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**BERKELEY TOWNSHIP MASTER PLAN  
REEXAMINATION REPORT AND LAND USE PLAN AMENDMENT**

**INTRODUCTION**

This report has been prepared as both a Reexamination Report of the Township Master Plan and an amendment to the Land Use Plan Element of the Master Plan. The general reexamination of the Master Plan is required every six years pursuant to N.J.S.A. 40:55D-89. Because the last comprehensive revision to the Master Plan was adopted in 1997, a reexamination of that plan is now due. The amendment to the Land Use Plan Element has been prepared to address land use and density concerns primarily in the area east of Route 9 to Barnegat Bay, along Cedar Creek and western Pinewald area and entails a land use and zoning analysis of the area and sets forth planning recommendations to address the concerns.

**I. MAJOR PROBLEMS AND OBJECTIVES AT THE TIME OF THE ADOPTION OF THE LAST REEXAMINATION REPORT, AND THE EXTENT TO WHICH THEY HAVE BEEN ADDRESSED**

The first and second requirements of the Reexamination Report are to present:

- a. *The major problems and objectives relating to land development in the municipality at the time of the adoption of the last reexamination report. AND*
- b. *The extent to which problems and objectives have been reduced or have increased subsequent to such date.*

The major problems and objectives relating to land development in the Township at the time of the 1997 Comprehensive Master Plan remain unchanged. The problems identified in the Master Plan remain the same, as well. The goals and objectives of the Master Plan are the same and are reaffirmed herein. Although the land use issues of 1997 are still relevant today, steps to ameliorate the problems have been taken through the preparation of various land use and planning studies since 1997.

**A. Recent Land Use Studies and Plans**

The following studies, analyses and reports have been completed since the adoption of the 1997 Comprehensive Master Plan:

- Berkeley Township Master Plan Housing Element and Fair Share Plan, prepared May 13, 2000 by Schoor DePalma, Inc. The Master Plan Housing Element was adopted by the Township Planning Board, and the Fair Share Plan for the second housing cycle (1986-1999) was adopted by the Township Governing Body. The plans have not yet been submitted to the New Jersey Council on Affordable Housing for Substantive Certification. Because the third housing cycle obligation for the Township has not been released by COAH and will most likely not be released by the end of 2003, it is recommended that the Township petition COAH for Substantive Certification of its second cycle plan.
  
- Open Space Preservation Study, prepared January 2000 by Schoor DePalma, Inc. The purpose of the study was to identify potential open space conservation sites in the Township for targeted acquisition by the Township and conservation organizations. The majority of these properties are located east of the Route 9 corridor and along the creeks tributary to Barnegat Bay.

This study also recommends that the Land Use Plan Element of the Township Master Plan be amended to designate all of the vacant land in the studied areas that is either publicly-owned or owned by non-profit conservation groups from their current designations to a Conservation land use designation, and that the Zoning Ordinance be amended to be consistent with such a designation. It is the Planning Board's intention to adopt this study as part of the Township Master Plan, as is discussed in Section VI of this report, below.

- Route 9 Corridor Redevelopment Investigation Report, prepared December 5, 2002 by Schoor DePalma, Inc., and adopted by the Township Governing Body. The result of this effort is the designation of “an area in need of redevelopment and rehabilitation” pursuant to N.J.S.A. 40A:12A-1 et seq along the Route 9 Corridor general encompassing the Beachwood Plaza and adjoining areas as a Redevelopment Area per the New Jersey Local Redevelopment and Housing Law. The next step in the redevelopment process is the preparation of a redevelopment plan. The Township has received a second Smart Growth Grant from the NJ Department of Community Affairs to develop a definitive “redevelopment plan” for the Route 9 Corridor in Bayville.
- Vision Statement for the Year 2020, prepared February 25, 2003 by The Berkeley Visioning Process Steering Committee and Schoor DePalma, Inc. and Visioning Process Municipal Profile, prepared September 2002 by Schoor DePalma, Inc. Pursuant to a NJ Department of Community Affairs Smart Growth Grant the Vision Statement was prepared for the Eastern Mainland area of the Township, which encompasses approximately 37 percent of the Township's total land area, and involved the determination of areas for development and conservation, the desired and appropriate locations and intensities of land uses, and community design. Long-range goals were

decided for the Eastern Mainland's physical, economic and environmental future. The Municipal Profile contains supporting data for the visioning process including an analysis of US Census 2000 demographic and housing data, mapping of environmental constraints and a zoning build-out analysis.

The Vision Statement was adopted by the Township Governing Body on February 25, 2003. At this time, the Planning Board intends to adopt both the Vision Statement and Municipal Profile as amendments to the Master Plan. An official statement to this effect will be set forth in Section VI, below. Additionally, the Vision Statement recommends a number of land use changes that are listed in Section V, below.

- Berkeley Township Pinelands Area Master Plan Amendment, prepared June 2001. This Pinelands Area Master Plan Amendment was prepared for the area in the Township that is under Pinelands Commission jurisdiction. Recommendations therein were later adopted via amendments to the Berkeley Township Pinelands Area Land Development Ordinance on July 3, 2001. It is recommended that this Pinelands Master Plan Amendment be readopted as an amendment to the Township Master Plan. Berkeley is now a Pinelands Certified Municipality.

## **B. Zoning Ordinance Amendment Recommendations**

The following amendments to the Land Development Ordinance and Zoning Map were recommended in the 1997 Comprehensive Master Plan. The status of the recommendation is indicated after the recommendation:

- *Provisions should be made for a Pinelands Preservation, Pinelands Forest and Rural Residential Zone.*
  - ✓ This amendment has been made to the municipal zoning ordinance.
  
- *The lands along the Barnegat Bay and Toms River that are zoned for residential development but which are constrained from development by environmental factors, such as wetlands, should be zoned for conservation or preservation as indicated on the Land Use Plan.*
  - ✓ The Land Use Plan amendment herein contains an amendment to the Land Use Plan Map which addresses this recommendation and creates a Conservation/Residential Zone and a Public Preservation/Conservation Zone for the area.
  
- *The General Industrial Zone provisions should be replaced with a Planned Commercial Zone, and the Zoning Map changed accordingly. The Planned Commercial Zone provisions should include amendments addressing permitted, conditional and accessory uses, minimum tract requirements, height and bulk requirements, parking, etc.*

- ✘ This recommendation has not been implemented. However, this recommendation will be studied in the coming months with the creation of a “redevelopment plan” for the Route 9 Corridor pursuant to the Township’s approved (second) Smart Growth Grant from NJDCA.
  
- *The single-family residential zone boundaries for the R-50 through R-400 zones should be adjusted on the Zoning Map to be consistent with the Low Density Single Family Residential, Medium Density Single Family Residential, and High Density Single Family Residential categories shown on the Land Use Plan Map.*
  - ✓ This recommendation will be implemented with the adoption of the Future Land Use Plan contained herein.
  
- *The Miller Air Park property should be designated as Airport Industrial and provisions for permitted, conditional and accessory uses, as well as height, bulk and air hazard provisions included within the Land Development Ordinance.*
  - ✓ This recommendation has been implemented with the adoption of the Pinelands Area Master Plan and Development Ordinances.
  
- *The industrial park adjacent to the airport should be designated for Industrial Park and provisions added to the Land Development Ordinance governing industrial park development.*
  - ✓ This recommendation has been implemented.

## II. CHANGES IN ASSUMPTIONS, POLICIES AND OBJECTIVES

The third provision of C. 40:55D-89 requires that the Reexamination Report address:

- c. *The extent to which there have been significant changes in the assumptions, policies and objectives forming the basis for the master plan or development regulations as last revised, with particular regard to the density and distribution of population and land uses, housing conditions, circulation, conservation, collection, disposition and recycling of designated recyclable materials and changes in state, county and municipal policies and objectives.*

### A. 2002 Municipal Profile and Vision Statement for the Year 2020

Since the 1997 Comprehensive Master Plan was adopted, the findings of the Municipal Profile that was prepared in 2002 (based on US Census 2000 data), and the preparation of the Vision Statement for the Year 2020, have significantly altered the way that Berkeley wants development to occur in the Eastern Mainland portion of the Township. The main policy recommendations in the Vision Statement are:

- General reductions in residential density throughout the area, except in targeted growth areas.
- Focus on a Town Center in the vicinity of Western Boulevard extension between Route 9, the former railroad right-of-way and Mill Creek.

- Concentration of commercial development in 3 nodes on Route 9, at the intersections of Butler Boulevard, Veeder Lane and Scott Drive.
  
- Increase open space holdings to preserve/conserves sensitive areas.

**B. Amended State Development and Redevelopment Plan**

During the cross-acceptance process for the State Development and Redevelopment Plan (SDRP), Berkeley Township requested that much of the Township located to the east of Route 9 to Barnegat Bay be redesignated from the Environmentally Sensitive Planning area to the more appropriate Suburban Planning Area, to reflect existing uses and the presence of utilities. This request was based upon a recommendation contained in the 1997 Comprehensive Master Plan. This modification was adopted by the State Planning Commission together with the entire amended SDRP in March 2001. This redesignation of land will allow the Township to carry-out redevelopment and other plans for the area.

**III. RECOMMENDATIONS FOR REVISIONS**

The fourth requirement of the Reexamination Report is to set forth the:

- d. The specific changes recommended for the master plan or development regulations, if any, including underlying objectives, policies and standards, or whether a new plan or regulations should be prepared.*

- A. It is recommended, at the time of its next revision, the Township Master Plan be comprehensively updated and amended to address the issues contained herein.
- B. The recommendations of the 1997 Master Plan, the Vision Statement for the Year 2020 and the Municipal Profile should be implemented, including the following:
- The build-out analysis in the Vision Statement and Municipal Profile should be acknowledged by the Board through the adoption of the Municipal Profile as an amendment to the Master Plan, and the impacts thereof should be heeded and averted where appropriate. The Future Land Use Plan in the Master Plan should be revised to reflect the Vision Statement recommendations.
  - A Public Preservation/Conservation Zone should be created for lands owned by public or non-profit entities.
  - A new large lot, low density zoning district that encourages environmental conservation and sensitivity should be created for the following areas:
    - Route 9 to Barnegat Bay
    - Cedar Creek Area
    - Western Pinewald
  - The R-150 Zoning District east of the Garden State Parkway and north of Central Regional High School, including the Bayville Convalescent property, should be evaluated for potential redesignation and rezoning of at least a portion to R-400 to reflect existing development. The RMF Zone 1 should be eliminated.

- The Smart Growth planning process per the New Jersey Department of Community Affairs and the New Jersey Department of Environmental Protection (NJDEP) should be continued, as well as the discussions with the New Jersey Department of Transportation (NJDOT) regarding the Route 9 Corridor.
  
- NJDOT Route 9 Corridor improvements as addressed in joint Garden State Parkway (New Jersey Highway Authority)/DOT/County Study and Report should be pursued.
  
- An NJDOT Highway Access Management Plan for the entire Route 9 Corridor should be completed.
  
- A Redevelopment Plan should be prepared for the Beachwood Plaza redevelopment area, scattered site redevelopment areas and the rehabilitation areas.
  
- Additional Smart Growth/Smart Future grants should be pursued for planning projects.
  
- The HB Zone along the southern portion of the Route 9 Corridor should be re-evaluated in terms of permitted uses to prohibit large-scale uses. Additionally, the southern part of the Route 9 Corridor should be examined to assess the practicality of the Highway Business Zone along the southern part of the Route 9 Corridor south of its intersection with Serpentine Drive to the Township's boundary with Lacey Township. There is limited commercial, retail and office development along this portion of Route 9. The likelihood of sanitary sewers being extended to this area is remote. It may be prudent to provide for

different zone designations along this part of the Corridor with larger lot sizes in areas that are not served by a sanitary system.

- The Western Boulevard extension should be retained as a Master Plan road.
- The need for maximum impervious lot coverage requirements in certain zones should be assessed.

- C. A land use study should be prepared for the Barrier Island section of the Township (south Seaside Park section of Berkeley) to analyze and review existing zoning in this area. The existing zone plan in this area does not adequately reflect established land use patterns to the extent that there are areas zoned for multi-family (two, three and four family units) and townhouses where single-family dwelling units and/or commercial and retail uses currently exist.
- D. The Neighborhood Business (NB) Zone designations in the Township's existing senior communities (Holiday City, Silver Ridge, Holiday Heights, etc.), which are currently developed with single-family detached homes pursuant to the R-400 PRRC Zone designation, should be eliminated.
- E. The Sylvan Lakes area contains at least two (2) developed neighborhoods whose platted, developed lots do not meet the minimum lot area and lot frontage requirements for the zone in which they are situated. These two (2) small zones should be reexamined and amended in order to avoid widespread variance conditions for existing homeowners who wish to add second story additions, decks, porches, etc. to their homes.

- F. Pursuant to a proposed developer's agreement with Homes For All, Inc. an overlay zone should be created for the Township-owned lots in Manitou Park so that single-family detached homes on individual lots can be constructed on these Township-owned properties, and the developer can bring potable water and sanitary sewer facilities to Manitou Park.
- G. The second housing cycle Housing Element of the Master Plan and Fair Share Housing Plan should be submitted to the New Jersey Council on Affordable Housing for Substantive Certification. Because the third housing cycle obligation for the Township has not been released by COAH and will most likely not be released by the end of 2003, it is recommended that the Township petition COAH for Substantive Certification of its second cycle plan.
- H. The Township should plan to amend its Master Plan Housing Element and Fair Share Plan within one year of the release of COAH's third-cycle housing obligation numbers, if applicable.
- I. The Township should continue to "fine tune" its ordinances in response to land use trends that threaten to alter the existing character of the Township.
- J. The Township should continue to pursue Plan Endorsement from the State Planning Commission. A comprehensive revision of the Township's Master Plan may be required to accomplish Plan Endorsement.
- K. The R-400A zoning district should be eliminated from the Land Development Ordinance, as this district was replaced by Pinelands Commission zoning designations and is no longer necessary. Because the remaining R-400 and R-400 PRRC Zones in the Township that are NOT located in the Pinelands Area are essentially fully developed or are recommended for rezoning at this time, several of the permitted and

conditional uses in the Rural Zones can be removed. The permitted uses section can be amended to exclude migrant housing facilities, roadside stands and farming operations. The conditional use section can be amended to exclude bulk storage of materials, mining operations and boatyards and marinas.

Therefore, it would be appropriate to readopt Section 35-96.1 written as follows:

**“Section 35-96.1 Rural Zones R-400 and R-400 PRRC.**

A. Permitted Uses.

1. Detached single-family dwellings for residential purposes, together with its accessory structures.
2. Home occupations.
3. Professional offices, provided that when such office is part of a residence there remains in the living quarters the minimum habitable floor area as required by this chapter.
4. Churches, including parish and educational buildings.
5. Public buildings of a governmental or educational nature, schools, public parks, and playgrounds
6. Essential services.

B. Conditional Uses.

1. Hospitals, clinics and charitable institutions.
2. Public utilities.

3. Cellular telecommunication towers and facilities except within planned unit residential developments and planned residential retirement communities.
- C. In the R-400 PRRC Zone only, planned residential retirement communities are permitted in accordance with the procedures and regulations of this chapter.”

#### IV. **RECOMMENDATIONS CONCERNING REDEVELOPMENT PLANS**

Finally, the Municipal Land Use Law requires that the Reexamination Report address the following:

*The recommendations of the planning board concerning the incorporation of redevelopment plans adopted pursuant to the ‘Local Redevelopment and Housing Law,’ P.L. 1992, c. 79 (C. 40A:12A-1), into the land use element of the municipal master plan and recommended changes, if any, in the local development regulations necessary to effectuate the redevelopment plans of the municipality.*

The Township of Berkeley has prepared and adopted “an area in need of redevelopment” and rehabilitation in accordance with “The Route 9 Corridor Redevelopment Investigation Report” dated December 5, 2003 which was adopted by the Governing Body. A “redevelopment plan” will be prepared during late 2003 and early 2004. The limits of the “area in need of redevelopment” is identified in detail and documented in the December 5, 2002 report and is also generally shown on the Future Land Use Plan.

**V. GENERAL MASTER PLAN AMENDMENTS**

The following plans or studies are hereby adopted as supplements and amendments to the Master Plan:

- Open Space Preservation Study, prepared January 2000 by Schoor DePalma, Inc.
- Vision Statement for the Year 2020, prepared February 25, 2003 by The Berkeley Visioning Process Steering Committee and Schoor DePalma, Inc. and Visioning Process Municipal Profile, prepared September 2002 by Schoor DePalma, Inc.
- Berkeley Township Pinelands Area Master Plan Amendment, prepared June 2001.

**VI. LAND USE PLAN AMENDMENT: ROUTE 9 EAST TO BARNEGAT BAY**

This amendment to the Land Use Plan has been prepared for the properties to the east of Route 9 to Barnegat Bay, and the area along Cedar Creek, hence “the study area,” and analyzes existing conditions and relevant studies and policies to determine appropriate land uses and densities for the area. The area contains primarily vacant properties, residential uses and also contains several tracts of land recently acquired by public or non-profit entities for conservation purposes, including the following:

- The seven (7) Lifetime Homes properties which have been acquired by the County.

- The Good Luck Point properties which are being preserved pursuant to the Township's agreement with the New Jersey Trust for Public Lands.
- The Toms River Divide tract (formerly Montara at Berkeley).
- The Roberts Road property on the Barrier Island.
- The expanded Little League property and the Berkeley Shores section of the Township which were preserved in a land swap between Berkeley Township and the Board of Education.
- The Township's new Soccer Field Complex in the Pinewald section of the Township south of Veterans Boulevard at Eastern Boulevard.

**A. Environmental Considerations**

In the case of this study area, environmental considerations are the primary factor determinative of land use capacity and planning. Not only is the study area significantly constrained by the presence of mapped wetlands and floodplains, (see **Flood Hazard Area and Wetlands Map**), and a potential habitat for threatened and endangered species, it is also a watershed to the Barnegat Bay Estuary--a part of the National Estuary Program.

1. Flood Hazard Areas and Wetlands

As can be seen on the Flood Hazard Area and Wetlands Map, the study area is significantly constrained by potential wetlands and flood hazard area, and is in fact located in the Barnegat Bay US Environmental Protection Agency (EPA) Priority Wetland. Location in or adjacent to an EPA Priority Wetland area requires a wetland buffer of 150 feet.

The available wetlands and flood hazard area mapping has proven to be reasonably accurate in this portion of the Township. The area contains several tributaries to the Bay, the most prominent of which are Maple Creek, Cedar Creek, Clamming and Potters Creeks.

## 2. Critical Threatened and Endangered Species Habitat

Per publicly-available NJDEP, “Landscape Project” mapping, vacant portions of the study area are identified as potential threatened or endangered species habitat. This designation potentially significantly impacts development of such areas. Unless NJDEP specifically determines the absence of such endangered or threatened species on a site, NJ Freshwater Wetlands Protection Act regulations require a 150-foot-wide buffer from any regulated wetland. In addition, such mapping is utilized by NJDEP as part of the Coastal Areas Facilities Review Act, (CAFRA), permit review process for those development projects requiring a CAFRA permit.

### 3. Barnegat Bay Estuary

As stated previously, the study area is located in the watershed to Barnegat Bay, which is comprised of 660 square miles and contains most of the municipalities in Ocean and portions of southern Monmouth Counties. In 1987, in response to growing concerns regarding the impact of extensive development on the water quality of the Barnegat Bay, the New Jersey Legislature passed the Barnegat Bay Study Act that mandated a study of the bay and its watershed. Three studies were prepared including the “Profile of the Barnegat Bay,” “Management Recommendations for the Barnegat Bay,” and “A Watershed Management Plan for the Bay.” Shortly after the preparation of the studies, the Governor petitioned the US EPA to nominate Barnegat Bay into the National Estuary Program (NEP)--a program authorized in the federal Clean Water Act Amendments of 1987. The US EPA accepted the nomination of Barnegat Bay Estuary into the NEP on July 6, 1995. The NEP currently includes 28 “nationally significant” estuaries that are selected by US EPA on the basis of the following:

- The ecological significance of the estuary;
- The biological productivity of the estuary and its contribution to commercial and recreational fish and wildlife resources;
- The impact of commercial, residential, recreational, or industrial activities on the health of the estuary; and
- The degree to which comprehensive planning management may contribute to the ecological integrity of the estuary. (Page 6, CCMP)

The purpose of the NEP is to address the many complex issues, including the increase in coastal population and the resulting demands for development that can contribute to the deterioration of the major estuaries in the United States. The program's goals include the protection and improvement of surface and groundwater quality, as well as the protection and enhancement of living resources.<sup>1</sup> The US EPA is required to coordinate the development of Comprehensive Conservation and Management Plans (CCMP) for each estuary, which are intended to address all uses affecting the restoration and maintenance of the chemical, physical and biological integrity of the estuary. The Final Comprehensive Conservation and Management Plan for the Barnegat Bay Estuary was adopted in February 2001. The priority problems identified in the watershed are the results of over-development that creates more impervious surface, less water infiltration, and more untreated run-off (non-point source pollution), and are listed as follows:

- Water supply and water quality, including the issues of contaminated storm water and polluted runoff, nutrient loading, pathogen contamination, groundwater contamination, and future water supply deficits;
- Habitat loss and alteration;
- Fisheries decline; and
- Human activities and competing uses. (Page 8)

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<sup>1</sup> Final Comprehensive Conservation and Management Plan: Barnegat Bay Estuary Program. February 2001.

The CCMP calls on municipalities and the private sector to implement environmental management actions designed to protect and restore the natural resources of the Barnegat Bay watershed. It is recognized that the municipalities continue to have primary authority to establish land-use policy that affects both the type and rate of development. (Page 9) Implementation of the CCMP is overseen by the Ocean County Planning Board.

#### 4. Build-Out Analysis of Barnegat Bay Watershed

A study subsequent to the CCMP was prepared for the Barnegat Bay Estuary by the Grant F. Walton Center for Remote Sensing and Spatial Analysis at Cook College-Rutgers University on May 2001, entitled “A Build-Out Analysis of the Barnegat Bay Watershed,” that studied three alternative build-out scenarios of the watershed area. According to the study,

*The goal of this Barnegat Bay watershed build-out study is to provide information to local decision-makers on the scope and magnitude of future development patterns based on several different scenarios of zoning and land use management policies. (Page 1)*

The study found that water quality in the Barnegat Bay watershed decreased in relation to increased development, (Page 3) and that water quality is adversely impacted in areas where there is greater than 10 percent impervious coverage. (Page 8) The study recommends that new construction minimize the amount of impervious surface and maximize

the amount of undisturbed native vegetation cover to promote water infiltration. (Page 8) The build-out scenario in which land outside of sewer service areas was down-zoned to 3.2 acres<sup>2</sup>, and parcels recommended for acquisition by the Trust for Public Land in *The Century Plan* and *Beyond the Century Plan* were acquired, yielded less impervious surface at build-out than did no down-zoning and no acquisition scenarios.

The Build-Out Analysis shows that with a minimum lot size of 3.2 acres and with land acquisition, water quality in the watershed is likely to improve. A 3.2-acre minimum lot size is also utilized in the Pinelands National Reserve in areas that are sensitive to groundwater pollution. The sensitivity of the study area is comparable, because it contains sandy soils, US EPA Priority Wetlands, potential threatened and endangered species habitat, flood hazard areas and drains directly to Barnegat Bay, which therefore indicates that a minimum lot size of approximately 3.2 acres in the study area would also be appropriate.

## **B. Relevant Planning Policy**

A number of land use and open space plans and studies have been prepared by public or quasi-public entities that contain relevant land use and/or policy recommendations for the study area. Because the study area is so environmentally sensitive, planning documents target open space acquisition in the area, in particular.

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<sup>2</sup> The Build-Out Analysis reports that 3.2 acres is an average of non-sewered areas in the Barnegat Bay Estuary.

## 1. Berkeley Township Open Space Preservation Study

The Township's Open Space Preservation Study (OSPS) was adopted by the Township in January 2000. The OSPS was prepared by the Township Planner and Environmental Commission and targeted all lands east of Route 9 to the Bay. The OSPS contains text and maps showing recommended open space acquisition sites for six (6) study areas east of Route 9.

The OSPS recommends that many of the privately owned vacant properties in the study areas be acquired for open space preservation. The County and the Township recently acquired the seven (7) Lifetime Homes parcels and Good Luck Point.

## 2. The Trust for Public Land

In 1995, the Trust for Public Land (TPL), a national non-profit land preservation organization, published *The Century Plan*, which contained a list of 100 privately-owned sites in Ocean County that, due to their ecological importance, should be targeted for open space conservation by all preservation and conservation entities. In 1997, the document was updated and refined based on further ecological studies. *Beyond the Century Plan* was published as a companion to *The Century Plan*. Some sites targeted for acquisition in the TPL's documents are located in the study area. Ocean County's current Open Space Plan and Recreation Inventory states that the County would consider acquiring any areas identified by the TPL in its *Century Plans* as well as any sites identified by individual municipalities.

### 3. Berkeley Township Vision Statement for the Year 2020

The Vision Statement for the Year 2020 contains the following objectives pertaining to recreation and open space:

- Create a comprehensive recreation system that provides indoor and outdoor, active and passive recreation opportunities for all age groups and ability levels; and that meets or exceeds state and national performance and safety standards.
- Create a comprehensive open space system that provides passive and active recreation opportunities, preserves sensitive lands, creates connected green and blue ways, provides environmental education opportunities, and establishes greenbelts around existing and planned development.
- Continue aggressive open space preservation efforts with funding shared among Berkeley Township, Ocean County, the State and federal governments and non-profit groups.

Local objectives support the preservation of environmentally sensitive lands. The objectives acknowledge that when preservation of entire tracts is not possible, that planning tools such as lot clustering and easement acquisition should be used to preserve as much sensitive land as possible.

4. New Jersey State Development and Redevelopment Plan (SDRP)  
Objectives

The current SDRP was adopted by the State Planning Commission on March 1, 2001. The SDRP serves as a guide for land use throughout the State of New Jersey, and has divided the state into Planning Areas, based on existing and planned development. Planning Areas range from the Metropolitan Planning Area-PA1 to the Environmentally Sensitive Planning Area-PA5 in terms of land use intensity, with the latter being the least intensive. The SDRP includes planning intent and policy recommendations for each Planning Area.

A large portion of the study area is located in the Environmentally Sensitive Planning Area-PA5. The boundary between PA5 and the surrounding Suburban Planning Area-PA2 appears to follow wetlands mapping along the Bay and the feeder creeks.

The intent and objectives of the two Planning Areas in the study area as contained in the SDRP are as follows:

*Environmentally Sensitive Planning Area-PA5*

PA5 Intent: Protect environmental resources, through the protection of large contiguous areas of land. (SDRP Page 198)

PA5 Land Use Policy Objective: Protect natural systems and environmentally sensitive features by guiding development into Centers and establishing Center Boundaries and buffers and greenbelts around these boundaries. Maintain open space networks, critical

habitat and large contiguous tracts of land in the Environs by a variety of land use techniques. Development should use creative land use and design techniques to ensure that it does not exceed the capacity of natural and infrastructure systems and protects areas where public investments in open land preservation have been made. Development in the Environs should maintain and enhance the natural resources and character of the area.

The SDRP recommends that development in the Environmentally Sensitive Planning Area retain the natural and rural features of the properties by limiting development capacity and preserving sensitive features. Tools to accomplish these goals are large lot zoning, reduced densities and preservation of natural features through design standards and conservation easements. (SDRP Pages 199-200)

*Suburban Planning Area-PA2*

PA2 Intent:

- Provide for much of the State's future development;
- Promote growth in Centers and other compact forms;
- Protect the character of existing stable communities;
- Protect natural resources;
- Redesign areas of sprawl;
- Reverse the current trend toward further sprawl; and
- Revitalize cities and towns. (SDRP Page 175)

PA2 Land Use Policy Objective: Guide development into more compact forms: Centers and former single-use development that have

been retrofitted or restructured, to accommodate mixed-use development, services and cultural amenities. Plan and zone for a wide range of land uses and users, in order to achieve more balanced communities. Seek to better integrate different land uses, and remove or mitigate physical barriers between them. Encourage densities capable of supporting transit. Preserve the Environs as parkland, farmland, or partially developed low-density uses without compromising the Planning Area's capacity to accommodate future growth. (SDRP Pages 176-179)

**C. Findings**

Existing conditions and relevant planning policy in the study area indicate that the area is highly sensitive to the impacts of development. The study area contains not only flood hazard area, wetlands and potential critical habitat, is also serves as a watershed to Barnegat Bay, the viability of which is heavily dependent upon the quality of ground and surface water that feeds into it. Much of the study area is already owned by public or quasi-public entities, or is targeted for acquisition. However, acquisition of such a large area is a long-term goal due to fiscal considerations, and the land, in the interim, must be zoned for a reasonable, useful purpose. The most reasonable use for such a constrained area is a low-impact use that can utilize creative planning techniques and development tools to minimize sprawl and environmental impact, including water quality impacts, and to preserve critical resources.

**D. Land Use Plan Amendment Recommendations**

The existing conditions and policy objectives analysis of the study area determined that low-impact uses would be most appropriate for the area. A low-impact use that has an estimated reasonable market demand in the area is low-density detached single-family residential use. Low-density residential use would also be appropriate for the area because the surrounding land uses are primarily residential in character and would, therefore, be compatible.

1. Conservation/Residential Designation (1 Dwelling Unit per 3 Acres)

It is recommended that the privately-owned and non-open space properties in the study area be designated on the Land Use Plan Map as a “Low Density/ Conservation/Residential (1 dwelling unit per 3 acres)” classification. The purpose of the Conservation/Residential classification is to provide for low-density, detached single-family residential development in a manner that will (1) reduce sprawl development, (2) promote stream corridor, wetlands and critical habitat preservation, and (3) encourage reduced impervious coverage to maintain ground and surface water quality by the use of techniques such as lot-size averaging and cluster development.

In selecting an appropriate residential density for the study area, the protection of the environmentally sensitive nature of the area is a key consideration. In order to achieve the purposes of the Conservation/Residential land use classification, a minimum 3-acre lot size, or 1 dwelling unit per 3-acre density, is recommended. This

recommended density is similar to the 3.2-acre standard utilized in the Pinelands National Reserve in sensitive areas, and would serve to lower potential residential density in the area further than is currently permitted. A 3-acre minimum lot size with a cluster and possible lot size averaging provision will provide the opportunity for more preservation than exists under current zoning.

2. Public Preservation/Conservation Designation (1 Dwelling Unit per 3-5 Acres)

It is further recommended that the publicly- or quasi-publicly-owned open space properties in the study area be designated on the Land Use Plan Map as a “Low Density/Public Preservation/Conservation” classification, the purposes of which would be to preserve governmental open space and conservation areas and to provide for low-density single-family residential uses. Beyond the study area, the Township owned Toms River Park platted subdivision and the area immediately east of the Garden State Parkway and north of the Borough of South Toms River which has been purchased for open space by the County would also be appropriately redesignated to Public Preservation/Conservation.

The density recommendation would be the same as that for the Conservation/Residential Zone, except that a lower density in the vicinity of 5 acres per unit is recommended for unsewered properties.

**E. Conservation/Residential District Zoning Recommendations**

1. Zoning District

The Conservation/Residential areas on the Land Use Plan Map are recommended to be zoned for inclusion in a Conservation/Residential Zone. Permitted uses would include public and private open space, conservation, and detached single-family residences, with a required minimum lot size of an average 3 acres. Educational facilities and passive and active recreation and conservation should also be permitted in the Conservation/Residential Zone.

In order to more effectively preserve sensitive features of the area and further reduce residential sprawl, a lot clustering/lot size averaging option is recommended. A cluster option that maintains a 1 dwelling unit per 3-acre residential density, however permits a smaller minimum lot size of 20,000 square feet if public sewerage is provided is recommended. In general, clustering encourages the preservation of open space and sensitive environmental features by concentrating development on less-constrained portions of the site. Smaller lot sizes also result in less internal roadway infrastructure and less vegetative clearing that further reduces environmental impact.

Tracts that employ a cluster option should be required to preserve 60 percent of the tract as open space. The Township should be given the right of first refusal to take title to the conservation land. It is also recommended that a maximum gross impervious coverage limitation of 10 percent be imposed upon residential uses in the zone. Recall that in “A Build-Out Analysis of the Barnegat Bay Watershed,” 10 percent

impervious coverage was the threshold over which water quality began to decline.

## 2. Design Standards Recommendations

Enhanced design standards for all properties within the Conservation/Residential district are recommended that can supplement the existing standards in the ordinance. The following standards are recommended:

- Environmentally sensitive lands regulated by NJDEP should be protected by conservation easements.
- Areas of lot disturbance should be minimized to both protect the natural environment and to limit the view to the disturbance from public roadways. Principal and accessory buildings should be located in such a way as to minimize lot disturbance. Driveways should follow existing tree lines, lanes or hedge or stone rows.
- Density should be shifted to areas that can best support the installation of the site features including dwellings, utilities and associated site improvements.
- Buffers should be provided between the residences and existing roadways. Existing vegetation and hedgerows should be maintained as buffers and supplemented with additional plantings where appropriate.
- Infrastructure improvements such as roadways and drainage should be low-intensity to retain the natural character of the parcels. For

example, roadways could be constructed with unfinished edges of pavement and roadside drainage swales could be used.

- Linkages to adjacent open space and environmental features, such as stream corridors, should be provided through the property either through easements, fee simple purchase or dedications.

### 3. Zoning Ordinance Amendment

In order to implement the foregoing recommendations regarding zoning and design standards, the following amendment to the Zoning Ordinance should be considered for adoption:

#### **“Section 35-96A.1 Conservation/Residential Zone.**

The purpose of the Conservation/Residential Zone is to provide for low density, detached single-family residential development in a manner that will: (1) reduce sprawl development; (2) promote stream corridor, wetlands and critical habitat preservation; and (3) encourage reduced coverage to maintain ground and surface water quality.

##### A. Permitted Uses.

1. Detached single-family dwellings for residential purposes, together with its accessory structures.
2. Home occupations.
3. Churches and houses of worship.
4. Public buildings of a governmental nature, schools, public parks, playgrounds, and municipal golf courses.

5. Essential services.
6. Fish and wildlife management.
7. Public service infrastructure.
8. Community residences for the developmentally disabled.

B. Conditional Uses.

1. Public utilities.
2. Cellular telecommunication towers and facilities.

C. Area, yard and bulk regulations shall be as follows:

1. The minimum lot area shall be three (3) acres (130,680 square feet).
2. The minimum lot frontage shall be 200 feet.
3. The minimum lot depth shall be 200 feet.
4. The minimum front yard shall be 75 feet.
5. The minimum rear yard shall be 50 feet.
6. The minimum side yard shall be 25 feet; 50 feet combined.
7. The maximum building height shall be 35 feet.
8. The maximum lot coverage by buildings shall be ten (10) percent.

D. Supplemental Regulations.

To more effectively preserve sensitive features of the area, reduce residential sprawl, preserve large expanses of open space, and encourage less internal roadway infrastructure and less vegetative clearing, a cluster option that maintains a one (1) dwelling unit per three (3) acre residential gross tract density shall be permitted subject to the following:

1. Minimum tract size – thirty (30) acres.
2. The area, yard and bulk requirements for cluster lots shall be as set forth in Section 35-96.2 for the R-200 Zone, except that the maximum gross impervious tract coverage shall not exceed ten (10) percent.
3. Tracts that employ the cluster option shall preserve sixty (60) percent of the gross tract area as open space. The Township shall be given the right of first refusal to take title to the open space lands. If the Township decides not to take title to the open space lands, a homeowners association shall be established.
4. Density should be shifted to areas that can best support the installation of site features, including dwellings; utilities; and associated site improvements. Principal and accessory buildings should be located in such a way as to minimize lot disturbance. Driveways should follow existing tree lines, lanes or hedge rows.
5. All clustered units must be connected to a sanitary sewer and potable water system.
6. New Jersey Department of Environmental Protection (NJDEP) delineated wetlands and upland buffers shall be protected by conservation easements.

7. Linkages to on-tract and off-tract adjacent open space and environmental features, such as stream corridors, shall be provided through lots via easements or dedicated rights-of-way.”

**F. Public Preservation/Conservation District Zoning Recommendations**

1. Zoning District

The Public Preservation/Conservation areas on the Land Use Plan Map are recommended to be zoned for inclusion in a Public Preservation/Conservation Zone. Permitted uses would include governmental uses including open space, fish and wildlife management areas and detached single-family residences, with a required minimum lot size of an average 3 acres for sewerred properties and 5 acres for unsewerred properties.

2. Zoning Ordinance Amendment

In order to implement the foregoing recommendations regarding zoning and design standards, the following amendment to the Zoning Ordinance should be considered for adoption:

**“Section 35-96A.2 Public Preservation/Conservation Zone.**

The purpose of the Public Preservation/Conservation Zone is to safe guard, protect and preserve governmental open space and conservation areas and provide for low-density single-family residential development.

A. Permitted Uses.

1. Detached single-family dwellings for residential purposes, together with its accessory structures.
2. Home occupations.
3. Public buildings of a governmental nature, public parks, playgrounds, and nature preserves.
4. Essential services.
5. Fish and wildlife management.
6. Public service infrastructure.
7. Community residences for the developmentally disabled.

B. Conditional Uses.

1. Public utilities.
2. Cellular telecommunication towers and facilities.

C. Area, yard and bulk regulations shall be as follows:

1. The minimum lot area shall be three (3) acres (130,680 square feet), provided sanitary sewer facilities are available. In the event that sanitary sewers are not available, the minimum lot area shall be five (5) acres (217,800 square feet).
2. The minimum lot frontage shall be 200 feet.
3. The minimum lot depth shall be 200 feet.
4. The minimum front yard shall be 100 feet.
5. The minimum rear yard shall be 50 feet.
6. The minimum side yard shall be 50 feet; 100 feet combined.
7. The maximum building height shall be 35 feet.
8. The maximum lot coverage by buildings shall be ten (10) percent.”