

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)

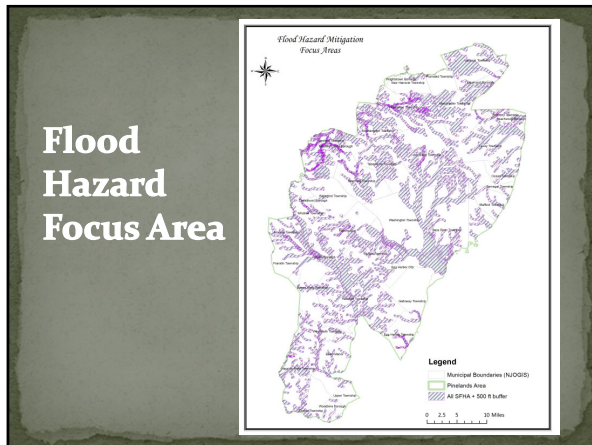
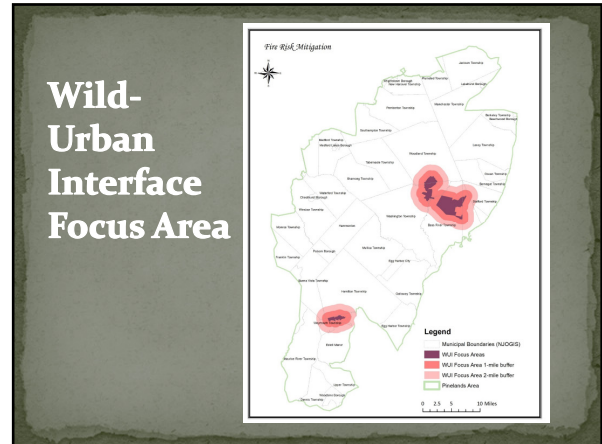
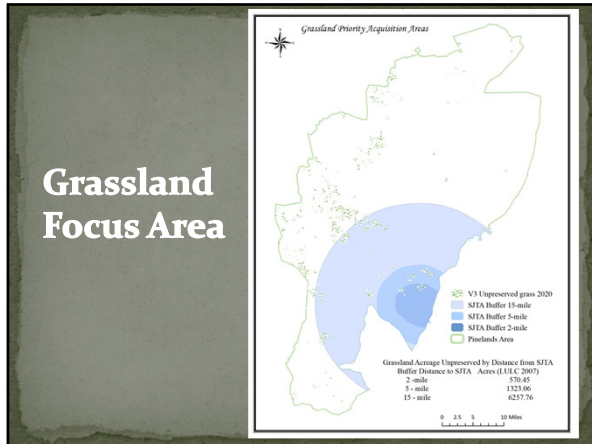
- Offset for the 2019 MOA Amendment:
 - Acquisition, creation and long term maintenance of a new Grassland Conservation and Management Area in the Pinelands.
 - Enhancement of an additional 12 acres site for frosted elfin butterfly.
 - Payments totaling Three Million Dollars were to be made to the Pinelands 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

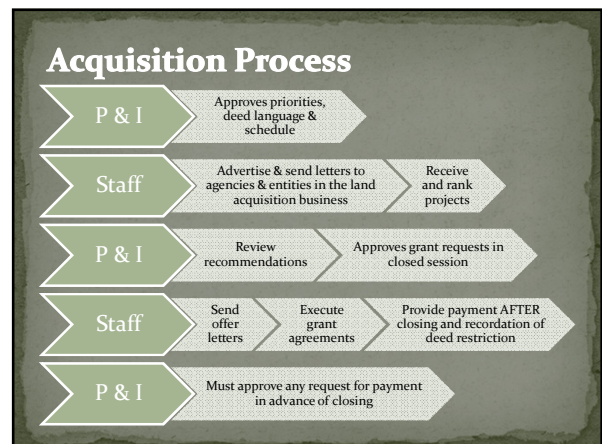
Factor	Low (1)	Medium (3)	High (5)
Location: Is the project in PCF focus area	In RGA, Town, Village or Rural Development Area AND none of the designated focus areas	In designated focus areas and PAD, SAPA, APA or Forest Area	Within a five-mile radius of SIFA and inside the State Pinelands Area
T&E Habitats:	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.