



PHILIP D. MURPHY
Governor
SHEILA Y. OLIVER
Lt. Governor

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




SEAN W. EARLEN
Chairman
NANCY WITTENBERG
Executive Director

General Information: Info@pinelands.nj.gov
Application Specific Information: AppInfo@pinelands.nj.gov

MEMORANDUM

To: Members of the Commission

From: Nancy Wittenberg 
Executive Director

Date: May 31, 2018

Subject: Summary of the June 8, 2018 Meeting Packet

Minutes

The May 11, 2018 Commission Meeting minutes (open and closed session) are included in your packet.

Public Development Applications

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

1. **Application Number 1981-0556.051/Evesham Township School District**, Evesham Township, Rural Development Area, Installation of a 1.42 acre ground mounted solar energy facility accessory to an existing school.

Waiver of Strict Compliance

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

Letter of Interpretation

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

Off-Road Vehicle Event Route Map Approval

One Off-Road Vehicle Event Route Map Approval (attached) was issued since the last Commission meeting.

Planning Matters

One municipal ordinance, Mullica Township Ordinance 6-2018, is being recommended for certification at this month's meeting. Ordinance 6-2018 revises the permitted uses, boundaries and water quality standards applicable to the Weekstown Village District in order to recognize an existing boat-building business.

Also on the agenda is the adoption of amendments to the Comprehensive Management Plan related to the definition of “Interested Party”. We have enclosed a resolution, an adoption notice dated May 31, 2018, and the September 18, 2017 rule proposal. At its December 12, 2017 meeting, the Commission decided to postpone adoption of these amendments until a detailed examination of the Federal Pinelands legislation could be completed in response to the concerns raised by many public commenters. The examination confirmed that neither the Federal Act nor the State Pinelands Protection Act authorize third party adjudicatory hearings, nor do they confer a broader right to such hearings than provided by the New Jersey Administrative Procedure Act. Therefore, we are now recommending the Commission proceed with adoption of the amendments.

All written public comments received on the proposed amendments are posted on the Commission’s website. The comments can be accessed at this link:

<http://www.nj.gov/pinelands/home/meetings/documents/Public%20Comments%20Received%20%28Proposed%20CMP%20Amendments%29.pdf>

For ease of reference, the comments are bookmarked and numbered in accordance with the list provided in the adoption notice.

Master Plans and Ordinances Not Requiring Commission Action

We have included a memorandum on four ordinance amendments that we reviewed and found to raise no substantial issues with respect to CMP standards. These amendments were submitted by Egg Harbor Township, Shamong Township, Stafford Township and Waterford Township.

Other Resolutions

A resolution authorizing proposed amendments to the CMP is listed on the agenda. The proposed amendments relate solely to the Pilot Program for Alternate Design Wastewater Treatment Systems. They eliminate the August 5, 2018 deadline for installation of pilot program systems and clarify certain certification requirements related to installation and operation of these systems. If the Commission authorizes the proposal, we will file the amendments with the Office of Administrative Law for publication in the New Jersey Register in early August. A 60-day period for public comment would then commence, including a public hearing in late September.

Other Items

Also included in this month’s packet is:

1. A list of pending Public Development and Waiver of Strict Compliance Applications for which public comment will be accepted at the June 8, 2018 Commission meeting; and
2. A memorandum from the Regulatory Programs office that finds two public development applications to be consistent with an existing Memorandum of Agreement (MOA).

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.



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NEW JERSEY PINELANDS COMMISSION MEETING AGENDA

Friday, June 8, 2018

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

- May 11, 2018 (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 With Conditions an Application for Public Development (Application Number 1981-0556.051, Installation of a 1.42 acre ground mounted solar energy facility)

B. Planning Matters

- Municipal Master Plans and Ordinances
 - Issuing an Order to Certify Ordinance 6-2018, Amending Chapter 144 (Land Development) of the Code of Mullica Township
 - CMP Amendments
 - To Adopt Amendments to the Comprehensive Management Plan in Accordance with the Administrative Procedure Act (Definitions; Application Procedures)
5. Public Comment on Public Development Applications and Waivers of Strict Compliance (see attached list) and Resolutions ***Where the Record is Not Closed*** (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. Master Plans and Ordinances Not Requiring Commission Action
 - Egg Harbor Township Ordinance 2018-14
 - Shamong Township Ordinance 2018-6
 - Stafford Township Ordinance 2018-05
 - Waterford Township Ordinance 2018-10
 7. Other Resolutions
 - To Authorize the Executive Director to Propose Amendments to the Comprehensive Management Plan in Accordance with the Administrative Procedure Act (Alternate Design Wastewater Treatment Systems Pilot Program)
 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

Tues., June 19, 2018	Personnel and Budget Committee Meeting (9:30 a.m.)
Fri., June 29, 2018	Policy and Implementation Meeting (9:30 a.m.)
Fri., July 13, 2018	Pinelands Commission Meeting (9:30 a.m.)

Upcoming Office Closures

Wednesday, July 4, 2018 Independence Day



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@pinelands.nj.gov) at Info@pinelands.nj.gov 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

May 11, 2018

Commissioners present

Alan W. Avery Jr., Paul E. Galletta, Jordan P. Howell, Ed Lloyd, Mark Lohbauer, William Pikolycky, Gary Quinn, Richard Prickett, and Chairman Sean Earlen. Also present were Executive Director Nancy Wittenberg, Governor's Authorities Unit representative Craig Ambrose and Deputy Attorney General (DAG) Bruce Velzy.

Commissioners Participating by Phone

D'Arcy Rohan Green. Jane Jannarone participated briefly during the beginning of the meeting.

Commissioners Absent

Candace Ashmun, Bob Barr & Giuseppe Chila.

Chairman Earlen called the meeting to order at 9:36 a.m.

DAG Velzy read the Open Public Meetings Act Statement.

Executive Director Nancy Wittenberg called the roll and announced the presence of a quorum. (There were 10 Commissioners who participated in the meeting.)

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

Minutes

Chairman Earlen presented the minutes from the April 13, 2018 Commission meeting. Commissioner Lohbauer moved the adoption of the minutes. Commissioner Pikolycky seconded the motion.

The April 13, 2018 Commission meeting minutes were adopted by a vote of 9 to 0, with Commissioner Rohan Green abstaining. Commissioner Jannarone was not on the telephone at the time of the vote.

Exhibit Center Naming

Commissioner Avery said he suggested to Commissioners and staff that the exhibit center be named after Commissioner Ashmun and requested a resolution be drafted to formalize the process of the naming. He said Commissioner Ashmun is the only remaining original member of this Board and she has been involved with numerous noteworthy achievements on this Commission and for the Pinelands.

Chairman Earlen read the resolution into the record. He said the new educational space will be officially named the Candace McKee Ashmun Pinelands Education Exhibit.

Commissioner Avery moved the resolution To Officially Name the New Pinelands Exhibits at the Pinelands Commission's Headquarters in Honor of Commissioner Candace McKee Ashmun. The resolution was seconded by Commissioner Lloyd and adopted unanimously (See Resolution # PC4-18-13).

Some Commissioners shared their appreciation of Commissioner Ashmun's work through the years.

ED Wittenberg added that as soon as Commissioner Ashmun is available, we will have a dedication.

Commissioner Jannarone joined the meeting by telephone after the vote to name the Pinelands exhibit.

Pinelands Conservation Fund

Commissioner Lloyd recused himself from this matter because he represents the New Jersey Conservation Foundation (NJCF). Commissioner Avery said he would also be recusing himself from this matter because he is a member of the Ocean County Natural Lands Trust Board. Both Commissioners left the meeting room. Commissioner Rohan Green said she would also be recusing herself, because she is a member of the Ocean County Natural Lands Trust Board.

Chief Planner Susan Grogan said that the CMP Policy and Implementation Committee was unable to authorize the advance payment of \$169,000 to the NJCF due to the lack of quorum. She said the full Commission needs to vote to authorize the advance payment so NJCF can close on the acquisition project in Woodland and Southampton townships at the end of this month.

Commissioner Lohbauer made a motion to authorize advance payment of \$169,000 from the Pinelands Conservation Fund (PCF) to the New Jersey Conservation Foundation. Commissioner Galletta seconded the motion. All were in favor.

Commissioner Lloyd and Commissioner Avery returned to the dais.

Committee Chairs' Reports

Chairman Earlen provided an update on the April 27, 2018 Policy and Implementation Committee meeting:

The Committee adopted the minutes of the March 23, 2018 meeting.

The Committee recommended conditional certification of Egg Harbor Township Ordinance 35-2017.

The Committee received a presentation on Winslow Township's Regional Growth Area rezoning plan to promote commercial development along Route 73 and increase residential development potential. The Township will be updating its master plan prior to adopting implementing ordinances.

The Committee received copies of the 2017 implementation report on the Alternate Design Treatment Systems Pilot Program and a presentation on the report, including a recommendation that the installation deadline for these systems be removed from the CMP.

The Committee received an update on the four 2017 Pinelands Conservation Fund land acquisition projects. In closed session, the Committee approved an extension until December 1, 2018 for a project in Burlington County to obtain a contract with the landowner, certification of fair market value of the property and a grant agreement.

Executive Director's Reports

ED Wittenberg updated the Commission on the following:

- The auditors will be on-site beginning May 23, 2018 to conduct the FY 17 Audit.
- Chief Scientist John Bunnell recently worked with the New Jersey Department of Environmental (NJDEP) Protection, Herpetological Associates and the New Jersey Conservation Foundation to install barriers at Apple Pie Hill to protect vulnerable areas. (A picture was displayed of the barriers and is attached to these minutes.)
- Jonathan Meade from the National Park Service has requested a meeting with Commission staff. He advised staff that his name has been submitted for consideration as Pinelands Commissioner.
- Recruitment for a programmer in the Management Information Systems office continues. The Commission was able to post the job on the Office of Information Technology's website, which generated additional candidates.

Commissioner Lloyd asked ED Wittenberg if she had the opportunity to talk to the NJDEP about protecting other state parks from off-road vehicle damage.

ED Wittenberg said she briefly spoke with Ray Bukowski, the new Assistant Commissioner of Natural & Historic Resources, about a number of issues. She said she will reach out to have a specific conversation about the parks soon.

Director Charles Horner highlighted the types of development the Comprehensive Management Plan (CMP) permits. He provided an overview of the types of development that require an application to the Commission and activities that are exempt from review. See presentation slides for additional information.

Director Horner answered questions about the limitations of clearing on a parcel, street lighting and air quality.

Chief Planner Grogan said an update on the Long Term Economic Monitoring program will be given at May 18th Policy and Implementation Committee meeting. She said a rule proposal will be on the June 8th Commission meeting agenda. She said the CMP needs to be amended to eliminate the installation deadline for the alternate design septic pilot program.

Commissioner Jannarone ended the call.

Paul Leakan showed the Commissioners the permit that was recently issued for the Pinelands exhibit. He said the Commission has agreed to a change work order and has sent the contractor a letter to extend the contract by one year. He said the exhibit is expected to be complete in approximately six months. He also said the Summer Pinelands Short Course is scheduled for July 19th and will include seven field trips, including a trip to Atlantic Blueberry Farm.

Public Development Projects and Other Permit Matters

Chairman Earlen presented a resolution recommending approval for the placement of a 175- linear foot gabion retaining wall within an unnamed tributary to the north branch of the Rancocas Creek in Pemberton Township.

Commissioner Prickett announced he would recuse from voting on this resolution because he resides in Pemberton Township. He left the room.

Commissioner Lohbauer moved the adoption of a resolution Approving With Conditions an Application for Public Development (Application Number 1982-3514.005) (See Resolution # PC4-18-14). Commissioner Pikolycky seconded the motion.

Commissioner Lloyd asked if a wetlands permit was required from the NJDEP.

Director Horner confirmed that a NJDEP Freshwater Wetlands Permit is necessary.

The Commission adopted the resolution by a vote of 9 to 0.

Commissioner Prickett returned to the dais.

Planning Matters

Chairman Earlen presented a resolution recommending a conditional certification of Egg Harbor Township Ordinance 35-2017.

Commissioner Galletta moved the adoption of a resolution Issuing an Order to Conditionally Certify Ordinance 35-2017, Amending Chapter 225 (Zoning) of the Code of Egg Harbor Township. (See Resolution # PC4-18-15). Commissioner Lohbauer seconded the motion.

Chief Planner Grogan said the ordinance is being recommended for conditional certification. She said the ordinance is not consistent with the Commission's standards for assisted living facilities in the Regional Growth Area. She said staff has discussed the issue with Egg Harbor Township and advised them that a residential density must be established and the use of Pinelands Development Credits will be required in excess of that number. She said the Township is not happy with the CMP standards regarding assisted living facilities. Staff has provided the Township with some alternatives. She advised the Commissioners she would keep them informed.

Commissioner Prickett asked about how the staff tracks ordinances such as this one.

Chief Planner Grogan said staff has an in-depth system which is used for tracking ordinance and master plans. She said it is more complicated to manage instances where the Commission disapproves or conditionally approves ordinances for which the towns do not respond. She said there is the potential for the town to adopt and publish the ordinance in its code. She said she will remind Egg Harbor that this ordinance is not in effect until it is formally approved by the Commission.

The Commission adopted the resolution by a vote of 10 to 0.

Public Comment on Public Development Applications and Items where the record is open
No one from the public spoke.

Ordinances Not Requiring Commission Action

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

- Buena Vista Township Ordinance 53-2018
- Egg Harbor City Ordinance 16-2017
- Galloway Township Ordinance 1988-2018
- Jackson Township Ordinance 05-18
- Mullica Township Ordinance 5-2018

Chief Planner Grogan mentioned that a number of towns have been submitting redevelopment plans.

General Public Comment

Katie Smith with the Pinelands Preservation Alliance encouraged the Commission to move forward on the Black Run rule proposal.

Margit Meissner Jackson, Acting Chair of the Ocean County Sierra Club, spoke about water issues related to the growing population in Ocean County. She also said she does not support cutting down trees near the Bass River Fire tower.

Resolution to Retire into Closed Session

DAG Velzy read a resolution to enter into closed session to discuss anticipated litigation.

Commission Lloyd made a motion to enter into closed session. Commissioner Lohbauer seconded the motion. The Commission agreed to retire into closed session by a vote of 10 to 0, beginning at 10:33 a.m.

Return to Open Session

The Commission entered back into open session at 11:25 a.m.

DAG Velzy said that in closed session the Commission discussed attorney client advice as a follow up to a request by a Commissioner. No action was taken.

Adjournment

Commissioner Prickett moved to adjourn the meeting. Commissioner Galletta seconded the motion. The Commission agreed to adjourn at 11:29 a.m.

Certified as true and correct:



Jessica Noble, Executive Assistant

Date: May 22, 2018



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-18-13

TITLE: To Officially Name the New Pinelands Exhibits at the Pinelands Commission's Headquarters in Honor of Commissioner Candace McKee Ashmun

Commissioner Avery moves and Commissioner Lloyd seconds the motion that:

WHEREAS, Candace McKee Ashmun has spent nearly four decades volunteering her time and expertise as a member of the New Jersey Pinelands Commission; and

WHEREAS, Ms. Ashmun is the longest serving member in the Commission's history, and her contributions to the agency and its success are immeasurable; and

WHEREAS, Ms. Ashmun has been a tireless advocate for the Pinelands, helping to raise awareness and appreciation of the region's resources, while touting the Pinelands Comprehensive Management Plan as a model for regional, land conservation planning; and

WHEREAS, Ms. Ashmun's knowledge of the Pinelands Protection Act and of the Commission's past decisions and discussions have been invaluable in the agency's efforts to strengthen the Comprehensive Management Plan; and

WHEREAS, Ms. Ashmun is a pioneer in land preservation, not only in the Pinelands but throughout the state; and

WHEREAS, the Commission wishes to recognize and honor Ms. Ashmun for her service to the Pinelands Commission and the citizens of New Jersey; and

WHEREAS, as a Trustee of the Fund for New Jersey, Ms. Ashmun was instrumental in obtaining the necessary funding to build the Commission's Richard J. Sullivan Center for Environmental Policy and Education; and

WHEREAS, the Richard Sullivan Center will soon feature a collection of exhibits that will inspire current and future generations to explore and gain a better understanding of the Pinelands; and

WHEREAS, the Commission believes it is only fitting to name these exhibits in honor of Ms. Ashmun; 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, assembled at the Richard J. Sullivan Center for Environmental Policy and Education on this 11th day of May, 2018, does hereby honor and express its gratitude to Ms. Ashmun by naming this new educational space as the Candace McKee Ashmun Pinelands Education Exhibit.

Record of Commission Votes

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

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Nancy Wittenberg
Nancy Wittenberg
Executive Director

Date: May 11, 2018

Sean W. Earlen
Sean W. Earlen
Chairman



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-18- 14

TITLE: Approving With Conditions an Application for Public Development (Application Number 1982-3514.005)

Commissioner Lohbauer moves and Commissioner Pikolycky 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:

1982-3514.005

Applicant:	Pemberton Township
Municipality:	Pemberton Township
Management Area:	Pinelands Regional Growth Area
Date of Report:	April 20, 2018
Proposed Development:	Placement of a 175 linear foot gabion retaining wall within an unnamed tributary to the north branch of the Rancocas Creek.

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 1982-3514.005 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			X	Howell	X			Prickett			R
Avery	X			Jannarone		X		Quinn	X		
Barr		X		Lloyd	X			Rohan Green	X		
Chila		X		Lohbauer	X			Earlen	X		
Galletta	X			Pikolycky	X						

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Nancy Wittenberg
Nancy Wittenberg
Executive Director

Date: May 15, 2018

Sean W. Earlen
Sean W. Earlen
Chairman



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

April 20, 2018

David A. Patriarca, Mayor (via email)
Pemberton Township
500 Pemberton-Browns Mills Road
Pemberton, NJ 08068

Re: Application # 1982-3514.005
Block 827.01, Lot 7.04
Pemberton Township

Dear Mayor Patriarca:

The Commission staff has completed its review of this application for placement of a 175 linear foot gabion retaining wall within an unnamed tributary to the north branch of the Rancocas Creek on the above referenced parcel. Enclosed is a copy of a Public Development Application Report. On behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its May 11, 2018 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, Pemberton Township Planning Board (via email)
Pemberton Township Construction Code Official (via email)
Pemberton Township Environmental Commission (via email)
Secretary, Burlington County Planning Board (via email)
John Helbig, PP, AICP (via email)
Shannon Shadman (via email)





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



Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

PUBLIC DEVELOPMENT APPLICATION REPORT

April 20, 2018

David A. Patriarca, Mayor (via email)
Pemberton Township
500 Pemberton-Browns Mills Road
Pemberton, NJ 08068

Application No.: 1982-3514.005
Block 827.01, Lot 7.04
Pemberton Township

This application proposes placement of a 175 linear foot gabion retaining wall within an unnamed tributary to the north branch of the Rancocas Creek on the above referenced 16.23 acre parcel in Pemberton Township. The West End Park, a Township recreation area, is located on the parcel.

The placement of the gabion retaining wall will address a severe stream bank erosion problem that is resulting in a safety hazard for pedestrians utilizing the recreation area. The proposed nine foot wide gabion retaining wall will line the stream bank where the severe erosion is occurring.

The Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-4.5) provides that the Commission's Executive Director, after consultation with the Chairman of the Pinelands Commission, may authorize immediate action when it is necessary to remedy a condition dangerous to life, health or safety. On December 5, 2017, the Commission staff issued a letter authorizing the immediate placement of a gabion retaining wall to eliminate the concerned safety hazard. The Commission staff's December 5, 2017 letter required that an after-the-fact application for the proposed placement of the gabion retaining wall be completed with the Commission. This application satisfies that requirement.

STANDARDS

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

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

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

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

The proposed development will be located in wetlands and the required buffer to those wetlands. The proposed development will disturb approximately 406 square feet of wetlands.

The CMP permits the placement of a retaining wall (linear improvement) in wetlands and the required buffer to wetlands provided the applicant demonstrates that certain CMP specified conditions are met. The applicant has demonstrated that there is no feasible alternative to the proposed development that does not involve development in wetlands and the required buffer to wetlands or that will result in a less significant adverse impact to wetlands and the required buffer to wetlands. 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 wetlands and the required buffer to wetlands. The applicant has represented that the proposed development is necessary to alleviate a safety hazard for pedestrians utilizing the recreational area. The applicant had demonstrated that the need for the proposed development overrides the importance of protecting the wetlands.

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

The proposed development will occur in an unvegetated portion of the stream bank. 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 application does not propose revegetation.

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 March 16, 2018. Newspaper public notice was completed on March 19, 2018. The application was designated as complete on the Commission's website on April 3, 2018. The Commission's public comment period closed on April 13, 2018. The Commission received one public comment (attached) regarding this application.

Comment: The commenter requested a copy of the application.

Staff Response: The staff contacted the commenter and left a telephone message that there was a photocopying charge for the information and plan and offered the commenter the opportunity to review the application file. The commenter did not respond to that message. The commenter is copied on this Public Development Application Report containing the Executive Director's findings.

CONDITIONS

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of one sheet, prepared by Adams, Rehmann & Heggan Associates, dated October 2017 and revised to April 3, 2018.
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. 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. The applicant shall obtain a NJDEP Freshwater Wetlands Permit for the proposed development.

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.



Philip D. Murphy
Governor

Sheila Y. Oliver
Lt. Governor

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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 and received at the Commission office no later than 5:00 pm on May 8, 2018 and include the following information:

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

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

AppInfo - Pinelands Application #1982-3514.005

From: "Shannon Shadman, LPC" <shannon@mentalmediator.com>
To: <appinfo@njpinelands.state.nj.us>
Date: 3/27/2018 8:51 AM
Subject: Pinelands Application #1982-3514.005

I am requesting a copy of the application in compliance with the letter sent to my address.

Shannon Shadman

Shannon Shadman, LPC, MMHC, NCC, M.Ed.
[484.515.6125](tel:484.515.6125) Phone
Shadman0929 Skype
[Book a meeting with me](#)
www.facebook.com/sesolutionsinc
www.mentalmediator.com

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RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-18- 15

TITLE: Issuing an Order to Conditionally Certify Ordinance 35-2017, Amending Chapter 225 (Zoning) of the Code of Egg Harbor Township

Commissioner Galle Ha moves and Commissioner Lohbauer seconds the motion that:

WHEREAS, on October 1, 1993, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Egg Harbor Township; and

WHEREAS, Resolution #PC4-93-139 of the Pinelands Commission specified that any amendment to the Township's certified Master Plan and codified Land Use Ordinances be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 (Submission and Review of Amendments to Certified Master Plans and Land Use Ordinances) of the Comprehensive Management Plan to determine if said amendment raises a substantial issue with respect to conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, Resolution #PC4-93-139 further specified that any such amendment shall only become effective as provided in N.J.A.C. 7:50-3.45 of the Comprehensive Management Plan; and

WHEREAS, on November 29, 2017, Egg Harbor Township adopted Ordinance 35-2017, amending Chapter 225 (Zoning) of the Township's Code by adopting definitions and adding adult day care health facilities and assisted living facilities as permitted uses in the RCD (Regional Commercial Development) District; and

WHEREAS, the Pinelands Commission received a certified copy of Ordinance 35-2017 on December 4, 2017; and

WHEREAS, upon review of Ordinance 35-2017, Commission staff advised the Township that the ordinance would require amendment for purposes of consistency with Comprehensive Management Plan standards for assisted living facilities in the Regional Growth Area; and

WHEREAS, the Township initially indicated, via email dated January 3, 2018, that it would request an extension of the Commission's review period for Ordinance 35-2017 to provide an opportunity for discussion and adoption of the necessary ordinance amendments; and

WHEREAS, the Township subsequently notified the Commission that it would not be requesting such an extension and instead asked the Commission to proceed with its formal review process; and

WHEREAS, by letter dated February 7, 2018, the Executive Director notified the Township that Ordinance 35-2017 would require formal review and approval by the Pinelands Commission; and

WHEREAS, a public hearing to receive testimony on Ordinance 35-2017 was duly advertised and noticed and scheduled to be held on March 7, 2018 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m.; and

WHEREAS, due to inclement weather and the closure of all State offices on March 7, 2018, the public hearing had to be canceled and rescheduled; and

WHEREAS, a public hearing to receive testimony on Ordinance 35-2017 was duly advertised, noticed and held on March 28, 2018 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 35-2017 is not fully consistent with the standards and provisions of the Pinelands Comprehensive Management Plan; and

WHEREAS, the Executive Director has submitted a report to the Commission recommending issuance of an order to certify with conditions that Ordinance 35-2017, amending Chapter 225 (Zoning) of the Code of Egg Harbor, is in conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, the Commission's CMP Policy and Implementation Committee has reviewed the Executive Director's report and has recommended that Ordinance 35-2017 be conditionally certified; and

WHEREAS, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning Ordinance 35-2017 and has reviewed the Executive Director's report; and

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

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

NOW, THEREFORE BE IT RESOLVED that

1. An Order is hereby issued to certify with conditions that Ordinance 35-2017, amending Chapter 225 (Zoning) of the Code of Egg Harbor, is in conformance with the Pinelands Comprehensive Management Plan. To obtain full certification of Ordinance 35-2017, Egg Harbor Township must amend Chapter 225 of its Code in accordance with Attachment A of this Order. The Township need not adopt the conditions in Attachment A verbatim; revisions comparable thereto or consistent therewith in intent may also be acceptable.
2. Egg Harbor Township shall have until September 8, 2018 to adopt and submit the revisions to Chapter 225 (Zoning) of its Code to the Pinelands Commission for approval pursuant to N.J.A.C. 7:50-3.45 and Attachment A hereto.
3. If the Township fails to submit the revisions to Chapter 225 (Zoning) pursuant to N.J.A.C. 7:50-3.45 and Attachment A hereto by September 8, 2018, or if such a submission is not fully certified by the Pinelands Commission, Ordinance 35-2017 shall be disapproved.
4. Any additional amendments to Egg Harbor 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	Howell	X			Prickett	X		
Avery	X			Jannarone		X		Quinn	X		
Barr			X	Lloyd	X			Rohan Green	X		
Chila		X		Lohbauer	X			Earlen	X		
Galletta	X			Pikolycky	X						

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: May 16, 2018

Nancy Wittenberg
Executive Director

Sean W. Earlen
Chairman



Philip D. Murphy
Governor

Sheila Y. Oliver
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

REPORT ON ORDINANCE 35-2017, AMENDING CHAPTER 225 (ZONING) OF THE CODE OF EGG HARBOR TOWNSHIP

April 27, 2018

Township of Egg Harbor
3515 Bargaintown Road
Egg Harbor Township, NJ 08234

FINDINGS OF FACT

I. Background

The Township of Egg Harbor is located in the southeastern Pinelands in Atlantic County. Pinelands municipalities adjacent to Egg Harbor Township include the Townships of Galloway and Hamilton and Estell Manor City in Atlantic County, as well as Upper Township in Cape May County.

On October 1, 1993, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Egg Harbor Township.

On November 29, 2017, Egg Harbor Township adopted Ordinance 35-2017, amending Chapter 225 (Zoning) of the Township's Code by adopting definitions and revising permitted uses in two nonresidential zoning districts, one of which, the RCD (Regional Commercial Development) District, is located in the Pinelands Regional Growth Area. Ordinance 35-2017 adds adult day care health facilities and assisted living facilities as permitted uses in the RCD District. The Pinelands Commission received a certified copy of Ordinance 35-2017 on December 4, 2017.

Upon review of Ordinance 35-2017, Commission staff advised Egg Harbor Township that the ordinance would require amendment for purposes of consistency with Pinelands Comprehensive Management Plan (CMP) standards for assisted living facilities in the Regional Growth Area. The Township initially indicated, via email dated January 3, 2018, that it would request an extension of the Commission's review period so that the necessary amendments could be discussed and adopted. Subsequently, however, the Township notified the Commission that it would not be requesting such an extension. The Township instead asked that the Commission proceed with its formal review process for Ordinance 35-2017.

By letter dated February 7, 2018, the Executive Director notified the Township that Ordinance 35-2017 would require formal review and approval by the Pinelands Commission.

II. Master Plans and Land Use Ordinances

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

- * Ordinance 35-2017, amending Chapter 225 (Zoning) of the Code of Egg Harbor Township, introduced on November 1, 2017 and adopted on November 29, 2017

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 (CMP). The findings from this review are presented below. The numbers used to designate the respective items correspond to the numbers used to identify the standards in N.J.A.C. 7:50-3.39.

1. **Natural Resource Inventory**

Not applicable.

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

Ordinance 35-2017 amends Chapter 225 (Zoning) of the Code of Egg Harbor Township by adopting a definition for “Adult Day Health Care Facility” and permitting such facilities in the RCD (Regional Commercial Development) District. Ordinance 35-2017 also adds assisted living facilities as a permitted use in the RCD District. A portion of the RCD District is located in the Pinelands Regional Growth Area, with the remainder of the zone outside the Pinelands Area. As depicted on the attached map (see Exhibit #1), the RCD District is situated along the Garden State Parkway and is bisected by the Black Horse Pike (Route 322). Prior to the amendments adopted by Ordinance 35-2017, only non-residential uses were permitted in the RCD District, including offices, shopping centers, restaurants, schools, banks, gas stations, commercial recreation, warehouses and research laboratories.

Within Regional Growth Areas, the CMP provides that Pinelands municipalities may permit any use, with the exception of certain waste management facilities, provided residential density and opportunities for the use of Pinelands Development Credits are appropriately accommodated. The CMP also expressly authorizes assisted living facilities as a permitted use in Regional Growth Areas pursuant to N.J.A.C. 7:50-5.34, which sets forth specific standards for such uses. Among these standards is the establishment of a permitted residential density applicable to assisted living facilities, as well as a requirement for the use of Pinelands Development Credits when that permitted density exceeds eight units per acre. Egg Harbor Township Ordinance 35-2017 does not incorporate any density standards or PDC requirements for assisted living facilities in the RCD District; therefore, the ordinance is inconsistent with CMP standards.

In order to make Ordinance 35-2017 consistent with N.J.A.C. 7:50-5.34 of the CMP, Egg Harbor Township will need to amend Chapter 225 (Zoning) of its code to establish a permitted density of no more than eight units per acre for assisted living facilities in that portion of the RCD District located in the Pinelands Area. Additional ordinance amendments will be necessary to make clear that a density in excess of eight units per acre may be permitted only through the use

of PDCs. The necessary ordinance language is included in the conditions for certification set forth in Attachment A to this report.

Ordinance 35-2017 is not consistent with the development standards set forth in the Comprehensive Management Plan. However, with the adoption of the amendments set forth in Attachment A, or comparable revisions, this standard for certification will be 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

Ordinance 35-2017 amends Chapter 225 (Zoning) of the Code of Egg Harbor Township by adding assisted living facilities as a permitted use in the RCD District, a portion of which is located in the Pinelands Regional Growth Area. As detailed in section 2, however, Ordinance 35-2017 does not establish a permitted density for such facilities and does not require the use of PDCs for densities in excess of eight units per acre, both of which are required by N.J.A.C. 7:50-5.34 of the CMP. Therefore, Ordinance 35-2017 is not consistent with Comprehensive Management Plan standards.

The conditions for certification set forth in Attachment A to this report contain the language necessary to make Ordinance 35-2017 consistent with the CMP. These conditions include establishment of a maximum permitted density of eight units per acre for assisted living facilities in the RCD District, with the use of PDCs required for projects that exceed that permitted density. The Township could consider a number of alternatives, including the establishment of a higher permitted density, exemption of affordable units, required PDCs for a minimum

percentage of units or a different density structure entirely. The amendments set forth in Attachment A are the minimum necessary for conformance with N.J.A.C. 7:50-5.34(a)2 of the CMP.

Ordinance 35-2017 is not consistent with CMP standards for the accommodation of PDCs. However, with the adoption of the amendments set forth in Attachment A, or comparable revisions, this standard for certification will be met.

9. Referral of Development Applications to Environmental Commission

Not applicable.

10. General Conformance Requirements

Ordinance 35-2017 is fully not consistent with standards and provisions of the Pinelands Comprehensive Management Plan.

With the adoption of the amendments set forth in Attachment A, or comparable revisions, this standard for certification will be met.

11. Conformance with Energy Conservation

Not applicable.

12. Conformance with the Federal Act

No special issues exist relative to the Federal Act. However, Ordinance 35-2017 is not consistent with standards and provisions of the Pinelands Comprehensive Management Plan.

With the adoption of the amendments set forth in Attachment A, or comparable revisions, this standard for certification will be met.

13. Procedure to Resolve Intermunicipal Conflicts

Not applicable.

PUBLIC HEARING

A public hearing to receive testimony concerning Egg Harbor Township's application for certification of Ordinance 35-2017 was duly advertised, noticed and scheduled to be held on March 7, 2018 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m. However, due to inclement weather and the closure of all State offices on March 7, 2018, the public hearing was canceled and rescheduled. The hearing was subsequently duly advertised, noticed and held on March 28, 2018 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 on Ordinance 35-2017 were accepted through April 4, 2018. However, no written comments were received.

CONCLUSION

Based on the Findings of Fact cited above, the Executive Director has concluded that Ordinance 35-2017 is not fully consistent with the standards and provisions of the Pinelands Comprehensive Management Plan. Accordingly, the Executive Director recommends that the Commission issue an order to conditionally certify Egg Harbor Township Ordinance 35-2017.

SRG/CEH
Attachments

**ATTACHMENT A TO EXECUTIVE DIRECTOR'S APRIL 27, 2018 REPORT
ON EGG HARBOR TOWNSHIP ORDINANCE 35-2017**

Adoption of the following amendments, or comparable revisions, to Chapter 225 (Zoning) of the Code of Egg Harbor Township will make Ordinance 35-2017 consistent with the Pinelands Comprehensive Management Plan:

1. Section 225-38A(18) is hereby amended to read as follows:

 (18) Adult day health care facilities.
2. Section 225-38A is hereby amended by adding the following:

 (19) Assisted living facilities, at a maximum density of 8.0 units per acre. When a variance of density requirements is granted by the Township, Pinelands Development Credits shall be used for all assisted living facility units in excess of that otherwise permitted without the variance.

**ATTACHMENT A TO EXECUTIVE DIRECTOR'S APRIL 27, 2018 REPORT
ON EGG HARBOR TOWNSHIP ORDINANCE 35-2017**

Adoption of the following amendments, or comparable revisions, to Chapter 225 (Zoning) of the Code of Egg Harbor Township will make Ordinance 35-2017 consistent with the Pinelands Comprehensive Management Plan:





1. Section 225-38A(18) is hereby amended to read as follows:

 (18) Adult day health care facilities.
2. Section 225-38A is hereby amended by adding the following:

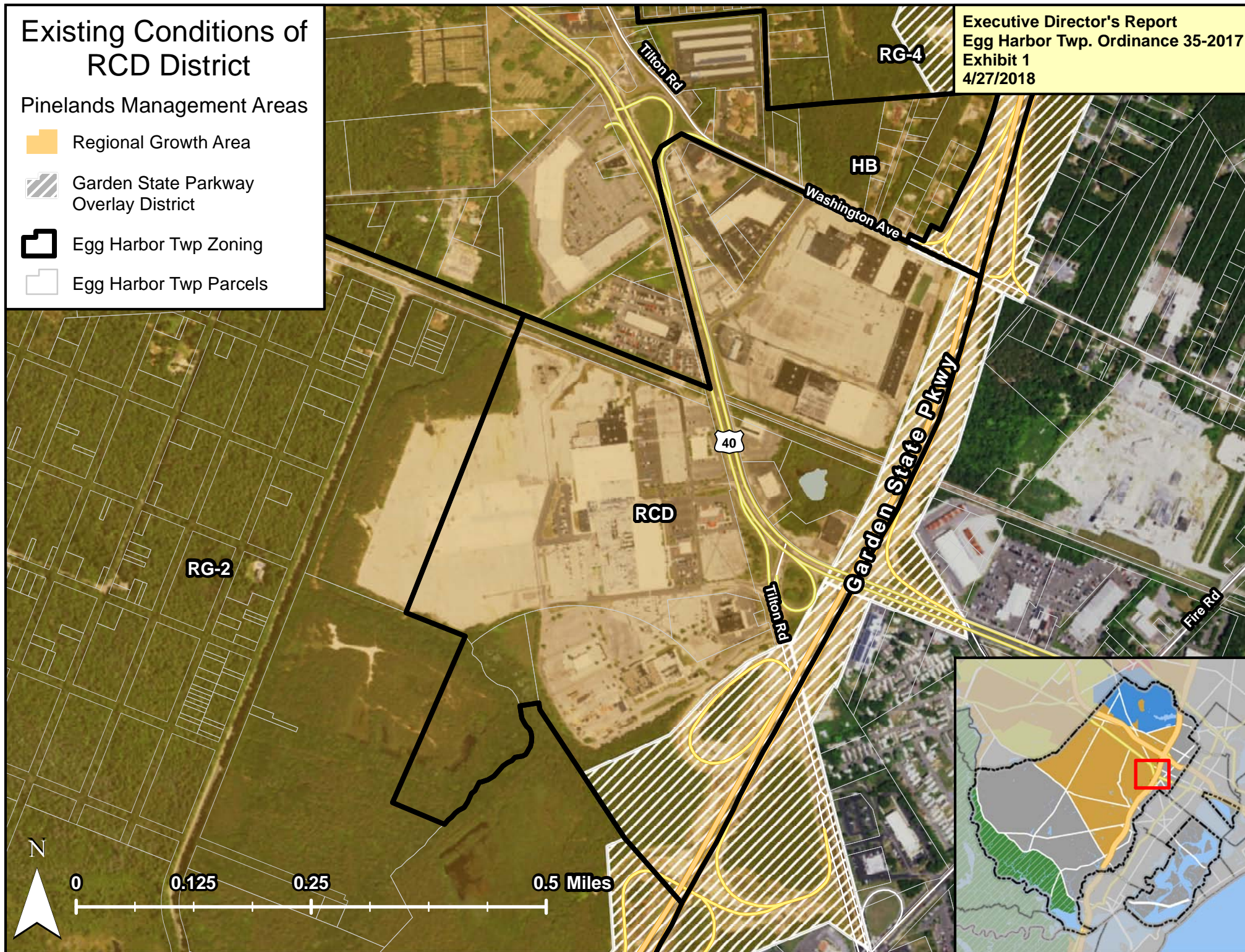
 (19) Assisted living facilities, at a maximum density of 8.0 units per acre. When a variance of density requirements is granted by the Township, Pinelands Development Credits shall be used for all assisted living facility units in excess of that otherwise permitted without the variance.

Existing Conditions of RCD District

Pinelands Management Areas

-  Regional Growth Area
-  Garden State Parkway Overlay District
-  Egg Harbor Twp Zoning
-  Egg Harbor Twp Parcels

Executive Director's Report
Egg Harbor Twp. Ordinance 35-2017
Exhibit 1
4/27/2018





The Pinelands Comprehensive Management Plan Regulates:

- Permitted land uses by Pinelands management area (Municipal zoning districts)
- The number of houses/acre that can be developed by Pinelands management area (Municipal zoning districts)
- Wetlands and require buffers to wetlands
- Vegetation clearing associated with development and native landscaping requirements
- Protection of T&E animals and plants
- Forestry
- Mining

The Pinelands Comprehensive Management Plan Regulates:

- Waste Management (landfills, recycling facilities)
- Water quality (septic systems, potable water wells, stormwater)
- Air quality
- Scenic (visual character)
- Forest Fire protection; development design standards
- Cultural resources (archaeology)

The Pinelands Comprehensive Management Plan Does Not Regulate:

- Traffic
- Noise
- Lighting
- The need or demand for proposed development
- Clearing of less than 1,500 square feet or any clearing accessory to a dwelling
- Trespassing/Security

The Pinelands Comprehensive Management Plan Does Not Regulate:

- Hours of operation of nonresidential uses
- Adequacy of available emergency services to serve proposed development
- Number or type of animals/pets permitted on a parcel.
- Types of surfacing materials for roads/parking lots/pedestrian path/sidewalks
- Proposed road widths and number of lanes
- Whether curbing and sidewalks are, or are not, proposed

The Pinelands Comprehensive Management Plan Does Not Regulate:

- Compatibility of proposed development permitted by the CMP with an adjacent land use
- Location of site improvements on a parcel such as stormwater basins and pump stations
- Building/construction materials
- Home occupations within an existing dwelling/accessory building
- Additions to existing dwellings or the minimum size of a dwelling



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-18-_____

TITLE: Approving With Conditions an Application for Public Development (Application Number 1981-0556.051)

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:

1981-0556.051
Applicant: Evesham Township School District
Municipality: Evesham Township
Management Area: Pinelands Rural Development Area
Date of Report: May 18, 2018
Proposed Development: Installation of a 1.42 acre ground mounted solar energy facility accessory to an existing school.

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 1981-0556.051 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					Howell					Prickett				
Avery					Jannarone					Quinn				
Barr					Lloyd					Rohan Green				
Chila					Lohbauer					Earlen				
Galletta					Pikolycky									

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission Date: _____

Nancy Wittenberg
Executive Director

Sean W. Earlen
Chairman



Philip D. Murphy
Governor

Sheila Y. Oliver
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

May 18, 2018

John Scavelli, Jr. Superintendent (via email)
Evesham Township School District
25 South Maple Avenue
Marlton, NJ 08053

Re: Application # 1981-0556.051
Block 51, Lot 3
Evesham Township

Dear Mr. Scavelli:

The Commission staff has completed its review of this application for installation of a 1.42 acre ground mounted solar energy facility on the above referenced parcel. Enclosed is a copy of a Public Development Application Report. On behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its June 8, 2018 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, Evesham Township Planning Board (via email)
Evesham Township Construction Code Official (via email)
Evesham Township Environmental Commission (via email)
Secretary, Burlington County Planning Board (via email)
Keith Smith (via email)



Michael and Sheila Abair (via email)
Jeffrey B. Saber, Esq. (via email)
Joan Rapetti (via email)
Bob McCullough (via email)



Philip D. Murphy
Governor

Sheila Y. Oliver
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

PUBLIC DEVELOPMENT APPLICATION REPORT

May 18, 2018

John Scavelli, Jr. Superintendent (via email)
Evesham Township School District
25 South Maple Avenue
Marlton, NJ 08053

Application No.: 1981-0556.051
Block 51, Lot 3
Evesham Township

This application proposes installation of a 1.42 acre ground mounted solar energy facility on the above referenced 22.5 acre parcel in Evesham Township. The solar energy facility is proposed as an accessory use to the existing Richard Rice Elementary School.

The proposed solar energy facility will provide approximately forty nine percent of the total electricity demand of the Richard Rice Elementary School.

In 1981, the Pinelands Commission approved a Waiver of Strict Compliance (Waiver) for the development of 4,500 dwelling units and certain other facilities on a 1,784 acre parcel which included the above referenced 22.5 acre parcel (App. No. 1981-0556.001). That development is commonly referred to as Kings Grant. The Richard Rice Elementary School was one of the other facilities approved by the Waiver. The Waiver also approved the development of athletic fields associated with the school. The proposed solar facility will be located in an existing grassed area that contains one of the athletic fields that was approved by the Waiver.

STANDARDS

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

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

The proposed development is located in a Pinelands Rural Development Area. The proposed development of a solar energy facility as an accessory use to the existing school is a permitted land use in a Pinelands Rural Development Area.

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

There are wetlands located on the parcel. The proposed solar energy facility will be located at least 50 feet from wetlands and no closer to wetlands than the existing recreational fields. The proposed development will not result in an irreversible adverse impact on wetlands.

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

The proposed development will be located in an existing grassed athletic field. 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 the disturbed areas, the applicant proposes to utilize a seed mixture that meets that recommendation.

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

The Pinelands Protection Act was amended in 2010 to prohibit the Pinelands Commission from including the actual solar panels as impervious surface or impervious cover in any stormwater management calculation in the Pinelands Area. The solar panel mounting posts and associated grading will disturb less than 5,000 square feet. Based upon this limited disturbance, the application is not required to address the CMP stormwater management standards.

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

A cultural resource survey was prepared for this application. It was determined that there were no cultural resources eligible for Pinelands designation within the project area.

PUBLIC COMMENT

The applicant has provided the requisite public notices. Notice to required land owners within 200 feet of the above referenced parcel was completed on December 13, 2017. Newspaper public notice was completed on February 8, 2018. The application was designated as complete on the Commission's website on May 1, 2018. The Commission's public comment period closed on May 11, 2018. The Commission received six written public comments regarding this application.

Commenter #1: The commenter submitted a copy of an email that was apparently intended for an addressee other than the Commission. The commenter indicated that the Pinelands Commission is proposing to destroy part of the Pinelands through the installation of a solar panel array and the commenter is seeking assistance to protest and to stop the proposed development.

Staff Response: The Commission staff appreciates the commenter's concern for the Pinelands. The Commission is not proposing the development of the solar energy facility. The Commission is reviewing an application filed by the Evesham Township Board of Education to develop the proposed solar energy facility. Based upon Commission staff review, the proposed development meets all of the standards contained in the CMP.

Commenters #2:

The commenters, residents of Villa Royale, an adjacent resident development, are opposed to the proposed development. The commenters indicated that they did not receive appropriate notification regarding this application. The commenters are concerned with impacts to stormwater runoff and wildlife. The commenters also requests information regarding the Commission's formal appeal process.

In addition, the commenters also raised concerns regarding why a roof top solar array could not be installed, the rationale for the number of proposed solar panels, the costs associated with the project, "the benefits in the utilization of said excessive panels beyond the scope of the Richard L. Rice School" and the rationale for locating the proposed solar array in a location that will allow for view of the solar array by surrounding residential dwellings, as opposed to locating the array out of sight.

Staff Response:

The CMP requires that notice be provided to all property owners within 200 feet of the parcel proposed for development. The commenters' address was included on the list of property owners within 200 feet of the above referenced lot that was provided to the applicant by Evesham Township. As required by the CMP, the Commission staff received a copy of the certified mail receipt documenting that the public notice was mailed to the commenters' address.

As indicated in the Public Development Application Report, the Pinelands Protection Act was amended to 2010 to prohibit the Pinelands Commission from including solar panels as impervious surface or impervious cover in any stormwater management calculations in the Pinelands Area. The solar panel mounting posts and associated grading will disturb less than 5,000 square feet. Based upon this limited disturbance, the application is not required to address the CMP stormwater management standards.

Based upon Commission staff review, the proposed development of a solar energy facility on an existing cleared athletic field will not result in disturbance of essential wildlife habitat.

The commenters are receiving a copy of the Executive Director's Public Development Application Report which contains the appeal procedures.

The Commission staff appreciates the remaining concerns expressed by the commenters. However, the commenters' remaining concerns are not matters regulated by the CMP. Since the solar energy facility is proposed as an accessory use to the existing school, the CMP does not require that the proposed solar energy facility be located or screened as viewed from existing residential dwellings on contiguous parcels. For informational purposes, the proposed solar facility will be located in an existing grassed area. No trees are proposed to be cleared. The proposed solar facility will be located approximately 120 feet from the nearest residential unit. There is an existing wooded area, ranging in width between 60 feet and 120 feet, located between the proposed solar facility and the existing residential dwellings. The commenters may wish to contact the Evesham Township Board of Education to discuss property buffering concerns and for further information regarding these concerns.

- Commenters #3 Commenters #3 (additional comments submitted by commenters #2) reiterates the comments expressed above by commenters #2 and expresses an additional concern regarding the vandalism of their home in the Villa Royale development.
- Staff Response: The Commission staff appreciates the concerns of the commenters. The Commission's regulations do not address vandalism. For the remaining concerns, please refer to the Commission staff responses to Commenters #2.
- Commenter #4: An attorney representing the Villa Royale Homeowner's Association commented that, although the homeowner's association does not object to the application, they request that that a sufficient buffer be maintained so as to not affect the residents of the Villa Royale community.
- Staff Response: The Commission staff appreciates the concerns of the commenter. Please refer to the Commission staff response to commenters #2 regarding buffering of the proposed solar facility. The commenter may wish to contact the Evesham Township Board of Education to discuss property buffering concerns.
- Commenter #5: The commenter is opposed to the use of a ground mounted solar array and feels that it is an infringement of the open space adjacent to their property.
- Staff Response: The Commission staff appreciates the concerns of the commenter. The CMP permits a solar facility on the parcel. The Commission staff has no information to indicate that the concerned area is legally restricted to open space. The commenter may wish to contact the Evesham Township Board of Education for further information regarding this matter.
- Commenter #6: The commenter requested a copy of the Executive Director's findings and conclusions.
- Staff Response: The commenter will receive a copy of the Executive Director's Public Development Application Report.

CONDITIONS

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, prepared by French & Parrello Associates, dated December 11, 2017 and revised to May 1, 2018.
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. All development, including clearing and land disturbance, shall be located at least 50 feet from wetlands.

CONCLUSION

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



Philip D. Murphy
Governor

Sheila Y. Oliver
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, received at the Commission office not later than 5:00 PM on June 5, 2018 and 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.

From: comments
To: ABAIR, SHEILA
CC: AppInfo
Date: 1/31/2018 2:02 PM
Subject: Re: Opposition to Pinelands Application 1981-0556-051

By copy of this email, I am forwarding your letter to our Project Review Office.
Betsy Piner
(for the Planning Office)

>>> SHEILA ABAIR <abairms@comcast.net> 1/31/2018 1:24 PM >>>

To whom it may concern...Thank you all for your time, dedication and above all your caring concern in preserving our pinelands....I only recently was made aware of your Alliance...Please forgive me..

I had written and sent the attached letter in response to a letter received from the Pinelands Commission informing us of their intent to literally destroy (part of pinelands) less than 200 feet from our home.
They informed us that all the land will be set up with solar panels.
We would greatly appreciate any assistance and direction you could give us to not only protest but stop them from doing this...

Thank You, Thank You, Thank you

Michael J Abair

To: New Jersey Pinelands Commission; The Evesham Township Board of Education
From: Michael and Sheila Abair; Property Owners, Unit 46 Five Crown Royale
RE: Application Number 1981-0556.051

APP# 1981 0556.051

DOC Type 100

JAN 19 2018

January 15, 2018

Scanned

To Whom It May Concern:

Please be advised that we, the property owners of 46 Five Crown Royale Circle, and a growing number of deeply concerned neighbors, stand in adamant opposition to the proposal of the construction of a ground mounted solar array within 200 feet of our property.

As a preface to the following particular concerns, please note that sufficient notification of said proposal was not provided according to protocol and that communication of the proposal was delivered, thankfully, by another concerned property owner.

The very thought of the installation of an "array" of anything, literally within feet of the property which we purchased 31 years ago is simply unthinkable and unacceptable for a plethora of reasons, underscoring the following as a mere scratching of the surface of the issues inherent within this proposal:

When we purchased our property 31 years ago, at an additional premium for the back of our home facing what was a forest of trees, we were utterly dismayed at the near immediate deforestation which occurred for the purposes of laying a field which would eventually fall below the construction of Richard L. Rice Elementary School. The impact of that latter construction had a lasting effect on the units within Villa Royale at a higher elevation, causing excess water run-off and trenching which has gradually trickled down to our lower units causing flooding and further destruction of the few trees which remain in our "premium view." Further excavation of grounds adjacent to the units proposed is a guarantee for accelerated flooding and assurance of an irreversible interference with the preservation of the limited foliage behind each of our units. Wildlife, already suffering the remnant impact of condensed space, to the point of frequently corralling directly behind our homes, would be further compromised in a such a way that we find, quite frankly, deeply offensive in its issuance through a Commission entrusted with ecological preservation and trusted with ecologically sound and wild-life sensitive consultation.

As actively engaged stewards of the environment at the local level in a world gone "green," the following are but a brief sketch of the questions we wish to direct at those responsible for the issuance of this proposal:

- 1.) According to local media, each of the school systems in Evesham Township are moving towards the utilization of solar energy; progress to be recognized and celebrated! What is the rationale for the interference of wildlife, assured and traumatic deforestation due to flooding and industrialization of what little piece of the PINELANDS which remain behind the 51 units cited in this proposal when each of the other school systems will adopt the uniform ecologically sound measure of the installation of solar units upon the roofs of their buildings?
- 2.) As fiduciary stewards, equally concerned with the costs associated with any constructions which occurs within Evesham township, what is the rationale for the excessive number of panels, the costs associated with such a project and the benefits in the utilization of said excessive panels beyond the scope of Richard L. Rice School?
- 3.) As a community of concerned property owners who have specifically selected homes with the added benefit of connection with the limited natural beauty which remains within our view, what is

the rationale for a proposal to distract from the unique window into the wilderness which our homes graciously afford us when the clear protocol for the construction and arrangement of an array of solar units is near uniformly limited to corporate parks, well out of the sight of homeowners who also happen to be bird-watchers, garden-tenders and lovers of the land?

The aforementioned questions are but a starting point to the request for an appeal which will be carried out with the magnitude of an entire community outraged at the very thought of such an outrageous, intrusive and ecologically irresponsible action.

We thank you, in advance, for your careful consideration of our concerns, prompt response and, as necessary, disclosure of any requirements to initiate a formal appeal process which we will spearhead as soon as possible. We furthermore encourage you, should it be necessary, to be in anticipation of a community-wide appeal which will go to exhaustive measures, under the guidance of legal counsel as may be required, to prevent this gravely erroneous proposal from ever leaving the page upon which it was carelessly drafted.

Very Sincerely,

A handwritten signature in cursive script, appearing to read "Michael and Sheila Abair", written in dark ink.

Michael and Sheila Abair
46 Five Crown Royale
Marlton, NJ 08053
abairms@comcast.net
(609) 678-5376
(856) 701-2309

From: SHEILA ABAIR <abairms@comcast.net>
To: <Appinfo@njpin.es.state.nj.us>
Date: 1/11/2018 10:22 PM
Subject: Solar Array @ Rice School Pinelands Application 1981-0556.051

To whom it may concern

We are property owners at 46 Five Crown Royale, Villa Royale in Kings Grant. We are certainly within 200' of proposed installation of solar panels.....we are probably 40' away...We DID NOT receive any notice, we heard from our neighbor..

We are adamantly AGAINST any solar panels or ANYTHING being installed literally within feet of our property....

When we purchased our home 31 years ago, we paid an additional premium of 2500.00 for having our back facing the woods...as your aware, almost immediately the forest, woods, trees were cut down and became a field...We have so little trees in our back that, what little we have certainly WOULD NOT prevent us from having to look at solar panels in the premium location that we choose no less....

Wildlife, Water Runoff causing more water problems that we are all already experiencing, Vandalism, are but just the Tip of the iceberg on impacting all of our homes.

Why NOT on the Roof of the School? Like all the other schools...and buildings utilizing solar energy.

WE WOULD OF COURSE LIKE A COPY OF FINDINGS AND CONCLUSION

We DISAGREE, We PROTEST and want you to reply to this email and ...

WE CERTAINLY REQUEST AN APPEAL AGAINST THIS EVEN BEING CONSIDERED

Sincerely

Michael and Sheila Abair

46 Five Crown Royale

Marlton, N.J. 0805

abairms@comcast.net mailto:abairms@comcast.net

856 701-2309

609 678-5376

Jeffrey B. Saper, Esquire

180 Tuckerton Road, Suite 2

Medford, New Jersey 08055

Telephone: 609 868 5336

E-Mail: jbsaperlaw@comcast.net

Member NJ Bar

January 11, 2018

SENT VIA FAX MAIL (609-894-7331) AND E-MAIL (AppInfo@njpinelands.state.nj.us)

NJ Pinelands Commission

PO Box 359

New Lisbon, NJ 08064

RE: Pinelands Application No. 1981-0556.051-Evesham Board of Education

Construction of Ground Mounted Solar Array- Block 51, Lot 3

Dear Sirs:

I represent the Villa Royale Home Owners Association, whose property is adjacent to the proposed construction project. I am in receipt of the Notice regarding referenced application, and I submit the following comment on behalf of the Association. As The Association does not object to this application; however, the Association respectfully submits that said construction and installation be performed in such a manner as to not affect the residents of the Villa Royale community, and that sufficient buffer (e.g., trees, vegetation or otherwise) be required so as to not affect the residents of the Villa Royale community.

Thank you for your courtesies and consideration in this matter.

Respectfully submitted,

Jeffrey B. Saper, Esq.,

Attorney for Villa Royale

Home Owners Association

From: Mike DelGais <mdelgais@aol.com>
To: <appinfo@njpines.state.nj.us>
Date: 12/27/2017 2:15 PM
Subject: Pine lands application # 1981-0556.061

I am a property owner with in 200' of this proposed project site. I am apposed to the use of ground mounted solar panels on this site. I feel it is an infringement of the open space adjacent to my property. I am requesting a copy of the Executive Director's findings.

Regards,
Joan Rapetti
42 Five Crown Royal Circle
Marlton, NJ, 08053

Sent from my iPhone

AppInfo - Pinelands Application 1981-0556-.051

From: BOB MCCULLOUGH <volleyball_bob@yahoo.com>
To: "Appinfo@njpines.state.nj.us" <Appinfo@njpines.state.nj.us>
Date: 12/16/2017 10:28 AM
Subject: Pinelands Application 1981-0556-.051
CC: ROBERT MCCULLOUGH <volleyball_bob@yahoo.com>

I am a property owner (77 Five Crown Royal Circle) within 200' of the Project Site for Subject Application of The Evesham Board of Education to construct a Ground-Mounted Solar Array.

I did receive written notice of the application.

I am herewith requesting a copy of the Executive Director's findings and conclusion relative to this application and project.

Robert W. McCullough
5 Cardinal Place
Barnegat, NJ 08005



PHILIP D. MURPHY
Governor
SHEILA Y. OLIVER
Lt. Governor

State of New Jersey
THE PINELANDS COMMISSION
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SEAN W. EARLEN
Chairman
NANCY WITTENBERG
Executive Director

General Information: Info@pinelands.nj.gov
Application Specific Information: AppInfo@pinelands.nj.gov

May 18, 2018

Jack O'Connor (via email)
Pine Barrens Adventure Camp, LLC
321 Osborn Avenue
Point Pleasant, NJ 08742

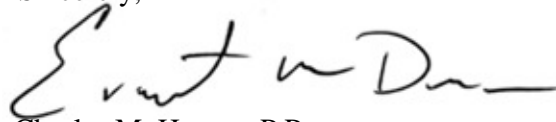
Re: Application # 1982-3054.078
Pine Barrens Adventure Camp
June 2 and 3, 2018
Bass River, Little Egg Harbor,
Mullica, Stafford
& Washington Townships

Dear Mr. O'Connor:

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: Mullica Township Clerk (via email)
Bass River Township Clerk (via email)
Washington Township Clerk (via email)
Little Egg Harbor Township Clerk (via email)
Stafford Township Clerk (via email)
Robert Auermuller, Superintendent, NJ DEP Division of Parks and Forestry (via email)
Tom Keck, Regional Superintendent, NJ State Park Service - Southern Region (via email)





Philip D. Murphy
Governor

Sheila Y. Oliver
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 #1331

Application #: 1982-3054.078

Applicant: Pine Barrens Adventure Camp, LLC

Event Name: Pine Barrens Adventure Camp

Event Date: June 2 and 3, 2018

Municipalities: Bass River, Little Egg Harbor, Mullica, Stafford & Washington Townships

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

Lands Utilized

Bass River, Penn and Wharton State Forests

Approved Route Map

Received in electronic format on April 12, 2018

May 18, 2018

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 3616 Nesco Road
- ♦ 60 miles

CONDITIONS

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



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-18-_____

TITLE: Issuing an Order to Certify Ordinance 6-2018, Amending Chapter 144 (Land Development) of the Code of Mullica Township

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

- WHEREAS**, on February 3, 1984, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Mullica Township; and
- WHEREAS**, Resolution #PC4-84-11 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 #PC4-84-11 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 March 27, 2018, Mullica Township adopted Ordinance 6-2018, amending Chapter 144 (Land Development) of the Township’s Code by revising permitted uses, water quality standards and zoning boundaries applicable to the WV (Weekstown Village) District; and
- WHEREAS**, the Pinelands Commission received a certified copy of Ordinance 6-2018 on April 4, 2018; and
- WHEREAS**, by letter dated April 6, 2018, the Executive Director notified the Township that Ordinance 6-2018 would require formal review and approval by the Pinelands Commission; and
- WHEREAS**, a public hearing to receive testimony on Ordinance 6-2018 was duly advertised, noticed and held on April 25, 2018 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 6-2018 is consistent with the standards and provisions of the Pinelands Comprehensive Management Plan; and
- WHEREAS**, the Executive Director has submitted a report to the Commission recommending issuance of an order to certify that Ordinance 6-2018 is in conformance with the Pinelands Comprehensive Management Plan; and
- WHEREAS**, the Commission’s CMP Policy and Implementation Committee has reviewed the Executive Director’s report and has recommended that Ordinance 6-2018 be certified; and
- WHEREAS**, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning Ordinance 6-2018 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 6-2018, amending Chapter 144 (Land Development) of the Code of Mullica Township, is in conformance with the Pinelands Comprehensive Management Plan.
- 2. Any additional amendments to Mullica 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					Howell					Prickett				
Avery					Jannarone					Quinn				
Barr					Lloyd					Rohan Green				
Chila					Lohbauer					Earlen				
Galletta					Pikolycky									

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: _____

Nancy Wittenberg
Executive Director

Sean W. Earlen
Chairman



Philip D. Murphy
Governor

Sheila Y. Oliver
Lt. Governor

State of New Jersey
THE PINELANDS COMMISSION
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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

**REPORT ON ORDINANCE 6-2018, AMENDING CHAPTER 144
(LAND DEVELOPMENT) OF THE CODE OF MULLICA TOWNSHIP**

May 18, 2018

Mullica Township
PO Box 317
Elwood, NJ 08217

FINDINGS OF FACT

I. Background

The Township of Mullica is located in western Atlantic County, in the central portion of the Pinelands Area. Pinelands municipalities that abut Mullica Township include Washington Township in Burlington County and Egg Harbor City, the Town of Hammonton and the townships of Galloway and Hamilton in Atlantic County.

On February 3, 1984, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Mullica Township.

On March 27, 2018, Mullica Township adopted Ordinance 6-2018, amending Chapter 144 (Land Development) of the Code of Mullica Township by revising permitted uses and water quality standards applicable in the WV (Weekstown Village) District. Ordinance 6-2018 also revises the boundary of the WV District. The Pinelands Commission received a certified copy of Ordinance 6-2018 on April 4, 2018.

By letter dated April 6, 2018, the Executive Director notified the Township that Ordinance 6-2018 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 6-2018, amending Chapter 144 (Land Development) of the Code of Mullica Township, introduced on February 27, 2018 and adopted March 27, 2018.

The above-mentioned 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

Ordinance 6-2018 amends Chapter 144 (Land Development) of the Code of Mullica Township by expanding the list of permitted uses in the WV (Weekstown Village) District. Specifically, Ordinance 6-2018 adds boat building, repair and sales as a permitted use. Ordinance 6-2018 also amends the Township's Zoning Map by expanding the boundaries of the WV District to include a portion of one lot (Block 5401, Lot 2) (see Exhibit #1). The lot in question is situated on Green Bank Road and contains the existing Viking Yachts boat building facility. As noted, only a portion of Block 5401, Lot 2 is being rezoned; the remainder of the property will continue to be located in the PA (Preservation Area) District. In total, Ordinance 6-2018 adds approximately 40 acres to the WV District.

The WV District comprises the Pinelands Village of Weekstown in Mullica Township, which is located in the northeastern corner of the municipality. Permitted uses in the WV District include single family detached dwellings on five acre lots, agriculture, agricultural commercial establishments, forestry, campgrounds, schools, churches, home occupations and bed and breakfast inns. As currently certified, Weekstown Village contains approximately 370 acres of land and 50 existing homes or principal non-residential structures. Future development potential in the village is quite limited, due to the five acre lot size requirement established by the Township, the lack of sewer infrastructure and wetlands constraints (see Exhibit #2). At most, an additional 15 homes or 95,000 square feet of nonresidential space might be feasible.

As is evident from Exhibit #2, the boundaries of Weekstown Village were carefully delineated when Mullica Township's land use ordinances were originally certified by the Commission in 1984. Existing developed properties along and at the intersections of Pleasant Mills, Green Bank and Weekstown Roads were included, with wetlands generally serving as the outer boundary of the Village. Where wetlands areas were included in the Village, it was because they comprised portions of developed lots or the edges of vacant, developable properties. One large farm in the northern portion of the Village was also included and has since been protected through the State's Farmland Preservation Program.

It is unclear why the property containing the boat building facility (then known as Ocean Yachts) was not included in Weekstown Village when Mullica Township was first certified. The boat

building facility has been in operation on this site since 1977, several years before the CMP was adopted. Normally, a nonresidential use of such significant size located on the boundary of a development-oriented Pinelands management area would be included in that management area. That did not happen in this case, perhaps due to the presence of intervening wetlands between the edge of the Village and the existing buildings on the Viking Yachts property. More likely, the implications of excluding the facility from the Village, thereby rendering it a nonconforming use in the Preservation Area District, were not yet fully understood. In the Pinelands Area, pre-existing nonconforming uses are governed by N.J.A.C. 7:50-5.2, which allows such uses to continue and expand under certain conditions. These conditions include a limitation on expansion to “50 percent of the floor area, the area of the use or the capacity of the use on January 14, 1981.” This particular facility was able to continue operating and expand over the past three decades but has arguably reached the 50 percent limit in floor area, area and/or capacity. Rezoning the property to the Pinelands Village makes the existing boat building facility a permitted use, no longer subject to N.J.A.C. 7:50-5.2(b). Outward expansion of the facility will still not be permitted due to the presence of wetlands and required wetlands buffers; however, redevelopment within the existing building footprint will now be feasible, as will an increase in employees and connection of existing buildings (over existing impervious surfaces) for additional floor area or office space. In short, the zoning change merely recognizes and encompasses an existing business, enhancing its long-term viability without allowing development of additional lands. Because this management area change (from Preservation Area District to Pinelands Village) involves a developed property and is essentially a correction of a prior management area line, no offsetting management area changes are necessary.

Ordinance 6-2018 makes one other amendment of note to Chapter 144 that will affect the rezoned property. Specifically, Ordinance 6-2018 expands the categories of development in Weekstown Village that will be allowed to use contiguous lands outside the Village for septic dilution purposes. Normally, N.J.A.C. 7:50-6.84(a)4iii and 5v of the CMP permit only single family dwellings on existing lots, nonresidential development on lots of five or fewer acres and residential cluster developments to use lands in other management areas or zoning districts for dilution. Ordinance 6-2018 provides this same opportunity for the expansion of nonresidential uses in the WV District, provided that the nonresidential use is in existence as of the effective date of the ordinance and that any contiguous lands outside the WV District used for dilution are in common ownership as of the effective date of the ordinance with the lot containing the existing nonresidential use. Based on this amendment, septic dilution calculations for the Viking Yachts facility will take into consideration the entirety of Block 5401, Lot 2 (71 acres), rather than only the 40 acres now located in the WV District. This will allow increased future employment at the facility and greater redevelopment flexibility within the existing building footprint. The alternative would have been to redesignate all 71 acres of the property from Preservation Area District to Pinelands Village, an inappropriate outcome given the northern portion of the parcel is vacant and undevelopable.

Allowing lands in a different management area and zoning district to be used to meet septic dilution requirements for expansion of nonresidential uses, regardless of lot size, is not something the CMP normally permits. However, this does not automatically render the Township’s ordinance inconsistent with the CMP. Pinelands municipalities have the ability to refine the various standards and provisions of the CMP and tailor them to local conditions,

provided CMP goals and objectives continue to be achieved. In this case, Mullica Township has chosen to adopt an ordinance that allows pre-existing nonresidential development in one of its village zoning districts to use lands already in common ownership for purposes of septic dilution. Based on the information available, an analysis of Weekstown Village reveals that this provision will be of extremely limited applicability. In all likelihood, the Viking Yachts facility is the only existing nonresidential use in the WV District that owns vacant contiguous lands outside the Village boundary. The standards adopted by Ordinance 6-2018 recognize that the facility is already using lands in the Preservation Area District for dilution purposes and allow that to continue after the zoning change. This represents an appropriate exercise of municipal flexibility, one that meets the objectives of the CMP.

The revised zoning boundaries, permitted uses and water quality standards adopted by Ordinance 6-2018 are consistent with the land use and development standards of the CMP. Therefore, this standard for certification is met.

It should be noted that by adding lands to the WV District, Ordinance 6-2018 expands the area in Mullica Township in which sewer service is permitted. This will necessitate the submission of an Atlantic County Water Quality Management Plan revision to the New Jersey Department of Environmental Protection for review and approval.

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 6-2018 is consistent with 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 6-2018 is consistent with 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

The amendments adopted by Ordinance 6-2018 do not impact lands located along Mullica Township's boundary with any adjoining municipalities. Therefore, intermunicipal conflicts are not anticipated. This standard for certification is met.

PUBLIC HEARING

A public hearing to receive testimony concerning Mullica Township's application for certification of Ordinance 6-2018 was duly advertised, noticed and held on April 25, 2018 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 on Ordinance 6-2018 were accepted through May 2, 2018 and received from the following individuals:

May 1, 2018 letter from Katherine Smith, Policy Advocate, Pinelands Preservation Alliance (see Exhibit #3)

May 1, 2018 letter from Chris Babek, Plant Engineering Manager, Viking Yachts (see Exhibit #4)

May 1, 2018 letter from John Leek, IV (see Exhibit #5)

EXECUTIVE DIRECTOR'S RESPONSE

On behalf of the Pinelands Preservation Alliance, Ms. Smith raises two concerns with Ordinance 6-2018. First, the ordinance adopts a zoning change that will result in wetlands habitat being added to a Pinelands Village, which Ms. Smith submits is inconsistent with N.J.A.C. 7:50-5.16. Second, the ordinance permits lands in other management areas and zoning districts to be used for septic dilution purposes in situations where the CMP (N.J.A.C. 7:50-6.84(a)4 and 5) does not. Ms. Smith suggests these amendments are evidence of the Township's attempts "to manipulate an area intended for preservation".

Ms. Smith's letter makes reference to the CMP's guidelines for delineation of Pinelands Village boundaries, including N.J.A.C. 7:50-5.16(a)5, which specifies that villages should not intrude into wetlands vegetation associations. The Executive Director agrees that this guideline should be followed to the greatest extent practicable, as the CMP directs. Accordingly, the area added to Weekstown Village has been limited to the developed portion of Block 5401, Lot 2 and surrounding areas already used for storage, parking and an existing septic system. The strip of wetlands between the existing Village boundary and the developed portion of Block 5401, Lot 2 is included only to ensure contiguity of the Village as a whole. The mere fact that there are wetlands on a property does not preclude its incorporation in a Pinelands Village. This is particularly true when the property in question is already developed. The zoning change adopted by Ordinance 6-2018 does not allow development to occur on wetlands or in required wetlands buffers. Rather, it merely changes the status of an existing business from a nonconforming use to a permitted use, thereby providing opportunities for increased employment and redevelopment within the existing building footprint.

With respect to septic dilution requirements, Ms. Smith's letter notes that Ordinance 6-2018 allows for a variation from CMP standards and may have unintended consequences if it applies to properties other

than the Viking Yachts facility. The Executive Director agrees that the standards adopted by Ordinance 6-2018 do not match what a strict interpretation of the CMP would call for. However, N.J.A.C. 7:50-6.84(a)4 and 5 of the CMP do acknowledge that there are circumstances under which lands in other management areas and zoning districts can be used when calculating septic dilution requirements. Here, another exception has been carefully crafted in recognition of pre-existing development. The exception applies only to the expansion of existing nonresidential uses in the WV District, and then only if the contiguous lands to be used for dilution are owned by the nonresidential use as of the effective date of Ordinance 6-2018. Based on the property ownership information available to Commission staff, there is only one property in the WV District that can meet all of the conditions, the Viking Yachts facility.

As discussed in section 2 above, the CMP provides Pinelands municipalities with flexibility in designing and implementing the land use and environmental standards of the CMP in recognition of the fact that modifications may be necessary to accommodate specific local conditions. Here, there is a clear example of a case where adjustments to CMP standards are warranted to recognize pre-existing development. As always when the Preservation Area District is involved, these adjustments must be very carefully considered. If the property affected by Ordinance 6-2018 were vacant, or if the septic dilution standards adopted by Ordinance 6-2018 applied to vacant properties in Weekstown Village, certification would not be recommended. This is not the case. Rather, the amendments made by the ordinance recognize a pre-existing use of substantial size and facilitate the continuation of an industry (boat building) of historical importance to the Township and the Pinelands region. The extent of the zoning change has been appropriately limited, as has the applicability of the new septic dilution requirement.







CONCLUSION

Based on the Findings of Fact cited above, the Executive Director has concluded that Ordinance 6-2018 is consistent with the standards and provisions of the Pinelands Comprehensive Management Plan. Accordingly, the Executive Director recommends that the Commission issue an order to certify Mullica Township Ordinance 6-2018.

SRG/CMU
Attachments

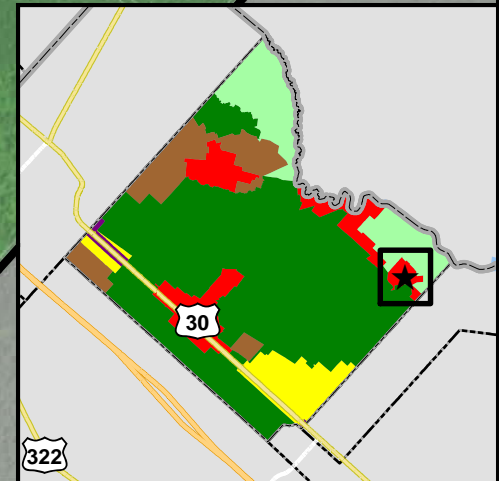
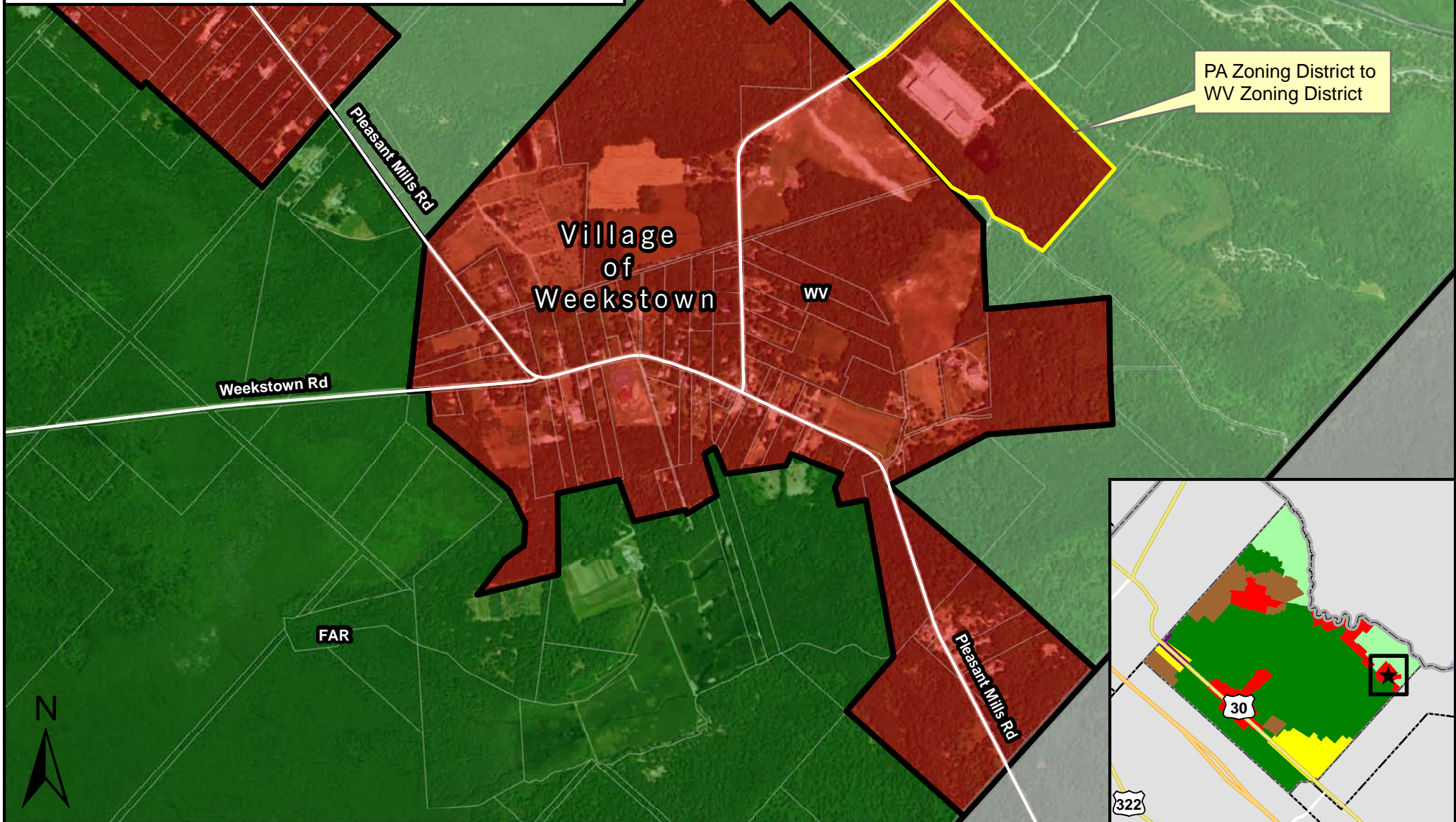
Mullica Twp. Proposed Zoning Change

Pinelands Management Areas

- | | |
|---|--|
|  Preservation Area District |  Preservation Area to Pinelands Village |
|  Forest Area |  Parcels |
|  Pinelands Village |  Existing Zoning |








0 0.25 0.5
Miles

Executive Director's Report
Mullica Ordinance 6-2018
Exhibit 1
5/18/2018



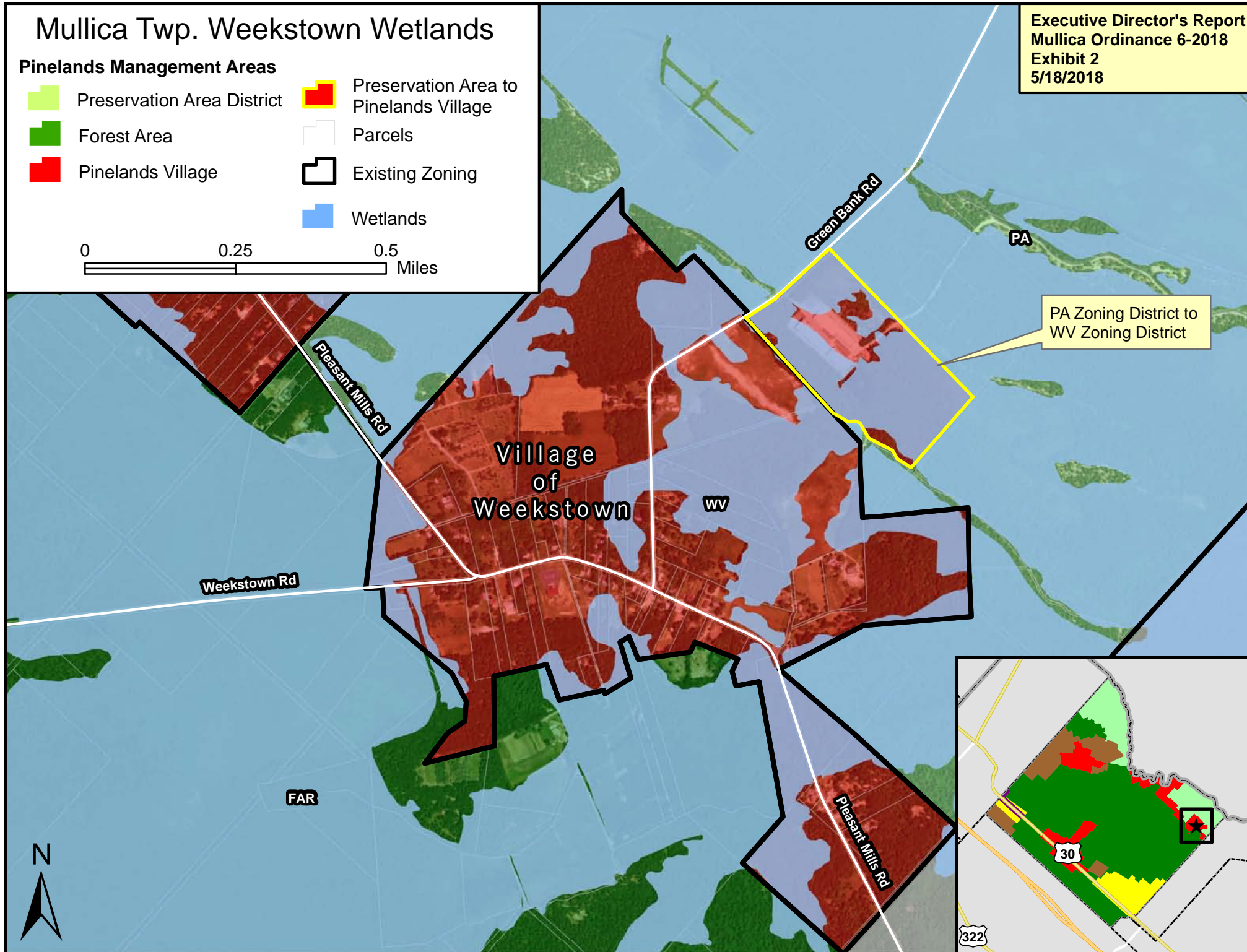
Mullica Twp. Weekstown Wetlands

Pinelands Management Areas

- | | |
|---|--|
|  Preservation Area District |  Preservation Area to Pinelands Village |
|  Forest Area |  Parcels |
|  Pinelands Village |  Existing Zoning |
| |  Wetlands |

0 0.25 0.5 Miles

Executive Director's Report
Mullica Ordinance 6-2018
Exhibit 2
5/18/2018





PINELANDS PRESERVATION ALLIANCE

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

Susan Grogan, Chief Planner
New Jersey Pinelands Commission
15 Springfield Rd
New Lisbon, NJ 08068

May 1, 2018

Re: Mullica Township Ordinance 6-2018

Dear Ms. Grogan,

I am writing on behalf of the Pinelands Preservation Alliance with regard to Mullica Township Ordinance 6-2018, which designates a portion of Block 5401, Lot 2 (Area) currently in the Preservation Area District as part of the Weekstown Village District as well as allows contiguous lands to be used for septic dilution regardless of their zoning district. This ordinance fails to comply with the Comprehensive Management Plan both in spirit and in letter. The township is attempting to manipulate an area intended for preservation that currently serves to protect the Mullica River from runoff and contamination.

N.J.A.C. 7:50-6.84(a)4iii, Minimum standards for point and non-point source discharges, explicitly forbids this type of ordinance:

Only contiguous land located within the same municipal zoning district and Pinelands management area as the proposed septic waste water treatment system or systems may be utilized for septic dilution purposes, except for the development of an individual single family dwelling on a lot existing as of January 14, 1981, non-residential development on a lot of five acres or less existing as of January 14, 1981, or cluster development as permitted by N.J.A.C. 7:50-5.19.

The ordinance in question would allow contiguous lands to be used for septic dilution purposes without these key restrictions built into the Comprehensive Management Plan. Even if the development existed as of the 1981 date, Block 5401, Lot 2 is 71 acres, and there is no possibility for clustering non-residential development. In addition to this lot for which the ordinance is proposed, there may be other lots that fit these parameters that the Township and Commission may feel are inappropriate. These protections regarding septic dilution enable the Pinelands Commission and the public to reduce the risk of eutrophication in the Kirkwood-Cohansey. These regulations cannot be manipulated to serve landowners.

Further, N.J.A.C. 7:50-5.16, Guidelines for the delineation of boundaries of Pinelands Villages, states that “village delineations should not intrude into wetlands vegetation associations.” However, virtually the entirety of the Area is wetland habitat per the 2012 New Jersey Department of Environmental Protection Land Use data, in direct violation of this regulation. What is more, there is a documented breeding sighting of the state-threatened barred owl (*Strix varia*), a wetland-dependent species, within the Area.

Per N.J.A.C. 7:50-5.13, the Preservation Area District is “the heart of the Pinelands environment and represents the most critical ecological region in the Pineland” and it “must be protected from development and land use that would adversely affect its long-term ecological integrity.” We urge the Commission to uphold the spirit and letter of the Comprehensive Management Plan and work with the town to modify the ordinance.

Sincerely,

A handwritten signature in black ink, appearing to read "Katherine Smith". The signature is fluid and cursive, with the first name "Katherine" written in a larger, more prominent script than the last name "Smith".

Katherine Smith
Policy Advocate



New Jersey Pinelands Commission
15 Springfield Road
P.O. Box 359
New Lisbon, NJ 08064
Attn: Ms. Susan R. Grogan, PP, AICP

May 1, 2018

Via email

RE: Weekstown Village Expansion
Township of Mullica, Atlantic County, New Jersey

Dear Ms. Grogan:

Please accept this correspondence in support of the proposed certification of Mullica Township Ordinance 6-2018 by the New Jersey Pinelands Commission. Ordinance 6-2018, which amends Chapter 144 (Land Development) of the Code of Mullica Township by revising permitted uses and water quality standards applicable in the Weekstown Village District, as well as expanding the District, serves to recognize pre-existing uses and development patterns within this portion of the Township. Accordingly, by certifying this Ordinance, the New Jersey Pinelands Commission will aid the Township in correcting an oversight in its zoning district standards and provide for the continued viability of existing enterprise within the Township, all while stewarding and protecting the Township's sensitive natural resources.

The addition of "boat building, repair and sales" to permitted uses in Subchapter 144-135 memorializes a long-standing tradition of family boat-building in the Township. Beginning in 1977, well in advance of the effective date of the Pinelands Protection Act in 1979, this manufacturing facility was not included in the original Weekstown Village Area. By omitting the boat manufacturing facility from the Village, a planning incongruity was created. Ordinance 6-2018 corrects this planning omission. Viking Yacht's acquisition of the boat-building enterprise restores the history of family boat-building on-site and charts a course of renewed utility and purpose for this facility.

On behalf of Viking Yachts, our employees and partners, I respectfully ask for your support in certifying the Township's Ordinance 6-2018, especially to ensure the legacy of boat-building in the Township which is part of the historical industry in the Pinelands.

Sincerely,

A handwritten signature in blue ink that reads "Chris Babek".

Plant Engineering Manager – Viking Yachts

May 1, 2018

Ms. Susan R. Grogan, PP, AICP
New Jersey Pinelands Commission
P.O. Box 359
New Lisbon, NJ 08064 '

Re: Weekstown Village Ordinance
Mullica Twp., New Jersey

Dear Ms. Grogan,

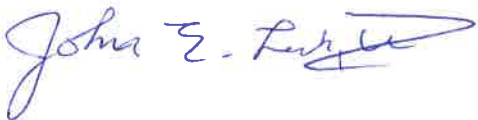
By way of introduction, I am one in a long line of boat builders that have called Block 5401, Lot 2 my professional home. Since 1977, my family has crafted boats on the banks of the Mullica River, and our family's boat-building tradition extends back many generations before that time. Presently, I live adjacent to Lot 2, the boat manufacturing site which is the subject of the Weekstown Village expansion (Ordinance 6-2018), and I am relieved to learn that the Township has taken steps to include the manufacturing plant in the Village.

Please accept my support of the Township's amendment to the Weekstown Village zoning standards and resolution currently under consideration by the Pinelands Commission. Not only does this action make sense from a planning perspective, it also secures a legacy that my family is quite proud of. When my grandfather started building boats on this property, the Pinelands Commission was not yet formed, but he took great effort to be a steward of the lands that surrounded the boat building operations. We continue to have a great appreciation for the natural resources and believe that the Ordinance continues to provide the protections necessary for the Township. The present owners, Viking Yachts, have continued to hold fast to the same responsible land stewardship and clean operations that were always cornerstones of my family's boat-building ethics.

Thank you for considering my input as an adjacent neighbor and Township resident.

Sincerely,

John Leek, IV





RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-18-_____

TITLE: To Adopt Amendments to the Comprehensive Management Plan in Accordance with the Administrative Procedure Act (Definitions; Application Procedures)

Commissioner _____ moves and Commissioner _____ seconds the motion that:

- WHEREAS**, on July 14, 2017, the Pinelands Commission authorized the publication of proposed amendments to the Comprehensive Management Plan through adoption of Resolution PC4-17-22; and
- WHEREAS**, the proposed amendments were published in the September 18, 2017 issue of the New Jersey Register at 49 N.J.R. 3075(a); and
- WHEREAS**, the Pinelands Commission held a public hearing to elicit public comment on the proposed amendments on October 4, 2017; and
- WHEREAS**, the Pinelands Commission also solicited written comment on the proposed amendments through November 17, 2017; and
- WHEREAS**, the Pinelands Commission received both oral and written comments on the proposed amendments; and
- WHEREAS**, the Pinelands Commission reviewed all public comments received and, at its December 12, 2017 meeting, elected to delay adoption of those amendments related to the definition of “interested party” until a detailed examination of the Federal Pinelands legislation and its relationship to third party hearing rights could be completed; and
- WHEREAS**, the examination confirmed that neither the Federal Act (16 U.S.C. §471i) nor the State Pinelands Protection Act (N.J.S.A. 13:18A-1 et seq.) require or authorize third party adjudicatory hearings, nor do they confer a broader right to such hearings than that provided by the New Jersey Administrative Procedure Act; and
- WHEREAS**, , the Commission now wishes to proceed with adoption of the proposed amendments related to the definition of “interested party”; and
- WHEREAS**, the Pinelands Commission wishes to adopt the proposed amendments to N.J.A.C. 7:50-2.11, 4.19, 4.25, 4.37, 4.55, 4.68, 4.73, 4.79, 4.91, 6.64 and 9.7 in accordance with the May 31, 2018 Notice of Adoption; and
- WHEREAS**, pursuant to N.J.S.A. 13:18A-5h, no action authorized by the Commission in adopting the Comprehensive Management Plan or amendments thereto shall have force or effect until thirty (30) 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. The Pinelands Commission hereby adopts the proposed Comprehensive Management Plan amendments, as published in the September 18, 2017 New Jersey Register, and in accordance with the attached May 31, 2018 Notice of Adoption.
- 2. The Executive Director shall forward the amendments and minutes of this action to the Governor of the State of New Jersey, and shall also forward these amendments to the United States Secretary of the Interior for review in accordance with Section 502 of the National Parks and Recreation Act of 1978.
- 3. The amendments shall take effect as provided in the Pinelands Protection Act and upon publication in the New Jersey Register.

Record of Commission Votes

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

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: _____

Nancy Wittenberg
Executive Director

Sean W. Earlen
Chairman

May 31, 2018

PINELANDS COMMISSION

Pinelands Comprehensive Management Plan

Definitions; Application Requirements and Procedures

Adopted Amendments: N.J.A.C. 7:50-2.11, 4.19, 4.25, 4.37, 4.55, 4.68, 4.73, 4.79, 4.91, 6.64 and 9.7

Proposed: September 18, 2017 at 49 N.J.R. 3075(a)

Adopted: June 8, 2018 by the New Jersey Pinelands Commission, Nancy

Wittenberg, Executive Director

Filed: ____, 2018

Authorized by: New Jersey Pinelands Commission

Authority: N.J.S.A. 13:18A-6j.

Effective Date: ____, 2018

Expiration Date: Exempt.

The New Jersey Pinelands Commission (Commission) is adopting amendments to Subchapters 2, Interpretations and Definitions; 4, Development Review; 6, Management Programs and Minimum Standards; and 9, Acquisition of Properties with Limited Practical Use, of the Pinelands Comprehensive Management Plan (CMP). The amendments were proposed on September 18, 2017 at 49 N.J.R. 3075(a). They revise the definition of “interested person” to “interested party” in order to conform the CMP to controlling law as to who has the right to request an adjudicatory hearing for matters pending before the Commission.

In association with publication of the proposed amendments in the September 18, 2017 issue of the New Jersey Register, the Pinelands Commission transmitted the proposal to each Pinelands municipality and county, as well as to other interested parties, for review and comment. Additionally, the Pinelands Commission:

- Sent notice of the public hearing to all individuals and organizations that subscribe to the Commission's public hearing registry;
- Sent notice of the public hearing and provided a copy of the rule proposal to all Pinelands counties and municipalities;
- Placed advertisements of the public hearing in the four official newspapers of the Commission, as well as on the Commission's own web page;
- Submitted the proposed amendments to the Pinelands Municipal Council pursuant to N.J.S.A. 13:18A-7f;
- Distributed the proposed amendments to the news media maintaining a press office in the State House Complex; and
- Published a copy of the proposed amendments on its web page at www.nj.gov/pinelands.

Summary of Hearing Officer Recommendations and Agency Response:

A formal public hearing was held before the Commission staff on October 4, 2017. One person attended the hearing and provided oral testimony on the rule proposal.

The public hearing was recorded on magnetic tape, which is on file at the Commission's office at 15 Springfield Road, New Lisbon, New Jersey. The

record of this rulemaking is available for inspection in accordance with applicable law by contacting:

Betsy Piner

Pinelands Commission

P.O. Box 359

New Lisbon, NJ 08064

In addition to the oral testimony, the Commission received 669 written comments on the proposed amendments.

The hearing officer's recommendations are in accordance with the public comment and agency responses below.

Summary of Public Comments and Agency Responses:

The Commission accepted oral comments on the September 18, 2017 proposal at the above-discussed October 4, 2017 public hearing and written comments by regular mail, facsimile or e-mail through November 17, 2017.

A numbered list of individuals and organizations that submitted comments on the proposed definition of “interested party” at N.J.A.C. 7:50-2.11 and the proposed amendments to N.J.A.C. 7:50-4.19, 4.25, 4.37, 4.55, 4.68, 4.73, 4.79, 4.91, 6.64 and 9.7 follows. Where numbers are missing, they correspond to public comments received on unrelated amendments to which the Commission previously responded in a separate adoption notice.

3. Connie Herman

4. Roger Bynum

5. Laura Nesbitt
6. Charlotte Tomaszewski
7. Patricia Haines
8. Marko Capoferri
9. Kathy Antenar
10. Nancy Klein
11. Robert Bennett
12. Cheryl Baysal
13. Jeri Mower
14. Kevin Sparkman
15. Maria Scotto diCarlo
16. Norah English
17. Melissa Tomlinson
18. Michael McFadden
20. Cathy Patsco
21. Alina Taylor
22. Clayton Gashlin
23. Georgina Shanley
24. Greg Gates
25. Lisa Kruczek
27. John Comella
28. Carroll Arkema
29. Holly McDonald

- 30. Chuck Graver
- 31. Hillary Persky
- 32. Patricia Mathis
- 33. Tom Harris
- 34. Frank DiDonato
- 35. David Steinberg
- 36. Paul Purcell
- 37. James Adams
- 38. Amy Hansen
- 39. Melissa Kendall
- 40. Joseph McConnell
- 41. Steven Fenster
- 47. Anne Carroll
- 48. Stephen Marshall
- 49. Barbara Milloy
- 50. Janet Fair
- 52. Denise Mackey
- 57. Patrick Lenaghan
- 58. Betty Musetto
- 61. P. Mondelli
- 64. Barbara Trought
- 68. Atul Bhankharia
- 69. Aaron Cela

70. Monty Tilles
71. Linda Mikes
72. Joan Walters
73. Dawn Boughal
74. Anita Rosinola
75. Julia Cranmer
76. Joann Eckstut
77. Jo Ann McGreevy
78. Robert Candelmo
79. Charles O'Donnell
80. Jazmene Smith
81. Caroline Binder
82. Ann Michalowski
83. Anita Kasbarian
84. Graham Ellis
85. Dennis Huyler
86. Bettina Hempel
87. Peter Lenshoek
88. Janis Todd
89. Gina Stagliano
90. Bonner Doemling
91. David Lawrence
92. Kathi Cooley

93. Marjorie Royle
94. Cheri Dzubak
95. Harriet Jernquist
96. Carol Lindsey
97. Izabela Lambert
98. Chris Hazynski
99. Irene Pendze
100. John Swanson
101. Jay Powell
102. Jeff Barton
103. Cori Bishop
104. Theresa Sapigo
105. Petr Khlyabich
106. Timothy Beitel
107. Susan Terris
108. Christopher D'Amato
109. Marilyn Weschselblatt
110. Nancy Feldman
111. Ronald Sverdlove
112. Aurelle Sprout
113. B. Fleitman
114. Nancy Keating
115. Arthur Anderson

- 116. Mary Loielo
- 117. James Merlo
- 118. Hennessy Hennessy
- 119. Joseph Attamante
- 120. Dale Smith
- 121. Robert Rader
- 122. Arlene Aughey
- 123. Dorothy Jackson
- 124. Jay Hendra
- 125. Jane Dineen
- 126. Jeffrey Rattner
- 127. Jeanne Out
- 128. Tara Cruser-Moss
- 129. Ae Petrilla
- 130. Jenny Ludmer
- 131. Chris Scholl
- 132. Barbara Darwin
- 133. Guy Harris
- 134. Louis Dallara
- 135. Rozina Barker
- 136. JosephPorter
- 137. Justin Kaluza
- 139. William Hague

141. John Drew
142. Sam Mufalli
143. Alice Golin
144. Donald Cramer
145. Helene Matthews
146. Ibn-Umar Abbasparker
147. James Shea
148. Joseph Braun
149. Marian Reiff
150. William Frantz
151. Charles Davis
152. Clive Smith
153. Jean Publee
154. James Tomczyk
155. Mike Simonet
156. Leonard Berkowitz
157. Katherine Smith, Policy Advocate, Pinelands Preservation Alliance; Dr.
Ryan Rebozo, Director for Conservation Science, Pinelands Preservation
Alliance; Dr. Emile DeVito, Director of Science and Stewardship, New
Jersey Conservation Foundation
158. Don Vonderschmidt
159. Warren Tuttle, Sr.
160. David Vanek

- 161. Judith Arik-McGrail and Timothy McGrail
- 162. Heather John
- 163. Margaret Wianecki
- 164. Esterina Bodarky
- 165. Ruth Boroshok
- 166. Gina Megay
- 167. Lascinda Goetschius
- 168. Jutta Von Sivers
- 169. Steve Gross
- 170. James Anglely
- 171. Sandy Pelland
- 172. Tom Murray
- 173. Elaine Goodman
- 174. Sharon Sauro
- 175. Marion Chayes
- 176. Kathy Hart
- 177. Terry Edlefsen
- 178. Lisa Blume
- 179. Aaron Kirtz
- 180. Matthew Garvin
- 181. Rhoda Lewis
- 182. Brian de Castro
- 183. Stewart and Barbara Carr

184. Kelly Riley
185. Candace Bassat
186. Olga Vannucci
187. Christopher Carlin
188. Keating, C
189. Sherry Gordon
190. Richard Anscher
191. John Wheeler
192. David Fritsche
193. Peter Burval
194. Paul Lerman
195. Richard Kelly
196. Brian Schranz
197. Robert Barrett
198. Carol Joseph
199. Glenn and Meg Turner
200. Paul Riley
201. Patricia Munn
202. Bruce Gordon
203. Rui Moreira
204. David Snope
205. Glenn Novak
206. Robert McPherson

- 207. Stephanie Eckert
- 208. Leora Broche
- 209. Richard Riggs
- 210. Gregory Rosmaita
- 211. Susan Tull
- 212. David Kaplan
- 213. Robert Szuter
- 214. Mark Canright
- 215. Michael Dawson
- 216. Lee Johnson
- 217. Carmen Dinescu
- 218. Stan Hershey
- 219. Karen Hauck
- 220. Wayne Strelecki
- 221. Kelley Nelson
- 222. Donna Pfeffer
- 223. Debra Johnson
- 224. Daniel Kurz
- 225. Frances Benson
- 226. Jeffrey Howell
- 227. Marie Street
- 228. MaryAnn Muscavage
- 229. Joseph Basralian

- 230. James Golden
- 231. Susan Chenelle
- 232. Mariusz Dziewulski
- 233. Carl Ford
- 234. Zorina Weber
- 235. Merelyn Dollins
- 236. Joseph Pylka
- 237. Sherry Taylor
- 238. Peter Ingerman
- 239. Margaret Bordak
- 240. Joseph Brigandi
- 241. Iris Block
- 242. Christine Balint
- 243. Alan Harwick
- 244. Diane Geary
- 245. Corey Schade
- 246. George Chernetz
- 247. Joyce Milinowicz
- 248. Kenneth Grosso
- 249. David Briede
- 250. Brooke Harris
- 251. Gail Andrews
- 252. Diane Bynum

- 253. Christina Perella
- 254. Karen Abel
- 255. Julie von Uffel
- 256. Julian Madison
- 257. Pete Mooney
- 258. M Sidey
- 259. Eleanor Liggio
- 260. Eugene Gorrin
- 261. Kerry Heck
- 262. John Bruce
- 263. Julie Aronson
- 264. Jackie Garwin
- 265. Maureen Levier
- 266. Helen Hamilton
- 267. Gregory Gates
- 268. Rosemary Topar
- 269. Joseph Matar
- 270. Walter Tulys
- 271. Tom Beatini
- 272. Renee Simone-Wiley
- 273. Gertrude Glazer
- 274. Dorian Charles
- 275. Donald White

- 276. Glenn Welsh
- 277. Bonnie Bayardi
- 278. Jean Kuhn
- 279. Ismael Rodriguez
- 280. Gairda Jensen
- 281. Jann Jasper
- 282. M March
- 283. H Cunningham
- 284. James Macaluso
- 285. Walt Anen
- 286. Sue Vanleeuwen
- 287. Shawn Liddick
- 288. Paul Lucas
- 289. Sandra Gordon
- 290. Kevin Kimmel
- 291. Michele Richards
- 292. Elsie Polsenski
- 293. Barbara Nyce
- 294. Charles Avatar
- 295. Betsy Hays Gatti
- 296. Ken Burkhardt
- 297. John Schreiber
- 298. Kate Gibbons

- 299. Margaret Yelenik
- 300. George Hurst
- 301. Steven Villani
- 302. Michael DiGiore
- 303. Linda Franklin Dreker
- 304. Stephen Piotrowski
- 305. Susan Covert
- 306. Miriam MacGillis
- 307. David Caccia
- 308. Matty Giuliano
- 309. Carl Casella
- 310. Ginger Mc Rae
- 311. Joseph Fysz
- 312. William Roller
- 313. Jay Steele
- 314. Matthew Di Clemente
- 315. Jason Bladzinski
- 316. Donna O'Leary
- 317. Margaret Mitchell
- 318. Felicia Lewis
- 319. Karen McGuinness
- 320. Kathleen Maher
- 321. Denise Summer

- 322. Lynn Mignola
- 323. Francie Goldstein
- 324. Patricia Martinelli
- 325. Gilda Dibenedetto
- 326. Nicholas Homyak
- 327. Sally Warner
- 328. Matthew Franck
- 329. MaryJo Kenny
- 330. William Diviney
- 331. Robert Veralli
- 332. Myron Rosenberg
- 333. Bruce Revesz
- 334. David Fisher
- 335. Wayne Jablonski
- 336. Beth Toussaint
- 337. Charissa Murray
- 338. Ann Tung
- 339. Lynnette Krueger
- 340. Leslie Lanphear
- 341. Eileen Corbett
- 342. Penny Bannister
- 343. Susan Hamann
- 344. Susan Godoy

- 346. Jennifer Parisi
- 347. Tracey Tronolone
- 348. Jarrett Cloud
- 349. Dianne Swensen
- 350. Andrea Hall
- 351. Jack Spector
- 352. Rich McFeeters
- 353. David Schatanoff
- 354. Marcia Aronoff
- 355. Jill Arbuckle
- 356. Michael Gallaway
- 357. Robert Garcia
- 358. Betsy Barrett
- 359. Teresa Brown
- 360. Paul Petto
- 361. Lynn Roberts
- 362. Greg Krawczyk
- 363. Marco Palladino
- 364. Richard Reeves
- 365. Nancy Newcomer
- 366. Ruth H Varney
- 367. Louis Ginsburg
- 368. Lawrence Hoffman

- 369. Patricia Soteropoulos
- 370. Lisa Quartararo
- 371. Virginia & George Breza
- 372. Nancy Yarnall
- 373. Donna Nina
- 374. Kathi Lombardi
- 375. Carol Kuehn
- 376. John Bradford
- 377. Mark van Rossen
- 378. Martin Judd
- 379. Helen Schafer
- 380. Debra Miller
- 381. John Muits
- 382. Catherine Kuzma
- 383. Robert Smith
- 384. Thomas Koven
- 385. Patricia Castine
- 386. Roger Johnson
- 387. Elizabeth Bates
- 388. Jacob Johnson
- 389. Melanie Murphy
- 390. Leland Montgomery
- 391. Deborah Martin

- 392. Fran Ransom
- 393. Raphael Wolfson
- 394. Marta Garcia
- 395. Pamela Shuman
- 396. Patricia Nardone
- 397. Florence Wohl
- 398. Suzanne Hutter
- 399. Daniel Weinberger
- 400. Donald Widmyer
- 401. William Welkowitz
- 402. Gibson Reynolds
- 403. George Gallagher
- 404. Bonnie Hall
- 405. Colleen Loughran
- 406. Jim Van Arsdale
- 407. Janine Nichols
- 408. Tracy Foster
- 409. Thomas Bauer
- 410. Jeanette Gallagher
- 411. Marylis Saltzmann
- 412. Damian Velez
- 413. Jonathan Rosenblatt
- 414. Chris Stock

- 415. Patrica Guthrie
- 416. Robert Keller
- 417. Janice Dlugosz
- 418. Stuart Way
- 419. Meredith Kates
- 420. Nicole Scott-Harris
- 421. Jacob Pease
- 422. Linda McKillip
- 423. Harry Hudson
- 424. Jerry Rivers
- 425. Sharyn Magee
- 426. James Hemm
- 427. Marvin Feil
- 428. Barbara Spector
- 429. Sandra Garcia
- 430. C. Ortiz
- 431. Thomas Cahill
- 432. Jo Legg
- 433. Adam Gross
- 434. Phyllis Fast
- 435. Kenneth Maskell
- 436. Thomas Gillen
- 437. Amy Steinberg

- 438. Heidi Hess
- 439. Erica Johanson
- 440. Jason Ksepka
- 441. Lynn Gale
- 442. Pete Dersheimer
- 443. Elizabeth Guimes
- 444. Naomi Lonergan
- 445. Jessica Anderson
- 446. Victoria Mack
- 447. Gennaro F. DeLucia
- 448. Deborah Bianco
- 449. Jeanne Rothwarf
- 450. Richard Puglisi
- 451. Mitzi Deitch
- 452. Kathy Pippen
- 453. John Teevan
- 454. MJ Cittadino
- 455. Mekala Ravishankar
- 456. Justin Powell
- 457. Brian Moscatello
- 458. Debbie Smith
- 459. George Bourlotos
- 460. John Pasqua

- 461. Pat Foltz
- 462. Deirdre Evangelista
- 463. Phillip Desousa
- 464. John Rech
- 465. Takako Ishii-Kiefer
- 466. Darvin Schild
- 467. Wayne Goldsboro
- 468. Joann Ramos
- 469. Jack Schwartz
- 470. Daniel D'Auria
- 471. Scott Bruinooge
- 472. Kathleen Metzger
- 473. Lara Richards
- 474. Paul Bartholomew
- 475. Kathy Aprile
- 476. Lorraine Brabham
- 477. David Herbert
- 478. Rhoda Ondov
- 479. Patrick Mulligan
- 480. Jennifer Bulava
- 481. Heather Bollwark
- 482. Linda Mack
- 483. Margaret Woo

- 484. John Bryans
- 485. Jacqueline Eliopoulos
- 486. Jim Miller
- 487. Kris Smalley
- 488. Denise Lytle
- 489. Frank Ferguson
- 490. Dolores Danks
- 491. Roland Patterson
- 492. Sean Derman
- 493. Curt Baker
- 494. Marya Parral
- 495. Ruth Coop
- 496. Judith Bennis
- 497. Maureen Neville
- 498. Kevin Bolembach
- 499. David Hubbard
- 500. Marie Keegan
- 501. Brian Reynolds
- 502. Cathy Cappiello
- 503. Sean Ebersole
- 504. Gregory Miller
- 505. Janice Buchalski
- 506. William J Bolen

- 507. Joan Maccari
- 508. Timothy Rolle
- 509. Michael Shakarjian
- 510. Susan Clark
- 511. Nicholas Bertram
- 512. Bryan Mitchell
- 513. Richard Watson
- 514. Robert Kwiecinski
- 515. Jim Kerner
- 516. Peter Green
- 517. Christine Mueller
- 518. Nichole Diamond
- 519. Jean Parsons
- 520. John D'Agostino
- 521. Heidi West
- 522. Natalie Weiss
- 523. Morgan Clark
- 524. Meredith DiMeola
- 525. Susan Shapiro
- 526. Teresa Petersen
- 527. Ashley Farreny
- 528. Charles Mcghee Hassrick
- 529. Dan Tollinchi

- 530. G Derner
- 531. Katharine Larocca
- 532. Catharine Flaherty
- 533. Christopher F. Vota
- 534. Felice Schlesinger
- 535. Joshua Noreuil
- 536. Murugan Elu
- 537. Meg Sleeper
- 538. Janice Ewertsen
- 539. Robert Carnevale
- 540. Lyle Finocchiaro
- 541. Mihaela Dinu
- 542. Edward Brigante
- 543. Karen Snow
- 544. Karen Pepe
- 545. Grace Ramus
- 546. Lauren Morse
- 547. Carol Meyer
- 548. Susan Warner
- 549. Adam Copestick
- 550. Linda Elsenhans
- 551. Mike Albar
- 552. Natalie Szuter

- 553. Benito Leon
- 554. Ann Plaisted
- 555. Brenda Carmichael
- 556. Andrea Bonette
- 557. Keith Megay
- 558. Kyle Bracken
- 559. Robert Hartman
- 560. Anu Hansen
- 561. Peter McCarthy
- 562. Arlene Griscom
- 564. L. Helaudais
- 565. Susan Samtak
- 566. Jane Flanagan
- 567. Marjorie Woodward
- 568. Al Chazin
- 569. Len Wassum
- 570. Bernadette Tourtual
- 571. Maureen Crowley
- 572. Doris Jackson
- 573. Patricia Daly
- 574. Karen Taylor-Ogren
- 575. Lauren Beglin
- 576. Shiela Mitchell

- 577. Elizabeth George-Cheniara, Esq., Vice President of Regulatory and Legal Affairs, New Jersey Builders Association
- 578. Gerald Reisner
- 579. Rita Sheehan
- 581. Mary Hamilton
- 582. Susan Holland
- 583. Theodore Chase
- 584. Rosemary Doherty
- 585. Judith Navetta
- 586. Gerald and Ann Williams
- 587. Shawn Sori
- 588. James Rowley
- 589. Dan Vitelli
- 590. Alexander Hall
- 591. Bruce Smith
- 592. Loretta Aja
- 593. Jean Strickholm
- 594. David Approvato
- 595. Katherine Yvinskas
- 596. Alice Edgerton
- 597. Mercedes Dotter
- 598. Peggy Barbella
- 599. Mary Ann Cernak

- 600. Belinda Caraballo
- 601. Bill Simmons
- 602. Rita Thompson
- 603. Melissa Glick
- 604. Frank A. Brincka
- 606. Bethany Sattur
- 607. John Rossi
- 608. Jan Lilly
- 609. Kim Sellon
- 610. Dawn Canna
- 611. Ruby Weeks
- 612. Patricia Guida
- 613. Kathleen Huffman
- 614. Dionne Polk
- 615. Karen Kent
- 616. Andrew Levin
- 617. Marie Leithauser
- 618. Hyun Chul Kim
- 619. Jennifer Jacoppo
- 620. Carol Paszamant
- 622. Elizabeth Brown
- 623. Krista Florin
- 624. Tom Conklin

- 625. Ellen Hochberger
- 626. Reshma Mongia
- 628. D. Janszky
- 629. Brian Murray
- 630. George Schaefer
- 631. Tracy Carcione
- 632. Ian Whelan
- 634. Amy Price
- 635. Mike Anderson
- 636. Cindy Kerekes
- 637. Donna Yavorsky
- 638. Hugh Carola
- 639. Rich Paterson
- 640. Chris Arney
- 646. Dawn Gabriel
- 647. Claire Whitcomb
- 648. Ellen Bleidorn
- 649. Lauren Gonnella
- 650. Patty Wysong
- 651. Kate Schumacher
- 652. Athenia Ibragimov
- 653. Robert Deems
- 654. Gary Gentert

- 655. Anthony Ivankovic
- 656. David J Pustizzi Sr
- 657. Linda Williams
- 658. Lance Lacoff
- 659. Robert Graver
- 660. Joan detyna
- 661. Tatiana Durbak
- 662. Susan Farro
- 663. Linda O'Donnell
- 664. Dawn Zelinski
- 665. Marie Curtis
- 666. Jen Perlaki
- 667. Margaret M. Burns
- 668. Jerry Balabanian
- 669. Dave Maynard

The Commission's response to these comments, nearly all of which were identical form letters received via e-mail, is set forth below. The numbers in parentheses after each comment correspond to the list of commenters above.

1. COMMENT: One commenter supported the change in definition from "interested person" to "interested party". (577)

RESPONSE: The Commission appreciates the expression of support.

2. COMMENT: Numerous commenters objected to the change in definition from "interested person" to "interested party" at N.J.A.C. 7:50-2.11, stating that

use of the amended definition will limit the rights of Pinelands homeowners and business owners. These commenters submit that the current definition in the CMP allows individuals to intervene if their properties or activities would be genuinely impacted by a Commission action, and should therefore remain unchanged. The commenters state that the proposed new definition fails to describe who is actually considered an interested party. The commenters assert that the amendments contradict the Commission's mandate to encourage maximum public participation, particularly as it is expressed in Section 502 of the National Parks and Recreation Act of 1978, Pub.L. 95-625 (16 U.S.C. §471i(f)) (3-18, 20-25, 27-41, 47-50, 52, 57, 58, 61, 64, 68-137, 139, 141-344, 346-562, 564-576, 578, 579, 581-604, 606-620, 622-626, 628-632, 634-640, 646-669)

RESPONSE: The amendments to the definition of "interested person" at N.J.A.C. 7:50-2.11 and to the procedures at N.J.A.C. 7:50-4.19(b). 4.25(b), 4.37(b), 4.55, 4.68, 4.73(d), 4.79, 4.91(a) and (b), 6.64(a)2v and 9.7, are the Commission's response to the 1993 amendments to the Administrative Procedure Act (N.J.S.A. 52:14B-3.2) and binding case law interpreting those amendments, which curtailed third party adjudicatory hearing rights and withdrew the authority of State agencies to confer a right to an adjudicatory hearing to third parties by rule or regulation.

The amended definition clearly describes who an "interested party" is, namely: (1) a person or entity who has submitted a development application to the Commission; (2) a person or entity who has a constitutionally significant property

interest; or (3) a person or entity who has a right to a hearing established by statute.

In response to the public comments received on these amendments, the Commission delayed adoption until a detailed examination of the Federal Pinelands legislation could be completed. The examination confirmed that neither the Federal Act (16 U.S.C. §471i) nor the State Pinelands Protection Act (N.J.S.A. 13:18A-1 et seq.) require or authorize third party adjudicatory hearings, nor do they confer a broader right to such hearings than that provided by the New Jersey Administrative Procedure Act (N.J.S.A. 52:14B et seq.). As a result, the Commission is prohibited from granting third party hearings absent a constitutionally significant particularized property interest. The amendments at N.J.A.C. 7:50-2.11, 4.19, 4.25, 4.37, 4.55, 4.68, 4.73, 4.79, 4.91, 6.64 and 9.7 are therefore appropriate and necessary to ensure the CMP does not conflict with the Administrative Procedure Act and case law.

It is important to note that the CMP continues to provide ample opportunities for public participation. Formal public hearings are required on a myriad of matters, including CMP amendments, county and municipal master plans and land use ordinances, intergovernmental memoranda of agreement and waivers of strict compliance. Opportunities for public comment, both written and oral, are routinely provided on public development applications pending before the Commission. In addition, the public is provided an opportunity to speak directly to the Commission on any matter during the public comment sessions at monthly Commission and Committee meetings. The adopted amendments in no

way curtail or otherwise affect public participation in the Pinelands protection effort.

Federal Standards Analysis

Section 502 of the National Parks and Recreation Act of 1978 (16 U.S.C. §471i) called upon the State of New Jersey to develop a comprehensive management plan for the Pinelands National Reserve. The original plan adopted in 1980 was subject to the approval of the United States Secretary of the Interior, as are all amendments to the plan.

The Federal Pinelands legislation sets forth rigorous goals that the plan must meet, including the protection, preservation and enhancement of the land and water resources of the Pinelands. As noted above, the amendments to the definition of “interested person” were carefully reviewed to ensure consistency with the Federal Pinelands legislation. The adopted amendments are clarifications to the CMP that are necessary to reflect existing State law.

There are no other Federal requirements that apply to the subject matter of these amendments.

Full text of the adoption follows:

7:50-2.11 Definitions

When used in this Plan, the following terms shall have the meanings ascribed to them.

...

“Interested party” means any person or entity who has either submitted an application for development to the Pinelands Commission or who has a particularized property interest sufficient to require a hearing on constitutional or statutory grounds.

...

7:50-4.19 Commission review following preliminary approval

- (a) (No change.)
- (b) Notice of decision and hearing: Within 30 days following receipt of a notice of preliminary approval containing all the information specified in N.J.A.C. 7:50-4.18(d), the Executive Director shall give notice of his or her determination by mail to the applicant, the local permitting agency that granted such preliminary approval, all persons who have individually submitted information concerning the application, all persons who have requested a copy of said decision, and any person, organization, or agency that has registered under N.J.A.C. 7:50-4.3(b)2i(2). If the Executive Director determines that the preliminary approval should be reviewed by the Commission, the notice shall indicate that the applicant, the local permitting agency, or any interested party may, within 21 days of mailing

of such notice, request that a hearing be held before an Administrative Law Judge pursuant to the procedures established by N.J.A.C. 7:50-4.91 for the purpose of reviewing such preliminary approval.

(c) (No change from proposal).

(d)-(e) (No change.)

7:50-4.25 Commission review following local denial

(a) (No change.)

(b) Notice of decision and hearing: Within 30 days following receipt of a notice of a denial containing all the information specified in N.J.A.C. 7:50-4.18(e) the Executive Director shall give notice of his or her determination by mail to the applicant, the local permitting agency that denied the applicant, all persons who have individually submitted information concerning the application, all persons who have requested a copy of said decision, and any person, organization or agency which has registered under N.J.A.C. 7:50-4.3(b)2i(2). If the Executive Director determines that the denial should be reviewed by the Commission, the notice shall be sent by mail to the applicant and the local agency that granted the approval. The notice shall indicate that the applicant, the local permitting agency, or any interested party may, within 21 days of mailing of such notice, request that a hearing be held before an Administrative Law Judge pursuant to the procedures established by N.J.A.C. 7:50-4.91 for the purpose of reviewing the denial.

(c) (No change from proposal).

7:50-4.37 Commission review following preliminary approval

(a) (No change.)

(b) Notice of decision and hearing: Within 30 days following receipt of a notice of preliminary approval containing all the information specified in N.J.A.C. 7:50-4.35(d), the Executive Director shall give notice of his or her determination by mail to the applicant, the local permitting agency that granted such preliminary approval, all persons who have individually submitted information concerning the application, all persons who have requested a copy of said decision, and any person, organization, or agency that has registered under N.J.A.C. 7:50-4.3(b)2i(2). If the Executive Director determines that the preliminary approval should be reviewed by the Commission, the notice shall indicate that either the applicant, the local permitting agency or any interested party may, within 21 days of mailing of such notice, request that a hearing be held before an Administrative Law Judge pursuant to the procedures established by N.J.A.C. 7:50-4.91 for the purpose of reviewing such preliminary approval.

(c) (No change from proposal).

(d)-(e) (No change.)

7:50-4.55 Rights of appeal

Any interested party who is aggrieved by any determination made by the Executive Director pursuant to this Part may within 15 days appeal the Executive Director's determination to the Commission as provided by N.J.A.C. 7:50-4.91. Additional information not included in the Executive Director's determination may only be presented to the Pinelands Commission by requesting a hearing pursuant to N.J.A.C. 7:50-4.91.

7:50-4.68 Rights of appeal

Any interested party who is aggrieved by any determination made by the Executive Director pursuant to this Part may within 15 days appeal the Executive Director's determination to the Commission as provided by N.J.A.C. 7:50-4.91. Additional information not included in the Executive Director's determination may be presented to the Pinelands Commission only by requesting a hearing pursuant to N.J.A.C. 7:50-4.91. If the appeal is based on an allegation that the parcel does not have a beneficial use even considering the allocation of Pinelands Development Credits pursuant to N.J.A.C. 7:50-4.62(c)2, the applicant must include specific documentation concerning the economic value of each of the permitted uses of the parcel once the Pinelands Development Credits are transferred and documentation of the value necessary to give the parcel a beneficial use as part of the appeal process. If the applicant demonstrates that the allocation of the Pinelands Development Credits based on fair market value along with the other permitted uses of the parcel does not result in the parcel having a

beneficial use, the allocation of Pinelands Development Credits shall be increased to the number necessary to provide the parcel with a beneficial use.

7:50-4.73 Request for interpretation

(a)-(c) (No change.)

(d) The notice in (b) and (c) above shall state:

1.-5. (No change.)

6. That any person who provides comments or requests a copy of the Executive Director's findings and conclusion shall be provided a copy of said findings and conclusion and that any interested party who is aggrieved by said determination is entitled to a hearing by appealing the determination.

(e)-(g) (No change.)

7:50-4.79 Appeal

Any interested party who is aggrieved by any clarification or interpretation given by the Executive Director pursuant to this Part may within 15 days appeal the Executive Director's clarification or interpretation to the Commission as provided in N.J.A.C. 7:50-4.91.

7:50-4.91 Appeal

(a) Notice: Any interested party who has a right to appeal any determination made by the Executive Director to the Commission shall, within 15 days

of the date the decision is deemed rendered in accordance with N.J.A.C.

7:50-4.3(e)3, perfect such right by giving notice by mail of his or her

intent to appeal to the Commission. Such notice shall include:

1.-5. (No change.)

- (b) Any interested party who has a right to request a hearing conducted by the Office of Administrative Law concerning a local approval that the Executive Director has determined should be reviewed by the Pinelands Commission shall, within 15 days of the date the Executive Director's determination is deemed rendered in accordance with N.J.A.C. 7:50-4.3(e)3, perfect such right by giving notice by mail of his or her intent to request a hearing to the Commission. Such notice shall include the information specified in (a)1 through 5 above.

(c)-(e) (No change.)

7:50-6.64 Time limit and scope of resource extraction permits

- (a) No permit authorizing resource extraction shall be issued for any period exceeding two years unless a program extending the duration of such permits has been established and certified by the Commission pursuant to N.J.A.C. 7:50-3.39. Such a program may allow permits authorizing resource extraction to be issued for periods exceeding two years, provided that:

1. (No change.)

2. Every such permit shall be issued subject to the following conditions to ensure conformance with the approved permit:
- i.-iv. (No change.)
 - v. Any interested party who is aggrieved by any determination of the Executive Director pursuant to (a)2iii or iv above may, within 15 days, appeal the Executive Director's determination to the Pinelands Commission as provided in N.J.A.C. 7:50-4.91(a). The Executive Director shall thereafter conduct a hearing pursuant to N.J.A.C. 7:50-4.3, unless the applicant requests a hearing before an Administrative Law Judge in which case the matter shall be referred to the Office of Administrative Law pursuant to N.J.A.C. 7:50-4.91(b), and submit a hearing report to the Pinelands Commission for a final determination;
 - vi.-vii. (No change.)

(b)-(c) (No change.)

7:50-9.7 Rights of appeal

Any interested party who is aggrieved by any determination made by the Executive Director pursuant to this subchapter may, within 15 days, appeal the Executive Director's determination to the Commission as provided by N.J.A.C. 7:50-4.91. Additional information not included in the Executive Director's

determination may be presented to the Pinelands Commission only by requesting a hearing pursuant to N.J.A.C. 7:50-4.91.

CP2000

ENVIRONMENTAL PROTECTION

(a)

PINELANDS COMMISSION

Pinelands Comprehensive Management Plan

Fees; Escrows; Definitions; Standards for

Certification; Application Requirements and

Procedures; Landfills; Water Quality; Signs;

Petitions for Amendment; Pilot Program for

Alternate Design Wastewater Treatment Systems

Proposed Amendments: N.J.A.C. 7:50-1.6, 1.7, 2.11, 3.24, 3.39, 4.1, 4.3, 4.15, 4.18, 4.19, 4.20, 4.22, 4.23, 4.25, 4.26, 4.35, 4.37, 4.38, 4.40, 4.41, 4.53, 4.54, 4.55, 4.56, 4.66, 4.67, 4.68, 4.73, 4.74, 4.79, 4.91, 6.64, 6.75, 6.84, 6.85, 6.106, 7.3, 7.5, 9.7, 10.21, 10.22, and 10.23

Proposed Repeals and New Rules: N.J.A.C. 7:50-6.107, 6.108, and 6.109

Authorized By: New Jersey Pinelands Commission, Nancy Wittenberg, Executive Director.

Authority: N.J.S.A. 13:18A-6.j.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2017-220.

A public hearing concerning this proposal will be held on:

Wednesday, October 4, 2017, at 7:00 P.M.

Richard J. Sullivan Center

15C Springfield Road

New Lisbon, New Jersey

Submit written comments by regular mail, facsimile, or e-mail by November 17, 2017, to:

Susan R. Grogan, P.P., AICP

Chief Planner

Pinelands Commission

PO Box 359

New Lisbon, NJ 08064

Facsimile: (609) 894-7330

E-mail: planning@njpines.state.nj.us or through the Commission's website at <http://www.nj.gov/pinelands/home/contact/planning.shtml>.

The name and mailing address of the commenter must be submitted with all public comments.

The agency proposal follows:

Summary

The New Jersey Pinelands Commission (Commission) proposes to amend Subchapters 1, General Provisions; 2, Interpretations and Definitions; 3, Certification of County, Municipal, and Federal Installation Plans; 4, Development Review; 5, Minimum Standards for Land Uses and Intensities; 6, Management Programs and Minimum Standards; 9, Acquisition of Properties with Limited Practical Use; and 10, Pilot Programs, of the Pinelands Comprehensive Management Plan (CMP). The Pinelands CMP has been guiding land use and development activities in the Pinelands since it took effect on January 14, 1981. Since that time, the CMP has been amended a number of times, most recently in September 2014 through a set of amendments related to application requirements and procedures, the duration of Letters of Interpretation, the allocation of Pinelands Development Credits, and the Pilot Program for Alternate Design Wastewater Treatment Systems (see 46 N.J.R. 1877(b)).

The amendments now being proposed by the Commission relate to fees, escrows, application requirements and procedures, public notice and mailing requirements, water quality standards, landfill closure, signs, and the Pilot Program for Alternate Design Wastewater Treatment Systems. They are intended to codify current Commission practice,

clarify existing standards and requirements, increase the efficiency of the Commission and its staff, eliminate unnecessary application requirements, simplify procedures for the Commission, Pinelands municipalities, and applicants, clarify the circumstances under which installation of an impermeable cap is not necessary for existing Pinelands landfills, allow for the use of advanced treatment technologies as a means of facilitating expansion of certain existing nonresidential uses, update and revise CMP sign standards, and recognize the successful participation of one alternate design wastewater treatment technology in a long-standing pilot program.

The proposed amendments are, in large part, an outgrowth of the Commission's fourth comprehensive review of the CMP. The Commission embarked on the plan review process in June of 2012. A Plan Review Committee, composed of five Commission members, was formed at that time and met 14 times, completing its work in Spring 2014. While all of the Plan Review Committee meetings were open to the public, the Committee also sought public comment at a series of additional public meetings throughout the summer of 2012. The submission of written comments on the CMP and its implementation was also encouraged. Notice of the opportunity to attend the public meetings and/or provide written comments was provided via press releases, posting on the Commission's website, and the Pinelands News Alert system, which involves e-mails to nearly 600 people. In addition, e-mails were sent to a wide variety of potentially interested individuals and groups, including all Pinelands Area municipalities, the Pinelands Preservation Alliance and other environmental groups, the New Jersey State League of Municipalities, the New Jersey Farm Bureau, the Chambers of Commerce of all Pinelands counties, the Builders League of South Jersey, the New Jersey Builders Association, and the members of the Commission's own Forest Advisory and Agricultural Advisory Committees. In response to these outreach efforts, both oral and written comments were received on a wide range of topics. All written comments received by the Commission were posted and remain available on the Commission's website at www.nj.gov/pinelands. Ultimately, the Commission's goal was to analyze its past actions, consider the public's input, and identify ways to strengthen the CMP through future amendments and administrative actions.

The first set of CMP amendments adopted as part of the ongoing plan review process was designed to implement various efficiency measures, codify current Commission practices, and provide for the continued installation of alternate design wastewater treatment systems in accordance with Alternate Design Wastewater Treatment Systems Program. The amendments now being proposed represent the second phase in the CMP review process. Analysis of other substantive issues raised during the plan review public comment process will continue over the next year and may lead to the proposal of additional CMP amendments. In the meantime, the Commission has determined it would be appropriate and beneficial to move ahead with the current proposal.

The proposed amendments were discussed and reviewed at multiple public meetings of the Commission's CMP Policy and Implementation Committee between 2014 and 2016. On July 28, 2016, Commission staff also provided a presentation on the proposed amendments at a public meeting of the Pinelands Municipal Council (PMC). The PMC, created by the Pinelands Protection Act (N.J.S.A. 13:18A-1 et seq.), is made up of the mayors of the 53 municipalities in the Pinelands Area or their designees. The Council is empowered to review and comment upon changes proposed by the Commission in the New Jersey Pinelands Comprehensive Management Plan and advises the Commission on matters of interest regarding the Pinelands.

A more detailed description of the proposed amendments follows.

Fees

Since April 2004, the Commission has charged application fees as a means to cover a portion of the costs associated with the review of development applications and related services that support the development application process. The Commission periodically reviews its fee schedule and adopted amendments to it in June 2006 (see 38 N.J.R. 2708(a)) and December 2008 (see 40 N.J.R. 6805(a)).

A series of amendments to the Commission's application fee requirements are now being proposed to increase the percentage of

application review costs that is covered by application fee revenue, better recognize specific types of development applications, reduce fees for solar energy facilities, codify current practices, clarify existing fee requirements, and eliminate inefficiencies in the application review process.

In Fiscal Year 2010, the first full year after the 2008 fee-related CMP amendments took effect, the Commission expended approximately \$1,384,000 on its application review functions and recouped 34% or \$472,000 in application fee revenue. Over the next seven fiscal years, the Commission's permit-related expenses decreased to an annual average of \$1,194,775. Application fee revenue varied widely during the same time period, from a high of \$648,750 in fiscal year 2016 to a low of \$253,000 in fiscal year 2014. Some of this variation was due to a decrease in the number of applications submitted each year. In fiscal year 2010, 577 new development applications were received. For fiscal years 2011 through 2017, the average number of applications received per year was only 457. The Commission's permitting expenses likewise decreased over time as project review staff retired, were laid off, or left for other reasons and were not replaced.

The Commission has charged application fees for development applications since 2004 and last increased the amount of those fees in 2008. Over the past seven fiscal years, fee revenue has covered an average of 37 percent of the cost incurred by the Commission to review and act on development applications. (Average annual fee revenue for the past seven fiscal years is just under \$450,000 and the Commission's annual average application review cost during the same time period is \$1,194,775). The balance of the cost is funded almost exclusively by annual General Fund appropriations. The Commission proposes to increase most application fees by 25 percent, which could yield an additional \$70,000 in revenue annually. Such an increase would allow fee revenue to cover approximately 43 percent of the cost incurred to review development applications. The proposed increase in application fees would ensure that fee revenue funds a more appropriate share of the cost incurred to review and act on development applications. For comparison, application fees assessed by the New Jersey Department of Environmental Protection program cover about 50 percent of the cost to review and act on those applications.

The proposed fee increases are reflected in the proposed amendments to N.J.A.C. 7:50-1.6(a), (b), (c), (e), (h), (i) and (j). It should be emphasized that the maximum application fees specified in N.J.A.C. 7:50-1.6(e)2 and 3 (\$50,000 for private development; \$25,000 for public development) will continue to apply. Likewise, the maximum application fee for a qualified tax-exempt religious association or non-profit organization will remain at \$500, as specified at N.J.A.C. 7:50-1.6(g).

In addition to the fee increases described above, N.J.A.C. 7:50-1.6(b) and (c) are amended to include specific references to N.J.A.C. 7:50-4.52, which contains the general requirements for public development in the Pinelands. Likewise, N.J.A.C. 7:50-1.6(f) is amended to include a reference to N.J.A.C. 7:50-4.56, which sets forth the procedures for Commission action on public development applications. N.J.A.C. 7:50-1.6(j) is also amended to make reference to fees for amended public development approvals. Although fees related to public development applications were instituted by the Commission in 2008, these sections were mistakenly not amended to include the appropriate cross-references at that time. Likewise, N.J.A.C. 7:50-1.6(b) is being further amended to include a reference to the application requirements set forth at N.J.A.C. 7:50-4.66, in order to clarify that fee requirements apply to applications for Waivers of Strict Compliance necessary to address compelling public needs. Finally, N.J.A.C. 7:50-1.6(j) is being further amended to include Certificates of Completeness, the document issued by the Commission to signify completion of an application for development in a municipality whose master plan and land use ordinances have not been certified by the Commission. As currently written, N.J.A.C. 7:50-1.6(j) refers only to the document issued by the Commission in certified municipalities, a Certificate of Filing. All of the proposed amendments described in this paragraph merely correct inadvertent omissions and codify existing Commission practice; they do not represent any change in policy.

N.J.A.C. 7:50-1.6(c) is being further amended to replace the lengthy description of fee requirements for commercial, institutional, industrial,

and other types of nonresidential development applications with a simple table. Also, N.J.A.C. 7:50-1.6(c) is being amended to delete the requirement for submission of a sworn statement of a licensed architect, licensed engineer, or other qualified individual as to the expected construction costs. Instead, the Commission will now require only that supporting documentation of expected construction costs be submitted as part of the application for development. If an applicant's calculations indicate that the maximum fee is required for a particular application (\$50,000 for private development; \$25,000 for public development; \$500 for applications by non-profit organizations), the submission of supporting documentation related to the fee will not be required. In such cases, the applicant would only need to indicate on the application form that he or she is paying the maximum fee.

The Commission expects the above-described amendments to simplify and streamline the initial stages of the development application process. Over time, it has become clear that the requirement for submission of sworn statements or sealed construction cost estimates as to the construction costs associated with a proposed development leads to unnecessary delays in the processing of applications. Under the current fee regulations, the Commission staff cannot review an application for commercial, institutional, or industrial development or consider such an application for development to be complete until the required fee and the accompanying sworn statement of a licensed architect or engineer has been received. Often, the fee is submitted, along with an estimate of construction costs, but the construction cost estimate is not signed or sealed. This leaves the application for development incomplete and requires the Commission to send a letter to the applicant noting the deficiency. In the meantime, no review of the application can occur. As an extreme example, when an applicant submits the maximum fee (for example, \$50,000 for a private development or \$500 for a qualified tax exempt religious or non-profit organization), the Commission must still request a sworn statement as to construction costs before the application can be deemed complete. The proposed amendments will allow an applicant to simply include supporting documentation of his or her construction cost estimates as an attachment to the development application form. This form (available on the Commission's website at [http://www.nj.gov/pinelands/appli/PinelandsDevelopmentApplicationInstructions&Form\(Final\).pdf](http://www.nj.gov/pinelands/appli/PinelandsDevelopmentApplicationInstructions&Form(Final).pdf)) must be signed by the applicant, attesting to the validity of all submitted information, which would include construction cost estimates. While there may still be occasions where the Commission will need to request additional information to support a particular fee calculation, the process should be much less cumbersome. This will allow the staff to begin review of applications for development more quickly.

N.J.A.C. 7:50-1.6(c)1 through 5 include fees for various types of development based on the number of acres affected by the development. All of these sections are being amended to clarify that the relevant fee applies per acre "or portion thereof." This represents a codification of current practice and should eliminate the questions that have been raised over the years as to whether the fee is assessed on the total acreage proposed for development or only on full acres.

N.J.A.C. 7:50-1.6(c)4 is being amended to clarify that bridges are not considered "linear development" for purposes of calculating required application fees.

N.J.A.C. 7:50-1.6(c)8 is being added to clarify that the application fee for the demolition of a structure, whether residential or nonresidential, is \$250. The current fee rules do not specifically address this type of application for development. The Commission's practice over the years has been to assess the minimum fee for demolition of a single family dwelling and to require a construction cost estimate and fee in accordance with N.J.A.C. 7:50-1.6(c) for demolition of a nonresidential structure. The proposed amendment will eliminate any confusion and establish a flat fee that is easy to administer and understand. It should be noted that it is only the demolition of structures 50 years or older that requires application to the Commission.

Proposed new N.J.A.C. 7:50-1.6(c)9 is being added to specifically address application fees for solar energy facilities. Currently, solar energy facilities are treated in the same fashion as commercial, institutional, and industrial uses, with application fees based on construction cost estimates. This has led to very large fee requirements,

including at least one at the \$50,000 maximum for private development projects. Under the proposed amendment, the required fee would be calculated on a per acre basis, similar to the fee requirements for resource extraction operations, golf courses, and other land extensive uses. N.J.A.C. 7:50-1.6(c)9 would require an initial fee of \$1,500, plus \$500 per acre, or portion thereof, of land to be developed for solar energy facility use, including any off-site development. Calculating the fee in this manner will lead to a reduction in required application fees. This reduction will be significant, for both large and small solar facilities. For example, an application for a three acre solar energy facility that required a fee of approximately \$10,000 under the current regulations (based on construction costs) could be required to pay only \$3,000 under the proposed amendment. Applications involving the development of approximately half an acre of solar panels could be required to pay as little as \$1,850 under the proposed amendment, whereas under the current rules, such applications required fees ranging from \$5,750 to \$12,500. The Commission believes that calculating application fees on a per acre basis is the more appropriate method for solar energy facilities.

N.J.A.C. 7:50-1.6(e)1 is proposed for amendment to correct and clarify cross-references to other sections of the fee regulations and CMP water quality standards.

N.J.A.C. 7:50-1.6(h)1 is proposed for amendment to clarify the circumstances under which a fee is assessed for an amended Letter of Interpretation (LOI) involving Pinelands Development Credits (PDCs). PDCs are transferable development rights that are allocated to certain properties within the Pinelands Area. An official allocation, determined by the Commission through an LOI, is valid for five years and is a prerequisite for property owners to sell their PDCs. No fee is assessed when a property owner initially requests an LOI for an allocation of PDCs or seeks to have an expired allocation re-issued. However, a fee is required when a property owner who has a valid LOI for PDCs decides to request an amended allocation because, for example, she or he decides to add or remove lands from the allocation or reserve the right to build additional homes on the property. In those cases, a fee is assessed pursuant to N.J.A.C. 7:50-1.6(h)1 to recognize the additional work that is required of the Commission. Amendments to this section are proposed to clarify that the fee for an amended LOI applies only when that application is submitted during the period of time when the original LOI is still valid. LOIs are now valid for five years, pursuant to the September 2014 CMP amendments mentioned previously. Therefore, the proposed amendment to N.J.A.C. 7:50-1.6(h)1 specifies that there will be a fee for an amended LOI requested within five years of issuance of the original LOI. Requests for renewed or amended LOIs after an LOI has expired do not incur a fee.

Proposed new N.J.A.C. 7:50-1.6(l) is being added to specifically address fees associated with general development plan applications. The Municipal Land Use Law (N.J.S.A. 40:55D- 45.1 et seq.) provides developers with the option of seeking general development plan approval for what are commonly viewed as "large" projects, those involving 100 or more acres, or, if less than 100 acres, 150,000 square feet of nonresidential floor area or 100 or more residential units. The general development plan process is based upon submission of conceptual plans to a municipal planning board prior to any application for site plan or subdivision approval. Once the planning board grants general development plan approval, the developer has the right to develop the property in accordance with that approval, regardless of any subsequent changes in municipal zoning. This period of protection can extend for as long as 20 years. Ultimately, municipal site plan or subdivision approval is still required; however, the general development plan process provides both the developer and the municipal planning board with the ability to discuss and review large projects at the concept stage, prior to the submission of detailed plans.

The CMP's current application fee regulations do not distinguish between general development plans and more traditional development applications that require municipal site plan or subdivision approval. As a result, the application fee for a project requiring general development approval from a municipality is currently based on the number of proposed residential units and the construction costs associated with any nonresidential component. These fees presume full Commission review

of the submitted application, including detailed stormwater calculations and threatened and endangered species surveys. Because general development plan applications normally do not include this level of detailed information, this has led to a significant application fee, at an inappropriate stage in the application process. The proposed amendment to subsection (l) would require 50 percent of the application fee be paid upon initial submission of an application involving a general development plan to the Commission. The remainder of the fee would be due when the applicant returns to the Commission seeking a new Certificate of Filing or Certificate of Completeness for a particular phase of the development, prior to obtaining preliminary or final subdivision or site plan approval from the municipality or county. At that time, more detailed information would be provided to the Commission as part of the application. If the number of units or nonresidential square footage in any phase of the development varies from what was contained in the general development plan approval, the required fee would be recalculated with those revised numbers in mind. This fee structure and process will allow the Commission to conduct an initial review of the application in its concept stage, with a more in-depth review conducted at a later date when detailed development plans are submitted for individual phases of the project.

The Commission has seen few general development plan applications over the years. However, in each case, questions have been raised about the need for an application to the Commission at all, the amount of any required fee, and the information that must be submitted as part of the application. The Commission believes it is worthwhile to eliminate any confusion about whether an application is required and, further, to structure the required application fee so that it appropriately recognizes the level of staff review required at each stage of the project. Just as a general development plan and its municipal approval will be "phased" over time, the Commission's fee structure and review for this type of project will also be phased.

The table below illustrates how the above-described fee amendments would affect selected types of development applications. For the listed nonresidential projects, estimated construction costs were used to generate the examples.

Development Application	Current Fee	Proposed Fee
1 single family dwelling	\$200.00	\$250.00
50 lot residential subdivision	\$11,150	\$13,937.50
15,000 square foot retail building	\$18,750	\$23,437.50
20 acre resource extraction application	\$2,100	\$2,625
3 acre solar energy facility	\$10,000	\$3,000
Municipal recreational improvements	\$1,600	\$2,000

Escrows

Pursuant to N.J.A.C. 7:50-1.7, the Executive Director of the Commission is currently authorized to require applicants to provide escrows to assist in the Commission's review of development applications or other matters pending before the Commission that involve complex issues (for example, comprehensive plans for local communications such as cellular - facilities). Escrow funds may be used to reimburse the Commission for the costs it incurs as a result of retaining consultants, expending a considerable amount of staff time or developing, implementing, and monitoring an intergovernmental memorandum of agreement. The amendment being proposed at N.J.A.C. 7:50-1.7 would provide the Executive Director with the ability to use escrow funds for unusual expenditures, including the purchase of software and other equipment necessary for review of a development application or memorandum of agreement. In addition, escrow funds could be used to procure services (for example, preparation of public meeting transcripts by court reporters) or rent off-site facilities necessary to accommodate larger than normal public attendance at meetings on

particular development applications or other matters pending before the Commission.

Since their incorporation in the CMP in 2004, the escrow provisions have been utilized only a handful of times. The proposed amendment does not expand the types of applications or matters for which an escrow can be required, nor will the amendment make it more likely the Commission will choose to require an escrow. The proposed amendment merely adds software, equipment, facilities, and services to the list of items that can be acquired with escrow funds. It provides the Commission with the flexibility to purchase software and complete the review of a complex development application itself, perhaps negating the need to identify and hire a consultant to do the same work. For example, the Commission might need to purchase GIS-based computer software capable of performing viewshed analyses to determine whether particular towers proposed as part of a comprehensive plan for local communications facilities comply with the visual impact and scenic standards of the CMP. As is the case under the current rules, any funds remaining in the escrow account after the Commission has rendered its decision on the matter pending before it will be returned to the entity who initiated the matter. Additional amendments are proposed at N.J.A.C. 7:50-1.7(a)2 for clarity.

Definitions

A definition of "electronic message display" is being proposed at N.J.A.C. 7:50-2.11 to clarify the term as it relates to the amended sign standards proposed at N.J.A.C. 7:50-6.109.

The definition of "interested person" in N.J.A.C. 7:50-2.11 is proposed for amendment to "interested party." It is also being reworded to clarify that it refers only to a person or entity who has either submitted an application for development to the Commission or who has a particularized property interest sufficient to require a hearing on constitutional or statutory grounds. This amendment is being made to better align the CMP with the 1993 amendments to the Administrative Procedure Act, which limited the right to third party hearings and withdrew authority from State agencies to confer a right to an Office of Administrative Law hearing by rule or regulation. The CMP currently uses the term "interested person" in the broadest possible sense, encompassing anyone who testifies at a public hearing, submits written comments, or simply is curious about the Commission's actions. The above-described amendment is being made to clarify who has the right to formally participate in the decision-making process, request hearings, or appeal the Commission's decisions. In order to reflect the revised definition and ensure that ample opportunities remain for other individuals and organizations to remain informed of the Commission's proceedings and decisions, amendments are being made throughout N.J.A.C. 7:50-4 (4.15, 4.19, 4.20, 4.22, 4.23, 4.25, 4.26, 4.35, 4.37, 4.38, 4.40, 4.41, 4.53, 4.54, 4.55, 4.56, 4.66, 4.67, 4.68, 4.73, 4.74, 4.79, and 4.91), as well as to N.J.A.C. 7:50-6.64 and 9.7. As these amendments make clear, the Commission will continue to provide copies of documents and otherwise notify those individuals who have submitted information on a particular application or matter, requested copies of the Commission's decision on a particular application or matter, or registered in accordance with N.J.A.C. 7:50-4.3(b)2i(2) to receive copies of all Commission hearing notices. There will be no change in the information provided by the Commission to these individuals. They will merely no longer be referred to as "interested parties" in the legal sense.

A definition of "mail" is proposed for addition at N.J.A.C. 7:50-2.11 to make clear that when the CMP requires the Commission to provide information to municipalities, applicants, or the public by mail, either regular mail or e-mail, will be acceptable means for doing so. In recent years, the Commission has increasingly used e-mail as its preferred method of communication but has been prevented from doing so in certain circumstances by the language in the CMP, which requires the use of regular or certified mail. This has led to inefficiencies in various procedures, primarily involving the review of development applications, as well as the unnecessary expense associated with use of certified mail. Originally drafted in the early 1980's, the CMP simply did not recognize e-mail as a possibility. Given that it is the manner in which the Commission and the regulated community increasingly communicate, an amendment to the CMP is warranted.

The definition of "off-site commercial advertising sign" in N.J.A.C. 7:50-2.11 is proposed for amendment to "off-site signs" and includes an expanded list of advertising topics that would constitute such a sign. The modification in terminology is proposed to remove the distinction between non-commercial and commercial off-site signs as CMP sign rules, proposed for amendment at N.J.A.C. 7:50-6.106 through 6.109, do not make such a differentiation in their application.

The definition of "sign" in N.J.A.C. 7:50-2.11 is proposed for amendment to remove any implicit exemptions from the signs standards in the CMP.

Application Exemptions

N.J.A.C. 7:50-4.1(a) includes a list of activities that do not require application to the Commission. Two of these "exemptions" are being clarified.

First, N.J.A.C. 7:50-4.1(a)4 is proposed for revision to include a reference to the types of off-site signs for which applications to the Commission are required. Standards for these off-site signs are being relocated to proposed new N.J.A.C. 7:50-6.108(a)3, 4, and 5. All on-site signs are and will continue to be exempt from application requirements.

Second, the exemption for prescribed burning and clearing and maintaining of fire breaks at N.J.A.C. 7:50-4.1(a)17 is proposed for clarification. Both activities will remain exempt from application to the Commission, provided they are conducted to control and reduce the threat of wildfire. The term "fire break" is being replaced with a more quantitative standard that will be easier to administer. Under the revised exemption, linear clearing of vegetation, up to six feet in width, will be exempt from application to the Commission, as will the maintenance of such cleared areas and vegetation.

Notice and Mailing Requirements

Various sections of the CMP require the Commission's transmission of notices and other documents via certified mail. Other sections require that municipalities provide certain information to the Commission via certified mail. The Commission would prefer to communicate with applicants, municipalities, and the general public via e-mail as much as possible, as it is a more efficient, less expensive method of transmitting information. Therefore, N.J.A.C. 7:50-3.24(c), 4.3(b)2i(1), 4.18(d) and (e), 4.19(b), 4.22(b), 4.25(b), 4.35(d) and (e), 4.37(b), and 4.40(b) are proposed for amendment to delete the requirement for use of certified mail. These sections will now only specify that information (notices, copies of various documents) be mailed by or to the Commission, opening up the possibility for use of e-mail as well as regular mail. In most cases, the Commission will elect to transmit information via e-mail and it will certainly encourage municipalities to do so as well. Certified mailings will not be eliminated entirely as there may still be instances where the Commission determines the use of certified mail to be necessary. The proposed amendments will provide the Commission (and municipalities) with the ability to choose the most appropriate method of communication.

The Commission is also proposing to revise its notice requirements for various types of public hearings. These notice requirements, set forth in N.J.A.C. 7:50-4.3(b)2i, apply to hearings held by the Commission on municipal and county master plans and land use ordinances, amendments to the CMP, intergovernmental memoranda of agreement, and comprehensive plans for local communications facilities. In each case, the Commission is proposing to add a requirement for posting of the notice on the Commission's website. This reflects the Commission's current practice.

The Commission is also proposing to amend the requirements and procedures for public hearings on waivers of strict compliance that are being considered to address compelling public needs. Although such waiver applications are rare, the Commission believes that when they do occur, it should be the Commission's obligation, rather than the applicant's, to schedule and provide notice for the public hearing required pursuant to N.J.A.C. 7:50-4.66(i). Therefore, N.J.A.C. 7:50-4.3(b)2ii(2) is proposed for amendment and new language is proposed at N.J.A.C. 7:50-4.3(b)2i(5) to specify that notice will be provided by the Commission for this type of public hearing. Amendments are also proposed at N.J.A.C. 7:50-4.66(d) to require that when an applicant

provides notice of the filing of a compelling public need waiver with the Commission, that notice state that a public hearing will be held at a future date and will be publicized on the Commission's website. Finally, N.J.A.C. 7:50-4.66(i) is being amended to eliminate the sentence that required the applicant to give notice of hearings.

Other notice requirements for applicants are also being amended. Specifically, N.J.A.C. 7:50-4.3(b)2ii(4) is proposed for deletion so that applicants will no longer be required to post copies of public notices on the property where development is proposed or a resource is proposed for designation pursuant to N.J.A.C. 7:50-6.154. Although the requirement for posting of notice on affected properties is a common one, originally taken from the Municipal Land Use Law and incorporated in the CMP decades ago, the Commission has come to realize that such notices are of little value in a large rural area such as the Pinelands Area. In general, people are driving by properties proposed for development or designation, not walking, and therefore have little to no opportunity to read the public notices. Applicants will continue to be required to post notices in the newspaper and provide notice to counties, municipalities, and adjacent landowners.

The Commission is also proposing to amend the notice requirements for amendment petitions set forth at N.J.A.C. 7:50-7.3(c) and 7.5(b) to be consistent with the above-described revisions. Specifically, N.J.A.C. 7:50-7.3(c)iv is being amended to delete the requirement for posting of notices relative to amendment petitions on an affected property. N.J.A.C. 7:50-7.5(b) is being amended to require the Commission to post notices of petition on its website.

The Commission is also proposing to amend the notice and hearing procedures set forth in N.J.A.C. 7:50-4.3(e)3. This section of the CMP currently states that all decisions and orders of the Executive Director or the Commission shall be considered rendered three days after notice has been deposited in the United States Mail. In keeping with the above-described amendments related to the definition of "mail," the term "United States Mail" is being replaced with "mail" to allow for transmission of notices via e-mail. This section is being further clarified through the addition of a sentence indicating that for purposes of computing the three-day period after which decisions are considered rendered, the date the notice is mailed shall not be included in the calculation. The appeal procedures in N.J.A.C. 7:50-4.91 are also being amended to clarify that interested parties have 15 days from the date the Executive Director's decision is considered rendered pursuant to N.J.A.C. 7:50-4.3(e), to provide notice to the Commission of their intent to appeal.

Requirements of Local Approval Agencies

N.J.A.C. 7:50-4.18 and 4.35 set forth the requirements that local approval agencies (for example, municipal planning boards) must meet with respect to providing information to the Commission related to various applications for development. Pursuant to N.J.A.C. 7:50-4.18(d) and 4.35(d), local approval agencies are required to provide notice to the Commission of all preliminary site plan, subdivision, or other preliminary approvals. The required notice must include such information as the name and address of the applicant, the legal description of the parcel proposed for development, the date of the preliminary approval, and a copy of the approval itself, including the approved preliminary plans and any written reports received by the local approval agency on the application. As noted previously, the requirement that these notices be transmitted to the Commission via certified mail is being eliminated so that local approval agencies will be able to use regular mail or e-mail. In addition, N.J.A.C. 7:50-4.18(d)7 and 4.35(d)7 are proposed for deletion so that local approval agencies will no longer be required to submit the names and mailing addresses of all persons who participated in the local proceedings (for example, commented on a subdivision application at a municipal planning board meeting) to the Commission. Likewise, the requirement for Commission notification of the participating individuals as to the Executive Director's or Commission's decisions on applications is proposed for deletion from N.J.A.C. 7:50-4.19(b) and (c), 4.20(a), 4.22(b), 4.23, 4.25(c), 4.26(a), 4.37(b) and (c), 4.40(b), and 4.41. Originally thought to be a good way of keeping the Commission and public informed of each other's interest in a particular application, implementation of this

requirement has proven, over time, to be cumbersome and ineffective. Individuals who testify at local planning board meetings often do not provide their addresses, thereby making it difficult, if not impossible, for the municipality to comply with the notice requirements. This results in incomplete submissions, which in turn cause delays in the Commission's review process. The required submission of names and addresses also creates the false impression that the Commission will review and address the concerns raised by individuals at municipal proceedings. Because only the contact information for these individuals is provided by the municipality, the Commission is generally unaware of the nature of their concerns, comments, or interest in the relevant application. When the Commission is made aware of the concerns that were raised, they frequently relate to matters outside the Commission's jurisdiction (for example, a side yard setback requirement or height of a proposed fence). There is little the Commission can do beyond providing copies of letters evidencing the results of its review of an application.

Persons who wish to be informed of the Commission's review or decision on a particular application will still have ample opportunity to obtain this information. They need only call or e-mail the Commission to request a copy of the Commission's written decision, or, if they have a general interest in all matters pending before the Commission, register pursuant to N.J.A.C. 7:50-4.3(b)2i(2) to receive written copies of all hearing notices. In addition, persons who have submitted information to the Commission concerning a particular application will continue to be provided with copies of the Commission's decision on that application. It is only the automatic requirement for notification of any person who participated in a municipal or other local proceeding that is proposed for deletion.

Landfills

The CMP at N.J.A.C. 7:50-6.75(c) requires that landfills in the Preservation Area that ceased operation on or after September 23, 1980, be permanently covered with an impermeable cap. Landfills in the Protection Area that ceased operation on or after January 14, 1981, are subject to the same requirement. An impermeable landfill cap prevents stormwater from percolating into the buried refuse, thereby significantly reducing the discharge of landfill leachate into ground water and nearby surface water bodies. Prior to the adoption of the CMP, more than 60 sanitary landfills operated in the million-acre Pinelands Area. With only one exception, all of these facilities ceased operations on or after January 14, 1981, at the direction of the New Jersey Department of Environmental Protection (NJDEP) and as a result of the implementation of the CMP. The Cape May County Municipal Utilities Authority's Landfill is the only exception. It currently operates pursuant to N.J.A.C. 7:50-6.75(i) and is equipped with leachate collection, gas venting, and impermeable capping systems.

N.J.A.C. 7:50-6.75(c) provides certain exemptions from the impermeable cap requirement. Specifically, landfills that accepted only vegetative or construction waste are not required to have impermeable caps (N.J.A.C. 7:50-6.75(c)1), nor are landfills that are not generating a leachate plume (N.J.A.C. 7:50-6.75(c)3). In addition, applicants may seek to demonstrate that an alternative means of addressing public health and ecological risks is available and will afford an equivalent level of protection to Pinelands resources (N.J.A.C. 7:50-6.75(c)2). The Commission has always interpreted this section to mean that the "alternative means of addressing the public health and ecological risks associated with a landfill" may include no landfill cap at all. Over time, however, questions have been raised, so the Commission believes a clarification would be useful. To that end, the Commission is proposing new N.J.A.C. 7:50-6.75(c)4 that will clearly exempt from the impermeable capping requirement landfills for which a leachate plume exists but poses no significant ecological risk to wetlands. This is not a change in policy; rather, it is a clarification of the circumstances under which an impermeable cap will not be required.

The Commission will be aided in its determinations by the results of the Commission's recently completed Rapid Landfill Assessment, which uses existing NJDEP landfill monitoring data and GIS land feature data as part of a screening tool developed by the U.S. Geological Survey, New Jersey Water Science Center to quantify the level of concern posed by contaminants from Pinelands landfills that lack leachate reduction

and containment controls. Completed in 2014, the screening tool uses a model to estimate concentrations of contaminants reaching receptors such as wetlands and existing homes. Details on the landfill assessment and screening tool are available on the Commission's website at <http://www.nj.gov/pinlands/landuse/current/rapid/>.

Water Quality

Amendments are being proposed at N.J.A.C. 7:50-6.84(a)5 to accomplish two objectives: (1) recognize the successful participation of the FAST wastewater technology in the Commission's Alternate Design Wastewater Treatment Systems Pilot Program; and (2) provide an opportunity for the use of advanced treatment systems, such as FAST, for certain nonresidential uses in the Pinelands Forest, Agricultural Production, and Rural Development Areas.

The FAST technology was one of five advanced treatment systems authorized for residential use in the Pinelands Area pursuant to the Commission's Alternate Design Wastewater Treatments Systems Pilot Program. Established in 2002 through an amendment to the CMP (see 34 N.J.R. 2804(b)), the pilot program was implemented to provide a means to test whether the five identified technologies could be maintained and operated so as to meet the water quality standards of the CMP in a manner that a homeowner could be reasonably expected to follow. Implementation of the Pilot Program commenced on August 5, 2002, with the first pilot program treatment system installed and brought on line in April 2004.

Since that time, one of the five technologies (Ashco) was removed from the pilot program due to its commercial unavailability in the Pinelands. Another (Cromaglass) was removed from the pilot program in 2014 because it failed to demonstrate compliance with CMP water quality standards. Two others, Amphidrome and Bioclere, were able to demonstrate compliance and, in 2010, were released from the pilot program and granted permanent approval status for residential use on lots of at least one acre in size. Finally, in the 2014, 2015, and 2016 annual reports on the pilot program, the Executive Director recommended that the last of the original pilot program technologies, the FAST system, also be granted permanent approval status, subject to special administrative controls. The Executive Director found that the pilot program has demonstrated that the FAST technology, with proper operation and maintenance, is capable of meeting the water quality objectives of the Pinelands CMP and the Pinelands Protection Act. In the 2016 annual report, the Executive Director clarified that each FAST system, when used to serve residential development, would need to be located on a parcel of at least 1.4 acres in size in order to meet CMP water quality standards. A copy of the 2016 annual report is available on the Commission's website at <http://www.nj.gov/pinlands/landuse/current/altseptic/2016%20FINAL%20SEPTIC%20PILOT%20PRORAM%20ANNUAL%20REPORT.pdf>.

Based on this recommendation, the Commission is proposing to amend the CMP to authorize the use of the FAST technology on a permanent basis, subject to long-term management of the systems via service contracts with qualified service technicians. To that end, a new N.J.A.C. 7:50-6.84(a)5iv(2)(B) is proposed for addition to allow for the use of the FAST technology for residential development on lots of at least 1.4 acres in size (or at a density not to exceed one unit per 1.4 acres of land). Existing N.J.A.C. 7:50-6.84(a)5iv(2)(A) is proposed for revision to clarify that it applies only to the Amphidrome and Bioclere technologies, which continue to be authorized on lots of one acre in size. Use of the FAST system will be subject to a series of requirements, including mandatory recording of deed notices, conveyance of an approved operation and maintenance manual to the homeowner, compliance with construction standards, as-built certifications, alarm requirements, system warranty requirements, and renewable operation and maintenance service agreements. These requirements, set forth at recodified N.J.A.C. 7:50-6.84(a)5iv(2)(C) through (J), are identical to those that apply to the Amphidrome and Bioclere technologies. They are similar to those imposed under the pilot program, except that no water quality testing is required. The Commission believes retention of these safeguards for the three permanently authorized advanced treatment systems (Amphidrome, Bioclere, and now FAST) is necessary to ensure

their continued performance in a manner that meets CMP water quality standards.

N.J.A.C. 7:50-10.21(c), 10.22(a)3 and 4, 10.23(c), 10.23(d), and 10.23(i) are also proposed for amendment to reflect the Commission's decision to authorize the FAST treatment technology to be used on a permanent basis, subject to the provisions of proposed N.J.A.C. 7:50-6.84(a)5iv(2)(B) through (J).

The above-described amendments relative to the FAST technology apply to residential development throughout the Pinelands Area. The Commission is also proposing to further amend N.J.A.C. 7:50-6.84(a)5 in order to expand opportunities for the use of advanced treatment technologies, such as FAST, for nonresidential development. Since 1987, advanced treatment systems have been permitted to serve nonresidential development only in the growth-oriented areas of the Pinelands, namely, the Regional Growth Area, Pinelands Villages, and Pinelands Towns, and in small infill areas within the Preservation Area District. Given its successful experience over the years with evaluating advanced treatment systems proposed for various types of commercial uses in the Pinelands Area, the Commission believes it is now appropriate to allow the nonresidential use of advanced treatment systems in additional Pinelands management areas, subject to a number of important conditions.

Therefore, proposed N.J.A.C. 7:50-6.84(a)5iii(2) is being added to authorize the use of advanced treatment systems for certain nonresidential development in the Rural Development Area, Forest Area, and Agricultural Production Area. Pursuant to proposed N.J.A.C. 7:50-6.84(a)5iii(2)(A), the proposed nonresidential development must constitute expansion of a nonresidential use that was in existence on January 14, 1981, the effective date of the CMP. The change of such an existing use to another permitted nonresidential use will also qualify. In either case, the existing nonresidential use must currently be using an on-site wastewater disposal system that does not reduce the level of nitrate/nitrogen in the waste water, as specified in N.J.A.C. 7:50-6.84(a)5iii(2)(B) and the existing nonresidential use must be of such a size and scale that it does not currently comply with CMP water quality standards, as specified in N.J.A.C. 7:50-6.84(a)5iii(2)(C). Finally, the proposed nonresidential development must not exceed 50 percent of the floor area, area of the use, or the capacity of the existing nonresidential use on January 14, 1981, as specified in proposed N.J.A.C. 7:50-6.84(a)5iii(2)(D).

The CMP does not permit sewer service in the Rural Development, Forest, or Agricultural Production Areas, unless necessary to address a documented public health problem. Therefore, all development in these management areas must rely on some type of septic system and have sufficient land area to comply with CMP septic dilution requirements. The use of a standard septic system can require approximately one acre of land for every 800-1,000 square feet of nonresidential floor area. Nonresidential uses constructed prior to the CMP are frequently located on lots that are too small to provide sufficient area for dilution. Under current CMP standards, expansion of such uses is only feasible when additional vacant, contiguous lands can be acquired and used for dilution purposes. Allowing these uses to install advanced treatment systems will serve two purposes. First, current and future waste water from the uses will be treated such that nitrate/nitrogen levels are reduced to comply with CMP water quality standards. Second, the existing uses will be able to expand or change to other nonresidential uses that might have increased waste water flows. The result will be improved water quality and a greater likelihood that pre-existing uses, often of great economic importance to the more rural communities of the Pinelands Area, will remain viable.

New N.J.A.C. 7:50-6.84(a)5iii(1) is proposed to make clear that the use of advanced treatment systems for nonresidential development in Regional Growth Areas, Pinelands Villages, and Pinelands Towns continues to be permitted without the above-described new conditions. This new subsection will now also reference Military and Federal Installation Areas. Second, nonresidential development in infill areas within the Preservation Area District will be subject to the new conditions specified at proposed N.J.A.C. 7:50-6.84(a)5iii(2). Although advanced treatment systems were previously permitted to serve nonresidential development in infill areas, the Commission believes it is

appropriate that such development in this most sensitive of Pinelands management areas be limited, just as it will be in the Rural Development, Forest, and Agricultural Production Areas. The impacts of this particular amendment are expected to be very limited, given that there are only five infill zones in the Pinelands, they total less than 2,100 acres in size, and are primarily intended for residential development.

It is impossible for the Commission to accurately estimate the number of existing businesses in the Rural Development, Forest, Agricultural Production, and Infill Areas that might qualify for expansion through use of an advanced treatment system. There are only a handful of commercial and industrial zones in the Forest, Agricultural Production, and Infill Areas and they are small in terms of land area. However, other scattered pre-existing uses do exist and could qualify. Most eligible nonresidential uses are likely to be in the Rural Development Area, which contains larger nonresidential zoning districts and serves as a transition area between the growth- and conservation-oriented areas of the Pinelands. The Commission does not expect that a large number of existing businesses in these areas will seek to use advanced treatment systems as a means of facilitating expansion, simply because the advanced treatment systems are not inexpensive. However, the Commission's hope is that several of the larger existing businesses will take advantage of the opportunity.

Septic Management

N.J.A.C. 7:50-3.39(a)2x and 6.85(c)1 and 2 are proposed for deletion to remove from the CMP requirements for the municipal establishment of long-term maintenance programs for alternate design wastewater treatment systems. These requirements, added to the CMP in 2010, were originally intended to ensure that maintenance of alternate design systems would continue beyond the five year duration of the maintenance contracts required under the Commission's Alternate Design Wastewater Treatment System Pilot Program. Since that time, NJDEP has adopted rules (see N.J.A.C. 7:9A-8.3 and 12.3) to require long-term maintenance and monitoring programs for such wastewater treatment systems throughout the State. Therefore, the CMP requirements are duplicative and, therefore, no longer necessary. The Commission will continue to assist Pinelands counties and municipalities and the NJDEP with the establishment of maintenance and monitoring programs, including providing data on existing alternate design wastewater treatment systems in the Pinelands Area.

Signs

The fourth comprehensive review of the CMP recommended further inquiry into the signage standards of the CMP as they relate to new sign technologies. After a comprehensive review of the current CMP signage provisions, Commission practices, and best current practices in signage regulation, the Commission proposes to amend N.J.A.C. 7:50-6.106 through 6.109 in order to clarify the signage standards of the CMP, delegate regulatory control of on-site signage to local municipalities, and to regulate the use of electronic message displays on off-site signs.

The Commission proposes to amend the section headings for N.J.A.C. 7:50-6.107, 6.108, and 6.109 to on-site signs, off-site signs, and provisions for permitted signs, respectively. These new section headings reflect a reorganization of CMP signage regulations into a more easily interpretable structure that more closely aligns with current practices for local municipal sign regulation.

The Commission proposes to delegate regulatory authority of on-site signs to the municipalities of the Pinelands Area in N.J.A.C. 7:50-6.107. Since the adoption of the CMP, Pinelands Area municipalities have been the primary regulators of on-site signs due to the exemption of on-site signs from CMP application requirements. This policy change is further supported due to the local scale of signage impacts and the ability of municipalities to better adapt and respond in a timely fashion to evolving community values and new sign technologies. This amendment would also afford Pinelands Area municipalities the opportunity to regulate on-site business signs on an equal basis, regardless of the Pinelands management area wherein the business is located.

The Commission proposes to make clarifying amendments to provisions regulating off-site signs in N.J.A.C. 7:50-6.108. The proposed rules clarify which signs are non-conforming, and therefore, eligible to

count towards a new off-site sign if removed, and which signs are unlawful, and therefore, ineligible to count towards a new off-site sign and must be removed immediately. Such non-conforming signs would only include those off-site signs that: (1) predate the CMP and (2) are located outside of the Regional Growth Area, Pinelands Towns, and prescribed areas of the Rural Development Area and Pinelands Villages. These changes reflect the current practices of the Commission.

The Commission proposes to permit, at the option of the municipality, off-site signs with electronic message displays in N.J.A.C. 7:50-6.109. The proposed rules would prohibit use of electronic message display by non-conforming, off-site signs. For example, the CMP would not permit the conversion of an existing off-site sign in the Forest Area or Preservation Area District to an electronic message display. The allowance of such electronic message displays would not extend to those signs advertising agricultural commercial establishments because of their typical locations in Special Agricultural Areas and Agricultural Production Areas.

If a municipality opts to permit electronic message displays on off-site signs, the proposed amendment would require the municipality to adopt provisions controlling the message transition and duration between transitions. These rules are closely aligned with New Jersey Department of Transportation standards in N.J.A.C. 16:41C-11.1. Additionally, such municipalities would be required to adopt some degree of brightness standards that would be reviewed by the Commission as part of the ordinance certification process. Lastly, these rules would require such signs to have a built-in automatic dimming technology that adjusts the sign's brightness to ambient light conditions.

The proposed rules for electronic message displays would only apply to off-site signs. Therefore, it would be at the discretion of the municipality to determine how to regulate on-site signs with regard to such technologies.

As the Commission has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

No significant adverse social impact is anticipated as a consequence of the adoption of the proposed amendments. Society as a whole benefits from the protection of the Pinelands and the proposed amendments are designed to do just that. Any social impacts that do result are expected to be positive.

The proposed fee amendments are expected to have a positive social impact for New Jersey's taxpayers because the fees will, on a relative basis, reduce the need for general State funding to support the legislatively mandated permitting responsibilities of the Commission. In addition, society as a whole will continue to benefit from the protection of the unique resources of the Pinelands, the nation's first national reserve. The Pinelands Area is comprised of pine-oak forests, cedar swamps, extensive surface and groundwater resources of high quality, threatened and endangered species, and other unique natural, ecological, agricultural, scenic, cultural, and recreational resources. The proposed amendments to the Commission's application fee schedule will help to ensure that the Commission has the resources necessary to undertake its statutorily mandated review of development applications to ensure that such projects adhere to the land use and environmental requirements of the Pinelands CMP. Applicants are also likely to avoid significant application processing delays that could occur if less revenue results in a significant reduction in resources dedicated to application reviews. On the other hand, applicants may also view these proposed rates in a negative light because the proposed amendments will increase their review costs.

The proposed decrease in development application fees for solar energy facilities could have a positive social impact if it encourages more landowners in the Pinelands Area to develop such facilities.

The proposed escrow amendments are expected to have a positive social impact for New Jersey's taxpayers as they will allow the Commission to purchase software or other equipment necessary to review the complex matters that are from time-to-time brought before the Commission by private or other public entities, without the need to expend public funds. Likewise, escrow funds will be available for use if

a particularly complex or contentious application necessitates rental of a larger public meeting space than the Commission can provide at its own offices.

The proposed amendments to the Commission's hearing procedures, set forth at N.J.A.C. 7:50-4.3(b)2i, continue to provide ample opportunities for public notice and involvement. Notices for all public hearings held by the Commission will be posted on the Commission's website and provided to relevant municipalities and counties at least 10 days in advance of any hearing. Notices will also continue to be provided to any member of the public who has asked to be included on the Commission's hearing registry, established pursuant to N.J.A.C. 7:50-4.3(b)2i(2). Such notices are provided free of charge via e-mail to all persons on the registry and at a small fee to cover the costs of copying and postage if the notices must be sent via regular mail. Elimination of the requirement that certain hearing and other notices be posted on properties proposed for development is not expected to reduce public awareness of or participation at hearings held by the Commission.

The proposed clarifications to CMP landfill capping requirements may encourage more municipalities and other applicants to approach the Commission to discuss their landfill closure plans because they will have a better understanding of the circumstances under which an impermeable cap is not required. For those that qualify, proper closure of these old landfills may then proceed more quickly, which will have a positive social impact on the communities in which they are located.

The proposed amendments provide permanent approval status to the FAST advanced treatment technology because it has demonstrated, through participation in the pilot program, that it is capable of meeting Pinelands water quality standards when used to service residential development on lots as small as 1.4 acres. Adoption of the amendments will have a positive social impact by permitting the use of this proven technology on parcels between 1.4 and 3.2 acres in size, without the expense of water quality testing. The amendments do not in any way affect permitted residential densities or minimum lot size requirements in the Pinelands Area. Thus, no significant changes in land use patterns will result from the proposed amendments.

Economic Impact

The proposed amendments clarify and make a number of changes to the Commission's application fee requirements. Fees for solar energy facility applications will decrease, in some cases quite significantly. Fees for all other types of development applications submitted to the Commission will increase, particularly those submitted to resolve identified violations of the CMP. It is difficult to predict the exact impacts of these amendments, as the actual amount of revenue generated by the application fees in the future will be a function of the number and type of development applications submitted to the Commission each year.

The following examples help to illustrate the impact of the proposed fee changes on several types of projects:

- A 50-lot residential subdivision will be subject to a \$2,787.50 fee increase, amounting to an additional cost of \$55.75 per lot;
- The fee for a 20-acre resource extraction (mining) proposal will increase by \$525 or \$26.25 per acre of land to be mined;
- A 15,000 square foot municipal building with an estimated construction cost of \$1,875,000 will be subject to a fee increase of \$2,344, or an additional cost of \$0.16 per square foot.

Although the Commission views these as modest increases, it also recognizes that applicants may view them in a negative light. However, it should be noted that the Commission's fee schedule is not designed to recapture all of the Commission's permit-related expenses. Rather, the Commission expects that, if current application trends continue, perhaps 43 percent of the Commission's permit-related expenses could be recouped through application fee revenue.

The proposed amendments at N.J.A.C. 7:50-1.7 that allow the Executive Director to request escrows to cover the cost of software, equipment, facilities, or services necessary to review a particular development application will increase costs for some private or public entities that seek the Commission's approval of various plans or agreements. These escrows will, however, better enable the Commission to handle these matters and complete its review procedures in a timely

and informed manner. This should result in an improved and more efficient review by the Commission, partially offsetting the increased financial obligation of the applicant.

The Commission also expects there to be decreased costs to the Commission as a result of the efficiency measures implemented in the proposed amendments. In particular, eliminating the need to send certain documents via certified mail will save both time and money. In the past five years alone, the Commission spent approximately \$6,500 to send over 1,050 letters to applicants via certified mail pursuant to N.J.A.C. 7:50-4.37(b) and 4.40(b). Had those same 1,050 documents been sent via e-mail, as would be permitted under the proposed amendments, there would have been no cost to the Commission. Had they been sent via regular mail, which would also be permitted under the proposed amendments, the expenditure of less than \$500 would have been required. Based on current development activity levels, it is estimated that the Commission could save as much as \$1,300 per year by eliminating certified mailing requirements. The proposed amendments also eliminate certified mailing requirements for municipalities; thus, there will be a cost savings for those entities as well.

The proposed amendments allowing for use of advanced treatment systems for certain nonresidential uses in the Rural Development, Forest, and Agricultural Production Areas should have a positive economic impact. Under current CMP standards, these businesses are precluded from expansion because they do not currently meet CMP water quality standards. The proposed amendments provide a new opportunity for up to 50 percent expansion of existing businesses that meet certain conditions and install an advanced waste water treatment system.

The flexibility granted to municipalities in the regulation of on-site signs may provide businesses opportunities to install more signage and/or utilize modern sign technologies in their advertising. The flexibility granted to municipalities in the regulation of off-site signs may provide additional revenues and business opportunities to the owners of off-site signs if permitted to convert to a sign with an electronic message display.

The proposed amendments release the FAST technology from the pilot program and grant permanent approval status to this technology. Granting of permanent approval status is expected to result in a positive economic impact to the residents of the Pinelands. Permanent approval means that the FAST technology will no longer be subject to laboratory analysis of treated wastewater discharged from this technology. The elimination of laboratory testing requirements is expected to result in cost savings to owners of a FAST system.

Environmental Impact

The Commission does not anticipate that the proposed amendments will have any negative environmental impact.

Decreased fees for solar energy facilities may serve to encourage applicants to move forward with the development of such facilities, consistent with the goals of the New Jersey Energy Master Plan.

The Commission does not anticipate that the proposed amendments to the Commission's application fee schedule will have any negative environmental impact. The proposed amendments do not modify the land use and environmental requirements of the CMP in any way. Applications for development will still need to demonstrate that they satisfy the land use and environmental standards of the Plan, as is the case now.

The proposed amendments at N.J.A.C. 7:50-6.84(a)5iii(2) allow certain existing nonresidential uses in the Pinelands Rural Development, Forest, and Agricultural Production Areas to use advanced wastewater treatment systems as a way of improving water quality and facilitating expansion of businesses that were constructed prior to the effective date of the CMP (January 14, 1981). Use of such systems, which treat waste water rather than simply diluting it, will enable the existing businesses to come into conformance with CMP water quality standards, providing an obvious environmental benefit to the Pinelands.

The proposed amendments to allow electronic message displays for on-site signs and certain off-site signs may be viewed by some as detracting from the scenic qualities of the Pinelands and posing a threat to ecosystem functioning due to ecological light pollution. However,

these types of off-site signs will only be permitted where they are consistent with other permitted, similar nonresidential uses, that is, in Regional Growth Areas, Pinelands Towns, and in non-residential zones in the Rural Development Areas and Pinelands Villages close to the Regional Growth Areas and Pinelands Towns. Furthermore, provisions have been included to mandate the shielding of external lights on off-site signs that are directed to the sky. Also, it is worth noting that the type of lighting used in electronic message displays tends to be less intense than the more traditional lighting used in older signs. As such, light impacts may actually be reduced through the use of electronic message displays. With regard to the impacts of ecological light pollution, the literature on the impacts of artificial light at night was investigated, but the field of study has yet to reach a consensus on science-based brightness standards for signs that would mitigate such ecological impacts.

Federal Standards Analysis

Section 502 of the National Parks and Recreation Act of 1978 (16 U.S.C. §471i) called upon the State of New Jersey to develop a comprehensive management plan for the Pinelands National Reserve. The original plan adopted in 1980 was subject to the approval of the United States Secretary of the Interior, as are all amendments to the plan.

The Federal Pinelands legislation sets forth rigorous goals that the plan must meet, including the protection, preservation, and enhancement of the land and water resources of the Pinelands. The proposed amendments are designed to meet those goals by providing an opportunity for water quality improvements through the use of advanced waste water treatment systems. The other proposed amendments may be categorized as mere clarifications or largely procedural in nature.

There are no other Federal requirements that apply to the subject matter of these amendments.

Jobs Impact

The proposed amendments are not expected to have any significant jobs impacts. Although the amendments do increase development application fees on the private and public sectors, the added costs, as explained in the Economic Impact section above, are not significant and are not expected to result in a loss of jobs.

The remainder of the proposed amendments are not expected to have any impact on the creation or loss of jobs.

Agriculture Industry Impact

The proposed amendments make changes to the Commission's fee schedule. To the extent that members of the agriculture industry located within the Pinelands intend to engage in activities that will necessitate submission of a development application, they may be impacted. Fees for most commercial activities (agricultural commercial establishments, agricultural processing facilities, etc.) are being increased. Application fees for solar energy facilities are being decreased and this may be of benefit to farm owners. For the most part, principal agricultural activities do not require the submission of development applications and therefore will continue to pay no fees to the Commission. The Commission does not believe that the proposed amendments will have any significant impact on the agriculture industry.

The proposed amendments to N.J.A.C. 7:50-6.84(a)5iii(2) provide an opportunity for existing businesses in the Agricultural Production Area to expand by using advanced waste water treatment systems. To the extent such businesses are owned, operated, or used by members of the agriculture industry, they will benefit from these new provisions.

Regulatory Flexibility Analysis

The proposed amendments revising the Commission's application fee schedule will not impose any additional reporting or recordkeeping requirements on small businesses, nor will the amendments require small businesses to employ professional services. As discussed in the Economic Impact section above, the proposed amendments may have an impact on developers, contractors, and property owners involved or interested in certain development projects within the Pinelands Area. Because most businesses in the Pinelands Area may be characterized as small in size and number of employees, the proposed fee amendments may have an impact on "small business" as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. However, because the Commission's fee schedule is based on the type of development

application submitted, the proposed amendments are expected to have the same impact on small businesses as on any other entity. Given that the resources of the Pinelands are important to all State citizens, and the proposed amendments are necessary to provide revenue for appropriate review and protection of these resources, no lesser requirements for small businesses are provided.

The proposed amendments also allow the Commission to require escrow funds for the acquisition of software, equipment, facilities, or services deemed necessary for the review of matters pending before the Commission that involve complex issues, necessitate specialized expertise, or require considerable staff review. While it would be impossible to identify all of the matters brought before the Commission that might result in an escrow requirement, the two most likely are comprehensive plans for local communications facilities and intergovernmental memoranda of agreement. In neither of those cases would small businesses as defined under the Regulatory Flexibility Act be affected by the amended escrow requirements.

No adverse economic impact on small businesses is to be expected from the revised sign standards. New revenue opportunities may occur for outdoor advertising companies permitted to install an electronic message display on their off-site signs. Such technologies would allow multiple advertising messages to be displayed in a given period of time thus providing more sources of revenue for the sign owner and/or land owner. Similarly, small businesses may be afforded more flexibility in the size, quantity, and design of their on-site signs, which may provide more effective advertising.

The proposed amendments to N.J.A.C. 7:50-6.84(a)5iii(2) provide a new opportunity for expansion of existing businesses in the more rural portions of the Pinelands Area. Although an exact percentage is unknown, many of the affected businesses are likely to qualify as small businesses under the Act and will benefit from the amendments.

The proposed amendments will not impose any other reporting, recordkeeping, or compliance requirements on small businesses.

Housing Affordability Impact Analysis

In accordance with N.J.S.A. 52:14B-4, the Commission has evaluated the proposed amendments to determine the impact, if any, on the affordability of housing.

Clearly, increased development application fees will have an impact on those applicants seeking to build new residential developments in the Pinelands Area. The increased fees will constitute a very small portion of the total project cost for such developments. Therefore, the Commission believes it is extremely unlikely the economic impacts of the proposed fee amendments would evoke a change in the average costs associated with housing.

The proposed amendments have the potential to reduce the cost of alternate design wastewater treatment systems for those landowners seeking to develop homes on lots between 1.4 and 3.2 acres in size in the unsewered portions of the Pinelands Area. This is because the FAST system will now be authorized for use on a permanent basis in association with such development. The costs associated with monitoring this technology will be eliminated, resulting in decreased costs of the systems for homeowners. In addition, adding a third system to the list of those authorized for permanent use may increase competition amongst the three systems (Amphidrome, Bioclere, and FAST) and result in reduced prices.

It is unlikely that any of the other proposed amendments would evoke a change in the affordability or average costs associated with housing.

Smart Growth Development Impact

N.J.S.A. 52:14B-4 requires that proposed amendments be evaluated to determine their impacts, if any, on housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan (State Plan). Planning Areas 1 and 2 do not exist in the Pinelands Area. Likewise, the State Plan does not designate centers within the Pinelands Area. Instead, N.J.S.A. 52:18A-206.a provides that the State Plan shall rely on the Pinelands CMP with respect to the Pinelands. Therefore, the Commission has evaluated the impact of the proposed amendments on Pinelands management areas that are equivalent to Planning Areas 1 and 2 and designated centers (that is,

Regional Growth Area, Pinelands Villages, and Pinelands Towns), as designated by the CMP.

The proposed amendments are not anticipated to have any significant impact on housing production. The proposed amendments relative to the FAST treatment technology will allow for the installation and use of this technology on a permanent basis in unsewered areas of the Pinelands that are zoned for residential development on lots of less than 3.2 acres in size. With few exceptions, these areas are located in Regional Growth Areas, Pinelands Villages, and Pinelands Towns, management areas designated for development by the Comprehensive Management Plan and equivalent to designated centers under the State Plan.

No other smart growth impacts are anticipated from the proposed amendments.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 7:50-6.107, 6.108, and 6.109.

Full text of the proposed amendments and new rules follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS

7:50-1.6 Fees

(a) Except as provided in (a)1 and 2 below, all applications required or permitted by any provision of this Plan shall be accompanied by a nonrefundable application fee of [\$200.00] **\$250.00** or a fee calculated according to the fee schedule set forth in (b) through [(k)] **(l)** below, whichever is greater. No application filed pursuant to this Plan shall be reviewed or considered complete unless all fees required by this Part have been paid and any escrow required pursuant to N.J.A.C. 7:50-1.7 has been submitted.

1.-2. (No change.)

(b) The application fee for a residential development application submitted pursuant to N.J.A.C. 7:50-4.14, [or] 4.33, **4.52, or 4.66** shall be calculated as follows:

1. There shall be a [\$200] **\$250.00** fee for a residential development consisting of one unit or one lot; and

2. The fee for all other residential developments shall be calculated based on the number of proposed dwelling units or lots, whichever is greater, including those to be utilized for stormwater facilities, open space, recreational facilities, or other accessory elements of a residential development, according to the following:

i. [\$200.00] **\$250.00** per dwelling unit or lot for the first four units or lots;

ii. [\$225.00] **\$281.25** per dwelling unit or lot for units/lots five through 50;

iii. [\$125.00] **\$156.25** per dwelling unit or lot for units/lots 51 through 150; and

iv. [\$100.00] **\$125.00** per dwelling unit or lots for units/lots in excess of 150.

(c) The application fee for a commercial, institutional, industrial, or other non-residential development application submitted pursuant to N.J.A.C. 7:50-4.14, [or] 4.33, **4.52, or 4.66** shall be calculated in accordance with the following, based on typical construction costs, except as provided in (c)1 through [7] **9** below: [one percent of construction costs for the first \$500,000 of the total construction cost; three-fourths percent of construction costs for the portion of the construction costs between \$500,000 and \$1 million; and one-half percent of construction costs for the portion of the construction costs in excess of \$1 million.] Typical construction costs shall include all costs associated with the development for which the application is being submitted, including, but not limited to, site improvement and building improvement costs, but shall not include interior furnishings, atypical features, decorative materials or other similar features. [For fees calculated based on the percentage of construction costs, such costs shall be supported by the sworn statement of a licensed architect, licensed engineer, or other qualified individual, if an architect or engineer has not been retained for the project, as to the expected construction costs.]

Construction Cost	Required Application Fee
\$0 - \$500,000	1.25 percent of construction costs
\$500,001 - \$1,000,000	\$6,250 + one percent of construction costs above \$500,000
Greater than \$1,000,000	\$11,250 + 0.75 percent of construction costs above \$1,000,000

Supporting documentation of the expected construction costs shall be submitted as part of the application for development, unless the maximum fee pursuant to (e)4 below is required, in which case no such documentation shall be necessary.

1. For an off-road vehicle event conducted in accordance with N.J.A.C. 7:50-6.143(a)4, the fee shall be [\$5.00] **\$6.25** per mile, or **portion thereof**, of the route proposed;

2. For a forestry application or renewal application, submitted pursuant to N.J.A.C. 7:50-6.43(b) or (c), for forestry activities involving 10 or more acres, the fee shall be [\$5.00] **\$6.25** per acre, or **portion thereof**, that is subject to the forestry activities;

3. For the development of a golf course, the fee shall be [\$150.00] **\$187.50** per acre, or **portion thereof**, devoted to the golf course facility, including, but not limited to, the golf course and associated forested areas, club house, putting greens, driving range, parking areas, locker rooms, and accessory buildings, such as rest rooms, maintenance buildings, and other recreational areas depicted on the site plan submitted as part of the application. All areas associated with the planning, construction, operation, or maintenance of a golf course facility, including those areas not directly associated with golfing or a recreational activity, must be included in the acreage used to calculate the applicable application fee for the development of a golf course;

4. For a proposed linear development, the application fee shall be [\$150.00] **\$187.50** per acre, or **portion thereof**, of all land included in the right of way of the proposed linear development project [plus \$150.00 per acre] **and all land** located outside of the right of way that will be disturbed as part of a linear development project. "Linear development" means land uses such as roads, railroads, sewerage, and stormwater management pipes, gas and water pipelines, electric, telephone, and other transmission or distribution lines, which have the basic function of connecting two points, the rights-of-way therefor, and any accessory structures or uses directly associated therewith. [Linear] **For purposes of this section, linear development** shall not include residential, commercial, office or industrial buildings, improvements within a development such as utility lines or pipes, **bridges**, or internal circulation roads;

5. For a resource extraction permit application or permit renewal application, the application fee shall be [\$1,500] **\$1,875** plus [\$30.00] **\$37.50** per acre to be mined, or **portion thereof**, within each permit period;

6. For a change of use with no additional development or a home occupation[s], the application fee shall be [\$200.00] **\$250.00**; [and]

7. For an application for a subdivision or resubdivision only, with no other development, the application fee shall be calculated according to the formula in (b)2 above, based on the total number of lots [which] **that** will exist following the subdivision or resubdivision regardless of the number of lots that existed prior to the subdivision[.];

8. **For the demolition of a structure 50 years or older, the fee shall be \$250.00; and**

9. **For the development of a solar energy facility, the fee shall be \$1,500 plus \$500.00 per acre of land to be developed, or portion thereof, including any off-site development.**

(d) (No change.)

(e) The application fee required at the time of submission of a development application in accordance with (a) through (d) above or (f) below shall:

1. Be increased by [\$2,500] **\$3,125** if an individual on-site septic system is proposed pursuant to N.J.A.C. 7:50-[6.84(a)5] **6.84(a)5iv(2)(I) or (3)**;

2.-3. (No change.)

(f) An application fee in accordance with (a) through (d) above shall be submitted for an application where a certificate of filing [or], a certificate of completeness, or a public development approval has not been issued pursuant to N.J.A.C. 7:50-4.34 [or], 4.15, or 4.56 and either no direct activity in furtherance of the Commission's application process has occurred for a period of two years or there has been a significant or material change in the proposed development that is the subject of the application.

(g) (No change.)

(h) The fee for a Letter of Interpretation or Amended Letter of Interpretation submitted pursuant to N.J.A.C. 7:50-4, Part VI, shall be determined according to the following:

1. There shall be no fee for a Letter of Interpretation involving the allocation of Pinelands Development Credits except for an Amended Letter of Interpretation requested within five years of issuance of the original Letter of Interpretation, in which case the fee shall be [\$200.00] **\$250.00** plus [\$5.00] **\$6.25** per acre of land for which the amended allocation is requested; and

2. The application fee for any other Letter of Interpretation or Amended Letter of Interpretation shall be [\$200.00] **\$250.00**.

(i) The application fee for the review and processing of a request for a letter stating information that is available in a municipal land use ordinance or stating other information readily available to the public from a source other than the Pinelands Commission shall be [\$200.00] **\$250.00**.

(j) The application fee for an Amended Certificate of Filing, Amended Certificate of Completeness, or amended public development approval shall be [\$200.00] **\$250.00** or 10 percent of the original permit fee, whichever is greater, with a maximum fee of [\$3,000] **\$3,750**. If a request for an Amended Certificate of Filing, Amended Certificate of Completeness, or amended public development approval is submitted more than five years following the issuance of the original Certificate of Filing, Certificate of Completeness, or public development approval, the fee shall be calculated as if a new application had been submitted.

(k) (No change.)

(l) The application fee for a Certificate of Filing or Certificate of Completeness associated with an application for general development plan approval in accordance with N.J.S.A. 40:55D-45.3 shall be one-half of the estimated application fee calculated in accordance with (b) through (d) above. The remainder of the application fee, adjusted as necessary to reflect any changes from the general development approval, shall be due upon submission of any subsequent applications for individual phases of the development, each of which shall require a new Certificate of Filing or Certificate of Completeness.

7:50-1.7 Escrows

(a) Notwithstanding any other provision of N.J.A.C. 7:50-1.6, the Executive Director may request an escrow for development applications or other matters pending before the Commission that involve complex issues which, either because of the need for specialized expertise, necessitate the retention of consultants to assist in the Commission's review, or will require considerable staff review or unusual expenditures, including costs associated with specialized software, equipment, facilities, or services. Should the Executive Director determine that an escrow is necessary:

1. (No change.)

2. Monies submitted pursuant to (a)1 above shall be held in an escrow account and shall be used by the Commission to reimburse any costs it incurs [either as a result of retaining any consultants or for the considerable amount of staff time required for the review and, in] pursuant to (a) above. In the case of an escrow for an intergovernmental memorandum of agreement authorized pursuant to N.J.A.C. 7:50-4.52(c)2, monies submitted shall also be used for developing, implementing, and monitoring such agreement;

3.-7. (No change.)

(b) (No change.)

SUBCHAPTER 2. INTERPRETATIONS AND DEFINITIONS

7:50-2.11 Definitions

When used in this Plan, the following terms shall have the meanings ascribed to them.

"Alternate design pilot program treatment system" means an individual or community on site waste water treatment system that has the capability of providing a high level of treatment, including a significant reduction in the level of total nitrogen in the wastewater, and [includes the systems listed below, as described in the report prepared by Anish R. Jantrania, Ph.D., P.E., M.B.A. entitled "Performance Expectations for Selected On-site Wastewater Treatment Systems," dated December, 2000, incorporated herein by reference, and available at the principal office of the Commission, that have been authorized for use for residential development by the pilot program established in N.J.A.C. 7:50-10, Part IV. In addition, alternate design pilot program treatment system shall also include any technology or technologies that have] that has been approved by the Commission for participation in the alternate design wastewater treatment systems pilot program pursuant to N.J.A.C. 7:50-10.23(b). Detailed plans and specifications for each authorized technology are available at the principal office of the Commission.

[1. FAST; or

2. Other nitrogen reducing technologies approved by the Commission pursuant to N.J.A.C. 7:50-10.23(b).]

"Electronic message display" means an element of a sign that is capable of displaying words, symbols, figures, or images that electronically or mechanically change by remote or automatic means.

"Interested [person] party" means any [persons whose right to use, acquire or enjoy property is or may be affected by any action taken under this Plan, or whose right to use, acquire or enjoy property under this Plan or under any other law of this State or of the United States has been denied, violated or infringed upon by an action or a failure to act under this Plan] person or entity who has either submitted an application for development to the Pinelands Commission or who has a particularized property interest sufficient to require a hearing on constitutional or statutory grounds.

"Mail" shall mean regular mail or e-mail.

"Off-site [commercial advertising] sign" means a sign [which] that directs attention to a business, commodity, product, service, [or] entertainment, or other attraction conducted, sold, or offered at a location other than the premises on which the sign is located.

"Sign" [means any object, device, display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination or projected images. Signs do not include the flag or emblem of any nation, organization of nations, state or city, or any fraternal, religious or civic organizations; merchandise, pictures or models of products or services incorporated in a window display; works of art which in no way identify a product; or scoreboards located on athletic fields.] means any structure including, but not limited to, an advertising structure and sign face used outdoors and affixed to or upon property to display messages and/or images within public view that is designed to attract, or does attract, the attention of pedestrians or operators or passengers of motor vehicles using the roads, highways, and other public thoroughfares and places, and shall include any writing, printing, painting, display, emblem, drawing, or other device whether placed on the ground, rocks, trees, tree stumps, or other natural structures, or on a building, structure, signboard, billboard, wallboard, roofboard, frame, support, fence, or elsewhere, and any lighting or other accessories used in conjunction therewith.

SUBCHAPTER 3. CERTIFICATION OF COUNTY, MUNICIPAL, AND FEDERAL INSTALLATION PLANS

7:50-3.24 Revocation of delegation and notice thereof

(a)-(b) (No change.)

(c) Notice of revocation: Within 10 days following entry of any order entered by the Commission pursuant to (b) above, revoking, suspending, or modifying any delegation pursuant to N.J.A.C. 7:50-3.22(b), the Executive Director shall give notice of such order and of its terms, by [certified] mail, to the affected county and to all municipalities within such county.

7:50-3.39 Standards for certification of municipal master plans and land use ordinances

(a) Municipal master plans and land use ordinances, and any parts thereof, shall be certified only if:

1. (No change.)

2. They include provisions [which] that:

i.-vii. (No change.)

viii. Establish and implement a mitigation plan as part of any municipal stormwater management plan and ordinance adopted in accordance with N.J.A.C. 7:8-4.2(c)11 [which] that:

(1)-(4) (No change.)

(5) Requires that the municipality expend any contributions collected pursuant to (a)2viii(4) above within five years of their receipt; and

ix. Are designed to implement a clear and straightforward process for the review of applications for residential cluster development in the Forest and Rural Development Areas, in accordance with the requirements for cluster development set forth in N.J.A.C. 7:50-5.19(c) and (d). The Commission may certify municipal clustering ordinances that contain different clustering standards than those set forth in N.J.A.C. 7:50-5.19(c) and (d) provided that those standards are supported through the application of sound land use planning principles, are based upon local conditions or circumstances that warrant such changes and do not undermine the overall goals and objectives of the Forest and Rural Development Area clustering program set forth at N.J.A.C. 7:50-5.19(c) and (d); and].

[x. Establish a program for the long-term maintenance of Pinelands alternate design wastewater treatment systems which, at minimum, complies with and implements the provisions of N.J.A.C. 7:50-6.85(b) and (c), and N.J.A.C. 7:15-5.25(e)3. Said program may include the municipal collection of reasonable fees for the issuance of any required permits or other authorizations. The Commission may certify municipal ordinances that contain additional and/or different standards or procedures than those set forth in N.J.A.C. 7:50-6.85(b) and (c), provided those standards and procedures are based upon local conditions or circumstances that warrant such changes and will ensure the protection of surface and ground water quality consistent with N.J.A.C. 7:50-6, Part VIII.]

3.-13. (No change.)

(b) No change.

SUBCHAPTER 4. DEVELOPMENT REVIEW

7:50-4.1 Applicability

(a) For the purposes of this subchapter only, the following shall not be considered development except for development of any historic resource designated by the Pinelands Commission pursuant to N.J.A.C. 7:50-6.154:

1.-3. (No change.)

4. The construction, repair, or removal of any sign, except for the construction or replacement of any off-site [commercial advertising] sign in accordance with N.J.A.C. 7:50-6.108(a)3, 4, or 5;

5.-16. (No change.)

17. To control and reduce the threat of wildfire:

i. Prescribed burning; and [the]

ii. Linear clearing [and maintaining of fire breaks] of vegetation, including subsequent maintenance of that cleared area and

vegetation, provided the linear clearing does not exceed six feet in width;

18.-23. (No change.)

(b)-(d) (No change.)

7:50-4.3 Commission hearing procedures

(a) (No change.)

(b) Notice of public hearing.

1. (No change.)

2. Persons entitled to notice:

i. Notice of public hearings shall be given by the Commission:

(1) By sending a copy of the notice to the applicant [by certified mail];

(2) (No change.)

(3) If the public hearing involves certification of a municipal master plan or land use ordinance[s], by **posting the notice on the Commission's website, publication of the notice in an official newspaper of the Commission having general circulation in the area,** and sending a copy of the notice, by mail, to the municipal clerk and the planning board secretary of the municipality seeking certification, the municipal clerk and planning board secretary of each Pinelands municipality bordering the municipality seeking certification and [to] the county clerk and the county planning board secretary of the county in which the municipality seeking certification is located and of the adjacent county if the municipality borders another county.

(4) If the public hearing involves certification of a county master plan or regulations, by **posting the notice on the Commission's website, publication of the notice in an official newspaper of the Commission having general circulation in the area,** and sending a copy of the notice, by mail, to the [municipal] clerk and the planning board secretary of the county seeking certification, each Pinelands municipality in the county seeking certification and [to the county clerk and county planning board secretary of] each Pinelands county bordering the county seeking certification.

[(5) If the public hearing involves certification of a county or municipal master plan or municipal land use ordinance or county development ordinance, by publication of a copy of the notice, at least once, in an official newspaper of the Pinelands Commission having general circulation in the area;]

(5) If the public hearing involves an application for a Waiver of Strict Compliance submitted pursuant to N.J.A.C. 7:50-4.64(a)1, by sending a copy of the notice, by mail, to the applicant and the secretary of the county and municipal planning board and environmental commission, if any, with jurisdiction over the parcel on which development is proposed. In addition, a copy of the notice shall be posted on the Commission's website and published in an official newspaper of the Commission having general circulation in the area.

(6) If the public hearing involves an amendment proposed by the Commission pursuant to N.J.A.C. 7:50-7, by sending a copy of the notice, by mail, to the mayor of each Pinelands municipality and to the freeholder director and county executive of each Pinelands county. In addition, a copy of the notice shall be published in all the official newspapers of the Pinelands Commission and posted on the Commission's website.

(7) If the public hearing involves an inter-governmental memorandum of agreement pursuant to N.J.A.C. 7:50-4.52, by sending a copy of the notice, by mail, to the mayor of each Pinelands municipality and the freeholder director and county executive of each Pinelands county that may be directly affected by the memorandum of agreement under consideration. In addition, a copy of the notice shall be published in those official newspapers of the Pinelands Commission having general circulation in the area that may be directly affected by the memorandum of agreement and posted on the Commission's website.

(8) (No change.)

(9) If the public hearing involves a comprehensive plan submitted to the Commission pursuant to N.J.A.C. 7:50-5.4(c)6, by sending a copy of the notice and the comprehensive plan, by mail, to the mayor of each Pinelands municipality and the freeholder director and county executive, if any, of each Pinelands county. In addition, a copy of the notice shall

be published in all the official newspapers of the [Pinelands] Commission and **posted on the Commission's website.**

ii. Notice of public hearings shall be given by the applicant:

(1) (No change.)

(2) If the public hearing relates to an application for development approval [or an application for a Waiver of Strict Compliance submitted pursuant to N.J.A.C. 7:50-4.64(a)1], by sending a copy of the notice, by mail, to:

(A) The secretary of the county and municipal planning board and environmental commission, if any, with jurisdiction over the parcel on which development has been proposed; **and**

(B) Any landowners within 200 feet of any border of the parcel proposed for development[, except as otherwise provided in N.J.A.C. 7:50-4.66(c).]; **and**

(3) By publication of a copy of the notice, at least once, in a newspaper having general circulation in the area[.];

[(4) By conspicuous posting on any parcel proposed for development or proposed for designation pursuant to N.J.A.C. 7:50-6.154.]

3.-4. (No change.)

(c)-(d) (No change.)

(e) Content and service of decision of Executive Director or Commission:

1.-2. (No change.)

3. All decisions and orders of the Executive Director or the Commission shall be considered rendered three days after notice of such decisions and orders has been deposited in the [United States Mail] **mail** addressed to those persons identified in (e)2 above. **For purposes of computing the three-day period, the date of deposition of the notice in the mail shall not be included.**

7:50-4.15 Action by Executive Director on application

Within 90 days following the receipt of a complete application for development, the Executive Director shall review the application and all information submitted by the applicant or any other person relating to the application and upon completion of such review issue a Certificate of Completeness stating whether the application should be approved, approved with conditions, or disapproved. The application may be approved or approved with conditions only if the development as proposed, or subject to any conditions which may be imposed, conforms to each of the minimum standards for development approval established by N.J.A.C. 7:50-4.16. The Executive Director may propose in said Certificate of Completeness any reasonable condition [which] **that he or she** finds is necessary to achieve the objectives of this Plan. The Executive Director shall provide a copy of the Certificate of Completeness to the applicant, the Commission, [interested persons, including] all persons who have **individually** submitted information concerning the application, [as well as] all persons who have requested a copy of said decision, and any person, organization, or agency [which] **that** has registered under N.J.A.C. 7:50-4.3(b)2i(2).

7:50-4.18 Report requirements of local permitting agency with respect to applications for development

(a)-(c) (No change.)

(d) Notice of preliminary approval: Notice of any grant of preliminary site plan or subdivision approval or any other preliminary approval of any application for development provided for by the Municipal Land Use Law or any county or municipal regulation or ordinance shall be given to the Commission by the local agency, by [certified] mail, within five days following such grant or approval. Such notice shall be in such form as the Executive Director shall from time to time specify, but shall contain at least the following information:

1.-6. (No change.)

[7. The names and addresses of all persons who actively participated in the local proceedings.]

(e) Notice of final determination: Notice of any final determination approving or denying any application for development shall be given to the Commission by the local agency, by [certified] mail, within five days following such determination and shall be in such form as the Executive Director shall from time to time specify; but such notice shall contain at least the following information:

1.-6. (No change.)

(f) (No change.)

7:50-4.19 Commission review following preliminary approval

(a) (No change.)

(b) Notice of decision and hearing: Within 30 days following receipt of a notice of preliminary approval containing all the information specified in N.J.A.C. 7:50-4.18(d), the Executive Director shall give notice of his **or her** determination by mail to the applicant, the local permitting agency [which] **that** granted such preliminary approval, [interested persons, including] all persons who have individually submitted information concerning the application [or who participated in the local approval process, as well as], all persons who have requested a copy of said decision, and any person, organization, or agency [which] **that** has registered under N.J.A.C. 7:50-4.3(b)2i(2). If the Executive Director determines that the preliminary approval should be reviewed by the Commission, [the notice shall be sent by certified mail to the applicant and the local agency which granted the approval. The] **the** notice shall indicate that the applicant, the local permitting agency, or any interested [person] **party** may, within 21 days of mailing of such notice, request that a hearing be held before an Administrative Law Judge pursuant to the procedures established by N.J.A.C. 7:50-4.91 for the purpose of reviewing such preliminary approval.

(c) [Notices to interested persons:] If the Executive Director determines that a preliminary approval shall be reviewed by the Commission and a hearing has been requested before an Administrative Law Judge pursuant to (b) above, **he or she** shall notify all persons who [actively participated in the proceedings before the local permitting agency and all persons who] **individually** submitted information on the application to the Commission, [that they may participate in any proceedings held pursuant to this Part] **all persons who have requested a copy of the Commission's decision, and any person, organization, or agency that has registered under N.J.A.C. 7:50-4.3(b)2i(2).**

(d)-(e) (No change.)

7:50-4.20 Decision on review

(a) If no hearing is requested pursuant to N.J.A.C. 7:50-4.19(b), the Executive Director shall, within 60 days after the time to request an appeal has expired, review the application, all other information in the file, the Certificate of Completeness, and the local approval and determine whether the preliminary approval is in conformance with the minimum standards of this Plan. The Executive Director may recommend the Commission approve the preliminary approval, approve the preliminary approval with conditions or disapprove the preliminary approval. The Executive Director shall give written notification of his **or her** findings and conclusions to the applicant, the Commission, the local permitting agency, [interested persons, including] all persons who have individually submitted information concerning the application, [or who participated in the local approval process, as well as] all persons who have requested a copy of said determination, and any person, organization, or agency [which] **that** has registered under N.J.A.C. 7:50-4.3(b)2i(2).

(b)-(d) (No change.)

7:50-4.22 Commission review following final local approval

(a) (No change.)

(b) Notice of decision and hearing: Within 15 days following receipt of a notice of final determination containing all the information specified in N.J.A.C. 7:50-4.18(e), the Executive Director shall give notice of his **or her** determination by mail to the applicant, the local permitting agency [which] **that** granted such approval, [interested persons, including] all persons who have individually submitted information concerning the application, [or who participated in the local review process, as well as] all persons who have requested a copy of said decision, and any person, organization, or agency [which] **that** has registered under N.J.A.C. 7:50-4.3(b)2i(2). If applicable, such notice shall set a date, time, and place for public hearing as required by N.J.A.C. 7:50-4.23. [Any notice scheduling a public hearing shall be sent by certified mail to the applicant and the local agency which granted the approval.]

(c)-(d) (No change.)

7:50-4.23 Public hearing

If the Executive Director determines that the approval should be reviewed by the Commission, he or she shall, within 45 days following receipt of a completed notice of final determination given pursuant to N.J.A.C. 7:50-4.18(e), conduct a public hearing to be held pursuant to the procedures set out in N.J.A.C. 7:50-4.3 of this Plan. The applicant shall have the burden of going forward and the burden of proof at the public hearing. Following conclusion of the public hearing, the Executive Director shall review the record of the public hearing and issue a report on the public hearing to the Commission. The Executive Director may recommend that the Commission approve the application, approve the application with conditions or disapprove the application. The Executive Director shall give written notification of his or her findings and conclusions to the applicant, the Commission, the local permitting agency, [interested persons, including] all persons who have individually submitted information concerning the application, [or who participated in the local review process, as well as] all persons who have requested a copy of said determination, and any person, organization, or agency [which] that has registered under N.J.A.C. 7:50-4.3(b)2i(2). However, an applicant may, at his or her option, waive all time limits for review imposed by the Pinelands Protection Act or this Plan and request that the hearing be held by an Administrative Law Judge pursuant to the procedures established in N.J.A.C. 7:50-4.91.

7:50-4.25 Commission review following local denial

(a) (No change.)

(b) Notice of decision and hearing: Within 30 days following receipt of a notice of a denial containing all the information specified in N.J.A.C. 7:50-4.18(e) the Executive Director shall give notice of his or her determination by mail to the applicant, the local permitting agency [which] that denied the applicant, [interested persons, including] all persons who have individually submitted information concerning the application, [as well as] all persons who have requested a copy of said decision, and any person, organization or agency which has registered under N.J.A.C. 7:50-4.3(b)2i(2). If the Executive Director determines that the denial should be reviewed by the Commission, the notice shall be sent by [certified] mail to the applicant and the local agency [which] that granted the approval. The notice shall indicate that the applicant, the local permitting agency, or any interested [person] party may, within 21 days of mailing of such notice, request that a hearing be held before an Administrative Law Judge pursuant to the procedures established by N.J.A.C. 7:50-4.91 for the purpose of reviewing the denial.

(c) [Notices to interested persons:] If the Executive Director determines that a denial shall be reviewed by the Commission and a hearing before an Administrative Law Judge has been requested pursuant to (b) above, he or she shall notify all persons who [actively participated in the proceedings before the local permitting agency and all persons who] individually submitted information on the application to the Commission, [that they may participate in any proceedings held pursuant to this Part] all persons who have requested a copy of the Commission's decision and any person, organization, or agency that has registered under N.J.A.C. 7:50-4.3(b)2i(2).

7:50-4.26 Decision on review

(a) If no hearing is requested pursuant to N.J.A.C. 7:50-4.25(b), the Executive Director shall, within 60 days after the time to request an appeal has expired, review the application and all other information in the file, the Certificate of Completeness and the local denial and determine whether the denial is in conformance with the minimum standards of this Plan. The Executive Director may recommend the Commission approve the application, approve the application with conditions, disapprove the application, or allow the local denial to stand. The Executive Director shall give written notification of his or her findings and conclusions to the applicant, the Commission, the local permitting agency, [interested persons, including] all persons who have individually submitted information concerning the application, [or who participated in the local approval process, as well as] all persons who have requested a copy of said determination, and any person, organization, or agency [which] that has registered under N.J.A.C. 7:50-4.3(b)2i(2).

(b)-(d) (No change.)

7:50-4.35 Report requirements of local permitting agency with respect to applications for development

(a)-(c) (No change.)

(d) Notice of preliminary approval: Notice of any grant of preliminary site plan or subdivision approval or any other preliminary approval of any application for development provided for by the Municipal Land Use Law or any county or municipal regulation or ordinance shall be given to the Commission, by [certified] mail, within five days following such grant or approval. Such notice shall be in such form as the Executive Director shall from time to time specify, but shall contain at least the following information:

1.-4. (No change.)

5. Any written reports or comments received by the local permitting agency on the application for development [which] that have not been previously submitted to the Commission; and

6. A copy of the resolution or other documentation of the preliminary approval and a copy of the submitted preliminary plans [which] that were approved by the local permitting agency; and].

[7. The names and addresses of all persons who actively participated in the local proceedings.]

(e) Notice of final determination: Notice of any final determination with respect to any application for development shall be given to the Commission, by [certified] mail, within five days following such determination and shall be in such form as the Executive Director shall from time to time specify; but such notice shall contain at least the following information:

1.-6. (No change.)

(f) (No change.)

7:50-4.37 Commission review following preliminary approval

(a) (No change.)

(b) Notice of decision and hearing: Within 30 days following receipt of a notice of preliminary approval containing all the information specified in N.J.A.C. 7:50-4.35(d), the Executive Director shall give notice of his or her determination by mail to the applicant, the local permitting agency [which] that granted such preliminary approval, [and interested persons, including] all persons who have individually submitted information concerning the application, [or who participated in the local review process, as well as] all persons who have requested a copy of said decision, and any person, organization, or agency [which] that has registered under N.J.A.C. 7:50-4.3(b)2i(2). If the Executive Director determines that the preliminary approval should be reviewed by the Commission, the [notice shall be sent by certified mail to the applicant and the local agency which granted the approval. The] notice shall indicate that either the applicant, the local permitting agency or any interested [person] party may, within 21 days of mailing of such notice, request that a hearing be held before an Administrative Law Judge pursuant to the procedures established by N.J.A.C. 7:50-4.91 for the purpose of reviewing such preliminary approval.

(c) [Notices to persons participating in local permitting process; opportunity to comment:] If the Executive Director decides to review a preliminary approval and a hearing before an Administrative Law Judge has been requested pursuant to (b) above, he or she shall notify all persons who [actively participated in the proceedings before the local permitting agency of such determination and inform them that they may participate in any proceedings held pursuant to this Part] have individually submitted information concerning the application, all persons who have requested a copy of said decision, and any person, organization, or agency that has registered under N.J.A.C. 7:50-4.3(b)2i(2).

(d)-(e) (No change.)

7:50-4.38 Decision on review

(a) Determination by Executive Director: If no hearing is requested by the applicant, the local permitting agency or any interested [person] party pursuant to N.J.A.C. 7:50-4.37(b), the Executive Director shall, within 60 days after the time to request a hearing has expired, review the application, all other information in the file including any staff reports and the local approval and determine whether the preliminary approval is in conformance with the minimum standards of this Plan and the provisions of the relevant certified local ordinance. The Executive

Director may recommend the Commission approve the preliminary approval, approve the preliminary approval with conditions, or disapprove the preliminary approval. The Executive Director shall give written notification of his or her findings and conclusions to the applicant, the Commission, the local approving agency, [interested persons, including] all persons who have individually submitted information concerning the application, [as well as] all persons who have requested a copy of said determination, and any person, organization, or agency [which] that has registered under N.J.A.C. 7:50-4.3(b)2i(2).

(b)-(d) (No change.)

7:50-4.40 Commission review following final local approval

(a) (No change.)

(b) Notice of decision and hearing: Within 15 days following receipt of a notice of final determination containing all the information specified in N.J.A.C. 7:50-4.35(e), the Executive Director shall give notice of his or her determination by [certified] mail to the applicant, [and] the clerk of the local permitting authority [which] that granted such approval, [and interested persons, including] all persons who have individually submitted information concerning the application, [or who participated in the local review process, as well as] all persons who have requested a copy of said decision, and any person, organization, or agency [which] that has registered under N.J.A.C. 7:50-4.3(b)2i(2). If applicable, such notice shall set a date, time, and place for public hearing, as required by N.J.A.C. 7:50-4.41. [Any notice scheduling a public hearing shall be sent by certified mail to the applicant and the local agency which granted the approval.]

(c)-(d) (No change.)

7:50-4.41 Public hearing

If the Executive Director determines that the approval should be reviewed by the Commission, he or she shall, within 45 days following receipt of a completed notice of final determination given pursuant to N.J.A.C. 7:50-4.35(c), conduct a public hearing to be held pursuant to the procedures set out in N.J.A.C. 7:50-4.3. The applicant shall have the burden of going forward and the burden of proof at the public hearing. Applications from applicants who do not provide notice for any hearing and do not make a timely request for adjournment shall be recommended for denial. For applicants who do not appear at more than one scheduled public hearing, the Executive Director may determine that no further adjournment of the public hearing will be provided. Following conclusion of the public hearing, the Executive Director shall review the record of the public hearing and issue a report on the public hearing to the Commission. The Executive Director may recommend that the Commission approve the application, approve the application with conditions, or disapprove the application. The Executive Director shall give written notification of his or her findings and conclusions to the applicant, the Commission, the local permitting agency, [interested persons, including] all persons who have individually submitted information concerning the application, [or who participated in the local review process, as well as] all persons who have requested a copy of said determination, and any person, organization, or agency [which] that has registered under N.J.A.C. 7:50-4.3(b)2i(2). However, an applicant may, at his or her option, waive all time limits for review imposed by the Pinelands Protection Act or this Plan and request that the hearing be held by an Administrative Law Judge pursuant to the procedures established in N.J.A.C. 7:50-4.91.

7:50-4.53 Pre-application conference and submission requirements

(a)-(d) (No change.)

(e) The notice in (c) and (d) above shall state:

1.-5. (No change.)

6. That any person who provides comments or requests a copy of the Executive Director's findings and conclusion shall be provided a copy of said findings and conclusion and that any interested [person] party who is aggrieved by said determination is entitled to a hearing by appealing the determination.

(f)-(h) (No change.)

7:50-4.54 Review of submission by Executive Director

Within 30 days following receipt of a completed application for public development, the Executive Director shall review the application and all information submitted by the applicant or any other person relating to the application and upon completion of such review make a determination whether the application should be approved, approved with conditions, or disapproved. The application may be recommended for approval or approval with conditions only if the development as proposed, or subject to any conditions [which] that may be imposed, conforms to each of the minimum standards for development approval established by N.J.A.C. 7:50-4.57. The Executive Director may attach to any determination to recommend approval of an application any reasonable condition [which] that he or she finds is necessary to achieve the objectives of this Plan. The Executive Director shall give written notification of his or her findings and conclusion to the applicant, the Commission, [interested persons, including] all persons who have individually submitted information concerning the application, [as well as] all persons who have requested a copy of said decision, and any person, organization, or agency which has registered under N.J.A.C. 7:50-4.3(b)2i(2).

7:50-4.55 Rights of appeal

Any interested [person] party who is aggrieved by any determination made by the Executive Director pursuant to this Part may within 15 days appeal the Executive Director's determination to the Commission as provided by N.J.A.C. 7:50-4.91. Additional information not included in the Executive Director's determination may only be presented to the Pinelands Commission by requesting a hearing pursuant to N.J.A.C. 7:50-4.91.

7:50-4.56 Action by Commission

At the next regular Commission meeting after the time for appeal under N.J.A.C. 7:50-4.91 has expired and no interested [person] party has requested a hearing, the Commission may approve the determination of the Executive Director or refer the determination of the Executive Director to the Office of Administrative Law. If the Pinelands Commission fails to take any action at said meeting, the determination of the Executive Director shall be referred to the Office of Administrative Law unless an extension of time for the Commission to act is approved pursuant to N.J.A.C. 7:50-4.4. If the Executive Director's determination is referred to the Office of Administrative Law, the referral shall be treated as a petition for appeal in accordance with the provisions of N.J.A.C. 7:50-4.91.

7:50-4.66 Application

(a)-(c) (No change.)

(d) The notice in (b) and (c) above shall state:

1. (No change.)

2. That the Pinelands Commission will schedule and hold a public hearing on the application, the date and time of which will be posted on the Commission's website;

[2.] 3. (No change in text.)

[3.] 4. That written comments on the application may be submitted to the Pinelands Commission at the public hearing or in writing and that all such comments received within 10 days of the mailing or publication of the notice or within the notice period established for the public hearing will be considered in the review of the application;

[4.] 5. (No change in text.)

[5.] 6. The mailing address, [and] phone number, and website address of the [Pinelands] Commission; and

[6.] 7. That any person who provides comments or requests a copy of the Executive Director's findings and conclusion shall be provided a copy of said findings and conclusion and that any interested [person] party who is aggrieved by said determination is entitled to a hearing by appealing the determination.

(e)-(h) (No change.)

(i) For an application submitted pursuant to N.J.A.C. 7:50-4.64(a)1, the Executive Director shall set the date, time, and place for a public hearing for consideration of the application. The public hearing shall be noticed and held by the Executive Director in accordance with the provisions of N.J.A.C. 7:50-4.3. [The applicant shall give notice of the

hearing in accordance with N.J.A.C. 7:50-4.3(b)2ii and the notice required pursuant to (b) or (c) above may be incorporated therein.]

7:50-4.67 Action by Executive Director on application

Within 90 days following the receipt of a complete application for waiver, the Executive Director shall review the application and all information submitted by the applicant and any other person relating to the application and upon completion of such review make a determination whether the application should be approved, approved with conditions, or disapproved. The application may be recommended for approval or approval with conditions only if the applicant, subject to any conditions [which] that may be imposed, meets the standards for a Waiver of Strict Compliance established in N.J.A.C. 7:50-4.62. The Executive Director shall give written notification of his or her findings and conclusion to the applicant, the Commission, [interested persons, including] all persons who have **individually** submitted information concerning the application, [as well as] all persons who have requested a copy of said determination, and any person, organization, or agency which has registered under N.J.A.C. 7:50-4.3(b)2i(2).

7:50-4.68 Rights of appeal

Any interested [person] **party** who is aggrieved by any determination made by the Executive Director pursuant to this Part may within 15 days appeal the Executive Director's determination to the Commission as provided by N.J.A.C. 7:50-4.91. Additional information not included in the Executive Director's determination may be presented to the Pinelands Commission only by requesting a hearing pursuant to N.J.A.C. 7:50-4.91. If the appeal is based on an allegation that the parcel does not have a beneficial use even considering the allocation of Pinelands Development Credits pursuant to N.J.A.C. 7:50-4.62(c)2, the applicant must include specific documentation concerning the economic value of each of the permitted uses of the parcel once the Pinelands Development Credits are transferred and documentation of the value necessary to give the parcel a beneficial use as part of the appeal process. If the applicant demonstrates that the allocation of the Pinelands Development Credits based on fair market value along with the other permitted uses of the parcel does not result in the parcel having a beneficial use, the allocation of Pinelands Development Credits shall be increased to the number necessary to provide the parcel with a beneficial use.

7:50-4.73 Request for interpretation

(a)-(c) (No change.)

(d) The notice in (b) and (c) above shall state:

1.-5. (No change.)

6. That any person who provides comments or requests a copy of the Executive Director's findings and conclusion shall be provided a copy of said findings and conclusion and that any interested [person] **party** who is aggrieved by said determination is entitled to a hearing by appealing the determination.

(e)-(g) (No change.)

7:50-4.74 Interpretation by Executive Director

Except as provided in N.J.A.C. 7:50-4.75, the Executive Director shall, within 45 days following the receipt of a completed request for clarification or interpretation, review the application and all information submitted by the applicant or any other person relating to the application and upon completion of such review issue a letter of clarification or interpretation. A copy of the letter shall be provided to the appropriate municipal or county planning board, environmental commission, if any, [interested persons, including] all persons who have **individually** submitted information concerning the application, [as well as] all persons who have requested a copy of said determination and any person, organization, or agency, which has registered under N.J.A.C. 7:50-4.3(b)2i(2). The letter issued by the Executive Director shall specify the grounds, reasons, and analysis upon which the clarification or interpretation is based. In the event the Executive Director fails to render a letter of clarification or interpretation within 45 days of receipt of a completed application or such longer period of time as may be agreed to by the applicant, the applicant is entitled to request a hearing pursuant to N.J.A.C. 7:50-4.91. Nothing in this section shall be

construed to prevent any person from resubmitting a request for clarification or interpretation.

7:50-4.79 Appeal

Any interested [person] **party** who is aggrieved by any clarification or interpretation given by the Executive Director pursuant to this Part may within 15 days appeal the Executive Director's clarification or interpretation to the Commission as provided in N.J.A.C. 7:50-4.91.

7:50-4.91 Appeal

(a) Notice: Any [person] **interested party** who [is granted, by any provision of this Plan,] has a right to appeal any determination made by the Executive Director to the Commission shall, within 15 days [after] **of the date the decision is deemed rendered in accordance with N.J.A.C. 7:50-4.3(e)3**, perfect such right by giving notice by mail of his or her intent to appeal to the Commission. Such notice shall include:

1.-5. (No change.)

(b) Any [person] **interested party** who [is granted, by any provision of this Plan,] has a right to request a hearing conducted by the Office of Administrative Law concerning a local approval [which] that the Executive Director has determined should be reviewed by the Pinelands Commission shall, within 15 days [after] **of the date the Executive Director's determination is deemed rendered in accordance with N.J.A.C. 7:50-4.3(e)3**, perfect such right by giving notice by mail of his or her intent to request a hearing to the Commission. Such notice shall include the information specified in (a)1 through 5 above.

(c)-(e) (No change.)

SUBCHAPTER 6. MANAGEMENT PROGRAMS AND MINIMUM STANDARDS

7:50-6.64 Time limit and scope of resource extraction permits

(a) No permit authorizing resource extraction shall be issued for any period exceeding two years unless a program extending the duration of such permits has been established and certified by the Commission pursuant to N.J.A.C. 7:50-3.39. Such a program may allow permits authorizing resource extraction to be issued for periods exceeding two years, provided that:

1. (No change.)

2. Every such permit shall be issued subject to the following conditions to ensure conformance with the approved permit:

i.-iv. (No change.)

v. Any interested [person] **party** who is aggrieved by any determination of the Executive Director pursuant to (a)2iii or iv above may, within 15 days, appeal the Executive Director's determination to the Pinelands Commission as provided in N.J.A.C. 7:50-4.91(a). The Executive Director shall thereafter conduct a hearing pursuant to N.J.A.C. 7:50-4.3, unless the applicant requests a hearing before an Administrative Law Judge in which case the matter shall be referred to the Office of Administrative Law pursuant to N.J.A.C. 7:50-4.91(b), and submit a hearing report to the Pinelands Commission for a final determination;

vi.-vii. (No change.)

(b)-(c) (No change.)

7:50-6.75 Landfills

(a)-(b) (No change.)

(c) All landfills [which] that ceased operation on or after September 23, 1980, if located in the Preservation Area or on or after January 14, 1981, if located in the Protection Area shall be capped with an impermeable material unless it can be clearly demonstrated that:

1. (No change.)

2. An alternative means of addressing the public health and ecological risks associated with the landfill is available that will afford an equivalent level of protection of the resources of the Pinelands than would be provided if the landfill were capped with an impermeable material; [or]

3. No leachate plume associated with the landfill exists and the landfill is not generating leachate[.]; or

4. A leachate plume associated with the landfill exists, but poses no significant ecological risk to wetlands.

(d)-(i) (No change.)

7:50-6.84 Minimum standards for point and non-point source discharges

(a) The following point and non-point sources may be permitted in the Pinelands:

1.-4. (No change.)

5. Individual on-site septic waste water treatment systems [which] that are intended to reduce the level of nitrate/nitrogen in the waste water, provided that the following standards are met:

i.-ii. (No change.)

iii. The proposed development is either residential, or, if non-residential, is located in [a]:

(1) A Regional Growth Area, a Pinelands Village, a Pinelands Town, or a Military and Federal Installation Area; or

(2) A Rural Development Area, a Forest Area, an Agricultural Production Area, or in an area within the Preservation Area District designated pursuant to N.J.A.C. 7:50-5.22(b)7[;], subject to the following conditions:

(A) The proposed nonresidential development constitutes expansion of a nonresidential use existing on January 14, 1981, or the change of a nonresidential use existing on January 14, 1981, to another nonresidential use that is a permitted use pursuant to the certified municipal land use ordinance;

(B) The existing nonresidential use relies on an existing on-site waste water disposal system that is not designed to reduce the level of nitrate/nitrogen in the waste water;

(C) The existing nonresidential use is of such a size and scale that it does not comply with N.J.A.C. 7:50-6.84(a)4ii; and

(D) The proposed nonresidential development will not exceed 50 percent of the floor area, the area of the use or the capacity of the use, whichever is applicable, on January 14, 1981;

iv. The design of the system and its discharge point, and the size of the entire contiguous parcel on which the system or systems is located, will ensure that ground water exiting from the entire contiguous parcel or entering a surface body of water will not exceed two parts per million nitrate/nitrogen calculated pursuant to the Pinelands dilution model dated December[,] 1993, as amended, (Appendix A) subject to the provisions of (a)5v below and based on the following assumptions and requirements. For purposes of this section, the entire contiguous parcel may include any contiguous lands to be dedicated as open space as part of the proposed development but may not include previously dedicated road rights-of-way or any contiguous lands that have been deed restricted pursuant to N.J.A.C. 7:50-5.30 or 5.47:

(1) (No change.)

(2) For Amphidrome, [and] Bioclere, and FAST systems:

(A) For residential development using the Amphidrome or Bioclere system, the system will be located on a parcel of at least one acre for each individual single family residential dwelling unit or the system or systems for multi-family developments will be located on a parcel with an overall density equal to or greater than one residential unit per acre of land;

(B) For residential development using the FAST system, the system will be located on a parcel of at least 1.4 acres for each individual single family residential dwelling unit or the system or systems for multi-family developments will be located on a parcel with an overall density equal to or greater than one residential unit per 1.4 acres of land;

Recodify existing (B)-(I) as (C)-(J) (No change in text.)

(3) (No change.)

v.-ix. (No change.)

6. (No change.)

7:50-6.85 Individual and non-individual onsite subsurface sewage disposal systems and petroleum tank maintenance

(a) (No change.)

(b) All Pinelands alternate design wastewater treatment systems in active use shall be equipped with functioning alarm dialing capability and shall be covered under a renewable operation and maintenance agreement for as long as the system is in active use. The operation and maintenance agreement shall, at minimum, provide for at least once

annual service calls by a qualified service technician. The operation and maintenance agreement shall also provide for periodic onsite inspection and maintenance service visits [which] that meet the minimum operation and maintenance requirements of the Pinelands alternate design wastewater treatment system manufacturer or vendor.

(c) Every owner or operator of a Pinelands alternate design wastewater treatment system in the Pinelands Area shall[:] comply with the maintenance and monitoring requirements of N.J.A.C. 7:9A-8.3 and 12.3.

[1. Obtain from the municipality in which the system is located or from another responsible management entity designated by said municipality an initial permit or other authorization to operate said system. Said initial permit or authorization shall be valid for no more than three years; and

2. Prior to the expiration of the initial permit or authorization required in (c)1 above, apply to the municipality in which said system is located or to another responsible management entity designated by said municipality to renew said permit or authorization. The following information shall accompany any such application for permit renewal:

i. Certification by a qualified service technician that the system is covered under a renewable operation and maintenance agreement which meets the requirements of the Pinelands alternate design wastewater treatment system manufacturer or vendor;

ii. Certification by a qualified service technician that all of the components of the Pinelands alternate design wastewater treatment system are in good repair; and

iii. Certification by a qualified service technician that the Pinelands alternate design wastewater treatment system is operating in conformance with the manufacturer's specifications and is functioning properly, meaning that the system is denitrifying, does not show evidence of ponding or breakout of sewage or effluent onto the surface of the ground, sewage or effluent is not seeping into below ground portions of the building served, there is no back-up of sewage into the building and there is no evidence of a direct discharge of sewage or effluent to a surface water body.]

(d) (No change.)

7:50-6.106 Signs

Each municipality shall adopt provisions governing signs in its municipal master plan and ordinances. [N.J.A.C. 7:50-6.107 contains provisions which must be included in all municipalities; N.J.A.C. 7:50-6.108 contains mandatory provisions for municipalities in the Preservation Area District and Special Agricultural Production Areas; and N.J.A.C. 7:50-6.109 contains suggested guidelines for additional sign provisions for other areas of the Pinelands.] On-site signs are generally permitted in the Pinelands pursuant to N.J.A.C. 7:50-6.107. Off-site signs are permitted only in accordance with N.J.A.C. 7:50-6.108. Mandatory provisions for off-site signs are provided in N.J.A.C. 7:50-6.109. Each municipality may adopt additional provisions governing signs including, but not limited to, the establishment of sign types and associated regulations governing the appropriate location and manner of such signs provided that such provisions do not conflict with N.J.A.C. 7:50-6.107 through 6.109.

7:50-6.107 On-site signs

(a) On-site signs may be permitted in any management area.

(b) Municipalities are encouraged to adopt the standards for electronic message displays and lighting in N.J.A.C. 7:50-6.109(a)3 and 4 in formulating municipal ordinance standards for on-site signs.

7:50-6.108 Off-site signs

(a) Off-site signs are permitted only as follows:

1. Off-site directional signs may be permitted in any management area;

2. Off-site temporary signs may be permitted in any management area;

3. Off-site signs advertising an agricultural commercial establishment shall be permitted in Agricultural Production Areas and Special Agricultural Production Areas and may be permitted in any other management area;

4. Off-site signs lawfully in existence as of January 14, 1981, shall be permitted in:

- i. Regional Growth Areas;
- ii. Pinelands towns; and
- iii. Certified municipal non-residential zones in Rural Development Areas and Pinelands villages in existence as of December 5, 1994, if the sign is located within 1,000 feet of a Regional Growth Area or Pinelands town and is located on a United States highway; and

5. New off-site signs may be permitted by certified municipalities in Regional Growth Areas and Pinelands towns, provided that the applicant can demonstrate that, for each new sign, a non-conforming off-site sign pursuant to (b) below has been removed.

(b) Any off-site sign in existence prior to January 14, 1981, that does not conform to (a)1, 3, or 4 above shall be deemed a non-conforming sign and shall be removed no later than December 5, 1996. Any off-site sign erected on or after January 14, 1981, that does not conform to (a) above shall be deemed unlawful and shall be removed immediately.

7:50-6.109 Provisions for permitted signs

(a) Permitted signs shall comply with the following provisions:

1. Off-site directional signs shall comply with the following standards:

- i. They shall contain no advertising and shall be limited to the name of the public or private use and any necessary directions;
- ii. The quantity of signs per use shall be limited to the minimum necessary to give adequate directions; and
- iii. The size of such signs shall be limited to that necessary to convey directions;

2. Off-site signs advertising agricultural commercial establishments shall comply with the following standards:

- i. A maximum of two signs may be placed in any one direction along each road directly approaching the stand; and
- ii. Each sign along four lane State or United States highways shall be limited to a maximum of 50 square feet in area; each sign along all other roads shall be limited to a maximum of 32 square feet in area;

3. Off-site signs permitted pursuant to N.J.A.C. 7:50-6.108(a)4 and 5 may have electronic message displays provided that:

- i. The electronic message display is programmed to freeze in one position if a malfunction occurs;
- ii. The transition of one displayed message to another displayed message is accomplished within one second or less;
- iii. The duration of the interval between the end of any transition and the start of its subsequent transition is at least eight seconds; and
- iv. The municipality has adopted provisions governing the permitted brightness of the display at varying ambient light conditions and the brightness of the display is automatically adjusted based on ambient light conditions through the use of an integrated light sensing device; and

4. Except as provided in (a)3 above, off-site signs shall not contain, include, or be illuminated by any flashing, intermittent, scrolling, or moving light or lights. All sources of illumination shall be shielded or directed such that light is not directed towards the sky.

(b) Off-site signs that are required to be removed pursuant to N.J.A.C. 7:50-6.108(h) shall not have electronic message displays.

(c) Noncommercial copy shall be permitted to replace the message on any permitted sign.

SUBCHAPTER 7. AMENDMENTS TO THE COMPREHENSIVE MANAGEMENT PLAN

7:50-7.3 Proposed amendments; petitions for amendment

(a)-(b) (No change.)

(c) For petitions filed pursuant to (b) above, the petitioner shall be required to provide notice of the filing of the petition within 20 days after receiving notification from the Executive Director pursuant to

N.J.A.C. 7:50-7.5(b) that a complete petition has been filed with the Commission as follows:

1. If the petition proposes to change the classification of any parcel as shown on the Land Capability Map or is intended to affect a specific parcel or an area less than 100 acres in size:

i. (No change.)

ii. Notice shall be given to owners of all real property within 200 feet of any parcel or area that would be directly affected by the proposed amendment as provided for in N.J.S.A. 40:55D-[12(b)]12.b. The administrative officer of the municipality in which the subject parcel or area is located shall provide a certified list of said property owners as provided for in N.J.S.A. 40:55D-[12(c)]12.c. The petitioner shall be entitled to rely upon the information contained in said certified list as provided in N.J.S.A. 40:55D-[12(c)]12.c; and

iii. Notice shall be given by publication in the official newspaper of the municipality in which the subject parcel or area is located, if there is one, or in a newspaper of general circulation in the municipality as provided for in N.J.S.A. 40:55D-12[; and].

[iv. Notice shall be given by conspicuous posting on any parcel or parcels that would be directly affected by the proposed amendment.]

2.-3. (No change.)

7:50-7.5 Action on petitions for amendment

(a) (No change.)

(b) Upon determining that a petition for amendment is complete, the Executive Director shall so notify the petitioner and shall, within 15 days, prepare and file a notice of petition for rulemaking with the Office of Administrative Law in accordance with N.J.A.C. 1:30- 3.6(a). **The Executive Director shall thereafter publish the notice of petition on the Commission's website.**

(c)-(e) (No change.)

SUBCHAPTER 9. ACQUISITION OF PROPERTIES WITH LIMITED PRACTICAL USE

7:50-9.7 Rights of appeal

Any interested [person] party who is aggrieved by any determination made by the Executive Director pursuant to this subchapter may, within 15 days, appeal the Executive Director's determination to the Commission as provided by N.J.A.C. 7:50-4.91. Additional information not included in the Executive Director's determination may be presented to the Pinelands Commission only by requesting a hearing pursuant to N.J.A.C. 7:50-4.91.

SUBCHAPTER 10. PILOT PROGRAMS

7:50-10.21 Purpose

(a)-(b) (No change.)

(c) In 2000, the Commission formed a special committee to investigate alternate septic system technologies that would better meet the water quality requirements of N.J.A.C. 7:50-6, Part VIII, for residential development on lots smaller than 3.2 acres where such lots are currently authorized by N.J.A.C. 7:50-5. After conducting extensive research, the Committee identified five technologies that can be expected to meet these water quality requirements for residential development. The Committee recommended that an interim program be developed for the approval, installation, and monitoring of the five technologies for use under certain conditions and safeguards. Based on the available information, the Committee recommended that the Ashco RFS III system be allowed on residential lots of at least 1.5 acres and the other four systems be allowed on residential lots of at least one acre. In November 2006, the Commission decided to remove the Ashco RFS III system from the Alternate Design Treatment Systems Pilot Program. The Commission made this decision due to the manufacturer's failure to make systems commercially available in the Pinelands during the initial five-year period of the pilot program or to otherwise demonstrate the ability or intention for future participation in the pilot program. Residential development using any of the authorized systems would still have to conform to the lot size and density requirements contained in the municipal land use ordinances that have been certified by the Commission pursuant to N.J.A.C. 7:50-3. In 2010, the Commission

decided to release two of the original pilot program technologies (Amphidrome and Bioclere) from the pilot program and authorize them for permanent use, subject to the provisions of N.J.A.C. 7:50-6.84(a)5iv(3). The Commission also decided to provide an opportunity for expansion of the pilot program to include certain other residential nutrient reducing onsite wastewater treatment technologies that have attained verification and/or certification through the United States Environmental Protection Agency Environmental Technology Verification (USEPA ETV) Program or the National Sanitation Foundation/American National Standards Institute (NSF/ANSI) Standard 245 testing program. Information regarding the USEPA ETV Program is available from the United States Environmental Protection Agency website at: <http://www.epa.gov/etv/vt-wqp.html#dwtt> and <http://www.epa.gov/etv/pubs/600s07004.pdf>. Information regarding the NSF/ANSI Standard 245 testing program is available from the National Sanitation Foundation website at: http://www.nsf.org/business/wastewater_certification/standards.asp?program=WastewaterCer#245. In 2013, the Commission decided to remove the Cromaglass technology from the Alternate Design Treatment Systems Pilot Program. The Commission made this decision based on the Cromaglass technology's inability to meet the water quality standards contained in N.J.A.C. 7:50-6, Part VIII. In 2016, the Commission released the only remaining original pilot program technology (FAST) from the pilot program and authorize it for permanent use on parcels of at least 1.4 acres in size, subject to the provisions of N.J.A.C. 7:50-6.84(a)5iv(3).

(d) (No change.)

7:50-10.22 General standards

(a) Alternate design pilot program treatment systems shall be authorized for residential use in all municipalities provided that the following standards are met:

1.-2. (No change.)

3. Subject to being increased during the pilot program based on the results of a hearing conducted pursuant to (a)5 below, each [FAST system shall be located on a parcel containing at least one acre for each dwelling unit that will be served by the system. Each] USEPA ETV or NSF/ANSI Standard 245 technology approved by the Commission for participation in the pilot program pursuant to N.J.A.C. 7:50-10.23(b) shall be located on a parcel containing sufficient land area to comply with the two parts per million nitrogen requirement and the water quality standards contained in N.J.A.C. 7:50-6, Part VIII, as calculated using the Pinelands Septic Dilution Model and the expected effluent total nitrogen value for the technology based upon the findings of the USEPA ETV and/or NSF/ANSI Standard 245 test data.

4. The [FAST alternate design pilot program treatment system identified in (a)3 above and the] USEPA ETV or NSF/ANSI Standard 245 technologies approved by the Commission for participation in the pilot program pursuant to N.J.A.C. 7:50-10.23(b) are authorized to be installed until August 5, 2018.

5.-6. (No change.)

(b)-(c) (No change.)

7:50-10.23 Pinelands Commission approval and evaluation

(a)-(b) (No change.)

(c) The Executive Director shall review this pilot program relative to [the FAST treatment technology and] any approved USEPA and NSF/ANSI Standard 245 treatment technologies no later than August 5, 2017, and shall report to the Commission within three months of that date on its implementation. The Executive Director shall determine whether the pilot program is successful in accordance with the following criteria:

1.-6. (No change.)

[(d) If the Executive Director finds that the number of monitoring events for the FAST treatment technology is not adequate to evaluate that technology under this pilot program in accordance with (c) above, the Executive Director shall so inform the Commission and, upon receiving the Commission's approval, initiate a second review to be completed no later than August 5, 2019.]

Recodify existing (e)-(h) as (d)-(g) (No change in text.)

[(i)] (h) Nothing in this section shall be construed to authorize the installation of [a FAST alternate design pilot program treatment system

or] any USEPA ETV and NSF/ANSI Standard 245 treatment technology approved by the Commission for participation in the pilot program after August 5, 2018, as set forth in N.J.A.C. 7:50-10.22(a)4, unless a rule has been adopted by the Commission [which] that expressly authorizes such installation pursuant to [(g)] (f) or [(h)] (g) above.

INSURANCE

(a)

DEPARTMENT OF BANKING AND INSURANCE INDIVIDUAL HEALTH COVERAGE PROGRAM BOARD

Individual Health Coverage Program Individual Health Benefits Plans

Proposed Amendments: N.J.A.C. 11:20-1.2, 12.4, 24.2A, and 24.4, and 11:20 Appendix Exhibits A and B

Authorized By: New Jersey Individual Health Coverage Program Board, Ellen DeRosa, Executive Director.

Authority: N.J.S.A. 17B:27A-2 et seq.

Calendar Reference: See Summary below for explanation of inapplicability of calendar requirement.

Proposal Number: PRN 2017-237.

As required by N.J.S.A. 17B:27A-16.1, interested parties may testify with respect to the standard health benefits plans set forth in N.J.A.C. 11:20 Appendix Exhibits A and B at a public hearing to be held at 11:00 A.M. on August 31, 2017, at the New Jersey Department of Banking and Insurance, 11th floor Conference Room, 20 West State Street, Trenton, New Jersey.

Submit comments by September 6, 2017, to:

Ellen DeRosa

Executive Director

New Jersey Individual Health Coverage Program Board

PO Box 325

Trenton, NJ 08625-0325

Fax: 609-633-2030

E-mail: ellen.derosa@dobi.nj.gov

The agency proposal follows:

Summary

The Individual Health Coverage (IHC) Program was established in accordance with P.L. 1997, c. 161. The IHC Program is administered through a Board of Directors (Board). The primary functions of the IHC Program and its Board are the creation of standard health benefits plans (standard plans) to be offered in the individual market in New Jersey and the regulation of the individual health coverage market. There are five standard plans, which have been established through rule, and are set forth in Exhibits A and B of the Appendix to N.J.A.C. 11:20. The rules for the IHC Program, along with Exhibit C, provides explanations of how certain variables in the standard plans may be used by carriers.

The IHC Board proposes to amend the definition of "resident" found at N.J.A.C. 11:20-1.2 to conform to the requirements of 45 CFR 147.104. The requirement to be present in New Jersey at least six months out of each calendar year would be a barrier to guaranteed availability. The IHC Board recognizes that the text was inadvertently retained. The IHC Board notes that neither the Buyer's Guide nor the standard plans contain the six month requirement.

To comply with the requirements of 45 CFR 155.420(d), as amended most recently by the Market Stabilization Rule, 82 FR 18346, the IHC Board proposes to amend the definition of Triggering Event as found at N.J.A.C. 11:20-1.2 and 24.2A(b) and as found in the definitions section of N.J.A.C. 11:20 Appendix Exhibits A and B to state that:

1. A marketplace redetermination of eligibility is a triggering event only for marketplace coverage;



PHILIP D. MURPHY
Governor
SHEILA Y. OLIVER
Lt. Governor

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




SEAN W. EARLEN
Chairman
NANCY WITTENBERG
Executive Director

General Information: Info@pinelands.nj.gov
Application Specific Information: AppInfo@pinelands.nj.gov

MEMORANDUM

To: Members of the Pinelands Commission

From: Susan R. Grogan 
Chief Planner

Date: May 30, 2018

Subject: No Substantial Issue Findings

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

Egg Harbor Township Ordinance 2018-14 - amends Chapter 198(Subdivision of Land and Site Plan Review) of the Township's Code by adopting a new Section 198-19, entitled Guarantees Required. Included in the new section are provisions related to: site improvements for which the Township may require a performance guaranty to be paid by a developer and the amount to be paid; site improvements for which the Township may require a maintenance guaranty to be paid by a developer and the amount to be paid; procedures for reductions of performance guarantees; and the payment of fees related to the inspection of site improvements by Township professionals.

Shamong Township Ordinance 2018-6 - amends Chapter 110 (Land Development) of the Township's Code by revising provisions related to: site improvements for which the Township may require a performance or maintenance guaranty to be paid by a developer; the amount of guaranty to be provided; procedures for release or reductions of performance guarantees; and the payment of fees related to the inspection of site improvements by Township professionals.

Stafford Township Ordinance 2018-05 - amends Chapter 211 (Zoning) of the Township's Code by revising Section 211-4 to permit the reconstruction of preexisting non-conforming duplexes and multi-family residential properties in residential zones that have been totally destroyed.

Waterford Township Ordinance 2018-10 - amends Chapter 176 (Land Use, Development and Zoning) of the Township's Code by revising Section 176-22, Guarantees and Inspections. Specifically, Ordinance 2018-10 revises the types of site improvements for which the Township may require a performance guaranty to be paid by a developer and the required amount. The ordinance also amends

Section 176-25, Inspections and Tests, by revising procedures for the payment of fees related to the inspection of site improvements by Township professionals. The ordinance also amends Section 176-27 by revising the types of site improvements for which the Township may require a maintenance guaranty to be paid by a developer and the amount to be paid.



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-18-_____

TITLE: To Authorize the Executive Director to Propose Amendments to the Comprehensive Management Plan in Accordance with the Administrative Procedure Act (Alternate Design Wastewater Treatment Systems Pilot Program)

Commissioner _____ moves and Commissioner _____
seconds the motion that:

WHEREAS, on May 10, 2002, the Pinelands Commission adopted amendments to the Comprehensive Management Plan that established the Alternate Design Treatment Systems Pilot Program; and

WHEREAS, these Comprehensive Management Plan amendments took effect on August 5, 2002; and

WHEREAS, pursuant to N.J.A.C. 7:50-10.23, the Executive Director reviewed this Pilot Program and reported on its implementation to the Commission in November 2006, November 2009 and November 2012; and

WHEREAS, based on the Executive Director’s recommendations, the Commission adopted amendments to the Alternate Design Treatment Systems Pilot Program to, among other things, allow for continued installation and monitoring of alternate design wastewater treatment systems, recognize the successful performance of three technologies by authorizing them for use on permanent basis, remove two technologies from the Pilot Program due to non-participation and inability to meet Comprehensive Management Plan standards and provide an opportunity for new technologies to participate in the Pilot Program; and

WHEREAS, as required by N.J.A.C. 7:50-10.23, the Executive Director again reviewed the Pilot Program and reported on its implementation to the Commission in a report dated November 2017, last revised April 2018; and

WHEREAS, the 2017 Implementation Report recommends that the August 5, 2018 installation deadline for pilot program technologies be eliminated from the Comprehensive Management Plan because sufficient other safeguards exist that would allow for immediate suspension of a technology that does not meet CMP water quality standards;

WHEREAS, this recommendation and the full Implementation Report were discussed with the Commission’s CMP Policy & Implementation Committee on April 27, 2018; and

WHEREAS, proposed amendments to the Comprehensive Management Plan to remove the installation deadline for Pilot Program technologies have been prepared and reviewed by the Pinelands Commission; and

WHEREAS, the Pinelands Commission wishes to consider the amendments to the Comprehensive Management Plan set forth in the attachment hereto, dated May 30, 2018; and

WHEREAS, the Pinelands Commission recognizes the need to proceed with proposal of these amendments as quickly as possible given that the August 5, 2018 installation deadline is rapidly approaching; and

WHEREAS, the Administrative Procedure Act of 1968, as amended, and the Office of Administrative Law implementing regulations set forth a detailed procedure governing proposed rulemaking; and

WHEREAS, the Pinelands Commission also wishes to obtain the comments of the public, governmental agencies and the Pinelands Municipal Council on the proposed amendments, in accordance with the Pinelands Protection Act and Subchapter 7 of the Comprehensive Management Plan; 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. The Commission hereby authorizes the Executive Director to submit the proposed amendments to the Comprehensive Management Plan, attached hereto and dated May 30, 2018, and the required supporting documentation to the Office of Administrative Law for publication as proposed regulations;
- 2. The Executive Director shall transmit the proposed amendments to all Pinelands municipalities and counties and the Pinelands Municipal Council for review;
- 3. The public comment period on the proposed amendments shall extend 60 days from the date of publication of the proposal in the *New Jersey Register* and the Executive Director shall affix the date of a public hearing to receive comments on the proposed amendments; and
- 4. Subsequent to the comment period, the Executive Director shall expeditiously prepare proposed final amendments, with any pertinent changes to these amendments, for review by the Commission's CMP Policy and Implementation Committee, and shall submit same to the Commission for final action.

Record of Commission Votes

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

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: _____

Nancy Wittenberg
Executive Director

Sean W. Earlen
Chairman

May 30, 2018

ENVIRONMENTAL PROTECTION

PINELANDS COMMISSION

Pinelands Comprehensive Management Plan

Pilot Program for Alternate Design Wastewater Treatment Systems

Proposed Amendments: N.J.A.C. 7:50-6.84, 10.22 and 10.23

Authorized By: New Jersey Pinelands Commission, Nancy Wittenberg, Executive Director

Authority: N.J.S.A. 13:18A-6j

Calendar Reference: See Summary below for explanation of exception to calendar requirement

Proposal Number:

A **public hearing** concerning this proposal will be held on:

_____, 2018 at 7:00 P.M.

Richard J. Sullivan Center
15C Springfield Road
New Lisbon, New Jersey

Submit written comments by regular mail, facsimile or e-mail by October 5, 2018 to:

Susan R. Grogan, P.P., AICP

Chief Planner

Pinelands Commission

P.O. Box 359

New Lisbon, NJ 08064

Facsimile: (609)894-7330

E-mail: planning@pinelands.nj.gov or through the Commission's website at

<http://nj.gov/pinelands/home/contact/planning.shtml>

The name and mailing address of the commenter must be submitted with all public comments.

The agency proposal follows:

Summary

The New Jersey Pinelands Commission (Commission) proposes to amend subchapters 6, Management Programs and Minimum Standards; and 10, Pilot Programs of the Pinelands Comprehensive Management Plan (CMP). The Pinelands CMP has been guiding land use and development activities in the Pinelands since it took effect on January 14, 1981. Since that time, the CMP has been amended a number of times, most recently in March 2018 through a set of amendments related to fees, escrows, application requirements and procedures, public notice and mailing requirement, water quality standards, landfill closure, signs and the Pilot Program for Alternate Design Wastewater Treatment Systems (see 50 N.J.R. 969(a)).

The amendments now being proposed by the Commission relate solely to the Pilot Program for Alternate Design Wastewater Treatment Systems. They are intended to modify the standards of this long-standing pilot program to allow for continued installation of certain wastewater treatment technologies in the Pinelands Area. A more detailed description of the pilot program and proposed amendments follows.

In 2000, the Pinelands Commission formed a special Ad Hoc Septic System Committee to research alternate septic system technologies that might better meet the water quality standards of the Comprehensive Management Plan (N.J.A.C. 7:50-6, Part VIII) for residential development on lots smaller than 3.2 acres, where such lots were already authorized pursuant to N.J.A.C. 7:50-5. In its research efforts, the Committee consulted wastewater engineering

professionals, state and regional on-site technology demonstration projects, alternate treatment system technology manufacturers, Pinelands Area county health departments and other state and local agencies. Based on this research, the Committee identified five technologies that it determined could be expected to meet Pinelands water quality standards for residential development on lots smaller than 3.2 acres in size. The identified technologies were the Amphidrome, Ashco RFS^{III}, Cromaglass, Bioclere and FAST treatment systems. Based upon nitrogen removal expectations and the Pinelands Septic Dilution Model, the Committee concluded the Amphidrome, Cromaglass, Bioclere and FAST systems could be permitted on lots of at least one acre and that the Ashco RFS^{III} system could be allowed on residential lots of at least 1.5 acres. All of the identified systems utilize proven biological nutrient removal processes to reduce nitrogen levels in treated wastewater. The water quality requirements of N.J.A.C. 7:50-6, Part VIII, include provisions that are aimed at controlling the amount of nitrogen that enters the environment because nitrogen itself is a significant pollutant and because it often serves as an indicator of changes in overall water quality.

The Ad Hoc Septic System Committee unanimously recommended that an interim program be developed for the approval, installation and monitoring of the five identified wastewater treatment technologies and that the interim program include conditions and safeguards to govern their use. To implement these recommendations, the Pinelands Commission adopted a set of amendments to the Comprehensive Management Plan that authorized the use of the technologies through the establishment of the Alternate Design Treatment Systems Pilot Program (see 34 N.J.R. 2804(b)). These Comprehensive Management Plan amendments, which took effect on August 5, 2002, are codified at N.J.A.C. 7:50-10, Part IV. The Pilot Program was implemented to provide a means to test whether the five identified technologies could be

maintained and operated so as to meet the water quality standards of the Comprehensive Management Plan in a manner that a homeowner can be reasonably expected to follow.

Implementation of the Pilot Program commenced on August 5, 2002, with the first pilot program treatment system installed in 2004. As of June 2017, a total of 305 pilot program systems have been installed in association with single-family residential development in 28 different Pinelands municipalities.

N.J.A.C. 7:50-10.23 of the Comprehensive Management Plan requires that the Executive Director review the Alternate Design Treatment Systems Pilot Program periodically and report the findings of that evaluation to the Pinelands Commission in a program implementation report. The criteria by which the Pilot Program is periodically evaluated are set forth at N.J.A.C. 7:50-10.23(b)1 through 6. The Executive Director issued program implementation reports in 2006, 2009 and 2012. Links to all reports may be found on the Commission's web site at www.nj.gov/pinelands. In response to the recommendations set forth in these reports, the Commission adopted amendments to the Comprehensive Management Plan to:

- Authorize the installation of Pilot Program technologies in all Pinelands municipalities;
- Provide the ability to install more than 10 of any Pilot Program technology in the same residential development;
- Grant permanent approval status to three Pilot Program technologies (Amphidrome, Bioclere and FAST) in recognition of their demonstrated ability to meet CMP water quality standards;
- Remove one technology (Ashco RFS^{III}) from the Pilot Program due to its commercial unavailability in the Pinelands Area;

- Remove one technology (Cromaglass) from the Pilot Program due to its inability to meet CMP water quality standards;
- Provide the Executive Director with the authority to impose an immediate suspension on all new installations of a Pilot Program technology that is not adhering to the requirements of the program or meeting CMP water quality standards;
- Provide an opportunity for additional prescreened technologies to enter the Pilot Program; and
- Continue the Pilot Program by allowing installation of new systems through August 5, 2018.

The above-referenced CMP amendments took effect in 2006, 2007, 2010, 2014 and 2018 and may be found at 38 N.J.R. 1829(b), 39 N.J.R. 5077(b), 42 N.J.R. 2422(a), 46 N.J.R. 1877(a) and 50 N.J.R. 969(a).

The Executive Director completed a fourth Implementation Report in November 2017, last revised in April 2018

(<http://www.nj.gov/pinelands/landuse/current/altseptic/Final%20April%2027%202018%20%202018%20ImplementationReport.pdf>). In this report, the Executive Director found that:

- The continued use of advanced on-site treatment technologies is essential to the efficient use and orderly development of the growth-oriented areas of the Pinelands Area;
- The Pilot Program provides an appropriate means to test whether technologies can be maintained and operated so as to meet CMP water quality standards in a manner that a homeowner can reasonably be expected to follow.

- The Pilot Program has been successful in identifying technologies that achieve compliance with Pinelands water quality standards when used for residential development on appropriately-sized lots.
- Landowners in the Pinelands Area benefit when new technologies are accepted into the Pilot Program, expanding choices and stabilizing prices.
- Proper operation and maintenance remains crucial to the long-term performance of the Pilot Program technologies.

Based on these findings, the Executive Director recommended that the Commission continue to monitor and evaluate the four technologies currently in the Pilot Program and issue another implementation report in November 2019. The Executive Director further recommended that two new technologies be added to the Pilot Program in 2018. Finally, the Executive Director recommended that the Commission amend the CMP to remove the current August 5, 2018 installation deadline for Pilot Program technologies.

The Commission is now proposing amendments to the CMP to revise the Pilot Program in response to the findings and recommendations set forth in the 2017 implementation report. Specifically, N.J.A.C. 7:50-10.22(a)4 and 10.23(h) are deleted in order to remove the August 5, 2018 deadline for installation of pilot program technologies. The Commission believes the installation deadline is no longer necessary, given that the Executive Director has the authority pursuant to N.J.A.C. 7:50-10.22(a)4 (previously (a)5) to immediately suspend all installations of a particular technology if monitoring data shows the system is not meeting CMP water quality standards. Likewise, the Executive Director may suspend installations if it becomes evident that a technology vendor is not complying with the terms of the Pilot Program. The Executive Director may also require an increased lot size for a particular technology if monitoring results

indicate a larger land area is necessary to meet CMP water quality standards. Because sufficient safeguards exist, a fixed installation deadline is not needed. It is worth noting that a fixed deadline has also proven over time to be difficult to administer. It often impacts development applications in progress and can only be changed upon completion of a lengthy rulemaking process.

In addition to removal of the installation deadline, N.J.A.C. 7:50-10.22(a)5 (previously (a)6) is amended to clarify the required certifications that must be provided to the Commission as a condition for use of an alternate design pilot program treatment system. This section previously required that the manufacturer of each system (or the manufacturer's agent) certify to the Commission and the county board of health that installation of each system has been properly completed. An amendment is being made to require that the certification be made by both the manufacturer and a New Jersey licensed professional engineer, and that the certification relate not only to proper installation of the system but also to its proper operation. These amended certification requirements will now be fully consistent with those already set forth in N.J.A.C. 7:50- 6.84(a)5v for advanced treatment systems that have been permanently authorized for use in the Pinelands Area. To avoid confusion, the Commission believes it important that certification requirements for all systems be identical.

N.J.A.C. 7:50-6.84(a)5iv(2)(F) and (3)(F) are amended to update the cross-references in these sections to the Pilot Program requirements that will be recodified at N.J.A.C. 7:50-10.22(a)5.

As the Commission has provided a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

No adverse social impact is anticipated as a consequence of the adoption of the proposed amendments. Society as a whole benefits from the protection of the Pinelands and the proposed amendments are designed to do just that. Any social impacts that do result are expected to be positive. Conversely, a negative social impact might result should the proposed amendments not be adopted. This stems from the fact that the existing rules, at N.J.A.C 7:50-10.22(a)4 and 10.23(h), prohibit the installation of pilot program treatment systems after August 5, 2018. Absent the adoption of the proposed amendments, pilot program systems could no longer be used after that date for residential development on unsewered properties of less than 3.2 acres in the Pinelands Area.

Economic Impact

The economic impact of the proposed amendments to the Pilot Program for Alternate Design Wastewater Treatment systems will clearly be positive for those landowners seeking to develop their one to 3.2 acre properties in unsewered areas of the Pinelands Area. Without the proposed amendments, use of pilot program technologies would not be permitted after August 5, 2018. Landowners would then have limited options available to them; they could only use one of the three permanently-approved advanced treatment technologies. Reduced choices could drive up the prices of these three approved technologies. Non-adoption of the amendments would also create a problem for landowners and homebuilders with applications in progress if they were unable to install their proposed pilot program systems prior to August 5, 2018.

Environmental Impact

Elimination of the installation deadline associated with the Alternate Design Wastewater Treatment Systems Pilot Program is expected to provide environmental benefit. Elimination of

the deadline provides a continued opportunity for installation of new systems, which carries with it the opportunity for the Commission to collect data and monitor existing pilot program technologies and authorize new prescreened advanced wastewater treatment systems to enter the program and be installed and monitored. The installation of additional systems will result in more monitoring and testing of effluent, and this will ultimately provide the Commission with more data to be evaluated as part of the pilot program. Provided they are maintained properly, these systems provide the potential for improved water quality when compared with conventional septic systems.

Federal Standards Statement

Section 502 of the National Parks and Recreation Act of 1978 (16 U.S.C. §471i) called upon the State of New Jersey to develop a comprehensive management plan for the Pinelands National Reserve. The original plan adopted in 1980 was subject to the approval of the United States Secretary of the Interior, as are all amendments to the plan.

The Federal Pinelands legislation sets forth rigorous goals that the plan must meet, including the protection, preservation and enhancement of the land and water resources of the Pinelands. The proposed amendments are designed to meet those goals by allowing for the continued installation and monitoring of alternate design wastewater treatment systems for residential development through a highly successful pilot program.

There are no other Federal requirements that apply to the subject matter of these amendments.

Jobs Impact

Elimination of the impending deadline in the pilot program provides a continued opportunity for new home construction in areas that are zoned for such use but are not served by

public sewerage infrastructure. The proposed amendments may therefore result in the creation of jobs associated with new home construction. Conversely, non-adoption of the proposed amendments could have a negative impact on job creation by limiting the options of a small number of residential homebuilders in the unsewered portions of the Pinelands Area.

Agriculture Industry Impact

The proposed amendments are not expected to impact the agriculture industry in the Pinelands.

Regulatory Flexibility Analysis

The proposed amendments allow for installation of certain wastewater treatment technologies for residential development in the Pinelands Area beyond the August 5, 2018 deadline currently specified in the CMP. They also clarify certification requirements involving such technologies for purposes of ensuring consistency throughout the CMP. All of the other reporting, recordkeeping and compliance requirements of the Pilot Program continue to apply to the manufacturers of alternate design wastewater treatment systems authorized for use in the Pinelands Area. It is believed that at least some of these manufacturers may be small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. In meeting the standards for use of the authorized technologies that would continue to be authorized under the Pilot Program, these businesses may continue to incur costs relative to ensuring compliance with the maintenance and monitoring requirements of N.J.A.C. 7:50-10.22(a)5 (previously (a)6). It is unlikely, however, that engaging professional services will be necessary in order to do so. The design of systems for approval by County health departments and other agencies requires the services of a professional engineer under existing State law; that requirement is not changed by the proposed amendments. Furthermore, the requirements at N.J.A.C. 7:50-10.22(a)6 merely

involve the provision of certain manuals, maintenance guarantees and other documents that the manufacturers already have on hand, as well as the provision of resources for the collection and analysis of effluent sampling. This is not to say that the requirements represent insignificant costs for the manufacturers, particularly for the five-year non-cancellable maintenance contract required by N.J.A.C. 7:50-10.22(a)6vii. However, these requirements are a critical part of the proposed pilot program and the Commission would not be able to extend or expand the program without them. In any case, it is likely that the associated costs will be passed on to the homeowner by the manufacturers. These costs represent a relatively small price to pay for the opportunity to develop lots that would otherwise not be developable.

No differing requirements have been established for small businesses under the pilot program. Instead, the same maintenance and monitoring requirements will continue to be imposed relative to the authorized technologies, regardless of business size. This is necessary to balance protection of Pinelands resources with the Commission's desire to provide a continued opportunity for residential development on lots that are less than 3.2 acres in size in unsewered areas of the Pinelands. In fact, the Commission has identified proper system maintenance as the primary factor in ensuring that the alternate technologies will function in a manner that is consistent with CMP water quality standards. It is therefore critical that the requirements continue to be imposed on all of the manufacturers or their agents.

The proposed amendments impose no other reporting, recordkeeping or compliance requirements on small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

Housing Affordability Impact Analysis

The proposed amendments have the potential to reduce the cost of alternate design treatment systems for those landowners seeking to develop homes on lots between one and 3.2 acres in size in the unsewered portions of the Pinelands Area. With the removal of the installation deadline for such systems, current and future technologies participating in the Pilot Program may continue to be used. A range of options for landowners is thereby preserved, perhaps leading to increased competition among the vendors of existing and new pilot program technologies, resulting in decreased costs of the systems for homeowners.

While the proposed amendments may result in a decrease in the costs of alternate design treatment systems, and therefore a decrease in the average cost of housing utilizing such systems, it is important to note that these systems are being installed in the unsewered portions of the Pinelands Area and primarily in the Regional Growth Areas, Pinelands Villages and Pinelands Towns. Permitted densities in the unsewered portions of these management areas are relatively low, ranging from one unit per acre to one unit per 3.2 acres. Housing units in those portions of the Pinelands Area within which most affordable housing is targeted or anticipated would not be affected as such units are typically expected to be served by public sanitary sewer.

Smart Growth Development Impact Analysis

The proposed amendments allow for the continued installation and monitoring of alternate design treatment systems for residential development in the Pinelands Area through the Commission's Pilot Program. These systems are used by landowners in the unsewered portions of the Pinelands Area that are zoned for residential development on lots of less than 3.2 acres in size. These areas are primarily located in Regional Growth Areas, Pinelands Villages and Pinelands Towns, management areas designated for development by the CMP, equivalent to designated centers under the State

Development and Redevelopment Plan. The proposed amendments do not increase the amount of permitted residential development in these management areas; rather, they provide a continued opportunity for the development of housing in accordance with municipal zoning plans that were previously approved by the Commission. Thus, the proposed amendments are not expected to result in any changes in housing production within designated centers or in any other portions of the Pinelands Area. There will be no effect on new construction in Planning Areas 1 and 2 as designated by the State Development and Redevelopment Plan as these State Planning Areas do not exist in the Pinelands Area.

Full text of the proposal follows (additions indicated with underlines thus; deletions indicated in brackets [thus]):

7:50-6.84 Minimum standards for point and non-point source discharge

(a) The following point and non-point sources may be permitted in the Pinelands:

1.-4. (No change.)

5. Individual on-site septic waste water treatment systems that are intended to reduce the level of nitrate/nitrogen in the waste water, provided that the following standards are met:

i.-iii. (No change.)

iv. The design of the system and its discharge point, and the size of the entire contiguous parcel on which the system or systems is located, will ensure that ground water exiting from the entire contiguous parcel or entering a surface body of water will not exceed two parts per million nitrate/nitrogen calculated pursuant to the Pinelands dilution model dated December, 1993, as amended, (Appendix A) subject to the provisions of

(a)5v below and based on the following assumptions and requirements.

For purposes of this section, the entire contiguous parcel may include any contiguous lands to be dedicated as open space as part of the proposed development but may not include previously dedicated road rights-of-way or any contiguous lands that have been deed restricted pursuant to N.J.A.C. 7:50-5.30 or 5.47:

(1) (No change.)

(2) For Amphidrome, Bioclere and FAST systems:

(A)-(E)(No change.)

(F) The manufacturer or its agent shall provide to each owner an operation and maintenance manual and shall provide a five-year warranty consistent with the requirements of N.J.A.C. 7:50-[10.22(a)6viii]10.22(a)5viii;

(G)-(J) (No change.)

(3) Other on-site septic waste water treatment systems shall only be credited with reducing total nitrogen concentration to the extent authorized by an experimental monitoring program approved by the Pinelands Commission. Such an experimental monitoring program shall only be approved if:

(A)-(E) (No change.)

(F) The system meets all the requirements in N.J.A.C. 7:50-[10.22(a)6i]10.22(a)5i through x; and

(G) (No change.)

SUBCHAPTER 10 PILOT PROGRAMS

PART IV – ALTERNATE DESIGN TREATMENT SYSTEMS PILOT PROGRAMS

7:50-10.22 General standards

- (a) Alternate design pilot program treatment systems shall be authorized for residential use in all municipalities provided that the following standards are met:

1.-3. (No change.)

[4. The USEPA ETV or NSF/ANSI Standard 245 technologies approved by the Commission for participation in the pilot program pursuant to N.J.A.C. 7:50-10.23(b) are authorized to be installed until August 5, 2018.]

[5]4. The Executive Director shall submit an annual report to the Commission describing installation, maintenance and performance data for each technology. The Executive Director also shall submit an interim report to the Commission if it is determined there is a significant installation, maintenance or performance issue with one or more technologies that needs to be addressed before the issuance of the next annual report. Copies of each annual and interim report shall be provided to each manufacturer and agent of a technology that is discussed in that report. If it is determined in a report either that a manufacturer or its agent is not adhering to any of the requirements of this pilot program or that any one of the technologies, based on maintenance or installation issues or on an evaluation of all the monitoring results for that technology under this pilot program, is not meeting the minimum water quality standards in N.J.A.C. 7:50-6.83 or the two parts per million total nitrogen requirement in [(a)6x] (a)5x below on all lots

smaller than 3.2 acres or on lots smaller than a particular size because the effluent exiting the system is higher than was anticipated in establishing the lot sizes in (a)3 above:

i.-ii. (No change.)

[6]5. Conditions for the use of alternate design pilot program treatment systems are as follows:

i.-iv. (No change.)

v. The manufacturer or its agent and a New Jersey licensed professional engineer shall certify to the Commission and the local board of health that installation of each system has been properly completed and that the system and all of its components are operating properly. The manufacturer or its agent [and] shall include in the certification the cost of the installation and a description of any problem encountered during the installation;

vi.-xi (No change.)

7:50-10.23 Pinelands Commission approval and evaluation

(a)-(g) (No change.)

[(h) Nothing in this section shall be construed to authorize the installation of any USEPA ETV and NSF/ANSI Standard 245 treatment technology approved by the Commission for participation in the pilot program after August 5, 2018 as set forth in N.J.A.C. 7:50-10.22(a)4, unless a rule has been adopted by the Commission which expressly authorizes such installation pursuant to (f) or (g) above.]



PHILIP D. MURPHY
Governor
SHEILA Y. OLIVER
Lt. Governor

State of New Jersey
THE PINELANDS COMMISSION
PO Box 359
New Lisbon, NJ 08064
(609) 894-7300
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SEAN W. EARLEN
Chairman
NANCY WITTENBERG
Executive Director

General Information: Info@pinelands.nj.gov
Application Specific Information: AppInfo@pinelands.nj.gov

**Pending Public Development and Waiver of Strict Compliance Applications
accepting public comment at the June 8, 2018 Commission Meeting**

Public Development Applications

Application No. 1984-0655.032 – South Jersey Transportation Authority

Received on: March 13, 2018

Project: Construction of a traffic ramp from Amelia Earhart Boulevard to Tilton Road

Municipality: Egg Harbor Township

Block 101, Lots 2-4

Application No. 1985-0726.010 – New Jersey School Development Authority

Received on: July 21, 2017

Project: Demolition of the Alexander Denbo Elementary School and the construction of a 121,000 square foot elementary school

Municipality: Pemberton Township

Block 849, Lots 1.02, 2 & 15

Application No. 1990-0868.029 – NJDEP, Division of Parks and Forestry

Received on: September 19, 2017

Project: Tree removal to improve visibility from Bass River State Forest fire tower

Municipality: Bass River Township

Block 48, Lots 1 & 2; Block 49, Lot 12

Application No. 1996-1386.003 – NJDEP, Division of Parks and Forestry

Received on: February 6, 2018

Project: Forestry in Brendan Byrne State Forest

Municipality: Pemberton Township

Block 925, Lot 1; Block 927, Lot 1

Waiver of Strict Compliance Applications

None



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SEAN W. EARLEN
Chairman
NANCY WITTENBERG
Executive Director

General Information: Info@pinelands.nj.gov
Application Specific Information: AppInfo@pinelands.nj.gov

MEMORANDUM

To: Members of the Commission

From: Charles M. Horner, P.P. *cmh*
Director of Regulatory Programs

Date: May 29, 2018

Subject: Public Development Memorandum of Agreement (MOA) Determinations

Between April 28, 2018 and May 25, 2018, the Commission staff determined that the following public development applications were consistent with the Commission approved public development MOAs and that the proposed development may proceed:

2018-0002.001 – Ocean County

Replacement of the Pinewald-Keswick Road Bridge in Berkeley Township.

2018-0043.001 – Atlantic County Department of Planning

Installation of guide rails and road shoulder grading within the Blue Anchor Road right-of-way in the Borough of Folsom.

Please do not hesitate to contact me with any questions.



Philip D. Murphy
Governor

Sheila Y. Oliver
Lt. Governor

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



Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

DETERMINATION OF CONSISTENCY
WITH MEMORANDUM OF AGREEMENT

May 7, 2018

John N. Ernst, P.E. (via email)
Ocean County Engineering Department
129 Hooper Avenue
Toms River, NJ 08754

Re: Application # 2018-0002.001
Pinewald-Keswick Road (Structure No. 1505-007)
Berkeley Township

Dear Mr. Ernst:

We have reviewed the above referenced application proposing the replacement of the Pinewald-Keswick Road Bridge in Berkeley Township. The submitted information indicates that the bridge will be widened from an existing width of approximately 30 feet to 40 feet.

On September 10, 2010, the Commission entered into a Memorandum of Agreement (MOA) with Ocean County to facilitate the review of certain classes of public development defined in the MOA. In accordance with Section V.H.9 of the MOA, the enlargement, extension, reconstruction and replacement of a bridge, provided that new land disturbance does not exceed 5,000 square feet, does not require individual development approval from the Commission. The Commission staff has determined that the development proposed in this application is consistent with the requirements of the MOA and may proceed provided any other necessary approvals and permits are received.

The proposed development shall adhere to the plan, consisting of 15 sheets, prepared by Mott MacDonald and dated as follows:

Sheet 1 – undated
Sheets 2 & 5-15 – March 2018
Sheets 3 & 4 – March 2018; revised to January 15, 2018

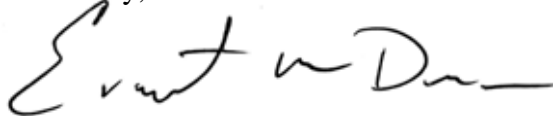
Prior to construction of any portion of the proposed development which will result in a disturbance of any wetland area, the applicant shall obtain authorization pursuant to the New Jersey Department of Environmental Protection Freshwater Wetlands Protection Act Rules.



The Landscaping and Revegetation guidelines of the Pinelands Comprehensive Management Plan recommend the use of grasses that are tolerant of droughty, nutrient poor conditions. Where appropriate, please utilize Switch grass, Little bluestem and Broom-sedge for revegetation of disturbed areas.

Please contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Ernest M. Deman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Ernest M. Deman

Supervising Environmental Specialist

c: Matthew Colon (via email)



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Executive Director

General Information: Info@pinelands.nj.gov
Application Specific Information: AppInfo@pinelands.nj.gov

DETERMINATION OF CONSISTENCY
WITH MEMORANDUM OF AGREEMENT

May 22, 2018

John A. Musto, PE
Atlantic County Department of Planning
P.O. Box 719
Northfield, NJ 08225

Re: Application # 2018-0043.001
Blue Anchor Road
Borough of Folsom

Dear Mr. Musto:

We have reviewed the information regarding the replacement of existing culverts and headwalls, the installation of guide rails, and the grading of road shoulders within the above referenced right-of-way in the Borough of Folsom.

On August 8, 2011, the Commission entered into a Memorandum of Agreement (MOA) with Atlantic County to facilitate the review of certain classes of public development defined in the MOA.

Your letter requests that the Commission approve the replacement of the existing culverts and headwalls under the MOA. Notwithstanding the language in the MOA, the repair, maintenance or replacement of an existing culvert or headwall with one of equal size does not require an application to the Commission. Any other permits or approvals that may be required by law must still be obtained.

In accordance with Section IV.H.1 of the MOA, the installation of traffic safety improvements, including guide rails, does not require individual development approvals from the Commission provided that new land disturbance does not exceed 5,000 square feet. The Commission staff has determined that the installation of the proposed guide rails is consistent with the requirements of the MOA and may proceed provided any other necessary approvals and permits are received.

In accordance with Section V.H.10 of the MOA, accessory improvements to existing paved roadways, such as grading of road shoulders, does not require individual development approvals from the Commission provided that the proposed improvements are almost exclusively located in existing developed/disturbed areas. The Commission staff has determined that the proposed grading of road shoulders is consistent with the requirements of the MOA and may proceed provided any other necessary approvals and permits are received.



The proposed development shall adhere to the plan, consisting of 24 sheets, prepared by the Atlantic County Department of Regional Planning and Development and dated as follows:

Sheet 1 – undated

Sheet 2 – April 18, 2018

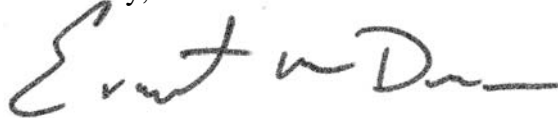
Sheet 3 – April 16, 2018

Sheets 4-24 – April 17, 2018

The Landscaping and Revegetation guidelines of the Pinelands Comprehensive Management Plan recommend the use of grasses that are tolerant of droughty, nutrient poor conditions. Where appropriate, please utilize Switch grass, Little bluestem and Broom-sedge for revegetation of disturbed areas.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Ernest M. Deman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Ernest M. Deman

Supervising Environmental Specialist