

# RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION NO. PC4-17-

TITLE: Approving With Conditions Applications for Public Development (Application Numbers 2013-0170.002 & 2015-0116.001)

slincher moves and Commissioner Commissioner seconds the motion' that:

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

2013-0170.002	
Applicant:	Borough of Lakehurst
Municipality:	Borough of Lakehurst
Management Area:	Pinelands Town
Date of Report:	July 21, 2017
Proposed Development:	Four lot subdivision and the development of three single family dwellings; and
2015-0116.001	

2 Applicant: Municipality: Management Area: Date of Report: Proposed Development:

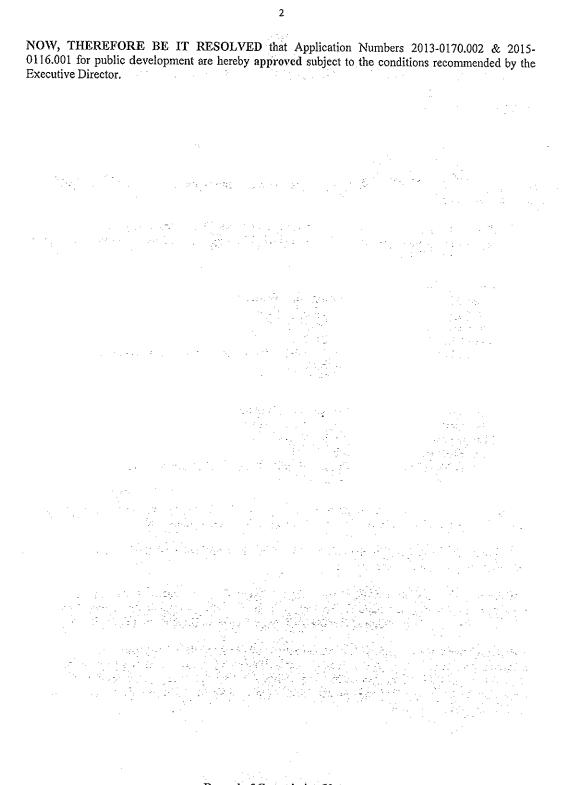
**Manchester Township** Manchester Township Pinelands Town July 21, 2017 Construction of a 150 foot high local communication facility (tower).

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

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

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

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



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Kim Guadagno Lt. Governor

# State of New Jersey

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

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

July 21, 2017



Sean W. Earlen Chairman

Nancy Wittenberg Executive Director

Harry Robbins, Mayor Borough of Lakehurst 5 Union Avenue Lakehurst, NJ 08733

> Re: Application # 2013-0170.002 Block 46, Lot 3 Borough of Lakehurst

Dear Mayor Robbins:

The Commission staff has completed its review of this application for a four lot subdivision and the development of three single family dwellings. Enclosed is a copy of a Public Development Application Report. On behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its first meeting on or after August 11, 2017.

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

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

Sincerely

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

Enc: Appeal Procedure

c: Secretary, Borough of Lakehurst Planning Board (via email) Borough of Lakehurst Construction Code Official (via email) Secretary, Ocean County Planning Board (via email) Alan Dittenhofer





Kim Guadagno Lt. Governor

# State of New Jerzey

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



Sean W. Earlen Chairman

Nancy Wittenberg Executive Director

### PUBLIC DEVELOPMENT APPLICATION REPORT

July 21, 2017

Harry Robbins, Mayor Borough of Lakehurst 5 Union Avenue Lakehurst, NJ 08733

Application No.:	2013-0170.002
	Block 46, Lot 3
	Borough of Lakehurst

This application proposes a four lot subdivision and the development of three single family dwellings on the above referenced 1.15 acre parcel in the Borough of Lakehurst. The parcel is owned by the Lakehurst Board of Education. There is an existing school bus parking lot located on the parcel.

This application proposes to create three 7,500 square foot lots for residential development and a 27,500 square foot lot to contain the existing school parking lot.

## **STANDARDS**

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

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

The parcel is located in the Pinelands Town of Lakehurst. The proposed development is a permitted use in a Pinelands Town.

The parcel is located in the Borough's R-2 zoning district. The Commission certified Borough of Lakehurst land use ordinance requires a 7,500 square foot minimum lot size for the development of a single family dwelling serviced by public sanitary sewer in the R-2 zoning district.

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

The proposed development will be located within an existing wooded area. All clearing and soil disturbance is limited to that which is necessary to accommodate the proposed development.

The Landscaping and Revegetation guidelines of the CMP recommend the use of grasses that are

tolerant of, droughty, nutrient poor conditions. The applicant does not propose any revegetation.

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

The proposed single family dwellings will be serviced by public sanitary sewer.

#### PUBLIC COMMENT

The CMP defines the proposed development as "minor" development. The CMP does not require public notice for minor public development applications. The application was designated as complete on the Commission's website on June 14, 2017. The Commission's public comment period closed on July 14, 2017. No public comment was submitted to the Commission regarding this application.

#### **CONDITIONS**

- 1. Except as modified by the below conditions, the proposed development shall adhere to the plan prepared by Remington & Vernick Engineers, dated May 17, 2017 and revised to June 1, 2017.
- 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. A copy of each municipal construction permit for the three single family dwellings subject of this application shall be submitted to the Commission office within five days of issuance. Because this application for Public Development was approved by the Commission, it is not necessary to obtain a letter from the Commission staff indicating whether each construction permit may take effect.

#### **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.



Kim Guadagno Lt. Governor

# State of New Jerzey

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

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 the by Executive Director to the Commission in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted by someone meeting the definition of an interested party will be transmitted to the New Jersey Office of Administrative Law for a hearing. Any such appeal must be made in writing and received at the Commission office no later than 5:00 PM on August 8, 2017 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.



Kim Guadagno Lt. Governor

# State of New Jerzey

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



Sean W. Earlen Chairman

Nancy Wittenberg Executive Director

July 21, 2017

Donna Markulic, Business Administrator Manchester Township 1 Colonial Drive Manchester, NJ 08759

> Re: Application # 2015-0116.001 Cabot Avenue Manchester Township

Dear Ms. Markulic:

The Commission staff has completed its review of this application for construction of a 150 foot high local communication facility (tower). Enclosed is a copy of a Public Development Application Report. On behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its first meeting on or after August 11, 2017.

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

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

Sincerely

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

Enc: Appeal Procedure

c: Secretary, Manchester Township Planning Board (via email) Manchester Township Construction Code Official (via email) Manchester Township Environmental Commission (via email) Secretary, Ocean County Planning Board (via email) Jacqueline McCort (via email)





Kim Guadagno Lt. Governor

# State of New Jerzey

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

### PUBLIC DEVELOPMENT APPLICATION REPORT

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

July 21, 2017

Donna Markulic, Business Administrator Manchester Township 1 Colonial Drive Manchester, NJ 08759

Application No.:	2015-0116.001
	Cabot Avenue
	Manchester Township

This application proposes construction of a 150 foot high local communication facility (tower) within the unimproved and forested Cabot Avenue right-of-way in Manchester Township. The applicant also proposes a 1,250 square foot equipment compound and an access driveway.

### **STANDARDS**

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

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

The proposed development is located in the Pinelands Town of Whiting. Local communication facilities (towers) are a permitted land use in a Pinelands Town and are not required to be included in a Commission certified comprehensive plan for the siting of local communications facilities.

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

The proposed development will be located in an existing forested area. The proposed development will disturb approximately 4,725 square feet of forest. The proposed vegetation clearing and soil disturbance is limited to that which is necessary to accommodate the proposed development.

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

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

Information available to the Commission staff indicated the presence of Northern pine snake in the vicinity of the proposed development. The applicant completed a habitat assessment and visual survey for the presence of critical habitat for Northern pine snake on and in the immediate vicinity of the proposed development. The habitat assessment determined that the concerned area did not contain critical habitat for Northern pine snake. No nests or hibernacula or potential nests or potential hibernacula were identified by the visual survey. The applicant has demonstrated that the proposed development will not have an irreversible adverse impact on habitat that is critical to the survival of Northern pine snake.

#### PUBLIC COMMENT

The CMP defines the proposed development as "minor" development. The CMP does not require public notice for minor development applications. The application was designated as complete on the Commission's website on June 22, 2017. The Commission's public comment period closed on July 14, 2017. No public comment was submitted to the commission regarding this application.

#### **CONDITIONS**

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of two sheets, prepared by Maser Consulting, P.A and dated as follows:

Sheet 1 - November 18, 2016; revised to May 16, 2017 Sheet 2 - November 18, 2016

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

#### 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.



Kim Guadagno Lt. Governor

# State of New Jerzey

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 OF NEW

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 the by Executive Director to the Commission in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted by someone meeting the definition of an interested party will be transmitted to the New Jersey Office of Administrative Law for a hearing. Any such appeal must be made in writing to the Commission no later than 5:00 pm on August 8, 2017. The appeal must include the following information:

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

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



# **RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION**

NO. PC4-17- 24

TITLE: Approving With Conditions an Application for Public Development (Application Number 2015-0087.001)

Commissioner <u>GAUETA</u> moves and Commissioner <u>Fact</u>

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:

2015-0087.001
Applicant:
Municipality:
Management Area:
Date of Report:
Proposed Development:

Egg Harbor City Egg Harbor City Pinelands Town July 21, 2017 Construction of a 32 space parking lot and 1,140 linear feet of sidewalk.

WHEREAS, the paving of a temporary stone parking lot and the installation of approximately 1,200 linear feet of sidewalk occurred on a parcel and within the Atlantic Avenue right-of-way without application to, and approved by, the Commission and constitutes a violation of the application requirements of the Pinelands Comprehensive Management Plan (CMP); and

WHEREAS, the applicant proposes to address this violation by submitting and completing an application for the paving of the concerned parking lot and the sidewalk installation by December 31, 2017; and

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 2015-0087.001 for public development is hereby approved subject to the conditions recommended by the Executive Director.

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Adopted at a meeting of the Pinelands Commission Date: Avent 1, 2017														
	Alarge Wittenberg Executive Director Executive Director													



Kim Guadagno Lt. Governor

# State of New Jerzey

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

July 21, 2017

Lisa Jiampetti, Mayor Egg Harbor City 500 London Avenue Egg Harbor, NJ 08215

> Re: Application # 2015-0087.001 Atlantic Avenue ROW Block 957, Lot 1 Egg Harbor City

Dear Mayor Jiampetti:

The Commission staff has completed its review of this application for construction of a 32 space parking lot and 1,140 linear feet of sidewalk. Enclosed is a copy of a Public Development Application Report. On behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its first meeting on or after August 11, 2017.

Development was previously undertaken on the above referenced parcel and within the Atlantic Avenue right-of-way prior to completion of an application with the Commission. This constitutes a violation of the application requirements of the Pinelands Comprehensive Management Plan (CMP). As required by the CMP, the City has specifically agreed in writing to take all measures necessary to eliminate the violation in a time period acceptable to the Commission's Executive Director.

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.

Sincerel fles M. Horner, P.P.

Director of Regulatory Programs



- Encl. (2): 6/26/14 public comment letter Appeal Procedure
- c: Secretary, Egg Harbor City Planning Board (via email)
  Egg Harbor City Construction Code Official (via email)
  Atlantic County Department of Regional Planning and Development (via email)
  Linda L. Carney (via email)
  Ryan McGowan (via email)



Kim Guadagno Lt. Governor

# State of New Jerzey

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

July 21, 2017

Lisa Jiampetti, Mayor Egg Harbor City 500 London Avenue Egg Harbor, NJ 08215

Application No.:	2015-0087.001
	Atlantic Avenue ROW
	Block 957, Lot 1
	Egg Harbor City

This application proposes construction of a 32 space parking lot and 1,140 linear feet of sidewalk located on the above referenced 2.01 acre parcel and within the Atlantic Avenue right-of-way in Egg Harbor City.

On August 4, 1989, the Commission approved the development of a temporary stone parking lot located partially on the above referenced parcel and partially within the Atlantic Avenue right-ofway (App. No. 1981-2075.006). New Jersey Transit was the applicant for App. No. 1981-2075.006 and is the owner of Block 957, Lot 1. The temporary stone parking lot was paved without completion of an application with the Commission. In addition, approximately 1,200 linear feet of sidewalk was installed within the Atlantic Avenue right-of-way between Route 50 and Chicago Avenue without application to the Commission. This development constitutes a violation of the application requirements of the Pinelands Comprehensive Management Plan. By letter dated June 21, 2017, the applicant has agreed to address and resolve this outstanding violation by submitting and completing an application for the paving of the concerned parking lot and the sidewalk installation by December 31, 2017.

### **STANDARDS**

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

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

The parcel is located in the Pinelands Town of Egg Harbor City. The proposed development is a permitted use in a Pinelands Town Management Area. Vegetation Management Standards (N.J.A.C. 7:50-6.23 & 6.26) The proposed development will be located within maintained grass and disturbed areas. The proposed soil disturbance is limited to that which is necessary to accommodate the proposed development.

The Landscaping and Revegetation guidelines of the CMP recommend the use of grasses that are tolerant of droughty, nutrient poor conditions. The applicant proposes to use grass species that meet this recommendation

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

The applicant has demonstrated that the proposed development is consistent with the CMP stormwater management standards. To meet the stormwater management standards, the applicant will be constructing an underground stormwater infiltration system.

#### PUBLIC COMMENT

The applicant has provided the requisite public notices. Newspaper public notice was completed on March 14, 2017. Notice to required land owners within 200 feet of the above referenced parcel was completed on June 26, 2017. The application was designated as complete on the Commission's website on June 30, 2017. The Commission's public comment period closed on July 14, 2017. The Commission received one written public comment (enclosed) regarding this application.

Public Comment One:	The commenter is the owner of a business located near the proposed development. The commenter supports the proposed development and believes that the sidewalk and parking improvements will provide a safer passageway for is employees.
	passageway for 1s employees.

Staff Response:The Commission staff appreciates the commenter's interest in the<br/>Pinelands and support of the application.

#### CONDITIONS

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of 9 sheets, prepared by Remington, Vernick & Walberg Engineers and dated as follows:

Sheets 1, 3, 4, & 7 - dated May 23, 2016 and revised to April 12, 2017; Sheets 2, 5, 8 & 9 - dated May 23, 2016 and revised to November 23, 2016; Sheets 6 - dated May 23, 2016 and revised to July 20, 2017.

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

### **CONCLUSION**

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



Kim Guadagno Lt. Governor

# State of New Jerzey

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

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 the by Executive Director to the Commission in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted by someone meeting the definition of an interested party will be transmitted to the New Jersey Office of Administrative Law for a hearing. Any such appeal must be made in writing to the Commission no later than 5:00 PM on August 8, 2017. The appeal must include the following information:

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

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



Career Opportunity Development, Inc. 901 Atlantic Avenue Egg Harbor City, NJ 08215-1810 609 965-6871 --- www.njcodi.org --- Fax: 609 965-3099

> Linda L. Carney President/CEO

June 26, 2014

Ryan A. McGowan, P.E., P.P., C.M.E. Remington, Vernick, & Walberg Engineers 845 North Main Street Pleasantville, New Jersey 08232

Dear Mr. McGowan:

Career Opportunity Development, Inc. (CODI) is a 501(c)(3) nonprofit organization located at 901 Atlantic Avenue in Egg Harbor City, New Jersey. CODI's mission is to motivate, inspire, and support individuals with disabilities and disadvantages to optimize potential and maximize independence. CODI advances its mission through its broad array of programs, annually serving in excess of 1,500 individuals. Some of the groups CODI serves include individuals with developmental disabilities, individuals with mental illness, individuals with substance use disorders, ex-offenders, and individuals transitioning from welfare to work.

CODI's Egg Harbor City location is the central hub of its many programs. The outsource center which houses CODI's Extended Employment and Adult Day Services programs is routinely populated by 100 or more individuals with disabilities, many of who walk to CODI from a nearby bus or rail station, and also walk to nearby businesses during lunch and breaks.

CODI's main facility also houses all administrative stall and routinely receives visitors who live locally and reach CODI on foot, or who travel by NJ Transit bus or rail, and complete the last leg of their trip to CODI on foot.

As reaching the local bus or rail stations and many local stores – or reaching CODI from one of its local residential facilities – involves crossing busy roads and intersections such as US Route 30, the lack of properly demarcated pedestrian routes presents safety issues and challenges for CODI's consumers. The installation of crosswalks and sidewalks along the most commonly used pedestrian routes to and from the CODI facility would greatly enhance our consumers' safety, and help further CODI's mission of supporting these individuals.

Sincerely,

Jundas Linda L. Carney President/CEO

CARF- Commission on Accreditation of Rehabilitation Facilities - United Way of Atlantic County



# **RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION** NO. PC4-17- 25

TITLE: Approving With Conditions an Application for a Waiver of Strict Compliance (Application Number 1983-6352.003)

Commissioner Mildinchey		$\wedge$	moves and Commissioner_	Cor	1baur
seconds the motion that:	$\backslash /$				

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

1983-6352.003	
Applicant:	Ernest J. Barrett
Municipality:	Shamong Township
Management Area:	Pinelands Village
Date of Report:	July 21, 2017
Proposed Development:	Single family dwelling

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

WHEREAS, the Pinelands Commission hereby adopts the Findings of Fact and Conclusion of the Executive Director for the requested Waiver of Strict Compliance; and

WHEREAS, the Pinelands Commission hereby determines that the requested Waiver conforms to the standards for approving an application for a Waiver of Strict Compliance based on extraordinary hardship as set forth in N.J.A.C 7:50-4.62, N.J.A.C. 7:50-4.63 and N.J.A.C. 7:50-4.65 if the conditions recommended by the Executive Director are imposed; and

WHEREAS, pursuant to <u>N.J.S.A.</u> 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 1983-6352.003 for a Waiver of Strict Compliance is hereby approved subject to the conditions recommended by the Executive Director.

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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

### **REPORT ON AN APPLICATION FOR A WAIVER OF STRICT COMPLIANCE**

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

July 21, 2017

Ernest J. Barrett 16 Utah Avenue Cherry Hill, NJ 08002

Dear Mr. Barrett:

The Commission staff has completed its review of the above referenced application for a Waiver of Strict Compliance ("Waiver") proposing the development of a single family dwelling on the above referenced parcel. Based upon the facts and conclusions contained in this Report, on behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its next meeting occurring on or after August 11, 2017.

#### FINDINGS OF FACT

This application is for the development of a single family dwelling served by an alternate design onsite septic system on the above referenced 0.89 acre parcel in Shamong Township. The parcel is located in a Pinelands Village Management Area and in Shamong Township's Village-Residential zoning district. In this zoning district, Shamong Township's certified land use ordinance establishes a minimum lot size of 1.0 acres to develop a single family dwelling on an existing lot of record as of November 14, 1997. The parcel subject of this application existed on November 14, 1997.

The Burlington County Soils Survey indicates that there are Woodstown soils on this parcel. These soils have a seasonal high water table of less than 5 feet below the natural ground surface. The applicant has submitted no information to demonstrate that the septic system could be located in an area where the seasonal high water table is at least 5 feet below the natural ground surface. Since the available information indicates the seasonal high water table on the entire parcel is less than 5 feet below the natural ground surface, the applicant is requesting a Waiver from the seasonal high water table standard contained in the Pinelands Comprehensive Management Plan (CMP, N.J.A.C. 7:50- 6.84(a)5vi.).

As no Commission accepted alternate design onsite septic system will meet the two parts per million average nitrogen concentration in the groundwater at the property line of the 0.89 acre parcel, the



Chris Christie Governor

Kim Guadagno Lt. Governor

Re: Application # 1983-6352.003 Block 19.02, Lots 6.15 & 6.16 Shamong Township

applicant is also requesting a Waiver from the groundwater quality standard contained in the CMP (N.J.A.C. 7:50-6.84(a) 5iv).

The parcel has been site inspected by a member of the Commission's staff. Additionally, the appropriate resource capability maps and data available to the staff have been reviewed.

On March 21, 2017, the Shamong Township Planning Board adopted Resolution #2017-7 approving the consolidation of the two existing lots subject of this application into one parcel and a bulk (lot area) variance to develop a dwelling on the parcel.

The parcel includes all contiguous land in common ownership on or after January 14, 1981. The proposed single family dwelling will be the sole principal use of the entire contiguous parcel. A single family dwelling can be developed on the parcel without violating any of the criteria contained in N.J.A.C. 7:50-4.65(b).

Only if the parcel is developed in accordance with the conditions recommended below will the adverse impacts on seasonal high water table and groundwater quality be minimized.

#### PUBLIC COMMENT

The applicant has provided the requisite public notices. Public notice to all property owners within 200 feet of the parcel was completed on April 4, 2017. Newspaper public notice was completed on April 7, 2017. The application was designated as complete on the Commission's website on June 8, 2017. The Commission's public comment period closed on July 14, 2017. One written public comment (attached) was received by the Commission regarding this application.

<u>Written Public Comment</u>: The commenter indicates that the concerned parcel was "non-buildable" when the residential subdivision in which the parcel is located was originally approved. The commenter also indicated that development of a dwelling on the parcel would be detrimental to the public good and will negatively impact the groundwater quality of the existing developed parcels in the surrounding area.

Staff Response: The Commission staff appreciates the commenter's interest in the Pinelands. The proposed dwelling will be located on a 0.89 acre parcel within an existing residential subdivision. The subdivision was developed prior to the January 14, 1981 effective date of the CMP. The Shamong Township Planning Board found in approving the bulk (lot area) variance to develop a dwelling that the proposed lot size does not create any substantial detriment to the public good and that the proposed dwelling will be located on a much larger parcel than that of the surrounding development. The Commission staff is not aware of any "non-buildable" parcel restriction that would prohibit the development of a single family dwelling on the parcel. The commenter may wish to discuss this "non-buildable" parcel issue with an appropriate municipal official. The applicant has demonstrated that the proposed dwelling meets the minimum lot size and environmental standards of the CMP to qualify for a Waiver. The Commission's Waiver regulations are designed to provide all property owners with at least a minimum beneficial use of a parcel consistent with constitutional requirements.

#### **CONCLUSION**

The CMP (N.J.A.C. 7:50-4.62) sets forth the standards which must be met before a Waiver can be approved. The CMP (N.J.A.C. 7:50-4.62(a)) requires that for a Waiver application to be approved based on extraordinary hardship, the applicant must demonstrate that the conditions of either N.J.A.C. 7:50-4.63(a) or (b) have been met.

N.J.A.C. 7:50-4.63(a) sets forth <u>five conditions</u> which must be met for an applicant to qualify for an extraordinary hardship pursuant to that subsection.

The <u>first condition</u> is that the only relief sought is from one or more of the standards contained in N.J.A.C.7:50-6 for certain specified development. One of the specified types of development is a single family dwelling on a parcel within a Regional Growth Area, Pinelands Town or Pinelands Village which is at least 20,000 square feet, excluding road rights-of-way, in size and is not served by a centralized waste water treatment system. This application is for a Waiver from the seasonal high water table and groundwater quality standards contained in N.J.A.C. 7:50-6. The applicant is proposing to develop a single family dwelling served by an alternate design onsite wastewater treatment system on a 0.89 acre (38,773 square feet) parcel. The parcel contains more than 20,000 square feet, excluding road rights-of-way and is located in a Pinelands Village Management Area. As a result, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)1v.

The <u>second condition</u> is that the parcel includes all contiguous land in common ownership on or after January 14, 1981, including lands which are contiguous as a result of ownership of other contiguous lands. Since the parcel includes all such contiguous land, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)2.

The <u>third condition</u> is that the proposed use will be the sole principal use on the entire contiguous parcel, except as expressly provided in N.J.A.C. 7:50-5.1(c). As the proposed single family dwelling will be the sole principal use on the parcel, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)3.

The <u>fourth condition</u> is that all necessary municipal lot area and density variances have been obtained if the parcel is located in a municipality whose master plan and land use ordinance have been certified by the Pinelands Commission. Shamong Township's master plan and land use ordinance have been certified by the Pinelands Commission. On March 21, 2017, the applicant obtained a municipal lot area variance from the Shamong Township Planning Board. As a result, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)4.

The <u>fifth condition</u> is that the development of the parcel will not violate any of the criteria contained in N.J.A.C. 7:50-4.65(b). N.J.A.C. 7:50-4.65(a) precludes the granting of a Waiver which permits a parcel to be developed unless such development will be consistent with the purposes and provisions of the Pinelands Protection Act, the Federal Act and the CMP and will not result in a substantial impairment of the resources of the Pinelands Area. N.J.A.C. 7:50-4.65(b) sets forth the circumstances which do not comply with N.J.A.C. 7:50-4.65(a). With the conditions recommended below, the proposed development will not violate any of the circumstances contained in N.J.A.C. 7:50-4.65(b). As a result, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)5.

Since the applicant meets all five conditions set forth in N.J.A.C. 7:50-4.63(a), the applicant has demonstrated that an extraordinary hardship exists pursuant to N.J.A.C. 7:50-4.62(a).

As required by N.J.A.C. 7:50-4.62(b), the proposed dwelling will not result in substantial impairment of the resources of the Pinelands or be inconsistent with the provisions of the Pinelands Protection Act, the Federal Act or the CMP in accordance with the criteria set forth in N.J.A.C. 7:50-4.65.

The proposed dwelling will not involve trespass or create a public or private nuisance by being materially detrimental or injurious to other property or improvements in the area in which the parcel is located, increase the danger of fire or endanger public safety. With the conditions recommended below, the applicant meets the requirements contained in N.J.A.C. 7:50-4.62 (c).

The CMP (N.J.A.C. 7:50-4.62(d)) requires that the Waiver only grant the minimum relief necessary to relieve the extraordinary hardship. The proposed single family dwelling is the minimum relief necessary to relieve the extraordinary hardship which has been shown to exist.

The CMP (N.J.A.C. 7:50-4.62(d)1iii) requires the acquisition and redemption of 0.25 Pinelands Development Credits (PDCs) whenever a Waiver provides relief from one or more of the standards of N.J.A.C. 7:50-6. As the applicant is obtaining a Waiver from the minimum depth to seasonal high water table standard (N.J.A.C.7:50-6.84(a)5vi) and the groundwater quality standard (N.J.A.C. 7:50-6.84(a)5iv.) a condition is included to require the applicant to purchase the requisite 0.25 PDCs.

The CMP (N.J.A.C. 7:50-4.62(d)1ii)) also requires the acquisition and redemption of any PDCS that are otherwise required pursuant to N.J.A.C. 7:50-5.27, 5.28 or 5.32. The CMP (N.J.A.C. 7:50-5.27(c)) provides that any local approval in a Pinelands Village, including variances, which grants relief from density or lot area requirements shall require that PDCs be used for all dwelling units or lots in excess of that otherwise permitted, unless a Waiver for the dwelling unit or lot has been approved by the Commission. As indicated above, the applicant previously received a municipal variance granting relief from the lot area requirement for the proposed dwelling. However, since the applicant qualifies for a Waiver, no PDCs are required for the municipal lot area variance.

To meet the requirements of N.J.A.C. 7:50-4.62, N.J.A.C. 7:50-4.63(a) and N.J.A.C. 7:50-4.65, the Pinelands Commission staff has determined that the parcel must be developed in accordance with the following conditions:

- 1. Except as modified by the below conditions, the proposed development shall adhere to the plot plan prepared by R.B.S. Engineering Co., dated July 20, 2015 and last revised December 8, 2015.
- 2. The septic system must be located in an area where the seasonal high water table is at least two feet below the natural ground surface.
- 3. The proposed dwelling must utilize an alternate design wastewater system authorized pursuant to the CMP on a 1.0 acre lot and approved for use by the Pinelands Commission and the New Jersey Department of Environmental Protection.
- 4. Except as provided in N.J.A.C. 7:50-5.1(c), the single family dwelling approved herein shall be the sole principal use of the parcel.

- 5. All development, except the driveway, shall be located at least 300 feet from wetlands.
- 6. Prior to Commission issuance of a letter advising that any municipal or county permit or approval may take effect, a recorded copy of a deed consolidating Block 19.02, Lots 6.15 and 6.16 into one lot must be submitted to the Pinelands Commission.
- 7. Prior to Commission issuance of a letter advising that any municipal or county permit or approval may take effect, the Commission must receive a letter from the Pinelands Development Credit Bank indicating that the requisite 0.25 PDCs have been acquired and submitted to the PDC Bank for redemption.
- 8. This Waiver shall expire August 11, 2022 unless all necessary construction permits have been issued by that date. The Waiver shall also expire if any construction permit is allowed to expire or lapse after August 11, 2022 or if any renewal or extension of any permit or approval or issuance of a new construction permit is necessary after that date.
- 9. Prior to Commission issuance of a letter advising that any municipal or county permit or approval may take effect, a copy of a recorded deed containing all of the above conditions shall be submitted to the Pinelands Commission. The deed shall specify that the conditions are being imposed pursuant to a Waiver of Strict Compliance referring to the application number. The deed shall also state that the conditions are enforceable by the Pinelands Commission, Shamong Township, the Burlington County Health Department and any other party of interest.

With the above conditions, the applicant qualifies for a Waiver from the standards of N.J.A.C.7:50-6.84(a) 5vi. and N.J.A.C. 7:50-6.84(a)5iv.

Since the applicant meets the provisions of N.J.A.C. 7:50-4.62, N.J.A.C. 7:50-4.63(a) and N.J.A.C. 7:50-4.65 for the development of one single family dwelling on the parcel, it is recommended that the Pinelands Commission **APPROVE** the requested Waiver subject to the above conditions.

### APPEAL

The CMP (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal this recommendation in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted by someone meeting the definition of an interested party will be transmitted to the New Jersey Office of Administrative Law for a hearing. Any such appeal must be made in writing to the Commission no later than 5:00 PM on August 8, 2017 and must include the following information:

- 1. the name and address of the person requesting the appeal;
- 2. the application number;
- 3. a brief statement of the basis for the appeal; and
- 4. a certificate of service (a notarized statement) indicating that service of the notice has been made, by certified mail, on the clerk of the county, municipal planning board and

environmental commission with jurisdiction over the property which is subject of this decision.

If no appeal is received, the Pinelands Commission may either approve the determination of the Executive Director or refer the application to the New Jersey Office of Administrative Law for a hearing.

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

enc. Public Comment letter

Recommended for Approval by: \_

c: Secretary, Shamong Township Planning Board (via email) Shamong Township Construction Code Official (via email) Secretary, Burlington County Planning Board (via email) Burlington County Health Department (via email) Douglas & Michelle Umbehauer

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To the Pinelands Commission:

We, the undersigned own 30 Manitoba Trail in Shamong. Our property abuts the property before the Commission in Application #1983-6352.003.

We are strongly against any waiver of strict compliance being granted by the Pinelands Commission.

When the development was laid out by the developer it included this as a non-buildable lot in consideration for permitting of the other lots. There are a few of these lots in the development which were designed as open space. Granting this request would be detrimental to the public good and we believe would violate the land use approval granted when the development was created. Allowing this would unfairly permit the property owner a second bite at the land use apple.

We purchased our home in 2013 with the understanding that this would be an open, unbuildable lot. Permitting a home to be built on this lot would detrimentally impact our property and the surrounding properties including nearby well and septic systems.

The current owners purchased these lots with the understanding they were undersized and unbuildable. What is the hardship of the property owner to justify relief?

We ask you to deny this request.

Sincerely,

Doug & Michelle Umbehauer