Reexamination Report:

Airport, Auto sales, Cemetery, Church, Dwelling unit, Finishing operation,
Golf course, Hospital, Mines, Mortuary, Neighborhood convenience center,
Pilot plants, Quarries, Veterinarian hospital

Add the following land use categories, along with parking standards, to subsection J:

Hotel, House of worship, Motel, Motor-vehicle dealership, Motor-vehicle repair, Nightclub, Veterinary clinic

Revise the parking standard for “service station” to account for stations with no service bays and for those with convenience marts.

(g) §400-74 SURFACE WATER MANAGEMENT: eliminate all references to “Zoning Board of Adjustment”

(h) §400-75 TREE REMOVAL, REPLANTING AND FORESTRY MANAGEMENT PLANS: eliminate all references to “Zoning Board of Adjustment”; consider revising subsection E(7). The current standard requiring review by the Planning Board where the removal of more than 5

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trees per year on tracts in excess of one acre or more than 10 trees per acre on tracts in excess of 5 acres should be reassessed. Likewise the absence of a definition for “forestry management plans” should be addressed with consideration of utilizing the definition for “woodland management plan” instead. And the requirement to “file” a forestry management plan with the Planning Board results in confusion as to whether a public hearing is required and by what standards the Board would review such plans. The following should be added to the list of Exceptions under subsection F:

- (9) Trees to be removed as part of a “woodland management plan” submitted to the Township Tax Assessor pursuant to N.J.A.C. 18:15-1.1 et seq. (Farmland Assessment Act)

Article VI – Zoning

- (a) §400-77 INTERPRETATION AND GENERAL PROVISIONS, subsection A: replace “Board of Adjustment” with “Planning Board”
- (b) §400-79 ADULT ENTERTAINMENT: consider revising to cite state statute N.J.S.A. 2C:34-7 and/or update language in Ordinance to be consistent with same.
- (c) §400-83 STREAM CORRIDOR BUFFERS, subsection G: eliminate “Zoning Board of Adjustment” and consider eliminating provision to grant “waivers” and instead treat as variance conditions.
- (d) §400-85 AFFORDABLE HOUSING: No change is proposed at this time however, it is anticipated that significant revisions will be required once the N.J. Supreme Court issues its decision regarding COAH’s Third Round rules and following any changes implemented by COAH or its successor.
- (e) §400-87 NONCONFORMING USES, STRUCTURES OR LOTS is not consistent with established case law with regard determining when a nonconforming use can be deemed “abandoned”

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and how to determine the threshold at which a nonconforming use, building or structure can be deemed totally destroyed. Further, the Ordinance should distinguish between a nonconforming use and a nonconforming structure. Subsection A. “Abandonment” reads:

- (1) A nonconforming use shall be considered abandoned if:
 - (a) It is terminated by the owner;
 - (b) A nonconforming use involving a structure is discontinued for 12 consecutive months; or
 - (c) A nonconforming use of land without structure(s) ceases for a period of six months.

This type of timetable has been rejected by the courts as illustrated by the following observation: “*Under New Jersey's enabling legislation, a municipality cannot lawfully adopt an ordinance providing for automatic termination after nonuse for a stated period without regard to intent to abandon.*”

Subsection E: The provision establishing that where: “*...the value of repairing the condition is greater than 50% of the value of replacing the entire structure, it shall be considered completely destroyed...*” is inconsistent with the language in N.J.S.A. 40:55D-68 which reads, in part:

Any nonconforming use or structure existing at the time of the passage of an ordinance may be continued upon the lot or in the structure so occupied and any such structure may be restored or repaired in the event of **partial destruction** thereof. (Emphasis added)

Partial destruction, not an assigned percentage of value, has been the standard consistently upheld by the courts in New Jersey and therefore should be the standard in the Township’s Ordinance. A use variance is not required to rebuild a nonconforming building or structure that suffers total destruction if the building or structure is associated with a permitted use, be it principal, accessory, or conditional. And, further, subsection E states, in part:

If, in the opinion of the majority of the above three people, the value of repairing the condition is greater than 50% of the value of replacing the

¹ S & S v. Zoning Board for Stratford, 373 N.J. Super. 603, 622 (App. Div. 2004)

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entire structure, it shall be considered completely destroyed and may be rebuilt to the original specifications only upon approval of a **use variance** as provided by state statutes. (Emphasis added)

A nonconforming building or structure, at least one containing a permitted use, will require bulk variances to the extent it deviates from the applicable zone district requirements, but such action does not require use variance approval thus the above language should be revised.

(f) §400-88 PASTORAL ANIMALS

Pastoral animals are defined in the Ordinance as horses, ponies, cows, cattle, sheep, goats, fowl, pigs and mules. Current standards allow for pastoral animals in any zone subject to a one acre threshold, however; 25 fowl are considered the equivalent of one pastoral animal. Thus it is possible to raise chickens or other fowl on a property less than one acre – in fact there is no minimum lot requirement for this purpose – as long as there are 24 or fewer on site. In some of the denser residential zone districts in the Township, this type of arrangement can lead to problems with noise, odors and the like therefore the standard should be changed to eliminate the fractional approach in counting fowl and to either limit the keeping of fowl to a minimum one acre as with all other pastoral animals or to limit fowl to a set number for properties consisting of less than one acre. In such circumstances it may be appropriate to keep such a number below five. Subsection A(4) should be revised to establish one acre at its true area of 43,560 square feet and to round up the one half-acre standard to 21,000 square feet.

(g) §400-90 ONE PRINCIPAL BUILDING PER LOT; EXCEPTION: modify to include the list of permitted uses in the AR-Active Recreation Zone District and to eliminate the category: “residential/golf course developments”.

(h) §400-91 RESIDENTIAL CLUSTERS: Subsection C “Open Space Requirements” requires: *“All open space, as designated on any cluster development, shall be either dedicated to the municipality for use in its sole discretion or dedicated to an organization for the ownership and maintenance of the common open*

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space for the benefit of the owners and residents of the development.” Mandating dedication of the open space to the municipality as one of two options is not consistent with the statutory provisions for the establishment of open space therefore it should be revised accordingly. N.J.S.A. 40:55D-43 “Standards for the establishment of open space organization”, subsection ‘a’, reads as follows:

An ordinance pursuant to this article permitting planned unit development, planned unit residential development or residential cluster **may provide** that the municipality or other governmental agency may, at any time and from time to time, accept the dedication of land or any interest therein for public use and maintenance, **but the ordinance shall not require, as a condition of the approval of a planned development, that land proposed to be set aside for common open space be dedicated or made available to public use. (Emphasis added)**

Likewise subsection C(2) should be modified to strike the following sentence: “*Whether or not the open space shall be dedicated for ownership by the Township shall be within the sole discretion of the Township governing body.*”

(i) §400-94 SERVICE STATIONS

This section and §400-15 contain the specific standards applicable to service stations which are a conditional use in the C-1, C-2, and C-LI zone districts. In the interest of clarity and better organization of the Ordinance, the standards set forth in §400-15, D(5)(a) through (e) should be transferred to §400-94 and include reference to the C-LI zone district. In conjunction with incorporating the two sections into one, certain provisions in §400-15D(5) are recommended to be revised or eliminated.

The Planning Board takes note of an emerging trend whereby service stations are increasingly providing relatively small stores offering a range of products in addition to the sale of gasoline and diesel fuel. Experience with several conditional use variances granted in

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recent years allowing convenience marts in structures larger than the 300 square foot limit imposed by §400-15D(5)(d) on active service station properties has proven positive. It is therefore recommended that the conditional use standards in §400-15D(5) applicable to service stations be revised to replace the 300 square foot limit on structures providing for the sale of convenience items with a Floor Area Ratio (FAR) standard of point zero six (0.06).

The minimum lot requirement of two acres should remain unchanged, thus a service station on a conforming two acre parcel would be permitted a convenience mart up to 5,227 square feet, subject, of course, to other factors i.e. setbacks, parking, coverage limits, etc. To prevent any confusion, it should be made clear that the FAR excludes canopy structures and that the 0.06 factor applies only to convenience marts for service stations under the conditional use standards.

The limit on type of products available for sale (D(5)(d) should be eliminated. At present these restrictions allow only for the following: *prepackaged single-serve snack items and coffee prepared on site...prepackaged containers of soda/juice/milk...road maps, newspapers, travel guides and personal hygiene articles*. Affording a wider range of products available for purchase provides a service to Township residents and the travelling public, as expressed in the following goal established in the Township's Master Plan:

To encourage commercial development in appropriate areas along Routes 46 and 206 to serve the needs of Mount Olive residents and regional travelers, with sufficient design control to assure minimal interruption to traffic flows.²

The conditional use standard in §400-15D(5)(b) that requires a minimum distance of 2,500 feet between service stations should be eliminated. Mandating a separation of approximately one-half mile between service stations does not reflect the existing conditions in the Township and is impractical particularly when such facilities locate on opposite sides of

² Mount Olive Township 2003 Master Plan and Master Plan Reexamination, December 5, 2003, Section 2.0 Reexamination Report, page 3

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Routes 46 and 206. And such distance requirements between service stations as it is inconsistent with established case law.³

§400-94C should be either modified or eliminated. It reads:

It is intended that service stations be designed compatibly with other permitted commercial and industrial uses in the zone in which they are located, that they not be stripped along the available highway frontage or at each quadrant of a convenient intersection and that they be located within shopping centers and in office and industrial complexes as an integral part of the overall design. Ingress and egress shall recognize the turning movements generated. These access points shall be coordinated with the access points required for the nearby uses, the frequency of intersecting side streets, the minimizing of left turns off collector and arterial streets and the maintaining of building setbacks compatible with the required setbacks and landscaping.

Established land use patterns along Routes 46 and 206 do not reflect the type of spacing envisioned in §400-94 and the call for designing in compatibility with other permitted commercial and industrial uses lacks the type of specificity required of conditional use standards.

(j) §400-95 SIGNS: the new definition for “banner” which should include the “banana” type signs currently in fashion and signage affixed to utility and light poles particularly within the retail centers within the Township. “Banana” type signs are essentially ground-mounted vertical banners which are growing in popularity for curbside advertising. To the extent the Township wishes to permit such signs, it is recommended they be classified as temporary signs subject to Ordinance standards governing same, restricted to Routes 46 and 206, and limited in number to one sign per 75 feet of linear frontage.

³ Exxon Co. USA V. Livingston Township in Essex County, 199 N.J. Super 470, 477; 478 (App. Div. 1985)

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The Planning Board has given particular attention to the growing use of electronic message board type signs. At present the Ordinance does not recognize this type of sign but neither does it prohibit it. As of this Reexamination Report there are three such signs in Mount Olive. One is located at the Mall at 206 along Route 206 in Flanders. Mount Olive High School and, recently, the Municipal Building property, likewise have one each. No consensus has been reached whether such signs should be included in the Ordinance. Typically found in commercial areas, particularly along highway corridors, the challenge in Mount Olive is to determine the aesthetic impact if permitted in the commercial zones.

Subsection C, General regulations as to signs, subsection (8) should be revised to strike the word “substantially” as follows:

No sign may ~~substantially~~ interfere with any door, window, fire escape or other large opening that provides light and/or ingress or egress.

(k) §400-97 TRAILERS: consider transferring this section to Volume I of the Township Code as it concerns the regulation of trailers with provisions for emergency use subject to review and approval by the Mayor.

(l) §400-98 TRANSFER OF DEVELOPMENT CREDITS: Entire section should be reviewed for consistency with NJ Highlands standards within Preservation Area portion of the Township and for consistency with the statutory requirements set forth in the Municipal Land Use Law (N.J.S.A. 40:55D-137 through 162

(m) §400-99 DOCKS, PIERS AND BOATHOUSES: Eliminate references to “Zoning Board of Adjustment”.

Article VII – Zoning District Use and Bulk Regulations

(a) §400-100 RURAL AND RESIDENTIAL DISTRICTS

Modify the density methodology in the RR-AA and RR-A zone districts

Implement a recommendation in the 2003 Master Plan which read as follows:

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The overall density standards within each zone district should be dropped for the single-family detached districts. Residential density in these districts should be determined by minimum lot sizes as they are designed given the site's individual characteristics and environmental constraints.⁴

Recommendation: Amend §400-100 C (5)(a) RR-AA

The maximum overall residential density shall not exceed one dwelling unit for every five acres. Eliminate the following: Developments which are not developed under the residential cluster principle shall be permitted a lot area of four acres and would be subject to the standards set forth in the Schedule of Limitations.

Recommendation: Amend §400-100 D (5)(a) RR-A

The maximum overall residential density shall not exceed one dwelling unit for every three acres. Eliminate the following: Developments which are not developed under the residential cluster principle shall be permitted a lot area of 100,000 square feet and would be subject to the standards set forth in the Schedule of Limitations.

Recommendation: Amend *Schedule of Limitations, Residential Districts*

Change RR-AA Rural Residential, *Detached dwellings* category to set the minimum acreage per lot at 5 acres rather than the current 4 acres and change the RR-A Rural Residential category *Detached dwellings* to set the minimum acreage to 3 acres rather than the current 100,000 square feet to 3 acres.

In limited circumstances, accessory apartments, which shall only be permitted for qualified low and moderate income households and restricted in number as discussed in Section IV of this Reexamination Report, will result in two units per 5 and 3 acres for the RR-AA and RR-A zones, respectively.

⁴ Mount Olive Township 2003 Master Plan and Master Plan Reexamination, §5.0 Master Plan Elements, §5.1.1, Residential Land Uses, page 52.

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(b) Modify or eliminate certain conditional uses

In the Public/Conservation, RR-AA, RR-A, R-1, R-2, R-3, R-4, and R-5 zone districts certain conditional uses should be eliminated as they are no longer appropriate nor compatible with the existing character of areas in question. Schools and churches (to be reclassified as 'houses of worship') should be examined by the Planning Board to establish new standards to govern such matters as minimum lot area, building height, setbacks and the like. Table II, below identifies the conditional use categories to be eliminated and those to remain subject to revised standards.

Table II
Conditional Use Modifications

| Zone District | Conditional Uses to be Eliminated | Remaining Conditional Uses | Changes to Remaining Conditional Use Standards |
|---------------------|---|--|---|
| Public/Conservation | <ul style="list-style-type: none"> ▪ churches ▪ hospitals ▪ club pools and associated recreation areas ▪ home occupations ▪ campgrounds | <ul style="list-style-type: none"> ▪ Utility structures, including commercial radio and communication towers, etc. ▪ schools ▪ cemeteries ▪ golf courses | None required |
| RR/AA & RR/A | <ul style="list-style-type: none"> ▪ cemeteries ▪ golf courses ▪ hospitals ▪ campgrounds ▪ club pools and associated recreation areas | <ul style="list-style-type: none"> ▪ churches ▪ schools ▪ utility structures ▪ home occupations | Churches (to be reclassified as 'houses of worship') and schools require revised standards for minimum lot area, building height, parking, etc. |
| R-1 | <ul style="list-style-type: none"> ▪ cemeteries ▪ golf courses ▪ hospitals ▪ club pools and associated recreation areas | <ul style="list-style-type: none"> ▪ churches ▪ schools ▪ utility structures ▪ home occupations | Same as above for RR/AA & RR/A |
| R-2 | <ul style="list-style-type: none"> ▪ cemeteries ▪ golf courses ▪ hospitals ▪ club pools and associated recreation areas | <ul style="list-style-type: none"> ▪ churches ▪ schools ▪ utility structures ▪ home occupations | Same as above for RR/AA & RR/A |
| R-3 | <ul style="list-style-type: none"> ▪ cemeteries ▪ golf courses ▪ hospitals ▪ club pools and associated recreation areas ▪ mortuaries | <ul style="list-style-type: none"> ▪ churches ▪ schools ▪ utility structures ▪ home occupations | Same as above for RR/AA & RR/A |
| R-4 | <ul style="list-style-type: none"> ▪ cemeteries ▪ golf courses ▪ club pools and associated recreation areas ▪ medical centers ▪ mortuaries | <ul style="list-style-type: none"> ▪ churches ▪ schools ▪ utility structures ▪ home occupations | Same as above for RR/AA & RR/A |
| R-5 | <ul style="list-style-type: none"> ▪ churches ▪ schools ▪ cemeteries ▪ club pools and associated | <ul style="list-style-type: none"> ▪ utility structures ▪ home occupations | None required |

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| | | | |
|--|---|--|--|
| | <ul style="list-style-type: none"> ■ recreation areas ■ medical centers ■ mortuaries | | |
|--|---|--|--|

- (c) Revise the Conditional use standards in the Public/Conservation, RR-AA, RR-A, R-1, R-2, R-3, R-4, and R-5 zones to provide specific standards for each Conditional use category.

- (d) §400-101 NONRESIDENTIAL DISTRICTS

Changes in various non-residential zones are likewise recommended to redefine certain land uses, remove others deemed no longer suitable for the Township's policy objectives for the particular zone district in question, and to make certain adjustments in the C-1 and C-2 zone districts. These modifications are as follows:

- [1] C-1 & C-2 Commercial Districts – Principal Uses

- change “automobile/truck sales” to “automobile dealership”
- change “veterinary hospitals” to “veterinary clinics”
- allow Laundromats and banks/similar financial institutions in C-1 zone
- eliminate the following Principal Uses
 - recreation centers of a nonnuisance character, except for amusement arcades
 - motels
 - hotels

- [2] C-1 Commercial District – Conditional Uses

- Service stations – eliminate reference to “but not including body shops”; add reference to “including convenience markets”
- Eliminate:
 - Amusement arcades
 - Convenience markets
 - Retail sales of goods and services

- [3] C-2 Commercial District – Conditional Uses

- Eliminate:
 - Amusement arcades
 - Convenience markets

- [4] C-1 & C-2 Commercial Districts –Bulk Standards

- Eliminate:

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- Buildings shall have a minimum floor area of 1,000 square feet
- [5] C-LI – Commercial/Light Industrial District
- change “veterinary hospitals” to “veterinary clinics”
 - change “health and fitness centers” to “health clubs”
 - change “medical centers” to “medical clinics”
 - Eliminate:
 - mortuaries
- (e) Recodify the AR Active Recreation Zone district to §400-101 Nonresidential districts
- (f) Revise the title of the Professional/Commercial Zone to the Professional/Business Zone in §400-101, I.
- (g) Revise the permitted maximum height for principal structure/building in the LI/ Light Industrial zone district to permit a maximum building height of 40 feet instead of the present 30 foot limit. This change is appropriate given the type of office, manufacturing and particularly warehouse buildings for the district. In conjunction with this change, increase the minimum setback (side, rear) where the LI district abuts a residential zone district from the current 50 foot standard to 100 feet.

Section V

[40:55D-89e] The recommendations of the planning board concerning the incorporation of redevelopment plans adopted pursuant to the “Local Redevelopment and Housing Law”, P.L. 1992, c. 79 (C. 40A:12A-1 et seq.) into the land use plan element of the municipal master plan, and recommended changes, if any, in the local development regulations necessary to effectuate the redevelopment plans of the municipality.

1. Cobblestone

The Township of Mount Olive, in its effort to provide opportunities for affordable housing, intends to partner with Homeless Solutions, Inc., a non-profit organization which specializes

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in the development and management of affordable housing to acquire and develop lots 21 and 28 in Block 3205 (hereinafter referred to as the Cobblestone site) to redevelop the tract with 15-to-20 units as a municipally sponsored 100 percent affordable housing project pursuant to N.J.A.C. 5:97-6.7. The Township has committed up to \$950,000 from its Affordable Housing Trust Fund to ensure the success of this endeavor.

Acquisition of former nursing home site located on Lot 28 in Block 3205 and Lot 21, a contiguous undeveloped parcel, provides such an opportunity. The former nursing home has been closed for a number of years. The deteriorated condition of the building and grounds represents a blighted condition upon the surrounding residential neighborhood of single family homes. Combined lots 21 and 28 comprise approximately 1.5 acres and are located within the Budd Lake sanitary sewer service area thus enhancing the potential for residential redevelopment. The importance of acquiring and utilizing the properties in question for affordable housing is magnified by the impact of the *Highlands Water Protection and Planning Act* (P.L. 2004, C. 120) in Mount Olive wherein 80 percent of the Township now falls within the extremely restrictive Preservation Area which essentially prohibits the type of development envisioned here. As a consequence of the Highlands Act, the Township must utilize lands within the remaining 20 percent of the municipality within the less restrictive Planning Area – including the properties in question – to address the lion’s share of its affordable housing obligation.

As part of its compliance with COAH’s regulations to achieve substantive certification, Mount Olive has also prepared a Spending Plan and a development fee ordinance, approved by COAH and adopted by the Township Council in August 1999 to create a dedicated revenue source for affordable housing. On June 14, 2012, COAH approved an amended Spending Plan submitted by Mount Olive for the purpose of committing \$1.2 million from the Township’s Affordable Housing Trust Fund to various projects. Included in this amended Spending Plan is a commitment of \$750,000 for acquisition and preparation (demolition of existing structures, soils analysis, well testing, etc.) of the Cobblestone site and to supplement other funding sources available to Homeless Solutions, Inc. in order to

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develop the affordable units and supporting infrastructure. An additional \$200,000 has also been committed to this project to satisfy COAH's "affordability assistance" assistance for low and very low income unit requirements in accordance with N.J.A.C. 5:97-8.8.

2. Route 46 / Lake Area Highlands Redevelopment proposal

The Township is in the preliminary stages of pursuing a Highlands Redevelopment designation for 17.7 acres of land area encompassing 17 properties situate along or proximate to State Highway Route 46 in the Budd Lake section of Mount Olive Township (Table III). The purpose is to classify the area in question as a Highlands Redevelopment Area (HRA) to facilitate efforts to remove abandoned buildings, create conditions to induce reinvestment within this commercial corridor, and to manage the development/redevelopment in a comprehensive fashion.

The intent here is to work in collaboration with Highlands staff and appropriate officials/staff with other agencies i.e. NJDEP, NJDOT to develop specific standards and guidelines within a new zone district for the HRA to implement key goals, policies and objectives as set forth in the **Highlands Regional Master Plan** (RMP) and in the Township of Mount Olive's Highlands Preservation Area Master Plan Element (Highlands Element) with particular emphasis on the goals, objectives and policies concerning Lake Management, Scenic Resources, Sustainable Economic Development and Transportation with a focus on pedestrian connections and safety in an effort to provide options to navigate the barrier between the lake environs and Township residents presented by Route 46. The area in question impacts directly upon the shoreline and waters of Budd Lake, the headwaters of the South Branch Raritan River, the "*predominant surface water feature in the Township*"⁵.

The proposed HRA area consists of properties located along a linear section of the highway between Johnson Avenue to the east and Manor House Road to the west. Within this

⁵ The Mt. Olive Township Natural Resource Inventory prepared by Princeton Hydro, LLC, October 2006, page 43.

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segment of the Township there are business and retail properties, a bank, several residential units, a marina, the Budd Lake First Aid squad complex and the municipal beach at Budd Lake along with an expanse of contiguous asphalt that once contained the Mount Olive Municipal Building and public works facilities. Forming a northerly border to the HRA is the transition point from the lake to the South Branch Raritan River, known as the Budd Lake Outlet which is classified as a Natural Heritage Priority Site within the New Jersey Natural Heritage Program.⁶

All of the properties in question are located within and served by the Budd Lake Sanitary Sewerage component of the Musconetcong Utilities Authority and treated at the MUA sewerage treatment plant. Mount Olive's Commercial/C-1 Zone District applies to the whole of the proposed HRA. The C-1 zone requires a minimum lot area of one acre. It imposes a maximum impervious coverage limit of 60 percent, a building coverage limit of 30 percent, total building height of 30 feet, and a Floor Area Ratio of 0.4 (40 percent).

Ten of the seventeen properties do not meet the C1 zone minimum one acre standard and are therefore nonconforming. Further, the minimum lot area for a service station which is a conditional use in the C1 zone is two acres. The Sun Power gas station on Lot 44 in Block 7704 consists of 0.73 acres and DTA Auto Repair, which shares a half-acre parcel with a separate retail use are both substandard not only to the C1 zone standards, but also with respect to the specific conditional use standards for this type of facility. One additional undersized property, Lot 22 in Block 7702, is scheduled to be merged with Lot 21 in accordance with a 2011 site plan approval.

Several properties contain preexisting, nonconforming uses including a residential dwelling and a marina (Block 2700, lots 2 and 3) and two principal buildings/uses (Block 2700, Lot 77). The proposed HRA area also includes a pump station structure associated with the Budd Lake Sanitary Sewer district, located within a former right-of-way of a paper street

⁶ Ibid. Page 56.

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vacated by the Mount Olive Township Council in 1997⁷. To date this parcel has not been assigned a block and lot designation. Since the adoption of the Highlands Act, two sites have secured municipal site plan approval in conjunction with a Highlands Exemption Number 4. One, the High Noon Bar & Grill (Block 7701, Lot 3) instituted the site improvements. The other, Ceil West Properties, Inc. (Block 7702, lots 21 & 22) has not moved forward with the approved two-story retail/restaurant building.

Faced with an assortment of underutilized properties, nonconforming uses and lots, several dilapidated structures in need of removal, the HRA would certainly qualify as an *Area In Need of Redevelopment* in accordance with the provisions and standards set forth in the **Local Redevelopment and Housing Law** (N.J.S. 40A:12A-5). Because the entire 21 acre HRA falls within the Highlands Preservation Area, Mount Olive Township realizes that any redevelopment plan that would be produced under the LRHL process would still have to pass muster with the Highlands Act and the RMP. As expressed in the RMP: “*Redevelopment is a strategy to achieve sustainable development in the Highlands.*”⁸ More particularly:

Redevelopment in the Highlands is a process used to rebuild, restore, or enhance a previously developed area that is appropriate for economic investment and community development in accordance with smart growth policies of the RMP. Redevelopment activities may include the removal and replacement, adaptive reuse or infill of structures within areas which are surrounded by development or substantially developed, or conversion of similar sites to open space uses where appropriate. Redevelopment activities may take place in previously developed areas, brownfields, and grayfields.⁹

The HRA includes several properties with the characteristics typical of a “grayfield” site, defined in the RMP, as follows:

Grayfield sites usually contain industrial or commercial facilities, exhibiting signs of abandonment or underutilization in areas with existing

⁷ Township Ordinance No. 24-97, adopted August 19, 1997.

⁸ Highlands Regional Master Plan, 2008, Chapter 5, page 325.

⁹ Ibid. Page 326

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infrastructure, but without evidence or expectation of contamination. Grayfield sites may also include a residential component. These areas are often declining and underutilized strip shopping areas. In the Preservation Area, previously developed areas must have 70% or greater impervious surfaces to be considered for approval by the Highlands Council as Redevelopment Areas.

Table III
Proposed HRA Parcel Information

| Block | Lot | Existing Use | Owner | Acreage | Tax Class | Highland Land Use Capability Zone |
|--------------|-----------|---------------------------------|----------------------------|--------------|-----------|---|
| 7702 | 21 | Vacant commercial building | Ceil West Properties, LLC | 1.33 | 4A | Lake Community Sub-Zone |
| 7702 | 22 | Vacant residential dwelling | Ceil West Properties, LLC | 0.39 | 2 | Lake Community Sub-Zone |
| 7702 | 23 | Luncheonette | Choe, John | 0.27 | 4A | Lake Community Sub-Zone |
| 7702 | 24 | Abandoned buildings | 333 Rt. 46, LLC | 0.53 | 4A | Lake Community Sub-Zone |
| 7704 | 41 | Vacant lot | Township of Mount Olive | 0.22 | 15C | Lake Community Sub-Zone |
| 7704 | 43 | Retail store (7-11) | Amil Enterprises, LLC | 0.73 | 4A | Lake Community Sub-Zone |
| 7704 | 44 | Gas station & convenience mart | Gobind, Inc. | 0.73 | 4A | Lake Community Sub-Zone |
| 7704 | 45 | Vacant lot / | Milelli Real Estate LLC | 0.55 | 1 | Lake Community Sub-Zone |
| 7704 | 46 | Retail / office building | Milelli Real Estate, LLC | 2.67 | 4A | Existing Community & Existing Community/Environmentally Constrained |
| 7701 | 3 | Tavern | Forever Young Realty, Inc. | 0.1 | 4A | Existing Community |
| 2700 | 77 | Retail store & auto repair shop | Charilas, Demitrois | 0.54 | 4A | Existing Community |
| 2700 | 4 | Municipal beach & vacant lot | Township of Mount Olive | 4.67 | 15C | Lake Community Sub-Zone |
| 2700 | 2 | Marina | Weglinski, Walter | 0.47 | 1 | Existing Community & Lake Community Sub-Zone |
| 2700 | 3 | Marina & residential apartment | Weglinski, Walter | 1.36 | 4A | Existing Community & Lake Community Sub-Zone |
| 2700 | 1 | Bank | Valley National Bank | 1.52 | 4A | Existing Community |
| 7701 | 1 | First Aid Squad | Budd Lake First Aid Squad | 1.55 | 15C | Existing Community |
| n/a | n/a | Budd Lake Sewer Pump Station | Township of Mount Olive | 0.13 | 15C | Existing Community |
| Total | 17 | | | 17.76 | | |

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3. Preservation Area Approved Highlands Redevelopment Designations

To date, Mount Olive has supported efforts by property owners to secure a Highlands Redevelopment designation in order to facilitate development plans. The areas in question are as follows:

- (a) Goldmine Partners (Block 4500, Lot 3) – Approved August 19, 2010 (Highland Council Resolution 2010-5) Location: Gold Mine Road in the Commercial/Light Industrial zone district
- (b) Sandshore Road (Block 8300, lots 5, 5.01, 5.02, 6, 7, 8, 9) – Approved May 19, 2011 (Highlands Council Resolution 2011-18) Location: Sandshore Road in the Light Industrial zone district)
- (c) Givaudan Fragrances Corp. (Block 402, Lot 5) – Approved August 3, 2011 (Highlands Council Resolution 2011-29) Location: Waterloo Valley Road in the FTZ-2 zone district
- (d) Debeck Associates LLC (Block 8200, lots 5 & 6; Block 8100, lots 49 & 50) – Approved January 12, 2011 (Highlands Council Resolution 2012-4) Location: Route 46 in the C-2 Commercial zone district.