



State of New Jersey
 THE PINELANDS COMMISSION
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 www.nj.gov/pinelands




Chris Christie
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Sean W. Earlen
 Chairman
 Nancy Wittenberg
 Executive Director

MEMORANDUM

To: Members of the Commission
 From: Nancy Wittenberg 
 Executive Director
 Date: March 30, 2016
 Subject: Summary of the April 8, 2016 Meeting Packet

Minutes

The March 11, 2016 Commission meeting minutes (open and closed session) are included in your packet.

Waiver of Strict Compliance

The following application for a Waiver of Strict Compliance is being recommended for approval. Your packet includes the Resolution, the Waiver Report and as requested by the Policy and Implementation Committee, the *Neptune Basin Expansion Review* prepared by Najarian Associates.

STAFFORD TOWNSHIP, Stafford Township, Pinelands Forest Area and Regional Growth Area. Construction of a stormwater management basin.

Public Development Applications

The following four public development applications are being recommended for approval with conditions:

1. **STAFFORD TOWNSHIP**, Stafford Township, Pinelands Forest Area and Regional Growth Area, Construction of a stormwater management basin.
2. **MULLICA TOWNSHIP**, Mullica Township, Pinelands Forest Area, Improvements to 4,600 linear feet of Indian Cabin Road.
3. **SHAMONG TOWNSHIP**, Shamong Township, Pinelands Village Area, Two lot subdivision and no further development.

4. **TOWN OF HAMMONTON**, Town of Hammonton, Pinelands Town, Construction of a 3,612 square foot municipal storage garage.

Letter of Interpretation

No Pinelands Development Credit (PDC) Letters of Interpretation were issued since the last Commission meeting.

Off-Road Vehicle Event Route Map Approval

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

Superfund Groundwater Remediation Cleanup

There are no Superfund Clean-ups on this month's agenda.

Ordinances Not Requiring Commission Action

We have included a memorandum on two ordinance amendments that we reviewed and found to raise no substantial issues with respect to CMP standards. These ordinances were submitted by Barnegat Township and the Borough of South Toms River.

Limited Practical Use

We have included a resolution related to the acquisition of a 5.98-acre parcel pursuant to the Limited Practical Use land acquisition program. The property in question is located in Hamilton Township, in a Pinelands Forest Area. We are recommending that the Commission approve the acquisition of this parcel by the Department of Environmental Protection. To date, the Commission has approved the acquisition of 479 parcels under the Limited Practical Use Program, for a total of 1,550 acres.

Grant Proposal Presentation

Endocrine disrupting chemicals (EDCs) have been linked to reproductive and developmental abnormalities in fish and amphibians. Surface-water discharge of wastewater is a major point source of EDCs to aquatic systems and on-site septic systems and chemical use associated with development and agriculture represent non-point sources of EDCs. Commission and USGS scientists propose to sample surface water, fish, and frogs at on-stream and off-stream sites with potential point and non-point sources of EDCs and compare these results to minimally impacted reference sites. All animals will be assessed histologically for measures of endocrine disruption and surface water from all sites will be analyzed for approximately one hundred known or suspected EDCs. A letter of intent was accepted and a full proposal requested for possible funding through the Delaware Watershed Research Fund.

Closed Session

The Commission may need to 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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Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

NEW JERSEY PINELANDS COMMISSION MEETING AGENDA

Friday, April 8, 2016

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

- March 11, 2016 (open and closed session)

3. Committee Chairs' and Executive Director's Reports

4. 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 an Application for a Waiver of Strict Compliance (Application Number 1993-0732.012)
 - Approving with Conditions an Application for Public Development (Application Number 1993-0732.012)

- Approving With Conditions Applications for Public Development (Application Numbers 2015-0016.001 & 2015-0150.001)
- Approving With Conditions an Application for Public Development (Application Number 1988-0706.020)

B. Planning Matters

- Municipal Ordinances
 - None
 - Other Resolutions
 - Determining the Eligibility of a Parcel of Land for Acquisition by the Department of Environmental Protection Pursuant to the Limited Practical Use Program
 - CMP Amendments
 - None
5. 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.)*
 6. Ordinances Not Requiring Commission Action
 - Barnegat Township Ordinance 2016-02
 - South Toms River Borough Ordinance 12-15
 7. Grant Proposal Presentation
 - Point and Non-point Sources of Endocrine Disrupting Compounds and the Potential Effects on Fish and Frogs in the New Jersey Pinelands
 8. 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.)*
 9. Resolution to Retire into Closed Session (if needed) – Personnel, Litigation and Acquisition Matters *(The Commission reserves the right to reconvene into public session to take action on closed session items.)*
 10. Adjournment

Upcoming Meetings

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

Friday, April 22, 2016	Agriculture Committee Meeting (9:30 a.m.)
Friday, April 29, 2016	Policy and Implementation Committee Meeting (9:30 a.m.)
Tuesday, May 3, 2016	Personnel and Budget Committee Meeting (9:30 a.m.)
Thurs., May 12, 2016	Pinelands Commission Regular Monthly Meeting (6:00 p.m.)

Events of Interest

April 6, 2016 Pinelands Research Series- Matthew Schlesinger- study of the newly described Atlantic Coast leopard frog -10:00 a.m.-New Lisbon, NJ



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
Richard J. Sullivan Center
Terrence D. Moore Conference Room
15 Springfield Road
New Lisbon, New Jersey

MINUTES

March 11, 2016

Commissioners Present

Candace Ashmun, Alan W. Avery Jr., Bob Barr, Bill Brown, Giuseppe Chila, Joe DiBello, Paul E. Galletta, Jane Jannarone, Ed Lloyd, Mark Lohbauer, Ed McGlinchey, Richard Prickett, Gary Quinn and D'Arcy Rohan Green. Also present were Executive Director Nancy Wittenberg, Governor's Authorities Unit representative Amy Herbold and Deputy Attorney General Sean Moriarty.

Commissioners Absent

Chairman Sean Earlen

Vice Chair Galletta called the meeting to order at 9:34 a.m.

DAG Sean Moriarty read the Open Public Meetings Act Statement.

Ms. Nancy Wittenberg called the roll and announced the presence of a quorum. (There were 14 Commissioners present.)

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

Minutes

Vice Chair Galletta presented the minutes from the February 12, 2016 Commission meeting. Commissioner Ashmun moved the adoption of the minutes. Commissioner Lohbauer seconded the motion.

The minutes of the February 12, 2016 Commission meeting were adopted by a vote of 12 to 0, with Commissioner Jannarone abstaining. Commissioner DiBello arrived after the vote.

Committee Chairs' Reports

Commissioner McGlinchey said that an Agriculture Committee meeting will be scheduled soon.

Vice Chair Galletta provided an update on the February 26, 2016 Policy and Implementation Committee meeting. The Committee:

- Adopted the minutes of the January 29, 2016 meeting.
- Recommended Commission certification of Manchester Township Ordinance 15-009 and asked for additional information concerning the ownership and deed restriction of certain properties. Among the provisions of the ordinance are two small management area changes correcting mapping discrepancies.
- Received a presentation on potential enhancements to the Pinelands Development Credit Program.
- Received an update on the 2015 Round of the Pinelands Conservation Fund. Of the five projects, two projects have closed and three projects were granted extensions until June 30, 2016 to meet the conditions of the grants.
- Discussed how it could uphold provisions of the CMP while dealing with motorized vehicles on State lands being discussed at NJ DEP and the affordable housing issues now before the courts.

Executive Director's Reports

Ms. Wittenberg updated the Commission on the following:

- The Short Course will be held tomorrow at Stockton University.
- The Pinelands Municipal Council met this past Tuesday and swore in their new members. A representative from the Department of Transportation delivered a presentation on the Pine Barrens Byway.
- The Commission phone system is partially working; a new phone system will be installed in the next week.
- Staff continues to work on an affordable housing letter that will be sent to municipalities and will offer the Commission's staff assistance.

Mr. Larry Liggett updated the Commission on the following:

- Staff is currently beta testing an interpretive map that will eventually allow the public to look up parcel information from the Commission's website.

Mr. Chuck Horner provided an update on multiple regulatory matters, including the following:

- The Stafford Township Waiver application has been delayed and will be on the Commission's April meeting agenda.
- Southampton Township has submitted an application to the Commission for the reconstruction of its public works facility.
- The Commission received a call from the Fire Chief, who said that water controls at the Chatsworth Lake had malfunctioned. Commission staff advised the Fire Chief that routine maintenance does not require an application. Staff will send a letter out to Woodland, advising them that the repairs will not require an application to the Commission.

Vice Chair Galletta said the Chairman asked him to remind Commissioners that revised Committee assignments will be provided at the April Commission meeting.

Closed Session Resolution

Commissioner Lohbauer moved to retire into closed session. Commissioner McGlinchey seconded the motion. The Commission agreed to retire into closed session by a vote of 14 to 0, beginning at 9:48 a.m. in the library.

Office of Administrative Law

The Commission returned to open session at 10:01 a.m.

DAG Moriarty said he briefed the Commission on the Final Decision on the Peg Leg Webb matter.

Commissioner McGlinchey moved the adoption of a resolution Issuing a Final Decision Adopting the Initial Decision of the Office of Administrative Law issued in the matter captioned Peg Leg Webb, LLC v. New Jersey Pinelands Commission, OAL Dkt. No. EPC 15772-13; Pinelands Commission Application No. 1984-0454.003 (See Resolution # PC4-16-09). Commissioner Lohbauer seconded the motion.

The Commission adopted the resolution by a vote of 14 to 0.

Public Development Projects and Other Permit Matters

Vice Chair Galletta presented a resolution recommending the approval of three public development projects.

Commissioner Avery moved the adoption of a resolution Approving With Conditions Applications for Public Development (Application Numbers 1981-0837.028, 1983-

5837.059 & 1991-0820.103)(See Resolution # PC4-16-10). Commissioner McGlinchey seconded the motion.

Commissioner Ashmun said that the Cape May County Landfill is an exception to the Pinelands Comprehensive Management Plan (CMP). She said she wonders if the development proposed at the landfill over the years is appropriate for the site.

The Commission adopted the resolution by a vote of 14 to 0.

Municipal Ordinances

Commissioner Avery moved the adoption of a resolution Issuing an Order to Certify Ordinance 15-009, Amending Chapter 245 (Land Use and Development) of the Code of Manchester Township (See Resolution # PC4-16-11). Commissioner Barr seconded the motion.

Ms. Susan R. Grogan said Manchester Township recently adopted two zoning map changes that resulted in changes to Pinelands Management Area boundaries.

A map of the Beckerville section of Manchester Township was displayed. Ms. Grogan pointed out the boundary line to be adjusted. She said, in doing this, Beckerville Village will go back to the original boundary the Commission certified many years ago. She said the Pinelands Village will decrease by 20 acres. The land will be rezoned to the Preservation Area District.

A second map was displayed depicting a strip of land between the Town of Whiting and the municipal boundary with Berkeley Township. Ms. Grogan said that the change is not to facilitate additional development but would clean up the map and allow for the boundary to follow existing lot lines. Ms. Grogan said the Pinelands Town Management Area would increase by 30 acres.

The Commission adopted the resolution by a vote of 14 to 0.

Public Comment on Agenda Items and Pending Public Development Applications

Emile DeVito of the New Jersey Conservation Foundation said that, based on his research of off-road vehicle destruction at Wharton State Forest, only 30% of the forest remains untouched. He said a map is needed to determine where you can and can't go in Wharton.

Mike Hickey said he is a long-distance runner and runs at Wharton. He said a map for Wharton is necessary.

Jim Barnshaw said there should be full access by foot in Wharton State Forest and limited access by motor vehicle.

Rocky Spano of Jacobstown, NJ said he does not support road closures at Wharton. He said let the New Jersey Department of Environmental Protection (NJDEP) make the decision.

Jim Belsky of South Brunswick, NJ said he is an enduro rider and said the NJDEP should be the regulator of access in Wharton.

John Blandy said he was against the MAP and the NJDEP should make the decision.

Randy DePasquale of Marlton, NJ, urged the Commission to implement controlled access for off-road vehicles.

Tom Hedden with the East Coast Enduro Association Legislative Group urged the Commission to allow the NJDEP process to take place. He mentioned an upcoming stakeholder meeting the NJDEP currently has scheduled. He said the Commission should be involved as a stakeholder.

Emily Smith of Ocean View, NJ, said she is in favor of using USGS 2014 topographic maps to designate appropriate motor vehicle use at Wharton State Forest. She said she hiked the Batona trail and saw the destruction cause by ATV use.

Jack O'Connor of Point Pleasant, NJ, said he supports the NJDEP resolving the map issue. He said there needs to be more enforcement at Wharton.

Marilou March of Camden County suggested making the permits for Jamborees very expensive in an attempt to make sure the land is protected.

Paul O'Neil of Southampton, NJ, said there are old maps for purchase at Batsto Village and that he would like to see those roads stay open.

Tom Taylor of Public Service Gas & Electric said that there has been \$2.5 million of damage in their rights-of-way caused by illegal off-road vehicles. He urged the Commission and the NJDEP to work together and find a solution.

Bob Dailyda of Egg Harbor Township, NJ, said he hopes that the responsible people can continue to have access to Wharton. He said education and enforcement are key.

Joe Duble of Winslow, NJ said he wants to see Wharton's roads kept open. He said proper enforcement is necessary to keep from further destruction.

Perry Hodges of Lakehurst, NJ asked that the Commission allow the NJDEP to finish the process at Wharton. He said he is a member of the enduro community. He said the problems at Wharton are the illegal users and lack of enforcement.

Roy Howard of Trenton, NJ, said he is a member of the enduro community and he respects and loves the forest. He said the public does not want access to the forest restricted. He said there needs to be more enforcement.

Dave Crane of Medford Lakes, NJ, said he believes the NJDEP will come up with a plan to satisfy the public interest regarding the use of Wharton. He said the damage is caused by people who do not follow the rules. He said there needs to be more enforcement.

Albert Horner of Medford Lakes, NJ, said there needs to be a map delineating off-road vehicle access for all public lands in the Pinelands. He said the Commission should stop issuing permits for motorized vehicle events.

Andrew Demarco said he does not support limiting access to the public at Wharton State Forest.

Kevin Broderick of Chesterfield, NJ, said the Commission should be a stakeholder in NJDEP's current process. He thinks closing roads at Wharton is the wrong approach.

Chris Jage of the New Jersey Conservation Foundation said the Commission should have a role in NJDEP's process. He said that in order to enforce rules, there has to be "established rules." He said that he hopes that the approved roads are not in wetlands or wetland buffers.

Charles Hendrickson said he is opposed to the Commission getting involved in the process of the designation of roads at Wharton.

Jason Howell of the Pinelands Preservation Alliance blamed the NJDEP for the damage at Wharton. He said the Commission should designate routes that the Park Police could then enforce. He said the 2014 USGS topographic maps should be used when creating a map and the public should not be permitted on roads that traverse wetlands.

Georgina Shanley of Ocean City, NJ, asked the Commission to stop the destruction caused by motorized vehicles at Wharton.

Steve Senerehia suggested installing duck cameras at Wharton to capture the license plates of vehicles causing destruction.

Paula Yudkowitz said the Commission should get involved in preventing more damage from off-road vehicles at Wharton.

Ryan Rebozo of the Pinelands Preservation Alliance said he made several attempts to review application # 2015-0016.001 for the widening of Indian Cabin Road in Mullica Township, but he did not have the opportunity. He said he hopes the Commission takes into consideration the four known threatened and endangered species in the area. He said the Commission has the authority to designate roads at Wharton and a responsibility to protect wetlands.

Jen Dixon, a member of Open Trails, said the roads people are commenting on are mapped roads. She said quads are a problem at Wharton but New Jersey has a "no chase" policy. She said the roads at Wharton are not being maintained. She thinks both the NJDEP and the Commission should work together to come up with a solution at Wharton.

John Druding of Tabernacle, NJ, said the Commission should defer to the NJDEP until they reveal their new plan. He said the 2014 USGS topographic map is the wrong map to use at Wharton.

Marilyn Miller said she is not optimistic that the NJDEP will be able to enforce rules at Wharton.

Marianne Clemente of Barnegat, NJ said it is the Commission's responsibility to take measures to protect Wharton.

Bill Wolfe of Bordentown, NJ, said it is the responsibility of the Commission to address the off-road vehicle problem at Wharton. He said you cannot have an enforcement program without a map.

Theresa Lettman of the Pinelands Preservations Alliance asked about the outcome of the Peg Leg Webb matter. She said she hoped the Commission supported the Forest Area designation.

Margo Pellegrino of Medford Lakes, NJ, said she is not an employee of the Pinelands Preservation Alliance. She said USGS has a wonderful water quality data base. She said there is an upcoming Jeep Jamboree scheduled at Wharton and questioned the damage potential of 200 Jeeps. She said the Parks and Forest budget is not large enough to include road maintenance at Wharton.

Ordinances Not Requiring Commission Action

Vice Chair Galletta asked if any Commissioners had questions regarding the ordinances not requiring Commission action:

- Hamilton Township Ordinance 1804-2015

No members of the Commission had questions.

MOA Policy Advisory Committee Discussion

Commissioner Ashmun said the MOA Committee met with the public, staff and Committee members to examine the procedure for reviewing an intergovernmental memorandum of agreement. She said the Committee agreed to revise the Commission's existing guidance document when considering an intergovernmental memorandum of agreement. She briefly discussed the revisions:

- The P&I Committee will have a role in the decision
- The Chairman of the Commission will be involved early in the process
- The full Commission will decide if the MOA should be pursued
- A schedule will be established by the Commission

Commissioner Ashmun said the Committee also decided to refer the substantive issues to the P&I Committee including whether the CMP should be revised to define public purpose and equivalent protection or require of an alternatives analysis.

Ms. Grogan displayed a few slides emphasizing the procedural changes the Committee agreed upon (see attached slides for additional information). She said the previous guidance document was written in 2008. She said the revised guidance document calls for the full Commission to authorize staff to either proceed or not proceed with the intergovernmental agreement (Step 7). The process also calls for the Commission to establish a schedule for the consideration of the agreement (Step 7). Lastly, the document explicitly states that the agency involved may need to provide an escrow to the Commission.

Ms. Grogan asked Commissioners to endorse the changes to the guidance document as just described.

Link to the *revised* document:

<http://www.state.nj.us/pinlands/appli/moas/2016%20final%20MOA%20process.pdf>

Commissioner Lohbauer thanked Commissioner Ashmun for chairing the Committee and thanked the Committee members, including: Municipal Representatives Mayor Chuck Chiarello and Tiffany CuvIELLO, County Representative Ernest Kuhlwein and Public Representatives Fred Akers, Great Egg Harbor Wastershed Association and Arnold Fishman, Esq.

Commissioner Avery said he supports the changes, however he wants the Commission to understand that when it is time for the Commission to vote on whether to proceed with the MOA, there may not be enough information to make a decision at that point because the real work has yet to be done.

The Commissioners present were in support of the revised guidance document.

Wharton State Forest Discussion

Commissioner McGlinchey requested that staff make a recommendation to the Commission regarding the Wharton Access Plan at the April Commission meeting.

Ms. Wittenberg said she was contacted by the NJDEP to attend the March 22 meeting at Batsto that the public mentioned today. She said since the last P&I meeting she has had a meeting with NJDEP to inform them of the Commissioner's interest in this matter.

Commissioner Ashmun noted that in this instance, the Commission should not be a stakeholder but rather a regulator. She said the CMP designates areas where motorized vehicles are permitted and the NJDEP is required to note those areas.

Commissioner Lohbauer expressed an interest in attending the March 22nd NJDEP meeting, as did Commissioner McGlinchey.

Ms. Wittenberg said she would inquire if Commissioners were permitted to attend.

Commissioner Lohbauer said that the Commissioner heard varying comments today about the situation at Wharton. He said he looks forward to the upcoming tour of Wharton to see the damage. He requested a weekend tour for Commissioners who could not attend during the week. He said that although the Commission does not have enforcement capabilities, it is important for the Commission to have a role and determine the policy on the Wharton issue.

Commissioner Lloyd said he was upset to hear about the destruction at Wharton State Forest. He said the CMP permits the Commission to designate areas to be protected. He said there needs to be a map so there is something to enforce. He said he recommended using the 2014 USGS maps but is not attached to a particular map. He suggested designating roads where people can go within the Forest.

Commissioner Prickett said it is essential for public to have access to the Forest but at the same time it cannot be destroyed. He said he would like to see a policy to protect certain areas. He said he is interested in hearing from staff about the role the Commission can have in this matter.

Commissioner Chila said there should be a commitment from the NJDEP about the maintenance of roads and enforcement. He said there should be a map for Wharton.

Commissioner Rohan Green said in the future she would like to discuss the restoration of damaged wetlands.

Commissioner Ashmun asked it was possible for the Science office to map areas where the public should not go.

Ms. Wittenberg said yes and that staff has already been discussing that possibility.

Commissioners and staff continued to discuss a variety of topics related to Wharton State Forest and off road vehicle damage such as: maps, road maintenance and fiscal responsibility, enforcement and fines, duck cameras, protection of wetlands and ecology of the forest.

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

Corey Bishop of Egg Harbor City, NJ, said she was disheartened after a recent tour of the damage at Wharton. She said the public needs access but there must be enforceable rules to stop the damage causes by off-road vehicles.

Marianne Clemente of Barnegat, NJ, she said that Commissioner Chila should listen to his seasoned colleagues. She said she was disappointed that some of the off-road advocates left the meeting before the Commissioner engaged in the discussion on the issue. She questioned why the Executive Director still has the ability to make a decision on a major project.

Bill Wolfe of Bordentown, NJ, said the Commission should use the criteria within the CMP to adopt guidelines for access at Wharton. He said there needs to be road closures and barriers at Wharton.

Chris Jage of the New Jersey Conservation Foundation said the NJDEP spent two years field mapping Wharton. He said there needs to be a designation of roads at Wharton.

Michael Tamm of Mt. Holly, NJ, said he is against the three minute limit on public comment. He said the Executive Director should sit next to the Chairman. He said Commissioners should read the CMP.

Georgina Shanley of Ocean City, NJ, said on March 18th the Board of Public Utilities will be voting on the New Jersey Natural Gas Pipeline. She said she was pleased with the work the MOA Committee did to update the guidance document.

Jeff Victor of the Pinelands Preservation Alliance read from the CMP about the Commission recommending the NJDEP consult with the Commission about the development of a land management plan.

Jeff Myers of Indian Mills, NJ supports raising fines for illegal off-road activity at Wharton. He said there needs to be more enforcement and roads need more maintenance.

Joe Duble said no one disagrees that the sensitive areas should not be protected. He supports increasing fines for illegal off-road activity at Wharton.

Bob Dailyda said that when the Commissioners tour Wharton, he hopes that they will have the opportunity to see both the damaged areas and the pristine areas.

Jacklyn Rhoads of the Pinelands suggested looking at the possibility of altering a 2009 law regarding off-road vehicles. She said motorized vehicles should not be permitted in or near ponds and wetlands.

Jason Howell of the Pinelands Preservation Alliance said the known sensitive areas need to be physically protected at Wharton.

Jen Dixon of Open Trails, NJ spoke about a variety of issues related to motorized access at Wharton State Forest.

Nathalie Neiss of Upper Township, NJ suggested using drones to manage the off-road vehicle use at Wharton. She commended the Commission for adopting new MOA guidelines.

Charles Hendrickson of Jackson, NJ, said the fines for destruction of wetlands should be increased to deter the violators.

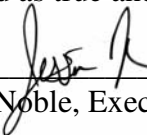
Adjournment

Commissioner Galletta inquired about the next Policy and Implementation Committee meeting.

Ms. Grogan said it will be on Thursday, March 24th at 9:30 a.m.

Commissioner McGlinchey moved to adjourn the meeting. Commissioner Lohbauer seconded the motion. The Commission agreed to adjourn at 12:59 p.m.

Certified as true and correct:



Jessica Noble, Executive Assistant

Date: March 24, 2016



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-16- 09

TITLE: Issuing a Final Decision Adopting the Initial Decision of the Office of Administrative Law issued in the matter captioned Peg Leg Webb, LLC v. New Jersey Pinelands Commission, OAL Dkt. No. EPC 15772-13; Pinelands Commission Application No. 1984-0454.003

Commissioner McGlinchey
seconds the motion that:

moves and Commissioner Lohbauer

WHEREAS, Petitioner, Peg Leg Webb, LLC (Petitioner), challenges the determination of the Executive Director of the New Jersey Pinelands Commission (Commission) that Jackson Township's (Jackson) October 1, 2012 Preliminary Major Site Plan Approval of Petitioner's establishment of a new resource extraction operation and the construction of a 1,008 square foot building (Preliminary Approval) raises substantial issues with respect to conformance with the minimum standards of the Pinelands Comprehensive Management Plan (CMP), N.J.A.C. 7:50-1.1, et seq.; and

WHEREAS, on or about October 10, 2012, the Commission received notice of the Preliminary Approval granted to Petitioner by the Jackson Township Planning Board; and

WHEREAS, on October 25, 2012, pursuant to N.J.A.C. 7:50-4.37, the Executive Director "called-up" the Preliminary Approval through the issuance of a letter alerting Petitioner that the proposed development raised substantial issues with respect to conformance with the minimum standards of the CMP and advising Petitioner of its right to request a hearing on the issue before the Office of Administrative Law (OAL); and

WHEREAS, on July 28, 2013, at Petitioner's request, the Commission granted an extension of the time for the applicant to request an administrative hearing before OAL; and

WHEREAS, on September 23, 2013, Petitioner requested an administrative hearing before OAL; and

WHEREAS, on October 30, 2013, the Commission transmitted the matter to OAL where it was assigned to Administrative Law Judge Susan M. Scarola (the ALJ); and

WHEREAS, on June 22, 2015, Petitioner filed a Motion for Summary Decision; and

WHEREAS, on July 24, 2015, the Commission filed a Cross Motion for Summary Decision; and

WHEREAS, the ALJ heard oral argument on these motions on October 26, 2015; and

WHEREAS, the ALJ issued an Initial Decision on November 20, 2015 denying Petitioner's Motion for Summary Decision and granting the Commission's Motion for Summary Decision, concluding that the Executive Director's determination to call up the Preliminary Approval was correct under the CMP; and

WHEREAS, on or about December 2, 2015, the Commission received the hearing record from OAL; and

WHEREAS, pursuant to the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-18.6, the Commission must issue a Final Decision within 45-days after the receipt of the Initial Decision, unless the period is extended as provided by N.J.A.C. 1:1-18.8; and

WHEREAS, N.J.A.C. 1:1-18.8 allows the Commission to request a single extension of the time limit for filing a final decision for good cause and for additional extensions only with consent of the parties; and

WHEREAS, on January 4, 2016, the Commission received an initial 45-day extension of the deadline to issue its Final Decision until February 18, 2016, upon good cause shown; and

WHEREAS, by letter dated January 4, 2016, the Commission's Executive Director was made aware that, due to a technical issue, Petitioner had not received the Initial Decision from OAL until that date; and

WHEREAS, N.J.A.C. 1:1-18.4(a) affords a party 13 days from the date of mailing of the Initial Decision to file written exceptions with the agency head; and

WHEREAS, it appears an error occurred in the mailing of the Initial Decision to Petitioner causing Petitioner's failure to receive the Initial Decision until January 4, 2016; and

WHEREAS, the deadline for filing its exceptions was extended to January 19, 2016; and

WHEREAS, Petitioner filed exceptions in this matter on January 12, 2016; and

WHEREAS, the Commission filed a response to Petitioner's exceptions on January 28, 2016; and

WHEREAS, with Petitioner's consent, the Commission received a second extension order allowing it until March 19, 2016 to render a Final Decision upon good cause shown; and

WHEREAS, the Commission has reviewed the record, the Initial Decision and Petitioner's exceptions and the Commission's response to exceptions filed in the above-captioned case and issues the attached Final Decision adopting the Initial Decision as set forth herein; 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; and

NOW, THEREFORE, BE IT RESOLVED that the attached Final Decision in the above-captioned case is ADOPTED.

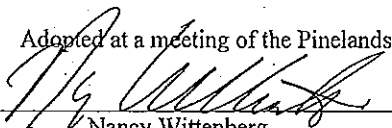
Record of Commission Votes

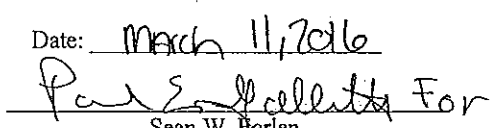
	AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*
Ashmun	X				DiBello	X				McGlinchey	X			
Avery	X				Galletta	X				Prickett	X			
Barr	X				Jannarone	X				Quinn	X			
Brown	X				Lloyd	X				Rohan Green	X			
Chila	X				Lohbauer	X				Earlen			X	

* A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: March 11, 2016


 Nancy Wittenberg
 Executive Director


 Sean W. Earlen
 Chairman

PEG LEG WEBB, LLC,)	
)	<u>ADMINISTRATIVE ACTION</u>
Petitioner,)	<u>FINAL DECISION</u>
v.)	
)	
NEW JERSEY PINELANDS)	OAL DKT. NO. EPC 15772-13
COMMISSION,)	AGENCY REF. NO. 1984-0454.003
)	
Respondent.)	

This matter arises from a challenge by Petitioner, Peg Leg Webb, LLC (Petitioner), to the determination of the Executive Director of the New Jersey Pinelands Commission (Commission) that Jackson Township's (Jackson) October 1, 2012 Preliminary Major Site Plan Approval of Petitioner's establishment of a new resource extraction operation and the construction of a 1,008 square foot building (Preliminary Approval) raises substantial issues with respect to conformance with the minimum standards of the Pinelands Comprehensive Management Plan (CMP), N.J.A.C. 7:50-1.1, et seq. This Final Decision **ADOPTS** the Initial Decision finding that the Executive Director's determination to call up the Preliminary Approval was correct under the CMP as further discussed herein.

LEGAL BACKGROUND

The Pinelands Protection Act and Comprehensive Management Plan

The Pinelands Protection Act (PPA), N.J.S.A. 13:18A-1 to -29, is intended to protect the "significant and unique natural, ecological, agricultural, scenic, cultural and recreational resources" of the Pinelands from "random and uncoordinated development and construction." N.J.S.A. 13:18A-2. In enacting the PPA, the Legislature recognized that the "continued viability" of the Pinelands and its resources "is threatened by pressures for residential, commercial[,] and industrial development," and that the protection of the Pinelands requires the "coordinated efforts" of municipal and State agencies. Ibid. To oversee this effort, the Legislature created the Commission to serve as the primary

planning entity in the Pinelands and vested with “all the powers and duties as may be necessary in order to effectuate the purposes and provisions” of the PPA. N.J.S.A. 13:18A-4.

In this role, the Commission adopted the CMP, a sweeping set of regulations governing the standards for development within the Pinelands. See N.J.A.C. 7:50-1.1, et seq. Specifically, the CMP sets forth the “minimum standards for preservation of the Pinelands and reflects “the legislative determination that management and protection of the essential character and ecological values of the Pinelands require a regional perspective in the formulation and implementation of land use policies and regulations.” N.J.A.C. 7:50-2.1; N.J.A.C. 7:50-3.1(a).

To most efficiently enforce these minimum standards, the Commission designated local governments as “the principal management entities” for implementation of the CMP. N.J.A.C. 7:50-3.1(a). But the Commission retains “ultimate responsibility for implementing and enforcing” the provisions of the PPA and the CMP and possesses all powers “necessary to implement the objectives” therein. N.J.A.C. 7:50-1.11; N.J.S.A. 13:18A-4. Additionally, the CMP contains the controlling standards within the Pinelands as any development within the Pinelands that does not conform with the minimum standards of the CMP is “unlawful.” N.J.A.C. 7:50-1.4; see also N.J.S.A. 13:18A-10 (“[s]ubsequent to the adoption of [the CMP], the provisions of any other law, ordinance, rule or regulation to the contrary notwithstanding, no application for development within the pinelands area shall be approved by any municipality, county or agency thereof ... unless such approval or grant conforms to the provisions of [the CMP]”); see also Fine v. Galloway Twp. Committee, 190 N.J. Super. 432 (Law Div.1983) (holding that a municipality may adopt more restrictive standards provided they do no conflict with the CMP which sets forth the minimum standards for protection of the Pinelands).

The CMP is to be liberally construed and any conflicting law “shall be of no force and effect.” N.J.S.A. 13:18A-27; N.J.A.C. 7:50-2.1, -2.2. The Commission is therefore bound in all circumstances to enforce the CMP, including where its conflicts with a local ordinance.

Certification of Local Ordinances

All municipal ordinances are required to conform with the minimum requirements of the CMP. N.J.A.C. 7:50-3.31; N.J.S.A. 13:18A-12. To ensure compliance, ordinances adopted by local governments must be “certified” by the Commission as consistent with the standards of the CMP including, among other things, designations of management areas and zoning district boundaries. N.J.A.C. 7:50-3.1(b), -3.32, -3.39(a)(2)(vi). The certification process includes the holding of a public hearing by the Executive Director for consideration of the ordinance and its compliance with the CMP. N.J.A.C. 7:50-3.33. The Executive Director then reviews the record and issues a report and recommendation to the Commission for vote on certification. N.J.A.C. 7:50-3.34, -3.35.

Upon certification, a local government may grant development approvals within the Pinelands, provided the approval is in “strict conformance” with the CMP and the certified ordinance. N.J.A.C. 7:50-3.38. Still, “[n]o local decision shall impose any requirements which in any way contravene any standard contained in” the CMP or “the applicable certified land use ordinance.” N.J.A.C. 7:50-4.32. Stated simply, regardless of whether the development may conform with the standards of a local ordinance, any development within the Pinelands that does not conform with the minimum standards of the CMP is “unlawful.” N.J.A.C. 7:50-1.4; N.J.S.A. 13:18A-10. If a local government determines to amend a land use ordinance, the amended ordinance cannot go into effect until the Commission either certifies the ordinance or indicates that the amendment does not affect the prior certification. N.J.A.C. 7:50-3.45(a).

Commission Review of Local Government Approvals

The Commission “bears ultimate responsibility for implementing and enforcing” the provisions of the CMP. N.J.A.C. 7:50-1.11. The Commission therefore reviews “all permits issued by local permitting agencies ... to ensure that all development approved by local permitting agencies is located, planned, designed, laid out, constructed and serviced in accordance with” the minimum standards and objectives of the CMP. N.J.A.C. 7:50-4.31(a)-(b); see also N.J.S.A. 13:18A-15. The Commission is therefore given notice of all development applications within the Pinelands for review by its Executive Director. N.J.A.C. 7:50-4.33.

The Executive Director reviews the applications for completeness and, if satisfied, issues a Certificate of Filing (COF) that may identify any observed inconsistencies of the proposed development with the CMP and advise that if such inconsistencies are not resolved by a local approval, that local approval will be subject to review, or call up, by the Commission. N.J.A.C. 7:50-4.34. Upon receipt of the COF, the applicant and the local government are able to proceed with the local approval process. Ibid.

The local government must then notify the Commission upon issuance of any preliminary or final approval of a development application. N.J.A.C. 7:50-4.35(d)-(e). The Executive Director reviews the approval to determine whether it “raises substantial issues with respect to the conformance” with the minimum standards of the CMP and, if so, the Executive Director may call up the approval for review by the Commission. N.J.A.C. 7:50-4.37 and 4.40; N.J.S.A. 13:18A-15, see also N.J.S.A. 13:18A-15.¹

¹ The CMP contains a similar review process for review of a local approval in a municipality with an uncertified ordinance designed to ensure that all development not regulated by a certified ordinance is conducted “in conformance with the minimum standards of the CMP” where local approval must also comply with the CMP and the Commission decision supersedes the local decision. N.J.A.C. 7:50-4.11 through -4.27.

In the case of a preliminary approval like the one at issue here, the CMP provides the Executive Director with 30 days to give notice of her determination and to advise the applicant of its right to request a "hearing before an Administrative Law Judge pursuant to the procedures established by N.J.A.C. 7:50-4.91." N.J.A.C. 7:50-4.37(b).² At such a hearing, "[t]he person requesting the appeal or hearing shall have the burden of going forward and the burden of proof on all issues." N.J.A.C. 7:50-4.91(d).

The Commission's determination upon call up is binding on both the applicant and the local government. If, on call up, the Commission disapproves any preliminary approval of an application for development, the local government must revoke such preliminary approval deny the application. N.J.A.C. 7:50-4.38. Alternatively, if the Commission conditionally approves a preliminary approval, the local government must modify its preliminary approval accordingly and may only grant final approval if the application for final approval demonstrates that such conditions have been or will be met by the applicant. N.J.A.C. 7:50-4.38.

The Commission's development-review decisions therefore "supersede any local decision" and no activities may be conducted until the Commission has "approved or approved with conditions the proposed development." N.J.A.C. 7:50-4.32, -4.37, -4.38, -4.40, -4.42.

Pinelands Management Areas

"[T]o ensure that the development and use of land in the Pinelands meet the minimum standards" of the CMP, the Commission established "eight management areas governing the general distribution of land uses and intensities in the Pinelands." N.J.A.C. 7:50-5.11. These eight Pinelands Management Areas are: (1) The Preservation Area District; (2) Forest Areas; (3) Agricultural Production Areas; (4) Special Agricultural Production Areas; (5) Rural Development Areas; (6)

² The Commission follows similar procedures for review of final approvals with applicants afforded the opportunity to choose between a hearing in front of the Commission or an Administrative Law Judge. N.J.A.C. 7:50-4.40 through 4.42.

Pinelands Villages and Pinelands Towns; (7) Regional Growth Areas; and (8) Military and Federal Installation Areas. N.J.A.C. 7:50-5.12(a)(1)-(8).

“Forest Areas” are described as undisturbed, forested portions that support characteristic Pinelands plant and animal species and provide suitable habitat for many threatened and endangered species. N.J.A.C. 7:50-5.13(c). These largely undeveloped areas are an essential element of the Pinelands environment, contain high quality water resources and wetlands, and are very sensitive to random and uncontrolled development. Ibid. More specifically, resource extraction, as proposed here, is not a permitted use in the Forest Area. N.J.A.C. 7:50-5.23(b)(2). Permitted uses in the Forest Area include the construction of certain residential dwelling units, agriculture, forestry and certain low intensity recreational uses. N.J.A.C. 7:50-5.23(a).

In contrast, “Rural Development Areas” are “slightly modified and may be suitable for limited future development in strict adherence to the environmental performance standards of N.J.A.C. 7:50-6” and “represent a balance of environmental and development values that is intermediate between the pristine Forest Areas and existing growth areas.” N.J.A.C. 7:50-5.13(e). The resource extraction operation proposed by Petitioner is a conditionally permitted use in the Rural Development Area. N.J.A.C. 7:50-5.26.

Land Capability Map

The boundaries of these management areas are set forth in a Land Capability Map that is expressly made part of the CMP. N.J.A.C. 7:50-5.3; N.J.A.C. 7:50-5.11(a). The Commission is empowered to change the “boundaries of the management areas” within the Land Capability Map after certification of a local government ordinance that modifies the management areas. N.J.A.C. 7:50-5.11(a).

THE INITIAL DECISION

In granting summary decision in favor of the Commission, the ALJ made the following findings of fact, all of which are supported by competent evidence in the record and adopted by the Commission in full.

Findings of Fact

Petitioner is the owner certain real property within the Pinelands known as Block 19201, Lot 1 (formerly Block 32.01, Lot 13) in Jackson (Property). The Commission certified Jackson's master plan and land use ordinances on July 8, 1983.

In 2003, the Commission formed the Toms River Corridor Task Force (TRC Task Force) to identify permanent land-protection opportunities in the corridor. In 2004, the TRC Task Force issued a Regional Natural Resource Protection Plan (Resource Protection Plan), which recommended, in relevant part, the re-designation of large portions of Jackson's Rural Development Area, RD-9, to Forest Area, FA-2. The Property was located in the area recommended for re-designation to the Forest Area.

The Commission endorsed the Resource Protection Plan through the passage of PC4-04-22 and directed its Executive Director to work with Jackson to implement the recommendations. In a coordinated effort to implement the recommendations of the TRC Task Force, on November 8, 2004, Jackson passed Ordinance 40-04 adopting a revised zoning map and submitted the ordinance to the Commission for review and certification. After a public hearing, the Commission identified certain errors and omissions in the revised zoning map adopted by Ordinance 40-04 that deviated from the TRC Task Force recommendations. Among these errors was the inadvertent failure to include the Property in the area to be rezoned from Rural Development Area to Forest Area. The Commission requested changes to the ordinance.

To remedy these errors, on February 14, 2005, Jackson adopted Ordinance 06-05 which stated that “Block 32.01, Lot 13 [the Property] was recommended in the Toms River Corridor study for inclusion in the FA-2 forest area zoning district” and was “left in the RD-9 rural development district [in Ordinance 40-04], but will be changed consistent with the Toms River Corridor study recommendations.” On April 15, 2005, after a duly noticed public hearing, the Commission certified Ordinance 06-05 via Resolution PC4-05-22. While not set forth in the Initial Decision, the record reveals that an attorney for Petitioner’s interest in the Property, David C. Sickel was present at the hearing and gave testimony on his behalf.

After certification of Ordinance 06-05, the Commission adjusted the boundaries of the Land Capability Map to, in relevant part, include the Property in the Forest Area. The Commission adds that based on these findings of fact, as of April 2005, the Property was zoned as Forest Area in both the CMP and Jackson’s municipal ordinance.

In 2005, Sickel filed an action against Jackson in Superior Court challenging the validity and effectiveness of Ordinance 06-05 to rezone the Property from Rural Development Area to Forest Area. The Commission was not a party to the action. In a May 23, 2007 letter opinion in Sickel v. Township of Jackson, Docket No. OCN-L-1029-05, the Honorable Vincent J. Grasso, P.J. Ch., concluded:

[P]laintiff’s 97 acre parcel, which was recommended for inclusion in the FA-2 zone, was never specifically discussed or considered at the Township level [and] Plaintiff never received notice or was afforded an opportunity to be heard on the re-zoning of its property. . . .

The court does not reach nor need to address the issue of the merits of the Township’s decision to re-zone Plaintiff’s 97 acre parcel from the RD-9 zone to the FA-2 zone. . . . The court’s finding in this case is limited to procedural considerations. The omission of Plaintiff’s property, through an inadvertent mapping error or otherwise, prior to the adoption of Ordinance #06-05 did not afford the Township or its Planning Board the opportunity to evaluate the merits of re-zoning

Plaintiff's property.

By June 1, 2007 order, Judge Grasso ruled that "Ordinance 06-05 is procedurally defective as it applies to [the Property] and is thus ineffective in its attempt to rezone [the Property] from the RD-9 District to the FA-2 District." The court then remanded the matter to Jackson "to determine whether to rezone Block 32.01, Lot 13 pursuant to Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq." and for further action including notifying any interested party "in the event [Jackson] undertakes to rezone Block 32.01, Lot 13." The Commission adds that the court's opinion did not address implications of its decision on the designation of the Property under the CMP.

The Commission further adds that, despite the court's direction, Jackson took no immediate action to readopt Ordinance 06-05 nor did it revise its local zoning map to rezone the Property from the Forest Area to Rural Development Area. The Commission also notes that it was not until June 28, 2013 that Jackson passed Ordinance 14-13 to readopt Ordinance 06-05. As ALJ correctly found, however, in the interim, Jackson passed, and the Commission certified, subsequent rezoning ordinances (Ordinance 07-06, 02-11) that included maps depicting the Property within the Forest Area and but did not propose to modify its zoning.

In 2009, before Jackson took action to readopt Ordinance 06-05, Petitioner filed with the Commission a copy of its application to Jackson for the establishment of a new resource extraction operation on the Property. On June 8, 2009, the Commission issued a Certificate of Filing pursuant to N.J.A.C. 7:50-4.34, advising Petitioner that it had recently certified Jackson's Ordinance 07-06 showing that the Property was located within the Forest Area and that the proposed operation was not a permitted use under N.J.A.C. 7:50-5.23(b)(2).

On May 9, 2011, Petitioner submitted an application for preliminary major site plan approval for a resource extraction operation on the Property to Jackson's Planning Board. On June 22, 2011,

the Planning Board's engineer determined that the application was incomplete because the Property was located in the Forest Area. On January 10, 2012, Jackson's zoning officer, Jeffrey Purpuro, sent Petitioner "the 'final' determination, as it pertains to how Jackson Township recognizes the subject property." According to Purpuro,

[a]s Zoning Officer of Jackson Township, my only tool to determine if a particular lot is compliant to the zone [in] which it is located, is the currently adopted zoning map. And as the current zoning map shows the subject property as FA-6, that shall be how this lot is viewed. . . .

If you wish to appeal this decision, you may apply for Use Variance approval from the Board of Adjustment, seek an Interpretation from the Board of Adjustment, or, as the interpretation of a zoning ordinance is a legal matter, apply directly to the Superior Court.

In response, Petitioner sought an interpretation from Jackson's Zoning Board of Adjustment.

On July 18, 2012, the Zoning Board of Adjustment adopted a resolution finding that the Property was located in the RD-9 zone. According to the resolution:

As of May 23, 2007, the property was zoned RD-9, and the next ordinance that changed any zone was Ordinance 02-11, only affecting non-Pinelands areas; there was no ordinance between May 23, 2007 and the date of the interpretation affecting this property. The Board recognized [that] while Pinelands mapping may show that this lot [is] in the FA-2 zone, there is no ordinance enabling the map. Absent an ordinance that adopts the map that is then approved by the Pinelands [Commission], the last official act related to the property was Judge Grasso's decision.

Based on the finding of the Zoning Board of Adjustment, on October 1, 2012, Jackson issued the Preliminary Approval. According to the Board's resolution, "the Board notes that although the zoning on the property previously has been recommended for rezoning, the Township's Zoning Board of Adjustment . . . determined that proposed changes do not apply to the subject property and therefore it is located within the RD-9 zoning district." The approval was conditioned, however, on the receipt of "a no call up letter from the Pinelands Commission."

On October 8, 2012, the Commission was notified of the Preliminary Approval. On October 25, 2012, the Executive Director called-up the Preliminary Approval, notifying Petitioner that it raised substantial issues with respect to conformance with the minimum standards of the CMP, including, in relevant part, “[w]hether the proposed resource extraction operation is a permitted use in a Forest Area pursuant to Jackson Township’s certified land use ordinances and N.J.A.C. 7:50-5.23.”

On September 23, 2013, Petitioner requested an administrative hearing before OAL. The issue to be determined was if the Executive Director correctly determined that the Preliminary Approval raises a substantial issue with respect to “[w]hether the proposed resource extraction operation is a permitted use in a Forest Area pursuant to Jackson Township’s certified land use ordinances and N.J.A.C. 7:50-5.23.”

On June 22, 2015, Petitioner filed a motion for summary decision. Petitioner argued that Jackson’s preliminary approval of the company’s site plan should be approved because Judge Grasso’s order invalidated and rendered null and void Ordinance 06-05 with respect to the Property, and, as a result, the Property was never effectively rezoned from the Rural Development Area to the Forest Area.

On July 24, 2015, the Commission filed a cross-motion for summary decision arguing that “the Commission acted fully in accordance with its regulations, set forth in the CMP, in amending the boundaries of its management areas on its Land Capability Map through its certification of Jackson Ordinance 06-05, in considering [Petitioner’s] property to be part of the Forest Area, and in issuing a Call Up Letter to review Jackson Township’s preliminary site plan approval of Petitioner’s mining application.”

Oral argument was heard on October 26, 2015. On November 20, 2105, the ALJ granted summary decision in favor of the Commission and denied Petitioner's motion for summary decision.

Conclusions of Law

The ALJ determined that summary decision may be granted only "if the papers and discovery which have been filed, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to prevail as a matter of law." N.J.A.C. 1:1-12.5(b). ALJ further held that there are no genuine issues of material fact that the Commission is entitled to summary decision and that Petitioner's motion for summary decision should be denied.

In her decision, the ALJ found that Petitioner's "proposed resource extraction operation does not conform to the minimum standards of the [CMP] and the provisions of Ordinance 06-05, which is the relevant certified local ordinance." The ALJ further found that "as a result of the Commission's certification of Ordinance 06-05 and revision of the Land Capability Map to include the Property in a Forest Area, the Property is located in a Forest Area, and resource extraction is not a permitted use in Forest Areas ... [u]ntil (1) pursuant to N.J.A.C. 7:50-3 and N.J.A.C. 7:50-5.11(a) Jackson submits for certification by the Commission an ordinance that rezones the Property from FA-2 and the Commission grants certification and revises the Land Capability Map to include the Property in a management area in which resource extraction is permitted, or (2) pursuant to N.J.A.C. 7:50-7 the Commission amends the Land Capability Map to change the management area in which the Property is located, the Property is located in a Forest Area in which resource extraction is not allowed under the [CMP]."

The ALJ reasoned that the Ordinance 06-05 was properly deemed the "relevant certified local ordinance" in a review of the preliminary approval because, under N.J.A.C. 7:50-3.45, Jackson

submitted Ordinance 06-05 for the Commission's review, and Ordinance 06-05, which rezoned the Property to the Forest Area, became effective upon certification by the Commission in 2005 and, in accordance with N.J.A.C. 7:50-5.11(a), the Commission revised the Land Capability Map to include the Property in a Forest Area. The ALJ then concluded that because the Property is located in a Forest Area, the Preliminary Approval does not conform to the minimum standards of the CMP or the provisions of Ordinance 06-05 because, under N.J.A.C. 7:50-5.23(b)(2), resource extraction is not a permitted use in the Forest Area.

The ALJ rejected Petitioner's arguments, finding that Judge Grasso's 2007 order does not alter the conclusion that, the Property is located in a Forest Area because the Legislature has given the Commission primary responsibility for planning in the Pinelands and, in requiring Jackson to amend Ordinance 40-04, the Commission clearly determined that the Property properly belonged in a Forest Area. Further, the ALJ noted that the Commission certified Ordinance 06-05, modified the Land Capability Map and has not subsequently certified another local ordinance or further amended the Land Capability Map to remove the Property from the Forest Area. The ALJ therefore found that, despite Judge Grasso's order, Ordinance 06-05 remains the relevant certified ordinance for purposes of the PPA and the CMP. The ALJ noted that the Commission was not a party to the action on which Judge Grasso's order was based, and stated that a finding that Judge Grasso's order guides a review of Jackson's preliminary approval would run contrary to the Legislature's intent to place ultimate authority for planning in the Pinelands with the Commission.

Finally, the ALJ correctly commented that the Commission possesses only two avenues under the CMP by which Ordinance 06-05 would no longer be the relevant certified local ordinance and the Property could be moved to a management area in which resource extraction is allowed: (1)

the certification process under N.J.A.C. 7:50-3; or (2) the amendment procedures under N.J.A.C. 7:50-7.1 to 7.11.

EXCEPTIONS

Petitioner filed exceptions to the Initial Decision on January 12, 2016. Petitioner's exceptions primarily reiterate the arguments made in its motion for summary decision and therefore considered and rejected by the ALJ in the Initial Decision. Framed as exceptions, Petitioner again claims that the ALJ: (1) failed to properly find that the June 8, 2009 COF indicated that the issue of non-conformance with the CMP was "potentially resolvable by providing a determination from an appropriate municipal official which confirms the [Commission's] certified municipal zoning;" (2) failed to find that despite the fact that Ordinance 06-05 had been invalidated by the court, Jackson neglected to amend the zoning map to show that Ordinance 06-05 was no longer valid; (3) failed to conclude that the Land Capability Map should not have been revised since Ordinance 06-05 was defective; (4) failed to find that adherence to the certification process under N.J.A.C. 7:50-3; or the amendment procedures under N.J.A.C. 7:50-7.1 to 7.11 as the only methods to amend the Land Capability Map would result in a violation of the Municipal Land Use Law, N.J.S.A. 40:55D-90(b) (MLUL) in this instance by creating a de facto moratorium on development; and (5) failed to find that Judge Grasso's opinion changed the zoning of the Property under the CMP.

The Commission's response, dated January 28, 2016, disputed each of Petitioner's exceptions. Specifically, the Commission argued that: (1) while the ALJ may have omitted the language quoted by Petitioner from the COF, the COF is not a final determination under N.J.A.C. 7:50-4.34 and, in any event, the Commission properly relied upon the Property designation in the CMP and that the Commission is not permitted to defer to Jackson's interpretation of its zoning ordinances where it is inconsistent with the CMP; (2) while the ALJ did properly find that Jackson

had not amended its zoning maps after Judge Grasso's decision, such an amendment is irrelevant as the Commission properly relied upon the Land Capability Map which was not modified by Judge Grasso's decision; (3) the Commission complied with N.J.A.C. 7:50-5.11 by certifying Ordinance 06-05 and subsequently amending the Land Capability Map, none of which was affected by Judge Grasso's subsequent invalidation of Ordinance 06-05; (4) any claim of inconsistency with the MLUL is misplaced because the PPA, and therefore the CMP, supersedes and that certain development would still be allowed in the Forest Area under Jackson's code; (5) the Commission was not a party to the Sickle litigation and it therefore could not have affected an indispensable party under R. 4:28-1 and that the issue is not how Petitioner's party is designated under Jackson's ordinances but rather its designation on the Land Capability Map.

DISCUSSION

The Commission adopts the Initial Decision in full, providing only the following to supplement the ALJ's conclusions.

We find that there is no dispute as to the intent of both Jackson and the Commission in the adoption and certification of Ordinance 06-05 to include the Property in the Forest Area. This is clearly evidenced by the Commission's passage of PC4-04-22 directing its Executive Director to work with Jackson to implement the recommendations of the TRC Task Force, Jackson's passage of Ordinance 40-04 adopting a revised zoning map, the Commission's identification of the inadvertent failure to include the Property in the area to the rezoned from Rural Development Area to Forest Area and Jackson's adoption of Ordinance 06-05 which stated that "Block 32.01, Lot 13 [the Property] was recommended in the Toms River Corridor study for inclusion in the FA-2 forest area zoning district" and was "left in the RD-9 rural development district [in Ordinance 40-04], but will be changed consistent with the Toms River Corridor study recommendations." This intent is only

further evidenced by Jackson's submission for certification to the Commission of Ordinance 07-06 and Ordinance 02-11, which while not seeking to change designation of the Property both depicted the Property within the Forest Area.

We concur with the ALJ that the parties properly undertook the certification process under N.J.A.C. 7:50-3 to change the designation of the Property from the Rural Development Area to the Forest Area.³ We find, however, that Executive Director's determination is governed solely by CMP and not, as the ALJ states "the relevant certified local ordinance." We find it necessary to determine which local ordinance is currently operative in Jackson with regard to the Property because of Judge Grasso's opinion. Because the CMP is the controlling regulatory mechanism, once the Land Capability Map was modified the Executive Director is required to apply the standards contained therein, regardless of whether an inconsistent municipal ordinance exists. See N.J.S.A. 13:18A-10; N.J.S.A. 13:18A-27; N.J.A.C. 7:50-1.4.

This conclusion is the same where, as here, the local ordinance and the Land Capability Map were modified concurrently. While the Land Capability Map – and therefore the CMP – can be modified in conjunction with a local ordinance, modification of the CMP and the local ordinance are properly understood as separate processes. Therefore, modification to one does not result in an automatic change in the other. As the ALJ correctly determined, once the Land Capability Map was modified it could only be further modified by either the certification process under N.J.A.C. 7:50-3 or the amendment procedures under N.J.A.C. 7:50-7.1 to 7.11. Neither of which occurred here.

Accordingly, while we do not dispute that Judge Grasso's opinion invalidated Ordinance 06-05 inasmuch as it sought to change the zoning of the Property in the local ordinance, we also find that the Commission was not a party to that litigation and that Judge Grasso's opinion did invalidate

³ The Commission would have also been within its power to make the same changes to the Land Capability Map through rulemaking and, if so, Jackson would have had to act to bring its ordinances into compliance with any newly adopted standards in the CMP. N.J.A.C. 7:50-7.1 to 7.11.

the Commission's changes to the Land Capability Map. As the ALJ correctly determined, even if, as Petitioner argues, the 1983 Ordinance was, in effect, "revived" as to the Property upon invalidation of Ordinance 06-05, its revival could not amend the Land Capability Map. We further find, however, that the invalidation of Ordinance 06-05 placed Jackson out of compliance with the CMP because Jackson no longer had an ordinance consistent with the duly modified Land Capability Map. It was therefore incumbent upon Jackson to take the necessary steps to correct its non-compliance by either passing an ordinance readopting Ordinance 06-05 or seeking Commission certification of an ordinance adjusting the zoning designation for the Property. Jackson took no such steps. While this consistency created confusion, it did not and cannot not relieve the Executive Director of her duty to comply with the minimum standards of the CMP in the face of an inconsistent municipal ordinance.

We therefore conclude that, as the CMP contains the controlling land use standards for the Property and any inconsistent municipal ordinance does not affect the Executive Director's determination. It only places Jackson out of compliance with the CMP. As the Property is within the Forest Area in the Land Capability Map where the resource extraction operation authorized in the Preliminary Approval is not a permitted use, we concur with the ALJ that the Executive Director correctly determined the Preliminary Approval does not conform to the minimum standards of the CMP. See N.J.S.A. 13:18A-10, -27; N.J.A.C. 7:50-1.4, 2.1, -2.2; Fine, 190 N.J. Super. 432.

Further, Petitioner's exceptions, which merely repeat arguments made in its motion for summary decision and rejected by the ALJ, do not establish a basis to reject the Initial Decision. Petitioner first claims that the ALJ omitted a factual finding that the COF stated that the issue of CMP inconsistency could be potentially resolvable by providing a determination from an appropriate municipal official that confirms the Commission's certified municipal zoning. Petitioner claims that the omission of this fact is critical because the Commission did not accept by the Zoning Board of

Adjustment's resolution finding that the Property was zoned Rural Development. We disagree. First, as noted in our response to Petitioner's exceptions, the COF is not a final determination and does not bind the Commission. N.J.A.C. 7:50-4.34. Additionally, the statement in the COF that any municipal official's determination must "confirm the [Commission's] certified municipal zoning" cannot imply that Commission will be bound by a municipal official's determination if it is, as it was here, contrary to the CMP. See N.J.S.A. 13:18A-10, -27; N.J.A.C. 7:50-1.4, 2.1, -2.2; Fine, 190 N.J. Super. 432.

Petitioner also claims that the Initial Decision omits the fact that Jackson did not amend its zoning map to reflect the invalidation of Ordinance 06-05. We do not believe this fact to be either in dispute or relevant. As stated above, upon invalidation of Ordinance 06-05, Jackson was out of compliance with the CMP and took no corrective measures. The CMP contained the controlling standards and modification of the zoning map would not have resulted in a change to those standards. See N.J.S.A. 13:18A-10, -27; N.J.A.C. 7:50-1.4, 2.1, -2.2; Fine, 190 N.J. Super. 432.

Petitioner takes further exception with the ALJ's conclusion that the Commission properly relied on Ordinance 06-05 as the relevant certified local ordinance. While, we do not believe the terms of the local ordinance to be controlling, the arguments advanced by Petitioner repeat those raised and properly rejected by the ALJ and therefore do not require full discussion. We note, however, that Petitioner's claims that the CMP's certification process violates the rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the holding in Dragon v. NJDEP, 405 N.J. Super. 478 (App. Div. 2009) to be meritless. With regard to the former argument, the Commission possesses all powers necessary to implement the purposes of the PPA. N.J.S.A. 13:18A-4. Primary among these purposes is the need to ensure consistency between local ordinances and the terms of the CMP and the PPA. N.J.S.A. 13:18A-10. Therefore, it was well

within the Commission's powers to adopt the certification procedure set forth at N.J.A.C. 7:50-3. Further, as noted in the Commission's response to exception, the certification procedure was duly and amended in accordance with the PPA including public hearings, consultation with local, State and federal agencies and submittal to the Governor, Legislature and Secretary of the Interior. See N.J.S.A. 13:18A-8, -10; 33 N.J.R. 1095(a).

Additionally, Dragon held that the New Jersey Department of Environmental Protection could not waive substantive regulatory requirements through a settlement agreement. See Dragon v. NJDEP, 405 N.J. Super. 478. The Commission has not waived any substantive regulatory requirement here. In contrast, the Commission has followed the certification procedure under N.J.A.C. 7:50-3 and now is requiring compliance with the Land Capability Map, and therefore the CMP by calling-up the Preliminary Approval. The Commission's strict compliance with its regulations does not place it in violation of the court's ruling in Dragon. Indeed, the outcome sought by Petitioner, whereby the Commission would ignore the Land Capability Map and allow the Preliminary Approval to go into effect would result in the exact outcome prohibited by Dragon.

Petitioner also takes exception to the ALJ's finding that the Land Capability Map can only be changed via the certification or amendment processes. As discussed above, the Commission agrees with the ALJ's determination. Petitioner raises only ancillary issues regarding whether the inconsistency between a local ordinance and the CMP would create an impermissible moratorium on development under the MLUL. While it is not necessary to reach that issue here nor is Jackson's compliance with the MLUL at issue, even assuming for the sake of argument that the Petitioner's argument is valid, the Commission would still be justified in rejecting the Township's approval here as the CMP controls over the provisions of the MLUL. See N.J.S.A. 13:18A-10, -27; Uncle v. N.J. Pinelands Comm'n, 275 N.J. Super. 82, 90 (App. Div. 1994). Moreover, while the type of

development proposed by Petitioner may be precluded by the CMP, under both Jackson's municipal code and the CMP various other types of development would be allowed on the Property. N.J.A.C. 7:50-5-23(a) (allowing construction of certain residential dwelling units, agriculture, forestry and certain low intensity recreational uses in the Forest Area).

Lastly, Petitioner claims that the ALJ erred in finding that Judge Grasso's opinion did not alter the CMP. For all the reasons stated herein, we find that the ALJ made the correct determination in this regard. Petitioner's arguments incorrectly focus on the Executive Director's determination vis-à-vis the municipal ordinances as opposed to the CMP. But the CMP that controls and the Executive Director must determine compliance with the CMP, not an inconsistent municipal ordinance. Where an ordinance and the CMP are at odds, the ordinance must change, not the CMP. This matter is not, as Petitioner argues, analogous to a situation where a regulation is based on a subsequently invalidated statute because, unlike the relationship between a regulation and its enabling statute, a municipal ordinance must conform with the CMP as the CMP controls. Ordinance 06-05 did not enable the modifications of the Land Capability Map as argued by Petitioner. The adoption of Ordinance 06-05 and the modification of the Land Capability Map may have occurred in tandem here but that process is designed to ensure consistency with the CMP, not to allow an ordinance to control. Indeed, the certification process is designed to allow for changes to both the CMP and the municipal ordinances but at all times, those changes must meet the CMP's minimum standards. See N.J.S.A. 13:18A-10, -27; N.J.A.C. 7:50-1.4, 2.1, -2.2; Fine, 190 N.J. Super. 432.

CONCLUSION

For all the reasons set forth here and therein, The Commission **ADOPTS** the Initial Decision granting the Commission's motion for summary decision and denying Petitioner's motion for summary decision. The Executive Director's determination to call-up the Preliminary Approval

pursuant to N.J.A.C. 7:50-4.37 because the proposed development raised substantial issues with respect to conformance with the minimum standards of the CMP is correct.

SO ORDERED.



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-16- 10

TITLE: Approving With Conditions Applications for Public Development (Application Numbers 1981-0837.028, 1983-5837.059 & 1991-0820.103)

Commissioner Avery moves and Commissioner Mc Glinchey 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 applications for Public Development be approved with conditions:

1981-0837.028
Applicant: The Cape May County Municipal Utilities Authority (Clean Energy)
Municipality: Borough of Woodbine
Management Area: Pinelands Town
Date of Report: February 22, 2016
Proposed Development: Construction of a compressed natural gas fueling facility;

1983-5837.059
Applicant: South Jersey Transportation Authority
Municipality: Egg Harbor Township
 Galloway Township
Management Area: Pinelands Military/Federal Installation Area
Date of Report: February 19, 2016
Proposed Development: 15 feet of widening to an existing aircraft taxiway at the Atlantic City International Airport; and

1991-0820.103
Applicant: North Hanover Township School District
Municipality: North Hanover Township
Management Area: Pinelands Military/Federal Installation Area
Date of Report: February 22, 2016
Proposed Development: Demolition of three schools, 50 years old or older and the construction of a 134,506 square foot school.

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.

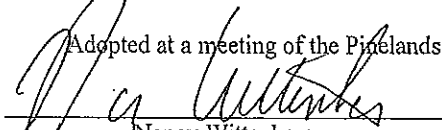
NOW, THEREFORE BE IT RESOLVED that Application Numbers 1981-0837.028, 1983-5837.059 & 1991-0820.103 for public development are hereby approved subject to the conditions recommended by the Executive Director.

Record of Commission Votes

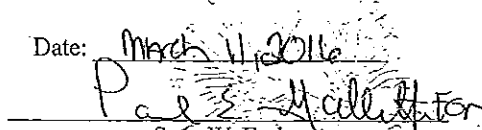
AYE NAY NP A/R*				AYE NAY NP A/R*				AYE NAY NP A/R*			
Ashmun	X			DiBello	X			McGlinchey	X		
Avery	X			Galletta	X			Prickett	X		
Barr	X			Jannarone	X			Quinn	X		
Brown	X			Lloyd	X			Rohan Green	X		
Chila	X			Lohbauer	X			Earlen			X

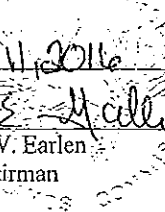
* A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission


 Nancy Wittenberg
 Executive Director

Date: March 11, 2016


 Sean W. Earlen
 Chairman





State of New Jersey
 THE PINELANDS COMMISSION
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 NEW LISBON, NJ 08064
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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

February 22, 2016

Troy Paionk
 Clean Energy
 4675 MacArthur Court, Suite 800
 Newport Beach, CA 92660

Re: Application # 1981-0837.028
 Block 123, Lot 1
 Borough of Woodbine

Dear Mr. Paionk:

The Commission staff has completed its review of this application for construction of a compressed natural gas vehicle fueling facility. 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 March 11, 2016 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,

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

- Enc: Appeal Procedure
 7/20/2015 Public Comment Letter
 2/9/16 Public Comment Letter
- c: Secretary, Borough of Woodbine Planning Board (via email)
 Borough of Woodbine Construction Code Official (via email)
 Secretary, Cape May County Planning Board (via email)
 Keith Davis, Esq.
 Ken McNeeley
 Mayor William Pikolycky





Chris Christie
Governor

Kim Guadagno
Lt. Governor

State of New Jersey

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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

February 22, 2016

Troy Paionk
Clean Energy
4675 MacArthur Court, Suite 800
Newport Beach, CA 92660

Application No.: 1981-0837.028

Location: Block 123, Lot 1
Borough of Woodbine

This application proposes construction of a compressed natural gas vehicle fueling facility located on a 0.61 acre portion of the above referenced 219 acre lot in the Borough of Woodbine. The Cape May County Landfill is located on the lot. The proposed fueling facility will be serviced by an existing natural gas main located within the Dennisville-Petersburg road right-of-way.

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(a))

The proposed development is located in the Pinelands Town of Woodbine. The proposed development is a permitted land use in a Pinelands Town.

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

The proposed development will be located within a wooded area. The proposed development will disturb approximately 0.61 acres of wooded lands. 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 disturbed areas, the applicant proposes to utilize grass species which meet that recommendation.

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

On May 22, 2009, the Commission approved an application for a 74 acre expansion of the existing Cape May County Landfill (App. No. 1981-0837.024). To avoid irreversible adverse impacts on habitat critical to the survival of a local population of Red-headed woodpeckers located on the lot, the Cape May County Municipal Utilities Authority (CMCMUA) deed restricted eleven acres of critical Red-headed woodpecker habitat on the lot. The deed restriction prohibits future development or disturbance of the concerned eleven acres.

A disagreement exists between the CMCMUA staff and the Commission staff regarding whether a 200 foot wide undisturbed wooded habitat area (“additional habitat”) around the perimeter of the eastern portion of the lot was also required to be protected for Red-headed woodpecker habitat as part of the Commission’s approval of App. No. 1981-0837.024. The 200 foot wide additional habitat area contains approximately 35 acres.

The proposed natural gas fueling station will disturbed 0.61 acres within the 200 foot wide additional habitat area. It is the Commission staff’s position that the 200 foot wide additional habitat area was required to be protected. It is the CMCMUA staff’s position that the 200 foot wide additional habitat area was not required to be protected.

The CMCMUA is proposing to preserve certain other Red-headed woodpecker habitat on the parcel to offset for the development proposed in the current application within the 200 foot wide additional habitat area. It is clearly understood by both the CMCMUA staff and the Commission staff that the CMCMUA proposal to offset the concerned Red-headed woodpecker habitat is not an admission or agreement by either the CMCMUA or the Pinelands Commission as to the respective positions of either agency regarding the need to protect the 200 foot wide additional habitat area. Any future application to the Commission proposing to disturb the 200 foot wide additional habitat area must resolve this issue.

To offset for the loss of 0.61 acres of additional habitat area, the applicant proposes to increase the width of wooded areas previously proposed for protection along both sides of an existing utility corridor on the lot. Specifically, the applicant proposes to protect an additional 0.62 acres of wooded land located along both sides of the existing utility corridor. The utility corridor is located in proximity to both the deed restricted eleven acres and the 200 foot additional habitat area. During the threatened and endangered species study for App. No. 1981-0837.024, Red-headed woodpeckers were observed utilizing the concerned utility corridor.

The applicant has demonstrated that the proposed development is consistent with the CMP threatened and endangered species protection standards.

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 contained in the CMP. To meet the stormwater management standards, the applicant will be constructing three stormwater infiltration basins.

PUBLIC COMMENT

The applicant has provided the requisite public notices. Notice to required land owners within 200 feet of the above referenced lot was completed on July 10, 2015. Newspaper public notice was completed on

July 9, 2015. The application was designated as complete on the Commission's website on January 11, 2016. The Commission's public comment period closed on February 12, 2016. The Commission received two written public comments (enclosed) regarding this application.

Public Comment One: The first public commenter expressed concern over the danger that the proposed fueling facility may pose.

Staff Response: The staff appreciates the concern of the commenter. The Pinelands Comprehensive Management Plan does not contain regulations that address the commenter's concern. The Commission staff encourages the commenter to attend any necessary municipal site plan approval public hearing to express their concerns.

Public Comment Two: The second public commenter expressed their support for the project and that the proposed development is complimentary to the CMP.

Staff Response: The staff appreciates the commenter's interest in the Pinelands and agrees that the proposed development is consistent with the standards of the CMP.

CONDITIONS

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of nine sheets, prepared by GreenBergFarrow and dated as follows:
 Sheets 1 & 3-9 - February 12, 2014; revised to November 30, 2015
 Sheet 2 - July 18, 2014
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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(609) 894-7300

www.nj.gov/pinelands

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 within eighteen days of the date of the Executive Director's determination and 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.

BOROUGH OF WOODBINE

Mayor's Office

Municipal Building

501 Washington Avenue

Woodbine, NJ 08270

(609) 861-2153

Fax: (609) 861-2529

<http://www.boroughofwoodbine.net>

William Pikolycky
Mayor

Lisa Garrison
Clerk

February 09, 2016

Pinelands Commission
15 Springfield Road
New Lisbon, NJ 08064

RE: Application# 1981-0837.028 - Clean Energy

Dear Pinelands Commission Members:

As Mayor of the Borough of Woodbine, I am writing in support of this Clean Energy project. As you know, the Borough under my administration has had a history of supporting and encouraging the development of alternate fuel technologies within the strict requirements of the New Jersey Pinelands Commission. An opportunity has been presented to the Borough and the Pinelands Commission involving the development of a Compressed Natural Gas ("CNG") Fueling Station ("Station") to be located in the Borough on County Route 610 on property owned by the Cape May County Municipal Utilities Authority ("CMCMUA").

Since its inception, I have been discussing this project to locate a station, which would be the first such CNG station in the County of Cape May, in Woodbine with both the Cape May County Municipal Utilities Authority and the members of the Pinelands Commission staff. The proposed station would be adjacent to the CMCMUA Landfill, for which Woodbine is a host community.


The Borough, as well as the CMCMUA, believes that this proposed CNG Station will be beneficial to both the Borough and to the County as a whole by providing an additional service to existing businesses and attracting additional customers and businesses through an environmentally positive means. By working closely with the New Jersey Pinelands Commission the Borough has ensured that opportunities for growth and development in the Borough are complimentary to the Pinelands Comprehensive Management Plan.

In addition to the potential economic benefits to the Borough and to Cape May County, there is environmental benefit to encouraging the use of cleaner burning vehicle fuels. The U.S. Department of Energy asserts that because of its lower carbon content, CNG is the cleanest burning transportation fuel on the market today. CNG produces the fewest emissions of all other fuels and emits significantly less Greenhouse Gas contributing pollutants as compared to other petroleum based fuels. Almost all existing solid waste hauling vehicles in Cape May County burn diesel fuel. It is anticipated that many entities, public and private, will begin switching over their fleets to CNG once the fuel source is locally available; thereby contributing to improvements in local air quality, reducing the global impact of Greenhouse Gas Emissions, and contributing to the success of the Borough and County's economies.

However, delays in starting construction are threatening to make this project cost-prohibitive and further such delays could promise the integrity of the project, especially in light of changes in the economic landscape affecting and driving fuel-pricing.

The Borough believes that the CMCMUA and the Applicant Clean Energy have been cooperative in adjusting their site design to meet the requirements and requests of Pinelands staff and as such the Borough of Woodbine supports this project and would respectively encourage the Pinelands Commission to issue all necessary approvals without placing additional restrictions on the use of the site for either the Applicant or the CMCMUA.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "William Pikolycky", with a long horizontal flourish extending to the right.

William Pikolycky
Mayor

Cc: CMCMUA
Clean Energy

AppInfo - application No.1981-0837.028

From: <kmcneeley1@verizon.net>
To: <appinfo@njpines.state.nj.us>
Date: 7/20/2015 1:05 PM
Subject: application No.1981-0837.028

I have a concern about what dangers are being posed to owners at 1324 Freidriechstadt Road 08270. I would like to know the findings.

Thank you
Ken McNeeley
PO Box 74
Woodbine, NJ 08270



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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

February 19, 2016

Stephen Mazur
 South Jersey Transportation Authority
 P.O. Box 351
 Hammonton, NJ 08037

Re: Application # 1983-5837.059
 Block 516, Lot 13.01
 Galloway Township
 Block 101, Lot 9
 Egg Harbor Township

Dear Mr. Mazur:

The Commission staff has completed its review of this application for 15 feet of widening to an existing aircraft taxiway at the Atlantic City International Airport. 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 March 11, 2016 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,



Charles M. Honder, 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)
 Secretary, Galloway Township Planning Board (via email)
 Galloway Township Construction Code Official (via email)
 Galloway Township Environmental Commission (via email)
 Atlantic County Department of Regional Planning and Development (via email)
 Amy S. Greene





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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

PUBLIC DEVELOPMENT APPLICATION REPORT

February 19, 2016

Stephen Mazur
 South Jersey Transportation Authority
 P.O. Box 351
 Hammonton, NJ 08037

Application No.: 1983-5837.059

Location: Block 516, Lot 13.01
 Galloway Township
 Block 101, Lot 9
 Egg Harbor Township

This application proposes 15 feet of widening to an existing aircraft taxiway at the Atlantic City International Airport located on the above referenced 3,212.16 acre parcel in Galloway and Egg Harbor Townships.

This application proposes to widen 5,450 linear feet of "Taxiway A" by 7.5 feet on each side of the existing taxiway to conform to current Federal Aviation Authority standards. In addition, an abandoned 324 foot long taxiway identified as "Taxiway F" will be reduced in paved width from 50 feet to 25 feet and utilized as an emergency vehicle route.

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. 7:50-5.29(a))

The project is located in a Pinelands Military and Federal Installation Area. The proposed development will be located in the Pinelands Protection Area. No development is proposed in the Preservation Area District or a Pinelands Forest Area. The proposed development is a permitted land use in a Pinelands Military and Federal Installation Area.

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

There are wetlands located on the above referenced parcel. An approximately 600 linear foot section of the proposed paved taxiway will be located 7.5 feet closer to wetlands than the existing taxiway. This section of the proposed widened taxiway will be located approximately 140 feet from wetlands. The 600 linear foot section of taxiway will be located in the required buffer to wetlands.

The CMP permits linear improvements, such as an aircraft taxiway, in the required buffer to wetlands provided the applicant demonstrates that certain conditions are met. The applicant has demonstrated that there is no feasible alternative for the proposed taxiway that does not involve development in wetland buffers or that will result in a less significant adverse impact to the wetland buffers. In addition, the proposed development will not result in a substantial impairment of the resources of the Pinelands. With the conditions below, all practical measures are being taken to mitigate the impact on the wetland buffers. The applicant has represented that the FAA requires the proposed widening to conform to current standards. The applicant has demonstrated that the need for the proposed development overrides the importance of protecting the wetland buffers.

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

The proposed development will be located within existing paved and grassed areas. 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 disturbed areas, the applicant proposes to utilize a seed mixture which meets that recommendation.

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

Local populations of Upland sandpiper and Grasshopper sparrow have been documented at the Atlantic City International Airport. The two concerned bird species typically arrive at the airport in mid-April to early May and proceed to nest and rear broods through July 31. Upland sandpiper nest in extensive, open tracts of grassland habitat containing a mixture of short grass areas for feeding and courtship interspersed with taller grasses for nesting and brood cover. Grasshopper sparrow nesting habitat consists of mixed grass and old-field communities dominated by clump grasses interspersed by areas of bare ground.

From April 15 through August 15 of each year, the airport performs seasonal short grass mowing within 30 feet of the existing taxiway to discourage the Upland sandpiper and Grasshopper sparrow from nesting in the aircraft movement area. This mowing regime maintains the grass at a height of five inches or less. The proposed paving of 7.5 feet on each side of the existing taxiway will result in the elimination of 2.6 acres of short grasses and 0.10 acres of tall grasses.

Revisions to the 30 foot wide mowing regime required by the proposed taxiway widening will result in the conversion of 1.2 acres of tall grass to short grass.

The short and tall grass communities located adjacent to the taxiway have been previously surveyed and are generally considered low quality nesting habitat for Upland sandpiper and Grasshopper sparrow due to a number of factors including the mowing regime that results in a lack of nesting features described

above. These grass communities immediately adjacent to the taxiway may be used by Upland sandpiper and Grasshopper sparrow for foraging by adults and fledgling young.

The applicant proposes to install fencing around the project area, including the area subject of the revised 30 foot wide mowing regime. Prior to the start of any development, all grasses within the project area will be mowed and maintained at a height of five inches or less between April 1st and September 30th of any year in which proposed development will occur. This mowing regime will discourage Upland sandpiper and Grasshopper sparrow from nesting within the project area.

Based on the proposed plan and with the conditions recommended below, the proposed development has been designed to avoid irreversible adverse impacts that are critical to the survival of local populations of Upland sandpiper and Grasshopper sparrow.

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

On August 11, 2000, the Commission approved an application for the rehabilitation of an existing runway at the Atlantic City International Airport (App. No. 1983-5837.024). That application proposed the removal of 33.47 acres of pavement from existing runways and abandoned taxiways and the revegetation of those areas. The current application proposes a total of 2.4 acres of new impervious surfaces within the same drainage areas where the applicant removed the concerned 33.47 acres of pavement. There will be no increase in the volume and rate of stormwater runoff from the project area after development than occurred prior to the removal of the 33.47 acres of pavement. The applicant has demonstrated that the proposed development is consistent with the CMP stormwater management standards.

PUBLIC COMMENT

The applicant has provided the requisite public notices. Newspaper public notice was completed on August 2, 2015. The application was designated as complete on the Commission's website on January 11, 2016. The Commission's public comment period closed on February 12, 2016. The Commission received one oral public comment regarding this application.

Public Comment: The commenter indicated that an existing Memorandum of Agreement (MOA) between the South Jersey Transportation Authority (SJTA) and the Pinelands Commission required the establishment of a Grassland Advisory Committee for the Atlantic City Airport and required regular meetings of that Committee. The commenter further indicated that the Advisory Committee has not met in years, questioned whether the Grassland Conservation and Management Area required in the MOA has been established and whether the development proposed in this application is subject of the concerned MOA.

Staff Response: The development proposed in this application is not subject of the MOA. The concerned MOA only addresses development of certain projects specifically identified in the MOA as "Short Term Development Projects." The MOA required a Grassland Conservation and Management Area for the creation and enhancement of grassland habitat to compensate for the loss of critical habitat resulting from the "Short Term Development Projects." The MOA also provided for the establishment of a Grassland Advisory Committee. The purpose of the Grassland Advisory Committee is to provide guidance on all grassland

management activities proposed within the Grassland Conservation and Management Area. The MOA provides that the SJTA is the responsible entity for administering the Grassland Advisory Committee. The Commission staff agrees that the Grassland Advisory Committee has not recently met. The Commission staff will contact the SJTA regarding the scheduling of a meeting of the Grassland Advisory Committee.

CONDITIONS

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of 105 sheets, prepared by AECOM and dated as follows:

Sheet 1 - May 20, 2015
Sheets 2-105 - June 23, 2015
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. The applicant shall maintain all grasslands within the project area at a height of five inches or less between April 1st and September 30th of any year in which the proposed development will occur.
6. Prior to development, the applicant shall install fencing along the boundary of the project area and shall maintain the fencing until all development has been completed and the area has been stabilized.
7. Appropriate measures shall be taken during construction to preclude sediment 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

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 within eighteen days of the date of the Executive Director's determination and 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

February 22, 2016

Helen Payne, Superintendent
 North Hanover Township School District
 331 Monmouth Road
 Wrightstown, NJ 08562

Re: Application # 1991-0820.103
 Block 802, Lot 2
 North Hanover Township

Dear Ms. Payne:

The Commission staff has completed its review of this application for demolition of three schools, 50 years old or older and the construction of a 134,506 square foot school on Joint Base McGuire-Dix-Lakehurst. 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 March 11, 2016 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,

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

Enc: Appeal Procedure

- c: Secretary, North Hanover Township Planning Board (via email)
- North Hanover Township Construction Code Official (via email)
- Secretary, Burlington County Planning Board (via email)
- Chad Gaulrapp, PE, CME (via email)
- Michael Gross, Esq. (via email)





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Sean W. Earlen
 Chairman

Nancy Wittenberg
 Executive Director

PUBLIC DEVELOPMENT APPLICATION REPORT

February 22, 2016

Helen Payne, Superintendent
 North Hanover Township School District
 331 Monmouth Road
 Wrightstown, NJ 08562

Application No.: 1991-0820.103

Location: Block 802, Lot 2
 North Hanover Township

This application proposes demolition of three schools, 50 years old or older and the construction of a 134,506 square foot school served by public sanitary sewer located on the above referenced 193.57 acre parcel. The parcel is located on Joint Base McGuire-Dix-Lakehurst in North Hanover Township. The three concerned schools are named Atlantis, Discovery and Columbia.

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. 7:50-5.29 (a))

The proposed development is located in a Pinelands Military and Federal Installation Area. The proposed development will be located in the Pinelands Protection Area portion of the Military and Federal Installation Area. No development is proposed in the Pinelands Preservation Area District or a Pinelands Forest Area. The proposed development is a permitted land use in a Pinelands Military and Federal Installation Area.

Wetlands Standards (N.J.A.C. 7:50-6.14)

The area of the parcel where the three existing schools are located is surrounded by a wetlands complex associated with a stream known as the North Run. The three existing schools and development associated with the existing schools are maintaining a variable buffer to wetlands ranging from 0 feet to approximately 150 feet. The proposed development will maintain a variable buffer to wetlands ranging from 0 feet to approximately 150 feet.

The CMP (N.J.A.C. 7:50-5.29(a)4) requires that any development associated with the function of a Military and Federal Installation Area must be substantially consistent with the CMP wetlands protection standards. The proposed development is substantially consistent with the CMP wetlands protection standards.

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

The proposed development will be located within a forested area and grassed areas. The proposed 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 grasses proposed for the demolished Atlantis School and Discovery School sites meet this recommendation. The applicant proposes to utilize other grasses for maintained lawn areas at the redeveloped Columbia school site.

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

To meet the stormwater management standards, the application proposes one stormwater infiltration basin on the parcel.

The CMP (N.J.A.C. 7:50-5.29(a)4) requires that any development associated with the function of a Military and Federal Installation Area must be substantially consistent with the CMP stormwater management standards. The proposed development is substantially consistent with the CMP stormwater management standards.

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

Based on a review of information available to the Commission staff, it was determined that a cultural resource survey was not required for the proposed demolition.

PUBLIC COMMENT

The applicant has provided the requisite public notices. Newspaper public notice was completed on January 13, 2016. Notice to required land owners within 200 feet of the above referenced development was completed on January 25, 2016. The application was designated as complete on the Commission's website on February 2, 2016. The Commission's public comment period closed on February 12, 2016. No public comment was submitted to the Commission regarding this application.

CONDITIONS

1. For the proposed new school and demolition of Columbia School: Except as modified by the below conditions, the proposed development shall adhere to the "New Pre-K to 4th Grade School" plan, consisting of 19 sheets, prepared by Pennoni Associates and dated as follows:

Sheets 1, 3-7, 11-12, 14, 18-19 - dated 10/16/2015; last revised 2/19/2016
 Sheets 2, 8-10, 13, 15-16 - dated 10/16/2015; last revised 2/11/2016
 Sheet 17 - dated 10/16/2015

For the proposed event parking area and demolition of Discovery School: Except as modified by the below conditions, the proposed development shall adhere to the "Discovery School" plan, consisting of 6 sheets, prepared by Pennoni Associates and dated as follows:

Sheets 1, 5 - dated 10/16/2015; last revised 2/11/2016
 Sheets 2, 3, 6 - dated 10/16/2015; last revised 2/19/2015
 Sheet 4 - dated 10/16/2015

For the proposed demolition of Atlantis School: Except as modified by the below conditions, the proposed development shall adhere to the "Atlantis School" plan, consisting of 5 sheets, prepared by Pennoni Associates and dated as follows:

Sheets 1, 4 - dated 10/16/2015; last revised 2/11/2016
 Sheets 2, 5 - dated 10/16/2015; last revised 2/19/2016
 Sheet 3 - dated 10/16/2015

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. 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.
5. All development, including clearing and land disturbance, shall be located outside of wetlands and required wetland buffers as depicted on the above referenced plans.
6. Any proposed revegetation shall adhere to the "Vegetation" standards of the CMP. Any areas on the Discovery and Atlantis School sites proposed for demolition that are not to be redeveloped must be restored to a native Pinelands grassland consisting of the following native Pinelands grass species: Switch grass, Little bluestem and Broom-sedge. These areas shall be allowed to revegetate to Pinelands grassland and no mowing of these areas shall occur.

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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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.



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-16- 11

TITLE: Issuing an Order to Certify Ordinance 15-009, Amending Chapter 245 (Land Use and Development) of the Code of Manchester Township

Commissioner Arcy moves and Commissioner Ball seconds the motion that:

WHEREAS, on December 3, 1982, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Manchester Township; and

WHEREAS, Resolution #PC4-82-93 of the Pinelands Commission specified that any amendment to the 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 #PC4-82-93 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 July 13, 2015, Manchester Township adopted Ordinance 15-009, amending Chapter 245 (Land Use and Development) of the Township's Code by eliminating certain affordable housing zoning designations and adopting a revised zoning map to correct inconsistencies between the Township's mapping and the Commission's zoning records; and

WHEREAS, Ordinance 15-009 also adopts three additional zoning changes, two of which result in changes to Pinelands management area boundaries; and

WHEREAS, the Pinelands Commission received a certified copy of Ordinance 15-009 on August 5, 2015 and a copy of the revised Zoning Map adopted by Ordinance 15-009 on December 8, 2015; and

WHEREAS, by letter dated December 17, 2015, the Executive Director notified the Township that Ordinance 15-009 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 Ordinance 15-009 was duly advertised, noticed and held on January 19, 2016 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 15-009 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 the issuance of an order to certify that Ordinance 15-009, amending Chapter 245 (Land Use and Development) of the Code of Manchester Township, 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 recommended that Ordinance 15-009 be certified; and

WHEREAS, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning Ordinance 15-009 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 Ordinance 15-009, amending Chapter 245 (Land Use and Development) of the Code of Manchester Township, is 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	X				DiBello	X				McGlinchey	X			
Avery	X				Galletta	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: March 11, 2016

Nancy Wittenberg
 Nancy Wittenberg
 Executive Director

Sean W. Earlen for
 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: ApplInfo@njpines.state.nj.us

Sean W. Earlen
 Chairman

Nancy Wittenberg
 Executive Director

**REPORT ON MANCHESTER TOWNSHIP ORDINANCE 15-009, AMENDING CHAPTER 245
 (LAND USE AND DEVELOPMENT) OF THE CODE OF MANCHESTER TOWNSHIP**

February 26, 2016

Manchester Township
 1 Colonial Drive
 Manchester, NJ 08759

FINDINGS OF FACT

I. Background

The Township of Manchester is located in northwest Ocean County, in the northern portion of the Pinelands Area. Pinelands municipalities that abut Manchester Township include the Borough of Lakehurst and the Townships of Berkeley, Dover, Jackson, Lacey and Plumsted in Ocean County and the Townships of Pemberton and Woodland in Burlington County.

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

On October 14, 2014, Manchester Township adopted Ordinance 14-016, amending Chapter 245 (Land Use and Development) of the Township's Code by eliminating certain affordable housing zoning designations and adopting a revised zoning map to correct inconsistencies between the Township's mapping and the Commission's zoning records. The Pinelands Commission received a certified copy of Ordinance 14-016 on October 20, 2014 and a copy of the revised Zoning Map adopted by Ordinance 14-016 on December 11, 2014. By letter dated December 24, 2014, the Executive Director notified the Township that the amendments made by Ordinance 14-016 raised no substantial issues with respect to CMP standards. Therefore, no further Commission review was required. Subsequently, the Township notified the Commission that it would be readopting Ordinance 14-016 due to notice issues with a prior master plan amendment.

On July 13, 2015, Manchester Township adopted Ordinance 15-009, effectively readopting the amendments previously made by Ordinance 14-016. Ordinance 15-009 amends Chapter 245 (Land Use and Development) of the Township's Code by eliminating certain affordable housing zoning designations and adopting a revised zoning map to correct inconsistencies between the Township's mapping and the Commission's zoning records. The zoning map adopted by Ordinance 15-009 also reflects three additional zoning changes, two of which result in changes to Pinelands management area

boundaries. The Pinelands Commission received a certified copy of Ordinance 15-009 on August 5, 2015 and a copy of the revised Zoning Map adopted by Ordinance 15-009 on December 8, 2015.

By letter dated December 17, 2015, the Executive Director notified the Township that Ordinance 15-009 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 15-009, amending Chapter 245 (Land Use and Development) of the Code of Manchester Township, including a Zoning Map with a last revision date of May 26, 2015, introduced on May 26, 2015 and adopted on July 13, 2015.

This ordinance has been reviewed to determine whether it conforms 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**

Pinelands Management Area Changes

Ordinance 15-009 rezones Block 79, Lot 8 and a portion of Block 79, Lot 7, from the BVR-40 (Beckerville Village Residential) Zone to the PPA (Pinelands Preservation Area) Zone. The map attached as Exhibit #1 shows the two affected properties, the larger of which is currently under agricultural assessment as a horse farm. Approximately 20 acres are affected by the zoning change, which is being made in order to correct an unintentional error on the Township's 1997 zoning map that had been carried forward on subsequent maps. As a result, Block 79, Lot 7 will no longer be split between two zoning districts and Pinelands management areas; it will be located entirely in the PPA Zone. More importantly, the boundary of Beckerville Village will return to what was originally certified by the Commission in 1994. This ensures that the boundaries of and development potential within Beckerville remain consistent with the standards for Pinelands Villages set forth at N.J.A.C. 7:50-5.16.

Ordinance 15-009 also rezones portions of several lots in Blocks 87 and 89 from the PFA-S (Pinelands Forest Area – Sending) Zone to the WTRC (Whiting Town Retirement Community) Zone along Manchester's border with Berkeley Township. As is evident from the map attached as Exhibit #2, the lots in question are part of two existing residential retirement communities (Pine Ridge at Crestwood and Pine Ridge South), which were developed decades ago. When the Commission certified Manchester's master plan and land use ordinances in 1983, the lots in

question were included in what was then the Pinelands Village of Whiting (since redesignated as a Pinelands Town), with the exception of a small strip of land bordering Berkeley Township that remained in the Forest Area. At the time, adjacent lands in Berkeley were privately owned and designated as Pinelands Forest Area. The expectation was that the Berkeley lands would be zoned and residentially developed at the low density permitted by the CMP in the Forest Area (one unit per 15.8 acres of vacant upland). The Commission felt it was important to maintain a small area of similarly zoned land in Manchester Township so as not to create land use conflicts. Since that time, the adjacent lands in Berkeley have been permanently protected and are now owned and managed by the State of New Jersey as part of the Crossley Preserve and the Greenwood Forest Wildlife Management Area. The Manchester lots were intensively developed as retirement communities, with the land adjacent to Berkeley Township incorporated in the common open space areas associated with the two residential communities. As a result, there is no further development potential on either side of the municipality boundary and no longer any reason for the narrow strip of land in Manchester to be designated as Pinelands Forest Area. The Township is merely seeking to place the lots, in their entirety, in one Pinelands management area and one zoning district to simplify administration of their zoning map. Approximately 30 acres are affected by this change.

Other Zoning Changes

Ordinance 15-009 rezones a portion of one lot (Block 98, Lot 7) from the WTRC (Whiting Town Retirement Community) Zone to the WTB-1 (Whiting Town Business) Zone, within the Pinelands Town of Whiting. This 2.5 acre commercially developed lot is currently split between the two zones. The zoning change adopted by Ordinance 15-009 aligns zoning and lot lines such that all of Lot 7 will now be located in the WTB-1 Zone.

Other Amendments

Ordinance 15-009 amends Chapter 245 by revising the PRC/RCL-AF Retirement Community Zone to PRC/RCL, thereby eliminating the AF – Affordable Housing – designation for this Regional Growth Area zoning district. Ordinance 14-016 also eliminates the WTRC-AF Whiting Town Retirement Community Zone entirely, along with Section 245-69A, which specified that garden apartments were a permitted conditional use in the zone. These amendments raise no substantial issues with respect to CMP standards.

Ordinance 15-009 is consistent with the land use and development standards of the Comprehensive Management Plan. 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 15-009, amending Chapter 245 (Land Use and Development) of the Code of Manchester Township, 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 15-009, amending Chapter 245 (Land Use and Development) of the Code of Manchester Township, 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

As discussed in detail in Section 2 above, Ordinance 15-009 rezones a narrow strip of land on Manchester Township's boundary with Berkeley Township from the PFA-S Zone in the Forest Area to the WTRC Zone in the Pinelands Town of Whiting. Adjacent lands in Berkeley are located in a residential zone in the Pinelands Forest Area. Although the narrow strip of Forest Area in Manchester was originally created at the Commission's request as a way of avoiding land use conflicts, it is no longer necessary. The lands in Manchester are now deed restricted as common open space associated with two existing retirement communities, while the adjacent lands in Berkeley are permanently protected and under State ownership. The map attached as Exhibit #2 illustrates both the existing development in Manchester and the extent of State ownership in Berkeley. The change in zoning and Pinelands management area designation accomplished by Ordinance 15-009 will not result in any land use changes or facilitate any additional development. It merely aligns zoning and management area boundaries with parcel lines for administrative purposes. Therefore, no intermunicipal conflicts are anticipated. This standard for certification is met.

PUBLIC HEARING

A public hearing to receive testimony concerning Manchester Township's application for certification of Ordinance 15-009 was duly advertised, noticed and held on January 19, 2016 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 January 26, 2016; however, none were received.

CONCLUSION

Based on the Findings of Fact cited above, the Executive Director has concluded that Ordinance 15-009 complies 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 Ordinance 15-009 of Manchester Township.

SRG/CMT
Attachments

Manchester Township

Proposed Zoning Changes

Executive Director's Report
Manchester Township
Ordinance 15 - 009
February 26, 2016
Exhibit 1

Preservation Area District
Pinelands Village

BVR-40 District

Pinelands Village
Forest Area

PFA-S District





Preservation Area District
Forest Area

Block 79, Lot 8

Part of Block 79, Lot 7

PPA District

Legend

-  Proposed Area for Rezoning
-  Parcel Boundary
-  Zoning Boundary
-  Permanently Protected Land



Memoranda of Agreement

Report from the MOA Policy Advisory Committee

March 11, 2016



Process for Consideration of an MOA: Recommended Changes

- Step 6. Following the briefing, the CMP Policy & Implementation ~~Public and Government~~ Programs Committee, in consultation with the Executive Director, shall ~~determine~~ make a recommendation as to whether the Commission should consider entering into an intergovernmental agreement for the project.

Process for Consideration of an MOA: Recommended Changes

- Step 7. The Executive Director will brief the full Commission at its next meeting on the public agency proposal and the CMP Policy & Implementation Committee's recommendation. The Commission will then determine whether to authorize the staff to move forward with the administrative process and draft an intergovernmental agreement.

Process for Consideration of an MOA: Recommended Changes

- Step 7. If an agreement is to be drafted, the Commission will set forth a schedule for consideration of the agreement. The schedule shall provide sufficient time for all of the steps in the process, including a reasonable period of time for the staff to compile and respond to public comments. To the extent possible, the schedule will take into consideration the time constraints and deadlines of the public agency seeking the MOA.

Process for Consideration of an MOA: Recommended Changes

- Step 8. If an intergovernmental agreement is to be prepared, the Executive Director shall determine whether the public agency will need to provide an escrow to be used to reimburse the Commission for staff time required for developing and implementing the agreement.



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-16-_____

TITLE: Approving an Application for a Waiver of Strict Compliance (Application Number 1993-0732.012)

Commissioner _____ moves and Commissioner _____ seconds the motion that:

WHEREAS, the Pinelands Commission has reviewed each of the Findings of Fact, Conclusion and the recommendation of the Executive Director that the following application for Waiver of Strict Compliance be approved:

1993-0732.012

Applicant:	Stafford Township
Municipality:	Stafford Township
Management Area:	Pinelands Forest Area Pinelands Regional Growth Area
Date of Report:	March 21, 2016
Proposed Development:	Development of a stormwater management basin.

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 Findings of Fact and Conclusion of the Executive Director for the requested Waiver of Strict Compliance; and

WHEREAS, the Pinelands Commission hereby determines that the requested Waiver conforms to the standards for approving an application for a Waiver of Strict Compliance based on compelling public need as set forth in N.J.A.C 7:50-4.62, N.J.A.C. 7:50-4.64 and N.J.A.C. 7:50-4.65; 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 1993-0732.012 for a Waiver of Strict Compliance is hereby **approved**.

Record of Commission Votes

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

* A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: _____

Nancy Wittenberg
Executive Director

Sean W. Earlen
Chairman



State of New Jersey
 THE PINELANDS COMMISSION
 PO Box 359
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 (609) 894-7300
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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 AN APPLICATION FOR A WAIVER OF STRICT COMPLIANCE BASED
 UPON A COMPELLING PUBLIC NEED**

March 21, 2016

James Moran, Township Administrator
 Stafford Township
 200 East Bay Avenue
 Manahawkin, New Jersey 08050

Re: Application # 1993-0732.012
 State Route 72
 Block 26, Lot 10
 Block 44.129, Lot 1.01
 Stafford Township

Dear Mr. Moran:

The Commission staff has completed its review of the above referenced application. Based upon the facts and conclusions contained in this Report, on behalf of the Commission’s Executive Director, I am recommending that the Pinelands Commission approve the application at its April 8, 2016 meeting.

This application proposes construction of an approximately seven acre stormwater management basin (“proposed basin”) on the south side of State Route 72 in Stafford Township.

The proposed basin will be connected by two proposed culverts beneath State Route 72 to an existing approximately five acre existing stormwater basin, known as Neptune Basin. Neptune Basin is located on the north side of State Route 72, directly across State Route 72 from the proposed basin. The proposed basin will serve existing residential development located in a Pinelands Regional Growth Area on the north side of State Route 72.

The proposed basin is located in a Pinelands Forest Area. The proposed basin is not a permitted land use in a Pinelands Forest Area (N.J.A.C. 7:50-5.23). The applicant is requesting a Waiver of Strict Compliance (Waiver) based upon a compelling public need from the permitted land use standards in a Pinelands Forest Area contained in the Pinelands Comprehensive Management Plan (CMP).

CMP REQUIREMENTS FOR A WAIVER BASED UPON A COMPELLING PUBLIC NEED

The CMP (N.J.A.C. 7:50-4.61 through 4.70) sets forth the standards and requirements that must be met before the Commission can approve a Waiver.



The CMP (N.J.A.C. 7:50-4.64(a)1) specifies that an applicant shall be deemed to have established a compelling public need if the applicant demonstrates based upon specific facts, and the Pinelands Commission verifies, that the proposed development will serve an essential health or safety need of the municipality and:

1. The public health and safety require the requested Waiver;
2. The public benefits from the proposed use are of a character that override the importance of the protection of the Pinelands as established in the Pinelands Protection Act or the National Parks and Recreation Act of 1978;
3. The proposed use is required to serve existing needs of the residents of the Pinelands; and
4. No feasible alternative exists outside the Pinelands Area to meet the established public need and that no better alternatives exist within the Pinelands Area.

FINDINGS OF FACT

There is an existing approximately five acre stormwater management basin, known as Neptune Basin, located adjacent to Neptune Drive in Ocean Acres, Stafford Township. Ocean Acres is a large existing residential development located in both Stafford and Barnegat Townships.

Neptune Basin has a drainage area of approximately 350 acres. There are approximately 1,500 existing residential dwellings located in the 350 acre drainage area. Those dwellings are primarily located in Ocean Acres, Stafford Township. A small, mostly undeveloped portion of the 350 acre drainage area, is located in Ocean Acres, Barnegat Township. Stormwater runoff is collected within the 350 acre drainage area and discharged to Neptune Basin. Collected stormwater runoff is then discharged under State Route 72 via two existing pipes to an unnamed tributary of Mill Run.

Based upon existing conditions, approximately 3,600,000 cubic feet of stormwater storage would be required to accommodate the stormwater runoff from a 100 year storm event within the 350 acre drainage area. Neptune Basin has a capacity to store approximately 1,000,000 cubic feet of stormwater runoff before stormwater overtops the basin at elevation 77 feet.

Stormwater flooding currently occurs on Neptune Drive, adjacent to the Neptune Basin. When the stormwater elevation in Neptune Basin rises above a elevation of 74.4 feet, stormwater runoff is discharged back through the existing stormwater collection system piping and out of the existing stormwater inlets located upstream of Neptune Basin in Neptune Drive. Flooding begins to occur once Neptune Basin stores approximately 600,000 cubic feet of stormwater runoff. As stormwater runoff flooding increases, existing roadways and dwellings on and in the vicinity of Neptune Drive experience flooding.

The proposed basin will store approximately 1,000,000 cubic feet of stormwater runoff. The proposed basin will act in unison with Neptune Basin. The proposed basin will store approximately 685,000 cubic feet of stormwater runoff before reaching elevation 74.4 feet. At elevation 74.4 feet, stormwater runoff will continue to be discharged back through the existing stormwater collection system piping and out of the existing stormwater inlets located upstream of Neptune Basin in Neptune Drive. The increased

stormwater storage capacity provided by the proposed basin will reduce the extent of flooding that currently occurs.

The existing stormwater collection piping system in Ocean Acres Stafford does not have sufficient capacity to convey the 100 year storm event to Neptune Basin. When the capacity of the stormwater collection system piping is exceeded, existing road surfaces in Ocean Acres function as a stormwater conveyance system and transport the stormwater via overland flow to Neptune Basin.

The Township has in the past undertaken certain efforts in an attempt to address the concerned flooding. In 2004, the Township adopted an ordinance requiring that roof leaders from all new dwellings be connected to individual subsurface stormwater infiltration systems. In 2007, the Township installed 36 inch subsurface infiltration piping in 10 roads that contribute stormwater runoff to Neptune Basin. This project was undertaken in an effort to reduce overland stormwater runoff flows reaching Neptune Basin. The reduction in stormwater flow was minor in comparison to the runoff generated in the 350 acre drainage area and the cost of the project was \$1.4 million. In 2012, the Township completed certain improvements to Neptune Basin, including installation of native vegetation plantings to improve water quality downstream of the basin.

The proposed basin will be located on a parcel currently owned by Stafford Township. The applicant estimates the proposed construction cost of the basin will be \$2.5 million. The Township applied to the New Jersey Department of Environmental Protection for financial assistance under the New Jersey Environmental Infrastructure Financing Program. The Township has received a loan under that Program, including 50% principal forgiveness, to finance the proposed basin.

The proposed basin will improve, but not completely resolve, the existing stormwater flooding. The following table indicates the existing flooding conditions and the extent of flooding that will occur in Neptune Drive and surrounding roads in the immediate vicinity of Neptune Basin after development of the proposed basin:

Storm (year)	Existing Condition	Proposed Condition
2	No flooding	No flooding
5	1.6 feet of flooding	No flooding
10	3.0 feet of flooding	0.6 feet of flooding
25	4.4 feet of flooding	2.7 feet of flooding
100	6.5 feet of flooding	5.1 feet of flooding

The proposed basin will decrease flooding from all storm events and eliminate flooding up to the 10 year storm event. The applicant indicates that under existing conditions, 40 dwellings are impacted by the 100 year storm event. The proposed basin will limit flooding to existing streets and impact three homes during the 100 year storm. Based upon available information, the three impacted homes will have slightly less than one foot of flood water in their garages, but the raised living area of the three dwellings should remain dry. The applicant indicates that the proposed basin will improve the existing flooding problem sufficient to address public health and safety.

The applicant has submitted information documenting the occurrence of flooding events in the area that threaten public health and safety. The applicant has also submitted information documenting that the proposed stormwater basin will address the existing need of the residents of Ocean Acres who are residents of the Pinelands.

The National Parks and Recreation Act of 1978 (Sec.471.(b)(2)) directs the State to develop a comprehensive management plan for the Pinelands Area to assure orderly public and private development. The Pinelands Protection Act (13:18A-9b.) specifies that the goals of the Pinelands Comprehensive Management Plan shall be to protect, preserve and enhance the significant resources of the Pinelands Area. The Pinelands Protection Act (13:18A-10c.) specifically authorizes the Commission to waive strict compliance with any standard upon a finding that such Waiver is necessary to satisfy a compelling need, is consistent with the purposes and provisions of the Pinelands Protection Act and would not result in substantial impairment of the resources of the Pinelands Area. The Pinelands Protection Act further required the Commission to adopt rules and regulations which specify the standards for determining a compelling public need. The review of this application was based upon those regulations. The applicant submitted information documenting that the public benefits of the proposed basin, health and safety, are of a character that override the importance of the protection of the Pinelands as established in the Pinelands Protection Act or the National Parks and Recreation Act of 1978.

The applicant has addressed whether any feasible alternative exists outside the Pinelands Area to meet the established public need. The stormwater flooding problem is an existing problem located in the Pinelands Area. There are no feasible alternatives located outside the Pinelands Area to address the established public need in the Pinelands Area.

The applicant evaluated the following alternatives and concluded that no better alternatives to the proposed stormwater basin exist within the Pinelands Area:

1. The feasibility of acquiring and constructing a stormwater basin on approximately eight acres of vacant lands located to the immediate northwest of Neptune Basin. This area could accept stormwater runoff redirected from Neptune Basin. Due to the concerned lands being located approximately 10 to 20 feet higher in elevation than the bottom of Neptune Basin, a pump station and piping would be required to transfer collected stormwater runoff from Neptune Basin to this alternative basin. The applicant indicated that managing stormwater runoff via a pump station is complex and costly. The U.S Department of Transportation, Federal Highway Administration states in Hydraulic Engineering Circular No. 24, dated February 2001, that "...the use of stormwater pumping stations is recommended only where no other practicable alternative is available." This alternative would require the acquisition of approximately eight acres of privately held lands. The applicant indicates that acquisition of these privately owned lands could require protracted negotiations with the property owner(s) with no guarantee of success, and no way to control cost.
2. The applicant also evaluated whether the alternative basin on approximately eight acres of vacant lands located to the immediate northwest of Neptune Basin could be constructed and rely solely on capturing overland stormwater runoff without installing piping or a pump station to deliver stormwater runoff from Neptune Basin. This alternative would still require the acquisition of approximately eight acres of privately held lands. The applicant indicates that acquisition of these privately owned lands could require protracted negotiations with the property owner(s) with no guarantee of success, and no way to control cost. This alternative basin would only intercept about 16% of the stormwater runoff from the overall 350 acre drainage area. If 16% of the stormwater runoff from the drainage area is subtracted from the volume of stormwater runoff required to be managed, Neptune Basin would continue to fail.

3. Whether the Township could increase infiltration in the Ocean Acres residential development via installation of perforated recharge pipes in existing roads. To create the equivalent storage of the proposed stormwater basin, the Township would require 200,000 linear feet of 36 inch perforated pipe. The applicant indicated that considering only the cost of the piping, this alternative would not be cost effective.
4. Whether the Township could adopt additional ordinances regulating impervious coverage and stormwater runoff to address the flooding issue. Such ordinances would only reduce the volume of future stormwater runoff and would not address the volume of stormwater runoff currently flowing to Neptune Basin.
5. The expansion of Neptune Basin through acquisition of adjacent land. This alternative considered the feasibility of acquiring six existing residentially developed lots immediately adjacent to Neptune Basin to enlarge the basin. This alternative would increase the storage capacity of Neptune Basin by 300,000 cubic feet providing approximately 30 % of the overall storage provided by the proposed basin. Neptune Basin would continue to fail. This alternative would also require the acquisition of privately held lands. The applicant indicates that acquisition of these privately owned lands could require protracted negotiations with the property owner(s) with no guarantee of success, and no way to control cost.
6. The feasibility of redirecting stormwater runoff to the adjacent Ocean Acres residential development in Barnegat Township. The Ocean Acres Barnegat portion of the 350 acre drainage area that flows to the existing Neptune Basin is located at the high point of the drainage area. Based upon topography and minimum required pipe slope, redirecting an appreciable amount of stormwater runoff from the 350 acre drainage area across a drainage ridge line to the portion of Ocean Acres located in Barnegat Township would require stormwater piping to be buried nearly 40 feet underground. The applicant represents that burying stormwater pipe that deep is unsafe and not considered good engineering practice.
7. The feasibility of siting multiple smaller stormwater basins throughout Ocean Acres. The Township identified 25 vacant lots upstream of Neptune Basin. This alternative would require the acquisition of privately held lands. Utilizing certain design assumptions, the applicant estimated that individual stormwater basins on the 25 lots could provide approximately 68% of the storage provided by the proposed stormwater basin. Neptune Basin would continue to fail. This alternative would also require the acquisition of privately held lands. The applicant indicates that acquisition of these privately owned lands could require protracted negotiations with the property owner(s) with no guarantee of success, and no way to control cost.

The Commission staff retained the services of Najarian Associates, Consulting Engineers to review the Township's engineering analysis and alternatives to the proposed stormwater basin on the south side of State Route 72. In a Report dated December 2013, last revised August 22, 2014, Najarian Associates concluded on page 18 that "we concur with the Township of Stafford, that the proposed basin expansion, located on the south side of Route 72 is the best option to reduce flooding upstream of the existing Neptune Basin."

Neptune Basin currently discharges through two existing pipes under State Route 72 to an unnamed tributary of Mill Run. The applicant proposes several special measures as part of the application to demonstrate that the proposed development will result in an overall improvement to the resources of the Pinelands Area. The proposed stormwater basin will reduce the stormwater surge currently discharging from Neptune Basin through the two existing discharge pipes under State Route 72 to the unnamed tributary and the resulting soil erosion and sedimentation. By providing temporary storage and detention of stormwater runoff, the proposed basin will reduce the transport of contaminants to the unnamed tributary and improve surface water quality in the unnamed tributary. The Township also proposes as a special measure to acquire and redeem 2.0 Pinelands Development Credits (PDCs) from the Pinelands Preservation Area District to further Pinelands conservation efforts. At a minimum, the 2.0 PDCs must conserve at least 78 acres in the Pinelands Preservation Area District that are not currently subject to an existing PDC or other conservation deed restriction.

The Commission staff believes that identifying lands that are allocated 2.0 PDCs in accordance with the above paragraph and redeeming those PDCs may be administratively challenging for the Township. As an alternative to identifying lands that may be allocated 2.0 PDCs in accordance with the above paragraph, the applicant may choose to contribute to the Pinelands Conservation Fund. The Pinelands Conservation Fund is a program administered by the Pinelands Commission to acquire lands in the Pinelands Area for conservation purposes. The applicant could contribute the equivalent dollar value of acquiring 78 acres that are not currently subject of a conservation deed restriction in the Pinelands Preservation Area District. The average Pinelands Conservation Fund acquisition price in the Pinelands Preservation Area District is \$2,067 per acre that is not currently subject of a conservation deed restriction. The applicant could contribute \$161,226 (78 acres x \$2,067) to the Pinelands Conservation Fund. The applicant also reserves the right to independently deed restrict for conservation purposes that acreage in the Pinelands Preservation Area District that would be allocated at least 2.0 PDCs. The deed restricted land must total at least 78 acres.

The applicant has demonstrated that the proposed stormwater basin meets all environmental standards of Subchapter 6 the CMP (N.J.A.C. 7:50-6).

The proposed stormwater basin is the only development proposed in the application to satisfy the compelling public need.

PUBLIC COMMENT AT COMMISSION MEETING AND PUBLIC HEARING

The applicant provided the requisite public notices. Notice to required land owners within 200 feet of the above referenced parcel was completed on October 26, 2015. Newspaper public notice was completed on October 26, 2015. The application was designated as complete on the Commission's website on December 23, 2015.

The Pinelands Commission appreciates the interest of all commenters in the Pinelands. Below, the Commission staff has summarized public comment on the application and offered responses to those comments that are not either directly addressed within this Report on an Application for a Waiver of Strict Compliance or constitute opinions of the commenter.

The Commission received the following three public comments at the January 15, 2016 meeting:

Public Commenter One (Theresa Lettman): The commenter indicated that the proposed stormwater basin might reduce the flooding problem, but it will not completely address the ongoing flooding

problem. The commenter indicated the Waiver should not be approved. The commenter believes that no one is addressing stormwater for newly proposed development. The commenter indicated that the total drainage area for the project includes acreage in Barnegat Township that must be considered in the application. The commenter indicated that stormwater runoff is also flowing from existing undeveloped areas to Neptune Basin. The commenter also indicated that the stormwater in Neptune Basin could be pumped to a new alternative basin location. The commenter indicated that any proposed stormwater basin should solve the entire flooding problem. The commenter indicated that the proposed purchase of PDCs is not sufficient to offset the Waiver. The commenter further indicated that the proposed basin will impact a known population of Swamp Pink.

Commission Staff Response to Public Commenter One: The Commission staff ensures that all proposed future development in the Pinelands Area meets CMP stormwater management standards. The CMP does not require stormwater management for applications for “minor” residential development. Minor residential development is typically four or fewer homes. The Township has adopted a municipal ordinance requiring that roof downspouts from all proposed dwellings be tied into drywells. With respect to Swamp pink, the proposed development is located greater than 300 feet from wetlands. The proposed basin will not discharge to wetlands. Stormwater will continue to be discharged from two existing stormwater pipes located in the existing basin. The rate of stormwater discharge will be no greater than the rate currently discharged to wetlands on the south side of State Route 72. Based upon the proposed design, the Commission staff concluded that the proposed development would not result in an irreversible impact on any local population of Swamp pink located in the unnamed tributary to Mill Run. By letter dated January 10, 2014, the USF&W Service also concluded that the proposed basin would not adversely affect Swamp pink. The remaining comments are directly responded to within this Report on an Application for a Waiver of Strict Compliance.

Public Commenter Two (Mathew and Pamela Nuzzo): The commenters submitted written public comments dated April 6, 2013 (enclosed) indicating that the proposed basin will not fully resolve the flooding issue. In addition, the commenter indicates that getting the stormwater runoff to Neptune Basin is the real issue.

Commission Staff Response to Public Commenter Two: Improvements are proposed on the north side of State Route 72 to ensure that stormwater will reach Neptune Basin and, therefore, the proposed stormwater basin. The remaining comments are directly responded to within this Report on an Application for a Waiver of Strict Compliance.

Public Commenter Three (Doug O’Malley): The commenter indicated that the proposed stormwater basin constitutes impairment of the resources of the Pinelands. The commenter also indicated that the proposed stormwater basin would impact Swamp pink. The commenter indicated that there were feasible alternatives to the proposed basin and that cost of alternatives should not be a consideration. The commenter indicated that the Waiver application was precedent setting. The commenter believed that the Najarian Report, page 17, prepared on behalf of the Commission, concluded that there were slightly better alternatives available to the proposed basin. The commenter indicated that weather conditions would worsen going forward. The commenter believes the Township wants the cheapest alternative.

Commission Staff Response to Public Commenter Three: Please see the Commission staff response to public comment above regarding Swamp pink. The Najarian Report, page 17, indicates that “(A)although other alternatives exist to reduce the flooding upstream of the basin, such schemes will be limited by site dimensions (e.g.lack of open space), infrastructure constraints (e.g. under-sized culverts),

downstream impacts and costs.” The Commission staff did not rely on cost of alternatives as a determining factor. Rather, the Commission staff used cost to inform its decision of whether a feasible alternative existed outside of the Pinelands Area or a better alternative existed within the Pinelands Area. The remaining comments are directly responded to within this Report on an Application for a Waiver of Strict Compliance.

A public hearing was conducted on the application for a Waiver of Strict Compliance based upon a compelling public need on January 20, 2016 at 7 PM at the Stafford Township Municipal Building. Public newspaper notice for this public hearing was published on January 8, 2016. Public notice for this public hearing was provided to all landowners within 200 feet of the concerned parcel on January 6, 2016.

The Commission received the following public comments at the January 20, 2016 public hearing:

Public Hearing Commenter One (Sal Sorce): The commenter requested that someone ensure that the proposed stormwater design resolves the flooding problem. In particular, it was suggested that the municipality post a performance bond with someone to ensure that the proposed stormwater design accomplishes its intended purpose.

Commission Staff Response to Public Hearing Commenter One: The CMP does not provide a regulatory basis for the Commission to impose a performance bonding requirement on proposed stormwater improvements. The remaining comment is directly responded to within this Report on an Application for a Waiver of Strict Compliance.

Public Hearing Commenter Two (Theresa Lettman): The commenter indicated that the proposed development does not resolve the flooding problem. The commenter indicates that no one is addressing stormwater management for new development in the drainage area. The commenter indicated that there are feasible alternative sites for the proposed stormwater management basin within Pineland Regional Growth Areas. The commenter also indicated that the Township did not evaluate all alternative locations for the siting of the proposed stormwater basin. The commenter submitted written comments (enclosed) dated January 20, 2016

Commission Staff Response to Public Hearing Commenter Two: The comments are responded to earlier in the Commission Staff Response to Public Commenter One section of this Waiver Report or directly responded to within this Report on an Application for a Waiver of Strict Compliance.

Public Hearing Commenters Three through Thirteen (Matt Berstein, Frank Perillo, Sharon McKenna, Paul Krier, Darren and Christina Clarke, Alan Smith, Paul Marchal, Robert Kreszwikou, Bob Rossi, Brenda Poulillo and Linda Pisciotta): The commenters collectively expressed many public safety concerns associated with the existing flooding in Ocean Acres and support for the proposed stormwater basin. Those concerns included submerged automobiles, the need for rescue vehicles to extract people from vehicles, stormwater grates becoming detached from inlets and the resulting uncovered stormwater inlets posing safety concerns, flooding of dwellings, lives of residents being at risk in their own homes from flood waters, the need to turn off electric and gas utility services in dwellings when flooding occurs, reoccurring damage to homes, flooding spilling onto to State Route 72 and creating a safety hazard, school buses being unable to drop children off at their homes and the anxiety of worrying about the possibility of home flooding every time it rains.

Commission Staff Response to Public Hearing Commenter Three through Thirteen: The Commission staff recognizes and understands the public safety concerns expressed by the commenters.

Public Hearing Commenter Fourteen (Margit Meissner-Jackson): The commenter addressed the need to remove vegetative growth that was negatively impacting stormwater infiltration within Neptune Basin. The commenter also expressed the need to repair the existing Neptune Basin discharge pipe located under State Route 72. The individual stated they are opposed to the Waiver. The commenter also expressed concern that engineers allowed existing residential development to occur in inappropriate areas in Ocean Acres. The commenter was also opposed to any additional stormwater runoff being routed to Barnegat Bay.

Commission Staff Response to Public Hearing Commenter Fourteen: Township officials advised the Commission staff that the existing Neptune Basin stormwater discharge pipes located under State Route 72 were fully functional. The remaining comments are directly responded to within this Report on an Application for a Waiver of Strict Compliance.

Public Hearing Commenter Fifteen (Mayor John Spodofora): The commenter noted the diligent work and many options the Township had reviewed to address the flooding problem. The commenter indicated that the Township had been working for six years to develop the plans for the proposed stormwater basin on the south side of State Route 72. The commenter indicated that the Township has cleaned the Neptune Basin discharge pipes under State Route 72. The commenter indicated that, although there will still be flooding from Neptune Basin during the 100 year storm event after development of the proposed stormwater basin, the flooding will not impact private property and should be contained within the streets and roads. The commenter further indicated that the new basin will be planted with vegetation and will result in improved water quality being discharged to an unnamed tributary of Mill Run. The commenter indicated that improving the quality of the water being discharged to Mill Run will also improve water quality in Barnegat Bay. The commenter indicated that the Township is confident in the engineering design, that the proposed basin will address property damage and the difficult telephone calls Township officials receive regarding hardships to the resident impacted by the flooding. Lastly, the commenter indicated that the proposed stormwater basin met all four criteria of the CMP to qualify for a Waiver based upon a compelling public need.

Commission Staff Response to Public Hearing Commenter Fifteen: The Commission staff recognizes the significant time and effort that municipal officials have put forth in an effort to address the Neptune Basin flooding problem.

Public Hearing Commenter Sixteen (Trevor Taylor, P.E.) The commenter indicated that the proposed stormwater basin would be capable of accommodating high intensity storms of a short duration which are the typical storms that result in flooding of existing Neptune Basin.

Commission Staff Response to Public Hearing Commenter Sixteen: The Commission staff appreciates the commenter's observations regarding how the proposed basin will address the Neptune Basin flooding problem.

CONCLUSION

The CMP (N.J.A.C. 7:50-4.62(a)) sets forth the standards that must be met before a Waiver can be approved. The CMP (N.J.A.C. 7:50-4.62(a)2) requires that for an application for a Waiver to be

approved based upon a compelling public need, an applicant must demonstrate that conditions specified in the CMP (N.J.A.C. 7:50-4.64) have been met.

The CMP (N.J.A.C. 7:50-4.64(a)1) specifies that an applicant shall be deemed to have established a compelling public need if the applicant demonstrates based upon specific facts and the Pinelands Commission verifies that the proposed development will serve an essential health or safety need of the municipality. The applicant submitted information demonstrating that the proposed stormwater basin will serve an essential health or safety need of the municipality.

The CMP (N.J.A.C. 7:50-4.64(a)i) specifies that an applicant shall be deemed to have demonstrated a compelling public need if the applicant demonstrates and the Pinelands Commission verifies that existing flooding resulting from stormwater runoff in the Ocean Acres residential development poses a threat to public health and safety that requires the Waiver. The applicant submitted information demonstrating that the flooding from Neptune Basin poses a threat to public health and safety.

The CMP (N.J.A.C. 7:50-4.64(a)ii) specifies that an applicant shall be deemed to have demonstrated a compelling public need if the applicant demonstrates and the Pinelands Commission verifies that the public benefits from the proposed stormwater basin are of a character that override the importance of the protection of the Pinelands as established in the Pinelands Protection Act or the Federal Act. The applicant submitted information demonstrating that the public benefits from the proposed stormwater basin are of a character that override the importance of the protection of the Pinelands as established in the Pinelands Protection Act or the Federal Act.

The CMP (N.J.A.C. 7:50-4.64(a)iii) specifies that an applicant shall be deemed to have demonstrated a compelling public need if the applicant demonstrates and the Pinelands Commission verifies that the proposed use is required to serve existing needs of the residents of the Pinelands. The applicant submitted information demonstrating that the proposed stormwater basin is required to serve existing needs of the residents of the Pinelands.

The CMP (N.J.A.C. 7:50-4.64(a)iv) specifies that an applicant shall be deemed to have demonstrated a compelling public need if the applicant demonstrates and the Pinelands Commission verifies that no feasible alternative exists outside the Pinelands Area to meet the established public need and that no better alternatives exist within the Pinelands Area. The applicant established that no feasible alternative exists outside the Pinelands Area to address the established flooding problem located within the Pinelands Area. The applicant submitted information demonstrating that no better alternative exists within the Pinelands Area.

The CMP (N.J.A.C. 7:50-4.64(b)) further requires that the applicant must demonstrate that the development of the stormwater basin will not violate any of the criteria specified in the CMP (N.J.A.C. 7:50-4.65(b)) that constitute substantial impairment of the resources of the Pinelands Area. The application will violate one of the criteria specified in the CMP (N.J.A.C. 7:50-4.65(b)1). Specifically, the criteria require that the proposed stormwater management basin must be a permitted land use in a Pinelands Forest Area. The proposed stormwater basin is not a permitted land use in a Pinelands Forest Area.

Since the proposed development will violate one of the criteria specified in the CMP that constitute substantial impairment of the resources of the Pinelands Area, the CMP (N.J.A.C. 7:50-4.65(c)) requires that the Commission find, based upon particular facts, that the development, when evaluated in its entirety, including any special measures that are proposed as part of the application, will result in an

overall improvement of the resources of the Pinelands Area. Based upon the special measures that are proposed as part of the development application, the applicant has demonstrated that the proposed development will result in an overall improvement of the resources of the Pinelands Area.

In accordance with the requirement of the CMP (N.J.A.C. 7:50-4.65(d)), the Waiver application is only proposing development, a stormwater basin, that is necessary to satisfy the compelling public need.

The application meets the requirements set forth in N.J.A.C. 7:50-4.64(a)2. The application also meets the requirements of N.J.A.C. 7:50-4.65(c). Therefore, the applicant qualifies for a Waiver of Strict Compliance based upon a compelling public need.

As a result, it is recommended that the Pinelands Commission **APPROVE** the requested Waiver of Strict Compliance.

APPEAL

The CMP (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal this recommendation 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 within eighteen days of the date of this Report and must include the following information:

1. the name and address of the person requesting 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, the Pinelands Commission may either approve the determination of the Executive Director or refer the application to the New Jersey Office of Administrative Law for a hearing.

Recommended for Approval by: 
 Charles M. Horner, P.P., Director of Regulatory Programs

Encl. (2) 4/6/13 Public comment letter
 1/20/16 Public comment letter

c: Secretary, Stafford Township Planning Board (via email)
 Stafford Township Construction Code Official (via email)
 Stafford Township Environmental Commission (via email)
 Secretary, Ocean County Planning Board (via email)
 Joseph Giddings

Sal Sorce
Theresa Lettman
Matthew Beinstein
Frank Pouello
Margit Meissner-Jackson
Sunday D'Arcangelo
Albert Miller
Sharon McKenna
John Spodofora
Paul Krier
Darren Clarke
Alan Smith
Paul Marchal
Robert Kreszwikou
Bob Rossi
Brenda Poulillo
Linda Pisciotta
Matthew & Pamela Nuzzo
Doug O'Malley



PINELANDS PRESERVATION ALLIANCE

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

January 20, 2016

Mr. Ernest Deman
Pinelands Commission
P.O. Box 7
New Lisbon, New Jersey 08064

Pinelands Application #1993-0732.012, Neptune Basin, Stafford Township

Dear Mr. Deman:

The Pinelands Preservation Alliance is submitting these comments on the waiver application pending for the expansion of the stormwater basin on the southern side of Route 72 in Stafford Township.

This application should not be approved because it does not resolve the flooding problems in Ocean Acres. The problems that are existing will continue to grow for this drainage area. The application is nothing more than a band aid measure that might get Stafford Township a couple of years of less flooding on Captain and Stormy Drive while Neptune Drive and portions of Leeward will continue to flood.

Stafford Township is asking for the waiver and wants the Comprehensive Management Plan (CMP) regulations to be waived even though many of the documents they have submitted indicate the expanded basin will not solve the flooding problems. These documents are the CME Associates Inundation Maps for the 25 and 100 year storm event. Also on page 17 of the report commissioned by the Pinelands Commission done by Najarian Associates dated 2013-2014 (updated several times) it states "the proposed expansion does not completely eliminate flooding."

As more development occurs within the drainage area and rain events get heavier the flooding will be back to the levels that currently exist today. No one is addressing the new development that can occur in the drainage area or proposing a basin that will infiltrate all the water for the drainage area.

If you look at GIS mapping you can see the entire drainage area. The upper portions of the drainage area are in Barnegat Township and are not yet developed. This area is not within the Conservation Zone but is in the developable area of the Barnegat Ocean Acres subdivision. Some of these lots may be developed at a smaller size than the 10,000 square feet if the applicant uses the deed restrictions of conservation lots.

Some of the documents submitted by the Township ask you to consider some of following as reasons to allow the CMP rules to be waived. That the Township previously did an alternatives analysis. In this report they talked about a pump from the existing basin up to the open space area on the same side of Route 72, but did not suggest using the open space area as the primary basin and the existing basin the secondary one. There would be no need for a pump to take the water up to the new basin area from the existing basin. This would also take away some of the development potential when this now undeveloped open space area is purchased.

Stafford Township also highlighted that they installed nineteen infiltration systems in the roadways to address stormwater. If you walk along the streets in the Stafford Ocean Acres development during a rain event you can very easily see that these are not working. Near the undeveloped areas, close to Mermaid and Barracuda, the stormwater that flows onto the paved streets contain sediment which must clog the drains causing the infiltration pipes to fill up quickly. Only 10 of the 19 infiltration pipes that were installed by the Township are in the drainage area for the Neptune Basin. This means there was never enough capacity in them to handle the very large amount of stormwater being generated by a storm event.

The Township suggested it passed Ordinance 2004-22 to help with the stormwater of single family homes. But this ordinance was enacted long after all the development in Ocean Acres was completed and could have made a difference with the with stormwater in the subdivision.

The Township also states that due to climate change, rainfall intensity increased over the years. Yes we agree but do the Pinelands regulations have to be waived for every problem or climate change issue? If so how long will the Pinelands ecology survive?

Rainfall intensity and volume is expected to increase as is development in the Ocean Acres subdivision. The Township should be looking at ways now to deal with the even more increases that will be coming. If they are currently admitting not all the flooding will be deposited in the new two basin system. How long will it be before this new system will fail?

Stafford Township wants the waiver because it is the cheaper way and it will postpone dealing with the bigger problem. State NJEIF dollars that are going to Stafford Township will be wasted. There is no cheap solution for the drainage problems in Ocean Acres. Only a basin big enough to infiltrate all the stormwater will solve the problem. Stafford Township contends that the purchase of land is too expensive but when more building occurs and rain events increase, the cost to buy out the land with homes, will also increase in price.

Along with the continued flooding this new basin in the Pinelands Forest Management area will eventually overflow. The stormwater overflow will now be even closer to the swamp pink population making the "offset" Stafford Township is giving, 2 Pinelands Development Credits, no overall improvement to the resources of the Pinelands.

Respectfully submitted,

A handwritten signature in cursive script that reads "Theresa Lettman".

Theresa Lettman
Director of Monitoring Programs



OVERALL BASIN LOCATION
MAP - OCEAN ACRES

FORECASTLE BASIN FLOOD
AREA
100 YR FLOOD ELEV = 66.0

NEPTUNE BASIN FLOOD
AREA
100 YR FLOOD ELEV = 81.0



Matthew and Pamela Nuzzo

April 6, 2013

369 Leeward Road

APP# 19930732.012

Manahawkin, NJ 08050

Doc Type 100

(609) 698-1984

APR 10 2013

To Whom It May Concern:

Scanned _____

*Info Rec
4/10/13*

This letter is in response to the application submitted by Stafford Township for the construction of an additional storm water basin to supplement the existing Neptune basin.

Although we do not object to this addition, we feel it would not completely resolve the flooding which occurs at the intersection of Neptune Drive and Leeward Road. After residing here for 13 years and experiencing numerous storms, we feel the issue is improving the way the water gets to the Neptune basin. During heavy rains the flooding begins on Neptune Drive and the water rises in the street reaching half way up our lawn at the corner of Neptune and Leeward prior to any water reaching the basin. Instead of the water traveling through the drainage pipes under the street, it rises in the street and travels over our property and enters the basin like a waterfall. Evidence of this was seen during the last storm when all the newly planted trees in the area where the water enters the basin were uprooted due the surge of the water. We have pictures of the water traveling over the curb and rising on our property when the basin was still empty. The additional basin will provide relief once the Neptune basin is full. Getting the water to the Neptune basin is the real issue.

Thank you for your time and consideration in this matter.

Sincerely,

Matthew and Pamela Nuzzo

OCT 14 2014

19930732-12

FINAL

NEPTUNE BASIN EXPANSION REVIEW

**NEPTUNE DRIVE
NEIGHBORHOOD**

Township of Stafford

Ocean County, New Jersey

Prepared for:

**The Pinelands Commission
15 Springfield Road
New Lisbon, New Jersey 08064**

Prepared by:

**NAJARIAN ASSOCIATES
One Industrial Way West
Eatontown, NJ 07724**

**December, 2013
Revised: July 2014
Revised: August 22, 2014**

NEPTUNE BASIN EXPANSION REVIEW

**NEPTUNE DRIVE
NEIGHORHOOD**

Township of Stafford

Ocean County, New Jersey

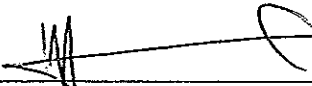
Prepared for:

**The Pinelands Commission
15 Springfield Road
New Lisbon, New Jersey 08064**

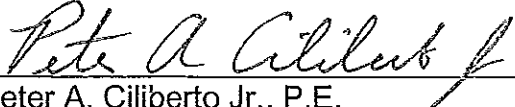
Prepared By:

Najarian Associates
One Industrial Way West
Eatontown, New Jersey 07724

Job Number: 6699
Date: December 31, 2013
Revised: July 9, 2014
Revised: August 22, 2014



Vajira Gunawardana, P.E., P.P., CFM, F.ASCE
New Jersey Professional Engineer Number 33128



Peter A. Ciliberto Jr., P.E.
New Jersey Professional Engineer Number 37861

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LIMITATIONS

FIGURE

1. SCOPE OF WORK

This report has been prepared in accordance with the N.J. Pinelands Commission RFQ#14-001 to:

1. Review the reports submitted by the Stafford Township Engineer.
2. Determine whether the conclusions of the reports are accurate or whether there are feasible alternatives that may or may not be addressed in the reports that could be located on the north side of Route 72, to address the stormwater flooding issue.
3. Confirm the cause of the flooding and that the proposed 11 acre basin on the south side of Route 72 or another feasible alternative identified in response to Task 2 will resolve the flooding issue.

The above tasks have been completed, details of which are contained in this report. In addition to the above, the staff of T.O. Najarian Associates ("Najarian") met with the staff of the Pinelands Commission, conducted an inspection of the project area and held discussions with the staff of the Stafford Township engineer (CME Associates).

2. INTRODUCTION

Stafford Township, Ocean County has applied to The Pinelands Commission for a Waiver of Strict Compliance for a proposed 11 acre stormwater basin (proposed basin expansion) to be located on the south side of Route 72 at its intersection with Neptune Drive on property known as Block 26, Lot 10 owned by the Township of Stafford. The purpose of the proposed basin expansion is to address flooding issues associated with an existing stormwater basin located on the north side of Route 72 and east of Neptune Drive on property known as Block 44.129, Lot 1.01 (existing Neptune basin), also owned by the Township of Stafford (see attached Figure 1).

One of the requirements for a Waiver of Strict Compliance is that the applicant must address feasible alternatives. CME Associates has prepared two (2) reports which address the flooding issues at the existing Neptune basin and includes a feasible alternatives analysis. The reports are as follows:

1. *Request for a Waiver of Strict Compliance; New Jersey Pinelands Commission; For the Proposed Neptune Basin Expansion; Block 26, Lot 10; Block 44.129, Lot 1.01; The Township of Stafford; Ocean County, NJ, dated July 2013.*
2. *Supplement No. 1; Request for a Waiver of Strict Compliance; New Jersey Pinelands Commission; For the Proposed Neptune Basin Expansion; Block 26, Lot 10; Block 44.129, Lot 1.01; The Township of Stafford; Ocean County, NJ, dated August 2013.*

The drainage area of the existing Neptune Basin generally slopes from the Stafford/Barnegat Township border (north of the Ocean Acres residential neighborhood) toward Route 72. The elevation varies from approximately ± 150 feet at the high point of the drainage area in Barnegat Township to approximately ± 67.6 feet, which is the outflow elevation of the existing Neptune Basin prior to crossing Route 72.

The drainage area is located in the Barnegat Bay watershed. The existing Neptune Basin discharges into a tributary of Eight Mile Branch, which flows into

Mill Creek, which empties into Little Egg Harbor, and ultimately flows into the Atlantic Ocean.

3. CONFIRMATION OF FLOODING

The existing Neptune Basin has a drainage area of approximately 350 acres, which consists mostly of the densely developed Ocean Acres residential neighborhood. Review of the computer model for the existing condition shows that the existing Neptune Basin does not have sufficient capacity to contain the stormwater from its 350 acre drainage area for most storm events. Table 3.1 compares the peak elevation of the various storms with respect to the grate elevation of the lowest upstream inlet (74.4 feet), located on Neptune Drive just east of its intersection with Leeward Road, within the development draining to the basin.

Table 3.1

Comparison of Existing Peak Basin Storm Elevation to Lowest Upstream Inlet

Storm (year)	Peak Elevation (feet)	Lowest Inlet (feet)	Depth of Flooding (feet)
2	73.5	74.4	---
5	76.0	74.4	1.6
10	77.4	74.4	3.0
25	78.8	74.4	4.4
100	80.9	74.4	6.5

Review of Table 3.1 shows that flooding outside the limits of the detention basin starts occurring before a 5-year storm event and that during a 100-year storm event the depth of flooding is over 6 feet with the potential for serious damage to existing structures.

Further, review of the model shows that the corresponding storage needed for the 100-year storm event is 3,599,020 cubic feet. Since the basin itself only contains approximately 582,586 cubic feet of storage to the elevation of the lowest upstream inlet, about 3 million cubic feet of storage would be required to completely eliminate flooding from the 100-year storm event.

The flooding of stormwater in this area is not only the result of the Ocean Acres residential development, but also due to the large size of the drainage area of the existing Neptune Basin. A pre-development model of the Ocean Acres residential development may also show that this area would still be under floodwaters.

While we concur with the model results that show significant flooding, there is one issue with the model that should be addressed. From review of the plans it appears that when the water in the basin reaches an elevation of approximately 76 feet, stormwater begins to overtop the basin to the south and flow into the area where an existing stream crosses Route 72 through a 21" RCP pipe. This should be added to the model of the existing and proposed condition of the basin.

As currently modeled, the model provides conservative results, since the flow from the basin to the existing stream is not taken into account. Revising the model to account for this flow will reduce the peak storm elevations for both the existing and proposed conditions. This issue will slightly change the results of the analysis; but will not change the conclusion that the existing Neptune Basin has insufficient capacity to contain stormwater from its 350 acre drainage area.

3.1 Drainage Capacity Analysis

Although it has been confirmed that there is significant need for additional detention storage to contain the stormwater from the 350 acre drainage area, another cause of the flooding could be a result of an undersized stormwater drainage system. Review of the plans show that there are two discharge points into the detention basin, a single 24" RCP at the southern side of the basin and twin 66" RCP pipes at the northern side of the basin, which are fed by a single 66" RCP pipe. The plans also show that the lowest elevation in the berm surrounding the basin is approximately 76.9 feet, located along Neptune Drive.

Review of the analysis shows that the 2-year storm event has an inflow to the basin of 187 cfs, while the 100-year storm event has an inflow to the basin of 1,011 cfs. It should be shown how the existing stormwater drainage system can deliver this flow to the existing Neptune Basin. If the drainage system

cannot deliver this flow to the basin then flooding will continue to at least elevation 76.9 feet at which point stormwater will begin to flow into the basin overland at the lowest elevation in the berm.

4. PROPOSED BASIN EXPANSION (South Side)

To reduce flooding upstream of the existing Neptune Basin, the Township of Stafford and their engineer have designed an expansion of the existing Neptune basin located along Route 72, on the south side of the highway. The proposed basin expansion provides another 1.5 million cubic feet of storage up to elevation 80 feet and only 684,807 cubic feet of storage to the elevation of the lowest upstream inlet, well shy of the 3 million cubic feet required to completely eliminate flooding from the 100-year storm event. Although insufficient, the created storage is still a substantial volume, and will have a positive impact on flooding upstream of the existing Neptune Basin.

Table 4.1 compares the reduction of peak elevation of the various storms in the existing Neptune Basin as a result of the proposed basin expansion.

Table 4.1

Comparison of Proposed Peak Storm Elevation to Existing Peak Storm Elevation

Storm (year)	Existing Elevation (feet)	Proposed Elevation (feet)	Flood Reduction (feet)
2	73.5	72.4	---
5	76.0	73.7	2.3
10	77.4	75.0	2.4
25	78.8	77.1	1.7
100	80.9	79.5	1.4

Table 4.2 compares the peak elevation of the various storms from the proposed basin expansion with respect to the elevation of the lowest upstream inlet, located on Neptune Drive just east of its intersection with Leeward Road.

Table 4.2

Comparison of Proposed Peak Storm Elevation to Lowest Upstream Inlet

Storm (year)	Peak Elevation (feet)	Lowest Inlet (feet)	Depth of Flooding (feet)	
			Proposed	Existing
2	72.4	74.4	---	---
5	73.7	74.4	---	1.6
10	75.0	74.4	0.6	3.0
25	77.1	74.4	2.7	4.4
100	79.5	74.4	5.1	6.5

Review of the tables show that the proposed basin expansion will reduce flooding upstream of the existing Neptune Basin. The 5-year storm event is now totally contained, while the 10-year event is mostly contained with only minor flooding of streets and driveways. While flooding for the 25- and 100-year storm events will continue, they have been reduced by 1.5 feet. As suspected, based on the volume of storage created, it is not sufficient to completely eliminate the flooding upstream of the existing Neptune Basin.

Since the proposed basin expansion provides relief up to the 10-year storm event, it must be demonstrated that the stormwater drainage system can deliver the inflow to the detention basin for at least the 10-year storm event. Review of the report shows that the 10-year storm event has an inflow of 451 cfs. As previously stated, if the drainage system cannot deliver this flow to the basin then flooding will continue to at least elevation 76.9 feet at which point stormwater will begin to flow into the basin overland at the lowest elevation in the berm.

5. ALTERNATIVES

One of the requirements for a Waiver of Strict Compliance is that the applicant must address feasible alternatives.

Potential alternatives to reduce flooding upstream of the basin include: (1) increase flood-detention storage (north side of Route 72); (2) remove or alleviate certain flow constraints (opening the Route 72 culvert crossing); (3) increase infiltration (perforated recharge pipes), and (4) new Township ordinances regulating impervious cover. Undoubtedly, such alternatives will be limited by site dimensions (e.g., lack of open space), infrastructure constraints (e.g., under-sized culverts), downstream impacts and costs.

Due to the large volume of storage needed to eliminate or reduce flooding upstream of the existing Neptune Basin, the only real solution would be the creation of a large detention basin. As evident from the results of the current proposal (*basin expansion on south side of Route 72*), the proposed volume is insufficient to eliminate the flooding problem. That being said, some potential strategies that could be considered for flood reduction are presented below.

5.1 Increasing Flood Detention Storage (north of Route 72)

As stated, due to the large volume of storage required, the only real solution is the creation of a large detention basin. There are certain considerations that need to be investigated when locating a larger facility.

i. Location of large tracts of land

First and foremost would be the availability of any large tracts of land located within or adjacent to the drainage area. Review of the drainage area to the existing Neptune Basin shows that there are three large tracts of land within or near the drainage area. One of those is at the high point of the drainage area and therefore would be of no use for the storage of stormwater. The remaining two tracts are across Route 72 - referred to as Proposed Basin Expansion and to the northwest of the existing Neptune Basin, across Neptune Drive - referred to as Alternate Basin.

ii. Review of Topography

Secondly, the topography of each tract of land would need to be analyzed to determine if stormwater flows could be diverted to these tracts. Neither tract is an ideal situation as both tracts have topography that is 15 to 20 feet higher than the bed of the existing Neptune Basin.

Although the proposed basin expansion is not located within the drainage area of the existing Neptune Basin; it is located adjacent to the existing Neptune basin, separated by Route 72. The proposed basin expansion would require an average of 17 feet of cut to achieve elevation 70 feet, which is the approximate elevation of the existing Neptune basin bed.

The alternate basin is located within the drainage area of the existing Neptune Basin. Due to the topography the alternate basin would still require an average of 14 feet of cut to achieve the same elevation. However, since this tract is in the watershed it may be possible to redirect some of the stormwater flows to it and create a separate basin rather than just an extension of the existing Neptune Basin.

iii. Determination of Seasonal High Groundwater Table¹

The next consideration would be the location of the seasonal high groundwater table (SHWT). Any infiltration basin would require at least 2 feet of vertical clearance between the top of the infiltration bed and the SHWT. The SHWT at the proposed basin expansion varies from elevation 67.5 feet to 68 feet therefore the top of the infiltration bed (bottom of the basin) could be elevation 70 feet. This elevation works well with the bottom of the existing Neptune Basin and could function as an extension of the existing Neptune basin.

The SHWT at the alternate basin varies from elevation 72.4 feet to 74.9 feet therefore the top of the infiltration bed (bottom of the basin) could be elevation 77 feet. This elevation does not work well with the bottom of the

¹ Elevations for the Seasonal High Groundwater Table were taken from reports by CME Associates, see references 1 & 2.

existing Neptune Basin, as flooding of the upstream areas begins at elevation 74.4 feet, and therefore could not function as an extension of the existing Neptune basin. The only option for the alternate basin would be a stand-alone basin by redirecting some of the existing stormwater flows to it. The report also mentioned that a pump station could be utilized to divert stormwater from the existing Neptune Basin to the alternate basin; making this a more costly alternative as compared to the proposed basin expansion.

iv. Acquisition of tract

The ownership of the tract must also be considered when deciding on a location for the detention basin. The tract for the proposed basin expansion is already owned by the Township of Stafford, therefore there is no cost to acquire this tract. The tract for the alternate basin is owned by a private entity; therefore additional costs will be incurred to acquire this tract. According to the reports it is estimated that the acquisition of this tract could be over \$2 million dollars.

v. Total Costs

Finally, the total costs incurred to acquire the properties, construct the basin and maintain the basin must be considered when choosing an alternative.

The proposed basin expansion is estimated to cost \$2.5 million dollars.

The alternate basin, as an extension of the existing Neptune Basin, is estimated to cost \$5.8 million dollars not including increased maintenance costs due to the required pump station and the cost of electricity consumed by the pump station; making the alternate basin over 2 times the cost of the proposed basin expansion.

5.2 Alternate Basin as a Stand-Alone Basin

As discussed earlier, the best option for the alternate basin would be a stand-alone basin by redirecting some of the existing stormwater flows to it either through overland flow or redirecting a stormwater system to it. Three options were analyzed in this respect.

Option 1: Capturing Overland Flow

Although this option does provide some level of protection, it does not provide the same level as the proposed basin expansion; the 5-year storm is still not contained in the existing Neptune basin. The use of the alternate basin could possibly reduce the size of the proposed basin expansion. However, as previously stated; the proposed basin expansion is still not large enough to handle the volume of stormwater runoff to completely eliminate flooding. The township may wish to pursue this option in the future to further reduce flooding. Due to the reduced level of protection, this alternative is only an option to further reduce flooding.

Option 2: Redirecting the Existing Stormwater Collection System

The existing drainage system leading to the existing Neptune Basin is too low to be diverted into the alternate basin, without penetration into the seasonal high groundwater table or the need for a pump station. As previously discussed the bottom of the alternate basin could be no lower than elevation 77 feet, due to the SHWT; with the invert of the drainage system at approximately elevation 70 feet, a pump station would be required to divert stormwater into the alternate basin. The requirements of acquiring property and the need for a pump station make this option more costly and complex compared to the proposed basin expansion.

Option 3: New Stormwater Collection System

Rerouting a large portion of the drainage area (*160 acres of the total 350 acre drainage area, which is the best case dependent on actual design of the new stormwater collection system*) to the alternate basin could be accomplished

through the installation of a new stormwater collection system and could provide a slight increase in the level of protection from the proposed basin expansion. Table 5.1 compares the peak elevation of the various storms in the existing Neptune Basin as a result either the proposed basin expansion or the alternate basin under Option 3.

Table 5.1

Comparison of Proposed Peak Storm Elevations in the Existing Neptune Basin from the Proposed Basin Expansion versus the Alternate Basin

Storm (year)	Proposed Basin Elevation (feet)	Alternate Basin Option 3 Elevation (feet)	Increased Flood Reduction (feet)
2	72.4	72.1	0.3
5	73.7	73.4	0.3
10	75.0	74.5	0.5
25	77.1	76.4	0.7
100	79.5	--- ²	---

Although there is a slight increase in the level of protection, there are many factors that make this more costly and complex compared to the proposed basin expansion. These factors include acquiring easements, extending right-of-ways; numerous utility conflicts with water, sewer, gas, etc.; in addition to acquiring land for the basin and constructing the basin. The estimated cost of this option is \$6.5 million dollars, making this option almost 3 times the cost of the proposed basin expansion.

5.3 Increasing Flood Detention Storage (multiple smaller basins)

As previously stated, due to the large volume of storage needed to eliminate or reduce flooding upstream of the existing Neptune Basin, the only real solution would be the creation of a large detention basin. The use of smaller basins cannot provide the same volume per acre of land than can be achieved through the use of a larger detention facility. Considering costs to acquire the individual parcels of land, to create each individual basin, to direct stormwater into each basin and to maintain each basin make this a more

² Information for this storm was not provided in reference 2.

costly and complex alternative as compared to the proposed basin expansion.

5.4 Expansion of Existing Neptune Basin through Acquisition of Adjacent Parcels

Expansion of the existing Neptune basin footprint through the acquisition of adjacent properties on Leeward Road will increase the volume of the detention basin. Review of the plan shows that there are six (6) properties directly adjacent to the detention basin and possibly more if properties on Gaff Road are acquired. The cost to acquire these lots is much higher than acquiring vacant land since the properties in question are already developed with single family dwellings. The cost of acquiring just six (6) of the lots is almost \$2 million dollars and the benefit is only an increase of about 300,000 cubic feet of the 1.5 million in the proposed basin expansion, about 20%. The cost and potential difficulty of property acquisition makes this alternative more costly and complex compared to the proposed basin expansion.

5.5 Redirecting Stormwater Runoff to Ocean Acres in Barnegat

The drainage area for the Ocean Acres in Barnegat is located at the high point of the drainage area for the existing Neptune Basin. Redirecting an appreciable amount of stormwater to this drainage area would be next to impossible and certainly not cost effective. In addition, the effects of diverting stormwater to other drainage areas or watersheds could have serious effects on the receiving drainage area. This alternative is not feasible.

5.6 Increase Infiltration (perforated recharge pipes)

Increasing infiltration can and does reduce stormwater runoff; however with infiltration the runoff must first be stored in a pipe, infiltration bed or basin while the runoff slowly infiltrates into the groundwater. Therefore, to infiltrate the volume of water associated with the proposed basin expansion, storage of the same magnitude would still be required. To create the proposed storage (1.5 million cubic feet) in perforated recharge pipes, over 200,000 linear feet of 36" RCP would be required at a cost of over \$20 million dollars

for the pipe alone. This is not a very cost efficient means to store a large volume of water. Stafford Township has tried this in the past, but the floodwater reduction was minor compared to what is required. This alternative is more costly and complex compared to the proposed basin expansion.

5.7 Township Ordinances

One alternative to reducing the volume of floodwaters would be the creation of various township ordinances geared towards infiltration and reducing impervious coverage. Through the years the Township of Stafford has implemented a number of ordinances to reduce the volume of stormwater either through connecting roof leaders from new construction to a subsurface infiltration system and developing special area standards in the Residential Site Improvement Standards to require infiltration and best management practices.

Unfortunately these measures only reduce the volume of future stormwater runoff; they do not reduce the volume of stormwater that currently flow to the basin. In addition, the amount of created storage pales in comparison to the large volume of storage required.

5.8 Combination of Alternatives to Address Flooding

A combination of some of these alternatives (5.3, 5.4, 5.5, 5.6, and 5.7) can be used to address the flooding issue and to some extent have already been done. Stafford Township has already created infiltration areas utilizing perforated pipes with very little reduction in flood waters. They have adopted ordinances to reduce future flood waters from new residential properties. The main problem with each alternative as discussed above is the additional cost and complexity associated with its implementation, whether it is to acquire properties or to construct and maintain. Any combination of these alternatives will still result in a final cost far greater than the \$2.5 million dollars needed to construct the proposed basin expansion south of Route 72.

5.9 Combination of Alternatives to Reduce Size of the Route 72 Basin

A combination of some of these alternatives can be used to reduce the size of the proposed basin expansion on the South side of Route 72. However as it was previously determined that the proposed expansion does provide 1.5 million cubic feet of storage up to elevation 80 feet it is well short of the 3 million cubic feet required to completely eliminate flooding from the 100-year storm event. Therefore any other alternative that may be used will help to further reduce the flooding of areas upstream of the existing Neptune Basin.

6. CONCLUSION

The existing Neptune Basin has a drainage area of approximately 350 acres, which consists mostly of the densely developed Ocean Acres residential neighborhood. Review of the existing condition computer model shows that the basin does not have the capacity to contain stormwater for most storm events. This results in flooding of areas upstream of the basin that starts occurring at about a 5-year storm event, with flooding that could reach 6 feet in depth during a 100-year storm event. These events have the potential to cause serious damage to existing structures.

Further review shows that the corresponding storage required to contain the 100-year storm event is 3.6 million cubic feet. The existing Neptune basin only has approximately 600,000 cubic feet of storage to the elevation of the lowest upstream inlet, leaving about 3 million cubic feet of storage required to completely eliminate flooding from the 100-year storm event.

To reduce flooding upstream of the existing Neptune Basin, the Township of Stafford has proposed an expansion of the existing Neptune basin located along Route 72, on the south side of the highway. This expansion provides another 1.5 million cubic feet of storage up to elevation 80 feet and only 684,807 cubic feet of storage to the elevation of the lowest upstream inlet, well short of the 3 million cubic feet required to completely eliminate flooding from the 100-year storm event.

Although the proposed expansion does not completely eliminate flooding, the 5-year storm event is now totally contained, while the 10-year event is mostly contained with only minor flooding of streets and driveways and flooding for the 25- and 100-year storm events have been reduced by 1.5 feet.

Although other alternatives exist to reduce flooding upstream of the basin, such schemes will be limited by site dimensions (e.g., lack of open space), infrastructure constraints (e.g., under-sized culverts), downstream impacts and costs.

Due to the large volume of storage needed to eliminate or reduce flooding upstream of the existing Neptune Basin, the only real solution would be the creation of a large detention basin. Therefore, we concur with the Township of Stafford, that the proposed basin expansion, located on the south side of Route 72, is the best option to reduce flooding upstream of the existing Neptune Basin.

Although we concur that the model shows significant flooding, there is one issue with the model that should be addressed. It appears that when the water in the basin reaches an elevation of approximately 76 feet, stormwater begins to overtop the basin to the south and flow into the area where an existing stream crosses Route 72 through a 21" RCP pipe. This should be added to the model of the existing and proposed condition of the basin. This issue will slightly change the results of the analysis; but will not change the conclusion that the existing Neptune Basin does not have sufficient capacity to contain stormwater from its 350 acre drainage area.

Lastly, since the proposed basin expansion provides relief up to the 10-year storm event, it must be demonstrated how the 10-year inflow of 451 cfs gets to the basin. If the drainage system cannot deliver this flow to the basin then flooding will continue to at least elevation 76.9 feet at which point stormwater will begin to flow into the basin overland at the lowest elevation in the berm.

LIMITATIONS

The scope of Najarian's review was limited to information contained in the referenced reports and any subsequent information provided to Najarian. No independent analysis was conducted by Najarian, and as such shall not be held liable for any flooding or damages as a result of the construction of the proposed improvements as contained in the reports or plans. The following assumptions were made during our review:

1. All background design information provided in the reports are valid,
2. Computer models used, accurately modeled the existing and proposed conditions.

REFERENCES

1. CME Associates, Request for a Waiver of Strict Compliance, New Jersey Pinelands Commission, For the Proposed Neptune Basin Expansion, Block 26, Lot 10, Block 44.129, Lot 1.01, The Township of Stafford, Ocean County, New Jersey, 2013.
2. CME Associates, Supplement No. 1, Request for a Waiver of Strict Compliance, New Jersey Pinelands Commission, For the Proposed Neptune Basin Expansion, Block 26, Lot 10, Block 44.129, Lot 1.01, The Township of Stafford, Ocean County, New Jersey, 2013.
3. CME Associates, Stafford township, Ocean County, New Jersey, Neptune Basin Expansion, NJDEP & NJ Pinelands Permit Plan, 2013.

10/3/2014-Y:\6699 - Pinelands\Doc\Reports\Alternatives-rev2.doc

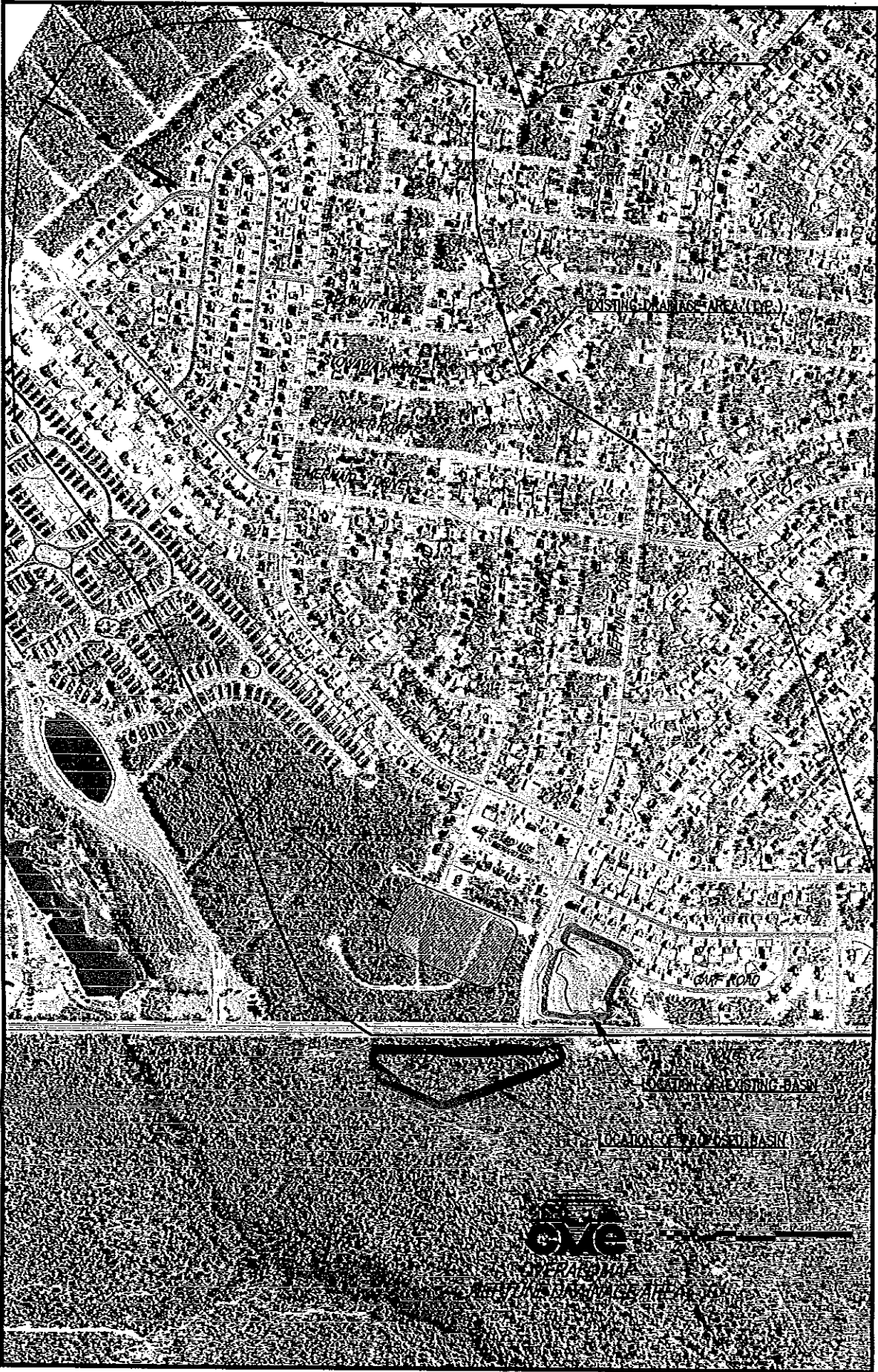


FIGURE 1



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-16-_____

TITLE: **Approving with Conditions** an Application for **Public Development** (Application Number 1993-0732.012)

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:

1993-0732.012

Applicant:	Stafford Township
Municipality:	Stafford Township
Management Area:	Pinelands Forest Area Pinelands Regional Growth Area
Date of Report:	March 21, 2016
Proposed Development:	Development of a stormwater management basin.

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 has approved a Waiver of Strict Compliance based upon a compelling public need for the proposed development; and

WHEREAS, based upon the Pinelands Commission approval of a Waiver of Strict Compliance, 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 1993-0732.012 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				DiBello				McGlinchey			
Avery				Galletta				Prickett			
Barr				Jannarone				Quinn			
Brown				Lloyd				Rohan Green			
Chila				Lohbauer				Earlen			

* A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: _____

Nancy Wittenberg
Executive Director

Sean W. Earlen
Chairman



State of New Jersey
 THE PINELANDS COMMISSION
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 NEW LISBON, NJ 08064
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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 21, 2016

James Moran, Township Administrator
 Stafford Township
 260 East Bay Avenue
 Manahawkin, NJ 08050

Re: Application # 1993-0732.012
 State Route 72
 Block 26, Lot 10
 Block 44.129, Lot 1.01
 Stafford Township

Dear Mr. Moran:

The Commission staff has completed its review of this application for development of a stormwater management basin. Enclosed is a copy of a Public Development Application Report. Prior to the Commission acting on this application, the Commission must first act on the Township's application for a Waiver of Strict Compliance based upon a compelling public need.

If the Commission approves the application for a Waiver of Strict Compliance based upon a compelling public need at their April 8, 2016 meeting, on behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission also approve this application for the development of a stormwater management basin, with conditions, at its April 8, 2016 meeting.

If the Commission does not approve the application for a Waiver of Strict Compliance based upon a compelling public need at their April 8, 2016 meeting, on behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission deny this application for development of a stormwater management basin at its April 8, 2016 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

- c: Secretary, Stafford Township Planning Board (via email)
- Stafford Township Construction Code Official (via email)
- Stafford Township Environmental Commission (via email)
- Secretary, Ocean County Planning Board (via email)
- Joseph Giddings
- Sal Sorce
- Theresa Lettman
- Matthew Beinstein
- Frank Pouello
- Margit Meissner-Jackson
- Sunday D'Arcangelo
- Albert Miller
- Sharon McKenna
- John Spodofora
- Paul Krier
- Darren Clarke
- Alan Smith
- Paul Marchal
- Robert Kreszwikou
- Bob Rossi
- Brenda Poulillo
- Linda Pisciotta
- Matthew & Pamela Nuzzo
- Doug O'Malley



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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

PUBLIC DEVELOPMENT APPLICATION REPORT

March 21, 2016

James Moran, Township Administrator
 Stafford Township
 260 East Bay Avenue
 Manahawkin, NJ 08050

Application No.: 1993-0732.012

Location: State Route 72 & Neptune Drive
 Block 26, Lot 10
 Block 44.129, Lot 1.01
 Stafford Township

This application proposes development of a stormwater management basin on 7.19 acre Block 26, Lot 10 in Stafford Township. There is an existing stormwater basin, known as Neptune Basin, located on 5.86 acre Block 44.129, Lot 1.01 in Stafford Township.

The proposed stormwater basin will be connected to Neptune Basin by two proposed 145 foot long box culverts. The culverts will be installed on the above referenced lots and within the State Route 72 right-of-way. The proposed basin will act in unison with Neptune Basin. The two basins will discharge stormwater runoff under State Route 72 through two existing outlet structures located in the existing basin.

This application also proposes the installation of 50 linear feet of trench drain and 47 linear feet of drainage piping on Block 44.129, Lot 1.01 and within the Neptune Drive right-of-way. These improvements will facilitate overland stormwater runoff contained within Neptune Drive reaching the existing and proposed stormwater basins.

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 & 7:50-5.28)

The proposed stormwater basin is located in a Pineland Forest Area. The proposed stormwater basin is not a permitted land use in a Pinelands Forest Area. For the proposed stormwater basin to be authorized in a Pinelands Forest Area, the Commission must first approve an application for a Waiver of Strict

Compliance based upon a compelling public need.

Certain additional stormwater management improvements are proposed in a Pinelands Regional Growth Area. These improvements are a permitted land use in a Pinelands Regional Growth Area.

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

The proposed development will be located within a wooded area, grassed area and under existing pavement. The proposed development will disturb approximately seven acres of forested lands. 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 disturbed areas, the applicant proposes to utilize grass species which meet that recommendation.

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

The applicant completed a threatened and endangered species survey for Northern pine snake and Barred owl on the above referenced parcel. The survey did not locate either of the concerned species on or in the vicinity of the parcel. The proposed development is consistent with the CMP threatened and endangered species protection standards.

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

The applicant has demonstrated that the proposed stormwater basin will maintain the required two foot separation between the bottom of the basin and the seasonal high water table and that the basin will be sited in soils with suitable permeability as required by the CMP. In addition, the proposed development will not result in an increase in the volume or rate of stormwater runoff after development than occurred prior to the proposed development.

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 October 26, 2015. Newspaper public notice was completed on October 26, 2015. The application was designated as complete on the Commission's website on December 23, 2015.

A public hearing was conducted on the application for a Waiver of Strict Compliance based upon a compelling public need on January 20, 2016 at 7 PM at the Stafford Township Municipal Building. Public newspaper notice for this public hearing was published on January 8, 2016. Public notice for this public hearing was provided to all landowners within 200 feet of the concerned parcel on January 6, 2016.

The Commission received a total of 19 public comments regarding this application. Please refer to the Commission staff's March 18, 2016 Report on an Application for a Waiver of Strict Compliance based upon a compelling public need for public comment offered at the Commission's January 15, 2016 monthly Commission meeting and the January 20, 2016 public hearing on this application.

CONDITIONS

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of 43 sheets, prepared by CME Associates and dated as follows:

Sheets 1, 4, 6 & 43 - February 2014; revised to September 2, 2015
Sheets 2, 3, 5, 7-12 & 29-42 - February 2014; revised to March 23, 2015
Sheets 13-28 - February 2014; revised to January 17, 2014
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. In accordance with the Commission's April 8, 2016 approval of a Waiver of Strict Compliance based upon a compelling public need, the Township shall:
 - a. Acquire and redeem 2.0 Pinelands Development Credits (PDCs) from the Pinelands Preservation Area District conserving at least 78 acres that are not currently subject to an existing PDC or other conservation deed restriction; or
 - b. Contribute to the Pinelands Conservation Fund the equivalent dollar value of 78 acres of lands not subject to a conservation restriction in the Pinelands Preservation Area District. The average Pinelands Conservation Fund acquisition price for such lands in the Pinelands Preservation Area District is \$2,067 per acre. The applicant shall contribute \$161,226 (78 acres x \$2,067) to the Pinelands Conservation Fund; or
 - c. Independently deed restrict for conservation purposes acreage in the Pinelands Preservation Area District that would be allocated at least 2.0 PDCs. The deed restricted lands must total at least 78 acres.

Prior to development, the Commission must receive documentation from the Pinelands Development Credit Bank that 2.0 PDCs have been acquired and submitted to the PDC Bank for redemption in accordance with 5.a., above or documentation must be provided that the applicant has contributed \$161,226 to the Pinelands Conservation Fund for the purposes of acquiring lands in the Pinelands Preservation Area District in accordance with 5.b., above or documentation must be provided by the applicant that acreage has been independently deed restricted in accordance with 5.c., above.
6. Northern long-eared bat is listed as a threatened species under the Endangered Species Act by the United States Fish and Wildlife Service (USFWS). Prior to any proposed tree clearing, it is recommended that the applicant consult with the USFWS regarding Northern long-eared bat. The Northern long-eared bat is not designated as a threatened or endangered species by the CMP (N.J.A.C. 7:50-6.33).

CONCLUSION

If the Commission first approves an application for a Waiver of Strict Compliance based upon a compelling public need at its April 8 2016 meeting, the proposed development will otherwise conform to the standards set forth in N.J.A.C. 7:50-4.57 and it is recommended that the Pinelands Commission **APPROVE** the proposed development subject to the above conditions.

If the Commission does not approve an application for a Waiver of Strict Compliance based upon a compelling public need at its April 8 2016 meeting, the proposed development will not conform to the standards set forth in N.J.A.C. 7:50-4.57 and it is recommended that the Pinelands Commission **DENY** the proposed development.

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 the by 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 within eighteen days of the date of the Executive Director's determination and 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. PC4-16-_____

TITLE: Approving With Conditions Applications for **Public Development** (Application Numbers 2015-0016.001 & 2015-0150.001)

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 applications for Public Development be approved with conditions:

2015-0016.001

Applicant: Mullica Township
Municipality: Mullica Township
Management Area: Pinelands Forest Area
Date of Report: March 21, 2016
Proposed Development: Proposed improvements to Indian Cabin Road; and

2015-0150.001

Applicant: Shamong Township
Municipality: Shamong Township
Management Area: Pinelands Village
Date of Report: March 17, 2016
Proposed Development: Two lot subdivision and no further development.

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 2015-0016.001 & 2015-0150.001 for public development are 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					DiBello					McGlinchey				
Avery					Galletta					Prickett				
Barr					Jannarone					Quinn				
Brown					Lloyd					Rohan Green				
Chila					Lohbauer					Earlen				

* 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

March 21, 2016

James Brown, Mayor
 Mullica Township
 4528 White Horse Pike, P.O. Box 317
 Elwood, NJ 08217

Re: Application # 2015-0016.001
 Indian Cabin Road
 Mullica Township

Dear Mayor Brown:

The Commission staff has completed its review of this application for proposed improvements to Indian Cabin Road. 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 8, 2016 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,

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

Enc: Appeal Procedure
 March 11, 2016 Public Comment Letter

c: Secretary, Mullica Township Planning Board (via email)
 Mullica Township Construction Code Official (via email)
 Mullica Township Environmental Commission (via email)
 Atlantic County Department of Regional Planning and Development (via email)
 Ryan Rebozo
 Donald W. Brickner





Chris Christie
Governor

Kim Guadagno
Lt. Governor

State of New Jersey

THE PINELANDS COMMISSION

PO Box 359

NEW LISBON, NJ 08064

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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

PUBLIC DEVELOPMENT APPLICATION REPORT

March 21, 2016

James Brown, Mayor
Mullica Township
4528 White Horse Pike, P.O. Box 317
Elwood, NJ 08217

Application No.: 2015-0016.001

Location: Indian Cabin Road
Mullica Township

This application proposes improvements to 4,600 linear feet of Indian Cabin Road between Weekstown Road and Fifth Avenue in Mullica Township.

Indian Cabin Road is an existing paved road. The width of the existing pavement ranges from 20 feet to 26 feet. The road will be paved to a uniform width of 22 feet. This application also proposes the reconstruction of six existing culverts under Indian Cabin Road and the installation of rip-rap at the downstream side of each culvert.

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(a))

The project is located in a Pinelands Forest Management Area. The proposed development is permitted in a Pinelands Forest Management Area.

Wetlands 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 to wetlands of up to 300 feet. The proposed rip-rap will disturb 410 square feet of wetlands.

The CMP permits road improvements (linear development) in wetlands and required buffers provided the 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 wetlands and required buffers 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 are being taken to mitigate the impact on wetlands and the required buffer to wetlands. The applicant has indicated that the proposed road improvements are necessary for traffic safety. The applicant has demonstrated that the need for the proposed road improvements overrides the importance of protecting the wetlands.

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

The proposed development will be located within existing grass and gravel areas. The proposed 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 disturbed areas, the applicant proposes to utilize a seed mixture which meets that recommendation.

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

Based upon the proposed limits of disturbance, the location of existing development and a review of available information, the Commission staff determined that a survey for the presence of threatened or endangered animal species was not required.

The applicant performed a survey for Swamp pink. The results of that survey determined that the project area does not contain any local population of Swamp pink. An assessment performed by the applicant determined that the project area did not contain suitable habitat for any other CMP designated threatened or endangered plant species.

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

The proposed road improvements will result in an overall decrease in impervious surfaces. The applicant has demonstrated that there will be no increase in the volume and rate of stormwater runoff from the project after development then occurred prior to the proposed development.

PUBLIC COMMENT

The applicant has provided the requisite public notices. Newspaper public notice was completed on January 27, 2016. The application was designated as complete on the Commission's website on March 1, 2016. The Commission's public comment period closed on March 11, 2016. The Commission received one public comment at its March 11, 2016 meeting regarding this application. That public comment was supplemented by a letter (enclosed) dated March 11, 2016.

Public Comment: The commenter inquired whether the proposed roadwork can be performed during a timeframe that would limit potential impacts to any threatened or endangered snake species. The commenter also questioned whether the amount of time dedicated to the submitted Pine Barrens treefrog survey was sufficient.

Staff Response: All proposed land disturbance associated with the proposed road improvements will be limited to existing disturbed areas within the road right-of-way. The

Commission staff determined that there will be no irreversible adverse impact on habitats that are critical to the survival of local populations of threatened/endangered snake species regardless of what time of year the proposed roadwork occurs.

The Commission staff initially required a survey for Pine Barrens treefrog. The applicant subsequently revised the design of the proposed road improvements to propose in-kind replacement of each of the existing culverts. The new culverts are the same diameter and will have the same inverts as the existing culverts. This design will avoid impact to adjacent wetlands located upstream and downstream of the proposed road improvements. Based upon the revision to the design of the proposed road improvements, the Commission staff determined that survey work for Pine Barrens treefrog was not required.

CONDITIONS

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of 16 sheets, prepared by Marathon Engineering & Environmental Services, Inc., all sheets dated September 16, 2015 and last revised January 18, 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. Prior to the construction of any portion of the proposed development which will result in the disturbance of any wetland area, a Freshwater Wetland Permit shall be obtained pursuant to the New Jersey Freshwater Wetlands Protection Act.
6. Appropriate measures shall be taken during construction to preclude sediment 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

NEW LISBON, NJ 08064

(609) 894-7300

www.nj.gov/pinelands

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 within eighteen days of the date of the Executive Director's determination and 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.

APP # 20150016.001

Doc Type 120

MAR 11 2016

Scanned _____



Ryan Rebozo ryan@pinelandsalliance.org

17 Pemberton Rd. Southampton 08088

- With a Corn Snake occurrence on site and Pine Snake/Timber rattle snake occurrences within one mile, are there any proposed timeframes when work can occur to limit potential impacts with snake activity?

- I understand maintaining culvert size was suggested as an alternative to additional surveys, but are 14 min of tree frog surveys per site typically an acceptable practice?



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Sean W. Earlen
 Chairman

Nancy Wittenberg
 Executive Director

March 17, 2016

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

Re: Application # 2015-0150.001
 Block 27.01, Lot 3
 Shamong Township

Dear Ms. Onorato:

The Commission staff has completed its review of this application for two lot subdivision and no further development of the above referenced 27.44 acre lot. 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 8, 2016 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,

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

Enc: Appeal Procedure

- c: Secretary, Shamong Township Planning Board (via email)
- Shamong Township Construction Code Official (via email)
- Secretary, Burlington County Planning Board (via email)
- Colleen Carney (via email)





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Chris Christie
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General Information: Info@njpines.state.nj.us
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Sean W. Earlen
 Chairman

Nancy Wittenberg
 Executive Director

PUBLIC DEVELOPMENT APPLICATION REPORT

March 17, 2016

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

Application No.: 2015-0150.001

Location: Block 27.01, Lot 3
 Shamong Township

This application proposes a two lot subdivision and no further development of the above referenced 27.45 acre lot in Shamong Township. A single family dwelling is located on the lot. The proposed subdivision will create a 7.20 acre lot containing the existing single family dwelling and a vacant 20.25 acre lot.

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 lot is located in the Pinelands Village of Indian Mills. The proposed subdivision is permitted in a Pinelands Village Management Area. The proposed lots will meet the minimum lot size requirements of the Shamong Township certified land use ordinance.

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

There are wetlands located on and within 300 feet of the above referenced lot.

Water Quality Standard (N.J.A.C. 7:50-6.83)

The existing single family dwelling is served by an onsite septic system.

PUBLIC COMMENT

The CMP defines the proposed development as “minor” development. The CMP does not require public notice for minor public development applications. The application was designated as complete on the Commission’s website on February 24, 2016. The Commission’s public comment period closed on March 11, 2016. No public comment was submitted to the Commission regarding this application.

CONDITIONS

1. Except as modified by the below conditions, the proposed subdivision shall adhere to the plan, consisting of one sheet, prepared by Dante Guzzi Engineering Associates and dated December 16, 2015.
2. Any future development of the created lots shall be governed by Shamong Township's certified land use ordinance and the CMP.

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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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 within eighteen days of the date of the Executive Director's determination and 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. PC4-16-_____

TITLE: Approving With Conditions an Application for **Public Development** (Application Number 1988-0706.020)

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:

1988-0706.020

Applicant:	Town of Hammonton
Municipality:	Town of Hammonton
Management Area:	Pinelands Town
Date of Report:	March 21, 2016
Proposed Development:	Construction of a 3,612 square foot municipal storage garage.

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 1988-0706.020 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				DiBello				McGlinchey			
Avery				Galletta				Prickett			
Barr				Jannarone				Quinn			
Brown				Lloyd				Rohan Green			
Chila				Lohbauer				Earlen			

* 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

March 21, 2016

Stephen M. DiDonato, Mayor
 Town of Hammonton
 100 Central Avenue
 Hammonton, NJ 08037

Re: Application # 1988-0706.020
 Block 3903, Lots 10-13
 Town of Hammonton

Dear Mayor DiDonato:

The Commission staff has completed its review of this application for construction of a 3,612 square foot municipal storage garage. 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 8, 2016 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,

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

Enc: Appeal Procedure

- c: Secretary, Town of Hammonton Planning Board (via email)
- Town of Hammonton Construction Code Official (via email)
- Town of Hammonton Environmental Commission (via email)
- Atlantic County Department of Regional Planning and Development (via email)
- John Helbig, PP, AICP





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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

PUBLIC DEVELOPMENT APPLICATION REPORT

March 21, 2016

Stephen M. DiDonato, Mayor
 Town of Hammonton
 100 Central Avenue
 Hammonton, NJ 08037

Application No.: 1988-0706.020

Location: Block 3903, Lots 10-13
 Town of Hammonton

This application proposes construction of a 3,612 square foot municipal storage garage located on the above referenced 7.13 acre parcel in the Town of Hammonton. The Town of Hammonton’s wastewater treatment facility is located on the parcel.

The application also proposes six material storage bins and paving to provide motor vehicle circulation and access to Seagrove 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. 7:50-5.27(a))

The proposed development is located in a Pinelands Town Management Area. The proposed development is a permitted land use in a Pinelands Town Management Area.

Wetlands Standards (N.J.A.C. 7:50-6.6 & 6.14)

There are wetlands located within 300 feet of the above referenced parcel. There is existing development, including buildings, located closer to the wetlands than the proposed development.

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

The proposed development will be located primarily within a forested area, partially in a maintained

grassed area and partially over existing pavement. The proposed development will disturb approximately 0.9 acres of forested land. 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 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 CMP stormwater management standards. The applicant will be expanding an existing stormwater infiltration basin.

PUBLIC COMMENT

The applicant has provided the requisite public notices. Newspaper public notice was completed on December 23, 2015. Notice to required land owners within 200 feet of the above referenced parcel was completed on December 24, 2015. The application was designated as complete on the Commission's website on February 23, 2016. The Commission's public comment period closed on March 11, 2016. 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 Adams, Rehmann & Heggan Associates, Inc., all sheets dated December 16, 2015.
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. The proposed development shall be located no closer to wetlands than existing development on the parcel as shown on the approved plans.

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

www.nj.gov/pinelands

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 within eighteen days of the date of the Executive Director's determination and 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. PC4-16-_____

TITLE: Determining the Eligibility of a Parcel of Land for Acquisition by the Department of Environmental Protection Pursuant to the Limited Practical Use Program

Commissioner _____ moves and Commissioner _____ seconds the motion that:

WHEREAS, the Pinelands Commission has reviewed the Findings of Fact, Conclusion and recommendation of the Executive Director that the following parcel is eligible for acquisition under the Limited Practical Use program:

2015-0044.001 Gary Russo, Block 593, Lot 1, Hamilton Township, 5.98 ac.; Pinelands Forest Area (FA-70 zoning district); waiver application denied February 12, 2016.

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

WHEREAS, the Pinelands Commission hereby adopts the Findings of Fact and Conclusion of the Executive Director for this parcel; and

WHEREAS, the Pinelands Commission hereby determines that the parcel conforms to the criteria set forth in N.J.A.C. 7:50-9.2 and 9.3 for eligibility for acquisition under the Limited Practical Use program; 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 approves the acquisition of the following parcel and authorizes the Executive Director to transmit the name of this property owner to the Department of Environmental Protection for acquisition, provided that the landowner freely agrees to sell his parcel:

2015-0044.001 Gary Russo, Block 593, Lot 1, Hamilton Township, 5.98 ac.; Pinelands Forest Area (FA-70 zoning district); waiver application denied February 12, 2016.

Record of Commission Votes

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

* 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
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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

**REPORT ON PROPERTY ELIGIBILITY FOR THE
 PINELANDS LIMITED PRACTICAL USE PROGRAM**

March 15, 2016

Anthony E. Russo, Esq.
 2000 Morris Avenue
 Union, NJ 07083

Please Always Refer to
 This Application Number
 App. No. 2015-0044.001
 Hamilton Township
 Block 593; Lot 1

Dear Mr. Russo:

I am pleased to inform you that Pinelands Commission Executive Director, Nancy Wittenberg, is recommending the above referenced parcel for eligibility in the Limited Practical Use land acquisition program.

FINDINGS OF FACT

This application is for a determination of eligibility for the Pinelands Limited Practical Use Land Acquisition Program. The property is located in the Pinelands Forest Area and contains 5.98 acres. An application for a Waiver of Strict Compliance by the applicant for this parcel was denied by the Pinelands Commission on February 12, 2016.

The subject parcel contains all contiguous land in common ownership on or after January 14, 1981. There are no principal structures located on the parcel. No resource extraction operation has been approved for this parcel. No development has been approved for this parcel. There are no Pinelands Development Credits allocated to the parcel. Based on the available information, the parcel cannot be developed consistent with the requirements of the Comprehensive Management Plan. The applicant owns less than 50 acres of land in the Pinelands as of July 17, 1995.

CONCLUSION

N.J.A.C.7:50-9.2 and 7:50-9.3 set forth the standards which must be met in order for a property to be determined eligible for the Limited Practical Use Program. The first condition is that the Pinelands Commission has either denied a Waiver of Strict Compliance for the parcel in question pursuant to N.J.A.C. 7:50-4, Part V or has approved a Waiver of Strict Compliance for the parcel and granted a transferable development right to other lands in accordance with N.J.A.C.7:50-4.66(b)3 and 5.30(a). As the applicant received a Waiver denial on February 12, 2016, the applicant meets the criteria contained in N.J.A.C. 7:50-9.2(a)1.

The second condition is that the parcel contains less than 50 acres. As the parcel contains 5.98 acres, the parcel meets the criteria contained in N.J.A.C. 7:50-9.2(a) 2.

The third condition is that the standards contained in N.J.A.C. 7:50-9.3 relative to the ownership and the present and potential uses of the parcel in question have been met. The applicant has demonstrated that the parcel meets the standards contained in N.J.A.C. 7:50-9.3 so the parcel meets the criteria contained in N.J.A.C. 7:50-9.2(a)3.

The property is eligible for the Limited Practical Use acquisition program because all program eligibility criteria in N.J.A.C. 7:50-9.2 and N.J.A.C. 7:50-9.3 have been met. As a result, it is recommended that the Pinelands Commission APPROVE the application and notify the Department of Environmental Protection that the subject parcel is eligible to be acquired under the provisions of N.J.A.C. 7:50-9.

APPEAL

The CMP (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal this recommendation 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 within eighteen days of the date of this Report and must include the following information:

- A. the name and address of the person requesting the appeal ;
- B. the application number;
- C. a brief statement of the basis for the appeal; and
- D. 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, the Pinelands Commission will act on this application at its meeting on April 8, 2016. At this meeting, the Commission may either approve the determination of the Executive Director or refer the application to the Office of Administrative Law for a hearing.

If you have any questions, please contact Betsy Piner, of our staff.

Sincerely,



Susan R. Grogan, P.P., AICP
Chief Planner



State of New Jersey
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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

List of Pending Public Development and Waiver of Strict Compliance Applications
Accepting Public Comment at the April 8, 2016 Commission Meeting

Public Development Applications

Application No. 1988-0706.019 – Town of Hammonton

Received on: June 27, 2014
Completed on: March 29, 2016
Project: Establishment of a dog park
Municipality: Town of Hammonton
Block 4204, Lot 15 (application may include additional lots)

Application No. 2012-0129.001 – Ocean County Department of Parks and Recreation

Received on: October 25, 2012
Completed on: March 29, 2016
Project: Establishment of a public education center in the former Cedar Bridge Tavern and a caretaker residence
Municipality: Barnegat Township
Block 51, Lot 4.02 (application may include additional lots)

Waiver of Strict Compliance Applications

None



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Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

March 11, 2016

Mike Bradway
Tri-County Sportsmen Motorcycle Club, Inc.
P.O. Box 146
Port Elizabeth, NJ 08349

Re: Application # 1988-0757.053
Greenbrier Enduro
March 13, 2016
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)





Chris Christie
Governor

Kim Guadagno
Lt. Governor

New Jersey Pinelands Commission
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 #1270

Application #: 1988-0757.053

Applicant: Tri-County Sportsmen Motorcycle Club, Inc.

Event Name: Greenbrier Enduro

Event Date: March 13, 2016

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 8, 2016

March 11, 2016

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.



State of New Jersey

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Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

March 16, 2016

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

Re: Application # 1999-0119.018
2016 Pine Barrens Jeep Jamboree
March 18 & 19, 2016
Town of Hammonton & Mullica, Shamong, Tabernacle,
Washington, Waterford & Woodland 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: Town of Hammonton Clerk (via email)
Mullica Township Clerk (via email)
Shamong Township Clerk (via email)
Tabernacle Township Clerk (via email)
Washington Township Clerk (via email)
Woodland Township Clerk (via email)
Waterford Township Clerk (via email)
Superintendent, Wharton State Forest
Jim Justnes (via email)





Chris Christie
Governor

Kim Guadagno
Lt. Governor

New Jersey Pinelands Commission
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 #1271

Application #: 1999-0119.018

Applicant: Jeep Jamboree USA

Event Name: 2016 Pine Barrens Jeep Jamboree

Event Date: March 18 & 19, 2016

Municipalities: Town of Hammonton & Mullica, Shamong, Tabernacle, Washington, Waterford & Woodland Townships

Management Area: Agricultural Production Area, Infill Development 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 14, 2016

March 16, 2016

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

Date

Please see reverse side for additional information and conditions.

BACKGROUND

- ♦ Four routes each beginning at Batsto Village in Washington Township
- ♦ The applicant has represented that the proposed routes will utilize 50 miles of potential routes approved by the New Jersey Department of Environmental Protection

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.



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

March 16, 2016

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

Re: Application # 1988-0071.033
Curly Fern Enduro
March 20, 2016
Shamong, Washington
& Waterford 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)
Washington Township Clerk (via email)
Waterford Township Clerk (via email)
Superintendent, Wharton State Forest (via email)





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Governor

Kim Guadagno
Lt. Governor

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Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

OFF-ROAD VEHICLE EVENT ROUTE MAP APPROVAL #1272

Application #: 1988-0071.033

Applicant: South Jersey Enduro Riders, Inc.

Event Name: Curly Fern Enduro

Event Date: March 20, 2016

Municipality: Shamong Township

Block 52, Lot 3

Management Area: Agricultural Production Area, Preservation Area District

Lands Utilized

Wharton State Forest

Approved Route Map

Received in electronic format on January 20, 2016

March 16, 2016

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
- ♦ 68 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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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 30, 2016

Subject: No Substantial Issue Findings

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

Barnegat Township Ordinance 2016-02 - amends Chapter 55 (Land Use) of the Township's Code by revising the standards applicable to mixed use development in a portion of the C-N (Neighborhood Commercial) Zone. Specifically, Ordinance 2016-02 provides that a maximum building height of four stories or 48 feet is permitted for mixed use development, and that residential age-restricted apartments are permitted on the second, third and fourth floors. Mixed use development is permitted as a conditional use in that portion of the C-N Zone located in a Pinelands Regional Growth Area.

South Toms River Borough Ordinance 12-15 - adopts the Municipal Complex Redevelopment Plan, Plan No. 2. This redevelopment plan establishes a redevelopment area consisting of one lot (Block 19, Lot 1) of approximately 2.5 acres in size. The lot in question is currently located in the Borough's C-N (Neighborhood Commercial) Zone, within a Pinelands Regional Growth Area. Permitted principal uses in the redevelopment area include schools and public buildings in addition to the wider variety of commercial uses already permitted in the C-N Zone. The Redevelopment Plan envisions relocation of the Borough's existing municipal complex to Block 19, Lot 1 through reuse of the existing building on the lot.