

Adopted 3/26/2021

**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

**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 ( $\leq 4$  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 ( $\geq 5$  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](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](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. Rhyon 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

A handwritten signature in cursive script, appearing to read "Betsy Piner", written in dark ink.

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**.

*For all minor development, as defined at N.J.A.C. 7:8-1.2, that involves the construction of new or direct remodeling with the result 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 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](https://www.nj.gov/dep/stormwater/bmp_manual2.htm) (hereinafter referred to as "BMP Manual" or "New Jersey Stormwater Best Management Practices Manual");

(B) Dry wells, designed to provide access by vegetation and vegetation;

(C) Permeable pavement systems;

(D) Rainwater harvesting systems, including, but not limited to, a rain garden; and

(E) Other green infrastructure measures that satisfy the groundwater recharge requirements of [NJDEP](#) rules.

### 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 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

### 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(e), as amended; and

### CMP will exceed DEP standards

#### Proposed additions:

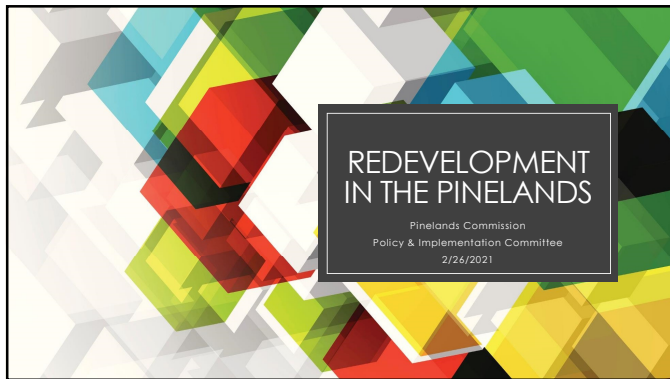
- Require stormwater management for more development: all minor residential development and some minor non-residential development
  - In most cases, these changes will result in a much larger amount of stormwater being retained and infiltrated than DEP stormwater rule requires
- More stringent conditions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

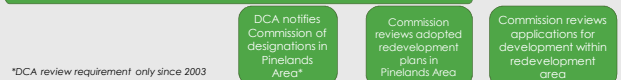
*The Redevelopment Handbook – A Guide to Rebuilding New Jersey's Communities, Slachetka and Roberts, 2011*

## Typical redevelopment process



## Pinelands Commission role

Commission may be consulted at any time prior to adoption of the redevelopment plan



## 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)
    - 1% 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

## Typical redevelopment process



## Pinelands Commission role

Commission may be consulted at any time prior to adoption of the redevelopment plan

\*DCA review requirement only since 2003

DCA notifies Commission of designations in Pinelands Area\*

Commission reviews adopted redevelopment plans in Pinelands Area

Commission reviews applications for development within redevelopment area

## 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

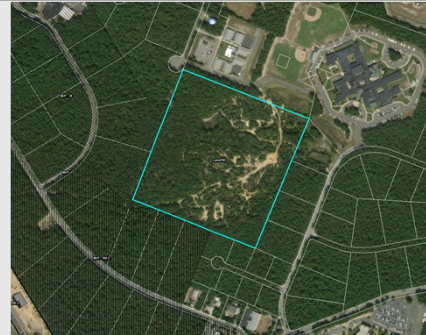
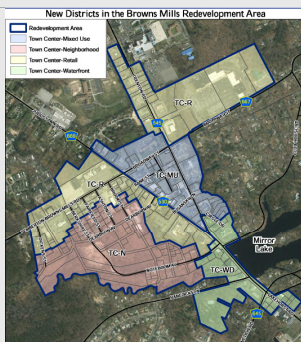
\*\*\*Rowan College Burlington County Redevelopment Plan included land within both RGA and RDA

## 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

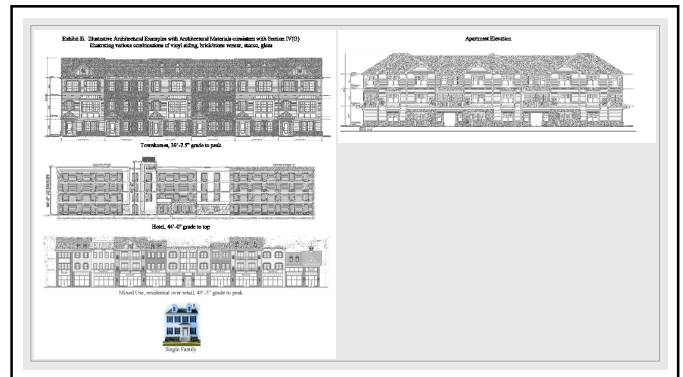
- Designated as an area in need of redevelopment 1995
- Initial Redevelopment Plan adopted 1995; last amended in 2018 (Ord. 13-2018) certified by the Commission (10/12/2018)
- Contains extensive areas of existing development and variety of uses
- 2018 amendment maintained existing redevelopment area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

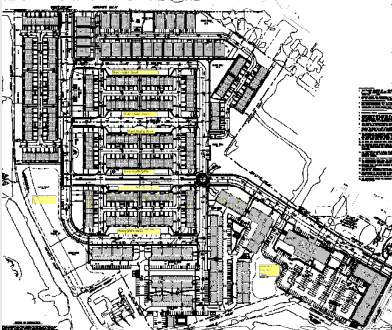
- CMP permits municipalities to zone for any use not otherwise limited by subchapter 6, provided that
  - Public service infrastructure necessary to support the use is available
  - Compatibility with existing structures and uses
- No minimum or maximum prescribed residential density
- PDC program does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

