



PDC PROGRAM DISCUSSION: OPPORTUNITIES FOR USE OF PDCS WITH NON-RESIDENTIAL DEVELOPMENT

**Pinelands Commission
Policy & Implementation Committee
9/30/2022**

WAREHOUSE DEMANDS REACH REGIONAL GROWTH AREAS

- Pinelands municipalities are fielding many warehouse development proposals
- Developers are targeting tracts of land with access to highways to site large (1/2 million sqft+) warehouses
- Municipalities are interested in the tax ratables and associated economic development impacts; expect that residents will have similar concerns as seen statewide
- Multiple Pinelands municipalities are actively considering zoning changes to allow warehouse development via redevelopment plans



A PATTERN EMERGES IN RESPONSE

- Warehouse proposals for sites in residentially zoned RGAs with existing, mandatory PDC requirements
- Without a zoning change, the CMP imposes a large PDC obligation through a use variance
- Rezoning vacant land from residential to non-residential within the RGA has barriers based on CMP rules
- Opportunities to transfer residential development potential to other lands in a municipality's RGA have become more limited over time



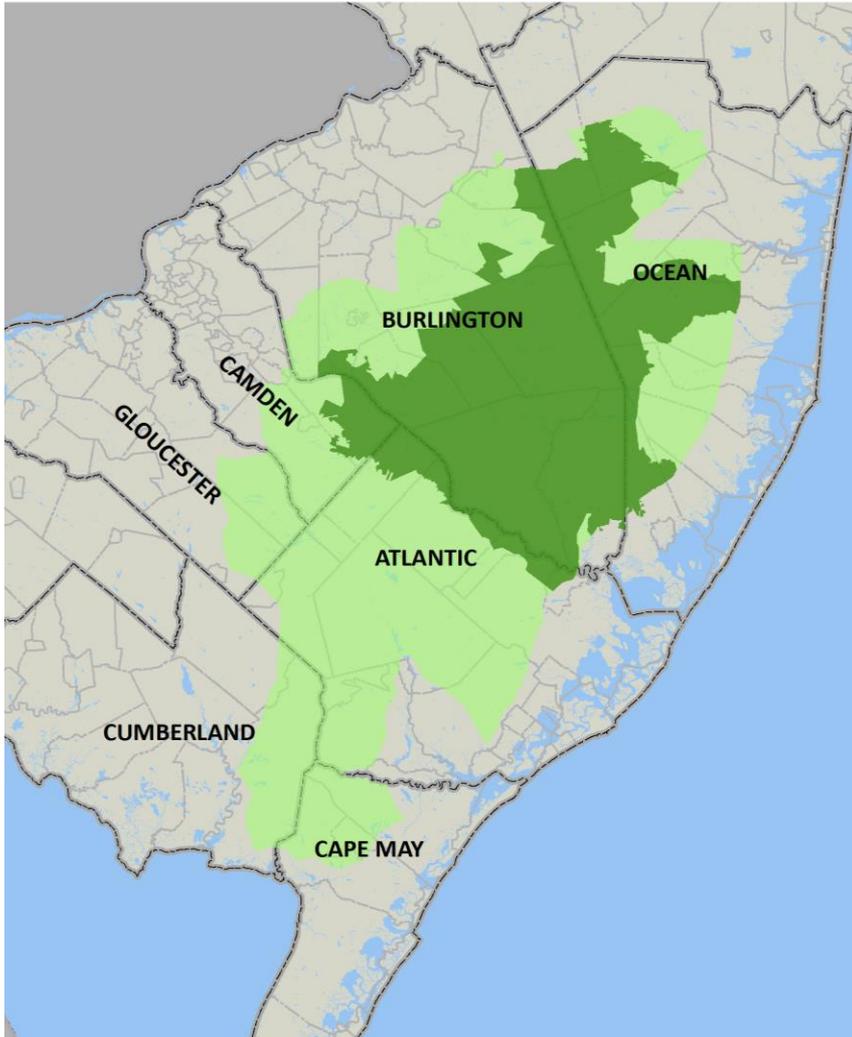
DISCUSSION FOCUS

- **Purpose:** Multiple municipalities are seeking guidance from the Commission on acceptable rezoning approaches to facilitate development of large non-residential uses in Regional Growth Areas.
- **Primary Question:** Do the CMP's municipal flexibility provisions provide the Commission with the ability to certify municipal ordinances that effectively transfer PDC requirements from residential to non-residential uses?
- **Secondary Question:** Are there other regional warehouse development impacts that should be taken into consideration?





**BACKGROUND:
REGIONAL GROWTH AREA PLANNING**



PINELANDS PROTECTION ACT

- Established the Pinelands Area
- Divides it further between the Preservation Area and the Protection Area
- Each area has a separate set of goals established in the Act

= Preservation Area
 = Protection Area

	Acres	Counties	Municipalities
Pinelands Area	934,000	7	53
Preservation Area	368,000	4	25
Protection Area	566,000	7	51



PINELANDS PROTECTION ACT: PROTECTION AREA GOALS

- Preserve and maintain the essential character of the existing pinelands environment, including the plant and animal species indigenous thereto and the habitat therefor
- Protect and maintain the quality of surface and ground waters
- Promote the continuation and expansion of agricultural and horticultural uses
- Discourage piecemeal and scattered development
- **Encourage appropriate patterns of compatible residential, commercial and industrial development, in or adjacent to areas already utilized for such purposes, in order to accommodate regional growth influences in an orderly way while protecting the pinelands environment from the individual and cumulative adverse impacts thereof**

PINELANDS CMP - PINELANDS MANAGEMENT AREAS

Both the Federal and State legislation called for a land capability map. The original CMP established a variety of management areas to meet the goals of the Preservation and Protection Areas.

Preservation Area

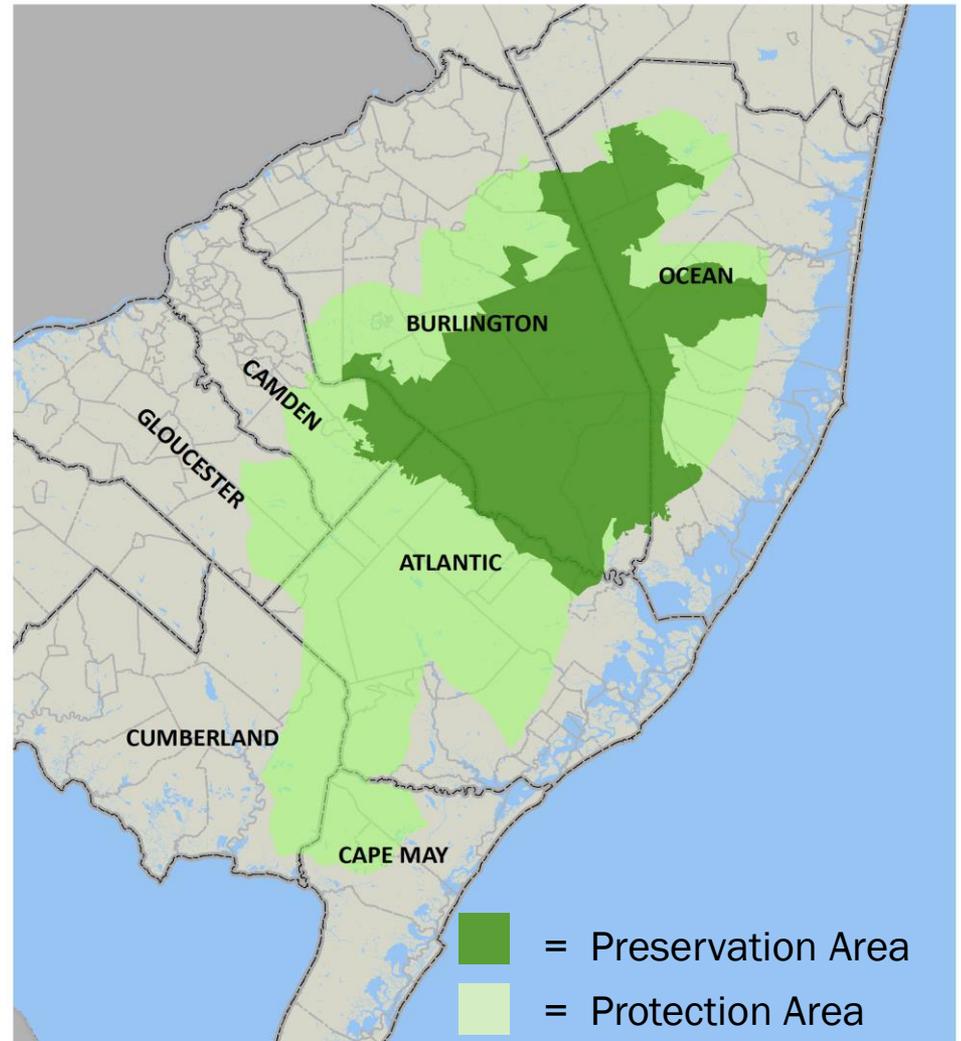
- Preservation Area District
- Special Agricultural Production Area

Protection Area

- Forest Areas
- Rural Development Areas
- Pinelands Towns
- Regional Growth Areas

Both

- Military and Federal Installation Areas
- Pinelands Villages
- Agricultural Production Area

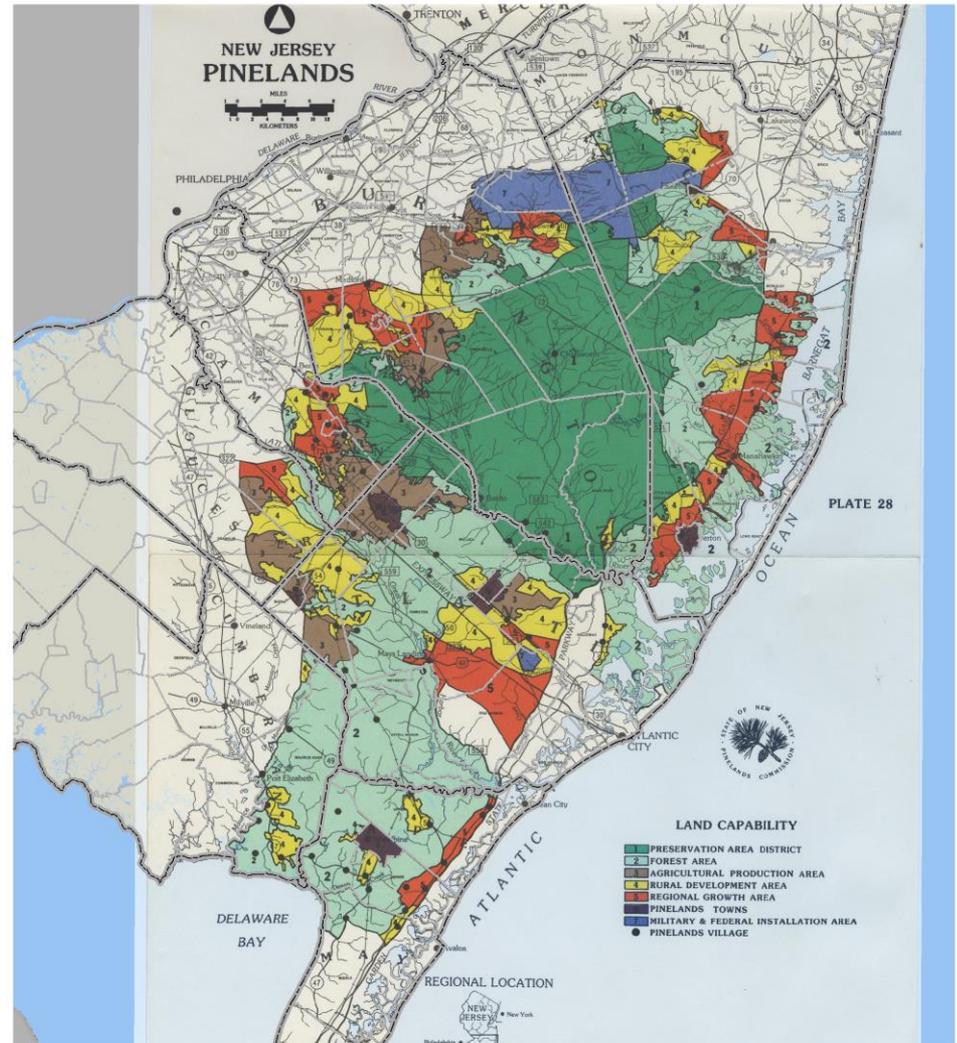


ORIGINAL LAND CAPABILITY MAP

Volume I of the CMP established criteria for mapping the management areas based on environmental characteristics and existing land uses

-  = Preservation Area District
-  = Forest Area
-  = Agricultural Production Area
-  = Rural Development Area
-  = Regional Growth Area
-  = Pinelands Towns
-  = Military and Federal Installation Areas

Note: Villages and Special Ag Areas were not delineated on the original map



THE PURPOSE OF REGIONAL GROWTH AREAS – ENCOURAGING APPROPRIATE PATTERNS OF DEVELOPMENT

- Regional Growth Areas were established to meet the legislative mandate to:
 - *encourage appropriate patterns of compatible residential, commercial and industrial development, in or adjacent to areas already utilized for such purposes, in order to accommodate regional growth influences in an orderly way while protecting the pinelands environment from the individual and cumulative adverse impacts thereof*
- Volume I of the CMP defined Regional Growth Areas as those land areas which are:
 - In or adjacent to existing developed areas;
 - Experiencing growth demands and pressure for development; and
 - Capable of accommodating development without jeopardizing the most critical elements of the Pinelands environment

THE PURPOSE OF REGIONAL GROWTH AREAS – PDC PROGRAM RECEIVING AREA

- The PDC program was established to provide an alternative use to property owners in the PAD, SAPA, and APA management areas, where development was greatly restricted.
- PDCs provided a mechanism for landowners in these restrictive areas to benefit from the expected increase in land values in Regional Growth Areas.
- Regional Growth Areas are the only receiving area for Pinelands Development Credits.

CMP REQUIREMENTS IN REGIONAL GROWTH AREAS

- The CMP permits “any use” in a RGA. Therefore, permitted uses are generally at the discretion of the municipality, provided that:
 - Developable lands are zoned to authorize the CMP prescribed base residential density specific to that municipality (CMP ranges between 1 and 3.5 du/acre)
 - Opportunities to achieve bonus density via PDCs must also be provided in the zoning such that the base residential density can be exceeded by at least 50%
- Developable land is defined as privately held, non-wetlands, with a DTSH water table of at least 5’ (or 1.5’ in sewered areas)
- Developable land may exclude lands which are zoned exclusively for commercial or industrial use, predominantly developed as such, and which otherwise form a part of a reasonable balance between industrial or commercial zoned property and residential zoned lands.

HOW MUNICIPALITIES INITIALLY RESPONDED - AN EXAMPLE

Pitch Pine Township (*hypothetical municipality*)

- CMP Prescribed Base Density: 2 du/acre
- Township evaluated existing uses and developable land and proposed the zoning plan below for its RGA
- The process involved various adjustments to zoning boundaries and zone densities to meet the density and PDC requirements of the CMP

Zone	Total Acres	Developable Acres	Residential Base Density	Residential Bonus Density	Base Units Authorized	Bonus Units Authorized
Industrial (I)	200	-	N/A	N/A	-	-
Highway Commercial (HC)	300	-	N/A	N/A	-	-
Residential (R-1)	300	250	1 du/acre	N/A	250	0
Residential (R-2)	600	500	2 du/acre	1 du/acre	1,000	500
Residential (R-3)	500	250	3 du/acre	2 du/acre	750	500
Total	1,900	1,000			2,000	1,000

ONGOING ZONING CHANGES IN RGAS

- Pinelands municipalities engage in on-going planning activities
- RGAs tend to have relatively more zoning changes given the greater flexibility provided by the CMP and their ability to accommodate changing development pressures
- Zoning changes in RGAs that raise no substantial issues:
 - Boundary changes to recognize existing uses and lot sizes
 - Changes in permitted uses within non-residential districts
- Zoning changes in RGAs that raise substantial issues and are often challenging
 - Revisions to permitted densities within residential districts (either increases or decreases)
 - Rezoning lands from residential to non-residential districts (or vice versa)

THE CMP'S MUNICIPAL FLEXIBILITY PROVISION AND THE EVOLUTION OF PDC REQUIREMENTS

- “It is the policy of this Plan to allow municipalities the greatest degree of flexibility and discretion in the preparation of local plans and ordinances so long as the plans and ordinances do not conflict with the ultimate objectives and minimum requirements of this Plan.”
- In the mid-2000's, municipalities began proposing rezonings to accommodate higher density residential projects in their RGAs, often to facilitate a wider variety of housing types, affordable housing, mixed use development and site-specific redevelopment plans. Utilizing the CMP's municipal flexibility provisions, the Commission was able to certify these ordinances, provided they included mandatory PDC requirements for residential development as opposed to the traditional base/bonus system.
- The incorporation of mandatory PDC requirements has significantly improved the functioning of the PDC Program by increasing demand. Of the 216.75 PDCs redeemed between January 2015 and September 2022, nearly half were used for projects where a mandatory PDC requirement was in effect.

REVISITING TODAY'S CHALLENGE

- Warehouse proposals for sites in residentially zoned RGAs with existing, mandatory PDC requirements
- Without a zoning change, the CMP imposes a large PDC obligation through a use variance
- Rezoning vacant RGA land from residential to non-residential has barriers based on CMP rules
- Opportunities to transfer residential development potential to other lands in a municipality's RGA have become more limited over time





**AN APPROACH FOR PDC USE IN RGA
NON-RESIDENTIAL DEVELOPMENT**

PDC USE IN RGA NON-RESIDENTIAL DEVELOPMENT

A POTENTIAL APPROACH

- Drawing upon CMP's municipal flexibility provisions
 - Allow municipalities to meet their PDC obligations by adopting mandatory PDC requirements for non-residential uses
 - Precedent: Berlin Township & (formerly) Winslow Township - Bonus FAR achieved via PDC use
 - Allow reduction in authorized residential units in municipal RGAs where overall residential zoning capacity exceeds CMP base/bonus density minimum
 - Many RGA municipalities have been opting to increase RGA residential density above the required CMP minimum. Mandatory PDC requirements were incorporated in these zoning plans to accommodate affordable housing and ensure redemption of PDCs.
 - A municipality should be given the flexibility to reduce residential zoning capacity so long as the CMP minimum continues to be met
- Calculate PDC obligation required by the CMP for lands being rezoned and assign that obligation to the newly permitted non-residential uses

A HYPOTHETICAL EXAMPLE

- 50-acre site in an existing residential RGA zone that permits a maximum density of 6 units/acre with a 25% mandatory PDC requirement.
- The municipality wants to rezone the site to non-residential via a redevelopment plan.
- Offsetting lands are limited in the municipality's RGA.

A HYPOTHETICAL EXAMPLE

- **Step 1:** Determine whether the municipality is eligible for a reduction in residential density in their RGA
 - For this hypothetical municipality, the CMP requires 2 units/acre base density + 1 unit/acre bonus with PDC use
 - An analysis of Township's RGA shows that the remainder of the zoning plan authorizes units in excess of the CMP's mandatory minimum density requirements

A HYPOTHETICAL EXAMPLE

- **Step 2:** Determine the PDC obligation to be transferred:
 - Under the CMP's minimum residential zoning requirements, the 50-acre area would need to be zoned for 2 units/acre base (100 units) and 1 unit/acre bonus (50 units) for a total of 150 units
 - Minimum PDC obligation of 50 rights (12.50 PDCs) would be transferred to the non-residential use
 - Redevelopment plan would authorize up to 1,000,000 million square feet of non-residential floor area
 - A mandatory PDC requirement of 1 right for every 20,000 sqft of proposed non-residential floor area would be applied (~1 million sqft/50 rights)