



PHILIP D. MURPHY
Governor
SHEILA Y. OLIVER
Lt. Governor

State of New Jersey
THE PINELANDS COMMISSION
PO Box 359
NEW LISBON, NJ 08064
(609) 894-7300
www.nj.gov/pinelands



RICHARD PRICKETT
Chairman
NANCY WITTENBERG
Executive Director

General Information: Info@pinelands.nj.gov
Application Specific Information: AppInfo@pinelands.nj.gov

CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

March 26, 2021 - 9:30 a.m.

Pinelands Commission YouTube link:

<https://www.youtube.com/channel/UCBgpC8sbR3Acrjo7ppxs3Uw>

To Provide Public Comment, Please Dial: 1-929-205-6099 Meeting ID: 833 5477 1666

Agenda

1. Call to Order
2. Adoption of minutes from the February 26, 2021 CMP Policy & Implementation Committee meeting
3. **Executive Director's Reports**

Barnegat Township Ordinance 2021-4, amending Chapter 55 (Land Use) by revising and adding conditional uses in the C-N (Neighborhood Commercial) Zone
4. **Pinelands Conservation Fund**

Consideration of priorities and schedule for a new round of land acquisition
5. **Stormwater Management**

Review of revised draft amendments and rule proposal
6. Continued discussion of Comprehensive Management Plan application exemptions and procedures (N.J.A.C. 7:50-4.1)
7. Public Comment

Adopted 04/30/2021

CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

This meeting was conducted remotely

All participants were present via Zoom conference

The public could view/comment through Pinelands Commission YouTube link:

<https://www.youtube.com/channel/UCBgpC8sbR3Acrjo7ppxs3Uw>

Meeting ID: 833 5477 1666

March 26, 2021 - 9:30 a.m.

MINUTES

MEMBERS IN ATTENDANCE: Chairman Richard Prickett, Jerome H. Irick, Ed Lloyd and Mark Lohbauer

MEMBERS ABSENT: Alan Avery and Jordan Howell

STAFF PRESENT: Nancy Wittenberg, Stacey P. Roth, Susan R. Grogan, Charles Horner, Ed Wengrowski, Brian Szura, Brad Lanute, Gina Berg, John Bunnell, Paul Leakan, Ernest Deman, Marci Green and Jessica Lynch. Also in attendance was Rudy Rodas with the Governor’s Authorities Unit.

Call to Order

Chairman Prickett called the Comprehensive Management Plan (CMP) Policy and Implementation (P&I) Committee meeting to order at 9:32 a.m. and Ms. Wittenberg identified all staff attending/participating in the meeting.

1. Adoption of minutes from the February 26, 2021 CMP Policy and Implementation Committee meeting

Commissioner Lohbauer moved the adoption of the minutes of the February 26, 2021 Committee meeting. Commissioner Lloyd seconded the motion. All voted in favor of adopting the minutes.

Commissioner Prickett thanked Ms. Piner for preparing the minutes and thanked Ms. Grogan for her response to comments regarding redevelopment submitted by Mark Demitroff following the Committee’s February 26, 2021 meeting.

2. Executive Director’s Reports

Barnegat Township Ordinance 2021-4, amending Chapter 55 (Land Use) by revising and adding conditional uses in the C-N (Neighborhood Commercial) Zone

Mr. Lanute opened his presentation on Barnegat Township Ordinance 2021-4 by displaying the map (Exhibit #1) included in the meeting packet. He identified the portion of the Regional Growth Area (RGA) that is the subject of the ordinance, adjacent to a Garden State Parkway interchange. He said Ordinance 2021-4 adds hotels, motels, and reception and banquet halls as well as assisted living facilities, nursing and convalescent homes and long-term care facilities as conditionally permitted uses in the Neighborhood Commercial (C-N) Zone West of the Parkway.

He said under current zoning, permitted uses in the C-N Zone are limited to various retail and service uses, professional offices, self-storage facilities, churches, libraries, and other institutional uses. He said mixed-use development, consisting of commercial uses and age-restricted apartments, is also permitted in certain portions of the C-N Zone, as are condominiums.

Mr. Lanute said there are three distinct C-N Zones within the Pinelands Area of Barnegat, but Ordinance 2021-4 requires that these conditional uses apply only to the area of the C-N Zone within 1000' of the Garden State Parkway. This ensures that such development will only occur within the RGA. He identified the six subject lots (outlined in yellow), consisting of some 22.5 acres under common ownership, to which the ordinance will apply. He further described height limitations of 60 feet for hotels and 50 feet for assisted living, convalescent care and similar facilities. He provided information regarding lot size and building coverage limitations. He said for assisted living facilities (considered residential uses under the CMP), the ordinance establishes a base density of eight units per acre, a bonus density of up to 12 units per acre through the use of Pinelands Development Credits (PDCs) and a maximum density of 20 units per acre. This would provide for the use of up to 90 PDC rights. He said that staff feels this is appropriate given the density of existing development in the area and the development potential of vacant lands in the C-N Zone as well as the availability of infrastructure. Although the ordinance could theoretically allow as many as 450 new assisted living units, it is unlikely given the Township's interest in adding mixed use and institutional development, hotels, etc.

Mr. Lanute said two commenters spoke at the public hearing and a number of written comments were received as attached to the Executive Director's Report. He said concerns were expressed regarding stormwater runoff, impacts on open space, residential development, housing types and building standards. He said some supportive comments were also received. He said all development in the C-N Zone will be required to meet CMP standards and noted that 77% of Barnegat Township's Pinelands Area is designated either the Preservation Area District (PAD) or Forest Area (FA). He said only 23% of the Township is within the RGA. He said nearly 9,000 acres have been preserved in the Township's Pinelands Area. He reiterated that these new conditional uses will be focused on this small 22.5 acre parcel within the RGA in an area of active development. He noted that despite the concerns expressed by one commenter regarding impact on open space, currently there are no preserved lands in the C-N Zone and the area of concern to that individual is some distance away. Mr. Lanute concluded by stating that staff feels Ordinance 2021-4 meets CMP standards and is recommending certification.

Chairman Prickett asked about the reference he has noted in many reports "...while protecting the essential character and environment of the Pinelands." He asked if, considering the intensity of development anticipated for this site, that phrase is applicable to the property being developed or to the entire Township.

Ms. Grogan said the wording comes directly from the CMP and is used to define and describe the RGA as a management area overall. It is intended to convey that growth in the Pinelands is targeted to the RGA as a way of relieving pressure elsewhere. It is not a standard to be applied to each individual project but serves as an overall goal. She said the language is a reminder to everyone that this is the RGA and development of this nature is its intended use.

In response to Commissioner Lohbauer's question, Mr. Lanute said the red boundary on the map designates the C-N Zone. There is no change to the zoning boundary but the new conditional uses will be permitted only on the lots outlined in yellow as they meet the criteria of being located within 1,000 feet of the Garden State Parkway. He said development of an assisted living facility requires a minimum of five acres so likely would occur on the largest of those lots.

Commissioner Lohbauer noted one small area where the C-N Zone boundary does not align with a lot line. Mr. Lanute said staff advises municipalities to draw their zoning boundaries along lot lines and has been successful in recent years so perhaps this zone was delineated some years ago.

Ms. Grogan said if the mapping is correct, the new conditional uses would not be permitted within the tiny sliver of land outside the C-N Zone. She noted this would not have much impact on the ability to develop the larger property.

In response to Commissioner Lohbauer's question if the largest lot outlined in yellow was landlocked, Mr. Lanute said it had access to both Bay Avenue and Lighthouse Drive.

Commissioner Lloyd said this ordinance screams out spot zoning to help a single landowner and he did not think the Commission should support it. He said there are adjacent property owners who are being denied the same opportunity.

Ms. Grogan said the adjacent lands in the C-N Zone (outlined in red) are already developed or recently approved for development. She said those projects were facilitated by similar ordinances adopted by the Township in recent years that added new conditional uses intended to apply only to very specific properties. She said most municipal redevelopment plans target individual properties as well. She said this ordinance also applies to lands in the C-N Zone in the Pinelands National Reserve, on the east side of the Parkway, but staff focused its report and recommendation on the Pinelands Area west of the Parkway where the Commission has jurisdiction. She said there are other opportunities for development of the conditional uses east of the Parkway.

In response to Chairman Prickett's question if the properties outlined in yellow were owned by the same person, Ms. Grogan said that probably did not matter under Pinelands standards but they were under common ownership, which makes it likely that the entire property will be developed as a whole.

In response to questions from Commissioner Lloyd, Mr. Lanute displayed the larger map showing Barnegat Township's PNR area east of the Parkway where there are other CN Zones.

Commissioner Lloyd said he'd be interested in knowing if these conditional uses will apply to lands east of the Parkway as that might address his spot zoning concerns.

Ms. Grogan said staff has had several discussions with Barnegat Township officials and hoped that they were following along and would call into the meeting so they could answer questions but, if not, staff would obtain the answers prior to the Commission meeting.

Commissioner Irick said he shared Commissioner Lloyd's concerns about spot zoning and he asked how the height and density standards were developed for this zone.

Ms. Grogan said because this ordinance affects only the RGA in the Pinelands Area, the municipality has the flexibility to determine permitted uses and building standards. The CMP contains no maximum height limitations in the RGA.

She said that building standards are generally left up to the municipality. She noted it is not often that the Commission sees ordinances that permit heights exceeding 35 feet but in the RGA and Pinelands Towns, there are some zoning districts where heights of 48 feet (four stories) are permitted. This is a matter that would be better addressed by municipal representatives.

Ms. Grogan said, in terms of permitted density, the only issue here relates to assisted living facilities as all other permitted uses are non-residential. She said the CMP expressly permits assisted living facilities at a density of eight units per acre without the use of PDCs. The Barnegat ordinance mirrors this requirement, and then permits an increase in density to 12 units per acre with the use of PDCs. She said the CMP also provides municipalities with the ability to add additional bonus densities as they do not interfere with the PDC program. She said one must remember that assisted living facilities are not traditional residential development. These are essentially units (rooms) within a larger facility. She said the Township wanted to provide the potential for up to 20 units per acre in order to facilitate the development of assisted living facilities in this location. The Commission has approved similar ordinances in other municipalities in recent years. She said that granting the bonus density is recognition that assisted living is a special type of residential unit. She said staff did not expect all those units would be developed on the eligible property as there will likely be commercial development also.

Commissioner Irick said he felt that the extra eight units per acre was rewarding someone for not using PDCs and was concerned that the CMP sets no limits on height or density. He suggested a moratorium on redevelopment until such time as CMP amendments can be implemented.

Chairman Prickett asked if there weren't a maximum density in the RGA. Ms. Grogan reminded the Committee of the presentation on redevelopment and density in the RGA made at the February 26, 2021 Committee meeting. She said that the CMP prescribes a certain minimum density in the RGA and provides each municipality with the flexibility to increase that density in certain zones, to move the density to different portions of the municipality's RGA and to offer bonus densities. All of these components of a municipal zoning plan must be reviewed by the Commission. When evaluating the suitability of certain densities, staff looks at such things as the availability of infrastructure, environmental constraints on affected properties, accommodation of the use of PDCs, and consistency with the character of the surrounding area. For this situation, one is dealing only with assisted living facilities, which the CMP defines as residential units. She said there is no maximum limit because the CMP is set up to provide maximum flexibility to municipalities in their RGA and allow them to determine factors such as density, height, design and building standards, etc. that fit their communities best. She said the RGA is where maximum flexibility is provided. She said outside the RGA, all the things for which Commissioner Irick expressed concern are addressed and tightly regulated such as the 35-foot height limit and maximum permitted densities. Ms. Grogan said Commissioner Irick's questions are about the fundamental goals and objectives of the CMP and the purpose of each management area. From the beginning, the CMP was set up to allow virtually any use, with the exception of landfills, in the RGA.

In response to Chairman Prickett's questions, Ms. Grogan said all development applications must meet the CMP's minimum environmental standards no matter which management area they are located in. Standards for stormwater management and the protection of threatened and endangered species are the same and must be met whether in RGA or FA. The Township's zoning plan merely provides for permitted uses and building standards. When and if an application for development is filed, wetlands constraints and any other environmental issues will be evaluated. Although a municipality ordinance may permit a certain density, it may not be achievable on every property in the zone.

In response to Commissioner Lloyd's question if she were aware of any environmental constraints that would limit development on this parcel, she said she did not believe so but that would be determined when a development application is submitted. She said she anticipated that stormwater management and air quality, given the number of units, would be the issues of concern.

Commissioner Irick's stated he was concerned about traffic. He said a 60-foot building seemed to be out of character of the neighborhood and he wanted to hear from his fellow Commissioners if they shared his concerns with density and height limitations.

Chairman Prickett said if the Commission feels there needs to be a height limitation then it should be considered but he suspected the Township already has limitations in place considering the cost of fire equipment to accommodate a multi-story building.

Ms. Grogan said recently approved and constructed development in adjacent areas likely exceeds 35 feet. This was necessary to accommodate mixed use development consisting of apartments over retail uses.

Commissioner Lloyd said the CMP does not currently allow the Commission to regulate height in the RGA but perhaps there is the ability to regulate density.

Ms. Grogan said there are CMP standards that regulate density and although there is no absolute cap on density, it is not a "free for all". She said, after all these years, it would be difficult for the Commission to tell the municipalities that they were required to reduce their density, unless an analysis were done to demonstrate that it was necessary to accommodate the number of units, e.g., the presence of wetlands. For this property in Barnegat, there are no wetlands issues.

In response to Chairman Prickett's questions about air quality, Ms. Grogan said the issue is CO₂ and relates to the amount of traffic, parking, intersections and road widening to improve traffic flow. She said the Commission consults with NJDEP on this matter.

Commissioner Lohbauer noted that Commissioner Irick has raised the issue of height restrictions on several occasions. He said he felt that although the Commission didn't regulate height in the RGA, there were other factors that it did regulate such as stormwater, air quality, water supply, wastewater, etc., all of which would have increased impacts with increased height. He said he was comfortable in not imposing height restrictions in the RGA.

Ms. Grogan said the Committee was not required to take a vote today but staff would seek additional information from the Township, particularly responses to Commissioner Lloyd's questions regarding development opportunities on other properties.

Commissioner Lohbauer moved the recommendation to the Commission for the certification of Barnegat Township Ordinance 2021-4, provided the information was provided in advance of the meeting to satisfy Commissioner Lloyd's concerns.

Commissioner Lloyd stated that, based on what he had seen today, he could not recommend this ordinance for certification.

There was no second to the motion and Chairman Prickett declared the motion had failed.

Ms. Roth confirmed with Chairman Prickett that, although the Committee did not make a recommendation to certify Barnegat Township Ordinance 2021-4, the ordinance still will be advanced to the full Commission for consideration at its April 9, 2021 meeting.

3. Pinelands Conservation Fund

Consideration of priorities and schedule for a new round of land acquisition

Ms. Berg said this morning's presentation on a new round of funding for the Pinelands Conservation Fund (*Attachment A to these minutes and posted on the Commission's website at: <https://www.nj.gov/pinelands/home/presentations/March%2026%202021%20PI%20UPDATE.3.pdf>*) was a revised version of that provided to the March 17, 2021 Land Use, Climate Impacts and Sustainability (LUCIS) Committee meeting, with revisions based on the Committee's recommendations. She provided background information about the program since its establishment in 2005, resulting in the permanent protection of 8,969 acres of land through several rounds of projects and funding sources. She said based on the 2019 amended Memorandum of Agreement (MOA) with the South Jersey Transportation Authority (SJTA), additional funding is now sufficient to establish a new round.

Ms. Roth reviewed the provisions of the 2019 amendment to the 2004 MOA with SJTA related to short-term projects at the Atlantic City International Airport. She said the 2004 MOA established a 290-acre Grassland Conservation Management Area on the airport property for certain upland bird and butterfly species. Since that time, due to concern with potential bird strikes or other hazardous interaction with wildlife at the airport, the MOA was amended to allow for year-round mowing to discourage the birds. She said, in exchange, SJTA was to establish grassland habitat elsewhere, enhance existing frosted elfin butterfly habitat on-site, and make a payment of \$3 million to the Pinelands Conservation Fund over six years to be used for land acquisition with a focus on grassland bird habitat, if available.

Ms. Berg continued the presentation while noting the recommendation to spend \$1 million during the new round of acquisitions.

She reviewed the land acquisition priorities and displayed maps showing grassland focus areas (based on NJDEP's landscape project, version 3), the wildland-urban interface focus areas showing areas of highest fire hazards and flood hazard focus areas (showing 500-foot buffer to wetlands), all of which will be considered when projects are submitted for potential funding.

Ms. Berg reviewed the project evaluation matrix, which assigns points to various features, and discussed the rationale for the various factors.

She discussed the deed of conservation restriction and the need to adjust it from previous versions. She said this will be part of the package the Committee will review at its April 30, 2021 meeting.

Ms. Berg outlined the process, noting the schedule calls for opening the acquisition round in late May with proposals accepted through July 30 and recommendations before this Committee in October.

Chairman Prickett, referencing the Climate Change Mitigation row of the matrix, stated that he would like the carbon sequestration/storage criterion to specifically recognize cedar forests, noting that these wetlands-dwelling trees hold their carbon the longest in the Pinelands and, as they are less susceptible to fire, they survive the longest. Also, he said the wetlands of the Black Run watershed (Evesham and Medford townships) could mitigate flooding along the Rancocas.

Ms. Grogan responded that perhaps bonus points could be built-in for the presence of cedars on a site.

Ms. Berg added that it could function just like adding three points for parcels larger than 500 acres.

Ms. Grogan said for more than 10 years, the Commission has focused on ways to provide more protection to the Black Run. If a project in that area were submitted, it would definitely score well according to the matrix. However, she reminded the Committee that this round of the PCF is different because of the grassland habitat focus, which may lead to other projects being ranked higher.

Commissioner Lloyd moved the approval of the matrix and the process outlined for the 2021 round of Pinelands Conservation Fund land acquisition. Commissioner Lohbauer seconded the motion and all voted in favor.

4. Stormwater Management

Review of revised draft amendments and rule proposal

Ms. Grogan reviewed the changes to the draft stormwater management amendments (*Attachment B to these minutes and posted on the Commission's website at:*

https://www.nj.gov/pinelands/home/presentations/PowerPoint%20for%203_26%20PI.pdf),

noting that she was focusing solely on the changes made since the Committee's extensive discussion at its February 26, 2021 meeting. She said it had been a great discussion with a lot of questions and the in-house stormwater team had reviewed the rules as proposed, reviewed the history of certain projects that the Commission had regulated in the past and re-read the NJDEP stormwater rules.

She said most of the changes that have been made since that meeting were relatively minor other than the substantive change related to variances (granted by municipalities for private

development) and exceptions (granted by the Commission for public development) and mitigation.

Ms. Grogan provided the Committee with clarifications that would apply to minor development, noting that this was new territory for the Commission. She reviewed the requirements for a plan indicating the location of green infrastructure measures and associated information regarding soils as well as a certification that no proposed measures will impact basements or septic systems. The revisions also clarify that certain standards required of major development will not apply to minor development.

Ms. Grogan said previously the draft rules relied on NJDEP standards for exceptions, waivers and mitigation when stormwater management standards cannot be met on-site, with some minor adjustments to reflect Pinelands standards. She was always personally somewhat uncomfortable with that approach as there are certain situations for which NJDEP will not require any mitigation. Upon further review, staff now collectively recommends retention of the standards that have been in the CMP since 2006, with a few clarifications. This will mean that for any exception granted, there must be an offset through mitigation. Furthermore, she further described the very clear circumstances under which such exceptions can be granted, noting that none can be granted for a decrease in the total volume of stormwater required to be infiltrated nor for direct discharge of runoff to wetlands. She said when a variance or exception is approved, an off-site mitigation project must also be identified and approved and both public and private development must meet the same requirements.

Ms. Grogan reviewed the mitigation process, noting that the municipalities may elect to list mitigation projects in their stormwater plans. She said the requirement will be retained that such plans explicitly state that variances will be granted only when an applicant can demonstrate that stormwater management standards cannot be met on-site. However staff is suggesting removing a somewhat vague provision allowing for stormwater management variances for “alternative measures” and deleting a provision allowing municipalities to collect *in lieu* contributions from applicants and expending them within five years on stormwater mitigation projects. She said she did not believe it has ever been used and thus seems unnecessary.

From her final slide, Ms. Grogan said there will be no outright exemptions from stormwater management requirements for public development projects and the Commission will not be adopting NJDEP’s waiver provisions for certain public projects. She said, as a result, the Commission’s stormwater standards will be stricter than those outside the Pinelands Area. She said she felt this is entirely appropriate and noted that exceptions are rarely requested or granted in the Pinelands Area.

Commissioner Lohbauer thanked Ms. Grogan and staff for turning around their questions and concerns in such short order. He also said last week he had received a copy of the Pinelands Preservation Alliance’s (PPA) white paper document on climate change solutions ([March 2021 White Paper on Climate Change Solutions for the Pinelands of New Jersey](#)) containing recommendations of things for the Commission to do. *During the course of the discussion it became apparent that not all Commissioners had received copies of the report.* Commissioner Lohbauer noted three recommendations related to the stormwater rules:

- Incorporate non-structural stormwater requirements into site design and embrace the nine strategies that NJDEP has removed from its stormwater rules;
- Require five years of monitoring for all new green infrastructure to guarantee the performance of the systems; and
- Require redevelopment projects to meet stormwater requirements

Ms. Grogan said staff had seen and reviewed the comments. She said the nine non-structural strategies were goals, not standards. NJDEP moved them elsewhere in their rules, believing them to be principles that belonged in municipal stormwater plans, not ordinances. She noted that one of the strategies relates to limits on tree clearing and that is addressed elsewhere in the CMP. She said if the Commission wanted to establish specific limits on tree clearing or affirmatively require tree planting, she suggested that be addressed outside of the stormwater rule discussion. Ms. Grogan said staff had gone through NJDEP's formal responses to these and other comments as it is likely many of them will be raised during the Commission's rulemaking process.

Regarding maintenance and bonding, Ms. Grogan said the CMP already has extensive maintenance requirements and the municipalities can require even more stringent performance guarantees should they choose to do so. She reminded the Committee that the stormwater regulations will now be extended to minor development and it may not be appropriate to impose a maintenance guarantee requirement on the installation of a dry well for a single family dwelling. Staff feels the proposed maintenance requirements are adequate and by adopting the NJDEP rules, they will be further strengthened.

Mr. Szura addressed the comment regarding redevelopment projects by providing an example. If someone were to develop the old Acme shopping center in Browns Mills with no change to impervious surface and thus no change to stormwater runoff, the existing requirements would apply. However if, for example, a Super Wawa were proposed on that site, with a gas station or additional impervious surface, the project would have to meet the high pollutant loading area standards and the new rules would apply.

Commissioner Lohbauer said it seemed to him that PPA was saying if an old development would not be permitted today, under the current CMP, then the Commission should try to impose current stormwater standards when development or redevelopment of that old use is proposed.

Mr. Szura responded that the Commission traditionally does not penalize existing development that pre-dates the Pinelands Commission and would merely confirm that a proposed project would not worsen conditions, e.g. increase in runoff or particulates.

Commissioner Lloyd said he saw that as an opportunity to make improvements at a site

Commissioner Lohbauer said that the NJDEP non-structural strategies had been established in 2004 and are being deleted. He said he felt they were very minimal, such as minimizing soil compaction. He asked if the Commission couldn't incorporate them by reference as they seem very useful and shouldn't just disappear.

Ms. Grogan responded that the concern is that those strategies are written as goals and objectives, not standards, so are not easily administered.

Mr. Wengrowski said the NJDEP Stormwater Best Management Practices Manual (https://www.nj.gov/dep/stormwater/bmp_manual2.htm) identified the nine strategies as the cornerstone of the 2006 stormwater rules. He said since that time, NJDEP has replaced it with green infrastructure that has been found to be far superior. He said one of the appendices in the Manual is a Low Impact Design checklist that allows the site designer to identify how those nine strategies are incorporated into a specific site design.

Mr. Szura said what he receives from the designers is generally a “cut and paste” document that provides no measurable means of verification. He said NJDEP feels the required use of green infrastructure is a better way to meet and measure stormwater standards and he agreed. In response to a question from Commissioner Lohbauer, he said he felt green infrastructure will cover the nine strategies.

Ms. Grogan said staff was hoping to receive the Committee’s consensus on the draft rules so that they could be submitted to the Governor’s Office for review prior to formal proposal by the Commission. She said they were likely to have additional questions and she wanted to keep the process moving with the intent of a vote on a proposal by the Commission at its May 2021 meeting.

Commissioner Lloyd left the meeting at 11:30 a.m.

Ms. Grogan reminded the Committee members that while it is always helpful to receive public comments and questions early in the process, there would also be a two month formal public comment period once the rule proposal has been authorized.

5. Continued discussion of Comprehensive Management Plan application exemptions and procedures (N.J.A.C. 7:50-4.1)

Chairman Prickett said he had four questions that he had submitted to the Executive Director the previous week:

1. Can horizontal directional drilling (HDD) be used to repair or install utility distribution lines without a development review?
2. How does the Commission regulate the drilling fluids, including bentonite and additives used in HDD, so that such development conforms to drinking water standards of the State of New Jersey and the United States?
3. Does HDD in the Pinelands require a permit from the Board of Public Utilities, possibly more specifically from the Bureau of Pipeline Safety?
4. What records should property owners keep when they apply 7:50-4.1 (Applicability) to their projects?

Ms. Wittenberg said the CMP does not have specific rules on HDD and neither does NJDEP. She said NJDEP is beginning to consider addressing rules and she is following that effort closely. She said she will bring information to the Commission when it is available. She said HDD has long been considered a better method than open trenching and only recently have agencies been considering regulation.

Chairman Prickett said in his research he has learned that Pennsylvania regulates HDD. He said if a project using HDD application is exempt, the Commission would not know what chemicals are being used.

Ms. Roth said currently HDD is being used for a myriad of purposes including installation of water and sewer lines and fiber-optic cable. These projects are often exempt (not subject to application requirements). She said if the Commission wants to review all applications that include HDD, then the rules need to be amended. She said NJDEP considers bentonite an inert, non-hazardous substance.

Chairman Prickett said he was concerned that bentonite might be contaminated with heavy metals and he wanted a process to certify that the bentonite used in the Pinelands is pure. He said he wanted to continue this discussion when Ms. Wittenberg and Ms. Roth can return with additional information from NJDEP.

Commissioner Lohbauer said he appreciated that Chairman Prickett has raised this issue and the link to water quality. He said if bentonite contains heavy metals that become deposited in water, there are dangerous impacts about which the Commission would know nothing absent an application. He said he believed the Commission needed to pursue an amendment due to the deleterious effects of heavy metals as well as the impacts of bentonite itself on wetlands plants and animals.

Commissioner Irick said he agreed that HDD should not be exempt from Commission review based on the research he had done and he was also concerned about the distinction between repairing an existing line vs. replacing or enlarging a line. He said he wanted projects involving HDD to come before the Commission.

Chairman Prickett asked what documentation applies when tearing down a house less than 50 years old and rebuilding it.

Mr. Deman said the Commission relies on the municipality to determine if a house is less than 50 years old. He said if the evidence shows that the house is more than 50 years old, staff would go through the review process even if the house were already demolished. He said when a Certificate of Filing is issued for the demolition of a single family dwelling, language is included requiring reconstruction within five years for the project to be exempt from Commission review.

Ms. Wittenberg invited the Committee to send her emails with questions that they want addressed.

Chairman Prickett reminded Commissioners to provide agenda items for the upcoming meeting with Acting NJDEP Commissioner Shawn LaTourette.

6. Public Comment

Ms. Rhyan Grech, with the PPA, referencing the previous mention of the Black Run, said she believed in 2016 there had been a proposal for a management area change in Evesham and Medford townships from Rural Development Area to Forest Area for increased protection of the

watershed. She said she believed the Commission should look at this again. Also, she said PPA felt for a development project that was repurposing a site, the Commission should take advantage of the opportunity to make sure current stormwater standards were met. She said that PPA is generally supportive of the stormwater amendments. She asked how she could be sure that documents provided to the Commission would be distributed to all members.

Ms. Roth, the Commission's ethics liaison officer, said all materials submitted by an applicant or an advocacy group should be sent to the Executive Director for circulation.

Ms. Grech said she felt a program such as NJDEP's permit by registration would be useful to the Commission in tracking exempt projects. She asked for a status update on the South Jersey Gas pipeline project in Hamilton Township and noted that there had been a previous discussion among Commissioners if it were a repair or replacement. She noted the shoddy workmanship that has allowed the spillage of a significant amount of bentonite into Pinelands wetlands in multiple events during the New Jersey Natural Gas Southern Reliability Link pipeline construction, most recently this past Saturday in Chesterfield. She said PPA determined that this was the eleventh confirmed inadvertent return and asked that it be addressed.

Chairman Lohbauer noted that registration for the Pinelands Short Course is now open.

Commissioner Lohbauer moved the adjournment of the meeting at noon. Commissioner Irick seconded the motion. (Note, as Commissioner Lloyd had left the meeting, there was no quorum.)

Certified as true and correct



Betsy Piner
Principal Planning Assistant
April 13, 2021

Pinelands Conservation Fund

Permanent Land Protection

PCF Background

- Established in 2005
- Additional funding through CCMUA
- Priorities amended in 2014
- Permanent land protection: **8,969** acres
- Additional funding through SJTA (2019)
- Suggested acquisition priorities revision in 2021

2019 Amendment to South Jersey Transportation Authority Agreement

- April 12, 2019, the Pinelands Commission authorized execution of amendment to the 2004 MOA between the Commission and the SJTA concerning short term development projects at the Atlantic City International Airport.
- 2004 MOA required creation of a 290 acre Grassland Conservation Management Area on the Airport property.
- 2019 MOA Amendment permitted SJTA to mow the on-site Grassland Conservation Management year round.

2019 MOA Amendment (continued)

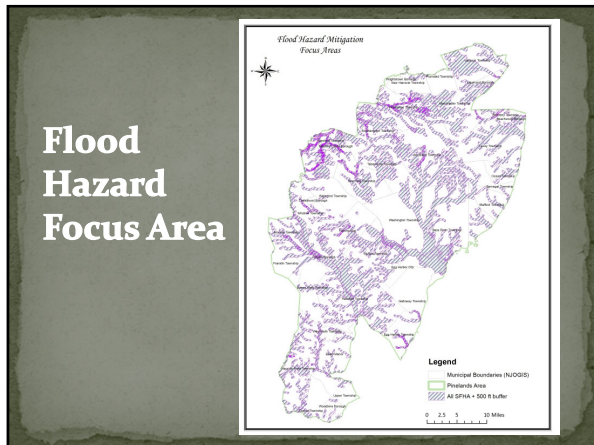
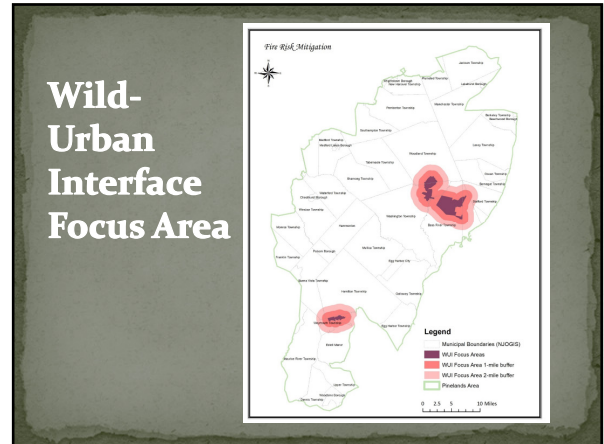
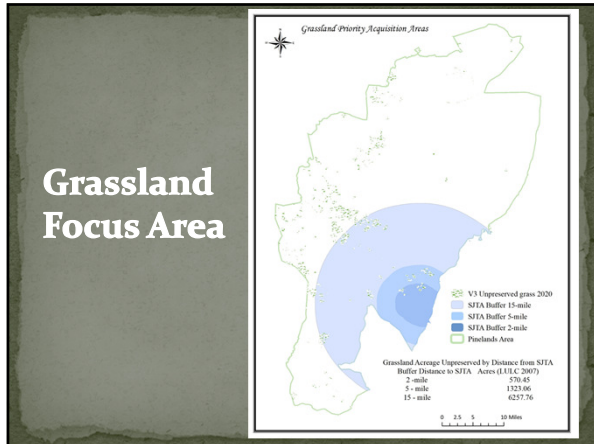
- Offset for the 2019 MOA Amendment:
 - Acquisition, creation and long term maintenance of a new Grassland Conservation and Management Area in the Pinelands.
 - Enhancement of an additional 12 acres site for frosted elfin butterfly.
 - Payments totaling Three Million Dollars were to be made to the Pinelands Conservation Fund for the acquisition of land with a priority given for threatened or endangered grassland bird habitat, if available.

Acquisition 2021

- New funding round
- \$1,000,000
- Acquisition Priorities*
- Process
- Schedule

Land Acquisition Priorities

- Grassland habitats
- Impacts of climate change
 - Carbon sequestration
 - Fire management
 - Flood hazard
- “Traditional” acquisitions
 - 502 Fund Areas
 - Target Areas



Project Evaluation Matrix

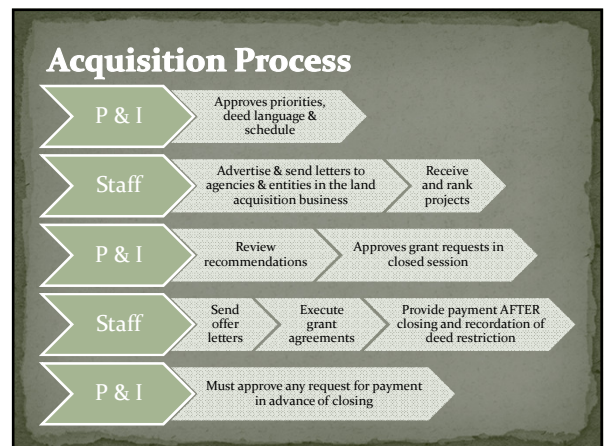
Factor	Low (1)	Medium (3)	High (5)
Location: Is the project in PCF focus area	In RGA, Town, Village or Rural Development Area AND none of the designated focus areas	In designated focus areas and PAD, SAPA, APA or Forest Area	Within a five-mile radius of SIFA and inside the State Pinelands Area
T&E Habitats:	No state/federal T&E habitat per NIDEP Landscape Model AND no NJPC and ENSP sightings	T&E habitat exists based upon NIDEP Landscape model and/or NJPC and ENSP sightings	Grassland habitat exists based upon NIDEP Landscape model and/or NJPC and ENSP sightings
Size:	Less than 50 acres	Between 50 and 100 acres	100 acres or more; add 3 additional points if greater than 500 acres
Contiguity:	Greater than one mile from preserved habitat or open space	Less than one mile from known grassland T&E habitats but not contiguous	Contiguous with preserved habitat or open space
Partner Contribution:	67.7% of acquisition costs	At least 75% acquisition costs	Greater than 75% acquisition costs
Long-Term Maintenance Capability:	No monitoring or maintenance plan/ no identified land steward	Proposed Monitoring and maintenance plan; Not previously implemented	Established Monitoring and maintenance program / Gov't, agency or NGO is prepared to manage land
Climate Change Mitigation:	Flood hazard mitigation	Wildfire Management	Carbon Sequestration/ Storage
Purpose:	Historic Preservation	Open Space	T & E or Climate Change

Deed of Conservation Restriction

Template will be revised to address

- Habitat maintenance plan (grassland)
- Local populations protections
- Types of forestry practices
- Low intensity recreation
- Land management issues of monitoring and protection

April 30, 2021 P & I meeting for approval



Permanent Land Protection Schedule

- P & I Committee approval
 - March 26, 2021 : Priorities & Matrix
 - April 30, 2021 : Deed of Conservation Restriction
- Open application round ~ late May
- Deadline for submitting proposals ~July 30
- Recommendations to P & I ~ October 2021



Stormwater Management Updated Draft Amendments



Pinelands Commission Policy & Implementation Committee
March 26, 2021

Clarifications for Minor Development

Application requirements:

- Certified plan showing location of proposed green infrastructure measures and the associated soil profile, soil permeability test elevation, soil permeability rate and the elevation of and vertical separation to the seasonal high water table.
- Written certification from design engineer certify that no proposed green infrastructure measures will adversely impact basements or septic systems

Clarifications for Minor Development

65% nitrogen removal standard does not apply.

Groundwater mounding analysis is not required.

As-built requirements do not apply.

Exceptions and Mitigation

If stormwater management requirements cannot be met on-site, based on DEP standards, applicants may request:

- a municipal variance (for private development)
- an exception from the Commission (for public development)

Exceptions and Mitigation

- Variances and exceptions may only be granted from the on-site design and performance standards for green infrastructure, the standards for groundwater recharge, stormwater runoff quality, and stormwater runoff quantity and the on-site recharge standards.
- No decrease in the total volume of stormwater required to be infiltrated is permitted.
- No variance or exception may be granted from the CMP's prohibition on direct discharge of runoff of wetlands, wetlands transition areas or surface water bodies.

Off-site mitigation requirements

- If a variance or exception is approved, an off-site mitigation project must also be identified and approved.
- All mitigation projects must be located in the same HUC-14 drainage area as the proposed development. Sites in the larger HUC-11 drainage area may be approved if necessary.
- All mitigation projects must be located in the Pinelands Area.
- The same requirements will be applied to all public and private development.

Off-site mitigation requirements

- Municipalities may identify potential mitigation projects in their stormwater management plans.
- When a variance or exception is granted, the associated mitigation project must be selected from the list in the stormwater plan (if such a list exists).
- Commission certification of municipal stormwater management plans is required.

Municipal Stormwater Mitigation Plans

N.J.A.C. 7:50-3.39(a)2viii

Retain requirement that municipal plans explicitly state variances will be considered only in cases where an applicant is able to demonstrate that stormwater standards cannot be met on a particular parcel.

Delete provisions that allowed for variances when a municipality determined stormwater management would "more effectively be achieved through alternative measures".

Municipal Stormwater Mitigation Plans

N.J.A.C. 7:50-3.39(a)2viii

Delete provisions that allowed municipalities to collect monetary contributions in lieu of requiring off-site mitigation measures.

The CMP previously allowed municipalities to require such contributions, provided all collected funds were expended on stormwater mitigation activities within five years.

Exceptions and Mitigation for Public Development

The CMP will continue to require off-site mitigation for all public development that cannot meet CMP standards on-site.

No outright exemptions from CMP stormwater management standards will be provided.

NJDEP's waiver provisions for certain public projects (roads, pedestrian access) will not be incorporated in the CMP.

The Commission's standards will continue to be more stringent than those applicable outside the Pinelands Area.



PHILIP D. MURPHY
Governor
SHEILA Y. OLIVER
Lt. Governor

State of New Jersey
THE PINELANDS COMMISSION
PO Box 359
NEW LISBON, NJ 08064
(609) 894-7300
www.nj.gov/pinelands




RICHARD PRICKETT
Chairman
NANCY WITTENBERG
Executive Director

General Information: Info@pinelands.nj.gov
Application Specific Information: AppInfo@pinelands.nj.gov

MEMORANDUM

To: CMP Policy & Implementation Committee

From: Susan R. Grogan 
Director of Planning

Date: March 17, 2021

Subject: March 26, 2021 Committee meeting

Enclosed please find the agenda for the Committee's upcoming meeting on March 26, 2021. We have also enclosed the following:

- The minutes from the Committee's February 26, 2021 meeting;
- A draft resolution and report on the Barnegat Township ordinance listed on the agenda;
- A memorandum outlining our recommendations for a new round of land acquisition using the Pinelands Conservation Fund;
- Revised draft CMP amendments related to stormwater management and a memorandum explaining the changes we've incorporated following the February 26, 2021 Committee meeting; and
- A letter received from Mark Demitroff expressing concerns with redevelopment in the Pinelands, along with the Commission staff's new and previous responses.

The Committee meeting will be conducted via teleconference. Specific access information will be provided to all Committee members in a separate email. The public will be able to view and participate in the meeting through the following YouTube link:

<https://www.youtube.com/channel/UCBgpC8sbR3Acrjo7ppxs3Uw>

/CS15

cc: All Commissioners (agenda only)



PHILIP D. MURPHY
Governor
SHEILA Y. OLIVER
Lt. Governor

State of New Jersey
THE PINELANDS COMMISSION
PO Box 359
NEW LISBON, NJ 08064
(609) 894-7300
www.nj.gov/pinelands



RICHARD PRICKETT
Chairman
NANCY WITTENBERG
Executive Director

General Information: Info@pinelands.nj.gov
Application Specific Information: AppInfo@pinelands.nj.gov

CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

March 26, 2021 - 9:30 a.m.

Pinelands Commission YouTube link:

<https://www.youtube.com/channel/UCBgpC8sbR3Acrjo7ppxs3Uw>

To Provide Public Comment, Please Dial: 1-929-205-6099 Meeting ID: 833 5477 1666

Agenda

1. Call to Order
2. Adoption of minutes from the February 26, 2021 CMP Policy & Implementation Committee meeting
3. **Executive Director's Reports**

Barnegat Township Ordinance 2021-4, amending Chapter 55 (Land Use) by revising and adding conditional uses in the C-N (Neighborhood Commercial) Zone
4. **Pinelands Conservation Fund**

Consideration of priorities and schedule for a new round of land acquisition
5. **Stormwater Management**

Review of revised draft amendments and rule proposal
6. Continued discussion of Comprehensive Management Plan application exemptions and procedures (N.J.A.C. 7:50-4.1)
7. Public Comment

CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

This meeting was conducted remotely

All participants were present via Zoom conference

The public could view/comment through Pinelands Commission YouTube link:

<https://www.youtube.com/channel/UCBgpC8sbR3Acrjo7ppxs3Uw>

Meeting ID: 833 5477 1666

February 26, 2021 - 9:30 a.m.

MINUTES

MEMBERS IN ATTENDANCE: Chairman Richard Prickett, Alan Avery, Jerome H. Irick, Ed Lloyd and Mark Lohbauer

MEMBERS ABSENT: Jordan Howell

STAFF PRESENT: Nancy Wittenberg, Stacey P. Roth, Susan R. Grogan, Charles Horner, Ed Wengrowski, Brian Szura, Marci Green, Brad Lanute, Paul Leakan, Ernest Deman, Jessica Lynch, and Betsy Piner.

1. Call to Order

Chairman Prickett called the Comprehensive Management Plan (CMP) Policy and Implementation (P&I) Committee meeting to order at 9:32 a.m. and Ms. Wittenberg identified all staff attending/participating in the meeting,

2. Adoption of minutes from the January 29, 2021 CMP Policy and Implementation Committee meeting

Commissioner Lohbauer moved the adoption of the minutes of the January 29, 2021 Committee meeting. Commissioner Avery seconded the motion. Chairman Prickett requested a revision to the minutes on page 12 to insert that “he agreed with Commissioner Avery” to convene a symposium. With both Commissioners Lohbauer and Avery agreeing to this amendment, all voted in favor of adopting the minutes.

During the course of the meeting, there were issues with garbled voices and some lagging of the presentation. Ms. Lynch said Verizon had notified her at 9:20 a.m. that they were having technical issues. This remains evident in the YouTube recording.

3. Review of draft Comprehensive Management Plan amendments for stormwater management

Ms. Grogan said the draft stormwater amendments presented today are the result of collaboration among several offices with a team including Ed Wengrowski, Brian Szura, Marci Green, Nancy Wittenberg, Stacey Roth, Chuck Horner and herself. She said they had been in close contact with the New Jersey Department of Environmental Protection (NJDEP) and they have been very helpful. She noted that, although the meeting packet had contained draft language, staff was still doing some refining and tweaking but the rules are in a near-finished form that she believed was ready to present to the Committee.

Ms. Green presented a slideshow, assisted by Mr. Leakan (*Attachment A to these minutes and available on the Commission's website at:*

<https://www.state.nj.us/pinelands/home/presentations/022621%20Stormwater%20presentation.pdf>).

Ms. Green asked the Committee to recall the presentation staff made last September on how staff planned to implement the stormwater management rules adopted by NJDEP last year. She said the CMP currently incorporates key provisions of NJDEP stormwater rules so staff needed to look closely to see what modifications were needed to ensure that the CMP was not being less restrictive. This process is similar to what the Commission undertook in 2006 after NJDEP had modified its stormwater rules in 2004.

As described on the slides, Ms. Green reviewed the key features of the new NJDEP rules, noting the mandatory use of green infrastructure best management practices as a key new provision. She said the three major policy goals of the Commission will be: to harmonize the NJDEP new stormwater rules in a manner best suited for the Pinelands Area; to minimize the impacts of increased stormwater runoff due to climate change; and to strengthen and enhance stormwater management in the Pinelands Area while establishing reasonable requirements for home builders and developers.

Ms. Green said the proposed rule changes will require stormwater runoff management for minor residential development (≤ 4 units), allow variances and exceptions for developments that can't meet CMP stormwater management on-site and add a specific recharge standard for nitrogen removal.

Ms. Green said most applications in the Pinelands Area are for minor development, which will now be required to retain stormwater onsite through such mechanisms as dry wells and rain gardens. These green infrastructure measures will need to be designed in accordance with the NJDEP Best Management Practices (BMP) Manual, which will be incorporated by reference into the new rules.

Mr. Wengrowski said rooftop runoff is about the cleanest stormwater one can find and it will be recharged through green infrastructure. He said he and Mr. Szura had met with various scientists and engineers, one of whom suggested that dry wells could become traps for reptiles and amphibians. He said now a provision unique to the Pinelands Area will require that dry wells be

designed to prevent such entrapment. He said this was the result of a great interaction with outside experts who expressed a legitimate concern.

Ms. Grogan said by extending the retention of stormwater to minor development, a much larger universe of development applications will be captured. She said staff found that, since January 2010, there were 50 applications for major residential development (≥ 5 units) ranging from five to 777 units received and completed. During that same interval, 767 applications for minor residential development were received and completed, none of which required stormwater management. She noted that while managing stormwater from minor development will be a good thing, it will require a significant amount of work on the part of staff and the municipalities to administer this much larger universe of applications.

Mr. Wengrowski added that this sets the Pinelands Area apart from other parts of the State as NJDEP does not require stormwater management for minor development.

Mr. Szura said one of the challenges in synthesizing the rules is that NJDEP does not regulate stormwater for minor development. Furthermore, NJDEP has a different definition of minor development: the clearing of one acre or the creation of $\frac{1}{4}$ acre of impervious surface. He said staff struggled with such issues as, for example, a 2 lot subdivision in the Rural Development Area (RDA). He said under NJDEP rules, the first house would be considered minor development but, when a second house is added, likely that would become major development. He said similarly, a single unit in the Forest Area (FA) could easily require an acre of clearing. He said that rather than wrestle with the distinction between NJDEP and Pinelands definitions between minor and major development, staff determined if infiltration is required for all single family dwellings, then it would meet the standards for both agencies.

In response to Commissioner Avery's question as to how much rain is generated by a 10-year, 24-hour storm (the volume of water required to be retained and infiltrated on-site), Mr. Wengrowski said that varies by county but is roughly a 5" storm event.

Commissioner Avery noted that on a 3.2 acre lot in the RDA, retaining that much water should not be much of a problem.

Mr. Wengrowski concurred as it is only the water from the rooftop surface that is being collected.

In response to a question from Chairman Prickett if there is any evaluation of the types of soil on a property during the design of these projects, Mr. Wengrowski said back in 2004 to 2006 when Pinelands staff was developing the model stormwater ordinances, there were specific and rigorous soil testing requirements. He said, in the intervening years, NJDEP has caught up and incorporated into its BMP manual, the type of testing in design and after construction with follow-up testing to confirm. Rather than having two separate standards, the CMP will now rely on the BMP manual.

Ms. Green said the draft proposal has a provision that explains what minor development applicants are required to submit in their applications. This is one of the ‘tweaks’ that staff is still developing.

In response to questions from Commissioner Irick about runoff rates, Mr. Wengrowski said there are two components to runoff volume. He said there is the volume that is required to remain onsite and, for flood control purposes, the volume that cannot leave the site at a rate that exceeds the pre-development rate. Mr. Szura added that for minor development, the calculations do not mean much for a small property but the addition of the required green infrastructure will result in a reduction of offsite runoff.

Commissioner Irick said he agreed.

Ms. Green said the new standard for minor non-residential development will apply to development that results in an increase of more than 1,000 square-feet of regulated motor vehicle surfaces and requires infiltration and recharge onsite.

Mr. Wengrowski this applies to parking lots and cartways because it is known that vehicles leak chemicals and these pollutants tend to bind with soil. He said the total suspended solids must be captured and removed to prevent the pollutants from entering groundwater. He said this rule relates to a lower storm event, the water quality design storm, which is a 1-1/4” storm over a 24 hour period. He said in a heavy downpour, much of the suspended solids is swept away in the first 1” of rainfall. That is the water that is most polluted and is to be captured and contained.

Mr. Szura said this definition is in the current NJDEP rules and is a good distinction between other impervious surfaces. He said the CMP will adopt this definition by reference.

Ms. Green said the NJDEP rules require the removal of nitrogen to the maximum extent practicable but the CMP will set an actual standard by requiring a minimum of 65% removal of the total nitrogen load from turf and managed vegetative areas. She said this is likely to be another area of the proposal where the language will have some refinements.

Mr. Wengrowski said nitrogen has been the major pollutant of concern going back to the studies by the consultants who assisted in the development of the CMP. He said this is why the Commission has the alternate design septic system program, which also requires 65% nitrogen reduction in septic effluent. To achieve that 65% reduction in stormwater will take some effort. He said NJDEP has identified only one BMP capable of reducing nitrogen to that level but, by combining two BMPs in series, such as directing stormwater across a vegetative swale and then into an infiltration basin, 65% nitrogen removal is attainable. He said this is an improvement over the current “maximum extent practicable” language in the CMP.

In response to Commissioner Lohbauer’s question, Mr. Wengrowski confirmed that lawn and garden fertilizers were the primary sources of nitrogen in stormwater.

In response to Commissioner Avery's question, Ms. Grogan said this requirement applies only to major development.

Mr. Wengrowski added that the Committee might recall that the stormwater from minor residential development deals with that coming from rooftops.

Ms. Green said currently the CMP has provisions for the Commission to grant exceptions to projects that cannot meet stormwater requirements onsite. She said the new NJDEP stormwater rules provide more detail and staff is proposing adoption of these provisions for offsite mitigation with some modifications. She said while NJDEP allows mitigation within the same HUC-14 watershed, these proposed rules will expand that to allow it within the same HUC-11 watershed as the proposed development if there are no sites within the HUC-14. The current draft rules indicate that the mitigation must occur within the Pinelands Area and within the same municipality. However staff wants the Committee to consider mitigation within the same watershed, even if it is outside the municipal boundary of the project.

Mr. Szura said the CMP currently allows granting of an exception with mitigation, but there is little specificity to provide guidance to staff. The new NJDEP stormwater rules provide a lot of help by requiring the mitigation project be selected and approved prior to the approval of the development project and that the mitigation project be built before or concurrently with the development project. He said staff feels that there may be a benefit to allowing a project in a municipality that shares a common stream with an adjacent municipality to provide mitigation in that second municipality if there is a more worthy mitigation project to be addressed. It might be difficult and would require the cooperation and approval of both municipalities but it could be done.

Mr. Wengrowski provided an example of a public development project (athletic fields) for which the clay soils prevented groundwater recharge onsite. He said he and Mr. Szura identified some other areas of the municipality with pre-Pinelands development where flooding and discharge to wetlands were occurring. He said mitigation for the development project could have been offset by creating an infiltration system to resolve the flooding issues in a different area of the municipality.

In response to Commissioner Irick's statement that maybe the project should not have been allowed to proceed due to the soils, Mr. Wengrowski said that under the CMP, it could not have gone forward had they been unable to find a suitable mitigation project, and, in fact, the project was never completed.

Commissioner Irick said he was not in favor of allowing mitigation projects outside the municipality.

Commissioner Lohbauer said it was more important to make sure the stormwater is discharged into the same watershed. He stated that he was concerned that concentrating stormwater in one area might create a problem for wetlands elsewhere.

Mr. Szura said no project would be permitted that would increase the rate of runoff or discharge to wetlands. Staff saw this as a possible means to remedy a pre-existing condition that would result in a better outcome for wetlands.

In response to Commissioner Lohbauer's concern that the language be clear that the offsite mitigation must meet CMP criteria, Ms. Grogan said staff will carefully review that section.

In response to Ms. Grogan's question if he knew the number of projects for which offsite mitigation projects had been approved since 2006 (when the CMP was amended to permit offsite mitigation projects), Mr. Szura said perhaps a handful as typically the issues are resolved onsite.

Ms. Grogan said primarily it is the expansion of existing or pre-existing development that requires offsite mitigation, not new projects.

Mr. Szura provided an example of the development of a parking lot at a transit stop in Egg Harbor City where, as an offset, they proposed removing some sections of impervious surface that was discharging directly to wetlands.

Ms. Grogan reminded the Commission that such public development applications would come directly before the Commission to review and be satisfied that all the standards were met.

In response to Commissioner Lloyd's question as to what criteria a developer would need to use to prove that the mitigation could not be met onsite, Mr. Horner said typically roads and bridges are physically constrained and stormwater cannot be contained onsite, usually because the entity does not own the land outside the right of way or there are development or wetlands at the edge of the paved area or a seasonal high water table issue.

Mr. Szura said NJDEP regulations state that if it is technically impractical to meet the standards onsite due to engineering, environmental or safety concerns, then offsite mitigation is permitted. But, he added, Commission staff is experienced enough that it will not allow offsite mitigation when the standards can be met onsite.

Commissioner Avery said he didn't think it mattered if the offset were in the same municipality as long as it was within the same watershed, and Commissioner Lohbauer concurred.

Ms. Grogan said as long as the offset is within the Pinelands Area and within the same watershed, she felt the municipal boundary should not be as important, particularly for public development projects that often involve counties. She said she agreed that the municipal limitation should be removed from the proposed rules.

Ms. Green said a municipal variance providing for offsite mitigation cannot allow any decrease in the volume of stormwater required to be infiltrated. She said this is more stringent than what NJDEP requires.

In response to comments by Commissioner Lohbauer who referenced the presentation before the Land Use, Climate Impacts and Sustainability (LUCIS) Committee by NJDEP Assistant Commissioner Mazzei regarding increased future rainfall (https://www.state.nj.us/pinelands/home/presentations/100720_LUCIS%20presentation.pdf), Mr. Wengrowski said a joint study between NJDEP and Rutgers and Cornell universities will update projected rainfall and will be incorporated into the NJDEP Manual, so will automatically be reflected in the Commission's rules by reference.

Ms. Green said the Commission can grant exceptions for public linear projects, e.g. roads, if the application meets certain conditions.

Mr. Wengrowski read the relevant excerpt from the NJDEP manual, highlighting the need to condemn existing structures upstream in order to receive this exception.

Ms. Green said one additional change to the draft rules is that the requirement for post construction testing to show that the stormwater measures were functioning as designed will not apply to minor residential development.

Ms. Green closed by summarizing how the CMP will exceed NJDEP standards. She said although currently the CMP is more stringent, including requiring infiltration of the 10-year storm rather than the NJDEP 100-year storm, there are additional protections that will be incorporated. She said the anticipated schedule would result in adoption of the amendments in October 2021.

Ms. Grogan noted that, if during the public comment period the Commission were to receive a lot of comment, as had NJDEP, there could be a delay while staff evaluates and responds to such comment. Also, she said the Pinelands municipalities will need to adopt implementing ordinances, as they are currently for their non-Pinelands areas to meet NJDEP requirements. She said, in the interim, it will be confusing for officials and developers to deal with two sets of rules. She hoped to shorten the time between the NJDEP rules, effective March 2, 2021, and the effective date of the Commission's rules as much as possible.

In response to Commissioner Avery's question as to how much land was being taken away from development to accommodate these stormwater measures, Mr. Wengrowski said he had never been involved with that type of analysis.

In response to Commissioner Lohbauer's question if Commissioner Avery were anticipating opposition from developers to these new rules, Commissioner Avery said the development potential in the RGA is tied to affordable housing and the PDC program. He said he had no

concerns with the stormwater rules but wanted to raise this issue such as the required safety ledge that reduces the storage capacity of basins, thus requiring their areas to be larger.

Commissioner Irick said the area for development will be significantly reduced by green infrastructure.

Mr. Szura said the safety ledge has always been a NJDEP requirement. He said adding dry wells for minor development will not reduce the overall development area. The NJDEP is requiring multiple smaller basins throughout the site, something that is already in the CMP. He said there is no change to the 10-year stormwater volume requirement.

Mr. Wengrowski said a creative designer who incorporates green infrastructure can use permeable pavement to reduce the amount of water directed to a basin and similarly, a rain garden could serve as an aesthetic feature while serving to collect stormwater, potentially reducing basin size.

Commissioner Avery asked if NJDEP would undergo a formal, public process before changing its rules as the result of the collaborative rainfall study. Ms. Grogan said staff would discuss that question with NJDEP. Furthermore, she said she would also check with NJDEP to see if there were issues related to stormwater management for agricultural structures.

In response to Commissioner Lohbauer's questions about the need to regulate fertilizer, Mr. Wengrowski said commercial fertilizers are now required to contain an organic nitrogen component that is slow release compared with synthetic nitrogen. He said also there are seasonal application limitations. He said the 65% nitrogen reduction might receive some pushback from developers but staff will be prepared to address that during the public comment period. Mr. Wengrowski said he would make the link to the NJDEP BMP manual available.

Chairman Prickett thanked staff for the development of these rules.

4. Overview of redevelopment in the Pinelands Area

Ms. Wittenberg said Commissioner Irick has raised the issue of redevelopment several times and staff is responding with this presentation today.

Mr. Lanute made a presentation (*Attachment B to these minutes and available on the Commission's website at*

https://www.nj.gov/pinelands/home/presentations/Redevelopment%20in%20the%20Pinelands_fi nal.pdf.

As detailed on the slides, Mr. Lanute said, under the Local Redevelopment and Housing Law, redevelopment is a tool municipalities can use "to rebuild or restore an area in a measurable state of decline, disinvestment or abandonment." He provided an overview of the redevelopment process in New Jersey and discussed the various criteria for determining areas of rehabilitation

and redevelopment, the required provisions of a redevelopment plan and the financial tools to incentivize private investment in redevelopment to make projects viable.

Mr. Lanute then discussed redevelopment in the Pinelands and the Commission's role. He said while some municipalities consult the Commission when they initiate the redevelopment process, others do not notify the Commission until well into the process or even after adoption of a redevelopment plan. He said since 2003, municipalities have been required to submit their redevelopment designations to the Department of Community Affairs (DCA), which, in turn, notifies the Commission. If a municipality then proceeds to adopt a redevelopment plan, it must be submitted directly to the Commission for review and certification. The Commission also reviews any development applications within that redevelopment area. He said redevelopment plans, like all municipal ordinances, must be compliant with the CMP.

Mr. Lanute said the Commission has approved 56 redevelopment plans, predominantly in the RGA and Pinelands Town management area. He noted that roughly 20 of these plans were subsequently amended, often due to sunset clauses, or, after a period of stagnation, to meet the needs of a new redeveloper with different ideas from what had been originally envisioned. Mr. Lanute provided a summary of four such plans.

Mr. Lanute summarized CMP standards for the RGA and reviewed two redevelopment plans previously certified by the Commission in the RGA.

He said the Pemberton Township Browns Mills Town Center Redevelopment Plan, as certified by the Commission in 2018, was a revision to the original 1995 Redevelopment Plan. He said DCA worked actively with Pemberton in developing this plan for an area with existing development and a variety of uses. He said the 2018 amendment maintained the existing redevelopment area boundary but adopted a new simplified zoning plan.

Mr. Lanute said the Hamilton Township Landfill Redevelopment Plan was for a single lot in the Township's Industrial Business Park zone where solar facilities were added as a principal use in this zone. He said the goal was to install a solar facility once the landfill was capped. Although this plan was approved in 2010, there has been no progress towards that goal.

Mr. Lanute then reviewed CMP standards for Pinelands Towns and reviewed two certified redevelopment plans.

Mr. Lanute said the Borough of Wrightstown Redevelopment Plan 2020 Amendment encompasses most of the Borough. He said the Borough was working with a developer who had a very specific plan in mind with some 400 residential units, up to 20,000 square-feet of commercial development and a variety of housing types.

Finally, Mr. Lanute described the Manchester Township 2121 Lake Road Redevelopment Plan and noted that this redevelopment plan added mini warehouses and self-storage units to the

permitted uses in the Whiting Town Office Professional Zone to effectuate the development of a vacant 6.23 acre lot. Mr. Lanute noted how rapidly this had occurred with the designation as an area in need of redevelopment in January 2020, the adoption of the redevelopment plan in September 2020 and a certificate of filing issued for construction in December 2020.

Commissioner Irick said his concern was that certain redevelopment plans erode the CMP and its relation to the number of permitted residential units. He asked if there is a maximum number of units permitted in a redevelopment plan.

Ms. Grogan responded that the CMP prescribes minimum base densities (3.5 units per acre) and requires that municipalities provide for at least 50% bonus density (5.25 units per acre). The RGA is where the CMP directs and encourages residential development. She said redevelopment plans have proven to be a critical tool used by municipalities in accommodating affordable housing and implementing their affordable housing settlement agreements. The CMP encourages and targets the RGA for development, and usually the increased densities are not for a municipality's entire RGA but rather for smaller discrete areas for specific projects.

In response to Commissioner Irick's question if the Commission should consider imposing a maximum density, Ms. Grogan said she did not feel that is necessary. She said the Commission's Housing Task Force concluded that low-density single family dwellings lead to sprawl. She said to promote the efficient use of land, the Commission needs to be supportive of higher density, mixed-use development in appropriate locations. She reminded the Commission that development in the RGA is what supports the PDC program. She said allowing higher density development in the RGA will ultimately decrease pressure to expand the RGA into the Rural Development and Forest Area. She said she did not see a reason to establish a maximum cap on density or units in redevelopment plans.

Commissioner Irick said he understood the need to conserve resources but he was concerned with development at 20 units per acre.

Ms. Grogan said yes, that is a high number but, for example, that density in Monroe (*the St. Mary's Redevelopment Plan*) will be accommodated by one or two apartment buildings on a four acre property. She said that is quite different from 20 units per acre on a 100 acre property or throughout an entire municipal RGA. She said staff does consider permitted density when evaluating proposals, along with environmental constraints, infrastructure available and the accommodation of opportunities for the use of PDCs.

Commissioner Lohbauer said there are practical upper limits such as water and sewer allocations.

Ms. Grogan said all CMP standards must be met by any proposed development or redevelopment. Also, Pinelands municipalities frequently add additional standards, such as heights of buildings and compatibility with the surrounding area.

Commissioner Avery said most high-density projects allow the municipalities to meet their constitutionally required obligations to provide affordable housing.

Ms. Grogan concurred and said within the last 10 years, many of the rezoning proposals and redevelopment plans submitted to the Commission have been prompted by municipal affordable housing obligations. Municipalities are increasingly zoning for mixed-use development and apartments. She said 20 years ago, Pinelands municipalities objected to anything but single family dwellings. She said this has been great news for the PDC program as the obligation for PDCs can be built into the new ordinances. She said the price of PDCs is rapidly rising in response to increased demand.

Commissioner Lohbauer said he agreed with Commissioner Irick's concerns and said this discussion should remind the Committee of the need to re-evaluate water use in the Pinelands.

Ms. Grogan said the Kirkwood-Cohansey water supply rules will likely be the next CMP amendment as the Commission deals with water supply and conservation measures.

Ms. Grogan said the Committee will continue to have the opportunity to review and discuss density issues as additional redevelopment plans and ordinances come before it for review.

Commissioner Avery said he saw rehabilitation and redevelopment plans as additional tools the municipalities can use to meet their goals. He cited the abandoned shopping center on County Route 530 in Browns Mills, noting that he'd prefer to see that area built up rather than expanding commercial development to a pristine area of Pemberton Township. He said he did not want to see any changes to what a municipality is permitted.

Ms. Grogan concluded the discussion by reminding the Committee that all redevelopment plans must be consistent with CMP land use environmental standards and all development or redevelopment that occurs in redevelopment areas must be consistent with the CMP.

5. Discussion of committee framework for review of agricultural issues

Chairman Prickett said he had suggested this agenda item at the Commission meeting. He wanted to create an avenue for discussion of any agricultural issues that come before the Commission, perhaps through the CMP P&I Committee or the LUCIS Committee.

Commissioner Lohbauer said he was interested in the concept but would like to know more about how this was expected to work. For instance, would the Committee be looking at development applications if they included an agricultural component?

Chairman Prickett said although he felt there were not enough items to reconvene the Agriculture Committee, he wanted its members to weigh in on any issues that might be under the Commission's radar. He said he would consult with those Committee members further.

Ms. Grogan noted that when the agenda for this meeting was released, State Agricultural Development Committee (SADC) staff offered to help with such discussions and serve as a resource.

6. Public Comment

Ms. Rhyan Grech, with the Pinelands Preservation Alliance (PPA), commended staff on the stormwater rule development and presentation. She said when incorporating green infrastructure into the design, developers should not be clearing trees and replacing them with rain gardens, that they should be required to landscape with native plants and there should be a bonding requirement to guarantee that the systems will function in the future. She asked if an offset is required when an exception is granted for public linear projects. Also, she asked if public linear development included pipelines and if the NJDEP/Cornell/Rutgers rainfall study will address Pinelands conditions specifically. She said she agreed with Commissioner Irick's statement that a project that cannot meet stormwater requirements onsite should not be built, but, if there is an inter-municipal agreement, the mitigation should occur within the same HUC-14, not expanded to include the HUC-11. Finally, she asked if the protection afforded wildlife from entrapment in dry wells on minor development projects was applicable to dry wells everywhere.

Chairman Prickett said following the Committee's discussion of exemptions at its January 29, 2021 meeting, he had asked Commissioners and the public to submit their suggestions to Ms. Wittenberg. He said Commissioner Lohbauer was interested in horizontal directional drilling (HDD) and he, himself, was interested in bentonite (*the drilling mud used in HDD*) and has learned that it can contain lead and has a pH of 9. He asked how that could be compatible with Pinelands soils that have a pH of only 5. He said similarly, Commissioner Avery was interested in the inadvertent return rate of 50%.

Commissioner Irick said he has reviewed several technical papers on HDD and concluded that he didn't know enough about the process. He said due to concerns with fluid pressure, the soils need to be tested before HDD is performed. He said the Commission needs a hydrogeologist to provide more information.

At 12:28 p.m., Chairman Prickett closed public comment and thanked Ms. Lynch for dealing with the technical issues today.

Chairman Lohbauer thanked staff for the exemplary work on the stormwater rules.

Commissioner Avery said that the Commission needs to be cautious about not overburdening staff. He said commissioners need to be mindful of the thoroughness with which staff addresses various topics such as the two excellent presentations today. He said it was important that the Commission not slow the process of moving forward with the stormwater and Kirkwood-Cohansey amendments.

Commissioner Lohbauer moved the adjournment of the meeting at 12:31 p.m. Commissioner Avery seconded the motion and all voted in the affirmative.

Certified as true and correct



March 12, 2021

Betsy Piner
Principal Planning Assistant

Stormwater management in the Pinelands Area

Rule Proposal



Pinelands Policy & Implementation Committee
February 26, 2021

DEP recently amended its stormwater rules, effective March 2021

- Mandatory use of Green Infrastructure BMPs to manage stormwater close to source
- Treat stormwater runoff through infiltration into the subsoil
- Treat stormwater through filtration by vegetation or soil
- Store stormwater runoff for reuse
- Create hydrologically functional landscapes to maintain or reproduce the natural hydrologic cycle for the developed area

Policy Goals

- ❖ Harmonize CMP stormwater provisions with DEP's new stormwater management rule in a manner best suited for the Pinelands Area
- ❖ Minimize impacts of increased stormwater runoff due to climate change
- ❖ Strengthen and enhance stormwater management in the Pinelands Area while establishing reasonable requirements for home builders and developers

Overview of proposed rule changes

- ❖ Require stormwater management for minor residential development and some minor non-residential development
- ❖ Allow variances and exceptions for developments that can't meet CMP stormwater management on-site
- ❖ Add specific recharge standard for nitrogen removal

Minor residential development

- Stormwater generated from the roof of a house will be retained and infiltrated onsite through one or more green infrastructure (GI) BMPs, including rain gardens and dry wells.

The following text is a paraphrase of the proposed rule change for minor residential development, as defined in N.J.A.C. 7:8-1.1, that requires the containment of their on-site stormwater runoff. The runoff generated from the total roof area of the dwelling(s) by a 10-year, 24-hour storm shall be retained and infiltrated as follows:

(A) Installation of one or more of the following green infrastructure stormwater management practices designed in accordance with the New Jersey Stormwater Best Management Practices (NJ-SWBMP) Manual as defined in N.J.A.C. 7:8-1.1, incorporated herein by reference as required of such applications and available at https://www.nj.gov/dep/water/npdes/management/npdes_manual.html (hereinafter referred to as "BMP Manual" or "New Jersey Stormwater Best Management Practices Manual");

(B) Dry detention, designed to provide access for neighborhood and vegetation;

(C) Permeable pavement systems;

(D) Infiltration basins, infiltration systems, infiltration, and infiltration by a rain garden; and

(E) Other green infrastructure practices that satisfy the groundwater recharge requirements of the BMP Manual.

Minor non-residential development

- Stormwater generated on motor vehicle surfaces will be infiltrated and recharged onsite to reduce pollutants for development that results in an increase of 1,000 square feet of regulated motor vehicle surface.

(A) If the proposed development will result in an increase of 1,000 square feet or more of regulated motor vehicle surfaces as defined in N.J.A.C. 7:8-1.2, the stormwater runoff quality standards contained in N.J.A.C. 7:8-5.5 shall apply. The water quality design storm volume generated from these surfaces shall be recharged onsite; and

Stricter recharge standard for nitrogen removal

Require reduction of total nitrogen load in stormwater runoff by a minimum of 65% from new development site, including turf and managed vegetated areas.

(5) Stormwater management measures shall also be designed to achieve a minimum of 65% reduction of the post-construction total nitrogen load from the developed site, including turf and all managed vegetated areas, in stormwater runoff generated from the water quality design storm. In achieving a minimum 65% reduction of total nitrogen, the design of the site shall include green infrastructure in accordance with the BMP Manual and shall optimize nutrient removal. The minimum 65% total nitrogen reduction may be achieved by using a singular stormwater management measure or multiple stormwater management measures in series.

Off-site mitigation

If stormwater management requirements cannot be met on-site, applicants may request:

- a **municipal variance** (for private development) or
- an **exception** from the Commission (for public non-linear development) to implement stormwater measures off-site.

Adopt DEP's provisions for off-site mitigation, with modifications

(continued)

Off-site mitigation (Municipal variance)

- If standards can be met onsite, variance could not be granted.
- Off-site stormwater management measures (mitigation) have to be located in Pinelands Area, same municipality, and same HUC-14 or HUC-11 watershed area as the development.

(A) All mitigation projects shall be located in the Pinelands Area and in the same municipality and HUC 14 as the parcel proposed for development. If the applicant demonstrates that no such mitigation project is available, the municipality may approve a variance that provides for mitigation within the same HUC 11 as the parcel proposed for development, provided the mitigation project is located in the Pinelands Area and in the same municipality as the parcel proposed for development;

(continued)

Off-site mitigation (Municipal variance)

- there can be no decrease in total volume of stormwater required to be infiltrated

(C) Any variance from the on-site recharge standards set forth at (a)6iv above shall require that the total volume of stormwater infiltrated by the mitigation project equals or exceeds the volume required by (a)6iv.

Off-site mitigation (Exceptions)

Commission can grant exceptions for public linear projects (e.g., roads) that can't meet stormwater standards on-site

- adopt DEP rule that allows waiver of stormwater management requirements for certain public linear projects, like the enlargement of an existing public road, if the application meets certain conditions.

(2) For applications submitted pursuant to N.J.A.C. 7:50-4.51 through 4.60, the Commission may grant an exception from the on-site design and performance standards for stormwater management set forth herein, provided that:

(A) Exceptions granted for the enlargement of an existing public roadway or railroad or the construction or enlargement of a public pedestrian access shall be consistent with N.J.A.C. 7:8-5.2(c), as amended; and

CMP will exceed DEP standards

Proposed additions:

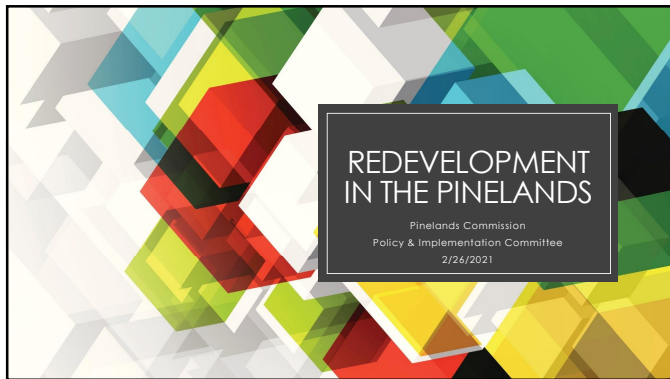
- Require stormwater management for more development: all minor residential development and some minor non-residential development
 - In most cases, these changes will result in a much larger amount of stormwater being retained and infiltrated than DEP stormwater rule requires
- More stringent conditions for off-site recharge of stormwater
- More stringent recharge standard for nitrogen removal

Current CMP:

- More stringent recharge requirement
- Prohibition on discharging stormwater to wetlands/streams
- Special treatment of runoff from high pollutant areas
- Emphasis on soil testing and as-built certification

Next steps

April 2021	Commission reviews and authorizes rule proposal
April 2021	Rule proposal filed with Office of Administrative Law
May 2021	Rule proposal published in New Jersey Register
June 2021	Public hearing
July 2021	End of 60-day comment period
August 2021	P&I Committee reviews rule adoption
September 2021	Commission reviews public comment and adopts rules
September 2021	Adoption notice filed with Office of Administrative Law
October 2021	Amendments take effect



Local Redevelopment and Housing Law (LRHL) (N.J.S.A. 40A:12A-1 et seq.)

- Adopted in 1992, and since amended, this law consolidated and updated New Jersey's prior urban renewal statutes from the 1950s
- Enables municipalities to undertake redevelopment (including use of eminent domain powers)
- Provides enhanced planning, zoning, contracting and financial powers as well as greater control over project design and development than otherwise provided by the MLUL
- The law and its various applications are complex; details provided here are tailored to the type of municipally-led redevelopment common in the Pinelands

Presentation outline

- Overview of the redevelopment process in New Jersey
- Summary of redevelopment in the Pinelands Area and the role of the Pinelands Commission
- Four examples of certified redevelopment plans

Local Redevelopment and Housing Law (LRHL) (N.J.S.A. 40A:12A-1 et seq.)

Relevant contents of the law:

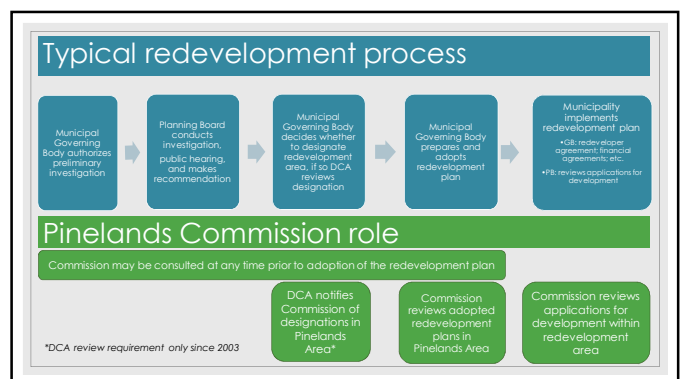
- Defines the roles and responsibilities of the governing body, planning board, and redevelopment entity
- Defines the criteria and procedures for designating: (1) areas in need of redevelopment and (2) areas in need of rehabilitation
- Describes the contents required of a redevelopment plan
- Establishes the powers of the redevelopment entity to implement the redevelopment plan and administer redevelopment projects

What is redevelopment?

A process to rebuild or restore an area in a measurable state of decline, disinvestment, or abandonment.

Redevelopment may be publicly or privately initiated, but [in New Jersey] it is commonly recognized as the process governed by the Local Redevelopment and Housing Law and undertaken in accordance with a redevelopment plan adopted by a municipality.

The Redevelopment Handbook – A Guide to Rebuilding New Jersey's Communities, Slachetka and Roberts, 2011



Criteria for determining an area in need of redevelopment

- a. **The generality of buildings are substandard, unsafe, unsanitary, dilapidated, or obsolescent**, or possess any of such characteristics, or are so lacking in light, air, or space, as to be conducive to unwholesome living or working conditions.
- b. **The discontinuance of the use of a building or buildings previously used for commercial, retail, shopping malls or plazas, office parks, manufacturing, or industrial purposes**; the abandonment of such building or buildings; significant vacancies of such building or buildings for at least two consecutive years; or the same being allowed to fall into so great a state of disrepair as to be untenable.
- c. Land that is owned by the municipality, the county, a local housing authority, redevelopment agency or redevelopment entity, or **unimproved vacant land that has remained so for a period of ten years prior to adoption of the resolution**, and that by reason of its location, remoteness, lack of means of access to developed sections or portions of the municipality, or topography, or nature of the soil, is not likely to be developed through the instrumentality of private capital.

(N.J.S.A. 40A:12A-5)

Criteria for determining an area in need of rehabilitation

- (1) a significant portion of structures therein are in a deteriorated or substandard condition;
- (2) more than half of the housing stock in the delineated area is at least 50 years old;
- (3) there is a pattern of vacancy, abandonment or underutilization of properties in the area;
- (4) there is a persistent arrearage of property tax payments on properties in the area;
- (5) environmental contamination is discouraging improvements and investment in properties in the area; or
- (6) a majority of the water and sewer infrastructure in the delineated area is at least 50 years old and is in need of repair or substantial maintenance.

(N.J.S.A. 40A:12A-14)

Criteria for determining an area in need of redevelopment

- d. **Areas with buildings or improvements which**, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, **are detrimental to the safety, health, morals, or welfare of the community.**
- e. **A growing lack or total lack of proper utilization of areas caused by the condition of the title, diverse ownership of the real properties therein or other similar conditions which impede land assemblage or discourage the undertaking of improvements**, resulting in a stagnant and unproductive condition of land potentially useful and valuable for contributing to and serving the public health, safety and welfare, which condition is presumed to be having a negative social or economic impact or otherwise being detrimental to the safety, health, morals, or welfare of the surrounding area or the community in general.
- f. **Areas, in excess of five contiguous acres, whereon buildings or improvements have been destroyed, consumed by fire, demolished or altered by the action of storm, fire, cyclone, tornado, earthquake or other casualty** in such a way that the aggregate assessed value of the area has been materially depreciated.

(N.J.S.A. 40A:12A-5)

Required provisions of the redevelopment plan

- Relationship to local planning objectives
- **Proposed land uses and building requirements in the project area**
- Identification of property within the redevelopment area which is proposed to be acquired in accordance with the redevelopment plan
- **Any significant relationship of the redevelopment plan to any master plan of a contiguous municipality, county plan, or the State Development and Redevelopment Plan**
- Relationship to the Municipal Land Use Law

(N.J.S.A. 40A:12A-7)

Criteria for determining an area in need of redevelopment

- g. In any municipality in which an enterprise zone has been designated pursuant to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) the execution of the actions prescribed in that act for the adoption by the municipality and approval by the New Jersey Urban Enterprise Zone Authority of the zone development plan for the area of the enterprise zone shall be considered sufficient for the determination that the area is in need of redevelopment....
- h. The designation of the delineated area is consistent with smart growth planning principles adopted pursuant to law or regulation.

(N.J.S.A. 40A:12A-5)

Financial tools to incentivize private investment in redevelopment

- There are two primary statutes related to property tax exemptions and redevelopment
- **Long Term Tax Exemption Law (N.J.S.A. 40A:20-1 et seq.)**
 - Exemption can only be granted to an "urban renewal entity" – (profit limits, special incorporation requirements)
 - Its purposes can only for the effectuation of redevelopment pursuant to an adopted redevelopment plan
 - May last up to 30 years from beginning of exemption or 35 years from execution of financial agreement
 - Exemption applies only to the value of the new improvements constructed as part of the redevelopment project
 - Establishes formulas for calculating annual service charge a.k.a. payment in-lieu-of taxes (PILOT)
 - % of Annual Gross Revenue or Up to 2% of Total Project Costs
 - Phase-out options
 - the amount of a PILOT is established as part of a written agreement between the municipality and urban renewal entity
 - **Five-Year Exemption and Abatement Law (N.J.S.A. 40A:21-1 et seq.)**
 - Municipality must adopt ordinance enabling 5-year exemption/abatement program
 - Property owners within designated areas may apply for five-year abatement/exemption
 - Exemptions may be granted from property taxes on all or a portion of the added assessed value from improvements
 - Abatements may be granted from property taxes on existing assessed value of property (residential uses only)

Area in need of redevelopment vs. area in need of rehabilitation

Different statutory criteria for designation

- Easier burden to prove that an area meets the criteria for being in need of rehabilitation vs. in need of redevelopment

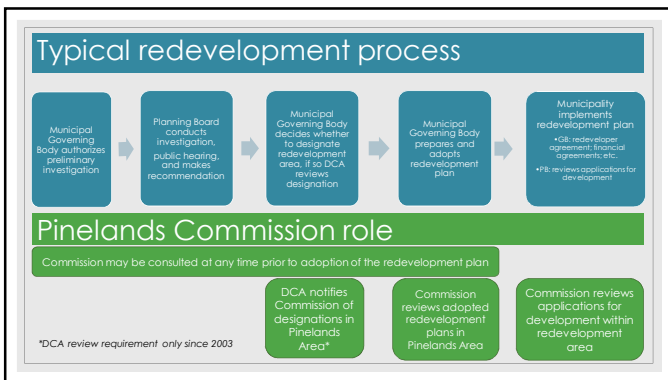
Different procedural requirements for designation

- Area in need of rehabilitation does not require a preliminary investigation from the Planning Board only a non-binding review and recommendation

Different redevelopment tools available to municipality

- Condemnation redevelopment (eminent domain) may only be undertaken as part of an area in need of redevelopment
- Long-term tax exemption may only be granted for projects within an area in need of redevelopment
- Redevelopment plan can be adopted for rehabilitation area

Examples of redevelopment plans in RGAs and Pinelands Towns



Pinelands regional growth areas

- Areas of existing development and adjacent lands that have the infrastructure (sewers, roads and other utilities) necessary to accommodate new development
- Future growth is targeted to and encouraged in the RGAs as a way of preventing scattered and piecemeal development and relieving development pressure in other more sensitive portions of the Pinelands Area
- CMP permits municipalities to zone for any use not otherwise limited by subchapter 6
- Pinelands Development Credit (PDC) receiving area
- About 8% of the land within the Pinelands Area

Pinelands Commission certification of redevelopment plans

Commission review process of redevelopment plans

- Same as the review of any other amendment to a municipality's land use ordinances (N.J.A.C. 7:50-3.39)
- Must meet CMP standards for land uses and intensities (subchapter 5)
- Must meet CMP minimum environmental standards (subchapter 6)

Certified redevelopment plans by Pinelands management area

	PAD	SAPA	FA	APA	RDA	PV	PT	RGA	Township-Wide	Total
Total	1*	-	-	-	3	5	17	28	3**	56***

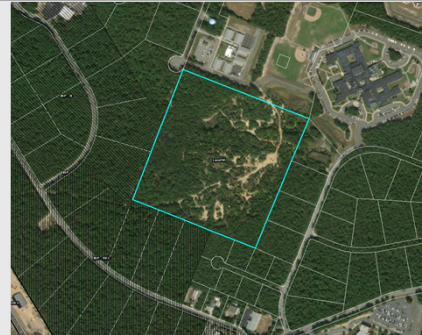
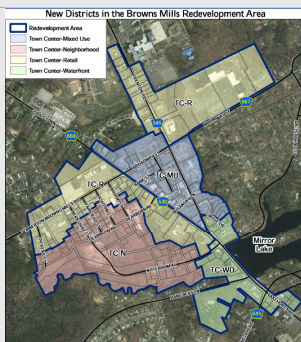
*Whiting Landfill Redevelopment Plan
**Galloway, Hamilton, and Maurice River Townships
***Rowan College Burlington County Redevelopment Plan included land within both RGA and RDA

Pinelands regional growth areas

- CMP prescribes minimum "base" density that municipalities must accommodate through zoning
 - 1.0 - 3.5 units per upland acre, spread throughout the entire RGA
- CMP requires that municipalities also accommodate "bonus" density through the use of PDCs
 - Minimum of 50% above the base density
- CMP allows municipalities to zone for increased residential zoning capacity and provide additional density bonuses if:
 - Lands being "upzoned" are appropriate for higher intensity development
 - Sufficient PDC opportunities are provided
 - Sufficient infrastructure exists or can be provided to support the new development

Pemberton Township Browns Mills Town Center Redevelopment Plan

Hamilton Township Landfill Redevelopment Plan



Pemberton Township Browns Mills Town Center Redevelopment Plan

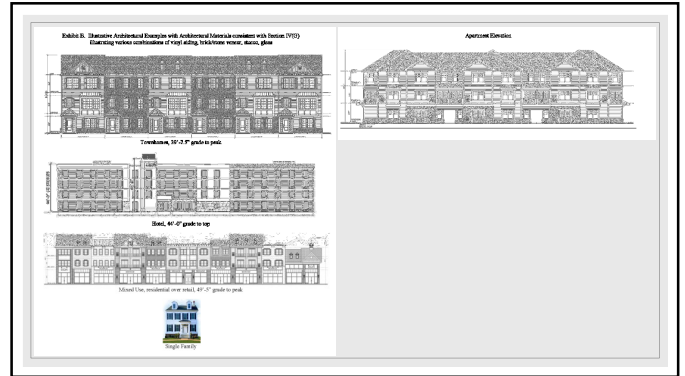
- Designated as an area in need of redevelopment 1995
- Initial Redevelopment Plan adopted 1995; last amended in 2018 (Ord. 13-2018) certified by the Commission (10/12/2018)
- Contains extensive areas of existing development and variety of uses
- 2018 amendment maintained existing redevelopment area boundary but adopted a new simplified zoning plan and architectural standards

Hamilton Township Landfill Redevelopment Plan

- Designated as an area in need of redevelopment 5/7/2007
- Redevelopment plan adopted 12/6/2010 (Ord. 1680-2010)
- Executive Director determined that the Ord. 1680-2010 raised no substantial issues with respect to the CMP (12/29/2010)
- Area is a single lot in the Township's Industrial Business Park (IBP) zone
- Redevelopment plan goal is to effectuate the closure of the landfill
- Incorporates existing permitted uses of the IBP zone with the addition of principal use solar energy facilities

Pinelands town management area

- CMP permits municipalities to zone for any use not otherwise limited by subchapter 6, provided that
 - Public service infrastructure necessary to support the use is available
 - Compatibility with existing structures and uses
- No minimum or maximum prescribed residential density
- PDC program does not apply
- About 2% of the land within the Pinelands Area



Borough of Wrightstown Redevelopment Plan – 2020 Amendment

Borough of Wrightstown Redevelopment Plan – 2020 Amendment

- Designated as an area in need of redevelopment 6/9/1999
- Redevelopment plan adopted 9/8/1999 (Ord. 1995-05),
 - last amended 11/24/2020 (Ord. 2020-08)
- Executive Director determined that Ord. 2020-08 raised no substantial issues with respect to the CMP (12/18/2020)
- Redevelopment area contains 39 acres made up of numerous contiguous lots
- Goal of the plan is to facilitate a new traditional neighborhood development
- Permits up to 440 residential units (Single family, townhomes and apts.); Maximum of 20,000 square feet of commercial uses, including a hotel and mixed-use buildings with residential on top of commercial



Manchester Township 2121 Lake Road Redevelopment Plan



Manchester Township 2121 Lake Road Redevelopment Plan

- Designated as an area in need of redevelopment on 1/27/2020
- Redevelopment plan adopted 9/14/2020 (Ord. 20-031)
- Executive Director determined that Ord. 20-031 raised no substantial issues with respect to the CMP (9/18/2020)
- Area is a single lot, 6.23 acres, in the Township's Whiting Town-Office Professional (WT-OP) Zone
- Goal of the plan is to effectuate the improvement of the area, which has remained vacant and undesirable to developers for more than 10 years
- Incorporates existing permitted uses of the WT-OP zone with the addition of mini-warehouses and self-storage units
 - CF issued for construction of 45,000 sqft commercial self-storage facility (12/2/2020)





RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-21-_____

TITLE: Issuing an Order to Certify Ordinance 2021-4, Amending Chapter 55 (Land Use) of the Code of Barnegat Township

Commissioner _____ **moves and Commissioner** _____
seconds the motion that:

WHEREAS, on April 8, 1983, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Barnegat Township; and

WHEREAS, Resolution #PC4-83-29 of the Pinelands Commission specified that any amendment to the Township's certified Master Plan and codified Land Use Ordinances be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 (Submission and Review of Amendments to Certified Master Plans and Land Use Ordinances) of the Comprehensive Management Plan to determine if said amendment raises a substantial issue with respect to conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, Resolution #PC4-83-29 further specified that any such amendment shall only become effective as provided in N.J.A.C. 7:50-3.45 of the Comprehensive Management Plan; and

WHEREAS, on February 2, 2021, Barnegat Township adopted Ordinance 2021-4, amending Chapter 55, Land Use, of the Code of Barnegat Township by, among other things, revising conditionally permitted uses and standards in the C-N (Neighborhood Commercial) Zone West of the Garden State Parkway; and

WHEREAS, the Pinelands Commission received a certified copy of Ordinance 2021-4 on February 5, 2021; and

WHEREAS, by letter dated February 8, 2021, the Executive Director notified the Township that Ordinance 2021-4 would require formal review and approval by the Pinelands Commission; and

WHEREAS, a public hearing to receive testimony on Ordinance 2021-4 was duly advertised, noticed and remotely held on March 3, 2021 at 9:30 a.m. with live broadcast on the Pinelands Commission's public YouTube channel and opportunity for the public to call-in; and

WHEREAS, the Executive Director has found that Ordinance 2021-4 is consistent with the standards and provisions of the Pinelands Comprehensive Management Plan; and

WHEREAS, the Executive Director has submitted a report to the Commission recommending issuance of an order to certify that Ordinance 2021-4, amending Chapter 55, Land Use, of the Code of Barnegat Township, is in conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, the Commission's CMP Policy and Implementation Committee has reviewed the Executive Director's report and has recommended that Ordinance 2021-4 be certified; and

WHEREAS, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning Ordinance 2021-4 and has reviewed the Executive Director's report; and

WHEREAS, the Pinelands Commission accepts the recommendation of the Executive Director; and

WHEREAS, pursuant to N.J.S.A. 13:18A-5h, no action authorized by the Commission shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to

expiration of the review period the Governor shall approve same, in which case the action shall become effective upon such approval.

NOW, THEREFORE BE IT RESOLVED that

1. An Order is hereby issued to certify that Ordinance 2021-4, amending Chapter 55, Land Use, of the Code of Barnegat Township, is in conformance with the Pinelands Comprehensive Management Plan.
2. Any additional amendments to Barnegat Township’s certified Master Plan and Land Use Ordinances shall be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 to determine if said amendments raise a substantial issue with respect to the Comprehensive Management Plan. Any such amendment shall become effective only as provided in N.J.A.C. 7:50-3.45.

Record of Commission Votes

AYE NAY NP A/R*					AYE NAY NP A/R*					AYE NAY NP A/R*				
Avery					Irick					Pikolycky				
Christy					Jannarone					Quinn				
Higginbotham					Lloyd					Rohan Green				
Howell					Lohbauer					Prickett				

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: _____

Nancy Wittenberg
Executive Director

Richard Prickett
Chairman



State of New Jersey
 THE PINELANDS COMMISSION
 PO Box 359
 NEW LISBON, NJ 08064
 (609) 894-7300
 www.nj.gov/pinelands



PHILIP D. MURPHY
 Governor
 SHEILA Y. OLIVER
 Lt. Governor

General Information: Info@pinelands.nj.gov
 Application Specific Information: AppInfo@pinelands.nj.gov

RICHARD PRICKETT
 Chairman
 NANCY WITTENBERG
 Executive Director

**REPORT ON ORDINANCE 2021-4, AMENDING CHAPTER 55 (LAND USE)
 OF THE CODE OF BARNEGAT TOWNSHIP**

March 26, 2021

Barnegat Township
 900 West Bay Avenue
 Barnegat, NJ 08005

FINDINGS OF FACT

I. Background

The Township of Barnegat is located in southern Ocean County in the eastern portion of the Pinelands Area. Pinelands municipalities that border Barnegat Township include the Townships of Lacey, Ocean, Stafford and Little Egg Harbor in Ocean County, and the Townships of Bass River and Woodland in Burlington County.

On April 8, 1983, the Pinelands Commission fully certified the Master Plan and codified Land Use Ordinances of Barnegat Township.

On February 2, 2021, Barnegat Township adopted Ordinance 2021-4, amending Chapter 55 (Land Use) of the Code of Barnegat Township. Ordinance 2021-4 adds hotels, motels, reception and banquet halls as well as assisted living facilities, nursing and convalescent homes and long-term care facilities as conditionally permitted uses in the Neighborhood Commercial (C-N) Zone West of the Parkway. Within the Pinelands Area portion of the Township, the ordinance limits these uses to the C-N Zone located within the Township's Regional Growth Area. For assisted living facilities within the C-N Zone, the ordinance establishes a base density of 8 units per acre, a bonus density of 12 units per acre through the use of Pinelands Development Credits, and a maximum bonus density of 20 units per acre.

The Pinelands Commission received a certified copy of Ordinance 2021-4 on February 5, 2021. By letter dated February 8, 2021, the Executive Director notified the Township that Ordinance 2021-4 would require formal review and approval by the Pinelands Commission.

II. Master Plans and Land Use Ordinances

The following ordinance has been submitted to the Pinelands Commission for certification:

- * Ordinance 2021-4, amending Chapter 55 (Land Use) of the Code of Barnegat Township, introduced on January 1, 2021 and adopted on February 2, 2021.

This ordinance has been reviewed to determine whether it conforms with the standards for certification of municipal master plans and land use ordinances as set out in N.J.A.C. 7:50-3.39 of the Pinelands Comprehensive Management Plan (CMP). The findings from this review are presented below. The numbers used to designate the respective items correspond to the numbers used to identify the standards in N.J.A.C. 7:50-3.39.

1. **Natural Resource Inventory**

Not applicable.

2. **Required Provisions of Master Plans and Land Use Ordinances Relating to Development Standards**

Ordinance 2021-4 amends Chapter 55 (Land Use) of the Code of Barnegat Township by permitting hotels and motels as well as assisted living facilities, nursing and convalescent homes and long-term care facilities in the C-N Zone as conditional uses. The ordinance also conditionally permits reception and banquet halls as accessory uses to a hotel.

Prior to the adoption of Ordinance 2021-4, permitted uses in the C-N Zone were limited to various retail and service uses, professional offices, self-storage facilities, churches, libraries, and other institutional uses. Mixed-use development, consisting of commercial uses and age-restricted apartments, are also permitted in certain portions of the C-N Zone, as are condominiums.

According to the standards adopted by Ordinance 2021-4, the newly permitted conditional uses must be located within 1,000 feet of the Garden State Parkway. The Township's certified zoning map includes three discrete C-N zones within the Pinelands Area. The condition requiring a 1,000-foot proximity to the Parkway limits these uses to the C-N Zone located within the Township's Regional Growth Area. The C-N Zone in the Regional Growth Area is located along West Bay Avenue, immediately to the north of Ocean Acres (see Exhibit #1).

Other standards adopted by Ordinance 2021-4 include a maximum permitted height of 60 feet for hotels and motels. Assisted living facilities, nursing and convalescent homes and long-term care facilities are required to have a minimum lot size of five acres and a maximum building height of 50 feet. Ordinance 2021-4 also establishes a maximum building coverage limitation of 50% when an assisted living, nursing and convalescent home and long-term care facility is developed in association with a mixed-use commercial development. Maximum permitted building coverage decreases to 20% for "stand-alone" assisted living, nursing and convalescent home and long-term care facilities.

With respect to assisted living facilities, which are defined by the CMP as residential uses, Ordinance 2021-4 establishes a maximum permitted density. The ordinance establishes a base density of 8 units per acre, a bonus density of up to 12 units per acre through the use of Pinelands Development Credits, and a maximum density of 20 units per acre. Consistent with the CMP, only the portion of a tract devoted to the assisted living facility is included in the calculation of density (N.J.A.C. 7:50-5.34(a)5). Long-term care beds within nursing and convalescent facilities are considered institutional uses under the CMP and are not counted towards the maximum density requirement nor are they required to use Pinelands Development Credits. Additionally, the ordinance adds the CMP definition of “assisted living facilities” as part of Chapter 55.

There is only one parcel in the C-N Zone that could satisfy the new conditional use standards for assisted living facilities. The parcel is approximately 22.5 acres and is composed of six contiguous lots in common ownership (Block 92.112; Lots 42.05, 42.06, 42.07, 42.09, 42.10, 42.11; see exhibit 1). Ordinance 2021-4 therefore creates the potential for approximately 450 new assisted living units in the C-N Zone. The purchase of PDCs would be necessary for 90 of these potential units, or approximately 20% of the total units. These numbers presume the entire parcel is developed as an assisted living facility, an outcome that is unlikely given the mixture of commercial, residential and institutional uses envisioned under Ordinance 2021-4.

It is worth noting that within Regional Growth Areas, the CMP provides that Pinelands municipalities may permit any use, with the exception of certain waste management facilities, provided residential density and opportunities for the use of Pinelands Development Credits are appropriately accommodated. The CMP also expressly authorizes assisted living facilities as a permitted use in Regional Growth Areas pursuant to N.J.A.C. 7:50-5.34, which sets forth specific standards for such uses. Among these standards is the establishment of a permitted residential density applicable to assisted living facilities. Ordinance 2018-19 satisfies this requirement by establishing a permitted density of 20 units per acre, which while quite a bit higher than the minimum required by the CMP for Barnegat’s Regional Growth Area, is nevertheless appropriate given the intensity of surrounding development, developability of vacant lands in the C-N Zone and availability of infrastructure.

The standards adopted by Ordinance 2021-4 for the conditional uses permitted in the C-N Zone are appropriate for a Regional Growth Area. In addition, the ordinance provides a new opportunity for assisted living facilities within Barnegat’s Regional Growth Area in a manner that achieves an appropriate balance between “base” units and those requiring the use of Pinelands Development Credits. Therefore, Ordinance 2021-4 is consistent with the land use and development standards of the Comprehensive Management Plan and this standard for certification is met.

3. Requirement for Certificate of Filing and Content of Development Applications

Not applicable.

4. Requirement for Municipal Review and Action on All Development

Not applicable.

5. Review and Action on Forestry Applications

Not applicable.

6. Review of Local Permits

Not applicable.

7. Requirement for Capital Improvement Program

Not applicable.

8. Accommodation of Pinelands Development Credits

The CMP permits assisted living facilities within Regional Growth Areas and specifies that such facilities may only exceed a density of eight units per acre through the use of Pinelands Development Credits (N.J.A.C. 7:50-5.34(a)2). Ordinance 2021-4 permits assisted living facilities in Barnegat Township's C-N Zone as a conditional use. Such facilities will have a permitted base density of eight units per acre. This density may be increased to 12 units per acre through the use of PDCs. Ordinance 2021-4 also provides that once a density of 12 units per acre is achieved through the use of PDCs, assisted living facilities are eligible for additional bonus density without the use of PDCs. The ordinance establishes an overall maximum density for assisted living facilities of 20 units per acre.

The density structure adopted by Ordinance 2021-4 is appropriate for a Regional Growth Area and consistent with CMP standards for assisted living facilities. It should be noted that the CMP (N.J.A.C. 7:50-5.28(a)7i) expressly provides Pinelands municipalities with the ability to employ additional density bonus or incentive programs in their Regional Growth Areas, provided such programs do not interfere with or otherwise impair requirements for the use of PDCs. In this case, Ordinance 2021-4 appropriately provides for additional bonus density only after all required PDCs have been redeemed.

This standard for certification is met.

9. Referral of Development Applications to Environmental Commission

Not applicable.

10. General Conformance Requirements

Ordinance 2021-4 is consistent with the standards and provisions of the Pinelands Comprehensive Management Plan.

Therefore, this standard for certification is met.

11. Conformance with Energy Conservation

Not applicable.

12. Conformance with the Federal Act

Ordinance 2021-4 is consistent with the standards and provisions of the Pinelands Comprehensive Management Plan. No special issues exist relative to the Federal Act.

Therefore, this standard for certification is met.

13. Procedure to Resolve Intermunicipal Conflicts

The Neighborhood Commercial (C-N) Zone does not border any neighboring municipalities of Barnegat Township. As such, no intermunicipal conflicts are expected.

Therefore, this standard for certification is met.

PUBLIC HEARING

A public hearing to receive testimony concerning Barnegat Township's application for certification of Ordinance 2021-4 was duly advertised, noticed and held on March 3, 2021 at 9:30 a.m. Ms. Grogan conducted the hearing, which was held remotely and broadcasted live on the Pinelands Commission's public YouTube channel. The public was provided the opportunity to call-in during the public hearing to provide testimony. The following oral testimony was provided:

- **Matthew R. von der Hayden, Township Administrator, Stafford Township**, shared concerns about added stormwater from Barnegat Township flowing into Ocean Acres in Stafford Township. He said that new residential development in Barnegat Township along the border has been causing more stormwater to flow into Stafford's stormwater system. He made specific reference to impacts along Compass Road and Swordfish Road. He said that the basin at the end of Neptune Drive is taking on more sediment and water, requiring additional maintenance on the system.

(Please note that Mr. von der Hayden supplemented his oral testimony with written comments that are attached in Exhibit 2 of this report.)

- **Charles Cunliffe**, a resident of Barnegat Township, shared concerns about the impact on open space at Cloverdale Park and Natural Trust Lands adjacent to the C-N Zone as well as the added impact of stormwater run-off that this zoning change could allow in the area in addition to existing projects and projects under construction.

There being no further testimony, the hearing was concluded at 9:40 a.m.

Written comments on Ordinance 2021-4 were accepted through March 8, 2021, and were submitted by the following parties:

- Matthew R. von der Hayden, Township Administrator, Stafford Township
- Charles O'Connell
- Deborah Scott
- Florence Bogaenko
- Eileen Anglin
- David Kruczek
- Ron Naples
- Betty Ann Bleakly
- Christopher J. Dasti, Township Attorney, Barnegat Township
- Andrew Gold, Legal Director, Pinelands Preservation Alliance

All written comments received are included in Exhibit 2 of this report.

EXECUTIVE DIRECTOR'S RESPONSE

The comments received on Ordinance 2021-4 range from concerns with stormwater runoff, impacts on other residential and open space areas, overdevelopment, residential density, housing types and building standards applicable to the new conditional uses permitted in the C-N Zone.

Ordinance 2021-04 permits a variety of new conditional uses in Barnegat Township's C-N Zone, including hotels and assisted living facilities. Conditional use standards for these new uses limit them to areas within 1,000 feet of the Garden State Parkway in the Pinelands Regional Growth Area. This effectively limits the new uses to a single 22.5-acre parcel that is adjacent to the Garden State Parkway Exit 67. Ordinance 2021-04 does not expand the C-N Zone, nor does it expand the boundaries of the Township's Regional Growth Area.

The CMP provides that Regional Growth Areas are areas of existing growth that can accommodate regional growth influences while protecting the essential character and environment of the Pinelands. As noted above, the uses permitted by this ordinance are consistent with what the CMP allows in a Regional Growth Area. Barnegat Township has incorporated the CMP's minimum environmental standards into its land development ordinance, including those related to stormwater management, and they are applicable to any development that is proposed within the C-N Zone. These existing provisions, together with the conditional use standards adopted by Ordinance 2021-4, will allow for development appropriate for a Regional Growth Area while protecting the essential character and environment of the Pinelands. It is worth noting that 77% of Barnegat Township's Pinelands Area is designated as either Preservation Area District or Forest Area, the most conservation-oriented Pinelands management areas. Only 23% of the Township's Pinelands Area is designated as a Regional Growth Area and slated for development. To date, nearly 9,000 acres in the Township's Pinelands Area have been permanently preserved.

Regarding a concern over impacts to Cloverdale Farm County Park and a Natural Lands Trust property (Lin Lee Preserve), these lands are located outside of Barnegat Township's C-N Zone. Given both the limited area within the C-N Zone where the newly permitted uses could be developed and the CMP's requirements for on-site retention of stormwater, development in general, and stormwater runoff in particular, is not expected to impact these or any other preserved lands.

A suggestion was also made that hotels in the C-N Zone be limited to three stories in height. Ordinance 2021-4 permits hotels of up to 60 feet in height. The CMP does not impose any height limitations on buildings in Regional Growth Areas (N.J.A.C. 7:50-5.4). Municipalities are provided flexibility to establish height limitations in Regional Growth Areas based on local knowledge of community preferences and context of the area. In this case, the Township has determined that a height of 60 feet for hotels and 50 feet for assisted living and nursing homes is appropriate in this small portion of the C-N Zone.

Finally, the comments received from the Pinelands Preservation Alliance ask that the following two issues be addressed by the Executive Director: (1) Ordinance 2021-4 permits a density of over eight units per acre without the use of PDCs; and (2) Ordinance 2021-4 does not provide opportunities for the use of PDCs in association with single-family detached dwellings.

With respect to the issue of residential density, the only residential use permitted by Ordinance 2021-4 is assisted living facilities. Specific standards for such facilities are set forth at N.J.A.C. 7:50-5.34, including a requirement that PDC use be accommodated *when permitted density exceeds eight units per acre*. Ordinance 2021-4 complies with this requirement by permitting a base density of eight units per acre and requiring the use of PDCs to increase that density to 12 units per acre. In addition, Ordinance 2021-4 contains conditional use standards that effectively restrict the development of assisted living facilities to one parcel in the Township's Regional Growth Area, in close proximity to an existing Garden State Parkway interchange and other development. This will serve as a limitation on the number of potential assisted living facility units that can ultimately be developed.

With respect to the use of PDCs in association with single-family detached dwellings, the CMP does not require that each and every Regional Growth Area zoning district accommodate PDC use or a particular type of housing unit. Rather, N.J.A.C. 7:50-5.28(a)3 requires that municipalities accommodate PDC use in a manner that assures a "reasonable proportion of the density increase" permits the development of single family detached dwellings. Barnegat Township's certified zoning plan for its Regional Growth Area meets this standard. This zoning plan permits single-family detached dwellings in a number of Regional Growth Area zoning districts, as well as the Shoreline Sand and Gravel and Compass Point Redevelopment Areas, and provides ample opportunities for the use of PDCs in association with these units. Large planned adult communities consisting entirely of single-family detached dwellings have been developed in Barnegat's Regional Growth Area. Development of such homes continues in the Ocean Acres portion of the municipality, where an opportunity to build on lots of a certain size is permitted through the use of PDCs. The Township has elected to permit a wider variety of housing types in its C-N Zone, including apartments as part of mixed-use developments, condominiums and, through Ordinance 2021-4, assisted living facilities. The use of PDCs is required for all of these residential uses, which satisfies the requirements of N.J.A.C. 7:50-5.28(a)3.

CONCLUSION

Based on the Findings of Fact cited above, the Executive Director has concluded that Ordinance 2021-4, amending Chapter 55 (Land Use) of the Code of Barnegat Township, complies with the Comprehensive Management Plan standards for the certification of municipal master plans and land use ordinances. Accordingly, the Executive Director recommends that the Commission issue an order to certify Ordinance 2021-4 of Barnegat Township.

SRG/DBL/CBA
Attachments

Barneгат Township Neighborhood Commercial (C-N) Zone

Executive Director's Report
Barneгат Ordinance 2021-4
Exhibit 1
3/26/2021

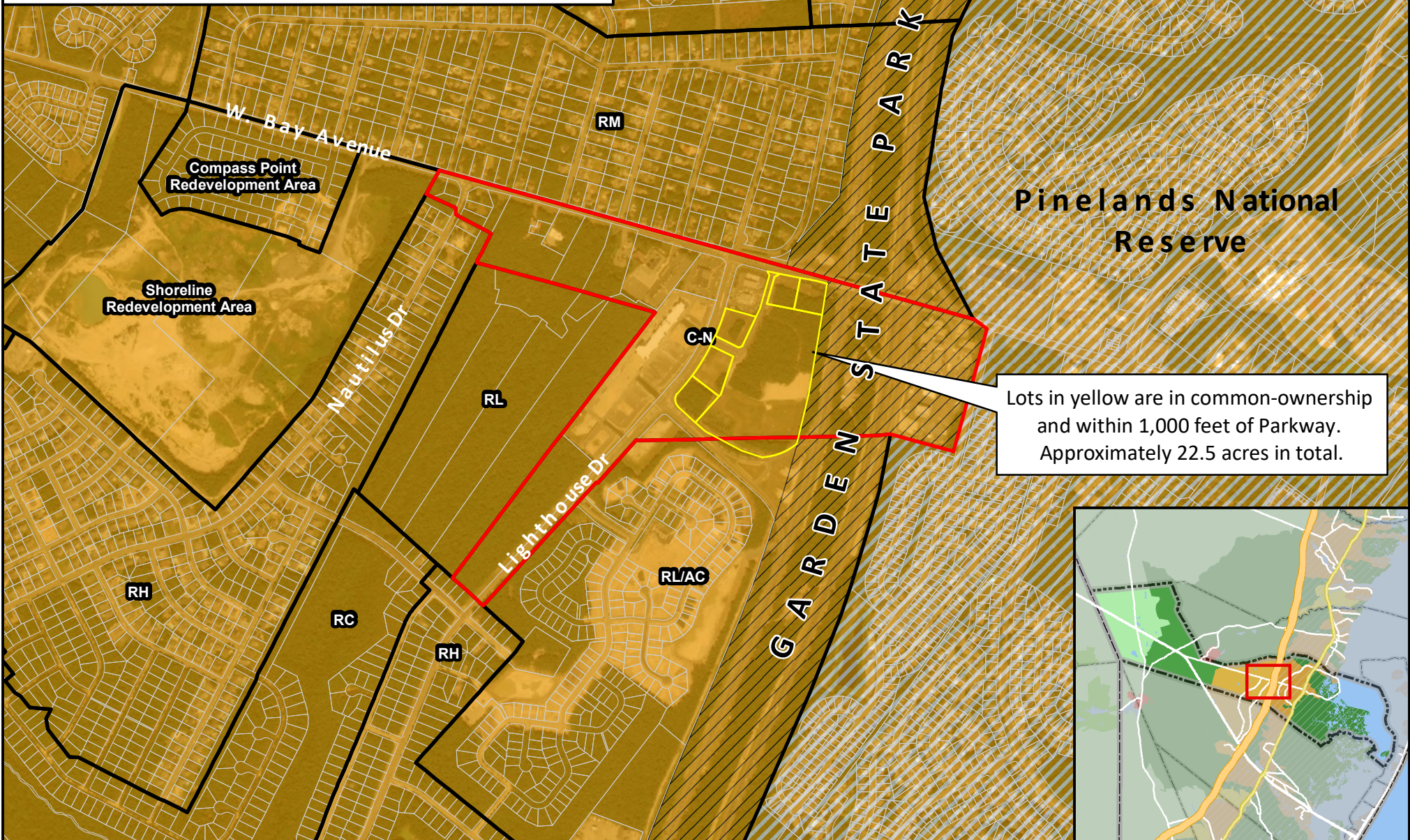
Pinelands Management Areas

- Regional Growth Area

Parcels

Existing Zoning

0 0.25 0.5 Miles



Barnegat Township Ordinance 2021-4 Public Comments Received

Names of commenters
(in the order they were received):

- Matthew R. von der Hayden, Township Administrator, Stafford Township
- Charles O'Connell
- Deborah Scott
- Florence Bogaenko
- Eileen Anglin
- David Kruczek
- Ron Naples
- Betty Ann Bleakly
- Christopher J. Dasti, Township Attorney, Barnegat Township
- Andrew Gold, Legal Director, Pinelands Preservation Alliance

[EXTERNAL] RE: Barnegat Ordinance 2021-4 Public Hearing Comments

Matthew von der Hayden <mvonderhayden@staffordnj.gov>

Wed 3/3/2021 1:00 PM

To: Lanute, Brad <Brad.Lanute@pinelands.nj.gov>

Cc: Grogan, Susan <Susan.Grogan@pinelands.nj.gov>

Good Afternoon Brad and Susan,

I just received the general notice so I didn't realize the area. Understanding this, I do not see any issues with the development.

The issues we are seeing are on the Barnegat line, along Fawcett Boulevard which connects to the Township's stormwater system. Barnegat, their engineers and developer have been very helpful resolving short term issues. My concern are the long term issues as the topography of this area all leads south through Stafford which puts that stormwater and debris into the Township's stormwater system.

Again thank you for the clarification.

All the best,

Matt

Matthew R. von der Hayden
Township Administrator
Township of Stafford
260 East Bay Avenue
Manahawkin, NJ 08050
Phone: 609-597-1000 Extension 8516
Email: MvonderHayden@staffordnj.gov

Piner, Betsy

From: charles oconnell <njcoc79@aol.com>
Sent: Wednesday, March 3, 2021 7:24 PM
To: Comments, PC
Subject: Public Comment Submissions

Below is the result of your feedback form. It was submitted by charles oconnell (njcoc79@aol.com) on Wednesday, March 3, 2021 at 19:23:35

email: njcoc79@aol.com

subject: Public Comment Submissions

Name: charles oconnell

Mailing Address: 31 spruce circle south po box 657 barnegat nj 08005

Phone Number: 6096612905

Comment Topic: selected=

Message: as a 43 year resident of barnegat i am very much in favor of allowing a hotel,banquetfacility and assisted living facility in the township. it would be nice to have such a facility in town instead of traveling when they are needed. it would be a great fit for the town. if the person from stafford township was so concerned about runoff it certainty doesn't stop stafford township from their ongoing development, if runoff is a concern it can be addressed in the development plan so it is not an issue . maybe the official is more concern about competition. the second charles cunliffe has no credibility on this subject. moved to the town like 8 year ago, to new construction,he was ok with that.as long as it was his house no problem with cutting down trees.mr cunliffe ran in the last election for council in Barnegat who's theme was overdependent. mr cunliffe lost by a huge majority. the residents of barnegat have already spoken on this project. the officials that are looking for approval of this plan won the last election in a landslide.

Submit: Submit

Piner, Betsy

From: Mary Nevins <malvern062@aol.com>
Sent: Friday, March 5, 2021 6:17 AM
To: Planning, PC
Subject: Re: [EXTERNAL] Barnegat

Yes. Deborah Scott. 972 West Bay Avenue. Barnegat Ann 08005

[Sent from the all new Aol app for iOS](#)

On Friday, March 5, 2021, 5:40 AM, Planning, PC <planning@pinelands.nj.gov> wrote:

Could you kindly provide your name and mailing address?
Thank you

Betsy Piner
Principal Planning Assistant
Planning Office and Pinelands Development Credit (PDC) Bank
P.O. Box 359
New Lisbon, NJ 08064-0359

Confidentiality Notice:

This E-mail is protected by the Electronic Communications Privacy Act, 18 U.S.C. Sections 2510-2521. This email and its contents are intended for the sole use of the persons or entities that are the addressees and may be Privileged & Confidential, subject to Attorney- Client Privilege, Attorney Work Product Privilege, Deliberative Process or exempted from disclosure under New Jersey's Open Public Records Act, N.J.S.A. 47:1A-1 et seq.. If you are not an intended recipient of this email, please do not read, print, retain, disseminate, copy, act upon, disclose or use this E-mail or its content. If you received this E-mail in error, please notify the sender and delete it.

-----Original Message-----

From: malvern062 [mailto:malvern062@aol.com]
Sent: Thursday, March 4, 2021 11:54 AM
To: Planning, PC
Subject: [EXTERNAL] Barnegat

It is time to stop all the overdevelopment going on. All the trees and wildlife being destroyed for overdevelopment in an area

Sent from my iPhone

Piner, Betsy

From: Florence Bogaenko <floboisin@gmail.com>
Sent: Thursday, March 4, 2021 1:46 PM
To: Comments, PC
Subject: Public Comment Submissions

Below is the result of your feedback form. It was submitted by Florence Bogaenko (floboisin@gmail.com) on Thursday, March 4, 2021 at 13:45:44

email: floboisin@gmail.com

subject: Public Comment Submissions

Name: Florence Bogaenko

Mailing Address: 4 Boiling Springs Drive

Phone Number: 1732735361

Comment Topic: selected=

Message: OVERBUILDING has begun in Barnegat Township NJ. Water and wildlife displacement has already become a problem. The current builder of a new modular home development on West Bay Avenue is facing huge fines on Long Beach Island. I object to this overbuilding in Barnegat and voice serious concerns about the future of our Township.

Submit: Submit

Piner, Betsy

From: Eileen Anglin <whiterose@whiterosepath.com>
Sent: Thursday, March 4, 2021 7:03 PM
To: Comments, PC
Subject: Public Comment Submissions

Below is the result of your feedback form. It was submitted by Eileen Anglin (whiterose@whiterosepath.com) on Thursday, March 4, 2021 at 19:03:19

email: whiterose@whiterosepath.com

subject: Public Comment Submissions

Name: Eileen Anglin

Mailing Address: 1 Rifle Court

Phone Number: 6094885321

Comment Topic: selected=

Message: I am concerned with the overdevelopment and the changes to building and it's effects on the Barnegat watershed and bay. I am also concerned about the natural preserved land and the water runoff. This is polluting our bay and is unsustainable.

With so many empty buildings, lots and malls, why are we not focusing on having businesses build on them, give them tax breaks if they do and stop cutting down our open lands. This also makes our area look less economically depressed.

Submit: Submit

Piner, Betsy

From: Dave Kruczek <djkruczek@yahoo.com>
Sent: Thursday, March 4, 2021 7:57 PM
To: Comments, PC
Subject: Public Comment Submissions

Below is the result of your feedback form. It was submitted by Dave Kruczek (djkruczek@yahoo.com) on Thursday, March 4, 2021 at 19:57:16

email: djkruczek@yahoo.com

subject: Public Comment Submissions

Name: Dave Kruczek

Mailing Address: 186 Chestnut Dr. Barnegat, NJ 08005

Phone Number: 6092902188

Comment Topic: selected=

Message: Please do not approve this request.

I've been a resident of a Manufactured Housing Community (Pinewood Estates Rte.72W) that borders the Pinelands for the past decade.

In that short time, increased development of residential communities West of the parkway has drastically impacted the area.

I'm neither a hunter nor an environmentalist, and understand both when intelligently applied.

Combine the increasing developments with the summer traffic nightmare, and a more rapid destruction of these lands is inevitable.

Recent improvements in a neighboring community septic system necessitated destruction of a few acres of pines and can see as a normal result of "progress".

Dirt bikes and assorted ATVs are heard almost every weekend.

There is also a "sports club" within walking distance, and gun shots (target practice perhaps) are frequent at this limited use site.

A noticeable decline in wildlife, native plants, migratory birds and insects are visible to the most casual observer.

I can not implicate a cause to the effects, simply provide a personal observation and a solution- deny this petition.

Yes, a few will lose major profits, many citizens will be denied the potentially opportunity to purchase residences valued at at least a half-million dollars-based on current market availability and developments.

You were entrusted to protect the Pinelands and you can prevent the loss of this public asset for the financial gain of private individuals.

Recently, the Commission prevented a natural gas pipeline construction intrusion into the Pinelands- please continue along this path.

Respectfully submitted,

David Kruczek

Barnegat,NJ

Piner, Betsy

From: rnaples <rnaples@aol.com>
Sent: Thursday, March 4, 2021 9:33 PM
To: Planning, PC
Subject: [EXTERNAL] Please dont let Barnegat give conditional use permits for hotel and banquet facilities.

The township is delinquent in policing sites already. Just look at the trash and dangerous parking at plaza 67.

The township is tax hungry but cant handle the policing from a permit perspective.

Thanks
Ron Naples
153 Brighton Rd
Barnegat, NJ 08005

Sent via the Samsung Galaxy A10e, an AT&T 4G LTE smartphone

Piner, Betsy

From: BettyAnn Bleakley <bableak@comcast.net>
Sent: Friday, March 5, 2021 8:04 AM
To: Comments, PC
Subject: Public Comment Submissions

Below is the result of your feedback form. It was submitted by BettyAnn Bleakley (bableak@comcast.net) on Friday, March 5, 2021 at 08:04:04

email: bableak@comcast.net

subject: Public Comment Submissions

Name: BettyAnn Bleakley

Affiliation: Resident and Member- Barnegat Shade Tree Commission

Mailing Address: 265 BayShore Dr., Barnegat NJ

Phone Number: 609-709-7813

Comment Topic: selected=

Message: I believe that a hotel with a restaurant would be a good addition to our community, but perhaps limiting the height to 3 stories. An assisted/independent living facility would also be welcome and is greatly needed. If you can approve so many neighborhoods, you need to approve things for the residents to do. Just try not to remove so many trees.

Submit: Submit

DASTI & ASSOCIATES

Christopher J. Dasti

Joseph C. Falk*

Jeffrey D. Cheney

*Rule 1:40 Mediator

A Professional Corporation

Attorneys At Law

310 Lacey Road

P.O. Box 779

Forked River, New Jersey 08731

609-549-8990

Fax: 609-549-5043

www.DastiLaw.com

File No. GL-1011

March 8, 2021

Via Email

Susan R. Grogan, Director of Planning

Brad Lanute, Resource Planner

New Jersey Pinelands Commission

PO Box 359

New Lisbon, NJ 08064

Re: Barnegat Township Ordinance 2021-4

Dear Mr. Lanute and Ms. Grogan:

As you are aware, this firm services as Township Attorney for the Township of Barnegat. Please accept this correspondence in response to the comments received by the Pinelands Commission regarding Barnegat Ordinance 2021-4.

The vast majority of the comments that have been received by the Pinelands Commission that have been forwarded to this office, seem to make clear that there must be a misunderstanding with regard to the area affected by Ordinance 2021-4.

Ordinance 2021-4 allows for certain development in close proximity to the Garden State Parkway. Most of the comments with regard to the Ordinance address concerns in Ocean Acres as well as Pinewood Estates, which is on Route 72. Neither Pinewood Estates, the Route 72 Corridor, or Ocean Acres would be affected in any way whatsoever by Ordinance 2021-4. The Ordinance completely encapsulates any possible development affected by the Ordinance within the Garden State Parkway interchange. The Ordinance was carefully crafted so as to not have a detrimental affect to the residents of Barnegat Township or the Pinelands Comprehensive Management Plan.

By simply reviewing the area affected the area included in the Ordinance and the Route 72 and Ocean Acres areas, it is clear that they would be completely unaffected by the Ordinance.

Susan R. Grogan, Director of Planning
Brad Lanute, Resource Planner
Re: Barnegat Township Ordinance 2021-4
March 8, 2021
Page 2

If you have any questions, please do not hesitate to contact me.

Very truly yours,

/s/ Christopher J. Dasti

CHRISTOPHER J. DASTI

CJD: bm



PINELANDS PRESERVATION ALLIANCE

Bishop Farmstead ♦ 17 Pemberton Road ♦ Southampton, NJ 08088
Phone: 609-859-8860 ♦ ppa@pinelandsalliance.org ♦ www.pinelandsalliance.org

March 8, 2021

Susan Grogan
Director of Planning
Pinelands Commission
15 Springfield Road
New Lisbon, NJ 08064

Dear Director Grogan:

Please accept these comments as Pinelands Preservation Alliance's submission with respect to the recently adopted Ordinance in 2021-4 in Barnegat Township, creating new "C-N Neighborhood Commercial Zones" east and west of the Garden State Parkway, and whose approval is currently pending before the Pinelands Commission. We have a few brief questions which we request be addressed in the Commission's report on the ordinance.

Under N.J.A.C. 7:50-5.28(a)(1)(i), Barnegat Township may permit up to 2 dwelling units per acre in developable areas of the Regional Growth Area within the town. This density may be exceeded within certain ranges if 50% of such exceedance is accomplished through the use of Pinelands Development Credits (PDCs). For each range (e.g., nine to twelve dwelling units per acre, or twelve and greater), a number higher than the lowest within each range may be applied only through density bonuses for use of PDCs. Additionally, a "reasonable proportion" of the density increase must permit development of single family detached residences.

Under Barnegat's amendment, Chapter 55, § 57(10)(c)[4] of the town's code would allow a conditional use for Assisted living facilities, nursing and convalescent homes, and long-term care facilities with a maximum density of 20 units per acre (without counting long-term care beds for density or PDC purposes). Under § 57(10)(c)[5], the base density without use of PDCs is 8 units per acre. There also does not appear to be any provision for the development of single family detached residences.

Under the Comprehensive Management Plan, any increase in density in the Regional Growth Area in Barnegat beyond 2 units per acre requires the use of PDCs. As a result, the allowed density sections of the Barnegat ordinance of 8 units per acre, without use of PDCs, do not appear to comply with the CMP. We respectfully request that Commission staff address this and the absence of single family dwelling development in your forthcoming report.

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew Gold". The signature is fluid and cursive, with a long horizontal stroke at the end.

Andrew Gold
Legal Director



State of New Jersey
 THE PINELANDS COMMISSION
 PO Box 359
 NEW LISBON, NJ 08064
 (609) 894-7300
 www.nj.gov/pinelands



PHILIP D. MURPHY
 Governor
 SHEILA Y. OLIVER
 Lt. Governor

General Information: Info@pinelands.nj.gov
 Application Specific Information: AppInfo@pinelands.nj.gov

RICHARD PRICKETT
 Chairman
 NANCY WITTENBERG
 Executive Director

MEMORANDUM

To: Members of the Land Use, Climate Impacts and Sustainability Committee
 Members of the Policy & Implementation Committee

From: Gina Berg *gub*

Date: March 18, 2021

Subject: Revised Recommendations for a new round of acquisition using the Pinelands
 Conservation Fund

We had previously prepared a memo regarding a new round of land acquisition through the Pineland Conservation Fund (PCF) and that memo was shared with the LUCIS committee. After recommendations during the March 17, 2021 meeting of the LUCIS committee, we have made changes to the project evaluation matrix. The climate change factors have been re-weighted to account for the recommendations. Additionally, the flood hazard map has been revised to include all management areas. This memo is a revision of the earlier memo to include the recommended changes to the matrix, below.

Since 2008, the Pinelands Commission has administered the PCF. The overall purpose of the PCF is to further the Pinelands protection program and ensure a greater level of protection of the unique resources of the Pinelands Area. One of the PCF's principal objectives is permanent protection of important natural, cultural, historical, and agricultural resources in the Pinelands Area through purchase and deed restriction of land. Through eight prior rounds of funding, the Commission has supported project partners in the protection of 8,969 acres of land.

For each round of land acquisition, the Commission identified priority characteristics of projects to be funded. Several geographical "focus" areas helped prioritize acquisitions. Those were the 502 target areas, 18 planning areas, sub-regional plan areas (Toms River Corridor and Southern Medford/Evesham), and the Garden State Parkway/Ocean County Forest Area. A matrix of other characteristics, such as other funding sources, critical environmental resources, or land maintenance capabilities, has been used to evaluate candidate projects.

In 2019, the Commission executed an amendment to its agreement with the South Jersey Transportation Authority that resulted in additional reserves accrued to the PCF for land acquisition. Along with the additional funds, the agreement stipulated that threatened and endangered grassland bird habitat be

prioritized for protection. In addition, we would recommend some additional project evaluation criteria. Prior land preservation success in the focus areas makes it likely that projects in those focus areas will rank more highly using the evaluation matrix suggested for a proposed new round of funding to be offered this year.

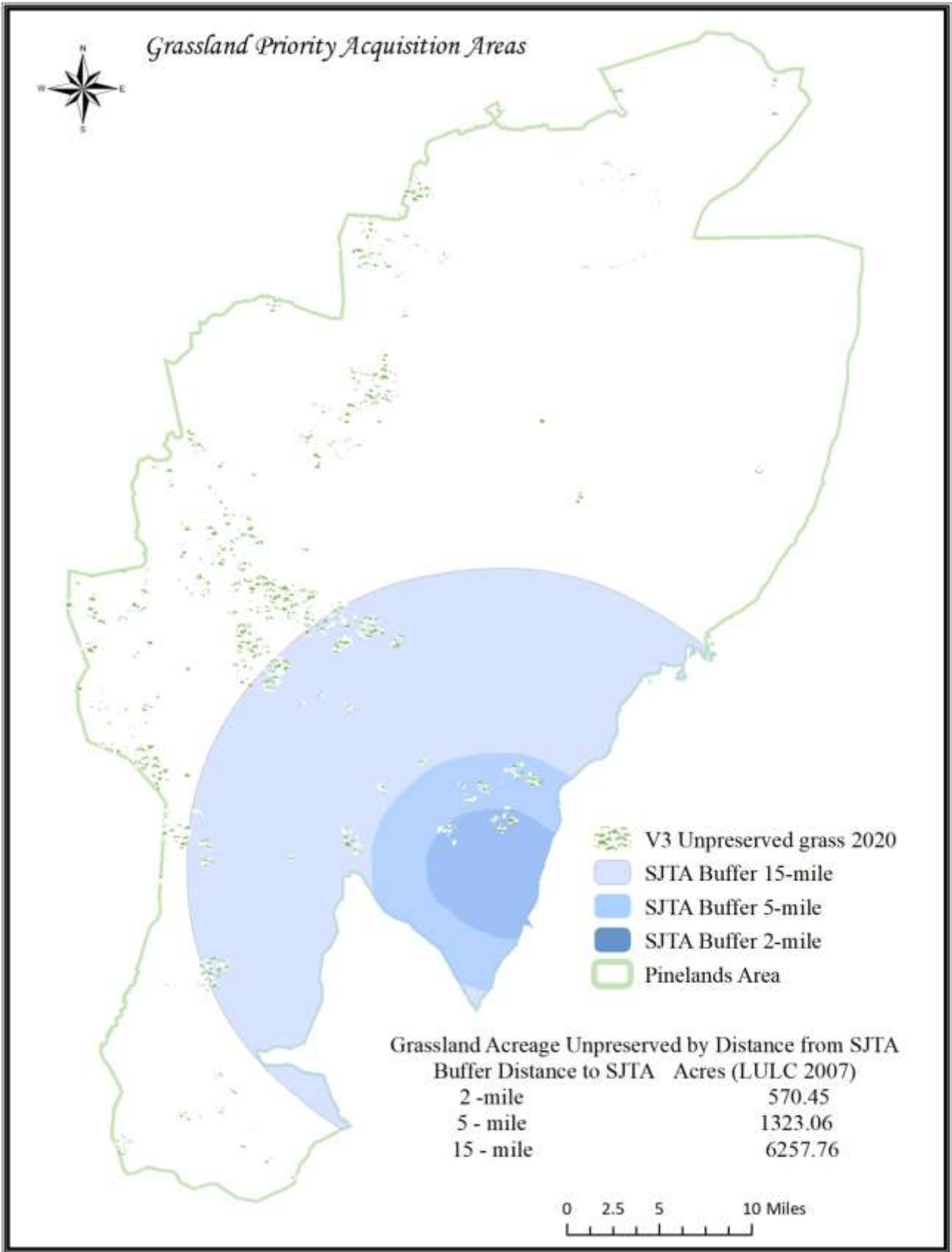
The Commission staff is proposing a new round of land acquisition, with the following recommendations:

- Dedicate \$1,000,000 of the current PCF Land Acquisition account for funding of a new round of projects to permanently protect important natural, cultural, historic and agricultural resources through the purchase of land interests.
- Prioritize allocations to:
 - Sites that contain suitable habitat for threatened and endangered grassland birds centered on the SJTA site and that can be maintained as suitable grassland
 - Sites intended to offset or to mitigate climate change impacts such as the wildfire-urban interface, flood hazards, or carbon sequestration
 - Lands in areas identified for acquisition using federal funding pursuant to Section 502 of the 1978 National Parks and Recreation Act, of which approximately 12,000 acres remain unpreserved
 - The 20 Planning Areas previously identified by the Commission’s Permanent Land Protection Committee as containing sensitive ground and surface water resources, threatened and endangered species habitat and unbroken forest cover, of which approximately 60% remains unpreserved; and
- Approval of the allocation of funds must be granted by:
 - The Policy and Implementation (P&I) Committee for lands located within the above “priority allocation” areas; and
 - The full Pinelands Commission for “contingency” projects on lands located outside of the “priority allocation” areas.
- Allocation of funds may be made up to a maximum 33.3% of the project’s total cost, unless otherwise approved by the P&I Committee.
- Deed of Conservation Restriction language will be reviewed and tailored to the acquisition priority identified by the applicant. Deed of Conservation Restriction language from prior PCF rounds will be used as a model but will be revised to maintain grassland habitat or other important habitats.

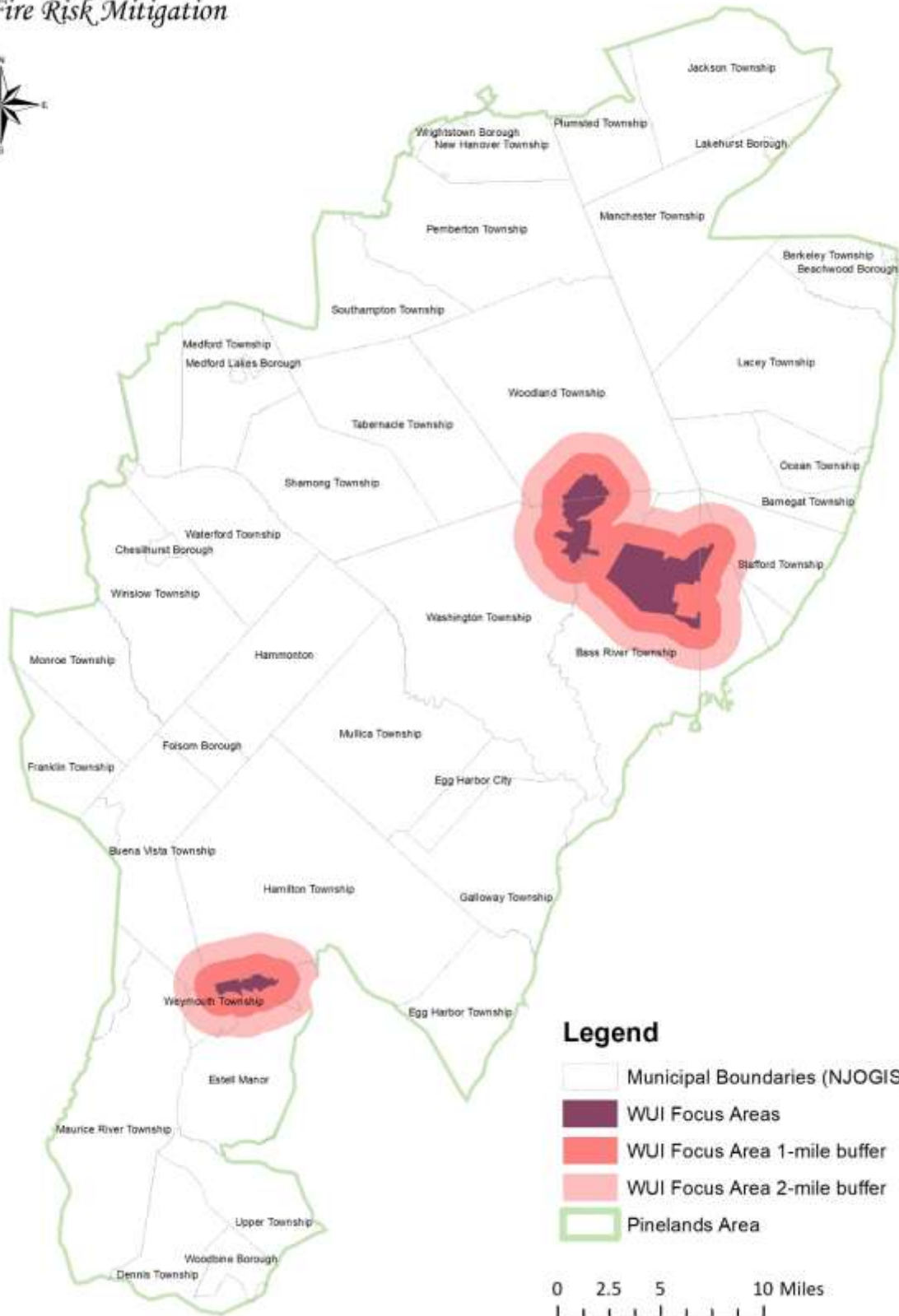
A matrix of criteria to evaluate projects is included below. The intent of this matrix is to weigh potential projects against the priorities discussed above: protecting grassland habitat, offsetting climate change impacts, continuing protection of 502 target areas and the 20 Planning areas, along with considering cost sharing and long-term monitoring and maintenance of preserved lands.

At this time, we are seeking authorization to proceed with a new round of PCF acquisition based on the outlined priorities. Upon authorization by the P&I Committee, staff will distribute information to and invite applications from local, statewide, and regional land conservation entities on or about April 7, 2021. Submitted applications will be reviewed and projects are anticipated to be recommended to the P&I Committee at its July 30, 2021 meeting.

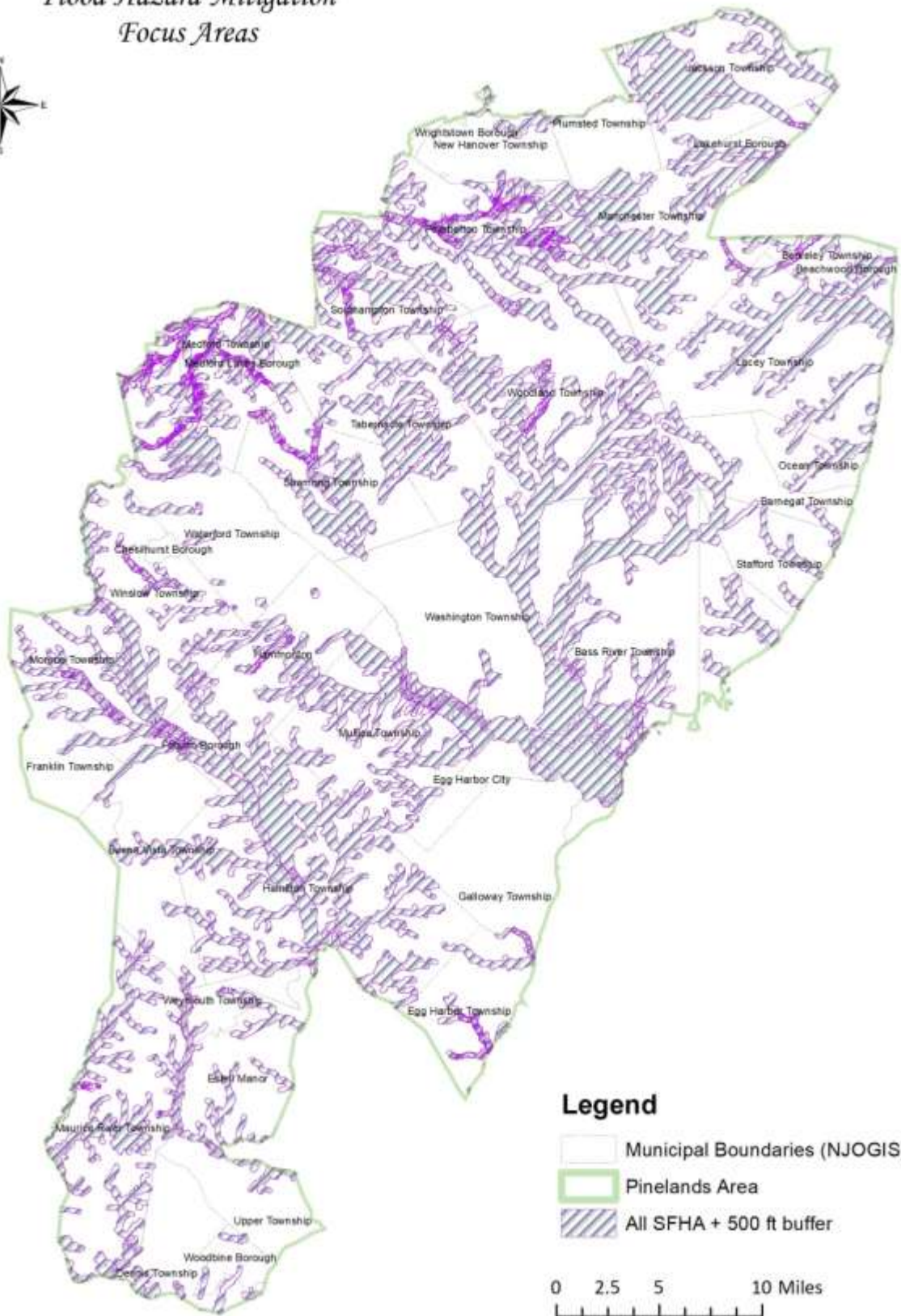
Priority Matrix			
Factor	Low (1)	Medium (3)	High (5)
Location: Is the project in PCF focus area	In RGA, Town, Village or Rural Development Area AND none of the designated focus areas	In designated focus areas and PAD, SAPA, APA or Forest Area	Within a five-mile radius of SJTA and inside the State Pinelands Area
T&E Habitats:	No state/federal T&E habitat per NJDEP Landscape Model AND no NJPC and ENSP sightings	T&E habitat exists based upon NJDEP Landscape model and/or NJPC and ENSP sightings	Grassland habitat exists based upon NJDEP Landscape model and/or NJPC and ENSP sightings
Size:	Less than 50 acres	Between 50 and 100 acres	100 acres or more; add 3 additional points if greater than 500 acres
Contiguity:	Greater than one mile from preserved habitat or open space	Less than one mile from known grassland T&E habitats but not contiguous	Contiguous with preserved habitat or open space
Partner Contribution:	67.7% of acquisition costs	At least 75% acquisition costs	Greater than 75% acquisition costs
Long-Term Maintenance Capability:	No monitoring or maintenance plan/ no identified land steward	Proposed Monitoring and maintenance plan; Not previously implemented	Established Monitoring and maintenance program / Gov't. agency or NGO is prepared to manage land
Climate Change or Impacts of Change Mitigation:	Flood Hazard Mitigation	Wildfire Management	Carbon Sequestration/ Storage
Purpose:	Historic Preservation	Open Space	T & E or Climate Change



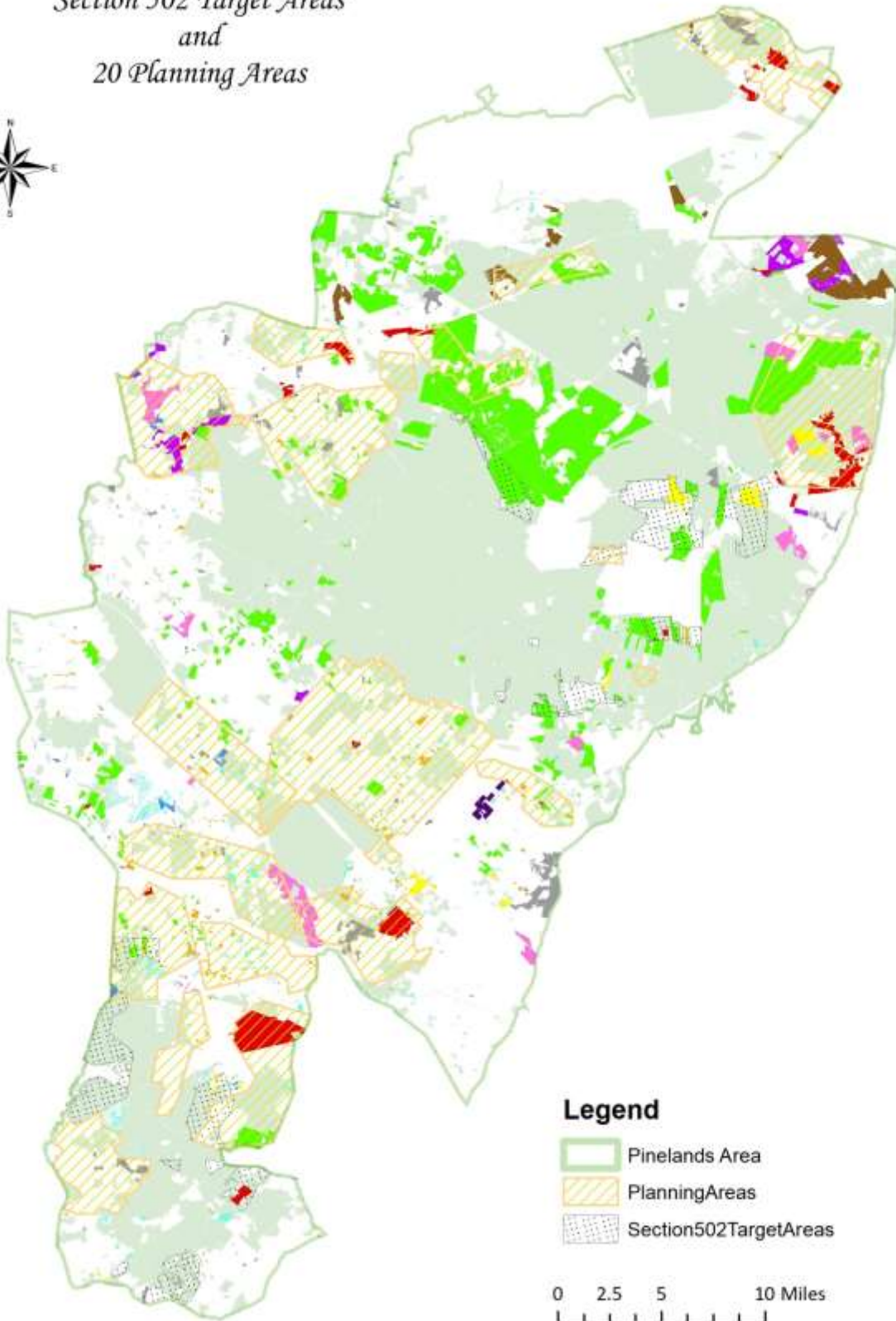
Fire Risk Mitigation



Flood Hazard Mitigation Focus Areas

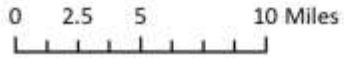


*Section 502 Target Areas
and
20 Planning Areas*



Legend

-  Pinelands Area
-  Planning Areas
-  Section 502 Target Areas





PHILIP D. MURPHY
Governor
SHEILA Y. OLIVER
Lt. Governor

State of New Jersey
THE PINELANDS COMMISSION
PO Box 359
NEW LISBON, NJ 08064
(609) 894-7300
www.nj.gov/pinelands




RICHARD PRICKETT
Chairman
NANCY WITTENBERG
Executive Director

General Information: Info@pinelands.nj.gov
Application Specific Information: AppInfo@pinelands.nj.gov

MEMORANDUM

To: CMP Policy & Implementation Committee

From: Susan R. Grogan 
Director of Planning

Date: March 18, 2021

Subject: Revised Draft Stormwater Management Amendments

Attached for the Committee's review are revised draft amendments to the Comprehensive Management Plan related to stormwater management. We've revised the amendments in response to questions and suggestions made during the Policy & Implementation Committee's February 26, 2021 meeting.

The following clarifications have been made:

- The proposed application requirements for minor development at N.J.A.C. 7:50-6.84(a)6iv(4) have been simplified. Applicants will still be required to submit a certified plan showing the location of proposed green infrastructure measures and the associated soil profile, soil permeability test elevation, soil permeability rate and the elevation of and vertical separation to the seasonal high water table. The design engineer must also certify that no proposed green infrastructure measures will adversely impact basements or septic systems. (page 4)
- The 65% nitrogen removal standard at N.J.A.C. 7:50-6.84(a)6iv(6) has been clarified to specifically state that it applies only to major development. In addition, the phrase "turf and all managed vegetated areas" has been replaced with the phrase "permanent lawn or turf areas that are specifically intended for active human use as described in N.J.A.C. 7:50-6.24(c)3". This new wording mirrors identical language used by the CMP with respect to landscaping and revegetation. (page 6)
- Language has been added to clarify that the requirement for groundwater mounding analysis at N.J.A.C. 7:50-6.84(a)(6)v(3) applies only to major development. (page 8-9)
- Language has been added to clarify that the as-built requirements at N.J.A.C. 7:50-6.84(a)6vi apply only to major development. (page 11)

Much of the discussion at the February 26th Committee meeting focused on concerns with the granting of exceptions or variances from CMP stormwater management standards. In response, staff completed a detailed review of the relevant sections of NJDEP's new stormwater regulations and also reviewed and discussed existing CMP requirements and their application over the past 15 years.

Our original proposal was to adopt all of NJDEP's waiver, variance and exemption provisions. This would have meant that certain linear public projects (roads, pedestrian accessways) might no longer have to mitigate once a demonstration was made that stormwater standards could not be met on-site. In the case of pipelines, an exemption from stormwater management requirements would have been provided at the outset. Such an outcome would have been consistent with the treatment of such projects outside the Pinelands Area. However, it would be fundamentally inconsistent with the ways in which the Commission has traditionally addressed public development in the Pinelands Area that cannot meet all CMP standards. Such development must either seek a Waiver of Strict Compliance to relieve an extraordinary hardship or satisfy a compelling public need, or seek a Memorandum of Agreement with the Commission that provides for a deviation from CMP standards. In either case, waiver or MOA, offsetting measures are required to ensure the protection of Pinelands resources. These offsetting measures most often take the form of land preservation or redemption of Pinelands Development Credits. We recommend that offsetting measures (in the form of off-site mitigation) **continue to be required** whenever the Commission grants relief from CMP stormwater standards for a public development application. We further recommend that no outright exemptions from stormwater management standards be provided in the CMP. This means that the Commission's standards will continue to be more stringent than those applicable in the rest of the State. We believe this is an appropriate outcome that better protects the Pinelands and is fully in keeping with long-standing Commission policy.

The draft CMP amendments reflect the following changes relative to variances and exceptions:

- **For private development:** municipalities will retain the ability to grant variances when stormwater management requirements cannot be met on-site. In such instances, an off-site mitigation project will be required. That mitigation project will need to be located in the Pinelands Area and within the same HUC 14 or, if necessary, HUC 11 as the proposed development. We have eliminated the requirement at N.J.A.C. 7:50-6.84(a)6vii(1) to locate the mitigation project in the same municipality as the proposed development, thereby leaving open the likely remote possibility that two municipalities might decide to coordinate their stormwater management efforts. (page 12)
- **For public development:** N.J.A.C. 7:50-6.84(a)6vii(2) has been revised so that all public development projects will be required to comply with the same mitigation requirements as private development projects. Any exception granted by the Commission for a public development project that cannot meet all stormwater standards on-site will require mitigation, even those projects that constitute linear infrastructure (e.g., roads, pedestrian accessways, pipelines). (page 13)
- **For all development:** N.J.A.C. 7:50-6.84(a)6vii(3) has been added to make clear that the NJDEP exemptions, exceptions and waiver provisions do not apply in the Pinelands Area unless specifically cited in the CMP. Finally, N.J.A.C. 7:50-6.84(a)6vii(4) has been added to expressly state that no variance or exception may be granted from the CMP's prohibition on direct

discharge of stormwater runoff to wetlands, wetlands transition areas or surface water bodies.
(pages 13-14)

Draft CMP Amendments: Stormwater Management

Revised March 16, 2021

7:50-2.11 Definitions

"HUC 11" or "hydrologic unit code 11" means an area within which water drains to a particular receiving surface water body, also known as a subwatershed, which is identified by an 11-digit hydrologic unit boundary designation, delineated within New Jersey by the United States Geological Survey.

"HUC 14" or "hydrologic unit code 14" means an area within which water drains to a particular receiving surface water body, also known as a subwatershed, which is identified by a 14-digit hydrologic unit boundary designation, delineated within New Jersey by the United States Geological Survey.

7:50-6.84 Minimum standards for point and non-point source discharges

- (a) The following point and non-point sources may be permitted in the Pinelands:
6. Surface water runoff in accordance with N.J.A.C. 7:8-4.6, 5 and 6, as amended, except as modified and supplemented as follows:
 - i. For purposes of this section, the definitions of terms adopted by the New Jersey Department of Environmental Protection at N.J.A.C. 7:8-1.2 are incorporated herein, unless a term is defined differently at N.J.A.C. 7:50-2.11, in which case the definition in this Plan shall apply.

- ii. Runoff rate and volume, runoff quality and groundwater recharge methodologies shall comply with the following standards:
 - (1) Stormwater runoff rates and volumes shall be calculated in accordance with N.J.A.C. 7:8-5.7, except that the Rational Method for peak flow and the Modified Rational Method for hydrograph computations shall not be used; and
 - (2) In calculating stormwater runoff using the NRCS methodology, the appropriate 24-hour rainfall depths developed by the National Oceanic and Atmospheric Administration, https://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.html?bkmrk=nj, shall be used.

- iii. Runoff shall meet the requirements set forth at N.J.A.C. 7:8-5.6 and (1) and (2) below:
 - (1) There shall be no direct discharge of stormwater runoff from any point or nonpoint source to any wetland, wetlands transition area or surface waterbody. In addition, stormwater runoff shall not be directed in such a way as to increase the volume and rate of discharge into any wetland, wetlands transition area or surface water body from that which existed prior to development of the parcel; and
 - (2) To the maximum extent practical, there shall be no direct discharge of stormwater runoff onto farm fields to protect farm crops from

damage due to flooding, erosion, and long-term saturation of cultivated crops and cropland.

iv. Recharge standards:

(1) For all major development, as defined at N.J.A.C. 7:50-2.11, the total runoff volume generated from the net increase in impervious surfaces by a 10-year, 24-hour storm shall be retained and infiltrated onsite;

(2) For all minor development, as defined at N.J.A.C. 7:50-2.11, that involves the construction of four or fewer dwelling units, the runoff generated from the total roof area of the dwelling(s) by a 10-year, 24-hour storm shall be retained and infiltrated as follows:

(A) Installation of one or more green infrastructure stormwater management measures designed in accordance with the New Jersey Stormwater Best Management Practices (BMP) Manual as defined in N.J.A.C. 7:8-1, incorporated herein by reference as amended and supplemented and available at https://www.nj.gov/dep/stormwater/bmp_manual2.htm (hereinafter referred to as “BMP Manual” or “New Jersey Stormwater Best Management Practices Manual”).

Appropriate green infrastructure stormwater management measures include, but are not limited to:

(I) Dry wells;

- (II) Pervious pavement systems; and
 - (III) Small scale bioretention systems, including, but not limited to, rain gardens;
- (3) For minor development, as defined at N.J.A.C. 7:50-2.11, that involves any nonresidential use, the following standards shall apply:
- (A) If the proposed development will result in an increase of 1,000 square feet or more of regulated motor vehicle surfaces as defined at N.J.A.C. 7:8-1.2, the stormwater runoff quality standards contained in N.J.A.C. 7:8-5.5 shall apply. The water quality design storm volume generated from these surfaces shall be recharged onsite; and
 - (B) If the proposed development involves the grading, clearing or disturbance of an area in excess of 5,000 square feet within any five-year period, the standards for major development set forth at (a)6i through ix shall also apply;
- (4) In order to demonstrate compliance with the requirements of (2) or (3) above, applications for minor development shall include at least the following information:
- (A) A plan, certified by a design engineer, that includes the type and location of each green infrastructure stormwater management measure and a cross section drawing of each such measure showing the associated soil profile, soil

permeability test elevation, soil permeability rate and the elevation of and vertical separation to the seasonal high water table;

(B) A certification by the design engineer that no green infrastructure stormwater management measure will adversely impact basements or septic systems of the proposed development;

(5) In high pollutant loading areas (HPLA) and areas where stormwater runoff is exposed to source material, as defined at N.J.A.C. 7:8-5.4(b)3i and ii, the following additional water quality standards shall apply:

(A) The areal extent and amount of precipitation falling directly on or flowing over HPLAs and areas where stormwater is exposed to source material shall be minimized through the use of roof covers, canopies, curbing or other physical means to the maximum extent practical in order to minimize the quantity of stormwater generated from HPLA areas;

(B) The stormwater runoff originating from HPLAs and areas where stormwater runoff is exposed to source material shall be segregated and prohibited from co-mingling with stormwater runoff originating from the remainder of the

parcel unless it is first routed through one or more stormwater management measure required in (C), below;

(C) The stormwater runoff from HPLAs and areas where stormwater runoff is exposed to source material shall incorporate stormwater management measures designed to reduce the post-construction load of total suspended solids (TSS) by at least 90 percent in stormwater runoff generated from the water quality design storm established in N.J.A.C. 7:8-5.5(d) using one or more of the measures identified in (I) and (II) below. In meeting this requirement, the minimum 90 percent removal of total suspended solids may be achieved by utilizing multiple stormwater management measures in series:

- (I) Any measure designed in accordance with the New Jersey Stormwater Best Management Practices Manual to remove total suspended solids. Any such measure must be constructed to ensure that the lowest point of infiltration within the measure maintains a minimum of two feet of vertical separation from the seasonal high water table; and
- (II) Other measures certified by the Department of Environmental Protection, including a Media Filtration System manufactured treatment device

with a minimum 80 percent removal of total suspended solids as verified by the New Jersey Corporation for Advanced Technology; and

- (D) If the potential for contamination of stormwater runoff by petroleum products exists onsite, prior to being conveyed to the stormwater management measure required in (C) above, the stormwater runoff from the HPLAs and areas where stormwater runoff is exposed to source material shall be conveyed through an oil/grease separator or other equivalent manufactured filtering device providing for the removal of petroleum hydrocarbons;
- (6) For all major development, as defined at N.J.A.C. 7:50-2.11, stormwater management measures shall be designed to achieve a minimum of 65% reduction of the post-construction total nitrogen load from the developed site, including permanent lawn or turf areas that are specifically intended for active human use as described in N.J.A.C. 7:50-6.24(c)3, in stormwater runoff generated from the water quality design storm. In achieving a minimum 65% reduction of total nitrogen, the design of the site shall include green infrastructure in accordance with the BMP Manual and shall optimize nutrient removal. The minimum 65% total nitrogen reduction may be achieved by using a singular stormwater management measure or multiple stormwater management measures in series.

- v. Stormwater management measure design, siting and construction standards:
- (1) Stormwater management measures designed to infiltrate stormwater shall be designed, constructed and maintained to provide a minimum separation of at least two feet between the elevation of the lowest point of infiltration and the seasonal high water table;
 - (2) Stormwater management measures designed to infiltrate stormwater shall be sited in suitable soils verified by testing to have permeability rates between one and 20 inches per hour. A factor of safety of two shall be applied to the soil's permeability rate in determining the infiltration measure's design permeability rate. If such soils do not exist on the parcel proposed for development or if it is demonstrated that it is not practical for engineering, environmental or safety reasons to site the stormwater infiltration measures(s) in such soils, the stormwater infiltration measure(s) may be sited in soils verified by testing to have permeability rates in excess of 20 inches per hour, provided that stormwater is routed through a bioretention system prior to infiltration. Said bioretention system shall be designed, installed and maintained in accordance with the New Jersey Stormwater Best Management Practices Manual;
 - (3) For all major development, as defined at N.J.A.C. 7:50-2.11, groundwater mounding analysis shall be required for purposes of assessing the hydraulic impacts of mounding of the water table resulting from infiltration of stormwater runoff from the maximum storm designed for infiltration. The mounding analysis shall provide details and supporting

documentation on the methodology used. Groundwater mounds shall not cause stormwater or groundwater to breakout to the land surface or cause adverse impacts to adjacent water bodies, wetlands or subsurface structures, including, but not limited to basements and septic systems.

Where the mounding analysis identifies adverse impacts, the stormwater management measure shall be redesigned or relocated, as appropriate;

- (4) The use of stormwater management measures that are smaller in size and distributed spatially throughout the parcel, rather than the use of a single, larger stormwater management measure shall be required;
- (5) Methods of treating stormwater prior to entering any stormwater management measure shall be incorporated into the design of the stormwater management measure to the maximum extent practical.
- (6) To avoid sedimentation that may result in clogging and reduction of infiltration capability and to maintain maximum soil infiltration capacity, the construction of stormwater management measures that rely upon infiltration shall be managed in accordance with the following standards:
 - (A) No stormwater management measure shall be placed into operation until its drainage area has been completely stabilized. Instead, upstream runoff shall be diverted around the measure and into separate, temporary stormwater management facilities and sediment basins. Such temporary facilities and basins shall be installed and utilized for stormwater management and sediment

control until stabilization is achieved in accordance with N.J.A.C. 2:90, Standards for Soil Erosion and Sediment Control in New Jersey;

(B) If, for engineering, environmental or safety reasons, temporary stormwater management facilities and sediment basins cannot be constructed on the parcel in accordance with (A) above, the stormwater management measure may be placed into operation prior to the complete stabilization of its drainage area provided that the measure's bottom during this period is constructed at a depth at least two feet higher than its final design elevation. When the drainage area has been completely stabilized, all accumulated sediment shall be removed from the stormwater management measure, which shall then be excavated to its final design elevation; and

(C) To avoid compacting the soils below a stormwater management measure designed to infiltrate stormwater, no heavy equipment, such as backhoes, dump trucks or bulldozers shall be permitted to operate within the footprint of the stormwater management measure. All excavation required to construct a stormwater management measure that relies on infiltration shall be performed by equipment placed outside the footprint of the stormwater management measure. If this is not possible, the soils within the excavated area shall be renovated and tilled after construction is

completed. Earthwork associated with stormwater management measure construction, including excavation, grading, cutting or filling, shall not be performed when soil moisture content is above the lower plastic limit.

(7) Dry wells shall be designed to prevent access by amphibian and reptiles.

vi. As-built requirements for major development, as defined at N.J.A.C. 7:50-2.11:

(1) After all construction activities have been completed on the parcel and finished grade has been established in each stormwater management measure designed to infiltrate stormwater, replicate post-development permeability tests shall be conducted to determine if as-built soil permeability rates are consistent with design permeability rates. The results of such tests shall be submitted to the municipal engineer or other appropriate reviewing engineer. If the results of the post-development permeability tests fail to achieve the minimum required design permeability rate, utilizing a factor of safety of two, the stormwater management measure shall be renovated and re-tested until the required permeability rates are achieved; and

(2) After all construction activities and required field testing have been completed on the parcel, as-built plans, including as-built elevations of all stormwater management measures shall be submitted to the municipal engineer or other appropriate reviewing engineer to serve as a document of record. Based upon that engineer's review of the as-built plans, all

corrections or remedial actions deemed necessary due to the failure to comply with design standards and/or for any reason concerning public health or safety, shall be completed by the applicant. In lieu of review by the municipal engineer, the municipality may engage a licensed professional engineer to review the as-built plans and charge the applicant for all costs associated with such review; and

vii. Exceptions:

(1) For applications submitted pursuant to N.J.A.C. 7:50-4.31 through 4.50, a municipality may grant a variance in accordance with N.J.A.C. 7:8-4.6, as amended, from the on-site design and performance standards for green infrastructure, the standards for groundwater recharge, stormwater runoff quality, and stormwater runoff quantity at N.J.A.C. 7:8-5.3, 5.4, 5.5, and 5.6, and the on-site recharge standards set forth at (a)6iv above, provided that:

(A) All mitigation projects shall be located in the Pinelands Area and same HUC 14 as the parcel proposed for development. If the applicant demonstrates that no such mitigation project is available, the municipality may approve a variance that provides for mitigation within the same HUC 11 as the parcel proposed for development, provided the mitigation project is located in the Pinelands Area;

- (B) The proposed mitigation project shall be consistent with the stormwater management plan certified by the Commission pursuant to N.J.A.C. 7:50-3 for the municipality in which the proposed mitigation project is located, unless said stormwater plan does not identify appropriate parcels or projects where mitigation may occur; and
- (C) Any variance from the on-site recharge standards set forth at (a)6iv above shall require that the total volume of stormwater infiltrated by the mitigation project equals or exceeds the volume required by (a)6iv.
- (2) For applications submitted pursuant to N.J.A.C. 7:50-4.51 through 4.60, the Commission may grant an exception in accordance with the standards contained in N.J.A.C. 7:50-4.6, as amended, from the on-site design and performance standards for green infrastructure, the standards for groundwater recharge, stormwater runoff quality, and stormwater runoff quantity at N.J.A.C. 7:8-5.3, 5.4, 5.5, and 5.6, and on-site recharge standards set forth at (a)6iv above, provided the conditions set forth at (1) above are met.
- (3) Unless specifically included in (1) or (2) above, the exemptions, exceptions, applicability standards and waivers of strict compliance for stormwater management described in N.J.A.C. 7:8 shall not apply.
- (4) No variances or exceptions shall be granted from iii(1), above, which prohibits the direct discharge of stormwater runoff to any wetland,

wetlands transition area or surface waterbody and the direction of stormwater runoff in such a way as to increase in volume and rate of discharge into any wetland, wetlands transition area or surface water body from that which existed prior to development of the parcel.

viii. Maintenance standards:

(1) For all major development, as defined at N.J.A.C. 7:50-2.11, the following standards shall apply:

(A) Maintenance plans shall be required pursuant to N.J.A.C. 7:8-5.8 and shall be supplemented to include reporting of inspection and repair activities. Said plans shall include accurate and comprehensive drawings of all stormwater management measures on a parcel, including the specific latitude and longitude and block/lot number of each stormwater management measure.

Maintenance plans shall specify that an inspection, maintenance and repair report will be updated and submitted annually to the municipality;

(B) Stormwater management measure easements shall be provided by the property owner as necessary for facility inspections and maintenance and preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities. The purpose of the easement shall be specified in the maintenance agreement; and

(C) An adequate means of ensuring permanent financing of the inspection, maintenance, repair and replacement plan shall be

implemented and shall be detailed in the maintenance plan.

Financing methods shall include, but not be limited to:

- (I) The assumption of the inspection and maintenance program by a municipality, county, public utility or homeowners association; or
 - (II) The required payment of fees to a municipal stormwater fund in an amount equivalent to the cost of both ongoing maintenance activities and necessary structural replacements.
- (2) For all minor development, as defined at N.J.A.C. 7:50-2.11, the following standards shall apply:
- (A) Maintenance plans shall be required for all stormwater management measures installed in accordance with (a)6iv(2) and (3), above. The BMP Manual may be utilized as a guide for developing maintenance plans which shall include, at minimum:
 - (1) A copy of the certified plan required pursuant to (a)6iv(4);
 - (2) A description of the required maintenance activities for each stormwater management measure; and
 - (3) The frequency of each required maintenance activity.
 - (B) Responsibility for maintenance of stormwater management measures may be assigned or transferred to the owner or tenant of the parcel.

- ix. Unless specifically mandated pursuant to (a)6i through viii above, the New Jersey Stormwater Best Management Practices Manual may be utilized as a guide in determining the extent to which stormwater management activities and measures meet the standards of (a)6i through viii above.

Draft

Email from Mark Demitroff

From: Mark Demitroff [<mailto:mark@buckhorn-gsi.com>]
Sent: Monday, March 1, 2021 1:38 PM
To: AppInfo, PC
Subject: [EXTERNAL] Attn: Pinelands Policy and Implementation Committee

Dear Pinelands Policy and Implementation Committee,

During the PP&IC meeting of February 26, 2021 you made a request for feedback from the public related to Pinelands redevelopment.

In response I seek PP&IC's opinion on three issues related to Pinelands redevelopment (1–3, *below*).

1) What are PP&IC's thoughts on the invocation of eminent domain, a development-tool power not in the CMP?

Eminent domain is vested in State Development and Redevelopment Law, but not addressed in the CMP. Personally, I find it unsettling that the Pinelands Commission would imperil the very people and their cultural resources that they are charged to protect for the benefit of an outside entity.

Pinelands Commission certification of redevelopment plans

Commission review process of redevelopment plans

- Same as the review of any other amendment to a municipality's land use ordinances (N.J.A.C. 7:50-3.39)
 - Must meet CMP standards for land uses and intensities (subchapter 5)
 - Must meet CMP minimum environmental standards (subchapter 6)

Certified redevelopment plans by Pinelands management area

	PAD	SAPA	FA	APA	RDA	PV	PT	RGA	Township-Wide	Total
Total	1*	-	-	-	3	5	17	28	3**	56***

*Whiting Landfill Redevelopment Plan

**Galloway, Hamilton, and Maurice River Townships

*** Rowan College Burlington County Redevelopment Plan included land within both RGA and RDA

- On multiple occasions the PC indicated they had no such authority (*see attached* item "a").
- In addition, the DCA indicated it has no authority to review or enforce Pinelands redevelopment rules (development tools):

In addition, you inquired as to whether the Office of Smart Growth was aware of six points relating to the project. While we are aware that you have concerns regarding the process by which the Township has conducted their redevelopment activity, that issue must be addressed at the local level. The Office of Smart Growth has not been actively involved in assisting Buena Vista Township in its redevelopment efforts, and as a result is unable to comment on their activities.

(above) Excerpt from DCA's Acting Executive Director, D. Rendeiro, Office of Smart Growth, response to M. Demitroff's query, October 1, 2009.

- In addition, the NJ LFB indicated it has no authority to review or enforce Pinelands redevelopment rule:

was secured, (or attempted to be secured). Please also be advised that the Board has no jurisdiction over the Pinelands Commission, the Local Redevelopment and Housing Law or the Municipal Land Use Law. It is suggested that you speak to a private attorney concerning the possibility of filing civil action to represent your interests in a court of law.

(above) Excerpt from NJLFB Chair, T. Neff, response to M. Demitroff's query, February 28, 2011

Please note that even the State Attorney General was unable to articulate who had authority over Pinelands Redevelopment, but her note to me seems to place the issue into the Pinelands Commission's bailiwick (*see* excerpt from letter from M. Demitroff to the Directory of Planning Advocacy, March 26, 2012).

REDEVELOPMENT LACKS OVERSIGHT – There doesn't seem to be an entity that has oversight of Pinelands redevelopment law. PC plan endorsement only provides an illusion of due process. In practice, State redevelopment statutes (development tools) can be cited but then can be ignored with impunity within the PNR. We are left with better redevelopment safeguards outside the PNR than within.

3) Can PP&IC respond to three questions that were proposed to Mr. Horner on a couple occasions (*see attached*)?

In absence of his formal response I was hoping that PP&IC would provide their opinion on the matter by responding to those yet-open questions.

Sincerely,

Mark Demitroff

----- Forwarded Message -----

Subject:Attn: Mr Chuck Horner

Date:Wed, 17 Apr 2019 09:38:03 -0400

From:Mark Demitroff <mark@buckhorn-gsi.com>

To:AppInfo <AppInfo@njpines.state.nj.us>

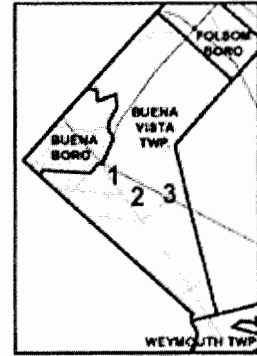
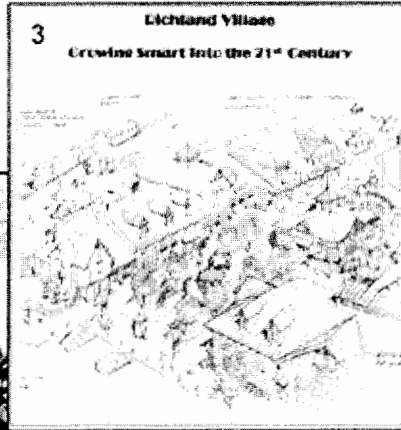
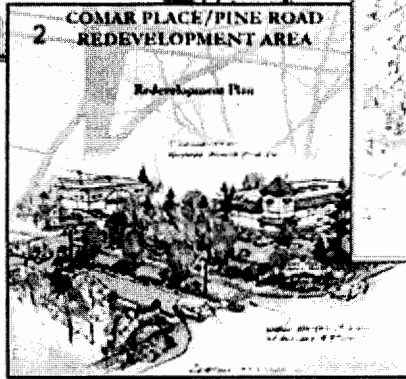
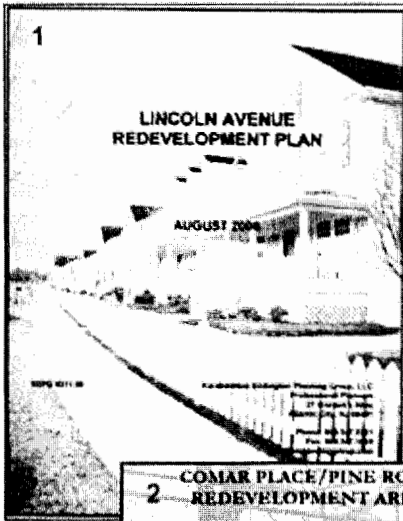
Mr. Horner,

Attached is a request for clarification in response to our recent phone conversation.

Please respond,

Mark Demitroff

CURRENT BVT REDEVELOPMENT PROJECTS



- 1. Lincoln Avenue
- 2. Comar Place
- 3. Richland Village

Subsidized by Township



CHRIS CHRISTIE
Governor

KIM GUARAGNO
Lt. Governor

State of New Jersey
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF LAW
25 MARKET STREET
PO BOX 693
TRENTON, NJ 08625-0093

PAULA T. DOW
Attorney General

ROBERT M. HANNA
Director

November 23, 2011

Via Regular & Certified Mail

Mark Demitroff
822 Main Ave.
Vineland, NJ 08360-9346

Re: September 23, 2011 Correspondence to the Office of
the Attorney General

Dear Mr. Demitroff:

I am in receipt of your September 23, 2011 correspondence to
the Office of the Attorney General. You asked for a determination
as to "who has authority over redevelopment within the Pinelands
National Reserve."

As noted in the August 1, 2011 correspondence sent to you by
DAG Julie Cavanagh, this office is unable to provide you with legal
advice or assistance.

That being said, the New Jersey Constitution authorizes
redevelopment. N.J. Const., art. VIII, § 111, ¶ 1. Municipal
redevelopment is primarily governed by the New Jersey Local
Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., which
gives municipalities the authority to designate "areas in need of
redevelopment." N.J.S.A. 40A:12A-5. The New Jersey Pinelands
Commission's ("Commission") role in municipal redevelopment is only
to ensure that any such redevelopment in the Pinelands Area
comports with the Pinelands Comprehensive Management Plan ("CMP")
adopted in accordance with the Pinelands Protection Act, N.J.S.A.
13:16A-1 et seq. See N.J.A.C. 7:50-4.11 et seq. (development in
municipalities not certified in compliance with the CMP); N.J.A.C.
7:50-4.31 et seq. (development in municipalities certified in
compliance with the CMP). The Commission has no authority to
implement the New Jersey Local Redevelopment and Housing Law.



HUGHES JUSTICE COMPLEX • TELEPHONE: (609) 633-2038 • FAX: (609) 341-5039
New Jersey Is An Equal Opportunity Employer • Printed on Recycled Paper and Recyclable

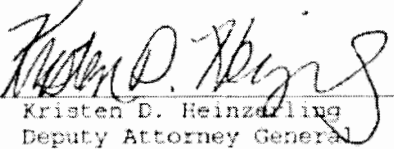
November 23, 2011
Page 2

Finally, it should be clarified that, since your letter asks who has authority over redevelopment in the "Pinelands National Reserve," the Commission's authority is limited to the "Pinelands Area" as defined by N.J.S.A. 13:18A-11. See also N.J.S.A. 13:18A-3; N.J.S.A. 13:18A-8. Although the CMP constitutes the management plan called for by the National Parks and Recreation Act of 1978, 16 U.S.C. §471i(f), the Commission's jurisdiction is limited to those portions of the Pinelands National Reserve that overlap with the Pinelands Area. The New Jersey Department of Environmental Protection has primary jurisdiction over those portions of the Pinelands National Reserve located outside the Pinelands Area within the Coastal Area. See N.J.S.A. 13:18A-23 and N.J.A.C. 7:7E-3.44 which provides that "[w]ithin the Pinelands National Reserve, the Pinelands Commission will serve as a reviewing agency for the coastal construction permit applications."

Sincerely yours,

PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY

By:


Kristen D. Heinzl
Deputy Attorney General

C: AAG Kevin Auerbacher
AAG Robert H. Stoloff
DAG John Renella
DAG Christine Platek

Mark Demitroff email 03-01-2021
Attachment B

MARK DEMITROFF
822 MAIN AVENUE, VINELAND (RICHLAND), NJ 08360-9346

RE: REDEVELOPMENT ISSUES

April 17, 2019
Attn: Mr. Chuck Horner
Pinelands Commission
PO Box 359
New Lisbon, NJ 08064

Three Questions...

Mr. Horner,

Thank you for your phone conversation on the morning of April 16. The gist of the conversation was that the Pinelands Commission (PC) does not approve redevelopment *per se*, but delegates that process to the Department of Community Affairs (DCA).

I already knew that position, as evinced in recent testimony (January 03, 2019) to the Proposed Amendment of the Pinelands Infrastructure Master Plan (PIMP). My testimony in part states:

a – On multiple occasions the PC indicated they had no such authority;

The third reason for your appeal request is alleged deficiencies by Buena Vista Township under the New Jersey Local Redevelopment and Housing Law. The Pinelands Commission has no authority to enforce the requirements of this Law. The Commission's authority is limited to its enabling act, the Pinelands Protection Act. The Executive Director's recommended approval

(above) Excerpt from a letter by Pinelands Senior Counselor S. Roth to M. Demitroff denying his appeal to the Office of Administrative Law, May 12, 2010, even though I lived within 200-feet of the parcel in question and was not notified pursuant to N.J.S.A. 40:55D-12.

With respect to the question concerning the review and enforcement of local redevelopment and housing laws, the Executive Director would only submit that the Pinelands Commission's authority is limited to determinations of whether municipal redevelopment plans are consistent with the Pinelands Protection Act and the Comprehensive Management Plan. The Commission does not have the authority to review or enforce local redevelopment and housing laws. To the

(above) Excerpt from CMP Policy & Implementation Committee Meeting, September 24, 2010.

Permitting, of this comment. Public Comment: Additional comments regarding “redevelopment lands” and authority of the Township Engineer to proceed with developing Sawmill Park were offered by the commentor. Staff Response: These matters are not regulated by the Commission.

(above) Excerpt from Pinelands Commission Report on an Application for Public Development, June 24, 2011.

Your supposition was that that the DCA approves redevelopment plans in the Pinelands National Reserve. I disagreed and directed you to the PIMP testimony that neither DCA or the Local Finance Board (LFB) have any standing to do so:

b – The DCA indicated it has no authority to review or enforce Pinelands redevelopment rules;

In addition, you inquired as to whether the Office of Smart Growth was aware of six points relating to the project. While we are aware that you have concerns regarding the process by which the Township has conducted their redevelopment activity, that issue must be addressed at the local level. The Office of Smart Growth has not been actively involved in assisting Buena Vista Township in its redevelopment efforts, and as a result is unable to comment on their activities.

(above) Excerpt from DCA's Acting Executive Director, D. Rendeiro, Office of Smart Growth, response to M. Demitroff's query, October 1, 2009.

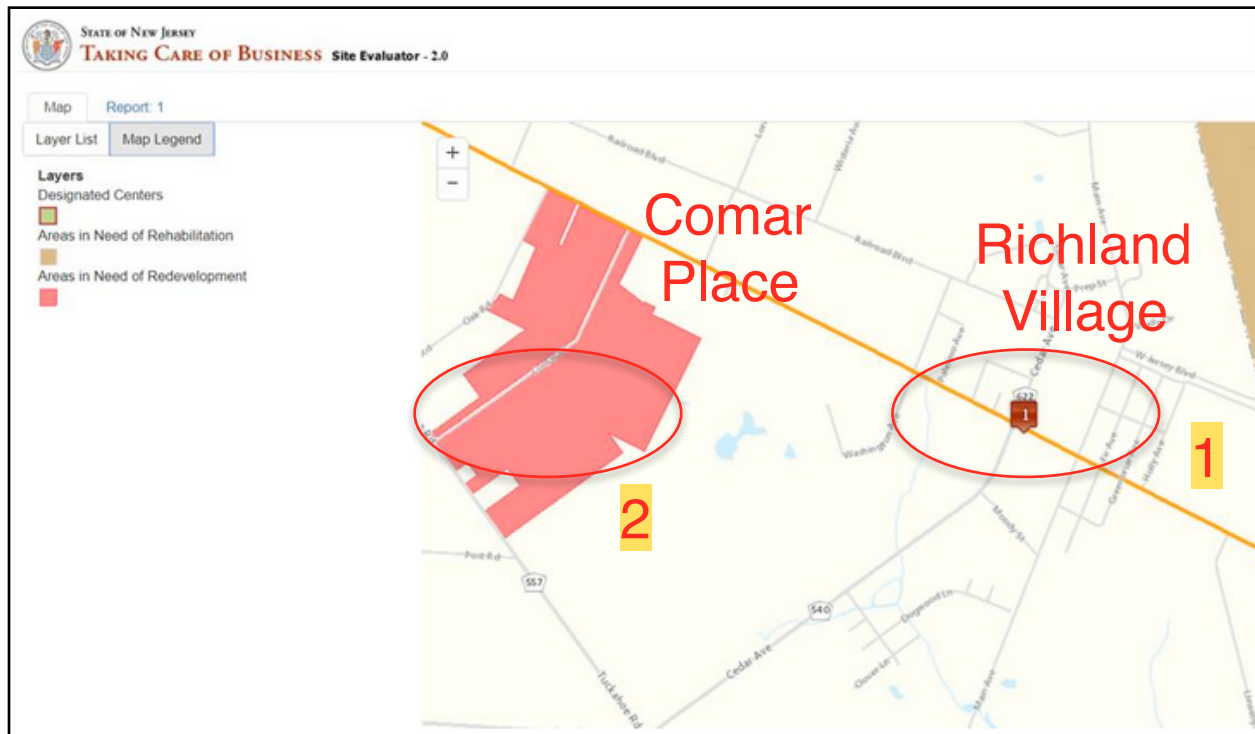
c – The NJ LFB indicated it has no authority to review or enforce Pinelands redevelopment rules;

was secured, (or attempted to be secured). Please also be advised that the Board has no jurisdiction over the Pinelands Commission, the Local Redevelopment and Housing Law or the Municipal Land Use Law. It is suggested that you speak to a private attorney concerning the possibility of filing civil action to represent your interests in a court of law.

(above) Excerpt from NJLFB Chair, T. Neff, response to M. Demitroff's query, February 28, 2011.

For reasons stated in my PIMP testimony (*see* Discussion arguments 1–6), redevelopment does not exist in the Pinelands National Reserve and by extension in Buena Vista Township (BVT).

In BVT example, Richland Village (#1) is not recognized by the DCA as a bonafide “Area in Need of Redevelopment” on the State’s current official redevelopment map. However, the State does recognize BVT redevelopment at Comar Place even though that development in plan is largely neither within a designated growth zone (i.e., Pinelands Town, Village).



Map of Areas in Need of Redevelopment, accessed April 16, 2019.
https://njgin.state.nj.us/OIT_BusinessMap2/

In reminder, you (Mr. Horner) deferred to the DCA as the entity in charge of redevelopment. It appears that Richland Village (#1) is not a DCA officially recognized redevelopment zone, although Comar Place (#2) is an officially recognized redevelopment zone even though it is largely not within a growth zone. To the latter the DCA approved a redevelopment zone that is in direct conflict with the ruling Comprehensive Management Plan, as it is not in a growth area.

In essence Buena Vista Township is wrongfully and—in deception—improperly invoking redevelopment for their own economic benefit. The Pinelands Commission has a custodial duty to address the issue, particularly if fraud is involved.

Please respond to these three BVT Pinelands redevelopment-related questions:

- 1) Can BVT commence in Richland Village redevelopment if the DCA does not recognize its extant?
- 2) Can BVT commence in Comar Place redevelopment if the DCA has errantly recognized its extant, but to do so is in conflict with local zoning and in State-issued redevelopment statutes?
- 3) Can BVT conduct Richland Village redevelopment as both the (re)developer and the redevelopment entity so as to circumvent their own Planning and Zoning Board, which I argue is in violation with their Pinelands approved master plan and redevelopment plan?

I await your response.

Sincerely,

Mark Demitroff



State of New Jersey
THE PINELANDS COMMISSION
PO Box 359
NEW LISBON, NJ 08064
(609) 894-7300
www.nj.gov/pinelands



PHILIP D. MURPHY
Governor
SHEILA Y. OLIVER
Lt. Governor

General Information: Info@pinelands.nj.gov
Application Specific Information: AppInfo@pinelands.nj.gov

RICHARD PRICKETT
Chairman
NANCY WITTENBERG
Executive Director

March 17, 2021

Mark Demitroff
822 Main Avenue
Vineland, NJ 08360-9346

Dear Mr. Demitroff:

I am writing to confirm receipt of your March 1, 2021 email about redevelopment in the Pinelands. Your email and attachments will be shared with all CMP Policy & Implementation Committee members prior to their next meeting.

Based on your March 1, 2021 email and prior correspondence with our office, it is clear that your questions largely relate to the process a municipality undertakes to determine whether a particular area or property qualifies as an area in need of redevelopment under the Local Redevelopment and Housing Law. Your additional questions are focused on the review of such designations by the New Jersey Department of Community Affairs (NJDCA) and actions taken by a municipality subsequent to DCA's review. Specific issues raised in your most recent email include the use of eminent domain in redevelopment areas and what recourse a Pinelands resident has when a municipality violates "redevelopment rules".

As we've discussed with you on many occasions over the years, the Commission does not enforce the Local Redevelopment and Housing Law. The Commission is not responsible for determining whether a Pinelands municipality has appropriately followed the procedures set forth in the Local Redevelopment and Housing Law for designation of a redevelopment or rehabilitation area. The Commission's authority is limited to determining whether a redevelopment plan, adopted by municipal ordinance, is consistent with the Comprehensive Management Plan (CMP). The Commission also is responsible for determining whether any proposed development or redevelopment projects in the Pinelands Area comply with CMP land use and environmental standards.

The CMP does not authorize, limit or otherwise refer to the use of eminent domain in redevelopment areas or elsewhere in the Pinelands. Other aspects of the Local Redevelopment and Housing Law, including the designation of redevelopment entities, notification of property owners, negotiation of financial incentives and the NJDCA's review process, are similarly not addressed by the CMP or regulated by the Pinelands Commission. As such, they have no bearing on the Commission's determination as to whether or not an application for development is consistent with the CMP.

If a Pinelands resident believes that a municipality has violated the Local Redevelopment and Housing Law, he or she should consider contacting an attorney to discuss potential legal options to address the matter.

Sincerely,

A handwritten signature in black ink that reads "Susan R. Grogan". The signature is written in a cursive style with a large initial 'S' and a long, sweeping tail on the 'n'.

Susan R. Grogan, P.P., AICP
Director of Planning



State of New Jersey
THE PINELANDS COMMISSION
PO Box 359
NEW LISBON, NJ 08064
(609) 894-7300
www.nj.gov/pinelands



PHILIP D. MURPHY
Governor
SHEILA Y. OLIVER
Lt. Governor

General Information: Info@pinelands.nj.gov
Application Specific Information: AppInfo@pinelands.nj.gov

RICHARD PRICKETT
Chairman
NANCY WITTENBERG
Executive Director

February 7, 2020

Mr. Mark Demitroff
822 Main Avenue
Vineland, N.J. 08360

Re: Municipal Redevelopment Plans
in the Pinelands Area

Dear Mr. Demitroff:

I am writing in response to your letter inquiring as to the relationship between municipal "Redevelopment Plans" in the State of New Jersey and the Pinelands Comprehensive Management Plan (CMP).

Although your letter specifically inquires about Buena Vista Township, this letter addresses the relationship of all municipal Redevelopment Plans in the Pinelands Area, including Buena Vista Township's, to the CMP.

In the Pinelands Area, any municipal Redevelopment Plan is subject to the same Pinelands Commission review and certification (approval) process as any other Pinelands Area municipal land use or zoning ordinance. The Commission reviews any Redevelopment Plan for consistency with all requirements of the CMP. Until the Commission certifies (approves) a Redevelopment Plan, it does not take effect. In addition, no actual development that is proposed in a Redevelopment Plan can occur until a development application is approved by the Commission in accordance with the provisions of the CMP.

I also wanted to note that it remains necessary for a municipality/applicant to secure all other approvals or permits that may be required by other agencies in the State of New Jersey.

Except as applicable to the Commission's regulations, I do not have the expertise or knowledge to offer guidance on the role and requirements of the New Jersey Department of Community Affairs and New Jersey municipalities with respect to the designation of redevelopment areas or the adoption, review, approval and implementation of Redevelopment Plans.

I hope this letter clarifies the role of the Pinelands Commission with Redevelopment Plans in the Pinelands Area.

Please do not hesitate to contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. M. Horner', with a long horizontal flourish extending to the right.

Charles M. Horner, P.P.
Director of Regulatory Programs