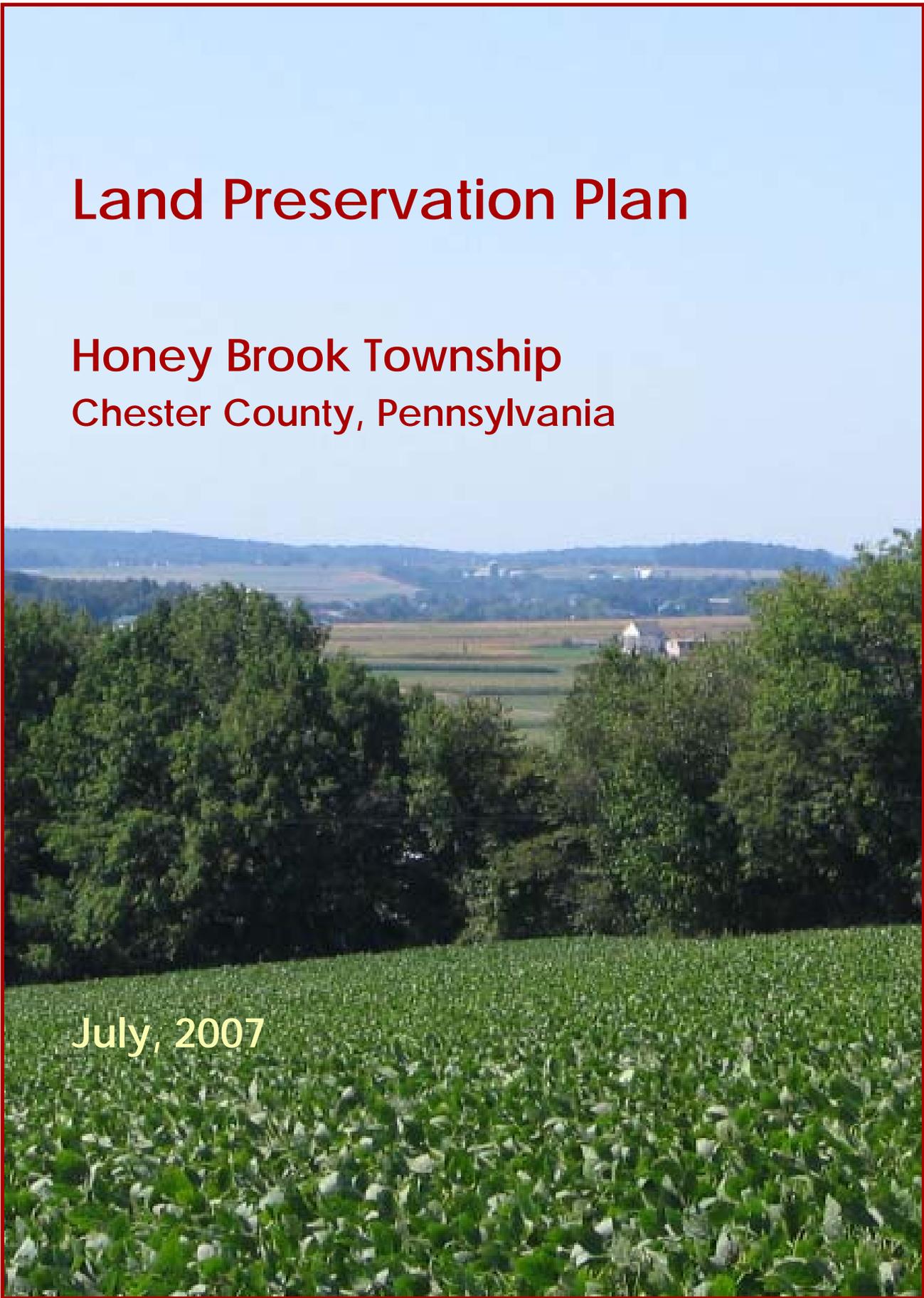


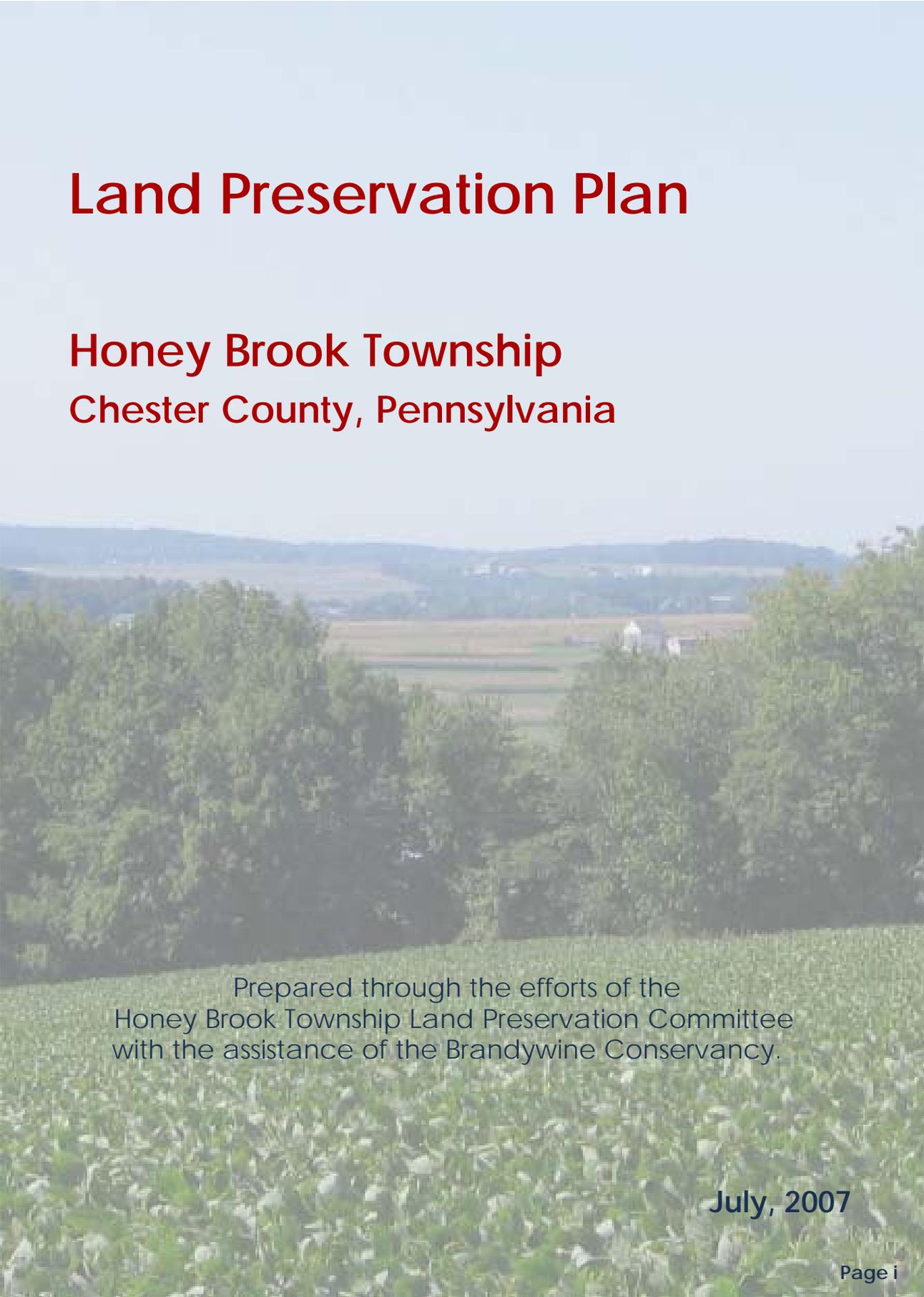
Land Preservation Plan

Honey Brook Township

Chester County, Pennsylvania

July, 2007



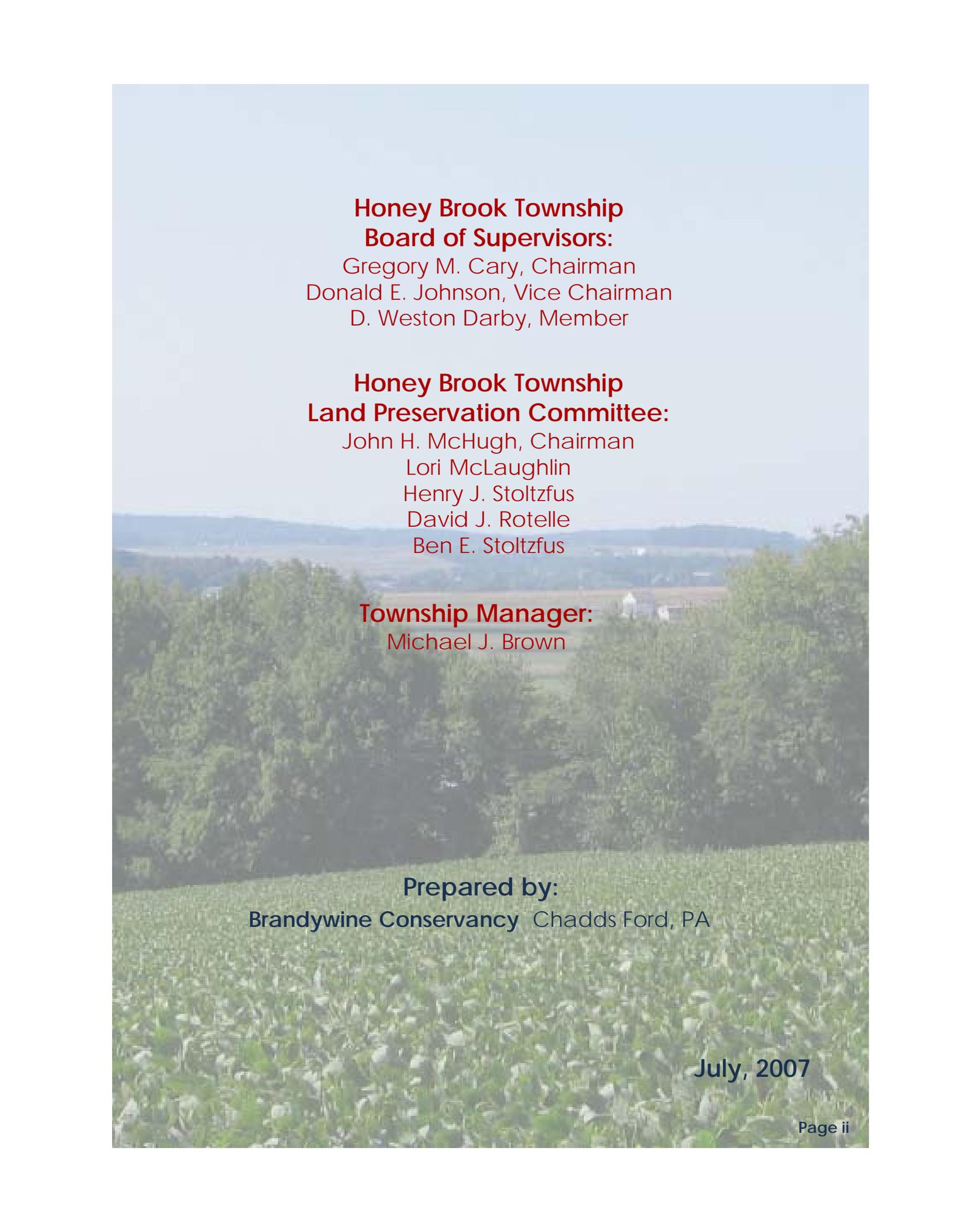


Land Preservation Plan

Honey Brook Township Chester County, Pennsylvania

Prepared through the efforts of the
Honey Brook Township Land Preservation Committee
with the assistance of the Brandywine Conservancy.

July, 2007



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July, 2007

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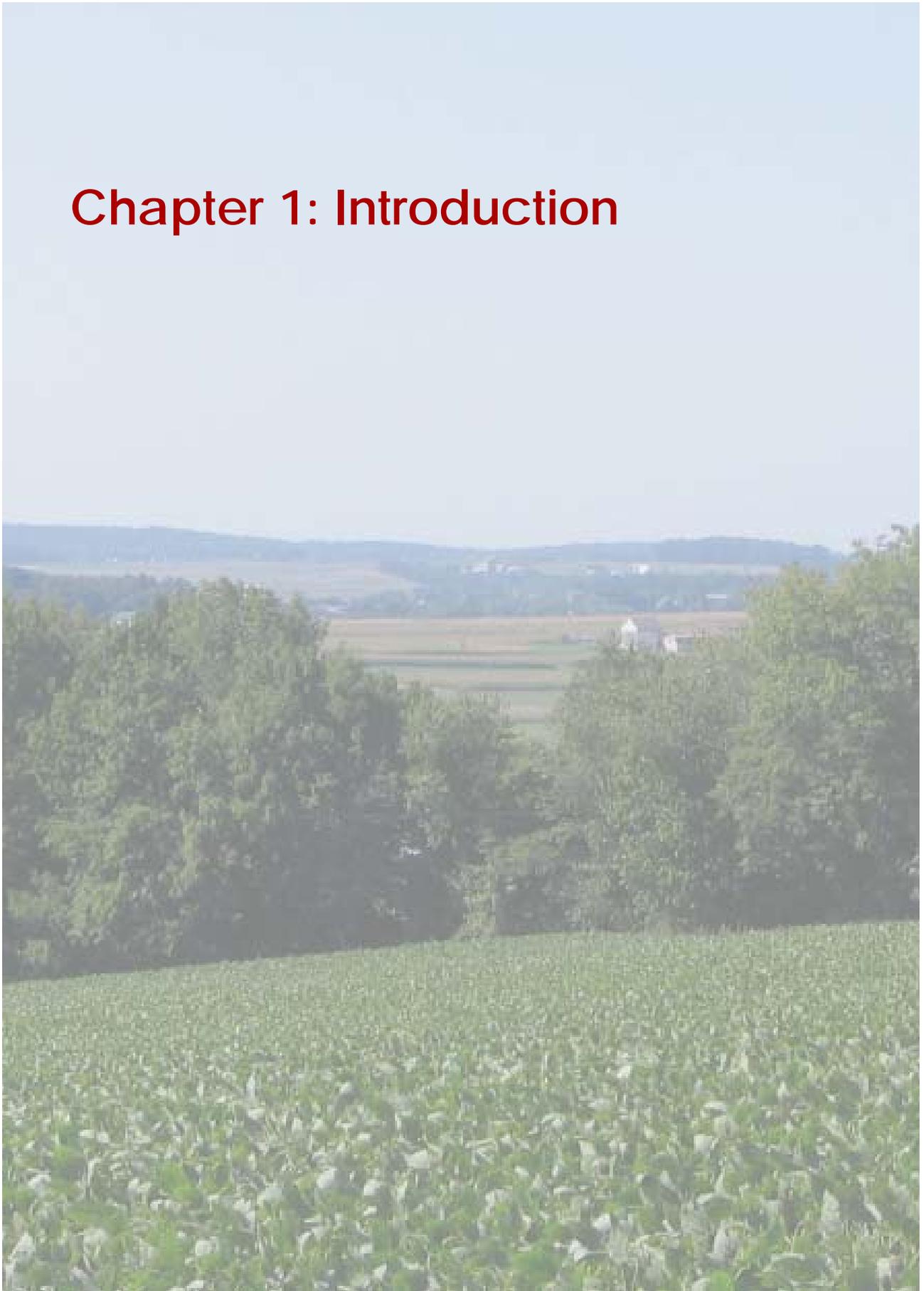
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Chapter 1: Introduction



Chapter 1: Introduction

A. Introduction

The heart and soul – the very identity – of Honey Brook Township lies in its open spaces and farmlands. Indeed, over two-thirds of all the land in the Township is still actively farmed, and close to 70% of all properties (fifty acres or greater in size) contain prime farmland soils on at least half the site. There is no doubt that Honey Brook farmers are making the most of their world-famous soils. Further, it takes only one drive through the Township to see that it is a countryside rich not only with fertile soils, but also with meandering streams, expanses of forest, and spectacular views.

Honey Brook residents care a great deal about the rural nature of their township, a fact best exemplified in the mission statement of their Board of Supervisors:

“The mission of the Board shall be to provide municipal services related to land use, police protection, and public works to maintain a community that supports a tranquil and rural way of life.”

Contrary to the desires of most Township residents, however, this rural way of life is under constant threat. As Chester County’s population has grown and development has pushed farther outward from the traditional suburban areas surrounding Philadelphia and Wilmington, these pressures have finally reached Honey Brook’s doorstep. (Between 1990 and 2000, 1,171 new residents moved into the Township; up to 4,000 additional new residents are expected by the year 2020.) Moreover, the Pennsylvania Municipalities Planning Code, the document that governs long-range planning throughout the state, requires that Honey Brook accommodate its “fair share” of this expected future growth.

Along with having to anticipate thousands of new residents over the next several decades, however, Honey Brook does have the power to direct how and where in the Township this future growth will occur. Furthermore, Honey Brook has the ability – by virtue of the Municipalities Planning Code – to protect its open spaces and farmlands, as long as enough land is provided elsewhere in the Township to accept anticipated growth.

B. The Land Preservation Plan as an Outgrowth of the Comprehensive Plan

In 2004, Honey Brook Township updated its comprehensive plan, and adopted (in December 2006) a document that charts a course for future land use, resource protection, and the provision of services to Township residents for the next 20 years.

The comprehensive plan was guided by a task force of Honey Brook residents who decided that the top priorities for the plan were to conserve farmland/open space and to focus the majority of future growth in a "rural village" (to be known as "Rocklyn Station") that will be located on the eastern edge of Honey Brook Township.

In an effort to put these major goals of the comprehensive plan into action, a number of projects were spawned, including a 2005 ballot initiative to collect additional taxes from Honey Brook residents, to be used for the permanent protection of farmland and open spaces within the Township. This "open space referendum", which was passed by Township residents and went into effect in 2006, immediately began generating revenues for the purchase of conservation easements and the protection of priority parcels within Honey Brook Township. (See Appendix A for Township ordinance pursuant to open space tax.)

Because each township that passes an open space referendum is required to assemble a citizen advisory group and put together an open space/land preservation plan, Honey Brook, in early 2006, convened a "Land Preservation Committee" that was tasked with the preparation of such a document. The Committee, which is composed of five members, has held monthly meetings and the result is this land preservation plan. The plan is to be used by the Township to determine which parcels are priorities for protection, how best to expend open space revenues, and how to implement other voluntary and regulatory approaches aimed toward the preservation of Honey Brook's unique agricultural and natural resources.

It is also important to point out that landowner participation in Township preservation efforts is strictly voluntary, and as a matter of policy the Township shall not coerce participation.

C. Consistency with the Goals, Mission, and Vision of the Board of Supervisors

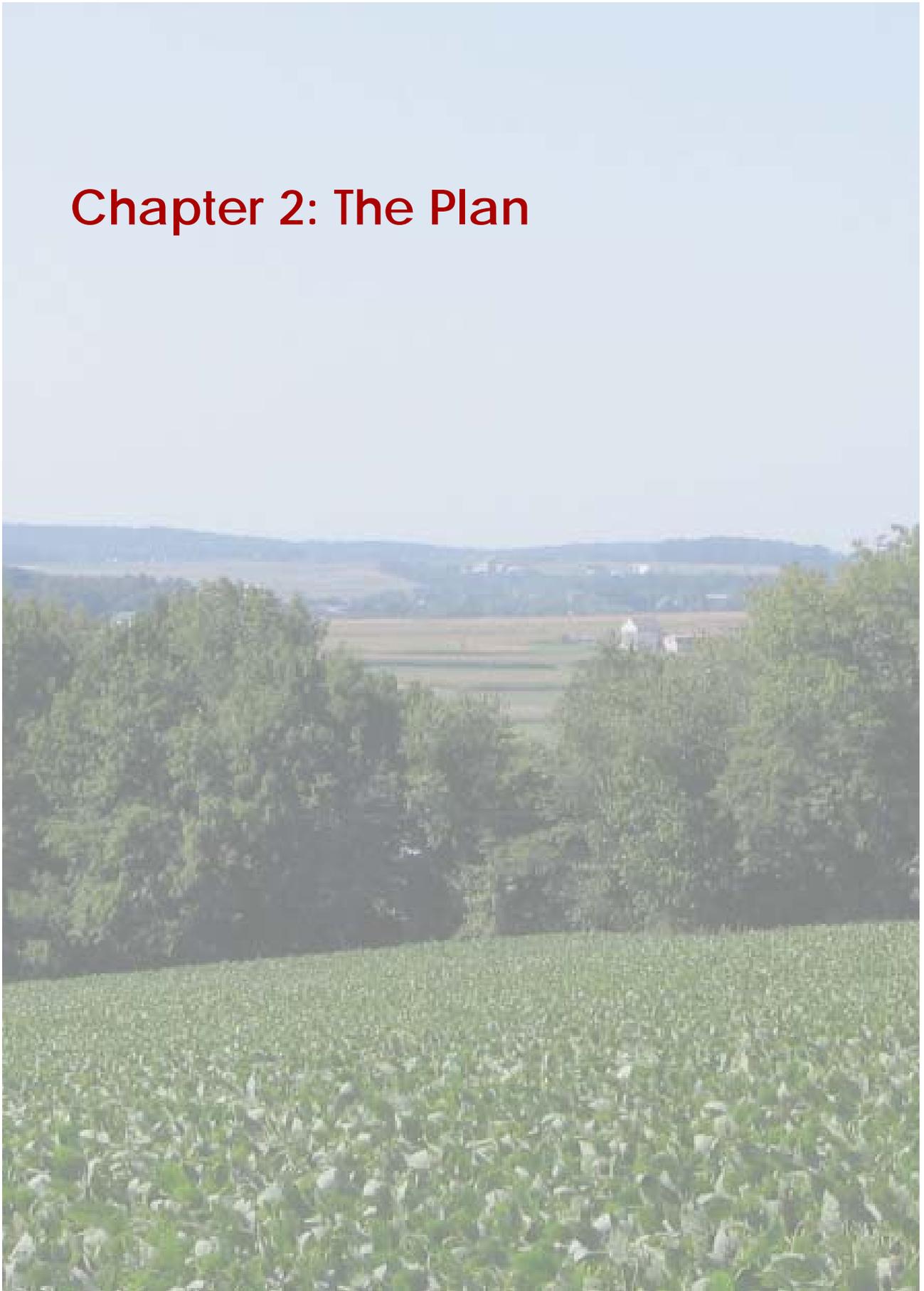
Everything that guides the Honey Brook Township Board of Supervisors, including their mission statement and vision, is geared toward preserving the open spaces and rural

character of the Township. This also includes the desires of the majority of residents in Honey Brook. To that end, this land preservation plan is not only consistent with this mission and vision, but – along with the Comprehensive Plan – is the actual conduit through which the greatest desires and dreams for the future of the Township are put into action.

D. Precedents

There are a number of municipalities in Chester County that have undertaken, or are currently undertaking, open space/land preservation plans to help prioritize their lands for protection. Some of these municipalities, like Honey Brook, have passed open space referenda, are collecting tax revenues, and – as required under Act 153 – have produced a dedicated open space/land preservation plan that identifies parcels for [development right] acquisition. Included among this group are Pocopson, Elk, and east Vincent Townships. Other municipalities, including East Bradford and lower Oxford Townships, are also collecting open space tax revenues, but are using an existing comprehensive plan or a combined open space, recreation, and environmental resource plan, in order to prioritize sites. While municipalities that are preserving open space might differ slightly in their approaches, the important similarity is that they all have a municipally-adopted plan that prioritizes parcels for protection, and thus enables them to spend their open space dollars.

Chapter 2: The Plan



Chapter 2: The Plan

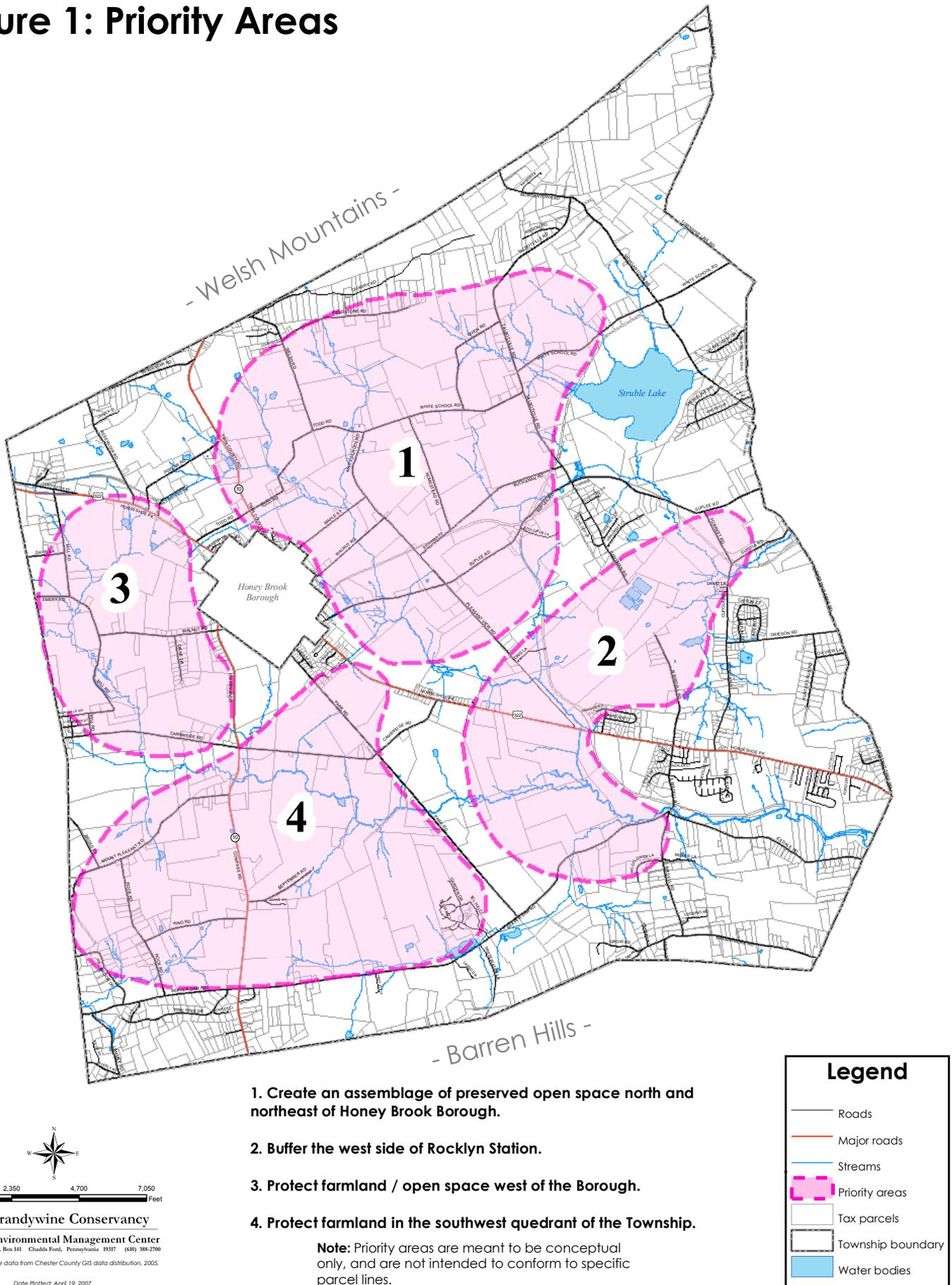
A. Priority Areas for Land Preservation

In targeting specific parcels for preservation, the Land Preservation Committee first selected several overarching priority areas (and goals) within the Township, upon which to focus their efforts and give structure to the plan. (These priority areas are illustrated in Figure 1.) Rather than simply picking and choosing parcels at random, these larger priority areas are intended to help create a plan that has focus, clarity, and a definitive strategy for the permanent protection of the Township's open spaces.

The priority areas, and the goals that they accomplish, are as follows (and are keyed by number to Figure 1):

- 1) Create an assemblage of preserved open space north and northeast of Honey Brook Borough, in order to:
 - Develop a large, contiguous area of permanently protected farmland.
 - Protect headwater areas in the foothills of the Welsh Mountains.
- 2) Buffer the west side of Rocklyn Station, in order to:
 - Provide a distinct edge to the development at Rocklyn Station.
 - Prevent development from sprawling along the length of Route 322.
 - Provide a riparian buffer for the West Branch of Brandywine Creek.
- 3) Protect farmland/open space west of Honey Brook Borough, in order to:
 - Build upon an area where protected lands already exist.
 - Protect a major West Branch stream corridor, along with headwater areas.
 - Provide a distinct edge to the west side of the Borough and the south side of Route 322.
- 4) Protect farmland in the southwest quadrant of the Township, in order to:
 - Establish an assemblage of protected parcels in this important Township farming area.
 - Protect the riparian corridor of the West Branch.

Figure 1: Priority Areas



1. Create an assemblage of preserved open space north and northeast of Honey Brook Borough.

2. Buffer the west side of Rocklyn Station.

3. Protect farmland / open space west of the Borough.

4. Protect farmland in the southwest quadrant of the Township.

Note: Priority areas are meant to be conceptual only, and are not intended to conform to specific parcel lines.

B. Prioritization Plan

Figure 2, the Agricultural and Natural Resource Prioritization Plan, is the heart of the land preservation plan. The map shows all of the parcels in the Township that are priorities for protection, either for their agricultural value (those shown in green - a total of 5,946 acres), their natural resource value (those shown in a red hatch pattern - a total of 3,199 acres), or for both (those shown with an overlapping color/hatch - a total of 1,946 acres). The map also depicts in yellow (a total of 1,494 acres) lands in Honey Brook that are already permanently protected through state ownership, through agricultural/open space easements, or through the severance of development rights for transfer to another parcel as provided by zoning (specifically, the parcel northeast of the Borough shown with an asterisk).

Priority parcels were selected using the criteria described below; several parcels were also added at the discretion of the Land Preservation Committee (for their proximity to other priority parcels or for intrinsic qualities such as viewshed). The criteria are as follows:

Agricultural Priorities

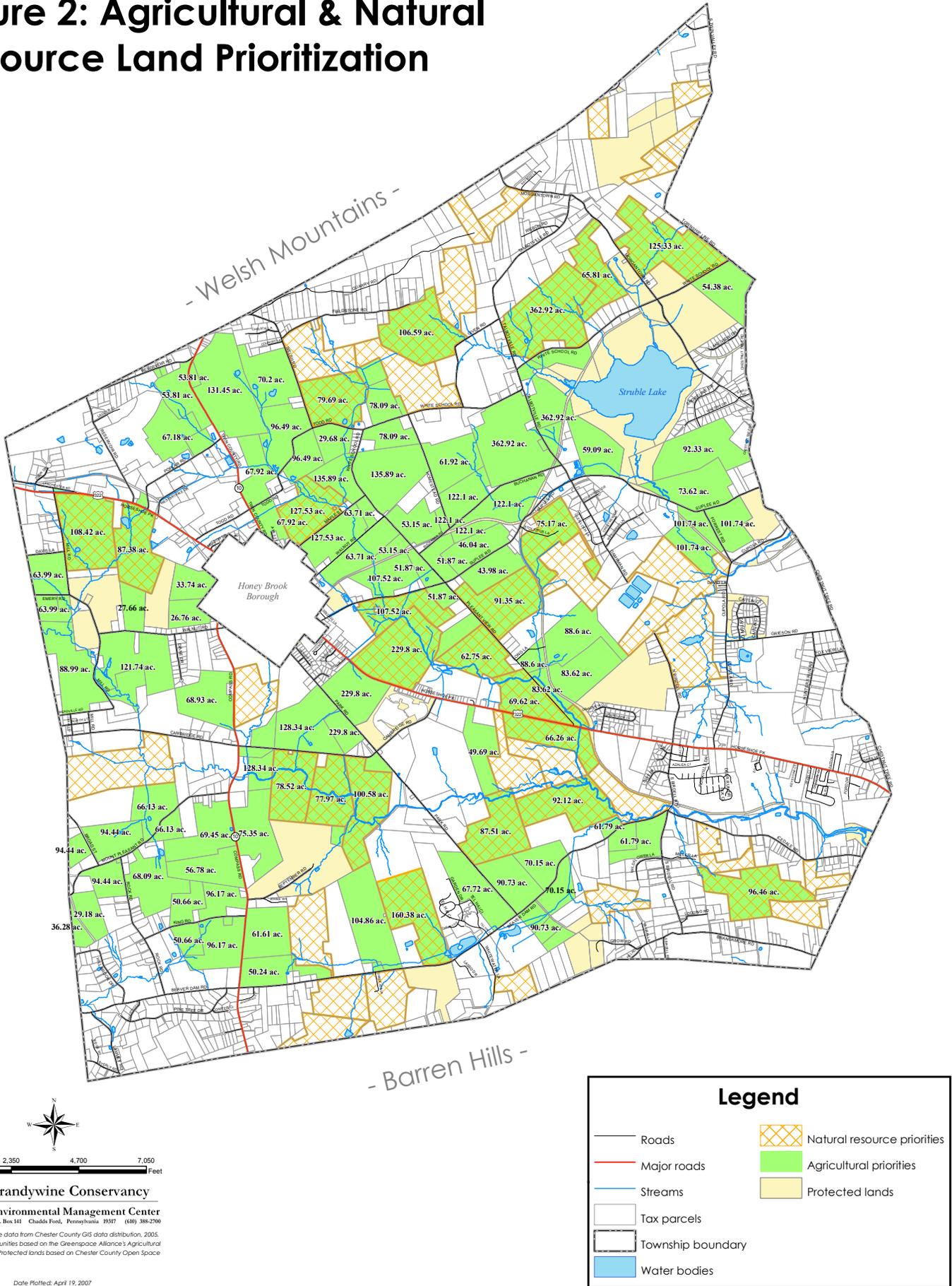
For the prioritization of agricultural parcels, two separate analyses were used: a macro-scale prioritization based on a regionally-produced model, and a micro-scale prioritization (added by the consultant) that further refined the list of lands for protection.

The regional model, developed by the Greenspace Alliance (www.pagreenways.org) and now widely accepted, examined and prioritized farmlands in Bucks, Chester, Delaware, and Montgomery Counties. Most importantly, this regional analysis shows Honey Brook as one of the truly most productive agricultural areas in all of southeastern Pennsylvania. (Additionally, the use of this regional model for agricultural prioritization in Honey Brook helps to increase opportunities for varied sources of funding for farmland protection in the future.)

The Greenspace Alliance prioritization weighs a number of critical layers of data as follows:

- The presence of prime farmland and soils of statewide importance (35% of total value).
- The presence of agricultural lands defined by Delaware Valley Regional Planning Commission (24% of total value).
- The size of contiguous agricultural soils (18% of total value).
- The proximity to existing protected lands (15% of total value).

Figure 2: Agricultural & Natural Resource Land Prioritization



- The percent area of each township within Agricultural Security Areas (8% of total value).

As mentioned previously, a second, micro-scale prioritization was performed (on top of the Greenspace Alliance analysis) to further sharpen the prioritization of agricultural lands in Honey Brook. This analysis included tax parcels over 50 acres in size with greater than 50% prime agricultural soils. (These percentages allow for a broader threshold than provided by the regional analysis, and the inclusion of more significant parcels for protection.)

Natural Resource Priorities

In order to select top parcels for protection based on their natural resource qualities, a basic set of criteria were used, as follows:

- The presence of at least 1,500 feet of stream length, or
- The presence of at least two acres of wetlands, or
- The presence of at least 15 acres of Class 1 (highest value) woodlands, or
- All tax parcels over 15 acres in size containing any forest interior lands.

(Note: Appendix B contains the separate agricultural and natural resource priority maps that were used to derive the single prioritization plan shown in Figure 2. A detailed description of woodland classification is contained in Chapter 5 of the Comprehensive Plan.)

C. Using the Prioritization Map

Figure 2 is intended as the first means of parcel selection for permanent conservation efforts by the Township. The parcels are not ranked numerically, but are simply divided into agricultural priorities, natural resource priorities, and those that overlap as both agricultural and natural resource priorities.

Parcels that are both agricultural and natural resource priorities are the optimum lands to target, given their overlapping preservation goals. However, the Land Preservation Committee and Township officials feel confident that acquiring development rights on (and/or protecting by other means) any of the parcels highlighted on Figure 2 is a sound decision based on a universally-accepted set of selection criteria. Moreover, all parcels included on Figure 2 have been reviewed by the Land Preservation Committee and consultant staff for accuracy/appropriateness of inclusion. Further, several additional parcels have been added that did not meet the original criteria, but were considered by the Committee, nonetheless, to be priorities for protection.

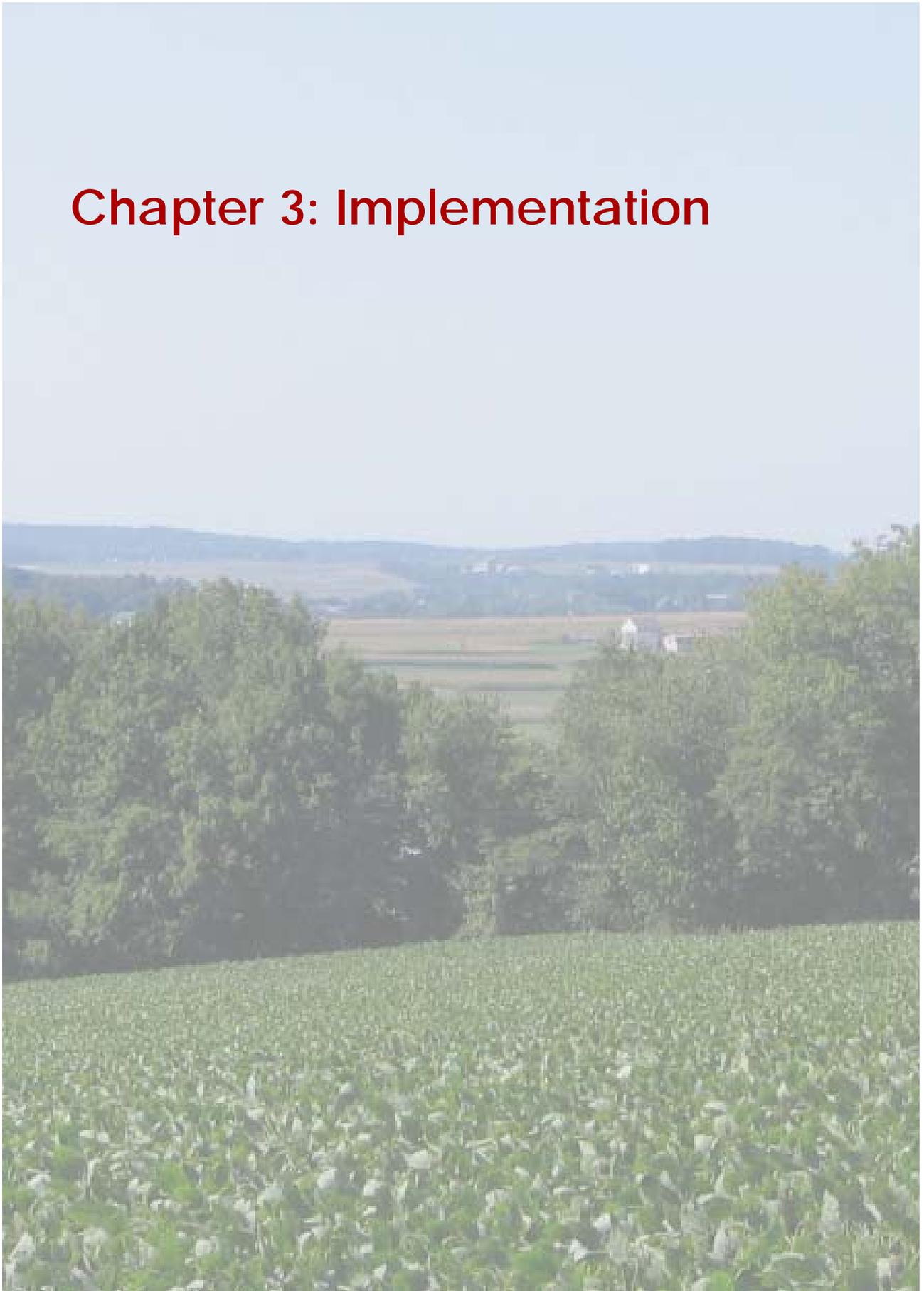
The Land Preservation Committee shall make an annual report to the Board of Supervisors on their progress with preservation efforts. The Prioritization Map (Figure 2), however, can be updated as needed to capitalize on preservation opportunities.

D. Responding to Opportunities as They Arise

Landowners' decisions to conserve their land through permanent means (the sale of development rights) is purely voluntary; such landowner decisions will not always progress in perfect harmony with the Prioritization Plan (Figure 2). Opportunities will arise when landowners whose properties are not listed on the Prioritization Plan express an interest in selling their development rights and preserving their properties. This is to be expected, and the Township will be prepared to act upon parcels that might be worthy of preservation but are simply not listed as priorities.

This occurrence should be considered a genuine opportunity, not only to possibly add important parcels, but also to continuously evaluate new parcels and find ones that may not have been previously recognized. In other words, it is an opportunity for the prioritization and protection process to remain flexible and changeable over time. As long as the Land Preservation Committee and the Township have the knowledge and expertise to continue the evaluation process after this land preservation plan has been completed, the consideration of new parcels and opportunities that "walk through the door" will only strengthen the Township's efforts in the long run.

Chapter 3: Implementation



Chapter 3: Implementation

A. Voluntary Landowner Actions

Implementation of this plan will rely on actions by Township landowners, and a wide range of stewardship incentives. There are essentially three different types of private landowner stewardship efforts that will directly contribute to the Township's preservation objectives. These include: landowner donation of a conservation easement; landowner sale of a conservation or agricultural easement; and landowner sale of development rights in accordance with a Township Transferable Development Rights (TDR) program. Each of these options is explained below.

(It is also important to recognize that these options are not mutually exclusive and can be combined on individual parcels, as described in the section titled "Financing Open Space Preservation: Tools for Maximizing the Township's Money.")

Donation of a Conservation Easement

The most preferred type of landowner-initiated conservation action under the Township's plan is the voluntary donation by a landowner of a conservation easement. This is the preferred form of conservation because there are no financial costs to the Township, except perhaps that of enforcing the easement. Through the donation of an easement, the landowner willingly restricts some or all of his or her property from significant subdivision, development, or natural resource disturbance. The easement is normally donated to a conservation organization who is then responsible for administering and enforcing the terms of the easement in perpetuity; however, some landowners may wish to donate the easement only to the Township. It's the policy of the Township to accept easements when approved by the Board of Supervisors if presented as a condition of preservation. Conservation easements can be very flexible, and the easement terms are negotiated between the easement donor and the easement holder.

Most often, landowners who donate a conservation easement are able to take advantage of federal income and estate tax benefits by giving up some or all of their land's real estate value. Landowners who ease their land voluntarily are also eligible for decreases in local property tax assessments by petitioning Chester County for special consideration. For landowners to be eligible for federal tax benefits by making a charitable donation, an environmental value must be associated with the land that is being placed under easement to a conservation organization.

Recent changes to federal tax laws have increased the tax benefits for easement donations made in 2006 and 2007. The limit of the annual deduction increased from 30% to 50% of adjusted gross income each year, and the carry-forward period for the deductions is extended from 5 to 15 years. Furthermore, for qualified farmers and ranchers (generally, landowners who receive more than 50% of their income from "the trade or business of farming"), the annual deduction limit is raised to 100% of their adjusted gross income. Federal legislators are contemplating making these changes permanent.

Donated conservation easements have been an effective tool for the permanent protection of farmland and other natural and cultural resource areas in Chester County. For example, the Brandywine Conservancy has permanently protected over 40,000 acres through the use of donated conservation easements. To date, only a limited number of conservation easements have been donated by Honey Brook Township landowners, and are held by the Conservancy, the Natural Lands Trust (NLT), and the North American Land Trust (NALT).

Sale of a Conservation (Agricultural) Easement

Landowners in Honey Brook Township have been more interested in voluntarily restricting the use of their land to agriculture and other open space uses by selling a conservation or agricultural easement. Because the easement promotes the continued agricultural uses of a property and is much less restrictive with regard to disturbance of any existing natural resources, it is called an agricultural easement. To date, these easement sales have been negotiated with Chester County's Agricultural Land Preservation Board. Similar to the conservation easement donation, a landowner willingly restricts some or all of his or her property from significant subdivision or development. However, instead of qualifying for a charitable tax deduction, the landowner is compensated in cash for allowing the easement to be placed on his or her property. The easement purchaser is buying the right to the easement in perpetuity, and is responsible for administering and enforcing the easement. To date, 694 acres of the Township farmland have been eased by Chester County.

The Township is now generating funds through a dedicated earned income tax that can be used to help the County purchase agricultural or conservation easements from township landowners. By purchasing these easements, the Township – either alone or working within County and State programs - can permanently preserve land and prevent development from taking place, while ensuring that farming (or some other compatible land use) can continue to take place on prime agricultural properties. Using the Township's dedicated funds, easements can also be purchased, and the lands permanently protected, on those parcels with outstanding natural resource

qualities (see Figure 2).

In addition to the Township's dedicated preservation tax revenues, funding for agricultural easement purchases in Honey Brook originates from three sources (see "Financing" section):

Chester County Agricultural Preservation Program: This program has been in place for 18 years, and is responsible for the bulk of the preservation in both Pennsylvania and Chester County. A farmer (applicant) applies to the program in the fall of each year, and the property is mathematically "scored" using established criteria, resulting in a numerical ranking against other farms. Farms must be at least 50 acres in size, and must have at least 50% or more Class I or II soils, among other criteria. Farms as small as 10 acres are eligible if they adjoin preserved farms. The criterion with the greatest weight is soils quality. If the applicant's farm is ranked high enough on the County's list, the farmer is informed that the County is willing to purchase the easement. If the landowner is still interested in selling an easement to the County, the County appraises the property. The appraisal values the property based on its unrestricted and restricted status. The difference in the two values is used by the County to base its easement purchase offer. Assuming the applicant and the county come to an agreement of sale, the usual steps are followed to close the real estate transaction. The farmer is compensated in cash for the easement restrictions (i.e. use limitations), yet retains the farm and its agricultural sale value. The County/State holds the agricultural easement in perpetuity. As of this writing, the County cap on per acre value is \$12,000.

Chester County Challenge Grant Program: This program has been in place for five years to preserve farms in the northern part of the County that typically fared poorly against their peers in soils scoring. In 2004 the program was opened to all farms in Chester County. The program is separate from the County/State Program, but has very similar characteristics. The primary difference is that the County agrees to pay 50% of the appraised value (up to a maximum of \$6,000/acre) if the municipality pays the other 50% of the appraised value. Honey Brook Township can use its own funds, private donations, or some other means, and must certify each year its willingness to commit its funds for farms within the Township that have applied under this program to be considered by the County. All other aspects of the process are identical to the County/State Agricultural Preservation Program.

Chester County Farmland Preservation Program: In 2006, Chester County created a new agricultural easement acquisition opportunity associated with its

Preservation Partnership Program that specifically funded the purchase of agricultural easements by conservation organizations. Organizations such as the Brandywine Conservancy are actively seeking Honey Brook Township farmers' participation in this program. The Conservancy has obtained other funding to support their transactions under this program. Eligible farms must be at least 15 net acres in size, and have at least 50% of the acreage in agricultural uses. In addition, the landowner must be willing to sell an agricultural/conservation easement at 33% of the easement's fair market value.

The Sale of Development Rights through the Township's Transferable Development Rights (TDR) Program

Through enabling provisions in the Pennsylvania Municipalities Planning Code (MPC) and in the Township Zoning Ordinance, Transferable Development Rights (TDR) is a viable tool for permanently protecting agricultural and other open space resources in Honey Brook.

TDR is a voluntary landowner conservation option where a property's development rights can be legally severed and sold as a marketable real estate commodity. Under a TDR transaction, these severed development rights are not extinguished, but are moved to another area of the Township (from a "sending area" to a "receiving area"). Through the use of TDRs, the Township is successfully redirecting future development away from valuable farmlands and encouraging projected growth in areas where it is appropriate for it to occur. At the same time, the Township is helping to compensate landowners (through private market sales) for the potential development value their lands would have otherwise lost through restrictive zoning.

TDR can be an attractive alternative for landowners who are not interested in selling an easement to the County, or who may be ineligible for consideration under the [previously-mentioned] County programs. As described in Article XII of the Township's zoning ordinance, landowners who are eligible to participate in this voluntary TDR program, as provided through zoning, are those who own at least five (5) acres and are zoned Agricultural (A District). These landowners may sell some or all of their development rights, and once these development rights are sold, that land from which the development rights originated is legally and perpetually restricted from further development.

Honey Brook Township's sending area (lands where development is directed away from) encompasses the Agriculturally-zoned farmlands that make up the majority of the Township. The receiving zones (lands where development is redirected to) are the Farm Residential, Residential, Mixed Residential, Commercial, and Industrial zon-

ing districts. (In accordance with the Comprehensive Plan Update, the majority of future growth will be directed toward the eastern end of the Township, an area also known as “Rocklyn Station.” This is a designated area to receive purchased TDRs, per Appendix D.)

As stated in the Township’s zoning ordinance, each eligible landowner within the A District is generally entitled to one TDR for every two acres of land. Some “net-out” restrictions listed in Section 1202.B of the Township Zoning Ordinance must also be factored into the calculation of a landowner’s TDR allocation. Also, before severing and selling any development rights, landowners must first complete a Township certification process that officially establishes, and documents for Township record-keeping purposes, the number of allocated TDRs. These allocated TDRs can be sold at any time, most likely to a developer for use in a development within the Township.

As of this writing, a total of 282 TDR’s have been “certified” in the Township, 18 of which have been transferred into receiving zones (see Appendix D for detailed TDR program status, as well as a map showing the Township’s sending and receiving zones). This leaves 253 TDR’s eligible for transfer into receiving areas in the Township. Undoubtedly, more TDR’s will continue to be certified in the Township as this program continues to grow. It is estimated that up to 400 TDR’s will be required to be bought and transferred to develop the Rocklyn Station area alone. (See also “Financing” section).

The monetary value of each TDR in Honey Brook is currently determined through the private real estate market. Landowners have been reported to receive as high as \$12,000 per TDR. Though not necessary, some Township landowners who have had their TDRs certified are working through local real estate brokers, who in turn, work for developers that are interested in purchasing the TDRs for use in Township developments. These brokers are adding a percentage to the sale price of each TDR to cover their “handling” fees.

For TDR transactions to occur, there must be an adequate supply and demand for their use. The Township effectively utilizes its zoning ordinance to create incentives for generating both landowner and developer interest in choosing the Zoning Ordinance’s TDR option. In the sending area, the number of TDRs allocated to eligible landowners is considerably higher than the number of lots that can be created for that same landowner through subdivision. In the receiving area, developers can build a larger or more intense development, through increased residential density, or increased commercial or industrial building height or maximum impervious coverage, simply by purchasing an equivalent number of TDRs. A maximum limit on density or intensity is established within the zoning ordinance to insure that the receiving zone develop-

ment is not out of character with the neighboring properties or Township character. The Land Preservation Committee shall annually review the supply of, and demand for, TDRs with the Planning Commission. The two agencies shall make recommendations for adjusting the program to account for changing market conditions.

Once a landowner has sold all the TDRs allocated by zoning - and not until that point when all TDRs are sold or the property owner submits a development plan - a conservation easement is recorded for the parcel or tract, resulting in permanent restriction of its use for development purposes. This easement can be held by a conservation organization, or the Township, either of which is thereafter responsible for monitoring and enforcing the terms of the easement.

Since the Township Supervisors have the discretion to use their dedicated preservation funds to purchase agricultural or conservation easements from landowners, they could also expand that program to purchase TDRs from sending area landowners. In purchasing the TDRs, the Township could then "bank" them (hold them) for eventual sale to a developer for use in a TDR receiving zone. Proceeds from the TDR sales can be used again for future TDR purchases. However, the Board could also choose to retire the TDRs, and never sell them for use within the Township. Under the provisions of Act 153, the Township is allowed to use tax revenues generated by referendum for TDR purchases. To sell TDRs, the Township would need to follow state code. Successful examples where Pennsylvania townships purchase TDRs include Warwick, Manheim, and West Hempfield Townships in Lancaster County, and West Vincent Township in Chester County. Warwick and West Hempfield Townships actively sell their banked TDRs. West Vincent will only sell them for use outside of their township. Because some of the Township's landowners shy away from government easement sale transactions, the Township will consider working through a land conservation organization to initiate landowner interest in the sale of TDRs, and could pass its dedicated open space funds through that organization for TDR purchases.

B. Township Regulatory Actions

Although the previously described voluntary landowner actions are the preferred means for permanently protecting the Township's agricultural and open space resources, the Township can, and does, use its zoning ordinance and subdivision and land development ordinance to help achieve open space protection objectives. In fact, the Township's regulation of land and water resource use is a good complement to its private land stewardship implementation approach. The zoning and subdivision ordinances apply to the establishment of new uses of land that require Township approval, such as issuing a building permit, or granting a subdivision plan or land

development approval, variance, or special exception pursuant to the Commonwealth's Municipalities Planning Code. Because these zoning and subdivision regulations can be changed or repealed at any time, they are not considered a permanent means of protecting the Township's open space resources. A brief description of the more significant zoning and subdivision ordinance provisions now follows.

(It should also be noted that the section of the Township Zoning Ordinance that imposes rules for establishing conservation easements shall be reviewed (for effectiveness) in the near-term by both the Land Preservation Committee and the Planning Commission.)

2003 Township Zoning Ordinance (as amended)

Agricultural Zoning: The majority of the priority conservation areas identified by this land preservation plan are zoned Agricultural by the Township. The A District, described in Article IV of the Township's zoning ordinance, and which applies to 58 percent of the Township in 2007, encourages the continued use of the Township's prime farmlands for farming, forestry, or conservation uses. Sixty-four percent of the township's Class I, II, and III soils are contained within the A District. The A District zoning helps to implement this Plan because it encourages the Township's valuable agricultural resource lands to remain in agricultural and other open space use.

The zoning district is not overly restrictive to farmers and other landowners. For qualifying lots (i.e., enrolled in Act 319 or 515, included within a Township Agricultural Security Area, a minimum of ten acres in size, etc.), one new lot may be created for a family member, farm manager, or other person or family that is at least one acre in size and no more than two acres in size every 12 months utilizing up to 10% of the parent parcel. Accessory out-buildings and other agricultural structures are also readily permitted in the District.

Within the A District, a ten-acre minimum lot size requirement applies to non-farm residential subdivisions. This ten-acre requirement has been very effective to date in discouraging speculation for non-farm development purposes. And, the use of a ten-acre minimum lot size restriction for preserving valuable farmlands such as Honey Brook's A District has been viewed by the Commonwealth Courts as a legally valid form of zoning regulation.

Transfer of Development Rights: Use of the TDR option, as described under the Voluntary section, is enabled by the Township zoning ordinance, and the

Township's responsibilities in administering its TDR program are spelled out in the Zoning Ordinance.

Natural Resource Protection Overlay Districts: The Township's zoning ordinance also includes three resource protection related overlay districts described in Article XIII. These are the FH Flood Hazard District, the SSC Steep Slope Conservation District, and the RCC Riparian Corridor Conservation District. Each of these districts applies when their defining features are present: for example the Flood Hazard District applies to the Township's 100-year floodplains as mapped by the Federal Emergency Management Agency (FEMA). Conveniently, and not coincidentally, floodplains, steep slopes, and riparian areas are typically found in the same general areas of the township – within stream valleys, wetlands, and other water bodies. These resource protection overlay districts also often overlap, adding increased resource protection with each mapping layer.

The FH Flood Hazard District generally precludes the location of new living or habitable space, or hazardous or toxic material storage, in areas of the Township subject to flooding. The overlay district's intent is to prevent, or minimize, danger to life and property, and if enacted consistent with FEMA guidelines, enables landowners residing within the floodplain to obtain federal flood insurance. Although this district is not directly intended to protect a floodplain's environmental values, there are indirect conservation benefits achieved by limiting land and vegetation disturbances within these floodplains. Existing, non-conforming uses and structures are permitted to continue, subject to special restrictions and provisions if ever abandoned, destroyed, or proposed for modification. Open space uses, such as agriculture, forestry, recreation, are the most prevalent permitted uses within this FH Overlay District, although some limited development (ex. driveways and parking lots) can occur.

The SSC Steep Slope Conservation District applies where sloping land surfaces within the Township exceed fifteen (15) percent. This overlay district divides steep slopes into a) precautionary slopes (15 to 25 percent) and b) prohibitive slopes (greater than 25 percent). The intent of this district is also to prevent hazards to life or property due to slope or structural foundation failure, and to protect vegetated slopes from impacts caused by their clearing, grading or disturbance by heavy equipment. Steep slope disturbances most often lead to increased soil erosion by removing vegetation and ultimately cause harmful siltation of the Township's streams and water bodies. Practically any "developed" use of prohibitive slopes is precluded by the SSC District provisions. More developed uses, including single-family residential dwellings (if permitted by underlying zoning), are permitted on precautionary slopes, subject to special

engineering review and land disturbance limitations.

The RCC Riparian Corridor Conservation District is intended to protect the vital functions of streamside vegetation (i.e., maintaining the water quality and quantity of the associated stream, water body, or wetland resource, providing for wildlife movement) in Honey Brook Township. This overlay district accomplishes resource protection by limiting the types of encroachments or disturbances within a defined width of land paralleling the Township's surface water resources. Two consecutive riparian zones are defined by the ordinance, and form a combined riparian corridor of 75 feet in width, measured from the top of a stream bank, pond, or wetland edge. Within the first twenty-five feet of this riparian corridor, land uses are largely limited to open space, agricultural practices, passive recreation, and minor encroachments by residential driveways. Within the next fifty feet, more uses are permitted provided they don't include structures. For new development involving land subject to the RCC overlay district, a corridor management plan must be submitted for Township approval. Where riparian vegetation either does not exist or is minimal at the time of development, the management plan requirement strongly compels a developer to establish new riparian vegetation upon receipt of Township development approvals and prior to obtaining final development occupancy permits.

2004 Township Subdivision and Land Development Ordinance (as amended)

The Township's Subdivision and Land Development Ordinance (SALDO) regulates new development of township lands by establishing: procedures for obtaining Township (and other) approvals, design standards for public (and some private) improvements, and financial assurances by developers toward the completion of public improvements. Some of these SALDO provisions contribute to the protection of Township open space resources identified in this plan.

For example, conservation plans are intended to describe how soils will be protected from erosion, and streams, wetlands, and other water bodies from siltation, during development construction when vegetative cover is removed. These plans are required to be submitted to the Township for subdivision and land development approval, and are reviewed by both the Township engineer, and Chester County Conservation District staff.

Stormwater management plans are similarly a required submittal for subdivision and land development approval. These plans reflect associated stormwater improvement design guidelines of the Township that strongly encourage the recharge of stormwater runoff generated by the establishment of impervious surfaces such as

parking, roads, and rooftops caused by new development into existing groundwater aquifers.

Required landscaping plans document how the development will preserve existing vegetation, and where preservation is infeasible, show the replanting of appropriate vegetation. The ordinance includes a native plant list which is strongly encouraged by the Township for use in selecting landscaping materials for new developments, rather than introducing non-native or invasive plant or tree species.

C. Other Protection and Outreach Efforts

Riparian Corridor Protection

Voluntary programs such as the purchase and transfer of development rights, and regulatory tools such as zoning, provide the most direct and secure means of protecting agricultural and natural resource lands. However, in the belief that improved farming practices should be part of the land preservation plan, there are several important approaches the Township should pursue in their efforts to protect the character and environment of Honey Brook.

Protection and enhancement of the Township's riparian corridors is one voluntary approach that not only fits well with the practice of agriculture, but can have direct benefits on improving water quality and wildlife habitat throughout the Township. In addition, several available stream enhancement programs (described below) can be of great financial benefit to farmers and landowners, and can even improve the health of herds on dairy farms.

The largest stream enhancement program, the Conservation Reserve Enhancement Program (CREP), is administered by the United States Department of Agriculture (USDA) Farm Service Agency (FSA) and is administered by the USDA Natural Resource Conservation Service (NRCS). CREP pays farmers to restore and maintain riparian corridors and wetland habitats on their properties, which [on average] are usually the lowest producing areas of farms. They are however, the richest and most diverse areas in regards to wildlife habitat, and their value to protecting water quality in the Township's headwater streams is incalculable.

In exchange for maintaining a 35-foot minimum streambank buffer, (the riparian corridor) farmers are also reimbursed for the cost of fencing off the streams (in the case of dairy farms, to keep cows out of the water). Through CREP, farmers receive an annual rent payment (that ranges between \$120-\$180 per acre/year) to maintain

these natural habitats. Farmers utilizing CREP farm the most productive areas of their land, while being compensated for not using the least productive, and most environmentally sensitive, areas.

Another stream buffer/stream fencing enhancement program is offered through the Chester County Conservation District. The Conservation District offers cost-sharing programs for the installation of stream bank fencing and plantings - along with "best management practices" for dairy farmers - in the interest of promoting herd health, wildlife habitat, and improved water quality. The Conservation District will provide funding for riparian buffers less than 35 feet in width, but participating farmers/landowners must have an approved County Soil and Conservation Plan in place.

For those farmers who choose not to participate in any government-sponsored programs, there are also riparian enhancement and fencing programs available through nonprofit organizations such as Ducks Unlimited (who have already assisted on several farms in Honey Brook) and the Chesapeake Bay Foundation.

For more information on the programs described above, please contact Hollis Baker at USDA (610-696-8750 x2), Christian Strohmaier at the Chester County Conservation District (610-925-4925), or John Goodall at the Brandywine Conservancy (610-383-9515).

Outreach and Education Efforts in Honey Brook

The key to success in preservation – whether it is the promotion of County/State programs to purchase development rights or simply to restore riparian corridors – is outreach and education. Many farmers or landowners are either unaware that farmland preservation programs exist or are daunted by the prospect of filling out the necessary paperwork to sell their development rights.

For years the focus of the Brandywine Conservancy's Farmland Preservation Program (as well as other land trusts) has been to assist farmers/landowners interested in investigating the various farmland preservation options open to them. However, efforts to date have been mainly reactionary, following a farmer's willingness to apply to various conservation programs. To ensure the success of preservation efforts in Honey Brook, Township officials and members of the Land Preservation Committee (LPC) must act as ambassadors to promote farmland protection, toward both the general public and the farmers/landowners themselves. In regard to farmers, the Township and LPC should encourage them to find out more about preservation options, share the fact that the process is free, and assure them that they are not actually committing to anything by simply applying to the various programs. Outreach to farmers/

landowners can be done in several ways, all of which the Township and LPC plan to pursue:

- Landowner to landowner.
- Formal farmland preservation seminars for landowners.
- Newspaper articles, newsletters, and other efforts through the media.

In regard to the general public, The Township/LPC plans to report to the public on early preservation successes and the ongoing progress of the LPC. They also plan on educating landowners on the long-range tax benefits of preserving open space (i.e., fewer services need to be provided, lowering the tax burden to Township residents).

D. Combining All Efforts into a Single Program

The ultimate success in preserving the rural character of Honey Brook depends upon combining all the approaches described in previous sections into one integrated land preservation program. While the heart of the preservation program is undoubtedly the voluntary sale of easements and/or development rights by landowners (and the transfer of development rights by others), the importance of open space regulatory measures, riparian corridor enhancement programs, and outreach/education efforts can not be overstated.

Focusing on the acquisition of agricultural easements is an effort that will be ongoing, and will be expanded as open space tax revenues (and matching County/State funds) build and become available to the Township. Likewise, the Transfer of Development Rights program is one that has been in place for a number of years, but is expected to be accelerated in its effect as more landowners become comfortable with this land preservation option, more developers see the benefits from TDR purchase and receipt, and more parcels are developed/redeveloped in keeping with the Rocklyn Station Strategic Development Plan.

In regard to regulatory/zoning efforts aimed toward preserving open space, the majority of these measures were put into effect with the adoption of the 2003 Zoning Ordinance, with recent amendments (that were passed as part of the 2006 Comprehensive Plan Update) serving to strengthen the protection of agricultural resources in Honey Brook. Continued tweaking of regulatory measures will be required in the future, such as establishing a Traditional Neighborhood Development (TND) overlay to help focus future growth in a positive way within the Rocklyn Station area of the Township. The real value of regulatory measures in Honey Brook, however, is to help postpone the significant development of the Township's vulnerable open space resources to allow landowners time to explore the many direct and indirect benefits of

land conservation. Officials in Honey Brook have done an excellent job of protecting the character of their Township this far, but those efforts must continue.

Real opportunities also exist to expand voluntary participation in federal, state, county, and nonprofit stream corridor enhancement programs. This is one area where protection efforts can be greatly enhanced, mainly through outreach and greater landowner communication with their neighbors. Through increased education and greater streamside protection, the water quality and wildlife habitat of Honey Brook's significant headwater streams (which are perhaps the Township's greatest natural resource) will be significantly improved for current and future generations.

Finally, as described in the previous section, there are various methods (e.g., individual landowner meetings, group meetings, etc.) for Township officials and members of the Land Preservation Committee to take the lead in increasing outreach and education efforts among Honey Brook farmers and landowners.

E. Partnerships

Integral to the success of Honey Brook's land preservation program will be the formation and continuation of partnerships with key agencies and organizations. Following is a list of important offices with which the Township and Land Preservation Committee should work closely in the future, and the ways in which these organizations can aid Honey Brook:

Chester County

In addition to the Agricultural Preservation Program and Challenge Grant Programs described in the "Purchase of Development Rights" section, the County also has a Preservation Partnership Program that makes land acquisition grants available to qualified nonprofit conservation organizations. The Preservation Partnership Program has two parts: 1) grants for trails, greenway, open space, and park projects that provide public benefits and public access, which can be for up to \$500,000 or 50% of project cost (whichever is less); and 2) grants for the preservation of farmlands, which are channeled through nonprofit organizations such as the Brandywine Conservancy. (See Appendix E for a detailed description of Chester County land preservation-based programs.)

In addition, the Chester County Conservation District offers cost-sharing programs for the installation of stream bank fencing, plantings, and [farming] best management practices for participating landowners with an approved Soil and Conservation Plan

(see "Riparian Corridor Protection" section).

Pennsylvania Department of Natural Resources (DCNR)

DCNR, through their Bureau of Recreation and Conservation, has Community Conservation Partnership Program (C2P2) grant funds available for land conservation. Like the County Preservation Partnership grants, DCNR is interested in land conservation on properties that are connected to larger landscapes such as adjacent protected parcels and greenway corridors. Also like the County program, DCNR is interested in projects that provide public access (except in cases where rare or endangered species are present).

While the C2P2 grants can be used to fund acquisition or easements, they can only be used for properties where agricultural activities are "secondary", and the farming cannot be intensified on properties where the grants are applied. So, in the case of Honey Brook, C2P2 grants would be most helpful in protecting properties where natural resource values outweigh agricultural value.

Land Trusts/Conservation Organizations

Brandywine Conservancy: As described in the "Outreach and Education" section, the Conservancy has focused much their farmland preservation effort on Honey Brook Township in recent years, including expanded outreach among the Plain-Sect community. In addition to providing outreach and education to landowners/farmers, as well as technical assistance with applications to the State and County agricultural preservation programs, the Conservancy serves as the Township's planning consultant (and is responsible for drafting the 2006 Comprehensive Plan update).

Most recently, the Conservancy has begun using its own grant sources to negotiate the purchase of agricultural-conservation easements on plain-sect farms. However, these funds are limited and every effort must be made to negotiate "bargain" purchases that are below fair market value.

Natural Lands Trust: Like the Brandywine Conservancy, the Natural Lands Trust (NLT) is a non-profit land trust that works to protect agricultural areas and sensitive lands in southeastern Pennsylvania (as well as in Delaware and southern New Jersey). NLT has significant experience securing Preservation Partnership Program funds to preserve a number of areas in Chester County, and along with the Brandywine Conservancy, could be of assistance in helping to apply for these grants to protect open space in Honey Brook.

North American Land Trust (NALT): This national non-profit conservation organization is headquartered in Chadds Ford, PA, but works to promote long-term land preservation and stewardship throughout the east coast of the U.S. NALT currently holds a conservation easement on a property in Honey Brook, so their presence has already been made known in the Township.

Ducks Unlimited: As outlined in the "Riparian Corridor Protection" section, Ducks Unlimited is a non-profit organization that has been instrumental in promoting streambank enhancement and restoration throughout Pennsylvania, and has assisted on several riparian fencing/planting projects in Honey Brook Township.

Chesapeake Bay Foundation (CBF): CBF, a non-profit conservation organization interested in protecting the water quality and biological health of the Chesapeake Bay, has been active in promoting the use (and benefits) of the USDA's CREP program in southeastern Pennsylvania.

(As a resource, a list of eligible land trusts that operate in Chester County and the Honey Brook area is provided in Appendix F.)

F. Financing Open Space Preservation

Open Space Tax

The main tool for raising revenue for open space preservation in Honey Brook is the Township's open space tax. When voters approved this tax in 2005, it was assumed that it would raise slightly over \$500,000 per year (after collection costs), based on [Fiscal Year] 2004 income tax returns. A recent 20-year projection process has yielded the following refined estimate:

Collection period	Total tax collected*
2006-2010	2,903,000
2011-2015	4,329,000
2016-2020	5,805,000
2021-2025	7,783,000
20 year total	20,820,000

*Assumes constant 6% growth in tax collection each year. The Township has historically grown at an average of 7% annually from 1990-2004, with a range of 2%-14% during this period.

The refined estimate shows an average annual tax intake of \$580,600 for years one through five, \$865,800 for years six through ten, \$1,161,000 for years eleven through fifteen, and so on, for an average annual intake of \$1,041,000 each year over twenty years. While this refined estimate has shown that the tax will yield a large sum of money with which to preserve open space, the high price of purchasing development rights (that is expected to increase in the future as land in the Township becomes more valuable) means that to be most effective, the Township will have to leverage its money for maximum effect.

Tools for Maximizing the Township's Money

Making the most of the Township's money can be done in a variety of ways. One tool is to participate in the County/State Agricultural Preservation Program and the Chester County Challenge Grant Program (as described in the "Voluntary Approaches" section). In the case of the Challenge Grant Program, the Township would commit funds to match at least 50% of whatever the County puts forth toward preserving a piece of land. A second approach is to encourage landowners' partial donations, which would not only preserve Township funds but also increase the score of applications (in the County program) in the process. A third tool to minimize borrowing costs on the part of the Township is to encourage landowners to take yearly installment payments, rather than a lump sum, for the development value of their land.

There are also numerous opportunities to mix different preservation tools and partial development options. The proper "mix and match" approach, along with the use of tools outlined in the previous paragraph, depend a particular landowner's financial objectives, tax bracket, and willingness to accept the different programs available to them. Some examples of the use of multiple options on a single parcel include:

- A conservation easement placed on an entire property in the Agricultural District, designating future house sites as allowed by zoning (this helps protect Agricultural District in the event zoning is ever changed).
- A conservation easement placed on an entire property that is more restrictive than required by zoning (e.g., one home allowed per 40 acres of land).
- The sale of TDR's on part of a property and an easement placed on another portion.
- Limited development on a portion of a property and a conservation easement placed on the rest of the land.
- Development allowed on the least sensitive portion of a site and the CREP program applied to protect the most ecologically valuable section of the property.

Borrowing Options for the Township

In addition to maximizing the Honey Brook's open space funds and preservation tools as described above, there are several borrowing options that can be used to stretch Township dollars. More importantly, these borrowing options can be used to help purchase a greater amount of open space in the near term - when it is less expensive and more plentiful - than trying to buy it, say, a decade or more from now, when it will certainly be more expensive and harder to come by.

Bank Loan: A loan from a bank should be considered as a possible funding source in certain instances, in particular for smaller purchases of \$1,000,000 or less. For borrowings of this size a bank loan is usually more cost-effective than a bond issue because the issuance costs are much less. For fixed-rate borrowing from a bank, the maximum duration is generally 5 to 7 years. On a larger bank loan (\$1,000,000 or greater), this term limitation can be a problem, though, because the annual payments may not be affordable. Therefore, on large purchases, a bond issue might make more sense for the Township than a bank loan.

Bond Financing: Bond financing is used more than bank loans for larger borrowings because the principal can generally be amortized over a longer period of time (usually up to 30 years) at a fixed interest rate, thereby making the payments more affordable. For municipalities, there are two bond financing options to choose from as described below:

"General obligation bonds" are backed by the full faith and credit of a taxing municipality. The credit strength for general obligation bonds is generally viewed as the highest quality because of the municipality's unconditional ability to repay the debt from tax revenues (in the case of Honey Brook, from the Open Space Tax). A general obligation bond can also be used to consolidate several smaller bank loans under one repayment schedule.

In the case of Honey Brook, an average annual revenue of \$500,000 from the Open Space Tax (which is below actual estimates - see "Open Space Tax" section) would allow the Township to secure a general obligation bond of almost \$7.5 million. While the Township would be allowed to borrow up to this amount (and pay back the debt service over 25 years), it could also secure several bonds in smaller amounts as needed. The advantage of having several smaller bonds is that it would allow the loan be tailored to meet the Township's needs over time, without incurring more debt than needed at any given time.

An additional method of bond financing is the "bond pool loan." A bond pool is a

pool of funds that is created from the issuance of tax-exempt revenue bonds by an empowered authority. These authorities, such as the Delaware Valley Regional Finance Authority and the New Garden General Authority (sponsored by New Garden Township) are permitted under Pennsylvania law to lend these funds to eligible municipalities for capital projects and for the purchase of open space.

The advantages of bond pool loans (which have been used twice by East Nottingham Township, for example) include very low costs of issuance, the ability to borrow as much or as little as needed, lower interest rates, and the ability to prepay at any time. The disadvantages are that annual fees can become burdensome over time and the rates are usually variable, although there is sometimes the option to secure a fixed rate at a higher fee.

A Likely Acquisition Scenario for the Township

Appendix G is a five-year estimate of funds needed to purchase easements/development rights on farms in Honey Brook that are currently under application to the County/State Agricultural Preservation Program or the Chester County Challenge Grant Program.

As the estimate shows, the \$468,000 required in Year 1 (2007) to protect a 78 acre farm could easily be covered by the revenue generated [to date] by the Open Space Tax alone. However, in Year 2 (2008), there is the potential to protect between 127 and 251 acres of farmland, at a cost of between \$765,000 and \$1,507,560. At either the high or the low end of this Year 2 estimate, the Township would be required to borrow money to purchase the easements/development rights and permanently protect the open space. The same is true of Year 3 (2009) through Year 5 (2011), with expenditures estimated at \$900,000 per year (without knowing exactly which farms might be eligible for purchase yet).

The total estimated expenditure for Year 1 through Year 5 is \$4,675,560, as compared to the \$3,768,800 expected to be collected in Open Space Tax revenue through 2011 (a possible shortfall of \$906,760). Although these are only best estimates of which farms may come up for easement purchase, the Land Preservation Committee has considered which borrowing options make the most sense for the Township, both in the short and long terms (discussed in the following section).

It should be noted that the increased use of TDR's by developers in years 1 through 5 - with the redevelopment of parcels in Rocklyn Station or elsewhere in Honey Brook - would allow Open Space Tax revenues to accumulate in Township coffers, and would lessen the amount of money the Township would have to borrow (or would hasten

the ability to pay back money already borrowed).

Because the implementation of preservation goals is necessarily dependent on the willingness of landowners to sell development rights to their properties, it is not feasible to develop a reasonable acquisition scenario beyond a five-year time frame. It will therefore be necessary to update this plan on a regular basis as the Township moves 10, 15, and even 20 years (and beyond) with its open space preservation program.

The Preferred Financial Approach for Honey Brook Township

Through discussions at their monthly meeting, and with advice from a private municipal-bond lender, the Land Preservation Committee has developed a strategy to proceed with open space protection. This strategy, as listed below, can be described as a conservative combination of “pay-as-you-go” using only available Open Space Tax revenues, and limited borrowing when needed. (The strategies below are listed in order of preference.)

- 1) Aggressively encourage landowner participation in the County/State Agricultural Preservation Program and the Chester County Challenge Grant Program. At the same time, encourage landowners to make a partial easement donation (to reap tax benefits), accept the County’s portion of the payment in lump sum, and then take yearly installment payments for the Township’s portion of the payment rather than a lump sum. This approach will greatly stretch the buying power of the Open Space Tax revenues.
- 2) In Year 1 (2007), use available Open Space Tax revenues to completely cover the cost of easement purchase. Installment payments would mean that only a portion of existing funds would have to be spent that year.
- 3) Pursue one or a series of small bank loans to cover the shortage of funds in Year 2 (2008). The specific amount of money needed will be determined by which farms have their County/State Agricultural Preservation Program and Challenge Grant applications accepted, and any other unexpected opportunities arise.

Alternatively, the Township may want to pursue a bond pool loan, which has advantages for amounts less than \$1,000,000.

- 4) For the long term, the Township should probably secure a general obligation municipal bond, either to increase their buying power, consolidate several small bank loans, or both. The bond can be secured at any time, without the monies necessarily having to be spent, although bond lenders insist that the money that is bor-

rowed be committed within 3 years. General obligation bonds are also flexible enough that if interest rates turn unfavorable in the short-term, the bond approval process can be sped up to achieve a favorable rate.

- 5) If funds allow in the long term, TDR's can be bought and held by the Township, either for sale at a later date or, ultimately, so that the development rights can be "retired."

General Policies with Respect to Purchasing Development Rights

The Township establishes the following general policies with respect to purchasing development rights:

- Applications shall be reviewed by the Land Preservation Committee (LPC) against the Preservation Priorities map (Figure 2).
- Capitalizing on preservation opportunities shall be of higher priority than borrowing cost avoidance.
- The LPC shall review the Township's financial situation annually, prior to the need to certify financial commitment to the County. The LPC shall recommend to the Board of Supervisors whether or not the Township should increase its cash-on-hand by borrowing after comparing likely applications and projected payouts.
- Each participating landowner will be asked to donate 10% of the value of their land. Higher priority shall be given to those applications that agree to donate over those that do not, though each application shall be reviewed on a case-by-case basis.
- Each participating landowner will be asked to accept annual installment payments for the Township's share of the payment. For Township total value under \$250,000, the term offered shall be not less than five years. For Township total value between \$251,000 and \$500,000 the term offered shall be not less than ten years. For Township total value exceeding \$501,000, the term offered shall be not less than 15 years. The landowner has the right to accept longer terms if desired. Accepting installment payments is not an automatic qualifier for the Township's participation, nor is "not accepting" an automatic disqualifier. The Township shall not pay interest on the amount owed, unless the total payment (with interest) is less than the Township's cost to borrow (including origination fees).