

ORDINANCE NO. 2013 -11-OA

AN ORDINANCE OF THE TOWNSHIP OF BERKELEY, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING THE TOWNSHIP CODE OF THE TOWNSHIP OF BERKELEY, SO AS TO CREATE ARTICLE XX, ENTITLED "VOLUNTARY TDR PROGRAM" OF CHAPTER XXXV, ENTITLED "LAND DEVELOPMENT"

February 25, 2013

BE IT ORDAINED by the Mayor and Township Council of the Township of Berkeley, County of Ocean, and State of New Jersey, as follows:

SECTION 1. Chapter XXXV of the Township Code of the Township of Berkeley, entitled "Land Development," is hereby amended so as to create Article XX entitled "Voluntary TDR Program" which shall read as follows:

ARTICLE XX Voluntary TDR Program

§ 35-172. Allocation and transfer of developments rights.

A. Generally. This section sets forth the eligibility standards and credit allocations made of development potential to various parcels of land within the Township of Berkeley and is authorized pursuant to N.J.S.A. 40:55D-113 et seq. and the TDR Development Transfer Plan Element of the Master Plan of Berkeley Township.

B. Definitions.

ADMINISTRATIVE OFFICER - The Township Clerk or a designee for all applications or the Planning Board Secretary for all administrative and procedural requirements once applications are before the Planning Board.

EASEMENT - A right to use the land of another for a specific purpose.

DEVELOPMENT CREDIT - A unit of development measuring the intensity of use allowed within a geographic area of the community.

DEVELOPMENT POTENTIAL - The maximum number of dwelling units or square feet of nonresidential floor area that may be constructed on a specified lot or in a specified zone under the master plan and land use regulations in effect on the date of adoption of the development transfer ordinance and in accordance with recognized environmental constraints.

DEVELOPMENT TRANSFER – The conveyance of development potential, or the permission for development, from one or more lots to one or more other lots by deed, easement, or other means as authorized by ordinance adopted pursuant to law.

DISENROLLMENT – The removal of a property in a designated Sending or Receiving Area from enrollment in the TDR Program and restrictions associated with recorded easements through the procedures established in §35-177C(2) of this Ordinance.

REASSIGNMENT – The transfer of development credits from a receiving parcel back to the sending parcel from which they were purchased in accordance with the procedures established in §35-177C(1) of this Ordinance.

C. Program eligibility. A parcel's eligibility for inclusion under the TDR program is described in the Real Estate Market Analysis prepared by Urban Partners dated November 16, 2012 and approved by the Planning Board on December 6, 2012, which is attached to this chapter and made a part of it by reference.

D. Minimum eligibility criteria. The minimum eligibility criteria for participation in the TDR program are:

(1) Sending area. A primary purpose of the Berkeley TDR program is to conserve the remaining predominantly forested upland and wetland resources of the Pinewald section of the Township. Accordingly, the program criteria for participating in the sending area are as follows:

(a) The parcel is located within one of the Sending Areas indicated on Map 1 and Maps 5 through 9 of the TDR Development Transfer Plan Element of the Berkeley Township Master Plan adopted December 6, 2012 .

[1] Parcels identified as being in a Sending Area on Map 1 and Maps 5 through 9 of the TDR Development Transfer Plan Element of the Township of Berkeley Master Plan may be increased in size to support additional wildlife habitat on the property without eliminating the parcels' eligibility for credits. Additional credits for the lands added which have not been enrolled prior to their addition to an existing lot may be obtained by following the credit allocation appeal process outlined in § 35-174 below.

[2] Parcels which have not been enrolled within the TDR program may be decreased in size to support the use of a portion of the

property for facilities needed for local ("utility portion") without eliminating the eligibility for credits of the remaining parcel ("remainder") so long as the remainder is enrolled in the TDR program within 90 days of the date the utility use is approved by the Planning Board. The number of credits assigned to the remainder shall be established by deducting from the total credits originally assigned to the entire parcel that number of credits assigned to the utility portion by following the credit allocation appeal process outlined in § 35-174 below, provided that there shall be a minimum loss of one credit in any such situation. The term "local or regional utility service" shall include only utility companies which enjoy the power of eminent domain.

(b) The property which shall become the subject of the deed of easement, restriction and enrollment shall contain general reservation language for future rights-of-way and easement areas that may be needed for county and municipal infrastructure improvements, such as future road and drainage improvements, which areas shall be exempted from the restriction against future development required under this chapter.

(c) Since as a condition to participation within the TDR program the land enrolled must be deed restricted, any site which has been developed for uses inconsistent with these deed restrictions shall be deemed ineligible to participate in the program.

(2) Receiving area. The only criteria for participating in a receiving area is that the parcel is located within the boundaries of a receiving area as amended and as identified on Map 1 and Maps 10 through 13 of the TDR Development Transfer Plan Element, Berkeley Township Master Plan, adopted December 6, 2012. Should the Approving Authority grant a use variance increasing the development potential of a parcel not in the receiving area by more than 5%, that parcel shall constitute a receiving area and the provisions of this chapter for parcels in the receiving area shall apply with respect to the development potential required to implement that variance.

§ 35-173. Credit allocation.

A. General principals.

(1) Pursuant to N.J.S.A. 40:55D-114, a TDR program must seek to transfer the development potential from areas where preservation is most appropriate to areas where growth can be better accommodated and maximized.

(2) Pursuant to N.J.S.A. 40:55D-115, "development potential" is defined as "the maximum number of dwelling units or square feet of nonresidential floor area that could be constructed on a specified lot or in a specified zone under the Master Plan and land use regulations in effect on the date of the adoption of the development transfer ordinance and in accordance with recognized environmental constraints." Therefore, the Berkeley Township TDR credit allocation formula seeks to closely estimate the number of dwelling units which could have been built on each eligible parcel given the base zoning density as set forth for the respective zoning districts and regulated under Chapter 35 of the Berkeley Township Land Development Ordinance.

(3) The pre-existing lot pattern within the five Sending Areas, which consist of a network of paper streets and very small "newspaper subscription" lots (50' x 100' or 50' x 150' lots created in the early decades of the 20th Century, many of which were given away with newspaper subscriptions, will act as the basis upon which transferable development rights (TDR's) or credits are allocated.

B. Credit Allocation Formula

(1) Generally, one development credit will be equivalent to the proportional improvement value of a standard single-family home on a conforming building lot. Lots that are smaller in size than a conforming buildable lot in the same zoning district will have a percentage of a Development Credit based on the relative size of the lot to a conforming lot.

Sample Sending Parcel Calculation

Residential Property

Parcel Size = 15,000 square feet (approx. 1/3 acre)

Base Zoning = R150 (max density = 3 dwelling units per acre)

TDR Credit Calculation: $1/3 \times 3 = 1$ unit

Rural Highway Business (RHB) Property

Parcel Size = 100,000 square feet

TDR Credit Calculation: $100,000 / 15,000$ sq ft per Credit = 6.6 units.

(2) The product of the above formula is then rounded up to the nearest one-hundredth of a credit to equal the TDR credit allocation.

C. Procedure. Upon the adoption of this chapter, the Township Clerk shall file with the County Recording Office a copy of the allocation plan and Zoning Map showing graphically the location of the township's sending and receiving areas. A change in the credit allocation made by the

allocation plan by appeal, assignment or transfer to be effective must similarly be recorded in the County Recording Office.

§ 35-174. Credit allocation appeal process.

A. Purpose. Any landowner eligible for participation in a TDR program who is dissatisfied with their credit allocation may appeal their allocation in accordance with the procedures set forth below.

B. Timing. Any appeal of a credit allocation must occur prior to the recording of a TDR easement. Once a property is restricted through the recording of the TDR easement, the opportunity for an allocation appeal is lost and the parcel's owner shall be irrefutably presumed to have elected to accept the allocation given as an appropriate measure of the development potential of the parcel.

C. Procedure. The basis of the credit allocation appeal shall be the availability of more detailed information, such as a valid Letter Of Interpretation (LOI) issued by the NJDEP, that results in a higher development potential of a specific property than was determined in the allocation plan.

§ 35-175. Steps in credit allocation appeal process.

A. Notice of appeal. The parcel owner shall submit a properly completed notice of appeal and required application and review fees to the Planning Board Secretary. The notice on forms approved by the Township Planning Board shall include the following information:

- (1) Date of appeal.
- (2) Name(s) and mailing address(es) of all property owners.
- (3) Copy of the latest deed to the property.
- (4) Block and lot number(s) of parcel(s).
- (5) Acreage of parcel(s) pursuant to Tax Map or property survey.
- (6) Number of TDR credits allocated to the parcel(s) pursuant to the allocation plan.
- (7) Number of TDR credits the landowner is requesting as yielded under the appeal provided.
- (8) Supporting documentation which fulfills the requirements set forth in § 35-174C above.
- (9) Signature of all property owners.

B. Review by Planning Board Engineer. The Planning Board Secretary shall forward the notice of appeal and all related information to the Planning Board Engineer. The Engineer shall review the submission for

accuracy and compliance with the requirements set forth herein. The Engineer will advise the Planning Board of his findings.

C. Planning board action.

(1) The Planning Board at a regular or special meeting shall, after giving due consideration to the Engineer's report and any additional information which the parcel owner or others wish to submit, grant the appeal if the parcel owner's proof demonstrates that the parcel on the date of this section's adoption had a development potential stated in credits greater than that originally allocated. Otherwise the application should be denied. Public notice of the meeting shall not be required.

(2) The Planning Board shall take action on the appeal if all required documents are submitted within 120 days of receipt of the notice of appeal by the Planning Board Secretary, unless this time period is extended by the applicant.

(3) Should the Planning Board approve the appeal, it will so direct the Secretary to amend the allocation plan to reflect the number of credits approved.

§ 35-176. TDR creation, transfer and use.

1. A landowner seeking to enroll land within the TDR program and thus create credits, which may thereafter be transferred, shall conform to the following procedures:

A. The landowner, on forms authorized by the Planning Board and obtained from the Township Clerk, shall submit to the administrative officer:

(1) One original and two copies of the fully completed enrollment application;

(2) Review fees;

(3) One original and two copies of the TDR easement containing general reservation language for future rights-of-way and easement areas that may be needed for state, county and municipal infrastructure, including but not limited to future roadways and drainage improvements, which areas shall be exempted from the restrictions against future development required under this chapter; and

(4) Clear proof of title.

B. The administrative office shall, within 45 days of receipt, determine that the application:

(1) Accurately specifies the number of TDR credits available to the parcel;

- (2) Covers a parcel of land eligible for inclusion with the TDR program;
- (3) Accurately sets forth the block and lot description of the parcel seeking enrollment;
- (4) Reserves sufficient credits for the existing and proposed uses on the site; and
- (5) Contains all other information required by the enrollment form.

C. The administrative officer, upon receipt, shall forward to the Township Attorney for review:

- (1) One copy of the enrollment application;
- (2) The original and one copy of the TDR easement;
- (3) Clear proof of title;
- (4) A copy of each of the foregoing documents shall be sent by the administrative officer to the Ocean County Planning Board for that Board to determine the nature and extent of any areas which should be withheld from the easement for future infrastructure purposes. The County Planning Board shall have 14 days within receipt of the required documentation to advise the administrative officer and Township Attorney of its concerns and comments.

D. The Township Attorney shall determine within 14 days of receipt of any County Planning Board concerns that:

- (1) The TDR easement is in a proper legal form for recording in the County Clerk's office; and
- (2) The applicant for enrollment holds legal title clear of any encumbrances to the parcel or that the holder of any lien, mortgage or other interest has agreed in writing to subordinate their interest in the parcel to the public interests set forth in the TDR easement.

E. Upon determining the facts set forth in Subsection D1 above, the Township Attorney shall certify to these facts by:

- (1) Signing the TDR easement at a space provided; and
- (2) Returning the original TDR easement to the administrative officer for processing.

F. Upon return of the original TDR easement signed by the Township Attorney, the administrative officer shall:

- (1) Assign serial numbers to each TDR credit sought to be created;
- (2) Sign the TDR easement form, certifying that the application procedures required by this chapter have been followed and that, upon proper recording of the TDR easement, the parcel will contain the number

of transferable credits specified within the certification, provided that the TDR easement is recorded within 90 days from the date that the certification is signed. If unrecorded, the enrollment shall be null and void, and the landowner must reapply; and

(3) Return the original and signed TDR easement to the landowner for recording in the book of deeds in the office of the Ocean County Clerk.

G. If the administrative officer or Planning Board Planner fail to act within the time periods specified, unless these time periods are extended by the applicant, the application shall be deemed denied.

H. The landowner, upon recording the TDR easement with the county, shall file proof of the recording with the administrative officer prior to the approval of any transfer of any credit created under the easement.

I. Upon receipt of proof that a TDR easement has been recorded, the administrative officer shall:

(1) Record the fact of recordation upon the records of the township. This record shall include the Clerk's assigned book and page of recording; and

(2) Forward a copy of the recorded TDR easement to the Planning Board for its information.

(3) Forward recorded easement and credit enrollment information to the New Jersey State TDR Bank on forms provided by the Bank within 10 business days of receipt of proof of easement recording.

J. The landowner shall be responsible for all costs associated with the review of the enrollment application, including professional fees authorized by the Land Development Ordinance.

K. The administrative officer shall act on all applications submitted in the order in which they are submitted.

2. TDR credit assignment. A landowner or subsequent credit holder (Assignor) against whose land a TDR easement has been recorded may assign any of the credits created through the use of the following procedures:

A. The Assignor, on forms authorized by the Planning Board and obtained from the Township Clerk, shall submit to the administrative officer for review:

- (1) One original and two copies of the application for assignment;
- (2) One original and two copies of the proposed assignment; and
- (3) Appropriate review fees.

B. The administrative officer, within 45 days, shall determine that the application:

- (1) Contains all of the information required by the form;
- (2) Seeks to assign no more than the maximum number of credits available and not already assigned or extinguished;
- (3) Provides the recording information about the TDR easement;
- (4) Accurately reflects the information contained in it; and
- (5) Reflects that no material change in the title of the credit has occurred since the TDR easement was recorded.

C. Upon determination by the administrative officer that the application and supporting documentation establishes the criteria set forth in Subsection B above, the application shall be referred to the Township Attorney for review and determination that the Assignment is ready for recording.

D. Upon receipt of a determination by the Township Attorney that the Assignment is ready to be recorded, the administrative officer shall sign the Assignment, certifying that upon recording the Assignment will transfer the number of credits contained within it to the party named. If the Assignment is not recorded within 90 days of the date that the certification is signed, unless this time period is extended by the applicant, the Assignment shall be null and void.

E. If the administrative officer fails to act within the time period provided, the application shall be deemed denied.

F. Upon signing, the assignment shall be returned to the Assignor for recording in the book of deeds in the office of the Ocean County Clerk.

G. The assignee of the credits shall, upon filing of the assignment, file proof of recording with the administrative officer prior to the approval of any credit use.

H. Upon receipt of proof that the assignment has been recorded, the administrative officer shall:

(1) Record the fact of recordation upon the records of the township. The record shall include the Clerk's assigned book and page of recording; and

(2) Forward a copy of the recorded assignment to the Planning Board for its information;

(3) Forward recorded Assignment and assignment information to the New Jersey State TDR Bank on forms provided by the Bank within 10 business days of receipt of proof of easement recording.

I. An Assignor shall be responsible for all costs associated with the review of the assignment application, including professional fees authorized by the Land Development Ordinance;

J. The administrative officer shall act on all applications in the order in which they are received.

3. TDR credit use; extinguishment. An owner or developer of land located within the receiving area may utilize credits held by a landowner of land located within a sending area or his assigns to increase the number of units that may be developed by utilizing the following procedures:

A. The owner/developer of land within the receiving area must first obtain final approval for the development of a project within the receiving area contingent and conditioned on the acquisition and extinguishment of TDR credits.

B. To meet the condition of approval, the owner/developer, at or prior to the signing of a subdivision plat or the issuance of the first building permit, whichever occurs first, on forms approved by the Planning Board and obtained from the Township Clerk, shall submit to the administrative officer:

(1) One original and two copies of completed application for TDR credit use;

(2) One original and two copies of a deed of credit transfer; and

(3) All appropriate fees for review.

C. The administrative officer shall, within 45 days of receipt, determine that the application:

(1) Accurately specifies the number of TDR credits needed for the development of the parcel sought to be developed;

(2) Demonstrates that the developer owns, by assignment or otherwise, all credits needed for the proposed development;

(3) Accurately specifies by reference to assigned serial numbers or otherwise which credits are being used by the development;

(4) Accurately provides such other information required by the application; and

(5) Demonstrates that the parcel from which the credits arise are subject to a recorded TDR easement.

D. If the administrative officer determines that the application and supporting documentation establishes the criteria set forth in Subsection C above, the administrative officer shall sign the deed of credit transfer. This signing will certify that upon recording, the deed of credit transfer will permanently transfer the number of credits contained within it to the parcel of land cited. If the deed of credit transfer is not recorded within 90 days of the date that the certification is signed, unless this time period is extended by the applicant, the deed of credit transfer shall be null and void.

E. If the administrative officer shall fail to act within the time periods provided, the application shall be deemed denied.

F. Upon signing, the deed of credit transfer shall be returned to the owner or developer of the land for recording in the book of deeds in the office of the Ocean County Clerk.

G. The owner or developer of the land using the credits shall, upon filing of the deed of credit transfer, file proof of recording with the administrative officer prior to the issuance of any building permit for development of the land upon which the credit is to be used.

H. Recording the deed of credit transfer shall extinguish the ability to use any credit transferred except upon the parcel to which the TDR credit has been transferred.

I. Upon receipt of proof that the deed of credit transfer has been recorded, the administrative officer shall:

(1) Record the fact of recordation upon the records of the township. The record shall include the Clerk's assigned book and page of recording; and

(2) Forward a copy of the recorded deed of credit transfer to the Planning Board for its information.

(3) Forward recorded deed of credit transfer and transfer information to the New Jersey State TDR Bank on forms provided by the Bank within 10 business days of receipt of proof of easement recording.

J. The owner or developer of the land shall be responsible for all costs associated with the review of the assignment application, including professional fees authorized by the Land Development Ordinance.

K. The administrative officer shall act on all applications in the order in which they are received.

§ 35-177. Reassignment and disenrollment.

A. Generally. It is understood that the Transfer Development Rights Program is voluntary. The TDR Development Transfer Plan Element of the Berkeley Township Master Plan and the Berkeley Township Land Development Ordinance provide a reasonable balance between the number of credits which are allocated to the sending area and the capacity of the acreage within the receiving area to accommodate transferred credits; however, if a number of landowners/developers within the receiving area elect to subdivide their land without the use of credits, it is conceivable that more credits capable of being transferred will have been created than available locations for their receipt. Recognizing the inherent unfairness which may be visited upon a property owner in the sending area or his assignee should property be enrolled within the program without there being in existence an adequate area within the receiving area to utilize the credits so created, this subsection has been created to provide relief.

B. Standard. Should a landowner or his assignee owning a parcel of land enrolled within a TDR program determine that they have an inability to utilize credits within the receiving area, they may apply to the Planning Board for reassignment of the credits to the parcel from which they originated or disenrollment of the parcel from the TDR program upon the showing of good cause in accordance with the procedures set forth below.

C. Procedures for reassignment and disenrollment.

1. Reassignment. An Assignee seeking to reassign any of the credits which have previously been assigned by a landowner may seek to reassign the credits obtained, absent any bonus, back to the parcel from which they originated within one year of the date of the recording of the original assignment document by using the following procedures:

A. The Assignee on forms authorized by the Planning Board and obtained from the Township Clerk shall submit:

- (1) One original and two copies of the application for reassignment;
- (2) One original and two copies of the reassignment document; and
- (3) Appropriate review fees to the administrative officer for review.

B. The administrative officer, within 45 days, shall determine that the application:

- (1) Contains all of the information required by the form;
- (2) Seeks to reassign all or a portion of the credits, absent any bonus, previously assigned to the Assignee back to the parcel from which the credits came;
- (3) Provides the recording information about the TDR easement and original assignment; and
- (4) Reflects that no material change in the title of the credit has occurred since the TDR easement and assignment were recorded.

C. If the administrative officer determines that the application and supporting documents are complete, this official shall schedule the matter for a hearing before the Planning Board at its next regular or special meeting called for this purpose.

D. The Planning Board shall at the regular or special meeting during which the matter is considered, conduct a hearing on the application. If the Planning Board determines, after considering all evidence submitted both in favor of and opposing the application, that, through an inability to use the credits within the receiving area or through other just cause, it is not feasible to expect that the credits will be usable within a reasonable time frame and both the assignee and the landowner agree to a reassignment of the credits, the Board shall grant the assignee the right to reassign the credits provided. Otherwise, the application should be denied. Public notice of the meeting shall not be required.

(1) The Planning Board shall take action on the application within 45 days of its receipt by the Planning Board Secretary. If the Planning Board fails to act, the application shall be deemed denied.

(2) Should the Planning Board approve the application, it will direct its Chairman and Secretary to certify to this fact on the original reassignment document, which is to be delivered to the applicant for recording in the book of deeds in the office of the Ocean County Clerk. The reassignment document is to be recorded within 90 days from the date that the certification is filed, unless this time period is extended by the applicant. If unrecorded, the appeal of the reassignment shall be invalid and the assignee must reapply to obtain relief.

E. The Assignee, upon recording the reassignment document, shall file proof of the recording with the administrative officer. Until such proof is filed, reassignment of the credits shall be ineffective.

F. Upon receipt of proof that a reassignment document has been recorded, the administrative officer shall:

(1) Record the fact of the reassessment upon the records of the township. This record shall include the Clerk's assigned book and page of recording.

(2) Forward a copy of the recorded reassignment document to the Planning Board for its information.

(3) Forward recorded reassignment and reassignment information to the New Jersey State TDR Bank on forms provided by the Bank within 10 business days of receipt of proof of easement recording.

G. If the parcel from which the TDR credits were transferred has been conveyed to the Township by the landowner and is no longer available

for reassignment, the Township will purchase the credits from the Assignee at the same price as the Assignee acquired them from the Assignor and may re-sell those credits to another purchaser in a Receiving Area at a later date.

2. Disenrollment. To disenroll land from involvement with the TDR program, a landowner shall utilize the following procedures.

A. The landowner, on forms authorized by the Board and obtained from the Township Clerk, shall submit to the administrative officer:

(1) One original and two copies of a fully completed disenrollment application;

(2) Review fees;

(3) One original and two copies of the disenrollment document designed to terminate the restrictions imposed upon the landowner's property;

(4) Clear proof of title; and

(5) Proof that none of the credits created for the property by enrollment have been used by another property owner or developer through the filing of a deed of credit transfer or assigned to a third party who does not consent to the disenrollment application.

B. The administrative officer shall determine within 45 days of receipt thereof that the application is complete.

C. Upon determining that the application is complete, the administrative officer shall schedule a public hearing before the Planning Board on notice to the public and to the Ocean County Department of Planning. At this hearing, the Planning Board shall determine whether a hardship exists to the landowner through an inability to utilize his credits within the receiving area or for other good and sufficient reasons the public's interest would be served by allowing relief from the restrictions imposed under the TDR program. In reaching this conclusion, the Planning Board shall take into consideration all evidence, both submitted in favor of and in opposition to the relief request, in accordance with the procedures normally available for development applications before the Board. After this review, the Board shall reduce its findings to a written resolution recommending to the Township Committee whether to grant or deny the application proposed. If the Board fails to act within 90 days of

the date the application is submitted, unless this time period is extended by the applicant, the application shall be deemed denied.

D. If the application is approved, the record before the Board, including its findings, shall be submitted to the Township Committee and to the applicant. The Township Committee shall review the proceedings before the Planning Board and determine whether good cause exists for the relief specified. If they agree that the relief should be granted, they shall direct the Mayor and Township Clerk to execute the disenrollment document. Upon execution by the Mayor and Clerk, approval to disenroll shall be recorded in the book of deeds in the office of the Ocean County Clerk.

E. Upon receipt of proof of recording of the disenrollment document, the administrative officer shall:

(1) Record the fact that the disenrollment document has been recorded on the township records, including the Clerk's assigned book and page of recording, if known; and

(2) Forward a copy of the recorded disenrollment document to the Planning Board for its information.

(3) Forward a copy of recorded disenrollment document and disenrollment information to the New Jersey State TDR Bank on forms provided by the Bank within 10 business days of receipt of proof of recording.

F. The assignee and/or landowner seeking either reassignment or disenrollment shall be responsible for all costs associated with the review of the reassignment or disenrollment, including professional fees authorized by the Land Development Ordinance.

G. The assignee and/or landowner may extend the time limits for administrative action by the administrative officer or by the Board. This right to extend shall not apply to any time period set forth in this chapter for recording of a document.

§ 35-178. Development credit bank.

A. In accordance with N.J.S.A. 40:55D-147e, all potential development transfers shall be recorded with the State Transfer of Development Rights Bank in the Development Potential Transfer Registry and shall do so within 10 days thereof, pursuant to N.J.S.A. 4:1C-53.

B. While the Berkeley TDR Program will occur on a voluntary basis in the open market, the bank State Transfer of Development Rights Bank shall be empowered to purchase development credits from landowners who have elected to participate in the TDR program pursuant to the rules and procedures set forth in N.J.A.C. 2:77-1 et seq.

SECTION 2. After introduction of this ordinance, the Township Clerk shall send a copy of this ordinance to the Township Planning Board for its review and comment. The Township shall send a copy of the ordinance to the Ocean County Planning Board pursuant to N.J.S.A. 40:55D-16.

SECTION 3. This ordinance shall take effect after second reading and publication as required by law and the filing of the adopted ordinance with the Ocean County Planning Board.

SECTION 4. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 5. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

CARMEN F. AMATO, JR., Mayor

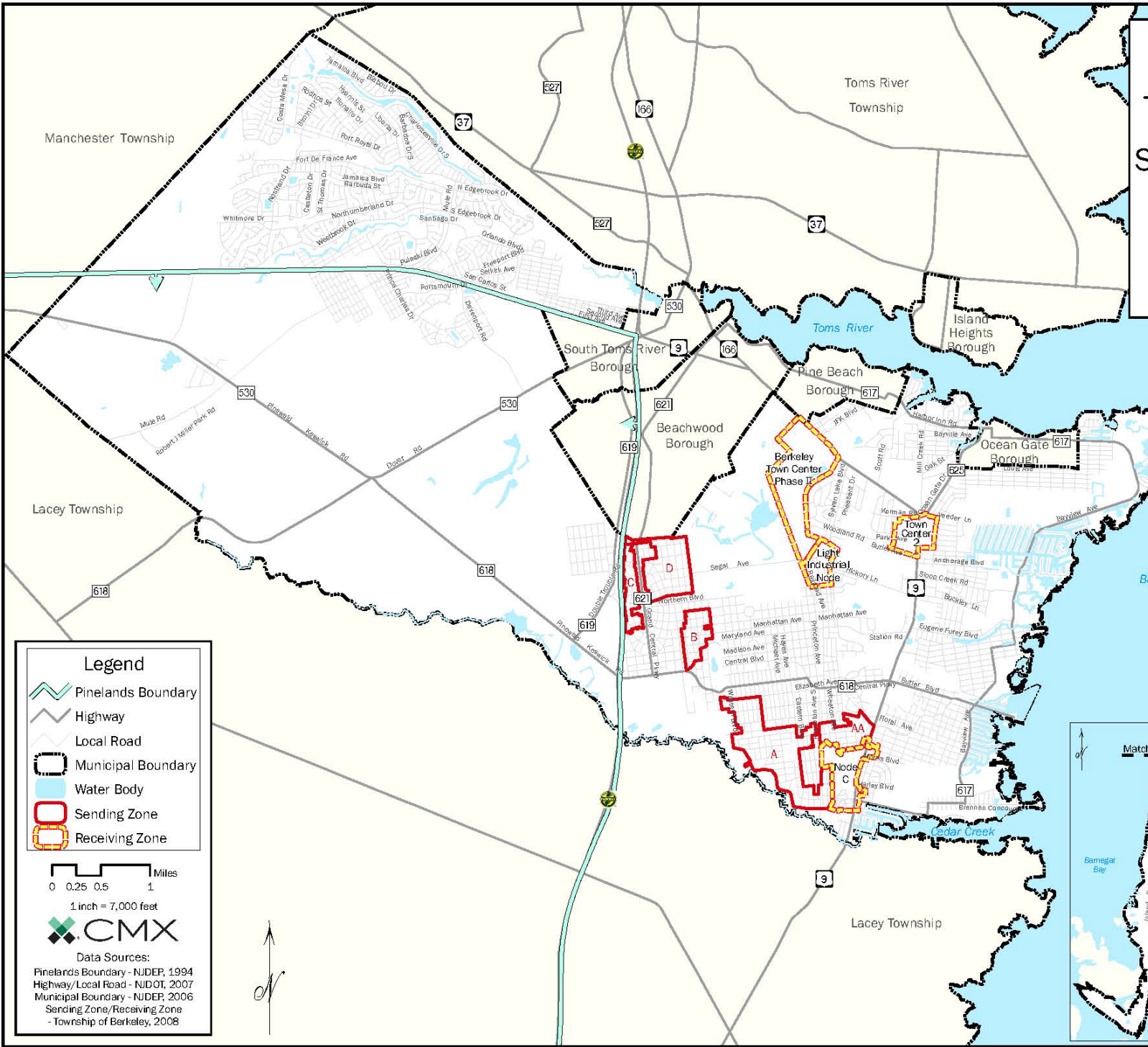
JAMES J. BYRNES, Council President
JUDITH NOONAN, Council Vice President

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed on first reading at a regular meeting of the Township Council of the Township of Berkeley, in the County of Ocean, State of New Jersey, held on February 25, 2013, and will be considered for second reading and final passage at the regular meeting of said Governing Body to be held on the 11th day of March, 2013, at 7:00 p.m.,

or as soon thereafter as this matter can be reached, at the meeting room of the Municipal Building located at 627 Pinewald-Keswick Road, Bayville, New Jersey, at which time all persons interested shall be given an opportunity to be heard concerning this ordinance.

BEVERLY CARLE, RMC
Township Clerk, Township of Berkeley



Legend

- Pinelands Boundary
- Highway
- Local Road
- Municipal Boundary
- Water Body
- Sending Zone
- Receiving Zone

0 0.25 0.5 1 Miles
1 inch = 7,000 feet

CMX

Data Sources:
 Pinelands Boundary - NJDEP, 1994
 Highway/Local Road - NJDOT, 2007
 Municipal Boundary - NJDEP, 2006
 Sending Zone/Receiving Zone - Township of Berkeley, 2008

