

# HOUSING ELEMENT AND FAIR SHARE PLAN

**Bernardsville Borough, Somerset County**

**June 26, 2025**

**Prepared by:**



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## **2025 Housing Element and Fair Share Plan**

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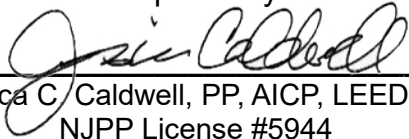
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## 1. Introduction

### 1.1 Community Overview

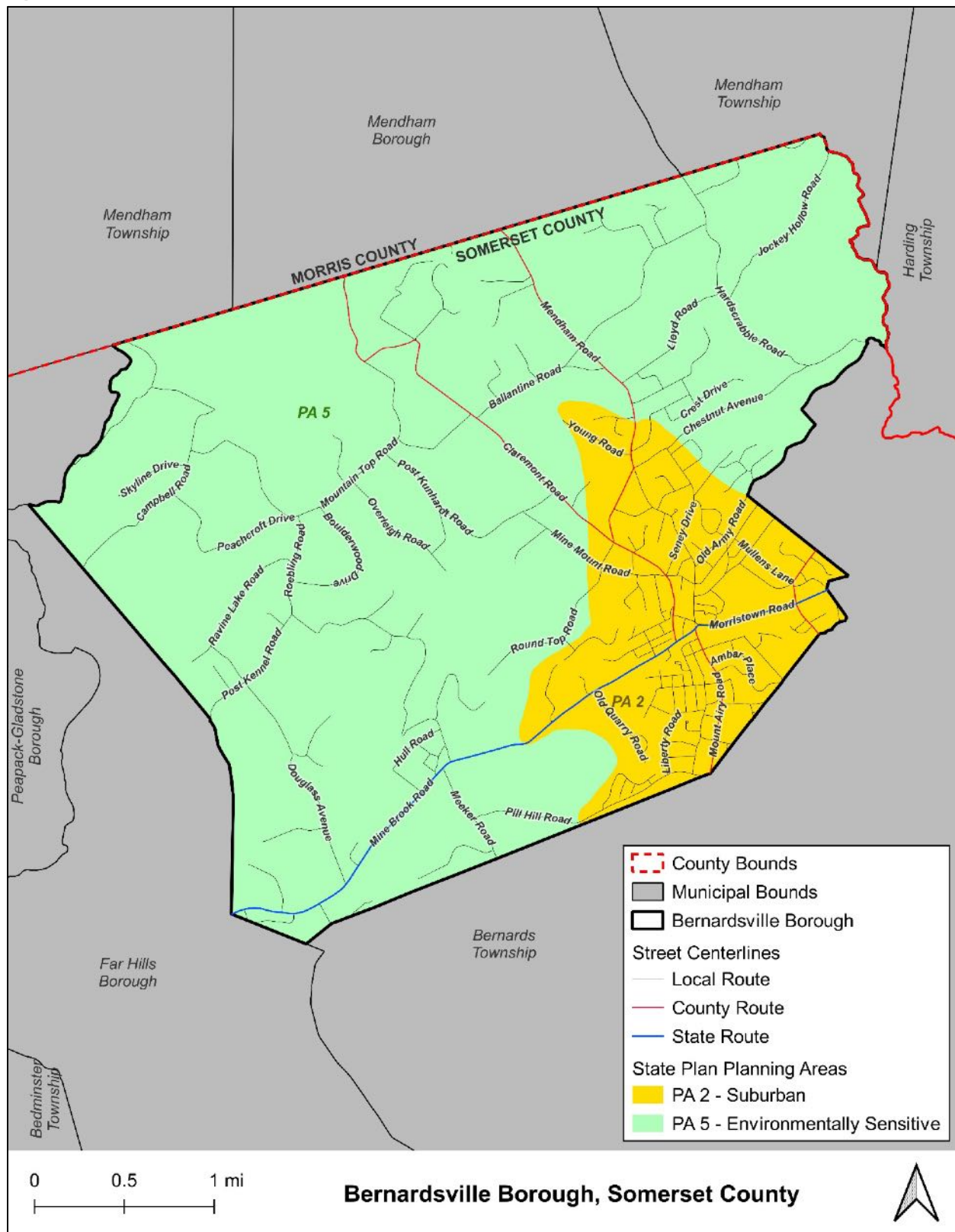
The Borough of Bernardsville is located in northern Somerset County along the border of Morris County. Bernardsville spans 12.91 square miles and is situated about 40 miles west of New York City. Characterized by its rich history and suburban nature, the Borough contains several unincorporated communities in whole or in part, including Mine Brook and Blaziers Corner. To the southwest, Bernardsville shares its municipal border with Peapack-Gladstone Borough and Far Hills Borough, also in Somerset County. Bernards Township shares a border to the south and southeast of Bernardsville, and there are small portions of the Borough's northern border that are shared with several Morris County municipalities: Harding Township, Mendham Township, and Mendham Borough.

Bernardsville is situated within two Planning Areas as designated by the New Jersey State Development and Redevelopment Plan: Planning Area 2, Suburban (PA2) and Planning Area 5, Environmentally Sensitive (PA5). Just over 80 percent of the Borough is within PA5 and includes areas such as Little Brook Sanctuary, Cross Estate Gardens, and the Somerset Hills Country Club. PA2 includes the Borough's downtown, primarily around the intersection of Mine Brook Road, Mount Airy Road, Morristown Road, Anderson Hill Road, and Claremont Road. Bernardsville is also entirely within the Highlands Planning Area Region. The Borough is in the process of conforming with the Highlands Regional Master Plan (RMP), which is voluntary for those municipalities within the Planning Area.

## 2025 Housing Element and Fair Share Plan

## Bernardsville Borough, Somerset County

Figure 1. Context Map



## 1.2 Relationship to Other Plans

### *Municipal Master Plan*

The Bernardsville Borough Master Plan was last prepared in 2000 with amendments to the Master Plan in 2004 and 2020. Reexamination Reports were undertaken in 2006, 2017, and 2020. An amended Housing Element and Fair Share Plan was prepared in 2018 as a result of a Compliance Hearing on July 2, 2018.

### *State Development and Redevelopment Plan (2001)*

At the time of the preparation of this Housing Element and Fair Share Plan (HEFSP), the update to the New Jersey State Development and Redevelopment Plan (SDRP) is expected to be completed in late 2025. The last update to the SDRP was adopted in 2001 and identified several goals and objectives for housing, specifically as they relate to the Suburban and Environmentally Sensitive Planning Areas. These goals, objectives, and policies, which in part guide the preparation of this HEFSP, are as follows:

#### 1. PA2 – Suburban Planning Area

- A. Create and maintain housing in the Metropolitan and Suburban Planning Areas at densities which support transit and reduce commuting time and costs, and at locations easily accessible, preferably on foot, to employment, retail, services, cultural, civic, and recreational opportunities.
- B. Provide a full range of housing choices primarily in Centers at appropriate densities to accommodate the area's projected growth. Ensure that housing in general – and in particular affordable, senior citizen, special needs and family housing – is developed with maximum access to a full range of commercial, cultural, educational, recreational, health and transportation services and facilities. Focus multi-family and higher-density, single-family housing in Centers. Any housing in the Environs should be planned and located to maintain the existing character.

#### 2. PA5 – Environmentally Sensitive Planning Area

- A. Provide for a full range of housing choices primarily in Centers at appropriate densities to accommodate projected growth. Ensure that housing in general – and in particular affordable, senior citizen, special needs and family housing – is developed with access to a range of commercial, cultural, educational, recreational, health and transportation services and facilities. Focus multi-family and higher-density, single-family housing in Centers. Any housing in the Environs should be planned and located to maintain or enhance the cultural and scenic qualities and with minimum impacts on environmental resources.
- B. Encourage environmentally appropriate redevelopment in existing Centers and existing developed areas that have the potential to become Centers or in ways that support Center-based development to accommodate growth that would otherwise occur in the Environs. Redevelop with intensities sufficient to support transit, a range of uses broad enough to encourage activity beyond the traditional workday, efficient use of infrastructure, and physical design features that enhance public safety, encourage pedestrian activity and reduce dependency on the automobile to attract growth otherwise planned for the Environs.
- C. Phase and program for construction as part of a dedicated capital improvement budget or as part of a public/private development agreement the extension or establishment



of public facilities and services, particularly wastewater systems, to establish adequate levels of capital facilities and services to support Centers; to protect large contiguous areas of environmentally sensitive features and other open spaces; to protect public investments in open space preservation programs; and to minimize conflicts between Centers and the Environs. Encourage private investments and facilitate public/private partnerships to provide adequate facilities and services, particularly wastewater systems, in Centers. Make community wastewater treatment a feasible and cost-effective alternative.

### *County Comprehensive Plan*

Somerset County adopted its Master Plan in 1987 and County Housing Element in 2017, which utilizes the Somerset County Investment Framework that ultimately strives to "...retain the balance between rural and developed areas necessary for supporting holistic, healthy lifestyles and that enhance 'sense of place' at both the regional and local levels." Bernardsville's Housing Element and Fair Share Plan is consistent with the County Investment Framework and the County Housing Element.

### *Highlands Regional Master Plan*

Bernardsville is located entirely within the Planning Area of the Highlands Region, where conformance with the Regional Master Plan (RMP) is voluntary. The Borough is currently in the process of RMP Conformance.

### *Surrounding Municipalities' Master Plans*

#### *Peapack-Gladstone Borough, Somerset County*

A small portion of Bernardsville's western municipal border is shared with Peapack-Gladstone Borough, also in Somerset County. The North Branch Raritan River acts as a natural boundary between the two municipalities. This Housing Element and Fair Share Plan is not inconsistent with Peapack-Gladstone's Master Plan and, particularly, the 2022 Housing Element.

#### *Far Hills Borough, Somerset County*

Most of Bernardsville's western border is shared with Far Hills Borough. Land in both municipalities in this area is primarily undeveloped, forested land with the exception of Mine Brook Road in the southwestern area of Bernardsville. Far Hills last re-examined its 2003 Master Plan in 2009. This Housing Element and Fair Share Plan does not significantly impact the Master Plan and land use within Far Hills.

#### *Bernards Township, Somerset County*

Bernardsville shares its southeastern border with Bernards Township, also in Somerset County. Despite sharing nearly six (6) miles of a municipal border, the land uses in this area are low-intensity uses such as low-density residences, a cemetery, and Moraine Crest Park. Bernards Township most recently updated its Master Plan in 2023, and this Housing Element and Fair Share Plan does not significantly impact the Township's Master Plan or existing land uses.

#### *Harding Township, Morris County*

Just under half a mile of Bernardsville's eastern border is shared with Harding Township in Morris County. This area is the New Jersey Audubon's Scherman Hoffman Wildlife Sanctuary. Given the preserved nature of this area, there is no significant impact to the Township's Master Plan or land use by this Housing Element and Fair Share Plan.



*Mendham Township, Morris County*

Portions of Bernardsville's northern municipal border are shared with Mendham Township in Morris County. All of the land uses in this area, in both the Township and the Borough, are low-density residential in nature. Given this, there are no significant impacts to the Township's Master Plan or land uses as a result of this Housing Element and Fair Share Plan.

*Mendham Borough, Morris County*

A small portion of Bernardsville's northern border is shared with Mendham Borough. With the exception of Roxiticus Golf Club, the uses in this area are all low-density residential in nature. There are no significant impacts to the Mendham Borough's Master Plan or land uses as a result of this Housing Element and Fair Share Plan.

### 1.3 History of Affordable Housing in Bernardsville

#### *Overview*

The New Jersey Supreme Court, in Mount Laurel I (1975) and Mount Laurel II (1983) required all New Jersey municipalities to take affirmative actions toward providing their "fair share" of the region's need for affordable housing for low- and moderate-income people. In response to the Mount Laurel II decision, the New Jersey Legislature adopted the Fair Housing Act ("FHA") in 1985. This act created the Council on Affordable Housing ("COAH") to assess the statewide need for affordable housing, allocate that need on a municipal fair share basis, and review and approve municipal housing plans aimed at implementing the local fair share obligation. Subsequently, the New Jersey Municipal Land Use Law ("MLUL") was amended to require a housing element as a mandatory element of the municipal master plan. According to the MLUL, "a municipality's housing element shall be designed to achieve the goal of access to affordable housing to meet present and prospective housing needs, with particular attention to low- and moderate-income housing (52: 27D-310)."

COAH adopted its Third Round Rules in December 2004. On January 25, 2007, the Appellate Division issued a decision on an appeal of COAH's Third Round regulations. COAH was precluded from issuing Third Round Substantive Certifications until new rules for the Third Round were revised and adopted. Subsequent to the Appellate Division ruling, the Highlands Council adopted the Highlands Regional Master Plan ("RMP") on July 17, 2008. The RMP provides the basis to determine the capacity of the Highlands Region to accommodate appropriate economic growth while ensuring the sustainability of the resources in the region. On September 5, 2008, Governor Corzine issued Executive Order 114, which addressed implementation of the Highlands Regional Master Plan (RMP) and the need for coordination between the Highlands Council and COAH. On November 12, 2008, COAH granted an extension from the December 31, 2008 petition deadline to December 8, 2009 for any Highlands municipality under COAH's jurisdiction, based on certain conditions.

On October 8, 2010, the Appellate Division invalidated COAH's Rules in In re Adoption of N.J.A.C. 5:96 & 5:97 by the New Jersey Council on Affordable Housing, 416 N.J. Super. 462 (App. Div. 2010). The decision stated, among other things, that growth share methodology was invalid, and directed COAH to adopt rules utilizing methodologies similar to those used in the First and Second Round Rules. On September 26, 2013 the Supreme Court affirmed the Appellate Division's 2010 decision and remanded COAH to undertake new rulemaking based on COAH's prior round rules and methodologies. COAH failed to formally adopt amended Third Round Rules.

In a 2015 decision known as Mount Laurel IV, the New Jersey Supreme Court divested COAH of jurisdiction of affordable housing, resulting in the process being left to the trial court system. This

ruling dissolved the substantive certification process, turning instead to a judicial determination wherein a municipality files for a declaratory judgment action to certify that their Housing Element and Fair Share Plan has satisfied their Third Round obligation. At the same time, the Court appointed “Mount Laurel” judges for each of the State’s judicial vicinages.

In 2024, New Jersey Legislature passed into law amendments to the Fair Housing Act (N.J.S.A. 52:27D-304.1 et seq. via NJ A4/S50) (“Amended FHA” or “P.L. 2024, c.2”) that abolished and replaced COAH with the Affordable Housing Dispute Resolution Program (“the Program”), and set forth new methodology for the calculations of a municipality’s affordable housing obligations for the Fourth Round and beyond. Subsequent to the adoption of the Amended FHA, the Highlands Council adopted an amendment to the RMP governing the potential location of affordable housing and availability of land and resources in the region.

### *Bernardsville Borough*

Bernardsville has consistently been active in providing for its fair share of affordable housing, having received First Round Certification on October 17, 1988 and Second Round Certification on December 6, 1995. Housing Element and Fair Share Plans were adopted in 1995, 2010, and 2018. The Borough’s Prior Round Obligation was determined to be 127 units, which were satisfied with Regional Contribution Agreements (“RCAs”) with New Brunswick and Perth Amboy and inclusive developments at Pine Ridge (the North Finley Avenue condominium units) and Rolling Hills at Bernardsville (at Bernards Avenue and Pine Street). COAH staff recommended substantive certification on December 6, 1995.

Bernardsville had a Third Round (1999-2025) Obligation of 215 units. The Borough entered into a Settlement Agreement with Fair Share Housing Center (“FSHC”) on November 22, 2017, which was subsequently amended to reflect the July 1, 2024 Consent Order by Judge Kevin Shanahan that accepted the amended Scattered Site Development project.

## 1.4 Purpose and Goals

The purpose of this Housing Element and Fair Share Plan is to provide a realistic opportunity to address the housing needs of Bernardsville residents across all income levels. This plan proposes multiple opportunities to develop a variety of housing types to meet these needs, which can be integrated into the existing land use pattern and character of the Borough. This Plan has been prepared to meet the requirements of the Municipal Land Use Law (MLUL), Fair Housing Act (FHA), the New Jersey State Development and Redevelopment Plan (SDRP), and Bill A4/S50 (P.L. 2024, c.2).

Specifically, this Housing Element and Fair Share Plan is consistent with the following goals and objectives from the 2000 Master Plan, which were reaffirmed in 2017 and 2020:

1. To preserve the residential and open character of the community.
2. To protect Bernardsville residents and their property from negative environmental, financial and other impacts of development.
3. To promote the conservation of natural systems, environmental resources, rural appearance and the natural amenities that characterize Bernardsville.

## 1.5 Contents of the Plan

Municipal Land Use Law (N.J.S. § 52:27D-310) and the Fair Housing Act (P.L. 1985, c.222) require that the Housing Element and Fair Share Plan include the following:

- 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, and in conducting this inventory the municipality shall have access, on a confidential basis for the sole purpose of conducting the inventory, to all necessary property tax assessment records and information in the assessor's office, including but not limited to the property record cards;
- 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;
- C. An analysis of the municipality's demographic characteristics, including but not necessarily limited to, household size, income level, and age;
- D. An analysis of the existing and probable future employment characteristics of the municipality;
- 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, as established pursuant to section 3 of P.L. 2024, c.2 (C.52:27D-304.1);
- 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;
- G. An analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, adopted pursuant to paragraph (1) of subsection f. of section 1 of P.L. 2021, c. 273 (C.52:27D-329.20);
- H. For a municipality located within the jurisdiction of the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L. 2004, c. 120 (C.13:20-4), an analysis of compliance of the housing element with the Highlands Regional Master Plan of lands in the Highlands Preservation Area, and lands in the Highlands Planning Area for Highlands-conforming municipalities. This analysis shall include consideration of the municipality's most recent Highlands Municipal Build Out Report, consideration of opportunities for redevelopment of existing developed lands into inclusionary or 100 percent affordable housing, or both, and opportunities for 100 percent affordable housing in both the Highlands Planning Area and Highlands Preservation Area that are consistent with the Highlands regional master plan; and

- I. An analysis of consistency with the State Development and Redevelopment Plan, including water, wastewater, stormwater, and multi-modal transportation based on guidance and technical assistance from the State Planning Commission.

## 2. Demographic Characteristics

### 2.1 Population

#### *Population Change*

The Borough of Bernardsville encompasses a total land area of approximately 12.91 square miles (8,262.4 acres) and had a population of 7,893 according to the U.S. Decennial Census, which translates to a population density of about 611.4 people per square mile. This section analyzes population changes in the Bernardsville Borough, Somerset County, and the State of New Jersey over the 30-year period from 1990 to 2020.

Between 1990 and 2020, population trends in Bernardsville Borough, Somerset County, and New Jersey as a whole indicate steady, albeit slowing, growth. Bernardsville Borough experienced an overall population increase from 6,597 in 1990 to 7,893 in 2020, representing a 19.6% growth over the 30-year period. However, the rate of growth has decelerated with each subsequent decade: 11.3% between 1990 and 2000, 4.9% between 2000 and 2010, and just 2.4% between 2010 and 2020. This trend indicates a pattern of decelerating population increase, which may reflect broader demographic dynamics such as aging households, reduced rates of in-migration, or limited residential development opportunities.

Similarly, Somerset County's population rose from 240,245 in 1990 to 348,842 in 2020, a 45.2% total increase; though its growth rate also tapered off over time, from 24% in the 1990s to 9% in the 2000s, and 8% in the 2010s. New Jersey followed the same pattern of overall growth, increasing from 7,730,188 residents in 1990 to 9,288,994 in 2020 (a 20.1% rise), with declining growth rates of 9%, 4%, and 6% across each decade, respectively.

As Bernardsville continues to evolve, this moderated growth trend suggests a stable community nearing buildout or entering a phase of population stabilization, with future planning likely to focus on maintaining quality of life and accommodating gradual demographic shifts rather than rapid expansion.

**Table 1. Population Change, 1990 - 2020**

	1990	% Change	2000	% Change	2010	% Change	2020
Bernardsville Borough	6,597	11.3%	7,345	4.9%	7,707	2.4%	7,893
Somerset County	240,245	24%	297,490	9%	323,444	8%	348,842
New Jersey	7,730,188	9%	8,414,347	4%	8,791,894	6%	9,288,994

Sources:

1990 – 2010: U.S. Census Bureau. (2010). POPULATION AND HOUSING UNITS: 1990 TO 2010; AND AREA MEASUREMENTS AND DENSITY: 2010.

2020: U.S. Census Bureau. (2020). PROFILE OF GENERAL POPULATION AND HOUSING CHARACTERISTICS. *Decennial Census, Profile of General Population and Housing Characteristics, Table DP1.*

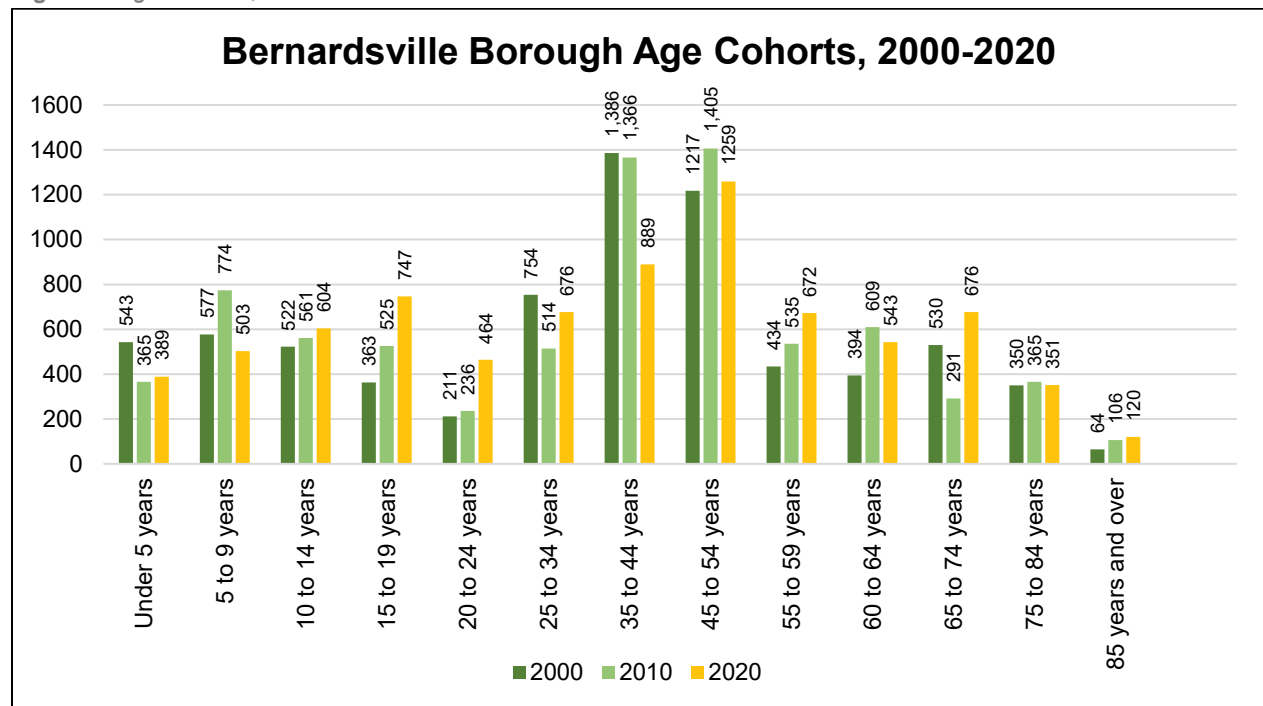
## Age

The age cohort distribution for Bernardsville Borough from 2000 to 2020 reveals several key demographic shifts that provide insights applicable to broader regional communities like Raritan Township. Over this 20-year period, there has been a notable aging of the population. The 45 to 54 age cohort remained the largest group in 2020, following relatively consistent growth from 1,217 in 2000 to 1,239 in 2020, highlighting a sustained concentration of middle-aged residents. In contrast, younger adult groups such as the 25 to 34 age cohorts remained relatively low and showed only modest fluctuations, suggesting limited in-migration of younger residents or young families.

There was also growth in the 55 to 64 and 65 to 74 age ranges, reflecting the aging of existing residents and potentially signaling the increase in aging-in-place trends. Meanwhile, youth cohorts over the age of 9 years old showed increases, while under 9 years old remained steady or declined. The oldest cohorts, 75 and over also showed incremental increases, further underscoring the aging population trend.

These trends suggest that municipalities like Bernardsville should prepare for a continued aging demographic, with a growing need for senior services, age-friendly infrastructure, and housing suited for older adults. Simultaneously, strategies to attract and retain younger populations, such as offering diverse housing options, enhancing community amenities, and supporting family-oriented services may be essential to sustained long-term population vitality and intergenerational balance.

**Figure 2. Age Cohorts, 2000-2020**



**Sources:**

U.S. Census Bureau. (2000). PROFILE OF GENERAL POPULATION AND HOUSING CHARACTERISTICS. *Decennial Census, DEC Demographic Profile, Table DP1.*

U.S. Census Bureau. (2010). DEMOGRAPHIC AND HOUSING ESTIMATES. *American Community Survey, ACS 5-Year Estimates Data Profile, DP05.*

U.S. Census Bureau. (2020). PROFILE OF GENERAL POPULATION AND HOUSING CHARACTERISTICS. *Decennial Census, DEC Demographic Profile, Table DP1.*

### Households

Between 2000 and 2020, Bernardsville Borough experienced modest changes in household size composition, reflecting shifting demographic patterns. The total number of households slightly increased from 2,773 in 2000 to 2,756 in 2020, despite a temporary dip in 2010. Over this period, one-person households steadily declined, both in number and proportion, from 573 (21%) in 2000 to 502 (18.2%) in 2020. Two-person households also saw a modest decline in share, dropping from 33.5% to 29.9% although their total number remained relatively stable.

In contrast, larger households became more prevalent. Three-person households rose slightly from 457 in 2000 to 519 in 2020, with their share increasing from 16.8% to 18.8%. More significantly, four-or-more-person households grew from 780 to 911, increasing their proportion from 18.6% to 33.1%, thus becoming the largest household type in the Borough by 2020. This trend suggests a shift toward larger family structures or multi-generational living arrangements, potentially derived by economic considerations, housing preferences, or cultural factors.

Overall, Bernardsville's household dynamics indicate a gradual move away from small household units toward larger, more consolidated living arrangements. Planning efforts may benefit from focusing on providing housing stock that accommodates family-oriented households, including multi-bedroom units and flexible home layouts, while continuing to support smaller households through diverse housing options that maintain a balance in the community's residential character.

*Table 2. Household Size, 2000-2020*

Household Size	2000	%	2010	%	2020	%
<b>Total Households (Bernardsville)</b>	<b>2,723</b>	<b>100%</b>	<b>2,685</b>	<b>100%</b>	<b>2,756</b>	<b>100%</b>
1-person household	573	21.0%	514	19.1%	502	18.2%
2-person household	913	33.5%	808	30.1%	824	29.9%
3-person household	457	16.8%	454	16.9%	519	18.8%
4-or-more-person household	780	28.6%	909	33.9%	911	33.1%
<b>Total Households (Somerset County)</b>	<b>108,984</b>	<b>100%</b>	<b>117,759</b>	<b>100%</b>	<b>125,598</b>	<b>100%</b>
1-person household	24,868	22.8%	27,398	23.3%	28,346	22.6%
2-person household	33,907	31.1%	34,853	29.6%	37,422	29.8%
3-person household	19,082	17.5%	21,291	18.1%	23,153	18.4%
4-or-more-person household	31,127	28.6%	34,217	29.1%	36,677	29.2%
<b>Total Households (State)</b>	<b>3,064,645</b>	<b>100%</b>	<b>3,214,360</b>	<b>100%</b>	<b>3,426,102</b>	<b>100%</b>
1-person household	751,353	24.5%	811,221	25.2%	876,661	25.6%
2-person household	927,354	30.3%	957,682	29.8%	1,026,368	30.0%
3-person household	531,987	17.4%	558,029	17.4%	592,617	17.3%
4-or-more-person household	853,951	27.9%	887,428	27.6%	930,456	27.2%

Source:

U.S. Census Bureau. (2000). HOUSEHOLD SIZE. *Decennial Census, DEC Summary File 1, Table H016*.

U.S. Census Bureau. (2010). HOUSEHOLD SIZE. *Decennial Census, DEC Summary File 1, Table H13*.

U.S. Census Bureau. (2020). HOUSEHOLD SIZE. *Decennial Census, Demographic and Housing Characteristics, Table H9*.



### Income

Between 1999 and 2020, Bernardsville Borough experienced a substantial increase in household income, alongside a marked shift in income distribution toward higher-income brackets. In 1999, the median household income in Bernardsville was \$104,162. By 2010, it had risen to \$128,333, and by 2020, it reached \$161,655. This upward trend significantly outpaced the state and county medians for the same period, with New Jersey's median household income at \$85,245 in 2020 and Somerset County's at \$115,510.

The percentage of households earning \$200,000 or more increased notably from 26.2% in 1999 to 40.6% in 2020, highlighting a growing concentration of high-income residents. At the same time, the share of households earning less than \$50,000 remained steady or declined, falling from 22.1% in 1999 to just 8.7% in 2020. Mid-range income categories such as \$75,000 to \$99,000 experienced declines in percentage share, suggesting that much of the Borough's economic growth has been concentrated among higher-income groups.

This income stratification points to an increasingly affluent community, which may have implications for housing affordability, socioeconomic diversity, and demand for luxury housing or services. Moving forward, Bernardsville may need to consider strategies that promote inclusive growth, such as supporting mixed-income housing development and ensuring that long-term residents and essential workers can continue to afford to live in the community.

**Table 3. Income in the Past 12 Months, 2000 - 2020**

Household Income	Percent of Households		
	1999	2010	2020
Total Occupied Housing Units	2,722	2,682	2,524
Less than \$10,000	1.0%	1.5%	1.2%
\$10,000 to \$14,999	1.5%	3.5%	3.5%
\$15,000 to \$24,999	6.1%	2.3%	3.1%
\$25,000 to \$34,999	4.6%	3.0%	1.7%
\$35,000 to \$49,999	8.6%	7.0%	2.3%
\$50,000 to \$74,999	14.3%	13.3%	9.7%
\$75,000 to \$99,000	12.2%	10.4%	5.4%
\$100,000 to \$149,999	17.3%	16.7%	17.3%
\$150,000 to \$199,999	8.2%	7.0%	15.1%
\$200,000 or more	26.2%	35.3%	40.6%
<b>Bernardsville Median Household Income</b>	<b>\$104,162</b>	<b>\$128,333</b>	<b>\$161,655</b>
Somerset County Median Household Income	\$76,933	\$94,270	\$116,510
New Jersey Median Household Income	\$55,146	\$67,681	\$85,245

Source:

U.S. Census Bureau. (2000). PROFILE OF SELECTED ECONOMIC CHARACTERISTICS. *Decennial Census*, DEC Summary File 4, Demographic Profile, Table DP3.

U.S. Census Bureau. (2010). INCOME IN THE PAST 12 MONTHS (IN 2010 INFLATION-ADJUSTED DOLLARS). *American Community Survey, ACS 5-Year Estimates Subject Tables*, Table S1901.

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## 2.2 Employment Characteristics

### *Workforce Characteristics*

As of 2020, the employment landscape in Bernardsville Borough demonstrates strong labor force<sup>1</sup> participation and relatively low unemployment. Of the 5,855 residents aged 16 years and older, 4,011 individuals (69%) were in the labor force, all of whom were part of the civilian labor force. Among these, 3,820 individuals were employed, representing 65% of the population aged 16 and over. Only 191 individuals or 3% were unemployed.

Bernardsville unemployment rate stood at 4.8% in 2020, slightly higher than Somerset County's 4.4% but lower than the New Jersey statewide unemployment rate of 5.8%. Meanwhile, 31% of the population aged 16 and older was not in the labor force, which may include retirees, students, or those not seeking employment.

These figures reflect a healthy local economy with high employment engagement and a labor force participation rate that aligns with regional patterns. The relatively low unemployment rate, particularly in comparison to the state average, suggests that Bernardsville residents have strong access to job opportunities, likely bolstered by the Borough's affluence and proximity to employment centers. Future planning in Bernardsville may focus on supporting workforce development, expanding access to local employment options, and ensuring that non-participating residents, such as older adults or caregivers have access to community support services.

*Table 4. Employment Status, 2020*

Employment Status	Estimate	%
Population 16 years and older	5,855	
In labor force	4,011	69.0%
Civilian labor force	4,011	69.0%
Employed	3,820	65.0%
Unemployed	191	3.0%
Armed Forces	0	0.0%
Not in labor force	1,844	31.0%
Unemployment rate (Bernardsville)	4.8%	
Unemployment rate (Somerset County)	4.4%	
Unemployment rate (State)	5.8%	

Source:

U.S. Census Bureau. (2020). SELECTED ECONOMIC CHARACTERISTICS. *American Community Survey, ACS 5-Year Estimates Data Profiles, Table DP03.*

### *Commuting Characteristics*

In 2020, commuting patterns in Bernardsville Borough reflect a predominantly car-dependent workforce with limited use of alternative transportation modes. Among the 3,788 employed residents aged 16 and over, 3,246 did not work from home. Of those commuters, 74.5% used a car, truck, or van to get to work, with a significant majority (71.8%) driving alone and only 2.7% carpooling. Public transportation was used by 4.9% of commuters, while 6.4% walked to work. Notably, no respondents reported commuting by bicycle, taxicab, or motorcycle, indicating minimal use of non-traditional modes of travel.

<sup>1</sup> According to the United States Census Bureau Glossary, "The labor force includes all people classified in the civilian labor force, plus members of the U.S. Armed Forces (people on active duty with the United States Army, Air Force, Navy, Marine Corps, or Coast Guard). The civilian labor force consists of people classified as employed or unemployed."

In terms of workplace location, 90.5% of Bernardsville workers were employed within New Jersey, with 53.3% working within Somerset County. A notable 37.2% worked outside their county of residence, and 9.5% commuted to jobs located outside the State. These figures point to a significant proportion of regional and cross-jurisdictional commuting, potentially to nearby employment hubs.

Travel times were fairly balanced, with the largest share of workers (17.9%) reporting commute durations of 30 to 34 minutes. Shorter commutes under 20 minutes were reported by 31% of the workforce, while 11.4% faced long commutes of 60 minutes or more. The average commute time was 28 minutes.

Overall, Bernardsville's commuting profile illustrates a high level of automobile dependence, moderate regional employment dispersion, and a substantial share of long-distance commuters. These trends suggest potential planning opportunities to expand local employment options, promote carpooling or public transportation use, and support infrastructure for alternative commuting methods to reduce reliance on single-occupancy vehicle travel.

*Table 5. Commuting Characteristics, 2020*

Commuting Characteristics	Estimate
Workers 16 years and over	3,788
Did not work from home	3,246
Means of transportation to work	%
Car, truck, or van	74.5%
Drove alone	71.8%
Carpooled	2.7%
Public transportation (excluding taxicab)	4.9%
Walked	6.4%
Bicycle	0%
Taxicab, motorcycle, or other means	0%
Place of work	%
Worked in state of residence	90.5%
Worked in county of residence	53.3%
Worked outside county of residence	37.2%
Worked outside state of residence	9.5%
Travel time to work	%
Less than 10 minutes	15.4%
10 to 14 minutes	5.3%
15 to 19 minutes	11.1%
20 to 24 minutes	15.1%
25 to 29 minutes	10.7%
30 to 34 minutes	17.9%
35 to 44 minutes	4.7%
45 to 59 minutes	8.5%
60 or more minutes	11.4%
Mean Travel time to work (minutes)	28

Source:

U.S. Census Bureau. (2020). COMMUTING CHARACTERISTICS BY SEX. *American Community Survey, ACS 5-Year Estimates Subject Tables, Table S0801.*

### *Employment by Industry*

The 2020 American Community Survey (ACS) employment data reveal a workforce that was largely dominated by white-collar and service-oriented industries, reflecting the community's affluent and professional character. Of the 3,820 employed residents aged 16 and over, the largest share (22.5%) worked in professional, scientific, and management occupations, including administrative and waste management services. This was followed by retail trade (13.4%) and educational services, health care, and social assistance (12.9%) illustrating a strong presence in both the private commercial and public service sectors.

Other notable industries included finance and insurance, and real estate and rental and leasing (11.6%), as well as manufacturing (8.5%) and construction (7.7%), which together indicate a balanced mix of office-based and hands-on labor sectors. Employment in arts, entertainment, recreation, accommodation, and food services accounted for 6.1% of the workforce, while wholesale trade (5.3%) and other services (6.3%) rounded out the service economy.

Less represented sectors include information (3.8%), transportation and warehousing (1.1%), public administration (0.8%), and agriculture, forestry, fishing, hunting, and mining, which reported no employment among residents. The relatively low representation in public administration and industrial trades reinforces the Borough's identity as a predominantly suburban, professional, and service-driven economy.

These figures suggest that Bernardsville's labor force is primarily engaged in high-skill, knowledge-based occupations, with a supportive mix of retail and community services. This employment composition supports continued demand for high-quality infrastructure, education, and business services, and may guide future planning initiatives aimed at sustaining local economic vitality and diversifying employment opportunities.

*Table 6. Industries of Employment, 2020*

Industry	Estimate	%
Civilian employed population 16 years and over	3,820	100%
Professional, scientific, and management, and administrative and waste management services	861	22.5%
Retail trade	511	13.4%
Educational services, and health care and social assistance	493	12.9%
Finance and insurance, and real estate and rental and leasing	443	11.6%
Manufacturing	324	8.5%
Construction	295	7.7%
Other services, except public administration	240	6.3%
Arts, entertainment, and recreation, and accommodation and food services	234	6.1%
Wholesale trade	203	5.3%
Information	145	3.8%
Transportation and warehousing, and utilities	42	1.1%
Public administration	29	0.8%
Agriculture, forestry, fishing and hunting, and mining	0	0.0%

Source:  
U.S. Census Bureau. (2020). SELECTED ECONOMIC CHARACTERISTICS. *American Community Survey, ACS 5-Year Estimates Data Profiles, Table DP03.*

### 3. Housing Characteristics

#### 3.1 Inventory of housing stock

##### *Housing Occupancy and Tenure*

As of 2020, housing occupancy and tenure trends in Bernardsville Borough reflect a predominantly owner-occupied community with a relatively high vacancy rate compared to county and state levels. Out of 2,915 total housing units in the Borough, 2,651 were occupied, resulting in an occupancy rate of 90.9% and a vacancy rate of 9.1%. Of the occupied units, 61.7% were owner-occupied, while 29.2% were renter-occupied. This indicates the although Bernardsville remains majority homeowner-based, rental housing comprises a significant portion of the local housing stock.

Notably, the Borough's rental vacancy rate was 12.6%, which is more than double that of Somerset County (5.9%) and New Jersey (5.7%). The homeowner vacancy rate was 1.9%, also slightly higher than the County (1.2%) and State (1.5%) rates. These elevated vacancy rates, especially among rental units may suggest potential challenges in attracting or retaining renters, possibly due to cost, housing type mismatch, or other local market factors.

Compared to Somerset County and statewide figures, Bernardsville has a slightly lower proportion of owner-occupied housing (61.7% vs. 68.9% countywide) but a higher share of renters. These figures suggest a need for ongoing monitoring of housing market dynamics to ensure alignment with community needs. Future planning considerations may include evaluating rental unit quality and affordability, promoting mixed-income housing options, and exploring strategies to reduce vacancy rates while supporting both ownership and rental opportunities within the Borough.

*Table 7. Housing Occupancy and Tenure, 2020*

Housing Occupancy and Tenure	Estimate	%
<b>Bernardsville</b>		
Total housing units	2,915	100%
<b>Occupied housing units</b>	<b>2,651</b>	<b>90.9%</b>
Owner-occupied	1,800	61.7%
Renter-occupied	851	29.2%
<b>Vacant housing units</b>	<b>264</b>	<b>9.1%</b>
Homeowner vacancy rate	1.9%	
Rental vacancy rate	12.6%	
<b>Somerset County</b>		
Total housing units	131,822	100%
<b>Occupied housing units</b>	<b>125,598</b>	<b>95.3%</b>
Owner-occupied	90,853	68.9%
Renter-occupied	34,745	26.4%
<b>Vacant housing units</b>	<b>6,224</b>	<b>4.7%</b>
Homeowner vacancy rate	1.2%	
Rental vacancy rate	5.9%	
<b>New Jersey</b>		
Total housing units	3,761,229	100%
<b>Occupied housing units</b>	<b>3,426,102</b>	<b>91.1%</b>
Owner-occupied	2,098,500	55.8%
Renter-occupied	1,327,602	35.3%
<b>Vacant housing units</b>	<b>335,127</b>	<b>8.9%</b>
Homeowner vacancy rate	1.5%	
Rental vacancy rate	5.7%	

Source:

U.S. Census Bureau. (2020). PROFILE OF GENERAL POPULATION AND HOUSING CHARACTERISTICS. Decennial Census, DEC Demographic Profile, Table DP1.

### Vacancy Status

As of 2020, housing vacancy trends in Bernardsville Borough reveal a diverse composition of vacant units, with a significant share linked to seasonal and recreational use. Of the 264 total vacant housing units in the Borough accounting for 9.1% of all housing, approximately one-third (33.3%) were classified as “for rent,” indicating an active rental market with potentially slower turnover or affordability barriers.

Nearly an equal share (33%) of units were categorized as being for seasonal, recreational, or occasional use, suggesting that a portion of the Borough’s housing stock functions as second homes or vacation properties.

*Table 8. Vacancy Housing Unit Type, 2020*

Vacancy Status	Count	%
Total vacant units	264	9.1%
For rent	88	33.3%
Rented, not occupied	9	3.4%
For sale only	23	8.7%
Sold, not occupied	25	9.5%
For seasonal, recreational, or occasional use	87	33.0%
Other vacant	32	12.1%

Source:

U.S. Census Bureau. (2020). PROFILE OF GENERAL POPULATION AND HOUSING CHARACTERISTICS. *Decennial Census, DEC Demographic Profile, Table DP1.*

The remaining vacancy types include 9.5% of units that were sold but not yet occupied, 8.7% listed as “for sale only,” and 3.4% rented but not occupied. Another 12.1% were classified as “other vacant,” which may include units under renovation or subject to legal or financial barriers to occupancy. This category includes a variety of situations,<sup>2</sup> as follows:

1. The owner does not want to rent or sell;
2. The owner is elderly and living in a nursing home or with family members;
3. The unit is being held for the settlement of an estate;
4. The unit is being renovated; or
5. The unit is being foreclosed.

These figures reflect a complex local housing market where vacant units serve a range of purposes beyond conventional long-term housing. The high proportion of seasonal and rental vacancies may impact year-round housing availability and community dynamics, especially regarding affordability and access for full-time residents. Strategic planning in Bernardsville may benefit from monitoring seasonal housing trends, enhancing rental market efficiency, and evaluating the underlying factors contributing to prolonged vacancies across multiple categories.

<sup>2</sup> Kresin, M. “Other” Vacant Housing Units: An Analysis from the Current Population Survey/Housing Vacancy Survey.” U.S. Census Bureau, Social, Economic, and Housing Statistics Division. Retrieved from <https://www.census.gov/housing/hvs/files/qtr113/PAA-poster.pdf>

### Units In Structure

The housing stock in Bernardsville Borough is primarily composed of single-family detached homes, reflecting the community's suburban and low-density residential character. Out of the 2,691 total housing units, 2,269 (84.3%) are detached single-family dwellings. In comparison, attached single-family homes make up only 4.8%, and two-unit structures account for 4.3%, indicating limited supply of small-scale multi-family housing options.

Higher-density housing types were even less represented with just 1.2% of units were in buildings with 3 or 4 units, 0.7% in 5-to-9-unit buildings, 1.7% in 10-to-19-unit buildings, and 2.9% in buildings with 20 or more units. Notably, there were no mobile homes, RVs, boats, or similar forms of non-traditional housing reported in the Borough.

These figures reflect a housing landscape that is heavily skewed toward larger, detached residences, with minimal representation of multi-family or alternative housing types. This limited housing diversity may constrain affordability and accessibility for a wider range of household types, including young professionals, smaller families, and seniors. Future planning in Bernardsville may benefit from strategies that encourage a broader mix of housing typologies to support a more inclusive and adaptable residential community.

### Year Structure Built

The Borough's housing stock is characterized by a significant share of older homes, with the majority of units constructed prior to 1980. Of the 2,691 total housing units, 711 (26.4%) were built in 1939 or earlier, representing the largest single category. Another 389 units (14.5%) were constructed between 1950 and 1959, while 482 homes (17.9%) date from 1960 to 1969. Combined, these figures indicate that nearly 60% of Bernardsville's housing was built prior to 1980.

Newer housing development has occurred at a much slower pace. Only 2% of the units (53 homes) were built in 2014 or later, and there was no reported housing construction between 2010 and 2013. Housing growth between 1980 and 2009 was moderate, with the highest output during the 1980s, when 345 units (12.8%) were built.

This distribution points to a mature housing stock with limited recent construction activity. The aging nature of the homes may present future challenges related to maintenance, energy efficiency, and modernization. As Bernardsville looks ahead, planning efforts may need to focus on housing rehabilitation, historic preservation, and targeted infill development to ensure long-term housing quality and availability within the community.

**Table 9. Units In Structure, 2020**

Units In Structure	Estimate	%
Total housing units	2,691	100%
1-unit, detached	2,269	84.3%
1-unit, attached	130	4.8%
2-units	116	4.3%
3 or 4 units	33	1.2%
5 to 9 units	19	0.7%
10 to 19 units	47	1.7%
20 or more	77	2.9%
Mobile home	0	0.0%
Boat, RV, van, etc.	0	0.0%

Source:

U.S. Census Bureau. (2020). SELECTED HOUSING CHARACTERISTICS. American Community Survey, ACS 5-Year Estimates Data Profiles, Table DP04.

**Table 10. Age/Year Structure Built**

Year Structure Built	Estimate	%
Total	2,691	100%
Built 2014 or later	53	2.0%
Built 2010 to 2013	0	0.0%
Built 2000 to 2009	125	4.6%
Built 1990 to 1999	218	8.1%
Built 1980 to 1989	345	12.8%
Built 1970 to 1979	121	4.5%
Built 1960 to 1969	482	17.9%
Built 1950 to 1959	389	14.5%
Built 1940 to 1949	247	9.2%
Built 1939 or earlier	711	26.4%

Source:

U.S. Census Bureau. (2020). SELECTED HOUSING CHARACTERISTICS. American Community Survey, ACS 5-Year Estimates Data Profiles, Table DP04.



### 3.2 Costs and Value

There are numerous methods by which to view the value of Bernardsville's housing stock. The ACS provided counts for the following items: Selected Monthly Owner Costs (SMOC), the values of owner-occupied and renter-occupied units, and mortgage characteristics.

#### *Selected Monthly Owner Costs*

Housing cost data for Bernardsville Borough in 2020 indicates a significantly higher cost burden for homeowners compared to Somerset County and the State overall, particularly among households with mortgages. Of the 1,559 owner-occupied housing units in the Borough with a mortgage, nearly 70% (1,089 households) paid \$3,000 or more in monthly ownership costs. This sharply contrasts with the countywide figure of 42.8% and the statewide figure of 32.3%. In fact, the median monthly owner cost for mortgaged homes in Bernardsville was \$3,441, which was substantially higher than the county median of \$2,795 and the state median of \$2,476.

Among homeowners without a mortgage (639 units), the trend of elevated housing costs persists. Approximately 86.9% paid \$1,000 or more per month in housing-related expenses, far surpassing Somerset County (70%) and the State (55.8%). The median monthly costs for these owners were \$1,352 in the Borough, again exceeding the county median of \$1,194 and the statewide median of \$1,062.

These figures underscore the high cost of homeownership in Bernardsville, reflecting both the Borough's affluent character and its limited stock of lower-cost housing. The prevalence of high monthly housing costs may impact affordability, especially for first-time buyers and households on fixed or moderate incomes. Going forward, planning efforts should consider opportunities to diversify housing options and improve affordability to ensure long-term accessibility and socioeconomic balance within the community.

*Table 11. Selected Monthly Owner Costs (SMOC), 2020*

SMOC	Count (Borough)	%	Count (County)	%	Count (State)	%
Housing units with a mortgage	1,559	100%	60,417	100%	1,382,654	100%
Less than \$500	0	0.0%	50	0.1%	2,772	0.2%
\$500 to \$999	28	1.8%	792	1.3%	34,504	2.5%
\$1,000 to \$1,499	42	2.7%	3,636	6.0%	138,116	10.0%
\$1,500 to \$1,999	0	0.0%	8,078	13.4%	253,824	18.4%
\$2,000 to \$2,499	172	11.0%	11,348	18.8%	275,392	19.9%
\$2,500 to \$2,999	228	14.6%	10,678	17.7%	231,946	16.8%
\$3,000 or more	1,089	69.9%	25,835	42.8%	446,100	32.3%
<b>Median</b>	<b>\$3,441</b>		<b>\$2,795</b>		<b>\$2,476</b>	
Housing units without a mortgage	639	100%	30,249	100%	711,773	100%
Less than \$250	0	0.0%	355	1.2%	14,747	2.1%
\$250 to \$399	0	0.0%	354	1.2%	18,836	2.6%
\$400 to \$599	28	4.4%	995	3.3%	48,655	6.8%
\$600 to \$799	12	1.9%	1,871	6.2%	96,262	13.5%
\$800 to \$999	44	6.9%	5,513	18.2%	136,283	19.1%
\$1,000 or more	555	86.9%	21,161	70.0%	396,990	55.8%
<b>Median</b>	<b>\$1,352</b>		<b>\$1,194</b>		<b>\$1,062</b>	

Source:

U.S. Census Bureau. (2020). SELECTED HOUSING CHARACTERISTICS. *American Community Survey, ACS 5-Year Estimates Data Profiles, Table DP04.*



### Value

According to the 2020 ACS data, housing values and rental costs in Bernardsville reflect a high-cost housing market dominated by upper-tier homeownership and premium rental rates. Among the 2,198 owner-occupied units in 2020, more than half (53.1%) were valued between \$500,000 and \$999,999 where an additional 18.8% were valued at \$1,000,000 or more. Only a small share of homes (5.5%) was valued under \$300,000, with no reported units valued between \$150,000 and \$199,999. The median home value in Bernardsville was \$655,300, underscoring the community's status as one of the more affluent areas in the region.

Rental housing costs also trend high. Of the 326 occupied rental units, the majority (55.5%) had monthly rents between \$1,500 and \$1,999 and another 15.3% exceeded \$3,000 per month. Just 4.6% of renters paid less than \$1,000 and no units were reported in the \$2,000 to \$2,499 range. The median gross rents were \$1,721, reflecting limited affordability in the local rental market.

These figures illustrate a housing market primarily composed of high-value ownership opportunities and costly rental units, with very limited availability of lower-priced options. This affordability gap may restrict access for moderate-income households, young professionals, or seniors looking to downsize. Future planning in Bernardsville may benefit from promoting diverse housing options at varying price points to ensure broader accessibility and long-term community inclusivity.

**Table 12. Value of Occupied Units, 2020**

Value of Occupied Units	Estimate	%
Owner-occupied units	2,198	100%
Less than \$50,000	0	0.0%
\$50,000 to \$99,000	28	1.3%
\$100,000 to \$149,999	14	0.6%
\$150,000 to \$199,999	0	0.0%
\$200,00 to \$299,999	80	3.6%
\$300,000 to \$499,999	495	22.5%
\$500,000 to \$999,999	1,168	53.1%
\$1,000,000 or more	413	18.8%
<b>Median</b>	<b>\$655,300</b>	
Occupied Units Paying Rent	326	100%
Less than \$500	0	0.0%
\$500 to \$999	15	4.6%
\$1,000 to \$1,499	68	20.9%
\$1,500 to \$1,999	181	55.5%
\$2,000 to \$2,499	0	0.0%
\$2,500 to \$2,999	12	3.7%
\$3,000 or more	50	15.3%
<b>Median</b>	<b>\$1,721</b>	

Source:

U.S. Census Bureau. (2020). SELECTED HOUSING CHARACTERISTICS.

American Community Survey, ACS 5-Year Estimates Data Profiles, Table DP04.

### 3.3 Housing Units Capable of Being Rehabilitated

The condition of the housing stock in the Borough is notably high, with no reported occupied housing units in 2020 lacking basic facilities or services. According to the ACS data, all 2,524 occupied units in the Borough had complete plumbing and kitchen facilities, and all had telephone service available. This reflects a strong standard of residential quality and suggests minimal immediate need for structural rehabilitation related to core habitability components.

In contrast, Somerset County as a whole reported modest deficiencies in housing infrastructure. Of the 119,721 occupied units countywide, 266 (0.2%) lacked completed plumbing, 634 (0.5%) were without complete kitchen facilities, and 1,153 (1%) had no telephone service available. While these percentages are low, they underscore that Bernardsville's housing conditions are notably superior in comparison, with no households experiencing these basic deficiencies.

This high level of housing adequacy in Bernardsville supports the Borough's image as a well-maintained and affluent residential community. While ongoing maintenance and modernization of the aging housing stock may still be necessary, particularly in homes built prior to 1980, the absence of foundational facility issues suggests that housing rehabilitation needs are minimal at present. Planning efforts can instead focus on enhancing housing variety and affordability rather than addressing widespread structural inadequacies.

*Table 13. Housing In Need of Rehabilitation, 2020*

Facilities	Estimate	%
<b>Bernardsville</b>		
Occupied housing units	2,524	100%
Lacking complete plumbing facilities	0	0.0%
Lacking complete kitchen facilities	0	0.0%
No telephone service available	0	0.0%
<b>Somerset County</b>		
Occupied housing units	119,721	100%
Lacking complete plumbing facilities	266	0.2%
Lacking complete kitchen facilities	634	0.5%
No telephone service available	1,153	1.0%

Source:

U.S. Census Bureau. (2020). SELECTED HOUSING CHARACTERISTICS.  
American Community Survey, ACS 5-Year Estimates Data Profiles, Table DP04.

### 3.4 Projection of Housing Stock

#### *Housing Units Certified*

Between 2004 and September 2024, residential development in Bernardsville Borough has remained relatively modest, with a total of 134 housing units certified over the 21-year period. The majority of new development consisted of 1- and 2-family homes, accounting for 112 units, or approximately 84% of the total. Only 19 multi-family units and three (3) mixed-use units were certified during this time, underscoring a limited diversification of housing types.

Housing production varied year to year, with occasional peaks such as in 2008 (17 units) and 2020 (18 units), but most years saw very low activity, often fewer than five (5) units. From 2012 through 2023, annual totals remained minimal, typically ranging between one (1) and six (6) units. The highest annual total occurred in 2020, which included a notable uptick in multi-family development with 16 certified units.

The data reveals a sustained pattern of slow residential growth increasing after 2020. This trend aligns with the Borough's historically suburban character; however, more multifamily

development is expected going forward. Bernardsville's zoning has been encouraging a greater mix of housing types, including multi-family and mixed-use development to support a more inclusive and adaptable housing stock.

#### *Planning Board & Zoning Board of Adjustment Approvals*

Since 2021, the Zoning Board of Adjustment did not approve any new affordable housing development, but heard numerous applications for accessory structures related to existing single-family dwellings. Additionally, there was one (1) three-lot subdivision that involved two existing two-family dwellings and one new single-family dwelling.

The Borough Planning Board saw numerous development applications since 2021. Several of these approved developments include the construction of affordable units in three different inclusionary zones: the AH-3, AH-6, and AH-7 districts. These developments provide for a total of 60 affordable units. Additionally, there are several developments that included the construction of market-rate units ranging from apartments to single-family dwellings.

*Table 14. Housing Units Certified, 2004 - 2024*

	1&2 Family	Multi	Mixed-use	Total
2004	7	0	2	9
2005	8	0	0	8
2006	8	0	0	8
2007	6	0	0	6
2008	17	0	0	17
2009	5	0	0	5
2010	5	0	0	5
2011	3	0	0	3
2012	2	0	0	2
2013	6	0	0	6
2014	8	0	0	8
2015	8	0	1	9
2016	7	0	0	7
2017	3	0	0	3
2018	2	0	0	2
2019	1	0	0	1
2020	2	16	0	18
2021	3	3	0	6
2022	2	0	0	2
2023	1	0	0	1
Sept 2024 YTD	8	0	0	8
<b>Total</b>	<b>112</b>	<b>19</b>	<b>3</b>	<b>134</b>

Source:  
New Jersey Department of Community Affairs, *Housing Units Certified, 2000 - 2024*

*Lands Available for New Construction and Redevelopment*

The potential for large-scale new development in the Borough is restricted by a lack of developable land due to the most of the Borough already being built out. Therefore, due to Bernardsville largely built-out nature, Borough efforts should be focused on identifying key opportunities for Redevelopment Area Designations.

The Borough should also continue to support the rehabilitation of the existing housing stock for affordable housing opportunities through funding sources such as participating in New Jersey's Small Cities Community Development Block Grant (CDBG) program. The CDBG program is a federally funded initiative administered by the New Jersey DCA. It is part of the broader U.S. Department of Housing and Urban Development (HUD) CDBG program, which provides annual grants to states, cities, and counties to support a wide range of community development needs.

Looking at historic trends combined with the limited availability of developable land in the Borough, it is unlikely that there will be any large increases in the number of new housing units within Bernardsville, and most new housing units will be created under the redevelopment of existing sites.

*Residential Zones*

The development of future housing stock is influenced by many factors, including availability of necessary infrastructure, such as sewer and water, zoning regulations, and environmental resource constraints.

*Single Family Residence Districts (R-1, R-1A, R-2, R-3, R-4, R-5, R-8)*

The purpose of these zone districts is to encourage single-family dwellings and customarily incidental structures. These zones are primarily built-out or undeveloped, forested land and located in the central area of the Borough, outside of the downtown area. The R-1 Zone District accounts for the majority of residentially-zoned lands. In the R-8 zone only, single-family attached residential units are defined as, "...a dwelling accommodation within a building containing more than one but not more than six (6) single family dwelling units."

*Multifamily Housing Districts (R-10A and R-10B)*

The R-10A Zone is situated in two clusters: the first, along Pine Street and Bernards Avenue, is developed with the Pine Ridge Townhouses. The second cluster is located along Mine Brook Road and is undeveloped. The R-10B Zone is located along Fox Hollow Trail and is developed with single-family homes and townhomes.

*Downtown Districts (D, D-C, D-Co, D-CI, D-G)*

The downtown districts are intended to implement the recommendations of the Borough of Bernardsville's 2000 Comprehensive Master Plan Downtown Plan, 2019 Master Plan Reexamination Report, and 2019 Land Use Plan Element. Specifically, the intent of this district is to:

- A. Promote the Downtown as the commercial and civic center of Bernardsville in a cohesive manner;
- B. Enhance the physical characteristics of the Downtown through sign, facade, and streetscape improvements;

- C. Encourage architectural design that is consistent with the historical character of Bernardsville;
- D. Create a pedestrian-friendly atmosphere in the Downtown; and
- E. Provide sufficient parking in the Downtown.

Residential permitted uses include:

- A. Residential multi-family (including within a mixed-use building); and
- B. Residential townhouses.

The downtown districts are located along Route 202, Anderson Hill Road, and Clarmont Road. These areas are generally built-out and contain a variety of commercial and residential uses.

#### *R-1-10 Residence District*

This zone permits single-family residences in addition to several non-residential conditional uses including professional uses and public utilities. The vast majority of northern Bernardsville falls within this zone. This zone permits detached accessory dwelling units as a conditional use.

#### *R-3A Residence Overlay District*

Though designed primarily for single-family residences, this overlay zone also permits two-family residences which are designed solely for affordable housing. This zone is located south of Route 202 in the southeasternmost portion of the Borough along Washington Avenue, between the intersections of Tysley Street and Morristown Road/Route 202.

#### *Affordable Housing Overlays (AHO-3, AHO-4)*

Both the AHO-3 and AHO-4 primarily promote affordable, multi-family rental dwellings. The AHO-3 Zone requires mixed uses, specifically, commercial uses at the ground level and includes Block 71, Lots 4, 5, 5.01 and 6-11 fronting on Quimby Lane. The AHO-4 Zone permits townhomes and apartment buildings and includes Block 100, Lots 2 and 2.23-2.49 and Block 145, Lots 1 and 2 (the Quarry Site). The AHO-3 permits 32 du/acre and the AHO-4 permits 14 du/acre.

#### *Affordable Housing Districts (AH-1, AH-2, AH-3, AH-4, AH-5, AH-6, AH-7)*

The primary intended use of these affordable housing districts is to provide for multi-family affordable units in the form of townhomes and apartments. These sites are located throughout the southeastern area of the Borough. AH-1 is located on Childs Road; AH-2 is located on North Finley Avenue; AH-5 is located on Pine Street; there are several sites (AH-3, AH-4, and AH-6) that are located along Route 202; and AH-7 is located at the corner of Grove Street and Bernards Avenue.

*Multigenerational Housing*

P.L. 2021, c. 273 established the Multigenerational Family Housing Continuity Commission (the Commission) and assigned the Commission the responsibility of preparing and adopting, "...recommendations on how State government, local government, community organizations, private entities, and community members may most effectively advance the goal of enabling senior citizens to reside at the homes of their extended families, thereby preserving and enhancing multigenerational family continuity, through the modification of State and local laws and policies in the areas of housing, land use planning, parking and streetscape planning, and other relevant areas" (N.J.S.A. 52:27D-329.20f[1]). Municipalities are now required to provide an analysis of the extent to which local ordinances advance or detract from these recommendations. At the time this Housing Element and Fair Share Plan is being prepared, no such recommendations have been published by the Commission. However, the Borough has recently incorporated Ordinance Number 2023-1981, which permits accessory dwelling units in the R-1 and R-1-10 zones.

## 4. Fair Share Plan

### 4.1 Introduction

This Fair Share Plan will describe specific projects, programs, strategies, and funding sources to meet the Borough's affordable housing obligation, while also complying with the Fair Housing Act, relevant affordable housing regulations and Directive #14-24. The overarching goal of this Plan is to provide a framework for the Borough of Bernardsville to take affirmative steps towards providing a realistic opportunity to achieve its fair share of the present and prospective regional need for low and moderate-income housing.

### 4.2 Determination of Housing Need

#### *Prior Round Obligation (1987-1999)*

The Prior Round encompasses the First and Second Rounds of affordable housing. The Borough's Prior Round obligation was 127 units; this obligation was met through a Regional Contribution Agreement (77 credits), Prior Cycle Credits (9 credits), and developments at Pine Ridge (26 credits) and Rolling Hills at Bernardsville (15 credits). The Borough received First Round Certification on October 17, 1988 and Second Round Certification on December 6, 1995.

#### **Prior Cycle Credits**

20% Substantial Compliance was granted by COAH on December 6, 1995.

#### **Regional Contribution Agreements (RCA) – 77 Credits**

*New Brunswick RCA – 41 Credits*

*Perth Amboy RCA – 36 Credits*

The New Brunswick RCA was approved on October 17, 1988 and the Perth Amboy RCA was approved on November 1, 1995.

#### **Pine Ridge Condo Units – 26 Units**

*Pine Street*

These low and moderate family for-sale condo units were constructed in 1995-1996 with 30-year affordability controls. The development includes 26 affordable townhouses consisting of two- and three- bedroom units.

#### **Rolling Hills at Bernardsville (Bernards Avenue & Pine Street)– 15 units**

*Block 125, Lots 27.31 through 27.45 (Fox Hollow Trail)*

These low- and moderate family for-sale condo units were completed in 1997-1998 with 30-year affordability controls. The development includes 15 affordable condo units.

Table 15. Housing Units Certified, 2004 - 2024

Prior Round Obligation – 127 Units				
Mechanism	Description	Units	Bonus Credits	Total Credits
Prior Cycle (20% Substantial Compliance Granted December 6, 1995 by COAH)			9	9
Regional Contribution Agreement (RCA)		77		77
100% Affordable Family for Sale	Pine Ridge Condo Units	26		26
100% Affordable Family for Sale	Rolling Hills at Bernardsville (Bernards Ave & Pine Street)	15		15
Total		127	9	127
Maximum Senior Obligation	25%	31		0
Minimum Rental Obligation	25%	9*		9*
Prior Round Total		127	9	127

\* COAH permitted a reduction in required rentals for the Prior Round obligation.



*Third Round Obligation (1999-June 2025)*

The Borough had a Third Round prospective need obligation of 215 units. This obligation was met through the various mechanisms set forth below. The Borough also had a Third Round rehabilitation need of 15 credits. The Borough implemented a Home Improvement Program and participates in the Somerset County Rehabilitation Program.

**Raritan Valley Habitat for Humanity 100% Affordable – 4 Units**

*Block 80, Lots 62.01 through 62.04 (Mine Brook Road)*

Raritan Valley Habitat for Humanity constructed four affordable townhouses, which are family for sale units. They were completed in 2007.

**Conti Site Group Home– 4 Units**

*Block 68, Lot 9 & Block 37, Lot 18.01 (88 & 108 Claremont Road)*

The property is 3.51 acres and was developed with a four-bedroom group home that provides four (4) supportive/special needs units.

**North Finley Avenue 100% Affordable Condos – 2 Units.**

*Block 140, Lot 9 (N. Finley Avenue)*

This site is a 100% affordable family for sale development with two (2) units located on N. Finley Avenue.

**210 North Finley Avenue 100% Affordable Age-Restricted – 46 Units.**

*Block 125, Lot 25*

This site is a 100% affordable age-restricted rental project being completed by RPM Development Group. This project is being funded through Low Income Housing Tax Credits and the Borough. The proposal includes 46 age-restricted units and one (1) apartment manager unit.

**Extension of Expiring Controls – Pine Ridge Condos and Rolling Hills Condos**

*Various Blocks and Lots*

The Pine Ridge Condo units include 26 family for sale units that were generally constructed in 1995-1996 with 30-year affordability controls that were set to expire in 2025 and 2026. Three (3) of the units were extended in the Third Round. The Rolling Hills at Bernardsville Condo units include 15 family for sale units that were generally completed in 1995-1998 with 30-year affordability controls that were set to expire in 2025-2028. Three (3) units were extended in the Third Round. A total of six (6) credits for extensions of expiring controls were applied to the Third Round.

**Scattered Site 100% Affordable – 59 Units**

The scattered site 100% affordable project is being constructed by RPM Development Group using Low Income Housing Tax Credits and funding from the Borough. The projects are funded and have preliminary approvals.

***Mine Brook Road – 25 Units***

*Block 80, Lot 15.38 (Mine Brook Road)*

This is a 100% affordable housing development with 25 family rental units consisting of four (4) one-bedroom units; 13 two-bedroom units and eight (8) three-bedroom units. This project includes one (1) market rate unit for an apartment manager.

**Mt. Airy Development -12 Units***Block 124, Lot 1 (18 Mt. Airy Road)*

This is a 100% affordable housing development consisting of 12 family rental units with seven (7) two-bedroom units and five (5) three-bedroom units.

**63 Bernards Development – 22 units***Block 102, Lot 12 (Bernards Avenue)*

This is a 100% affordable housing development with 22 family rental units consisting of six (6) one-bedroom units, 13 two-bedroom units and three (3) three-bedroom units.

**Quimby Lane Redevelopment Inclusionary Zone- 13 Units***Block 71, Lots 4, 5, 5.01, 6-11 (Quimby Lane)*

The site is a designated redevelopment area with a redevelopment plan approved for inclusionary family rental units. Development of the area would result in up to 13 affordable family rentals.

**Quarry Site Inclusionary Zone– 51 Units (34 Units applied to the Third Round)***Block 100, Lots 2, 2.23-2.49; Block 145 Lots 1 & 2 (Old Quarry Road & Rip Rap Road)*

This site is 69.2 acres and is currently zoned as an Affordable Housing Overlay District. There are 31 properties within this zone. The AHO zone could yield up to 51 affordable units, with 28 units applied to the Third Round and 23 units applied to the Fourth Round. This zone was durationally adjusted in the Third Round as it outside the sewer service area. The Borough proposes to continue the durational adjustment for the zone.

Table 16. Third Round (1999-2025)

Third Round Obligation 215 Units				
Mechanism	Type	Units	Bonus Credits	Total Credits
<b>Completed/Scattered Sites</b>				
100% Affordable Family for Sale	Habitat for Humanity Mine Brook Road	4		<b>4</b>
100% Affordable – Family for Sale	N. Finley Condos	2		<b>2</b>
100% Affordable Group Home - Rental	Conti Site	4	4	<b>8</b>
100% Affordable – Scattered Site – Family Rental	63 Bernards Dev. Mine Brook Dev. Mt. Airy Dev.	59	49	<b>108</b>
Extension of Expiring Controls	Pine Ridge / Rolling Hills Condo Units	6		<b>6</b>
100% Affordable – Age Restricted Rental	210 N. Finley	46		<b>46</b>
Inclusionary Zone – Family Rental	Quimby Lane Dev. Quimby Lane Redevelopment	13		<b>13</b>
Inclusionary Zone – Family Rental	Quarry Site	28*		<b>28</b>
<b>Total Completed &amp; Proposed Round 3</b>		<b>162</b>	<b>53</b>	<b>215</b>
<b>Minimum Family Units 50% (107)</b>		<b>161</b>		
<b>Age-Restricted Max 25% (53)</b>		<b>46</b>		
<b>Minimum Rental 25% (54)</b>		<b>203</b>		
<b>Minimum Family Rental 50% of Rental (27)</b>		<b>149</b>		
<b>Maximum Bonus 25% (53)</b>		<b>53</b>		
<b>Third Round Total</b>		<b>162</b>	<b>53</b>	<b>215</b>

\* 51 Units Total – 28 Apply to 3<sup>rd</sup> Round / 23 Apply to 4<sup>th</sup> Round

## Fourth Round Obligation (July 2025-2035)

On October 18, 2024, NJDCA published local and regional affordable housing obligations pursuant to P.L.2024, c.2. proposing that Bernardsville Borough has a Fourth Round present need, or rehabilitation, obligation of **zero (0) units** and a prospective need of **113 units**. On January 27, 2025, the Borough Council adopted Resolution #25-30 accepting the obligations as proposed by NJDCA. Pursuant to the Amended FHA, and given that there were no challenges by interested parties to the adopted number, the above obligations were established by default on March 1, 2025.

### 4.3 Proposed Mechanisms

#### *Inclusionary Zoning – Quarry Site/AHO-8*

##### *Block 100, Lots 2 2 and 2.23 through 2.49; Block 145, Lots 1 and 2*

This site is 69.2 acres and is currently zoned as an Affordable Housing Overlay District (AHO-8). There are 31 properties within this zone. The AHO-8 zone could yield up to 51 affordable units, with 28 units applied to the Third Round and **23 units applied to the Fourth Round**. This zone was durationally adjusted in the Third Round as it outside the sewer service area. The Borough proposes to continue the durational adjustment for the zone.

Figure 3. Quarry Site/AHO-8



*Inclusionary Zoning – 65 Claremont Road**Block 69, Lots 1, 2, 3, and 4*

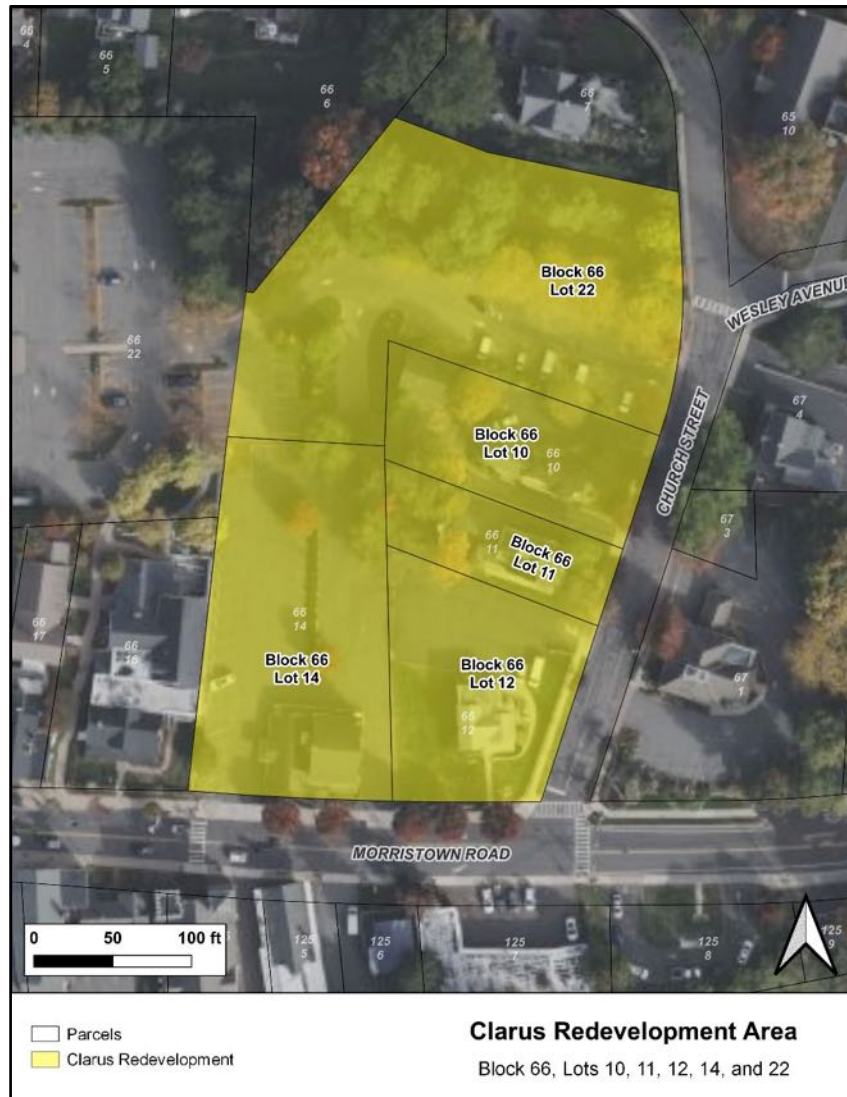
This site is 0.88 acres in total. The proposed zone would permit multi-family development at a density of 32 du/ac. The zone has the potential to yield up to 28 apartments with a 20% set-aside for **six (6) affordable units**.

*Figure 4. 65 Claremont Road*



*Clarus Redevelopment Area**Block 66, Lots 10, 11, 12, 14 and a portion of Lot 22*

The Borough will seek to designate the area shown below as an Area in Need of Redevelopment. The Borough anticipates a Redevelopment Plan that would permit approximately 94 units with a 20 percent set-aside, which would provide for **18 age-restricted affordable rental units**. The area is approximately 0.2 miles from the Bernardsville Station, a NJ Transit facility. Pursuant to the Amended FHA, the site would be entitled to an additional one-half credit per affordable unit.

*Figure 5. Clarus Redevelopment Area*

*Inclusionary Zoning – I-2 Light Industrial Overlay Zone**Block 100, Lots 2, 2.01, and 13 (Bernards Avenue)*

This site is 6.14 acres and is currently zoned I-2 Light Industrial Zone. The proposed overlay zone would permit up to 20 du/acre for up to 125 family rental units with a 20% set-aside for affordable units yielding up to **25 affordable units**.

Figure 6. I-2 Light Industrial Overlay Zone



### *Extension of Expiring Controls – Pine Ridge Condos and Rolling Hills Condos Various Blocks and Lots*

The Pine Ridge Condo units include 26 family for sale units that were generally constructed in 1995-1996 with 30-year affordability controls that are set to expire in 2025 and 2026. Three (3) of the units were extended in the Third Round. The Rolling Hills at Bernardsville Condo units include 15 family for sale units that were generally completed in 1995-1998 with 30-year affordability controls that are set to expire in 2025-2028. Three (3) units were extended in the Third Round. A total of 35 units are eligible for extensions. The Borough proposes to pay \$20,000 to homeowners who agree to extend the affordability controls on their unit. The Borough is proposing **13 credits** for extensions of expiring controls in the Fourth Round; however, if funding is available and property owners are agreeable, the Borough will extend up to 35 units.

### *Fourth Round Summary Table*

Table 17. Fourth Round Mechanisms

Obligation 113				
Mechanism	Description	Units	Bonus Credits	Total Credits
Inclusionary Zone -Family Rental	Quarry Site	23 <sup>A</sup>	8 <sup>B</sup>	31
Extension of Expiring Controls – Family for Sale	Pine Ridge Condos/ Rolling Ridge	13		13
Redevelopment Plan – Senior Rental	Clarus Redevelopment Plan	18	8 <sup>C</sup>	26
Inclusionary Zone – Family Rental	Bernards Ave I-2 Zone Overlay – AHO-8	25	12	37
Inclusionary Zone – Family Rental	65 Claremont Road (Block 69, Lots 1-4)	6		6
<b>Total</b>		<b>85</b>	<b>28</b>	<b>113</b>
<b>Minimum Family Units 50% (57)</b>		87		
<b>Age-Restricted Max 30% (34)</b>		26		
<b>Minimum Rental 25% (29)</b>		88		
<b>Minimum Family Rental 50% of Rental (15)</b>		62		
<b>Maximum Bonus 25% (28)</b>		28		

<sup>A</sup> This project contains 51 units in total; 28 credits apply to the Third Round and 23 units apply to the Fourth Round.

<sup>B</sup> Pursuant to the Amended FHA, redevelopment of former commercial land generates an additional 0.5 credit. As such, the Quarry Site/AHO-8 Overlay Zone yields an additional eight (8) credits.

<sup>C</sup> Pursuant to the Amended FHA, sites within 0.5 miles of a New Jersey Transit location can receive an additional 0.5 credit. The Clarus Redevelopment Area is approximately 0.2 mile from the Bernardsville Station (NJ Transit).



# APPENDICES

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IN THE MATTER OF THE  
 APPLICATION OF THE Borough OF  
 Bernardsville, a municipal corporation of  
 the State of New Jersey,

Plaintiff/Petitioner.

)  
 ) Superior Court of New Jersey  
 ) Law Division: Somerset County  
 )

) Docket No.  
 )

) Civil Action  
 )

) COMPLAINT FOR DECLARATORY  
 ) JUDGMENT (Mt. Laurel)  
 )  


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Plaintiff/Petitioner, the Borough of Bernardsville (hereinafter “Bernardsville Borough”), a  
 municipal corporation of the State of New Jersey having its offices at 166 Mine Brook Road,  
 Bernardsville, New Jersey 07924, by way of Complaint for Declaratory Judgment says:

### **JURISDICTION**

1. Jurisdiction is established pursuant to the *New Jersey Declaratory Judgment Act, N.J.S.A. 2A:16-50, et seq.*

2. Jurisdiction is further established pursuant to the amended *Fair Housing Act* (N.J.S.A. 52:27D-312 (P.L. 2024, c)) and Administrative Directive 14-24 issued by Glenn A. Grant, J.A.D., Acting Administrative Director of the Court on December 18, 2024.

### **BACKGROUND AND PRIOR ROUND OBLIGATIONS**

3. In 1975, the Supreme Court of New Jersey in *South Burlington County N.A.A.C.P. v. Borough of Mount Laurel*, 67 N.J. 151 (1975), ruled that the developing municipalities in the State of New Jersey exercising their zoning power had a constitutional obligation to provide a realistic opportunity for the construction of their fair share of the region's low and moderate income housing needs.
4. In 1983, the Supreme Court refined that constitutional obligation in *South Burlington County N.A.A.C.P. v. Borough of Mount Laurel*, 92 N.J. 158 (1983), to apply to those municipalities having any portion of their boundaries within the growth area as shown on the State Development Guide Plan.
5. In 1985, the New Jersey Legislature adopted, and the Governor signed, the *Fair Housing Act* ("FHA") N.J.S.A. 52:2D-301 et seq. which transformed the judicial doctrine which became known as the "Mount Laurel doctrine" into a statutory one and provided an alternative administrative process in which municipalities could elect to participate in order to establish a Housing Element and Fair Share Plan ("HEFSP") that would satisfy its constitutional obligation by creating an administrative agency known as the Council on Affordable Housing ("COAH") to develop regulations to define the obligation and implement it.

6. COAH proceeded to adopt regulations for first round obligations applicable from 1987 to 1993 and second round obligations that created a cumulative obligation from 1987 to 1999.
7. Bernardsville Borough participated in the COAH process from its inception through 2015 when the process was changed by the New Jersey Supreme Court as discussed below.
8. On October 17, 1988, Bernardsville received substantive certification from COAH for its December 1986 Housing Element & Housing Plan, prepared by Robert J. O’Grady, P.P, A.I.C.P., of Robert Catlin & Associates, and dated December 1986. Bernardsville met its first round affordable housing obligation of 119 units by rehabilitating 37 units, entering into a Regional Contribution Agreement (“RCA”) with the City of New Brunswick for 41 units, requiring the construction of 15 affordable units at a development known as Rolling Hills, and constructing 26 affordable units at a development known as Pine Ridge. Bernardsville Borough achieved 100% completion of its 1988 Housing Element & Fair Share Plan.
9. Bernardsville Borough also participated in COAH’s second round and satisfied its second round obligation of 63 additional affordable housing units by rehabilitating 27 units and entering into a Regional Contribution Agreement (“RCA”) with the City of Perth Amboy for 36 units. Bernardsville also achieved 100% completion of its 1995 Housing Element and Fair Share Plan. During the first and second rounds, Bernardsville Borough satisfied its cumulative affordable housing obligations through the construction of 41 new affordable units in the Borough, the rehabilitation of 55 units and the implementation of RCA’s for 77 units.

10. In response to COAH's failure to adopt regulations that were acceptable to the Court and its subsequent inaction, Fair Share Housing Center ("FSHC") filed a motion with the New Jersey Supreme Court to enforce litigant's rights.
11. On March 10, 2015, the New Jersey Supreme Court issued its decision on FSHC's motion to enforce litigant's rights in *In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing*, 221 N.J.(2015) (the "2015 Case") and found that the COAH administrative process had become non-functioning and, as a result, returned primary jurisdiction over affordable housing matters to the trial courts.
12. In so doing, the Supreme Court established a transitional process for municipalities, like Bernardsville Borough, that participated in the administrative process before COAH to file a declaratory judgment action with the trial courts seeking to declare their HEFSP's as being constitutionally compliant and seeking similar protections to those that the participating municipalities would have received if they had continued to proceed before COAH.
13. While the Supreme Court in the 2015 Case declined to adopt a specific methodology or formula to calculate the third round affordable housing obligations of the municipalities and instead left that determination to the 15 Mount Laurel Judges (one in each vicinage), it did provide some guidance by reiterating its endorsement of the previous methodologies employed in the First and Second Round Rules as the template to establish third round affordable housing obligations, and as abovementioned, by treating

Participating Municipalities filing Declaratory Judgment actions in the same way that the 1985 FHA when originally enacted on July 2, 1985 treated municipalities transitioning from the judicial to the administrative process.

14. During the third round, Bernardsville Borough entered into settlement agreement on November 22, 2017, with Fair Share Housing Center whereby the Borough agreed to an affordable housing obligation of 15 rehabilitation units and 215 prospective needs units. The settlement agreement included the development of thirty (30) units of 100% affordable family units at three "scattered sites" :
15. After conducting a fairness hearing on December 18, 2017 and a compliance hearing on July 2, 2018, the Court entered a Final Judgment of Compliance and Repose at Docket No. SOM-L-925-15 in which the Court found that:
 

“The Borough through the adoption of the 2018 HEFSP and the implementation of that plan and the settlement agreement satisfied its obligations under the Mt. Laurel Doctrine and Fair Housing Act of 1985, N.J.S.A. 53:27D-301, et seq. for the prior rounds (1987-1999) and third round (1999-2025).”
16. The scattered site section of the November 22, 2017 settlement agreement was later amended to include a total of 60 units (59 affordable), an increase of 29 affordable units) on the three sites described in paragraphs 17 - 19 below, two of which were new.
17. On October 13, 2022, the Bernardsville Planning Board granted preliminary site plan approval to RPM Development Group for the construction of the Mine Brook Development (25 affordable units).
18. On January 25, 2024, the Planning Board granted final site plan approval to for the construction of the 63 Bernards Development (22 affordable units).



19. On February 22, 2024, granted final site plan approval to RPM for the construction of the Mt. Airy Development (12 affordable units.
20. On July 1, 2024, Judge Kevin Shanahan entered a Consent Order, which provided in relevant part as follows:
  - a. The Amended Scattered Site Development with a total of 59 affordable housing units is consistent with and shall be deemed a part of the Settlement Agreement and amended Housing Plan Element and Fair Share Plan Element of the Master Plan.
  - b. The change in the Original Scattered Site Development to the Amended Scattered Site Development is consistent with and shall be deemed to be part of the 2018 Final Judgment.
  - c. Other than the post-judgment changes ordered above, the remaining terms and conditions of the Settlement Agreement and 2018 Final Judgment remain unchanged and the 2018 Final Judgment remains in full force and effect.
  - d. The court's approval of the above changes shall be deemed preliminary until the outcome of a Fairness Hearing to be scheduled by the court at a later date (currently scheduled for February 12, 2025).

#### **FOURTH ROUND OBLIGATION**

21. P.L. 2024C, c.2, which was enacted on March 20, 2024, amended *the Fair Housing Act, N.J.S.A. 53:27D-304, et seq.*, abolished COAH and provided that, "Prior to the beginning of each ten-year round of housing obligations beginning with the fourth round on July 1, 2025, the Department of Community Affairs shall conduct a calculation of regional need

and municipal present and prospective obligations in accordance with the formulas established in *[N.J.S.A. 52:27D-304.2 and N.J.S.A. 52:27D-304.3]*. ”

22. On October 18, 2024, the Department of Community Affairs (“DCA”) issued its report in which it calculated Bernardsville Borough’s Round Four (2025-2035) obligations to include a present or rehabilitation obligation of 0 affordable units and a prospective need or new construction need of 113 affordable units.
23. On November 12, 2024, the Administrative Director of the Courts issued directive #14-24 promulgating the procedures and guidelines implementing the Affordable Housing Alternate Dispute Resolution Program created by *P.L. 2024, c. 2*.
24. By resolution adopted January 27, 2025, a certified copy of which is attached hereto as Exhibit “A”, the Bernardsville Borough Council, upon the recommendation of the Borough Planner and the Borough Affordable Housing Advisory Committee, accepted the DCA calculations of Bernardsville Borough’s fair share obligations and committed to its fair share of 0 units present need and 113 units of prospective need, subject to any vacant land and/or durational adjustments the Borough may seek as part of its housing plan element and fair share plan that it will adopt in accordance with *P.L. 2024, c.2*.
25. If no challenges to the Borough’s calculation of its fair share obligation are filed by February 28, 2025, then the Borough’s determination of its obligation will be established by default and will bear a presumption of validity beginning on March 1, 2025.
26. If a timely challenge is filed, the matter will be referred to the Affordable Housing Dispute Resolution Program (the “Program”).

27. If any such challenge is recommended for dismissal by the Program, the case will be sent to the Somerset County Mount Laurel Judge for review and entry of an order on the fair share obligations in conformance with the FHA.
28. Upon entry of an order on its fair share obligations, the Borough will proceed to adopt its Housing Element and Fair Share Plan.
29. After the entry of an order determining its present and fair share obligations, the Borough will file its adopted Housing Element and Fair Share Plan with the Program within 48 hours after adoption, or by June 30, 2025, whichever is sooner.
30. Interested parties may file a challenge to the Borough's Housing Element and Fair Share Plan by August 31, 2025. If a timely challenge is filed, the matter will be referred to the Program in accordance with the Directive. After issuance of the Program's decision, the decision will be referred to the Mt. Laurel judge for entry of an order accepting, rejecting, or accepting/rejecting in part the Program's decision on the Housing Element and Fair Share Plan and Certificate of Compliance. Appeals from the order of the Mt. Laurel judge shall be filed in accordance with the Part II Rules of Court.

## **COUNT ONE**

### **(Declaratory Relief, Constitutional Compliance)**

31. Bernardsville Borough repeats and realleges the allegations set forth in Paragraphs 1 through 30 of this Complaint and makes them a part hereof as though set forth at length herein.

32. Pursuant to the *Declaratory Judgment Act, N.J.S.A. 2A:16-50 et seq.*, and the *Fair Housing Act* as amended by *P.L. 2024, c.2*, Bernardsville Borough has a right to a declaratory judgment verifying and confirming its full compliance with its constitutional affordable housing obligations

WHEREFORE, Plaintiff/Petitioner, Bernardsville Borough respectfully requests that the Court grant the following relief:

- a. An Order exercising jurisdiction over the compliance by Bernardsville Borough with the *Fair Housing Act* as amended by *P.L. 2024, c.2*, and Directive 14-24, and
- b. An Order declaring that Bernardsville Borough's present and prospective affordable housing obligation is 0 units present need and 113 units prospective need, as set forth in the binding resolution adopted by the Borough Council on January 27, 2025, which is attached hereto as Exhibit "A" and which is incorporated herein by reference.
- c. A Certificate of Compliance and Immunity from Exclusionary Zoning Litigation in accordance with the Fair Housing Act as amended by P.L. 2024, c.2 and the Directive. Judgment of Compliance and Repose for a period of ten (10) years from its date of entry.
- d. Granting such further relief as the court may deem proper and just under the circumstances.

**COUNT TWO**

**(Request for Immunity)**

33. Bernardsville Borough repeats and realleges the allegations set forth in Paragraphs 1 through 32 of this Complaint and makes them a part hereof as though set forth at length herein.
34. If the Borough complies with the requirements of the Fair Housing Act as amended by P.L. 2024, c.2 and the Directive, it will have immunity from exclusionary zoning litigation.
35. Since Bernardsville Borough met the deadline for adoption and filing its binding resolution and filing this declaratory judgment action in accordance with the Directive, it is therefore entitled to immunity from exclusionary zoning litigation during the pendency of this matter.
36. Upon the issuance of a Certificate of Compliance, the Borough will be entitled to immunity from exclusionary zoning litigation through the end of the fourth round on June 30, 2035.

WHEREFORE, Plaintiff/Petitioner, Bernardsville Borough respectfully requests that the Court grant the following relief:

- a. An Order granting temporary immunity from third party lawsuits against Bernardsville Borough from the date of the filing of the instant Declaratory Judgment action until this Court issues a Final Judgment of Compliance to the Borough for its HEFSP formulated, adopted and approved in accordance with the

applicable formula and methodology established by the Fair Housing Act, as amended by P.L. 2024, c.2.

- b. Granting such further relief as the court may deem proper and just under the circumstances.

Pidgeon & Pidgeon, P.C.  
Attorneys for Plaintiff/Petitioner  
Borough of Bernardsville

By: John R. Pidgeon  
John R. Pidgeon

Dated: January 29, 2025



**DESIGNATION OF TRIAL COUNSEL**

Pursuant to R. 4:25-4, notice is hereby given that John R. Pidgeon, Esq., Attorney for Plaintiff/Petitioner, Bernardsville Borough is designated as trial counsel in the above captioned matter.

John R. Pidgeon

Dated: January 29, 2025

**CERTIFICATION PURSUANT TO R. 4:5-1**

Pursuant to R. 4:5-1, I hereby certify that the matter in controversy is not the subject matter of any other action pending in any Court or of a pending arbitration or administrative proceeding, and that no other action or arbitration or administrative proceeding is contemplated.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

John R. Pidgeon

Dated: January 29, 2025

## **EXHIBIT A**

**BOROUGH OF BERNARDSVILLE  
RESOLUTION #25-30**

**RESOLUTION COMMITTING TO DCA'S FOURTH ROUND AFFORDABLE  
HOUSING PRESENT NEED AND PROSPECTIVE NEED NUMBERS  
AND AUTHORIZING THE BOROUGH ATTORNEY TO FILE A DECLARATORY  
JUDGMENT ACTION WITH THE SUPERIOR COURT OF NEW JERSEY SEEKING  
A CERTIFICATION OF COMPLIANCE WITH THE FAIR HOUSING ACT**

**WHEREAS**, P.L. 2024, C. 4 enacted on March 20, 2024 amended the Fair Housing Act, N.J.S.A 52:27D-304, et seq.; and

**WHEREAS**, P.L. 2024, C. 4 abolished the Council on Affordable Housing (COAH) and instead provides that:

“Prior to the beginning of each new 10-year round of housing obligations beginning with the fourth round on July 1, 2025, the Department of Community Affairs shall conduct a calculation of regional need and municipal present and prospective obligations in accordance with the formulas established in sections 6 and 7 of P.L.2024, C. 2 (N.J.S.A. 52:27D-304.2 and N.J.S.A. 52:27D-304.3).” 2024 N.J. ALS 2 ; 2024 N.J. Laws 2 ; 2024 N.J. Ch. 2 ; 2024 N.J. A.N. 4 (codified as N.J.S.A. 52:27D-304.1); and

**WHEREAS**, P.L. 2024, C. 4 goes on to provide that:

“With consideration of the calculations contained in the relevant report published by the department pursuant to this section, for each 10-year round of affordable housing obligations beginning with the fourth round, a municipality shall determine its present and prospective fair share obligation for affordable housing in accordance with the formulas established in sections 6 and 7 of P.L.2024, C. 2 (N.J.S.A. 52:27D-304.2 and N.J.S.A. 52:27D-304.3) by resolution, which shall describe the basis for the municipality’s determination and bind the municipality to adopt a housing element and fair share plan pursuant to paragraph (2) of this subsection based on this determination as may be adjusted by the Program as set forth in this subsection.” 2024 N.J. ALS 2 ; 2024 N.J. Laws 2 ; 2024 N.J. Ch. 2 ; 2024 N.J. A.N. 4; and

**WHEREAS**, P.L. 2024, C. 4 further provides that:

“For the fourth round of affordable housing obligations, this determination of present and prospective fair share obligation shall be made by binding resolution no later than January 31, 2025. After adoption of this binding resolution, the municipality shall file an action regarding the resolution with the Program no later than 48 hours following adoption. The resolution, along with the date of filing with the Program, shall be published on the Program’s publicly accessible Internet website. The municipality shall

also publish the resolution on its publicly accessible Internet website, if the municipality maintains one. If the municipality does not meet this deadline, it shall lose immunity from exclusionary zoning litigation until such time as the municipality is determined to have come into compliance with the “Fair Housing Act,” P.L.1985, C. 222 (N.J.S.A. 52:27D-301 et al.) and the Mount Laurel doctrine. A determination of the municipality’s present and prospective obligation may be established before a county-level housing judge as part of any resulting declaratory judgment action pursuant to section 13 of P.L.1985, C. 222 (N.J.S.A. 52:27D-313), as amended by P.L.2024, C. 2 (N.J.S.A. 52:27D-304.1 et al.), or through exclusionary zoning litigation. If the municipality meets this January 31 deadline, then the municipality’s determination of its obligation shall be established by default and shall bear a presumption of validity beginning on March 1, 2025, as the municipality’s obligation for the fourth round, unless challenged by an interested party on or before February 28, 2025. The municipality’s determination of its fair share obligation shall have a presumption of validity, if established in accordance with sections 6 and 7 of P.L.2024, C. 2 (N.J.S.A. 52:27D-304.2 and N.J.S.A. 52:27D-304.3), in any challenge initiated through the Program. An interested party may file a challenge with the Program, after adoption of the binding resolution and prior to March 1, 2025, alleging that the municipality’s determination of its present and prospective obligation does not comply with the requirements of sections 6 and 7 of P.L.2024, C. 2 (N.J.S.A. 52:27D-304.2 and N.J.S.A. 52:27D-304.3). “2024 N.J. ALS 2 ; 2024 N.J. Laws 2 ; 2024 N.J. Ch. 2 ; 2024 N.J. A.N. 4; and

**WHEREAS**, DCA issued a report on October 18, 2024 (“DCA Report”) wherein it reported its estimate of the obligation for all municipalities based upon its interpretation of the standards in P.L. 2024, c.4; and

**WHEREAS**, the DCA Report calculates Bernardsville’s Round 4 (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 0 affordable units and a Prospective Need or New Construction Obligation of 113 affordable units; and

**WHEREAS**, P.L. 2024, c.4 provides that the DCA Report is non-binding, thereby inviting municipalities to demonstrate that P.L. 2024, c.4 would support lower calculations of Round 4 affordable housing obligations; and

**WHEREAS**, P.L. 2024, c.4 further provides that “[a]ll parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by COAH unless those regulations are contradicted by statute, including P.L. 2024, c.2, or biding



court decisions” (N.J.S.A. 52:27D-311(m)); and

**WHEREAS**, COAH regulations authorize vacant land adjustments as well as durational adjustments; and

**WHEREAS**, based on the foregoing, Bernardsville accepts the DCA calculations of Bernardsville’s fair share obligations and commits to its fair share of 0 units present need and 113 units prospective need subject to any vacant land and/or durational adjustments it may seek as part of the Housing Plan Element and Fair Share Plan it subsequently submits in accordance with P.L. 2024, c.4; and

**WHEREAS**, Bernardsville reserves the right to comply with any additional amendments to the FHA that the Legislature may enact; and

**WHEREAS**, Bernardsville also reserves the right to adjust its position in the event of any rulings in any action that alters the deadlines and/or requirements of P.L. 2024, c.4; and

**WHEREAS**, in the event that a third party challenges the calculations provided for in this Resolution, Bernardsville reserves the right to take such position as it deems appropriate in response thereto, including that its Round 4 Present or Prospective Need Obligations should be lower than described herein; and

**WHEREAS**, in light of the above, the Council finds that it is in the best interest of Bernardsville to declare its commitment to the obligations reported by the DCA on October 18, 2024 subject to the reservations set forth herein; and

**WHEREAS**, pursuant to the statute, the Administrative Director of the Courts issued Directive #14-24 on November 12, 2024 promulgating the procedures and guidelines implementing the Affordable Housing Alternate Dispute Resolution Program created by P.L. 2024, chapter 2; and

**WHEREAS**, that Administrative Directive provides in relevant part that:

“A municipality seeking a certification of compliance with the FHA shall file an action in the form of a declaratory judgment complaint and civil case information statement (Civil CIS) in the county in which the municipality is located.

This declaratory judgment action must be filed within 48 hours after adoption of the municipal resolution of fair share obligations, or by February 3, 2025, whichever is sooner.

Copies of the municipal resolution must be included with the initial filing.

Actions that are not filed by the statutory deadline will not be considered by the Program.”

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the Borough of Bernardsville, in the County of Somerset, State of New Jersey, as follows:


1. The Borough of Bernardsville hereby commits to the DCA Round 4 Present Need Obligation of 0 units and the Round 4 Prospective Need Obligation of 113 units described in this resolution, subject to all reservations of rights set forth above.
2. This resolution binds the Borough to adopt a Housing Element and Fair Share Plan based on this determination as may be adjusted by the Program.
3. The Borough Clerk is hereby directed to publish a certified true copy of this resolution, along with the date of filing on the Affordable Housing Dispute Resolution Program website and the Bernardsville Borough website.
4. The Borough Attorney is hereby authorized and directed to file a Declaratory Judgment Complaint and Civil CIS in the Superior Court of New Jersey, Law Division, Somerset



County in accordance with the procedures set forth Directive #14-24.issued by the Administrative Director of the Courts.

5. The declaratory judgment must be filed within 48 hours after adoption of this resolution.
6. Copies of this resolution must be included with the initial filing.
7. The Borough Attorney, the Borough Planner and other Borough officials are authorized and directed to take all steps necessary to defend and protect the Borough's interests in meeting its affordable housing obligations.

**I, Anthony Suriano**, Clerk of the Borough of Bernardsville, hereby certify the foregoing to be a true and exact copy of a resolution adopted by the Governing Body at a duly convened meeting held Monday, January 27, 2025.

  
Anthony Suriano, Clerk

**BOROUGH OF BERNARDSVILLE  
RESOLUTION #25-30**

**RESOLUTION COMMITTING TO DCA'S FOURTH ROUND AFFORDABLE  
HOUSING PRESENT NEED AND PROSPECTIVE NEED NUMBERS  
AND AUTHORIZING THE BOROUGH ATTORNEY TO FILE A DECLARATORY  
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**WHEREAS**, P.L. 2024, C. 4 further provides that:

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also publish the resolution on its publicly accessible Internet website, if the municipality maintains one. If the municipality does not meet this deadline, it shall lose immunity from exclusionary zoning litigation until such time as the municipality is determined to have come into compliance with the “Fair Housing Act,” P.L.1985, C. 222 (N.J.S.A. 52:27D-301 et al.) and the Mount Laurel doctrine. A determination of the municipality’s present and prospective obligation may be established before a county-level housing judge as part of any resulting declaratory judgment action pursuant to section 13 of P.L.1985, C. 222 (N.J.S.A. 52:27D-313), as amended by P.L.2024, C. 2 (N.J.S.A. 52:27D-304.1 et al.), or through exclusionary zoning litigation. If the municipality meets this January 31 deadline, then the municipality’s determination of its obligation shall be established by default and shall bear a presumption of validity beginning on March 1, 2025, as the municipality’s obligation for the fourth round, unless challenged by an interested party on or before February 28, 2025. The municipality’s determination of its fair share obligation shall have a presumption of validity, if established in accordance with sections 6 and 7 of P.L.2024, C. 2 (N.J.S.A. 52:27D-304.2 and N.J.S.A. 52:27D-304.3), in any challenge initiated through the Program. An interested party may file a challenge with the Program, after adoption of the binding resolution and prior to March 1, 2025, alleging that the municipality’s determination of its present and prospective obligation does not comply with the requirements of sections 6 and 7 of P.L.2024, C. 2 (N.J.S.A. 52:27D-304.2 and N.J.S.A. 52:27D-304.3). “ 2024 N.J. ALS 2 ; 2024 N.J. Laws 2 ; 2024 N.J. Ch. 2 ; 2024 N.J. A.N. 4; and

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**WHEREAS**, P.L. 2024, c.4 provides that the DCA Report is non-binding, thereby inviting municipalities to demonstrate that P.L. 2024, c.4 would support lower calculations of Round 4 affordable housing obligations; and

**WHEREAS**, P.L. 2024, c.4 further provides that “[a]ll parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by COAH unless those regulations are contradicted by statute, including P.L. 2024, c.2, or biding



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**WHEREAS**, Bernardsville reserves the right to comply with any additional amendments to the FHA that the Legislature may enact; and

**WHEREAS**, Bernardsville also reserves the right to adjust its position in the event of any rulings in any action that alters the deadlines and/or requirements of P.L. 2024, c.4; and

**WHEREAS**, in the event that a third party challenges the calculations provided for in this Resolution, Bernardsville reserves the right to take such position as it deems appropriate in response thereto, including that its Round 4 Present or Prospective Need Obligations should be lower than described herein; and

**WHEREAS**, in light of the above, the Council finds that it is in the best interest of Bernardsville to declare its commitment to the obligations reported by the DCA on October 18, 2024 subject to the reservations set forth herein; and

**WHEREAS**, pursuant to the statute, the Administrative Director of the Courts issued Directive #14-24 on November 12, 2024 promulgating the procedures and guidelines implementing the Affordable Housing Alternate Dispute Resolution Program created by P.L. 2024, chapter 2; and

**WHEREAS**, that Administrative Directive provides in relevant part that:

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2. This resolution binds the Borough to adopt a Housing Element and Fair Share Plan based on this determination as may be adjusted by the Program.
3. The Borough Clerk is hereby directed to publish a certified true copy of this resolution, along with the date of filing on the Affordable Housing Dispute Resolution Program website and the Bernardsville Borough website.
4. The Borough Attorney is hereby authorized and directed to file a Declaratory Judgment Complaint and Civil CIS in the Superior Court of New Jersey, Law Division, Somerset

County in accordance with the procedures set forth Directive #14-24.issued by the Administrative Director of the Courts.

5. The declaratory judgment must be filed within 48 hours after adoption of this resolution.
6. Copies of this resolution must be included with the initial filing.
7. The Borough Attorney, the Borough Planner and other Borough officials are authorized and directed to take all steps necessary to defend and protect the Borough's interests in meeting its affordable housing obligations.

**I, Anthony Suriano**, Clerk of the Borough of Bernardsville, hereby certify the foregoing to be a true and exact copy of a resolution adopted by the Governing Body at a duly convened meeting held Monday, January 27, 2025.

  
Anthony Suriano, Clerk



# Civil Case Information Statement

## Case Details: SOMERSET | Civil Part Docket# L-000147-25

**Case Caption:** IN THE MATTER OF BERNARDSVILLE  
BORO

**Case Initiation Date:** 01/29/2025

**Attorney Name:** JOHN R PIDGEON

**Firm Name:** PIDGEON & PIDGEON PC

**Address:** 5 VAUGHN DR STE 309

PRINCETON NJ 08540

**Phone:** 6095201010

**Name of Party:** PETITIONER : Borough of Bernardsville

**Name of Defendant's Primary Insurance Company**

(if known): None

**Case Type:** AFFORDABLE HOUSING

**Document Type:** Complaint

**Jury Demand:** NONE

**Is this a professional malpractice case?** NO

**Related cases pending:** NO

**If yes, list docket numbers:**

**Do you anticipate adding any parties (arising out of same transaction or occurrence)?** NO

**Does this case involve claims related to COVID-19?** NO

**Are sexual abuse claims alleged by: Borough of Bernardsville?** NO

## THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

**Do parties have a current, past, or recurrent relationship?** NO

**If yes, is that relationship:**

**Does the statute governing this case provide for payment of fees by the losing party?** NO

**Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:**

**Do you or your client need any disability accommodations?** NO

**If yes, please identify the requested accommodation:**

**Will an interpreter be needed?** NO

**If yes, for what language:**

**Please check off each applicable category: Putative Class Action?** NO **Title 59?** NO **Consumer Fraud?** NO **Medical Debt Claim?** NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-7(b)*

01/29/2025

Dated

/s/ JOHN R PIDGEON

Signed

**PIDGEON & PIDGEON**

A PROFESSIONAL CORPORATION  
ATTORNEYS AT LAW

JOHN R. PIDGEON  
MARY ANN KENNY PIDGEON

FIVE VAUGHN DRIVE  
SUITE 309  
PRINCETON, NEW JERSEY 08540

(609) 520-1010  
FACSIMILE (609) 520-1001  
jpidgeon@pidgeonlaw.com

April 4, 2025

To: All Persons on the Attached Service List

**Re: In the Matter of the Application of the Borough of Bernardsville, a municipal corporation of the State of New Jersey (Mt. Laurel)  
Docket No. SOM-L-925-15**

Dear Interested Party:

I enclose for service upon you a copy of the Order on Fairness/Compliance Hearing entered in the above matter by the Honorable William G. Mennen, J.S.C., on April 3, 2025.

Very truly yours,  
*John R. Pidgeon*  
John R. Pidgeon  
Borough Attorney

JRP:dal  
Enclosure

cc: Joshua D. Bauers, Esq./Fair Share Housing Center  
Nancy Malool, Borough Administrator  
Anthony Suriano, Borough Clerk  
By e-mail; w/enclosure

## ARTICLE 13 AFFORDABLE HOUSING<sup>1</sup>

### § LD-13-1. GENERAL PROVISIONS.

#### § LD-13-1.1. Definitions. [Ord. No. 2018-1772 § 1]

The following terms when used in this Ordinance shall have the meanings given in this section:

**ACT** — Means the Fair Housing Act of 1985, P.L. 1985, c. 222[N.J.S.A. 52:27D-301 et seq.]

**ADAPTABLE** — Means constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

**ADMINISTRATIVE AGENT** — Means the entity designated by the Borough to administer affordable units in accordance with this Ordinance, N.J.A.C. 5:93, and UHAC (N.J.A.C. 5:80-26).

**AFFIRMATIVE MARKETING** — Means a regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

**AFFORDABILITY AVERAGE** — Means the average percentage of median income at which new restricted units in an affordable housing development are affordable to low- and moderate-income households.

**AFFORDABLE** — Means a sales price or rent level that is within the means of a low- or moderate-income household as defined within N.J.A.C. 5:93-7.4, and, in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

**AFFORDABLE HOUSING DEVELOPMENT** — Means a development included in or approved pursuant to the Housing Element and Fair Share Plan or otherwise intended to address the Borough's fair share obligation, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100% affordable housing development.

**AFFORDABLE HOUSING PROGRAM(S)** — Means any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.

**AFFORDABLE UNIT** — Means a housing unit proposed or created pursuant to the Act and approved for crediting by the Court and/or funded through an affordable housing trust fund.

**AGE-RESTRICTED UNIT** — Means a housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that: 1) all the residents of the development wherein the unit is situated are 62 years of age or older; or 2) at least 80% of the units are occupied by one person who is 55 years of age or older; or 3) the development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as "housing for older persons" as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

**AGENCY** — Means the New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1, et seq.).

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1. Editor's Note: Ord. No. 2018-1772 repealed and replaced Article 13 in entirety. Prior history includes Ord. Nos. 581, 801, 92-911, 98-1149, 2006-1432, 2008-1503, 2015-1678 and 2016-1731.

**ALTERNATIVE LIVING ARRANGEMENT** — Means a structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangements include, but are not limited to: transitional facilities for the homeless; Class A, B, C, D and E boarding homes as regulated by the State of New Jersey Department of Community Affairs; residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

**ASSISTED LIVING RESIDENCE** — Means a facility that is licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

**CERTIFIED HOUSEHOLD** — Means a household that has been certified by an Administrative Agent as a low-income household or moderate-income household.

**COAH** — Means the Council on Affordable Housing, as established by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301, et seq.).

**DCA** — Means the State of New Jersey Department of Community Affairs.

**DEFICIENT HOUSING UNIT** — Means a housing unit with health and safety code violations that requires the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load bearing structural systems.

**DEVELOPER** — Means any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land included in a proposed development including the holder of an option to contract to purchase, or other person having an enforceable proprietary interest in such land.

**DEVELOPMENT** — Means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1, et seq.

**INCLUSIONARY DEVELOPMENT** — Means a development containing both affordable units and market rate units. This term includes, but is not limited to: new construction, the conversion of a non-residential structure to residential use and the creation of new affordable units through the gut rehabilitation or reconstruction of a vacant residential structure.

**LOW-INCOME HOUSEHOLD** — Means a household with a total gross annual household income equal to 50% or less of the median household income.

**LOW-INCOME UNIT** — Means a restricted unit that is affordable to a low-income household.

**MAJOR SYSTEM** — Means the primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building which include but are not limited to, weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and load bearing structural systems.

**MARKET-RATE UNITS** — Means housing not restricted to low- and moderate-income households that may sell or rent at any price.

**MEDIAN INCOME** — Means the median income by household size for the applicable housing region, as adopted annually by COAH or a successor entity approved by the Court.

**MODERATE-INCOME HOUSEHOLD** — Means a household with a total gross annual household income in excess of 50% but less than 80% of the median household income.

**MODERATE-INCOME UNIT** — Means a restricted unit that is affordable to a moderate-income household.

**MULTIFAMILY UNIT** — Means a structure containing five or more dwelling units.

**MUNICIPAL HOUSING LIAISON** — Shall mean the employee charged by the Governing Body with the responsibility for oversight and administration of the affordable housing program for the Borough of Bernardsville.

**NON-EXEMPT SALE** — Means any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor's deed to a class A beneficiary and the transfer of ownership by court order.

**RANDOM SELECTION PROCESS** — Means a process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).

**REGIONAL ASSET LIMIT** — Means the maximum housing value in each housing region affordable to a four-person household with an income at 80% of the regional median as defined by duly adopted Regional Income Limits published annually by COAH or a successor entity.

**REHABILITATION** — Means the repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.

**RENT** — Means the gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

**RESTRICTED UNIT** — Means a dwelling unit, whether a rental unit or an ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as amended and supplemented, but does not include a market-rate unit financed under the Urban Home Ownership Recovery Program (UHORP) or Market Oriented Neighborhood Investment Program (MONI).

**UHAC** — Means the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26, et seq.

**VERY LOW-INCOME HOUSEHOLD** — Means a household with a total gross annual household income equal to 30% or less of the median household income for the applicable housing region.

**VERY LOW-INCOME UNIT** — Means a restricted unit that is affordable to a very low-income

household.

**WEATHERIZATION** — Means building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors, and is considered a major system for purposes of a rehabilitation program.

**§ LD-13-1.2. Applicability. [Ord. No. 2018-1772 § 1]**

- a. The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the Borough of Bernardsville pursuant to the Borough's most recently adopted Housing Element and Fair Share Plan.
- b. In addition, any property in the Borough of Bernardsville that is currently zoned for nonresidential uses and that is subsequently rezoned for residential purposes or receives a zoning change or a use variance to permit residential development, or receives a zoning change or a density variance to permit higher density residential development, and provided such residential development provides a sufficient compensatory benefit in terms of the density of development permitted, shall provide an affordable housing set-aside as set forth in Subsection 13-1.5e. The determination of a "sufficient compensatory benefit" shall be made by the reviewing authority based upon prevailing legislation and/or case law.
- c. The following sections shall apply to all developments that contain low-and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units.

**§ LD-13-1.3. Alternative Living Arrangements. [Ord. No. 2018-1772 § 1]**

- a. The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8 and UHAC, with the following exceptions:
  1. Affirmative marketing (N.J.A.C. 5:80-26.15), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by the Court;
  2. Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).
- b. With the exception of units established with capital funding through a twenty-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least thirty-year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the Court.
- c. The service provider for the alternative living arrangement shall act as the Administrative Agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.

**§ LD-13-1.4. Phasing Schedule for Inclusionary Zoning. [Ord. No. 2018-1772 § 1]**

In inclusionary developments the following schedule shall be followed:

Maximum Percentage of Market-Rate Units Completed	Minimum Percentage of Low- and Moderate-Income Units Completed
25	0
25+1	10
50	50
75	75
90	100
100	—

**§ LD-13-1.5. New Construction. [Ord. No. 2018-1772 § 1; amended 2-26-2024 by Ord. No. 2024-1990]**

a. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:

1. The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low income unit. At least 13% of all restricted rental units shall be very low income units (affordable to a household earning 30% or less of median income). The very low income units shall be counted as part of the required number of low income units within the development. At least 25% of the obligation shall be met through rental units, including at least half in rental units available to families. A maximum of 25% may be age restricted. At least half of the units in total shall be available to families.
2. In each affordable development, at least 50% of the restricted units within each bedroom distribution shall be low-income units.
3. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
  - (a) The combined number of efficiency and one-bedroom units shall be no greater than 20% of the total low- and moderate-income units;
  - (b) At least 30% of all low- and moderate-income units shall be two bedroom units;
  - (c) At least 20% of all low- and moderate-income units shall be three bedroom units; and
  - (d) The remaining units may be allocated among two and three bedroom units at the discretion of the developer.
4. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. This standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.



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## b. Accessibility Requirements:

1. The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free SubCode, N.J.A.C. 5:23-7 and the following:
2. All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:
  - (a) An adaptable toilet and bathing facility on the first floor; and
  - (b) An adaptable kitchen on the first floor; and
  - (c) An interior accessible route of travel on the first floor; and
  - (d) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
  - (e) If not all of the foregoing requirements in 2(a) through 2(d) can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of Subsections 2(a) through 2(d) above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and
  - (f) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a, et seq.) and the Barrier Free SubCode, N.J.A.C. 5:23-7, or evidence that Bernardsville has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:
    - (1) Where a unit has been constructed with an adaptable entrance, upon the request of a person with disabilities who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
    - (2) To this end, the builder of restricted units shall deposit funds within the Borough of Bernardsville's Affordable Housing Trust Fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.
    - (3) The funds deposited under Subsection (f)(2) above shall be used by the Borough of Bernardsville for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
    - (4) The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the Borough of Bernardsville for the conversion of adaptable to accessible entrances.
    - (5) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the

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Barrier Free SubCode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Borough's Affordable Housing Trust Fund in care of the Borough Chief Financial Officer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.

- (g) Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site impracticable" to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free SubCode, N.J.A.C. 5:23-7.

c. Design:

1. In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.
2. In inclusionary developments, low- and moderate-income units shall have access to all of the same common elements and facilities as the market units.

d. Maximum Rents and Sales Prices:

1. In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the regional income limits established by COAH or a successor entity.
2. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60% of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52% of median income.
3. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 13% of all low- and moderate-income rental units shall be affordable to very low-income households, earning 30% or less of the regional median household income.
4. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70% of median income, and each affordable development must achieve an affordability average of 55% for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different sales prices for each bedroom type, and low-income ownership units must be available for at least two different sales prices for each bedroom type.
5. In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:
  - (a) A studio shall be affordable to a one-person household;
  - (b) A one-bedroom unit shall be affordable to a 1 1/2 person household;

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- (c) A two-bedroom unit shall be affordable to a three-person household;
  - (d) A three-bedroom unit shall be affordable to a 4 1/2 person household; and
  - (e) A four-bedroom unit shall be affordable to a six-person household.
- 6. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:
  - (a) A studio shall be affordable to a one-person household;
  - (b) A one-bedroom unit shall be affordable to a 1 1/2 person household; and
  - (c) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
- 7. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95% of the purchase price and the Federal Reserve H. 15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28% of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- 8. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30% of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- 9. The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the Administrative Agent be lower than the last recorded purchase price.
- 10. The rent of low- and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for New Jersey. This increase shall not exceed 9% in any one year. Rents for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.
- 11. All deed restricted affordable rental units will be subject to an annual rental recertification process to ensure that income eligible households continue to reside in the Borough's portfolio of rental units.
- e. Affordable Housing Set-Asides.
  - 1. Any residential or mixed-use development, within the public sewer service area of the municipality, that produces five or more housing units, shall be required to provide for

affordable housing set-asides of at least 20% of the total housing units in "for-sale" developments and 15% of the total housing units in "rental" development. When any calculation of the percentage of affordable units required to be divided results in a fractional unit of 1/2 or more, the fraction shall be rounded up to the next whole unit. When a calculation results in a fraction of less than 1/2, the fraction shall be rounded down to the previous whole unit.

2. Residential development with between six and 10 units may make a payment-in-lieu of on-site construction of affordable units. For purposes of this section, the payment-in-lieu of affordable housing shall initially be established as \$180,000 per unit. The payment-in-lieu of affordable housing is presumptively the cost of constructing an affordable unit and is based on the now expired COAH rule, set forth at N.J.A.C. 5:97-6.4 which was \$145,903 for Region 3 in 2009, as adjusted for inflation. When any calculation of the percentage of affordable units required to be divided results in a fractional unit of 1/2 or more, the fraction shall be rounded up to the next whole unit. When a calculation results in a fraction of less than 1/2, the fraction shall be rounded down to the previous whole unit. The payment-in-lieu of affordable housing is presumptively the cost of constructing an affordable unit in the Borough. The Borough Council may adjust the presumptive amount based upon appropriate evidence."

## **§ LD-13-2. R-10 MULTI-FAMILY HOUSING DISTRICTS.**

### **§ LD-13-2.1. Permitted Principal Uses and Densities. [Ord. No. 2018-1772 § 1]**

- a. In the R-10A District, properties may be developed only for townhouses and/or apartments limited entirely to occupancy by low and moderate income households at a maximum density of 10 units per acre.
- b. In the R-10B District, property may be developed for 76 townhouses, 15 of which shall be designated for moderate and low income households; of these 15 units, eight units shall be designated for moderate income households and seven units shall be designated for low income households. The units designated for low and moderate income households may be either townhouses or apartments.
- c. In the R-10B District, as an alternative, property may be developed for 50 residential units, 35 of which may be single family detached and 15 of which shall be designated for moderate and low income households. Of the lower income units, eight shall be designated for moderate income households and seven units shall be designated for low income households. The units designated for low and moderate income households may be either townhouses or apartments.

### **§ LD-13-2.2. Permitted Accessory Uses. [Ord. No. 2018-1772 § 1]**

The following accessory uses are permitted in all R-10 Districts:

- a. Private garages.
- b. Buildings for storage of maintenance equipment.

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- c. Off-street parking as regulated in § 9-10.
- d. Signs in accordance with § 12-23.15c.
- e. Private recreation buildings and facilities.

**§ LD-13-2.3. Required Conditions. [Ord. No. 2018-1772 § 1]**

- a. R-10A District.
  - 1. Minimum setback from streets and tract boundary - 35 feet.
  - 2. Maximum building coverage - 35% of site.
  - 3. Maximum height of building - No building shall exceed a height of 2 1/2 stories or 35 feet, whichever is lesser.
  - 4. Maximum number of dwelling units per building - eight.
  - 5. Parking: Adequate provision shall be made for off-street parking in accordance with all applicable provisions of § 9-10 of this chapter.
  - 6. Minimum distances between buildings. There shall be a minimum distance between dwelling structures as may be provided in the Uniform Construction Code, but in no event less than provided in the following schedule:

Minimum At Any Point	
Front Facing Front	30
Front Facing Rear	30
Front Facing Side	30*
Rear Facing Rear	30
Rear Facing Side	20*
Side Facing Side	20*

\* Not less than 50 if driveway located between buildings is a two way road and not less than 40 if driveway located between buildings is a one way road.

- 7. Accessory Buildings.
  - (a) Setbacks. Accessory buildings shall meet the street and property line setbacks of the principal building.
  - (b) Height. The maximum height of an accessory building shall be 16 feet. Clubhouses shall be governed by height limitations for principal buildings.
  - (c) Design. Architectural design and materials used in the construction of accessory buildings shall conform to those used in the construction of principal buildings.

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8. Open space and recreation. Exclusive of internal roadways and parking areas, there shall be provided a minimum of 30% of the entire tract for common open space and facilities.
- b. R-10B District. Where property is being developed for 76 townhouses, the following shall apply:
1. Minimum setbacks: 35 feet from streets and residential zone boundary; 15 feet from property line abutting commercial zone, railroad right-of-way and stream.
  2. Maximum building coverage: 35% of site.
  3. Maximum height of building: No building shall exceed a height of 2 1/2 stories or 35 feet.
  4. Maximum number of dwelling units per building: eight.
  5. Parking: Adequate provision shall be made for off-street parking in accordance with all applicable provisions of § 9-10 of this chapter.
  6. Minimum distances between buildings: The requirements of Subsection a6 above shall be complied with.
  7. Accessory buildings: The requirements of Subsection a7 above shall be complied with.
- c. R-10B District. Where property is being developed for 50 residential units, 35 of which are single family detached and 15 of which are lower income, the detached and 15 of which are lower income, the provisions of Subsection b above shall apply to the lower income units and the provisions of Subsection 12-10.3, Required Conditions in the R-5 Residence District, shall apply to the single family detached units, except that the aggregate width of the two side yards combined must equal at least 22% of the lot width at the building line rather than 25%.

**§ LD-13-3. MINIMUM FLOOR AREA REQUIREMENTS FOR LOW AND MODERATE INCOME HOUSING UNITS. [Ord. No. 2018-1772 § 1]**

The minimum floor area requirements for low and moderate income housing units shall be as follows:

Unit Type	Minimum Floor Area
0 Bedroom (studio) Unit	500 square feet
1 Bedroom Unit	675 square feet
2 Bedroom Unit	900 square feet
3 Bedroom Unit	1000 square feet

Housing units with more than three bedrooms are not permitted in areas zoned for affordable housing.

**§ LD-13-4. UTILITIES. [Ord. No. 2018-1772 § 1]**

- a. Affordable units shall utilize the same type of heating source as market units within an inclusionary development.
- b. Tenant-paid utilities included in the utility allowance shall be set forth in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.

**§ LD-13-5. OCCUPANCY STANDARDS. [Ord. No. 2018-1772 § 1]**

In referring certified households to specific restricted units, the Administrative Agent shall, to the extent feasible and without causing an undue delay in the occupancy of a unit, strive to:

- a. Provide an occupant for each bedroom;
- b. Provide children of different sexes with separate bedrooms;
- c. Provide separate bedrooms for parents and children; and
- d. Prevent more than two persons from occupying a single bedroom.

**§ LD-13-6. CONTROL PERIODS FOR RESTRICTED OWNERSHIP UNITS AND ENFORCEMENT MECHANISMS. [Ord. No. 2018-1772 § 1]**

- a. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance for a period of at least 30 years, until Bernardsville takes action to release the unit from such requirements; prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
- b. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- c. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.
- d. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay the Borough, upon the first non-exempt sale after the unit's release from the restrictions set forth in this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
- e. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
- f. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all Code



standards upon the first transfer of title following the removal of the restrictions provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

**§ LD-13-7. PRICE RESTRICTIONS FOR RESTRICTED OWNERSHIP UNITS, HOMEOWNER ASSOCIATION FEES AND RESALE PRICES. [Ord. No. 2018-1772 § 1]**

Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, including:

- a. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
- b. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- c. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low- and moderate-income purchasers and those paid by market purchasers.
- d. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom. See § 13-10.

**§ LD-13-8. BUYER INCOME ELIGIBILITY. [Ord. No. 2018-1772 § 1]**

- a. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50% of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80% of median income.
- b. Notwithstanding the foregoing, however, the Administrative Agent may, upon approval by the Borough Council, and subject to the Court's approval, permit moderate-income purchasers to buy low-income units in housing markets if the Administrative Agent determines that there is an insufficient number of eligible low-income purchasers to permit prompt occupancy of the units. All such low-income units to be sold to moderate-income households shall retain the required pricing and pricing restrictions for low-income units.
- c. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year.
- d. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33% of the

household's eligible monthly income.

**§ LD-13-9. LIMITATIONS ON INDEBTEDNESS SECURED BY OWNERSHIP UNIT; SUBORDINATION. [Ord. No. 2018-1772 § 1]**

- a. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Administrative Agent for a determination in writing that the proposed indebtedness complies with the provisions of this section, and the Administrative Agent shall issue such determination prior to the owner incurring such indebtedness.
- b. With the exception of First Purchase Money Mortgages, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95% of the maximum allowable resale price of the unit, as such price is determined by the Administrative Agent in accordance with N.J.A.C.5:80-26.6(b).

**§ LD-13-10. CAPITAL IMPROVEMENTS TO OWNERSHIP UNITS. [Ord. No. 2018-1772 § 1]**

- a. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that add an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.
- b. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Administrative Agent at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to ten-year, straight-line depreciation, has been approved by the Administrative Agent. Unless otherwise approved by the Administrative Agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

**§ LD-13-11. CONTROL PERIOD FOR RESTRICTED RENTAL UNITS. [Ord. No. 2018-1772 § 1]**

- a. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least 30 years, until Bernardsville takes action to release the unit from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, except for those units that have not yet received approvals, such controls shall

be for 50 years. For new projects receiving 9% Low Income Housing Tax Credits, a control period of not less than a thirty-year compliance period plus a fifteen-year extended use period shall be required.

- b. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Somerset. The deed shall also identify each affordable unit by apartment number and/or address and whether that unit is designated as a very low, low or moderate income unit. Neither the unit nor its affordability designation shall change throughout the term of the deed restriction. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
- c. A restricted rental unit shall remain subject to the affordability controls of this Ordinance despite the occurrence of any of the following events:
  - 1. Sublease or assignment of the lease of the unit;
  - 2. Sale or other voluntary transfer of the ownership of the unit; or
- d. The entry and enforcement of any judgment of foreclosure on the property containing the unit.

**§ LD-13-12. RENT RESTRICTIONS FOR RENTAL UNITS; LEASES. [Ord. No. 2018-1772 § 1]**

- a. A written lease shall be required for all restricted rental units and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.
- b. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.
- c. Application fees (including the charge for any credit check) shall not exceed 5% of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.
- d. No rent control ordinance or other pricing restriction shall be applicable to either the market units or the affordable units in any development in which at least 15% of the total number of dwelling units are restricted rental units in compliance with this Ordinance.

**§ LD-13-13. TENANT INCOME ELIGIBILITY. [Ord. No. 2018-1772 § 1]**

- a. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
  - 1. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30% of median income.

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2. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of median income.
  3. Moderate-income rental units shall be reserved for households with a gross household income less than 80% of median income.
- b. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income household, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
1. The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
  2. The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
  3. The household is currently in substandard or overcrowded living conditions;
  4. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
  5. The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
- c. The applicant shall file documentation sufficient to establish the existence of the circumstances in a1 through b5 above with the Administrative Agent, who shall counsel the household on budgeting.

**§ LD-13-14. MUNICIPAL HOUSING LIAISON. [Ord. No. 2018-1772 § 1]**

- a. The Borough of Bernardsville shall appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for administering the affordable housing program, including affordability controls, the Affirmative "Marketing Plan, monitoring and reporting, and, where applicable, supervising any contracted Administrative Agent. Bernardsville shall adopt an Ordinance creating the position of Municipal Housing Liaison. Bernardsville shall adopt a Resolution appointing a Municipal Housing Liaison. The Municipal Housing Liaison shall be appointed by the governing body and may be a full or part time municipal employee. The Municipal Housing Liaison shall be approved by the Court and shall be duly qualified through a training program sponsored by Affordable Housing Professionals of New Jersey before assuming the duties of Municipal Housing Liaison.
- b. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Bernardsville, including the following responsibilities which

may not be contracted out to the Administrative Agent:

1. Serving as Bernardsville's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
  2. Monitoring the status of all restricted units in Bernardsville's Fair Share Plan;
  3. Compiling, verifying and submitting annual monitoring reports as may be required by the Court;
  4. Coordinating meetings with affordable housing providers and Administrative Agents, as needed; and
  5. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing at least annually and more often as needed.
- c. Subject to the approval of the Court, the Borough of Bernardsville shall designate one or more Administrative Agent(s) to administer newly constructed affordable units in accordance with UHAC. An Operating Manual for each affordable housing program shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of the Court. The Operating Manual(s) shall be available for public inspection in the office of the Borough Clerk, in the office of the Municipal Housing Liaison, and in the office(s) of the Administrative Agent(s). The Municipal Housing Liaison shall supervise the contracting Administrative Agent(s).

#### **§ LD-13-15. ADMINISTRATIVE AGENT. [Ord. No. 2018-1772 § 1]**

The Administrative Agent shall be an independent entity serving under contract to and reporting to the municipality. For new sale and rental developments, all of the fees of the Administrative Agent shall be paid by the owners of the affordable units for which the services of the Administrative Agent are required. For resales, single family homeowners and condominium homeowners shall be required to pay 3% of the sales price for services provided by the Administrative Agent related to the resale of their homes. That fee shall be collected at closing and paid directly to the Administrative Agent. The Administrative Agent shall perform the duties and responsibilities of an Administrative Agent as set forth in UHAC, including those set forth in Sections 5:80-26.14, 16 and 18 thereof, which include:

- a. Affirmative Marketing:
  1. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Borough of Bernardsville and the provisions of N.J.A.C. 5:80-26.15; and b. Providing counseling or contracting to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- b. Household Certification:
  1. Soliciting, scheduling, conducting and following up on interviews with interested households;

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2. Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
  3. Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
  4. Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;
  5. Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located; and
  6. Employing a random selection process as provided in the Affirmative Marketing Plan of the Borough of Bernardsville when referring households for certification to affordable units.
- c. Affordability Controls:
1. Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
  2. Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
  3. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Somerset County Register of Deeds or County Clerk's office after the termination of the affordability controls for each restricted unit;
  4. Communicating with lenders regarding foreclosures; and
  5. Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.
- d. Resales and Rerentals:
1. Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or rental; and
  2. Instituting and maintaining an effective means of communicating information to low- and moderate-income households regarding the availability of restricted units for resale or re-rental.
- e. Processing Requests from Unit Owners:
1. Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this



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Ordinance;

2. Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems;
3. Notifying the municipality of an owner's intent to sell a restricted unit; and
4. Making determinations on requests by owners of restricted units for hardship waivers.

f. Enforcement:

1. Securing annually from the municipality a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
2. Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;
3. The posting annually in all rental properties, including two-family homes, of a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent or other charges can be made;
4. Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;
5. Establishing a program for diverting unlawful rent payments to the municipality's Affordable Housing Trust Fund; and
6. Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent, to be approved by the Borough Council and the Court, setting forth procedures for administering the affordability controls.

g. Additional Responsibilities:

1. The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.
2. The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet any monitoring requirements and deadlines imposed by the Court.
3. The Administrative Agent shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

**§ LD-13-16. AFFIRMATIVE MARKETING REQUIREMENTS. [Ord. No. 2018-1772 § 1]**

- a. The Borough of Bernardsville shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Court, that is compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
- b. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs marketing activities toward Housing Region 2 and is required to be followed throughout the period of restriction.
- c. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 3, comprised of Somerset, Hunterdon and Middlesex Counties.
- d. The Affirmative Marketing Plan shall provide a veterans preference for all households that live and/or work in Housing Region 3, comprised of Somerset, Hunterdon and Middlesex Counties. All rules will be in accordance with C. 52:27D-311(j).
- e. The municipality has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and resales and rerentals. The Administrative Agent designated by the Borough of Bernardsville shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.
- f. In implementing the Affirmative Marketing Plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- g. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Administrative Agent shall consider the use of language translations where appropriate.
- h. The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.
- i. Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administration building and the municipal library in the municipality in which the units are located; and the developer's rental office. Pre-applications shall be emailed or mailed to prospective applicants upon request.
- j. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

**§ LD-13-17. ENFORCEMENT OF AFFORDABLE HOUSING REGULATIONS. [Ord. No. 2018-1772 § 1]**

- a. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an Owner, Developer or Tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- b. After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action(s) against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
  1. The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation or violations of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is adjudged by the Court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the Court:
    - (a) A fine of not more than \$500 per day or imprisonment for a period not to exceed 90 days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;
    - (b) In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Borough of Bernardsville Affordable Housing Trust Fund of the gross amount of rent illegally collected;
    - (c) In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.
  2. The municipality may file a court action in the Superior Court seeking a judgment that would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- or moderate-income unit.
    - (a) The judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.

- (b) The proceeds of the Sheriffs sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriffs sale. In the event that the proceeds from the Sheriffs sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the municipality for such. Failure of the Owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.
- (c) Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriffs sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriffs sale shall not be entitled to any right of redemption.
- (d) If there are no bidders at the Sheriffs sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
- (e) Failure of the low- and moderate-income unit to be either sold at the Sheriffs sale or acquired by the municipality shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.
- (f) The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

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**§ LD-13-18. APPEALS. [Ord. No. 2018-1772 § 1]**

Appeals from all decisions of an Administrative Agent appointed pursuant to this Ordinance shall be filed in writing with the Court.

**§ LD-13-19. DEVELOPMENT FEES.<sup>2</sup> [Ord. No. 2018-1772 § 1]****a. Purpose.**

1. In *Holmdel Builder's Association v. Holmdel Borough*, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules.
2. Pursuant to P.L. 2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH-approved spending plan may retain fees collected from nonresidential development.
3. This section establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance PL.2008, c. 46, Sections 8 and 32-38. Fees collected pursuant to this ordinance shall be used for the sole purpose of providing very low, low- and moderate-income housing. This section shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:97-8.

**b. Basic Requirements.**

1. This section shall not be effective until approved by the Court, COAH or a successor agency.
2. Bernardsville Borough shall not spend development fees until the Court, COAH or a successor agency has approved a plan for spending such fees (Spending Plan).

**c. Definitions.**

1. The following terms, as used in this section shall have the following meanings:

**AFFORDABLE HOUSING DEVELOPMENT** — Shall mean a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100% affordable development.

**COAH OR THE COUNCIL** — Shall mean the New Jersey Council on Affordable Housing established under the Fair Housing Act.

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2. **Editor's Note:** Prior ordinance history includes portions of Ordinance Nos. 581, 95-1018, 95-1029, 2006-1420, 2006-1436 and 2006-1447.

**DEVELOPER** — Means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

**DEVELOPMENT FEE** — Shall mean money paid by a developer for the improvement of property as permitted by applicable COAH regulations.

**EQUALIZED ASSESSED VALUE** — Shall mean the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L. 1973, c.123 (C.54:1-35a through C.54:1-35c).

**GREEN BUILDING STRATEGIES** — Shall mean those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

d. Residential Development Fees.

1. Imposed Fees.

- (a) Within the Borough of Bernardsville, all residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1.5% of the equalized assessed value for residential development provided no increased density is permitted. Development fees shall also be imposed and collected when an existing structure is expanded or undergoes a change to a more intense use; in such cases, the fee shall be calculated on the increase in the equalized assessed value of the improved structure. **[Amended 11-22-2021 by Ord. No. 2021-1900]**
- (b) When an increase in residential density pursuant to a "d" variance is granted under N.J.S.A. 40:55D-70d(5) (known as a "d" variance), developers shall be required to pay a "bonus" development fee of 6% of the equalized assessed value for each additional unit that may be realized, except that this provision shall not be applicable to a development that will include affordable housing. If the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding filing of the "d" variance application. Example: If an approval allows four units to be constructed on a site that was zoned for two units, the development fees will equal 1 1/2% of the equalized assessed value on the first two units; and 6% of the equalized assessed value for the two non-age-restricted additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

2. Eligible Exactions, Ineligible Exactions and Exemptions for Residential Development.

- (a) Affordable housing developments and developments where the developer is providing for the construction of affordable units elsewhere in the municipality,



and/or developments where the developer has made a payment in lieu of on-site construction of affordable units, if permitted by Ordinance or by Agreement with the Borough of Bernardsville, shall be exempt from development fees.

- (b) Developments that have received preliminary or final site plan approval prior to the adoption of Bernardsville's first adopted development fee ordinance shall be exempt from the payment of development fees, unless the developer seeks a substantial change in the original approval. Where a site plan approval is not applicable, the issuance of a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for the purpose of determining the right to exemption. In all cases, the applicable fee percentage shall be determined based upon on the Development Fee Ordinance in effect on the date that the building permit is issued.
  - (c) Development fees shall be imposed and collected when an existing structure is demolished and replaced, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the new structure.
  - (d) Fees shall be imposed and collected when an existing structure is demolished and replaced, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the new structure.
  - (e) Nonprofit organizations which have received tax-exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code, providing current evidence of that status is submitted to the Municipal Clerk, together with a certification that services of the organization are provided at reduced rates to those who establish an inability to pay existing charges, shall be exempted from paying a development fee.
  - (f) Federal, state, county, and local governments shall be exempted from paying a development fee.
  - (g) Developers of residential structures demolished and replaced by the same owner as the result of a natural disaster such as fire and flooding shall be exempt from paying a development fee.
- e. Nonresidential Development Fees.
- 1. Imposition of Fees.
    - (a) Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted below, shall pay a fee equal to 2.5% of the increase in equalized assessed value of the land and improvements, for all new nonresidential construction on an unimproved lot or lots.
    - (b) Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to 2.5% of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.

- (c) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2.5% shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvements and the equalized assessed value of the newly improved structure, i.e. land and improvements, and such calculation shall be made at the time a final Certificate of Occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.
- 2. Eligible Exactions, Ineligible Exactions and Exemptions for Nonresidential Development.
  - (a) The nonresidential portion of a mixed-use inclusionary or market rate development shall be subject to the 2.5% development fee, unless otherwise exempted below.
  - (b) The 2.5% fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
  - (c) Nonresidential developments shall be exempt from the payment of nonresidential development fees in accordance with the exemptions required as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption". Any exemption claimed by a developer shall be substantiated by that developer.
  - (d) A developer of a non-residential development exempted from the non-residential development fee shall be subject to the fee at such time the basis for the exemption no longer applies and shall make the payment of the nonresidential development fee, in that event, within three years after that event or after the issuance of the final Certificate of Occupancy for the non-residential development, whichever is later.
  - (e) If a property which was exempted from the collection of a nonresidential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by Bernardsville Borough as a lien against the real property of the owner.
- f. Collection Procedures.
  - 1. Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the Borough Construction Official responsible for the issuance of a building permit.
  - 2. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per the instructions provided. The developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The Construction Official shall verify the information submitted by the nonresidential developer as per the instructions provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions

provided in Form N-RDF.

3. The Construction Official responsible for the issuance of a building permit shall notify the local Tax Assessor of the issuance of the first building permit for a development which is subject to a development fee.
4. Within 90 days of receipt of such notification, the Borough Tax Assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
5. The Construction Official responsible for the issuance of a final Certificate of Occupancy shall notify the Borough Tax Assessor of any and all requests for the scheduling of a final inspection on a property which is subject to a development fee.
6. Within 10 business days of a request for the scheduling of a final inspection, the Borough Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
7. Should Bernardsville Borough fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b. of section 37 of P.L. 2008, c. 46 (C.40:55D-8.6).
8. 50% of the initially calculated development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the Certificate of Occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of Certificate of Occupancy.
9. Appeal of Development Fees.
  - (a) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Such a challenge must be made with 45 days from the issuance of the Certificate of Occupancy. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by Bernardsville Borough. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
  - (b) A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by Bernardsville Borough. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., within 90 days after the date of such

determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

g. Affordable Housing Trust Fund.

1. There is hereby created a separate, interest-bearing Affordable Housing Trust Fund to be maintained by the Chief Financial Officer of the Borough of Bernardsville for the purpose of depositing development fees collected from residential and nonresidential developers and proceeds from the sale of units with extinguished controls.
2. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
  - (a) Payments in lieu of on-site construction of affordable units or of a fraction of an affordable unit, where permitted by Ordinance or by Agreement with the Borough of Bernardsville;
  - (b) Funds contributed by developers to make 10% of the adaptable entrances in a townhouse or other multistory attached development accessible;
  - (c) Rental income from municipally operated units;
  - (d) Repayments from affordable housing program loans;
  - (e) Recapture funds;
  - (f) Proceeds from the sale of affordable units; and
  - (g) Any other funds collected in connection with the Bernardsville Borough's affordable housing program.
3. Interest accrued in the Affordable Housing Trust Fund shall only be used to fund eligible affordable housing activities approved by the Court.

h. Use of Funds.

1. The expenditure of all funds shall conform to a spending plan approved by the Court, or COAH or its successor agency. Funds deposited in the Affordable Housing Trust Fund may be used for any activity approved by the Court to address the Bernardsville Borough's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, housing rehabilitation, new construction of affordable housing units and related costs, accessory apartments, a market to affordable program, Regional Housing Partnership programs, conversion of existing non-residential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or State standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted by the Court and specified in the approved

Spending Plan.

2. Funds shall not be expended to reimburse Bernardsville Borough for past housing activities.
3. At least 30% of all development fees collected and interest earned on such fees shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30% or less of median income for Housing Region 3, in which Bernardsville is located.
  - (a) Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs. The specific programs to be used for affordability assistance shall be identified and described within the Spending Plan.
  - (b) Affordability assistance to households earning 30% or less of median income may include buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30% or less of median income. The specific programs to be used for very low income affordability assistance shall be identified and described within the Spending Plan.
  - (c) Payments in lieu of constructing affordable housing units on site, if permitted by Ordinance or by Agreement with the Borough of Bernardsville, and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
4. Bernardsville Borough may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including its programs for affordability assistance.
5. No more than 20% of all revenues collected from development fees may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultants' fees necessary to develop or implement a new construction program, prepare a Housing Element and Fair Share Plan, and/or an affirmative marketing program or rehabilitation program.
  - (a) In the case of a rehabilitation program, the administrative costs of the rehabilitation program shall be included as part of the 20% of collected development fees that may be expended on administration.
  - (b) Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. All other housing rehabilitation costs are considered programmatic and not administrative. Legal or other fees related to litigation opposing affordable housing sites or related to securing or appealing a judgment from the Court are not eligible uses of the Affordable Housing Trust Fund.

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- i. **Monitoring.** Bernardsville Borough shall provide annual reporting of Affordable Housing Trust Fund activity to the State of New Jersey, Department of Community Affairs, Council on Affordable Housing or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing or Local Government Services. The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the sources and amounts of funds collected and the amounts and purposes for which any funds have been expended. Such reporting shall include an accounting of development fees collected from residential and non-residential developers, payments in lieu of constructing affordable units on site (if permitted by Ordinance or by Agreement with the Borough), funds from the sale of units with extinguished controls, barrier free escrow funds, rental income from Borough owned affordable housing units, repayments from affordable housing program loans, and any other funds collected in connection with Bernardsville's affordable housing programs, as well as an accounting of the expenditures of revenues and implementation of the Spending Plan approved by the Court.
- j. **Ongoing Collection of Fees.** The ability for Bernardsville Borough to impose, collect and expend development fees shall expire with its substantive certification unless Bernardsville Borough has filed an adopted Housing Element and Fair Share Plan with COAH, has petitioned for substantive certification, and has received COAH's approval of its development fee ordinance. If Bernardsville Borough fails to renew its ability to impose and collect development fees prior to the expiration of substantive certification, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L. 1985, c.222 (C.52:27D-320). Bernardsville Borough shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its substantive certification or judgment of compliance, nor shall Bernardsville Borough retroactively impose a development fee on such a development. Bernardsville Borough shall not expend development fees after the expiration of its substantive certification or judgment of compliance.



**§ LD-12-17. AFFORDABLE HOUSING OVERLAY ZONE DISTRICTS.****§ LD-12-17.1. AHO-3 Affordable Housing District.****§ LD-12-17.1.1. Primary Intended Use. [Ord. No. 2018-1772]**

- a. Affordable family rental multi-family dwellings;
- b. Market rate multi-family dwellings;
- c. A commercial use at ground level;
- d. Parking and facilities in accordance with § 9-10 of this chapter or Residential Site Improvement Standards as deemed appropriate by the local approving Board;
- e. Lower level parking that is more than half its height above mean building elevation shall be a story, and
- f. Other accessory uses customarily incident to the above uses provided they not include any activity commonly conducted for gain unless specifically permitted by this Article.
- g. Commercial uses are not permitted unless the use is within a mixed-use inclusionary development.
- h. Inclusionary developments must contain at least 500 square feet of commercial space at ground floor.
- i. Buildings on a street corner must contain at least 1,000 square feet of commercial space at ground floor. If a building has two frontages on a street corner, it must provide at least 1,000 square feet at each corner.

**§ LD-12-17.1.2. Required Conditions. [Ord. No. 2018-1772]**

The following requirements must be complied within the AHO-3 Affordable Housing Districts:

- a. Height. No building shall exceed a maximum of four stories or 40 feet in height, whichever is the lesser,
- b. Open Space. No more than 95% of a lot may be covered by an impervious surface. Any open space provided at ground level must have at least one dimension measuring at least 20 feet on the side and no dimension measuring smaller than three feet,
- c. Driveway Position. No portion of any driveway hereafter constructed shall be within 10 feet of a lot line of an adjacent property,
- d. Minimum Lot Area. The minimum lot area is 24,000 square feet
- e. Lot Shape. It must be possible to fit a circle with a diameter of 100 feet completely within the lot,
- f. Building Envelope. The building envelope shall exclude areas located within flood plains, wetlands and wetland buffers, except as may be approved by the New Jersey Department of

Environmental Protection (NJDEP) and no floodplain nor wetlands nor wetland buffers shall be disturbed without the appropriate permits having been issued by the NJDEP,

- g. Minimum Floor Area. Every dwelling hereafter erected shall have a minimum floor area excluding garages of:

Unit Type	Minimum Floor Area (Square Feet)
0 Bedroom (Studio)	500
1 Bedroom	675
2 Bedrooms	900
3 Bedrooms	1000
Units with more than three bedrooms are not permitted.	

- h. The maximum number of dwelling units shall be 32 units per acre, producing 80 rental units which shall include 15% or 12 units for affordable family rental households.
- i. There shall be a minimum of three affordable family rental units provided for every 24,000 square feet of lot area.
- j. Minimum distance between apartment buildings is 20 feet.
- k. No building shall contain more than 20 dwellings.

**§ LD-12-17.1.3. Design Standards. [Ord. No. 2018-1772]**

- a. The design standards contained herein shall supplement the design and performance standards contained in Article 9-10 of Borough of Bernardsville Regulations. If there is a conflict, Article 9-10, as amended from time to time, this section shall apply.
- b. New buildings shall relate to existing buildings and other structures in the vicinity that have a visual relationship to the site.
- c. Multiple buildings on a single tract shall be designed so as to be architecturally compatible with one another, utilizing common color schemes and materials.
- d. The appearance of the side and rear elevations of buildings is important. Therefore, guidelines for the fronts of buildings shall also apply to the rear and sides where visible at street level from a public right-of-way.
- e. Buildings shall be designed so as to prevent exterior elevations from containing large expanses of blank, windowless or featureless walls. Also, large expanses of windows, including curtain-wall windows and other design elements not at a human scale, are strongly discouraged.
- f. The type, shape, pitch, feature and color of any roof shall be architecturally compatible with the building style, material, colors and details of other buildings in the area.

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- g. Flat roofs shall be enclosed by parapets or other appropriate architectural details.
- h. All open space shall be designed and landscaped in a way to allow for easy maintenance and limited encroachment onto any public right of way. Additionally, all private open space shall be designed in a way that allows for a reasonable level of enjoyment by residents.
- i. Green building strategies are encouraged in the AHO-3 Overlay Zone.

## **§ LD-12-17.2. AHO-4 Affordable Housing District.**

### **§ LD-12-17.2.1. Primary Intended Use. [Ord. No. 2018-1772]**

- a. Affordable family multi-family dwellings:
  - 1. Townhouses
  - 2. Apartments
- b. Parking and facilities in accordance with § 9-10 of this chapter or Residential Site Improvement Standards as deemed appropriate by the local approving Board, and
- c. Other accessory uses customarily incident to the above uses provided they not include any activity commonly conducted for gain unless specifically permitted by this article.

### **§ LD-12-17.2.2. Required Conditions. [Ord. No. 2018-1772]**

The following requirements must be complied within the AHO-4 Affordable Housing Districts:

- a. Height. No building shall exceed a maximum of 3.5 stories or 40 feet in height, whichever is the lesser,
- b. Front Yard. There shall be a front yard of not less than 50 feet,
- c. Side Yards. There shall be two side yards, and no side yard shall be less than 20 feet,
- d. Rear Yards. There shall be a rear yard of at least 50 feet,
- e. Driveway Position. No portion of any driveway hereafter constructed shall be within 10 feet of a lot line of an adjacent property,
- f. Minimum Lot Area. The minimum lot area is 25 acres.
- g. Lot Shape. It must be possible to fit a circle with a diameter of 170 feet completely within the lot,
- h. Building Envelope. The building envelope shall exclude areas located within flood plains, wetlands and wetland buffers, except as may be approved by the New Jersey Department of Environmental Protection (NJDEP) and no floodplain nor wetlands nor wetland buffers shall be disturbed without the appropriate permits having been issued by the NJDEP,
- i. Minimum Floor Area. Every dwelling hereafter erected shall have a minimum floor area excluding garages of:

Unit Type	Minimum Floor Area (Square Feet)
0 Bedroom (Studio)	500
1 Bedroom	675
2 Bedrooms	900
3 Bedrooms	1000
Units with more than three bedrooms are not permitted.	

- j. At least six affordable family rental units shall be for very low-income households.
- k. Minimum distance between buildings is 20 feet.
- l. Maximum density is 14 family rental dwelling units per non-critical area. Critical areas include: slopes of 15% or greater, wetlands, lakes, ponds and open waterways, and conservation easements. 15% of total dwelling units shall be for affordable family rental households; or 20% of total dwelling units shall be for affordable owner-occupied family households.

**§ LD-12-17.2.3. Design Standards. [Ord. No. 2018-1772]**

- a. The design standards contained herein shall supplement the design and performance standards contained in Article 9-10 of Borough of Bernardsville Regulations. If there is a conflict, this section shall apply.
- b. Overall development shall have a compatible design, architectural and landscaping scheme for the site,
- c. New buildings shall relate to existing buildings and other structures in the vicinity that have a visual relationship to the site.
- d. Multiple buildings on a single tract shall be designed so as to be architecturally compatible with one another, utilizing common color schemes and materials.
- e. Building facades shall be consistent with the size, scale and setbacks of adjacent buildings and those where there is a visual relationship.
- f. Guidelines for the fronts of buildings shall also apply to the rear and sides where visible at street level from a public right of way.
- g. Buildings shall be designed so as to prevent exterior elevations from containing large expanses of blank, windowless or featureless walls. Also, large expanses of windows, including curtain-wall windows and other design elements not at a human scale, are strongly discouraged.
- h. The type, shape, pitch, feature and color of any roof shall be architecturally compatible with the building style, material, colors and details of other buildings in the area.

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- i. Flat roofs shall be enclosed by parapets or other appropriate architectural details.
- j. Green building strategies are encouraged in the AHO-4 Overlay Zone.

### **§ LD-12-20. AFFORDABLE HOUSING ZONE DISTRICTS.**

#### **§ LD-12-20.1. AH-1 AFFORDABLE HOUSING DISTRICT. [Ord. No. 2018-1772 § 5]**

##### **a. Primary Intended Use.**

- 1. Affordable family rental multi-family dwellings:
  - (a) Townhouses.
  - (b) Apartments.
- 2. Parking and facilities in accordance with § 9-10 of this chapter or Residential Site Improvement Standards as deemed appropriate by the local approving Board,
- 3. Other accessory uses customarily incident to the above uses provide they not include any activity commonly conducted for gain unless specifically permitted by this article, and
- 4. No more than one principal building on a lot.

##### **b. Required Conditions.**

The following requirements must be complied with in the AH-1 Affordable Housing Districts:

- 1. Height. No building shall exceed a maximum of 2 1/2 stories or 35 feet in height, whichever is the lesser,
- 2. Front Yard. There shall be a front yard of not less than 15 feet,
- 3. Side Yards. There shall be two side yards, and no side yard shall be less than 10 feet,
- 4. Rear Yards. There shall be a rear yard of at least 10 feet,
- 5. Building Envelope. The building envelope shall exclude areas located within flood plains, wetlands and wetland buffers, except as may be approved by the New Jersey Department of Environmental Protection (NJDEP) and no floodplain nor wetlands nor wetland buffers shall be disturbed without the appropriate permits having been issued by the NJDEP.
- 6. Minimum Floor Area. Every dwelling hereafter erected shall have a minimum floor area excluding garages of

<b>Unit Type</b>	<b>Minimum Floor Area (Square Feet)</b>
0 Bedroom (Studio)	500
1 Bedroom	675
2 Bedrooms	900
3 Bedrooms	1,000
Units with more than 3 bedrooms are not permitted.	

7. The maximum number of dwelling units shall not exceed six affordable family rental units.

c. Design Standards.

1. The design standards contained herein shall supplement the design and performance standards contained in Article 9-10 of Borough of Bernardsville Regulations. If there is a conflict, Article 9-10, as amended from time to time shall apply.
2. New buildings shall relate to existing buildings and other structures in the vicinity that have a visual relationship to the site.
3. Multiple buildings on a single tract shall be designed so as to be architecturally compatible with one another, utilizing common color schemes and materials.
4. Building facades shall be consistent with the size, scale and setbacks of adjacent buildings and those where there is a visual relationship.
5. The appearance of the side and rear elevations of buildings is important. Therefore, guidelines for the fronts of buildings shall also apply to the rear and sides where visible at street level from a public right-of-way.
6. Buildings shall be designed so as to prevent exterior elevations from containing large expanses of blank or featureless walls. Also, large expanses of windows, including curtain-wall windows and other design elements not at a human scale, are strongly discouraged.
7. The type, shape, pitch, feature and color of a roof shall be architecturally compatible with the building style, material, colors and details of other buildings in the area.
8. Flat roofs shall be enclosed by parapets or other appropriate architectural details.
9. All open space shall be designed and landscaped in a way to allow for easy maintenance and limited encroachment onto any public right of way. Additionally, all private open space shall be designed in a way that allows for a reasonable level of enjoyment by residents.
10. Green building strategies are encouraged in the AH-1 Zone.



**§ LD-12-20.2. AH-2 AFFORDABLE HOUSING DISTRICT. [Ord. No. 2018-1772 § 5; Ord. No. 2018-1778 § 2]****a. Primary Intended Use.**

1. Affordable family rental multi-family dwellings:
  - (a) Townhouses.
  - (b) Apartments.
2. Parking and facilities in accordance with § 9-10 of this chapter or Residential,
3. Site Improvement Standards as deemed appropriate by the local approving Board,
4. Other accessory uses customarily incident to the above uses provide they not include any activity commonly conducted for gain unless specifically permitted by this article.

**b. Required Conditions.**

The following requirements must be complied with in the AH-2 Affordable Housing Districts:

1. Height. No building shall exceed a maximum of 3.0 stories or 35 feet in height, whichever is the lesser,
2. Front Yard. There shall be a front yard of not less than 25 feet,
3. Side Yards. There shall be two side yards, and no side yard shall be less than 20 feet,
4. Rear Yards. There shall be a rear yard of at least 20 feet,
5. Building Envelope. The building envelope shall exclude areas located within flood plains, wetlands and wetland buffers, except as may be approved by the New Jersey Department of Environmental Protection (NJDEP) and no floodplain nor wetlands nor wetland buffers shall be disturbed without the appropriate permits having been issued by the NJDEP.
6. Minimum Floor Area. Every dwelling hereafter erected shall have a minimum floor area excluding garages of:

Unit Type	Minimum Floor Area (Square Feet)
0 Bedroom (Studio)	500
1 Bedroom	675
2 Bedrooms	900
3 Bedrooms	1,000
Units with more than three bedrooms are not permitted.	

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7. The maximum number of dwellings shall not exceed 30 rental age-restricted affordable dwellings.
8. At least one-third of the affordable dwelling units shall be for very low-income households as defined in the definitions.
9. Minimum distance between buildings is 20 feet.

c. Design Standards.

1. The design standards contained herein shall supplement the design and performance standards contained in Article 9-10 of Borough of Bernardsville Regulations. If there is a conflict, Article 9-10, as amended from time to time, shall apply.
2. New buildings shall relate to existing buildings and other structures in the vicinity that have a visual relationship to the site.
3. Multiple buildings on a single tract shall be designed so as to be architecturally compatible with one another, utilizing common color schemes and materials.
4. Building facades shall be consistent with the size, scale and setbacks of adjacent buildings and those where there is a visual relationship.
5. The appearance of the side and rear elevations of buildings is important. Therefore, guidelines for the fronts of buildings shall also apply to the rear and sides where visible at street level from a public right-of-way.
6. Buildings shall be designed so as to prevent exterior elevations from containing large expanses of blank or featureless walls. Also, large expanses of windows, including curtain-wall windows and other design elements not at a human scale, are strongly discouraged.
7. The type, shape, pitch, feature and color of a roof shall be architecturally compatible with the building style, material, colors and details.
8. Flat roofs shall be enclosed by parapets or other appropriate architectural details.
9. All open space shall be designed and landscaped in a way to allow for easy maintenance and limited encroachment onto any public right of way. Additionally, all private open space shall be designed in a way that allows for a reasonable level of enjoyment by residents.
10. Green building strategies are encouraged in the AH-2 Zone.

**§ LD-12-20.3. AH-3 AFFORDABLE HOUSING DISTRICT. [Ord. No. 2018-1772 § 5; amended 6-27-2022 by Ord. No. 2022-1918]**

a. Primary Intended Use.

1. Affordable family rental multi-family dwellings:
  - (a) Townhouses.

- (b) Apartments.
- 2. Parking and similar such facilities.
  - (a) Parking shall be required in accordance with N.J.A.C. § 5:21-4.14, Residential Site Improvement Standards.
  - (b) Parking regulations may be relaxed by the approving Board without need for variance relief where an applicant can demonstrate to the Board's satisfaction that parking standards can be reduced pursuant to N.J.A.C. § 5:21-4.14(c) where an alternative standard better reflects local conditions. Factors affecting the minimum number of parking spaces include household characteristics, availability of mass transit, urban versus suburban location, and available off-site parking resources.
- 3. Other accessory uses customarily incident to the above uses provide they do not include any activity commonly conducted for gain unless specifically permitted by this Article.
- b. Required Conditions. The following requirements must be complied with in the AH-3 Affordable Housing Districts:
  - 1. Height. No building shall exceed a maximum of 3.0 stories and 40 feet in height.
  - 2. Front Yard. There shall be a front yard of not less than 35 feet however, entryways porches and terraces may encroach into the required front yard setback but shall not encroach greater than 15 feet.
  - 3. Side Yards. There shall be two side yards, and no side yard shall be less than 15 feet.
  - 4. Rear Yards. There shall be a rear yard of at least 50 feet.
  - 5. Maximum Building Coverage. Maximum building coverage shall not exceed 30%.
  - 6. Maximum Impervious Coverage. Maximum impervious coverage shall not exceed 50%.
  - 7. Building Envelope. The building envelope shall exclude areas located within flood plains, wetlands and wetland buffers, except as may be approved by the New Jersey Department of Environmental Protection (NJDEP) and no floodplain nor wetlands nor wetland buffers shall be disturbed without the appropriate permits having been issued by the NJDEP.
  - 8. Minimum Floor Area. Every dwelling hereafter erected shall have a minimum floor area excluding garages of:

Unit Type	Minimum Floor Area (Square Feet)
0 Bedroom (Studio)	500
1 Bedroom	675
2 Bedrooms	900

Unit Type	Minimum Floor Area (Square Feet)
3 Bedrooms	1,000
Units with more than three bedrooms are not permitted.	

9. The maximum number of family rental affordable dwellings shall not exceed 26 inclusive of one superintendent unit.
10. Residential development shall be restricted to only affordable housing units and shall be subject to all terms and conditions pursuant to Article 13 of this chapter entitled "Affordable Housing."
11. As an affordable housing development, and in an effort to remove unnecessary cost generative fees, such development shall be exempt from any tree replacement fees, traffic impact fees, open space fees, or such other similar impact fees in the Land Use Ordinance.
12. Steep slope disturbance regulations pursuant to Subsection 14-2.6 regarding maximum surface disturbance of steep slope areas is hereby modified specific to this zone as follows:

Maximum Surface Disturbance Shall Not Exceed:	
Slope Category	Percent of Category
15-24.99%	75%
25-29.99%	55%
30% or greater	50%

c. Design Standards.

1. The design standards contained herein shall supplement the design and performance standards contained in Article 9-10 of Borough of Bernardsville Regulations. If there is a conflict, Article 9-10, as amended from time to time shall apply.
2. New buildings shall relate to existing buildings and other structures in the vicinity that have a visual relationship to the site.
3. Multiple buildings on a single tract shall be designed so as to be architecturally compatible with one another, utilizing common color schemes and materials.
4. Building facades shall be consistent with the size, scale and setbacks of adjacent buildings and those where there is a visual relationship.
5. The appearance of the side and rear elevations of buildings is important. Therefore, guidelines for the fronts of buildings shall also apply to the rear and sides where visible at street level from a public right-of-way.

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6. Buildings shall be designed so as to prevent exterior elevations from containing large expanses of blank or featureless walls. Also, large expanses of windows, including curtain-wall windows and other design elements not at a human scale, are strongly discouraged.
  7. The type, shape, pitch, feature and color of a roof shall be architecturally compatible with the building style, material, colors and details of other buildings in the area.
  8. Flat roofs shall be enclosed by parapets or other appropriate architectural details.
  9. All open space shall be designed and landscaped in a way to allow for easy maintenance and limited encroachment onto any public right of way. Additionally, all private open space shall be designed in a way that allows for a reasonable level of enjoyment by residents.
  10. Green building strategies are encouraged in the AH-3 Zone.
- d. Superseding Other Zoning. The use, bulk, design and performance standards addressed in the AH-3 Zone shall supersede the zoning provisions and design standards of the balance of the Bernardsville Land Use Ordinance. To the extent regulations and standards of the AH-3 Zone are silent, the standards of the Land Use Ordinance shall apply.

**§ LD-12-20.4. AH-4 AFFORDABLE HOUSING DISTRICT. [Ord. No. 2018-1772 § 5]**

a. Primary Intended Use.

1. Affordable family rental multi-family dwellings:
  - (a) Townhouses
  - (b) Apartments
2. Parking and facilities in accordance with § 9-10 of this chapter or Residential Site Improvement Standards as deemed appropriate by the local approving Board,
3. Other accessory uses customarily incident to the above uses provide they not include any activity commonly conducted for gain unless specifically permitted by this Article.

b. Required Conditions.

The following requirements must be complied with in the AH-1 Affordable Housing Districts:

1. Height. No building shall exceed a maximum of 2 1/2 stories or 35 feet in height, whichever is the lesser.
2. Front Yard. There shall be a front yard of not less than 25 feet.
3. Side Yards. There shall be two side yards, and no side yard shall be less than 10 feet.
4. Rear Yards. There shall be a rear yard of at least 15 feet.
5. Building Envelope. The building envelope shall exclude areas located within flood

plains, wetlands and wetland buffers, except as may be approved by the New Jersey Department of Environmental Protection (NJDEP) and no floodplain nor wetlands nor wetland buffers shall be disturbed without the appropriate permits having been issued by the NJDEP.

6. Minimum Floor Area. Every dwelling hereafter erected shall have a minimum floor area excluding garages of:

Unit Type	Minimum Floor Area (Square Feet)
0 Bedroom (Studio)	500
1 Bedroom	675
2 Bedrooms	900
3 Bedrooms	1,000
Units with more than three bedrooms are not permitted.	

7. The maximum number of dwelling units shall not exceed 10 affordable family units.
8. Minimum distance between buildings is 20 feet.

c. Design Standards.

1. The design standards contained herein shall supplement the design and performance standards contained in Article 9-10 of Borough of Bernardsville Regulations. If there is a conflict, Article 9-10, as amended from time to time shall apply.
2. New buildings shall relate to existing buildings and other structures in the vicinity that have a visual relationship to the site.
3. Multiple buildings on a single tract shall be designed so as to be architecturally compatible with one another, utilizing common color schemes and materials.
4. Building facades shall be consistent with the size, scale and setbacks of adjacent buildings and those where there is a visual relationship.
5. The appearance of the side and rear elevations of buildings is important. Therefore, guidelines for the fronts of buildings shall also apply to the rear and sides where visible at street level from a public right-of-way.
6. Buildings shall be designed so as to prevent exterior elevations from containing large expanses of blank or featureless walls. Also, large expanses of windows, including curtain-wall windows and other design elements not at a human scale, are strongly discouraged.
7. The type, shape, pitch, feature and color of a roof shall be architecturally compatible with the building style, material, colors and details of other buildings in the area.
8. Flat roofs shall be enclosed by parapets or other appropriate architectural details.



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9. All open space shall be designed and landscaped in a way to allow for easy maintenance and limited encroachment onto any public right of way. Additionally, all private open space shall be designed in a way that allows for a reasonable level of enjoyment by residents.
10. Green building strategies are encouraged in the AH-4 Zone.

**§ LD-12-20.5. AH-5 AFFORDABLE HOUSING DISTRICT. [Ord. No. 2018-1772 § 5]**

a. Primary Intended Use.

1. Affordable family rental multi-family dwellings:
  - (a) Townhouses.
  - (b) Apartments.
2. Parking and facilities in accordance with § 9-10 of this chapter or Residential Site Improvement Standards as deemed appropriate by the local approving Board.
3. Other accessory uses customarily incident to the above uses provide they not include any activity commonly conducted for gain unless specifically permitted by this Article.

b. Required Conditions.

The following requirements must be complied with in the AH-5 Affordable Housing Districts:

1. Height. No building shall exceed a maximum of 2 1/2 stories or 35 feet in height, whichever is the lesser.
2. Front Yard. There shall be a front yard of not less than 25 feet.
3. Side Yards. There shall be two side yards, and no side yard shall be less than 10 feet.
4. Rear Yards. There shall be a rear yard of at least 25 feet.
5. Building Envelope. The building envelope shall exclude areas located within flood plains, wetlands and wetland buffers, except as may be approved by the New Jersey Department of Environmental Protection (NJDEP) and no floodplain nor wetlands nor wetland buffers shall be disturbed without the appropriate permits having been issued by the NJDEP.
6. Minimum Floor Area. Every dwelling hereafter erected shall have a minimum floor area excluding garages of:

Unit Type	Minimum Floor Area (Square Feet)
0 Bedroom (Studio)	500
1 Bedroom	675

Unit Type	Minimum Floor Area (Square Feet)
2 Bedrooms	900
3 Bedrooms	1,000
Units with more than three bedrooms are not permitted.	

7. The maximum number of family rental affordable dwellings shall not exceed eight units.

8. Minimum distance between buildings is 15 feet.

c. Design Standards.

- The design standards contained herein shall supplement the design and performance standards contained in Article 9-10 of Borough of Bernardsville Regulations. If there is a conflict, Article 9-10, as amended from time to time, shall apply.
- New buildings shall relate to existing buildings and other structures in the vicinity that have a visual relationship to the site.
- Multiple buildings on a single tract shall be designed so as to be architecturally compatible with one another, utilizing common color schemes and materials.
- Building facades shall be consistent with the size, scale and setbacks of adjacent buildings and those where there is a visual relationship.
- The appearance of the side and rear elevations of buildings is important. Therefore, guidelines for the fronts of buildings shall also apply to the rear and sides where visible at street level from a public right-of-way.
- Buildings shall be designed so as to prevent exterior elevations from containing large expanses of blank or featureless walls. Also, large expanses of windows, including curtain-wall windows and other design elements not at a human scale, are strongly discouraged.
- The type, shape, pitch, feature and color of a roof shall be architecturally compatible with the building style, material, colors and details of other buildings in the area.
- Flat roofs shall be enclosed by parapets or other appropriate architectural details.
- All open space shall be designed and landscaped in a way to allow for easy maintenance and limited encroachment onto any public right of way. Additionally, all private open space shall be designed in a way that allows for a reasonable level of enjoyment by residents.
- Green building strategies are encouraged in the AH-5 Zone.

**§ LD-12-20.6. AH-6 Affordable Housing District. [Added 6-27-2022 by Ord. No. 2022-1918]**

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## a. Primary Intended Use.

1. Affordable family rental multi-family dwellings:
  - (a) Townhouses.
  - (b) Apartments.
2. Parking and similar such facilities.
  - (a) Parking shall be required in accordance with N.J.A.C. § 5:21-4.14, Residential Site Improvement Standards.
  - (b) Parking regulations may be relaxed by the approving Board without need for variance relief where an applicant can demonstrate to the Board's satisfaction that parking standards can be reduced pursuant to N.J.A.C. § 5:21-4.14(c) where an alternative standard better reflects local conditions. Factors affecting the minimum number of parking spaces include but are not limited to household characteristics, availability of mass transit, urban versus suburban location, and available off-site parking resources.
3. Other accessory uses customarily incident to the above uses provide they do not include any activity commonly conducted for gain unless specifically permitted by this Article.

## b. Required Conditions. The following requirements must be complied with in the AH-6 Affordable Housing Districts:

1. Height. No building shall exceed a maximum of 2 stories or 35 feet in height, whichever is the lesser.
2. Front Yard. There shall be a front yard of not less than 10 feet however, entryways and porches may encroach into the front yard setback but by no more than 5 feet.
3. Side Yards. There shall be two side yards, and no side yard shall be less than 5 feet.
4. Rear Yards. There shall be a rear yard of at least 8 feet.
5. Maximum Building Coverage. Maximum building coverage shall not exceed 25%.
6. Maximum Impervious Coverage. Maximum impervious coverage shall not exceed 65%.
7. Building Envelope. The building envelope shall exclude areas located within flood plains, wetlands and wetland buffers, except as may be approved by the New Jersey Department of Environmental Protection (NJDEP) and no floodplain nor wetlands nor wetland buffers shall be disturbed without the appropriate permits having been issued by the NJDEP.
8. Minimum Floor Area. Every dwelling hereafter erected shall have a minimum floor area excluding garages of:

<b>Unit Type</b>	<b>Minimum Floor Area (Square Feet)</b>
0 Bedroom (Studio)	500
1 Bedroom	675
2 Bedrooms	900
3 Bedrooms	1,000
Units with more than three bedrooms are not permitted.	

9. The maximum number of family rental affordable dwellings shall not exceed twelve (12) units.
10. Residential development shall be restricted to only affordable housing units and shall be subject to all terms and conditions pursuant to Article 13 of this chapter entitled "Affordable Housing."
11. As an affordable housing development, and in an effort to remove unnecessary cost generative fees, such development shall be exempt from any tree replacement fees, traffic impact fees, open space fees, or such other similar impact fees in the Land Use Ordinance.

c. Design Standards.

1. The design standards contained herein shall supplement the design and performance standards contained in Article 9-10 of Borough of Bernardsville Regulations. If there is a conflict, Article 9-10, as amended from time to time, shall apply.
2. New buildings shall relate to existing buildings and other structures in the vicinity that have a visual relationship to the site.
3. Multiple buildings on a single tract are permitted but shall be designed so as to be architecturally compatible with one another, utilizing common color schemes and materials.
4. Building facades shall be consistent with the size, scale and setbacks of adjacent buildings and those where there is a visual relationship.
5. The appearance of the side and rear elevations of buildings is important. Therefore, guidelines for the fronts of buildings shall also apply to the rear and sides where visible at street level from a public right-of-way.
6. Buildings shall be designed so as to prevent exterior elevations from containing large expanses of blank or featureless walls. Also, large expanses of windows, including curtain-wall windows and other design elements not at a human scale, are strongly discouraged.
7. The type, shape, pitch, feature and color of a roof shall be architecturally compatible with the building style, material, colors and details of other buildings in the area.

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8. Flat roofs shall be enclosed by parapets or other appropriate architectural details.
9. All open space shall be designed and landscaped in a way to allow for easy maintenance and limited encroachment onto any public right of way. Additionally, all private open space shall be designed in a way that allows for a reasonable level of enjoyment by residents.
10. Green building strategies are encouraged in the AH-6 Zone.
- d. Superseding Other Zoning. The use, bulk, design and performance standards addressed in the AH-6 Zone shall supersede the zoning provisions and design standards of the balance of the Bernardsville Land Use Ordinance. To the extent regulations and standards of the AH-6 Zone are silent, the standards of the Land Use Ordinance shall apply.

**§ LD-12-20.7. AH-7 Affordable Housing District. [Added 6-27-2022 by Ord. No. 2022-1918]**

- a. Primary Intended Use.
  1. Affordable family rental multi-family dwellings:
    - (a) Townhouses.
    - (b) Apartments.
  2. Parking and similar such facilities.
    - (a) Parking shall be required in accordance with N.J.A.C. § 5:21-4.14, Residential Site Improvement Standards.
    - (b) Parking regulations may be relaxed by the approving Board without need for variance relief where an applicant can demonstrate to the Board's satisfaction that parking standards can be reduced pursuant to N.J.A.C. 5:21-4.14(c) where an alternative standard better reflects local conditions. Factors affecting the minimum number of parking spaces include household characteristics, availability of mass transit, urban versus suburban location, and available off-site parking resources.
  3. Other accessory uses customarily incident to the above uses provide they do not include any activity commonly conducted for gain unless specifically permitted by this Article.
- b. Required Conditions. The following requirements must be complied with in the AH-7 Affordable Housing Districts:
  1. Height. No building shall exceed a maximum of 2 stories or 35 feet in height, whichever is the lesser.
  2. Front Yard. There shall be a front yard of not less than 10 feet from Bernards Avenue and not less than 5 feet from Grove Street, however, entryways and porches may encroach into the front yard setback but by no more than 5 feet from Bernards Avenue which shall serve as the main entrance to the building.
  3. Side Yards. There shall be two side yards, and no side yard shall be less than 5 feet.

4. Rear Yards. None.
5. Maximum Building Coverage. Maximum building coverage shall not exceed 40%.
6. Maximum Impervious Coverage. Maximum impervious coverage shall not exceed 85%.
7. Building Envelope. The building envelope shall exclude areas located within flood plains, wetlands and wetland buffers, except as may be approved by the New Jersey Department of Environmental Protection (NJDEP) and no floodplain nor wetlands nor wetland buffers shall be disturbed without the appropriate permits having been issued by the NJDEP.
8. Minimum Floor Area. Every dwelling hereafter erected shall have a minimum floor area excluding garages of:

Unit Type	Minimum Floor Area (Square Feet)
0 Bedroom (Studio)	500
1 Bedroom	675
2 Bedrooms	900
3 Bedrooms	1,000
Units with more than three bedrooms are not permitted.	

9. The maximum number of family rental affordable dwellings shall not exceed twenty-two (22) units.
  10. Residential development shall be restricted to only affordable housing units and shall be subject to all terms and conditions pursuant to Article 13 of this chapter entitled "Affordable Housing."
- c. Design Standards.
1. The design standards contained herein shall supplement the design and performance standards contained in Article 9-10 of Borough of Bernardsville Regulations. If there is a conflict, Article 9-10, as amended from time to time, shall apply.
  2. New buildings shall relate to existing buildings and other structures in the vicinity that have a visual relationship to the site.
  3. Multiple buildings on a single tract are permitted but shall be designed so as to be architecturally compatible with one another, utilizing common color schemes and materials.
  4. Building facades shall be consistent with the size, scale and setbacks of adjacent buildings and those where there is a visual relationship.
  5. The appearance of the side and rear elevations of buildings is important. Therefore, guidelines for the fronts of buildings shall also apply to the rear and sides where visible.



at street level from a public right-of-way.

6. Buildings shall be designed so as to prevent exterior elevations from containing large expanses of blank or featureless walls. Also, large expanses of windows, including curtain-wall windows and other design elements not at a human scale, are strongly discouraged.
  7. The type, shape, pitch, feature and color of a roof shall be architecturally compatible with the building style, material, colors and details of other buildings in the area.
  8. Flat roofs shall be enclosed by parapets or other appropriate architectural details.
  9. All open space shall be designed and landscaped in a way to allow for easy maintenance and limited encroachment onto any public right of way. Additionally, all private open space shall be designed in a way that allows for a reasonable level of enjoyment by residents.
  10. Green building strategies are encouraged in the AH-7 Zone.
  11. As an affordable housing development, and in an effort to remove unnecessary cost generative fees, such development shall be exempt from any tree replacement fees, traffic impact fees, open space fees, or such other similar impact fees in the Land Use Ordinance.
- d. Superseding Other Zoning. The use, bulk, design and performance standards addressed in the AH-7 Zone shall supersede the zoning provisions and design standards of the balance of the Bernardsville Land Use Ordinance. To the extent regulations and standards of the AH-7 Zone are silent, the standards of the Land Use Ordinance shall apply.

**§ LD-13-19. DEVELOPMENT FEES.<sup>1</sup> [Ord. No. 2018-1772 § 1]****a. Purpose.**

1. In *Holmdel Builder's Association v. Holmdel Borough*, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules.
2. Pursuant to P.L. 2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH-approved spending plan may retain fees collected from nonresidential development.
3. This section establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance PL.2008, c. 46, Sections 8 and 32-38. Fees collected pursuant to this ordinance shall be used for the sole purpose of providing very low, low- and moderate-income housing. This section shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:97-8.

**b. Basic Requirements.**

1. This section shall not be effective until approved by the Court, COAH or a successor agency.
2. Bernardsville Borough shall not spend development fees until the Court, COAH or a successor agency has approved a plan for spending such fees (Spending Plan).

**c. Definitions.**

1. The following terms, as used in this section shall have the following meanings:

**AFFORDABLE HOUSING DEVELOPMENT** — Shall mean a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100% affordable development.

**COAH OR THE COUNCIL** — Shall mean the New Jersey Council on Affordable Housing established under the Fair Housing Act.

**DEVELOPER** — Means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

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1. Editor's Note: Prior ordinance history includes portions of Ordinance Nos. 581, 95-1018, 95-1029, 2006-1420, 2006-1436 and 2006-1447.

**DEVELOPMENT FEE** — Shall mean money paid by a developer for the improvement of property as permitted by applicable COAH regulations.

**EQUALIZED ASSESSED VALUE** — Shall mean the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L. 1973, c.123 (C.54:1-35a through C.54:1-35c).

**GREEN BUILDING STRATEGIES** — Shall mean those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

d. Residential Development Fees.

1. Imposed Fees.

- (a) Within the Borough of Bernardsville, all residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1.5% of the equalized assessed value for residential development provided no increased density is permitted. Development fees shall also be imposed and collected when an existing structure is expanded or undergoes a change to a more intense use; in such cases, the fee shall be calculated on the increase in the equalized assessed value of the improved structure. **[Amended 11-22-2021 by Ord. No. 2021-1900]**
- (b) When an increase in residential density pursuant to a "d" variance is granted under N.J.S.A. 40:55D-70d(5) (known as a "d" variance), developers shall be required to pay a "bonus" development fee of 6% of the equalized assessed value for each additional unit that may be realized, except that this provision shall not be applicable to a development that will include affordable housing. If the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding filing of the "d" variance application. Example: If an approval allows four units to be constructed on a site that was zoned for two units, the development fees will equal 1 1/2% of the equalized assessed value on the first two units; and 6% of the equalized assessed value for the two non-age-restricted additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

2. Eligible Exactions, Ineligible Exactions and Exemptions for Residential Development.

- (a) Affordable housing developments and developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and/or developments where the developer has made a payment in lieu of on-site construction of affordable units, if permitted by Ordinance or by Agreement with the Borough of Bernardsville, shall be exempt from development fees.
- (b) Developments that have received preliminary or final site plan approval prior to

the adoption of Bernardsville's first adopted development fee ordinance shall be exempt from the payment of development fees, unless the developer seeks a substantial change in the original approval. Where a site plan approval is not applicable, the issuance of a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for the purpose of determining the right to exemption. In all cases, the applicable fee percentage shall be determined based upon on the Development Fee Ordinance in effect on the date that the building permit is issued.

- (c) Development fees shall be imposed and collected when an existing structure is demolished and replaced, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the new structure.
  - (d) Fees shall be imposed and collected when an existing structure is demolished and replaced, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the new structure.
  - (e) Nonprofit organizations which have received tax-exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code, providing current evidence of that status is submitted to the Municipal Clerk, together with a certification that services of the organization are provided at reduced rates to those who establish an inability to pay existing charges, shall be exempted from paying a development fee.
  - (f) Federal, state, county, and local governments shall be exempted from paying a development fee.
  - (g) Developers of residential structures demolished and replaced by the same owner as the result of a natural disaster such as fire and flooding shall be exempt from paying a development fee.
- e. Nonresidential Development Fees.
- 1. Imposition of Fees.
    - (a) Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted below, shall pay a fee equal to 2.5% of the increase in equalized assessed value of the land and improvements, for all new nonresidential construction on an unimproved lot or lots.
    - (b) Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to 2.5% of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
    - (c) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2.5% shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvements and the equalized assessed value of the newly improved structure,

i.e. land and improvements, and such calculation shall be made at the time a final Certificate of Occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.

2. Eligible Exactions, Ineligible Exactions and Exemptions for Nonresidential Development.

- (a) The nonresidential portion of a mixed-use inclusionary or market rate development shall be subject to the 2.5% development fee, unless otherwise exempted below.
- (b) The 2.5% fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
- (c) Nonresidential developments shall be exempt from the payment of nonresidential development fees in accordance with the exemptions required as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption". Any exemption claimed by a developer shall be substantiated by that developer.
- (d) A developer of a non-residential development exempted from the non-residential development fee shall be subject to the fee at such time the basis for the exemption no longer applies and shall make the payment of the nonresidential development fee, in that event, within three years after that event or after the issuance of the final Certificate of Occupancy for the non-residential development, whichever is later.
- (e) If a property which was exempted from the collection of a nonresidential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by Bernardsville Borough as a lien against the real property of the owner.

f. Collection Procedures.

- 1. Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the Borough Construction Official responsible for the issuance of a building permit.
- 2. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per the instructions provided. The developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The Construction Official shall verify the information submitted by the nonresidential developer as per the instructions provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- 3. The Construction Official responsible for the issuance of a building permit shall notify the local Tax Assessor of the issuance of the first building permit for a development

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which is subject to a development fee.

4. Within 90 days of receipt of such notification, the Borough Tax Assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
5. The Construction Official responsible for the issuance of a final Certificate of Occupancy shall notify the Borough Tax Assessor of any and all requests for the scheduling of a final inspection on a property which is subject to a development fee.
6. Within 10 business days of a request for the scheduling of a final inspection, the Borough Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
7. Should Bernardsville Borough fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b. of section 37 of P.L. 2008, c. 46 (C.40:55D-8.6).
8. 50% of the initially calculated development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the Certificate of Occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of Certificate of Occupancy.
9. Appeal of Development Fees.
  - (a) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Such a challenge must be made with 45 days from the issuance of the Certificate of Occupancy. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by Bernardsville Borough. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
  - (b) A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by Bernardsville Borough. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

g. Affordable Housing Trust Fund.



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1. There is hereby created a separate, interest-bearing Affordable Housing Trust Fund to be maintained by the Chief Financial Officer of the Borough of Bernardsville for the purpose of depositing development fees collected from residential and nonresidential developers and proceeds from the sale of units with extinguished controls.
  2. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
    - (a) Payments in lieu of on-site construction of affordable units or of a fraction of an affordable unit, where permitted by Ordinance or by Agreement with the Borough of Bernardsville;
    - (b) Funds contributed by developers to make 10% of the adaptable entrances in a townhouse or other multistory attached development accessible;
    - (c) Rental income from municipally operated units;
    - (d) Repayments from affordable housing program loans;
    - (e) Recapture funds;
    - (f) Proceeds from the sale of affordable units; and
    - (g) Any other funds collected in connection with the Bernardsville Borough's affordable housing program.
  3. Interest accrued in the Affordable Housing Trust Fund shall only be used to fund eligible affordable housing activities approved by the Court.
- h. Use of Funds.
1. The expenditure of all funds shall conform to a spending plan approved by the Court, or COAH or its successor agency. Funds deposited in the Affordable Housing Trust Fund may be used for any activity approved by the Court to address the Bernardsville Borough's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, housing rehabilitation, new construction of affordable housing units and related costs, accessory apartments, a market to affordable program, Regional Housing Partnership programs, conversion of existing non-residential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or State standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted by the Court and specified in the approved Spending Plan.
  2. Funds shall not be expended to reimburse Bernardsville Borough for past housing activities.

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3. At least 30% of all development fees collected and interest earned on such fees shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30% or less of median income for Housing Region 3, in which Bernardsville is located.
  - (a) Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs. The specific programs to be used for affordability assistance shall be identified and described within the Spending Plan.
  - (b) Affordability assistance to households earning 30% or less of median income may include buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30% or less of median income. The specific programs to be used for very low income affordability assistance shall be identified and described within the Spending Plan.
  - (c) Payments in lieu of constructing affordable housing units on site, if permitted by Ordinance or by Agreement with the Borough of Bernardsville, and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
4. Bernardsville Borough may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including its programs for affordability assistance.
5. No more than 20% of all revenues collected from development fees may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultants' fees necessary to develop or implement a new construction program, prepare a Housing Element and Fair Share Plan, and/or an affirmative marketing program or rehabilitation program.
  - (a) In the case of a rehabilitation program, the administrative costs of the rehabilitation program shall be included as part of the 20% of collected development fees that may be expended on administration.
  - (b) Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. All other housing rehabilitation costs are considered programmatic and not administrative. Legal or other fees related to litigation opposing affordable housing sites or related to securing or appealing a judgment from the Court are not eligible uses of the Affordable Housing Trust Fund.
- i. Monitoring. Bernardsville Borough shall provide annual reporting of Affordable Housing Trust Fund activity to the State of New Jersey, Department of Community Affairs, Council on Affordable Housing or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the

municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing or Local Government Services. The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the sources and amounts of funds collected and the amounts and purposes for which any funds have been expended. Such reporting shall include an accounting of development fees collected from residential and non-residential developers, payments in lieu of constructing affordable units on site (if permitted by Ordinance or by Agreement with the Borough), funds from the sale of units with extinguished controls, barrier free escrow funds, rental income from Borough owned affordable housing units, repayments from affordable housing program loans, and any other funds collected in connection with Bernardsville's affordable housing programs, as well as an accounting of the expenditures of revenues and implementation of the Spending Plan approved by the Court.

- j. Ongoing Collection of Fees. The ability for Bernardsville Borough to impose, collect and expend development fees shall expire with its substantive certification unless Bernardsville Borough has filed an adopted Housing Element and Fair Share Plan with COAH, has petitioned for substantive certification, and has received COAH's approval of its development fee ordinance. If Bernardsville Borough fails to renew its ability to impose and collect development fees prior to the expiration of substantive certification, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L. 1985, c.222 (C.52:27D-320). Bernardsville Borough shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its substantive certification or judgment of compliance, nor shall Bernardsville Borough retroactively impose a development fee on such a development. Bernardsville Borough shall not expend development fees after the expiration of its substantive certification or judgment of compliance.

**§ 12-3. REHABILITATION OF SUBSTANDARD HOUSING UNITS.****§ 12-3.1. Purpose. [Ord. No. 91-879 § 1.2]**

The purpose of this section is to provide for and facilitate the voluntary rehabilitation of existing physically substandard housing units occupied by low and moderate income households in order that the Borough may satisfy the indigenous portion of its precredited housing need up to the year 1993 as established by the New Jersey Council on Affordable Housing (COAH). According to COAH estimates, 37 such housing units exist. The Borough will guarantee the funding of low interest loans and/or grants to eligible homeowners for rehabilitation of up to 37 units through the issuance of municipal bonds or such other sources as may become available. As a further guarantee of funding, the Borough commits itself to providing an appropriate amount each year as follows:

Date	Amount
March 1989	\$120,0000
March 1990	62,500
March 1991	62,500
March 1992	62,500
March 1993	62,500

**§ 12-3.2. Definitions. As used in this section: [Ord. No. 91-879 § 2]**

Definitions pertaining to fair share housing not found below are the same as those definitions that appear in the New Jersey Fair Share Housing Act, N.J.S.A. 52:27D-301 et seq., or the rules and regulations adopted by the Council on Affordable Housing in N.J.A.C. 5:91 or 5:92.

**APPLICANT** — Shall mean the person or persons applying for technical or financial assistance for housing rehabilitation or conversion in accordance with the provisions of this section.

**CONVERSION** — Shall mean the conversion of an existing dwelling unit to provide a low or moderate income unit in accordance with the provisions of this section and applicable zoning.

**COUNCIL ON AFFORDABLE HOUSING** — Shall mean the Council established by the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq.

**DEFICIENT UNIT** — Shall mean a housing unit that is not decent, safe or sanitary as determined in N.J.A.C. 5.92-5.2 and subsection 12-3.3 of this chapter.

**FAIR HOUSING PROGRAM** — Shall mean the procedures and provisions of this section to provide technical and financial assistance for the rehabilitation or conversion.

**FAIR HOUSING TRUST FUND** — Shall mean the Fund established in subsection 12-3.6, paragraph a of this chapter.

**HOUSING ADMINISTRATOR** — Shall mean a person hired by the Borough to perform the duties listed in subsection 12-3.4.

**INDIGENOUS NEED** — Shall mean deficient housing units occupied by low and moderate

income households within a municipality.

**INSPECTION OFFICER** — Shall mean a qualified inspector who will be hired by the Borough to perform the duties listed in section 12-3.4 of this chapter.

**LOW INCOME HOUSEHOLD** — Shall mean a household with a gross household income equal to 50% or less of the median gross household income for households of the same size within the housing region in which the housing is located as determined by the Council on Affordable Housing in N.J.A.C. 5:92 or subsequent rules and regulations.

**LOW INCOME HOUSING** — Shall mean housing affordable according to Federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs and occupied or reserved for occupancy by a low income household.

**MODERATE INCOME HOUSEHOLD** — Shall mean a household with a gross household income equal to or more than 50% but less than 80% of the median gross household income for households of the same size within the housing region in which the housing is located as determined by the Council on Affordable Housing in N.J.A.C. 5:92 or subsequent rules and regulations.

**MODERATE INCOME HOUSING** — Shall mean housing affordable according to Federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs and occupied or reserved for occupancy by a moderate income household.

**REHABILITATION** — Shall mean the restoration of a deficient unit to be a decent, safe, and sanitary unit as provided for by this chapter.

### **§ 12-3.3. General Provisions. [Ord. No. 91-879 § 3]**

- a. Eligibility. Only owners of houses or structures within the Borough are eligible for the technical or financial assistance made available through this section. Eligibility is further determined by the following criteria:
  1. The homeowner must either live in a low or moderate income household or must agree to rent the house or structure to be rehabilitated or converted to a low or moderate income household. Proof of income will be required by the Housing Administrator.
  2. A house that is proposed to be rehabilitated must be considered deficient in accordance with N.J.A.C. 5:92. Determination of deficiency will be made by a Borough Inspection Officer. To qualify as deficient, the unit must have a minimum of two of the following characteristics.
    - (a) Constructed prior to 1940;
    - (b) 1.01 or more persons per room;
    - (c) Absence of a private entranceway to dwelling unit;
    - (d) Absence of exclusive access to complete plumbing facilities;
    - (e) Absence of adequate kitchen facilities, that is, a sink with piped water, a stove and a refrigerator;

- (f) Structural weaknesses that violate the Construction Code.
- 3. The rehabilitation or conversion plan, will upon completion, result in the improvement of all deficient components of the eligible unit. The adequacy of the plan will be initially determined by the Borough Inspection Officer and finally determined by the Affordable Housing Board.
- 4. The homeowner must agree, in writing, to comply with all the requirements of this section.
- b. Effect on Homeowner.
  - 1. Homeowners who receive technical or financial assistance under the provisions of this section shall be entitled to special property tax assessment treatment in accordance with the recommendations of COAH.
  - 2. Homeowners who receive technical or financial assistance under the provisions of this section shall place a deed restriction on the property to specify that only a low or moderate income household may occupy the housing unit. The deed restriction shall be prepared by the Borough Attorney. The deed restriction shall take effect as soon as an application has been approved and money has been made available for the rehabilitation project. The deed restriction shall be in effect for six years subsequent to satisfactory completion of a rehabilitated unit. Sale of the deed restricted dwelling shall not affect the deed restriction.
  - 3. Homeowners who receive technical or financial assistance under the provisions of this section and who rent the units to someone else shall agree to rent control restrictions on the rehabilitated unit. The annual rent shall not exceed more than 30% of the household's gross annual income. The restriction shall be in effect for six years in the case of rehabilitated units and 10 years in the case of converted units. Increases in rent during the period of rent control may be granted by the Borough Council. An increase may be granted so long as the tenant household is not required to pay more than 30% of its gross annual income.
- c. Phasing. The Borough will guarantee financial assistance to eligible and interested homeowners for no less than seven units for each of the five years beginning with 1987.
- d. Priority for Financial Assistance. In the event that financial assistance is not available for every eligible applicant, 50% of the available assistance shall be awarded to applications that will result in low income housing in preference to those that will result in moderate income housing.
- e. Penalties for Noncompliance. No financial assistance shall be made available to homeowners without full compliance with the terms of this section and other applicable regulations. Any person who violates this section or fails to comply with any of its requirements shall upon conviction, be liable to the penalty stated in Chapter 1, Section 1-5. In addition, as part of the penalty, he shall make restitution of any or all funds paid by the Borough under the provisions of this section. Nothing herein contained shall prevent the Borough of Bernardsville from taking such other lawful action as is necessary to prevent or remedy any violation.



**§ 12-3.4. Administration. The Borough Council will appoint a Housing Administrator and will designate a qualified Inspection Officer, both of whom will report directly to the Borough Council. [Ord. No. 91-879 § 4.1]**

a. The duties of the Housing Administrator shall include:

1. Affirmative marketing of the Borough's Rehabilitation Program through:
  - (a) At least once annually for the years of 1988, 1989, 1990, 1991 and 1992, a direct mailing to all the Borough's homeowners announcing the Rehabilitation Program and explaining the eligibility requirements for participation in the Program, and the procedures for applying for assistance under the provisions of this section.
  - (b) At least one well-publicized public meeting to answer questions about the Rehabilitation Program.
  - (c) A poster highlighting the main features of the Rehabilitation Program to be hung in Borough Hall at all times.
  - (d) The issuance of periodic press releases to inform the public of news related to the Rehabilitation Program and to promote interest in the Program.
  - (e) Preparation of information and application packets for distribution to interested homeowners.
2. Development of necessary application and financial statement forms to be used by homeowners interested in applying for participation in the Rehabilitation Program. The application will clearly state that any homeowner who receives financial assistance under the provisions of this section will agree to resale or rent controls for the property for six years. The application shall require proof of ownership and general information on the property to be rehabilitated as well as a description and estimated cost of the work needed to improve the unit to meet the parameters of the Rehabilitation Program. The financial statement form shall indicate that the information submitted will be kept strictly confidential. These forms shall be approved by the Borough Council prior to distribution to applicants.
3. Determination of eligibility of the applicant based on the requirements of this section.
4. Maintenance of a comprehensive file of all sources of financial assistance from Federal and State programs for housing rehabilitation. The file on each program shall include general information about the program, eligibility requirements, several copies of application forms for the program, application filing procedures and deadlines, the total appropriation for the program and funding limitations for individual projects.
5. Technical assistance to eligible applicants for the Borough Rehabilitation Program to apply for financial assistance from appropriate Federal and State programs for housing rehabilitation by low and moderate income households.
6. Technical assistance to eligible applicants for the Borough Rehabilitation Program to apply for a grant or loan from the Borough upon a determination that financial assistance for housing rehabilitation or conversion will not be available from Federal or

State programs.

7. Preparation and presentation of a report on each eligible application to the Affordable Housing Board for a grant or loan from the Borough.
  8. Preparation and presentation of an annual report to the Borough Council at the close of each fiscal year. The report shall compare the Borough's rehabilitation objectives with the accomplishment of each year. The report shall indicate the status, including any information available from the Inspection Officer, of the condition of each unit that has been or will be rehabilitated or converted and shall include a full financial accounting for the Program. The report shall also contain recommendations for improving either the administrative or substantive elements of the Program.
  9. The Housing Administrator shall establish specific regular hours to meet with interested homeowners at Borough Hall.
- b. The Inspection Officer shall have the following duties:
1. Determination of the "deficiency" of an applicant's unit under the provisions of this section. The Inspection Officer's evaluation of deficiency shall be reported in writing to the Housing Administrator.
  2. Determination of whether or not the proposed description and cost of work needed to rehabilitate or convert the subject structure will meet the parameters of the Rehabilitation Program. The Inspection Officer's report on the description and cost of work shall be made in writing to the Housing Administrator.
  3. Inspection and, when completed, certification of the rehabilitation. The certification shall bear the date of the inspection and shall be indicated by a written report to the Housing Administrator.
- c. The Borough shall include in its annual budget sufficient funds to pay for the costs of administering the Rehabilitation Program. The money expended for preparing and implementing the Rehabilitation Program shall, in accordance with the Fair Housing Act, be considered a mandated expenditure exempt from the limitations on final appropriations imposed pursuant to P.L. 1976, c.68(C40A:4-45.1 et seq.). For the first year of the Program, 1989, the amount budgeted for administration shall be 20% of the average estimated cost of rehabilitating seven units at \$10,000 per unit or \$14,000. For subsequent years, the budget will be determined based on the experience of the previous year.

**§ 12-3.5. Procedure for Application, Review and Approval. [Ord. No. 91-879 § 4.2]**

- a. Interested homeowners will be able to secure information and application packets from the Housing Administrator by calling or visiting Borough Hall during the Administrator's regularly scheduled office hours.
- b. Interested homeowners will submit a completed application to the Housing Administrator.
- c. The Housing Administrator will review the application for completeness and, once an application is complete, determine whether the applicant meets income eligibility

requirements.

- d. Upon determination that the applicant is eligible, the Inspection Officer will inspect the property to rule on whether it qualifies as "deficient" under the provisions of this section and whether or not the proposed description and cost of work needed to improve the unit will meet the parameters of the Rehabilitation Program. The Inspection Officer's determination will be submitted in writing to the Housing Administrator.
- e. If the Inspection Officer determines that the unit qualifies as "deficient" but recommends an amended description and cost estimate of the work necessary to rehabilitate or convert the unit, the applicant will be asked to revise the application to address, satisfactorily, the comments of the Inspection Officer.
- f. If the Inspection Officer determines that the unit qualifies as "deficient" and that the proposed description and cost estimate of the work necessary to rehabilitate or convert the unit is satisfactory, the Housing Administrator will determine whether or not the applicant is eligible for financial assistance to complete the work from a Federal or State program and whether there is a realistic chance of the applicant's receiving assistance from the program.
- g. If the Housing Administrator determines that the applicant is eligible for financial assistance to complete the work from a Federal or State program and that there is a realistic chance for the applicant to receive such assistance, the Housing Administrator will offer as much technical assistance as the applicant desires and as the Housing Administrator can reasonably provide to prepare an application(s) for the relevant programs.
- h. If the Housing Administrator determines that the applicant is not eligible for financial assistance to complete the work from a Federal or State program or that there is no realistic chance for the applicant to receive such assistance or the application for such assistance is denied by the relevant State or Federal agency(s), at the applicant's request the Housing Administrator will forward the application to the Affordable Housing Board for a loan or grant from Borough funds. The Housing Administrator shall be available to discuss the application with the Affordable Housing Board at the time of its formal consideration.
- i. If the Affordable Housing Board approves the application, the rehabilitation may begin as soon as the applicant and the appropriate representative of the Affordable Housing Board have signed all necessary agreements. The Affordable Housing Board shall arrange for payment of the rehabilitation to be made to the appropriate party(s) upon securing a guarantee that the money will go toward payment of the work included in the application.
- j. If the Affordable Housing Board denies the application, the specific reasons for rejection shall be given. The Affordable Housing Board may deny an application only if it can be shown that the applicant is ineligible or that the proposed work plan is insufficient to bring the building into conformance with the parameters of the Rehabilitation Program.
- k. After construction for rehabilitation of the housing unit is completed, the Borough Inspection Officer will inspect the unit and, if appropriate certify that the work has been completed in accordance with the approved work plan. If the work is incomplete or for some reason unsatisfactory, the Inspection Officer shall so inform the Housing Administrator, who will then work with the Affordable Housing Board to find a suitable remedy.

**§ 12-3.6. Funding of Housing Rehabilitation; Sources of Money. [Ord. No. 91-879 § 5]**

The Borough will utilize its own funds from the sale of municipal bonds as the primary source of money to fund housing rehabilitation or conversion.

In addition, the Borough will seek financial assistance from the State or Federal Government for housing rehabilitation.

All applicants shall be eligible for a low interest loan or grant from the proceeds of the sale of municipal bonds or other sources of municipal revenue. The Borough will provide for any shortfall in the cost of rehabilitation or conversion of substandard units to the extent necessary in order to insure rehabilitation or conversion in a timely fashion.

- a. Low Interest Loans from Municipal Bond Fund. An eligible applicant shall, upon the applicant's request, receive a low interest loan from the Borough. The loan shall be awarded at an interest rate to be agreed upon mutually by the applicant and the Affordable Housing Board. Loan money would be made available from the Borough through bonding. Upon making such a loan, the Borough shall have a lien on the subject property and the property owner shall execute necessary documents to effectuate the lien. The Housing Administrator will work with the applicant to establish a realistic repayment schedule. If the applicant does not meet that schedule, the Borough will collect the uncollected funds as well as the accumulated interest at the time of sale of the property. The Borough will retain the option to increase the interest rates on delinquent loans.

Based on the appropriations specified in subsection 12-3.6, loans will be made available from the Borough to eligible applicants under the terms specified below:

1. Rental Rehabilitation. The following terms will apply to loans made for units that are owned by households who do not qualify as low or moderate but who will agree to rent the property to low or moderate income households.
  - (a) The Borough will make a loan to the applicant for the total amount of the cost of the rehabilitation. Although the loan will be made to the applicant, the proceeds of the loan will be paid to the individual(s) or business(es) who sell the material and/or labor for the project. Homeowners who contribute "sweat equity" will not receive financial remuneration for their efforts.
  - (b) The interest rate will be fixed at an annual rate of two points below prime, or one point above the Borough's interest rate on bonds sold for such purpose, whichever is less, at the time the loan originates. The interest rate on bonds will be established and made public at the time of the sale and all prospective borrowers will be notified in writing of the respective rates.
  - (c) Payments on the loan principal will be deferred for a ten-year period. Payments on interest will be made in equal monthly payments during this ten-year period, or until the loan is paid in full, if paid before the end of this period. No interest will be charged after the 10th year if the owner chooses to defer repayment in exchange for extending affordability controls.
  - (d) Repayment of the loan principal will become payable in full at the end of 10 years,

unless the owner elects to continue affordability controls. 60 days prior to the end of the loan's ten-year life, the Borough's Housing Administrator will submit a letter to the owner indicating the date on which the loan principal will become due, when the Borough expects payment, and the circumstances under which repayment may continue to be deferred.

- (e) Repayment of the loan principal may be extended beyond the first ten-year period if and only if the owner agrees to continue renting to a low or moderate income household. If the owner wants to take this option, he or she shall notify the Borough's Housing Administrator in writing of his or her intentions within 30 days of receipt of notification from the Borough that the loan principal will become due within 60 days.
  - (f) If an owner plans to extend participation in the Fair Share Program through the option listed in the preceding point, he or she must sign an agreement with the Borough to extend the deed restriction and renew the lien placed on the property upon first entering the Program. The agreement will thereafter be renewable annually. Each year, at the time of rental, the owner must demonstrate that the unit continues to be occupied by a low or moderate income household.
  - (g) The Borough may, by resolution, forgive a loan and accumulated interest at any time. In the event a loan and interest is forgiven by the Borough, all obligations of the applicant under this section and any implementing agreement shall be deemed fully satisfied.
2. Owner-Occupied Rehabilitation. The following terms will apply to units that are owner-occupied by low or moderate income households.
- (a) The Borough will make a loan to the applicant for the total amount of the cost of rehabilitation. Although the loan will be made to the applicant, the proceeds of the loan will be paid to the individual(s) or business(es) who sell the material and/or labor for the projection. Homeowners who contribute "sweat equity" will not receive financial remuneration.
  - (b) The interest will be fixed at an annual rate of two points below prime or one point above the Borough's interest rate on bonds sold for such purpose, whichever is less, compounded. The interest rate on bonds will be established and made public at the time of sale and all prospective borrowers will be notified in writing of the respective rates. Interest is chargeable for a period of six years, unless the loan is repaid sooner.
  - (c) Deferred payments on principal and interest will be made available to the applicant as explained below.
  - (d) Repayment of the loan will not be required until the sale of the property. At the time of sale, the unpaid principal plus accrued interest shall be paid to the Borough except that no interest shall be charged beyond the sixth year (the life of the program).
  - (e) Payment of the principal and interest may continue to be deferred beyond the sale

of the property if and only if the property is sold to another low or moderate income household. If the owner elects this option the sales price must be calculated consistent with the Council's affordability standards. The new owner will be required to continue the deed restriction and assume the lien on the property.

- (f) The Borough may, by resolution, forgive a loan and accumulated interest at any time. In the event a loan and interest is forgiven by the Borough, all obligations of the applicant under this section and any implementing agreement shall be deemed fully satisfied.
- b. Grants from Municipal Bond Fund. An eligible applicant shall, upon the applicant's request, receive a grant from the Borough. Grant money would be made available from the Borough through bonding. Upon making such a grant the Borough shall have a lien on the subject property and the property owner shall execute necessary documents to effectuate the lien.

Based on the appropriations specified in subsection 12-3.6 grants will be made available from the Borough to eligible applicants under the terms specified below;

The following terms will apply to grants made for units that are owned by households who do not qualify as low or moderate but who will agree to rent the property to low or moderate income households and to units that are owner-occupied by low or moderate income households.

1. The Borough will make a grant to the applicant for the total amount of the cost of the rehabilitation. Although the grant will be made to the applicant, the proceeds of the grant will be paid to the individual(s) or business(es) who sell the material and/or labor for the project. Homeowners who contribute "sweat equity" will not receive financial remuneration for their efforts.
2. The applicant must agree and represent that he either lives in a low or moderate income household or that the property in question is or will be rented to a low or moderate income household.
3. The applicant must agree to furnish proof of income of the household occupying the premises in question in order to establish that the household qualifies as low or moderate. Proof of income will be required annually during a six-year period.
4. The applicant must agree that only a low or moderate income household will occupy the premises in question which restriction shall be valid for a period of six years from the date of completion of all improvements contemplated. The provisions of this paragraph shall be deemed to be a restrictive covenant running with the land in question and shall be binding on the applicant and successors in title for a six-year period.
5. The applicant must agree that annual rent to be paid by rental households shall not exceed more than 30% of the household's gross annual income. Rent control restrictions shall apply for a period of six years for rehabilitated units and 10 years for converted units. Reasonable annual rent increases may be imposed provided the annual rent shall not exceed 30% of the household's gross annual income.
6. In the event the premises in question are either sold or used for non-lower income



housing purposes prior to six years from the date of completion of all improvements contemplated, all grant funds shall be returned to the Borough's Rehabilitation Fund immediately upon the occurrence of either event.

**§ 12-3.7. Penalties for Noncompliance. [Ord. No. 91-879 § 6]**

No financial assistance shall be made available to homeowners without full compliance with the terms of this section and other applicable regulations. Any person who, through acts of fraud, violates this section or fails to comply with any of its requirements,

- a. Shall, upon conviction, be liable to the penalty stated in Chapter 1, Section 1-5.
- b. Shall make restitution for any or all funds paid by the Borough under the provisions of this section. Nothing herein contained shall prevent the Borough from taking such other lawful action as is necessary to prevent or remedy any violation.

**§ 12-3.8. Term of Ordinance. [Ord. No. 91-879 § 7]**

This ordinance shall expire by its own terms on December 31, 1993, unless reenacted according to law.

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**FILED**

April 3, 2025

HUNTERDON COUNTY SUPERIOR COURT

WILLIAM G. MENNEN, J.S.C.

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Lawyer ID No. 029021976  
PIDGEON & PIDGEON, P.C.  
Attorneys for Plaintiff/Petitioner Borough of Bernardsville  
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IN THE MATTER OF THE	)	Superior Court of New Jersey
APPLICATION OF THE BOROUGH OF	)	Law Division: Somerset County
BERNARDSVILLE, a municipal	)	
corporation of the State of New Jersey,	)	Docket No. SOM-L-925-15
	)	
Plaintiff/Petitioner.	)	Civil Action
	)	
	)	ORDER ON FAIRNESS/COMPLIANCE
	)	HEARING

Attorney for Plaintiff/Petitioner:

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Pidgeon & Pidgeon, P.C.  
5 Vaughn Drive, Suite 309  
Princeton, NJ 08540

Attorney for Interested Party/Intervenor:

Ariela Rutbeck-Goldman  
Fair Share Housing Center  
510 Park Boulevard  
Cherry Hill, NJ 08002

Special Master:

Honorable Peter A. Buchsbaum, J.S.C. (Retired)  
Lanza & Lanza  
5 Main Street  
Flemington, NJ 08822

**THIS MATTER** having been brought before the Court by Pidgeon & Pidgeon, P.C.,  
Attorneys for Plaintiff/Petitioner Borough of Bernardsville (the "Borough"), John R. Pidgeon  
appearing, and Ariela Rutbeck-Goldman, Esq., appearing on behalf of Fair Share Housing

Center, Inc. ("FSHC"); and the aforementioned parties having signed a First Amendment to November 22, 2017 Settlement Agreement between Bernardsville Borough and Fair Share Housing Center, dated March 21, 2025, which increased the number of units in the "scattered site" component of the November 22, 2017 Settlement Agreement and in the Borough's Housing Element and Fair Share Plan from thirty (30) 100% affordable family units to fifty-nine (59) 100% affordable family units; and the Court having conducted a Fairness/Compliance Hearing on March 27, 2025, to determine whether the 2017 Settlement Agreement as amended (the "Agreement") adequately protects, and is fair and reasonable to low- and moderate-income households in the Borough and its housing region; and notice of said <sup>hearing</sup> having been provided to all interested parties, and published in accordance with law; and there being no written or oral comments or objections received from any interested persons regarding the Agreement; and the Court having heard testimony from Borough Planner, Jessica Caldwell; and the Court having heard the statement on the record by Special Master Peter A. Buchsbaum recommending approval of the Agreement; and the Court having found, at the conclusion of said Fairness/Compliance Hearing, that all criteria set forth in *Morris County Fair Housing Council v. Boonton Twp.*, 197 N.J. Super. 359, 369-71 (Law Div. 1984) and *East/West Venture v. Borough of Fort Lee*, 268 N.J. Super. 311 (App. Div. 1996) have been satisfied; and for good cause appearing:

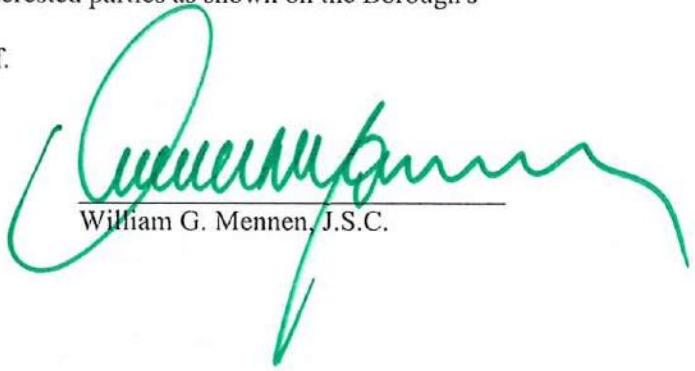
IT IS, ON THIS 3<sup>rd</sup> DAY OF April, 2025,

**ORDERED** that the Settlement Agreement as amended is hereby approved as being fair and reasonable to the interests of low- and moderate-income households based upon the criteria set forth in *Morris County Fair Housing Council, supra*, 197 N.J. Super. 359 and *East/West Venture, supra*, 268 N.J. Super. 311; and it is

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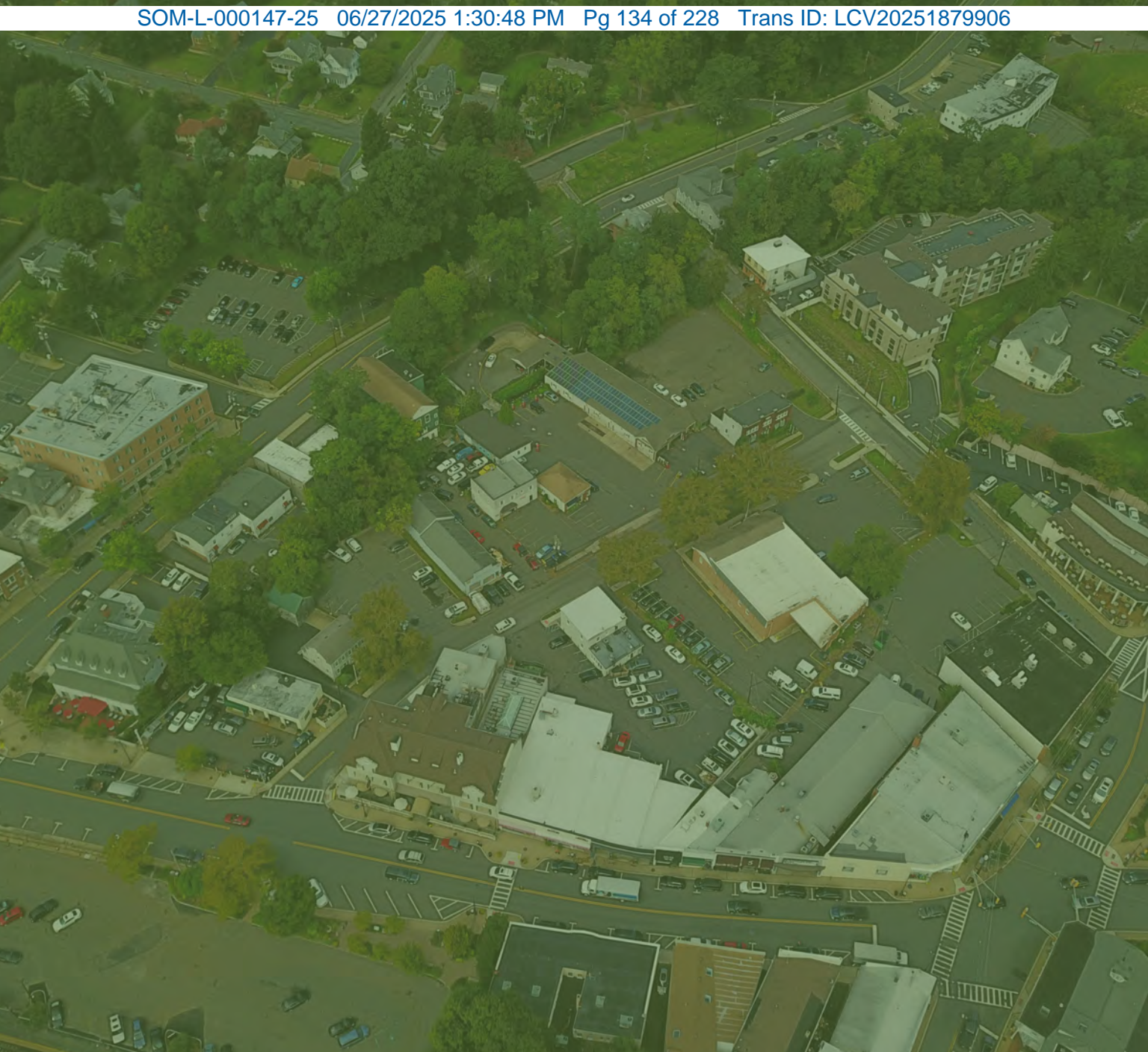
**FURTHER ORDERED** as follows;

1. The "scattered site" development as revised with a total of 59 affordable housing units is consistent with and shall be deemed a part of the Borough Housing Element and Fair Share Plan.
2. The changes to the original "scattered site" development are consistent with and shall be deemed to be part of the December 7, 2018 Amended Final Judgment of Compliance and Repose.
3. In all other respects the terms of the November 22, 2017, Settlement Agreement shall remain in full force and effect.
4. The Borough shall be entitled to carry any excess units resulting from the Amendment forward into its Fourth Round Fair Share Plan and shall be entitled to credits for those units in accordance with the provisions of *N.J.S.A. 52:27D-301 et seq.*, as amended March 2024 by Bills A4/S50, and any associated relevant agency and/or court rules.
5. A copy of this Order shall be served on all interested parties as shown on the Borough's service list within 10 days of the entry hereof.



William G. Mennen, J.S.C.





# QUIMBY LANE REDEVELOPMENT PLAN

BOROUGH OF BERNARDSVILLE, NJ





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# ACKNOWLEDGEMENTS

## BERNARDSVILLE RESIDENTS + STAKEHOLDERS

### MAYOR

Mary Jane Canose

### PLANNING BOARD

Robert Graham, Chair  
Terry Thompson, Vice-Chair  
Karen Gardner  
Jeffrey Horowitz  
Mary Kellogg  
Graham Macmillan  
Chad McQueen  
Dorothy Paluck  
Hal Simoff

### BOROUGH COUNCIL

Council President John Donahue  
Councilwoman Jeffrey Hammond  
Councilwoman Jena McCredie  
Councilman Chad McQueen  
Councilman Thomas O'Dea  
Councilwoman Christine Zamarra

### BOROUGH OFFICIALS

Ralph Maresca, Borough Administrator  
Anthony Suriano, Borough Clerk  
John R. Pidgeon, Esq., Borough Attorney  
Frank Mottola, Planning Board Secretary  
Steven K. Warner, Esq., Planning Board Attorney  
Joseph DeMarco, Esq., Redevelopment Attorney

### REDEVELOPMENT COMMITTEE

Mary Jane Canose  
Mona Carbona  
Peter Cirignano  
John Donahue  
Rudolfo Hisena  
Jeff Horowitz  
David Wagner

Sam Maddaluna  
Tim Manning  
Thomas O'Dea  
Geoffrey Price  
Paul Sedlak  
Bonnie Stone Sellers  
Hal Simoff  
Mike Sullivan

### PREPARED BY:



Philip A. Abramson, AICP/PP  
NJ Planner License No. 609600

**Final Version**

**Plan Date:** September 14, 2020

**Date Introduced:** September 14, 2020

**Date Adopted:** October 13, 2020

## QUIMBY LANE REDEVELOPMENT PLAN

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## QUIMBY LANE REDEVELOPMENT PLAN

### 1. INTRODUCTION

The Quimby Lane Redevelopment Plan (the “Plan” or “Redevelopment Plan”) represents a milestone in the Borough of Bernardsville’s efforts to reimagine its downtown for the benefit of generations of residents and visitors to come. The Plan sets forth a vision and standards for a group of properties in the vicinity of Quimby Lane and the Bernardsville Train Station that collectively hold the potential to transform the community’s downtown, radically expanding the quality and quantity of amenities and activities offered while facilitating high-quality development that will create a critical mass of activity.

The properties governed by this Redevelopment Plan, as identified on the Borough’s tax maps, are Block 70, Lots 1, 2, 3, 4, 5, 6, 6.01, 6.02, 6.03, 6.04, 6.05, 6.06, 6.07, and 6.08; Block 71, Lots 4, 5, 5.01, 6, 7, 8, 9, 10, 11, 12, and 13; and the Quimby Lane right-of-way. Through implementation of this Redevelopment Plan, the Borough will facilitate development that reflects priorities detailed in previous planning documents and sentiments expressed in community engagement efforts.

The formal redevelopment process for these properties began in 2019, when the Borough Council determined that the site met the statutory criteria for designation as an “area in need of redevelopment” pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A: 12A-1 et seq. The corresponding resolution is included in this Redevelopment Plan as Appendix D. Prior to this formal action, the future of the properties was assessed through a variety of processes, including a public engagement process led by the Bernardsville Downtown Revitalization Committee, and a Request for Proposals issued to developers to gauge market interest.

The above-mentioned properties may henceforth be identified as the “Site,” “Area,” “Redevelopment Plan Area,” or “Properties”. The word “Project” is used to connote the proposed redevelopment activities described in this Plan. Figure 1 below illustrates the location of the Redevelopment Plan Area.

## QUIMBY LANE REDEVELOPMENT PLAN

### 1.1. Redevelopment Plan Area Map

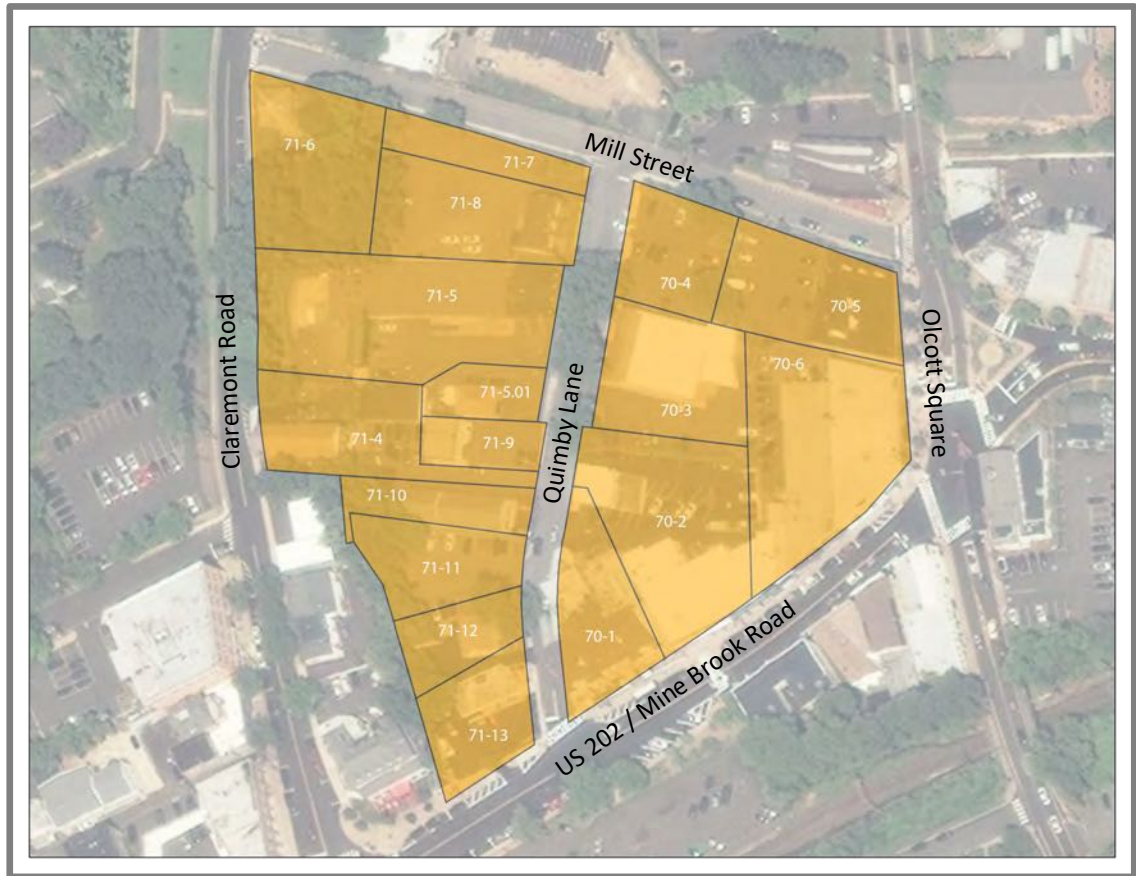


Figure 1: Redevelopment Plan Area

### 1.2. Plan Overview

This Redevelopment Plan establishes parameters for conversion of the Site into a new center of activity for the Borough of Bernardsville. The Plan envisions a combination of development on both private and public properties to create a revitalized downtown core. This vision is comprised of residential, retail, restaurant, and hotel uses, as well as a new public plaza and park. The Plan was developed using input from the public and Borough stakeholders, as well as extensive research regarding market and site conditions.

The Redevelopment Plan will create a new, European-style village at the center of Bernardsville. This project will blend into the downtown, respecting its existing character and historic architecture while incorporating modern design practices. Implementation of the plan will attract residents and visitors alike, thereby benefitting not only the Redevelopment Plan Area, but also the downtown and Borough generally.

Elements of the Plan include:

- Residential units, including affordable housing, to promote the downtown's community feel and benefit downtown businesses.



## QUIMBY LANE REDEVELOPMENT PLAN

- Active ground floor uses like restaurants and experiential retail.
- A new park, Mine Brook Park, to enhance the Mine Brook and its surroundings as a public amenity.
- A new public space, Quimby Plaza, to accommodate community gatherings and programming.
- Pedestrian paths to provide easy access to other points of downtown, the Train Station, and surrounding residential neighborhoods.
- Parking that is adequate to support development, but hidden from sight so as not to detract from private and public spaces created by redevelopment.

Collectively, the development and improvements outlined in this Plan will create a new downtown hub and convert the area into a fulcrum of social, cultural, and economic activity for the Borough.

The Redevelopment Plan Area is divided into different Sub Areas, each with their own development regulations. Of particular importance is Sub Area 1, which is comprised of land controlled by the Borough. In order to maximize the efficiency of the redevelopment project and the resulting public benefits, the Redeveloper of Sub Area 1 shall be required to develop a Conceptual Development Plan, the requirements of which are described in detail in Section 7.4.2, that provides a framework for coordination between Sub Areas.

1.2.1. In accordance with the LRHL [N.J.S.A. 40A: 12A-7. A.2], this Plan establishes the following proposed requirements for the Property:

- Land Uses
- Bulk Standards
- Design Criteria
- Building Requirements

Unless otherwise stated herein, the provisions set forth in the Plan shall supersede, govern, and control the standards set forth in the Land Development Code of the Borough of Bernardsville. Any standard, definition, or regulation in the Borough of Bernardsville Municipal Code that is not specifically addressed by a superseding standard, definition, or regulation in this Redevelopment Plan shall apply as part of this Redevelopment Plan.

**QUIMBY LANE REDEVELOPMENT PLAN****2. LOCAL REDEVELOPMENT AND HOUSING LAW**

The Borough of Bernardsville determined that the use of the redevelopment powers granted to municipalities under the Local Redevelopment and Housing Law (LRHL) (N.J.S.A 40A:12A-1, et. Seq) would be the most effective approach to revitalize the parcels contained in the Redevelopment Area.

The Area was designated by the Borough of Bernardsville as an “area in need of redevelopment” in accordance with the LRHL in 2019. The corresponding resolution designating the properties as an “area in need of redevelopment” are included in Appendix D.

For more information, refer to Local Redevelopment and Housing Law (LRHL) Regulations + Policy (Appendix A).

**QUIMBY LANE REDEVELOPMENT PLAN****3. RELATION TO OTHER PLANS**

Pursuant to the LRHL, “all provisions of the redevelopment plan shall be either substantially consistent with the municipal master plan or designed to effectuate the master plan” (N.J.S.A 40A:12A-7(d)). The Plan is significantly consistent with and intended to effectuate the Borough’s 2004 Amended Comprehensive Master Plan and subsequent reexamination. This Plan is consistent with the following plans as detailed in Appendix B.

- Local Master Plan
  - 2004 Amended Master Plan
  - 2017 Master Plan Reexamination
  - 2016 Open Space and Recreation Element
  - 2005 Stormwater Management Element
- Surrounding Communities’ Master Plans
- Adjacent County Master Plan
- Somerset County Master Plan
- NJ State Development and Redevelopment Plan
- NJ State Strategic Plan
- NJ Smart Growth Principles

## QUIMBY LANE REDEVELOPMENT PLAN

### 4. SITE DESCRIPTION

#### 4.1. Site Location + Existing Conditions

The Site is in the southeastern section of Bernardsville Borough and comprises much of the historic and present downtown core of the Borough. The Site is bound by Mill Street to the north, Olcott Square to the east, Mine Brook Road to the south, and Claremont Road to the west. The Site is bisected by Quimby Lane.

Development on the Site predominately consists of commercial, professional, and public uses, including the Bernards Inn, the Post Office, a movie theatre, several restaurants, auto services, offices, other retail and service uses, and surface parking. One property, Block 71, Lot 6, is a residential use. Structures in the Area are one to three stories.

Principal site access is provided via Mine Brook Road (US-202), a major southwest-northeast arterial that runs through the Borough's core. Mill Street, Quimby Lane, and Claremont Road also provide local site access.

The Site has connections to regional transportation via highway, bus, and rail. There are two entries to I-287 roughly 2 miles east and south of the Site accessible via US-202 and Mount Airy Road, respectively. Transit access is provided at the immediately adjacent Bernardsville Train Station, which is serviced by the Gladstone Branch of NJ Transit and provides passenger rail service west to Gladstone and east to Summit and New York Penn Station and Hoboken Terminal. Lakeland Bus Lines provide commuter bus service to and from the Port Authority Bus Terminal in Manhattan, with a stop in front of the Train Station.

The area surrounding the Site is comprised of a diverse mixture of uses. These include various commercial uses, residential areas, medical offices, and public facilities like the Bernardsville Library, Bernardsville Train Station, Bernards High School, Borough Hall, and police and fire stations.

#### 4.2. Property History

Originally known as Vealtown, Bernardsville was settled in 1736 as a section of Bernards Township. The first permanent settler was Alexander Kirkpatrick, who settled at the Mine Brook. Subsequent settlers followed and settled along the brook, which they used to operate mills. Vealtown became Bernardsville in 1840 and an independent municipality in 1924.

Development in Bernardsville accelerated after the Civil War, when New Yorkers began summering in the community, eventually becoming permanent residents. The Gladstone Branch of the Morris and Essex commuter rail line was constructed through Bernardsville in 1872, further spurring its development and connection to New York City. The current station, was completed in 1902 and is listed on the State and National Register of Historic Places (NRHP).<sup>1</sup>

<sup>1</sup> 2004 Master Plan; Bernardsville: A History, <http://www.bernardsvilleboro.org/History/>

## QUIMBY LANE REDEVELOPMENT PLAN

By 1901, uses present within the Area included a livery, the Bernardsville Mill, dwellings, hotels, a post office, a telegraph exchange, and various other shops and services. By 1909, many shops had relocated into spaces adjoining the new Bernards Inn. During this period,

Quimby Lane was extended to Mill Street, completing the street pattern that exists today. These development patterns are reflected in the figures below.



Figure 2: Sanborn maps from 1901 and 1909 showing development in the vicinity of the site.

Development in and around the Site continued throughout the first several decades of the twentieth century. Notably, the movie theater at the corner of Olcott Square and Mine Brook Road was constructed by the early 1930s.

## QUIMBY LANE REDEVELOPMENT PLAN

A review of historic aerials taken from the latter half of the 20th century reveal that the Area slowly evolved to cater to automobile-centric uses. Uses like surface parking lots, auto dealerships, auto repair shops, and carwashes were introduced throughout the Area during this period, many of which remain today. This transformation—from a dense, vibrant downtown core with a walkable form into a more automobile oriented configuration—is consistent with the evolution of downtowns in communities across northern New Jersey and the country.

Like many of these other communities, Bernardsville has expressed a desire to undo some of these auto-oriented changes. The Borough's 2004 Master Plan noted: "Walking along Quimby Lane reveals mixed land uses predominantly auto related but also including parking, rear facades of buildings, post office and offices. These uses, while providing certain commercial services, under-utilize their properties and present an unappealing streetscape. Particularly unattractive is front yard pavement and parking and lack of streetscape amenities such as landscaping." The plan went on to encourage the Borough to conduct a "study of the Mill Street/Quimby Lane area with the aim of improving the streetscape, connecting parking areas, and introducing new land uses."<sup>2</sup>

In recent years, these recommendations have been advanced by the Bernardsville Downtown Revitalization Committee, a group of volunteer citizens that undertook a series of efforts to drive improvements in portions of the downtown, including the Site. These activities included community engagement, exploring conceptual designs, and engaging with the development community.

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<sup>2</sup> 2004 Master Plan, pp. 66-67



## QUIMBY LANE REDEVELOPMENT PLAN

### 4.3. Existing Zoning

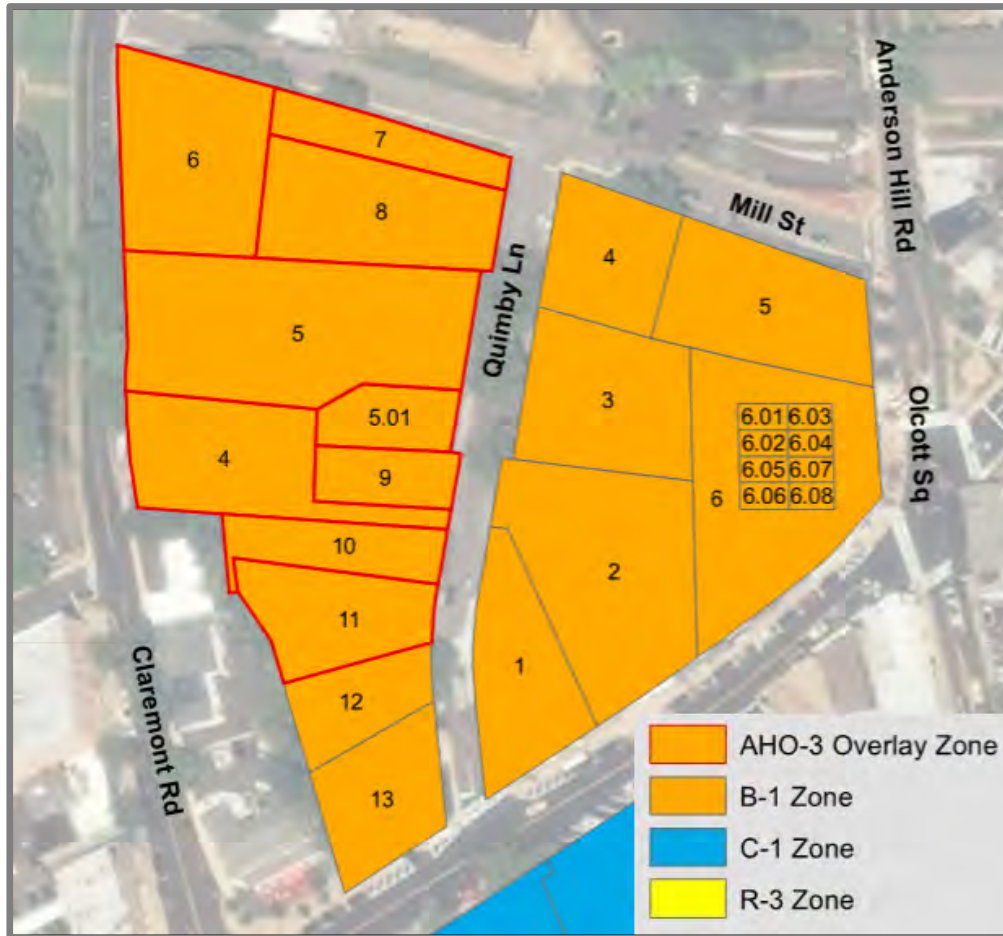


Figure 3: Existing zoning in the Redevelopment Area.

The Redevelopment Plan Area is located within the B-1 Zone. Block 71, Lots 4, 5, 5.01 and 6-11 area are also subject to the AHO-3 Affordable Housing Overlay. Zoning district boundaries are reflected in Figure 3 above.

At the time of this writing, the Borough is considering a modification to the existing zoning ordinance for the downtown area. This proposed modification informed the standards contained in this Redevelopment Plan. Should this ordinance be adopted, the Redevelopment Plan Area would fall within the Downtown Core and Downtown Claremont zones. The Redevelopment Plan supersedes the existing and proposed zoning.

### 4.4. Property Restrictions + Implications

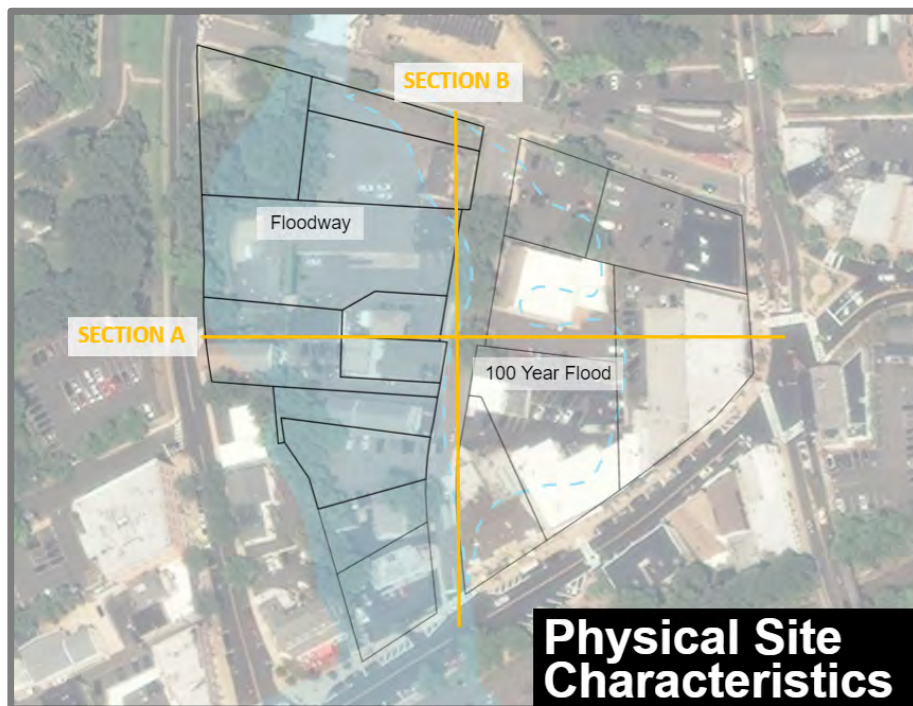
- Topography + Slope:** Elevation varies considerably throughout the site. Generally, higher elevations are in the northern section of the site, and lower elevations are in the southern section. Moving north to south on Quimby Lane, the site elevation changes roughly 25'. Elevation changes are reflected in Figure 4 below.

## QUIMBY LANE REDEVELOPMENT PLAN

As detailed in subsequent sections, the intent of this Plan is to use this change in elevation to minimize the visual impacts of parking and building height.

**Flood Hazard Area Restrictions:** The Mine Brook runs north-south through the western portion of the Site. Because of the Mine Brook, a significant portion of the Site, including the area subject to the AHO-3 Affordable Housing Overlay is located within the Federal Emergency Management Agency ("FEMA") Regulatory Floodway and Special Flood Hazard Areas. Development within these zones, particularly the Regulatory Floodway, is subject to strict regulation, including by the New Jersey Department of Environmental Protection. The boundaries of the Flood Hazard Area as defined by FEMA are reflected in Figure 4 below.

Because of these conditions, this Plan minimizes the potential for new development in the Regulatory Floodway. Projects pursued under this Redevelopment Plan must adhere to all applicable regulations and seek all necessary approvals associated with development in the Regulatory Floodway and Special Flood Hazard Areas.



## QUIMBY LANE REDEVELOPMENT PLAN



Figure 4: Physical site characteristics in the Quimby Lane area of the of the Redevelopment Area

- Diverse Ownership:** There are 21 unique owners in the Area.

Because of diverse ownership, successful implementation of the Redevelopment Plan will require coordination between property owners or consolidation of property ownership.
- US Post Office Property:** Block 70, Lot 3 is currently occupied by the Bernardsville Post Office. While the Borough owns the land, control of the property is complicated by a ground lease on the site between the Postal Service and a private party. This ground lease runs through at least April 2023. The complicated title condition on the property was cited as a rationale for declaring it in need of redevelopment under Criterion E.

In order to expedite implementation of this Redevelopment Plan, efforts may be undertaken by the Redeveloper(s) or the Borough to identify alternative locations suitable to the Post Office.
- Mine Brook Road/US-202:** Mine Brook Road/US-202 is one of the most trafficked roads in Bernardsville, running through Downtown Bernardsville and providing access to I-287. Effective vehicular circulation on this road is essential to the vitality of the downtown and the economic success of the Borough as a whole.

Because of the importance of traffic flow on US-202, projects pursued under this Plan must include a Traffic Impact Study that analyzes, among other things, impacts to circulation on US-202. The terms of the Traffic Impact Study are detailed in Section 5.7. As a state road, modifications to US-202 are subject to approval by the New Jersey Department of Transportation.
- Streetscape Conditions:** Sidewalk and streetscape conditions vary greatly throughout the Redevelopment Plan Area. In certain areas, including the majority of Quimby Lane and portions of Mine Brook Road, sidewalks are narrow, in disrepair, and lack plantings. Streetscape conditions are also

## QUIMBY LANE REDEVELOPMENT PLAN

negatively impacted by the quantity of curb cuts, particularly along Quimby Lane, chaotic setbacks of building frontages, use of architectural features that are unsightly and uncoordinated, paved front yards, and unscreened garbage and utility facilities.

Because of existing streetscape conditions and the desire to create an improved pedestrian environment, streetscape improvements, described in Section 5.3, are required as part of any project implemented under the Redevelopment Plan.

## QUIMBY LANE REDEVELOPMENT PLAN

### 5. PUBLIC PURPOSES

#### 5.1. Goals + Objectives

- **Eliminate blight**
  - Protect the health, safety, and welfare of the citizens of Bernardsville by redeveloping underutilized and stagnant properties that could more effectively contribute to the well-being of the Borough.
  - Promote Smart Growth development in areas well served by public transportation
  - Eliminate detrimental influences such as obsolete land uses, faulty arrangement, and complications of title.
- **Introduce active uses that reinforce downtown as the commercial and civic center of Bernardsville**
  - Add to Bernardsville's inventory of retail, restaurant, and experiential downtown uses to bring activity to downtown from the Borough and surrounding communities.
  - Promote residential development that creates new foot traffic in downtown Bernardsville to help support existing businesses and create new economic activity.
  - Create new commercial spaces to allow new businesses to thrive and improve Bernardsville as a commercial center.
- **Create public spaces that provide a central gathering location for all of Bernardsville's residents, new and old, as well as visitors**
  - Introduce flexible public spaces that can be programmed in a variety of ways for a diverse group of users, including a public park that enhances the Mine Brook and a hardscaped public plaza.
  - Attract residents from throughout the Borough and outside of the Borough to downtown public spaces, thereby creating increased opportunities for existing and new businesses.
  - Leverage the Area's natural assets, including topography and the Mine Brook, to provide the framework for memorable and contextually appropriate public spaces.
- **Promote a development pattern that supports multiple modes of transportation**
  - Develop circulation patterns and infrastructure necessary to improve the Borough's existing network and balance the needs of vehicles, pedestrians, and cyclists.
  - Provide sufficient parking to support the development program but use topography to minimize the aesthetic and functional impacts.

## QUIMBY LANE REDEVELOPMENT PLAN

- **Create a pedestrian-friendly atmosphere**
  - Incorporate pedestrian-oriented street elements that can improve safety, create a more attractive streetscape, and increase the opportunity for personal interactions among residents and shoppers, including adequate street lighting, public benches, picnic areas, bicycle parking facilities, art installations, street trees, crosswalks, associated safety signage, and other streetscape elements.
  - Provide a network of pathways within the site that connect buildings and spaces within the Area and link the Area to the neighborhoods surrounding it.
  - Design site access and curb cuts in a way that does not adversely affect pedestrian circulation.
- **Extend high-quality architecture and design in downtown Bernardsville to new construction to maintain the historical character of Bernardsville**
  - Use rigorous design standards to ensure architecture is reflective of Bernardsville's current and historic aesthetic.
  - Develop and enforce façade and signage design standards that result in development in harmony with the character of Bernardsville's most attractive structures.
  - Encourage the development of exemplary architecture that respects the existing neighborhood fabric and contributes to the visual identity of Bernardsville's downtown core.
- **Incorporate green infrastructure and sustainable design**
  - Incorporate street trees and green infrastructure elements into building and landscaping designs to reduce stormwater runoff and improve local water quality.
  - Promote development that uses the Mine Brook and the corresponding flood plain regulations as an asset, rather than a limiting factor.
  - Reduce impervious coverage along the Mine Brook to prevent flooding and promote the absorption of stormwater runoff prior to entering the brook.
  - Reduce reliance on cars to reach recreational facilities by providing for a new park within the core of the Borough.
  - Encourage the use of sustainable building standards and materials to reduce environmental impact.
- **Create new and equitable housing options**
  - Increase the inventory of rental housing options in downtown Bernardsville.
  - Assist the Borough in meeting its affordable housing obligations by creating a realistic opportunity for developing affordable housing.



## QUIMBY LANE REDEVELOPMENT PLAN

- Establish a mixture of affordable and market-rate units to ensure accessibility to households at a range of income levels.

### 5.2. Affordability

For developments with a residential component, a minimum of 15% of units shall be set aside as affordable units on site. All affordable units shall conform with New Jersey Uniform Housing Affordability Controls (N.J.A.C. 5:80-26.1 et seq.) and all applicable ordinances, regulations, and statutes related to affordable housing.

As noted previously, development within the existing AHO-3 zone is expected to be severely limited by flood hazard regulations. It is anticipated that a minimum of 80 residential units will be created in implementation of this Plan, fulfilling the 12-unit affordable housing requirement currently required under the AHO-3 zone.

Non-residential projects or commercial components of mixed-use projects shall be subject to the Statewide Non-Residential Development Fee Act which requires a fee of 2.5% of the equalized assessed value of the land and improvements.

### 5.3. Streetscape Improvements

Creating a safer and more hospitable pedestrian environment is crucial to the success of any project pursued under this Plan. To that end, projects pursued under the Plan shall incorporate streetscape improvements that reflect the prioritization of the pedestrian experience. Streetscape improvements shall include street trees, lighting, defined curb lines, and sidewalk construction. Permeable pavement and other pervious surfaces are encouraged to the greatest extent possible.

Projects should integrate the streetscape with the proposed project by creating clear pedestrian entrances that are accessible from the sidewalk, and by creating opportunities for outdoor gathering areas and attractive landscaping. Parameters regarding materials, landscaping, and other design details for streetscape improvements are included in Section 6.11.

## QUIMBY LANE REDEVELOPMENT PLAN

### 5.3.1. Quimby Lane Streetscape Improvements



*Figure 5: Example of pedestrianized street with active ground floor uses*

Quimby Lane improvements are particularly important to the successful redevelopment of the area. Quimby Lane will become a pedestrian oriented street that facilitates an easy east-west pedestrian connection between the two blocks of the Redevelopment Plan Area and acts as a bridge between the public spaces on either side.

The northern portion of Quimby Lane will be a pedestrianized street that provides for passive recreation, the opportunity for outdoor café seating that supports adjacent restaurants, and a venue for special events, such as sidewalk sales. This segment shall be designed to calm traffic and prioritize pedestrian movement.

The Plan anticipates that the northern portion of Quimby Lane will only accommodate one-way traffic moving northbound to Mill Street. Limited vehicular access is intended to provide continued access to properties within Block 71 that have no other street access, and to ensure that implementation of the Redevelopment Plan does not have detrimental impacts on traffic circulation in and around the Redevelopment Plan Area.

## QUIMBY LANE REDEVELOPMENT PLAN



*Figure 6: Northern and southern portions of Quimby Lane*

The northern portion of Quimby Lane may be closed to vehicular traffic and converted to developable area, however, provided the following conditions are met:

- Vehicular access to affected properties within Block 71 is provided through alternative access points or no longer required due to property assemblage or change of use; and
- A Traffic Impact Study is provided detailing the circulation impacts of the modification, mitigative measures are proposed to address detrimental impacts, if any, and a commitment to implement these mitigative measures is formalized via a Redevelopment Agreement

Terms for closure of the northern portion of Quimby Lane, if pursued, shall be detailed in a Redevelopment Agreement to be executed between the Borough and Redeveloper.

The southern portion of Quimby Lane will provide access into the Redevelopment Plan Area from Mine Brook Road. Full movement of motorized vehicles is allowed in this portion of Quimby Lane, but it shall be designed as a shared street with a target speed of no more than 15 mph. Pavement materials that emphasize pedestrian activity as well as street furniture, bump-outs or other traffic calming measures shall be used as part of the street design and help to slow vehicular traffic.

## QUIMBY LANE REDEVELOPMENT PLAN

### 5.4. Mine Brook Park

Implementation of this Plan will create a new public park along the Mine Brook ("Mine Brook Park"). This public park will enhance the amenity of the Mine Brook by creating areas for seating and passive recreation along the waterside. When constructed, the park will have pedestrian connections along the waterway and between the park and Claremont Road, Mill Street, and Mine Brook Road. Direct pedestrian connections should also be made between the park and Quimby Plaza.



*Figure 7: Exemplary public parks*

The park will be located west of Quimby Lane and comprised of Block 71 properties. The exact dimensions and location of the park are to be determined. Mine Brook Park shall be designed in accordance with the design standards detailed in Section 6.11, Site Design Standards. Reuse of existing buildings within Block 71 shall take place in a manner complementary with the design and configuration of Mine Brook Park.

Mine Brook Park is intended to be owned by the Borough and the Borough is amenable to utilizing its open space funds for the purpose of acquisition or construction. While the Borough may contribute to the creation of the park through the use of funds, the development of the park is anticipated to be accomplished through a public-private partnership.

### 5.5. Quimby Plaza

Implementation of the Plan will create a new gathering space, Quimby Plaza, on Block 70. Quimby Plaza will be a gathering place for residents and visitors for daytime and nighttime activities, serve to create a walkable community feel, and help connect Olcott Square and Mine Brook Park. Parameters for the design and location of Quimby Plaza are detailed below. An illustrative concept showing plaza location and potential access points is included in Figure 8.



## QUIMBY LANE REDEVELOPMENT PLAN

- **Size and Location:**

- The total square footage of Quimby Plaza should be roughly 10,000 square feet, exclusive of pedestrian connection pathways.
- The core of Quimby Plaza shall be comprised of a portion of the eastern section of Block 70, Lots 3 and 4. This portion of Quimby Plaza shall be designed so that it can function, if necessary, on an interim basis as a standalone plaza in advance of contributions of land from other adjacent properties.
- Placement of buildings on Block 70, Lots 2, 5, and 6 (including all condominium qualifiers) should be oriented such that unbuilt areas are able to form extensions of, or pathways to, Quimby Plaza.



*Figure 8: Illustrative diagram showing the potential location of the Plaza core on Lot 3/4 (dark green), potential expansions into adjacent properties (blue dash), and conceptual pedestrian connection points (light green).*

- **Connection Points**

- The Plaza should be accessible via paths from at least three connection points. These connection points should be located on Mill Street, Olcott Square, and Quimby Lane. Pedestrian paths at connection points should be a minimum of 20' wide.

## QUIMBY LANE REDEVELOPMENT PLAN

- Ground floor uses along pedestrian paths should be active in order to ensure that the plaza retains the feel of a public space, rather than a private courtyard for adjacent buildings.



Figure 9: An activated pedestrian pathway, similar to that which might be used to access Quimby Plaza

- Design and Operational Characteristics
  - Where possible, Quimby Plaza should be located on the roofs of parking structures to create the appearance of underground parking, as reflected in Figure 10 below.



Figure 10: Pittsburgh's Mellon Square Park provides an activated plaza on the roof of a parking structure.

- The configuration of Quimby Plaza between Sub Areas, particularly in terms of layout, elevations, and design, shall be detailed in the Conceptual Development Plan as required in Section 7.4.2.



## QUIMBY LANE REDEVELOPMENT PLAN

- Quimby Plaza shall be designed in accordance with the design standards detailed in Section 6.11, Site Design Standards.



*Figure 11: Plaza space illustrative of potential activities in Quimby Plaza*

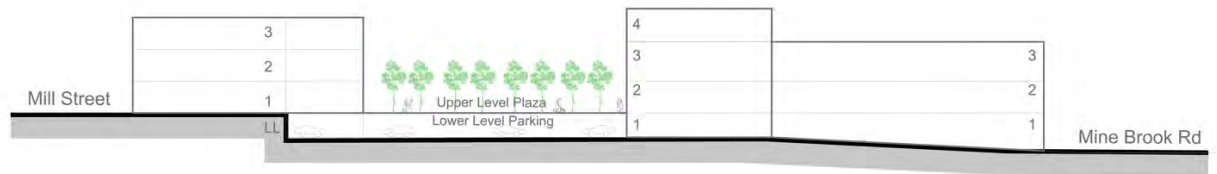
### 5.6. Parking

Projects within the Redevelopment Plan Area shall be required to provide adequate parking to accommodate their needs on-site or in a shared location within the Redevelopment Plan Area. It is paramount to the success of the Plan that parking areas are obscured from sight through the use of screened parking structures or underground parking. The Plan strictly restricts the provision of surface parking. Providing additional public parking in excess to what is required of any specific development is encouraged.

Redevelopers may be able to use the topography to create parking podiums that resemble underground parking with minimal excavation. If parking podiums in low-lying areas are utilized, developers are encouraged to design the podium in such a way that the roof of the podium can be used as plaza space.

## QUIMBY LANE REDEVELOPMENT PLAN

Figure 12 below reflects how configurations of this type may be employed. The feasibility of creating parking in the manner described is subject to further study by Redeveloper(s).



SECTION A-A



Figure 12: Section diagram showing how topography may be used to shield parking.

## QUIMBY LANE REDEVELOPMENT PLAN

Low-lying areas that may be suitable for the creation of podium or underground parking in the manner described are reflected in Figure 13 below.



*Figure 13: Low-lying areas potentially suitable for podium or underground parking*

Shared parking agreements accommodating parking across Sub Areas may be pursued and are encouraged. The terms of any shared parking agreement may be detailed in a Redevelopment Agreement between the Borough and Redeveloper. If parking structures have frontage along Quimby Lane, design techniques shall be utilized to minimize the aesthetic impact of the parking area. Design standards for parking structures are included in Section 6.10.

### 5.7. Traffic Impact Study

The Redeveloper shall conduct a Traffic Impact Study ("TIS"). The TIS shall conform with applicable standards published by the Institute of Transportation Engineers ("ITE"). The primary purpose of the TIS is to determine the impact of the project on traffic patterns and if additional infrastructure improvements will be necessitated by redevelopment of the Project Area. Any improvements required in connection with implementation of the Redevelopment Plan shall be included in a Redevelopment Agreement to be executed by the Redeveloper and Borough.



## QUIMBY LANE REDEVELOPMENT PLAN

The Traffic Study Area is reflected in Figure 14 below.

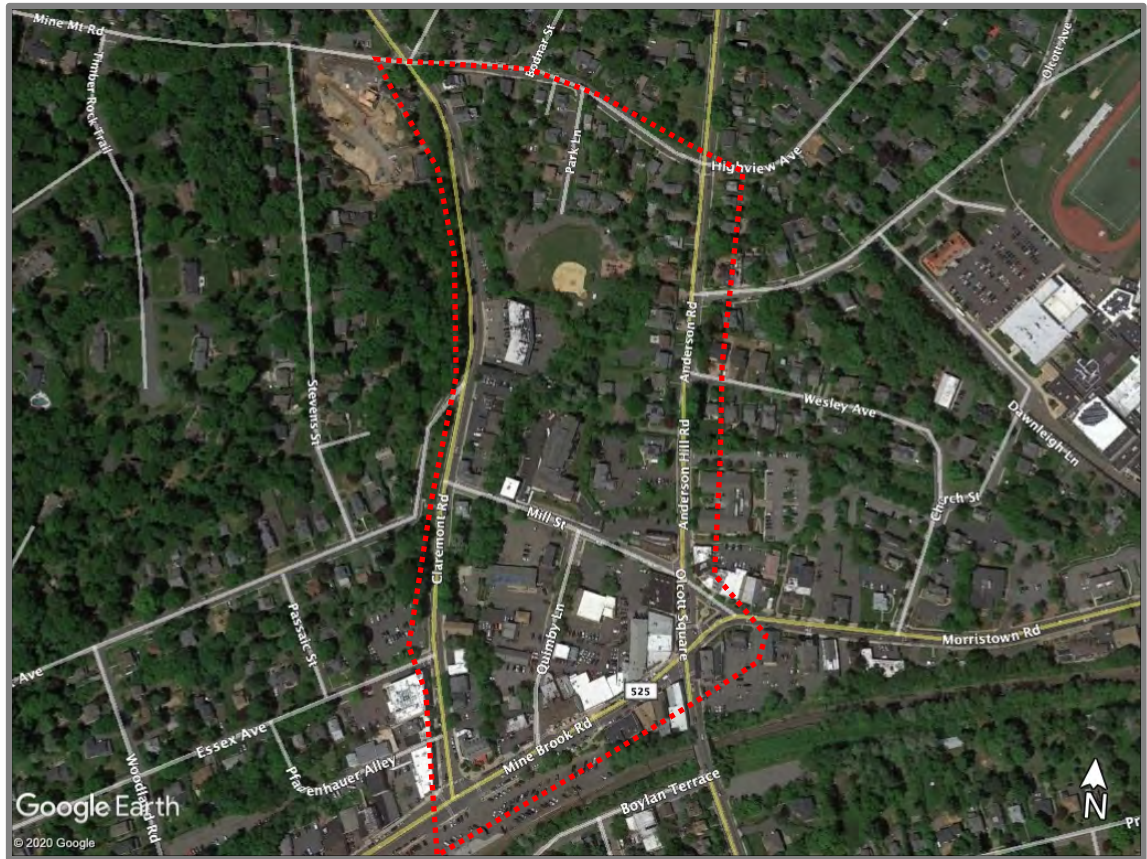


Figure 14: Traffic study area

Any intersection to which 30 additional peak hour trips are generated within the Traffic Study Area shall be studied. The analysis shall determine the site peak hour generation as well as the roadway peak hour and study the critical hours.

The build and no-build levels of service (LOS) shall be determined, and any degradation in level of service less than LOS D shall require mitigation.

The study shall also evaluate pedestrian phasing of traffic signals and recommend sidewalk/pedestrian measures to encourage safe streets and accepted traffic calming measures within the Traffic Study Area. Subject to the Borough's approval, proportional contributions to multiple intersections may be combined by Redeveloper(s) to accomplish a cost-effective improvement plan.

### 5.8. Other Pedestrian Connections and Public Space Improvements

In addition to the Redevelopment Plan Area, the area in need of redevelopment designation that forms the basis for this Plan includes the properties at Block 98, Lot 1; Block 124, Lot 1;

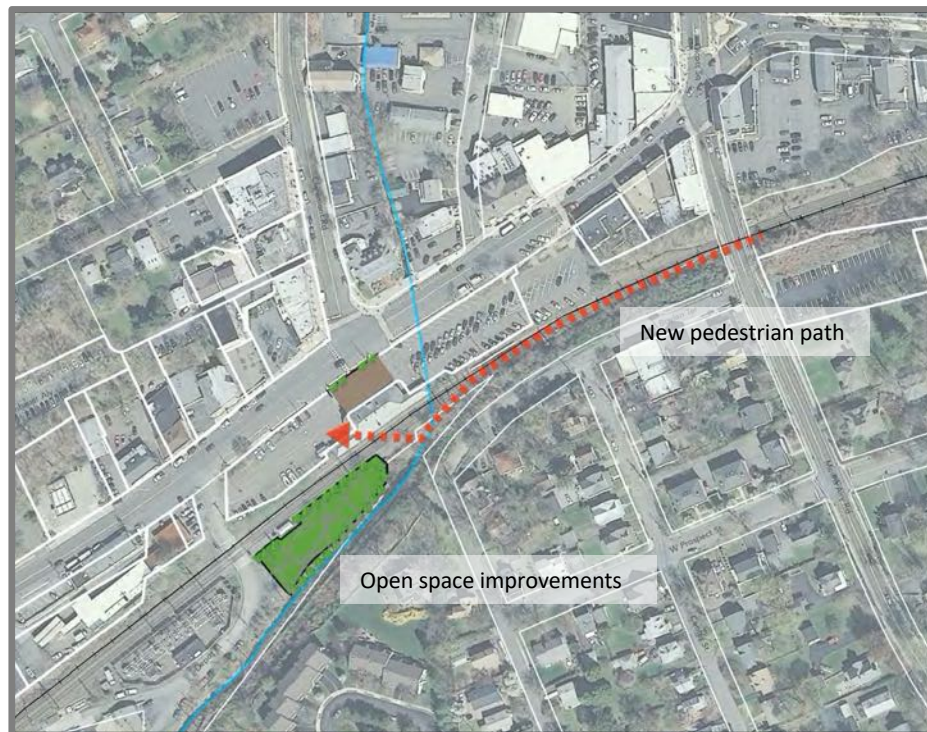
## QUIMBY LANE REDEVELOPMENT PLAN

and a portion of Block 144, Lot 1. These properties include the Amerman parking lot, the Train Station parking lot, and the NJ Transit right-of-way.

The Borough has identified highly desirable public improvements located on and around these properties which may be pursued by redevelopers acting in furtherance of this Plan. These improvements would better connect the Redevelopment Plan Area to surrounding neighborhoods and further augment available open space in and around downtown.

The improvements, reflected in Figure 15 below, include:

- Creating a direct pedestrian connection between the Boylan Terrace area and the Train Station using the New Jersey Transit Right of Way
- Implementing public space improvements in underutilized areas around the Train Station to create open space facilities for outdoor exercise activities, a dog park, or similar.



*Figure 15: Potential additional open space improvements*

The Borough would look favorably upon projects that advance these improvements and would consider amending this Plan to incorporate additional properties in order to facilitate their construction.



## QUIMBY LANE REDEVELOPMENT PLAN

### 6. LAND USE

#### 6.1. Overview

Because of constraints like diverse ownership and environmental limitations, land use regulations have been designed to permit flexibility in project design, while ensuring the Borough maintains control over the quantity, timing, design, and uses of the development and public spaces created. In order to permit flexibility, the Redevelopment Area has been divided into multiple Sub Areas, each with specific land use regulations.

Sub Area boundaries are reflected in Figure 16 below. Sub Areas may be developed individually, or in conjunction with each other. Standards in Sections 6.8-6.11 shall apply to all Sub Areas.



Figure 16: Sub Area boundaries



## QUIMBY LANE REDEVELOPMENT PLAN

### 6.2. Sub Area 1

#### 6.2.1. Intent

Sub Area 1 consists of Block 70, Lots 3 and 4 and the adjacent portions of Quimby Lane. Sub Area 1 sits outside of the mapped regulatory floodway and has topography that is conducive to hiding parking. Importantly, it is controlled by the Borough, which allows for the potential issuance of concessionaire's permits, and a negotiated sale or lease. Because of these unique characteristics, Sub Area 1 is the linchpin of the Redevelopment Plan Area.

Due to the Borough's ability to control the terms by which the site is transferred and its unique potential, the Redeveloper of Sub Area 1 will have additional obligations. These obligations shall include:

- Preparation of a Conceptual Development Plan as described in Section 7.4.2.
- Improvements to the northern portion of Quimby Lane as described in Section 5.4.1.
- Construction of the core portion of Quimby Plaza as described in Section 5.7.

#### 6.2.2. Land Uses

- **Permitted Principal Uses**
  - Mixed use
- **Permitted Accessory Uses**
  - Outdoor dining
  - Public plaza
  - Parking structure
  - Any uses that are customary and incidental to permitted principal uses
- **Prohibited Uses**
  - Financial institution
  - Beauty salon
  - Pharmacy
  - Convenience store
  - Commercial laundromat
  - Drive through
  - Any uses not specifically permitted herein

#### 6.2.3. Bulk, Density, and Placement Standards

- **Lot Requirements:**

Minimum Lot Area, Square Feet	23,000
Maximum Coverage, Improved	95%
Maximum Building Coverage	80%

## QUIMBY LANE REDEVELOPMENT PLAN

- **Placement Standards**

Building setbacks shall be provided in accordance with the table below:

Setback from:	
Front yard (Mill Street, Quimby Lane)*	0'
Side yard (Lot 2)**	0'
Side Yard (Lot 5)**	0'
Rear Yard (Lot 6)**	0'

\*Setback may be 0' provided the building is between 12' and 16' from curb line and streetscape standards contained herein are met.

\*\*Setback may be 0' provided access in compliance with Section 5.7 is provided from Quimby Lane to Quimby Plaza through development of Sub Area 2, 3 or 5.

- **Building Height, Feet:** The maximum building height in feet as measured from the average top of the curb along Mill Street shall be 40' to the deck of a flat roof or the bottom of the eave of a sloped roof. Parapets shall not count toward building height but shall not exceed 5'. The average top of the curb shall be calculated using the average elevation of proposed building corners along Mill Street. No portion of any building in this Sub Area shall exceed this elevation.
- **Building Height, Stories:** The maximum building height in stories shall be three as measured from Mill Street, and four as measured from Quimby Lane, so long as no portion of the building within 40' of the curb line of Mill Street exceeds three stories.
- **Active Ground Floor Uses:** At least 75% of ground floor frontage along Mill Street and Quimby Plaza shall include permitted Active Ground Floor Uses. Dual frontage uses facing Mill Street and Quimby Plaza should be provided.
- **Maximum Residential Density:** The maximum residential density shall be 55 units per acre.
- **Ceiling Height:**
  - Ground Floor – 14' minimum
  - Upper Level – 9' minimum
- **Vehicular Access:** Primary vehicular access shall be from Quimby Lane. Vehicular access may be permitted from Mill Street.
- **Primary Pedestrian Access:** Primary Pedestrian Access shall be from Mill Street.
- **Secondary Pedestrian Access:** Secondary pedestrian access shall also be provided from Quimby Plaza and Quimby Lane.
- **Quimby Plaza Contribution:** At least 6,000 square feet of Sub Area shall be allocated for Quimby Plaza.

## QUIMBY LANE REDEVELOPMENT PLAN

### 6.3. Sub Area 2

#### 6.3.1. Intent

Sub Area 2 consists of Block 70, Lots 1 and 2. Sub Area 2 shall be redeveloped to accommodate a hotel, a mixed-use building, or a combination of uses. Redevelopment is anticipated to incorporate and preserve the existing Bernards Inn. New development shall result in improvements to the southern portion of Quimby Lane as described in Section 5.4.1.

#### 6.3.2. Land Uses

- **Permitted Principal Uses**
  - Mixed use
  - Hotel
- **Permitted Accessory Uses**
  - Outdoor dining
  - Public plaza
  - Parking structure
  - Any uses that are customary and incidental to permitted principal uses
- **Prohibited Uses**
  - Financial institution
  - Beauty salon
  - Pharmacy
  - Convenience store
  - Commercial laundromat
  - Drive through
  - Any uses not specifically permitted herein

#### 6.3.3. Bulk, Density, and Placement Standards

- **Lot Requirements:**

Minimum Lot Area, Square Feet	22,000
Maximum Coverage, Improved	95%
Maximum Building Coverage	80%

## QUIMBY LANE REDEVELOPMENT PLAN

- **Placement Standards**

Building setbacks shall be provided in accordance with the table below:

Setback from:	
Front yard (Mine Brook Road, Quimby Lane)*	0'
Side yard	0' minimum
Rear yard**	0' minimum

\*Setback may be 0' provided the building is between 12' and 16' from curb line.

\*\*Setback may be 0' provided adequate access in compliance with Section 5.7 is provided to Quimby Plaza through development of Sub Area 1.

- **Building Height, Feet:** Within 75' of Mine Brook Road, the maximum building height in feet as measured from the average top of the curb along Mine Brook Road shall be 40' to the deck of a flat roof or the bottom of the eave of a sloped roof. The maximum building height for portions of the building located greater than 75' from Mine Brook Road as measured from the average top of the curb along Mine Brook Road shall be 50' to the deck of a flat roof or the bottom of the eave of a sloped roof. Parapets shall not count toward building height but shall not exceed 5'. The average top of the curb shall be calculated using the average elevation of proposed building corners along Mine Brook Road. Existing structures shall be exempted from this restriction.
- **Building Height, Stories:** The maximum number of stories for portions of the building within 75' of Mine Brook Road, as measured from Mine Brook Road, shall be three. The maximum building height for portions of the building greater than 75' from Mine Brook Road, as measured from Mine Brook Road, shall be four. Existing structures shall be exempted from this restriction.
- **Active Ground Floor Uses:** At least 75% of Mine Brook Road and Quimby Plaza frontage shall include permitted Active Ground Floor Uses. Dual frontage uses accessible from both Quimby Plaza and Mine Brook Road are permitted.
- **Maximum Residential Density:** The maximum residential density shall be 50 units per acre.
- **Ceiling Height**
  - Ground Level – 14' minimum
  - Upper Level(s) – 9' minimum
  - Banquet facilities, if provided, shall have a minimum ceiling height of 20'.
- **Vehicular Access:** Vehicular access is permitted from Quimby Lane.
- **Primary Pedestrian Access:** Primary Pedestrian Access shall be from Mine Brook Road.
- **Secondary Pedestrian Access:** Secondary pedestrian access shall also be provided from Quimby Lane and Quimby Plaza.

## QUIMBY LANE REDEVELOPMENT PLAN

- **Open Space Contribution:** A minimum of 5% of lot area shall be utilized as publicly accessible open space. Open space should contribute towards Quimby Plaza, whether as pedestrian pathways or expansion to the Plaza core.

### 6.4. Sub Area 3

#### 6.4.1. Intent

Sub Area 3 consists of Block 70, Lots 6, 6.01, 6.02, 6.03, 6.04, 6.05, 6.06, 6.07, 6.08. This Sub Area shall provide opportunities for both new mixed-use development and the potential reuse of the existing movie theater.

#### 6.4.2. Land Uses

- **Permitted Principal Uses**
  - Mixed use
  - Theater
- **Permitted Accessory Uses**
  - Outdoor dining
  - Public plaza
  - Parking structure
  - Any uses that are customary and incidental to permitted principal uses
- **Prohibited Uses**
  - Financial institution
  - Beauty salon
  - Pharmacy
  - Convenience store
  - Commercial laundromat
  - Drive through
  - Any uses not specifically permitted herein

#### 6.4.3. Bulk, Density, and Placement Standards

- **Lot Requirements:**

Minimum Lot Area, Square Feet	23,000
Maximum Coverage, Improved	95%
Maximum Building Coverage	80%

## QUIMBY LANE REDEVELOPMENT PLAN

- **Placement Standards**

Building setbacks shall be provided in accordance with the table below:

Setback from:	
Front yard (Olcott Square, Mine Brook Road)*	0'
Side yard**	0' minimum
Rear yard	0' minimum

\*Setback may be 0' provided the building is between 12' and 16' from curb line and streetscape standards contained herein are met.

\*\*Setback may be 0' provided access in compliance with Section 5.7 is provided from Olcott Square to Quimby Plaza through development of Sub Area 5.

- **Building Height, Feet:** The maximum building height in feet as measured from the average top of the curb along Olcott Square shall be 40' to the deck of a flat roof or the bottom of the eave of a sloped roof. Parapets shall not count toward building height but shall not exceed 5'. The average top of the curb shall be calculated using the average elevation of proposed building corners along Olcott Square and Mine Brook Road.
- **Building Height, Stories:** The maximum number of stories, as measured from Mine Brook Road and Olcott Square, shall be three. No portion of any structure shall have more than three above grade stories.
- **Active Ground Floor Uses:** At least 75% of Olcott Square, Mine Brook Road, and Quimby Plaza ground floor frontage shall include permitted Active Ground Floor Uses. Dual frontage active ground floor uses fronting on Olcott Square and Quimby Plaza should be provided.
- **Maximum Residential Density:** The maximum residential density shall be 50 units per acre.
- **Ceiling Height:**
  - Ground Level – 14' minimum
  - Upper Level – 9' minimum
- **Vehicular Access:** Primary vehicular access shall be provided via Mill Street or Quimby Lane. Vehicular access will require coordination with redevelopment of those Sub Areas.
- **Primary Pedestrian Access:** Primary pedestrian access shall be from Mine Brook Road and Olcott Square.
- **Secondary Pedestrian Access:** Secondary pedestrian access shall also be provided from Quimby Plaza.
- **Open Space Contribution:** A minimum of 5% of lot area shall be utilized as publicly accessible open space. Open space should contribute towards Quimby Plaza, whether as pedestrian pathways or expansion to the Plaza core.



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### 6.5. Sub Area 4

#### 6.5.1. Intent

Sub Area 4 consists of Block 71, Lots 7 and 8. Sub Area 4 includes the only properties in Block 71 that are, at least partially, outside of the FEMA Regulatory Floodway. As such, it may be able to support more intensive development than other properties in Block 71. Because of the transitional nature of the Sub Area on the edge of the Regulatory Floodway and the uncertainty associated with the flood hazard area restrictions associated with this condition, the Plan permits a wide range of uses.

Regardless of the use developed, it is imperative that the design of improvements in Sub Area 4 be receptive to the presence of Mine Brook Park. The rear of the property should remain open and publicly accessible to allow for entry to the Mine Brook.

#### 6.5.2. Land Uses

- **Permitted Principal Uses**
  - Mixed use
  - Apartment building
  - Restaurant, Coffee Shop/Café
  - Restaurant, Food Hall
  - Restaurant, Liquor Licensed
  - Restaurant, Sit-Down
  - Retail Business
  - Townhouse
  - Park
  - Office, general and professional
  - Artisan manufacturing (including distilleries and micro-brewing)
  - Art Gallery
  - Co-Working
- **Permitted Accessory Uses**
  - Outdoor dining
  - Any uses that are customary and incidental to permitted principal uses
- **Prohibited Uses**
  - Financial institution
  - Beauty salon
  - Pharmacy
  - Convenience store
  - Commercial laundromat
  - Drive through
  - Any uses not specifically permitted herein

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### 6.5.3. Bulk, Density, and Placement Standards

- Lot Requirements:**

Minimum Lot Area, Square Feet	20,000
Maximum Coverage, Improved	60%
Maximum Building Coverage	55%

- Placement Standards**

Building setbacks shall be provided in accordance with the table below:

Setback from:	
Front yard*	0'
Side yard	10' minimum
Rear yard	75' minimum

\*Setback may be 0' provided the building is between 12' and 16' from curb line and streetscape standards contained herein are met.

- Building Height, Feet:** The maximum building height in feet as measured from the average top of the curb along Quimby Lane shall be 35' to the bottom of the eave and 40' to the top of the parapet. The average top of the curb shall be calculated using the average elevation of proposed building corners along Quimby Lane.
- Building Height, Stories:** The maximum number of stories, as measured from Quimby Lane, shall be three. No portion of any structure shall have more than three above grade stories.
- Active Ground Floor Uses:** At least 75% of building street frontage for non-residential uses shall include permitted Active Ground Floor Uses.
- Maximum Residential Density:** The maximum residential density shall be 30 units per acre.
- Ceiling Height:**
  - Ground Level, Non-Residential – 14' minimum
  - Ground Level, Residential – 10' minimum
  - Upper Level – 9' minimum
- Vehicular Access:** Primary vehicular access shall be from Quimby Lane or Mill Street.
- Primary Pedestrian Access:** Primary Pedestrian Access shall be from Quimby Lane.
- Secondary Pedestrian Access:** Secondary pedestrian access shall be provided from Mill Street and Mine Brook Park, if applicable.

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### 6.6. Sub Area 5

#### 6.6.1. Intent

Sub Area 5 consists of Block 70, Lot 5. Sub Area 5 shall be redeveloped to accommodate a mixed-use building.

#### 6.6.2. Land Uses

- Permitted Principal Uses
  - Mixed use
- Permitted Accessory Uses
  - Outdoor dining
  - Public plaza
  - Parking structure
  - Any uses that are customary and incidental to permitted principal uses
- Prohibited Uses
  - Financial institution
  - Beauty salon
  - Pharmacy
  - Convenience store
  - Commercial laundromat
  - Drive through
  - Any uses not specifically permitted herein

#### 6.6.3. Bulk, Density, and Placement Standards

- **Lot Requirements:**

Minimum Lot Area, Square Feet	15,000
Maximum Coverage, Improved	95%
Maximum Building Coverage	80%

- **Placement Standards**

Building setbacks shall be provided in accordance with the table below:

Setback from:	
Front yard (Mill Street)*	0'
Front Yard (Olcott Square)*	0'
Side yard (Lot 4)#	0'
Side yard (Lot 6)**	0'

\*Setback may be 0' provided the building is between 12' and 16' from curb line and streetscape standards contained herein are met.

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#Setback may be 0' provided access in compliance with Section 5.7 is provided from Olcott Square to Quimby Plaza through development of Sub Area 1.

\*\*Setback may be 0' provided access in compliance with Section 5.7 is provided from Olcott Square to Quimby Plaza through development of Sub Area 3.

- **Building Height, Feet:** The maximum building height in feet as measured from the average top of the curb along Olcott Square shall be 40' to the deck of a flat roof or the bottom of the eave of a sloped roof. Parapets shall not count toward building height but shall not exceed 5'. The average top of the curb shall be calculated using the average elevation of proposed building corners along Olcott Square.
- **Building Height, Stories:** The maximum number of stories, as measured from Olcott Square, shall be three. No portion of any structure shall have more than three above grade stories.
- **Active Ground Floor Uses:** At least 75% of building street frontage on Quimby Plaza, Mill Street, and Olcott Square shall include permitted Active Ground Floor Uses. Dual frontage active ground floor uses fronting on Olcott Square, Mill Street, Quimby Plaza, and/or Quimby Plaza pathways should be provided.
- **Maximum Residential Density:** The maximum residential density shall be 50 units per acre.
- **Vehicular Access:** Vehicular access is permitted from Mill Street or Quimby Lane via Sub Area 1. Vehicular access to existing commercial loading areas in Sub Area 3 shall be maintained, unless alternate means of access are provided via redevelopment of another Sub Area, or Sub Area 3's loading area becomes no longer necessary.
- **Primary Pedestrian Access:** Primary Pedestrian Access shall be from Olcott Square.
- **Secondary Pedestrian Access:** Secondary pedestrian access shall be provided from Mill Street and Quimby Plaza.
- **Open Space Contribution:** A minimum of 5% of lot area shall be utilized as publicly accessible open space. Open space should contribute towards Quimby Plaza, whether as pedestrian pathways or expansion to the Plaza core.

### 6.7. Sub Area 6

#### 6.7.1. Intent

Sub Area 6 consists of Block 70, Lot 4, 5, 5.01, 6, 9, 10, 11, 12, and 13. This Plan envisions Sub Area 6 primarily as open space. A newly created Mine Brook Park will enhance the amenity of the waterway and pedestrian connections will be made between the park and nearby destinations. As this Sub Area is almost entirely located within the Mine Brook's

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floodway, development is highly restricted. Development within Sub Area 6 is primarily limited to the reuse of existing structures or building footprints, and the creation of new open space. All uses within Sub Area 6 should incorporate the presence of the Mine Brook in their design.

### 6.7.2. Land Uses

- Permitted Principal Uses
  - Mixed use
  - Restaurant, Coffee Shop/Café
  - Restaurant, Food Hall
  - Restaurant, Liquor Licensed
  - Restaurant, Sit-Down
  - Retail Business
  - Townhouses
  - Park
  - Public plaza
  - Artisan manufacturing (including distilleries and micro-brewing)
  - Fitness Center
  - Art Gallery
  - Co-Working
- Permitted Accessory Uses
  - Outdoor dining
  - Any uses that are customary and incidental to permitted principal uses
- Prohibited Uses
  - Financial institution
  - Beauty salon
  - Pharmacy
  - Convenience store
  - Commercial laundromat
  - Drive through
  - Any uses not specifically permitted herein

### 6.7.3. Bulk, Density, and Placement Standards

- **Lot Requirements:**

Minimum Lot Area, Square Feet	5,000
Maximum Coverage, Improved	Coverage, improved shall not exceed existing condition.
Maximum Building Coverage*	Building coverage shall not exceed existing condition.

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\*If no building exists on a parcel, the Maximum Building Coverage shall be equal to the average building coverage of adjacent properties.

- **Placement Standards**

Building setbacks shall be provided in accordance with the table below:

Setback from:	
Front yard*	0'
Side yard	10' minimum
Rear yard	10' minimum

*\*Setback may be 0' provided the building is between 12' and 16' from curb line and streetscape standards contained herein are met.*

- **Building Height, Feet:** The maximum building height in feet as measured from the average top of the curb of the roadway that provides the Primary Pedestrian Access point shall be 25' to the bottom of the eave and 30' to the top of the parapet. The average top of the curb shall be calculated using the average elevation of the proposed building corners along the roadway that provides the Primary Pedestrian Access point.
- **Building Height, Stories:** The maximum number of stories, as measured from the roadway that provides the Primary Pedestrian Access point, shall be two. No portion of any structure shall have more than two above grade stories.
- **Active Ground Floor Uses:** At least 75% of building street frontage for non-residential uses shall include permitted Active Ground Floor Uses.
- **Maximum Residential Density:** The maximum residential density shall be 18 units per acre.
- **Ceiling Height:**
  - Ground Level, Non-residential – 14' minimum
  - Ground Level, Residential – 10' minimum
  - Upper Level – 9' minimum
- **Vehicular Access:** Primary vehicular access shall be from Quimby Lane or Claremont Road.
- **Primary Pedestrian Access:** Primary Pedestrian Access shall be from Quimby Lane or Claremont Road. Primary Pedestrian Access shall be from the roadway that is closest to the main building entrance.
- **Secondary Pedestrian Access:** Secondary pedestrian access shall be provided from other adjacent roadways and Mine Brook Park, if applicable.

### 6.8. Residential Unit Mixture

- Residential projects may include studios, one-bedroom, two bedroom, and three-bedroom units. Market-rate components of residential projects shall comply with the following requirements:



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- Studio: No more than 5% of units shall be studios.
- One-bedroom: No more than 30% of units shall be one-bedroom.

### 6.9. Parking Requirements

- **Vehicular Parking Requirements**

Vehicular parking shall be required for new development or changes in use in accordance with the table below:

Use	Required Parking
Artisan Manufacturing	1 space/1,000 sq. ft.
Art Gallery	1 space/300 sq. ft.
Auditorium, Theater	1 space/3 seats
Hotels	1 space/room plus 1 space/2 employees
Office, General and Professional	2.5 spaces/1,000 sq. ft.
Residential	1.5 spaces/1-bedroom unit 2 spaces/2+-bedroom unit
Restaurants	1 space/3 seats
Retail	1 space/300 sq. ft.
Co-working	1 space/300 sq. ft.
Fitness center	1 space/300 sq. ft.

*No parking shall be required for the first 2,000 sq. ft. of retail, or co-working space.*

*No parking shall be required for the first 15 restaurant seats.*

- **On-site shared parking:** A shared parking plan may be approved by the Planning Board for a mixed-use project based upon a recommendation of a shared parking study by an appropriate professional.
- **Off-site parking:** Up to 95% of required parking may be located off-site. Off-site parking may only be located in parking structures within the Redevelopment Plan Area and subject to the terms of a Redevelopment Agreement to be executed between the Borough and Redeveloper. Accessible spaces may not be located off-site. If off-site parking is secured via recorded easement or agreement of 20 or more years in duration, it may be approved administratively. Absent the above, approval of off-site parking agreements shall be subject to the separate approval of the Planning Board.
- **Tandem parking:** Tandem parking spaces within parking structures may be approved by the Planning Board based upon recommendations by an appropriate professional.

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- **Electric vehicle charging stations:** A minimum of 5% of the spaces shall be reserved for electric vehicle charging stations.
- **Surface Parking Setbacks**

No more than 5% of the required parking shall be provided as surface parking. Surface parking setbacks shall be provided in accordance with the table below:

Setback from:	
Primary Street	None permitted
Secondary Street	None permitted
Rear	5 ft. minimum
Side	5 ft. minimum

All other parking shall be provided in parking structures.

- **Bicycle Parking Requirements**

Bicycle parking shall be required for new development or changes in use in accordance with the table below:

Use	Required Parking
Residential	1 space/2 units
Other	1 space/2,000 sq. ft.

- **Loading Requirements:**

Loading requirements may be shared and aggregated between Sub Areas where practical.

### 6.10. Building Design Standards

Construction within the Redevelopment Area should complement and contribute to the historic character of architecture in downtown Bernardsville. Building design standards shall apply to new construction in the Redevelopment Area.

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*Figure 17: Buildings reflective of existing architectural character in downtown Bernardsville.<sup>3</sup>*

- Generally
  - Building frontages shall be close to the sidewalk, with windows at street level and active uses on the ground floor.
  - All sides of a building within public view shall use the same materials and colors as the primary facades.
  - Primary entrances should be defined by architectural features (canopy, portico, or similar).
  - Buildings shall be generally built parallel to the street frontage.
  - Street facing façades shall be composed so that the rhythm of ground floor attachments and openings harmonize with the rhythm of attachments and openings on upper stories.
  - Buildings shall have simple massing and details in order to clearly distinguish the main body of the building and the primary pedestrian entry.
  - The use of awnings and canopies at the first-floor level is encouraged.
  - Design should incorporate features consistent with architectural aesthetic of downtown Bernardsville, as reflected in Figure 17. These features may include pitched roofs, and architectural features like chimneys, dormers, canopies, or awnings.

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Figure 18: Renderings of proposed mixed-use buildings reflective of architectural styles envisioned by this Plan.<sup>3</sup>

- **Façades**

- Building façades shall be built of no more than two primary materials, excluding accent materials, and shall only change material along a horizontal line (with the heavier material below the lighter material), outside corners (where material wraps the corner a minimum of 2'), or inside corners.
- Building façades may include horizontal siding, vertical siding with flush joints, stucco, and medium density overlay plywood (MDO) as an accent material in gables, dormers, and bay windows.
- Horizontal siding shall be lap, shiplap, drop, or shingle-style.
- Materials, other than masonry, shall be painted, stained, or have a factory-applied finish.
- Buildings shall be limited to two colors, excluding accent colors. Colors shall be earth tones from white through natural "red."
- Natural materials are encouraged. Materials intended to represent natural materials should be minimized.

- **Openings**

- Openings in walls with siding shall be trimmed with flat casing, a sloping sill, and drip cap at a minimum.
- Openings in masonry walls or walls with masonry veneer shall include brickmold casing.
- Openings in masonry walls or walls with masonry veneer other than stucco, shall have a precast lintel; masonry arch; or masonry header.
- With the exception of transoms and decorative windows, windows shall be square or vertically proportioned and rectangular in shape. The grouping of individual windows to create a horizontal banding effect is permitted as long as the width of the banding does not exceed 1/2 of the length of the facade.
- Adjacent windows shall be separated a minimum of 2 in.

<sup>3</sup> "Downtown Darien Development, Robert A.M. Stern Architects, LLP, <https://www.ramsa.com/projects/project/downtown-darien-development>.

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- Windows and doors shall have clear glass.
- Window muntins, if included, shall be true divided lites or simulated divided lites fixed on the interior and exterior surfaces of the window and shall create panes of square or vertical proportion (as tall as wide or taller than wide).
- Shutters, if included, shall be the same height as the window, and 1/2 the width of the window. Small windows may have one shutter that is the full width of the window.
- Shutters shall be operable or designed and installed as if they were operable including hardware.
- Openings, including dormers, should be centered vertically with other openings or shall be centered with the wall between openings.
- Openings above should be equal in size or smaller than openings below.

- **Roofs**

- Sloped roofs shall be a symmetrical hip or gable and have a minimum pitch of 8:12.
- Eaves shall be continuous or include appropriate eave returns, unless overhanging a balcony or porch.
- The ridge of the primary building should generally be oriented either parallel to or perpendicular to the street.
- All gable and hipped roofs of a building, excluding ancillary roofs, should generally have the same slope where visible from a street or open space.

- **Attachments**

- Permitted attachments include awnings, canopies, bay windows, chimneys, porches, and stoops.
- Awnings and canopies shall not be internally illuminated.
- Balconies shall not be fully enclosed.
- Bay windows shall have visible support, either by extending the bay to grade with a foundation or transferring the projection back to the wall with beams, brackets, or brick corbeling.
- Chimneys shall extend to grade.
- Posts and columns, if included, shall be generally classically ordered and include a base or pedestal, shaft, and capital. The base of posts, columns, and pedestals shall generally align with the face of the foundation wall directly below. The outside face of porch beams shall generally align with the face of the top of the column.
- The above standards shall not preclude the provision of outdoor dining.

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- Porches may be enclosed with glass or screens; however, glass enclosures are not permitted on porches that face a street or public open space.
- Balcony, porch, and stoop railings between balusters should have both top and bottom rails.
- Porches should have square or vertically proportioned openings.
- Building attachments are subject to the following standards:
  - Awnings/canopies shall have a minimum clear height above a sidewalk of 9 ft. and a minimum depth of 5 ft.
  - Balconies shall have a minimum clear height above a sidewalk of 9 ft. and a minimum clear depth of 5 ft.
  - Bay windows shall have a maximum projection of 5 ft. from a facade.
  - Chimneys shall have a maximum projection of 3 ft. from a facade.
  - Porches shall have a minimum clear depth of 6 ft. excluding steps.
  - Stoops shall have a minimum clear depth of 4 ft.
- **Permitted Materials:**
  - Permitted foundation materials
    - Brick masonry
    - Stone masonry
    - Cement-parged concrete block
  - Permitted primary façade materials
    - Brick masonry
    - Stone masonry
    - Stucco
    - Wood siding/shingles for buildings designed to resemble a single-family residential building type only
    - Fiber-cement siding/shingles to resemble a single-family residential building type only
  - Permitted façade accent materials
    - Cast stone
    - Wood
    - Fiber-cement trim, siding, and panels
    - Composite trim, siding, and panels
    - Architectural metal
- **Building Articulation**
  - Buildings shall be articulated to break up façades and ensure that long monotonous building frontages are not constructed.



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- The maximum length of an uninterrupted flat façade fronting on Mine Brook Road, Olcott Square, Quimby Lane, Quimby Plaza, or Mill Street shall be 25'. The maximum length of an uninterrupted flat façade fronting on other streets within the Redevelopment Plan Area shall be 50'.
- Articulation requirements shall be met in one or more of the following methods:
  - Facade offset with a minimum depth of 2 ft. that extends to within 2 ft. of the full height of the facade.
  - Facade projection or recession with a minimum depth of 4 in. and a minimum width of 1 ft. that extends the full height of the first story of the facade.
  - Variation in building or parapet height of a minimum 2 ft. for single story buildings and 4 ft. for buildings with 2 or more stories.
  - The use of multiple roof forms to create the effect of different building components.
- **Building Transparency**
  - Transparency shall be measured by dividing all the transparent surface areas of windows and including doors by the total facade area of a street-facing story.
  - Required ground floor transparency shall be as follows:
    - Mill Street, Mine Brook Road, Olcott Square, Quimby Lane, Quimby Plaza ground floor frontages:
      - Non-residential: Minimum 70%, Maximum 80%. Maximum sill height at window, 2.5 feet
    - All other ground level frontages
      - Residential: Minimum 20%, Maximum 60%.
      - Non-residential: Minimum 20%, Maximum 80%. Maximum sill height at window, 2.5 feet
  - Upper level floors shall have a minimum of 15% transparency and a maximum of 50% transparency.
  - Storefronts which become vacant shall be cleaned of all trash and debris at the front display windows. The property owner or tenant shall install a temporary painted, or otherwise decorated screen that shall obscure all display windows upon the premises to prevent visual exposure of the areas behind the screen. The top of the screen shall be not less than six feet above the adjacent sidewalk area.
- **Vertical Rhythm:**
  - Generally: The design of all structures shall incorporate a clear visual division between the base, middle and top as described below. These

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- elements shall be established using cornice lines, windows, or similar horizontal architectural elements.
- Building Base: The base is defined as the first one to two stories of building containing no more than 1/3rd of building height. Building base and ground floor shall be clearly defined utilizing the following architectural elements:
    - Ground floor storefronts should be distinguished from upper floors. Use of a horizontal element such as a lintel or canopy allows for flexibility in storefront design without interruption of repeated vertical elements used in upper floors.
    - The relationship of width to height of windows and door openings at ground level should be visually compatible with openings in same building façade and/or other nearby or related structures.
    - Generally, massing should be oriented towards the base of the building.
    - Awnings/canopies are encouraged, particularly at primary entrances.
  - Middle: The middle shall be defined as the space between the top and base portions of the building. It shall occupy no less than 1/2 of the vertical space of the building. This space may be broken up through the use of more subtle and subdued horizontal architectural elements.
    - Enclosed architectural projections (such as bay windows) up to five feet are allowed beyond the primary façade or projected façade components of the building, but minimum sidewalk width must be maintained.
    - At the discretion of the Planning Board, projections over five feet are allowed above the first story, so long as they do not project into the public right-of-way without the legal authority to do so.
    - No more than 30% of each façade may be comprised of projecting bay windows.
  - Top: The top be defined as the top floor of the building. Appropriate cornice lines may enhance the top of the building. The top of the building may be differentiated in materials or staggered rooflines. Pitched or gabled roofs are encouraged.
  - Vertical rhythm shall be defined utilizing the following techniques:
    - Awnings or canopies over ground floor entrances.
    - Differentiation between vertical components, as follows:
      - Materials
      - Masonry details
      - Color changes
      - Fenestration changes

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- Inclusion of pre-cast or masonry details to define columns, piers and keystones
  - Decorative gutters, downspouts and scuppers
  - Spacing of columns and piers
- **Horizontal Rhythm:**
  - Generally, all buildings shall incorporate elements that divide façade planes and create a visual play of light and shadow. Long, uninterrupted horizontal façades are prohibited.
  - Horizontal rhythm may be created using the following design elements:
    - Uniformity and/or variety in fenestration patterns.
    - A balcony or bay window.
    - A change in the roofline by including chimneys or by alternating parapet heights.
    - A change in building materials that correspond to a change in the façade plane.
    - Differentiated lighting fixtures or similar architectural elements.
    - Landscape features such as trellises, trees, or other landscape features.
    - Shifting façade planes.
  - Rooflines: Rooflines shall be modulated with the remainder of façade and can be used as an effective horizontal rhythm technique. Pitched or gabled roofs are encouraged. For flat roofs or facades with a horizontal eave, fascia, or parapet, the roofline shall correspond with the modulation of the primary façade.
- **Parking Structure Design**
  - Where structured parking is incorporated into buildings, all efforts shall be made to minimize the visibility of parking and make parking structures visually appealing.
  - To the greatest extent realistically feasible, any parking structures fully or partially above grade, should be screened by habitable building space.
  - Parking that is unable to be screened by habitable building space shall be screened by alternative means to the satisfaction of the Planning Board. Strategies may include:
    - Landscaping
    - Public art
    - Green walls
    - Faux glass windows
    - Scrim

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- Tensile fabric facades/façade cladding
  - Designing structures to resemble habitable space
- Garage fenestration shall be designed to shield vehicle headlights from the exterior view to the greatest extent possible.
- Garage openings shall not detract from the pedestrian environment and as such shall be limited in number and location. Pedestrian entrances to structured parking should be separated from vehicle entries. If entries cannot be separated, safe pedestrian entry and exits should be facilitated by differentiating between pedestrian and vehicle zones by using different materials, modifying elevations, or other strategies. The size and scale of openings should be minimized.
- **Sustainable Building**
  - Sustainable design strategies and materials should be incorporated into Redevelopment Projects. Sustainable design strategies may include:
    - Low VOC paints and stains
    - Double or triple paned windows
    - LED lighting
    - Water harvesting for on-site irrigation
    - Recycled materials
    - Locally sourced materials
    - Sustainable energy systems or energy storage systems
    - Maximizing natural light
    - Green roofs
    - Additional interventions that may promote the Borough's recertification in the Sustainable Jersey program

### 6.11. Site Design Standards

- **Generally**
  - Public and private realms should be integrated and connected.
  - Site design should generally be reflective of a downtown aesthetic.
  - All streetscape and landscape improvements shall be designed by a licensed Landscape Architect.
- **Circulation**
  - The primary access points to the building shall be located along the street, unless otherwise noted.
  - Pedestrian pathways shall be provided from the street front and all parking areas to entrances.

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Figure 19: Streetscape with planting zone and pedestrian zone.

- Streetscapes shall be comprised of the following elements
  - **Sidewalk, Planting zone:** The 4' closest to the curb line shall be comprised of a planting zone. The planting zone shall create a buffer against the roadway and include street trees or other plantings compliant with the parameters described below. Lighting may also be provided in the planting zone.
  - **Sidewalk, Pedestrian zone:** A dedicated pedestrian zone along the sidewalk shall be provided. The pedestrian zone will have a minimum unobstructed width of 8' at all points.
  - **Interstitial spaces:** Area between the pedestrian zone and building frontages, if applicable, shall be designed in a manner that integrates the sidewalk into the site's functionality. Direct pathways should be provided from sidewalks to pedestrian entrances. Interstitial spaces may include gardens and publicly accessible seating areas to be activated by ground floor uses including, but not limited to, outdoor dining or parklets. Interstitial spaces shall be designed using hardscaping and landscaping to complement the pedestrian and planting zones.



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*Figure 20: Parklets or outdoor dining may be used to activate interstitial spaces.*

- Sidewalks
  - ADA compliant tactile pavers shall be used to define the edge of any service drive or driveways.
  - Tactile pavers shall be installed to the same standards required by ADA at the base of public sidewalk curb ramps and should indicate to pedestrians that they are entering the driveway.



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- **Street Trees**

- Pollution resistant street shade trees are to be planted along the street, at regular intervals pending species type, of 20' on center if a small street tree with a canopy spread up to 30', or spaced at 40' on center intervals if a medium or large tree with a canopy spread above 30'. Trees shall be a minimum of three-and-a-half (3.5) inches in diameter at breast height. The Planning Board shall approve species and location of trees.
- Brick or Belgian block pavers at the perimeter of tree pits are encouraged.
- Raingardens and/or bioswales in tree pits are encouraged.
- Tree irrigation bags must be installed and maintained for at least six months after planting.
- Consultation with the Shade Tree Commission to determine appropriate tree species is strongly encouraged.
- Street trees should be coordinated with site lighting.

- **Street Furniture**

- The use of street furniture in interstitial spaces and along sidewalks is encouraged.
- Any street furniture provided, including but not limited to benches, trash receptacles, and tables, shall be located such that a minimum of eight feet of unobstructed sidewalk remains for the safe passage of pedestrians.
- The edge of any street furniture shall be at least two feet away from the curb face of the right-of-way.
- Trash receptacles are to be provided at regular intervals along pedestrian walkways, including public rights-of-way, at a minimum of 200 feet on center. The use of compacting trash receptacles is encouraged.
- Street furniture must be designed to accommodate people of all ages and abilities and be compliant with ADA requirements and New Jersey Barrier Free Subcode.
- Developer shall propose a palette of furniture, fixtures, and finishes for seating that are consistent with the aesthetic of Bernardsville and the project.

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- Lighting

- Security Lighting: where used for security purposes or to illuminate walkways, roadways and parking lots, only shielded light fixtures shall be used.
- Commercial Lighting: where used for commercial purposes such as in merchandise display areas, work areas, platforms, signs, architectural, landscape, all light fixtures shall be equipped with automatic timing devices and comply with the following:
  - Light fixtures used to illuminate flags, statues, or any other objects mounted on a pole, pedestal, or platform, shall use a narrow cone beam of light that will not extend beyond the illuminated object.
  - Other upward directed architectural, landscape, or decorative direct light emissions shall have at least 90% of their total distribution pattern within the profile of the illuminated structure.
  - Externally illuminated signs including commercial building identification or other similar illuminated signs, shall comply with the following:
    - Top mounted light fixtures shall be shielded and are preferred.
    - When top mounted light fixtures are not feasible, illumination from other positioned light fixtures shall be restricted to the sign area. Visors or other directional control devices shall be used to keep spill light to an absolute minimum.
- All other outdoor lighting shall use shielded light fixtures.
- Floodlight type fixtures, once properly installed, shall be permanently affixed in the approved position.
- Foundations supporting lighting poles not installed four feet behind the curb, shall not be less than 24 inches above ground.
- Light Trespass (Nuisance Light): all light fixtures, except street lighting, shall be designed, installed and maintained to prevent light trespass, as specified below:
  - At a height of five feet above the property line of subject property, illuminations from light fixtures shall not exceed 0.1 foot-candles in a vertical plane on residentially zoned property.
  - Outdoor light fixtures properly installed and thereafter maintained, shall be directed so that there will not be any objectionable direct glare source visible above a height of five feet from any property or public roadway.

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- Light fixtures near adjacent property may require special shielding devices to prevent light trespass.
  - All lighting must be made to conform to the provisions of this section.
- Landscaping
  - Landscaped beds, gardens, and planting strips must be incorporated into the plazas and public spaces, particularly in locations that separate vehicles from pedestrians and where blank façades, or utilities are present.
  - Landscape buffers shall have a minimum height of 3’.
  - The use of green infrastructure, such as bioswales or rain gardens, is highly encouraged.
  - Landscaping and plantings should be consistent with species found throughout the Borough. Native plantings are highly encouraged.
  - Shrubs, flowers, and ground cover should be designed to reduce expansive areas of mulch. Planting sizes and spacing should be provided for review and approval by the Planning Board.
- Stormwater
  - Construction in the Redevelopment Area shall generate zero net increase in peak flow volume and flow rate off site between pre- and post- construction conditions for the 2, 10, and 100-year storms. The use of green stormwater management is highly encouraged.
- Retaining Walls
  - Retaining walls may be required as a component of site improvements. If retaining walls are required, best efforts shall be made by the developer to minimize the impact of the walls on site design and circulation.
  - Retaining walls shall be constructed of or clad in brick, stone, or stucco.
  - Retaining walls should be designed in a manner that is harmonious with the balance of the site design. Efforts should be made to design retaining walls in an attractive manner through treatments like landscaping, art, or other interventions.

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- **Parking, Vehicular**

- No parking shall be permitted along the front of any lot.
- Parallel parking may be permitted on the side of lots. No side shall have more than five parallel parking spaces.
- All parking areas shall meet or exceed Americans Disability Act (ADA) standards.
- Parking spaces shall measure nine feet wide by 18 feet deep.
- Compact car spaces measuring eight feet wide by 16 feet deep, shall be permitted provided the total number does not exceed 20% of the total parking provided.
- Vehicular access to parking facilities shall be located and designed to minimize conflicts with pedestrian circulation.
- All parking plans must show structural support columns to accurately depict feasibility of parking spaces and drive aisles.
- Surface parking shall be screened to the minimum standards: a compact hedge of evergreen shrubs, at least two ft. tall at planting, spaced to ensure closure into a solid hedge at maturity and canopy trees at a maximum of 30 ft. on center; an architecturally compatible opaque wall or fence; a seat wall at seating height; or a combination of the above.
- At least 2% of space shall include infrastructure for electric vehicles (EV) charging.
- An increase of more than 10% of the required minimum parking shall constitute a deviation.

- **Parking, Bicycle**

- Site plans shall show the proposed location of bike parking/storage facilities on the site and on the building floor plan design. A construction detail of the bike rack or facilities shall be provided by the redeveloper.
- Bicycle parking shall, at a minimum consist of a room within a building, a secure enclosure within a parking garage, or a similar setup providing similar security and protection from the elements. Facilities should be at least as protected and secure as any automobile parking provided.
- Bicycle parking facilities within an automobile parking area shall be separated by a physical barrier (i.e., bollards, reflective wands, curbs, wheel stops, poles, etc.) to protect bicycles from damage by cars.

- **Loading + Utilities**

- Commercial service needs (trash storage, move-in, etc.) should be conducted indoors in a centralized location. Trash

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compaction is encouraged. If trash storage must be conducted outside, it should be fully enclosed in a masonry structure that complements the building architecture and be secured via visually solid gates.

- Unless determined to be financially infeasible at the discretion of the Borough, outdoor utility equipment shall be placed underground.
- All proposed ground- mounted equipment (i.e., transformers, air conditioner units, etc.) within view from a street shall be screened by evergreen shrubs. No front yard ground-mounted utility equipment is permitted.
- Medium-sized evergreen shrubs shall be arranged around the boundary of utility equipment and planted a maximum of four ft. on- center.
- Mechanical equipment on the roof shall be screened from abutting streets with parapets or other types of visual screening. In no case shall mechanical equipment be allowed along street frontage(s).

- **Signage, Generally**

- Signs shall not be erected or maintained except in conformity with the provisions of this section.
- Site plan applications made in furtherance of this Redevelopment Plan shall include note the location, dimensions, and materials of any proposed signage. All signage shall be subject to Planning Board site plan review and approval.
- Sign erection permit required. No sign shall be constructed or displayed unless a sign erection permit shall have been obtained from the Building Subcode Official except those exempt under subsection 12-23.15.a.16 of the Borough Code.
- Review and Approval Procedure: Applications for sign erection permits shall be filed with the Zoning Officer and Construction Official. Applications shall include sketches and description of proposed signs including dimensions, graphics, colors, materials and construction details. Any modifications including colors, wording or graphics of existing signs shall be submitted for review. Permits shall be issued for approved applications upon payment of the established fee. If a variance is required, a denial letter shall be issued which specifies the relief required.
- No sign shall be placed in such a position that it will cause confusion or danger to street traffic by obscuring the view or by simulating official, directional or warning signs maintained

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by any Governmental Body, railroad or public utility concerned with the protection of the public health or safety. This shall include, but not be limited to, any sign visible from the public right-of-way which uses an arrow device or simulates a stop sign or stop light.

- Signs advertising a use or a product shall be removed within thirty (30) days of the date such use ceases to be in existence or such product is no longer available.
- No permanent sign shall be attached to trees, fence posts, stumps, utility poles, bridges, rocks or like features not considered to be advertising structures.
- All illuminated signs shall be either indirectly lighted or of the diffused lighting type, unless illuminated by an interior source. No sign shall be lighted by using unshielded incandescent bulbs, lasers, neon or gas discharge tubes, mirrors reflecting a direct light source, exposed light emitting diodes or similar devices. Buildings or structures may not be outlined by tubing or strings of lights.
- No business sign shall be permitted which is not accessory to the business or use conducted on the property. Off premises signs including but not limited to advertising billboard signs are prohibited.
- Rotating signs, live action signs, flashing signs, computer generated signage, variable message or scrolling signage, signs utilizing television monitors, and intermittent illuminated signs are prohibited.
- Banners, spinners, pennants, exposed LED signs, or any moving object used for advertising purposes whether containing a message or not are prohibited, unless specifically authorized by the Governing Body for a special public event.
- No sign shall be erected within or over the right-of-way of any street unless specifically authorized by this Plan, other ordinances of the Borough, the governing body or other governmental agency with express authority to regulate signs within or over the right-of-way.
- All signs, other than permitted temporary signs, shall be constructed of durable materials and shall be adequately maintained. All cracked, warped or broken members of a sign shall be replaced or repaired. All broken or cracked glass shall be replaced. All permitted illuminated signs shall be maintained so that all light sources are fully functioning. Any sign which fails to meet the maintenance provisions of this chapter shall be repaired or removed within sixty (60) days upon written notification by the Construction Official.



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- Portable signs are prohibited except where permitted by other provisions of this Plan.
  - Signs not exceeding two (2) square feet in area may be used for a driveway entrance, exit, or for warning and directional purposes provided the signs are limited to said uses and provided further the signs do not bear any type of commercial advertising.
  - Any sign that is or shall become dangerous or unsafe in any manner whatsoever, or any sign erected hereafter contrary to the provisions of this Plan shall be repaired, made safe, and otherwise restored to its original condition in conformity with this Plan or shall be taken down and removed by the owner, lessor, agent or occupant of the building, property or land upon which it is placed or to which it is attached.
  - The following exemptions shall apply only to the requirement for a sign permit and shall not be construed as relieving the owner of the sign from the responsibility for its erection and maintenance in good and safe condition or as relieving the owner of the sign from complying with the balance of this Plan.
    - Memorial tablets or signs, names of buildings and date of erection when cut into any masonry surface or when constructed of bronze or other noncombustible materials.
    - Traffic or other municipal signs, legal notices, railroad crossing signs, danger signs and such temporary emergency signs as may be erected by governmental or public utility employees in carrying out their official work.
    - Names on mailboxes.
  - No sign shall contain words or graphics which are offensive to the community's standards.
  - Construction materials of signs shall be selected to complement the architecture and building materials of the building on which they are located, or to which they are related, as well as surrounding buildings.
  - Any signs other than those for which provision is expressly made under this Plan are prohibited.
  - Signage should be appropriately scaled to the pedestrian instead of the automobile.
- Permitted Signs
    - Awning Signs
      - Awning signs shall be limited to the valance of the awning.

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- Awning signs shall have a maximum height of 1.5 ft. and a maximum area of 60% of the awning valance.
- Awning signs shall be limited to one per storefront awning and located above ground story windows and doors only.
- Awning signs shall not be internally illuminated.



Figure 21: Sample awning and canopy signs.

- Canopy Signs
  - Canopy signs shall have a maximum height of 2 ft. and a maximum area of 50 sq. ft.
  - Canopy signs may not project more than 1 ft. from the face of the canopy.
  - Canopy signs shall not extend beyond the ends of the canopy.
  - Canopy signs shall be limited to one sign per canopy and only permitted if no wall or awning sign exists on the facade.
  - Canopy signs may be internally or externally illuminated. Internal illumination shall be limited to the letters and/or logo.
- Small Ground-mounted Signs
  - Small ground-mounted signs shall be limited to 2 sides; shall have a maximum height of 6 ft. above grade; a maximum depth of 2 ft.; and a maximum area of 5 sq. ft. per side.
  - Small ground-mounted signs shall be limited to one sign per lot frontage.
  - Small ground-mounted signs shall set back a minimum of 2.5 ft. from the lot line facing primary or secondary street and a minimum of 5 ft. from all other lot lines.
  - Small ground-mounted signs shall not be internally illuminated.
  - Small ground-mounted signs may be masonry, wood, metal, or a composite material with similar properties.

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The signs should complement the architecture of the principal building on the same lot.



Figure 22: Sample small ground-mounted signs

### – Projecting Signs

- Projecting signs shall be limited to 2 sides, shall have a maximum height of 3 ft.; a maximum projecting width of 4 ft.; a maximum depth of 6 in.; and a maximum area of 4 sq. ft. per side. The sign shall have a minimum of 6 inches and a maximum of 12 inches of space between facade and sign.
- Projecting signs shall be wood, metal, or a composite material with an appearance similar to wood or metal.
- Projecting signs shall be limited to one sign per tenant space.
- Projecting signs shall be located between ground story window and door heads and second story windowsills. In single story buildings, projecting signs shall not extend above roof eaves on a sloped roof or above the surface of a flat roof.
- Projecting signs shall not be internally illuminated.

### – Wall Signs

- Wall signs shall have a maximum area of 1 sq. ft. per linear foot of facade.
- Wall signs shall not extend above roof eaves on a sloped roof or above the parapet on flat roofs.
- Wall signs shall not project more than 1 ft. from the face of the facade.
- Wall signs shall not cover windows or doors.
- Wall signs may be internally or externally illuminated. Internal illumination shall be limited to the letters and/or logo.

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Figure 23: Sample projecting and wall signs.

– Window Signs

- Window signs shall be permitted only in ground floor windows.
- The content of window signs shall be limited to the name of the entity, the date the business was established, a logo, the street number of the premises.
- Permanent signs shall be either etched or painted on the window.
- Signs may not cover more than 20% of the area of the window.
- In addition to the signs permitted above: restaurants may place in the window a current menu of no greater than two pages sized 8.5 inches by 11 inches; and movie theaters may place standard sized movie posters.

• Permitted Temporary Signs

- Real estate signs advertising the availability of the premises or any part thereof for sale or rental of the premises (as used herein, real estate signs) upon which they are located are permitted only as follows.
- The premises or part thereof advertised as available is vacant of all occupants, the lease for the premises or part thereof advertised will expire within four (4) months or the current occupant of the premises advertised has stated in writing their intent to vacate the premises within four (4) months.
  - Real estate signs may be displayed on existing signs on the premises otherwise meeting the requirements of this providing:
    - the sign to which the real estate sign is attached was in existence four (4) months preceding the date of such attachment;
    - the real estate sign does not obscure any other text on the sign to which it is attached; and

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- the vertical font size of such real estate sign is not larger than 2 inches.
  - Not more than one (1) real estate sign may be placed in one of the ground floor or upper floor windows of the vacant or to be vacated premises provided such sign does not cover more than 25% of that window.
  - If an entire building is vacant or will become vacant within four (4) months, not more than one (1) ground mounted real estate sign, which may be double-faced, may be placed on the property on which the building is located.
  - All real estate signs shall be removed within seven (7) days of sale or rental of the premises or part thereof advertised as available.
- Signs are permitted on construction sites for the duration of the construction period as follows:
    - One (1) sign not exceeding six (6) feet in height or eight (8) square feet in area.
    - All such signs shall be on the subject property and shall be beyond the street right-of-way.
  - Farmers' signs advertising the sale of farm products produced within the Borough. They shall not exceed 24 square feet in area. The signs shall be removed during seasons when products are not being offered for sale. Not more than two (2) such signs shall be erected on any one (1) property.
  - Signs announcing any educational, charitable, civic, or religious special event to be held in the Borough provided however, that such signs shall not be permitted shall not be permitted for a period exceeding fourteen (14) days per special event in any one (1) calendar year; shall not exceed twelve (12) square feet in area; and shall be removed within forty-eight (48) hours of the conclusion of the event. There shall be not more than six (6) off-site signs, Borough-wide, advertising any special event and no group shall be allowed to erect temporary off-site signs pursuant to this paragraph for more than four (4) special events per year. Signs under this subsection are subject to the limitations set forth in Additional Provisions below.
  - Signs relating to any political campaign shall be permitted. Such signs shall not exceed twelve (12) square feet in area, shall not be permitted prior to sixty (60) days of the election to which they relate and shall be removed within seven (7) days after such election. Signs under this subsection shall be

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subject to the limitations set forth in Additional Provisions below.

- Announcements of the sale of an individual's personal property which do not exceed six (6) square feet in area. Such signs shall not be displayed for a period exceeding thirty-one (31) days in any calendar year.
- Temporary window signs or lettering advertising sales or events provided that the area covered by such signs or lettering when added to the area covered by permanent window signs or lettering shall not cover more than twenty-five (25%) percent of the total aggregate window area and shall be removed within three (3) days after termination of the sale or event advertised by the sign.
- Additional Provisions: Notwithstanding the foregoing, temporary signs shall not:
  - Be erected without permission of the property owner(s);
  - Be erected in the Borough right-of-way without the permission of the Borough Zoning Officer;
  - Be erected in a County or State right-of-way without the permission of the appropriate authority.
  - Be erected where it may interfere with the ability of a person to see the street or highway ahead or official signs, signals or traffic control devices.
  - Be erected within the limits of traffic circles, median strips, grate separations or interchanges.
  - Be affixed to, suspended from, or made part of any highway structure or appurtenances.
  - Contains any lights.
  - Contain subject matter not relating to that permitted for that sign by this Plan.

- **Quimby Plaza Design Standards**

- Quimby Plaza should be fronted by active ground floor uses to the greatest extent possible.
- Quimby Plaza should be accessible from all sides whether via pedestrian pathways, pedestrian entrances to buildings, or both.
- No parking should have a negative visual impact upon Quimby Plaza.
- Trees should be placed in a way that does not limit natural lighting of adjacent uses.



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- Plazas should include seating that may be adapted to serve multiple purposes, including dining, performances, and informal gatherings.
  - Seating space may include planters, benches, terracing, fountains, etc.
  - Outdoor electrical outlets should be installed.
  - Public art is encouraged in plaza areas.
  - Plazas should be designed to incorporate a mixture of hardscaping and landscaping.
- Mine Brook Park Design Standards
  - Park design should expand and preserve view corridors to and from the Mine Brook watercourse,
  - Park design shall take into consideration effective control of water flows into the Mine Brook.
  - Park design should create areas of distinct character through use of landscaping and paving materials that are suitable to the topography of the site, avoiding erosion and runoff while capturing stormwater.
  - A public pathway of a minimum 12-foot width along the watercourse shall be provided.
  - The exception to the pathway width requirement shall be any instance in which site conditions prohibit placement along the brook. If the pathway cannot run adjacent to the brook, a parallel pathway should be provided.
  - All pathways shall conform to current ADA standards.
  - All pathways within Mine Brook Park should be connected to Claremont Road, Mill Street, and Mine Brook Road. Direct pedestrian connections should also be made between the park and Quimby Plaza
  - Natural materials and riparian vegetation should be used for soil stability and to prevent excess erosion and uncontrolled stormwater run-off into the Mine Brook.
  - Pathways should follow the existing slope, to the extent feasible, in order to avoid steep inclines.
  - Permeable paving is encouraged. Where permeable paving is used, paved areas shall be calculated at a rate of 50% toward impervious coverage limits.
  - Furnishings, such as benches, should be clustered so as to define activity areas and to avoid visual clutter.
  - Lighting should be considered an integral design element to help define activity areas, such as public seating, and provide visual interest after dark.

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- Lighting should be provided so as to ensure safe and convenient walkways while minimizing direct light on the brook and glare on adjacent properties.
- **Quimby Lane Design**
  - In addition to streetscape standards detailed above required throughout the Redevelopment Area, Quimby Lane shall undergo additional streetscape improvements.
  - Interventions should be used to emphasize pedestrian priority, including, but not limited to, textured hardscape materials, reflective striping, street furniture, removable bollards, and public art.
  - A mid-block crossing shall be provided to facilitate access between Quimby Plaza and Mine Brook Park. The location of the mid-block crossing shall be determined based on the design of Mine Brook Park. The mid-block crossing should include a raised crossing area, and may include pedestrian protection measures like neckdowns and/or bulb-outs.
- **Outdoor Dining**
  - Dining areas shall be surrounded by a defining barrier not less than two (2) feet high such as landscaping, a fence or ropes and posts. If any portion of the dining area is within ten (10) feet of any area used by vehicles and less than two (2) feet above such area, the barrier shall be designed to protect the dining area unless the same is protected by trees or other means.
  - If conducted in a public right-of-way, an unobstructed passage not less than four (4) feet wide must be left between the dining area and any street, structure, hydrant, lamppost, highway signpost or other obstruction.
  - The placement of tables and chairs in the dining area and the provision of passages through the barrier shall not obstruct entry to or exit from any building.
  - No advertising or product names are permitted on any tablecloths, chairs or umbrellas in the dining area.
  - No use of the dining area after 12:00 a.m. or before 6:00 a.m. is permitted except for Thursday, Friday and Saturdays. Outdoor dining shall not be permitted after 10:00 pm or before 6:00 am on all other days.
  - Convenient containers for trash and recyclables shall be provided.

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- The operator of the dining area shall keep it clean, sanitary and free from litter.
- Restaurants may serve indoor and outdoor diners simultaneously with permission of the Board of Health and/or the Fire Department as to the maximum number of people in the indoor and outdoor spaces.

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### 7. ADMINISTRATION

#### 7.1. Applicability

The standards and procedures contained within Section 7, Administration, shall apply to all projects in the Redevelopment Area.

#### 7.2. Computations

When a numerical calculation of zoning standards for a particular lot results in a fractional number, such numbers shall be rounded down to the next whole number for fractions less than .500 and rounded up for fractions .500 and above.

#### 7.3. Other Actions by the Borough in Furtherance of the Plan

Other actions may be taken by the Borough in its sole discretion, to further the goals of the Plan. These actions may include, but shall not be limited to, provisions for public infrastructure necessary to service new development and vacation of public utility easements and other easements and rights-of-way as may be necessary for redevelopment. The costs for such actions shall be borne by the designated redeveloper(s).

#### 7.4. Development Coordination

##### 7.4.1. Redeveloper, Defined

Anytime the word “developer,” “Redeveloper,” or “redeveloper” is utilized in this Redevelopment Plan, the same shall mean the redeveloper or redeveloper(s) that may be designated by the Borough in accordance with a developer designation or Redeveloper Agreement to be executed between the Borough and applicable entities.

##### 7.4.2. Phasing and Implementation

In order to maximize the efficiency of development within the Redevelopment Plan Area and ensure that the desired public benefits are provided, the Borough’s strong preference is to designate a single Redeveloper (the “Master Redeveloper”). Designating a Master Redeveloper may maximize the predictability of redevelopment outcomes given the unique challenges including diverse ownership, necessity of shared infrastructure, and varied topography. A Master Redeveloper shall be responsible for:

1. Acquisition of all Redevelopment Plan Area properties, which may include creation of joint ventures with third party developers and/or property owners.
2. Preparation of a Conceptual Development Plan for the entire Redevelopment Plan Area. The Conceptual Development Plan shall be consistent with the standards contained within this Redevelopment Plan and approved by the Borough Council as an attachment to an executed Redevelopment Agreement. This Conceptual Development Plan shall be provided in addition to all other applicable attachments detailed in Section 7.5. The Conceptual Development Plan shall:

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- Depict the location of all buildings, including proposed uses, heights, and a programmatic tabulation.
  - Detail the overall phasing strategy and project timeline.
  - Detail the proposed implementation strategy and location of public improvements outlined in Sections 5.2-5.7 of the Redevelopment Plan. This shall include cost estimates and apportionment of obligations among Sub Area redevelopers, if applicable.
  - Detail the proposed implementation strategy and location of infrastructure and capital improvements including the design and location of parking facilities, loading facilities, utilities, vehicular circulation and pedestrian circulation.
  - Include a feasibility study for improvements outlined in Sections 5.8.
  - Include a financing plan for public improvements including sources and uses of public and private funds. This Redevelopment Plan acknowledges that the infrastructure obligations specified herein are considerable and provides policy support for the use of the financing tools made available to the Borough under the Local Redevelopment and Housing Law (i.e. long-term tax exemptions, redevelopment area bonds) as well as the use of open space funds maintained by the Borough, County or State.
3. Construction of public and private improvements detailed in this Redevelopment Plan, including those outlined in Sections 5.2-5.6, in a manner consistent with the terms contained in a Redevelopment Agreement to be executed between Redeveloper and the Borough. (See also, Sec. 7.4.3, below)

While a Master Redeveloper may provide the most predictable results, this Redevelopment Plan also recognizes that certain practical difficulties may prevent this ideal situation from unfolding. In this case multiple redevelopers may be designated for specific sub-areas. In this scenario:

1. Any redeveloper designated for Sub Area 1, shall be obligated to prepare, revise or affirm a Conceptual Development Plan, as described in Item 2, above.
2. No redeveloper should be designated for any portion of the Redevelopment Plan Area prior to designation of a redeveloper for Sub Area 1 and approval of a Conceptual Development Plan by the Borough Council.
3. Redevelopers of Sub Areas besides Sub Area 1 should adhere to the Conceptual Development Plan.

### 7.5. Approval Process

Project approval under this Redevelopment Plan shall involve two steps. First, a Redevelopment Agreement will be entered into between the Borough and the Redeveloper(s). Second, the Redeveloper(s) will make an application to the Planning Board for site plan approval.

The approval sequence is further detailed below.

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- **Redevelopment Agreement**

Prior to application to the Planning Board for Site Plan and Subdivision review, the Borough Council shall pass a resolution authorizing one or more Redevelopment Agreement(s) between the Borough and Redeveloper(s). The Governing Body may elect to issue a Request for Proposals in order to identify potential redevelopers. Any redeveloper will be selected by Council in a public session. The Council may seek the advice of the Bernardsville Redevelopment Committee in evaluating potential projects. The Council retains sole authority to negotiate and authorize the negotiation of Redevelopment Agreements as per LRHL. In consideration of potential Redevelopment projects, Council will evaluate compliance with the Redevelopment Plan, provision of public amenities, experience and qualifications of developers, and developer willingness to enter into a public-private partnership for completion of the project.

The following items, as applicable, shall be submitted to the Borough by redevelopers in advance of designation and shall be included as an attachment to a Redevelopment Agreement:

- Affordable housing plan
- Architectural rendering
- Building elevations
- Conceptual site plans
- Demonstration of redeveloper's compliance with the Conceptual Development Plan
- Demonstration of redeveloper's financial qualifications, including access to debt and equity to support the project
- Demonstration of redeveloper qualifications including experience with similar projects
- Description of how the project will benefit the Borough
- Detailed plan for addressing applicable NJ DEP restrictions, particularly those relating to the presence of the flood hazard restrictions
- Floor plans showing ground floor space allocation and residential units (as applicable)
- Landscape plans
- List of project consultants
- Market study substantiating basis for proposed project, including unit mixture, size, and amenity package
- Ownership structure
- Parking plan
- Plan for ensuring signage conformity for existing and proposed signs within the Redevelopment Plan Area
- Programming plan for Quimby Plaza and/or Mine Brook Park as applicable



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- Project pro forma
- Redevelopment timeline
- Traffic impact study
- Any additional items relating to public improvements, as may be required pursuant to Sec. 7.4, above.

- **Site Plan and Subdivision Review**

Prior to commencement of construction, site plans for the construction of improvements within the Redevelopment Area, prepared in accordance with the requirements of the Municipal Land Use Law (N.J.S.A. 40:55D-1 et. seq.), shall be submitted by the applicants for review and approval by the Planning Board of the Borough of Bernardsville.

No construction or alteration to existing or proposed buildings shall take place until a site plan reflecting such additional or revised construction has been submitted to, and approved by, the Planning Board. This pertains to revisions or additions prior to, during and after completion of the improvements.

In addition to the above-mentioned items, the following items shall be submitted as part of a site plan application:

- Any and all “checklist” requirements contained in the Borough’s code.
- Copy of Redevelopment Agreement executed between the Borough and Redeveloper
- Copy of applications or conceptual designs that have been or will be submitted to NJDOT, Somerset County, and any other applicable local, state, or federal agencies, as required.

### 7.6. Local Permits + Approvals by Other Agencies

Redeveloper(s) shall be required to obtain a Zoning Permit upon demonstration of compliance with all conditions contained in any resolution of approval from the Planning Board. Redeveloper(s) shall be required to provide, prior to issuance of a zoning permit, copies of all approvals necessary to implement public improvements. Only upon issuance of a zoning permit shall the Borough Construction Code Official issue Building Permits or similar approvals to allow construction to commence.

The Redeveloper(s) shall be required to provide the Borough with copies of all permit applications made to federal, state and county agencies upon filing such applications, as may be required by the respective Redevelopment Agreement to be executed between the redeveloper(s) and the Borough.

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### 7.7. Deviations

The Planning Board may grant deviations from the regulations contained within this Redevelopment Plan where, by reason for exceptional narrowness, shallowness or shape of a specific piece of property, or by reason of exceptional topographic conditions, preexisting structures or physical features uniquely affecting a specific piece of property, the strict application of any area, yard, bulk or design objective or regulation adopted pursuant to this Redevelopment Plan would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property. The Planning Board may also grant such relief, subject to the next paragraph, in an application relating to a specific piece of property where the purposes of this Redevelopment Plan would be advanced by a deviation from the strict requirements of this Redevelopment Plan and the benefits of the deviation would outweigh any detriments. No relief may be granted under the terms of this section unless such deviation or relief can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of this Redevelopment Plan. An application for a deviation from the requirements of this Redevelopment Plan shall provide public notice of such application in accord with the requirements of public notice as set forth in NJSA 40:55D-12. a. and b.

Notwithstanding the above, any changes to the uses permitted in this Redevelopment Area shall be permitted only by means of an amendment of the Redevelopment Plan by the Borough of Bernardsville Council in a public hearing, and only upon a finding that such deviation be would be consistent with and the furtherance of the goals and objectives of this Redevelopment Plan.

### 7.8. Severability

The provisions of this Redevelopment Plan are subject to approval by Ordinance. If a Court of competent jurisdiction finds any word, phrase, clause, section, or provision of this Redevelopment Plan to be invalid, illegal, or unconstitutional, the word, phrase, clause, section, or provision shall be deemed severable, and the remainder of the Redevelopment Plan and implementing Ordinance shall remain in full force and effect.

### 7.9. Adverse Influences

No use or reuse shall be permitted which, when conducted under proper and adequate conditions and safeguards, will produce corrosive, toxic or noxious fumes, glare, electromagnetic disturbance, radiation, smoke, cinders, odors, dust or waste, undue noise or vibration, or other objectionable features to be detrimental to the public health, safety or general welfare.

### 7.10. Non-Discrimination Provisions

No covenant, lease, conveyance or other instrument shall be effected or executed by the Borough of Bernardsville or by a developer or any of his successors or assignees, whereby land within the Redevelopment Area is restricted by the Borough of Bernardsville, or the

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developer, upon the basis of race, creed, color, national origin, ancestry, affectional preference, marital status or gender in the sale, lease, use or occupancy thereof. Appropriate covenants, running with the land forever, will prohibit such restrictions and shall be included in the disposition instruments. There shall be no restrictions of occupancy or use of any part of the Redevelopment Area on the basis of race, creed, color, national origin, ancestry, affectional preference, marital status or gender.

### 7.11. Redevelopment Actions

The Borough of Bernardsville shall have such powers and duties as set forth in the LRHL and as may be conferred by this Redevelopment Plan, including, but not limited to, the authority to acquire real property, to relocate residents and businesses, to designate redevelopers, to establish clear terms and conditions for redevelopment through the negotiation, execution, and administration of redevelopment agreements, and to do such other things as permitted by law.

### 7.12. Relocation Requirements

The redeveloper will comply with any applicable New Jersey law or regulation applicable to relocation of tenants within the redevelopment area.

### 7.13. Escrows

At a minimum, the Redevelopment Agreement shall provide that the redeveloper shall be responsible to post sufficient escrows to cover any and all costs of the Borough and the professional consultants retained by the Borough to negotiate the Redevelopment Agreement, undertake any studies in connection with the project, review the proposed redevelopment project and advise the Borough on any and all aspects of the redevelopment process and as otherwise set forth in the Redevelopment Agreement.

### 7.14. Infrastructure

The redeveloper, at the redeveloper's cost and expense, shall provide all necessary engineering studies for, and construct or install all on- and off-site municipal infrastructure improvements and capacity enhancements or upgrades required in connection of traffic control measures, water service, sanitary sewer service, stormwater management, and flood mitigation measures to the project, in addition to all required tie-in or connection fees. The redeveloper shall also be responsible for providing, at the redeveloper's cost and expense, all sidewalks, curbs, streetscape improvements (street trees and other landscaping), street lighting, and on and off-site traffic controls and road improvements for the, project or required due to the impacts of the project. The redeveloper shall be required to receive all necessary approvals for infrastructure, including at the County and State level as applicable.

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### 7.15. Procedures for Amending the Plan

This Redevelopment Plan may be amended from time to time upon compliance with the requirements of state law. A request for same may be submitted to the Bernardsville Borough Council. The Borough of Bernardsville reserves the right to amend this plan. A non-refundable application fee of \$10,000 shall be paid by the party requesting such amendment, unless the request is issued from an agency of the Borough. The Borough, at its sole discretion, may require the party requesting the amendments to prepare a study of the impact of such amendments, which study must be prepared by a professional planner licensed in the State of New Jersey and other additional professionals as may be required by the Borough.

### 7.16. Redevelopment Plan Duration

The provisions of this Redevelopment Plan specifying the redevelopment of the Redevelopment Area and the requirements and restriction with respect thereto shall be in effect for a period of fifty (50) years from the date of adoption of this Redevelopment Plan by the Bernardsville Borough Council.

### 7.17. Certificates of Completion

Upon completion of a project, the developer shall submit for a Certificate of Completion. Concurrently, a zoning ordinance amendment shall be submitted to the Bernardsville Borough Council requesting that the zoning for the subject parcel(s) be incorporated into the Borough Code to ensure that the standards remain applicable.

### 7.18. Land Use Map Amendments

The adoption of this Redevelopment Plan or any amendments thereto shall automatically allow for any necessary modifications to the official Bernardsville Land Use Map to ensure consistency between the two documents.

### 7.19. Additional Superseding Provisions

The standards contained within this Redevelopment Plan shall supersede any conflicting standards contained within the Land Development Code (LDO) of the Borough of Bernardsville or other applicable Borough of Bernardsville codes or ordinances.

#### 7.19.1. Terms and Definitions

- Any terms or definitions not addressed within this Redevelopment Plan shall rely on the applicable terms and conditions set forth in the Zoning Ordinance of the Borough of Bernardsville.

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### 7.19.2. Other Applicable Design and Performance Standards

- Any design or performance standards not addressed within this Redevelopment Plan shall rely on the applicable design and performance standards set forth in the Land Development Code of the Borough of Bernardsville.

### 7.20. Other Provisions

7.20.1. This Redevelopment Plan herein has delineated a definite relationship to local objectives as to appropriate land uses, density of population, and improved public utilities, recreation and community facilities and other public improvements. This Redevelopment Plan has laid out various programs and strategies requiring implementation to carry out the objectives set forth herein.

7.20.2. This Redevelopment Plan lays out the proposed land uses and building requirements for the Redevelopment Area.

7.20.3. The diagrams, images and other graphic representations provided in this Redevelopment Plan are intended to provide a framework for interpretation of the written standards and regulations contained herein. Nothing in this Redevelopment Plan shall preclude the redevelopment of a block depicted in such diagrams, images or other graphic representations, provided that such development is fully in conformance with the written standards and regulations contained herein.

7.20.4. Final adoption of this Plan by the Borough Council of the Borough of Bernardsville shall be considered an amendment of the Borough Zoning Map.

7.20.5. The NJ Department of Transportation (DOT) shall have final authority over street design and related specifications with respect to all State roadways.

### 7.21. Other Redevelopment Actions

In carrying out this Redevelopment Plan, the Borough of Bernardsville and any designated redeveloper(s) may be required to undertake a variety of redevelopment actions. These may include but will not be limited to anything permitted under the LRHL.

### 7.22. Public Improvement Approvals

It is recognized that the public improvement requirements within this plan may require approval of third-party organizations. Construction of improvements shall not commence until all required approvals are received from third party agencies.

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### 8. APPENDIX A: LOCAL REDEVELOPMENT AND HOUSING LAW

New Jersey's Local Redevelopment and Housing Law (the "LRHL") empowers local governments to initiate a process by which designated properties that meet certain statutory criteria can be transformed to advance the public interest. Once an area is designated "in need of redevelopment" in accordance with statutory criteria, municipalities may adopt Redevelopment Plans and employ several planning and financial tools to make redevelopment projects more feasible to remove deleterious conditions. A redevelopment designation may also qualify projects in the Redevelopment Area for financial subsidies or other incentive programs offered by the State of New Jersey.

#### 8.1. Process

The LRHL requires local governments to follow a process involving a series of steps before they may exercise powers under the LRHL. The process is designed to ensure that the public is given adequate notice and opportunity to participate in the public process. Further, the redevelopment process requires the Governing Body and Planning Board interact to ensure that all redevelopment actions consider the municipal Master Plan. The steps required are generally as follows:

- 8.1.1. The Governing Body must adopt a resolution directing the Planning Board to perform a preliminary investigation to determine whether a specified area is in need of redevelopment according to criteria set forth in the LRHL (N.J.S.A. 40A:12A-5).
- 8.1.2. The resolution authorizing the Planning Board to undertake a preliminary investigation shall state whether the Redevelopment Area determination shall authorize the municipality to use all those powers for use in a Redevelopment Area other than the use of eminent domain (non-condemnation redevelopment area) or whether the Redevelopment Area determination shall authorize the municipality to use all those powers for use in a Redevelopment Area, including the power of eminent domain (condemnation Redevelopment Area).
- 8.1.3. The Planning Board must prepare and make available a map delineating the boundaries of the proposed Redevelopment Area, specifying the parcels to be included and investigated. A statement setting forth the basis of the investigation or the preliminary statement should accompany this map.
- 8.1.4. The Planning Board must conduct the investigation and produce a report presenting the findings. The Board must also hold a duly noticed hearing to present the results of the investigation and to allow interested parties to give testimony. The Planning Board then may adopt a resolution recommending a course of action to the Governing Body.
- 8.1.5. The Governing Body may accept, reject, or modify this recommendation by adopting a resolution designating lands recommended by the Planning Board as an "Area in Need of Redevelopment." The Governing Body must make the final determination as to the Non-Condensation Redevelopment Area boundaries.



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- 8.1.6. If the Governing Body resolution assigning the investigation to the Planning Board states that the redevelopment determination shall establish a Condemnation Redevelopment Area, then the notice of the final determination shall indicate that:
- the determination operates as a finding of public purpose and authorizes the municipality to exercise the power of eminent domain to acquire property in the Redevelopment Area, and
  - legal action to challenge the final determination must be commenced within forty-five (45) days of receipt of notice and that failure to do so shall preclude an owner from later raising such challenge.
- 8.1.7. A Redevelopment Plan may be prepared establishing the goals, objectives, and specific actions to be taken with regard to the "Area in Need of Redevelopment."
- 8.1.8. The Governing Body may then act on the Plan by passing an ordinance adopting the Plan as an amendment to the municipal Zoning Ordinance. Only after completion of this process is a municipality able to exercise the powers under the LRHL.

### 8.2. Redevelopment Plan Content

The LRHL identifies required components to be included in a Redevelopment Plan. In accordance with N.J.S.A 40A:12A-7a, the Redevelopment Plan must include an outline for the planning, development, redevelopment or rehabilitation of a project area which is sufficient to indicate:

- 8.2.1. Its relationship to definite local objectives as to appropriate land uses, density of population, and improved traffic and public transportation, public utilities, recreational and community facilities and other public improvements.
- 8.2.2. Proposed land uses and building requirements in the project area.
- 8.2.3. Adequate provision for the temporary and permanent relocation, as necessary, of residents in the project area, including an estimate of the extent to which decent, safe and sanitary dwelling units affordable to displaced residents will be available to them in the existing local housing market.
- 8.2.4. An identification of any property within the Redevelopment Area which is proposed to be acquired in accordance with the Redevelopment Plan.
- 8.2.5. Any significant relationship of the Redevelopment Plan to (a) the master plans of contiguous municipalities, (b) the master plan of the county in which the municipality is located, and (c) the State Development and Redevelopment Plan adopted pursuant to the "State Planning Act," P.L. 1985, c.398 (C.52:18A-196 et al.).

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## 9. APPENDIX B: RELATION TO OTHER PLANS

### 9.1. Local Master Plan

Bernardsville's Comprehensive Master Plan was adopted in 2000, amended in 2004, and last reexamined in 2017. The Master Plan provides two sets of goals: overall goals for the Borough and downtown goals in consideration of the downtown's designation as a Town Center in the State Plan. The Borough also provides goals relevant to the Redevelopment Plan in its 2016 Open Space and Recreation Element and 2005 Stormwater Management Element. This Redevelopment Plan is consistent with and effectuates the goals of the Master Plan and these relevant elements.

#### 9.1.1. Borough-wide Goals

- Goal 1: To preserve the residential and open character of the community.
- Goal 2: To allow non-residential forms of land use, especially commercial, to the extent that they serve residents of the Greater Somerset Hills Subregion.
- Goal 3: To protect Bernardsville residents and their property from negative environmental, financial and other impacts of development.
- Goal 4: To provide community facilities, services and utilities to the extent they are practically feasible.
- Goal 5: To promote the conservation of natural systems, environmental resources, rural appearance and the natural amenities that characterize Bernardsville.

#### 9.1.2. Downtown Goals

- Goal 1: To promote the downtown as the commercial and civic center of Bernardsville.
- Goal 2: To enhance the physical characteristics of the downtown through sign, façade, architecture and streetscape improvements.
- Goal 3: To improve circulation patterns into and through the downtown.
- Goal 4: To create a pedestrian-friendly atmosphere in the downtown.
- Goal 5: To provide sufficient parking in the downtown by rationalizing land use with parking needs.

#### 9.1.3. Open Space and Recreation Element

- Promote the permanent conservation of the Borough's unique and exceptional scenic, agricultural and recreational lands.
- Preserve the integrity of the Borough's sensitive environmental resources and ecosystems.
- Provide opportunities for "active" (facility-based) and "passive" (resource-based) recreational facilities to meet the needs of present and future Borough residents.
- Protect the ecological integrity of the Borough's landscape by stewarding and managing open space and recreation lands to ensure their long-term viability, health, and sustainability.

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- In partnership with others, support the protection of greenways and blueways to expand contiguous open space lands.

### 9.1.4. Stormwater Management Element

- Reduce flood damage, including to life and property.
- Reduce soil erosion from any development or construction project.
- Minimize, to the extent practical, any increase in stormwater runoff from any new development.
- Maintain the integrity of stream channels for their biological functions and drainage capabilities.
- Protect public safety through the proper design and operation of stormwater basins.

## 9.2. Surrounding Communities' Master Plans

The property is located in the southeastern section of the Borough, in the heart of Downtown Bernardsville. Given its location at the core of the Borough and that it is approximately 0.5 miles from the nearest municipal border with Basking Ridge, the Redevelopment Plan will not have any significant relationship with the master plans of adjacent municipalities.

## 9.3. Adjacent County Master Plan

The Redevelopment Plan is consistent with the goals of Morris County's Master Plan and its various elements. It is most relevant to the Master Plan's Future Land Use Element, Circulation Element, and Open Space Element. It is consistent with the goals of these plans. Relevant goals are as follows:

### 9.3.1. Future Land Use Element

- Support the establishment of an equitable tax base.
- Balanced and diversified economic growth, coordinated with transportation, utilities, and environmental limitations.
- Increased scope of public transportation.
- Provision for a variety of individual choices in lifestyles and living spaces.
- Maintenance at both the local and County levels of a physical and social sense of community.

### 9.3.2. Circulation Element

- Goal 1: Improve the safety accessibility, and efficiency of Morris County's transportation network.
  - 1.1 Reduce congestion and improve safety on County roads
  - 1.2 Support the expansion and enhancement of public transit
  - 1.3 Provide for the special transportation needs of low-income workers, senior citizens, and people with disabilities
  - 1.4 Support bicycle and pedestrian network improvements
  - 1.5 Improve air quality and protect environmental resources

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- Goal 2: Conduct a coordinated, comprehensive, and cooperative transportation planning process.
  - 2.3 Incorporate the needs of businesses, employees, residents, and others in transportation planning.
  - 2.4 Encourage the use of context sensitive roadway design.
  - 2.5 Support integration of land use and transportation planning.

### 9.3.3. Open Space Element

- 1) To preserve unique natural features and to protect natural resources, especially water supply sources.
- 2) To provide adequate recreational facilities to all Morris County residents through both public and private sectors.
- 3) To provide open space in balance; with other land uses throughout the county.
- 4) To maintain and protect dedicated open space in perpetuity so that its value as a resource is not diminished for the use of future generations.
- 6) To establish attractive community design,
- consisting of a visually pleasant landscape with environmental amenity.

## 9.4. Somerset County Master Plan

This Redevelopment Plan is largely consistent with the 1987 Somerset County Master Plan, which seeks to context-appropriate development patterns, uses, and intensities. Pursuant to N.J.S.A. 40A: 12A-7(a)(5), this Redevelopment Plan relates directly to the goals and objectives of the Somerset County Master Plan, including:

- To relate development activities to long-range trends and the essential utilities and services necessary to support future development in an economical and environmentally-sound manner.
- To focus future development opportunities in and around logical areas of existing development by encouraging a variety of housing types, convenient employment opportunities, and investments in utilities and transit facilities in defined areas. The effort should be to prevent further sprawl development by increasing the capacity and efficiency of existing core areas of development in order to attract and accommodate new development.
- To protect and enhance significant historic, cultural and archeological sites and structures.

Somerset County has separately updated several of its Master Plan elements. Relevant updated Elements are as follows.

### 9.4.1. Comprehensive Economic Development Strategy (CEDS)

CEDS was adopted in 2013 to provide targeted approaches and strategies to the various economic development needs of Somerset County. It organizes the plan into different Primary Focus Areas and provides goals for each area. This Redevelopment Plan is most related to Primary Focus Area #2: Re-use of Significant Properties, and it is consistent with the goals of this area, which include:

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- Identify and prioritize significant properties for re-use to formulate incentives and resources that facilitate productive occupancy.
- Enhance the competitiveness of existing occupied and vacant commercial buildings by encouraging and incentivizing energy conservation and efficiency upgrades.

### 9.4.2. Housing Element

Adopted in 2017, the Housing Element is the most-recently updated element of the Master Plan. It includes guiding principles, which each have their own planning objectives. This Redevelopment Plan is highly consistent with these principles and objectives, including:

- Guiding Principle 1: Respond to the changing needs of the County’s population by encouraging a broad range of housing types at all levels of affordability
- Guiding Principle 2: Create healthy, attractive, walkable neighborhoods with proximity and access to jobs, cultural and recreational amenities, services and transportation choices
  - 2A. Enhance in-town living and retrofit the suburbs by adding neighborhood amenities and enhancing community assets such as infrastructure, schools, recreation, historic and cultural amenities (particularly within Priority Growth Investment Areas where additional residential growth is encouraged).
  - 2B. Maintain and enhance the existing housing stock
  - 2H: Ensure the architecture and design of new housing enhances surrounding areas and includes pedestrian amenities.
- Guiding Principle 3: Align housing policies and strategies with the principles of regional and local smart growth and sustainability
  - 3A. Guide residential and mixed-use infill and redevelopment into areas where existing infrastructure, employment, services and other community assets are concentrated (i.e. Priority Growth Investment Areas).
  - 3E. Encourage residential densities that support transit expansion in areas served by existing transit and where transit improvements are planned.
  - 3F. Encourage development patterns that allow residents to reduce the costs associated with auto-ownership; total vehicular trips and travel time; as well as vehicular pollution and traffic congestion.
- Guiding Principle 4: Maximize the dynamic relationship between housing supply, quality of life and the strength of the economy
  - 4B. Use residential and mixed-use redevelopment to return underutilized and vacant properties to productive use and catalyze community revitalization.

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### 9.4.3. Recreation and Open Space Element

This element of the County Master Plan was last updated in 2000. The revised goals of this update reflect Somerset County's desire to create improve residents' quality of life through a comprehensive park system that includes not only county parks but municipal parks and neighboring counties. This Redevelopment Plan is consistent with the goals of this element, which are as follows:

- Create an open space system preserving lands of county-wide significance.
- Preserve open space to protect critical environmental resources of Somerset County.
- Provide open space for a diverse mix of quality recreational experiences appropriate for a County Park system.
- Provide County Parks where they will most easily serve the greatest population concentrations in Somerset County.
- Provide open space, which enhances the quality of life in Somerset County.

### 9.4.4. Circulation Element

The County last updated its Circulation Element in 2011. Its goals and policies are highly consistent with the Redevelopment Plan, and are as follows:

- Maintain and Modernize the County Transportation System
- Reduce Traffic Congestion Reduce Greenhouse Gas Emissions Contributing to Climate Change
- Protect and Enhance the Natural and Built Environment
- Support Economic Activity in Town Centers and Business Corridors
- Improve Mobility and Connections between Travel Modes
- Integrate Transportation, Land Use, and Site Design
- Maintain a High Level of Safety and Security
- Monitor the Performance of the Transportation System

### 9.4.5. County Investment Framework

Somerset County adopted the Somerset County Investment Framework Map as an element of the Somerset County Master Plan in 2014. The Site is identified as a Local Priority Area (LPA) in the Investment Framework. LPAs are defined as follows: "Local Priority Areas (LPAs) are a subset of AGIAs. These are distinct small town and village centers, some of which have been designated by the NJ State Planning Commission, and existing/emerging employment nodes, that have limited growth opportunities due to their scale, historic character, environmental and access constraints and municipal preferences. Job retention and community sustainability are high priorities within LPAs."

Furthering the County Investment Framework, Somerset County released the "Supporting Priority Investment in Somerset County Phase III Study." In that study, the County studied the "Town Center Sub-Area" as a Focus Area evaluation of the Bernardsville LPA. The County recommends optimizing the use of upper floors above



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ground floor. These recommendations propose zoning amendments to permit upper-floor office space, increasing the permitted height of mixed-use buildings to give retail uses higher ceiling heights, and permitting residential units other than studio and one-bedroom units to provide workforce and/or affordable housing units.

### 9.5. NJ State Development and Redevelopment Plan

The State Development and Redevelopment Plan (SDRP) was adopted in 2001 and organized the state into several planning areas. The Redevelopment Plan is located within the Suburban Planning Area, (PA-2) of the SDRP. The following intent was documented for PA-2:

- Provide for much of State's future redevelopment;
- Promote growth in Centers and other compact forms; Protect the character of existing stable communities; Protect natural resources;
- Redesign areas of sprawl;
- Reverse the current trend toward further sprawl; and
- Revitalize cities and towns.

The SDRP also puts forth statewide goals, including:

- Revitalize the state's cities and towns;
- Promote beneficial economic growth, development and renewal for all residents of New Jersey;
- Provide adequate housing at a reasonable cost; and
- Preserve and enhance areas with historic, cultural, scenic, open space and recreational value.

This Redevelopment Plan effectuates the above goals, as it will reintegrate a low-intensity, automobile-oriented use into the historic downtown by creating a new vibrant development designed in the compact form and historic style of the downtown. The Redevelopment Plan will also increase the vitality of Downtown Bernardsville by expanding its downtown core and providing new commercial and residential space that will act as a gateway to downtown.

### 9.6. NJ State Strategic Plan

The New Jersey State Planning Commission released its final draft of the State Strategic Plan (SSP) on November 14, 2011. Compared to the SDRP, the SSP emphasizes a more "proactive, aggressive, and strategic approach to planning for the State's future. An approach that aligns clear goals with sound decision making and coordination among government entities will better position New Jersey for growth opportunities and allow New Jersey to once again complete for an capitalize on growth opportunities."

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Central to the SSP is its contemplation of development in Smart Growth locations and regional centers. This Redevelopment Plan furthers the following objectives, goals, and findings of the SSP:

- Capitalizes on the “desirability of Transit Hubs” by providing the necessary design and building conditions for concentration of jobs, retail, and public amenities.
- Creates a neighborhood orientation to transit that is intended to serve residents, visitors, and commuters. The SSP supports development in walkable communities with a variety of housing and transit options, activities and amenities are the preferred choices future homebuyers will put at a premium.
- Strengthens Bernardsville by concentrating commercial activity near its train station, which the SSP identifies as a catalyst for private investment and a robust local economy.
- Effectuates the following “Garden State Values:” 1) Concentrate Development and Mix Uses; 2) Prioritize Redevelopment, Infill, and Existing Infrastructure; 3) Increase Job and Business Opportunities in Priority Growth Investment Areas; 4) Create High-Quality, Livable Places; 5) Provide Transportation Choice + Efficient Mobility of Goods; 6) Diversify Housing Opportunities; and 7) Make Decisions with Regional Framework.

### 9.7. NJ Smart Growth Principles

Smart Growth in New Jersey encourages a compact form of development and redevelopment in recognized Centers as stipulated in the State Development and Redevelopment Plan and the State Strategic Plan, including existing infrastructure that serves the economy, the community, and the environment. This Redevelopment Plan is an innovative Smart Growth project and conforms to New Jersey’s Smart Growth Principles, including:

- It provides for a synergistic mix of land uses in a compact design and enhances Bernardsville’s housing choice and transportation opportunities.
- The improved streetscape will promote walkability for residents, commuters, and visitors.
- This Redevelopment Plan continues to build on the Town’s efforts to spark development and redevelopment in its downtown and direct growth to an area with existing infrastructure.
- The architectural design of the Redevelopment Plan enhances Downtown Bernardsville’s role as an attractive Town Center with a unique and historic identity.
- This Redevelopment Plan provides a framework for equitable, predictable, and efficient development decision making.
- The Redevelopment Plan expands upon a collaborative and transparent redevelopment process, developed through community and stakeholder collaboration.

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### 10. APPENDIX C: DEFINITIONS

**Active Ground Floor Use:** Active ground floor use shall mean any use that generates a high amount of pedestrian traffic. Active uses shall include, but are not limited to, art gallery; Restaurant, Coffee Shop/Café; Restaurant, Food Hall; Restaurant, Liquor Licensed; Restaurant, Sit-Down, artisan manufacturing, theatres, co-working, retail business, and fitness center. Residential uses shall not be considered active ground floor uses. Hotel rooms shall not be considered active ground floor uses, however ancillary hotel uses such as lobbies and banquet halls may be considered active ground floor uses if designed in a manner that generates pedestrian traffic. Shadow box art, amenity areas, and lobbies may be considered an active ground floor use but may not fulfill more than 25% of the active ground floor use requirement.

**Arcade:** A place or facility where automatic or electronic coin or similarly operated amusement devices are played for amusement only. Automatic or electronic coin or similarly operated amusement devices, as defined in the Chapter 4.3 of the Borough Code, shall be subject to the regulations of Chapter 4.3, including any modifications made subsequent to the adoption of this Redevelopment Plan. Arcades shall be considered retail uses for the purpose of determining parking requirements.

**Art Gallery:** An establishment engaged in the sale, loan, or display of art books, paintings, sculpture, or other works of art.

**Artisan Manufacturing:** The shared or individual use of hand-tools, mechanical tools and electronic tools for the manufacture of finished products or parts including design, processing, fabrication, assembly, treatment, and packaging of products; as well as the incidental storage, sales and distribution of such products. Typical artisan manufacturing uses include, but are not limited to: electronic goods; food and bakery products; printmaking; household appliances; leather products; jewelry and clothing/apparel; metal work; furniture; micro-breweries; distilleries; glass or ceramic production; paper manufacturing.

**Awning Sign:** A sign located on or incorporated into the design of an awning. The sign area of an awning or canopy sign shall be the total width times the total height of the canopy area(s) covered by any lettering, logo or other characters, symbols or figures. Note: All awning or canopy signs exceeding ten (10) feet in width shall constitute a façade change requiring approval by the Planning Board.

**Beauty Salon:** Any establishment where cosmetology services are provided including hair care, nail care, and skin care on a regular basis for compensation.

**Building Height (stories):** Shall mean the number of above grade stories as measured from the point specified in the corresponding Sub Area section.

**Ceiling Height:** Ceiling height shall be measured from the top of the finished floor to the finished ceiling above.

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**Commercial Laundromat:** A business that provides dry-cleaning services, laundry services, and/or washing, drying, and/or ironing machines for hire to be used by customers on the premises.

**Convenience Store:** A small retail establishment, usually located within or associated with another use, that offers for sale convenience goods, such as prepackaged food items, tobacco, periodicals, and other household goods.

**Co-Working :** An office use in which common and unassigned office space is made available to individuals and companies on a short-term basis, including daily rates. Assigned office spaces and longer lease periods may be included in this definition so long as they are still provided access to a common use space and common facilities. Long term assigned (increments greater than 1 month) office space without access to common use space and common facilities shall be considered to fall within the definition of Office, General and Professional.

**Coverage, Building:** The percentage of a lot covered by building area. If a building consists of a parking structure with a Public Plaza on top, the portion of the parking structure with a Public Plaza on top shall not be counted towards the coverage, building calculation.

**Coverage, Improved:** The percentage of a lot covered by or devoted to all man-made improvements, including but not limited to all buildings and structures, pavement, parking area (whether paved or unpaved), sidewalks and driveways, but excluding natural or landscaped areas and any deductions or exemptions specified within this ordinance.

**Drive Through:** A commercial facility or structure that is designed to allow patrons to order and receive goods and services via a service window or mechanical device while remaining in their vehicles.

**Financial Institution:** Provision of financial and banking services to consumers or clients. Walk-in and drive-in services to consumers are generally provided on site. Typical uses include banks, savings and loan associations, savings banks, credit unions, lending establishments, and automatic teller machines

**Fitness Center:** A use for physical fitness which may include, but is not limited to, such equipment as weight resistance machines, game courts, swimming facilities, saunas, showers, and lockers.

**Ground Floor :**The level fronting on the street that provides the Primary Pedestrian Access point. Any other frontage identified as requiring Active Ground Floor Uses, including those fronting on Quimby Plaza, shall be considered a Ground Floor solely for the purpose of applying Active Ground Floor Use requirements.

**Hotel:** A building containing hotel units, each having its only access from an interior corridor, designed and intended to be used as overnight sleeping accommodations for transient guests; which building has a public lobby and full-time management serving the guests and which may contain ancillary services and facilities, such as restaurants, shops and boutiques, recreation facilities, and meeting rooms which may be accessible from the interior of the building. Serviced apartment units shall also be permitted within a Hotel.

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**Lobby:** Lobby shall mean the space in a building dedicated to entrance to residential units that are not directly accessible from the street. Often a lobby will have a concierge desk, waiting seats, and other items that create a hospitable environment.

**Maisonette:** A ground floor apartment with a private entrance.

**Mixed Use:** A building containing upper floor residential uses and any of the following additional uses: Restaurant, Coffee Shop/Café; Restaurant, Food Hall; Restaurant, Liquor Licensed; Restaurant, Sit-Down; Artisan manufacturing (including distilleries and micro-brewing); Art Gallery; Retail Business; Maisonette; Co-Working; Parking Structure. Ground Floor non-residential uses shall occupy at least 75% of the ground floor area. Ground Floor non-residential uses shall be subject to Active Ground Floor requirements as applicable.

**Off-site Sign:** A sign which directs attention to a business, commodity, service, entertainment or attraction sold, offered or existing elsewhere than upon the same lot where such sign is displayed. The term off-site sign shall include an outdoor advertising sign (billboard) on which space is leased or rented by the owner thereof to others for the purpose of conveying a commercial message.

**Open Space Contribution:** Redeveloper obligation that may be satisfied by providing Park or Public Plaza space.

**Office, General and Professional:** A room or group of rooms used for conducting the affairs of a business, profession, service, industry or government, and generally furnished with desks, tables, files and communication equipment, including offices of general, business, executive, legal, accounting, architect, planning, engineer, real estate, contractor and employment agencies, but excluding medical offices. Prototyping, product testing and laboratory work shall not be considered an office use. This use is also known herein as General and Professional Office uses.

**Outdoor Dining:** Service and the consumption of food and beverage in outdoor areas.

**Park:** A public or private area of land, with or without buildings, intended for outdoor active or passive recreational uses.

**Parking:** The storing of vehicles on a temporary basis. When the parking serves uses on the same property, it shall be considered an accessory use. When the parking serves off-site uses, it shall be treated as a principal use.

**Parking Structure:** A public or private structure or portion thereof composed of one or more levels or floors used exclusively for the parking or storage of motor vehicles. A parking structure may be totally below grade or either partially or totally above grade.

**Pharmacy:** A place where drugs and medicines are prepared and dispensed.

**Primary Pedestrian Access:** The main location(s) where pedestrians enter a building from the street. Primary pedestrian access is used to determine the Ground Floor.

**Public Plaza:** An open space defined by surrounding buildings and/or streets designed for Civic purposes and Commercial activities, and the pedestrian pathways that connect it to adjacent streets.

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**Restaurant, Carry Out/Fast Food:** A commercial fast food establishment serving primarily prepared or rapidly prepared food by order over the counter in disposable containers, bags or packages for consumption either on or off the premises.

**Restaurant, Coffee Shop/Cafe:** An establishment serving primarily non-alcoholic beverages such as coffee or tea. The sale of pastries, baked goods, and food, not requiring the use of an oven, grill, or stove may be included as an activity of a coffee shop or cafe.

**Restaurant, Food Hall:** An establishment containing a variety of food vendors exhibiting characteristics consistent with Restaurants, Carry Out/Fast Food; Restaurant, Coffee Shop/Café; Restaurant, Liquor Licensed; or Restaurant, Sit Down.

**Restaurant, Liquor Licensed:** Any premises licensed to provide for the on-premises consumption of alcoholic beverages, and which at all times meets all of the following elements: (a) the sale of alcoholic beverages is incidental to the sale of food and not the primary source of revenue for the premises; (b) no "cover" or other minimum fee is charged to enter the premises at any time, provided, however that this provision shall not be construed to apply to fixed price meals, or complimentary glasses of champagne on holiday occasions such as Thanksgiving or New Year's Eve, or during special events approved by the Bernardsville ABC; and (c) the occupancy rate is either no more than 130% the number of seats or no fewer than 12 square feet per occupant.

**Restaurant, Sit Down:** An eating establishment that is regularly and used principally for the purpose of providing meals to the public and at all times maintains cooking facilities and serves its customers at tables employing waiters or waitresses, as opposed to a fast food establishment or cafeteria. No alcoholic beverages are available for sale. BYOB may be available for beer and wine only. A restaurant can host a variety of cooking methods that may include an open cooking area, in which patrons are provided an opportunity to observe or interact with kitchen staff.

**Retail Business:** The business of selling or renting goods or merchandise to consumers, as opposed to wholesaling, but excluding all forms of retailing otherwise specifically regulated by or prohibited by the Bernardsville Land Development Code, and otherwise unlawful sale or rental. Selling of prepared foods shall not be included in the definition of retail business.

**Serviced Apartments:** Furnished residential units for rent located within, and with access to, hotel amenities and services.

**Shadow box art:** Publicly viewable art located on the ground floor of a building on the street facing façade. Shadow box art should have a minimum height of 60% of the first floor. Shadow box art should be rotated on an annual basis.

**Surface Parking:** Parking lot located within a Parking Structure.

**Theater:** A structure used for dramatic, operatic, motion pictures, or other performance for which entrance money is received. Such establishments may include related services such as food and beverage sales and other concessions.



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**Townhouse:** A one-family dwelling unit, with a private entrance, which is part of a structure whose dwelling units are attached horizontally in a linear arrangement, and having a totally exposed front and rear wall to be used for access, light, and ventilation.

**Wall Sign** - A sign which is affixed to or painted on an exterior wall of any building. Such signs shall project not more than eight (8) inches from the building wall or parts thereof. No wall sign shall be constructed or erected to extend above the roof line of the structure to which it is affixed.

**Window Sign** - A sign which is affixed to any window or glass portion of any door.

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11. APPENDIX D: RESOLUTION DESIGNATING THE REDEVELOPMENT AREA AS AN "AREA IN NEED OF REDEVELOPMENT."

**BOROUGH OF BERNARDSVILLE**

**RESOLUTION #20-28**

**RESOLUTION OF THE BOROUGH OF BERNARDSVILLE, COUNTY OF SOMERSET, NEW JERSEY DESIGNATING CERTAIN PROPERTY IDENTIFIED AS BLOCK 70, LOTS 1, 2, 3, 4, 5, 6, 6.01, 6.02, 6.03, 6.04, 6.05, 6.06, 6.07, AND 6.08; BLOCK 71, LOTS 4, 5, 5.01, 6, 7, 8, 9, 10, 11, 12 AND 13; BLOCK 98, LOT 1; BLOCK 124, LOT 1; BLOCK 144, LOT 1; AS SHOWN ON THE OFFICIAL TAX MAP OF THE BOROUGH OF BERNARDSVILLE AS A NON-CONDEMNATION AREA IN NEED OF REDEVELOPMENT PURSUANT TO THE LOCAL REDEVELOPMENT AND HOUSING LAW, *N.J.S.A. 40A:12A-1 ET SEQ.* (QUIMBY LANE)**

**WHEREAS**, the Borough of Bernardsville, in the County of Somerset, New Jersey (the “Borough”), a public body corporate and politic of the State of New Jersey (the “State”), is authorized pursuant to the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the “Redevelopment Law”), to determine whether certain parcels of land within the Borough constitute an area in need of rehabilitation and/or an area in need of redevelopment; and

**WHEREAS**, *N.J.S.A. 40A:12A-6* authorizes the governing body of any municipality, by resolution, to have its Planning Board conduct a preliminary investigation to determine whether an area of the municipality is a condemnation “area in need of redevelopment” pursuant to the criteria contained in *N.J.S.A. 40A:12A-5*; and

**WHEREAS**, the Mayor and Borough Council adopted a Resolution on October 15, 2019 (Resolution #19-203) authorizing the Planning Board of the Borough of Bernardsville (the “Planning Board”) to conduct an investigation to determine if certain property located at 65 Morristown Road, which property is identified as Block 70, Lots 1, 2, 3, 4, 5, 6, 6.01, 6.02, 6.03, 6.04, 6.05, 6.06, 6.07, and 6.08; Block 71, Lots 4, 5, 5.01, 6, 7, 8, 9, 10, 11, 12 and 13; Block 98, Lot 1; Block 124, Lot 1; and Block 144, Lot 1, as shown on the official Tax Map of the Borough (the “Study Area”), constitutes a non-condemnation “area in need of redevelopment,” in accordance with the Redevelopment Law; and

**WHEREAS**, on December 12, 2019 the Planning Board held a public hearing, duly noticed under the Redevelopment Law, and reviewed an investigation/report titled “Preliminary Investigation – Quimby Lane, Bernardsville, NJ” and dated November 25, 2019 prepared by Topology LLC, (the “Study”); and

**WHEREAS**, any persons interested in or affected by a determination that the Study Area is a condemnation redevelopment area were given an opportunity to be heard, and any objections to such a determination and evidence in support of those objections, were received and considered and made part of the public record; and

**WHEREAS**, on December 12, 2019, the Planning Board further adopted a Resolution

recommending that the Study Area be determined by the Borough Council to be a “non-condemnation area in need of redevelopment” under the Redevelopment Law, *N.J.S.A. 40A:12A-1 et seq.* as it relates to the Study Area; and

**WHEREAS**, the Borough Council concurs and agrees with the Planning Board’s recommendation, as supported by the reasons stated in the Study, that the Study Area constitutes and meets the criteria under the Redevelopment Law and that the Study Area should be determined and declared a “non-condemnation area in need of redevelopment”, which determination shall, among other things, authorize the Borough to use all of the powers provided by the Legislature for use in a redevelopment area, and it shall not authorize the Borough to exercise the power of eminent domain to acquire all or any portion of such Study Area.

**NOW THEREFORE, BE IT RESOLVED BY THE BOROUGH COUNCIL OF THE BOROUGH OF BERNARDSVILLE, NEW JERSEY AS FOLLOWS:**

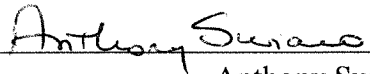
**Section 1.** The aforementioned recitals are incorporated herein as though fully set forth at length.

**Section 2.** The property which identified as Block 70, Lots 1, 2, 3, 4, 5, 6, 6.01, 6.02, 6.03, 6.04, 6.05, 6.06, 6.07, and 6.08; Block 71, Lots 4, 5, 5.01, 6, 7, 8, 9, 10, 11, 12 and 13; Block 98, Lot 1; Block 124, Lot 1; and Block 144, Lot 1,, as shown on the official Tax Map of the Borough is hereby designated a non-condemnation “area in need of redevelopment” under the Redevelopment Law, *N.J.S.A. 40A:12A-1 et seq.*

**Section 3.** The Borough Council hereby directs the Borough Clerk to transmit a copy of the within resolution to the Commissioner of the Department of Community Affairs and to serve notice that Block 70, Lots 1, 2, 3, 4, 5, 6, 6.01, 6.02, 6.03, 6.04, 6.05, 6.06, 6.07, and 6.08; Block 71, Lots 4, 5, 5.01, 6, 7, 8, 9, 10, 11, 12 and 13; Block 98, Lot 1; Block 124, Lot 1; and Block 144, Lot 1, is designated a non-condemnation redevelopment area on the owners of such Study Area and other parties within ten (10) days of the date hereof, in accordance with *N.J.S.A. 40A:12A-6.b(5)*.

**Section 4.** This Resolution shall take effect immediately.

I, Anthony Suriano, Borough Clerk of the Borough of Bernardsville in the County of Somerset in the State of New Jersey, do hereby certify that the foregoing is a correct and true copy of a resolution adopted by the Borough Council of the Borough of Bernardsville in the County of Somerset in the State of New Jersey on January 13, 2020.

  
Anthony Suriano  
Borough Clerk