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AMENDED: November 5, 2019

# Township of Bernards

Somerset County, New Jersey

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## Amended Housing Plan Element and Fair Share Plan

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*Public Hearing: September 4, 2018*

ADOPTED: September 4, 2018

Amended HPE/FSP Planning Board Public Hearing: November 5, 2019

**Adopted: November 5, 2019**

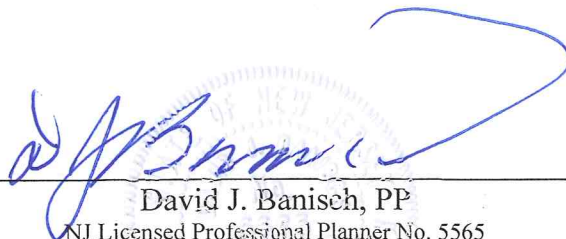
Endorsed by Bernards Township Committee:

*Prepared by the  
Bernards Township Planning Board*

in consultation with Banisch Associates, Inc.  
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NOTE: This amended Third Round Housing Plan Element and Fair Share Plan amends the September 4, 2018 Plan to address conditions in the June 28, 2019 Superior Court Order, SOM-L-899-15, that granted Bernards Township a Conditional Judgment of Compliance and Temporary Immunity for the Third Round.

The original of this report was signed and sealed  
in accordance with N.J.A.C. 13:41-1.3



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, 11/8/2019

Date Signed

Bernards Township  
Amended Housing Plan Element and Fair Share Plan  
September 2019

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Bernards Township  
Amended Housing Plan Element and Fair Share Plan  
November 2019

**Executive Summary**

This is the fifth “Third Round” Housing Plan Element and Fair Share Plan (“Housing Plan” or “Plan”) prepared by the Bernards Township Planning Board to address the entirety of Bernards Township’s affordable housing obligations. This amended Housing Plan includes amendments to the September 2018 Housing Plan that conform to conditions in the Superior Court Conditional Judgment of Compliance and Continued Temporary Immunity Order issued for Bernards Township’s Third Round compliance on June 28, 2019. This Housing Plan is essentially the same as the fourth amended Housing Plan (September 2018), except that the inventory of housing credits are revised in the section of this Plan addressing the Third Round (1999-2025) Gap and Prospective Share obligation.

The affordable housing obligations addressed in this Plan have been identified through the New Jersey Superior Court process. Bernards Township received Substantive Certification from the New Jersey Council on Affordable Housing (COAH) in 2010 thereby demonstrating constitutional compliance with the Township’s affordable housing obligations. However, the Township’s Substantive Certification was invalidated as a result of litigation challenging the COAH rules on which the Township’s 2010 substantive certification was granted. In 2015, the NJ Supreme Court ordered the COAH administrative process dissolved and directed all New Jersey municipalities to demonstrate constitutional compliance with their affordable housing obligations in Superior Court. In July 2015, Bernards Township entered the Court process pursuant to the Supreme Court’s order.

In August 2018, Bernards Township settled Third Round affordable housing litigation in Superior Court after entering into three separate settlement agreements, including two agreements with developers that will build affordable housing and one settlement agreement with an intervening defendant, the Fair Share Housing Center. In September 2018, the Bernards Township Planning Board adopted the fourth amended Housing Plan Element and Fair Share Plan incorporating the terms of the settlement agreements into the Third Round Housing Plan, which was subsequently endorsed by the Township Committee in September 2018 and approved by the Superior Court in November 2018.

On June 28, 2019 the Superior Court issued an Order granting Bernards Township a Conditional Judgment of Compliance and Continued Temporary Immunity. Paragraphs 4 & 6 of the Order call for amendments to the September 2018 Housing Plan, including one (1) correction and three (3) revisions to the Third Round Gap and Prospective Share section of the Plan. In addition, the Order calls for the Planning Board to adopt and the Township Committee to endorse this amended Plan. This amended Housing Plan addresses the conditions of the June 2019 Superior Court Order as well as the entirety of Bernards Township’s Third Round affordable housing obligations.

Bernards Township's affordable housing obligations identified in this Plan through the Court process consist of essentially three components of affordable housing responsibility, as follows:

1. Rehabilitation obligation of 44 units – this component of need requires the municipality to rehabilitate substandard housing occupied by low- and moderate-income households based on one or more major building deficiencies. This obligation is addressed through a municipal rehabilitation program.
2. Prior Round obligation of 508 units – this is the municipal affordable housing obligation assigned to Bernards Township for the time period 1987-1999. This obligation is addressed through production of affordable housing by the municipality and it has been previously addressed by Bernards Township. The 508-unit Prior Round obligation is addressed in this Plan through Bernards Township's existing inventory of affordable housing that is credited against the 508-unit obligation.
3. Third Round Gap & Prospective Need, collectively referred to in this Plan as the "Round 3 Fair Share consisting of 873-units of obligation. It is comprised of two separate calculations of need that have recently been determined through the Courts that consist of (1) the Gap Present Need obligation of 435-units for the 1999-2015 period of obligation; and (2) the Prospective Need obligation of 438-units for the 2015-2025 period of obligation.

Therefore, this plan addresses Bernards Township's 44-unit rehabilitation obligation and a total of 1,381-units of affordable housing obligations including the 508-unit Prior Round obligation and the 873-unit Round 3 obligation.

## **Introduction**

This is the Bernards Township Planning Board's fifth "Third Round" (or "Round 3") Housing Plan Element and Fair Share Plan ("Housing Plan"). The Planning Board adopted four previous Housing Plans documenting Bernards Township's compliance with Round 3 affordable housing (Mt. Laurel) obligations:

1. On November 22, 2005, the Board adopted its first Round 3 Housing Plan that fully satisfied the Township's fair share obligations as constituted for Round 3 (2004-2014 at that time) in accordance with N.J.A.C. 5:94-1 et seq. (Chapter 94), COAH's first set of Round 3 rules. Prior to a grant of substantive certification by COAH, the Court invalidated Chapter 94 and ordered revised rule-making.
2. On December 16, 2008, the Board adopted its second Round 3 Housing Plan that fully satisfied the Township's fair share obligations as constituted under Chapter 97, COAH's second set of Round 3 rules. The total obligation assigned under Chapter 97 amounted to 888 units, including a 12-unit rehabilitation obligation. Bernards Township received substantive certification of its second Round 3 Housing Plan from COAH on May 13, 2010. The Supreme Court invalidated Chapter 97 in 2013, including all substantive certifications granted by COAH for Chapter 97 compliance, thereby requiring Bernards Township to adopt another Round 3 Housing Plan, along with all other municipalities under COAH's

jurisdiction. The Court ordered COAH to adopt revised Round 3 rules, but the agency failed to adopt revised rules (Chapter 99) in October 2014. In March 2015, the Supreme Court<sup>1</sup> dissolved the NJ Fair Housing Act's (FHA) exhaustion-of-administrative-remedies requirement and transferred jurisdiction of Mt. Laurel compliance to the trial courts.

3. On June 2, 2015, the Board adopted its third Round 3 Housing Plan, which documented Round 3 compliance in accordance with the fair share obligations assigned in COAH's ill-fated Chapter 99. At the time Bernards Township entered the Court process (July 2015), those obligations appeared to be a logical planning basis because they were the most recent municipal affordable housing obligations identified by COAH, however, those obligations were never adopted by COAH. The Board's third Housing Plan documented that the Township's existing affordable housing inventory fully addressed a 919 unit obligation identified in COAH's ill-fated Chapter 99, plus a proposed 39-unit rehabilitation obligation.
4. On September 4, 2018, the Planning Board adopted an amended Housing Plan addressing the 44-unit rehabilitation obligation, 508-unit Prior Round obligation and the 873-unit Third Round Gap and Prospective Need obligation. This Plan was approved for Bernards Township's Round 3 compliance, however, the Court subsequently identified a series of amendments during the course of the Court's compliance review of the September 4 Housing Plan.

This fifth Round 3 amended Housing Plan demonstrates compliance with Round 3 affordable housing obligations identified through the Court declaratory judgment process in negotiation with Fair Share Housing Center (FSHC), which is an interested party in all municipalities that filed declaratory judgment actions with the Court in July 2015, which includes Bernards Township. The obligations negotiated between Bernards Township and the FSHC must be subject to a "fairness hearing" conducted by Court and approved by the Court. The negotiated Round 3 obligations arise from Bernards Township's response to the NJ Supreme Court's March 2015 so-called "Mount Laurel IV" decision<sup>1</sup> that (1) transferred jurisdiction of municipal Mt. Laurel compliance from the NJ Council on Affordable Housing (COAH) to the trial courts, (2) required municipalities to address affordable housing obligations calculated according to COAH's Prior Round methodology, and (3) charged the trial courts with assigning Round 3 affordable housing obligations to municipalities.

Bernards Township filed a declaratory judgment action with the trial court on July 6, 2015 seeking orders declaring and adjudging the Township's Housing Plan as compliant with the Township's Round 3 Mt. Laurel affordable housing obligations either in its current form or such amended or supplemented form as the Court may require. Subsequently, the trial court required the submission of expert reports to identify the Township's Round 3 affordable housing obligations. Those expert reports became the subject of a trial in Mercer County, which were then modified by Superior Court Master, Richard B. Reading, which were subsequently modified by Judge Jacobson. The resulting methodology for identifying municipal Round 3 obligations by Judge Jacobson provide a range for acceptable Round 3 affordable housing obligations in

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<sup>1</sup> In the matter of the adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing (COAH), 221 N.J. 1 (2015)

Vicinage 13, Bernards Township’s Superior Court of jurisdiction, in which Judge Thomas Miller presides and in which Richard Reading also serves as Superior Court Master to the Court.

This amended Round 3 Housing Plan demonstrates compliance with the Township’s Round 3 affordable housing obligations that were calculated in accordance with the Jacobson Methodology, as follows:

- |  |                             |
|--|-----------------------------|
| (1) Prior Round Obligations (1987-1999): | 508 units                   |
| (2) Present Need (2015 rehabilitation):  | 44 units <sup>2</sup> ; and |
| (3) Gap Present Need (1999-2015):        | 435 units; and              |
| (4) Prospective Need (2015-2025):        | 438 units <sup>3</sup> .    |

As indicated above, the Prior Round Obligations of 508 units, plus the Gap Present Need and the Prospective Need obligations are referred to as new construction obligations, which total 1,381 affordable housing units, and which are distinctly separate components of “need” from the rehabilitation obligation (Present Need (2015 rehabilitation)). Satisfying the new construction obligations require the production of affordable units and may include rental bonus credits in achieving the numerical values assigned to the municipality. Separate “compliance parameters” are identified to satisfy “Prior Round” (1987-1999) and the two components of Round 3 obligations: “Gap Present Need” (1999-2015) and “Prospective Need” (2015-2025), which include: (1) the provision of rental housing, in the Prior Round, and (2) the provision of rental affordable housing, family-unit affordable housing, family rental-unit affordable housing, very low-income affordable housing and may include age-restricted housing. Prior Round rules do not recognize affordable housing that was built prior to 1980, which has resulted in a large inventory of 247 Ridge Oak age-restricted affordable housing being excluded from “credit” in addressing the obligations, which thereby resulted in the need for additional affordable housing projects to fully satisfy affordable housing obligations.

This amended Housing Plan documents Bernards Township’s compliance with these obligations.

It is noteworthy that Bernards Township’s second Third Round Housing Plan certified by COAH in May 2010 documents existing projects and compliance mechanisms that fully address the Township’s 888 unit affordable housing obligation as it was identified by COAH at that time, which included: (1) a 508-unit prior round obligation, (2) a 12-unit rehabilitation obligation and (3) a 368-unit prospective need obligation. Indeed, all but one of the affordable housing compliance projects identified in the Plan have been completed and are currently occupied. An additional 69 affordable housing units have been created in Bernards Township since receiving substantive certification in 2010. Affordability controls on an additional 247 units have been

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<sup>2</sup> David N. Kinsey, PhD, PP, FAICP, NEW JERSEY LOW AND MODERATE INCOME HOUSING OBLIGATIONS FOR 1999-2025 CALCULATED USING THE NJ COAH PRIOR ROUND (1987-1999) METHODOLOGY, July 2016 and April 2017.

<sup>3</sup> FSHC refers to the sum of the “Gap Present Need (2015)” obligation of 435 units; and the “Prospective Need (2015-2025)” of 438 units, which is 873 units as “Third Round (1999-2025) Prospective Need (per Kinsey Report, as adjusted through this Agreement)”. For the purpose of this Housing Plan, the obligations are identified as per the Jacobson Methodology, which identified discrete affordable housing obligations for the two separate time periods of 1999-2015 and 2015-2025.

extended on existing affordable units since then. All 316 of these units are in addition to the 888 unit affordable housing obligation that was certified by COAH in 2010.

In addressing the Prior Round and the Third Round obligations identified in this fifth Amended Housing Plan, Bernards Township's inventory requires the addition of four (4) new construction projects to fully address the 1,381-unit combined obligations and Round 3 compliance parameters that FSHC requires to be satisfied for a Court settlement of Bernards Township's Third Round obligations. However, this Housing Plan also relies heavily on the Township's existing affordable housing inventory and past affordable housing efforts in addressing the municipal obligations.

### **Prior Mount Laurel Compliance Background / Third Round Court Developments**

Bernards Township has assiduously demonstrated compliance with its constitutional obligation to provide its fair share of low- and moderate-income housing since adoption of the FHA in 1985. Bernards Township adopted its original Housing Plan Element and Fair Share Plan on December 2, 1986, and received substantive certification from the NJ Council on Affordable Housing (COAH) in the first round on March 13, 1989 for a housing obligation of 475 units. The plan was amended in December 1994 and certification expired on March 13, 1995. On June 7, 2000, Bernards Township received substantive certification for its 12-year cumulative (second-round) obligation of 552. On November 12, 2005, the Bernards Township Planning Board adopted its first third round Housing Plan and Bernards Township petitioned COAH for third round Substantive Certification with a 2005 plan that fully addressed the Township's affordable housing obligation as it was then defined (N.J.A.C. 5:94-1 et seq. aka Chapter 94).

On January 25, 2007, the NJ Superior Court, Appellate Division, invalidated Chapter 94 and ordered revised rule-making. COAH didn't fully process Bernards Township's first Third Round petition before the Chapter 94 rules were invalidated and revised Third Round rule-making was ordered by the Court. On January 22, 2008, COAH proposed new substantive and procedural rules which became effective on June 2, 2008 with subsequent amendments effective in October 2008 (Chapter 97 – growth share). The Bernards Township Planning Board amended the Third Round Housing Plan in December 2008 and Bernards Township petitioned COAH on December 30, 2008, again, for third round substantive certification. Bernards Township received Third Round substantive certification from COAH on May 13, 2010 for its 31-year cumulative (prior round and third round 1987-2018) obligation of 888 units as it was constituted at that time.

According to the Township's May 2010 substantive certification, the 2008 amended Housing Plan addresses Bernards Township's total 1987-2018 affordable housing obligation of 888 units, consisting of a 12-unit rehabilitation share, 508-unit prior round obligation, and the 368-unit projected growth share obligation that was assigned under COAH's Chapter 97 regulations in effect at that time. COAH granted Bernards Township third round substantive certification through December 30, 2018.

On October 8, 2010, the Appellate Division invalidated substantial portions of Chapter 97 resting principally on the growth share concept for calculating affordable housing obligations

and remanded to COAH the adoption of new third round rules. The Supreme Court accepted certification of that decision and on September 26, 2013 ruled that revised third round rule-making was necessary, again. COAH prepared new revised rules for the third round in 2014 (proposed Chapter 99), published the rules in May, accepted public comment through August and voted on the rules in October, however, the rule adoption process stalled on October 20, 2014 when COAH's vote to adopt the rules deadlocked in a tie vote of its membership. The tie vote resulted in COAH's failure to adopt the third iteration of third round rules, which led to the Court's March 10, 2015 decision and order. Nevertheless, proposed Chapter 99 was prepared in response to the Supreme Court's directives to COAH.

Bernards Township is one of 68 municipalities that achieved substantive certification under the invalidated Chapter 97 rules. There were just three municipalities that received substantive certification under Chapter 94. Approximately 380 New Jersey municipalities were participating in the COAH process before it was dissolved by the Supreme Court order on March 10, 2015 in favor of a judicial process.

The Supreme Court's March 10, 2015 decision left it to individual Mount Laurel judges in the vicinages throughout the state to determine municipal third round obligations. The decision provided specific guidance as to the municipal obligations that municipalities are to address.

1. Prior Round Obligation With respect to the prior round obligations, the Supreme Court's March 10, 2015 decision determined that municipalities were expected to fulfill their prior round obligations. The Court stated that:

...our decision today does not eradicate the prior round obligations; municipalities are expected to fulfill those obligations. As such, prior unfulfilled housing obligations should be the starting point for a determination of a municipality's fair share responsibility. Cf. In re Adoption of N.J.A.C. 5:96 & 5:97, supra, 416 N.J. Super. at 498-500 (approving, as starting point, imposition of "the same prior round obligations [COAH] had established as the second round obligations in 1993"). (underlined emphasis added)  
[221 N.J. 1 at 42]]

Bernards Township's prior round obligations identified by COAH consisted of (1) a 44-unit rehabilitation obligation and (2) a 508-unit combined Round 1 & 2 (1987-1999) prospective need obligation. Bernards Township received substantive certification of the prior round obligation that has been fully addressed. This is the same prior round obligation, minus the rehabilitation component, that has been identified for Bernards Township through the Court process, as follows:

- Prior Round (1987-1999) Obligation: 508 units

2. Round 3 With respect to Round 3, the Court reiterated its prior position regarding the calculation of present and prospective need, where the Court stated that:



“First, as we said in *In re Adoption of N.J.A.C. 5:96 & 5:97*, supra, previous methodologies employed in the First and Second Round Rules should be used to establish present and prospective statewide and regional affordable housing need. 215 N.J. at 620. The parties should demonstrate to the court computations of housing need and municipal obligations based on those methodologies.”  
[221 N.J. 1 at 41]

As a result of the Court process and as indicated above, Bernards Township’s present (1999-2015) and prospective (2015-2025) affordable housing obligations have been identified at a total of 873-units through negotiation with FSHC as follows:

Gap Present Need (1999-2015):	435 units; and
Prospective Need (2015-2025):	438 units <sup>4</sup> .

### Contents of a Housing Plan

At N.J.S.A. 40:55D-28.b.(3), the Municipal Land Use Law identifies requirements for a Housing Plan Element, as follows:

*(3) A housing plan element pursuant to section 10 of P.L.1985, c.222 (C.52:27D-310), including, but not limited to, residential standards and proposals for the construction and improvement of housing;*

The FHA identifies requirements for the contents of a housing plan at N.J.S.A. 52:27D-310 a. – f, as follows:

***N.J.S.A 52:27D-310.1.a:*** “*An inventory of the municipality's housing stock by age, condition, purchase or rental value, occupancy characteristics, and type, including the number of units affordable to low and moderate income households and substandard housing capable of being rehabilitated, . . .*”. (addressed in Appendix A)

***N.J.S.A 52:27D-310.1.b:*** “*A projection of the municipality's housing stock, including the probable future construction of low and moderate income housing, for the next ten years, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development and probable residential development of lands*”

***N.J.S.A 52:27D-310.1.c:*** “*An analysis of the municipality's demographic characteristics, including but not necessarily limited to, household size, income level and age*” (addressed in Appendix A)

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<sup>4</sup> FSHC refers to the sum of the “Gap Present Need (2015)” obligation of 435 units; and the “Prospective Need (2015-2025)” of 438 units, which is 873 units as “Third Round (1999-2025) Prospective Need (per Kinsey Report, as adjusted through this Agreement)”. For the purpose of this Housing Plan, the obligations are identified as per the Jacobson Methodology, which identified discrete affordable housing obligations for the two separate time periods of 1999-2015 and 2015-2025.

*N.J.S.A 52:27D-310.1.d.* “An analysis of the existing and probable future employment characteristics of the municipality” (N.J.S.A 52:27D-310.1.d.). (existing employment addressed in Appendix A, probable future employment characteristics addressed below)

*N.J.S.A 52:27D-310.1.e:* “A determination of the municipality's present and prospective fair share for low and moderate income housing and its capacity to accommodate its present and prospective housing needs, including its fair share for low and moderate income housing.

*N.J.S.A 52:27D-310.1.f.* A consideration of the lands that are most appropriate for construction of low and moderate income housing and of the existing structures most appropriate for conversion to, or rehabilitation for, low and moderate income housing, including a consideration of lands of developers who have expressed a commitment to provide low and moderate income housing.

*N.J.S.A 52:27D-310.1.b:* “A projection of the municipality's housing stock, including the probable future construction of low and moderate income housing, for the next ten years, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development and probable residential development of lands”

Between 2004 and June 2015, the Township issued a total of 220 residential certificates of occupancy (30% of projections of 724 CO's estimated by COAH in 2008), of which 109 CO's (15% of COAH's projection) were related to new construction to vacant land. The remaining 111 residential certificates of occupancy were related to construction of replacement residential dwellings that replacing would not have generated affordable housing obligation under the growth share approach. The pace of residential development has significantly slowed in Bernards Township in the 10 years since the 2008 economic recession. Between 2018 and 2025, Bernards Township is anticipating residential growth of approximately 551 residential dwelling units driven by the provision of affordable housing, including:

- 49 affordable rental apartments for US Veterans at the VA campus;
- 198 rental apartments, including 30 affordable rental apartments on King George Road at the Dewy Meadow shopping center site (vis-à-vis settlement agreement);
- 24 rental apartments, including 4 affordable rental apartments at Crown Court (vis-à-vis settlement agreement); and
- 280 residential dwelling units on Mountainview Boulevard; including 60 townhomes and 22 rental apartments, including 62 affordable apartments (vis-à-vis settlement agreement).

Thus, in the next 7 years, residential growth is to more than double the pace of development Bernards Township experienced between 2004 – 2015. This future growth estimate results from Bernards Township's compliance with affordable housing obligations identified in 2018 through the Court Process that replaced the COAH process. The period of affordable housing responsibility assigned through the Court process applies retroactively to 1999 and forward to

2025. Therefore, the affordable housing obligations for the Third Round time period, which now spans 25 years (1999-2025), is the primary factor driving residential growth in Bernards Township into the foreseeable future.

*N.J.S.A 52:27D-310.1.d. “An analysis of the existing and probable future employment characteristics of the municipality”.*

The existing employment characteristics for Bernards Township are reflected in Appendix A. The probable future employment characteristics for the Township are driven by pending development approvals, which results in an estimated 2,000 future jobs, which is based upon the future growth characteristics that are discussed in the section above, and are repeated below:

Probable Future Employment:

Pending non-residential development: 432,248 sq. ft. of non-residential development, approved, with projected employment, as follows:

- Office development: 358,895sf / 2.8 jobs/1,000 sf. = 1004.9 jobs; and
- I-Institutional development: 72,786sf/1,000sf x 2.6 jobs/1,000 sf. = 189.2 jobs.

Total projected employment projected: 1,194.1 jobs

*N.J.S.A 52:27D-310.1.e: “A determination of the municipality's present and prospective fair share for low and moderate income housing and its capacity to accommodate its present and prospective housing needs, including its fair share for low and moderate income housing.*

Three components of affordable housing obligation are identified in the August 2018 settlement agreement with the Fair Share Housing Center, as follows:

- Prior Round (1987-1999) Obligation: 508 units
- Present Need (Rehabilitation Share): 44 units
- Third Round (1999-2025) Gap and Prospective Need 873 units

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*N.J.S.A 52:27D-310.1.f. A consideration of the lands that are most appropriate for construction of low and moderate income housing and of the existing structures most appropriate for conversion to, or rehabilitation for, low and moderate income housing, including a consideration of lands of developers who have expressed a commitment to provide low and moderate income housing.*

Consideration has been given to the use of lands appropriate to addressing the affordable housing obligation in the development of affordable housing. Affordable housing proposals and lands considered for affordable housing by the Township include:

- Block 8001, Lot 3, Veterans Administration Campus – Peabody Homes, Braintree, MA, which completed construction of 61 rental apartments in 2014 on the Veterans Administration Campus on Knollcroft Road (Valley Brook I) and now proposes an additional

49 rental apartments for US Veterans at the same location (Valley Brook II). Construction on the 49 Valley Brook II apartments is expected imminently. Both projects received the Bernards Township Committee's endorsement and financial support. This project is included in Bernards Township's Round 3 Fair Share Plan.

- Block 6001, Lot 6, Millington Quarry property – A contract purchaser of the site sought recognition of an affordable housing opportunity in connection with the comprehensive development of the former Millington Quarry property consisting of approximately 179 acres, including a future lake of approximately 50 acres in area. The site has roadway access to Stonehouse Road in Lyons and municipal water and sewer service are available. The site was considered as part of a proposal that included mixed use, commercial, office, hotel and residential development. The proposal included approximately 190,000 – 200,000 sq. ft. of office, retail, service mixed-use development, approximately 100-250 room hotel, and 230 residential dwelling units, including townhouses, rental apartments, detached single-family homes and 30 affordable rental units to be provided as group homes and rental apartments. The location of the site within the community, however, raised significant concerns related to primarily to traffic, but including the disruption of community character with proposed high-density development situated within low-density residential neighborhoods that characterize the surrounding area to the quarry. On the basis that community impacts were undesirable, particularly traffic, and the low number of affordable units proposed as part of the overall high-density development plan, the Township determined that the site was not desirable for addressing a portion of the community's affordable housing obligations and the site is not included as part of the Township's Round 3 Fair Share Plan.
- Block 8501, Lot 39, consisting of 17.19 acres, owned by Bernards Plaza Associates, is the Dewy Meadow shopping center that includes a variety of community service and retail uses, child day-care and a failed retail shopping center anchor (A&P Supermarket) that vacated the site. The site is located on King George Road with excellent access to I-78 and surrounding land uses comprised of open space and multi-family housing. The developer proposed redevelopment of a substantial portion of the shopping center incorporating portions of the site now suffering commercial vacancies into a rental housing development including a total of 198 rental apartments including 30 rental apartments. The site includes sufficient unconstrained development to accommodate the proposed development and has access to public water and sewer to serve the project. The project was proposed as part of comprehensive proposal that included the extension of affordability controls on 19 affordable apartments on adjacent Block 8501, Lot 12, owned by Crown Court Associates. That proposal included an additional 24 rental units, including 4 affordable family rental apartments. In total, the Dewy Meadow and Crown Court proposals resulted in a comprehensive proposal for 53 affordable family rental apartments, which the Township has accepted and zoned for inclusion in this Fair Share Plan to address a portion of the Township's Round 3 obligations.
- Block 9001, Lots 99 & 100, approximately 9.36 acres, former Wagner Property – A developer proposed a total of 186 rental apartments, including 62 affordable "family" rental apartments. The parcel is located on the south side of Valley Road across to the Veterans Administration campus and adjacent to The Cedars, which is a multi-family neighborhood of owner-occupied homes that includes affordable for-sale units that are included in Bernards Township's Prior Round inventory and with extended controls that are identified as part of the plan to satisfy a portion of the Round 3 obligations. Although the property is slightly

constrained by approximately one acre of wetlands, the site is developable and has access to the local road network with public and water available. Traffic considerations on the local road network, however, along with a potentially undesirable concentration of high-density development in the vicinity resulted in a conclusion that the site should not be included in the Township's Round 3 Plan.

- Block 11301, Lot 1 – This irregularly shaped property consisting of approximately 71 acres is located on Mountainview Boulevard, which has a single means of access to the local road network at the traffic light-controlled intersection of County Route 525 (Liberty Corner – Martinsville Road) and the I-78 interchange. The site was previously approved for 344,000 sq. ft. of office development, which approval has been in place for more than 10 years, but the site has failed to develop. The developer proposes to construct a total of 220 rental apartments, which will include no less than 60 townhomes, including 62 affordable family rental apartments. Adjacent development includes the Sloan Kettering treatment center located on Mountainview Boulevard and low density residential neighborhoods to the northwest and south, which do not rely on Mountainview Boulevard for access to the local road network and do not have any direct access to Mountainview Boulevard, which is a privately owned-road. The site has adequate public water and sewer service available, however the site will be served by private infrastructure connected to these utilities. On the basis that the existing roadway is adequate for access to the level of development proposed, the site is situated in relative isolation from existing neighborhoods, which will limit community character impacts, and the fact that the inclusionary component provides an adequate number of affordable family rental apartments for the Township to meet its Round 3 affordable housing obligations, the Township has selected the site for inclusion in this Third Round Fair Share Plan, which, together with the other components of the Plan, will fully address the Round 3 affordable housing obligations.

### **2018 Fair Share Plan (section amended 2019)**

The following Fair Share Plan addresses the Bernards Township Prior Round (1987-1999), Gap Present Need (1999-2015), and Prospective Need (2015-2025) obligations identified above. The Township's Fair Share Plan identifies a variety of affordable housing techniques, mechanisms and existing affordable housing that respond to a variety of affordable housing needs. This plan identifies completed affordable housing initiatives and establishes new initiatives to respond to the Township's affordable housing obligations and provide opportunities for housing that may not be currently accommodated in the community. The aim is to provide affordable housing opportunities in a manner that will enhance the fabric of the community and maintain the quality of life in Bernards Township.

### **Present Need (Rehabilitation Share)**

- Present Need: 44 units

Bernards Township conducted a survey of the municipal housing stock in accordance with Appendix C of N.J.A.C. 5:93-1 et seq., and identified a total of eleven (11) units as deficient and candidates for rehabilitation. As a result, the Court has approved an adjustment of the Rehabilitation (Present Need) obligation from 44 to 11 owner-occupied units. Accordingly a

municipal rehabilitation program has been implemented to rehabilitate substandard housing occupied by low- and moderate-income households to correct substandard conditions that are found to exist. The Township has allocated Affordable Housing Trust Funds in its Third Round Spending Plan to fund the municipal rehabilitation program.

**Prior Round (1987-1999)**

- Prior Round: 508 units

Bernards Township complied with the Supreme Court’s requirement to address the prior round as the starting point in addressing affordable housing obligations. Compliance with the prior round is evidenced by the fact that Bernards Township received substantive certification for its 12-year cumulative (second-round) obligation of 552 units on June 7, 2000. On October 26, 2000, the Planning Board adopted an amendment to the certified housing element and fair share plan. On November 9, 2000, the governing body endorsed the amendment and petitioned COAH for review and approval of the amendment. The amendment added a 39-unit age-restricted project, “Ridge Oak II” that resulted in a 52-unit surplus obligation, as indicated in COAH’s August 10, 2001 Compliance Report. Both the 2000 and 2001 amendment fully satisfied Bernards Township’s cumulative 12-year obligation, which consisted of a 508-unit obligation (prior cycle prospective need & 1993-1999 prospective need) plus a 44-unit rehabilitation obligation. This Fair Share Plan reconfigures affordable housing projects to maximize the number of units and bonuses addressing the Prior Round and includes all units that resulted in the 52-unit surplus identified by COAH in 2001.

The following table lists the units, projects and bonuses to address the 508-unit Prior Round obligation:

**Bernards Township’s Inventory  
Existing Affordable Units  
Addressing the Prior Round**

<b>Project/Development Name</b>	<b>Year Built or Approved</b>	<b>Type of Affordable Unit</b>	<b># Units</b>	<b>Bonus Type</b>	<b># Bonuses</b>	<b>Total Units + Bonuses</b>
Society Hill	1986-87	Family For-Sale	100	---	---	100
The Cedars	1990-94*	Family For-Sale	106	---	---	106
Crown Court	1991-94	Family Rentals	19	Rental	19	38
Matheny Group Home	1992	Supportive/Special Needs	6	Rental	6	12
Bethel Ridge Group Home	2000	Supportive/Special Needs	6	Rental	6	12

Veterans for Hope I	2003	Supportive/Special Needs	47 (bedrooms)	Rental	47	94
Veterans for Hope II	2007	Supportive/Special Needs	12 (bedrooms)	Rental	12	24
Our House 10 Flintlock Ct	2008	Supportive/Special Needs	4	Rental	4	8
Our House 130 Mt. Airy (partial)	2011	Supportive/Special Needs	3	Rental	3	6
Ridge Oak #2	2003/2004	AR-rental	39	--	10	49
Phillipsburg RCA (partial)	1994	Rehabilitation	50	---	---	50
S. Bound Brook RCA	2000	Rehabilitation	4	---	---	4
Substantial Compliance Reduction	2000	---	---	Subst. Compl.	5	5
<b>TOTALS</b>			<b>396</b>		<b>112</b>	<b>508</b>

**Prior Round obligation: 508 units**

Bernards Township is addressing its Prior Round obligation of 508 units with 396 units, including 54 RCA's, 39 age-restricted units, a total of 136 rental units and 112 bonuses, including a 5-unit substantial compliance credit authorized by COAH for the Prior Round. Bernards Township's Prior Round Plan has been reconfigured from the Prior Round Plan that received substantive certification from COAH in 2010.

All compliance parameters are met for the Prior Round, as follows:

**Prior Round Parameter Compliance:**

Maximum bonus:

- 127 bonus permitted vs. 112 bonuses in Plan (107 units and 5 substantial compliance reduction credits - complies).

Maximum age-restricted:

- 127 units age-restricted units permitted vs. 39 age-restricted Ridge Oak #2 units in Plan (complies).

Minimum rental units:

- 127 rental units required vs. 136 rental units in Plan.

**Round 3 (1999-2025)**

- Third Round (1999-2025) Gap & Prospective Need: 873 units

Bernards Township's Third Round (1999-2025) Gap & Prospective Need is identified at 873 units. Since receiving Second Round substantive certification from COAH in 2000 and the subsequent 2001 amendment to substantive certification, Bernards Township received Round 3 substantive certification on May 13, 2010 for a 386-unit growth share obligation – the Township's Round 3 affordable housing as it was assigned by COAH at that time. During the passage of time, Bernards Township has been consistently active and deliberate in its efforts to provide affordable housing and increase the municipal inventory of affordable housing, despite the extraordinary Round 3 regulatory uncertainties that have characterized the past 15 years. In essence, Bernards Township has utilized the regulatory tools available to it and the proceeds from its development fee ordinance to substantially expand the supply of affordable housing in the Township.

Since receiving the 2010 Substantive Certification from COAH, Bernards Township completed four compliance mechanisms that were identified as proposed mechanisms in the certification. These include extended controls on 205 existing affordable for-sale family units (Society Hill and The Cedars), construction of 20 age-restricted units at Ridge Oak and construction of a 6-bedroom group home with the YMCA/Our House on Mount Airy Road. Together, these projects add 232 units to Bernards Township's affordable housing inventory for the Round 3 obligations.

1. Society Hill (100 units) extended controls, for-sale units;
2. The Cedars (106 units) extended controls, for sale units;
3. Ridge Oak III (20 units) new construction age-restricted rental units; and
4. YMCA supportive housing project (6-bedroom) "Our House" group home rental project, Mount Airy Road).

In addition to the Round 3 planned compliance mechanisms that were certified by COAH and completed by Bernards Township since receiving the now invalidated 2010 substantive certification, the Township's affordable housing inventory has increased by an additional 367 units of affordable housing for Round 3 that were not included in the certified plan, which include:

1. Valley Brook I (60 units) rental apartments (151 Knollcroft Road, Veterans Administration campus);
2. Vallley Brook II (48 units) rental apartments (151 Knollcroft Road, Veterans Administration campus);
3. Our House (4-bedroom) group home rental project, 17 Vail Terrace;
4. Our House (4-bedroom) group home rental project, 11 Lafayette Lane;
5. Monarch Housing (4-bedroom) group home rental project, 16 Evergreen Place;
6. Ridge Oak I (247 units)<sup>5</sup> extended controls on age-restricted rental apartments (East Oak Street and Manchester Drive).

This impressive progress added 367 affordable housing units to the Township's affordable housing inventory. It is a clear demonstration that Bernards Township remained

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<sup>5</sup> 247 existing Ridge Oak I age-restricted rental apartments received extended affordability controls from HUD in 2012. The affordability controls are extended for 20 years through 2032.



active and committed to creating affordable housing after receiving Substantive Certification from COAH in 2010 for addressing the obligation as it was then constituted for Round 3 through 2018. Unfortunately, however, FSHC will not accept the extension of controls on 247 Ridge Oak units as credit-worthy toward the Round 3 obligations in the Township’s Third Round litigation now before the Court because the apartment complex was constructed prior to 1980, which renders the unit ineligible for affordable housing credit. That exception to existing affordable housing units would have resulted in the addition of only 120 more affordable units since the 2010 COAH certification. However, Bernards Township has added five (5) affordable housing projects to address the Round 3 Mt. Laurel constitutional obligation that will actually increase the post 2010 Third Round Sub. Cert. inventory by an additional 236-units, as listed below.

**Affordable Units Added Since 2010 Substantive Certification**

Existing Units	Name	Control thru
60	Valley Brook I Apts – VA, 151 Knollcroft Rd. (30-yr)	2043
48	Valley Brook II Apts – VA, 151 Knollcroft Rd. (30-yr)	2045
4	Our House – (2013) (B 2501/L29) – 17 Vail Terrace 4 bedroom (VLI)	DDD, Continuous
4	Our House – (2017)(B7703/L5)–11 Lafayette La. (VLI)	
4	Monarch Housing (2014) (B404/L13) 16 Evergreen Place	DDD, Continuous
30	Dewy Meadow rental apartments	2050 (approx.)
4	Crown Court Apts. added rental units	2050 (approx.)
19	Crown Court Apts. Extended Controls	2050 (approx.)
62	Mountainview rental apartments	2051 (approx.)
1	Columbia Road rental apartment	2048 (approx.)
236	Total new, occupied units since 2010 Certification	

Bernards Township’s Round 3 Fair Share Plan to address the Gap Present Need (435-units) and the Prospective Share (438) obligations totaling 873 units is identified in the table below:

**Bernards Township’s Round 3  
Fair Share Plan Inventory of Existing Affordable Units & Planned Units  
Addressing Round 3 for 1999-2025 – 873-units**

Project/Development Name	Year Built or Approved	Type of Affordable Unit	# Units	Bonus Type	# Bonuses	Total Units + Bonuses
P-burg RCA (partial)		Rehabilitation	187	--	0	187
Ridge Oak #3	2011/2012	AR-rental	20	--	0	20
Sunrise Senior Living	2001	AR-rental	4	--	0	4

<b>Project/Development Name</b>	<b>Year Built or Approved</b>	<b>Type of Affordable Unit</b>	<b># Units</b>	<b>Bonus Type</b>	<b># Bonuses</b>	<b>Total Units + Bonuses</b>
Society Hill Ext. Control	1986-87	Family for-sale	100	---	0	100
The Cedars Ext. Control	1990-94*	Family for-sale	106	---	0	106
Valley Brook I	2013	Supportive/Special Needs	60	Rental	60	120
Valley Brook II	2018 Planned	Supportive/Special Needs	48	Rental	48	96
Our House 130 Mt. Airy (partial)	2011	Supportive/Special Needs	3	Rental	3	6
Our House 11 Lafayette La	2017	Supportive/Special Needs	4	Rental	0	4
Our House 17 Vail Ter.	2013	Supportive/Special Needs	4	Rental	4	8
Cerebral Palsy/Monarch 16 Evergreen Place	2014	Supportive/Special Needs	4	Rental	4	8
<b>Dewy Meadow Apts.</b>	<b>2018 Planned</b>	<b>Family rental</b>	<b>30</b>	<b>Rental</b>	<b>30</b>	<b>60</b>
<b>Crown Court Added Apts</b>	<b>2018 Planned</b>	<b>Family rental</b>	<b>4</b>	<b>Rental</b>	<b>4</b>	<b>8</b>
<b>Crown Court Ext. Controls</b>	<b>2018 Planned</b>	<b>Family rental</b>	<b>19</b>	<b>---</b>	<b>0</b>	<b>19</b>
<b>Mountainview</b>	<b>2018 Planned</b>	<b>Family rental</b>	<b>62</b>		<b>62</b>	<b>124</b>
<b>J. Nan Realty – 18 Columbia Road</b>	<b>2019 Approved</b>	<b>Family rental</b>	<b>1</b>	<b>Rental</b>	<b>1</b>	<b>2</b>
<b>Group Home Bedroom (TBD)</b>	<b>By 7/20</b>	<b>Supportive and Special Needs</b>	<b>1</b>		<b>1</b>	<b>2</b>
<b>TOTALS</b>			<b>657</b>		<b>217</b>	<b>874</b>

June 28, 2019 Superior Court Order - Amendments to 2018 HPE/FSP

On June 28, 2019, the Superior Court of New Jersey Law Division-Somerset County granted Bernards Township a Conditional Judgment of Compliance and Continued Temporary Immunity. Paragraphs 4 & 6 of the June 28, 2019 Order identify certain amendments to the Fourth Amended Housing Plan Element and Fair Share Plan (September 2018) and call for additional amendments to be adopted by the Planning Board and endorsed by the Township Committee.

- Paragraph 4 of the Order amends the Round 3 Fair Share Inventory table (above) and identifies conditions related to certain projects in the Inventory (Paragraph 4 Amendments).
- Paragraph 6 of the Order calls for the Planning Board to adopt and the Township Committee to endorse the Paragraph 4 amendments to the Housing Plan Element and Fair Share Plan.

The Paragraph 4 Amendments include one (1) correction and three (3) revisions to the Round 3 Fair Share Inventory, as follows:

1. Correct the number of Society Hill affordable units that have extended affordability controls – there are 100 affordable units in the development, not the 99 previously identified.
2. Change the crediting for the 11 Lafayette Lane group home to remove bonus credits because it has been determined that this project is not eligible for bonuses without a 30-year deed restriction.
3. Add 1-unit and 1-bonus credit for the recently approved J. Nan Realty affordable family rental apartment to the inventory. The unit will be constructed at 18 Columbia Road. It was approved by the Zoning Board of Adjustment in October 2018 (Resolution No. ZB2013-11 memorialized on November 7, 2018).
4. Add two (2) credits (1-bedroom/unit and 1 bonus credit) for a “to-be-determined” (TBD) supportive and special needs group home that the Township will identify by July 2020.

The Paragraph 4 Amendments to the Round 3 Fair Share Inventory were identified during Third Round compliance review by the Court. These amendments change the “Units”, “Bonuses” and “Total Units and Bonuses” column totals, as follows:

- Total “Units” column has been changed from 658 to 657,
- Total “Bonuses” column has been changed from 219 to 217; and
- The “Total Units and Bonuses” column has been changed from 873 to 874.

In accordance with Paragraph 4 of the Order, the amended crediting for the 11 Lafayette Lane group home, the “TBD” supportive and special needs project and the 18 Columbia Road moderate-income apartment is dependent upon the following conditions:

- 4.(a) If the group home located at 11 Lafayette Lane operated by Our House ceases to exist, the Township shall replace it with a new group home, however, the Township will be entitled to bonus credits generated by the replacement group home provided that the replacement group home complies with all applicable regulations, including but not limited to the minimum 30-year affordability controls deed restriction, so that the creation of two (2) replacement bedrooms would yield two (2) bonus credits for a total of four (4) credits;
- 4.(b) The Township shall identify two (2) additional credits generated from an additional group home by the time of the realistic opportunity midpoint review in July, 2020; and
- 4.(c) As the recently approved (October 2018) development at 18 Columbia Road proceeds, the Township shall provide further documentation to the special master detailing the minimum 30-year affordability controls deed restriction and confirming that the one bedroom affordable unit will be an affordable rental unit so will also generate one (1) rental bonus.

This plan calls for the identification of at least one (1) bedroom of supportive and special needs housing by July 2020 with a 30-year deed restriction; or 2 bedrooms of supportive

and special needs housing without a deed restriction to fully satisfy the Third Round obligation.

As part of this Housing Plan Element and Fair Share Plan Third Round Plan, Bernards Township identifies the opportunity for 24-32 additional Ridge Oak age-restricted affordable rental apartments to be added on land owned by Ridge Oak adjacent to the existing Ridge Oak campus, which the Township will support through zoning amendments at such time as the developer clarifies expansion plans and anticipated scheduling for additional units to be constructed at the senior citizen housing complex.

### Round 3 Parameter Compliance

All compliance parameters are met for Round 3, as follows:

Maximum bonus (25%):                      Complies.  
    • 219.25 bonus permitted vs. 217 bonuses in Plan.

Maximum age-restricted (25%):            Complies.  
    • 219 age-restricted units permitted vs. 24 age-restricted units in Plan (10%).

Minimum rental units (25%):              Complies.  
    • 219 rental units required vs. 240 rental units in Plan.

Valley Brook I	60
Valley Brook II	49
Our House 130 Mt. Airy (partial)	3
Our House 11 Lafayette La	4
Our House 17 Vail Ter.	4
Cerebral Palsy/Monarch 16 Evergreen Place	4
Dewy Meadow Apts.	30
Crown Court Expansion Apts.	4
Crown Court Ext. Controls	19
Mountainview	62
18 Columbia Road aff. apt.	1
Total Round 3 Rental Units:	240

Minimum Family Rental units required (12.5%):    Complies.  
    • 109 units required vs. 115 units in Plan.

Dewy Meadow Apts.	30
Crown Court Exp. Apts	4
Crown Court Ext. Controls	19

Mountainview	62
18 Columbia Road aff. apt.	1
Total Round 3 Family Rental Units: 116	

Minimum Very low-income units required (13%%): Complies.

- 113 units required vs. 143 units in Plan.

Valley Brook I	60
Valley Brook II <sup>6</sup>	49
Our House 130 Mt. Airy (partial)	3
Our House 11 Lafayette La	4
Our House 17 Vail Ter.	4
Cerebral Palsy/Monarch	4
16 Evergreen Place	
Dewy Meadow Apts.	4
Crown Court (new & ext. controls)	3
Mountainview	10
TBD Supp.&Spec. Needs Bedrooms	2 <sup>7</sup>
Total Round 3 Very Low-Income: 143	

Minimum Family Unit Requirement:

873 – 187 RCA – 219 Bonuses = 467 x .5 = 234-units family requirement.

- 234 family units required vs. 322 family units in Plan.

Society Hill	100
The Cedars	106
Dewey Meadow Apts.	30
Crown Court (new & ext. controls)	23
Mountainview	62
18 Columbia Road aff. apt.	1
Total Round 3 Family Units: 322	

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<sup>6</sup> Estimated start of construction is Autumn 2018.

<sup>7</sup> 2 units or 1 unit plus bonus.

### Round 3 Authorized Compliance Techniques

The following list of affordable housing compliance techniques are available for municipal Fair Share compliance. The list below is provided as an overview of potential Fair Share techniques that are available to the Township if needed in the future.

N.J.A.C. 5:93-5.2 – Rehabilitation of existing units – rehabilitation of substandard units;

N.J.A.C. 5:93-5.3 – New Construction - create new low and moderate income units within their borders by sponsoring their construction, with or without a non-profit corporation, or by zoning sites for inclusionary development.

N.J.A.C. 5:93-5.4(b) - New construction; conformance with the State Development and Redevelopment Plan (SDRP)

(b) In Planning Area 3, the Council shall encourage inclusionary development within centers. Where a municipality proposes an inclusionary site within Planning Area 3 outside of a center, the Council may permit such a site if infrastructure is available or can be easily extended from Planning Area 2 (PA-2).

--Multiple units per acre required.

--Planning Area 2 is the “Suburban Planning” Area, which is expansively designated in Bernards occupying the majority of residentially developed neighborhoods in the Township. It is designated north of Spring Valley Road, north of Church Street, northeast of Mine Brook Road, east of Annin Road, and north and east of the Meeker Road Extension at the Mt. Airy Road / I-287 interchange. The designation extends north and east from these roads and encompasses all of Basking Ridge to the municipal boundaries with Harding Township and Long Hill Township. The PA-2 designation occupies both side of Liberty Corner Road in the vicinity of the I-78 interchange and extends to the south and west encompassing corporate center development south and west of the I-78 Liberty Corner Road intersection. The Hills and NJ National golf course is also included within PA-2.

--Planning Area 3 is the “Fringe” Planning Area and is designated from The Hills southeast to Liberty Corner Martinsville Road encompassing the residential neighborhoods that flank Mountain Road to the municipal boundary with Bridgewater Township.

N.J.A.C. 5:93-5.5 Municipally sponsored construction and gut rehabilitation

(a) A municipality shall document that there is municipal control of the site(s); an administrative mechanism to construct the proposed housing; a funding plan and evidence of adequate funding capacity; and timetables for construction of the units.

N.J.A.C. 5:93-5.6 Zoning for inclusionary development – generally, requires identification of sites with available water, sewer; regulations require presumptive densities of between 4 to 6 units per acre. This can be designated as an overlay zone.

Overlay zoning – 100% Municipally Sponsored Construction – This could involve designating small overlay zones focused on redevelopment of parcels that are served by water and sewer.

There may be certain locations in the Township where this approach could make sense with municipal sponsorship.

N.J.A.C. 5:93-5.7 Regional contribution agreements (RCAs) – no longer authorized under the law.

N.J.A.C. 5:93-5.8 Alternative living arrangements – group homes, transitional facilities for the homeless, etc.

N.J.A.C. 5:93-5.9 Accessory apartments – apartments created within existing dwelling units; or as accessory to existing dwelling units.

N.J.A.C. 5:93-5.10 Purchase of housing units that have never been occupied and vacant housing units.

N.J.A.C. 5:93-5.11 Write-down/buy-down of previously owned units (Market to Affordable) – involves Writing-down or buying-down the cost of previously owned market rate units and offering them in sound condition at affordable prices to low and moderate income households.

N.J.A.C. 5:93-5.12 ECHO (elder cottage housing opportunities) housing units – This involves adding a small unit as an accessory unit on a lot with a detached single-family dwelling for an elderly family member. Credits are applied against the rehabilitation obligation.

N.J.A.C. 5:93-5.14 Age restricted housing – subject to a 25% cap.

N.J.A.C. 5:93-5.15 Rental housing – every municipality has to provide at least 25% of the obligation. The now invalidated Chapter 97 included requirements for “Family Rental” housing, and established a minimum percentage that has to be included in the Fair Share Plan. These requirements should be expected to resurface at some point in the future.

N.J.A.C. 5:93-5.16 Assisted living residence - Apartments in assisted living residences may address a municipal housing obligation if the private pay resident qualifies as low or moderate income or if the resident is the recipient of a Medicaid waiver.

#### Housing Stock Adaptation for Affordable Housing in Bernards Township

Bernards’ suburban landscape has been indelibly shaped by Mount Laurel litigation and the COAH rules. The Hills and smaller multiple family housing communities provide a broad diversity of housing opportunities. The Township has been a diligent participant in the COAH process and developed housing elements and fair share plans in response to all known COAH obligations.

Yet today, as Bernards looks to find affordable housing options that can reinforce, rather than undermine, neighborhood character, it is important to develop solutions that can address multiple neighborhood and community needs.

A February 2013 Rutgers University study prepared for the Somerset Business Partnership by the Bloustein Planning School, examined the perspective of the Millennial generation millennials (born 1982-2004) and the lifestyle implications of the aging baby boomers (born 1946-1964). A significant finding of this study revealed that 2/3 of baby boomers indicate that they will choose to age in place. Of the 1/3 who will move from their current home, most of those will look for a new residence within their community, near friends and social connections.

The alternatives to living at home (assisted living or nursing care) have skyrocketed in cost, so aging residents will increasingly choose to remain in their homes and “age in place”. As the Baby Boom “bulge” moves through the system, the ranks of those aging in place will swell. This change in the complexion of households will create a need for smaller units, many of which can be created within the footprint of existing units.

As more residents age in place, there will be a decreasing need for living space and an increasing need for support, including financial support. Downsizing can mean moving to a smaller house or apartment, or it can mean capitalizing on the flexibility to add a unit in an existing dwelling. Many existing dwellings have sufficient room for a secondary dwelling and may well constitute a hidden resource that can address a variety of local and regional housing needs. Conversions can produce affordable housing at a comparatively economical cost and in an efficient manner, while also addressing other emerging needs and circumstances.

When new construction or redevelopment occur, very expensive housing generally results from the soft costs of design and approvals combined with the hard costs of land, construction, infrastructure and related activities. When a single-family dwelling is converted to two units, the costs of creating the new unit are far lower than building new, since the utilities and the structure are already in place and need only be adapted through the addition of a kitchen and bathroom, demising walls and new entry door. Where the subsidy needed to make a new construction unit affordable can readily total over \$100,000, an adapted unit in an existing dwelling can be created for a fraction of the new construction costs.

While COAH rules have permitted the creation of accessory dwellings, their use to meet affordable housing obligations has been sharply constrained, with a limit of 10 units or 10% of the local new construction obligation. These limits have made it unlikely that towns can meet much of their obligation this way and a robust program of accessory conversions has failed to develop in most communities, although there are notable exceptions, like Tewksbury Township where dozens of such conversions have produced affordable units.

Accessory units should not be seen as a panacea, but they can play an increasingly important role in providing a holistic program to meet affordable housing needs. Conversions do not produce much neighborhood change since they are developed one at a time, and Bernards has long recognized the value of allowing an accessory unit for a family member, as permitted under Section 21-12.3 (h). As the need for accessory units increases with the aging population, this can also be a tool for affordable housing production. A properly incentivized program that allows and encourages such conversions could gain rapid acceptance in the climate where aging in place will continue to grow as a lifestyle.



As noted above, conversions to develop accessory affordable units in a single family dwelling are already permitted in Bernards and can help protect community character and better meet the needs of an aging population. Accessory affordable units offer a number of benefits, compared with new construction, including:

- a significant cost advantage to produce a unit
- can blend seamlessly with neighborhood character
- can provide income that allows an aging homeowner to remain

**APPENDIX A**  
**Inventory of Municipal Housing Conditions**

The primary source of information for the inventory of the Township’s housing stock is the 2010 U.S. Census, American Community Survey (ACS) 5-year Estimates and Summary File (SF) 1.

Table 1 identifies the units in a structure by tenure; as used throughout this Plan Element, "tenure" refers to whether a unit is owner-occupied or renter-occupied. According to the 2010 Census, the Township had 9,705 housing units, of which 9,500 (97.8%) are occupied. The Township consists primarily of one-family, detached dwellings (57.7% of the total, compared to 58.9% in the County), and single-family attached units (21%); there are 1,978 units in multi-family structures. The Township has a smaller percentage of renter-occupied units than the County, 12%, compared to 20% in Somerset County and 33% in the State.

**Table 1: Units in Structure by Tenure**

Units in Structure	Occupied Units		
	Total	Owner	Renter
1, detached	5,483	5,320	163
1, attached	2,030	1,872	158
2	30	0	30
3 or 4	520	335	185
5+	1,428	812	616
Other	0	0	0
Mobile home or trailer	9	9	0
<b>Total</b>	<b>9,500</b>	<b>8,348</b>	<b>1,152</b>

*Source: 2010 U.S. Census, for Township, ACS 5-year estimates DP-04*

Table 2 presents the data concerning the year housing units were built by tenure, while Table 3 compares the Township to Somerset County and the State. Approximately 61% of the owner-occupied units in the Township were built since 1980. The highest rate of renter-occupied units were also built between 1980 and 2000 (69%). Since 1980, 6,088 units have been constructed, which account for 64% of all units in the Township. 1980-1999 were the most transformative years for the Township. During that 20-year period, 54% of all housing units the Township were constructed. Between 1960 and 1979, 1,777 units were built in the township, which account for 18% of all housing unit in the Township. In 1959, Bernards Township had a total of 1,635 housing units, or about approximately 17% of the Township’s current housing stock. In the 20 years following (1960-1979), the number of housing units more than doubled from 1,635 units to 3,412 units. In the following 20 years (1980-1999) the housing stock more than doubled again to a total of 8,613 units.

**Table 2: Year Structure Built by Tenure**

Year Built	Occupied Units		
	Total	Owner	Renter
2000-2010	887	800	87
1990-1999	2,701	2,248	453
1980-1989	2,500	2,154	346
1970-1979	777	629	148
1960-1969	1,000	963	37
1950-1959	853	807	46
1940-1949	330	321	9
Pre-1940	452	426	26

*Source: 2010 U.S. Census, for Township, ACS 5-year estimates DP-04*

Table 3 compares the year of construction for all dwelling units in the Township to Somerset County and the State. The Township has a much larger percentage of units built between 1980 and 2000 than does the County or State, and a smaller percentage of units built for all previous years. This is exemplified in the median year built between the State, County and Township.

**Table 3: Comparison of Year of Construction for Township, County, and State**

Year Built	%		
	Bernards Township	Somerset County	New Jersey
2000 – 2010	9.1	3.5	8.4
1990 – 1999	28.2	7.0	8.9
1980 – 1989	26.4	70.1	11.6
1970 – 1979	8.4	4.1	13.0
1960 – 1969	10.9	5.0	14.2
1950 – 1959	8.8	4.4	16.1
1940 – 1949	3.4	1.9	8.9
Pre-1940	4.8	4.1	18.9
<b>Median Year</b>	<b>1985</b>	<b>1978</b>	<b>1964</b>

*Source: 2010 U.S. Census, for Township, ACS 5-year estimates*

Information reported in the 2010 Census concerning occupancy characteristics includes the household size in occupied housing units by tenure, and the number of bedrooms per unit by units generally house slightly smaller households, with 78% of renter-occupied units having 2 persons or fewer compared to 52% of owner-occupied units.

**Table 4: Household Size in Occupied Housing Units by Tenure**

Household Size	Total Units	Owner-occupied Units	Renter-occupied Units
1 person	2599	1973	626
2 persons	2674	2395	279
3 persons	1582	1417	165
4 persons	1825	1694	131
5 persons	795	737	58
6 persons	238	222	16
7+ persons	70	61	9
<b>Total</b>	<b>9783</b>	<b>8499</b>	<b>1284</b>

Source: 2010 U.S. Census, for Township, ACS 5-year estimates DP-04

**Table 5: Number of Bedrooms per Unit**

Number of Bedrooms	Total Units	(%)
No bedroom	127	1.3
1 bedroom	1004	10.3
2 bedrooms	2177	22.4
3 bedrooms	2258	23.3
4 bedrooms	2987	30.8
5+ bedrooms	1152	11.9

Source: 2010 U.S. Census, for Township, ACS 5-year estimates DP-04

Table 6 compares the Township's average household size for all occupied units, owner-occupied units, and renter-occupied units to those of the County and State. The Township's average household size for owner-occupied and renter-occupied units is lower than those of the State and County.

**Table 6: Average Household Size for Occupied Units for Township, County, and State**

Jurisdiction	All Occupied Units	Owner-occupied units	Renter-occupied units
Bernards Township	2.65	2.80	1.7
Somerset County	2.71	2.85	2.42
New Jersey	2.68	2.81	2.43

Source: 2000 U.S. Census, SF-1 for Township, County, and State, DP-1.

The distribution of bedrooms per unit, shown in Table 7, indicates that the Township contains dramatically more four or more bedroom units than the County or State and fewer none to three bedroom units than either the County or State.

**Table 7: Percentage of All Units by Number of Bedrooms**

Jurisdiction	None or one	Two or Three	Four or More
Bernards Township	11.6	45.7	42.7
Somerset County	11.6	54.3	34.1
New Jersey	17.1	58.4	24.4

*Source: 2010 U.S. Census, for Township, ACS 5-year estimates*

In addition to data concerning occupancy characteristics, the 2010 Census includes a number of indicators, or surrogates, which relate to the condition of the housing stock. These indicators are used by the Council on Affordable Housing (COAH) in calculating a municipality's deteriorated units and indigenous need.

In the first Two Rounds of COAH's fair share allocations (1987-1999), COAH used seven indicators to calculate indigenous need: age of dwelling; plumbing facilities; kitchen facilities; persons per room; heating fuel; sewer; and, water. In the proposed Round Three rules, COAH has reduced this to three indicators, which in addition to age of unit (Pre-1940 units in Table 2), are the following, as described in COAH's rules.

*Plumbing Facilities*

Inadequate plumbing is indicated by either a lack of exclusive use of plumbing or incomplete plumbing facilities.

*Kitchen Facilities*

Inadequate kitchen facilities are indicated by shared use of a kitchen or the non-presence of a sink with piped water, a stove, or a refrigerator.

Table 8 compares the Township, County, and State for the above indicators of housing quality. The Township has fewer units with inadequate kitchen or plumbing and fewer overcrowded units than the County or State.

**Table 8: Housing Quality for Township, County, and State**

Condition	%		
	Bernards Township	Somerset County	New Jersey
Overcrowding	.2	1.5	3.2
Inadequate plumbing <sup>1</sup>	0	.3	.5
Inadequate kitchen <sup>1</sup>	.7	.8	.7

*Notes: <sup>1</sup>The universe for these factors is all housing units.*

*Source: 2010 U.S. Census, for Township, ACS 5-year estimates*

The last factors used to describe the municipal housing stock are the values and rental values for residential units. With regard to values, the 2010 Census offers a summary of housing values. This data is provided in Table 9 and indicate that 67% of all residential properties in the Township are valued over \$500,000 with a median housing value of \$650,600.

**Table 9: Value of Owner Occupied Residential Units**

Value	Number of Units	%
\$0 – 50,000	11	.1
\$50,000 – 99,999	74	.9
\$100,000 – 149,999	138	1.7
\$150,000 – 199,999	160	1.9
\$200,000 – 299,999	714	8.6
\$300,000 – 499,999	1650	19.8
\$500,000 – 999,999	4104	49.2
\$1,000,000 +	1497	17.9

Source: 2000 U.S. Census, SF-3 for Township, County, and State, DP-4.

The data in Table 10 indicate that a majority of housing units (63%) rent for over \$1,500/month with the largest percentage, 46.2%, found over \$1,500 per month.

**Table 10: Gross Rents for Specified Renter-Occupied Housing Units<sup>1</sup>**

Monthly Rent	Number of Units	%
Under \$200	48	4.2
\$200 – 299	21	1.8
\$300 – 499	128	11.1
\$500 – 749	97	8.4
\$750 – 999	56	4.9
\$1,000 – 1,499	26	2.3
\$1,500 or more	733	63.6
No Cash Rent	43	3.7

Note: Median gross rent for Bernards Township is \$1,799.  
 Source: 2010 U.S. Census, for Township, ACS 5-year estimates DP-04

The data in Table 11 indicate that there are 405 renter households with an income less than \$35,000 annually. At least 247 of these households are paying more than 30% of their income for rent; a figure of 30% is considered the limit of affordability for rental housing costs.

**Table 11: Household Income in by Gross Rent as a Percentage of Household Income <sup>1</sup>**

Income	Number of Households	Percentage of Household Income					
		0 – 19%	20 – 24%	25 – 29%	30 – 34%	35% +	Not computed
< \$10,000	54	0	0	0	0	42	12
\$10,000 – 19,999	216	34	44	43	22	73	0
\$20,000 – 34,999	161	0	9	33	0	110	9
\$35,000 +	721	196	51	82	116	262	22

*Note:<sup>1</sup> The universe for this Table is specified renter-occupied housing units.  
Source: 2010 U.S. Census, for Township, ACS 5-year estimates DP-04*

## Analysis of Demographic Characteristics

As with the inventory of the municipal housing stock, the primary source of information for the analysis of the demographic characteristics of the Township's residents is the 2000 U.S. Census. The data collected in the 2000 Census provide a wealth of information concerning the characteristics of the Township's population.

The 2000 Census indicates that the Township has 26,652 residents, or 2,078 more residents than in 2000, an 8% increase. The Township's 8% increase in the 2000's compares to a 8.7% increase in Somerset County and an 4.5% increase in New Jersey. The age distribution of the Township's residents is shown in Table 12. The Township's male population is predominant in younger age groups from 0-19 with females being predominant in all other groups.

**Table 12: Population by Age and Sex**

Age	Total Persons	Male	Female
0-4	1,389	713	676
5 – 19	6,764	3,541	3,223
20 – 34	2,156	1,022	1,134
35 – 54	9,473	4,437	5,036
55 – 69	4,305	2,126	2,179
70 +	2,565	1,042	1,523
<b>Total</b>	<b>26,652</b>	<b>12,881</b>	<b>13,771</b>

*Source: 2010 U.S. Census, for Township, ACS 5-year estimates DP-04*

Table 13 compares the Township to the County and State for the same age categories. The principal differences among the Township, County, and State occur in the 0-4, 5-19 and 35-54 where the Township has more population than the County or State. However the Township has fewer persons in the 20-34 age groups than the County and State.

**Table 13: Comparison of Age Distribution  
for Township, County, and State (% of persons)**

Age	Bernards Township	Somerset County	New Jersey
0-4	5.1	6.3	6.3
5 – 19	26.2	21.1	20.1
20 – 34	8.5	15.8	18.6
35 – 54	34.4	33.7	30.3
55 – 69	16.2	14.7	15.1
70 +	9.5	8.6	9.5
<b>Median</b>	<b>42.2</b>	<b>39.7</b>	<b>38.5</b>

*Source: 2010 U.S. Census, for Township, ACS 5-year estimates DP-04*



Table 14 provides the Census data on household size for the Township, while Table 15 compares household sizes in the Township to those in Somerset County and the State. The Township differs from the County and State in terms of the distribution of household sizes by having a higher number of households with one person and fewer 3 person households.

**Table 14: Persons in Household**

Household Size	Number of Households (%)
1 person	26.9
2 persons	27.6
3 persons	16.2
4 or more persons	29.4

Source: 2010 U.S. Census, for Township, ACS 5-year estimates

**Table 15: Comparison of Persons in Household for Township, County, and State (% of households)**

Household Size	Bernards Township	Somerset County	State
1 person	26.9	22.8	26
2 persons	27.6	30.4	30.3
3 persons	16.2	18.2	17.3
4 or more persons	29.4	28.7	26.4

Source: 2010 U.S. Census, for Township, ACS 5-year estimates

Table 16 presents a detailed breakdown of the Township’s population by household type and relationship. There are 6,296 family households in the Township and 2,203 non-family households; a family household includes a householder living with one or more persons related to him or her by birth, marriage, or adoption, while a non-family household includes a householder living alone or with non-relatives only. In terms of the proportion of family and non-family households, the Township has fewer family households than the County (70.9% for the Township, 72.8% for the County, and 69.2% for the State).

**Table 16: Persons by Household Type and Relationship**

	Total
<b>In family Households:</b>	<b>6,296</b>
<i>Married Couples</i>	5,597
<b>In Non-Family Households:</b>	<b>2,203</b>
Male householder:	755
Living alone	633
Not living alone	122
Female householder:	1,448
Living alone	1,340
Not living alone	108

Source: 2010 U.S. Census, for Township, ACS 5-year estimates

Table 17 provides 2010 income data for the Township, County, and State. The Township's per capita and median incomes are higher than those of the State and County for household income. The definitions used for households and families in Table 17 are similar to those identified in the description of Table 16, so that the households figure in Table 17 includes families.

**Table 17: 1999 Income for Township, County, and State**

Jurisdiction	Per Capita Income (Dollars)	Median Income (Dollars)	
		Households	Families
Bernards Township	67,809	123,285	153,906
Somerset County	47,067	97,440	115,214
New Jersey	34,858	69,811	84,904

Source: 2010 U.S. Census, for Township, ACS 5-year estimates

Table 18 addresses the lower end of the income spectrum by providing data on poverty levels for persons and families. According to the data in Table 18, the Township proportionally has less persons and families qualifying for poverty status than do the County and State. Thus, the non-family households have a larger share of the population in poverty status.

**Table 18: Poverty Status for Persons and Families for Township, County, and State**  
 (% with 1999 income below poverty)

Jurisdiction	Persons (%)	Families (%)
Bernards Township	32.1	24.8
Somerset County	34.1	31.1
New Jersey	27	30.5

Source: 2010 U.S. Census, for Township, ACS 5-year estimates

The U.S. Census includes a vast array of additional demographic data that provides insights into an area's population. For example, Table 19 provides a comparison of the median year persons moved into their homes between the years; this is a surrogate measure of the mobility/stability of a population.

**Table 19: Comparison of 1995 Place of Residence for Township, County, and State**

Jurisdiction	Percent living in same house in 1995
Bernards Township	2000
Somerset County	2000
New Jersey	2001

Source: 2010 U.S. Census, for Township, ACS 5-year estimates

Table 20 compares the educational attainment for Township, County, and State residents. The data indicates that Township resident's exceeds the County and State for residents in educational attainment.

**Table 20: Educational Attainment for Township, County, and State Residents  
 (Persons 25 years and over)**

Jurisdiction	Percent (%) high school graduates or higher	Percent (%) with bachelor's degree or higher
Bernards Township	96.8	66.8
Somerset County	94.7	53.8
New Jersey	90.1	37.8

*Source: 2010 U.S. Census, for Township, ACS 5-year estimates*

The 2010 Census also provides data on the means of transportation which people use to reach their place of work. Table 21 compares the Census data for the Township, County, and State relative to driving alone, carpooling, using public transit, and using other means of transportation. The Township has a relatively high percentage of those who drive alone, and a relatively low percentage of workers who carpool or use public transit. Of the 10% of workers who reside in the Township and use other means of transportation to reach work, 929 workers work at home and 180 workers walk to work.

**Table 21: Means of Transportation to Work for Township, County and State Residents  
 (Workers 16 years old and over)**

Jurisdiction	Percent who drive alone	Percent in carpools	Percent using public transit	Percent using other means
Bernards Township	78.9	4.9	6.1	10
Somerset County	78.1	9.3	5.4	7.1
New Jersey	71.6	9	10.6	8.8

*Source: 2010 U.S. Census, for Township, ACS 5-year estimates*