



Chris Christie
Governor

Kim Guadagno
Lt. Governor

State of New Jersey

THE PINELANDS COMMISSION

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Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

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Application Specific Information: AppInfo@njpines.state.nj.us

MEMORANDUM

To: Members of the Agriculture Committee

From: Susan R. Grogan 
Chief Planner

Date: November 23, 2016

Subject: December 2, 2016 Committee meeting

Enclosed please find the agenda for the Committee's upcoming meeting on December 2, 2016. We have also enclosed a copy of the minutes from the Committee's April 22, 2016 meeting.

/CS15

cc: All Commissioners (agenda only)



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AGRICULTURE COMMITTEE MEETING

Richard J. Sullivan Center
Terrence D. Moore Room
15 C Springfield Road
New Lisbon, New Jersey

December 2, 2016

9:30 a.m.

Agenda

1. Adoption of minutes from the April 22, 2016 Agriculture Committee meeting
2. Update on Pinelands Development Credit program enhancements
3. Schedule and priorities for 2017
4. Public Comment

AGRICULTURE COMMITTEE MEETING

Richard J. Sullivan Center
Terrence D. Moore Room
15 C Springfield Road
New Lisbon, New Jersey
April 22, 2016 9:30 a.m.

MINUTES

MEMBERS IN ATTENDANCE: Ed McGlinchey (Chairman), Sean Earlen, Paul E. Galletta, Ed Lloyd, Richard Prickett, Mark Lohbauer and Joe DiBello (Alternate)

MEMBERS ABSENT: Robert Barr

STAFF PRESENT: Executive Director Nancy Wittenberg, Stacey P. Roth, Susan R. Grogan, Paul D. Leakan and Betsy Piner. Also present was Ms. Amy Herbold with the Governor's Authorities Unit.

Chairman McGlinchey called the meeting to order at 9:30 a.m.

1. Adoption of minutes from the July 31, 2015 Agriculture Committee meeting

Commissioner Lohbauer moved the adoption of the minutes from the July 31, 2015 Committee meeting. Commissioner Earlen seconded the motion and all voted in favor.

2. Comprehensive Management Plan amendments

Response to S2125: field sports in the Agricultural Production Area

Ms. Roth updated the Committee on the status of the soccer activities at the Tuckahoe Turf Farm, a PDC deed-restricted farm in the Town of Hammonton. She said the soccer season runs from April to November/December. She said once legislation was passed recognizing field sports as a low intensity recreational use in the Agricultural Production Area (APA), (*January 2016*), the Attorney General's office advised the Commission that soccer was now a permitted use. When Hammonton issued a zoning permit to allow tournaments during the 2016 season, the Commission issued a letter allowing the permit to stand. Meanwhile, while the legislation was pending, the soccer club submitted an application for tournaments to be conducted on Tuckahoe Turf Farm's fields in Waterford Township. Waterford issued its approval after the legislation was passed and signed into law by the Governor. Ultimately, the Commission issued a letter of no further review for the Waterford Planning Board approval. There are two litigation matters now pending, both submitted by the Pinelands Preservation Alliance (PPA), each challenging the Commission's release of approvals in Hammonton and Waterford, respectively.

In response to Chairman McGlinchey's question regarding the Commission's response to the legislation, Ms. Wittenberg said that staff is working on CMP amendments and they could be included in the next package of rules.

In response to Commissioner Lloyd's question if there are limits to the intensity of these tournaments, Ms. Wittenberg said there are standards for low intensity recreational use in the Commission's regulations now and Ms. Grogan added that such standards are not designed for field sports. The standards limit clearing and impervious surfaces but do not address specific needs such as parking, frequency of events, etc.

Ms. Roth said both Hammonton and Waterford have site plan requirements to address parking, traffic control, etc.

In response to Commissioner Prickett's question, Ms. Roth said these tournaments require annual zoning permits every season, but the municipalities could choose to change the approval process if they wish.

In response to Commissioner Galletta's question as to what the Commission was going to do about an anticipated pilot program, Ms. Grogan responded that a lot of momentum has been lost now that the pilot program does not need to address Tuckahoe Turf Farms, specifically. However, she said she and Ms. Wittenberg, during their many meetings with various interest groups, discovered that there are many and varied events occurring on farms. She said it didn't seem a full-blown pilot program was warranted, but the Commission might want to consider some CMP amendments to address certain application requirements. Perhaps the rules should be changed to exempt those events not needing regulation.

Chairman McGlinchey said he supported Ms. Grogan's recommendation and that he saw a pilot program as problematic.

Commissioner Prickett said that the issues of special events, festivals etc. could be a reason for the Agriculture Committee to continue to meet.

Commissioner Galletta said he knew that the cranberry farmers would like to expand permitted uses in the Special Agricultural Production Area (SAPA).

Chairman McGlinchey said he believed some matters were so minor that they should be exempt from regulation, to which Ms. Wittenberg responded that Mr. Horner and the Project Review staff struggle with those decisions every day.

In response to Commissioner Prickett's question, Commissioner Galletta said he had spoken with cranberry farmer Joe Darlington, who says the cranberry industry would like to be able to do in-house marketing, bakeries, retail sales, etc. at their farms. Commissioner Galletta said he'd like the cranberry farmers to come speak to this Committee.

Commissioner Earlen said he was in favor of focusing on these smaller farm issues, rather than a larger pilot program.

Ms. Wittenberg said when staff started considering a pilot program, the focus was on Tuckahoe Turf Farms, a unique situation.

Ms. Grogan noted that this morning she had distributed copies of legislation for rural microenterprise activities (RMEs) (*Attachment A*). She said the legislation directs the State Agriculture Development Committee (SADC) to develop rules to implement it and Commission staff will be following closely. She said the legislation will provide more flexibility to allow additional uses on preserved farms. She said non-agriculture related retail and commercial uses will be allowed in a one-acre exception area, e.g. a plumbing business. Ms. Grogan said these are for non-agriculture related uses on farms preserved before 2006.

In response to Commissioner Earlen's question if certain businesses were driving this legislation, Ms. Grogan said staff does not know.

In response to Commissioner Lloyd's question as to why the date of 2006, Ms. Grogan said that 2006 was when SADC started encouraging farmers to define these 1-acre exception areas that are not covered under the easements and will allow farmers to do other non-farm-related activities. Those farms preserved prior to 2006 were not previously eligible for the rural microenterprises because the exception areas were not created.

Commissioner Lloyd said he was somewhat concerned with the modification of deed restrictions.

Ms. Grogan said this Committee needs to determine if it wants to permit small non-agriculture related uses in the Agricultural Production Area (APA), for example to allow the re-use of an existing building. The issue for the Commission is one of permitted uses under the CMP, not whether a farm is preserved or not.

Commissioner Prickett said he would like to see some examples. Commissioner Earlen said he could not imagine an activity could be very intensive on one acre in a rural area.

Ms. Grogan said large new commercial activities are not anticipated, rather something modest such as a bed-and-breakfast. Ms. Roth added that a veterinary practice might be appropriate.

In response to a comment from Chairman McGlinchey that one would need a fairly large tract of land to support a septic system for some of these non-agricultural uses. Ms. Grogan said SADC tends to preserve good-sized farms.

Ms. Grogan said she thought this committee should look at permitted uses in the APA and SAPA. Staff works closely with the Pinelands counties and SADC on land preservation and many related issues arise during those discussions. She said the legislature had given SADC two years to develop the rules.

Pinelands Development Credit program enhancements

Commissioner Galletta said he was recusing himself and leaving the dais to sit in the audience and from there he would make public comment.

Ms. Roth said Commissioner Galletta was leaving the dais to avoid a perception of conflict because he owns Pinelands Development Credits (PDCs).

Ms. Grogan made a presentation on the PDC program (*Attachment B to these minutes and also posted on the Commission's web site at <http://www.state.nj.us/pinelands/home/presentations/4%2022%202016%20pdc%20presentation.pdf>*), providing background of the program including definitions of sending and receiving areas and statistics regarding PDC activity (allocations, acres severed, sale prices and projects using PDCs). Ms. Grogan said the PDC receiving areas include 24 Regional Growth Areas (RGA) that range from small areas such as those in Berkeley Township and Medford Lakes Borough to extensive ones in Egg Harbor and Hamilton townships. In addition, PDCs may be used in other management areas in association with the granting of waivers. She noted how, in the early 2000s, the number of allocations, prices and projects using PDCs had peaked. She said the increase in the request for allocations was chiefly the result of the input of money into the PDC Special Purchase Program conducted jointly with the SADC to preserve farms while extinguishing the associated PDCs to reduce the supply. She said farmers were enthusiastic to participate in that program and targeted outreach efforts, including local meetings and mass mailings, also generated an interest in the program.

Ms. Grogan said that since that time of peak activity, prices of PDCs have fallen as demand has fallen. She focused on the final slide regarding supply and demand estimates comparing those estimates made in 2006 with those made currently. Ms. Grogan said the supply estimates from 2006 had been reduced in 2014 in part because of the active County and SADC farmland preservation programs. Even so, she said, it has long been apparent that the supply exceeded demand and, without providing more opportunities for PDC use, some landholders could be left holding PDC certificates because there were no projects where they could be redeemed. She said a proposed rule to increase the demand should provide an excess number of opportunities where PDCs could be used.

In response to Commissioner Lloyd's question if the reduced demand for PDCs is due to the economy, Ms. Grogan said Mr. Liggett, who prepared the demand numbers, looked at where people are likely to build and at what densities to develop those numbers. Any current proposal will provide a range of rights that are likely to be needed. She said these estimates are difficult to calculate and do not take into account any redevelopment potential.

Ms. Grogan said the staff is developing proposed rules that increase the demand for PDCs significantly. In RGA, PDC use will no longer be optional; it will be a mandatory obligation. Also, she said, the Pinelands Town (PT) management area will be added as a new receiving area, albeit there is not a huge area of vacant land in PT. The proposal will be much more balanced in terms of the demand being adequate to accommodate supply.

In response to Commissioner Lohbauer's statement that the proposal will increase the value of PDCs, Ms. Grogan said there was no promise as to when or at what price PDCs sales will increase, but putting the rules in place should ensure the viability of the program.

Commissioner Lohbauer stated, if the Commission does nothing, the value of PDCs will continue to fall.

In response to Commissioner DiBello's question regarding the final slide and if the 2006 estimates were good, Ms. Grogan said the numbers capture those that existed at that time. She said the supply is easier to estimate but the future demand numbers cover the period from 2006 to buildout, or from 2016 to buildout, and are more uncertain.

Ms. Grogan then presented the slides that had been shared with the Governor's office on April 5, 2016, noting this is the same presentation that had been included in the meeting packet and presented to the CMP P&I Committee at its February 26, 2016 meeting:

<http://www.state.nj.us/pinelands/home/presentations/PDC%20Enhancements%20Presentation%20--%20February%2026,%202016.pdf>

Ms. Grogan said currently the CMP puts a cap on residential density in the RGA. For those municipalities wishing to rezone for higher density projects such as affordable housing redevelopment or mixed use projects, the proposed rules, which she is currently drafting, will eliminate that cap. She said she and Mr. Liggett had conducted numerous meetings with various interest groups regarding enhancements to the PDC program and the municipalities like having that flexibility. She said, if the rules are adopted some 24 or 25 municipalities, those with RGA and PT, will be required to change their ordinances to incorporate the CMP amendments.

Ms. Grogan reviewed the positions of various interest groups (municipalities, builders, PDC holders and environmentalists) and noted how the proposal had been changed to accommodate some of their concerns. For instance, she said the municipalities opposed a PDC obligation for commercial use as they felt it put them at a competitive disadvantage; however, the new rules might allow municipalities the option of requiring PDCs for commercial development. Other changes included eliminating a Forest Area PDC-sending area in response to concerns of PDC-holders and reducing the maximum PDC percentage from 60% to 50% in response to the concerns of municipalities and builders who felt it onerous for low density development.

Commissioner McGlinchey said in Winslow Township, additional floor area for commercial development is permitted with the use of PDCs. However, no one has ever requested an increase in impervious surface.

Ms. Grogan said she thought that opportunity would be appropriate in a redevelopment project.

In response to Commissioner McGlinchey's question as to when PDCs are redeemed in the approval process, Ms. Grogan said one does not need the PDCs until final approvals are granted for the project, and bigger projects are allowed to phase the development. Ms. Grogan said staff could discuss with the Project Review office the concept of redeeming PDCs along with the development of each unit. She added that the builders feel that the PDC obligation is too high for smaller projects with 2-3 units.

Chairman McGlinchey said he would like to eliminate the PDC obligation for smaller projects, e.g. removing the obligation from a project developing five or few units.

Commissioner Earlen said that lower density projects cannot necessarily “afford” PDCs as he was concerned about the small “mom and pop” builders with a 3 or 4 lot subdivision being hurt by a PDC obligation as opposed to the developer of a 100-unit subdivision. He indicated a particular concern with small projects using septic systems.

Ms. Grogan said staff had said that in reference to communities such as Shamong Township with its high housing values on low density projects.

Ms. Grogan said she was currently drafting rules and would likely provide them to the P&I Committee in May or June.

In response to Commissioner Prickett’s question as to how the PDC enhancements will be monitored, Ms. Grogan said the PDC annual report tracks severances, sales and redemptions, although there may be an interest in generating a report more frequently. She said that staff does not have a systematic means of reporting on affordable housing projects but may develop a means of tracking them to determine the impacts on PDC use.

In response to Commissioner Prickett’s comment that the purpose of this proposal is to revitalize the development areas of the Pinelands, Ms. Grogan said that was a proposal from the 3rd Plan Review, a recommendation to encourage higher density, redevelopment and efficient use of land in the growth areas.

Chairman McGlinchey said he has always felt that farmers had never been compensated properly and he wanted to see them get a fair price for PDCs. He said he didn’t care if developers had to pay for PDCs to build 100 units.

Commissioner Lohbauer said he thought the proposed rules go a long way to enhancing the PDC program and increasing the PDC value. However, he thought the Commission should take another look at the small lot developers who are not on sewer and cannot take advantage of increased density. He also asked why there was no obligation for affordable housing. He said he felt the Pinelands were going to see a lot of development pressure from affordable housing projects. He said that he didn’t want to penalize affordable housing but there is a need to shore up the value of PDCs.

Ms. Grogan responded that staff envisions that most affordable housing projects are going to be inclusionary, with the majority of units in a project being market rate. This proposal would guarantee the use of PDCs while exempting the affordable units from the PDC obligation.

She said in more recent years, there have been more small sites with 100% affordable units, as an increasingly popular ways of meeting that obligation. She said staff believes that as long as a project requires PDC use on the market rate units, the obligation can be waived from the affordable ones. However, she believed the number of those 100% affordable projects will be small and should not cut into the PDC obligation by much.

In response to Chairman McGlinchey’s statement that he assumed the Commission would continue to write model ordinances for the municipalities to implement new amendments, Ms.

Grogan said, yes, they would. She said staff drafts the model ordinances, reviews them with the municipalities and meets with them regarding zoning changes. She said often such discussions are among the most successful interactions with the municipalities.

In response to Chairman McGlinchey's question if there were speculators purchasing PDCs at this time while they are relatively inexpensive, Ms. Grogan has said that whenever she has discussed doing that, the response is that developers do not have the money to put up front.

Chairman McGlinchey said that, before continuing with the agenda, he wished to provide the public with an opportunity to speak. *The sequence of these minutes reflects the meeting order rather than that of the agenda.*

3. Public Comment

Mr. Jay E. Mounier, a resident of Franklin Township, said the Committee had no idea how sympathetic he was for the builder/developer who had a mandatory PDC obligation! He said such people had been enjoying a windfall as the value of land in the RGA skyrockets while the farmers and landowners in the PAD are suffering alone and selling PDCs at the equivalent of \$500/acre, which was the price the PDC Bank was paying when it had money. The farmers know what mandatory means: nothing. Mandatory means that your retirement fund is reduced to zero. He said he didn't hear much support from the Committee today to continue mandatory use of PDCs; he heard calls for exemptions. He said one needs to consider the person who can afford to develop a property on an alternate design wastewater treatment system requiring the use of PDCs vs. the farmer with a worthless piece of script (a PDC certificate) worth zero. He said the only reason the price of PDCs is as high as it is, is because farmers will not sell at these low prices right now. He said he was surprised that they were not down to the 1982 base price of \$2,500 per right. He said the demand for PDCs is really based on the acreage available in the RGA and whatever else constitutes a receiving area. He said in 2009 there was encouragement for high density development in the RGA and he supported that. He said now he hears that the maximum percentage of a PDC obligation is being dropped from 60% to 50% just within the last week. He said let's be fair to the one who owns the preserved land rather than worrying about the person living on the \$300,000 lot. He provided a hand-out (*Attachment C*) based on a 60% PDC obligation. He said there has been a lot of unfairness in this program and over the course of the year he didn't think the solution and fairness were being addressed. He said if the Commission and the State of New Jersey cannot see fit to come up with a program to increase the value of PDCs by increasing demand, then the development rights should be returned to the landowners to provide an opportunity for a return. If a PAD landowners gets one building on his 50-acre lot, then that is more value than he's had in 35 years.

Mr. Paul Galletta, speaking as a Hammonton Town resident, not as a Commissioner, said he concurred with much of what Mr. Mounier had said. However, he did agree that the PDC obligation should be waived for those who have small residential development projects in the non-sewered RGA. He added that the PDC program should be a Transfer of Development Rights (TDR) program with receiving areas designated throughout the state of New Jersey as the Pinelands is competing for the same job market as Philadelphia. He said he supported the proposal, and, although it isn't perfect, it is the last recourse for the farmers.

Ms. Monique Purcell, with the NJ Department of Agriculture, said her office supports the idea presented by Mr. Galletta of developing a regional program for the use of PDCs. She said that the Department of Agriculture supports the Commission's efforts to enhance and stimulate the PDC program.

Mr. Ben Casella, with the New Jersey Farm Bureau (NJFB), said he supported Mr. Mounier's concerns for the members of his organization. He said farmers need to be compensated for the loss of equity. He said the NJFB supports the Commission's efforts to improve the program. He suggested that reducing the PDC obligation for affordable housing was a means of diluting the use of PDCs, and that may be of concern to the NJFB.

4. Discussion of the need for a pilot program for special events and expanded economic opportunities on agricultural lands

Chairman McGlinchey noted that the Committee had already discussed this item and that future CMP amendments will address this issue.

Ms. Grogan said that the Committee will meet again to discuss what it wishes to do in lieu of a pilot program. Committee members expressed a preference for scheduling the next meeting in August.

5. Other Items of Interest

Commissioner Lloyd said he appreciated all the work done by staff; the PDC enhancements have been on the agenda for seven years.


Ms. Wittenberg said the PDC rule proposal has been very controversial and it is a major factor to have members of the agriculture community and the Farm Bureau express support here today.

Chairman McGlinchey said historically it has been difficult to get farmers to come to meetings and he encouraged the Farm Bureau to reach out to the farmers and encourage them to help the farmers help the Commission.

Commissioner Lohbauer recognized Ms. Wittenberg, Ms. Grogan and Mr. Liggett for their work on the PDC enhancements, noting that the great support received today was the result of their efforts.

The meeting adjourned at 11:27 a.m. (moved by Commissioner Earlen and seconded by Commissioner Lohbauer)

Certified as true and correct:



Betsy Pher,
Principal Planning Assistant

Date: May 2, 2016

CHAPTER 275

AN ACT concerning the operation of rural microenterprises on preserved farms, amending the title and body of P.L.2005, c.314, and designated as the "New Jersey Rural Microenterprise Act."

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. The title of P.L.2005, c.314 is amended to read as follows:

Title amended.

AN ACT concerning rural microenterprise activities and personal wireless service facilities on preserved farmland, and supplementing P.L.1983, c.32 (C.4:1C-11 et seq.).

2. Section 1 of P.L.2005, c.314 (C.4:1C-32.1) is amended to read as follows:

C.4:1C-32.1 Special permit to allow rural microenterprise activity on land; terms defined.

1. a. Any person who owns qualifying land may apply for a special permit pursuant to this section to allow a rural microenterprise activity to occur on the land.

b. The committee, in its sole discretion, may issue a special permit pursuant to this section to the owner of the premises if the development easement is owned by the committee or a board. If the development easement is owned by a qualifying tax exempt nonprofit organization, the committee, in consultation with the qualifying tax exempt nonprofit organization, may issue a special permit pursuant to this section to the owner of the premises. The committee shall provide the holder of any development easement on the farm with a copy of the application submitted for the purposes of subsection a. of this section, and the holder of the development easement shall have 30 days after the date of receipt thereof to provide comments to the committee on the application. Within 90 days after receipt of a completed application, submitted for the purposes of subsection a. of this section, the committee shall approve, approve with conditions, or disapprove the application.

c. There shall be two categories of rural microenterprise activities, as follows:

(1) Class 1 shall include customary rural activities, which rely on the equipment and aptitude historically possessed by the agricultural community, such as snow plowing, bed and breakfasts, bakeries, woodworking, and craft-based businesses; and

(2) Class 2 shall include agriculture support services, which have a direct and positive impact on agriculture by supplying needed equipment, supplies, and services to the surrounding agricultural community, such as veterinary practices, seed suppliers, and tractor or equipment repair shops.

d. A special permit may be issued pursuant to this section provided that:

(1) the owner of the premises establishes, through the submission of tax forms, sales receipts, or other appropriate documentation, as directed by the committee, that (a) the qualifying land is a commercial farm as defined pursuant to section 3 of P.L.1983, c.31 (C.4:1C-3), and (b) the owner of the premises is a farmer, as defined pursuant to subsection k. of this section;

(2) the permit is for one rural microenterprise only;

(3) no more than one permit is valid at any one time for use on the qualifying land;

(4) the permit is for a maximum duration of 20 years;

(5) the permit does not run with the land and may not be assigned;

(6) the rural microenterprise does not interfere with the use of the qualifying land for agricultural or horticultural production;

(7) the rural microenterprise utilizes the land and structures in their existing condition, except as allowed in accordance with the use restrictions prescribed in subsection g. of this section;

(8) the total area of land and structures devoted to supporting the rural microenterprise does not exceed a one-acre envelope on the qualifying land;

(9) the rural microenterprise does not have an adverse impact upon the soils, water resources, air quality, or other natural resources of the land or the surrounding area; and

(10) the rural microenterprise is not a high traffic volume business, and is undertaken in compliance with the parking and employment restrictions prescribed by subsection h. of this section.

e. The owner of the premises may apply to the committee to renew a permit within 10 years before the date of the scheduled permit expiration. The committee shall review the renewal application in accordance with the process and criteria set forth in this section for the issuance of a special permit, including the consultation required by subsection b. of this section.

f. The committee shall provide reasonable opportunity for the continued operation of a rural microenterprise in the event of:

- (1) the death, incapacitation, or retirement of the owner of the premises;
- (2) transfer of the ownership of the farm; or
- (3) disruption of income from gross sales of agricultural or horticultural products, caused by circumstances beyond the farmer's control, such as crop failure.

g. The use of land and structures for a rural microenterprise activity shall be subject to the following conditions and restrictions:

(1) A structure that is designated in the deed of easement as agricultural labor housing, or a structure that has been constructed or designated as agricultural labor housing since the date of the conveyance of the easement, shall not be used for the rural microenterprise;

(2) No new structures may be constructed on the premises to support a rural microenterprise. Any structure constructed on the premises since the date of the conveyance of the easement, and in accordance with the farmland preservation deed restrictions, shall not be eligible for a special permit for a rural microenterprise for a period of five years following completion of its construction;

(3) Improvements shall not be made to the interior of a non-residential structure in order to adapt it for residential use;

(4) The entire floor area of existing residential or agricultural building space may be used to support a rural microenterprise where the building has not been substantially altered or finished to support the microenterprise;

(5) No more than 2,500 square feet of the interior of existing residential or agricultural building space may be substantially altered or finished to support the rural microenterprise, except that, at the request of the owner of the premises, the committee may allow the alteration or finishing of up to 100 percent of an existing heritage farm structure, provided that the owner agrees to place on the structure, in a form approved by the committee, a heritage preservation easement, which shall be recorded against the premises, shall be held by the committee, and shall run with the land;

(6) The expansion of existing building space shall be permitted, provided that: (a) the expansion does not exceed 500 square feet in total footprint area; (b) the purpose or use of the expansion is necessary to the operation or functioning of the rural microenterprise; and (c) the area of the proposed footprint of the expansion is reasonably calculated, based solely

upon the demands of accommodating the rural microenterprise, and does not incorporate excess space;

(7) Improvements to the exterior of a structure shall be compatible with the agricultural character of the premises, and shall not diminish the historic or cultural character of the structure;

(8) Repairs may be made to the interior or exterior of a building provided that they do not diminish the historic or cultural character of the structure;

(9) The location, design, height, and aesthetic attributes of the rural microenterprise shall reflect the public interest of preserving the natural and unadulterated appearance of the landscape and structures;

(10) No public utilities, including water, gas, or sewage, other than those already existing and available on the qualifying land, shall be permitted to be extended to the qualifying land for purposes of the rural microenterprise, except that the establishment of new electric service required for the rural microenterprise shall be permitted;

(11) On-site septic and well facilities may be established, expanded, or improved for the purpose of supporting the rural microenterprise provided such facilities are contained within the one-acre envelope provided for in paragraph (8) of subsection d. of this section; and

(12) No more than a combined total of 5,000 square feet of land may be utilized for the outside storage of equipment, vehicles, supplies, products, or by-products, in association with the microenterprise. Any improvements to the land that are undertaken for the purposes described in this paragraph or paragraph (11) of this subsection shall be limited to those that are necessary either to protect public health and safety or to minimize disturbance of the premises and its soil and water resources.

h. Parking and employment at a rural microenterprise shall be subject to the following conditions and restrictions:

(1) The area dedicated to customer parking shall not exceed 2,000 square feet or provide for more than 10 parking spaces;

(2) Improvements to the parking area shall be limited to those improvements that are required to protect public health and safety or minimize the disturbance of soil and water resources on the premises;

(3) The number of parking spaces shall be sufficient to accommodate visitors to the rural microenterprise under normal conditions; and

(4) At peak operational periods, the maximum number of employees or workers who are associated with the rural microenterprise and work on the premises shall not exceed four full-time employees, or the equivalent, in addition to the owner or operator.

i. Committee approval of a special permit for a rural microenterprise activity pursuant to this section shall not relieve the applicant from obtaining all other permits, approvals, or authorizations that may be required by federal, State, or local law, rule, regulation, or ordinance.

j. (1) A rural microenterprise shall not be considered to be an agricultural use as defined in subsection b. of section 3 of P.L.1983, c.32 (C.4:1C-13).

(2) Nothing in this section shall be interpreted as providing a rural microenterprise with protection under section 6 of the "Right to Farm Act," P.L.1983, c.31 (C.4:1C-9) if that rural microenterprise is not otherwise eligible for such protection.

k. For the purposes of this section:

"Farmer" means the owner and operator of the premises who:

(1) exclusive of any income received from the rental of lands, realized gross sales of at least \$2,500 for agricultural or horticultural products produced on the premises during the calendar year immediately preceding submission of a special permit application; and

(2) continues to own and operate the premises and meet that income threshold every year during the term of the permit.

“Heritage farm structure” means a building or structure that is significantly representative of New Jersey’s agrarian history or culture and that has been designated as such by the committee exclusively for the purposes of sections 1 and 3 of P.L.2005, c.314 (C.4:1C-32.1 and C.4:1C-32.3).

“Heritage preservation easement” means an interest in land less than fee simple absolute, stated in the form of a deed restriction executed by or on behalf of the owner of the land, appropriate to preserving a building or structure that is significant for its value or importance to New Jersey’s agrarian history or culture, and to be used exclusively for the purposes of implementing sections 1 and 3 of P.L.2005, c.314 (C.4:1C-32.1 and C.4:1C-32.3), to limit alteration in exterior form or features of such building or structure.

“Owner of the premises” means the person or entity who owns qualifying land.

“Qualifying land” means a farm on which a development easement was conveyed to, or retained by, the committee, a board, or a qualifying tax exempt nonprofit organization prior to January 12, 2006, the date of enactment of P.L.2005, c.314 (C.4:1C-32.1 et seq.), and in accordance with the provisions of section 24 of P.L.1983, c.32 (C.4:1C-31), section 5 of P.L.1988, c.4 (C.4:1C-31.1), section 1 of P.L.1989, c.28 (C.4:1C-38), section 1 of P.L.1999, c.180 (C.4:1C-43.1), or sections 37 through 40 of P.L.1999, c.152 (C.13:8C-37 through C.13:8C-40), and for which no portion of the farm was excluded from preservation in the deed of easement.

“Qualifying tax exempt nonprofit organization” means the same as that term is defined pursuant to section 3 of P.L.1999, c.152 (C.13:8C-3).

“Rural microenterprise” means a small-scale business or activity that is fully compatible with agricultural use and production on the premises, does not, at any time, detract from, diminish, or interfere with the agricultural use of the premises, and is incidental to the agricultural use of the premises. “Rural microenterprise” shall not include a personal wireless service facility as defined and regulated pursuant to section 2 of P.L.2005, c.314 (C.4:1C-32.2).

3. Section 3 of P.L.2005, c.314 (C.4:1C-32.3) is amended to read as follows:

C.4:1C-32.3 Application fee for special permit; suspension, revocation; report.

3. a. The application fee for a special permit authorized pursuant to section 1 of P.L.2005, c.314 (C.4:1C-32.1) shall be \$250. The application fee for a special permit authorized pursuant to section 2 of P.L.2005, c.314 (C.4:1C-32.2) shall be \$1,000. All application fees shall be payable to the committee regardless of whether or not a permit is issued. All proceeds from the collection of application fees by the committee pursuant to P.L.2005, c.314 (C.4:1C-32.1 et seq.) shall be utilized by the committee for farmland preservation purposes.

b. The committee may suspend or revoke a special permit issued pursuant to section 1 or 2 of P.L.2005, c.314 (C.4:1C-32.1 or C.4:1C-32.2) if the permittee violates any term or condition of the permit, or any provision of the applicable statutory section.

c. (1) In order to expedite the review and approval of routine applications for a special permit, which have been submitted pursuant to section 1 or 2 of P.L.2005, c.314 (C.4:1C-

32.1 or C.4:1C-32.2), the committee may delegate to its executive director, by resolution, the authority to review and approve an application. The delegation of review and approval authority pursuant to this subsection shall be authorized by the committee only in those cases where (a) the committee has not received comments from the board or a qualifying nonprofit organization concerning the potential negative impacts of an application's approval, and (b) the application complies with all provisions of P.L.2005, c.314 (C.4:1C-32.1 et seq.) and the rules and regulations adopted pursuant thereto.

(2) An applicant whose application is denied by the executive director may appeal the decision to the committee.

(3) Nothing in this subsection shall preclude the executive director from bringing any application before the committee for review and approval, when such action is deemed by the executive director to be appropriate.

d. The committee may take action to deny an application for a special permit or to suspend or revoke a special permit issued pursuant to P.L.2005, c.314 (C.4:1C-32.1 et seq.). The applicant or permittee shall be afforded the opportunity for a hearing prior to the committee taking any such action.

e. Within two years after the date of enactment of P.L.2015, c.275, the committee shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as is necessary to implement and administer the provisions of P.L.2005, c.314 (C.4:1C-32.1 et seq.), as amended by P.L.2015, c.275. These rules and regulations shall include, at a minimum, procedures and standards for the filing, evaluation, and approval of special permit applications, which procedures and standards shall seek to balance, as equally important concepts, the public interest in: (1) protecting farmland from further development as a means of preserving agriculture; (2) protecting heritage farm structures and enhancing the beauty and character of the State and the local communities where farmland has been preserved; and (3) providing support to sustain and strengthen the agricultural industry in the State.

f. Every two years, the committee shall prepare a report on the implementation of P.L.2005, c.314 (C.4:1C-32.1 et seq.), as amended by P.L.2015, c.275. The report shall include a survey and inventory of:

(1) all rural microenterprise activities occurring, and all personal wireless service facilities placed, on preserved farmland in accordance with the provisions of P.L.2005, c.314 (C.4:1C-32.1 et seq.);

(2) the extent to which existing structures, such as barns, sheds, and silos, are used for the purposes identified in paragraph (1) of this subsection, and the manner in which those existing structures have been modified to serve those purposes;

(3) the extent to which new structures, instead of existing structures, have been erected to host personal wireless service facilities, and the number and type of new structures used to disguise those facilities, such as artificial trees and faux barns, sheds, and silos;

(4) the extent to which heritage farm structures have been protected through the placement thereon of heritage preservation easements; and

(5) any other information the committee deems useful.

Any report prepared pursuant to this subsection shall be transmitted to the Governor, and, in accordance with the provisions of section 2 of P.L.1991, c.164 (C.52:14-19.1), to the President of the Senate and the Speaker of the General Assembly, as well as to the respective chairpersons of the Senate Economic Growth Committee, the Senate Environment and Energy Committee, the Assembly Agriculture and Natural Resources Committee, and the Assembly Environment and Solid Waste Committee, or their designated successors. Copies

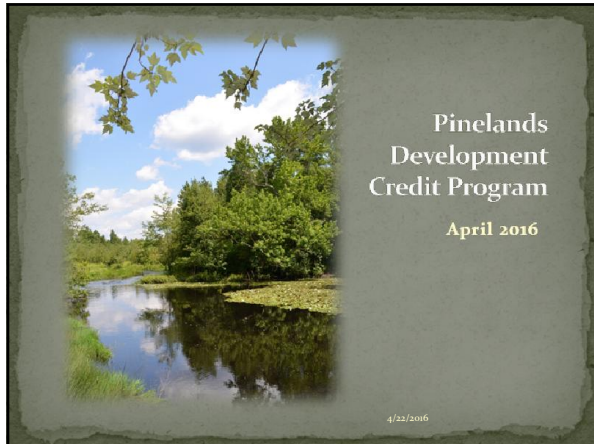
P.L.2015, CHAPTER 275

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of the report shall also be made available to the public upon request and free of charge, and shall be posted at a publicly-accessible location on the committee's Internet website.

4. This act shall take effect immediately.

Approved January 19, 2016.



The PDC Program -- Briefly

- PDCs are development rights that are allocated by the Pinelands Commission to properties in sending areas that can be transferred to increase the amount of residential development permitted on other properties in receiving areas.
- Each PDC transfers the right to build four homes and can be bought and sold in 1/4 (or 1 right) increments.

4/22/2016


Sending Areas



- Include preservation (294,000 acres) and agricultural areas (106,000 acres).
- Conservation or agricultural easements are placed on the sending properties when the PDCs are severed.

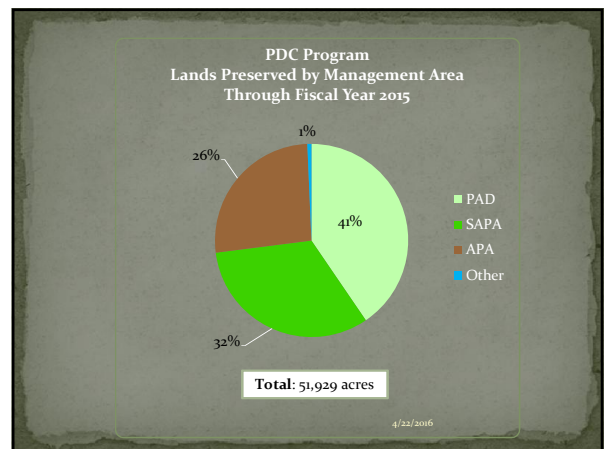
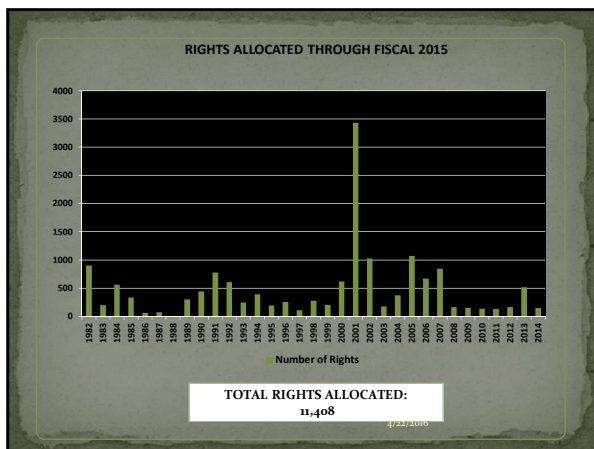
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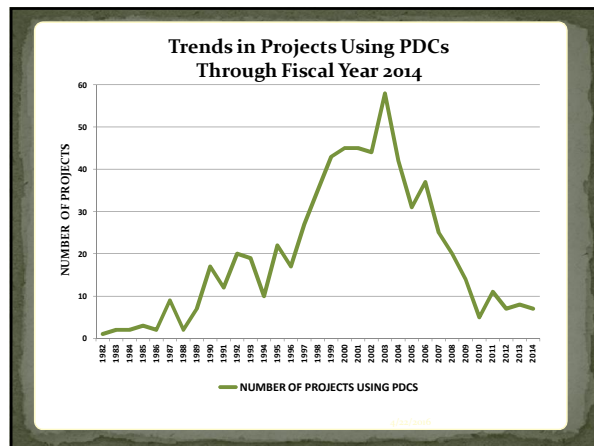
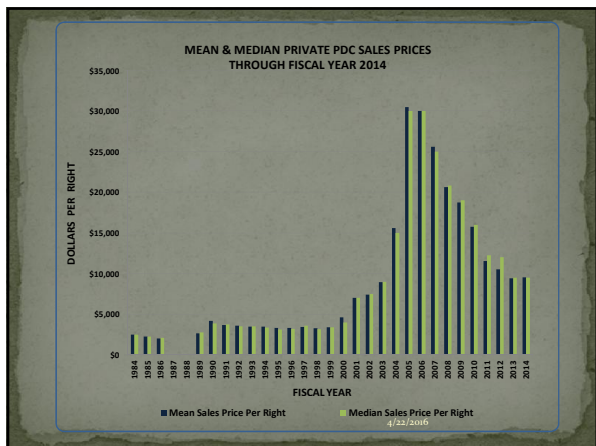
Receiving Areas



- Receiving areas consist of 24 Regional Growth Areas (76,000 acres) where municipal zoning plans allow for bonus densities through the use of PDCs or require a minimum % of PDC use.
- PDCs can also be used in other areas of the Pinelands to build homes on undersized lots or on lots that require waivers (deviations) from environmental standards.

4/22/2016





PDC Program Supply and Demand Estimates

| | SUPPLY | DEMAND |
|------------------------|--------------|--------------|
| Immediate | 1,500 rights | 950 rights |
| Future (2006 estimate) | 8,100 rights | 5,200 rights |
| Future (2016 estimate) | 6,750 rights | 2,400-3,100 |
| Proposed Rules | 6,750 rights | 6,800-8,900 |

4/22/2016

