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State of New Jersey
THE PINELANDS COMMISSION
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LAURA E. MATOS
Chair
SUSAN R. GROGAN
Acting Executive Director

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

MEMORANDUM

To: CMP Policy & Implementation Committee

From: Susan R. Grogan 
Acting Executive Director

Date: September 21, 2022

Subject: September 30, 2022 Committee meeting

Enclosed please find the agenda for the Committee's upcoming meeting on September 30, 2022. We have also enclosed the minutes from the Committee's August 26, 2022 meeting.

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

www.youtube.com/c/PinelandsCommission



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CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

September 30, 2022 – 9:30 a.m.

This meeting will be held in-person and virtually

Richard J. Sullivan Center for Environmental Policy and Education
Terrence D. Moore Conference Room
15C Springfield Road
New Lisbon, New Jersey

Watch the meeting on the Pinelands Commission YouTube channel:

www.youtube.com/c/PinelandsCommission

[To Provide Public Comment, Please Dial:](#) 1-929-205-6099 Meeting ID: 815 0448 8031

Agenda

1. Call to Order
2. Adoption of minutes from the August 26, 2022, CMP Policy & Implementation Committee meeting
3. Discussion of CMP amendments related to the Electric Transmission Right-of-Way Maintenance Pilot Program
4. Discussion of the Pinelands Development Credit Program: opportunities for use of Pinelands Development Credits in association with nonresidential development
5. Public Comment

CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

This meeting was conducted both remotely and in-person
The public could view/comment through Pinelands Commission YouTube link:

<https://www.youtube.com/watch?v=1rqDN27uM9M>

Meeting ID: 839 3108 3354
Richard J. Sullivan Center
15C Springfield Rd
New Lisbon, New Jersey 08064
August 26, 2022 – 9:30 a.m.

Members in Attendance – Alan W. Avery Jr., Jerome H. Irick, Edward Lloyd, Mark Lohbauer, Laura E. Matos (Chair)

Members Absent – Theresa Lettman

Other Commissioners in Attendance – Doug Wallner

Commission Staff in Attendance – Gina Berg, John Bunnell, Susan R. Grogan, Charles Horner, Jessica Lynch, Trent Maxwell, Jessica Noble, Stacey Roth, and Steve Simone. Also in attendance was Janice Venables of the Governor’s Authorities Unit.

1. Call to Order

Chair Matos called the meeting to order a 9:31 am.

2. Adoption of the Minutes from the July 29, 2022, Meeting of the CMP Policy & Implementation Committee

Chair Matos asked for a motion to adopt the minutes of the July 29, 2022, meeting of the CMP Policy and Implementation Committee. Commissioner Irick made the motion. Commissioner Lohbauer seconded. All voted in favor.

Chair Matos introduced new Commissioner Doug Wallner, who was appointed by Burlington County. Commissioner Wallner greeted the Commissioners and detailed his career history in forest fire management and the National Park Service (NPS). The Commissioner had not been formally sworn in and, therefore, did not vote on matters during the Committee meeting.

3. Update on Pinelands Conservation Fund land acquisitions

Commissioner Avery recused himself and left the room because he chairs the Ocean County Natural Lands Trust, a potential applicant to the Pinelands Conservation Fund (PCF).

Susan R. Grogan, Acting Executive Director of the Commission, provided an update on the PCF land acquisition projects. Both the first and second solicitations for projects of interest have been unsuccessful. Only one project was submitted, and that project did not score highly on the matrix. The staff is not recommending the funding of any acquisition projects right now and is

hoping to hold a summit in late winter or early spring 2023 to generate new interest in the program. There are a couple potential projects that have not been submitted yet and may be addressed by the Commission in the future. The money will remain in the acquisition fund.

Commissioner Irick asked if there was any possibility of using the PCF money for the purchase of Pinelands Development Credits (PDC).

Ms. Grogan said no. She explained that the source of the available PCF land acquisition money is the Amended Memorandum of Agreement (MOA) between the Commission and the South Jersey Transportation Authority (SJTA). That MOA Amendment requires that all funding be used for land acquisition in the Pinelands Area, with an emphasis on bird and grassland habitats.

Commissioner Lohbauer asked why there is so little interest in the PCF, and if the real estate market is influencing it.

Ms. Grogan said that is one of the plausible theories. The housing market is very active right now and land prices are high. If a landowner can make more money selling to a developer than to a non-profit organization or the State, it becomes difficult for the non-profit or governmental agency to compete.

Commissioner Wallner asked if this was the recent grant for \$1 million.

Ms. Grogan said Commission had made \$1.5 million in PCF funding available for the most recent land acquisition round.

Ms. Grogan described the parameters of the PCF land acquisition program. There is a matching requirement whereby the Commission provides up to a third of the costs and the applicant is responsible for funding the other two thirds. The Commission's money was never meant to be the sole source of funding for PCF projects.

Committee members indicated their agreement with the staff's recommended approach.

Commissioner Avery returned to the meeting.

Chair Matos reminded Commissioners that the P&I Committee meeting is the appropriate time for them to voice questions or concerns that they may have on matters that come before the full Commission. If they have any issues with a project or require more information to make a final decision on an upcoming application, this is the best time to convey that.

4. Consideration of an Additional Extension of the Secondary Impacts Agreement between the Commission and Atlantic County for Garden State Parkway Interchange 44

Stacey Roth, the Commission's Chief of Legal and Legislative Affairs, gave a presentation on the Garden State Parkway (GSP) Exit 44 interchange extension and the corresponding offset lands requirements (attached). The New Jersey Turnpike Authority (NJTA) developed plans to complete the interchange and add the missing southbound onramp and northbound offramp.

Ms. Roth shared an aerial comparison of the interchange before construction in 2013 and after completion in 2017.

The Commission created the GSP Overlay District in the early 2000s to provide uniform regulatory requirements for the totality of the Parkway even though it runs through different management areas. The Overlay District rules require that Parkway construction in the Pinelands Area does not result in secondary impacts that would be inconsistent with the CMP. At the time of its adoption of the Overlay District rules, the Commission was concerned that the Parkway's expansion would spur additional development pressures, especially in the Preservation Area District (PAD) and Forest Area (FA).

The Commission executed a Secondary Impacts Agreement with Atlantic County in 2014 to obviate secondary impacts of completing the interchange. Under the agreement, Atlantic County could take any route it chose to acquire properties and preserve the lands surrounding Exit 44. The County was tasked with eliminating development potential beyond what is normally permissible in the management area. A radius of 1.5 miles from the interchange was established, within which the County would seek to acquire or preserve lands.

To give the county additional flexibility, the agreement introduced a three-tier approach. This gave the county specific time constraints to acquire the full area described in the agreement. The first tier corresponded to the 1.5-mile radius noted above and was labeled Tier 1.

Ms. Roth shared a map of the zones surrounding Exit 44 with the three tiers depicted.

She then reminded the Committee transitioned of a provision in the Secondary Impacts Agreement which provides that in the event the County fails to obviate the secondary impacts associated with the interchange 44 project within 6 years of the effective date of the agreement, the County would need to pay a non-government organization (NGO), university, or government agency fair market value of the remaining acreage within Tier 1 so that such entity could undertake the acquisition of Pinelands Development Credits from agricultural lands or conduct other projects to improve water quality within Tiers 1 through 3. By December 2020, Atlantic County had successfully preserved 342 of the required 356 acres (96%), all located in Tier 1.

Ms. Roth clarified that the County obtained the lands in fee, and they are not preserved through easements. One of the initial strategies employed by the County involved purchasing lands owned by Galloway Township. At this point, the remaining lands are privately owned and more challenging to obtain.

Ms. Roth shared a map of all lands acquired by the County through August 2022, complemented by lands preserved through Stockton University's master plan.

Ms. Roth explained that after 2020, the County moved forward with its efforts to acquire the final 14 acres in Tier 1. The Commission granted the County a previous extension to acquire the final acreage, which expired in January 2022. The County requested an additional extension in a letter to the Commission on August 15, 2022. The extension would run through September 2023.

Commissioner Lohbauer asked if the lands once acquired would be deed restricted from any future development.

Ranae Fehr, Atlantic County Director of Regional Planning and Development, stated the lands are restricted for passive recreation and they will not be used to facilitate any development. She added it may become hunting grounds or hiking trails.

Commissioner Lohbauer said it is apparent to him that Atlantic County is making extensive, good-faith efforts to meet its obligations to the Commission. He said he has no problem with the extension request.

Ms. Fehr said it has taken a long time to reach this point, and COVID-19 disruptions lengthened the timeline on the process. The lots to be acquired are about a quarter to a third of an acre in size, spread throughout a largely rural area. The County has encountered title issues on lots that were purchased in the 1970s and the owners have since passed away.

Commissioner Irick made a motion to advance the matter to the full Commission in September. Commissioner Lohbauer seconded the motion. All Commissioners voted in favor.

5. Continued Review of Forestry Policy Proposals to be submitted to the New Jersey Forest Stewardship Task Force

Commissioner Lohbauer recused himself from the discussion and was placed in the virtual waiting room, as he is a participant in the Forest Stewardship Task Force.

Charles Horner, the Commission's Director of Regulatory Programs, gave an update on the staff's forestry policy proposals that were discussed with the Committee at its July meeting. The Forest Stewardship Task Force is charged with developing forestry policy recommendations for state-owned lands for Senator Bob Smith.

Mr. Horner shared the memo that was sent to the Commissioners in the August meeting packet. He said it is important that the P&I Committee feels comfortable making the recommendations delineated therein, and that it is appropriate for them to make recommendations pertinent only to the Pinelands Area. The task force would decide whether it wants to apply Pinelands policies on a statewide basis. He noted that the state owns approximately 365,000 acres in the Pinelands Area.

Mr. Horner briefly summarized the relevant goals and objectives set forth in the Pinelands Protection Act to provide an additional frame of reference for the staff's forestry policy recommendations. Mr. Horner explained that the core area of the Pinelands is referred to in the Act as the Pinelands Preservation Area, while the outer ring comprises the Pinelands Protection Area. Forestry is permitted throughout both areas, in uplands and in wetlands, provided it meets the environmental standards of the Pinelands Comprehensive Management Plan (CMP).

Mr. Horner added that staff's suggested forestry policies would be more restrictive than the CMP's current forestry standards. He clarified that this is not a conflict because the recommendations are meant for the Task Force and would only apply to state-owned lands in the Pinelands. The policies would not be applicable to privately owned lands or lands owned by other governmental entities. If the Commission finds these policies more effective than existing standards, then there will be an opportunity for amendments to the CMP.

Mr. Horner then reviewed the eleven forestry policy recommendations outlined in his memorandum.

Commissioner Wallner noted that recommendations eight and nine may be counterintuitive when enforced together and suggested minimizing the use of herbicides in the Pinelands Area rather

than an outright ban. He expressed concern about invasive species and poor maintenance of forest fire fuel breaks.

Mr. Horner replied that the CMP clearly allows for herbicide use for forestry. There have been some concerns expressed by Commissioners regarding the use of herbicides. The staff attempted to develop a policy that it felt was appropriate for state-owned lands, keeping in mind that private forestry applications throughout the Pinelands Area continue to receive approval for the use of herbicides.

Commissioner Lloyd said he recalled a letter that Ms. Roth wrote to Senator Smith on the Commission's behalf.

Ms. Roth said that is correct, and the letter provided comment on several forestry bills that were recommended to the NJ Senate Environment and Energy Committee. Those bills did not advance in the Committee and have not been refiled in the current legislative cycle. The Task Force is essentially the next step in the process, with the expected outcome being a new set of legislative bills for forestry policy statewide.

Chair Matos added that Senator Smith established the Task Force to adequately manage the amount of feedback he was receiving from stakeholders and community representatives. The goal is to create a holistic set of rules that reflect the concerns of everyone involved in the process.

Commissioner Lloyd asked Ms. Roth to circulate the letter and said the Commissioners may want to revisit the issues discussed in the letter.

Commissioner Lloyd said he does not think the Commission should allow the use of herbicides in the Pinelands Area. He asked Mr. Horner if the Commission has a definition of forestry.

Mr. Horner said the CMP contains an extensive definition of forestry. The definition and its citation (N.J.A.C. 7:50-2.11) could be included in the memo for reference.

Commissioner Irick said he uses herbicide and insecticide on his farm. He raised concerns about use of herbicide in areas with wetlands and endangered species. Animals can experience effects from eating plants that are treated with herbicides. He said he supports limitations on herbicide use. He also thought it was important to address Off-Road Vehicle (ORV) use in the Pinelands. He also reiterated his desire for a master plan of fuel breaks and fire lanes in the Pinelands Area, rather than receiving piecemeal applications for burning and clearing.

Chair Matos referenced recommendation number eleven on the list, and asked Commissioner Irick if that addressed his concerns. The Commissioner replied that it does generally remedy his biggest issues with the policy.

Mr. Horner added that staff can clarify that forest fire fuel breaks should be included in the Conceptual Forestry Master Plan described in number eleven.

Commissioner Lloyd asked for the timeline on providing comments to Senator Smith.

Mr. Horner said the policy recommendations are due to the task force by August 31, and he is confident the staff can revise its recommendations and provide them to the full Commission meeting in September.

Ms. Roth said when the Senator created the Task Force, the objective was for it to reach a consensus by the fall and so legislation may be filed by the end of the year.

Commissioner Avery said that forestry policies that are appropriate in the Pinelands may not be appropriate in other areas of the state.

Commissioner Avery said the state owns extensive coastal pine forests outside the Pinelands Area in places like Cumberland County and may have use for Pinelands-specific forestry policies in other areas.

Commissioner Avery said that he could only recall one commercial logging application on state-owned property in Brendan Byrne State Forest. He asked if these applications are frequent.

Mr. Horner said it is infrequent that solely commercial forestry occurs on public lands in the Pinelands, nor is clear cutting common beyond some specific purposes. The Commission sometimes receives clear cutting applications to combat Southern Pine Beetle infestations in the forest.

He continued that the NJ Department of Environmental Protection (DEP) sometimes performs thinning operations in the forest, which entails bidding the projects out to a third-party contractor. The DEP maintains that this improves the health of the forest, but the use of private contractors is sometimes considered a commercial harvest. Mr. Horner said this interpretation is ultimately subjective. He said this is different from commercial harvesting in other parts of the country, where it is often performed entirely by the private sector.

Chair Matos suggested that the staff revise and clarify the policy language based on the feedback from Committee members and bring it to the full Commission meeting in September.

Commissioner Lohbauer returned to the meeting.

6. Update on Pemberton Township Ordinance 11-2022, adopting the Lakehurst Road Redevelopment Plan

Ms. Grogan provided an update on the Lakehurst Road Redevelopment Plan in Pemberton Township. She shared a slideshow describing the zoning plan (attached).

Ms. Grogan described the history of Pemberton's Regional Growth Area (RGA) zoning plan between 1983 and 2017. The Commission approved a zoning capacity of 4,254 base units and 1,607 PDC units in the Township. Until 2017, there were no mandatory requirements for PDC redemptions in Pemberton. The use of PDCs was entirely optional for developers. If a developer was satisfied with the permitted density in a zone, no PDCs were necessary.

Despite the sizeable opportunity for use of PDCs in the Township's RGA over the past 30+ years, only 26 rights were redeemed as part of a single residential project. There were several waivers granted by the Commission that required the use of a single right, and some use variances granted by the Township's zoning board necessitated the use of PDCs. Beside those examples, there was just the one project where PDCs were redeemed through the traditional density bonus program.

She then referred to a slide describing Pemberton's RGA zoning plan in 2022. The RGA remains at 6,788 acres, unchanged from 1983. There are now new PDC requirements at additional sites in the Township's RGA. The Township has been looking for opportunities to spur new development in Browns Mills and to accommodate an interest in multi-family housing complexes. Affordable housing requirements also needed to be accommodated and addressed in various redevelopment plans. Pemberton is one of many Pinelands municipalities that have approached the Commission with a need to accommodate affordable housing, and this has provided the Commission with an opportunity to permit new higher-density projects with increased potential for PDC use.

In 2002, the Commission amended the CMP to include a new certification standard for municipal ordinances. Municipalities were asking the Commission to decrease the densities required in the RGA and were not interested in accommodating high-density projects at that time. Under the standard, municipal ordinances must contain standards that ensure residential densities in the RGA are reasonably achievable. This is less of a concern now because municipalities are more aware of density issues and are more interested in redevelopment planning.

Ms. Grogan noted the Township's R-I zoning district was innovative in 1992. It attempted to accommodate Pemberton's desire for high density age-restricted housing in a specific area and to remedy the Township's ongoing dearth of PDC projects. The approach was to permit very low density in the zone and then to provide optional bonus densities for PDCs, with additional bonus units permitted after all required PDCs had been used. The staff has since recognized that assigning such a large PDC obligation to one zoning district and property is not realistic.

In the new redevelopment plan, the number of permitted units was reduced markedly to account for environmental limitations. The property owner's consultants have conducted extensive research of the site to delineate wetlands, required wetlands buffers and critical habitat for Threatened and Endangered (T&E) species. The 1,268-unit zoning capacity for the property proved to be unrealistic given the environmental limitations discovered. The redevelopment plan also specifies that no residential development may occur on the 339 acres of the property located in the Forest Area (FA). Only passive or low-intensity recreation would be permitted in this area. It also makes the redemption of 115 to 122 rights mandatory rather than optional.

Ms. Grogan addressed additional issues and questions regarding the Lakehurst Road Redevelopment Plan. She noted the original CMP contained a land capability map that provided the starting point for certification of all zoning maps and municipal plans. The Lakehurst Road property was split between the RGA and the FA on the original Land Capability Map.

Ms. Grogan mentioned the new project would likely need a new potable water well but would not use Kirkwood-Cohansey (K-C) Aquifer water.

The Township declared the site an area in need of redevelopment even though the site is not developed. Such municipal determinations are governed by the Local Redevelopment and Housing Law, not the Commission. The Commission can only review redevelopment plans and development applications that result from that designation.

She concluded the presentation by noting that project design, housing type, and traffic circulation are not facets of the project that can be addressed or regulated by the Commission. That is the prerogative of municipalities and developers.

She added Commission staff maintains an extensive dialogue with municipalities to ensure that CMP standards and Commissioners' concerns are adequately reflected in plans prior to their adoption.

Commissioner Lohbauer thanked Ms. Grogan for the extensive presentation addressing the concerns of Commissioners regarding the redevelopment plan in Pemberton. He asked if Pemberton would be using municipal water and sewer service on the site, and if the Township may need a new well. He asked about the dimensions of the new well.

Ms. Grogan said a new well was part of the application submitted by the developer for general development approval from the Township many years ago. That well did not propose to use water from the K-C Aquifer.

Commissioner Lohbauer asked about the access road that would pass through the FA and asked if there was any way the road be routed through the RGA and minimize tree clearing.

Ms. Grogan said the Commission is working with the old application from the 2000s, and that new details would emerge when the Commission receives an updated version of the access driveways on the site. The final determination about where the road goes and whether it passes through the FA will be determined through the municipal application and approval process. There is limited opportunity for a secondary access roadway to service the site due to wetlands and T&E species habitat. It may prove to be infeasible. The CMP does not require a secondary access road for this redevelopment project.

Commissioner Lohbauer asked if it was also true that the road's location would not be reviewed by the full Commission. Ms. Grogan said yes, and that the road would be part of the private development application that is reviewed by staff and not referred to the Commission for approval.

Commissioner Lohbauer asked staff to emphasize minimizing tree clearing and intrusion onto the FA portion of the plan to Pemberton officials.

The Commissioner asked another question about the potential for T&E species to inhabit the RGA portion of the site.

Mr. Horner said the issue has been around for several years and the issue has been discussed at length by the Commission and applicants. T&E species have been sighted in the RGA portion of this property, which means that some areas cannot be developed. There have also been sightings in the FA where zero development will be occurring.

Commissioner Irick asked how the Commission can prevent the high-density development from significantly disrupting or impacting the T&E species.

Mr. Horner said it is difficult to police the presence of T&E species and says the staff ensures sufficient buffers are provided to protect critical habitat.

Ms. Roth added the CMP mandates a demonstration by the applicant that the project will not have an irreversible adverse impact on habitat critical to the survival of T&E species, and that the goal of the plan is to protect T&E populations as a whole and not one or two individuals.

Commissioner Avery asked if PDC opportunities remain in other RGA zones in Pemberton.

Ms. Grogan said yes, there are existing residential zones in Pemberton's RGA where PDC use remains optional as bonus density.

Commissioner Avery asked if the mandatory PDC requirement for the Lakehurst Road plan is not the maximum overall number of PDCs that will be used in Pemberton's RGA.

Ms. Grogan said that is correct, and that PDC opportunities in Pemberton Township include Lakehurst Road, the old Rowan College at Burlington County (RCBC) site, and the central business district of Browns Mills. PDCs have been built into the new zoning and redevelopment plans in these areas.

Commissioner Avery cited his experience working in Ocean County and stated the permitted density in some communities was so high that developers did not need to use PDCs. As a result, places like Barnegat and Jackson were built out without any redemptions. He said the mandatory PDC approach is more effective than the bonus density setup.

Ms. Grogan said staff has learned valuable lessons in the past 35 years about what methods work best and what paths the staff can take to ensure the functionality and success of the PDC program. She mentioned the PDC Bank report will be discussed at the full Commission meeting in October.

Commissioner Lohbauer said he agreed with Commissioner Avery, and that experience has shown that mandating PDC redemptions where possible is a much better outcome in terms of total PDC rights used. He reiterated his point from before that "a right in hand is better than two in the bush." He also felt that his questions about water management, T&E species, and the access road were answered to his satisfaction. He said he is willing to recommend certification of the redevelopment plan to the full Commission for adoption.

Commissioner Irick said he had a difficult time accepting redevelopment in a wooded area, and that it is important to preserve forest. He continued that he understood the technical definitions but still did not agree with the concept of redeveloping an area that has not been physically developed. He thanked Ms. Grogan for putting together a comprehensive report on the Pemberton plan.

Commissioner Irick continued that he was one of the few to abstain from recommending the project at the August Commission meeting. The PDC program is very important to people in Atlantic County, as they are a sending district. He said he is pleased to hear that staff is working to fix legacy issues with the PDC program.

Commissioner Irick said he discovered a comprehensive paper on the PDC program by former Commissioner Jordan Howell and asked that a copy be distributed to all Commissioners.

Ms. Grogan said Dr. Howell is still very interested in the PDC program, and that she is still in contact with him.

Commissioner Irick said one of the suggestions in the report is to assess PDC potential for projects beyond housing and density standards, such as infrastructure projects in the Pinelands Area. The Commissioner was also interested in applications that have been approved but have not been constructed yet, which would require the purchase of PDC rights.

Ms. Grogan said staff will be briefing the Committee on an ongoing issue where different municipalities are seeking to accommodate large non-residential development proposals in their RGAs in residential areas or redevelopment areas. There are PDC implications that will need to be addressed and this may open an opportunity for use of PDCs in association with nonresidential development.

7. Public Comment

No public comment was received at the meeting.

Chair Matos closed public comment at 11:21 am.

Commissioner Lohbauer suggested adding an item to the agenda for the September Committee meeting concerning a member of the public who submitted an Open Public Records Act (OPRA) request pertaining to a meeting between DEP and Commission staff. There were no notes from the meeting and the request was denied. He asked if the Committee could have a discussion on whether notes should be taken in future pre-application conferences.

Ms. Roth said there were no documents available pertaining to the meeting. She also noted that OPRA is complicated and provides disclosure exemptions for certain types of government records. However, in the case of the OPRA request raised by Commissioner Lohbauer, there were no records to provide.

Ms. Grogan said if the Commissioners have an interest in discussing the OPRA process, it can be detailed at a full Commission meeting.

Commissioner Irick suggested a day retreat for Commissioners to learn more about the CMP.

Commissioner Lloyd agreed that it is worth having a conversation about the OPRA process with the full Commission.

Chair Matos asked for a motion to adjourn the meeting. Commissioner Lohbauer made the motion. Commissioner Irick seconded. The meeting adjourned at 11:25 am.

Certified as true and correct:



Trent R. Maxwell, Planning Technical Assistant

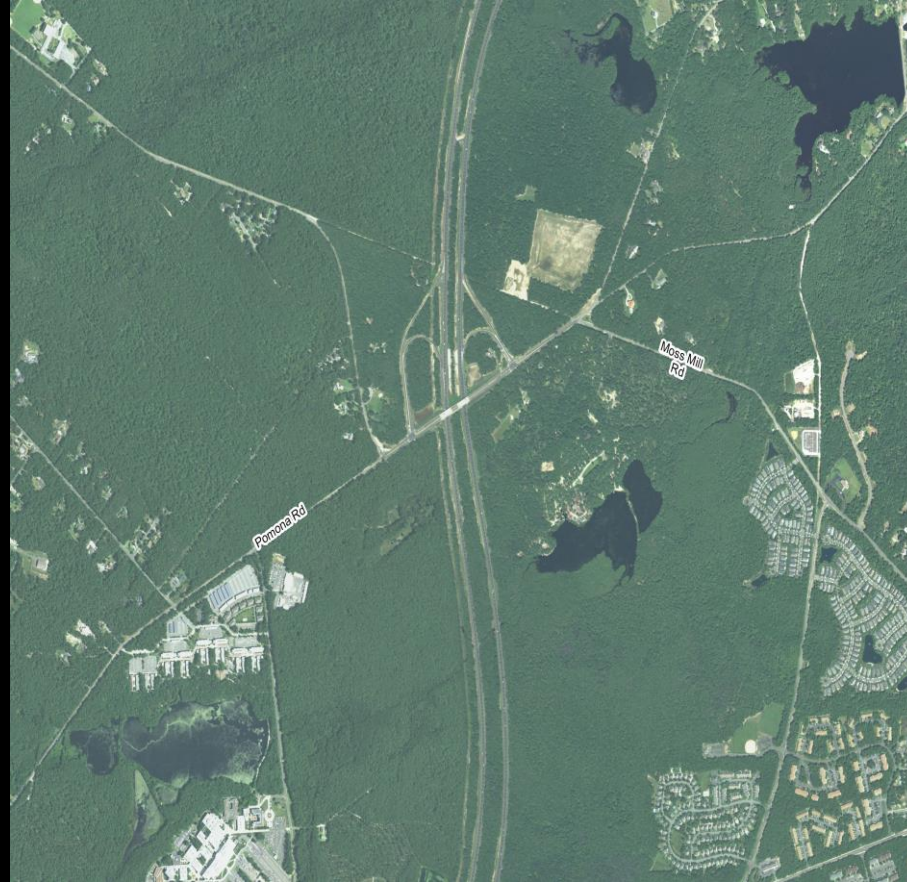
Date: September 8, 2022

Interchange 44
Extension of Time to Acquire
Remaining Acreage

Pinelands Commission
Policy and Implementation Committee
August 26, 2022

Interchange 44 Project

- ▶ NJ Turnpike Authority was to complete Interchange 44 on the Garden State Parkway by adding a Northbound Exit Ramp and Southbound Entrance Ramp
- ▶ Project located in the State designated Pinelands Area
- ▶ Pursuant to an agreement between NJTA and Atlantic County dated June 18, 2012, the County agreed to be responsible for land acquisition to complete the project, including any lands necessary to satisfy mitigation or other permitting requirements



Interchange 44 Pre & Post Construction

GSP Overlay District

N.J.A.C. 7:50-5.35(b)

“The uses listed in (a)1 through 3 above shall be permitted provided they will not induce changes in the location, pattern or intensity of land use which would be inconsistent with the Pinelands land use program as implemented through the Commission’s certification, pursuant to N.J.A.C. 7:50-3, of the master plans and land use ordinances of Pinelands municipalities.”

Secondary Impacts Agreement

- ▶ Pinelands Commission and Atlantic County entered into a Secondary Impacts Agreement on January 1, 2014.
- ▶ The Secondary Impacts Agreement set forth the means by which Atlantic County would "obviate" secondary impacts associated with the Interchange 44 project.
- ▶ Specifically, Atlantic County was to limit development potential on parcels located within 1.5 miles of Interchange 44, totaling 356 acres.

Three Tier Approach

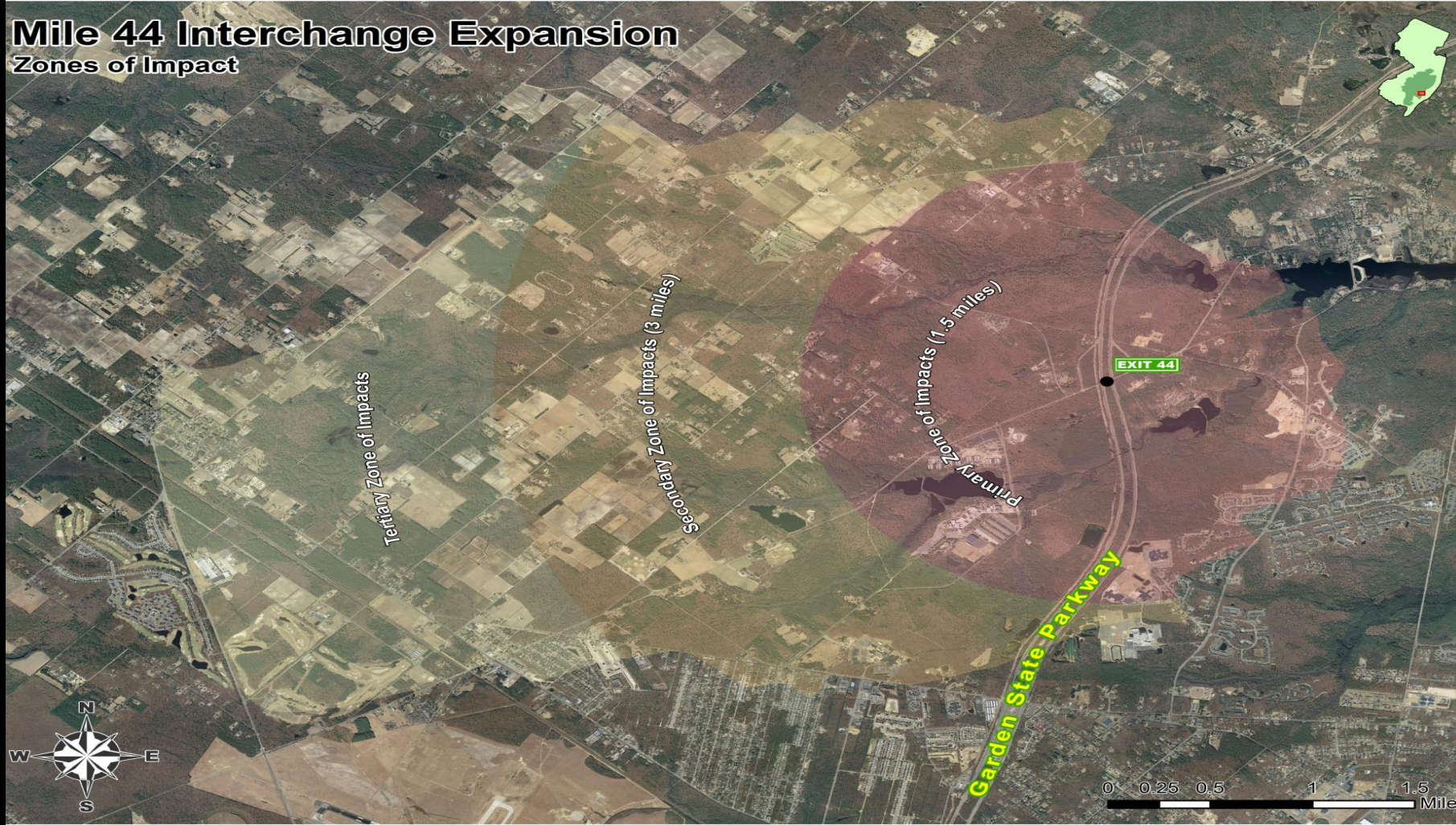
- ▶ Atlantic County had 3 years from execution of the Secondary Impacts Agreement to obviate secondary impacts, through land acquisition or easements within Tier 1.
- ▶ After the initial 3 years, Atlantic County had an additional 18 months to obviate secondary impacts equal to 2 times the amount of its remaining obligation within Tier 2;
- ▶ At the end of this 18 month period, Atlantic County had 18 additional months to satisfy any remaining obligation within Tier 3.

Three Tier Approach (cont.)

- ▶ At the end of 6 years, the Agreement contains a provision where the County pays an amount equal to fair market value of any acreage that it fails to acquire within Tier 1 within six years from the effective date of the Agreement; i.e. January 7, 2020, to a non-profit, government entity or university or college to undertake the acquisition of Pinelands Development Credits from agricultural lands or other projects, including land acquisition, to improve water quality within the boundaries of Tiers 1 through 3 in Atlantic County

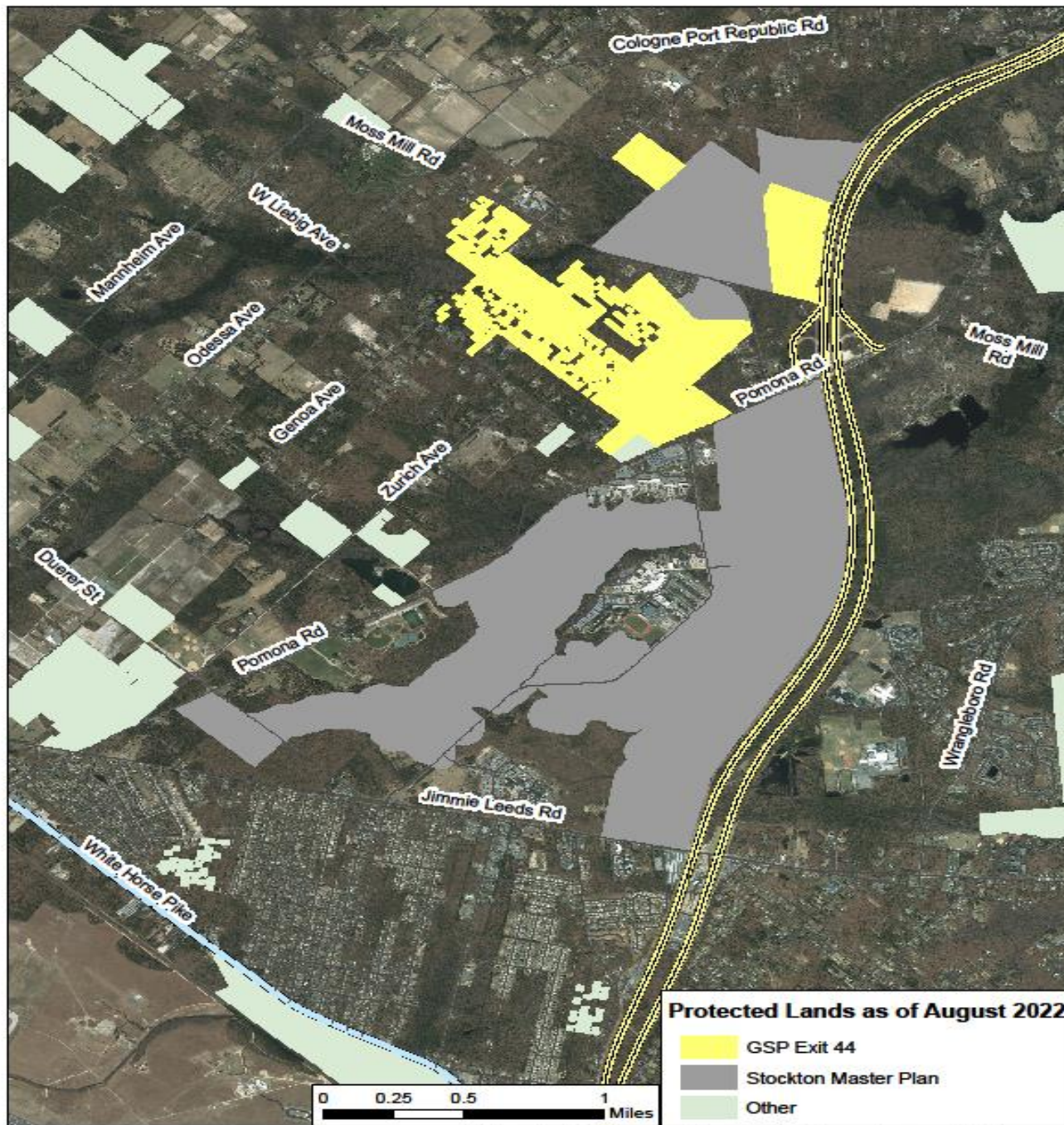
Mile 44 Interchange Expansion

Zones of Impact



Atlantic County's Efforts

- ▶ Atlantic County focused its efforts on acquisition of land within Tier 1
- ▶ As of December 20, 2020, Atlantic County has acquired 342 out of 356 acres within Tier 1.
- ▶ Only 14 acres remain to be acquired for Atlantic County to complete its obligation under the Secondary Impacts Agreement.



Atlantic County's Post 2020 Efforts

- ▶ County continued its efforts to acquire the remaining 14 acres
 - ▶ Identified 110 private lots totaling approximately 95 acres
 - ▶ Sent letter of interest to assessed property owners
 - ▶ Obtaining appraisal for the overall acreage
 - ▶ Commencing title research on the lots
- ▶ Signed agreements of sale with five (5) property owners, including 1 parcel 10 acres in size.
- ▶ Atlantic County Board of Commissioners adopted resolution authorizing acquisition of 110 lots by negotiation or, for lots with title issues, eminent domain.

Extension of Secondary Impacts Agreement

- ▶ The Commission previously granted Atlantic County an extension of the time to acquire the lots remaining to obviate secondary impacts which expired on January 7, 2022
- ▶ By letter dated August 15, 2022, the County requested an additional 12-month extension to complete acquisition of the remaining 14 acres located in Tier 1.

Staff Recommendation

- ▶ The Commission allow the County to complete its acquisition of the remaining 14 acres rather than having the County provide funds to a non-profit, governmental entity or university to complete the task for it, given the County's diligent efforts to date to complete its obligations under the Agreement.
- ▶ The Commission extend the acquisition deadline until September 7, 2023.

Pemberton Township 1983-2017 RGA Zoning Plan

- RGA acres = 6,788
- RGA zoning capacity
 - Base units = 4,254
 - PDC units = 1,607 (27% of zoning capacity)
 - Total units = 5,861
- **Required PDCs = 0**

Pemberton Township

History of PDC Use: 1983-2017

- RGA zoning capacity
 - Base units = 4,254
 - PDC units = 1,607
 - Total units = 5,906
- PDCs redeemed = 26 rights (1 project)

Pemberton Township 2022 RGA Zoning Plan

- RGA acres = 6,788
- RGA zoning capacity
 - Base units = 4,417
 - PDC units = 1,489 (25% of zoning capacity)
 - Total units = 5,906
- **Required** PDCs = 293 rights

New Considerations

- **Mandatory PDC use at additional sites in RGA**
- **Inclusionary housing requirements to meet municipality's affordable housing obligation**
- **New certification standard added to CMP in 2002: Municipal ordinances must contain standards that enable permitted residential densities in each RGA zoning district to be reasonably achieved**

Redevelopment Plan

- Reduction in permitted units from 1,268 to 575 to reflect environmental limitations
- Conservation of 339 Forest Area acres
- Option to use PDCs replaced with requirement for redemption of 115-122 rights

Additional Issues and Questions

- Original CMP designated the redevelopment area as RGA and FA
- Proposed project will likely include a new potable water well (non K-C) and the extension of both water and sewer mains.
- Redevelopment designation is administered by DCA pursuant to the Local Redevelopment and Housing Law
- Project design, housing type and traffic circulation to be determined by the municipality and redeveloper