

Chapter 16

Land Use Plan

This Chapter recommends a land use pattern for New Garden for the next ten years and provides recommendations for how to achieve the land use goals for the Township. The primary intent of the Land Use Plan is to achieve the Township's land use goals and objectives as outlined below. The Land Use Plan has factored the issues examined during the inventory and analysis phase, including transportation, existing land use, housing, natural resources, and community facilities, into the recommendations. It provides a framework for guiding other Plan section recommendations, such as community facilities and transportation, in terms of where improvements to infrastructure and community services are most appropriate and necessary. However, all the Plan chapters work together to implement the goals and objectives and many recommendations from other chapters are essential to actualize this Land Use Plan.

The first section of the Land Use Plan identifies land use categories in one of two primary categories, Resource Conservation and Growth. Explanations and recommendations are presented for each land use category. Several recommendations refer to the appropriate chapter where greater detail is given on a particular topic. The second section of the Land Use Plan is an analysis of the ability of the Plan to provide adequate housing for future populations and to address the capacity of the Land Use Plan to meet the “fair share” of housing issue.

The following Goal and Objectives for Land Use from **Chapter 9, Goals and Objectives**:

Goal:

To have orderly growth and development in appropriate areas of the Township, while protecting the community character and environment; making efficient use of public facilities, services, and infrastructure; considering existing land use; and preventing development sprawl.

Objectives:

- Direct growth and development to areas with adequate infrastructure while protecting open space, agriculture, forest lands, scenic viewsheds, steep slopes, water resources, and environmentally sensitive areas. Discourage scattered, unplanned development.
- Promote growth management and conservation development techniques, which endorse a balance of development and preservation strategies.
- Encourage in-fill development.
- Encourage innovative residential development.
- Maintain a diversification in residential uses considering densities and housing supply.
- Promote mixed-use residential developments containing retail, office, and recreational uses.
- Implement regulatory and non-regulatory methods and public and private initiatives for preserving open space and farmland and protecting important or unique natural resources.
- Encourage non-residential development that will provide a more diverse tax base, services for residents, and local employment opportunities without over-zoning for commercial, office, and industrial uses.
- Recognize the unique characteristics of the Toughkenamon and Landenberg areas through such methods as specialized zoning districts to maintain village character.

Foundation for Land Use Recommendations

The land use recommendations of this Chapter were developed based on a number of relevant issues discussed in the inventory phase of this Plan's development. The primary factors considered in the formation of the land use plan include the following:

- Existing land use patterns, particularly the Township's existing buildings and structures.
- The location and protection of sensitive natural resources.
- The location and functioning of the transportation network.
- The location of existing community facilities and services.
- The need to accommodate projected populations.
- The need to address housing concerns and fair share housing issues.
- The location and preservation of historic development patterns and cultural resources.
- Implementation of Township land use policies.
- Consistency with the land use plans and policies of adjacent municipalities and Chester County.

After careful comparison of the above factors, land use recommendations were developed and refined to best address the Township's goals and objectives.

LAND USE CATEGORIES

The Land Use Plan separates land use categories into two major planning areas, a Resource Conservation Area and a Growth Area. The purpose of these two primary categories is to direct growth to where it can best be accommodated and limit development in areas where growth is least appropriate to protect sensitive natural resources, provide open space, and promote groundwater recharge. Major infrastructure improvements or extensions should be avoided in the Resource Conservation Area. The Growth Area is considered where infrastructure improvements, such as public water and sewer, are most appropriate.

Map 16-1 displays the Land Use Categories and **Figure 16-1** contains recommended densities within each land use category.

- **Revise the Zoning Map and applicable district standards to make the Zoning Ordinance consistent with the Land Use Plan recommendations.**

The land use categories described herein serve as the framework for the ordinance revisions in terms of new district boundaries and permitted land uses, densities, and the planning techniques appropriate within each zoning district. The Future Land Use category boundaries are not necessarily intended to directly translate into potential zoning districts, but provide a framework and baseline for future zoning changes to be refined during zoning update processes. New Garden should amend its zoning ordinance so that they are consistent with the Land Use Plan.

- **Relate sewage and water facilities planning to the Land Use Plan.**

Public sewage and public water facilities planning is critical to the future growth of New Garden. The Township conducted a update to their *Act 537 Plan* (1996). If development is to be effectively directed, future extensions of sewage facilities and the installation of water facilities must be carefully planned accordingly. The Township should update the *Act 537 Plan* in relation to the Land Use Plan. The land use categories in the Growth Area are considered appropriate areas for the provision of public sewer and public water. Recommendations for both public sewage and public water facilities planning are included in **Chapter 11, Community Facilities and Services Plan**. Additional recommendations concerning their relationship to resource protection issues, and groundwater recharge in particular, are discussed in **Chapter 12, Natural Resources Protection Plan**. The

Township should coordinate with adjacent municipalities and the Kennett Area Regional Planning Commission on public water and sewer planning and consider completing a joint Act 537 plan with one or more adjacent communities.

Resource Conservation Area

The purpose of the Resource Conservation Area is to conserve the primary natural resources of the Township, while allowing limited growth and low intensity uses that are primarily not dependent on public water or sewer. Open space, recreation, agriculture, and low density residential uses are intended to characterize this area. The Resource Conservation Area is divided into two categories, Resource Protection and Site Sensitive Design. These two areas are meant to protect the most sensitive natural resources and avoid the extension of public water and sewer facilities to discourage higher intensity growth.

- **Adopt comprehensive Natural Resource Protection Standards.**

Natural resource protection standards are primarily implemented through the zoning ordinance. In 2004, the Township's Zoning Ordinance included protection standards for floodplains, with additional protection for steep slopes, woodlands, wetlands, and prime agricultural soils only within cluster developments. In order to fulfill the intent of the Land Use Plan, and particularly the Resource Conservation Area, a range of environmental resources, including watercourses (riparian buffers) and steep slopes, should be afforded protection throughout the Township. In particular, the creation of riparian buffers along streams identified in **Chapter 12, Natural Resources Protection Plan**, should be adopted as an effective means of protecting surface water and wildlife habitat. **Chapter 12** also discusses possible improvements to the woodland protection standards, including the expansion of the woodlands definition and the addition of individual specimen quality trees and hedgerows to the vegetation protection standards. The addition or improvement of these resource protection standards will be completed during zoning ordinance updates. See **Chapter 12** for more information on Natural Resource Protection recommendations. The Township should coordinate with the Kennett Area Regional Planning Commission for more information, as the majority of communities within that body coordinated on adopting a range of appropriate resource protection standards.

Resource Protection

The Resource Protection Area contains some of the last remaining large open lands within the Township and the major streams and sensitive natural areas, such as steep slopes and floodplains. The focus within this area is the protection of streams and sensitive natural features along with the protection of large tracts of land through easements, creation of parkland, or some other method. Adoption of progressive zoning regulations for natural features, and the strict enforcement of these regulations, are critical to achieving the goal for this area.

- **Adopt a Scenic Preservation Overlay District.**

The zoning ordinance does not include a Scenic Preservation Overlay District. This Overlay District will be used to implement the scenic resources recommendations discussed in **Chapters 13 and 14**. The implementation of ridgeline protection standards should also be considered during the Zoning Ordinance update to address the issue of homes situated above ridgelines where they could be detrimental to scenic vistas. As noted in **Chapter 12**, the expanded protection of natural resources will also facilitate the protection of the scenic qualities of the Township.

- **Place significant areas of land on the Official Map.**

The Township should identify significant parcels of land such as large remaining undeveloped lands or key parcels that may contribute to natural corridors and place them on the Official Map. The

Official Map is a tool whereby the Township may notify the public, developers, and other persons or agencies that a tract of land is recognized for a potential future use that the Township would like to preserve. The Township has one year to acquire a property listed on the Official Map if and when a property is sold, developed, or subdivided. For more information on the Official Map see **Chapter 14, Transportation Plan**.

- **Use conservation easements and land trusts to protect open lands.**
Conservation easements are legal documents that limit certain activities on the land and conserve specific natural features. The Township should identify parcels that may be candidates for easements and communicate preservation options to landowners.

Site Sensitive Design

The primary land uses in this area include low-density residential development and lands that are currently used by the mushroom industry. There are significant natural features within this area, although not to the extent of the Resource Protection Area. Many of the parcels in use by the mushroom industry do not utilize the entire parcel, and in several cases, these parcels are of significant size. The focus of this area is to continue to allow development and the continuance of the mushroom industry, but to focus on the protection of natural features through zoning regulations and allowing development that minimizes the effect on natural features such as progressive residential conservation design or “cluster”.

- **Modify Cluster Development Regulations.**
The primary purpose of this technique is to protect natural resources and to establish permanent open space while permitting a similar amount of development to what would have been possible under a conventional development pattern. New Garden provides for cluster development as an overlay district on lots of twenty or more acres with public water and public sewer in the R-1 and R-2 Zoning districts, and is required for all proposed subdivisions within these districts of ten (10) or more lots, provided they are served with both public sewer and public water. Minimum required open space for clustering in the Township is 40 percent and only one housing type is permitted. Single-family attached units and multi-family units are not permitted in the R-1, but are allowed in the R-2 district.

Because of the potential for open space preservation, natural resource protection, and potential support in meeting fair-share obligations, New Garden should continue to allow for and encourage the use of the residential cluster design option. However, it is recommended that the Township modify the cluster development regulations to: 1) permit a mix of housing types; 2) ensure well designed open spaces within such developments and linkages with adjacent open space areas; 3) require a minimum of 50 percent open space; 4) Require a maximum lot size and 5) reduce the threshold for clustering from 20 acres to 10 acres. The *Cluster Residential Design Guide* (2003) by the Chester County Planning Commission is one document the Township may use as a reference to modify the cluster regulations.

Growth Area

The purpose of the Growth Area is to provide opportunities for housing and areas for business growth to provide jobs, goods, and services for the Township’s population while bringing tax revenue to support the needs of the community. The Growth Area is divided into five categories; Suburban Residential, Village, Rural Center, Economic Development, and Business Park. Growth areas are where expanded public facilities should be focused to implement the intentions of the Land Use Plan.

Suburban Residential

The Suburban Residential area is almost fully developed by residential neighborhood development. However, there is still some land within this area that may be developed. The remaining areas within this category should be allowed to develop in a similar character to the development that has already occurred.

Village

The Village area consists of Toughkenamon and the surrounding area that may allow for the appropriate growth of the village to provide a mix of housing densities and uses. The Township should promote the development of a mix of uses within the Village area to provide both multi-family housing, as well as small-scale retail and service commercial uses that are appropriate to serve the needs of the community. The Village area should provide a mix of residential housing in order to increase the variety of housing in New Garden, as well as to provide housing adjacent to new and existing commercial and service uses.

There are sites within the existing area of Toughkenamon for infill development. However, this area should be expanded to create opportunities for appropriate larger uses and future development while protecting the original fabric of the central portion of the Village area. Infill and redevelopment should be of the same scale of the existing village and provide for a mix of uses. Additional development should also be of similar scale and continue the grid pattern of streets where appropriate roadway extensions are added. It will be necessary for the Township to amend the Zoning Ordinance in order to accomplish the intentions of this area.

- **Address potential for in-fill development and adaptive reuse.**

The use of in-fill development and adaptive reuse are particularly applicable in Toughkenamon, where there are opportunities for reuse of older buildings and in-fill development of vacant or underutilized properties. These techniques support both economic development, revitalization, and historic preservation objectives.

In-fill development is the process of improving underused or vacant parcels within areas that are otherwise largely developed. Such development intentionally mimics the area, bulk, and style of adjacent properties. Taking advantage of in-fill opportunities contributes to economic development by providing investment, vitality, and additional development opportunities. In-fill maximizes the use of existing infrastructure and focuses development in existing developed areas. In-fill can be encouraged in several ways including: creating an inventory of in-fill sites, providing design guidelines, and ensuring that zoning regulations and building codes are conducive to allowing the use of in-fill development. Adaptive reuse is the process of converting or altering a building to accommodate a viable new use other than the one for which the building was originally designed. The conversion of single family homes into apartment buildings, commercial uses, or apartments over commercial uses in the same building are examples of adaptive reuse. The Township should consider allowing for adaptive reuse of existing structures as well as allowing for mixed use structures for infill development.

- **Amend the Zoning Ordinance to facilitate appropriate infill and future development.**

The Township should consider expanding the R-3 District, or develop a similar appropriate zoning district, in order to extend the lot size and available uses to the area indicated on the Land Use Plan. The existing R-3 (2004) allows for single family residential units on a minimum lot size of 15,000 square feet and non-residential uses on lots of 20,000 square feet or greater with public water and sewer facilities. Additional development capacity is allowed on lots of 1 acre or greater (Town Development Option permitted by conditional use). The Town Development Option allows for single family residential units on lots of 6,000 square feet and non-residential development on lots of 10,000 square feet and greater. Due to the existing small size of the existing R-3, there are few parcels remaining that would allow for the Town Development Option, expanding the R-3 to match the

Village Area would increase the potential for the use of this regulation to contribute to the fabric of the village. The mean size of parcels within the Village Area is roughly 12,000 square feet as displayed on **Map 16-1**. The Township should consider either adopting the Town Development Option area and bulk standards as the by-right standards for the expanded R-3 District or allow the Town Development Option as a use by-right in the expanded R-3 District. Furthermore, the Township should reconsider the uses allowed by-right within the R-3 District. Some of the conditional uses, such as personal service shops and retail stores, should be reconsidered as by-right uses to increase the potential for economic development within the village.

- **Inventory infill sites and potential sites for redevelopment.**

The Township should develop an inventory of vacant or underdeveloped sites within the village area as well as lots and structures that have potential for redevelopment. Communication should be developed with property owners and the local business community to examine opportunities to develop and revitalize the Toughkenamon area.

- **Add potential future road alignments to the Official Map.**

The Official Map legally establishes the location of public lands and facilities, existing and proposed streets, waterways, parks, trails, and other public lands and facilities. The Township should consider the addition of potential future roadways in the Village area on an Official Map, in order to continue the traditional grid pattern of streets within Toughkenamon into areas where future development occurs. For inclusion on the Official Map, it is not necessary for these roadways to be surveyed or intricate details be determined, only an approximate alignment is necessary. It may be appropriate to include approximate cartway and right-of-way widths that are to the same scale with the remainder of the roadways within the existing village. For more information on the Official Map see **Chapter 14, Transportation Plan**.

- **Consider the addition of a Township park in the Village area.**

The Township should communicate with the residents in the Toughkenamon area to identify the need for and support of a future park in the Village area. A process should begin to identify where a park may be located within the Village area and strategies for the funding, development, and construction of the park. The Township should develop regulations in the Zoning Ordinance to allow public parks as a use by-right with the appropriate additional standards such as lighting, parking, landscaping, and buffering. When a potential location(s) is/are identified, the site(s) should be identified on the Official Map. For more information on the Official Map see **Chapter 14, Transportation Plan**.

- **Encourage infrastructure improvements within the Village area.**

As development and redevelopment occurs in the Village area, the Township should encourage the installation of appropriate infrastructure to encourage pedestrian activity, economic viability, transportation, and safety. Sidewalks and street lighting should be included in future development, as well as traffic calming measures. The Township should consider establishing more specific parking regulations for the Village area. Issues such as on street parking, access management, public parking lots, landscaping, and buffering should all be considered. Parking regulations should ensure an appropriate amount of parking for specific uses within a Village context, including well designed parking facilities and proper access management. Parking has been a challenging issue in developed areas, such as Toughkenamon, and this issue should be carefully considered and planned as Toughkenamon continues to develop so that it does not become a problem to be remedied after development and redevelopment has already occurred.

- **Address stormwater issues within the village area to address existing issues and to require appropriate management for future development.**

The Township should update its stormwater regulations to address the required NPDES II requirements and, furthermore, consider including progressive implementation standards such as those developed by the Chester County WRA to ensure installation of proper stormwater management infrastructure in new developments. This is important to address issues throughout the entire Township and is critical to address issues in the higher density areas such as Toughkenamon, in addition to providing for effective stormwater management for development and redevelopment in and around the village.

Rural Center

The area surrounding the intersection of Route 41 and Limestone Road, known as Kaolin, is recognized as a “Rural Center” by *Landscapes*, the Chester County Comprehensive Plan. This designation was reviewed and approved by the Township, and implementation of the Rural Center has begun through the continuing evolution of the Township’s Unified Development (UD) Zoning District. However, a large portion of the UD District has developed as residential development along with proposals for large commercial developments. The intention of the Rural Center is to provide an area that is developed to provide a mix of uses, including businesses, to provide goods and services along with a mix of residential housing to provide a variety of housing options for Township residents. It is essential that uses in the Rural Center area are planned so that they function together with existing and potential future uses to function together in terms of access management, parking, scale of uses, and mix of uses. The Rural Center area should be developed to include pedestrian elements that may not be found in the Economic Development area, such as connecting sidewalks, traffic calming elements, open spaces or mini-parks with pedestrian elements, benches or playgrounds, and encourage uses that have a community element such as coffee shops and grocery stores.

- **Continue to amend the Unified Development District (UD) and other zoning regulations, and Subdivision Ordinance to implement the intentions of the Rural Center area.**

In early 2004, the Township made changes to the UD District to amend certain types of uses and to inhibit further development of inappropriate “big-box” retail development in the Township. The Township should also consider a boundary change to the UD District with respect to the Land Use Plan **Map 16-1**. The Township should continue to investigate the UD District for additional changes to implement the intention of the Rural Center area. The types of uses, scale of uses, minimum lot size, setbacks, access management, and parking regulations are examples of issues that should receive further review for potential changes to the UD District. The Township should also review the Subdivision Ordinance for potential changes that would help accomplish the vision for the Rural Center area.

Economic Development

The Economic Development area essentially delineates the major roadway corridors of Baltimore Pike, Route 41, and Route 7. These areas are meant to provide a tax base for the community to reduce the burden on residents, as well as to provide goods, services, and jobs for residents. The Baltimore Pike corridor is suited for less intense uses due to the size of the roadway and the existing mix of uses, including commercial, mushroom, and residential uses. The Route 41/7 corridor is more suited for larger commercial, office, and light industrial uses. As displayed on **Map 16-1, Land Use Plan Map**, development along Route 41 should not be allowed to create a continuous stretch of development along the entire roadway. Instead, development should occur in nodes, primarily at key intersections where existing development already exists. There are areas along Route 41 that provide a buffer between the developed sections of the roadway and allow for scenic views and contribute to traffic mitigation. Access management is a key

concern along each of these roadways. See **Chapter 14, Transportation Plan**, for specific recommendations and a more detailed discussion of access management.

- **Amend the Zoning Ordinance to reflect the area and intent of the Economic Development area.**
The Township made changes to the UD District in 2004 and continues to make changes to commercial zoning districts. The UD District designation, in particular, contains some parcels in the southern portion of the District which are recommended as potential open space or lands that should be developed with sensitivity to natural resources as designated by the Resource Protection category. The Township should make an effort to evaluate the appropriateness of the Highway Commercial (H/C), Commercial-Industrial (C/I, C/I-2), and UD Districts to accomplish the intension of the Economic Development area.

The Township should consider the types of uses that are appropriate along each of the two primary road corridors (Route 41/7 and Baltimore Pike). This may involve making wholesale changes to the Commercial/Industrial Zoning Districts to reflect the two individual corridors. One potential resolution may involve creating two separate commercial districts, one for each corridor.

- **Complete an economic development study.**
The Township should complete an economic development study to determine the needs of the businesses within the Township and the potential for additional economic development. The study should identify types and locations for future businesses as well as a strategy for marketing and development of these opportunities. The Route 41 and Baltimore Pike corridors should be carefully examined in addition to the Toughkenamon area and the New Garden Airfield.

Business Park

The Business Park area is in the northwestern portion of the Township and designates an area that may provide a significant area for the development of campus type office or business park. The proximity to US Route 1 and the inclusion of the New Garden Airfield within this area provides a unique opportunity for the Township to promote this type of use. See **Chapter 14, Transportation Plan**, for more information.

- **Continue to communicate with the owners of the New Garden Airfield as to their intensions.**
The Township should continue to examine the airport and the surrounding area for potential future development as an office/commercial development complex capitalizing on the continued use of the airport and proximity to US 1 as transportation opportunities.
- **Complete a Special Study of the Business Park area.**
The Township should consider undergoing a Special Study of the Business Park area to determine the feasibility of future uses and development, while simultaneously gauging public and private support of this option. The Master Plan for the New Garden Airfield should be referenced as a part of this effort. A Special Study is a planning process similar to a comprehensive plan, but generally for a smaller geographic area and typically for a specific purpose. Funding for a Special Study is available from Chester County.

Figure 15-1: Land Use Plan Categories

| Land Use Category | Acreage | Percent of Township Acreage |
|------------------------------------|---------------|-----------------------------|
| Resource Conservation Areas | | 60% |
| Resource Protection | 2,370 | 23% |
| Site Sensitive Design | 3,904 | 37% |
| Growth Areas | | 40% |
| Suburban Residential | 2,304 | 22% |
| Village | 357 | 3% |
| Economic Development | 724 | 7% |
| Rural Center | 372 | 4% |
| Business Park | 393 | 4% |
| Total | 10,424 | 100% |

Source: Map 16-1, CCPC, 2004.

Consistency with Adjacent Land Use Plans

The PA Municipalities Planning Code (MPC) requires comprehensive plans to include a statement regarding the relationship of the Plan with those of contiguous municipalities and the County of which it is a part. The following discussion briefly looks at the compatibility of New Garden's Land Use Plan with those of the surrounding municipalities and Chester County. There are eight municipalities directly adjacent to New Garden and they are examined here.

Kennett Township - Kennett Township parallels the entire eastern border of New Garden. The 2004 comprehensive plan shows four (4) land use designations along the Township line: Planned Residential, Economic Development, Resource Conservation, and Suburban Residential. The Planned Residential area, in the northwest corner of Kennett Township, provides for a range of medium density housing types, and includes twins, townhouses, apartments, and single-family developments on smaller lots. The Economic Development area is a small piece of commercial land uses along Baltimore Pike in Kennett Township between New Garden and Kennett Square Borough. The majority of land use along the border area is Resource Conservation and is predominately sensitive environmental resources (a PNDI site, Class I Woodland, steep slopes, stream valleys, and agricultural parcels). The Suburban Residential use is in the southwest corner of Kennett Township and is made up of traditional suburban developments. Except for a small portion of Economic Development use in New Garden (Routes 41 and 7) in the Kaolin area, the adjacent land uses are compatible.

East Marlborough Township - East Marlborough adjoins New Garden's northern border. Their most current comprehensive plan was adopted in 1990. Future land use designations along this border include Institutional (New Bolton Center), medium density residential (0.75- 1.0 units per acre), and several areas of "Primary Environmental Constraints". The environmental constraints include the Red Clay Creek stream valley, where development is severely restricted or prohibited, primarily due to floodplains and slopes greater than 20 percent. The land use designations along the adjoining border are compatible.

West Marlborough Township - West Marlborough shares a portion of the southern border with New Garden. The West Marlborough comprehensive plan was adopted in 1972. The majority of the shared border is designated as Agricultural and contains a portion of the New Bolton Center. This area is compatible with New Garden's designation of Site Sensitive Design since a large portion of the border area is the Loch Nairn Golf Links and Sherwood Pines. The township is in the process of updating its plan in 2004.

London Grove Township - London Grove is situated on the western border of New Garden. The 1992 comprehensive plan indicates the entire border to be Residential with a density of 0.5-1.0 units per acre. This is somewhat consistent with the proposed Site Sensitive Design area in New Garden.

Franklin Township - Franklin is on the western border of New Garden south of London Grove. The 1991 comprehensive plan for Franklin shows the adjoining area to be in three (3) land use areas: Woodland, Agriculture, and Rural Residential. The Woodland area is predominately the White Clay Creek valley and has controlled development. The Agriculture area encourages agricultural development (10 acre minimum) and uses, exclusive of mushroom and substrate activities. The Rural Residential area supports single-family development of 1.0 units per acre. The 1996 zoning ordinance reflects an open space design option on lots of 15 or more acres. The New Garden designation of Resource Protection along the entire border supports the proposed land use activities in Franklin.

Avondale Borough - Avondale borders New Garden to the west and is the only Borough directly adjacent to New Garden. According to the land use plan element from the Avondale 1993 comprehensive plan, there are six (6) land use areas contiguous to the Township: Stream Protection, Medium Density Residential, Woodland Protection, General Commercial, Planned Development Residential, and Planned Business Development. The Stream Protection area is for the White Clay Creek and restricts development; the Medium Density Residential area is for single-family development (SFD) with a proposed density of 2-5 DUs per acre; the Woodland Protection use affords security to tracts of woodlands and allows SFD with a density of 2 DUs p/acre; the General Commercial area is for neighborhood commercial type development; the Planned Development Residential area encourages a density of 2-6 units per acre for SFD, single family semi-detached (twins or duplexes), apartments, and townhouses; and the Planned Business Development area is for a mixture of commercial, industrial, and office uses. These uses are somewhat consistent with those planned in New Garden. The only conflict appears to be minor and is a small portion of a Site Sensitive Design area west of Route 41 in New Garden with that of the Planned Business Development area in the Borough.

London Britain Township - London Britain borders New Garden to the southwest. The 1990 London Britain comprehensive plan indicates the area immediately adjoining the Township as three (3) land use categories: Residential, White Clay Creek, and Associated Constrained Lands. The Residential area supports agricultural activities and single-family development at a density of 1.75 units per acre. The White Clay Creek area was established for the purpose of preserving the diverse and unique plant and animal species, and the cultural heritage of the area. These uses are consistent with the designated uses in New Garden.

New Castle County, Delaware - New Castle County forms a majority of the Townships southern border. The County's Current Zoning Map indicates the shared border with New Garden as primarily "Suburban" and "NC21 (21,000 square foot lots)". The Suburban residential district includes newly developing areas designated as growth areas in the Comprehensive Development Plan and permits moderate to high density development and a full range of residential uses in a manner consistent with providing a high quality suburban character. Significant areas of open space and/or landscaping shall be provided to maintain the balance between green space and buildings that characterize suburban character. NC-21 (Neighborhood Conservation) is a single family residential district intended to protect the residential character of existing neighborhoods or planned subdivisions that were or are being developed under previous zoning regulations. The County's 2002 Comprehensive Development Plan designates the shared border with New Garden as "Suburban" with a density of 1 to 3 units per acre. These uses are generally consistent with the Land Use Plan designations for the Township adjacent to New Castle County, Delaware.

Relationship To Landscapes

Chester County's comprehensive policy plan, *Landscapes (1996)*, promotes focusing future development in locations supported by infrastructure. This overriding policy seeks to maintain existing commercial centers while preserving the County's open lands and its natural, environmental and historic resources. The land use plan contained in *Landscapes*, as negotiated, identifies a majority of New Garden, particularly through the central section, as a Rural Landscape with the western area along the White Clay Creek as a Natural Landscape. Two Rural Center areas are indicated for the village of Toughkenamon and the area surrounding the intersection of Route 41 and Limestone Road (DE Route 7). The village of Landenburg is identified as a Village on the *Landscapes* map. A minor amount of Urban Landscape stemming from the Borough of Avondale overlaps into the Township.

The Rural Landscape is a land pattern comprised mainly of farms, agricultural lands and a low density residential pattern. The land use in New Garden is fairly consistent with these designations, however, sprawling residential and commercial development could jeopardize the Rural Landscape that remains. This Comprehensive Plan update should continue land use policies that focus new growth as appropriate, particularly the commercial and industrial development, and protect the farms and agricultural areas that remain. The following includes a definition of each *Landscapes* category in the Township.

Natural Landscapes are typified by woodlands, stream corridors, steep hillsides, ridge tops, wetlands, and marshes. These resources are permanent and essential elements of the physical environment, and are the foundation of all landscapes. *Landscapes* encourages the preservation of these sensitive natural areas and discourages development from occurring in natural areas.

Rural Landscapes is characterized by farms, farm-related businesses, villages, and scattered housing sites. Development proposed within the Rural Landscape is encouraged to occur in Rural Centers in order to preserve agriculture and the rural character typified within this landscape.

Rural Centers have been designated as the focus of development in the Rural Landscape. Development in the Rural Center should include a mix of residential and locally oriented retail uses. The design, scale, and intensity of uses should be compatible with the rural character.

Urban Landscapes serve as focal points for economic, cultural, and transportation activities. They also serve as major population centers with all required infrastructure and human services in place to support higher density populations. *Landscapes* encourages housing rehabilitation, infill development, and economic development within the Urban Landscape.

- **Pursue an amendment to *Landscapes* after adoption of the Comprehensive Plan.**
Once this Plan is adopted, the Township should contact the County for an amendment to the *Landscapes* Map to more accurately reflect the **Land Use Plan Map (Map 16-1)**. The *Landscapes* Map is not intended to be a detailed land use map, and to some extent the Map becomes outdated as development occurs and municipalities develop updated Comprehensive Plans.

Linking Landscapes: The Plan for the Protected Open Space Network in Chester County, PA, (2002)

Linking Landscapes serves as the Open Space Element of the Chester County Policy Plan. *Linking Landscapes* provides a vision for multi-municipal open space planning on a countywide basis. It presents a set of actions to coordinate the activities of various County government departments, as well as providing municipalities with general guidelines they can use to responsibly protect open space. The Plan focuses not only on planning and protecting open spaces, but also on restoring and maintaining them so as to ensure that they will retain their ecological and recreational qualities in perpetuity. *Linking Landscapes* includes several elements that are designed specifically to assist municipalities in their local planning efforts. The Plan also provides guidance on open space protection techniques, trail planning and development, protection of sensitive resources, municipal park planning, and many other open space and resource protection related topics. This Comprehensive Plan supports *Linking Landscapes* and the development of a system of greenways throughout the Township. (See: **Chapter 12, Natural Resources Protection Plan**, for a thorough discussion on trails and *Linking Landscapes*.) New Garden's land use plan is consistent with the vision, goals, and objectives of *Linking Landscapes*.

Watersheds: An Integrated Water Resources Management Plan for Chester County, Pennsylvania and Its Watersheds, (2002)

Watersheds serves as a functional element of the County's policy plan. The purpose of the Plan is to assist local governments and other entities in more effectively integrating water resources and land use decisions. It provides scientifically sound goals, objectives, and strategies for accommodating existing land uses and planned growth while maintaining the integrity of Chester County's watershed resources. The Plan includes extensive background information to provide a better understanding of how watersheds work and the current state of water related issues in the County and municipalities. Most importantly for New Garden, the Plan includes numerous implementation strategies for municipalities to more effectively protect and manage water resources while accommodating planned growth. New Garden's land use plan is consistent with the goals and objectives of *Watersheds*. (See: **Chapter 12, Natural Resources Protection Plan**, for a thorough discussion on water resources and *Watersheds*.)

Kennett Area Regional Comprehensive Plan, 2000

The Kennett Area Regional Planning Commission (KARPC) Regional Comprehensive Plan (Plan) was a collaborative effort of the Municipalities of Kennett Square Borough and East Marlborough, Kennett, Pennsbury, and Pocopson Township; and was approved by KARPC in 2000. The Plan contains inventories, goals, policies, and strategies for natural resources, transportation, housing, community facilities and services, economic development, and land use. The Plan addressed the preservation of environmental resources, outlined protection measures, described the resources, and presented recommendations to address the goals and objectives. The Plan pointed to the need for significant resources to be protected at the regional level through a regional approach. Important resources are rarely contained exclusively within one municipal boundary. For example, another municipality could not fully protect and preserve stream quality when a municipality upstream had less restrictive conservation regulations. Regional cooperation was needed to truly protect and preserve environmental resources. The recommendations presented in the Plan needed to be accepted at a regional level and then adopted by each individual municipality. Though inactive in the KARPC at the time the Plan was completed, New Garden has resumed participation and agrees with the fundamentals of the Regional Plan. The KARPC serves as the coordinating agency and monitors implementation. Recommendations for protecting the resources are found within the Plan. The Plan reinforced a key goal addressed in all chapters, which was to promote a positive perception of the Region. New Garden's land use plan embraces the vision, goals, and objectives of the *Kennett Area Region Comprehensive Plan*.

ACCOMMODATION OF FUTURE GROWTH

In developing these land use recommendations, New Garden must consider whether future population growth can realistically be accommodated within the land use areas the Township has designated for growth, (as described above). In addition, the Township must address whether or not the Township meets its fair share obligation to provide for multi-family¹ housing. The estimate of potential future development is determined based on **Map 16-1, Land Use Plan**, and the accompanying description of each land use category.

The municipal fair share obligation outlines the responsibility of the Township to provide a reasonable opportunity for the development of varied housing forms. Zoning provisions that permit multi-family units along with single, twin, and other-attached units, are a necessary part of fulfilling the Township's "fair share" housing obligations. The fair share obligation extends beyond simply allowing for such housing forms, adequate land must be zoned for these uses as well. To estimate the Township's fair share of various housing forms, an analysis must be performed that consists of applying the three "tiers" from the *Surrick V. Upper Providence Township* 776 Pa. 182A2d 105 (1977) court case to local conditions and using the results to assess the adequacy of the land areas and locations designated for different housing types. The test consists of three questions or tiers, each intended to be applied individually at the municipal level. They are:

- Tier 1 Is the municipality a logical area for population growth and development? (i.e., Is it in the path of growth?)
- Tier 2 Is the municipality a developed or developing community?
- Tier 3 Is the amount of land zoned/available for multi-family development disproportionately small, in relation to population growth pressure and present level of development?

The analysis below will apply a similar test applied to the Land Use Plan to determine if it will enable the Township to meet its fair share obligation in the future. Instead of analyzing the Township Zoning Ordinance, the analysis will take into account each of the Land Use Plan categories, the types of uses, and approximate densities, particularly where multi-family housing is intended to be located in the future.

Tier One: Is the Township in the Path of Growth?

The first tier of *Surrick's* fair share test asks if a community is a logical area for population growth and development. Whether a municipality is in the "path of growth and development" is an objective determination. To make this determination, information for New Garden, as well as the adjacent municipalities, has been included for comparison. (See **Chapter 2, Demographics**, for more information)

Population Projections: In terms of location, development history, and growth patterns, New Garden is in the path of growth. According to the 2000 US Census, from 1990-2000 within the Kennett region, New Garden grew by 67.3 percent (118.7 percent since 1970); Kennett Township had 39.5 percent and Franklin Township 38.5 percent growth. Population projections for 2000-2020, show a 50.9 percent increase for New Garden (third highest including the adjacent municipalities), Franklin had the largest percentage increase with 58.2 percent. Clearly, population increases are projected for New Garden and the surrounding communities.

¹ Please note that in the context of the fair share analysis, the term "multi-family" means any housing type of three (3) or more dwelling units, including, but not limited to; single family attached homes/townhouses, quadrplexes and apartments as defined by the Township Zoning Ordinance.

Housing Units: In 2000, New Garden had a well distributed housing stock that totaled 2,831 units. From 2000 to 2002, 338 dwelling units were proposed for construction in the Township. Within the region, according to Act 247 referrals to the Chester County Planning Commission for 2000 to January 2003, all of the adjacent municipalities had increases in the number of dwelling units, indicating that new residential development is happening within and around New Garden.

Projected Housing Need: According to population projections in **Chapter 2**, New Garden is projected to have a population of 13,710 residents by 2020. Theoretically, the Township will need an additional 1,464 housing units to meet the projected population. Therefore, new housing will need to be accommodated; whether through new construction, rehabilitation or reconstruction of uninhabited buildings, or conversion of non-residential uses to residential.

Developable Lands/Location: Approximately 3,537 acres or thirty-four percent of the land within New Garden can still potentially be developed. In terms of location, the Township is accessible from several major roadways; regionally by US Route 1 and Route 41, and Baltimore Pike; and sub-regionally by Newark Road and Limestone Road.

Conclusion: Based on an analysis of the available data and information above, it is clear that New Garden could be considered in the "path of growth". The Township is continuing to experience development and is surrounded by communities that are and will continue to experience growth and development. The remaining question is whether New Garden and this Plan provide for a reasonable mix of housing types.

Tier Two: Is the Township a Developed or Developing Community?

The second tier of *Surrick's* fair share test requires a determination of the extent of developed land in the Township. There are several key factors that help with that inquiry and determine the level of development:

- **Developable Land, by Land Use Plan Category.** The percentage of remaining undeveloped land, which shows approximately how "built out" a community is.
- **Potential Future Development by Land Use Category.** The percentage of potential housing units available for multi-family units per the Land Use Plan.
- **Land Available for Multi-Family Units.** The amount of land available for the development of multi-family units as a percentage of lands within the Land Use Plan.

Developable Land by Land Use Plan Category

To develop a conclusion, it is necessary to determine the amount of developable land remaining in the Township.

Developable, Developed, Constrained, and Protected Lands.

To determine the amount of developable land by future land use category, it is necessary to subtract constrained, protected lands, and developed lands from the total lands in each future land use category. It is also important for the following calculations to know which land use designations permit multi-family units.

- a. **Acres of Natural - Constraints** - One hundred year floodplain, slopes of 25% or greater, wetlands/hydric soils, and streams and ponds.
- b. **Protected Lands** - Eased lands/trusts, home owners association lands, public parkland.

- c. **Developed Lands** - Existing development and approved subdivisions, single family residential (4 acres or less), commercial, industrial, roads/road rights-of-way, and other developed land.
- d. **Developable Lands** - Unprotected agricultural areas, undeveloped areas, selected single family residential lots of 4+ acres².

Figure 16-2 shows the data for these items by Future Land Use category:

Figure 16-2: Developable and Constrained Lands by Future Land Use Category, 2004

| Future Land Use Category | Constrained and Protected Lands (acres) | Developed Lands (acres) | Developable Lands (acres) | Total Lands in Category (acres) | Percent of Total Developable Land in Township |
|-------------------------------------|---|-------------------------|---------------------------|---------------------------------|---|
| Resource Conservation Areas: | | | | | |
| Resource Protection | 682 | 491 | 1,197 | 2,370 | 34% |
| Site Sensitive Design | 531 | 2,090 | 1,283 | 3,904 | 36% |
| Growth Areas: | | | | | |
| Suburban Residential | 340 | 1,632 | 332 | 2,304 | 9% |
| Village | 44 | 184 | 129 | 357 | 4% |
| Economic Development | 95 | 482 | 147 | 724 | 4% |
| Rural Center | 9 | 236 | 127 | 372 | 4% |
| Business Park | 24 | 47 | 322 | 393 | 9% |
| Totals | 1,725 | 5,162 | 3,537 | 10,424 | 100% |

Source: Chester County Planning Commission, 2004

Multi-family units permitted

Conclusion: The total amount of developable land in New Garden is 3,537 acres, approximately 34% of the total area of the Township; conversely, the Township is 50 percent developed with the remaining land being constrained or protected. Due to the amount of developable land remaining, the Township is still considered a developing community (Case law suggests that until a community is 95 percent built out, it is considered a developing community). Because the Township is still developing, it is required to accommodate additional housing units, including multi-family housing units.

Potential Future Development by Land Use Category

Number of Units Needed to Accommodate Projected Population (Projected Units).

Another important determination in the fair share analysis is the number of future dwelling units needed to accommodate projected population between 2000 and 2020. This number is calculated by dividing the projected population increase (projected year 2020 population of 13,710 – year 2000 population of 9,083 = increase of 4,627) by the average household size for the Township (3.16 average household size based on 2000 Census data). Based on this calculation, an additional **1,464 housing units** will be needed to accommodate the expected population growth to the year 2020.

² This category includes parcels of four acres or greater with one single-family home. These existing houses have been taken into account when determining the potential new residential units in Figure 16-3.

Population Increase divided by Household Size = 4,627 / 3.16 = 1,464 additional housing units

Number of Multiple Family Units to be Accommodated

Once the total number of anticipated housing units is determined, the next important question is, how many of the units should be multi-family? A review of Pennsylvania case law indicates, to fall within fair share parameters, at least 15 percent of projected housing needs should potentially consist of other than single family detached units. In the case of the Township, of the approximately 1,464 total housing units needed to accommodate the projected population to the year 2020, the Township should allow for a minimum of **220 multi-family units**.

1,464 projected housing units x 0.15 = 220 needed multi-family units

Number of Units at Build-Out

Figure 16-3 shows the build-out numbers calculated for this Land Use Plan. The developable lands acreage is taken from **Figure 16-2**.

Figure 16-3: Potential Development by Future Land Use Category

| Future Land Use Category | Approximate Density or Building Coverage** | Developable Lands (acres) | Less 15% Infrastructure (acres) | Potential Development (DU or SF) |
|-------------------------------------|--|---------------------------|---------------------------------|------------------------------------|
| Resource Conservation Areas: | | | | |
| Resource Protection | 0.5 DU/acre | 1,197 | 1,017 | 509 DUs |
| Site Sensitive Design | 50% open space + 1.0 DU/acre | 1,283 | (+less 50%*) 546 | 546 DUs |
| Growth Areas: | | | | |
| <i>Suburban Residential</i> | <i>1.0 DU/acre</i> | <i>332</i> | <i>282</i> | <i>282 DUs</i> |
| <i>Village</i> | <i>8.0 DU/acre</i> | <i>129</i> | <i>110</i> | <i>880 DUs</i> |
| Economic Development | 30% building coverage** | 147 | 125 | 1,633,500 SF |
| Rural Center | 30% building coverage** | 127 | 108 | 1,411,344 SF |
| Business Park | 30% building coverage** | 322 | 274 | 3,580,632 SF |
| Totals | | 3,537 | | 2,217 DUs+ 6,625,476 SF |

Source: Chester County Planning Commission, 2004

Multi-family units permitted

*Open Space

**Building coverage applies to non-residential uses only.

Once it is determined how many total and multi-family units are needed to accommodate future population growth, it is necessary to complete a build-out analysis to see if the Township can accommodate the number of units when fully developed. Using the data in **Figure 16-3**, there is a potential for **2,217 new residential units** to be built in the Township. In comparison, there are approximately 2,831 existing units³ in the Township as of 2000.

³ U.S. Census, 2000.

Proper planning principals point toward fifteen to twenty percent of all housing units should potentially consist of multi-family units. The future land use categories that permit multi-family housing in the Township include Suburban Residential and Village. Based on the data in **Figure 16-3**, there is a potential for approximately **1,162 multi-family units** to be built in those categories.

1: Formula: Total Potential Units ÷ Potential Multi-Family Units = Percentage of Potential Multi-Family Unit

1,162 ÷ 2,217 = 52% of potential units in 2020 may potentially be multi-family units

2: Formula: [Total Units (2000) + Total Potential Units (2020)] ÷ [Multi-Family Units (2000) + Potential Multi-Family Units(2020)] = Percentage of Multi-Family Units at Build-Out.

(426+1,162) ÷ (2,831 + 2,217) = 31% of all units in 2020 may potentially be multi-family units

Conclusion: The calculations above show that 52 percent of potential units and 31 percent of all units in 2020 per the Land Use Plan may consist of multi-family units. This exceeds the 15-20 percent threshold, and therefore the Land Use Plan meets the requirement of the fair share test.

Land Available for Multi-Family Units

The final factor in analyzing the present level of development is the amount of land available for multi-family units. The courts have not specifically defined the term “available” as used in *Surrick*. While the courts may have assumed a general definition of the word, and intended it to mean developable land only, the cases include discussions on total lands. Therefore, for calculation purposes, it is unclear from the cases what constitutes “available.”

The methods below show two possible approaches for determining how much land is available for multi-family development, progressing from the most conservative (developable land only) to the least conservative approach (total lands). These approaches are based on review and interpretation of the fair share case law. The “Developable Lands” approach is most relevant in rural and less developed suburban areas where there is little existing multi-family development.

Available Land may be defined as follows:

- “Developable Lands” - This category includes only developable lands; i.e., those lands that have not already been developed and that are not protected or constrained. (the most conservative approach)
- “Total Lands” - This category includes all lands designated for multi-family uses, including developed, developable, constrained, and protected lands. (the least conservative approach)

Recommended Thresholds:

While the case law does not prescribe a set percentage of land for multi-family use, when using the most conservative approach, the percentage of land designated for multi-family uses should ideally equal at least 5 percent and no less than 4 percent. In the case of the less conservative approach, it is recommended that at least 7 percent of the land be designated for multi-family uses.

Developable Land Options.

Option A - “Developable Lands” - Percentage of developable land designated or zoned for multi-family use. (Data from **Figure 16-3**)

Formula: (MF developable land ÷ All developable land) x 100 = Percentage of Developable MF Land.

(461 acres ÷ 3,537 acres of developable land) x 100 = 13% of developable land is available for multi-family development.

Option B - “Developable Residential Lands” - Percentage of developable residential land designated or zoned for multi-family use. (Data from **Figure 16-3**)

Formula: (MF developable land ÷ All developable residential land) x 100 = Percentage of Residential Land Available for Multi-Family Uses.

(461 acres ÷ 2,941 acres of developable residential land) x 100 = 16% of developable residential land is available for multi-family development.

Conclusion: Under all the options above, the Township meets the recommended 5 percent of land designated for multi-family housing. At 13 percent, the percentage of developable land for multi-family housing is above the recommended 5 percent threshold.

“Total Lands” - Percentage of all land designated or zoned for multi-family use, whether developed, constrained, or protected. (Data from **Figure 16-2**)

(Multi-family land ÷ All land) x 100 = Percentage of All Multi-Family Designated Land.

(2,661 acres ÷ 10,424 acres) x 100 = 26% of all land is available for multi-family development.

Conclusion: While the courts have not set a bright line as to how much land must be designated for multi-family uses, the Township exceeds the recommended 7 percent when total lands is calculated.

As development occurs in the Township, the “developable” acreage will go down and the percentage of land available for multi-family will decrease. If development trends continue the way they have with single-family detached being the primary type of residential housing built, this will lower the percentage of land available for multi-family uses, as well as lower the ratio of multi-family to single family housing stock. Therefore, (as these issues are pertinent to any option under B), the Township should continue to monitor its fair share obligations over time.

Figure 16-4: Summary of Results

| Accommodation of Projected Population Growth: | | |
|---|------------------------|-------------------------|
| New housing units needed to accommodate projected population growth to 2020. | 1,464 units | |
| Estimated number of new units needed to meet current fair share obligations. | 220 units | |
| Accommodation of Multi-Family Fair Share Obligations: | | |
| Potential additional housing units of all types under the future land use categories at build-out. | 2,217 units | |
| Number of new units (of all types) possible future land use categories which permit multi-family housing. | Recommended 15%-20% | 1,162 units (31%) |
| Percentage of Land Available for Multi-Family Units: | Recommended | Actual |
| Developable Lands | 5% | 13% |
| Developable Residential Lands | 5% | 16% |
| Total Lands | 7% | 26% |

Source: Chester County Planning Commission, 2004.

Tier Three: Is the amount of land zoned/available for multi-family development disproportionately small, in relation to population growth pressure and present level of development?

The third tier of the fair share analysis is to determine the extent, if any, of the exclusion of multi-family housing in the Township. It is a balancing test, in essence, to determine if the amount of land designated for multi-family development is disproportionately small, in relation to population growth pressure and present level of development. To do so, it is necessary to consider the percentage of Township land available under the future land use categories for multi-family units in light of the current population growth pressure within the Township, and the total amount of undeveloped land in the community.

As explained above, New Garden is obligated to allow for all housing types, including apartments, townhouses, and twins. The Township provides for all forms of housing, and is not exclusionary of any housing type mandated by the Municipalities Planning Code. Because no housing type is totally excluded it is necessary to assess whether or not the Township has designated a reasonable percentage of land available under the future land use categories for multi-family units.

The first two tiers of the three-tier fair share test, described above, indicate that the Township is a logical area for development and population growth and that there is additional opportunity for development (it is approximately 50 percent developed). The data in the tier two analysis demonstrates that the Township, by future land use category, can provide enough housing units, both total and multi-family, to meet the projected population needs. In addition, the Township provides approximately 13 percent of all of its developable lands, as well as 26 percent of its total land, for multi-family development. The Township remains semi-rural in nature, and through planning measures the Township is taking steps to protect its remaining open lands and aesthetic qualities. In spite of this, the Township provides a reasonable amount of developable land for multi-family development.

Because New Garden is approximately 50 percent developed, the Township should continue to monitor the amount of total land available, as well as developable land available, as development continues. If the current development trends of one to two acre lots for single-family dwelling units continue, the amount of land available for multi-family development will certainly decrease, and the “developable” land percentages could drop below the recommended 5 percent. To maintain its remaining rural character, yet meet its fair share obligation, it is essential that the Township continue to provide land for multi-family units and otherwise tightly confine the Growth Areas targeted for further development.