Proposed CMP Amendments

Policy & Implementation Committee
May 31, 2019
Proposed Amendments

• Public development application process:
  – Update CMP to reflect current public notice and comment procedures

• Coordinated permitting:
  – Codify application process for private infrastructure projects that qualify for MLUL pre-emption (N.J.S.A. 40:55D-19) and do not receive municipal approvals
Application Process
Public Development

• Application is submitted to the Commission
• Applicant provides public notice
• Staff determines application is complete
• Staff updates the status report on the Commission’s website to provide the dates for oral public comment and submission of written comments
• Oral comments accepted at PC meeting
• Written comments accepted through close of business on day of PC meeting
Application Process
Public Development

• Staff prepares a report on public development

• The Executive Director determines whether the application should be approved, approved with conditions or disapproved

• The Commission acts at its next meeting and must either approve the Executive Director’s determination or refer the application to OAL
Proposed Amendments
Public Development Process

• Codify public comment process and update public notice procedures
• Require Commission action within 45 days of the close of public comment period
• After consideration of the Executive Director’s recommendation, provide the Commission with the ability to approve, approve with conditions or disapprove public development applications
Application Process
Private Development

• Application submitted to Commission
• Staff determines application is complete and issues Certificate of Filing
• Applicant obtains municipal approvals
• Municipal approvals are provided to Commission staff for review to ensure consistency with the CMP
Application Process
Private Development

• Commission staff reviews municipal approvals and either:
  – Issues a letter of no further review, allowing the approval to take effect
  OR
  – Determines an approval raises a substantial issue with respect to the CMP and schedules a hearing

• Hearings are typically held before the Executive Director, although applicants have the option of requesting OAL hearings
Applicants usually resolve all identified issue(s) prior to the Commission staff hearing, allowing for release of the approval

If a hearing is held, staff subsequently prepares a report and recommends the Commission approve, conditionally approve or disapprove the development

The municipality or county must revise or revoke its approval in accordance with the Commission’s action
MLUL Pre-Emption

1. N.J.S.A. 40:55D-19:
   - MLUL does not apply to development proposed by a public utility for installation in more than one municipality, provided BPU determines the development is reasonably necessary for public service, convenience or welfare

2. Public utility must petition BPU
3. BPU makes determination after notice and hearing
4. Public utility does not need to obtain municipal approvals
Proposed Amendments
Coordinated Permitting Process

• Apply the public development process to all public utility projects that BPU determines are eligible for the MLUL pre-emption
  – Public notice by applicant
  – Public comment (oral and written)
  – Executive Director’s report and recommendation
  – Formal Commission action to approve, approve with conditions or disapprove the development
Next Steps

- Finalize amendments and rule proposal; share with AG’s office
- Submit amendments to Governor’s office for approval
- Review rule proposal with P&I Committee
- Present rule proposal to Commission for authorization
• Rule Proposal: 7/12/19 Commission meeting
• Publication in NJ Register: 8/19/19
• Public hearing and 60 day comment period
• Rule Adoption: 12/13/19 Commission meeting
• Effective date: 1/21/20