

# Letter of Transmittal

To: Douglas Bern, Esq.  
 Bern Root, LLC  
 90 West Palisades Ave. 2<sup>nd</sup> Floor  
 Englewood, NJ 07631

Date: August 30, 2022	Project no.: DEB-036
Subject: Master Plan Reexamination Report	

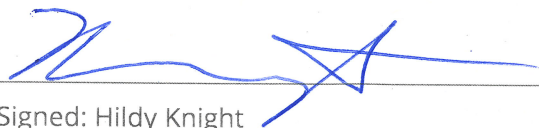
We are sending you:

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> Attached | <input type="checkbox"/> Under separate cover  |
| <input type="checkbox"/> Shop Drawings       | <input type="checkbox"/> Prints <span style="float: right;"><input type="checkbox"/> Plans</span>                  |
| <input type="checkbox"/> Samples             | <input type="checkbox"/> Specifications <span style="float: right;"><input type="checkbox"/> Copy of Letter</span> |
| <input type="checkbox"/> Change Order        |  |

Copies	Date	Revised	No.	Description
3				2022 Master Plan & Development Regulations Reexamination, signed and sealed

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> For approval            | <input type="checkbox"/> Approved as submitted            | <input type="checkbox"/> Resubmit copies for approval   |
| <input checked="" type="checkbox"/> For your use | <input type="checkbox"/> Approved as noted                | <input type="checkbox"/> Submit copies for distribution |
| <input type="checkbox"/> As requested            | <input type="checkbox"/> Returned for corrections         | <input type="checkbox"/> Returned corrected prints      |
| <input type="checkbox"/> For review and comment  |   |   |
| <input type="checkbox"/> FOR BIDS DUE:           | <input type="checkbox"/> PRINTS RETURNED AFTER LOAN TO US |   |

Remarks: I am providing the enclosed at the request of Demarest Planning Board Chair Marian Hayden. Let me know if you have any questions.



Copy to: Marian Hayden (via email)

Signed: Hildy Knight



Engineering  
& Design

# 2022 Master Plan & Development Regulations Reexamination

Borough of Demarest

May 16, 2022

Prepared for:

Borough of Demarest

Prepared by:

**Darlene A. Green, PP, AICP**  
NJ License No. 33Li00611400

**Colliers Engineering & Design, Inc.**

53 Frontage Road Suite 110

Hampton New Jersey 08827

Main: 908 238 0900

Colliersengineering.com

## **PLANNING BOARD**

Marian Hayden, Chair  
Brian Keane, Vice Chair  
Mayor Melinda Iannuzzi  
Councilwoman Daryl Fox  
Theodore Alevrontas  
James Tabacchi  
Howard Rifkind  
Risa Paster  
Alex Parlamis  
Dick Schooler  
Steve Verp

Adopted August 3, 2022

# Table of contents

<b>I. INTRODUCTION.....</b>	<b>1</b>
<b>II. PROBLEMS &amp; OBJECTIVES RELATED TO THE 2010 REEXAMINATION .....</b>	<b>4</b>
<b>III. EXTENT THAT PROBLEMS &amp; OBJECTIVES HAVE CHANGED SINCE 2010.....</b>	<b>5</b>
<b>IV. EXTENT OF CHANGES IN POLICIES &amp; OBJECTIVES FORMING THE BASIS OF THE 2010 REEXAMINATION REPORT .....</b>	<b>6</b>
Demographic Changes.....	6
State Changes .....	11
County Changes.....	17
Municipal Changes.....	18
<b>V. CHANGES RECOMMENDED FOR THE MASTER PLAN OR DEVELOPMENT REGULATIONS.....</b>	<b>23</b>
Goals and Objectives .....	23
Master Plan Elements.....	25
Land Use & Development Review .....	26
New Technologies .....	31
Year-End Board Reports .....	31
<b>VI. RECOMMENDATIONS CONCERNING REDEVELOPMENT PLANS .....</b>	<b>33</b>
<b>VII. PUBLIC ELECTRIC VEHICLE INFRASTRUCTURE .....</b>	<b>34</b>

## I. INTRODUCTION

The Borough of Demarest is in northeastern Bergen County and encompasses roughly 2.1 square miles. Demarest is a residential community with a central “village” at the intersection of Hardenburgh Avenue and Park Street. The Alpine Country Club is also located within the Borough. The Borough does not have direct access to any major roadways. However, US Route 9W is located approximately one mile to the east along Closter Dock Road and Hillside Avenue. The Palisades Interstate Parkway can be accessed via Route 9W. Additionally, there are six County Roads within the Borough, Knickerbocker Road, County Road, Piermont Road, Hardenburgh Avenue, Anderson Avenue, and Hillside Avenue.

Demarest is surrounded by the Borough of Closter to the north, the Borough of Alpine to the east, the Borough of Cresskill to the south, the Borough of Dumont to the southwest, and the Borough of Haworth to the west. See the map on page 3 for Demarest’s general location.

The New Jersey Municipal Land Use Law, N.J.S.A. 40:55 D-1 et seq. (hereinafter “MLUL”), stipulates that each municipality in the State of New Jersey shall reexamine its Master Plan and development regulations at least every ten years. Specifically, N.J.S.A. 40:55D-89 states:

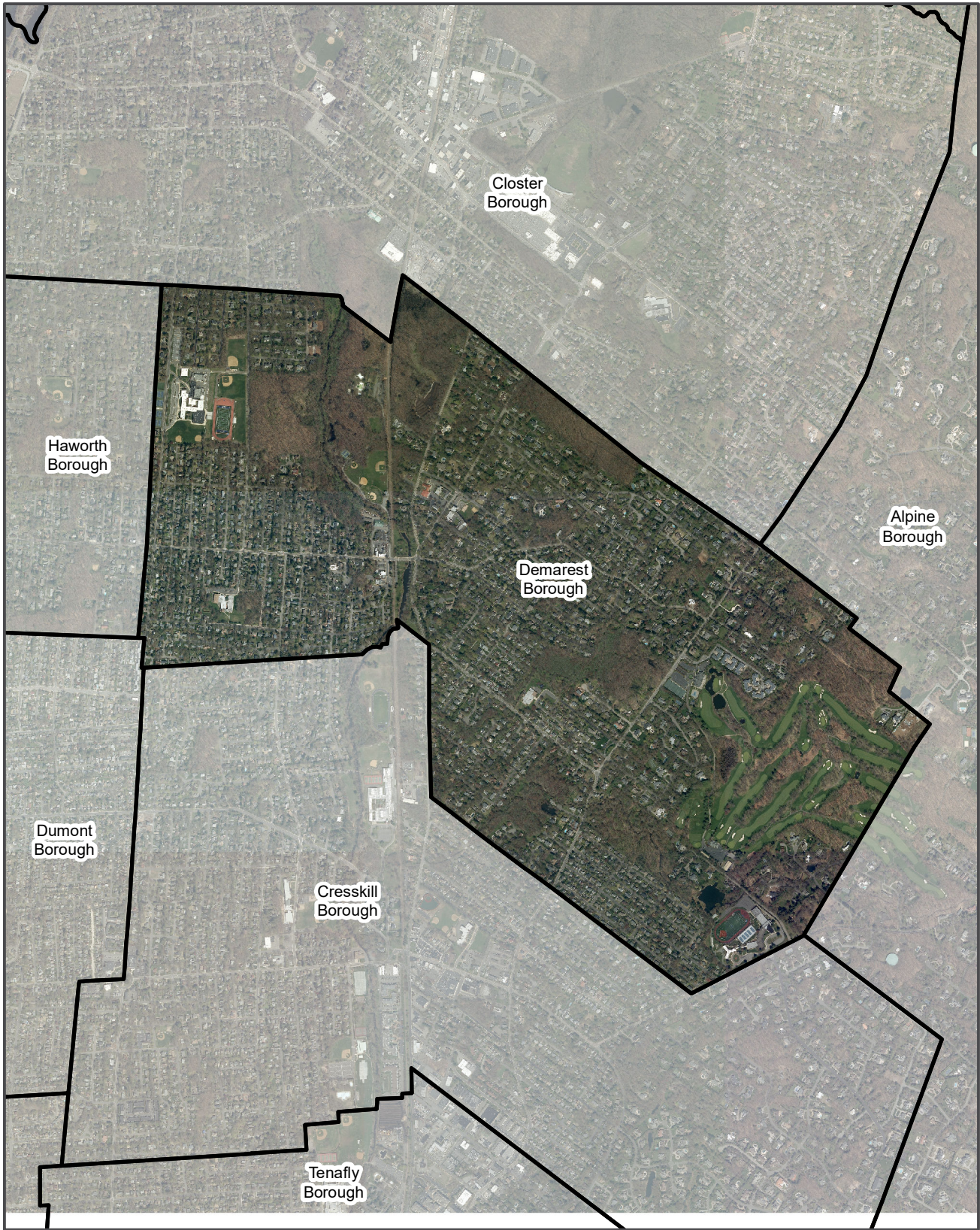
*“The governing body shall, at least every ten years, provide for a general reexamination of its master plan and development regulations by the Planning Board, which shall prepare and adopt by resolution a report on the findings of such reexamination, a copy of which report and resolution shall be sent to the Office of Planning Advocacy and to the County Planning Board. A notice that the report and resolution have been prepared shall be sent to any military facility commander who has registered with the municipality pursuant to section 1 of P.E.2005, c.41 (C.40:55D-12.4) and to the municipal clerk of each adjoining municipality, who may request a copy of the report and resolution on behalf of the military facility or municipality. A reexamination shall be completed at least once every 10 years from the previous reexamination.”*

This reexamination of the Borough of Demarest Master Plan conforms to the requirements of the MLUL and addresses the requirements of N.J.S.A. 40:55D-89 by including the following:

- 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 such 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 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.

- F. The recommendations of the Planning Board concerning locations appropriate for the development of public electric vehicle infrastructure, including, but not limited to, commercial districts, areas proximate to public transportation and transit facilities and transportation corridors, and public rest stops: and recommended changes, if any, in the local development regulations necessary or appropriate for the development of public electric vehicle infrastructure.

A review of Demarest's master planning documents reveals that the Borough's last reexamination report was adopted on October 13, 2010. The 2010 Master Plan Reexamination Report (hereinafter "2010 Reexamination") reviewed the 2003 Master Plan Reexamination Report and 1996 Land Use Element Update. The following chapters cover the six required components under the MLUL.



R:\V\IO\files\RedBank\GIS\PROJECTS\Municipal\A-D\DEB\DEB-036220214app\_Borough\_Location.mxd

0 1,000 2,000  
Feet  
1 inch = 2,000 feet

## Location Map

Borough of Demarest  
Bergen County, New Jersey



February 2022

## II. PROBLEMS & OBJECTIVES RELATED TO THE 2010 REEXAMINATION

This chapter of the 2022 Master Plan & Development Regulations Reexamination (hereinafter "2022 Reexamination") report examines the major problems and objectives outlined in the 2010 Reexamination. In 2010, only one problem/ objective was noted:

1. It is recommended that the zoning ordinance contain a control on maximum improved lot coverage to take the place of or supplement permitted maximum impervious coverage.

### III. EXTENT THAT PROBLEMS & OBJECTIVES HAVE CHANGED SINCE 2010

This chapter of the report looks at the extent to which problems and objectives have been reduced or increased since 2010. The one issue listed in Chapter II is copied below, along with a 2022 status evaluation.

1. **Impervious Coverage.** It is recommended that the zoning ordinance contain a control on maximum improved lot coverage to take the place of or supplement permitted maximum impervious coverage.

Current Status: On June 22, 2015, the Borough Council adopted Ordinance # 1025-15, which amended multiple sections of Chapter 175, "Zoning". The Ordinance amended the Limiting Schedule to include a maximum 30% improved lot coverage limitation for the Residence A, BB, B, C, and D Districts. The Ordinance also added a definition for Improved Lot Coverage in Section 175-27. The Borough further refined coverage in 2020 with Ordinance #1083-20, which limits the percent of the lot to be used for the principal residential use and all vehicle access and parking areas to be no more than 25%.

## IV. EXTENT OF CHANGES IN POLICIES & OBJECTIVES FORMING THE BASIS OF THE 2010 REEXAMINATION REPORT

The third step in the reexamination process, known as Section “c”, reviews 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 and changes in State, County, and Borough policies and objectives. Since the 2010 Reexamination Report, there have been several changes at the State, County, and Borough level that impact the policies and objectives that form the basis of the Master Plan. The remainder of this chapter is divided into four sections: demographic changes, State changes, County changes, and Borough changes.

### DEMOGRAPHIC CHANGES

The following sections show historic trends and the most recent data from the Census Bureau provided in the 2014-2018 American Community Survey (hereinafter “ACS”) estimates.

#### POPULATION GROWTH

Historic population information since 1940 is readily available. The population of the Borough of Demarest grew exponentially between 1940 and 1970. The population grew by 53.3% in the 1940s from 1,165 residents to 1,786 residents. Between 1950 and 1960, the Borough grew by 2,445 residents, which was an increase of 136.9%. The following decade saw another influx of residents with 902 new residents in the Borough by 1970. However, the population of Demarest declined during the next two decades from 5,133 residents in 1970 to 4,800 residents in 1990, a loss of 333 residents. Since 1990, the Borough’s population has steadily increased, with 45 new residents by 2000, 36 new residents during the 2000s, and 100 new residents between 2010 and 2020. See the table below for additional details.

Year	Population	Change	Percent
1940	1,165	--	--
1950	1,786	621	53.3%
1960	4,231	2,445	136.9%
1970	5,133	902	21.3%
1980	4,936	-197	-3.8%
1990	4,800	-136	-2.8%
2000	4,845	45	0.9%
2010	4,881	36	0.7%
2020	4,981	100	2.0%

Source: 2010 & 2020 Census table P-1 and <https://www.state.nj.us/labor/lpa/census/2kpub/njsdcp3.pdf>

The North Jersey Transportation Planning Authority (hereinafter “NJTPA”), which is the regional planning agency for northern New Jersey, projects in their “Plan 2050” long range plan that the Borough will grow from 4,968 residents in 2015 to 5,436 residents by the year 2050.<sup>1</sup> In order for that to occur, Demarest would need to gain 468 residents by 2050, which translates to 15.6 new residents annually. However, the 2020 Census reported a

population of 4,981, 13 more than what the NJTPA reported in 2015. Therefore, the Borough would need to gain 455 residents by 2050, or 15.2 persons per year between 2020 and 2050. A population of 5,436 residents in 2050 could be achieved considering the anticipated residential development associated with the Borough's court-mandated obligation to provide affordable housing by 2025.

### Population Projection

Year	Population	Change	Percent
2000	4,845	--	--
2010	4,881	36	0.7%
2015	4,968	87	1.8%
2050	5,436	468	9.6%

Source: 2000 Census Table DP-1, 2010 Census table P-1; NJTPA Plan 2050, Appendix E

### AGE DISTRIBUTION OF POPULATION

In 2019, over 33% of the Borough's population was estimated to be 19 years or younger, while persons 60 years or older comprised 32.0% of the population. Individuals aged 10 to 14 years comprised the largest cohort with 9.8% of the population, or 485 residents, followed closely by individuals aged 15 to 19 years (9.7% or 481 residents). Residents aged 55 to 59 years was the third highest cohort with 9.3% of the Borough's population, or 460 residents. Residents aged five to nine years (9.1%) and 40 to 44 years (8.6%) round out the remaining top five age cohorts. The residents in the middle-aged or older groups contribute to the median age of 43.5 years reported in 2019. See the table on the following page for details.

Population by Age Cohort

Age	Total	Percent
Under 5 years	220	4.5%
5 to 9 years	451	9.1%
10 to 14 years	485	9.8%
15 to 19 years	481	9.7%
20 to 24 years	141	2.9%
25 to 29 years	79	1.6%
30 to 34 years	37	0.7%
35 to 39 years	261	5.3%
40 to 44 years	424	8.6%
45 to 49 years	336	6.8%
50 to 54 years	403	8.2%
55 to 59 years	460	9.3%
60 to 64 years	380	7.7%
65 to 69 years	234	4.7%
70 to 74 years	273	5.5%
75 to 79 years	128	2.6%
80 to 84 years	87	1.8%
85 years or more	62	1.3%

Source: 2019 ACS Table S0101

**HOUSING OCCUPANCY & TENURE**

Demarest contained an estimated 1,747 housing units in 2019. A total of 1,680 units were occupied, and 67 were vacant. As shown by the table on the following page, occupied households comprised of 1474 owner-occupied housing units and 206 renter-occupied units. Vacant units consisted of 33 units for sale and 34 units categorized as “other”.

### Housing Occupancy

	Households	Percent
Occupied Total	1,680	96.2%
Owner Occupied	1,474	87.7%
Renter Occupied	206	12.3%
Vacant Total	67	3.8%
For Rent	0	0%
Rented, not occupied	0	0%
For sale	33	49.3%
Sold, not occupied	0	0%
Seasonal	0	0
Other	34	50.7%

Source: 2019 ACS tables DP04 & B25004

### HOUSEHOLD SIZE

Of Demarest's 1,680 occupied housing units, 29% of those were two-person households. Four-person households comprised 24.4% of households and one-person households comprised 19.2% of households. It should be noted that 2.7% of households contained seven or more persons. See the table below for additional details.

### Household Size

Size	Total	Percent
1-person	322	19.2%
2-person	487	29.0%
3-person	268	16.0%
4-person	406	24.4%
5-person	130	7.7%
6-person	21	1.3%
7+ person	46	2.7%

Source: 2019 ACS table B11016

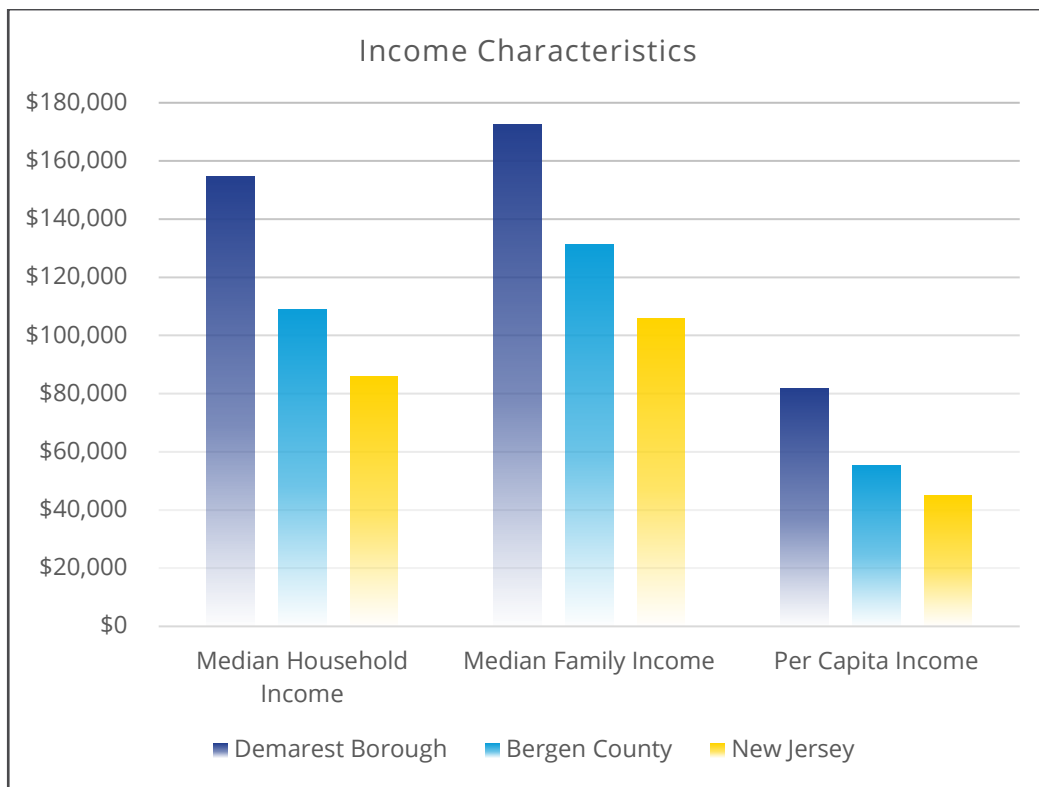
### HOUSEHOLD INCOME

The Borough's median household, median family, and per capita incomes estimated by the 2019 ACS were all significantly greater than the incomes of Bergen County and New Jersey. The Borough's median household income was over \$45,000 more than the County's and nearly \$69,000 more than the State's. Similarly, the Borough's median family income was \$41,333 more than the County's and \$66,858 more than the State's. The 2019 ACS also reports on the poverty rates of individuals and families. Unsurprisingly, the Borough's poverty rates are much lower than the County's and State's at 3.3% of individuals and only 2.7% of families. See the table and chart on the following page for additional details.

### Income Characteristics

Income Type	Borough of Demarest	Bergen County	New Jersey
Median Household Income	\$154,500	\$108,827	\$85,751
Median Family Income	\$172,563	\$131,230	\$105,705
Per Capita Income	\$81,865	\$55,417	\$44,888
Poverty Status (Percent of People)	3.3%	5.6%	9.2%
Poverty Status (Percent of Families)	2.7%	3.9%	6.2%

Source: 2019 ACS table DP03



### LAND USE

A majority of the Borough of Demarest is developed with residential uses according to the New Jersey Department of Community Affairs 2021 tax data. In 2021, the Borough contained 1,688 parcels, 98% of which were classified as residential with a total assessed value of over \$1.3 billion. It should be noted that these figures include one apartment parcel with an assessed value of \$1.35 million, which is located at 5 Eastview Terrace. The Borough only contained two other land uses, vacant and commercial. The data indicates there were 26 vacant parcels with an assessed value of \$8.8 million and only eight commercial parcels with an assessed value of almost \$37 million. The data clearly demonstrates the residential character of the Borough.

### 2021 Land Use

Land Use	Number of Parcels	Percent	Total Value	Percent
Vacant	26	1.5%	\$8,810,900	0.6%
Residential	1,653	97.9%	\$1,312,340,700	96.5%
Apartment	1	0.1%	\$1,350,000	0.1%
Farm & Farm Homestead	0	0%	\$0	0%
Commercial	8	0.5%	\$36,920,200	2.7%
Industrial	0	0%	\$0	0%

Source: [http://www.nj.gov/dca/divisions/dlgs/resources/property\\_tax.html](http://www.nj.gov/dca/divisions/dlgs/resources/property_tax.html)

## STATE CHANGES

The following sections detail the major policy changes and new rules that have been implemented since the 2010 Reexamination was adopted.

### NEW JERSEY ENERGY MASTER PLAN

In 2011 the State of New Jersey published an update to the 2008 Energy Master Plan. The purpose of the document is to outline the vision for the use, management and development of energy in New Jersey over the next ten years. The document has five goals:

- Drive down the cost of energy for all customers.
- Promote a diverse portfolio of new, clean, in-State generation.
- Reward energy efficiency and energy conservation and reduce peak demand.
- Capitalize on emerging technologies for transportation power production.
- Maintain support for the renewable energy portfolio standard of 22.5% energy from renewable sources by 2021.<sup>2</sup>

### WIND FACILITIES ON LANDFILLS

On December 14, 2011 Governor Christie signed into law Senate Bill Number 2126 titled “An Act concerning solar energy and wind energy and supplementing P.L.1979, c.111.” This law amended the MLUL to permit a wind energy generation facility or structure constructed and operated on the site of any landfill or closed resource extraction operation to be a permitted use within every municipality outside of the Pinelands Area.

### MASTER PLAN REEXAMINATION REQUIREMENTS

On May 4, 2011 Governor Christie signed into law Assembly Bill Number 3272 titled “An Act concerning municipal land use planning, and amending the Municipal Land Use Law, P.L.1975, c.291.” This law changed the requirement to provide for a general reexamination of the master plan from every six years to every ten years.

### STATE DEVELOPMENT AND REDEVELOPMENT PLAN

The State Strategic Plan is the revision to the 2001 State Development and Redevelopment Plan. The document sets forth a vision for the future of New Jersey along with strategies to achieve that vision. The State Strategic

Plan was intended to be adopted by the State Planning Commission in November 2012 but was postponed due to Super Storm Sandy. The Commission is revising the document to incorporate disaster planning goals considering Super Storm Sandy.

The draft final State Strategic Plan has four overarching goals along with ten “Garden State Values”. The four goals are as follows:

- Targeted Economic Growth – Enhance opportunities to attract and grow industries of statewide, regional and international importance.
- Effective Regional Planning - Guide and inform regional planning to enable each region of the State to experience appropriate growth, preservation and protection based on its assets and desires.
- Preservation, Protection and Enhancement of Critical State Resources - Ensure that strategies for growth include preservation, protection and enhancement of our State's critical natural, agricultural, scenic, recreation, and historic resources, recognizing their role in economic growth and the quality of life for New Jersey residents.
- Tactical Alignment of Government - Prioritize effective resource allocation, coordination, cooperation and communication among entities that play a role in meeting the Plan's mission.<sup>3</sup>

The ten values include:

- Concentrate Development and Mix Uses - Promote mixed-use development in Priority Growth and Alternate Investment Areas that is compact, conserves land, offers shopping and services, and provides culturally enriching experiences within convenient walking distance of home and jobs. Build with suitable designs and densities that support walking, biking and public transportation.
- Prioritize Redevelopment, Infill, and Existing Infrastructure - Strengthen cities, towns and neighborhoods by prioritizing redevelopment, the reuse and remediation of existing sites and structures, and construction on infill sites that are compatible with surrounding uses. Upgrade existing infrastructure where needed, before adding new capacity. Encourage development that incorporates green design and construction principles and opportunities for clean and renewable energy and efficiency measures.
- Increase Job and Business Opportunities - Provide opportunities for investment near housing, infrastructure and transportation. Support economic growth by addressing the land use and infrastructure needs of targeted industries and areas, consistent with these principles.
- Create High-Quality, Livable Places - Work with communities to offer an environmentally healthy place to live, work and recreate. Enhance community character and design, especially in historic areas, by reusing significant buildings, reinforcing architectural styles, incorporating art, and providing pedestrian-friendly streetscapes. Improve community plazas, public performance spaces and parks and connections to waterfront areas.
- Provide Transportation Choice and Efficient Mobility of Goods - Maintain and enhance transportation options that improve access, safety, affordability and air quality for all users: pedestrians, bicyclists,

transit-users, ride-shares and drivers. Improve strategic freight and public transportation infrastructure that supports sound economic growth. Encourage options for low emission and alternate fuel vehicles.

- Protect Equity - Consider the impact to equity for property owners. Where the goals, objectives and strategies of this Plan implemented by county and local governments affect the reasonable development potential of private property or is determined to disproportionately affect the equity of other citizens, government agencies at all levels should identify feasible remedies, including, for example, compensation programs, that help mitigate such impacts as appropriate.
- Diversify Housing Opportunities- Support construction and rehabilitation of homes that meet the needs of households of all sizes and income levels, located near jobs, transit and where services are available.
- Provide for Healthy Communities through Environmental Protection and Enhancement - Protect and restore the environment, sensitive lands, ecosystems and natural resources. Ensure healthy places through an increase in the quantity and quality of preserved land. Reduce energy use, carbon emissions, water degradation and other impacts of development.
- Protect, Restore and Enhance Agricultural, Recreational and Heritage Lands - Support agriculture and locally-grown food consumption through protection and preservation of farmland. Protect agricultural lands, and historic sites and landscapes. Provide accessible neighborhood parks and recreational systems.
- Make Decisions within a Regional Framework - Maintain up-to-date, coordinated local, regional and State functional plans that reflect these principles and can provide a regional framework for making decisions about capital investments, programs, regulations and development applications. Gather and consider public input during planning and implementation.<sup>4</sup>

## **WIRELESS CO-LOCATION**

On January 17, 2012 Governor Christie signed into law Senate Bill Number 2989 titled “An Act concerning the collocation of wireless communications equipment and supplementing P.L.1975, c.291.” This law amends the MLUL to allow for an application for development to collocate wireless equipment to not be subject to site plan review provided the application meets certain requirements.

## **NON-CONTIGUOUS CLUSTER DEVELOPMENT**

On August 7, 2013 Governor Christie signed into law Assembly Bill Number 3761 titled “An Act concerning municipal land use approval, amending and supplementing P.L. 1975, c.291.” This new law permits communities 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. The new law defines contiguous and non-contiguous clustering and via non-contiguous clustering allows development on one tract and preservation of another tract elsewhere in the community.

## LOCAL REDEVELOPMENT AND HOUSING LAW CHANGES

On September 6, 2013 Governor Christie signed into law Assembly Bill Number 3615 titled “An Act concerning procedures and powers under the Local Redevelopment and Housing Law and amending P.L.1992, c.79.” This new law amended Criterion E regarding productivity and adding language to the criterion. The law also requires the resolution authorizing the Planning Board to undertake the preliminary investigation to state whether the redevelopment area determination authorizes the use of eminent domain or not. This created a non-condemnation redevelopment and a condemnation redevelopment area and outlined certain noticing requirements.

## AFFORDABLE HOUSING

On March 10, 2015, the Supreme Court ruled that the New Jersey Council on Affordable Housing (hereinafter “COAH”) failed to act and as a result, the Courts would be assuming jurisdiction over the Fair Housing Act. The Order divided municipalities into one of three categories – those that achieved Third Round Substantive Certification, those that filed or petitioned COAH and those that had never participated in the COAH process.

The transitional process created by the Supreme Court tracked the Fair Housing Act procedures for compliance. In this regard, the process permitted municipalities to file a Declaratory Judgment Action during a thirty-day window between June 8 and July 8, 2015 that sought an adjudication as to their fair share. This enabled a municipality to comply voluntarily with its constitutional obligation to provide a realistic opportunity for the construction of affordable housing. Consistent with its past history of voluntary compliance, Demarest was proactive and filed its Declaratory Judgment Action on July 8, 2015.

On January 18, 2017, the Supreme Court ruled that municipalities are responsible for obligations purportedly accruing during the so-called “gap period,” the period of time between 1999 and 2015. However, the Court stated that the gap obligation should be calculated as a never-before calculated component of Present Need (also referred to as Rehabilitation Obligation), which would serve to capture Gap Period households that were presently in need of affordable housing as of the date of the Present Need calculation (i.e. that were still income eligible, were not captured as part of traditional present need, were still living in New Jersey and otherwise represented a Present affordable housing need). This obligation is commonly referred to as the Gap Need.

See pages 18 and 19 for a description of Demarest’s response to the March 2015 decision.

## STATEMENT OF STRATEGY

On January 8, 2018 Governor Murphy signed into law Assembly Bill Number 4540 titled “An Act concerning smart growth, storm resiliency, and environmental sustainability and amending P.L.1975, c.291.” This new law requires any land use element adopted after the effect date of the new law to include a statement of strategy concerning:

- Smart growth which, in part, shall consider potential locations for the installation of electric vehicle charging stations,
- Storm resiliency with respect to energy supply, flood-prone areas, and environmental infrastructure, and
- Environmental sustainability.

## **AFFORDABLE HOUSING FORECLOSURE REVISIONS**

On June 24, 2019 Governor Murphy signed into law Senate Bill Number 362 entitled “An Act concerning affordability controls on affordable housing and amending P.L.1995, c.244.” This law provides that deed restrictions on affordable housing units are not extinguished by foreclosure proceedings.

## **NEW JERSEY LAND BANK LAW**

On July 11, 2019, Governor Murphy signed into law Senate Bill Number 1214. Bill 1214 is known as the New Jersey Land Bank Law, which will allow New Jersey towns and cities to designate a land bank entity to obtain vacant, abandoned, and neglected properties for productive reuse purposes. This law provides municipalities with a tool to revitalize and reuse properties for public benefit. The law provides for accountability to local communities through the requirement for community advisory boards with mandatory access to certain information and opportunities for the board to comment on the land bank entity's decisions. Land bank entities will further be required to develop and maintain an online, publicly accessible database of current and former land bank properties. The community advisory board must issue an annual report on the accuracy, integrity, accessibility, and comprehensiveness of the land bank entity's online database.

## **INNOVATION DISTRICT DESIGNATION PROGRAM**

On August 8, 2019 Governor Murphy signed into law Assembly Bill Number 5111, creating the Innovation District Designation Program. The program, established within the New Jersey Commission on Science, Innovation, and Technology, encourages development of innovation districts within New Jersey. Innovation districts promote the development or redevelopment of an area in a manner that facilitates collaboration between government, higher education institutions, and private enterprises, and are a strategic way to promote development in science and technology throughout the State. Municipalities may apply individually or jointly for designation of an area as an innovation district.

## **STRANDED ASSET REDEVELOPMENT CRITERION**

On August 9, 2019 Governor Murphy signed into law Assembly Bill Number 1700 titled “An Act concerning the designation of certain areas as in need of redevelopment and amending P.L.1992, c.79.” The law expands the eligibility criteria for designating certain areas as being in need of redevelopment. Specifically, the law amends Criterion B by added retail, shopping malls, and office parks to the list of discontinued uses.

## **TEMPORARY SUPPLEMENTAL ZONING BOARD**

On August 9, 2019 Governor Murphy signed into law Senate Bill Number 3212 titled “An Act concerning municipal zoning boards of adjustment, supplementing P.L.1975, C.291, and amending P.L.2005, c. 133 and P.L.1991, c.256.” The law allows a municipality to establish a temporary, supplemental zoning board to address any backlog of applications. A municipality that determines a need for a supplemental zoning board must adopt an ordinance to establish one.

## **ELECTRIC CHARGING STATIONS**

On November 6, 2019 Governor Murphy signed into law Senate Bill Number 606 titled “An Act encouraging local units to plan for electric vehicle charging infrastructure, and amending P.L. 1975, c.291, and P.L. 1992, C.;79.” The law requires a Land Use Plan Element to illustrate the existing and proposed location of public electric vehicle charging infrastructure; a Circulation Plan Element to identify existing and proposed locations for public electric vehicle charging infrastructure; a Green Buildings and Environmental Sustainability Plan Element to

consider, encourage, and promote the development of public electric vehicle charging infrastructure in locations appropriate for their development, including, but not limited to, commercial districts, areas proximate to public transportation and transit facilities and transportation corridors, and public rest stops. Additionally, the law amended the requirements of a Master Plan Reexamination Report to add a new section “f” that contains the recommendations of the planning board concerning locations appropriate for the development of public electric vehicle infrastructure, including, but not limited to, commercial districts, areas proximate to public transportation and transit facilities and transportation corridors, and public rest stops: and recommended changes, if any, in the local development regulations necessary or appropriate for the development of public electric vehicle infrastructure.

### **LONG-TERM TAX EXEMPTIONS**

On January 13, 2020, Governor Murphy signed into law Senate Bill Number 538 titled “An Act concerning long-term tax exemptions on certain low-income housing, amending P.L.1983, c.530, and supplementing P.L.1991, c.431 (C.40A:20-1 et seq.)” This law allows long-term tax exemption extensions for certain low-income housing. Previously, a property tax exemption could be granted to an affordable housing project for a maximum of 35 years, or until a loan provided by the New Jersey Housing and Mortgage Finance Agency was fully paid. This legislation permits a municipal governing body to continue a tax exemption for a State or federally subsidized housing project beyond the date of the payoff of the existing first mortgage as long as the project remains subject to certain affordability controls.

### **VIRTUAL PUBLIC MEETINGS**

On March 20, 2020 Governor Murphy signed into law Assembly Bill Number 3850 titled “An Act concerning the conduct of public meetings during periods of emergency and supplementing P.L. 1975, c.231.” This law allows public meetings, including zoning and planning board meetings, to be conducted electronically during a public health emergency.

### **AFFORDABLE HOUSING MARKETING**

On July 1, 2020 Governor Murphy signed into law Senate Bill Number 2527 titled “An Act concerning the online marketing of affordable housing units and supplementing P.L. 1985, c.111.” This law requires developers, owners, property managers, and/or administrative agents to post notices of available affordable housing on the Housing Resource Center website at least 60 days prior to conducting a lottery.

### **CLIMATE CHANGE-RELATED HAZARD VULNERABILITY ASSESSMENT**

On February 4, 2021 Governor Murphy signed into law Assembly Bill Number 2785 titled “an Act concerning municipal master plans, amending P.L.1975, c.291, and supplementing title 13 of the Revised Statutes.” This law requires any land use plan element adopted after the effective date to include a climate change-related hazard vulnerability assessment which shall analyze current and future threats to, and vulnerability of, the municipality associated with climate change-related natural hazards such as increased temperatures, drought, flooding, hurricanes, and sea-level rise.

### **ADULT-USE RECREATIONAL CANNABIS**

On February 22, 2021 Governor Murphy signed into law Assembly Bill Number 21 titled “An Act concerning the regulation and use of cannabis, and amending and supplementing various parts of the statutory law.” The law legalizes recreational personal use of cannabis for adults and provides municipalities with 180 days from the date the law was signed to prohibit or establish zoning provisions regulating the six classes of cannabis –

cultivation, manufacturing, wholesaling, distribution, retail, and delivery. Municipalities that do not act within the 180-day period will be “locked in” for a five-year period to standards established by the law.

### **CERTAIN HOUSING EXEMPT FROM ZONING REGULATIONS**

On June 30, 2021 Governor Murphy signed into law Senate Bill 1676 titled “An Act concerning hospitals and supplementing P.L.1971, c.136 (C.26:2H-1 et seq.).” The law allows hospitals to construct housing for individuals who are homeless or housing insecure and deems such housing as a permitted use in all residential and non-residential districts of a municipality and exempt the use from local zoning restrictions.

### **ELECTRIC VEHICLE CHARGING SPACE REQUIREMENTS**

On July 9, 2021 Governor Murphy signed into law Senate Bill 3223 titled “An Act concerning electric vehicles supply equipment and make-ready parking spaces and amending and supplementing P.L.1975, c.291 (C.40:55D-1 et seq.).” This law amends the MLUL’s definition of inherently beneficial to include electric vehicle charging infrastructure. It also amends the law to permit electric vehicle supply equipment as a permitted accessory use and structure in all zoning districts within a municipality and precludes variances. The law states that an application for the installation of electric vehicle supply equipment at an existing gas station, retail establishment, or any other existing building shall not be subject to site plan or other land use board review provided it does not violate any bulk requirements. Moreover, all applications involving five or more multi-family units must provide 15% of the parking spaces as “make-ready” spaces and install electric vehicle supply equipment in at least one-third of the 15% of “make-ready” spaces. There are also requirements for parking lots containing certain numbers of spaces to provide “make-ready” and/or actual charging equipment. The act took effect immediately and any development applications filed after July 9, 2021 will be subject to these requirements.

### **PROHIBITION OF APPEALS TO LAND USE DECISION**

On September 24, 2021 Governor Murphy signed into law Assembly Bill Number 4881 titled “An Act concerning appeals of electric meetings held under the Municipal Land Use Law during the emergency declared in response to the COVID019 pandemic.” This law does not allow a decision of a municipal agency made at, or based, in whole or in part, on a meeting held by means of electronic equipment where some or all participants are not in the same physical location to be appealable on grounds attributable to lack of a physical quorum, lack of a reasonable opportunity to be heard or otherwise particulate in the meeting, etc.

## **COUNTY CHANGES**

Since the adoption of the 2010 [Reexamination](#), Bergen County adopted [The Central Bergen Bicycle and Pedestrian Plans](#) in May of 2015. However, this report only focused on bicycle and pedestrian improvements within Ridgewood, Glen Rock, Fair Lawn, Paramus, Elmwood Park, Saddle Brook, Rochelle Park, and Maywood. The document did not include a discussion on the Borough of Demarest. The County has prepared one document that potentially affects land development within Demarest, which is detailed below.

### **2015 BERGEN COUNTY MULTI-JURISDICTIONAL ALL-HAZARDS MITIGATION PLAN**

This document was approved by FEMA on April 13, 2015. The Plan identifies 22 critical facilities within Demarest: Academy of Holy Angels School and Shelter, the Borough Hall, County Road School, Demarest Cooperative Nursery, Demarest Ambulance Corps, Department of Public Works, Fire Department, Police Department, the Demarest Middle School and Shelter, Luther Lee Emerson School, Northern Valley Catholic

Academy<sup>5</sup>, and Northern Valley Regional High School and Shelter. Additionally, the following roads were included in the list of critical facilities: Anderson Avenue, County Road, Hardenburgh Avenue (including the bridge and dam), Knickerbocker Road, and Piermont Road. A majority of the facilities are noted to be vulnerable to high winds, which could cause failure of doors, windows, and/or external equipment, or vulnerable to flooding due to their location within a floodplain. The roadways are identified to be within a floodplain and could be vulnerable to flooding. None of the facilities listed are noted to be not up to code. Winter storms are noted to pose a risk to 25% of the population around all facilities, except Borough Hall and Knickerbocker Road. The economic losses as a result of a winter storm would be moderate.<sup>6</sup>

The Plan has three action items for Demarest:

- Flood risk reduction on Tenakill Brook. High priority (no timeline)(Page H-10).
- Create an MOA with Borough of Alpine for supporting Demarest DPW during flood. High priority (no timeline)(Page H-10).
- Create an emergency access road to enable use of second bridge to navigate around flood zone (Wakelee Drive). High priority (no timeline)(Page H-10).

## MUNICIPAL CHANGES

Since the adoption of the 2010 Reexamination, Demarest has adopted several master plan documents and modified its Zoning Ordinance. These changes are noted in the following sections. Additionally, there is a section regarding the Borough's compliance with stormwater management regulations.

### ORDINANCE #1025-15

On June 22, 2015, the Borough Council adopted Ordinance #1025-15, which made multiple amendments to Chapter 175 "Zoning". As previously stated in Chapter III of this report, this Ordinance amended the Limiting Schedule to include an improved lot coverage limitation in the Residence A, BB, B, C, and D District as well as Section 175-27 to establish a definition for "Improved Lot Coverage". Ordinance #1025-15 also amended the permitted average building height in the Residence A, BB, and B Districts and specifically prohibited more than 50% of the roof area to exceed the average building height. Section 175-24 regarding fences was amended to regulate the installation of fences on residential properties, including fence height and location. Definitions of "Fence", "Living Fence", "Demolition/New Constriction", and "Impervious Surface" were also added to Section 175-27. Finally, Section 175-33 was amended to regulate fee and escrow deposits for certain applications.

### 2019 HOUSING ELEMENT AND FAIR SHARE PLAN

In response to the March 10, 2015 Supreme Court decision to strip the Council on Affordable Housing of all its powers and duties, Demarest filed a Declaratory Judgment Action on July 8, 2015. Between 2015 and 2017, the Borough negotiated with Fair Share Housing Center and reached a settlement in on January 23, 2018. As outlined in the Settlement Agreement, Demarest has a three-part obligation as follows:

- Rehabilitation – 0
- Prior Round Obligation – 66 (23-unit Realistic Development Potential)
- Third Round Obligation – 309 (9-unit Realistic Development Potential)

The Borough has agreed to:

- Create a new zone at 95 County Road (Block 145, Lot 5), which will permit a maximum of eight multi-family units, including two affordable units.
- Adopt a Redevelopment Plan for the Downtown Rehabilitation Area, which will permit multi-family residential development at a density of 25 units per acre for lots containing less than 12,000 square feet, 30 units per acre for lots between 12,000 and 20,000 square feet, and 35 units per acre for lots greater than 20,000 square feet. Multi-family units must be above permitted non-residential uses. An affordable housing set-aside of 15% is required if the units are for rent and a set-aside of 20% is required if the units are for sale. The redevelopment plan must also allow for the construction of a 16-unit affordable multi-family units with a 50% set-aside at 127 Hardenburgh Avenue (Block 23, Lot 13).
- Update the Borough's existing Accessory Apartment Ordinance to increase the payment to \$20,000 and expand the areas where permitted.
- Adopt an Ordinance requiring a mandatory affordable housing set-aside for all new residential development of five or more units, at a density at or above six units per acre, that occur as a result of a site plan or subdivision approval, use or density variance, new rehabilitation or redevelopment plan. The set-aside will be a minimum of 15% for rental development and 20% for for-sale developments.

The Borough's Housing Element and Fair Share Plan (hereinafter "HEFSP") was adopted by the Planning Board on March 6, 2019 and endorsed by the Borough Council on March 25, 2019.

#### **ORDINANCE #1067-19**

This Ordinance, adopted on July 29, 2019, deleted Section 175-34 "Development Fees for Affordable Housing" in its entirety and replaced it with Section 175-34 "Development Fees" to provide for the collection of affordable housing fees as required by the Borough's Spending Plan.

#### **ORDINANCE #1066-19**

On August 26, 2019, the Borough Council adopted Ordinance #1066-19, which created the Residential Multi-Family, R-MF, District at 95 County Road (Block 145, Lot 5). The Ordinance permits townhomes and stacked flats at a density of four units per acre and requires two affordable family rental units to be constructed. The Ordinance also establishes permitted accessory uses, bulk regulations, and architectural, parking, signage, lighting, landscaping, and trash standards.

#### **ORDINANCE #1068-19**

The Borough Council repealed and replaced Section 175-46 "Affordable Housing Provisions" in its entirety in order to ensure the implementation of the Borough's 2019 HEFSP via Ordinance #1068-19 on August 26, 2019. The Ordinance includes the Borough's affordable housing set-aside requirement, and requirements for phasing of new construction, new construction units, occupancy standards, as well as requirements of the Borough's Municipal Housing Liaison, Administrative Agent, and affirmative marketing.

## ORDINANCE #1069-19

This Ordinance, adopted on August 26, 2019, deleted and replaced Section 175-11 “Affordable Accessory Apartments” in its entirety pursuant to the Borough’s 2019 HEFSP.

## ORDINANCE #1071-19

On November 25, 2019, the Borough adopted Ordinance #1071-19, which adopted the Downtown Redevelopment Plan. The Redevelopment Plan encompasses 23 properties:

- Block 23, Lots 9, 10, 12, 13, 14, 15, 16, 17.01, 17.02, 19, 20, 21, and 23;
- Block 46, Lots 39.01, 40.01, 41.01, 41.02, 50, 51, 52, 664, 760, and 764; and
- Block 49.01, Lots 43.01, 43.02, 44, 45, and 47.02

The Redevelopment Plan permits neighborhood retail, personal services, professional or medical offices, banks, restaurants and taverns, instructional uses, child care centers, adult daycares, municipal offices and uses, multi-family residential (on upper floors only), existing single-family dwellings, community residences, and two or more of said uses. Additionally, first-floor multi-family units, and stand-alone multi-family developments are permitted conditional uses. The Redevelopment Plan also contains area and bulk regulations, parking, loading, pedestrian, trash, stormwater, signage, and architectural standards, and affordable housing provisions.

The Downtown Redevelopment Plan was amended on February 24, 2020 via Ordinance #1075-20 and on July 26, 2021 via Ordinance #1094-21.

## 2020 LAND USE PLAN ELEMENT AMENDMENT

On May 6, 2020, the Planning Board adopted the 2020 Land Use Plan Element Amendment (hereinafter “2020 LUPEA”). This document amended the Land Use Plan Element included in the Borough’s 1983 Master Plan to reflect the Borough’s Settlement Agreements with Fair Share Housing Center and two intervenors. The 2020 LUPEA discussed the need to modify the 1983 Land Use Plan Element, the planning justification for the amendments, and the zoning recommendations. The Plan suggested creating a new zoning district for the 95 County Road site (Block 145, Lot 5), drafting and adopting a Redevelopment Plan for the Borough’s downtown area, establishing a new zoning district on Block 119, Lots 1.05, 1.06, and 1.07 and Block 120, Lots 1.03 and 1.04 (hereinafter “Sylco property”), and creating a Borough-wide Set-aside Ordinance to capture additional affordable housing units.

## 2020 HOUSING ELEMENT AND FAIR SHARE PLAN

On May 6, 2020, the Planning Board adopted the 2020 Housing Element and Fair Share Plan (hereinafter “2020 HEFSP”), which was subsequently endorsed by the Borough Council on May 18, 2020. After the adoption of the Borough’s 2019 HEFSP, Sylco Investments 6, 8, 9, and 10, LLC (hereinafter “Sylco”) filed a motion to intervene, which was granted by Judge Farrington. On February 13, 2020, the Borough Council approved the Settlement Agreement with Sylco, which permits a maximum of 24 townhomes to be constructed on the Sylco property. Sylco will contribute five affordable units via a payment in lieu of \$1 million. The 2020 HEFSP updates the 2019 document to include the Sylco property as a mechanism the Borough will use to satisfy a portion of its constitutional obligation to provide affordable housing.

### **ORDINANCE #1080-20**

The Borough established the Residential Multi-family 2, R-MF-2, Overlay District on May 18, 2020 via Ordinance #1080-20. The R-MF-2 Overlay District encompasses Block 119, Lots 1.05, 1.06, and 1.07 and Block 120, Lots 1.03 and 1.04 and permits Residence A District uses and townhouses. A maximum of 24 units are permitted for the entire tract. There are various requirements, including bulk and area regulations, building length, architectural, parking, signage, lighting, landscaping, fences and walls, trash, utilities, on- and off-site improvements, and affordable housing standards.

### **ORDINANCE #1083-20**

This Ordinance, adopted October 26, 2020, clarified the Limiting Schedule regarding coverage. A new requirement for maximum residential and parking coverage was added for the Residential A through D Districts as well as the Golf Course Single-Family Residence District. The new standard limits the percent of the lot to be used for the principal residential use and all vehicle access and parking areas to no more than 25.

### **ORDINANCE #1092-21**

The Borough prohibited the cultivation, manufacture, wholesale, retail, distribution or delivery of cannabis and cannabis related products in all zones of the Borough through this Ordinance that was adopted on June 28, 2021.

### **STORMWATER REGULATION**

Adopted in 2005, the New Jersey's Stormwater Management Program, comprised of two separate Rules (N.J.A.C. 7:8 (Municipal Stormwater Regulations) and 7:14A (New Jersey Pollutant Discharge Elimination System (NJPDES) Rules) which establishes a framework for addressing water quality impacts associated with existing and future stormwater discharges. As required by the NJAC 7:8-4.1, the Borough of Demarest has developed a "Municipal Stormwater Management Plan" which documents the strategy to address stormwater-related impacts. The plan addresses groundwater recharge, stormwater quantity, and stormwater quality impacts by incorporating stormwater design and performance standards for new major development, defined as projects that disturb one or more acres of land. Adopted in March 2021, the Borough updated its stormwater management ordinance as required by the NJPDES Tier A permit. The newly adopted ordinance includes green infrastructure measures to satisfy the groundwater recharge, quantity and quality requirements. The new ordinance provides tables of acceptable green infrastructure measures that have been approved by the NJDEP. Together with the Flood Hazard Control Act, the stormwater requirements continue to ensure that flooding is minimized in the Borough. The Residential Site Improvement Standards ("RSIS") established requirements for improvements made in connection with residential development, including streets and parking, water supply, sanitary sewers and stormwater management.

The Borough has complied with the 2005 rule changes as follows:

- Preparing a Municipal Stormwater Management Plan – this Plan was last revised in February 2006 and will need to be updated to include the new stormwater management rules.
- Preparing a Stormwater Pollution Prevention Plan (SPPP)- This plan was last updated in January 2022 and will need to be updated annually to include new stormwater management rules.
- Preparing and adopting a Stormwater Control Ordinance – this Ordinance was adopted in March of 2021 as Chapter 149 – Stormwater Management Ordinance.

- Obtaining a Municipal Stormwater Regulation Program (MS4) Permit from the State of New Jersey and addressing the Statewide Basic Requirements (SBR's) in that permit on a recurring basis, which includes filing an annual report with the State Department of Environmental Protection. The Statewide Basic Requirements have been addressed through adoption of model Stormwater Ordinances, which are available online at the Borough's Ordinance website at <https://ecode360.com/31311206>. Note that Applicants proposing development in the Borough are responsible for complying with the Borough's Stormwater Ordinances.
- Reviewing development applications for compliance with the adopted Stormwater Control Ordinance where applicable. Applications are reviewed on an on-going basis for compliance with the Stormwater Management Ordinance. The Applicant is required to comply with State requirements and obtain the required permits.

As part of the Master Plan Reexamination report process, the Stormwater Management Plan and Storm Water Control Ordinances adopted in 2006 and 2021 respectively have been reviewed. Based upon that review, it is recommended that the Municipal Stormwater Management Plan be updated to comply with the stormwater management rules.<sup>7</sup>

## V. CHANGES RECOMMENDED FOR THE MASTER PLAN OR DEVELOPMENT REGULATIONS

This chapter of the [2022 Reexamination](#) looks at specific changes that are recommended for the Master Plan and existing development standards, which includes the underlying objectives, policies, and standards. The remainder of this chapter is divided into five sections. The first provides amended goals and objectives to guide the Master Plan. Section two makes recommendations regarding future master plan elements that should be drafted and adopted. The third section reviews Chapter 175 and makes recommendations for changes and amendments. The fourth section analyzes recent technologies and land uses and how the Borough recommends handling these new issues. The fifth and final section reviews the 2009 to 2020 year-end Zoning Board reports.

### GOALS AND OBJECTIVES

This section is divided into two parts – current goals and proposed goals.

#### CURRENT GOALS

The Borough's Master Plan goals can be found in the [2003 Reexamination Report](#). The report provides eight goals:

1. Set and maintain planning standards that contribute to the quality of life for Borough residents by protecting existing land use patterns from development that could adversely affect adjacent parcels, utilities, and drainage.
2. Confine business development to the existing commercial area, restrict it to services that meet the needs of local residents primarily, and maintain sufficient off-street parking. Assure that adjacent rental property owners are not adversely affected.
3. Support the aims of the State Development and Redevelopment Plan.
4. Maintain a motor vehicle circulation system that is coordinated with land use patterns and encourage a connected system of pedestrian and bike paths servicing public areas.
5. Minimize runoff resulting from development and redevelopment, avoid non-point pollution and prevent damage to water courses. Coordinate development applications with the County to ensure that bridges and culverts within its jurisdiction are adequate and safe. There is a pending update to the State Stormwater Management regulations since its initial adopting in 1983. The goal of these revised regulations is to improve the control of storm water runoff in the State. Essentially the new regulations propose additional performance standards to the Stormwater Management Rules.
6. Provide recreational facilities, open space, and community facilities that are adequate in scope and location.
7. Encourage increased collection of recyclable household and business solid waste as well as lawn and garden refuse.
8. Be sensitive to preservation of natural resources and historic elements in all planning considerations.

## PROPOSED GOALS

The Borough has reviewed the existing goals and proposes the below goals and objectives to guide development and redevelopment within Demarest. These goals have been grouped by category for ease of reference.

### Land Use

1. Set and maintain planning standards that contribute to the quality of life for Borough residents by protecting existing land use patterns from development that could adversely affect adjacent parcels, utilities, and drainage.
2. Confine business development to the existing commercial zones, restrict it to services that meet the needs of local residents primarily, and maintain sufficient off-street parking.
3. Encourage redevelopment and investment within the Downtown Redevelopment Plan area.
  - a. Work with local realtors to market vacant buildings, storefronts, and properties within the Downtown Redevelopment Plan area.
  - b. Audit the improvements in the downtown area to determine if any repairs are needed to existing sidewalks, streets, crosswalks, and other pedestrian amenities.
4. Residential subdivisions shall not be less than the minimum lot size and minimum frontage to ensure the standards set forth in the Limiting Schedule are complied with and the desired residential pattern and density are sustained.

### Housing

1. Preserve the scale and character of the Borough's established single-family neighborhoods (Residence A through D Districts).
  - a. Ensure the yard, bulk, and area development standards reflect existing conditions within the single-family zones.
  - b. Prohibit the conversion of single-family homes into two-family homes or other types of multi-family housing.
2. Provide the planning context in which access to low- and moderate-income housing can be provided in accordance with the requirements of the Fair Housing Act and the laws of the State of New Jersey, while respecting the character and density of the Borough of Demarest.
  - a. Encourage inclusionary multi-family residential construction above non-residential development in the Downtown Redevelopment Plan area.

### Transportation

1. Maintain a motor vehicle circulation system that is coordinated with land use patterns and encourage a connected system of pedestrian and bike paths servicing public areas.

- a. Conduct a sidewalk audit to identify locations where sidewalks are absent or where improvements may be needed.
- b. Consider installing bike lanes or shared lanes on key routes through the Borough. This may require coordination with the County.

#### Parks and Open Spaces

1. Provide a variety of parks and open space facilities for residents of all ages.
  - a. Review the Borough's parks, recreation, and open space areas to determine if sufficient facilities exist.
  - b. Consider issuing a resident survey to gain feedback on desired park amenities, locations, improvements, and/or repairs.
2. Continue to strategically upgrade park facilities.
  - a. Consider creating a five- or ten-year capital improvements plan to guide park improvements.

#### Environment

1. Minimize runoff resulting from development and redevelopment, avoid non-point pollution, and prevent damage to water courses. Coordinate development applications with the County to ensure that bridges and culverts within its jurisdiction are adequate and safe.
2. Be sensitive to preservation of natural resources, including trees, and historic elements in all planning considerations.
3. Encourage increased collection of recyclable household and business solid waste as well as lawn and garden refuse.
4. Prevent further or repeat water damage caused by weather events by focusing on repairing and improving drainage infrastructure and shoring up water course banks.

## MASTER PLAN ELEMENTS

The Borough of Demarest's most recent comprehensive Master Plan was prepared in 1959. This report contains a future land use plan, a circulation plan, and a public facilities plan (which includes one and a half pages on parks and open spaces). In 1983 a document entitled Master Plan was adopted, which includes a reexamination report, existing land use, vacant land analysis, land use proposals in surrounding municipalities, historic preservation considerations, environmental considerations, and proposed land use plan chapters.

In 1996 the Borough adopted a Land Use Element Update. The Borough prepared a Master Plan Housing Element and Fair Share Plan in 2001. A new Housing Element & Fair Share plan was adopted in December of 2008 to respond to the State's December 31, 2008 deadline to submit Third Round Housing Plans. A 2020 Land Use Plan Element Amendment adopted in May of 2020 to address the changes recommended in the Housing Element & Fair Share Plan adopted in May of 2020 (originally adopted in March of 2019, but required amendments).

This section of the [2022 Reexamination](#) provides suggestions for master plan elements that should be drafted and adopted over the next ten years.

## **OPEN SPACE & RECREATIONAL PLAN ELEMENT**

An Open Space & Recreational Plan Element provides an assessment of existing recreation facilities and compares them to the needs and projected population of the community. Also, recreation needs and desires change over time and as the population demographics change. The recent adoption of the [Downtown Redevelopment Plan](#) permits multi-family development in the “heart” of Demarest and will potentially produce dozens of new residential units. Since the last Open Space & Recreation Plan Element was completed in 1959 there have been many changes and it may be timely to reevaluate the Borough’s open space and parks inventory, evaluate facility conditions, and ensure there are sufficient facilities to accommodate existing and future residents.

## **CIRCULATION PLAN ELEMENT**

A Circulation Plan element shows the location and types of facilities for all modes of transportation required for the efficient movement of people and goods. The report identifies existing issues, strategies for improvements, and can even conduct walking and/or cycling assessments. This type of element is important as the streets cannot be made any wider due to the developed nature of the Borough. Therefore, as the Borough continues to grow and redevelop, the focus on moving residents will have to shift from cars to other forms of travel.

## **LAND USE & DEVELOPMENT REVIEW**

The MLUL requires a review of the community’s development regulations. The Borough Planner has performed a cursory review of the regulations in Chapter 175 entitled “Zoning”. The assessment looked for inconsistencies between sections, outdated terms, missing definitions, etc. The review resulted in a memorandum dated April 29, 2021, addressed to the Master Plan Sub-committee. The memorandum was discussed by the entire Planning Board and feedback was provided.

The Borough has reviewed Chapter 175 and finds that the regulations and standards contained in chapter 175 are, except for the items outlined below, adequate, and suitable. The following recommendations are made:

### **GENERAL**

1. Chapter 153 requires applications to be submitted in triplicate. In light of the current pandemic, many towns are requiring applicants to submit a digital copy of the entire application in addition to physical copies. The Borough should consider adding this as a requirement.
2. The webpage that contains the Ordinance does not contain the Zoning Map. This should be addressed.
3. Chapter 175 does not provide standards for trash and recycling enclosures – location, screening, etc. This is something the Borough should regulate in commercial areas to avoid unsightly sites.
4. The Planning Board believes the sign ordinance should be reviewed and updated. This could be completed with a sub-committee of the Board.

## ARTICLE II ESTABLISHMENT OF DISTRICTS

### 175-2. Districts enumerated.

1. This section has not been amended since 2001 and therefore, does not identify all districts shown on the Borough's Zoning Map, which was adopted on October 26, 2020 via Ordinance #1085-20. This Section should be revised to be consistent with the Borough's current Zoning Map and add the missing Affordable Housing Zone and Downtown Redevelopment Plan area.

## ARTICLE IV RESIDENCE DISTRICT

### 175-9. Permitted Uses.

1. This section permits professional or business practices in the Residence Districts A through D. However, Section 175-9B reads like a conditional use. The Board agrees that this section should be moved to Section 175-10, which provides the conditional uses in the Residence Districts.
2. Under the MLUL family daycare is a permitted use in all residential zones. A family daycare is defined as "the private residence of a family day care provider which is registered as a family day care home pursuant to the Family Day Care Provider Registration Act". This use should be added as a permitted use in the Single-Family Residence A through D Districts.
3. Under the MLUL a community residence for persons with developmental disabilities is a permitted use in all residential districts. This section should be amended to permit community residence for persons with developmental disabilities as a principal use in the residential zones.
4. There is no list of permitted accessory uses for the Single-Family Residence A through D Districts. Subsection A mentions accessory buildings and limits lots to one private garage. Most towns provide a list of permitted accessory uses to eliminate any confusion.

### 175-10. Conditional uses enumerated.

1. Subsection A states, "Residence Districts B, C and D." However, Subsections A.(1) and A.(1)(a) reiterate the list of Residence Districts. Subsections .(1) and A.(1)(a) appear to be unnecessary. We recommend these subsections to be removed. Also, the numbering in this section is incorrect. Subsections (b) through (d) are conditions of places of worship (a). These conditions need to be moved to be nested under the use.
2. Subsection D states, "In those portions of Residence Districts A to D, inclusive and in the Community Business I District that are within the OL – Overlay Zone, cellular telecommunications towers and antennas shall be permitted as conditional uses..." Providing a conditional use for the Community Business I District is inappropriate in this location since Article IV is specific to the Single-Family Residence District. The reference to the Community Business I District should be eliminated from this section and the conditional use requirements should be moved under Article V.
3. Parks, playgrounds, and open space are conditionally permitted in the Residence Districts A to D. The Planning Board recommends they be permitted uses.

## ARTICLE V COMMUNITY BUSINESS DISTRICT I

### 175-14. Permitted uses.

1. This zone does not permit restaurants, delis, or other food establishments, yet these types of uses exist in the area. These uses should be added to the section.
2. A child care center is a permitted use within a commercial zone under the MLUL. This use should be added to the list of permitted uses.
3. Exercise studios and other types of instructional uses are becoming quite popular. The Borough should consider adding these uses to the zone.
4. Note there are no permitted accessory uses in this zone. Typical accessory uses include, but are not limited to – signage, parking, fences, walls, outdoor dining, etc. The Borough should consider adding a permitted accessory uses section to the Ordinance.
5. The Planning Board wishes to prohibit gas stations in this Zone. Therefore, the Ordinance should be amended to clearly prohibit them as they could be considered a retail entity.

## ARTICLE VI SUPPLEMENTARY REGULATIONS FOR ALL DISTRICTS

### 175-17. Signs.

1. Subsection B permits business signs in the CB-1 District, which seem to be wall signs. It does not appear that monument or pylon signs are permitted. The Planning Board suggests the Ordinance be amended to specifically state only wall signs are permitted in the CB-1 District.
2. Subsection B also does not specify the number of signs permitted. An applicant could use this to their advantage and place multiple signs on a single building. The Planning Board recommends one wall sign per street frontage.
3. Subsection C permits signs for professional and business practices. One sign is permitted for each building. Based on the definition of “Building” in Section 175-27, a detached garage could be considered a building. This section should be reworded to be one sign per principal building.
4. Subsection D does not specify the type of sign permitted. The Borough should discuss which type(s) of sign is appropriate for a club, public, or quasi-public building (e.g. wall, monument, pylon, etc.)

### 175-19. Encroachments into yards.

1. Subsection B.(1) does not limit the height of accessory structures in the Golf Course District. The Borough should discuss including the Golf Course District in this subsection or creating a new subsection within Section 175-19B to limit the height of accessory structures in the Golf Course District.

### 175-20. Transition requirements.

1. Subsection B. appears to discuss a required buffer area for properties in the CB-1 District abutting a Residence District. The size of the buffer appears to be the yard requirement of the adjacent residential district. However, this required empty yard space will do nothing to protect the adjacent residential home. Instead, the Borough should consider a six-foot-tall fence or evergreen screening in

a buffer that is at least four feet wide. That would better serve to protect the residential use than an empty yard area.

#### 175-21. Lighting.

1. The lighting requirements do not provide specific standards. The Borough should discuss amending this section to include lighting requirements such as maximum footcandles at property lines, minimum footcandles in parking areas, pedestrian areas, and driveways, maximum light fixture height, type of lighting, such as bulb type, lumens, and other requirements.

#### 175-25. Off-street parking.

1. Subsection B.(1)(a) requires two parking spaces for a dwelling unit. This subsection should be amended to reflect the Residential Site Improvement Standards for residential units within the Borough.
2. Subsection B.(1)(b) requires retail stores, business, professional, commercial, and government offices to provide one parking space for every 200 square feet. Retail, personal service, and office space have a very different relationship with parking. The Borough should discuss whether or not to separate parking requirements for the various permitted uses.
3. Subsection B.(1)(c) requires one parking space for each four units of eating capacity. It is unclear what a unit of eating capacity entails. Is it a seat? Table? Or barstool? If it is a seat, the requirement should be changed to reflect today's demographics and the employees, down to one space per three seats and one space per two employees during the peak shift.
4. Subsection B.(1)(e) requires one parking space per employee, including teachers for grades 1 to 8. If all employees are present, the parking area would be full leaving no spaces for visitors, such as parents and assembly presenters. The Borough should discuss if a provision for visitors should be added.
5. Subsection B.(1)(g) requires one parking space for every 10 units of seating capacity, including choir for places of worship. If a service is at full capacity, it is highly unlikely that enough parking would be provided on site following this requirement. Vehicles do not have 10 seats and most families do not have 10 members. As many places of worship are moving away from fixed seats, towns are amending parking requirements to rely upon maximum fire occupancy to base the parking requirement on. The Borough should discuss this.
6. If new uses are added to the Ordinance, parking standards should be inserted in this section.
7. Subsection B.(3) states "A buffer area which is contiguous with the perimeter lines of the parking spaces shall be fully landscaped with ground cover and evergreen shrubs, within a ten-foot zone, having initial height of six feet." This section is confusing and contains some errors.
  - It seems that a 10-foot buffer is required from the parking spaces. However, it is more common to require a 10-foot buffer along the property line a parking area faces, either front, side, or rear.
  - The wording seems to require six-foot-tall ground covers and evergreen shrubs. Ground covers and shrubs are not usually six feet in height. Evergreen trees should be required in the buffer to provide a fuller screen and meet the height requirement.

- Initial height should be amended to state installation height.
- The Borough may want to consider adding a provision allowing a six-foot-tall fence in lieu of landscaping where a 10-foot buffer cannot be provided on smaller properties.

#### 175-25.1. Golf courses.

1. This section provides various standards for golf courses and golf courses with club facilities. However, Section 175-13.1A and B permit golf courses and golf courses with club facilities, respectively, as of right. The requirements in this section appear to render these uses as conditional in the Golf Course District. The Borough should discuss how to address this conflict.

### ARTICLE VII DEFINITIONS

#### 175-27. Terms defined.

1. Definitions are one of the first sections in almost any code. The definitions should be moved to the beginning of the Ordinance to eliminate searching through the code to locate the definitions.
2. The Ordinance defines “Accessory Use” as well as “Use, Accessory”. To avoid any confusion, the Borough should discuss which definition should be kept.
3. Child care center is not defined but is mandated by the MLUL as a permitted use. A definition should be added to the Ordinance.
4. The term “Coverage, Maximum” should be amended to indicate is it the building coverage, such as “Building Coverage, Maximum”.
5. Family daycare is not defined but is mandated by the MLUL as a permitted use. A definition should be added to the Ordinance.
6. The Ordinance defines a “Minor Subdivision” as well as a “Subdivision, Minor”. To avoid any confusion, the Borough should discuss which definition should be kept.
7. Banking, commercial, professional, and governmental offices are permitted in the CB-1 District but are not defined. Definitions should be added for each office type permitted in the CB-1 District.
8. Personal service shops are permitted in the CB-1 District but are not defined. A definition should be added.
9. Retail businesses are permitted in the CB-1 District but are not defined. A definition should be added.
10. Real estate signs are permitted in the Borough but are not defined. A definition should be added.
11. Temporary signs are discussed in Section 175-17F but are not defined. A definition should be added.
12. The Ordinance does not define any specific sign types such as a building or wall sign, monument sign, pole sign, projecting sign, etc. Definitions should be added to the Ordinance.

## NEW TECHNOLOGIES

There are four new technologies and/or uses that have emerged since the 2010 Reexamination. They include solar, wind, digital signs, and short-term house rentals. These topics are examined in the following sections.

### SOLAR

Chapter 175 is silent on solar energy facilities. Therefore, it is unclear if they are permitted or prohibited. If a homeowner wants to install solar panels on their roof this should be a permitted accessory use. The Board should note that the MLUL lists solar facilities/structures as inherently benefits uses. It is recommended that the Ordinance be amended to permit solar panels on roofs as of right.

### WIND

Chapter 175 does not mention wind energy facilities as a permitted principal or accessory use. The MLUL identifies wind energy as an inherently beneficial use. However, wind energy systems have the potential for greater visual impact, and there are some studies that suggest there are noise impacts. The Borough has expressed concern regarding potential impacts and believes further research should be done before the Borough makes any decisions regarding wind energy.

### DIGITAL SIGNS

Chapter 175 makes no mention of digital signs. Therefore, it is unclear if they are permitted or prohibited. The Planning Board has indicated it is their preference to prohibit digital signs.

### SHORT-TERM HOUSE RENTALS

Websites like Airbnb, VRBO, etc. have created the ability for homeowners to rent rooms or their entire house on a daily, weekly, or monthly basis. As of February 7, 2022, no homes are listed on [www.airbnb.com](http://www.airbnb.com) within Demarest. The Borough Council is preparing an ordinance to limit and/or prohibit short-term house rentals.

## YEAR-END BOARD REPORTS

To determine if there has been a pattern in the types of variance relief granted, we requested year-end Zoning Board reports and all resolutions from the Zoning Board between 2009 and 2020. The Borough provided this information, and it has been reviewed. A total of 58 single-family home applications were approved with some type of variance relief during the 12-year period. The analysis reveals four variance patterns, which are discussed below.

1. Of the 58 applications, 13 or 22.4% were in the Residence D District and received relief for building coverage. Building coverage is limited to 20% in the Residence D District. Nine of the 13 applications requested relief for coverage between 20.1% and 25%. The highest deviation granted was for 36.88% building coverage.
2. Of the 58 applications, 13 or 22.4% were in the Residence D District and received relief for impervious coverage. Impervious coverage is limited to 30% in this zone. Eight of the 13 applications requested relief for coverage between 35% and 52.68%.
3. Of the 58 applications, 8 or 13.8% were in the Residence B District and received relief for impervious coverage. Impervious coverage is limited to 30% in this zone. Four of the eight applications requested relief for coverage between 35% and 39.37%.

4. Of the 58 applications, seven or 12.1% were in the Residence C District and received relief for impervious coverage. Impervious coverage is limited to 30% in this zone. Six of the seven application requested relief for coverage between 30.1% and 35%. The highest deviation granted was for 35.8%.

The Planning Board has reviewed the year-end Zoning Board report summaries and does not wish to make any changes to the Ordinance at this time.

## VI. RECOMMENDATIONS CONCERNING REDEVELOPMENT PLANS

The Planning Board has no recommendations for the creation of new redevelopment plans. The Board does not have any recommended changes to the development regulations within the Downtown Redevelopment Plan, adopted July 25, 2021.

## VII. PUBLIC ELECTRIC VEHICLE INFRASTRUCTURE

The Borough has two charging spaces, which are located next to the Department of Public Works. The spaces are available for residents to use. **The Planning Board has no specific recommendation concerning appropriate locations for the development of public electric vehicle infrastructure.** Demarest recognizes the recently adopted legislation that requires certain types of developments filed after July 9, 2021 to include charging stations and/or make-ready spaces. Furthermore, the new law made charging stations an accessory use in all districts regardless of the local zoning ordinance. The law also required a model ordinance to be developed and published by the Department of Community Affairs (hereinafter "DCA"), which upon publication would become effective in each municipality. The model ordinance was published by DCA on September 1, 2021. Municipalities may make changes to the section entitled "reasonable standards" through the normal municipal ordinance process but are not permitted to change other parts of the model ordinance. Demarest will not adopt the model ordinance.

---

<sup>1</sup> <https://www.njtpa.org/NJTPA/media/Documents/Planning/Plans-Guidance/Planning%20for%202050/draft%20final/E-2050-Demographic-Forecasts.pdf>, accessed February 14, 2022.

<sup>2</sup> [https://www.nj.gov/emp/docs/pdf/2011\\_Final\\_Energy\\_Master\\_Plan.pdf](https://www.nj.gov/emp/docs/pdf/2011_Final_Energy_Master_Plan.pdf), page 1.

<sup>3</sup> <https://www5.njit.edu/middlestates/sites/middlestates/files/NJ%20State%20Development%20and%20Redevelopment%20Plan%202011.pdf>, page 20, accessed August 27, 2020.

<sup>4</sup> <https://www5.njit.edu/middlestates/sites/middlestates/files/NJ%20State%20Development%20and%20Redevelopment%20Plan%202011.pdf>, pages 28-30, accessed August 27, 2020.

<sup>5</sup> Note, this facility is no longer being used as a school.

<sup>6</sup> [https://www.co.bergen.nj.us/images/Departments\\_Services/Public\\_Safety/EMS/All\\_Hazard\\_Mitigation\\_Plan1.pdf](https://www.co.bergen.nj.us/images/Departments_Services/Public_Safety/EMS/All_Hazard_Mitigation_Plan1.pdf), accessed August 27, 2020, Pages B-11 to B-14.

<sup>7</sup> Email correspondence from Marie Raffay, PE of Colliers Engineering & Design, February 15, 2022.