



State of New Jersey

DEPARTMENT OF STATE
BUSINESS ACTION CENTER
OFFICE OF PLANNING ADVOCACY
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LT. GOVERNOR

DONNA A. RENDEIRO
Executive Director

MEMORANDUM TO: State Planning Commission
FROM: Donna Rendeiro
RE: Proposed Upper Endorsement
DATE: January 28, 2022

As you know, the Township of Upper has been actively involved in the Plan Endorsement process since February, 2007, when they were the first municipality endorsed by the State Planning Commission under the current process. Since that time, the Township has taken many proactive steps toward good land use planning and resiliency, even before it became an important goal of the State.

Upper Township again submitted a petition for renewal of its Plan Endorsement in May, 2019. I approved a requested waiver of their Advisory Committee and visioning because of their demonstrated history of public participation in developing land use policies; the Commission approved a waiver of the Opportunities and Constraints report, based on the recommendation that Upper is a good candidate municipality to test the proposed re-endorsement rules given Upper's proactive approach to good land use practices.

Upper Township's mapping exercise was complicated – one of the most complicated to date. The Township has limited areas for economic growth but is also in a very vulnerable location. Much time and effort was spent with our State agency partners to create a balance of both of these critical goals. Ultimately, we were able to reach consensus and the attached report by Meghan Wren details the resulting proposal.

In the end, I fully support the recommendation for Plan Endorsement for Upper Township. Upper has many land use challenges, but their demonstrated commitment to good land use practices indicate that they are up to the challenge.

Plan Endorsement Recommendation Report

Township of Upper



**New Jersey Department of State
Business Action Center
Office of Planning Advocacy
Meghan Wren, AICP, Area Planner
February 2, 2022**

This document is a recommendation report prepared by the Office for Planning Advocacy (OPA) as staff to the State Planning Commission (SPC or Commission), based on input of our partner agencies, Township of Upper, Cape May County and members of the public. OPA will post this report and other material related to the Upper Township Plan Endorsement petition on our website. You can contact our office by email regarding petitions for Plan Endorsement by providing contact information, including name, organization, address, and e-mail address to osgmail@sos.state.nj.us.

Documents submitted by the Township of Upper for Plan Endorsement can be found here: <https://nj.gov/state/planning/plan-endorsement.shtml> and include the Township's Master Plan, Amendments, Individual Development Ordinances updates, Area in Need of Rehabilitation, Hazard Mitigation Plan, Watershed Management Plan, etc.

Photo sources – Upper Township, Tuckahoe Businesses, Upper township Green Team, Google...

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INTRODUCTION

The Township of Upper (hereafter Upper or Township) was first endorsed on February 21, 2007 (the very first NJ municipality to achieve Plan Endorsement) and received extensions for its re-endorsement that are coinciding with the current COVID state of emergency. Upper started the Plan Endorsement Process as if they had never been endorsed until they requested and were approved for a series of waivers that functioned like a 're-endorsement' process. This shortened process acknowledged past and current work and serves as a pilot for the renewal process delineated in the proposed rule changes.

The Township's interest in Plan Endorsement was discussed on June 26, 2019 at a prepetition meeting involving representatives from the Township and State agencies. The Township's primary objective in seeking Plan Endorsement was to extend the four Town Centers (Marmora-Palermo-Beesly's Pt Town Center, Seaville Town Center, Petersburg Village and Tuckahoe Village) and Suburban Planning Area (PA2) designations as deemed appropriate and necessary for the Township to retain the benefits associated with such a designation.

The local goals, objectives, and criteria evaluation for each of the existing Centers and Planning Areas remain consistent with the September 2005 Plan Endorsement Petition (2005 Petition) and the State Plan. The Township has recently completed a Master Plan Reexamination in 2018 (2018 Reexam) to address the Township's Fair Share Plan and Housing Plan update. The 2018 Reexam noted the future need for redevelopment study in the Marmora Town Center and the recently closed BL England Generating Facility in Beesley's Pt which has been the subject of a Preliminary Assessment Report (2019), a Declaration of Need Study (2020) and a Redevelopment Plan (2021).

The Township is interested in being considered for a 'sector permit' in the future.

BACKGROUND/ CHRONOLOGY

Upper Township submitted a petition for renewal of its Plan Endorsement in May 2019; attended a Prepetition meeting on June 26, 2019; submitted a Municipal Self-Assessment Report on September 17, 2020; and requested a waiver of the Plan Endorsement Advisory Committee, visioning, and the opportunities and constraints report on August 23, 2021. Previously, the Township submitted a petition for Endorsement in December, 2005. An action plan and a Memorandum of Understanding were developed in May 2007 to complete the requirements to remain a CAFRA coastal center pursuant to NJDEP Coastal Zone Management Rules. Over the next six months the Township worked with the State agencies to update the Land Use Plan and Fair Share & Housing Plan and created a Natural Resource Inventory. The Township also developed an environmental assessment ordinance requiring an Environmental Impact Statement and Review for all major subdivisions and site plans. The State Planning Commission approved Upper's Petition on February 21, 2007.

Upper Township received a Smart Future Grant to design concepts for their centers; in 2009 authorized a Master Plan reexam and an update to the Conservation Element; and adopted Design Guidelines and Walkable Neighborhoods in March 2011. Additional planning efforts toward sustainability and smart growth are as follows:

| Event(s) | Date | Notes |
|---|---------------|---------------------------------------|
| Smart Future Grant (w/ Middle & Dennis) | FY2004 | Basis for Plan Endorsement |
| Submitted PE Petition | December 2005 | |
| Plan Endorsed | February 2007 | |
| Affordable Housing Spending Plan | 2008, 2012 | |
| Form Based Code Report | 2010 | |
| Conservation Plan Element and NRI | 2011 | |
| Master Plan Reexam | 2011 | |
| Marmora Traffic Analysis Report | 2012 | With Form Base Code |
| Waste Water Management Plan | 2012 | With Build out |
| Land Use and Zoning Changes | 2014 | |
| Getting to Resilience | 2015 | |
| All Hazard Mitigation Plan | 2016 | |
| Building Ecological Solutions to Coastal Community Hazards | 2016 | With Nat'l Wildlife Foundation |
| Farmland Preservation Plan | 2017 | By Cape May County |
| Economic Development Council Formed | 2017 | |
| Recreation and Open Space Inventory | 2017 | |
| Flood Damage Control Ordinance | 2017, 2020 | |
| Fair Share Plan & Housing Element | 2018 | |
| SJ Bronze Certification | 2018, 2020 | |
| Master Plan Reexamination | 2018, 2020 | With Visioning |
| Bicycle Plan | 2019 | |
| Complete Streets for All Policy | 2019 | |
| Beach Management Plan | 2019 | |
| Submitted PE Petition | April 2019 | |
| Prepetition Meeting | June 2019 | |
| Cape May County submitted Wastewater Management Plan to DEP | 2019 | Affordable housing hinges on approval |
| Zoning Map update | 2020 | |
| Updated Fair Share Housing after Final Judgement of Compliance and Repose | 2020 | |
| Municipal Public Access Plan | 2020 | |
| Determination of Need – Beesleys Pt | 2020 | |
| Community Asset Map | 2020 | |
| Cape May Co Hazard Mitigation Plan | 2021 | Includes Climate Change & SLR |
| Redevelopment Plan for BL England | 2021 | |
| Watershed Management Plan | 2021 | With Stockton University |
| CRS level 5 (soon to be 4) | | Due to Watershed Mgt Plan |
| Stormwater Plan & Pollution Prevention | 2021 | |
| PIC APPROVAL | 11/22/2021 | |
| SPC ADOPTION (scheduled) | 2/2/2022 | |

PUBLIC PARTICIPATION

As part of the Plan Endorsement process the Township hosted and participated in numerous public meetings and community visioning which included:

- Regional meetings with Upper, Middle and Dennis Townships in 2004 & 2005
- Public meetings in Upper Township in 2004 & 2005
- Community Visioning meeting to develop Form Based Code in 2009 & 2010
- Marmora Transportation Study in 2012
- Bicycle Plan in 2019
- Master Plan Reexaminations in 2018 and 2020

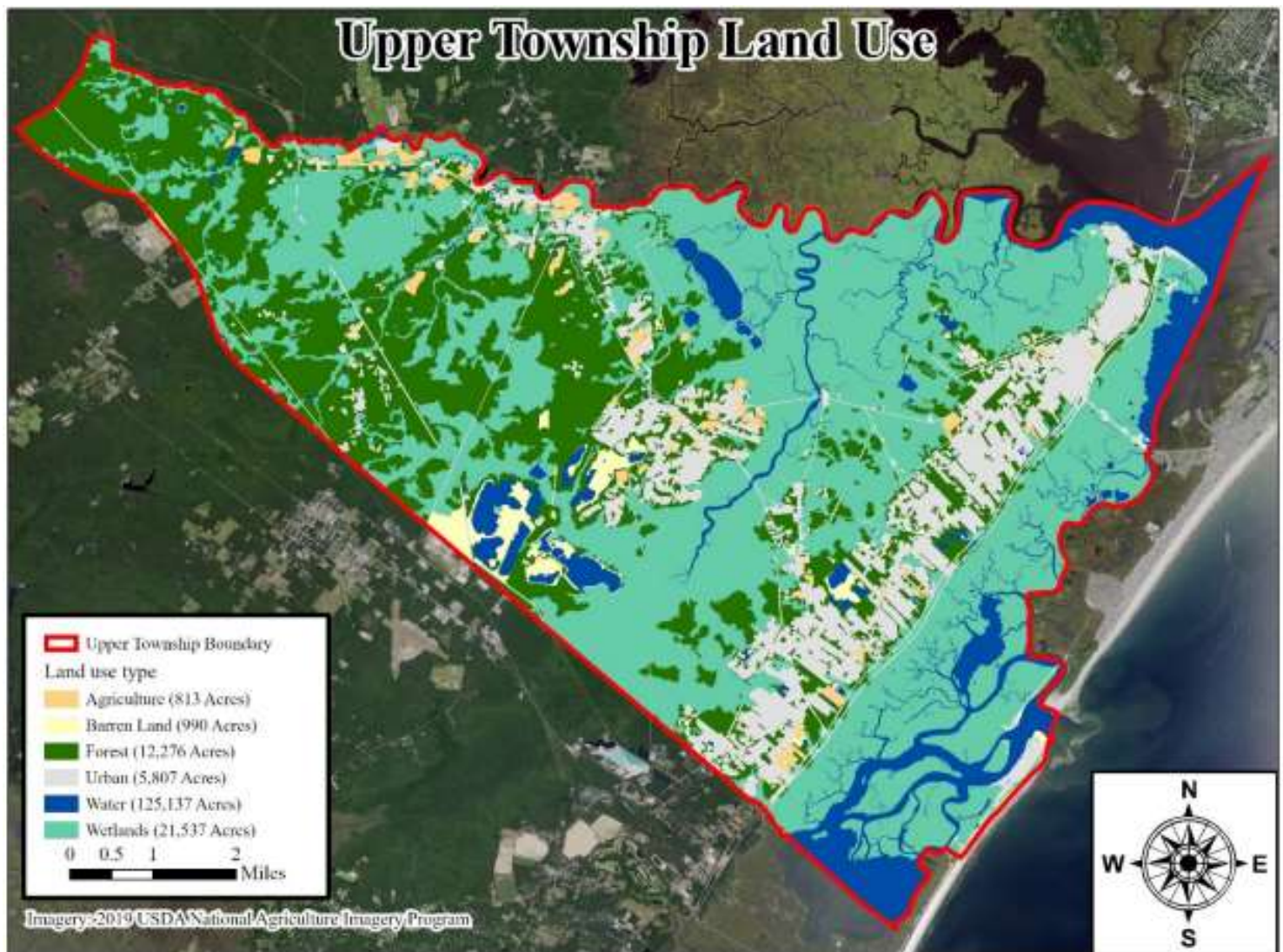
The Township vision for the development of the Centers remains the same and have worked to enhance the Centers design with the Form Based, Transportation Planning and updated Affordable Housing. The Bicycle Plan and Masterplan Reexaminations in 2018 & 2020 had public input from community stakeholder groups including the Upper Township Green Team, Upper Township Business Association, Strathmere Improvement Association and Citizens for Strathmere & Whale Beach. The Municipal Self-Assessment was advertised and on the Planning Board agenda for August and September 2020.

Pursuant to her authority under N.J.A.C. 5.85-7.6(a), the NJ OPA Executive Director granted a waiver of appointment of a Plan Endorsement Advisory Committee, in recognition of Upper Township's rich history of public engagement that has satisfactorily complied with the intent of this step; and of visioning in recognition of Upper Township's vision as articulated in its Master Plan, reexamined in 2018 and 2020, which remains the core value driving its planning and development.

LOCATION & REGIONAL CONTEXT

The Township of Upper was one of the original 104 townships incorporated by the New Jersey legislature on February 21, 1798. It was formed as a precinct in April 1723. Portions of the original tract of land have been extracted to form: Dennis Township; Ocean City and Sea Isle City. The name originated in 1723 when Cape May County was split into three townships initially, named Lower, Middle and Upper.

The township has a total area of 68.68 square miles (43,785 acres) including 62.03 square miles (39,699 acres) of land and 6.66 square miles (4,262 acres) of water area. The township occupies the northern third of Cape May County including the barrier island of Strathmere (Ludlam Island). Bordering communities in Cape May County include Dennis Township, Ocean City, and Woodbine. It also borders Corbin City, Egg Harbor Township, Estell Manor, and Somers Point in Atlantic County plus Maurice River Township in Cumberland County. The Township either borders or contains several water bodies including the Tuckahoe River, Great Egg Harbor and the Atlantic Ocean in Strathmere. The Garden State Parkway and Route 9 run through the town serving the bulk of the developed and developable area. Other state highways include Routes 49 and 50. Approximately 35% of the Township is under Pinelands jurisdiction, and the remaining 65% is governed by the Coastal Area Facility Review Act (CAFRA).



Land use percentages:

| | |
|--|-------|
| Residential (mainland & resort) | 13.1% |
| Commercial | 0.6% |
| Conservation (Forest & Marshland)..... | 76.1% |
| Mining | 1.2% |
| Agricultural..... | 1.6% |
| Water Areas | 8.3% |

DEMOGRAPHICS AND TOWNSHIP OF UPPER'S FUTURE

The 2020 census counted 12,539 people, 4,842 households in the township, a slight bump since the 2010 count while much of Cape May County is declining very slightly. In 2016, SJTPO predicted a decline in population for Upper for 2040 to 10,100, though.

| | Upper Twp | Cape May County | New Jersey |
|-------------------------------|-------------|-----------------|---------------|
| Land area (sq mi) | 63.7 | 259 | 7,417 |
| Population(2020) | 12,539 | 95,263 | 9,288,994 |
| Households (2019) | 4,842 | 40,171 | 3,231,874 |
| Average Household Size(2019) | 2.45 | 2.25 | 2.69 |
| Population density | 196.84/s.m. | 367.81/s.m. | 1,252.39/s.m. |
| Housing Units | 5,472(2010) | 99,634 | 3,310,275 |
| Home Ownership Rate (2019) | 88.5% | 77.6% | 63.9% |
| Vacancy Rate (2010) | 22.0% | 53.7% | 7.4% |
| Median Household Income | \$60,942 | \$41,591 | \$55,146 |
| Per Capita Income(2019) | \$44,650 | \$40,389 | \$42,745 |
| Poverty Rate (2019) | 4.8% | 9.8% | 9.2% |
| Unemployment (Homefacts 6/21) | 7.5% | 7.5% | 7.8% |

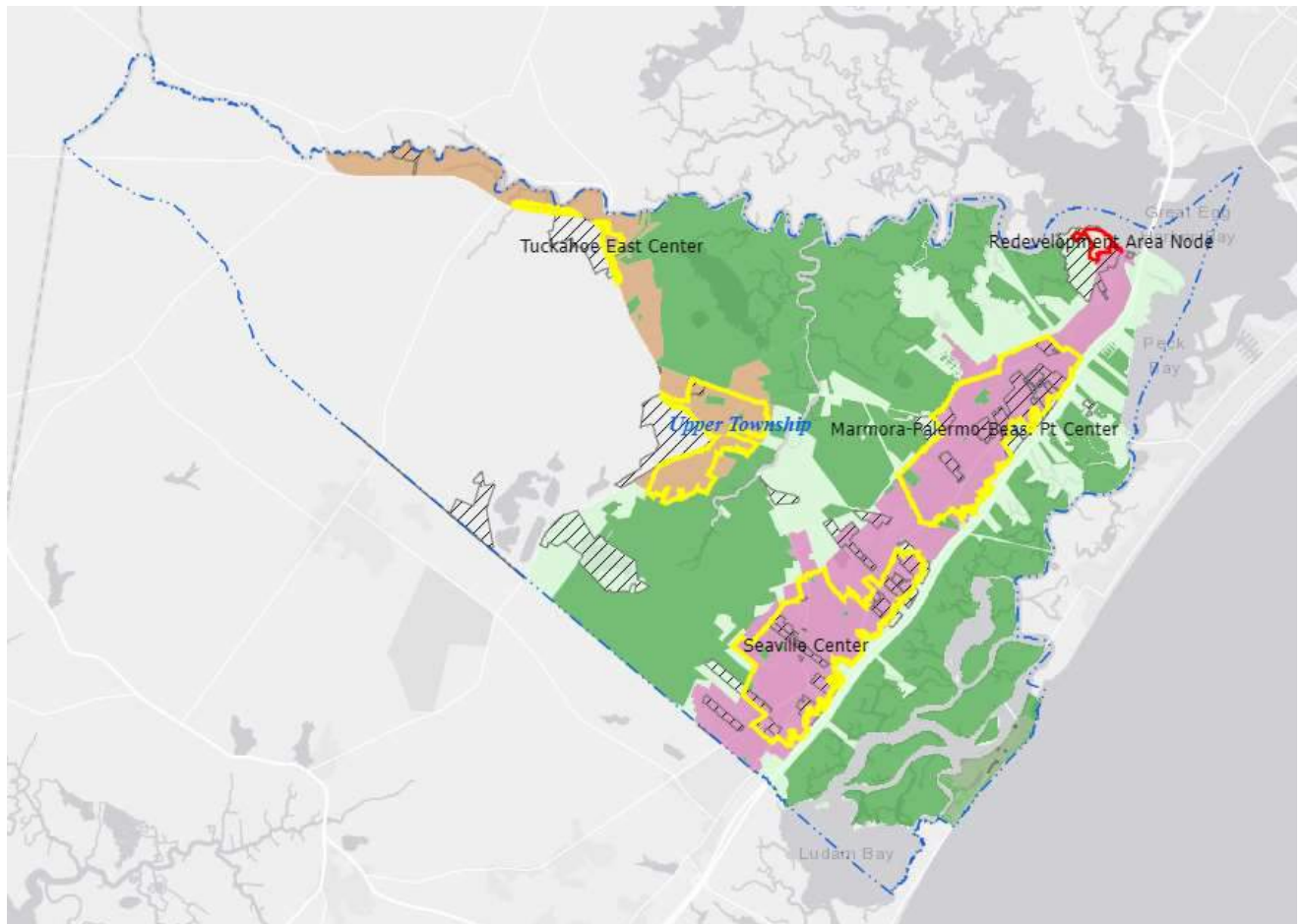
BL England

The B.L England Facility consists of approximately 487 acres of land located in the northern section of the Township to the west of Route 9 at the terminus of the former Beasley's Point Bridge. The B.L. England facility formerly operated as a coal and oil electrical generating system. The facility, which had operated for over 50 years, closed in early 2019 and was decommissioned. The plant also included a nine-hole golf course which was closed in 2009. The B.L. England facility was the source of significant tax revenues over the years. With the closure of the facility, the appropriate reuse/redevelopment of the property is important to the township in many ways. The site has been identified to contain soil and ground water contamination and remediation is ongoing pursuant to NJDEP regulations. These conditions must be taken into consideration as the municipality works toward ensuring the appropriate reuse/redevelopment of the property.

INFRASTRUCTURE

Water The Township is served by New Jersey American Water Company and needs to work on a coordinated water supply plan.

Sewer Service Area Upper township is serviced by private septic systems and has the potential for on-site package treatment in certain areas or service by the Cape May County MUA. The map on the following page shows hatch marks where future sewer service area is approved.

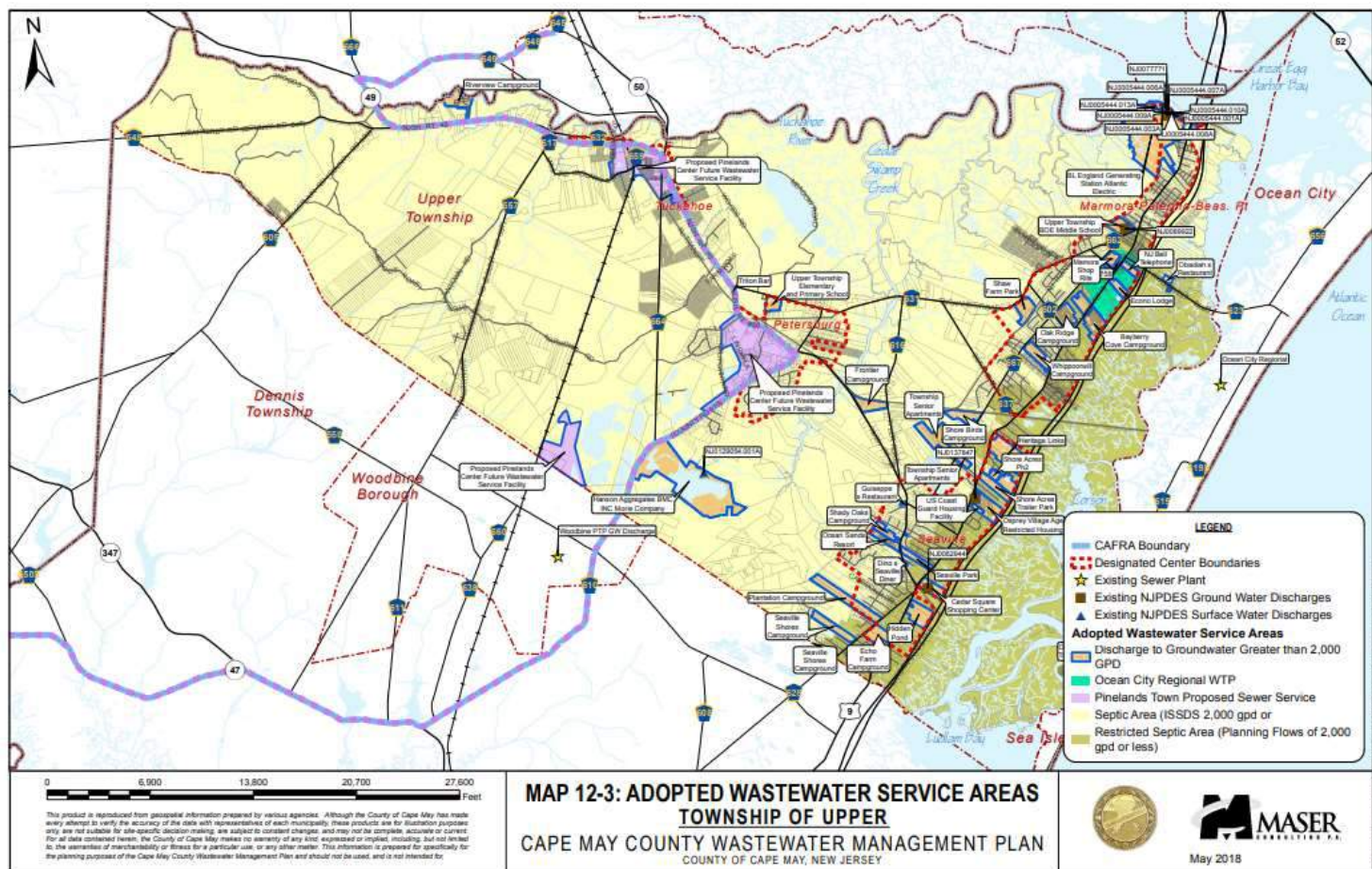


(From NJ OPA online Upper Township map -note the above center and node boundaries have been superseded by minor changes in the maps on page 12) Please see Cape May County WMP for detail.

Water Quality Management Plan Amendments

Cape May County Planning Board submitted its countywide Wastewater management Plan (WMP) Component to the NJDEP for adoption in 2019. It contains the results of the Wastewater Treatment Facility (WWTF) and Nitrate Dilution-based Septic Capacity Analyses prepared by Maser Consulting for the County.

Upper Township cannot meet its Affordable Housing obligation until its Wastewater Plan is approved. It has 440 ‘deferred credits’ that are beyond the capacity of the Township’s current wastewater situation and the community is in negotiations with the Cape May County Municipal Utilities authority to add wastewater capacity from the Ocean City plant when and if the WMP is approved. Center based development with higher densities in the Marmora Town Center is dependent on this plan as well.



Buildout Analysis of Future Sewer Service Area

Table 12-2: Buildout Analysis of Future Sewer Service Area shows the existing and future residential dwelling units (DU) and non-residential floor area (SF) potential development for each zone.

The analysis estimates 2,436 residential units and 8.526 million square feet of non-residential space within the Marmora Town Center, which is proposed to be served by the Ocean City Regional WTP.

The analysis also shows a total of 777 units planned or approved which would discharge to groundwater greater than 2,000 GPD under individual New Jersey Pollutant Discharge Elimination System (NJPDES) permits.

Table 12-3: Buildout Analysis of Sewer Service Areas

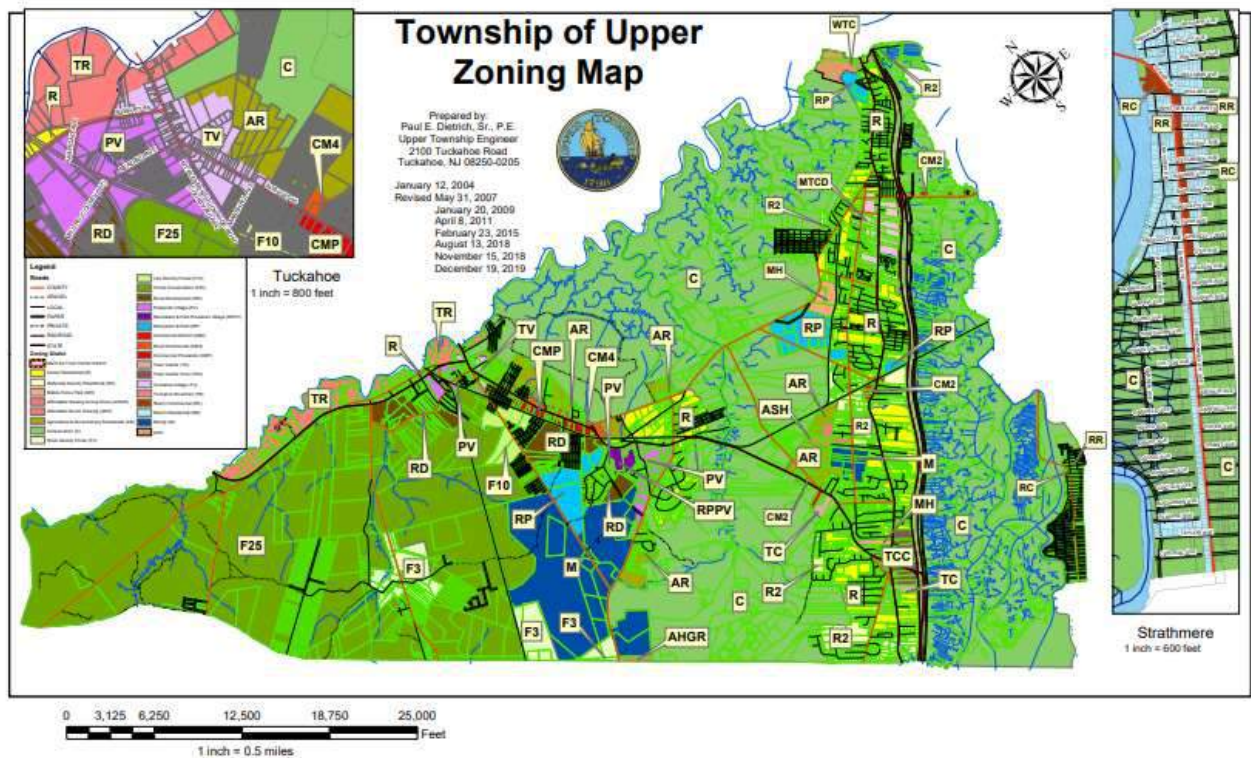
| Future Wastewater Service Area | Zone | Existing to be Connected | | New Development | | Planned/ Approved | Total | |
|--|----------|--------------------------|------|-----------------|-----------|-------------------|-------|-----------|
| | | (DU) | (SF) | (DU) | (SF) | | (DU) | (SF) |
| Ocean City Regional WTP | MTCD | 0 | 0 | 2,436 | 8,526,505 | 0 | 2,436 | 8,526,505 |
| | Subtotal | 0 | 0 | 2,436 | 8,526,505 | 0 | 2,436 | 8,526,505 |
| Proposed Discharge to Groundwater Greater than 2,000 GPD | AHGR | 0 | 0 | 0 | 0 | 8 | 8 | 0 |
| | AR | 0 | 0 | 0 | 0 | 60 | 60 | 0 |
| | MH | 0 | 0 | 0 | 0 | 210 | 210 | 0 |
| | R | 0 | 0 | 0 | 0 | 334 | 334 | 0 |
| | R2 | 0 | 0 | 0 | 0 | 15 | 15 | 0 |
| | TCC | 0 | 0 | 0 | 0 | 150 | 150 | 0 |
| | Subtotal | 0 | 0 | 0 | 0 | 777 | 777 | 0 |

From Cape May County's Wastewater Management Plan

TRANSPORTATION/CIRCULATION

The township has 140.68 miles of roadways. The municipality maintains 74.84 miles, Cape May County maintains 36.95 miles, the NJ Dept. of Transportation maintains 19.37 miles, and New Jersey Turnpike Authority (Garden State Parkway) are under supervision of 9.07 miles. Public transportation is conducted by NJ Transit with three inter-city bus routes through the township three times daily. Major development is found along Routes 9 and 50.

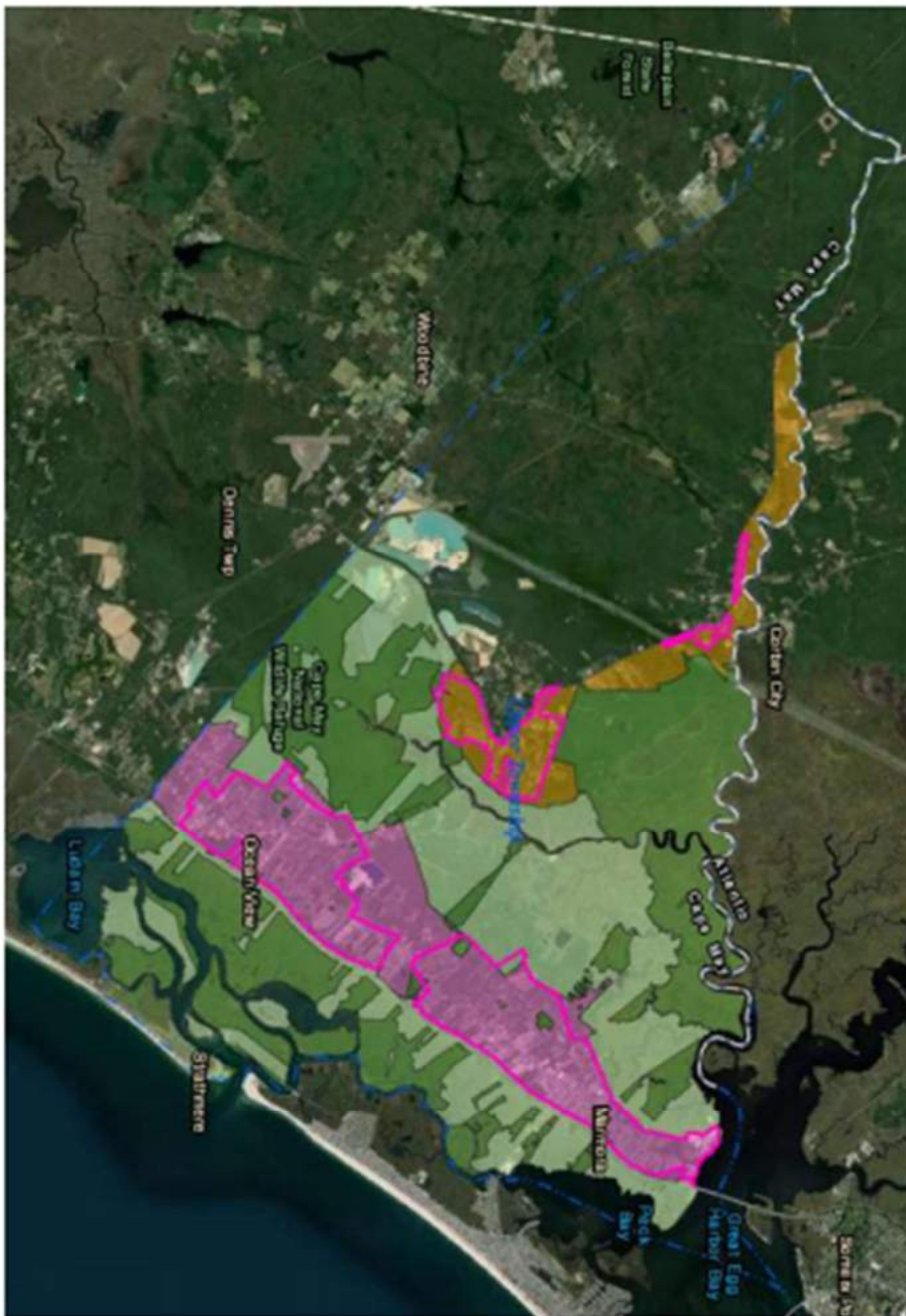
FUTURE LAND USE MAP



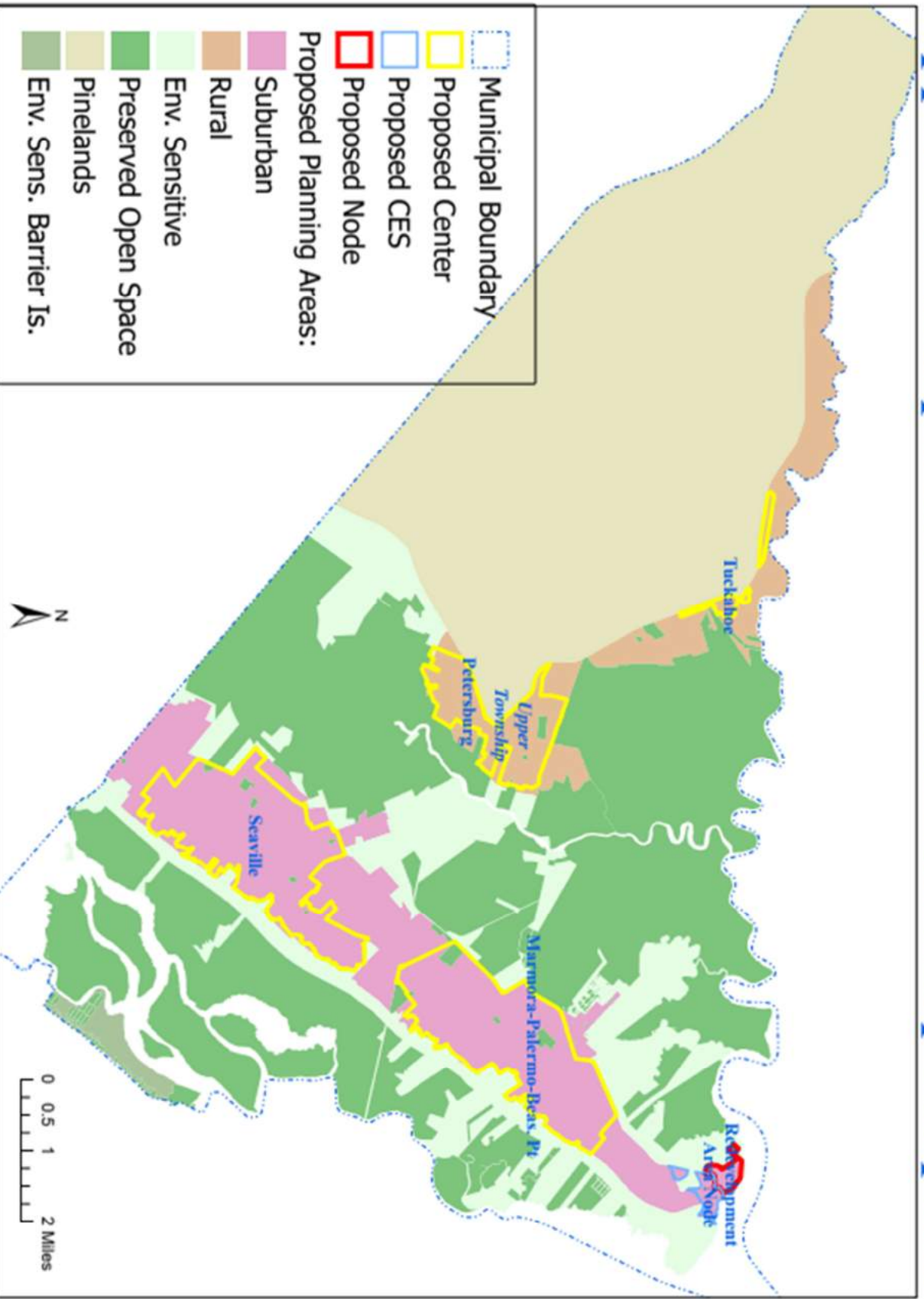
The Township of Upper has a relatively complex zoning plan established to encompass both a coastal barrier island community as well as southern New Jersey rural agriculture and sand mining quarries. The zoning map displays the special nexus between the major travel roadways into Cape May County and the residential zone density pattern associated with US Route 9.

Strathmere is shown to the right margin as a Resort Residential, Resort Commercial and Conservation zone for the dunes, beaches, and salt marshes. The entire western third of the Township is zoned Forest Conservation (F25). The coastal community of Strathmere has the smallest lot size of 4,000 square feet (0.92 acre) with a 45% impervious lot coverage, ranging upwards within the Agricultural and Rural Residential zone to 120,000 square feet (2.75 acres) with just 5% impervious lot coverage. The Strathmere elevation data and proximity to coastal storms make this sub-community of special focus in evaluation of the watershed impacts from both rainfall events and tidal flooding exacerbated by rising sea level. The interior regions of Township of Upper are both much higher in elevation and far less developed.

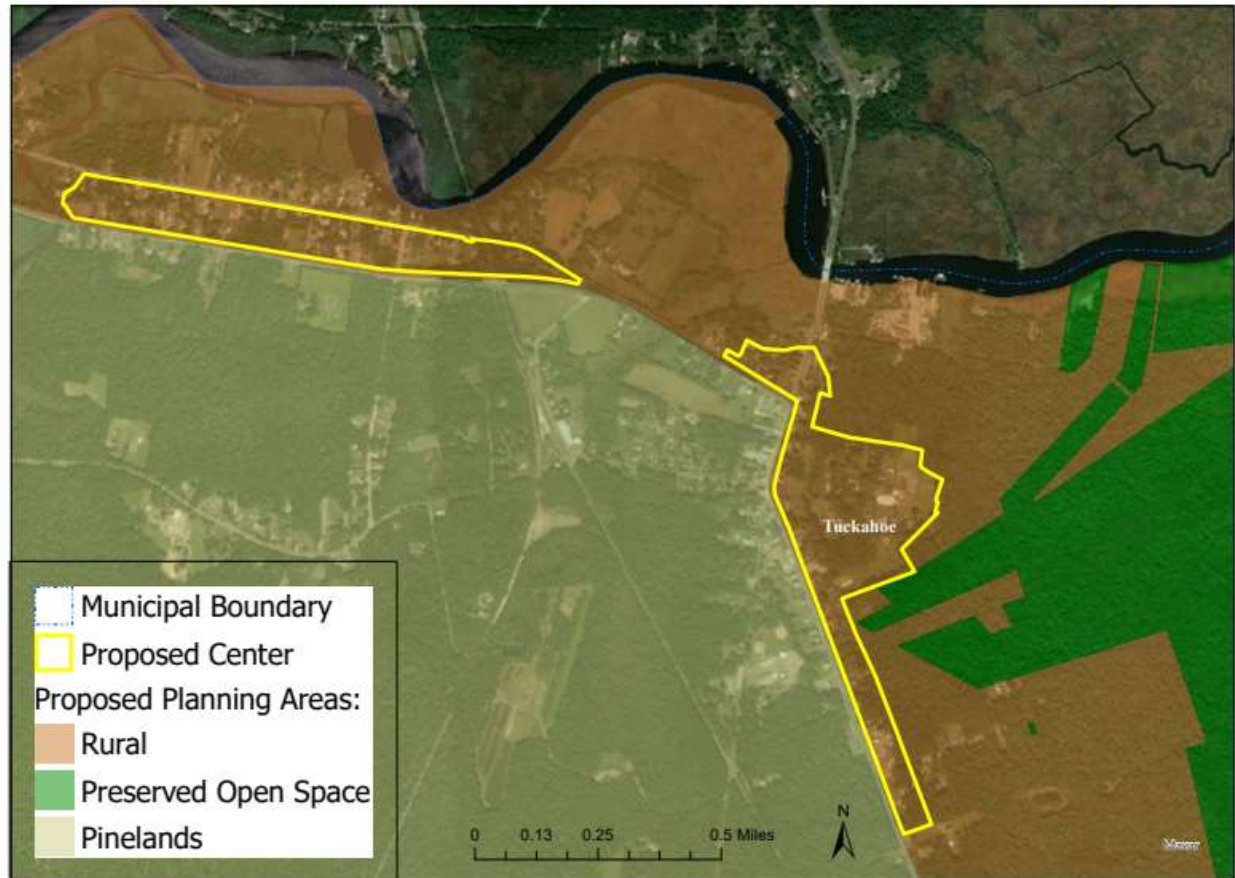
PROPOSED MAP AMENDMENTS Current Centers



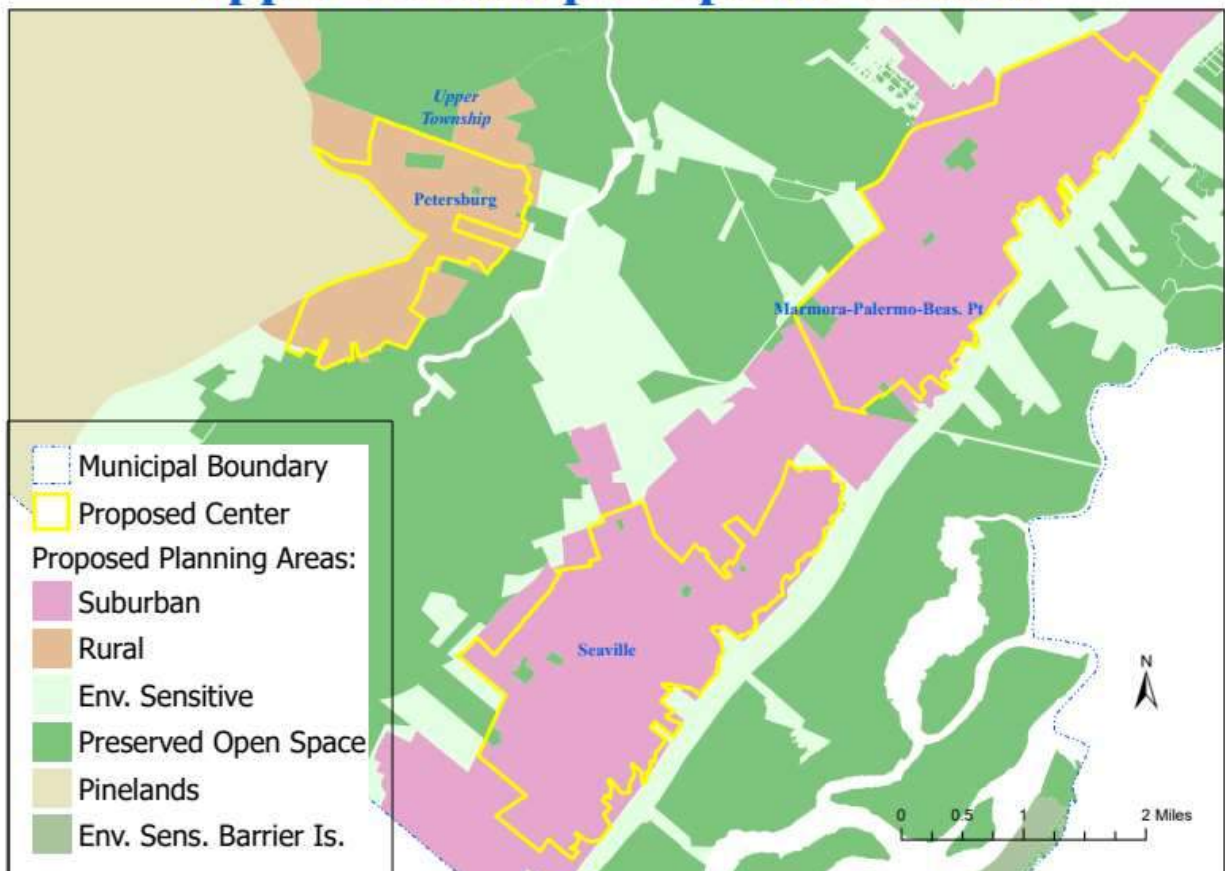
Upper Township Plan Endorsement Map Proposal



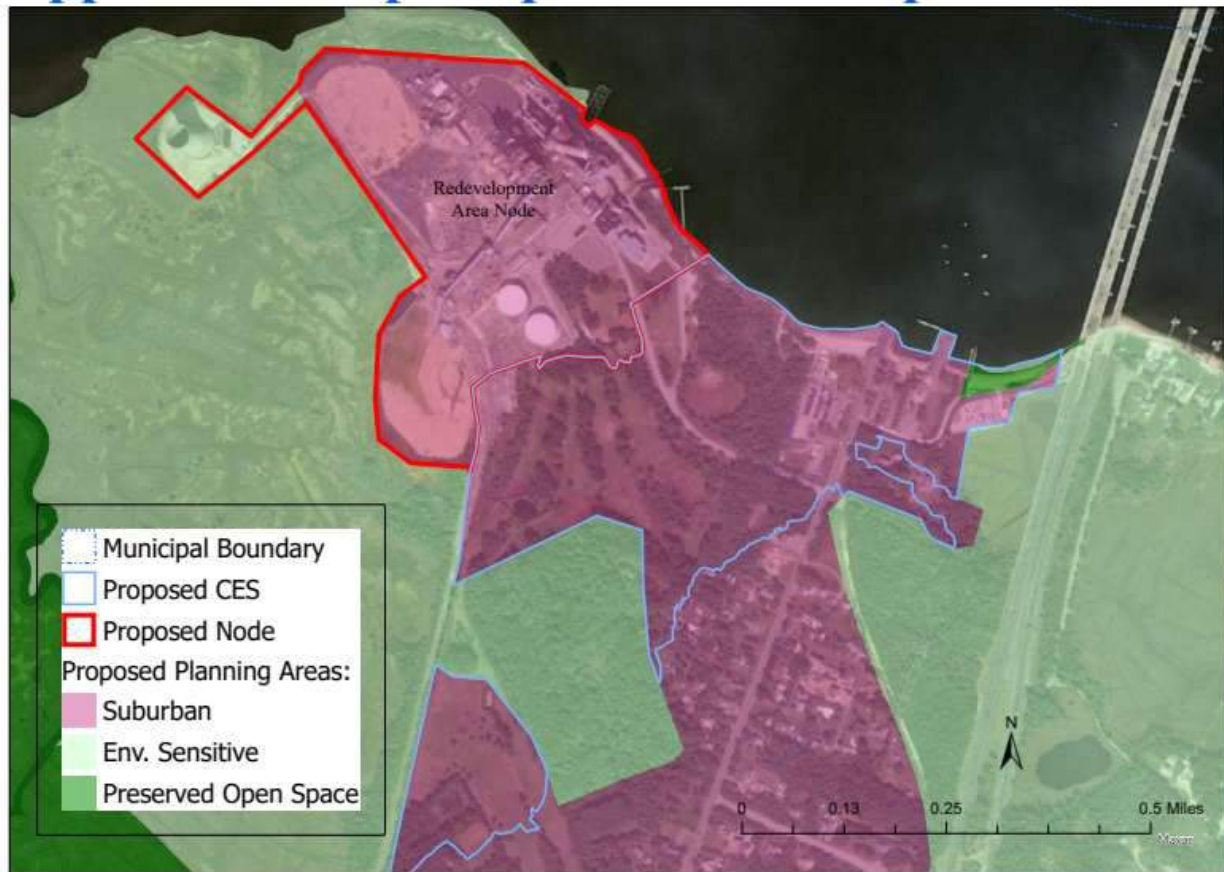
Upper Township Proposed Tuckahoe Center



Upper Township Proposed Centers



Upper Township Proposed Redevelopment Node



Revised Node boundary and planning area changes at Beesley's Point.

STATE PLAN GOALS REVIEW

GOAL 1: Revitalize the State's Cities and Towns

- Upper has been working since 2005 to evolve and revitalize its Marmora and Seaville Centers and into walkable, livable center-based towns. It still needs its wastewater needs addressed - this is a current priority for the Township. Upper adopted a clustering ordinance, a bike plan, Form Base Code elements and other initiatives to encourage walkable/livable villages and town centers.
- Tuckahoe, Seaville and Marmora have thriving business districts with significant efforts to maintain and grow their vibrancy. Petersburg is a Village Center with municipal amenities and in 2010, the Township created, Main Street Redevelopment Plan
- Upper has established an Area in Need of Rehabilitation at Beesley's Point to revitalize the recently decommissioned coalfired generating station and replace it with a waterfront development center.

GOAL 2: Conserve the State's Natural Resources and Systems

- 76 % of the township is conservation land and the township remains committed to conservation of key natural resources and proper stewardship of its natural resources
- Upper requires environmental impact statements for site plans.
- Upper Township has a great many water resources including the Wild and Scenic Tuckahoe River.
- The Watershed Management Plan identifies and delineates tools for protection of water resources
- Natural Resource Inventory helps the community protect known natural resources

GOAL 3: Promote Beneficial Economic Growth, Development and Renewal for All Residents of New Jersey

- Rehabilitation Plan
- 2016 - Flood Damage Prevention, Ordinance
- Tuckahoe and Marmora each have business associations and the Green Team has a program for supporting local businesses.

GOAL 4: Protect the Environment, Prevent and Clean Up Pollution

- Major brownfield redevelopment project at Beesley's Point

- Addressing flooding by relocation of properties out of flood zone
- 11 sites noted on the Known Contaminated Sites inventory
- Upper has achieved Sustainable Jersey Bronze Certification three times with extensive recycling programs including commercial and institutional recycling program, a 'Bring your own bag' campaign and prescription drug disposal program.

GOAL 5: Provide Adequate Public Facilities and Services at a Reasonable Cost

- There are three pre-K through 8th grade schools and all 9th through 12th grade students attend the Ocean City High School. There are two County-wide schools; the Cape May County Technical High School and the Cape May County Special Services School District for students with special needs
- Upper has a spacious and well equipped, municipal building, a branch of the Cape May County Library with a full compliment of public programs, an extensive park and recreation system that is being enhanced regularly and the Township is pursuing a sewer service agreement.
- Capital Plan is developed annually
- Working on implementation of the Bike Plan and partnering with County for efficiencies and assistance whenever possible.
- Pursued possible merger with Corbin City that proved infeasible due to cross-county reality.

GOAL 6: Provide Adequate Housing at a Reasonable Cost

The Township had prepared and adopted a Round Three Housing Element and Fair Share Plan on December 18, 2008. The Council on Affordable Housing (COAH) had determined the Township's petition as complete. The Supreme Court invalidated the most recent version of the regulations adopted by the New Jersey Council on Affordable Housing ("COAH") on September 26, 2013 in *In re Adoption of N.J.A.C. 5:96 & 5:97 by NJ Council on Affordable Housing*, 215 N.J. 578 (2013), this Affordable Housing Plan comports with COAH's rules at N.J.A.C. 5:91 et seq. and N.J.A.C. 5:93 et seq., and subsequent applicable laws and regulations such as amendments to the FHA, therefore the adopted Housing Element and Fair Share Plan was not certified by COAH. Accordingly, the Township filed a Declaratory Judgment action in July of 2015 in accordance with the NJ Supreme Court's March 10, 2015 decision. As a result of this filing the Township entered into a Settlement Agreement with Fair Share Housing Center which was approved by the Court at a Fairness Hearing under Docket CPM-303-15 on April 10, 2018. The implementation of the agreement includes the adoption of a new Housing Element, Fair Share Plan and Spending Plan. The Housing Plan includes the recommendation to create a new Marmora Town Center Zoning District to address the Township's affordable housing obligation.

These ordinances were adopted, however additional changes are required to fully address the terms of the Settlement Agreement.

A new Marmora Town Center District was created to provide for mixed-use development throughout the area as part of the implementation of the Housing Element and Fair Share Plan. The intent is to permit a mix of commercial and residential uses while creating a Route 9 streetscape which is walkable and incorporates the village and walking atmosphere of a downtown area. The new Marmora Town Center zoning district ordinance was proposed in the Housing Element and Fair Share Plan and adopted.

The Township updated their affordable housing ordinances, affirmative marketing plans and development fee ordinances in accordance with the recommendations and ordinances pursuant to the approval of the Housing Element and Fair Share Plan. This includes the amendment to the Zoning Map to create the new Marmora Town Center District as discussed above.

GOAL 7: Preserve and Enhance Areas with Historic, Cultural, Scenic, Open Space and Recreational Value

- Upper participates and supports Cape May County's Farmland Preservation and Open Space Plans and preservation in general and embraces the historic nature of its villages.
- It's Green Team and historical society initiate efforts to preserve the integrity of its natural cultural and historic assets.
- It's business associations work to preserve the viability and character of its village centers.
- purpose of the Tuckahoe Village District is to preserve the unique and historical character of the buildings and structures throughout the area designated ... Village and to encourage its appropriate development consistent with its historical character for the benefit of all our citizens.
- Flood protection, site plan review and other zoning ordinances have clauses that provide extra protection for these assets and to preserve the historic character of Upper Township.

GOAL 8: ENSURE SOUND, INTEGRATED PLANNING AND IMPLEMENTATION ***STATEWIDE GOALS:***

- Keeping up to date on Master Plan, including affordable housing element.
- Working with Cape May County on County Wastewater Quality Management Plan, Hazardous Mitigation Plan and the County Priority Investment framework.

RESILIENCY

The Township has undertaken many efforts to support a more sustainable and resilient municipality:

- In 2010 the Township applied to enter the Community Rating System (CRS) with the FEMA's National Flood Insurance Program (NFIP) and entered as a Class 7 Community.
- In 2012 the Township amended the Flood Hazard Ordinance to require higher regulatory standards including 1 foot of freeboard on all new homes, substantial improvement requirements (40% requirement over 10-year period) and nonconversion of enclosures deed restriction requirement. After the adoption of the FEMA ABFE's the Township's CRS Class rating improved to a Class 5 Community.
- In 2015 the Township participated with the Jacques Cousteau National Estuarine Research Reserve in preparing a Getting to resilience report for the Township. The report was discussed and presented to both the Planning Board and the Township Committee.
- In 2017 as part of the NJ Coastal Coalition the Township is participating in the largest Multi-Jurisdictional Program for Public Information (MJPPI) in the United States. This program provides a regional approach to promoting public information about flood hazards in our community.
- In 2017 the Township participated in a National Fish and Wildlife Foundation (NFWF) project to construct a living shoreline which resulted in the "Building Ecological Solutions to Coastal Community Hazards – A Guide for New Jersey Coastal Communities."
- In 2017 the Township amended the Flood Hazard Ordinance to require more than 2 feet of freeboard on all new homes
- In 2018 the Township performed a bulkhead study to examine the existing backbay bulkhead heights in Strathmere and what could be done to alleviate nuisance flooding. The Township

then adopted a Bulkhead Ordinance (#18-2018) that required bulkheads to be constructed to Elevation 8 NAVD 1988 within 10- years.

- In 2020 the Township amended the Zoning Ordinance in Stathmere to require minimum elevation of ground floor to be at elevation 7.0 NAVD 1988 and to provide on-site sub-surface stormwater recharge for the water quality storm for the new structure.
- In 2020 the Township installed a tidal flood warning system in Strathmere. The system will allow the Township to warn residents of real-time flooding hazards.
- In 2019 the Township received a FEMA Hazard Mitigation Grant to prepare a Watershed Management Plan and a Repetitive Loss Area Analysis plan. The Watershed Management Plan analyzes both existing stormwater flow and future impacts with 2' of sea level rise

STAFF RECOMMENDATION:

The Township of Upper has diligently and regularly planned and implemented measures to ensure that their centers, villages and barrier island community remain sustainable and resilient in spite and because of their location and resources. Based on this work and their accomplishments, they have demonstrated that their actions and plans are aligned with the State Plan. It is staff's recommendation that the Commission adopt the Resolution for Plan Endorsement. Please see the attached Plan Implementation Agreement for details of their implementation agenda.

| Upper Township PIA - Final | | | | | | | 1/26/2022 |
|----------------------------|------------------------------------|---------|--|---|--|--|--|
| # | Topic | Req (*) | Activity | Local Effort | Assistance | Time Frame | Comment (updates in bold italics) |
| A1 | Administrative | * | After SPC adopts resolution granting PE: | Petitioner receives and signs documents sends back to OPA | OPA | ASAP Upon completion of all resolutions | |
| | | | • OPA sends certified resolution to NJ State Register and petitioner with PIA | | | | |
| | | | • OPA updates GIS layer | | | | |
| | | | • OPA Executive Director signs PIA and sends fully signed documents to petitioner | | | | |
| A2 | Administrative | * | One year from endorsement and biennially thereafter, report to the SPC about the status of your planning efforts. | Planning Board and Township Committee | OPA | 1 year after PE and then every 2 years after | |
| A3 | Administrative | * | After adoption, the Township shall submit any new or modified land use ordinance or other planning document that supplements previously submitted material. | Planning Board and Township Committee | Technical assistance | Report on progress in biennial review | |
| B1 | Public Info & Community Engagement | | Many of the following action would benefit from public engagement including education about issues, resident assistance with actions, participation in decision making and support for a path to resiliency and sustainability. An early action should be a public forum(s) designed to recruit short and long-term public engagement, sharing information/goals, highlighting opportunities for participation, volunteerism and meaningful involvement in community planning and decision making. | Twp Committee, Planning Board, Green Team, chamber (s), churches, schools, other local and regional organizations as partners/invitees. | OPA, DEP, local groups & regional NGOs/ universities | Year 1 and periodically thereafter to update/engage residents on progress on key issues. | Forum(s) should be designed with a well developed outreach element to ensure equitable inclusion and meaningful turn out and facilitated to maximize results. |
| C1 | Climate Resilience Planning | * | Develop, adopt, and implement a climate change-related hazard vulnerability assessment (CCRHVA) that meets the requirements of the MLUL per P.L.2021, c.6. | | DEP | 1-2 years | Upper Township should review its existing data, maps, and assessments and evaluate whether or not they satisfy the requirements for the CCRHVA in the MLUL. Requirements that are not satisfied should be addressed. Expand on the local annex to the county HMP to include climate impacts for temperature, precipitation, salt water intrusion etc. Consider the vulnerability of public and private potable wells, pump stations, Findings from the CCRHVA should guide strategies and actions to increase resilience and reduce risk moving forward. |

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| C2 | Climate Resilience Planning | * | Review and update the Flood Damage Protection Ordinance with the current NJ Coastal Model Ordinance (revised 2020) at https://www.nj.gov/dep/floodcontrol/modelord.htm in order to stay compliant with NFIP. | Planning Board and Township Committee | DEP | 3/30/22 | Although Upper Twp. recently updated their flood damage protection ordinance (ORDINANCE NO. 011-2020), NJDEP updated the model ordinance in December 2020 to be compliant with NFIP. the Division of Dam Safety and Flood Engineering has previously requested that Upper Twp. update their ordinance on or before March 30, 2022. The model coastal ordinance provided by NJDEP can be found at https://www.nj.gov/dep/floodcontrol/modelord.htm . |
| D1 | Land Use | | Continue pursuit of Beesley's Point redevelopment options to promote suitable mixed use waterfront based development in this Center. This effort will provide for reutilization of this prime economic resource for the Township. | | OPA, DEP | ongoing | Rezoned area area for Waterfront Towncenter (WTC) on 5/26/2020. Committee approved Condemnation Redevelopment Area on January 22, 2021. Incorporate area as a State Redevelopment Node in keeping with permissible uses and with appropriate respect for flood hazard areas. |
| D2 | Land Use | | If the Township pursues brownfield cleanup and development in the future, DEP recommends taking actions as part of the Sustainable Jersey Certification Program. | | NJDEP, Sustainable Jersey | TBD | Adopted Redevelopment Plan in 2020 for BL England Generating Station in Beesley's Point section. |
| D3 | Land Use | * | Review plans and ordinances and remove impediments to, and encourage, green design throughout the Town. Make necessary modifications to ensure that innovative and sustainable construction alternatives and materials (such as green roofs) are permitted. Township may also consider approving incentives for using innovative roofing alternatives and materials. | Planning Board and Township Committee | OPA, NJDEP technical assistance | 1-3 years | Sustainable Jersey points and support |
| D4 | Land Use | * | Review and update Master Plan and all associated elements to consider climate resiliency and socially vulnerable populations. | Planning Board and Township Committee | DEP, Sustainable NJ | 1-3 years after CCRHVA | Sustainable Jersey points and support. Address MLUL requirements. |

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| D5 | Land Use | * | The Township shall enhance its zoning regulations and building codes to encourage building outside of the flood zone and to minimize construction in flood prone areas to reconstruction of existing buildings. Flood zone area new construction or redevelopment of existing buildings should avoid high density concentration and areas of severe flooding. Placement of critical facilities and utilities in flood zones should be avoided whenever possible. Affordable housing should be sited to avoid flood zone and hazardous areas. | Planning Board | DEP (Bureau of Climate Resilience Planning) | 1-3 years After CCRHVA | |
| D6 | Land Use | | Consider adopting an Accessory Dwelling Unit (ADU) Ordinance in residential zones | Planning Board | | recommended | |
| D7 | Land Use | | Adopt an Open Space & Recreation Plan (OSRP). Explore open space and recreation opportunities by working with the State and County. Explore purchases of additional properties for active recreation or preservation as well establishing easements. | Work with County | Green Acres Funding and County as applicable. | 1-3 years after CCRHVA | Petitioner will work closely with Green Acres, local advisory committee, County, County Improvement Authority and property owners to negotiate the purchase of properties to be permanent open space. (ROSI) |
| D8 | Land Use | | The Township has aligned its zoning and ordinances with CAFRA permitting requirements and is a candidate to be considered for a "sector permit" (or redevelopment zone permit) similar to Long Branch (NJAC 7:7-7). | | NJDEP | After NJ PACT | DEP will review this issue after issuance of NJ PACT rules. |
| E1 | Sustainability | | Develop green building and sustainable design guidelines for new development - consider requiring "green buildings" (LEED, Green Globes) in redevelopment areas, to the extent practicable. | Planning Board and Township Committee | | | Sustainable Jersey points and support |
| E2 | Sustainability | * | Modify zoning code and permit forms to streamline and reduce or waive permit fees to encourage solar, wind, and geothermal. | Planning Board and Township Committee | DEP, BPU, SJ | 1-2 year | Sustainable Jersey points and support Also pursue waiver/reduction of DCA fee. With accomodation of concerns related to small scale wind turbines that may still call for variance conditions. |

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| E3 | Sustainabilty | | MLUL encourages municipalities to include a Green Building & Sustainability Element in their master plan to help establish policies and initiatives for acheiving sustainability goals. Components include:• Define what sustainability and resilience mean to your community • Statutory basis for a sustainability element and how it relates to other elements of the plan • Document public engagement activities • Summarize existing conditions and trends, including any environmental justice (EJ) concerns and any available baseline assessment like greenhouse gas • Document community’s existing sustainability policies and programs and accomplishments inventories, energy use assessments, or public health inventories • Establish a vision for local sustainability and resilience, expressed in a succinct statement • Establish sustainability and resilience goals and objectives • Develop strategies and actions for achieving sustainability objectives, typically organized by topic area, such as land use, transportation, energy, water, waste, etc. • Establish performance measures and metrics for tracking progress toward objectives • Assign responsible parties for implementation actions • This could be expanded to be a Climate Action Plan if so desired. | | DEP, Sustainable Jersey | Recommended. Report on progress in biennial review | |
| E4 | Sustainabilty | | • Continue participating in the Sustainable Jersey program | | | ongoing | PE actions should lead to Silver Certification |
| F1 | Conservation | * | Adopt a Tree Protection Ordinance and a Tree Save Ordinance | Township Committee and Planning Board | DEP - Bureau of Sustainability; NJDEP Parks and Forestry; NJ Forest Fire Service; Sustainable Jersey | 2-3 years | Required to adopt both ordinances. OPA to provide model Tree Protection Ordinance, recommended to use Woolwich (https://ecode360.com/14140851) or Haddonfield (https://ecode360.com/10200060) as a guideline. NJDEP Urban and Community Forestry guidelines are here, with various models to meet differing objectives based on town conditions: https://www.state.nj.us/dep/parksandforests/forest/community/Information_for_Municipalities.html |
| F2 | Conservation | | Review practicality for revitalizing the Community Forestry Program (recommended and encouraged) and/or consider preparing long-term adaptive management forestry practices to preserve its tree cover as precipitation and temperatures increase. | Township Committee | NJDEP Urban and Community Forestry | Report on progress in biennial review | Adopted in 2016 but has lapsed because did not have sufficeint CEU certification. (Perhaps partner with NGO/university to find volunteers/interns?) |
| F3 | Conservation | | Continue working with Blue Acres program to mitigate flood prone, severe loss, and severe repetitive loss properties | Township Committe | NJDEP, Blue Acres | Report on progress in biennial review | The NJDEP has purchased serveral properties in Upper's flood zone. |
| F4 | Conservation | * | Adopt a wellhead protection ordinance | Township Committee | DEP | 2-3 years | |
| F5 | Conservation | * | Work with NJDEP to develop and adopt a Water Conservation Ordinance | Township Committee | DEP | 2-3 years | Potential to use the Sustainable Jersey model ordinance. |

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| F6 | Conservation | | Prepare and adopt a Habitat Conservation Plan and protection measures to maintain habitat. Coordinate with county and surrounding municipalities to expand corridors of open space and natural features to support habitat connectivity | | DEP technical assistance and funding | 2-3 years | The Habitat Conservation may potentially be included as part of the Conservation Plan (F8) rather than an individual plan. NJDEP Connecting Habitats Across NJ (CHANJ) mapping can be of assistance to identify potential corridors https://www.njfishandwildlife.com/ensp/chanj.htm |
| F7 | Conservation | * | Review and update as necessary the Natural Resource Inventory, including climate change observations and concerns as they are relevant. DEP can assist with identifying what to update. | Planning Board | DEP | 1-3 years After CCRHVA | Although the 2006 NRI has been reaffirmed through reexaminations, the document should be reviewed more frequently to ensure it is relevant and should be updated with climate impact considerations, findings from the CCRHVA, and CES overlays as appropriate. |
| F8 | Conservation | * | Review and update as necessary the Conservation Plan element for Township, including climate change observations and concerns as they are relevant. Update inventory of contaminated sites and Upper and identify if any of these Known Contaminated Sites (KCS) within the proposed center also meet the DEP definition of a brownfield site. | Planning Board and Township Committee | | 1-3 years After CCRHVA | Completed in 2011. Review and update with climate impact considerations, findings from the CCRHVA, and CES overlays as appropriate. |
| G1 | Transportation & Circulation | * | Incorporate Complete Streets policy and Implementation Plan into the Transportation Plan. All new transportation projects that impact any Right-of-Way made within Township of Upper will be consistent with this plan and the adopted Complete Streets Policy | Township Committee & Planning Board | | 2-3 years | Per 2020 Reexam |
| G2 | Transportation & Circulation | * | Seek funding to update the Circulation Element of Master Plan to address opportunities for shared parking, goods movement, improvements to bicycle and pedestrian access and transit, along with continued growth in the community. In particular, reduce congestion and ensure that non-vehicular transportation is encouraged. | Planning Board | NJDOT, SJTPO | 3 years | With assistance (potentially DOT), prepare a full update to Circulation Plan Element. (Prepared a 2012 Town center road network map and access level change to the NJDOT for the Marmora Town Center and a Bike Plan in 2019.) |
| G3 | Transportation & Circulation | | Install full interchange at Exit 20 of the Garden State Parkway. This is the highest priority Township transportation improvement project to reduce congestion. | | NJ Turnpike Authority funding /DOT*/SJTPO TIP | 11/1/2026 | Awaiting NJ Turnpike Authority funding. |
| G4 | Transportation & Circulation | | Per SJTPO Feasibility Study, seek funding to design and construct best alternative off-road path. | | DOT TE funds, DOT Bicycle and Pedestrian funds*, DEP wetlands permits | 11/1/2026 | Through funding from the NJDOT, Township prepared the Upper Township Bicycle Plan dated April 2019. No funding for engineering, permitting or construction. |

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| G5 | Transportation & Circulation | | Design and construct Palermo bike path along inactive NJTransit rail line from Route 9 to the Inland Waterway. | | DOT Transp. Enhancement funds, DOT Bicycle and Pedestrian funds*, DEP wetlands permits | Post NJT approval | Received \$125,000 grant from NJDOT in FY2008. NJ Transit not responsive on allowing use of inactive rail line. |
| G6 | Transportation & Circulation | | Construct Tuckahoe train station link to Main Street. In coordination with County, design and construct sidewalk improvements along Reading Avenue from Route 50 to the Tuckahoe Train Station to support economic development efforts. | | NJDOT Bike and Pedestrian funds; NJDOT Local Aid funds*. | 11/1/2023 | Need coordination with County and NJDOT for funding. |
| G7 | Transportation & Circulation | | Elevate State evacuation routes (Garden State Parkway, State Highway Rt 50and Rt 49). | | NJDOT | 3-5 years | |
| G8 | Transportation & Circulation | | Implement key recommendations from Bike Plan | | NJDOT Bike and Pedestrian funds; NJDOT Local Aid funds*. | As funds allow | |
| H1 | Transit | | Plan and implement regional shuttle service in coordination with mainland municipalities campgrounds and County. Shuttle service will provide transit service between campgrounds, mainland attractions and beaches, recreational sites and other barrier island destinations. This needs to be coordinated by the County. | County to take lead | Request \$ from NJT for system planning and shuttle vans; coordinate with SJTPO/TIP. | 10/31/2024 | Awaiting funding. (Off-season they can be used for other transit services - senior, dial a ride etc) |
| H2 | Transit | | Pursue improved bus transit facilities to increase route headways, increase bus pickup locations, develop central transit locations coordinated with parking. | | Coordinate bewteen Twp, County, NJ Transit and DOT* | 11/1/2026 | NJ Transit and DOT*Coordinate bewteen Twp, County, NJ. |
| H3 | Transit | | Complete rail line between Cape May City and Tuckahoe Village. Excursion rail service will support planned economic development activities around restored Train Station and Tuckahoe Village. The retention of the rail spur to Beesley's Point as part of redevelopment plan can further expand the excursion rail line route thereby reducing vehicular traffic through Route 9 corridor. | | CM Seashore Line shall take the lead in this effort. DOT funds for rail line improvements; Transp Enhancement funds* | 10/31/2028 | Awaiting funding. |
| H4 | Transit | | Conduct feasibility study for potential expansion of rail line from Tuckahoe to the Atlantic City Rail Line. This rail line can provide connection to NJTransit/PATCO service to Philadelphia and enable alternative travel modes, reducing congestion for summer visitors. (The rail line is also part of the excursion rail line link from Cape May to Tuckahoe Village.) | | Municipalities, County and NJ Transit | mid term | |

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| H5 | Transit | | Depending on results of feasibility study, expand rail line connection from Tuckahoe to the AC Rail Line. | | Municipalities, County and NJ Transit | Long term | |
| I1 | Energy | * | Develop a community GHG Reduction Action Plan, including GHG reduction targets. GHG reduction actions should be incorporated into land use element of master plan. 1) Conduct Local Government Energy Audit (LGEA) of municipal facilities and operations, at a minimum, and community-wide audits, if feasible, and 2) using the results of these audits, develop action plans for reducing municipal energy consumption and GHG emissions - use NJ's 2020 GHG emissions reduction target as a goal | Township Committee & Planning Board | Bd of Public Utilities (BPU) Clean Energy Program provides funding for municipal energy audits: (http://www.njcleanenergy.com/commercial-industrial/programs/local-government-energy-audit/local-government-energy-audit) | Timeline as provided PE guidelines (2 years with phasing) | The South Jersey Transportation Planning Authority prepared a greenhouse gas (GHG) inventory. https://www.sjtptpo.org/Documents/AirQuality/GreenhouseGasInventoryReport.pdf This inventory provides county and municipal-level GHG emissions information for various major community sectors/activities (e.g., residential, transportation, waste generation) (See Appendix A pages 1-4). Upper can acquire its local inventory data and use it as a baseline Sustainable Jersey points and support |
| I2 | Energy | * | Energy Tracking & Management - establish energy use baselines, tracking, mgt & reporting systems | Township Committee | | Year 1 | https://www.sustainablejersey.com/actions/#open/action/482 |
| I3 | Energy | * | Continue Implementation of energy efficiency Measure for facilities | Township Committee | | 2 years and phased | Sustainable Jersey points and support |
| I4 | Energy | * | Greening the municipal fleet: Fleet Inventory and target for green fleet conversion. | Township Committee | Sustainable Jersey points and support | must do year 1 | Sustainable Jersey points and support |
| I5 | Energy | * | Greening the municipal fleet: purchase electric vehicles to achieve 20% reduction in fuel use w/in 4 years . | Township Committee | BPU, DEP, SJ possible \$\$ | must initiate by yr 2 (can be multi-year) | Sustainable Jersey points and support |
| I6 | Energy | * | Greening the municipal fleet: Trip optimization software * Proper vehicle maintenance * Driver training *purchase electric vehicles to achieve 20% reduction in fuel use w/in 4 years . | Township Committee | BPU, DEP, SJ possible \$\$ | recommended | Sustainable Jersey points and support |
| I7 | Energy | * | Renewable Energy Generation: *Onsite Solar or *Geothermal system or *buy electric from a renewable source or *community solar project or *Renewable Energy Aggregation | Township Committee | BPU, DEP, SJ possible \$\$ | must do 1 within 2 years | Sustainable Jersey points and support |
| I8 | Energy | * | • Public EV charging infrastructure feasibility and supporting ordinances | Township Committee & Planning Board | BPU, DEP, SJ possible \$\$ | 1-2 years | Sustainable Jersey points and support |

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| I9 | Energy | * | Make your town EV Friendly (choose 3) *update zoning ordinances to require pre-wiring for EV chargers as part of a redevelopment plan or for a specific zone(1-2 yrs); *Adopt a PEV ordinance to include regulation and design standards for EVSE, EV parking spaces and design guidelines for installation of EVSE (1-2 yrs); * Training for local officials and require local first responders to participate in education on PE and EVSE(1-2 yrs); *Incentivise EV ready by reducing or waiving permit fees and providing recognition for businesses/entities that do it (2-3 yrs); *Commitment from 3 or more partners for workplace or multi-family chargers (2-5 yrs). | Township Committee & Planning Board | BPU, DEP, SJ possible \$\$ | (must do 3) | Sustainable Jersey points and support |
| J1 | Infrastructure | * | Review and update as necessary Utilities Element of the Master Plan. Confirm the condition and capacity of the stormwater drainage system. | Planning Board | DEP | 1-3 years after CCRHVA | Stormwater in HMP but Sec 19-7.7 last updated 2007. New utility lines and associated infrastructure should be planned to avoid flood prone areas and existing utility infrastructure currently in or projected to be flood prone in the future should be addressed. |
| J2 | Infrastructure | * | Work on a water supply plan which would need coordination with the New Jersey American Water Company | | | TBD | |
| J3 | Infrastructure | * | Upon NJDEP approval of wastewater management plan (WMP) including septic density, consider appropriate restrictions. | Township MUA, Cape May County, DEP | NJDEP | ASAP | The Township has been working with the County Planning Department and the NJDEP on the Wastewater Management Plan update for the County, submitted 2019. As soon as the WMP is approved, Upper should begin implementation of its affordable housing plan. |
| J4 | Infrastructure | | Township to pursue Sewer Service Area to support existing development/uses (not new) and remedy failing septic on developed properties of Roosevelt Blvd. | | DEP permits for sewer extension to service existing development. | TBD | Based on consent agreement obtained by Cape May County in 2000 and negotiations with CCMUA in Ocean City. |
| J5 | Infrastructure/ Utilities | * | Evaluate and update the Stormwater Management Plan and Ordinance for consistency with the current Stormwater Management Rules. | Engineer, Township Committee and Planning Board | DEP and Cape May County technical assistance | 1-2 years | Municipalities were required to update their stormwater management ordinance by March 2021 pursuant to the updated stormwater management rules that became effective in March of 2021. The 2005 Stormwater Management Plan should be updated to reflect consistency with the current rules and the updated ordinance. model Stormwater Management Ordinance is available at https://www.nj.gov/dep/stormwater/bmp_manual/NJ_SWBMP_D.pdf |

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| K1 | Economic Development | * | review/develop/implement municipal Sustainable Economic Development Plan | Planning Board and Township Committee | NJEDA, DCA | Report on progress in biennial review | |
| K2 | Economic Development | | Promote Tuckahoe Village Center Revitalization through coordinated planning efforts with business and property owners. Develop plans for revitalization of Tuckahoe Village to support economic development initiatives including façade and rehabilitation grant program, wayfinding signs, coordinated marketing efforts, etc. Evaluate land use and zoning for train station area. | | OPA, Main Street NJ, historic preservation trust grants and revolving loan program. (subject to funding) | 5/2/2024 | Awaiting funding. |
| K3 | Economic Development | | Identify priority farmland for acquisition within the framework of the County's Comprehensive Plan Farmland Preservation element. | | NJDA | 2/1/2026 | Coordinate with Cape May County Farmland Preservation Program to identify/prioritize/implement. |
| L1 | Historic Resources | | Review and update Historic Preservation Ordinance and Plan. Historic structures should be protected with enhanced stormwater management plans and flood minimization plans. | Historic Preservation Commission and Township Committee | SHPO, Cape May County | Report on progress in biennial review | This Plan was called out in the 2018 Master Plan Reexamination but has not been updated since 2011. Review the NJ Historical Commission's (NJ Department of State) grant program at http://www.nj.gov/state/divisions/historical/grants . Work with SHPO to develop planning documents some guidance is provided at : https://www.nj.gov/dep/hpo/images/_MULT_DG_32_v2_ID14078r.pdf |
| L2 | Historic Resources | | Review and update as necessary the Historic and Cultural Resources Inventory as called for in the 2016 Historic Preservation Element update. | Historic Preservation Commission and Township Committee | SHPO, Cape May County | Report on progress in biennial review | This inventory is included in the 2006 NRI. The Inventory should be reviewed to ensure it is current and up to date. |
| M1 | Planning | * | Develop a five year capital improvement plan with a five year planning horizon per the Municipal Land Use Law 40:55D-29 | Planning Board | Technical assistance | Report on progress in biennial review | |
| M2 | Planning | * | Update the Community Facilities Plan | Planning Board | Technical assistance | 3 years | |
| M3 | Planning | | The Township will need to amend the approved Spending Plan to include proposed expenditures as per the approved Housing Element and Fair Share Plan. | | | 1-2 years | From 2020 Reexam |
| O1 | Environmental Justice | | Follow the requirements of EO23 pursuant to NJDEP guidelines to review, identify, and update documents as necessary. | | NJDEP | 1-3 years after provision of guidance | Monitor for changes in municipality that may warrant more environmental justice actions in the future. |