

Township of West Milford

Passaic County, New Jersey

2013

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

West Milford Planning Board

Adopted: March 7, 2013

Charles T. McGroarty, PP, AICP
License No. 4145
Banisch Associates, Inc.
111 Main Street, Flemington, NJ 08822

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Township of West Milford
Planning Board – 2013

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West Milford
Master Plan Reexamination Report
March 7, 2013

1.0	INTRODUCTION.....	1
2.0	FRAMEWORK FOR THE PERIODIC REEXAMINATION OF THE MASTER PLAN.....	2
3.0	THE MAJOR PROBLEMS AND OBJECTIVES RELATING TO LAND DEVELOPMENT IN THE MUNICIPALITY AT THE TIME OF THE ADOPTION OF THE LAST REEXAMINATION REPORT.....	2
4.0	THE EXTENT TO WHICH SUCH PROBLEMS AND OBJECTIVES HAVE BEEN REDUCED OR HAVE INCREASED SUBSEQUENT TO SUCH DATE.....	4
5.0	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.....	6
6.0	THE SPECIFIC CHANGES FOR THE MASTER PLAN OR DEVELOPMENT REGULATIONS.....	9
7.0	THE RECOMMENDATIONS OF THE PLANNING BOARD CONCERNING THE INCORPORATION OF REDEVELOPMENT PLANS.....	10

West Milford
Master Plan Reexamination Report
March 7, 2013

1.0 INTRODUCTION

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

The governing body shall, at least every 10 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.

The most recent Reexamination Report was adopted by the Planning Board on October 28, 2010. Previously, the Planning Board adopted a Reexamination Report on May 28, 2003. This report was preceded by the Reexamination Report of the Master Plan, adopted by the Planning Board on October 27, 1999 and a previous Reexamination Report adopted in November 1993. The last comprehensive Master Plan for West Milford was the Master Plan for the Township of West Milford, dated May 1987. The 1987 Land Use Plan identified goals and objectives which included, but are not limited to:

- preserve the semi-rural character of the Township;
- preserve the pristine nature of the forests, waterways, and sensitive areas;
- encourage growth that will minimize impacts on air and water quality;
- encourage a pattern of land use that will provide reasonable development consistent with the character of the Township;
- promote recreational opportunities, encourage energy conservation; and
- improve circulation and municipal services.

The 1993 and 1999 Master Plan Reexamination Reports reiterated the sentiment of the 1987 Master Plan, retaining the goals and objectives and underscoring the desire of the Township to protect environmental resources and allow for appropriate development. The Township's 2003 Reexamination report recommended provisions for new Master Plan goals and objectives based on the more recent studies and reports on environmental and resource protection and NJDEP regulations. The most recent Master Plan Reexamination Report acknowledged the significant changes anticipated with Highlands Plan Conformance process while also setting forth specific recommendations including the rezoning of undeveloped lands in the R1/PN zone, establishing a new "community" zone for public lands, updating the Wastewater Management Plan, implementing the Streetscape project, updating the

West Milford
Master Plan Reexamination Report
March 7, 2013

Open Space plan, and evaluating the Lakeside Residential zone district standards. This Reexamination Report is required by the Highlands Council as part of plan conformance.

2.0 FRAMEWORK FOR THE PERIODIC REEXAMINATION OF THE MASTER PLAN

The Municipal Land Use Law sets forth the following five areas of inquiry to be addressed in preparing the Reexamination Report:

C. 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.

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

C. 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.

C. 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.

C. 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.

3.0 THE MAJOR PROBLEMS AND OBJECTIVES RELATING TO LAND DEVELOPMENT IN THE MUNICIPALITY AT THE TIME OF THE ADOPTION OF THE LAST REEXAMINATION REPORT.

West Milford
Master Plan Reexamination Report
March 7, 2013

3.1 Adopt New Highlands Master Plan Element

At the time the 2010 Reexamination Report was prepared and adopted, West Milford was engaged in the process of “basic” Highlands Plan Conformance which included reviewing and modifying where necessary draft versions of a new Highlands Master Plan Element, Preservation Area Land Use Regulations, and Highlands Environmental Resources Inventory.

3.2 Rezone Undeveloped Lands in R1/PN Zone District

The 2010 Reexamination Report called for the rezoning of approximately 393.7 acres of undeveloped land located in the R-1/PN (Multifamily Residential/Planned Neighborhood) zone district, a multifamily zone district having a permitted maximum density of four dwelling units per acre to match the contiguous low density residential zoning. The planning rationale for taking such action recognized the impact of the Highlands Act and the policies of the Highlands Regional Master Plan (RMP) which, for the Township of West Milford located entirely within the Highlands Preservation Area would preclude the type of new infrastructure necessary to support higher density development.

3.3 Establish New ‘Community’ Zone District

The 2010 Reexamination Report recommended a new zone district to be known as the ‘Community’ zone to encompass some 16,500 acres of land that are in public ownership including State forest and lands on the Township’s Green Acres Recreation and Open Space Inventory (ROSI). This new zone would also include the former Random Woods site once it is added to the Township’s open space inventory.

3.4 Wastewater Management Plan

In April 2010, Ferriero Engineering, Inc. on behalf of West Milford, provided the New Jersey Department of Environmental Protection an Interim Wastewater Management Plan consisting of an interim sewer service area map, potable water service area map and related information. At the time, it was expected that a complete Wastewater Management Plan, consistent with the Highlands Preservation Area policies, goals and objectives would be developed and submitted to NJDEP pursuant to the then April 7, 2011 deadline.

3.5 Streetscape Project

The 2010 Reexamination Report highlighted the need for the Planning Board to monitor the progress of the Streetscape Project and continue its efforts to develop design guidelines for the commercial

West Milford
Master Plan Reexamination Report
March 7, 2013

districts. Sign regulation changes were under consideration at that time as well which would correspond to the Streetscape Project.

3.6 West Milford Open Space Plan

The Township prepared an Open Space Plan Element of the Master plan, adopted in 2003, which was later amended and revised in 2006 and again in 2008. The Open Space Plan contains an inventory of existing open space, natural and cultural resources, preservation strategies, goals and objectives and proposed future needs and preservation strategies. The Open Space Plan identifies the need and reasons for preservation open space for natural resource protection and the preservation of rural character of the Township. The Plan identifies target areas for preservation including areas south of Stowaway Park, areas near and along Union Valley Road, Macopin Road, Hillcrest Community Centers, Bearfort Mountain, Greenwood Lake Airport, Morsetown Road, Norvin Green connector, Echo Lake Road, Wooley Road, Coventry Lane, Paradise Road, Henderson Road, Uttertown Bog, Cherry Ridge Road, Mt. Laurel, Greenwood Lake and Eagle Ridge. These recommendations should be evaluated in light of the Conservation Plan Element of the new Highlands Master Plan Element.

3.7 Evaluation of the Lakeside Residential Zone District

The West Milford Zoning Board of Adjustment has recommended changes to the required lot area and certain bulk standards of the Lakeside Residential zone district. Prompted by a continued pattern of variances concentrated in this zone district, the ZBA has suggested the minimum lot size be reduced from its present standard of 20,000 square feet (one-half acre) to 10,000 square feet (one-quarter acre) along with modifications to permitted building height and the imposition of Floor Area Ratio standards for the LR district. The Planning Board's Ordinance Committee has begun a review of this recommendation. A shift towards a smaller lot size does raise potential concerns with environmental impacts, appropriate neighborhood densities and, of course, consistency with the Highlands RMP which will be addressed in a forthcoming response.

4.0 THE EXTENT TO WHICH SUCH PROBLEMS AND OBJECTIVES HAVE BEEN REDUCED OR HAVE INCREASED SUBSEQUENT TO SUCH DATE.

4.1 Highlands Master Plan Element

The West Milford Planning Board adopted the Highlands Master Plan Element at a public hearing on September 27, 2012 as memorialized in the Planning Board's Resolution 2012-15, adopted on October 25, 2012.

West Milford
Master Plan Reexamination Report
March 7, 2013

4.2 Rezoning of Certain Undeveloped Lands

Township Ordinance 2010-018, adopted by the Township Council on December 15, 2010, instituted the zoning changes recommended in the 2010 Reexamination Report by rezoning approximately 410 acres of undeveloped land within the R1/PN Multifamily Residential Planned Neighborhood zone district to R-4, Very Low Density Residential zoning and one parcel from RA/PN to LR – Lakeside Residential.

4.3 Proposed “Community Zone” District

No action has been taken to date to rezone public lands to a “community” zone designation.

4.4 Wastewater Management Plan (WMP)

The Highlands Council is in the process of completing the Final WMP. The Council’s Wastewater Management Planning process has been developed in cooperation with NJDEP. To reduce overall costs of this effort, the two agencies developed a template approach to Highlands municipal WMPs. Highlands Council staff uses information from the Highlands Municipal Build-Out Report development process (the geodatabase), DEP and other sources to draft the WMP using that template. The municipal professionals and DEP then provide detailed comments on all aspects of the draft. The combined results then are distributed once again for final review. After development of a final draft when all are in agreement, the municipal governing body endorses submittal of the WMP to DEP by resolution. DEP then is able to move forward toward public comment and adoption based on its prior review. The Highlands Council assumed responsibility for development of the Final WMP in October 2011.

4.5 Streetscape Project

The following recommendation concerning the Streetscape Project was included in the 2010 Reexamination Report and bears repeating in order to maintain the initiative on this important endeavor:

Related to the Streetscapes Project, this Reexamination report recommends West Milford set in place a mechanism to coordinate the aforementioned project with the Passaic County Corridor Enhancement Program and the County’s “Complete Streets” program to enhance pedestrian networks throughout the Township’s commercial districts. The mission of this program is to promote a safer and more attractive environment along the commercial and recreational corridors of the County. Funds collected in a particular municipality must be spent in that

West Milford
Master Plan Reexamination Report
March 7, 2013

municipality, however; multi-community enhancements are possible. In West Milford the program includes Greenwood Lake Turnpike and Union Valley Road.

The program is intended to support the following:

- Capital improvement projects;
- Studies related to the corridors;
- County road or intersection improvement projects;
- Local matching funds;
- Partnership with towns or non-profits
- Direct grants

After extensive work by the Planning Board the Township's sign regulations were revised by Township Ordinance 2011-013 in July 2011.

4.6 Open Space Plan

Now that the Township has adopted the Highlands Master Plan Element and approved the Highlands Natural Resource Inventory it is appropriate to evaluate the Township's Open Space Plan for consistency. Recent acquisitions such as the area south of Stowaway Park (to be known as "Emerald Forest") by the Passaic River Coalition should be incorporated into the Open Space Plan.

4.7 Lakeside Residential Zone

The West Milford Zoning Board of Adjustment's 2012 Annual Report does not recommend any change to the Township's zoning regulations. A previous recommendation had sought changes to the required lot area and certain bulk standards of the Lakeside Residential zone district. Prompted by a continued pattern of variances concentrated in this zone district, the ZBA has suggested the minimum lot size be reduced from its present standard of 20,000 square feet (one-half acre) to 10,000 square feet (one-quarter acre) along with modifications to permitted building height and the imposition of Floor Area Ratio standards for the LR district. The Planning Board's Ordinance Committee's review of this recommendation resulted in a decision not to recommend any change to the Township Council because a shift towards a smaller lot size raised potential concerns with environmental impacts, appropriate neighborhood densities and, of course, consistency with the Highlands RMP.

5.0 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,

West Milford
Master Plan Reexamination Report
March 7, 2013

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.

5.1 Highlands Region

The most significant change in land use policy affecting West Milford since the 2010 Reexamination Report is the Highlands Plan Conformance process. The Township of West Milford is located entirely within the Preservation Area of the Highlands Region wherein compliance with the Highlands Act is mandatory. The distinction has particular importance for West Milford in that: “*The fundamental distinction between the Preservation and Planning Areas is that municipal and county conformance with the Regional Master Plan is required in the Preservation Area and is voluntary in the Planning Area.*”¹ Municipalities located within the Preservation Area of the Highlands Region are required by the Highlands Act to “...submit to the council such revisions of the municipal master plan and development regulations, as applicable to the development and use of land in the preservation area, as may be necessary in order to conform them with the goals, requirements, and provisions of the regional master plan.”² West Milford completed this process known as “basic plan conformance” in accordance with the December 8, 2009 deadline. Subsequently, the New Jersey Highlands Council approved the Township of West Milford’s Petition for Plan Conformance on February 17, 2011.

The RMP includes what is known as the *Land Use Capability Zone Map* which is designed to “...address the requirements of the Highlands Act and provide regional guidance for the implementation of the policies contained in the Regional Master Plan.”³ This Map creates what are known as “*overlay zones*” each having a number of policy objectives that will affect how the Township addresses the issue of consistency.⁴ The vast majority of West Milford falls within the Protection Zone which comprises 43,758 acres or 84.3 percent of the land area in the Township. The RMP describes this zone as follows:

The Protection Zone consists of high natural resource value lands that are important to maintaining water quality, water quantity and sensitive ecological resources and processes. Land acquisition is a high priority in the Protection Zone and development activities will be extremely limited; any development will be subject to stringent limitations on consumptive and depletive water use, degradation of water quality, and impacts to environmentally sensitive lands.

¹ Highlands Regional Master Plan – 2008, page 1.

² Highlands Water Protection and Planning Act, P.L. 2004, c.120, C.13:20-14.

³ Highlands Regional Master Plan – 2008, page 110.

⁴ Ibid. Pages 111-112.

West Milford
Master Plan Reexamination Report
March 7, 2013

The Existing Community Zone consists of 2,146 acres or 4.1 percent of the Township's land area. This zone includes many, but not all of the developed residential and commercial sections of the Township. The ECZ is defined as follows:

The Existing Community Zone consists of areas with regionally significant concentrated development signifying existing communities. These areas tend to have limited environmental constraints due to previous development patterns, and may have existing infrastructure that can support development and redevelopment provided that such development is compatible with the protection and character of the Highlands environment, at levels that are appropriate to maintain the character of established communities.

A subset of the Existing Community Zone is the Lake Community Sub-Zone which, as the name suggests, covers the area in proximity to the various lakes within West Milford. (Actual lake area approximates 3,786 acres or 7.3 percent of the Township's surface area.) The Lake Community Sub-Zone applies to the lands adjacent to the bodies of water affecting approximately 1,831 acres or 3.5 percent of the Township's land area and is defined as follows:

The Lake Community Sub-Zone consists of patterns of community development that are within the Existing Community Zone within 1,000 feet of lakes. The Highlands Council focused on lakes that are 10 acres or greater and delineated lake management areas consisting of an area of up to 1,000 feet (depending on the protection focus) from the lake shoreline in order to protect water quality, resource features, shoreline development recreation, scenic quality and community character. A future management area is planned, encompassing the full lake watershed, for protection of the lake water quality. This zone has unique policies to prevent degradation of water quality, and watershed pollution, harm to lake ecosystems, and promote natural aesthetic values within the Existing Community Zone.

Finally, the Existing Community Zone – Environmentally Constrained Sub-Zone which is another subset of the Existing Community Zone covers some isolated pockets of land within the ECZ totaling 387 acres or 0.7 percent of the Township's land area. The RMP describes this sub-zone as follows:

The Existing Community Zone – Environmentally Constrained Sub-Zone consists of significant contiguous Critical Habitat, steep slopes and forested lands within the Existing Community Zone that should be protected from further fragmentation. They serve as regional habitat 'stepping stones' to larger contiguous Critical habitat and forested areas. As such, they are not appropriate for significant development, and are best served by land preservation and protection. Development is subject to stringent

West Milford
Master Plan Reexamination Report
March 7, 2013

limitations on consumptive and depletive water use, degradation of water quality, and impacts to environmentally sensitive lands.

5.2 Affordable Housing

West Milford submitted a Housing Element and Fair Share Plan (HE/FSP) along with all requisite documents including a Spending Plan with a petition for substantive certification to the Council on Affordable Housing (COAH) in accordance with the June 8, 2010 deadline established for Highlands Region municipalities. The HE/FSP addresses West Milford's prior and third round affordable housing obligation as determined by COAH's third round substantive rules (N.J.A.C. 5:97).

On October 8, 2010 the Appellate Division decision issued its 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 and directed COAH to revise its third round rules within five months. This matter is now pending before the New Jersey Supreme Court. As of this Reexamination Report there are no specific changes recommended in the HE/FSP until such time as the NJ Supreme Court issues a decision and appropriate rule changes are instituted. West Milford did submit a revised Spending Plan to ensure that existing funds in the Township's Affordable Housing Trust Fund are committed pursuant to Section 8 of P.L. 2008, c. 46. As of this Report, the revised Spending Plan is under review by COAH.

6.0. 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.

6.1 Highlands Plan Conformance

The West Milford Planning Board adopted the Highlands Master Plan Element at a public hearing on September 27, 2012. In November the Township's Environmental Commission completed its review of the Highlands Environmental Resource Inventory, memorializing their findings in a Resolution adopted on November 26, 2012. After consultation with Highlands staff, West Milford is now able to proceed with the adoption of the Highlands Checklist Ordinance, as modified in December 2012, and is not required to adopt the Highlands Preservation Area Land Use Ordinance given its very limited growth potential, as indicated by projections indicated in the Highlands Build-Out Report, done as part of the initial plan conformance process.

West Milford
Master Plan Reexamination Report
March 7, 2013

6.2 West Milford should pursue opportunities to develop “eco-tourism” with a focus on biking, hiking, and equestrian trails, boating, and fishing. The Planning Board should evaluate the Land Use Plan and Open Space / Recreation Plan elements of the Master Plan with this objective in mind. Efforts to secure grants and other sources of funding to support eco-tourism should be undertaken.

7.0 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.

7.1 Highlands Redevelopment

West Milford has already secured one of the first Redevelopment Area designations from the Highlands Council for the Municipal Complex and new public library site. The process is quite different from that required in the Local Redevelopment and Housing Law in that conditions of blight and neglect are not the determining factors. The RMP describes this approach as follows:

The RMP strives to accommodate regional growth and development needs primarily through the reuse and redevelopment of previously developed areas, including brownfields, grayfields, and underutilized sites. These areas generally have access to existing utility and transportation infrastructure and often are located in or near existing communities. As they have already been developed, these sites will have comparably fewer environmental constraints than undeveloped areas and the reuse of developed lands conserves natural resources and maximizes infrastructure investments. However, not all such sites are in locations conducive to redevelopment, especially where redevelopment could harm surrounding environmentally sensitive resources.⁵

The Planning Board may wish to investigate additional locations in the municipality, including sites within the commercial districts for similar treatment. In particular, the Township should pursue opportunities, when available, to applying resources to convert “brown fields” to productive uses, including community gardens or neighborhood parks.

⁵ Highlands Regional Master Plan – 2008, page 325.