

**RESOLUTION NO. 2025-1-33**

**TOWNSHIP OF CHESTERFIELD  
COUNTY OF BURLINGTON  
STATE OF NEW JERSEY**

**BINDING RESOLUTION DETERMINING THE TOWNSHIP OF CHESTERFIELD'S  
PRESENT AND PROSPECTIVE FAIR SHARE AFFORDABLE HOUSING  
OBLIGATIONS FOR THE UPCOMING FOURTH (4<sup>TH</sup>) ROUND, COMMENCING  
JULY 1, 2025**

**WHEREAS**, on March 20, 2024, Governor Murphy signed *P.L.2024, c.2.* into law, establishing a new framework for determining and enforcing municipalities' affordable housing obligations under the New Jersey Supreme Court's Mount Laurel doctrine and the State's Fair Housing Act; and,

**WHEREAS**, the law requires that the New Jersey Department of Community Affairs ("DCA") perform a calculation of regional need, and municipal present and prospective affordable housing needs, in accordance with the formulas established in the law; and,

**WHEREAS**, on October 18, 2024, the DCA released its "Affordable Housing Obligations For 2025-2035 (Fourth Round)" report, establishing the Fourth Round (2025-2035) fair share methodology and calculations of low- and moderate-income housing obligations for New Jersey's 564 municipalities; and,

**WHEREAS**, the DCA report calculates Chesterfield's Round 4 (2025-2035) obligations as follows: the present need or rehabilitation obligation is 0 units and the prospective need is 60 units; and,

**WHEREAS**, the Amended Fair Housing Act provides that the DCA Report is non-binding, thereby inviting municipalities to demonstrate that the Amended FHA would support a different fair share calculation; and,

**WHEREAS**, per *P.L. 2024, c.2*, in order for Chesterfield Township to maintain immunity from exclusionary zoning litigation, it must determine its municipal present and prospective obligations by binding resolution no later than January 31, 2025; and,

**WHEREAS**, *P.L. 2024, c.2* permits Chesterfield Township to diverge from the DCA's calculations in determining its obligations, in case local factors exist that make the calculations unreasonable; and

**WHEREAS**, in accordance with *P.L. 2024 c. 2* there are three (3) factors that go into determination of each municipality's fair share affordable housing allocation:

- Land Capacity Factor evaluates the acreage of potentially developable vacant land in each municipality as a percentage of the total potentially developable vacant land in the region;
- Equalized Non-Residential Valuation Factor compares the non-residential tax rates (commercial and industrial) in the municipality and in the region in 1999 and 2023, and calculates the municipality's share of the regional change; and,
- Income Capacity Factor is the average of two measures: 1) the municipal share of the regional sum of the differences between the median municipal household income and \$100 below the lowest median household income in the region (Camden City) and 2) the municipal share of the regional sum of the differences between the median municipal household incomes and \$100 below the lowest median household income in the region (Camden City), weighted by the number of the households in the municipality.; and,

**WHEREAS**, the three (3) allocation factors are averaged to find the average allocation factor; which is multiplied by the regional prospective need to get each municipality's prospective need obligation; and,

**WHEREAS**, Chesterfield's land capacity factor is 0.0%, its equalized non-residential valuation factor is 0.10%, and its income capacity factor is 1.88%, resulting in an average allocation factor of 0.66%; and

**WHEREAS**, the Township's Planner, the Township Attorney, and other Township professional staff possess actual knowledge of past, present, and likely future conditions, land development policies and regulations in Chesterfield; which conditions, policies, and regulations were not and could not be accommodated or fully considered by the calculations performed by DCA officials when evaluating Chesterfield's allocation factors through raw data sets, planning area weighting, and land use/land cover data; and,

**WHEREAS**, even if such present day conditions, planning and regulatory history, and local knowledge had been known to DCA officials that were calculating the affordable housing obligations for each municipality in the State, the methodology set forth in *P.L. 2024, c.2* was not designed to account for the unique circumstances presented by the only functioning municipal Transfer of Development Rights program in the State ; and,

**WHEREAS**, Chesterfield Township has implemented a Transfer of Development Rights (TDR) program as authorized by Article 15 of Municipal Land Use Law (N.J.S.A. 40:55D-133 through 129) which has had the effect of concentrating residential and commercial growth in a designated area of the Township known as the "receiving area" while enabling the preservation of productive agricultural land in the designated "sending area"; and,

**WHEREAS**, the Township's TDR program is a growth management program that directs development that would otherwise have sprawled across productive farmland, to a receiving zone where population, development, and infrastructure investments could be concentrated while preserving major blocks of farmland, protecting landowner equity, and reducing infrastructure and the cost of public services; and,

**WHEREAS**, Chesterfield's TDR program was first recommended in its 1976 Master Plan and was implemented following the adoption of the 1997 Land Use Plan; and,

**WHEREAS**, Chesterfield Township's TDR program is inclusionary and has resulted in the production of 67 affordable housing units in addition to other affordable housing opportunities the Township has supported and enabled; and,

**WHEREAS**, Chesterfield has a history of *Mount Laurel* compliance efforts as described in the chronological *Mount Laurel* Fair Share Planning and Compliance History included as **Exhibit A** to this resolution; and,

**WHEREAS**, the vast majority of growth and development that otherwise would have occurred throughout Chesterfield Township is intended to be accommodated within the designated receiving area, and the farmland outside of the receiving area is intended to be preserved as the development rights are transferred; and

**WHEREAS**, the 2023 Transfer of Development Rights Current Status Map is included as **Exhibit B** to this resolution to illustrate the overall land use picture in the Township<sup>1</sup>; and,

**WHEREAS**, in order to ensure that the allocation methodology set forth in *P.L. 2024, c.2* adequately considered Chesterfield's unique land use plan and Court approved inclusionary development approach, the non-residential valuation associated with development that has occurred in the receiving area since 1999 would need to be extracted from the 2023 equalized non-residential valuation and the household incomes of households living in homes that have been built within the designated receiving area would need to be extracted from the median household income data, to calculate non-residential valuation and income capacity factors that reflect the Court's determination that the growth in the receiving area resulting from the implementation of the TDR program would be inclusionary but that the growth would not create additional affordable housing obligations for the Township; and,

**WHEREAS**, given Chesterfield's proactive and innovative land use planning efforts, which are supported by local, regional, and State policies, it is necessary and appropriate for Chesterfield to set an affordable housing obligation that is fair to low- and moderate-income households, that acknowledges that the receiving area is not a "growth area", and that enables the Township to continue to implement its TDR program to meet multiple competing objectives; and,

**WHEREAS**, this determination of Chesterfield's prospective need acknowledges the methodology set forth in *P.L. 2024, c.2*, while also acknowledging the special circumstances that have evolved in Chesterfield as it has implemented a Transfer of Development Rights program as authorized by Municipal Land Use Law and supported by local, regional, and State plans; and,

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<sup>1</sup> It should be noted that the large land area in the northwest corner of the Township that is shown as white is owned by the State of New Jersey and is developed with a correctional facility. The 2023 map may have been or may be subject to further revision.

**WHEREAS**, in light of the above the Chesterfield Township Committee finds that it is in the best interest of Chesterfield Township to commit to the modified prospective need affordable housing obligations of 31 units for the Third Round and 16 units for the Fourth Round as set forth herein; and,

**WHEREAS**, pursuant to the Directive #14-24, a municipality seeking a certification in compliance with the FHA shall file an action in the form of a declaratory judgment complaint in the county in which the municipality is located within 48 hours after the adoption of the municipal resolution of the fair share obligations, or by February 3, 2025, whichever is sooner; and,

**WHEREAS**, in the event that a third party challenges the calculations provided for in this Resolution, the Township of Chesterfield reserves the right to take such position as it deems appropriate in response thereto, including that its Round 4 Prospective Need Obligation should be lower than described herein; and,

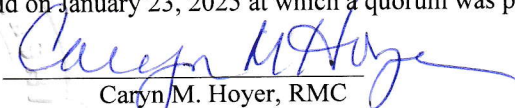
**WHEREAS**, the Township of Chesterfield seeks a certification of compliance with the FHA and, therefore, directs its affordable housing counsel to file a declaratory relief action within 48 hours of the adoption of this resolution in Burlington County.

**NOW, THEREFORE, BE IT RESOLVED** on this 23<sup>th</sup> day of January, 2025, by the Township Committee of Township of Chesterfield, in the County of Burlington, and the State of New Jersey that, pursuant to *P.L.2024, c.2*:

1. All of the Whereas Clauses set forth above are incorporated into the operative clauses of this resolution.
2. The Township Committee of the Township of Chesterfield hereby accepts a Third Round Prospective Need of 31 units, a Present Need obligation of 0 units, and a Fourth Round Prospective Need obligation of 16 units pursuant to *P.L. 2024 c.2* and the Fair Housing Act, N.J.S.A. 52:27D-302 et. seq. These findings are to be documented in the Township's housing element and fair share plan.
3. The Township Committee hereby directs its Counsel to file a declaratory judgment, attaching this resolution, in Burlington County within 48 hours after adopting this resolution.
4. The Township reserves its right to adjust its Fourth Round Affordable Housing obligation subject to amendments as may be provided for by law.
5. This resolution shall be posted on the Township's official website and with the Affordable Housing Dispute Resolution Program within 48 hours of adoption.
6. This resolution shall take effect immediately, according to law.

**CHESTERFIELD TOWNSHIP COMMITTEE**

I, Caryn M. Hoyer, Clerk of the Township of Chesterfield in the County of Burlington and State of New Jersey do hereby certify the foregoing Resolution to be a true and accurate copy of the Resolution approved by the Township Committee at a duly advertised meeting held on January 23, 2025 at which a quorum was present.

  
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 Caryn M. Hoyer, RMC  
 Township Clerk

**Chesterfield Township**  
***Mount Laurel* Fair Share Planning and Compliance History**  
Prepared by Leah Furey Bruder, PP, AICP

**Chesterfield's *Mount Laurel* Affordable Housing History**

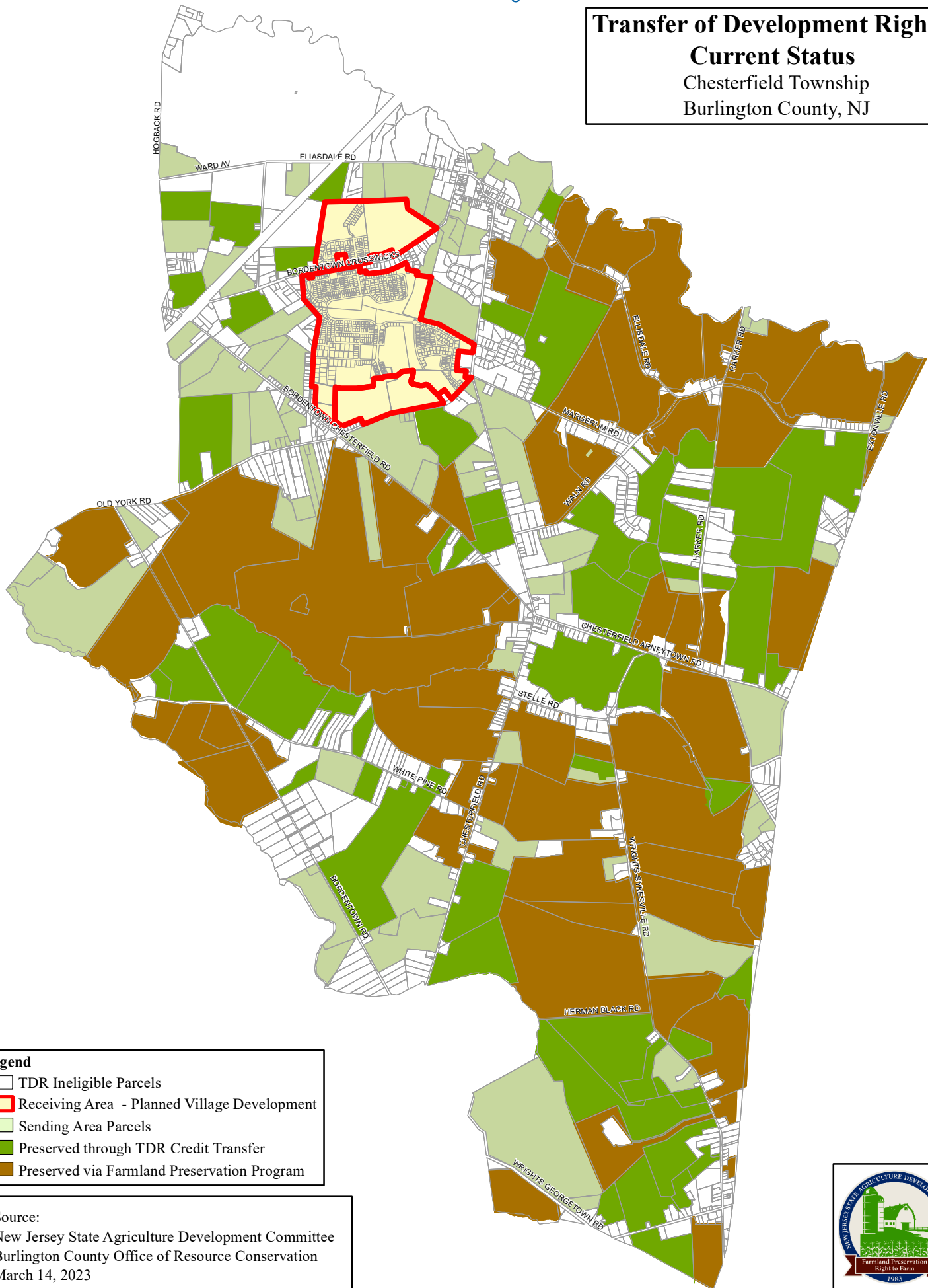
1. The Township adopted its first Housing Element in 1985 after the *Mount Laurel II* decision (1983), but before the adoption of the NJ Fair Housing Act and before the creation of Council on Affordable Housing (COAH). At that time, the NJ State Development Guide Plan designated the northwest corner of the Township as a "growth area" (proximate to the Garden State Youth Correctional Facility, and Bordentown and Hamilton Townships). As such, the 1985 Housing Element included several alternatives for development on the unconstrained and available land in the "growth area" that would result in satisfaction of the fair share obligation. A new residential zoning district with increased density and a 20% set aside was established for the area generally bound by Hogback Road, Ward Avenue, and the NJ Turnpike. An ordinance was also adopted to permit affordable accessory apartments in the AG residential district.
2. In 1987 COAH published its first set of municipal fair share obligations. Chesterfield was allocated a 62-unit fair share obligation.
3. In 1992 the State Development and Redevelopment Plan was adopted, which removed the "growth area" for Chesterfield and identified the entire Township as a rural planning area.
4. In 1994 COAH adopted its second set of substantive regulations and allocated municipal affordable housing obligations through 1999. Chesterfield's cumulative calculated need was determined to be 68 units (13 indigenous/rehab need and 55 prospective need).
5. In 1995 Chesterfield prepared and filed its second round Housing Element and Fair Share Plan with COAH, but did not petition for substantive certification.
6. Throughout the 1990s Chesterfield Township worked with the Burlington County Land Use office to prepare for and lay the foundations for implementation of the Transfer of Development Rights program. This included natural resources, conservation and soils studies, transportation studies, community facilities studies, utility and infrastructure studies, market studies, and architectural studies.
7. In 1997 Chesterfield adopted a Master Plan that recommended a voluntary Transfer of Development Credits program to advance the goal of preserving major contiguous blocks of farmland while minimizing infrastructure and the costs of public services. At the time of the 1997 Master Plan the receiving area was planned to accommodate as many as 1,220 development credits and as many as 1,700 housing units.
8. On September 16, 1997 a revised Housing Element was adopted, proposing to satisfy the 68 unit (13 rehab and 55 prospective) fair share obligation through a housing rehabilitation program, an accessory apartment program, inclusionary zoning within

the receiving area, and an optional RCA for the transfer of up to 50% of the total obligation in lieu of onsite constriction within the receiving area. The Township also filed a petition for substantive certification with COAH.






9. In 1998 the Township revised the Housing Element to streamline the compliance plan to rely entirely on inclusionary development to meet the entire fair share allocation.
10. In 2001 the Township withdrew from COAH, prepared an updated Housing Element and Fair Share Plan that brought together all of the prior planning efforts and affirmed the capacity to accommodate the prior rounds fair share obligation within the TDR receiving area, and filed a Declaratory Judgment action with the Superior Court.
11. In 2003 Judge Sweeney found Chesterfield Township's HEFS Plan for the 12 year prior round (1987 – 1999) obligation to be in compliance with the NJ Fair Housing Act and *Mount Laurel* doctrine in satisfying the township's first and second round fair share need. The Township received a Judgment of Compliance and Repose. The 6% set aside for the receiving area was deemed to be justified. The 6% set aside was arrived at by evaluating the need to maintain the value of the development credits and to ensure that the economic burden of the affordable units was not heavier than the burden of other competing market rate residential developers in the market area. The Fair Share Plan was intended to ensure that affordable units were created, and that landowner equity was not eroded, which was a critical foundation for the TDR program.
12. On December 14, 2005 Judge Sweeney executed an Order, finding that the 6% affordable housing set aside provided for in the Township's second round HEFS Plan as it related to the TDR receiving area was justified and that "no third round affordable housing growth share obligation shall be attributable to the Township as a result of any residential, retail or office development by non-governmental entities within the existing receiving area established by the 1997 Master Plan". The finding was largely based on a "Planning Report on Chesterfield Township's Third Round Fair Share Obligation" prepared by Phil Caton and dated October 11, 2005.
13. In an Order executed on December 14, 2007, Judge Sweeney extended the Township's second round protection from exclusionary zoning litigation until new Third Round rules were adopted.
14. In an Order executed on February 22, 2008, Judge Sweeney reaffirmed the 2005 Order stating that "the Township shall be entitled to continue to rely upon same in its efforts to assess its third round obligation and plan for its satisfaction in light of COAH's repropose and revised third round rules".
15. In 2009 Township planner Phil Caton prepared an analysis of the Township's Third Round Affordable Housing obligation based on the second iteration of the Third Round COAH rules. The analysis and calculation were prepared based on "growth share" as the operating methodology. At that time the Township agreed to conduct biennial plan evaluation reviews of the actual growth in the sending area to evaluate the accrued fair share obligation.

16. In an Order executed on June 16, 2010 Judge Bookbinder approved an adjustment of the Township's Third Round growth share obligation from 69 (as calculated by COAH) to 17 units and confirmed that no growth share obligation is attributable to the Township from growth and development in the TDR receiving area. The submission deadline for the Township's fair share plan was extended to September 30, 2010.
17. On September 14, 2010 the Township adopted a Third Round Housing Element and Fair Share Plan demonstrating compliance with the Prior Rounds and adjusted Third Round Growth Share obligation. The remaining prior round obligation was 55 units (the 13 units of indigenous need did not carry forward, that number is recalculated with each census). The third round obligation was set at 17 units (based on actual growth in the sending area from 2004 through 2009 and projected growth in the sending area from 2009 through 2019). The "growth share" methodology was eliminated in October 2010 after challenges in Court led to the methodology being overturned.
18. On June 28, 2011 Judge Bookbinder executed an Order extending the Township's immunity protection from Third Round exclusionary zoning litigation and builder's remedy law suits until 90 days after new Third Round rules take effect.
19. On July 20, 2011 Judge Bookbinder executed an Order requiring the Township to continue to implement the components of its Fair Share Plan in the TDR receiving area that will provide for affordable units toward the third round.
20. On March 10, 2015 The NJ Supreme Court held that the review and approval of all exclusionary zoning matters would be heard by Trial Court Judges rather than by COAH. This decision eliminated the administrative process that had been established in the Fair Housing Act and determined that the Courts would hear exclusionary zoning matters. However, the Court did not rule on the precise methodology that would be used to calculate fair share numbers. The declaratory judgment action remedy was instituted at this time.
21. The Township's 2017 Master Plan Reexamination and Amendment carried forward the 2009 Reexamination recommendation related to third round fair share compliance.
22. As the receiving area has been developed over the last 20 years, affordable housing units have been constructed as part of each section of the planned development. The inventory of affordable units is attached.

**Transfer of Development Rights**  
**Current Status**  
Chesterfield Township  
Burlington County, NJ



**Legend**

-  TDR Ineligible Parcels
-  Receiving Area - Planned Village Development
-  Sending Area Parcels
-  Preserved through TDR Credit Transfer
-  Preserved via Farmland Preservation Program

Source:  
New Jersey State Agriculture Development Committee  
Burlington County Office of Resource Conservation  
March 14, 2023

