Housing Element of the Master Plan with Fair Share Plan Appendices

Borough of Flemington
Hunterdon County, New Jersey

November 10, 2005

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Adopted Pursuant to *N.J.S.A.* 40:55D-28b(3)
and *N.J.S.A.* 52:27D-310

November 10, 2005

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1.0 INTRODUCTION

This Housing Element has been prepared in accordance with the Third Round substantive and procedural regulations of the Council on Affordable Housing and shall serve as the basis for which decisions regarding affordable housing in Flemington Borough are made.

1.1 AFFORDABLE HOUSING IN NEW JERSEY

The Fair Housing Act (*N.J.S.A.* 52:27D-301 *et seq.*), enacted by the New Jersey State Legislature in 1985, created the Council on Affordable Housing (hereinafter "COAH"). COAH is responsible for determining each municipality's allocation of low and moderate-income housing, establishing guidelines for implementing the Fair Housing Act and evaluating proposed municipal compliance strategies. Furthermore, COAH divided the state into six housing regions, placing Flemington within the West Central region, which includes the counties of Middlesex, Hunterdon, and Somerset.

Subsequent to the adoption of the Fair Housing Act, COAH created a formula for determining a municipal affordable housing obligation for the six-year period, 1987 through mid-1993 (*N.J.A.C.* 5:91-1 *et seq.)*; this later came to be known as the first round. That formula was superseded by 1994 COAH regulations (*N.J.A.C.* 5:93-1.1 *et seq.*) which recalculated a portion of the 1987-1993 affordable housing obligation for each municipality and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 housing need through 1999; this six year period from 1993 through 1999 is known as the second round. On December 20, 2004, COAH adopted its third round rules, which apply a "Growth Share" methodology to determine the amount of affordable housing a municipality must provide during the ten year period of 2004 to 2014 (*N.J.A.C.* 5:94-1 *et seq.*). Third round housing elements and fair share plans must address three affordable housing components: the prior round recalculated obligation, the rehabilitation share, and the growth share obligation.

Once the housing element is adopted, the municipality has the option to file the element and a fair share plan with COAH and also to petition for COAH's review and approval, called "substantive certification". The fair share plan is a document that contains proposed implementing ordinances and administrative procedures designed to provide the opportunity for affordable housing construction and rehabilitation in the municipality. The COAH petition and substantive certification process provides municipalities with a measure of legal protection from suits alleging that their land use regulations are invalid or unconstitutional because of a failure to provide sufficient opportunity for the provision of affordable housing.

1.2 AFFORDABLE HOUSING IN FLEMINGTON BOROUGH

Flemington Borough petitioned for second round substantive certification from COAH on October 2, 2000. COAH granted interim substantive certification on August 6, 2003. Flemington's affordable housing obligation consisted of a thirty-eight (38) unit new construction obligation and a thirty-two (32) unit rehabilitation obligation. As part of this certification, COAH approved a vacant land adjustment for the Borough that resulted in a realistic development

potential (hereinafter "RDP") of four (4) units and unmet need of thirty-four (34) units. Flemington satisfied the RDP with age-restricted units at the proposed Allen Street inclusionary development and the unmet need was satisfied through an accessory apartment program, the age-restricted 100% affordable Church Street rental complex (no credit was sought for this project at that time), and a development fee ordinance.

2.0 GROWTH SHARE METHODOLOGY

COAH's adopted third round "growth share" procedures mark a significant departure from COAH's prior two rounds of affordable housing methodology. The third round methodology implements a growth share approach that links the production of affordable housing with future residential and non-residential development and growth in a municipality. The key changes to the third round methodology are COAH adopted ratios that require one affordable unit for every 8 market rate housing units and one affordable unit for every 25 jobs expressed as nonresidential square footage.

COAH adopted the new Third Round Rules and Methodology, effective as of December 20, 2004. A municipality's third round fair share plan must address its (1) rehabilitation share, (2) the prior round obligation and (3) projected growth share. COAH's new rules supply two of the three-part number for each municipality - the rehabilitation share and the prior round obligation.

The rehabilitation share is the number of existing substandard housing units in a municipality that are occupied by low or moderate income households, as determined by COAH. The third round rehabilitation share for Flemington Borough is 11 units.

The prior round obligation is a municipality's adjusted second round new construction component brought forward to the third round. Accordingly, third round housing plans must explain how existing or proposed affordable housing units satisfy this obligation. Flemington Borough's recalculated prior round obligation is 45 units. However, Flemington's RDP of four (4) units remains valid; the remaining forty-one (41) units is the Borough's unmet need.

The growth share obligation is the affordable housing need generated from both residential and non-residential development, as shown by certificates of occupancy issued, or expected to be issued, between January 1, 2004 and January 1, 2014. As calculated in Section 6 of this report, Flemington Borough's growth share obligation is 25 units.

Key elements of the Growth Share Methodology are:

- ✓ For residential development, the affordable housing ratio is 1 affordable unit for every 8 market rate residential units;

- ✓ For non-residential development, the affordable housing ratio is 1 affordable unit for every 25 new jobs created as expressed in new square footage of non-residential floor area constructed. See Table 1, Nonresidential Growth Share Calculation, for additional detail.

Table 1. Nonresidential Growth Share Calculation

Use Group	Description	Square Feet Generating One Affordable Unit	Jobs Per 1,000 Square Feet
B	Office buildings.	8,333	3
M	Mercantile uses.	25,000	1
F	Factories where people make, process, or assemble products.	12,500	2
S	Storage uses.	125,000	0.2
H	High Hazard manufacturing, processing, generation and storage uses.	25,000	1
A1	Assembly uses including concert halls and TV studios.	12,500	2
A2	Assembly uses including casinos, night clubs, restaurants and taverns.	8,333	3
A3	Assembly uses including libraries, lecture halls, arcades, galleries, bowling alleys, funeral parlors, gymnasiums and museums but excluding houses of worship	8,333	3
A4	Assembly uses including arenas, skating rinks and pools.	8,333	3
A5	Assembly uses including bleachers, grandstands, amusement park structures and stadiums	Exclude	Exclude
E	Schools K – 12	25,000	1
I	Institutional uses such as hospitals, nursing homes, assisted living facilities and jails. I group includes I1, I2, I3 and I4.	12,500	2
R1	Hotels and motels	31,250	0.8
U	Miscellaneous uses. Fences tanks, barns, agricultural buildings, sheds, greenhouses, etc.	Exclude	Exclude

**In the case of mixed-use development, the jobs calculation will be assigned in proportion to the square footage of each use in the mixed use development.*
Source: N.J.A.C. 5:94 Appendix E.

3.0 HOUSING PLAN PREPARATION

Along with the other requirements of the Municipal Land Use Law, COAH requires that the Housing Element include a series of analyses and projections such as:

1. Utilization of the population, household and employment projection for the Year 2015 from the State Plan (or Metropolitan Planning Organization (hereinafter "MPO") if the State Plan is not yet adopted).

    - ✓ Municipal growth projections that are consistent with the State Plan or MPO will have a presumption of validity in any petition before COAH.

    - ✓ If the growth projections are not consistent with the State Plan or MPO, COAH may reject the petition unless the municipality demonstrates the validity of the analysis and the Office of Smart Growth Executive Director recommends the municipality's alternate projections.

2. Analysis of future housing and jobs based on research including current development approvals and historic trends in construction in the municipality.

3. Analysis of a municipality's zoning to show that there is adequate capacity for the Borough to accommodate the growth projections.

3.1 THE HOUSING PLAN ELEMENT

In accordance with the Municipal Land Use Law (*N.J.S.A.* 40:55d-1, et. seq.), a municipal master plan must include a housing plan element as a prerequisite for the adoption of zoning ordinance provisions within the municipality. Pursuant to the Fair Housing Act, a municipality's housing element shall be designed to achieve the goal and 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 N.J.S.A 52:27D-310:

1. 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;

2. A projection of the municipality's housing stock, including the probable future construction of low and moderate income housing , for the next ten (10) years, taking into account , but not necessarily limited to, construction permits issued, approvals of applications for development, and probable residential development trends;

3. An analysis of the municipality's demographic characteristics, including, but not necessarily limited to, household size, income level, and age;

4. An analysis of the existing and probable future employment characteristics of the municipality;

5. 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;

6. 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 addition to the above listed requirements, COAH's rules, N.J.A.C. 5:94-2.2, also require the following items:

1. A map of all sites designated by the municipality for the production of low and moderate income housing and a listing of each site that includes its owner, acreage, lot and block;

2. The location and capacities of existing and proposed water and sewer lines and facilities relevant to the designated sties;

3. Copies of necessary applications for sewer service and proposed water quality management plans submitted pursuant to Sections 201 and 208 of the Federal Clean Water Act, 33 USC S11251, et. seq.;

4. A copy of the most recently adopted Master Plan and, where required, the immediately preceding adopted Master Plan;

5. For each designated site, a copy of the new Jersey Freshwater Wetlands maps where available;

6. A copy of appropriate United States Geological Survey Topographic Quadrangles for designated sites; and

7. Any other documentation pertaining to the review of the Housing Element as may be required by COAH.

4.0 DEMOGRAPHIC ANALYSIS

4.1 HOUSING STOCK INVENTORY

In 2000, there were 1,876 housing units in Flemington, of which 72 or 3.8% were vacant. Unlike most New Jersey communities, significantly more of Flemington's housing units are renter occupied rather than owner occupied. Of the 1,804 occupied units, 38.8% were owner occupied and 61.2% were renter occupied. Table 2, Housing Units by Occupancy Status, illustrates this occupancy status in 2000.

Table 2. Housing Units by Occupancy Status, 2000.

	Housing Units	Owner Occupied	Renter Occupied
Occupied	1,804	700	1,104
Vacant	72		
Total	1,876		

Source: 2000 US Census

About 53% of the total housing stock consists of single-family detached and two-family units (twins and duplexes). Single-family attached (townhouses) and units with three (3) or more units make up 47% of the total housing stock. Housing units in buildings containing five (5) or more units comprised 19% of all housing units in 2000. Of the owner occupied units, 75% were single-family detached units; while units in structures containing 3 or more units comprised 68% of all rental units. See Table 3, Housing Units by Number of Units in Structure for a detailed explanation of the housing units in 2000.

Table 3. Housing Units by Number of Units in Structure, 2000.

Number of Units	Owner Occupied	Rental	Vacant	Total
1, Detached	518	60	0	578
1, Attached	70	43	0	113
2	92	245	72	409
3 or 4	200	402	0	422
5 to 9	0	116	0	116
10 to 19	0	114	0	114
20 +	0	124	0	124
Mobile Home	0	0	0	0
Other	0	0	0	0
Total	700	1,104	72	1,876

Source: 2000 US Census

Table 4, Housing Units by Age, below illustrates the age of the Borough's housing stock. While 40% of the housing units were constructed prior to 1940, the decade from 1940 to 1950 saw the largest numeric increase of housing units in a decade. Nearly all of the Borough's housing stock, or 99%, was 20 years old or more in 2000. The median year built was 1953.

Table 4. Housing Units by Age, 2000.

Year Built	Total Units	Percent	Owner Occupied	Renter Occupied	Vacant
1999 - 2000	0	0%	0	0	0
1995 - 1998	22	1.2%	22	0	0
1990 - 1994	0	0%	0	0	0
1980 - 1989	133	7.1%	76	21	36
1970 – 1979	237	12.6%	24	213	0
1960 – 1969	271	14.4%	37	234	0
1940 – 1959	469	25.0%	98	333	0
Before 1940	744	39.7%	136	303	36
Total	1,876	100%	700	1,104	72
Median Year	1953				

Source: 2000 US Census

Table 5, Housing Units by Number of Rooms, shows that 29% of the housing units have 4 rooms, while only 16% have 5 rooms and 37% have 6 or more rooms. The housing stock in Flemington is generally smaller in comparison to Hunterdon County as a whole; this is reflective in not only the number of rooms in the Borough's housing stock but also its higher multi-family component.

Table 5. Housing Units by Number of Rooms, 2000.

Rooms	Number of Units	Percent
1	8	0.4%
2	61	3.3%
3	266	14.2%
4	538	28.7%
5	307	16.4%
6+	696	37%
Total	1,876	100%
Mean Rooms per Unit	4.7	

Source: 2000 US Census

Tables 6 and 7, Housing Values, show that housing values in Flemington increased by only 5% between 1990 and 2000, compared to a 17% increase for Hunterdon County during the same period. The median housing value in Flemington in 1990 was $154,900 and in 2000 it was $163,300. Comparable values for Hunterdon County as a whole are significantly higher at $209,900 in 1990 and $245,000 in 2000. The 2000 median housing value in Flemington was 66.7% of the median housing value in Hunterdon County.

Table 6. Housing Values, Owner Occupied, 1990.

Housing Value	Number	Percent
Less than $74,999	0	0.0%
$75,000-$99,999	61	11.5%
$100,000-$124,999	95	17.9%
$125,000-$149,999	93	17.5%
$150,000-$174,999	81	15.3%
$175,000-$199,999	79	14.9%
$200,000-$249,999	108	20.4%
$250,000-$299,999	6	1.1%
$300,000-$399,999	7	1.1%
$400,000 +	0	0.0%
Total	530	100.0%
Median Value	$154,900	

Source: 1990 US Census

Table 7. Housing Values, Owner Occupied, 2000.

Housing Units	Number	Percent
Less than $50,000	0	0.0%
$50,000-$59,999	7	1.2%
$60,000-$69,999	0	0.0%
$70,000-$79,999	9	1.6%
$80,000-$89,999	0	0.0%
$90,000-$99,999	0	0.0%
$100,000-$124,999	26	4.6%
$125,000-$149,999	151	26.9%
$150,000-$174,999	165	29.4%
$175,000-$199,999	69	12.3%
$200,000-$249,999	79	14.1%
$250,000-$299,999	50	8.9%
$300,000-$399,999	5	0.89%
$400,000 or more	0	0.0%
Total	561	100.0%
Median Value	$163,300	

Source: 2000 US Census

Lower value units under $125,000, of particular concern for affordable housing, made up about 7.4% of the total number of housing units in 2000. This data, from the 2000 Census, is a self-reported value. Past studies have noted that this value tends to be under reported because of the respondent's uncertainty about how the data will be used.

Table 8, Comparison of Flemington and Hunterdon County, Monthly Rental Costs, tabulates the differences in the costs of rental housing between Flemington and Hunterdon County. In 2000, Flemington's median rental cost was insignificantly higher than that of the County median ($773 v. $771). The distribution of rental cost would be similar for both jurisdictions except for the Borough's preponderance of units costing between $700 and $899 per month (61.2% v. 36.1% in the County) and a lower percentage in the high end of the market (15.1% v. 28.9% in the County).

Table 8. Comparison of Flemington and Hunterdon County, Monthly Rental Cost*, 2000

Monthly Rent	Number in Flemington	Percent	Number in Hunterdon	Percent
$0-$99	0	0.0%	92	1.5%
$100-149	27	2.5%	64	1.0%
$150-$199	13	1.2%	65	1.0%
$200-$249	0	0.0%	42	0.7%
$250-$299	16	1.5%	60	1.0%
$300-$349	15	1.4%	103	1.6%
$350-$399	22	2.1%	83	1.3%
$400-$449	7	0.7%	95	1.5%
$450-$499	8	0.7%	83	1.3%
$500-$549	6	0.6%	344	5.5%
$550-$599	12	1.1%	146	2.3%
$600-$649	45	4.2%	616	9.8%
$650-$699	75	7.1%	393	6.3%
$700-$749	184	17.4%	693	11.0%
$750-$799	219	20.1%	602	9.6%
$800-$899	251	23.7%	973	15.5%
$900-$999	128	12.1%	595	9.5%
$1000 +	32	3.0%	1,213	19.4%
Total	1,060	100.0%	6,262	100.0%
Median Rent	$773		$771	

Source: 2000 US Census

Flemington Borough has seven (7) housing units that lack complete plumbing facilities. Within the Borough there are no units which are overcrowded, and therefore no units which are both overcrowded and lacking complete plumbing facilities. This is an improvement from 1980 when nine (9) year-round units, or 1.2%, lacked complete plumbing facilities. Units that are overcrowded are defined as having 1.01 or more persons per room. These factors indicate that the housing stock in Flemington is generally in good condition with virtually no statistical indication of seriously substandard units. See Table 9, Selected Quality Indicators.

Table 9. Selected Quality Indicators, Occupied Housing Stock, 2000.

	Overcrowded	Lacking Complete Plumbing	Combined Overcrowded and Lacking Complete Plumbing
No. Units	0	7	0

Source: 2000 US Census

4.2 HOUSING STOCK PROJECTIONS

Given the developed nature of the Borough and its average annual rate of three (3) certificates of occupancy per year, for the last nine (9) years, and its dearth of vacant, developable land, few new units are expected to be constructed outside of redevelopment projects. The exception is twenty-two senior units at the Allen Street inclusionary development, which previously received Planning Board Approval, and the Church Street complex, a sixty (60) unit age-restricted 100% affordable project, which is expected to receive certificates of occupancy in late 2005. See Table 10, Historic Trend of Residential Certificates of Occupancy and Demolition Permits for additional detail.

Table 10. Historic Trend of Residential Certificates of Occupancy and Demolition Permits

	'96	'97	'98	'99	'00	'01	'02	'03	'04
CO's issued	0	1	21	5	0	1	0	0	0
Demolition permits	0	0	0	0	0	0	0	0	0
Net	0	1	21	5	0	1	0	0	0

Source: New Jersey Department of Community Affairs, Division of Codes and Standards; confirmed by Flemington Borough Construction Office.

4.3 GENERAL POPULATION CHARACTERISTICS

The population of Flemington has increased modestly each decade since 1970. Most recently the population increased 3.8% between 1990 and 2000, rising from 4,047 to 4,200 persons. This is significantly less than the 13% growth experienced by Hunterdon County during this time (Table 11, Population Growth).

Table 11. Population Growth.

	1980	Percent Change	1990	Percent Change	2000	Percent Change
Flemington Borough	4,132	5.5%	4,047	3.78%	4,200	3.8%
Hunterdon County	87,361	25.3%	107,776	23.37%	121,989	13.19%

Source: 1970, 1980, 1990 and 2000 US Census

The number of residents age sixty-five (65) and over decreased by 3.5% between 1990 (632 persons) and 2000 (510 persons). The number of Borough residents in the fifty-five (55) to sixty-four (64) age cohort also slightly decreased. In all likelihood, the over sixty-five (65) population in the next decade will increase due to the construction of the sixty (60) unit Church Street age-restricted rental complex and the proposed Allen Street age-restricted inclusionary development. The forty-five (45) to fifty-four (54) age cohort increased by 4.8% over the past decade, also foreshadowing an increase in the Borough's fifty-five (55) to sixty-four (64) age cohort during the next decade.

The size and type of the existing housing stock influences the relatively low median age of 34.9 years in Flemington, in comparison to other Hunterdon County municipalities. The housing stock is predominantly multi-family attached housing in structures of five (5) or more units, with an average of 4.7 rooms per unit. This housing attracts single persons and young two-person households who need smaller, less expensive units. This helps to account for the lower median age and keeps the increase in the under age 24 population to a minimum (only 1% between 1990 and 2000). See Table 12, Age Distribution, for additional detail.

Table 12. Age Distribution, 1990 – 2000.

Age Group	1990	Percent	2000	Percent	Percent Change
Under 5	263	6.5%	296	7.0%	+0.5%
5-14	422	10.4%	495	11.8%	+1.4%
15-24	521	12.9%	502	12%	-0.9%
25-34	904	22.3%	812	19.3%	-3.0%
35-44	682	16.9%	737	17.5%	+0.6%
45-54	311	7.7%	541	12.5%	+4.8%
55-64	312	7.7%	307	7.3%	-0.4%
65+	632	15.6%	510	12.1%	-3.5%
Totals:	4,047	100%	4,200	100%	+3.78%
Median Age:			34.9		

Source: 1990 and 2000 US Census

The implications from these demographic changes for the Borough's policy and planning are significant. Based on these trends, the Borough may see a rise in the need for senior citizen services and activities into the next decade.

4.4 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 2000 there were 220 households in Flemington, with an average of 2.26 persons per household and 480 families with an average of 3.0 persons per family.

Table 13, Households by Household Type, breaks down the different household types. Approximately 56% of the households are comprised of married couples. Another 8.7% are headed by a woman with no husband present, while 3.6% of households are headed by a man, with no wife present. Sixty-eight percent (68%) of children in the Borough reside in households comprised of married couples. A significant proportion (31.4%) of Borough households are "non-family" households, of which the majority are comprised of one person, male or female, living alone.

Table 13. Households by Household Type, 2000.

	Households	Percent
Family Households (2+ Person Households)		
Married Couple	713	39.37%
Single Male Head	103	5.69%
Single Female Head	208	11.49%
Subtotal:	1,024	56.54%
Non-Family Households (Living Alone)		
Male	280	15.46%
Female	398	21.98%
Subtotal:	678	37.44%
Non Family Households (Not Living Alone)		
Male	70	3.87%
Female	39	2.15%
Subtotal:	109	6.02%
Total:	*1,811*	

Source: 2000 US Census

4.5 INCOME CHARACTERISTICS

Persons residing in Flemington have on average significantly lower incomes than in Hunterdon County as a whole. Median income in 2000 in Flemington was $39,886 for households and $51,582 for families. Comparable figures for the County were $79,888 for households and $91,050 for families. In fact, Flemington has the 25th lowest per capita income out of the 26 municipalities in Hunterdon County. Flemington's median household income is also relatively low compared to other municipalities, ranking 378th out of the 566 municipalities in New Jersey. In contrast, Hunterdon County incomes are third highest in the state below Somerset and Morris Counties.

Table 14, Household and Family Income by Income Brackets, further illustrates these findings by noting the number of families and households in each of the income categories. Within the Borough, 21.4% of all households and 30.3% of all families have incomes of $75,000 or more. The largest income bracket, comprising 42% of all Borough families and households, is the group that earns between $50,000 and $75,000 per year.

Table 14. Household and Family Income by Income Brackets, 2000.

	Households	Percent	Families	Percent
Less than $10,000	132	7.3%	17	1.7%
$10,000-$14,999	103	5.7%	44	4.3%
$15,000-$24,999	270	14.9%	86	8.4%
$25,000-$34,999	261	14.4%	169	16.5%
$35,000-$49,000	301	16.6%	165	16.1%
$50,000-$74,999	357	19.7%	232	22.7%
$75,000-$99,999	173	9.6%	126	12.3%
$100,000-$149,999	156	8.6%	127	12.4%
$150,000-$199,999	22	1.2%	22	2.1%
$200,000 +	36	2.0%	36	3.5%
Total:	1,811	100%	1,024	100%
Median Income:	$39,886		$51,582	

Source: 2000 US Census

In 2000, the moderate-income threshold for a one (1) person household in the West Central Region was $45,248. Between approximately 42% and 59% of households in 2000 met this income threshold.

Table 15, Distribution of Individuals and Families Below Poverty Level, shows that 7.6% of all Flemington households and 5.0% of families live below the poverty level as defined by the 2000 U.S. Census. This is significantly higher than Hunterdon County as a whole, which had only 2.8% of households and 1.6% of families below the poverty level.

Table 15. Percent Distribution of Individuals and Families Below Poverty Level, 2000.

	% Below Poverty Level Households	% Below Poverty Level Families
Flemington Borough	7.6%	5.0%
Hunterdon County	2.8%	1.6%

Source: 2000 US Census

4.6 EMPLOYMENT CHARACTERISTICS

A large number of employed residents, 19.2%, are in the health, education and social services industry. Another 16% are involved in the retail industry; 11.1% work in manufacturing; and

10.1% are in other service industries that include but are not limited to food services and accommodations. See Table 16, Distribution of Employment by Industry for additional detail.

Table 16. Distribution of Employment by Industry, Employed Flemington Residents, 2000.

Sector Jobs	Number	Percent
Agriculture, Forestry, Fishing and Hunting, and Mining	41	1.9%
Construction	82	3.7%
Manufacturing	244	11.1%
Wholesale Trade	71	3.2%
Retail Trade	350	16.0%
Transportation and Warehousing, and Utilities	107	4.9%
Information	112	5.1%
Financing, Insurance, Real Estate, Renting, and Leasing	113	5.2%
Professional, Scientific, Management, Administrative, and Waste Management Services	193	8.8%
Educational, Health and Social Services	422	19.2%
Arts, Entertainment, Recreation, Accommodation and Food Services	221	10.1%
Public Administration	107	4.9%
Other	131	6.0%
Total:	2,194	100.0%

Source: 2000 US Census

Table 17, Employment by Occupation, identifies the occupations of employed Flemington persons. While Flemington residents work in a variety of industries, the data in Table 16 indicate that a significant portion of Flemington's residents (31.6%) work in managerial, professional and related occupations services followed closely by sales and office occupations (29.2%). Additionally, 20% of employed residents work in service occupations.

Table 17. Employment by Occupation, Flemington Borough, 2000.

Sector Jobs	Number	Percent
Management, Professional, and Related	694	31.6%
Service	439	20.0%
Sales and Office	640	29.2%
Farming, Fishing, and Forestry	37	1.7%
Construction, Extraction, and Maintenance	165	7.5%
Production, Transportation, and Moving	219	10.0%
Total	2,194	100.0%

Source: 2000 US Census

The number of employed people residing in Flemington greatly exceeds the number of jobs located within the Borough. The New Jersey Department of Labor tracks covered employment throughout the state. Covered employment data includes only those jobs for which unemployment compensation is paid. By definition it does not cover public employees (federal, state, county and municipal), nor the self-employed, unpaid family workers, most part-time or temporary employees, and certain agricultural and in-home domestic workers. See Table 18, Covered Employment Estimates, for additional detail.

Table 18. Covered Employment Estimates, 2003, Flemington Borough & Hunterdon County

Year	Flemington	Hunterdon
2003	5,858	3,899

Source: New Jersey Department of Labor, Division of Planning and Research, Office of Demographic and Economic Analysis, NJ Covered Employment Trends. Data is as of December 2003, which is the most current data available at the municipal level.

5.0 NJTPA POPULATION AND EMPLOYMENT PROJECTIONS

The New Jersey Transportation Planning Agency (hereinafter "NJTPA") has completed employment and population projections for 2005 – 2015 for Flemington Borough. The population of Flemington is projected to remain constant at 4,310 persons and similarly, the number of households are also projected to remain constant at 1,820, generating a zero (0) unit residential growth share.

NJTPA projects that the number of jobs in Flemington will increase by 510: from 4,520 jobs in 2005 to 5,030 jobs in 2015. COAH rules require one affordable unit for every 25 new jobs developed. Therefore the NJTPA forecasts that Flemington's job growth will require the

provision of 20.4 affordable units (510 jobs/ 25 jobs per affordable unit = 20.4 affordable units rounded down to 20).

The NJTPA projections are estimates that represent residential and non-residential growth that will occur in the municipality between 2005 and 2015. These projections must be compared with estimates prepared by the municipality using data and projections based on Certificates of Occupancy issued or expected to be issued between 2004 and 2014.

As per N.J.A.C. 5:94-2.3(a), municipal growth projections that meet or exceed those of the municipality's MPO will have a presumption of validity in any petition before COAH. If the municipal growth projections are less than those of the MPO, COAH may reject the petition unless the municipality demonstrates the validity of the analysis and the Office of Smart Growth Executive Director recommends the municipality's alternate projections.

6.0 MUNICIPAL POPULATION AND EMPLOYMENT PROJECTIONS

The NJTPA population and employment projections must be compared to population and employment projections compiled by the municipality. This analysis requires the following data 1) a detailed review of the history of certificate of occupancy and demolition permits from 1995 to 2004; 2) data on actual certificates of occupancy and demolition permits that occurred in 2004 and part of 2005; 3) data on approved development applications, pending development applications, anticipated development applications and demolition permits between 2005 and 2014. Non-residential certificates of occupancy and demolition permits must be presented by "use group." The tables in the following section present the required data.

6.1 RESIDENTIAL PROJECTIONS

Flemington Borough has experienced only minimal growth in the last decade, with the exception of 1998 when twenty-one (21) certificates of occupancy were issued. From 1996 through 2004, the average number of certificates of occupancy issued was three (3) and the average number of demolition permits was zero (0). See Table 19, Historic Trend of Residential Certificates of Occupancy and Demolition Permits and Table 20, Actual Residential Development since January 1, 2004, for additional information.

Table 19. Historic Trend of Residential Certificates of Occupancy and Demolition Permits.

	'95*	'96	'97	'98	'99	'00	'01	'02	'03	'04
CO's issued		0	1	21	5	0	1	0	0	0
Demolition permits		0	0	0	0	0	0	0	0	0
Net		0	1	21	5	0	1	0	0	0

**data for 1995 is not available*
Source: New Jersey Department of Community Affairs, Division of Codes and Standards; confirmed by Flemington Borough Construction Office.

Municipal records indicate that no residential development took place from January 2004 through June 2005.

Table 20. Actual Residential Development since January 1, 2004.

	2004	01/2005-06/2005
Certificates of Occupancy Issued	0	0
Total Certificates of Occupancy Issued	0	0
Demolition Permits Issued	0	0
Net Total Residential Development	0	0

Source: Flemington Borough Construction Office

Flemington projects that 202 residential units will be issued a certificate of occupancy between July 2005 and January 1, 2014. At this time there are two (2) approved residential development applications, the Allen Street inclusionary development and the Church Street 100% affordable age-restricted complex, both of which were included in the Borough's second round housing element and fair share plan. Additionally, the Borough has two (2) pending applications for eight (8) units each, one (1) anticipated application for eighty-seven (87) units, and other projected development (i.e. single lot development) estimated at twenty-five (25) units. Both pending applications, the Chandler Group and Flemington Electric (also known as Kalian), is currently requesting approval from the Planning Board and the anticipated application, Flemington Cut Glass, is a potential redevelopment project. The twenty-five (25) units of other projected development, consisting of three (3) certificates of occupancy a year, with the exception of 2005, and zero (0) demolition permits is consistent with the net average of three (3) residential certificates of occupancy issued from 1996 through 2004. See Table 21, Anticipated Developments and Number of Residential Units (2005 – 2014), for additional detail.

Table 21. Anticipated Developments and Number of Residential Units (2005 - 2014)

	Certificates of Occupancy								
	'05^	'06	'07	'08	'09	'10	'11	'12	'13
Approved Applications:									
Allen Street Inclusionary	0	0	11	11	0	0	0	0	0
Church Street Complex	60	0	0	0	0	0	0	0	0
Pending Applications:									
Chandler Group	0	8	0	0	0	0	0	0	0
Flemington Electric	0	0	8	0	0	0	0	0	0
Anticipated Development Applications:									
Flemington Cut Glass	0	0	0	43	44	0	0	0	0
Other Projected Development									
e.g. single lot dev	1	3	3	3	3	3	3	3	3
Total	61	11	22	57	47	3	3	3	3

^Includes July 2005 – December 2005

As seen in Table 22, Projected Residential Certificates of Occupancy and Demolition Permits, Flemington's net residential growth (growth minus demolition permits) through 2014 is expected to be 210 residential units.

Table 22. Projected Residential Certificates of Occupancy and Demolition Permits

	'05^	'06	'07	'08	'09	'10	'11	'12	'13
Total Anticipated Certificates of Occupancy	61	11	22	57	47	3	3	3	3
Total Anticipated Demolition Permits	0	0	0	0	0	0	0	0	0
Net Total	61	11	22	57	47	3	3	3	3

^Includes July 2005 – December 2005

As indicated in Table 23, Net Residential Growth (Sum of Actual and Projected Growth), the net residential growth (existing and future residential growth from 2004 through 2014 minus demolition permits) for the period 2004 through 2014 is projected to be 202 residential units.

Table 23. Net Residential Growth (Sum of Actual and Projected Growth)

	'04	'05˘	'06	'07	'08	'09	'10	'11	'12	'13
Total Anticipated Certificates of Occupancy	0	61	11	22	57	47	3	3	3	3
Total Anticipated Demolition Permits	0	0	0	0	0	0	0	0	0	0
Net Total	0	61	11	22	57	47	3	3	3	3

˘*Includes January 2005 – December 2005 (sum of actual residential development and anticipated residential development for 2005)*

As per COAH's substantive rules, N.J.A.C. 5:94-2.2 and 2.4(a)4, affordable units and market rate units from inclusionary development, with on-site affordable units, receiving a certificate of occupancy after January 1, 2004 shall be excluded from creating a growth share obligation. Market rate units shall only be excluded at a rate of four (4) times the number of affordable units generated on that particular site. The developments listed in Table 24, Second Round Affordable and Market Rate Units in Inclusionary Developments to be Excluded from Growth Projections, were part of the Borough's first or second round housing plans and together consist of eighty-two (82) residential units. See Section 8 of this document for additional detail on these developments.

Table 24. Second Round Affordable and Market Rate Units in Inclusionary Developments to be Excluded from Growth Projections

	Certificates of Occupancy									
	'04	'05	'06	'07	'08	'09	'10	'11	'12	'13
Allen Street	0	0	0	11	11	0	0	0	0	0
62 Church Street	0	60	0	0	0	0	0	0	0	0
Net Total	0	60	0	11	11	0	0	0	0	0

The total net residential growth, accounting for demolition permits and second round developments, for the period 2004 through 2014 is estimated to be 128, with a yearly average of nearly thirteen (13) units. See Table 25 Total Net Residential Growth Projections (Minus Second Round Units), for additional information.

Table 25. Total Net Residential Growth Projections (Minus Second Round Units)

	'04	'05	'06	'07	'08	'09	'10	'11	'12	'13
Net Residential Growth (Table 23.)	0	61	11	22	57	47	3	3	3	3
Second Round Units (Table 24.)	0	60	0	11	11	0	0	0	0	0
Net Total	0	1	11	11	46	47	3	3	3	3

As discussed in Section 2.0 of this report, the growth share obligation resulting from new residential units is calculated by dividing the net total residential growth projection (Table 25) by nine. COAH's substantive rules state that for every eight market units issued a certificate of occupancy from 2004 through 2014, one affordable unit must be constructed. However, the total net residential growth includes future affordable units and to accommodate this, the total net residential growth is divided by nine. Table 26, Affordable Housing Unit Projections from Residential Growth, illustrates this and provides the per year and total projected growth share from residential development. The total projected growth share from residential development is 14.22 affordable units.

Table 26. Affordable Housing Unit Projections from Residential Growth.

	'04	'05	'06	'07	'08	'09	'10	'11	'12	'13	Total
Total Net Residential Growth (Table 22.)	0	1	11	11	46	47	3	3	3	3	128
Growth Share	.00	.11	1.22	1.22	5.11	5.22	.33	.33	.33	.33	14.22

6.2 EMPLOYMENT PROJECTIONS

As indicated in Table 27, Historic Trend of Nonresidential Certificates of Occupancy and Demolition Permits, Flemington Borough has experienced only limited nonresidential development since 1996. This data is presented to demonstrate trends only; certificates of occupancy issued from 1996 through 2003 do not generate a growth share. However, certificates of occupancy and demolition permits issued in 2004 will generate a growth share. From 1996 through 2004 only two (2) demolition permits were issued and there was a yearly average of 9,132 square feet of nonresidential space issued a certificate of occupancy.

Table 27. Historic Trend of Non-Residential Certificates of Occupancy and Demolition Permits

	'95* Sq Ft	'96 Sq Ft	'97 Sq Ft	'98 Sq Ft	'99 Sq Ft	'00 Sq Ft	'01 Sq Ft	'02 Sq Ft	'03 Sq Ft	'04 Sq Ft
CO's Issued B-Office	0	0	0	0	4,839	0	3,000	5,390	3,669	0
CO's Issued A – Assembly	0	37,406	60	0	1,843	0	0	0	0	0
CO's Issued S-Storage	0	0	1,620	0	0	0	0	0	0	6,100
CO Total	0	37,406	1,680	0	6,682	0	3,000	5,390	3,669	6,100
Demolitions B- Office	0	1	0	0	0	0	0	0	0	0
Demolitions M-Retail	0	1	0	0	0	0	0	0	0	0
Demolitions Total	0	2	0	0	0	0	0	0	0	0

**data not available for 1995*

An analysis of nonresidential certificates of occupancy and demolition permits for 2004 and January through June 2005 shows that 6,100 square feet of warehouse space and 590 square feet of restaurant space was built in the Borough. No demolitions occurred. See Tables 28 and 29, Actual Nonresidential Development, for additional information.

Table 28. Use Group A2 Actual Nonresidential Development since January 1, 2004.

	2004	2005°
Restaurant	0	590
Total A2 Use Group Floor Area	0	590
Demolition Permits Issued	0	0
Net Total A2 Use Group Floor Area	0	590
Total A2 Use Group Jobs	0	1.77
Total A2 Use Group Affordable Units	0	.07

°Includes January 2005 – June 2005

Table 29. Use Group S Actual Nonresidential Development since January 1, 2004.

	2004	2005°
Global Agway	6,100	0
Total S Use Group Floor Area	6,100	0
Demolition Permits Issued	0	0
Net Total S Use Group Floor Area	6,100	0
Total S Use Group Jobs	1.22	0
Total S Use Group Affordable Units	.05	0

°Includes January 2005 – June 2005

An analysis of approved, pending and anticipated non-residential development between 2005 and 2015 shows only two approved applications and several pending and other anticipated applications. Only one application, the pending Walgreens retail use, which has a net new floor area of 2,652 square feet, will demolish the existing building. In addition to this known development, the Borough projects that up to 7,500 square feet of new office floor area and up to 10,000 square feet of new retail floor area could be developed between 2005 and 2014. See Tables 30 and 31, Anticipated Nonresidential Development, for additional detail.

Table 30. Use Group B Anticipated Nonresidential Development

CO's issued	'05°	'06	'07	'08	'09	'10	'11	'12	'13
Approved Applications									
Tiger Realty	0	15,000	0	0	0	0	0	0	0
Other Anticipated									
Unknown	0	0	1,500	1,500	1,500	1,500	1,500	0	0
Total Floor Area	0	15,000	1,500	1,500	1,500	1,500	1,500	0	0
Demolition Permits Issued	0	0	0	0	0	0	0	0	0
Net Total Floor Area	0	0	1,500	1,500	1,500	1,500	1,500	0	0
Total B Use Group Jobs	0	45	4.5	4.5	4.5	4.5	4.5	0	0
Total B Use Group Affordable Units	0	1.80	.18	.18	.18	.18	.18	0	0

°Includes July 2005 – December 2005

Table 31. Use Group M Anticipated Nonresidential Development

CO's issued	'05*	'06	'07	'08	'09	'10	'11	'12	'13
Approved Applications									
Flemington Developers LLC	0	140,000	0	0	0	0	0	0	0
Hanini	0	15,945	0	0	0	0	0	0	0
Pending Applications									
Walgreens	0	12,000	0	0	0	0	0	0	0
Other Anticipated									
Agway	0	0	20,000	0	0	0	0	0	0
Dibianca	0	15,000	0	0	0	0	0	0	0
Hine Line	0	6,000	0	0	0	0	0	0	0
Unknown	0	0	2,000	2,000	2,000	2,000	2,000	0	0
Total Floor Area	0	188,945	22,000	2,000	2,000	2,000	2,000	0	0
Demolition Permits Issued	0	9,348	0	0	0	0	0	0	0
Net Total Floor Area	0	179,597	22,000	2,000	2,000	2,000	2,000	0	0
Total M Use Group Jobs	0	179.60	22	2	2	2	2	0	0
Total M Use Group Affordable Units	0	7.18	.88	.08	.08	.08	.08	0	0

**Includes July 2005 – December 2005*

As shown in Table 32, Affordable Housing Unit Projections from Nonresidential Growth, a total of 280 jobs are generated from the actual and projected non-residential growth during the period 2004 through 2014. COAH growth share rules require one affordable unit for every twenty-five (25) new jobs created in a municipality between 2004 and 2014. Flemington's growth share from non-residential development is therefore eleven (11) affordable units (280.09 jobs/25 jobs).

Table 32. Affordable Housing Unit Projections from Nonresidential Growth.

	'04	'05	'06	'07	'08	'09	'10	'11	'12	'13	Total
Total Jobs (Tables 28-31)	1.22	1.77	224.60	26.5	6.5	6.5	6.5	6.5	0	0	280.09
Growth Share	.05	.07	8.98	1.06	.26	.26	.26	.26	0	0	11.20

6.3 GROWTH SHARE PROJECTIONS

As seen below in Table 33, Total Projected Affordable Housing Obligation, Flemington Borough's growth share obligation for the 2004 through 2014 period is twenty-five (25) units, composed of 14.22 units from residential growth and 11.20 units from nonresidential growth.

Table 33. Total Projected Affordable Housing Obligation.

	'04	'05	'06	'07	'08	'09	'10	'11	'12	'13	Total
Residential	.00	.11	1.22	1.22	5.11	5.22	.33	.33	.33	.33	14.22
Nonresidential	.05	.07	8.98	1.06	.26	.26	.26	.26	0	0	11.20
Total	0.05	0.18	10.2	2.28	5.37	5.48	0.59	0.59	0.33	0.33	25.42

Flemington Borough's total projected growth share, based on municipal projection data, is twenty-five (25) affordable housing units. The above analysis exceeds NJTPA's projections which indicate household and employment growth that would generate an affordable housing obligation of twenty (20) units. This exceedance of NJTPA's projections shall grant the Borough's projections the presumption of validity, as per N.J.A.C. 5:94-2.3(a), which states "Municipal growth projections that are consistent with the projections provided pursuant to N.J.A.C. 5:94-2.2(b)4 shall have a presumption of validity in a petition for substantive certification."

7.0 FLEMINGTON'S AFFORDABLE HOUSING OBLIGATION

COAH's Third Round methodology includes a rehabilitation obligation, a remaining obligation from COAH's two prior rounds (known as the prior round obligation) and the growth share obligation. Flemington's Third Round Obligation can be summarized as follows:

- ✓ Rehabilitation Obligation 11 (See appendix C at N.J.A.C. 5:94. et seq)
- ✓ Prior Round Recalculated 45 (See appendix C at N.J.A.C. 5:94. et seq)
  - ➢ RDP 4
  - ➢ Unmet Need 41
- ✓ Growth Share 25 (See Section 6.0 of this report)

8.0 FLEMINGTON'S AFFORDABLE HOUSING PLAN

8.1 REHABILITATION OBLIGATION

COAH has established that there are eleven (11) substandard housing units occupied by low and moderate-income households in Flemington. Flemington does not request credit for any rehabilitated units at this time, but rather plans to complete all eleven (11) rehabilitations prior to December 31, 2015. The Hunterdon County Housing Corporation (hereinafter "HCHC") will continue to administer the program for the Borough. Flemington Borough will continue to fund the rehabilitation program with development fees. A Rehabilitation Manual, prepared by HCHC, in attached as Appendix A.

Flemington's rehabilitation program will adhere to the regulations in N.J.A.C. 5:94-4.3. Specifically, all rehabilitated units will comply with the definition of a deficient unit in N.J.A.C. 5:94-1.4, which states, "a housing unit with health and safety code violations that require the repair or replacement of a major system". All rehabilitated units shall meet the applicable construction code. Additionally, all rehabilitated units shall be occupied by low or moderate income households and upon completion of the rehabilitation, ten (10) year affordability controls shall be placed on the property in the form of a lien or deed restriction.

All rehabilitations shall cost an average of $10,000, of which no more than $2,000 shall be spent on administrative costs. Flemington Borough shall provide funding for a minimum of six (6) units by the fifth anniversary of filing for substantive certification, or 2010. Additional information is contained in the Spending Plan, attached as Appendix D.

8.2 PRIOR ROUND OBLIGATION

Flemington's prior round obligation (1987-1999), as recalculated by COAH, is forty-five (45) units. However, COAH's second round substantive certification granted the Borough a vacant land adjustment, creating an RDP of four (4) units and resulting in an unmet need of forty-one (41) units. The second round certification, as per COAH' approving resolution, stated that the Borough would address the unmet need through a COAH approved development fee ordinance, the Church Street age-restricted rental project, and an accessory apartment program.

The formulas for the prior round obligation of the Third Round Plan are essentially the same as that of the second round. Note that these formulas apply to only the RDP of four (4) units. The only difference is that the third round rehabilitation share is utilized instead of second round rehabilitation component. Second round rules at N.J.A.C. 5:93, et seq. apply to this component of the Third Round Plan.

The formulas for the Prior Round Recalculated component are as follows:

- ✓ Maximum Regional Contribution Agreement = 7 units
  .5 [(RDP + rehab share) – prior cycle credits – 20% cap – 1,000 unit cap– rehab credits] – any units transferred through a previous RCA = .5 [(4 + 11) – 0 – 0 – 0 – 0) - 0 = .5 (15) = 7.5 rounded down to 7, per Fair Housing Act.

- ✓ Minimum Rental Obligation = 1 unit

  .25 (RDP) = .25 (4) = 1

  - ➢ A rental unit available to the general public receives one rental bonus;
  - ➢ An age-restricted unit receives a .33 rental bonus, but no more than 50 percent of the rental obligation shall receive a bonus for age-restricted units; and
  - ➢ No rental bonus is granted in excess of the rental obligation

- ✓ Maximum Number of Age Restricted units = 4 units

  .25 [(RDP + rehab component) – prior cycle credits – rehab credits] – age-restricted units addressing 1987-1993 housing obligation= .25 [(4 + 11) – 0 – 0 – 0 - 0) - 0= .25(15) = 3.75 rounded up to 4

<u>Realistic Development Potential</u>

The Borough's four (4) unit RDP, approved by COAH as part of a vacant land adjustment in the Borough's second round housing element and fair share plan, will be satisfied by one (1) development, the Allen Street Inclusionary Development.

Allen Street

The Allen Street Inclusionary Development is a 2.8-acre site that fronts on Allen Street. It is identified on the tax map as Block 2, Lots 44-47. The site is zoned Senior Citizen Residential which allows age-restricted housing at a density of ten (10) units to the acre with a 20% setaside for affordable housing.

The site will consist of twenty-two (22) age-restricted units, including (5) affordable for-sale units. This site was approved as part of the Borough's second round housing element and fair share plan. Seven-tenths of an acre of this parcel is constrained by wetlands. The developer is currently awaiting wetlands determinations from the New Jersey Department of Environmental Protection; it is currently anticipated that this site will receive its certificates of occupancy in 2007 or 2008. All units in this project will be administered by HCHC.

Unmet Need

The Borough's unmet need is forty-one (41) units, based on the second round vacant land adjustment and the prior round recalculated obligation (45 unit obligation – 4 unit RDP = 41 unit unmet need). The second round housing element and fair share plan provided for an unmet need of only thirty-four (34) units; however this shall not require Flemington to provide additional units to meet the unmet need, as per N.J.A.C. 5:94-3.4(a)1., which states, "A municipality that received a vacant land or durational adjustment pursuant to N.J.A.C. 5:93-4 or by Court order shall be deemed to have met its 1987-1999 cumulative affordable housing obligation provided it has implemented all of the terms of the substantive certification granted by the Council or the judgment of compliance ordered by the Court".

Flemington provided for its unmet need, as per second round substantive certification, with ten (10) accessory apartments, a development fee ordinance and the Church Street Complex. The development fee ordinance was adopted in 2003 and the Church Street complex is anticipated to be completed in late 2005. The accessory apartment program was fully implemented through the adoption of Ordinance 2003-22; although, to date, this program has not produced any affordable units despite its availability to much of the Borough's residents. The Borough will continue to fully implement these provisions, as the Church Street Complex is expected to receive certificates of occupancy in late 2005, the development fee ordinance has been updated to reflect the revised permitted development fees contained in N.J.A.C. 5:94-6 and the accessory apartment ordinance has been updated to reflect COAH's revised regulations governing this program in N.J.A.C. 5:94-9.

The Church Street Complex

The Church Street complex is a sixty (60) unit age-restricted 100% affordable rental complex located at Block 39, Lot 5. Pennrose Development built and owns the complex and received funding through the Federal Home Loan Bank ($500,000), Balanced Housing Funding through the New Jersey Department of Community Affairs ($2,000,000) and Federal Low Income Tax Credits (4 percent) through the New Jersey Housing and Mortgage Finance Agency. All units in this complex will be administered by Pennrose. The Borough approved the complex to make an annual payment in lieu of taxes (PILOT) equal to 6.28% of gross rental revenue. Certificates of occupancy will be issued in late 2005.

HCHC owns the land, which it leases on a long term basis (99 years) to Pennrose. This site was previously home to the County public works garage, which was demolished to make way for the rental complex. The Church Street complex will be comprised of fifty-one (51) one-bedroom and nine (9) two-bedroom apartments; six (6) of the units will be fully handicapped accessible.

Accessory Apartment Program

This program shall remain in full effect for the third round growth share period, December 2005 through December 2015. Ordinance 2003-22, which implemented the accessory apartment program, was adopted on September 8, 2003. Flemington Borough amended this ordinance to

reflect COAH's revised regulations, N.J.A.C. 5:94-4.9, governing this program. Development fees are available for funding the creation of accessory units, as per N.J.A.C. 5:94-4.9(a)2, which requires a $20,000 subsidy per unit. All newly created accessory apartment units will comply with N.J.A.C. 5:94-4.9, which includes, but not limited to requiring thirty (30) year affordability controls. To date no accessory apartments have been created.

Development Fee Ordinance

The Borough's development fee ordinance was amended to reflect the revised increased permitted development fees contained in N.J.A.C. 5:94-6 with the commitment that the Borough would petition with a third round plan by December 20, 2005.

Affordable Housing Credits Meeting the Prior Round Obligation

Flemington Borough proposes to satisfy the four (4) unit RDP and forty-one (41) unit unmet need with the following affordable housing units:

Table 34. Affordable Units Meeting the RDP

Project	Rental	Senior	Units	Bonus Credits	Total Credits
Allen Street Inclusionary Development		x	5	0	5
Total			5	0	5

The Borough has met its RDP with one (1) development, the Allen Street inclusionary development and has one (1) surplus credit that will be utilized in satisfying the third round growth share obligation (5 affordable units – 4 unit RDP). However, this surplus credit may only be carried over to the third round once the Allen Street inclusionary development is issued its certificates of occupancy, as per N.J.A.C. 5:94-3.2(b). This development, which contains five (5) affordable age-restricted units, will not give the Borough any bonus credits since, as per N.J.A.C. 5:93-5.15(d)2., no more than 50% of the rental obligation shall receive a bonus for age-restricted rental units. Flemington's rental obligation of one (1) does not allow any bonus credits to be given to age-restricted rental units.

Table 35. Affordable Units Meeting the Unmet Need

Project	Rental	Senior	Units	Total Credits
Church Street Complex	x	x	60	41
Accessory Apartment Program	x		0	0
Development Fee Ordinance			n/a	n/a
Total			60	41

The Borough has met the forty-one (41) unit unmet need obligation by utilizing forty-one (41) of the sixty (60) units at the Church Street complex, providing for the opportunity to create accessory apartments, and implementing a development fee ordinance. It is important to note that the nineteen (19) excess credits (60 unit Church Street complex - 41 unit unmet need) from the Church Street Complex will be credited toward the third round growth share obligation.

8.4 GROWTH SHARE OBLIGATION

Flemington has calculated its growth share to be twenty-five (25) units. See Section 6 of this document for additional detail.

COAH's Future Growth Share formulas and rules are different from those which apply to the prior round presented previously in this report. The formulas for the growth share component of the third round are as follows:

- ✓ RCA maximum = 12 units

  .50 (growth share obligation) = .50 (25) =12.5

  - ➢ Not more than 50% of the units transferred may be met with age-restricted units in the receiving municipality's project plan

- ✓ Rental obligation = 6 units

  .25 (growth share obligation) = .25 (25) = 6.25

  - ➢ Rental bonuses only apply to rental units that exceed the rental obligation.
  - ➢ Age-restricted rental units are not eligible for rental bonuses to address the third round growth share.

- Not more than 50 percent of the third round rental obligation may be met with age-restricted units.

✓ Age-restricted cap = 13 units

.50 (growth share obligation) = .50 (25) = 12.5

Anderson House

This alternative living facility is a three-quarter residential treatment facility in operation since October 2004, located at 96 Broad Street, on Block 39, Lot 1. There are six (6) bedrooms at the facility available for low income households. The population served by this facility is women recovering from alcoholism and drug addiction in need of transitional housing.

Easter Seals

Easter Seals alternative living facility has two (2) apartments with three (3) bedrooms each, for a total of six (6) bedrooms that are restricted to low income residents. This facility serves a population of severe and persistently mentally ill adults.

Growth Share Ordinance

The Borough has adopted a Growth Share Ordinance that will require all developers of residential units and nonresidential floor area that generates a growth share to either pay a development fee or provide for their obligation in one of three ways: provide the units on-site, provide the units off-site, or provide a payment in lieu of construction to the Borough. Specifically, development in any zoning district in the Borough proposing five (5) or more residential lots or units shall set-aside 11.1% of said units (rounded to the next higher number if 0.5 or greater) for affordable housing. Residential development in any zoning district in the Borough proposing four (4) or less lots or units shall pay an Affordable Housing Development Fee pursuant to the Borough's Development Fee Ordinance. Additionally, any non-residential development application submitted to the Planning Board and Board of Adjustment that is required to produce at least one affordable unit (rounded to the next number if 0.5 or greater) pursuant to COAH's regulations found in Appendix E, N.J.A.C. 5:94-1 et seq., shall be required to provide such affordable housing. Non-residential development in any zoning district in the Borough that produces less than 0.50 affordable units but more than 0.10 affordable units pursuant to Appendix E as found in N.J.A.C. 5:94-1, et seq. shall pay an Affordable Housing Development Fee pursuant to the Borough's Development Fee Ordinance.

Developer's providing affordable housing may do so through the following methods: on-site housing production in connection with residential projects or non-residential development, off-site housing production in the Borough in connection with residential or non-residential development, the purchase of an existing market-rate home at another location in the community and its conversion to an affordable price-restricted home in accordance with COAH's rules,

participation in a buy-down program or municipally sponsored rental program; payment of a contribution in lieu of construction, and/or any other compliance mechanism pursuant to COAH's rules per N.J.A.C. 5:94-et seq.

It is currently anticipated that the pending and anticipated development applications, Flemington Cut Glass (also known as Kalian), the Chandler Group and Flemington Electric, will provide for their affordable units on-site. With eighty-eight (88) total units at Flemington Cut Glass, it is expected that ten (10) units will be affordable to low or moderate income households. Both the Chandler Group and Flemington Electric, which are each proposing eight (8) units, will create one (1) affordable unit on-site. The type of affordable units (i.e. family or age-restricted; for rent or sale) has not been discussed at this point in time.

All affordable units created by developers, through implementation of the growth share ordinance, shall be administered via HCHC.

Municipally Sponsored Rental Program

The Borough will operate a municipally sponsored rental program that will be conducted in conjunction with the growth share ordinance. This program shall create a minimum of three (3) and a maximum of ten (10) affordable family rental units available to low income households. Units will be created via either municipal initiative with the use of funds in the Housing Trust Fund or a developer purchasing and renovating the unit with their own funds. In both situations, the HCHC will over see the process. Where the developer creates the affordable unit, the unit may be deeded to Flemington Borough.

All units created through this program shall be marketed and administered by the HCHC. A minimum subsidy of $25,000 per unit will be provided. All units will have thirty (30) year affordability controls and will be in compliance with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26. These affordable units shall be exempt from bedroom distribution requirements.

Research by the Flemington Borough Tax Assessor's office indicates that since 2000, an average of thirty-seven (37) units a year have been sold for $300,000 or less with an average price of approximately $214,000. Such units would be appropriate inclusion in the Borough's municipally sponsored rental program.

Buy Down Program

The Borough will operate a buy down program that will be conducted in conjunction with the growth share ordinance. This program shall create a minimum of three (3) and a maximum of ten (10) affordable family sale units. The units will be marketed and administered by the Hunterdon County Housing Corporation. In this program, all units will be available to moderate income households. Units will be created via either municipal initiative with use of funds in the Housing Trust Fund or a developer purchasing and renovating the unit with their own funds. In both situations the Hunterdon County Housing Corporation will oversee the process and will be

responsible for administering and affirmatively marketing the units. Where the developer creates the affordable unit, the unit may be deeded to Flemington Borough.

A minimum subsidy of $25,000 shall be provided for each unit. All units will have thirty (30) year affordability controls and will be in compliance with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26. At the time units are offered for sale, they may be new or pre-owned, or vacant. These affordable units shall be exempt from bedroom distribution requirements.

Research by the Flemington Borough Tax Assessor's office indicates that since 2000, an average of thirty-seven (37) units a year have been sold for $300,000 or less with an average price of approximately $214,000. Such units would be appropriate inclusion in the Borough's buy down program.

Affordable Housing Units Meeting the Third Round Growth Share Obligation

Flemington Borough proposes to satisfy its twenty-five (25) unit growth share obligation with the following affordable units:

Table 36, Affordable Units Meeting the Third Round Growth Share Obligation

Project	Rental	Senior	Units	Rental Bonus	Total Credits
Allen Street Inclusionary Development Surplus Credit			1	0	1
Church Street Complex Excess Credits	x	x	13	0	13
Anderson House	x		6	3	9
Easter Seals	x		6	6	12
Flemington Cut Glass (Kalian) Growth Share			10	0	10
Flemington Electric Growth Share			1	0	1
Chandler Group Growth Share			1	0	1
Municipally Sponsored Rental Program	x		3	3	6
Buy Down Program			3	0	3
Total			44	12	56

Flemington has exceeded its third round growth share by thirty-one (31) credits. These surplus credits will be utilized should additional development take place in the Borough than currently anticipated or they may be utilized in the fourth round of affordable housing. However, note that the one (1) unit surplus credit from the Allen Street Inclusionary Development may only be utilized in the third round once the project is issued its certificates of occupancy, which is expected to occur in late 2006. Only thirteen (13) of the nineteen (19) units Church Street Complex excess credits are eligible for credit due to the thirteen (13) unit senior cap; the

remaining excess credits will be utilized should additional development take place in the Borough than currently anticipated (the senior cap will be increased if additional development takes place) or they may be utilized in the fourth round of affordable housing. The Borough' six (6) unit rental obligation will be satisfied with three (3) units at the Church Street Complex and three (3) units at Anderson House. The remaining family rental units at Anderson House, Easter Seals, and the Municipally Sponsored Rental Program will receive one rental bonus credit each for a total of twelve (12) rental bonus credits. It is expected that the Flemington Cut Glass, Chandler Group, and Flemington Electric sites will provide for their growth share obligation on-site.

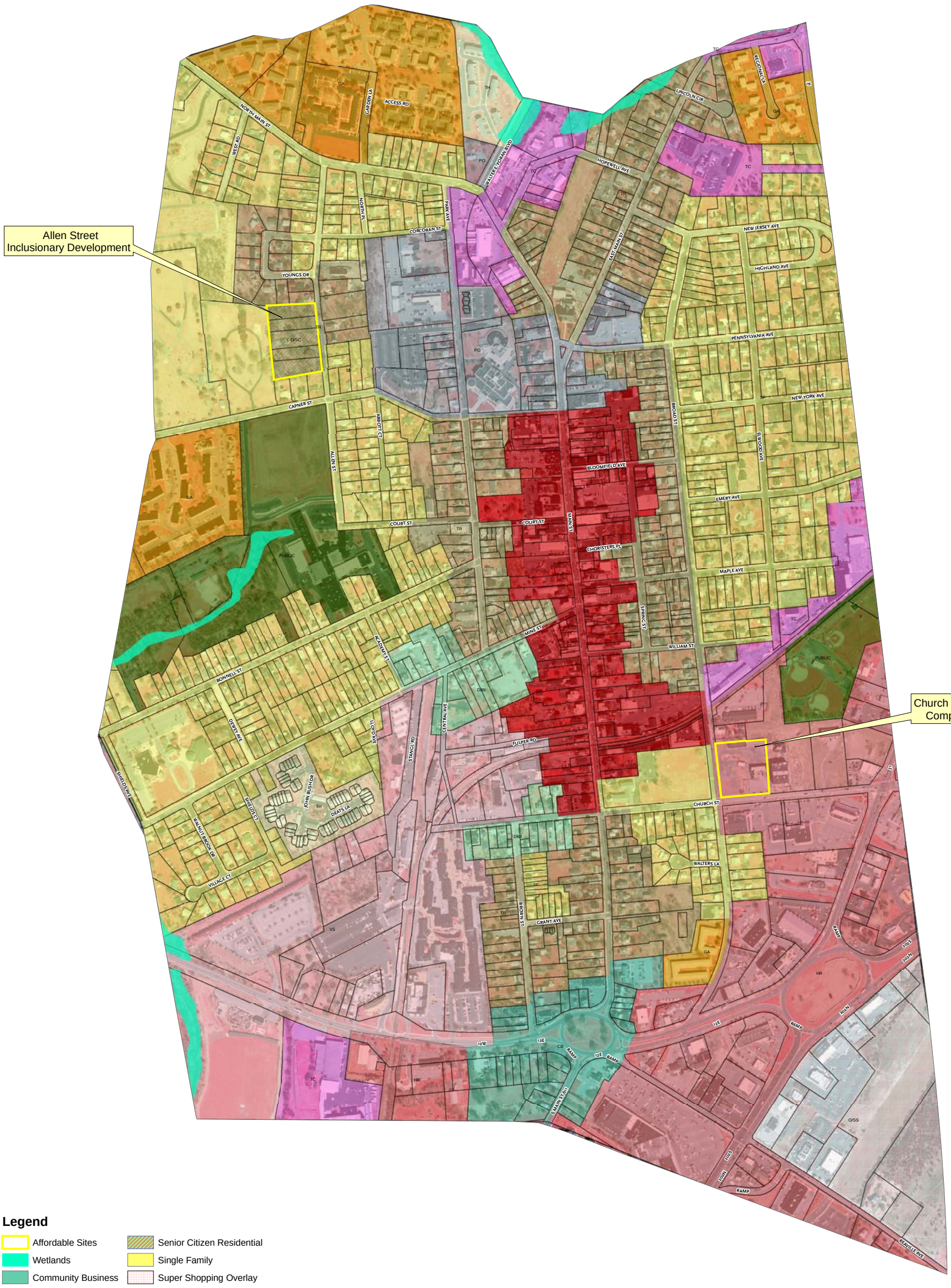
The three (3) units each allotted to the municipally sponsored rental program and the buy down program represent the minimum anticipated number of units that will be created in each program. Should additional units be created through one or both of these programs, the Borough's surplus will increase accordingly.

Table 37. Summary of the Third Round Growth Share Obligation.

	Required	Proposed
Growth Share Obligation	25	44 units/ 56 credits
RCA Units	12 Maximum	0
Rental Units	6 Minimum	28
Rental Bonus Credits	Not applicable	12
Senior Units	13 Maximum	13
Third Round Surplus Units	Not applicable	31

9.0 SUMMARY

The rehabilitation program, to be administered by HCHC, will satisfy the Borough's eleven (11) unit rehabilitation program. The Borough will satisfy its four (4) unit prior round RDP with five (5) affordable units at the Allen Street Inclusionary Development. Additionally, the Borough's unmet need will be satisfied with forty-one (41) units at the Church Street Complex, the accessory apartment program and the development fee ordinance. The twenty-five (25) unit third round growth share obligation will be satisfied with one (1) surplus credit from the Allen Street Inclusionary Development, ten (10) excess units at the Church Street Complex, six (6) units at the Anderson House alternative living facility, six (6) bedrooms at the Easter Seals alternative living facility, ten (10) affordable units at the Flemington Cut Glass Site, one (1) unit at the Chandler Group site, one (1) unit a the Flemington Electric site, a municipally sponsored rental program, and a municipal buy-down program.



Affordable Housing Sites

Flemington Borough, Hunterdon County, NJ October 2005

Clarke Caton Hintz
Architects
Planners
Landscape Architects

10.0 COST GENERATION

Flemington Borough's ordinance has eliminated unnecessary cost generating standards from the Land Development Ordinance and will expedite the review of development applications containing affordable housing. Such expedition may consist of, but is not limited to, scheduling of pre-application conferences and special monthly public hearings. Furthermore, development applications containing affordable housing shall be reviewed for consistency with the Land Development Ordinance, Residential Site Improvement Standards (N.J.A.C. 5:21-1 et seq) and the mandate of the Fair Housing Act regarding unnecessary cost generating features. The focus of such development review shall not be whether the site is appropriately zoned. Flemington Borough shall comply with N.J.A.C. 5:94-8, particularly 5:94-8.2, Standards, and 5:94-8.3, Special Studies/escrow accounts.

11.0 MONITORING PERIODS

In accordance to N.J.A.C. 5:94-9 Flemington Borough shall complete annual monitoring reports and submit them to COAH, as required. Additionally, the Borough shall review its pro-rated growth share projection and actual growth share against the actual affordable housing units provided at the third, fifth and eight anniversary of filing for substantive certification. Should this comparison conclude that there is a 10% or greater shortfall in the provision of affordable units, COAH may direct the Borough to amend their Housing Element and Fair Share Plan to provide the additional affordable units necessary to meet their growth share obligation. Public review and public notice shall take place for each review of the pro-rated growth share projection and actual growth share against the actual affordable housing units provided at the third, fifth and eight anniversary of filing for substantive certification.

12.0 PETITION FOR INITIAL PLAN ENDORSEMENT

One consequence of the filing of and receiving substantive certification is the requirement that Flemington receive initial plan endorsement from the State Planning Commission (see N.J.A.C. 5:94-2.3(c)). Initial plan endorsement is in effect an approval from the Commission that the municipality's master plan is consistent with the State Development and Redevelopment Plan. Initial plan endorsement is required within three years of filing for substantive certification. With filing for substantive certification taking place in late 2005, initial plan endorsement will be required by late 2008. Since initial plan endorsement is likely to be a year long process; accordingly Flemington will start the petition process for plan endorsement no later than 2007.

13.0 FAIR SHARE ORDINANCES AND AFFIRMATIVE MARKETING

The Borough of Flemington has prepared a Fair Share Ordinance as referenced in COAH's rules, at N.J.A.C. 5:94-7.3, and in accordance with the Uniform Housing Affordability Controls at N.J.A.C. 5:80-26.15. Generally, the Fair Share Ordinance will govern the establishment of affordable units in the Borough, as well as regulating the occupancy of such units. The

Borough's Fair Share Ordinance covers the phasing of affordable units, the low/moderate income split, bedroom distribution, occupancy standards, affordability controls, establishing rents and prices, affirmative marketing, income qualification, etc. The Borough's Fair Share Ordinance, and related documents, are attached as Appendix A.

To conduct affirmative marketing and monitoring of affordable units, the Borough has contracted with the HCHC for the administration of all affordable units, with the exception of the Church Street Complex, which will be administered by its developer, Pennrose. The HCHC is responsible for seeing that all affordable units are marketed and households are qualified as income eligible, in accordance to the Uniform Housing Affordability Controls Act, N.J.A.C. 5:80-26.15. Affirmative Marketing documents are attached as Appendix A.

The affirmative marketing plan is designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to the affordable units located in the Borough. Additionally, the affirmative marketing plan is intended to target those potentially eligible persons who are least likely to apply for affordable units and who reside in the Borough's housing region, the West Central Region, consisting of Middlesex, Hunterdon and Somerset Counties.

The affirmative marketing plan, which is included as Appendix A of this document, includes regulations for qualification of income eligibility, price and rent restrictions, bedroom distribution, affordability control periods, and unit marketing in accordance to N.J.A.C. 5:80-26. All newly created affordable units will comply with the thirty-year affordability control required by the Uniform Housing Affordability Controls (hereinafter "UHAC"), N.J.A.C. 5:80-26-5 and 5:80-26-11. This plan must be adhered to by all private, non-profit or municipal developers of affordable housing units and must cover the period of deed restriction or affordability controls on each affordable unit. The costs of implementing the affirmative marketing plan (i.e., the costs of advertising the affordable units, etc.) are the responsibilities of the developers of the affordable units. This requirement is included in the Borough's fair share ordinances and shall be a condition of any municipal development approval.

13.0 SPENDING PLAN

The Borough's spending plan, which discusses anticipated revenues, collection of revenues, and the use of revenues, was prepared in accordance to N.J.A.C. 5:94-6, and is included as Appendix B of this document. Revenues shall consist of development fees and payments in lieu of construction. All collected revenues will be placed in the Borough's Affordable Housing Trust fund and will be dispensed for the use of affordable housing activities and rendering units in the Borough more affordable to low and moderate income households. It is important to note that COAH's third round rules require that payments in lieu of construction shall only be used to fund affordable housing within the Borough (N.J.A.C. 5:94-4.4(d)), therefore excluding RCA's.

At least 30% of collected development fees, excluding fees collected to finance an RCA, a rehabilitation program or a new construction project that are necessary to address the municipality's affordable housing obligation, shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in a municipal Fair Share Plan. Additionally, no more than 20% of the revenues collected from development fees each year, exclusive of the fees used to fund an RCA, shall be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a housing element and fair share plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20% of the revenues collected from development fees shall be expended for such administrative expenses.

Flemington Borough intends to spend development fee revenues pursuant to N.J.A.C. 5:94-6.12 and in conjunction with the housing programs outlined in this document. Flemington Borough has collected $43,943 in the housing trust fund and anticipates additional $672,857 in revenues before the expiration of substantive certification, for a total of $716,800. The municipality will dedicate a maximum of $906,900 towards the Borough's rehabilitation, accessory apartment, municipally sponsored rental and buy down programs. Additionally, up to $215,040 will be spent on affordability assistance if a balance remains and up to $143,360 will be spent on administration. Any shortfall of funds will be offset by revenue or bonding.

Appendix A.

Draft Fair Share Ordinance

THIRD ROUND FAIR SHARE ORDINANCE
Flemington Borough, Hunterdon County

Once approved by COAH as part of the Borough's Third Round Plan, to be adopted within 45 days of the municipality's receipt of Substantive Certification from COAH.

_____. Intent

This section of the Borough Code sets forth regulations regarding the low and moderate income housing units in the Borough consistent with the provisions known as the "Substantive Rules of the New Jersey Council on Affordable Housing for the period beginning December 20, 2004", N.J.A.C. 5:94 et seq., the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq. and the Borough's constitutional obligation to provide a fair share of affordable housing for low and moderate income households. These regulations are also intended to provide assurances that low and moderate income units (the "affordable units") are created with controls on affordability over time and that low and moderate income people occupy these units. These regulations shall apply except where inconsistent with applicable law.

_____. Proportion of Low and Moderate Income Units by Sale, Rental and by Number of Bedrooms

Except for affordable housing developments constructed pursuant to low income tax credit regulations:

(1) At least half of the "for sale" affordable units within each affordable housing development shall be affordable to low income households.

(2) At least half of the "rental" affordable units within each affordable housing development shall be affordable to low income households.

(3) At least half of the affordable units in each bedroom distribution within each affordable housing development shall be affordable to low income households.

_____. Bedroom Distribution of Affordable Units

(1) Affordable housing developments which are not limited to age-restricted households shall be structured in conjunction with realistic market demands so that:

   (a) The combination of efficiency and one-bedroom units is no greater than 20 percent of the total number of affordable units;

   (b) At least 30 percent of all affordable units shall be two-bedroom units.

   (c) At least 20 percent of all affordable units shall be three-bedroom units.

(2) Affordable housing developments that are limited to age-restricted households shall at a minimum have a total number of bedrooms equal to the number of age-restricted affordable units within the affordable housing development. The standard may be met by creating all one-bedroom units or by creating a two-bedroom unit for each efficiency unit.

_____. Establishment of Rents and Prices of Units as Related to Household Size and Number of Units

(1) In conjunction with realistic market information the following shall be used to determine maximum rents and sales prices of the affordable units:

(a) Efficiency units shall be affordable to one-person households.

(b) A one-bedroom unit shall be affordable to a one- and one-half person household.

(c) A two-bedroom unit shall be affordable to a three-person household.

(d) A three-bedroom unit shall be affordable to a four- and one-half person household.

(e) A four-bedroom unit shall be affordable to a six-person household.

(2) For assisted living facilities the following standards shall be used:

(a) A studio shall be affordable to a one-person household.

(b) A one-bedroom unit shall be affordable to a one- and one-half person household.

(c) A two-bedroom unit shall be affordable to a two-person household or to two, one-person households.

(3) In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the administrative agent shall strive to:

(a) provide an occupant for each unit bedroom;

(b) provide children of different sex with separate bedrooms; and

(c) prevent more than two persons from occupying a single bedroom.

_____. Establishing Median Income by Household Size

(1) Median income by household size shall be established using a regional weighted average of the uncapped Section 8 income limits published by HUD computed as set forth in N.J.A.C. 5:94-7.2.

_____. Establishing Average Rents of Affordable Units

(1) The maximum rent of affordable units within each affordable housing development shall be affordable to households earning no more than 60 percent of median income. The average rent for low and moderate income units shall be affordable to households earning no more than 52 percent of median income. Restricted rental units shall establish at least one rent for each bedroom type for all low and moderate income units provided at least 10 percent of all low and moderate income units are affordable to households earning no more that 35 percent of median income.

(2) Low and moderate income units shall utilize the same heating source as market units within an inclusionary development.

(3) Gross rents including an allowance for utilities shall be established for the various size affordable units at a rate not to exceed 30 percent of the gross monthly income of the appropriate household size as set forth in subsection _____ above. The allowance for utilities shall be consistent with the utility allowance approved by NJDCA for use in its Section 8 Program.

(4) No affordable rental units included in the COAH requirement shall be subject to a rent control ordinance which may be adopted or in place in the Borough of Flemington during the time period in which affordable housing COAH controls are effective.

____. Establishing Average Sales Prices of Affordable Units

(1) The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income. Each affordable development must achieve an affordability average of 55 percent for restricted ownership units. Moderate income ownership units must be available for at least three different prices for each bedroom type and low income ownership units must be available for at least two different prices for each bedroom type.

(2) Low and moderate income units shall utilize the same heating source as market units within an inclusionary development.

(3) The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying costs of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of an appropriate household size as determined under N.J.A.C. 5:80-26.4; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3.

_____. Affordable Housing Units: Condominium or Homeowners Association Fees.

(1) If an affordable housing unit is part of a condominium association or homeowner's association, the Master Deed shall reflect that the assessed affordable homeowner's fee be established at one hundred percent of the market rate fee. This percentage assessment shall be recorded in the Master Deed.

_____. Reservation of Units

(1) Low income housing units shall be reserved for households with a gross household income equal to or less than 50percent of the median income approved by COAH.

(2) Moderate income housing units shall be reserved for households with a gross household income in excess of 50percent but less than 80percent of the median income approved by COAH.

____. Reoccupancy Certificates

(1) Upon resale of an affordable unit, a certificate of reoccupancy shall be required in accordance with N.J.A.C. 5:80-26.10

_____. Phasing Of Construction

(1) Final site plan or subdivision approval shall be contingent upon the affordable housing development meeting the following phasing schedule for low and moderate income units whether developed in one stage or in two or more stages

Minimum Percentage of Low & Moderate Income Units Completed	Percentage of Market Housing Units Completed
0	25
10	25 + 1 unit
50	50
75	75
100	90

_____. Control Period for Affordable Housing

(1) Any conveyance of a newly constructed low or moderate income sales unit shall contain the restrictive covenants and liens that are set forth in N.J.A.C. 5:80-26 et seq.

____. Administration of Affordable Housing Program

(1) Flemington Borough is ultimately responsible for administering the affordable housing program, including affordability controls and the Affirmative Marketing Plan in accordance with the regulations of the Council on Affordable Housing pursuant to N.J.A.C. 5:94 et seq. and the New Jersey Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26 et seq.

(2) Flemington Borough has delegated to the Housing Officer, this responsibility for administering the affordable housing program, including administering and enforcing the affordability controls and the Affirmative Marketing Plan of Flemington Borough in accordance with the provisions of this sub-chapter, the regulations of the Council on Affordable Housing pursuant to N.J.A.C. 5:94 et seq. and the New Jersey Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26 et seq. Flemington Borough shall by resolution appoint the Borough Clerk as the Housing Officer.

(3) Subject to COAH approval, Flemington Borough will contract with one or more administrative agents to administer some or all of the affordability controls and/or the Affirmative Marketing Plan in accordance with this sub-chapter, the regulations of the Council on Affordable Housing pursuant to N.J.A.C. 5:94 et seq. and the New Jersey Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26 et seq. If Flemington Borough enters into such a contract, the Housing Officer shall supervise the contracting administrative agent(s) and shall serve as liaison to the contracting administrative agent(s).

(4) The Borough of Flemington intends to contract with the Hunterdon County Housing Corporation (hereinafter "HCHC") to administer the sale and rental of all new affordable housing. HCHC will also oversee and administer income qualification of low and moderate income households; place income eligible households in low and moderate income units upon initial occupancy; place income eligible households in low and moderate income units as they become available during the period of affordability controls and enforce the terms of the required deed restrictions and mortgage loans. HCHC will specifically administer and implement:

(a) An administrative plan and program, and related monitoring and reporting requirements as outlined in N.J.A.C. 5:80-26.15 et seq. and Chapter ____ of the Land Development Ordinances of the Borough of Flemington.

(b) A plan for certifying and verifying the income of low and moderate income households as per N.J.A.C. 5:80-26.16

(c) Procedures to assure that low and moderate income units are initially sold or rented to eligible households and are thereafter similarly re-sold and re-rented during the period while there are affordability controls as per N.J.A.C. 5:80-26 et seq.

(d) The requirement that all newly constructed low and moderate income sales or rental units contain deed restrictions with appropriate mortgage liens as set forth in Appendices in N.J.A.C. 5:80-26 et seq.

(e) The several sales/purchase options authorized under N.J.A.C. 5.80-26 et seq. except that the Borough retains the right to determine by resolution whether or not to prohibit, as authorized under N.J.A.C.5:80-26 et seq., the exercise of the repayment option.

(f) The regulations determining 1) whether installed capital improvements will authorize an increase in the maximum sales price; and 2) which items of property may be included in the sales price as per N.J.A.C.5:80-26.9.

(5) The developers/owners of any inclusionary site shall be responsible for the administrative fee, affirmative marketing and advertising and such shall be a condition of Planning or Zoning Board approval.

(6) Flemington Borough reserves the right to replace HCHC with another municipal authority or other agency authorized by COAH to carry out the administrative processes outlined above.

_____. Time Period For Controls

(1) Newly constructed low and moderate income "rental" units shall remain affordable to low and moderate income households for a period of 30 years.

(2) Newly constructed low and moderate income "for sale" units shall remain affordable to low and moderate income households for a period of 30 years.

(3) Rehabilitated owner-occupied single family housing units that are improved to code standard shall be subject to affordability controls for 10 years.

(4) Rehabilitated renter-occupied housing units that are improved to code standard shall be subject to affordability controls for at least 10 years.

(5) Housing units created through conversion of a non-residential structure shall be considered a new housing unit and shall be subject to affordability controls for new housing units as designated in items 1 and 2 above.

(6) Affordability controls on accessory apartments shall be for a period of 30 years.

(7) Affordability controls for units in alternative living arrangements shall be for a period of 30 years.

(8) Affordability controls on buy-down units shall be for a period of 30 years.

___ Selection of Occupants of Affordable Units

(1) The administrative agent shall use a random selection process to select occupants of low- and moderate-income housing.

(2) A waiting list of all eligible candidates will be maintained in accordance with the provisions contained in N.J.A.C. 5:80-26 et seq.

____. Affirmative Marketing Plan

(1) In accordance with the regulations of COAH pursuant to N.J.A.C. 5:94 et seq. and the New Jersey Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26 et seq., Flemington Borough adopted an Affirmative Marketing Plan.

(2) All affordable housing units shall be marketed in accordance with the provisions therein.

(3) The Borough of Flemington has a Third Round Growth Share obligation. This subsection shall apply to all developments that contain proposed low and moderate income units and any future developments that may occur.

(4) In implementing the marketing program, the administrative agent shall undertake all of the following strategies:

- Publication of one advertisement in a newspaper of general circulation within the housing region.
- Broadcast of one advertisement by a radio or television station broadcasting throughout the housing region
- At least one additional regional marketing strategy using one of the other sources listed below.

(5) The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer or sponsor of affordable housing. The affirmative marketing plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward the COAH Housing Region in which the municipality is located and covers the period of deed restriction. The Borough of Flemington is in the housing region consisting of Hunterdon, Somerset and Middlesex Counties. The affirmative marketing program is a continuing program and shall meet the following requirements:

(a) All newspaper articles, announcements and requests for applications for low and moderate income units shall appear in the following daily regional newspaper/publication: The Trenton Times

(b) The primary marketing shall take the form of at least one press release sent to the above publication and a paid display advertisement in the above newspaper. Additional advertising and publicity shall be on an "as needed" basis. The advertisement shall include a description of the:

i. Location of the units;

ii. Direction to the units;

iii. Range of prices for the units;

iv. Size, as measured in bedrooms, of units;

v. Maximum income permitted to qualify for the units;

vi. Location of applications;

vii. Business hours when interested households may obtain an application; and;

viii. Application fees, if any.

(c) All newspaper articles, announcements and requests for applications for low and moderate income housing shall appear in the following neighborhood oriented weekly newspaper within the region:

The Hunterdon County Democrat

The Courier News

(d) The following regional cable television station shall be used:

Patriot Media

(e) The following is the location of applications, brochure(s), sign(s) and/or poster(s) used as part of the affirmative marketing program:

Flemington Municipal Building

Flemington Public Library

(f) The following is a listing of community contact person(s) and/or organizations(s) in Hunterdon, Somerset and Hunterdon Counties that will aid in the affirmative marketing program with particular emphasis on contracts that will reach out to groups that are least likely to apply for housing within the region:

Hunterdon County Housing Corporation

(g) Quarterly flyers and applications.

i. Quarterly flyers and applications shall be sent to each of the following agencies for publication in their journals and for circulation among their members:

Hunterdon County Board of Realtors

Somerset County Board of Realtors

Middlesex County Board of Realtors

Mercer County Board of Realtors

ii. Applications shall be mailed to prospective applicants upon request.

iii. Additionally, quarterly informational circulars and applications shall be sent to the chief administrative employees of each of the following agencies in the counties of Hunterdon, Somerset and Middlesex:

Welfare or Social Service Board

Rental Assistance Office (local office of DCA)

Office on Aging

Housing Agency or Authority

Library

Area Community Action Agencies

(h) A random selection method to select occupants of low and moderate income housing will be used by HCHC in conformance with N.J.A.C.5:80-26.16 (l).

i. HCHC will administer the program. HCHC has the responsibility to income qualify low and moderate income households; to place income eligible households in low and moderate income units upon initial occupancy; to provide for the initial occupancy of low and moderate income units which income qualified households; to continue to qualify households, for re-occupancy of units as they become vacant during the period of affordability controls; to assist with outreach to low and moderate income households; and to enforce the terms of the deed restriction and mortgage loan as per N.J.A.C 5:80-26. HCHC shall provide counseling services to low and moderate income applicants on subject such as budgeting, credit issues, mortgage qualifications, rental lease requirements and landlord/tenant law.

ii. All developers of low and moderate income housing units shall be required to assist in the marketing of the affordable units in their respective developments.

iii. The marketing program shall commence at least 120 days before the issuance of either temporary or permanent certificates of occupancy. The marketing program shall continue until all low income housing units are initially occupied and for as long as affordable units are deed restricted and occupancy or reoccupancy of units continues to be necessary.

iv. HCHC will comply with monitoring and reporting requirements as per N.J.A.C.5:80-26.

Appendix B.

Spending Plan

Rental Acquisition Program Pro Forma

Buy Down Program Pro Forma

Spending Plan

Borough of Flemington
Hunterdon County, New Jersey

November 10, 2005

1.0 INTRODUCTION

Flemington Borough, Hunterdon County, has a development fee ordinance that was approved by the Council on Affordable Housing (COAH) on December 20, 2001. This spending plan is prepared in accordance with N.J.A.C. 5:94-6.2(c) and 6.5 and includes the following:

1. Projection of revenues anticipated from imposing fees on development, based on actual proposed and approved developments and historic rate of development activity.

2. A description of the administrative mechanism that the municipality will use to collect and distribute revenues.

3. A description of the anticipated use of all development fees, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, pursuant to N.J.A.C. 5:94-6.12, repayment of loans for rehabilitation or affordability assistance, and voluntary contributions.

4. A schedule for the creation and/or rehabilitation of housing units.

5. If the municipality is including a municipally sponsored or 100 percent affordable program, a new construction alternative living arrangement or an affordable housing partnership program, a pro-forma statement of the anticipated costs and revenues associated with the development.

6. The manner in which the municipality will address any expected or unexpected shortfall if the anticipated revenues from development fees are not sufficient to implement the plan.

As of September 30, 2005, Flemington Borough has collected $43,943 in its affordable housing trust fund. All development fees collected and interest generated by the fees are deposited in a separate interest-bearing account in Commerce Bank for the purposes of affordable housing.

1. 1 PROJECTION OF REVENUES FOR CERTIFICATION PERIOD

To calculate a projection of revenue anticipated between October 2005 and the expiration of substantive certification in December 2015, Flemington Borough considered the following:

(a) Residential and nonresidential projects which have had development fees imposed upon them at the time of preliminary or final development approvals are anticipated to provide $0.00 in development fees at issuance of building permits and/or certificates of occupancy during the period of substantive certification.

(b) All projects currently before the planning and zoning boards for development approvals that may apply for building permits and certificates of occupancy are anticipated to provide $436,657 in development fees during the period of substantive certification.

(c) Development projected to begin construction based on historic rates of development is anticipated to provide an additional $226,200 in development fees during the period of substantive certification.

(d) Payments in lieu of construction from developers pursuant to N.J.A.C. 5:94-4.4(b-e) are anticipated to provide $0.00 in development fees during the period of substantive certification.

(e) Funds from other sources, including, but not limited to, the sale of units with extinguished controls, repayment of loans for rehabilitation or affordability assistance, and voluntary contributions are anticipated to provide $0.00 in fees during the period of substantive certification.

(f) Interest on the projected revenue in the housing trust fund at the current average interest rate is anticipated to provide $10,000 to accrue to the affordable housing trust fund during the period of substantive certification.

Flemington Borough projects a total of $672,857 in revenue to be collected October 2005 and the expiration of substantive certification. When the total revenue projected of $672,857 is added to the amount collected to date of $43,943, a total of $716,800 will be collected prior to the expiration of substantive certification. All development fees, payments in lieu of construction and other funds listed above will be deposited in a separate interest-bearing account in Commerce Bank and all interest earned on the account will accrue to the account to be used only for the purposes of affordable housing.

2.0 ADMINISTRATIVE MECHANISM TO COLLECT AND DISTRIBUTE FUNDS

The following procedural sequence for the collection and distribution of development fee revenues will be followed by Flemington Borough:

(a) Collection of development fee revenues:
The planning board secretary notifies the Tax Assessor whenever preliminary, final or other applicable approval is granted for a development which is subject to a development fee.

When a request is made for a building permit, the Tax Assessor determines if the project is subject to the imposition of a mandatory development fee.

If so, the tax assessor will calculate the approximate value of the project and set the fee based on the equalized assessed value of the residential or nonresidential development.

The developer will pay up to 50 percent of the estimated development fee to the Construction Official at the time the building permit is issued. The funds are then forwarded to the Chief Financial Officer and deposited in the affordable housing trust fund.

The balance of the development fee will be paid by the developer to the Construction Official at the issuance of the certificate of occupancy. The funds are then forwarded to the Chief Financial Officer and deposited in the affordable housing trust fund.

(b) Distribution of development fee revenues:
The Planning Board adopts and forwards a resolution to the governing body recommending the expenditure of development fee revenues as set forth in this spending plan. The governing body reviews the request for consistency with the spending plan and adopts the recommendation by resolution.

The release of funds requires the adoption of the governing body resolution in accordance with the COAH-approved spending plan. Once a request is approved by resolution, the Chief Financial Officer releases the requested revenue from the trust fund for the specific use approved in the governing body's resolution.

3. DESCRIPTION OF ANTICIPATED USE OF DEVELOPMENT FEES

(a) Flemington Borough will dedicate $906,900 to rehabilitation and new construction programs, which are exempt from the affordability assistance requirement.

Rehabilitation program: $110,000

Flemington Borough will complete eleven (11) rehabilitated units prior to the end of substantive certification. Six (6) shall be completed prior to 2010. The rehabilitation program shall be administered by the Hunterdon County Housing Corporation. This organization requires a $10,000 fee per rehabilitated unit, of which $3,500 is used for administration and $6,500 is used for hard costs. Hunterdon County Housing Corporation will supplement each unit so that the average hard cost per unit meets or exceeds $8,000, as per N.J.A.C. 5:94-4.3.

Year	Units	Expenditure
2006	2	$20,000
2007	2	$20,000
2008	2	$20,000
2009	1	$10,000
2010	1	$10,000
2011	1	$10,000
2012	1	$10,000
2013	1	$10,000
Total	11	$110,000

New Construction project(s): $796,900

Flemington Borough will provide funding for its accessory apartment program, consisting of a $20,000 per unit municipal subsidy, as per N.J.A.C. 5:49-4.9.a.(2), as well as a $2,000 per unit administration fee to Hunterdon County Housing Corporation, which will administer the program. A maximum of ten (10) accessory apartments will be created in order to satisfy a portion of the Borough's unmet need. The maximum cost, should ten (10) accessory apartment units be created is $220,000.

Flemington Borough will provide funding for a minimum of three (3) low income municipally sponsored rental units. The Borough has projected a per unit one time subsidy of $88,000. Should three (3) units be created, the Borough will fund a total of $264,000. These figures are approximate and are subject to refinement during program implementation. See the attached Rental Acquisition Program Pro Forma for additional information.

Flemington Borough will provide funding for a minimum of three (3) moderate income buy down units. The Borough has projected a per unit one time subsidy of $104,300. Should three (3) units be created, the Borough will fund a total of $312,900. These figures are approximate and are subject to refinement during program implementation. See the attached Buy Down Program Pro Forma for additional information.

RCA: Not applicable.

(b) At this time, Flemington Borough anticipates expending most if not all of the collected revenue on the new construction programs listed above. If those programs are fully funded, the Borough will dedicate 30% of the balance of funds from the affordable housing trust fund to render affordable units more affordable. Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, and rental assistance. One-third of the affordability assistance shall be used to provide affordability assistance to those households earning 30 percent or less of median income by region

(c) Flemington Borough will dedicate up to 20% of development fees, in-lieu payments and interest collected on an annual basis for administrative purposes. It is unknown at this time how much the Borough will expend on administrative purposes as the Borough must fully fund the new construction programs if there is a shortfall in outside funding sources for the affordable housing. Such purposes include salaries and benefits for municipal employees or consultant fees necessary to develop or implement municipal housing programs such as housing elements and/or affirmative marketing programs. Administrative funds may be used to income qualify households and monitor implementation. Development fees may be used to defray the costs of staff or consultants that are preparing or implementing a fair share plan.

SPENDING PLAN CALCULATION SUMMARY		
Existing Balance		$43,943
Pending fees due upon issuance of building permit and/or CO	+	$0
Projects awaiting approval	+	$436,657
Projection based on historic development activity	+	$226,200
Payments in lieu of construction	+	$0.00
Projected Interest	+	$10,000
Other	+	$0
TOTAL PROJECTED REVENUE	=	$716,800
Funds used for Rehabilitation, RCA or New Construction (not including administration of such programs)	-	$906,900
TOTAL SUBJECT TO AFFORDABILITY ASSISTANCE REQUIREMENT	=	$215,040
Affordability Assistance (minimum of 30% of above total)	-	$0
Affordability Assistance to Very Low Income Households (minimum of 1/3 of above allotment)		$0
Administration (maximum of 20% of total projected revenue minus RCA contribution)	-	$143,360
REMAINING FUNDS FOR OTHER HOUSING ACTIVITY	=	$0

4. SCHEDULE FOR CREATION AND/OR REHABILITATION OF HOUSING UNITS

Flemington Borough intends to use development fee revenues for the creation and/or rehabilitation of housing units. The creation/rehabilitation schedule will parallel the schedule set forth in the Housing Element and Fair Share Plan as follows:

SCHEDULE FOR CREATION AND/OR REHABILITATION OF HOUSING UNITS					
	Rehabilitation	Accessory Apartments	Rental Acquisition	Buy-down	Total Funds
2006	$20,000	$22,000	$0	$0	$42,000
2007	$20,000	$22,000	$88,000	$0	$130,000
2008	$20,000	$22,000	$0	$104,300	$146,300
2009	$10,000	$22,000	$88,000	$0	$120,000
2010	$10,000	$22,000	$0	$104,300	$136,300
2011	$10,000	$22,000	$88,000	$0	$120,000
2012	$10,000	$22,000	$0	$104,300	$136,300
2013	$10,000	$22,000	$0	$0	$32,000
2014	$0	$22,000	$0	$0	$22,000
2015	$0	$22,000	$0	$0	$22,000
Total Funds	$110,000	$220,000	$264,000	$312,900	$110,000
Total Units	11	10	3	3	27

5. MUNICIPALLY SPONSORED OR 100 PERCENT AFFORDABLE PROGRAMS, NEW CONSTRUCTION ALTERNATIVE LIVING ARRANGEMENTS, AND AFFORDABLE HOUSING PARTNERSHIP PROGRAMS

See the Borough's Third Round Housing Element and Fair Share Plan for a description of these programs.

6. UNEXPECTED SHORTFALL OF FUNDS

Pursuant to the Housing Element and Fair Share Plan, the governing body of Flemington Borough has adopted a resolution agreeing to fund any shortfall of funds required for implementing the Affordable Housing Programs. In the event that a shortfall of anticipated revenues occurs, Flemington Borough will fund the shortfall out of general revenue or will bond for the funds. A copy of the adopted resolution is attached.

7. SUMMARY

Flemington Borough intends to spend development fee revenues pursuant to N.J.A.C. 5:94-6.12 and in conjunction with the housing programs outlined in the housing element and fair share plan dated November 2005.

Flemington Borough has collected $43,943 to date and anticipates additional $672,857 in revenues before the expiration of substantive certification, for a total of $716,800. The municipality will dedicate a maximum of $906,900 towards the Borough's rehabilitation, accessory apartment, municipally sponsored rental and buy down programs. Additionally, up to $215,040 will be spent on affordability assistance if a balance remains and up to $143,360 will be spent on administration. Any shortfall of funds will be offset by revenue or bonding.

Rental Acquisition Program Pro Forma
Per COAH's Regulations (*NJAC* 5:94-4.11)
Flemington Borough, Hunterdon County
October 28, 2005

Rental Acquisition Program Parameters

- ✓ Rental Acquisition Program – acquire market-priced for-sale units, provide a subsidy to allow an income-eligible household to rent the housing unit at an affordable rent;

- ✓ Create a minimum of three (3) and a maximum of ten (10) affordable household rental units – all low income units rented at 50% of COAH median income;

- ✓ Affordability controls - Place a thirty (30) year deed restriction on the unit.

Average market sale prices

- ✓ Implement program when COAH grants substantive certification of the Borough's third round Housing Element and Fair Share Plan.

- ✓ $214,300 – Projected average 2006 sale prices for two (2) and three (3) bedroom units priced below $300,000.

Sample affordable net rents (gross – utility allowance) permitted

- ✓ Two-bedroom unit: $960 monthly rent
  ($1,035 gross rent – $75 utility allowance);

- ✓ Three-bedroom unit: $1,110 monthly rent.
  ($1,196 gross rent – $86 utility allowance).

Required subsidy per affordable unit rented

- ✓ $88,800 average per-unit one-time subsidy to cover the 30-year program costs (see attached program details).

Details of
Rental Acquisition Program Pro Forma
Flemington Borough, Hunterdon County
October 28, 2005

Project Summary

- ✓ Create a minimum of three (3) and a maximum of ten (10) affordable household rental units – all low income units rented at 50% of COAH median income;
  - 5 two bedroom low income units
  - 5 three bedroom low income units

Acquisition Costs

Acquisition of units – building costs	$2,143,000
Other construction costs/fees	30,000
Soft costs	24,000
Financing/ working capital	135,000
Marketing/rent-up	10,000
Total Project Costs	**$2,342,000**

Income/Expense Analysis

Income	
5 units at $960 per month	$57,600
5 units at $1,110 per month	$66,600
Anticipated Annual Rental Income	**$124,400**
Expenses	
Administrative	$15,000
Salaries	$0
Maintenance	$35,000
Condominium fee	$0
Utilities	$8,000
Management fees	$0
Real Estate taxes	$42,000
Insurance	$12,000
Replacement reserve	$10,000
Vacancy/Uncollected	$12,000
Mortgage Payment and Debt Service	$20,000
Subtotal	**$154,000**
Annual Program Deficit	$29,600

Program Deficit: $29,600 x 30 years = $888,000/ 10 units =
$88,800 per-unit one-time subsidy

Buy Down Program Pro Forma
Per COAH's Regulations (*NJAC* 5:94-4.10)
Flemington Borough, Hunterdon County
October 28, 2005

Buy Down Program Parameters

- ✓ Buy Down Program – acquire market-priced for-sale units, provide a subsidy to allow an income-eligible household to purchase the housing unit at an affordable sales price;
- ✓ Create a minimum of three (3) and a maximum of ten (10) affordable sale units – all moderate units priced at 65% of COAH median income;
- ✓ Affordability controls - Place a thirty (30) year deed restriction on the unit.

Average market sale prices

- ✓ Implement program when COAH grants substantive certification of the Borough's third round Housing Element and Fair Share Plan.
- ✓ $214,300 – Projected average 2006 sale prices for two (2) and three (3) bedroom units priced below $300,000.

Sample affordable sale prices permitted

- ✓ Two bedroom unit – $95,000
- ✓ Three bedroom unit – $125,000
- ✓ Average affordable sales price - $110,000

Required subsidy per affordable unit rented

- ✓ $104,300 average per-unit one-time subsidy ($214,300 – $110,000).

Appendix C.

Draft Agreement Between HCHC and Flemington Borough

CONTRACT FOR THE PROVISION OF HOUSING AFFORDABILITY CONTROL SERVICES

THIS AGREEMENT, entered into as of this the ___ day of _____, 20___,

BETWEEN **Flemington Borough** a municipality and instrumentality of the State, having offices at 38 Park Avenue, Flemington, New Jersey 08822, hereinafter called the "Municipality"; and

Hunterdon County Housing Corporation, having offices at 8 Main Street, Suite 5, Flemington, New Jersey 08822, hereinafter called "HCHC".

WITNESSETH

WHEREAS, under authorization of the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301, *et seq.*, hereinafter the "Act") the Municipality is implementing a program to provide affordable housing units to low- and moderate-income households desiring to live within the Municipality;

WHEREAS, at Title 5, Chapter 80, Subchapter 26 of the New Jersey Administrative Code, the State has promulgated affordability controls in regulations designed to implement the Act, by assuring that low- and moderate-income units that are created under the Act are occupied by low- and moderate-income households for an appropriate period of time (the "Rules");

WHEREAS, Section 5:80-26.14 of the Rules provides that affordability controls may be administered by an administrative agent acting on behalf of a municipality; and

WHEREAS, the Municipality has selected HCHC to be the administrative agent for the purposes of providing affordability control services for all affordable housing constructed and to be constructed within the Municipality,

NOW THEREFORE, the Municipality and HCHC hereby agree to the following terms and conditions:

Section 1. Term

This Agreement shall become effective as of the __ day of _____, 20 ___, and shall have a term of five years, terminating at the close of business on the ___ day of _____, 20___, subject to the termination and renewal provisions set forth in *Section 5*, below.

Section 2. Applicability and Supersession

This Agreement shall define and govern all terms between the parties with respect to affordability controls for affordable housing units provided under the Act, and shall supersede all prior agreements or documents related thereto.

Section 3. Exclusions

This Agreement shall not apply to units funded under:

a. The Federal Low-Income Housing Tax Credit program under Section 42 of the Internal Revenue Code;

b. The Federal HOME program, 24 C.F.R. §92.252(e), §92.254(a)(4);

c. The HUD 202 program, 24 C.F.R. Part 891;

d. The HUD 811 program, 24 C.F.R. Part 890;

e. The HUD HOPE VI program;

f. Federal Home Loan Bank, Affordable Housing Program, 12 C.F.R. Part 60; or

g. Or any other program excluded under the Rules.

Section 4. Agency and Enforcement Delegation

The Municipality and HCHC acknowledge that under the Rules HCHC is acting hereunder primarily as an agent of the Municipality. Anything herein to the contrary notwithstanding, however, the Municipality hereby delegates to HCHC, and HCHC hereby accepts, primary responsibility for enforcing substantive provisions of the Act and the Rules.

Section 5. Termination and Renewal

a. The Agreement may be terminated by either party, by giving two months advanced written notice to the other, to the address and in the form as set forth in *Section 15*, below, provided however, that no such termination may take effect unless and until an alternate administrative agent has been selected by the Municipality and approved by all required governmental authorities.

b. Unless terminated, this Agreement shall automatically be renewed for three successive terms of five years each.

Section 6. Exclusivity of Agreement, Project Amendments

a. For the term hereof, and without exception, this Agreement shall govern the provision of affordability control services *for all projects* located within the Municipality that fall under the jurisdiction of the Act.

b. Individual projects for which affordability control services are to be provided hereunder shall each be evidenced by a contract amendment ("Project Amendment") that has been executed by the Municipality, by the HCHC and by the project developer. All such Project Amendments shall be in the specific form set forth as *Exhibit A*, hereto.

c. The annexing of a fully executed original of a Project Amendment to the original of this Agreement shall be a condition precedent to the provision of any affordability control services to the related project.

Section 7. Responsibilities of HCHC

HCHC shall perform all of the duties and responsibilities of an administrative agent as are set forth in the Rules, including those set forth in Sections 5:80-26.14, 16 and 18 thereof, as such Rules may from time to time be amended.

Section 8. Responsibilities of The Municipality

The Municipality shall:

a. Provide to HCHC the name, title and telephone number of the municipal official who shall be responsible for liaison with HCHC on all matters related to this Agreement;

b. Use its best efforts to ensure that applicable local ordinances are not in conflict with either the Rules or the provisions of this Agreement;

c. Ensure that all restricted units are identified as affordable within the tax assessor's office and any municipal utility authority (MUA). The municipality and MUA shall promptly notify the administrative agent of a change in billing address, payment delinquency of two billing cycles, transfer of title, or institution of a writ of foreclosure on all affordable units.

d. Provide all reasonable and necessary assistance to HCHC in support of efforts to enforce provisions of the Act, the Rules, deed covenants, mortgages court decisions or other authorities governing the affordability control services to be provided under the Agreement.

Section 9. Notices

All notices and other written communications between the Municipality and HCHC shall be to the addresses and personnel specified below:

if to the Municipality:

Borough of Flemington
38 Park Avenue
Flemington, NJ 08822

Attn: Township Clerk

if to HCHC:

Hunterdon County Housing Corporation
8 Main Street, Suite 5
Flemington, NJ 08822
Attn: Executive Director

Section 10. Non-Waiver of Conditions

The failure of either party to insist upon strict performance of any provision of this Agreement in any one or more instances shall not constitute a consent to waiver of or excuse for any other different or subsequent breach of the same of other provision, nor as a result shall either part relinquish any rights which it may have under this Agreement. No terms or provisions hereof shall be deemed waived and no breach excused unless such waiver or consent is in writing and signed by the waiving party.

Section 11. Merger and Amendment

This written Agreement, together with its Exhibits, constitutes the sole agreement between the parties with respect to the matters covered therein, and no other written or oral communication exists which shall bind the parties with respect thereto, provide however that this Agreement may be modified by written amendments clearly identified as such and signed by both the Municipality and HCHC.

Section 14. Partial Invalidation of Agreement

Should any provision of this Agreement be deemed or held to be invalid, ineffective or unenforceable, under present or future laws, the remainder of the provisions shall remain in full force and effect.

IN WITNESS WHEREOF, the Municipality and HCHC have executed this Agreement in triplicate as of the date first above written.

THE MUNICIPALITY OF FLEMINGTON BOROUGH

BY _____
xxxxxxxxxxxxx
Title

HCHC

BY _____
xxxxxxxxxxxxx
Title

ACKNOWLEDGEMENTS

On this the _____day of _____ , 20___ before me came _____ known and known to me to be _____ of _____, the Municipality identified as such in the foregoing Agreement, who states that (s)he is duly authorized to execute said Agreement on behalf of said Municipality, and that (s)he has so executed the foregoing Agreement for the purposes stated therein.

_____
NOTARY PUBLIC

On this the ____ day of _, 20____ before me came_____, to me known and known to me to be the _____ of_HCHC, who states that (s)he has signed said Agreement on behalf of said HCHC for the purposes stated therein.

_____
NOTARY PUBLIC

Appendix D.

Adopted Development Fee Ordinances

Appendix E.

Adopted Growth Share Ordinance

Appendix F.

Draft Amended Accessory Apartment Ordinance

DRAFT

AMENDMENT TO ORDINANCE ____
LAND DEVELOPMENT ORDINANCE
OF THE BOROUGH OF FLEMINGTON,
COUNTY OF HUNTERDON
IN ACCORDANCE WITH N.J.A.C. 5:94 et seq.

WHEREAS, COAH adopted third round rules, effective December 20, 2004, which revised the regulations governing accessory apartment programs.

NOW THEREFORE BE IT ENACTED and ORDAINED by the Mayor and Common Council of the Borough of Flemington, in the County of Hunterdon, that Ordinance ____ be amended as follows (additions in **bold**, deletions are ~~struck through~~):

Section 2613 SINGLE FAMILY RESIDENTIAL (SF) DISTRICT of the LDO, is hereby amended to revise the following standards:

l. Recognizing that Flemington Borough is meeting its unmet need with accessory apartments for low and moderate income households, the Borough has not been required to bond to fund the creation of accessory apartments. However, in the event that development fee revenue is available, the Borough will provide at least ~~$10,000~~ **$20,000** to subsidize the physical creation of an accessory apartment conforming to the requirements of this section.

o. ~~Ten (10)~~ **Thirty (30)** year affordability controls shall be imposed via a deed restriction or other instrument acceptable to the Borough Attorney and COAH.

BE IT FURTHER ORDAINED, that this Ordinance shall take effect immediately upon publication following final passage and the filing of a copy hereof with the Planning Board of the County of Hunterdon, as provided by law and the Council on Affordable Housing (COAH).

Introduced:_____

Adopted:_____

BOROUGH OF FLEMINGTON IN THE
COUNTY OF HUNTERDON

_____
Austin H. Kutscher, Jr., Mayor

Attest:

_____
Diane Schottman, Borough Clerk

Appendix G.

Draft Resolution to Designate a Housing Officer

Ordinance Creating the Position of

Municipal Housing Officer

COAH requires that each certified municipality appoint a specific municipal employee to serve as a Housing Officer responsible for administering its affordable housing program, including affordability controls and the Affirmative Marketing Plan, and/or, where applicable, supervising any contracting administrative agent. This model ordinance reflects the minimum requirements that may be required of a Housing Officer

ORDINANCE NO. _____-____

AN ORDINANCE TO CREATE THE POSITION OF HOUSING OFFICER FOR THE PURPOSE OF ADMINISTERING FLEMINGTON BOROUGH'S AFFORDABLE HOUSING PROGRAM PURSUANT TO THE FAIR HOUSING ACT.

BE IT ORDAINED by the Mayor and Council of Flemington Borough in the County of Hunterdon and State of New Jersey, that the following amendments be made to Land Development Ordinance (Chapter ____) of Flemington:

Section 1. Purpose.

The purpose of this article is to create the administrative mechanisms needed for the execution of (insert name of Municipality)'s responsibility to assist in the provision of affordable housing pursuant to the Fair Housing Act of 1985.

Section 2. Definitions.

As used in this article, the following terms shall have the meanings indicated:

HOUSING OFFICER – The employee charged by the governing body with the responsibility for oversight and administration of the affordable housing program for the (insert name of Municipality).

Section 3. Establishment of Housing Officer position and compensation; powers and duties.

A. Establishment of position of Housing Officer. There is hereby established the position of Housing Officer for Flemington

B. Subject to the approval of the Council on Affordable Housing (COAH), the Housing Officer shall be appointed by the Governing Body and may be a full or part time municipal employee.

C. A Housing Officer shall be responsible for oversight and administration of the affordable housing program for Flemington and to act as a liaison to any contracting agency for housing services, the developers of low- and moderate-income housing and COAH.

D. Subject to approval by COAH, Flemington may contract with or authorize a consultant, authority, government or any agency charged by the Governing Body with the responsibility of administering of the affordable housing program of Flemington.

E. Compensation. Compensation shall be fixed by the Governing Body at the time of the appointments of the Housing Officer.

F. Powers and duties.

(1) The primary responsibility of the Housing Officer shall be to ensure that the restricted units under administration are sold or rented, as applicable, only to low- and moderate-income households. Among the responsibilities of the Housing Office are the following:

(a) Conducting an outreach process to insure affirmative marketing of affordable housing units in accordance with the Affirmative Marketing Plan of (insert name of Municipality) and the provisions of N.J.A.C. 5:80-26.15;

(b) Soliciting, scheduling, conducting and following up on interviews with interested households;

(c) Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;

(d) Providing written notification to each applicant as to the determination of eligibility or non-eligibility;

(e) Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located;

(f) Employing the random selection process as provided in the Affirmative Marketing Plan of (insert name of Municipality) when referring households for certification to affordable units;

(g) Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;

(h) Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;

(i) Instituting and maintaining an effective means of communicating information between owners and the administrative agent regarding the availability of restricted units for resale or rental;

(j) Instituting and maintaining an effective means of communicating information to low- and moderate-income households regarding the availability of restricted units for resale or re-rental;

(k) Reviewing and approving requests from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership;

(l) Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the cost of central air conditioning systems;

(m) Processing requests and making determinations on requests by owners of restricted units for hardship waivers;

(n) Communicating with lenders regarding foreclosures;

(o) Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10;

(p) Notifying the municipality of an owner's intent to sell a restricted unit;

(q) Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the appropriate county's register of deeds or county clerk's office after the termination of the affordability controls for each restricted unit;

(s) Creating and publishing a written operating manual, as approved by COAH, setting forth procedures for administering such affordability controls;

(t) Providing annual reports to COAH as required; and

(u) Such other responsibilities as may be necessary to carry out the affordable housing program of (insert name of Municipality) and the provisions of COAH's regulations pursuant to N.J.A.C. 5:94 et. seq. and the Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26 et. seq.

(2) The Housing Office shall have authority to take all actions necessary and appropriate to carrying out its responsibilities hereunder.

(3) If (insert name of Municipality) contracts with another administrative agent to administer all or any part of the affordable housing program, including the affordability controls and Affirmative Marketing Plan, the Housing Officer shall supervise the contracting administrative agent.

Section 4. Severability.

If any section, subsection, paragraph, sentence or other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect or invalidate the remainder of this Ordinance, but shall be confided in its effect to the section, subsection, paragraph, sentence or other part of this Ordinance directly involved in the controversy in which said

judgment shall have been rendered and all other provisions of this Ordinance shall remain in full force and effect.

Section 5. Inconsistent Ordinances Repealed.

All ordinances or parts of ordinances which are inconsistent with the provisions of this ordinance are hereby repealed, but only to the extent of such inconsistencies.

Section 6. Effective Date.

This Ordinance shall take effect immediately upon final adoption and publication in the manner prescribed by law.

Adopted: (Insert date)

ATTEST:	APPROVED:
_____	_____
Diane Schottman	Austin Kutscher
Municipal Clerk	Mayor