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# 2019 Periodic Reexamination Report

November 5, 2019

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## Township of Bernards Somerset County, New Jersey

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***Prepared by the  
Bernards Township Planning Board***  
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The original of this report was signed and sealed  
in accordance with N.J.A.C. 13:41-1.3.



*11-5-2019*

David J. Banisch, PP/AICP - NJ License #5565 November 5, 2019

Bernards Township Planning Board  
2019 Master Plan Periodic Reexamination Report

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## 2019 Master Plan Periodic Reexamination Report

### **Introduction**

This 2019 Periodic Reexamination Report has been prepared by the Bernards Township Planning Board in the well-established tradition of creative and forward-thinking public policy. The Township's Master Plan has long addressed the facilities, infrastructure, circulation and other systems that contribute to the quality of life in Bernards. The Master Plan recommendations in this Periodic Reexamination Report are the product of the Planning Board's review of each element of the 2010 Master Plan.

As separate components of the Master Plan, these policies have guided the expansion and addition of roadways, classification of land use objectives, provided for an extensive and comprehensive open space and recreation network and provided for the preservation of farmland, including the last major farm in the Township. An overriding objective of the periodic reexamination process is to identify Master Plan updates that maintain the comprehensive integration of the various plan elements into a holistic policy rationale that acknowledges the responsibility of stewardship over open spaces, infrastructure and natural and built systems, promotes sustainable development, operations and maintenance, and protects the high quality of life that Bernards Township residents enjoy.

Since the last Master Plan was adopted in 2010, population growth has slowed in Bernards Township to its lowest growth level since the 1970's when the population in the Township actually decreased briefly, presumably due to the Baby Boom Generation aging out of the school system and starting life outside of Bernards Township. In 2010, Bernards Township's population was 26,652 which was an increase of 2,077 or 8% growth over the Township's 2000 population of 24,575. US Census Bureau 2017 projections identify Bernards Township's population at 27,032 or just 360 residents more than counted in the 2010 Census, which is about 1.5% population growth if those estimates bear out. The table below identifies the Township's population for 1970 through 2010, and includes the US Census Bureau 2017 population estimate:

Bernards Township Population Change 1970 – 2010 Decennial Census Plus 2017 Population Estimate			
Year	Population	Change Since Prior Census	% growth
1970	13,305		
1980	12,920	- 385	- 2.8%
1990	17,199	+ 4,279	+ 33%
2000	24,575	+ 7,376	+ 42%
2010	26,652	+ 2,077	+ 8.4 %
2017 (estimate)	27,032	+ 380	+ 1.4%

Since the adoption of the last Master Plan in 2010, the Township's overall population appears to have remained nearly unchanged, while the preceding 20 years (1990-2010) accounted for a population increase of 9,453 residents and the 30-year

period of 1980-2010 accounted for growth of 13,732 residents, which is equal to fully one-half of the Township's current population. The high rates of growth experienced in the 1980's and 1990's are not expected to return, however, the Township's 2018 affordable housing settlement sites will add to the population during the 2020's.

Between 2010 and 2019 (the current periodic examination timeframe), Bernards Township has experienced its slowest period of growth since the 1970's when there was no population growth. This period of residual population growth provides a context within which the observations and contents of this report may be viewed.

### **Statutory Requirements**

The Municipal Land Use Law, at N.J.S.A. 40:55D-89, includes the following statement relative to the periodic examination of a municipal Master Plan:

“The governing body shall, at least every ten years, provide for a general reexamination of its master plan and development regulations by the planning board which shall prepare and adopt by resolution a report on the findings of such reexamination, a copy of which report and resolution shall be sent to the county planning board and the municipal clerk of each adjoining municipality. The first such reexamination shall have been completed by August 1, 1982. The next reexamination shall be completed by August 1, 1988. Thereafter, a reexamination shall be completed at least every 10 years from the previous reexamination.”

The Township's most recent Master Plan was adopted in April 2010 following adoption of a Master Plan Reexamination Report in December 2008. The 2010 Master Plan included a section on Goals and Objectives, a Land Use Plan Element, a Community Facilities Plan, a Parks, Recreation and Open Space Plan, a Utility Service Plan, a Transportation Plan, and a comparison to the plans of the State and adjoining municipalities.

The Planning Board adopted Bernards Township's original Housing Plan Element and Fair Share Plan on December 2, 1986. This plan was referenced by the 1989 Master Plan and subsequently adopted as a revised housing plan covering the period of March 1989 to March 2001. On October 26, 2000, the Planning Board adopted an amendment to its certified Housing Plan Element and Fair Share Plan (HE/FSP) which was endorsed by the Township Committee and certified by the Council on Affordable Housing (COAH) on September 5, 2001. In December 2005, a revised HE/FSP was submitted to COAH to address the 3<sup>rd</sup> Round obligation, but never acted upon since in 2007 the Appellate Division found critical flaws with the 3<sup>rd</sup> Round methodology.

By law <sup>1</sup>, the Reexamination Report must include the following:

- a. The major problems and objectives relating to land development in the municipality at the time of the adoption of the last reexamination report.
- b. The extent to which such problems and objectives have been reduced or

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<sup>1</sup> New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-89.

- c. have increased subsequent to such date.
- c. The extent to which there have been significant changes in the assumptions, policies and objectives forming the basis for the master plan or development regulations as last revised, with particular regard to the density and distribution of population and land uses, housing conditions, circulation, conservation of natural resources, energy conservation, collection disposition and recycling of designated recyclable materials, and changes in State, county and municipal policies and objectives.
- d. The specific changes recommended for the master plan or development regulations, if any, including underlying objectives, policies and standards, or whether a new plan or regulations should be prepared.
- e. The recommendations of the planning board concerning the incorporation of redevelopment plans adopted pursuant to the “Local Redevelopment and Housing Law,” P.L. 1992, c. 79 (C. 40A:12A-1 et al.) into the land use plan element of the municipal master plan, and recommended changes, if any, in the local development regulations necessary to effectuate the redevelopment plans of the municipality.”

The following sections of this report address the statutory criteria.

**a. Major problems and objectives relating to land development in the municipality at the time of the adoption of the last reexamination report. <sup>2</sup>**

1. Protecting environmentally fragile lands present on the dwindling number of remaining developable parcels in the Township.
2. Protecting and enhancing established neighborhood character, and maintaining and enhancing the charm of downtown Basking Ridge and Liberty Corner
3. Managing “tear-down” and infill development to protect the character of neighborhoods throughout the Township.
4. Calming and controlling the growing traffic volumes on area roadways and protecting residential neighborhoods from traffic impacts.
5. Meeting the diverse recreational needs of Township residents, and enhancing stewardship over Township recreation and open space lands.
6. Maintenance of storm water management facilities.
7. Devising appropriate land use policies and regulations, to effectively protect environmentally sensitive areas (i.e.-steep slopes, wetlands and floodplains).
8. Addressing the municipal affordable housing obligation through the New Jersey Council on Affordable Housing Substantive Certification Process.

**b. The extent to which such problems and objectives have been reduced or have increased subsequent to such date.**

1. Protecting environmentally fragile lands on the remaining developable parcels in the Township remains a priority, however the past several years since adoption of the 2010 Master Plan has been a period of relatively slow growth. Nevertheless, inclusionary

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<sup>2</sup> Affirmed 4/16/19.

affordable housing development growth is anticipated imminently, which includes two redevelopment sites: Crown Court and Dewy Meadow; and one greenfield development site: Mountainview Boulevard. Apart from these three settlement sites, future growth will be subject to Bernards Township's ordinances that were adopted in response to ongoing concerns to protect fragile environmentally sensitive lands, including:

- Adoption of natural resource constraints ordinance, which establishes the number of residential units that may be constructed in the R-1 – R-7 zones on a tract of land considering easements and environmental constraints and improvable lot area requirements (Ord. #1929, § 1, 2-27-2007).
- Amended Stream buffer conservation ordinance to include more areas within the stream buffer protection area (Ord. #1895, 9-26-2006).
- Adoption of the Natural Resource Conservation Development Overlay Zone option, allowing for alternative lot arrangements, such as lot size averaging (Ord. #1932, 4-10-2007).
- Adoption of updated water quality ordinance requirements for stormwater management and infiltration and soil erosion applicable to minor land developments (>2,500 square feet of disturbance or 1,000 square feet of impervious coverage, (Ord. #1853, 2-28-2006)).

Protecting environmentally sensitive lands takes on a heightened concern in this Periodic Examination Report. The problem of invasive exotic species management and the need to address this on environmentally sensitive and all public and private lands, including public open space identified as a priority. Additional related priority concerns include (1) the need for a tree removal plan to prevent or reduce damage during storms; and (2) the need for a comprehensive tree replacement plan to address Ash tree destruction apparently caused by the Emerald Ash Borer, which is expected to cause widespread damage throughout the Township.

2. Protecting and enhancing established neighborhood character, and maintaining and enhancing the charm of downtown Basking Ridge and Liberty Corner received considerable attention in the 2003 and 2010 Master Plans and continues to assume a priority. If development pressure reemerges in these areas, the Township may have to reconsider a number of conservation strategies that were examined but not adopted following the 2003 Master Plan, including (1) Floor area ratio (FAR), (2) enhanced setbacks, (3) reduced lot coverage, (4) lot suitability standards, (5) lot-of-record restrictions that limit development to existing conditions, (6) building placement and maximum building size limitations.

In response to neighborhood character considerations, the following actions have previously been undertaken

- Adoption of Historic Preservation Plan element of the Master Plan - 2006;
- Adoption of ordinance establishing uniform requirements tying building height to existing grade, or in the case of new development tying building height to approved grade (Ord. #1945, 6-12-2007).
- Side yard ordinance amendments requiring enhanced side yard setbacks in the R- 6

and R-7 (3/4 and 1/2 acre zones) to control building width and massing (Ord. #1888, 9-12-2006);

3. Managing “tear-down” and infill development to protect the character of neighborhoods throughout the Township likewise remains a priority. The side yard and building height strategies implemented through zoning partially address the issue of “tear-down” and infill development and to protect the character of neighborhoods throughout the Township. However, the risk of neighborhood character impacts from new and replacement infill development has increased and remains a consistent development phenomenon in Bernards Township. Township actions to address this concern in the past include:
  - Adoption of ordinance establishing uniform requirements tying building height to existing grade, or in the case of new development tying building height to approved grade (Ord. #1945, 6-12-2007).
  - Amendment of lot width requirements, tying the minimum lot width standard to width measurement taken at the minimum front yard setback, and grandfathering lots of record (Ord. #1999, § 1, 2-12-2008).
  - Nonconforming structure ordinance amendment limiting the extent of demolition permitted under nonconforming protections of the MLUL (Ord. #2000, 4-23-2008).

Maintaining the viability and attractiveness of the commercial areas of the Township, remains a concern.

Incentives are recommended to encourage aesthetically pleasing architectural upgrades that are compatible with the scale and character of the surrounding neighborhood.

4. Calming and controlling the growing traffic volumes on area roadways and protecting residential neighborhoods from traffic impacts are essential to protecting the desirable neighborhood character throughout the township, and there is a continuing and increasing need for traffic calming in Township neighborhoods.
5. The playing field deficits cited in previous plans have been overcome with the addition of a number of attractive new facilities, meeting the diverse recreational needs of Township residents reflects the expanded focus of the Township’s current efforts. Maintenance of existing facilities is a continuing requirement as is the need to ensure that facilities provided are responsive to resident’s needs and desires for active recreation facilities.
6. Maintenance of storm water management facilities remains an ongoing concern despite revised NJDEP stormwater management regulations that require regular maintenance of new stormwater management facilities. The Planning Board and Zoning Board have instituted the following practices to address this concern:
  - The Planning Board has instituted policies and practices applying approval conditions to approvals requiring deed notifications, a maintenance manual, and homeowner’s association or individual property owner notifications;
  - Ordinance requirements for groundwater recharge of stormwater related to

- increases in coverage exceeding 1,000 sq. ft., which is less than the NJDEP threshold for stormwater mitigation and treatment, but significant and effective in a developed neighborhood setting.
- Adoption and amendment of a Township Stormwater Management Plan that fully complies with State requirements for stormwater management.
7. The comprehensive integration of land use policies and regulations into a more holistic framework has been advanced by ordinances addressing native species planting ordinances, natural resource limitations, neighborhood tree conservation and minimum improvable lot area. Nonetheless, the comprehensive approach suggested above requires additional attention to the system-wide, systemic approach that treats these resources as an integrated ecological system.
  8. Affordable housing obligation. Bernards Township has fully addressed its constitutional affordable housing obligations and complies with Fair Housing Act requirements to provide a realistic opportunity to provide the municipal fair share of affordable housing.

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**c. The extent to which there have been significant changes in the assumptions, policies and objectives forming the basis for the master plan or development regulations as last revised, with particular regard to the density and distribution of population and land uses, housing conditions, circulation, conservation of natural resources, energy conservation, collection, disposition and recycling of designated recyclable materials, and changes in State, county and municipal policies and objectives**

**Density and distribution of population and land use;**

- *The Land Use Plan should be revised acknowledging 2018 affordable housing settlement sites.*
- *The Board should undertake an investigation into a broad range of zoning incentives, and how they may be applied to facilitate a variety of objectives, such as, but not limited to making nonresidential development more physically attractive, encouraging mobility enhancements to better accommodate diverse modes of transportation, organizing future development patterns to provide for public open spaces and recreation areas to accommodate the needs of all citizens, and consideration of, where it may be deemed appropriate, a mixed-use development option to address future affordable housing obligations or other residential development objectives.*
- *Generally, the distribution of land use and population densities as set forth in the Land Use Plan and zoning ordinance establish an adequate balance of residential and non-residential uses – including housing types that meet the needs of a broad range of income levels, including affordable housing; and an adequate supply of nonresidential, commercial and employment land uses serving the community. However, the Board recognizes the need to evaluate evolving demographics to determine whether a strategic approach is warranted to address emerging housing needs.*



- *The Planning Board finds that Bernards Township is nearly “built-out” in 2019, and recognizes related fiscal and quality of life impacts associated with this maturation of the community, such as persistent traffic delays during normal periods of travel for work, school and shopping. In addition, the Board recognizes that Bernards Township will experience growth in the near future related to two substantial inclusionary housing sites, which together with growth throughout the region should be expected to continue to add traffic burdens on the Township’s roadway system. The Board also recognizes existing recommendations in the Land Use Plan that call for more conservative growth policies that are not necessarily reflected in current zoning, such as, but not limited to existing zoning within the Land Use Plan Conservation Resource Districts. As such, the Planning Board recommends a Land Use Plan priority to control future growth in the community. A review of the Land use Plan is recommended to ensure that existing goals, objectives, policies and strategies reflect the priority to control growth and limit additional potentially burdensome impacts on the quality of life in the community.*
- *Amendments to federal regulations facilitate new 5G cellular telecommunications facilities, including provisions enabling a shortened timeframe for local approvals. While these facilities do not require height comparable to the existing 4G cellular telecommunications infrastructure, the number of antenna installations required to provide reliable service is significantly greater than the current technology in use. From a land use perspective, the existing cellular telecommunications land use provisions should be updated to reflect new federal regulations and maximize the municipality’s ability to regulate these installations and protect community character.*
- *Zoning Board of Adjustment annual reports should be reviewed to assess the type and nature of variance relief sought and obtained from the Zoning Board with particular consideration given to the adequacy of existing regulations pertaining to swimming pools, side yard setbacks and impervious coverage.*
- *Changing demographics will continue to shape the needs of community residents. Changing demographics should be monitored to address identified needs and provide services.*

### **Housing conditions;**

- *The 2018 amended Housing Plan Element and Fair Share Plan could be incorporated into a comprehensive revision of the Master Plan if that is undertaken, or it could remain as a stand-alone document reflecting the Bernards Township’s compliance with affordable housing obligations.*
- *In general, the existing variety of housing types provided in the Land Use Plan adequately establish a diverse mix of housing types to meet the needs of the population.*
- *Strategies should be developed to promote the Township’s existing, diverse housing stock that is suitable to address emerging demographic needs.*
- *All neighborhoods in Bernards Township continue to be stable neighborhoods and desirable places to live. Nevertheless, the need to safeguard the desirable character of established neighborhoods and protect the remaining rural and environmentally sensitive lands and scenic character is a priority that bears reconsideration and reaffirmation of the assumptions, policies and objectives which form the basis of the master plan.*

## **Circulation (traffic);**

- *In addition to several areas of concern identified in the 2010 Circulation Plan Element that exhibit increased traffic volumes and peak hour delays that should be evaluated for improved safety, and peak hour turning movements through the signalized intersections where appropriate, the Planning Board identifies additional roadways and intersections of concern (See table below entitled “Suggested Roadway Improvements – 2019 Update” in Section V, Circulation Plan Element on Pages 14 & 15)*
- *Local parking regulations should be examined and updated as necessary to limit on-street parking that may impede the free-flow of traffic and to implement standards requiring on-site or off-street adjacent parking for uses that generate parking demand in excess of on-site parking supply, particularly during Fridays and weekends.*

## **Conservation of natural resources;**

- *Forests, trees, meadows and the improved environment – Maintaining the natural environment has long been recognized as an important land conservation priority and continues to assume a priority in relation to a number of factors. An enhanced new planning focus related to forest biodiversity is recommended for the Master Plan reflecting this conservation priority, which may begin by adding the following new Goals:*
  - *To reestablish and maintain a healthy inventory and diversity of natural and neighborhood forests, and all woodland resources throughout the municipality by actively managing these resources, mitigating safety hazards and replenishing trees lost and damaged through acts of God, blight and periods of increased rainfall that weaken root systems.*
  - *To maintain biodiversity and the predominance of native species of flora in all types of environmental conditions, including forest, meadow and managed developed landscapes*
- *Forests, trees, meadows and the improved environment - Conservation easements with vegetation disturbance restrictions have been acquired through a variety of means over time, including through development approvals, donation, and purchase. Disturbance restrictions in recorded conservation easements commonly prevent active management of natural areas and the removal of invasive exotic flora that compete with and displace native vegetation species. While some of these easements have been placed on land through certain NJDEP regulations that may permit some limited management of these areas, there does not appear to be a common awareness of this in the community. Other easement areas that do not include the DEP management provisions exist. The Planning Board recommends possible amendments to the Conservation Plan element, that may include recommendations, policies and strategies such as (1) a Township-wide public information campaign to educate the public about best management procedures (BMP’s) for managing natural forests, meadows and the improved environment; (2) a similar campaign to educate landowners that certain easements may permit limited management practices in easement areas; and (3) investigating the possibility of amending conservation easements, where necessary, to permit active management of invasive exotic flora and foster the retention and protection of native*

*species. (Add new Environmental Resources Objective addressing this recommendation)*

#### **Energy conservation;**

- *Solar photovoltaic electric generating systems utilizing solar panels are gaining increasing usage among all types of land uses. These installations are permitted accessory uses by right, and ground-mounted systems are currently permitted in accessory structure locations on residential lots (i.e. side and rear yards only). While the Master Plan encourages the use of alternative and renewable energy sources, a proliferation of these uses may prompt the need for performance standards for these uses to ensure compatibility with the residential character of existing neighborhoods. (Add new Community Facilities Objective under #12)*

#### **Housing Conditions**

**Moved to “Housing Conditions” above.**

#### **Changes in State/Regional Plans**

- *The Highlands Council adopted the Highlands Regional Master Plan (RMP) in September 2008. The RMP divides the Highlands into two primary components - the Planning Area, where RMP policies are optional, and the Preservation Area, where conformance to the RMP is mandatory and must be completed by December 8, 2009. Bernards Township is entirely within the Planning Area, where any local decision to conform to the RMP is optional. Under the RMP, a Planning Area municipality may “opt-in” or conform to the RMP at any time. Conforming to the RMP is not permanent – ordinances that a municipality may adopt to conform to the RMP Planning Area standards may be repealed at any time. This Periodic Examination Report recommends consideration of the potential benefits and liabilities of Highlands RMP Planning Area “conformance”.*

**Moved to “Density and distribution of population and land use” above)**

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**d. The specific changes for the master plan or development regulations, if any, including underlying objectives, policies and standards, or whether a new plan or regulations should be prepared.**

The Planning Board reviewed, updated and refined the 2008 Reexamination Report recommendations for specific changes, as follows:

- Impervious coverage zoning standards have been reevaluated since adoption of the 2008 Reexamination Report. Existing impervious coverage limits in the zoning ordinance are consistent with the findings of the Board’s review, which was informed by the recommendations of the Mulhall Report.
- The 2010 Master Plan continued the 2003 Land Use Plan policy and planning orientation for maintaining the Conservation Resource District designations: CR -1 and CR-2, that call for 10-acre and 7-acre residential densities, respectively. These District recommendations support the objective of controlling future growth in the community; however, existing zoning does

not reflect the density recommendations of these Districts, that account for approximately 30% of the land area of the Township.

- CR-1 and CR-2 District recommendations in the 2008 Reexamination Report and the 2010 Master Plan rest largely on the science set forth in the 2008 Mulhall Report, which a key finding that:

Within the small portion of the township underlain by Precambrian rocks, recharge areas open to infiltrating precipitation ranging from 9.3 to 12.9 acres are necessary to ensure adequate recharge is available to dilute septic system contaminants that migrate into bedrock aquifers in this area. Given the very low replenishment rate of the Preakness Basalt, if septic system contaminants migrate into the same fractures used for water supply, recharge to the equivalent of 23 to 67 acres will be necessary to adequately dilute the nitrates in these discharges to the current antidegradation level. Within the slightly more than 2400 acres underlain by the Jurassic sedimentary rocks, recharge to 7.3 acres will be necessary for diluting nitrates in septic system discharges to a concentration of 5.8 mg/l.

Quality of life indicators, such as traffic congestion, have contributed to identifying the 2019 priority to control growth as a master planning objective, this Mulhall Report finding is indicative of other important considerations that buttress the view controlling and limiting growth in the future should be examined from a variety of perspectives. For example, there are anecdotal incidences of very low-yielding wells for homes dependent upon domestic potable wells, however, the pervasiveness of these occurrences remains undocumented. Continued growth in areas affected by these conditions could, over time, have an undesirable cumulative impact and should be given consideration in an update to the Master Plan.

- NJDEP riparian buffer areas applicable to all streams should be mapped and contrasted with existing patterns of development and undeveloped land, all of which to assess whether the Township's stream corridor protection ordinance standards should be revised for consistency with these State regulations.
- The CR-1 and CR-2 District designations (1) reinforce the objective of conserving significant elements of the remaining rural countryside character that include scenic vistas, wooded hillsides, agricultural fields, expansive floodplains and historic settlements, and are highly susceptible to degradation; and (2) are consistent with the objective of controlling future growth in the municipality, while at the same time protecting groundwater and surface water resources.
- As part of a Land Use Plan update, the Board should review Conservation Resource District planning objectives, the underlying science behind these designations and consider whether these recommendations should remain in the Land Use Plan.
- The 2010 Master Plan includes a Green Buildings and Environmental Sustainability Plan Element as authorized in the Municipal Land Use Law.
- Zoning map amendments have been made addressing the requirements for updates to rezone open space acquisitions into the "P" Public designation. A review of open space should be conducted to determine if there have been any additions to the inventory since the last zoning map update.

**Individual Master Plan Elements** - The following specific changes for the master plan or development regulations are recommended updates to the various Plan Elements of the Master Plan based on the Planning Board’s review of each individual 2010 Master Plan Element:

## **Section I - Goals and Objectives**

Goals and Objectives – Notwithstanding the comments below, and despite the length of Chapter I, Goals & Objectives, the goals and objectives are generally organized appropriately relative to “goals” identifying “an end state” and desired outcomes for the municipality; and “objectives” identifying “strategies and policy statements” directed toward attaining and achieving the stated goals of the Master Plan. The Goals and Objectives generally conform to common definition of these terms, as indicated below.

### **Definition of goal**

**1: the end toward which effort is directed:**

### **Definition of objective (Entry 2 of 2)**

**1:** a lens or system of lenses that forms an image of an object

**2a: something toward which effort is directed: an aim, goal, or end of action**

**b:** a strategic position to be attained or a purpose to be achieved by a military operation

- The existing Goals and Objectives remain valid. However, these interrelated policy statements should be reviewed, updated and revised if necessary, and coordinated by tying specific objectives to particular goals to facilitate interpretation and understanding for the reader. The Board is generally inclined to maintain the current Goals and Objectives organization structure. The review should evaluate whether individual goals may be better organized as an objective, and vice versa.
- The review and revision to Chapter I should include more clearly defining the “end state” the Planning Board hopes to achieve for the municipality and the interrelated strategic positioning the objectives serve toward achieving Master Plan Goals. By way of example, the Board noted Chapter 16 of the Township’s General and Land Use ordinances, entitled “Shade Tree Protection” as being well coordinated with the Master Plan policy statements.
- The “General Objectives” numbered 1. – 15. Are reproduced verbatim from Section 2 of the Municipal Land Use Law that is entitled “Purpose of the act” (lettered “a.” – “o.” in the MLUL). Since adoption of the last Periodic Examination Report, two additional purposes of the Act were added as new subsections “p.” and “q.”. The General Objectives in Section I the Master Plan should be amended to include N.J.S.A. 40:55D-2.p., as follows:

“p. To enable municipalities the flexibility to offer alternatives to traditional development, through the use of equitable and effective planning tools including clustering, transferring development rights, and lot-size averaging in order to

concentrate development in areas where growth can best be accommodated and maximized while preserving agricultural lands, open space, and historic sites.”

## Section II Land Use Plan

The recommendations and policies set forth in the Land Use Plan remain valid and relevant to current conditions except to the extent supplemented or modified in the observations and recommendations below.

- The Land Use/Land Cover data identified in Table II-3 is dated 1995-2002 and should be updated. Changes in land use/land cover through 2015 are available through NJDEP and should be assessed an indicator of change in the community over the approximately 10-15-years that has lapsed since this information was last updated.
- All tables in the Land Use Plan and relevant discussion of the data presented should be updated as may be appropriate.
- The “Mining District” section of the Land Use Plan should be updated.

The future reuse of the Millington Quarry has long been the subject of interest and concern among Bernards Township citizens.

Existing zoning provides for conventional 2-acre minimum lot size for single-family detached dwelling neighborhood development and allows for public parks, roads and other public uses.

Given the importance to the community of this site, the Planning Board recommends a Land Use Plan examination of existing zoning and possible alternative arrangement and design options.

- Emerging demographic needs should be identified and studied.
- The Land Use Plan should be revised to identify and describe the two new zoning designations that have been assigned the Dewy Meadow and Mountainview Boulevard 2018 affordable housing settlement sites.

N.J.S.A. 40:55D-2, Purpose of the Act, new subsection “p.” pertains to consideration of alternatives to traditional development, through the use of equitable and effective planning tools including clustering, transferring development rights, and lot-size averaging. While the Planning Board recommend adding this purpose of the Act to Section I of the Master Plan, the Board finds that the concept of transfer of development rights or “TDR” as a land preservation zoning technique may be generally more useful on a regional planning scale. However, Subsection “p.” also encourages “clustering” and “lot size averaging” to encourage concentrating permitted development such that open space areas are set aside as a by-product of subdivision.

- In a clustering subdivision, the maximum number of lots permitted is identified according to the conventional zoning requirements for the zoning district in which the

subdivision is located. A cluster subdivision ordinance requires lot sizes less than the conventional zoning minimum lot size with a requirement for a minimum percentage of the land in the subdivision to be set aside as open space. The open space set aside in the cluster subdivision is not public, rather, the land set aside for open space in the cluster subdivision is for the benefit of the residents in the cluster subdivision.

- In a lot-size averaging subdivision, the maximum number of lots permitted is identified according to the conventional zoning requirements for the zoning district in which the subdivision is located. A reduced minimum lot size is permitted that is less than the conventional zoning minimum lot size requirement. Larger lots are required when smaller lots are created, however, the average lot size of all lots in the lot-size averaging subdivision cannot be less than the minimum lot size under conventional zoning and the maximum number of lots may not exceed the number of lots otherwise permitted under conventional zoning. All land remains in private ownership.

***Review of Board of Adjustment 2018 Annual Report*** - The Planning Board reviewed the Board of Adjustment's annual report that was prepared in accordance with N.J.S.A. 40:55D-70.1, dated May 22, 2019, and includes a comprehensive list of all applications reviewed by the Board of Adjustment from January 1, 2018 – December 31, 2018. In this report, the Board of Adjustment makes no recommendations or suggestions for ordinance amendments based on the Board's application activity for 2018 (page 12). The Board of Adjustment's annual report includes a list entitled: "Memorializing Resolutions of Applications Heard January 1, 2018 through December 31, 2018" that is appended to this Periodic Examination for reference.

### **Section III – Demographic and Housing Summary**

- Demographic and Housing Summary should be revised to incorporate the most up-to-date data available.
- The 2010 Master Plan Demographic and Housing Summary report prepared by Mr. William Draper, dated July 1, 2009, that includes extensive detailed analysis of the Township's population, housing characteristics and overall growth through 2009. This should be updated with the most up-to-date data from the Census, State and local records, and the School District.

### **Section IV – Housing Plan Element and Fair Share Plan**

- The Housing Plan Element and Fair Share Plan is current and conforms to and fully addresses Bernards Township's constitutional obligation to provide a realistic opportunity for development of the municipal fair share of affordable housing.

### **Section V – Circulation Plan Element**

The first Objective in the 2010 Circulation Plan element is: "Traffic demand generated by development should not exceed the existing and planned capacity of the Township circulation system." This is consistent with the Board's planning priority to control future growth and remains valid Circulation Plan policy.

The “Roadway Needs” statement in the 2010 Circulation Plan states that:

“Previous master plan traffic studies and capacity calculations of North Maple Avenue, South Finley Avenue, Mount Airy Road and King George Road have indicated that four travel lanes would be needed to adequately serve peak hour demands. However, widening roadways in the township would violate one of the main principle recommendations of this master plan and previous master plans which is to maintain the character of established neighborhoods and to protect the quality of life in the Township. Furthermore, due the very short duration of peak traffic demands (morning and evening peak hours), four (4) lanes are not practical or desirable. Consequently, two lanes of traffic (one lane in each direction) are desired and recommended for these roads with minor improvements where needed for traffic safety purposes.”

***This policy statement should be evaluated in the context of current conditions.***

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Suggested Roadway Improvements – The following section is a summary of the Planning Board’s 2019 review and supplementation of 2010 Master Plan “Suggested Roadway Improvements”.

The Planning Board’s review of the 2010 Circulation Plan “Suggested Roadway Improvements” identified 2019 updates to the list by adding four (4) suggested locations for evaluation and improvements to the 2010 list that are numbered 9-13 in the following table:

Suggested Roadway Improvements – 2019 Update	
2010 Circulation Plan	2019 Board Observations
1. Mt. Airy Road and SB I-287 off ramp –design and install a traffic signal at this location.	COMPLETED
2. Somerville Rd. and Liberty Corner Rd. / Church Street – Monitor traffic operations.	Enhanced Four-Way Stop Sign controls and a flashing signal has been installed – continued monitoring recommended.
3. Minebrook Road and Somerville Road Extension/Canterbury Way – Monitor traffic operations for sight distance and safety issues	Continued monitoring recommended. Sight distance obstructions should be cleared to improve sight distance at Somerville Road and Canterbury.
4. Mount Airy Road and West Oak St. Monitor traffic conditions for possible traffic signal improvement - safety and capacity. (County)	Continued monitoring recommended.
5. Church St. and Valley Rd./Lyons Rd.– Improve sight distance, alignment. (County)	Sight distance remains an ongoing concern at the triangle.
6. Route 202 and North Maple Avenue – Monitor for possible intersection capacity improvements and add line striping on northbound approach. (NJDOT)	Completed with left turn and signal.
7. Mt. Airy Road and Lake Road intersection- Monitor traffic conditions for possible traffic	Continued monitoring recommended.



signal improvement - safety and capacity (County)	
8. Mt. Airy Road and Canterbury Way intersections – Monitor traffic conditions for possible traffic signal improvement - capacity concern. (County)	Continued monitoring recommended.
9. Childs Road at Route 202 – evaluate for road widening and improved intersection capacity.	Added 2019.
10. Mountainview Blvd. at Martinsville Rd – evaluate to ease congestion exiting 100 Marketplace.	Added 2019.
11. Ridge High School – consider and evaluate improvements to ease traffic flow, including possible signal timing adjustments to reduce peak hour delays on Lake Road and South Finley Ave.	Added 2019.
12. Stonehouse Rd. / Lyons Rd. / South Finley – evaluate for intersection improvements and signal timing adjustments to decrease intersection congestion, delays and peak hr. stacking at light.	Added 2019.
13. Martinsville Road southbound from I-78 to Mountain Park (Mountain Road).	Evaluate to ease congestion at all times of travel.

To facilitate progress on this list of suggested roadway improvements, the Township should prepare and submit “Problem Statements” to the County Highway Department and the State Department of Transportation, depending on roadway jurisdiction. Traffic congestion at the Ridge High School traffic signal assumes a priority and expedited action by the County should be sought.

Sight Distance Obstructions – Sight Clearing Ordinance. The Township should consider a municipal ordinance amendment to require sight distance clearing at roadway intersections. The following road intersections are cited as examples of locations where existing sight distance obstructions from overgrown and misplaced vegetation are believed to exist:

1. Annin Road & Whitenack Road.
2. Whitenack Road & Meeker Road.
3. Somerville Road Extension, Canterbury Way and Minebrook Road.

The Township should evaluate these intersections to determine whether sight distances are impaired by vegetation or structures. Municipal traffic accident reports and the Bernards Township Police Department can be consulted to determine whether accident statistics bear a relationship to sight distance obstructions by vegetation. The circulation planning objective behind an ordinance that requires vegetation clearing within intersection sight lines is to eliminate unnecessary blind spots and improve traffic safety. A sample ordinance provision to address this safety consideration is identified below:

Visibility at Intersections:

On a street corner a fence, structure or planting over 24 inches in height above the curb or edge of roadway shall not be erected or maintained within a triangle formed by the

intersecting street right-of-way lines and a line connecting said right-of-way lines and located 50 feet from their point of intersection.

In some situations, the standards set forth in this sample ordinance may result in the need for a significant amount of clearing. In addition, it should be considered that extensive clearing and improved sight distances at intersections can have the effect of encouraging higher speeds, which can be problematic particularly on narrow rural roads that still exist throughout the Township. The benefits of a sight distance regulation should be weighed against possible detriments to such an ordinance where establishing sight clearing standards may have the opposite effect of improving traffic safety because existing conditions may actually result in slowing traffic and maintaining a safer traffic condition.

#### Recommendations for Circulation Plan Element

1. In its current form, the Circulation Plan remains consistent with local transportation objectives, however, updates to the Plan are recommended to incorporate updated traffic data, growth projections and revised Plan policies consistent with the objectives of protecting community character.
2. The Circulation Plan Element includes mapping that should be updated and coordinated with revisions to the Circulation Plan Element. Tables should be updated to reflect current conditions and changes since 2010.
3. The list of “Suggested Roadway Improvements” should be updated with input from the Township Engineer and Police Department. Where appropriate, recommendations should be made for County and State studies and possible improvements to reduce peak hour traffic congestion. “Problem Statements” should be prepared by the Township and submitted to the County and NJDOT requesting study and action on the list of “Suggested Roadway Improvements”.
4. Trails and paths recommendations should be reviewed by the Recreation, Parks, and Pathways committee for relevancy, updated recommendations and path and trail mapping.
5. The panoply of State and County studies referenced in the Circulation Plan Element should be reviewed with particular attention to updated circulation planning initiatives that may reinforce municipal objectives to expand accessibility for all modes of transportation in a manner consistent with community planning objectives.
6. An intersection sight distance ordinance should be given consideration and an investigation undertaken into whether overgrown vegetation or structures at roadway intersections causes unsafe conditions. Standards established in this type of ordinance should be carefully considered to ensure that improving sight distances at intersections does not result in precipitating increased traffic speeds with a potentially counterproductive effect of compromised traffic safety.
7. A scenic, historic and unique corridor and roadways ordinance should be given consideration to identify those roads and elements of the roadway system that contribute to the Township’s rural and historic character. This type of ordinance can be useful assistance in guiding future roadway improvement planning and preventing the sometimes unnecessary and subtractive effects that removal and alteration of roadside features can have to the character of the community. Examples of character altering changes include removal of stone walls, changes in roadside grade, elimination of roadside swales and ditches, removal of mature trees, and addition of curbs in areas that remain predominantly rural and historic.

## **Section VI - Community Facilities Plan Element**

The Community Facilities Plan Element includes an inventory and overview of (1) municipal services and employees, (2) future needs, (3) fire services, (4) first aid services, (5) the Police Department, (6) the municipal library and (7) an inventory of Township- and County-owned land.

The 2010 Community Facilities Plan Element provides an assessment of each community facility without identifying any significant physical plant or staffing deficiencies in providing community services. The passage of nine years since the last evaluation of each community facility may warrant a review and update to determine whether there have been any significant changes that should be identified in the Master Plan.

## **Section VII – Parks and Recreation Plan Element**

The Parks and Recreation Plan Element was prepared in close coordination with the Bernards Township Parks and Recreation Department. The plan includes (1) an expansive list of goals and objectives, (2) an evaluation of community recreation and open space needs based on generally accepted “balanced land use” and “population based” standards, (3) comprehensive inventories of municipal parks, open spaces, and active recreation facilities as well as an inventory of facilities owned by the public and private schools, the YMCA, the County, the VA and an inventory of privately-owned recreation facilities in residential developments.

The Parks and Recreation Plan includes a review of the County’s 2009 Parks, Recreation and Open Space Master Plan and a discussion of coordinating local goals and objectives with the County Plan.

The Plan includes a discussion of implementation Approaches and Resources that reviews funding resources, including (1) the municipal open space tax, (2) the NJDEP Green Acres Program, (3) the County’s Open Space Partnership Program, (4) the NJDEP EIT Program – Environmental Infrastructure Trust that provides funds for clean water initiatives that can include open space acquisition, (5) the National Recreational Trails Program; and other mechanisms for open space acquisition, including Land Donation, Dedication, Conservation Easements, and development rights acquisition (sale/donation).

### ***Periodic Examination Parks and Recreation Plan Recommendations***

- The 2010 Recreation and Open Space Plan identifies “the top four results” of a 2001 survey conducted by the Township Parks and Recreation Department that indicated Township residents’ strong desire for a high level of facility maintenance, continued open space acquisition, linkages among neighborhoods, parks, schools and commerce centers via bike/walking paths and the need for more athletic fields. The passage of time suggests the need to update the Plan needs and resource assessments as well as the narrative and tabulated active and passive recreation and open space inventories, including an assessment of progress on addressing the top four results from the municipal survey.
- A comprehensive survey of youth sports is recommended to accurately update the descriptions of sports leagues and recreation programs available in the Township.
- The Parks and Recreation Plan goals and objectives should be reviewed for relevancy and updated.

- The Planning Board should solicit comments and recommendations from the Department of Parks and Recreation on the accuracy of the municipal inventory of active recreation facilities and to identify additions and changes to the inventory since 2010.
- Inasmuch as the Parks and Recreation Department may be closest to the residents – the population served – the Department should be asked for comments on recommendations regarding the municipal recreation facilities inventory based on the Department’s observations of residents’ use of the facilities and the recommendations and requests for facilities that the Department receives from residents.

## **Section VIII –Conservation and Open Space Plan Element**

The Bernards Township Conservation Plan Element is comprehensive and broad in scope. The recommendations and policies set forth in the Conservation Plan remain valid and relevant to current conditions except to the extent supplemented below. The Conservation Plan includes a discussion of the relationship between eight (8) of the purposes of the Municipal Land Use Law (MLUL) and planning to conserve natural resources. The aim of this discussion is to emphasize that the MLUL provides a statutory basis to coordinate municipal planning and zoning with the capacity of the environment to sustain human activity. To that end, the Conservation Plan reviews natural resource planning considerations, or “conservation factors” including: Topography, Bedrock Geology, Watersheds, Surface Waters, Floodplains, Wetlands, Steep Slopes, Forested Areas and Critical Habitat for Threatened and Endangered Species.

Recognizing the need to protect these conservation factors provides the basis for carrying capacity-based planning in Bernards Township, which provides the planning rationale in establishing the maximum densities or intensities of development that are identified in the Land Use Plan. The Conservation Plan establishes the basis for a comprehensive planning rationale to protect the environment, which in turn protects the quality of life that Bernards Township’s residents enjoy. The Conservation Plan espouses a series of policy choices to protect natural resources, limit the impacts of development, retain the natural terrain and features to the greatest extent practicable, and restore natural systems that may have been degraded by past activities.

The Conservation Plan includes a brief discussion of the Mulhall Report – Evaluation of Groundwater Resources of Bernards Township, Somerset County, NJ), which provides a groundwater capacity basis for the Conservation Resource 1 (CR-1) and 2 (CR-2) district recommendations in the Land Use Plan. Those recommendations recognize the limited recharge capacity of underlying bedrock geology that Mulhall characterizes with limited recharge areas open to infiltrating precipitation, which are identified in the Land Use Plan.

The “Summary of Conservation Plan Policies” in the Conservation Plan includes policies that address each of the following conservation factors:

- Energy and Air Quality
- Forest Resources
- Groundwater
- Scenic Resources
- Steep Slopes
- Stream Corridors

- Surface Water
- Threatened and Endangered Wildlife Species
- Wetlands
- Light Pollution
- Neighborhood Design Alternatives
- Open Space Considerations.

***Periodic Examination Conservation and Open Space Plan Recommendations:***

- As part of a Conservation Plan review, the Planning Board should review and analyze the recommendations of the May 17, 2019 Bernards Township Shade Tree Commission memorandum to the Planning Board, as summarized in the following “Executive Summary” on page 1 of that memorandum:

Executive Summary

Some implicit assumptions underlying the laissez-fair treatment of protected open spaces have led to an unintended proliferation of potentially hazardous trees and an explosion of invasive species on some environmentally sensitive lands.

With respect to potentially hazardous trees, the STC recommends the adoption of new goals/objectives encouraging a mix of voluntary and mandatory remedial actions on both publicly- and privately-owned lands and the vetting of a possible tree nuisance ordinance applicable to privately-owned land. As for the invasive species problem, we recommend adopting additional goals/objectives that would encourage the Township to examine means to remediate invasive species on public areas through increased civic involvement and explore ways to encourage private property owners to take environmentally sound actions that would control invasive species within conservation easements on their lands.

- As part of a Conservation Plan review, the Planning Board should review and analyze the following recommendations provided in the May 20, 2019 Bernards Township Shade Tree Commission’s memorandum to the Planning Board regarding “Tree Protection Plan for Residential Lots Under Three Acres”:
  1. “... encourage a calculated focus on preserving larger, healthy trees which provide significant foliage and root coverage with the resulting concurrent benefits related to mitigating soil erosion, loss of soil fertility and drainage problems.”
  2. “... encourage the Planning Board to recommend that the Township consider increasing the size of trees requiring a removal permit.”
  3. “... encourage the Planning Board to recommend (in addition or as an alternative to fines) adopting for residential use the tree removal compensation rules applicable to real estate developers.”
  4. “Eliminate the current exemption for residential lots under three acres.”
- Update tables in Conservation Plan
- An assessment of Highlands Regional Master Plan (RMP) conformance should be undertaken for the Planning Area that includes Bernards Township. The RMP Land Use Capability Zones designated in Bernards Township include the Existing Community Zone (developed areas), the Conservation Zone (farmland areas), the Protection Zone (forested areas), and Environmentally Sensitive subzones that each have unique land development and environmental management policies and strategies. RMP conformance is commonly referred to as “opting in” to the RMP.

The assessment should take into account quality of life issues such as environmental management and how the RMP strategies may serve to reinforce Bernards Township’s master plan goals, objectives and policies, and identify the pros and cons of RMP Conformance.

- An updated Conservation Plan should address an expanded range of environmental conservation and related quality of life considerations such as, but not limited to:
  - air quality – characterize air quality trends as measured by the NJ regional air quality monitoring network and regional air quality assessments;
  - sustainable building rehabilitation and construction – create an inventory of LEED Certified retrofits and new building construction in the Township;
  - electric-powered vehicles - inventory existing and planned charging stations and develop policies to provide these facilities in the Township;
  - assessment of pesticide and herbicide use and best management practices – characterize common management practices and identify best management practices for their use in suburban neighborhoods and more broadly in the community, and
  - ambient noise and light impacts – identify and characterize noise and light generating influences and their impact on the environment and develop local policies that may be needed to address these quality of life considerations.
  
- The Board notes the existence of an ordinance for the management and eradication of poison ivy and ragweed. The local ordinance, which has been adopted in various forms in other municipalities in New Jersey, appears to flow from the Public Health Nuisance Code generally, and more specifically the Weed Control Code (1953). The Public Health Nuisance Code law defines and prohibits a range of public health nuisances that should be evaluated and compared to Bernards Township’s local health and nuisance ordinances for relevancy to existing policies for managing public health nuisances and community expectations for managing public health nuisances in today’s environment.

## **Section IX – Utility Service Plan Element**

**The 2010 Bernards Township Utility Service Plan Element conforms to the requirements of N.J.S.A. 40:55D-28b(5), as follows:**

- (5) A utility service plan element analyzing the need for and showing the future general location of water supply and distribution facilities, drainage and flood control facilities, sewerage and waste treatment, solid waste disposal and provision for other related utilities, and including any storm water management plan required pursuant to the provisions of P.L.1981, c.32 (C.40:55D-93 et al.).

The Utility Service Plan identifies 11 goals and objectives that seek “To maintain municipal services and community facilities to assure a high quality of life for present and future residents (#1). The Plan seeks to limit centralized Sewer Service Areas (SSA’s) to existing SSA’s (#4). The Plan seeks “to limit development to densities and intensities that can be adequately served by existing and planned private and municipal capital facilities and the natural and build infrastructure, and not purchasing additional wastewater treatment capacity to permit collection line extensions” (#5), and “to limit development to densities and intensities that will retain the remaining natural areas of the township and protect sensitive environmental areas” (#6).

***Periodic Examination Utility Services Plan Recommendations:***

- Review Utility Service Plan goals and objectives for currency and revise if necessary.
- Wastewater Treatment discussion: Update this section to reflect that the former Environmental Disposal Corp. (EDC) sewage treatment facilities serving The Hills are now owned and operated by NJ American Water Company.
  - Identify areas added to the Harrison Brook Bernards Township Sewerage Authority Sewer Service Area since 2010. Confirm whether remaining existing SSA's in the Township have expanded since 2010 and update mapping if necessary.
- Municipal Wastewater Treatment Issues discussion: Confirm capacity of Harrison Brook sewage treatment plant, update average monthly flow and assessment of remaining capacity of the Plant.
- Individual On-Site Wastewater Disposal Systems discussion: Update to reflect NJDEP rules requiring individual on-site septic systems to conform to current regulations at the time a realty improvement is sold.
- Stormwater Management discussion: Update discussion regarding FEMA-approved Flood Mitigation Plan as pertains to municipal eligibility for federal funds for flood proofing, elevating or buy-out of flood prone dwellings.
- Stormwater Quality Issues discussion: Update recommendation to coordinate municipal stream corridor buffer ordinance with NJDEP stream buffering/riparian zone regulations.
  - Confirm/update status of local bridge replacements.
- Solar Electric Power discussion – Review NJ Energy Master Plan provisions for consistency with local ordinances; monitor solar photovoltaic installations to determine whether local regulation of these facilities is needed.
- Wireless Telecommunications Towers and Antennas discussion – Update discussion to reflect the Telecommunications Act amendments that facilitate deployment of 5G telecommunications facilities and update local regulations for consistency with the new federally prescribed review procedures for 5G deployment.
- The advent of electric-powered vehicles presents the need for electric charging stations for refueling these vehicles and an adequate supply of local electric charging stations will be needed as the number of electric-powered vehicles increases and these vehicles increasingly become a relied upon means and choice for individual transportation. One charging station with eight (8) dispensers currently exists at Dewy Meadow. A Utility Services Plan Element update should include an inventory of existing and planned charging stations and identify recommended zoning policies to provide charging stations in the Township at appropriate locations to serve the public. This should include requirements to ensure that an ample supply of electric charging stations are available for all brands of electric cars to recharge.
- Water Supply discussion – update the discussion on water consumption and supply capacity in the municipality to reflect existing conditions, level of consumption and available water supply capacity.
- Inventory stormwater management facilities on a Township-wide basis.
- Research Bernards Township Sewerage Authority past and ongoing programs to correct Inflow and Infiltration (I&I).

**Section X – Comparison to Other Plans**

***Periodic Examination Comparison to Other Plans Recommendations:***

1. The “Plans of Contiguous Municipalities” described in the “Comparison to Other Plans” section of the Master Plan should be reviewed and updated where necessary to reflect zoning changes adjacent to Bernards Township’s municipal boundary with adjoining municipalities.
2. The section on County and Regional Plans should be updated for relevancy to updated County planning documents, including amendments to the 1987 County Master Plan that has been amended with the following new plans:
  - a. 2017 Housing Element;
  - b. County Investment Framework (2014) updating the County Master Plan Land Use Plan Map;
  - c. 2014 Comprehensive Economic Development Strategy (CEDS);
  - d. 2012 Circulation Plan; and
  - e. 2019 Open Space and Recreation Plan (amendment to be adopted in 2019).
3. Highlands Regional Master Plan - An assessment of Highlands Regional Master Plan (RMP) conformance should be undertaken for the Planning Area that includes Bernards Township. The RMP Land Use Capability Zones designated in Bernards Township include the Existing Community Zone (developed areas), the Conservation Zone (farmland areas), the Protection Zone (forested areas), and Environmentally Sensitive subzones that each have unique land development and environmental management policies and strategies. RMP conformance is commonly referred to as “opting in” to the RMP. The assessment should take into account quality of life issues such as environmental management and how the RMP strategies may serve to reinforce Bernards Township’s master plan goals, objectives and policies, and identify the pros and cons of RMP Conformance.
4. State Development and Redevelopment Plan – The State Planning Commission has not been seated and active since a general reorganization of state planning under the Christie Administration, under which the State Plan was reoriented for economic development purposes. This redirected planning effort has since been abandoned by the State. Today, the Office of Smart Growth (formerly the Office of State Planning) is staffed by one person and the current governor has not taken any action to repopulate the State Planning Commission and reactivate statewide planning and municipal “Cross-Acceptance, which is the process by which a municipality may conform to the State Plan or designate a municipal “Center” within which to focus growth. The State Plan Policy Map descriptions (Planning Area) identified in Section X. “Comparison to Other Plans” of the Master Plan remain unchanged and accurate in the 2010 Master Plan.

## **Section XI – Historic Preservation Plan Element**

The 2010 Historic Preservation Plan identifies key goals and objectives for the preservation of Bernards Township’s historic assets including historic structures, villages and hamlets that remain valid and useful. The policies set forth in the Historic Preservation Plan reflect long-standing objectives to protecting the Township’s heritage and historic resources. “Historic Preservation Challenges” identified in the Plan highlight concerns of potential threats to the survival of historically significant buildings, sites and settlements within the Township that may be subject to the pressures of real estate development opportunities, which remain a concern. The Plan identifies the need to balance preservation and the rights of property owners; protecting established neighborhoods; preserve architectural character; and a role for historic preservation in connection with open space acquisition. These all remain key considerations in historic planning in the community.



The list of NJDEP Historic Preservation Office NJ and National Register Sites in the Township remains unchanged since 2010.

### ***Periodic Examination Historic Preservation Plan Recommendations***

An update to the Historic Preservation Plan Element should review and refine, as may be deemed necessary and appropriate, the “Recommendations” identified in the Plan that include:

1. Establish an Historic Preservation Committee (this is the advisory body, not the regulatory body authorized in the M.L.U.L. to assist a municipality in Historic Preservation planning).
2. Expand cultural and historic data collection.
3. Development of a standard protocol for recording historic buildings prior to removal (to document for posterity a building or resources on a given site prior to demolition and removal).
4. “Craft and Action Plan” – expanded surveys to document additional historic resources such as out-buildings, stone arch bridges and archaeological remains – educate the public – secure grants for historic preservation activities.

### **Section XII – Farmland Preservation Plan Element**

The Farmland Preservation Plan Element (FPP) conforms to State Agricultural Development Committee’s (SADC) Planning Incentive Grant (PIG) Program and was prepared to establish the basis for farmland preservation in Bernards Township. The SADC and Somerset County Agriculture Development Board (CADB) provide funding preserve farmland. The Bernards Township FPP qualified the municipality to receive SADC farmland preservation grants in 2005 and the plan was subsequently revised in 2007 and 2008 to address SADC recommended revisions.

At the time the FPP was prepared and adopted, the Township was actively collecting an Open Space Tax. The collection of a local open space tax is a fundamental qualifying criterion to receive municipal PIG funding from the SADC to preserve farmland because the SADC requires that a municipality demonstrate that it has a local stable funding source to provide the local cost-share needed to preserve farmland. Together, the FPP and a local open space tax qualify a municipality to receive SADC farmland preservation funding. The Township no longer levies an Open Space tax.

The SADC PIG program awarded Bernards Township funding allocations for farmland preservation under the program to preserve farmland in the Township, and Bernards Township sought to use those installments and additional SADC Farmland Preservation funding to preserve the English Farm. The SADC was unable to provide the funding to preserve the farm because there was disagreement over the development potential of the farm. The development potential of a farm has to be identified to establish the value of the development easement purchased from the farmer to preserve the farm – the development rights of farmland are purchased from the farmer, and the purchase of a development easement is the means by which a farm is permanently preserved in perpetuity. Ultimately, the Township provided local funding with cost-sharing from the County Agriculture Development Board (CADB) to preserve the English Farm and the SADC did not participate in the preservation of that farm.

In 2012, the municipality turned back to the SADC PIG funds earmarked in the Township’s account for farmland preservation and the municipality has not sought further participation in the SADC PIG Program since.

The mapping in the FPP identifies Bernards Township's farms, which are concentrated in the southerly portion of the Township. Most of Bernards Township's farms are located within a Somerset County Agricultural Development Area (ADA). Inclusion in a County ADA qualifies a farm for farmland preservation funding and most farms in the municipality are included in the ADA.

The FPP fully also fully addresses the M.L.U.L. requirements for a FPP, which are found at N.J.S.A. 4):55D-28b.13, as follows:

*A farmland preservation plan element, which shall include:*

- 1. An inventory of farm properties in the entire municipality and a map illustrating significant areas of agricultural lands;*
- 2. A detailed statement showing that municipal plans and ordinances support and promote agriculture as a business;*
- 3. A plan for preserving as much farmland as possible in the short-term by leveraging monies made available by the Garden State Preservation Trust Act, N.J.S.A. 13:8-1 et seq., P.L. 1999, c. 152 through a variety of mechanisms, including, but not limited to:*
  - i. Option agreements;*
  - ii. Installment purchases; and*
  - iii. Encouraging donations for permanent development easements.*

Preserving farmland in the community serves a variety of worthy planning objectives, not the least of which is that preserved farmland can never be developed. ***Preserved farmland (or open space) will forever serve to contribute to the quality of life in the community in a variety of ways.*** While farmland preservation is dependent upon a farm owner's willingness to preserve the farm, the decision to preserve a farm is most commonly weighed against the economic benefits of retaining development rights for future development.

In Bernards Township, farmland preservation requires considerable funding because of the high value of land. However, funding remains available through the County and the State. For example,

- SADC cost sharing for high-value easements remains available to Bernards at any time the municipality wishes to restart participation in the PIG Program.
- High-value target farms can be submitted as an application for preservation to the County PIG Program and the State Direct Easement Purchase Program (SADC).
- Additional funding sources, such as Federal Farm and Ranch Program funds can be added to State and County funds to increase funding for farmland preservation.
- Farmland preservation funding and State open space funding can be combined to preserve land that includes actively farmed land and land better suited to passive open space.

***Periodic Examination Farmland Preservation Plan Recommendations:***

- (1) The Farmland Preservation Plan Element should be reviewed and updated with an accurate inventory and characterization of existing farms.
- (2) The FPP update should address current SADC requirements for eligibility in the municipal and County PIG funding programs and to maintain eligibility of farms to receive funding through the SADC Direct Easement Purchase Program. Current SADC FPP requirements should be addressed in the update.

- (3) The technical and administrative support programs identified in the FPP should be reviewed and updated.
- (4) Agricultural trends described in the FPP should be reviewed and updated to best reflect current economic development trends in small-scale farming.
- (5) Review and update mapping to accurately represent those lands characterized as farms consistent with farming and agricultural use as opposed to those lands that may be receiving farmland assessment for farming as an ancillary use of the land.
- (6) Prepare an updated list of priority farmland preservation targets with estimates to identify funding requirements to proceed with Farmland Preservation.
- (7) Corrections and organizational recommendations:
  - a. Amend the discussion on environmental impacts to clarify that right-to-farm protections are afforded to actively farmed land that may be environmentally sensitive. (p. 219)
  - b. Clarify that CR Zones are Land Use Plan designations, not current zoning designations; and correct % of residential land use in Table XII-1 (p. 220).
  - c. Add the Crane Farmstead to the list of farm resources (p. 227).
  - d. Correct Table XII-21 to show increase (+) in the urban land category.
  - e. Consolidate goals and objectives in the beginning of the document.
  - f. Convert the discussion of programs and resources to appendices.
- (8) Consider the lot size averaging technique in connection with farmland preservation as incentive when actively farmed prime soils and soils of statewide significance are preserved in perpetuity for farmland use.
- (9) Monitor and evaluate changes in State law pertaining to cannabis production and consumption to determine whether municipal land use controls should be adopted to appropriately limit potential industry impacts to existing developed areas of the municipality.

### **Section XIII - Green Buildings and Environmental Sustainability Plan (“Green Plan Element”)**

The Green Buildings and Environmental Sustainability Plan outlines goals and objectives for “Green design” and “Sustainability” and is comprised of five chapters:

- Municipal Planning and Design;
- Resource Protection;
- Energy Conservation;
- Operations and Maintenance; and
- Education and Outreach.

Each chapter includes recommendations for implementation of practices and strategies for reducing the overall environmental footprint and impacts from human activity in the community on the natural environment, - locally, regionally and globally. The discussion in each of these chapters in the Green Plan approximately tracks the more extensive “Appendix A” to the Plan, which is the report entitled “Sustainable Planning in Bernards Township”, dated 2007.

The Green Plan includes strategies and practices of a voluntary nature as well as recommendations for municipal education, incentives and legislation to implement the strategies and practices recommended in the Plan that are directed at municipal government, residents and businesses.

Environmental sustainability, green building and community design have taken on added importance as the nation and the world debate the impacts of human activity on the global environment.

However, the chapters addressed in the Green Plan address quality of life impacts that may be derived through the implementation of sustainable planning at the local level.

Each of the chapters of the 2007 “Sustainable Planning” report are organized around four components:

1. Internal Efficiency – directed at municipal practices that can reduce environmental impacts and increased economies and efficiencies;
2. Legislation – recommendations for municipal legislative measures that should be considered for implementation by the local government; and
3. Community Incentives – recommendations for strategies that reward “green” choices that may be made by residents.
4. Education – for government, residents and businesses.

An extensive Appendix to the report was provided by the Green Team that provides specific documents for examples of the variety of implementation measures recommended in the report.

#### ***Periodic Examination Green Plan Recommendations***

- (1) The topics of Green Planning and Sustainability included in the Green Plan should be reviewed, updated and expanded, as the Board may deem appropriate, to reflect the most up to date “state of the art” recommendations and implementation strategies that may most effectively each area of concern.
- (2) The recommendations in the Green Plan should be reviewed to determine which have been implemented by the municipality and to identify a list of recommendations for which no action has been taken, but may remain worthy of consideration by the municipality.
- (3) The appendices to the report entitled “Sustainable Planning in Bernards Township”, dated 2007, should be reviewed and revised as the Board may deem appropriate or necessary for possible recommendation in the updated Plan.
- (4) An assessment of progress is recommended, including:
  - a. A list of accomplishments;
  - b. Progress made on Green Plan recommendations, including a description of changes implemented (i.e. comparison of starting point and accomplishments);
  - c. Costs, benefits and savings achieved from implementing recommendations at the local level;
  - d. Estimated future costs to more fully implement plan recommendations; and
  - e. An assessment of current activities and initiatives undertaken by the Green Team.
- (5) Lighting – The movement toward LED lighting and advances in this technology suggest that lighting standards in the Township’s ordinances should be reviewed and updated. This update should identify the types of fixtures recommended or required to illuminate outdoor areas, roads, streets, driveways, parking lots and outdoor activity areas, including parks.
- (6) Recycling – the Somerset County curbside recycling program is phasing in a “Dual Stream” recycling program throughout the County, one area at a time for regular pick-up of recyclables throughout the year. The Dual Stream program consists of two curbside containers for each resident: One essentially for paper, cardboard, etc.; and a second for glass and metal containers.

#### ***Periodic Examination Environmental Commission Recommendations:***

As part of a Master Plan review, the Planning Board should review and analyze the following recommendations provided in the July 11, 2019 memorandum from the Bernards

Township Environmental Commission that provided comments on:

- (1) Tree protection goals and objectives;
- (2) Land Use Plan updates;
- (3) Conservation and Open Space Plan and integration of the Conservation and Open Space Plan with the Green Buildings and Environmental Sustainability Plan Element;

***Periodic Examination Vision 2020 Survey and Report Recommendations:***

As part of a comprehensive review and update to the Bernards Township Master Plan, the Vision 2020 Survey report should be reviewed and considered in developing updated Master Plan recommendations. The survey results provide useful information about community preferences, needs and aspirations that were generated from an energetic outreach effort to the community.

**e. The recommendations of the planning board concerning the incorporation of redevelopment plans adopted pursuant to the “Local Redevelopment and Housing Law,” P.L. 1992, c. 79 (C. 40A:12A-1 et seq.) into the land use plan element of the municipal master plan, and recommended changes, if any, in the local development regulations necessary to effectuate the redevelopment plans of the municipality**

The Township has not adopted a redevelopment plan pursuant to the “Local Redevelopment and Housing Law,” and therefore the Planning Board does not need to comment on its incorporation into the Land Use Plan Element.