



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-21-11

TITLE: **Approving** With Conditions an Application for **Public Development** (Application Number 2019-0142.001)

Commissioner Pikolycky moves and Commissioner Lohbauer seconds the motion that:

WHEREAS, the Pinelands Commission has reviewed the Public Development Application Report and the recommendation of the Executive Director that the following application for Public Development be approved with conditions:

2019-0142.001

Applicant:	New Jersey Department of Transportation
Municipality:	Winslow Township
Management Area:	Pinelands Village
Date of Report:	March 19, 2021
Proposed Development:	Stormwater management improvements within the U.S. Route 30 right-of-way in Winslow Township.

WHEREAS, no request for a hearing before the Office of Administrative Law concerning the Executive Director’s recommendation has been received for this application; and

WHEREAS, the Pinelands Commission hereby adopts the Conclusion of the Executive Director for the proposed development; and

WHEREAS, the Pinelands Commission hereby determines that the proposed public development conforms to the standards for approving an application for public development set forth in N.J.A.C. 7:50-4.57 if the conditions recommended by the Executive Director are imposed; and

WHEREAS, pursuant to N.J.S.A. 13A-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 and Governor shall approve same, in which case the action shall become effective upon such approval.

NOW, THEREFORE BE IT RESOLVED that Application Number 2019-0142.001 for public development is hereby **approved** subject to the conditions recommended by the Executive Director.

Record of Commission Votes

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

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: April 9, 2021

Nancy Wittenberg
Executive Director



State of New Jersey

THE PINELANDS COMMISSION

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(609) 894-7300

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PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

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

RICHARD PRICKETT
Chairman
NANCY WITTENBERG
Executive Director

March 19, 2021

Brenna Fairfax (via email)
New Jersey Department of Transportation
P.O. Box 600
Trenton, NJ 08625

Re: Application # 2019-0142.001
U.S. Route 30
Winslow Township

Dear Ms. Fairfax:

The Commission staff has completed its review of this application for stormwater management improvements within the U.S. Route 30 right-of-way in Winslow Township. Enclosed is a copy of a Public Development Application Report. On behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its April 9, 2021 meeting.

Any interested party may appeal this recommendation in accordance with the appeal procedure attached to this document. If no appeal is received, the Pinelands Commission may either approve the recommendation of the Executive Director or refer the application to the New Jersey Office of Administrative Law for a hearing.

Prior to any development, the applicant shall obtain any other necessary permits and approvals.

Sincerely,

Charles M. Horner, P.P.

Director of Regulatory Programs

Enc: Appeal Procedure

c: Secretary, Winslow Township Planning Board (via email)
Winslow Township Construction Code Official (via email)
Winslow Township Environmental Commission (via email)
Secretary, Camden County Planning Board (via email)



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Chairman
NANCY WITTENBERG
Executive Director

PUBLIC DEVELOPMENT APPLICATION REPORT

March 19, 2021

Brenna Fairfax (via email)
New Jersey Department of Transportation
P.O. Box 600
Trenton, NJ 08625

Application No.: 2019-0142.001
U.S. Route 30
Winslow Township

This application proposes stormwater management improvements within the U.S. Route 30 right-of-way in Winslow Township. The proposed improvements will be located within a 400 linear foot section of the U.S. Route 30 right-of-way near its intersection with Spring Road and within a 1,400 linear foot section of the U.S. Route 30 right-of-way near its intersection with East Fleming Pike.

This application proposes the installation of a total of 2,911 linear feet of stormwater drainage pipe and 27 stormwater inlets within the two sections of the U.S. Route 30 right-of-way. The proposed stormwater drainage pipe and 27 stormwater inlets will be installed within the paved cartway.

The applicant indicates that the stormwater drainage improvements have been designed to alleviate persistent roadway flooding and will improve highway safety.

STANDARDS

The Commission staff has reviewed the proposed development for consistency with all standards of the Pinelands Comprehensive Management Plan (CMP). The following reviews the CMP standards that are relevant to this application:

Land Use (N.J.A.C. 7:50-5.27(a))

The proposed development is located in the Pinelands Village of Elm. The proposed development is a permitted land use in a Pinelands Village.

Wetlands Standards (N.J.A.C. 7:50-6.7)

Each of the two sections of the U.S. Route 30 right-of-way proposed for stormwater management improvements have existing stormwater drainage systems. These existing systems were installed prior to the 1981 effective date of the Commission's regulations. Both existing systems currently discharge

stormwater runoff from the roadway directly to wetlands. To alleviate roadway flooding, the proposed stormwater management systems will tie into and extend the existing stormwater systems. To demonstrate that the proposed stormwater improvements will not result in a significant adverse impact to those wetlands, the applicant has designed the proposed stormwater improvements to ensure that there will be no increase in the volume and rate of stormwater runoff discharging to wetlands after the development than occurred prior to the proposed development.

PUBLIC COMMENT

The applicant has provided the requisite public notice. Newspaper public notice was completed on February 2, 2021. The application was designated as complete on the Commission's website on February 24, 2021. The Commission's public comment period closed on March 12, 2021. No public comment was submitted to the Commission regarding this application.

CONDITIONS

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of five sheets, prepared by WSP USA Solutions, Inc. and dated as follows:

Sheets 1 & 2 - undated
Sheets 3 & 4 - September 24, 2020
Sheet 5 - September 23, 2020
2. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.
3. Prior to any development, the applicant shall obtain any other necessary permits and approvals.

CONCLUSION

As the proposed development conforms to the standards set forth in N.J.A.C. 7:50-4.57, it is recommended that the Pinelands Commission **APPROVE** the proposed development subject to the above conditions.



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RICHARD PRICKETT
Chairman
NANCY WITTENBERG
Executive Director

PINELANDS COMMISSION **APPEAL PROCEDURE**

The Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal any determination made by the Executive Director to the Commission in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted by someone meeting the definition of an interested party will be transmitted to the New Jersey Office of Administrative Law for a hearing. Any such appeal must be made in writing to the Commission and received by the Commission's office no later than 5:00 PM on April 5, 2021 and include the following information:

1. the name and address of the person requesting the appeal;
2. the application number;
3. the date on which the determination to be appealed was made;
4. a brief statement of the basis for the appeal; and
5. a certificate of service (a notarized statement) indicating that service of the notice has been made, by certified mail, on the clerk of the county, municipal planning board and environmental commission with jurisdiction over the property which is subject of this decision.

Within 15 days following receipt of a notice of valid appeal, the Executive Director shall initiate the procedures for assignment of an Administrative Law Judge to preside at the hearing pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and the procedures established by the Office of Administrative Law. The time, date and location of such hearing shall be designated by the Office of Administrative Law.



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-21- 12

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

Commissioner Avery moves and Commissioner Jannarone seconds the motion that:

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

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

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

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

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

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

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

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

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

WHEREAS, the Commission's CMP Policy and Implementation Committee reviewed and discussed Ordinance 2021-4 and the Executive Director's report at its March 26, 2021 meeting; and

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

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

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

NOW, THEREFORE BE IT RESOLVED that

1. An Order is hereby issued to certify that Ordinance 2021-4, amending Chapter 55, Land Use, of the Code of Barnegat Township, is in conformance with the Pinelands Comprehensive Management Plan.

2. Any additional amendments to Barnegat Township’s certified Master Plan and Land Use Ordinances shall be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 to determine if said amendments raise a substantial issue with respect to the Comprehensive Management Plan. Any such amendment shall become effective only as provided in N.J.A.C. 7:50-3.45.

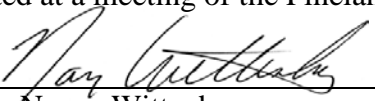
Record of Commission Votes

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

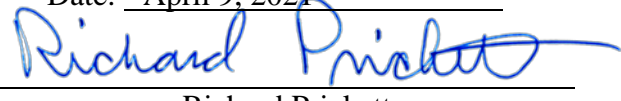
*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: April 9, 2021



 Nancy Wittenberg
 Executive Director



 Richard Prickett
 Chairman



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

RICHARD PRICKETT
 Chairman
 NANCY WITTENBERG
 Executive Director

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

March 30, 2021

Barnegat Township
 900 West Bay Avenue
 Barnegat, NJ 08005

FINDINGS OF FACT

I. **Background**

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

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

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

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

II. Master Plans and Land Use Ordinances

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

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

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

1. **Natural Resource Inventory**

Not applicable.

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

Ordinance 2021-4 amends Chapter 55 (Land Use) of the Code of Barnegat Township by revising district regulations for the Township's Neighborhood Commercial (C-N) zones both east and west of the Garden State Parkway. The C-N Zone West of the Parkway is located within the Pinelands Area, while the C-N Zone East of the Parkway is located outside of the state-designated Pinelands Area but within the Pinelands National Reserve (PNR). In 2013, the Pinelands Commission certified the Township's land development regulations and zoning plan for the PNR portion of the Township.

Neighborhood Commercial Zone West of the Garden State Parkway

Within the C-N West of the Parkway, the ordinance permits hotels and motels as well as assisted living facilities, nursing and convalescent homes and long-term care facilities as conditional uses. The ordinance also conditionally permits reception and banquet halls as accessory uses to a hotel.

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

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

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

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

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

It is worth noting that within Regional Growth Areas, the CMP provides that Pinelands municipalities may permit any use, with the exception of certain waste management facilities, provided residential density and opportunities for the use of Pinelands Development Credits are appropriately accommodated. The CMP also expressly authorizes assisted living facilities as a permitted use in Regional Growth Areas pursuant to N.J.A.C. 7:50-5.34, which sets forth specific standards for such uses. Among these standards is the establishment of a permitted residential density applicable to assisted living facilities. Ordinance 2021-4 satisfies this requirement by establishing a permitted density of 20 units per acre, which while quite a bit higher than the minimum required by the CMP for Barnegat’s Regional Growth Area, is nevertheless appropriate given the intensity of surrounding development, developability of vacant lands in the C-N Zone and availability of infrastructure.

Neighborhood Commercial Zone East of the Garden State Parkway

The C-N Zone East of the Parkway is located within a Regional Growth Area of the Pinelands National Reserve (PNR) (see exhibit 3). For the C-N Zone East of the Parkway, Ordinance 2021-04 amends the conditional use standards for hotels and motels as well as for assisted living facilities, nursing and convalescent homes and long-term care facilities. These uses were conditionally permitted in the C-N Zone East of the Parkway prior to the adoption of this ordinance. For assisted living facilities, nursing and convalescent homes and long-term care facilities, the ordinance amends conditional use standards related to front yard setbacks, maximum building coverage requirements and parking standards. For hotels and motels, the

ordinance amends conditional use standards to require that these uses be located within 1,000 feet of the Garden State Parkway. Staff has confirmed with the Township that multiple sites within the C-N Zone East of the Parkway could meet the ordinance standards for the development of these uses.

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

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

Not applicable.

4. Requirement for Municipal Review and Action on All Development

Not applicable.

5. Review and Action on Forestry Applications

Not applicable.

6. Review of Local Permits

Not applicable.

7. Requirement for Capital Improvement Program

Not applicable.

8. Accommodation of Pinelands Development Credits

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

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

This standard for certification is met.

9. Referral of Development Applications to Environmental Commission

Not applicable.

10. General Conformance Requirements

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

Therefore, this standard for certification is met.

11. Conformance with Energy Conservation

Not applicable.

12. Conformance with the Federal Act

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

Therefore, this standard for certification is met.

13. Procedure to Resolve Intermunicipal Conflicts

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

Therefore, this standard for certification is met.

PUBLIC HEARING

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

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

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

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

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

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

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

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

EXECUTIVE DIRECTOR'S RESPONSE

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

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

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

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

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

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

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

Garden State Parkway interchange and other development. This will serve as a limitation on the number of potential assisted living facility units that can ultimately be developed.

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

CONCLUSION

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

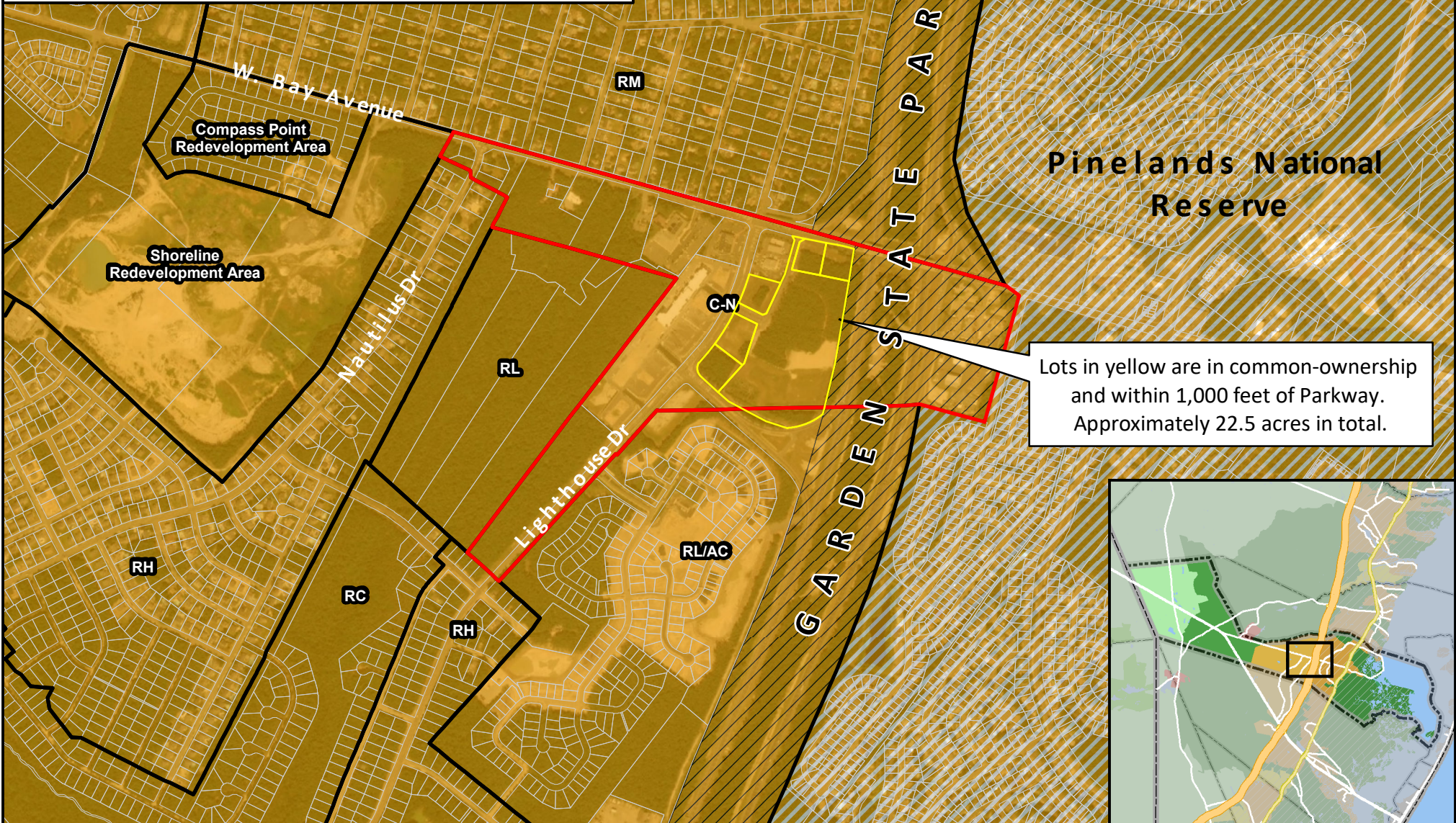
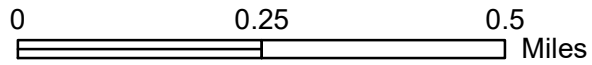
SRG/DBL/CBA
Attachments

Barneгат Township Neighborhood Commercial (C-N) Zone West of Parkway

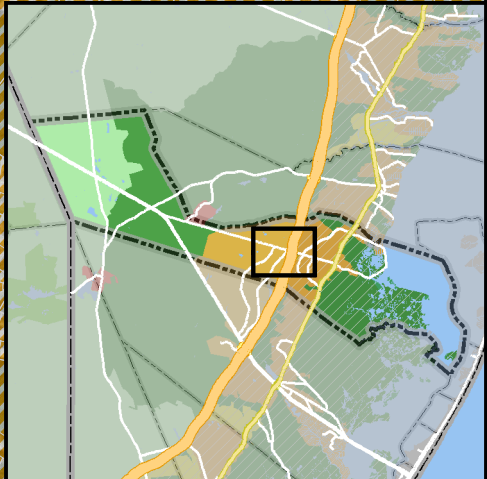
Executive Director's Report
Barneгат Ordinance 2021-4
Exhibit 1
3/30/2021

Pinelands Management Areas
Regional Growth Area

Parcels
Existing Zoning



Lots in yellow are in common-ownership and within 1,000 feet of Parkway. Approximately 22.5 acres in total.



Barnegat Township Ordinance 2021-4 Public Comments Received

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

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

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

Matthew von der Hayden <mvonderhayden@staffordnj.gov>

Wed 3/3/2021 1:00 PM

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

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

Good Afternoon Brad and Susan,

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

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

Again thank you for the clarification.

All the best,

Matt

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

Piner, Betsy

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

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

email: njcoc79@aol.com

subject: Public Comment Submissions

Name: charles oconnell

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

Phone Number: 6096612905

Comment Topic: selected=

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

Submit: Submit

Piner, Betsy

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

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

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

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

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

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

Confidentiality Notice:

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

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

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

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

Sent from my iPhone

Piner, Betsy

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

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

email: floboisin@gmail.com

subject: Public Comment Submissions

Name: Florence Bogaenko

Mailing Address: 4 Boiling Springs Drive

Phone Number: 1732735361

Comment Topic: selected=

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

Submit: Submit

Piner, Betsy

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

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

email: whiterose@whiterosepath.com

subject: Public Comment Submissions

Name: Eileen Anglin

Mailing Address: 1 Rifle Court

Phone Number: 6094885321

Comment Topic: selected=

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

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

Submit: Submit

Piner, Betsy

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

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

email: djkruczek@yahoo.com

subject: Public Comment Submissions

Name: Dave Kruczek

Mailing Address: 186 Chestnut Dr. Barnegat, NJ 08005

Phone Number: 6092902188

Comment Topic: selected=

Message: Please do not approve this request.

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

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

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

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

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

Dirt bikes and assorted ATVs are heard almost every weekend.

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

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

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

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

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

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

Respectfully submitted,

David Kruczek

Barnegat,NJ

Piner, Betsy

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

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

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

Thanks
Ron Naples
153 Brighton Rd
Barnegat, NJ 08005

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

Piner, Betsy

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

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

email: bableak@comcast.net

subject: Public Comment Submissions

Name: BettyAnn Bleakley

Affiliation: Resident and Member- Barnegat Shade Tree Commission

Mailing Address: 265 BayShore Dr., Barnegat NJ

Phone Number: 609-709-7813

Comment Topic: selected=

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

Submit: Submit

DASTI&ASSOCIATES

Christopher J. Dasti

Joseph C. Falk*

Jeffrey D. Cheney

*Rule 1:40 Mediator

A Professional Corporation

Attorneys At Law

310 Lacey Road

P.O. Box 779

Forked River, New Jersey 08731

609-549-8990

Fax: 609-549-5043

www.DastiLaw.com

File No. GL-1011

March 8, 2021

Via Email

Susan R. Grogan, Director of Planning

Brad Lanute, Resource Planner

New Jersey Pinelands Commission

PO Box 359

New Lisbon, NJ 08064

Re: Barnegat Township Ordinance 2021-4

Dear Mr. Lanute and Ms. Grogan:

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

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

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

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

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

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

Very truly yours,

/s/ Christopher J. Dasti

CHRISTOPHER J. DASTI

CJD: bm



PINELANDS PRESERVATION ALLIANCE

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

March 8, 2021

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

Dear Director Grogan:

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

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

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

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

Thank you for your consideration of these comments.

Sincerely,

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

Andrew Gold
Legal Director

Barneгат Township

Neighborhood Commercial (C-N) Zone

Pinelands Management Areas

Regional Growth Area

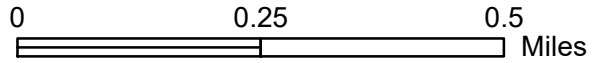
Pinelands Area Boundary

Parcels

C-N Zones

West of Parkway (Pinelands Area)

East of Parkway (PNR)



Executive Director's Report
Barneгат Ordinance 2021-4
Exhibit 3
3/30/2021

