

Master Plan Re-Examination

Chesterfield Township, Burlington County

December 8, 2009



CLARKE ♦ CATON ♦ HINTZ
A Professional Corporation

100 Barrack Street
Trenton, New Jersey 08608

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1.0 INTRODUCTION

The municipal Master Plan is a document that sets forth the policies for land development and redevelopment as envisioned by the municipality and adopted by the Planning Board. As the principal document concerning the use of land, it is intended to guide both the public and private sectors in making decisions involving conservation and development. Through its goals and objectives statement, the Master Plan sets out a vision for the community in the coming years.

The Master Plan forms the legal foundation for the zoning ordinance and zoning map. New Jersey, among a handful of other states, specifically ties the planning of a community as embodied in the Master Plan with the zoning ordinance and zoning map. The zoning ordinance and map constitute the primary law governing the use of land at the local level. A zoning ordinance must be substantially consistent with the land use plan.

A Reexamination Report is a review of previously adopted master plans and amendments and local development regulations to determine whether the ideas and policy guidelines set forth therein are still applicable. The state land use law¹ requires that the Planning Board conduct a reexamination no less frequently than every six years. Five specific topics are to be considered in the Reexamination Report as follows:

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

Prior to addressing the statutory criteria, this Report will identify the most significant events in the Township's recent land use planning history, beginning with the adoption of the 1976 Master Plan.

1 - The Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. The specific provision governing Reexamination Reports is N.J.S.A. 40:55D-89

2.0 PRIOR PLANNING EFFORTS

- 1976: Master Plan provided for the voluntary transfer of development credits by applying clustering and lot size averaging techniques to non-contiguous properties.
- 1985: Master Plan focused on updating soil conditions and related property data in order to better calibrate the development densities in the Township.
- 1989: the New Jersey Legislature enacted the Burlington County Transfer of Development Rights Demonstration Act (NJSA 40:55 D-113 et seq) which created the statutory framework for TDR² programs to be enacted by municipalities within Burlington County.
- During the latter half of the 1980's, with financial and technical assistance from the County and the State, Chesterfield was able to acquire land and development rights to preserve over 3,000 acres.
- 1997: Chesterfield Township Historic Preservation Transportation Study by Lehr & Associates. This Township-wide traffic study analyzed alternative build-out scenarios and determined that the TDR development model resulted in superior traffic circulation to that of continued conventional development.
- October 28, 1997: A "Report on the Reexamination of the Master Plan & Development Ordinance" was adopted by the Chesterfield Township Planning Board simultaneous with the adoption of a new Master Plan. Report noted the pioneering role Chesterfield Township has maintained in support of farmland preservation since the 1970's. This Master Plan represented a comprehensive approach to incorporating the entire land area of Chesterfield within a voluntary TDC program in conformance with the 1989 statute. It delineated a primary receiving area southwest of the village of Crosswicks and acknowledged the possibility that smaller receiving areas might eventually be appropriate adjacent to the hamlets of Chesterfield and Sykesville. The majority of the undeveloped land area in the rural environs of the Township was designated the Sending Area. The Master Plan included a detailed evaluation of the development potential of the sending and receiving areas and estimated the capacity of the primary Receiving Area to be 1,220 units. The Master Plan incorporated the Historic Preservation Transportation Study as the Circulation Element which, among other recommendations, called for a collector road to be routed through the receiving area from Old York Road to Ward Avenue. The Master Plan also specified that the design of the receiving area should be guided by Traditional Neighborhood Design (TND) principles which are derived from the settlement patterns and architecture of places like Crosswicks, Chesterfield, and Sykesville.
- December 30, 1998: The Township Committee adopts Ordinance No. 1998-19 which establishes a Transfer of Development Rights program.
- June 28, 1999: The Township's revised Wastewater Management Plan ("WWMP"), which amends the Tri-County Water Quality Management Plan and authorizes sewer service to the receiving area and bordering residential properties, as well as to the

² For the purposes of this Reexamination Report the terms Transfer of Development Rights ("TDR") and Transfer of Development Credits ("TDC") will both be used to described

Village of Crosswicks, is approved by the New Jersey Department of Environmental Protection (“NJ DEP”).

- October, 1999: The Township enters into a Memorandum of Agreement with the New Jersey Department of Corrections (“NJ DOC”), the Department of Treasury (“Treasury”), and the NJ DEP, setting forth terms under which Chesterfield would receive 125,000 gallons per day of sewer capacity as an “interim allocation” from the Albert C. Wagner Youth Correctional Facility Sewage Treatment Plant on Ward Avenue in Chesterfield.
- February, 2000: Danner Real Estate Consultants, retained by the Burlington County Board of Chosen Freeholders to prepare an appraisal identifying the value of TDR credits within the Township of Chesterfield, releases its appraisal which establishes a range of \$18,000 to \$24,000 as the value of a Chesterfield Township Development Credit.
- April 26, 2000: The New Jersey State Planning Commission designates the planned village in Chesterfield as a “Center” within the meaning of the NJ State Development and Redevelopment Plan (“NJ SDRP”).
- October 4, 2000: The New Jersey Department of Community Affairs and the Office of State Planning award Chesterfield Township a “Smart Growth Planning Grant” to fund a variety of planning analyses to facilitate the proper development of the TDC receiving area in Chesterfield.
- December 12, 2000: The Township Committee adopts Ordinance No. 2000-22, establishing a sewer service area for the Township of Chesterfield and authorizing the construction of the necessary sewer infrastructure to convey solid waste from the receiving area and the Village of Crosswicks to the Albert C. Wagner Youth Correctional Facility Sewage Treatment Plant.
- January 29, 2001: The Planning Board adopts a Housing Element of the Master Plan and the Township Committee adopts a Fair Share Plan to provide for the Township’s “second cycle” affordable housing obligation.
- January 31, 2001: The Township enters into a formal “Operations Agreement” with NJ DOC, Treasury, and NJ DEP, setting forth the terms under which the Township will be entitled to 455,180 gpd of sewer capacity upon completion of a plant expansion to be undertaken by NJ DOC in conjunction with Treasury and NJ DEP. This allocation is expected to satisfy the needs of the Township for both existing properties and the receiving area.
- September 27, 2001: The Township Committee awards contracts totaling \$4.6 Million Dollars to three (3) contractors to undertake construction of the necessary sewer infrastructure.
- May 28, 2002: The Planning Board adopts a Master Plan Amendment to the 1997 Master Plan. The Amendment is the result of the studies funded by the Smart Growth Planning Grant and establishes a plan for the receiving area which provides a framework for developers to follow in the design of subdivision plans for individual tracts.

- September 12, 2002: The Township Committee adopts Resolution No. 2002-9-2 authorizing adoption of a Development Transfer Ordinance Review Report pursuant to NJSA 40:55D-123.
- September 30, 2002: The first houses in Crosswicks are connected to the new sewer system upon completion of construction of the sewer pump station and conveyance system to serve Crosswicks and Old York Village.
- December 27, 2002: The Township Committee adopts Ordinance No. 2002-14 establishing a Roadway Systems Improvement District for Old York Village (the receiving area).
- June 12, 2003: The Township Committee adopts Ordinance No. 2003-6 amending certain area and bulk regulations for the receiving area and establishing an off-tract improvement regime for financing centralized recreation facilities in Old York Village.
- July 24, 2003: The Township Committee adopts Ordinance No. 2003-11 which establishes new architectural and site design standards and guidelines for Old York Village.
- August 21, 2003: The Chesterfield Board of Education endorses the site identified for an elementary school in the May 28, 2002 Master Plan amendment for Old York Village.
- September 5, 2003: The Township releases a publication entitled Old York Village – Implementing Smart Growth to provide an educational overview of the TDR plan for the public.
- September 10, 2003: The Hon. John W. Sweeney, Assignment Judge of the NJ Superior Court, executes an Order approving the Township’s 2001 Housing Element and Fair Share Plan as a satisfactory response to the Township’s second cycle fair share obligation and granting Chesterfield 6 years of repose from exclusionary zoning litigation. The Order also approves a settlement agreement between the Township and Crosswicks-Ellisdale, LLC which had instituted a Mount Laurel lawsuit against the Township in 1997 regarding development within the receiving area.
- September 18, 2003: The New Jersey Site Improvement Advisory Board approves Special Area Standards for the boulevard and parkways within Old York Village (35 N.J.R. 4132), bringing the Residential Site Improvement Standards as set forth in NJAC 5:21 into conformance with the design standards set forth in the May 28, 2002 Master Plan amendment.
- October 28, 2003: Planning Board adopts a Reexamination Report of the Master Plan and the Land Development Ordinance.
- December 14, 2005: The Hon. John W. Sweeney, Assignment Judge of the NJ Superior Court, executes an Order granting a growth share exemption in the Receiving Area.
- July 31, 2006: The Municipal Stormwater Management Plan was adopted in response to new Stormwater Management rules adopted by NJ DEP February 2004.

- September 1, 2006: Chesterfield Township Community Facilities Plan Report which examined the capacity and deficiencies of Chesterfield's existing facilities and services. Recommendations were made regarding the inadequacy of the Municipal Building and Police facility, merging all emergency services into one group, increasing storage at recreational sites, increasing volunteerism, and reuse of the existing Municipal Building and school.
- December 14, 2007: The Hon. John W. Sweeney, Assignment Judge of the NJ Superior Court, executes an Order extending the Township's second round protection from exclusionary zoning litigation until new Third Round Rules are adopted.
- May 1, 2008: NJ Smart Future Grant awarded to prepare Comprehensive Farmland Preservation Plan Element and complete the Municipal Self Assessment for NJ State Plan Endorsement.
- July 2009: A Bicycle and Pedestrian Study was completed for Chesterfield Township by Michael Baker Jr., Inc. funded through a NJ Department of Transportation grant.

3.0 "THE MAJOR PROBLEMS AND OBJECTIVES RELATING TO LAND DEVELOPMENT IN THE MUNICIPALITY AT THE TIME OF THE ADOPTION OF THE LAST REEXAMINATION REPORT AND THE EXTENT TO WHICH SUCH PROBLEMS AND OBJECTIVES HAVE BEEN REDUCED OR HAVE INCREASED SUBSEQUENT TO SUCH DATE."

Development Pressure in the Sending Area:

Before the adoption of the TDR Ordinance in 1998 farming was the predominant land use in the Township; however, residential development pressures were increasing. A number of major residential subdivisions and several individual frontage lots were developed, thereby fragmenting the continuity of the agricultural land, undermining highway safety, and expanding the areas of potential conflict between residential uses and farm operations.

At the time of the 2003 Reexamination Report, concern over scattered subdivisions, while initially addressed by the implementation of the TDR program, re-emerged as the Township continued to receive applications for subdivision of land in the sending area due to the voluntary nature of the TDR program.

The prospects for avoiding a fragmented development pattern in Chesterfield have improved considerably since the 2003 Reexamination Report. Not one application for conventional subdivision in the sending area has been processed through the Planning Board since 1998. By contrast, five applications for development in the Receiving Area consisting of over 800 housing units have been approved by the Planning Board. The development status of Old York Village includes 555 Certificates of Occupancy and 60 additional building permits have been issued. As a result 460.9 TDR credits have been retired and their corresponding sending area lands preserved. The effects of the national economic downturn have been evident throughout the Township as applications for residential building permits have dwindled, particularly in the Sending Area where only 2 certificates of occupancy were issued in 2008 and none have been issued through September of 2009.

The aerial photographs on the following pages illustrate the development status of the village over the past two years. The Aerials depicted on page eight were taken in September of 2007 and in September of 2009. The aerial photo found on page nine of the new elementary school was taken September

2009. The Preserved Lands Map found on page ten assists in illustrating the progress to date of Old York Village and Chesterfield's Farmland Preservation Program.



Aerial Photograph of Old York Village, September 2007



Aerial Photo of Old York Village, September 2009



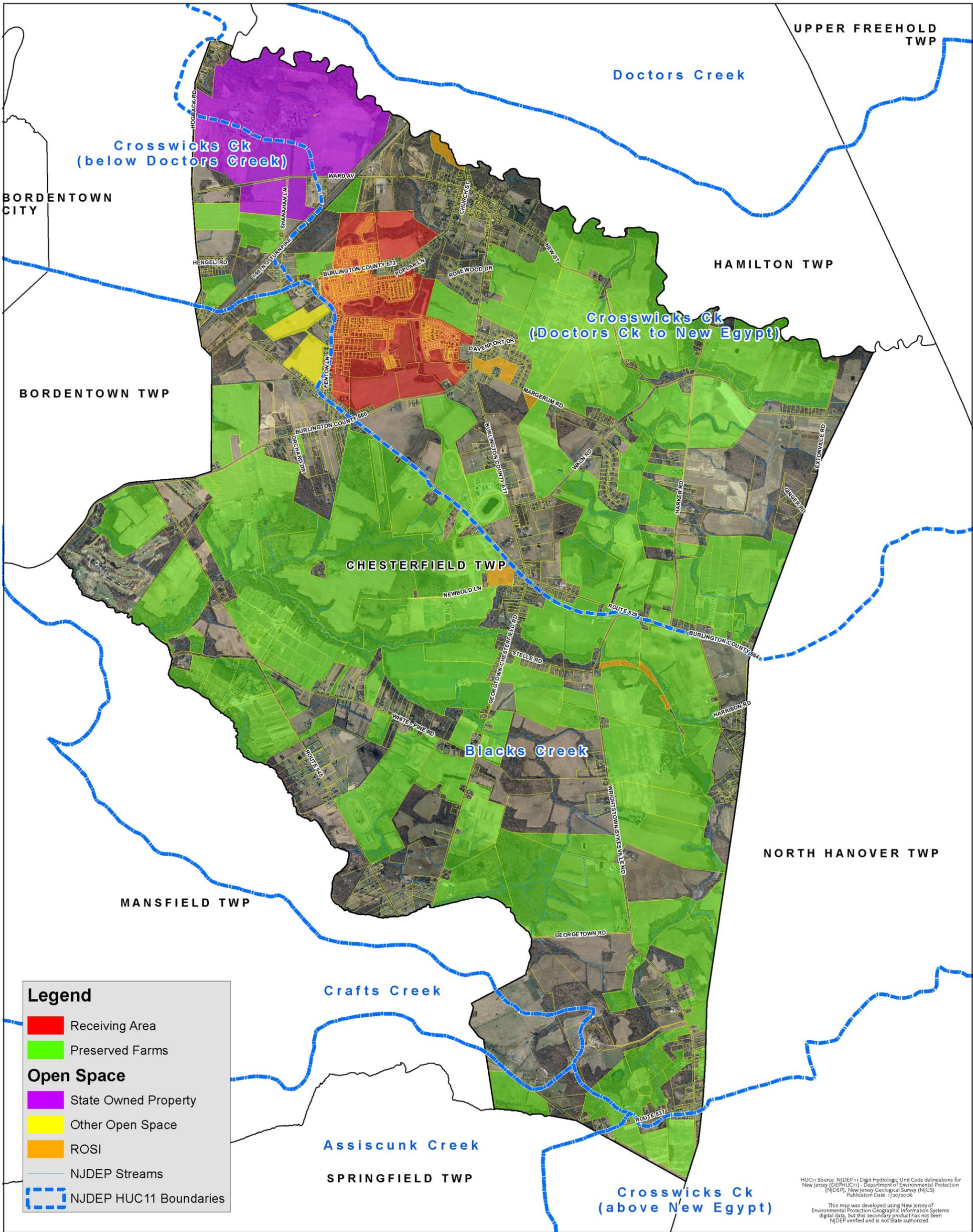
New Chesterfield Elementary School Under Construction, September 2009

Preservation of Environmentally Sensitive Areas

The 2003 reexamination report recommended the Land Development Ordinance should be reevaluated to determine whether local regulations should be expanded to enhance the protection of stream corridors and woodlands. Since the 2003 Reexamination Report, the NJ department of Environmental Protection has adopted enhanced environmental rules aimed at better protecting the State's water resources and streams.

Historic Preservation

The 2003 reexamination report acknowledged that the 1997 Master Plan includes an Historic Plan Element which recommends that the Township Committee consider establishing an Historic Preservation Commission under N.J.S.A. 40:55D-107 and adopting an historic preservation ordinance. The primary purpose of such initiatives would be to foster an appreciation for and the preservation of the historic settlements of Crosswicks, Chesterfield and Sykesville as well as individual historic sites in the environs. The 1997 Master Plan did not include the listings of the settlements of Crosswicks and Chesterfield as historic districts on the State and National Register of Historic Places. No action has been taken on the creation of a Commission or the adoption of an historic preservation ordinance; however the Township does have a Historic Preservation District which is represented as an overlay on several of the zoning districts. The Chesterfield Township Historical Society must review and comment on development proposals which would create or alter the architectural features of any structure in the district. The recommendations of the Historical Society are advisory to the Planning Board and non-binding on the applicant.



Legend

- Receiving Area
- Preserved Farms

Open Space

- State Owned Property
- Other Open Space
- ROSI
- NJDEP Streams
- NJDEP HUC11 Boundaries

HUC11 Source: NJDEP 11 Digit Hydrologic Unit Code delineations for New Jersey (DEPHUC11) - Department of Environmental Protection (NJDEP), New Jersey Geological Survey (NJGS)
 Publication Date: 1/20/2006
 This map was developed using New Jersey of Environmental Protection Geographic Information Systems digital data, but this secondary product has not been NJDEP verified and is not State authorized.



DRAFT

Preserved Farmland

Chesterfield Township, Burlington County, NJ December 15, 2009

Clarke Caton Hintz ● ● ●

Architecture
 Planning
 Landscape Architecture

Recreation Planning

The 2003 Reexamination Report identified a comprehensive array of recreation facilities planned for Old York Village. These facilities include a centralized active recreation area which is to be developed in cooperation with the Chesterfield Board of Education, a centrally-located village square suitable for large gatherings and passive recreation, neighborhood parks with facilities for both young children and older adults and a series of walking paths and bicycling paths which provide alternatives to vehicular travel around the village.

The centralized play fields are under construction along with the new elementary school. The Village Square plans are being finalized and groundbreaking is expected in 2010. Neighborhood parks have been completed in four of the developments with amenities for both children and adults. Walking paths and bicycle paths have been constructed throughout the village, although work remains on paths to connect Old York Village with the Village of Crosswicks.

In addition, Chesterfield was awarded a NJDOT grant to complete a Bicycle and Pedestrian Study. This comprehensive bicycle and pedestrian plan for the Township Plan was completed by Michael Baker Jr., Inc. and involved a citizen subcommittee and several public meetings. The final report was issued July 2, 2009. Funding opportunities for development of bicycle and pedestrian routes should be explored. The Circulation Plan Element should be amended to incorporate the Plan's conclusions.

Chesterfield Township has acquired two parcels for the development of a new Township park. These parcels were known as Block 203 lot 12.01 consisting of 27.53 acres and Block 203 lot 43, consisting of 42.08 acres. These parcels have been consolidated into Block 203 Lot 43.01. As of this writing, the park has not been given an official name. Construction has been completed on baseball, softball, and soccer fields on the Fenton Lane side of the park. These fields will be scheduled for use during the fall of the 2010 recreational sports year. The Bordentown-Chesterfield Road side of the park will be developed into more passive recreation areas. While there are no final plans at this time for development of passive side, there is a walking path around the entire area connecting the two parcels.

The Township has applied to both the State of New Jersey Green Acres program and the Burlington County Local Open Space program for financial assistance to underwrite the cost of acquiring land for the centralized recreation facilities. On June 13, 2003 the County notified the Township that it had allocated funding to Chesterfield for this purpose.

Community Facilities

The 1997 Master Plan recognizes that the development of the receiving area would generate a demand for additional community facilities. Specifically, it recommends that land within the new village be set aside for an elementary school, a new municipal building and a library with consideration given to land for a rescue squad and firehouse. Additionally, a Community Facilities Plan was created in 2006 which examined the capacity and deficiencies of Chesterfield's existing facilities and services. Recommendations were made regarding the inadequacy of the Municipal Building and Police facility. The report identified an option of converting the existing school into a new combined municipal building, police, and emergency management facility. The report recommended increasing storage at recreational sites, increasing volunteerism, and reuse of the existing Municipal Building as a recreation center, senior center, meeting facility, or a Chesterfield Museum.

The 2003 reexamination report noted that the Chesterfield Board of Education has thoroughly evaluated the implications of the Township's TDR program on the district's school enrollment and has determined that a new elementary school K-6 will be required. On August 21, 2003 the Board voted to locate the new school on a site designated specifically for that purpose in the May 28, 2002 Master Plan amendment. A referendum on the funding of the school construction was approved by the

Township electorate in November 2008. The school is under construction with the anticipated opening for the 2010-2011 school year. Aerial photograph of new school construction can be found on page eight.

Old School Site: Once the new elementary school is opened and classes are removed from the existing elementary school, a new use will need to be identified for the existing building. Cooperation between the Board of Education and the Township Committee will be necessary to create a new use plan.

While no definitive plans have been made to construct any other specific community facilities, the conceptual plan for Old York Village which is set forth in the May 28, 2002 Master Plan amendment provides a number of locations for “institutional” land uses. These sites are typically in prominent locations within the village plan and of sufficient size to accommodate community facilities such as those mentioned above or others, such as houses of worship, day care centers, nature centers, etc. As development occurs within Old York Village over the coming years, the Township should monitor the adequacy of existing community facilities and services and activate the institutional “placeholders” in the village plan as needs dictate.

Affordable Housing

The goal expressed in the 1997 Reexamination Report to provide for the Township’s fair share affordable obligation through the TDR program continues to be accomplished. It should be noted that Chesterfield’s Fair Share Plan was the first plan in New Jersey to combine the dual public policies of farmland preservation through the transfer of development rights and inclusionary zoning for affordable housing.

A key component of Chesterfield’s TDR program was the satisfaction of the Township’s twelve (12) year cumulative low and moderate affordable housing obligation. On September 10, 2003 the Hon. John A. Sweeney, AJSC entered a Final Judgment of Compliance and Repose which found the Township’s Housing Element and Fair Share Plan to be in compliance with the NJ Fair Housing Act and the *Mount Laurel* doctrine in satisfying the municipality’s 1987-1999 (first and second round) fair share need. That judicial determination provided the Township with 6 years of Repose (until September 10, 2009).

However, on December 20, 2004 regulations adopted by the NJ Council on Affordable Housing (hereinafter “COAH”) to govern the third round of fair share compliance became effective (*NJAC*5:94-1 *et seq.*). These rules attach a low and moderate housing obligation to residential and non-residential development which occurs after January 1, 2004. Consequently, although Chesterfield’s repose lasts until 2009, the Township determined that it would be prudent to seek a ruling from the Court to clarify the implications of COAH’s latest rules on Chesterfield’s third round obligation.

The Township sought to have the residential and private-sector non-residential development within the Receiving Area excluded from generating a third round growth share calculation. On December 14, 2005 the Hon. John A. Sweeney, AJSC entered an Order confirming that no 3rd round growth share obligation would be generated from residential, commercial, retail, or nongovernmental office uses within the Receiving Area.

On June 8, 2006, the Township passed Resolution 2006-6 in which it committed to file a third round fair share plan with COAH, or the Superior Court, by May 15, 2007.

However, in a January 25, 2007 unanimous decision, the NJ Appellate Court invalidated some of COAH’s key third round rules which govern the size of each municipality’s fair share obligation and

the manner in which the obligation can be satisfied. The Court ordered COAH to propose and adopt amendments to its rules to address the deficiencies it identified.

For COAH, much of 2007 and 2008 was spent in rewriting the rules and shoring up the statistical basis for the number of affordable housing units needed in an effort to respond to the Appellate Court decision. New rules were proposed in January of 2008 and adopted on June 2, 2008. At the same time, COAH also re-proposed yet more changes to the rules which were subsequently adopted on October 20, 2008. These rules have been challenged by a variety of parties. The case, which is again before the Appellate Division, is expected to be decided in 2010.

In light of the invalidated rules and pending challenges to the new rules, Chesterfield Township returned to Judge Sweeney and on February 22, 2008 Judge Sweeney executed an order which reaffirmed his 2005 order regarding the growth share obligation generated by the Receiving Area and granted the Township protection from builder's remedy lawsuits until COAH's rule making process is complete and it becomes clearer whether COAH's revised and proposed rules are adopted, appealed, stayed, sustained, or invalidated.

Current status of Round 3: A third round Growth Share Obligation Report has been prepared for Chesterfield. This report dated September 23, 2009 has calculated the fair share obligation of Chesterfield Township for 1987 – 2018. The Township's rehabilitation obligation is zero and its prior round (1987 – 1999) obligation is 55 units. Pursuant to the 2005 and 2008 Orders of the Superior Court and COAH rules the Township's third round growth share obligation has been projected as 17 units. This third round obligation is generated by development which has occurred since January 4, 2004 and is projected to occur through December 31, 2018 outside Old York Village, Chesterfield's Transfer of Development Rights Receiving Area. Once the Fair Share Obligation Report is reviewed and approved by the Superior Court a new Fair Share Plan and Housing Element will be prepared.

4.0 "THE EXTENT TO WHICH THERE HAVE BEEN SIGNIFICANT CHANGES IN THE ASSUMPTIONS, POLICIES AND OBJECTIVES FORMING THE BASIS FOR THE MASTER PLAN OR DEVELOPMENT REGULATIONS AS LAST REVISED, WITH PARTICULAR REGARD TO THE DENSITY AND DISTRIBUTION OF POPULATION AND LAND USES, HOUSING CONDITIONS, CIRCULATION, CONSERVATION OF NATURAL RESOURCES, ENERGY CONSERVATION, COLLECTION, DISPOSITION AND RECYCLING OF DESIGNATED RECYCLABLE MATERIALS, AND CHANGES IN STATE, COUNTY AND MUNICIPAL POLICIES AND OBJECTIVES."

Chesterfield Township Master Plan and Development Regulation Changes

There have not been significant changes in the assumptions, policies, and objectives which support the 1997 Master Plan, as amended, the 2003 Re-examination Report, and the 1998 Land Development ordinance, as amended. However, refinements have been adopted as experience with and evaluation of the Receiving Area development has occurred. The following sections identify these refinements.

Credit Requirements: The "development credit-to use-requirement in the Land Development Ordinance" was amended when current market conditions were examined and compared to the credit ratio requirement for each use category in the PVD Zones. This comparison revealed an economically prohibitive standard for non-residential development in the PVD-3 district of the Receiving Area.

The translation of development credits to use is governed in the Code of Chesterfield Township by the chart entitled "Ratio of Development Credits to Uses," This chart was amended on April 26, 2007 by Ordinance No. 2007-9 in response to the market conditions.

Architectural and Site Design Standards and Guidelines

As the Receiving Area began to take shape through the construction of the initial subdivisions, members of the Planning Board, Township Committee, and interested citizens began to identify areas where the architecture of the residential models could be improved to better fit the vision of a neo-traditional village. The Planning Board requested an architectural study be conducted of the as-built conditions of the residential units in the Receiving Area to identify issues and propose solutions to improve the overall appearance and traditional neighborhood character of the new village. The units were documented in photographs and reviewed between January and June of 2007. The Technical Review Committee reviewed the documentation and made recommendations to the Planning Board. On July 24, 2008 the Architectural and Site Design Standards and Guidelines were amended by Ordinance No. 2008-14 to:

- Limit the number of hipped roofs on a block to 15 %
- Increase the minimum porch depth to seven feet from the front wall of the dwelling
- Require porches to cover a minimum of 60% of the total width of the facade
- Limit the monotony of exterior colors by requiring two units with substantially similar color palettes including similar hues of a color for siding, shutter trim and roof color be separated by at least two units with differing color palettes
- Requiring a minimum of 60% of units on a street block to have shutters

State, County and Municipal Policies and Objectives

There have been several significant developments in governmental land use policy at the State and County level since the 2003 Re-examination of the Master Plan.

Statewide Transfer of Development Rights Act

In March 2004, the State Transfer of Development Rights (TDR) Act (*N.J.S.A. 40:55D-137*) was signed into law, authorizing transfer of development rights by municipalities throughout the state. Under the statute prior to implementing a TDR program a participating municipality needs to meet a number of requirements, including the adoption of Transfer Plan Element and Utility Service Plan Elements of the Master Plan as well as a capital improvement plan and a real estate market analysis. A municipality also needs to receive Initial Plan Endorsement from the State Planning Commission prior to adopting a TDR ordinance. New Plan Endorsement guidelines were adopted in 2009 by the State Planning Commission. Even though Chesterfield's TDR program predated the statewide legislation, the Township is pursuing the State Plan Endorsement and to "extend" Chesterfield's existing centers designations with assistance from a Smart Future Planning Grant through the Department of Community Affairs.

Permit Extension Act

The Permit Extension Act of 2008 was approved by the State Legislature in June 2008 and signed by the Governor on September 6, 2008. Under the Act, the expiration of certain state, county, and municipal land development approvals is tolled from January 1, 2007, to July 1, 2010. The Act is intended to preserve the approvals for projects which have not yet been constructed due to the present unfavorable economic conditions.

Master Plan Sustainability Element

In August 2008, the Municipal Land Use Law (NJSA 40:55D-28, regarding the preparation, contents and modification of a master plan) was amended to include a new optional master plan element, a “Green Buildings and Environmental Sustainability Plan Element.” This element is intended to encourage and promote the efficient use of natural resources and the installation and usage of renewable energy systems; consider the impact of buildings on the local, regional and global environment; allow ecosystems to function naturally; conserve and reuse water; treat storm water on-site; and optimize climatic conditions through site orientation and design.

The New Jersey Legislature has passed or is currently considering several new pieces of alternative energy legislation including solar, photovoltaic, wind, and tidal facilities in recognition of the need to reduce our dependence on fossil fuels and foreign oil. Chesterfield does not currently have standards for siting, buffering, or regulating alternative energy generating facilities. The initial “round” of Sustainability Elements are currently being prepared by municipalities pursuant to the statute. These will provide Chesterfield with models which it could use as a foundation should the Township decide to prepare a Sustainability Element.

NJ Council on Affordable Housing (“COAH”) Rules

As indicated above, COAH’s Third Round rules were initially adopted in December, 2004. These rules, however, were overturned in part by an appellate level court decision in January 2007. New rules were adopted on June 2, 2008. At the same time, COAH also re-proposed yet more changes to the rules which were subsequently adopted on October 20, 2008.

In addition to the amendments to COAH’s Third Round Rules, the Fair Housing Act, *N.J.S.A. 52:27D-301*, was amended on July 17, 2008 (P.L. 2008 c. 46). The 2008 amendments reflect A-500, also known as the Robert’s bill. This bill most notably eliminates regional contribution agreements (RCA’s) as a method of satisfying the third round affordable housing obligation and eliminates a municipality’s ability to pass on the affordable housing obligation generated by nonresidential development to the developer without a compensating zoning benefit. Under this statutory amendment a municipality must charge a development fee of 2.5% of the equalized assessed value of qualified nonresidential development. The municipality may continue to require that residential developers construct affordable housing provided certain conditions are met.

Approximately one year later, on July 28, 2009 the Fair Housing Act was amended again as part of the “New Jersey Economic Stimulus Act of 2009” (P.L. 2009. c.90). This bill addressed a range of topics, however, regarding affordable housing, the bill suspended the 2.5% nonresidential development fee through July 1, 2010. As such, nonresidential developments approved prior to July 1, 2010 are not required to pay the 2.5% nonresidential development fee, provided a construction permit is issued to the project prior to January 1, 2013. Despite the suspension of the fee, municipalities remain unable to pass on the affordable housing obligation generated by nonresidential development to the developer without a compensating zoning benefit.

The third round rules provided residential development and job projections for the third round (which was expanded to encompass the years 2004 through 2018). Additionally, COAH revised its growth share ratios to require one affordable housing unit for every four market rate housing units developed and one affordable housing unit for every 16 jobs created, still expressed as non-residential building square footage. Oral argument on various challenges to these rules is to be heard by the Appellate Court in December 1, 2009. A decision is expected in 2010.

NJDEP Wastewater Management Plan Requirements

In July 2008, the NJDEP updated its 1990 regulations that required municipalities or regional authorities to submit wastewater management plans (WMPs) that reflected how a municipality planned to meet the wastewater needs of its zoned property over a 20-year period. A substantial number of the 191 municipal or regional authorities in New Jersey originally responsible for WMPs did not submit the plans or the required updates. To improve compliance, reduce the number of WMPs and stress a more regional perspective, NJDEP transferred the responsibility for wastewater planning to New Jersey's 21 counties. The regulations allow municipalities to compile the plans only if the county has not submitted or stipulates that it does not intend to submit a WMP.

The new regulations require an environmental build-out analysis to determine the future residential, office and/or commercial development that current zoning will allow. NJDEP has supplied the county with mapping that will be used to draft a build-out analysis. Municipalities then have the job of making sure the mapping accurately reflects their zoning and excludes environmentally sensitive areas, public open space, and certain other lands such as preserved agricultural lands from the build-out analysis. The build-out must demonstrate that water supply needs will be met. The WMP agency must demonstrate that future development will meet the standards for stormwater, riparian zones, and steep slopes. The WMP must require applicants to perform anti-degradation analysis addressing direct water quality impacts. For areas served by septic systems, the county will determine densities necessary to attain nitrate levels at or below 2mg/L within each sub watershed area. If the density exceeds the nitrate standard, the affected towns must adjust zoning in the watershed.

Chesterfield is participating with Burlington County in the preparation of the Township's Waste Water Management Plan. Any changes necessary to the underlying zoning will be evaluated as part of that process. The initial deadline for completion of the WMPs was April 7, 2009. Burlington County has been granted an extension until December 31, 2009 and has requested another extension until June 2010.

5.0 "THE SPECIFIC CHANGES RECOMMENDED FOR THE MASTER PLAN OR DEVELOPMENT REGULATIONS, IF ANY, INCLUDING UNDERLYING OBJECTIVES, POLICIES AND STANDARDS, OR WHETHER A NEW PLAN OR REGULATIONS SHOULD BE PREPARED"

The changes recommended for the Master Plan and Land Development Ordinance do not necessitate that a new Master Plan or Ordinance be prepared. The recommendations have been identified in the course of this Reexamination Report and are highlighted below:

- I. The Master Plan should be amended to document the historic districts in Crosswicks and Chesterfield which are on both the State and National Registers of Historic Places. The Township should consider establishing an Historic Preservation Commission under NJSA 40:55D-107 and adopting an historic preservation ordinance.

2. As development occurs within Old York Village over the coming years, the Township should continue to monitor the adequacy of community facilities and services and plan for replacements/enhancements as needs dictate. The 2006 Community Facilities Plan should be reviewed for inclusion as a Master Plan Element.
3. The Township should seek third round affordable housing approval at the appropriate time.
4. Chesterfield should create standards for alternative energy generating facilities in the Receiving Area and in the Sending Area lands. The Township should consider preparing and adopting a comprehensive Environmental Sustainability Element which would include standards for all alternative energy facilities.
5. Chesterfield should complete the State Plan Endorsement Process including a Centers Designation extension.
6. Chesterfield should continue to participate with Burlington County in the preparation of the Township's Waste Water Management Plan.
7. The Circulation Plan Element of the Master Plan should be amended to incorporate the Bicycle and Pedestrian Study and conclusions. The recommendations from this study should be implemented as part of ongoing capital improvements to roads and rights of way.

6.0 "THE RECOMMENDATIONS OF THE PLANNING BOARD CONCERNING THE INCORPORATION OF REDEVELOPMENT PLANS ADOPTED PURSUANT TO THE "LOCAL REDEVELOPMENT AND HOUSING LAW," P.L.1992, C.79 (C.40A:12A-1 ET AL.) INTO THE LAND USE PLAN ELEMENT OF THE MUNICIPAL MASTER PLAN, AND RECOMMENDED CHANGES, IF ANY, IN THE LOCAL DEVELOPMENT REGULATIONS NECESSARY TO EFFECTUATE THE REDEVELOPMENT PLANS OF THE MUNICIPALITY."

The Planning Board does not foresee the need to establish redevelopment areas or to adopt redevelopment plans pursuant to the "Local Redevelopment and Housing Law" in order to implement the TDR program set forth in the 1997 Master Plan, as amended.