



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

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




RICHARD PRICKETT  
Chairman  
NANCY WITTENBERG  
Executive Director

General Information: [Info@pinelands.nj.gov](mailto:Info@pinelands.nj.gov)  
Application Specific Information: [AppInfo@pinelands.nj.gov](mailto:AppInfo@pinelands.nj.gov)

## MEMORANDUM

To: CMP Policy & Implementation Committee

From: Susan R. Grogan   
Acting Director, Land Use & Technology Programs

Date: January 15, 2020

Subject: January 24, 2020 Committee meeting

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Enclosed please find the agenda for the Committee's upcoming meeting on January 24, 2020. We have also enclosed the following:

- The minutes from the Committee's November 22, 2019 meeting; and
- A draft resolution and report on Folsom Borough's 2018 Master Plan Reexamination Report and Ordinance 07-2019

Please note that the agenda includes a discussion of the 2019 Implementation Report on the Pilot Program for Alternate Design Wastewater Treatment Systems. Copies of the 2019 Implementation Report were previously distributed to all Commission members. The report is also posted on the Commission's website at:

[https://www.nj.gov/pinelands/landuse/current/altseptic/2019%20Pilot\\_Septic\\_Imlem\\_Rpt%20-%20FINAL.pdf](https://www.nj.gov/pinelands/landuse/current/altseptic/2019%20Pilot_Septic_Imlem_Rpt%20-%20FINAL.pdf)

/CS15  
cc: All Commissioners (agenda only)



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## CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

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

January 24, 2020

9:30 a.m.

### Agenda

1. Call to Order
2. Pledge Allegiance to the Flag
3. Adoption of minutes from the November 22, 2019 CMP Policy & Implementation Committee meeting
4. **Executive Director's Reports**

Folsom Borough's 2018 Master Plan Reexamination Report and Ordinance 07-2019, amending Chapters 170 (Subdivision and Land Development) and 200 (Zoning) of the Borough's Code by adopting revised cluster development standards, revising permitted uses in the RD (Rural Development) and FC (Forest Commercial) Districts, creating a new RD-C (Rural Development Commercial) District and adopting a revised zoning map that reflects the rezoning of lands between the Forest and Rural Development Areas

5. Pilot Program for Alternate Design Wastewater Treatment Systems
  - 2019 Implementation Report
  - Recommended CMP amendments
6. Update on an amendment to the 1998 Memorandum of Agreement between the Pinelands Commission and Atlantic County concerning Atlantic County Park at Lake Lenape
7. Discussion of Commission rulemaking priorities
8. Public Comment

**CMP POLICY & IMPLEMENTATION COMMITTEE MEETING**

**Richard J. Sullivan Center  
Terrence D. Moore Room  
15 C Springfield Road  
New Lisbon, New Jersey  
November 22, 2019 - 9:30 a.m.**

**MINUTES**

**MEMBERS IN ATTENDANCE:** Chairman Richard Prickett, Sean Earlen, Jordan Howell, Jerome H. Irick, Ed Lloyd, and Mark Lohbauer

**MEMBERS ABSENT:** Candace Ashmun

**STAFF PRESENT:** Nancy Wittenberg, Stacey P. Roth, Charles Horner, Larry L. Liggett, Susan R. Grogan, Paul Leakan, Jean Montgomerie and Betsy Piner. Also present was Craig Ambrose with the Governor's Authorities Unit.

**1. Call to Order**

Chairman Prickett called the meeting of the Comprehensive Management Plan (CMP) Policy and Implementation (P&I) Committee to order at 9:40 a.m.

**2. Pledge Allegiance to the Flag**

All present pledged allegiance to the Flag.

**3. Adoption of minutes from the September 27, 2019 CMP Policy & Implementation Committee Meeting**

Commissioner Lohbauer moved the adoption of the September 27, 2019 meeting minutes. Commissioner Irick seconded the motion. The minutes were adopted, with all Committee members voting in the affirmative

**4. Electric Transmission Right-of-Way Maintenance Pilot Program**

Ms. Wittenberg said the New Jersey Pinelands Electric Transmission Right-of-Way Maintenance Pilot Program (ROW) is concluding its ten-year term and Ms. Jean Montgomerie, with the Regulatory Programs Office, will provide an update as to the status of the program and the reason why staff is recommending a two-year extension.

Ms. Montgomerie provided an overview of the ROW program through a PowerPoint presentation (*Attachment A to these minutes and posted on the Commission's website at: <https://www.nj.gov/pinelands/home/presentations/November%2018%202019%20Update%20on%20the%20ROW%20Plan1.pdf>*).

She said the pilot program had been developed through collaboration between Rutgers University and the Commission's Science Office to manage 233 miles of high voltage rights-of-way in the Pinelands Area. The program's goal is to maintain early successional habitats and preserve wetlands integrity while maintaining utility transmission line safety. Ms. Montgomerie said the Commission had approved the ROW Plan in 2009 and that she had provided Progress Reports to the Commission in 2014 and 2017. She said today's update represents the 10-year review.

Ms. Montgomerie said three utility companies are subject to the ROW Plan: Jersey Central Power and Light (JCPL) serves the northeast corner of the Pinelands; Public Service Enterprise Group (PSE&G) serves the western portion of the Pinelands, and Atlantic City Electric (ACE), the utility with both the largest number of lines and the largest acreage, serves the southern portion of the Pinelands.

Ms. Montgomerie said the ROW Plan is a guidance document with vegetation maintenance prescriptions for each of the 3,041 spans (covering 2,695 acres) in the Pinelands Area. She said there is a federal requirement that vegetation must not be within 3' below the wires or within 15' of the wire sway zone (to each side). She said the goal is to keep the vegetation within the utility right-of-way the same as that of the surrounding area and to leave the wetlands as undisturbed as possible. She said there are 59 prescriptions including the two basic ones: "mow" and "cut trees manually; do not mow"; there are also timing restrictions. She said the utilities have reporting requirements and an annual fee to the Commission, based on the area within the right-of-way and calculated by the CMP prescription. This fee is to offset costs related to monitoring the project. She described how spreadsheets were created and integrated with Arcview mapping to track the data for each span.

Ms. Montgomerie cited an example of the degree to which the utilities must go to protect wetlands. She described Slide #7, depicting a JCP&L line spanning wetlands in Berkeley Township. She said when a transmission line tower required repairs, the company had to bring in loads of rock to support the weight of the trucks. Once the repairs were completed, all the fill was removed to minimize the impact of the endeavor.

Ms. Montgomerie said communication has been somewhat difficult with the Board of Public Utilities, which requires that the data from the study be shared with a site-specific contact person within that agency.

In response to Commissioner Lloyd's question if the Commission couldn't request a specific contact person, Ms. Wittenberg said there are security issues involved.

In response to Commissioner Lloyd's question if the right-of-way should be widened to help deter fires, Ms. Montgomerie said the width of the right-of-way is based on the voltage carried through the lines; the narrower rights-of-way are assigned to those power lines carrying lower voltage.

Ms. Montgomerie said the main focus is cutting the "walls" of trees, perhaps with more frequency, within the right of way.

In response to Commissioner Lloyd's question regarding staff recommendations, Ms. Montgomerie said an extension is warranted because, in addition to some issues raised in previous presentations, staff is seeking clarification of some of the terms used by the industry and generally requires more time to fully evaluate the results of the program. Ms. Wittenberg added that the extension is needed to resolve issues of timing constraints as they differ between the New Jersey Department of Environmental Protection (NJDEP) and the Commission making it difficult for the utilities to administer. Also, she said the herbicide issue needs to be addressed.

Ms. Montgomerie said since 2012, all three utility companies have requested permission to use Integrated Vegetation Management (IVM), including herbicide use, to better manage tree regrowth. She provided a photo (Slide #8) of an ailanthus tree that had grown 22' in only two years, thus requiring additional mechanical trimming that might otherwise not be necessary through the use of herbicides.

In response to Commissioner Lloyd's question if it would require a CMP amendment to allow herbicides, Mr. Horner said currently there is a specific provision in the CMP prohibiting the use of herbicides in the utility right-of-way. All three utility companies have requested to use herbicides on a limited basis although that has yet to be defined.

Ms. Montgomerie added that the utilities had proposed a 30-span mini pilot program using specific herbicides.

In response to Commissioner Lohbauer's question about off-road vehicle (ORV) damage within the right-of-way, Ms. Montgomerie said these are gated areas with limited access so ORV use is deterred significantly. The utility companies do not want these vehicles and trespassers on their properties.

Ms. Montgomery said one benefit of the ROW Plan is that American mistletoe has expanded from the original six spans to 12 to 15 spans, primarily in the Great Egg Harbor River basin, probably due to birds flying within the rights of way. She said she believed the prescription requiring survey of mistletoe prior to any vegetation management activity could be suspended based on the success of the plant. She said there may be other plants that have benefitted but, because they were not formally surveyed prior to the implementation of the pilot program, it is unknown.

Ms. Montgomery said staff feels generally this has been a successful program to the alternative of requiring a Certificate of Filing each time the utility companies need to maintain their rights-of-way. She said the Threatened and Endangered species timing obligations have required adjustments as needed, citing an issue in 2014 with protecting the northern long eared bat. She said the two-year extension will allow staff to incorporate what they've learned into a CMP amendment.

Chairman Prickett said because the rights-of-way are so well managed, they are relatively undisturbed, to the benefit of native plant and animals. He said he hoped the utility companies were promoting this good work.

Commissioner Lohbauer moved the recommendation to the Commission for the extension of the Electric Transmission Right-of-Way Maintenance Pilot Program for two years. Commissioner Irick seconded the motion and all voted in favor.

##### **5. Lake Lenape MOA amendment: proposed schedule**

Ms. Roth asked the Committee to recall the presentation by Atlantic County (*P&I Committee meeting, August 23, 2019*) regarding its request to amend the deviation 1998 Memorandum of Agreement (MOA) with the Commission regarding development projects on the western lakeshore of Lake Lenape Park. The County wishes to reconfigure the facilities at the boat launch area and install floating docks to better accommodate the multiple activities that occur in the vicinity. Because the related deed restriction was imposed upon the entire lake, in addition to land areas within the park, the process requires the lifting of the deed restriction to allow any changes to the MOA.

Ms. Roth said the County needs to engage staff at the New Jersey Department of Environmental Protection (NJDEP) Green Acres Program, which holds the deed of conservation restriction (DCR) and she is trying to keep the two processes in alignment. Ms. Roth said she anticipated a draft MOA amendment would be before this Committee in January and then the process would advance with a public hearing/comment period before the agreement is returned to the Committee in March 2020 and then before the full Commission in April. She said she had confirmed with the County that this schedule will accommodate their need to install the floating dock system by early spring.

In response to Commissioner Lloyd's question, Ms. Roth confirmed that NJDEP holds the DCR while the Pinelands Commission is the partner in the MOA. She said the phrasing of the existing DCR is not well written and the new amendment will provide more flexibility. The Commission will renegotiate the new DCR with the rights assigned to NJDEP. She said she was surprised that the MOA had deed restricted the lake itself. The deed restriction will be lifted only from the development "box" in the vicinity of the boat ramp/dock area.

Commissioner Irick said he was pleased that Atlantic County can be accommodated.

## **6. Presentation by the State Agriculture Development Committee: Special Occasion Events on preserved farms**

Ms. Grogan introduced Ms. Susan Payne, Executive Director of the State Agriculture Development Committee (SADC), and said she would make a presentation on SADC's proposed policies for Special Occasion Events (SOEs) on preserved farmland. Ms. Grogan noted that, some years ago when it was relatively active, the Commission's Agriculture Committee had been interested in such a program and she and Ms. Wittenberg had met with many different groups (County Agricultural Development Boards, farmers, etc.) to consider activities on farms, not just preserved farms. That initiative had been undertaken due to the soccer facility at the Tuckahoe Turf Farms in Hammonton and Waterford on preserved farmland. She said ultimately the Committee decided to look more narrowly at special events to determine if some should be exempt from Commission application but that was not pursued. She said she thought this Committee would benefit from hearing what standards SADC is considering putting in place and whether or not they will work within the Pinelands Area.

Ms. Payne gave a PowerPoint presentation (*Attachment B to these minutes and posted on the Commission's website at:*

<https://www.nj.gov/pinelands/home/presentations/SADC%20presentation%2011-22-2019.pdf>).

In addition, Ms. Payne distributed a hand-out of the SADC SOE working group draft chart describing various parameters and evaluation factors for SOEs on preserved farms (*Attachment C to these minutes*).

Ms. Payne said in addition to SADC's day-to-day responsibilities of preserving and monitoring farms, recently it has been facing two big issues: SOEs on preserved farms and soil protection standards. She said of the two, the SOE issue is more time sensitive. She said in 2014, a law was passed, the result of litigation, to allow wineries on preserved farms. The understanding was that these wineries would be limited to growing and processing grapes and marketing their wine. Within six months, weddings started occurring at these wineries leading to litigation between SADC and one of the preserved farms. During that process, the legislature intervened and created a pilot program for special events conducted on preserved farm wineries only. Ms. Payne said of the 50-some wineries in New Jersey, 17 are associated with preserved farmland. Of those 17, six are subject to this law because they are conducting SOEs. The remaining wineries are either not conducting SOEs or are conducting them in their exception areas. She said of the 2600 farms in the SADC program, roughly two thirds have exception areas; allowing SOEs on all preserved farms, not just wineries, could benefit the remaining one third.

Ms. Payne said the pilot program was scheduled to expire in 2018 originally, but has now been extended to May 2020. She said it is the conclusion of the program that is raising the urgency of this issue. She said, in granting the extension, the legislature required SADC to report and make recommendations on the program. Ms. Payne said SADC's working group (farmers and non-

farmers including representatives of Rutgers University, the League of Municipalities and the NJ Farm Bureau) has been meeting with various groups including County Boards of Agriculture, the Highlands Commission, and now the Pinelands Commission, to develop and get feedback on the draft recommendations. She said each County is allowed to determine what it considers to be a SOE. Also, she said, the legislation did not extend right-to-farm protections to the participating farms; it strictly allowed SOEs to occur on preserved farms so that they could be in compliance with the law for the duration of this pilot program

Ms. Payne said weddings are in vogue as the most active SOE so SADC is determining to what extent these activities can occur. She said SADC's role is to protect the farm and protect the farmers. She said while SADC believes all farms, not just wineries, should be allowed to conduct SOEs, the farm should serve as a backdrop for a particular activity while agricultural production remains the primary function of the farm. She noted that breweries and distilleries should also be afforded protection that could allow them to conduct SOEs.

Ms. Payne discussed the relationship between the agricultural production value of a farm and the number of activities it should be allowed to conduct. As an example, she noted that wine grapes are a highly valuable crop and the proposal suggests wineries with an annual income of \$50,000 be allowed 26 SOEs a year while a farm whose income is valued the same but derived from another crop be allowed 15 events. She noted the regulatory, marketing and distribution limitations that are imposed on wineries but not on other crops. She said wine is an inherent part of our culture and this difference recognizes that wine is not the same thing as tomatoes.

Ms. Payne reviewed issues related to types and size of events, relationship of the number of events to farm size and income, and limitations to the occupied area for events to include temporary utilities and porta-potties, parking, and food vendors. She said an "event" is one day, which, she said, could mean two separate activities in a single day would count as one event, while a single activity carried over three days would be considered three events. She said SADC may need to look at improvements and existing structures but does not contemplate the construction of new buildings to accommodate a special event. Also, she said, restaurants are prohibited.

In response to Commissioner's Lohbauer's question as to why restaurants are prohibited, Ms. Payne said they would be permitted as farm-to table events where the food is produced on the farm but that is not considered a SOE. She said a dairy operation that sells its cheese and ice cream is totally protected as are apple picking festivals at orchards.

Ms. Payne said, under the Farmland Preservation Program, SADC is required to look at a farmer's financial records but wants to have minimal involvement and keep the program simple. She displayed various reporting forms from which SADC would determine the value of the farm's production and compare it with the soils productivity assessment to determine the agricultural production value. She said the draft provisions encourage simplified enforcement by



SADC and the County Boards of Agriculture with a written warning for a first violation but meaningful fines and revocation of permits to conduct SOEs for a subsequent offense.

In response to Chairman Prickett's question regarding the process to finalize these rules, Ms. Payne said the staff recommendations will be presented to the SADC for action. She noted that SADC consists of eleven members: four farmers; two members of the public; representatives of the Departments of Treasury, Environmental Protection and Community Affairs; Rutgers University; and the Secretary of Agriculture, who is the Chairman. She noted that four of the seats are not filled but are on the Senate Judiciary Committee's agenda for this week.

In response to a question from Ms. Roth, Ms. Payne said the Committee wants a balance, so the farmers are not all from a specific area.

In response to Commissioner Lohbauer statement that he hoped SADC could assist the Commission's Climate Committee on farming matters, Ms. Payne responded that she would be happy to do so but the experts are at Rutgers, not SADC, and there are great resources throughout the state.

Chairman Prickett suggested the December 13, 2019 Commission meeting would be a good time to reach out to the rest of the Commission to solicit comment on SADC's draft proposal.

Ms. Roth said she would coordinate the comments on behalf of the Commission and advance them to SADC.

## **7. Continued discussion of Section 502 land acquisition funding**

Chairman Prickett said, at the last P&I Committee meeting, (*September 27, 2019*), Ms. Grogan had made a very helpful presentation on the "502" (*Section 502 of the National Parks and Recreation Act of 1978*) grant money. He said since that time he had met with Ms. Wittenberg and Ms. Grogan to discuss further the possibility of obtaining the remaining \$8 million in funding not yet allocated by Congress.

Ms. Grogan said staff had researched the status of the funding and found that the Commission and the New Jersey Department of Environmental Protection (NJDEP) were indeed compliant with the requirement that they request full funding within the first ten years after the adoption of the National Parks and Recreation Act of 1978, so that requirement had been satisfied.

Ms. Grogan said that staff had previously reported there were about 12,000 acres left to be preserved in the original 502 Areas but based on better mapping, the number is actually 14,000 acres. She said it is unlikely that the additional \$8 million would be sufficient to acquire all that land but it is also unlikely that all the owners will want to sell. She said if the Commission obtains the additional funding, it may need to designate some new 502 funding areas.

In response to a question from Commissioner Lohbauer, Ms. Grogan said the Commission is responsible for designating the target areas in need of protection.

Ms. Grogan said staff would reach out to NJDEP. She said since it is they who administer the funding, this needs to be a joint effort. She noted that many attempts to secure the funding have been made over the years, sometimes generally and other times in relation to a specific project.

In response to Chairman Prickett's question if the Committee was interested in pursuing the remaining \$8 million, Commissioner Lloyd said he had no reservations about proceeding and there was a general affirmation by the Committee.

Ms. Wittenberg said the Commission will work with the Governor's office to initiate the process with Congress.

Ms. Grogan said staff is updating mapping so that the legislators can see where lands of interest are located.

Ms. Roth said there is no formal process for State legislators to be involved.

Chairman Prickett thanked staff for having brought the matter to his attention.

## **8. Public Comment**

Mr. Fred Akers, with the Great Egg Harbor River Watershed Association, commended the Commission on the ROW program. He said the program has been successful in its design to optimize habitat in disturbed areas.

Commissioner Lohbauer asked for a status update on the plaques for former Commissioners to which Ms. Wittenberg responded that she felt there was little interest in providing them but staff could survey the Commissioners. She noted that from her own experience, such items tend to accumulate and they become somewhat meaningless.

Commissioner Lloyd said he shared Ms. Wittenberg's concern that there was little interest.

Mr. Leakan said framed Pinelands photographs have been given in the past.

Commissioner Irick said he had raised the plaque issue at the Commission meeting but he was willing to hear the opinions of others.

Chairman Prickett noted that the Pinelands National Reserve 2020 Calendar had been distributed to all Commissioners this morning.

Mr. Leakan said that the Pinelands calendar, like the Short Courses, the visitors' center, and the Speakers Series, serves to promote awareness of the Pinelands and contributes toward an interest

in protecting it. He said the calendars will be available at the Batsto Village Visitors Center and the headquarters of Bass River and Brendan Byrne State forests.

There being no further business, Commissioner Lohbauer moved the adjournment of the meeting at 11:45 a.m. Commissioner Howell seconded the motion and all voted unanimously to adjourn.

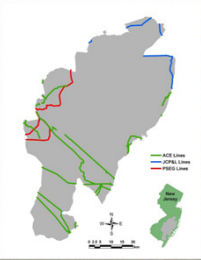
Certified as true and correct:



Betsy Pifer,  
Principal Planning Assistant

Date: December 18, 2019

### An Overview of the New Jersey Pinelands Electric-Transmission Right-of-Way Vegetation Management Plan and CMP Pilot Program



**Jean Montgomerie**  
Environmental Specialist  
Pinelands Commission

11/27/2019


### NEW JERSEY PINELANDS ELECTRIC-TRANSMISSION RIGHT-OF-WAY VEGETATION-MANAGEMENT PLAN

**Approval:**  
The Commission approves the New Jersey Pinelands Electric Transmission Right-of-Way Vegetation Plan (ROW Plan) in 2009.

**Purpose:**

- Maintain early successional habitats
- Preserve wetlands integrity
- Maintain utility transmission line safety

**Extent:**  
Manage 233 miles of high voltage ROW in the Pinelands Area.




11/27/2019

### ROW Pilot Program Timeline

- 2009: ROW Plan approved as a 10-year Pilot Program in the CMP.
- 2010: Companies begin annual reporting on which spans were managed.
- 2014: Staff provided the First Progress Report on years 2010-2012 to Commission.
- 2017: Staff provided the Second Progress Report on years 2013-2015 to Commission.
- 2019: **“Commission Executive Director must review Pilot Program and determine whether or not the Program has been successful and may be incorporated into CMP.”**
- “Or two-year extension”**

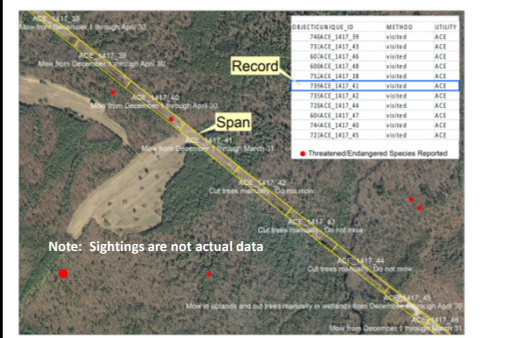
11/27/2019

### The Vegetation Management Prescriptions



- Developed by Rutgers University and Pinelands Commission Science staff to maintain Pinelands successional habitats
- Are on a span-by-span basis for all 3,041 spans in the Pinelands
- Prescriptions reflect local Pinelands habitats such as scrub-shrub vegetation, emergent wetlands, ponds and grasslands
- 59 prescriptions were developed, the basic prescriptions are “mow” and “cut trees manually, do not mow,” with various additional restrictions added, such as a timing restriction

11/27/2019



**Record**

DIRECTION	ID	METHOD	UTILITY
FRANCE	1417_38	visited	ACE
FRANCE	1417_40	visited	ACE
FRANCE	1417_42	visited	ACE
FRANCE	1417_44	visited	ACE
FRANCE	1417_46	visited	ACE
FRANCE	1417_48	visited	ACE
FRANCE	1417_50	visited	ACE
FRANCE	1417_52	visited	ACE
FRANCE	1417_54	visited	ACE
FRANCE	1417_56	visited	ACE
FRANCE	1417_58	visited	ACE
FRANCE	1417_60	visited	ACE
FRANCE	1417_62	visited	ACE
FRANCE	1417_64	visited	ACE
FRANCE	1417_66	visited	ACE
FRANCE	1417_68	visited	ACE
FRANCE	1417_70	visited	ACE

**Span**

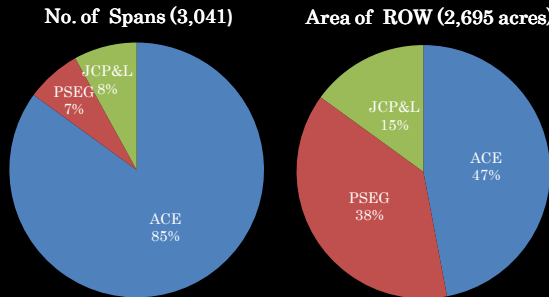
Note: Sightings are not actual data

Spreadsheet integration with Arcview mapping

11/27/2019

### The Three Utility Companies

No. of Spans (3,041)      Area of ROW (2,695 acres)



Utility Company	No. of Spans (%)	Area of ROW (%)
ACE	85%	47%
PSEG	8%	38%
JCP&L	7%	15%

11/27/2019



### Administered by Two Offices

<p><b>Regulatory Programs Office</b></p> <p>Site inspects ROWs to see if prescriptions are being carried out correctly.</p>	<p><b>Science Office</b></p> <p>Reports on vegetation study plots to assess the effects of the prescription.</p>
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11/27/2019

The Pilot Program was generally successful in meeting its goals ...

... but we need more time to adopt an Amended ROW Plan that addresses issues encountered over the past ten years.

A two-year extension will allow the development of the Plan.

11/27/2019

Since 2012, all three utilities have been requesting the use of IVM (Integrated Vegetation Management), including limited herbicide use, to better manage tree regrowth.

11/27/2019



# Special Occasion Events on Preserved Farmland

PRESENTATION TO THE SADC  
SEPTEMBER 26, 2019

## Current SOE Pilot Law

- Applies to preserved farm wineries only
- Allows SOEs, subject to conditions
- No RTF protection
- SADC required to submit recommendations to the legislature and Governor (winter 2019)
- SADC SOE Working Group

## Examples of SOEs

- Weddings / receptions / parties
- Corporate gatherings
- Seasonal festival (e.g., community festival)
- Outdoor concert
- Dance night (e.g., country dancing in the barn)
- Holiday event (e.g., Mother's Day brunch)

## Goals

- Support viability of family farms thru increased "agtourism" income
- Allow all preserved farms to host a small number of SOEs (not just wineries)
- Connect increased SOEs opportunity with increased ag'l production
- Grow NJ vineyards and wineries by creating a separate class for wineries – to recognize unique nature of the product and limits on marketing opportunities – and allow a higher number of SOEs
- Try to keep it simple...

## Remember!

- These limits **DO NOT** apply to:
  - SOEs held on preserved farm **EXCEPTION AREAS**
  - Activities & events granted **RTF PROTECTION** by a CADB

## Basic Provisions

- All farms:
  - ≥ \$10,000 of ag'l production value = 8 SOEs/yr
  - ≥ \$50,000 " " " " = 15 SOEs/yr
- Wineries:
  - ≥ \$50,000 of grapes/fruit value = 26 SOEs/yr
  - ≥ \$100,000 " " " " = 52 SOEs/yr
- Wineries:
  - SOE income can't exceed 25% of gross income
  - At least 50% of grapes processed must be grown by the commercial farm

### Other Provisions

- Food – allow outside catering & food trucks; prohibit “restaurants”
- Protect the farm’s resource
  - allow up to 5% of the farm to be used to support SOEs
  - 2.5 acre minimum / 5 acre maximum
  - temporary improvements only
- No additional RTF protection
- Simplify enforcement
  - CADB/SADC to hear the matter at a public meeting
  - If violations found, 1<sup>st</sup> offense is a warning and thereafter suspension and/or fines
- Simplify administration
  - stay out of farmers’ books!
  - use existing data to determine ag production value

**SUPPLEMENTAL FARMLAND ASSESSMENT GROSS SALES FORM**  
 FILE ANNUALLY BY AUGUST 1 OF THE PRE-TAX YEAR

If the application includes a Farm W-1, check one:  Woodland Management Plan  All Animal Husbandry Plans  Other (Specify):

**SECTION I IDENTIFICATION**

COUNTY: Essex MUNICIPALITY: Essex  
 OWNER'S NAME: Equation Farms TAX YEAR: 2018  
 PROPERTY LOCATION: 1000 Main St, North Ferrisburgh, VT PARCEL ID: 10000000000000000000  
 TO ADJACENT: 10000000000000000000 (None)

**SECTION II GROSS SALES**

Field Crops	Acres	Ornamental Crops	Acres	Apiculture	Acres	Forest Area
						30.83
						50.83
						55.91

**SECTION III SIGNATURE AND VERIFICATION OF OWNERS**

The undersigned declares this form, including any accompanying schedules and statements, has been prepared to the best of his or her knowledge and belief in truth and accuracy. Files of this form are a representation of the best and accurate information for the purposes of the assessment and are not to be used for any other purpose. The undersigned understands that any false information provided on this form may be considered a criminal offense and will be subject to the same penalties as provided by law for perjury. In addition, the undersigned understands that any false information provided on this form may be subject to a civil penalty of up to \$500 per acre.

Equation Farms LLC  
 7/22/18

HOPEWELL TOWNSHIP SUPPLEMENTAL LAND USE FORM MERCER COUNTY

Block: 10 Lot: 10  
 Land is located by owner: Equation Farms LLC  
 Land is owned by: Equation Farms LLC Address: 1000 Main St, North Ferrisburgh, VT

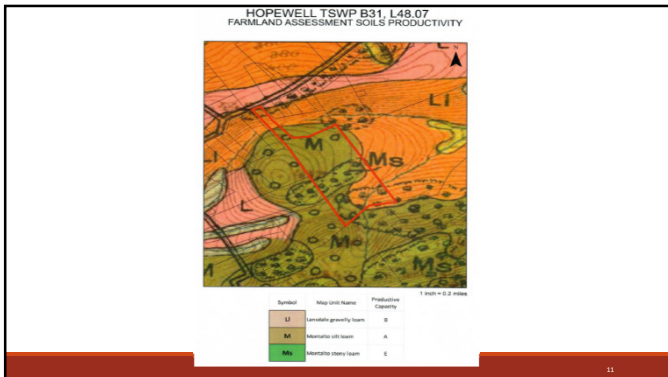
Soil Group	Soil	Acres	Value	Per Acre	Total Value
A	1000	100	1000	10	1000
B	1001	100	1000	10	1000
C	1002	100	1000	10	1000
D	1003	100	1000	10	1000
E	1004	100	1000	10	1000

Total Acres: 500 Total Value: 5000

LAND NOT FOR AGRICULTURAL USE: 0

FOUR OFFICE USE ONLY:  Easement Granted:  Easement Subscribed:  Plat Filed Received:  Yes  No

COUNTY	SOIL GROUP	CROPLAND UNIMPROVED		CROPLAND IMPROVED		PERMANENT PASTURE		NON-AGRICULTURAL WOODLAND		AFFORESTED WOODLAND		IMPUTED CROPLAND VALUE	
		SOIL	VALUE PER ACRE	SOIL	VALUE PER ACRE	SOIL	VALUE PER ACRE	SOIL	VALUE PER ACRE	SOIL	VALUE PER ACRE	SOIL	VALUE PER ACRE
ESSEX	A	100	1000	100	1000	100	1000	100	1000	100	1000	100	1000
	B	100	1000	100	1000	100	1000	100	1000	100	1000	100	1000
	C	100	1000	100	1000	100	1000	100	1000	100	1000	100	1000
	D	100	1000	100	1000	100	1000	100	1000	100	1000	100	1000
GLoucester	A	100	1000	100	1000	100	1000	100	1000	100	1000	100	1000
	B	100	1000	100	1000	100	1000	100	1000	100	1000	100	1000
	C	100	1000	100	1000	100	1000	100	1000	100	1000	100	1000
	D	100	1000	100	1000	100	1000	100	1000	100	1000	100	1000
HUNTERDON	A	100	1000	100	1000	100	1000	100	1000	100	1000	100	1000
	B	100	1000	100	1000	100	1000	100	1000	100	1000	100	1000
	C	100	1000	100	1000	100	1000	100	1000	100	1000	100	1000
	D	100	1000	100	1000	100	1000	100	1000	100	1000	100	1000
MERCER	A	100	1000	100	1000	100	1000	100	1000	100	1000	100	1000
	B	100	1000	100	1000	100	1000	100	1000	100	1000	100	1000
	C	100	1000	100	1000	100	1000	100	1000	100	1000	100	1000
	D	100	1000	100	1000	100	1000	100	1000	100	1000	100	1000
Middlesex	A	100	1000	100	1000	100	1000	100	1000	100	1000	100	1000
	B	100	1000	100	1000	100	1000	100	1000	100	1000	100	1000
	C	100	1000	100	1000	100	1000	100	1000	100	1000	100	1000
	D	100	1000	100	1000	100	1000	100	1000	100	1000	100	1000
MONTAIGU	A	100	1000	100	1000	100	1000	100	1000	100	1000	100	1000
	B	100	1000	100	1000	100	1000	100	1000	100	1000	100	1000
	C	100	1000	100	1000	100	1000	100	1000	100	1000	100	1000
	D	100	1000	100	1000	100	1000	100	1000	100	1000	100	1000
MORRIS	A	100	1000	100	1000	100	1000	100	1000	100	1000	100	1000
	B	100	1000	100	1000	100	1000	100	1000	100	1000	100	1000
	C	100	1000	100	1000	100	1000	100	1000	100	1000	100	1000
	D	100	1000	100	1000	100	1000	100	1000	100	1000	100	1000



**Special Occasion Events (SOEs) on Preserved Farmland**  
**DRAFT – 9/26/2019**

<b>Evaluation Factor</b>	<b>Parameters</b>	<b>Notes</b>
<b>Purpose</b>	<p>Recognize an increasingly common on-farm activity related to hosting SOEs that provides preserved farm landowners opportunity for additional income that is accessory to the overall farming operation and increases community access to preserved farmland.</p> <p>Improve the farm-public interface, and in doing so, expand support for NJ farms and the Farmland Preservation Program.</p> <p>Recognize the unique nature of the wine industry including the statutory and regulatory limits wineries have on the ability to market their agriculture product</p> <p>Recognize the culturally unique “social” nature of wine as an agricultural product</p>	<p>Proposed parameters are for all preserved farms, both wineries and non-wineries.</p> <p><b>These events are NOT considered eligible for RTF protection.</b></p>
<b>Examples</b>	<p>Public and private Events – e.g., community day; fundraiser; movie night; concert; wedding; retreat; private party</p>	
<b>Size and Frequency For Non-Wineries</b>	<p><b>Total # of events permitted (for all farms):</b></p> <p><b>a. For farms with at least \$10,000 in agricultural production value on the commercial farm:</b></p> <ul style="list-style-type: none"> <li>- Up to 8 SOEs per year</li> <li>- 1 of 8 events can have &gt;250 ppl</li> </ul> <p><b>b. For farms with &gt;\$50,000 in agricultural production value on the commercial farm:</b></p> <ul style="list-style-type: none"> <li>- Up to 15 SOEs per year</li> <li>- Up to 2 of 15 events can have &gt;250 ppl</li> </ul>	<p>Farms &lt; \$10,000 in agricultural production value are not permitted any SOEs</p> <p>Two brackets of event allowability, 8 &amp; 15, related to the extent of agricultural productivity. Farms with greater ag productivity qualify for a greater number of events.</p> <p>Income will be determined from FA1 forms submitted; GIS mapping of farm’s soil productivity will be used to confirm feasibility.</p>



**Special Occasion Events (SOEs) on Preserved Farmland**  
**DRAFT – 9/26/2019**

Evaluation Factor	Parameters	Notes
<p align="center"><b>Size and Frequency For Wineries</b></p>	<p><b>Total # of events permitted:</b></p> <p><b><u>Same as for non-wineries, OR:</u></b></p> <p><b>c. For farms with &gt; \$50,000 in grape/fruit production value on the commercial farm:</b></p> <ul style="list-style-type: none"> <li>- Up to 26 SOEs per year <u>provided certain conditions are met.</u></li> <li>- Up to 4 events can have &gt;250 ppl</li> </ul> <p><b>d. For farms with &gt; \$100,000 in grape/fruit production value on the commercial farm:</b></p> <ul style="list-style-type: none"> <li>- Up to 52 SOEs per year <u>provided certain conditions are met.</u></li> <li>- Up to 6 events can have &gt;250 ppl</li> </ul> <p><b><u>Conditions:</u></b></p> <ul style="list-style-type: none"> <li>- No more than <b>25% of gross income</b> of the winery may come from SOE activities</li> <li>- At least <b>50% of grapes processed by the winery</b> must come from the commercial farm</li> </ul>	<p>SOE income received by entities closely related to winery owner will count as SOE income of the winery.</p>
<p align="center"><b>Duration</b></p>	<p align="center">1 day or less</p>	<p>2-day event counts as 2 events</p>
<p align="center"><b>Eligible for RTF Protection</b></p>	<p align="center">No</p>	<p>These standards apply to events for which RTF is not obtained.</p>
<p align="center"><b>Subject to municipal land use approvals</b></p>	<p align="center">Yes</p>	<p>Landowner must secure all required local approvals and permits.</p>

## Special Occasion Events (SOEs) on Preserved Farmland

**DRAFT – 9/26/2019**

<b>Evaluation Factor</b>	<b>Parameters</b>	<b>Notes</b>
<b>Occupied Area</b>	<p>Up to 2.5 acres or 5 percent of the premises, whichever is greater, up to a maximum of 5 acres.</p> <p>Any impacts to the occupied area are minimal to ensure protection of ag resources and that land can readily be returned to productive ag use at the conclusion of the SOE.</p>	<p>Occupied area means the area of the premises (does not apply to exception areas) devoted to supporting the SOE, including but not limited to areas for parking, vendors, gatherings, tents, porta potties, etc.</p>
<b>Infrastructure</b>	<p>Existing buildings &amp; temporary tents</p> <p>No new permanent infrastructure, buildings or building improvements</p> <p>Temporary infrastructure permitted, e.g., seating, stage, removable fire pit, etc.</p> <p>No other disturbance of the site permitted</p>	<p>All buildings and outdoor space utilized are included in occupied area.</p> <p>Temporary infrastructure must be removed within 7 days following the SOE and not result in any residual impact to the land.</p>
<b>Utilities</b>	<p>No new utilities, but allow temporary utilities, e.g., portable generators</p>	<p>Included in occupied area</p>
<b>Sanitary Facilities</b>	<p>Allow temporary porta-potties</p>	<p>Included in occupied area</p>
<b>Parking</b>	<p>Existing parking areas, curtilage and grassed areas for temporary parking, to the maximum extent practicable</p> <p>Temporary parking and offsite parking</p> <p>Temporary parking must comply with standards in N.J.A.C. 2:76-2A.13(h)4.</p>	<p>Included in occupied Area</p>

**Special Occasion Events (SOEs) on Preserved Farmland**  
**DRAFT – 9/26/2019**

<b>Evaluation Factor</b>	<b>Parameters</b>	<b>Notes</b>
<b>Vendors / Food Offerings</b>	Permitted – e.g., catering, food vendors; other farms’ output; food trucks; jewelry/crafts	Included in occupied area  Need to prevent “restaurants” from being created, particularly on wineries; unlevel playing field among wineries, breweries and distilleries
<b>CADB Approval/Registration Process</b>	CADB approval required for all events to evaluate potential impact to the farm.  <b>Pre-Approvals</b> – A landowner may annually submit to the CADB a plan for hosting SOEs. If plan is approved, a landowner may submit registration for individual events throughout the year provided the events are consistent with the plan and do not exceed 250 ppl. Registration submitted 10 days prior to SOE.  <b>Individual Approvals</b> – For events with greater than 250 ppl, or not covered by pre-approval, CADB review and approval is required. Request for approval must be submitted to CADB 60 days in advance. CADB must copy municipality on requests and SADC on approvals.	Copy of all applications need to be submitted to the municipality at least 30 days in advance.  Copy of applications for over 250 ppl to be sent to neighbors (like SSAMP).  Plan to include property boundary, defined occupied area, areas of public assembly, parking etc.
<b>Local Approvals</b>	Landowner required to secure all necessary approvals. If site plan is required, a copy should be provided to the CADB and SADC.	
<b>Relationship to OFDM AMP</b>	In addition to AMP authorized activities/events.	<b>Landowner must obtain SSAMP to determine what events are covered under the SSAMP. All others will be considered SOEs.</b>

**Special Occasion Events (SOEs) on Preserved Farmland**  
**DRAFT – 9/26/2019**

<b>Evaluation Factor</b>	<b>Parameters</b>	<b>Notes</b>
<b>Enforcement</b>	<ul style="list-style-type: none"> <li>• SADC/County or NP easement holder has right to inspect to confirm compliance.</li> <li>• For suspected violations, the SADC or CADB is required to hear the matter at a regularly scheduled meeting and issue its decision. CADB/NP decisions subject to appeal to SADC.</li> <li>• If a violation is found to have occurred, landowner receives written warning.</li> <li>• Second and subsequent offenses result in revocation of permit to hold SOEs for some period of time (TBD) and subject to fines.</li> </ul>	

DRAFT  
FOR DISCUSSION ONLY



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

**NO. PC4-20-\_\_\_\_\_**

**TITLE:** Issuing an Order to Certify the Folsom Borough 2018 Master Plan Reexamination Report and Ordinance 07-2019, Amending Chapter 170 (Subdivision and Land Development) and Chapter 200 (Zoning) of the Code of Folsom Borough

**Commissioner \_\_\_\_\_ moves and Commissioner \_\_\_\_\_ seconds the motion that:**

**WHEREAS**, on November 3, 1989, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of the Borough of Folsom; and

**WHEREAS**, Resolution #PC4-89-143 of the Pinelands Commission specified that any amendment to the Borough’s certified Master Plan and codified Land Use Ordinances be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 (Submission and Review of Amendments to Certified Master Plans and Land Use Ordinances) of the Comprehensive Management Plan to determine if said amendment raises a substantial issue with respect to conformance with the Pinelands Comprehensive Management Plan; and

**WHEREAS**, Resolution #PC4-89-143 further specified that any such amendment shall only become effective as provided in N.J.A.C. 7:50-3.45 of the Comprehensive Management Plan; and

**WHEREAS**, on November 28, 2018, the Planning Board of the Borough of Folsom adopted Planning Board Resolution 07-2018, approving the Folsom Borough 2018 Master Plan Reexamination Report and incorporating into the Borough’s 2007 Master Plan revised goals and objectives, a Housing Element, and a Recreational Element; and

**WHEREAS**, the Pinelands Commission received a certified copy of Planning Board Resolution 07-2018 and the 2018 Master Plan Reexamination Report on February 4, 2019; and

**WHEREAS**, the 2018 Master Plan Reexamination Report includes rezoning recommendations requiring the adoption of one or more implementing ordinances; and

**WHEREAS**, pursuant to N.J.A.C. 7:50-3.32 of the Comprehensive Management Plan, the Executive Director cannot accept a master plan amendment for formal review and certification without an adopted ordinance that implements said master plan, unless no such ordinance is necessary; and

**WHEREAS**, by letter dated February 27, 2019, the Executive Director notified the Borough of Folsom that the 2018 Master Plan Reexamination Report would be deemed incomplete until such time that the necessary implementing ordinances were adopted and submitted to the Commission for certification; and

**WHEREAS**, on December 10, 2019, the Borough of Folsom adopted Ordinance 07-2019, amending Chapter 170 (Subdivision and Land Development) and Chapter 200 (Zoning) of the Code of Folsom Borough to implement recommendations of the 2018 Master Plan Reexamination Report; and

**WHEREAS**, the Pinelands Commission received a certified copy of Ordinance 07-2019 on December 12, 2019; and

**WHEREAS**, by letter dated December 20, 2019, the Executive Director notified the Borough that its 2018 Master Plan Reexamination Report and Ordinance 07-2019 would require formal review and approval by the Pinelands Commission; and

**WHEREAS**, a public hearing to receive testimony concerning the Borough’s application for certification of its 2018 Master Plan Reexamination Report and Ordinance 07-2019 was duly advertised,

noticed and held on January 8, 2020 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m.; and

**WHEREAS**, the Executive Director has found that the 2018 Master Plan Reexamination Report and Ordinance 07-2019 are consistent with the standards and provisions of the Pinelands Comprehensive Management Plan; and

**WHEREAS**, the Executive Director has submitted a report to the Commission recommending issuance of an order to certify that the 2018 Master Plan Reexamination Report and Ordinance 07-2019 are in conformance with the Pinelands Comprehensive Management Plan; and

**WHEREAS**, the Commission’s CMP Policy and Implementation Committee has reviewed the Executive Director’s report and has recommended that the 2018 Master Plan Reexamination Report and Ordinance 07-2019 be certified; and

**WHEREAS**, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning the 2018 Master Plan Reexamination Report and Ordinance 07-2019 and has reviewed the Executive Director’s report; and

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

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

**NOW, THEREFORE BE IT RESOLVED** that

1. An Order is hereby issued to certify that the Folsom Borough 2018 Master Plan Reexamination Report and Ordinance 07-2019, Amending Chapter 170 (Subdivision and Land Development) and Chapter 200 (Zoning) of the Code of Folsom Borough, are in conformance with the Pinelands Comprehensive Management Plan.
2. Any additional amendments to the Borough of Folsom’s certified Master Plan and Land Use Ordinances shall be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 to determine if said amendments raise a substantial issue with respect to the Comprehensive Management Plan. Any such amendment shall become effective only as provided in N.J.A.C. 7:50-3.45.

**Record of Commission Votes**

AYE NAY NP A/R*				AYE NAY NP A/R*				AYE NAY NP A/R*			
Ashmun				Irick				Quinn			
Avery				Jannarone				Rohan Green			
Christy				Lloyd				Prickett			
Earlen				Lohbauer							
Howell				Pikolycky							

\*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: \_\_\_\_\_

\_\_\_\_\_  
Nancy Wittenberg  
Executive Director

\_\_\_\_\_  
Richard Prickett  
Chairman



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



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

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

RICHARD PRICKETT  
 Chairman  
 NANCY WITTENBERG  
 Executive Director

**REPORT ON THE FOLSOM BOROUGH 2018 MASTER PLAN REEXAMINATION REPORT AND ORDINANCE 07-2019, AMENDING CHAPTER 170 (SUBDIVISIONS AND LAND DEVELOPMENT) AND CHAPTER 200 (ZONING) OF THE CODE OF FOLSOM BOROUGH**

January 24, 2020

Folsom Borough  
 1700 12th Street  
 Folsom, NJ 08037

**FINDINGS OF FACT**

I. **Background**

The Borough of Folsom is located in the southwestern portion of the Pinelands Area in western Atlantic County. Pinelands municipalities adjacent to Folsom Borough include the Townships of Buena Vista and Hamilton as well as the Town of Hammonton in Atlantic County; the Township of Monroe in Gloucester County; and the Township of Winslow in Camden County.

On November 3, 1989, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of the Borough of Folsom.

In 2017, Folsom Borough began working with the New Jersey Department of Community Affairs (DCA), Office of Local Planning Services, on the development of a master plan reexamination report. Commission staff was consulted during the Borough’s master plan reexamination process, specifically on possible ways that the Borough could promote greater opportunities for non-residential development along the Black Horse Pike. The Black Horse Pike is one of three arterial roads within the Borough and serves as its primary commercial corridor. Development along the corridor is constrained due to the presence of expansive wetlands systems in the area. Going back to the Borough’s original certification in 1989, Commission staff has provided assistance in developing zoning plans along the Black Horse Pike that balance the protection of these wetland systems, while providing limited opportunities for development in appropriate areas.

Various zoning scenarios along the Black Horse Pike were proposed by DCA and the Borough and evaluated by Commission staff. The Borough initially sought to expand its existing Forest Commercial (FC) district along the Black Horse Pike. The FC district is located within the Pinelands Forest Area. Its boundaries were established consistent with the CMP’s provisions for roadside retail sales and service establishments (N.J.A.C. 7:50-5.23(b)6). Those provisions require that no portion of any proposed

roadside retail sales and service establishment structure be more than 300 feet from an existing roadside retail sales and service establishment structure in existence on February 7, 1979. Based on an evaluation of structures in the vicinity, staff concluded that the FC district could not be expanded any further without violating those CMP provisions.

The possibility of expanding the Borough's existing Pinelands Rural Development Area at the eastern end of the Black Horse Pike was then explored. Pinelands Rural Development Areas are permitted to have a variety of commercial uses that are not limited by the presence or absence of other pre-existing commercial uses in the vicinity. Lots zoned Forest Area (F-20) with frontage along the Black Horse Pike and significant upland areas were identified as possible candidates for rezoning to a new Rural Development Commercial (RDC) district that could also incorporate commercially developed properties already in the Rural Development Area. To balance such an increase in the size of the Rural Development Area, staff also identified lands for the Borough's consideration that appeared appropriately suited for a Pinelands Management Area redesignation from Rural Development Area to Forest Area.

On November 28, 2018, the Folsom Borough Planning Board adopted Planning Board Resolution 07-2018, approving the Borough's 2018 Master Plan Reexamination Report, and incorporating into the Borough's 2007 Master Plan a set of revised goals and objectives, a Housing Element, and a Recreational Element contained as appendices to the report. The Pinelands Commission received a certified copy of Planning Board Resolution 07-2018 and the 2018 Master Plan Reexamination Report on February 4, 2019.

The 2018 Master Plan Reexamination Report includes recommendations requiring the adoption of implementing ordinances, including recommendations for changes in zoning district boundaries and permitted uses. By letter dated February 27, 2019, the Executive Director notified the Borough of Folsom that, pursuant to N.J.A.C. 7:50-3.32, the 2018 Master Plan Reexamination Report would be deemed incomplete until such time that the necessary implementing ordinances were adopted and submitted to the Commission for certification.

On December 10, 2019, the Borough of Folsom adopted Ordinance 07-2019, amending Chapter 170 (Subdivision and Land Development) and Chapter 200 (Zoning) of the Code of Folsom Borough. Ordinance 07-2019 implements recommendations of the Borough's 2018 Master Plan Reexamination Report. The ordinance adopts a revised zoning map that establishes the boundaries of a new Rural Development Commercial (RDC) district and reflects the rezoning of land between the Pinelands Forest and Rural Development Areas. The ordinance also repeals and replaces the Borough's conservation subdivision provisions with the CMP's mandatory clustering provisions, and includes other miscellaneous zoning amendments described below.

The Pinelands Commission received a certified copy of Ordinance 07-2019 on December 12, 2019. By letter dated December 20, 2019, the Executive Director notified the Borough that its 2018 Master Plan Reexamination Report and Ordinance 07-2019 would require formal review and approval by the Pinelands Commission.



## II. Master Plans and Land Use Ordinances

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

- \* Planning Board Resolution 07-2018, approving the Folsom Borough 2018 Master Plan Reexamination Report and amendments to the 2007 Master Plan contained in the report, adopted November 28, 2018; and
- \* Ordinance 07-2019, Amending Chapter 170 (Subdivision and Land Development) and Chapter 200 (Zoning) of the Code of Folsom Borough, introduced on October 1, 2019 and adopted on December 10, 2019.

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

### 1. **Natural Resource Inventory**

Not applicable.

### 2. **Required Provisions of Master Plans and Land Use Ordinances Relating to Development Standards**

#### *2018 Master Plan Reexamination Report*

Folsom Borough's 2018 Master Plan Reexamination Report incorporates into the Borough's 2007 Master Plan a set of revised goals and objectives, a Housing Element, and a Recreational Element. The revised goals and objectives are based on a review of the 2007 Master Plan, taking into consideration current conditions and planning approaches. The Housing Element provides data and analysis on the Borough's housing stock, and considers approaches to meeting current and future housing needs. The Housing Element does not have an affiliated Fair Share Plan. The Recreational Element provides an inventory of existing recreational facilities, an analysis of current and future community recreational needs, and recommendations for strengthening recreational opportunities. The adopted Master Plan goals and objectives, Housing Element, and Recreational Element are consistent with the land use and development standards of the Comprehensive Management Plan.

The Reexamination Report also makes specific recommendations pertaining to the Master Plan Land Use Element, including the establishment of a new Rural Development Commercial (RDC) district along the Black Horse Pike as well as implementation of amendments made to the Pinelands CMP in recent years. The Reexamination Report includes as appendices three draft ordinances that implement these recommendations: a draft ordinance establishing the RDC district (Appendix D); a draft ordinance that responds to three sets of CMP amendments adopted between 2012 and 2018 (Appendix E); and a draft ordinance adopting the CMP's mandatory clustering provisions (Appendix F). Appendix E was adopted as Ordinance 02-2019 and found to

raise no substantial issues with respect to CMP standards by letter dated March 18, 2019. Since the adoption of the Reexamination Report, Appendix D and F were combined into a single ordinance, and adopted as Ordinance 07-2019.

### ***Ordinance 07-2019***

#### **Zoning Boundary and Pinelands Management Area Changes**

Ordinance 07-2019 implements the Reexamination Report's recommended zoning amendments. The ordinance establishes the RDC district with the following permitted uses: community commercial uses, agricultural products sales establishments, agricultural processing facilities and other light industrial uses, as well as recreational facilities other than amusement parks. The RDC district conditionally permits nursery schools and day-care centers, institutional uses, and public service infrastructure. Single family detached dwellings existing at the time of ordinance adoption are permitted; however, new residential development is not a permitted use.

Ordinance 07-2019 also adopts a revised Borough zoning map (see exhibit 1) that delineates the RDC district as well as necessary offsets. The new RDC district is located along the Black Horse Pike and is made up of 13 lots, containing a total of approximately 62 acres (see exhibits 2 and 3, Table 1). These lots have frontage on the Black Horse Pike, are undeveloped, and have significant upland areas, all of which make them suitable for development. Three of those lots were wholly or partially within the Borough's F-20 district within the Pinelands Forest Area (approximately 49.3 acres), while the balance of lots were within the Borough's RD district within the Pinelands Rural Development Area (approximately 12.5 acres). The lots from the RD district contain existing commercial uses suitable for inclusion in the RDC district.

To balance the redesignation of lands from the Forest to the Rural Development Areas, Ordinance 07-2019 rezones 69 lots totaling approximately 76 acres from the RD district in the Rural Development Area to the F-30 district in the Forest Area (see exhibits 4 and 5). The rezoned lots are undeveloped, include significant wetlands and/or wetlands transition areas, and, with the exception of three undersized lots, are owned by the State or the Borough. Redesignation to the Forest Area is therefore an appropriate reflection of their extremely limited development potential.

**Table 1. Summary of Zoning and Pinelands Management Area Changes**

<b>Municipal Zoning Change</b>	<b>Pinelands Management Area Change</b>	<b>Quantity of Lots</b>	<b>Area (in acres)</b>
F-20 to RDC	Forest Area to Rural Development Area	3*	49.3
RD to RDC	No Change	11*	12.5
RD to F-30	Rural Development Area to Forest Area	69**	76

\*One lot rezoned to RDC was split between the F-20 and RD districts.

\*\*Two lots rezoned to F-30 were split between the RD and F-30 districts.

Ordinance 07-2019 also establishes standards in the RDC district for lot area, yard, bulk, building length, landscaping and screening, and parking. The RDC district requires a minimum lot size of one acre. Portions of the three lots that are rezoned from F-20 to RDC appear to include some wetlands transition areas (see exhibit 3). All development on these lots will still be required to meet wetlands buffer requirements and all other environmental standards of the CMP.

### **Forest Commercial (FC) District Permitted Uses**

Ordinance 07-2019 amends the FC district regulations to eliminate residential uses as a permitted use. The Forest Commercial district is located along the Black Horse Pike within the Pinelands Forest Area. The district is divided into a Forest Commercial Sending (FC-S) area and a Forest Commercial Receiving (FC-R) area. This zoning plan was established to provide the opportunity for new commercial development to be clustered on parcels in the receiving area while utilizing contiguous commonly-owned parcels in the sending area for septic dilution purposes. Although the FC district is targeted for commercial development, residential development was permitted in both the FC-R and FC-S areas. The Reexamination Report recommended that non-residential development should be specifically targeted in these districts and that new residential development should no longer be permitted. The ordinance provides that single family detached dwellings existing at the time of ordinance adoption are permitted.

In the FC-R area, a variety of nonresidential uses will continue to be permitted, including roadside retail sales and service establishments, bars, taverns and nightclubs, garden centers, banks, auto car washes, sales and service centers, hotels, motels, theaters, offices, commercial trade training facilities and like uses to serve Pinelands residents and travelers. Other uses, such as forestry, fish and wildlife management, accessory uses, agriculture and low intensity recreational facilities will continue to be permitted in both the FC-R and FC-S areas.

### **Mandatory Clustering Provisions**

Ordinance 07-2019 repeals the Borough's conservation subdivision provisions and establishes mandatory clustering provisions consistent with the 2009 CMP clustering amendments (N.J.A.C. 7:50-5.19). Prior to 2009, Pinelands Area municipalities had the option of permitting cluster development in both the Pinelands Forest and Rural Development Management Areas. In 2007, under these optional clustering provisions, the Borough adopted a conservation subdivision ordinance (Ordinance 15-2007), which was certified by the Commission on April 11, 2008.

In 2009, the Pinelands Commission adopted amendments to the CMP requiring mandatory residential cluster development in the Pinelands Forest and Rural Development Management Areas. Upon adoption of these CMP amendments, municipalities with land in the Pinelands Forest and Rural Development Areas were required to adopt these mandatory clustering provisions. The Borough was not required to amend its ordinance since it had recently adopted a conservation subdivision ordinance. Although the Borough's conservation subdivision provisions were slightly different than the CMP's mandatory clustering provisions, Commission staff deemed them to be substantially consistent with the CMP. During the reexamination process the Borough determined that it should repeal and replace its conservation subdivision standards with the CMP's clustering standards to ensure that no issues arise during the review of any future clustering development application.

Ordinance 07-2019 permits residential cluster development in the Borough's Forest Area (F-20 and F-30) districts as well as the RD district. It requires that the proposed residential development of two or more units be clustered on 1-acre lots, with the balance of the parcel deed restricted as open space. The number of residential lots permitted within a cluster development is calculated based on the size of the parcel and the residential density of the underlying zoning district. For example, in the Borough's F-20 district, where the permitted density is one residential unit per 20 acres, a 100-acre parcel would be permitted to have five residential units clustered on 1-acre lots. The ordinance also contains bonus density opportunities to parcels of 50

acres or more. This bonus density ranges from 20% to 40%, depending on the size of the parcel and the permitted density of the district it is located within. The larger the parcel and the lower the permitted density, the larger the percentage of bonus density provided. For the example given above, the 100-acre parcel in the F-20 district would receive a 25% bonus, which would yield one additional residential unit, for a total of six units.

Lastly, the ordinance provides standards applicable to the location and design of the clustered residential development area as well as the remaining open space of the parcel. The ordinance requires that the open space area be permanently protected through recordation of a deed of conservation restriction. Permitted uses in the open space area are limited to low intensity recreation, ecological management, and forestry, all of which are subject to specific limitations on clearing and impervious surface. Open space areas with existing agricultural uses are permitted to continue and may expand if certain conditions related to impervious surface and the preparation of a Resource Management System Plan are met. If a cluster development applicant elects to continue or expand an existing agricultural use on the parcel, the ordinance requires that all new dwelling units in the cluster development utilize on-site septic waste water treatment systems designed to reduce the level of nitrate/nitrogen in the waste water.

### **Development Transfer Program**

Ordinance 07-2019 revises the provisions of the Borough's development transfer program consistent with the 2009 CMP development transfer amendments (N.J.A.C. 7:50-5.30). These revisions clarify the types of uses that may be permitted on noncontiguous lands used to meet density requirements. The ordinance requires that the noncontiguous area be permanently protected through recordation of a deed of conservation restriction. Permitted uses in the protected area are limited to low intensity recreation, ecological management, and forestry, all of which are subject to specific limitations on clearing and impervious surface. Protected areas with existing agricultural uses are permitted to continue and may expand if certain conditions related to impervious surface and the preparation of a Resource Management System Plan are met.

The Folsom Borough 2018 Master Plan Reexamination Report, and adopted amendments to the 2007 Master Plan, as well as Ordinance 07-2019 are consistent with the land use and development standards of the Comprehensive Management Plan. This standard for certification is met.

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

Not applicable.

### **4. Requirement for Municipal Review and Action on All Development**

Not applicable.

### **5. Review and Action on Forestry Applications**

Not applicable.

**6. Review of Local Permits**

Not applicable.

**7. Requirement for Capital Improvement Program**

Not applicable.

**8. Accommodation of Pinelands Development Credits**

Not applicable.

**9. Referral of Development Applications to Environmental Commission**

Not applicable.

**10. General Conformance Requirements**

The 2018 Master Plan Reexamination Report and Ordinance 07-2019 are consistent with the standards and provisions of the Pinelands Comprehensive Management Plan.

Therefore, this standard for certification is met.

**11. Conformance with Energy Conservation**

Not applicable.

**12. Conformance with the Federal Act**

The 2018 Master Plan Reexamination Report and Ordinance 07-2019 are consistent with the standards and provisions of the Pinelands Comprehensive Management Plan. No special issues exist relative to the Federal Act.

Therefore, this standard for certification is met.

**13. Procedure to Resolve Intermunicipal Conflicts**

Ordinance 07-2019 adopts a revised zoning map, and establishes a new RDC district along the Black Horse Pike. The newly established district contains a parcel that abuts the border with Hamilton Township. The lot contains an existing gas station, which is a permitted use under both the current and proposed zoning designation. Opposite the parcel within Hamilton Township, there exists a

Highway Commercial district that also permits a variety of non-residential uses. The adopted zoning map also rezones seven lots from RD to F-30 that are adjacent to the border with Monroe Township. These lots are undeveloped with severely limited development potential due to the presence of wetlands and wetland transition areas. As such, intermunicipal conflicts are not anticipated with any of the bordering municipalities of the Borough.

Therefore, this standard for certification is met.

### **PUBLIC HEARING**

A public hearing to receive testimony concerning Folsom Borough's application for certification of its 2018 Master Plan Reexamination Report and Ordinance 07-2019 was duly advertised, noticed and held on January 8, 2020 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m. Ms. Grogan conducted the hearing, at which no testimony was received.

Written comments on the 2018 Master Plan Reexamination Report and Ordinance 07-2019 were accepted through January 13, 2020. However, no written comments were received.

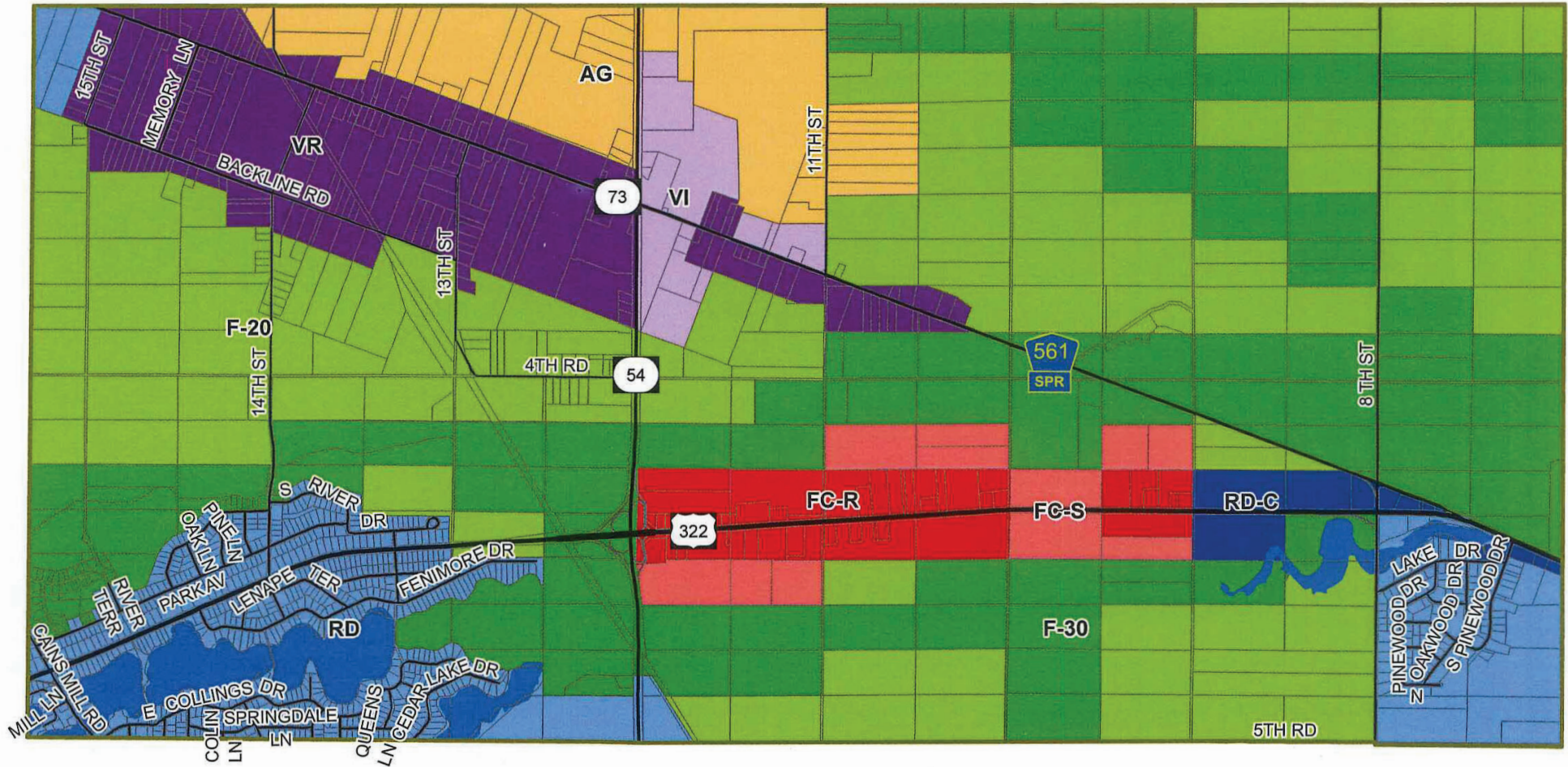
### **CONCLUSION**

Based on the Findings of Fact cited above, the Executive Director has concluded that the Folsom Borough 2018 Master Plan Reexamination Report and Ordinance 07-2019, amending Chapter 170 (Subdivision and Land Development) and Chapter 200 (Zoning) of the Code of Folsom Borough, comply with the Comprehensive Management Plan standards for the certification of municipal master plans and land use ordinances. Accordingly, the Executive Director recommends that the Commission issue an order to certify the 2018 Master Plan Reexamination Report and Ordinance 07-2019 of Folsom Borough.

SRG/DBL/CFO  
Attachments

# Folsom Borough Zoning District Map

Executive Director's Report  
Folsom 2018 MP Reex Report,  
Ordinance 07-2019  
Exhibit 1  
1/24/2020



## Zoning Districts

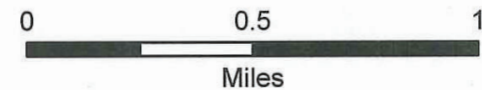
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|---|---|--|
|  Agricultural Production (AG) |  Forest Commercial Receiving (FC-R)  |  Rural Development (RD)   |
|  Forest Area (F-20)           |  Forest Commercial Sending (FC-S)    |  Village Industrial (VI)  |
|  Forest Area (F-30)           |  Rural Development Commercial (RD-C) |  Village Residential (VR) |



**BOROUGH OF  
FOLSOM  
NEW JERSEY**



Date Prepared: October 2018



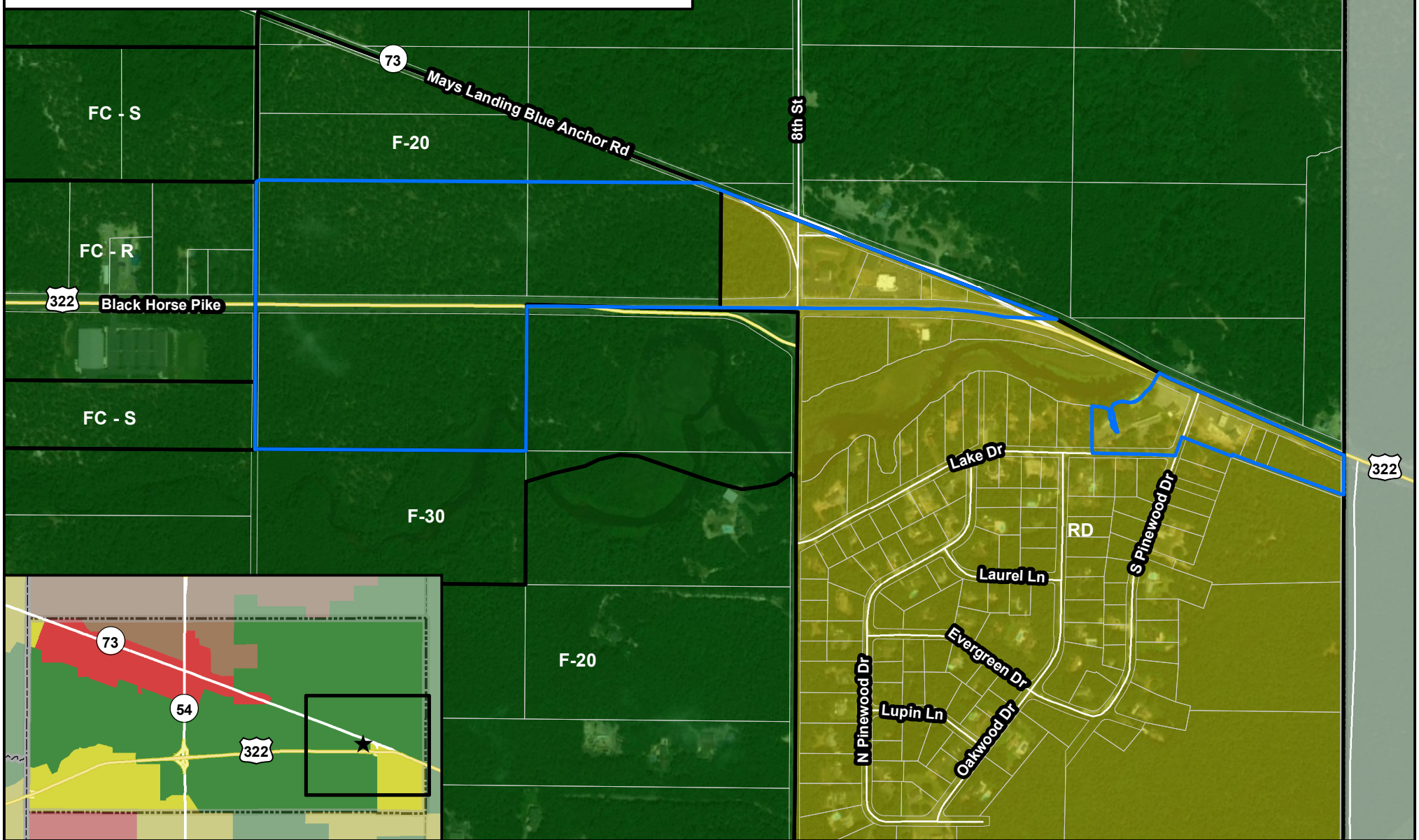
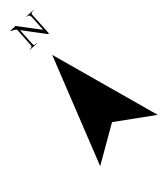
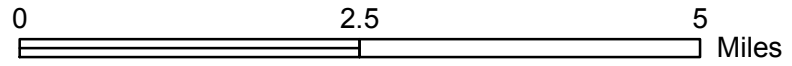
Sources: NJOGIS, NJDCA,  
Borough of Folsom

# Existing Conditions of Lots to be Rezoned

Executive Director's Report  
Folsom 2018 MP Reex Report,  
Ordinance 07-2019  
Exhibit 2  
1/24/2020

## Pinelands Management Areas

- Pinelands Forest Area
- Rural Development Area
- Pinelands Village
- Lots Rezoned RDC
- Parcels
- Existing Zoning



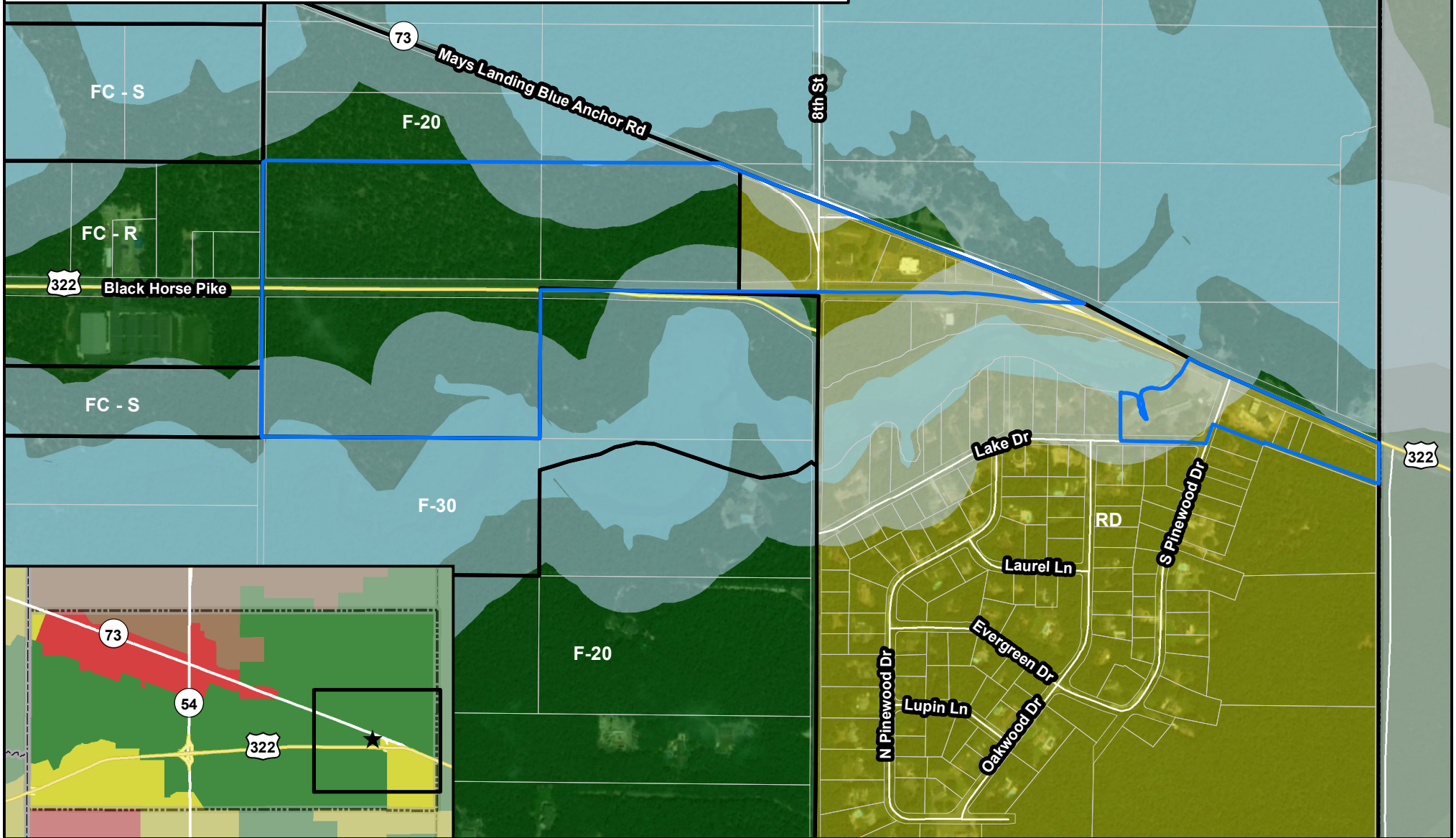
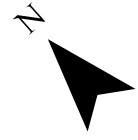
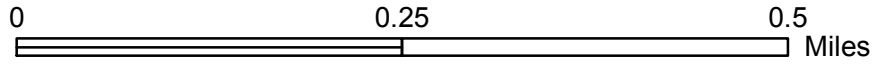


# Existing Conditions of Lots to be Rezoned

Executive Director's Report  
Folsom 2018 MP Reex Report,  
Ordinance 07-2019  
Exhibit 3  
1/24/2020

## Pinelands Management Areas







- Pinelands Forest Area
- Rural Development Area
- Pinelands Village
- Lots Rezoned RDC
- Parcels
- Existing Zoning
- Pinelands Wetlands
- Pinelands 300' Buffer

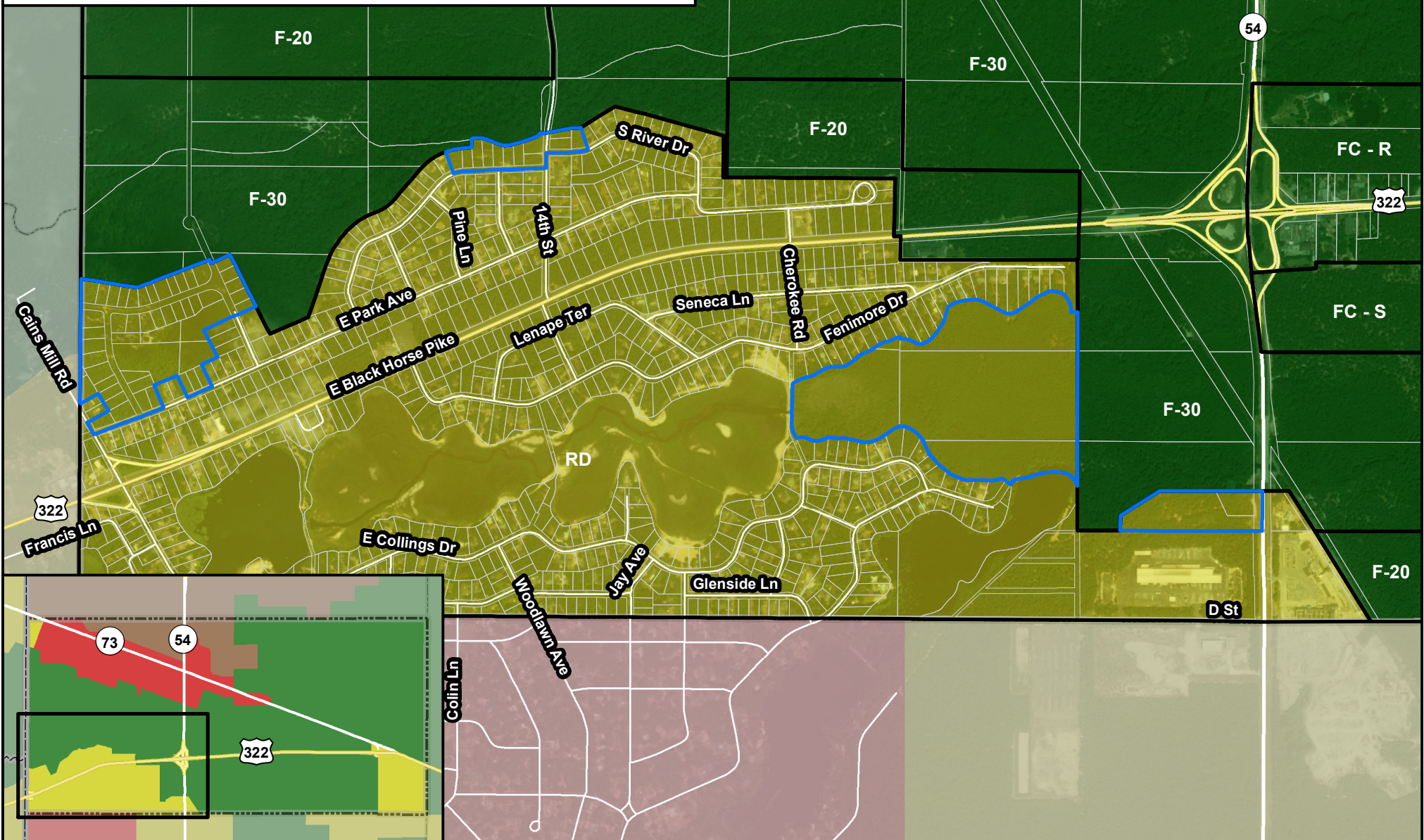
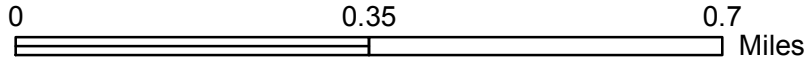
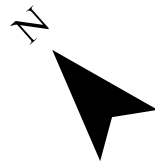


# Existing Conditions of Lots to be Rezoned

Executive Director's Report  
Folsom 2018 MP Reex Report,  
Ordinance 07-2019  
Exhibit 4  
1/24/2020

## Pinelands Management Areas

-  Pinelands Forest Area
-  Rural Development Area
-  Pinelands Village
-  Lots Rezoned F-30
-  Parcels
-  Existing Zoning



# Existing Conditions of Lots to be Rezoned

Executive Director's Report  
 Folsom 2018 MP Reex Report,  
 Ordinance 07-2019  
 Exhibit 5  
 1/24/2020

## Pinelands Management Areas

- Pinelands Forest Area
- Rural Development Area
- Pinelands Village
- Lots Rezoned F-30
- Parcels
- Existing Zoning
- Pinelands Wetlands
- Pinelands 300' Buffer

