

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
January 31, 2025 – 9:30 a.m.

MINUTES

Members in Attendance: Alan W. Avery, Jr., Mark S. Lohbauer, Jessica Rittler Sanchez

Members in Attendance (Zoom): Douglas Wallner

Members Absent: Jerome Irick, Theresa Lettman, Chair Laura E. Matos

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

1. Call to Order

Vice Chair Avery called the meeting to order at 9:33 a.m.

2. Adoption of minutes from the November 22, 2024 CMP Policy & Implementation Committee Meeting

Commissioner Lohbauer moved the adoption of the November 22, 2024 meeting minutes. Commissioner Rittler Sanchez seconded the motion. All Ayes. The motion passed.

3. Review of Executive Director's report on Barnegat Township Ordinance 2024-32 Amending the C-N Zone West of the Parkway

[Attachment A to these minutes](#)

Executive Director (ED) Susan Grogan reviewed the Executive Director's report on Barnegat Township Ordinance 2024-32 amending the C-N (Neighborhood Commercial) Zone West of the Parkway. She explained the ordinance affects a specific portion of the Township's Regional Growth Area (RGA) that has seen significant development in the past five to ten years of both mixed use and residential development. ED Grogan said the ordinance establishes conditional use standards for mixed-use developments that include a Continuing Care Retirement Community (CCRC), assisted living, nursing, convalescent homes, congregate care facilities or long-term care facilities. She said that the Township already conditionally permitted these uses in the C-N Zone West, but the standards were not written in a way that easily allowed for traditional mixed-use development to be developed in conjunction with a CCRC on a single property.

ED Grogan said the ordinance harmonizes and clarifies standards related to things like residential density and Pinelands Development Credits (PDC) requirements. She noted that these new standards would allow for a maximum density of 17 units per acre and would require the

redemption of PDCs for 25% of the apartment units and 20% of independent living and assisted living units associated with the CCRC. She explained that the amendments put forth much easier means of calculating PDC and density requirements for such developments. She also noted that other siting standards and lot size requirements would limit such development to an existing 22.5-acre parcel.

She said that the amendments would lead to an overall reduction in residential zoning capacity by about 68 units, however, PDC potential would increase by about three-quarter credits. She said staff is recommending certification of Ordinance 2024-32 to the full Commission.

Vice Chair Avery opened the floor to questions.

Commissioner Lohbauer said it was a positive development of mixed-use on the site and will potentially benefit seniors in assisted living and CCRC facilities with closer commercial use, reducing car travel. He said it was very forward thinking.

Commissioner Rittler Sanchez agreed and inquired about water supply, wastewater provision and proximity to hospitals.

Vice Chair Avery responded that the Community Medical Center and Southern Ocean Hospital were in close proximity. Regarding water and sewer, he said that Southern Ocean wastewater treatment plant has more than enough capacity and the water supply is sufficient.

Gina Berg, Director of Land Use Programs, added that Barnegat has existing wells and that additional water supply may be available from sources outside the Pinelands.

Vice Chair Avery inquired how much developable land was left in the Regional Growth Area.

ED Grogan said most of the land has been developed or preserved in the Township's Regional Growth Area.

Commissioner Lohbauer moved to recommend certification of Barnegat Township Ordinance 2024-32 to the full Commission. Commissioner Rittler Sanchez seconded the motion. All Ayes. Motion passed.

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
Attachment B to these minutes

ED Susan Grogan presented the 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. She noted that the reexamination report provides several recommendations that are implemented by Ordinance 2024-15. She described the rezoning of approximately 22 acres from the Highway Commercial (C-2RD) Zone to the Regional Commercial Growth (C-3) Zone, which would require a change to the underlying Pinelands management area from a Rural Development Area to a Regional Growth Area. She stated that Township was seeking to bring public sewer to this area.

Ms. Grogan went on to describe how the ordinance amends the district regulations of the C-3 Zone, noting that it provided an updated mix of permitted non-residential uses while also conditionally permitting continuing care retirement communities (CCRC), and light industrial

uses. Warehouse facilities are also changed from a permitted use to a conditionally permitted use. Ms. Grogan said that CCRCs would be permitted on lots of at least 10 acres, with a maximum residential density of 18 units per acre. PDCs would be required for 20% of the independent living units.

She discussed the ordinance's revisions to the PDC requirements in the C-3 zone. She said the ordinance would replace the existing PDC requirement for non-residential uses based on a base/bonus FAR (Floor Area Ratio) structure, with a mandatory PDC requirement of one quarter-credit per acre developed. Ms. Grogan said that it is simpler to calculate and ensures PDC redemption for non-residential development. She further explained that Berlin Township has limited lands within the Pinelands Area and less opportunity for offsetting management area changes so the mandatory PDC obligations provides some measure of offset. She also noted that the ordinance requires all development in the C-3 Zone be connected to public water and sewer systems.

Ms. Berg said the public water that would service this area is sourced from wells located outside of the Pinelands Area and drawdown from those wells is not expected to impact wetlands in the Pinelands Area.

Commissioner Rittler Sanchez inquired what the water use differential was for independent living facilities and continued care facilities versus single family residence.

Ms. Berg said that NJDEP (New Jersey Department of Environmental Protection) regulations on drinking water supply set water use standards. She said Rutgers University has conducted an analysis of water demand by unit type and that study may inform the NJDEP standards.

Commissioner Lohbauer supported the idea and requirement to sewer any development. With regard to the change to PDC calculation per acre, he inquired if it might open the door to development of mid- to high-rise units.

ED Grogan responded that the PDC calculation per acre only applies to non-residential.

Brad Lanute, Chief Planner, added that the ordinance language specifies that any associated improvements including stormwater facilities and parking is counted towards the mandatory non-residential PDC requirement.

Commissioner Lohbauer moved to recommend certification of Berlin Township's Master Plan Reexamination Report and Amendment and Ordinance 2024-15 to the full Commission. Commissioner Wallner seconded the motion. All Ayes. Motion passed.

5. Presentation on Preliminary State Plan

Attachment C to these minutes and posted on the Commission's website at the following address:
https://www.nj.gov/pinelands/home/presentations/2025.01.31_PI_State%20Plan%20Update.pdf

ED Grogan provided background information on the State Development and Redevelopment Plan (State Plan) and the process for revising the State Plan. She noted that the State Planning Commission adopted the Preliminary State Plan in December of 2024, which started the cross-acceptance process. She said that leading up to the adoption of the Preliminary State Plan, Commission staff participated in an interagency work group convened by the Office of Planning Advocacy (OPA) and was provided the opportunity to review and comment on the draft Preliminary Plan prior to its adoption.

ED Grogan said the cross-acceptance process will include many public hearings and will require significant engagement between the OPA, counties and municipalities. She noted that the cross-acceptance process is not required for those municipalities entirely within the Pinelands Area. She highlighted the ten updated planning goals of the Preliminary Plan, including the newly added goals regarding climate change and equity.

She then described how the State Plan treats the Pinelands Area, noting that by law it must rely on the adopted plans and regulations of the Pinelands Comprehensive Management Plan (CMP) for the purposes of planning in the Pinelands Area. She noted that the Preliminary State Plan continues to appropriately acknowledge the Commission's statutory authority for planning in the Pinelands Area.

Ms. Grogan described the State Plan Policy Map, indicating it does not apply to the Pinelands Area. She discussed the existing Memorandum of Agreement (MOA) between the Pinelands Commission and the State Planning Commission, which provides equivalencies between State Planning Areas and designated centers and Pinelands management areas. The purpose of the MOA was to guarantee that lands in the Pinelands were eligible to receive various State benefits offered, such as grant opportunities.

She reviewed the next steps in the State Plan update process and the continuing efforts of the staff in attending the interagency work group, monitoring results of the cross-acceptance process and providing comments as needed. Staff is anticipating seeing drafts of the infrastructure needs assessment and impact assessment later this year and anticipates the final State Plan to be distributed in late fall of 2025.

Commissioner Rittler Sanchez said she was happy to see the climate change goal section added but was disappointed that it was focused on decarbonization and transportation and not local and land use initiatives.

Mr. Lanute said that the OPA passed rule changes to streamline the cross-acceptance process and has created a new manual.

6. 2024 Year-end Conformance Summary Presentation

Attachment D to these minutes and posted on the Commission's website at the following address:
https://www.nj.gov/pinelands/home/presentations/2025.01.31_PI_2024%20Conformance%20Review.pdf

ED Grogan provided an overview of the local conformance process, noting that it is a requirement of the Pinelands Protection Act that all counties and municipalities within the Pinelands Area update their master plans and land use ordinances to align with the objectives and standards of the CMP. She described the actions that municipalities had to take to attain initial certification, noting that as of 2013 all 53 Pinelands municipalities and seven Pinelands counties are certified as being in conformance with the CMP.

ED Grogan described the conformance process as an ongoing process. She provided examples of things that often trigger municipalities to amend their master plans and ordinances as well as common ordinance amendments and master plan updates that are submitted to the Commission for review. She explained the Commission process for reviewing submissions, describing those amendments that require formal review by the full Commission and those that can be handled administratively by Staff.

ED Grogan described the trends in master plans and ordinances reviewed and approved between 1981 and 2024.

Commissioner Rittler Sanchez inquired about the use of conditional certifications.

ED Grogan explained that conditional certifications are issued when a municipal ordinance is close to meeting requirements, but changes are still needed. She reviewed the process and timeline for conditional certification and remarked that they were more common in earlier years while towns were still seeking initial certification.

She said that there has been a decrease in the number of ordinances requiring the review of the full Commission, stating that this was in part due to staff working closely with municipalities to address questions and concerns prior to their submission as well as towns being more aware of the standards needed to be met.

Mr. Lanute added that spikes in the number of ordinances within a year are generally associated with CMP amendments and state legislation requiring municipal responses with ordinance amendments.

Vice Chair Avery remarked regarding the waiver process in earlier years and the significant impact on development that was resolved by the Commission.

ED Grogan reviewed 2024 trends and reiterated increased conformance activity reflecting responses to recent CMP amendments as well as other changes to state regulations and legislation. She highlighted Hamilton Township and Manchester Township's Redevelopment Plans that were reviewed by the full Commission. She also highlighted trends in ordinances that staff was able to review administratively, including those related to tree removal and replacement, solar energy standards, redevelopment plans related to warehouse development, cannabis regulations and various NJDEP changes, including salt storage facilities.

Commissioner Lohbauer remarked regarding reports on the impact of winter road salt application and salt storage facilities to water contamination. He suggested the Commission consider looking at CMP standards regarding the topic.

ED Grogan said the Commission's regulations generally apply to development and that the Commission's involvement would be for things like the construction of a salt storage facility. The NJDEP's MS4 permit program generally addresses the roadway application of salt.

Stacey Roth, Chief of Legal and Legislative Affairs, suggested NJDOT (New Jersey Department of Transportation) involvement on roadway application.

Executive Director Grogan reviewed the issues that will likely impact conformance review in 2025, including the 4th Round Affordable Housing, redevelopment plans for solar, landfill and warehouse development and pending legislation addressing accessory dwelling units (ADUs) and reuse of malls and office parks.

Mr. Lanute said that the pending legislation would allow office parks and malls that reach certain vacancy rates to be redeveloped as residential units, if the overall square footage is not expanded. He also noted that the pending ADU legislation requires the Department of Community Affairs (DCA) to publish model ordinances that must be adopted by New Jersey municipalities. He said that if the law is passed, Commission staff would engage with DCA to ensure that model ordinances distributed to Pinelands municipalities were consistent with the CMP.

Vice Chair Avery opened the floor to questions.

Commissioner Rittler Sanchez remarked on the discussion of road salt and said water samples will show that the salt may hold and release throughout the year, and she inquired on any standards developed.

Ms. Berg said that the MS4 permit addresses salt requirements, including roads and sidewalks at large multi-building campuses and that Rutgers had looked at identifying where salt was causing water quality impairment.

ED Grogan said the Commission can look at those requirements to discuss what is already in place in stormwater regulations.

Vice Chair Avery said the topic is a widespread discussion in the northeast.

Commission Rittler Sanchez said hot sand is used in some locations.

Vice Chair Avery expressed his concern regarding the large piles of stored salt that remain in parking lots during the post storm season, until it deteriorates.

7. Public Comment

Heidi Yeh of the Pinelands Preservation Alliance expressed support for continuing discussion of climate change topics at P&I meetings. She suggested an external advisory committee, as well as partnering with college and university student climate track internship programs.

Ms. Roth responded regarding internships and suggested caution in assigning responsibilities that take away from paid staff roles.

Ms. Yeh, on the topic of road salt, said that the EPA (U.S. Environmental Protection Agency) recommends calcium chloride for use as an alternative in vulnerable areas and suggested comparison on how Pinelands Commission reviews herbicide use.

Commissioner Lohbauer thanked Ms. Yeh for her comments and said he supported student internships and mentioned Rider University undergraduate student internships.

ED Grogan commented that student internships require staff time to manage and are most beneficial if assigned to a specific project in a short time frame. She said the Commission has applied for a summer intern for this year. She noted the Rutgers program is successful and the Commission is happy to educate students on our work.

In response to the road salt comments, Chief Scientist John Bunnell noted that recent stream monitoring has shown an increase in specific conductance and pH due to salt. He added that it also impacts amphibian breeding. Mr. Bunnell said water quality monitoring occurs between April and October and road salt impacts water quality beyond the winter season.

Vice Chair Avery noted increased use of brine as a pre-emptive attempt at road safety. He also thanked Alexis Franklin with the Governor's Authorities Unit for her attendance.

There being no further comments, Vice Chair Avery closed public comment.

8. Adjournment

There being no other business, Commissioner Lohbauer moved to adjourn the meeting. Commissioner Rittler Sanchez seconded the motion. All voted in favor. The meeting was adjourned at 11:08 a.m.

Certified as true and correct:

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

Lori Friddell
Land Use Programs Technical Assistant

Date: February 7, 2025



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 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

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

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

Pinelands Management Areas

Regional Growth Area

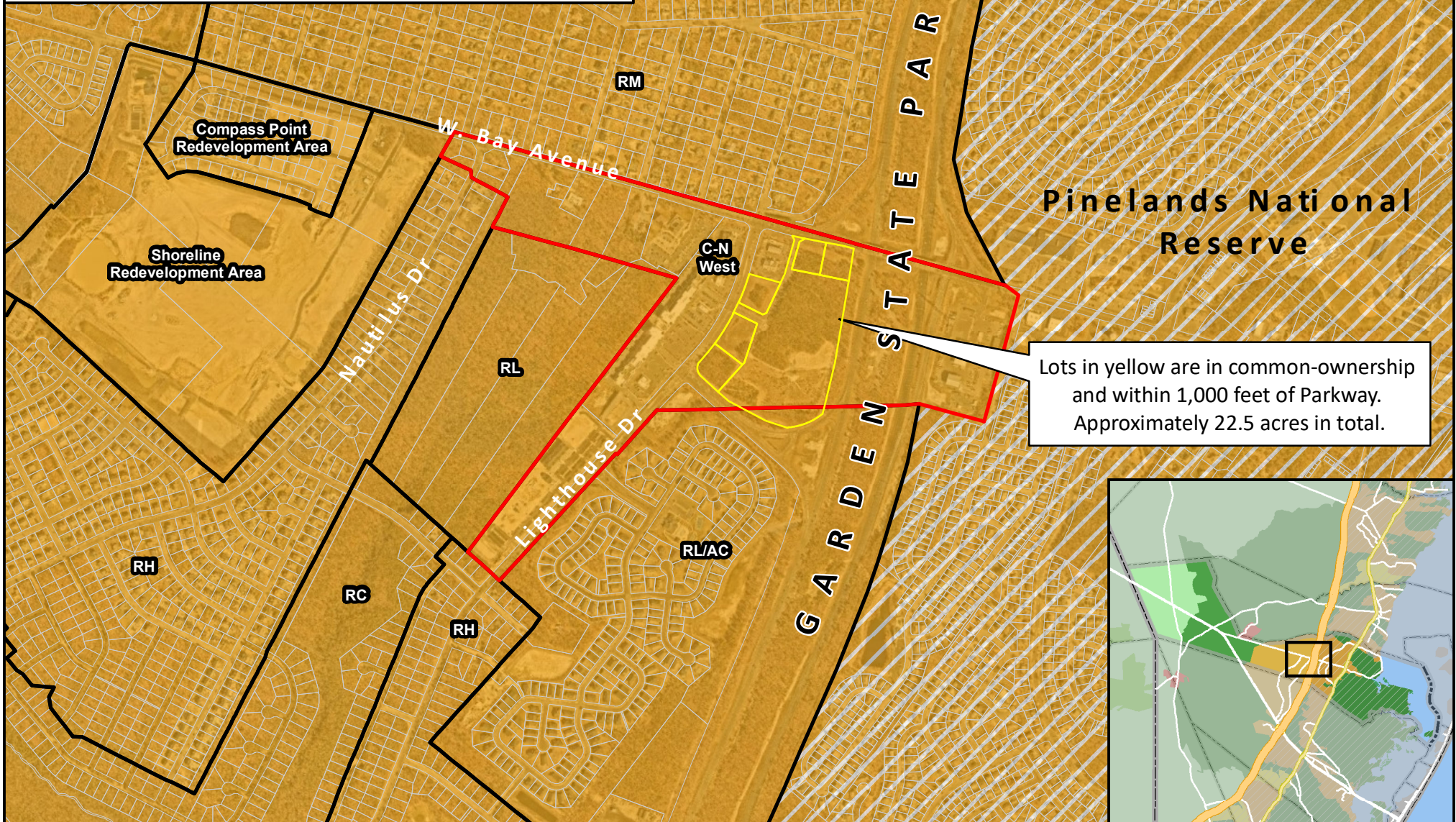


Parcels



Existing Zoning

0 0.25 0.5 Miles





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



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.

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

