



Chris Christie  
Governor

Kim Guadagno  
Lt. Governor

State of New Jersey  
THE PINELANDS COMMISSION  
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Sean W. Earlen  
Chairman

Nancy Wittenberg  
Executive Director

## MEMORANDUM

To: CMP Policy & Implementation Committee

From: Susan R. Grogan   
Chief Planner

Date: May 18, 2016

Subject: May 27, 2016 Committee meeting

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Enclosed please find the agenda for the Committee's upcoming meeting on May 27, 2016. We have also enclosed the following:

- The minutes from the Committee's March 24, 2016 meeting;
- A written request from The Trust for Public Land for advancement of funds allocated to a Pinelands Conservation Fund project prior to its closing date
- A draft resolution and Executive Director's report on the Pemberton Township master plan and ordinance amendments on the agenda
- A memorandum and draft CMP amendments related to the Black Run watershed and a new pilot program in Evesham Township
- A memorandum and draft CMP amendments related to signs in the Pinelands

/CS15

cc: All Commissioners (agenda only)



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### **CMP POLICY & IMPLEMENTATION COMMITTEE MEETING**

Richard J. Sullivan Center  
Terrence D. Moore Room  
15 C Springfield Road  
New Lisbon, New Jersey

May 27, 2016

9:30 a.m.

#### **Agenda**

1. Adoption of minutes from the March 24, 2016 CMP Policy & Implementation Committee meeting
2. Pinelands Conservation Fund
  - \* Request from The Trust for Public Land for advancement of funding prior to closing
3. Executive Director's Reports
  - Pemberton Township's 2009 Master Plan, 2014 Master Plan Re-Examination Report and Ordinances 27-2009, 14-2014, 16-2014 and 20-2015
4. Plan Review: Review of Draft CMP amendments
  - \* Black Run Forest Area and Pilot Program
  - \* Signs
5. Public Comment
6. Other Items of Interest

## **CMP POLICY & IMPLEMENTATION COMMITTEE MEETING**

Richard J. Sullivan Center  
Terrence D. Moore Room  
15 C Springfield Road  
New Lisbon, New Jersey  
March 24, 2016 - 9:30 a.m.

### **MINUTES**

**MEMBERS IN ATTENDANCE:** Candace Ashmun, Paul E. Galletta, Mark Lohbauer, Richard Prickett, Joe DiBello (1<sup>st</sup> Alternate) and Ed McGlinchey (2<sup>nd</sup> Alternate)

**MEMBERS ABSENT:** Sean Earlen (Chairman) and Ed Lloyd

**STAFF PRESENT:** Executive Director Nancy Wittenberg, Susan R. Grogan, Stacey Roth, Robyn Jeney, Brad Lanute, Paul D. Leakan, and Betsy Piner.

Acting Chairman Galletta called the meeting of the Policy and Implementation (P&I) Committee to order at 9:32 a.m.

#### **1. Adoption of minutes from February 26, 2016 CMP Policy & Implementation Committee meeting**

Commissioner Prickett moved the adoption of the February 26, 2016 meeting minutes. Commissioner Ashmun seconded the motion. The minutes were adopted with all Committee members voting in the affirmative.

Ms. Wittenberg announced that the agenda item for a presentation by John Bunnell on a grant proposal has been postponed until the April Commission meeting, not the P&I Committee meeting, noting the time constraints due to the deadline for submitting the application.

Commissioner Prickett said he was somewhat familiar with the proposal that involves evaluating fish and amphibians for evidence of intersex, possibly due to fungicides and chemicals seeping into ponds and affecting the development of gonads.

*Commissioner Lohbauer arrived at 9:35 a.m. Ms. Roth confirmed that all six Commissioners present today were eligible to vote.*

#### **2. Review of the Executive Director's recommendation to the Pinelands Commission as to the eligibility of a parcel for acquisition under the Limited Practical Use program**

Ms. Grogan said that this Limited Practical Use (LPU) land acquisition application is for a property of nearly six acres in Hamilton Township's Forest Area. She asked the Committee to recall that a waiver application had been denied on this property at a recent Commission meeting

and it was the goal of the applicant to become eligible for the LPU program. She said staff recommends the eligibility of this property and, upon notification of the Commission's approval, the Green Acres program will contact the property owner and make an offer for purchase.

Commissioner Prickett moved the recommendation to the Commission of the eligibility of Hamilton Township Block 593, Lot 1 to participate in the LPU program. Commissioner Ashmun seconded the motion and all voted in favor.

In response to a question from Commissioner Ashmun, Ms. Grogan said that LPU funding currently comes from the Pinelands license plate fees, which also contribute to other Pinelands acquisitions.

### **3. Plan Review Recommendations -Sign Regulations in the Pinelands**

Ms. Grogan said that today's presentation on sign regulations is one in a series based on the various Plan Review recommendations that may lead to rule proposals. *(See page. 170 of the .pdf at <http://www.state.nj.us/pinelands/cmp/planreview/PR%20reports/PlanReviewReportFinalDraft.pdf>)* She said Mr. Brad Lanute, the newest member of the Commission's planning staff, will review current CMP standards for signs and discuss a number of recommendations. She said no vote on the recommendations would be requested from the Committee today.

Mr. Lanute said that sign ordinances were an issue with which he had some familiarity in his previous position as the zoning officer for a small town in Vermont. Mr. Lanute's presentation is attached to these minutes and also located at:  
[http://www.nj.gov/pinelands/home/presentations/P&I%203.24.2016%20Signage%20Presentation\\_Final\\_static.pdf](http://www.nj.gov/pinelands/home/presentations/P&I%203.24.2016%20Signage%20Presentation_Final_static.pdf)

Mr. Lanute provided background on why the Commission regulates signs and how signs are regulated under the CMP. He described how sign standards are based on the sign type and the various attributes of signs such as height, area and other design details. He described the various sign types that the CMP has defined. He noted that the signage provisions are divided into mandatory sign standards applicable to all management areas, additional sign standards applicable to only the Preservation Area District (PAD), and the Special Agricultural Production Area (SAPA), as well as additional guidelines for all other management areas outside the PAD and SAPA. He also noted that on-site signs are exempt from Commission review, while off-site signs require Commission review.

Mr. Lanute then discussed the implications of a recent Supreme Court case on how signs have commonly been regulated in municipalities across the country as well as by the Pinelands Commission. He described how the decision in *Reed v. Town of Gilbert* (2015) made clear that if a sign is regulated based on the written content of the sign, that regulation is presumably unconstitutional. He gave examples of the ways in which the CMP distinguishes and regulates signs based on a sign's content, which would now be presumably unconstitutional.

Mr. Lanute then discussed best practices for signage regulation given both the recent court decision as well as the jurisdictional nature of the Pinelands Commission as a regional governing entity. He explained that many of the tools for regulating signage that remain constitutional after the Supreme Court case would be most appropriately determined and carried out at the local



level. He explained that this is due to the context-sensitivity and local knowledge needed for well-designed regulations and the need for adaptability over time to address changing technologies and local scenic values with regard to aesthetics and economic development.

Mr. Lanute said that given the recent Supreme Court decision, current best practices for regulating signs, and business fairness, staff is recommending that the Commission no longer regulate temporary signs, on-site signs or off-site noncommercial signs, but maintained that the Commission should continue to regulate off-site commercial signs.

Mr. Lanute said, assuming the Commission will continue to regulate off-site commercial signs only, staff recommended that such new signs continue to be permitted only in the Regional Growth Area (RGA) and Pinelands Towns (PT), at the discretion of the municipality. The Commission should maintain the transferable billboard right program and the current rules on pre-existing non-conforming signs. The approval of both on-site commercial and non-commercial signs would be regulated by the local municipality.

Commissioner Ashmun said she remained concerned with the quality of signs and lighting and interference with wildlife. She said that municipalities might not be able to halt certain sign designs, such as lights that shine straight up.

Ms. Grogan reminded the Committee that for the past 35 years, Pinelands municipalities have been regulating and permitting signs, largely without the Commission's involvement, because on-site signs are exempt from application requirements. Staff believes the CMP should be amended to recognize the reasons noted above and the reality that, other than billboards, signs are not being regulated by the Commission. She said that staff recommends the CMP provide standards or guidance only for billboards, with the understanding that municipalities would have the option of permitting such off-site signs.

Mr. Liggett said the new digital LED signs are less intrusive than other lights. He said if the Commission is interested in the effects of light on the Pinelands, then parking lot lights and street lighting are probably a bigger issue.

Commissioner McGlinchey said, as a local review officer, he wanted to know what is the barometer that determines when a sign is a billboard. Is it just because of the height? He said an illuminated sign is beneficial to a business. Now that individuals are more energy conscious, as technology reduces lighting costs, LEDs will be used more and without anyone being directed to do so. He said under the provisions of the transferable sign rights, billboard owners were required to remove billboards by a certain date but the municipalities have not followed through.

Ms. Grogan reminded the Committee of the current CMP requirement for removal of an existing billboard in, for example, the Preservation Area District or Forest Area before a new billboard can be permitted in a Regional Growth Area or Pinelands Town. The Commission has issued a number of transferable sign rights over the years, although few municipalities allow new billboards.

Commissioner McGlinchey said few landowners want to use up their space with a sign.

Mr. Liggett said there was a provision of the Federal Highway Beautification Act requiring that a sign owner cannot be forced to remove a billboard without compensation or the State will lose federal highway funding. The transferable sign right was intended to be a means of compensation.

In response to Commissioner McGlinchey's question as to what constitutes a billboard, Ms. Grogan said the CMP does not use the term billboard; rather it refers to off-site commercial advertising signs.

Commissioner Ashmun said that the Committee had previous discussions regarding moving letters and LED signs. Ms. Grogan said staff suggests that the CMP be amended to include standards or guidelines to help municipalities with their regulation of off-site signs, including standards related to brightness, frequency and speed of change of scrolling messages, etc.

Commissioner McGlinchey commented that there are also potential concerns with traffic safety with moving signs. (*Editor's note: a primary concern of the NJ Department of Transportation*)

Commissioner Lohbauer said he concurred with Commissioner McGlinchey but, for the Commission, the issue should be the environmental impact. He said he felt there could be impacts from on-site signs. He said he wanted to hear if there are environmental impacts from signs that are lighted continuously. He said the Commission needs parameters to protect the environment.

Commissioner Galletta said that sounded reasonable.

Ms. Grogan concluded the discussion by saying that staff would provide more detail at an upcoming meeting and provide the Committee with suggested CMP language to address the sign issues.

#### **4. Public Comment**

Mr. Bill Wolfe, a resident of Bordentown, questioned the priority of allocating resources to the issue of signage. He said American Planning Association sign recommendations are based mainly on zoning while the Pinelands is a natural resource and staff should look at signage at national parks for something comparable. He said the Commission should have affirmative design standards and rather than using a Supreme Court decision related to signs, it should look at Lake Tahoe and its temporary moratorium on fossil fuel infrastructure. Climate change should be the priority for the Commission. Also he said what NJDEP was doing in Wharton State Forest is not sufficient and input from the Commission is needed. He also asked about the priority issue of the MOA discussion and the review powers of the Executive Director.

Dr. Joanna Burger, with Rutgers University, said she had done biological research in New Jersey for more than 30 years. She distributed a handout showing a dead 15-year-old pine snake that had been run over and killed by an all-terrain vehicle in Bass River State Forest on an illegal, unauthorized, single track motorized dirt-bike trail. She said snakes are vulnerable to injury,

particularly during the months of March and April when they are coming out of hibernation and again in October and November when they are entering their hibernation sites. She urged an end to inadequate enforcement.

Mr. Jason Howell, with the Pinelands Preservation Alliance, said that NJDEP had not increased the amount of enforcement at Wharton State Forest but had merely moved the wardens around. He read an article from a 2001 issue of the *Baltimore Sun* noting that the fines for violators have not increased and that the number of officers has actually been reduced since that time.

Ms. Marianne Clemente, a resident of Barnegat Township, said she would ask the Committee again as to when it would answer her question regarding the authority of the Executive Director to make a determination on private development applications without Commission input. She said she would put it in writing and that she wanted to hear a response at a public meeting to ensure transparency.

Ms. Connie Higgins, a resident of Long Beach Island, said that she appreciated the concern about signage but the Commission was talking about light pollution while allowing two pipelines through the Pinelands. She said she felt the authority of the Commission was being diminished and she urged the Commissioners to take their jobs seriously. She said it is wrong to allow one person to have the authority to make decisions on big projects.

Ms. Margo Pellegrino said the Commission's focus on signage was comparable to someone straightening the bedspread while the house falls off the cliff. She said 40% of all energy generation is lost in transmission. She said if transmission lines go down, then there will be no power no matter what the source. She cited an article in today's *New York Times* <http://www.nytimes.com/2016/03/24/business/energy-environment/fight-to-keep-alternative-energy-local-stymies-an-industry.html?ref=energy-environment> about residents in the Midwest who object to high tension transmission lines distributing power to the east coast while there is plenty of wind on the Atlantic seaboard and such power generation should be generated locally. She said the Commission needed to look at climate change and energy and small Pinelands towns should have the opportunity to generate their own power.

Honorable Chuck Chiarello, Mayor of Buena Vista Township, referenced the signage discussion and said it was important that small towns such as his have the flexibility to regulate on-site signs in order to help their small businesses. He said Buena Vista had revised its sign ordinance some time ago and wants to be able to permit more digital signs. He said, for example, his municipality has five fire districts, one of which erected a "rogue" digital sign; now the other four want such signs. It might not be the most important project the Commission undertakes but, in a town like his, where there is no downtown but all the businesses are separated, some consideration would be appreciated to assist them with signage issues.

Mr. Peter Ferwerda, a resident of Warren Grove, said that he had recently completed some extensive traveling and noted the degradation of the Amazon due to illegal forestry and mining while the ice sheets of Antarctica were degrading due to temperature rise. He said the Commission needed to do more oversight of the approval process. While the local governments

have the enforcement authority, the Commission needs to follow up and see that all necessary permits are obtained. He said the Commission should “trust but check.”

Ms. Clemente said she had attended last night’s Jackson Township planning board meeting and felt the board had abrogated its responsibilities by allowing Six Flags Great Adventure to cut down 60 acres of trees to accommodate a solar farm. (*Editor’s Note: outside the Pinelands Area*) She said it would have been better to have placed the panels over the parking lot, which would have been a win for the environment, the guests of the park and the corporate image. She asked that the Commission not abrogate its responsibilities.

Mr. Wolf challenged the use of cell phones by Commission members during the meeting, noting that it undermines the public trust and leaves no paper trail.

Commissioner Galletta responded that he and the other Commissioners are volunteers but many of them also have business obligations. He said there are occasions when his employees must text him on important issues needing his prompt attention. He said he would ask Ms. Roth to advise if the Commissioners were doing anything that was incorrect.

## **5. Other Items of Interest**

### **Wharton Forest Stakeholders**

Ms. Wittenberg offered a summary of the invitation-only meeting held at Batsto by NJDEP to present their current actions regarding off road vehicle use in Wharton State Forest. (The meeting presentation is located at: <http://www.nj.gov/dep/workgroups/docs/wharton20160322-pres.pdf>). She said she had attended along with Commissioners Galletta and Lohbauer. She said the NJDEP focus will be on enforcement, education, volunteers and signage. She said NJDEP is placing new signs and wants to levy more significant fines for natural resource damage. She added that they will be doing road maintenance but it is very expensive.

Commissioner Galletta said that NJDEP staff was reduced to 2,800 employees. Ms. Wittenberg said during her tenure, there had been more than 4,000.

Commissioner Lohbauer said although he was favorably impressed with what they had accomplished with limited resources, there are existing rules that clearly prohibit driving vehicles off the road. It is difficult for NJDEP to enforce with limited personnel. He said what is not illegal is driving *on* a road. But it is difficult to determine what a road is since some are fire breaks, some are sand roads, etc. and it is hard to make the distinction.

Commissioner Lohbauer said when he had toured the disturbed areas with Mr. Bunnell, Ms. Wittenberg and Commissioners DiBello and Prickett, they encountered sections where the roads themselves were so damaged that they could not be driven. He said at the NJDEP meeting some first responders described the difficulty of reaching people in emergencies due to impassable roads. Commissioner Lohbauer said this is a public safety issue and currently NJDEP estimates there are \$1.2 million in needed repairs. He said he felt it is still the duty of this Committee to

define a policy and help NJDEP in its mission to determine what is a road and to close certain areas. He said without targeted road closures, he didn't think there would be a resolution of the impassable road problem. There are nearly 700 miles of roads in Wharton and the State does not have the money and manpower to keep up with its maintenance. He asked this Committee to agree upon a resolution to limit access and generate a road closure map, adding that NJDEP says it is not going to publish a map.

Commissioner McGlinchey said one problem is lack of equipment. He said the State parks depend upon other agencies such as the Forest Fire Service for equipment. He says within Winslow Township often he'll send out his public works employees to grade roads within the Winslow Wildlife Management Area in order to assist with their maintenance.

Commissioner Ashmun said she agreed with Commissioners Lohbauer and McGlinchey. She said she was reminding everyone that all Commissioners had taken an oath to uphold the CMP. She said she thought it had failed in this matter. She said there is a very explicit section of the CMP that says the Commission should designate areas where motorized vehicles should be prohibited. She said NJDEP can have the roads but the Commission needs to designate areas where NJDEP should not allow motorized vehicles.

In response to Commissioner Galletta's question as to what she meant by they can "have the roads", Commissioner Ashmun said that the Commission needed to tell NJDEP where vehicles were allowed to go.

Commissioner Prickett said his experience on the Wharton tour was that the roads were in deplorable condition. He said the only vehicles that can traverse some sections are the specially designed illegal ones. He said he was all about access to these beautiful areas and it is unfair that, due to the damage, they have been rendered inaccessible to many. He noted the vehicle tracks all around the foundation at Hampton Furnace. He asked the Commissioners to consider the damage to its own Fenwick Manor bog garden if vehicles were to drive over those plants and yet it is happening on a regular basis in Wharton.

Commissioner DiBello said the Commission needed to deal with both the policy and planning issues as well as the implementation (enforcement, education, maintenance) of a plan to protect the forest. He said the Commission should work with all approved parties to identify the public roads and identify sensitive areas to be protected.

Commissioner McGlinchey said he was concerned with the transfer of two employees from Bass River State Forest to Wharton as that would leave other parks vulnerable.

Commissioner Galletta asked if Wharton Superintendent Rob Auermuller could make a presentation before the Commission.

Ms. Wittenberg said that he had made a presentation to staff about a year ago and that she would discuss the possibilities with DEP.

**Stafford stormwater basin**

Commissioner Lohbauer said that at the April 8, 2016 Commission meeting, the agenda will include a waiver to allow a stormwater basin in the Forest Area of Stafford Township. He said that Mr. Horner had provided him with a copy of a report prepared by an engineer hired by the Commission to review the proposed basin. He encouraged all Commissioners to read the report as it indicates that this detention basin will not be a complete solution to the flooding problems in Ocean Acres.

Ms. Wittenberg said the staff's report on the waiver application will discuss the alternatives evaluated by the Township and why they had been ruled out.

Commissioner Ashmun said that new Commissioners will need a lot of information about the waiver process.

Ms. Grogan said that this was an unusual application and the first application for a waiver for compelling public need that the Commission had seen in some 20 years.

Ms. Wittenberg confirmed that the staff report, recommendation and supporting documents had not yet been provided to the Commission. She noted it is a very large file. Ms. Roth said any Commissioner who wishes to review the file can make arrangements with Mr. Horner.

There being no other items of interest, the meeting adjourned at 11:15 a.m. (moved by Commissioner DiBello and seconded by Commissioner Prickett)

Certified as true and correct:



Betsy Pinner,  
Principal Planning Assistant

Date: April 18, 2016



## Sign Regulations in the Pinelands

Policy & Implementation Committee  
March 24, 2016

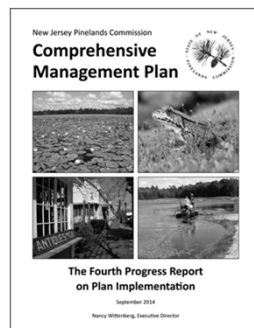


## Agenda

1. Background
2. The CMP & Signage
3. Signage & the Courts
4. Recommendations
5. Next Steps

## Background

- Outdoor Advertising Signs
  - Digital/LED Signs
- U.S. Supreme Court decision (June 2015)
- New complex issues encompassing digital/LED signage
- Decisions need to be made on the big picture first, digital/LED signs will follow





## The CMP & Signage What Signs Are Regulated

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### On-Site Sign Types

### Off-Site Sign Types



## The CMP & Signage What Signs Are Regulated

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### On-Site Sign Types

- Official Public Safety/Information
- For Rent/For Sale
- Institutional
- Trespassing/Private Property
- Temporary
- Home Occupation
- Business

### Off-Site Sign Types

- Directional
- Civil Social, Political Activities
- Agricultural Commercial Establishments
- Commercial

## The CMP & Signage How Signs Are Regulated

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### Location

### Manner

- Quantity
- Size
- Height
- Other Design

## The CMP & Signage How Signs Are Regulated

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### Location



## The CMP & Signage How Signs Are Regulated

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### Location



## The CMP & Signage How Signs Are Regulated

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### Location

#### Manner

- Quantity
- Size
- Height
- Other Design



## The CMP & Signage How Signs Are Regulated

---

### Location

#### Manner

- Quantity
- Size
- Height
- Other Design



## The CMP & Signage How Signs Are Regulated

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### Location

#### Manner

- Quantity
- Size
- Height
- Other Design



## The CMP & Signage How Signs Are Regulated

### Location

### Manner

- Quantity
- Size
- Height
- Other Design



## Signage & the Courts Reed v. Town of Gilbert (2015)

### Free Speech and Signs

U.S. Supreme Court decision with impacts for signage regulation

Non-commercial temporary signs

- If you have to read a sign's content to regulate it, it is content based and presumed unconstitutional



## Signage & the Courts General Implications

### Regulators

- Revise codes
- Unfamiliar terrain

### Legal Uncertainty

- Definition of a sign
- Content based categories
  - On-premises v. off-premises
  - Commercial v. non-commercial



**More litigation to come!**

## Signage & the Courts

### Pinelands Commission Implications

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#### On Site Sign Types

- Official Public Safety/Information
- For Rent/For Sale
- Institutional
- Trespassing/Private Property
- Temporary
- Home Occupation
- Business

#### Off-Site Sign Types

- Directional
- Civil Social, Political Activities
- Agricultural Commercial Establishments
- Commercial

How do we approach solving this more complex problem?

## Best Practices for Signage Regulation

### A Regional Perspective

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- Risk management and liability
- More tools in practice today than 1981,....
- ...but they require greater local knowledge and context-sensitivity
- ...and they require adaptability, frequent updates
- Purposes go beyond scenic values
- Variability from locality to locality is inevitable





### Recommendations

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**Who** is best suited to regulate signage?

➤ Defer to local control in most cases

### Recommendations

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**What** signs should be regulated by the Commission?

**No** ➤ On-site signs and temporary signs

- The court case
- Application exemptions

➤ Off-site signs

- Non-commercial → **No**
- Commercial (billboards) → **Yes**

### Recommendations

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**Where/How** should signs be regulated by the Commission? *Assuming commercial off-site signs only*

**Yes** ➤ Location

**Yes** ➤ Manner

- Quantity
- Size
- Height
- Illumination
- Other design

### Recommendations

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**Where/How** should signs be regulated by the Commission? *Assuming commercial off-site signs only*

**Yes** ➤ Location →

**Yes** ➤ Manner

- RGA & Town only at the option of the municipality
- Maintain transferrable billboard right program
- Maintain current rules on pre-existing non-conforming

## Recommendations

**Where/How** should signs be regulated by the Commission? Assuming commercial off-site signs only

**Yes** > Location

**Yes** > Manner



> Anywhere billboards are allowed, such billboards may be digital/LED at the option of the municipality

## Next Steps

Integrate today's feedback

Draft language for P&I Committee review

Bundle with additional CMP amendments in process





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VIA EMAIL

May 17, 2016

Nancy Wittenberg  
Executive Director  
Pinelands Commission  
New Lisbon, NJ 08064

RE: PCF Grant for Bear Swamp Project

Dear Ms. Wittenberg,

I am writing to request that our Pinelands conservation Fund grant of \$150,000 for our Bear Swamp Project be available prior to our closing which is scheduled to occur no later than June 10. We will be using Trident Abstract Title in Wall Township for settlement. John Tenneson will be able to receive the funds to an escrow account. I can provide you with contact and wire information should you wish to wire funds directly.

Thank you for considering our request. Feel free to contact me at 973-292-1100 extension 115 or [kathy.haake@tpl.org](mailto:kathy.haake@tpl.org) with any questions or concerns.

Yours truly,

Kathy Haake  
Senior Project Manager

Cc: Robyn Jeney



**DRAFT**

## ***RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION***

**NO. PC4-16-\_\_\_\_\_**

**TITLE:** Issuing an Order to Certify Pemberton Township's 2009 Master Plan, 2014 Master Plan Reexamination Report and Ordinances 14-2014, 16-2014 and 20-2015, Amending Chapter 190 (Zoning) of the Code of Pemberton Township

**Commissioner \_\_\_\_\_ moves and Commissioner \_\_\_\_\_  
seconds the motion that:**

**WHEREAS**, on June 3, 1983, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Pemberton Township; and

**WHEREAS**, Resolution #PC4-83-52 of the Pinelands Commission specified that any amendment to the Township's certified Master Plan and Land Use Ordinances be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 (Submission and Review of Amendments to Certified Master Plans and Land Use Ordinances) of the Comprehensive Management Plan to determine if said amendment raises a substantial issue with respect to conformance with the Pinelands Comprehensive Management Plan; and

**WHEREAS**, Resolution #PC4-83-52 further specified that any such amendment shall only become effective as provided in N.J.A.C. 7:50-3.45 of the Comprehensive Management Plan; and

**WHEREAS**, on July 9, 2009, the Pemberton Township Planning Board adopted a new Master Plan for the Township, including Land Use, Housing, Circulation, Utility, Community Facilities, Recreation, Conservation and Open Space, Economic, Historic Preservation, Recycling and Farmland Preservation Plan Elements; and

**WHEREAS**, the Township's 2009 Master Plan recommends a series of changes to Pemberton's zoning map, including establishing a Neighborhood Commercial (NC) District and expanding the General Commercial/Light Industrial (GCLI) District in the Pinelands Area; and

**WHEREAS**, the Pinelands Commission received an adopted copy of the 2009 Master Plan, along with the Planning Board's resolution of adoption, on February 24, 2010; and

**WHEREAS**, on December 16, 2009, Pemberton Township adopted Ordinance 27-2009, amending Chapter 190 (Zoning) of the Township's Code by adopting a revised Zoning Map, dated July 9, 2009, for purposes of implementing the recommendations of the 2009 Master Plan; and

**WHEREAS**, on September 4, 2014, the Pemberton Township Planning Board adopted a Master Plan Reexamination Report, recommending both management area and zoning changes, as well as the creation of a new NCP (Neighborhood Commercial Pinelands) District; and

**WHEREAS**, the Pinelands Commission received an adopted copy of the 2014 Master Plan Reexamination Report, along with the Planning Board's resolution of adoption, on October 10, 2014; and

**WHEREAS**, on December 17, 2014, Pemberton Township adopted Ordinance 14-2014, amending Chapter 190 (Zoning) by creating the Neighborhood Commercial Pinelands District; and

**WHEREAS**, on December 17, 2014, Pemberton Township adopted Ordinance 16-2014, amending Chapter 190 (Zoning) to require the use of Pinelands Development Credits when a variance or other approval is granted for a residential use in the TC, HD, GI, or NCP Districts or in the Regional Growth Area of the GCLI District; and

**WHEREAS**, the Pinelands Commission received certified copies of Ordinances 14-2014 and 16-2014 on January 6, 2015; and

**WHEREAS**, on March 2, 2016, Pemberton Township adopted Ordinance 20-2015, amending Chapter 190 (Zoning) by adopting a revised Zoning Map, dated December 7, 2015, that adjusts the boundaries of existing zoning districts and establishes entirely new zoning districts within the Pinelands Area in response to the recommendations of the 2009 Master Plan and 2014 Master Plan Reexamination Report; and

**WHEREAS**, the 2015 Zoning Map adopted by Ordinance 20-2015 supersedes that previously adopted by Ordinance 27-2009; and

**WHEREAS**, the Pinelands Commission received a certified copy of Ordinance 20-2015 on March 18, 2016 and a copy of the adopted zoning map on March 22, 2016; and

**WHEREAS**, by letter dated March 31, 2016, the Executive Director notified the Township that the 2009 Master Plan, 2014 Master Plan Reexamination Report and Ordinances 27-2009, 14-2014, 16-2014 and 20-2015 would require formal review and approval by the Pinelands Commission; and

**WHEREAS**, a public hearing to receive testimony concerning the Township’s application for certification of its 2009 Master Plan, 2014 Master Plan Reexamination Report and Ordinances 27-2009, 14-2014, 16-2014 and 20-2015 was duly advertised, noticed and held on April 27, 2016 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m.; and

**WHEREAS**, the Executive Director has found that the above-referenced amendments are consistent with the standards and provisions of the Pinelands Comprehensive Management Plan; and

**WHEREAS**, the Executive Director has submitted a report to the Commission recommending the issuance of an order to certify that Pemberton Township’s 2009 Master Plan, 2014 Master Plan Reexamination Report and Ordinances 14-2014, 16-2014 and 20-2015, amending Chapter 190 (Zoning) of the Code of Pemberton Township, are in conformance with the Pinelands Comprehensive Management Plan; and

**WHEREAS**, the Commission’s CMP Policy and Implementation Committee has reviewed the Executive Director’s report and recommended that the 2009 Master Plan, 2014 Master Plan Reexamination Report and Ordinances 14-2014, 16-2014 and 20-2015 be certified; and

**WHEREAS**, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning the 2009 Master Plan, 2014 Master Plan Reexamination Report and Ordinances 27-2009, 14-2014, 16-2014 and 20-2015 and has reviewed the Executive Director’s report; and

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

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

**NOW, THEREFORE BE IT RESOLVED** that

1. An Order is hereby issued to certify that Pemberton Township’s 2009 Master Plan, 2014 Master Plan Reexamination Report and Ordinances 14-2014, 16-2014 and 20-2015, amending Chapter 190 (Zoning) of the Code of Pemberton Township, are in conformance with the Pinelands Comprehensive Management Plan.
2. Any additional amendments to the Township’s certified Master Plan and Land Use Ordinances shall be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 to determine if said amendments raise a substantial issue with respect to the Comprehensive Management Plan. Any such amendment shall become effective only as provided in N.J.A.C. 7:50-3.45.

**Record of Commission Votes**

AYE NAY NP A/R*				AYE NAY NP A/R*				AYE NAY NP A/R*			
Ashmun				DiBello				McGlinchey			
Avery				Galletta				Prickett			
Barr				Jannarone				Quinn			
Brown				Lloyd				Rohan Green			
Chila				Lohbauer				Earlen			

\* A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: \_\_\_\_\_

\_\_\_\_\_  
Nancy Wittenberg  
Executive Director

\_\_\_\_\_  
Sean W. Earlen  
Chairman



State of New Jersey  
 THE PINELANDS COMMISSION  
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 (609) 894-7300  
 www.nj.gov/pinelands



Chris Christie  
 Governor

Kim Guadagno  
 Lt. Governor

General Information: Info@njpines.state.nj.us  
 Application Specific Information: AppInfo@njpines.state.nj.us

Sean W. Earlen  
 Chairman

Nancy Wittenberg  
 Executive Director

**REPORT ON PEMBERTON TOWNSHIP'S 2009 MASTER PLAN, 2014 MASTER PLAN RE-EXAMINATION REPORT AND ORDINANCES 27-2009, 14-2014, 16-2014 AND 20-2015, AMENDING CHAPTER 190 (ZONING) OF THE CODE OF PEMBERTON TOWNSHIP**

May 27, 2016

Pemberton Township  
 500 Pemberton-Browns Mills Road  
 Pemberton, NJ 08068

**FINDINGS OF FACT**

I. Background

The Township of Pemberton is located in eastern Burlington County, in the northwestern section of the Pinelands Area. Pinelands municipalities that abut Pemberton Township include New Hanover, Springfield, Southampton and Woodland Townships in Burlington County and Manchester and Plumsted Townships in Ocean County.

On June 3, 1983, the Pinelands Commission fully certified the Master Plan and codified Land Use Ordinances of Pemberton Township.

On July 9, 2009, the Pemberton Township Planning Board adopted a new Master Plan for the Township, including Land Use, Housing, Circulation, Utility, Community Facilities, Recreation, Conservation and Open Space, Economic, Historic Preservation, Recycling and Farmland Preservation Plan Elements. The Township's 2009 Master Plan recommends a series of changes to Pemberton's zoning map, including establishing a Neighborhood Commercial (NC) District and expanding the General Commercial/Light Industrial (GCLI) District in the Pinelands Area. The Pinelands Commission received an adopted copy of the 2009 Master Plan, along with the Planning Board's resolution of adoption, on February 24, 2010.

On December 16, 2009, Pemberton Township adopted Ordinance 27-2009, amending Chapter 190 (Zoning) of the Township's Code by adopting a revised Zoning Map, dated July 9, 2009, for purposes of implementing the recommendations of the 2009 Master Plan. The Pinelands Commission received a certified copy of Ordinance 27-2009 on January 15, 2010.

On September 4, 2014, the Pemberton Township Planning Board adopted a Master Plan Re-Examination Report, recommending both management area and zoning changes, as well as the creation of a new NCP (Neighborhood Commercial Pinelands) District. The Pinelands Commission received an adopted copy of the 2014 Master Plan Re-Examination Report, along with the Planning Board's resolution of adoption, on October 10, 2014.



On December 17, 2014, Pemberton Township adopted Ordinance 14-2014, amending Chapter 190 (Zoning) by creating the Neighborhood Commercial Pinelands District. The Township also adopted Ordinance 16-2014, amending Chapter 190 (Zoning) to require the use of Pinelands Development Credits when a variance or other approval is granted for a residential use in nonresidential zoning districts in the Regional Growth Area. The Pinelands Commission received certified copies of Ordinances 14-2014 and 16-2014 on January 6, 2015.

On March 2, 2016, Pemberton Township adopted Ordinance 20-2015, amending Chapter 190 (Zoning) by adopting a revised Zoning Map, dated December 7, 2015, that adjusts the boundaries of existing zoning districts and establishes the boundaries of a new zoning district within the Pinelands Area in response to the recommendations of the 2009 Master Plan and 2014 Master Plan Re-Examination Report. The 2015 Zoning Map adopted by Ordinance 20-15 supersedes that previously adopted by Ordinance 27-2009. The Pinelands Commission received a certified copy of Ordinance 20-2015 on March 18, 2016 and a copy of the adopted zoning map on March 22, 2016.

By letter dated March 31, 2016, the Executive Director notified the Township that the 2009 Master Plan, 2014 Master Plan Re-Examination Report and Ordinances 27-2009, 14-2014, 16-2014 and 20-2015 would require formal review and approval by the Pinelands Commission.

## II. Master Plans and Land Use Ordinances

The following master plan and ordinance amendments have been submitted to the Pinelands Commission for certification:

- \* Planning Board Resolution PB-33-2009, adopting the 2009 Master Plan of Pemberton Township, adopted on July 9, 2009; and
- \* Planning Board Resolution P-16-2014, adopting the 2014 Master Plan Re-Examination Report, adopted on September 4, 2014;
- \* Ordinance 27-2009, amending Chapter 190 (Zoning) of the Code of Pemberton Township, including a Zoning Map dated July 9, 2009, introduced on November 4, 2009 and adopted on December 16, 2009 (the zoning map adopted by this ordinance was subsequently superseded by Ordinance 20-2015);
- \* Ordinance 14-2014, amending Chapter 190 (Zoning) of the Code of Pemberton Township, introduced on November 14, 2014 and adopted on December 17, 2014;
- \* Ordinance 16-2014, amending Chapter 190 (Zoning) of the Code of Pemberton Township, introduced on November 14, 2014 and adopted on December 17, 2014; and
- \* Ordinance 20-2015, amending Chapter 190 (Zoning) of the Code of Pemberton Township, including a Zoning Map dated December 7, 2015, introduced on December 16, 2015 and adopted on March 2, 2016.

These amendments have been reviewed to determine whether they conform with the standards for certification of municipal master plans and land use ordinances as set out in N.J.A.C. 7:50 3.39 of the

Pinelands Comprehensive Management Plan. The findings from this review are presented below. The numbers used to designate the respective items correspond to the numbers used to identify the standards in N.J.A.C. 7:50 3.39.

## 1. Natural Resource Inventory

Not applicable.

## 2. Required Provisions of Land Use Ordinance Relating to Development Standards

### *Pemberton 2009 Master Plan*

Pemberton Township's 2009 Master Plan outlines new land use policies and objectives including (1) enhancing the Browns Mills town center by creating a sense of place through new residential and commercial development and by designating the entire Browns Mills downtown as a Redevelopment area; (2) encouraging a plan that is pedestrian friendly while also providing opportunities for public transportation and public parking; (3) creating economic opportunities along the State Route 206 corridor outside the Pinelands Area; and (4) enhancing the aesthetic qualities through a downtown form-based code and improving the scenic qualities of the Township's gateways. To achieve these goals, the 2009 Master Plan recommends amendments to the zoning code and several changes to existing zoning district boundaries. The 2009 Pemberton Master Plan was adopted by the Township's Planning Board through Resolution PB-33-2009 on July 9, 2009.

### *Pemberton 2014 Master Plan Re-Examination Report*

Pemberton Township's 2014 Master Plan Re-Examination Report reassesses the strengths and weaknesses of the Township's Master Plan, reaffirming prior goals as well as adding new objectives. These include: (1) encouraging more commercial ratables, (2) enhancing the Browns Mills town center, (3) retaining the Township's rural character and the aesthetics of arterial gateways, and (4) encouraging senior citizen focused development and zoning outside the Pinelands Area. Based on these objectives, the Master Plan Re-Examination report recommends a series of land use ordinance amendments and rezonings, one of which involves changes in Pinelands management area designations. A number of these recommendations are identical to those previously proposed by the Planning Board as part of the 2009 Pemberton Master Plan; however many of the prior recommendations were abandoned as they were believed to be incompatible with the CMP. The Re-Examination Report clarified some of the proposals to ensure all of the recommended changes are compliant with the CMP.

### *Pinelands Management Area Changes*

As recommended in the 2014 Master Plan Re-Examination Report, Ordinance 20-2015 affects a number of zoning changes, including the rezoning of 143 acres from the R-17 (Very Low Density Single-Family Residential) District to AP (Agricultural Production) District. The R-17 District is in the Pinelands Forest Area while the AP District is in the Pinelands Agricultural Production Area. The map attached as Exhibit #1 indicates the location of this management area change. The affected area consists of 11 lots and a portion of a linear lot located along Mount

Misery Road. The primary existing use is agriculture (including cranberry bogs), with associated farm-related housing. Including the area in the Agricultural Production Area recognizes the existing agricultural operations and qualifies the properties for allocations of Pinelands Development Credits. It also recognizes the interest of the two affected property owners in participating in Burlington County's Farmland Preservation Program. In general, the County purchases farmland easements in the Pinelands Area only on properties in Pinelands Development Credit sending areas (the Agricultural Production Area, Special Agricultural Production Area and Preservation Area District).

N.J.A.C. 7:50-5.15 of the CMP provides an opportunity for municipalities to designate new Agricultural Production Areas, provided the area to be designated is primarily agricultural in use, is of a size capable of sustaining active agriculture operations and includes surrounding actively used agricultural lands. The area redesignated by Ordinance 20-2015 meets these criteria.

### *Other Zoning Changes*

Ordinance 20-2015 also adopts several rezonings that do not involve changes in Pinelands management area designations.

First, Ordinance 20-2015 expands the GCLI (General Commercial/Light Industrial) District located along Burlington County Route 530 from a depth of 300 feet to 600 feet (see Exhibit 2). This change occurs within the Pinelands Agricultural Production Area; no change in Pinelands management areas is involved. Approximately 22 acres are rezoned from the AP District to the GCLI District. Small portions of three large lots are affected, all of which are currently split between the AP and GCLI Districts and are assessed as farms. It is worth noting that one of the affected lots is actively seeking to participate in the County's Farmland Preservation Program.

The GCLI District permits a wide variety of retail, office and light industrial uses. It was established in this portion of Pemberton's Agricultural Production Area based on N.J.A.C 7:50-5.24(b)1 of the CMP, which permits new roadside retail sales and service establishments within 300 feet of similar uses that were in existence on February 7, 1979 (prior to adoption of the CMP). The original GCLI District boundaries encompassed several pre-existing commercial uses and surrounding vacant lands in the Agricultural Production Area, and also recognized that there were pre-existing businesses located outside the Pinelands Area, across Route 530. The Township expanded the depth of the GCLI District in recognition of the impacts the ongoing widening of Route 530 is expected to have on existing businesses in the zone. Widening the GCLI District may offset the loss of property to the road widening project, thereby preserving the already limited opportunities these property owners have to expand current businesses or engage in new business opportunities. It may also allow the existing businesses to be relocated further back from the road, to the extent they have not already been acquired by the County. A strict interpretation of CMP standards would dictate that the original 300 foot depth of the GCLI District should remain; however, a commercial zone of that size in this particular location is no longer feasible. In order to preserve the commercial development opportunities of the affected properties, Pemberton has made a slight adjustment to its zoning boundaries. This is an appropriate use of the municipal flexibility afforded to Pinelands municipalities by the CMP.

Second, Ordinance 20-2015 rezones 16 acres from the R-80 (Single-Family Residential) District to the RA (Infill Residential) District (see Exhibit 3). This zoning change involves a single lot and is entirely within the Regional Growth Area; no change in Pinelands management areas is

involved. The RA zone is a zone intended for single and multiple family residential units. Planned retirement community housing is also permitted as a conditional use. The parcel is currently occupied by low- and moderate-income apartments that are a non-conforming use in the R-80 District, which only allows detached dwelling units. The rezoning recognizes the existing development on the lot and makes it a permitted, conforming use.

Third, Ordinance 20-2015 rezones 73 acres from the GCLI District to the TC (Town Center) District, within the Regional Growth Area (see Exhibit 4). The TC District permits general commercial activities (e.g. retail, restaurants, banks, offices, etc.) in the Browns Mills town center. This zoning change would extend Browns Mills' existing TC District westward along the southern side of Pemberton-Browns Mills Road. Existing uses in the rezoned area are primarily residential, with a few commercial uses.

Fourth, Ordinance 20-2015 establishes the boundaries of a Neighborhood Commercial Pinelands District (NCP), a new zoning district that was created by Ordinance 14-2014(see *Other Amendments* for more information on the new zone). The ordinance rezones a portion of the Country Lakes neighborhood along Lakehurst Road from the GCLI District to the new NCP district (see Exhibit 5). Approximately 56 acres are affected by this zoning change. Ordinance 20-2015 also rezones two other portions of the GCLI District to the NCP district; the southern portion comprises about three acres and the northern portion comprises about nine acres (see Exhibit 6). All of these zoning changes occur within the Regional Growth Area; no change in Pinelands management areas is involved. Whereas the GCLI District permits a wide variety of commercial and industrial uses, the new NCP District is focused on small-scale retail and neighborhood service-oriented establishments.

Finally, Ordinance 20-2015 rezones approximately two acres from the R-1 District to the new NCP District (see Exhibit 6). This zoning change occurs entirely within the Regional Growth Area; no change in Pinelands management areas is involved. Four residentially-developed lots are affected by the rezoning. The existing homes will become non-conforming uses. The rezoning is intended to allow for additional commercial opportunities at a Township gateway near the recently-redesigned intersection at Hanover Street and the Pemberton Bypass.

The official Pemberton Township zoning map certified by the Pinelands Commission was created in 1983 and was subsequently updated by hand-drawn changes, as needed. The use of geographic information technologies as well as improved record keeping has enhanced the ability for the Township and the Commission to track and implement revised zoning boundaries over time. Pemberton Township and Commission staff worked together to translate the prior official zoning map to an improved GIS version. As such, a comparison of the older map against the new map will show numerous minor changes that were made where the prior zoning district boundaries were unclear due to the use of heavy black lines or when the boundaries simply did not align well with existing lot lines or roads, although that was clearly the intent. These changes are too numerous to list in this report but all are insignificant in terms of size or impact on development potential.

Exhibit 7 provides a visual overview of the proposed zoning changes adopted by Ordinance 20-2015.

*Other Amendments*

Ordinance 14-2014 amends Chapter 190 (Zoning) of Pemberton Township's Code to establish the Neighborhood Commercial Pinelands zoning district. The purpose of the new zone is to recognize and provide for small scale retail and neighborhood service-oriented establishments in residential neighborhoods. It is located entirely within the Regional Growth Area. As noted above, lands now included in the NCP District were previously located a different nonresidential zone (the GCLI District) or were in a residential zone (the R-1 District) where the Township is seeking to encourage the conversion of existing homes to commercial uses.

Pemberton Township's 2009 Master Plan, 2014 Master Plan Re-Examination Report and Ordinances 14-2014, 16-2014 and 20-2015 are consistent with the land use and development standards of the Comprehensive Management Plan. Therefore, this standard for certification is met.

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

Not applicable.

**4. Requirement for Municipal Review and Action on All Development**

Not applicable.

**5. Review and Action on Forestry Applications**

Not applicable.

**6. Review of Local Permits**

Not applicable.

**7. Requirement for Capital Improvement Program**

Not applicable.

**8. Accommodation of Pinelands Development Credits**

N.J.A.C. 7:50-5.28(a)5(ii)1 specifies that municipal land use ordinances must require Pinelands Development Credit (PDC) use in any instance where a variance or other municipal approval is granted that authorizes residential development in a zone in which residential development is not otherwise permitted. The number of PDCs required is determined by the number of units proposed and the acreage of the parcel in question.

Ordinance 16-2014 amends Chapter 190 (Zoning) of the Township's Code to require that when a variance or other approval is granted for a residential use in the TC, HD, GI, GCLI (only in Regional Growth Areas), or NCP zoning districts, Pinelands Development Credits (PDCs) must be used. The purpose of this ordinance is to ensure that all nonresidential zones in the Township's Regional Growth Area, including the new NCP District created by Ordinance 14-2016, are included.

Although Ordinance 20-2015 adopts a number of zoning changes affecting land in the Regional Growth Area, the lands being rezoned are either already developed or are being changed from one nonresidential zone to another. Opportunities for the use of Pinelands Development Credits are therefore unaffected.

This standard for certification is met.

#### **9. Referral of Development Applications to Environmental Commission**

Not applicable.

#### **10. General Conformance Requirements**

The 2009 Master Plan, 2014 Master Plan Re-Examination Report and Ordinances 14-2014, 16-2014 and 20-2015, amending Chapter 190 (Zoning) of the Code of Pemberton Township, are consistent with the standards and provisions of the Pinelands Comprehensive Management Plan.

This standard for certification is met.

#### **11. Conformance with Energy Conservation**

Not applicable.

#### **12. Conformance with the Federal Act**

The 2009 Master Plan, 2014 Master Plan Re-Examination Report and Ordinances 14-2014, 16-2014 and 20-2015, amending Chapter 190 (Zoning) of the Code of Pemberton Township, are consistent with the standards and provisions of the Pinelands Comprehensive Management Plan. No special issues exist relative to the Federal Act.

This standard for certification is met.

#### **13. Procedure to Resolve Intermunicipal Conflicts**

As noted previously, Ordinance 20-2015 expands the depth of an existing GCLI (General Commercial/Light Industrial) Zone in Pemberton Township's Agricultural Production Area. The



existing GCLI zoning district in Pemberton Township borders Southampton Township along Burlington County Route 530. It extends south from the road to a distance of 300 feet. Ordinance 20-2015 expands the GCLI Zone from 300 feet to 600 feet to recognize the impact of the Route 530 widening project. Directly across the Township border and adjacent to the expanded GCLI zone is Southampton Township's Agricultural Production Area. The proposed zoning change by Pemberton Township is merely an expansion of an existing zone that does not introduce new uses or bulk area requirements; nor does the rezoning impact the size or boundary of the existing Pinelands Agricultural Production Area. As such, any additional development that might occur as a result of the zone expansion would be in keeping with the rural character of the surrounding lands and no intermunicipal conflicts are anticipated.

This standard for certification is met.

### **PUBLIC HEARING**

A public hearing to receive testimony concerning Pemberton Township's application for certification of its 2009 Master Plan, 2014 Master Plan Re-Examination Report and Ordinances 27-2009, 14-2014, 16-2014 and 20-2015 was duly advertised, noticed and held on April 27, 2016 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m. Ms. Grogan conducted the hearing, at which no testimony was received.

Written comments were accepted through May 4, 2016; however, none were received.

### **CONCLUSION**

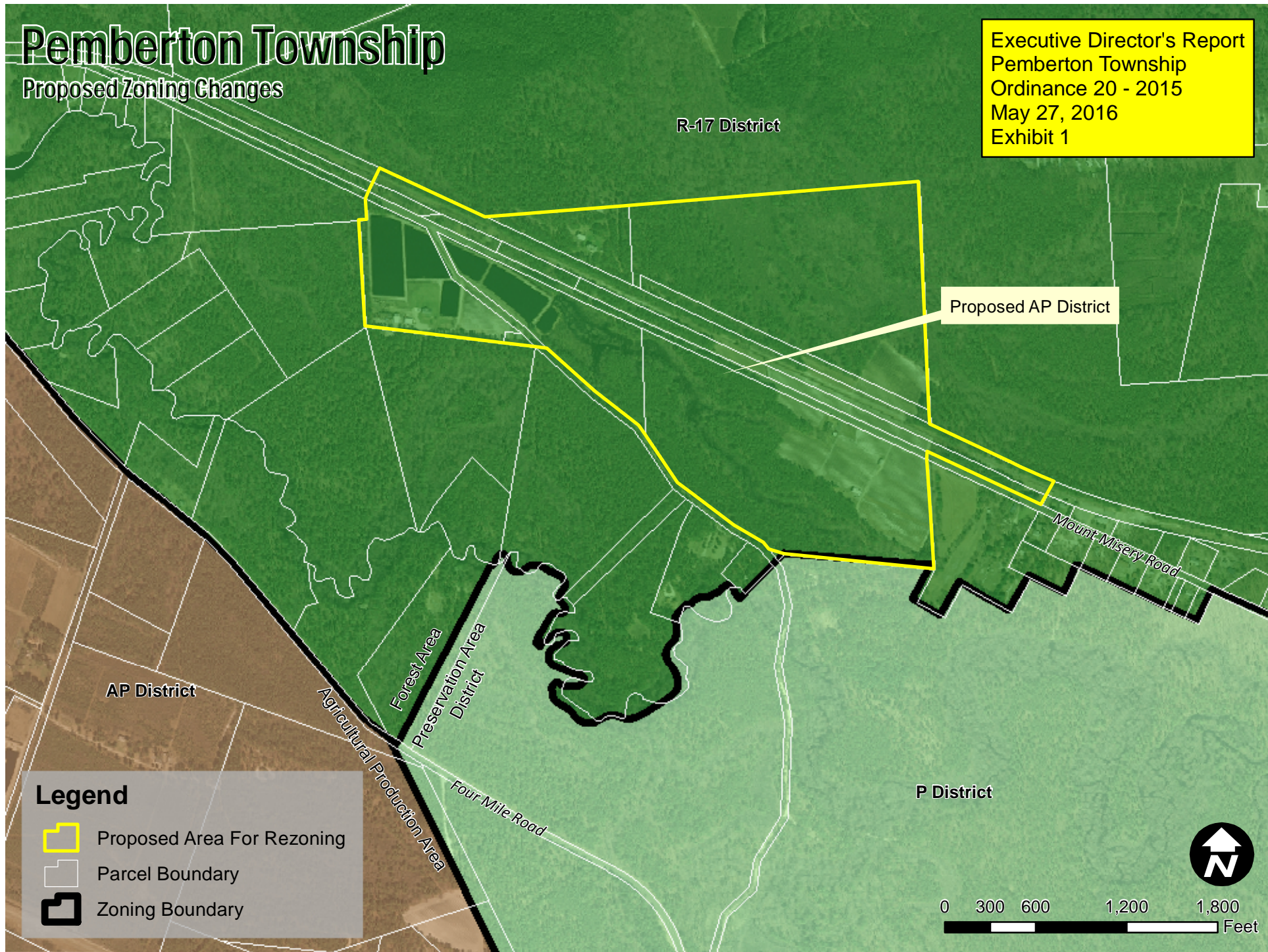
Based on the Findings of Fact cited above, the Executive Director has concluded that the 2009 Master Plan, 2014 Master Plan Re-Examination Report and Ordinances 14-2014, 16-2014 and 20-2015 comply with Comprehensive Management Plan standards for the certification of municipal master plans and land use ordinances. Accordingly, the Executive Director recommends that the Commission issue an order to certify the 2009 Master Plan, 2014 Master Plan Re-Examination Report and Ordinances 14-2014, 16-2014 and 20-2015 of Pemberton Township.

SRG/JS/CPE  
Attachments

# Pemberton Township

## Proposed Zoning Changes

Executive Director's Report  
Pemberton Township  
Ordinance 20 - 2015  
May 27, 2016  
Exhibit 1

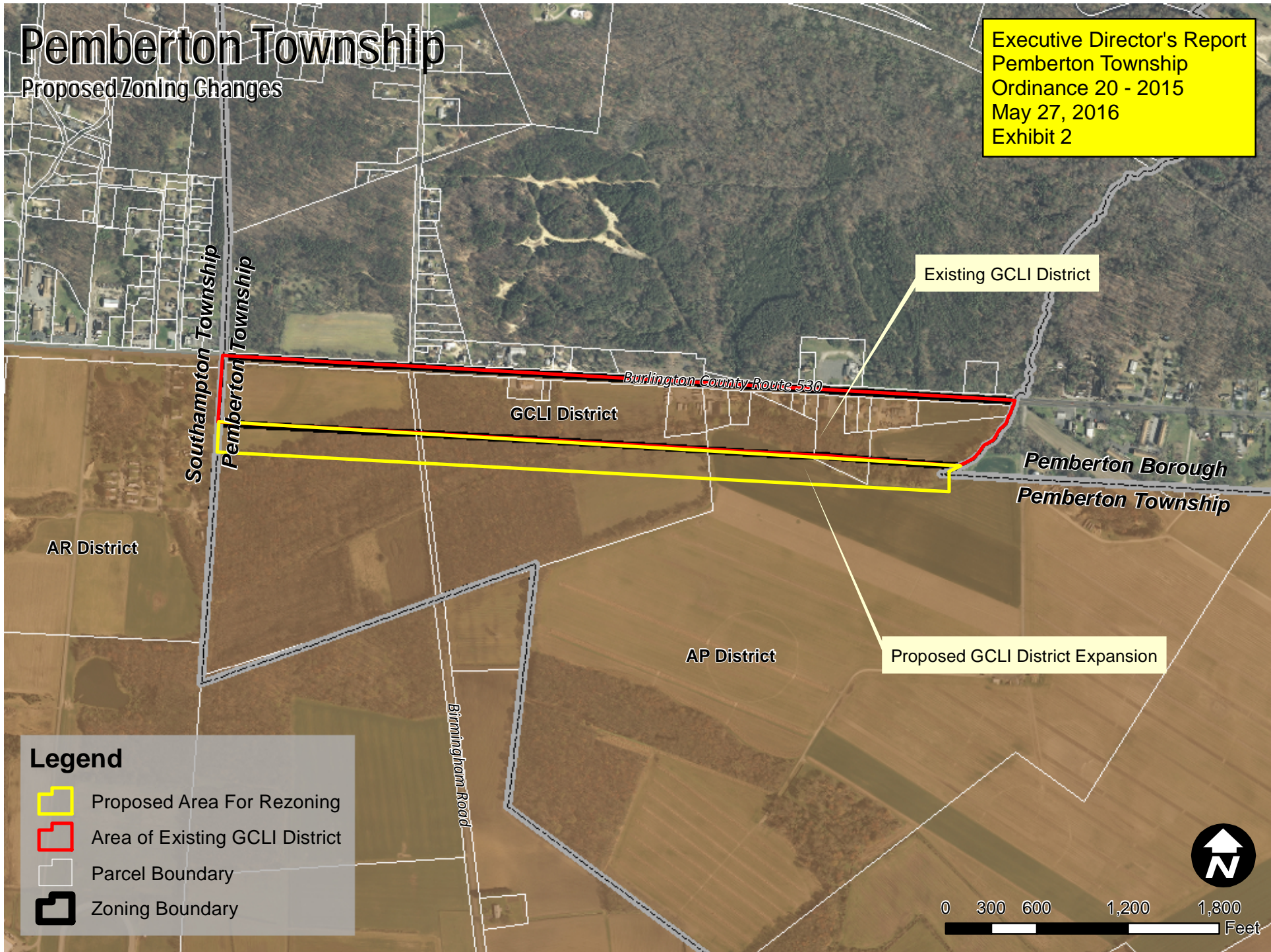








# Pemberton Township

Proposed Zoning Changes

Executive Director's Report  
Pemberton Township  
Ordinance 20 - 2015  
May 27, 2016  
Exhibit 2



## Legend

-  Proposed Area For Rezoning
-  Area of Existing GCLI District
-  Parcel Boundary
-  Zoning Boundary

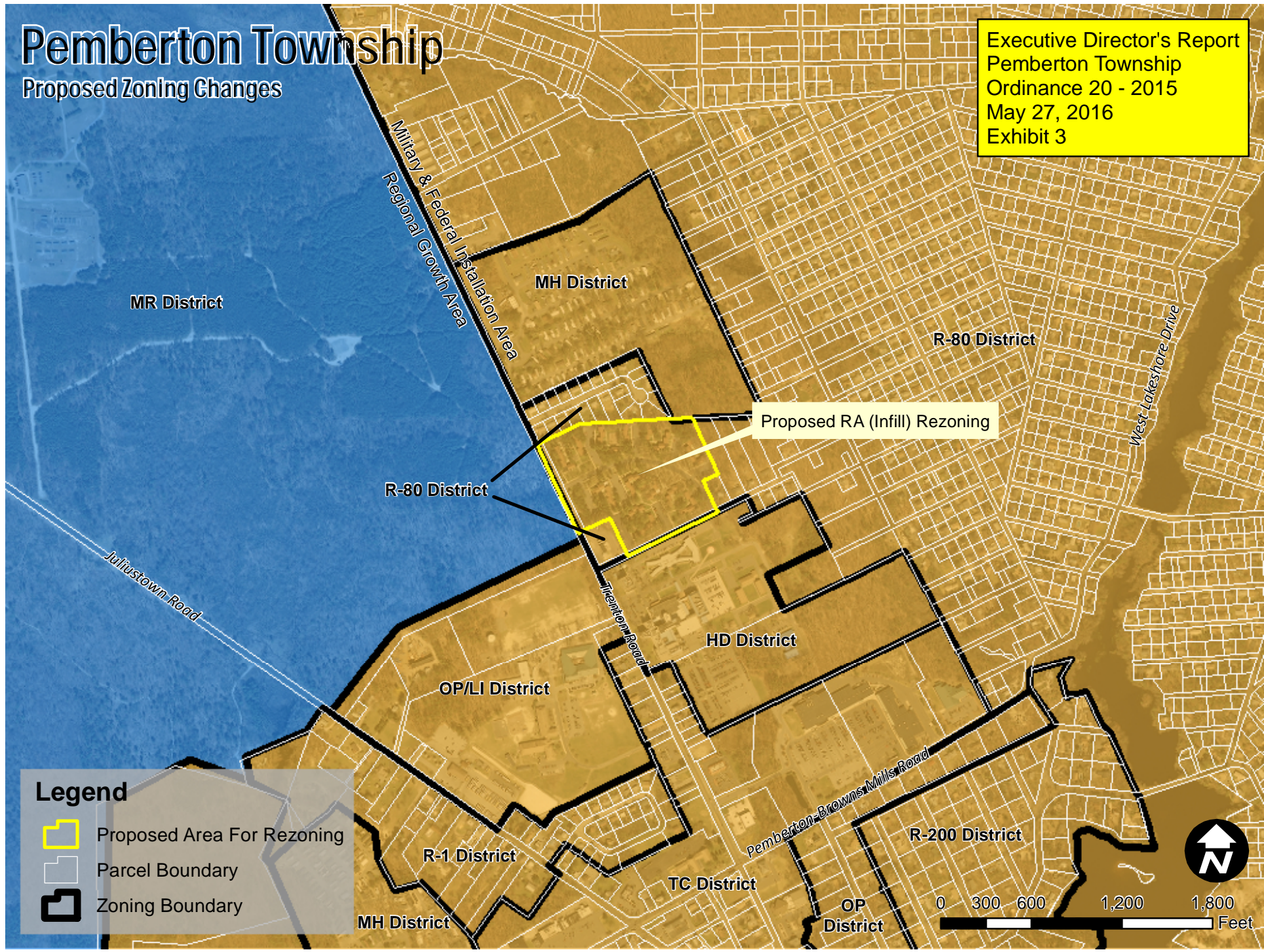
0 300 600 1,200 1,800 Feet






# Pemberton Township

## Proposed Zoning Changes

Executive Director's Report  
Pemberton Township  
Ordinance 20 - 2015  
May 27, 2016  
Exhibit 3



### Legend

-  Proposed Area For Rezoning
-  Parcel Boundary
-  Zoning Boundary

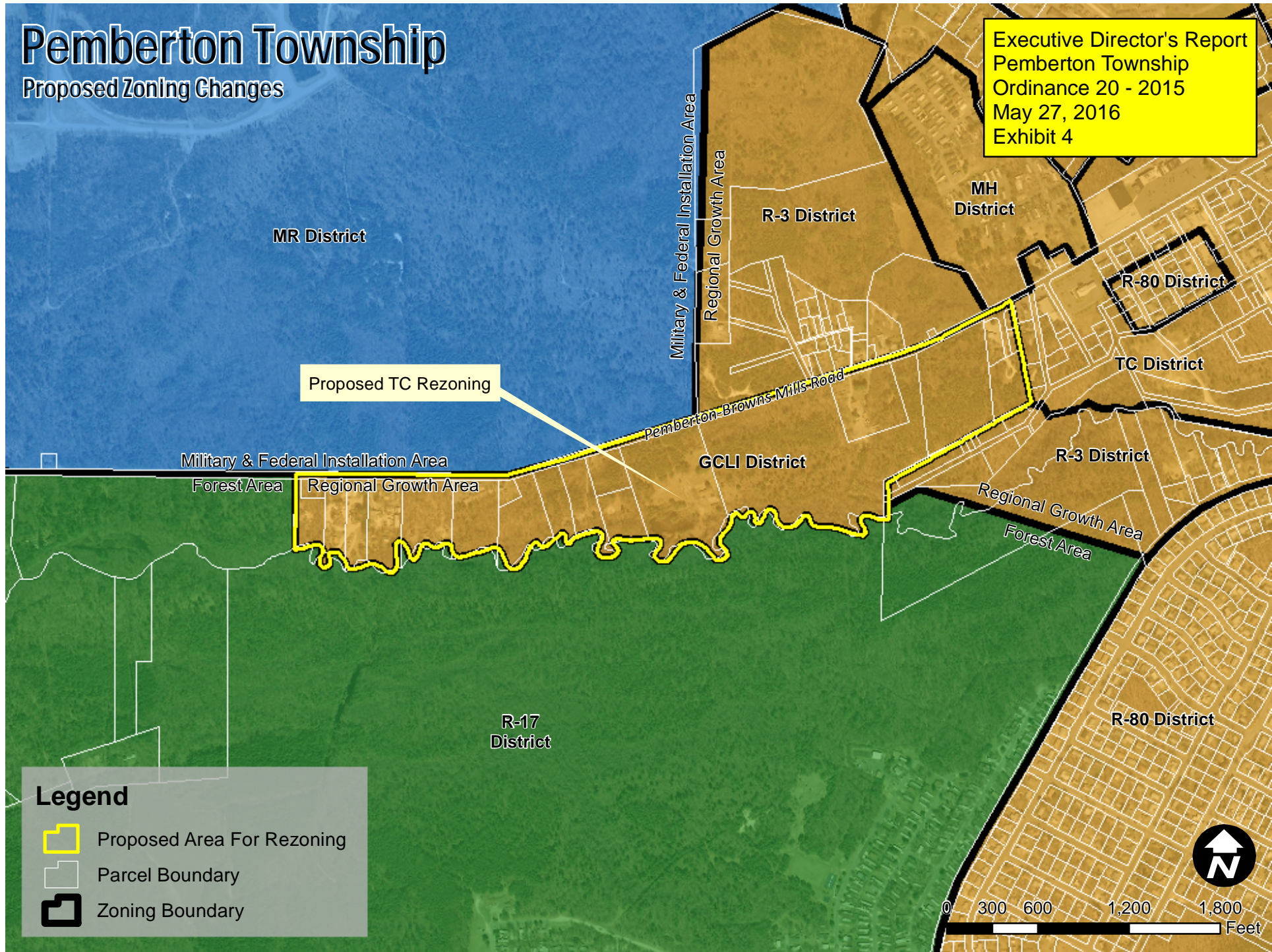




# Pemberton Township

## Proposed Zoning Changes

Executive Director's Report  
Pemberton Township  
Ordinance 20 - 2015  
May 27, 2016  
Exhibit 4

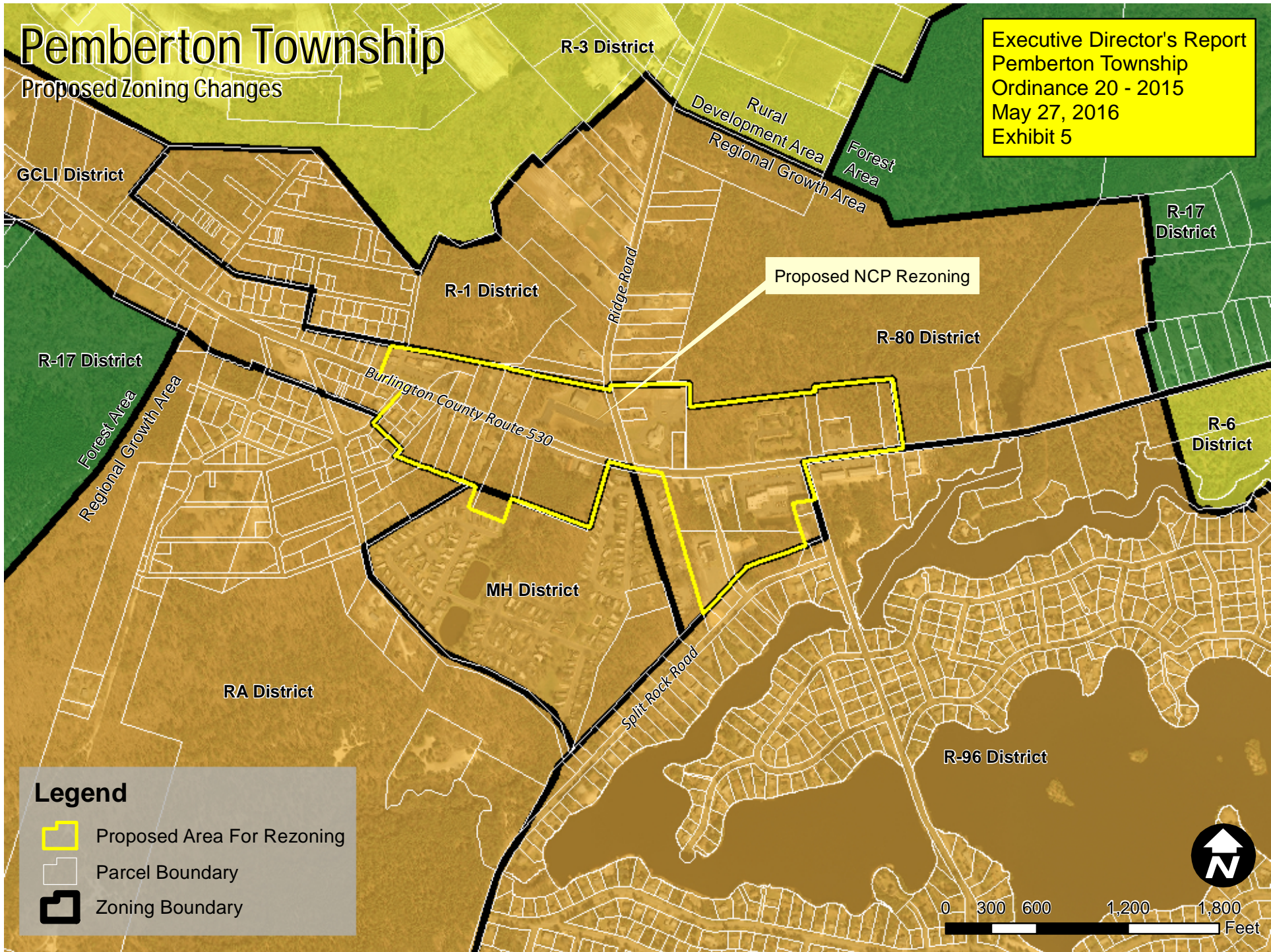




# Pemberton Township




## Proposed Zoning Changes

Executive Director's Report  
Pemberton Township  
Ordinance 20 - 2015  
May 27, 2016  
Exhibit 5



Proposed NCP Rezoning

### Legend

-  Proposed Area For Rezoning
-  Parcel Boundary
-  Zoning Boundary

0 300 600 1,200 1,800 Feet





# Pemberton Township

## Proposed Zoning Changes




Executive Director's Report  
Pemberton Township  
Ordinance 20 - 2015  
May 27, 2016  
Exhibit 6

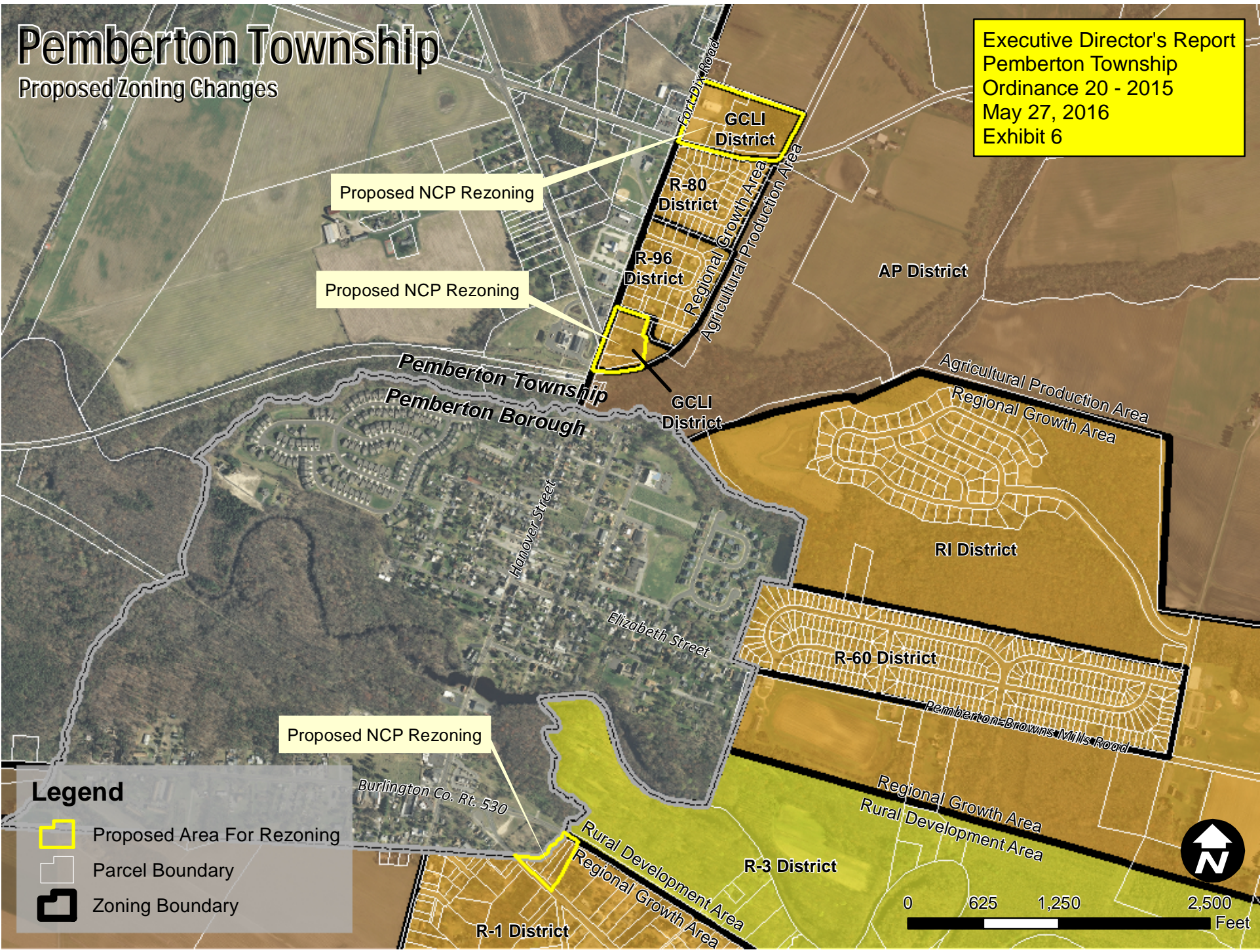
Proposed NCP Rezoning

Proposed NCP Rezoning

Proposed NCP Rezoning

### Legend

-  Proposed Area For Rezoning
-  Parcel Boundary
-  Zoning Boundary

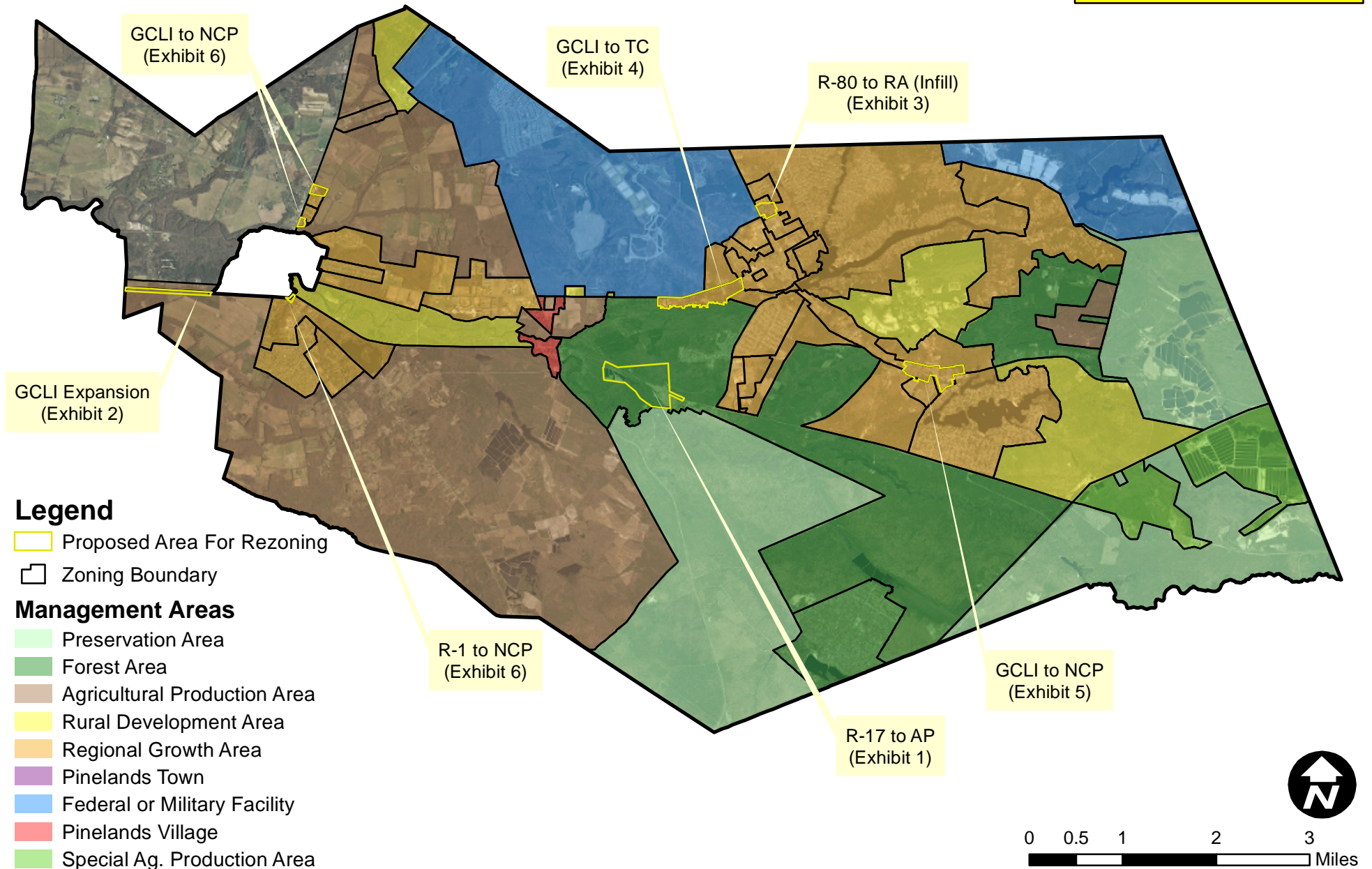




# Pemberton Township

## Overview of Proposed Zoning Changes

Executive Director's Report  
Pemberton Township  
Ordinance 20 - 2015  
May 27, 2016  
Exhibit 7







Chris Christie  
Governor

Kim Guadagno  
Lt. Governor

## State of New Jersey

THE PINELANDS COMMISSION

PO Box 359

NEW LISBON, NJ 08064

(609) 894-7300

www.nj.gov/pinelands




Sean W. Earlen  
Chairman

Nancy Wittenberg  
Executive Director

General Information: Info@njpines.state.nj.us  
Application Specific Information: AppInfo@njpines.state.nj.us

## MEMORANDUM

To: Members, CMP Policy & Implementation Committee

From: Susan R. Grogan   
Chief Planner

Date: May 18, 2016

Subject: Black Run Pilot Program and CMP Amendments

---

Attached for the Committee's review and discussion are draft amendments to the Comprehensive Management Plan (CMP) that would (1) redesignate the Black Run watershed and surrounding lands in Evesham and Medford townships from the Rural Development Area to the Forest Area and (2) authorize a new pilot program to facilitate the transfer of density away from high-value natural resource areas to lands more capable of accommodating it. The draft amendments are based on the recommendations of the Sub-Regional Natural Resource Protection Plan for Southern Medford/Evesham Townships, endorsed by the Commission in 2006, and the direction we received from the P&I Committee last year. Since our discussions with the Committee last spring, we have met with Evesham Township and representatives of the major landowner in the affected area. Strong support for the pilot program has been expressed by all parties, as has an interest in proceeding with the necessary CMP amendments as quickly as possible.

The first step is an amendment to the Land Capability Map that would redesignate approximately 4,000 acres (3,200 acres in Evesham Township; 800 acres in Medford Township) from the Rural Development Area to the Forest Area. Nearly all of the affected land in Medford is already preserved and in public ownership. Of the 3,200 acres in Evesham Township that would be redesignated, nearly 1,900 are already preserved through various acquisition programs, settlement agreements and memoranda of agreement. We estimate there are 1,400 privately-owned, vacant acres in what would become Evesham Township's new Forest Area. The majority of this vacant acreage is under common ownership and in the highly-sensitive Black Run watershed. While much of the vacant land is comprised of wetlands, there are significant areas of uplands as well. Permitted residential densities in the area range from one unit per 3.2 acres to one unit per 6.0 acres, based on Evesham's certified zoning plan. Under the proposed Forest Area designation, these densities would be reduced to one unit per 25 acres. Once adopted by the Commission, the two municipalities would be required to revise their master plans and land use ordinances to reflect the new Forest Area designation.

The second step is to authorize the Township of Evesham Off-Site Clustering Pilot Program. This new pilot program is modeled after the Commission's very first pilot program, the Township of Galloway and City of Egg Harbor City Pilot Off-Site Clustering Program (commonly referred to as the Renault Pilot Program). Under the pilot program, Evesham Township would be authorized to establish a 175-acre "Restricted Regional Growth Area" on its border with Voorhees Township, outside the Black Run watershed. A maximum of 400 units would be permitted in the new development area and sewer service would be required. In order to develop in the Restricted Regional Growth Area under the pilot program, the protection of lands in Evesham Township's Forest Area would be required. A minimum of four acres in the Forest Area would have to be permanently protected for each unit to be constructed in the Restricted Regional Growth Area. These numbers were carefully chosen so as to provide the potential for protection of not only the 1,400 privately-owned vacant acres in Evesham Township's new Forest Area, but also the vacant land remaining in the Township's existing Forest Area.

Other notable provisions of the pilot program include a 15,000 square foot **maximum** lot area requirement for single-family detached units in the Restricted Regional Growth Area. Normally, a minimum lot area requirement would be established; however, in this case, it is important that lands in the Restricted Regional Growth Area be developed efficiently because a reduction in units will result in a reduction in protected Forest Area acreage. The Township could also choose to permit additional housing types (townhouses, apartments) in order to provide increased flexibility.

The pilot program also provides an opportunity for the use of Pinelands Development Credits in the Restricted Regional Growth Area. If insufficient lands in the Forest Area are available to meet the land protection requirements of the pilot program, the redemption of Pinelands Development Credits will be an acceptable alternative. One right (0.25 PDCs) would be required for every two units to be developed in the Restricted Regional Growth Area. We believe the pilot program provides significant incentives for participation by landowners in the Forest Area. However, our past experience with density transfer programs in the Pinelands Area has shown that participation by all affected landowners is unlikely. Some landowners in the Forest Area will not be interested in selling or deed restricting their lands to facilitate development in the Restricted Regional Growth Area. The use of Pinelands Development Credits is a feasible and appropriate alternative, given that the development area established by the pilot program is essentially a Regional Growth Area.

As noted above, the 400 units to be developed in the Restricted Regional Growth Area must be served by sewer. The CMP permits sewer service in all Regional Growth Areas so this is not an unusual requirement. However, the CMP does not normally permit sewer lines to be located in the Forest or Rural Development Areas in order to serve a Regional Growth Area. In this case, although the exact route the new sewer line will take is unknown, doing so may be unavoidable. The pilot program therefore allows sewer infrastructure in Evesham's Forest and Rural Development Areas for the express purpose of serving the Restricted Regional Growth Area and makes clear that N.J.A.C. 7:50-6.84(a)2 of the CMP will continue to apply. This means that only existing development in the Forest and Rural Development Areas may connect to the new sewer lines and only when doing so would correct a documented public health problem.

Finally, the pilot program would provide an opportunity for the threatened and endangered species protection standards of the CMP to be met through the deed restriction of Forest Area lands, without the need for intensive, on-site surveys in the Restricted Regional Growth Area. This approach is based on a key recommendation of the Southern Medford/Evesham Plan that was previously endorsed by the Commission, the New Jersey Department of Environmental Protection and Evesham Township. The pilot program specifies that a minimum of 900 acres in Evesham Township's Forest Area must be

protected in order for the Commission to determine consistency with CMP standards. This represents a little more than half of the available vacant land in Evesham Township's Forest Area. If the developer in the Restricted Regional Growth Area owns lands in the Forest Area beyond the minimum 900 acres, those additional lands must also be deed restricted. Providing protection to such a large amount of vacant (mostly contiguous and forested) land will minimize negative impacts on local populations of threatened and endangered plant and animal species.

We will provide maps and further details on the pilot program during the Committee meeting.

## **Black Run Management Area Changes and Pilot Program Draft CMP Amendments**

### **7:50-5.3 Map status**

(a) The following maps, the originals of which are maintained at the offices of the Commission, are hereby designated and established as part of this Plan and shall be as much a part of this Plan as if they were set out in full in this Plan:

1.-23. (No change.)

24. Land Capability, Plate 28, as amended as of **(insert effective date of amendments)** ~~June 19, 2006~~;

25-26. (No change.)

### **PART VII – TOWNSHIP OF EVESHAM**

#### **PILOT OFF-SITE CLUSTERING PROGRAM**

### **7:50-10.36 Authorized Pinelands Management Area adjustment**

(a) Clustering of development, normally accomplished on-site, may serve similar conservation goals if off-site lands will be provided with permanent protection and used as a means of transferring development to appropriate areas targeted for more intensive development. To this end, the Township of Evesham pilot off-site clustering program is authorized as a means to test whether lands adjacent to existing, sewerred residential development outside the Pinelands Area can be developed more intensively than

currently permitted through the permanent protection of off-site environmentally-sensitive lands in the Black Run watershed and surrounding Pinelands Forest Area, thereby reducing the potential for scattered residential development and furthering the land conservation and protection goals of this Plan.

- (b) The Township of Evesham pilot off-site clustering program shall be accomplished through the municipal adoption of ordinances that redesignate lands in the Rural Development Area to a Restricted Regional Growth Area in accordance with the requirements of N.J.A.C. 7:50-10.36 and 10.37.
- (c) The redesignated area shall be located on Evesham Township's boundary with Voorhees Township, outside the Black Run watershed, and shall not exceed 175 acres in size. The Restricted Regional Growth Area shall include only vacant lands in private ownership.

**7:50-10.37 Zoning provisions for redesignated area**

- (a) Permitted uses in the Restricted Regional Growth Area shall be limited to residential development and facilities necessary to support the residential development, including but not limited to wastewater facilities, streets, stormwater management facilities, solar energy facilities and recreation amenities.
- (b) All residential uses that are permitted as a matter of right in the Restricted Regional Growth Area shall be consistent in intensity to those that were permitted in Evesham Township's RD-3 Zone prior to the redesignation.
- (c) Clustered residential development at a density exceeding that permitted in (b) above shall be permitted as a conditional use in the Restricted Regional Growth Area, subject to the following conditions:

1. A maximum density of 2.30 units per acre shall be permitted. A variety of housing types may be permitted, provided that a maximum lot area requirement of 15,000 square feet for single-family detached units shall be established. No more than 400 residential units shall be permitted in the Restricted Regional Growth Area.
2. Clustered residential development within the Restricted Regional Growth Area shall be served by a centralized waste water treatment plant. In order to serve the Restricted Regional Growth Area, waste water collection facilities may be located in the Evesham Township's Rural Development and Forest Areas, provided the use of such facilities in the Rural Development and Forest Areas is permitted only for existing development in accordance with N.J.A.C. 7:50-6.84(a)2.
3. The residential density and lot area requirements permitted in (c)1 above shall be authorized only when vacant lands in Evesham Township's Forest Area are permanently protected, thereby effectively clustering residential development potential from the Forest Area to the Restricted Regional Growth Area, as follows:
  - i. For every residential unit proposed in the Restricted Regional Growth Area, a minimum of four acres of vacant land in Evesham Township's Forest Area shall be permanently protected through recordation of a deed of restriction;
  - ii. The deed of restriction shall be in favor of the parcel to be developed and Evesham Township or another public agency or non-profit conservation organization. In all cases, the restrictions shall be expressly enforceable by

the Pinelands Commission;

- iii. The deed of restriction shall permit the Forest Area lands to be managed for low intensity recreation, ecological management and forestry, provided that no more than five percent of a parcel may be cleared, no more than one percent of a parcel may be covered with impervious surfaces and any such uses or activities are approved and conducted in accordance with the requirements of this Plan; and
  - iv. Evesham Township may set forth reasonable conditions or requirements in its land use ordinance to govern ownership of the Forest Area lands to be protected.
4. Should it be demonstrated to the satisfaction of Evesham Township and the Pinelands Commission that insufficient vacant lands in Evesham Township's Forest Area are available to facilitate the development of the Restricted Regional Growth Area in accordance with (c)1 above, the purchase and redemption of Pinelands Development Credits shall be permitted in lieu of the open space requirement set forth in (c)3 above. One- quarter of a Pinelands Development Credit shall be acquired and redeemed for every two units proposed in the Restricted Regional Growth Area.
  5. Consistency with the standards of N.J.A.C. 7:50-6.27 and 6.33 shall be demonstrated through the permanent protection of all lands in Evesham Township's Forest Area that are in common ownership with the lands proposed for development in the Restricted Regional Growth Area, or a minimum of 900 acres in Evesham Township's Forest Area, whichever is greater.

**7:50-10.38 Pinelands Commission approval and evaluation**

- (a) If otherwise appropriate under N.J.A.C. 7:50-3, the Pinelands Commission shall approve the management area change and zoning provisions if it finds that the standards of N.J.A.C. 7:50-10.36 and 10.37 are met.
- (b) The Executive Director shall review this pilot program five years following the Commission's approval pursuant to (a) above and shall report to the Commission on its implementation. The Executive Director shall determine whether the pilot program is successful in accordance with the following criteria:
  - 1. Evesham Township is applying its ordinance in a manner consistent with the standards of N.J.A.C. 7:50-10.36 and 10.37;
  - 2. Evesham Township is accurately informing applicants with proposed development projects within the Restricted Regional Growth Area of the requirements of its ordinance that implement the standards of N.J.A.C. 7:50-10.36 and 10.37;
  - 3. The majority of development approved within the Restricted Regional Growth Area during this period qualifies as clustered residential development in accordance with the provisions of N.J.A.C. 7:50-10.37(c);
  - 4. Lands in the Forest Area have been permanently protected in accordance with N.J.A.C. 7:50-10.37(c)3 or Pinelands Development Credits have been redeemed in accordance with N.J.A.C. 7:50-10.37(c)4;
  - 5. Minimal residential development has occurred in Evesham Township's Forest Area; and



6. The net effect of the pilot program, when viewed in its entirety, is that the resources of the Pinelands have been afforded the same or greater level of protection than would be provided by the standards and requirements set forth in N.J.A.C. 7:50-5 and 6.
- (c) If the Executive Director finds that the level of development activity in the Restricted Regional Growth Area is not adequate to evaluate the pilot program in accordance with (b) above, the Executive Director shall so inform the Pinelands Commission and, upon receiving the Commission's approval, initiate a second review to be completed within eight years of the Commission's approval pursuant to (a) above.
- (d) If the Executive Director finds that this pilot program is not being implemented in accordance with (b) above, the Executive Director shall initiate the revocation, suspension or modification procedures set forth in N.J.A.C. 7:50-3.61 through 3.65 and, if necessary, propose an amendment to this subchapter, in accordance with N.J.A.C. 7:50-7, to repeal the pilot program. If the Pinelands Commission revokes, suspends or modifies its certification of the program, such action shall not affect the certification status of the remaining provisions of Evesham Township's land use ordinance unless the municipality ignores or refuses to implement such revocation, suspension or modification order.
- (e) If the Executive Director finds that this pilot program is being implemented in accordance with (b) above, the Executive Director may, as appropriate, propose an amendment to this Plan in accordance with N.J.A.C. 7:50-7 to broaden the applicability of the pilot program in the Pinelands.



Chris Christie  
Governor

Kim Guadagno  
Lt. Governor

## State of New Jersey

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Sean W. Earlen  
Chairman

Nancy Wittenberg  
Executive Director

# MEMORANDUM

To: Members, CMP Policy and Implementation Committee

From: D. Brad Lanute, Resource Planner

Date: May 18, 2016

Subject: Proposed CMP Amendments: Signs

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Proposed CMP amendments regulating signs are attached for the Committee's review. These amendments were motivated by recent municipal initiatives and new sign technologies as well as a recent U.S. Supreme Court decision (*Reed v. Town of Gilbert, 2015*). Those issues and potential solutions were discussed at the March 2016 P&I Meeting. This memo describes the proposed rules and is organized by the key issues addressed.

### **On-Site Signs and Temporary Off-Site Signs**

The legal grounds for regulating signs have recently been narrowed by the U.S. Supreme Court. The Court has ruled that regulations based on the interpretation of the contents of a sign are an infringement upon first amendment rights. Such content-based regulations were identified in the CMP. Remedying these issues could not be done with minor changes to current CMP language. This has led to a comprehensive reconsideration of the types of signs regulated by the CMP.

The proposed rules would delegate regulatory control of signs, with the exception of permanent off-site signs, to each municipality. There are a number of reasons that favor this approach. Since the adoption of the CMP, municipalities have been the primary regulator of on-site signs due to their exemption from CMP application requirements. The impacts of signs occur at relatively local scales, and therefore, are most appropriately addressed at the local government level. Municipalities are better positioned to adapt and respond in a timely fashion to evolving community values and new sign technologies. Lastly, this policy change would afford municipalities the opportunity to regulate businesses on an equal basis with regard to on-site signs, regardless of the management area wherein the business is located.

It is to be expected that these proposed amendments would lead to greater variability among municipalities in their regulation of on-site signs. However, the CMP's restrictions on permitted land uses by management area will continue to mitigate the potential for excessive commercial on-site signs in sensitive management areas such as the Preservation Area District, Forest Area and Agricultural Production Area. The vast majority of on-site signs will be located in the growth-oriented areas of the

Pinelands (Regional Growth Areas, Pinelands Towns and Pinelands Villages) and, to a lesser extent, the Rural Development Area. That is where the majority of businesses are and will be located.

### **Off-Site Signs: Billboards and Directional Signs**

The proposed rules will maintain much of the current provisions for “off-site commercial advertising signs”. However, the naming convention for such signs would be changed to simply “off-site signs”. The construction or replacement of those permitted permanent off-site signs will still require Commission review. The location restrictions of such signs will remain the same. Off-site signs that lawfully existed prior to the CMP will continue to be permitted only in the Regional Growth Areas, Pinelands Towns and prescribed areas of the Pinelands Villages and Rural Development Areas<sup>1</sup>. New off-site signs will continue to only be permitted, at the option of the municipality, in Regional Growth Areas and Pinelands Towns, provided that the applicant demonstrates that a non-conforming sign has been removed. Provisions for off-site signs advertising agricultural commercial establishments and directional signs will also remain the same.

The proposed rules further clarify which signs are non-conforming, and therefore, eligible to count towards a new off-site sign if removed. Such non-conforming signs would only include those off-site signs that: (1) predate the CMP and (2) are located outside of the Regional Growth Area, Pinelands Towns, and prescribed areas of the Rural Development Area and Pinelands Villages<sup>1</sup>. For example, the removal of an off-site sign that existed prior to the CMP in either the Preservation Area District or the Forest Area could count towards a new sign in the Regional Growth Area or Pinelands Town. However, a sign removed from a Pinelands Town or Regional Growth Area could not be counted towards a new sign. This is a change in language only, not a change in policy.

### **Electronic Message Displays**

The Commission’s Fourth Progress Report on Plan Implementation included a recommendation to specifically address digital sign technology. In recent years, the Commission has reviewed and certified three municipal ordinances that allowed for digital/LED signs. The P&I Committee generally agreed that digital signs may be acceptable in certain limited circumstances in the Pinelands Area for both on-site and off-site signs.

The proposed rules would permit, at the option of the municipality, off-site signs with electronic message displays, but only at conforming sites. The proposed rules would prohibit use of electronic message display by non-conforming, off-site signs. For example, the CMP would not permit the conversion of an existing off-site sign in the Forest Area or Preservation Area District to an electronic message display. The allowance of such electronic message displays would not extend to those signs advertising agricultural commercial establishments because of their typical locations in Special Agricultural Areas and Agricultural Production Areas.

If a municipality chooses to permit electronic message displays on off-site signs, the proposed rules would require the municipality to adopt provisions controlling the message transition and duration between transitions. These rules are closely aligned with New Jersey Department of Transportation standards. Additionally, such municipalities would be required to adopt some degree of brightness standards that would be reviewed by the Commission as part of the ordinance certification process.

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<sup>1</sup> The prescribed areas for Rural Development Areas and Pinelands Villages are the certified municipal non-residential zones in existence as of December 5<sup>th</sup>, 1994 if the sign is located within 1,000 feet of a Regional Growth Area or Pinelands Town and is located on a U.S. Highway.

Lastly, these rules would require such signs to have a built-in automatic dimming technology that adjusts brightness to ambient light conditions.

The proposed rules for electronic message displays would only apply to off-site signs. Therefore, it would be at the discretion of the municipality to determine how to regulate on-site signs with regard to such technologies.

### **Impacts of Sign Illumination**

Concerns have been raised by stakeholders as to the impacts of artificial light at night (ALAN) emitted by electronic message displays and, in particular, the impacts to the ecosystems of the Pinelands and the night sky. Staff has reviewed the scientific and policy literature on ALAN. The study of ALAN encompasses many light emitting sources with very few studies that isolate the impacts of ALAN from signs alone. The literature has documented impacts of ALAN on select species studied, typically insects in controlled environments. The literature has also highlighted a lack of scientific study and consensus on the impacts of ALAN at the ecosystem scale. As a result, science-based brightness standards for electronic sign displays have yet to be developed to address such ecological impacts.

The proposed rules do not preclude municipalities from developing light standards for signs, and in fact, would require municipalities to adopt some degree of brightness standards if they were to permit digital message displays on off-site signs. It should also be noted that electronic message displays by design should mitigate the light trespass directed toward the sky because light from such displays is directed outward rather than upward. The proposed rules also require illuminated off-site signs to be shielded to block light trespass towards the sky. Therefore, the extent of regulation proposed is appropriate given the current state of our scientific understanding of the effects of ALAN at the ecosystem level and minimal expected impact of such signs on the night sky. Staff will continue to monitor advances in the literature.

### **Conclusion**

Staff strongly recommends that the CMP be amended to expressly provide municipalities with the primary responsibility for regulating on-site signs and temporary off-site signs while retaining the Commission's authority to regulate the location, number and appearance of permanent off-site signs. This will allow the CMP and the Commission's resources to remain focused on matters of regional significance, and acknowledge that other levels of government, in this case individual municipalities, are better suited to address other issues. In practice, this is the situation under the current CMP regulations because the Commission does not receive or review applications for on-site signs. Therefore the Commission has not been directly involved in their regulation for 35 years.

7:50-2.11 Definitions

**“Electronic message display”** means an element of a sign that is capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means.

**"Off-site sign"** means a sign that directs attention to a business, commodity, product, service, entertainment, or other attraction conducted, sold or offered at a location other than the premises on which the sign is located.

**“Sign”** means any structure including, but not limited to, an advertising structure and sign face used outdoors and affixed to or upon property to display messages and/or images within public view that is designed to attract, or does attract, the attention of pedestrians or operators or passengers of motor vehicles using the roads, highways, and other public thoroughfares and places, and shall include any writing, printing, painting, display, emblem, drawing or other device whether placed on the ground, rocks, trees, tree stumps or other natural structures, or on a building, structure, signboard, billboard, wallboard, roofboard, frame, support, fence, or elsewhere, and any lighting or other accessories used in conjunction therewith.

7:50-4.1 Applicability

(a) For the purposes of this subchapter only, the following shall not be considered development except for development of any historic resource designated by the Pinelands Commission pursuant to N.J.A.C. 7:50-6.154

4. The construction, repair or removal of any sign, except for the construction or replacement of any off-site sign in accordance with N.J.A.C. 7:50-6.108(a)3, 4 or 5.

7:50-6.101 Purpose

The Pinelands is a complex of environmental values that presents a definable visual character to residents and visitors. This character contributes substantially to the attractiveness of the area and therefore is an important element to the area’s economy. This part is intended to ensure that development will take advantage of and enhance the visual character of the Pinelands.

7:50-6.106 Signs

Each municipality shall adopt provisions governing signs in its municipal master plan and ordinances. On-site signs are generally permitted in the Pinelands pursuant to N.J.A.C. 7:50-6.107. Off-site signs are permitted only in accordance with N.J.A.C. 7:50-6.108. Mandatory provisions for off-site signs are provided in N.J.A.C. 7:50-6.109. Each municipality may adopt

additional provisions governing signs including, but not limited to, the establishment of sign types and associated regulations governing the appropriate location and manner of such signs provided that such provisions do not conflict with N.J.A.C. 7:50-6.107-6.109.

7:50-6.107 On-site signs

- (a) On-site signs may be permitted in any management area.
- (b) Municipalities are encouraged to adopt the standards for electronic message displays in N.J.A.C. 7:50-6.109(a)3 and 4 in formulating municipal ordinance standards for on-site signs.

7:50-6.108 Off-site signs

- (a) Off-site signs are permitted only as follows:
  - 1. Off-site directional signs may be permitted in any management area.
  - 2. Off-site temporary signs may be permitted in any management area.
  - 3. Off-site signs advertising an agricultural commercial establishment shall be permitted in Agricultural Production Areas and Special Agricultural Production Areas and may be permitted in any other management area.
  - 4. Off-site signs lawfully in existence as of January 14, 1981 shall be permitted in:
    - i. Regional Growth Areas;
    - ii. Pinelands Towns; and
    - iii. Certified municipal non-residential zones in Rural Development Areas and Villages in existence as of December 5, 1994 if the sign is located within 1,000 feet of a Regional Growth Area or Pinelands Town and is located on a United States Highway.
  - 5. New off-site signs may be permitted by certified municipalities in Regional Growth Areas and Pinelands Towns, provided that the applicant can demonstrate that, for each new sign, a non-conforming off-site sign pursuant to N.J.A.C. 7:50-6.108(b) has been removed.
- (b) Any off-site sign in existence prior to January 14, 1981 that does not conform to (a)1, (a)3, and (a)4 above shall be deemed a non-conforming sign and shall be removed no later than

December 5, 1996. Any off-site sign erected on or after January 14, 1981 that does not conform to (a) above shall be deemed unlawful and removed immediately.

7:50-6.109 Provisions for permitted signs

(a) Permitted signs shall comply with the following provisions:

1. Off-site directional signs shall comply with the following standards:
  - i. They shall contain no advertising and shall be restricted to the name of the public or private use and any necessary directions;
  - ii. The number of signs per use shall be the minimum necessary to give adequate directions; and
  - iii. The size of such signs shall not exceed that necessary to convey directions.
2. Off-site signs advertising agricultural commercial establishments shall be subject to the following conditions:
  - i. A maximum of two signs may be placed in any one direction along each road directly approaching the stand; and
  - ii. Each sign along four lane State or U.S. highways shall be limited to a maximum of 50 square feet in area; each sign along all other roads shall be limited to a maximum of 32 square feet in area.
3. Off-site signs permitted pursuant to N.J.A.C. 7:50-6.108(a)4 and 5 may have electronic message displays provided that:
  - i. The electronic message display is programmed to freeze in one position if a malfunction occurs;
  - ii. The transition of one displayed message to another displayed message is accomplished within one second or less;
  - iii. The duration of the interval between the end of any transition and the start of its subsequent transition is at least eight seconds; and
  - iv. The municipality has adopted provisions governing the permitted brightness of the display at varying ambient light conditions and the brightness of the display is automatically adjusted based on ambient light conditions through the use of an integrated light sensing device.

4. Except as provided in (a)3 above, off-site signs shall not contain, include, or be illuminated by any flashing, intermittent, scrolling or moving light or lights. All sources of illumination shall be shielded or directed such that light is not directed towards the sky.
  - (b) Off-site signs that are required to be removed pursuant to N.J.A.C. 7:50-6.108(b) shall not have electronic message displays.
  - (c) Noncommercial copy shall be permitted to replace the message on any permitted sign.