



Chris Christie
Governor

Kim Guadagno
Lt. Governor

State of New Jersey

THE PINELANDS COMMISSION

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Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

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MEMORANDUM

To: Members of the Commission

From: Nancy Wittenberg 
Executive Director

Date: March 29, 2017

Subject: Summary of the April 7, 2017 Meeting Packet

Minutes

The February 24, 2017 Commission Meeting minutes are included in your packet.

Public Development Applications

The following public development application is being recommended for approval with conditions:

1. **T-MOBILE, VALORE LLC & WATERFORD TOWNSHIP**, Waterford Township, Rural Development Area, Construction of a 190 foot high local communications facility (tower).

Waiver of Strict Compliance

There are no Waiver of Strict Compliance applications on this month's agenda.

Letter of Interpretation

One Pinelands Development Credit Letter of Interpretation (attached) was issued since the last Commission meeting, allocating 0.25 PDCs to 47.44 acres.

Off-Road Vehicle Event Route Map Approval

Four Off-Road Vehicle Event Route Map Approvals (attached) were issued since the last Commission meeting.

Resolutions Relating to Municipal Ordinances

We have included two reports on municipal master plans and ordinances. The first is on Egg Harbor City Ordinance 2-2017, which adopts revised standards for signs, including changeable copy and electronic message center signs. Ordinance 2-2017 permits such signs in a number of nonresidential zones within the Pinelands Town area. The second report is on Waterford Township's 2015 Housing Element and Fair Share Plan and Ordinances 2015-17, 2016-25, 2017-6 and 2017-7. These ordinances adopt a revised Redevelopment Plan for the Haines Boulevard Redevelopment Area, rezone two lots from a commercial zone to a residential zone within the Regional Growth Area, adopt Pinelands Development Credit requirements for residential development in the Regional Growth Area and update the alternate permitting process already in place for the Haines Boulevard Redevelopment Area. We are recommending certification of the Egg Harbor City and Waterford Township amendments.

Master Plans and Ordinances Not Requiring Commission Action

We have included a memorandum on nine master plan and ordinance amendments that we reviewed and found to raise no substantial issues with respect to CMP standards. These amendments were submitted by Bass River Township, Buena Vista Township, Hamilton Township, Jackson Township, Manchester Township, Monroe Township, Plumsted Township and Waterford Township.

Other Items

Also included in this month's packet is:

1. A list of pending Public Development Applications for which public comment will be accepted at the April 7, 2017 Commission meeting.

Closed Session

The Commission will convene into closed session.

Please note that future meetings and office closure dates, as well as any Pinelands-related activities of interest, are listed at the bottom of the agenda.

/ PC1



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NEW JERSEY PINELANDS COMMISSION MEETING AGENDA

Friday, April 7, 2017

Richard J. Sullivan Center for Environmental Policy and Education

Terrence D. Moore Conference Room

15C Springfield Road

New Lisbon, New Jersey

9:30 a.m.

1. Call to Order

- Open Public Meetings Act Statement
- Roll Call
- Pledge Allegiance to the Flag

2. Adoption of Minutes

- February 24, 2017

3. Committee Chairs' and Executive Director's Reports

4. Resolution to Retire into Closed Session to Obtain Legal Advice Concerning a Motion for a Stay of Pinelands Commission Resolution No. PC4-17-03

5. Reconvene in Open Session

6. Consideration of a Resolution and Order Concerning a Motion for a Stay of Pinelands Commission Resolution No. PC4-17-03

7. Matters for Commission Consideration Where the Record is Closed

A. Permitting Matters

- Office of Administrative Law
 - None
- Review of Local Approval
 - None
- Public Development Projects and Waivers of Strict Compliance

- Approving With Conditions an Application for Public Development (Application Number 2003-0319.003)

B. Planning Matters

▪ Municipal Master Plans and Ordinances

- Issuing an Order to Certify Ordinance 2-2017, Amending Chapter 170 (Land Use and Development) of the Code of Egg Harbor City
- Issuing an Order to Certify Waterford Township's 2015 Housing Element and Fair Share Plan and Ordinances 2015-17, 2016-25, 2017-6 and 2017-7, Adopting a Redevelopment Plan for the Haines Boulevard Redevelopment Area and Amending Chapter 176 (Land Use, Development and Zoning) of the Township's Code

▪ Other Resolutions

- None

▪ CMP Amendments

- None

8. Public Comment on Agenda Items and Pending Public Development Applications (see attached list) *(to ensure adequate time for all members of the public to comment, we will respectfully limit comments to three (3) minutes. Questions raised during this period may not be responded to at this time but where feasible, will be followed up by the Commission and its staff.)*

9. Master Plans and Ordinances Not Requiring Commission Action

- Bass River Township Ordinance 2017-02
- Buena Vista Township Ordinance 40-2017
- Hamilton Township Ordinance 1842-2017
- Jackson Township Ordinances 3-17 and 4-17
- Manchester Township Ordinance 17-002
- Monroe Township Ordinance O:08-2017
- Plumsted Township Planning Board Resolution 2016-09
- Waterford Township Ordinance 2017-2

10. General Public Comment *(to ensure adequate time for all members of the public to comment, we will respectfully limit comments to three (3) minutes. Questions raised during this period may not be responded to at this time but where feasible, will be followed up by the Commission and its staff.)*

11. Adjournment

Upcoming Meetings

Unless otherwise noted, all meetings/events are conducted at the offices of the Pinelands Commission in New Lisbon

Friday, April 28, 2017	Policy and Implementation Committee Meeting (9:30 a.m.)
Tues., May 2, 2017	Personnel and Budget Committee Meeting (9:30 a.m.)

Upcoming Office Closures

Friday, April 14, 2017 Good Friday



Pinelands Commission and Committee meeting agendas are posted on the Commission's Web site and can be viewed at www.nj.gov/pinelands/. The agendas are also posted and can be viewed at the Pinelands Commission Offices, 15 Springfield Road, New Lisbon, New Jersey or for more information on agenda details, e-mail the [Public Programs Office](mailto:Info@njpines.state.nj.us) at Info@njpines.state.nj.us or call (609) 894-7300

PINELANDS COMMISSION MEETING
Crowne Plaza
Grand Ballroom
2349 West Marlton Pike
Cherry Hill, New Jersey

MINUTES

February 24, 2017

Commissioners Present

Alan W. Avery Jr., Bob Barr, Bill Brown, Giuseppe Chila, Paul E. Galletta, Frank Hays, Jane Jannarone, Mark Lohbauer, Ed McGlinchey, Richard Prickett, Gary Quinn and Chairman Sean Earlen. Also present were Executive Director Nancy Wittenberg, Governor's Authorities Unit representative Lisa LeBoeuf and Deputy Attorney Generals (DAG) Sean Moriarty and Timothy Malone.

Commissioners Participating by Phone

Candace Ashmun, Ed Lloyd and D'Arcy Rohan Green.

Commissioners Absent

None.

Chairman Earlen called the meeting to order at 9:38 a.m.

DAG Moriarty read the Open Public Meetings Act Statement.

Ms. Nancy Wittenberg called the roll and announced the presence of a quorum. (There were 15 Commissioners who participated in the meeting.)

The Commission and public in attendance pledged allegiance to the Flag.

Minutes

Chairman Earlen presented the minutes (open and closed session) from the January 23, 2017 Special Meeting and the January 24, 2017 Commission Meeting. Commissioner Lohbauer moved the adoption of the minutes. Commissioner Brown seconded the motion.

The minutes of the January 23, 2017 Special Meeting (open and closed session) and the January 24, 2017 Commission Meeting were adopted by a vote of 14 to 0. Commissioner Rohan Green abstained from the vote.

Committee Chairs' Reports

Commissioner Avery provided an update on the February 7, 2017 Personnel and Budget Committee Meeting:

The Committee adopted the minutes from the August 2, 2016 meeting.

Staff reviewed the check registers, electronic disbursements and application fees covering July to December 2016. Ms. Jessica Lynch reviewed the accounting software proposal which will be discussed with the Audit Committee. Fixed assets for disposal and surplus were also explained. Michelle Russell provided an update on employee actions.

The Committee did not have a Closed Session.

Executive Director's Reports

Mr. Larry Liggett said a transformation has occurred in the cellular service market; wireless service providers are interested in upgrading service in high capacity areas within the public right-of-way. He said staff met with Verizon Wireless and will be meeting with Mobilitie, another wireless infrastructure provider. The companies are interested in locating antennas on existing telephone poles. Staff is looking at the Comprehensive Management Plan's current rules on wireless communication facilities and will determine if new rules are required. Staff is also in the process of drafting a letter to municipalities, offering guidance on this type of development.

Mr. Chuck Horner updated the Commission on the following:

- On February 14, 2017, Commission staff met with Tabernacle Township officials to discuss the development of a new public works facility. Staff also met with the Mayor of Woodbine on February 14, 2017 to discuss the regulatory requirements associated with the development of a recreation facility.

Public Development Projects and Other Permit Matters

Chairman Earlen presented a resolution recommending the approval of four public development applications.

Commissioner Galletta moved the adoption of a resolution Approving With Conditions Applications for Public Development (Application Numbers 1987-1121.004, 1993-

0341.007, 2016-0035.001 & 2016-0147.001)(See Resolution # PC4-17-02). Commissioner McGlinchey seconded the motion.

Commissioner Prickett requested a brief overview of the four public development applications.

Mr. Horner provided a brief overview of the public development applications listed on the first resolution:

- Barnegat Township is proposing the construction of a bicycle path on the south side of West Bay Avenue;
- Evesham Township is proposing a two mile hiking trail in the southern portion of the town;
- Shamong Township is proposing a municipal cemetery on a parcel of land located diagonally from the municipal building; and
- Egg Harbor Township is proposing the installation of sanitary sewer main.

All were in favor. The Commission adopted the resolution by a vote of 15 to 0.

Chairman Earlen presented a resolution recommending the approval for the development of a natural gas pipeline.

Commissioner McGlinchey moved the adoption of a resolution Approving With Conditions Pinelands Development Application Number 2012-0056.001 (See Resolution # PC4-17-03). Commissioner Galletta seconded the motion.

Commissioner Lohbauer made a motion to table action on the resolution *Approving With Conditions Pinelands Development Application Number 2012-0056.001*. He explained his rationale for tabling the resolution. He said first the public was not afforded an adequate amount of time to provide public comment. He said significant facts regarding the project remain in dispute and, for this reason, he suggested a fact-finding hearing before the Office of Administrative Law. He said Commissioners need more time to review the information associated with the proposed pipeline application. Commissioner Ashmun seconded the motion.

Commissioner Rohan Green said she agreed with tabling the motion. She said there has not been enough time for Commissioners to perform due diligence on the application.

Commissioner Prickett asked Ms. Nancy Wittenberg if all members of the Commission had received a copy of the public comment compact disc (CD).

Ms. Wittenberg said the CD containing public comment received for the South Jersey Gas application was express mailed on February 13, 2017. She said staff was notified on February 22, 2017 that one Commissioner had not received the package. Staff contacted the United States Parcel Service and did confirm that the package was delivered February 15, 2017. Staff hand delivered a second copy of the CD to that Commissioner on February 22, 2017.

Commissioner Prickett said he supports the motion to table the application.

Commissioner Hays said he also supports tabling the motion. He said he has questions for the applicant.

Commissioner Prickett asked Ms. Wittenberg if the new Commissioners had been briefed on the history of the South Jersey Gas application.

Ms. Wittenberg said that she provided background information, including the prior Executive Director's report on the Memorandum of Agreement and the Memorandum of Agreement to the new Commissioners. She said she met with Commissioner Chila to review the application, spoke with Commissioners Jannarone and Barr, and answered questions submitted by Commissioner Hays.

Commissioner Lloyd said because of the conflicting facts regarding this application, he supports the motion to table the discussion and have an administrative hearing.

Commissioner Avery said he rejoined the Commission in December of 2013 and since that time the South Jersey Gas application has been the dominant topic. He said it's time for the Commission to focus on other work. He said some of the information is beyond the scope of what the Court remanded back to the Commission. He said he does not support the tabling.

Commissioner Galletta thanked staff for organizing the public comment. He said he appreciated hearing from both sides on the matter, but he agrees with Commissioner Avery. He said he has enough information to make his decision.

Commissioner Ashmun said with a precedent setting decision such as this, the Commission should not rush.

Commissioner Lohbauer explained his motion to table the resolution and specified that the resolution could be voted on after an OAL hearing and once the Commission provides the opportunity to comment on the SJG application to any individuals who chose to leave the January 24, 2017 Commission meeting..

DAG Moriarty offered clarification on how to proceed with the tabling motion. He said first the Commission has to pass the motion to table the resolution, after that happens, then another motion must be made setting the parameters of the tabled issue.

Ms. Wittenberg called the roll to table the resolution *Approving With Conditions Pinelands Development Application Number 2012-0056.001*.

Ashmun- yes

Avery-no

Barr-no

Brown-no

Chila-no
Hays-yes
Galletta-no
Jannarone-no
Lloyd-yes
Lohbauer-yes
McGlinchey-no
Prickett-yes
Quinn-no
Rohan Green-yes
Earlen-no

The Motion to table the resolution did not pass.

The Commission received a number of letters raising concerns regarding potential conflicts of interest. Commission staff forwarded all such correspondence to the State Ethics Commission and the Attorney General's office. With regard to this matter Ms. Wittenberg read the following statement into the record:

Over the past several weeks, Commission staff has received information from members of the public alleging that certain Commissioners may have conflicts of interest requiring recusal from the vote on the South Jersey Gas application. After review of the information provided and consultation with the State Ethics Commission and the Attorney General's office, it has been determined that none of the Commissioners in question have a conflict of interest requiring recusal in this matter.

Commissioner Lohbauer read a statement prepared by Commissioner Ashmun. (See attached statement.)

Commissioner Lohbauer read his statement into the record. (See attached statement.)

Commissioner Prickett said that he does not agree with the finding in the Executive Director's Recommendation Report that the pipeline will serve only the needs of the Pinelands. He said that he does not agree with the comparison in the report that BL England is like the New Lisbon Developmental Center in that the pipeline will serve only one end-user. He said in his opinion he does not believe that the pipeline primarily serves only the needs of the Pinelands.

Commissioner Earlen asked Ms. Wittenberg if there were similar applications to the South Jersey Gas application that the Commission had approved in the past and if so could some details be provided.

Ms. Wittenberg said through the years, dating back to the 1980's, the Commission has issued Certificate of Filings (CF) for a number of natural gas infrastructure projects, many of which have been developed in the Forest Area. She then provided examples stating the year the application was approved, the size of the pipe, length of the route and the Commission's rationale for consistency with the CMP.

Commissioner Earlen asked about an application Ms. Wittenberg mentioned that had been approved in 1990 that traversed through the Forest Area for an electric generating station outside of the Pinelands. He asked if the CF noted if the electric would primarily only serve the needs of the Pinelands.

Ms. Wittenberg said the CF made the assumption that the electric would primarily serve the needs of the Pinelands.

Commissioner Rohan Green asked for the public to respect and listen to all sides. She said she concurs with Commissioner Prickett and Lohbauer.

Commissioner Lloyd said the evidence in the record does not show that the pipeline will primarily serve only the needs of the Pinelands.

Commissioner Hays asked if there was any case law regarding the definition of “public service infrastructure” and “primarily serve the needs of the Pinelands” as defined in the CMP.

Ms. Stacey Roth said the only case law that discusses public service infrastructure is the Buena Regional School District v. Pinelands Commission, however the case does not discuss the definition of public service infrastructure. The New Jersey courts have never interpreted or ruled on "primarily serves only the needs of the Pinelands". However it was mentioned in the November 7, 2016 Appellate Division decisions on the South Jersey Gas Company's application.

Commissioner Hays raised questions regarding the basis for including communication cables in the CMP.

Mr. Horner explained why the CMP was amended to include fiber optic cable.

Ms. Wittenberg called the vote on the resolution *Approving With Conditions Pinelands Development Application Number 2012-0056.001*.

Ashmun-no

Avery-yes

Barr-yes

Brown-yes

Chila-yes

Hays-abstain

Galletta-yes

Jannarone-yes

Lloyd-no

Lohbauer-no

McGlinchey-yes

Prickett-no

Quinn-yes

Rohan Green-no
Earlen-yes

The Commission adopted the resolution by a vote of 9 to 5, with Commissioner Hays abstaining from the vote.

Public Comment on Agenda Items and Pending Public Development Applications

55 members of the public spoke in opposition of the gas pipeline and expressed their displeasure about the vote in favor of Resolution #PC4-17-03 (South Jersey Gas Natural Gas Pipeline Application). A transcript of the meeting can be obtained by contacting the Commission.

Ordinances Not Requiring Commission Action

Chairman Earlen asked if any Commissioners had questions regarding the ordinances not requiring Commission action:

- Galloway Township Ordinance 1952-2016
- Winslow Township's Housing Element and Fair Share Plan & Ordinance O-2016-027

No members of the Commission had questions.

Public Comment on Any Matter Relevant to the Commission's Statutory Responsibilities

Five members of the public spoke in opposition of the gas pipeline and expressed their displeasure about the vote in favor of Resolution #PC4-17-03 (South Jersey Gas Natural Gas Pipeline Application). A transcript of the meeting can be obtained by contacting the Commission.

Adjournment

Commissioner McGlinchey asked about the status of the Fair Share Housing numbers.

Ms. Susan Grogan said she has not heard about numbers but the Commission has received a number of municipal settlement agreements negotiated with the Fair Share Housing Center.

Commissioner Lohbauer moved to adjourn the meeting. Commissioner Galletta seconded the motion. The Commission agreed to adjourn at 2:23 p.m.

Certified as true and correct:



Jessica Noble, Executive Assistant

Date: March 2, 2017

Commissioner Ashmun's statement read by Commissioner Lohbauer at the February 24, 2017 Pinelands Commission Meeting

This decision whether to ignore our own Plan for the protection of the Pinelands National Reserve, or stick to our sworn oath to protect this world valued biosphere reserve is an opportunity to once again show the state, country and the world that we are up to the task.

The development of the Comprehensive Master Plan thirty years ago, was a monumental task and was based on years of documented research all of which you will find described in Volume 1. If you haven't read Volume 1 you haven't read the plan. The regulatory scheme represented by the CMP is designed to respond to the need to manage growth in a manner that works for future residents and for protection of critical resources.

In responding to the Federal Act (Section 502 of the National Parks and Recreation Act of 1978.) the New Jersey legislature delineated a Pinelands Protection area and internally a preservation area, all within the larger National Pinelands Reserve. Under these laws the Commission was created to plan and regulate development in the state delineated Pinelands Protection Area and to plan and comment in the larger National Reserve.

The preservation area is a highly sensitive area at the heart of the Pinelands protection area designed to virtually preclude future development including pipeline corridors. The dilemma faced by the Commission in developing a Plan (the CMP) for development and growth was that there were vast areas just as sensitive to human activity as the preservation area that needed to be given similar protection. As areas for various levels of management were designated these areas became the highly protected Forest Areas.

This application for a pipeline across a Forest Area of the Pinelands protection area is a way to get Pennsylvania natural gas to the coast. It is deemed necessary to convert a part time "peaking" power plant from coal and oil to a full time natural gas plant. It has been claimed that such a change in fuel will reduce the plants impact on climate change but that seems doubtful considering the full time use being described. This combined with the fact that the applicant plans to move far more gas than required for the repowering of the BLE plant and redundancy for the other customers has been arranged in the contract, raises many questions.

It has been claimed that this pipeline will have no impact on the pinelands ecology and/or the aquifer because it is in a ROW or under the road itself. Pipeline construction at this scale is a major development. It is not a question of making a neat little slit and dumping in a 24in. pipe and sealing it all up. It is major construction involving outside contractors, huge machines, extensive right-of way disturbance, storage areas and roadways. All the on-site independent observers cannot change what it takes to build this line across some of the most sensitive land in the Pinelands. Once started there will be no turning back.

The applicant and our Executive Director refer to the 1400 miles of SJG pipelines in the Pinelands area. They are serving the Pines and residents of south jersey they are generally smaller distribution systems and generally serving the needs of pinelands residents and business'.

One of the reasons the Federal and State Pinelands protection Acts were put in place was the fear that this less populated area of New Jersey would be the thruway for oil pipelines from offshore drilling anticipated at the time. Instead we have eager natural gas mongers trying to get to the coast for whatever purpose. Setting a precedent by allowing this line to cross the forest area with little or no advantage to Pinelands residents will forever haunt future commissioners. The interpretation of Volume 1 and the CMP will never be the same.

I join the four governors most responsible for the implementation of the federal and state Pinelands legislation as well as our former executive directors in urging you to stop this unlawful interpretation of the CMP.

This is a private project attempting to use an older peaking power plant as an excuse to use the Pinelands as an inexpensive corridor to move gas derived in another state to market. I see no long or short term public good coming from this project and therefore I vote no on this resolution.

Commissioner Mark Lohbauer's statement read at the February 24, 2017 Pinelands Commission Meeting

I'd like to thank the public for participating, and commenting. I'd like to thank Director Nancy Wittenberg and the staff for the hard work they have done to present this application to us, and respond to our questions. And I'd like to thank my fellow Commissioners for their patience to date in considering this subject. I ask for a few more minutes of your time, now.

Former Commissioner Witt submitted a comment that tried to address this divide. He was right when he said that the CMP is not anti-development. The CMP exists not to block all development, but rather to make sure that development happens where it should happen, and not occur where it should not. While I disagree with Commissioner Witt's statement that the framers of CMP intended gas pipelines to receive special consideration—that is not evident in the CMP document—it is true that the CMP does not prohibit pipelines, or other utility infrastructure. The Pinelands Commission has permitted them—this record shows that the Commission has allowed 6 prior pipeline developments to this applicant.

So, why the lengthy discussion about this application?

It's because the CMP does not allow development everywhere. It particularly restricts development in the protected Forest Area, and this application proposes to bury 10 miles of this pipeline in Forest Area.

Some argue that it's not true Forest Area; it's a roadbed. That's a meaningless distinction, and we should not be distracted by it. It's laudable that the applicant seeks to minimize disturbance to the trees of the forest by planning to build under pre-existing roadbed, but the forest is not just trees. The Forest Area is a conglomeration of trees, soils, streams, plants, animals, and habitat that together form the great natural filtration system that cleans and preserves our groundwater, beneath the trees... beneath the roadbed. It's all precious, and it's all protected.

The CMP does not prohibit us from authorizing development of utility infrastructure in the Forest Area; however, it frowns on that development, and sets a very high bar for us to follow when we consider such development: it tells us that the development must "primarily serve only the needs of the Pinelands."

The clash of the words "primarily" and "only" in that phrase are jarring. We're told that it was a mistake, that the original phrase "serve only" was intended to be modified to "primarily serve," and in the haste to modify, a mistake was made by leaving both words in place. However, in the now 30+ years of the CMP, no Pinelands Commission—not even us—have seen fit to change that phrase. I'm not so sure that we can simply dismiss a word that has always been in place in the CMP. So which standard should we apply? "Only," meaning exclusively, or "primarily," meaning "mainly". No NJ court has ever defined that standard. I believe that if an applicant can meet the less-restrictive standard of "primarily," then we are obligated to grant that application—however, that the applicant must pass a high bar in order to prove that the project "primarily" serves the needs of the Pinelands.

Why was the standard set so high? Because the initial reason for the passage of the Pinelands Act was not just a recognition of the unique nature of this forest, but of the reality that outside forces were interested in creating lateral development projects through it. If the Act had not been passed

when it had, projects might have occurred that would have used the Pinelands as a pathway to connect the Jersey coast with Philadelphia, and in the process, denigrated the forest. Commissioner Ashmun reminds us that there was interest in the 1970's to build an above-ground petroleum pipeline from the coast to the refineries of Philadelphia, and the Act prevented that.

Clearly, in passing the Act and formulating the CMP, it was recognized that while some development would be necessary, that when it came to the Forest Area, development should be the exception, and only happen when it was clear that the development was necessary to serve the needs of the Pinelands.

So, the Superior Court has sent this application back to us to answer just that question: Does this application “primarily serve only the needs of the Pinelands”?

I have considered the question from a variety of perspectives:

- Demand for electricity
- Reliable access to natural gas
- Protection from airborne emissions
- Bearing the cost of the pipeline
- Volume of gas
- Jobs and commerce
- Assuming the risks of harm from pipeline installation and operation

For each of these, I find that the facts show that this pipeline does not *primarily serve* the needs of the Pinelands:

The electricity goes to the users in the PJM grid, spread across 14 states

The gas reliability affects 142,000 customers of SJG, of which only 20,000 are in the Pinelands

The airborne emissions can be considered in several ways: the applicant likes to compare the emissions of the gas-fired plant with the current coal-fired plant; however, we all know that an Administrative Consent Order says that the operator of BLE has 3 choices to correct its bad emissions:

1. Add pollution controls to capture the emissions from coal-burning; (no pipeline required)
2. Switch to burning natural gas; or
3. Shut the plant down (No emissions; no pipeline required).

All three of those scenarios yield lower emissions than the current operation, so if that is a need of the Pinelands, a pipeline through our Forest Area is not the only way to achieve them. (By the way, the record tells us that the PJM grid does not anticipate or need the power generation of the BLE facility, and that since this application was filed, 3 other NJ power plants have opened created 2,000 Mega Watts of generation capacity in our State—4.5 times more than BLE would do.)

Another way to consider emissions would be to acknowledge that while a gas-fired BLE would greatly reduce the emissions of NO_x and SO_x as opposed to the coal-fired plant, it will emit far more volatile organic compounds and fine particulate. The record includes the statements of a professor from Rowan University who came here several times to warn us that the dangers of greenhouse gas emissions from a gas-fired plant were far greater to us, and equally if not more damaging to the Pinelands. (As you saw, I asked the

DEP about the effects of global warming on the Pinelands, and their response last evening was “*DEP is only aware of general peer-reviewed research that does not provide specific evidence of a detrimental impacts to the Pinelands region.*”

I looked to see who is paying for the pipeline, thinking that if the Pinelands derives the primary benefit, then Pinelands customers would pay for it. That is not the case. BLE will pay for only 40% of the cost of the pipeline, which I presume will be passed on to its customers—the vast majority of whom do not reside or have businesses in the Pinelands. The rest of the cost—60%-- will be paid by the people who buy gas from South Jersey Gas—these are the 142,000 customers in Cape May and Atlantic Counties, of which only about 20,000 are in the Pinelands.

The volume of gas might tell us who is benefitting from the pipeline. We are told in the Executive Director’s report that 125,000 Million Cubic Feet/day is what is needed to fuel the BLE plant. However, the record tells us, in the Standard Gas Service Agreement that the applicant has with the operator of BLE, that the amount needed for plant operations is 67,225 MCF/day—little more than half of 125,000 MCF. Also, the record tells us that the pipe is designed to handle 308,000 MCF/day, and with some modifications by SJG of other systems, it could handle 380,000 MCF/day—more than 5 times what BLE needs. NJ BPU has given SJG a permit to this pipeline to handle 380,000 MCF per day. So—whether it’s 2 times more or 5 times more gas than is needed by BLE, will that additional gas primarily serve the needs of the Pinelands? There is no evidence that it will.

As to jobs, I asked the applicant whether they can find 3 firms that do Horizontal Drilling in the Pinelands... or whether they can buy pipe for this project from a supplier in the Pinelands... or whether they will hire workers for this project from the Pinelands... and their answer is “No, they are not required to do this.” So the Pinelands will not be primarily served with jobs.

So, who bears the risk of harm from:

1. installation disturbances,
2. spills of bentonite slurry from the Horizontal drilling process;
3. spills of contaminated test-water from the 2.5 million gallons of water that will be used to pressure-test the completed sections of pipeline;
4. removal of a 10-mile swath of Forest Area soil that will be displaced by the pipeline;
5. possible puncturing of clay layers that could drain wetland habitat;
6. de-watering of groundwater from trench sites where pipe must be laid, not installed by HDD;
7. leaks of methane gas from a pipeline that will be immersed in the aquifer—and which, by the way, hydrologists have told us on the record will dissolve and interact with groundwater, contrary to the representations of the applicant and the DEP...

The answer to that one is, exclusively the Pinelands; primarily the Forest Area.

I find no evidence that this pipeline primarily serves the needs of the Pinelands.

Finally, one other point: this pipeline begins at a point outside of the western boundary of the Pinelands, traverses eastward through the Forest Area of the Pinelands, and passes outside of the eastern boundary of the Pinelands into the Pinelands Reserve. While inside the Pinelands, it makes no connection to users there. This, to me, is the definition of lateral development that the

Pinelands Act sought to prevent. This does not benefit the Pinelands; it uses the Forest Area to move product from one side of the Pinelands to the other.

If we decide to approve this application today, it will set a precedent for what is meant by “primarily serve only the needs of the Pinelands.” We will be lowering that high standard to a very low bar, that any utility will be able to point to and rely upon to get approval for their development laterally through the Pinelands. That would be catastrophic, and completely against the intent of the people who gave us the Pinelands Protection Act and the CMP.

I urge my colleagues to follow the advice of:

- The three Executive Directors: Terrence Moore, John Stokes, and the January 2014 Report on this application by our Director Nancy Wittenberg, all of which found this application to be contrary to the intent of the CMP;
- Four prior Governors, all of whom find this application contrary to the intent of the CMP; and
- The advice of experts who have spoken and written to us about the potential detriment to the Pinelands of this project.

I vote “No” on this application.



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-17- 02

TITLE: Approving With Conditions Applications for Public Development (Application Numbers 1987-1121.004, 1993-0341.007, 2016-0035.001 & 2016-0147.001)

Commissioner Galletta moves and Commissioner Mc Glinchey seconds the motion that:

WHEREAS, the Pinelands Commission has reviewed the Public Development Application Reports and the recommendation of the Executive Director that the following applications for Public Development be approved with conditions:

1987-1121.004
Applicant: Barnegat Township
Municipality: Barnegat Township
Management Area: Pinelands Regional Growth Area
Date of Report: January 25, 2017
Proposed Development: Construction of approximately 1,415 linear feet of bicycle path;

1993-0341.007
Applicant: Evesham Township c/o Friends of the Black Run Preserve
Municipality: Evesham Township
Management Area: Pinelands Rural Development Area
Date of Report: January 25, 2017
Proposed Development: Establishment of 13,200 linear feet of hiking trail;

2016-0035.001
Applicant: Shamong Township
Municipality: Shamong Township
Management Area: Pinelands Village
Date of Report: January 25, 2017
Proposed Development: Establishment of a 6.26 acre cemetery; and

2016-0147.001
Applicant: Egg Harbor Township Municipal Utilities Authority
Municipality: Egg Harbor Township
Management Area: Pinelands Regional Growth Area
Date of Report: January 25, 2017
Proposed Development: Installation of 3,179 linear feet of sanitary sewer main.

WHEREAS, no request for a hearing before the Office of Administrative Law concerning the Executive Director's recommendation has been received for any of these applications; and

WHEREAS, the Pinelands Commission hereby adopts the Conclusion of the Executive Director for each of the proposed developments; and

WHEREAS, the Pinelands Commission hereby determines that each of the proposed public developments conform to the standards for approving an application for public development set forth in N.J.A.C. 7:50-4.57 if the conditions recommended by the Executive Director are imposed; and

WHEREAS, pursuant to N.J.S.A. 13A-5h, no action authorized by the Commission shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period and Governor shall approve same, in which case the action shall become effective upon such approval.

NOW, THEREFORE BE IT RESOLVED that Application Numbers 1987-1121.004, 1993-0341.007, 2016-0035.001 & 2016-0147.001 for public development are hereby approved subject to the conditions recommended by the Executive Director.

Record of Commission Votes

ASHMUN	AYE	NAY	NP	A/R*	GALETTA	AYE	NAY	NP	A/R*	MCGLINCHY	AYE	NAY	NP	A/R*
Ashmun	X				Galletta	X				McGlinchey	X			
Avery	X				Hays	X				Prickett	X			
Barr	X				Jannarone	X				Quinn	X			
Brown	X				Lloyd	X				Rohan Green	X			
Chila	X				Lohbauer	X				Earlen	X			

* A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: February 24, 2017

Nancy Wittenberg
Nancy Wittenberg
Executive Director

Sean W. Earlen
Sean W. Earlen
Chairman



State of New Jersey

THE PINELANDS COMMISSION

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www.nj.gov/pinelands



Chris Christie
Governor

Kim Guadagno
Lt. Governor

General Information: Info@njpines.state.nj.us
Application Specific Information: AppInfo@njpines.state.nj.us

Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

January 25, 2017

Albert Bille, Mayor
Barnegat Township
900 West Bay Avenue
Barnegat, NJ 08005

Re: Application # 1987-1121.004
West Bay Avenue
Barnegat Township

Dear Mayor Bille:

The Commission staff has completed its review of this application for construction of approximately 1,415 linear feet of bicycle path along West Bay Avenue. Enclosed is a copy of a Public Development Application Report. On behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its first meeting on or after February 14, 2017.

Any interested party may appeal this recommendation in accordance with the appeal procedure attached to this document. If no appeal is received, the Pinelands Commission may either approve the recommendation of the Executive Director or refer the application to the New Jersey Office of Administrative Law for a hearing.

Prior to any development, the applicant shall obtain any other necessary permits and approvals.

Sincerely,

Charles M. Horner, P.P.

Director of Regulatory Programs

- Enc: Appeal Procedure
- c: Secretary, Barnegat Township Planning Board (via email)
- Barnegat Township Construction Code Official (via email)
- Barnegat Township Environmental Commission (via email)
- Secretary, Ocean County Planning Board (via email)
- John Helbig, PP, AICP (via email)





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General Information: Info@njpines.state.nj.us
Application Specific Information: AppInfo@njpines.state.nj.us

Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

PUBLIC DEVELOPMENT APPLICATION REPORT

January 25, 2017

Albert Bille, Mayor
Barnegat Township
900 West Bay Avenue
Barnegat, NJ 08005

Application No.: 1987-1121.004
West Bay Avenue
Barnegat Township

This application proposes construction of two non-contiguous sections of 10 foot wide bicycle path, totalling approximately 1,415 linear feet, within the West Bay Avenue right-of-way in Barnegat Township.

The first section of approximately 980 linear feet of bicycle path is located between Marshfield Hills Boulevard and Heritage Point Boulevard. The second section of approximately 435 linear feet of bicycle path is located between South Point Boulevard and Westport Boulevard. The two proposed sections of bicycle path will connect to existing sections of bicycle path located along West Bay Avenue.

STANDARDS

The Commission staff has reviewed the proposed development for consistency with all standards of the Pinelands Comprehensive Management Plan (CMP). The following reviews the CMP standards that are relevant to this application:

Land Use (N.J.A.C. 7:50-5.28)

The proposed development is located in a Pinelands Regional Growth Area. The proposed development is a permitted land use in a Pinelands Regional Growth Area.

Wetlands Protection Standards (N.J.A.C. 7:50-6.13)

There are wetlands located within the project area. The CMP prohibits most development in wetlands and requires a buffer of up to 300 feet to wetlands.

Approximately 1,058 linear feet of the proposed 1,415 linear foot bicycle path will be located within 300 feet of wetlands. The CMP permits linear improvements, such as bicycle paths, in the buffer to wetlands provided an applicant demonstrates that certain conditions are met. The applicant has demonstrated that

there is no feasible alternative for the proposed development that does not involve development in the buffer to wetlands or that will result in a less significant adverse impact to wetlands. In addition, the proposed development will not result in a substantial impairment of the resources of the Pinelands. With the conditions recommended below, all practical measures will be taken to mitigate the impact on the required buffer to wetlands. The applicant has indicated that the proposed bicycle path location is necessary to provide for a safe corridor for bicycle traffic by separating motor vehicle traffic from bicycle traffic. The applicant has demonstrated that the need for the proposed development overrides the importance of protecting the concerned wetlands.

Vegetation Management Standards (N.J.A.C. 7:50-6.23 & 6.26)

The proposed development will be located in a maintained grass road shoulder. The proposed clearing and soil disturbance is limited to that which is necessary to accommodate the proposed development.

The Landscaping and Revegetation guidelines of the CMP recommend the use of grasses that are tolerant of droughty, nutrient poor conditions. To stabilize the disturbed areas, the applicant proposes to utilize a seed mixture which meets that recommendation.

Stormwater Management Standards (N.J.A.C.7:50-6.84(a)6)

The applicant has demonstrated that the proposed development is consistent with the stormwater management standards of the CMP. To meet the stormwater management standards, the application proposes to construct five stormwater infiltration basins.

PUBLIC COMMENT

The applicant has provided the requisite public notices. Newspaper public notice was completed on April 29, 2016. The application was designated as complete on the Commission's website on December 20, 2016. The Commission's public comment period closed on January 24, 2017. No public comment was submitted to the Commission regarding this application.

CONDITIONS

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of 17 sheets, prepared by Adams, Rehmann & Heggan Associates and dated as follows:

Sheets 1 - dated March 2016; revised to September 9, 2016
 Sheets 2 & 9-15 - dated March 2015; revised to March 31, 2016
 Sheets 3-8 & 16 - dated March 2015; revised to September 9, 2016
 Sheet 17 - dated March 2015; revised April 23, 2016.

2. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.
3. Any proposed revegetation shall adhere to the "Vegetation" standards of the CMP. Where appropriate, the applicant is encouraged to utilize the following Pinelands native grasses for revegetation: Switch grass, Little bluestem and Broom-sedge.

4. Prior to any development, the applicant shall obtain any other necessary permits and approvals.
5. Appropriate measures shall be taken during construction to preclude sedimentation from entering wetlands and shall be maintained in place until all development has been completed and the area has been stabilized.

CONCLUSION

As the proposed development conforms to the standards set forth in N.J.A.C. 7:50-4.57, it is recommended that the Pinelands Commission **APPROVE** the proposed development subject to the above conditions.



Chris Christie
Governor

Kim Guadagno
Lt. Governor

State of New Jersey

THE PINELANDS COMMISSION

PO Box 359

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General Information: Info@njpines.state.nj.us

Application Specific Information: AppInfo@njpines.state.nj.us



Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

PINELANDS COMMISSION **APPEAL PROCEDURE**

The Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal any determination made by the Executive Director to the Commission in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted by someone meeting the definition of an interested party will be transmitted to the New Jersey Office of Administrative Law for a hearing. Any such appeal must be made in writing and received at the Commission office no later than 5:00 PM on February 13, 2017. The appeal must include the following information:

1. the name and address of the person requesting the appeal;
2. the application number;
3. the date on which the determination to be appealed was made;
4. a brief statement of the basis for the appeal; and
5. a certificate of service (a notarized statement) indicating that service of the notice has been made, by certified mail, on the clerk of the county, municipal planning board and environmental commission with jurisdiction over the property which is subject of this decision.

Within 15 days following receipt of a notice of valid appeal, the Executive Director shall initiate the procedures for assignment of an Administrative Law Judge to preside at the hearing pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and the procedures established by the Office of Administrative Law. The time, date and location of such hearing shall be designated by the Office of Administrative Law.



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Chris Christie
 Governor
 Kim Guadagno
 Lt. Governor

General Information: Info@njpines.state.nj.us
 Application Specific Information: AppInfo@njpines.state.nj.us

Sean W. Earlen
 Chairman
 Nancy Wittenberg
 Executive Director

January 26, 2017

Evesham Township
 c/o John Volpa
 Friends of the Black Run Preserve
 4 Eustace Road
 Marlton, NJ 08053

Re: Application # 1993-0341.007
 Block 54, Lots 1 & 2
 Evesham Township

Dear Mr. Volpa:

The Commission staff has completed its review of this application to establish 13,200 linear feet of hiking trail. Enclosed is a copy of a Public Development Application Report. On behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its first meeting on or after February 14, 2017.

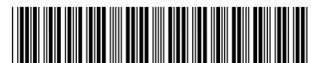
Any interested party may appeal this recommendation in accordance with the appeal procedure attached to this document. If no appeal is received, the Pinelands Commission may either approve the recommendation of the Executive Director or refer the application to the New Jersey Office of Administrative Law for a hearing.

Prior to any development, the applicant shall obtain any other necessary permits and approvals.

Sincerely,

Charles M. Horner, P.P.
 Director of Regulatory Programs

- Enc: Appeal Procedure
 c: Secretary, Evesham Township Planning Board (via email)
 Evesham Township Construction Code Official (via email)
 Evesham Township Environmental Commission (via email)
 Secretary, Burlington County Planning Board (via email)
 Joseph Michiels (via email)
 Nancy W. Jamanow, PE, CME (via email)





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General Information: Info@njpines.state.nj.us
 Application Specific Information: AppInfo@njpines.state.nj.us

Sean W. Earlen
 Chairman

Nancy Wittenberg
 Executive Director

PUBLIC DEVELOPMENT APPLICATION REPORT

January 25, 2017

Evesham Township
 c/o John Volpa
 Friends of the Black Run Preserve
 4 Eustace Road
 Marlton, NJ 08053

Application No.: 1993-0341.007
 Block 54, Lots 1 & 2
 Evesham Township

This application proposes the establishment of a 2.5 foot wide, 13,200 foot long hiking trail located on the above referenced 896.22 acre parcel in Evesham Township. Proposed improvements to establish the hiking trail are limited to the hand cutting of understory vegetation. The parcel is owned by Evesham Township.

The above referenced parcel is subject of an existing conservation easement that was required as part of a Memorandum of Agreement between the Evesham Township Municipal Utilities Authority, Evesham Township and the Pinelands Commission. That MOA authorized the discharge of treated wastewater generated from the Kings Grant Wastewater Treatment Facility to three additional groundwater recharge basins on Block 57, Lots 1 and 2 in Evesham Township. The existing conservation easement permits low intensity recreational facilities, such as the hiking trail proposed in this application.

STANDARDS

The Commission staff has reviewed the proposed development for consistency with all standards of the Pinelands Comprehensive Management Plan (CMP). The following reviews the CMP standards that are relevant to this application:

Land Use (N.J.A.C. 7:50-5.26)

The parcel is located in a Pinelands Rural Development Area. The proposed hiking trail is a permitted land use in a Pinelands Rural Development Area.

Wetlands Standards (N.J.A.C. 7:50-6.11)

There are wetlands located on the parcel. The proposed hiking trail will not be located in wetlands, but it will be located within 300 feet of wetlands. The proposed hiking trail is defined by the CMP as a low intensity recreational use. The CMP permits low intensity recreational uses in the required buffer to

wetlands provided the development will not have a significant adverse impact on wetlands. The applicant has demonstrated that the proposed hiking trail will not have a significant adverse impact on wetlands.

Vegetation Management Standards (N.J.A.C. 7:50-6.23 & 6.26)

The proposed hiking trail will be located within an existing wooded area. In wooded areas, the applicant proposes that the trail will be diverted around existing trees. Understory vegetation will be hand cut flush to the ground to create a trail 2.5 feet in width. The proposed vegetation cutting is limited to that which is necessary to accommodate the proposed hiking trail.

The Landscaping and Revegetation guidelines of the CMP recommend the use of grasses that are tolerant, droughty, nutrient poor conditions. The applicant does not propose any revegetation.

Threatened and Endangered Species Standards (N.J.A.C. 7:50-6.27 & 6.33)

Information available to the Commission staff indicates that local populations of Northern pine snake, Timber rattlesnake, and Pine Barrens treefrog occur on the parcel. To maintain consistency with the threatened and endangered species protection standards, the applicant proposes to prohibit understory vegetation cutting between April 15 to November 1, in any year.

PUBLIC COMMENT

The applicant has provided the requisite public notices. Newspaper public notice was completed on October 21, 2016. The application was designated as complete on the Commission's website on January 5, 2017. The Commission's public comment period closed on January 24, 2017. No public comment was submitted to the Commission regarding this application.

CONDITIONS

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, prepared by Don Morrison, dated August 2016, and revised to December 29, 2016.
2. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.
3. Any proposed revegetation shall adhere to the "Vegetation" standards of the CMP. Where appropriate, the applicant is encouraged to utilize the following Pinelands native grasses for revegetation: Switch grass, Little bluestem and Broom-sedge.
4. Prior to any development, the applicant shall obtain any other necessary permits and approvals.
5. To address the presence of threatened and endangered species on the parcel, the applicant proposes that no cutting of vegetation shall occur between April 15 and November 1 of any year.

CONCLUSION

As the proposed development conforms to the standards set forth in N.J.A.C. 7:50-4.57, it is recommended that the Pinelands Commission **APPROVE** the proposed development subject to the above conditions.



Chris Christie
Governor

Kim Guadagno
Lt. Governor

State of New Jersey

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Application Specific Information: AppInfo@njpines.state.nj.us



Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

PINELANDS COMMISSION **APPEAL PROCEDURE**

The Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal any determination made by the Executive Director to the Commission in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted by someone meeting the definition of an interested party will be transmitted to the New Jersey Office of Administrative Law for a hearing. Any such appeal must be made in writing and received at the Commission office no later than 5:00 PM on February 13, 2017. The appeal must include the following information:

1. the name and address of the person requesting the appeal;
2. the application number;
3. the date on which the determination to be appealed was made;
4. a brief statement of the basis for the appeal; and
5. a certificate of service (a notarized statement) indicating that service of the notice has been made, by certified mail, on the clerk of the county, municipal planning board and environmental commission with jurisdiction over the property which is subject of this decision.

Within 15 days following receipt of a notice of valid appeal, the Executive Director shall initiate the procedures for assignment of an Administrative Law Judge to preside at the hearing pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and the procedures established by the Office of Administrative Law. The time, date and location of such hearing shall be designated by the Office of Administrative Law.



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Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

January 25, 2017

Susan Onorato, Administrator
Shamong Township
105 Willow Grove Road
Shamong, NJ 08088

Re: Application # 2016-0035.001
Block 18, Lot 19
Shamong Township

Dear Ms. Onorato:

The Commission staff has completed its review of this application for a cemetery on the above referenced 7.49 acre parcel. Enclosed is a copy of a Public Development Application Report. On behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its first meeting on or after February 14, 2017.

Any interested party may appeal this recommendation in accordance with the appeal procedure attached to this document. If no appeal is received, the Pinelands Commission may either approve the recommendation of the Executive Director or refer the application to the New Jersey Office of Administrative Law for a hearing.

Prior to any development, the applicant shall obtain any other necessary permits and approvals.

Sincerely,

Charles M. Horner, P.P.

Director of Regulatory Programs

Enc (2): Appeal Procedure
Public Comment Letter

- c: Secretary, Shamong Township Planning Board (via email)
- Shamong Township Construction Code Official (via email)
- Secretary, Burlington County Planning Board (via email)
- Michael Dupras (via email)
- Sylvia M. Williams (via email)





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Application Specific Information: AppInfo@njpines.state.nj.us

Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

PUBLIC DEVELOPMENT APPLICATION REPORT

January 25, 2017

Susan Onorato, Administrator
Shamong Township
105 Willow Grove Road
Shamong, NJ 08088

Application No.: 2016-0035.001
Block 18, Lot 19
Shamong Township

This application proposes a 6.26 acre cemetery on the above referenced 7.49 acre parcel in Shamong Township.

STANDARDS

The Commission staff has reviewed the proposed development for consistency with all standards of the Pinelands Comprehensive Management Plan (CMP). The following reviews the CMP standards that are relevant to this application:

Land Use (N.J.A.C. 7:50-5.27)

The parcel is located in the Pinelands Village of Indian Mills. The proposed cemetery is a permitted land use in a Pinelands Village.

Vegetation Management Standards (N.J.A.C. 7:50-6.23 & 6.26)

The proposed development will be located within an existing cleared agricultural field. The proposed clearing and soil disturbance is limited to that which is necessary to accommodate the proposed development.

The Landscaping and Revegetation guidelines of the CMP recommend the use of grasses that are tolerant of droughty, nutrient poor conditions. To stabilize the disturbed areas, the applicant proposes to utilize a seed mixture which meets that recommendation.

Stormwater Management Standards (N.J.A.C.7:50-6.84(a)6)

The proposed development is consistent with the CMP stormwater management standards. To meet the stormwater management standards, this application proposes the construction of two stormwater infiltration basins.

Cultural Resource Standards (N.J.A.C. 7:50-6.151)

A cultural resource survey was completed for this application. No cultural resources eligible for Pinelands designation were found within the project area.

PUBLIC COMMENT

The applicant has provided the requisite public notices. Notice to required land owners within 200 feet of the above referenced parcel was completed on November 18, 2016. Newspaper public notice was completed on November 21, 2016. The application was designated as complete on the Commission's website on December 29, 2016. The Commission's public comment period closed on January 24, 2017. The Commission received one written public comment (enclosed) regarding this application.

Public Comment One: The commenter expressed concern regarding the impacts the cemetery would have on the view from their home and on property values. The commenter also expressed concern regarding potential vandalism and other illicit activities at the proposed cemetery.

Staff Response: The Commission staff appreciates the commenter's interest in the Pinelands. The commenter expressed concerns regarding visual impact, the commenter's property value, vandalism and partying that may occur in the cemetery. The Commission does not have regulations applicable to the commenter's concerns. The municipality is proposing the cemetery. The commenter may wish to discuss these concerns with an appropriate municipal official.

CONDITIONS

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of four sheets, prepared by Consulting Engineer Services and dated as follows:

 Sheets 1 & 3 - dated 9/23/2016 and last revised 11/30/2016;
 Sheets 2 & 4 - dated 9/23/2016.
2. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.
3. Any proposed revegetation shall adhere to the "Vegetation" standards of the CMP. Where appropriate, the applicant is encouraged to utilize the following Pinelands native grasses for revegetation: Switch grass, Little bluestem and Broom-sedge.
4. Prior to any development, the applicant shall obtain any other necessary permits and approvals.

CONCLUSION

As the proposed development conforms to the standards set forth in N.J.A.C. 7:50-4.57, it is recommended that the Pinelands Commission **APPROVE** the proposed development subject to the above conditions.



Chris Christie
Governor

Kim Guadagno
Lt. Governor

State of New Jersey

THE PINELANDS COMMISSION

PO Box 359

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Application Specific Information: AppInfo@njpines.state.nj.us



Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

PINELANDS COMMISSION **APPEAL PROCEDURE**

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1. the name and address of the person requesting the appeal;
2. the application number;
3. the date on which the determination to be appealed was made;
4. a brief statement of the basis for the appeal; and
5. a certificate of service (a notarized statement) indicating that service of the notice has been made, by certified mail, on the clerk of the county, municipal planning board and environmental commission with jurisdiction over the property which is subject of this decision.

Within 15 days following receipt of a notice of valid appeal, the Executive Director shall initiate the procedures for assignment of an Administrative Law Judge to preside at the hearing pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and the procedures established by the Office of Administrative Law. The time, date and location of such hearing shall be designated by the Office of Administrative Law.

Sylvia M. Williams
72 Willow Grove Road
Shamong, NJ 08088
609-706-1666 (cell)
609-268-4485 (fax)

Pinelands Commission
PO Box 359
New Lisbon, NJ 08064

RE: Pinelands Application No. 2016-0036.001

To Whom It May Concern:

I received a letter post marked September 29, 2016, however due to work obligations, I was unable to pick up the certified, return receipt letter until yesterday, October 7, 2016. So I am responding as quickly as possible to the Pineslands Commission regarding Shamong Township's application for development of a cemetery on Block 18, Lot 10 on Willow Grove Road.

This lot and block is directly connected to my block and lot at 72 Willow Grove Road. Unfortunately, my home's "front" looks directly onto what would be a cemetery. It is the view from my kitchen windows, my two front porches and will run directly along my driveway.

I am adverse to the cemetery being my view and it further concerns me, that I have a very nice home, on an otherwise lovely lot and I am very concerned about what that cemetery will do to my property value should I wish to sell. I also have concerns regarding vandalism, which can often happen in cemetery's at night, as well as other party activities that may find a good place in a cemetery. I object to this use so close to my property. I would request a copy of the findings and conclusions of the executive director, and the process required for the right to appeal the determination.

There is a field across the street on Willow Grove Road that also is now owned by the township and at least the house across the road has a 5 acre buffer around the property, whereas my home/driveway has in some spots less than a 2 foot buffer to the cemetery.

Sincerely,

Sylvia M. Williams



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Chris Christie
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Kim Guadagno
 Lt. Governor

General Information: Info@njpines.state.nj.us
 Application Specific Information: AppInfo@njpines.state.nj.us

Sean W. Earlen
 Chairman

Nancy Wittenberg
 Executive Director

January 25, 2017

Nathan Davis, Jr.
 Egg Harbor Township Municipal Utilities Authority
 3515 Bargaintown Road
 Egg Harbor, NJ 08234

Re: Application # 2016-0147.001
 North Mount Airy Avenue & Allen Street
 Egg Harbor Township

Dear Mr. Davis:

The Commission staff has completed its review of this application for installation of 3,179 linear feet of sanitary sewer main. Enclosed is a copy of a Public Development Application Report. On behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its first meeting on or after February 14, 2017.

Any interested party may appeal this recommendation in accordance with the appeal procedure attached to this document. If no appeal is received, the Pinelands Commission may either approve the recommendation of the Executive Director or refer the application to the New Jersey Office of Administrative Law for a hearing.

Prior to any development, the applicant shall obtain any other necessary permits and approvals.

Sincerely,

Charles M. Horner, P.P.
 Director of Regulatory Programs

- Enc: Appeal Procedure
 c: Secretary, Egg Harbor Township Planning Board (via email)
 Egg Harbor Township Construction Code Official (via email)
 Egg Harbor Township Environmental Commission (via email)
 Atlantic County Department of Regional Planning and Development (via email)
 Vincent J. Polistina, PE, PP, CME (via email)





State of New Jersey
 THE PINELANDS COMMISSION
 PO Box 359
 NEW LISBON, NJ 08064
 (609) 894-7300
 www.nj.gov/pinelands



Chris Christie
 Governor

Kim Guadagno
 Lt. Governor

General Information: Info@njpines.state.nj.us
 Application Specific Information: AppInfo@njpines.state.nj.us

Sean W. Earlen
 Chairman

Nancy Wittenberg
 Executive Director

PUBLIC DEVELOPMENT APPLICATION REPORT

January 25, 2017

Nathan Davis, Jr.
 Egg Harbor Township Municipal Utilities Authority
 3515 Bargaintown Road
 Egg Harbor, NJ 08234

Application No.: 2016-0147.001
 North Mount Airy Avenue & Allen Street
 Egg Harbor Township

This application proposes installation of 3,179 linear feet of sanitary sewer main within the North Mount Airy Avenue and Allen Street rights-of-way in Egg Harbor Township.

STANDARDS

The Commission staff has reviewed the proposed development for consistency with all standards of the Pinelands Comprehensive Management Plan (CMP). The following reviews the CMP standards that are relevant to this application:

Land Use (N.J.A.C. 7:50-5.28)

The project is located in a Pinelands Regional Growth Area. The proposed sanitary sewer main is a permitted land use in a Regional Growth Area.

Vegetation Management Standards (N.J.A.C. 7:50-6.23 & 6.26)

The proposed development will be located under existing pavement. All clearing and soil disturbance is limited to that which is necessary to accommodate the proposed development.

The Landscaping and Revegetation guidelines of the CMP recommend the use of grasses that are tolerant of droughty, nutrient poor conditions. The applicant does not propose any revegetation.

PUBLIC COMMENT

The applicant has provided the requisite public notices. Newspaper public notice was completed on November 7, 2016. The application was designated as complete on the Commission’s website on December 15, 2016. The Commission’s public comment period closed on January 24, 2017. No public comment was submitted to the Commission regarding this application.

CONDITIONS

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of six sheets, prepared by Polistina Associates, LLC, and dated as follows:

Sheet 1 – November 2016

Sheets 2-6 – November 2, 2016

2. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.
3. Any proposed revegetation shall adhere to the "Vegetation" standards of the CMP. Where appropriate, the applicant is encouraged to utilize the following Pinelands native grasses for revegetation: Switch grass, Little bluestem and Broom-sedge.
4. Prior to any development, the applicant shall obtain any other necessary permits and approvals.

CONCLUSION

As the proposed development conforms to the standards set forth in N.J.A.C. 7:50-4.57, it is recommended that the Pinelands Commission **APPROVE** the proposed development subject to the above conditions.



Chris Christie
Governor

Kim Guadagno
Lt. Governor

State of New Jersey

THE PINELANDS COMMISSION

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NEW LISBON, NJ 08064

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General Information: Info@njpines.state.nj.us
Application Specific Information: AppInfo@njpines.state.nj.us



Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

PINELANDS COMMISSION **APPEAL PROCEDURE**

The Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal any determination made by the Executive Director to the Commission in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted by someone meeting the definition of an interested party will be transmitted to the New Jersey Office of Administrative Law for a hearing. Any such appeal must be made in writing to the Commission no later than 5:00 p.m. on February 13, 2017. The appeal must include the following information:

1. the name and address of the person requesting the appeal;
2. the application number;
3. the date on which the determination to be appealed was made;
4. a brief statement of the basis for the appeal; and
5. a certificate of service (a notarized statement) indicating that service of the notice has been made, by certified mail, on the clerk of the county, municipal planning board and environmental commission with jurisdiction over the property which is subject of this decision.

Within 15 days following receipt of a notice of valid appeal, the Executive Director shall initiate the procedures for assignment of an Administrative Law Judge to preside at the hearing pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and the procedures established by the Office of Administrative Law. The time, date and location of such hearing shall be designated by the Office of Administrative Law.



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-17- 03

TITLE: Approving With Conditions Pinelands Development Application Number 2012-0056.001

Commissioner McGinbey moves and Commissioner LoCalletra
seconds the motion that:

WHEREAS, on November 7, 2016, to the Appellate Division's decision in In re Petition of South Jersey Gas Company, 447 N.J. Super 459 (App. Div. 2016), remanded the following application to the Pinelands Commission to determine whether it conforms with the standards of the Pinelands Comprehensive Management Plan:

2012-0056.001	
Applicants:	South Jersey Gas Company
Municipalities:	City of Estell Manor Maurice River Township Upper Township
Date of Report:	February 17, 2017
Proposed Development:	Installation of approximately 15-miles of an approximately 22-mile, 24-inch high pressure natural gas pipeline.

WHEREAS, in response to the Appellate Division's remand, on December 9, 2016, the Pinelands Commission passed Pinelands Resolution No. PC4-16-42 setting forth the process it would utilize to review the application; and

WHEREAS, in accordance with Pinelands Resolution PC4-16-42, the Pinelands Commission has accepted verbal comments at its January 24, 2017 meeting and accepted written comments until February 8, 2017; and

WHEREAS, the Pinelands Commission has had the opportunity to review the public comments submitted, the record, and the Executive Director's Recommendation Report dated February 17, 2017; and

WHEREAS, the Pinelands Commission hereby finds that there is ample evidence in the record that demonstrates that the proposed development with the conditions recommended by the Executive Director conforms to the minimum standards of the Pinelands Comprehensive Management Plan; and

WHEREAS, the Pinelands Commission hereby finds that the proposed development with the conditions recommended by the Executive Director is consistent with the intent and objectives of the Pinelands Protection Act, N.J.S.A. 13:18A-1 et seq., and the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50; and

WHEREAS, pursuant to N.J.S.A. 13:18A-5h, no action authorized by the Commission shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period the Governor shall approve same, in which case the action shall become effective upon such approval.

NOW, THEREFORE BE IT RESOLVED that the Pinelands Commission Adopts the recommendation of the Executive Director including the conditions contained within the Executive Director's Recommendation Report dated February 17, 2017; and

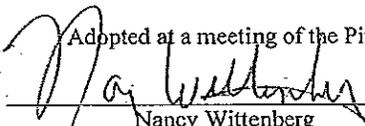
BE IT FURTHER RESOLVED that the Pinelands Commission hereby determines that the development proposed in Pinelands Development Application No. 2012-0056.001 is Consistent with the minimum standards of the Pinelands Comprehensive Management Plan.

Record of Commission Votes

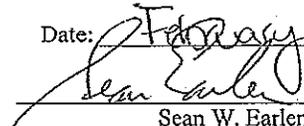
AYE	NAY	NP	A/R*	AYE	NAY	NP	A/R*	AYE	NAY	NP	A/R*
Ashmun		X		Galletta	X			McGlinchey	X		
Avery	X			Hays			A	Prickett		X	
Barr	X			Jannarone	X			Quinn	X		
Brown	X			Lloyd		X		Rohan Green		X	
Chila	X			Lohbauer		X		Earlen	X		

* A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission


 Nancy Wittenberg
 Executive Director

Date: February 24, 2017


 Sean W. Earlen
 Chairman



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Chris Christie
 Governor

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 Lt. Governor

General Information: Info@njpines.state.nj.us
 Application Specific Information: AppInfo@njpines.state.nj.us

Sean W. Earlen
 Chairman

Nancy Wittenberg
 Executive Director

EXECUTIVE DIRECTOR’S RECOMMENDATION REPORT

February 17, 2017

Application No.: 2012-0056.001

Location: City of Estell Manor
 Road Rights-of-Way
 Maurice River Township
 Road Rights-of-Way
 Upper Township
 Block 10, Lots 202 & 212
 Block 289, Lot 1
 Block, 306, Lot 13
 Block 307, Lot 1
 Block 308, Lot 1
 Block 350, Lot 12
 Block 382, Lot 21
 Block 415, Lot 1

This application proposes the installation of approximately 15-miles of an approximately 22-mile, 24-inch high pressure natural gas pipeline from just outside the intersection of Union Road and State Highway Route 49 in Maurice River Township, Cumberland County, through the City of Estell Manor, Atlantic County to Beesley’s Point in Upper Township, Cape May County. The 22-mile natural gas pipeline project is proposed to be installed within the Pinelands (15 miles within the State designated Pinelands Area and 7 miles solely within the federally designated Pinelands National Reserve). Only the 15 miles to be installed in the Pinelands Area is subject to the Pinelands Commission’s regulatory authority and, therefore, only this portion of the proposed pipeline project is discussed in this report.

The proposed natural gas pipeline will be located entirely within the following improved road rights-of-way: Union Road (CR 671), N.J. Route 49, Cedar Avenue, Mill Road/Reading Avenue (CR 557), N.J. Route 50, Mt. Pleasant-Tuckahoe Road (CR 664) and Marshall/New York Avenue. Specifically, 6 miles of the proposed gas pipeline will be located under existing road pavement. The remaining, approximately 9 miles of the proposed gas pipeline will be located in disturbed and maintained shoulder, within four feet of the edge of the existing road pavement. Within the Pinelands Area, the proposed natural gas pipeline will be located within a Pinelands Village (2.8 miles), a Rural Development Area (2.54 miles) and a Forest Area (9.51 miles).

As part of the proposed pipeline project, South Jersey Gas Company (SJG) is proposing to construct a natural gas interconnect station on Block 350, Lot 12. A remote operated valve station is also proposed to be constructed on Block 10, Lot 212, both in Upper Township.

The proposed natural gas pipeline is intended to provide the natural gas required to repower the BL England electrical generation plant (BLE plant), as well as providing supply feeder redundancy to address the vulnerability of the entire southernmost portion of SJG's service territory, which is currently served by a single feed.

BACKGROUND

In order to comply with air quality standards, in 2006, the New Jersey Department of Environmental Protection ("NJDEP") ordered that the B.L. England Electrical Generation plant at Beesleys Point, Upper Township, Cape May County ("BLE Plant or Plant") either cease operations or repower its existing coal-and oil-fired boilers with natural gas combustion turbine technology to significantly reduce air pollution from the BLE Plant¹. The BLE plant is located within the geographic boundaries of the Pinelands National Reserve, but outside of the geographic boundaries of the Pinelands Area. The BLE plant is currently owned and operated by RC Cape May Holdings, LLC and is located within SGJ's service area. SJG is a public utility subject to the regulatory and supervisory authority of Board of Public Utilities.

SJG initially filed a development application with the Pinelands Commission for the proposed pipeline project in 2012. On August 23, 2012, Commission staff responded to SJG's development application, initially concluding that, based upon the information provided by SJG, the proposed natural gas pipeline did not meet the Pinelands Comprehensive Management Plan (CMP) requirement that any public service infrastructure constructed in a Forest Area primarily serve only the needs of the Pinelands.

Due to this inconsistency, the Commission's staff and the BPU's staff developed a Memorandum of Agreement in accordance with the CMP (N.J.A.C. 7:50-4.52(c)2), which would have allowed construction of the proposed natural gas pipeline. The Commission considered a resolution authorizing its Executive Director to execute the Memorandum of Agreement at its meeting on January 10, 2014. The vote on the resolution was tied 7-7 and the Memorandum of Agreement, therefore, did not advance.

On May 21, 2015, SJG submitted a revised application for the proposed natural gas pipeline to the Commission. This revised application included new information, intended to demonstrate the project was primarily intended to serve only the needs of the Pinelands (N.J.A.C. 7:50-5.23(b)12). The revised application also proposed to change the location of the interconnect station to Block 350, Lot 12 in Upper Township, which is located in a Pinelands Village.

The new information submitted by SJG included a Pinelands Comprehensive Management Plan Compliance Statement dated May 21, 2015, a "Standard Gas Service Agreement" dated September 17, 2010 and a partially-redacted "Standard Gas Service Agreement Addendum" dated April 2013. The applicant supplemented the Compliance Statement with a letter dated July 31, 2015, in order to address questions posed by Commission staff.

¹ The Order was amended in 2012 to extend the compliance deadline until May 2016. The Order was again amended in 2014 to extend the compliance deadline to May 2017.

Because the applicant, SJG, is a private entity, review would have normally proceeded in accordance with the regulatory process for private development whereby the Executive Director determines whether the prerequisite local permitting approval raises substantial issues with respect to conformance with the CMP without a full vote of the Commission unless the Executive Director first found that the application raised substantial issues with respect to compliance with the CMP.²

However, in this matter, SJG petitioned the BPU pursuant to N.J.S.A 40:55D-19 to preempt municipal review of the project. Accordingly, the application was reviewed under the coordinated state agency permitting provisions of the CMP at N.J.A.C. 7:50-4.81 through 4.85, which required the Executive Director to issue a Certificate of Filing to the applicant for submission to the BPU.

On August 14, 2015, the Commission staff issued a Certificate of Filing (COF) for the revised application pursuant to N.J.A.C. 7:50-4.34 and 4.82. The COF noted that new information submitted with the revised application established that: 1) the applicant is contractually obligated to provide the capacity for 125,000 MCF per day of natural gas to the BLE plant for a minimum of 350 days per year for 20 years; 2) the 125,000 MCF, as confirmed by BPU, is the maximum flow capacity of the proposed 24-inch pipeline based upon a maximum pressure of 437 psig, and 3) although the natural gas pipeline is designed at a maximum allowable operating pressure of 700 psig, it will operate at a maximum pressure of 437 psig due to constraints in the applicant's gas transmission system. The COF further noted that "[b]ased on review of the application, including [the] newly submitted information, materials in the record and review of prior applications, the applicant has demonstrated that the proposed gas pipeline is consistent with the permitted use standards of the CMP. Specifically, the proposed pipeline is designed to transport gas to an existing facility, the BL England plant (built in 1963) that is located in the Pinelands."

By letter dated August 21, 2015, the Executive Director transmitted a copy of the COF to the BPU. In that letter, the Executive Director requested that BPU provide the Commission with copies of documents issued and filed with BPU as part of its N.J.S.A. 40:55D-19 (Municipal Land Use Law preemption) petition proceedings. BPU subsequently submitted its record to the Commission staff, including all public comments and documents submitted as part of its proceedings. After reviewing these materials, the Executive Director sent a letter to BPU, on December 14, 2015, detailing her review and stating that the finding in the COF remained valid.

The Sierra Club and Environment New Jersey subsequently filed an appeal of the Executive Director's December 14, 2015 letter to the BPU with the Appellate Division. These parties and the Pinelands Preservation Alliance also appealed the BPU's December 16, 2015 Order approving SJG's N.J.S.A. 40:55D-19 petition. These appeals were consolidated.

On November 7, 2016, the Appellate Division issued a published decision that essentially affirmed the BPU's December 14, 2015 Decision and Order³, but remanded the Executive

² If the Executive Director determines the local approval does not raise issue of CMP conformance, the approval may go into effect. However, if further review ("call-up") is necessary, an adjudicatory hearing is conducted by either the Executive Director or the Office of Administrative Law, followed by a vote of the Commission. Conversely, with regard to public development applications, which typically do not include a corresponding local permitting approval, the determination of CMP compliance is made by vote of the Commission.

³ The Appellate Division remanded the BPU's December 14, 2015 Order for entry of a modified order stating that the approval of SJG's N.J.S.A 40:55D-19 petition was conditioned upon the Commission's issuance of a final

Director's December 14, 2015 determination to the Commission for further proceedings in conformity with its opinion. Id. The court's decision afforded the Commission wide discretion in what procedures it chose to undertake such review provided the Commission afforded the public notice and the opportunity to be heard before it rendered its final decision. Id. at 479.

At its December 9, 2016 meeting, the Commission passed resolution PC4-16-42, detailing the review process that would be followed to implement the Appellate Division's remand instructions and review the SJG's natural gas pipeline application. Following that meeting, the Commission staff posted notice on its website that the public would have the opportunity to provide comment regarding the SJG application at its January 24, 2017 meeting and through submission of written comments until the close of business on that date.

On January 17, 2017, Pinelands Preservation Alliance filed an appeal from Resolution No. PC4-16-42 with the Appellate Division. Pinelands Preservation Alliance also filed a Motion to Stay Resolution No. PC4-16-42 and the Commission's review of the SJG application with the Pinelands Commission in accordance with R. 2:9-7. The Commission denied that request at a special meeting on January 23, 2017. Following the special meeting, on that same day, the Pinelands Preservation Alliance filed an Application for Permission to File an Emergent Motion for Stay with the Appellate Division. That application was denied. The appeal remains pending.

At its January 24, 2017 meeting, the Commission received public comment on the natural gas pipeline for over 7 hours, during which approximately 130 people spoke. Following that meeting, the Commission extended the deadline for submission of written comments until February 8, 2017. Notice of the extension of the deadline was posted on the Commission's website on January 26, 2017. Notice was also sent on that same date to the Burlington County Times, The Press of Atlantic City, the Asbury Park Press and the Courier Post and was published on January 31, January 30, January 29, and January 29, 2017, respectively.

STANDARDS

The Commission staff has reviewed the proposed development for consistency with all standards of the Pinelands Comprehensive Management Plan (CMP). The following reviews the CMP standards that are relevant to this application:

Land Use (N.J.A.C. 7:50-5.23(b) 12, 7:50-5.27(a)2 & 7:50-5.26(b)10)

As indicated in the Commission's August 14, 2015, Certificate of Filing for this application, the overall project consists of the installation of 22 miles of natural gas pipeline, of which 7 miles of the natural gas pipeline are proposed to be constructed in the Pinelands National Reserve and 15 miles are proposed to be constructed in the Pinelands Area. The Pinelands Commission exercises regulatory authority only in the Pinelands Area.

Within the Pinelands Area, the proposed natural gas pipeline will be located in Pinelands Village Management Area (2.8 miles), Rural Development Area (2.54 miles) and a Forest Area (9.51 miles).

determination finding that the proposed natural gas pipeline meets the minimum standards of the Pinelands CMP. The Appellate Division affirmed the Board's December 14, 2015 Decision and Order in all other respects. In the Matter of the Petition of South Jersey Gas Company, 447 N.J. Super. 459, 484 (App. Div. 2016).

A natural gas pipeline is defined in the CMP as “public service infrastructure.” Public service infrastructure is a permitted land use in Pinelands Villages (N.J.A.C. 7:50-5.27(a)2) and in Pinelands Rural Development Areas (N.J.A.C. 7-50-5.26 (b)10). Thus, the natural gas pipeline is a permitted use in these two management areas.

Public service infrastructure is only a permitted land use in a Forest Area if it is demonstrated that the proposed natural gas pipeline is intended to primarily serve only the needs of the “Pinelands” (N.J.A.C. 7:50-5.23(b)12). The CMP defines “Pinelands” as the combined geographic area formed by the state designated Pinelands Area and the federally designated Pinelands National Reserve (N.J.A.C. 7:50-2.11). Thus, the portion of the natural gas pipeline proposed to be installed in a Forest Area will only be a permitted use if it is intended to primarily serve only the needs of the Pinelands.

The applicant submitted a revised application on May 21, 2015 that included a Pinelands Comprehensive Management Plan Compliance Statement, a July 31, 2015 letter, a “Standard Gas Service Agreement” dated September 17, 2010 and a “Standard Gas Service Agreement Addendum” dated April 2013. The submitted information was intended to demonstrate that the proposed natural gas pipeline is intended to primarily serve only the needs of the “Pinelands.”

In particular, the submitted information states that, although the pipeline is designed at a maximum allowable operating pressure of 700 psig, the 24 inch pipeline will operate at a maximum pressure of 437 psig due to constraints in the applicant’s natural gas transmission system. The submitted information further establishes that the applicant is contractually obligated to provide the capacity for 125,000 MCF per day of natural gas to the existing BL England Plant electric generating facility for a minimum of 350 days per year for 20 years. Lastly, the applicant has established and the New Jersey Board of Public Utilities has confirmed that 125,000 MCF is the maximum flow capacity of the proposed 24 inch pipe based upon a maximum pressure of 437 psig. These representations were confirmed by the BPU in its December 16, 2015 Order.

Based on review of the application, including newly submitted information, materials in the record and review of prior applications, the applicant has demonstrated that the proposed gas pipeline is consistent with the permitted land use standards of the CMP. Specifically, the proposed pipeline is designed to transport gas to an existing facility, the BL England plant (built in 1963) that is located in the Pinelands.

Serving the needs of an existing Pinelands business alone satisfies the CMP’s Forest Area land use standards for public service infrastructure, based on existing Commission precedent. Thus, on this basis, because the proposed pipeline serves the BLE plant, an existing Pinelands business, more than 95% of the time, it primarily serves only the needs of the Pinelands.

Additionally, comments were received regarding whether the energy generated by the BLE plant will serve the residents of the Pinelands. While not necessary to demonstrate CMP conformance, this argument is discussed further below and further evidences conformance of the proposed natural gas pipeline with the standards of the Pinelands CMP.

Wetlands Protection Standards (N.J.A.C. 7:50-6.7 & 6.13)

The CMP prohibits most development in wetlands and requires a 300 foot buffer to wetlands unless it is demonstrated that a lesser buffer will not result in a significant adverse impact on the wetland. No development is proposed in wetlands.

Portions of the proposed development are located within 300 feet of wetlands. However, these segments will be constructed either under existing road pavement or under existing disturbed and maintained road shoulders. To the extent that the proposed natural gas pipeline will be installed under existing road pavement, it will not result in a significant adverse impact on wetlands.

With regard to the portion of the proposed natural gas pipeline that will be located under existing disturbed and maintained road shoulders, those portions will be located a maximum of four feet from the edge of existing road pavement. The CMP (N.J.A.C. 7:50-6.13(a)) permits the installation of public service infrastructure in the required buffer to wetlands provided certain conditions are met. The information submitted by the applicant and verified by the Commission staff demonstrates compliance with these conditions.

The applicant has demonstrated that a proposed natural gas interconnect station located approximately 110 feet from a wetland located on the opposite side of Mt. Pleasant-Tuckahoe Road and a proposed natural gas remote operating valve station located along State Highway 49, approximately 200 feet from a wetland, will not result in a significant adverse impact on wetlands.

Vegetation Management Standards (N.J.A.C. 7:50-6.23 & 6.26)

The proposed gas pipeline will be located under existing road pavement and under existing disturbed and maintained road shoulders. The proposed clearing and soil disturbance is limited to that which is necessary to accommodate the proposed development.

The Landscaping and Revegetation guidelines of the CMP recommend the use of grasses that are tolerant of droughty, nutrient poor conditions. To stabilize the disturbed areas associated with the natural gas interconnect station and the remote operating valve station, the applicant proposes to utilize a seed mixture which meets that recommendation.

Threatened and Endangered Species Protection Standards (N.J.A.C. 7:50-6.27 & 6.33)

The applicant completed a habitat suitability assessment and threatened and endangered (T&E) species surveys for Pinelands designated T&E animals and plants. No T&E animal species were identified within the immediate vicinity of the proposed development. The survey identified a population of Pine Barren boneset (*Eupatorium resinosum*), a Pinelands endangered plant species, located adjacent to the proposed development. The plant population is located approximately 100 feet from the edge of existing road pavement. In this area, the proposed natural gas pipeline will be located under the existing disturbed and maintained road shoulder. Based upon the location of the proposed natural gas pipeline under the existing disturbed and maintained road shoulder, the proposed development will not result in an irreversible, adverse impact on the survival of the local population of this T&E plant species.

Stormwater Management Standards (N.J.A.C.7:50-6.84(a)6)

The proposed natural gas pipeline will be installed under existing road pavement and under

existing disturbed and maintained road shoulders. No stormwater management facilities are required for the installation of underground utilities. At the site of the proposed natural gas interconnect station, the application proposes the construction of a stormwater infiltration area. The Commission staff reviewed the plans and calculations submitted for the proposed stormwater management facility and determined that it is consistent with the CMP stormwater management standards.

Cultural Resource Standards (N.J.A.C. 7:50-6.151)

Cultural resource surveys were completed for this application. The submitted survey concluded that known significant historic resources exists within the project area, but that the proposed development will not impact these resources. Commission staff reviewed the survey and concurred with its findings. The proposed development is consistent with the CMP cultural resource standards.

PUBLIC COMMENT

As noted above, the Commission provided an opportunity for the public to provide comment in person at its January 24, 2017 meeting and, initially, through the submission of written comments until close of business of that same date. Notice of these public comment opportunities was provided on the Commission's website on December 9, 2017.

In order to accommodate the anticipated public interest in the application, the Commission sought an alternative venue as the normal meeting space within the Richard J. Sullivan Center at the Commission's offices in New Lisbon accommodates approximately 60 people when set up in its normal meeting configuration. The Commission made arrangements to hold the meeting at the Ocean Acres Community Center in Stafford Township, which the Commission was told accommodated approximately 277 people. The arrangement with the Community Center was cancelled due to conflicts with the bus schedule of the neighboring school. The Commission then made arrangements to hold the meeting at the St Ann's Parish Center in Browns Mills, with a capacity of 260 people. Based on the parameters of holding the meeting during the day, having adequate space and parking, cost and ideally being located in the Pinelands, this was the largest venue the Commission was able to obtain for the meeting⁴. The Commission believed it would accommodate the expected attendance based on attendance at past proceedings held regarding the proposed Memorandum of Agreement⁵.

At its January 24, 2017 meeting, the Commission received public comment from approximately 130 individuals. Attendance initially exceeded capacity, and Commission staff collected a list of those waiting to enter, and allowed those people to enter as others left. All those wishing to attend the meeting were able to enter by approximately 12:30 P.M., and the Commission continued the meeting until past 5:00 P.M. to give all those who wished to speak an opportunity. Following the meeting, the Commission also extended the written comment period until February 8, 2017, in order to afford members of the public, who could not wait or decided not to wait to provide comment at the January 24, 2017 meeting, an opportunity to submit their comments. Notice of the extension of the deadline for submission of written comments was posted on the Commission's website on January 26, 2017 and also sent notice on that date to the

⁴ Although not required, the Commission generally endeavors to hold its meetings in the Pinelands.

⁵ The Commission did receive one email stating the venue capacity was insufficient, but that commenter mistakenly believed the venue's capacity was only 120 people.

following newspapers: the Burlington County Times, The Press of Atlantic City, the Asbury Park Press and the Courier Post.

Ultimately, the Commission received a total of 6,055 written comments, the vast majority of which, 4,524, were received by January 24, 2017. An additional, 1,531 written comments were received during the extension period.

As is evident from the transcript of the Commission's January 24, 2017 meeting and the written comments the Commission received, commenters cited a variety of reasons for supporting or for opposing SJG's proposed natural gas pipeline. Because the Pinelands CMP does not contain standards regarding some of these comments (such as job creation benefits, fracking, climate change, alternative energy sources, cost, etc.), they were not germane to the Commission's decision as to whether the proposed natural gas pipeline is consistent with its standards.

A number of other points were raised by commenters that do bear upon the Commission's decision in this matter. These generally relate to the consistency of the proposed natural gas pipeline with the standards and objectives of the Pinelands CMP and the Pinelands Protection Act; the need for the BLE plant; whether the proposed natural gas pipeline primarily serves only the needs of the Pinelands; past Commission precedent concerning the installation of natural gas infrastructure in the Pinelands Area, generally and a Forest Area, specifically; and potential environmental impacts as a result of construction and operation of the proposed natural gas pipeline. To more fully inform the Commission's decision making process, the Executive Director has focused the response to public comment on these issues that directly pertain to the conformance of the proposed natural gas pipeline with the standards of the Pinelands CMP.

I. Pipelines are not Permitted under the CMP

Comment

Commenters stated that the Pinelands CMP forbids pipelines. Others felt that the proposed project violates the Pinelands CMP. Many commenters felt there should be no pipelines in the Pinelands. It was stated that the Pinelands CMP must be implemented consistently and in a manner that respects the underlying goals and intention of the Act and the Pinelands CMP. Commenters opined that approving the application would compromise the integrity of the Pinelands CMP.

Comment was submitted noting that the Pinelands Protection Act was created in an attempt to balance economic and environmental interests.

Commenters noted that the proposed project would serve to encourage future development contrary to the vision the CMP sets out for growth and conservation in the Pinelands.

Response:

The Pinelands CMP does not prohibit public service infrastructure, such as natural gas pipelines, in the Pinelands Area nor does such infrastructure, in every instance, violate the CMP. In the Agricultural Production Areas, Rural Development Areas, Pinelands Villages and Towns, and Regional Growth Areas, public service infrastructure is permitted. In the remaining areas,

Special Agriculture Production Areas, Preservation Area and Forest Areas, public service infrastructure is permitted but only under certain conditions. (N.J.A.C. 7:50-5.21 et seq)

Review of SJG's application for the proposed natural gas pipeline was conducted in a manner consistent with the reviews conducted for all applications submitted to the Commission. Staff review was thorough and addressed all relevant CMP requirements, as discussed in greater detail elsewhere in the report. The applicant submitted sufficient information in its revised development application to demonstrate compliance with the relevant requirements of the Pinelands CMP.

With regard to the vision of the CMP the original CMP included a discussion regarding energy needs. The CMP notes that the New Jersey Department of Energy (now the BPU) was responsible for developing a state energy master plan. The CMP discussion says that State agencies are to give proper consideration in their administrative action to the siting policies in the master plan. The siting policy statement with regard to the Pinelands was included in the DEP Coastal Management Program.

These siting policies address pipeline corridors for landing oil; prohibiting them in certain areas and discouraging their siting in other areas of the Pinelands. Natural gas pipelines are discouraged in the "critical area" unless it can be shown that the activity will meet non-degradation water quality standards and cause no long-term adverse environmental impacts. The plan does not address areas outside the critical area with regard to natural gas pipelines.

The original CMP and the current version include different standards regarding natural gas pipelines depending on the Pinelands management area. In the most protected Preservation Area, public service infrastructure is a permitted use if necessary to serve only the needs of the Preservation Area District uses. In the Forests Area, permitted use for public service infrastructure had a different standard: necessary to serve the needs of the Pinelands. Thus the CMP as originally drafted included a less restrictive standard for the Forest Area.

The discussion in the 1980 CMP regarding this standard says "Land uses must be allocated with discretion within the Forest Areas to protect the valuable resources they contain. Forestry, agriculture, horticulture, agricultural employee housing, low intensity and selective intensive recreational uses, and public service infrastructure to serve the region's needs are permitted uses".

The proposed project is in accord with the original vision of the CMP.

The Pinelands Protection Act was adopted to address concerns regarding the impacts associated with the pace of random and uncoordinated development that was occurring at the time. N.J.S.A. 13:18A-2. Additionally, the Legislature was concerned that there was a portion of the pinelands area, the preservation area that was especially vulnerable to environmental degradation that would be occasioned by its improper development or use. *Id.* The Legislature noted that more stringent restrictions on development and use of land should be utilized in the preservation area and that the public acquisition of land or interests should be concentrated therein. *Id.* The Pinelands Protection Act, thus, divided the pinelands area in to two different sections, the preservation area and the protection area⁶, and adopted different goals for each. N.J.S.A. 13:18A-9. In this respect, the Pinelands Protection Act attempts to balance economic and environmental interests. The goals for the Pinelands CMP with respect to the

⁶ The Pinelands Protection Act at N.J.S.A. 13:18A-3 defines the "preservation area" as the portion of the pinelands area designated by subsection b. of section 10 (N.J.S.A. 13:18A-11.b.) of this act and defines "protection area" as that portion of the pinelands area not included within the preservation area.

preservation area are to encourage preservation of extensive and contiguous land in its natural state and prohibit construction and development which is incompatible with the preservation of this unique area. Id. In contrast, the goals for the Pinelands CMP with respect to the protection area discourage piecemeal and scattered development and encourage appropriate patterns or compatible residential, commercial and industrial development, in or adjacent to areas already utilized for such purposes, in order to accommodate regional growth influence in an orderly way while protecting the Pinelands environment from individual and cumulative adverse impacts.

II. Staff's Prior Determination Should Not Be Reversed

Comment:

Commenters noted that in 2014 Commission staff determined that the application was inconsistent with one provision of the CMP. Commenters stated that this decision should not have been changed. Commenters stated that there was no basis to change the prior determination.

Response:

Staff's initial finding of inconsistency was based on the lack of documentation regarding the details of the gas service to be provided to the BLE plant. At that time, staff was not provided with documentation on the amount of gas or the number of days the gas would be provided to the BLE plant. When the application was resubmitted in May 2015, it included the Standard Gas Service Agreement – Firm Electric Service (FES) and Standard Gas Service Agreement Addendum between SJG and RC Cape May Holdings LLC. RC Cape May owns the BLE plant. Without the details on gas supply, staff felt there was insufficient information to demonstrate the projects compliance with the CMP requirement that the portion of the proposed natural gas pipeline proposed to be installed in a Forest Area primarily served only the needs of the Pinelands. This information was needed to confirm that the B.L. England facility would be the primary user of the gas being transported in the proposed pipeline.

With the contractual details on the gas supply included in the FES and FES Addendum, staff had new information that allowed for a fact-based, comprehensive finding to address the CMP requirement that the project primarily serve only the needs of the Pinelands. This information resulted in the revised determination.

III. Need for the B.L. England Plant

Comment:

Comments included general statements that the BLE plant is no longer needed as a source of electric generation in New Jersey. Reasons expressed included: energy demand has decreased, PJM will make sure there is supply by bringing other suppliers in and the BLE plant is not needed now and will not be needed in the future.

More specific comments with regard to the need for the BLE plant state that PJM has made findings that the facility is not necessary to ensure reliable electrical service to Pinelands customers or anyone else. Further, reports and statement were submitted containing analyses stating that the natural gas pipeline is sized bigger than what is needed to power the BLE plant

and that the plant cannot even use the quantity of gas that will be provided, thus the need for the plant is called into question.

Commenters explained that the BLE plant is used as a local source of electricity when there are interruptions in service from upstream transmission. Comments were made stating that the plant is needed when there are extreme weather events in other areas that disrupt service. Commenters stated that the BLE plant is a source of localized electric generation that is essential to the area.

Comments stated that locally generated electricity reduces residents' vulnerability to outages and disruptions in service during weather occurrences and helps to stabilize the grid during peak periods.

Response:

The need for the BLE plant has been substantiated by the BPU in its Order dated December 16, 2015 in which it is stated that “the Board FINDS there is a need for capacity in the area of B.L. England. The facility is a significant source of base load power generation in Southern New Jersey.” The Order notes that “Under the 2016 PJM RTEP summer pool flow load model, after Oyster Creek retires the repowered plant will be the only significant base load power generation in the coastal area of Southern New Jersey and contribute to reducing congestion and transmission constraints and overloads in that area.” Further, the Board Order notes that the Company has demonstrated that the pipeline is necessary to repower B.L. England to alleviate electric transmission constraints that would arise if the plant were to be retired.

The BPU in its July 23, 2015 Order stated that “the failure of New Jersey to build new generation or repower existing sites will result in the need for additional distribution and transmission facilities to meet the energy needs of New Jersey. In that same Order the BPU notes that “...the Legislature has set forth policies that manifest the State’s strong support for in-state generation to meet New Jersey’s electricity needs: ...the construction of new, efficient generation must be fostered by State policy that ensures sufficient generation is available to the region, and thus the users in the State in a timely and orderly manner”.

IV. Permitted Use Standard – Does The Project Primarily Serve The Needs Of The Pinelands.

Comment:

In accordance with the CMP at N.J.A.C. 7:50-5.23 (b) 12 “Public service infrastructure intended to primarily serve only the needs of the Pinelands “ is a permitted use in a Forest Area. Comments on this matter covered several issues.

Commenters stated that the BLE plant is not in the Pinelands and therefore the pipeline does not serve only the needs of the Pinelands.

Other commenters stated that the pipeline will serve the BLE plant, a SJ Gas customer located in the Pinelands.

Response:

The BLE plant is located in the Pinelands National Reserve. The CMP at N.J.A.C. 7:50-2.11 defines Pinelands to include both the geographic boundaries of the Pinelands Area and the Pinelands National Reserve.

Comment:

Comments were submitted stating that to meet the standard of primarily serves only the needs of the Pinelands, the public service infrastructure must be needed for the towns or villages within the Pinelands or must be for use by the residents of the Pinelands or must provide gas service to residences or businesses along its route.

Response:

These standards are not included in the CMP. The CMP only states that the public service infrastructure is to primarily serve only the needs of the Pinelands.

Comment:

Comments regarding whether the BLE plant primarily serves only the needs of the Pinelands stated that: the facility primarily serves demand outside the Pinelands; the facility serves other parts of the state; electricity does not go from the facility to customers, it goes to the grid; the electric power generated is not dedicated to the Pinelands, it is part of an auction and regional grid transmission; the pipeline is designed to carry more gas than the BLE plant can use and more than SJ Gas has contracted to supply; and the Standard Gas Service Agreement – Firm Electric Service (FES) is not a firm agreement and therefore SJ Gas intends to supply its existing or new customers and not the facility. Commenters stated that the majority to SJ Gas customers are outside the Pinelands.

Other commenters state that it is clear that the primary user of the pipeline is the BLE plant. Commenters point to the 2013 Firm Electric Service (FES) agreement between SJ Gas and RC Cape May Holdings, L.L.C. as it documents the amount of time the pipeline will be used to serve the BLE plant. A commenter stated that the FES agreement obligates SJG to serve the BLE plant for the next 20 years. Another comment was made noting that the full amount of the pipeline's capacity will be dedicated to a Pinelands use.

Response:

In its Certificate of Filing issued on August 14, 2015, the Commission found that the applicant demonstrated that the proposed natural gas pipeline is consistent with the permitted use standards of the CMP. Specifically, the proposed pipeline is designed to transport gas to an existing facility, the BLE plant (built in 1963) that is located in the Pinelands. The comments submitted raise issues with this finding and also raise issues regarding the end users of the electricity generated by the plant. While the Certificate of Filing identifies that the pipeline serves BLE plant, an electric generating facility located in the Pinelands and as such complies with the permitted use standard, the use of the electricity generated at the BLE plant has now also been included as part of the findings on CMP compliance as it was raised by commenters.

The BPU in its Order dated April 29, 2013 confirmed that the FES agreement does commit SJG to provide natural gas to the BLE plant on all but 15 days each year. Thus, the BLE plant is a

customer, located in the Pinelands, which will use all of the natural gas carried by the proposed pipeline, with the exception of 15 days, at most, out of the year. Statements that this agreement does not commit to provide a firm source of natural gas to the BLE plant are without basis.

Additionally, in its filing with BPU, SJG has provided details regarding the capacity of the pipeline and the amount of gas that will be delivered to the BLE plant. They also provided details on how, even if there is a need to interrupt service to the BLE plant due to extreme weather conditions, this does not mean that there is more gas in the pipeline that would be available for use by other customers. During an interruption in service, it is necessary to maintain adequate pressure in the line. There is no excess gas that could be provided to other customers. The terms of the FES agreement require SJG to provide firm, uninterrupted natural gas service to the BLE plant at least 350 days per year. All the natural gas in the proposed pipeline will be used by the BLE plant.

In its April 29, 2013 Order, the BPU approved the agreement with the provision that SJ Gas would, during the peak winter season, have the option to interrupt service to enforce strict load control and balance requirements. This would not allow for the gas to go to other customers. It ensures that existing customers will be served.

Thus, the proposed pipeline would primarily serve BLE, an existing Pinelands business.

With regard to the comment that the electricity generated by BLE plant does not serve residents of the Pinelands, but instead provides electricity to the Regional Grid, the Board Order dated July 23, 2015 states that “Based on the way that energy flows in the transmission system –to the nearest consumer unless redirected—energy produced by B.L. England would ordinarily go through the grid to customers of ACE.” (Atlantic City Electric)

ACE serves customers in 39 of the 53 Pinelands municipalities. Based on population numbers alone (no businesses), this customer base represents 69% of the population of the Pinelands. Thus, with regard to electric generation, the BLE plant primarily serves the needs of the Pinelands.

In addition, there are other benefits to the Pinelands as a result of the repowering. These benefits were identified and documented as part of the response to specific submitted comments discussed elsewhere in this document. There will be air quality benefits to local residents living near the BLE plant as the plant ceases burning coal and relies on compressed natural gas. Comments submitted talked about the need to clean “soot” off houses and cars. Regionally, including the Pinelands, there will be overall air quality improvements that will move the state toward meeting the health based national Ambient Air Quality Standards. This was documented by air quality modeling done by the Department of Environmental Protection.

Benefits to the Pinelands will also occur should there be a disruption of gas service that requires the use of the line to serve customers in Atlantic and Cape May County. This will include approximately 20,000 Pinelands residents encompassing 60% of SJG’s service area in the Pinelands.

V. Precedent

Comment:

Commenters stated that if this application is approved it will lead to more pipeline applications being submitted to and ultimately approved by the Commission. Comments were made expressing concern that the pipeline would lead to more development in the Forest Area. Some commenters, who were under the impression that no pipelines had been constructed in the Forest Area before, stated that an approval would set a precedent and would open the door for future exceptions and development. Other commenters stated that an approval would set the precedent and make it difficult for successors to deny similar applications. Commenters stated that approval would require the interpretation of the regulations in a way that is not supported by past interpretations.

Response:

Recognizing the concern about future development, SJG requested and the BPU included in its July 23, 2015 Board Order the commitment “that unless ordered to do so by this Board, or other governmental authority having jurisdiction, the Company will not connect any new customer to that portion of the pipeline within the area designated as Forest Area pursuant to the CMP.” The Board Order states “This language would serve to curtail development in the area around the Pipeline.”

Further, the CMP limitations on development in the Forest Area prescribe the type and intensity of development allowed. The presence of infrastructure of any kind does not alter the requirements of the CMP.

Some of the concern regarding the precedent of this pipeline to prompt the development of future pipelines seems based on a presumption that there have been no pipelines previously approved in the Forest Areas of the Pinelands. In fact, SJG alone has approximately 100 miles of pipeline in the Forest Areas. These projects were approved by the Commission from 1986 to 2005. Thus, there is no basis to assume that approval of this project will lead to more requests to develop natural gas infrastructure.

Comments stating that the approval would require an interpretation of the regulations in a way that is not supported by past interpretations are incorrect. One Commenter included past Commission actions to justify this claim. Citing a 1981 Letter of Interpretation issued by the Commission, the commenter states that an application for electrical transmission lines in the Forest Area was found consistent with the CMP because 82% of the electrical service area was in the Pinelands and the line would serve present and future needs within the region. However, this does not include the entirety of the Letter of Interpretation which notes that “Because of the interrelated nature of transmission of electricity it is not possible to separate the electricity which will serve new and future development in the Pinelands from electricity which will serve new and future development outside the Pinelands”. The interpretation concludes by stating that “as the electric service cannot distinguish between user within and outside the Pinelands, the proposed transmission line is necessary to serve the needs of the Pinelands.” So even though the applicant did state that 82% of the electrical service area was in the Pinelands, the Commission noted that was not something that could be documented or proven. The consistency with the CMP was based on the fact that the source of electric generation was located near the Pinelands.

This same finding occurs with a Certificate of filing issued in 1990 for a gas main serving an electric generating facility located outside the Pinelands. Again the commenter states that the

Commission relied on the electric service area as the rationale for finding consistency with the standard primarily serves only the needs of the Pinelands standard. In 1990, the Commission did approve a 20" natural gas pipeline within the right-of way of County Route 671 (Union Road). The gas main is located in a Pinelands Forest Area. The natural gas pipeline was proposed to provide natural gas to a 75 MW combustion turbine generating facility located outside the Pinelands. The Certificate of Filing issued in June 12, 1990 states that the 75 MW generating facility located outside the Pinelands Area will provide power to a transmission system grid that provides service to the Pinelands. Again, the Commission did not require any analysis or proof of where the electricity was actually used.

In its August 14, 2015 Certificate of Filing, the finding of consistency with the permitted use standard was focused on the fact that the gas main is intended to serve an existing Pinelands end user. Based on comments submitted, the finding of consistency is strengthened by the fact that proximity of electric generation has justified compliance with this standard since 1981.

Moreover, Certificates of Filing have been issued for natural gas infrastructure in the Forest Areas of the Pinelands to generally serve the residents and businesses of the Pinelands. In these instances, it is based on the fact that the public service infrastructure serves the residents or businesses and thus primarily serves the needs of the Pinelands. There is no discussion of the number of homes or size or type of the businesses.

Indeed, the Commission has explicitly found that service to a single Pinelands business primarily serves the needs of the Pinelands. In April 2011, the Commission issued a Certificate of Filing for the New Lisbon Development Center the proposed natural gas pipeline was necessary to serve one end user as is the case with BLE plant. In the instance of the New Lisbon Development Center, the natural gas pipeline ran through the Preservation and Forest areas within the road rights-of-way. As the proposed pipeline was intended to serve the New Lisbon Development Center, it was found to serve the needs of the Preservation Area and as some of the route travelled through Forest Area the natural gas pipeline was similarly found to serve the needs of the Pinelands.

There is ample precedent for findings of consistency with the standard primarily serves only the needs of the Pinelands standard for individual end-users, including residents and businesses and for electric generating facilities.

VI. Construction Impacts

Comment:

Commenters stated that the construction would cause harm, disrupt pristine habitat, destroy rare habitat, and would use heavy equipment that will cause damage. Some stated that there would be forest fragmentation. One commenter said that FERC requires a 25 feet of clearance on both sides of the pipeline that would destroy wildlife.

Commenters expressed concern with the Horizontal Hydraulic Drilling (HDD) used to install pipelines in sensitive areas. Concerns include accidents during the process and the use of drilling chemicals (bentonite), dewatering impacts, impacts to stream hydrology and wetlands.

Commenters stated that the technology for safety and prudently laying pipeline across rivers and swamps has been known and in use for years.

Commenters stated that there will be no clearing of forest and no 100 foot disturbances anywhere along the proposed route.

Commenters stated that the pipeline will be along an already cleared roadway and buried beneath the ground.

Commenters stated that the pipeline will carry gas, not a liquid so there will be no issues with seepages or drainage.

Comments were submitted stating that Horizontal Directional Drilling (HDD) is recognized by Federal and State agencies, has been an accepted industry practice for decades. There is no evidence that HDDs pose any threat to ground water quality.

Commenters stated that in the case of another pipeline application, the NJDEP has asked for information regarding air quality impacts, threatened and endangered species, contaminated sites, unexploded ordnances, HDD, and wetlands impacts, and suggested that such information should be part of the SJG application.

A commenter stated that construction dewatering was not addressed and that permits must be obtained from NJDEP.

Response:

Staff review of the proposed project included all aspects and potential impacts of construction. Wetland locations were verified by Commission staff and it was determined that the project was consistent with all wetlands standards. Stormwater management plans and calculations were submitted, reviewed and determined to be consistent with the CMP. The CMP requirements ensure that stormwater is properly managed. As the stormwater must be contained on site, it will not impact the K/C aquifer or nearby wetlands.

Further, the project was also reviewed by the NJDEP, which issued air quality control and various other environmental permits. The following NJDEP programs reviewed this project: Division of Land Use Regulation, Division of Air Quality, Division of Water Quality and the Natural and Historic Resources Program. The NJDEP also facilitated the review conducted by the Army Corps of Engineers, which included federal reviews done by the United States Department of the Interior/National Parks Service and the U.S. Fish and Wildlife Service.

The NJDEP requires HDD beneath any wetlands or stream crossings to avoid adverse land use impacts. This is the preferred method of installing pipe. HDD has been in use for over 50 years to install gas mains, water mains, electric lines and other facilities. The General Permit 2 pertains to Underground Utility Lines. The Department has the authority to adopt Freshwater Wetland General Permits when, after conduct an environmental analysis, the Department determine that the regulated activities will cause only minimal adverse environmental impacts when performed separately, will have only minimal cumulative adverse impacts on the environment, and will cause only minor impacts on freshwater wetlands and State open waters. (See N.J.A.C. 7:7A-4.1). The GP 2 provides that Department approval is not required for a

utility line that is jacked or directional drilled underground, if there is no surface disturbance of any freshwater wetlands, transition areas, or State open waters and there is no draining or dewatering of freshwater wetlands. Otherwise, the GP12 requires a streamlined review. See N.J.A.C. 7:7A-5.2. The DEPs adoption on of the GP2 evidences the DEP's determination that jacking or directional drilling underground for utility lines has a de minimis impact on the environment. There is also a Nationwide General Permit 12 for Utility Line Activities. This Nationwide General Permit states that directional drilling is the preferred method of installation when possible, especially in tidal waters.

Additionally, the proposed pipeline project does not require construction dewatering permits. The need for these permits was addressed during the review of the project by Commission staff and NJDEP staff and they was determined that no NJPDES Construction Dewatering Permit was required for the subject project.

NJDEP guidance states that "For temporary ground and surface water control (dewatering) diversions in excess of 100,000 gallons of water per day, the project owner must obtain a Dewatering Allocation Permit, or Dewatering Permit-by-Rule or Short Term Permit-by-Rule depending on the duration of the diversion and the method employed.

The BL England project will be below the 100,000 GDP threshold.

To further ensure there will be no impacts during construction, the applicant has agreed to a number of conditions. These conditions include having: an independent biologist, qualified in the identification of threatened and endangered plants and animals and their habitats, present during such times and locations where clearing and/or construction activities are being undertaken proximate to habitat identified as suitable for threatened and endangered species; an HDD Break Out Mitigation Contingency Plan; appropriate measures, such as installation of silt fences, hay bales, inflatable berms, etc. during HDDs to prevent the discharge of bentonite to wetlands, streams or any other water body or beyond the immediate confines of the drill site; qualified personnel trained in HDD on the site to monitor drill hole pressures and to walk the area in which the HDD is being conducted; an independent engineer on site during all phases of HDD and other drilling activities to ensure all such activities are conducted in accordance with all approved plans.

As noted above and throughout this report, the analysis of potential environmental impacts has been comprehensive, covering all requirements of the CMP.

VII. Threatened and Endangered Species/Ecological Impacts

Comment:

Commenters stated that the project would impact threatened and endangered species habitat and ecological resources.

Comments were submitted regarding specific species and suggesting that the Commission is intentionally not addressing certain species. Comments were submitted noting that the field surveys done were limited to locations of previously documented species occurrences and were not comprehensive in nature.

Comments were addressed pointing out that certain plant species were not discussed in the Threatened and Endangered Species Habitat Suitability Assessment and Survey Report.

One comment stated that FERC required a permanent 50 foot buffer along every pipeline for inspection and maintenance. This would result in 25 feet of wildlife destruction on each side of the proposed pipeline.

Response:

Three separate Threatened and Endangered Species reports were submitted, reviewed by Commission staff and determined to be consistent with the CMP. No threatened or endangered plant or animal species or suitable threatened and endangered animal habitats were found in the proposed development areas. Commission staff conducted independent field investigations and, based on that field work, concurred with the findings in the submitted reports (Threatened and Endangered Species Habitat Suitability Assessment and Survey Reports prepared by Trident Environmental Consultants). Staff confirmed that, because so much of the route is currently paved, mowed and cleared, the only areas where there was potential habitat were the proposed staging areas and the interconnect station, and staff concurred with the findings of Trident Environmental Consultants on those areas.

With regard to the comprehensiveness of the Commission review of threatened and endangered species, there is no basis for suggesting that certain species are not part of the Commission review. The CMP references the state list and all such plants are part of the Commission review. Further, the Commission includes additional plant species that are not on the state list. All plant species included in the state and the Commission regulation are protected.

Additionally, the Commission has included a condition that the applicant have at least one independent biologist, qualified in the identification of threatened and endangered plants and animals and their habitats, as delineated at N.J.A.C. 7:50-6.27 and 6.33, present during such times and locations where clearing and/or construction activities are being undertaken proximate to habitat identified as suitable for threatened and endangered species. The biologist(s) shall ensure that clearing and/or construction techniques being utilized do not adversely impact any habitat critical to the survival of any threatened and/or endangered species of animals or plants and that any such plants and animals discovered during construction are protected. This will ensure that any species that may have not been identified previously are protected.

The impacts of any FERC requirements are not relevant to this project as FERC only has jurisdiction over interstate pipelines, not intrastate pipelines.

There will be no clearing or disturbance beyond the paved and mowed grassed shoulder of the roads. This project is not impacting undisturbed areas including the forest edge; there will be no tree clearing or impact to the forest canopy.

VIII. Pipeline Safety: Leaks/Explosion/Fire

Comment:

Commenters expressed concern regarding the potential for the pipeline to leak. Commenters stated that pipelines are vulnerable to leaks and failure. Some commenters stated that all pipelines leak.

It was apparent that some comments were based on the premise that the pipeline in question would be carrying crude oil or some other liquid fuel rather than compressed natural gas.

Commenters expressed concern with the route of the pipeline as it travels along populated roads and under Mill Creek, Tuckahoe River and Cumberland pond. Danger to residences and businesses was raised.

Commenters stated concern about possible explosion or fire. Some stated that the Pinelands is a fire prone ecosystem.

Commenters stated that steel pipes are the securest means for transporting compressed natural gas.

Commenter stated that SJG has operated nearly 1400 miles of gas mains in the Pinelands with nearly 100 miles in the forest area. All have operated safely for decades without harming the Pinelands or the aquifer.

Response:

The federal government establishes minimum pipeline safety standards under the U.S. Code of Federal Regulations (CFR), Title 49. The Office Pipeline Safety (OPS) within the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, (PHMSA) has overall regulatory responsibility for gas pipelines under its jurisdiction. Through certification by OPS, states inspect and enforce the pipeline safety regulations for intrastate gas pipeline operators. In New Jersey, this work is performed by the Division of Reliability and Security within the Board of Public Utilities. The Division of Reliability and Security is responsible for implementing ongoing strategies for utility disaster preparedness, reliability and infrastructure security and is also responsible for the Pipeline Safety Program. The Pipeline Safety Program monitors and inspects intrastate gas pipelines for compliance with federal and state regulations.

New Jersey has Pipeline Safety Regulations at N.J.A.C. Title 14. These regulations at Chapter 7 address Construction, Operation and Maintenance of Transmission and Distribution Natural Gas Pipelines. Specific requirements address, but are not limited to, Proscribed areas, Quality control of field welding, Valve assessment and emergency closure plan, Installation of pipe, Damage prevention, Public outreach, Monthly inspection patrols and leak detection surveys, Review of operating and maintenance standards, Oversight of construction activity, Directional drilling operations, and Operator reporting requirements. In Chapter 3-Service, the regulations address, but are not limited to Liaison with public officials, Emergency personnel and Training.

BPU staff reviewed the proposal, including the project's design, construction plans and specifications, as well as the listing of structures within 100 feet of the pipeline and their distances from the proposed pipeline alignment. BPU Staff also conducted a full field inspection of the entire pipeline route and worked with SJG on the pipeline alignment to mitigate the number of human occupied structures within 100 feet of the pipeline. Ultimately, BPU, in its June 21, 2013

and July 23, 2015 Reliability & Security Orders, approved the alignment of the proposed natural gas pipeline and authorized its construction.

New Jersey regulations implemented by the BPU require that each gas utility have available and equipped an adequate number of personnel to promptly handle gas emergencies on a 24-hour a day, seven days a week basis. These regulations further require that all such emergency personnel have adequate training in the proper procedures for handling gas emergencies, including but not limited to emergency shutdown procedures.

Further, each gas utility is required to maintain liaison with emergency personnel of each municipality and county in its service area, as well as with BPU emergency coordinators.

BPU regulations require that operators of transmission pipelines maintain and file a valve assessment and emergency closure plan for each transmission pipeline. The plan is to assess each valve individually and describe how the operator will achieve rapid closure of valves in the event of an emergency. The valve assessment and emergency closure plan must include, but is not limited to, a map showing all valves, a training program for operating personnel to ensure they are qualified to implement the plans' emergency procedures. Emergency closure drills must be conducted at least once per calendar year.

Six sectionalizing valves will be located at the beginning and the end of the project and at intervals of about 5 miles or less along the project. All of these sectionalizing valves will be remotely-operated from SJG's McKee City Facility except for the valve to be located about 5 miles east of the project origin at the intersection of Union Road and Rt. 49. This valve will be manually-operated because it will be buried due to insufficient available space for an above-ground valve. As is standard with natural gas pipeline systems, some of other smaller valves at the beginning of the pipeline at Union Road (outside the Pinelands) and at the interconnect station at Rt. 50 will be manually-controlled.

IX. Aquifer Impacts

Comment:

Commenters raised concerns with the potential for contamination of the aquifer (Kirkwood/Cohansey) from pipeline leaks or failure.

Response:

The pipeline will only transport natural gas, not gasoline, fuel oil, or other petroleum products (e.g., benzene), nor bentonite slurry or any other solid or liquid material. Furthermore, natural gas in the pipeline is in a gaseous phase and not water soluble under pipeline operating conditions. While water can temporarily carry some dissolved gas, when methane comes in contact with air, the methane quickly escapes from the water into the atmosphere.

The comments submitted acknowledge that other than reports of gas leaks from Russian ocean wells, the impacts of such leaks are only known from aquarium studies. The Commission has no records of occurrences of such events from the 1,400 plus miles of pipelines in the Pinelands. Natural gas is lighter than air and, if leaked, will rise through the soil column and dissipate in the air. This stands in stark contrast to pipelines bearing liquids, which can easily impact aquifers as

the liquids drain downward towards the aquifer. None of the commenters provided examples of ground water contamination resulting from a compressed natural gas pipeline. Review of reports submitted found that the information was derived from theory, laboratory experiments and computer modeling. Even the commenter stated that such information cannot be relied on to predict what will happen in the real world. Modern technology regarding pipe materials and construction techniques minimizes the risk of leaks from new pipelines. As noted in a prior Response, the federal government establishes minimum pipeline safety standards under the U.S. Code of Federal Regulations (CFR), Title 49. The Office Pipeline Safety (OPS) within the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, (PHMSA) has overall regulatory responsibility for gas pipelines under its jurisdiction. Through certification by OPS, states inspect and enforce the pipeline safety regulations for intrastate gas pipeline operators. The magnitude of an unlikely leak will also be minimized by the use of state of the art piping, continuous pressure gauges, and inspections and shut off valves. Given all of these factors there will be de minimus impact, at most, to the aquifer from on-going operations of the pipeline even in the unlikely event of a gas leak.

X. Route

Comment:

Commenters suggested that another route, not in the Forest Area, should be used.

Response:

During the course of the review of this project over the past 5 years, the applicant investigated numerous routes. The route proposed in the current application is the same as was reviewed as part of the first application and the Memorandum of Agreement. This route was found by the Department of Environmental Protection and Commission staff to have the least environmental impact. The Board Orders dated June 21, 2013 and December 16, 2015 concurred with these findings.

XI. Air Quality

Comment:

Commenters stated that natural gas is not cleaner than coal if you consider the life cycle of the gas including fracking and transport. Commenters stated that the proposed plant will produce higher amounts of Volatile Organic Compounds than the BLE plant currently produces. Commenters state that there is no evidence closing the BLE plant will would cause any other plant to increase emissions.

Commenters stated that the plant now burns coal and emits mercury. Commenters state that there is no data on the health impacts of ultrafine particles to support claims of health impacts.

Response:

The CMP at 7:50-6.91 states that it is the purpose of Part IX – Air Quality, to ensure that the quality of the air in the Pinelands region is protected and enhanced. The CMP at N.J.A.C. 7:50-6.93 further that all development shall adhere to the relevant air quality standards of N.J.A.C.

7:27 and that adherence to the CMP air quality standards would be determined by means of air quality simulation modeling approved by NJDEP.

The New Jersey Department of Environmental Protection has provided air quality modeling data that shows significant air quality improvements based on the change from coal to natural gas. The NJDEP is responsible for ensuring the state achieves the federal health based air quality standards.

Today the only health-based standard not achieved in New Jersey is ozone. Coal-fired power plants emit NO_x which is a primary contributor to the formation of ozone. According to the NJDEP, by repowering the plant to natural gas the emissions of the two pollutants of concern for the state would be reduced by over 98% (NO_x) and over 99% (SO₂).

The NJDEP also noted that if the plant were to cease operating the electricity needed for the area would be generated elsewhere on the PJM grid. NJDEP further notes that the average emission rates from the PJM grid would be much higher than from the proposed repowered BLE plant. These plants would be required to increase operations and that would result in increased emissions. Regional air quality modeling provided by NJDE supports this.

Additionally, in the July 23, 2015 BPU Order it is noted that "...coal plants produce a significant portion of New Jersey's greenhouse gas emissions. Natural gas power plants are less carbon-intensive than coal and other fossil fuels. The Order goes on to state that "the mix of power that will supply the electricity, if not generated by B.L. England, will result in more pollution because it will include energy produced by out-of-state coal fired plants".

In its Order dated December 16, 2015, the Board finds that the project is consistent with the Energy Master Plan (EMP) finding that "the Project will serve the goals of the EMP in that the use of the proposed combined cycle system for the facility should result in a significant improvement in air quality and other positive environmental impacts...". The finding goes on to state "Specifically the record reflects that the repowering of B.L. England will increase power generation by thirty (30%) and reduce the production of greenhouse gases, nitrogen oxides and sulfur dioxide.

EXECUTIVE DIRECTOR'S RECOMMENDATION

As the propose natural gas pipeline conforms to the standards of the Pinelands CMP, it is recommended that the Pinelands Commission **APPROVE** it subject to the following conditions:

CONDITIONS

1. Except as modified by the below conditions, the proposed natural gas pipeline project shall adhere to the plan, consisting of 102 sheets, prepared by Woodward & Curran and dated as follows:

Sheets G-01, AS-30, AS-32, AS-50-AS-52, dated 8/23/2013, last revised 7/29/2015

Sheets G-02,G-04,AS-35,AS-38,AS-40,AS-45,AS-54,AS-56,HDD-R7,C-200,SA-3,SA-5, dated 8/23/2013, last revised 7/14/2015

Sheets G-02, HDD-R6, HDD-R8.1-HDD-R11, HDD-R13, HDD-R-14, HDDR16- HDD-R18, dated 7/1/2014, last revised 7/14/2015

Sheets LD-1,AS-1,AS-31AS-33,AS-34,AS-37,AS-39,AS-41,AS-42,AS-46,AS-47,AS-49,AS-55,M-200-M-202,C-AGV-1,SA-2, SA-4 , D-1C,D-04A,D-06, dated 8/23/2013, last revised 7/1/2014

Sheets AS-2-AS-29, dated 8/23/2013, last revised 7/14/2015

Sheets AS-36, dated 8/23/2013, last revised 9/4/2014

Sheets AS-43, AS-44, AS-48, dated 8/23/2013, last revised 8/19/2014

Sheets AS-53, dated 8/23/2013, last revised 8/14/2014

Sheets HDD-R12, C-100, S-001, D-1A, D-1B, D-02, D-03,D-05, dated 8/23/2013, last revised 12/20/2013

Sheets HDD-R15, HDD-R19-HDD-R22, dated 7/1/2014

Sheets J &BS-1, J& BS-2, dated 8/23/2013, last revised 9/24/2014

Sheets C-01 & D-07, dated 8/23/2013

2. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.
3. Any proposed revegetation shall adhere to the "Vegetation" standards of the CMP. Where appropriate, the applicant is encouraged to utilize the following Pinelands native grasses for revegetation: Switch grass, Little bluestem and Broom-sedge.
4. Prior to any development, the applicant shall obtain any other necessary permits and approvals.
5. Appropriate measures shall be taken during construction to preclude sedimentation from entering wetlands and shall be maintained in place until all development has been completed and the area has been stabilized.
6. The limits of the proposed area of disturbance as depicted on the plans submitted to the Commission, and delineated in Paragraph 1 above, shall be marked in the field using silt fence and orange plastic construction fencing.
7. The applicant shall engage at least one independent biologist qualified in the identification of threatened and endangered (T&E) plants and animals and their habitats. The biologist(s) shall be present during all times that clearing and/or construction activities are being undertaken. The biologist shall ensure that all threatened and endangered species BMPs identified in the plans delineated in Paragraph 1 above are being followed at all times during construction. The biologist(s) shall ensure that clearing and/or construction techniques being utilized do not adversely impact any habitat critical to the survival of any T&E species of animals or plants and that any such plants or animals discovered during construction are protected. The biologist(s) shall notify the Pinelands Commission immediately if any T&E plants or animals or habitat critical to their survival are discovered during construction, ensure that all clearing or construction activities in the vicinity of such T&E species or critical habitat immediately cease pending direction from the Pinelands Commission Executive Director and take all possible interim steps to protect such species or critical habitats. Such independent biologist(s) shall be approved by the Commission prior to being engaged by the applicant.

8. The applicant shall engage, subject to prior approval thereof by the Commission, an independent licensed professional engineer with proven experience in the installation of large diameter pipelines using the Horizontal Directional Drilling (HDD) method to be present at all times HDD activities are being undertaken. The independent engineer shall:
 - a. Ensure that all HDD activities are conducted in accordance with all approved plans;
 - b. Ensure that appropriate measures, such as installation of silt fence, hay bales, inflatable berm, etc. are taken during HDDs to prevent the discharge of bentonite to wetlands, streams or any other water body or beyond the immediate confines of the drill site;
 - c. Monitor drill hole pressures and walk the area in which the HDD is being conducted to identify any potential break outs of bentonite;
 - d. Ensure that prior to commencement of HDD, the applicant provides the Pinelands Commission's Executive Director with a copy of the HDD Break Out Mitigation Contingency Plan proposed to be utilized for all HDDs to be conducted during construction of the pipeline and that the Executive Director approves the plan in writing prior to any HDD activities occurring; and
 - e. Be responsible for immediate implementation of the Mitigation Contingency Plan should a break out of bentonite occur and require the immediate cessation of all HDD activities and contain the area of the break out to the smallest feasible area. The applicant shall within 24 hours notify the Pinelands Commission's Executive Director of the location of the break and advise as to the response actions being taken to address the break out in accordance with the approved Mitigation Contingency Plan.
9. Any future natural gas system infrastructure improvements, whether those improvements occur within or outside of the Pinelands Area, that may result in changes such as additional gas flow to the proposed 24 inch gas main or redirection of the proposed 125,000 MCF gas flow shall only be approved by a State agency if such approval is consistent with the standards of the Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-4.81 (a)).
10. Within the Pinelands Area, any development, including but not limited to additional gas flow to the proposed 24 inch gas main or redirection of any portion of the proposed 125,000 MCF gas flow from the BL England plant requires application to the Pinelands Commission.



State of New Jersey

THE PINELANDS COMMISSION

PO Box 359

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Chris Christie
Governor

Kim Guadagno
Lt. Governor

General Information: Info@njpines.state.nj.us
Application Specific Information: AppInfo@njpines.state.nj.us

Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

AMENDED LETTER OF INTERPRETATION #1801

March 17, 2017

Michael & Elizabeth Piarulli
Paul & Frieda Schneider
9 Crisfield Rd
Sicklerville, NJ 08081

Re: Application # 1999-0346.002
Block 37, Lot 1.01
Carranza Road
Shamong Township

FINDINGS OF FACT

The applicants own the above referenced 47.44 acre lot in Shamong Township. This acreage is based on the recorded property deed. The lot is located in the Pinelands Preservation Area District. Pursuant to N.J.A.C. 7:50-4.72(a)1, the applicants are requesting a Letter of Interpretation (LOI) as to the number of Pinelands Development Credits (PDCs) which are allocated to this lot.

On July 8, 2005, the Commission issued LOI #1801 allocating 0.25 PDCs to the lot. That LOI reserved the right to construct a future dwelling on the lot. That LOI expired on July 8, 2007. The applicants are requesting a new LOI reflecting the current ownership of the lot and eliminating the reserved right for a dwelling. This Amended LOI utilizes currently available mapping technology to determine the acreage of uplands and wetlands. This Amended LOI #1801 replaces the July 8, 2005 LOI #1801.

The lot consists of 4.79 acres of uplands and 42.65 acres of wetlands as defined by the Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-6.5(a)). The applicants reserve the right to undertake field mapping to further refine the acreage of uplands and wetlands on the lot. The lot is vacant. There are no easements limiting the use of this parcel to non-residential uses. No resource extraction operation or other development has been approved for this parcel pursuant to the provisions of the Comprehensive Management Plan (CMP).

CONCLUSION

The CMP grants, with certain exceptions, to every parcel of land in the Pinelands Preservation Area District, Pinelands Special Agricultural Production Areas and Pinelands Agricultural Production Areas, a use right known as "Pinelands Development Credits," that can be used to secure a residential density



bonus for lands located in Pinelands Regional Growth Areas (N.J.A.C. 7:50 5.43). None of these exceptions apply to this parcel.

The CMP establishes the ratio by which Pinelands Development Credits are allocated in the Preservation Area District (N.J.A.C. 7:50 5.43(b)1). One Pinelands Development Credit is allocated for every 39 acres of uplands, except for certain uplands which have been approved for resource extraction operations. There are 0.2 Pinelands Development Credits allocated for every 39 acres of wetlands.

For the 4.79 acres of uplands, the applicants would be entitled to 0.12 PDCs. For the 42.65 acres of wetlands, the applicants would be entitled to 0.22 PDCs. There would be 0.34 PDCs allocated to this lot.

PDCs are transacted (allocated, severed and redeemed), with limited exceptions, in 0.25 PDC increments (0.25 PDC = 1 dwelling unit).

Therefore, there are 0.25 PDCs allocated to Block 37, Lot 1.01.

This LOI for an allocation of PDCs is valid for five years from the date of issuance (N.J.A.C. 7:50-4.76(b)).

APPEAL

The CMP (N.J.A.C. 7:50-4.55) provides an interested party the right to appeal this LOI in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted by someone meeting the definition of an interested party will be transmitted to the New Jersey Office of Administrative Law for hearing. Any such appeal must be made in writing to the Commission within eighteen days of the date of this LOI and must include the following information:

1. the name and address of the person making the appeal;
2. the application number;
3. a brief statement of the basis for the appeal; and
4. a certificate of service (a notarized statement) indicating that service of the notice has been made, by certified mail, on the clerk of the county, municipal planning board and environmental commission with jurisdiction over the property which is subject of this decision.

If no appeal is received within eighteen days of the date of this LOI, the LOI shall become binding.

If you are interested in “severing” the allocated PDCs from the parcel and/or information regarding the sale of PDCs, please visit the Pinelands Development Credit Bank’s website at <http://www.nj.gov/pinelands/pdcbank/> or contact the PDC Bank at 609-894-7300.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. M. Horner', with a long horizontal flourish extending to the right.

Charles M. Horner, P.P.

Director of Regulatory Programs

- c: Secretary, Shamong Township Planning Board (via email)
- Shamong Township Construction Code Official (via email)
- Secretary, Burlington County Planning Board (via email)
- Susan R. Grogan, Executive Director, PDC Bank (via email)
- Paul & Frieda Schneider (via email)



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Chris Christie
 Governor

Kim Guadagno
 Lt. Governor

General Information: Info@njpines.state.nj.us
 Application Specific Information: AppInfo@njpines.state.nj.us

Sean W. Earlen
 Chairman

Nancy Wittenberg
 Executive Director

March 23, 2017

David Crane
 Meteor Motorcycle Club
 143 Wahwantysee Trail
 Medford Lakes, NJ 08055

Re: Application # 1987-1127.042
 80th Sandy Lane Enduro
 March 26, 2017
 Bass River, Washington
 & Woodland Townships

Dear Mr. Crane:

Pursuant to N.J.A.C. 7:50-6.143(a) of the Pinelands Comprehensive Management Plan, the completion of your application has resulted in the issuance of the enclosed *Off-Road Vehicle Event Route Map Approval*.

If you have any questions, please contact Brian Szura of our staff.

Sincerely,

for Charles M. Horner, P.P
 Director of Regulatory Programs

Enc: Off-Road Vehicle Event Route Map Approval

c: Bass River Township Clerk (via email)
 Washington Township Clerk (via email)
 Woodland Township Clerk (via email)
 David Crane (via email)
 Cynthia Coritz, Superintendent, Bass River State Forest (via email)





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Governor

Kim Guadagno
Lt. Governor

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PO Box 359
New Lisbon, NJ 08064
(609) 894-7300



Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

OFF-ROAD VEHICLE EVENT ROUTE MAP APPROVAL #1295

Application #: 1987-1127.042

Applicant: Meteor Motorcycle Club

Event Name: 80th Sandy Lane Enduro

Event Date: March 26, 2017

Municipalities: Bass River, Washington & Woodland Townships

Management Area: Pinelands Village, Preservation Area District, Special Agricultural Production Area

Lands Utilized

Pine Island Cranberry Company property

Approved Route Map

Received in electronic format on February 21, 2017

March 23, 2017

for **Charles M. Horner, P.P.**
Director of Regulatory Programs

Date

Please see reverse side for additional information and conditions.

BACKGROUND

- ♦ One route beginning and ending at the Interboro Gun Club
- ♦ Length of route: 63 miles
- ♦ This recreational vehicle event was initially proposed on both privately owned and publically owned lands. The New Jersey Department of Environmental Protection (NJDEP) determined that Meteor Motorcycle Club deviated from an approved route on State Park Service lands during an October 22 and 23, 2016 event. Based upon that deviation, the NJDEP has prohibited Meteor Motorcycle Club from conducting any recreational vehicle events on NJDEP, State Park Service lands for an 18 month period beginning December 15, 2016. Based upon this NJDEP determination, the applicant subsequently revised the route for the current event to be located the route exclusively of privately owned lands.

CONDITIONS

- ♦ No deviation from the Approved Route Map shall occur without prior written approval from the Commission.
- ♦ No private lands shall be utilized without owner permission.
- ♦ No ORV event shall run until all necessary permits, approvals and authorizations have been obtained.
- ♦ In the event of cancellation or postponement, the Pinelands Commission shall be notified of the new date. A copy of the new insurance policy as well as documentation that the municipalities, the State Police, and any private land owners have been notified must also be submitted.
- ♦ By March 27, 2017, provide the written permission of the property owner to allow the Commission staff to inspect the event route on one day between March 27 and March 31, 2017 to ensure that event's participants adhered to the Commission approved route map.



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Kim Guadagno
Lt. Governor

General Information: Info@njpines.state.nj.us
Application Specific Information: AppInfo@njpines.state.nj.us

Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

March 17, 2017

Dave Brogden
South Jersey Enduro Riders, Inc.
PO Box 2718
Vincentown, NJ 08088

Re: Application # 1988-0071.034
Curly Fern Enduro
March 19, 2017
Shamong, Tabernacle
& Washington Townships

Dear Mr. Brogden:

Pursuant to N.J.A.C. 7:50-6.143(a) of the Pinelands Comprehensive Management Plan, the completion of your application has resulted in the issuance of the enclosed *Off-Road Vehicle Event Route Map Approval*.

If you have any questions, please contact Brian Szura of our staff.

Sincerely,

for Charles M. Horner, P.P.
Director of Regulatory Programs

Enc: Off-Road Vehicle Event Route Map Approval

c: Shamong Township Clerk (via email)
Tabernacle Township Clerk (via email)
Washington Township Clerk (via email)
Dave Brogden (via email)
Tom Keck, Regional Superintendent, NJ State Park Service - Southern Region (via email)
David Robbins (via email)
William Davis (via email)





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Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

OFF-ROAD VEHICLE EVENT ROUTE MAP APPROVAL #1294

Application #: 1988-0071.034

Applicant: South Jersey Enduro Riders, Inc.

Event Name: Curly Fern Enduro

Event Date: March 19, 2017

Municipalities: Shamong, Tabernacle & Washington Townships

Management Area: Agricultural Production Area, Preservation Area District

Lands Utilized

Wharton State Forest

Approved Route Map

Received in electronic format on March 7, 2017

March 17, 2017

for **Charles M. Horner, P.P.**
Director of Regulatory Programs

Date

Please see reverse side for additional information and conditions.

BACKGROUND

- ♦ One route beginning and ending at the Indian Mills Deer Club on Atsion Road in Shamong Township
- ♦ 60 miles

CONDITIONS

- ♦ No deviation from the Approved Route Map shall occur without prior written approval from the Commission.
- ♦ No private lands shall be utilized without owner permission.
- ♦ No ORV event shall run until all necessary permits, approvals and authorizations have been obtained.
- ♦ In the event of cancellation or postponement, the Pinelands Commission shall be notified of the new date. A copy of the new insurance policy as well as documentation that the municipalities, the State Police, the State Forests, and any private land owners have been notified must also be submitted.



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General Information: Info@njpines.state.nj.us
Application Specific Information: AppInfo@njpines.state.nj.us

Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

March 7, 2017

Mike Bradway
Tri-County Sportsmen Motorcycle Club, Inc.
1040 N. Brewster Road
Vineland, NJ 08360

Re: Application # 1988-0757.056
2017 Greenbrier Enduro
March 12, 2017
Maurice River Township

Dear Mr. Bradway:

Pursuant to N.J.A.C. 7:50-6.143(a) of the Pinelands Comprehensive Management Plan, the completion of your application has resulted in the issuance of the enclosed *Off-Road Vehicle Event Route Map Approval*.

If you have any questions, please contact Brian Szura of our staff.

Sincerely,

for Charles M. Horner, P.P
Director of Regulatory Programs

Enc: Off-Road Vehicle Event Route Map Approval

c: Maurice River Township Clerk (via email)
Mike Bradway (via email)





Chris Christie
Governor

Kim Guadagno
Lt. Governor

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(609) 894-7300



Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

OFF-ROAD VEHICLE EVENT ROUTE MAP APPROVAL #1286

Application #: 1988-0757.056

Applicant: Tri-County Sportsmen Motorcycle Club, Inc.

Event Name: 2017 Greenbrier Enduro

Event Date: March 12, 2017

Maurice River Township

Management Area: Forest Area, Pinelands Village, Rural Development Area

Lands Utilized

Whibco of New Jersey, Inc., US Silica

Approved Route Map

Received in electronic format on March 1, 2017

March 7, 2017

for **Charles M. Horner, P.P.**
Director of Regulatory Programs

Date

Please see reverse side for additional information and conditions.

BACKGROUND

- ♦ One route beginning and ending at 23 Weatherby Road in Port Elizabeth
- ♦ 80 miles

CONDITIONS

- ♦ No deviation from the Approved Route Map shall occur without prior written approval from the Commission.
- ♦ No private lands shall be utilized without owner permission.
- ♦ No ORV event shall run until all necessary permits, approvals and authorizations have been obtained.
- ♦ In the event of cancellation or postponement, the Pinelands Commission shall be notified of the new date. A copy of the new insurance policy as well as documentation that the municipalities, the State Police, the State Forests, and any private land owners have been notified must also be submitted.



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General Information: Info@njpines.state.nj.us
 Application Specific Information: AppInfo@njpines.state.nj.us

Sean W. Earlen
 Chairman

Nancy Wittenberg
 Executive Director

March 22, 2017

Shawn Gulling
 Jeep Jamboree USA
 2776 Sourdough Flat
 Georgetown, CA 95634

Re: Application # 1999-0119.019
 23rd Pine Barrens Jeep Jamboree
 March 23 - 25, 2017
 Shamong, Tabernacle, Washington
 & Waterford Townships

Dear Mr. Gulling:

Pursuant to N.J.A.C. 7:50-6.143(a) of the Pinelands Comprehensive Management Plan, the completion of your application has resulted in the issuance of the enclosed *Off-Road Vehicle Event Route Map Approval*.

If you have any questions, please contact Brian Szura of our staff.

Sincerely,

for Charles M. Horner, P.P
 Director of Regulatory Programs

Enc: Off-Road Vehicle Event Route Map Approval

- c: Shamong Township Clerk (via email)
- Tabernacle Township Clerk (via email)
- Washington Township Clerk (via email)
- Waterford Township Clerk (via email)
- Jim Justnes (via email)
- Shawn Gulling (via email)
- Tom Keck, Regional Superintendent, NJ State Park Service - Southern Region (via email)
- David Robbins, Wharton State Forest Superintendent (via email)





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Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

OFF-ROAD VEHICLE EVENT ROUTE MAP APPROVAL #1296

Application #: 1999-0119.019

Applicant: Jeep Jamboree USA

Event Name: 23rd Pine Barrens Jeep Jamboree

Event Date: March 23 - 25, 2017

Municipalities: Shamong, Tabernacle, Washington & Waterford Townships

Management Area: Agricultural Production Area, Forest Area, Pinelands Village, Preservation Area District, Rural Development Area, Special Agricultural Production Area

Lands Utilized

Wharton State Forest

Approved Route Map

Received in electronic format on March 21, 2017

March 22, 2017

for **Charles M. Horner, P.P.**
Director of Regulatory Programs

Date

Please see reverse side for additional information and conditions.

BACKGROUND

- ♦ Five routes each beginning and ending at Batsto Village in Washington Township
- ♦ 50 miles

CONDITIONS

- ♦ No deviation from the Approved Route Map shall occur without prior written approval from the Commission.
- ♦ No private lands shall be utilized without owner permission.
- ♦ No ORV event shall run until all necessary permits, approvals and authorizations have been obtained.
- ♦ In the event of cancellation or postponement, the Pinelands Commission shall be notified of the new date. A copy of the new insurance policy as well as documentation that the municipalities, the State Police, the State Forests, and any private land owners have been notified must also be submitted.



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General Information: Info@njpines.state.nj.us
Application Specific Information: AppInfo@njpines.state.nj.us

Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

List of Pending Public Development and Waiver of Strict Compliance Applications
Accepting Public Comment at the April 7, 2017 Commission Meeting

Public Development Application

Application No. 1992-0280.004 – Estell Manor City

Received on: 11/1/2013

Completed on: 3/24/2017

Project: Installation of landfill monitoring wells

Municipality: Estell Manor City

Block 58, Lot 3 (application may include additional lots)

Application No. 1987-0914.004 – Burlington County Board of Chosen Freeholders

Received on: 9/12/1990

Completed on: 3/27/2017

Project: Widening of Taunton Lakes Road

Municipality: Evesham Township

Waiver of Strict Compliance Applications

None



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-17-_____

TITLE: Approving With Conditions an Application for **Public Development** (Application Number 2003-0319.003)

Commissioner _____ **moves and Commissioner** _____
seconds the motion that:

WHEREAS, the Pinelands Commission has reviewed the Public Development Application Report and the recommendation of the Executive Director that the following application for Public Development be approved with conditions:

2003-0319.003

Applicant:	T-Mobile, Valore, LLC & Waterford Township
Municipality:	Waterford Township
Management Area:	Pinelands Rural Development Area
Date of Report:	March 17, 2017
Proposed Development:	Construction of 190 foot high local communications tower and a 5,000 square foot equipment compound.

WHEREAS, no request for a hearing before the Office of Administrative Law concerning the Executive Director's recommendation has been received for this application; and

WHEREAS, the Pinelands Commission hereby adopts the Conclusion of the Executive Director for the proposed development; and

WHEREAS, the Pinelands Commission hereby determines that the proposed public development conforms to the standards for approving an application for public development set forth in N.J.A.C. 7:50-4.57 if the conditions recommended by the Executive Director are imposed; and

WHEREAS, pursuant to N.J.S.A. 13A-5h, no action authorized by the Commission shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period and Governor shall approve same, in which case the action shall become effective upon such approval.

NOW, THEREFORE BE IT RESOLVED that Application Number 2003-0319.003 for public development is hereby **approved** subject to the conditions recommended by the Executive Director.

Record of Commission Votes

	AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*
Ashmun					Galletta					Prickett				
Avery					Jannarone					Quinn				
Barr					Lloyd					Rohan Green				
Brown					Lohbauer					Earlen				
Chila					McGlinchey									

* A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: _____

Nancy Wittenberg
Executive Director

Sean W. Earlen
Chairman



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General Information: Info@njpines.state.nj.us
 Application Specific Information: AppInfo@njpines.state.nj.us

Sean W. Earlen
 Chairman

Nancy Wittenberg
 Executive Director

March 17, 2017

Leroy Peart
 T-Mobile
 510 Virginia Drive
 Fort Washington, PA 19034

Frank DeGenova
 Valore, LLC
 7 Gilbert Stuart Way
 Marlton, NJ 08053

William A Richardson, Mayor
 Waterford Township
 2131 Auburn Avenue
 Atco, NJ 08004

Re: Application # 2003-0319.003
 Block 5301, Lot 5
 Waterford Township

Dear Applicants:

The Commission staff has completed its review of this application for the construction of 190 foot high local communication facility (tower). Enclosed is a copy of a Public Development Application Report. On behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its April 7, 2017 meeting.

Any interested party may appeal this recommendation in accordance with the appeal procedure attached to this document. If no appeal is received, the Pinelands Commission may either approve the recommendation of the Executive Director or refer the application to the New Jersey Office of Administrative Law for a hearing.



Prior to any development, the applicant shall obtain any other necessary permits and approvals.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. M. Horner', with a long horizontal flourish extending to the right.

Charles M. Horner, P.P.
Director of Regulatory Programs

Enc: Appeal Procedure
2/2/2017 Public Comment

c: Secretary, Waterford Township Planning Board (via email)
Waterford Township Construction Code Official (via email)
Waterford Township Environmental Commission (via email)
Secretary, Camden County Planning Board (via email)
Frank, Charlotte and Frankie Connuli (via email)
Brad Lanute (via email)



State of New Jersey
 THE PINELANDS COMMISSION
 PO Box 359
 NEW LISBON, NJ 08064
 (609) 894-7300
 www.nj.gov/pinelands



Chris Christie
 Governor

Kim Guadagno
 Lt. Governor

General Information: Info@njpines.state.nj.us
 Application Specific Information: AppInfo@njpines.state.nj.us

Sean W. Earlen
 Chairman

Nancy Wittenberg
 Executive Director

PUBLIC DEVELOPMENT APPLICATION REPORT

March 17, 2017

Leroy Peart
 T-Mobile
 510 Virginia Drive
 Fort Washington, PA 19034

Frank DeGenova
 Valore, LLC
 7 Gilbert Stuart Way
 Marlton, NJ 08053

William A. Richardson, Mayor
 Waterford Township
 2131 Auburn Avenue
 Atco, NJ 08004

Application No.: 2003-0319.003
 Block 5301, Lot 5
 Waterford Township

This application proposes the construction of a 190 foot high local communication facility (tower) located on the above referenced 6.78 acre parcel in Waterford Township. This application also proposes a 5,000 square foot equipment compound accessory to the tower. There is an existing municipal parking lot located on the parcel.

STANDARDS

The Commission staff has reviewed the proposed development for consistency with all standards of the Pinelands Comprehensive Management Plan (CMP). The following reviews the CMP standards that are relevant to this application:

Land Use (N.J.A.C. 7:50-5.26(b)15)

The proposed development is located in a Pinelands Rural Development Area. The proposed 190 foot high tower is a permitted land use in the Rural Development Area provided it meets the CMP height limitations standards (N.J.A.C. 7:50-5.4(c)) for local communication facilities. The CMP height limitations standards require that a local communication facility shall not exceed a height of 35 feet unless a comprehensive plan for siting such facilities in the Pinelands Area has been certified (approved)

by the Pinelands Commission.

The 190 foot high tower is proposed in the search area associated with Site #111 as identified in the August 1, 2011 “Amendment to the Comprehensive Plan for PCS Communications Facilities in the Pinelands on Behalf of T-Mobile Northeast LLC doing business as T-Mobile.” In accordance with the height limitation standards of the CMP, the applicant has demonstrated that the proposed tower will be located on publicly owned land within 500 feet of an existing structure (municipal parking lot). As further required by the height limitation standards of the CMP, the applicant has demonstrated that the proposed tower minimizes visual impacts.

Wetlands Standards (N.J.A.C. 7:50-6.6)

There are wetlands located on the parcel. The CMP prohibits most development in wetlands and requires up to a 300 foot buffer to wetlands unless it is demonstrated that a lesser buffer will not result in a significant adverse impact on wetlands. The proposed tower and all development associated with the tower will be located greater than 300 feet from wetlands.

Vegetation Management Standards (N.J.A.C. 7:50-6.23 & 6.26)

The proposed development will be located primarily within an oak-pine forested area. The proposed development will disturb approximately 5,000 square feet of forested lands. The proposed clearing and soil disturbance is limited to that which is necessary to accommodate the proposed development.

The 5,000 square feet of the parcel proposed for disturbance will be surfaced with stone/gravel. No revegetation or landscaping is proposed.

Stormwater Management Standards (N.J.A.C.7:50-6.84(a)6)

The applicant has demonstrated that the proposed development is consistent with the CMP stormwater management standards. To meet the stormwater management standards, the applicant will utilize an existing stormwater infiltration basin.

PUBLIC COMMENT

The applicant has provided the requisite public notices. Notice to required land owners within 200 feet of the above referenced parcel was completed on January 23, 2017. Newspaper public notice was completed on January 24, 2017. The application was designated as complete on the Commission’s website on January 31, 2017. The Commission’s public comment period closed on February 24, 2017. The Commission received one written public comment regarding this application.

Public Comment: The one written public comment received by the Commission was signed by three members of the same family. The commenters are opposed to the proposed development. The commenters expressed concern regarding the potential impacts of the proposed development to plants, animals and cultural resources. The commenters also expressed concern regarding the reduction of the wetlands buffer to 200 feet.

Staff Response: The Commission appreciates the interest of the commenters in the Pinelands.

On July 18, 2016, the Waterford Township Planning Board granted minor site plan approval for the proposed development. Two of the three individuals submitting the public comment to the Commission also provided public comment at the Township Planning Board meeting. The Board's Resolution indicates that their comments were noted and addressed by the Board and/or the applicant as appropriate.

The Commission staff conducted a site inspection of the parcel subject of this application. The CMP requires that development be carried out in a manner which avoids wildlife habitat that is essential to the continued nesting, resting, breeding and feeding of significant populations of wildlife in the Pinelands. The proposed development will not impact essential wildlife habitat. Threatened or endangered animal or plant species have not been identified on the parcel.

With respect to the required buffer to wetlands, on September 9, 2016 the Commission approved the development of a municipal parking lot on the parcel. In accordance with the provisions of the CMP (N.J.A.C. 7:50-6.14), the applicant demonstrated that a 200 foot buffer to an isolated wetland located on the parcel would not result in a significant adverse impact on the wetland. Based upon its proposed location on the parcel, the tower and all development associated with the tower will be located greater than 300 feet from the same isolated wetland.

With respect to cultural resources, the Commission staff reviewed the factors, conditions and information that would indicate the possible presence of significant cultural resources on the parcel. Based upon this review and the limits of the proposed development, a cultural resource survey was not required for the application.

CONDITIONS

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of 4 sheets, prepared by Valore, LLC and all sheets dated 6/10/16 and last revised 12/22/16.
2. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.
3. Prior to any development, the applicant shall obtain any other necessary permits and approvals.
4. All development, including clearing and land disturbance, shall be located at least 200 feet from wetlands.

CONCLUSION

As the proposed development conforms to the standards set forth in N.J.A.C. 7:50-4.57, it is recommended that the Pinelands Commission **APPROVE** the proposed development subject to the above conditions.



Chris Christie
Governor

Kim Guadagno
Lt. Governor

State of New Jersey

THE PINELANDS COMMISSION

PO Box 359

NEW LISBON, NJ 08064

(609) 894-7300

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General Information: Info@njpines.state.nj.us
Application Specific Information: AppInfo@njpines.state.nj.us



Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

PINELANDS COMMISSION **APPEAL PROCEDURE**

The Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal any determination made by the Executive Director to the Commission in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted by someone meeting the definition of an interested party will be transmitted to the New Jersey Office of Administrative Law for a hearing. Any such appeal must be made in writing to the Commission and received at the Commission office no later than 5:00 p.m. on April 4, 2017. The appeal must include the following information:

1. the name and address of the person requesting the appeal;
2. the application number;
3. the date on which the determination to be appealed was made;
4. a brief statement of the basis for the appeal; and
5. a certificate of service (a notarized statement) indicating that service of the notice has been made, by certified mail, on the clerk of the county, municipal planning board and environmental commission with jurisdiction over the property which is subject of this decision.

Within 15 days following receipt of a notice of valid appeal, the Executive Director shall initiate the procedures for assignment of an Administrative Law Judge to preside at the hearing pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and the procedures established by the Office of Administrative Law. The time, date and location of such hearing shall be designated by the Office of Administrative Law.

AppInfo - Valore NJ0010 Waterford

From: mavstang <mavstang@comcast.net>
To: AppInfo <AppInfo@njpines.state.nj.us>
Date: 2/2/2017 1:11 PM
Subject: Valore NJ0010 Waterford

Please Deny the proposed Valore /T-Mobile cell tower application Valore NJ0010 located on Block 5301, lot 5 and any other lot that is being proposed. This lot was cleared to make a parking lot for Waterford Twp.. This was done with out an environmental inspection, this dose not meet the requirements of the comprehensive management plan, Because you did not require the township to do an environmental study. The fact that there are eagles in the area, Southern NJ Tree Frogs, Copes Grey Tree Frogs, Pine Barrens Tree Frog, Redheaded Woodpeckers, Barred Owls, Tiger Spiked Dragonflies, and Vernal Pools ect.. these facts where ignored, therefore allowing the township to clear 1.5 acres of Vineland. My appeal was denied because the Pineland commission said I was not an interested party. (I am a Waterford Township resident who shares a property line with said lot and pays taxes on my land.) This action displaced many animals, plants and trees that are indigenous to the Pinelands Forrest. Which is a very sensitive environment. It doesn't take much to upset the balance of this environment. Some of the animals and plants are protected as endangered. The evidence that endangered species and vernal pools existed on this property was completely ignored. I gave ample evidence that an environmental study should have been conducted. You did not require the Twp. of Waterford to conduct a study. You also allowed the Twp. to reduce the buffer for the wetlands located on this lot from 300Ft. to 200 ft. which I believe is a bad decision based on the fact that the wetlands change due to weather conditions sometimes the land can have more or less water. That is why the buffer was originally established to allow for increasing water table.

This lot is situated one block from Wharton State Forrest and has the same animals and plants inhabiting it as the State Forrest. The Forrest is protected, however this lot has not been protected to spite the same animals and plants are in its habitat.

This area is already suffering from animal displacement and plant destruction due to the 50 acres of forrest that was cleared with out permission across the street 1000 Jackson Rd. Atco NJ 08004.

The area was populated by Indians long before European colonization took place. The physical remains of the historic and prehistoric past need to be protected. Was the lot inspected to see if their was evidence of Indians living on this land? Did you require Waterford Twp. to do a study to see if Indians used this land in the past. I am sure The Brothertons Indian Reservation located in Shamong NJ used this land to hunt, farm and live.

The Pinelands Commission did not require an inspection which is not in accordance with the Comprehensive Management plan.

The Pinelands Commission is charged to defend the Pinelands

The natural resources of the Pine Barrens will always be worth more than Cell Phone use, and we should not sacrifice our natural resources to make way for Cell Phone use as there are many other lots available that are already clear to erect towers on.

I do request a copy of the Executive Directors Findings and Conclusions.

Frank Connuli, Charlotte Connuli and Frankie Jr.



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-17-_____

TITLE: Issuing an Order to Certify Ordinance 2-2017, Amending Chapter 170 (Land Use and Development) of the Code of Egg Harbor City

Commissioner _____ moves and Commissioner _____ seconds the motion that:

WHEREAS, on February 6, 1987, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Egg Harbor City; and

WHEREAS, Resolution #PC4-87-13 of the Pinelands Commission specified that any amendment to the City's certified Master Plan and codified Land Use Ordinances be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 (Submission and Review of Amendments to Certified Master Plans and Land Use Ordinances) of the Comprehensive Management Plan to determine if said amendment raises a substantial issue with respect to conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, Resolution #PC4-87-13 further specified that any such amendment shall only become effective as provided in N.J.A.C. 7:50-3.45 of the Comprehensive Management Plan; and

WHEREAS, on December 15, 2016, Egg Harbor City adopted Ordinance 2-2017, amending Chapter 170 (Land Use and Development) of the City's Code; and

WHEREAS, Ordinance 2-2017 establishes changeable-copy signs and electronic message center signs as permitted uses in three zoning districts within the Pinelands Town area, including standards controlling for illumination levels, message duration, and message transition; and

WHEREAS, the Pinelands Commission received a certified copy of Ordinance 2-2017 on February 16, 2017; and

WHEREAS, by letter dated February 17, 2017, the Executive Director notified the City that Ordinance 2-2017 would require formal review and approval by the Pinelands Commission; and

WHEREAS, a public hearing to receive testimony on Ordinance 2-2017 was duly advertised, noticed and held on March 8, 2017 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m.; and

WHEREAS, the Executive Director has found that Ordinance 2-2017 is consistent with the standards and provisions of the Pinelands Comprehensive Management Plan; and

WHEREAS, the Executive Director has submitted a report to the Commission recommending issuance of an order to certify that Ordinance 2-2017, amending Chapter 170 (Land Use and Development) of the Code of Egg Harbor City, is in conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, the Commission's CMP Policy and Implementation Committee has reviewed the Executive Director's report and has recommended that Ordinance 2-2017 be certified; and

WHEREAS, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning Ordinance 2-2017 and has reviewed the Executive Director's report; and

WHEREAS, the Pinelands Commission accepts the recommendation of the Executive Director; and

WHEREAS, pursuant to N.J.S.A. 13:18A-5h, no action authorized by the Commission shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period the Governor shall approve same, in which case the action shall become effective upon such approval.

NOW, THEREFORE BE IT RESOLVED that

1. An Order is hereby issued to certify that the Ordinance 2-2017, amending Chapter 170 (Land Use and Development) of the Code of Egg Harbor City, is in conformance with the Pinelands Comprehensive Management Plan.
2. Any additional amendments to Egg Harbor City’s certified Master Plan and Land Use Ordinances shall be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 to determine if said amendments raise a substantial issue with respect to the Comprehensive Management Plan. Any such amendment shall become effective only as provided in N.J.A.C. 7:50-3.45.

Record of Commission Votes

	AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*
Ashmun					Galletta					Prickett				
Avery					Jannarone					Quinn				
Barr					Lloyd					Rohan Green				
Brown					Lohbauer					Earlen				
Chila					McGlinchey									

* A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: _____

Nancy Wittenberg
Executive Director

Sean W. Earlen
Chairman



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Chris Christie
 Governor

Kim Guadagno
 Lt. Governor

General Information: Info@njpines.state.nj.us
 Application Specific Information: AppInfo@njpines.state.nj.us

Sean W. Earlen
 Chairman

Nancy Wittenberg
 Executive Director

**REPORT ON ORDINANCE 2-2017, AMENDING
 CHAPTER 170 (LAND USE AND DEVELOPMENT)
 OF THE CODE OF EGG HARBOR CITY**

March 24, 2017

Egg Harbor City
 500 London Avenue
 Egg Harbor City, NJ 08215

FINDINGS OF FACT

I. Background

The City of Egg Harbor is located within central Atlantic County, in the eastern portion of the Pinelands Area. Pinelands municipalities adjacent to Egg Harbor City include the Townships of Mullica and Galloway in Atlantic County, and Washington Township in Burlington County.

On February 6, 1987, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Egg Harbor City.

On February 9, 2017, Egg Harbor City adopted Ordinance 2-2017, amending Chapter 170 (Land Use and Development) of the Code of Egg Harbor City. Ordinance 2-2017 adopts regulations controlling changeable copy signs and electronic message center (EMC) signs. In particular, it establishes such signs as permitted uses in the Retail Commercial, Highway Commercial, and Industrial Zoning Districts, all of which are located in a Pinelands Town management area, and provides additional standards controlling for illumination levels, message duration, and message transition. The Pinelands Commission received a certified copy of Ordinance 2-2017 on February 16, 2017.

By letter dated February 17, 2017, the Executive Director notified the City that Ordinance 2-2017 would require formal review and approval by the Pinelands Commission.

II. Master Plans and Land Use Ordinances

The following ordinance has been submitted to the Pinelands Commission for certification:

- * Ordinance 2-2017, amending Chapter 170 (Land Use and Development) of the Code of Egg Harbor City, introduced on January 19, 2017 and adopted on February 9, 2017.

This ordinance has been reviewed to determine whether it conforms to the standards for certification of municipal master plans and land use ordinances as set out in N.J.A.C. 7:50-3.39 of the Pinelands Comprehensive Management Plan. The findings from this review are presented below. The numbers used to designate the respective items correspond to the numbers used to identify the standards in N.J.A.C. 7:50-3.39.

1. Natural Resource Inventory

Not applicable.

2. Required Provisions of Land Use Ordinance Relating to Development Standards

Ordinance 2-2017 amends Chapter 170 (Land Use and Development) Section 170-71 (Note 19: Signs) of the Code of Egg Harbor City. In particular, it establishes regulations permitting and controlling for changeable copy signs and electronic message center (EMC) signs. The ordinance defines a changeable copy sign as “a sign with the capability of content change by means of manual or remote input” and defines an EMC sign as “an electronically activated changeable-copy sign whose variable message and/or graphic presentation capability can be electronically programmed by a computer from a remote location.” The EMC sign definition further notes that such signs “typically use light emitting diodes (LED) as a lighting source.”

The ordinance permits such signs in the Retail Commercial, Highway Commercial, and Industrial Zoning Districts, all of which are located in the Pinelands Town management area. The ordinance establishes additional standards requiring that all such signs: shall be in accordance with established signage standards of the district in which they are located; may account for a portion of or all of the total permitted sign area for a given location; shall be prohibited from providing off-site advertising except public service information approved by the City; and shall not obstruct traffic, distract drivers, or create a traffic hazard. The ordinance provides additional standards for EMC signs, including provisions that such signs: incorporate automatic dimming controls; retain a minimum message display time of 8 seconds; shall not exceed a maximum luminance level of 750 cd/m² between sunset and sunrise; shall not use continuous scrolling and/or traveling, flashing, blinking, twinkling, spinning, rotating, and similar moving effects; and shall turn off or display a blank screen when malfunctioning.

The amendments made by Ordinance 2-2017 must be evaluated in terms of their consistency with the CMP’s scenic management program (N.J.A.C. 7:50-6, Part X), which contains standards for signs. The scenic management standards of the CMP include a general prohibition on signs that are designed to attract attention by physical or lighting change (N.J.A.C. 7:50-6.107(a)). Additionally, N.J.A.C. 7:50-6.107(e) requires that to the maximum extent practical, the character and composition of construction materials for all signs shall be harmonious with the scenic values of the Pinelands.

This ordinance presents a potential conflict with the 7:50-6.107(a) because, by design, EMC signs allow for the contents of a sign to change at relatively frequent intervals through the use of LED technology. It is noteworthy that the CMP does not provide any standards for sign lighting (e.g., internal or external lighting). Thus, it is not the use of the LED technology (internal illumination) by EMC signs that raises an issue with the CMP, but the fact that EMC signs

involve the changing of one static image to another, or even the use of video, to attract attention. However, it is important to note that this particular standard of the CMP was written in 1980 at a time when such LED technology was not common, but is now in pervasive use.

Ordinance 2-2017 incorporates numerous standards to control the location, size and appearance of changeable message signs and EMC signs as outlined above. Given that these types of signs are permitted only in the Pinelands Town Management Area of Egg Harbor City, where the CMP permits and encourages all types of residential and commercial development, these standards sufficiently address concerns with scenic management.

The amendments adopted by Ordinance 2-2017 are consistent with the land use and development standards of the CMP. Therefore, this standard for certification is met.

3. Requirement for Certificate of Filing and Content of Development Applications

Not applicable.

4. Requirement for Municipal Review and Action on All Development

Not applicable.

5. Review and Action on Forestry Applications

Not applicable.

6. Review of Local Permits

Not applicable.

7. Requirement for Capital Improvement Program

Not applicable.

8. Accommodation of Pinelands Development Credits

Not applicable.

9. Referral of Development Applications to Environmental Commission

Not applicable.

10. General Conformance Requirements

Ordinance 2-2017, amending Chapter 170 (Land Use and Development) of the Code of Egg Harbor City, is consistent with the standards and provisions of the Pinelands Comprehensive Management Plan.

This standard for certification is met.

11. Conformance with Energy Conservation

Not applicable.

12. Conformance with the Federal Act

Ordinance 2-2017, amending Chapter 170 (Land Use and Development) of the Code of Egg Harbor City, is consistent with the standards and provisions of the Pinelands Comprehensive Management Plan. No special issues exist relative to the Federal Act.

This standard for certification is met.

13. Procedure to Resolve Intermunicipal Conflicts

Not applicable.

PUBLIC HEARING

A public hearing to receive testimony concerning Egg Harbor City's application for certification of Ordinance 2-2017 was duly advertised, noticed and held on March 8, 2017 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m. Ms. Grogan conducted the hearing, at which no testimony was received.

Written comments were accepted through March 13, 2017; however, no comments were received.

CONCLUSION

Based on the Findings of Fact cited above, the Executive Director has concluded that Ordinance 2-2017 complies with the Comprehensive Management Plan's standards for the certification of municipal master plans and land use ordinances. Accordingly, the Executive Director recommends that the Commission issue an order to certify Ordinance 2-2017 of Egg Harbor City.



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-17-_____

TITLE: Issuing an Order to Certify Waterford Township's 2015 Housing Element and Fair Share Plan and Ordinances 2015-17, 2016-25, 2017-6 and 2017-7, Adopting a Redevelopment Plan for the Haines Boulevard Redevelopment Area and Amending Chapter 176 (Land Use, Development and Zoning) of the Township's Code

Commissioner _____ **moves and Commissioner** _____
seconds the motion that:

WHEREAS, on July 8, 1983, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Waterford Township; and

WHEREAS, Resolution #PC4-83-56 of the Pinelands Commission specified that any amendment to Waterford Township's certified Master Plan and Land Use Ordinances be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 (Submission and Review of Amendments to Certified Master Plans and Land Use Ordinances) of the Comprehensive Management Plan to determine if said amendment raises a substantial issue with respect to conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, Resolution #PC4-83-56 further specified that any such amendment shall only become effective as provided in N.J.A.C. 7:50-3.45 of the Comprehensive Management Plan; and

WHEREAS, on November 9, 2015, Waterford Township adopted Ordinance 2015-17, amending Chapter 176 (Land Use, Development and Zoning) of the Township's Code by rezoning two lots (Block 601, Lots 44 and 45) from the PHB (Planned Highway Business) Zone to the R-4 (Residential, High Density) Zone, within the Regional Growth Area; and

WHEREAS, on December 7, 2015, the Waterford Township Land Use Board adopted Resolution 2015-16, approving a Housing Element and Fair Share Plan, dated November 2015, which outlines the Township's affordable housing obligation, provides information on past efforts to provide affordable housing and recommends the rezoning of property to provide additional affordable housing opportunities; and

WHEREAS, the Pinelands Commission received adopted copies of the 2015 Housing Element and Fair Share Plan and Ordinance 2015-17 on December 21, 2015; and

WHEREAS, by email dated January 12, 2016, Waterford Township requested an extension of the Pinelands Commission's review period for the 2015 Housing Element and Fair Share Plan and Ordinance 2015-17 in order to provide an opportunity for the Township to consider additional ordinance amendments; and

WHEREAS, by letter dated January 12, 2016, the Executive Director notified the Township that an extension until March 14, 2016 was granted; and

WHEREAS, by email dated March 22, 2016, Waterford Township requested a further extension of the Commission's review period in order to provide an opportunity for the Township to complete the adoption process for additional ordinance amendments; and

WHEREAS, by letter dated March 24, 2016, the Executive Director notified the Township that an extension through May 6, 2016 was granted; and

WHEREAS, by letter dated October 12, 2016, Waterford Township requested that the Commission's review period for the 2015 Housing Element and Fair Share Plan and Ordinance 2015-17 again be extended so that it would coincide with Commission review of a revised redevelopment plan being adopted by the Township; and

WHEREAS, by letter dated October 18, 2016, the Executive Director notified the Township that an extension until December 31, 2016 was granted; and

WHEREAS, on December 14, 2016, Waterford Township adopted Ordinance 2016-25, approving a revised redevelopment plan for the Haines Boulevard Redevelopment Area to allow for mixed use and high density residential development; and

WHEREAS, the Pinelands Commission received a certified, adopted copy of Ordinance 2016-25 on December 20, 2016; and

WHEREAS, on February 8, 2017, Waterford Township adopted Ordinances 2017-6 and 2017-7, amending Chapter 176 by revising the submission requirements for development applications in the Haines Boulevard Redevelopment Area and requiring the use of Pinelands Development Credits for residential development in the R1, R2, R3 and R4 Zones; and

WHEREAS, the Pinelands Commission received certified, adopted copies of Ordinances 2017-6 and 2017-7 on February 13, 2017; and

WHEREAS, by letter dated February 15, 2017, the Executive Director notified the Township that the 2015 Housing Element and Fair Share Plan and Ordinances 2015-17, 2016-25, 2017-6 and 2017-7 would require formal review and approval by the Pinelands Commission; and

WHEREAS, a public hearing to receive testimony concerning the Township’s application for certification of its 2015 Housing Element and Fair Share Plan and Ordinances 2015-17, 2016-25, 2017-6 and 2017-7 was duly advertised, noticed and held on March 8, 2017 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m.; and

WHEREAS, the Executive Director has found that the 2015 Housing Element and Fair Share Plan and Ordinances 2015-17, 2016-25, 2017-6 and 2017-7 are consistent with the standards and provisions of the Pinelands Comprehensive Management Plan; and

WHEREAS, the Executive Director has submitted a report to the Commission recommending the issuance of an order to certify that Waterford Township’s 2015 Housing Element and Fair Share Plan and Ordinances 2015-17, 2016-25, 2017-6 and 2017-7, adopting a redevelopment plan for the Haines Boulevard Redevelopment Area and amending Chapter 176 (Land Use, Development and Zoning) of the Township’s Code, are in conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, the Commission’s CMP Policy and Implementation Committee has reviewed the Executive Director’s report and recommended that the 2015 Housing Element and Fair Share Plan and Ordinances 2015-17, 2016-25, 2017-6 and 2017-7 be certified; and

WHEREAS, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning the 2015 Housing Element and Fair Share Plan and Ordinances 2015-17, 2016-25, 2017-6 and 2017-7 and has reviewed the Executive Director’s report; and

WHEREAS, the Pinelands Commission accepts the recommendation of the Executive Director; and

WHEREAS, pursuant to N.J.S.A. 13:18A-5h, no action authorized by the Commission shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period the Governor shall approve same, in which case the action shall become effective upon such approval.

NOW, THEREFORE BE IT RESOLVED that

1. An Order is hereby issued to certify that Waterford Township’s 2015 Housing Element and Fair Share Plan and Ordinances 2015-17, 2016-25, 2017-6 and 2017-7, adopting a redevelopment plan for the Haines Boulevard Redevelopment Area and amending Chapter 176 (Land Use, Development and Zoning) of the Township’s Code, are in conformance with the Pinelands Comprehensive Management Plan.
2. Any additional amendments to the Township’s certified Master Plan and Land Use Ordinances shall be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 to determine if said amendments raise a substantial issue with respect to the Comprehensive Management Plan. Any such amendment shall become effective only as provided in N.J.A.C. 7:50-3.45.

Record of Commission Votes

	AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*
Ashmun					Galletta					Prickett				
Avery					Jannarone					Quinn				
Barr					Lloyd					Rohan Green				
Brown					Lohbauer					Earlen				
Chila					McGlinchey									

* A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: _____

Nancy Wittenberg
Executive Director

Sean W. Earlen
Chairman



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Chris Christie
 Governor

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 Lt. Governor

General Information: Info@njpines.state.nj.us
 Application Specific Information: AppInfo@njpines.state.nj.us

Sean W. Earlen
 Chairman

Nancy Wittenberg
 Executive Director

REPORT ON WATERFORD TOWNSHIP'S 2015 HOUSING ELEMENT AND FAIR SHARE PLAN AND ORDINANCES 2015-17, 2016-25, 2017-6 AND 2017-7, ADOPTING A REDEVELOPMENT PLAN FOR THE HAINES BOULEVARD REDEVELOPMENT AREA AND AMENDING CHAPTER 176 (LAND USE, DEVELOPMENT AND ZONING) OF THE TOWNSHIP'S CODE

March 24, 2017

Waterford Township
 2131 Auburn Avenue
 Atco, NJ 08004

FINDINGS OF FACT

I. Background

The Township of Waterford is located in the western portion of the Pinelands Area, in eastern Camden County. Pinelands municipalities that abut Waterford Township include the Boroughs of Berlin and Chesilhurst and the Townships of Berlin and Winslow in Camden County, the Townships of Evesham, Medford and Shamong in Burlington County and the Town of Hammonton in Atlantic County.

On July 8, 1983, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Waterford Township.

On November 9, 2015, Waterford Township adopted Ordinance 2015-17, amending Chapter 176 (Land Use, Development and Zoning) of the Township's Code by rezoning two lots (Block 601, Lots 44 and 45) from the PHB (Planned Highway Business) Zone to the R-4 (Residential, High Density) Zone, within the Regional Growth Area.

On December 7, 2015, the Waterford Township Land Use Board adopted Resolution 2015-16, approving a Housing Element and Fair Share Plan, dated November 2015, which outlines the Township's affordable housing obligation, provides information on past efforts to provide affordable housing and recommends the rezoning of property to provide additional affordable housing opportunities. The Pinelands Commission received adopted copies of the 2015 Housing Element and Fair Share Plan and Ordinance 2015-17 on December 21, 2015.

By email dated January 12, 2016, Waterford Township requested an extension of the Pinelands Commission's review period for the 2015 Housing Element and Fair Share Plan and Ordinance 2015-17 in order to provide an opportunity for the Township to consider additional ordinance amendments. By

letter dated January 12, 2016, the Executive Director notified the Township that an extension until March 14, 2016 was granted.

By email dated March 22, 2016, Waterford Township requested a further extension of the Commission's review period in order to provide an opportunity for the Township to complete the adoption process for additional ordinance amendments. By letter dated March 24, 2016, the Executive Director notified the Township that an extension through May 6, 2016 was granted.

By letter dated October 12, 2016, Waterford Township requested that the Commission's review period for the 2015 Housing Element and Fair Share Plan and Ordinance 2015-17 again be extended so that it would coincide with Commission review of a revised redevelopment plan being adopted by the Township. By letter dated October 18, 2016, the Executive Director notified the Township that an extension until December 31, 2016 was granted.

On December 14, 2016, Waterford Township adopted Ordinance 2016-25, approving a revised redevelopment plan for the Haines Boulevard Redevelopment Area to allow for mixed-use and high density residential development. The Pinelands Commission received a certified, adopted copy of Ordinance 2016-25 on December 20, 2016.

On February 8, 2017, Waterford Township adopted Ordinances 2017-6 and 2017-7, amending Chapter 176 by revising the submission requirements for development applications in the Haines Boulevard Redevelopment Area and requiring the use of Pinelands Development Credits for residential development in the R1, R2, R3 and R4 Zones. The Pinelands Commission received certified, adopted copies of Ordinances 2017-6 and 2017-7 on February 13, 2017.

By letter dated February 15, 2017, the Executive Director notified the Township that the 2015 Housing Element and Fair Share Plan and Ordinances 2015-17, 2016-25, 2017-6 and 2017-7 would require formal review and approval by the Pinelands Commission.

II. Master Plans and Land Use Ordinances

The following documents have been submitted to the Pinelands Commission for certification:

- * Resolution 2015-16, amending the Master Plan of Waterford Township by adopting a Housing Element and Fair Share Plan, dated November 2015, adopted by the Waterford Township Land Use Board on December 7, 2015;
- * Ordinance 2015-17, amending Chapter 176 (Land Use, Development and Zoning) of the Code of Waterford Township, introduced on October 14, 2015 and adopted on November 9, 2015;
- * Ordinance 2016-25, adopting a Redevelopment Plan for the Haines Boulevard Redevelopment Area, introduced on November 9, 2016 and adopted on December 14, 2016;
- * Ordinance 2017-6, amending Chapter 176 (Land Use, Development and Zoning) of the Code of Waterford Township, introduced on January 19, 2017 and adopted on February 8, 2017; and

- * Ordinance 2017-7, amending Chapter 176 (Land Use, Development and Zoning) of the Code of Waterford Township, introduced on January 19, 2017 and adopted on February 8, 2017.

The above-referenced master plan and ordinance amendments have been reviewed to determine whether they conform with the standards for certification of municipal master plans and land use ordinances as set out in N.J.A.C. 7:50-3.39 of the Pinelands Comprehensive Management Plan. The findings from this review are presented below. The numbers used to designate the respective items correspond to the numbers used to identify the standards in N.J.A.C. 7:50-3.39.

1. **Natural Resource Inventory**

Not applicable.

2. **Required Provisions of Land Use Ordinance Relating to Development Standards**

Affordable Housing

Land Use Board Resolution 2015-16 adopts the Township's November 2015 Housing Element and Fair Share Plan. The Housing Element provides an inventory of the municipality's existing housing stock, a brief discussion of the projected housing stock and detailed demographic and employment data related to Waterford. The Fair Share Plan outlines the Township's affordable housing obligation, provides information on past efforts to provide affordable housing and recommends the rezoning of property in the Regional Growth Area to provide additional affordable housing opportunities.

Subsequent to adoption of the above-described Housing Element and Fair Share Plan, the Township entered into a settlement agreement with Fair Share Housing Center. Said settlement agreement establishes the Township's Third Round prospective need of 205 affordable housing units, applies a 16-unit credit carried over from the prior round and details the manner in which the remaining obligation will be met. Based on the terms of the settlement agreement, the Township's entire Third Round prospective need will be met in the Haines Boulevard Redevelopment Area, where up to 240 affordable housing units will be developed. All new residential development of five or more units in the Redevelopment Area will be required to set aside a minimum of 20 percent of all units as affordable for low- and moderate-income households. Projects where 100 percent of the units are made affordable for such households will also be permitted. The settlement agreement between the Township and Fair Share Housing Center does not require the rezoning of other properties in the Regional Growth Area to accommodate affordable housing.

Haines Boulevard Redevelopment Plan

In 2001, Waterford Township adopted a Redevelopment Plan for the Haines Boulevard Redevelopment Area, an area encompassing approximately 140 acres of land at the intersection of State Highway 73 and U.S. Highway 30 in the Regional Growth Area. At the time, the Redevelopment Area was already substantially developed with a mixture of residential and commercial uses. Based on the Redevelopment Plan adopted for the area by Ordinance 2001-30,

a variety of nonresidential uses were permitted in the Redevelopment Area, including commercial retail centers, conference centers, hotels, theaters, warehousing, research and design laboratories and light manufacturing facilities. Ordinance 2001-30 was reviewed by the Commission and found to raise no substantial issues with respect to conformance with the Pinelands Comprehensive Management Plan.

After many years with no redevelopment activity, the Township began reevaluating market conditions and the future development potential of the Redevelopment Area. The need for new residential development to support future commercial development was identified, as was the need to accommodate affordable housing in accordance with the above-described settlement agreement. Accordingly, the Township adopted Ordinance 2016-25, approving a revised Redevelopment Plan for the Haines Boulevard Redevelopment Area.

The boundaries of the Redevelopment Area (see Exhibit #1) remain the same. However, whereas the prior redevelopment plan limited future development to nonresidential uses, the revised plan adopted by Ordinance 2016-25 permits a wide variety of both residential and nonresidential uses, including mixed-use projects, single-family dwellings, townhouses, assisted living facilities, retail and service establishments, offices and institutional uses. The revised Redevelopment Plan establishes six land use districts within the Redevelopment Area, each with permitted uses, density and other design standards. There are two residential districts, the RD-1 and RD-2 Districts, within which residential development is permitted at five and six units per acre, respectively. Higher density (12 units per acre) is permitted in the TOD/Mixed-Use District, where townhouses, apartments and mixed-use buildings with commercial uses on the ground floor are envisioned. Mixed-use development is likewise permitted in the Community Commercial District at a density of five units per acre. The Institutional Use District allows for a variety of nonresidential uses including schools, libraries, community centers, retail and service establishments and hotels but also permits duplexes, townhouses and assisted living facilities at a density of six units per acre. For any residential project of five or more units in the above-described land use districts, twenty percent of the units must be made affordable for low- and moderate-income households. In addition, should all of the units in a project located in one of these five land use districts be affordable, a density of eight units per acre is permitted. Finally, the Redevelopment Plan includes a Utility District where roads, stormwater facilities and other infrastructure is and will be located. Exhibit #2 depicts the Land Use Plan for the Redevelopment Area with the boundaries of the six land use districts.

The revised Redevelopment Plan also includes a concept plan (see Exhibit #3) to illustrate how the Redevelopment Area might be developed in the future. This concept plan depicts area of highest residential density clustered near the Atco Train Station, with lower density areas adjacent to off-site residentially developed areas. Traditional commercial development is located along U.S. Highway 30 (the White Horse Pike). While not binding, the concept plan may prove to be a useful tool in the Township's future work with redevelopers, a task complicated by the fact that there are 24 lots in the Redevelopment Area and nearly as many individual owners.

In total, the Redevelopment Plan adopted by Ordinance 2016-25 permits a maximum of 792 new residential units, which equates to a gross density of 5.65 units per acre in the Redevelopment Area as a whole. Such a density is significantly higher than that prescribed by the Comprehensive Management Plan for Waterford's Regional Growth Area. N.J.A.C. 7:50-5.28(a)1 and 3 require the Township to zone for a density of only 3.675 units per upland acre in its Regional Growth Area, for a total of 492 units. However, the Comprehensive Management

Plan does provide municipalities with the ability to zone portions of their Regional Growth Areas for higher densities, provided the lands in question are appropriate for more intensive development, sufficient opportunities for the use of Pinelands Development Credits are provided and infrastructure exists or can be provided to support the increased density.

The Haines Boulevard Redevelopment Area was the subject of detailed review by Commission staff in 2011. The area is partially developed, effectively surrounded by existing development and contains no wetlands or required wetlands buffer areas. Site inspections and review of prior records and applications led the staff to conclude the area has a low likelihood of supporting local populations of threatened and endangered species. All of these factors led to the Commission's decision to approve an alternate permitting program for the Redevelopment Area in 2012. More fully described in sections 3 and 6 below, this permitting program allows property owners to submit their development applications directly to the Township, without the need for prior Commission review or issuance of Certificates of Filing. Based on the existing development pattern, lack of environmental constraints and proximity to the existing Atco train station, the Haines Boulevard Redevelopment Area is clearly appropriate for higher intensity development, be it residential, nonresidential or mixed-use. In addition, the use of Pinelands Development Credits has been accommodated and, in fact, guaranteed, in the Redevelopment Area by Ordinance 2016-25 (see Section 8 below).

In terms of infrastructure, concerns with the availability and source of water to serve new development are explicitly addressed in the revised Redevelopment Plan. The Plan specifies that when the Township has allocated 70 percent of its available water capacity, no further applications for major development in the Haines Boulevard Redevelopment Area may be approved until the municipality has contractual arrangements in place to receive water from a source other than the Kirkwood-Cohansey aquifer. This requirement is of particular importance in Waterford Township, where the allocation of water and wastewater flow has been strictly controlled by the Commission, the Department of Environmental Protection and the Camden County Municipal Utilities Authority since 1988. Waterford's current water supply allocation of 652,000 gpd (gallons per day) from the Kirkwood-Cohansey was established at that time. Of that allocation, approximately 348,000 gpd or 53 percent is currently being used by existing development. This means that 47 percent, or 304,000 gpd, remains available for future development throughout the municipality. While not insignificant, this is insufficient to support full build-out in the Township's Regional Growth Area, nor will it support the increased intensity of development permitted in the revised Haines Boulevard Redevelopment Plan. The Township acknowledges the need to secure other sources of water to support future development and has already begun to explore available alternatives. When 70 percent of the available water capacity has been allocated, the Township will need to have contracts in place to implement one of these alternatives. Approximately 108,400 gpd of water can be allocated before the 70 percent "cap" is reached. At best, that amount of water might support one-third of the development potential of the Redevelopment Area. Securing an alternative source of water will therefore be critical to the Township's redevelopment efforts which, as noted previously, include both residential and nonresidential development and the municipality's entire prospective need for affordable housing.

Rezoning

Ordinance 2015-17 amends Chapter 176 (Land Use, Development and Zoning) of the Township's Code by rezoning two lots (Block 601, Lots 44 and 45) from the PHB (Planned

Highway Business) Zone to the R-4 (Residential, High Density) Zone, within the Regional Growth Area (see Exhibit #4). The lots are vacant, unconstrained by wetlands or required wetlands buffer areas, and total approximately 22 acres in size.

Permitted uses in the PHB Zone include a wide variety of retail commercial uses, warehousing, research laboratories, offices, hospitals and commercial-scale solar power arrays. New residential development is not permitted. By contrast, permitted uses in the R4 Zone are limited to residential development (single-family detached units, duplexes, townhouses and senior citizen housing), at a maximum permitted density of 5.25 units per acre. By rezoning Block 601, Lots 44 and 45 to the R4 Zone, Ordinance 2015-17 increases the residential zoning capacity of Waterford's Regional Growth Area by 117 units.

Ordinance 2015-17 was originally adopted to implement one of the recommendations of the Township's 2015 Fair Share Plan. The two rezoned lots were thought to be an appropriate location for higher density (8 units per acre) affordable housing. Ultimately, however, the Township elected to accommodate its entire affordable housing obligation in the Haines Boulevard Redevelopment Area. Therefore, although the new residential zoning designation for Block 601, Lots 44 and 45 remains, these two lots are no longer designated for affordable housing and are subject to the permitted density and other requirements of the R4 Zone. The use of Pinelands Development Credits for a certain percentage of the units developed on this rezoned property and others in the R4 Zone is discussed in section 8 below.

Summary

The above-described redevelopment plan and zoning change affect developable lands in Waterford's existing Regional Growth Area. Together, they increase the residential zoning capacity of the Regional Growth Area by approximately 900 units, while providing increased opportunities for mixed-use development, affordable housing and a variety of residential housing types. The 2015 Housing Element and Fair Share Plan and Ordinances 2015-17 and 2016-25 are consistent with CMP goals and objectives for the Regional Growth Areas. Therefore, this standard for certification is met.

3. Requirement for Certificate of Filing and Content of Development Applications

Ordinance 2017-6 amends Chapter 176 (Land Use, Development and Zoning) of the Code of Waterford Township by revising the simplified permitting system previously established for the Haines Boulevard Redevelopment Area. Under this process, which was certified by the Commission in February 2012, the Township's Local Review Officer first determines whether a proposed development is located in the Redevelopment Area, is consistent with the Redevelopment Plan, is or will be served by public sanitary sewer, and otherwise addresses all applicable standards in Article VIII (General Provisions and Design Standards) of Chapter 176, including stormwater management. Applications for development which are found to meet these criteria are not required to include wetlands delineation mapping, threatened and endangered species surveys, cultural resource surveys (with the exception of Block 301, Lot 13) or Certificates of Filing from the Commission. They may simply proceed to the Planning Board to obtain subdivision and/or site plan approvals. If an application does not meet the specified criteria, it must follow the "normal" application process and obtain a Certificate of Filing from the Commission before seeking any municipal approvals.

Ordinance 2017-6 adds one additional step to the permitting process. Upon determining that an application for development in the Redevelopment Area is complete, the Local Review Officer will now be required to provide certain important information about that application to the Commission. This includes the block and lot designation of the property proposed for development, the number of proposed units, the number of affordable housing units, the proposed square footage of any nonresidential development, the anticipated water needs of the proposed development and the proposed source for the necessary water supply. Receipt of this information will allow the Commission to track proposed development activity in the Haines Boulevard Redevelopment Area and alert the Township and applicants to any possible issues with anticipated water use, affordable housing or use of Pinelands Development Credits. As noted in section 2 above, when the Township has allocated 70 percent of its available water capacity, additional major development projects in the Redevelopment Area cannot be approved until contractual arrangements are in place for a non-Kirkwood-Cohansey source of water. Also, when and if 240 affordable housing units are approved in the Redevelopment Area, any additional affordable units will be subject to the Pinelands Development Credit requirements described in section 8 below. It is therefore critical that the information required in Ordinance 2017-6 be provided to the Commission so that any issues can be identified early on in the application process.

The Commission adopted a set of amendments to the CMP effective August 1995 in an attempt to afford Pinelands municipalities greater flexibility in establishing and implementing alternative local permitting programs. N.J.A.C. 7:50-3.81 through 3.85 of the Comprehensive Management Plan specify that an alternative permitting program may be certified by the Commission if certain standards are met as follows: the municipality in question must demonstrate the capability to implement the program efficiently and effectively; the program must ensure that its application requirements and resulting permit decisions are adequate to determine compliance with subchapters 5 and 6 of the Comprehensive Management Plan and the municipality's land use ordinances; the program must ensure that adequate, qualified and capable personnel will administer it and that safeguards exist if personnel changes occur; and the program must ensure that all applicants receive any necessary Waivers of Strict Compliance from the Commission. The permitting system adopted by Ordinance 2011-19 for the Haines Boulevard Redevelopment Area, as amended by Ordinance 2017-6, continues to comply with these standards.

The August 1995 Comprehensive Management Plan amendments also require that the Executive Director periodically review and report to the Commission on any approved alternative permitting program. The purpose of such review is to enable the Commission to evaluate whether or not development approved under an alternative permitting system is meeting all applicable Pinelands standards. Because no such development has been approved since the Commission's certification of the permitting program in 2012, there has been nothing to evaluate to this point in time. A full review will be completed within three years of the Commission's certification of Ordinance 2017-6.

4. Requirement for Municipal Review and Action on All Development

Not applicable.

5. Review and Action on Forestry Applications

Not applicable.

6. Review of Local Permits

As noted in Section 3 above, Ordinance 2017-6 makes minor revisions to the alternate permitting process previously adopted by Ordinance 2011-19 and certified by the Commission. This process currently requires the Township's Local Review Officer to determine whether an application for development: (1) is located in the Haines Boulevard Redevelopment Area; (2) is consistent with the Redevelopment Plan; (3) is served or proposed to be served by public sanitary sewer; and (4) otherwise addresses all applicable standards in Article VIII (General Provisions and Design Standards) of Chapter 176, including stormwater management. Upon making such a determination, the application is deemed eligible for participation in the alternate permitting program and allowed to proceed directly to the Township Planning Board for any necessary subdivision and/or site plan approvals. As is specified in Section 176-14.3B by Ordinance 2011-19, any approvals or permits for development within the Haines Boulevard Redevelopment Area will continue to be subject to the normal notice and review requirements of the Comprehensive Management Plan and Sections 176-14.6 and 176-14.7 of Waterford Township's Land Development Ordinance. This requirement meets the standards of N.J.A.C. 7:50-3.83(a)5, which specifies that any alternative permitting program must either allow for Commission review of local approvals or provide for periodic review of local permits by the Commission.

The permitting system previously established by Ordinance 2011-19 and amended by Ordinance 2017-6 continues to provide sufficient opportunity for Commission review of applications for development within the Haines Boulevard Redevelopment Area. Therefore, this standard for certification is met.

7. Requirement for Capital Improvement Program

Not applicable.

8. Accommodation of Pinelands Development Credits

N.J.A.C. 7:50-3.39(a)8 specifies that in order to be certified by the Commission, municipal land use ordinances must provide for sufficiently residentially zoned property in the Regional Growth Area to be eligible for an increase in density to accommodate Pinelands Development Credits as provided for in N.J.A.C. 7:50-5.28(a)3. As described in Section 2 above, Ordinances 2015-17 and 2016-25 zone new areas within Waterford's Regional Growth Area for residential development, increasing residential zoning capacity by approximately 900 units.

In order to comply with N.J.A.C. 7:50-3.39(a)8, Ordinance 2016-25 requires that Pinelands Development Credits be acquired and redeemed for 30 percent of all market-rate residential units in projects of five units or more in the Haines Boulevard Redevelopment Area. Affordable housing units are excluded from the Pinelands Development Credit requirement until such time

as the number of affordable units proposed in the Redevelopment Area exceeds 240, at which point Pinelands Development Credits will be required for all future units at the 30 percent rate, whether they are affordable or market-rate. Based on the revised Redevelopment Plan adopted by Ordinance 2016-25, this Pinelands Development Credit requirement will result in an opportunity for use of 165 rights (41.25 full Pinelands Development Credits) in the Haines Boulevard Redevelopment Area.

Ordinance 2017-7 requires that Pinelands Development Credits be acquired and redeemed for 30 percent of all units in the four residential zones in the Township's Regional Growth Area (R1, R2, R3 and R4), regardless of project size or density. Affordable housing units in these four zones will not be "exempt" from the Pinelands Development Credit requirement. Only one exception is provided by Ordinance 2017-17: the development of one home on an existing conforming lot will not be subject to the 30 percent Pinelands Development Credit requirement. When applied to the property rezoned from the PHB (Planned Highway Business) Zone to the R4 Zone by Ordinance 2015-17, the 30 percent requirement results in a new opportunity for use of 36 rights (9 full Pinelands Development Credits). In addition, vacant lands already in these four residential will be subject to the new requirement; they will no longer have a traditional "base" density and an optional "bonus" density achievable through the use of credits. Instead, the previously certified maximum zone densities (2.25 units per acre in R1; 3.0 in R2; 4.5 in R3; 5.25 in R4) will be permitted as a matter of right, with Pinelands Development Credit use a required component of every project.

While the 30 percent Pinelands Development Credit requirement adopted for the Redevelopment Area and R1, R2, R3 and R4 Zones is not as high a number as would be provided through the more traditional zoning approach where Pinelands Development Credits would account for 33 percent of the total number of permitted units, it is important to remember that the traditional base density/bonus density approach utilized throughout the Pinelands Area only provides an *opportunity* for the use of Pinelands Development Credits. There is no requirement under the traditional approach that any credits be used in any particular development project. With minor exceptions, Ordinance 2017-7 *guarantees* that Pinelands Development Credits will be purchased and redeemed as part of the approval of any residential development within the R1, R2, R3 and R4 Zones, regardless of the density or number of units that are ultimately built. Likewise, the use of credits will be guaranteed in any market rate development in the Haines Boulevard Redevelopment Area of five or more units. Given the greater certainty provided by this approach, the Executive Director believes that the Pinelands Development Credit requirements adopted by Ordinances 2016-25 and 2017-7 should be viewed as being consistent with Comprehensive Management Plan standards.

This standard for certification is met.

9. Referral of Development Applications to Environmental Commission

Not applicable.

10. General Conformance Requirements

Waterford Township's 2015 Housing Element and Fair Share Plan and Ordinances 2015-17, 2016-25, 2017-6 and 2017-7, adopting a Redevelopment Plan for the Haines Boulevard Redevelopment Area and amending Chapter 176 (Land Use, Development and Zoning) of the Code of Waterford Township, are consistent with the standards and provisions of the Pinelands Comprehensive Management Plan.

This standard for certification is met.

11. Conformance with Energy Conservation

Not applicable.

12. Conformance with the Federal Act

Waterford Township's 2015 Housing Element and Fair Share Plan and Ordinances 2015-17, 2016-25, 2017-6 and 2017-7, adopting a Redevelopment Plan for the Haines Boulevard Redevelopment Area and amending Chapter 176 (Land Use, Development and Zoning) of the Code of Waterford Township, are consistent with the standards and provisions of the Pinelands Comprehensive Management Plan. No special issues exist relative to the Federal Act.

This standard for certification is met.

13. Procedure to Resolve Intermunicipal Conflicts

With one exception, the zoning changes adopted by Waterford Township do not affect lands on the municipality's boundary. The western edge of the Haines Boulevard Redevelopment Area does, however, abut Berlin Borough's Regional Growth Area. In Berlin Borough, the adjacent lands straddle State Highway 73 and are included in the PC-2 (Neighborhood Commercial) Zone, where a wide variety of retail and service uses are permitted, as well as offices, restaurants, health clubs, child care centers and animal hospitals. Preexisting residential uses are also permitted. This range of permitted uses is not dissimilar to what is permitted by Ordinance 2016-25 in the revised Redevelopment Plan for the Haines Boulevard Redevelopment Area. Therefore, intermunicipal conflicts are not anticipated and this standard for certification is met.

PUBLIC HEARING

A public hearing to receive testimony concerning Waterford Township's application for certification of its 2015 Housing Element and Fair Share Plan and Ordinances 2015-17, 2016-25, 2017-6 and 2017-7 was duly advertised, noticed and held on March 8, 2017 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m. Ms. Grogan conducted the hearing, at which the following testimony was received:

Katie Smith, with the Pinelands Preservation Alliance (PPA), stated that PPA remains concerned with the alternate permitting system previously certified by the Commission for development in the Haines Boulevard Redevelopment Area. She noted the potential habitat in the area for timber rattlesnake, great blue heron and Eastern box turtle. She stated that the presence of rare plants in the area is unknown because no survey has been done. Ms. Smith concluded by stating that PPA would be submitting written comments.

There being no further testimony, the hearing was concluded at 9:40 a.m.

Written comments on Waterford Township's 2015 Housing Element and Fair Share Plan and Ordinances 2015-17, 2016-25, 2017-6 and 2017-7 were accepted through March 13, 2017 and were received from the following individual:

Katherine Smith, Policy Advocate, Pinelands Preservation Alliance (see Exhibit #5)

EXECUTIVE DIRECTOR'S RESPONSE

The concerns expressed by Ms. Smith for the Pinelands environment are appreciated and were taken into account during the certification process for Waterford Township Ordinance 2011-9, which established the alternate permitting process currently in place in the Haines Boulevard Redevelopment Area. At that time, the Commission staff conducted a detailed review of the Redevelopment Area for consistency with the threatened and endangered species protection standards of the CMP. Commission staff site inspections, consideration of the vegetation communities present in the Redevelopment Area, review of numerous prior applications in the Redevelopment Area, known threatened and endangered species sighting information and the existing land use pattern of the surrounding area all indicated that the Redevelopment Area had a low likelihood of supporting local populations of threatened and endangered species. The staff determined that the submission of threatened and endangered species surveys for purposes of determining consistency with the CMP was unnecessary. Further detail about this determination, made in 2012, follows:

When viewing an aerial photograph of the region (see Exhibit #1), the Redevelopment Area appears to be effectively surrounded by existing development. Specifically, the Redevelopment Area is surrounded by the following:

- State Highway 73 borders the Redevelopment Area to the west and a “clover-leaf” interchange at the intersection of US Highway 30 and State Highway 73 borders the southwestern portion of the Redevelopment Area. Sporadic commercial development is located immediately across State Highway 73 from the Area; however, high intensity residential and commercial development is located less than a mile west of State Highway 73;
- A New Jersey Transit rail line and existing commercial/industrial uses borders the Redevelopment Area to the north;
- High density residential development borders the Redevelopment Area to the east; and
- U.S. Highway 30 and existing commercial and residential uses borders the Redevelopment Area to the south.
- Approximately half the Redevelopment Area is forested. The other half consists of existing developed commercial and residential uses and cleared acreage.

Since 1981, the Commission staff has reviewed 25 applications for development in the Redevelopment Area. The Commission staff also reviewed an application for the development of Haines Boulevard, which bisects the Redevelopment Area. Review of these applications included staff site inspections and review of the proposed developments for consistency with all environmental standards of the CMP, including the threatened and endangered species protection standards.

During 2011, Commission staff performed two additional site inspections of the Redevelopment Area, specifically associated with the Commission's discussions with Waterford Township regarding the possibility of an alternate permitting program within the Redevelopment Area.

Based upon review of past applications, available threatened and endangered species sighting information, the existing land use pattern of the surrounding environs and consideration of the vegetation communities present on the parcel, it was determined that the Redevelopment Area had a low likelihood of supporting local populations of threatened and endangered species for the following reasons:

- Eastern box turtle and Great Blue heron, both mentioned by Ms. Smith in her oral comments, are not listed as threatened or endangered by the New Jersey Department of Environmental Protection and are not afforded threatened and endangered species protection pursuant to the CMP.
- The Commission has one record of Timber rattlesnake, from 1980, in a forest patch within the Redevelopment Area. However, the Redevelopment Area does not contain suitable hibernacula habitat for Timber rattlesnake.
- The existing development pattern surrounding and within the Redevelopment Area acts as a fragmenting barrier that makes the Redevelopment Area unlikely for use by Northern pine snake and/or Timber rattlesnake.
- The Redevelopment Area does not appear to contain suitable nesting habitat for Northern pine snake.
- The Commission staff has no records for other threatened or endangered animal species in the vicinity of the Redevelopment Area.
- The Commission has a record of one threatened/endangered plant species, Pine Barrens boneset, in the vicinity of, but not in, the Redevelopment Area. This species is a wetland species and there is little likelihood that this wetlands species would be present within the Redevelopment Area because there are no wetlands located within the Redevelopment Area.
- If individual development applications for parcels within the Redevelopment Area were submitted to the Commission, based upon existing habitat and the lack of known sightings of threatened and endangered plant species in this area, threatened and endangered plant surveys would not be required. Since threatened or endangered plant surveys would not be required for an individual application in the Redevelopment Area, it did not seem necessary or appropriate to require the completion of a threatened or endangered plant survey prior to approving an alternate permitting process for the area as a whole.
- Regarding Ms. Smith's concern with the presence of unknown threatened and endangered plant populations, although the staff does acknowledge that there are sites throughout the Pinelands that

contain threatened and endangered plant species populations yet to be discovered, it is unlikely that the Redevelopment Area contains any threatened or endangered plant populations. This determination is based upon the extent of development that has already occurred within the Redevelopment Area, the continued review of the Redevelopment Area by Commission staff during the course of 25 development applications, staff site inspections and the lack of other threatened or endangered plant species in the vicinity of the Redevelopment Area.

It should be noted that the amendments made by Ordinance 2017-6 consist of minor changes to the alternate permitting system so that it will reflect the revisions made to the Haines Boulevard Redevelopment Plan relative to permitted uses, affordable housing and water use. These changes require the Local Review Officer to report certain information to the Commission upon determining that an application for development in the Redevelopment Area is complete. The addition of this notice requirement will provide the Commission with greater ability to keep track of the amount of development being proposed in the Redevelopment Area and its associated water use. The remainder of the permitting process remains unchanged and continues to be appropriate for the Redevelopment Area.

CONCLUSION

Based on the Findings of Fact cited above, the Executive Director has concluded that Waterford Township's 2015 Housing Element and Fair Share Plan and Ordinances 2015-17, 2016-25, 2017-6 and 2017-7 comply with Comprehensive Management Plan standards for the certification of municipal master plans and land use ordinances. Accordingly, the Executive Director recommends that the Commission issue an order to certify the 2015 Housing Element and Fair Share Plan and Ordinances 2015-17, 2016-25, 2017-6 and 2017-7 of Waterford Township.

SRG/CWT
Attachments



Redevelopment Area

Proposed Network

- Mandatory 1st Floor Commercial
- RD1: Single Family Residential
- RD-2: Single-, Two-Family, & Townhouse
- TOD/Mixed Use
- Community Commercial
- ID: Institutional
- Utilities

0 200 400 Feet

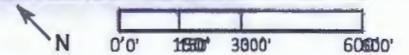
Source: NJDEP, NJGIN, NJOGIS, NJDOT, Waterford Twp

Land Use Plan
Haines Boulevard Redevelopment Plan - Waterford, NJ

HEYER GRUEL & ASSOCIATES
April 2016



Haines Boulevard Redevelopment Area Illustrative Concept Plan



Waterford Township

Proposed Zoning Change

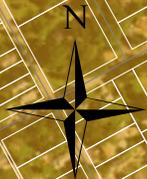
Executive Director's Report
Waterford Township
Ordinance 2015-17
March 24, 2017
Exhibit 4

Lots proposed to be rezoned from PHB to R4

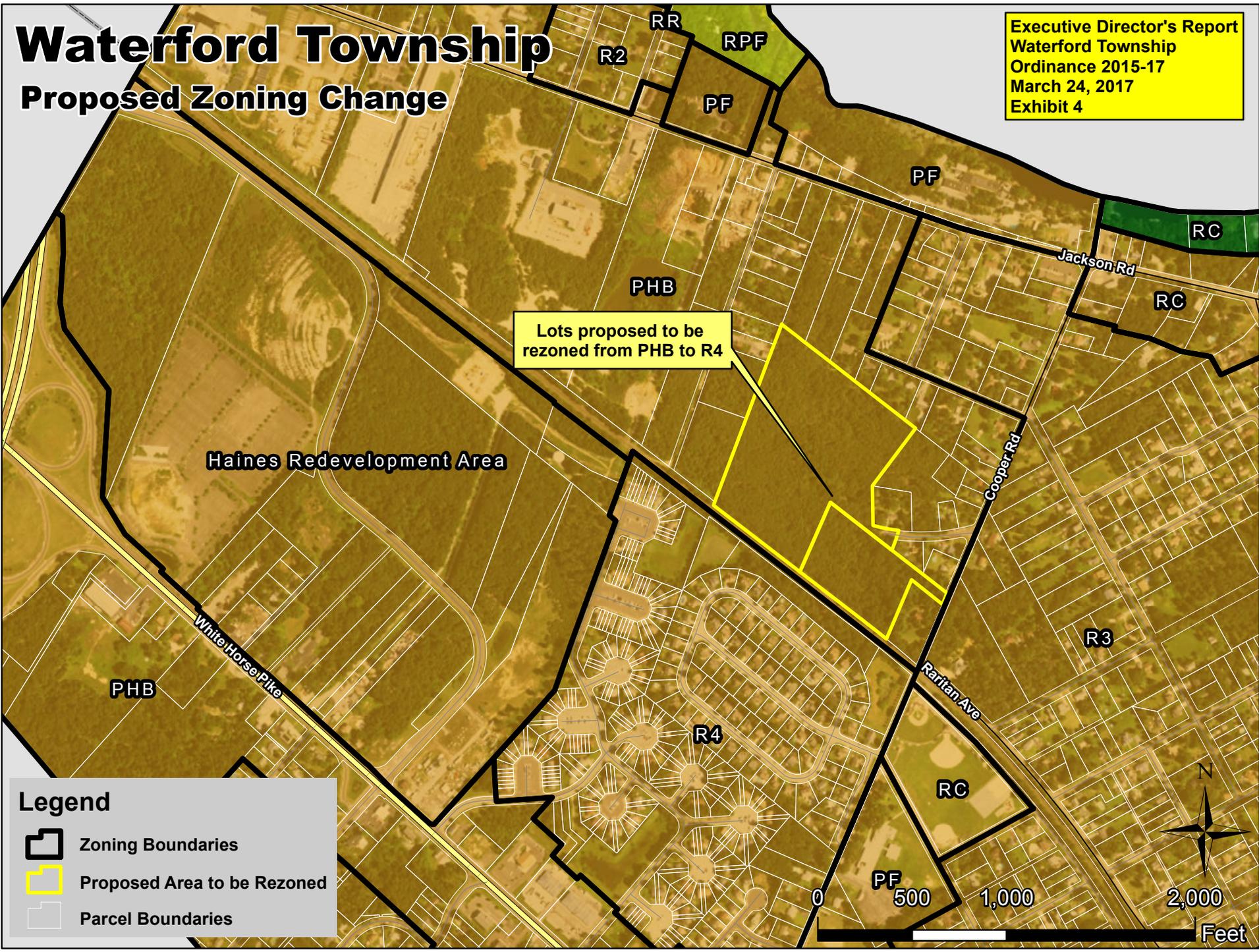
Haines Redevelopment Area

Legend

-  Zoning Boundaries
-  Proposed Area to be Rezoned
-  Parcel Boundaries



0 500 1,000 2,000
Feet





Pinelands Preservation Alliance

Bishop Farmstead ♦ 17 Pemberton Road ♦ Southampton NJ ♦ 08088
Phone: 609-859-8860 ♦ ppa@pinelandsalliance.org ♦ www.pinelandsalliance.org

Protecting the Pinelands
since 1989

Printed on recycled paper
with linseed ink.

March 13, 2017

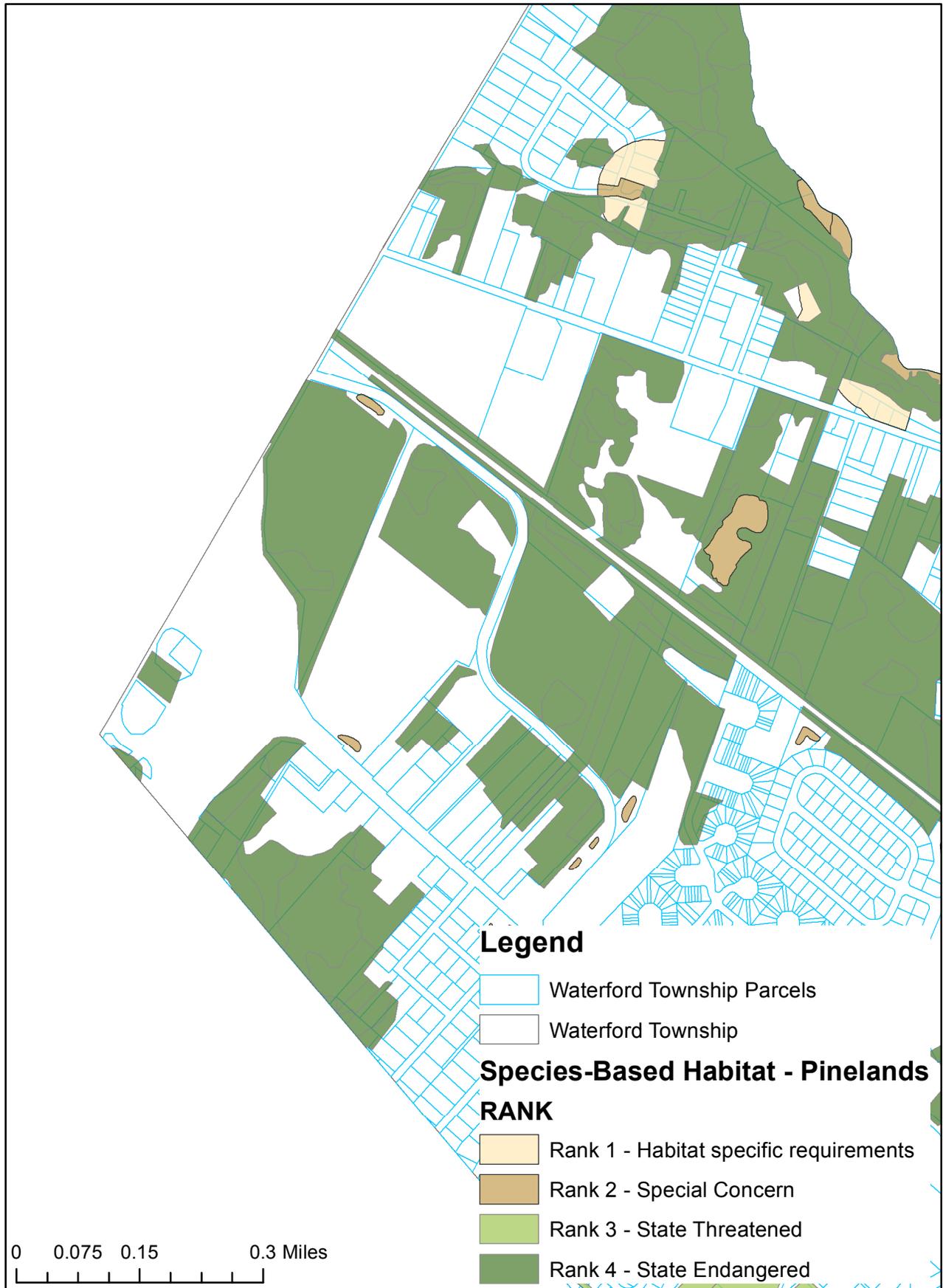
New Jersey Pinelands Commission
15 Springfield Road
New Lisbon, NJ 08064
Waterford Township – Ordinance 2017-6

I am writing to express my concerns with Waterford Township ordinance 2017-6, which excludes developments within the Haines Boulevard Redevelopment Area from requirements to conduct mapping/delineation of wetlands, cultural resources surveys, and threatened and endangered species surveys. A preliminary review of the landscape data available for the proposed redevelopment indicates that the much of area is home to State-listed endangered species, as seen in the attached map. PPA submitted comments at the time that similar Waterford Township Ordinance 2011-19 was before the Commission, and the concerns remain the same for this area. NJAC 7:50-6.27 and 7:50-6.33 explicitly prohibit development unless designed to avoid irreversible adverse impacts on habitats critical to the survival of threatened or endangered plant or wildlife species. Of particular concern is habitat for timber rattle snake. Without a survey, it is unknown what species of threatened and endangered plants are likely to occur on this site. Neither this ordinance nor the redevelopment plan provides evidence that adverse impacts would be avoided.

Sincerely,

Katherine Smith
Policy Advocate
Pinelands Preservation Alliance

Waterford Township Redevelopment





Chris Christie
Governor

Kim Guadagno
Lt. Governor

State of New Jersey

THE PINELANDS COMMISSION

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Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

General Information: Info@njpines.state.nj.us
Application Specific Information: AppInfo@njpines.state.nj.us

MEMORANDUM

To: Members of the Pinelands Commission

From: Susan R. Grogan 
Chief Planner

Date: March 29, 2017

Subject: No Substantial Issue Findings

During the past month, we reviewed nine master plan and ordinance amendments that we found to raise no substantial issues with respect to the standards of the Pinelands Comprehensive Management Plan. These amendments were:

Bass River Township 2017-02 - amends Chapter 17 (Zoning) of the Township's Code by prohibiting the placement of signs where they can obstruct driving vision, traffic signals, sight triangles, etc. and by designating the duration following an event by which certain temporary signs be removed. Ordinance 2017-02 also adds a new provision regarding temporary signs for buildings under construction.

Buena Vista Township Ordinance 40-2017 - amends Chapter 115 (Development Regulations) of the Township's Code to remove the administrative requirement that a permit for a changeable-copy sign or electronic message center (EMC) sign must be reviewed by the Development Review Board. Issuance of such permits by the Zoning Officer will now be permitted without prior review by the Development Review Board. The substantive standards for changeable-copy and EMC signs, previously adopted by Ordinance 17-2014, remain unchanged.

Hamilton Township Ordinance 1842-2017 - adopts a Redevelopment Plan for the Hope Fire Company/American Legion Building. The building is an historic structure located on a 7,250 square foot municipally-owned lot in the Mays Landing Historic District, within the Regional Growth Area. Development in the new Hope Fire Redevelopment District is permitted in accordance with the standards of the Township's VC (Village Commercial) District, an existing zone within the municipality's Regional Growth Area that permits both residential and nonresidential uses. The Redevelopment Plan also permits mixed-use development, including the development of up to two dwelling units on the upper floors in combination with first floor office or retail. All development must incorporate a plan for the historic preservation and restoration of the existing building and receive a

Certificate of Appropriateness from the Planning Board. Compliance with the Pinelands CMP is also explicitly required.

Jackson Township Ordinances 3-17 and 4-17 –amend Chapter 244 (Land Use and Development Regulations) of the Township’s Code by establishing a definition for “Dormitory” and a new Section 244-176.2, which prohibits dormitories in all districts as well as all uses not expressly permitted in any given district. Additionally, Ordinance 3-17 revises the permitted uses in the R-2, R-3, R-5, R-9, R-15, R-20, and MF zones, all of which are located outside of the Pinelands Area.

Manchester Township Ordinance 17-002 - amends Chapter 245, Land Use and Development, of the Township’s Code of Manchester Township. Amendments applicable to lands and zones in the Pinelands Area include: revisions to the setback requirements for churches; revisions to the maximum permitted height of hospitals and nursing homes limiting them to the maximum height permitted in the zoning district in which the facility is built; revised design criteria for continuing care facilities for the elderly related to required arterial roadway frontage; as well as the creation of conditional use standards for religious use organizations, public and private schools, and childcare facilities.

Monroe Township Ordinance O:08-2017 - amends section 175-89.1, Affordable housing, of the Township’s Code by revising the requirements of the Township’s affirmative marketing plan. Ordinance O:08-2017 also revises requirements for the imposition and collection of development fees. Specifically, the ordinance eliminates the additional fees applicable to those residential projects receiving increased density pursuant to a “d” variance.

Plumsted Township Planning Board Resolution 2016-09 - adopts the Township’s Master Plan Reexamination Report. The report includes: an update on the major problems and objectives of the last reexamination report; updated demographic data; updated policies in regards to the Township’s sewer service area, public water availability, and Affordable Housing Regulations; and recommendations for the expansion of two commercial zones, both located outside of the Pinelands Area. It is noted that the Township is afforded a durational adjustment to defer its compliance with meeting its affordable housing obligations due to its lack of public sewer facilities, and it is also noted that the expansion of sewer service area is in the New Egypt Town Center, which is outside the Pinelands Area, and is consistent with the Future Wastewater Service Area for Ocean County.

Waterford Township Ordinance 2017-2 - amends Chapter 176 (Land Use, Development and Zoning) of the Township’s Code to amend the definition of “private garage” to include its use for the storage of household items and specify a minimum size of 240 square feet. Ordinance 2017-2 also adds a new definition, “garden/utility shed”, and specifies the permitted uses as well as the minimum and maximum square footage of such structures.