

**TOWN COUNCIL OF CENTREVILLE
ORDINANCE 02-2015**

**AN ORDINANCE OF THE TOWN COUNCIL OF CENTREVILLE GRANTING THE
APPLICATION OF CHESTERFIELD, LLC FOR GROWTH ALLOCATION UNDER
THE PROVISIONS OF THE CENTREVILLE TOWN CODE**

WHEREAS, the Town Council has the authority under Section 5-213 of the Local Government Article of the Annotated Code of Maryland to adopt zoning regulations;

WHEREAS, the Town Council of Centreville has adopted a zoning ordinance, which is Chapter 170 of the Centreville Town Code;

WHEREAS, § 170-31.7 of the Centreville Town Code authorizes the Centreville Town Council to consider and to grant applications for growth allocation;

WHEREAS, Chesterfield, LLC¹ (the “Applicant”) is the owner of a parcel of land consisting of 46.869 acres of land located at 408 Chesterfield Avenue in the Town of Centreville, described as Parcel 1288 in Queen Anne’s County Tax Map 351 (the “Property”);

WHEREAS, the Applicant has applied to the Town Council for growth allocation to subdivide the Property and to approve applying 40.372 acres of the Town’s existing growth allocation to the Property to reclassify a portion of the Property from a Limited Development Area (“LDA”) to an Intensely Developed Area (“IDA”);

WHEREAS, the Property and the plans for the development of the Property (the “Development Plans”) are shown in detail on a Concept Site Plan entitled, “CENTREVILLE TND ~ CARTER FARM – CHESTERFIELD ~ CENTREVILLE, MD 21617” originally dated January 16, 2014 and revised through December 30, 2014, prepared by GPS Designs. (A copy of the Development Plans are attached as Exhibit “A” to this Ordinance;

WHEREAS, the Town Council received from the Centreville Planning and Zoning Commission a favorable recommendation on the growth allocation request;

WHEREAS, the Town Council and the Centreville Planning and Zoning Commission held hearings to receive public comment on the growth allocation request; and

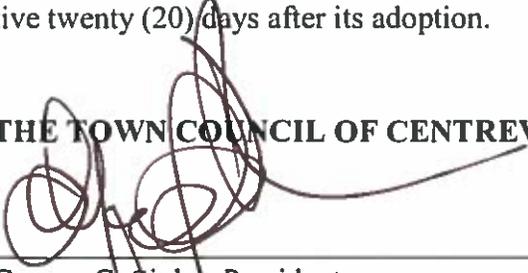
¹ The Applicant was originally Joe Downey, individually. At the time of application, he was the contract purchaser for the Property. During the growth allocation process, he acquired the Property and took title to it in the name of Chesterfield, LLC.

WHEREAS, for the reasons expressed in the findings of fact of the Town Council of Centreville which are attached to this Ordinance as Exhibit "B", the Town Council concludes that the request for growth allocation should be granted.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of Centreville:

1. The Development Plans attached hereto as Exhibit "A" and the Findings of Fact attached hereto as Exhibit "B" are hereby incorporated into this Ordinance by reference.
2. The application of Chesterfield, LLC for 40.372 acres of growth allocation is approved subject to the conditions set out in the findings of fact which are attached hereto as Exhibit "B".
3. This Ordinance shall become effective twenty (20) days after its adoption.

THE TOWN COUNCIL OF CENTREVILLE



George G. Sigler, President



Timothy E. McCluskey, Vice President

ATTEST:



Carolyn M. Brinkley, Town Clerk



Jim A. Beauchamp, Member

First Reading April 2, 2015
Public Hearing April 16, 2015
Second Reading April 16, 2015
Effective May 7, 2015

EXHIBIT "A"

A Concept Site Plan entitled, "CENTREVILLE TND ~ CARTER FARM – CHESTERFIELD ~ CENTREVILLE, MD 21617" originally dated January 16, 2014 and revised through December 30, 2014, prepared by GPS Designs.

COPIES ARE ON FILE AT THE TOWN OFFICE

EXHIBIT B TO ORDINANCE 02-2015

IN THE MATTER OF : BEFORE THE
THE APPLICATION OF : CENTREVILLE TOWN COUNCIL
CHESTERFIELD, LLC :

FINDINGS OF FACT

At meeting of the Centreville Town Council held on February 19, 2015, a public hearing was held on the application of Chesterfield, LLC¹ (the “Applicant”) for an award of growth allocation to convert 40.372 acres of the Carter Farm – Chesterfield property, (the “Subject Property” or the “Property”) from a Limited Development Area (“LDA”) to an Intensely Developed Area (IDA).

The Subject Property is a 46.869± acre parcel of land located on the northeast side of Chesterfield Avenue and on the southwest bank of Yellow Bank Stream in the Town of Centreville, described as Parcel 1288 on Queen Anne’s County Tax Map Number 35I. The Subject Property is more particularly shown on a Concept Site Plan entitled, “CENTREVILLE TND ~ CARTER FARM – CHESTERFIELD ~ CENTREVILLE, MD 21617” originally dated January 16, 2014 and revised through December 30, 2014, prepared by GPS Designs, which was introduced as an exhibit in the hearing on this matter and is Exhibit “A” to Ordinance 02-2015.

The Property was recently zoned Traditional Neighborhood Development (“TND”) under the Centreville Zoning Ordinance. The Property is located in the Chesapeake Bay Critical Area and, as such, is subject to the Town’s Chesapeake Bay Critical Area overlay zoning regulations.

The Applicant proposes to subdivide the Property into 139 lots, one of which is the existing house. For the remaining 138 lots, the Applicant proposes 138 residential units consisting of 94 single family homes on a variety of estate lots, family lots, carriage lots, and cottage lots, and 44 townhouse units. The development would be a TND containing alleys, grid pattern streets, buildings oriented toward the street, with an emphasis on pedestrians and with significant village greens, open spaces, and pedestrian trails. The development would include not more than 139 units in the form of single family residential lots and townhouses. The specific details of the proposed development are set forth on the Concept Plan and associated plans, which were admitted as exhibits at the hearing on this matter.

The Applicant is the owner and developer of the Property.

¹ The Applicant was originally Joe Downey, individually. At the time of application, he was the contract purchaser for the Property. During the growth allocation process, he acquired the Property and took title to it in the name of Chesterfield, LLC.

II. The Growth Allocation Application

A. Background

As a political subdivision exercising land use controls over land located within 1000 feet of tidal waters of the Chesapeake Bay or its tributaries, the Town is required by the State of Maryland to administer regulations limiting the use and development of such land; these regulations are known under the rubric of the “Chesapeake Bay Critical Area Regulations.” The Town’s Critical Area regulations are found in Article IIIA of the Town Zoning Ordinance. Among other things, the Town’s Critical Area regulations impose an additional zoning classification (the “Critical Area Overlay District” or “CAOD”) on all properties located within the Town which lie within 1000 feet of tidal waters of the Bay or its tributaries. The Property is currently classified as an LDA. The Applicant is seeking to reclassify a portion of the Property¹ from LDA to IDA, to permit the proposed development. Specifically, the Applicant is requesting to convert 40.372 acres of the Property, which is the Town portion of the Property that is not in tidal wetlands, from LDA to IDA.

The growth allocation award process is as follows: the application is first reviewed by the Planning Commission and the State Critical Area Commission technical staff. The Town Planning Commission holds a public hearing and makes recommendations to the Town Council. The Town Council then holds a public hearing on the matter, considers the comments made to it, and decides to grant or deny the application. If approved, the application must then be submitted to the State Critical Area Commission for approval.

At this point, the application has received favorable recommendations from both the Critical Area Commission staff and the Town’s Planning Commission.

B. Centreville Zoning Ordinance Guidelines for Growth Allocation

Section 170-31.7.C of the Town Code includes Guidelines for locating new IDAs.

(1) New intensely developed areas should be located in limited development areas or adjacent to existing intensely developed areas.

The Property is currently a limited development area, and is adjacent to existing intensely developed areas to the east and west.

¹ The Property is actually 46.869 acres, but a small portion of the Property lies outside of the Town boundaries. The Town portion of the Property is 44.757 acres.

(2) New limited development areas should be located adjacent to existing limited development areas or intensely developed areas.

This provision is not applicable to this request.

(3) New intensely developed areas (IDAs) shall be at least 20 acres in size unless:

- (a) They are contiguous to an existing IDA or LDA; or***
- (b) They are a grandfathered commercial or industrial use which existed as of the date of the original program approval. The amount of growth allocation deducted shall be the equivalent of the area of the entire parcel or parcels subject to the growth allocation request.***

The Property is 46.869 acres and the area for growth allocation conversion to IDA is 40.372 acres.

(4) New intensely developed areas and limited development areas should be located in order to minimize impacts to habitat protection areas as specified in this article (§§ 170-20 through 170-24) and in an area and manner that optimizes benefits to water quality;

The Maryland Department of Natural Resources Wildlife Heritage Service has determined that there are no State or Federal records for rare, threatened or endangered species within the boundaries of the Property. No impacts are proposed to any Habitat Protection Areas on the Property. The open water that are adjacent to or part of the site are known historic waterfowl concentration areas. The Wildlife Heritage Service should be contacted prior to construction of the recreational pier.

A concept stormwater management plan and report were submitted with the application that addresses the Critical Area 10 Percent Rule requirements and calls for a variety of Environmental Site Design (ESD) features to the Maximum Extent Practical (MEP) to optimize the benefits to water quality. Engineering and construction plans for stormwater management and a complete stormwater management report will be reviewed and approved by the Town, County and Critical Area staff as a condition of final development approval

(5) New intensely developed areas should be located where they minimize their impacts to the defined land uses of the resource conservation areas (§ 170-31.6);

This provision is not applicable to this request because it is not a resource conservation area, nor does it have any direct impact on any other resource conservation area.

(6) New intensely developed areas and limited development areas in the resource conservation area should be located at least 300 feet beyond the landward edge of tidal wetlands and tidal waters.

This standard is not applicable to this request.

(7) New intensely developed or limited development areas to be located in resource conservation areas shall conform to the Town program for such areas, shall be so designated on the Town Zoning Map and shall constitute an amendment to this program subject to review and approval by the Town Planning and Zoning Commission, the Town Council and the Critical Area Commission.

This standard is not applicable to this request.

*C. Application of the COMAR Requirements
to this Application.*

The Critical Area Commission has established requirements for awarding growth allocation. See Code of Maryland Regulations (“COMAR”) 27.01.02.06-3. The Town’s standards set forth in the Zoning Ordinance and discussed above are almost identical to COMAR 27.01.02.06-3.E. Specifically, the extent to which the application meets the requirements of (1)-(4) of COMAR 27.01.02.06-3.E are all addressed above. The only requirement not addressed above is COMAR 27.01.02.06-3.E(5) which states:

(5) For a growth allocation application for a residential subdivision, comply with the requirements and procedures under Environment Article, § 9-206, Annotated Code of Maryland, and Land Use Article, Title 1, Subtitle 5, and § 5-104, Annotated Code of Maryland.

This application complies with the Sustainable Growth & Agricultural Preservation Act of 2012, which is codified in part in Environment Article, § 9-206, Annotated Code of Maryland, and Land Use Article, Title 1, Subtitle 5, and § 5-104, Annotated Code of Maryland. Although the Town of Centreville has not adopted a growth tier map, the Property is in a designated growth area and is designated as an S-1 sewer service area, for service by public sewer system, which complies with the Act requirements.

D. Compliance with Town of Centreville Community Plan

Although not a specific finding required by the Town Council, consistency with the Town of Centreville Community Plan 2009 (the “Community Plan”) will be a factor to be considered by the Critical Area Commission and is always an appropriate consideration of the Town Council.

This application is consistent with and furthers the following objectives of the Land Use chapter of the Community Plan:

1. Promote a land use pattern both within the existing Town and beyond current boundaries into future growth areas that is consistent with a traditional small town. Recognize the need to preserve historic elements and economic vitality of the Town by linking the Town center to surrounding areas with an efficient system of roads, pedestrian walkways, community open space, and public utilities. (p. 4-1)

2. Encourage quality development and redevelopment of vacant or substandard properties within the Town through the use of design standards, adequate building codes, and coordination with the development community. Create incentives to encourage developers to rehabilitate existing buildings and build new buildings in keeping with the architectural style, desired features, and pattern of the existing Centreville Business District (CBD). (p. 4-2)

4. Ensure that future development and redevelopment within the Town and surrounding lands is consistent with the Land Use Concept in this Centreville Community Plan. (p. 4-2)

5. Ensure that future land use patterns are supported by transportation networks, utility systems, open space, and community facilities. (p. 4-2)

The Community Plan also directly addresses this Property and states:

“An example of a location where a TND form of development is appropriate is the historic Chesterfield property on Chesterfield Avenue. If developed, this parcel could provide a TND form of development that would relate to the surrounding community as well as the nearby Central Business District.

This property is the location of “Chesterfield,” the 17th century land grant from which Centreville was carved. The original house and remaining property are on the banks of the Yellow Bank Stream, which joins the Corsica River immediately to the west. The property around the historic site of Chesterfield provides a glimpse of the origins of Centreville. Approximately 43 gross acres of land make up the potential area, of which 26 acres are exclusive of the Chesterfield house and areas associated with Yellow Bank Stream. Any future development of the property presents a unique opportunity for replicating historic land patterns found within the Town of Centreville while preserving a special piece of Town history.” (p. 4-5).

The proposed development, together with the conditions attached hereto furthers the vision for the Property as articulated in the Community Plan.

E. Town Council Decision

It seems to the Town Council that there is no more logical place to apply growth allocation than in designated growth areas within the Town boundaries. Accommodating growth within the Town boundaries will minimize growth pressures in the more rural and environmentally sensitive parts of Queen Anne's County, much of which is designated RCA.

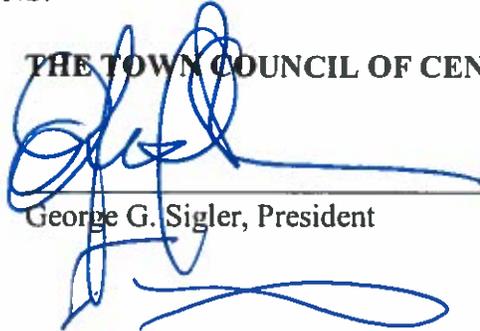
After carefully considering the evidence presented at the hearing, the Town Council finds that the application, together with the conditions imposed herein, complies with the guidelines set out by the Critical Area Commission, as well as the provisions for growth allocation contained in the Centreville Zoning Ordinance and hereby APPROVES the requested growth allocation to redesignate 40.372 acres from LDA to IDA.

The Town Council believes that it would be appropriate to condition the granting of the application upon the following condition:

The Owner and Developer shall enter into a Development Rights and Responsibilities Agreement (DRRA) that contains, at a minimum, the terms set forth on the attached Exhibit 1.

VOTING TO GRANT THE APPLICATIONS:

THE TOWN COUNCIL OF CENTREVILLE

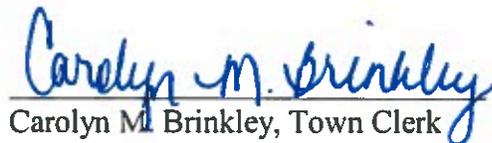


George G. Sigler, President



Timothy E. McCluskey, Vice President

ATTEST:



Carolyn M. Brinkley, Town Clerk

Jim A. Beauchamp, Member

EXHIBIT 1 TO FINDINGS OF FACT TERMS TO BE INCLUDED IN A DRRA

1. The total number of subdivided lots (exclusive of open space) shall not exceed 139 lots on the Subject Property. The Developer shall be entitled to no less than 130 lots on the Subject Property.
2. A payment of \$4,500.00 per lot shall be paid to the Town prior to or at the time of application for a building permit for each lot.
3. Subdivision and site plans shall be substantially similar to the Concept Site Plan presented to the Town Council entitled "Centreville (Carter Farm - Chesterfield) TND, Concept Site Plan", dated October 29, 2014 (the "Site Plan").
4. The Property shall contain significant amenities such as waterfront access, parks, pedestrian trails, and community recreational facilities. Attached to the DRRA shall be a schedule for completion of the amenities.
5. All community space shall be open to the general public, including but not limited to all conservation areas (to the extent public access does not conflict with environmental regulations), parks, playgrounds, community open space, sidewalks, roads (public and private), recreational equipment and facilities, pedestrian trails, piers, and other community lands, property, and amenities. The Critical Area buffer portion of the community space shall be deeded to the Town after construction and acceptance of the pedestrian trail over portions of it, at the Developer's sole cost and expense, and after completion of the following pier requirements. The Developer shall design and apply for all permits necessary to construct a community pier as shown on the Site Plan. The Developer shall use its best efforts to obtain the permits. If the appropriate permits are received for the pier, the Developer shall construct the pier, at its sole cost and expense, prior to deeding the Critical Area buffer portion of the community space to the Town. With the exception of the Critical Area buffer portion of the community space to be deeded to the Town in fee simple, the other areas of public access shall be memorialized in an easement granted to the Town in a form acceptable to the Town. All such community space shall be maintained initially by the Developer and ultimately by a home owners association ("HOA") created by the Developer. The Developer shall also create legal documents that bind the lots and establish the requirement for maintenance. The legal documents may establish reasonable rules and regulations for the use of the community space. The legal documents shall be in a form acceptable to the Town and shall provide that if the Developer/HOA fails to maintain the community space in a proper manner, then the Town shall have the right, but not the obligation, to undertake the maintenance at the sole cost, risk and expense of the Developer/HOA plus a penalty to be assessed against the Developer/HOA. The legal documents shall further provide that if the costs are unpaid within 30 days of a bill from the Town, then the unpaid amount shall be assessed against the property owners as a lien collectible in the same manner as real estate taxes. The HOA shall be required to remain active and the legal documents establishing the maintenance obligation shall not be modified without the express written consent of the Town.

6. The pedestrian trail to be built shall consist of a minimum 8 foot wide hard pack/pavement path, subject to all applicable environmental regulations. The pier to be built shall have, at a minimum, a wooden boardwalk/stairs to access the pier. Both the trail and the pier shall be open to the general public as provided in number 5 above, and both shall conform to the ADA requirements for property within the Critical Area.

7. The Property shall be governed by a comprehensive set of architectural guidelines, which shall include, but not be limited to, provisions requiring a mix of facades, colors, and fence types on each block to ensure visual diversity, and shall require the architecture to be “human scale”, of excellent design and to use high quality building materials. The Developer shall prepare a pattern book to provide detailed renderings of all proposed architectural models, including housing types and all community amenities. The architectural guidelines and pattern book shall incorporate the design concepts presented to the Planning Commission as part of the Sketch Plan approval and shall be subject to the approval of the Planning Commission.

8. HOA documents shall provide for an Architectural Review Committee to establish mechanisms and procedures for ensuring compliance with all site architecture guidelines and aesthetics. The Town may also enforce such architectural guidelines.

9. The existing house on the Property shall remain and be deed restricted to ensure that the entire external façade is perpetually maintained in substantially the same form as exists today. This building may be developed with any use permitted in the TND zoning district.

10. Protective covenants shall be established to protect the environmentally sensitive areas on the Property. Such covenants shall be subject to the review and approval of the Planning Commission and the Town Attorney. Areas with steep slopes shall be subject to a conservation easement to the Town or other agency approved by the Town and shall be in a form acceptable to the Town.

11. The Developer must conform to all laws, rules and regulations governing the Critical Area and its buffers as promulgated by the Town and/or the Critical Area Commission.

12. Best Management Practices such as environmental site design to the maximum extent practicable shall be used for stormwater management to guarantee at least 10% improved runoff quality from the current condition of the site. All stormwater management facilities shall be maintained initially by the Developer and ultimately by the HOA. Legal documents shall be created to set forth the terms of that obligation in accordance with the requirements for legal documents set forth in paragraph 5 and subject to the approval of the Town.

13. The Developer shall cooperate with the Town to apply for an impact fee credit from Queen Anne’s County for the portion of the impact fee related to parks and recreation. If successful, the developer shall allocate the entire portion of the credited fee to the Town for park capital improvements.

14. The Developer shall build the road stub next to the Board of Education property.

15. Pursuant to § 170-31.7.D(10) of the Town Code, all public improvements, such as roads, sewer and/or water facilities, etc. shall be built within 3 years of the date of growth allocation

approval. The Town Council will take all necessary steps to initiate legislation to change the date for the commencement of the 3 year period to the expiration of the 30 day appeal period on the approval of the site plan/subdivision plat or the start of any construction at the Property, whichever occurs first.

16. Any roads or other public improvements to be dedicated to the Town shall be maintained by the Developer until such time as the Town has determined that they are appropriate for acceptance by the Town. If the Developer fails to maintain the roads or other public improvements in a proper manner, then the Town shall have the right, but not the obligation, to undertake the maintenance, at the sole cost, risk and expense of the Developer, plus a penalty to be assessed against the Developer. If the costs are unpaid within 30 days of bill from the Town, then the unpaid amount shall be assessed against any property owned by the Developer as a lien collectible in the same manner as real estate taxes.

17. For the purposes of water and sewer allocations, such allocations shall be reserved by the Town for this development upon a payment of a 10% deposit. However, the actual allocation due for each lot shall be paid at the prevailing rate at the time of the hookup. All allocations shall be paid for within 15 years of the date of the approval of the site plan/subdivision plat or the reservation for the hook up shall lapse, and the deposit shall be forfeited.

18. All undeveloped lands outside of the Critical Area buffer including the lots shall be seeded with grass and regularly mowed until construction begins. All lots shall be reseeded and landscaped prior to the issuance of an occupancy permit for the lot. All lots shall have adequate and sufficient soil for establishing and growing grass.

19. As part of the site plan review process for this development, the plans shall be reviewed by the Town's public works department and the applicable emergency service departments to determine if the road widths and turning radiuses are sufficient for public works vehicles, trash trucks and emergency vehicles to navigate. In the event the plans are determined to be incompatible with public works vehicles, trash trucks, or emergency vehicles, then the offending streets shall be redesigned to be compatible. Any redesign of streets shall be subject to the review and approval of the Planning Commission.

20. If the Developer or HOA are considering irrigation for the common areas or open space areas, then they should investigate the possibility of using non-potable reclaimed water (purple pipes) for that purpose.

21. All reasonable and customary professional fees (including but not limited to planning, engineering, architectural, legal, etc.) incurred by the Town in any phase of this project shall be reimbursed by the Developer.

22. The DRRA shall have a term of 15 years or the expiration of the sewer allocation deposit provision in paragraph 16, whichever occurs later, with some of the provisions surviving the expiration of the DRRA.

23. There shall be no age restricted housing on the Property.