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2012 *AMENDMENT* TO THE 2008 AMENDED HOUSING ELEMENT & FAIR SHARE PLAN

Borough of Oceanport, Monmouth County, New Jersey

December 5, 2012

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**2012 AMENDMENT TO THE 2008 AMENDED
HOUSING ELEMENT & FAIR SHARE PLAN**

Borough of Oceanport, Monmouth County, New Jersey

**Adopted by the Borough of Oceanport Planning Board on
December 5, 2012 & Endorsed by the Borough of
Oceanport Governing Body on December 5, 2012**

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EXECUTIVE SUMMARY

This amends the housing element and fair share plan adopted by the Planning Board and endorsed by the Borough on December 18, 2008, as further amended by an amendment to the housing element and fair share plan adopted by the Planning Board and endorsed by the Borough in 2009. The within amendment has been prepared for the Borough of Oceanport, Monmouth County, in accordance with the NJ Fair Housing Act (hereinafter "FHA") at N.J.S.A. 52:27D-301 and the rules of the New Jersey Council on Affordable Housing (hereinafter "COAH") at N.J.A.C. 5:96 et seq. and N.J.A.C. 5:97 et seq., as modified by the Appellate Court decision of October 8, 2010 in the matter In re the Adoption of 5:96 and 5:97. The within amendment is an amendment to the *2008 Amended Third Round Housing Element and Fair Share Plan* and is intended to replace the *2009 Amendment to the Amended Third Round Housing Element and Fair Share Plan*.

It is anticipated that the Borough will file with COAH the 2008 housing element and fair share plan, as amended by the 2009 amendment to that plan, and the within amendment to the amended plan (hereinafter collectively "Current Affordable Housing Plan"). It is also anticipated that upon filing The Current Affordable Housing Plan with COAH, the Borough will file a declaratory relief action in Court pursuant to N.J.S.A. 52:27D-313 and seek court approval of the Current Affordable Housing Plan, as may need to be further amended after judicial review. It is intended that, through this procedure, the Borough will secure a so called "prior cycle judgment of compliance and repose". This is a judgment formally approving the Borough's plan for satisfaction of the rehab and prior cycle components of its fair share. Upon the Supreme Court deciding the challenges to In re the Adoption of 5:96 and 5:97 and appropriate regulations being enacted to implement the Court's decision, it is anticipated that the Borough will need to amend its Current Affordable Housing Plan to address any new obligations created by any new regulations.

Under COAH's 2008 third round rules, there were three components to a municipality's affordable housing obligation; the rehabilitation share, the prior round obligation and the COAH-projected third round obligation. As assigned by COAH, the Borough's affordable housing obligations were as follows:

- Rehabilitation Share: 0 units
- Prior Round Obligation: 149 units
- Third Round Obligation: 36 units

As will be discussed in more detail in the next section, the Appellate Division invalidated COAH's third round methodology on October 8, 2010. Although COAH had been ordered to adopt new third round regulations and a new methodology based on its prior round methodology by March 8, 2011, on January

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18, 2011 the New Jersey Supreme Court granted a stay to COAH from having to develop such new methodology and rules. Subsequently, on March 31, 2011 the NJ Supreme Court granted certification to the various challenges to the Appellate Division's decision. Oral argument has been scheduled for November 7, 2012. As a consequence of the questions pending before the N.J. Supreme Court and the lack of direction from the executive and legislative branches of government, the direction of the State's affordable housing laws is uncertain. In accordance with In re the Adoption of 5:96 and 5:97, the Borough's "only current affordable housing obligations" include only its rehab and prior cycle obligations. Accordingly, the Borough's plan will address these current obligations and set forth the Borough's present intentions as to how it will address at least some portion of its round three responsibilities when the Supreme Court decides the pending challenges and regulations are adopted to implement the Court's decision.

As described in more detail in this plan, the Borough will fully satisfy the 149 unit prior round obligation using affordable housing units from a 100% age-restricted affordable project known as Oceanport Gardens, two special needs facilities known as Checkmate Inc. and Elizabeth Drive, two family inclusionary projects known as Oceanport Village and the Old Wharf, two 100% affordable housing projects known as Oceanport Manor and Pemberton Avenue, and an accessory apartment program.

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AFFORDABLE HOUSING IN NEW JERSEY

Introduction

In its landmark 1975 decision referred to now as "Mount Laurel I", the New Jersey Supreme Court ruled that developing municipalities have a constitutional obligation to provide a realistic opportunity for the construction of low and moderate income housing. In its 1983 "Mount Laurel II" decision, the Supreme Court extended the obligation to all municipalities, designated the State Development Guide Plan or any successor State Plan as a critical touchstone to guide the implementation of this obligation and created an incentive, subject to various limitations, for private developers to enforce the "Mount Laurel doctrine" by bringing exclusionary zoning lawsuits against municipalities which are not in compliance.

In 1985, the Legislature enacted the Fair Housing Act at N.J.S.A. 52:27D-310 in response to the Mt. Laurel court decisions. The FHA created the Council on Affordable Housing as the administrative alternative to the Courts. The FHA also charged COAH with the responsibility to (i) establish housing regions, (ii) estimate low and moderate income housing needs, (iii) establish criteria and guidelines for municipalities to determine and address their fair share numbers, and (iv) to review and process municipal petitions for approvals of their housing elements and fair share plans.

Municipalities have the option of filing their adopted and endorsed housing elements and fair share plans with COAH and petitioning for COAH's approval, known as "substantive certification". Alternatively, municipalities can adopt and file their duly adopted and endorsed housing elements and fair share plans with COAH and thereafter bring a declaratory relief action in Court seeking court approval of their plans. Pursuant to an order entered September 4, 2012, the Borough is required to file its duly adopted and endorsed housing element and fair share plan with COAH and thereafter bring a declaratory relief action in Court pursuant to N.J.S.A. 52:27D-313. The Court, with the assistance and guidance of its Master, will review the Borough's Current Affordable Housing Plan and, if satisfied approve it following a duly noticed "compliance hearing". Upon review of a plan, it is not at all unusual that the Court will require modifications to address concerns that arise as a result of review by the master or the Court's evaluation of any objections interested parties may file to the plan. To avoid the diversion of finite municipal resources into defending additional lawsuits as the Borough pursues plan approval, the Borough will seek immunity to protect the Borough and its Planning Board from such lawsuits while the Court, with the assistance of her master, reviews the Current Affordable Housing Plan and while the Borough and its Planning Board respond to any concerns the Court may have. After plan approval, the Borough and the Planning Board will need to await new round three regulations and will need to respond to any new responsibilities created by those new regulations.

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The regulations of COAH have been utilized in the preparation of this plan as required by both the FHA and prior Court decisions. Both legislative and judicial directives encourage uniformity in the interpretation of the Mount Laurel doctrine. The FHA states,

"The interest of all citizens, including low and moderate income families in need of affordable housing, would be best served by a comprehensive planning and implementation response to this constitutional obligation." (N.J.S.A. 52:27D-302(c))

Furthermore, the New Jersey Supreme Court, in its decision in *The Hills Development Co. v. City of Bernards*, 103 NJ 1 (1986) (commonly known as Mount Laurel III) upheld the constitutionality of the Fair Housing Act, and stated,

"Instead of varying and potentially inconsistent definitions of total need, regions, regional need, and fair share that can result from the case-by-case determinations of courts involved in isolated litigation, an overall plan for the entire state is envisioned, with definitions and standards that will have the kind of consistency that can result only when full responsibility and power are given to a single entity." (103 N.J. at 25)

Lastly, in the Mount Laurel III decision, the Supreme Court also stated that to the extent that Mount Laurel cases remained before the courts,

"...any such proceedings before a court should conform wherever possible to the decisions, criteria and guidelines of the Council." (103 N.J. at 63)

The Borough of Oceanport has been guided by these principles of uniformity and consistency in the preparation of this housing element and fair share plan.

In addition, under the Municipal Land Use Law, a municipal Planning Board must adopt the housing element as part of the Master Plan. COAH's process also requires the governing body to endorse the housing element by resolution. The governing body's resolution requests, among other things, that the Superior Court review the housing element and fair share plan along with supporting documents for compliance and repose. Once the municipality's housing element and fair share plan has been granted a final judgment of compliance and repose, the municipality's zoning ordinance will enjoy a presumption of validity against any exclusionary zoning lawsuits. By virtue of the Court's September 2012 order, the Borough of Oceanport is required to submit an adopted and endorsed housing element and fair share plan to the Court by November 3, 2012. The Planning Board and Governing Body Resolutions for this 2012 Plan can be found in the *Fair Share Plan Appendices*.

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First and Second Round (Also Known as the "Prior Round") Methodology

The FHA empowered COAH to create criteria and guidelines for municipalities to determine and address their respective fair share numbers. In response, COAH established a formula for determining municipal affordable housing obligations for the six-year period between 1987 and 1993 (*N.J.A.C. 5:92-1 et seq.*), which became known as the "first round." That formula was superseded by the 1994 COAH regulations (*N.J.A.C. 5:93-1.1 et seq.*) which recalculated a portion of the 1987-1993 affordable housing obligation for each municipality and computed the additional municipal affordable housing need from 1993 to 1999; this is known to as the "second round". This 12 year cumulative period from 1987 through 1999 is referred to as the "prior round."

Third Round Methodology

On December 20, 2004, COAH's first version of the third round rules became effective. At that time the third round was defined as the time period from 1999 to 2014 condensed into an affordable housing delivery period from January 1, 2004 through January 1, 2014. The third round rules marked a significant departure from the methodology utilized in COAH's two prior rounds. Previously, COAH assigned an affordable housing obligation as an absolute number to each municipality. These third round rules implemented a "growth share" approach that linked the production of affordable housing with future residential and non-residential development within a municipality. Each municipality was required to project the amount of residential and nonresidential growth that would occur during the period 2004 through 2014. Then municipalities were required to provide one affordable unit for every eight market rate housing units developed and one affordable unit for every 25 jobs created (expressed as non-residential building square footage).

However, in a unanimous decision in January 2007, the NJ Appellate Court invalidated key aspects of COAH's third round rules. The Court ordered COAH to propose and adopt amendments to its rules to address the deficiencies identified by the Court. COAH's revised rules, effective on June 2, 2008 as well as a further rule revision adopted September 22, 2008 and effective on October 20, 2008, provided residential development and job projections for the third round (which was expanded to encompass the years 2004 through 2018). Additionally, COAH revised its ratios to require one affordable housing unit for every four market rate housing units developed and one affordable housing unit for every 16 jobs created, still expressed as non-residential building square footage. Municipalities were to set forth in the Housing Element and Fair Share Plan how they intended to accommodate the affordable housing obligation generated by COAH's revised third round growth projections. However, COAH's substantive rules also required that a municipality provide a realistic opportunity for affordable housing in proportion to its actual growth during the third round as expressed in final certificates of occupancy issued for residential and nonresidential development.

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Challenge to COAH's 2008 Third Round Rules

COAH's 2008 third round rules were challenged by several parties in a case known as In re Adoption Of N.J.A.C. 5:96 and 5:97 By New Jersey Council On Affordable Housing, 390 N.J.Super. 1 (App. Div.). On October 8, 2008, a decision on this case was issued by the Appellate Court which invalidated COAH's third round growth share methodology and portions of COAH's regulations. The Court directed COAH to revise its third round methodology and regulations by March 8, 2011 to something substantially similar to COAH's first and second round methodology.

The Appellate decision also upheld the legitimacy of COAH's determination of present and prior round need. The Court summarized its findings in this regard as follows:

"We affirm the other parts of the revised third round rules, including COAH's determination of present need and prior round affordable housing obligations." (slip op. at 72)

Thus, the Court specifically upheld those portions of COAH's third round rules which assessed municipal present and prior round need. Moreover, in addressing the responsibilities of a municipality that had challenged one of COAH's regulations, the Court ruled that the municipality's "only current affordable housing obligations" include the municipality's rehab and prior cycle obligations. Consistent with these rulings, this plan will address the Borough's current affordable housing obligations. In addition, this plan will indicate the Borough's intentions with respect to addressing at least some portion of any future obligations that may be assigned once the Supreme Court decides the present challenges to In re Adoption Of N.J.A.C. 5:96 and 5:97 By New Jersey Council On Affordable Housing and once appropriate regulations are adopted to implement the Court's decision.

COAH later sought a stay from the NJ Supreme Court of the March 8, 2011 deadline imposed by the Appellate Division to prepare revised third round rules. On January 18, 2011, the NJ Supreme Court granted the stay. Subsequently, on March 31, 2011, the NJ Supreme Court granted petitions and cross-petitions to all of the various challenges to the Appellate Division's decision. Combined with legislative and executive branch efforts towards affordable housing reform, there remains tremendous uncertainty regarding the direction the State's affordable housing laws and regulations will take.

The "Roberts Bill"

On July 17, 2008, Governor Corzine signed P.L.2008, c.46 (also known as the "Roberts Bill" after former NJ Assembly Speaker Joseph Roberts), which amended the Fair Housing Act in a number of ways. Key provisions of the bill included the following:

- Established a statewide 2.5% nonresidential development fee instead of a nonresidential growth share delivery for affordable housing;

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- Eliminated regional contribution agreements ("RCAs");
- Added a requirement for 13% of affordable housing units and 13% of all units funded by the Balanced Housing Program and the Statewide Affordable Housing Trust Fund to be restricted to very low income households (30% or less of median income); and
- Added a requirement that trust fund money collected as of July 17, 2008 must be committed for expenditure within four years of collection or it must be forfeited to the State.

COAH has not yet promulgated rules to effectuate the "Roberts Bill". COAH's 2008 revised third round rules were again challenged and the Appellate Division heard oral arguments in late 2009 and, as discussed below, a decision was issued on October 8, 2010. In addition, on July 27, 2009, Governor Corzine signed P.L. 2009, c.90 "NJ Economic Stimulus Act of 2009", which instituted a moratorium on the collection of non-residential affordable housing development fees through July 2010. This moratorium was later extended by the New Jersey Permit Extension Act which currently extends the moratorium to December 31, 2014.

Affordability Requirements

Affordable housing is defined under New Jersey's Fair Housing Act as a dwelling, either for sale or rent that is within the financial means of households of low or moderate income as income is measured within each housing region. The Borough of Oceanport is in COAH's Region 4, which includes Monmouth, Mercer and Ocean Counties. Moderate-income households are those earning between 50% and 80% of the regional median income. Low-income households are those with annual incomes that are between 30% and 50% of the regional median income. As required by the amended FHA (Roberts bill), COAH has also included a very low-income category, which is defined as households earning 30% or less of the regional median income.

Through the Uniform Housing Affordability Controls (hereinafter "UHAC") at N.J.A.C. 5:80-26.3(d) and (e), COAH requires that the maximum rent for a qualified unit be affordable to households that earn no more than 60% of the median income for the region. The average rent must be affordable to households earning no more than 52% of the median income. The maximum sale prices for affordable units must be affordable to households that earn no more than 70% of the median income. The average sale price must be affordable to a household that earns no more than 55% of the median income.

The regional median income is defined by COAH using the federal Department of Housing and Urban Development (hereinafter "HUD") income limits on an annual basis. In the spring of each year HUD releases updated regional income limits which COAH reallocates to its regions. It is from these income limits that the rents and sale prices for affordable units are derived. See Tables 1 through 3 for illustrative sale prices and gross rents. These figures are updated annually and are available from COAH. COAH

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has yet to issue 2012 income limits. The sample rents and sale prices are gross figures and do not account for the specified utility allowance.

Table 1. 2011 Income Limits for Region 4

Household Income Levels	1 Person Household	2 Person Household	3 Person Household	4 Person household	5 Person Household
Moderate Income	\$51,179	\$58,490	\$65,802	\$73,113	\$78,962
Low Income	\$31,987	\$36,557	\$41,126	\$45,696	\$49,351
Very Low Income	\$19,192	\$21,934	\$24,676	\$27,417	\$29,611

Source: COAH 2011 Regional Income Limits

Table 2. Sample 2011 Affordable Rents for Region 4

Household Income Levels	1 Bedroom Unit Rent	2 Bedroom Unit Rent	3 Bedroom Unit Rent
Moderate Income at 60%	\$1,028	\$1,234	\$1,426
Low Income at 46%	\$788	\$946	\$1,093
Very Low Income at 30%	\$514	\$617	\$713

Source: COAH Illustrative 2011 Low and Moderate Income Gross Rents for New Construction

Table 3. Sample 2011 Affordable Sale Prices for Region 4

Household Income Levels	1 Bedroom Unit Price	2 Bedroom Unit Price	3 Bedroom Unit Price
Moderate Income at 70%	\$107,956	\$129,547	\$149,699
Low Income at 50%	\$77,111	\$92,534	\$106,928
Very Low Income at 30%	\$46,267	\$55,520	\$64,157

Source: COAH Illustrative 2011 Low & Moderate Income Sales Prices for New Construction

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HOUSING ELEMENT/FAIR SHARE PLAN REQUIREMENTS

In accordance with the Municipal Land Use Law at *N.J.S.A. 40:55D-62*, a municipal Master Plan must include a housing element as the foundation for the municipal zoning ordinance. Pursuant to the FHA, a municipality's housing element must be designed to provide access to affordable housing to meet present and prospective housing needs, with particular attention to low and moderate income housing. The housing element must contain at least the following, as per the FHA at *N.J.S.A. 52:27D-310*:

- 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;
- 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 trends;
- An analysis of the municipality's demographic characteristics, including, but not necessarily limited to, household size, income level, and age;
- An analysis of the existing and probable future employment characteristics of the municipality;
- A determination of the municipality's present and prospective fair share of low and moderate income housing and its capacity to accommodate its present and prospective housing needs, including its fair share of low and moderate income housing; and
- A consideration of the lands 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.

In view of the Appellate Division's invalidation of the growth share component of the Borough's fair share, and validation of the rehab and prior cycle components of any municipality's fair share, this plan will address the Borough's current rehab and prior cycle obligations. In addition, this Plan will also set forth how the Borough presently anticipates it will address, at least in part, any round three responsibilities that may be assigned:

- The minimum requirements of the Fair Housing Act, *N.J.S.A. 52:27D-310* (listed above);
- Municipal rehabilitation and prior round obligation;
- Descriptions of any credits intended to address any portion of the fair share obligation, including all information required by *N.J.A.C. 5:97-4*;

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- Descriptions of any adjustments to any portion of the fair share obligation, including all information required by *N.J.A.C. 5:97-5*;
- Descriptions of and documentation for any mechanisms intended to address the prior round obligation and the rehabilitation share;
- Draft and/or adopted ordinances necessary for the implementation of the mechanisms designed to satisfy the fair share obligation;
- A demonstration that existing zoning or planned changes in zoning provide adequate capacity to accommodate any proposed inclusionary developments, pursuant to *N.J.A.C. 5:97-6.4*;
- A demonstration of existing or planned water and sewer capacity sufficient to accommodate all proposed mechanisms;
- A spending plan, pursuant to *N.J.A.C. 5:97-8.10*;
- A map of all sites designated by the municipality for the production of low and moderate income housing;
- A copy of the most recently adopted Master Plan and, where required, the immediately preceding adopted Master Plan;
- A copy of the most recently adopted zoning ordinance;
- A copy of the most up-to-date tax maps; and
- Any other information required by *N.J.A.C. 5:97* or requested by COAH.

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BOROUGH OF OCEANPORT AFFORDABLE HOUSING HISTORY

On May 26, 2005, Oceanport Holdings filed an exclusionary zoning lawsuit against the Borough. The plaintiff sought to construct 60 units on Block 1, Lot 18 and Block 61, Lot 6 in a six story building. Pursuant to a dispositive motion filed by the Borough, Judge Coogan dismissed the plaintiff's complaint. The Planning Board adopted a third round housing element and fair share plan in October 2005 (the "2005 Plan") and submitted it to Superior Court as part of a request for a Judgment of Compliance and an Order of Repose.

On December 7, 2007, the Appellate Division reversed the trial judge's dismissal in a reported opinion entitled Oceanport Holding, L.L.C. v. Borough of Oceanport, 396 N.J. Super. 622 (App. Div. 2007). In its decision, the Appellate Division scrupulously avoided reversing the trial court's decision on substantive grounds. Rather, the Appellate Division ruled – as a procedural matter – the trial court should have first decided whether the plaintiff had demonstrated a cause of action, before deciding plaintiff's entitlement to the remedy it sought by proving that the Borough was non-compliant. Consequently, the Appellate Division remanded the case to the trial judge for further processing.

COAH revised its third round rules, effective June 2, 2008 and further revised them effective September 22, 2008, in response to the Appellate Division's 2007 opinion in In re Adoption Of N.J.A.C. 5:94 and 5:95 By New Jersey Council On Affordable Housing, 390 N.J. Super. 1 (App. Div.). On January 22, 2008, COAH published its proposed regulations in the New Jersey Register at 40 N.J.R. 237. In response to the revised third round regulations, the Borough Planning Board adopted the *Amended Third Round Housing Element and Fair Share Plan* on December 18, 2008 (the "2008 Plan") and the Borough Council endorsed the 2008 Plan on the same day. The Borough submitted the 2008 Plan to the Court and sought its approval of same. The 2008 Plan found that the Oceanport Holdings site was not necessary to satisfy the Borough's affordable housing obligation and it was therefore not included as an affordable housing site.

Subsequent to adoption of the 2008 Plan, the Borough entered confidential settlement discussions with the plaintiff, through the assistance of a court-appointed special master. The Borough and Plaintiff worked towards an agreement, pursuant to which the developer would be permitted to construct 26 market-rate townhome units and to pay a fee into the Borough's Affordable Housing Trust Fund that would subsidize a portion of the Borough's prior round affordable units. In anticipation that the negotiations would culminate in a Settlement Agreement, the Borough Planning Board adopted the *Amendment to the Amended Third Round Housing Element and Fair Share Plan* on October 14, 2009 (the "2009 Plan") and the Borough Council endorsed the 2009 Plan on October 15, 2009. As explained below, the court never reached the point of commencing a review of a settlement.

Since 2009 the Borough continued negotiations with the Plaintiff in an effort to reach a settlement with Oceanport Holdings, LLC property consistent with the 2009 Plan. In July 2012, the Plaintiff indicated

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they no longer wished to participate in the litigation and stated support for a dismissal of the builder's remedy lawsuit. On September 4, 2012, the Honorable Jamie S. Perri, J.S.C. of the New Jersey Superior Court entered an order dismissing the Oceanport Holdings, LLC lawsuit and requiring the Borough to submit a revised Housing Element and Fair Share Plan addressing the prior round and rehabilitation obligations within 60 days.

This *2012 Amendment to the Amended Housing Element and Fair Share Plan* is prepared in response to the September 4, 2012 order issued by Judge Perri.

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HOUSING STOCK AND DEMOGRAPHIC ANALYSIS

Due to New Jersey's recent redistricting efforts, there was a limited release of data from the 2010 U.S. Census broken down to the municipal level. The limited municipal data included total population, total housing units and numbers occupied and vacant. In lieu of 2010 U.S. Census data that is not yet available we will utilize data from the 2006-2010 American Community Survey (ACS) which produces population, demographic and housing unit estimates.

Housing Stock Inventory

In 2,000, there were 2,390 housing units in Oceanport, of which 163 or 7% were vacant. Of the 2,227 occupied units, 81% were owner occupied and 19% were rented. Of the 163 vacant units, 12% were for sale and 25% were for seasonal or recreational use. Table 4. *Housing Units by Occupancy Status*, illustrates the occupancy status in 2010.

Table 4. Housing Units by Occupancy Status, 2010

	Housing Units	Owner Occupied	Renter Occupied
Occupied	2,227	1,813	414
Vacant	163		
Total	2,390	1,802	239

Source: 2010 US Census

Single-family detached housing units dominate the housing stock in Oceanport Borough, comprising 74% of all housing units. Of the owner occupied units, 90% are single family detached units. Single-family attached (townhouses) and units with 2 units make up 10% of the total housing stock. Structures with 5-9 units make up 1% of the housing stock and structures with 50 or more units make up 6%. See Table 5. *Housing Units by Number of Units in Structure*, for a detailed explanation of the housing units in 2010.

Table 5. Housing Units by Number of Units in Occupied Structures, 2006-2010

Number of Units	Owner Occupied	Rental	Percent
1, Detached	1,476	97	74.1%
1, Attached	126	48	10.3%

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Number of Units	Owner Occupied	Rental	Percent
2	13	0	0.6%
3 or 4	0	65	5.0%
5 to 9	13	10	1.1%
10 to 19	0	0	0.0%
20 or more	0	23	1.1%
50 or more	0	126	6.3%
Mobile Home	8	0	0.4%
Other	0	0	0.0%
Total	1,636	369	100%

Source: 2006-2010 American Community Survey 5-Year Estimates

Table 6. *Housing Units by Age*, below illustrates the aging of the Borough's housing stock. The largest period of housing construction in Oceanport occurred between 1980 and 1989, and resulted in the creation of 391 new units or 18% of the total housing stock. The median year of construction for housing units in Oceanport is 1966; however, 16% of the total units predate World War II.

Table 6. Housing Units by Age, 2006-2010

Year Built	Total Units	Percent	Owner Occupied	Renter Occupied	Vacant
Built 2005 or later	52	2.4%	41	11	0
Built 2000 to 2004	87	4.0%	74	13	0
Built 1990 to 1999	133	6.1%	122	11	0
Built 1980 to 1989	391	18.1%	232	101	58
Built 1970 to 1979	242	11.2%	201	41	0
Built 1960 to 1969	361	16.7%	295	66	0
Built 1950 to 1959	456	21.1%	326	45	85

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Year Built	Total Units	Percent	Owner Occupied	Renter Occupied	Vacant
Built 1940 to 1949	103	4.8%	88	0	15
Built 1939 or earlier	338	15.6%	257	81	0
Total	2,163	100.0%	1,863	369	158
Median Year Built	1966		1965	1969	

Source: 2006-2010 American Community Survey 5-Year Estimates

The housing stock in Oceanport Borough is diverse in terms of its size. While only 14% of the units have less than four rooms, a sizable portion of the remaining structures, 59%, have 7, 8 or 9 or more rooms. See Table 7. *Housing Units by Number of Rooms*, for additional information. Nearly half of homes in Oceanport have 3 bedrooms and 31% have 4 or more bedrooms. See Table 8, *Housing Units by Number of Bedrooms* for additional information.

Table 7. Housing Units by Number of Rooms, 2006-2010

Rooms	Number of Units	Percent
1	36	1.7%
2	23	1.1%
3	195	9.0%
4	44	2.0%
5	272	12.6%
6	320	14.8%
7	629	29.1%
8	221	10.2%
9+	423	19.6%
Total	2,163	100.0%
Median	6.8	-

Source: 2006-2010 American Community Survey 5-Year Estimates

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Table 8. Housing Units by Number of Bedrooms, 2006-2010.

Rooms	Number of Units	Percent
no bedroom	36	1.7%
1	196	9.1%
2	291	13.5%
3	967	44.7%
4	518	23.9%
5 or more	155	7.2%
Total	2,163	100%

Source: 2006-2010 American Community Survey 5-Year Estimates

Housing values in Oceanport have grown significantly in the last decade. The median value increased from \$230,400 in 2000 to \$482,500 in 2010. Oceanport's median home value in 2010 was higher than the County's 2010 median of \$188,400. See Tables 9. and 10. *Housing Values*, for additional information.

Table 9. Housing Values, Owner Occupied, 2006-2010

Value	Oceanport		Monmouth County	
	Housing Units	Percent	Housing Units	Percent
Less than \$50,000	8	0.5%	6,203,294	8.2%
\$50,000 to \$99,999	8	0.5%	11,301,615	14.9%
\$100,000 to \$149,999	0	0.0%	11,794,496	15.5%
\$150,000 to \$199,999	0	0.0%	10,874,859	14.3%
\$200,000 to \$299,999	127	7.8%	13,534,240	17.8%
\$300,000 to \$499,999	763	46.6%	12,883,834	16.9%
\$500,000 to \$999,999	581	35.5%	7,679,537	10.1%
\$1,000,000 or more	149	9.1%	1,817,775	2.4%

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	Oceanport		Monmouth County	
Total	2,163	100.0%	76,089,650	100%
Median Value	\$482,500		\$188,400	

Source: 2006-2010 American Community Survey 5-Year Estimates

Table 10. Housing Values, Owner Occupied, 2000.

Value	Housing Units	Percent
Less than \$50,000	7	0.4%
\$50,000-\$99,999	24	1.3%
\$100,000-\$149,999	202	11.2%
\$150,000-\$199,999	452	25.0%
\$200,000-\$249,000	355	19.7%
\$250,000-\$299,999	311	17.2%
\$300,000-\$399,999	239	13.3%
\$400,000-\$499,999	129	7.0%
\$500,000 or more	86	4.8%
Total	1,802	100.0%
2000 Median Value	\$230,400	

Source: 2000 US Census

Table 11. *Gross Monthly Rental Cost*, tabulates the differences in the gross costs of rental housing between Oceanport Borough and Monmouth County. In 2010, Oceanport's median gross monthly rental cost was \$818, \$23 less than the County median of \$841. As a comparison, the Borough's gross monthly rent in 2000 was \$672, \$146 less than the figure in 2010.

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Table 11. Gross Monthly Rental Cost, 2006-2010*

Monthly Rent	Oceanport		Monmouth County	
	Housing Units	Percent	Housing Units	Percent
Less than \$200	0	0.0%	811,017	2.3%
\$200 to \$299	45	14.2%	1,227,352	3.4%
\$300 to \$499	40	12.6%	3,526,622	9.8%
\$500 to \$749	63	19.9%	8,956,458	24.9%
\$750 to \$999	58	18.3%	8,772,933	24.4%
\$1,000 to \$1,499	30	9.5%	8,457,813	23.5%
\$1,500 or more	81	25.6%	4,217,120	11.7%
Total	317	100.0%	35,969,315	100%
Median Rent	\$818		\$841	
No rent paid	52		2,177,031	

*Includes only those units with cash rents.

Source: 2006-2010 American Community Survey 5-Year Estimates

In the year 2010, Oceanport had zero housing units that lacked complete plumbing or kitchen. See Table 12. *Selected Quality Indicators*. Note also that 42 homes lacked telephone service. This is an increase from 0 homes in 2000; however, the increase is very likely due to the rise in cell phone use rather than a decrease in housing quality.

Table 12. Selected Quality Indicators, Occupied Housing Stock, 2006-2010

	Lacking Complete Kitchen Facilities	Lacking Complete Plumbing Facilities	Combined Lack of Facilities
Units	0	0	0

Source: 2006-2010 American Community Survey 5-Year Estimates

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General Population Characteristics

The population of Oceanport increased between 1970 and 1990, declined between 1990 and 2000 and increased slightly between 2000 and 2010. The greatest growth rate occurred between 1970 and 1980 when its population grew by 17.7% from 5,007 to 5,888 residents. Following that period, the population growth rate rapidly declined in Oceanport Borough, slowing to 4.3% between 1980 and 1990. Between 1990 and 2000 the actual population declined -5.5% from 6,146 to 5,807 persons. During the last decade, the Borough grew minimally at .4%. After 1990 Monmouth County grew much more rapidly than Oceanport. Between 1990 and 2000, the county added 9.9% to its population where Oceanport only added 4.3%. During this last decade the County's growth also slowed significantly to a change of only 2.4 between 2000 and 2010. The largest disparity was between 1990 and 2000 in which Ocean port lost 5.5 % of its population while the county grew by 11.2%. See Table 13. *Population Growth*, for additional detail.

Table 13. Population Growth 1990-2010

	1980		1990		2000		2010	
	Person	Change	Persons	Change	Persons	Change	Persons	Change
Oceanport Borough	5,888	17.5%	6,146	4.3%	5,807	-5.5%	5,832	0.4%
Monmouth County	503,173	8.9%	553,124	9.9%	615,301	11.2%	630,380	2.4%

Source: 1970, 1980, 1990, 2000, 2010 US Census

Oceanport's population is aging. The median age increased approximately 4 years from 2000 to 2010 when the median age increased from 40.5 years to 44.4 years. This is consistent with trends from 1990 to 2000 when those under the age of 44 decreased by 9.2 %, with the exception of elementary and middle school aged children whose percentage of the population grew by 2.9%. Between 2000 and 2010 the Borough lost population in every age group below 44 years and increased population 45 years and older. The largest change was a decrease in those 35 to 33 by 4% and a similar increase of 4% those aged 55 to 64. See Table 14. *Age Distribution*, for additional detail.

Table 14. Age Distribution, 2000-2010

Age Group	2000		2010		Percent Change
		Percent		Percent	
Under 5	347	6.0%	283	4.9%	-1.10%
5-14	860	14.8%	793	13.6%	-1.20%
15-24	702	12.1%	676	11.6%	-0.50%

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Age Group	2000	Percent	2010	Percent	Percent Change
25-34	500	8.6%	454	7.8%	-0.80%
35-44	981	16.9%	773	13.2%	-3.70%
45-54	969	16.7%	1,045	18%	1.30%
55-64	621	10.7%	870	14.9%	4.20%
65-74	457	7.9%	486	8.3%	0.40%
75+	370	6.4%	452	7.7%	1.30%
Total	5,807	100.0%	5,832	100%	
Median Age	40.5		44.4		

Source: 2000 and 2010 US Census

Household Characteristics

A household is defined by the U.S. Census Bureau as those persons who occupy a single room or group of rooms constituting a housing unit; however, these persons may or may not be related. By comparison, a family is identified as a group of persons including a householder and one or more persons related by blood, marriage, or adoption, all living in the same household. In 2010, there were 2,227 households in Oceanport, with an average of 2.59 persons per household and an average of 3.12 persons per family.

Table 15. *Households by Household Type*, breaks down the different household types. In 2010, families made up 72% of all households in Oceanport, with husband-wife families comprising 60% of all family households¹. Of husband-wife couples, 27% have children. The Borough also was home to 548 one person households representing 25% of the households.

¹ Same sex couples are not recognized as married households in the 2010 US Census.

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Table 15. Households by Household Type, 2010

Household Type	Number of Households	Percent
Family Households (2+ Person Households)	1,596	71.7%
Husband-Wife Couple	1,330	59.7%
Husband-Wife with Children	595	26.7%
Male householder, no wife present	64	2.9%
With own children under 18 years	25	1.1
Female householder, no husband present	202	9.1%
With own children under 18 years	89	4%
Nonfamily households	631	28.3%
Householder living alone	548	24.6%
Male	220	9.9%
65 years and over	79	3.5%
Female	328	14.7%
65 years and over	190	8.5%
Households with individuals under 18 years	755	33.9%
Households with individuals 65 years and over	692	31.1%
Total Households	2,227	100.0%

Source: 2010 US Census

Employment & Income Characteristics

In 2000, persons residing in Oceanport Borough had on average significantly higher incomes than in Monmouth County as a whole. The 2010 median household income in Oceanport Borough was \$89,208 for households and \$108,958 for families. Comparable figures for the County were \$82,265 for households and \$102,074 for families. Within the Borough, 48% of all households had incomes over

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\$100,000 or more, with 19% earning over \$200,000. Table 16. *Household Income by Income Brackets*, further illustrates the income levels of Oceanport Households.

Table 16. Household Income by Income Brackets, 2006-2010

Household Income	Households	Percent
Less than \$10,000	26	1.3%
\$10,000-\$14,999	56	2.8%
\$15,000-\$24,999	145	7.2%
\$25,000-\$34,999	109	5.4%
\$35,000-\$49,999	205	10.2%
\$50,000-\$74,999	276	13.8%
\$75,000-\$99,999	237	11.8%
\$100,000-\$149,999	440	21.9%
\$150,000-\$199,999	133	6.6%
\$200,000+	378	18.9%
Total	2,005	100.0%
Median Income	89,208	

Source: 2006-2010 American Community Survey 5-Year Estimates

Based on the 2006-2010 American Community Survey 5-Year Estimates, Monmouth County had a median household income of \$82,265, the moderate-income threshold was \$65,812 (80% of \$82,265). Approximately one-third of Oceanport Borough households fell below this threshold.

Table 17. *Percent of Families & People Below the Poverty Level in the Past 12 Months*, shows that 3.1% of Oceanport families and 4.2% of Oceanport residents fell below the poverty level in the past 12 months. This is below Monmouth County whose figures were 4.5% and 6.3%, respectively. The Census Bureau uses a set of money income thresholds that vary by family size and composition to determine who is in poverty. If a family's total income is less than the family's threshold, then that family and every individual in it is considered in poverty. For example, the 2010 poverty threshold for a 4 person family was approximately \$22,000.

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Table 17. Percent of Families & People Below the Poverty Level in the Past 12 Months, 2006-2010

	Oceanport Borough	Monmouth County
All families	3.1%	4.5%
With related children under 18 years	7.0%	6.9%
With related children under 5 years only	0.0%	7.3%
Married couple families	2.5%	1.8%
With related children under 18 years	5.7%	2.3%
With related children under 5 years only	0.0%	3.3%
Female householder, no husband present	10.4%	18.1%
With related children under 18 years	16.0%	26.9%
With related children under 5 years only	0.0%	32.3%
All Persons	4.2%	6.3%
Persons Under 18 years	10.2%	7.7%
Related children under 18 years	10.2%	7.6%
Related children under 5 years	15.2%	8.9%
Related children 5 to 17 years	8.8%	7.2%
18 years and over	2.5%	5.8%
18 to 64 years	2.4%	5.7%
65 years and over	2.5%	6.1%
People in families	4.2%	4.5%
Unrelated individuals 15 years and over	4.2%	16.0%

Source: 2006-2010 American Community Survey 5-Year Estimates

Table 18. *Employment by Occupation*, identifies the occupations of employed Borough residents. While Oceanport residents worked in a variety of industries in 2010, 54% of the working population was

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employed in management, professional, and related occupations. An additional 25% of residents were employed in sales and office occupations.

Table 18. Employment by Occupation, Employed Oceanport Residents, 2006-2010

Sector Jobs	Number	Percent
Management, business, science, and arts occupations	1,627	53.8%
Service occupations	365	12.1%
Sales and office occupations	763	25.2%
Natural resources, construction, and maintenance occupations	177	5.9%
Production, transportation, and material moving occupations	93	3.1%
Total	3,025	100.0%

Source: 2006-2010 American Community Survey 5-Year Estimates

Table 19. *Distribution of Employment by Industry*, shows the diverse distribution of employment by industry for employed Oceanport Borough residents. The education, health and social services industry captured the largest segment of the population at 17%, both retail trade and public administration at 13% each and arts, entertainment, recreation, accommodation, and food services at 12% of the workforce. Other industries employing significant portions of the population include the finance, insurance, real estate, rental and leasing industry, professional, scientific, management, administrative and waste management service industry and the construction industry.

Table 19. Distribution of Employment by Industry, Employed Oceanport Residents, 2006-2010

Sector Jobs	Number	Percent
Agriculture, Forestry, Fishing and Hunting, and Mining	0	0.0%
Construction	283	9.4%
Manufacturing	213	7.0%
Wholesale Trade	28	0.9%
Retail Trade	406	13.4%
Transportation and Warehousing, and Utilities	61	2.0%

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Sector Jobs	Number	Percent
Information	77	2.5%
Finance, Insurance, Real Estate, and Rental and Leasing	327	10.8%
Professional, Scientific, Management, Administrative, and Waste Management Services	312	10.3%
Education, Health and Social Services	505	16.7%
Arts, Entertainment, Recreation, Accommodation, and Food Services	368	12.2%
Other Services (except public administration)	64	2.1%
Public Administration	381	12.6%
Total	3,025	100.0%

Source: 2006-2010 American Community Survey 5-Year Estimates

Prior to the closure of the Fort Monmouth Military Base, the Federal Government was the largest sector of in-town employment, with an average of 4,427 jobs in 2011. However, this figure fell to 95 jobs in December 2011, just a few months after the official closure of the Base. Comparatively, the average number of 2010 private sector jobs was 2,123 and in December 2011 it fell to 1,494. While the reduction in Base workforce impacts private sector employment, the reduction in private employment also reflects state and national trends. See Table 20. *Employment within the Municipality, 2011*, for additional information.

Table 20. Employment within the Municipality, 2011

Employment Sector	Employment				Wages		
	March	June	Sept.	Dec.	Average	Annual	Weekly
Agriculture	.	.	.	.	.	.	.
Construction	57	74	71	71	66	\$43,755	\$841
Manufacturing	.	.	.	.	.	.	.
Wholesale Trade	10	11	9	11	10	\$100,569	\$1,934
Retail Trade	38	41	37	31	37	\$28,213	\$543
Transportation / Warehousing	32	35	27	18	29	\$52,903	\$1,017

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Employment Sector	Employment				Wages		
	March	June	Sept.	Dec.	Average	Annual	Weekly
Information	.	.	.	.	.	.	.
Finance/Insurance	.	.	.	.	.	.	.
Real Estate	.	.	.	.	.	.	.
Professional/Technical	236	236	164	124	197	\$91,520	\$1,760
Management	.	.	.	.	.	.	.
Admin/Waste Remediation	811	847	734	432	713	\$57,650	\$1,109
Education	.	.	.	.	.	.	.
Health/Social	86	87	89	78	85	\$23,154	\$445
Arts/Entertainment	.	.	.	.	.	.	.
Accommodations/Food	.	.	.	.	.	.	.
Other Services	25	20	23	29	25	\$55,847	\$1,074
Private Sector Total	1,295	1,351	1,154	794	1,162	453,611	8,723
Federal Government	3,125	2,467	234	95	1,811	\$103,893	\$1,998
State Government	132	545	500	324	362	\$30,811	\$593
Local Government	206	205	170	206	185	\$44,068	\$847
Total Government	3,463	3,217	904	625	2,358	178,772	3,438
Total Employment	4,758	4,568	2,058	1,419	3,520	632,383	12,161

Source: New Jersey Employment and Wages: 2011 annual report. New Jersey Department of Labor & Workforce Development

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OCEANPORT'S AFFORDABLE HOUSING OBLIGATION

There are three components to a municipality's affordable housing obligation; the rehabilitation share, the prior round obligation and the third round obligation. However, as discussed in more detail above, this 2012 Amendment address the rehabilitation and prior round obligations, pursuant to Judge Perri's September 4, 2012 order.

Rehabilitation Obligation

By reference, this Amendment includes the discussion of the rehabilitation obligation included in the 2008 Amended Third Round Housing Element and Fair Share Plan (the "2008 Plan") on pages 29 and 32. As background however, Appendix B to COAH's substantive rules, N.J.A.C. 5:97 et seq., provide each municipality's rehabilitation obligation; Oceanport's rehabilitation obligation is 0 units.

Prior Round Obligation

Oceanport's prior round obligation (1987-1999), as recalculated by COAH, is 149 units (Appendix C. to N.J.A.C. 5:97). In addition to satisfying the total obligation, the Borough must also adhere to a 12 unit minimum rental obligation and 12 unit maximum number of age-restricted units. See page 32 of the 2008 Plan for additional information on these calculations.

Satisfaction of the Prior Round

This 2012 Plan Amendment addresses a shortfall in satisfying the prior round obligation which occurs due to the elimination of the Barker's Circle site as a prior round project and the elimination of prior round rental bonus credits for projects which have not yet been constructed.

Barkers Circle is included in the 2008 Plan as a municipally sponsored site which reused 4 of the 6 existing buildings on the Fort Monmouth base in an area known as Barker's Circle for 21 age-restricted affordable units and 36 or more multi-family sale units, of which a minimum of 9 will be affordable family sale units (see pages 35-37 of the 2008 Plan for additional information). However, due to the timing of redevelopment, this site is more appropriate to satisfy the third round obligation (see page 37 herein for additional information). As such, this 2012 Plan Amendment satisfies the shortfall created by the 12 units at Barker's Circle which were previously proposed to satisfy a portion of the prior round.

This 2012 Plan Amendment does not rely upon prior round rental bonus credits for units whose construction will occur in the future. This revision is based on the 2010 Appellate decision, In re Adoption Of N.J.A.C. 5:96 and 5:97 By New Jersey Council On Affordable Housing, 390 N.J.Super. 1

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(App. Div.), which found that the objective of rental bonuses to encourage rental housing is not served by providing bonus credits for rental units which have not been constructed. As such, this 2012 Plan Amendment satisfies the shortfall created by the 10 rental bonus credits previously proposed to satisfy a portion of the prior round.

The shortfall created by these two situations is addressed in the following manner.

- Credits for the Oceanport Manor project are reallocated from the third round to the prior round; and
- Three new programs are proposed – inclusionary zoning, a municipally sponsored construction project and an accessory apartment program.

39 Elizabeth Drive Special Needs Facility

This site, which consists of a 4 bedroom group home on Elizabeth Drive, was included in the 2008 Plan as a prior round site. Please see page 33 of the 2008 Plan and Appendix G of the 2008 Plan for additional information. As done in the 2008 Plan, the Borough requests 4 credits for this project as well as 4 rental bonus credits.

Accessory Apartment Program

The Borough is proposing a 4 unit accessory apartment program to satisfy a portion of the prior round obligation; this program was not included in the 2008 Plan. The accessory apartment program is one which residential property owners create an accessory dwelling unit and restrict the unit (via a deed restriction) to low or moderate income households (non-family) for 10 years; after the 10 year period the unit may be occupied by family members or rented at market rate. An accessory apartment unit is defined as the following (N.J.A.C. 5:97-1.4):

"a self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is created within an existing home, or through the conversion of an existing accessory structure on the same site, or by an addition to an existing home or accessory building, or by the construction of a new accessory structure on the same site."

The program will create 4 units in the R1, R2, R3 and R5 zone districts. The housing stock in these zones are appropriate for an accessory apartment program due to the large size of the housing structures, lot sizes and presence of public sewer and water.

All accessory apartments will be created where the lots are served by public water and sewer. The Borough's program will comply with all regulations in N.J.A.C. 5:97-6.8, including but not limited to 10

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year affordability controls and minimum subsidies in the amount of \$20,000 for a moderate income unit and \$25,000 for a low income unit. Two of the units will be low income units and 2 will be moderate income units. The program will be administered by the Borough's Administrative Agent.

This program will provide the Borough a total of 4 credits toward the prior round obligation and will be used to satisfy the family obligation. Pursuant to N.J.A.C. 5:97-3.5(a) rental units addressing the prior round rental obligation that do not have 30 year affordability controls are not eligible for rental bonus credits.

Checkmate Inc. Special Needs Facility

This facility is located along Hazen Street in the Fort Monmouth base. Since December 2008, it has come to light that the Checkmate Inc. special needs facility, created in 1986, is a prior cycle credit (N.J.A.C. 5:97-1.4). As such, this facility is no longer eligible to satisfy the rental obligation or to receive rental bonus credits. Additional information on this project can be found on pages 33 through 34 of the 2008 Plan. Supplemental documentation on this facility can be found in Appendix D of this Amendment. The Borough requests 2 credits for this project.

Oceanport Gardens 100% Affordable Senior Housing

The Oceanport Gardens apartment complex is a 100 unit age-restricted affordable housing project along East Main Street. It is a prior cycle project as it was issued a certificate of occupancy on September 4, 1980. This site is entitled to 100 prior-cycle credits. Pursuant to COAH policy, municipalities are entitled to full credit for prior cycle units and these developments are not accounted for in the maximum number of age-restricted units a municipality may obtain credit for. The project was funded by HUD Pre-81 Universe Project Based HAP Contract and has remained affordable for the life of the project. Please see page 33 and Appendix E of the 2008 Plan for additional information on this project. Also, Appendix E herein provides further supplemental information about the project's history of affordability.

Oceanport Manor 100% Affordable Housing

This project consists of 6 existing affordable rental units and 6 approved but not yet constructed affordable rental units. It is located on Main Street and operated by the Affordable Housing Alliance. The Borough has entered into a payment in lieu of taxes (PILOT) agreement with the developer calculated at 6% of project (existing and unbuilt units) revenues and the Borough has further agreed to provide a \$100,000 contribution to subsidize the creation of the unbuilt affordable housing. The 2008 Plan utilized 3 existing units to satisfy a portion of the prior round obligation and the 3 remaining existing and 6 unbuilt units to satisfy a portion of the third round. This amendment will utilize all 6 existing and all 6

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proposed units in the prior round; additionally, the Borough is requesting 6 rental bonus credits for those units which exist. Please see pages 34 through 35 and Appendix H of the 2008 Plan for additional information on this project. Also, Appendix F herein provides a copy of the PILOT agreement between Oceanport and the Affordable Housing Alliance.

Oceanport Village Inclusionary Development

This project is a mixed use and inclusionary development that will be developed with 36 total residential units, of which 9 shall be affordable rental units. It is located at the corner of East Main Street and Port Au Peck Avenue. Please see pages 38 through 40 and Appendix I of the 2008 Plan for additional information on this project. The project is currently under construction and is anticipated for completion in 2013. As such is eligible for rental bonus credits. Due to the cap on the number of bonus credits, the Borough is seeking only 11 credits for this site – one credit for each of 9 units and 2 rental bonus credits.

Old Wharf Inclusionary Development

This site, known as Block 121, Lots 1.01 and 2, will be rezoned for family inclusionary housing that will consist of 20 units, of which 4 will be affordable sale or rental units. The 1.88 acre site is located along East Main Street in the VC Village Commercial district. The Oceanport Creek borders the site to the west. The site is not located in a workforce housing tract. The property was formerly used as a restaurant site, the Old Wharf, and a single family home. However, the site is currently vacant and the structures have been demolished, with the exception of the foundation of the restaurant and much of the paving which existed.

The VC district permits two story buildings. The first floor must be developed entirely of commercial uses; the second floor may be developed with office or studio, one and two bedroom apartments. The Borough proposes to rezone the site to permit 20 residential units, a residential density not to exceed 12 units per acre, with a 20% affordable housing set-aside – therefore creating 4 affordable units. Limited commercial space may also be permitted.

In 2006 the site was approved by the Oceanport Planning Board for the construction of a 4 story building containing 27 senior units, a clubhouse and tenant storage spaces, as well as 72 parking spaces. Subsequent to receiving site plan approval from the Borough, the applicant proceeded with obtaining outside agency permits.

The applicant was denied the necessary CAFRA permits for the construction of the project. The NJDEP found that the site contained illegal fill in areas previously mapped as coastal wetlands without demonstrating that the proposed project met the criteria for filling coastal wetlands and the application

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proposed to disturb existing wetland areas without demonstrating the project could not be redesigned around the existing wetlands. The applicant did not attempt to remedy the deficiencies in the site plan after receiving the denial.

Notwithstanding the CAFRA denial, this site is developable as proposed. The proposed density has been reduced by approximately 25%; this will not only reduce the building footprint, but also the required parking which will further reduce the development footprint. Additionally, the previous application included 18 excess parking spaces, beyond that which was required by NJ R.S.I.S. These changes to the site plan will allow the project to be developed consistent with CAFRA regulations.

In order to avoid having to obtain a CAFRA permit, the development must avoid areas within the 50 foot wetlands buffer and within the 150 feet mean high water line buffer. Excluding those areas provides .75 acre of developable land. This area is adequate for the development of a 20 unit building and associated parking. Note however that similar to the 2006 application, it is anticipated that development of the site will include first floor parking. While it may be most desirable to avoid triggering the need for a permit, it is not uncommon for developments to obtain waivers from these N.J.D.E.P permits. See Appendix G for additional information on the developability of this site.

The affordable units will be developed and occupied in accordance with N.J.A.C. 5:97-9 and the Uniform Housing Affordability Control rules, N.J.A.C. 5:26-1 et seq., including but not limited to bedroom distribution and affordability controls of at least 30 years. Additionally, the affordable units will comply with N.J.A.C. 5:97-3.14, accessible and adaptable affordable units. The affordable units will be administered by the Borough's Administrative Agent.

The site is available, approvable, developable and suitable.

The site meets COAH's site suitability standards, pursuant to N.J.A.C. 5:97-3.13.

- *The site has a clear title and is free of encumbrances which preclude development of affordable housing.* The site is free of encumbrances which would preclude its development as an inclusionary housing project.
- *The site is adjacent to compatible land uses and has access to appropriate streets.* The site has over 600 feet of frontage along East Main Street. North of the site is a townhouse development in the RM Multi-family district. Immediately west of the site is the Oceanport Creek; further west is a residential neighborhood and the Old Wharf park. South of the site, along East Main Street are commercial uses in the VC district and the Oceanport Gardens senior affordable housing project.
- *Adequate sewer and water capacity is available.* Adequate public water capacity and sewer are available.
- *The site can be developed in accordance with R.S.I.S.* Development of the site is consistent with the Residential Site Improvement Standards, N.J.A.C. 5:21-1 et seq.

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Development of the site is consistent with the State Development and Redevelopment Plan (hereinafter the "State Plan") and the rules and regulations of all agencies with jurisdiction over the site.

- *The site is located in a "Smart Growth Planning Area".* The 2001 State Plan designates the property as the Metropolitan Planning Area (PA 1).
- *The development is consistent with Regional Planning Agency and CAFRA regulations.* The site is located outside of the Pinelands, Highlands and Meadowlands. The Coastal Areas Facilities Review Act (CAFRA) regulations have jurisdiction over many portions of the Borough; however, as discussed above, the proposed rezoning will create a development opportunity that does not require a CAFRA permit.
- *The site will comply with all applicable environmental regulations.* The site contains environmentally constrained land; however, it remains developable for 20 residential units. Wetlands and buffers are located along the west and south property lines and the required 150 foot buffer to the mean high water line is located along the western property line. As discussed above, the proposed rezoning will create a development opportunity that does not include improvements in these areas and therefore does not require a CAFRA permit. An area of isolated wetlands is located within the otherwise developable portion of the site; similar to the 2006 application, this area will be filled and developed. Additionally, the site is located within the floodplain; however, as was proposed in the 2006 application and elsewhere in the Borough, the first floor of habitable space will be raised outside of the flood elevation (8.4 feet). The inclusionary zoning will permit the ground floor of the development to consist of parking.
- *The site will not impact any historic or architecturally important sites and districts.* There are no historic or architecturally important districts or sites in the immediate vicinity or on the property that will preclude the site's use for affordable housing.

The 4 family affordable units on the site will contribute one credit for each for a total of 4 credits.

Pemberton Avenue 100% Affordable Municipally Sponsored Construction

The Borough is proposing a municipally sponsored construction program on Block 113, Lot 2.02. The property is a .25 acre Borough-owned lot at the corner of Pemberton Avenue and East Main Street in the VC Village Commercial district. The property has been cleared and portions of the site contain gravel. The lot is not located in a workforce housing census tract. The Borough is proposing the construction of one duplex, for a total of 2 units. All units will be family sale affordable housing units.

The family affordable units will be developed and occupied in accordance with the Uniform Housing Affordability Control rules, N.J.A.C. 5:26-1 et seq., including but not limited to bedroom distribution and

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affordability controls of at least 30 years. Additionally, the affordable units will comply with N.J.A.C. 5:97-3.14, accessible and adaptable affordable units. The units will be administered by the affordable housing developer the Borough partners with for the construction of the project. See Appendix H for additional information about this project.

The site is available, approvable, developable and suitable.

The site meets COAH's site suitability standards, pursuant to N.J.A.C. 5:97-3.13.

- *The site has a clear title and is free of encumbrances which preclude development of affordable housing.* The site is free of encumbrances which would preclude its development as an affordable housing project. The property is owned by the Borough.
- *The site is adjacent to compatible land uses and has access to appropriate streets.* The site has approximately 150 feet of frontage on Pemberton Avenue and approximately 70 feet of frontage on East Main Street. While the property is currently in the VC district, it is surrounded by appropriate land uses. South of the site along Pemberton Avenue are single family residences in the R-5 Residential district and west of the site are duplexes in the R-5 Residential district. Immediately east of the site is the Borough of Oceanport First Aid and Fire Rescue Squad building, north of the site is Old Wharf Park.
- *Adequate sewer and water capacity is available.* The site will be served by public sewer and water.
- *The site can be developed in accordance with R.S.I.S.* Development of the site will be consistent with the Residential Site Improvement Standards, N.J.A.C. 5:21-1 et seq.

Development of the property is consistent with the State Development and Redevelopment Plan (hereinafter the "State Plan") and the rules and regulations of all agencies with jurisdiction over the site.

- *The site is consistent with the State Plan.* The 2001 Adopted State Plan Map designates the property as the Metropolitan Planning Area (PA 1).
- *The development is not within jurisdiction of a Regional Planning Agency or CAFRA.* The site is located outside of the Pinelands, Highlands and Meadowlands planning areas. While much of Oceanport Borough is located within the jurisdiction of the New Jersey Coastal Areas Facilities Review Act (CAFRA), this site is not. A CAFRA permit only applies to the development of a duplex where it is located on a beach or dune or within 150 feet of the mean high water line of a tidal water body or the landward limit of a beach or dune; this site is located far in excess of 150 feet of these areas and is therefore exempt.
- *The site will comply with all applicable environmental regulations.* There are no wetlands, floodplains, steep slopes, Category One streams or contaminated sites located on the property or in the immediate vicinity that will be impacted by the development or will preclude development of the property.

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- *The site will not impact any historic or architecturally important sites and districts.* There are no historic or architecturally important sites or buildings on the property or in the immediate vicinity that will be impacted by the development or will preclude development of the property.

The 2 family units on the site will contribute one credit for each for a total of 2 credits.

Prior Round Summary

The Borough has met its 149 unit prior round obligation with a variety of affordable housing projects including prior cycle credits, special needs, senior housing, inclusionary housing and 100% affordable housing. The 12 unit prior round rental obligation has been exceeded with 4 units at the Elizabeth Drive group home, 9 family units at Oceanport Village, 12 units at Oceanport Manor and 4 accessory apartment units.

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Table 21. Satisfaction of the 149 Unit Prior Round Obligation

Project	Rental	Senior	Family	Units	Rental Bonus Credits	Total Credits
Prior Cycle Credits						
Oceanport Gardens				100	0	100
Checkmate Inc.	x			2	0	2
Special Needs						
Elizabeth Drive	x			4	4	8
Inclusionary Housing						
Oceanport Village	x		x	9	2	11
Old Wharf			x	4	0	4
100% Affordable Housing						
Oceanport Manor - Existing	x		x	6	6	12
Oceanport Manor – Proposed	x		x	6	0	6
Pemberton Avenue			x	2	0	2
Other						
Accessory Apartment Program	x			4	0	4
Total				137	12	149

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IMPLEMENTATION SCHEDULE

The majority of the affordable units satisfying the prior round have been built. Please Table 22. *Implementation Schedule* for additional information.

Table 22. Prior Round Implementation Schedule

Program	Credits Complete	2012	2013	2014	2015	2016	2017	2018	Total Credits
Oceanport Gardens – Units	100	0	0	0	0	0	0	0	100
Checkmate Inc. – Units	2	0	0	0	0	0	0	0	2
Elizabeth Drive Group Home	8	0	0	0	0	0	0	0	8
Oceanport Village – Units	0	0	9	0	0	0	0	0	9
Oceanport Village – Bonus Credits	0	0	2	0	0	0	0	0	2
Old Wharf Inclusionary Zoning	0	0	0	0	4	0	0	0	4
Oceanport Manor Existing – Units	6	0	0	0	0	0	0	0	6
Oceanport Manor Existing – Bonus Credits	6	0	0	0	0	0	0	0	6
Oceanport Manor Unbuilt – Units	0	0	0	0	6	0	0	0	6
Pemberton Avenue	0	0	0	2	0	0	0	0	2
Accessory Apartment Program	0	0	0	1	1	1	1	0	4
Third Round Total	122	0	11	3	11	1	1	0	149

CONTRIBUTION OF THIRD ROUND AFFORDABLE HOUSING UNITS

As previously discussed, there is a tremendous amount of uncertainty about the third round due to the challenge to COAH's third round substantive rule which includes, among other topics, the challenge to the methodology with which municipalities' third round obligations are calculated. Despite this challenge, the Borough of Oceanport remains committed to addressing its yet-to-be-determined third round obligation. As such, Oceanport proposes that land on the Fort Monmouth property contribute toward satisfaction of the third round obligation. The vast majority of land outside Fort Monmouth has been developed or is undevelopable. The undeveloped lands consist almost exclusively of environmentally constrained areas, such as wetlands, or are restricted for open space or recreation. Given the limited vacant land in the Borough, the lands within Fort Monmouth are expected to be essential in satisfying the third round obligation.

For example, as part of the 2008 Plan, the Borough requested prior round and third round credit for the Barker's Circle building complex on the Fort Monmouth property. As discussed herein, the Borough is no longer seeking prior round affordable housing credits for this site due to the timing of redevelopment on the Fort. The property has not yet been conveyed to the Borough, as contemplated by the 2008 Plan. Since the base closure in September 2011 the Fort Monmouth Economic Revitalization Authority (FMERA) has been proceeding with implementing the *Fort Monmouth Reuse and Redevelopment Plan*, which calls for Barker's Circle to be developed with mixed income housing (pages 3-8, 4-10 and 4-11). The Borough will be able to claim credit for the project, and likely others on Fort Monmouth, at the time the Borough will be required to reassess its affordable housing program to meet the upcoming third round regulations. FMERA has created guidelines for sale of and leasing space within Fort Monmouth and is now in the process of developing land use regulations. Upcoming steps in the redevelopment process now include conveyance of property to developers, consistent with the *Fort Monmouth Reuse and Redevelopment Plan*. See pages 35-38 and Appendix L of the 2008 Plan for additional information about the Barker's Circle project.

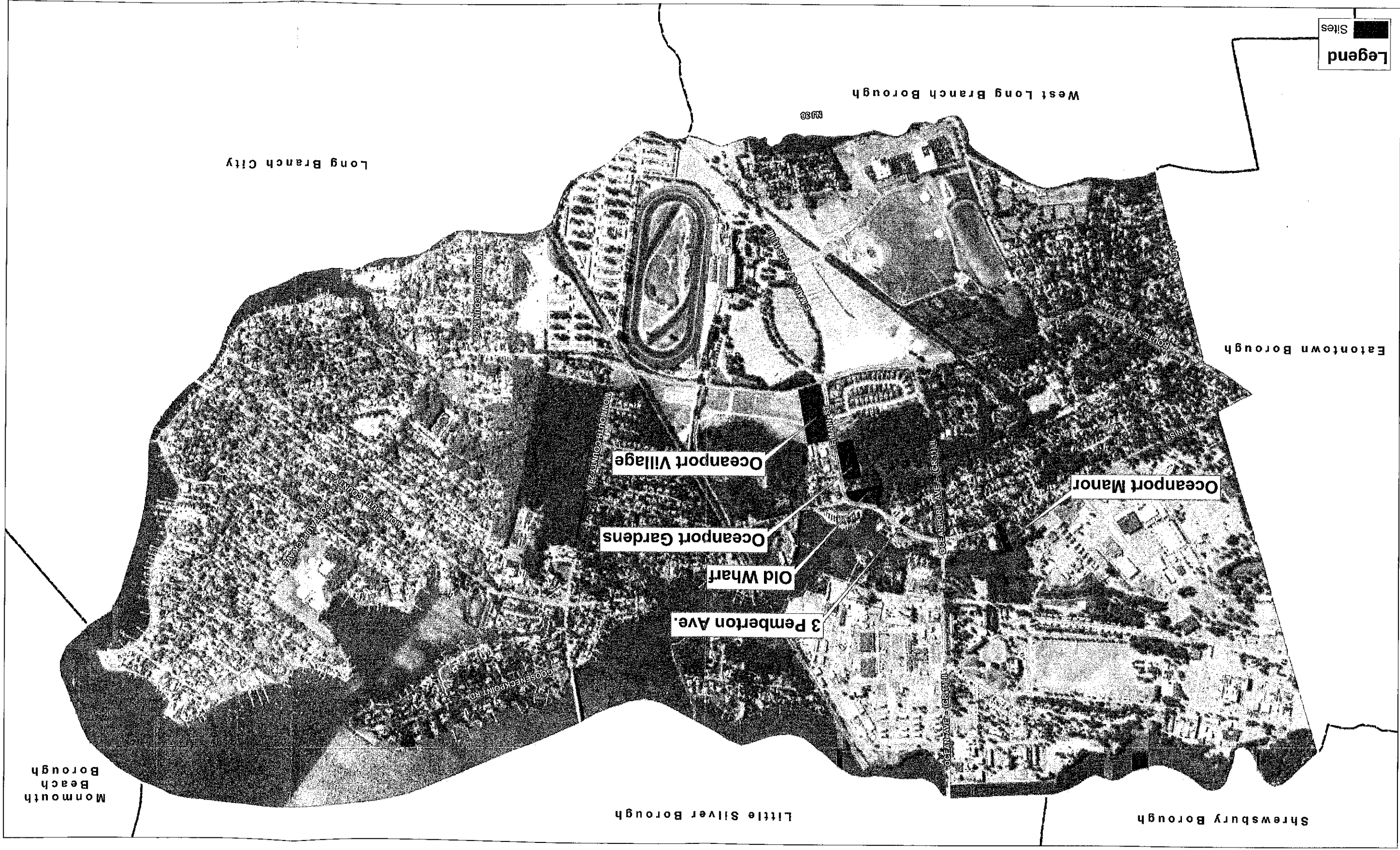
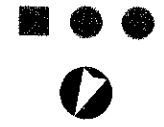
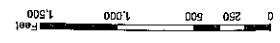
Notwithstanding the foregoing, the Borough reserves all rights to amend the method which the third round obligation will be satisfied to account for the revised third round substantive rules (N.J.A.C. 5:97).

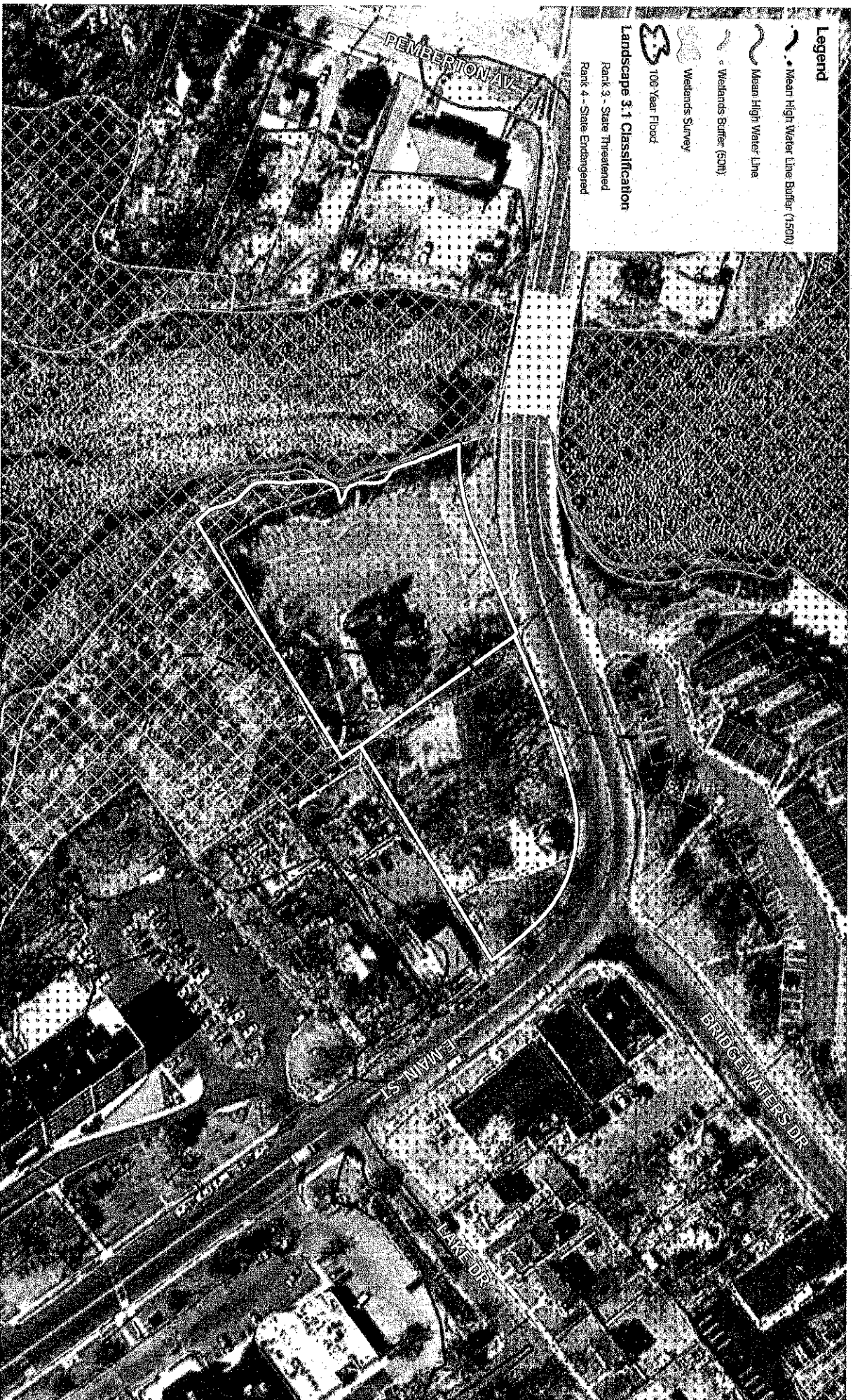
Prior Round Affordable Housing Sites

Oceanport, Monmouth County, NJ October 2012

Aerial Orthophotography Source: NJGIN - New Jersey 2010 Medium Resolution Orthophotography
 This map was developed using New Jersey Department of Environmental Protection Geographic Information System digital data, but this secondary product has not been verified by NJDEP, and is not state authorized.

Clarke Caton Hintz
 Architecture
 Planning
 Landscape Architecture





Legend

Mean High Water Line Buffer (150ft)

Mean High Water Line

Wetlands Buffer (50ft)

Wetlands Survey

100 Year Flood

Landscape 3.1 Classification

Rank 3 - State Threatened

Rank 4 - State Endangered

Aerial Orthorectified Source: USGS, New Jersey 2007/2008 1:50,000 Scale Data Orthorectified

AREA MAP FOR OCEAN CREEK BY HERRING CONSULTING P.C. DATED MARCH 1, 2009

This map was developed using New Jersey Department of Environmental Protection Geographic Information System data, but the resulting product has not been verified by NJDEP, and is not state approved.

BLOCK 121 LOTS 1, 02 & 2 / 1.75 ACRES

Old Wharf Incisionary Development

Overlook Borough, Monmouth County, NJ October 2012



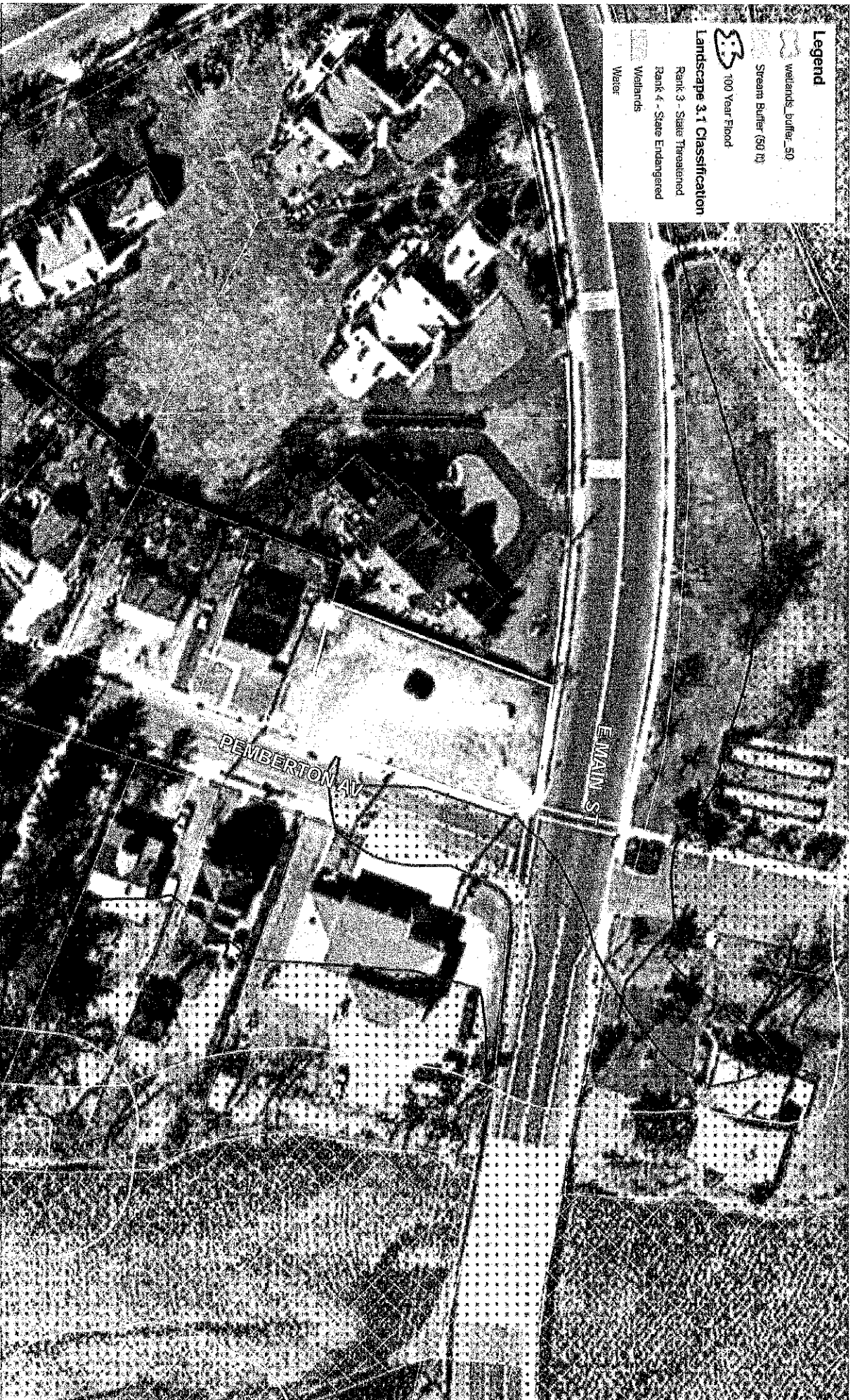
Clarke Caton Hintz



www.ccatonhintz.com

PHOTOGRAPHY

12/20/12, 10/10/2012



Legend

Wetlands, buffer, 50'

Stream Buffer (50 ft)

100 Year Flood

Landscape 3.1 Classification

Rank 3 - State Threatened

Rank 4 - State Endangered

Wetlands

Water

Aerial Orthorectified Source: NADN - New Jersey 2007/2008 High Resolution Orthorectography

This map was developed using New Jersey Department of Environmental Protection Geographic Information System digital data. The accuracy of the map is not warranted by NJDEP and is for informational purposes only.

Block 113 LOT 2.02 / 0.25 ACRES

Pemberton Avenue 100% Affordable Municipally Sponsored Construction

Overseas Building Authority County NJ October 2012

0 10 20 40 60 80 Feet

Clarke Caton Hintz

Maple - Blue

Shaded

Shaded



Legend

- Streams
- Wetlands, Buffer, 50'
- Stream Buffer (50 ft)
- 100 Year Flood
- Wetlands
- Water

Landscape 3.1 Classification

- Rank 3 - State Threatened
- Rank 4 - State Endangered

Aerial Orthophotography Source: NGSN, New Jersey 2007/2008 High Resolution Orthophotography
 This map was developed using New Jersey Department of Environmental Protection Geographic Information System digital data, but this secondary product has not been verified by NJDEP and is not state authorized.

PORTION OF BLOCK 110, LOT 1
Barker's Circle
 Oceanport Borough, Monmouth County, NJ, October 2012

0 30 60 120 180 240 Feet

Clarke Caton Hintz

- Architecture
- Planning
- Landscape Architecture