



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-12- 02

TITLE: Approving With Conditions an Application for a Public Development (Application Number 1982-2731.007)

Commissioner Haas moves and Commissioner Earlen seconds the motion that:

WHEREAS, the Pinelands Commission has reviewed the Findings of Fact, Conclusion and the recommendation of the Executive Director that the following application for a Public Development be approved with conditions:

1982-2731.007 OCEAN COUNTY DEPARTMENT OF SOLID WASTE, Manchester Township, Regional Growth Area, development of an Ocean County Road Department Garage facility (Date of Report: February 1, 2012).

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

WHEREAS, the Pinelands Commission hereby adopts the Findings of Fact and Conclusion of the Executive Director; 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; 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.

NOW, THEREFORE BE IT RESOLVED that the following application for Public Development is hereby **approved** subject to the conditions recommended by the Executive Director.

1982-2731.007 OCEAN COUNTY DEPARTMENT OF SOLID WASTE, Manchester Township, Regional Growth Area, development of an Ocean County Road Department Garage facility (Date of Report: February 1, 2012).

Record of Commission Votes

	AYE	NAY	NP	ABS		AYE	NAY	NP	ABS		AYE	NAY	NP	ABS
Ashmun	X				Haas	X				Prickett	X			
Brown	X				Harris			X		Quinn	X			
Earlen	X				Jackson	X				Rohan Green	X			
Ficcaglia			X		Lloyd	X				Witt	X			
Galletta	X				McGlinchey	X				Lohbauer	X			

Adopted at a meeting of the Pinelands Commission
Nancy Wittenberg
Nancy Wittenberg
Executive Director

Date: February 10, 2012
Mark S. Lohbauer
Mark S. Lohbauer
Chairman



State of New Jersey
THE PINELANDS COMMISSION

PO Box 359
NEW LISBON, NJ 08064
(609) 894 7300

CHRIS CHRISTIE
Governor
KIM GUADAGNO
Lt. Governor

Nancy Wittenberg
Executive Director

**REPORT ON AN APPLICATION FOR
MAJOR PUBLIC DEVELOPMENT**

(Corrected Copy: relocate para. 5, page 2 to para.3, page 2)

February 1, 2012

Ernest Kuhlwein, Jr., Director
Ocean County Department of Solid Waste Management
101 Hooper Ave.
Toms River, NJ 08753

Please Always Refer To
This Application Number

Re: Application #: 1982-2731.007
Ridgeway Boulevard
Block 72, Lot 7
Manchester Township

Dear Mr. Kuhlwein:

The Commission staff has completed its review of the above referenced application. Based upon the facts and conclusions contained in this Report, on behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its February 10, 2012 meeting.

FINDINGS OF FACT

This application is for the development of an Ocean County Road Department Garage facility on the above referenced 54.88 acre lot. The application proposes a 19,745 square foot building served by public sanitary sewer. The building will contain 3,640 square feet of office, 14,560 square feet of garage and a 1,545 square foot wash bay. Also proposed as part of the facility is a 10,000 square foot salt storage building, a 6,320 square foot barn, a 2,800 square foot shed, a 4,750 square foot storage building and a 1,024 square foot emergency data center building. The lot is located in a Pinelands Regional Growth Area.

Permitted Land Uses and Municipal Zoning

In the Pinelands Area, any proposed development must meet the permitted land use requirements of the Pinelands Comprehensive Management Plan (CMP). The CMP permits almost any use in a Pinelands Regional Growth Area (N.J.A.C. 7:50-5.28.) Public office



www.nj.gov/pinelands

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

Application Specific Information: ApplInfo@njpines.state.nj.us 1 9 8 2 2 7 3 1 . 0 0 7 *

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buildings and other similar uses are defined by the CMP (N.J.A.C. 7:50-2.11) as institutional uses. Institutional uses are permitted in a Pinelands Regional Growth Area.

The lot is also located in Manchester Township's Pinelands Retirement Community-1 (PRC-1) zoning district. In New Jersey, municipalities, counties and the State are not required to meet municipal land use ordinance permitted use requirements. For informational purposes only, the Township's Commission certified (approved) land use ordinance permits "government buildings" in the PRC-1 zoning district. The Township land use ordinance does not define "government building." The proposed facility is a "government building." Therefore, the proposed use appears to be a permitted use in Manchester's PRC-1 zoning district.

On December 5, 2011, the Manchester Township Planning Board adopted an amendment to the Township Master Plan which recommends a number of zoning changes in the Pinelands Area, among them the rezoning of this lot from PRC-1 to Pinelands Office, Research and Light Industrial (POR-LI). As of this date, the Township has not proceeded to implement the recommended zoning change through adoption of a zoning ordinance or a revised zoning map.

The lot subject of this application (Block 72, Lot 7), together with three contiguous lots comprising 126 acres, was the subject of a Builders' Remedy Consent Order and a 2004 Agreement of Settlement and Accord between Manchester Township and a developer, a contract purchaser of the lot. Thereafter, Manchester Township "codified" the terms of this settlement agreement in its land use ordinance by specifying the number of market rate dwelling units (400) to be permitted on the 126 acre site. Rather than provide for bonus residential density, Manchester's land use ordinance requires the use of PDC's for 30% of the market rate units constructed on the site. The Commission certified this ordinance (#07-018) on February 8, 2008. Shortly thereafter, Ocean County purchased Block 72, Lot 7, which accounts for slightly less than half of the acreage subject of the 2004 Agreement of Settlement and Accord. The concerned agreement contains no provisions that restrict or limit other future uses of the lot.

Should the Township adopt an ordinance to rezone the lot from PRC-1 to POR-LI, that ordinance would require review and certification (approval) by the Commission. As part of the certification process, the Commission could require that the residential development potential and/or opportunities for the use of Pinelands Development Credits (PDC's) associated with this lot be accommodated elsewhere in the Township's Regional Growth Area. There appear to be minimal opportunities within the Township's Regional Growth Area for accommodating additional residential PDC use.

The Ocean County Comprehensive Master Plan, certified by the Commission in 1987, does not include a proposed land use plan. The County Master Plan does include a Capital Improvement Program. That Program does not identify the need for the proposed facility, however, the County did not own the concerned lot in 1987.

Wetlands

There are wetlands located on and within 300 feet of the lot. All proposed development will be located at least 300 feet from wetlands.

Stormwater Management

The proposed development is consistent with the stormwater management standards of the CMP. The application proposes construction of two stormwater infiltration basins and an underground infiltration trench. The applicant proposes to place conservation easements on 13 acres of the lot to meet the nonstructural stormwater management strategies of the CMP.

Vegetation

The proposed clearing and soil disturbance appears to be 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 grasses that meet this recommendation.

Threatened and Endangered Species

The proposed development is located in a wooded area. Information available to the Commission staff identified known sitings of threatened and endangered (T&E) plant and animal species in the vicinity of the proposed development. In 2001, a T&E species survey for Northern pine snake was completed on the lot as part of a residential development application (App. No. 2001-0302.001). No T&E snake species were found on the lot during that survey. In 2004 and 2005, as part of another residential development application for a larger parcel that included the lot subject of this application, an applicant completed additional T&E species surveys. Surveys were completed for certain bird, snake and tree frogs and one plant species. No T&E species were found on the lot subject of the current application during that survey. A T&E plant was identified on an adjacent lot. Based upon more recent sitings of T&E plants in the vicinity of the lot, the current applicant completed an additional T&E plant survey. No T&E plant species were found during that survey. Based upon the submitted information, the applicant has demonstrated that the proposed development is designed to avoid irreversible adverse impacts on habitats that are critical to the survival of any local population of T&E animal species and any local populations of T&E plant species.

Cultural Resources

Information available to the Commission staff did not provide sufficient evidence of significant cultural resources to require a cultural resource survey.

PUBLIC COMMENT

This applicant provided the requisite newspaper public notice. Newspaper public notice was completed on January 21, 2011. The application was designated as complete on the Commission's website on November 29, 2011. The Commission's public comment period closed on December 9, 2011. The Commission received one written comment regarding the application. At the December 9, 2011 Commission meeting, one individual offered verbal comments on the application and submitted a written version of those same comments. Copies of the two written

public comments are attached.

Public Comment One: In writing, a commenter indicated that they represented the River Pointe Homeowners Association, which is an adult community that is currently under construction and located across Ridgeway Boulevard from the proposed development. The commenter indicated that the Association appreciates the work that the County road crews perform, however, they want the County to carefully consider its neighbors in the use of all of its operations on the property and not overuse the property. The Association also requested that appropriate buffers, including, but not limited to, 100 foot setbacks from property lines, evergreen landscape screening and earthen berms be installed on the property. Additionally, the commenter indicated that the Association hopes that the Commission will approve this application with appropriate conditions to protect the residential neighbors.

Staff Response to Comment One: The staff appreciates the commenter's support of the application. A portion of the River Pointe community is located directly across Ridgeway Boulevard from the proposed development. The CMP does not contain regulations regarding addressing the commenter's property line setback or landscaping concerns. The proposed development will occupy approximately 18 acres of the concerned 54.88 acre lot. Although not a Commission requirement, the plan proposes a 100 foot front yard setback, 40 foot side yard setbacks and a 50 foot rear yard setback. With respect to the front yard setback from Ridgeway Boulevard, the proposed development is maintaining a vegetated buffer of existing woods between the proposed development and Ridgeway Boulevard ranging from approximately 170 feet to 460 feet in depth.

Public Comment Two: The commenter indicated that the lot is currently located in Manchester Township's PRC-1 zoning district. The commenter further indicated that the Township is proposing an amendment to its Master Plan. That Master Plan amendment would result in the zoning of this lot being changed to POR-LI. The commenter questions whether the permitted "by right" residential density and bonus PDC's residential density permitted in the PRC-1 zoning district will be accommodated elsewhere in the Township. The commenter indicated that these residential density obligations should be accommodated elsewhere in the Township's Pinelands Regional Growth Area. The commenter also questioned why the application was being considered by the Commission prior to the rezoning process.

Staff Response to Comment Two: The lot is currently located in Manchester Township's PRC-1 zoning district. On December 5, 2011, the Manchester Township Planning Board adopted an amendment to the Township Master Plan which recommends a number of zoning changes in the Pinelands Area, among them the rezoning of this lot from PRC-1 to POR-LI. As of this date, the Township has not proceeded to implement the recommended zoning change through adoption of a zoning ordinance or a revised zoning map. Therefore, the lot in question remains in the PRC-1 zoning district.

Should the Township adopt an ordinance to rezone the lot from PRC-1 to POR-LI in the future, that ordinance would require review and certification (approval) by the Commission. As part of the certification process, the Commission could require that the residential development potential and/or opportunities for the use of PDCs associated with this lot be accommodated elsewhere in

the Township's Regional Growth Area. It should be noted that there appears to be minimal opportunities within the Township's Regional Growth Area for accommodating additional residential PDC use.

The application is being considered by the Commission prior to the municipality's rezoning of the lot because the County filed the concerned development application with the Commission. The Commission is obligated by its regulations to process the application within a certain time frame, regardless of pending municipal master plan or ordinance amendments.

CONCLUSION

The proposed development is a permitted use in a Pinelands Regional Growth Area (N.J.A.C. 7:50-5.28(a)). If the following conditions are imposed, the proposed development will be consistent with the management standards contained in Subchapters 5 and 6 of the CMP:

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of 17 sheets, prepared by Remington, Vernick & Vena Engineers and dated as follows:
 - Sheets 1, 2, 5, 7, 9, 10, 11, 12, 13 & 16 – October 5, 2010; last revised September 26, 2011
 - Sheets 3, 4, 6, 8, 14, & 16 – October 5, 2010; last revised December 20, 2011
 - Sheet 15 – October 5, 2010; last revised November 29, 2011
 - Sheet 17 – September 30, 2011; last revised December 20, 2011
2. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.
3. All proposed development, including clearing and land disturbance, shall be located at least 300 feet from wetlands.
4. The proposed development 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.
5. Prior to any development, the applicant shall submit a copy of a recorded conservation easement to the Pinelands Commission that ensures that the 13 acres proposed to be deed restricted to meet the nonstructural stormwater management strategies on the above referenced plan will be maintained in perpetuity.
6. Prior to any development, the applicant shall obtain any other necessary permits and approvals.

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.

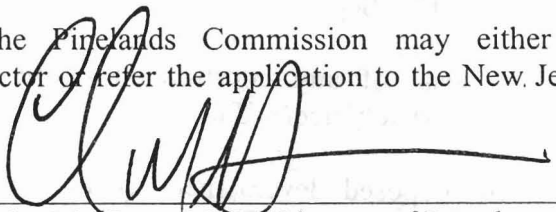
APPEAL

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

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

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

Recommended for Approval by: _____


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

RLW/ED/CMH

Encl: Copy of 2/4/11 Comment letter from James Mullen
Copy of 12/9/11 Comment letter from Amy Karpati
c: Secretary, Manchester Township Planning Board
Manchester Township Environmental Commission
Ocean County Planning Board
Alan Dittenhofer, Remington, Vernick & Vena Engineers
James P. Mullen
Amy Karpati

RIVER POINTE HOMEOWNERS ASSOCIATION, INC.

100 Retreat Drive
Manchester, NJ 08759
(732) 657-4300

App # 19822731.007
DocType 110

February 4, 2011 FEB - 7 2011

Planned

Inc LM
1/27/11

Pinelands Commission
Application 3 1982-2731.007
P.O. Box 359
New Lisbon, NJ 08064

**RE: Ocean County Regional Road Garage Facility
Lot 7, Block 72, Ridgeway Boulevard, Manchester Tp**

Dear Sir or Madam:

I am the President of the River Pointe Homeowners Association, Inc. River Pointe is an active-adult community that will consist of 504 homes when completed. At this time, approximately 125 homes are occupied by active-adults. River Pointe is located along Ridgeway Boulevard in Manchester Township. The northeastern portion of the Community is directly across Ridgeway Boulevard from the proposed County Road Garage Facility.

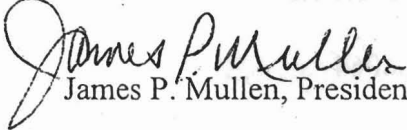
I am writing in response to the letter sent via certified mail from Remington & Vernick on behalf of Ocean County. The Association appreciates the work the County Road crews perform, especially in Manchester Township. The Association also realizes that there will be some benefit in having the Road Garage Facility in its proposed location, such as expeditious clearing of snow from Ridgeway Boulevard.

However, the Association also has some concerns with the proposal. The Property is surrounded by residences occupied by persons 55 years of age and older. The Association requests that the County carefully consider its neighbors in the use of all of its operations on the Property. The Association requests that appropriate buffers, including but not limited to, 100 foot setbacks from property lines, evergreen landscape screening and earthen-berms be installed on the Property. The Association also requests that the County not overuse the Property. The current application requests permission to construct approximately 30,000 square feet of structures and the creation of associated impervious surfaces, which we believe is a significant impact to this Property, which also borders the Toms River. We hope that the Pinelands Commission will approve this application with appropriate conditions to protect the residential neighbors. This will

help keep our living environment safe and enjoyable as well as preserve our property values.

Thank you for your considering this letter in your review of the application. Please do not hesitate to call our Property Manager at the telephone number at the heading of this letter or me at 908-848-2032 if you have any questions.

Very truly yours,
River Pointe Homeowners Association, Inc.


James P. Mullen, President

Cc: Melissa Cuomo, Property Manager
Alan B. Dittenhofer, PE, PP, Remington & Vernick

**Pinelands Commission Meeting
December 9, 2011**

App # 19822731.007
DocType 100

DEC - 9 2011

Comments on:

Scanned

Info Rec ✓
12/7/11

Application# 1982-2731.007 - Ocean County
received on: 5/7/2010

Project: *Regional Road Garage Facility*, Municipality: *Manchester Township*, Block: 72 Lot: 7
Public Notice: *Required - Published on 1/21/2011*

This application is complete and the final opportunity for oral public comment will occur at the 12/9/2011 Commission meeting. Written comments will be accepted until 5 p.m. that day or the close of the Commission meeting, whichever is later.

The site for this application is in Manchester Township along Ridgeway Road and is currently zoned PRC-1 (Pinelands Retirement Community 1). This PRC-1 Zone is approximately 229 acres in Manchester's Regional Growth Area. The Garage Facility is proposed for 55 acres. Permitted uses in this PRC-1 district include single family houses, home occupations, agriculture and a variety of institutional uses such as churches and cemeteries.

Manchester has introduced a "Master Plan Amendment" which had a public hearing on December 5, 2011. They have proposed changing this site from PRC-1 to POR-LI, which is Office Research- Light Industrial. NO ordinance has yet been introduced by Manchester Township to change the zoning.

Application #1982-2731.007 is a public development application by Ocean County in the new POR-LI zone that has yet to be certified by the Pinelands Commission and approved by the Township governing body.

Ocean County will not have to get any additional approvals so if you approve the application Ocean County can go ahead with the construction of this new Road Garage.

My questions are about the base density and PDC units associated with Manchester's PRC-1 Regional Growth Area which is proposed to be changed to POR-LI. Where will they be placed? Where will the opportunities for PDCs be assigned? These are obligations that must be fulfilled in the Regional Growth area. Why is the application process occurring prior to the rezoning process?

Respectfully submitted,

Amy Karpati, Ph.D.
Pinelands Preservation Alliance



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-12- 03

TITLE: Issuing an Order to Certify Ordinance 2011-19, Amending Chapter 176 (Land Use) of the Code of Waterford Township

Commissioner Mc Glinchey
seconds the motion that:

moves and Commissioner Galletta

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

WHEREAS, Resolution #PC4-83-56 of the Pinelands Commission specified that any amendment to 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 Plan and Land Use Ordinances) of the Comprehensive Management Plan to determine if said amendment raises a substantial issue with respect to conformance with the Pinelands Comprehensive Management Plan; and

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

WHEREAS, on June 16, 1995, the Pinelands Commission adopted a set of amendments to the Comprehensive Management Plan which, among other things, affords Pinelands municipalities with increased flexibility in establishing and implementing alternative local permitting procedures; and

WHEREAS, these Comprehensive Management Plan amendments became effective on August 21, 1995; and

WHEREAS, on November 21, 2011, Waterford Township adopted Ordinance 2011-19, amending Chapter 176 (Land Use) of the Township's Code by establishing a simplified permitting system for development within the Haines Boulevard Environs Redevelopment Area; and

WHEREAS, the Haines Boulevard Environs Redevelopment Area is located in a Pinelands Regional Growth Area; and

WHEREAS, the Pinelands Commission received a certified copy of Ordinance 2011-19 on November 23, 2011; and

WHEREAS, by letter dated November 28, 2011, the Executive Director notified the Township that Ordinance 2011-19 would require formal review and approval by the Pinelands Commission; and

WHEREAS, a public hearing to receive testimony on Ordinance 2011-19 was duly advertised, noticed and held on December 14, 2011 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 the Ordinance 2011-19 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 2011-19, amending Chapter 176 (Land Use) of the Code of Waterford Township, is in conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, the Commission's CMP Policy and Implementation Committee has reviewed the Executive Director's report and has recommended that Ordinance 2011-19 be certified; and

WHEREAS, in making its recommendation, the CMP Policy and Implementation Committee emphasized that should the Waterford Township Local Review Officer position become vacant at any point in the future, the alternate permitting system adopted by Ordinance 2011-19 would be suspended until such time as a qualified replacement was hired by the Township, after which training by the Commission staff would occur; and

WHEREAS, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning Ordinance 2011-19 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

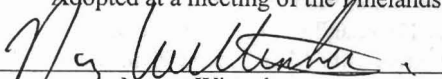
1. An Order is hereby issued to certify that Ordinance 2011-19, amending Chapter 176 (Land Use) of the Code of Waterford Township, is in conformance with the Pinelands Comprehensive Management Plan.
2. Any additional amendments to the Township's certified Master Plan and Land Use Ordinances shall be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 to determine if said amendments raise a substantial issue with respect to the Comprehensive Management Plan. Any such amendment shall become effective only as provided in N.J.A.C. 7:50-3.45.

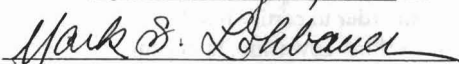
Record of Commission Votes

	AYE	NAY	NP	ABS		AYE	NAY	NP	ABS		AYE	NAY	NP	ABS
Ashmun	X				Haas	X				Prickett	X			
Brown	X				Harris			X		Quinn	X			
Earlen	X				Jackson	X				Rohan Green	X			
Ficcaglia			X		Lloyd	X				Witt	X			
Galletta	X				McGlinchey	X				Lohbauer	X			

Adopted at a meeting of the Pinelands Commission

Date: February 10, 2012


 Nancy Wittenberg
 Executive Director


 Mark S. Lohbauer
 Chairman



State of New Jersey

THE PINELANDS COMMISSION

PO Box 359

NEW LISBON, NJ 08064

(609) 894-7300

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

Nancy Wittenberg
Executive Director

**REPORT ON ORDINANCE 2011-19, AMENDING CHAPTER 176
(LAND USE) OF THE CODE OF WATERFORD TOWNSHIP**

January 27, 2012

Waterford Township
2131 Auburn Avenue
Atco, NJ 08004

FINDINGS OF FACT

I. Background

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

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

On June 16, 1995, the Pinelands Commission adopted a set of amendments to the Pinelands Comprehensive Management Plan which, among other things, afforded Pinelands municipalities greater flexibility in establishing and implementing alternative local permitting programs. These Comprehensive Management Plan amendments became effective on August 21, 1995.

On November 21, 2011, Waterford Township adopted Ordinance 2011-19, amending Chapter 176 (Land Use) of the Township's Code by establishing procedures for a simplified permitting system for development within the Haines Boulevard Environs Redevelopment Area. The Pinelands Commission received a certified copy of Ordinance 2011-19 on November 23, 2011.

By letter dated November 28, 2011, the Executive Director notified the Township that Ordinance 2011-19 would require formal review and approval by the Pinelands Commission.

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

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

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II. Master Plans and Land Use Ordinances

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

- * Ordinance 2011-19, amending Chapter 176 (Land Use) of the Code of Waterford Township, introduced on October 26, 2011 and adopted on November 21, 2011.

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

1. **Natural Resource Inventory**

Not applicable.

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

Not applicable.

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

Ordinance 2011-19 amends Chapter 176 (Land Use) of the Code of Waterford Township by establishing a simplified permitting system for development within the Haines Boulevard Environs Redevelopment Area (see map attached as Exhibit #1). This Redevelopment Area encompasses approximately 110 acres of land in the PHB (Pinelands Highway Business) District, within a Pinelands Regional Growth Area. Located at the intersection of Routes 73 and 30, the Redevelopment Area is already substantially developed with a mixture of residential and commercial uses. Based on the Redevelopment Plan adopted for the area by Ordinance 2001-30, a variety of nonresidential uses are permitted in the Redevelopment Area, including commercial retail centers, conference centers, hotels, theaters, warehousing, research and design laboratories and light manufacturing facilities. Ordinance 2001-30 was previously reviewed by the Commission and found to raise no substantial issues with respect to conformance with the Pinelands Comprehensive Management Plan.

Under the new permitting process adopted by Ordinance 2011-19, the Township's Local Review Officer will first determine whether a proposed development is located in the Redevelopment Area, is consistent with the Redevelopment Plan, is or will be served by public sanitary sewer, and otherwise addresses all applicable standards in Article VIII

(General Provisions and Design Standards) of Chapter 176, including stormwater management. As is expressly stated in Ordinance 2011-19, applications for development which are found to meet these criteria are not required to include wetlands delineation mapping, threatened and endangered species surveys, cultural resource surveys (with the exception of Block 301, Lot 13) or Certificates of Filing from the Commission. They may simply proceed to the Planning Board to obtain subdivision and/or site plan approvals. If an application does not meet the specified criteria, it must follow the "normal" application process and obtain a Certificate of Filing from the Commission before seeking any municipal approvals.

Essentially, Ordinance 2011-19 sets forth a system whereby applicants seeking approval for permitted development within the Haines Boulevard Environs Redevelopment Area apply **directly** to Waterford Township for their Planning Board or other required municipal approvals. Such applicants will no longer be required to submit information to the Pinelands Commission for purposes of receiving Certificates of Filing prior to obtaining necessary approvals and permits from the Township. Instead, the applicants will deal directly with the Local Review Officer, the Planning Board and/or other municipal representatives to obtain their approvals. These approvals will then be provided to the Commission for review, as is required by the Comprehensive Management Plan for all development in the Pinelands Area. The Commission staff will review the approvals for conformance with the minimum standards of the Comprehensive Management Plan and determine whether they may be allowed to take effect. If issues are identified with any particular approval, it will be called up for review by the Commission. This latter part of the application process, which occurs after municipal approvals are granted, remains unchanged by Ordinance 2011-19.

It is important to note that the alternate permitting process adopted by Ordinance 2011-19 does not constitute a waiver of the environmental standards of the CMP. Rather, the permitting process reflects the fact that the work necessary to determine consistency with specific CMP standards has already been completed. For example, field work by Commission staff has verified that there are no wetlands in the Redevelopment Area or within 300 feet of the Redevelopment Area. Therefore, it is not necessary for applications for development in the Redevelopment Area to include wetlands delineations or other wetlands mapping.

Commission staff site inspections, consideration of the vegetation communities present in the Redevelopment Area, review of numerous prior applications in the Redevelopment Area, known threatened and endangered species sighting information and the existing land use pattern of the surrounding area have indicated that the Redevelopment Area has a low likelihood of supporting local populations of threatened and endangered species. A more detailed description of the information used by Commission staff to reach this conclusion is contained in the response to public comments at the end of this report. Submission of threatened and endangered species surveys for purposes of determining consistency with the CMP has been determined to be unnecessary for proposed development in the Redevelopment Area. Likewise, site visits and research by the Commission's archaeologist have indicated that this is the case for cultural resource

surveys as well (see Exhibit #2). There is one exception with respect to the need for a cultural resource survey and that involves Block 301, Lot 13. This parcel contains an old motel complex which may prove to be historically significant. As is specified in Ordinance 2011-19, a cultural resource survey will be required for an application for development involving Block 301, Lot 13.

The simplified permitting system established by Ordinance 2011-19 is expected to be less burdensome for applicants seeking to develop commercial or industrial uses within the Haines Boulevard Environs Redevelopment Area as they will no longer need to submit information to the Commission and await the issuance of a Certificate of Filing before proceeding at the local level to obtain Planning Board approvals and construction permits. The benefit to the applicant is therefore clear. The Township will benefit in that it will have an increased ability to market the Redevelopment Area because a perceived hurdle in the application process has been removed. It is anticipated that the Commission will also benefit from the new permitting system because it has been able to take a more comprehensive approach than is normally the case. Rather than being faced with the review of applications on a lot by lot basis, the staff was able to consider the Redevelopment Area as a whole when evaluating wetlands, cultural resource and threatened and endangered species issues. Also, although more work was required at the outset, now that it has been done, the amount of Commission staff time required to review approvals for individual development applications in the area at the end of the process should be reduced.

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

The August 1995 Comprehensive Management Plan amendments also require that the Executive Director periodically review and report to the Commission on any approved alternative permitting program. N.J.A.C. 7:50-3.84(b) requires that a review program be approved by the Commission concurrent with the certification of any municipal ordinance which implements such an alternative permitting system. The purpose of the review program is to enable the Commission to evaluate whether or not development approved under such alternative permitting systems is meeting all applicable Pinelands

standards. In order to satisfy this requirement, it is recommended that the Commission approve the review and monitoring program outlined in Attachment A.

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

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

The permitting system established by Ordinance 2011-19 provides sufficient opportunity for Commission review of applications for development within the Haines Boulevard Environs Redevelopment Area. Therefore, this standard for certification is met.

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 2011-19, amending the Chapter 176 (Land Use) of the Code of Waterford Township, is consistent with the standards and provisions of the Pinelands Comprehensive Management Plan.

This standard for certification is met.

11. Conformance with Energy Conservation

Not applicable.

12. Conformance with the Federal Act

Ordinance 2011-19, amending Chapter 176 (Land Use) of the Code of Waterford Township, is consistent with the standards and provisions of the Pinelands Comprehensive Management Plan. No special issues exist relative to the Federal Act.

This standard for certification is met.

13. Procedure to Resolve Intermunicipal Conflicts

Not applicable.

PUBLIC HEARING

A public hearing to receive testimony concerning Waterford Township's application for certification of Ordinance 2011-19 was duly advertised, noticed and held on December 14, 2011 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m. Ms. Grogan conducted the hearing, at which the following testimony was received:

Theresa Lettman, representing the Pinelands Preservation Alliance, summarized her written comments (see Exhibit #3). She questioned why the local review officer program was being expanded to large commercial developments in Waterford Township in light of its infrequent use in the past. She further questioned how Waterford Township had

demonstrated its ability to administer the new program being adopted by Ordinance 2011-19.

Ms. Lettman also questioned why threatened and endangered species surveys were not being required within the area subject to Ordinance 2011-19. She referred to the Landscape data (see map attached as part of Exhibit #3) and noted that this data indicates the area constitutes habitat. She suggested that the Commission's data bank is incomplete, as is that maintained by the New Jersey Heritage Program. Ms. Lettman questioned how the Commission can determine that development in the Redevelopment Area is consistent with the threatened and endangered species standards of the CMP without having the results of a survey.

In conclusion, Ms. Lettman cautioned that reduced oversight of the permitting process will lead to increased violations.

Mayor Ralph Condo stated that Waterford Township designated the area in question as a Redevelopment Area many years ago. In recent discussions with a potential redeveloper, one of the impediments cited to redevelopment of the area was the perception that the Commission's application process was too time-consuming and costly. The Township became concerned that this perception was scaring developers away, costing the Township jobs and revenue in the form of increased tax ratables. Mayor Condo pointed out that Waterford Township has only 3% of its tax base in commercial ratables whereas the number in most other municipalities is between 7 and 9%.

Mayor Condo continued by stating that although the local review officer program has not been active for several years, the Township now has a new Zoning Officer who has experience in dealing with the Commission. The Township is ready to reactivate the program and sees this as a way of addressing the concerns raised by developers. This is of particular importance in the Redevelopment Area because it constitutes the municipality's only remaining area for commercial development.

Mayor Condo stated that he had been involved with the Pinelands Commission since the beginning. The Commission is generally perceived as "stopping" things from happening. This new permitting process provides an opportunity for the Township and the Commission to work together successfully. Ordinance 2011-19 contains appropriate checks and balances and the Zoning Officer is willing to participate in any necessary training. In addition, the new process will be monitored by the Commission staff over time.

Ed Toussaint, Waterford Township Zoning Officer, stated that the local review officer program was instituted in Waterford in 1999. The Zoning Officer at that time served as the local review officer. When that individual left in 2002, others were not comfortable administering the program so applications for single family homes were again filed directly with the Commission. Since he became Zoning Officer, he received training from Commission staff and the program has been reactivated. He has worked closely with Commission staff on numerous residential projects. The goal is to facilitate a similar

process for commercial development within the Redevelopment Area. There would be one designated person (the Zoning Officer) at the municipality for developers and redevelopers to speak with about their projects. Ultimately, the Commission would still be required to review and sign off on municipal approvals. The Township would simply be reviewing the applications up-front.

Mr. Toussaint stated that Commission staff have spent time in the Redevelopment Area, reviewing the area for potential cultural resources and threatened and endangered species. Only one lot was found to contain the potential for cultural resources and Ordinance 2011-19 specifically makes note of the need for a survey if development is proposed on this lot.

There being no further testimony, the hearing was concluded at 9:45 a.m.

Written comments on Ordinance 2011-19 were accepted through December 14, 2011 and were received from the following individual:

Mark Demitroff (see Exhibit #4)

EXECUTIVE DIRECTOR'S RESPONSE

The comments and concerns expressed by Ms. Lettman for the Pinelands environment are appreciated. Commission staff review of the 110 acre Redevelopment Area for consistency with the threatened and endangered species protection requirements of the CMP included staff site inspections, consideration of the vegetation communities present in the Redevelopment Area, review of prior applications in the Redevelopment Area, known threatened and endangered species sighting information and the existing land use pattern of the surrounding area.

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

- State Highway Route 73 borders the Redevelopment Area to the west and a “clover-leaf” interchange at the intersection of Routes 30 and 73 borders the southwestern portion of the Redevelopment Area. Sporadic commercial development is located immediately across Route 73 from the Area; however, high intensity residential and commercial development is located less than a mile west of Route 73;
- A New Jersey Transit rail line and existing commercial/industrial uses borders the Redevelopment Area to the north;
- High density residential development borders the Redevelopment Area to the east; and
- State Highway Route 30 and existing commercial and residential uses borders the Redevelopment Area to the south.
- Approximately 59 acres of the Redevelopment Area are forested. The remaining 51 acres consist of existing developed commercial and residential uses and cleared acreage.

Since 1981, the Commission staff has reviewed 25 development applications on approximately 106 acres located within the Redevelopment Area. The Commission staff also reviewed an application for the development of Haines Boulevard which bisects the Redevelopment Area. Review of these applications included staff site inspections of the concerned parcels and reviews of the proposed developments for consistency with environmental standards of the CMP, including the threatened and endangered species protection standard. The remaining four acres in the Redevelopment Area, for which no applications to the Commission have ever been initiated, contain existing residential and commercial uses.

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

Based upon review of past applications and the Commission staff site inspections, it was determined that there are no wetlands located on or within 300 feet of the Redevelopment Area.

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

- Ms. Lettman indicates in her comments that the New Jersey Landscape Project Data identifies Timber rattlesnake, Eastern box turtle and Great Blue heron in the northwestern, forested portion of the parcel. Eastern box turtle and Great Blue heron are not listed as threatened or endangered by the New Jersey Department of Environmental Protection (DEP) and are not afforded threatened and endangered species protection pursuant to the CMP. The Commission has one record of Timber rattlesnake, from 1980, in a forest patch within the Redevelopment Area. However, the Redevelopment Area does not contain suitable hibernacula habitat for Timber rattlesnake.
- The existing development pattern surrounding and within the Redevelopment Area acts as a fragmenting barrier which makes the Redevelopment Area unlikely for use by Northern pine snake and/or Timber rattlesnake.
- The Redevelopment Area does not appear to contain suitable nesting habitat for Northern pine snake.
- The Commission staff has no records for other threatened or endangered animal species in the vicinity of the Redevelopment Area.
- The Commission has a record of one threatened/endangered plant species, Pine Barrens boneset, in the vicinity of, but not in, the Redevelopment Area. This species is a wetland species and there is little likelihood that this wetlands species would be present within the Redevelopment Area since there are no wetlands located within the Redevelopment Area.

- If individual development applications for parcels within the Redevelopment Area were submitted to the Commission, based upon existing habitat and the lack of known sightings of threatened and endangered plant species in this area, threatened and endangered plant surveys would not be required. Since threatened or endangered plant surveys would not be required for an individual application in the Redevelopment Area, it did not appear appropriate to require the completion of a threatened or endangered plant survey as part of Waterford's proposed ordinance regarding the overall Redevelopment area.
- Regarding Ms. Lettman's statement that the Commission's and Natural Heritage Program's data are incomplete, the Commission updates its threatened and endangered species database when Commission staff become aware of new threatened and endangered species sightings. The staff cannot comment on the completeness or incompleteness of DEP's Natural Heritage Program's database; however, the Commission does have a data sharing agreement with the DEP Natural Heritage Program for threatened and endangered animals.
- Regarding the Ms. Lettman's comment regarding reliance on aerial photographs for evidence of the presence of protected plant populations, the Commission staff does not base its determination on whether to require a threatened or endangered plant survey on aerial photographs.
- Regarding Ms. Lettman's concern with the presence of unknown threatened and endangered plant populations, although the staff does acknowledge that there are sites throughout the Pinelands that contain threatened and endangered plant species populations yet to be discovered, it is unlikely that the Redevelopment Area contains any threatened or endangered plant populations. This determination is based upon the extent of development that has already occurred within the Redevelopment Area, the continued review of the Redevelopment Area by Commission staff during the course of 25 development applications, staff site inspections and the lack of other threatened or endangered plant species in the vicinity of the Redevelopment Area.

The Executive Director also appreciates the concerns raised by Mr. Demitroff in his written comments. They reflect a long-standing issue of concern to Mr. Demitroff with redevelopment area designations in the Pinelands Area in general, although perhaps not specifically with the Haines Boulevard Environs Redevelopment Area. The Executive Director would only emphasize that the Commission does have regulatory authority over development within Redevelopment Areas in the Pinelands Area. Development within such areas is subject to the same minimum environmental standards as development outside Redevelopment Areas. Here, the application process is being altered but the standards that must be met are the same. In addition, the Commission retains the responsibility of reviewing municipal approvals for development within Redevelopment Areas to ensure consistency with the CMP. The Commission also has the responsibility of reviewing ordinances which adopt redevelopment plans for lands in the Pinelands Area and determining whether such ordinances are consistent with the CMP. This process was followed for Ordinance 2001-30 which adopted the Redevelopment Plan for the Haines Boulevard Environs Redevelopment Area. What the Commission does not have is the

authority to review and approve municipal designations of areas in need of redevelopment in accordance with the New Jersey Local Redevelopment and Housing Law.

CONCLUSION

Based on the Findings of Fact cited above, the Executive Director has concluded that Ordinance 2011-19 complies with Comprehensive Management Plan standards for the certification of municipal master plans and land use ordinances. Accordingly, the Executive Director recommends that the Commission issue an order to certify Ordinance 2011-19 of Waterford Township.

SRG/CWT
Attachments

**ATTACHMENT A TO EXECUTIVE DIRECTOR'S JANUARY 27, 2012
REPORT ON WATERFORD TOWNSHIP ORDINANCE 2011-19**

Review and Evaluation of Waterford Township's Alternate Permitting Program

Overview

The Alternate Permitting Program (Program) adopted by Ordinance 2011-19 establishes a modified application process for Waterford Township applicants pursuing municipal or county permits and approvals in an approximately 110 acre portion of the Township. The concerned area is located in the Pinelands Regional Growth Area, within Waterford Township's Haines Boulevard Environs Redevelopment Area.

CMP Required Review and Evaluation of Alternate Permitting Program

The Pinelands Comprehensive Management Plan (NJAC 7:50-3.83(a)) requires that the Commission's Executive Director review, evaluate and report on the Program to the Commission and the Township. The specifics of the Program review and evaluation must be established and approved by the Commission concurrent with the Commission's certification of the municipal ordinance enabling the Program. The review must describe the elements of the Program and evaluate their operation according to CMP specified standards. As applicable to Waterford's proposed Program, the review must address the following Pinelands Comprehensive Management Plan (CMP) standards:

- Standard 1. The municipality has demonstrated capability to implement the Program in an efficient and effective manner;
- Standard 2. Based upon the procedures to be followed, the Program ensures that application requirements and permit decisions are adequate to determine compliance with the criteria and standards of Subchapters 5 and 6 of the CMP and the certified municipal ordinance(s);
- Standard 3. The Program ensures that adequate, qualified and capable personnel will administer the Program and that safeguards exist to ensure that Standard 2, above, is met in the event of personnel change;
- Standard 4. The Program ensures that applicants receive any necessary Commission waiver of strict compliance from the Pinelands Commission; and
- Standard 5. The Program allows for Commission review of local approvals and permits in accordance with the procedures established in the CMP (N.J.A.C. 7:50-4.31 et seq.) for the review of local permits in certified municipalities.

Proposed Commission Review, Evaluation and Report on Alternate Permitting Program

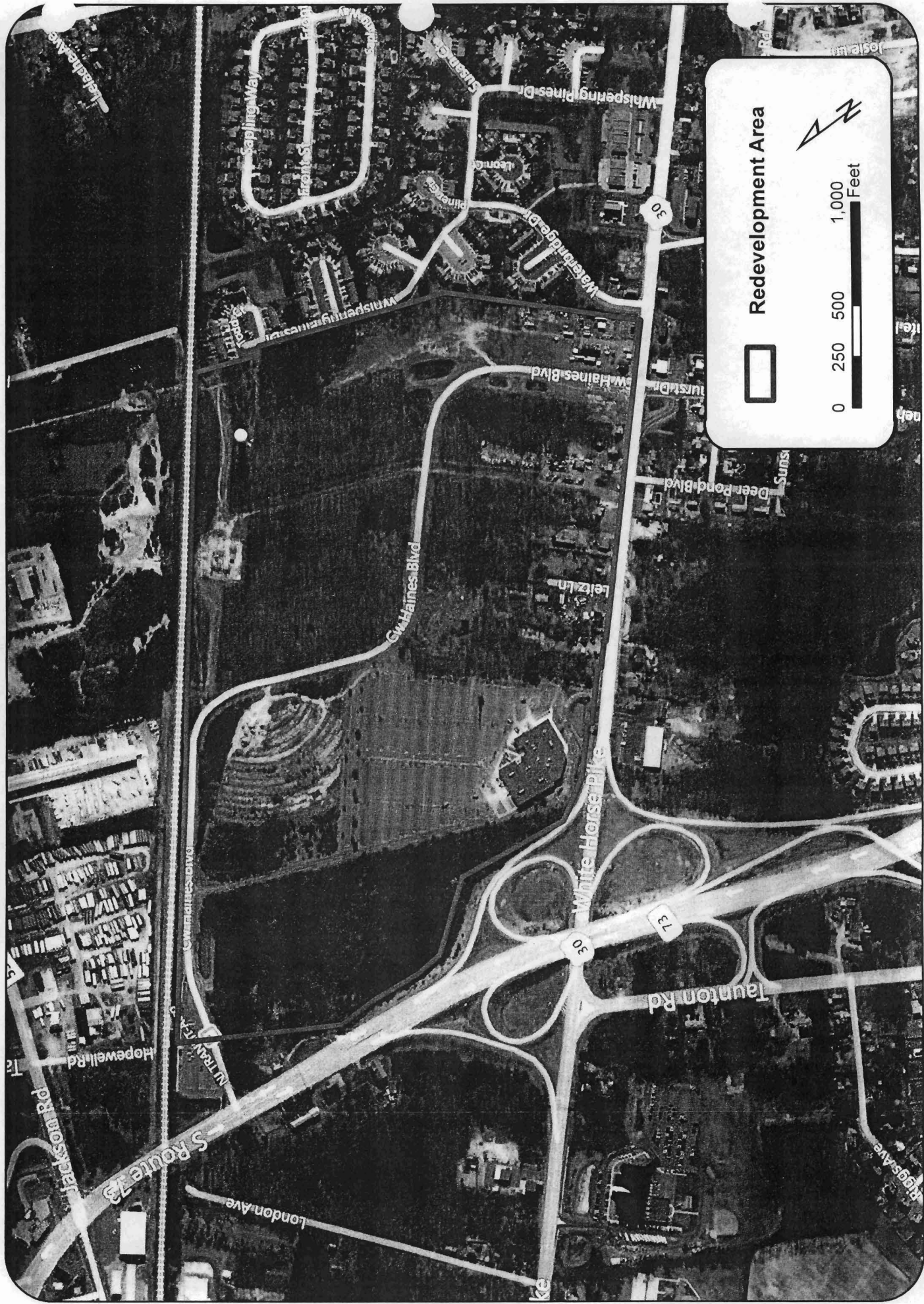
The proposed Program incorporates an ongoing, self-executing Commission review and evaluation. The Program will be effectively evaluated and reviewed by the Commission on an ongoing application by application basis. This is because the proposed Program incorporates the existing CMP (N.J.A.C. 7:50-4.31 et seq.) procedures for the review of local approvals and permits in a municipality whose land use ordinances have been certified (approved) by the Commission. This means that the proposed Program requires that an applicant continue to submit any municipal or county permits and approvals to the Commission staff for review. The concerned permit or approval does not take effect until the Commission issues a letter indicating same. The requirement that any municipal or county approvals or permits be submitted to the Commission staff for review in accordance with the requirements of the CMP ensures that any development application processed under the Program must ultimately be consistent with the applicable standards of the Township land use ordinance and the CMP. If any approval or permit is submitted to the Commission is not consistent with the applicable standards of the Township land use ordinance and the CMP, the concerned permit or approval will not be approved in accordance with the provisions of the CMP.

Once every three years following Commission certification of Ordinance 2011-19, the Executive Director will submit a written report to the Commission and the Township. The report shall evaluate the administrative and technical performance of the Township in implementing the Program based upon the above standards.

Exhibit #1 Ordinance 2011-19, Waterford Township

REPORT ON ORDINANCE 2011-19, AMENDING THE CERTIFIED
LAND DEVELOPMENT ORDINANCE OF WATERFORD TOWNSHIP

January 27, 2012



CULTURAL RESOURCE ASSESSMENT FOR THE WATERFORD REDEVELOPMENT PLAN

October 20, 2011

Waterford Township has proposed a redevelopment plan for all or portions of Blocks 202 and 301, known locally as the Pinehurst area and located west of Atco and north of the White Horse Pike (US Route 30). The Township asked the Pinelands Commission to review this contiguous parcel in order to identify those lots where a cultural resource survey might be required in accordance with the provisions of NJAC 7:50-6.155(a) when redevelopment is proposed.

Site Visit

A close visual reconnaissance of the area of potential effects (APE) for the redevelopment plan was completed on October 10, 2011. The parcel is situated along the north side of the White Horse Pike a short distance west of Atco, Waterford Township, Camden County. It is bounded generally on the west by New Jersey Route 73, on the north by railroad tracks of the Pennsylvania Reading Seashore Line, on the east by Waterbridge Drive and Whispering Pines Drive and on the south by US Route 30.

An access road has recently been built that follows a sinuous path from the southeastern to the northwestern corners of the site and allows for close inspection of the entire parcel. Almost all of the northern half of the site is covered in woodlands, with the exception of a derelict drive-in theater and an electrical substation, both of which are just south of the rail line. South of the power station, the ground has clearly been disturbed by excavations decades ago. From aerial maps of the 1950s and early '60s, it appears this area may have been mined for sand/gravel. There is also an isolated, abandoned concrete block structure in a small field near the center of the parcel and a large parking lot west of it that previously serviced a now demolished cineplex.

Other than this, all of the current development within the APE is confined to a strip along the White Horse Pike where a series of dwellings, commercial buildings and ancillary structures is found. Few, if any, of these structures appear to have been built especially recently, but none seems to predate the twentieth century. Many of the commercial buildings are clearly converted residences and several are now abandoned and deteriorating. One commercial complex, the Green Acres Motel, includes several freestanding, wood frame cabins with shiplap siding that may date to as early as the 1930s.

Known Archaeological Sites

A review of files and published references at the New Jersey State Museum was undertaken on October 11, 2011. The State Museum maintains an independent listing of archaeological resources that have been reported to it since at least the early twentieth century. This review indicated that there are no registered archaeological sites within the parcel in question.

Prior Cultural Resource Surveys

A review of files at the New Jersey Historic Preservation Office (HPO - NJDEP), completed on November 8, 2010, indicated that no cultural resource surveys that addressed archaeological, architectural or engineering resources were conducted on the subject parcel.

National/State Register Files

According to the site files at the HPO, examined on October 12, 2011, no cultural resources listed on or determined eligible for listing on the National Register of Historic Places lie within the APE. The railroad tracks that parallel the northern boundary of the parcel are a contributing element of the Camden and Atlantic Railroad Historic District, which was determined eligible for the National Register of Historic Places by HPO. The redevelopment plan should not have any substantially adverse impact upon this resource.

Historic Map Review

A review of historic cartographic evidence available at the New Jersey State Library and aerial photographs taken primarily during the first half of the twentieth century was completed on October 11, 2011. The review indicates that little, if any, development had occurred within the subject parcel by the middle decades of the nineteenth century. By 1930 a large portion of the parcel was in agriculture and there were a few buildings along the White Horse Pike; the remainder of the site was wooded.

On the 1857 "Map of Camden County New Jersey" (Merry 1857) Atco had not yet been established, although there were a sawmill and a telegraph station near where Atco Lake is today and several dwellings at a road intersection in what is now the southeastern section of the settlement. The current rail line around which Atco grew in the later nineteenth century was already operating under the aegis of the Camden and Atlantic Railroad. At this time, the APE was framed by a precursor to the present-day White Horse Pike to the south, the railroad tracks to the north and Taunton Road to the west (where it runs between Tansboro and Bishops). There was at this time only one structure that may have been within the subject parcel, the residence of a John Ross, which was along the north side of the White Horse Pike at the extreme southeastern corner of the site.

Aerial maps of the parcel from the 1930s to the mid 1950s indicate that almost the entire site was either wooded or cleared for agriculture from the 1930s into the 1950s. There were a few structures along the north side of the White Horse Pike in 1931 and this number gradually increased over the next two decades. By the time of the 1953 USGS Clementon, NJ quadrangle map there were approximately 24 buildings along the north side of the Pike, as well as two long, narrow outbuildings that appear to be commercial poultry coops. One cluster of seven small buildings may possibly represent the Green Acres Motel cabins that were then in existence. There are no other structures elsewhere on the parcel at this time. A 1956 aerial map indicates that the pace of development had quickened somewhat, with the construction of an outdoor movie theater at the northwestern corner of the parcel and

some clearing and development towards the rear of other lots along US Route 30. Elsewhere, however, the site remained mostly wooded.

Assessment of Sensitivity for Cultural Resources

The APE for the proposed redevelopment plan possesses only a low likelihood for the occurrence of significant archaeological resources. There are no recorded prehistoric sites on the parcel and known sites in the general vicinity are closely associated with surface water courses, such as Hays Mill Creek well to the south.

The historic documentary sources that were consulted provided virtually no evidence of nineteenth century or earlier building activity in the past that may have left a significant archaeological expression. Any such activity that might have occurred along the White Horse Pike may well have been compromised by twentieth century development.

The architectural/engineering resources that currently exist on the parcel are mostly confined to a relatively narrow strip along the White Horse Pike. They all appear to have been constructed in the twentieth century and are historically inconsequential, with one possible exception. The Green Acres Motel complex includes at least four small, detached cottages that may have been built ca. 1930. If so, they may be related to the advent of infrastructure relating to early car culture. The introduction of the automobile and its associated development, particularly along major thoroughfares of the period (such as the White Horse Pike) has been recognized by HPO as being historically significant. An abandoned gas station near the intersection of US Route 30 and New Jersey Route 73, only a very short distance west of the APE, was found to be eligible for the New Jersey Register of Historic Places as a reflection of the impact of the automobile on local settlement and economic patterns in the early decades of the twentieth century. For this reason, the Green Acres Motel should be subject to a cultural resource survey in accordance with the provisions of NJAC 7:50-6.155(a) if development is eventually proposed there. However, no survey should be required for development projected elsewhere on the redevelopment parcel.

References

Merry, Federick C.

1857 "Atlas of Camden County New Jersey." R.L.Barnes. Philadelphia.

United States Geological Survey

1953 7.5' Quadrangle: Clementon, N.J.



PINELANDS PRESERVATION ALLIANCE

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

Waterford Township - Ordinance #2011-19 PUBLIC HEARING - WEDNESDAY, DECEMBER 14, 2011 @ 9:30 am

Local Review Officer

In the 2009, the Pinelands Commission did an "Evaluation of the Local Review Officer Program" there were 3 positives and 16 negatives with this program.

The Local Review Officer (LRO) in Waterford has only done a total of 69 single family dwellings in the nine years that the Local Review Officer program has been in place.

The LRO program has not been expand to commercial development in any Pinelands Municipality. So why expand the LRO program to this big commercial development project? How has Waterford Township demonstrated that it is capable of implementing this LRO project effectively?

No threatened and endangered species survey

The 2008 Landscaping data comes up with Timber rattle snake, Eastern box turtle and Great Blue Heron on the site. The version 1.0 comes up with Timber rattle snake. I also spoke with Peter Winkler at NJ DEP landscaping and he said if I sent him a map of the area he would take a look to see if the new data coming in the beginning part of next year has a more or less designation. His reply "*I looked up the property and it continues to be valued in Landscape.*"

Plants. . .

- *There is no reliable way to try to determine, in any given situation, whether or not any given protected plant population exists on a site, except by examination of the site by an expert, on foot, at the right time of year.*

It is probably a safe bet that the majority of protected plant populations in the Pinelands occur within small confines, some are confined to one square foot. Others are confined to a few square feet. Additionally, a significant number of protected plant populations have not been documented at all.

- Existing data possessed by the Commission is incomplete.

- Existing data that may be available from the New Jersey Natural Heritage Program is incomplete.
- Aerial photos cannot provide evidence that no protected plant populations are on a site, unless the photos show there is no plant habitat on the site at all.

So how is the Commission ensuring that this project meets the standards of 7:50-6?

A reduction in oversight by the Commission is bound to trigger more violations, for which, as we all know, there is no reliable remedy.

Theresa Lettman
Director of Monitoring Programs

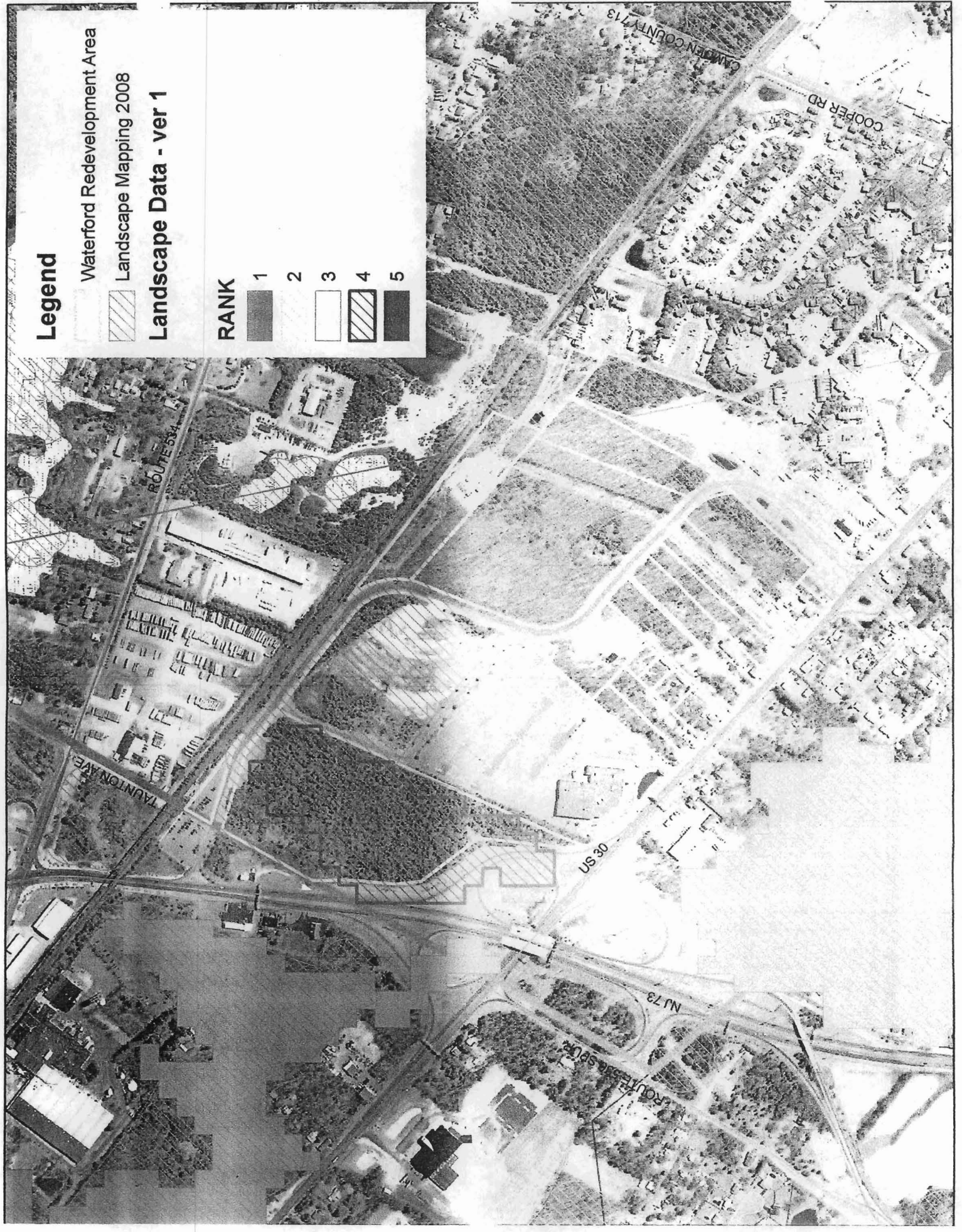
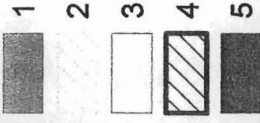
Legend

Waterford Redevelopment Area

Landscape Mapping 2008

Landscape Data - ver 1

RANK



MARK DEMITROFF
822 MAIN AVENUE, VINELAND (RICHLAND), NJ 08360-9346

RE: WATERFORD REDEVELOPMENT

December 6, 2011
Executive Director Nancy Wittenberg
New Jersey Pinelands Commission
PO Box 359
New Lisbon, NJ 08064

Waterford Ordinance 2011-19

Dear Ms. Wittenberg,

Please include this document as testimony for the December 14, 2011 public hearing on Waterford Township Ordinance 2011-19.

ABSTRACT

The Pinelands Commission (PC) is responsible for all development within its jurisdiction. Redevelopment is development, yet the PC's ability to review redevelopment is limited in scope. This shouldn't be. Additionally the PC lacks authority to determine if redevelopment parcels meet the standards of "land in need of redevelopment." Normally, the State Planning Commission (SPC) performs that duty, but by Memorandum of Agreement (MOA, 1999) with the PC, SPC has no say over Pinelands redevelopment. Also, the 1999 MOA indicated the SPC must "rely on the adopted plans and regulations of the PC to achieve objectives of the [State Development and Redevelopment Plan] SDRP," and not the other way around. Also troubling, when things go wrong, there doesn't appear to be an entity to turn to for help. Significant conflicts exist between redevelopment and legal requirements of the Comprehensive Management Plan (CMP). Waterford Township should not proceed with redevelopment, since the very mechanism sought is in itself flawed within its Pinelands National Reserve (PNR) context.

DISCUSSION

- 1) PINELANDS HAS AUTHORITY OVER DEVELOPMENT – One of the environmental controls of the CMP is that *all* PNR development is under the purview of the PC. This is true even if jurisdictions overlap, as in the case of Coastal Area Facility Review Act (CAFRA) regulations. According to Attorney General Dow (2011, *see addenda*), “N.J.S.A. 13:18:A-23 and N.J.A.C. 7:7E-3.44 ... provides that “[w]ithin the Pinelands National Reserve, the Pinelands Commission will serve as a reviewing agency for the coastal construction permit applications.” Redevelopment is a State-constitution authorized land-use management designation. In extension, it seems reasonable that the PC also has management powers over redevelopment (a specific form of development).
- 2) REDEVELOPMENT IS DEVELOPMENT – According to the *Oxford English Dictionary* (2009), redevelopment is defined as “The action or an act of developing again (in various senses),” *specifically* “The redesigning and rebuilding of an urban area, typically after the demolition of existing buildings. (The usual current sense.)” In fact, redevelopment is a form of development. According to the CMP (7:50-2.11 Definitions), *Development* means “change of or enlargement of any use or disturbance of any land...”
- 3) ALL DEVELOPMENT MUST COMPORT TO THE CMP – Herein lies a dilemma. According to Attorney General Dow (2011), “The New Jersey Pinelands Commission’s ... role in municipal redevelopment is only to ensure that any such redevelopment in the Pinelands Area comports with the ...CMP ... adopted in accordance with the Pinelands Protection Act, N.J.S.A. 13:18A-1 *et seq.*” According to the *Oxford English Dictionary* (2009), comport means to agree or endure, so redevelopment must coincide in all and any respect to the CMP. In implementation redevelopment does not agree (*i.e.*, harmonize or accord) in all its respects with the CMP.
- 4) THE STATE PLANNING ACT DOES NOT APPLY TO THE PINELANDS – Hartkopf (2010) noted that the State Planning Act (NJSA 52:18A-196 *et seq.*), which governs the SDRP, was “adopted by the State Legislature in 1985 in response to Mount Laurel II (Fair Housing Act, NJSA 52:27D-301 also passed in 1985)..... [but] The State Planning Act

does not apply (NJSA 52:18A-206) to lands within the federally designated Pinelands (see Pinelands Protection Act, NJSA 13:18A-23 *et seq.*)” Hence compliance with the Sate Plan is not a PC *obligation*, just as COAH requirements are not a PC *obligation* (also Kinsey, 2008: 4 & 6, P.L. 1987, c. 267; N.J.S.A. 13:18A-12.b. and -15). It is also worth noting that this also means the PC is not *obligated* to turn Pinelands Villages into sewerred growth zones as suggested by Leaken (*see* Donio, 2011).

- 5) REDEVELOPMENT IS INCHOATELY REVIEWED – The PC can at best provide a partial examination of a redevelopment plan, their role limited to portions that are covered under the CMP. Also, pursuant to N.J.S.A. 40A:12A-8b&c, which is cited as statute in current Pinelands redevelopment plans, a redevelopment plan cannot be effected until State approval (when the SPC makes a determination that a redevelopment parcel meets their standards of “land in need of redevelopment).” Yet, as stated earlier in #4, the SPC has no jurisdiction over Pinelands redevelopment. Outside the Pinelands the State Planning Commission (SPC) reviews and endorses redevelopment plans, making recommendations to enhance plan efficiency and effectiveness to insure redevelopment implementation is consistent to Smart Growth plans under the *State Development and Redevelopment Plan* (Hartkopf, 2010). Again, there is a deficiency in that no one performs that function in the Pinelands.
- 6) ONLY PC PLANS AND REGULATIONS CAN BE USED TO REACH SDRP OBJECTIVES – According to MOA (1999: 2, II. D) between the PC and SPC, it was recognized that “the SPC will rely on the adopted plans and regulations of the PC to achieve the objectives of the SDRP.” Redevelopment is a tool of the SPC, and not the PC. This is inconsistent with current MOA applicability, and is another reason that redevelopment should not be used in the PNR.

<p>D. This MOA acknowledges the statutory treatment of the New Jersey’s Pinelands under the Pinelands Protection Act and the State Planning Act and recognizes that the SPC will rely on the adopted plans and regulations of the PC to achieve the objectives of the SDRP .</p>
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(above) Excerpt from MOA (1999: 2).

7) REDEVELOPMENT LACKS OVERSIGHT – Additionally, there doesn't seem to be an entity that has oversight of Pinelands redevelopment law. PC plan endorsement only provides an illusion of due process. In actuality, State redevelopment statutes can be cited but then can be ignored with impunity within the PNR. For example I use Richland Village, where redevelopment was touted as “a prototype for the immediate region as well as the State” (Karabashian/Eddington Planning Group, 2006: 1). The Township began redevelopment at least two-years before the PC gave the municipality permission to move forward. In response to violations in State redevelopment statutes (*e.g.*, issuance of bonds and accumulating real property before they had a plan), I tried to find an entity who had jurisdiction over Pinelands redevelopment. Not a single person could, or can, tell me where to go, including councils for the PC, the Department of Community Affairs (DCA), and the Local Finance Board (LFB). Examples of their responses are provided below:

a – *On multiple occasions the PC indicated they had no such authority;*

The third reason for your appeal request is alleged deficiencies by Buena Vista Township under the New Jersey Local Redevelopment and Housing Law. The Pinelands Commission has no authority to enforce the requirements of this Law. The Commission's authority is limited to its enabling act, the Pinelands Protection Act. The Executive Director's recommended approval

(*above*) Excerpt from a letter by Pinelands Senior Counselor S. Roth to M. Demitroff denying his appeal to the Office of Administrative Law, May 12, 2010, even though I lived within 200-feet of the parcel in question and was not notified pursuant to N.J.S.A. 40:55D-12.

With respect to the question concerning the review and enforcement of local redevelopment and housing laws, the Executive Director would only submit that the Pinelands Commission's authority is limited to determinations of whether municipal redevelopment plans are consistent with the Pinelands Protection Act and the Comprehensive Management Plan. The Commission does not have the authority to review or enforce local redevelopment and housing laws. To the

(*above*) Excerpt from CMP Policy & Implementation Committee Meeting, September 24, 2010.

Permitting, of this comment. Public Comment: Additional comments regarding "redevelopment lands" and authority of the Township Engineer to proceed with developing Sawmill Park were offered by the commentor. Staff Response: These matters are not regulated by the Commission.

(above) Excerpt from Pinelands Commission Report on an Application for Public Development, June 24, 2011.

b – *The DCA indicated it has no authority to review or enforce Pinelands redevelopment rules;*

In addition, you inquired as to whether the Office of Smart Growth was aware of six points relating to the project. While we are aware that you have concerns regarding the process by which the Township has conducted their redevelopment activity, that issue must be addressed at the local level. The Office of Smart Growth has not been actively involved in assisting Buena Vista Township in its redevelopment efforts, and as a result is unable to comment on their activities.

(above) Excerpt from DCA's Acting Executive Director, D. Rendeiro, Office of Smart Growth, response to M. Demitroff's query, October 1, 2009.

c – *The NJ LFB indicated it has no authority to review or enforce Pinelands redevelopment rules;*

was secured, (or attempted to be secured). Please also be advised that the Board has no jurisdiction over the Pinelands Commission, the Local Redevelopment and Housing Law or the Municipal Land Use Law. It is suggested that you speak to a private attorney concerning the possibility of filing civil action to represent your interests in a court of law.

(above) Excerpt from NJLFB Chair, T. Neff, response to M. Demitroff's query, February 28, 2011.

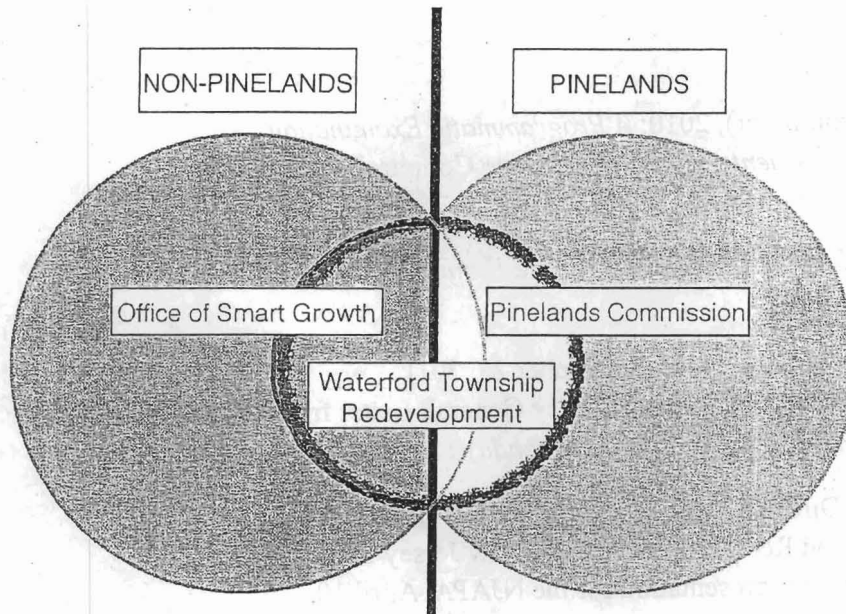
SYNTHESIS

Redevelopment is a powerful tool for the land-use planner, and it must be used wisely and fairly. The NJ State Comptroller recently expressed his concern about historical evidence of corruption of the redevelopment process (Boxer, 2010: 6, 13). Many redevelopment ordinances are written by the developer (Boxer, 2010: 16). Boxer indicated that more County and other officials should be "involved at earlier stages of the redevelopment process" and that there should be "fulsome public discussion" of redevelopment dynamics that goes beyond the "modicum of public notice" (Boxer, 2010: 22).

In response to member complaints about redevelopment abuses, the NJAPA (2006) produced a position statement that suggests there is much room for improvement. They recommended, and you should consider, the following:

- 1) Require a Redevelopment Element of the Municipal Master Plan;
- 2) Enhance the Planning Content of Redevelopment Plans;
- 3) Provide Greater Public Notice and Enhanced Public Participation;
- 4) Guarantee Adequate Compensation For Property Taken;
- 5) Provide More Opportunities for Public Scrutiny in Redeveloper Designation;
- 6) Offer Enhanced Financial Participation To Affected Property Owners;
- 7) Guarantee Enhanced Consideration of Historic and Environmental Resources;
- 8) Provide Immediate Clarification of "Smart Growth" Criterion.

Municipal land-use applications, as in Waterford Township's case, cannot have less oversight and jurisdictional accountability than areas outside the Pinelands. As it stands, it appears that only the redeveloper (the municipality) is minding the hen-house (*see #4-7 above*). Reforms are needed so that the mechanism properly fits your mission to preserve, protect, and enhance the environmental and cultural environment of the Pinelands. Heed NJAPA's (2006) warning, that "planning professionals should exercise extreme caution when advising clients regarding redevelopment practices." Redevelopment can be rife with controversy (*e.g., eminent domain*). We, the Pinelands residents, are your primary clients - not the developers, and you must fully safeguard our individual and societal rights.



CONCLUSION

Redevelopment cannot be used in Waterford Township, or anywhere else in the Pinelands, until it becomes abundantly clear which entity oversees and which entity enforces Pinelands redevelopment. Not even the Office of the Attorney General is able to resolve those issues (*see attached*). According to the CMP (7:50-1.4 Applicability), "It shall be unlawful for any person to carry out any development in the Pinelands Area which does not conform to the minimum standards of this Plan." Redevelopment does not comport to the CMP (*e.g.*, eminent domain). The 1999 MOA does not provide equal or greater protection to Pinelands resources, nor does it allow the use of non-PC land-use tools. This is important, since the PC, through the CMP, has effectively managed growth, while the SPC has not (Kinsey, 2008). While I am not an attorney, the "hole" story, one of less - not equal or greater protection, points out very real conflicting legal requirements that must be resolved.

Sincerely,

Mark Demitroff

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November 23, 2011

Via Regular & Certified Mail

Mark Demitroff
822 Main Ave.
Vineland, NJ 08360-9346

Re: September 23, 2011 Correspondence to the Office of
the Attorney General

Dear Mr. Demitroff:

I am in receipt of your September 23, 2011 correspondence to the Office of the Attorney General. You asked for a determination as to "who has authority over redevelopment within the Pinelands National Reserve."

As noted in the August 1, 2011 correspondence sent to you by DAG Julie Cavanagh, this office is unable to provide you with legal advice or assistance.

That being said, the New Jersey Constitution authorizes redevelopment. N.J. Const., art. VIII, § III, ¶ 1. Municipal redevelopment is primarily governed by the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., which gives municipalities the authority to designate "areas in need of redevelopment." N.J.S.A. 40A:12A-5. The New Jersey Pinelands Commission's ("Commission") role in municipal redevelopment is only to ensure that any such redevelopment in the Pinelands Area comports with the Pinelands Comprehensive Management Plan ("CMP") adopted in accordance with the Pinelands Protection Act, N.J.S.A. 11:18A-1 et seq. See N.J.A.C. 7:50-4.11 et seq. (development in municipalities not certified in compliance with the CMP); N.J.A.C. 7:50-4.31 et seq. (development in municipalities certified in compliance with the CMP). The Commission has no authority to implement the New Jersey Local Redevelopment and Housing Law.



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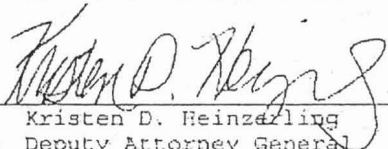
November 23, 2011
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Finally, it should be clarified that, since your letter asks who has authority over redevelopment in the "Pinelands National Reserve," the Commission's authority is limited to the "Pinelands Area" as defined by N.J.S.A. 13:18A-11. See also N.J.S.A. 13:18A-3; N.J.S.A. 13:18A-8. Although the CMP constitutes the management plan called for by the National Parks and Recreation Act of 1978, 16 U.S.C. §471i(f), the Commission's jurisdiction is limited to those portions of the Pinelands National Reserve that overlap with the Pinelands Area. The New Jersey Department of Environmental Protection has primary jurisdiction over those portions of the Pinelands National Reserve located outside the Pinelands Area within the Coastal Area. See N.J.S.A. 13:18A-23 and N.J.A.C. 7:7E-3.44 which provides that "[w]ithin the Pinelands National Reserve, the Pinelands Commission will serve as a reviewing agency for the coastal construction permit applications."

Sincerely yours,

PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY

By:


Kristen D. Heinzelring
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C: AAG Kevin Auerbacher
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