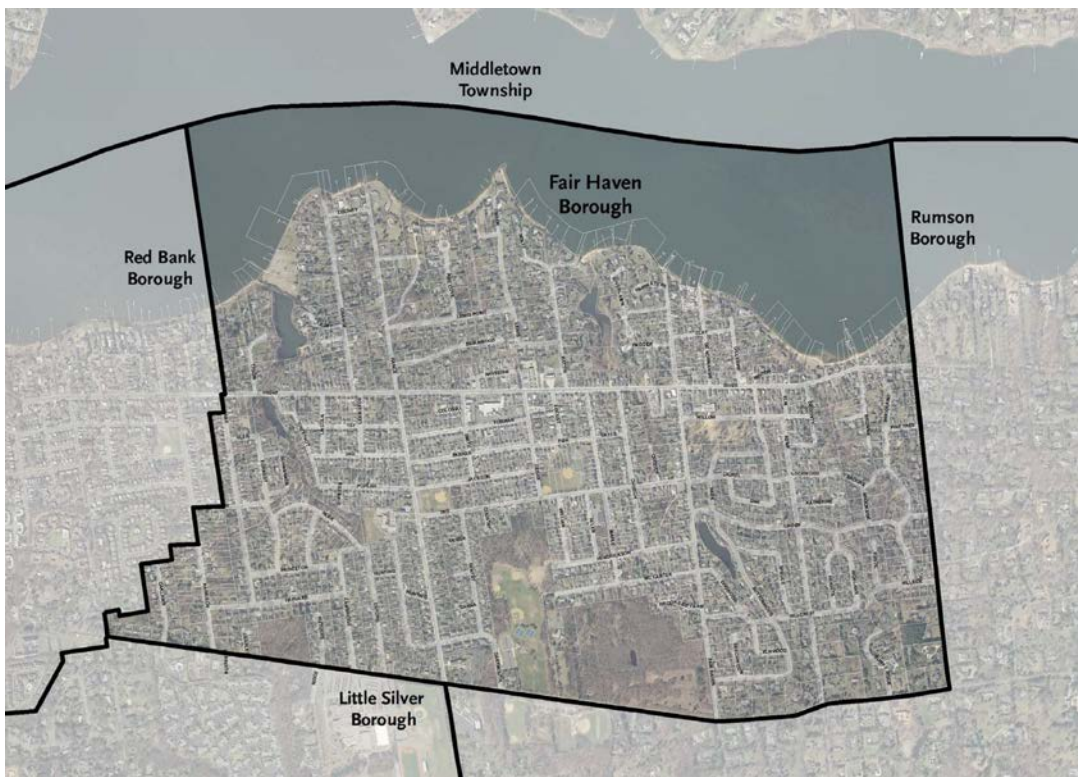


2016 MASTER PLAN REEXAMINATION AND MASTER PLAN UPDATE

Fair Haven Borough, Monmouth County, New Jersey



Adopted August 25, 2016

Clarke Caton Hintz ● ● ■

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2016 Master Plan Reexamination Report and Master Plan Update

Fair Haven Borough, Monmouth County, New Jersey

Adopted by the Planning Board August 25, 2016

Prepared by the Fair Haven Borough with:
Clarke Caton Hintz

A handwritten signature in black ink, reading "Michael F. Sullivan", written over a horizontal line.

Michael F. Sullivan, ASLA, AICP | NJ PP License # 5153

A signed and sealed version is available at the municipal building.

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INTRODUCTION

The municipal Master Plan is a document, adopted by the Planning Board, which sets forth the policies for land use as envisioned by the municipality. 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.

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 MLUL, the Planning Board must conduct a general reexamination of its Master Plan and development regulations at least every ten years.

Additionally, the MLUL 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.

Five specific topics are to be considered in the Reexamination Report. These are:

- a. *The major problems and objectives relating to land development in the municipality at the time of the adoption of the last reexamination report.*
- b. *The extent to which such problems and objectives have been reduced or have increased subsequent to such date.*
- c. *The extent to which there have been significant changes in the assumptions, policies and objectives forming the basis for the master plan or development regulations as last revised, with particular regard to the density and distribution of population and land uses, housing conditions, circulation, conservation of natural resources, energy conservation, collection, disposition and recycling of designated recyclable materials, and changes in state, county and municipal policies and objectives.*
- d. *The specific changes recommended for the master plan or development regulations, if any, including underlying objectives, policies and standards, or whether a new plan or regulations should be prepared.*
- e. *The recommendations of the planning board concerning the incorporation of redevelopment plans adopted pursuant to the “Local Redevelopment and Housing Law,” P.L.1992, c.79 (C.40A:12A-1 et al.) 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.*

As the statute indicates, a reexamination of the master plan is an opportunity to evaluate the status of existing policies, in light of recent conditions, and to provide necessary direction for future planning efforts. 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. In fact, the reexamination report may serve as the master plan “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.”



This 2016 report contains sufficient detail for certain recommendations whereby they may be considered an amendment to the master plan and, as such, serve directly as the basis for changes to the land development ordinance.

In addition to the collective mind of the Planning Board, the development of this report has evolved through a fairly robust outreach process. This process included interviews with Police Chief Joseph McGovern, Patricia Drummond (Borough-appointed Historian), Arthur Pavluk (Historic Preservation Commission Chair), DJ Breckenridge (Recreation Director), and Carolyn Ferguson, and Michel Berger (Fair Haven Business Association). Furthermore, a Borough-wide on-line questionnaire was undertaken in the fall of 2015 whose results informed the Planning Board on general opinions regarding land use issues within Fair Haven.

This reexamination report includes all of the required components pursuant to the Municipal Land Use Law within the following sections:

- 2005 Master Plan Reexamination and Recommendations: Identifies master plan elements, studies and reexamination reports previously adopted by Fair Haven; reviews the major problems and objectives at the time of adoption of the 2005 Reexamination Report, including their current relevance.
- Changes in Assumptions and Recommendations: Identifies relevant changes in assumptions, policies and objectives related to underlying the recommendations of the last reexamination report; new issues and objectives to be addressed, including changes in local and State policies; and recommendations for master plan and ordinance updates.
- Redevelopment Areas: Identifies areas where implementation of redevelopment, through the NJ Local Redevelopment and Housing Law (C.40A:12A-1 et al.), should be investigated.
- Summary: Identifies relevant Master Plan Elements and land use zoning regulations to target for revision.



2005 MASTER PLAN REEXAMINATION

The 2005 Master Plan Reexamination report (adopted December 13, 2005) represents the most recent documentation of overall land use issues, along with recommendations to address those issues. As required by the statute, the following summary identifies the major problems and objectives from the 2005 Master Plan Reexamination. Furthermore, the extent to which they remain relevant is indicated and recommended:

Previous Planning Efforts

Fair Haven Borough's approach to land use policy has remained fairly consistent since the 1991 Environmental Resource Inventory (ERI). The 1991 ERI provided the underpinning for the 1991 Master Plan and subsequent policy and ordinance development. These policies and regulations have been focused, largely, on protection and stewardship of the existing natural and built character of the Borough, through various approaches. These include:

| | |
|---------------------------------------|--|
| 1991 Environmental Resource Inventory | Historic Preservation |
| | Recycling |
| 1991 Master Plan: | |
| Land Use | 1997 Housing Plan Element and Fair Share Plan |
| Housing | 1997 Land Use Plan Element & Historic Preservation |
| Circulation | Element |
| Facilities | 1997 Master Plan Reexamination Report |
| Utilities | |



| | |
|---|---|
| 1998 Circulation Plan Element | 2006 Summary of Housing Element and Fair Share Plan and documents |
| 1999 Master Plan Reexamination Report | |
| 2004 Environmental Resource Inventory | 2006 Summary of Housing Element and Fair Share Plan |
| 2005 Master Plan Reexamination Report | 2007 Adoption of Housing Plan and Supporting Documents |
| 2006 Housing Plan Element and Fair Share Plan | 2007 Draft Housing Element and Fair Share Plan |
| 2006 Housing Plan Status Report | 2007 River Road Study |

Major Problems and Objectives, Current Relevance, Recommendations from the 2005 Master Plan Reexamination Report

Residential Neighborhood Character

In 2005, infill development within existing neighborhoods was resulting in tear-downs and expansion of existing buildings such that the existing character of the neighborhoods was being impacted in a manner considered detrimental at that time. The 2005 Reexamination Report found that new and expanded homes within residential neighborhoods continue to represent a change to the character of such neighborhoods. Existing regulations addressing habitable floor area ratio and maximum permitted habitable floor area are in place to reduce the potential for dramatic changes in building volume. However, it has been demonstrated that the reliance on “habitable” floor area is sometimes ineffective in accomplishing such objectives. This is due to unintended loopholes (for example the distinction between new construction and renovation) and the complexity of determining compliance with the ordinance. An attempt to decrease building bulk, and encourage detached garages (a more traditional approach) was made in 2014, with the adoption of Ordinance §30-2.4 which amended §30-2.4, Definitions, to require that 50% of the floor area of an attached garage for a new home would count towards the “habitable floor area”. Despite such efforts, there continue to be struggles to ensure infill development is regulated appropriately.



Regulation of permitted floor area should be clarified and simplified. The Borough should consider revising the regulation of floor area and floor area ratio to eliminate the “habitable” component and instead regulate gross floor area, with reasonable exceptions. Doing so will simplify development applications for both the Planning Board and Zoning Board as well as applicants, and it will enable improved enforcement. As part of this effort, the definitions of those terms as well as related or referenced terms should be evaluated and amended as necessary to clearly state those building portions (both principal and accessory) that should contribute toward the calculated floor area and floor area ratio.

To further facilitate appropriate residential infill development, the Borough should revise the front yard setback regulations. The current regulation of minimum setback does not permit new development to respond to an existing pattern of development where the front yard setback of neighboring lots are undersized. As a result, a new home with a conforming front yard setback can be out of character with the neighborhood. The Borough should examine whether front yard setback regulations should be amended to better reflect neighborhood character, including such characteristics as building height and/or building size.

Home Occupations

In 2005 there were concerns regarding the nature of home occupation uses (an accessory use), regulating and permitting such uses. This issue remains relevant.

B-1 Business District

- Traffic safety was identified as an issue and remains outstanding within the B-1 Business district. Concerns regarding vehicular traffic and the integration of bicycle and pedestrian movements safely within the streets continue to be relevant. This includes connectivity between the business district and the adjacent neighborhoods and the need for traffic calming. This issue remains valid.
- Compatibility with adjacent residential neighborhoods as it relates to buffering of impacts was a concern. Although the Borough has increased buffer widths to 30 feet, the need for protection of the neighborhoods adjacent to the B-1 District, with respect to negative impacts from non-residential uses, persists. While it may not be practical to increase buffer widths beyond 30 feet due to the, relatively, small size of the lots in the Business



district, the interface between the businesses and adjacent residences deserves sensitive consideration in the context of development applications. This issue remains valid.

- New beneficial uses were called for in the B-1 District. While specific new uses were not identified, this recommendation is still relevant in terms of any consideration of expansion or reduction of permitted principal uses within the B-1 Zone. Such considerations should take into account the anticipated need for uses and how such uses might contribute to the overall vitality of the business district and the Borough. This issue remains valid.
- Design character of commercial buildings in the B-1 District was a point of concern. This recommendation remains relevant, but should be studied in an objective manner in order to develop design guidelines or regulations that would address concerns regarding the appropriateness of the architectural design in the business district. This issue remains valid.
- Impervious coverage and the resultant runoff was of concern in 2005. Subsequently, a series of five (5) ordinances were adopted from 2006-2008 addressing stormwater management in order to comply with NJ regulations. Although runoff has been addressed, the intensity of uses may be correlated with impervious coverage, which influences the visual character of the district. The reduction in impervious coverage in order to enhance the character of the business district remains relevant. Furthermore, as development /redevelopment occurs within the business district, the Borough should encourage and facilitate reductions in impervious cover and increased opportunities to provide for recharge and cleansing of stormwater.
- Parking regulation improvements were recommended. Specifically, shared parking arrangements and linking parking areas together to make more efficient use of the limited space within the business district were recommended. Additionally, it was recommended to require off-street parking to be located behind buildings to create a more inviting street character, which would. These issues have not been addressed and remain valid.
- Multi-family housing was recommended to be integrated within mixed-use development configurations within the business district to increase the amount of multi-family residences available in the Borough. Such integration was also intended to



promote age-restricted and affordable housing opportunities. This recommendation remains relevant, with strong public support for mixed-use development within the business zones.

Pedestrian and Bicycle Circulation

The safety of pedestrians and those on bicycles was in the public consciousness in the 2005 Master Plan Reexamination Report. Elementary school access (Third Street) was specifically identified as an area targeted for study and improvement to promote safety for walking and riding school children. Furthermore, the integration of safe routes between neighborhoods, recreation areas and the business district was identified as a priority. These issues remain valid.

Environmental, Recreational and Cultural Features

The 2005 Master Plan Reexamination called for the development of specific programs for the stewardship of the public parks, active recreation areas, cultural and historic sites that would include dedicated funding. This remains valid.

Affordable Housing

- The 2005 Master Plan Reexamination acknowledged the need for the provision of affordable housing. Furthermore, it recommended a review of Borough-owned property that might be suitable for municipal affordable housing construction. Additionally, it suggested creation and funding of an accessory apartment program and the creation of an affordable housing trust fund. Such approaches were also intended to promote mixed-use development within the business district. The provision of affordable housing, and the various mechanisms for the creation of such dwellings, remains valid.
- Council on Affordable Housing (COAH) published new rules (growth share) for period 2004 to 2014. That required the development of one affordable housing unit for every ten units of new construction. In addition, it would be required to provide one affordable unit for thirty jobs that are in new or substantially rehabilitated non-residential development. The Council on Affordable Housing has been supplanted by the Court in terms of the regulation and enforcement of affordable housing obligations. The “growth share” methodology has been



invalidated by the Supreme Court and a new ad hoc judicial system is in place.

New Jersey State Plan

State Plan has initiated cross acceptance an update is underway. This is no longer relevant, as the development of a new State Plan has stalled and the 2001 Plan remains the only valid version.

2005 Objectives

The 2005 Master Plan Reexamination indicated that the goals, objectives and assumptions governing the 1991 Master Plan remained valid, but built upon those by emphasizing the following objectives, which remain valid at this time:

- Protect and enhance the existing character of the Borough and the residential quality of the neighborhoods;
- Improve and redevelop the Business District as the "Main Street" of the community;
- Protect, restore and maintain environmental/cultural features;
- Plan and implement safe, convenient, and efficient circulation for pedestrians and bicyclists;
- Improve the enforcement of Borough development regulations and monitor compliance with the conditions of development approvals;
- Provide opportunities for affordable housing and age-restricted housing in the Business District.

2005 Master Plan Recommendations

The 2005 Master Plan Reexamination recommended the following:

Master Plan

- Business District Plan: Sub-plan element for B-1 and B-2 Districts, including mixed-use residential/commercial, to support "main street" identity; identify linkages to residential neighborhoods; design themes; building design standards; create Architectural Review Committee. This has not been undertaken.



- Circulation Plan: Develop a sub-plan element for pedestrian and bicycle circulation. This has not been undertaken.
- Conservation, Recreation and Open Space Plan: Synchronize this element of the Master Plan with the Environmental Resource Inventory and stormwater plan element to protect surface waters, promote streambank stabilization and provide public access to Navesink River. This has not been undertaken.
- Housing Plan: A new plan for affordable housing, consistent with “growth share” methodology, should be developed. Housing elements were developed during 2006-2007 pursuant to the rules and regulations at that time, but the growth share regulations were invalidated by the Supreme Court. A new plan must be created to address the current status of affordable housing law, proceeding according to the ad hoc process set forth in the Supreme Court’s 2015 decision.
- Master Plan: Compile into single document; publish on website. The 1991 Master Plan and related subsequent updates and reexamination reports are compiled into two on-line documents. One contains the text of the master plan and the other contains maps. These are readily-accessible in a portable document format (.pdf) and are available for viewing or download from the Borough web site.

Land Development Regulations

- Standards for Maximum Permitted Building Volume: Create limitations for each zone to ensure compatibility with existing neighborhood buildings. This was addressed through ordinance #2009-18, which created a maximum habitable floor area. This acts as a cap, independent of the habitable floor area ratio.
- Buffers between Business Districts and residential Neighborhoods: Increased widths and performance standards were recommended. Ordinance #9-26-05 increased rear yards against where businesses abut residential zones.
- Impervious Coverage in Business Districts: Should be reduced. There has been no change in the maximum permitted coverage in the business districts. However, a series of ordinances related to stormwater management have been adopted (Ordinance 9-26-



05 C; Ordinance 3-27-06 A; Ordinance 10-16-06 C; Ordinance 10-16-06; Ordinance 2008-02; Ordinance 2008-11).

- Fee Ordinances: Fees to support affordable housing, tree preservation, environmental mitigation, pedestrian improvements, and stormwater system maintenance are recommended. Ordinance #2007-27 (Adopted: October 29, 2007) added language allowing a payment in-lieu of sidewalk construction. Such payments are to be utilized by the Borough for installing or repairing sidewalks. Fee ordinances to address affordable housing, tree preservation, environmental mitigation, or stormwater system maintenance have not been adopted.
- Home Occupations: Limit permitted uses/activities; regulate to protect neighborhoods and require site plan review if employees not resident. This has not been addressed.

Revenue-Generating Recommendations

- Establish Dedicated Funds: The Borough should establish dedicated funds for affordable housing, tree preservation, environmental mitigation, pedestrian improvements, and stormwater system maintenance. This has not been addressed.
- Transportation: Seek ISTEA and TEA-21 funding for circulation improvements: These funding sources no longer exist, but the Borough should continue to seek funding through other source for transportation and circulation planning and improvements.
- Establish Local Open Space & Historic Preservation Trust: Although residents are taxed by the County for open space, no local open space or historic preservation funding has been established. This recommendation has not been implemented.
- Pursue Smart Future Planning Grant (DCA): The Borough should seek Smart Future Planning Grant funds from the Department of Community Affairs (DCA) to fund a detailed plan for business district. In 2007, a study was made of the River Road corridor and the business districts with recommendations focused on public space improvements. The study is very conceptual, but includes sound recommendations that may be incorporated in future land use and zoning as it relates to the business districts.



Regulation Enforcement Recommendations

The following recommendations from the 2005 Master Plan Reexamination Report remain valid for continued implementation and oversight:

- Improve Enforcement and Compliance
- Review Procedures
- Evaluate use of police in enforcement support.



CHANGES IN ASSUMPTIONS AND RECOMMENDATIONS

Changes in Assumptions within Fair Haven Borough

Population

Overall population in Fair Haven has remained relatively steady since the approximate time of the 2005 Reexamination report. The 2010 US Census showed a population of 6,121 persons and the American Community Survey (ACS) estimated 6,048 persons in 2014. A 2015 estimate by Vintage 2015 Population Estimates showed a population of 6,029 persons. Total population on its own does not indicate a need for any drastic shifts in land use policies.

| Borough of Fair Haven Population Change 1970-2015 | | | | | | | | |
|--|-------|-------|-------|-------|-------|-------|-------------|-------------|
| Year | 1970 | 1980 | 1990 | 2000 | 2004 | 2010 | 2014 (est.) | 2015 (est.) |
| Population | 6,142 | 5,679 | 5,270 | 5,937 | 5,990 | 6,121 | 6,048 | 6,029 |

Borough Survey

In October 2015 the Planning Board conducted a survey for residents and business owners to provide input on Fair Haven's land use and zoning opportunities and challenges. The survey was a great success, generating 564 responses. About 45% of respondents lived in Fair Haven for 16 years or more, while 20% of the respondents were residents for five years or less, 18% were residents for six to 10 years, and 15% were residents for 11



to 15 years. When asked, more than three-quarters of respondents stated they planned to live in the Borough for as long as possible. Over 60% of respondents have children under the age of 18 in their home. Very few respondents under the age of 36 responded to the Survey; the majority were between 36 and 55 years of age. Additionally, the majority of respondents do not work or own a business in the Borough.

Responses to the 35 questions provided diverse opinions about the Borough. Overall, it found that the respondents enjoy living in the Borough and want to have a diverse downtown, quality recreation facilities, and attractive neighborhoods. When asked priorities for making Fair Haven a better place to live, the most common responses (in order) were home affordability, pedestrian/bicycle circulation, “right-sizing” homes and other buildings, and the character of the business district. The input from this survey informs the findings and recommendations throughout this Reexamination Report. The following is an overview of the survey responses with respect to particular aspects of Fair Haven:

- Business District: Three-quarters of respondents were satisfied or partially satisfied. When asked what uses or activities they would like to see in the business district that are not currently there, most responses were for small retail or restaurant uses such as a pharmacy, bakery, sit down restaurants, and an ice cream shop. Those elements the respondents liked the most received similar levels of support and included on/off street parking, vehicle access, building architecture and appearance, sidewalk/bicycle access, and business variety. Those elements that respondents disliked the most also received similar levels of support and resulted in sidewalk/bicycle access being the most disliked, followed by vehicle access, on/off street parking, business variety, and building architecture and appearance.

When asked about signs, respondents overwhelmingly, at 80%, stated that they are not too big and 55% also felt they should not be internally lit. Additionally, more than 60% of respondents stated they were not in favor of allowing drive-through businesses in the business district.

The majority of respondents, 63%, are comfortable with mixed-use buildings where commercial uses are located on the first floor and residences are on the upper floors. However, there was a mixed response, with just over half of the respondents, stating they were comfortable with buildings taller than currently exist in the business district.



- Mobility: Respondents typically travel to local destinations by car – overwhelmingly so at nearly 90%. However, of those respondents with children in the local school district, over 50% stated their children get to school via bicycle. The remaining were roughly split between walking and being dropped off. Respondents stated they were satisfied with the Borough’s pedestrian facilities and partially satisfied with the bicycle facilities. Nearly two-thirds also stated they would walk or bike to local destinations more often if pedestrian and bicycle facilities were improved for safety and convenience.
- Neighborhood Homes: The most common concerns about new homes and home additions were parking on the property site design (landscaping, pools, driveways, etc.) and– these received nearly equal responses at approximately 60% of respondents, followed by architectural style at approximately 54% of respondents. Approximately a quarter of respondents stated a concern was the size of the home compared to surrounding homes. However, respondents stated they were partially satisfied with the appearance of recently built homes in the Borough. The majority of comments to this question stated concern about the large size of new homes and additions.
- Open Space & Recreation: The majority of respondents are satisfied, more than satisfied or very satisfied with the Borough’s active and passive recreational facilities, including Fair Haven Fields. When asked about lighting, two-thirds of respondents were in favor of lighting the Borough’s active recreation facilities, provided they were limited to certain hours.

Three-quarters of respondents stated they would better enjoy the Borough’s parks and open space if there was increased access to the Navesink River. Similarly, nearly three-quarters of respondents stated support for acquiring land along the River for enhanced public access. Other common ideas included improving or expanding parks and open space and improving or expanding recreational facilities. The most common use for the Navesink River is boating (motorized and non-motorized) and fishing.

Respondents were generally partially satisfied or satisfied with the availability and quality of the various active recreational and community facilities in the Borough, such as but not limited to tennis facilities, boat access, soccer facilities, and community



meeting space. Approximately half of the respondents were in support of a dog park being created.

Community Facilities

Several existing Borough facilities are in need of renovation or replacement. Rather than address these facilities individually, holistic approach to review all existing facilities would provide the basis for planning and for capital projects to address the shortcomings. This should address:

- Police Department: The facility is approximately 1800 square feet. The space is outdated and suffers from a strange configuration of small rooms. There is inadequate storage and the jail cells can only be reached by going outside. Booking areas are right next to the dispatcher area which is right on top of conference area. The building should be remodeled to make it more efficient.
- Department of Public Works Building: As with the Police Department building, the department of public works building is becoming functionally obsolete.
- Brush Facility: This facility should be considered for relocation based on priorities from community facility evaluation.
- Community Center: These facilities should be renovated to provide more durability, aesthetic improvements and better accommodate activities.
- Fisk Chapel: This community building has recently been renovated/restored from an architectural standpoint. The role of this historically significant building and site within the framework of publicly-available facilities has yet to be determined. Programming and site improvements to support its continued use are needed. Continued maintenance is also needed.

Circulation

- Willow Street: Traffic and circulation is, routinely, a problem during the school day. Additionally, vehicle parking on Willow Street for the staff and faculty is also problematic.
- Pedestrian Crossings: River Road and Ridge Road and other significant pedestrian crossings are not very visible and should be made more visible with bright paint or other durable methods.



- Private Streets: A number of private streets exist within the Borough. Maintenance responsibility for these streets may need to be taken on by the Borough. A review of such streets, their conditions and ownership should be undertaken.
- Traffic safety: A Circulation Plan Element could address traffic safety, as well as enhanced multi-modal transportation. This could also address project planning and implementation.
- Circular Driveways: Regulations need review to address potential safety concerns.

Open Space/ Recreation

- Fair Haven Fields Natural Area: This 40 acres of open space, including woods, meadow, stream corridor, pond, lowlands and uplands is accessible through trails. The Natural Area is the largest Borough-owned tract, yet does not have a constituency of advocates. Maintenance and enhancement of the Natural Area by the Borough is necessary on a consistent basis. An assessment of the facility to determine maintenance guidelines should be conducted. Additionally, the Borough should consider identifying an annual maintenance budget for the facility.
- Fair Haven Fields Active Recreation: Tennis courts require repair; basketball courts are overbooked; illegal parking during weekend activities is problematic.
- Bird Sanctuary Access: Feasibility of an extension of the path from the bird sanctuary to the Little Silver path is desirable.
- Navesink River Access: Enhanced public access to the River is necessary. Such access should include, but not be limited to, the property at 78 DeNormandie Avenue that was recently acquired with NJDEP Blue Acres funds. This includes improvements to existing access locations, non-motorized boat ramp and acquisition of property for access where possible. Grange Avenue and Hance Road should be enhanced. Utilization of Monmouth County Open Space grant funds should facilitate this.
- Additional Recreation: Changing recreation preferences and increased population indicate a need for expanded facilities and programs. Additional basketball courts are desired to relieve the existing ones at Fair Haven fields and additional senior programs



should be instituted. Creation of a dog park should also be considered.

Historic Preservation

- Historic Preservation Commission: The Historic Preservation Commission is purely advisory. The nature of the Commission, as empowered by ordinance, needs to be considered for a stronger form of oversight in order to provide better protection of the Historic District.
- Recognition of Historic Sites and Places: The Borough's historic sites and places should be made more readily identifiable (i.e. plaques).

Land Use

- Habitable Floor Area Ratio: The use of the habitable floor area ratio has led to confusion among residential and nonresidential applicants and board members. It has been difficult to enforce and is not achieving its anticipated effect, which is the regulation of building bulk to ensure maintenance of community/neighborhood character. The size of new and expanded homes continues to threaten the character of neighborhoods. A simpler, alternative mechanism for effectively controlling building bulk in the neighborhoods should be developed and adopted. Such a mechanism should be calibrated to reflect the appropriate intensity for each zone. Regulation through "Floor Area Ratio (FAR)", as opposed to the currently used "Habitable Floor Area Ratio (HFAR)", could provide a simpler, more easily-regulated means to protect residential and nonresidential neighborhood character. Use of FAR should replace HFAR.
- Mixed-Use Development/Redevelopment: Fair Haven has little potential for combining residential development with non-residential development. "Mixed use residential" is permitted in, both, the B-1 and B-2 Business districts as a conditional use. §30-6.6 provides standards by which mixed use residential may be permitted, including:
 - a. The building and the floor area in which the mixed use is proposed shall be in existence at the time of adoption of



this chapter and not more than one (1) dwelling unit shall be located within the building.

The existing provisions for mixing of residential and nonresidential uses create significant limitations to the development of meaningful mixed-use projects, since new buildings may not undertake such development and there is a limitation of one (1) dwelling per building. The results of the informal public survey show support for “mixed use” with nearly 63% saying they would be comfortable with commercial uses on the first floor accompanied by residences on upper floors. A new approach to the creation of regulations to promote mixed-use within the business districts is necessary, but must be flexible in order to attract investments in the Borough and should enhance and protect Fair Haven’s unique character. The building and site design should promote pedestrian activity, should not exceed 2.5 stories, and should be consistent with the character of Fair Haven.

The floor area limitations in the B-1 and B-2 districts should be relaxed to better encourage investment in existing and new buildings. Additionally, the front yard setback of 35 feet in both districts should be reduced to require buildings closer to the street. Coupled with this change should be a requirement that parking not be located between a building and the street. Such changes will create a more inviting streetscape and pedestrian experience.

- Residential District Lot Sizes: The consistency between minimum permitted lot sizes and the existing lot sizes in residential districts may be out of sync in some neighborhoods. This should be studied to determine if changes to zoning regulations are warranted.
- Waterfront Preservation Zoning: Zoning district regulations should be considered for the Navesink riverfront that can better protect its natural and scenic character.
- Impervious Cover Reduction Action Plan: The Rutgers Cooperative Extension Water Resources Program is preparing an Action Plan that identifies potential project sites that contain extensive impervious cover and whether it is viable on each site to reduce the impervious cover, disconnect it from draining directly to Borough waterways or storm sewer systems, and to utilize green infrastructure to reduce the impact from the remaining



impervious cover. This Action Plan has not yet been finalized; however, the final recommendations should be incorporated into the Borough's land use planning policies and regulations to the extent appropriate and applicable.

- Clarity and Interpretations: It has come to light that portions of the Borough's Land Use Ordinance are lacking in clarity and are difficult to interpret. This has led to misinterpretations of the ordinance and delays in the approvals process for some applicants. The Land Use Ordinance should be reviewed to identify and correct regulations which are lacking in clarity. Example concerns include, but are not limited to, the definitions section and applicability of subdivision and site design standards.

Procedures and Development Applications

Consideration of applications by the Planning Board and Board of Adjustment has been complicated by the provision of insufficient information despite having "complete" applications in the context of the NJ Municipal Land Use Law. Such complications result in extraordinary time spent on relatively simple applications, wasting time and resources of, both, applicants and Board members. Recommendations to address these problems include:

- Revise Development Application Checklists: Checklists should be revised to better provide for sufficient information for Board members to decide applications.
- Revise Submission Procedures: Provide for more sufficient deadlines for submission of application documents such that administrative and technical review can be undertaken thoroughly and that Board members can receive materials in advance of Board meetings with sufficient time to review all materials prior to hearing an application.
- Revise Fees: Update fees (both administrative and escrows) to better reflect the nature and process of applications. For example, those single-family residential applications that have pre-existing nonconforming elements that are not being changed should not have to pay a fee for each pre-existing nonconformity.
- Institute Development Review Committee: A development review committee can serve as an early intervenor to help shape development applications prior to submission or prior to a



Planning Board hearing. While helping to advance overall Borough objectives, it can also save resources and time for applicants and Board members.

Changes in Assumptions at the State Level

Permit Extension Act

In response to the “Great Recession”, which is defined as the period from December 2007 through June 2009, the Permit Extension Act was signed into law July 2008. It has been extended five times, with the most recent extension signed on June 30, 2016. This most recent extension only applies to “Superstorm-Sandy impacted counties”, which include Atlantic, Bergen, Cape May, Essex, Hudson, Middlesex, Monmouth, Ocean and Union Counties. The Act extends certain approvals in existence between January 1, 2007 and December 31, 2016 through at least December 31, 2016 and as late as June 30, 2017, depending upon the expiration date of the applicable permit. Most subdivision, site plan, and variance approvals granted pursuant to the MLUL, as well as many approvals granted by the NJDEP, are included in the covered approvals. Exceptions from the Act include federal permits and permits for development in environmentally sensitive areas such as in portions of the Highlands Region and in Planning Area 4B, 5 or critical environmental sites as defined by the 2001 State Development and Redevelopment Plan.

Permits or approvals extended pursuant to the act will lose their protections from zoning changes as early December 31, 2016 and as late as June 30, 2017. With the looming expiration of protections, it does not appear that any immediate action is necessary on behalf of the Borough. However, the Borough should identify any existing, unbuilt development approvals for which protection may be expiring through June 2017. With such protections expiring, the Borough may want to consider if land use policy/zoning changes are warranted on those properties.

Affordable Housing

In response to the Supreme Court’s 2013 decision invalidating the 2008 affordable housing regulations published by the Council on Affordable Housing (COAH), on March 10, 2015 the Supreme Court issued a ruling, In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, that provides a new direction for how New Jersey municipalities are to comply with the constitutional requirement to provide their fair share of affordable housing. As a brief summary, the Supreme Court transferred responsibility to review and approve housing elements and fair



share plans from COAH to designated Mount Laurel trial judges. As part of this, municipalities may no longer wait for COAH to adopt third round rules before preparing new third round housing plans; instead, municipalities must now apply to Court, instead of COAH, for housing plan approval and protection from exclusionary zoning lawsuits. Those towns whose plans are approved by the Court will receive a Judgement of Repose. At this time, the Mount Laurel trial judges are determining the proper methodology for calculating municipal affordable housing obligations. Once complete, municipalities will be required to adopt and a housing plan for their review and approval. Fair Haven should use this methodology and compliance provisions in the drafting of a new Housing Plan Element and Fair Share Plan.

Superstorm Sandy

Superstorm Sandy was the deadliest and most destructive hurricane of the 2012 Atlantic Hurricane season. It made landfall on October 29, 2012 along the southern coast of New Jersey near Atlantic City. Fortunately, it was downgraded to a post-tropical cyclone with hurricane force winds prior to landfall. Superstorm Sandy forced local governments across New Jersey to reassess their emergency services. This unique event created opportunity to review emergency plans, response and infrastructure in a different light. While damage in Fair Haven was minor by comparison to other coastal municipalities, the Borough should remain cognizant of vulnerability to flood events in the Navesink basin, in light of predicted sea level rise scenarios.

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 amendments 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.



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". The Plan identifies four investment areas to be used for identifying locations for growth, preservation and related investments (listed in descending order from the most developed to the least developed condition): Priority Growth, Alternate Growth, Limited Growth and Priority Preservation. The locations of the Investment Areas are determined not by a State Plan Map, as in the past, but by a criteria-based system applied during State agency decisions on investments, incentives and flexibility on State land use regulations, programs and operations.

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.

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 or not an ordinance is amended subsequent to such an application. This is a departure from previously established case law, where courts in New Jersey have consistently held that the ordinance that is in place at the "time of decision" (the moment the Planning Board or Zoning Board of Adjustment votes on the application) is the law that applies to the application.

This provision has raised many concerns with municipalities. Principal among these is whether the new law will provide opportunities for developers to have their development rights "locked in" by submitting applications that are incomplete. The Borough should consider revisions to the Land Use Regulations to create the definition of "application for Development" to state that the documents required for approval is defined to include "all of the required information within the relevant development application checklists unless waivers for such information



have been granted by the Board having jurisdiction”. This amendment will require that a complete application be submitted by an applicant prior to “locking in” the current municipal ordinance provisions.

Renewable Energy Regulation

The New Jersey Legislature has been active legislating to facilitate the production of alternative forms of energy. The following four 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. As there are no industrial zones in the Borough, no action appears necessary.
- 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. This is relevant to variance applications involving these uses, whereby the focus would be on the balance between the benefit of the use with any negative impacts.
- Wind, Solar, and Biomass on Farms: A law signed on January 16, 2009 restructured statutes regarding alternative energy and preserved farms, commercial farms, right to farm, and farmland assessment. In response, the State Agriculture Development Committee (SADC) adopted rules establishing an Agricultural Management Practice (an “AMP”) for on-farm generation of solar energy which extends the protections of the Right to Farm Act to the generation of solar energy on commercial farms. Additionally, the Right to Farm Act was amended to permit and protect up to 10 acres or 2 megawatts (2MW) maximum production of electricity on commercial farms not subject to farmland preservation, provided the acreage of the electrical facility does not exceed a ratio of 1 acre of energy facility to 5 acres of agricultural acres, or approximately 17% of the farmland. In addition, farms developing electrical facilities not exceeding these limits will remain eligible for farmland assessment for the entire farm including the area under the electric generating facility. With



no active or potential agricultural uses that would be eligible, this does not appear to require any action by the Borough.

- 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.

Wireless Telecommunications Facilities

There have been two changes to regulation of wireless telecommunication facilities. The first, the federal Middle Class Tax Relief Act of 2012 (the “Collocation Act”), 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” was further defined in the October 17, 2014 Report and Order issued by the Federal Communications Commission (FCC).

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 co-located 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 co-location 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 co-location shall comply with all of the terms and conditions of the original approval and must not trigger the need for variance relief.

Green Building & Environmental Sustainability Plan Element

In August 2008, the Municipal Land Use Law was amended to include the Green Buildings and Environmental Sustainability Element in the list of permitted Master Plan Elements. The Element is permitted to address such topics as natural resources, renewable energy, impact of buildings on the global environment, ecosystem, stormwater and optimizing



climatic conditions through site and building design. The Borough may wish to incorporate this newly permitted element in a future master plan.

Open Space Preservation

In November of 2014 New Jersey voters approved, via referendum, a constitutional amendment that will dedicate money from a business tax toward open space preservation. While it has not yet been decided how these funds will be allocated, the referendum will lead to a continuous funding stream for open space preservation and stewardship. Although little undeveloped private land exists in Fair Haven, opportunities to take advantage of this source of funding for preservation /stewardship should be sought, particularly to facilitate public access to the Navesink River.

NJ Local Redevelopment and Housing Law

A 2013 amendment to the New Jersey Local Redevelopment and Housing Law (N.J.S.A. 40A:12A-1 et seq.) requires an initial decision from the governing body whether or not eminent domain will be used if the investigation finds that the land qualifies as an Area in Need of Redevelopment. Should the Borough identify the need to apply this statute, the notice for a preliminary investigation for an area in need of redevelopment should comply with this new aspect.



REDEVELOPMENT AREAS

At this time, there are no redevelopment areas identified pursuant to the New Jersey Local Redevelopment and Housing Law (N.J.S.A. 40A:12A-1 et seq.). Should the need for redevelopment powers arise, the Borough should consider the manner in which any redevelopment plan fits within the context of overall land use objectives.



SUMMARY

It is not surprising that, in a stable community such as Fair Haven, the Master Plan Reexamination Report illustrates that the majority of the major issues, assumptions, goals and policies articulated within the 2005 Reexamination Report remain relevant. This was confirmed through the process of public participation, including Planning Board workshops and a public survey. Although the overall themes of remain consistent, the specific problems, in several cases, have been addressed or have arisen as new items to confront.

The Master Plan and Zoning Ordinance (Chapter 30 Land Use and Development Regulations) should be updated to reflect the outstanding relevant goals, policies, objectives and issues from the 2005 Reexamination Report combined and considered with the updated/new recommendations developed during the process of this Reexamination Report. This should include the following Master Plan Elements:

- Goals and Policies
- Community Facilities
- Circulation
- Historic Preservation
- Conservation, Recreation and Open Space
- Land Use
- Housing



Incorporation of the recommendations herein within Chapter 30 *Land Use and Development Regulations* should include, at a minimum, revisions to:

- Table B (§30-5.1) Schedule of Permitted Uses-Nonresidential Districts
- Table C Schedule of Area, Yard and Building requirements
- §30-8.3 Design Guidelines
- §30-3 Administration
- §30-4 Procedure
- §30-7 General Zoning Provisions

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