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THE PINELANDS COMMISSION
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MEMORANDUM

To: CMP Policy & Implementation Committee

From: Susan R. Grogan 
Chief Planner

Date: April 18, 2018

Subject: April 27, 2018 Committee meeting

Enclosed please find the agenda for the Committee's upcoming meeting on April 27, 2018. We have also enclosed the following:

- The minutes from the Committee's March 23, 2018 meeting;
- A draft resolution and report on the Egg Harbor Township ordinance listed on the agenda; and
- A written request from the New Jersey Conservation Foundation for advancement of funds allocated to a Pinelands Conservation Fund project prior to its closing date.

/CS15

cc: All Commissioners (agenda only)



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CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

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

April 27, 2018

9:30 a.m.

Agenda

1. Call to Order
2. Pledge Allegiance to the Flag
3. Adoption of minutes from the March 26, 2018 CMP Policy & Implementation Committee meeting
4. Executive Director's Reports

Egg Harbor Township Ordinance 35-2017, amending Chapter 225 (Zoning) by revising permitted uses in the RCD (Regional Commercial Development) District, within the Regional Growth Area

5. Discussion of Winslow Township's Regional Growth Area rezoning plan
6. Update on Pinelands Conservation Fund land acquisition projects
 - Consideration of extension requests
 - Consideration of a request from the New Jersey Conservation Foundation for advancement of funding prior to closing
7. Pilot Program for Alternate Design Wastewater Treatment Systems
 - 2017 Implementation Report
 - Draft CMP amendments

8. Public Comment

CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

Richard J. Sullivan Center
Terrence D. Moore Room
15 C Springfield Road
New Lisbon, New Jersey
March 23, 2018- 9:30 a.m.

MINUTES

MEMBERS IN ATTENDANCE: Chairman Sean Earlen, Robert Barr, Ed Lloyd and Richard Prickett

MEMBER ABSENT: Candace Ashmun and Paul E. Galletta

OTHER COMMISSIONER PRESENT: Jordan Howell (as a non-member of the Committee, Commissioner Howell did not vote on any matter)

STAFF PRESENT: Executive Director Nancy Wittenberg, Larry L. Liggett, Susan R. Grogan, Brad Lanute, Paul Leakan and Betsy Piner. Craig Ambrose, with the Governor's Authorities Unit, was present via conference call until 11 a.m.

1. Call to Order

Chairman Earlen called the meeting of the Comprehensive Management Plan (CMP) Policy and Implementation (P&I) Committee to order at 9:40 a.m.

2. Pledge Allegiance to the Flag

All present pledged allegiance to the Flag.

3. Adoption of minutes from the January 26, 2018 CMP Policy & Implementation Committee Meeting

Commissioner Barr moved the adoption of the January 18, 2018 meeting minutes. Commissioner Lloyd seconded the motion. The minutes were adopted with all Committee members voting in the affirmative.

4. Update on affordable housing in the Pinelands Area

Mr. Lanute gave a presentation on the status of affordable housing matters in the Pinelands Area since the 2015 New Jersey Supreme Court decision known as Mount Laurel IV. Mr. Lanute distributed a document entitled Affordable Housing Summary-Pinelands Area Municipalities, dated March 23, 2018 (The presentation slides and handout are attached these minutes and also posted on the Commission's web site at:

<http://www.nj.gov/pinelands/home/presentations/Affordable%20Housing%20Update%20-%20P&I%203.23.pdf>).

Mr. Lanute gave a brief overview of the basis of affordable housing law in New Jersey. He described the Mount Laurel doctrine and said that all municipalities in New Jersey have a constitutional obligation to create a realistic opportunity for the development of a municipality's fair share of the regional need for affordable housing. He said in 1985, the New Jersey legislature adopted the Fair Housing Act (FHA), which established the Council on Affordable Housing (COAH) to administer a program for estimating the housing needs statewide and by region, establishing methods for municipalities to determine their housing obligation and to administer the substantive certification and mediation process. He stated that while application is voluntary, a municipality that receives substantive certification is afforded greater legal protections against exclusionary zoning lawsuits.

Mr. Lanute described the events that led up to the March 2015 New Jersey Supreme Court decision known as Mount Laurel IV, in which the Court instructed the trial courts to assume the responsibilities of COAH. He said that those municipalities that had received, or were in the process of applying for substantive certification from COAH under the invalidated third round rules, were eligible to petition the Court for the judicial equivalent of substantive certification. He stated that in order to receive substantive certification, municipal planning boards must adopt a Housing Element and Fair Share Plan and municipal governing bodies must adopt implementing ordinances. Mr. Lanute said the Commission's role is to ensure that CMP regulations are acknowledged in advance, where possible, during the court deliberations on drafted plans and ordinances. He said that upon adoption of plans and implementing ordinances, the Commission reviews them under the CMP's municipal conformance process.

Mr. Lanute briefly reviewed the summary status of municipalities in the Pinelands Area as described in the handout. He then summarized a selection of ordinances recently certified by the Commission that have implications for affordable housing within the Pinelands Area, including permitted densities and affordable housing set-aside requirements and permitted housing types. He noted that these were ordinances that were reviewed by the Committee in previous meetings.

Commissioner Lloyd said there had been a major decision rendered by Judge Mary Jacobson regarding the affordable housing obligation of Princeton and West Windsor and that, unless appealed, will dictate methods for establishing the obligations of municipalities statewide. He

characterized today's presentation as antiseptic in that it glossed over a very long history of resistance in New Jersey to providing affordable housing that continues today. He said that he believed COAH was a failure due to the political resistance against it. He said this judgment means finally there appears to be some progress.

Ms. Grogan said the new system seems to have prompted many towns to do something with regard to affordable housing. She stated that staff has seen a number of towns willing to work with the Fair Share Housing Center to reach agreements on housing plans, mostly planning for development in areas outside of the Pinelands Area. She said it is particularly evident in Ocean County, where growth is occurring. She said Jackson Township had done nothing regarding affordable housing for decades and now has a huge affordable housing obligation with many new projects coming. She said that Pinelands Area municipalities are generally limiting their proposed affordable housing activity to the Regional Growth Area (RGA).

Chairman Earlen said that the process has been terrible as the housing obligations are a moving target, and that as municipalities rush to develop their affordable housing plans, they find that there were missed opportunities.

Commissioner Barr said, as Chairman of the Ocean City Housing Authority Board of Commissioners, he knows that his municipality has an obligation of 1,000 units yet there is no way to meet it as the community is pretty much built out.

In response to Commissioner Lloyd's question if the Commission should speak with Kevin Walsh (Executive Director, Fair Share Housing Center), Ms. Grogan said staff met with Mr. Walsh and learned that there were not many Pinelands municipalities of concern to his organization. She said Mr. Lanute had confirmed the numbers he presented today with Fair Share Housing Center. She also said the Commission had asked that Fair Share Housing provide copies of settlement agreements to the Commission; however, they have not done so. She said one municipality passed along a portion of its housing obligation to the Pinelands Commission, with the expectation that the Commission would transfer or accommodate that obligation elsewhere in the Pinelands Area. She said staff advised both Fair Share Housing and the municipality that the Commission has no rules, mechanism or authority to carry out such a transfer, and upon that advice the municipality amended its Housing Plan.

Ms. Grogan said that staff often does not see the settlement agreements between Fair Share Housing and the municipalities until after they have been signed. Often, the agreements and recommended Housing Plans do not recognize or accommodate PDC obligations.

In response to Commissioner Howell's question regarding the relationship of affordable housing to PDCs, Ms. Grogan said that, typically, it is sewer development in the Regional Growth Area where such high density projects can be accommodated. She said PDC opportunities must be provided in new high density zones. She said the Commission has allowed municipalities to apply PDC obligations only to the market-rate units in a project. However, the Commission has

been firm that Pinelands rules do not recognize affordable housing as a means of avoiding the use of PDCs. She said recent rezonings have included mandatory PDC obligations of 20% to 30% of market-rate units as a way of permitting higher densities than the CMP requires and exempting affordable units.

Ms. Grogan said the staff is usually able to suggest options that balance PDC obligations with the municipality's need to provide for affordable housing. She also said some consultants and court masters contact the Commission regarding housing obligations but often the Commission does not learn about a settlement agreement until after it has been signed.

Ms. Grogan said PDC prices are currently low, in the \$8,000 to \$9,000 range, whereas in the past, they were between \$30,000 and \$40,000 per right.

Mr. Liggett said that some municipalities have agreements in place that defer a portion of their affordable housing obligation to the future. For example, Mullica Township, where there is no centralized sanitary sewer system, relied on this approach.

Commissioner Prickett said it would be good for the municipalities to reach out to the Pinelands Commission and Commissioner Lloyd added that it might be worthwhile for a letter to be sent to the towns.

Ms. Grogan said that staff is working with a few remaining towns that have a Regional Growth Area, including Monroe and Medford townships and is hoping to hear from those municipalities such as Tabernacle, Southampton and Shamong that have not provided for affordable housing yet have considerable vacant lands.

In response to Commissioner Howell's question regarding how a town can discharge its affordable housing obligation when it has environmentally sensitive lands, Ms. Grogan said that obligations can be adjusted due to specific on-site environmental constraints, and that new development is not always required. The rehabilitation of an existing mobile home park can help a municipality to meet its obligation, as can the conversion of existing housing to group homes.

In response to Commissioner Lloyd's question regarding municipalities that are built out, Ms. Grogan said settlement agreements recognize the lack of vacant land. Such municipalities have been asked to adopt ordinances requiring affordable housing if redevelopment occurs in the future.

5. Update on Plan Review Recommendations and CMP Amendments

Ms. Grogan provided an update on the 2014 Plan Review Report and subsequent activity. *Attachment C to these minutes and also posted on the Commission's web site at:*

<http://www.nj.gov/pinelands/home/presentations/Plan%20Review%20Update%20March%202018.pdf>

Ms. Grogan described the Plan Review process and how staff uses the Report's list of recommendations to guide its work. She described the status of the various recommendations, some of which were adopted as CMP amendments in 2014 and others more recently, while still others are under development.

Ms. Grogan said two issues from the most recent set of CMP amendments (effective March 5, 2018) needed to be re-addressed after they were withdrawn and not adopted. She said the prescribed burning/fire break provisions became very controversial and staff will be meeting with the appropriate parties, e.g., the New Jersey Department of Environmental Protection (NJDEP) and the Department of Agriculture, to discuss the criteria and alternatives for an effective program. She said the other matter related to the definitions of interested party vs. interested person in relation to who has the right to participate formally in the Commission's decision-making process. The matter will be discussed at an upcoming Commission meeting. She said, among other things, the new rules retained requirements for the Commission to do newspaper advertising and also mandated the posting of public notices on the Commission's web site.

Ms. Grogan went on to describe the other recommendations, including imposition of expiration dates on certain documents, such as old waivers that were issued for development that would not be permitted under current rules. Also, she said Evesham Township remained interested in pursuing protection for the headwaters of the Black Run, a proposal the Committee had endorsed some years ago. She said the Township would like more flexibility, that the landowners' representative seems to be engaged and that staff will be pursuing the project.

Ms. Grogan said that another recommendation is to put application requirements for Enduro recreation permits into the rules.

Ms. Wittenberg added that the Commission currently has ways of denying recreation permits to "bad players". Also, the Commission can require the sponsors of an Enduro event to obtain approval from private landowners for routes traversing their properties.

Ms. Grogan said enhancements to the PDC program have been developed and legislative changes for the PDC Bank have been introduced in the Senate and Assembly.

Mr. Liggett said every time attempts are made to simplify the PDC program, there are three competing interests (landowners, municipalities and builders) that make it difficult to achieve any changes.

Ms. Grogan noted a relatively recent increase in the purchase of PDCs, possibly for a number of affordable housing projects.

Mr. Liggett said the increase in PDC purchases has not yet resulted in a corresponding increase in prices.

(Mr. Ambrose disconnected from the conference call at 11 a.m.)

Mr. Liggett said other amendments will relate to the protection of water supply and quality, in response to the Kirkwood-Cohansey Aquifer study. He said many of the projects in Atlantic County, particularly Hamilton, Galloway and Egg Harbor townships, will have the largest water demand as some old approvals are moving forward and new wells or allocations may be required. He said the stream flow must be sustainable to protect wetlands and that wastewater recharge may become necessary, although issues of recharge in Hammonton and Buena Borough have occurred due to the unsuitable nature of the soils. However, he said, the Commission is committed to finding water supplies to serve the RGA.

Ms. Wittenberg said she felt that I/I (infiltration and inflow) and conservation measures needed to be pursued and was hopeful that NJDEP will be more aggressive with implementation of the State's water supply plan.

Ms. Grogan said the Commission has a data sharing agreement with NJDEP for animal species, but not for plant species. It is important that both agencies share the same information. She said additional recommendations relate to the protection of roadside habitat and native vegetation.

Among revisions to the public comment process, Ms. Wittenberg noted that although some evening Commission meetings had been scheduled in the past, they were poorly attended and it was difficult to obtain a quorum so the practice ceased.

Commissioner Prickett said he felt the Commission was very interested in accommodating the public and suggested perhaps the issue of night meetings might be re-evaluated periodically, perhaps every three years.

Ms. Grogan said the Commission needs to address the procedures for applications submitted by public utilities that qualify for MLUL preemption as well as other private development applications that do not require municipal or county permits.

Ms. Wittenberg noted staff was surprised to realize the number of applications the Commission receives for private development on public property. Ms. Grogan added that as these are considered private applications, they receive certificates of filing but often no municipal approvals. Therefore, the full Commission does not see them.

Ms. Grogan said the Commission needs to evaluate the success of the Forest and Rural Development Area cluster development requirements. There are a number of projects with old approvals that are being revived and are now subject to the 2009 clustering standards. Thus far, the clustering rules have not spurred a lot of new development.

In response to Commissioner Prickett's question if the Commission receives feedback from the municipalities on the benefits of cluster development, Ms. Grogan said, yes, as they recognize the lower infrastructure costs. However, some municipalities have in the past viewed cluster development unfavorably as the smaller lot sizes allow developers to more easily fit all of the permitted units on a parcel.

Ms. Grogan said an additional amendment is needed to eliminate the August 5, 2018 installation deadline for the Septic Pilot Program. She said the rulemaking process is so lengthy that any amendment could not be effective by that date in any case.

Referencing the Right of Way Pilot Program, Ms. Wittenberg said the utilities want to use herbicides, which is permitted for agriculture and forestry operations, but not for utilities. She said this has opened up a discussion and she wanted to learn of the genesis of the herbicide ban.

Commissioner Lloyd said he felt that this discussion had been extremely helpful and asked that the presentation be shared with the entire Commission.

Ms. Wittenberg said staff is gearing up and will spend the next year completing work on the recommendations of the Fourth Plan Review.

6 Public Comment on Agenda Items

Mr. Fred Akers, with the Great Egg Harbor River Association (GEHRA), said that Green Acres and Atlantic County have contributed towards GEHRA's acquisition of a property in Mays Landing. He thanked the Commission for its letter of support for the impervious cover reduction study in Winslow Township. He said Rutgers has completed the draft assessment and their assumption is that *all* impervious cover is directly related to stormwater runoff. He said, in the Pinelands, new development must keep the runoff on site and he asked if one can calculate the effectiveness of existing stormwater management basins. Finally, he said, as the Pinelands Commission has an appropriation in the budget of the Department of the Interior, he encouraged the Commission to write a "Dear Colleague" letter to Congress advocating for maintained funding as his organization has done.

Ms. Katie Smith, with the Pinelands Preservation Alliance (PPA), thanked the staff for the presentation on CMP amendments and said that her organization was excited to hear of the potential Black Run protection and water supply amendments.

In response to Ms. Smith's question if there have been any further discussions with NJDEP regarding Wharton State Forest, Ms. Wittenberg said there had been none.

Also, Ms. Wittenberg said that the Commission has a National Park Service contact but no Federal representative has been assigned by the Department of the Interior.

Commissioner Prickett recognized the success of the 29th Annual Pinelands Short Course at Stockton University on March 10, 2018. He said the programs were well received and everyone seemed to enjoy the programs.

There being no other items of interest, Commissioner Barr moved the adjournment of the meeting and Commissioner Lloyd seconded the motion. The meeting was adjourned at 11:50 a.m.

Certified as true and correct:



Betsy Piner,
Principal Planning Assistant

Date: April 11, 2018

Affordable Housing Update

Policy & Implementation Committee
March 23, 2018



Purpose

To update Committee on affordable housing matters in Pinelands Area post Mount Laurel IV

- Summarize the status of Pinelands Area municipalities
- Discuss Pinelands Commission role
- Make Committee aware of strategies being adopted by Pinelands Municipalities

Background – Mount Laurel Doctrine

New Jersey affordable housing laws are rooted in the “Mount Laurel Doctrine”

- Stem from landmark N.J. Supreme Court decisions
 - **Mount Laurel I (1975)**
So. Burlington County N.A.A.C.P. v. Tp. of Mount Laurel
 - **Mount Laurel II (1983)**
So. Burlington County N.A.A.C.P. v. Tp. of Mount Laurel
- Mount Laurel I & II decisions recognize that the power to zone carries a constitutional obligation to create a realistic opportunity for the development of a municipality’s fair share of the regional need for affordable housing.

Background – Fair Housing Act 1985

-- In 1985 N.J. legislature adopts the Fair Housing Act (FHA)

- Incorporated the legal principles of the Mount Laurel decisions and established the means by which municipalities can satisfy their affordable housing obligation outside of litigation
- Establishes the Council on Affordable Housing (COAH):
 1. To estimate the affordable housing need statewide and by region
 2. To establish methods for municipalities to determine their affordable housing obligation as well as adjustments (based on developable land, available infrastructure, environmental or historic preservation factors)
 3. To administer the substantive certification process and the mediation process

Background – Fair Housing Act 1985

-- In 1985 N.J. legislature adopts the Fair Housing Act (FHA)
Continued.....

- FHA creates systems where municipalities may voluntarily apply to COAH for “substantive certification”
- COAH certifies if submitted housing plan is found to create a realistic opportunity for the creation of their affordable housing obligation
- With substantive certification, a municipality is insulated to a substantial extent, for 10 years, from exclusionary zoning litigation (aka, builder’s remedy litigation or Mount Laurel Lawsuits)
- Without substantive certification, municipalities are vulnerable to exclusionary zoning litigation (e.g., forced rezoning).

Background – COAH Rules

First Round rules: 1987-1993 | Second Round rules: 1987-1999
Third Round rules --

- **December, 2004**
COAH adopts Third Round rules for 1987-2014
 - January, 2007 – Rules invalidated by NJ Appellate Court
- **October, 2008**
COAH adopts revised Third Round rules 1987-2018
 - October, 2010 – Rules again invalidated by NJ Appellate Court
 - September, 2013 – Appellate decision upheld by NJ Supreme Court
- **May, 2014**
COAH proposes another revised Third Round rules, but fails to adopt in October, 2014

Background – Mount Laurel IV

March, 2015 – “Mount Laurel IV”

- NJ Supreme Court instructs trial courts to assume responsibilities of COAH
- Certain* municipalities are able to file declaratory judgment actions to obtain a judicial version of the substantive certification
- Court to assess obligation on a municipality by municipality

Background - Post-Mount Laurel IV

Process

- Eligible municipalities file applications for declaratory judgment
- Negotiations ensue between parties within individual cases
- Court-approved settlements between individual municipalities, Fair Share Housing Center and other interested parties

Background - Post-Mount Laurel IV

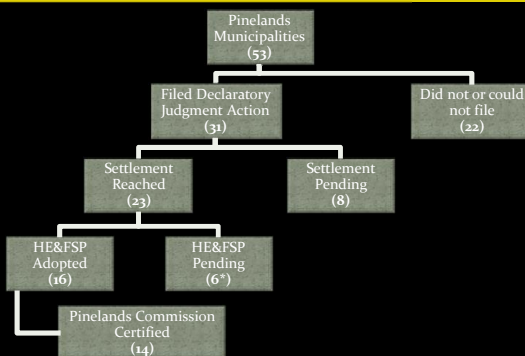
Process Continued....

- **Housing Element and Fair Share Plans are adopted by Planning Boards**
 - Housing needs analysis
 - Affordable housing obligation
 - Accounting of how obligation is met (e.g., existing/planned sites)
 - Recommended ordinance changes to implement plan
- **Implementing ordinances are adopted by Governing Bodies**
 - Zoning changes/Inclusionary zoning
 - Density bonuses/Mandatory set-asides
 - Developer fees/Affordable housing trust funds
 - Controls on affordability
 - Affirmative marketing plan

Pinelands Commission Role

- **Ensure Pinelands CMP regulations are acknowledged in advance when possible**
- **Municipal conformance process**
 - Housing Elements
 - Affordable Housing Ordinances
 - Zoning Changes
- Review planned sites in Pinelands Area
 - Ensure conformance with existing zoning
 - Ensure zoning changes are consistent with CMP (e.g., PDCs)
 - Environmental constraints of sites

Municipal Status Summary



Recent P.C. Certified HE&FSPs

Atlantic County

- Buena Vista Twp
- Mullica Twp

Burlington County

- Pemberton Twp

Camden County

- Berlin Boro
- Waterford Twp
- Winslow Twp

Cumberland County

- Vineland City

Ocean County

- Berkeley Twp
- Jackson Twp
- Lacey Twp
- Little Egg Harbor Twp
- Manchester Twp
- Ocean Twp
- Stafford Twp
- Barnegat Twp*

Total: 15

Recent Zoning Changes

| Muni | Density | Set-aside | Housing Types |
|-----------------------|----------------------------|---|---|
| Barneget Twp | 4.3-7.5 du/acre | 10% of the Shoreline S&G Redevelopment Area | Single family detached, Townhouses, Apts |
| Jackson Twp | 3-4.5 du/acre | 20% of units in RG-2 and RG-3 zones | Townhouses |
| Manchester Twp | 4.5 du/acre | 20% of MDG Tract | Apts, Townhouses |
| S. Toms River Borough | 7.15 du/acre 17 du/acre | Up to 20% 10-20% | Apts, Townhouses Apts, Townhouses |
| Waterford Twp | 5-12 du/acre | 20% of Haines Blvd Redevelopment Area | Single family detached, Townhouses, Apts, Mixed Use |

Preliminary Conclusions & Future

- So far, not a lot of new development in the Pinelands Area is expected as a result of this new round of affordable housing court cases
- Many Pinelands muni's still need to be certified by the courts,.....
-other Pinelands Muni's are vulnerable to Mount Laurel lawsuits
- Staff will continue in its role regarding conformance and stay up to date with further developments on affordable housing in the state.



Questions?

**Affordable Housing Summary
Pinelands Area Municipalities**

| County/Municipality | Court Status | | 3rd Rnd Obligation | | | HE & FSP | | |
|------------------------|--|-----------------------|--------------------|---------------------------|------------------------------------|-------------------------------|---|---|
| | Declaratory Judgement Action Filed (i.e., in court) | Settlement Reached | Rehab | Prior Round Obligation | Settled 3rd Round Obligation | Approved by Planning Board | Adopted Submitted to Pinelands Commission | Certified by Pinelands Commission |
| Atlantic | | | | | | | | |
| Buena Borough | Yes | | | | | | | |
| Buena Vista Township | Yes | Yes | 73 | 19 | 0 | 10/19/2017 | 10/27/2017 | 11/27/2017 |
| Corbin City | Yes | Yes | | | | | | |
| Egg Harbor City | | | | | | | | |
| Egg Harbor Township | Yes | Yes | 91 | 763 | 1,000 | | | |
| Estell Manor City | | | | | | | | |
| Folsom Borough | | | | | | | | |
| Galloway Township | Yes | Yes | | | | | | |
| Hamilton Township | Yes | | | | | | | |
| Hammonton Town | Yes | | | | | | | |
| Mullica Township | Yes | Yes | 0 | 40 | 98 | 8/8/2017 | 10/16/2017 | 10/25/2017 |
| Port Republic City | | | | | | | | |
| Weymouth Township | | | | | | | | |
| Burlington | | | | | | | | |
| Bass River Township | | | | | | | | |
| Evesham Township | Yes | | | | | | | |
| Medford Lakes Borough | | | | | | | | |
| Medford Township | Yes | Yes | 25 | 418 | 483 | 6/28/2017 | 10/4/2017 | PENDING |
| New Hanover Township | Yes | | 0 | 5 | 121 | 10/30/2015 | 2/18/2016 | PENDING |
| North Hanover Township | Yes | Yes | | | | | | |
| Pemberton Township | Yes | Yes | 10 | 0 | 0 | 12/3/2015 | 12/11/2015 | 1/5/2016 |
| Shamong Township | | | | | | | | |
| Southampton Township | | | | | | | | |
| Springfield Township | | | | | | | | |
| Tabernacle Township | | | | | | | | |
| Washington Township | | | | | | | | |
| Woodland Township | Yes | | | | | | | |
| Wrightstown Borough | | | | | | | | |

**Affordable Housing Summary
Pinelands Area Municipalities**

| County/Municipality | Court Status | | 3rd Rnd Obligation | | | HE & FSP | | |
|----------------------------|--|-----------------------|--------------------|---------------------------|------------------------------------|-------------------------------|---|---|
| | Declaratory Judgement Action Filed (i.e., in court) | Settlement Reached | Rehab | Prior Round Obligation | Settled 3rd Round Obligation | Approved by Planning Board | Adopted Submitted to Pinelands Commission | Certified by Pinelands Commission |
| Camden | | | | | | | | |
| Berlin Borough | Yes | Yes | 32 | 154 | 131 | 2/13/2017 | 3/27/2017 | 4/25/2017 |
| Berlin Township | | | | | | | | |
| Chesilhurst Borough | | | | | | | | |
| Waterford Township | Yes | Yes | - | - | 205 | 12/7/2015 | 12/21/2015 | 4/7/2017 |
| Winslow Township | Yes | Yes | 41 | 377 | 700 | 6/21/2016 | 6/30/2016 | 1/11/2017 |
| Cape May | | | | | | | | |
| Dennis Township | | | | | | | | |
| Upper Township | Yes | Yes | | | | | | |
| Woodbine Borough | Yes | | | | | | | |
| Cumberland | | | | | | | | |
| Maurice River Township | | | | | | | | |
| Vineland City | Yes | Yes | 426 | 0 | 0 | 6/10/2015 | 6/30/2015 | 7/6/2015 |
| Gloucester | | | | | | | | |
| Franklin Township | Yes | | | | | | | |
| Monroe Township | Yes | Yes | 158 | 439 | 400 | | | |
| Ocean | | | | | | | | |
| Barnegat Township | Yes | Yes | | | 121 | | | |
| Beachwood Borough | | | | | | | | |
| Berkeley Township | Yes | Yes | 94 | 610 | 0 | 3/2/2017 | 7/20/2017 | 7/28/2017 |
| Eagleswood Township | | | | | | | | |
| Jackson Township | Yes | Yes | 28 | 1,247 | 1,250 | 6/19/2017 | 11/28/2017 | 2/9/2018 |
| Lacey Township | Yes | Yes | 54 | 580 | 581 | 3/20/2017 | 5/16/2017 | 7/21/2017 |
| Lakehurst Borough | | | | | | | | |
| Little Egg Harbor Township | Yes | Yes | 124 | 194 | 634 | 7/6/2017 | 7/21/2017 | 9/27/2017 |
| Manchester Township | Yes | Yes | 99 | 370 | 340 | 8/8/2017 | 8/11/2017 | 8/15/2017 |
| Ocean Township | Yes | Yes | 28 | 236 | 322 | 10/5/2017 | 11/30/2017 | 1/11/2018 |
| Plumsted Township | | | | | | | | |
| South Toms River Borough | | | | | | | | |
| Stafford Township | Yes | Yes | 94 | 555 | 792 | 5/22/2017 | 6/7/2017 | 7/28/2017 |
| Toms River Township | Yes | Yes | 243 | 1,735 | 1,285 | 2/15/2017 | | |



2014 Plan Review Report

New Jersey Pinelands Commission

Comprehensive Management Plan



The Fourth Progress Report on Plan Implementation

September 2014
Nancy Wilts-Berg, Executive Director

- Describes the Commission's actions from July 1, 2001 to June 30, 2012, the period since the last report was issued.
- Features chapters on Land Use and Planning, Regulatory Programs, Permanent Land Protection, Memorandums of Agreement, Public Information and Outreach, Economic Monitoring, Science and Recommendations.

Public Process

- The Commission formed a Plan Review Committee that met regularly and provided a forum to discuss ways to improve the CMP.
- The Commission gathered comments from 109 groups and individuals during two public hearings and a 2½-month public comment period.
- The Plan Review Report was issued in October 2014.

Recommendations

- Dozens of action items are listed in the recommendations chapter of the report.
- Commission staff is using the list of recommendations to guide its work program through 2019.
- The need for additional CMP amendments has also been identified.

Recommendations

Revise application review fees and escrows to address solar facilities, violations, general development plans, construction cost statements, and purchase of software and specialized equipment

Status: CMP amendments were adopted in December 2017 and took effect March 2018.

Next Steps: Apply new application fees; require escrows when necessary to address and resolve violations

Recommendations

Implement additional efficiency and administrative improvements

Status: CMP amendments were adopted in 2014 and 2017 to extend LOIs, streamline PDC LOI reviews and revise and expand the list of application exemptions

Next Steps: Implement adopted amendments. Meet with DEP, the Agriculture Committee and others to discuss proposed amendments to the exemption for prescribed burning and clearing of fire breaks.

Recommendations

Change the definition of “interested person” to “interested party” and clarify who has the right to formally participate in the Commission’s decision-making processes.

Status: Amendments were proposed in 2017 but not adopted.

Next Steps: Discuss advice from AG’s office and re-propose amendments.

Recommendations

Amend CMP notification procedures and requirements to allow for email communication, eliminate certified mailing requirements, require posting of notices on the Commission’s website and eliminate newspaper advertisements.

Status: CMP amendments were adopted in 2017 to do all of the above, except elimination of newspaper advertisements.

Next Steps: Implement new procedures.

Recommendations

Amend and simplify CMP procedural requirements for municipal and county permits and approvals

Status: CMP amendments were adopted in 2017 to eliminate need for towns and applicants to provide certain information to the Commission.

Next Steps: Incorporate expiration dates for "old" waivers, CFs and "no call ups"; address MLUL time of application provisions.

Recommendations

Increase protection for the Black Run headwaters area of Southern Evesham/Medford

Status: The P&I Committee endorsed the staff's recommendation for a management area change from RDA to FA and the creation of a new pilot program at its April 2015 meeting. A rule proposal was drafted, shared with the Committee and discussed with the Governor's office in 2016.

Next Steps: Meet with Evesham and prepare a simplified rule proposal for review by the P&I Committee.

Recommendations

Codify application standards for organized off-road vehicle events and discuss ways to address deviations from approved routes

Status: The Plan Review Committee reviewed draft CMP amendments in October 2013. Staff then met with the Enduro groups in 2013 and 2014 to discuss concerns and possible revisions. A revised version of the draft CMP amendments is under staff review. Staff also designed and distributed new application forms and approval documents, all of which are currently being used.

Next Steps: Prepare a draft rule proposal for review by the P&I Committee.

Recommendations

Enhance the Pinelands Development Credit Program: increase demand; ensure adequate opportunities exist for PDC use; provide sufficient design flexibility to ensure densities can be achieved; allow for nonresidential PDC programs to replace residential programs.

Status: Staff discussed the PDC rule proposal with interested parties throughout 2014-2017. Revisions and simplifications were identified. Legislative changes for the PDC Bank have been introduced in the Senate and Assembly.

Next Steps: Update the P&I Committee and prepare a simplified version of the CMP amendments.

Recommendations

Improve CMP water management standards (both quality and quantity) in response to the Kirkwood-Cohansey Aquifer study

Status: Staff briefed the P&I Committee, the State WSAC, DRBC and other interested parties throughout 2014-2015. The State Water Supply Plan was released; staff briefed the P&I Committee and submitted written comments. Development of water supply planning policy is ongoing.

Next Steps: USGS may be engaged to refine currently available groundwater background data to ensure applicability in the Pinelands Area. Water supply policy options will be discussed with a variety of technical experts this Spring. An open public meeting to gather input may also be held, after which CMP amendments will be drafted and provided to the P&I Committee for discussion.

Recommendations

Improve the process for Memorandums of Agreement

Status: The Commission formed a new MOA Policy Advisory Committee that met throughout 2015 to review the process by which deviation MOAs are considered. A revised process for MOAs was developed by the Committee and endorsed by the full Commission in 2016.

Next Steps: Implement the revised process for any newly proposed MOAs.

Recommendations

Develop standards to address the use of digital sign technology in the Pinelands Area

Status: CMP amendments were adopted in 2017 to delegate responsibility for regulating on-site signs to municipalities and to provide standards for digital technology.

Next Steps: Work with Pinelands municipalities to implement the revised CMP sign standards.

Recommendations

Amend the CMP to address OPRA requirements relative to survey results for threatened and endangered species and cultural resources.

Status: Staff has completed an evaluation and determined that other state agencies have not adopted such amendments.

Next Steps: Staff will continue to evaluate whether CMP amendments are necessary.

Recommendations

Revise the Commission’s public comment procedures by holding evening meetings and providing more advance notice of public comment opportunities on public development applications and MOAs.

Status: Evening Commission meetings were scheduled in 2014, 2015 and 2016. Public comment policies were revised in 2011 to provide more advance notice and allow the public more time to review and comment on public development applications and waivers. Website postings and increased use of email have helped to provide more advance notice.

Next Steps: None.

Recommendations

Amend the CMP to better protect existing roadside habitat for native and rare plants; prevent creation of turf areas in place of native vegetation; require use of clean fill or stockpiling and reuse of native soils excavated from the site; and reference Soil Conservation Committee standards

Status: Staff made a presentation on best management practices (BMPs) at the Plan Review Committee’s May 2013 meeting. Staff has been working with Pinelands counties to improve compliance with BMPs.

Next Steps: CMP amendments will be drafted for the P&I Committee’s review.

Recommendations

Amend the CMP to strengthen protections for native vegetation by changing guidelines to requirements, revising the list of recommended grass types, addressing post-construction work and conducting monitoring studies.

Status: Staff made a presentation on possible CMP amendments at the Plan Review Committee’s July 2013 meeting. Staff has been researching native Pinelands grass species to replace problematic currently recommended grass types.

Next Steps: Staff will provide draft CMP amendments to the P&I Committee for review.

Recommendations

Amend the CMP to reduce or eliminate survey requirements for threatened and endangered species in designated growth areas; expand the CMP’s list of protected plants to include DEP’s “species of concern”, establish standardized protocols for plant surveys.

Status: Staff meets regularly with Partnership for NJ Plant Conservation and continues to discuss and evaluate the need for increased protection of plant species, including a plant data-sharing agreement with DEP.

Next Steps: Staff will revive its efforts to finalize and execute the plant data-sharing agreement with DEP. Staff will continue to evaluate whether it is appropriate to expand the plant list or change survey requirements.

Recommendations

Review CMP stormwater management standards; identify conflicts and improvements

Status: Staff participates in DEP Stormwater Advisory Committee meetings and routinely coordinates with other agencies (Soil Erosion and Sediment Control, NJBA). A 2015 NJBA assessment of new stormwater infiltration BMPs demonstrated that the CMP's 2005 stormwater BMP soil assessment standards are achieving desired results.

Next Steps: Staff will identify improved measures to maximize stormwater quality renovation and groundwater recharge. Draft CMP amendments will be provided to the P&I Committee for review.

Recommendations

Develop rules and strategies to reduce contributions to climate change and adapt to climate change impacts

Status: Staff continues to monitor the issues and work of agencies (Barnegat Bay Partnership, Rutgers University, Inst. Of Marine and Coastal Science) to identify strategies that could be applied in the Pinelands.

Next Steps: An open public meeting will be held to gather specific suggestions as to how the CMP could be amended to address climate change, after which options and recommendations will be presented to the P&I Committee for additional discussion.

Additional CMP Amendments

- “Graduate” the FAST technology from the septic pilot program for residential use on 1.4 acre lots: **completed**
- Delete septic management requirements for alternate design wastewater treatment systems and rely on DEP requirements: **completed**
- Revise the definition of “recreational facility, low intensity” in response to recent legislation: **on hold due to litigation**
- Review exemptions and permitted nonresidential uses on farms
- Amend procedures for Commission review and approval of applications submitted by public utilities that qualify for MLUL preemption, as well as other applications that do not require municipal or county permits

Additional CMP Amendments

- Evaluate success of FA and RDA cluster development standards; consider amendments to address minor developments (4 or fewer units)
- Septic Pilot Program: implement recommendations in 2017 report, including elimination of 8/5/18 installation deadline
- ROW Pilot Program: evaluation due September 2019





RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-18-_____

TITLE: Issuing an Order to Conditionally Certify Ordinance 35-2017, Amending Chapter 225 (Zoning) of the Code of Egg Harbor Township

Commissioner _____ moves and Commissioner _____ seconds the motion that:

WHEREAS, on October 1, 1993, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Egg Harbor Township; and

WHEREAS, Resolution #PC4-93-139 of the Pinelands Commission specified that any amendment to the Township’s certified Master Plan and codified Land Use Ordinances be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 (Submission and Review of Amendments to Certified Master Plans and Land Use Ordinances) of the Comprehensive Management Plan to determine if said amendment raises a substantial issue with respect to conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, Resolution #PC4-93-139 further specified that any such amendment shall only become effective as provided in N.J.A.C. 7:50-3.45 of the Comprehensive Management Plan; and

WHEREAS, on November 29, 2017, Egg Harbor Township adopted Ordinance 35-2017, amending Chapter 225 (Zoning) of the Township’s Code by adopting definitions and adding adult day care health facilities and assisted living facilities as permitted uses in the RCD (Regional Commercial Development) District; and

WHEREAS, the Pinelands Commission received a certified copy of Ordinance 35-2017 on December 4, 2017; and

WHEREAS, upon review of Ordinance 35-2017, Commission staff advised the Township that the ordinance would require amendment for purposes of consistency with Comprehensive Management Plan standards for assisted living facilities in the Regional Growth Area; and

WHEREAS, the Township initially indicated, via email dated January 3, 2018, that it would request an extension of the Commission’s review period for Ordinance 35-2017 to provide an opportunity for discussion and adoption of the necessary ordinance amendments; and

WHEREAS, the Township subsequently notified the Commission that it would not be requesting such an extension and instead asked the Commission to proceed with its formal review process; and

WHEREAS, by letter dated February 7, 2018, the Executive Director notified the Township that Ordinance 35-2017 would require formal review and approval by the Pinelands Commission; and

WHEREAS, a public hearing to receive testimony on Ordinance 35-2017 was duly advertised and noticed and scheduled to be held on March 7, 2018 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m.; and

WHEREAS, due to inclement weather and the closure of all State offices on March 7, 2018, the public hearing had to be canceled and rescheduled; and

WHEREAS, a public hearing to receive testimony on Ordinance 35-2017 was duly advertised, noticed and held on March 28, 2018 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m.; and

WHEREAS, the Executive Director has found that Ordinance 35-2017 is not fully consistent with the standards and provisions of the Pinelands Comprehensive Management Plan; and

WHEREAS, the Executive Director has submitted a report to the Commission recommending issuance of an order to certify with conditions that Ordinance 35-2017, amending Chapter 225 (Zoning) of the Code of Egg Harbor, is in conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, the Commission’s CMP Policy and Implementation Committee has reviewed the Executive Director’s report and has recommended that Ordinance 35-2017 be conditionally certified; and

WHEREAS, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning Ordinance 35-2017 and has reviewed the Executive Director’s report; and

WHEREAS, the Pinelands Commission accepts the recommendation of the Executive Director; and

WHEREAS, pursuant to N.J.S.A. 13:18A-5h, no action authorized by the Commission shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period the Governor shall approve same, in which case the action shall become effective upon such approval.

NOW, THEREFORE BE IT RESOLVED that

1. An Order is hereby issued to certify with conditions that Ordinance 35-2017, amending Chapter 225 (Zoning) of the Code of Egg Harbor, is in conformance with the Pinelands Comprehensive Management Plan. To obtain full certification of Ordinance 35-2017, Egg Harbor Township must amend Chapter 225 of its Code in accordance with Attachment A of this Order. The Township need not adopt the conditions in Attachment A verbatim; revisions comparable thereto or consistent therewith in intent may also be acceptable.
2. Egg Harbor Township shall have until September 8, 2018 to adopt and submit the revisions to Chapter 225 (Zoning) of its Code to the Pinelands Commission for approval pursuant to N.J.A.C. 7:50-3.45 and Attachment A hereto.
3. If the Township fails to submit the revisions to Chapter 225 (Zoning) pursuant to N.J.A.C. 7:50-3.45 and Attachment A hereto by September 8, 2018, or if such a submission is not fully certified by the Pinelands Commission, Ordinance 35-2017 shall be disapproved.
4. Any additional amendments to Egg Harbor Township’s certified Master Plan and Land Use Ordinances shall be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 to determine if said amendments raise a substantial issue with respect to the Comprehensive Management Plan. Any such amendment shall become effective only as provided in N.J.A.C. 7:50-3.45.

Record of Commission Votes

| AYE NAY NP A/R* | | | | AYE NAY NP A/R* | | | | AYE NAY NP A/R* | | | |
|-----------------|--|--|--|-----------------|--|--|--|-----------------|--|--|--|
| Ashmun | | | | Howell | | | | Prickett | | | |
| Avery | | | | Jannarone | | | | Quinn | | | |
| Barr | | | | Lloyd | | | | Rohan Green | | | |
| Chila | | | | Lohbauer | | | | Earlen | | | |
| Galletta | | | | Pikolycky | | | | | | | |

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: _____

Nancy Wittenberg
Executive Director

Sean W. Earlen
Chairman

**ATTACHMENT A TO EXECUTIVE DIRECTOR'S APRIL 27, 2018 REPORT
ON EGG HARBOR TOWNSHIP ORDINANCE 35-2017**

Adoption of the following amendments, or comparable revisions, to Chapter 225 (Zoning) of the Code of Egg Harbor Township will make Ordinance 35-2017 consistent with the Pinelands Comprehensive Management Plan:

1. Section 225-38A(18) is hereby amended to read as follows:
 - (18) Adult day health care facilities.

2. Section 225-38A is hereby amended by adding the following:
 - (19) Assisted living facilities, at a maximum density of 8.0 units per acre. When a variance of density requirements is granted by the Township, Pinelands Development Credits shall be used for all assisted living facility units in excess of that otherwise permitted without the variance.



Philip D. Murphy
Governor
Sheila Y. Oliver
Lt. Governor

State of New Jersey
THE PINELANDS COMMISSION
PO Box 359
NEW LISBON, NJ 08064
(609) 894-7300
www.nj.gov/pinelands



Sean W. Earlen
Chairman
Nancy Wittenberg
Executive Director

General Information: Info@njpinelands.state.nj.us
Application Specific Information: AppInfo@njpinelands.state.nj.us

**REPORT ON ORDINANCE 35-2017, AMENDING CHAPTER 225 (ZONING)
OF THE CODE OF EGG HARBOR TOWNSHIP**

April 27, 2018

Township of Egg Harbor
3515 Bargaintown Road
Egg Harbor Township, NJ 08234

FINDINGS OF FACT

I. Background

The Township of Egg Harbor is located in the southeastern Pinelands in Atlantic County. Pinelands municipalities adjacent to Egg Harbor Township include the Townships of Galloway and Hamilton and Estell Manor City in Atlantic County, as well as Upper Township in Cape May County.

On October 1, 1993, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Egg Harbor Township.

On November 29, 2017, Egg Harbor Township adopted Ordinance 35-2017, amending Chapter 225 (Zoning) of the Township's Code by adopting definitions and revising permitted uses in two nonresidential zoning districts, one of which, the RCD (Regional Commercial Development) District, is located in the Pinelands Regional Growth Area. Ordinance 35-2017 adds adult day care health facilities and assisted living facilities as permitted uses in the RCD District. The Pinelands Commission received a certified copy of Ordinance 35-2017 on December 4, 2017.

Upon review of Ordinance 35-2017, Commission staff advised Egg Harbor Township that the ordinance would require amendment for purposes of consistency with Pinelands Comprehensive Management Plan (CMP) standards for assisted living facilities in the Regional Growth Area. The Township initially indicated, via email dated January 3, 2018, that it would request an extension of the Commission's review period so that the necessary amendments could be discussed and adopted. Subsequently, however, the Township notified the Commission that it would not be requesting such an extension. The Township instead asked that the Commission proceed with its formal review process for Ordinance 35-2017.

By letter dated February 7, 2018, the Executive Director notified the Township that Ordinance 35-2017 would require formal review and approval by the Pinelands Commission.

II. Master Plans and Land Use Ordinances

The following ordinance has been submitted to the Pinelands Commission for certification:

- * Ordinance 35-2017, amending Chapter 225 (Zoning) of the Code of Egg Harbor Township, introduced on November 1, 2017 and adopted on November 29, 2017

This ordinance has been reviewed to determine whether it conforms with the standards for certification of municipal master plans and land use ordinances as set out in N.J.A.C. 7:50-3.39 of the Pinelands Comprehensive Management Plan (CMP). The findings from this review are presented below. The numbers used to designate the respective items correspond to the numbers used to identify the standards in N.J.A.C. 7:50-3.39.

1. **Natural Resource Inventory**

Not applicable.

2. **Required Provisions of Land Use Ordinance Relating to Development Standards**

Ordinance 35-2017 amends Chapter 225 (Zoning) of the Code of Egg Harbor Township by adopting a definition for “Adult Day Health Care Facility” and permitting such facilities in the RCD (Regional Commercial Development) District. Ordinance 35-2017 also adds assisted living facilities as a permitted use in the RCD District. A portion of the RCD District is located in the Pinelands Regional Growth Area, with the remainder of the zone outside the Pinelands Area. As depicted on the attached map (see Exhibit #1), the RCD District is situated along the Garden State Parkway and is bisected by the Black Horse Pike (Route 322). Prior to the amendments adopted by Ordinance 35-2017, only non-residential uses were permitted in the RCD District, including offices, shopping centers, restaurants, schools, banks, gas stations, commercial recreation, warehouses and research laboratories.

Within Regional Growth Areas, the CMP provides that Pinelands municipalities may permit any use, with the exception of certain waste management facilities, provided residential density and opportunities for the use of Pinelands Development Credits are appropriately accommodated. The CMP also expressly authorizes assisted living facilities as a permitted use in Regional Growth Areas pursuant to N.J.A.C. 7:50-5.34, which sets forth specific standards for such uses. Among these standards is the establishment of a permitted residential density applicable to assisted living facilities, as well as a requirement for the use of Pinelands Development Credits when that permitted density exceeds eight units per acre. Egg Harbor Township Ordinance 35-2017 does not incorporate any density standards or PDC requirements for assisted living facilities in the RCD District; therefore, the ordinance is inconsistent with CMP standards.

In order to make Ordinance 35-2017 consistent with N.J.A.C. 7:50-5.34 of the CMP, Egg Harbor Township will need to amend Chapter 225 (Zoning) of its code to establish a permitted density of no more than eight units per acre for assisted living facilities in that portion of the RCD District located in the Pinelands Area. Additional ordinance amendments will be necessary to make clear that a density in excess of eight units per acre may be permitted only through the use

of PDCs. The necessary ordinance language is included in the conditions for certification set forth in Attachment A to this report.

Ordinance 35-2017 is not consistent with the development standards set forth in the Comprehensive Management Plan. However, with the adoption of the amendments set forth in Attachment A, or comparable revisions, this standard for certification will be met.

3. Requirement for Certificate of Filing and Content of Development Applications

Not applicable.

4. Requirement for Municipal Review and Action on All Development

Not applicable.

5. Review and Action on Forestry Applications

Not applicable.

6. Review of Local Permits

Not applicable.

7. Requirement for Capital Improvement Program

Not applicable.

8. Accommodation of Pinelands Development Credits

Ordinance 35-2017 amends Chapter 225 (Zoning) of the Code of Egg Harbor Township by adding assisted living facilities as a permitted use in the RCD District, a portion of which is located in the Pinelands Regional Growth Area. As detailed in section 2, however, Ordinance 35-2017 does not establish a permitted density for such facilities and does not require the use of PDCs for densities in excess of eight units per acre, both of which are required by N.J.A.C. 7:50-5.34 of the CMP. Therefore, Ordinance 35-2017 is not consistent with Comprehensive Management Plan standards.

The conditions for certification set forth in Attachment A to this report contain the language necessary to make Ordinance 35-2017 consistent with the CMP. These conditions include establishment of a maximum permitted density of eight units per acre for assisted living facilities in the RCD District, with the use of PDCs required for projects that exceed that permitted density. The Township could consider a number of alternatives, including the establishment of a higher permitted density, exemption of affordable units, required PDCs for a minimum

percentage of units or a different density structure entirely. The amendments set forth in Attachment A are the minimum necessary for conformance with N.J.A.C. 7:50-5.34(a)2 of the CMP.

Ordinance 35-2017 is not consistent with CMP standards for the accommodation of PDCs. However, with the adoption of the amendments set forth in Attachment A, or comparable revisions, this standard for certification will be met.

9. Referral of Development Applications to Environmental Commission

Not applicable.

10. General Conformance Requirements

Ordinance 35-2017 is fully not consistent with standards and provisions of the Pinelands Comprehensive Management Plan.

With the adoption of the amendments set forth in Attachment A, or comparable revisions, this standard for certification will be met.

11. Conformance with Energy Conservation

Not applicable.

12. Conformance with the Federal Act

No special issues exist relative to the Federal Act. However, Ordinance 35-2017 is not consistent with standards and provisions of the Pinelands Comprehensive Management Plan.

With the adoption of the amendments set forth in Attachment A, or comparable revisions, this standard for certification will be met.

13. Procedure to Resolve Intermunicipal Conflicts

Not applicable.

PUBLIC HEARING

A public hearing to receive testimony concerning Egg Harbor Township's application for certification of Ordinance 35-2017 was duly advertised, noticed and scheduled to be held on March 7, 2018 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m. However, due to inclement weather and the closure of all State offices on March 7, 2018, the public hearing was canceled and rescheduled. The hearing was subsequently duly advertised, noticed and held on March 28, 2018 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m. Ms. Grogan conducted the hearing, at which no testimony was received.

Written comments on Ordinance 35-2017 were accepted through April 4, 2018. However, no written comments were received.

CONCLUSION

Based on the Findings of Fact cited above, the Executive Director has concluded that Ordinance 35-2017 is not fully consistent with the standards and provisions of the Pinelands Comprehensive Management Plan. Accordingly, the Executive Director recommends that the Commission issue an order to conditionally certify Egg Harbor Township Ordinance 35-2017.

SRG/CEH
Attachments

**ATTACHMENT A TO EXECUTIVE DIRECTOR'S APRIL 27, 2018 REPORT
ON EGG HARBOR TOWNSHIP ORDINANCE 35-2017**





Adoption of the following amendments, or comparable revisions, to Chapter 225 (Zoning) of the Code of Egg Harbor Township will make Ordinance 35-2017 consistent with the Pinelands Comprehensive Management Plan:

1. Section 225-38A(18) is hereby amended to read as follows:
 - (18) Adult day health care facilities.

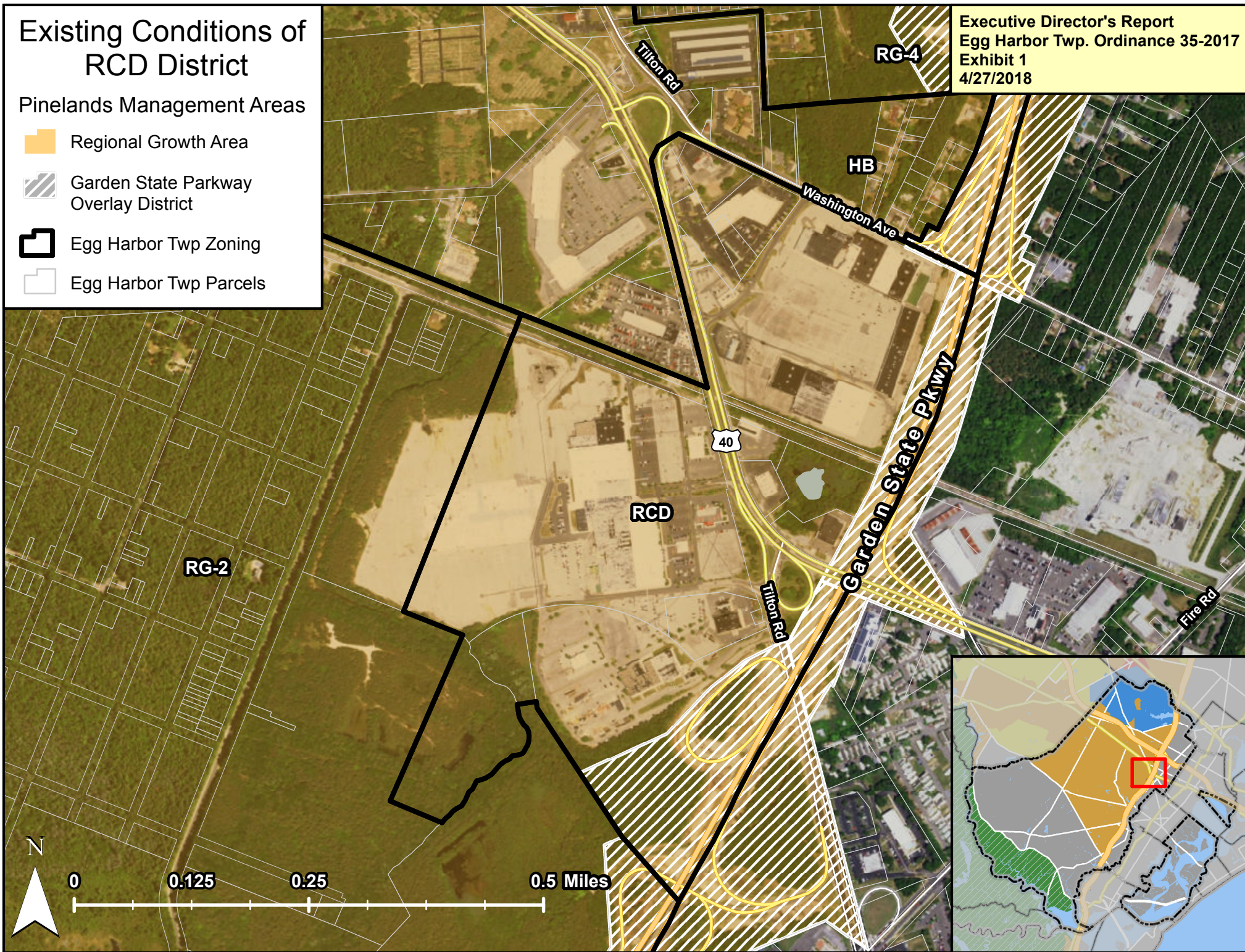
2. Section 225-38A is hereby amended by adding the following:
 - (19) Assisted living facilities, at a maximum density of 8.0 units per acre. When a variance of density requirements is granted by the Township, Pinelands Development Credits shall be used for all assisted living facility units in excess of that otherwise permitted without the variance.

Existing Conditions of RCD District

Pinelands Management Areas

-  Regional Growth Area
-  Garden State Parkway Overlay District
-  Egg Harbor Twp Zoning
-  Egg Harbor Twp Parcels

Executive Director's Report
Egg Harbor Twp. Ordinance 35-2017
Exhibit 1
4/27/2018



BAMBOO BROOK
170 LONGVIEW ROAD
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908-234-1189 (FAX)
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New Jersey Conservation
F O U N D A T I O N

April 12, 2018

Ms. Nancy Wittenberg, Executive Director
Pinelands Commission
P.O. Box 359
15 Springfield Road
New Lisbon, NJ 08064

Dear Ms. Wittenberg,

New Jersey Conservation Foundation is appreciative of the Pinelands Commission's commitment of \$169,000 from the Pinelands Conservation Fund toward the acquisition of the Thompson/Wright property.

I am writing to request an advance of funding, as we anticipate needing the grant amount of \$169,000 on or before the closing of the property. While the closing is not yet scheduled, we estimate that it will occur around May 29, 2018 or within a few weeks of that date.

Thank you for your consideration. Please let me know if you need any additional information at this time.

Sincerely,

A handwritten signature in black ink that reads "Greg Romano". The signature is fluid and cursive, with the first name "Greg" being larger and more prominent than the last name "Romano".

Greg Romano
Assistant Director & Director of Statewide Land Acquisition