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2017 Reexamination Report and Master Plan Amendment

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Adopted on August 15, 2017



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2017 Reexamination Report and Master Plan Amendment

Chesterfield Township

Burlington County, New Jersey

Adopted on August 15, 2017

2017 Planning Board

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NJ PP #6026

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A signed and sealed version of this report is available at the Chesterfield Township municipal building.



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1.0 Executive Summary

Introduction: The municipal Master Plan is a document which sets forth the policies for land use as envisioned by the municipality. The Plan forms the legal foundation for the Zoning Ordinance and Zoning Map. In order to remain valid, the Zoning Ordinance must be substantially consistent with the Master Plan. At least every ten (10) years the Master Plan must be reexamined. A reexamination may serve as the Master Plan or a Master Plan Amendment so long as the recommendations set forth are substantial and the public hearing and notice requirements for Master Plan adoption are followed. This 2017 Reexamination will be adopted as a Master Plan Amendment.

Past Planning Efforts: A chronologic history of actions taken by the Planning Board and Governing Body. The body of the Report contains efforts since the last reexamination in 2009. Prior planning efforts are included in Appendix 1.

Examination of Issues from the 2009 Reexamination: The third section of the report lists the recommendations from the last review of the Master and the actions taken to resolve the recommendations. Successful action has been taken in the recommendations for the following items and recommendations have been carried forward for those which were not resolved:

- Historic Preservation: Ordinance adopted Historic Preservation Commission appointed.
- Community Facilities: New elementary school and municipal building.
- Affordable Housing: Protection from litigation until 3rd round rules are effective and implementation of Township's Fair Share Plan is ongoing.
- Alternative Energy: Solar Ordinance adopted. New definitions may be necessary for protection of impacts.

Changes in Policy, Laws, & Programs: Over the course of the last decade inevitable changes have occur at the State, County, and Local level due to economic, political, and natural circumstances. These changes affect the perspective and vision for the future of the community and may form the basis for revised plans and regulations. Twelve changes are detailed in the reexamination report:



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- Permit Extension Act: This extension of permits during the “Great Recession” lapsed as of June 31, 2016.
- “Time of Application” Law: This law limits the ability of the municipality to revise zoning during the deliberation on an application for development.
- COAH Administrative Jurisdiction Transferred to the Courts: After years of intense litigation, the NJ Supreme Court has relieved jurisdiction from the administrative affordable housing agency, COAH, and has transferred decisions on affordable housing obligations to 15 trial court judges.
- Alternative Energy Legislation: In response to the demand for renewable and clean energy, the NJ Legislature passed sweeping laws facilitating the development of wind and solar generating facilities.
- Southern Reliability Link Pipeline Project/ Williams CO. (Transco) Compression Station: A regional natural gas supply pipeline is proposed to begin in Chesterfield and traverse the heart of the community with locations in very close proximity to homes, businesses, and community services. The pipeline and compression station are strongly opposed by the Township Committee. Zoning revisions have been passed and litigation is ongoing.
- TDR: Transfer of Development Rights Becomes Purpose of Zoning: TDR and other land use tools have been added to the MLUL as a purpose of zoning. These tools are designed to provide flexibility in traditional development patterns.
- 2016 Chesterfield Township Zoning Study: A study was conducted to identify areas where existing zoning was problematic to landowners, marketability, or redevelopment of parcels. Recommendations may form the basis for zoning changes should the Governing Body wish to pursue revisions.
- Compassionate Use of Medical Marijuana Act: The NJ Legislature passed this new law which permits medical marijuana to be cultivated and distributed. The Department of Health is the administrative agency. Recommendations regarding this new law involve methods of regulating the local production and distribution.
- Farmland Preservation Efforts: Chesterfield has developed a Comprehensive Farmland Preservation Plan which should be incorporated into the Master Plan.
- Telecommunication Towers and Antennas: Demand for digital access to wireless communication devices (voice, broadband, and data) has increased the demand for “cell towers” as well as “micro” systems: small cells and distributed antenna systems. Recent litigation and legislation has reduced a municipality’s ability to regulate location of cell towers and colocation. Recommendations to amend the telecommunications definitions and conditional use regulations to



include micro technology are included. Removal of cell towers from the AG Zone as a conditional use is also recommended.

- Master Plan Notice Revisions: New notice requirements were added to the Municipal Land Use law to require coordination with the Office of Planning Advocacy and military facilities when Master Plans are adopted/amended.
- Incentive Based Policy Changes: Grant opportunities are detailed in this section of the report.

Recommendations from the Reexamination and for Redevelopment: Thirteen recommendations are included in the Reexamination Report as follows:

Recommendations Historic Preservation:

- The Historic Preservation Plan Element of the Master Plan should be updated to acknowledge the adoption of the Historic Preservation Ordinance; and to reflect the mission, goals, and objectives for historic preservation in Chesterfield.
- The historic preservation district mapping and documentation on file in the Clerk's office should be incorporated into the Historic Preservation Plan Element of the Master Plan.
- Preservation of developable land within the historic districts using the TDR planning tool should be explored.
- A recap of necessary and available TDR credits to complete Old York Village should be conducted.
- Recommendation: The Township should support the application to the Certified Local Government Program for Historic Preservation

Recommendations Community Facilities:

- Adoption by reference of the 2006 Needs Assessment as the Community Facilities Master Plan element of the Chesterfield Township Master Plan.¹
- Continue to monitor and implement the recommendations of the Community Facilities Plan.
- Update the Community Facilities Plan to include as built mapping and planning for the Fenton Lane open space acquisitions.

Recommendation Affordable Housing:

Chesterfield should continue to implement its Fair Share Plan as directed by the Court and implement a third round plan, if needed, once the Court determines of the Township's affordable housing obligation.

¹ Chesterfield Township Community Facilities Plan. Prepared by Environmental Resolutions Inc., September 1, 2006.



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Recommendation Alternative Energy and Sustainability:

- Amend the Chesterfield Township Code section 130-144 C. (2) (c) to increase the solar generation capacity limit for conditional accessory uses from 10kW to 20kW in order to reduce the need for bulk variances.
- The Township may want to consider preparation of a sustainability element of the Master Plan.
- The Chesterfield Township Code does not include a definition of commercial farm. Amend the Chesterfield Township Code section 130 -4 to add the definition of a “commercial farm”.
- The Township may want to consider exploring the possibility of a Sustainable Jersey Grant to assist in creating a Sustainability element.

Recommendation State Planning:

Continue to monitor developments regarding state planning process for incentives to participate in Plan Endorsement.

Recommendation Wastewater Management Planning:

The Township should continue to stay engaged with Burlington County in the Wastewater Management Planning/Implementation process. The Township should ensure the WMP and local ordinances require accessory uses to utilize the connection of the principal use and not an independent connection.

Recommendation Circulation Plan:

- Incorporate the 2009 Chesterfield Township Bicycle and Pedestrian Study into the Circulation Plan Element of the Master Plan.
- The Township should seek funding assistance to implement the improvements recommended in the study.
- The 1997 Master Plan incorporated the Historic Preservation Transportation Study as the Circulation Plan Element which, among other recommendations called for a collector road to be routed through the receiving area from Old York Road to Ward Avenue. As the build out of Old York Village nears completion, the Township may want to revisit the recommendations of the Historic Preservation Transportation Study in light of new development patterns in Chesterfield and the surrounding region to alleviate traffic volume on the historic villages.



Recommendation Time of Application Law:

The date when all of the required documents have been submitted should be noted for the record on each application. This statutory submission date is different than the determination of completeness for commencement of time limits for approval.

Recommendation NJNG Pipeline and Transco Compressor Station:

In acknowledgement of the potentially adverse consequences to the community identified by the Township Committee posed by the location of the NJNG pipeline and Transco compressor station projects, any and all land use regulation revisions which could alter the course of these projects should be considered to protect the agricultural industry and the public health, safety, and welfare.

Recommendation Chesterfield Zoning Study:

The Township may want to consider revising the zoning to reflect the findings and options of the Zoning Study and revise zoning in areas near existing commercial nodes to better reflect current zoning patterns and to possibly alleviate development, redevelopment, and marketability issues of the identified parcels.

Recommendation Creation of a P Public Zone: The Agriculture Zone AG is proposed to be revised to permit farms, single family homes and public parks and playgrounds. The Township should consider creating a new Public, P, zone governing public buildings and publicly owned lands which are currently included in the AG zoning district.

Recommendation Compassionate Use of Medical Marijuana Law:

The Township may want to research the cultivation restrictions included in the new law and create standards to regulate the cultivation and distribution of Medical Marijuana in the AG zoning district.

Recommendation Farmland Preservation:

- Chesterfield prepared a comprehensive Farmland Preservation Plan in 2009. This Farmland Preservation Plan should be incorporated as the Farmland Preservation optional Master element.
- The Township may want to post a link to the SADC website where application forms for grant programs can be found.



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Recommendation Cell Towers

- The Township may want to revise section 130-142 of the Code of Chesterfield Township to include the definition and regulation of “micro” technology systems.
- The Township may want to amend the definition of public utilities to exclude telecommunications towers, micro systems, and antennas.
- The Township should consider amending the ordinance governing cell towers to remove them as a conditionally permitted use in the AG zone.

Recommendation for Redevelopment

The site of the historic Brick Mincemeat Factory has been listed on the 2017 Ten Most Endangered Historic Places in New Jersey. The Township may want to consider conducting an area in need of redevelopment investigation and establishing a redevelopment plan to preserve or redevelop this important local historic site. The benefits of a redevelopment area designation would include greater control of the fate of the historic structures, design controls for any redevelopment of the site, a Payment in Lieu of Taxes (PILOT) incentive for potential redevelopers, and the option for possible condemnation actions if necessary.

The 3.28 acre site, which is included in the Sewer Service Area of the Township, is split between two zoning districts: the Village Zone containing the historic structures and the AG zone which is vacant. This AG zoned portion of the lot could be rezoned to R-1 in order to facilitate redevelopment.



2.0 Introduction

The municipal Master Plan is a document, adopted by the Planning Board, which sets forth the policies for land use as envisioned by the municipality. The Master Plan is the principal document that addresses the manner and locations in which development, redevelopment, conservation and/or preservation occur within a municipality. It is intended to guide the decisions made by public officials and those of private interests involving the use of land. Through its various elements, 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, which are adopted by the Township Committee, constitute the primary law governing the use of land at the local level. Under New Jersey’s Municipal Land Use Law N.J.S.A. 40:55D-1 et seq., (hereinafter “MLUL”) a zoning ordinance must be substantially consistent with the land use plan.

A Reexamination Report is a review of previously adopted Master Plans, amendments and local development regulations to determine whether the ideas and policy guidelines set forth therein are still applicable. Under the MLUL, the Planning Board must conduct a general reexamination of its Master Plan and development regulations at least every ten years. Additionally, the MLUL now includes a waiver provision, where a municipality may waive the reexamination requirement through a determination by the State Planning Commission and the municipal Planning Board that the municipality is built-out, defined as there being no significant parcels, whether vacant or not, that currently have the capacity to be developed or redeveloped for additional use of the underlying land.



INTRODUCTION

Five specific topics are required by statute N.J.S.A. 40:55D-89 to be considered in the Reexamination Report. These are:

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

As the statute indicates, a reexamination of the master plan is an opportunity to evaluate the status of existing policies, in light of recent conditions, and to provide necessary direction for future planning efforts. A reexamination report may contain recommendations for the Planning Board to examine certain land use policies or regulations, or even prepare a new master plan. In fact, the reexamination report may serve as the master plan “if the recommendations set forth in the Reexamination Report are themselves substantially in such form as might or could be set forth as an amendment or addendum to the Master Plan, the reexamination report, if adopted in accordance with the procedures prescribed by the MLUL for adoption of a Master Plan, may be considered to be an amendment to the Master Plan.”³ This 2017 report contains sufficient detail for certain recommendations whereby they may be considered an amendment to the master plan and, as such, serve directly as the basis for changes to the land development ordinance.









² N.J.S.A. 40:55D-89

³ New Jersey Zoning & Land Use Administration (Gann, 2015), section 8-4, p. 137.



3.0. Past Planning Efforts Since 2009 Reexamination Report






The following is a chronology of planning efforts conducted by the Township since the last reexamination Report completed in 2009. Prior planning efforts are listed in Appendix 1.

-  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.
-  December 2009: Reexamination of the Master Plan adopted by the Planning Board.
-  September 14, 2010: Housing Element and Fair Share Plan adopted by the Chesterfield Township Committee are approved as to the prior round obligation and all prior court orders remain in full force and effect.
-  June 28, 2011: The Honorable Ronald E. Bookbinder, Assignment Judge of the NJ Superior Court, executes an Order dismissing without prejudice declaratory judgment proceedings and extending immunity protection from third round exclusionary zoning litigation and Builder's Remedy Lawsuits until a period of 90 days after new third round rules take effect.
-  July 20, 2011: The Honorable Ronald E. Bookbinder, Assignment Judge of the NJ Superior Court, executes an Order requiring the Township to continue to implement the components of its Fair Share Plan in the Township's TDR receiving area which will provide for affordable units toward the third round obligation.
-  October 12, 2011: The Township Committee adopts Ordinance No. 2011-18 which establishes standards for solar energy facilities or structures.
-  April 9, 2015, Township Committee unanimously passes Resolution 2015-4-2, "Resolution Opposing the Installation of the 'Southern Reliability Link' Natural Gas Pipeline Along County Route 528 Through Chesterfield Township." NJ Natural Gas has proposed the "Southern Reliability Link" high pressure gas pipeline proposed to extend through the AG District in Chesterfield. The Resolution detailed the great threat posed by the location of the pipeline to public health, safety and welfare of the community.
-  June 25, 2015, Township Committee unanimously passed Resolution No. 2015-6-9 "Resolution Encouraging the NJBPU to Consider an Alternate Route Proposed by the Township of Chesterfield; Authorizing the Township Solicitor to File Motions to Intervene in the NJNG Petitions; and Amending Resolution 2015-4-2 to Include NJNG's Most Recent Safety Citations"



PAST PLANNING EFFORTS

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-  November 12, 2015: The Township Committee adopts Ordinance # 2015-16 amending Sections 130-5&6 of the Township Code to revise the Zoning Districts and Zoning Map to reclassify parcels in the OP - Office Park District, to AG-Agricultural District. The Township Committee found that many parcels in the OP District have not been developed despite the OP designation in the Zoning Ordinance for many years. The Committee found the parcels are most appropriate for agriculture and many are currently farmed.
-  December 10, 2015, Township Committee unanimously approved Resolution 2015-12-5 “Resolution Supplementing and Amending Resolution 2015-4-2, Which Resolution Opposed the ‘Installation of the ‘Southern Reliability Link’ Natural Gas Pipeline Along county Route 528 Through Chesterfield Township,’ and is Specifically to Now Oppose the Pipeline in Its Entirety”
-  December 10, 2015, Township Committee unanimously approved Resolution 2015-12-6 “Resolution Opposing the Construction and Installation of A Compressor Station by Transcontinental Pipeline Company at 26 Bordentown-Chesterfield Road (Block 204, Lot 4)”
-  December 30, 2015: The Township Committee adopts Ordinance # 2015-16 amending Sections 130-12 to eliminate utility facilities as permitted uses in the AG Zoning District.
-  October 27, 2016: The Township Committee adopts Ordinance No. 2016-12 establishing the Historic Preservation Ordinance of Chesterfield Township and creating the Historic Preservation Commission. Ordinance No. 2016-13 established escrow and application fee schedules for historic applications, and Ordinance 2016-14 created submission checklist requiring Historic Preservation compliance as a completeness submission item.



4.0 Major Problems and Objectives Identified by 2009 Reexamination Report. (40:55D-89.a,b)

This report carries forth the recommendations for problems and objectives identified from the last reexamination report in 2009 and the extent to which these have been addressed. The recommendations identified in the 2009 Reexamination Report are set forth in italics below. The extent to which they have been addressed and any additional recommendations follows each section. :

4.1 Historic Preservation

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 a Historic Preservation Commission under NJSA 40:55D-107 and adopting an historic preservation ordinance.

Historic Preservation Ordinance Adopted: In 2015, the Chesterfield Historical Society in collaboration with the Township Planner drafted an historic preservation ordinance including a Historical District Map depicting the approximate tax block and lots contained within the Historic District. The Historic District includes properties within the areas included on the State and National Register of Historic Places as well as historic properties identified outside of the designated historic districts. Ordinance # 2016-12 establishing the Historic Preservation Ordinance of Chesterfield Township was adopted October 27, 2016.

Historic Preservation Commission Established: The Historic Preservation Ordinance also created the Historic Preservation Commission to work as an advisory board to the Planning Board. The Commission is responsible to review applications and advise the Planning board on the effect of development applications and building/demolition permits within the historic district. Other responsibilities include: recommend sites to be added as local historic landmarks, to nominate significant resources to the state and national registers of historic places, to educate the community in matters regarding historic preservation, to report to the Township Committee annually on the state of historic preservation in the Township, and to assist property owners.

Escrow Fees Adopted to Support Applications: Ordinance 2016-13, adopted October 27, 2016, established a Historic Preservation Commission application and escrow fee schedule for historic preservation review.



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Submission Checklist Amended: Ordinance 2016-14, adopted October 27, 2016, amended the complete application checklist to include proof of Historic Preservation Commission ordinance compliance as one of the provisions required for all submissions.

Action Items: The Historic Preservation Commission has prioritized several action items including: updating the historic resource survey for the Township last developed in the 1970's and developing a set of design guidelines for the historic districts.

TDR for Preservation of the Historic District: The Historic Preservation Commission has also identified developable lots within the historic districts which if developed in a manner outside of the character of the historic villages could impair the districts overall historic continuity. Preservation of these developable lots could be accomplished through a Transfer of Development Rights (TDR) program similar to the TDR program created to preserve farmland in the Township.

TDR Recap Needed for Old York Village:

The TDR receiving area, Old York Village, is nearing completion. There should be a reconciliation of the need for and availability of TDR credits including credits acquired but not extinguished by Burlington County to fully build out the receiving area. If there is a shortfall of necessary credits, the historic TDR credit program may be a workable solution.

Recommendations:

- The Historic Preservation Plan Element of the Master Plan should be updated to acknowledge the adoption of the Historic Preservation Ordinance; and to reflect the mission, goals, and objectives for historic preservation in Chesterfield.
- The historic preservation district mapping and documentation on file in the Clerk's office should be incorporated into the Historic Preservation Plan Element of the Master Plan.
- A recap of necessary and available TDR credits to complete Old York Village should be conducted.
- Preservation of developable land within the historic districts using the TDR planning tool should be explored.



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4.2 Community Facilities

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.

New School and Municipal Building: The completion of a new elementary school within Old York Village and relocation of some of the municipal complex to a new facility under construction on the site of the old elementary school represent the major community facility investments since the 2009 report.



Chesterfield Township Elementary School

New School: The new K-6 elementary school was envisioned in the Master Plan for Old York Village as a community focal point – essentially a school in a park. The school is walkable for many of the students and families via a pedestrian bridge, bike paths, and sidewalks. It is adjacent to the Village Square Park including an amphitheater extending student instructional space into an outdoor classroom or performance arena.



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New Municipal Building: The new municipal building, located on the site of the old elementary school ¼ mile north of the current municipal complex on Rt. 528, is scheduled for opening in August of 2017. It will house the municipal offices and the police department. The public works department will relocate to the former police building.

Reuse of Municipal Building: The current municipal office building was itself a former school. Adaptive reuse of the structure as a community center or library has been discussed. However, should it be found that the property's best use is for non-public purposes, a rezoning to include a portion of the site in the commercial zone would be in order.

Community Facilities Master Plan Element: Chesterfield Township created a Committee comprised of residents who know the community to develop the Community Facilities Plan. The Committee members were divided into three (3) groups with specific areas to study and make recommendation. The three groups were the facilities subcommittee, the public services subcommittee and the public safety subcommittee. The plan includes the following vision statement, "Chesterfield Township recognizes that one of the primary responsibilities of local government is to provide adequate community facilities and services for its residents and businesses. The availability and quality of these services is often a major factor in determining the quality of life and general character of community. The Communities Facilities Plan is an optional element of the Master Plan (NJSA 40:55D-28(6)).

Fenton Lane Recreation Facilities: The Community Facilities Needs Assessment does not incorporate the Fenton Lane Park and additional lands acquired for recreation on the Fenton Lane. The Community Facilities Plan should be updated to include mapping and planning for these open space lands.

Recommendations:

- Adoption by reference of the 2006 Needs Assessment as the Community Facilities Master Plan element of the Chesterfield Township Master Plan.⁴
- Continue to monitor and implement the recommendations of the Community Facilities Plan.
- Update the Community Facilities Plan to include mapping and planning for the Fenton Lane open space acquisitions.

⁴ Chesterfield Township Community Facilities Plan. Prepared by Environmental Resolutions Inc., September 1, 2006.



4.3 Affordable Housing

The Township should seek third round affordable housing approval at the appropriate time.

This recommendation continues to be relevant. The process and rules regarding municipal affordable housing obligations have been in turmoil over the past decade due to ongoing litigation.⁵ The status of the Township's affordable housing plan is summarized below.

Chesterfield's Third Round Status: June 28, 2011: The Honorable Ronald E. Bookbinder, Assignment Judge of the NJ Superior Court, executed an Order dismissing without prejudice declaratory judgement proceedings and extending immunity protection from third round exclusionary zoning litigation and Builder's Remedy Lawsuits until a period of 90 days after new third round rules take effect.

Implementation of Approved Fair Share Plan: July 20, 2011: The Honorable Ronald E. Bookbinder, Assignment Judge of the NJ Superior Court, executed an Order requiring the Township to continue to implement the components of its Fair Share Plan in the Township's TDR receiving area which will provide for affordable units toward the third round obligation.

Affordable Units Constructed: Chesterfield has been diligent in implementing the Township's approved Fair Share Plan and fulfilling its affordable housing obligations. To date, 51 affordable units have been constructed and 46 are occupied. Continued construction of affordable units is linked to issuance of certificates of occupancy of market rate units in Old York Village.

Recommendation: Chesterfield should continue to implement its Fair Share Plan as directed by the Court and implement a third round plan, if needed, once the Court determines the Township's affordable housing obligation.

⁵ A chronology and summary of the affordable housing policy changes and litigation is included in Appendix 1.



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4.4 Alternative Energy and Sustainability

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.

Ordinance 2011-18 Governing Solar Facilities and Structures Adopted: On October 12, 2011, Chesterfield adopted ordinance # 2011-18: which details the standards for solar energy generating structures and facilities. Solar energy facilities or structures are permitted conditional accessory uses in the AG, R-1 and Village zones. In the OP zone, such facilities or structures are permitted as conditional principal uses. Solar energy facilities or structures installed to service a single family residential dwelling are limited to 10kW of generation capacity.⁶ Overall area restrictions, buffering standards as well as height restrictions are included in the general provisions. Commercial solar generating facilities are limited to 1% of the land area or 110% of the energy needs of the farm in the AG zoning district and on all preserved farmland.

Sustainability Master Plan 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 stormwater on-site; and optimize climatic conditions through site orientation and design.

Recommendation: Amend the Chesterfield Township Code section 130-144 C. (2) (c) to increase the solar generation capacity limit for conditional accessory uses from 10kW to 20kW in order to reduce the need for residents to apply for bulk variances.

Recommendation: The Township may want to consider preparation of a sustainability element of the Master Plan

⁶ The Planning Board made a recommendation to the Governing Body to increase the capacity limit for conditional accessory facilities from 10kW to 20kW due to a proliferation of bulk variance applications requesting larger capacity systems.



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4-5 State Plan Endorsement

Chesterfield should complete the State Plan Endorsement Process including a Centers Designation extension.

State Planning Status: The State planning process has been less robust during recent years. Efforts to finalize a new State Plan have been deprioritized. The State Planning Commission has been meeting irregularly to review current Plan Endorsement petitions. It remains unclear if incentives to pursue Plan Endorsement will continue to be valuable to Chesterfield.

Recommendation: Continue to monitor developments regarding state planning process for incentives to participate in Plan Endorsement.

4-6 Waste Water Management Planning

Chesterfield should continue to participate with Burlington County in the preparation of the Township's Waste Water Management Plan.

New Rule Adopted: The Water Quality Management and Planning Rule: N.J.A.C 7:15 was effective as of November 7, 2016. The new rules repeal and replace the prior rules.

The proposed rules include new procedures and standards for

- (1) Amendments to area wide water quality management (WQM) plans,
- (2) Development of wastewater management plans (WMPs)
- (3) Development of the list of water quality limited waters
- (4) Adoption of total maximum daily load (TMDL) criteria

More generally, the rule changes are intended to streamline the wastewater planning process and to better integrate it with existing permitting programs. At this time, the impact of the rule changes is not yet clear.

Recommendation: The Township should continue to stay engaged with Burlington County in the Wastewater Management Planning/Implementation process. The Township should ensure the WMP and local ordinances require accessory uses to utilize the connection of the principal use and not an independent connection.



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4.7 Circulation Plan: Bicycle and Pedestrian Study Incorporation

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

Bicycle and Pedestrian Study: The Chesterfield Township Bicycle and Pedestrian Study dated July 2, 2009 was prepared for the New Jersey Department of Transportation and Chesterfield Township by Michael Baker Jr., Inc. This study was funded through a NJ DOT- Office of Bicycle and Pedestrian Programs grant. A steering committee with representatives from the Township Committee and Professional staff, Police Department, Environmental Commission, Board of Education, Burlington County Engineering Department, NJ DOT, and Township residents was appointed to work with Baker Associates. An online survey was conducted between September 29, 2008 and October 2008.

Parameters of the Study: The Study was conducted to identify safe and accessible bicycle and pedestrian linkages between Old York Village, recreational facilities, the historic settlements of Crosswicks, Chesterfield, and Sykesville and the surrounding area. The study collected data on bike and pedestrian crash sites, traffic volumes, bike compatibility on roadways, and bicycle and pedestrian trip generators. Existing conditions of sidewalks and curb ramps was inventoried as well as gaps in the sidewalk network. Bicycle facilities in Chesterfield Township and proposed connections were illustrated on mapping. Physical and operational deficiencies were identified, as well as opportunities for network enhancements. Concept schematics were developed for improvements and potential funding sources were identified.

Recommendation: Incorporate the 2009 Chesterfield Township Bicycle and Pedestrian Study into the Circulation Plan Element of the Master Plan.

Recommendation: The Township should seek funding assistance to implement the improvements recommended in the study.



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4.8 Circulation Plan: Chesterfield Township Historic Preservation Transportation Study

The Circulation Plan Element of the 1997 Chesterfield Township Master Plan incorporates the Chesterfield Township Historic Preservation Transportation Study. The study made recommendations for improvements to Township roadways under two scenarios: Build-out under current zoning and build out through the compact mixed use Village TDR program development. One of the recommendations was the construction of a bypass roadway to divert traffic from the historic village of Crosswicks.

Recommendation: As the build out of Old York Village nears completion, the Township may want to revisit the recommendations of the transportation study in light of new development patterns in Chesterfield and the surrounding region to alleviate traffic impacts on the historic villages.



CHANGES LAWS, POLICIES, OBJECTIVES

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5.0 **Changes: Local, State, and County Laws, Policies, Objectives (40:55D-89.c)**

This section of the report identifies extent to which there have been significant changes in the assumptions, policies and objectives forming the basis for the master plan or development regulations.

5.1 **Permit Extension Act**

Sunset June 30, 2016: In response to the “Great Recession”, which is defined as the period from December 2007 through June 2009, the Permit Extension Act was signed into law July 2008. It has been extended three times, with the most recent extension signed in December 2014. The Act extends certain approvals issued on or after January 1, 2007 through December 31, 2015, with the covered approvals to expire no later than June 30, 2016. Most subdivision, site plan, and variance approvals granted pursuant to the MLUL, as well as many approvals granted by the NJDEP, are included in the covered approvals. Exceptions from the Act include federal permits and permits for development in environmentally sensitive areas such as in portions of the Highlands Region and in Planning Area 4B, 5 or critical environmental sites as defined by the 2001 State Development and Redevelopment Plan.

5.2 **MLUL Amendment NJSA 40:55D-10.5, “Time of Application” Law**

Replaces “Time of Decision Rule”: The new law enacted May 5, 2011 prohibits the application of the judicially created Time of Decision rule to “applications for development”. Specifically, the Time of Application Law provides “those development regulations which are in effect on the date of submission of an application for development shall govern the review of that application for development and any decision made with regard to that application for development”. (Emphasis added)

Critical Issue: The critical issue created involves the definition of “application for development”. Concern has been raised that this new legislation could provide an unintended opportunity for prospective developers to submit a quick, “placeholder” application without required accompanying documentation to assure the zoning in place at the time of that submission is guaranteed.

Chesterfield’s Response: Chesterfield Township Code Section 130-4 defines application for development as, “An application form provided by the Township and completed by the applicant together with all accompanying documents



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required by this chapter for approval of the application for development, including where applicable, but not limited to, a site plan, subdivision plat, planned development, conditional use, zoning variance or direction of the issuance of a permit pursuant to N.J.S.A. 40:55D-34 or 40:55D-36” (Emphasis added)

Recommendation: The date when all of the required documents have been submitted should be noted for the record on each application. This statutory submission date is different than the determination of completeness for commencement of time limits for approval.

5.3 COAH Administrative Jurisdiction Transferred to the Courts/ Affordable Housing Litigation

Mt. Laurel IV and V: March 10, 2015 The NJ Supreme Court held that the review and approval of all exclusionary zoning matters would now be heard by 15 designated Trial Court Judges, rather than by the Council on Affordable Housing (COAH). January 18, 2017, the Supreme Court directed the Mt. Laurel trial courts to expand the present need affordable housing calculation to include the affordable housing needs which arose during the 1999-2015 “GAP” period. A complete chronology of statewide affordable housing actions is included in Appendix 2.

The current status of Chesterfield Township’s affordable housing planning is detailed in section 4.3 of this report.

Recommendation: Chesterfield should continue to implement its Fair Share Plan as directed by the Court. The Chesterfield Township Transfer of Development Rights program outlined a maximum build out density for the Township. The Hon. John W. Sweeney, Assignment Judge of the NJ Superior Court recognized this maximum development potential and detailed the Township’s overall affordable housing obligation. There is no indication to deviate from that maximum density calculation for Chesterfield Township. The Township should develop a third round plan if needed once the Trial Court determines the Township’s affordable housing obligation.



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5-4 Suite of New State Legislation Regarding Alternative Energy Generation

New Legislation Alternative Energy Facilitates: The New Jersey Legislature has been actively legislating to facilitate the production of alternative forms of energy. Some of these new laws have amended the Municipal Land Use Law. (40:55D-1 et seq). The following four new statutes in particular have substantially changed the way alternative energy can be developed in New Jersey.

- a) Industrial Zones: The Municipal Land Use Law, N.J.S.A. 40:55D-66.11, was amended March 31, 2009 by P.L. 2009 c. 35 to pre-empt local zoning authority and to permit, by right, solar, photovoltaic, and wind electrical generating facilities in every industrial district of a municipality. To be eligible for this permitted use, a tract must be a minimum size of 20 contiguous acres and entirely under one owner.
- b) Inherently Beneficial Use: The Municipal Land Use Law, N.J.S.A. 40:55D-4 & 7, was amended by P.L. 2009 c. 146 to define inherently beneficial uses and to include solar, wind and photovoltaic energy generating facilities in the definition.

Definition of Inherently Beneficial Use: “Inherently beneficial use” means a use which is universally considered of value to the community because it fundamentally serves the public good and promotes the general welfare. Such a use includes, but is not limited to, a hospital, school, child care center, group home, or a wind, solar or photovoltaic energy facility or structure.”

Change in Positive and Negative Criterion Tests: Inherently beneficial uses are assumed to serve the zoning purpose of promoting the general welfare and therefore presumptively satisfy the positive criterion for grant of a use variance pursuant to N.J.S.A. 40:55D-70d. In addition, for an inherently beneficial use, the enhanced burden of proof with regard to the “negative” criteria does not apply; instead, the positive and negative criteria are to be balanced and the relief granted providing there is no substantial detriment to the public good.

- c) Alternative Energy on Farms : P.L. 2009 c. 213, signed in to law on January 16, 2009, modifies several laws regarding alternative energy and preserved farms, commercial farms, right to farm, and farmland assessment. (emphasis added)



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Commercial Farm Definition: The SADC defines a commercial farm as:

“a farm operation of five or more acres that produces agricultural products worth at least \$2,500 annually and satisfies the eligibility criteria for farmland assessment. For farms smaller than five acres, the annual production requirement is \$50,000, and the farm must otherwise satisfy the eligibility criteria for farmland assessment”.

Right to Farm Protection for Alternative Energy: The State Agriculture Development Committee (SADC) adopted rules establishing an Agricultural Management Practice (AMP) for on-farm generation of solar energy which extends the protections of the Right to Farm Act to the generation of solar energy on commercial farms. See, N.J.A.C. 4:1C-9i, 9.2a(1) and 32.4.

10 Acres/ 2 MW Maximum Solar Protected: The Right to Farm Act has been amended to permit and protect up to 10 acres or 2 megawatts (2MW) maximum production of electricity on commercial farms not subject to farmland preservation, provided the acreage of the electrical facility does not exceed a ratio of 1 acre of energy facility to 5 acres of agricultural acres, or approximately 17% of the farmland. In addition, farms developing electrical facilities not exceeding these limits will remain eligible for farmland assessment for the entire farm including the area under the electric generating facility.

Preserved Farms Limits: The State Agriculture Development Committee (SADC) adopted rules establishing an Agricultural Management Practice (AMP) for preserved farms which limits the acreage of solar facilities to 1% of the farm acreage or 110% of the energy needs of the farm.

- d) Solar Not Considered Impervious: P.L. 2010 c. 4, an act exempting solar panels from impervious surfaces was signed into law April 22, 2010. This law exempts solar panels from impervious surface or impervious cover designations. It mandates that NJDEP shall not include solar panels in calculations of impervious surface or impervious cover or agricultural impervious cover and requires stormwater management plans and ordinances shall not be construed to prohibit solar panels to be constructed and installed on a site.



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Chesterfield Ordinance: On October 12, 2011, Chesterfield adopted ordinance # 2011-18: which details the standards for solar energy generating structures and facilities. The limits developed by the SADC for preserved and non-preserved farms as well as impervious cover exemptions are incorporated in the ordinance.

Recommendation: The Chesterfield Township Code does not include a definition of commercial farm. Amend the Chesterfield Township Code section 130 -4 to add the definition of a “commercial farm”.

5.5 Municipal Land Use Law Amendment: TDR a Purpose of Zoning

The Municipal Land Use Law, MLUL, section 40: 55D-2-p was amended to add flexible planning tools such as TDR as one of the Purposes of the Act. “to enable municipalities the flexibility to offer alternatives to traditional development, through the use of equitable and effective planning tools including clustering, transferring development rights, and lot size averaging in order to concentrate development in areas where growth can best be accommodated and maximized while preserving agricultural lands, open space, and historic sites”.

Recommendation: As stated in section 4.1 Preservation of developable land within the historic districts using the TDR planning tool should be explored.

5.6 Southern Reliability Link Pipeline Project/ Williams CO. (Transco) Compression Station:

Pipeline: In November of 2014, New Jersey Natural Gas (NJNG) initiated a proposal for a 28 mile, 30”, high pressure natural gas transmission pipeline called the Southern Reliability Link to feed the portion of the utility’s service area in Ocean, Monmouth, and a small portion of Burlington County. The pipeline is proposed to begin in Chesterfield and traverse Rt. 528 through the Township’s agricultural, residential, and historic areas in close proximity to many homes and businesses. However, the pipeline will not supply the Township of Chesterfield with natural gas.

Compressor Station: In January of 2015, Transcontinental Pipeline Company, (Transco) purchased a 26 acre parcel of property on Bordentown Chesterfield Road and proposes to install a compressor station which will supply natural gas



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from their Trenton Woodbury line to the new NJNG Southern Reliability Pipeline.

Opposition: The Township Committee strongly opposes the construction of the gas transmission pipeline in this location specifically decreeing the danger and concern for public health, safety, and welfare in a suite of official actions including resolutions, ordinance changes, public engagement, and ongoing litigation.⁷

Agricultural Importance and Impacts: The location of the proposed NJNG pipeline may interfere with the critical mass of contiguous farmland in the Township and could burden the agricultural industry. Miles of new utility easements through prime soils in the agricultural heart of the township could create negative impacts on farm viability.

Farmland Soils: Important farmland soils are finite; once they are lost to development they are gone forever. Farmland is not merely vacant land or open space. It is a scarce resource upon which the very industry of agriculture depends. Conversely, if open space is lost, it can be “replaced” from a wide variety of lands including forests, wetlands, and even recreational parkland. Important farmland soils are irreplaceable. Overall, Chesterfield has 71% prime and 13% statewide important farmland.⁸

Chesterfield has long acknowledged the importance of agriculture to its economy, culture, and character. The 1997 Chesterfield Township Master Plan identifies the importance of farmland preservation as follows:

“Farmland Preservation has remained a constant policy in the Township for at least two decades. The Township has been a leader in the State in this regard.”⁹

The central goal of the Chesterfield Township Master Plan is to promote the industry of agriculture. The essential framework of the Township’s planning efforts over the past 40 years has focused upon this goal: to protect the viability of agriculture, and availability of prime farmland soils while balancing farming with a reasonable amount of development and affordable housing.

⁷ A description of Township Committee Resolutions and Ordinance revisions is set forth in section 3.0 of this report: page 11.

⁸ Chesterfield Township Farmland Preservation Plan, September 14, 2010, page 21.

⁹ Chesterfield Township Master Plan, October 1997, page 2.



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Implementation of Farmland Preservation Goal: Chesterfield Township in Burlington County is unique among rural municipalities in New Jersey. It is not because of its size, wealth, population characteristics, or natural resources. In these attributes, Chesterfield is typical of many rural agricultural communities across the state. What does make Chesterfield different is the bold leadership, vision, and persistence of this municipality to successfully craft an equitable alternative to conventional ‘sprawl’ development.

In the face of intense residential development pressure, Chesterfield’s leaders have planned and implemented a comprehensive growth management program with agriculture at its core. By partnering with Burlington County and the State of New Jersey, Chesterfield has emerged with its cherished agricultural and historical character intact as a model community where residential growth, affordable housing, and viable agriculture coexist. The Farmland Preservation Program and Transfer of Development Rights (TDR) Program are the cornerstones of Chesterfield’s success. Burlington County and Chesterfield Township are recognized as the pioneers of New Jersey’s on-going efforts to preserve agriculture and accommodate reasonable growth. Chesterfield has permanently protected over 50% of the Township’s entire land area.¹⁰

Recommendation: In acknowledgement of the potentially adverse consequences to the community identified by the Township Committee posed by the location of the NJNG pipeline and Transco compressor station projects, any and all land use regulation revisions which could alter the course of these projects should be considered in order and to protect the agricultural industry and the health, safety, and welfare of the citizens of Chesterfield Township.

¹⁰ Chesterfield Township Farmland Preservation Plan, September 14, 2010, page 4.



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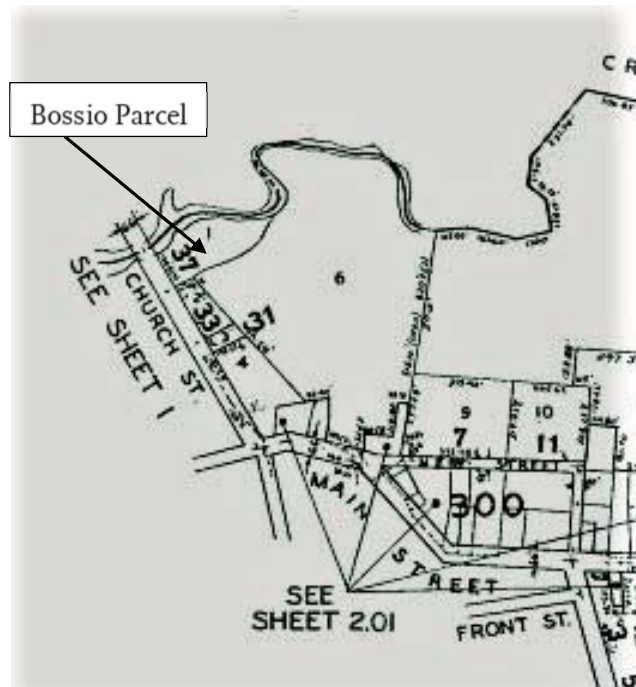
5-7 2016 Chesterfield Township Zoning Study

In January of 2017, Chesterfield Township conducted a study to identify properties where current zoning designations are problematic to landowners, marketability, or redevelopment of sites. This study also identified areas of the Township where current zoning could be revised to better reflect existing land uses or to permit commercial expansion in nodes and villages.

Split Lots: The Planning Board requested an exploration of lots which have two zoning designations and are essentially “split” lots due to such zoning. Three areas have been identified which contain lots with split zoning. The Zoning Study, identified site specific and wider neighborhood issues, and detailed options for further consideration by the Planning Board and Governing Body.

A) Identification of Split Zoned Lots-Bossio

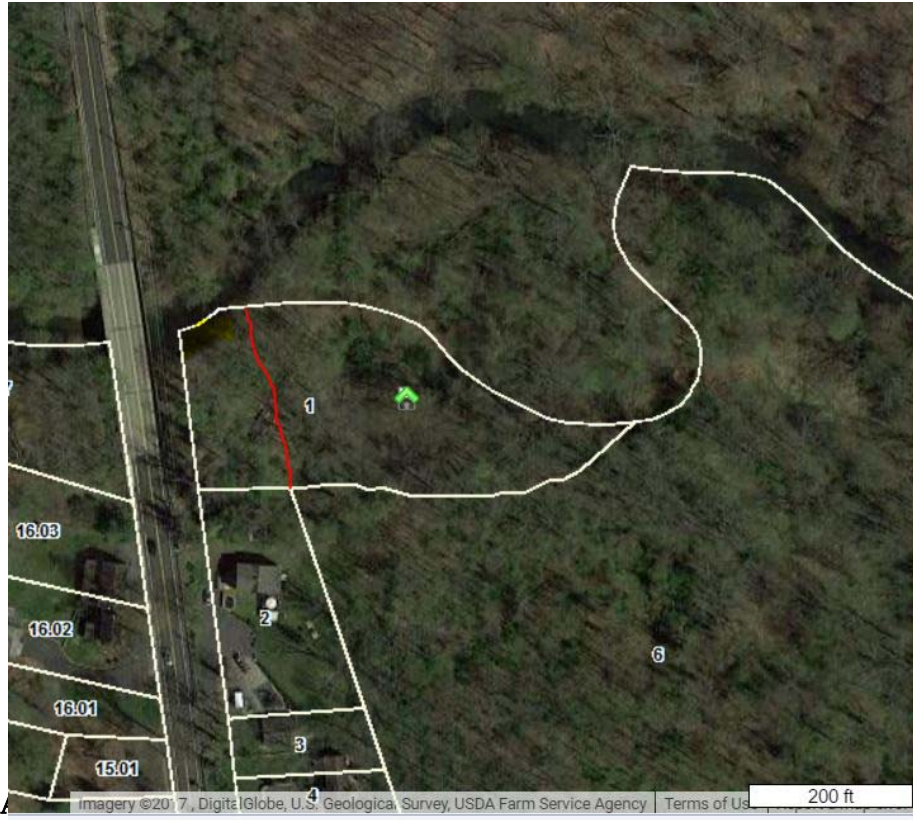
Block 301 Lot 1: Owner Nancy Bossio-Mutnick
37 Church Street
1.58 acres





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Site specific Issues:

- The residence located on site is vacant. The Township began action in of 2013 and has issued an uninhabitable sticker and a letter requiring demolition.
- There is no access to the site from Church Street.
- There is no record of an access easement.¹¹
- Much of the site is within the flood way of Crosswicks Creek.
- The split zone adds to the difficulty in utilizing this parcel.

Options:

It is uncertain that a replacement residence would be permitted in the current footprint of the existing residence due to floodway restrictions. If the entire parcel were rezoned AG, the lot would be undersized. The AG zone requires a minimum lot size of 3.3 acres. If the parcel were rezoned as Village, eliminating the AG split zone, there may be a

¹¹ Access easement research ongoing

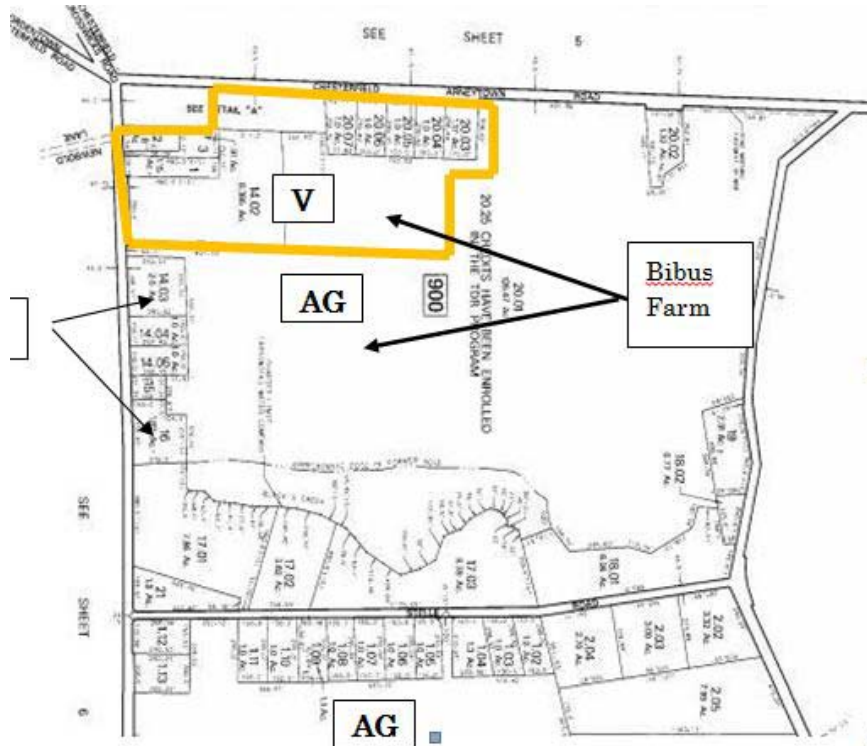


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location out of the floodway which would be appropriate for reconstruction. Access easement would have to be clarified.

The parcel might be a candidate for public access to the Crosswicks Creek. The Township may want to explore a mechanism for public access development.

- B) Identification of Split Zoned Lots-Bibus
Block 900 Lot 20.01: Owner- H.W. Bibus & Son Inc.
590 Chesterfield -Arneytown Rd.
126.47 acres



Site Specific Issues: The Bibus Farm is zoned as a split lot: V Village and AG-Agricultural. A portion of the acreage in the North Western corner is zoned for Villages uses and the remainder of the farm is zoned AG. The 20.25 TDR credits have been retired from the entire parcel and as such can no longer be developed for Village uses.

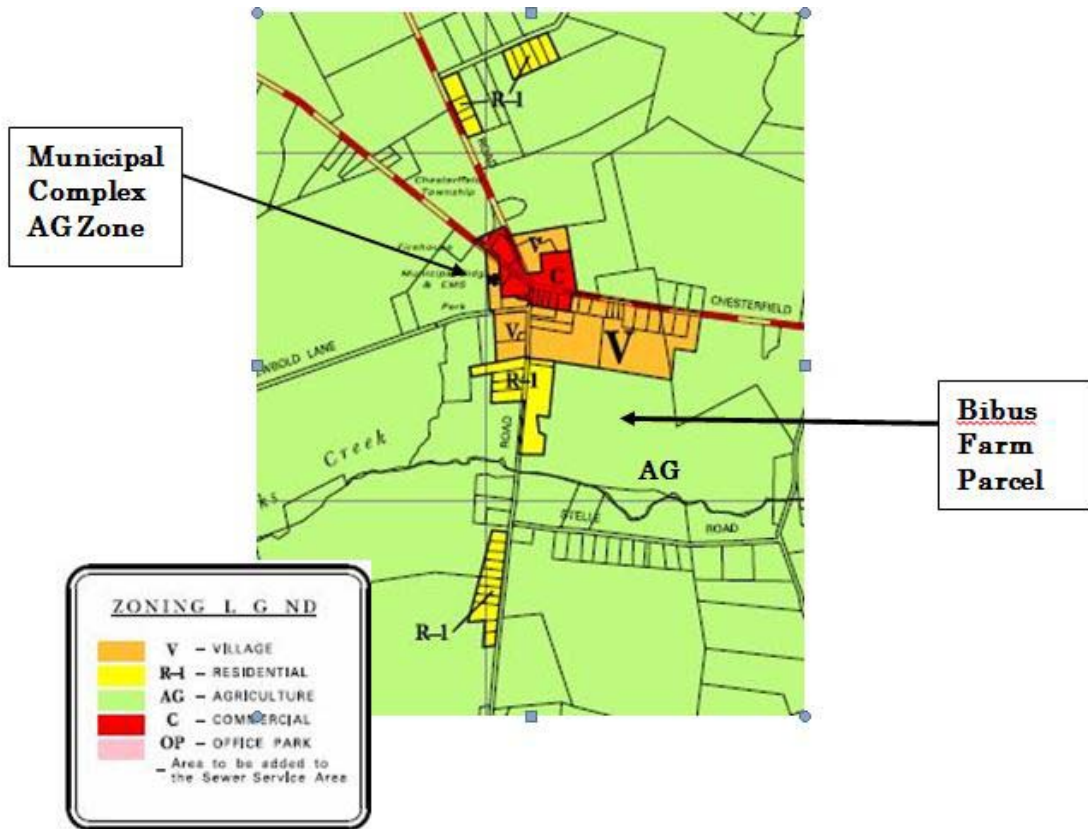
Neighborhood Issues: Chesterfield Village is the adjacent neighborhood to the Bibus Farm parcel. The Village includes a small area zoned C- Commercial, some R-1



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residential lots, some V Village zoned lots and the municipal complex which is zoned AG. See zoning diagram below:



Options:

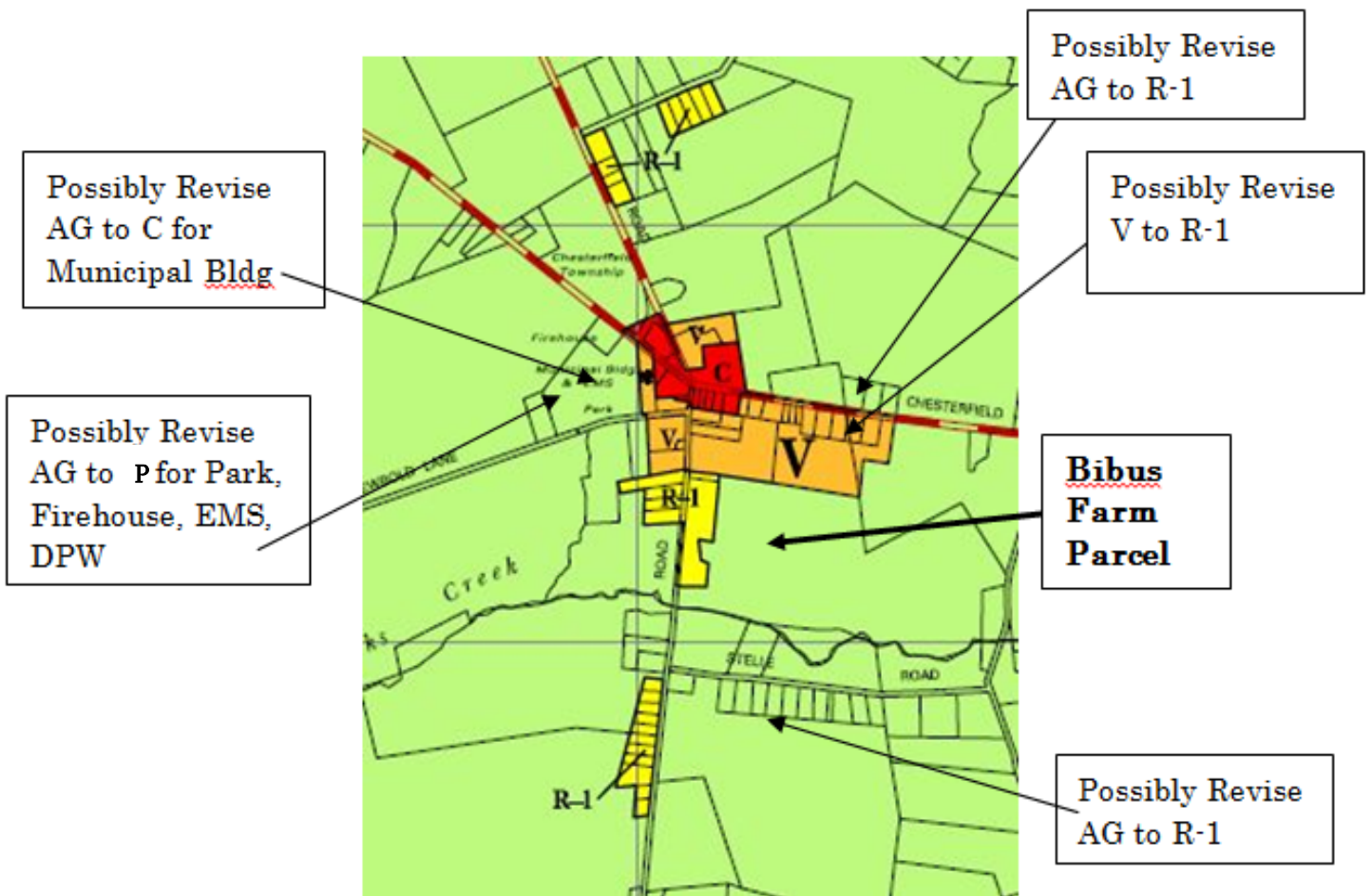
The retirement of the TDR credits from the Bibus Farm Parcel eliminated the possibility of Village development on the parcel. Rezoning the entire parcel as AG would represent the existing development pattern more clearly.



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In addition, the Board may want to investigate recommending revised zoning of some of the neighboring parcels to better reflect the existing and future development of Chesterfield Village. Some options are illustrated below:

Chesterfield Village Options:



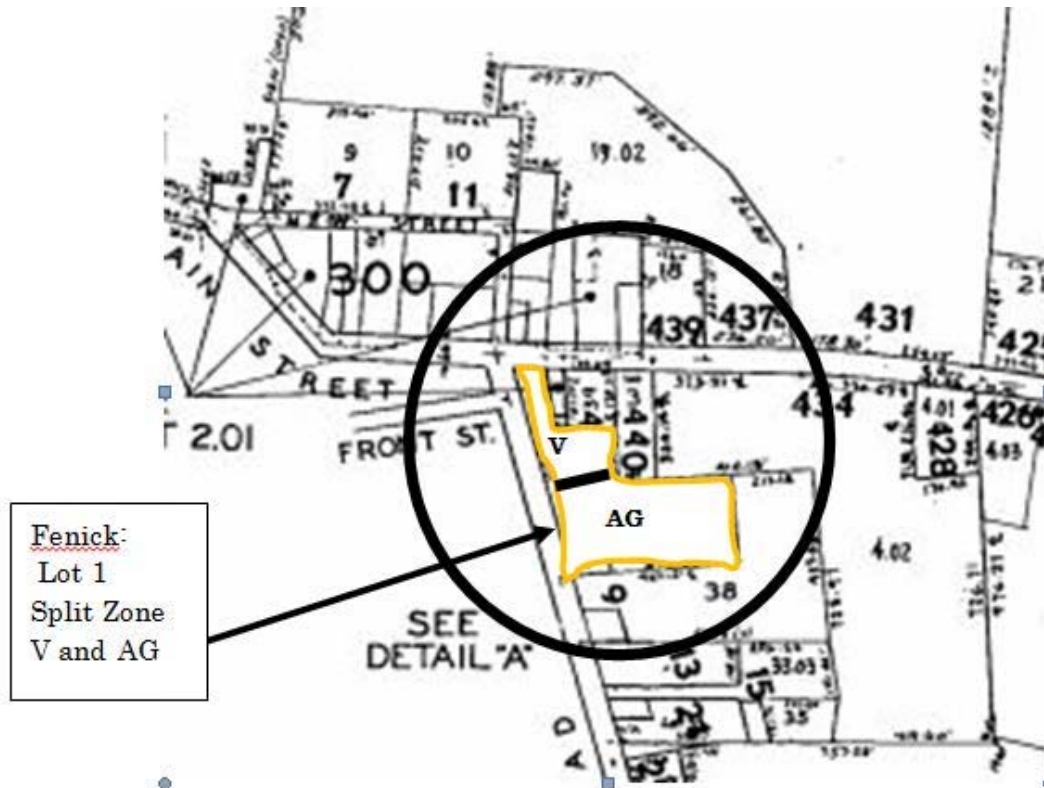
- C) Identification of Split Zoned Lots - Fenick (Brick Mincemeat Factory: Historic Site)



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Block 302 Lot 1 Owner: Sonya Fenick
5 Chesterfield- Crosswicks Rd.
3.28 acres



Site Specific Issues: The portion of the site within the V-Village zone district contains the historic former Brick's Mincemeat Factory- once the largest manufacturer of mincemeat in the country. This structure is in significant disrepair and has recently been listed on the 2017 Ten Most Endangered Historic Places in New Jersey. The remainder of the property lies within the AG Agricultural zone which has added significant difficulties in restoration or redevelopment of the site.

Recommendation: The Township should consider rezoning the AG zone to R-1 on the Fenick site and/or conducting an area in need of redevelopment investigation.

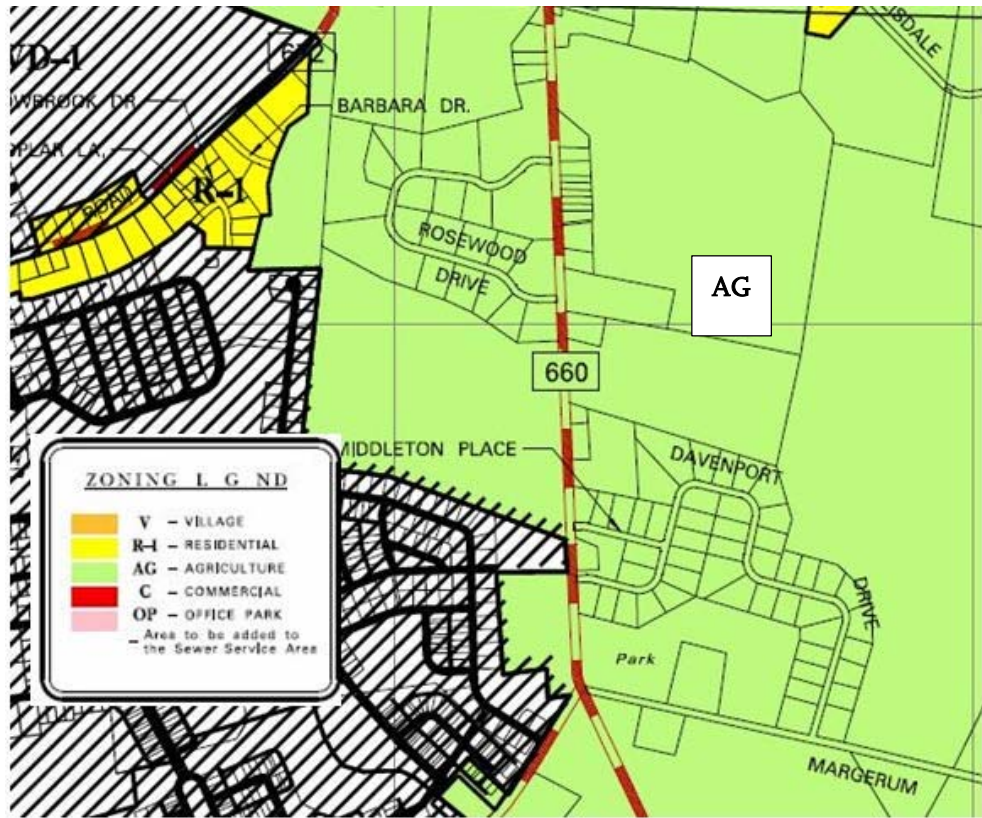
D) Residential Subdivisions in AG zone:

The residential development along Chesterfield – Crosswicks Rd, Rt. 660, includes three subdivisions located at Rosewood Drive, Davenport Drive, and



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Greenview Drive as well as residential frontage development along the road. All of these residential areas are included in the AG zone. The Board may want to consider recommending a revised zoning from AG- Agricultural to R-1 for these residential parcels. Currently, the small lots are governed the bulk standards of the AG zone which may be problematic to homeowners. The AG portion of the Fenick site could be included in this R-1 rezoning; thus giving the landowner relief from the AG bulk standards and more marketing options for the historic site.





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E) Commercial Expansion Village Node

Chesterfield's southern edge borders Springfield Township along the McGuire Access Road. Substantial commercial development is located on the Springfield side of the border: a WAWA convenience store, the Budget Inn/ Wrightstown, a Gulf gas station, and the Garden State Diner. The area in Chesterfield Township adjacent to this commercial node is included in the AG- Agricultural zoning district. Revising the AG zoning district to C-Commercial in the area near the commercial development on the Springfield border may provide an opportunity for additional commercial development in the Chesterfield Township without impacting the AG zone. The Township should explore such amendments and balance same against retention of AG zoned parcels in active farm production.



Recommendation: The Township may want to consider revising the zoning to reflect the findings and options of the Zoning Study and rezone areas near existing commercial nodes to better reflect current zoning patterns and to possibly alleviate development, redevelopment, and marketability issues of the identified parcels.



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5.8 Agriculture AG Zone Purpose Revisions:

Agricultural Zone Revisions: August 2017: The Township Committee will introduce Ordinance No. 2017-10 recognizing the importance of the agricultural industry and irreplaceable farmland soils to the Township and amending Chapter 130-11 regarding the history, background, and purpose behind the AG Agricultural Zoning District and revising the principal permitted uses to include agricultural operations and farms, single family dwellings, and public parks and playgrounds.

Recommendation: The Township should consider creating a new Public, P, zone governing public buildings and publicly owned lands which are currently included in the AG zoning district.

5.9 Compassionate Use of Medical Marijuana Act: PL 2009, c. 307 C. 24: 61-1et.seq.

The Medical Marijuana Act: This new law will allow New Jersey residents suffering from certain debilitating and life-threatening illnesses to use and possess medical marijuana with a doctor's recommendation. The Legislature passed the Act on January 11, 2010 and it was signed by Governor Jon Corzine on January 18, 2010. New Jersey is the 14th state to permit the use of marijuana for medical purposes.¹²

Dispensing through Alternative Treatment Centers: The Department of Health and Senior Services is committed to implementation of the new law and will license alternative treatment centers.

Recommendation: The Township may want to research the cultivation restrictions included in the new law and create standards to regulate the cultivation and distribution of Medical Marijuana in the AG zoning district.

5.10 Farmland Preservation Efforts

Preservation Funding Restored: The Township has been a successful participant in the State and County Farmland Preservation Programs. Statewide funding mechanisms have been stalled over the past few years but a permanent source of funding is expected to begin appropriations for the 2017 funding year.

¹² <https://www.medicalmarijuana.com/law/new-jersey-medical-marijuana-laws/#cal-4>, Site accessed: May 25, 2017.



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Recommendation Chesterfield prepared a comprehensive Farmland Preservation Plan in 2009. This Farmland Preservation Plan should be incorporated as the Farmland Preservation optional Master Plan element

5.11 Telecommunication Towers and Antennas

Local Regulation of Cell Tower Location: The increasing demand for fast, reliable connection to the internet using cellular devices is also increasing the demand for location and colocation of telecommunications towers, small cells, and antennas. The Chesterfield Township Code does not permit cell towers in the PVD- Planned Village Development zoning districts, the R-1- Residential zoning districts, the C- Commercial zoning district or the V -Village zoning district. Cell towers are permitted in the AG- Agricultural zone and OP-Office Park zones subject to certain prioritized conditions set forth in section 130-42 C. (1). The first priority is colocation on existing towers. The second priority is location on a public land or structures. Recent case law has invalidated the requirement to locate on public lands and structures.

New “Micro” System Technology: Small cells and distributed antenna systems (DAS) transmit wireless signals to and from a small defined area, use less power than traditional towers but provide coverage to a significantly smaller area. They can be installed on or in buildings or on existing monopoles, lattice towers or utility poles. These micro systems are not defined and conditions for their approval are not included in the existing Chesterfield Telecommunications ordinance.

Telecommunications as Public Utility: The Code of Chesterfield Township defines a public utility as any public utility regulated by the Board of Public Utilities (BPU) and defined pursuant to N.J.S.A. 48:2-13. Recently, concern has been raised that BPU designation of some telecommunications facility developers as Competitive Local Exchange Carriers (CLECs) and Interexchange Carriers (IXC).Carriers might provide a claim that the telecommunications towers are public utilities.

Visual Impact of Cell Towers: The Code of Chesterfield Township is clear in the intent to reduce the visual impact of cell towers. Section 130-42 H. 1-6 details the setback requirements for cell towers. In general, the greatest setback required is 1.5 times the height of the tower. Section 130-42 O requires a visual impact study including graphic simulations from 5 locations within 1 mile of the tower, aerial photographs of the impacted area, and a “balloon test” deployed at the proposed height of the tower and maintained from 10 days before and throughout the duration of the public hearing.



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Despite the aforementioned requirements, concern continues regarding proliferation of cell towers and the Township's ability to reduce the visual impact of cell towers on the historic districts, residential areas, and planned villages of the Township.

Recommendations:

- The Township may want to revise section 130-142 of the Code of Chesterfield Township to include the definition and regulation of "micro" technology systems.
- The Township may want to amend the definition of public utilities to exclude telecommunications towers, micro systems, and antennas.
- The Township may want to consider amending the ordinance governing cell towers to remove them as a conditionally permitted use in the AG zone.

5.12 Military Facilities Collaboration: a New Purpose of Zoning

The Municipal Land Use Law: 40:55D-2.q. was amended to add municipal collaboration with military facilities in planning and implementing appropriate land use controls as a purpose of zoning.

5.13 MLUL Amended: Master Plan Adoption/ Amendment

Notice to Office of Planning Advocacy and Military Facilities. August 1, 2016, the Legislature amended parts of the Municipal Land Use Law 40:55-d-13 and Title 52 of the Revised Statutes to extend the required notice of a Master Plan adoption or amendment to include the Office of Planning Advocacy, (formerly the Office of Smart Growth and the Office of State Planning) and to the commander of a military facility which has registered with the municipality pursuant to section 1 of P.L.2005, c.41 (C.40:55D-12.4).

The notice shall include:(a) all hearings on the adoption, revision or amendment of the municipal master plan at least 10 days prior to the date of the hearing; such notice shall include a copy of any such proposed master plan, or any revision or amendment thereto; and (b) the adoption, revision or amendment of the master plan not more than 30 days after the date of such adoption, revision or amendment; such notice shall include a copy of the master plan or revision or amendment thereto.

Recommendation: The Office of Planning Advocacy and Joint Base MDL if requested should be added to the service list for notice requirements.



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5.14 Incentive Based Policy Changes

Grants from SADC: The State Agriculture Development Committee will soon be reinstating the Soil and Water Conservation Cost Share Grant program for farms enrolled in the farmland preservation program. The SADC has also begun a new grant program for installation of deer fencing on preserved farms.

Certified Local Government Program: The Certified Local Government Program authorized through the National Historic Preservation Act is designed to allow communities to participate in federal and state historic preservation programs including eligibility for grant funding. The Act requires the State to set aside at least 10% of its historic preservation funding.

Sustainable Jersey Grant Program: Over \$2.2 million has been provided to towns for community-based projects to improve quality of life in New Jersey.

Recommendation: The Township may want to post a link to the SADC website where application forms for grant programs can be found.

Recommendation: The Township should support the application to the Certified Local Government Program for Historic Preservation.

Recommendation: The Township may want to explore the Sustainable Jersey program for funding assistance.



RECOMMENDATIONS

6.0 Recommended Changes for the Master Plan or Development Regulations (40:55D-89.d)

6.1 **Recommendations Historic Preservation:**

- The Historic Preservation Plan Element of the Master Plan should be updated to acknowledge the adoption of the Historic Preservation Ordinance; and to reflect the mission, goals, and objectives for historic preservation in Chesterfield.
- The historic preservation district mapping and documentation on file in the Clerk's office should be incorporated into the Historic Preservation Plan Element of the Master Plan.
- Preservation of developable land within the historic districts using the TDR planning tool should be explored.
- The Township should support the application to the Certified Local Government Program for Historic Preservation.
- A recap of necessary and available TDR credits to complete Old York Village should be conducted.

6.2 **Recommendations Community Facilities:**

- Adoption by reference of the 2006 Needs Assessment as the Community Facilities Master Plan element of the Chesterfield Township Master Plan.¹³
- Continue to monitor and implement the recommendations of the Community Facilities Plan.
- Update the Community Facilities Plan to include mapping and planning for the Fenton Lane open space acquisitions.

6.3 **Recommendation Affordable Housing:**

Chesterfield should continue to implement its Fair Share Plan as directed by the Court and implement a third round plan, if needed, to comply with the Court's determination of its affordable housing obligation.

6.4 **Recommendation Alternative Energy and Sustainability:**

- Amend the Chesterfield Township Code section 130-144 C. (2) (c) to increase the solar generation capacity limit for conditional accessory uses from 10kW to 20kW in order to reduce the need for residents to apply for bulk variances.
- The Township may want to consider preparation of a sustainability element of the Master Plan.

¹³ Chesterfield Township Community Facilities Plan. Prepared by Environmental Resolutions Inc., September 1, 2006.



RECOMMENDATIONS

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- The Township may want to explore the Sustainable Jersey program for funding assistance.
- The Chesterfield Township Code does not include a definition of commercial farm. Amend the Chesterfield Township Code section 130 -4 to add the definition of a “commercial farm”.

6.5 Recommendation State Planning:

Continue to monitor developments regarding state planning process for incentives to participate in Plan Endorsement.

6.6 Recommendation Wastewater Management Planning:

- The Township should continue to stay engaged with Burlington County in the Wastewater Management Planning/Implementation process.
- The Township should ensure the WMP and local ordinances require accessory uses to utilize the connection of the principal use and not an independent connection.

6.7 Recommendation Circulation Plan:

- Incorporate the 2009 Chesterfield Township Bicycle and Pedestrian Study into the Circulation Plan Element of the Master Plan.
- The Township should seek funding assistance to implement the improvements recommended in the study.
- The 1997 Master Plan incorporated the Historic Preservation Transportation Study as the Circulation Plan Element which, among other recommendations called for a collector road to be routed through the receiving area from Old York Road to Ward Avenue. As the build out of Old York Village nears completion, the Township may want to revisit the recommendations of the transportation study in light of new development patterns in Chesterfield and the surrounding region to alleviate traffic impacts on the historic villages.

6.8 Recommendation Time of Application Law:

The date when all of the required documents have been submitted should be noted for the record on each application. This statutory submission date is different than the determination of completeness for commencement of time limits for approval.

6.9 Recommendation NJNG Pipeline and Transco Compressor Station:

In acknowledgement of the potentially adverse consequences to the community identified by the Township Committee posed by the location of the NJNG pipeline and Transco compressor station projects, any and all land use regulation revisions which could alter the course of these projects should be



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considered to protect the agricultural industry and the public health, safety, and welfare.

6.10 Recommendation Chesterfield Zoning Study:

- The Township may want to consider revising the Zoning Map to reflect the findings and options of the Zoning Study.
- The map may also be revised in areas surrounding existing commercial node near the border with Springfield Township to better reflect current zoning patterns and to possibly alleviate development, redevelopment, and marketability issues of the identified parcels.
- Block 301 Lot 1: 37 Church Street. The parcel might be a candidate for public access to the Crosswicks Creek. The Township may want to explore a mechanism for public access development.

6.11 Recommendation Creation of a P Public Zone: The Agriculture Zone AG is proposed to be revised to permit farms, single family homes and public parks and playgrounds. The Township should consider creating a new Public, P, zone governing public buildings and publicly owned lands which are currently included in the AG zoning district.

6.12 Recommendation Compassionate Use of Medical Marijuana Law:

The Township may want to research the cultivation restrictions included in the new law and create standards to regulate the cultivation and distribution of medical marijuana in the AG zoning district.

6.13 Recommendation Farmland Preservation:

- Chesterfield prepared a comprehensive Farmland Preservation Plan in 2009. This Farmland Preservation Plan should be incorporated as the Farmland Preservation optional Master element.
- The Township may want to post a link to the SADC website where application forms for grant programs can be found.

6.14 Recommendation Cell Towers

Recommendations:

- The Township may want to revise section 130-142 of the Code of Chesterfield Township to include the definition and regulation of “micro” technology systems.
- The Township may want to amend the definition of public utilities to exclude telecommunications towers, micro systems, and antennas.
- The Township may want to remove cell towers as conditionally permitted uses in the AG zone.



RECOMMENDATIONS

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7.0 Recommendations for Redevelopment (40:55D-89.e)

- 7.1 Recommendation: The site of the historic Brick Mincemeat Factory has been listed on the 2017 Ten Most Endangered Historic Places in New Jersey. The Township may want to consider conducting an area in need of redevelopment investigation and establishing a redevelopment plan to preserve or redevelop this important local historic site. The benefits of a redevelopment area designation would include greater control of the fate of the historic structures, design controls for any redevelopment of the site, a Payment in Lieu of Taxes (PILOT) incentive for potential redevelopers, and the option for possible condemnation actions if necessary.

The 3.28 acre site which is entirely located in the sewer service area of the Township is currently split between two zoning district: the Village Zone containing the historic structures and the AG zone which is vacant. This AG portion of the lot could be rezoned to R-1 in order to facilitate redevelopment.










Appendix 1: Early Planning Efforts- Prior to 2009

-  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 TDR¹⁴ 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.

¹⁴ 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












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-  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 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.













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-  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.



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-  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



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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.



Appendix 2: Affordable Housing Chronology of Changes

Challenge to COAH's 2008 Third Round Rules

COAH's first iteration (2004) as well as its second iteration (2008) of its Third Round rules were challenged at the Appellate Division. The first iteration of the Third Round rules was invalidated in 2007, and on October 8, 2010, the Appellate Division invalidated several key provisions of COAH's second iteration of the Third Round rules, specifically, the "growth share" based rules governing fair share need and calculation.

Various parties brought the case to the New Jersey Supreme Court, which in 2013, directed COAH to revise and adopt a third iteration of its Third Round rules by March 8, 2011 using a methodology similar to COAH's first and second round methodologies. Subsequent delays in COAH's rule preparation and ensuing litigation led to the Court, on March 14, 2014, setting forth a schedule for adoption of COAH's rules.

Although ordered by the New Jersey Supreme Court to adopt a third iteration of the Third Round rules on or before October 22, 2014, COAH deadlocked 3-3 at its October 20, 2014 meeting and failed to adopt the new rules. This put COAH in violation of the Supreme Court's Order. A motion in aid of litigant's rights was then filed with the NJ Supreme Court by the Fair Share Housing Center (FSHC).

Transfer to Courts- Mt. Laurel IV

On March 10, 2015, the Supreme Court issued a ruling on the motion in aid of litigant's rights (In re Adoption of N.J.A.C. 5:96 & 5:97, 221 N.J. 1 (2015)). This decision dissolved the substantive certification process established in the Fair Housing Act (FHA) because COAH caused it to become a futile administrative remedy, and held that the review and approval of all exclusionary zoning matters would now be heard by trial courts, rather than by COAH. The Supreme Court did not, however, rule on the precise methodology that would govern the calculation of fair share numbers. Instead, the Supreme Court offered general guidance and left it to the trial courts through the 15 designated Mount Laurel judges to decide.

The Supreme Court further held that, for a municipality to be protected from exclusionary zoning lawsuits, it had to file a declaratory judgement action seeking a judicial declaration that its Housing Plan Element & Fair Share Plan complies with the Third Round affordable housing obligation. It is expected that the Mount Laurel trial judges will review municipal plans much in the same manner as COAH previously did. Those towns whose plans are approved by the trial court will receive a Judgement of Repose, the court-equivalent of COAH's substantive certification.



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The “GAP” years- 1999-2015: Mt. Laurel V

During the 16 year time period in which COAH was unable to promulgate third round rules, a pent-up need or gap formed in the calculated need for affordable housing.

On February 18, 2016, a trial court opinion in Ocean County held that the inclusion of the need arising during the 1999-2015 gap period in the assessment of the third round fair share obligation was a constitutional obligation and that such need could be calculated as a separate and discrete component of the fair share obligation based upon actual growth occurring during the time period. This opinion which ordered the inclusion of the “GAP” period housing obligation was appealed. The Appellate Division opinion of July 11, 2016 determined that a need arose during the time period and that there could be no hiatus in the constitutional obligation; however, the court found that Fair Housing Act does not require the calculation of a new and separate retrospective calculation of affordable housing needs.

The Appellate Division’s July 11, 2016 opinion was appealed to the New Jersey Supreme Court by Fair Share Housing Center. The Supreme Court, on January 18, 2017, affirmed and modified the Appellate Division judgement. Essentially, the Court directed the trial courts to expand the present need affordable housing calculation to include the affordable housing needs which arose during the “GAP” period. Again, the Court did not direct the methodology to be used to determine the expanded present need calculation but instead left it to the 15 Mt. Laurel trial courts to determine. A hearing on the methodology is underway in the Mercer County Courts.

Trust Funds

In light of the “Roberts Bill”, on or about July 17, 2012 Governor Christie anticipated recouping \$140 million for the 2013 budget from uncommitted monies in municipal affordable housing trust funds which are four years old or older. However, on July 17, 2012 the Appellate Division issued an Order that outlined a process for municipalities to resolve disputes with COAH over their trust funds. In light of the March 10, 2015 Supreme Court decision to transfer responsibility to review and approve housing elements and fair share plans (housing plans) from COAH to designated Mount Laurel trial judges, on April 9, 2015 the Appellate Division issued a decision that enjoined COAH or any other part of the executive branch from engaging in any further attempt to seize affordable housing trust funds.

Municipalities are responsible for collecting a development fee from non-residential development and have the option to collect a development fee from non-inclusionary residential development.