

**WARREN COUNTY PLANNING DEPARTMENT
WAYNE DUMONT, JR. ADMINISTRATION BUILDING
165 COUNTY ROAD 519, SOUTH
BELVIDERE, NEW JERSEY 07823-1949**

DAVID K. DECH
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**AGENDA
WARREN COUNTY PLANNING BOARD**

**Monday, December 20, 2021
8:00 p.m.
In-Person and Via Electronic Communication**

Development Review Committee meets at 7:30 pm

CALL TO ORDER

INTRODUCTORY STATEMENT:

Adequate notice of this meeting has been given in accordance with the Open Public Meetings Act by forwarding a notice of the date, time and location of the meeting to THE STAR-LEDGER, THE DAILY RECORD and the Warren County Clerk and by posting a copy thereof on the bulletin board of the Warren County Courthouse and Administration Building. The meetings will be conducted in person and through electronic communications equipment to facilitate public comment. Public access is provided through a conference call using Webex to preserve the health, safety and welfare of the public in conformance with N.J.S.A. 10:4-6, et seq. [the Open Public Meetings Act], at which time formal action will be taken.

THE COUNTY PLANNING BOARD REQUESTS THAT ALL PARTICIPANTS KEEP THEIR PHONE OR COMPUTER ON MUTE UNLESS SPEAKING DURING PUBLIC COMMENT. THIS WILL ELIMINATE BACKGROUND NOISE AND DISRUPTION DURING THE REGULAR MEETING AND DURING PUBLIC COMMENT

SELECTED SUBDIVISION AND SITE PLAN MAPS TO BE ACTED ON AT THIS MONTH'S MEETING MAY BE VIEWED AT
<https://warrencountynj.maps.arcgis.com/apps/Shortlist/index.html?appid=84bb354d75dc4868a66480fde8124c4c>

The public is invited to attend this meeting by calling:

1-877-309-3457 (toll free) or 1-404-397-1516

When prompted for Meeting Number (access code) press 2345 056 9670 and the # sign.

When prompted for Attendee Number press the # sign.

OR

JOIN WEBEX

<https://warrencountynj.webex.com/warrencountynj/j.php?MTID=ma5715a6ca926308efbcc7943c6119b72>

Meeting number (access code): 2345 056 9670

Meeting password: mBxeuewg284

ROLL CALL

SALUTE TO THE FLAG

APPROVAL OF MINUTES OF PREVIOUS MEETING(S)

- November 22, 2021

PUBLIC COMMENTS

SUBDIVISION & SITE PLAN REPORT

Subdivisions

21-015 (P)	Belvidere	Belvidere Urban Renewal, LLC
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Site Plans

21-041-SP	Belvidere	Belvidere Urban Renewal, LLC
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21-023-SP	Hackettstown	GTI New Jersey, LLC
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21-046-SP	Hackettstown	Russo Acquisitions, LLC
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21-037-SP	Alpha	1603 Springtown, LLC
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CORRESPONDENCE:

- Agriculture Development Board – Minutes of October 21, 2021
- New Jersey Planner - September/October 2021

DIRECTOR'S REPORT

Warren County Planning Dept. Project Report December 2021

COMMITTEE REPORTS

LIAISON REPORTS

OLD BUSINESS

- Meeting Format

NEW BUSINESS

- Future Meeting Venue
- Appoint Nominating Committee

OTHER BUSINESS

PUBLIC COMMENTS

ADJOURNMENT

**Members Who Do Not Plan To Attend the Meeting
Please Notify the Planning Department**

WARREN COUNTY AGRICULTURE DEVELOPMENT BOARD

Department of Land Preservation
P.O. Box 179
500 Mt. Pisgah Avenue
Oxford, NJ 07863

**Meeting Minutes
October 21, 2021**

The regular monthly meeting was held virtually by the Department of Land Preservation via Webex. The meeting was called to order by Chairman Schnetzer at 7:32 p.m. An announcement was read as required by the Open Public Meetings Act, N.J.S.A. 10:4-6-21.

Members present: Tim Bodine, Bradley Burke, Matthew Hood, Rene Mathez, Jason Menegus, Joel Schnetzer, Melissa Watters

Members absent: none

Others present: T. Kaminski, C. Tierney, Staff; Lori Ciesla, County Commissioner; Katrina Campbell, County Counsel; Timothy Wilmont, SADC.

Minutes of the meeting held on September 16, 2021 were approved on a motion by Mr. Menegus and seconded by Mr. Burke. Motion carries.

Correspondence: Noted

Public Input (Non-agenda Items): None

Old Business:

Pipers Hills Farms, LLC, TLC-NJ Non-Profit, BL 48 L 72, Washington Township, approx. 28 gross acres

Mr. Tierney stated that he and the landowner and his attorney had a meeting with County Engineer on Tuesday, October 19th. There is a site visit for Wednesday, October 27th at 9 am with the landowner and surveyor regarding meeting the sight line distances. If all goes well with the site visit, then we can proceed with the closing.

Deed of Easement Compliance – Plainview Growers, BL 105 L 8, Allamuchy Township

The SADC Attorney requested requirements for outstanding title issues for a small triangle piece across the street from the property (was not included in Deed when purchased, but part of the Division of Premises). The ROW road realignment is not an issue, but the Township drainage over the easement is an issue. Mr. Tierney is to consult with Aaron Culton who is in contact with SADC attorney then report back to the Board.

New Business:

Resolution #21-10 Montalvena Farm Denial Certification of Commercial Farm, BL 5200 L 600, Hope Township, 7.90 acres

Mr. Bodine made a motion to memorialize this resolution as presented for the Denial of Certification of Commercial Farm decision on Montalvena Farm, BL 5200 L 600 in Hope Township which was seconded by Mr. Mathez.

Roll Call: Mr. Schnetzer – yes; Mr. Bodine – yes; Mr. Burke – recused; Mr. Hood – yes; Mr. Mathez - yes; Mr. Menegus – abstain; Mrs. Watters – recused; Motion passes.

TLC-NJ Non-Profit WCADB cost share/application approval for Shotwell Farm, BL 54.01 L 2, Blairstown Township

This is a non-profit application for 50% cost share between the SADC and the County. The SADC gives 50% of the preservation cost to TLC-NJ. Expected County cost share to be \$361,560.

Mr. Mathez made a motion to approve 50% cost-share not to be more than \$361,560 for total cost to preserve this farm and to make a recommendation to the County Commissioners for purchase. Mr. Bodine seconded the motion.

Roll Call: Mr. Schnetzer – yes; Mr. Bodine – yes; Mr. Burke – recused; Mr. Hood – yes; Mr. Mathez - yes; Mr. Menegus – abstain; Mrs. Watters – recused; Motion passes.

Formal Complaint Hearing – Krouse vs. Skoog (Sarepta Farms)

This matter will be tabled until further notice from Substitute Counsel Aaron Culton.

Deed of Easement Compliance – Kero, BL 29 L 1 & 1.01, Knowlton Township

Mr. Tierney stated that Mr. Kero has been bringing in material to fill in a piece of land that dips between the two fields on a preserved farm (fka Brugler).. This is not in compliance with the Municipal Soil Importation Ordinance because no documentation has been provided to verify it is clean fill. Some fill is coming from a gas station according to Mr. Kero. Mr. Kero has hired Eikon for testing and Mr. Tierney is waiting for the landowner to report on the findings. Mr. Tierney referred Mr. Kero to NRCS for a Conservation Plan for technical assistance with the property to address soil, erosion and drainage issues. There is a County road culvert on the property. There is a wooded depression area that measures about 2 ½ acres and estimated at 20-30 feet deep between the two fields Mr. Kero is proposing to connect. Mr. Tierney stated that the mapping did not show wetlands, but that would be addressed by the conservation plan and the NRCS would notify the NJ DEP of potential violations. Mr. Tierney has informed Mr. Kero to cease and desist from this activity.

Brunkhorst Land Donation, BL 301 L 29, 30, 31.01 & BL 805 L 19.01 Mansfield

Mr. Tierney along with Board Members, Mr. Burke, Mr. Mathez and Mr. Menegus visited the property. They met the landowner and Sandy Urgo from The Land Conservancy of NJ on site. The landowner was interested in protecting the forestry practices. Mr. Tierney stated that could be an added provision to the Deed of Easement and sent a template to Ms. Urgo and the landowner to see if they were agreeable to that language. As proposed, the County will cover the cost of survey and title and the landowner to cover the cost of the Federal Yellow Book Appraisal. The farm has 11 tillable acres and some Prime Farmland on the 50 acre parcel. The landowner would like this to be preserved to prevent any future development on this property after he passes.

The Board discussed the land and asked questions regarding if it has to stay in Farmland Assessment if preserved and what kind burden to the County for enforcing these easements. Mr. Tierney stated that it would be in the landowners interest to maintain farmland assessment. The purpose of the easement is to prevent from commercial and land development and those restrictions would require that the land be kept available for farming. It can stay in the Woodland Management Plan.

Mr. Burke made a motion to pursue accepting this donation and to obtain an appraisal. Mr. Menegus seconded the motion.

Roll Call: Mr. Schnetzer – yes; Mr. Bodine – yes; Mr. Burke – yes; Mr. Hood – yes; Mr. Mathez - yes;
Mr. Menegus – yes; Mrs. Watters – yes; Motion passes.

Update to County farmland Plan/Target List (TLCNJ)

Mr. Tierney had stated that the subcommittee meeting with Barbara Davis and Board Members, Mr. Menegus, Mr. Burke and Mr. Mathez has not taken place as of yet due to some unforeseen circumstances happening the day of the meetings. Will try to meet before next meeting.

Administrator's Report:**New Applications:***County Applications*

- **Ferri** – Washington Township (Approx. 65 acres) Received completed application. To inquire with appraiser if valuation changed with sale.

Total Applications: 1 Total Acres: 65

Municipal Applications

- **Rick Smith Farm** – White (Approx. 25 acres)
- **Hoh** – Knowlton (Approx. 31 acres)

Total Applications: 2 Total Acres: 56

SADC applications

- **Moyer** – Pohatcong Township (Approx. 128.3 acres)

Total Applications: 1 Total Acres: 128.5

Awaiting Green Light Approval:

County Applications

Total Applications: 0 Total Acres: 0

Received Green Light Approval:*County Applications*

- **McEvoy #1** – White Township (Approx. 102 acres) Appraisals underway.

Total Applications: 1 Total Acres: 102

Municipal Applications

- **Gugel** – Hope Township (Approx. 48.5 acres)

Total Applications: 1 Total Acres: 48.5

Non-profit applications

- **Mt. View Farms** - Franklin Township (Approx. 55.30 acres)
- **Santini Home Farm** - Franklin Township (Approx. 39.905 acres)
- **Shotwell Family Partnership, LP** – Blirstown Township (Approx. 154.5 acres) On CADB Agenda for approval.
- **Silver Pine Farm, LLC** – Frelinghuysen Township (Approx. 33.23 acres)
- **Stecker** – Harmony Township (Approx. 18.988 acres)
- **Watercress** – Frelinghuysen Township (Approx. 117 acres)

Total Applications: 6 Total Acres: 418.923

Received CMV & Offer Made:*County Applications*

- **McEvoy #2** – White Township (Approx. 20 acres) \$5,200.

Total Applications: 1 Total Acres: 20

Municipal Applications

Total Applications: 0 Total Acres: 0

SADC applications

- **Gardner** – Franklin Township (Approx. 91.5 acres)
- **Riggs** – Franklin Township (Approx. 34 acres)

Total Applications: 2 Total Acres: 125.5

Non-profit applications

- **Campgaw Farm** – Hope/Blirstown Townships (Approx. 135.54 acres)
- **Giordano** – Frelinghuysen Township (Approx. 33.98 acres)

Total Applications: 2 Total Acres: 169.52

Under Contract (Title Search & Survey):*County Applications*

- **Anema, Ralph** – Washington Township (Approx. 123 acres) Landowner proceeding with Township to subdivide 6 acres severable exception. Received signed contract. Survey underway.
- **Khan (7 Old Orchard Road)** – Hardwick Twp. (Approx. 75 ac.) CMV \$3,400. Hardwick Township to cost-share at \$600/acre. Received draft survey and title work underway.

Total Applications: 2 Total Acres: 198

Municipal Applications

- **Vass** – Knowlton Twp. (Approx. 100 ac.) CMV \$4,700. Landowner confirmed location of exception area to 3.3 acres. Received contract. Received draft survey. Ordered title work.

Total Applications: 1 Total Acres: 100

Non-Profit Applications

- **Kimball** – White Twp. (Approx. 45 ac.) CMV \$4,200. TLC-NJ has signed contract, draft survey and title. Sent draft survey and title to Engineering for their review. Waiting to receive from surveyor Engineering's requested revisions.
- **Promised Land (M. Santini)** – Franklin Twp. (Approx. 58 ac.) CMV \$4,650. Received title and survey.

Total Applications: 2 Total Acres: 103

Waiting to Close (Final Legal Review):*County Applications*

- **Beatty South** – Greenwich Twp. (Approx. 57 ac.) CMV \$9,500. Mrs. Beatty has died, estate being settled.
- **Beatty North** – Greenwich Twp. (Approx. 86 ac.) CMV \$8,800. Mrs. Beatty has died, estate being settled.
- **Dykstra** – Mansfield Twp. (Approx. 209 ac.) CMV \$3,900. Received completed survey revisions and sent to SADC.
- **Haydu** – Harmony Twp. (Approx. 46 ac.) CMV \$4,900. Waiting to close.
- **Smith, John & Jean #1** – Harmony/White Twps. (Approx. 82 ac.) CMV \$4,600. Waiting to close.
- **Smith, John & Jean #2** – Harmony Twp. (Approx. 36 ac.) CMV \$6,000. Waiting to close.

Total Applications: 6 Total Acres: 516

Municipal Applications

- **Dokie's Acres (Thompson)** – White Twp. (Approx. 43 ac.) CMV \$6,000.
- **McLain** – Harmony Twp. (Approx. 140 ac.) CMV \$5,700. On hold pending resolution of erosion issue with SADC; Stefanie Miller to discuss with Susan Payne.

Total Applications: 2 Total Acres: 183

Non-Profit Applications

- **Pipers Hill Farm (Gibb)** – Washington Twp. (Approx. 27 ac.) CMV \$5,500. Revised as-built plans submitted to County Engineering. On site measurement needed; trying to get that scheduled between Engineering Department and Landowner.

Total Applications: 1 Total Acres: 27

SADC applications

- **Shen** – Mansfield Township (Approx. 222 acres) Coordinating with County Engineering, SADC, and NRCS to facilitate drainage easements requested by Engineering.

Total Applications: 1 Total Acres: 222

Recent Closings:Pohatcong Contamination Area Projects:*Seeking Highlands Council Open Space Funding cost-share*


- **Pear Tree Realty** – Franklin Township (Approx. 62 ac.) Commissioners approved 100% funding.
- **Pereira** – Franklin Township (Approx. 30 ac.) Commissioners approved 100% funding.
- **Myers/Toretta #1** – Franklin Township (Approx. 38 acres) Commissioners approved 100% funding.
- **Myers/Toretta #2** – Franklin Township (Approx. 48 acres) Commissioners approved 100% funding.
- **Noel** – Franklin Township (Approx. 44 ac.) Commissioners approved 100% funding.
- **Oberly** – Franklin/Greenwich (Approx. 96 ac.) Received Highlands Grant. Received appraisals.
- **O'Dowd South** – Franklin & Greenwich Township – (Approx. 132 ac.) Received Highlands Grant. Warren County and Highlands to be Co-owners of DOE. Landowners agree to continue preservation with further restrictions and HC on DOE.

Total Applications: 7 Total Acres: 450

2021 Closings YTD: 8 farms totaling 660.77 acres
Program Totals: 309 farms totaling 27,082.2874 acres

Public Comment: none.

Adjournment: A motion for adjournment was made by Mr. Bodine and seconded by Mrs. Watters. Motion carries. Chairman Schnetzer adjourned the meeting at 8:22 pm.

Respectfully submitted,

Teresa Kaminski

Warren County Planning Dept. Project Report December 2021

1. Development Applications Submitted 11/8/21-12/3/21 (Board Meeting Cut-Off)

Application #	Applicant	Municipality	Road	Use
21-014	Hope Road Property	Liberty Twp	CR 611	Industrial
21-023-SO	GTI-New Jersey LLC	Hackettstown	CR 665	Industrial (Cannabis)
21-037-SP	1603 Springtown, LLC	Alpha	CR 519	Commercial (Office)
21-047-SP	Performance Fleet Maintanance	Hackettstown	CR 604	Commercial
21-015	Belvidere Urban Renewal(Summit at Belvidere	Belvidere	Manukachunck Road	Residential
21-041-SP	Belvidere Urban Renewal(Summit at Belvidere	Belvidere	Manukachunck Road	Residential
21-038-SP	WIP Alpha, LLC	Alpha	Edge Rd	Warehouse

2. Municipal Ordinance Review & Update Report

12/7/2021 White Twp. Comprehensive Farmland Preservation Plan Update and Notice of Public Hearing scheduled for December 14, 2021

Stormwater Control Ordinances - The County is responsible for reviewing and approving municipal stormwater control ordinances (SCO) as they are updated pursuant to NJDEP revised rules. One (1) municipality has not submitted an ordinance.

3. **Development Review Online Applications** – December 2021 development applications are in process of being uploaded into the story map. The link is <https://warrencountynj.maps.arcgis.com/apps/Shortlist/index.html?appid=84bb354d75dc4868a66480fde8124c4c>

4. **Public Information Requests** – Addressed/processed one request through December 10

5. **Demographics/US. Census** –The New Jersey 2020 Census data is on the NJ Data Center web page at https://nj.gov/labor/lpa/census/2020/2020census_index.html.

6. **Open Space and Trails** –

7. **Warren Highlands Trail**- A spur of the trail is being blazed through Harmony Township.

8. **Morris Canal** – French and Parrello was contracted for engineering services for the design for construction of trails on six segments of the Morris Canal. Application to the NJDEP Land Use Regulation program was submitted. NJDEP has some questions about the application which F&P provided responses to. The NJDEP is requiring that stormwater mitigation be addressed because the area being disturbed is over 1 acre and because a crushed stone and stone dust trail is considered impervious material. To advance the project the material used for the trail will be changed to meet the definition of a pervious material. It will likely be ¼ inch to 3/8 inch stone. Because of the delay, it is more likely that the project will be ready to be advertised sometime in the Spring and construction to begin in the Summer of 2022.

9. **Warren Heritage Scenic Byway** – A workgroup meeting was held on November 30 to discuss the potential byway extensions in Pohatcong. The workgroup agreed that the byway should also include an extension that begins at the intersection of CR 519 and NJ 122 and follow CR 519 through Alpha Borough to CR 627 to Riegelsville. It will continue north on River Road to Carpentersville Road to NJ 122 at Greens Bridge. The full committee will consider the extensions at a meeting scheduled for January 31, 2022. The nomination applications are being drafted for the Southern Extension to Union Square and the Northern Extension to Waterloo Village.

10. **Rt 57/CR 519** -

11. **I-80 Rockfall Project** -

12. Pilot Freight Concept Development Program- Drainage Culvert Replacement Project in Hackettstown –

13. Transportation Plan The Report was completed final reports printed and delivered to the Department. Additional edits were required and maps and other edits have been addressed. When those edits are incorporated the printed document, it will be transmitted to the Planning Board for review.

14. County Transportation Advisory Council- The meeting was held November 18th and new officers were elected.

15- NJTPA - Attended the December 13 PPC/PED meeting. Heard a presentation on the Essex Hudson Greenway and approved several minor amendments to the TIP for projects not directly affecting Warren County.

15a. EV Vehicles - Working with NJTPA to locate more Electric Vehicle chargers throughout the county.. We are assisting the County's Public Works Director is exploring the possibilities of converting the County motor pool to EV and identify locations throughout the county where charging stations may be installed for county and for public use. Ideally they should be installed in locations throughout the county to ensure adequate coverage and reliability.

16. Pedestrian Counts –

17. Lackawanna Cutoff

18. Raritan Valley Line-

19. Transportation Improvement Program -

20. CR 519/521 Weight Restriction – Under review by NJDOT.

21. Economic Development Council – Attended the December 9 meeting. The EDC heard presentations from the LWB about employment and industry trends in Warren County and from Dr. Will Austin about the College's Unmanned Systems program.

22. Musconetcong River Management Council – Next meeting to be held via zoom on December 14 , 2021

23. Solid Waste and Recycling - Weekly education advertisements about recycling continue to run in the Express Times and/or Warren Reporter.

The NJDEP released the draft REA Grant Application Guide for review.

Attended a webinar sponsored by the Association of Public Works on how to complete the NJDEP Municipal Tonnage Grant report.

24. **County Road Map-** The narrative and photos need to be added to the backside of the map.
25. **Park Locator App and Parks Story Map-** The app is still a work in progress and will be able to deploy from any mobile device. The link for "Warren Parks Locator and Story Map is <https://warrencountynj.maps.arcgis.com/apps/Shortlist/index.html?appid=493ae0539bc84ede9dcedab2e0ac8b84>.
26. **North Jersey Resource Conservation and Development –** Council meeting was held December 9. Among other items the Executive Director gave a status update of the major projects the NJRCD is currently working on. Its website is <https://www.northjerseyrcd.org/>
27. **Assisting other Departments--**Assisting Public Safety in getting set up to use ARC GIS in their operations. Online ARC GIS is set up and the storm damage reporting is in place, using the Warren County OEM site. For Land Preservation working on updating the ROSI inventory for 2021.
28. **GIS**
29. **County Planners Association –**
30. **Hazard Mitigation Plan -** A draft Hazard Mitigation Plan update has been prepared through the WC Public Safety Department.
31. **Highlands Sustainable Economic Plan –** The Highlands Council approved the It is available at: <https://www.nj.gov/njhighlands/master/economic-sustainability/>
32. **Regional Planning Meetings -**
33. **Senate No. 3688 -.**
34. **Highlands Plan Conformance -**
35. **County Website Update-** The new website is now live. County Departments are responsible for adding their own content to the site. This will allow us to provide the public with access to documents and links relevant to the planning and the department. The new web address to the County home page is <https://www.warrencountynj.gov/>
36. **Bylaws -** Will be considered for update. Draft revision to be discussed at Planning Board meeting December 20.
37. **Budget -**

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Telephone: (908) 475-6532
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TO: Warren County Planning Board

SUBJECT: Amendments to Bylaws

DATE: 12/14/21

As a follow up to the November Planning Board meeting discussion, attached is the proposed language change to the Planning Board's Bylaws regarding the Development Review Committee. Two sets of the proposed revisions to the Bylaws are included. One with track changes and one without track changes.

Pursuant to the Bylaws, the procedure to amend the Bylaws will need to follow the below timeline:

- December 20, 2021--- Planning Board reviews and accepts a Bylaws amendment for consideration and approval at the next Planning Board meeting
- January 24, 2022 --- Planning Board approves the Bylaws amendment by resolution
- February 9, 2022 – Board of County Commissioners approves the Bylaw amendment at its regularly scheduled meeting

Article VII

Committees and Liaisons

- Section 1. The types of committees shall be: (a) Standing Committees; and (b) Special Committees created, from time to time and at any time, by the Chairperson of the Board as he or she may deem advisable and as conditions may warrant.
- Section 2. The members of such committees of the Planning Board shall be appointed by the Chairperson from among its members to serve for the term provided by the Board subject to the provisions of applicable law and these bylaws. The Planning Board Chairperson shall appoint a committee chair who shall preside over meetings and be responsible for reporting the committee's work progress to the full planning board. Unless these bylaws otherwise specifically provide, each Standing Committee and Special Committee shall consist of three (3) members of the Board.
- Section 3. Any vacancy, occurring in any committee may be filled by the Chairperson of the Board from the remaining members of the Board. Any member appointed to fill a vacancy shall serve for the remainder of the calendar year in which such appointment is made and until his/her successor in office shall be appointed in the manner provided in these bylaws.
- Section 4. Members of each Standing Committee and each Special Committee shall be appointed for the calendar year in which their appointment is made and until their respective successors shall be appointed in the manner provided in these bylaws. The Chairperson of the Board shall be an ex-officio member of each Standing and Special Committee; The Chairperson shall be notified of committee meetings but does not have the right to vote. The Planning Director shall assign appropriate staff to serve at the committee meetings.
- Section 5. The Standing Committees shall include:
- Development Review Committee
- Section 6. Development Review Committee shall consist of the Warren County Engineer and three (3) other members for a total of four (4) members of the Board appointed annually by the Chairperson of the Board. The County Engineer or Assistant County Engineer shall act as the Committee Chair. It is the responsibility of the County Planning staff to present the development review report that contains the recommendations of the Development Review Committee concerning development applications pending before the board to the full Board.

~~The Development Review Committee meetings shall be advertised in an annual notice as an open public meeting in accordance with the Open Public Meetings Act. Accordingly, any member of the County Planning Board may attend any of the~~

~~advertised meetings of the Development Review Committee; however, no formal action shall be taken by the Committee.~~

Development Review Committee meetings will be held on the fourth Monday of each month, ~~at 7:30 p.m.~~, at the Warren County Administration Building prior to the regularly scheduled Board meeting at a time to be determined monthly depending on the number and complexity of the applications being considered by the Board for that month. ~~and~~ The dates of such meetings shall be established by the Board at its annual reorganization meeting in January. ~~In accordance with Open Public Meetings Act, annual notice shall be provided within seven days of the reorganization meeting in the following manner: (1) prominently posted in at least one public place reserved for such or similar announcements, (2) mailed, telephoned, faxed, or hand delivered to at least two newspapers one of which must be the official county newspaper, and (3) filed with the Warren County Clerk.~~

Section 7. At the December meeting, the Chairman shall appoint three members of the Board to serve as the Nominating Committee. The Chairman will designate one of the members as the Chair. At the January reorganization meeting, the Nominating Committee shall confer and present a slate of nominees to the full Board for Chairman, Vice Chairman, and Secretary for the calendar year.

Section 8. The Chairman may designate Board members to serve as voting members, non-voting members, and liaisons to other County Agencies and to participate in or monitor special projects of interest to the Board. Nevertheless, the member serving on another board or liaison shall report to the full Board, the other agency's activities or project's progress. At least one but no more than two members of the Board shall serve as a liaison to any agency or project.

Section 9. Liaisons shall be designated for:

Municipal and Charitable Conservancy Trust Fund Committee

For the Municipal and Charitable Conservancy Trust Fund Committee the Board member is appointed as a voting member of the MCCTFC by the Board of County Commissioners as defined in the Board of Chosen Freeholders (County Commissioner) resolution of June 26, 1996.

Morris Canal Committee

The Morris Canal Committee does not have provisions to include voting or non voting members from the county planning board

Agriculture Development Board

For the Warren County Agriculture Development Board, N.J.S.A. 4:1C-14(a) states that the CADB shall consist of a non-voting representative of the county planning board appointed by the Board of County Commissioners.

Solid Waste Advisory Council

The Solid Waste Advisory Council bylaws call for a member of the Planning Board to be a voting member and appointed by the Board of County Commissioners.

Board of Recreation Commissioners

The Board of Recreation Commissioners does not have provisions to include voting or non-voting members from the county planning board

Lackawanna Cutoff Passenger Rail Restoration Project

Article VIII

Employees

- Section 1. The Board may appoint a Recording Secretary that is not a member of the County Planning Department staff to attend regular and special planning board meetings, audio record the meeting, and prepare the written minutes for approval at a subsequent meeting of the Board. The appointed Recording Secretary may be paid a stipend that will be funded from the Planning Department's Budget funds. At the reorganization meeting or at one of its regular meetings if the position had been vacated, the Planning Board shall designate the recording secretary and affix the stipend subject to available budget funds and County Commissioner approval if necessary. In absence of an appointed Recording Secretary, a member of the County staff as designated by the County Planning Director will be assigned to attend the meetings audio record, and prepare the written minutes.
- Section 2. The Board may employ legal counsel to attend the regular planning board meetings and for additional legal matters that face the Board from time to time. Appointments shall be made by a majority vote of the quorum present.
- Section 3. The Board may recommend to the Board of County Commissioners the employment of consultants to supplement the work of the staff and for carrying out such other duties as the Board may direct. All employment of consultants by the Board is to be approved by a majority of the quorum present.

Article VII

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- Section 2. The members of such committees of the Planning Board shall be appointed by the Chairperson from among its members to serve for the term provided by the Board subject to the provisions of applicable law and these bylaws. The Planning Board Chairperson shall appoint a committee chair who shall preside over meetings and be responsible for reporting the committee's work progress to the full planning board. Unless these bylaws otherwise specifically provide, each Standing Committee and Special Committee shall consist of three (3) members of the Board.
- Section 3. Any vacancy, occurring in any committee may be filled by the Chairperson of the Board from the remaining members of the Board. Any member appointed to fill a vacancy shall serve for the remainder of the calendar year in which such appointment is made and until his/her successor in office shall be appointed in the manner provided in these bylaws.
- Section 4. Members of each Standing Committee and each Special Committee shall be appointed for the calendar year in which their appointment is made and until their respective successors shall be appointed in the manner provided in these bylaws. The Chairperson of the Board shall be an ex-officio member of each Standing and Special Committee; The Chairperson shall be notified of committee meetings but does not have the right to vote. The Planning Director shall assign appropriate staff to serve at the committee meetings.
- Section 5. The Standing Committees shall include:
- Development Review Committee
- Section 6. Development Review Committee shall consist of the Warren County Engineer and three (3) other members for a total of four (4) members of the Board appointed annually by the Chairperson of the Board. The County Engineer or Assistant County Engineer shall act as the Committee Chair. It is the responsibility of the County Planning staff to present the development review report that contains the recommendations of the Development Review Committee concerning development applications pending before the board to the full Board.

Development Review Committee meetings will be held on the fourth Monday of each month, , at the Warren County Administration Building prior to the regularly scheduled Board meeting at a time to be determined monthly depending on the number and complexity of the applications being considered by the Board for that

month. The dates of such meetings shall be established by the Board at its annual reorganization meeting in January.

Section 7. At the December meeting, the Chairman shall appoint three members of the Board to serve as the Nominating Committee. The Chairman will designate one of the members as the Chair. At the January reorganization meeting, the Nominating Committee shall confer and present a slate of nominees to the full Board for Chairman, Vice Chairman, and Secretary for the calendar year.

Section 8. The Chairman may designate Board members to serve as voting members, non-voting members, and liaisons to other County Agencies and to participate in or monitor special projects of interest to the Board. Nevertheless, the member serving on another board or liaison shall report to the full Board, the other agency's activities or project's progress. At least one but no more than two members of the Board shall serve as a liaison to any agency or project.

Section 9. Liaisons shall be designated for:

Municipal and Charitable Conservancy Trust Fund Committee

For the Municipal and Charitable Conservancy Trust Fund Committee the Board member is appointed as a voting member of the MCCTFC by the Board of County Commissioners as defined in the Board of Chosen Freeholders (County Commissioner) resolution of June 26, 1996.

Morris Canal Committee

The Morris Canal Committee does not have provisions to include voting or non voting members from the county planning board

Agriculture Development Board

For the Warren County Agriculture Development Board, N.J.S.A. 4:1C-14(a) states that the CADB shall consist of a non-voting a representative of the county planning board appointed by the Board of County Commissioners.

Solid Waste Advisory Council

The Solid Waste Advisory Council bylaws call for a member of the Planning Board to be a voting member and appointed by the Board of County Commissioners.

Board of Recreation Commissioners

The Board of Recreation Commissioners does not have provisions to include voting or non-voting members from the county planning board

Lackawanna Cutoff Passenger Rail Restoration Project

Article VIII

Employees

- Section 1. The Board may appoint a Recording Secretary that is not a member of the County Planning Department staff to attend regular and special planning board meetings, audio record the meeting, and prepare the written minutes for approval at a subsequent meeting of the Board. The appointed Recording Secretary may be paid a stipend that will be funded from the Planning Department's Budget funds. At the reorganization meeting or at one of its regular meetings if the position had been vacated, the Planning Board shall designate the recording secretary and affix the stipend subject to available budget funds and County Commissioner approval if necessary. In absence of an appointed Recording Secretary, a member of the County staff as designated by the County Planning Director will be assigned to attend the meetings audio record, and prepare the written minutes.
- Section 2. The Board may employ legal counsel to attend the regular planning board meetings and for additional legal matters that face the Board from time to time. Appointments shall be made by a majority vote of the quorum present.
- Section 3. The Board may recommend to the Board of County Commissioners the employment of consultants to supplement the work of the staff and for carrying out such other duties as the Board may direct. All employment of consultants by the Board is to be approved by a majority of the quorum present.
- Section 4. The Planning Department staff shall prepare the agenda of regular and special meetings subject to approval of the Chairman, provide the Annual Notice and "48 hour notice", provide notice of meetings to Board members, arrange proper and legal notice of hearings, attend to correspondence and reports of the Board as directed by the Board or Chairman, collect, assemble, and prepare information and data as may be required for presentation to the Board, prepare records, file same, and carry out other such secretarial and administrative duties that are normally performed.
- Section 5. The County Planning Director and County Engineer shall sign subdivision and site plan maps in accordance with the map stamping and signing procedures adopted by the Warren County Planning Board and attached hereto.

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New Jersey's Model Statewide Municipal EV Ordinance & Incentives

By: **Maria Connolly, PP, AICP**
Peg Hanna, Assistant Director

Drive Green! That's easier said than done, which is why the State is rolling out a suite of strategies to pave the way for electric cars. But why? The climate crisis is real and we must tackle it head on. A new report by the United Nations Intergovernmental Panel on Climate Change found that, "It is unequivocal that human influence has warmed the atmosphere, ocean, and land at a rate that is unprecedented in the last 2000 years." With 42 percent of our climate pollution coming from the transportation sector, transitioning to electric vehicles (EV) is important if we're going to reduce global warming pollutants.

The Murphy Administration took another step toward electrifying New Jersey's transportation sector on September 1, 2021, with the unveiling of a statewide municipal ordinance that makes it easier for people to drive electric by streamlining the local approval process for installing convenient and cost-effective charging infrastructure. The Model Statewide Municipal Electric Vehicle Ordinance was written by the Department of Community Affairs (DCA) with support from the Department of Environmental Protection (DEP) and Board of Public Utilities (BPU) to comply with a law Governor Phil Murphy signed in July.

The law requires that Electric Vehicle Supply/Service Equipment ("EVSE" or "charging stations") and Make-Ready parking spaces be designated as a permitted accessory use in all zoning or use districts

LEAGUE of MUNICIPALITIES CONFERENCE (November 16 – 18)

Variances: Proofs and Case Law
Staying Out of Trouble
Master Plan: Time for an Update
RSIS: Refreshed
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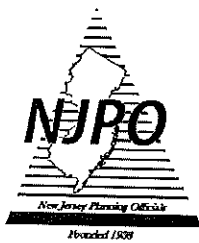
**NO MANDATORY CLASSES
AT THE LEAGUE**

and establishes associated installation and parking requirements related to EVSE in New Jersey's 565 municipalities. In order to implement this, the law requires that DCA publish a Model Statewide Municipal EV Ordinance on its website. The model ordinance is required to include the installation and parking requirements detailed in the law, as well as address installation, sightline, and setback requirements and other health- and safety-related specifications for EVSE and Make-Ready parking spaces.

The law has many unique aspects. It did not require DCA to go through the rulemaking process when initially publishing the ordinance, although DCA did seek extensive stakeholder input. The law allows the Commissioner of DCA to periodically update the EVSE and Make-Ready parking space requirements through the rulemaking process to reflect increased electric vehicle adoption levels and technological

advances in the State. However, any changes to the Reasonable Standards section of the ordinance do not need to go through the rulemaking process.

Additionally, the EV ordinance is mandatory; it became effective in all municipalities upon DCA publication in September 2021. Municipalities are allowed to make changes to the Reasonable Standards section of the ordinance through the normal municipal ordinance amendment process but may not change the parts of the ordinance that are required by the law such as installation and parking requirements.



THE NEW JERSEY PLANNING OFFICIALS
The Association of Planning Boards & Zoning Boards of Adjustment
Founded in 1938

The New Jersey Planner is the official membership publication of The New Jersey Planning Officials Inc., published six times a year for over 9,000 local planning and zoning board members, elected officials, and professionals. Membership inquiries invited. Founded in November 1938, NJPO is non-profit 501(c)3 tax-exempt organization and, since 1939, an affiliate of the NJ State League of Municipalities.

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For municipalities with existing EV ordinances, the statewide ordinance will supersede those requirements. Municipalities don't technically need to adopt the ordinance in order for it to be in effect because the legislation says, "The model land use ordinance published by the Commissioner of Community Affairs shall be effective in each municipality." However, municipalities may want to add an ordinance number so they can fit the EV ordinance into their existing ordinances, add cross-references, and add EVSE and Make Ready parking spaces to the permitted accessory uses in each of the municipality's zones. They may also want to add their own penalties; the locations of the publicly-accessible, municipally-owned EVSE parking spaces; and usage fees for the municipally-owned EVSE.

Yet another unique aspect of the bill is that it requires the Residential Site Improvement Standards (RSIS) and the Uniform Construction Code (UCC) to be consistent with the requirements set forth in the model ordinance. The RSIS and UCC must be updated if the model ordinance is updated. Both regulations must incorporate the requirements within 90 days of enactment of the law.

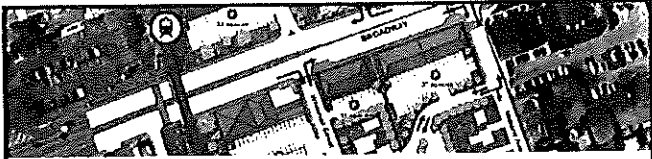
The EV ordinance was designed to ensure that municipalities are requiring installation of EVSE and Make-Ready parking spaces in a consistent manner and also to provide an ordinance that can be easily used by every municipality with no or minimal amendments by the municipality. The law states that municipalities may encourage additional installation of EVSE and Make-Ready parking spaces, but may not require more EVSE or Make-Ready parking spaces than what is required in the EV ordinance. In crafting the ordinance, DCA aimed to provide an ordinance that municipalities could simply take and begin to implement without having to pay additional costs for consultants to make further changes.

The most significant requirement of the ordinance's mandatory provisions is that EVSE and Make-Ready parking spaces be treated just like any other permitted accessory use, whether the EVSE or Make-Ready parking spaces are included with a site plan

application for a new development or being added to an already existing building or development. This addresses inconsistencies throughout the state on how charging station installation was being handled by municipalities and their building and zoning departments. This alone will expedite the length of time it takes to get EVSE installed in the state. The EV ordinance also includes specific requirements for existing buildings and developments. For example, the application for a zoning permit for the charging station must conform with conditions of previous approvals.

The mandatory requirements in the EV ordinance include:

- All EVSE and Make-Ready parking spaces are subject to applicable local and/or Department of Community Affairs permit and inspection requirements.
- Parking spaces with EVSE and Make-Ready equipment must be included in the calculation of minimum required parking spaces.
- Parking spaces with EVSE or Make-Ready must count as at least two parking spaces (no more than 10% reduction of total required parking spaces).
- All parking space calculations for EVSE and Make-Ready equipment must be rounded up to the next full parking space.
- As a condition of preliminary site plan approval, for each application involving a multiple dwelling with five or more units of dwelling space, which includes include a multiple dwelling that is held under a condominium or cooperative form of ownership, a mutual housing corporation, or a mixed-use development, the developer or owner, as applicable, must install:
 - Immediately: 15% of parking spaces shall be make-ready and 1/3 of those shall have EVSE installed;



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- Within 3 years: install EVSE in an additional 1/3 of the original 15%
- Within 6 years: install EVSE in the final 1/3 of the original 15%.
- Overall, at least 5% of EVSE must be accessible for people with disabilities
- Applications involving new garage or parking lot not covered above must install:

# of Parking Spaces	# of Make-Ready Required	# Accessible
< 50	1	
51-75	2	
76-100	3	
101-150	4	1
> 150	4%	5%

- o Exempt: a retailer that provides 25 or fewer off-street parking spaces

Municipalities may deviate from the Reasonable Standards (Section F) of the model ordinance by amending the ordinance through the normal amendment process. However, this does not authorize

a municipality to require site plan review for the installation of EVSE or Make-Ready parking spaces.


The Reasonable Standards Section of the ordinance covers the following:

- Accessible EVSE and Make-Ready parking spaces (size, location)
- EV only parking, violations, use of time limits (public vs. private)
- Safety Issues (ID of EV spaces, lighting, setbacks, EVSE protection, mounting of EVSE, cord management system, maintenance)
- Signage (regulatory and wayfinding/directional)
- Usage Fees

An important element of the Reasonable Standards section states that “Location and layout of EVSE and Make-Ready parking spaces is expected to vary based on the design and use of the primary parking area. It is expected flexibility in this Section will be required to provide the most convenient and functional service to users. Standards and criteria should be considered guidelines and flexibility should be allowed when alternatives can better achieve objectives for provision of this service.”

DEP and DCA are currently working on a Best Management Practices (BMP) Manual to assist with the Reasonable Standards section of the ordinance. The BMP will cover topics including signage, whether to put a time limit on charging, whether to charge usage fees and the structure of the fees, and comparing networked vs. non-networked charging stations. Look for the BMP on the DEP Drive Green website and the DCA Local Planning Services website in the near future.

Because any changes to the ordinance will affect 565 municipalities, changes to the EV ordinance will have to be limited. However, it can be anticipated that changes to the ordinance will be made in the future in


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response to issues identified through real world implementation.

So how many EVs do we really have in New Jersey and what else is the State doing to help increase the numbers? Over the last three years New Jersey has doubled its EV ownership. The state now has one of the strongest EV laws in the country, which aims to put 330,000 EVs on the road by 2025 while expanding charging infrastructure. With more than \$10 million in infrastructure investments, New Jersey is eliminating range anxiety through our *It Pay\$ to Plug In* program. New Jersey already has 1,495 publicly accessible chargers at 608 locations statewide and we continue to add more, putting public charging within easy reach of most New Jerseyans.

And New Jersey provides the most generous EV purchase incentives in the country through a combination of the *Charge Up New Jersey* program (to relaunch soon) and a sales tax exemption. Since launching in 2020, this program has reduced the upfront cost for the purchase of 9,000 EVs.

As we continue to expand charging and financial incentives, it is equally important to communicate, collaborate, and educate. *Drive Change. Drive Electric* raises awareness of the growing availability of charging and shows that driving electric is practical, sustainable, and enjoyable. The recently published *Green City Guides* are a one-stop resource to exploring some of the most EV-friendly cities in the Northeast including Princeton, Jersey City and Red Bank, NJ. PlugStar, a dealer training and certification program, aims to provide a better consumer buying experience and ultimately boost the sale of EVs in New Jersey. Through this program, dealers can sign up for an EV training course and access marketing and educational materials that will boost their comfort level in selling EVs on the showroom floor and provide a better experience for consumers looking to buy a new EV.

Residential drivers alone will not be enough. We are counting on all partners in government to embrace the



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switch. The Clean Fleet Electric Vehicle Incentive Program supports local and state governments as they transition their fleets to EVs. DEP's resource guide provides a listing of information and funding to help local governments go electric. Clean transportation must also be available for residents of low- and moderate-income communities even if they're not looking to purchase an EV. Earlier this year, DEP awarded money to several electric ride sharing programs that will enable all residents to have access to clean transportation.

With the release of the Model Statewide EV Ordinance, financial incentives, and communication campaigns, New Jersey is paving the way for EV adoption in the state. The Model Statewide EV Ordinance will enable EV adoption among residents who can't charge at home and will alleviate "range anxiety" by increasing the proximity of charging infrastructure and giving residents the confidence to drive electric. We believe this ordinance is unprecedented in the country and will help propel the state to become the EV Capital of the East.

To learn more about the Statewide EV Municipal Ordinance, visit <https://www.nj.gov/dca/dlps/home/modelEVordinance.shtml>



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Resources:

2019 NJ Energy Master Plan: <https://nj.gov/emp/>

P.L. 2021, c. 171:

https://www.njleg.state.nj.us/2020/Bills/AL21/171_.PDF

DEP Drive Green

website: <https://www.drivegreen.nj.gov/index.html>

New Jersey Partnership to Plug-

In: <https://www.nj.gov/governor/news/news/562019/20190603b.shtml>

EV Law (P.L. 2019, c. 362):

https://www.njleg.state.nj.us/2018/Bills/PL19/362_.PDF

EV thoughts & Observations

By: William Horner, Esq.
Assistant Counsel, NJPO

Here are some thoughts and observations on the Electric Vehicle Supply/Service Equipment (EVSE) and Make-Ready Parking Spaces model ordinance that the Department of Community Affairs has published pursuant to recent Municipal Land Use Law amendments:

1. The DCA model ordinance automatically became effective in all New Jersey municipalities on September 1, 2021, when it was posted on the DCA website (per Section 4 of P.L. 2021, c. 171). Accordingly, municipalities that do not want to avail themselves of any of the few options for customization do not have to adopt the ordinance. This might be the most prudent course of action for municipalities that do not want to put any unnecessary information in their code books (particularly given the possibility of further amendments by DCA), or that do not want to incur the costs or deal with other requirements associated with land use ordinance adoption such as master plan consistency and arguable N.J.S.A. 40:55D-62.1 notice requirements (for example if there are

some old “existing” gas stations in areas zoned exclusively for single-family residences). The requirements of the model ordinance, and the statute from which they originate, can be effectively administered by zoning officers and land use board professional consultants regardless of whether they are actually incorporated into the municipal code book.

- The word “existing” which appears in Section C. of the model ordinance (and in Section 2 of P.L. 2021, c. 171) can reasonably be interpreted to mean “lawfully existing.” Accordingly, if a permit applicant for zoning approval of an accessory charging facility cannot prove to the zoning officer’s reasonable satisfaction that the “existing” gas station, retail store or building in question actually exists lawfully, then the application should be denied. The applicant would then be required to obtain a determination of prior nonconformity for the gas station, retail store, or building pursuant to N.J.S.A. 40:55D-68 (in which case, if determined to be lawfully nonconforming, the zoning permit for the accessory charging facility could be issued by the zoning officer without further land use board review), or else the applicant would be required to apply for site plan, variance, or other approvals for the existing structure/use (in which case the model ordinance requirements for the proposed accessory charging stations could be reviewed and imposed by the land use board during those proceedings, or afterwards by the zoning officer). Similarly, an application to the land use board would also be necessary in the event of a zoning officer denial for any of the reasons specified in model ordinance Sections C.1. or C.2. Further, a zoning officer denial could also be reviewed as an appeal or interpretation under N.J.S.A. 40:55D-70 a. or b.
- Zoning officers might not be comfortable with the additional administrative complications attending the “completeness review” requirements that are set forth in model ordinance Section 6, and might prefer instead simply to disregard completeness issues altogether and either approve statutorily-compliant EV accessory charging station



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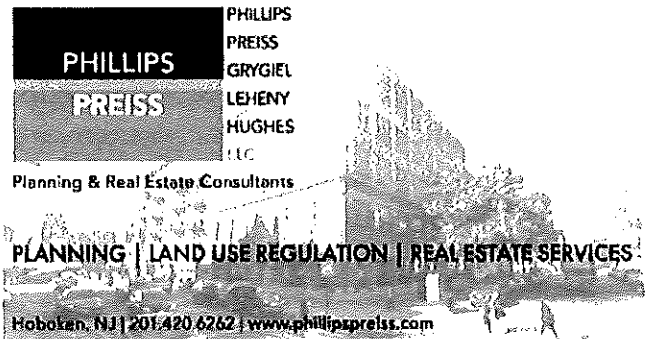
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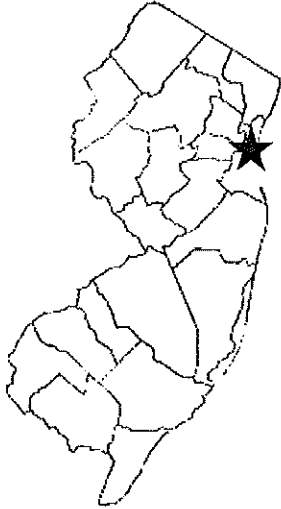
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applications as presented within 20 days, or deny applications within that deadline if there are open questions about the issues discussed above in paragraphs 1 and 2. Such denials would comport with the traditionally accepted zoning officer adage “to doubt is to deny.”

- Zoning officials should be informed of this model ordinance even if it is not “adopted” by the municipality they serve, and should be advised to contact the municipal attorney immediately when this sort of application is made, at least until they become comfortable with how to review and decide them.



SPOTLIGHT ON:

***Newark Liberty
 Airport***

EWR. That’s all you need to know about the airport in Newark, right? Most of us have utilized this airport but there is a fascinating history about this facility.

The Newark Metropolitan Airport opened its doors on October 1, 1928 making this airport one of the oldest airfields in the country. In 1948 a control tower was added making it the first in the country with one. Its administration building was completed in 1935 and is now listed as a national historic landmark. This building was dedicated by Amelia Earhart in the company of Albert Einstein in 1939.



By Lou Shornick, <http://www.loushornick.com>, CC BY-SA 3.0, <https://commons.wikimedia.org/w/index.php?curid=11867179>



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During World War II the airport was taken over by the United States Army for logistics operations. In 1945 captured German aircraft brought from Europe for evaluation under Operation Lusty were off-loaded at Newark and then flown or shipped to Indiana or Maryland.

Commercial airlines returned to Newark in February 1946. In 1948, the city of Newark leased the airport to the Port of New York Authority. As part of the deal, the Port Authority took operational control of the airport and began investing heavily in capital improvements, including new hangars, a new terminal and runways. Present day airport sees over 46 million passengers a year (no, not during COVID pandemic). On average, around 1,200 flights per day are scheduled to and from Newark Airport by 30 different airlines. The three terminals of the airport are home to two diners, bars, grills, cafes as well as 65 brands of sit down restaurants. The airport employs approximately 24,000 people working on the 2,000 acre facility.

The word “Liberty” wasn’t added to the airport’s name until 2002. It was added to honor the United Airlines Flight 93 that left from Newark on September 11, 2001 and crashed into a field in Shanksville, Pennsylvania after it was hijacked by terrorists.





RECENT CASE LAW

Old Tennent Cemetery Assoc. v. Twp. of Manalapan Planning Bd.

Before the Planning Board, the applicant sought preliminary and final site plan approval to construct an addition to an existing structure to be used as a crematorium.

The Old Tennent Cemetery dates back to the 1700s and therefore is a preexisting nonconforming use. The applicant reasoned that because it is a "preexisting nonconforming use" and "a crematorium is merely an accessory to a cemetery," it was entitled to apply for preliminary and final site plan approval before the Planning Board.

The Planning Board memorialized its findings and conclusions in a resolution determining that the Zoning Board "has exclusive jurisdiction to determine if the existing cemetery, and all of its improvements is a . . . non-conforming use." The Planning Board also found that "the introduction of a new crematorium, which includes the expansion of an existing structure, requires variance relief" For those reasons, the Planning Board denied plaintiff's application for preliminary and final site plan approval.

The trial court agreed with the planning board and dismissed plaintiff's complaint. The trial court held that the evidence demonstrated that plaintiff's cemetery was a pre-existing, non-conforming, non-permitted use. The trial court ruled that an accessory use to a principal nonconforming use constituted

expansion of the nonconforming use and therefore required a variance approval from the zoning board. On appeal, the court affirmed. The court ruled that a crematorium was an accessory use to a cemetery and thus where not permitted by ordinance or attached to a cemetery that itself was a nonconforming use, state law required that such a crematorium be approved via a zoning variance.

Reger v. Fair Haven Zoning Bd. of Adjustment

The subject property contained a shopping plaza containing an empty tenant space. A development application was submitted for a Dunkin' Donuts. The municipal ordinance categorizes restaurants and the zoning ordinance allows a "Category Two" restaurant but not a Drive-In restaurant. The zoning officer determined that the proposed restaurant was a Category Two restaurant and therefore was permitted. The Board held a hearing and determined that the zoning officer's determination was correct.

The Board also heard testimony from the objectors expert who opined that the proposed restaurant is a "Drive-In restaurant" because, in his view, a majority of Dunkin' Donuts patrons purchase food for takeout, which satisfies the first prong of the definition of Drive-In restaurant in the ordinance, whether or not the food is consumed on premises. In rebuttable, a licensed professional planner testified on behalf of the applicant that the use was more akin

to a Category Two restaurant. The objectors tried to get traffic testimony entered into the record by submitting a traffic report without the author presenting live testimony. The board denied the submission as the professional never testified in front of the board.

The Court affirmed for the reasons stated by the trial court and agreed that Board did not err in denying admission to the traffic report since expert was not called as a witness and traffic conditions were not relevant to the ordinance's restaurant definitions.

The Board's conclusion that a Dunkin' Donuts is not a drive-in restaurant is consistent with the intent of the ordinance and the history of its application in the municipality. The Board acted well within its discretion when it rejected Reger's rigid interpretation of the ordinance.

Twp. of Deptford v. Deptford Commons

The parcel owner entered a lease with Amazon that included the right to use a parking lot for parking of 300 delivery vehicles. Neither the property owner nor Amazon sought variances from Township before executing the lease. The Township sought an injunction and while that was pending, the board had a public hearing and denied a use variance application.

In denying Amazon's application, the Resolution concluded Amazon had not met its burden in establishing both the positive and negative criteria necessary for granting a use variance under N.J.S.A. 40:55D-70(d). Among other things, the Board found the parking use was not tied to or connected to other buildings or other uses on site; the proposed use solely benefitted Amazon; there was no benefit to

the public good with the proposed use; the proposed use was more suitable in an industrial area; and the proposed use was not consistent with the Township's master plan and zoning ordinances.

The property owner argued the Board's denial of Amazon's application was arbitrary and capricious. They contended the Board failed to consider sufficiently the underutilized condition of the strip mall-even before the occurrence of the COVID-19 public health crisis. They also criticized the Board for disregarding the claimed practical benefit that Amazon delivery vehicles would provide for the community and all surrounding strip malls. The Board countered that the variance denial was appropriate under the criteria of the statute, and well supported by the record.

Memorial Drive LLC v. 160 West Broadway Assoc.

The applicant applied for final site plan approval and variances to renovate, expand and reoccupy retail space on a 1.6 acre strip mall near apartment buildings. The municipal engineer indicated that the proposed traffic circulation plan would create "severe adverse impact" on traffic safety and mobility. Board members expressed safety concerns and defendant returned with a traffic expert. The applicant's testimony indicated that any trucks would have to back into the property and would require the help of flaggers. The board voted to approve the application contingent on the use of flaggers to control truck traffic.

Trial Court remanded for Board to hear a rebuttal traffic expert who opined the proposed circulation plan was not a viable option, created safety concerns

and violated New Jersey law. The Board once again approved the application and trial court affirmed.

The Court found the resolution inadequate as a matter of law finding that the Board made no independent findings of fact and failed to reconcile conflicting expert testimony. Furthermore, the court found that the Board granted variances but never identified testimony that satisfied the requirements for the variances. Additionally, defendant's traffic expert improperly relied on unsupported hearsay testimony and was a net opinion.

Highlands Update

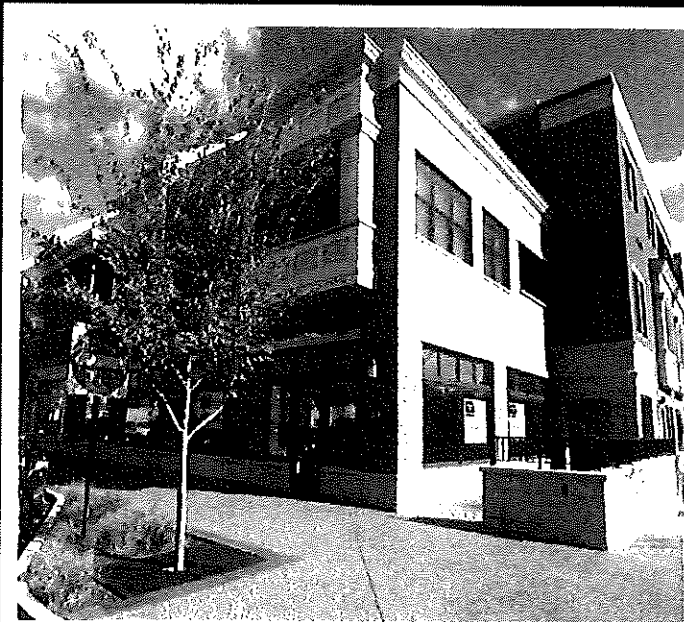
The Highlands Council has released a draft Economic Sustainability Plan for public review and feedback. The draft plan is posted to the Highlands Council website along with a link to a feedback

form, which will be live through Monday, November 29.

The culmination of more than two years of work that included a robust engagement process, this plan provides municipalities and counties with critical insights about which industries demonstrate the greatest economic potential, where industry growth is best suited, and outlines an implementation plan that delineates the roles and responsibilities of the many partners involved in securing a sustainable economic future for the Highlands region.

Although this plan reflects significant input from key stakeholders and comprehensive data analysis, the Council appreciates your thoughtful review and feedback.

Highlands Region Economic Sustainability Plan:
www.nj.gov/njhighlands/master/economic-sustainability/



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