



PHILIP D. MURPHY
Governor
TAHESHA L. WAY
Lt. Governor

State of New Jersey
THE PINELANDS COMMISSION
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NEW LISBON, NJ 08064
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LAURA E. MATOS
Chair
SUSAN R. GROGAN
Executive Director

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

MEMORANDUM

To: CMP Policy & Implementation Committee

From: Gina A. Berg *gab*
Director, Land Use Programs

Date: January 22, 2025

Subject: January 31, 2025 Committee meeting

Enclosed please find the agenda for the Committee's upcoming meeting on Friday, January 31, 2025. We have also enclosed the following:

- minutes from the Committee's November 22, 2024 meeting; and
- a draft resolution and ED report on Barnegat Township Ordinance 2024-32; and
- a draft resolution and ED report on Berlin Township Master Plan Reexamination report and amendment and Ordinance 2024-15

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

January 31, 2025 – 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: 884 4422 4258

Agenda

1. Call to Order
2. Adoption of minutes from the November 22, 2024 CMP Policy & Implementation Committee Meeting
3. Review of Executive Director's report on Barnegat Township Ordinance 2024-32 amending the C-N Zone West of the Parkway
4. Review of Executive Director's report on Berlin Township's Master Plan Reexamination Report and Amendment and Ordinance 2024-15 amending the zoning map and C-3 zoning district regulations
5. Presentation on Preliminary State Plan
6. 2024 Year-end Conformance Summary Presentation
7. Public Comment
8. Adjournment

CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

This meeting was conducted both remotely and in-person
The public could view/comment through Pinelands Commission YouTube link:
www.youtube.com/c/PinelandsCommission

Richard J. Sullivan Center
15C Springfield Rd
New Lisbon, New Jersey 08064
November 22, 2024 – 9:30 a.m.

MINUTES

Members in Attendance: Jerome Irick, Mark S. Lohbauer, Jessica Rittler Sanchez

Members in Attendance (Zoom): Alan W. Avery, Jr., Chair Laura E. Matos, Douglas Wallner

Members Absent: Theresa Lettman

Staff Present: Gina Berg, John Bunnell, Ernest Deman, Katie Elliott, April Field, Lori Friddell, Susan R. Grogan, Brad Lanute, Paul Leakan and Stacey P. Roth. Also in attendance was Alexis Franklin with the Governor's Authorities Unit (Zoom).

1. Call to Order

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

2. Adoption of minutes from the October 25, 2024 CMP Policy & Implementation Committee Meeting

Commissioner Lohbauer moved the adoption of the October 25, 2024 meeting minutes. Commissioner Wallner seconded the motion. Commissioners Avery, Lohbauer, Matos, Rittler Sanchez and Wallner voted in favor. Commissioner Irick abstained. The motion passed.

Adoption of minutes from the Closed Session of the October 25, 2024 CMP Policy & Implementation Committee Meeting

Commissioner Rittler Sanchez moved the adoption of the October 25, 2024 closed session meeting minutes. Commissioner Lohbauer seconded the motion. Commissioners Lohbauer, Matos, Rittler Sanchez and Wallner voted in favor. Commissioners Avery and Irick abstained. The motion passed.

3. Review of Executive Director's report on Hamilton Township Ordinance 2085-2024 Adopting a Site-Specific Redevelopment Plan for Block 237, Lots 1 and 2

Attachment A to these minutes

Chief Planner Brad Lanute reviewed the Executive Director's report on Hamilton Township Ordinance 2085-2024 that adopted a redevelopment plan for Block 237, Lots 1 and 2. He said the entire 105-acre redevelopment area is located in the Township's Forest Area-70 (FA-70) District within a Pinelands Forest Area. He noted the existing, vacant 31,000-square-foot industrial building onsite predates the Pinelands Comprehensive Management Plan (CMP). Mr.

Lanute said the area borders the Atlantic City Expressway, privately owned forested lands and the Makepeace Lake Wildlife Management Area.

Mr. Lanute said that the Township has been trying to return the site to use, but has had difficulty since the prior industrial use is non-conforming and deemed abandoned under the CMP. He reviewed the limited permitted uses in the Forest Area, which include forestry, agriculture, campgrounds, low-intensity recreation, places of worship and schools. He said the redevelopment plan would allow for redeveloping the site as a cannabis cultivation facility, noting that the Township has already been in contact with an interested developer.

Mr. Lanute explained the redevelopment plan establishes an overlay zone for the site. The overlay zone conditionally permits cannabis cultivation facilities and provides a variety of associated, conditional use standards. The underlying zoning regulations of the FA-70 district remain applicable to the redevelopment area, including the CMP's minimum environmental standards.

Mr. Lanute said the redevelopment plan requires Commission certification based on the CMP's municipal flexibility provisions. The redevelopment plan would offer a limited opportunity for a licensed cannabis cultivation facility to engage in the full range of activities permitted under the state license, some of which fall under the CMP definition of agricultural products processing. He explained that while the CMP permits agricultural uses in a Forest Area, it does not permit agricultural products processing facilities in that management area. Mr. Lanute described the activities authorized under a Class 1 Cannabis Cultivator license that would be considered agricultural products processing, including processing or packaging cannabis, and depending on the methods, drying or curing cannabis.

He said the redevelopment plan limits any development associated with the cultivation facility to an approximate 10-acre area that has been previously developed and cleared.

Mr. Lanute said the CMP allows Pinelands municipalities to adapt standards and provisions of the CMP to local conditions, provided CMP goals and objectives continue to be achieved. He said staff find that the opportunity for redevelopment of an existing, nonresidential structure in the Township's Forest Area is an appropriate exercise of municipal flexibility and meets the objectives of the CMP.

With regard to the required Commission's public hearing on Ordinance 2085-2024, Mr. Lanute said one comment was received from a staff member of the Great Egg Harbor River Watershed Association in support of the redevelopment plan. The commenter inquired if there were any updates to the stormwater management practices on the site and if any of the forested area of the parcel will be deed restricted as a condition of the new use. Mr. Lanute responded that any development of the site, including the establishment of the cultivation facility, will require application to the Commission and must demonstrate consistency with the minimum environmental standards of the CMP, including those for stormwater management. Regarding deed restriction, Mr. Lanute said the redevelopment plan does not require deed restriction of the remaining forested lands on the parcel. The undeveloped portion of the site will remain available for agriculture and other uses permitted in the Township's FA-70 district.

Mr. Lanute concluded that staff is recommending a motion from the Committee to forward Ordinance 2085-2024 to the full Commission to certify the ordinance.

Chair Matos opened the floor to questions.

Commissioner Rittler Sanchez inquired about the previous industrial use on the site and if the intent was to remove the existing structure.

Executive Director (ED) Grogan said the site has been long abandoned and the intent is to reuse the existing building.

Commissioner Rittler Sanchez further inquired if the well was operational and if the developer would be coming to the Commission for well permits.

ED Grogan said the required development application will address those issues.

Commissioner Rittler Sanchez confirmed that dispensing will not occur at the site location.

Mr. Lanute explained that each class of cannabis license authorizes different activities and that cannabis dispensaries have a separate license and are not permitted under the Class 1 Cannabis Cultivation license. Only a Class 1 licensed cultivation facility is permitted on this site and therefore dispensing will not be permitted.

Commissioner Rittler Sanchez inquired on potential water use at the site. ED Grogan said it may be proposed as part of the cultivation and processing operation.

ED Grogan noted that there had been prior interest in redeveloping the site for a large warehouse use, which staff had determined was not an appropriate use in a Forest Area. She said this plan is a creative reuse of the site and the existing building, and it is a good example for using a redevelopment plan.

Commissioner Rittler Sanchez inquired if a deed restriction was required as part of the redevelopment. ED Grogan said it is not required.

Mr. Lanute said the Township's FA-70 zone is already a very restrictive zone.

Commissioner Wallner asked if the area around the building is paved or otherwise maintained. Mr. Lanute said that area has been maintained as grass and that the Class 1 license will have maintenance and security requirements. Mr. Wallner suggested that since it is a forested area, native vegetation and grasses should be used within the maintained area.

Commissioner Lohbauer said he was happy they were reusing the existing building and inquired if there was a report on contamination or any New Jersey Department of Environmental Protection (NJDEP) violations on the site.

Mr. Lanute said the Commission has no record; however, the former use was industrial.

Legal and Legislative Affairs Chief Stacey Roth, responded that it is likely the developer, using due diligence, would have investigated and at least completed a Level I environmental assessment to determine if there were any contaminants and the cost associated with any remediation.

Commissioner Irick said a Phase I assessment could be requested and a request for chain of title to research prior owners.

There being no further questions or comments, Chair Matos closed the discussion.

Commissioner Lohbauer moved to recommend certification of Hamilton Township Ordinance 2085-2024 to the full Commission. Commissioner Rittler Sanchez seconded the motion. All Ayes. Motion passed.

4. Presentation on Off-road Vehicle Ordinances

Attachment B to these minutes and posted on the Commission's website ([click here](#)).

Planning Specialist Katie Elliott provided a presentation on off-road vehicle ordinances within the Pinelands.

Ms. Elliott said that off-road (ORV) vehicle damage has been an ongoing discussion topic for the Committee. She noted that the drafting of a model ordinance to offer as an optional resource to Pinelands municipalities has been part of the Fiscal Year 2024-2025 workplan and reflects the Commission's stewardship goals.

Ms. Elliott reviewed current State statutes enabling municipal regulation of ORV/ATV (all-terrain vehicle) use on public lands and roads, as well as guidance documents utilized by law enforcement. Ms. Elliott outlined examples of some existing municipal ordinances. She explained factors that affect municipal response to ORV/ATV restrictions are varied and complex.

Ms. Elliott highlighted elements from the draft model ordinance, including safety standards, illegal operation, violations, and penalties. She emphasized that this is an optional ordinance. Municipalities may alter wording to adapt to their municipality's needs and they are not required to adopt it to maintain conformance with the CMP. She outlined the next steps, including incorporating any Committee feedback into the model ordinance and developing a guidance document for distribution to Pinelands municipalities. Ms. Elliott said staff will engage with any municipalities that are interested in adopting the ordinance to tailor the ordinance to their needs.

Commissioner Irick thanked staff for the detailed research and presentation. He suggested that farming equipment and tractors be added to the list of exemptions. He noted that the draft ordinance addresses activity on public lands and suggested that it should include deed-restricted land and Green Acres or park lands. He questioned the reference to ATV vehicle registration, noting that ATVs are not issued titles and are not able to be registered. Commissioner Irick further recommended that noise levels be defined by decibels, similar to NJDEP. Mr. Irick asked about the establishment of a State training program, stating he was unfamiliar with the program. Lastly, Commissioner Irick inquired how these ordinances affect Pinelands Commission permitting of Enduro events.

Executive Director (ED) Grogan clarified that the ordinance does not apply to Enduro events, which require application to the Commission and follow a separate process for event permits with NJDEP.

Commissioner Irick encouraged more oversight on Enduro events and increased application fees.

Commissioner Rittler Sanchez inquired about insurance requirements if vehicles are unable to be registered.

Chief Planner Brad Lanute responded that the state statute does require insurance and said that the farm equipment exemptions will be reflected in the model ordinance. He said that the Commission is providing a resource, he reminded the Committee that the ordinance is not mandated by the CMP.

ED Grogan said each municipality will have its own approach to the regulations and enforcement; however, this model ordinance will offer guidelines if they choose to adopt an ORV ordinance.

Commissioner Rittler Sanchez inquired about potential liability to a municipality that adopts the ordinance and if insurance should be required.

Ms. Roth explained there would not be a liability component because once adopted, the ordinance would be a legal requirement. She said if an accident occurred on Municipal property, it would likely fall under municipal coverage, or the State tort claim act.

Commissioner Lohbauer said he fully supports this initiative, recognizing it is often a controversial topic. He said the model ordinance provides a good tool to strengthen enforcement. He thanked staff and agreed with Commissioner Irick regarding his recommended farm equipment exemption and noise definition by decibel.

Chair Matos thanked staff for their work and presentation.

There being no further questions or comments, Chair Matos closed the discussion.

5. Public Comment

Heidi Yeh of the Pinelands Preservation Alliance expressed disappointment that the topic of wetlands delineation was not included on the agenda and hopes to see it prioritized at the next meeting. She said she would appreciate an explanation of how wetlands delineations are performed using federal and Pinelands-specific standards.

Jason Howell of the Pinelands Preservation Alliance said he was pleased to see off road vehicles included in discussion. He inquired if input was received, or guidance provided regarding the ability of park police to enforce municipal regulations.

Fred Akers of the Great Egg Harbor Watershed Association thanked the Commission for addressing off-road vehicles and said it is an issue that is ready for regional planning. He said the Pinelands Municipal Council struggled with the issue in the past and suggested contacting the Council's Chair, Mayor Pikolycky, as a reference.

There being no further comments, Chair Matos closed public comment and opened comments to Commissioners.

Commissioner Lohbauer wished all a happy Thanksgiving.

6. Adjournment

There being no other business, Commissioner Irick moved to adjourn the meeting. Commissioner Lohbauer seconded the motion. All voted in favor. The meeting was adjourned at 10:25 a.m.




Certified as true and correct:

A handwritten signature in cursive script that reads "Lori A. Friddell". The signature is written in black ink and is positioned above a horizontal line.

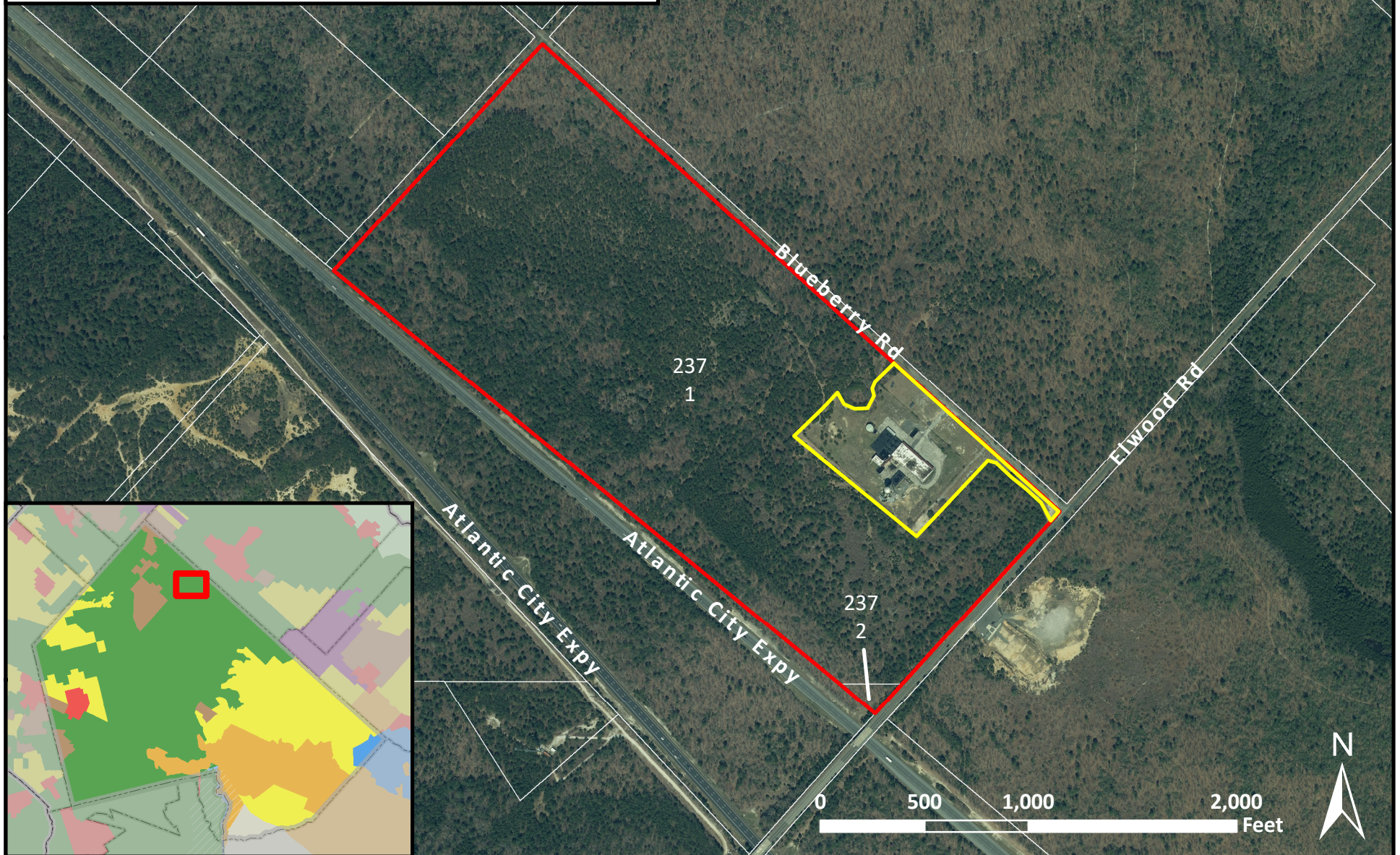
Lori Friddell
Land Use Programs Technical Assistant

Date: November 27, 2024

Hamilton Township Ordinance 2085-2024

-  Redevelopment Area
-  Parcel Boundaries
-  Developed/Cleared Area

Executive Director's Report
Hamilton Twp. Ord. 2085-2024
11/22/20224
Exhibit #1



2877 ELWOOD
RD

Blueberry Road



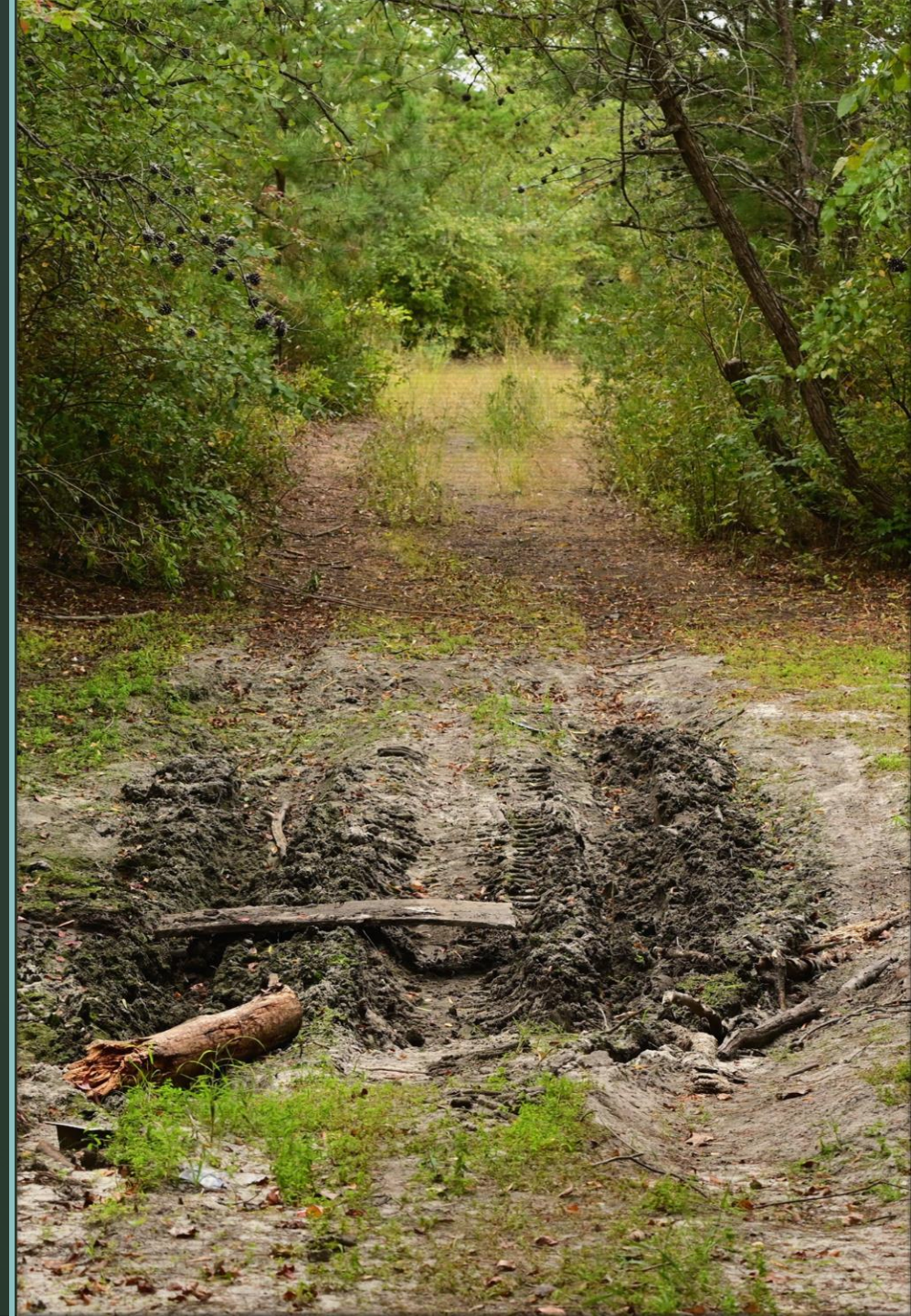


November 22, 2024 | P&I Committee

Off-Road Vehicle (ORV) Ordinances in the Pinelands

Why now?

- ORV damage ongoing discussion topic for P&I Committee
- P&I Work Plan (FY 2024-25) includes initiative regarding development of municipal model ordinances
- Supports the Commission's broader land stewardship goals



What has the State provided?



N.J.S.A. 39:3C → Limits ORV/ATV use on public lands and roads



N.J.S.A. 2C:64-6 → Allows for forfeiture of illegally operated ORVs/ATVs



Guidance document directed to law enforcement personnel

What have Pinelands Municipalities adopted?

1. Dedicated code sections/ordinances related to ORVs, ATVs, and other recreational vehicles referencing state law
 - Operation and use restrictions
 - Enforcement same as state law (any police can enforce)
2. Code sections related to ORVs/ATVs, but shorter than above and may not directly reference state law
3. Motor vehicles definition in code lists ORVs as outside this definition, usually in the stormwater section
4. No reference to ORVs/ATVs in code

Why such a variety among Municipality responses?

- Not all municipalities may be aware of state law
- ORV use may not be a concerning issue (no destroyed trails, not prevalent enough, etc.)
- Municipal staff may not have resources to adopt an ordinance, or it might not be a priority
- Some municipalities have adopted regulations reflective of earlier state legislation, but have not kept pace with more recent legislative changes

Highlights from the Model Ordinance

- Limits operation on public streets, within public rights of way, and on public lands consistent with N.J.S.A 39:3C
- Written consent from landowner required for operation on private land
- Safety standards (helmets, headlights, age requirement)
- Illegal operation leading to impoundment or forfeiture
- Violations and penalties

Next steps

- Finalize model ordinance
 - Option for municipalities
 - Incorporate feedback from Committee
 - Develop a supporting guidance document to be distributed with the model ordinance
- Engage with municipalities
 - What does or does not work for them individually
 - Other enforcement tactics



Feedback and Questions?



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-25-_____

TITLE: Issuing an Order to Certify Ordinance 2024-32, amending Chapter 55 (Land Use) of the Code of Barnegat Township

Commissioner _____ moves and Commissioner _____ 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 December 3, 2024, Barnegat Township adopted Ordinance 2024-32, 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 2024-32 on December 4, 2024; and

WHEREAS, by letter dated December 19, 2024, the Executive Director notified the Township that Ordinance 2024-32 would require formal review and approval by the Pinelands Commission; and

WHEREAS, a public hearing to receive testimony concerning Barnegat Township's application for certification of Ordinance 2024-32 was duly advertised, noticed and remotely conducted on January 15, 2025 at 9:30 a.m. with live broadcast on the Pinelands Commission's public YouTube channel and an opportunity for the public to call-in during the live broadcast; and

WHEREAS, the Executive Director has found that Ordinance 2024-32 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 2024-32, 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 has reviewed the Executive Director's report and has recommended that Barnegat Township Ordinance 2024-32 be certified; and

WHEREAS, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning Ordinance 2024-32 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

1. An Order is hereby issued to certify that Ordinance 2024-32, 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.

[illegible]

Adopted at a meeting of the Pinelands Commission

Date: _____

Laura E. Matos
Chair



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Executive Director

Report on Barnegat Township's Ordinance 2024-32, Amending Chapter 55 (Land Use) of the Barnegat Township Code

January 22, 2025

Barnegat Township
900 West Bay Avenue
Barnegat, NJ 08005

Findings of Fact

I. Background

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

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

On December 3, 2024, Barnegat Township adopted Ordinance 2024-32, amending Chapter 55 (Land Use) of the Barnegat Township Code. This ordinance revises district regulations for the Township's Neighborhood Commercial Zone West of the Garden State Parkway (C-N Zone West). It establishes conditional use standards for mixed-use developments containing a Continuing Care Retirement Community (CCRC), assisted living facilities, nursing and convalescent homes, congregate care facilities, or long-term care facilities. A certified copy of Ordinance 2024-32 was submitted to the Pinelands Commission on December 4, 2024.

By letter dated December 19, 2024, the Executive Director notified Barnegat Township that Ordinance 2024-32 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 2024-32, amending Chapter 55 (Land Use) of the Barnegat Township Code, introduced on November 7, 2024 and adopted on December 3, 2024.

This ordinance was 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 sections correspond to the numbers identifying 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 2024-32 amends Chapter 55 (Land Use) of the Barnegat Township Code by revising the district regulations for the Township's existing Neighborhood Commercial Zone West of the Garden State Parkway (C-N Zone West). The ordinance establishes conditional use standards for mixed-use developments that, in addition to commercial and residential uses, include a Continuing Care Retirement Community (CCRC), assisted living facilities, nursing and convalescent homes, congregate care facilities, or long-term care facilities. The C-N Zone West is located within a Regional Growth Area, a Pinelands Village, and a Forest Area.

In 2015, the Commission certified Barnegat Township Ordinance 2014-23, which conditionally permits mixed-use development (multi-family residential/commercial) in the portion of the C-N Zone West located in a Regional Growth Area. A maximum residential density of 11 units per acre is permitted, with Pinelands Development Credits (PDCs) required for 25% of all units.

In 2021, the Commission certified Barnegat Township Ordinance 2021-4, which conditionally permitted assisted living facilities, nursing and convalescent homes, congregate care facilities, and long-term care facilities in the Regional Growth Area portion of the C-N Zone West. This ordinance established a base density of 8 units per acre, a bonus density of up to 12 units per acre through the use of PDCs, and a maximum density of 20 units per acre. Long-term care beds within nursing and convalescent facilities are considered institutional uses under the CMP and are excluded from the density calculation.

In 2023, Barnegat Township adopted Ordinance 2023-23, which conditionally permitted CCRCs along with assisted living facilities, nursing and convalescent homes, congregate care facilities, and long-term care facilities in the Regional Growth Area portion of the C-N Zone West. The ordinance was found to raise no substantial issues with respect to the CMP since a CCRC is simply made up of a continuum of those previously certified uses.

Although both mixed-use development and CCRCs are conditionally permitted in the C-N Zone West, they have distinct conditional use standards. Applying these standards to a development proposal containing both a mixed-use component and a CCRC has proven challenging. Ordinance 2024-32 addresses this issue by clarifying how the standards apply to a development

that includes a mixed-use component (multi-family residential/commercial) and a CCRC component, which itself includes a mix of residential uses (independent living and assisted living units) and institutional uses (nursing and convalescent homes, congregate care facilities, or long-term care facilities). The ordinance now requires that any CCRC within the C-N Zone West must be part of a mixed-use development.

The maximum residential density for these uses is established at 17 dwelling units per acre. This includes multi-family residential units within the mixed-use component as well as independent living units and assisted living units within the CCRC component. The ordinance specifies that multi-family residential units cannot exceed 80% of the total residential units and that CCRC independent living units and assisted living units cannot exceed 25% of the total residential units.

As established under Ordinance 2021-4, such uses are limited to areas within 1,000 feet of the Garden State Parkway and with frontage on a county or state highway. This ensures that this type and intensity of development is limited to the Regional Growth Area portion of the C-N Zone West. The minimum lot area is increased from 5 acres to 10 acres. As was the case when Ordinance 2021-4 was adopted, only one parcel in the C-N Zone West meets these conditional use standards. This parcel is approximately 22.5 acres and consists of six contiguous lots in common ownership (see Exhibit 1).

Previously, CCRCs were allowed at a maximum density of 20 dwelling units per acre, permitting up to 450 units on the parcel noted above. Reducing the maximum density to 17 units per acre lowers the potential total to 382 units, with no more than 305 multi-family residential units and no more than 95 independent living and assisted living units. It is important to note that when Barnegat Township adopted Ordinance 2021-4, it elected to zone for higher densities than required by the CMP. The Township has now elected to reduce this density slightly to reflect the changes in permitted housing types and non-residential development.

Ordinance 2024-32 specifies that PDCs are required for 25% of the multi-family residential units and 20% of the independent living units and assisted living units. This allows for the use of up to 93 rights (23.25 Pinelands Development Credits), representing a slight increase from the opportunity to use 90 rights that was provided by Ordinance 2021-4. Therefore, the reduction in residential zoning capacity is not expected to impact the PDC Program.

The previously certified minimum area, yard, and building requirements that applied to CCRCs remain unchanged. The maximum building height is increased from 35 feet to four stories (50 feet), provided that additional setback requirements are met for buildings over 40 feet. The mixed-use component must also comply with standards established in Ordinance 2014-23, including a requirement that multi-family residential units be age-restricted and that at least 90,000 square feet of retail/commercial space be included on the first floor of any mixed-use buildings or as separate pad sites on the parcel.

The amendments adopted by Ordinance 2024-32 slightly reduce the residential zoning capacity of the C-N Zone West while slightly increasing opportunities for the use of PDCs to enable the development of a mixed-use project containing a CCRC.

Ordinance 2024-32 is 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

As outlined in Section 2, Ordinance 2024-32 clarifies the conditional use standards for mixed-use developments containing a Continuing Care Retirement Community (CCRC). Under the standards established by this ordinance, such developments are permitted a residential density of 17 units per acre. Additionally, the use of Pinelands Development Credits (PDCs) is required for 25% of all multi-family residential units and 20% of the independent living units and assisted living units within a CCRC.

Prior to the adoption of Ordinance 2024-32, CCRCs and assisted living facilities were conditionally permitted at a base density of 8 units per acre, which could be increased to 12 units per acre through the use of PDCs. Once a density of 12 units per acre was reached, CCRCs and assisted living facilities were eligible for a bonus density of up to 20 units per acre without requiring additional PDCs. In comparison, mixed-use developments were permitted a residential density of 11 units per acre, with a requirement that PDCs be redeemed for 25% of all units.

Ordinance 2024-32 establishes a mandatory PDC requirement for mixed use developments containing a CCRC. The approach maintains an approximate equivalency of potential PDC rights as previously certified. As noted in Section 2, the ordinance allows for the use of up to 93 rights, representing a slight increase from the potential use of 90 rights under Ordinance 2021-4.

Although the PDC requirements in Ordinance 2024-32 are lower than those under the traditional zoning approach, where PDCs would account for 33% of the total number of permitted units, it is

important to note that the traditional base density/bonus density approach merely provides an *opportunity* for the use of PDCs. There is no requirement under the traditional approach for PDCs to be used in any development project. Ordinance 2024-32 ensures that PDCs must be purchased and redeemed as part of the approval of any mixed-use development containing a CCRC within the C-N Zone West, regardless of the final density or number of units constructed. Sufficient and appropriate opportunities for the use of PDCs remain available in the C-N Zone West and throughout Barnegat's Regional Growth Area.

9. Referral of Development Applications to Environmental Commission

Not applicable.

10. General Conformance Requirements

Ordinance 2024-32 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 2024-32 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 Zone West of the Parkway (C-N Zone West) 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 2024-32 was duly advertised, noticed and held on January 15, 2025 at 9:30 a.m. Mr. Lanute conducted the hearing, which was held remotely and broadcast 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. No testimony was provided.

Written comments on Ordinance 2024-32 were accepted through January 17, 2025. No written comments were received.

Conclusion

Based on the Findings of Fact cited above, the Executive Director has concluded that Barnegat Township's Ordinance 2024-32, 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 2024-32 of Barnegat Township.

SRG/DBL/CBA
Attachments

**Executive Director's Report
Barnegat Twp. Ord. 2024-32
Exhibit 1
1/22/2025**

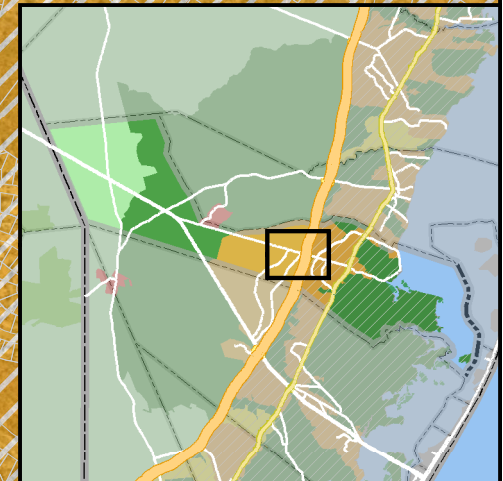
- Parcels
- Existing Zoning

A horizontal number line is shown with tick marks at 0, 0.25, and 0.5. The word "Miles" is written at the right end of the line. A point is marked at the 0.25 position, and the fraction $\frac{1}{4}$ is written above this point.



STATE PARKWAY

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





RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-25-_____

TITLE: Issuing an Order to Certify Berlin Township’s 2023 Master Plan Reexamination Report and Amendment and Ordinance 2024-15, amending Chapter 340 (Zoning) of the Code of Berlin 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 Berlin Township; and

WHEREAS, Resolution #PC4-83-51 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 #PC4-83-51 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 October 24, 2023, the Berlin Township Planning and Zoning Board adopted Resolution 2023-19, approving the Berlin Township Master Plan Reexamination Report and Amendment, dated October 2023; and

WHEREAS, the Pinelands Commission received a certified copy of Planning and Zoning Board Resolution 2023-19 and the Master Plan Reexamination Report and Amendment on December 4, 2023; and

WHEREAS, by letter dated December 18, 2023, the Executive Director notified Berlin Township that, in accordance with N.J.A.C. 7:50-3.32, the 2023 Master Plan Reexamination Report and Amendment would be deemed incomplete until such time that one or more necessary implementing ordinances were adopted and submitted to the Commission for certification; and

WHEREAS, on December 19, 2024, Berlin Township adopted Ordinance 2024-15, amending Chapter 340 (Zoning) of the Code of Berlin Township, to implement the recommendations of the 2023 Master Plan Reexamination Report and Amendment; and

WHEREAS, the Pinelands Commission received a certified copy of Ordinance 2024-15 on December 20, 2024; and

WHEREAS, by letter dated December 27, 2024, the Executive Director notified Berlin Township that the 2023 Master Plan Reexamination Report and Amendment and Ordinance 2024-15 required formal review and approval by the Pinelands Commission; and

WHEREAS, a public hearing to receive testimony concerning Berlin Township’s application for certification of its 2023 Master Plan Reexamination Report and Amendment and Ordinance 2024-15 was duly advertised, noticed and remotely conducted on January 15, 2025 at 9:30 a.m. with live broadcast on the Pinelands Commission’s public YouTube channel and an opportunity for the public to call-in during the live broadcast; and

WHEREAS, the Executive Director has found that the 2023 Master Plan Reexamination Report and Amendment and Ordinance 2024-15 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 issuance of an order to certify that 2023 Master Plan Reexamination Report and Amendment and Ordinance 2024-15, amending Chapter 340, Zoning, of the Code of Berlin Township is 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 has recommended that Berlin Township’s 2023 Master Plan Reexamination Report and Amendment and Ordinance 2024-15 be certified; and

WHEREAS, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning the 2023 Master Plan Reexamination Report and Amendment and Ordinance 2024-15 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 Berlin Township’s 2023 Master Plan Reexamination Report and Amendment and Ordinance 2024-15, amending Chapter 340, Zoning, of the Code of Berlin Township, is in conformance with the Pinelands Comprehensive Management Plan.
- 2. Any additional amendments to Berlin 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*				
Asselta					Irick					Pikolycky				
Avery					Lettman					Rittler Sanchez				
Buzby-Cope					Lohbauer					Wallner				
Christy					Mauriello					Matos				
Holroyd					Meade									

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission Date: _____

Susan R. Grogan
Executive Director

Laura E. Matos
Chair



State of New Jersey
THE PINELANDS COMMISSION
PO Box 359
NEW LISBON, NJ 08064
(609) 894-7300
www.nj.gov/pinelands



PHILIP D. MURPHY
Governor
TAHESHA L. WAY
Lt. Governor

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

LAURA E. MATOS
Chair
SUSAN R. GROGAN
Executive Director

Report on Berlin Township's 2023 Master Plan Reexamination Report and Amendment and Ordinance 2024-15, Amending Chapter 340 (Zoning) of the Berlin Township Code

January 22, 2025

Berlin Township
135 NJ Route 73
West Berlin, NJ 08091

Findings of Fact

I. Background

The Township of Berlin is located in the western section of the Pinelands Area in Camden County. Pinelands municipalities adjacent to Berlin Township's Pinelands Area include Berlin Borough and Waterford Township in Camden County, and Evesham Township in Burlington County.

On June 3, 1983, the Pinelands Commission fully certified the Land Use Procedures and Zoning Ordinance of Berlin Township.

On October 24, 2023, the Berlin Township Planning and Zoning Board adopted Resolution 2023-19, approving the Berlin Township Master Plan Reexamination Report and Amendment, dated October 2023. The report recommends, among other things, revisions to the Township's zoning plan and zoning district regulations within the Pinelands Area. The Pinelands Commission received a certified copy of Planning and Zoning Board Resolution 2023-19 and the Master Plan Reexamination Report and Amendment on December 4, 2023.

By letter dated December 18, 2023, the Executive Director notified Berlin Township that, in accordance with N.J.A.C. 7:50-3.32, the 2023 Master Plan Reexamination Report and Amendment is deemed incomplete until necessary implementing ordinances were adopted and submitted to the Commission for certification.

On December 19, 2024, Berlin Township adopted Ordinance 2024-15, amending Chapter 340 (Zoning) of the Berlin Township Code, and implementing the recommendations of the 2023 Master Plan Reexamination Report and Amendment. The Pinelands Commission received a certified copy of Ordinance 2024-15 on December 20, 2024.

By letter dated December 27, 2024, the Executive Director notified Berlin Township that the 2023 Master Plan Reexamination Report and Amendment and Ordinance 2024-15 required formal review and approval by the Pinelands Commission.

II. Master Plans and Land Use Ordinances

The following documents have been submitted to the Pinelands Commission for certification:

- * Planning and Zoning Board Resolution 2023-19, approving the Berlin Township Master Plan Reexamination Report and Amendment, dated October 2023, adopted October 24, 2023; and
- * Ordinance 2024-15, amending Chapter 340 (Zoning) of the Berlin Township Code, introduced on November 25, 2024, and adopted on December 19, 2024.

This master plan reexamination report and ordinance were 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 (CMP). The findings from this review are presented below. The numbers used to designate the respective sections correspond to the numbers identifying 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

2023 Master Plan Reexamination Report and Amendment

The Master Plan Reexamination Report and Amendment includes updates on major problems and objectives related to land development identified in the Township's 2016 reexamination report. It also discusses changes in policy and objectives since 2016 and recommends changes to the master plan and land development regulations affecting areas inside and outside the Pinelands Area portion of the Township.

For the Pinelands Area, the report recommends rezoning four lots totaling approximately 22.5 acres from the Highway Commercial (C-2RD) Zone to the Regional Commercial Growth (C-3) Zone. This would constitute a change in Pinelands management area from a Rural Development Area to a Regional Growth Area. The report also recommends changes to the C-3 Zone district regulations, including conditionally permitting continuing care retirement communities (CCRCs) and light industrial uses, and changing warehouse facilities from a permitted use to a conditionally permitted use. Additionally, it recommends new development regulations for various types of warehouses. These recommendations are implemented by Ordinance 2024-15, discussed below.

The report further recommends investigating whether certain properties within the Township's Regional Growth Area along Cushman Avenue meet the criteria for designation as an area in need of redevelopment. Since the reexamination report's adoption, the Township has completed its investigation and formally designated the land as an area in need of redevelopment. The Township has yet to adopt a redevelopment plan for the area. Once adopted, the redevelopment plan must be submitted to the Pinelands Commission for review and approval before it can take effect.

Ordinance 2024-15

Ordinance 2024-15 amends Chapter 340, Zoning, of the Berlin Township Code and implements the 2023 Master Plan Reexamination Report recommendations for the Pinelands Area portion of the Township.

Zoning Map Amendments

The ordinance rezones approximately 22.5 acres to the Regional Commercial Growth (C-3) Zone (see Exhibit 1). Approximately 22.4 acres are rezoned from the Highway Commercial (C-2RD) Zone, eliminating the C-2RD Zone. The remaining area is composed of single lot that is rezoned from the Single Family Detached Residential (R-1) Zone.

The rezoned area, located between Chestnut Avenue and Edgewood Avenue along Cooper Road, is contiguous with the C-3, Multifamily Residential (R-3), and Institutional Use (INS) zones, which are all located in the Regional Growth Area. This area of Cooper Road serves as the Pinelands Area boundary. The rezoned area is composed entirely of uplands. One lot is farmland assessed, while the remaining lands are vacant and wooded. This zoning change constitutes a change in Pinelands management area from a Rural Development Area to a Regional Growth Area. While the C-2RD Zone permits a similar set of non-residential uses, the rezoning would allow future development to be served by sewer and built at higher intensities.

The ordinance also eliminates the E-1 Environmental Sensitive Area Overlay, which overlays a portion of the Industrial (I-1) District within a Rural Development Area (see Exhibit 1). This overlay predates Berlin Township's original certification in 1983 and recognizes wetlands present in the area. Discrepancies regarding the overlay's boundaries have arisen over time, prompting the Township to repeal it. Given the existing CMP environmental standards in the Township's land development regulations, there is no decrease in protections afforded to environmentally sensitive areas in the vicinity of the overlay.

C-3 Zone Amendments

The ordinance revises regulations for the C-3 Zone, which, inclusive of the lots proposed for rezoning, encompasses approximately 137 acres within a Pinelands Regional Growth Area. Originally established by Ordinance 1996-8, the C-3 Zone was certified by the Commission in 1996 and includes lands that were previously designated as a Rural Development Area. The 1996 zoning change and a subsequent 2012 zoning change expanded the C-3 Zone and the Township's Regional Growth Area by approximately 65 acres and 48 acres, respectively.

Under existing C-3 Zone regulations, a variety of business, office, service, and professional uses are permitted on lots of at least 20,000 square feet, with a maximum floor area ratio (FAR) of 1.8%. These standards were designed to allow sewer commercial development at Rural

Development Area intensities, while enabling property owners to build at typical Regional Growth Area intensities by redeeming Pinelands Development Credits (PDCs). Developers can increase the FAR from 1.8% to 36% through the use of PDCs, with each quarter-credit allowing an additional 7,360 square feet of commercial space. The PDC structure was intended to limit increased water demand potential to avoid adverse impacts to the Mullica River watershed. The redemption of PDCs provided an environmental offset when development occurred at higher intensities.

Ordinance 2024-15 revises the C-3 Zone's permitted uses, FAR requirements, and PDC provisions. It adds art, music, dance, and martial arts studios; fitness centers; indoor private recreation facilities; outpatient medical offices; and various business and service uses, while removing uses like animal hospitals; amusements; commercial greenhouses and nurseries; kennels; automobile body repair and painting; automobile repair, service or parts supply stations; drive-in eating establishments; and vehicle rental, sales and storage. All uses permitted by right are allowed an FAR of 20% for one-story buildings and 35% for two-story buildings.

Warehouse, distribution and storage facilities as well as light industrial uses are conditionally permitted on lots of at least 2 acres, with a maximum FAR of 40% and a building height limit of 44 feet. Noise evaluations and noise-reducing barriers are required for parcels within 200 feet of a residential use or residential zone, and buildings over 100,000 square feet must be designed to support rooftop solar installations in accordance with P.L. 2021, c290.

Continuing care retirement communities (CCRCs) are conditionally permitted on lots of at least 10 acres, with a maximum residential density of 18 units per acre. Residential density calculations include independent living units and assisted living units but exclude memory care and skilled nursing facilities. At least 30% of the residential units must be assisted living units, and at least 10% of the assisted living, memory care and skill nursing facilities must be made affordable to low- and moderate-income households. CCRC buildings are permitted to have a maximum FAR of 15% for one-story buildings, 30% for two-story buildings, and 45% for three story buildings (with a height limit of 40 feet).

The ordinance modifies the PDC requirements in the C-3 Zone. Non-residential developments (excluding CCRCs) must acquire and redeem PDCs at a rate of one-quarter credit per acre developed, including associated improvements. For CCRCs, PDCs are required for 20% of independent living units and assisted living units. Units made affordable to low- and moderate-income households to satisfy the 10% requirement are exempt from the PDC obligation.

The ordinance provides updated regulations for all uses permitted in the C-3 Zone, including permitted accessory uses, area and yard requirements, off-street parking, landscaping, building design, and waste storage. Development in the C-3 Zone must connect to public water and sewer systems. The ordinance also permits multiple principal buildings on a parcel and multiple uses within a principal building provided that the site is owned, managed, and maintained by one entity.

Regional Growth Area Impacts

The changes adopted by Ordinance 2024-15 provide for both a limited expansion of the Township's Regional Growth Area and increased development intensities, including residential development, throughout the C-3 Zone. The Commission has previously certified expansions of Berlin Township's Regional Growth Area on two separate occasions. The purpose of these

expansions was two-fold: to transition existing uses from onsite septic to sanitary sewer and to recognize the scale and intensity of existing development, which was similar to patterns of development in adjacent Regional Growth Areas. In these instances, the Commission exercised caution regarding potential impacts on the Mullica River watershed due to increased water demand arising from the zoning changes. This resulted in the FAR and PDC requirements described above. This also meant that larger undeveloped parcels were excluded from these prior zoning changes.

The new uses permitted in the C-3 Zone are consistent with those allowed by the CMP for Regional Growth Areas. The changes to the FAR and PDC provisions of the C-3 Zone are appropriate because the ordinance requires that development on all lots be connected to both public water and public sewer systems. This requirement prevents the development of individual wells that would draw from the Mullica River watershed. Furthermore, the Master Plan Reexamination Report identifies that public water servicing the C-3 Zone would be serviced by wells in Berlin Borough within the Lower Delaware watershed management area. Wastewater would be conveyed to the Camden County Municipal Utilities Authority (CCMUA). Importantly, the Berlin Borough wells are all located outside of the Pinelands Area. Since the water is sourced from outside the Pinelands Area, the conveyance of wastewater to the CCMUA treatment plant in Camden would not violate the CMP prohibition on exporting water from the Pinelands. Additionally, it is unlikely that further drawdowns from the Berlin Borough wells will impact Pinelands Area resources given their distance from the Pinelands Area border.

While the ordinance allows for increased development intensity in the C-3 Zone, it is important to note that the zone is largely built out, offering limited development opportunities. Currently, there are approximately six privately owned, vacant parcels, including those proposed for rezoning, which total 48 acres. The rezoning of 22.5 acres to the C-3 Zone is appropriate given the availability of suitable infrastructure as described above. The rezoned area spans an area between an existing Regional Growth Area and the Pinelands Area border. Land use patterns adjacent to these parcels have similar uses as what is permitted in the C-3 Zone. It is assumed that these lots were not considered during prior zoning changes due to the concerns over water consumption from the Mullica River watershed, which have since been resolved.

While the expansion of a Regional Growth Area is typically balanced by a reductions in the size of that management area elsewhere in the same municipality, such an offset is neither provided nor feasible because of the limited size and developed nature of the Township's existing Regional Growth Area. Nevertheless, Ordinance 2024-15 establishes requirements for the use of PDCs for all non-residential development in the C-3 Zone. These requirements create the potential for permanent land preservation elsewhere in the Pinelands Area.

Conditionally permitting CCRCs in the C-3 Zone increases the Township's Regional Growth Area residential zoning capacity. Analysis shows that only two vacant parcels meet the 10-acre minimum lot size requirement. Both parcels are part of the proposed rezoning, one totaling 13.5 acres and the other totaling 11 acres, allowing for a combined maximum of 441 independent living and assisted living units. It should be noted that the CMP contemplates assisted living facilities and CCRCs having relatively high densities compared to typical single-family and townhouse developments. While this represents a relatively high residential density, the Commission has previously certified densities of up to 20 units per acre for assisted living facilities in Barnegat and 15 units per acre in Medford Township. As described above, water and sewer infrastructure can be made available to these sites, and the intensity of use is consistent

with other uses in the vicinity. Furthermore, appropriate requirements for the use of Pinelands Development Credits have been included, which is described in further detail in Section 8 below.

Given the facts above, the 2023 Master Plan Reexamination Report and Amendment and Ordinance 2024-15 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

Ordinance 2024-15 amends the Pinelands Development Credit (PDC) provisions within the C-3 Zone, conditionally permitting continuing care retirement communities (CCRCs) at a density of 18 units per acre. CCRCs and assisted living facilities may exceed a density of 8 units per acre in a Regional Growth Area only through the use of PDCs (N.J.A.C. 7:50-5.34(a)2).

The ordinance requires the acquisition and redemption of PDCs for 20% of the independent and assisted living units. Units designated as affordable housing for low- and moderate-income households, satisfying a 10% requirement, are exempt from this obligation. As noted in Section 2, only two vacant parcels in the C-3 Zone, totaling 22.5 acres, meet the lot size requirements for CCRCs. The PDC requirements for CCRCs will provide an opportunity to utilize up to 80 rights (20 PDCs).

The CMP requires Berlin Township to zone lands suitable for residential development at a base density of 2 units per privately held uplands acre, with an opportunity to achieve 3 units per acre

through the use of PDCs. Under the traditional base/bonus density structure, the two vacant lots meeting the CCRC lot size requirements could support the use of up to 23 rights. However, this approach does not guarantee PDC utilization in development. The CMP explicitly allows Pinelands municipalities to implement additional density bonus or incentive programs in Regional Growth Areas, provided these programs do not interfere with or impair PDC requirements (N.J.A.C. 7:50-5.28(a)7i).

In this instance, Berlin Township has chosen to allow CCRCs to be developed at a higher density while ensuring the use of PDCs to achieve these densities. Although the 20% PDC requirement is lower than the 33% required under the traditional approach, it guarantees a PDC redemption rate of 20% if a CCRC is developed in the C-3 Zone. This approach provides greater certainty that PDCs will be utilized in any CCRC development. Therefore, the Executive Director finds the PDC requirements for CCRCs under Ordinance 2024-15 consistent with Comprehensive Management Plan standards.

As described in Section 2, Berlin Township's certified C-3 Zone uniquely allowed developers to use PDCs to intensify non-residential development. While concerns about increased water demand from the Mullica River watershed have been resolved, Ordinance 2024-15 maintains a PDC requirement for non-residential development (excluding CCRCs). The ordinance replaces the base Floor Area Ratio (FAR)/bonus FAR PDC structure with a simplified requirement of one-quarter credit per acre of development, including associated improvements. With approximately six privately owned, vacant parcels totaling 48 acres remaining in the C-3 Zone, there is an opportunity for the use of up to 48 rights (12 PDCs).

Maintaining a PDC requirement for non-residential uses in the C-3 Zone is appropriate, given the limited opportunities for PDC utilization in the Township's Regional Growth Area. Prior to the certification of the C-3 Zone in 1996, Berlin Township was exempted from providing PDC opportunities in its Regional Growth Area due to its unsuitability for residential development and exclusively commercial zoning designation. Since then, the Township has expanded its Regional Growth Area, and the C-3 Zone remains the only area offering opportunities for PDC use.

By moving away from the base FAR/bonus FAR structure, the ordinance simplifies PDC requirement calculations and ensures PDC redemption for non-residential development, even at lower FARs. This provision guarantees that any development on the remaining vacant parcels in the C-3 Zone will require PDCs, including the two larger parcels rezoned under Ordinance 2024-15, which could be developed exclusively for non-residential uses. Without these provisions, the Township's Regional Growth Area could be fully developed without utilizing any PDCs.

This standard for certification is met.

9. Referral of Development Applications to Environmental Commission

Not applicable.

10. General Conformance Requirements

The 2023 Master Plan Reexamination Report and Amendment and Ordinance 2024-15 are 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

The 2023 Master Plan Reexamination Report and Amendment and Ordinance 2024-15 are 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

Berlin Township's C-3 Zone is contiguous with both Berlin Borough and Waterford Township. In each case, the C-3 Zone abuts long-standing non-residential zoning districts: the Planned Highway Business (PHB) District in Waterford Township and the Highway Commercial (PC-3) District in Berlin Borough. The changes in permitted uses and intensity of uses in the C-3 Zone are not anticipated to cause any intermunicipal conflicts. Therefore, this standard for certification is met.

Public Hearing

A public hearing to receive testimony concerning Berlin Township's application for certification of its 2023 Master Plan Reexamination Report and Amendment and Ordinance 2024-15 was duly advertised, noticed and held on January 15, 2025 at 9:30 a.m. Mr. Lanute conducted the hearing, which was held remotely and broadcast 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. No testimony was provided.

Written comments on the 2023 Master Plan Reexamination Report and Amendment and Ordinance 2024-15 were accepted through January 17, 2025. No written comments were received.

Conclusion

Based on the Findings of Fact cited above, the Executive Director has concluded that Berlin Township's 2023 Master Plan Reexamination Report and Amendment and Ordinance 2024-15, 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 the 2023 Master Plan Reexamination Report and Amendment and Ordinance 2024-15 of Berlin Township.

SRG/DBL/CBT
Attachments

Berlin Township Ordinance 2024-15

Executive Director's Report
Berlin Twp. Ord. 2024-15
Exhibit 1
1/22/2025

Pinelands Management Areas

- Rural Development Area
- Regional Growth Area



Rezoned Lots



Berlin Twp Zoning



Berlin Twp Parcels



Pinelands
Wetlands

N



0 500 1,000 2,000
Feet

