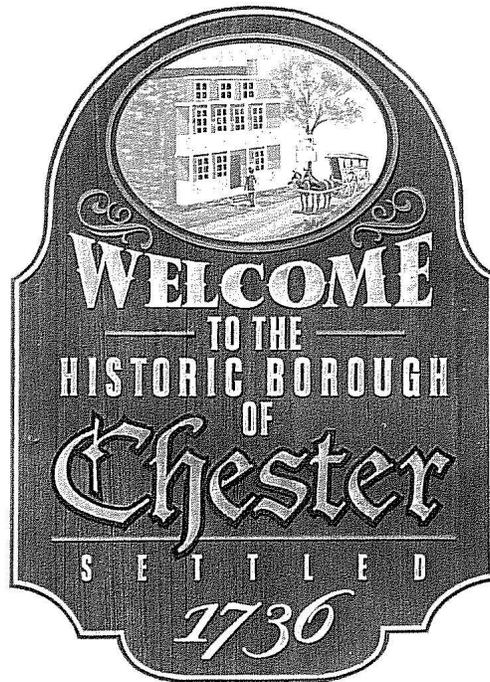


# Chester Borough 2008 Periodic Reexamination Of Master Plan and Development Regulations

Adopted: December 11, 2008



Prepared by:  
Chester Borough Planning Board

in consultation with  
Banisch Associates, Inc.  
111 Main St. Flemington, NJ 08822

The original of this report was signed and sealed  
in accordance with N.J.A.C. 13:41-1.3

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David J. Banisch, PP

Date Signed



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**Chester Borough  
Periodic Reexamination of  
Chester Borough Master Plan and Development Regulations**

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Introduction

This report has been prepared by the Chester Borough Planning Board in response to its responsibility to conduct a periodic reexamination of Chester Borough's Master Plan and Development Regulations in accordance with N.J.S.A. 40:55D-89 of the Municipal Land Use Law, which provides for the following:

**Article 11. Periodic Reexamination of Municipal Plans and Regulations.**

**40:55D-89. Periodic reexamination.** The governing body shall, at least every six years, provide for a general reexamination of its master plan and development regulations by the planning board, which shall prepare and adopt by resolution a report on the findings of such reexamination, a copy of which report and resolution shall be sent to the county planning board. A notice that the report and resolution have been prepared shall be sent to the municipal clerk of each adjoining municipality, who may, on behalf of the governing body of the municipality, request a copy of the report and resolution. A reexamination shall be completed at least once every six years from the previous reexamination. The reexamination report shall state:

- 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.

Through the preparation of this periodic reexamination report, the Chester Borough Planning Board has fulfilled its statutory responsibility for a periodic review as provided for in the law above. At the same time, this report establishes the basis for maintaining consistency with the provisions of the law, that state in the absence of a periodic reexamination report, there shall be a rebuttable presumption that the municipal development regulations are no longer reasonable as provided at Section 89.1 of the Municipal Land Use Law, as provided below.

40:55D-89.1. Absence of adoption of reexamination report. The absence of the adoption by the planning board of a reexamination report pursuant to section 76 of P.L. 1975, c. 291 (C. 40:55D-89) shall constitute a rebuttable presumption that the municipal development regulations are no longer reasonable.

**a. The major problems and objectives relating to land development in the municipality at the time of the adoption of the last reexamination report.**

Land Use Plan:

Larison's Turkey Farm – site was the subject of litigation, and as a result, the Master Plan did not address the disposition of this site, but recognized redevelopment potential and identified OP Office Professional zoning in the Land Use Plan.

Mill Ridge Farm – development options for this site were identified as OP, and residential;

Chester Springs Shopping Center – existing development characteristics inconsistent with long range historic preservation and community character goals for the Borough; recognition of excessive coverage and parking capacity beyond requirements;

Flea Market – arrangement of approved development pattern eliminates pedestrian and circulation to adjoining Chester Springs center; if opportunity arises, consider abandonment of the northern leg of Old Gladstone Road with a new road connection from Route 206 to Old Gladstone Road.

Amery Property – need for age-restricted or other form of multi-family housing;

Lucent Tract – the site is dormant and includes a vacant office building and maintenance structures and an extensive abandoned above ground and underground network of experimental cable structures related to the former industrial research and development use. The site is colloquially referred to the pole farm and is so named due to several series of telephone poles, which remain a remnant of research use. Lucent abandoned the tract due to facility’s obsolescence. The site is known to possess numerous contaminated areas related to the previous research uses conducted throughout the 20<sup>th</sup> Century. A substantial groundwater pollution plume, the cause of which is the subject of ongoing environmental studies and analyses. The site establishes a passive open space anchor at the easterly end of the Borough, which is appropriate. A portion of the site may also be appropriate for municipal purposes if the environmental hazards persist that preclude adaptive reuse. Industrial reuse is not appropriate for the site due to the prevalence and encroachment of residential uses that have developed adjacent to the tract over time.

#### Utilities Element

##### Stormwater management

- need for structural and non-structural BMP’s for existing and new development;
- need for stormwater management ordinance for non-residential uses;

##### Individual On-site Septic Systems

- need for a septic management educational program to stress the need for proper long-term septic maintenance;
- need for water conservation in plan review procedures;

Overhead Utilities – consider underground utility installation in conjunction with Main Street redevelopment projects;

Water Supply – need to identify alternate water source as part of contractual obligation with NJ American Water Company;

##### Wastewater Management Plan WMP

- long-range WMP should be developed to require developer to pay their pro-rata share of system improvement costs;
- need for updated WMP consistent with updated Land Use policies;

#### Transportation Element

### Parking

- need for a parking study to determine feasibility of a jitney system for special event weekends to relieve parking congestion; smart growth grant funding should be sought to fund this enterprise;
- establish interconnections among existing parking lots for lateral movements and relieve vehicle congestion on Main and local streets;
- in cooperation with NJDOT, establish park and ride facility for commuters; consider location south of Fleet Bank in Chester Twp.

Main Street – need for special design district streetscape improvement plan; specifically including pedestrian crosswalks and walks consistent with Route 206 improvements;

Gateway intersection improvements at Route 206 and Main Street, and Main Street at Grove Street, Budd Avenue, and Hillside Road; design/improve decorative rotary as traffic calming and defining entry points;

### Pedestrian System;

- Sidewalks – continue to develop sidewalk system;
- Trail system – develop trails along abandoned rail right-of-way and establish link with Black River Wildlife Area;

### Route 206 –

- The NJDOT has been conducting investigations into widening the highway and realigning the Route 206 and Main Street intersection to improve vehicular travel along this major north/south arterial highway.
- The Borough has identified pedestrian linkages across the State Highway at Main Street as a high priority in connection with intersection improvements due to dramatically increased traffic volumes within the region that result in treacherous pedestrian safety conditions.

### Community Facilities Element

#### Municipal facilities;

- consider acquiring additional property adjacent to existing municipal property;

- provide adequate municipal complex to relieve existing overcrowding conditions;

Youth – establish joint Borough/Township group to identify after school youth programs;

Elderly – consider development of a Senior Community Center;

### Recreation and Open Space Plan

#### Parks and Open Space

- acquire additional parkland and open space utilizing County and State funding;
- require new development to provide appropriate recreation facilities needed for new residents;
- establish open space tax to fund open space easement and land acquisition;

#### Recreation Commission

- continue to evaluate existing needs and identify new programs to provide maximum benefit for the community;
- identify special needs groups in the provision of new community recreation programs and facilities;
- establish after school programs, particularly to fill void in potential supervision and involvement gap;

### Conservation Element:

#### Subdivision and Site Plan

- identify additional natural resource mapping checklist requirements to appropriately plan for new development (i.e. soil percolation testing for stormwater management design);
- require cluster zoning in low-density zones for natural resource protection;
- avoid excessive pavement requirements and limit impervious coverage to reduce stormwater management requirements;

#### Water Conservation

- implement water conservation measures (i.e. gray water recycling); establish ordinance incentives;
- require water conservation plans in development applications;

Trees – consider establishment of tree preservation and replacement ordinance;

Energy

- consider design such as solar orientation and thermal heating systems;
- reduce reliance on the automobile; consider mass transit to serve tourism traffic and relieve congestion;

Groundwater – initiate public education about hazards of household hazardous waste disposal and potential negative impacts resulting in groundwater pollution.

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

Land Use Plan:

Larison’s Turkey Farm litigation has been resolved in support of the Borough’s rezoning action designating lands lying on the north side of West Main Street (Route24) OP Office Professional zone. Larison’s remains the subject of continuing planning efforts between the Borough Council and the property owner. Mixed use development options, including neotraditional commercial design options have been developed, however the ultimate disposition of any redevelopment of the Turkey Farm properties and Larison’s Restaurant is dependent upon the provision of wastewater treatment facilities that are capable of supporting development of any significant scale (i.e. combined floor areas of 75,000 sq. ft. to 125,000 sq. ft). NJDEP approval of wastewater treatment facilities and a Water Quality Management Plan amendment are subject to NJDEP’s recently adopted revised regulations, which call for consistency with NJ Highlands Regional Master Plan policies. The Borough is conducting continuing investigations into the feasibility of amending the Borough’s water quality management plan, including resolving seemingly inconsistent policies for land use, which have been identified in the Highlands Regional Master Plan.

Mill Ridge Farm development options, which were established through OP-Office Professional and RLD-Residential Low Density zoning, have proved fruitful in the development of approximately four office buildings totaling 64,000 sq. ft. of professional office development, which is now occupied. RLD zoned

portions of the Mill Ridge Farm received subdivision approval of a 5-unit residential subdivision. The approved subdivision has been partially constructed with existing roadway and drainage improvements and one residential dwelling in an interrupted state of development that is currently unoccupied.

Chester Springs Shopping Center existing development characteristics including excessive land coverage and time-worn stylistic design that is inconsistent with the Borough's historic character that were identified in the 2002 Master Plan as being inconsistent with the Borough's long range historic preservation and community character goals remain unchanged. Opportunities for redevelopment of the site appear to exist due to the excessive pavement coverage and an apparent oversupply of existing parking facilities relative to parking demand. Encouraging mixed use redevelopment in a manner that is consistent with the Borough's historic preservation and community character goals is likely to be dependent upon the Borough establishing redevelopment incentives through zoning, however no such action has been taken to amend ordinances in this fashion to date.

The Flea Market redevelopment site was completed with the Streets of Chester shopping center. The approved and constructed arrangement of development does not include pedestrian and vehicular circulation to the Chester Springs shopping center adjoining the site.

Amery Property became the subject of renewed planning efforts, which identified limited development potential for the property. The goal to provide age-restricted development or a form of multi-family development was revised; after it was determined that environmental constraints and community character goals could be best served through single-family residential development. As a result, the Planning Board and Borough Council developed the Borough's RPLD - Residential Planned Low Density zoning designation that permits residential development at the rate of one dwelling unit per 3 gross acres of land with a requirement for architectural design review by the Planning Board. Reduced bulk requirements were adopted to permit narrower road frontages and lot widths, which allow for a more compact residential neighborhood design than the Borough's existing 2-acre Residential Low-Density zone. Pedestrian circulation requirements require sidewalks and a series of design requirements include enhanced buffering and reverse frontage architectural design of homes were identified to maintain a desirable streetscape along Old Gladstone Road. Following the establishment of the zone, the Amery tract received preliminary and final subdivision approval for 12 residential dwelling units. The development is now under construction with approximately 4 new homes currently occupied.

## Utilities Element

Stormwater management – In response to the NJDEP’s enactment of revised stormwater management rules in 2005 that are consistent with federal clean water act amendments, the Borough adopted a Stormwater Management Plan element of the Master Plan and enacted a series of stormwater management ordinances. The Plan and ordinances require structural and non-structural Best Management Practices (BMP’s) for stormwater management of existing and new development. A program for retrofitting existing storm sewers to reduce debris from entering the subsurface storm sewer system and ordinances that are aimed at improving surface water runoff were enacted by the Borough. All new development in the Borough is currently designed utilizing BMP’s in accordance with State and local regulations. All new private residential and nonresidential development are required to incorporate BMP’s in stormwater management systems. The Borough’s public development projects, such as the Grove Street Park expansion and improvement project, include updated stormwater management system design.

Individual On-site Septic Systems remain an ongoing local concern relative to educating the public as to the need for regular maintenance. County Health Department recommendations include regular septic system maintenance and cleaning at intervals of not more than 3-years between scheduled maintenance. A coordinated and sustained educational campaign remains a recommended strategy to alert the public to the need for proper long-term septic system maintenance. In June of 2008, updated septic system rules adopted by NJDEP (N.J.A.C. 7:15 et seq.) identify the need for ongoing septic system maintenance, which include recommendations for regular pumping and system inspection at a minimum of three year intervals. A more aggressive approach for a program of common ownership and maintenance in new subdivisions is also recommended in DEP’s updated rules.

Water conservation plan review procedures have not been enacted.

Overhead Utilities have been considered for underground installation in conjunction with the Main Street Historic District. New development approved since the 2002 master plan adoption have incorporated underground electric, telephone and cable utility installations to the extent feasible. An informal survey of the cost for relocating overhead utilities has revealed that there are substantial costs related to relocation of existing overhead utilities in the Main Street Historic District. The Borough has not been in a position to incur these costs to date, in

light of competing spending priorities for community development projects. These include open space acquisition, recreation improvements and pedestrian safety sidewalk improvements.

Water Supply remains a concern and the need to identify additional sources of water supply has not abated. While the NJ American Water Company has indicated that public water service may be extended to areas of the Borough, water supply extensions must be consistent with State planning policies which call for the extension of water supply lines in designated growth areas. As of the time this report is adopted, the Borough remains an identified Center in the State Development and Redevelopment Plan. The NJ Highlands Regional Master Plan has identified Existing Community designations throughout the Borough, which do not include all areas of the Borough. NJ American has indicated that the cost for water supply extensions will have to be borne by the users that will benefit from the water supply. NJ Highlands has identified the Borough's water supply system as being in deficit and not capable of supporting new development.

Wastewater Management Plan WMP – The 2002 Master Plan called for long-range WMP planning and implementing ordinances for developers to pay their pro-rata share of system improvement costs. No new sewer capacity has been established in the Borough since 2002. Regulatory changes, including NJDEP Water Quality Management Planning rule amendments and the recently adopted Highlands Regional Master Plan call into question the extent to which additional wastewater treatment capacities may be approved to serve new development and existing neighborhoods in the Borough.

The Borough's land use plan identifies nonresidential development zones, capable of supporting new development that is currently consistent with the Master Plan and zoning, however there remains a need to coordinate these policies with a new Water Quality Management Plan and updated NJDEP regulations. In accordance with an Executive Order signed by Governor Corzine in September 2008, it appears that consistency is now required between local plans and the recently adopted Highlands Regional Master Plan in order for the Borough to secure approval of new and expanded wastewater treatment facilities from the NJDEP.

#### Transportation Element

Parking – the recommendations found in the 2002 Master Plan identifying strategies for relieving parking shortages remain valid. These include:

- feasibility study of a jitney system for special event weekends to relieve parking congestion; smart growth grant funding should be sought to fund this enterprise;
- establishment of interconnections among existing parking lots for lateral movements among commercial properties where such arrangements could relieve vehicle congestion on Main and local streets;
- planning with the NJDOT for establishment of a commuter park and ride facility, and consideration of locations such as the Fleet Bank in Chester Twp.

Main Street – The Borough Council has responded to the 2002 Master Plan recommendation for special design district streetscape improvements with a pedestrian sidewalk design that is consistent with NJ Historic Preservation Office approved brick surfaces for the Historic District. These have been coordinated with NJDOT Route 206 – Main Street intersection improvements. The Borough’s sidewalk improvement project is a major comprehensive public development project, which includes Belgian block curbing and the extension of new sidewalks along Main Street to North Road. The Borough has also reinforced Historic District character with pedestrian streetscape improvements, such as gazebos that provide resting recreation and social gathering nodes for pedestrians along Main Street.

Gateway intersection improvements at Route 206 and Main Street have been designed as a result of ongoing dialogue and negotiations between the Borough and NJDOT. These improvements include a major realignment of the intersection as well as stormwater management and storm drainage improvements, which will be constructed along Route 206, and which are consistent with NJDEP stormwater management regulations and recommended best management practices. The 2002 Master Plan called for gateway and traffic calming improvements along Main Street at Grove Street, Budd Avenue, and Hillside Road. These included recommendations such as a decorative rotary as traffic calming at defining entry points along Main Street. These recommendations may warrant further consideration in the future.

Pedestrian System – as described above, the Borough has responded to 2002 Master Plan recommendations to continue to develop sidewalk system with a major Main Street pedestrian sidewalk project. This project is underway during autumn 2008 and is expected to be completed in early 2009. The 2002 Master Plan pedestrian sidewalk recommendations include an ambitious extension of sidewalks throughout the Borough to establish a comprehensive sidewalk system linking all neighborhoods of the Borough. This sidewalk master plan remains

relevant to residents' and visitor's needs, however additional sidewalk system improvements will be dependent on the Borough's ability to fund future projects or an emergence of available funding from outside funding sources, which do not currently exist.

Trail System – The Borough's acquisition of Larison's woods as passive open space provides opportunities for extending a trail system to Chubb Park and throughout this new 44-acre open space preserve. 2002 Master Plan recommendations to establish improved trails along the abandoned rail right-of-way to establish linkages with the Black River Wildlife Area remain a worthy planning objective and would serve as a functional component of the Borough's overall pedestrian circulation system.

### Community Facilities Element

Municipal facilities;

- The Borough evaluated the 2002 Master Plan recommendation to acquire vacant property adjacent to existing municipal property, as well as an opportunity to acquire the Lucent tract. It was determined that the Lucent tract provides an excellent opportunity to (1) establish a municipal complex capable of responding to a wide variety of municipal service needs as well as overcrowded conditions at the existing municipal building on Main Street; and at the same time (2) establish an open space preserve on the easterly end of the Borough. It was also found that the vacant land situated adjacent to the existing municipal building on Main Street provides an opportunity for new commercial development, which would reinforce the vitality of Main Street's commercial base as well as enhance the tax ratable base. As a result, the Borough has determined that the acquisition of vacant land adjacent to existing municipal building would not be pursued as recommended in the 2002 Master Plan.

The 2002 Master Plan recommendations for expanded programs for youth and the elderly remain valid.

Youth - The Borough with the Township should continue to jointly investigate and develop after school youth programs.

Elderly – The Borough's acquisition of the former Agway site on Grove Street enabled expansion and comprehensive redevelopment of the park. This

project included the development of a field house, which is capable of supporting activities for the elderly and thereby serve as a senior center, in addition to supporting recreation and social functions for all Chester residents.

## Recreation and Open Space Plan

### Parks and Open Space

The 2002 Master Plan recommendations to acquire additional parkland and open space utilizing County funding has been acted upon, and the Borough also accessed NJDEP Green Acres funding to acquire land. There have been two new recreation and open space additions, which include the Agway site acquisition which was added to Grove Street Park; and (2) Larison's Woods, a 44-acre nature preserve that will maintain undeveloped portions of the Larison's tract in perpetuity.

The 2002 Master Plan recommendation to require new development to provide appropriate recreation facilities needed for new residents resulted in the designation of passive open space on the Amery tract on Old Gladstone Road. It was determined that the Borough could forgo requiring active recreation lands due to the limited size of the subdivision, and the proximity of the tract to Chubb Park, which has a variety of active recreation facilities. The other major subdivision that was approved is the Mill Ridge subdivision of 5 homes, which is also of a limited size and situated in close proximity to Chubb Park. The recommendation to require new development to provide appropriate recreation facilities remains valid, however there are no remaining tracts of land capable of supporting large-scale residential subdivision that would benefit from such a requirement. However, one exception is the Lucent tract, which is large in area, but has proved to be inappropriate for residential development due to the existence of environmental hazards related to the prior industrial use of the site as a research facility. Nevertheless, the Lucent tract continues to provide an opportunity for passive open space as well as for accommodating expanded community facilities, which the existing town hall site cannot continue to effectively support.

The Borough has enacted a local open space tax as recommended in the 2002 Master Plan. The revenue generated from the tax has been used to fund acquisition of open space and additional parkland and recreation improvements, and may continue to be useful even after debt service is retired on the two major acquisitions that have been completed to date. In addition, the Borough's planned acquisition of the Lucent tract to establish an open space reserve will also require a local financial commitment for which the tax will be useful.

Recreation Commission – the following 2002 Master Plan recommendations for ongoing activities by the Recreation Commission remain valid, and have subsequently been reduced due to their continuing planning efforts and the integration of the Commissions recommendations into the Grove Street Park redevelopment project:

- continue to evaluate existing needs and identify new programs to provide maximum benefit for the community;
- identify special needs groups in the provision of new community recreation programs and facilities;
- establish after school programs, particularly to fill void in potential supervision and involvement gap;

The Recreation Commission provided important planning advice and input into the design and layout of the Borough's Grove Street redevelopment project.

### Conservation Element

The need for implementation of Conservation Plan recommendations in the 2002 Master Plan have increased somewhat due to new State NJDEP regulations for protection of natural resources and stormwater management. These include the following:

#### Subdivision and Site Plan

- identify additional natural resource mapping checklist requirements to appropriately plan for new development (i.e. soil percolation testing for stormwater management design);
- require cluster zoning in low-density zones for natural resource protection;
- avoid excessive pavement requirements and limit impervious coverage to reduce stormwater management requirements;

#### Water Conservation

- implement water conservation measures (i.e. gray water recycling); establish ordinance incentives;
- require water conservation plans in development applications;

The increased need for implementation of these recommendations is highlighted by the recent adoption of the Highlands Regional Master Plan, which calls for a comprehensive, holistic approach to planning.

The Master Plan recommendation to establish a tree preservation and replacement ordinance remains useful and valid. Recent case law regarding such ordinances, however, suggest that these types of municipal ordinances must be crafted such that replacement requirements are appropriately calibrated to tree removal, and that punitive replacement requirements that bear no rational nexus to the ‘harm’ may be challenged and overturned. Tree replacement ordinances that have been successfully challenged include standards for an onerous tree replacement requirement. Standards that establish a proportional relationship between tree removal and replacement, based upon basal diameter, or diameter at breast height (dbh) should be considered. Additionally, defining specimen trees, such as large, older, or landmark trees may rise to an added level of protection and increased replacement requirements.

Energy – the need to implement the 2002 Master Plan recommendations for energy conservation have increased significantly. Oil price shocks of 2006 – 2008 have dramatically demonstrated the degree to which traditional energy practices are not sustainable or economical. America’s reliance on foreign oil and fossil fuels has become an issue of significant national and global importance. Increased fuel costs pose significant challenges to the Borough resident’s household budget. In light of the heightened importance of energy issues, the use of alternative energy sources and techniques for satisfying energy needs will become increasingly popular. The 2002 Master Plan included the following recommendations.

- consider design such as solar orientation and thermal heating systems;
- reduce reliance on the automobile; consider mass transit to serve tourism traffic and relieve congestion;

The need to implement these recommendations has increased and these recommendations should be expanded with consideration given to encouraging sustainable practices.

Alternative energy production sources have gained popularity, such as rooftop and ground-level solar energy collection and solar photovoltaic panel installations. These modern energy collection systems have the potential to introduce visually incompatible structures into the Borough’s Historic District. Recognizing the need to allow for the use of alternative energy production installations *and* protect the physical appearance of Chester’s Historic District, the Borough developed and adopted a local ordinance which provides for such installations where their appearance and use does not distract from or have a

negative visual impact on the Historic District as viewed from the public realm (i.e. Main Street).

Groundwater – the Master Plan recommendation to initiate public education about hazards of household hazardous waste disposal and potential negative impacts resulting in groundwater pollution remains valid and has increased. This is in part the result of NJDEP and NJ Highlands Council planning that has emerged since 2002, which is aimed at improving groundwater quality on a state and regional basis. Both NJDEP and the Highlands Council have implemented sub watershed-based planning programs that seek to maintain balances between water consumption and depletion within a given sub watershed. In addition, due to heavy reliance on groundwater for potable public water supplies, the need to improve groundwater quality by preventing contamination and pollution is of increased importance.

Highlands Water Protection and Planning Act – On June 4, 2004, the Governor signed the Highlands Water Protection and Planning Act, which created the Highlands Region as a protected region in NJ owing to the importance of the Region in providing the water supply to approximately 4,000,000 of New Jersey’s residents. The Act created the NJ Highlands Council, which adopted the Highlands Regional Master Plan in 2008. The Highlands Regional Master Plan takes a holistic approach to conserving the Highlands Region natural resources, and identifies a comprehensive program of policies and strategies that will inform future Conservation planning in the region. Chester Borough is in the Planning Area of the Highlands, which allows for local control over land use decision-making. The Borough may, at its discretion, adapt local plans and ordinances to the Highlands Regional Master Plan through Highlands RMP conformance, which is an option for Planning Area municipalities, and therefore an option available to the Borough.

**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.**

Significant changes in the assumptions, policies, and objectives forming the basis for the master plan or development regulations, as last revised:

Summary and Chronology of State Regulatory and Statutory Changes

## State Development and Redevelopment Plan

- Since the 2002 Master Plan adoption, the State Planning Commission conducted a review of the State Development and Redevelopment Plan (SDRP) adopted in March 2001. This review, which was initiated with the release of the 2004 Preliminary Plan in April 2004, commenced the cross-acceptance process, which is the mechanism in the State Planning Act for the analysis of State, County and municipal policies with the intent of providing consistency in policies among the various levels of government. The initial part of the cross-acceptance process is termed the comparison phase, during which each County, which is the negotiating entity for its municipalities, conducts a detailed analysis of State, County and local policies and identifies consistencies and inconsistencies.

During this phase the County and the Borough reviewed the SDRP's Resource Planning and Management Structure (RPMS) that divides the State into five Planning Areas (PA-1 to PA-5), ranging from urban to rural and environmentally sensitive, and provides policy objectives for each Planning Area. Chester Borough includes two Planning Area designations: PA-4, the Rural Planning Area; and PA-5, the Environmentally Sensitive Planning Area. A designation for parkland was also established. Policy objectives for Planning Areas 4 and 5 seek to enhance agricultural viability and rural character (generally not applicable in Chester Borough), and to protect large contiguous areas of critical environmental resources.

## Highlands Water Protection and Planning Act

- In June 2004, the NJ Legislature passed, and Governor McGreevey signed into law, the Highlands Water Protection and Planning Act, which established a comprehensive regional planning structure designating a Highlands Region consisting of 88 municipalities in seven counties in NJ. Chester Borough is included in the Highlands Region. The Act established the NJ Highlands Council, which was charged in the legislation with preparing a regional master plan for the Highlands Region. The essence of this legislation is protection of Highlands water resources upon which an estimated 8 million people in NJ and Pennsylvania are dependent for their water supply. This legislation also calls for the protection of Highlands natural resources.

## NJDEP Stormwater Management Rules

- In 2005, the NJDEP adopted long-awaited stormwater management rules, which resulted in the requirement for municipalities to adopt individual Stormwater Management Plan, and established new standards for stormwater treatment and

discharge. In addition, these rules established a 300' buffer around all Category 1 (C-1) waters in the State. Mandatory stormwater management ordinances were also required to be adopted by all NJ municipalities.

#### NJ Council on Affordable Housing

- The Council on Affordable Housing (COAH) proposed and adopted new rules for the provision of affordable housing (Third Round rules) in December 2005. The Borough prepared and submitted a new Housing Plan Element and Fair Share Plan (HPE/FSP) to COAH in December 2005. In January 2007 the Appellate Division of the NJ Superior Court issued a decision invalidating portions of COAH's Third Round rules, which suspended the COAH certification process, ordered COAH to undertake revised rule-making and results in the need for municipalities in the COAH process to revise housing elements and fair share plans once new rules are adopted. Thus, the Borough must once again review and revise its HPE/FSP accordingly.
- In January 2008, the NJ Council on Affordable Housing (COAH) published proposed revised 3<sup>rd</sup> Round rules in the NJ Register. In May 2008, COAH adopted the revised 3<sup>rd</sup> round rules. In June 2008, COAH published amendments to the regulations adopted in May 2008.

#### NJDEP Water Quality Management Planning Rules

- In July 2008, new rules governing Water Quality Management Planning became effective. The new rules designated the State's 21 Counties as the lead agencies for wastewater management planning. Under these rules, each municipality becomes a chapter in the County's Water Quality Management Plan. Municipalities are no longer eligible to prepare, adopt and amend local wastewater management plans.

#### Flurry of Highlands RMP, COAH & NJ Fair Housing Act Amendments

- In July 2008, the Highlands Council adopted the Highlands Regional Master Plan (RMP), which sets forth goals, policies and strategies for water and natural resource protection, including land use policies which designate an overlay zoning program for all lands in the Highlands region. The RMP divides the region into two areas identified as the "preservation area" and the "planning area". In the Preservation Area, the Highlands Act requires that all municipalities conform to the RMP. Planning Area municipalities may conform to the RMP, but are not required to do so. Chester Borough is designated entirely "Planning Area".

- In July 2008, the NJ Legislature passes Assembly Bill A-500 and Senate Bill S-1578, which amends the Fair Housing Act. A-500 eliminates Regional Contribution Agreements (RCA's) as an affordable housing technique for all municipalities, except those included within the Pinelands Region, Hackensack Meadowlands, municipalities included under the jurisdiction of the Fort Monmouth Economic Revitalization Planning Authority (FMERPA), and the Highlands Region. A-500 imposes a mandatory 2.5% nonresidential development fees in all municipalities statewide. A-500 eliminates growth share ordinances, which had enabled municipalities to pass on the responsibility for constructing affordable housing to the developer, or alternatively collect payments in lieu of construction based upon the actual cost to construct affordable housing in a municipality.
- In September 2008:
  - Governor Corzine allows Highlands Regional Master Plan, adopted by the Highlands Council in July, to take effect.
  - Governor signs Highlands Executive Order 114 (EO-114) requiring Highlands Council and COAH to coordinate revised 3rd round Highlands' municipal fair share calculations for Highlands municipalities. EO-114 also directs the NJDEP to coordinate water supply and wastewater management planning with the NJ Highlands Regional Master Plan, and perhaps most significantly, directs that the NJDEP may not issue approvals for additional water supply and wastewater management facilities in areas of the Highlands (i.e. watersheds) that are in a water supply deficit. Portions of Chester are deemed to be in a water supply deficit in the Highlands RMP.
  - Governor Signs A-500 into law.
- In September 2008, COAH adopts rule amendments; introduces new rule amendments addressing comments on June proposed rules; COAH's proposed rule amendments are silent on A-500 provisions requiring additional rules amendments. COAH is silent on EO-114, which requires COAH and Highlands Council to establish procedures to coordinate the calculation of revised affordable housing obligations for Highlands municipalities with the Highlands RMP Conformance schedule (extension to December 2009).

#### Highlands Extension of COAH Deadline to Petition for Third Round

- In September 2008, the Highlands Council issues guidance to Highlands municipalities concerning EO114, establishing procedures for Highlands municipalities to extend the 3<sup>rd</sup> Round deadline from December 31, 2008 to December 8, 2009 - without COAH concurrence.

- In November 2008 as a result of EO114 signed by Governor Corzine, COAH and the NJ Highlands Council signed a joint memorandum of understanding, which establishes the basis for Highlands municipalities to defer petitioning COAH for Third Round Substantive Certification of their updated Round Three Housing Plan Element and Fair Share Plan. The deferral includes an extension of time within which Highlands municipalities must petition COAH for third Round Substantive certification, provided that a municipality adopts the following two resolutions:
  - A resolution of Notice of Intent to Conform to the Highlands Regional Master Plan by December 8, 2009. For Planning Area municipalities, such as Chester Borough, this Notice of Intent to Conform to the RMP is nonbinding. However the Notice of Intent requires that the Borough conduct an investigation into whether the Borough will choose to conform to the Highlands Regional Master Plan. Part of this evaluation will include a build-out assessment to determine whether COAH's growth projection for the Borough should be adjusted in accordance with Highlands regulations; and
  - A resolution notifying COAH that the Borough is extending the deadline to petition COAH for Third Round Substantive Certification of its updated Third Round Housing Plan Element and Fair Share Plan in accordance with COAH's waiver procedures established for Highlands municipalities.

Chester Borough adopted these two resolutions, which result in an extension of time to prepare its updated Third Round Housing Plan Element and Fair Share Plan. The Notice of Intent to Conform to the Highlands RMP is nonbinding on the Borough and will enable the Borough to evaluate the impact of Highlands regulations relative to the development potential of the Borough under the Highlands RMP. If at any time the Borough chooses not to conform to the Highlands RMP, the Borough will be required to petition COAH for Third Round Substantive Certification in accordance with N.J.A.C. 5:97-1 et seq. as constituted on December 31, 2008 and utilizing COAH's growth projections for household and employment growth from which the Borough's third round affordable housing obligation is derived.

#### COAH – Highlands Scarce Resource Restraint Order

An ancillary effect of the Borough availing itself of the time to prepare its updated Third Round Housing Plan Element and Fair Share Plan is that municipal actions regarding development approvals is subject to a Scarce Resource Restraint Order. COAH adopted the Scarce Resource Restraint Order after the Borough adopted its two resolutions for an extension to petition COAH for Third Round Substantive

Certification. This order limits the municipality's approval authority to the following:

- single-family or duplex units on existing lots,
- any residential development that includes at least a 20 percent set-aside on-site for affordable housing; or
- any activity that is formally determined to be exempt from the Highlands Act; or is formally granted a waiver under the Highlands Act or the RMP;

The Scarce Resource Restraint Order is to remain in full force and effect in every Highlands municipality, irrespective of whether or not the extension of the December 31 deadline was extended, until such time as the municipality receives substantive certification from COAH or demonstrates to COAH that appropriate measures have been taken to preserve scarce land, water, and sewer resources and those resources have been dedicated on a priority basis for the production of affordable housing. COAH is expected to provide municipalities with additional guidance on the application of the order to local Boards prior to the end of 2008.

The summary of 'significant changes in the assumptions, policies, and objectives forming the basis for the master plan or development regulations' described above is a series of far-reaching changes in a complex web of State regulations that will require the Borough to evaluate the potential impacts that these changes may have on Chester's Master Plan and development regulations. Fortunately, Chester's land use character is well established, and there remain few undeveloped areas in the Borough where significant change may be possible. However, there are certain requirements in these regulations where Borough action may be warranted.

One area for investigation is the Borough's affordable housing obligation, which is subject to the rash of revised rules that have been issued and adopted by COAH in 2008. Another important area of consideration is formulating a response to existing and emergent wastewater treatment needs in the Borough's neighborhoods. Approval of new wastewater treatment facilities to serve existing residents, which are primarily served by individual on-site septic systems, will be dependent upon the Borough navigating its way through the regulatory structure created by the interplay of the Highlands Regional Master Plan, the directives of EO-114 and NJDEP's new Water Quality Management Planning Rules (N.J.A.C. 7:15-1 et seq.).

Since the Borough is nearly built-out with a limited supply of land that is available for new development, the existing density and distribution of population and land uses are unlikely to be significantly effected by all of the State planning and regulatory changes listed in the summary above. The Borough's residential and nonresidential development patterns are well established and the overall condition of all developed areas of the Borough is very good. It is expected that the Borough's efforts to manage change in the future will require familiarity with and potentially conforming to the new regulatory landscape.

Two areas requiring the Borough's focus are the new COAH regulations and the Highlands Regional Master Plan. With regard to COAH, and outstanding affordable housing obligation has been identified for the Borough, owing largely to development that has been constructed and received certificates of occupancy since January 1, 2004. The Borough's initially assigned affordable housing obligation will likely require consumption of the few remaining undeveloped areas in the Borough. EO-114 and COAH and the NJ Highlands Council's November 2008 memorandum of understanding provides an opportunity to adjust the Borough's affordable housing obligation once the Highlands carrying capacity estimates are taken into consideration.

**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.**

During 2008, the Planning Board conducted a comprehensive review of the 2002 Master Plan and associated development regulations as part of this periodic reexamination. The Planning Board found that the goals, objectives and policies identified in the 2002 Master Plan remained valid and confirmed that the Borough's local ordinances are substantially consistent with and aligned with the Board's vision for the community. As a result of the Board's review, a number of minor changes were identified, however none of which created any substantial departures in overall land use planning policy for the Borough. Noteworthy exceptions are listed below in the sections describing specific zoning districts in the Borough.

Highlands Regional Master Plan (RMP)

The Borough should evaluate the potential impact of the Highlands RMP development regulations and consider whether the Borough should conform local ordinances to the RMP. This process has been started by the Borough adopting a Resolution of a Notice of Intent to Conform to the Highlands RMP, which has been submitted to the Highlands Council. As part of this evaluation, the Borough should investigate local wastewater treatment area designations and determine whether the sewer service area in the Borough should be expanded. Under the Highlands RMP, the Highlands Council is authorized to recommend to the NJDEP any amendments to local Water Quality Management Plans and adjustments in sewer service areas that the Council deems to be consistent with the RMP.

NJ Council on Affordable Housing (COAH)

The Borough should continue to conduct investigations into opportunities to provide affordable housing. These continuing planning efforts should be conducted within the context of the Highlands RMP development regulations, which may severely alter (1) the amount of development that is supportable in the Borough, and (2) the number of affordable units that may be constructed in accordance with RMP policies. An amended Housing Plan Element and Fair Share Plan (HPE/FSP) should be adopted prior to December 8, 2009, which is the period of extension beyond

December 31, 2008, which the Borough has secured to amend the Third Round HPE/FSP and re-petition COAH for Third Round Substantive Certification.

### Zone & District Regulations Recommendations

OP-Zone – West Main Street, specifically the Larison’s corner properties. These properties are zoned office professional, and the zoning should be reexamined and updated to reflect the Borough’s redevelopment vision for this area that is substantially consistent with the Borough’s existing development patterns and historic character found within the East Main Street Historic District area. This rezoning would include amending the Land Use Plan with a vision statement for this area, an updated statement of goals and objectives for the area and whether a new zone should be designated, identification of permitted uses for the zone including an appropriate mix of uses (i.e. ranges of square footage that should be permitted), whether mixed use should be a component of the design, and identification of specific historic design standards that are consistent with the Borough’s historic district on East Main Street.

B-3 Zone – The Borough’s B-3 Regional Commercial Zoning district establishes the foundation for substantial components of the Borough’s commercial tax ratable base. The district has developed with a decidedly highway commercial character, which should be updated to incorporate design standards that are compatible with the Borough’s historic district and historic character. Consideration should be given to areas that are over developed with expansive paved areas for incorporating more green space when changes are proposed. Additionally, an evaluation of areas with excessive coverage should be undertaken to determine whether the shopping center sites in particular, may accommodate additional development, and potentially mixed-use development. Mixed use development could take the form of expanding existing commercial facilities vertically to accommodate mixed uses, such as office and residential uses; or mixed use in these areas may also involve new development in underutilized areas of developed sites. This could involve development in underutilized parking areas where excessive impervious coverage exists, but is not needed or used to support existing commercial development. Design standards consistent with architecture in the Borough’s Historic District should be implemented and incorporated into any mixed use development that may be permitted.

OT- Office Transitional & LBT – Limited Business Transitional Zones. The permitted uses and zoning standards for the OT and LBT Main Street zoning districts are substantially similar. The two zones should be evaluated with an eye toward identifying the differences between the use and zoning standards that may continue to warrant the designation of two separate zones. Additionally, consideration should be given to incentivizing mixed-use residential-commercial-office uses, to reinforce residential character, which has diminished over time as these areas have changed from residential uses to nonresidential development over time.

P-Public. The Borough should give some consideration to designating a series of P-Public zones for all publicly owned lands in the Borough. This would include identification of a range of

permitted uses consistent with the uses programmed for the various publicly owned lands (i.e. park, municipal complex, library, etc.).

(A review of the 2002 Master Plan recommendations should be appended to this section, identifying the specific changes that were identified by the Board during its review in 2008).

**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.**

Local Redevelopment and Housing Law

Redevelopment Planning in accordance with the Statute that is identified above involves a local planning process of investigation into the physical conditions of areas and sites within the municipality to identify and characterize ‘blighted conditions’ or other conditions related to vacant, underutilized or abandoned sites that may warrant the use of extraordinary municipal actions, such as condemnation of sites to address such conditions. The process includes public hearings, a recommendation by the Planning Board to designate a Redevelopment Area, and governing body designation of a Redevelopment Area by local ordinance. Following the designation of a Redevelopment Area, a Redevelopment Plan prepared, and adopted by the Planning Board, which is in turn adopted by the governing body. The Redevelopment Plan then serves to identify specific actions that are to be taken and implementation measures. The Plan, once adopted by the governing body would function as a zoning overlay ordinance that supersedes underlying zoning designations.

The Chester Borough Planning Board views the Local Redevelopment and Housing Law and statutory provisions as an extraordinary municipal action that is undesirable and not warranted at this time. There are sites in the Borough that are neglected, underutilized, vacant, and have remained so for extended periods of time, which may rise to the level of Redevelopment Area designation under the statute, and which may require municipal action in the future. However, at the time of adoption of this report, the Planning Board does not recommend the designation of a Redevelopment Area(s) in the Borough.

Redevelopment in Chester Borough

Apart from the Statutory Redevelopment process, redevelopment (small ‘r’) is a function of land use change over time. Chester Borough has witnessed redevelopment during the period of reexamination that has occurred spontaneously and has been driven by economic conditions. Examples of redevelopment (small ‘r’) may be found along Main Street and within Chester Borough’s Historic District, as well as at locations on the periphery of the Borough. These

redevelopment changes have resulted from proposals by private entities, which have submitted applications and received local approvals from Chester's Planning and Zoning Board. Chester's Planning and Zoning Board have reviewed such proposal with much care and deliberation to ensure that these changes and redevelopment is sensitive to the Borough's established character and build upon Chester's unique Historic District. This process is expected to continue in the future.