



2013 REEXAMINATION REPORT

HARDING TOWNSHIP
MASTER PLAN & DEVELOPMENT
REGULATIONS

Harding Township Planning Board
Harding Township, Morris County, New Jersey

Adopted:
April 22, 2013

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A signed and sealed copy of this document is on file with the Planning Board Secretary and Township Clerk.

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INTRODUCTION

The Municipal Land Use Law requires the Planning Board to undertake a periodic reexamination of the master plan and development regulations at least once every ten years. Harding Township undertook its last such reexamination in 2006 when the statute required periodic reexaminations at least every six years.

A reexamination report is an assessment of local land use policies and contains generally broad recommendations for master plan or land use ordinance amendments to address areas of concern. It is not by itself an amendment of the master plan or development regulations. The statute requires the reexamination to address the criteria below, each of which is covered in five distinct parts following this introduction.

1. *The major problems and objectives relating to land development in the municipality at the time of the adoption of the last reexamination report.*
2. *The extent to which such problems and objectives have been reduced or have increased subsequent to such date.*
3. *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.*
4. *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.*
5. *The recommendations of the Planning Board concerning the incorporation of redevelopment plans adopted pursuant to the Local Redevelopment and Housing Law 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.*

Master Plan Updating: The Harding Township Planning Board has been very active in reviewing land use policies and keeping the township's master plan and ordinances up to date to address changing circumstances. Master plan amendments adopted since the preparation of the 2006 reexamination report include the following, undertaken largely as a result of recommendations contained in the report.

- Land Use Plan Element (updated): April 23, 2007
- Reorganization/update of Background Studies, Conservation Plan Element, Circulation Plan Element, and Land Use Plan Element: February 25, 2008
- Open Space Plan Element: March 24, 2008
- Housing Element & Fair Share Plan (3rd round): November 17, 2008
- Community Facilities Plan Element: November 17, 2008

Ordinance Updating: The township has also amended the land use and development regulations to including new regulations implementing the township's "third round" affordable housing plan, a new "flag lot" ordinance, a new ordinance relating to the use of fertilizers, and modifications addressing building height, energy-related accessory structures and generators, development on steep slopes, and various "housekeeping" amendments. In response to recommendations from a task force evaluating the New Vernon Redevelopment Area, modifications were made to the B-1 zoning regulations to simplify and broaden permitted land uses, encourage mixed uses, and allow greater flexibility for food service businesses. A "Small Business Initiative" was established, led by the township's administrative staff, to assist business owners located in the township's business zones.

PART 1: THE MAJOR PROBLEMS AND OBJECTIVES RELATING TO LAND DEVELOPMENT IN THE MUNICIPALITY AT THE TIME OF THE ADOPTION OF THE LAST REEXAMINATION REPORT

In undertaking the last reexamination, the Planning Board expressed continued concerns about the following issues relating to land development.

1. **Preserving Historic Character:** Concern was expressed that despite historic preservation efforts, modern zoning requirements may lead to the demolition of historic structures because they are often in violation of one or more zoning standards. This poses a significant complication to homeowners wishing to make home improvements to nonconforming structures.
2. **Protecting Rural Character:** Despite accomplishments such as the establishment of the RR Rural Residential Zone in 2004 and the adoption of building size restrictions, ongoing concern was expressed about the scale and impact of new development on Harding's rural character.
3. **Loss of Housing Variety:** Although the township enacted regulations to preserve the scale of residences in existing higher density neighborhoods (mainly areas around New Vernon Village, Green Village and Mt. Kemble Lake), a question arose about whether there is sufficient variety in housing types to accommodate the needs of older residents and lower/middle-income households.
4. **Environmental Protection:** Concern was expressed with regard to the impact of fencing on wildlife and tree removal within the building envelope of developed residential properties slated for demolition/reconstruction.
5. **Traffic Circulation:** There were continued concerns about the impact of commuter and other traffic travelling through Harding to regional destinations and a question as to whether the re-occupancy of a major office development (formerly AT&T) adjacent to Harding would have a negative impact on the township. The recommendations contained in Part 4 of the 2006 Reexamination Report noted the need to address parking for Harding residents at nearby "park and ride" facilities in adjacent communities.

In 2006 the Planning Board also considered that changes in state and regional planning policies might have an impact on the policies and objectives that form the basis for the Master Plan and noted the need to monitor the Highlands Regional Master Plan (being drafted at that time), changing affordable housing requirements, and the potential impact of demographic trends (i.e. an aging population) on housing options available in the township. The Planning Board listed numerous specific recommendations for Master Plan and ordinance amendments that are reviewed in a table in Part 2 below.

PART 2: THE EXTENT TO WHICH THE PROBLEMS AND OBJECTIVES (IN PART 1) HAVE BEEN REDUCED OR HAVE INCREASED SINCE THE LAST REEXAMINATION

1. **Preserving Historic Character:** The last reexamination noted that considerable progress had been made since 2000 in promoting historic preservation, including completion of a survey of historic structures, the preparation of a new Historic Preservation Plan element, the enactment of a "Demolition Delay" Ordinance, and the modification of zoning restrictions to permit accessory residences located within historic structures to be used as rental properties. These actions reflect Harding's abundant historic resources and keen interest in promoting their preservation.

Concerns have been expressed, however, about the level of complexity of the Demolition Delay Ordinance and the procedural time frame it requires. Consideration should be given to conducting an updated review of the historic structures survey (prepared by McCabe Associates in 2004).

2. **Protecting Rural Character:** Establishing the RR Rural Residential zone in 2004 and increasing the minimum lot size requirement to five acres was a major accomplishment in protecting the township's low-density rural-residential character. In addition, the township has implemented a very strong open space acquisition program coordinated by the Harding Open Space Trust (HOST) committee. A number of parcels that would have otherwise been developed are now (or are planned to be) preserved as open space. The pace of development has slowed as well, partly due to the limited remaining number of large developable parcels, but also likely as a result of recent difficult economic conditions and a tightening of lending practices. The township has made significant progress in fulfilling the goal of preserving its established low-density development pattern and rural character.

3. **Loss of Housing Variety:** Overall, progress has been made in promoting greater variety of housing types available in the township. Limitations on house size in higher density neighborhoods have now been in place for about a decade and appear to have helped to maintain the smaller scale of homes in those neighborhoods. Since the last reexamination, the following additional steps have been taken:

- An affordable housing development, sponsored by the township, has been completed and is now fully occupied. It provides 24 units of rental housing for low and moderate income households.
- Two-family dwellings are now permitted in the B-1 Zone in New Vernon Village (the Redevelopment Area). Mixed uses (business and residential) are encouraged, but not mandated in the Village's B-1 Zone. Consideration should be given to allowing two-family residences in the portion of the PRN-RC Zone not included within the existing planned developments.
- An affordable accessory residence program has been approved as a component of the township's state-certified affordable housing plan, permitting secondary residences to be established for moderate-income households.
- The occupancy restrictions on secondary residences that are deemed to be of historic value have been modified to permit them to be used as rental housing.

In 2007 the Planning Board investigated whether to allow cluster housing as an alternative to conventional single-family subdivision development in the RR Zone. The Planning Board determined that lot size averaging, enacted with the establishment of the RR Zone, is more consistent with Harding's overall planning goals and likely to result in development that is more compatible with the township's existing rural development characteristics. In addition, flag lots have been reinstated as a means of fostering greater variety in lot sizes and shapes and to promote greater reliance on shared driveways instead of new cul-de sacs.

4. **Environmental Protection:** Concerns about tree removal on developed properties slated for demolition and reconstruction have diminished somewhat in recent years with the slowdown in new home construction. Concerns remain about the construction of fences in residential areas

and the impact on wildlife. The Environmental Commission was asked to review this issue and has made recommendations for possible ordinance amendments to regulate fences in residential areas.

A “stewardship plan” is being implemented with respect to conservation easements that are under the township’s jurisdiction. There are dozens of easements relating to environmental conditions that have been catalogued and are being monitored by the Environmental Commission. In addition, any subdivision or site plan application that includes a proposed conservation easement must now include “baseline” documentation so that the township can ensure the integrity of the conserved area in future years.

The New Jersey Department of Environmental Protection (NJDEP) issued revised flood hazard regulations in 2007. These revised regulations included the establishment of riparian buffers around state open waters. These buffers vary in width depending upon the stream classification established by the NJDEP. The revised regulations limit activities within the riparian buffers and create general permits for certain activities. Currently, the Township Code requires that conservation easements be established for "lands within 50 feet of the top of the channel bank of any state open water" as part of subdivision or site plan approvals [Section 225-110D(1)(b)]. The Planning Board should consider whether this portion of the Code should be revised to require the inclusion of NJDEP riparian buffers within conservation easements.

5. **Traffic Circulation:** Much of the traffic generated by the Verizon office building in adjacent Bernards Township benefits from easy access to I-287 and Route 202. The need for parking at nearby “park and ride” facilities has increased and the Township Committee has been actively working with NJ Transit Planning and Morris County officials to address this need. Temporary arrangements have been made with a nearby property to permit some parking for Harding residents using mass transit.

Cross-walks have been established in New Vernon Village, enhancing pedestrian safety, but questions remain about the need for, and obstacles to establishing pathways in and around the village area. In addition, safety concerns have grown about group bicycling on township roads due to their narrow and winding configuration.

Part 4 of the 2006 Reexamination Report contained specific recommendations for amending or updating the master plan and development regulations as well as a few topics that the Board felt required further consideration by the Environmental Commission and Township Committee. The Planning Board reviewed these recommendations in October 2012 as part of this reexamination process and concluded that many of the recommendations had been addressed, others required no further action, and a few remain as open items. The following table identifies the specific master plan and regulatory recommendations from the 2006 report and their status.

2006 REEXAMINATION RECOMMENDATIONS	STATUS OF RECOMMENDATION OR PLANNING BOARD CONCLUSIONS
Recommended Master Plan Amendments in 2006	
1. Amend Land Use Plan re: New Vernon Village planning objectives.	Completed.
2. Amend Circulation Plan re: New Vernon Village pathways and road improvements; regional mass transit.	The Circulation Plan was reorganized with other elements.
3. Update Open Space Plan.	Completed.
4. Update Community Facilities Plan.	Completed.
5. Update Conservation Plan.	Completed.
6. Amend Historic Preservation Plan re: reference to encouraging new development compatible with New Vernon Village character.	New Vernon planning goals are addressed in the Historic Preservation and Land Use Plan elements.
7. Update "Relationship to Other Plans" section to reflect Highlands, COAH, State Planning efforts.	Consider updating after new State Plan adopted.
8. Update "Background Studies" to include existing land uses and farmland preservation.	Completed as part of Land Use Plan reorganization and Open Space Plan updates.
Recommended Land Use and Development Regulation Amendments in 2006	
1. Implement COAH's regulatory changes.	Completed.
2. Reinstate flag lots in RR Zone.	Completed.
3. Implement creative development regs. (clustering, lot size averaging).	Lot size averaging adopted in 2004; PB investigated clustering in 2007 and concluded not compatible with township's development pattern.
4. Consider accessory residences as rentals.	Adopted provision for renting historic accessory residences.
5. Require shielding of outdoor lighting.	Adopted provision in B-1 Zone.
6. Address split-lot zoning in Meyersville Road area.	This area is largely built out and environmental constraints are prevalent; lots vary in size/shape. No further review is needed.
7. Consider establishing architectural advisory committee.	A special committee is not needed. Zoning regulations were amended to address height with respect to architectural details.
8. Consider modifying fence limitations re: deer control.	The Environmental Commission submitted recommendations.
9. Consider need for B-2 Zone changes if long-term Rt. 202 vacancies persist.	Subject is under review by Planning Board. The township's "Small Business Initiative" assists owners/developers; the township is considering a survey of business owners.

PART 3: 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

This section of the Reexamination Report examines whether there have been changes in local conditions or government policies that were not previously contemplated that may have an effect on the Master Plan or development regulations.

The underlying assumptions, policies and objectives that form the basis of the Harding Township Master Plan have not fundamentally changed. The 2010 Census is now available, however, and should be reviewed to determine whether there are trends that may impact community planning goals. In addition, some state planning policies are changing or are under review; they should be monitored and analyzed to determine any impacts on Harding. A brief discussion of other governmental policies potentially affecting Harding is found below. As new planning and housing policies are implemented, a detailed assessment of their impact on Harding Township should be undertaken and potentially reflected in the Master Plan as appropriate.

New State Plan

The State Planning Act of 1985 established the State Planning Commission to prepare a *State Development & Redevelopment Plan* to guide future growth in the state. The first such plan, adopted in 1992, was substantively revised and re-adopted in 2001. Both plans represented a “top down” approach to state planning, identifying areas intended for varying levels of growth, agriculture, and preservation. Harding was designated within Planning Area 5, the environmentally sensitive planning area.

The Commission is now preparing a new plan, entitled *The State Strategic Plan*, which establishes a new framework for state planning that is fundamentally different from previous plans. In the words of the plan: “this updated planning document is not a land use regulatory tool, but a strategic framework to coordinate and channel public and private investments. The framework prioritizes key existing assets and industries, workforce development and retention, and infrastructure and quality of life factors, such as access to and benefits of protecting and preserving open space.”¹ The new plan establishes goals to balance growth and conservation and establishes strategies to target state resources to areas where development and redevelopment can be supported by existing resources and infrastructure.

The State Planning Act includes a statutory requirement to identify areas for the growth, agriculture, open space conservation and other designations. Unlike past plans that emphasized municipal conformance to a state-mandated land use framework, the new plan promotes a criteria-based identification of growth areas to guide state agency decisions on public investments, incentives, and State-level regulations. State Planning Rules will establish criteria to identify areas that meet the following four designations:

- Priority Growth Investment Area
- Alternate Growth Investment Area
- Limited Growth Investment Area
- Priority Preservation Investment Area

Although the new plan will not utilize the planning area designations of the 2001 state plan, the principals and assumptions underlying the Harding Township Master Plan are not affected and should not be changed. Lying within the Great Swamp Watershed, Harding is an environmentally sensitive area with abundant natural resources, especially important among them, water resources. Past state plans have always identified Harding as an environmentally sensitive area. With this long-standing recognition, the

¹ *The State Strategic Plan*; Final Draft for Adoption; 2012; page iii (available in January 2013 on the NJ Department of State website: <http://www.state.nj.us/state/planning/plan-draft-final.html>).

township does not anticipate that new state plan policies will have a negative impact on Harding's planning objectives. However, regulations to be enacted to implement the plan and the designation of "investment areas" should be monitored to ensure that Harding's long-established environmental and rural preservation land use goals are not compromised.²

Affordable Housing

The Fair Housing Act was enacted in 1985 to guide municipal actions to provide affordable housing around the state on a "fair share" basis according to complicated formulas intended to implement state housing policies. Housing was to be produced in six-year (now ten-year) "cycles" or "rounds." Harding has completely fulfilled its cumulative first and second round affordable housing obligations. The township's third round affordable housing obligation has been addressed in a plan adopted by the Planning Board in 2008 and approved by the NJ Council on Affordable Housing (COAH) in 2009. COAH's third round rules have been the subject of numerous legal challenges and in 2010, the rules (based on the "growth share" methodology) were declared invalid. New rules will not be developed until an appeal before the NJ Supreme Court is decided.

The New Jersey Legislature has considered various bills designed to overhaul the municipal "fair share" approach, although no solution has yet been implemented. An Administration reorganization plan abolished COAH and transferred staff to the Department of Community Affairs to administer the Fair Housing Act. The reorganization plan was also challenged, found invalid, and is being appealed by the Administration.

Since it was approved in 2009 before COAH rules were invalidated, the township's Housing Element and Fair Share Plan remains a certified affordable housing plan through 2018. When the affordable housing issue is resolved by the Legislature and/or the NJ Supreme Court, the township should assess the impact of any new law (and implementing rules) and potentially amend the Master Plan accordingly.

Highlands Regional Master Plan

A small area of Harding west of Route 202 is in the physiographic region known as the *Highlands*. The Highlands Water Protection and Planning Act, enacted in 2004, established a new regional planning agency known as the Highlands Council and delineated the core of the region as the "Preservation Area" and the surrounding areas within the "Planning Area." The entirety of any community lying partially within the Highlands is included within the Planning Area. Harding is therefore designated wholly within the Planning Area.

The Highlands Council adopted a Regional Master Plan in 2008. Conformance with the Master Plan is required of communities (or portions of communities) lying within the Preservation Area. Conformance is purely voluntary (often referred to as "opting in") for communities (and areas) within the Planning Area. The township chose not to opt in to the Regional Master Plan and as such, the regulatory framework of the Highlands Regional Master Plan does not apply to Harding.

Morris County Wastewater Management Plan and Build-out Analysis

In response to a 2008 rule issued by the NJ Department of Environmental Protection, the Morris County Planning Department has prepared a draft county-wide Wastewater Management Plan (WMP). As part of the planning process, the county conducted a build-out study using a nitrate dilution model and current zoning to determine whether changes in density would be needed to avert groundwater pollution in areas served by on-site septic systems. For Harding, full build-out under current zoning was determined to be within allowable development limits and no changes were found necessary in order to satisfy wastewater management planning guidelines. The County has also mapped areas served by on-site septic systems throughout the county and has received a grant from DEP to establish a voluntary septic system management program to aid communities and property owners in monitoring on-site systems.

² Information and some of the text for this section was obtained from the *State Strategic Plan*; Final Draft for Adoption; 2012; available on the NJ Department of State website: <http://www.state.nj.us/state/planning/plan-draft-final.html>.

A sewer service area map submitted by the County to DEP displays the limited border areas in Harding that are served by the Morris Township wastewater management system. Consistent with long-standing local and state planning policies for Harding Township, no expansion of sewer service areas is planned. DEP's implementation of the 2008 rule is currently under review by the agency with an eye toward more flexibility in its administration.

PART 4: 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

The Planning Board concludes that the goals and objectives of the Master Plan remain valid and a new Master Plan is not needed at this time. However, the following amendments and updates to the Master Plan should be undertaken to reflect the concerns expressed in this reexamination and new information when available (such as a new State Plan).

MASTER PLAN AMENDMENTS

2010 Census Update (Housing Element & Fair Share Plan): The Housing Element & Fair Share Plan should be updated to include demographics information from the 2010 Census.

Relationship to Other Plans: This section, last updated in 1997, does not reflect current state and regional planning concerns. In addition, some Master Plan elements contain references to the township's designation in the 2001 State Plan within Planning Area-5, the environmentally sensitive planning area. When *The State Strategic Plan* is adopted the "Relationship to Other Plans" section of Master Plan should be updated and the Master Plan elements should be amended as needed, consistent with the new state plan. However, the Master Plan should still reflect that the township is in an environmentally sensitive area, even though references to the former state plan designation "Planning Area 5" will be modified.

Historic Preservation Plan: If the township concludes that a new historic structures survey is needed, the Historic Preservation Plan should be updated to reflect any relevant changes arising from an updated study.

Open Space Plan Update: The Open Space Plan should be updated to include recent land acquisition, the township's conservation easements, and the percentages of each major category of open space.

Community Facilities Plan Update: The Community Facilities Plan should be updated to reflect the completion of the Library at the Municipal Building site.

**LAND USE AND DEVELOPMENT
REGULATION AMENDMENTS**

Harding's land use and development regulations are consistent with and are designed to effectively implement the goals and policies contained in the Master Plan. However, the following amendments to the land use and development regulations should be considered by the Township Committee.

Demolition Delay Ordinance: The township should consider revisions to the Demolition Delay Ordinance to streamline the process for obtaining permits and to make the procedures less complicated and time consuming.

B-2 Zone (Route 202) Update: The township should consider updating the permitted uses and other provisions applicable in the B-2 Zone (Route 202).

Fence Regulations: The Planning Board will review the recommendations made by the Environmental Commission concerning deer fences.

Zoning Map Update: The Zoning Map should be amended to reflect that sites recently acquired for open space are designated within the Public Land Zone.

PART 5: THE RECOMMENDATIONS OF THE PLANNING BOARD CONCERNING THE INCORPORATION OF REDEVELOPMENT PLANS ADOPTED PURSUANT TO THE LOCAL REDEVELOPMENT AND HOUSING LAW 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.

The Master Plan and the Zoning Ordinance already reflect the objectives and recommended standards embodied in the New Vernon Redevelopment Plan.