

## **CMP POLICY & IMPLEMENTATION COMMITTEE MEETING**

This meeting was conducted both remotely and in-person  
The public could view/comment through Pinelands Commission YouTube link:

<https://www.youtube.com/watch?v=DJe5rMKNkzY>

Meeting ID: 818 8378 9174

Richard J. Sullivan Center

15C Springfield Rd

New Lisbon, New Jersey 08064

**September 30, 2022 – 9:30 a.m.**

**Members in Attendance** – Alan W. Avery, Jr., Jerome H. Irick, Theresa Lettman, Edward Lloyd, Mark Lohbauer, Laura E. Matos

**Members Absent** – None

**Other Commissioners in Attendance** – Doug Wallner

**Commission Staff in Attendance** – John Bunnell, Marci Green, Susan R. Grogan, Charles Horner, Brad Lanute, Paul Leakan, Jessica Lynch, Trent Maxwell, Jessica Noble, Stacey Roth, Steve Simone, Ed Wengrowski

### **1. Call to Order**

Chair Matos called the meeting order at 9:32 am.

### **2. Adoption of the Minutes from the August 26, 2022, Meeting of the CMP Policy & Implementation Committee**

Chair Matos asked for a motion to adopt the minutes from the August 26, 2022, meeting of the CMP Policy and Implementation Committee. Commissioner Irick made the motion. Commissioner Lohbauer seconded. Commissioners Lloyd and Avery voted in favor. Commissioner Lettman abstained.

Jeff Nielsen of the Governor's Authorities Unit (GAU) thanked the staff for the opportunity to participate in the meeting. He suggested taking roll call.

Chair Matos replied that roll call is normally only taken at full Commission meetings.

### **3. Discussion of CMP Amendments related to the Electric Transmission Right-of-Way Maintenance Pilot Program**

Stacey Roth, Chief, Legal and Legislative Affairs, gave a presentation on recommended CMP amendments to codify the Electric Transmission Right-of-Way (ROW) Vegetation Maintenance

requirements (attached). The Electric Transmission ROW Vegetation Maintenance Pilot Program expired in September 2021.

Ms. Roth said that the New Jersey Pinelands Electric Transmission ROW Vegetation-Management Plan was developed in 2009 jointly by the Commission Science Office, Rutgers University, the Board of Public Utilities (BPU) and three utility companies. That study included approximately 2,000 transmission lines located in the Pinelands Area. The researchers looked at the natural resources and Threatened and Endangered Species (T&E) presence along each line and developed appropriate prescriptions to maintain the ROW. Under federal law, the ROW must be maintained to prevent vegetation overgrowth from interfering with the lines.

When the pilot program expired, the Executive Director recommended incorporating the ROW Plan vegetation maintenance prescriptions into the Pinelands Comprehensive Management Plan (CMP). Ms. Roth said staff had been working on the draft rule text for several months.

Commissioner Lohbauer asked if the differentiation between mineral soil wetlands and organic wetlands was something that the Commission has already mapped out. Ms. Roth said yes, it is mapped out. The Commission uses the Soil Survey Geographic Database (SSURGO) developed by the National Resources Conservation Service (NRCS) in the U.S. Department of Agriculture (USDA). The SSURGO layers are GIS-based. The tool allows the user to zoom in on a particular span, which contains mapping units that delineate the soil series in that area.

Ms. Roth said the staff is also proposing amendments to the definition of wetlands soils as part of this rule proposal to reference current soil series designations. Staff also plans to identify in the rules which soil series names are organic and which are minerals, so that the utility can refer to SSURGO and know the soil contents down to the span level.

Commissioner Lohbauer said he is glad the staff can map with that level of detail, and thanked Ms. Roth for her explanation.

Ms. Roth said the proposed rules would continue to require utility companies to submit a spreadsheet by January 31 of each year that reports on maintenance activities. This spreadsheet will need to contain GIS coordinates for the maintained spans, a list of each activity conducted during the management period, and any issue that arose during the timespan. This is so Commission staff can audit the maintenance activities conducted.

Ms. Roth noted there were times during the pilot program when minor adjustments to the ROW Plan prescriptions were necessary. The ROW Plan allows the Executive Director to make those adjustments. If the utility needs to make such changes, it will have to submit a letter to the director. There will also be escrow payments to fund periodic monitoring and inspection by Commission staff.

Commissioner Lohbauer asked what constitutes a minor adjustment to a prescription. Ms. Roth said the timing constraints within the rule proposal will be very narrow, ranging from December to February. If the utility could demonstrate they would not disturb threatened and endangered species in a ROW in November or March, this is the type of minor adjustment the Executive Director could authorize.

Ms. Roth thanked Marci Green, Commission rule writing attorney, for her help with the draft proposal.

Commissioner Irick said he was concerned with mowing and creating ruts, and also that fill in the ROW would impact streams and stream crossings in wetland areas. He asked if there was any way to tighten that language. Ms. Roth said that language only applies to existing roads, and that the rules will explicitly state that increases in the width or height of the roadway are not permitted without application to the Commission.

Susan Grogan, Acting Executive Director, said the presentation makes the prescriptions appear simple and clear; however, staff has struggled to translate that specificity and clarity into actual rule language. It has taken longer than anticipated to produce a draft rule, but she thinks this will be a positive outcome because staff is spending so much time on the rule language.

Ms. Grogan mentioned that Chair Matos and Commissioner Lettman were not present when the ROW rules were last discussed in 2021, so it was good to introduce them to the ROW Plan.

Commissioner Lloyd said he did not see any reference to herbicides in the presentation. He asked if herbicides would be an issue in the rule language, and if it is allowed or prohibited. Ms. Roth stated that herbiciding was not addressed in the rule proposal because there is an existing prohibition against herbiciding within ROW within the CMP.

Commissioner Lloyd said there should be express prohibition in the new section on vegetation maintenance. He said that he did not want Commissioners and applicants to presume that the absence of an explicit prohibition implies permission. Chair Matos said it makes sense to reiterate and ensure there is no ambiguity. Commissioner Lloyd suggested cross referencing the existing provision.

Commissioner Lohbauer thanked Commissioner Lloyd for his question and said that he agreed with him.

#### **4. Discussion of the Pinelands Development Credit Program: opportunities for use of Pinelands Development Credits in association with nonresidential development**

Ms. Grogan gave a presentation on opportunities for use of Pinelands Development Credits (PDCs) with nonresidential development. Ms. Grogan shared a slideshow on warehouse demands in the Pinelands Area (attached). The Commission is receiving development applications and requests for zoning changes, primarily in Regional Growth Areas (RGA). Many municipalities are pursuing zoning changes through site-specific redevelopment plans in areas zoned for residential development. The residential zoning districts often have existing mandatory requirements for the redemption of PDCs.

Ms. Grogan described the PDC implications of rezoning lands from residential to nonresidential in the RGA. The issue relates to the goals of the CMP and the PDC program to accommodate growth in the RGA and preserve land in the Preservation Area District, Special Agricultural

Production Area and Agricultural Production Area. Changes in permitted densities in residential areas and rezoning lands from residential to nonresidential present substantial issues.

She continued to describe the municipal flexibility provisions of the CMP, which extend to zoning and the accommodation of PDC obligations. Ms. Grogan said the goal is to ensure the PDC program is not harmed by the changes that municipalities are seeking, and to maintain municipal zoning flexibility in the RGAs afforded by the CMP.

Commissioner Lloyd expressed concern about a substantial shift from residential to nonresidential development. He stated that the Commission should carefully consider the criteria they will use to evaluate changes from residential to nonresidential zoning. He further noted that staff's recommendations alleviate some of his fears about municipal flexibility and put the Committee's decision making on the right track.

Commissioner Lohbauer echoed Commissioner Lloyd's comments and he said any development in the RGA should contribute to the PDC program, not just residential development. He indicated that it makes sense to investigate nonresidential development as a contributing factor to the program. He also requested additional discussion about the desirability of warehouse development in the Pinelands.

Commissioner Irick commended Ms. Grogan on her presentation. He asked if Dr. Jordan Howell's report had been distributed to all Commissioners. Ms. Grogan said that it will be distributed leading up to the full Commission meeting in October.

Commissioner Irick asked how many PDCs have been assigned and are available that have not been used. He feels the program has been underutilized and that impacts Atlantic County, which he represents.

Ms. Grogan said this would also be discussed at the October Commission meeting, with a presentation on overall supply and demand of PDCs.

Commissioner Irick said he agrees with Commissioner Lohbauer that mandatory PDCs should be enacted for nonresidential development. He said this goes further than warehouse considerations and should consider development projects and utility expansions. He does not want to see any net loss in PDC potential for any municipality. He asked how the Commission arrived at the 20,000 square foot figure for warehouse development. Ms. Grogan said this was purely how the math worked out in the hypothetical scenario, and the actual number would be based on specific municipal zoning. It is a function of vacant acreage, CMP density assignments, and the number of units and PDCs that would normally be necessary on that acreage.

Ms. Grogan said many Commissioners have voiced support for requiring PDCs for nonresidential uses over the years. She also noted that previous efforts to amend the CMP to require PDCs for nonresidential development did not move forward, due largely to municipal concerns that doing so would place them at a competitive disadvantage with municipalities outside the Pinelands when it came to attracting commercial ratables. Ms. Grogan said municipalities now see zoning changes and shifting PDC obligations as an opportunity to allow these very large uses in a manner that is sustainable.

Commissioner Avery asked about the number of severed PDCs that are for sale, and if there is enough to accommodate this type of proposal. Ms. Grogan said in theory right now there are a good number of credits for sale that could be used for these projects.

Commissioner Irick said if demand increases more people would be willing to put their PDCs on the market.

Commissioner Avery asked if a Letter of Interpretation (LOI) for PDCs expires.

Ms. Grogan said LOIs are valid for five years.

Commissioner Avery said switching the burden of PDC purchases away from solely residential development to nonresidential uses is a positive change. Regarding the CMP's emphasis on residential housing early in the Commission's operation, he said it was the primary type of development occurring in the Pinelands at the time.

Commissioner Avery indicated that the state has issued guidance on warehouses. Ms. Grogan said the State Planning Commission (SPC) and the Governor's interagency task force put together a lengthy paper on warehouse guidance for New Jersey municipalities. The State Planning Commission does not have any enforcement capabilities, so it was largely just recommendations. Commissioner Avery asked if he could find this on a web search.

Ms. Grogan said yes, but that she would be happy to send the link to Committee members.

Commissioner Lohbauer added that there is a bill introduced in the Assembly, which was introduced by Assemblywoman Sawyer of Gloucester County. This would require that any warehouse development in New Jersey obtain the approval of a county planning board and that municipal approval would not be sufficient.

Ms. Grogan said the warehouse guidance assembled by the task force propose a coordinated review involving adjacent municipalities so to remain cognizant of regional impacts.

Ms. Roth provided the bill number (A4475). Ms. Roth also mentioned A4527, the Warehouse Development Control Bond Act, sponsored by Assemblyman Alex Sauickie. This bill would authorize the issuance of \$150 million in State general bonds to provide matching grants to municipalities to fund the cost of purchasing development rights from proposed warehouse sites. The intent of the bill is to offer municipalities through this bond act to preserve the fiscal benefit of real property proposed for warehouse use, by providing compensation to the landowner, and avoiding the negative consequences associated with warehouse development.

Ms. Grogan mentioned that the Commission has invited several municipal representatives to attend today in person or via Zoom. She said some of them may be interested in providing public comment.

## **5. Public Comment**

Fred Akers of the Great Egg Harbor Watershed Association (GEHWA) thanked the Commission for addressing the ROW program. He said it is a leading planning initiative and he is happy to see it moving into a permanent status. Mr. Akers mentioned continued issues with use of illegal motorized vehicles in the ROW areas, particularly around Gravelly Run. He said he wanted to draw attention to the issue.

Jeromie Lange, Director of Development at Active Acquisitions, stated he is a potential developer of warehouses in the Pinelands, including in Waterford Township. He said he is more than happy to contribute to the PDC program, and that it is an excellent program. From a developer's standpoint, predictability is the key issue. Mr. Lange continued that warehouse impacts should be reviewed at the local level.

He said that he has done engineering work with the New Jersey Department of Environmental Protection (NJDEP) on stormwater rules and warehousing development. He said there are solutions to these problems, and that it is just a matter of implementation. One of the sites is forested but outside the Pinelands Area, though he thinks it would serve as an appropriate model for Pinelands warehouses. Mr. Lange said he participated in a study that assessed the capacity of sandy soil to absorb stormwater, and a joint study that assessed infiltration basins. He mentioned a church in Atlantic County that had cleared a pine forest to make room for infiltration basins and would have been less land consumptive if the area was not forested.

Commissioner Irick asked Mr. Lange to provide that information on using forested properties for stormwater to the Commission staff.

Chair Matos closed public comment at 11:03 am.

Commissioner Lloyd mentioned the passing of Governor James Florio, whom he called a champion of Pinelands preservation at nearly every level of government. He noted that Governor Florio sponsored the federal Pinelands legislation and served as Chair of the Commission for three years. Governor Florio also sponsored the predecessor bill to the Superfund Act and signed the Clean Water Enforcement Act. The Commissioner called him a mentor and said his legacy was substantial.

Chair Matos called Governor Florio's passing a tremendous loss and said his great work will be memorialized in the future.

Chair Matos asked for a motion to adjourn the meeting. Commissioner Irick made the motion. Commissioner Avery seconded. The meeting adjourned at 11:06 am.

Certified as true and correct:



Trent R. Maxwell, Planning Technical Assistant

Date: November 1, 2022



# Recommended CMP Amendments to Codify the Electric Transmission ROW Vegetation Management Requirements

Pinelands Commission  
CMP Policy & Implementation Committee  
September 30, 2022



## N.J.A.C. 7:50-4.1


- ▶ A development application will not be required for:
  - ▶ Vegetation management activities conducted within existing rights-of-way for electric transmission lines so long as there is:
    - ▶ No increase or expansion in the width of the area historically subject to vegetation management or areas of existing managed rights of way; or
    - ▶ No new or expanded development is proposed; and
  - ▶ Provided, all such vegetation management activities are conducted:
    - ▶ In accordance with the New Jersey Pinelands Electric Transmission Line Right-of-Way Vegetation Management Plan, dated February 2009; or
    - ▶ Complies with the vegetation management prescriptions in N.J.A.C. 7:50-6.28





# N.J.A.C. 7:50-6.28

- ▶ Existing Pinelands Commission Electric Transmission Line Rights-of-Way Vegetation Management Plan
  - ▶ Will be incorporated by reference and will prescribe the vegetation management required for the rights-of-way for existing electric transmission rights-of-way span contained within the plan (69Kv or larger lines existing in 2009)
- ▶ Hand Cutting/Manual Clearing
  - ▶ Permitted year round in uplands and wetlands
  - ▶ May ONLY utilize hand cutting/manual clearing in muck soil wetlands



## N.J.A.C. 7:50-6.28 (cont.)

### ➤ Mowing

➤ Permitted in:

➤ Uplands

➤ Mineral Soil Wetlands

➤ But, limited to Winter Months (December 1 through February 28)

➤ NOT permitted in organic soil wetlands


### ➤ Removal of Vegetative Debris

➤ Vegetative debris from mowing may remain in ROW provided the volume of debris will not prevent the sprouting shrub and herbaceous vegetation.

➤ Hand cut saplings and small branches may be left in place

➤ Larger branches shall be chipped into a vehicle that must be located on the access road.

➤ Tree trunks and logs shall either be chipped in a vehicle on the access road or stacked in the ROW.




## N.J.A.C. 7:50-6.28 (cont.)

### ➤ Use of Motorized Vehicles

- Permitted in uplands and mineral soil wetlands, but only in the winter months
- Use of motorized vehicles NOT permitted in organic soil wetlands
- Permitted on the access roads within rights-of-way year round

### ➤ Maintenance of Existing Roads

- No expansion of existing access roads or construction of new roads (temporary or permanent) without submission of an application to the Commission.
- Development of any new or expanded structures (e.g. culverts, coffer dam, bridges (temporary or permanent) requires an application to the Commission.
- Maintenance shall not result in increase of width or elevation of access road
- Fill materials shall be devoid of debris and hazardous contaminants and consist of natural materials



## N.J.A.C. 7:50-6.28 (cont.)


- ▶ Reporting requirements:

- ▶ Utilities will submit an EXCEL spreadsheet to the Commission no later than January 31st of the year following vegetation management activities.
- ▶ Spreadsheet will contain:
  - ▶ Identifying information, including GIS coordinates in degree format for the starting and stopping points within spans in which vegetation management activities were conducted;
  - ▶ A list of the vegetation management prescriptions conducted in each span during the reporting period and the dates of such work;
  - ▶ Any issues that may have arisen during implementation of the vegetation management prescriptions in each span.



## N.J.A.C. 7:50-6.28 (cont.)

- Minor Adjustments to Vegetation Management Plan Prescriptions
  - Made in writing to the Executive Director
  - If approved, will be posted on the Commission's website and applicable solely to specific ROW.
- Escrow
  - Utilities to make escrow payments to the Commission to fund periodic monitoring/inspection of the vegetation management prescriptions conducted in their spans.



# N.J.A.C. 7:50-10.31 - 10.35

- ▶ Repeal existing Electric Transmission Line Rights-of-Way Vegetation Management Pilot Program
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# **PDC PROGRAM DISCUSSION: OPPORTUNITIES FOR USE OF PDCS WITH NON-RESIDENTIAL DEVELOPMENT**

**Pinelands Commission  
Policy & Implementation Committee  
9/30/2022**

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# WAREHOUSE DEMANDS REACH REGIONAL GROWTH AREAS

- Pinelands municipalities are fielding many warehouse development proposals
- Developers are targeting tracts of land with access to highways to site large (1/2 million sqft+) warehouses
- Municipalities are interested in the tax ratables and associated economic development impacts; expect that residents will have similar concerns as seen statewide
- Multiple Pinelands municipalities are actively considering zoning changes to allow warehouse development via redevelopment plans





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## A PATTERN EMERGES IN RESPONSE

- Warehouse proposals for sites in residentially zoned RGAs with existing, mandatory PDC requirements
- Without a zoning change, the CMP imposes a large PDC obligation through a use variance
- Rezoning vacant land from residential to non-residential within the RGA has barriers based on CMP rules
- Opportunities to transfer residential development potential to other lands in a municipality's RGA have become more limited over time



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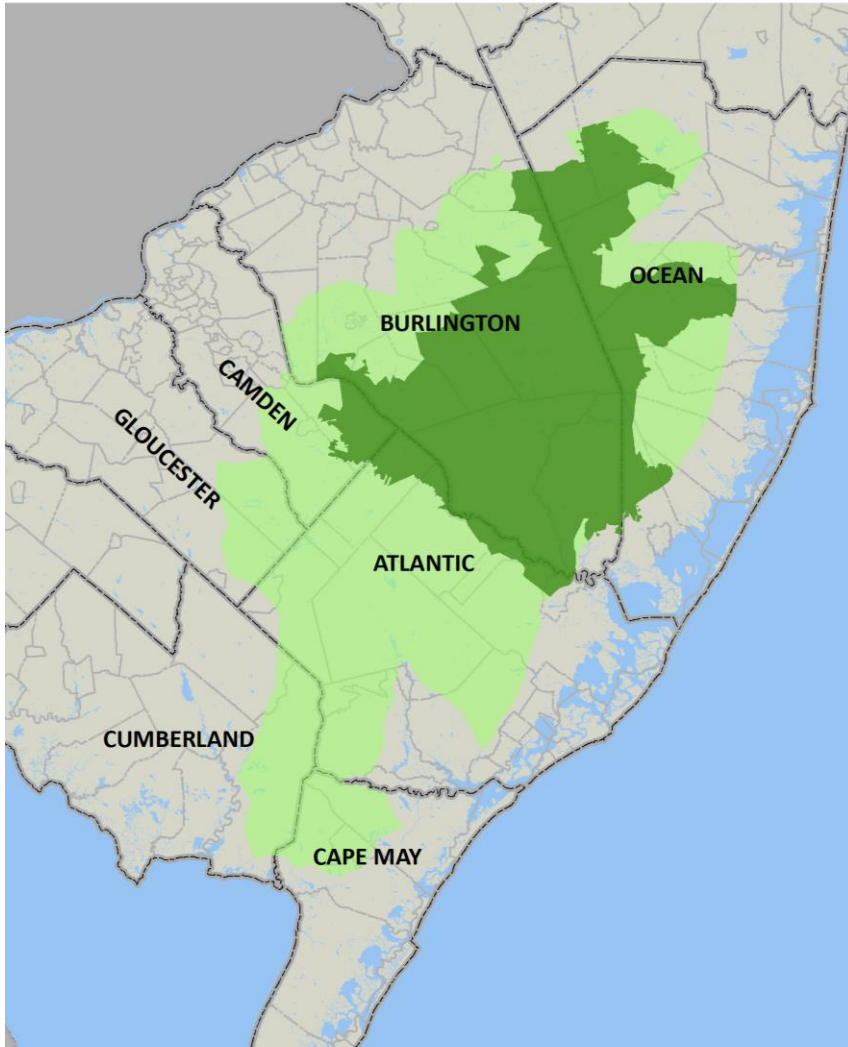
## DISCUSSION FOCUS

- **Purpose:** Multiple municipalities are seeking guidance from the Commission on acceptable rezoning approaches to facilitate development of large non-residential uses in Regional Growth Areas.
- **Primary Question:** Do the CMP's municipal flexibility provisions provide the Commission with the ability to certify municipal ordinances that effectively transfer PDC requirements from residential to non-residential uses?
- **Secondary Question:** Are there other regional warehouse development impacts that should be taken into consideration?





**BACKGROUND:  
REGIONAL GROWTH AREA PLANNING**



## PINELANDS PROTECTION ACT

- Established the Pinelands Area
- Divides it further between the Preservation Area and the Protection Area
- Each area has a separate set of goals established in the Act

= Preservation Area  
 = Protection Area

	Acres	Counties	Municipalities
Pinelands Area	934,000	7	53
Preservation Area	368,000	4	25
Protection Area	566,000	7	51



## **PINELANDS PROTECTION ACT: PROTECTION AREA GOALS**

- Preserve and maintain the essential character of the existing pinelands environment, including the plant and animal species indigenous thereto and the habitat therefor
- Protect and maintain the quality of surface and ground waters
- Promote the continuation and expansion of agricultural and horticultural uses
- Discourage piecemeal and scattered development
- **Encourage appropriate patterns of compatible residential, commercial and industrial development, in or adjacent to areas already utilized for such purposes, in order to accommodate regional growth influences in an orderly way while protecting the pinelands environment from the individual and cumulative adverse impacts thereof**

# PINELANDS CMP - PINELANDS MANAGEMENT AREAS

Both the Federal and State legislation called for a land capability map. The original CMP established a variety of management areas to meet the goals of the Preservation and Protection Areas.

## Preservation Area

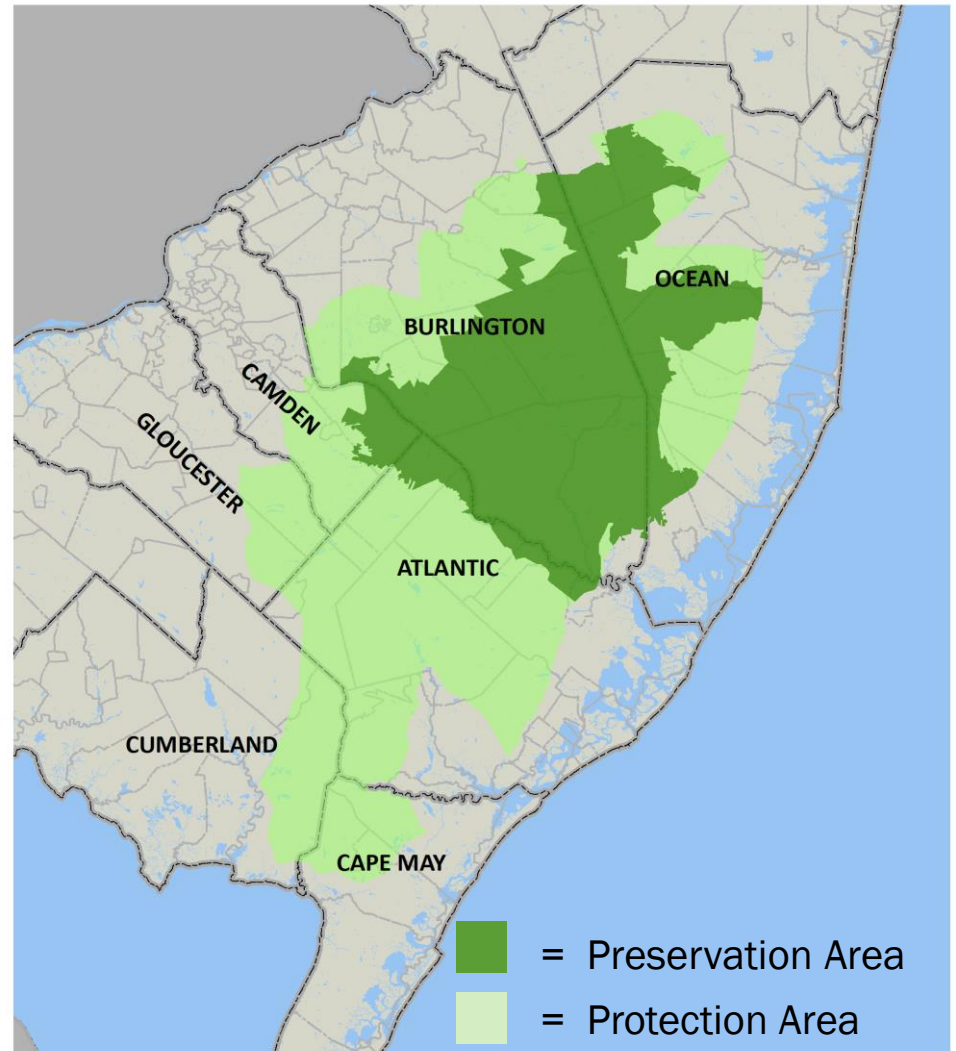
- Preservation Area District
- Special Agricultural Production Area

## Protection Area

- Forest Areas
- Rural Development Areas
- Pinelands Towns
- Regional Growth Areas








## Both

- Military and Federal Installation Areas
- Pinelands Villages
- Agricultural Production Area

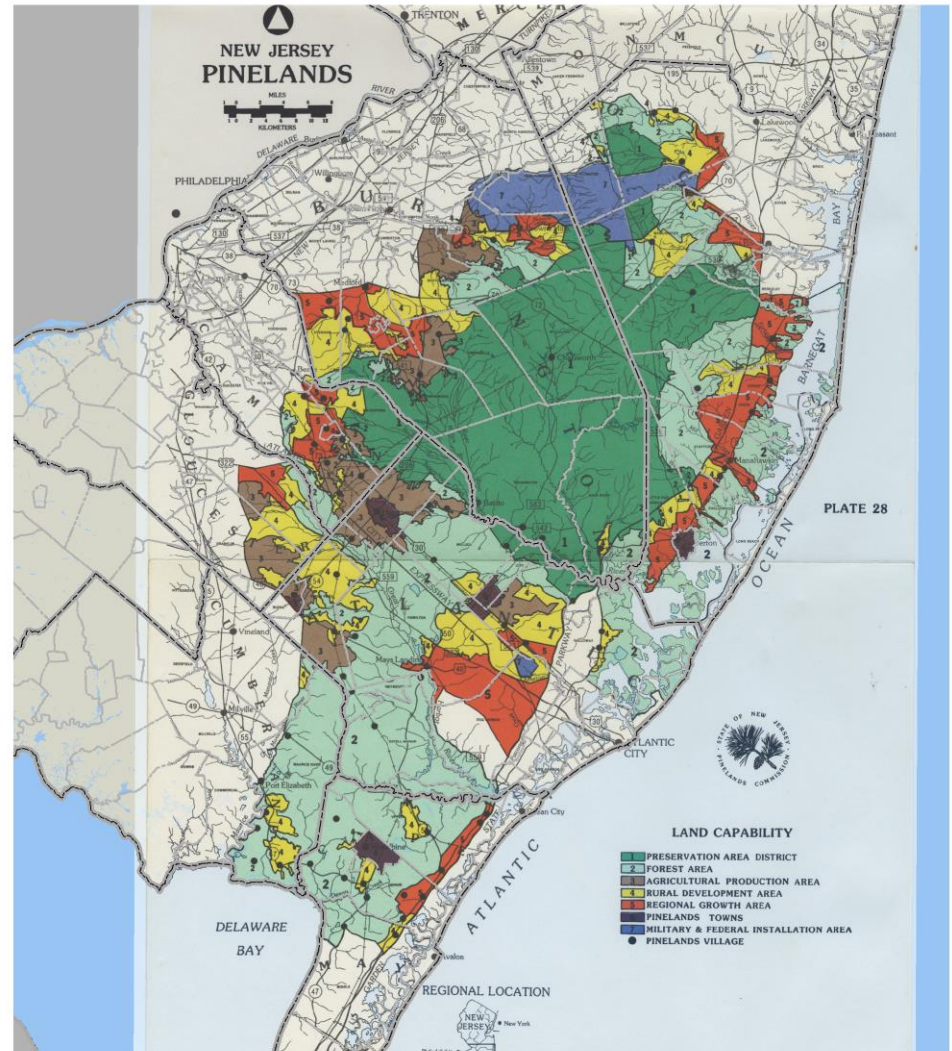


# ORIGINAL LAND CAPABILITY MAP

Volume I of the CMP established criteria for mapping the management areas based on environmental characteristics and existing land uses

-  = Preservation Area District
-  = Forest Area
-  = Agricultural Production Area
-  = Rural Development Area
-  = Regional Growth Area
-  = Pinelands Towns
-  = Military and Federal Installation Areas

Note: Villages and Special Ag Areas were not delineated on the original map



# THE PURPOSE OF REGIONAL GROWTH AREAS – ENCOURAGING APPROPRIATE PATTERNS OF DEVELOPMENT

- Regional Growth Areas were established to meet the legislative mandate to:
  - *encourage appropriate patterns of compatible residential, commercial and industrial development, in or adjacent to areas already utilized for such purposes, in order to accommodate regional growth influences in an orderly way while protecting the pinelands environment from the individual and cumulative adverse impacts thereof*
- Volume I of the CMP defined Regional Growth Areas as those land areas which are:
  - In or adjacent to existing developed areas;
  - Experiencing growth demands and pressure for development; and
  - Capable of accommodating development without jeopardizing the most critical elements of the Pinelands environment



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## **THE PURPOSE OF REGIONAL GROWTH AREAS – PDC PROGRAM RECEIVING AREA**

- The PDC program was established to provide an alternative use to property owners in the PAD, SAPA, and APA management areas, where development was greatly restricted.
- PDCs provided a mechanism for landowners in these restrictive areas to benefit from the expected increase in land values in Regional Growth Areas.
- Regional Growth Areas are the only receiving area for Pinelands Development Credits.

# CMP REQUIREMENTS IN REGIONAL GROWTH AREAS

- The CMP permits “any use” in a RGA. Therefore, permitted uses are generally at the discretion of the municipality, provided that:
  - Developable lands are zoned to authorize the CMP prescribed base residential density specific to that municipality (CMP ranges between 1 and 3.5 du/acre)
  - Opportunities to achieve bonus density via PDCs must also be provided in the zoning such that the base residential density can be exceeded by at least 50%
- Developable land is defined as privately held, non-wetlands, with a DTSH water table of at least 5’ (or 1.5’ in sewered areas)
- Developable land may exclude lands which are zoned exclusively for commercial or industrial use, predominantly developed as such, and which otherwise form a part of a reasonable balance between industrial or commercial zoned property and residential zoned lands.

# HOW MUNICIPALITIES INITIALLY RESPONDED - AN EXAMPLE

## Pitch Pine Township (*hypothetical municipality*)

- CMP Prescribed Base Density: 2 du/acre
- Township evaluated existing uses and developable land and proposed the zoning plan below for its RGA
- The process involved various adjustments to zoning boundaries and zone densities to meet the density and PDC requirements of the CMP

Zone	Total Acres	Developable Acres	Residential Base Density	Residential Bonus Density	Base Units Authorized	Bonus Units Authorized
Industrial (I)	200	-	N/A	N/A	-	-
Highway Commercial (HC)	300	-	N/A	N/A	-	-
Residential (R-1)	300	250	1 du/acre	N/A	250	0
Residential (R-2)	600	500	2 du/acre	1 du/acre	1,000	500
Residential (R-3)	500	250	3 du/acre	2 du/acre	750	500
<b>Total</b>	<b>1,900</b>	<b>1,000</b>			<b>2,000</b>	<b>1,000</b>

## ONGOING ZONING CHANGES IN RGAS

- Pinelands municipalities engage in on-going planning activities
- RGAs tend to have relatively more zoning changes given the greater flexibility provided by the CMP and their ability to accommodate changing development pressures
- Zoning changes in RGAs that raise no substantial issues:
  - Boundary changes to recognize existing uses and lot sizes
  - Changes in permitted uses within non-residential districts
- Zoning changes in RGAs that raise substantial issues and are often challenging
  - Revisions to permitted densities within residential districts (either increases or decreases)
  - Rezoning lands from residential to non-residential districts (or vice versa)

# THE CMP'S MUNICIPAL FLEXIBILITY PROVISION AND THE EVOLUTION OF PDC REQUIREMENTS

- “It is the policy of this Plan to allow municipalities the greatest degree of flexibility and discretion in the preparation of local plans and ordinances so long as the plans and ordinances do not conflict with the ultimate objectives and minimum requirements of this Plan.”
- In the mid-2000's, municipalities began proposing rezonings to accommodate higher density residential projects in their RGAs, often to facilitate a wider variety of housing types, affordable housing, mixed use development and site-specific redevelopment plans. Utilizing the CMP's municipal flexibility provisions, the Commission was able to certify these ordinances, provided they included mandatory PDC requirements for residential development as opposed to the traditional base/bonus system.
- The incorporation of mandatory PDC requirements has significantly improved the functioning of the PDC Program by increasing demand. Of the 216.75 PDCs redeemed between January 2015 and September 2022, nearly half were used for projects where a mandatory PDC requirement was in effect.

## REVISITING TODAY'S CHALLENGE

- Warehouse proposals for sites in residentially zoned RGAs with existing, mandatory PDC requirements
- Without a zoning change, the CMP imposes a large PDC obligation through a use variance
- Rezoning vacant RGA land from residential to non-residential has barriers based on CMP rules
- Opportunities to transfer residential development potential to other lands in a municipality's RGA have become more limited over time





**AN APPROACH FOR PDC USE IN RGA  
NON-RESIDENTIAL DEVELOPMENT**

# PDC USE IN RGA NON-RESIDENTIAL DEVELOPMENT

## A POTENTIAL APPROACH

- Drawing upon CMP's municipal flexibility provisions
  - Allow municipalities to meet their PDC obligations by adopting mandatory PDC requirements for non-residential uses
    - Precedent: Berlin Township & (formerly) Winslow Township - Bonus FAR achieved via PDC use
  - Allow reduction in authorized residential units in municipal RGAs where overall residential zoning capacity exceeds CMP base/bonus density minimum
    - Many RGA municipalities have been opting to increase RGA residential density above the required CMP minimum. Mandatory PDC requirements were incorporated in these zoning plans to accommodate affordable housing and ensure redemption of PDCs.
    - A municipality should be given the flexibility to reduce residential zoning capacity so long as the CMP minimum continues to be met
- Calculate PDC obligation required by the CMP for lands being rezoned and assign that obligation to the newly permitted non-residential uses



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## A HYPOTHETICAL EXAMPLE

- 50-acre site in an existing residential RGA zone that permits a maximum density of 6 units/acre with a 25% mandatory PDC requirement.
- The municipality wants to rezone the site to non-residential via a redevelopment plan.
- Offsetting lands are limited in the municipality's RGA.

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## A HYPOTHETICAL EXAMPLE

- **Step 1:** Determine whether the municipality is eligible for a reduction in residential density in their RGA
  - For this hypothetical municipality, the CMP requires 2 units/acre base density + 1 unit/acre bonus with PDC use
  - An analysis of Township's RGA shows that the remainder of the zoning plan authorizes units in excess of the CMP's mandatory minimum density requirements

## A HYPOTHETICAL EXAMPLE

- **Step 2:** Determine the PDC obligation to be transferred:
  - Under the CMP's minimum residential zoning requirements, the 50-acre area would need to be zoned for 2 units/acre base (100 units) and 1 unit/acre bonus (50 units) for a total of 150 units
  - Minimum PDC obligation of 50 rights (12.50 PDCs) would be transferred to the non-residential use
  - Redevelopment plan would authorize up to 1,000,000 million square feet of non-residential floor area
  - A mandatory PDC requirement of 1 right for every 20,000 sqft of proposed non-residential floor area would be applied (~1 million sqft/50 rights)