

**Mercer Crossings Implementation Strategies:  
A Sequel to the ULI Advisory Services Panel Report  
August 2004**

**for the**

**Mercer County Planning Department  
Mercer County, New Jersey**

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## **Executive Summary**

This is a report that is a response to a request by the Mercer County Planning Department to The Municipal Land Use Center at The College of New Jersey (MLUC) to provide in effect a sequel to an earlier Report done by the Urban Land Institute (ULI) Advisory Services Panel.

That Panel conducted a site visit upon the invitation of Mercer County to the “Mercer Crossings” Study Area between August 1<sup>st</sup> and August 6<sup>th</sup> in 2004. The objective of the ULI Advisory Service Panel’s visit and eventually its report was to evaluate the redevelopment opportunities for the Study Area.

Included in the ULI Advisory Services Panel Report was the posing of six questions to be addressed. This report focuses primarily on addressing just one of those six questions, the second one – “How will redevelopment efforts overcome what frequently has been a jurisdictionally fragmented planning and decision-making process?” The ULI Panel felt that the study area suffered from jurisdictional fragmentation that would continue to plague redevelopment efforts if no means to overcome this concern were found.

In addition, the ULI Advisory Services Panel Report called for five steps which it thought were essential to future success. They were leadership, developing and articulating a shared vision, adopting inter-local agreements based on that vision, inter-jurisdictional coordination flowing from those agreements and enlisting an executive director with specified functions.

This Report seeks to extend the thinking of the ULI Advisory Services Panel Report by identifying four institutions of special note that could be instrumental in future redevelopment; a range of approaches to inter-jurisdictional redevelopment; and a set of instruments of financial incentives, programs and planning tools that may also prove useful.

This report concludes that a range of approaches and tools already exist to assist in this effort. The specific combination and synthesis of these approaches and tools should remain flexible to meet the situation as it evolves. More immediate action steps require those identified by the ULI exercise effective leadership; and that leadership’s articulation of a shared vision to be transformed into a set of inter-local agreements that would then lead to a plan for the entire study area. The Plan would include coordinated and integrated activities aligned with that shared vision.

## **Introduction**

At the invitation of the Mercer County Planning Department, an Urban Land Institute (ULI) Advisory Services Panel was convened and conducted a site visit to the study area in question between August 1, 2004 and August 6, 2004. The objective of the ULI Advisory Services Panel was to evaluate redevelopment opportunities in an area of the county that had experienced physical and economic decline over the past three decades. The study area involved parts of three different municipalities—the City of Trenton, and Ewing and Lawrence Townships.

The ULI Advisory Services Panel's expressed assignment was to outline immediate and long-term strategies for the county and the three municipalities to pursue. This pursuit would result in the transformation of deteriorated and neglected spaces into important and productive components of the three municipalities. (ULI: 2004: 8)

To guide the thinking contained in the Report, the ULI Advisory Services Panel identified questions it would pose and attempt to answer. Those questions included the following:

1. What physical form should redevelopment take?
2. How will redevelopment efforts overcome what frequently has been a jurisdictionally fragmented planning and decision-making process?
3. Is an alternative institutional form necessary to produce the desired physical result?
4. What are the critical social, economic and environmental concerns for the study area and its immediate surroundings, and how might they be reflected in the area's proposed redevelopment?
5. How will the three municipalities and the county build consensus and develop the support necessary to implement future plans?
6. How can the study area take advantage of the greater region's relative affluence? (ULI: 2004:8)

The purpose of this report is to serve as a sequel to the ULI Advisory Services Panel report. More specifically, the Mercer County Planning Department requested that the Municipal Land Use Center at The College of New Jersey (MLUC) advance the dialogue by focusing on question #2. This report is largely limited to those concerns.

In addition, the ULI Advisory Services Panel's Report calls for special attention to "implementation strategies." Those strategies involve the use of institutional forms and planning tools that may be available, but have not yet been employed to provide the means to improve the coordination and integration of activities across jurisdictional divides, and also to provide access to additional funding sources to finance future redevelopment. (ULI: 2004:10) This report attempts to explore those areas of concern at a relatively high-level, in a conceptual way. Once a general course of action is decided upon, more specific research will become necessary and be appropriate.

### **The ULI Study Area**

The ULI Advisory Services Panel study area is at the confluence of the City of Trenton and Ewing and Lawrence Townships. The study area straddles North Olden Avenue extending roughly between Routes #1 and #31. Detailed data related to the study area was not included in the ULI Advisory Services Panel report, which instead relied on county-wide and municipal information.

The report did state that the population within the study area's boundaries was estimated to have grown by 2 percent from 1990 to 2000 and is projected to increase an additional 5 percent by 2008. The daytime population, comprised of employees, is approximately 50 percent of the full-time population, indicating that, at all times of the day, a large base of people is located in this area. (ULI: 2004:12) The report suggested that the real estate demand in the study area was largely contingent upon local employment opportunities. These opportunities are positively affected by its proximity to Trenton, the state capital, and related government activities, and to five colleges, universities and other educational institutions in the immediate proximity of the study area. (ULI: 2004:12)

The ULI Advisory Services Panel characterized the study area as largely suburban in nature, comprised primarily of low-density, automobile-dominated development in the form of strip centers and, increasingly, big box stores. Previously, industrial production dominated the area. However, as economic conditions changed, the area became a regional center for commercial activities. As retail patterns continued to evolve, its business character shifted to a combination of enclosed shopping centers, strip malls and car dealerships. Automobile transportation became the main means of

transportation and the study area consequently became increasingly unfriendly to pedestrian travel. Undeveloped pockets of land fell into disrepair. The study area's infrastructure gradually deteriorated.

The ULI Advisory Services Panel suggested that redevelopment, when it has occurred, tended to suffer from a lack of coordination. The situation resulted in part from the study area's location at the "edges of the three communities." (ULI: 2004:8) Civic attention tended to focus more on other areas considered more central to each community, resulting in significant physical and economic deterioration within the study area. Each municipality seemed to operate independently, frequently seeking the "next attractive retail deal." Indeed, the ULI Advisory Services panel concluded that "no evidence exists of a comprehensive land-use or economic development strategy for this area." (ULI: 2004:8)

Despite its current predicament, The ULI Advisory Services Panel sounded an optimistic note when it concluded that the study area has substantial potential with opportunities for physical and economic revitalization that may be realized if the region's public and private leaders only pursue a suitable and appropriate course.

### **A Coordinated Implementation Strategy**

The ULI Advisory Services Panel report singled out jurisdictional fragmentation as a significant contributing cause of the study area's current predicament. Essential to defining and acting on a more sensible course was the execution of improved municipal coordination and a more integrated implementation strategy. The ULI Advisory Services Panel focused special attention on questions of implementation. **The Panel observed that "whether this area continues on its current course or makes a dynamic and exciting transformation will be dependent upon the joint efforts not only of the three municipalities, but also of Mercer County, which can serve as both facilitator and leader of this change."** (ULI: 2004:30) **(my emphasis)** Other supporting entities were also identified, e.g., The State's Office of Smart Growth and the recently established Municipal Land Use Center at The College of New Jersey (MLUC).

The ULI Advisory Services Panel took pains to point out that historically, the three municipalities have worked separately to redevelop their portions of the study area without coordinated efforts or unified leadership.

Redevelopment plans currently exist in all three municipalities. These redevelopment plans have achieved some limited measures of success. However, the Panel indicated that whatever success the municipalities may have had achieved in these regards, the redevelopment areas stand alone without collaboration or coordination so that “each municipality has its own set of rules and its own processes, even though the study area is a physically connected place without any natural barriers.” (ULI: 2004:31)

On an optimistic and encouraging note, the ULI Advisory Services Panel suggested that when appropriately implemented, this effort could become an inter-governmental relations model for others to emulate. An emergent new era in New Jersey emphasizing the importance of “smart growth” could reinforce such a model. (ULI: 2004: 31)

The foremost question that this report seeks to address is very simply the following:

**Are there institutional mechanisms and planning tools available to overcome jurisdictional fragmentation that might result in an improved redevelopment result?**

### **Incremental Steps to Move Ahead**

The ULI Advisory Services Panel pointed to the lack of an inter-municipal team with a shared vision that was capable of transcending the three municipal and county jurisdictions. Like other municipal jurisdictions that abut each other, those in this study area tend to take a strong home rule stance on development proposals. This stance is taken despite acknowledgements that projects frequently produce results with impacts that inevitably spill over and across municipal boundaries. Institutional means to address these concerns remain difficult to achieve. To overcome this deficiency, the ULI Advisory Services Panel recommended a number of incremental steps to move this effort forward and improve the potential for redevelopment within the study area.

- **Step # 1 Leadership**

The ULI Advisory Services Panel pointed to the importance of leadership emanating from the three municipalities and the county. The panel viewed Mercer County as being in an obvious and

reasonable position to exercise such a leadership role. The county has the resources and means to facilitate and help develop a shared vision for the study area.

- **Step #2 Developing & Articulating a Shared Vision**

The immediate objective of leadership is to help develop and clearly articulate a shared vision for the study area. This collaboratively developed vision should gain sufficient support from the municipalities and the county. The shared vision should remain at a relatively high conceptual level. Details will only begin to emerge as the dialogue proceeds.

- **Step #3 Adopting Inter-local Agreements**

In the absence of legislation to establish an inter-jurisdictional redevelopment district, and because the ULI Advisory Services Panel found that there was “no support” for municipalities to delegate home rule authority, it concluded that the most appropriate means to achieve collaboration at this time may be through a set of inter-local agreements or memoranda of understanding (MOU’s) among municipalities and the county. The Panel recommended that these agreements might include the following:

1. a shared vision for the study area (presumably committed to writing and formally agreed upon);
2. a collaborative planning strategy or district;
3. a master plan for the entire study area;
4. zoning ordinances for the study area that are based on the shared vision and master plan;
5. a coordinated site plan review process, pursuant to zoning ordinance requirements;

6. a coordinated, multi-jurisdictional capital improvement program, perhaps drawing upon the Mercer County Improvement Authority (MCIA) or the New Jersey Economic Development Authority (NJ EDA); and
7. opportunities for the transfer of development rights among jurisdictions.  
(ULI: 2004:31)

- **Step #4 Inter-Jurisdictional Coordination**

Instead of recommending major institutional changes at this time, the ULI Advisory Services Panel adopted a more conservative approach in recommending that each municipality adopt “its own share of the redevelopment plan consistent with the master inter-local agreement.” (ULI: 2004:32) The new redevelopment plans for the area within the study area boundaries would supersede previously existing master plans as they pertain to the study area. In this way, municipalities would not cede current control to some newly created institution or authority, but simply better coordinate their activities with the county and their neighboring municipalities.

The newly created master plan would fit as a jig-saw puzzle might where the municipalities met at the study area based on inter-local agreements. The master plan would include a land use plan; propose zoning ordinance amendments; proposed incentives for qualifying new development and redevelopment; and public improvements to encourage further investment. With respect to the latter, the ULI Advisory Services Panel identified the following tools to be used to make the necessary first step public improvements:

1. A capital improvement program;
2. Mercer County Improvement Authority (MCIA);
3. Uniform and consistent development standards and processes;
4. Transfer of Development Rights (TDR’s);
5. Streamlined development approval processes;
6. Low-interest loans for façade and site improvements;
7. Shared costs for public improvements; and
8. Land assembly mechanisms including the potential use of eminent domain.

(ULI: 2004:33)

- **Step #5 Enlist a Redevelopment Executive Director**

Finally, the ULI Advisory Panel recommended enlisting an executive director of a newly established *Mercer Crossing Redevelopment Agency* to oversee the coordination of the redevelopment plan and process among the three redevelopment agencies of Trenton, Ewing and Lawrence. The executive director is expected to be the appointee of the Mercer County Executive, but with funding shared by the county and the three municipalities. The Executive Director would be expected to perform a number of coordinating, fund-raising and marketing functions including the following:

1. Coordinate inter-municipal plan and ordinance amendments;
2. Coordinate inter-municipal site plan reviews;
3. Seek funding sources and grants;
4. Coordinate meetings among the municipal redevelopment agencies;
5. Promote the redevelopment area;
6. Secure Community Development Block Grant allocations;
7. Assist potential developers and other interested parties;
8. Research and further opportunities for the sharing of ratables and the establishment of tax increment financing; and
9. Serve as liaison between the N. J. Office of Smart Growth, local jurisdictions, other State agencies and the Municipal Land Use Center (ULI: 2004:34-35)

In addition, the Executive Director might report to or seek advice from a board, which would be comprised of representatives of the three municipalities and the county.

### **Beyond the Basics**

In seeking to move beyond the ULI Advisory Services Panel Report, an array of alternative institutional arrangements and implementation mechanisms exists that might be considered by local public officials to

address this raised concern related to jurisdictional fragmentation to move ahead on a common vision and single study area plan.

There are four entities of special note. Each is capable of transcending municipal boundaries and may serve as important implementation vehicles in assisting with planning, project management and financing. Each carries with it advantages and disadvantages that need to be carefully weighed as this project moves forward. Only brief descriptions of each of these entities follow.

### **Four Institutions of Special Note**

1. **N.J. Economic Development Authority (NJ EDA)**

The N.J. Economic Development Authority (NJ EDA), according to its website, “is in the business of helping businesses grow in New Jersey.” Its mission is to make it easier and less expensive for businesses and non-profit agencies to obtain the capital they need to invest and expand in New Jersey. NJ EDA achieves its mission by providing financing via low-interest loans, tax incentives and creative financial packages, especially for mid- to small-sized businesses and non-profit groups. It also offers a full-range of real estate development services including technical assistance, entrepreneurial training and problem-solving support. To encourage and support land development the NJ EDA can act as a land developer, serve as a “build-to-suit” developer for public agencies and act as a developer of special projects for businesses that are considered especially important to the State’s economy. Especially relevant to Mercer Crossings, urban revitalization and “smart growth” development are among NJ EDA priorities. Smart Growth Pre-development Funding may provide loans and guarantees up to \$1 million for non-contamination –related site preparation costs including land assemblage, demolition, debris removal and engineering costs. Long-term, low-interest Redevelopment Area Bond financing is available to municipalities for infrastructure improvements and other pre-development costs. Bonds are generally secured by payments in lieu of taxes (PILOT) agreements negotiated by the municipality and the developer. Revenue Allocation District Financing (RADs)

enables municipalities to establish RADs to encourage revenue –generating development as part of a locally approved redevelopment plan. Municipalities may designate the NJ EDA as a project redeveloper, taking advantage of the Authority’s condemnation powers to perhaps more easily assemble sites. In addition to loans, NJ EDA can assist with tax-exempt bond financing for eligible projects. Business Employment Incentive Grants (BEIPs) are also available through the agency. Finally, NJ EDA is also active in site remediation, working closely with the Brownfields-related programs including the Brownfields Redevelopment Loan Program, the Hazardous Discharge Site Remediation Fund and the Underground Storage Tank Remediation, Upgrade and Closure Program.

2. **N.J. Redevelopment Authority (NJRA)**

The New Jersey Redevelopment Authority (NJRA) is a state financing authority committed to the redevelopment of urban New Jersey. The NJRA has defined itself as a comprehensive resource center to customize project financing for redevelopment projects in New Jersey’s cities. Its goal is to provide creative approaches to urban redevelopment efforts.

NJRA was established by the New Jersey Urban Redevelopment Act in July 1996. (N.J.S.A. 52:27). Under its enabling Act, municipalities must be deemed eligible for NJRA participation. Both the City of Trenton and Ewing Township are NJRA-eligible. NJRA offers a number of different programs including the New Jersey Redevelopment Investment Fund (RIF), which provides debt and equity financing for business and real estate ventures; the New Jersey Urban Site Acquisition Program (NJ-USA) which is a revolving loan fund that facilitates the acquisition, site preparation and redevelopment of properties; and the New Jersey Pre-Development Loan Program (NJ-PLP) which is a financing pool that provides funding for pre-development activities, including feasibility studies, architectural costs, environmental and engineering studies, legal and other related “soft costs” for development to occur. The NJRA and NJ EDA are similar in that both are financing authorities created by statute and designed to improve the quality of life in New Jersey. However, the NJRA role is

limited to specified urban municipalities deemed eligible under its Act.

### **3. New Jersey Environmental Infrastructure Trust (NJEIT)**

The New Jersey Environmental Infrastructure Trust (NJEIT) provides low-cost financing for the construction of environmental infrastructure projects that enhance and protect ground and surface water resources. Since its creation in 1985, NJEIT has worked closely with the New Jersey Department of Environmental Protection (NJDEP) to leverage federal funds to finance wastewater and drinking water facilities throughout the State. The NJEIT financing program allows for the financing of all reasonable costs associated with projects including planning and design, engineering and curb-to-curb right-of-way restoration. Since its inception, NJEIT has also financed equipment purchases and land acquisitions, providing that it can be shown that such expenditures will have a positive impact on surface, ground and/or drinking water quality.

### **4. Mercer County Improvement Authority (MCIA)**

The Mercer County Improvement Authority (MCIA) was created in October 1967 by the Mercer County Board of Chosen Freeholders pursuant to the County Improvement Authorities Law (N.J.S.A. 40:37A et seq.) Under this statute, counties are able to create improvement authorities and authorize them to undertake projects for the benefit of county residents. MCIA, through its capital financing program, has established itself as a financier and developer of a number of major projects in Mercer County including a Special Services School, the State's Justice Complex, the Mercer County Geriatric Center and the Mercer Oaks Golf Course. The MCIA's Capital Financing Program continues to supply school districts, municipal governments, fire departments and not-for-profit agencies with funds they require to meet capital needs. The Authority has the ability to achieve below market interest rates because of its legal structure. The MCIA also provides project management services related to construction. Among its most recent projects are the Sovereign Bank Arena, Mercer County Waterfront Park and the Mercer County Detention Center.

## **Improving Inter-municipal Coordination**

Beyond these institutional implementation vehicles that may be available to the three municipalities and the county with respect to financing and ancillary real estate and economic development activities, there is a range of actions that might be taken by the respective jurisdictions to improve coordination of other activities within the three municipality study area.

### **1. Shared Services**

The three municipalities and Mercer County might begin to work more closely together by first identifying those services within the study area that might be shared and designed to lead to more careful coordination and ideally greater efficiencies leading to real cost-savings.

The New Jersey Department of Community Affairs (NJ DCA) provides assistance for the study or implementation of any regional service agreement or for the coordination of programs and services authorized under the Inter-local Services Act (N.J.S.A. 40:8A-1 et seq.); the Municipal Consolidation Act (N.J.S.A. 40:43-66.35 et seq.) and the Consolidated Municipal Services Act (N.J.S.A. 40:48B-1 et seq.)

The “Share Program” provides three different assistance options: 1) feasibility studies, 2) regional coordination grants and 3) support for implementation assistance. Awards are provided on an annual basis. Feasibility Study grants assist local government units with planning and developing shared services. Grants are awarded up to \$20,000 with a required 50% match. Regional Coordination Grants are available to assist groups of municipal governments, a region or a county to research, develop and coordinate shared services among the participants. Grants may be awarded to either a lead local government agency or to an eligible non-profit organization. Applications require resolutions indicating intent to participate from the interested and eligible local government jurisdictions. Grants are available for as much as half the proposed cost of projects. Implementation grants are available to local units of government to assist them with start-up, transition and implementation costs associated with new or expanded shared services or the consolidation of local government units. Assistance available is up to amounts of \$100,000 with a required match of 25%.

## **2. Municipal Consolidation**

Perhaps at the opposite end of this continuum of alternatives to sharing services is the consolidation and/or annexation of portions of municipalities in the expectation that coordination and integration of services and public activities would improve by reducing the number of jurisdictions involved. The Municipal Consolidation Act (N.J.S.A. 40:8A-1 et seq.) provides for this possibility. This alternative is unlikely as political and legal obstacles are likely to arise in pursuing this path. This situation suggests that municipal consolidation may prove to be less than meaningful as a practical alternative at this time. If public officials from the three municipalities and the county voice an interest in such an approach, additional research in this regard may be warranted.

### **Approaching Multi-jurisdictional Redevelopment**

Central to the ULI Advisory Services Panel report is the idea that the study area in question will undergo significant redevelopment over time. The report argues for more coordinated and integrated redevelopment activity to produce an improved result over what currently exists.

There is basis in existing law to encourage improved coordination of redevelopment activities across municipal boundaries. The Local Redevelopment and Housing Law (N.J.S.A. 40A:12A-7) requires that municipal master plans, although prepared by a single municipality take into account master plans of surrounding municipalities, the county master plan and the State Development and Redevelopment Plan.

The Municipal Land Use Law (MLUL) (N.J.S.A. 40:55D-28d) reflects the same concerns. Municipal Master Plans must include a policy statement that describes the relationship of the provisions of the Municipal Master Plan to the State Development and Redevelopment Plan as well as to the master plans of surrounding municipalities, the County Master Plan, and the applicable Solid Waste Management Plan.

Yet, the practical reality often falls far short of the ideal. A recently conducted Municipal Needs Assessment study conducted by the Municipal Land Use Center (MLUC) found that while municipal officials often point to the need to get together regularly with neighboring municipalities to resolve common concerns, such forums are only rarely convened. This situation was also attested to by the professionals interviewed for this report. Similarly,

lip-service may be paid to inter-municipal coordination, but real action and project approvals often fall beyond the scope of meaningful coordination, much less integration.

In the interviews conducted for this report, several attempts were cited as examples seeking to forge inter-municipal relationships, e.g., Millville/Vineland, Wildwood/North Wildwood, Newark/ Irvington, Princeton Borough/Princeton Township, the North Hudson Regional Fire and Rescue District and Milford Borough/Alexandria. However, the examples that were provided were for the most part either in incipient stages or characterized as producing at best only limited or mixed results. Instead of success, the difficulties inherent to inter-municipal coordination were stressed along with a dearth of relevant New Jersey case studies. Some pointed cautiously to an expanded role for the state's authorities, counties and/or county improvement authorities to foster and bolster a more effective coordinated and integrated effort.

### ***1. Areas in Need of Redevelopment***

The Local Redevelopment and Housing Law (N.J.S. 40A:12A-1 et seq.) provides municipal governments with the authority to declare “areas in need of redevelopment” and “areas in need of rehabilitation.” Under the Act, municipalities may also prepare and adopt redevelopment plans and undertake redevelopment projects. The Act also defines the roles and responsibilities of the municipal governing body, the Planning Board and the Redevelopment entity if one is established in advancing the redevelopment process. Furthermore, the Act establishes substantive criteria and outlines the process for declaring “areas in need of redevelopment” and “areas in need of rehabilitation.”

In most instances, the governing body would direct the planning board to conduct a study to determine if an identified area is an area “in need of rehabilitation.” The directive must take the form of a governing body resolution. The resolution must identify the study area and should include a map and list of properties. The study area may be small or large, but only properties included within the area may be investigated.

The “area in need of redevelopment” must meet at least one of the following specified criteria: 1) buildings have deteriorated or fallen into such a state of disrepair that they constitute a threat to the people who live or work in them; 2) vacant commercial or industrial buildings that are abandoned or have become so obsolete that they cannot be reasonably rented or sold; 3)

publicly-owned property that has remained vacant due to its location, remoteness from other developed areas, lack of access, topography or soil conditions, or privately o-owned property that has remained unimproved and vacant for at least 10 years for the same reasons; 4) properties have obsolete layout and design, such as the location and relationships of buildings, accessory structures and other site improvements, on-site circulation and parking, land use conflicts and building coverages; 5) under-utilization or lack of proper utilization of properties due to property ownership, title, property configuration or other factors; 6) an area of five or more acres that has been destroyed or where property values have been materially reduced by a fire or sudden natural disaster; 7) properties that fall within an Urban Enterprise Zone (UEZ); or 8) property within a Smart Growth area.

The next step to the process is to have the municipal planning board conduct a study, hold a public hearing on the proposed designation and forward its recommendation to the governing body of the municipality involved. The study is a land use planning, physical and economic conditions analyses including the following: 1) a description of the physical conditions within the study areas; 2) review of zoning and master plan designations for the area; 3) analysis describing how the study area properties meet the statutory criteria; and 4) recommendations as to which properties should included in the redevelopment area.

A public hearing is then held with notices published in the newspaper and each property owner within the proposed Redevelopment area noticed that their property fall within the proposed area. The results of the study are presented at the hearing. Property owners and others who object are allowed to make statements and present evidence to support their objections. The planning board must consider all evidence and make recommendations based on “substantial evidence: and in accordance with the statutory criteria.

Based on the Planning Board’s recommendation, the Governing Body may designate all or portion of the study area in question as an “Area in Need of Redevelopment.” Designation is made in a resolution format. Within 10 days of adoption of the designation resolution, notice of that determination must be served to each person who filed a written objection.

The Governing Body or Planning Board then prepares a redevelopment plan for the area or directs the planning board to prepare such a plan. The redevelopment plans are outlines for the planning development,

redevelopment or rehabilitation of the redevelopment area. No redevelopment project, long-term tax exemption, or property acquisition may occur without an adopted redevelopment plan. The redevelopment plan may supercede existing zoning. In short, a redevelopment plan is a master plan element that can be implemented.

The redevelopment plan is required to include certain basic elements including the following: 1) proposed land uses and building requirements; 2) the plan's relationship to definite local objectives, i.e., municipal master plan, population density, traffic and public transportation, public utilities, recreational and community facilities, and other public improvements; 3) identification of any property that may be acquired in accordance with the redevelopment plan; 4) the plan's relationship to master plans of contiguous municipalities, the county master plan and the State Development and Redevelopment Plan; 5) the plan for the temporary; and/or permanent relocation of displaced residents and businesses, including estimates of available housing; 6) the redevelopment plan's relationship to municipal development regulations.

The Redevelopment Plan may also include a set of optional elements including the following: 1) standards for private property rehabilitation; 2) provision for enforcement of codes and ordinances; 3) procedures for the selection of a redeveloper; 4) standards for issuance of a certificate of completion of a redevelopment project; 5) controls on affordability of housing constructed as part of the redevelopment project; 6) procedures and standards for amending the redevelopment plan; and 7) additional provisions the Governing Body may deem necessary for successful implementation of the redevelopment plan.

The governing body may then adopt the redevelopment plan by ordinance and select a redevelopment entity to implement the plan. The redevelopment entity may be a municipal governing body, a local redevelopment agency, the local housing authority, the county improvement authority, or the New Jersey Redevelopment Authority (NJRA).

## **2. "Areas in Need of Rehabilitation"**

"Areas in Need of Rehabilitation" may be used as an alternative for municipalities where there is no need to acquire properties and assemble them for redevelopment. Policies and programs in this case will be focused

on providing support to existing property owners to upgrade and improve their properties on a voluntary basis. This approach may also be effective when either the public or private redevelopers already own sufficient properties targeted for improvement so that no land assembly is necessary.

“Areas in Need of Rehabilitation” is similar to “Areas in Need of Redevelopment,” except for the statutory designation criteria and the ability to employ eminent domain powers, nor can long-term tax abatements be granted.

The designated rehabilitation area may cover the entire municipality if conditions warrant. The relaxed burden of proof makes it significantly easier to designate areas. The governing body must determine that the rehabilitation plan may be expected to prevent further deterioration and promote overall development of the community.

“Areas in Need of Rehabilitation” must meet all three of the first set of criteria or one of the second set of criteria. The first set of criteria is the following:

1. a significant portion of the structures in the area are deteriorated or substandard;
2. there is a continuing pattern of vacancy, abandonment or underutilization of property in the area ; and
3. a persistent pattern of arrearage of property tax payments is evident. The second set of criteria includes that either more than one-half of the housing stock in the delineated area is at least 50 years or; or a majority of the water and sewer infrastructure in the delineated area is in need of repair or substantial maintenance.

To designate an “Area in Need of Rehabilitation” no formal investigation or public hearing is required, but a study is usually conducted to document the conditions in the area. The governing body must only adopt a resolution designating the “Area in Need of Rehabilitation.” No special notice is required. Prior to the adoption of its adoption resolution, the governing body must submit a resolution to the Planning Board for its review. Within 45 days, the Planning Board must submit its recommendations on the proposed designation, including any proposed revisions to the Governing Body.

## **Financial Incentives, Programs & Tools**

The municipality and/or Redevelopment Entity may seek to apply a wide range of financial incentives and planning tools within redevelopment areas. The range of tools may begin with a well-designed checklist and lead to a sophisticated geographic information system (GIS). Financial incentives may grow from the initial planning that develops from the employment of these tools. Financial incentive programs ought to be tested and analyzed on a case-by-case basis. Considerations should account for the nature and size of the proposed project, its feasibility, its fiscal impact on the local tax base and the ability of a redeveloper to successfully complete the proposed project. The range of financial incentives and planning tools may be useful and may span the following:

- 1) Tax-base Sharing
- 2) Long-term property tax exemptions;
- 3) Short-term Property tax exemptions and abatements;
- 4) Tax-increment Financing (TIFs) for both individual redevelopment projects and district-wide infrastructure improvements;
- 5) Urban Enterprise Zones (UEZs);
- 6) Special Improvement Districts (SIDs/BIDs);
- 7) Main Street—New Jersey;
- 8) Transfer Development Rights (TDRs);
- 9) Transportation Development Districts (TDDs);
- 10) Transit Village Designation.

### **1. Tax-base Sharing**

The quest for revenue-generating development activity sometimes creates competition among neighboring jurisdictions that produces less than desirable effects. Such behavior, sometimes referred to as “fiscal zoning” or even “cash-box” zoning is associated with fostering sprawl, producing unattractive development and leading to jurisdictional polarization as one municipality may be perceived as the “winner” while its neighbors come to see themselves as “losers.” An antidote to this at times destructive competitive behavior and its undesirable results is the creation of a regional tax-base sharing mechanism.

Under tax-base sharing, all of the municipalities within a prescribed area agree to share tax proceeds from new development. This sharing eliminates inter-regional competition; facilitates the achievement of planning goals such as preserving open space or promoting and maintaining a vibrant downtown; encourages suburbs and central cities to cooperate more effectively around regional economic development goals; and ideally should lead to a more equitable distribution of tax burdens and more equitable provision of public services.

Minnesota's Metropolitan Distribution Tax-base sharing is probably the best known of this category. It was established in 1971 in the Twin Cities region. It continues to operate effectively through the present time. Other tax-base sharing mechanisms have been attempted in other states. New Jersey's contribution in this regard is its tax-base sharing arrangement in the Hackensack Meadowlands.

During the development of the Hackensack Meadowlands Master Plan, which was adopted in 1972, it became apparent that a tax-base sharing plan among the municipalities in the district was essential to the effective and equitable operation of the multi-jurisdictional district. The New Jersey State Legislature adopted the view that it was necessary to create a mechanism to reconcile local fiscal inequities that might grow out of efforts to plan and zone more regionally within the district.

The application of the New Jersey Meadowlands tax-sharing formula works in a way so that ratables existing before the establishment of the New Jersey Meadowlands District are not included in the calculations. Municipalities retain full taxing collection powers. Properties in the New Jersey Meadowlands portion of the municipality are taxed in the same manner as all other properties. The municipality collects the taxes and first pays the county its portion of taxes. What remains minus the amount collected on ratables existing in 1970 and after is subject to the tax sharing plan. Municipalities retain 60% of the revenues left after the payment of county taxes and deduction of the pre-1970 ratables. Credits also exist for school-related costs. Each municipality also receives a payment reflecting the percentage of property the community has in the New Jersey Meadowlands District. The New Jersey Meadowlands Commission receives no money from this fund, but instead, simply serves as a routing agent. The tax-sharing formulae were changed twice by the State Legislature in 1989 and 1999, but the fundamental program remains intact.

While there is disagreement on the overall success of the tax-base sharing aspects of the New Jersey Meadowlands plan, it is difficult to dispute that the tax-sharing arrangement has achieved its stated purpose. It has balanced property tax ratable inequalities with each municipality getting a proportionate share of property taxes from the new development taking place since 1970 within the 14-municipality, two-county district. The approach does require State legislative enactment, which may pose additional hurdles.

Finally, it should be noted that “Payments in Lieu of Taxes or “pilots” are currently being employed on a project-by-project basis to achieve some of the advantages of tax base sharing by allocating different proportions of in lieu payments to the municipality, the county and school board jurisdictions through a process of political decision-making.

## **2. Long-term Property Tax Exemptions**

Long-term property tax exemptions may be granted to projects falling within “areas in need of redevelopment” and/or Urban Enterprise Zones (UEZ’s). They may be granted to an “urban renewal entity” as defined and approved by the New Jersey Department of Community Affairs (NJ DCA) for redevelopment projects, projects for the relocation of residents displaced by redevelopment and low- and moderate-income housing projects.

These exemptions may be provided for periods of up to 30 years from the completion of the projects or not more than 35 years of the execution of the financial agreement between the municipality and the Urban Renewal Entity.

These exemptions apply only to the value of new improvements constructed as part of a redevelopment project and not to previously constructed buildings or improvements or the value of the land. To obtain exemptions, redevelopment entities are required to submit applications to municipalities which must be approved by governing body ordinances. The entities may be either non-profit corporations or limited-dividend entities with profits capped at 10%.

Instead of paying local property taxes, a redeveloper receiving a long-term tax exemption agrees to pay an annual service charge to the municipality as a “Payment in Lieu of Taxes” (PILOT). Municipalities are not required to

share PILOT property tax revenues with the school district and only 5% needs to go to the County.

PILOTs are established as parts of written agreements between municipalities and redevelopers. They are typically calculated in either of two ways: 1) a charge of up to 2% of the total project cost; or 2) a percentage of the project's annual gross revenue of no more than 15% for low- and moderate-income housing projects, no less than 10% for office projects and no less than 15% for all other projects. PILOTs may be tailored to allocate revenues for a district such as that contemplated by Mercer Crossings.

### **3. Short-term Tax Exemptions & Abatements**

Short-term tax exemptions and abatements, with taxes phased incrementally over a five-year period, may be used with respect to either “areas in need of redevelopment” or “areas in need of rehabilitation” providing they are adopted by municipal ordinance for up to five-year terms related to a variety of redevelopment activities including the following:

1. improvements to existing housing;
2. new housing construction;
3. conversion of non-residential buildings, including hotels and motels to multi-family dwellings;
4. improvement or expansion of commercial or industrial structures.

Property tax abatements are reductions in taxes granted to residential and multi-family uses for the portion of the assessed property value prior to any new improvement, conversion alteration or construction. These are capped as an annual percentage of the exemption amount and typically have a specified time limit during which time the abatements are permissible.

### **4. Tax Increment Financing (TIF)**

*Tax Increment Financing* (TIF) has been a popular tool in other states to facilitate development and combat urban deterioration in targeted areas. Municipalities may use TIF programs for land purchase and to pay for public improvements that support development, including water, sewer, streets, lighting and parking lots.

TIF arrived in New Jersey relatively late in the form of the New Jersey Redevelopment Area Bond Financing Law. (N.J.S.A. 40A:12A-3). In New Jersey, TIFs are referred to as Revenue Allocation Financing (RAFs) and lead to the designation of *Revenue Allocation Districts* (RADs) RADs are still only a bit beyond the “drawing board” stage, with regulations just recently adopted by the Local Finance Board within the NJDCA. Nevertheless, a number of municipalities appear poised to employ this new tool, e.g., Camden, Millville, Somerville, Neptune, and Paterson. However, there are no models yet available. Furthermore, where they are being discussed, attempts at multi-jurisdictional RADs are not yet obvious.

In theory, municipalities may issue tax-exempt bonds or apply to the New Jersey Economic Development Authority (NJ EDA) or the New Jersey Redevelopment Authority (NJRA) or other Redevelopment entity for bonds for redevelopment projects as part of a local redevelopment agreement with developers. Bonds are then secured by PILOTs with developers or special assessments to redevelopers in an individual redevelopment project with a “tax increment financing” mechanism.

The New Jersey law permits within the designated redevelopment area the designation of a Revenue Allocation District (RAD). Municipalities may designate a RAD, a district improvement plan and RAD agent, which may then issue tax-exempt bonds for land acquisition, demolition, renovation or construction of infrastructure improvements as well as to cover broadly specified “soft costs” such as architecture, engineering, legal, real estate appraisals and marketing expenses. Bonds are secured by PILOTs, special assessments, or a variety of other means among district property in a district-wide “tax-increment financing” or TIF mechanism.

Simply stated, TIFs or RADs utilize the revenue increase that will result from redevelopment activities to fund construction and development costs within the designated district. TIFs/RADs provide the advantage of generating revenues for redevelopment without having to tap into municipal general revenue sources. The principal purpose of the TIF is to eliminate blight by supporting revitalization activities that the private sector is unwilling or perhaps unable to undertake. TIFs/RADs have also been cited for their ability to add benefits for the expansion and recycling of infrastructure, enhancing the tax base, assisting with job retention, aiding in revitalizing brownfields sites, underwriting the costs of affordable housing and in general facilitating neighborhood stability.

In addition, TIFs/RADs may be expected to have positive regional impacts by “leveling the playing field” between brownfields in urban and older suburban areas and greenfields more likely located on the suburban fringe by serving as a valuable tool in attracting re-investment to urban redevelopment sites.

### **5. New Jersey Urban Enterprise Zone Incentives (UEZs)**

The New Jersey Urban Enterprise Zone Program (UEZ) was established in 1983. It initially authorized the designation of 10 zones by the New Jersey Urban Enterprise Zone Authority. The legislation was amended in 1994, 1996, 2002 and 2004 so that the program now includes 31 zones in 36 different municipalities.

The UEZ authority was established under N.J.S.A. 52:27H-60 et seq. It consists of the President of the Commerce and Economic Growth Commission and the Commissioners of the Departments of Community Affairs, Labor and the State Treasurer or their designees along with five public members. A municipality that may meet Urban Enterprise Zone statutory criteria may request that the Urban Enterprise Zone Authority designate a portion of the municipality as an Urban Enterprise Zone. Once certified as such, business owners within the Urban Enterprise Zone will qualify for tax incentives.

The Authority has the ability to designate additional zones when those zones meet established criteria. Decisions are based upon the established need for municipal economic development, the unemployment rate, the percentage of families on welfare and the potential benefits shown by the application.

The major benefits of the UEZ designation are that businesses within the zone have the right to buy taxable tangible property, except motor vehicles and most services except telecommunications services, without sales tax. Credits are also provided against the New Jersey Corporation Business Tax for certain businesses hiring new employees. Finally, qualified retail businesses may, on certification of the Division of Taxation, collect sales taxes at half-rate on most taxable sales of tangible personal property.

## **5. Special/Business Improvement Districts (SIDs/BIDs)**

Special Improvement Districts (SIDs) or sometimes called Business Improvement Districts (BIDs) are public/private partnerships working to revitalize parts of municipalities. A SID/BID is an organizational and financing tool used by local businesses in partnership with the municipality to provide specialized services such as sidewalk maintenance, graffiti removal, physical improvements, security, special events, holiday lighting, as well as special marketing and business promotion.

In a way, a SID/BID is similar to water, sewer or fire districts, as property owners pay an additional charge for a specific set of improved services. SIDs/BIDs enable downtown property owners and merchants to form local management associations with the authority to collect assessments, and in turn provide dependable sources of funding for downtown improvements and also a management plan to guide the revitalization effort.

SIDs/BIDs are created under State law, enacted by municipal ordinance and governed locally. Either a non-profit district or management association, composed of local property owners, businesses and government officials, or a municipal commission governs the district. The DMA makes decisions relating to the operation of the SID/BID, including budgets, property purchases, annual assessments and services management.

SIDs/BIDs have the benefit of empowering local business owners and municipalities to compete more effectively and efficiently with private retail/commercial markets, especially shopping malls. Enhanced services help the business community to professionally manage and market themselves in an organized and competitive way. A SID/BID permits private business owners and municipalities to employ the advantage of commercial management techniques in partnership with the business community. They may also provide a valuable bridge between and among municipalities, e.g., Wildwood and North Wildwood.

The SID/BID is a mechanism for partnership between the municipality and its business community. It is partnership that tends to promote economic growth. It is governed primarily by the private sector. Technical support is available through the New Jersey Department of Community Affairs to establish these Special Improvement Districts.

## **6. Main Street--New Jersey**

SIDs/BIDs may be combined with the “Main Street-New Jersey” program also within the NJ DCA. “Main Street-New Jersey” provides selected municipalities with technical assistance and training in revitalizing downtowns. The program assists municipalities to improve the economy, appearance and image of central business districts. The program was established in 1989 to encourage and support the revitalization of downtowns throughout the state.

“The Main Street—New Jersey” program takes a four-point approach that includes organization, economic restructuring, an emphasis on design and visual appearance and marketing. The expressed goal is to re-establish a well-defined commercial district where one may be failing presently. The program provides a wide array of services to municipalities to achieve this objective. Its major drawback is that it does not provide meaningful funding. It is therefore often combined with a SID/BID.

## **7. Transfer Development Rights (TDRs)**

Transfer Developments Rights (TDRs) is a planning technique that allows municipalities to transfer growth from a designated “sending” district to a designated “receiving” district to target future growth and development activity, while simultaneously protecting desirable farmland or open space. More than a decade ago, in 1993, the State Legislature established a State Transfer of Development Rights Bank governed by a board of directors. (N.J.S.A. 4:1c-51). That Bank is in, but not of, the State Agriculture Development Committee (SADC).The Bank provides planning assistance grants to municipalities for costs incurred in preparing TDR ordinances. The Bank also has the authority to purchase, or provide matching funds for the purchase of 80% of the value of development potential, as well as provide grants to municipal TDR banks.

Prior to 2004, only municipalities in Burlington County had the authority to adopt TDR ordinances. The State Legislature enacted a Statewide Transfer of Development Rights (TDRs) Act in 2004, which extended this authority to all municipalities in the State. NJ DCA has recently announced its award

of a half-dozen TDR grants to Berkeley Township, Hopewell Township, Washington Township, Fanwood, Montgomery Township and Woolwich.

TDR programs are designed to encourage a shift in growth away from agricultural, environmentally sensitive or open space regions of a municipality to areas that may be more appropriate for growth and development. Landowners in areas where land use is restricted are allowed to sell their development rights or development credits. Purchases of these credits may use them to build elsewhere in a designated growth area at a higher density than is normally allowed in a municipal zoning ordinance.

Every property has a “bundle of rights” which enables the owners to use, sell, mortgage, lease, devise, subdivide and develop according to land use regulations. A property owner may decide to sever some of those rights from the property by placing an easement on the property that will restrict that “right” for some specified period of time.

When a transfer of development rights occurs, the landowner is in effect severing the right to develop the land in the future. The landowner is paid for those rights that have been severed, yet retains a residual value in the land.

Payment for those severed rights is attained not by government grant but rather by establishing receiving zones in which the jurisdiction decides that it wants to target future development. Rights may then need to be purchased to build within the receiving zone. Those rights are purchased by property owners and developers in the receiving areas from property owners in the “sending” districts who are willing to sell those rights.

The Transfer of Development Rights (TDRs) is only permitted where municipalities have implemented a TDR program. The participating municipality or municipalities in a regional program designates sending and receiving areas based on their preservation and growth goals.

Implementing a TDR program requires a significant planning and implementation commitment. The statutory requirements include a TDR element, capital improvement and utility services plans, a transfer ordinance, real estate market analyses, plan endorsement by the State Planning Commission and approvals by the County Planning Board (CPB) and County Agricultural Development Board (CADB) as well as periodic review of the Program.

To underwrite some of the cost of this effort, the State Transfer of Development Rights Act authorizes the State TDR Bank to provide planning assistance grants up to \$40,000 with a 50% local match for the purposes of preparing the documents required by the legislation.

The ULI Advisory Services Panel pointed to this new tool as appropriate for employment related to the redevelopment of Mercer Crossings. It would require the identification of sites suitable for preservation and designated as “sending” areas and also sites suitable to absorb additional growth and therefore designated as “receiving” areas.

### **9. Transportation Development Districts (TDDs)**

The governing body of any county may, by ordinance or resolution, as appropriate apply to the Commissioner of the New Jersey Department of Transportation (NJDOT) for the designation of a transportation development district (TDD) within the boundaries of the County (N.J.S.A. 27: 1C-4). The TDD is a way to raise revenues by charging businesses within the district for transportation improvements affecting that district. The TDD involves development and implementing a transportation improvement plan that is in accordance with the State Transportation Master Plan, The State Development and Redevelopment Plan and the County Master Plan.

Mercer County already has experience with a TDD. Mercer County initiated a comprehensive land use/transportation study designed to determine the appropriate development densities and infrastructure needs for its I-95/295 corridor within the municipalities of Ewing, Hopewell and Lawrence Townships. That county area was under considerable development pressure at the time. The study process involved a cooperative effort among the county, municipalities and land owners. The resulting report formed the basis for the TDD and its accompanying plan. The TDD Plan was approved by NJ DOT in 1992 and subsequently approved a month later by the Mercer County Board of Chosen Freeholders.

The adopted TDD Plan identifies transportation infrastructure improvements that will be needed within the designated district to support anticipated development. The transportation goals of the TDD are to maintain acceptable traffic flows, protect quality of life for existing residents and make alternatives to single-occupancy automobiles more attractive. The

plan describes in some detail how these goals are to be achieved. It also prioritizes improvements and allocates a public and private sector share of the improvement costs. It also established a trip-based fee to be collected.

The TDD approach may be considered and employed at Mercer Crossings to raise revenue for transportation-related improvements including street construction and parking lot improvements.

### **10. Transit Village Designation**

The New Jersey Department of Transportation (NJ DOT) in cooperation with NJ Transit have joined in a Smart Growth partnership known as the “Transit Village Initiative.” This initiative helps to redevelop and revitalize communities around transit facilities to make them more appealing locales for people to live, work and play and thereby reduce the dependence on automobile use. In this way, the Transit Village initiative expects to result in reduced traffic congestion and improved air quality as well.

The NJ DOT and NJ Transit have adopted criteria to determine if a municipality is ready to be designated as a Transit Village. The criteria include the following: 1) the municipality must demonstrate a commitment to accept growth in jobs, housing and population; 2) the municipality must have a transit facility, e.g., rail or light rail, ferry, or a bus hub or bus transfer station; 3) the municipality must have vacant land and/or under-utilized or deteriorated buildings within walking distance of transit where redevelopment can occur; 4) the municipality must have an adopted land-use strategy for achieving compact, transit-supportive, mixed- use development within walking distance of transit; the municipality should have “ready-to-go” projects; and the municipality should demonstrate pedestrian and bicycle friendliness.

To date, there is at least one transit village designated in Pleasantville, New Jersey that is anchored by a bus terminal rather than a rail transit station. The notion of a Transit Village might be explored if Mercer Crossings, after further study, is deemed suitable for similar bus transportation treatment. Bus Rapid Transit planning on Route #1; and the site’s relationship to the two universities might offer potential in this regard.

## **Findings and Conclusions**

The ULI Advisory Services Panel pointed to the value of a number of necessary preliminary steps. These steps were essential in overcoming what was identified as a serious concern—the jurisdictional fragmentation and lack of coordination likely to characterize the redevelopment of the study area under current conditions. The Panel pointed to the importance of leadership, with the county playing a critical even if facilitating role, the need to develop a common vision, the importance of translating that vision into a set of inter-local agreements upon which a common redevelopment plan for the relevant and respective portions of each of those three municipalities might emerge. These incipient steps are essential.

Once achieved, a broad range of planning tools and implementation approaches already exist that might be applied to the Mercer Crossings situation to take its vision and plan to reality. The purpose of this report was simply to carry the conversation begun by the ULI Advisory Services Panel forward by identifying a set of relevant and appropriate planning tools and implementation approaches.

The planning tools and implementation approaches will necessarily require additional research, including a more thorough explication of the advantages, disadvantages and interactive effects of various approaches if placed in combination. Some type of fiscal impact or cost-benefit analysis of the individual tools and their combinations may also be warranted. Ultimately some “hybridized” form or synthesis should emerge. However, at this time, it would be premature to predict precisely the character of that combination or synthesis. Instead, the difficult work of identifying effective leadership and shaping a vision that can lead to a plan remain immediately before Mercer County and the three municipalities if Mercer Crossings is to become a reality.