



State of New Jersey

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DONNA A. RENDEIRO
Executive Director

MEMORANDUM TO:	Donna Rendeiro
FROM:	Lisa Avichal
RE:	Township of Berkeley Biennial Review – PIA Status and Map Amendment
DATE:	July 29, 2020

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

State Plan Amendment

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

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

Protection has verbally agreed to this map amendment under the condition that an offsite mitigation agreement be met in order to conduct habitat enhancements.

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

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

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

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

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

town Planning Board meeting, and then to the 9/21 council meeting for adoption.

- b. During the first PIC meeting it was stated that there were a few crucial missing ordinances that the town needed to adopt. However, the consultants responded after the meeting stating that the missing ordinances had in fact been adopted in 2012. These ordinances include: 32-7 Septic Management, 32-6 Well Head Protection, 18-5 Water Conservation program, and 35-10 Riparian Buffer Conservation Zone. These ordinances are available on the Townships website <https://clerkshq.com/Berkeley-nj> and referenced by the codes provided.
3. Plan for a public hearing with public notice regarding the map amendment
 - a. An in-person public hearing was held on June 22, 2020 at Berkeley Township's Municipal Building's main meeting room. A call-in number was also provided. Public notice was given.
 - i. OPA requested that the comment period be extended to one-week post meeting due to COVID-19.
 - b. OPA is waiting on a formal memo from the consultants regarding summary of meeting and comments received.
4. Pine Snake habitat has been identified on the property that is the subject to the proposed map amendment. The New Jersey Department of Environmental Protection and the Township of Berkeley have conceptually agreed upon a mitigation strategy to resolve the matter and the developer of the affordable housing project has agreed to fund the mitigation. This agreement is subject to the CAFRA permitting process but will require a site-specific amendment to the Water Quality Management Plan and a CAFRA consistency notice prior to being considered under CAFRA for a permit.
 - a. The Developer received a Deficiency for CAFRA Individual Permit Application letter from DEP Division of Land Use.
 - i. OPA has requested from the consultants that an informal response to the letter be sent to OPA for the office to make sure the response is adequate before a formal submission is made.

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

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