



State of New Jersey  
DEPARTMENT OF STATE  
NEW JERSEY STATE PLANNING COMMISSION  
P.O. BOX 820  
TRENTON, NEW JERSEY 08625-0820

PHILIP D. MURPHY  
*Governor*

THOMAS K. WRIGHT  
*Chairman*

SHEILA Y. OLIVER  
*LT. GOVERNOR*

DONNA A. RENDEIRO  
*Executive Director/Secretary*

**New Jersey State Planning Commission  
Minutes of the Meeting Held on August 5, 2020  
Zoom Video Conference**

**CALL TO ORDER**

Chairman Wright called the August 5, 2020 video conference of the New Jersey State Planning Commission (SPC) to order at 9:36 a.m.

**OPEN PUBLIC MEETINGS ACT**

It was announced that notice of the date, time and place of the meeting had been given in accordance with the Open Public Meetings Act.

**ROLL CALL**

**Members Present**

Bruce Harris, Municipal Member  
Catherine McCabe, Commissioner, Department of Environmental Protection  
Danielle Esser, Director of Governance, NJ Economic Development Authority  
Doug Fisher, Secretary, Department of Agriculture  
Edward J. McKenna, Vice Chair, Public Member  
Elizabeth Terenik, Public Member  
James Lewis, Designee for Diane Gutierrez-Scaccetti, Commissioner, Department of Transportation  
Melanie Willoughby, Designee for Tahesha Way, Secretary of State, Department of State  
Samuel Kaplan, Designee for Joseph Fiordaliso, President, Board of Public Utilities  
Sean Thompson, Designee for Lt. Governor Sheila Oliver, Department of Community Affairs  
Shanel Robinson, Freeholder Director, County Member  
Thomas Wright, Chairman

**Others Present**

See Attachment A

**PLEDGE OF ALLEGIANCE**

Chairman Wright asked everyone to stand for the Pledge of Allegiance.

## **APPROVAL OF MINUTES**

Chairman Wright asked for a motion to approve the Minutes of the June 17, 2020 meeting. Freeholder Director Robinson made the motion and it was seconded by Vice Chair McKenna. With no further discussion or questions, Chairman Wright asked for a roll call vote: Ayes: (12) Danielle Esser, Samuel Kaplan, Douglas Fisher, James Lewis, Bruce Harris, Catherine McCabe, Edward McKenna, Sean Thompson, Melanie Willoughby, Shanel Robinson, Elizabeth Terenik, Thomas Wright. Nays: (0). Abstains: (0). The June 17, 2020 minutes were approved.

## **CHAIR'S COMMENTS**

Chairman Wright welcomed and thanked everyone for participating in the State Planning Commission Meeting.

Chairman Wright spoke and expressed his gratitude to DEP and Commissioner McCabe. Last month's session with David Rosenblatt talking about climate change was very informative, The Chair is looking forward to Vince's presentation today on watershed and land use management.

Finally, The Berkeley Township map amendment will be our first of 2020 and my first as a Chairman. I appreciate the work of Plan Implementation Committee in pulling this together. I think that the State Plan Policy Map is one of the fairly unique aspects of the NJ State Development and Redevelopment Plan and it's an important piece of guiding policy. Our primary concern as Commissioners, is that the planning area designation meets the spirit and intent of the State Plan. Today's vote to switch this area from a Planning Area 5 to a Planning Area 2 designation meets that criteria, especially guiding redevelopment, sufficient serviceable patterns and expanding activities, including recreation, historical assets, and all within a walkable context providing opportunities for significant affordable housing and still conserving natural systems and open space within Berkeley Township.

I am looking forward today to the amendment and, as a Commission, to doing more of this.

## **EXECUTIVE DIRECTOR'S REPORT**

Director Rendeiro spoke - Since the last Commission meeting three communities submitted their MSA's (Manchester, Morristown and Stafford). We received a formal commitment and prepetition documentation from Salem City and we held that prepetition yesterday. It will be very interesting and a really challenging project to do in terms of endorsement. They are the most distressed city in the State, they have a lot of historical resources, and a number of obstacles but they're also up for the challenge. They are a CCI (Community Collaborative Initiative) where a DEP staff member is embedded into the city to help them with number of environmental issues.

We also received prepetition documents and held a prepetition meeting for Rocky Hill. That leaves us, as right now, with 38 municipalities have committed to do a municipal self assessment or are further along in the process. Of the original 95, we only have 18 municipalities that have decided not to pursue plan endorsement. We have 16 that said they will pursue it but we have not received any paper work yet.

We have been very busy. One interesting note in the plan endorsement process is that the City of Trenton had reach out to us because they're interested in endorsement. This is really noteworthy because urban areas receive similar benefits without going through the process. They are interested in going through the process because they are the State Capital, they want to demonstrate their consistency with State goals and they would like recognition of their good planning practices. From OPA perspective, their participation is a really good message to municipalities...that good planning practices will benefit their community in the long run regardless of whether you are an urban or suburban community. The process has just begun and we sent prepetition requirements to them. I don't anticipate seeing any action until early fall, but this is really good news for us.

The site evaluator replacement tool has been created and is in the OPA website - Thanks to Steven Karp for creating it. We held a training call with EDA staff to familiarize them with the tool. It provides all the layers that EDA needs but it does not provide reporting function. The look up function may take more effort on their part. We were not able to provide that resource. We don't have the knowledge to create it. As you will recall, OGIS at OIT has made the decision to take the original site evaluator down as the software used is not supported by the vendor any longer and they need the server space for other applications. We will continue to work with EDA and any other state agencies partners that utilize it. We are committed to whatever we can do as long as our resources allow.

In terms of biennial reviews, Township of Berkeley is in the agenda at this time and we'll talk about the details when we reach at that point.

We received Lakewood biannual review and I'm anticipating having it on the agenda for the next PIC meeting for discussion. They are requesting a map amendment to enlarge one of their industrial nodes so that will also be coming to the Commission. As you are aware, normally, biennial reviews are just reported to the Commission and don't need a review and approval by the Commission, but when a map amendment is requested, the SPC must approve it.

The Executive Director continued. In terms of resiliency planning, we talked about 3 different efforts we're involved with. We just completed the workshop for Mitigating Hazards for Land Use Solutions. We had 8 municipalities in 2 counties. We had two virtual sessions for each county. We received good feedback from the participants saying that it was helpful for them to inform the discussions to their residents and elected officials. The workshop also gave them ideas for land use solutions that they had not thought about it before. Some thought the sessions were a little long which may be the function of the need for a virtual meeting. We agreed to continue to provide technical assistance and include the implementation of their identified land use solution in the Action Plan and/or Plan Implementation Agreement as necessary. All the communities are in the Plan Endorsement process

We're also committed to continuing, to coordinate resolutions among participants. Currently, funding of mitigation factors was identified as a need. Commissioner Harris and Commissioner Terenik listened on some of the workshops, so I'm curious of their opinion. OPA partnered with DEP and FEMA in this program and the municipalities in Cape May that participated are West Wildwood, North Wildwood, Wildwood Crest, City of Wildwood and Stone Harbor. The Ocean County municipalities are Lacey, Seaside Heights and Little Egg Harbor.

The second resiliency program we're working on is called the CHARM workshop - (Community Health and Resource Management) and it focuses on no adverse impact when developing mitigation factors. We have invited 5 municipalities. Four, so far, have accepted and we're waiting on the fifth. The four that have accepted are Maurice River, Commercial Township in Cumberland County; Brick Township in Ocean and; Burlington City in Burlington County. We're waiting for Burlington Township. We believe they want to participate, they need to get official approval to do so. It's anticipated that the workshop will be held in October but at this point we don't know whether it will be virtual or in person. We're planning for both.

The third resiliency program that we're working on is the Rutgers Studio Class. The Office was approached by Rutgers to propose a studio class that can work with communities that will benefit from technical resiliency planning support. As of mid July, there were 11 students -- Master and PhD candidates -- already registered. It's anticipated that there will be more before the class starts in September. What is really unique in this program is that there will be candidates from both Bloustone as well as STEM students, combining both planning and engineering disciplines.

The two communities in Monmouth County that have been identified and have accepted the invitation to participate are Keansburg and Atlantic Highlands. The studio description has been completed and the class kick off is scheduled for early September. Rutgers will break the groups into two teams. Team Keansburg will focus on socially vulnerable populations and Team Atlantic Highlands will focus on natural, infrastructure and water dependent economies.

We have a two part meeting scheduled for August 11<sup>th</sup> with OPA, DCA, DEP, OEM and FEMA to discuss a coordinated response to climate change initiative to make sure that the agencies that are working on climate change are working on a coordinated basis so we're not either missing something or duplicating efforts.

I participated in a climate change Interagency Council update call and its anticipated there will be an additional 6 calls that will focus in the details of each strategy through September. We were told that the climate change strategy anticipated to be publish by September, may be delayed because of logistical concerns with the current health emergency.

In terms of interagency coordination, a draft document that includes the next iteration of the changes to the guidelines has received initial input and has been reviewed by the PIC. We're waiting for some additional comments. It's likely that the final draft will be discussed at the August PIC meeting and when it is ready will be presented to SPC for approval, hopefully by September. These changes largely address climate change and environmental justice requirements as a result of executive orders. In addition, we proposed some guidelines at the July PIC meeting that were very briefly discussed. We're working on incorporating initial comments that will make recommendations for what we're calling re-endorsement and that will recognize the difference between the community coming in for plan endorsement for the first time and for those whose endorsement its expiring. The new process will recognize the community history of planning, their progress to date and status of where they are versus the original plan endorsement commitment. With this recognition, it's anticipated that the re-endorsement process will recognize a municipality's history of good planning and minimize the burden of this process on a municipality. Once we receive those comments and agreement is reached at the PIC level, we'll bring it to the SPC for discussion, comments and ultimately approval.

The office has been in discussion with EDA regarding the Brownfield SiteMart. As you know the office is in charge of maintaining SiteMart which is an online searchable database of Brownfields that maintains the statewide inventory. This process is very labor intensive and relies heavily on municipal notification and updates. The office does not have the resources to maintain the database. As a result, the information is out of date. Additionally, EDA recently added new programs and with DEP brownfields efforts, it is inefficient to require a third state agency to maintain this information. The discussions were about moving the inventory to EDA to maintain the inventory on targeted municipalities, such as those in Economic Opportunity zones.

OPA and Highlands staff met to discuss the implementation of the MOU approved by the SPC few months ago. It has been decided that the first priority is the SPC endorsement of the Highlands Master Plan and the second will be the development of the guidelines for the municipalities that choose different forms for endorsement and how each party will recognize the other process. The Office received the Highlands Master Plan documentation to determine what is necessary for endorsement and the next will be the development of the guidelines.

I continue to participate in County Planners Association efforts and long term recovery and on how the County planners can assist municipalities. I'm also involve in discussions on local permitting issues related in EV charging stations.

We had two staff meetings with Sustainable Jersey to develop a crosswalk of requirements and benefits to determine where economies can be develop between the sustainable and OPA. The meeting is scheduled for late August to review the progress and recommended policy.

We continue to participate in state planning organizations on a regular basis. We also had determined that MailChimp is the best vehicle to communicate with municipalities by doing a periodic newsletter that will include any incentives or grants opportunities. The system is free. We'll begin to work on the design.

Chairman Wright extended congratulations to Director Rendeiro and to the entire staff for terrific work and for keeping things moving.

Melanie Willoughby – spoke on behalf of the Secretary. We're very pleased with the activity of the Office of State Planning and we're very excited that Donna is on board with us. Thank you to the entire planning team.

Commissioner McCabe stated that the Office's work is impressive. Donna, you are doing so much great work and we all really appreciate it.

Commissioner Bruce Harris - Congratulations on the great job. Especially pleased to hear you're meeting with Sustainable Jersey because working with them will help to simplify in the long run the application process for municipalities.

## **NEW BUSINESS**

### **Presentation by Vincent J. Mazzei, Acting Assistant Commissioner, NJDEP Watershed and Land Use Management on NJDEP's PACT Initiative**

Chairman Wright welcomed Commissioner Catherine McCabe and asked to introduce the presentation by Vince Mazzei.

Commissioner McCabe spoke. Vince is in charge of our land use and stormwater management programs which we all know is incredibly important for water quality especially in times of climate change in our state. Vince's record speaks for itself in the relationships that he has in many New Jersey sectors that are advocating for the environment or for business and industry. Vince has been an incredible bridge builder. He knows how and when to get it done. We cannot be more pleased to have Vince be the first Assistant Commissioner of our newly renamed program that consolidates our land use program and watershed management. The new focus will be on protecting watersheds as we go forward on planning for the future in times of climate change.

Vince Mazzei spoke. I have been with DEP for 32 years, I'm a licensed Professional Engineer and have been involved with rule writing for quite some time now. It's a privilege to be the Acting Assistant Commissioner for Watershed and Land Use Management.

I'm starting with the Rutgers STAP Report. This table illustrates what the science has determined and you can see that there are number of different dates. There are different likelihoods of chance and there are also low, moderate and high emissions standards. You can see the progression of sea level rise over time and you can also see a relatively wide range of chances that sea level rise will exceed certain values. Our first job is to take this table and interpret it so we can adapt it into our regulations.

For example, if we decide to take the 50% chance for the given year and the given emission level, there will be a 50% chance the sea level rise will exceed this amount. The problem is that what we're really saying is that if something is built to the standard, there is a 50% chance that it will still be subject to flooding. These are the numbers we're working with. We want to make sure that the use of the structure, the location of the structure near the water will play into standards that we will adopt.

Mr. Mazzei showed a graphic of a beach with current water level, a boardwalk and a person walking. He commented that based on whichever numbers are used from the table, there is obviously a future sea level issue. Portions of the land that are not under water today, will eventually be under water at some point and that the first thing to do is to decide what type of development is appropriate for the area.

Mr. Mazzei continued. Let's say there is a brand new home on an undeveloped lot and the data suggests that within 30-50 years this lot is going to be under water. How do we address that? Is there critical infrastructure in this zone? How do we make sure that it will be well maintained and upgraded? Do we adapt so there are incentives?

There are a lot of decisions to be made for that zone. This also plays out with a 100 year flood elevation because the sea level rise information is current and sea level will go up in the future.

The following slide shows a plan view and the cross section view. There are 4 zones and each have unique factors that have to be considered in relation to the type of development:

- Zone 1. Current Inundation Area
- Zone 2. Inundation Risk Zone
- Zone 3. Current Flood Hazard Area
- Zone 4. Future Flood Hazard Area

On the next slide, I'm using NJFloodMapper; it's a fantastic tool where you can see an aerial view. You can turn on and off different layers and you can see which areas of the community are most at risk and which areas may be impacted first by rises in sea level. This is a significant problem for a future generations and for ourselves too. These don't only happen on the coast; this dynamic in a different way also happens in fluvial or riverine systems as well.

There was a study done by NY State that concluded that by 2100 there is an expected 30 to 35% increase in precipitation volume and rate. It is going to increase erosion. These are things that we need to plan for and be mindful when someone wants to build something that today is safe but, in 50 or 75 years will not be.

Our plan is to develop regulatory standards that are commensurate with the anticipated level of risk. Second is to provide tools to help homeowners, developers and public entities make informed decisions about their investments. The third piece is to evaluate the intended use of a proposed structure (public, private, recreational, etc.), the criticality of the proposed structure (school, hospitals, evacuation routes), and the likelihood the structure is proposed in an area that will be inundated during its anticipated lifetime, either by daily tides or in flood conditions.

We want to help people create a toolbox advising them that they don't need to wait for the State. Property owners and public agencies should investigate the risks and investments to determine vulnerability and local communities can adopt resiliency standards.

There are many great tools available that can assist homeowners, developers and public entities make informed decisions. For example, for inundation mapping, one can use the Rutgers' STAP report and the NYNJPA's model can be used for vulnerability assessment.

The upcoming rule making that is our current task is a joint effort between many different branches of DEP. In particular, I'm going to speak about what watershed and land management is doing in conjunction with our water resource management group. The watershed management will focus on the flood hazard area control act rules, the coastal zone management rules, the freshwater wetlands protection act rules and the stormwater management rules.

The rules will also include standards for development in the IRZ (inundation risk zone), requirements for development that looks prospectively for today's floods as well as tomorrow's floods and an emphasis on guiding and tracking development from a watershed management approach and adopting regulatory standards accordingly.

We are currently undergoing a detailed assessment of the existing rules. Currently we have over 100 people, including management, broken up into sixteen different workgroups to investigate every aspect of all of these rules and our goal is to deliver actionable recommendations by the end of the month of August. We're going to have a special focus on evaluation of incremental permitting impacts, education and outreach, coordination with other state and local entities, reduction of environmental impacts, increasing public safety and better mitigation. The timeline to deliver the rulemaking package to the state attorney is sometime in the mid to late fall.

Mr. Mazzei open the floor for questions or comments.

Director Rendeiro spoke - 2070 is not so far away. This is something we need to deal but some feel that it's so far away that we can take a little time. What I continue to remind folks is that 50 years ago it was 1970 and many of us on this call remember it like it was yesterday. So, 50 years is not that far away. The people who have the legacy homes that can't afford to build up, must be educated that if they don't start paying attention now, they are not going to have anything to pass on to their children.

Chairman Wright spoke - I found the discussion of elevating structures by 3 feet very powerful and I think to the degree that your office is working in partnership with others, maybe even with the insurance industry, to illustrate those numbers can be very powerful for convincing people about the importance of doing this. Just the same way you have high, medium and low projections for sea level rise, you can come up the high, medium and low projections for insurance. Know that the changes will be especially necessary at the Federal level like FEMA and others. Now, you may be making calculations based on current rates, but we anticipate those rates will go up. At what point is the OPA and eventually the SPC, anticipated involvement in the rule making that you talked about it? When will this come back to the Commission?

Mr. Mazzei commented that he's providing his email address for any questions or concerns and that as they delve more in to the rules, he'll be more than happy to speak with the Chairman about it.

Danielle Esser, thanked the Assistant Commissioner for providing a very helpful and informative discussion.

Mike McNeill from NAACP - thanked for the presentation.

Elizabeth Terenik - My company, ACDEVCO, is developing in Atlantic City right now with a \$67,000,000 project. We're also rehabbing abandoned properties that the city foreclosed upon and they have required plus 1 foot over the requirements. I'll be in touch with you. Thank you for your presentation.

#### **Resolution #2020-09 Authorizing an Amendment to the State Plan Policy Map in Berkeley Township, Ocean County**

Director Rendeiro -The subject area is an approximately 9.54 acre portion of an 11.8 acre subdivision that is currently in a PA-5 planning area. The subject area is also in a redevelopment area and is intended to be an affordable housing project as the fourth of four phases of the Manitou Park Redevelopment Project. The requested map amendment would change the PA-5 to a PA-2.

The Office supports this change for the following reasons:

- An expert report submitted to the Department of Environmental Protection provided evidence that the environmental conditions with the proposed area do not appear to be consistent with conditions that typify lands in a PA-5 planning area.
- The subject area is contiguous to an existing project and is part of the Manitou Park Redevelopment Project which is currently a PA-2. The entire redevelopment project is 77 acres, is largely completed. The project includes a mix of single family and multifamily housing that is approximately 50 – 60% affordable.
- As part of the Township's Third Round Housing Element and Fair Share Plan, Berkeley entered into an agreement to build the affordable housing that is intended for the subject site in exchange for the extension of sewer and water lines to replace inadequate on-site wells and septic systems.
- The project is close to recreation, religious services and some retail that will be expanded as the project progresses, making the community walkable to many services. Funding will also be provided to renovate an historic schoolhouse near the site.
- While there are still many open items that prevent DEP from permitting the project, there has been agreement by the Township and/or the Developer to resolve all environmental issues and these actions are conditions of the required NJDEP permits. Discussion of many of those resolutions are underway and the execution of those resolutions is dependent upon the recommended planning area change.
- The Township has agreed to preserve an approximately 78 acre tract of land for habitat conservation in addition to other mitigation actions.

While the primary concern of the Commission is to ensure that the subject area meets the criteria of a Planning Area 2, the end use of the site must be considered. The provision of affordable housing within a market rate community that provides walkable access to community services achieves the State Plan goal of providing a full range of housing choices that is planned and located to maintain the existing character of the neighborhood.

It is because of these considerations, I recommend that the State Planning Commission approve the requested map amendment.

Director Rendeiro referred the presentation to Lisa Avichal.

Lisa Avichal - The Township of Berkeley is seeking a State Plan Map Amendment in order to complete the buildout of the redevelopment area to provide affordable housing. The Township received Plan Endorsement approval on July 6, 2012 and submitted their last biennial review in September, 2019. Since the submission of the biennial review and map amendment request, 2 PIC meetings have occurred. After the last PIC meeting, The Township of Berkeley's consultant team, Remington and Vernick, has been diligently working toward accomplishing the items that needed to be resolved before moving forward with their map amendment request.

After the receipt of a November 26, 2018, Preliminary and Final Subdivision application to construct 51 lots and buildout of the final remaining portions of the Manitou Park Redevelopment Area, it came to the Township's attention that properties that were previously indicated as Suburban Planning Area (PA-2) had been re-designated as Environmentally Sensitive Planning Areas (PA-5) as part of the 2012 Plan Endorsement process. As indicated on the State Plan Policy Map, approximately 9.54 acres of the 11.8-acre subdivision are now within the PA-5 designation.

Officials in Berkeley Township have provided an expert report to the NJ Department of Environmental Protection as evidence that the environmental conditions within the proposed disturbance area do not appear to be consistent with conditions that typify lands in a PA-5 area, even though the current NJDEP landscape data indicates that large sections of the proposed amendment area are ranked as either Rank 4 (State Endangered) or Rank 3 (State Threatened). Since the 2012 Plan Endorsement, the evidence provided to NJDEP indicates that the environmentally sensitive nature of the area in question does not rise to the level of requiring a PA-5 designation. The New Jersey Department of Environmental Protection has verbally agreed to this map amendment under the condition that an offsite mitigation agreement be met in order to conduct habitat enhancements.

The 2012 change from PA-2 to PA-5 has major implications on the project as it limits the impervious cover to 3%. Also, since the site is currently designated as a PA-5, the proposed development is now restricted from the extension of sewer service and inclusion within the sewer service area. The site cannot be utilized as a productive asset for the community nor can it be part of the Township's future affordable housing obligation. This site is contiguous to the existing sewer service area and changing from a PA-5 to a PA-2 would extend the existing sewer service area at Manitou Park to the proposed development site.

The Township believes that it is the PA-5 designation is not appropriate for the following reasons:

- DuBois Environmental Consultants prepared a CAFRA Environmental Impact Statement (EIS) in November 2018.
  - A disturbed deciduous brush/shrubland area of significant size displayed evidence of historic and current disturbance not characteristic of traditional pine barren forest communities and does not represent a natural shrubland classification.
  - The EIS could not identify any wetland or vernal pool habitat on the site or in the immediate vicinity, and although a portion of the site is listed as suitable habitat for the state endangered northern pine snake and state threatened corn snake, no critical nesting or denning habitats for these creatures could be found.
  - It was determined that the proposed disturbance area was not a suitable habitat for the threatened Pine Barrens tree-frog or threatened barred owl and is located within the Coastal Suburban Planning Area as accepted by NJDEP for the purposes of CAFRA.
- The development area does not fit 2 of the 3 Delineation Criteria regarding PA-5
  - Population exceeds 1,000 people per square mile.
  - Development Area exhibits only two of the nine features listed in the third criterion.

Before the map amendment request could move forward to the SPC for approval, the PIC requested the follow matters be resolved:

1. A signed resolution that stated when the not-completed Plan Implementation Agreement items would be completed.
  - a. A resolution has been passed.
  - b. I have created an updated PIA chart with the new dates and descriptions. Please see attached.
    - i. The original PIA chart had 31 items; the updated PIA chart has 25 items. I combined all 6 of the TDR items into one item and combined all the state agency assistance requests into one item as well.
    - ii. Currently, 11 of the 25 PIA items have not been completed.
    - iii. Those items in red type font are high priority items.
2. Re-adopt ordinances
  - a. The signed resolution states that by June 2021, if required by The Office of Planning Advocacy, the Township will revise and adopt the Environmental Assessment ordinance or submit documentation regarding ordinances that achieve the same goal.
    - i. After conversing with the consultants and DEP, it was recognized that the township's current Environmental Impact Statement (EIS) could be updated to include all areas of the Township and this document would achieve the same goal as an Environmental Assessment Ordinance. Since this conversation, the EIS has been updated. The consultants have stated that the updated EIS will be introduced at the next town council meeting on 7/27, then move to the 8/7 town Planning Board meeting, and then to the 9/21 council meeting for adoption.
  - b. During the first PIC meeting it was stated that there were a few crucial missing ordinances that the town needed to adopt. However, the consultants responded after the meeting

stating that the missing ordinances had in fact been adopted in 2012. These ordinances include: 32-7 Septic Management, 32-6 Well Head Protection, 18-5 Water Conservation program, and 35-10 Riparian Buffer Conservation Zone. These ordinances are available on the Townships website <https://clerkshq.com/Berkeley-nj> and referenced by the codes provided.

3. Plan for a public hearing with public notice regarding the map amendment
  - a. An in-person public hearing was held on June 22, 2020 at Berkeley Township's Municipal Building's main meeting room. A call-in number was also provided. Public notice was given.
    - i. OPA requested that the comment period be extended to one-week post meeting due to COVID-19.
  - b. OPA is waiting on a formal memo from the consultants regarding summary of meeting and comments received.
  
4. Pine Snake habitat has been identified on the property that is the subject to the proposed map amendment. The New Jersey Department of Environmental Protection and the Township of Berkeley have conceptually agreed upon a mitigation strategy to resolve the matter and the developer of the affordable housing project has agreed to fund the mitigation. This agreement is subject to the CAFRA permitting process but will require a site-specific amendment to the Water Quality Management Plan and a CAFRA consistency notice prior to being considered under CAFRA for a permit.
  - a. The Developer received a Deficiency for CAFRA Individual Permit Application letter from DEP Division of Land Use.
    - i. OPA has requested from the consultants that an informal response to the letter be sent to OPA for the office to make sure the response is adequate before a formal submission is made.

The Township is seeking this amendment in order to complete the buildout of the redevelopment area, without having to implement comprehensive environmental controls or remediation as would be associated with construction within PA-5.

My recommendation is that this State Plan Map Amendment be approved.

Director Rendeiro spoke about the map - Outlined in red is the proposed 9 acres site, you can see it's contiguous to the redevelopment area that is already developed. The pink is the 78 acres that the township has agreed to preserve as habitat conservation. The little triangle, next to the 9 acre site, does have some critical habitat and will be preserved. The redevelopment is about 77 acres and the township was under the impression that the small area was planning area 2.

Jim Morris, planner from Berkeley Township thanked the staff for all their help and the Commission for consideration in this matter. We have been working diligently to make sure that we're addressing any concerns with regard to this planning area/map amendment I do believe based on my professional opinion and on the information that has been presented, that this map amendment changing this area from PA-5 to PA-2 is appropriate, warranted and stands on its own regardless of the application before NJDEP. This project was considered for development more than a decade ago.

We are looking for the Commission to act favorably upon our request for map amendment.

Mayor Amato, Berkeley Township - Thank you everyone. This is a very important project to our municipality to continue to provide clean affordable housing for our residents. We're working together with Homes for All. They're going to purchase the lots from the Town and rehab an existing one room school house which is going to be opened as a community center. We appreciate everyone looking favorably as we move forward with this great public partnership.

Director Rendeiro - I did attend the public meeting, there were no positive or negative comments to the planning area change. There was support from one of council member for the project but she had a concern about traffic that the project may generate. This is not a concern that is relevant for the planning area change decision before this Commission.

## COMMENTS

Commissioner McCabe - thank you for the presentation. Help me to understand the trade-off of the conservation area and the development area. I'm an incredible proponent of affordable housing and it sounds that the right considerations are being given to where this is located in order to make the housing for residents provide good access to transit and other amenities. I haven't been briefed about this. What DEP concerns are about habitat makes it difficult for me to judge, whether that triangle that is proposed for development is a fair trade or whether perhaps that triangle could contain the most critical part of the habitat. I really don't know. I realize that no matter how I vote or anyone else votes here, this issue can't be addressed by DEP until the later stage of regulatory approvals. I don't want to mislead anyone into thinking that I'm prejudging this. Although I totally support the concept, I need to know more about the facts before I vote on this. So, I'll abstain on today's vote.

Director Rendeiro - In a partial answer, even though there was no siting of pine snake, it was recognized that there is pine snake habitat and there is an agreement in concept that hasn't been signed off yet because that it will require the developer to put funds against it. He has committed to fund the mitigation. Some of it will be in the conservation site and some will be elsewhere to be identified by DEP. On the deficiency note, there were comments requiring more information. The developer has agreed to provide that information once the planning area is changed. He's already put a significant amount of money toward the project and would like to see the planning area change prior to expending more funds. Obviously if you are not going to permit him, he can't do the project so I'll think that he'll comply. I understand that you may need to abstain but that is kind of a partial answer.

Commissioner McCabe - Thank you Donna. I'm certainly in favor of the discussions continuing on this. And I have an open mind.

Chairman Wright - I just want to clarify for everybody's purposes that this planning area change is not prejudice to DEP's decisions on the permitting.

Director Rendeiro - That is correct and because Berkeley is in the Plan Endorsement process, they also not only need to answer to DEP obviously, but to our office as well. I can't speak for DEP but I do have a voice and it will allow us to keep tabs to make sure that the developer and the Township comply with whatever requirements that DEP needs to permit. The fact that they are in the Plan Endorsement process and most of the items that they need for CAFRA consistency are in the PIA. We'll be monitoring that as well to make sure that they comply.

Chairman Wright - Correct me if I'm wrong. A town must be in the Plan Endorsement process to formally ask the Commission to make a map amendment such as this one?

Director Rendeiro - That is correct. There are two other ways that a map amendment can occur -- and this is in general and not related specifically to Berkeley. One is that the SPC can initiate the change but only if they have been presented with facts that they did not know when the original decision was made. The other one is a third party can petition the SPC for a map amendment but that is only if the municipality is not in the Plan Endorsement process. If the town is in the plan endorsement process, the only way to petition the SPC for a map amendment is through the municipality's biennial review which is what we did here.

The objective here is to ensure the town is planning properly so that we have to look at this in relation to the entire planning process for the municipality and that is what we monitor.

Danielle Esser – Given the affordable housing component of this project and the significant amount of conservation that is been proposed, I think that the goals of development makes sense and it's meeting the state plan and is also addressing the conservation needs in the community. My understanding is that they're working proactively. To the extent that the Commissioner of DEP has questions, if there is any way that we can start to address any of those questions? Thank you for the presentation and the detailed mapping it really helped to illustrate what it's been proposed and accomplished.

Chairman Wright opened the discussion for public comments.

Rhyan Grech, Policy Advocate from the Pinelands Preservation Alliance - Thanks for the opportunity and I appreciate the comments made by the commissioners. This development still has to go through the permitting and approval process and I understand that this will be examined further in moving forward. My question is if this habitat conservation area and I understand is simple suggestion right now, the phrase is a conceptual agreement between the developer and the township. I assumed nothing is on paper or done yet. I want to know what exactly this protection means. Is this going to have a restriction associated with this property? How long is this protection going to last? Is this just something that has been proposed right now to get the state map change? In 5 years if the township wants to go ahead and develop that property, would that be possible? Or is this property going to be protected in the perpetuity? There is a pine snake habitat on this site and I heard that the regulation states this site should not be developed. I want to make sure this is not something that just remains at the conceptual agreement and actually moves forward and is the property truly protected and has some sort of restriction that runs with the life of the property. Thank you for the opportunity.

Director Rendeiro - My understanding is that the conservation easement will be in perpetuity for the 78 acres . The conceptual agreement that I was referring to previously was the mitigation of the, I believe, 7 pine snakes credits. We do have a memorandum of understanding that says that the developer will cover the cost of that, the location is to be determined but when I said conceptual, I just meant that the MOU has not been executed.

Jim Morris, Berkley Township - With regard to the habitat assessment, that information was submitted and it's been reviewed by DEP. We have been heavily involved with the evaluation of the habitat as identified and where species are present as the commenter had indicated. It's a habitat and we'll require mitigation which will be restricted for conservation.

In addition, the developer, Homes for All, agreed to purchase pine snake credits which will further be provided for habitat creation. Having said that, hopefully that alleviates some of the concerns that were raised. I do believe that the council has already adopted a Resolution of their intent to preserve the property in the future.

Mayor Amato from Berkeley Township - The 78 acres will be preserve in perpetuity, the Resolution was adopted but if there is an issue, we'll definitely have the council re-adopt it. As mentioned, the only potential future development of that site outlined in yellow will be for future ball fields if needed. We have no immediate need for that at this point. I do probably see in another 3 to 5 years an application for some Green Acre funding for a potential expansion of the ball park.

Director Rendeiro - That extension of the ball park is not part of the 78 acres. The 78 acres stands on its own.

Michael McNeill from the NAACP - I want to talk about the project itself and what it means to a lot of folks that are out there. I don't know if the council here had the opportunity to ever visit the project. I've been the NAACP NJ Conference Housing Chairman and that gave me the opportunity to work with a lot of developers throughout the State and one of the things I saw at the end of the day is that probably the best project I saw was the first project that Homes for All did out there. Efficient homes were, as you well may know, for low to moderate income and also for open market and affordable. Everything in the entire project was affordable. It gave to a lot of first time policemen, nurses and also folks like myself an opportunity for homeownership. I decided to move out there

because I heard so much about it. When we came out there we truly liked it. It wasn't a community where a lot of people may think that because it is in the south like Toms River for minorities, it wasn't like that.

Part of their mission is to put people in affordable housing. If you came, you would see a beautiful mixed neighborhood, everyone gets along and you couldn't ask for a better environment to live in and to bring your kids. I want to take this opportunity to thank the Mayor of Berkeley Township and his team for making an offer to us on affordable housing that is going to be built. He's giving us \$100,000 for 5 of those homes to be built for the very low income folks. So that gives a person an opportunity to afford a house. I wish you get the opportunity to actually visit this project, you will love it. I hope you take in consideration what it means to the community to vote in favor at the end of the day.

Ms. Price from the NAACP - A lot of people as first time homebuyers don't have the opportunities that Berkeley Township is giving. I live in Burlington County and I don't see this. I'm a housing counselor and we make sure that these people are ready to purchase these homes. Hopefully the vote is in favor to build affordable housing for everyone.

Glen McDonald from Homes for All - Thank Donna and Lisa for their diligent efforts. What they have done here is put together a thoughtful review and brought in everybody who has an interest in this project, from the public and the private sectors. I think that we had a fair discussion and I know that we will find the balance between the environmental concerns and providing affordable housing.

As Mike stated and the Mayor stated, this is a wonderful community. The previous section, actually won the Governor's Choice Award for revitalization of affordable housing and I have no doubt, and you have my commitment, that the build out of this community will be nothing different. And to Commissioner McCabe, I'll restate our commitment to continue to work with your department to find the balance that you need so we can move this project together. It's critically needed. Many people call Mike's office on a weekly bases and ask when is it coming, when is the next phase coming? And my response has been sooner than later. With that, I'll ask that the vote is done favorably so we can move this critically needed community forward.

Chair Wright asked for a motion to approve Resolution No. 2020-09, Danielle Esser made the motion and it was seconded by Vice Chair McKenna. With no further discussions or questions, Chair Wright asked for a roll call vote: Ayes: (11) Danielle Esser, Sam Kaplan, Secretary Fisher, Jim Lewis, Bruce Harris, Ed McKenna, Sean Thompson, Shanel Robinson, Elizabeth Terenik, Melanie Willoughby, Tom Wright. Nays: (0). Abstentions: (1) Catherine McCabe. . Resolution No. 2020-09 was approved.

## **ADJOURNMENT**

With no further comments from the Commission or the public, Chairman Wright asked for a motion to adjourn. The motion was made by Vice Chair McKenna and seconded by Danielle Esser. All were in favor. The meeting was adjourned at 11:20 a.m.

Respectfully submitted,



Donna Rendeiro, Secretary  
State Planning Commission  
Dated: October 7, 2020

**NEW JERSEY STATE PLANNING COMMISSION ATTENDEES**

**DATE: AUGUST 5, 2020      TIME: 9:30 AM**

Nick Angarone - NJDEP

Walter Lane - NJ County Planners Association

Elizabeth Semple - NJDEP

Michael McNeill, NAACP New Jersey State Conference Housing Chair

Kyra Price, NAACP New Jersey State Conference Assistant Secretary -

Ryan Grech - Policy Advocate, Pinelands Preservation Alliance

Meg Cavanagh - NJDEP

Steve Simone - Ocean County

Glen McDonald - Homes for All

Paula Scelsi - NJDOT

Ashton Jones - Senior Planner, Remington and Vernick Engineers

Tom Stanuikynas - Burlington County

Jim Oris - Director of Planning, Berkeley Township

Vincent Mazzei - NJDEP

Kim McEvoy - NJDEP

Susan Grogan - Executive Director, NJ Pinelands Commission

John Camera - Berkeley Township

Dan Kennedy, Utility and Transportation Contractors of New Jersey-

Helen Henderson, American Littoral Society-

Mayor Amato - Berkeley Township

Jonathan Sternesky -- NJHMFA