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**2015 MASTER PLAN
REEXAMINATION REPORT**

**BOROUGH OF BOGOTA
BERGEN COUNTY, NEW JERSEY**

Prepared by

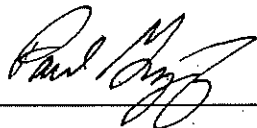
Borough of Bogota Planning/Zoning Board

in consultation with

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The original of this report was signed and
sealed in accordance with N.J.S.A. 13:41-1.2



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I. Introduction

The Borough of Bogota is a mature suburban municipality located in northeastern New Jersey a short distance west of New York City. While Bogota has an established downtown and attractive residential neighborhoods, it also has multiple large redevelopable areas that have the potential to change the character of the community. There is a constant need to evaluate development regulations and to consider whether the formal redevelopment process should be utilized and if so, what principles should guide redevelopment planning efforts.

The Borough of Bogota has commissioned the preparation of this Master Plan Reexamination in order to address these and other issues, as well as to address the requirements of the Municipal Land Use Law (MLUL) of the State of New Jersey. The MLUL at N.J.S.A. 40:55D-89 mandates that a municipality's governing body shall, at least every ten years, provide for a general reexamination of its master plan and development regulations by the planning board, or the joint planning/zoning board in Bogota, which shall prepare and adopt by resolution a report on the findings of such reexamination. The Borough of Bogota adopted its last comprehensive master plan in 2005.

Consequently, there is a need to reassess Bogota's current Master Plan, together with the Borough's existing development regulations, in compliance with N.J.S.A. 40:55D-89. Therefore, the Planning/Zoning Board retained a consultant to prepare this reexamination. The planning process has incorporated review of existing conditions and documents, as well as public meetings with the Planning/Zoning Board.

There are five elements which the reexamination report must include:

- 1) A section outlining the major problems and objectives relating to land development in the municipality at the time of the adoption of the last reexamination report.
- 2) A section describing the extent to which such problems and objectives have been reduced or have increased subsequent to that date.
- 3) A section discussing 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) A section setting forth the recommended changes to 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) A section setting forth the recommendations of the Planning/Zoning 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.

II. Problems and Objectives Set Forth in the Master Plan and Their Current Status

Introduction

This chapter outlines the major problems and objectives relating to land development in Bogota in 2005, when the Borough's most recent Master Plan was adopted. It also describes the extent to which such problems and objectives have been reduced or have increased subsequent to that date, thus addressing the requirements of items *a* and *b* in N.J.S.A. 40:55D-89, which lists the mandatory contents of a reexamination report.

Goals and Objectives

The 2003 Bogota Master Plan, which was adopted in 2005, is the Borough's current master plan document. It incorporates and endorses the purposes of the Municipal Land Use Law set forth at NJSA 40:55D-2, as its overall goals and objectives, which are supplemented by more community-specific ones. The goals and objectives are listed as follows in the 2005 Master Plan:

1. Incorporate the General Purposes of the Municipal Land Use Plan including the following:
 - a. To encourage municipal action to guide the appropriate use or development of all lands in the State in a manner which will promote the public health, safety, morals and general welfare;
 - b. To ensure safety from fire, flood, panic and other natural and man-made disasters;
 - c. To provide adequate light, air and open space.
 - d. To ensure that development of individual municipalities does not conflict with the development and general welfare of neighboring municipalities, the county and the State as a whole;
 - e. To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment;
 - f. To encourage the appropriate and efficient expenditure of public funds by the coordination of public development with land use policies;
 - g. To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens;
 - h. To encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging location of such facilities and routes which result in congestion or blight;
 - i. To promote a desirable visual environment through creative development techniques and good civic design and arrangements;
 - j. To promote the conservation of historic sites and districts, open space, energy resources and valuable natural resources in the State and to prevent urban sprawl and degradation of the environment through improper use of land;
 - k. To encourage senior citizen community housing construction;

- l. To encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land;
 - m. To promote the maximum practicable recovery and recycling of recyclable materials from municipal solid waste through the use of planning practices designed to incorporate the State Recycling Plan goals and to complement municipal recycling programs.
2. Maintain and Enhance the Quality of Established Neighborhoods in Bogota including the protection of the residential character and prevailing densities of the community.
3. Assist in the Rehabilitation of Areas in Need of Improvement and Upgrading including utilization of Assistance programs, where applicable, as well as private efforts;
4. Provide Housing Opportunities and a Variety of Housing for Various Income Levels of the population including senior citizen housing;
5. Improve the Quantity, Quality and Availability of Parks and Open Space including active and passive recreational facilities, neighborhood parks and environmentally sensitive areas and promote the establishment of a publicly accessible linear greenway (riverside) park along the Hackensack River, wherever possible.
6. Preserve the Environment including the preservation of wetland areas, stream and wetland corridors, the quality and purity of rivers and streams, protection of major ridgelines and the significant treed areas and areas designated as natural areas.
7. Promote Historic Conservation, Preservation, and Adaptive Reuse where Appropriate.
8. Promote Adequate Community Services for All Portions of Bogota.
9. Improve and Upgrade Traffic Circulation and Safety Throughout the Borough including the provision of additional passenger rail service.
10. To review and evaluate all areas of the Borough that are reasonably capable of being developed for contemporary uses in order to promote and expand economic opportunities and job opportunities and the economic well-being of Bogota's citizens in an expeditious manner.
11. Promote and Upgrade the Downtown Area of Bogota.
12. To review the Borough's zoning ordinance and to update same to resolve a number of limitations to the present ordinance.

The 2005 Master Plan Goals and Objectives remain relevant. The purposes of the Municipal Land Use Law have been supplemented in recent years by the addition of two new purposes. The full revised list is included in Chapter IV of this document, along with the Bogota-specific goals and objectives. The latter have been modified and supplemented to reflect current conditions and planning considerations.

Other Issues

The 2005 Master Plan recognized that most of the Borough is built out and there are limited opportunities for new development, as 97.8 percent of all land is improved. It also indicated that Bogota's housing stock is older, and is limited in diversity of housing types. These limitations impact the ability of the Borough's population to grow, as few new dwelling units have been constructed in recent years and household sizes are declining in Bogota, consistent with broader trends.

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The 2005 Master Plan recognized the use of the Local Housing and Redevelopment Law as an appropriate planning tool for Bogota. Two properties were recommended for designation as redevelopment areas by the Master Plan: the former Dewey School on Palisade Avenue and three contiguous vacant lots on River Road. Redevelopment of the Dewey School site is moving forward, and the Borough is considering redevelopment designation for additional properties. Additional information regarding redevelopment areas in Bogota is provided in the final chapter of this reexamination.

The 2005 Master Plan noted Bogota has limited recreation resources. Bogota's recreation is limited to 21.7 acres of land while national standards would require 82 acres. The Master Plan recommends that a linear greenway system be created along the entire length of the Hackensack River. This recommendation would require that an easement at least 50 feet in width be provided along the riverfront as part of all future development and redevelopment projects. Access easements to this linear park would be required. These concerns and recommendations remain valid.

III. The Extent to Which There Have Been Significant Changes in Assumptions, Policies and Objectives Forming the Basis for the Master Plan or Development Regulations as Last Revised

For the most part, the assumptions, policies and objectives which formed the basis for the Borough's Reexamination Report as last revised remain valid at the present time. However, some changes have occurred that impact Bogota, as described in this chapter.

The Borough has remained generally stable in terms of population, employment, and development in recent years. The 2010 Census figure for Bogota's population is 8,187 – a decline of 62 residents since 2000. The built-out character of Bogota is evidenced by decennial population figures. As shown in Table III-1, the Borough's population experienced its largest population growth between 1910 and 1930. Bogota's population reached its peak in 1970 but has not changed drastically from 1980 through the present.

Table III-1: Historical Population, Borough of Bogota and Bergen County, 1910 to 2010

Borough of Bogota				Bergen County			
Year	Population	Change		Year	Population	Change	
		Number	Percent			Number	Percent
1910	1,125	-	-	1910	138,002	-	-
1920	3,906	2,781	247.2%	1920	210,703	72,701	52.7%
1930	7,341	3,435	87.9%	1930	364,977	154,274	73.2%
1940	7,346	5	0.1%	1940	409,646	44,669	12.2%
1950	7,662	316	4.3%	1950	539,139	129,493	31.6%
1960	7,965	303	4.0%	1960	780,255	241,116	44.7%
1970	8,960	995	12.5%	1970	897,148	116,893	15.0%
1980	8,344	-616	-6.9%	1980	845,385	-51,763	-5.8%
1990	7,824	-520	-6.2%	1990	825,380	-20,005	-2.4%
2000	8,249	425	5.4%	2000	884,118	58,738	7.1%
2010	8,187	-62	-0.8%	2010	905,116	20,998	2.4%

Source: United States Census Bureau

Since the 2005 Master Plan was adopted, there have been a number of governmental actions that relate to the Borough's planning policies and objectives.

At the local level, the Borough has moved forward with encouraging redevelopment of two properties (the former Dewey School and a site on River Road). A third area between Fort Lee Road and the Hackensack River has been determined to be "in need of redevelopment." The Mayor and Council have authorized a study of adjoining properties to see if they also qualify as a redevelopment area. The Borough also approved a Housing Element and Fair Share Plan in December 2008, which was submitted to COAH for certification and was judged to have met all of the standards as required. The Borough is considering modifying its housing plan to reflect changes that have occurred since 2008.

At the state level, increased interest in sustainability in recent years has made its way into state law, as the Municipal Land Use Law was amended in 2008 to permit a "green buildings and environmental sustainability plan element" as part of a municipal master plan. The Municipal Land Use Law was further amended in 2009 to allow wind and solar facilities as permitted uses on parcels of land comprising 20 or more contiguous acres in industrial zones and to make renewable

energy facilities an "inherently beneficial use" (i.e., one that serves the public interest by its very existence), and in 2010 to prevent municipalities from unreasonably limiting "small wind energy systems" (i.e., turbines that generate power primarily for on-site consumption) and to exempt solar panels from impervious surface or impervious cover designation.

The Municipal Land Use Law also was amended in 2011 to extend the maximum time permitted between municipal master plan reexamination reports from six years to ten years. A 2012 amendment to the Municipal Land Use Law exempted applications for collocation of wireless communications equipment on a tower or other structure from site plan as long as certain requirements are met. These are that structure was previously properly approved, the structure is not being increased in width or in height by more than ten percent of the original structure height, and the existing equipment compound is not being increased by greater than 2,500 square feet. This regulation does not exempt such installations from variances or other approvals if they are otherwise required. Two notable amendments to the Municipal Land Use Law were adopted in 2013. The first clarified authorization for cluster developments and permits lot-size averaging, thus providing municipalities with new tools to preserve open space and direct development to appropriate locations. The second enabled exemptions to development regulation for raising certain structures in order to meet certain State or federal flood elevation standards.

In December 2004, the New Jersey Council on Affordable Housing (COAH) adopted its "Third Round" rules covering the period from 2004 to 2018. A successful legal challenge was mounted to these rules, which were invalidated by a New Jersey Appellate Court decision in January 2007. This decision upheld some sections of COAH's "Third Round" rules, invalidated other aspects of them and remanded certain issues to COAH. In December 2007, COAH released revised rules which went into effect on June 2, 2008. In contrast to COAH's prior rules, the "Third Round" rules utilize a "growth share" approach, by which municipal affordable housing obligations are determined by the amount of new market-rate residential and non-residential growth. The Bogota Planning/Zoning Board adopted a Housing Element and Fair Share Plan in 2008 which was prepared consistent with COAH's rules. This document was endorsed by the Mayor and Council and submitted to COAH in December 2008 as part of the Borough's petition for Substantive Certification; however, COAH's review of the plan was not completed before the COAH Third Round rules were invalidated.

However, the future of COAH is uncertain. The first bill introduced in the 2010-2011 session of the New Jersey State Senate, S1, proposed to abolish COAH and provide a new means of calculating and addressing affordable housing needs. Although the bill did not advance, other actions taken include steps by the Christie administration to eliminate COAH and provide new mechanisms for providing affordable housing. In October 2010 the Appellate Division of the New Jersey Superior Court issued a decision resolving the challenge to COAH's Third Round Rules, which again invalidated many aspects of these rules. A 2013 New Jersey Supreme Court decision upheld the Appellate Division decision and requires COAH to replace growth share with a different methodology, which means municipalities will once again need to grapple with changes in affordable housing regulations.

But as it has been determined that municipalities have a constitutional obligation to provide a realistic opportunity for affordable housing, this obligation will not go away without amending the state constitution. Bogota should continue to monitor the implementing regulations for addressing the municipal affordable housing obligation, and should ensure that any new developments help address any applicable state requirements, whether through provision of units or payment of development fees to help fund affordable housing purposes and modify its adopted Housing Element and Fair Share Plan as necessary.

Another housing related State-level action was the adoption of the Age-Restricted Development Conversion Act in 2009. This State law (N.J.S.A. 45:22A-46.3) responded to the oversupply of approved age-restricted housing developments by enabling approved but not built projects of this type to be converted to non-age-restricted housing, in accordance with certain requirements.

Also at the state level, the New Jersey State Planning Commission and Office of Smart Growth have been slowly moving towards adoption of an updated State Development and Redevelopment Plan (SDRP). The purpose of the SDRP according to the State Planning Act at N.J.S.A. 52:18A-200(f) is to:

Coordinate planning activities and establish Statewide planning objectives in the following areas: land use, housing, economic development, transportation, natural resource conservation, agriculture and farmland retention, recreation, urban and suburban redevelopment, historic preservation, public facilities and services, and intergovernmental coordination.

The SDRP was originally adopted in 1992. A revised version of the plan was adopted by the State Planning Commission in 2001. While required by the State Planning Act to be revised and re-adopted every three years, the SDRP has only been re-adopted once during the 21 years since its original adoption. A draft of the amended SDRP, called the State Strategic Plan, was released in 2011 and public hearings were held on it, but the plan has not yet been adopted.

Another change affecting land use and development that has occurred since 2005 was the economic downturn, culminating in the recession of 2007 through 2009. Though attributed to a variety of factors, results included reduced housing values, increased retail vacancies and higher unemployment. Another result is more stringent lending standards, which have negatively impacted the ability of prospective homebuyers to obtain mortgages, as well as made it more difficult for developers to obtain financing for non-residential development. The fallout from the economic crisis will also have future impacts on real estate as loans expire, particularly for commercial properties that have declined in value and are facing declining income as well. Bogota should continue to seek investment where appropriate as the economy recovers due to the Borough's attributes such as its convenient location and available redevelopable land.

Lastly, there has been increased interest throughout the Northeast in the installation of permanent standby generators in the wake of sometimes lengthy power outages caused by Superstorm Sandy, Hurricane Irene and multiple significant snowstorms. While useful to their owners, there are potential impacts from generators that can be addressed through proper regulations.

IV. Specific Changes Recommended for the Master Plan and Development Regulations

Introduction

Based on the assumptions, policies and objectives discussed above, a few specific changes are being recommended for the master plan and development regulations as part of this reexamination report. The recommended master plan and zoning changes are set forth below.

2015 Reexamination Report Goals and Objectives

The 2015 Reexamination Report of the Borough of Bogota incorporates and endorses the purposes of the Municipal Land Use Law set forth at NJSA 40:55D-2 as part of its overall goals and objectives, which are supplemented by more community-specific goals and objectives. The current goals and objectives of the 2015 Reexamination are listed below.

1. Incorporate the General Purposes of the Municipal Land Use Plan including the following:
 - a. To encourage municipal action to guide the appropriate use or development of all lands in the State in a manner which will promote the public health, safety, morals and general welfare;
 - b. To ensure safety from fire, flood, panic and other natural and man-made disasters;
 - c. To provide adequate light, air and open space.
 - d. To ensure that development of individual municipalities does not conflict with the development and general welfare of neighboring municipalities, the county and the State as a whole;
 - e. To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment;
 - f. To encourage the appropriate and efficient expenditure of public funds by the coordination of public development with land use policies;
 - g. To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens;
 - h. To encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging location of such facilities and routes which result in congestion or blight;
 - i. To promote a desirable visual environment through creative development techniques and good civic design and arrangement;
 - j. To promote the conservation of historic sites and districts, open space, energy resources and valuable natural resources in the State and to prevent urban sprawl and degradation of the environment through improper use of land;
 - k. To encourage planned unit developments which incorporate the best features of design and relate the type, design and layout of residential, commercial, industrial and recreational development to the particular site;

- l. To encourage senior citizen community housing construction;
 - m. To encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land;
 - n. To promote utilization of renewable energy resources; and
 - o. To promote the maximum practicable recovery and recycling of recyclable materials from municipal solid waste through the use of planning practices designed to incorporate the State Recycling Plan goals and to complement municipal recycling programs.
 - p. To enable municipalities the flexibility to offer alternatives to traditional development, through the use of equitable and effective planning tools including clustering, transferring development rights, and lot-size averaging in order to concentrate development in areas where growth can best be accommodated and maximized while preserving agricultural lands, open space, and historic sites.
2. Maintain and enhance the quality of established neighborhoods in Bogota including the protection of the residential character and prevailing densities of the community.
3. Promote the rehabilitation of areas in need of improvement through assistance programs and private efforts, as well as by utilizing the planning tools of the Local Redevelopment and Housing Law where appropriate.
4. Provide housing opportunities and a variety of housing for various income levels of the population including senior citizen housing.
5. Improve the quantity, quality and availability of parks and open space including active and passive recreational facilities, neighborhood parks and environmentally sensitive areas and promote the establishment of a publicly accessible linear greenway park along the Hackensack River, wherever possible.
6. Protect environmental features and natural areas.
7. Promote historic conservation, preservation, and adaptive reuse where appropriate.
8. Promote adequate community services for all portions of Bogota.
9. Improve and upgrade the Borough's transportation network and advocate for the provision of passenger rail service.
10. Encourage economic development in downtown Bogota and other areas of the Borough that are capable of accommodating growth and redevelopment.
11. Improve the Borough's Zoning Ordinance.

Other Recommendations

The former Hess site and nearby properties on both sides of West Fort Lee Road between the Hackensack River and the New York Susquehanna & Western Railroad represent a significant opportunity for Bogota. This area provides an opportunity to address a number of planning issues through redevelopment. Potential benefits from the redevelopment of this area include environmental remediation, upgrades and expansion of infrastructure and reclaiming a significant portion of Bogota's waterfront that was formerly blocked from public view and use by industrial operations. The plan for this area should provide for an appropriate mix of uses and public amenities, including a waterfront walkway along the Hackensack River and additional open space. Potential uses could include multifamily residential as well as office and commercial. Other guiding

principles that should be considered in planning for this area include improving circulation through this section of the Borough for vehicles as well as pedestrians and bicyclists, providing attractive building and site design, and enhancing the Borough's economic base.

Bogota should ensure its Housing Element and Fair Share Plan are still accurate and appropriate given the passage of time since its adoption in 2008 and consider potential changes to this document. These could include adjusting how the Borough's obligation is determined as well as how to address the obligation, such as relocating affordable units from the relatively small redevelopment project at 297 Palisade Avenue to the much larger redevelopment area along West Fort Lee Road.

Consideration should be given to amend the Zoning Ordinance to exempt restaurants from providing off-street parking, given the lack of available land to provide such parking and the desire to support restaurants within the municipality.

The Borough should consider undertaking a thorough revision of the Zoning Ordinance in order to correct inconsistencies and discrepancies, replace inaccurate or confusing definitions, update outmoded features and reflect changes in statutes and case law to better regulate land use and design in the Borough. In addition, the zoning regulations for the downtown and other business zones should be evaluated and amended as necessary to help these areas remain viable while providing appropriate regulations.

V. Recommendations of the Planning/Zoning Board Concerning the Incorporation of Redevelopment Plans into the Land Use Element and Local Development Regulations

In 1994, the Municipal Land Use Law in New Jersey was amended to include, as part of a master plan reexamination report, recommendations of the planning board concerning the incorporation of redevelopment plans (adopted pursuant to the Local Redevelopment and Housing Law of 1992) into the land use element, and accompanying changes to the development regulations. The Local Redevelopment and Housing Law (LRHL) affords municipalities the authority to designate areas "in need of redevelopment," provided they meet specific statutory criteria. The LRHL also enables municipalities to designate areas "in need of rehabilitation" in accordance with other criteria. Municipalities may prepare and implement redevelopment plans for both redevelopment and rehabilitation areas.

There are three areas of the Borough of Bogota that have been determined to qualify as redevelopment areas, and one area for which a study is currently being prepared to determine whether it qualifies as a redevelopment area in accordance with the LRHL. Each of these is described below, along with the status of each area.

297 Palisade Avenue (Former Dewey School Site)

A redevelopment area investigation for this property was included in the 2005 Master Plan. This 0.77-acre property, designated as Block 39, Lot 7.01, is located at 297 Palisade Avenue. The subject area was determined to be an "Area in Need of Redevelopment" and a redevelopment plan was prepared that provides regulations for the redevelopment of this site. A multifamily residential development is being constructed on the property.

300, 310 and 316 River Road

A redevelopment area investigation for this property was included in the 2005 Master Plan. This 0.372-acre property, designated as Block 64.01, Lots 6.01, 6.02 and 7.01, is located at 297 Palisade Avenue. To date, there has been no redevelopment activity on this property.

250 West Fort Lee Road

A redevelopment area investigation was prepared for this property in 2013. The site is designated as Block 72, Lots 1.01 and 1.02 and is approximately eight acres in area. To date, there has been no redevelopment activity on this property.

172 and 229 West Fort Lee Road

The Mayor and Council of the Borough of Bogota have requested and authorized the Bogota Planning Board to determine whether two properties on West Fort Lee Road qualify as an area in need of redevelopment. The specific parcels being investigated are Block 72, Lots 2, 2.01, 2.02, 2.03, 3.01, 4, 4.01, 4.02, 5, 5.01, 6, 6.01 and 7 and Block 3, Lots 3, 4, 7, 8 and 9. These properties are more commonly referred to as the Hess site. The redevelopment study is anticipated to be completed in early 2015. If the area is determined to qualify as in need of redevelopment, a redevelopment plan should be prepared for this site and the adjacent property at 250 West Fort Lee Road that provides for the comprehensive redevelopment of these two sites, as discussed in Chapter IV.