

# REEXAMINATION OF THE MASTER PLAN

## TOWNSHIP OF MOORESTOWN COUNTY OF BURLINGTON



*Historical Society of Moorestown*

ACKNOWLEDGING THE PAST TO INFORM THE FUTURE

PLANNING BOARD  
DECEMBER 6, 2018

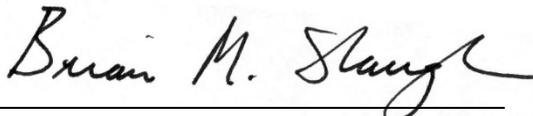
# REEXAMINATION OF THE MASTER PLAN

## TOWNSHIP OF MOORESTOWN COUNTY OF BURLINGTON

ADOPTED DECEMBER 6, 2018

ADOPTED PURSUANT TO N.J.S.A. 40:55D-89

*Prepared by:*



Brian M. Slauch, PP, AICP  
New Jersey Professional Planner License No. 3743

Clarke Caton Hintz, PC  
100 Barrack Street  
Trenton, New Jersey 08608  
(609) 883-8383

A signed and sealed original is on file with the Moorestown Department of Community Development



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# Township of Moorestown

## Reexamination of the Master Plan

### I. INTRODUCTION

The Reexamination Report is a review of the adopted Master Plan, its amendments, and their associated development regulations, including among others, the zoning, site plan and subdivision ordinances. This distinguishes the Reexamination Report which analyzes policy from the Master Plan that sets land use policy. The Master Plan itself is set within the framework of state enabling legislation that requires it to be periodically reviewed at least every ten years through the Reexamination Report process. Since change is an enduring characteristic of humankind's interaction with the land, this periodic reexamination assures that the adopted policies of the municipality in its Master Plan address issues and trends arising since the last time the analysis was completed.

A Master Plan, periodically revised and expanded, has guided Moorestown's land development policies for more than 60 years. The Master Plan articulates a common vision of the community of its natural and built environment. In the last comprehensive Master Plan adopted in 2002, a common vision statement was created by the Planning Board with substantial input from the public. This statement is the guiding principal of the Master Plan and supports all of its goals and objectives for Moorestown.

#### **Moorestown's Common Vision**

Moorestown has a historic town center, fine residential neighborhoods, tree-lined streets, excellent schools, diverse religious institutions, strong civic organizations and a variety of natural resources constructed out of three hundred years of history. Moorestown's residents are committed to the shared values of community - seeking to balance prosperity with preservation, the needs of society with the enjoyment of private property, and environmental protection with balanced growth. We foresee an active and appealing Main Street, a bustling West Moorestown; an integrated system of open space encompassing streams, woodland and farmland; a comprehensive and efficient circulation system; continued preservation of its historic and cultural resources; a wide offering of private and public educational opportunities; and civic organizations that enhance the quality of life now and in the future.

[2002 Moorestown Master Plan, p. II-1]



The vision statement continues to provide an overarching principle for the development, redevelopment and conservation of lands in Moorestown.

### Reexamination Report Contents

Five specific topics are to be considered in the Reexamination Report in accordance with the requirements of the state planning statute (*N.J.S.A. 40:55D-89*). 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 seq.*) 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. [*N.J.S.A. 40:55D-89*]

## II. MASTER PLAN DOCUMENTS; GOALS AND OBJECTIVES

### Master Plan Background

Moorestown Township has a long history of municipal planning that first began with the establishment of the Planning Board in 1950. Six years later the first Master Plan was adopted. Nineteen subsequent amendments or revisions to the Master Plan guided land use and development through 2001. In 2000, the Planning Board recognized that the many amendments over the preceding decades had left the Township with a disconnected set of Master Plan elements and amendments. This was discussed in a Reexamination Report in July 2001 with the conclusion that a completely revised and updated Master Plan was necessary. Following a year of work, the Planning Board adopted a comprehensive Master Plan on June 27, 2002 as more fully described below.

### 2002 Master Plan

The 2002 Master Plan includes a statement of Goals and Objectives, the elements Conservation Plan, Open Space and Recreation Plan, Historic Preservation Plan, Community Facilities Plan, Circulation Plan, Land Use Plan, a Town Center Sub-Element, and a statement of land policy consistency. The 2002 Master Plan incorporated by reference the Housing Plan Element (previously adopted in 1995 and modified in 1998 and 2001), the status of which is discussed in Section III (Affordable Housing) and Section IV (Affordable Housing Settlement and Land Use Policy). Because of the Mt. Laurel Doctrine and subsequent legislation, the Housing Plan Element has operated on a different time schedule than the rest of the Master Plan.

### 2002 Master Plan Goals and Objectives

The 2002 Master Plan includes five major goals, with each goal followed by a set of sub-goals or objectives. The goals are repeated here:

#### GOAL: PROTECTING THE LAND

*Protect the land within Moorestown and safeguard its natural heritage.*

#### GOAL: PRESERVING THE PAST

*Secure the heritage of the Township of Moorestown for future generations by preserving its cultural, social, economic and architectural history.*

#### GOAL: MANAGING THE PRESENT

*Maintain the necessary services, capacities and opportunities sufficient to satisfy the needs of present residents and to allow for their well-planned expansion to meet future needs.*

**GOAL: ENVISIONING THE FUTURE**

*Bring about an improvement to the quality of life for the people of Moorestown by promoting, through the implementation of this document, the sense of a shared community with a consensus about the future of the town.*

**GOAL: IMPROVING THE ENVIRONS**

*Improve the image of Moorestown from an already high standard as an attractive, thriving and productive community.*

By adhering to these goals, the Master Plan can be used to properly guide land use in the Township among changing – and at times rapidly changing – economic and social conditions. In 2002, about 64 recommendations were made based on these five goals in the Master Plan. The majority of them have been implemented. The existing 2002 Master Plan Goals and Objectives are reaffirmed as continuing aims of the municipality in its land development and redevelopment practices.

**2008 Master Plan Reexamination Report**

The last Master Plan Reexamination Report was adopted on June 26, 2008. Section III of this report reviews the status of the problems and objectives relating to land development that were identified in the 2008 Reexamination Report.

**2014 Master Plan Revision/Re-codification**

Since the adoption of the 2002 Master Plan, the Township has revised and updated several of its elements and also completed several new elements. In 2014, the 2002 Master Plan was administratively revised and re-codified to incorporate several new and updated components as follows:

**2009 ECONOMIC PLAN ELEMENT**

The Economic Plan Element, adopted on November 12, 2009, links together the goals for physical development of the municipality with economic policy. In addition to identifying economic goals, objectives and strategies, the Economic Plan provides a set of recommendations for five economic activity centers in the Township, which are identified as the Northwest Business Parks, Lenola, Moorestown Mall/East Gate, Town Center, and Lockheed Martin/Young Avenue. The Economic Plan Element also provided the policy basis for the second voter referendum that successfully allowed the introduction of restaurants with liquor licenses to the Moorestown Mall.

#### 2009 OPEN SPACE AND RECREATION PLAN ELEMENT

In 2009, the Open Space and Recreation Plan (OSRP) was updated to reflect new open space acquisitions and programs for open space preservation, including farmland preservation. The revised OSRP also included refinements in the list of potential open space acquisitions. The revised OSRP was adopted on December 3, 2009.

#### 2013 CONSERVATION ELEMENT

A revised Conservation Element was adopted on August 1, 2013. The document was revised to include references to the Environmental Resource Inventory that was completed in early 2013 and was adopted as a technical appendix to the Master Plan in June 2013. The element was also revised to address new water quality data, a tree survey conducted by the Tree Planting and Preservation Committee, the 2008 adoption of a Conservation Design Standards ordinance, and then current GIS data from the NJ Department of Environmental Protection.

#### 2014 CIRCULATION ELEMENT

The Circulation Element was revised in 2014 to provide an updated description and analysis of the transportation system that serves Moorestown, including the street network, streetscape, sidewalks and pathways. In addition, the Bicycle Safety Plan, developed through a local planning assistance grant from the NJ Department of Transportation, was adopted as a technical appendix to the Master Plan. The revised Circulation Element was adopted on April 3, 2014.

### III. REVIEW OF MAJOR PROBLEMS AND OBJECTIVES IDENTIFIED IN THE PRIOR REPORT

This section combines the required components of the statute under *N.J.S.A. 40:55D-89a and -b* by identifying the problems relating to land development as identified in the 2008 Reexamination Report and analyzing the degree to which they have been addressed or continue as problems for the municipality. Broadly speaking, these issues arise from changes in demographics, economic trends, the fiscal environment, and State policies and regulations. A summary of these issues and related recommendations from the 2008 Reexamination Report, is provided below.

#### Open Space, Farmland and Development

The 2008 Reexamination Report noted concerns raised in the 2002 Master Plan about the decline in farmland and undeveloped land due to continuing development pressures. As indicated in the Master Plan, much of this was due to pent up demand from Moorestown's long sewer moratorium that was lifted following capital

improvements to the treatment plant in the early 1990's and the recovery from the very long 1989-1993 New Jersey recession. The 2008 Report found that there was substantial progress in terms of open space acquisition and preservation efforts, but noted that preservation of open space would continue to be an important goal as the Township approaches build-out. The Open Space Advisory Committee has created a priority list for additional acquisition for consideration by the Township Council.

An ordinance implementing residential clustering approaches is discussed in the 2008 Reexamination Report as a way to help preserve open space. Implementation recommended in the Reexamination Report included creating a Conservation Design Overlay district in the zoning ordinance and the subdivision ordinance, and revising the Conservation Element to recommend adoption of a conservation design ordinance. The Reexamination Report also recommended updating and refining the Open Space and Recreation Element to reflect current conditions, including new open space acquisitions and potential future acquisitions.

Preservation of open space continues to be an important goal and is an on-going issue in the Township as potential sites dwindle. The recommended revisions to the Open Space and Recreation Element have been completed, with the revised plan adopted in 2009. In September 2008, the Township adopted the Conservation Design Subdivision requirements in the R-1 Residence District to further mandate lower densities and to encourage clustering of houses. However, implementation of the ordinance has been problematic as the regulations require a uniform residential lot size for the cluster developments. Amending the ordinance to allow for flexibility in the cluster design may encourage more development of cluster housing.

## **Town Centers**

### **DOWNTOWN/MAIN STREET**

The Reexamination Report found that streetscape improvements, promotional efforts, and adoption of an ordinance promoting first floor retail and restaurant uses had a positive effect on the downtown/Main Street area. However, the report also noted that the community design concepts contained in the Town Center Sub-Element had yet not been implemented through legislation, and that the possible relaxing of existing parking standards comprehensively, instead of on a case-by-case basis, had also not yet occurred. The Reexamination Report includes a recommendation to revise the Main Street Town Center Sub-Element to strengthen the recommendation for the creation of two connected parking lots between Mill Street and Chester Avenue from private action to action by Township Council. The interior municipal parking lot fronting on W. Second Street has been completely reconstructed as recommended by the Town Center Sub-Element, but there has been

no progress in unifying the interior parking lots between Mill Street, Chester Avenue and between Main and Second Streets. Additional parking was constructed behind the Burr House (33 E. Main Street), identified for acquisition in previous planning documents.

The 2009 Economic Plan Element identified the downtown Town Center as one of five economic activity centers in the Township. The element identified the usefulness of unmanned public information kiosk(s) with a map of the downtown and businesses there and wayfinding signs on Rt. 38 to direct motorists to the downtown and to parking facilities.

#### LENOLA/WEST MOORESTOWN

In the Lenola/West Moorestown area, the 2008 Reexamination Report noted that progress had been made towards meeting the objectives of the Master Plan, including open space acquisition, intersection improvements, removal of inoperable cars, and renovation of the shopping center façade and of the Cowperthwait House (corner of Kings Highway and Lenola Road). These had followed from the creation of the West Moorestown Task Force in the mid-2000s which studied the area, heard complaints and then made a number of recommendations to Township Council. The report also noted that a specific area plan had been developed with streetscape suggestions and that an ordinance was under consideration to advance the town center concept for Lenola by tailoring the zoning districts to encourage redevelopment of the commercial center to a more attractive and more pedestrian-oriented place.

Lenola was also identified as an economic activity center in the 2009 Economic Plan Element. The Lenola Town Center ordinance (adopted in August 2009) was a first legislative step, but given the substantial number of automobile-oriented uses in the district, converting the commercial area to a more walkable, compact, district, was also viewed as a long term project.

In October 2015, the Township held a community visioning workshop focusing on the Lenola – Camden Avenue area. A study presented at the workshop summarized recent renovation in the area, including the redevelopment of several stores, the McDonalds restaurant, and the Moorestown Oaks apartment complex, as well as recent improvements such as the restriping of Camden Avenue to provide safer parking and bicycling, and development of a pocket park in the triangle in 2014. The study also identified several planning concerns, including circulation problems related to commuter traffic congestion and a high number of accidents at the intersections of Camden Avenue and New Albany Road with Lenola Road, narrow sidewalks along Camden Avenue, and the need for bicycle safety improvements along Lenola Road and New Albany Road.

In terms of land use and zoning, the study noted that “renter-occupied” housing, multi-family housing and mixed use development are prohibited and/or discouraged under the current zoning and that this should be corrected. Additionally, in reviewing land use alternatives, the study noted that development of multi-family condominiums/rentals, mixed use buildings, and neighborhood commercial or office uses would increase tax rates. The study also noted that no redevelopment plan had been adopted for the redevelopment area to incentivize change. Regarding design controls, the study indicated that building design controls, as well as streetscape design guidelines were needed beyond that in the Lenola Town Center district, and suggested several specific streetscape improvements, providing more amenities, landscaping and lighting improvements at the pocket park and other nearby neighborhood parks.

A redevelopment area designation was adopted for a portion of the district encompassing the 7 Eleven, a small office building, a vacant lot, two single family detached residences, and the Moorestown Oaks apartments on the north side of Camden Avenue east of Lenola Road. However, once the Moorestown Oaks property was acquired by private capital and renovated, there has been little immediate demand from the community to complete a redevelopment plan. There continues to be low development activity despite the renovation and redevelopment noted in the visioning study, and the fact of land availability both in and outside of the redevelopment area but in the district. There have been a few development proposals, one for the Lenola shopping center, which now features in the municipal housing plan, and one for both sides of Cottage Avenue, fronting also on Camden Avenue. The basis for extending the existing redevelopment area designation to the entire boundary of the Lenola Town Center zoning district appears to exist, given the pattern of development that has changed little in three decades. If designated, the Township could prepare one or more redevelopment plans using the community visioning exercise as a beginning point, or it could just target the vacant land in the district in the hopes of fostering infill development.

The Township has been successful in receiving a Transportation Alternatives Program (TAP) grant for pedestrian safety, landscaping and other streetscape improvements on Camden Avenue from the Maple Shade border east to Lenola Road which will assist in meeting the premise in the Master Plan that the Lenola area should become as much of a walkable town center as the downtown. Walkability, however, has as much to do with having destinations to walk to as physical improvements. As long as there is no critical mass of population and stores, that objective will not be fully realized.

## Preservation of Historic and Cultural Resources

The Reexamination Report noted that there is broad support for preservation of historic and cultural resources in Moorestown, but also noted that the level of government involvement in that preservation has been controversial, as evidenced by the litigation following the adoption of a Historic Preservation Ordinance in 2006. The ordinance was subsequently invalidated on procedural grounds. To address the procedural defect, the report made a recommendation to continue the Master Plan's objective to create a Historic Preservation Commission and district, as well as designating individual properties outside of the district as historic and worthy of protection. The report also noted that a general revision of the Historic Element was needed to address the new sites investigated over the past six years.

Generally, the impetus for the adoption of an ordinance is if the public comes to believe that historic resources are imperiled. For example, when the estate of Las Colinas was built next to South Valley Elementary School, a four-story two century old barn was demolished. This led to early efforts to create an historic preservation ordinance in the 2000's. However, after the ordinance was invalidated in 2007, the town experienced the Great Recession, which put a greater emphasis on economic development and not preservation. That direction of public opinion - to rely on private efforts to preserve historic and culture resources - endures to this day.

## Environment

At the time of the 2008 Reexamination Report, concerns raised in the 2002 Master Plan regarding protection of environmentally sensitive lands had been largely addressed through on-going acquisition of open space, confirmation via a 2004 study that there was sufficient land area for proper nitrate dilution in unsewered areas of the Township, and by the adoption of a Stormwater Management ordinance in 2006. However, the 2008 Report recommended development of the Conservation Design Ordinance and expansion of the definition of environmental sensitive lands to include vernal pools as additional measures for protecting environmentally sensitive lands. The Conservation Design Ordinance was adopted in 2008, and vernal pools are addressed in the Township's ERI as referenced in the 2013 Conservation Plan. Protection of vernal pools is also addressed by state regulation.

Since 2011, the Township has been participating in Sustainable Jersey's municipal certification program which encourages municipalities to protect and enhance environmental resources as one of many sustainable development practices. In 2013, the Township attained bronze certification and in 2014/2015 it attained silver certification through 2017, but in 2018 was determined to be at a bronze level with changes in the program's standards. Though silver certification is the highest level in

the Sustainable Jersey program, municipalities are able to achieve gold stars in specific areas. At the present time, gold stars may be achieved in energy usage and waste management. No New Jersey municipality has yet to meet these standards and obtain gold stars. In the state, 447 municipalities are participating in Sustainable Jersey's programs. On this number, 152 have achieved the bronze level and 48 the silver level<sup>1</sup>. Moorestown Township is thus in the top half of municipalities in sustainable practices. In this, the Township has had the efforts of both government committees and non-profit organizations, such as the Environmental Advisory Committee, Save the Environment Moorestown and more recently, the Green Team and Sustainable Moorestown. Sustainable Jersey's philosophy is that sustainable practices are an ongoing commitment by a municipality, which will change as new means and technologies arise. The gold star standards allow there to be a set of goals to be reached that can be extended to new categories and implement their objective of continuous environmental improvement. In Moorestown, sustainability questions have extended to evaluating the local creative environment and other social activities for sustainability<sup>2</sup>.

In August 2008, the Municipal Land Use Law was amended to include the Green Buildings and Environmental Sustainability Element in the list of permitted Master Plan Elements. The Element may address such topics as natural resources, renewable energy, effect of buildings on the global environment, ecosystems, stormwater and optimizing climatic conditions through site and building design. Preparation of a Sustainable Development and Green Practices Element should be considered by the Township to incorporate sustainable development planning and policies as part of the Master Plan.

### **Institutional and Residential Uses**

The 2008 Reexamination Report noted that the zoning ordinance had not been revised to address the changing nature of institutional uses, including new combinations of institutional and residential uses, as was recommended in the 2002 Master Plan. The Report also noted the concern of the Moorestown Economic Development Advisory Committee that institutional uses were impeding the development of additional retail uses on Main Street and Chester Avenue, and the Committee's recommendation that institutional uses be eliminated as permitted uses in the Town Center area. This would grandfather the existing uses, but would not allow their expansion without approval from the Zoning Board of Adjustment. This was partly because the former Acme grocery on Chester Avenue was vacant. As events have unfolded, the Acme store has been repurposed as an attractive office

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<sup>1</sup> - <http://www.sustainablejersey.com>, accessed September 2, 2018

<sup>2</sup> - See for example, <http://sustainablemoorestown.org/> which is surveying the creative community.

development. For the most part, the downtown area has not suffered from vacancies, though as will any dynamic marketplace, there has been turnover in stores and restaurants. There is some question as to the demand for new space on the southeast side of Main Street where most of the institutional uses are located because of the general increase in internet sales eroding the need for bricks and mortar stores.

The zoning ordinance has not yet been revised to address the new combinations of residential and medical care. In this analysis, there is no need to remove institutional uses from the mix of uses in the Town Center area.

### **Housing and Population**

At the time of the 2008 Reexamination Report, the development of new housing in Moorestown had slowed considerably, dropping from 150 new houses in 2000 to only 14 new houses in 2008. The report noted that providing housing for middle income buyers remained a problem and discussed the status of several senior housing development projects.

As indicated in Table 1 below, lower rates of housing development generally continued from 2008, with an average of 6 net dwellings constructed each year until 2014 when the pace picked up as the recession's effects were overcome, averaging 42.5 net new dwellings in the years through 2017. This increase reflects the construction of the Toll Brothers age-restricted development on Centerton Road, the Moriuchi development on Hartford and the former Willowbrook golf course (Haines Mill and Garwood Roads). Future rates of housing development will be greater as parts of the housing plan go through the approval process and begin construction.

TABLE 1. RESIDENTIAL CO'S AND DEMOLITION PERMITS ISSUED, 2008-2017

Year	Certificates of Occupancy	Demolitions	Net New Dwellings
2008	14	3	11
2009	8	2	6
2010	8	9	-1
2011	11	4	7
2012	12	1	11
2013	14	2	12
2014	29	3	26
2015	51	3	48
2016	50	4	46
2017	42	4	38
Total	239	35	204
Annual Average	23.9	3.5	20.4

Source: Moorestown Construction Code Official, Yearly Reports

The lower rates of housing development in comparison to the early 2000's can be seen as contributing to ongoing concerns with housing affordability for middle-income buyers and for seniors. The Township should continue to look for opportunities to provide housing for these groups, in addition to addressing its affordable housing obligations as discussed below. The market rate housing (that is one without a subsidy to make it affordable) will be constructed in inclusionary developments that are part of the housing plan. These may fill a need for a more diverse housing stock in the township and help to address middle-income housing, even if rental.

### School Enrollments

Changes in the rate of housing development also have implications with regard to school enrollments. The Moorestown Board of Education (BOE), as part of their planning efforts in 2000, projected a school district population that was quite close to actual enrollments through 2007-2008, with 4,450 students projected, compared to 4,399 students that were actually enrolled. However, this was the peak of the baby boom echo. In the 10 years since 2007-2008, the student population has been declining as indicated in Table 2 below, with the exception of a slight increase in the current 2017-2018 school year.

TABLE 2. BOE SCHOOL ENROLLMENTS, 2007/8-2017/18

Year	October 1 Enrollment	Year to Year Change	Year to Year Percent
2007-2008	4,399	18	0.4%
2008-2009	4,380	-19	-0.4%
2009-2010	4,294	-86	-2.0%
2010-2011	4,258	-36	-0.8%
2011-2012	4,068	-190	-4.5%
2012-2013	3,998	-70	-1.7%
2013-2014	3,959	-39	-1.0%
2014-2015	3,924	-35	-0.9%
2015-2016	3,881	-43	-1.1%
2016-2017	3,868	-13	-0.3%
2017-2018	3,932	64	1.7%
Annual Average	4,087	-41	-1.0%

Source: NJ Department of Education departmental statistics.

In the school district's 2008 long range facility plan accepted by the New Jersey Department of Education (NJDOE), the district had a proposed enrollment of 4,811 students for facilities planning purposes. With that level of school population, the NJDOE found some capacity constraints in grades K-5 area which the BOE indicated would be addressed through building additions. Since the school population has been almost 1,000 students below this number, there may not be a capacity constraint to educate the public school students from the Township's required affordable housing sites (not including unmet need sites) and from market housing. This is an area that should be explored with the BOE for mutual planning purposes.

### Economic Trends/Budgetary Constraints

At the time the Reexamination Report was adopted in June 2008, it was noted that that unemployment rates were rising and some economists believed that the country had entered a recession, although Moorestown has tended to be more insulated from economic downturns in the economy due to its relatively higher levels of wealth than other South Jersey municipalities. A few months after the adoption of the report, however, the United States entered a full scale financial crisis in September 2008. Unlike the normal business cycle, financial crises are more severe and have longer lasting consequences for the economy. New Jersey, and in particular the southern tier of counties<sup>3</sup>, fared more poorly than the nation as a whole and have taken much

<sup>3</sup> - Meaning, Salem, Cumberland, Atlantic and Cape May Counties.

longer to return to the economy of 2007<sup>4</sup>. A high level of house foreclosures continues in the southern tier of counties, but Burlington is acting more like central New Jersey counties that have met and exceeded the employment and income levels that had previously peaked in late 2007 and are projected to add jobs through 2024<sup>5</sup>. This is also evident in population growth, where the estimated population of Burlington County had at least recovered to its 2010 level by 2017, in comparison to the counties to the south that continue to experience population losses during the same time period.<sup>6</sup>

Municipal budgetary constraints were also noted in the 2008 Reexamination Plan, that included a decrease in the municipal aid received from the state, legislation limiting budget increases (“budget caps”), and increased costs from pension and health insurance premiums, energy increases, and materials. This difficult municipal budget climate continues in one sense where rising municipal costs and the ability to raise revenue to cover these costs are constrained by state legislation and voter resistance. The Township’s management continuously seeks to find efficiencies to reduce this conflict. However, on the other hand, the Township had its 2017 water and sewer utility bonds upgraded to Aaa to meet the same rating as its general obligation bonds by Moody’s Investor Services, marking the fourth upgrade from its nadir (though still prime) A1 rating, noting, “the township’s exceptionally strong financial operations with healthy reserve levels and strong management.”<sup>7</sup> Bond anticipation notes, which are short term financial vehicles for municipalities, achieved a rating of MIG1. The Aaa general obligation and utility bonds rating and MIG1 bond anticipation notes are the highest level assigned to the best quality debt. On the whole, the Township can be said to have weathered the Great Recession and returned to a more normal revenue climate.

Another fiscal concern raised in the 2009 Economic Plan Element is that the value of residential development has increased more rapidly than the value of commercial and industrial property. Consequently, the share of residential taxable property to total taxable property has risen, contributing in the rise in property taxes for homeowners as they have shouldered a larger share of the real estate property tax burden compared to non-residential development. The 2009 Economic Plan provides a number of strategies and recommendations for stimulating economic development in the Township, including many that relate to land development policies and

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4- Hughes, James W. & Seneca, Joseph J. (2012). Reinventing the New Jersey Economy: New Metropolitan and Regional Employment Dynamics. Rutgers Regional Report 33, 1-12

5- [https://www.nj.gov/labor/lpa/employ/indoccpj/indoccpj\\_index.html](https://www.nj.gov/labor/lpa/employ/indoccpj/indoccpj_index.html), accessed September 2, 2018

6- NJ Bureau NJ Department of Labor and Workforce Development, Annual Estimates of the Resident Population for Municipalities in New Jersey, by County: April 1, 2010 to July 1, 2017.

7- <https://moorestownsun.com/moorestown-bond-rating-sees-upgrade-ad350df93948>, accessed September 2, 2018

practices. These are addressed in Section V.

### **Affordable Housing**

The 2008 Reexamination report noted that the Township had adopted a new Housing Element and Fair Share Plan in 2005, but that affordable housing requirements were in a state of turmoil created by revised Third Round rules issued by the Council on Affordable Housing (COAH) in January 2008. Just as various parties challenged COAH's initial Third Round regulations from 2004, parties challenged COAH's 2008 revised Third Round rules. A 2008 Housing Element was produced and adopted at the end of 2008, replacing the 2005 version which never was considered by COAH (like the large majority of municipal plans that were filed). Following are some key decisions and actions that have taken place affecting Moorestown's efforts to devise an affordable housing plan.

#### **FAIR HOUSING ACT AMENDMENTS OF 2008**

On July 17, 2008, Governor Corzine signed P.L. 2008, c. 46, which amended the Fair Housing Act in a number of ways. Key provisions of the legislation included the following:

- Established a statewide 2.5% non-residential development fee instead of requiring non-residential developers to provide affordable housing.
- Eliminated regional contribution agreements as a means available to municipalities to transfer up to 50% of their required affordable housing to a "receiving" municipality.
- Added a requirement that 13% of all affordable housing units be restricted to very low income households (30% or less of median income).
- Added a requirement that municipalities had to commit to spend development fees within four years of the date of collection after its enactment on July 17, 2008.

#### **APPELLATE DIVISION'S 2010 DECISION**

On October 8, 2010, the Appellate Division issued a decision on the legal challenges to the 2008 iteration of COAH regulations. The Appellate Division affirmed the COAH regulations that assigned rehabilitation and Prior Round numbers to each municipality, but invalidated the regulations by which the agency allocated affordable housing obligations in the Third Round. Specifically, the Appellate Division ruled that COAH could not allocate obligations through a "growth share" formula.

## JUDICIAL ACTIVITY FROM 2011 TO 2014

COAH sought a stay from the New Jersey Supreme Court of the March 8, 2011 deadline the Appellate Division had imposed in its October 2010 decision for the agency to issue new Third Round housing numbers. The Supreme Court granted COAH's application for a stay on January 18, 2011 and on March 31, 2011, the Court granted petitions and cross-petitions to all of the various challenges to the Appellate Division's 2010 decision. However, the Supreme Court did not hear oral argument on the various petitions and cross-petitions until November 14, 2012. On September 26, 2013, the New Jersey Supreme Court upheld the Appellate Division 2010 decision<sup>8</sup> and ordered COAH to prepare the necessary rules. COAH approved draft Third Round rules on April 30, 2014 but deadlocked on a 3-3 vote at its October 20th meeting and failed to adopt the draft rules.

## MARCH 2015 NEW JERSEY SUPREME COURT DECISION

The failure of COAH to adopt new regulations in November 2014 as ordered by the New Jersey Supreme Court led Fair Share Housing Center (FSHC), as the lead plaintiff, to file a Motion In Aid of Litigants' Rights to compel the government to produce constitutional affordable housing regulations. The New Jersey Supreme Court heard oral arguments on the motion on January 6, 2015. Two months later, on March 10, 2015, the Supreme Court issued its ruling entitled In Re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015), which is already being called Mt. Laurel IV as a shorthand for its conclusions.

The decision provided a new direction for the means by which New Jersey municipalities are to comply with the constitutional requirement to provide their fair share of affordable housing. The Court transferred responsibility to review and approve housing plans from COAH to designated Mount Laurel trial judges. This has meant that municipalities are no longer able to wait for COAH to adopt constitutional Third Round rules before preparing their own new Third Round housing plans. Municipalities must apply to a Mount Laurel Court, instead of COAH, if they wish to be protected from exclusionary zoning lawsuits. Moorestown filed its Declaratory Judgment action in July 2015 and seeks this result from the Court.

The trial judges, usually with the assistance of an appointed Special Master to the Court – as is the case with Moorestown – have been reviewing municipal plans much in the same manner as COAH previously did. Those municipalities whose plans are approved by the Court will receive a Judgment of Compliance and Repose, the Court-equivalent of COAH's substantive certification. As discussed in Section IV below, the

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<sup>8</sup> - In re Adoption of N.J.A.C. 5:96 and 5:97 by New Jersey Council On Affordable Housing, 215 N.J. 578 (2013),

Township recently approved a settlement agreement with FSHC and the other intervenor/developers.

### **State Development and Redevelopment Plan**

At the time of the 2008 Reexamination Report, the 2001 State Development and Redevelopment Plan was in the process of being updated. The report noted that the redesignation of the northeast corner of the Township from Planning Area 3 to Planning Area 2 was proposed as a revision to the State Plan, which could result in sanitary sewer service being provided in this area. However, the proposed revisions to the 2001 State Development and Redevelopment Plan were not adopted.

Instead, a new State Plan, the State Strategic Plan: New Jersey's State Development & Redevelopment Plan, was drafted and released in 2012. This draft State Plan takes a significantly different approach than the 2001 State Plan with the elimination of Planning Areas in favor of "Investment Areas". The Plan identifies four investment areas to be used for identifying locations for growth, preservation and related investments (listed in descending order from the most developed to the least developed condition): Priority Growth, Alternate Growth, Limited Growth and Priority Preservation. The locations of the Investment Areas are determined not by a State Plan Map, as in the past, but by a criteria-based system applied during State agency decisions on investments, incentives and flexibility on State land use regulations, programs and operations.

After a series of public hearings at various locations throughout the State, the 2012 Plan was scheduled for adoption by the State Planning Commission on November 13, 2012. However, the adoption was delayed to further refine the Plan and to better account for the impact of Superstorm Sandy which occurred on October 30, 2012, but there things stopped. No revisions have been released to date and no further public hearings on the Plan have been scheduled. Until such time as a new State Plan is adopted, the 2001 State Plan remains in effect. The Township should monitor the State's efforts toward adopting a new State Plan and respond accordingly.

### **NJDEP Stormwater Management Rules**

New stormwater rules adopted in 2004 were discussed in the 2008 Reexamination Report and the report noted that the Township had prepared a Municipal Stormwater Management Plan (SWMP), in April 2005 to address these rules.

NJDEP requires periodic review of the stormwater management plan to insure that all aspects of its regulations are followed for those projects that disturb one or more acre of land or create more than 0.25 acres of new impervious surface. Significant

issues for stormwater management in site plans and subdivisions include addressing groundwater recharge, stormwater quantity and stormwater quality impacts, reviewing and revising stormwater design and performance standards for new major development, and implementing non-structural best management practices to improve water quality, such as swales and rain gardens. These requirements dovetail with the concept of sustainability as their intent is to retain groundwater levels, levels in surface water to maintain stream biota and provide adequate drinking water.

A review of the long-term operation and maintenance measures for existing and future stormwater facilities is also required. The plan must address the review and update of existing ordinances, and the implementation of low impact development strategies to remain current with NJDEP's best management practices (BMPs) for the stormwater management plan. Since 2005, there have been revisions to the BMP manual and new municipal stormwater guidance documents by NJDEP. As such, the 2005 SWMP should be reviewed and updated. The development of a Utility Plan Element of the Master Plan would provide the policy guidance for the changes to the SWMP ordinance. (See additional discussion under Section IV, Utility Infrastructure, below.)

#### **IV. CHANGES IN ASSUMPTIONS, POLICIES AND OBJECTIVES SINCE 2008**

The section below lists changes in assumptions, policies and objectives at the local, county, state and regional levels since the adoption of the Reexamination Report in June 2008 that will have an impact on land use in Moorestown Township.

##### **Retail Trends**

As noted in the 2009 Economic Plan Element, the Moorestown Mall/East Gate retail center, which also includes the Kmart Plaza shopping center, is in competition with other regional retail centers and with internet sales. Keeping abreast of new retail concepts and rapidly changing consumer tastes is a constant challenge for retail center owners. In the U.S. economy, on-line sales now represent approximately 9% of all retail activity, more than double the roughly 4% of overall retail activity that online sales represented in 2009.<sup>9</sup> Other trends shaping retail development include changes in mobility (e.g. reduced car ownership due to ride sharing), use of artificial intelligence and interactive technologies to market products and direct consumers to stores, and multi-channel retail approaches, where online sales have been found to promote sales at stores and vice versa.<sup>10</sup>

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<sup>9</sup> - US Census Bureau, Quarterly Retail E-Commerce Sales, 2<sup>nd</sup> Quarter 2018, [www.census.gov](http://www.census.gov), accessed August 3, 2018.

<sup>10</sup> - Retail Trends Taking Shape in 2018, Tom McGee, [www.forbes.com](http://www.forbes.com), August 3, 2018.

Anchor tenants for shopping centers are among those most affected by the highly competitive and changing retail economy. In 2017, the Kmart closed and the shopping center has other significant vacancies. The Moorestown Mall has also struggled to compete despite the addition of restaurants with liquor to its retail service mix. One of the recommendations in the 2009 Economic Plan was to use state financing tools to create incentives for owners to invest in the continual upgrades that are needed for retail centers. The redevelopment process under the NJ Local Redevelopment and Housing Law (*N.J.S.A. 40A:12A-1*), can be an effective tool to address vacant and/or deteriorated properties because it creates developer accountability and a schedule for when key elements of improvements or new development are to be completed. If long term tax abatement is part of the redeveloper agreement, then the municipality gains additional tax revenue as a diversion from school property taxes and a partial one from county taxes, which from the municipal perspective creates an additional incentive to establish redevelopment districts. With regard to the Affordable Housing Settlement (see p. 26), overlay zoning districts for potential mixed use redevelopment of both the Moorestown Mall and Kmart shopping centers will also be required to address the Township's unmet need. The redevelopment process begins with a resolution by Township Council that directs the Planning Board to undertake a study to determine if the site meets eligibility criteria in the law, conducting a hearing, and transmitting its findings to the governing body. If the Township Council agrees with positive findings, it adopts a resolution creating the Area in Need of Redevelopment, followed by the creation of a redevelopment plan and negotiating a redevelopment agreement with the landowner or other interested party.

Following a voter referendum in 2011, the sale of alcoholic beverages returned to the Township for the first time since Prohibition. The Township Council secondarily set limits on where they could be used, focusing on the Moorestown Mall and its surrounding secondary retail development. The mall ownership bid for and received five licenses which have been used for the retail consumption of alcohol at restaurants on the property. Restaurants downtown, in Lenola and on Young Avenue remain BYOB.

In recent years, the state legislature has liberalized the sale of alcoholic beverages for producers, including New Jersey wineries, craft brewers and distillers. This is an area where a review of alcoholic beverage policy and location could be undertaken to support such uses in appropriate locations. Many small downtowns like Moorestown have seen economic growth from the introduction of such uses in the retail mix and this concept has now become a staple of economic development commissions in the state seeking to boost their hometowns. Brew pubs and craft distillers generally operate on a small scale which would fit within the development pattern that exists in

Lenola and the downtown and may provide an opportunity to enliven these areas.

### **Business Retention**

The 2009 Economic Development Plan includes recommendations to encourage business retention and development in the Northwest Business Park area and at the Lockheed Martin site. The Township's Specially Restricted Industrial (SRI) district applies to both of these locations. Over the years, the business community has indicated that Moorestown's approval process for placing tenants in buildings is cumbersome and time consuming which puts them at a disadvantage when other surrounding municipalities have a much easier process only involving their administrative staff. The Planning Board has been working on revisions to the SRI district to remove most if not all of the conditionally allowed uses and instead make them permitted principal uses. Furthermore, the Board is seeking to expand the list of allowed uses in the SRI to comport with new business lines that have been created.

The Lockheed Martin plant on Borton Landing Road and Marne Highway focuses on production for several business units of the corporation, with perhaps the largest being Rotary and Mission Systems, which is headquartered in Moorestown<sup>11</sup>. As such, development of a new, distinct, zoning category for this use should be considered in place of its present categorization in the Specially Restricted Industrial district.

### **Utility Infrastructure**

#### **WATER SUPPLY**

Since the mid- 1980's, NJDEP has sought to reduce the amount of groundwater extracted from the Potomac-Raritan-Magothy (PRM) aquifer to sustainable levels. This aquifer has had the best water quality and capacity for pumping and consequently many municipalities in the tri-county region drilled wells for public water supply systems. To meet this objective, NJDEP eventually required the development of an additional water source, the Delaware River, and tapped the New Jersey American Water (NJAW) to build a water treatment plant. Moorestown has a contract from NJAW to purchase supplemental water that was signed in 2012 and is up for renewal in 2020. In general water usage is lowest in February and greatest in August; much of the increase is from watering landscaping during hot weather. Due to the closure of two water wells several years ago at the North Church Street Water Treatment Plant among concerns about very low levels of an unregulated chemical detected during routine testing, Moorestown was required by NJDEP to purchase

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<sup>11</sup> - <https://www.lockheedmartin.com/en-us/suppliers/news/features/2017/lmc-overview.html>, accessed September 9, 2018.

substantially more water from the New Jersey American Water (NJAW). This has come at a large cost to the municipality.

In September 2013, the NJDEP issued Moorestown a letter prohibiting further water main extensions or connections because of a firm capacity deficit in the Township's water system created by this situation. Following meetings with NJDEP, the Township entered into a Memorandum of Agreement (MOA) with NJDEP in April 2015. Under the MOA, the Township agreed to a plan and schedule for improvements, that includes completion of upgrades to its treatment facilities, as well as on-going system improvements and re-adoption of an outdoor water use ordinance which can be implemented upon a declaration of a water emergency by Moorestown. These water treatment upgrades include addressing the unregulated chemical.

To plan for the improvements - totaling in excess of \$33 million - the Township Engineer drafted a Water Supply Asset Management Plan for the Township's Public Works Department in December 2015. Based on the Water Supply Asset Management Plan, Moorestown and the NJDEP agreed to terminate the MOA with a superseding Administrative Consent Order (ACO) on July 1, 2016. As part of the ACO, a second treatment plant was placed online in February 2017 following approval by NJDEP of additional temporary treatment of the groundwater supply at the Kings Highway facility. The ACO was amended in September 2018 when Moorestown agreed to commence construction of plant upgrades at its N. Church Street and Hartford Road treatment plants by January 1, 2019. The Township is required by the ACO to complete the upgrades by January 1, 2020. These new treatment improvements along with the now upgraded Kings Highway plant (which came online in April 2018) will correct the firm capacity deficit in the water supply identified by NJDEP.

Looking at a consumption baseline, the Management Plan indicates that during the first nine months of 2015, the Township's water system delivered an average of 3.27 million gallons per day (mgd) of water to 7,591 metered connections. Based on future development projections, the study projects an increase of about 0.225 mgd (for a total of 3.494 mgd) by 2030. In reviewing the Township's water system, the Management Plan noted that, at the time, two of the Township's water treatment plants were inactive and the third plant was operating at reduced capacity, requiring the additional purchase of water from NJAW for several years.

Replacement of older water mains is also a need, and replacing dead end mains with loops is recommended to improve water quality. The Management Plan includes a list of action items assigned a priority ranking of the projects from highest to lowest to address specific water main problems and to maintain existing levels of service. The Management Plan addresses most of the necessary parts of the water supply

component of a Utility Plan Element and may be adopted as a technical appendix. The Water Supply Asset Management Plan is intended to be updated annually.

#### WASTEWATER MANAGEMENT

In 2008, the NJDEP adopted major amendments to the State's Water Quality Management Planning rules. The amended rules gave counties the responsibility to prepare wastewater management plans, an obligation that had previously rested with municipalities or agencies responsible for the collection and treatment of wastewater. A Future Wastewater Service Area map was prepared by Burlington County as the first phase of development of the county-wide wastewater management in 2012, and was adopted by NJDEP in 2013 as an amendment to the Tri-County Water Quality Management Plan.

In 2015, substantial changes to the State's Water Quality Management Rules were again proposed by NJDEP. Adopted in 2016, the new rules include new procedures and standards for amendments to area-wide water quality management (WQM) plans, the development of wastewater management plans (WMPs), the development of a list of water quality impaired waters; and adoption of total maximum daily load criteria. More generally, the rule changes were intended to streamline the wastewater planning process and to better integrate it with existing state permitting rules. In 2017, Burlington County submitted its WMP to the NJDEP. Updates to the Township's sewer service area were indicated in the County WMP, including the Huettl, Burris/Madeira, Moorestown Emergency Services, Maybury Tract, Moriuchi, and Virtua developments in the Township. These existing amendments should be mapped in a new Utility Plan Element. Additional extensions of the system may also be needed to service the affordable housing sites in the Housing Plan Element and should be reflected in the Utility Plan Element to maintain consistency among the various components of the Master Plan. This would amend the sanitary sewer service map in the Land Use Plan Element of the 2002 Master Plan.

Lastly, the Township will engage with Burlington County to integrate any necessary amendments to address the Township's affordable housing sites.

#### STORMWATER MANAGEMENT

While the Municipal Land Use Law has required the creation of Stormwater Management Plans since 1981, the law only required compliance if sufficient money was made available to cover 90% of a municipality's cost. Since funding has never been forthcoming, few municipalities created such plans. However, instead of providing funding, NJDEP mandated municipal stormwater management plans through their rule making authority (specifically in *N.J.A.C. 7:8*, Stormwater Management Rules, and *N.J.A.C. 7:14A-25*, Municipal Stormwater Regulation

Program). The mandate began in 2004 and utilizes NJ Pollutant Discharge Elimination System (NJPDES) permits as its means of compliance. Moorestown first adopted a Stormwater Pollution Prevention Plan in November 2004, which was last updated in April 2017, to retain its NJPDES compliance status. Following the initial effort in 2004 with the Pollution Prevention Plan, Moorestown developed a Municipal Stormwater Management Plan (MSWMP) in March 2005 that was subsequently revised in October 2006 and September 2007.

The stormwater management plan is required by NJDEP to be reviewed periodically to insure that all aspects of its regulations are followed for those projects that disturb one or more acre of land or create more than 0.25 acres of new impervious surface. Significant issues for stormwater management in site plans and subdivisions include addressing groundwater recharge, stormwater quantity and stormwater quality impacts, reviewing and revising stormwater design and performance standards for new major development, and implementing non-structural best management practices to improve water quality, such as swales and rain gardens. Much of the review occurs at the site plan and subdivision review phase by the Planning Board and Zoning Board of Adjustment. However, the actual MSWMP was not adopted as an element of the Master Plan where it would serve as the guidance document for addressing storm water management problems and concerns. Furthermore, both the rules and the state of the art for storm water management has evolved since that time making the 2005-2007 Stormwater Management Plan increasingly outdated. A new and revised MSWMP could be included either as a technical appendix to the Utility Plan Element or as a standalone element. The MSWMP would also support the Mitigation Plan made part of the subdivision regulations in 2017 and also adopted in concert with the Stormwater Pollution Prevention Plan enacted for the Township's NJPDES permit.

In June 2018, legislation to authorize municipalities, counties and certain authorities to establish stormwater utilities was passed by the New Jersey Senate with bipartisan support and sent to the Assembly where it was recently voted out of committee. Stormwater utilities have been established in 40 states with about 1,600 in the U.S.<sup>12</sup> The legislation would authorize the collection of reasonable fees and other charges by the municipalities, counties and authorities to recover a stormwater utility's costs for stormwater management from property owners and/or occupants. Homeowners Associations that are responsible for maintenance in many subdivisions, as well as any number of businesses, have often failed to meet their responsibilities not just in Moorestown, but throughout New Jersey. The Township should continue to monitor

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<sup>12</sup> - <https://www.njspotlight.com/stories/18/08/12/opinion-few-nj-municipalities-will-create-stormwater-utilities-but-some-should/>, accessed September 10, 2018.

the status of this legislation. If the legislation passes the Assembly and signed into law, the Township should analyze the feasibility of establishing a stormwater utility.

#### FIBER OPTIC SYSTEMS

There has been some interest in developing a town-wide fiber optic system to encourage economic development in the business parks and other areas of the Township. However, due to the substantial cost, provision of this type of “open network” public infrastructure does not appear to be feasible at this time. Instead, the Township is moving ahead to upgrade its existing municipal broadband service to provide a closed network connecting its municipal facilities that builds on existing fiber optic infrastructure.

#### **Open Space and Recreation Facilities and Bikeway Development**

The Township has continued to make progress in acquiring open space and farmland since the Open Space and Recreation Element was last revised in 2009. The additional acquisitions or permanent easements total approximately 516 acres and includes the preservation of the Browning - Hess farm, the Township’s oldest working farm, on a 42 acre property located off of Lenola Road. In recent years, preservation efforts have focused on another farm property, the Flying Feather Farm, as well as open space acquisition along the Rancocas Creek. The Open Space and Recreation Plan Element should be updated to include new open space acquisitions and farmland preservation.

Moorestown’s bicycle and pedestrian systems should also be included as part of a revised Open Space and Recreation Plan just to maintain continuity between it and the Circulation Plan. In 2009, the Township developed a Bicycle Circulation and Safety Plan that has been incorporated by reference as a technical appendix to the Master Plan. In addition, the 2014 Circulation Plan Element includes a Bicycle Routes Plan based on the 2009 Bicycle Circulation and Safety Plan. Burlington County has also recently completed a final draft Bicycle Master Plan. Recommendations from these documents regarding development and implementation of bicycle and pedestrian facilities should be reviewed and incorporated as appropriate in any revised Open Space and Recreation Plan.

Township Council has also endorsed becoming a “Complete Streets” municipality. In 2015, Township Council adopted a resolution (99-2015) and set of goals and design guidelines stemming from the earlier work undertaken by the Bicycle Safety Task Force in 2009. Complete Streets is an outgrowth of the Smart Growth America coalition. Complete Streets is a transportation policy and design approach that requires streets to be planned, designed, operated, and maintained to enable safe, convenient and comfortable travel and access for users of all ages and abilities

regardless of their mode of transportation. The NJ Department of Transportation has also adopted it as a policy of the agency. Additional implementation of the concept is needed through amendment of the subdivision and site plan regulations to ensure that new streets are connected to existing streets (connectivity) and include multiple transportation nodes.

### Circulation

The Northwest Business Park area, roughly occupying Lenola Road and N. Church Street north of Centre Street and the Conrail line, respectively, were first zoned for industrial development in the 1950's. This location is sandwiched in between the residential neighborhoods in Cinnaminson and Lenola. Highway access for trucking requires traversing through these neighborhoods or through downtown Moorestown and Lenola. It was not intended to be this way because Rt. 90 had been planned in the 1950's to extend from the Pennsylvania Turnpike to I-95 in Philadelphia, over a new bridge now known as the Betsy Ross Bridge, to I-295 and the NJ Turnpike at Exit 4. The new route was planned with an interchange with Lenola Road and would have provided a direct access route to these other highways. Right-of-way acquisition for the project was started in the 1970's. However, in the 1980's the state Department of Transportation began to rethink a number of highway segments, including the completion of I-95 through Mercer and Somerset Counties; I-895, which would have also connected the NJ and Pennsylvania Turnpikes through northern Burlington County; and Rt. 92 from Exit 8A westward to Route 1 through South Brunswick. Consequently, Rt. 90 ends at Rt. 73 in Maple Shade and does not provide access over the N. Branch of the Pennsauken Creek as originally envisioned. The triangle area in Lenola is where New Albany Road, Camden Avenue and Lenola Road converge. County road improvements have been recently completed, but did not solve all of the problems with truck turning movements. The geometry of the intersections and lack of right-of-way to make further improvements is quite limited. Even if additional right-of-way width was obtained, it would have an adverse impact on adjacent properties. Widening roadways more would affect the ability to improve Lenola's walkability and encourage infill development. These objectives were first identified in the 2002 Master Plan. In instances where physically building improvements is not feasible, transportation planners turn to traffic demand management as a means of controlling peak demand<sup>13</sup>. Traffic demand management begins with outreach to the business community that seeks their cooperation to spread out the peak hour of congestion and to encourage ride sharing among employees, as well as other techniques, to reduce the number of vehicle trips in absolute numbers and during the peak hour.

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<sup>13</sup> - In this area, the Cross-County Connection TMA is the primary organization providing these services.

### Affordable Housing Settlement and Land Use Policy

Pursuant to the Township's March 16, 2018 Settlement Agreement approved by the Court on August 28, 2018, the municipal affordable housing obligation was determined to consist of 19 rehabilitation units, a prior round obligation of 621 units and a Third Round Realistic Development Potential ("RDP") obligation of 606 units. The Third Round includes the Gap Period Present Need, a measure of households formed from 1999-2015 that need affordable housing that was recognized by the Supreme Court in its 2017 ruling, plus the Prospective Need, which is the future obligation from 2015-2025. In addition to the Settlement Agreement that was approved by the court with Fair Share Housing Center (representing the interests of the low and moderate income population in New Jersey); several other settlement agreements with individual developers ("intervenors") are pending.

To address its Third Round obligation, Moorestown received a vacant land adjustment. This adjustment is available to those municipalities that cannot satisfy their affordable housing obligation using inclusionary housing due to a lack of vacant and developable land. More specifically, it is a downward adjustment of the obligation to reflect the number of affordable units a municipality could theoretically create through new inclusionary development on vacant or underutilized land, presuming a density and set-aside specified in the NJ Council on Affordable Housing's ("COAH's") rules that still apply to housing plans. The adjustment is called RDP. While requesting this adjustment does not require the municipality to zone or build on the land identified as developable, *per se*, but in a practical sense, rezoning is necessary to provide the "realistic opportunity" for the private and non-profit sectors to construct affordable housing. The Township must demonstrate this realistic opportunity in order to receive an approval of its affordable housing plan. To obtain an approval from the court where Moorestown's housing plan is being scrutinized, the plan must identify "compliance mechanisms" that can produce enough affordable units to satisfy the RDP. Moorestown already has credits toward the RDP of 606 units/credits required by the Settlement Agreement so the extent of rezoning necessary is consequently reduced.

The difference between the RDP and the calculated new construction obligation is referred to as the "unmet need". This portion of the obligation is addressed through more passive mechanisms such as overlay zoning or by-right zoning. Unlike the RDP, the unmet need does not need to be fully satisfied; instead the Township must create adequate opportunities for future affordable housing as determined by the Court.

To implement the Settlement Agreement, the Township is required to adopt a Housing Element and Fair Share Plan (which includes a Spending Plan, program manuals, related affordable housing ordinances and other relevant documents). The Land Use Plan Element should also be revised to identify the affordable housing sites geographically to maintain internal consistency in the Master Plan.

One of the sites that is included in the overall Settlement Agreement, the Pennrose property on Rt. 38 (Block 4801, Lot 12), a 10.8-acre parcel, had been rezoned to permit a 100% affordable housing development of 75 units plus a superintendent's apartment. The Pennrose development was advanced so that the project could be submitted for consideration for federal low income housing tax credits (LIHTC) by the NJ Housing Mortgage and Finance Agency, who administers the tax credit program in the state. However, the process of the adoption of the ordinance was challenged in Superior Court by an interested party that was decided in favor of the plaintiff on November 2, 2018, thus invalidating the ordinance. The ordinance was invalidated on procedural and not substantive grounds. It is anticipated that the AMF-1 district will be re-adopted in mid-December 2017. However, because the site plan approval (Planning Board Resolution 19-2018) was based on the invalidated ordinance, the approval is also null and void. Consequently, Pennrose, or more specifically, Moorestown Urban Renewal Associates, LLC, a wholly owned subsidiary of Pennrose, will need to reapply and receive an approval from the Planning Board to continue with the project.

While the Pennrose development was not awarded the tax credits for this year, the developer may reapply for the next round in 2019. The LIHTC program requires a participating municipality to grant a payment in lieu of taxes to assist in funding the project.

Four other sites identified in the Settlement Agreement will need to be rezoned to address the RDP portion of the housing plan. The Township housing plan contains other compliance mechanisms, but these do not require land use or zoning changes.

- Nagel Tract (Block 7401, Lot 3) - This site totals 12.5 acres and has been owned by the municipality for affordable housing since 1989. It is surrounded by farmland on the north and west, though this land is part of the Lockheed Martin industrial complex and is used by the defense contractor for radar field testing. The "ship", a federal facility for testing ocean based radar systems lies across Centerton Road. Cater-corner to the site is the Burlington County Agricultural Center. The Nagle tract was included in the municipality's certified first and second round plans and is located in the Low and Moderate Income Residence (L-MR) zoning district. The Planning Board also found it

- to be eligible to be designated a redevelopment district in 2017. If the Township decides to create the redevelopment district and execute a redevelopment plan, those standards would override the zoning district regulations. Otherwise, the density and perhaps some of the bulk standards relating to height and building relationship would also require amendment to meet the program requirements. The property is intended to be developed with an “inclusionary” housing project consisting of 152 total family units of which 45 would be earmarked for affordable family rental apartments. “Inclusionary” means that the development is mixed income, some restricted by income and the others at unrestricted market rent or sales.
- MRD (Block 4801, Lots 18 and 20) - This site is a 12.84 acre property located at 118 W. Route 38. The site is currently located in the Residential/Professional Office (R/PO) zoning district, and is surrounded by single-family residential uses. The rear, or southeastern, property line also serves as the municipal boundary between Moorestown and Mount Laurel Townships. The site will be developed with 173 family rental units, of which 35 will be family affordable rental units. The site will be rezoned to allow the use and accommodate the density and bulk standards of the development.
  - Sbar Boulevard (Block 100, Lots 1.01 - 1.07) - This 13.72-acre site is bifurcated by Sbar Boulevard. The sites are located in the Specially Restricted Industrial (SRI) zoning district. To the northwest there are agricultural and single-family residential uses, and to the northeast and east there are office and light industrial uses. Southeast is an industrial use. The two sites will be developed with a total of 184 family rental units, of which 36 will be family affordable rental units. The site will be rezoned to allow the use and accommodate the density and bulk standards of the development.
  - Centerton Road (Block 8800, Lots 4.02 and 4.03). 31.4-acre site was originally intended for two office buildings to complement the one constructed at 650 Centerton Road. Instead, the site will accommodate a continuing care retirement center (CCRC) of 130 units and an 81-unit affordable senior housing development. A continuing care retirement community, also known as a life care community, provides housing, services, and health care, including nursing home care, to people of retirement age. The licensing of the CCRC requires the operator to provide a continuum of care to meet the needs of individual residents, beginning with independent living through skilled nursing care. The site is adjacent to a vacant site owned by the Diocese of Trenton, is adjacent to I-295 and across Parker’s Creek from an office complex in Mt. Laurel. Part of the Laurel Creek neighborhood lies across

Centeron Road and it is within a short distance an age-restricted development under construction known as the Mews at Laurel Creek, currently under construction.

As noted, the Settlement Agreement also contains mechanisms to address unmet need that will also require overlay zoning (meaning that there is an additional development option for the landowner). These include the following three shopping center sites:

- Lenola Shopping Center (Block 1200, Lots 5, 6) - Overlay zoning will be applied to the Lenola Shopping Center site that will facilitate its redevelopment from a single use/single story retail center to a mixed use center. A maximum of 60 residential units will be permitted on the site and a 20% set-aside will be applied. Commercial uses, including all of the types of uses currently allowed and existing, shall also be permitted. Residential uses will be permitted both above first floor commercial uses in mixed use buildings and in multi-family buildings.
- Moorestown Mall (Block 3000, Lots 2, 3, 3.01, 3.02, 5) –Overlay zoning will be applied to this site that will facilitate its redevelopment from a single use and single story retail center to a mixed use center that will serve as a destination for Township residents and visitors. The gross density of 14 du/acre will allow for up to 1,065 housing units (including 213 affordable units calculated at a 20% set-aside rate); however, the site’s redevelopment will concentrate residential uses in portions of the site, allowing for significantly higher net densities in some areas and lower net densities in others. The Township will establish a maximum building height of no more than four stories. Residential uses will be permitted as part of mixed use buildings as well as single use townhouse and multi-family buildings. Nonresidential uses permitted on the site will be expanded to include not only retail and dining but also office, services, commercial recreation, entertainment uses, hotels and open space. The site will be redesigned to create a walkable environment with “street facing” commercial uses where visitors are encouraged to park once and access the site on foot. Building height and bulk standards will be further addressed as part of the zoning amendments for the site. The redeveloped site will incorporate substantial percentages of open space and other public amenities to encourage outdoor gatherings.
- Kmart Plaza (Block 172, Lot 9) - Overlay zoning will be applied to the Kmart site that will facilitate its redevelopment from a single use and single story retail center to a mixed use center. The gross density of 14 du/ac will allow for

up to 390 housing units (including 78 affordable units calculated at a 20% set-aside rate); however, the site's redevelopment will concentrate residential uses in portions of the site. Residential uses will be permitted on the upper stories of buildings where a nonresidential use occupies the first floor. Additionally, residential uses will be permitted on the northern and eastern sides of the site adjacent to other residential uses and open space in townhouse and apartment configurations. Nonresidential uses permitted on the site will include retail, dining, office and service uses. A substantial percentage of the site will be devoted to open space and public amenities.

Under the settlement agreement, the Township may also place the Moorestown Mall and Kmart Plaza in a redevelopment area where the land use and development standards would replace the standards in the zoning ordinance. The Township will have up to 18 months in which to undertake the necessary study to determine eligibility and adopt a redevelopment plan.

In addition to the required and potential rezoning of sites to accommodate affordable housing as discussed above, new multi-family and townhouse design standards should be developed to ensure high quality design of these housing types. The order determining that the Township's housing plan was fair to the low and moderate income population set a deadline of December 26, 2018 for the submission of an adopted Housing Element and Fair Share Plan and the introduction of the necessary ordinances and resolutions to implement it (with the exceptions noted above). Then a second hearing, termed a "compliance hearing" will be scheduled by the Court where the completed Housing Element and Fair Share Plan will be subject to judicial scrutiny that is anticipated to lead to a "judgment of repose," or judicial approval of the plan, until 2025.

### **Community Facilities**

In May 2014, a new combined town hall and library complex was opened at the site of the former municipal building on Second Street, which was damaged by a fire in August 2007. After the fire, the Township municipal offices were temporarily moved to a business park on Executive Drive. The police department that had been located on the north side of the municipal building was moved to 1245 N. Church Street in one of the business parks. The Township Council recently decided to retain the police department at this location after reviewing other potential sites for a new facility. The undamaged library, on the same site as the municipal building but increasingly viewed as no longer adequate for Township-wide needs and with an odor problem, was added to the town hall rebuilding plan. The old library was demolished in 2015. The new library provides services to residents and workers at the municipal

complex to expand and improve its program offerings as the needs of the community change. Since moving into the new facility, resident cardholders have increased 30% in comparison to the old facility. The municipal court was also located in the damaged municipal building. It was temporarily relocated first to Maple Shade Township and then to Cinnaminson Township. Now that the police department's location has been decided, Township Council has entered into an agreement to purchase the building and undertake some renovations to move the municipal court system there. Additional space will be available at 1245 N. Church Street that could be used to lease to an unrelated business entity or for municipal storage. The third building at the municipal complex is the Church Street Recreation Center, which was once the gymnasium of the old Moorestown High School. This building was also undamaged and has been regularly upgraded for recreation programs. Currently, new ADA accessible entrances are under construction.

The Community Facilities Element should be updated to address these new additions to the governmental services provided by the Township which are the most substantial in its history. The update should also address future space needs for other municipal facilities, such as the public works complex.

### **Land Development Regulations**

Through several reexamination reports, the antiquated nature of the Township's land development ordinances – particularly the zoning ordinance, and site plan and subdivision ordinance – has been noted. For example, the prohibition on more than three garage bays (§180-85 in the zoning ordinance) stems from the practice of building garages to rent to neighbors when automobiles first became common. This practice has died out in all but densely settled urban areas. The zoning theory behind the limitation was to avoid creating commercial rental space in residential neighborhoods to store cars. There is no remaining public, health, safety or welfare reason left to keep this provision. The Zoning Board regularly hears variances seeking to construct garage space with more than three bays. If there is a concern about an accessory use becoming dominant on a property, such concern can be addressed in a number of different ways such as lot coverage limitations and ratios between principal and accessory uses on the property. This is not the only example. The Zoning Board of Adjustment, in its annual report, has regularly identified other parts of the land development regulations that unnecessarily increase the need for variance relief. A list of their recommendations is included in the recommendations of this report.

Secondly, most municipalities have moved to create a single land development ordinance to facilitate ease of use by residents, business owners and developers.

Instead of numerous separate ordinances such as zoning, site plan, subdivision, Board creation and its powers, storm water management, and so forth, there is one internally cross-referenced document for the land development regulations of the municipality.

Arising out of dissatisfaction with the results of post-WWII suburban zoning, planners and urban designers have created other ways to regulate what gets built. Neo-traditional town zoning was an attempt to understand what worked well in pre-WWII development and create new standards for suburban development that addressed the ability to walk places, related it to transportation opportunities and placed it in a form emulating earlier epochs in its architecture. Developing from neo-traditionalism with perhaps a greater emphasis on commercial uses, is the form-based code concept. This starts with the precept that there are certain constructed development patterns ranging from dense urban centers to rural landscapes. These shared characteristics create a design template that can be codified into a set of standards and applied to a wide range of existing built environments. In the form-based code these design ideas affect building placement, the relationship of the building to the street and of buildings to each other, but does not overly regulate the use within the building. Instead, whether a building is used for office space or for residential apartments is a minor consideration and it has the benefit of letting the market determine whether units or offices meet demand, but the regulations could insist that the ground floor space harbor a retail service use. In New Jersey, both versions are being used. For example, the Robbinsville Town Center in Mercer County was developed under primarily a neo-traditional based general development plan process and Newton Town in Sussex County tossed their zoning ordinance and adopted a form-based code for their small municipality. Since the Municipal Land Use Law assumes a traditional zoning scheme, it is unclear whether the architectural controls in evidence in both of these different land development concepts would pass legal challenge. Usually such controls are limited to redevelopment plans and historic districts in traditional zoning. More common has been a hybrid approach where more specific bulk and design regulations are added to the zoning ordinance.

As discussed in previous sections, revisions are needed to the Township's land development regulations, including its zoning regulations and site plan and subdivision regulations. A more comprehensive review of the residential and commercial zones should also be considered to reduce redundancy and overlap. For example, there is little practical difference between the RTC-1 and RTC-2 zones and none that are vacant at this point. These realistically could be combined. The problems with the Conservation Design Overlay district were first noted in the 2008 Reexamination Report. Whether there are meaningful distinctions any more between the RLC-1 and RLC-2 zones is another topic worth exploring. In addition,

removing the “Restricted” terminology from zone titles and descriptions would make the wording less cumbersome and would suggest a more business-friendly approach, consistent with the Economic Development Plan’s approach and recommendations.

Consideration should be given to the fact that the Township has amassed a considerable recreation and open space inventory, as well as the fact that some lands have been acquired by Burlington County for preservation, such as the County Agricultural Center on Centerton and Hartford Roads. These parcels are under a patchwork of different zoning districts but could usefully be placed into a new zoning district that is specific to public ownership of property for these purposes, as is common in other zoning ordinances.

Lighting technology has quickly advanced since 2008 with the rapid replacement of incandescent with compact fluorescent which has been itself eclipsed by the rise of light emitting diode (LED) technology. LED lighting continues to advance with “tunable” color able to emulate a wide variety of conditions, from the reddish light of incandescent lighting to sunlight. LED’s life expectancy and low energy costs, though with initial higher costs, have quickly made it the technology of choice. While this has implications for street and site lighting of travel ways and parking, it also has implications for illuminated signs. LED pixels and computerized content have created the variable message sign. Such signs are capable of full stream video and can provide very bright images affecting visual acuity. Motorist distraction and intrusiveness from glare are very real problems with such signs. The Township’s sign regulations do not account for these technological advances in what can be presented to the motorist on the public road.

New lighting technology has also advanced the ability to light athletic fields in a manner that reduces glare and off-site impacts to a degree never before possible. This could allow longer use of sports fields without adversely affecting nearby residents. Along with performance standards that could be addressed in the land development regulations, appropriate hours and use of fields based on location could be inserted into the Township’s existing park use ordinance. Based on location means that some sports complexes, such as Wesley Bishop, are otherwise located in the middle of an industrial park and there are no nearby residents. Parks such as these could have longer operating hours than ones that are embedded in neighborhoods.

## V. RECOMMENDATIONS

The analysis in preceding sections identified revisions needed in the Township’s Master Plan and land development regulations. This analysis provides the basis for

the recommendations that follow. The recommendations are listed in no particular order. No priority should be assigned to their placement, except for the Housing Plan Element and Fair Share Plan, which is required to be submitted to the court in 2018.

### Master Plan

The following areas should be addressed through revisions to the appropriate Master Plan element, or development of a new Master Plan element, and include:

#### HOUSING PLAN ELEMENT

- Prepare a new Housing Plan Element and Fair Share Plan as required by the Affordable Housing Settlement Agreement and any Court-approved amendments.

#### LAND USE PLAN ELEMENT

- Revise the element to address the affordable housing sites and adjustments in densities pursuant to the Affordable Housing Settlement Agreement, including the need for redevelopment or potential redevelopment sites.
- Revise the build-out of the municipality based on current conditions.
- Study the land use pattern in Moorestown for additional suitable locations for age-restricted housing.
- Remove the Agricultural Center from the Office Campus land use classification. This should be identified as preserved land.
- Recommend development of an overlay district to encourage new microbreweries (brew pubs) and craft distilleries; recommend that local farms be encouraged to produce wine or cider on site as a secondary land use.
- Recommend examining transportation demand management strategies to help reduce traffic impacts from the Northwest Business Park in concert with the Police Department, owners and tenants.
- Recommend development of a new, distinct zoning category for the Lockheed Martin site in place of its present SRI zone.
- Review locations in Moorestown for the potential use of attached housing as a transitional district between single family detached houses and main streets or commercial development as, for example, E. Main Street at Marter Avenue.

#### OPEN SPACE AND RECREATION ELEMENT

- Update the element to include new municipal acquisitions, county acquisitions, easements and programs for open space preservation, including farmland preservation. Revise any descriptions to reflect current conditions.
- Refine the priority list for open space acquisition based upon the recommendations of the Open Space Advisory Committee.
- Modify the Open Space and Recreation plan to reflect the additions to the open space inventory and potential future acquisitions. Include any recreational program updates as necessary.
- Revise the Open Space and Recreation plan to assess the capacity and need for new or redeveloped recreational facilities, and to address bicycle and pedestrian routes and facilities.

#### CIRCULATION ELEMENT

- Add Complete Streets as a component of the Circulation Element.

#### SUSTAINABLE DEVELOPMENT AND GREEN PRACTICES ELEMENT

- Preparation of a Sustainable Development and Green Practices Element should be considered to incorporate sustainable development planning and policies as part of the Master Plan. Energy use, alternative energy use and water conservation, among many others, would be specifically addressed. In addition, this element may result in a discussion of the means of moving from fossil fuel-based energy to alternative energy sources at the municipal level.

#### UTILITY ELEMENT

- Preparation of a Utility Element addressing water supply, wastewater management, and stormwater management is recommended. Conversely, the Planning Board could adopt a standalone stormwater management element. Should legislation be enacted that permits a stormwater utility, the Township should review the bill and analyze whether establishing such a utility is feasible or desirable.

#### COMMUNITY FACILITIES ELEMENT

- Update the Community Facilities Element to address the new town hall and library building and the permanent relocation of the police department, court offices and courtroom from the town center to N. Church Street. The update should also identify other space needs for the municipality and school district.

## Land Development Regulations

The following recommendations are made for changes and revisions to the municipality's land development regulations:

- Rezone the areas addressing the realistic development potential of the Housing Element and Fair Share Plan, as well as the overlay zoning necessary to create opportunities for additional affordable housing to address the Plan's unmet need as indicated in Section IV.
- Revise the Specially Restricted Industrial zoning district to remove most, if not all uses from conditional to permitted uses. Expand the allowed uses to reflect the development of new business establishments compatible with existing uses and nearby residential neighborhoods. Revise the review process to ensure that all or most of the change in use permits can be addressed administratively.
- Review residential and commercial zoning to reduce redundancy and overlap; remove the "Specially Restricted" terminology from zone titles and descriptions. Rationalize the naming convention of zoning districts.
- Develop new standards for uses combining medical care and residences as well as new health care uses. Review in particular, parking standards for such uses and revise the site plan ordinance accordingly.
- Limit the floor area of accessory buildings to ensure they are in proportion to the scale of the residential dwelling.
- Revise sign regulations to address new lighting technologies.
- Revise the site plan and subdivision ordinance to address new lighting technologies for Complete Streets, street lighting, parking lots, pedestrian pathways and parks.
- Modernizing and consolidating the zoning regulations and site plan and subdivision regulations, design and performance standards, board establishment, fees and affordable housing standards to make an easier to use document that is a "one-stop" ordinance for land development in the Township.

These additional recommendations follow from the annual reports of the Zoning Board of Adjustment for revisions to the Township's land development regulations:

- Adjusting allowed fence heights to reduce variance requests.
- Addressing the limitation on the number of garage bays in residential districts.
- Addressing barrier free ramps to residences.
- Creating impervious surface limitations for accessory buildings and structures, including patios and pools.

- Revise the landscape buffer requirements to improve their aesthetic quality.
- Revisit the 150-foot setback for major thoroughfares given the municipality's current level of land development.
- Permit veterinarian offices in professional office districts.
- Revise the sign regulations to address changeable copy signs.
- In either the zoning ordinance or in the general code, prohibit the parking of commercial vehicles over a certain size from residential districts. Allow the parking of commercial vehicles in specific non-residential districts.
- Specifically exempt municipal projects from site plan review.
- Review the location of zoning lines to minimize split lot zoning.
- Consider allowing single family semi-detached dwellings in appropriate zoning districts.
- Prohibit pools in front yards.
- Create parking standards for health care facilities and review the existing parking standards and their applicability to downtown areas.
- Define allowed encroachments in the front yard setback (ramps, steps, overhangs, etc.).
- Create standards for outdoor seating.
- Revise definitions, including residence and corner lot.

## **VI. INCORPORATION OF REDEVELOPMENT PLANS INTO THE MASTER PLAN AND ORDINANCES**

The municipality has designated one area in need of redevelopment in the Lenola area, but has not yet adopted a redevelopment plan. The redevelopment statute allows the municipality to use either the existing zoning district regulations that apply to any designated area in need of redevelopment or to supplant them with standards in an adopted redevelopment plan. As permitted by the Local Redevelopment and Housing Law, the redevelopment plans may contain building design standards that are not allowed for a traditional zoning ordinance.

As discussed in Section IV regarding the Affordable Housing Settlement, three shopping centers - the Lenola Shopping Center, the Moorestown Mall and Kmart Plaza – will be allowed residential development with an affordable housing set-aside through overlay zoning that may provide additional affordable housing. The redevelopment process, if the latter two sites are determined to be eligible, affords the ability to write specific area plans for each of the sites to address bulk and other standards, building arrangement, design standards and similar aesthetic, as well as determining allowed uses and ratios of uses on the properties. If redevelopment plans are adopted for the Moorestown Mall and/or the Kmart Plaza, it is anticipated that these will be governed by the standards in a redevelopment plan. A

redevelopment plan may establish new streets and is required to assign land uses to specific locations on the property. In this manner, the Township and redeveloper can guide redevelopment in a mutually beneficial manner for the public.

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