



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-19- 04

TITLE: Approving With Conditions an Application for Public Development (Application Number 2015-0066.003)

Commissioner Lohbauer moves and Commissioner Galletta seconds the motion that:

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

2015-0066.003	
Applicant:	Camden County Department of Public Works
Municipality:	Winslow Township
Management Area:	Pinelands Forest Area
Date of Report:	January 18, 2019
Proposed Development:	Improvements to the New Brooklyn Lake Dam.

WHEREAS, the improvements to the existing New Brooklyn Lake Dam occurred on a parcel without application to, and approval by, the Commission and constitutes a violation of the application requirements of the Pinelands Comprehensive Management Plan (CMP); and

WHEREAS, the applicant has completed this application with the Pinelands Commission to address the violation; and

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

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

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

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

NOW, THEREFORE BE IT RESOLVED that Application Number 2015-0066.003 for public development is hereby approved subject to the conditions recommended by the Executive Director.

Record of Commission Votes

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

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: February 8, 2019

Nancy Wittenberg
Executive Director

Sean W. Earlen
Chairman



State of New Jersey

THE PINELANDS COMMISSION

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NEW LISBON, NJ 08064

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PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

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

SEAN W. EARLEN
Chairman
NANCY WITTENBERG
Executive Director

January 18, 2019

Ms. Kevin Becica, PE (via email)
Camden County Department of Public Works
2311 Egg Harbor Road
Lindenwold, NJ 08021

Re: Application # 2015-0066.003
Block 4201, Lot 1
Block 4307, Lot 1
Winslow Township

Dear Ms. Becica:

The Commission staff has completed its review of this application for improvements to the New Brooklyn Lake Dam. Enclosed is a copy of a Public Development Application Report. On behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its February 8, 2019 meeting.

The dam improvements were developed prior to completion of an application with the Commission. This constitutes a violation of the application requirements of the Pinelands Comprehensive Management Plan. Completion of this application is intended to address that violation.

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

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

Sincerely

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

Enc: Appeal Procedure



- c: Secretary, Winslow Township Planning Board (via email)
- Winslow Township Construction Code Official (via email)
- Winslow Township Environmental Commission (via email)
- Secretary, Camden County Planning Board (via email)
- Toni Sapio (via email)



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Application Specific Information: AppInfo@pinelands.nj.gov

SEAN W. EARLEN
Chairman
NANCY WITTENBERG
Executive Director

PUBLIC DEVELOPMENT APPLICATION REPORT

January 18, 2019

Ms. Kevin Becica, PE (via email)
Camden County Department of Public Works
2311 Egg Harbor Road
Lindenwold, NJ 08021

Application No.: 2015-0066.003
Block 4201, Lot 1
Block 4307, Lot 1
Winslow Township

This application proposes improvements to the existing New Brooklyn Lake Dam located on the above referenced 230.04 acre parcel in Winslow Township.

The application proposes the installation two gabion (stone) mattresses, totaling 4,782 square feet in area, on the eastern and western sides of the existing dam spillway.

The improvements to the dam occurred prior to completion of an application with the Commission. This constitutes a violation of the application requirements of the Pinelands Comprehensive Management Plan (CMP). Completion of this application is intended to address that violation.

STANDARDS

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

Land Use (N.J.A.C. 7:50-5.23)

The proposed development is located in a Pinelands Forest Area. The proposed improvements to the existing dam are a permitted use as a modification of an existing structure.

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

There are wetlands located within the project area. The CMP prohibits most development in wetlands and requires a buffer of up to 300 feet to wetlands.

The dam improvements will be located within wetlands and the required buffer to wetlands. The proposed development will result in the disturbance of approximately 0.164 acres of wetlands. The CMP

permits linear improvements, such as dams, in wetlands and the required buffer to wetlands provided an applicant demonstrates that certain conditions are met. The applicant has demonstrated that there is no feasible alternative for the proposed development that does not involve development in wetlands and the required buffer to wetlands or that will result in a less significant adverse impact to wetlands. In addition, the proposed development will not result in a substantial impairment of the resources of the Pinelands. With the conditions recommended below, all practical measures will be taken to mitigate the impact on wetlands and the required buffer to wetlands. The applicant has indicated that the dam was previously damaged by storm events and the improvements are necessary to protect the existing dam structure and meet the New Jersey Department of Environmental Protection (NJDEP), Dam Safety requirements. The applicant has demonstrated the need for the proposed development overrides the importance of protecting the concerned wetlands.

The proposed wetlands disturbance requires a wetlands permit under the New Jersey Freshwater Wetlands Protection Act. A New Jersey Freshwater Wetlands General Permit 18 was issued by the NJDEP on September 28, 2018.

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

The proposed development will be located within open water and sand areas. The soil disturbance is limited to that which is necessary to accommodate the proposed development.

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

PUBLIC COMMENT

The CMP defines the proposed development as “minor” development. The CMP does not require public notice for minor public development applications. The application was designated as complete on the Commission’s website on December 12, 2018. The Commission’s public comment period closed on January 11, 2019. No public comment was submitted to the Commission regarding this application.

CONDITIONS

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, prepared by T&M Associates and dated September 21, 2018.
2. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.
3. Any proposed revegetation shall adhere to the “Vegetation” standards of the CMP. Where appropriate, the applicant is encouraged to utilize the following Pinelands native grasses for revegetation: Switch grass, Little bluestem and Broom-sedge.
4. Prior to any development, the applicant shall obtain any other necessary permits and approvals.
5. Prior to the construction of any portion of the proposed development which will result in the disturbance of any wetland area, a Freshwater Wetland Permit shall be obtained pursuant to the New Jersey Freshwater Wetlands Protection Act.

6. Appropriate measures shall be taken during construction to preclude sedimentation from entering wetlands and shall be maintained in place until all development has been completed and the area has been stabilized.

CONCLUSION

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



Philip D. Murphy
Governor

Sheila Y. Oliver
Lt. Governor

State of New Jersey

THE PINELANDS COMMISSION

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



Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

PINELANDS COMMISSION **APPEAL PROCEDURE**

The Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal any determination made by the Executive Director to the Commission in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted by someone meeting the definition of an interested party will be transmitted to the New Jersey Office of Administrative Law for a hearing. Any such appeal must be made in writing to the Commission and received at the Commission office no later than 4:00 PM on February 5, 2019 and include the following information:

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

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



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-19- 05

TITLE: Approving With Conditions an Application for Public Development (Application Number 2018-0098.001)

Commissioner Lohbauer moves and Commissioner Barr seconds the motion that:

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

2018-0098.001
Applicant: Cape May County
Municipality: Borough of Woodbine
Management Area: Pinelands Town
Date of Report: January 17, 2019
Proposed Development: Improvements to the Dehirsch Avenue right-of-way.

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

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

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

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

NOW, THEREFORE BE IT RESOLVED that Application Number 2018-0098.001 for public development is hereby approved subject to the conditions recommended by the Executive Director.

Record of Commission Votes

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

*A = Abstained, R = Recused

Adopted at a meeting of the Pinelands Commission

 Nancy Wittenberg
 Executive Director

Date: February 8, 2019

 Sean W. Earlen
 Chairman



State of New Jersey

THE PINELANDS COMMISSION

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Lt. Governor

General Information: Info@pinelands.nj.gov

Application Specific Information: AppInfo@pinelands.nj.gov

SEAN W. EARLEN

Chairman

NANCY WITTENBERG

Executive Director

January 17, 2019

Dale Foster (via email)
Cape May County
4 Moore Road
Cape May Court House, NJ 08210

Re: Application # 2018-0098.001
Dehirsch Avenue
Borough of Woodbine

Dear Mr. Foster:

The Commission staff has completed its review of this application for improvements to the Dehirsch Avenue right-of-way. Enclosed is a copy of a Public Development Application Report. On behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its February 8, 2019 meeting.

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

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

Sincerely,

Charles M. Horner, P.P.

Director of Regulatory Programs

Enc: Appeal Procedure

c: Secretary, Borough of Woodbine Planning Board (via email)
Borough of Woodbine Construction Code Official (via email)
Secretary, Cape May County Planning Board (via email)
Steven C. Morey, CEP (via email)
Nancy Lawrence, NJDEP





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SEAN W. EARLEN
Chairman
NANCY WITTENBERG
Executive Director

PUBLIC DEVELOPMENT APPLICATION REPORT

January 17, 2019

Dale Foster (via email)
Cape May County
4 Moore Road
Cape May Court House, NJ 08210

Application No.: 2018-0098.001
Dehirsch Avenue
Borough of Woodbine

This application proposes road improvements to the Dehirsch Avenue right-of-way in the Borough of Woodbine.

The application proposes to widen Dehirsch Avenue from 36 feet to 40 feet for 700 linear feet between Adams Avenue and Madison Avenue. The application also proposes the installation of eight foot wide sidewalk on the south side of Dehirsch Avenue between Adams Avenue and Madison Avenue.

STANDARDS

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

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

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

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

The proposed development will be located within maintained lawn areas and developed areas. The proposed soil disturbance is limited to that which is necessary to accommodate the 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 replant non-native lawn grasses along the road shoulder.

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

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

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

The Commission staff reviewed the application for evidence of cultural resources on the parcel. Based upon the lack of potential for significant cultural resources on the parcel, a cultural resource survey was not required.

PUBLIC COMMENT

The applicant has provided the requisite public notice. Newspaper public notice was completed on June 27, 2018. The application was designated as complete on the Commission's website on December 14, 2018. The Commission's public comment period closed on January 11, 2019. The Commission received one written public comment (attached) regarding this application.

Commenter #1: The commenter from the New Jersey Department of Environmental Protection, Green Acres Program indicated that the proposed development is located adjacent to Green Acres parkland (Block 132, Lot 2) and was unable to determine whether the proposed widening was occurring within the designated road right-of-way.

Staff Response: The proposed road improvements are located within the Dehirsch Avenue right-of-way and are not located in the vicinity of Block 132, Lot 2.

CONDITIONS

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

Sheet 1 - June 2018

Sheets 2-6 & 8 - June 21, 2018; revised to November 19, 2018

Sheets 7, 9 & 10 - June 21, 2018

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

CONCLUSION

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

From: Info, PC (info@pinelands.nj.gov)
Received: 11/15/2018 2:56:39 PM
To: AppInfo, PC (AppInfo@pinelands.nj.gov)
CC:
Subject: FW: Application# 2018-0098.001 - Cape May County
Attachments: None

From: Lawrence, Nancy
Sent: Thursday, November 15, 2018 2:23 PM
To: Info, PC
Cc: Patterson, Jessica
Subject: Application# 2018-0098.001 - Cape May County

Hello.

I did not see another email address on the Pinelands Commission website so I am using this address and hope it is passed to the correct individual. Perhaps when the Adjacent Property Owner letters go out they could include an email address?

Green Acres comments with respect to the Dehirsch Avenue (Route 550) widening and resurfacing in Woodbine Borough (Application# 2018-0098.001 - Cape May County):
the proposed project will be occurring next to State / DEP held parkland (Block 132, Lot 2 – Belleplain State Forest). I was unable to determine whether the project will occur within the designated rights-of-way for CR 550 and CR 610. Any activities on Green Acres encumbered parkland that are not in direct support of conservation or recreational uses are highly discouraged. Such uses will be considered a diversion and will require prior approval from Green Acres, the Commissioner of the Department of Environmental Protection and the State House Commission. (please see N.J.A.C 7:36-26 for more information). If a non-recreation / non-conservation use is being proposed to impact park please have the applicant contact Jessica Patterson, Cape May County Steward, at 609-984-0558 with questions regarding the State House Commission approval process. Jessica is copied on this email. Please note that Green Acres relies on the information provided by the local unit(s) in maintaining the accuracy of our database. Since it is the responsibility of the local unit(s) to ensure compliance with Green Acres rules, it is strongly recommended that you confirm the following information with the local unit(s) involved.

Regards,

Nancy Lawrence
Compliance Officer
Bureau of Legal Services and Stewardship

NJDEP Green Acres Program
Mail Code 501-01, P.O. Box 420
501 East State Street, 1st Floor
Trenton, NJ 08625-0420
609.341.2054 direct
609.984.0608 fax



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Lt. Governor

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Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

PINELANDS COMMISSION **APPEAL PROCEDURE**

The Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal any determination made by the Executive Director to the Commission in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted by someone meeting the definition of an interested party will be transmitted to the New Jersey Office of Administrative Law for a hearing. Any such appeal must be made in writing to the Commission and received at the Commission office no later than 4:00 PM on February 4, 2019 and include the following information:

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

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



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-19- 06

TITLE: Approving With Conditions an Application for an Amended Waiver of Strict Compliance
(Application Number 1987-0127.001)

Commissioner Galletta moves and Commissioner Lehauer
seconds the motion that:

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

1987-0127.001

Applicant:	Joe Oppen
Municipality:	Jackson Township
Management Area:	Pinelands Regional Growth Area
Date of Report:	January 17, 2019
Proposed Development:	Single family dwelling.

WHEREAS, on June 5, 1987, the Pinelands Commission approved a Waiver from the required buffer to wetlands for the development of a single family dwelling served by an onsite septic system on the parcel; and

WHEREAS, it has not been demonstrated that a proposed septic system for the development of a single family dwelling can be located in an area on the parcel where the minimum depth to the seasonal high water table is at least five feet below the natural ground surface; and

WHEREAS, an application for an Amended Waiver of Strict Compliance has been completed for both the required buffer to wetlands and the minimum depth to seasonal high water table of five feet below the natural ground surface for a proposed septic system; and

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

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

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

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

NOW, THEREFORE BE IT RESOLVED that Application Number 1987-0127.001 for an Amended Waiver of Strict Compliance is hereby approved subject to the conditions recommended by the Executive Director.

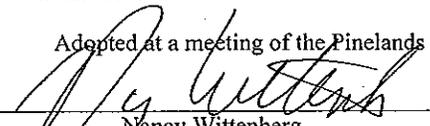
Record of Commission Votes

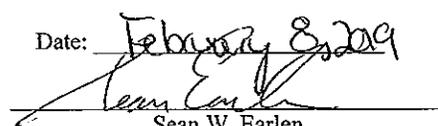
AYE NAY NP A/R*				AYE NAY NP A/R*				AYE NAY NP A/R*			
Ashmun			X	Howell	X			Prickett	X		
Avery	X			Jannarone	X			Quinn		X	
Barr	X			Lloyd	X			Rohan Green		X	
Chila			X	Lohbauer	X			Earlen	X		
Galletta	X			Pikolycky	X						

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: February 8, 2009


 Nancy Wittenberg
 Executive Director


 Sean W. Earlen
 Chairman



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

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

SEAN W. EARLEN
 Chairman
 NANCY WITTENBERG
 Executive Director

REPORT ON AN APPLICATION FOR AN AMENDED WAIVER OF STRICT COMPLIANCE

January 17, 2019

Joe Oppen (via email)
 2 Rose Place
 Lakewood, NJ 08701

Re: Application # 1987-0127.001
 Block 20801, Lots 24 & 25
 Jackson Township

Dear Mr. Oppen:

The Commission staff has completed its review of the above referenced application for an Amended Waiver of Strict Compliance (“Waiver”) proposing the development of a single family dwelling on the above referenced parcel. Based upon the facts and conclusions contained in this Report, on behalf of the Commission’s Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its February 8, 2019 meeting.

FINDINGS OF FACT

This application is for the development of a single family dwelling serviced by an alternate design onsite septic wastewater treatment system (“alternate design septic system”) on the above referenced 2.07 acre parcel in Jackson Township. The parcel is located within a Pinelands Regional Growth Area and in Jackson Township’s Regional Growth 2 (RG-2) zoning district. In this zoning district, Jackson Township’s certified land use ordinance requires a residential density of one dwelling unit per 1.0 acre for a single family dwelling serviced by an alternate design septic system.

On June 5, 1987, the Pinelands Commission approved a Waiver from the required buffer to wetlands for the development of a single family dwelling serviced by an alternate design onsite septic wastewater treatment system on the parcel.

The current applicant has not demonstrated that the proposed septic system can be located in an area on the parcel where the minimum depth to the seasonal high water table is at least 5 feet below the natural surface of the ground. The current applicant has completed this application for an Amended Waiver for both the required buffer to wetlands and the minimum depth to seasonal high water table of five feet below the natural ground surface when utilizing an onsite septic system.



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

A portion of the parcel is wetlands as defined in N.J.A.C. 7:50-6.5(a)2. The wetlands continue onto adjacent lands. Any development of the parcel would be located within 300 feet of these wetlands. The applicant has submitted no information to demonstrate that the proposed development will not cause a significant adverse impact on the wetlands. Based on the quality and location of the wetlands, the proposed development will cause a significant adverse impact on the wetlands. As there will be a significant adverse impact on wetlands located within 300 feet of the proposed development, the applicant is requesting a Waiver from the buffer to wetlands standard contained in the CMP (N.J.A.C. 7:50-6.14).

The Ocean County Soil Survey indicates that there are Mullica and Downer soils on the parcel. The Mullica soils typically have a seasonal high water table of less than 2 feet below the natural ground surface. Downer soils typically have a seasonal high water table greater than 5 feet below the natural ground surface. Based on a May 21, 2018 Commission staff site inspection, the seasonal high water table on the parcel is less than 5 feet below the natural ground surface. Since available information indicates that the seasonal high water table on the parcel is less than 5 feet below the natural ground surface, the applicant is requesting a Waiver from the seasonal high water table requirement contained in the CMP (N.J.A.C. 7:50-6.84(a)5vi).

The parcel includes all contiguous land in common ownership on or after January 14, 1981. The proposed single family dwelling will be the sole principal use of the entire contiguous parcel. The development of a single family dwelling on the parcel does not require a lot area or density variance pursuant to Jackson Township's certified land use ordinance. A single family dwelling can be developed on the parcel without violating any of the criteria contained in N.J.A.C. 7:50-4.65(b) if the conditions recommended below are imposed.

Only if the parcel is developed in accordance with the conditions recommended below will the adverse impacts on wetlands and ground water quality be minimized.

PUBLIC COMMENT

The applicant has provided the requisite public notices. Public notice to all property owners within 200 feet of the parcel was completed on November 14, 2018. Newspaper public notice was completed on November 16, 2018. The application was designated as complete on the Commission's website on December 19, 2018. The Commission's public comment period closed on January 11, 2019. No public comment was received by the Commission regarding this application.

CONCLUSION

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

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

The first condition is that the only relief sought is from one or more of the standards contained in N.J.A.C. 7:50-6 for certain specified development. One of the specified types of development is a single family dwelling on a parcel within a Pinelands Regional Growth Area, Pinelands Town or Pinelands Village which is at least 20,000 square feet, excluding road rights-of-way, in size and is not served by a centralized waste water treatment system. This application is only for a Waiver from the wetlands and the seasonal high water table standards contained in N.J.A.C. 7:50-6. The applicant is proposing to develop a single family dwelling serviced by an alternate design septic system on a 2.07 acre (90,169 square feet) parcel. The parcel contains more than 20,000 square feet, excluding road rights-of-way and is located in a Pinelands Regional Growth Area. As a result, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)1v.

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

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

The fourth condition is that all necessary municipal lot area and density variances have been obtained if the parcel is located in a municipality whose master plan and land use ordinance have been certified by the Pinelands Commission. Jackson Township's master plan and land use ordinance have been certified by the Pinelands Commission. The certified ordinance does not require a lot area or density variance. As a result, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)4.

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

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

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

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

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

The CMP (N.J.A.C. 7:50-4.62(d)1.iii) requires the acquisition and redemption of 0.25 Pinelands Development Credits (PDCs) whenever a Waiver provides relief from one or more of the standards of N.J.A.C. 7:50-6. As the applicant is obtaining a Waiver from the wetlands standard (N.J.A.C. 7:50-6.14) and the seasonal high water table standard (N.J.A.C. 7:50-6.84 (a)5vi) a condition is included to require the applicant to purchase the requisite 0.25 PDCs.

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

1. Except as modified by the below conditions, the proposed development shall adhere to the plot plan prepared by Patterson Surveying & Engineering, dated November 20, 2018.
2. Appropriate measures, such as silt fencing or comparable alternative, shall be taken during construction to preclude sedimentation from entering wetlands.
3. All development, including clearing and land disturbance, shall be located within the proposed development envelope as shown on the above referenced plan.
4. Sufficient dry wells or a comparable alternative shall be installed to contain all stormwater runoff from the house.
5. The driveway shall be constructed of crushed stone or other permeable material.
6. The proposed single family dwelling shall utilize an alternate design onsite septic wastewater treatment system currently authorized by the Pinelands Comprehensive Management Plan for use on lots of at least 1.0 acre.
7. The septic system shall be located in an area where the seasonal high water table is at least 2 feet below the natural ground surface. Sufficient fill shall be placed in the area of the septic system to meet the requirements of NJDEP, Standards for Individual Subsurface Sewage Disposal Systems (N.J.A.C 7:9A).
8. Except as provided in N.J.A.C. 7:50-5.1(c), the single family dwelling approved herein shall be the sole use of the parcel.
9. Prior to Commission issuance of a letter advising that any submitted municipal or county permit or approval may take effect, the Commission must receive documentation from the Pinelands Development Credit (PDC) Bank that the requisite 0.25 PDCs have been acquired and submitted to the PDC Bank for redemption.
10. This Waiver shall expire February 8, 2024 unless all necessary construction permits have been issued by that date. The Waiver shall also expire if any construction permit is allowed to expire or lapse after February 8, 2024 or if any renewal or extension of any permit or approval or issuance of a new construction permit is necessary after that date.

11. Prior to Commission issuance of a letter advising that any submitted municipal or county permit or approval may take effect, a recorded copy of a deed consolidating all the lots into one lot shall be submitted to the Pinelands Commission.
12. A copy of a recorded deed containing all of the above conditions shall be submitted to the Pinelands Commission prior to completing an application for development with the Commission. The deed shall specify that the conditions are being imposed pursuant to a January 17, 2019 Pinelands Commission Report (“Waiver Report”) on an Application for a Waiver of Strict Compliance for App. No. 1987-0127.001. The deed shall indicate that the conditions previously required by the May 11, 1987 Waiver Report for App. No. 1987-0127.001, approved by the Pinelands Commission on June 5, 1987, have since expired and are superseded by the conditions required by the January 17, 2019 Waiver report approved by the Pinelands Commission on February 8, 2019. The deed shall also indicate that the conditions are enforceable by the Pinelands Commission, Jackson Township and any other party of interest.

With the above conditions, the applicant qualifies for a Waiver from the requirements of N.J.A.C. 7:50-6.14 and N.J.A.C. 7:50-6.86(a)5vi.

Since the applicant meets the provisions of N.J.A.C. 7:50-4.62, N.J.A.C. 7:50-4.63 and N.J.A.C. 7:50-4.65 for the development of one single family dwelling on the parcel, it is recommended that the Pinelands Commission **APPROVE** the requested Amended Waiver of Strict Compliance 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 and received at the Commission office no later than 4:00 PM on February 4, 2019 and include the following information:

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

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



Recommended for Approval by: _____

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

- c: Secretary, Jackson Township Planning Board (via email)
- Jackson Township Construction Code Official (via email)
- Jackson Township Environmental Commission (via email)
- Secretary, Ocean County Planning Board (via email)
- Ocean County Health Department (via email)
- Jack Birnbaum (via email)



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-19- 07

TITLE: Issuing an Order to Certify Ordinance 2018-19, Amending Chapter 211 (Zoning) of the Code of Stafford Township

Commissioner Galletta moves and Commissioner Barr seconds the motion that:

WHEREAS, on October 7, 1983, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Stafford Township; and

WHEREAS, Resolution #PC4-83-89 of the Pinelands Commission specified that any amendment to the Township's certified Master Plan and codified Land Use Ordinances be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 (Submission and Review of Amendments to Certified Master Plans and Land Use Ordinances) of the Comprehensive Management Plan to determine if said amendment raises a substantial issue with respect to conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, Resolution #PC4-83-89 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 September 11, 2018, Stafford Township adopted Ordinance 2018-19, amending Chapter 211 (Zoning) of the Township's Code by revising the standards applicable to planned unit developments in the HMC (Highway Medical Commercial Zone); and

WHEREAS, the Pinelands Commission received a certified copy of Ordinance 2018-19 on October 24, 2018; and

WHEREAS, by letter dated November 15, 2018, the Executive Director notified the Township that Ordinance 2018-19 would require formal review and approval by the Pinelands Commission; and

WHEREAS, a public hearing to receive testimony on Ordinance 2018-19 was duly advertised, noticed and held on December 12, 2018 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m.; and

WHEREAS, the Executive Director has found that Stafford Township Ordinance 2018-19 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 2018-19, amending Chapter 211 (Zoning) of the Code of Stafford 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 2018-19 be certified; and

WHEREAS, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning Ordinance 2018-19 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

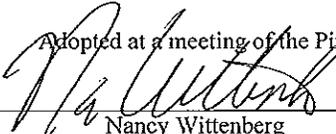
1. An Order is hereby issued to certify that Ordinance 2018-19, amending Chapter 211 (Zoning) of the Code of Stafford Township, is in conformance with the Pinelands Comprehensive Management Plan.
2. Any additional amendments to Stafford Township's certified Master Plan and Land Use Ordinances shall be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 to determine if said amendments raise a substantial issue with respect to the Comprehensive Management Plan. Any such amendment shall become effective only as provided in N.J.A.C. 7:50-3.45.

Record of Commission Votes

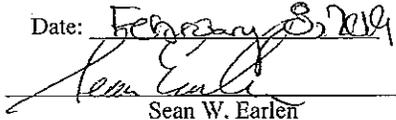
AYE NAY NP A/R*				AYE NAY NP A/R*				AYE NAY NP A/R*			
Ashmun			X	Howell	X			Prickett	X		
Avery	X			Jannarone	X			Quinn			X
Barr	X			Lloyd	X			Rohan Green			X
Chila			X	Lohbauer	X			Earlen	X		
Galletta	X			Pikolycky	X						

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission


 Nancy Wittenberg
 Executive Director

Date: February 8, 2019


 Sean W. Earlen
 Chairman



State of New Jersey
 THE PINELANDS COMMISSION
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 (609) 894-7300
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PHILIP D. MURPHY
 Governor
 SHEILA Y. OLIVER
 Lt. Governor

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

SEAN W. EARLEN
 Chairman
 NANCY WITTENBERG
 Executive Director

**REPORT ON ORDINANCE 2018-19, AMENDING CHAPTER 211 (ZONING)
 OF THE CODE OF STAFFORD TOWNSHIP**

January 25, 2019

Stafford Township
 260 E. Bay Avenue
 Manahawkin, NJ 08050

FINDINGS OF FACT

I. Background

The Township of Stafford is located in the southern portion of Ocean County, in the eastern section of the Pinelands Area. Pinelands municipalities that abut Stafford Township include the Townships of Barnegat, Eagleswood and Little Egg Harbor in Ocean County and the Townships of Woodland and Bass River in Burlington County.

On October 7, 1983, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Stafford Township.

On September 11, 2018, Stafford Township adopted Ordinance 2018-19, amending Chapter 211 (Zoning) of the Township’s Code by revising the standards applicable to planned unit developments in the HMC (Highway Medical Commercial Zone). The HMC Zone is located in a Pinelands Regional Growth Area. The Pinelands Commission received a certified copy of Ordinance 2018-19 on October 24, 2018.

By letter dated November 15, 2018, the Executive Director notified the Township that Ordinance 2018-19 would require formal review and approval by the Pinelands Commission.

II. Master Plans and Land Use Ordinances

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

- * Ordinance 2018-19, amending Chapter 211 (Zoning) of the Code of Stafford Township, introduced on August 14, 2018 and adopted on September 11, 2018.

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 Master Plans and Land Use Ordinances Relating to Development Standards

Ordinance 2018-19 amends Chapter 211 (Zoning) of the Code of Stafford Township by revising the standards applicable to planned unit developments in the HMC (Highway Medical Commercial) Zone. Specifically, Ordinance 2018-19 provides that long-term care facilities, assisted living facilities, residential health care facilities, age-restricted independent living and continuing care retirement communities may be permitted as part of a planned unit development. Ordinance 2018-19 also reduces the maximum number of age-restricted, market rate units permitted in a planned unit development from 239 to 125 and specifies that a maximum of 110 assisted living or continuing care retirement community units may be permitted.

The HMC Zone is located along Route 72, in a Pinelands Regional Growth Area (see Exhibit #1). In total, the HMC Zone encompasses approximately 75 acres, the majority of which is already developed for hospital and related uses. Permitted uses in the HMC Zone include hospitals, medical offices and facilities, hotels, schools, restaurants, banks, child care centers, long-term care facilities, assisted living facilities, residential health care facilities and continuing care retirement communities. Planned unit developments that contain offices, retail uses and multifamily dwellings are also permitted. Such planned unit developments require a minimum of 25 acres and are subject to a maximum residential density requirement of 13 units per acre. Ordinance 2018-19 expands the types of residential uses permitted in a planned unit development to include assisted living facilities, age-restricted independent living and continuing care retirement communities but does not change the permitted density. It remains the same at 13 units per acre; thus, Ordinance 2018-19 has no impact on the residential zoning capacity of the Township's Regional Growth Area.

It is worth noting that within Regional Growth Areas, the CMP provides that Pinelands municipalities may permit any use, with the exception of certain waste management facilities, provided residential density and opportunities for the use of Pinelands Development Credits are appropriately accommodated. The CMP also expressly authorizes assisted living facilities as a permitted use in Regional Growth Areas pursuant to N.J.A.C. 7:50-5.34, which sets forth specific standards for such uses. Among these standards is the establishment of a permitted residential density applicable to assisted living facilities. Ordinance 2018-19 satisfies this requirement by establishing a permitted density of 13 units per acre, which while quite a bit higher than required by the CMP for Stafford's Regional Growth Area, is nevertheless appropriate given the intensity of surrounding development, developability of vacant lands in the HMC Zone and availability of infrastructure.

Ordinance 2018-19 is consistent with the land use and development standards of the Comprehensive Management Plan. Therefore, this standard for certification is met.

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

Not applicable.

4. Requirement for Municipal Review and Action on All Development

Not applicable.

5. Review and Action on Forestry Applications

Not applicable.

6. Review of Local Permits

Not applicable.

7. Requirement for Capital Improvement Program

Not applicable.

8. Accommodation of Pinelands Development Credits

Ordinance 2018-19 adds assisted living facilities, age-restricted independent living and continuing care retirement communities to the list of uses permitted as part of a planned unit development in Stafford Township's HMC Zone. All of these residential uses will be subject to the density and Pinelands Development Credit requirements previously established by the Township for such planned unit developments. Specifically, a maximum density of 13 units per acre is permitted and the redemption of Pinelands Development Credits is required for 30 percent of all market rate units. As noted previously, Ordinance 2018-19 does not increase residential zoning capacity or the number of PDCs that may be used in the HMC Zone. It merely expands the types of residential development that are permitted.

With respect to assisted living facilities in the Regional Growth Area, the CMP specifies that PDC use must be accommodated when the density of such facilities exceeds 8 units per acre. Rather than establishing a base density of 8 units per acre, Ordinance 2018-19 requires that PDC use be a significant component of any assisted living project, regardless of density. Thirty percent of all assisted living facility units will require the redemption of PDCs, whether an assisted living facility is constructed at a density that exceeds 8 units per acre or not. This approach is consistent with the intent of N.J.A.C. 7:50-5.34(a)(2) of the CMP.

Rather than relying on the traditional approach of providing developers with the *option* of using PDCs to increase permitted density, Ordinance 2018-19 *guarantees* a PDC redemption rate of 30 percent for all permitted types of residential development in the HMC Zone. While this 30 percent requirement is not as high a number as would be provided through the more traditional zoning approach where PDCs would account for 33 percent of the total number of permitted units, it is important to remember that the traditional base density/bonus density approach utilized throughout the Pinelands Area only provides an *opportunity* for the use of PDCs. There is no requirement under the traditional approach that any PDCs be used in any particular development project. Ordinance 2018-19 *guarantees* that PDCs will be redeemed as part of any residential development in the HMC Zone, regardless of the type or number of units that are ultimately built. Given the greater certainty provided by this approach and the relatively high density permitted in the HMC Zone, the Executive Director believes that the 30 percent PDC requirement adopted by Ordinance 2018-19 should be viewed as being consistent with Comprehensive Management Plan standards.

This standard for certification is met.

9. Referral of Development Applications to Environmental Commission

Not applicable.

10. General Conformance Requirements

Ordinance 2018-19 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 2018-19 is 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

Not applicable.

PUBLIC HEARING

A public hearing to receive testimony concerning Stafford Township's application for certification of Ordinance 2018-19 was duly advertised, noticed and held on December 12, 2018 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m. Ms. Grogan conducted the hearing, at which no testimony was received.

Written comments on Ordinance 2018-19 were accepted through December 19, 2018; however, no such comments were received.

CONCLUSION

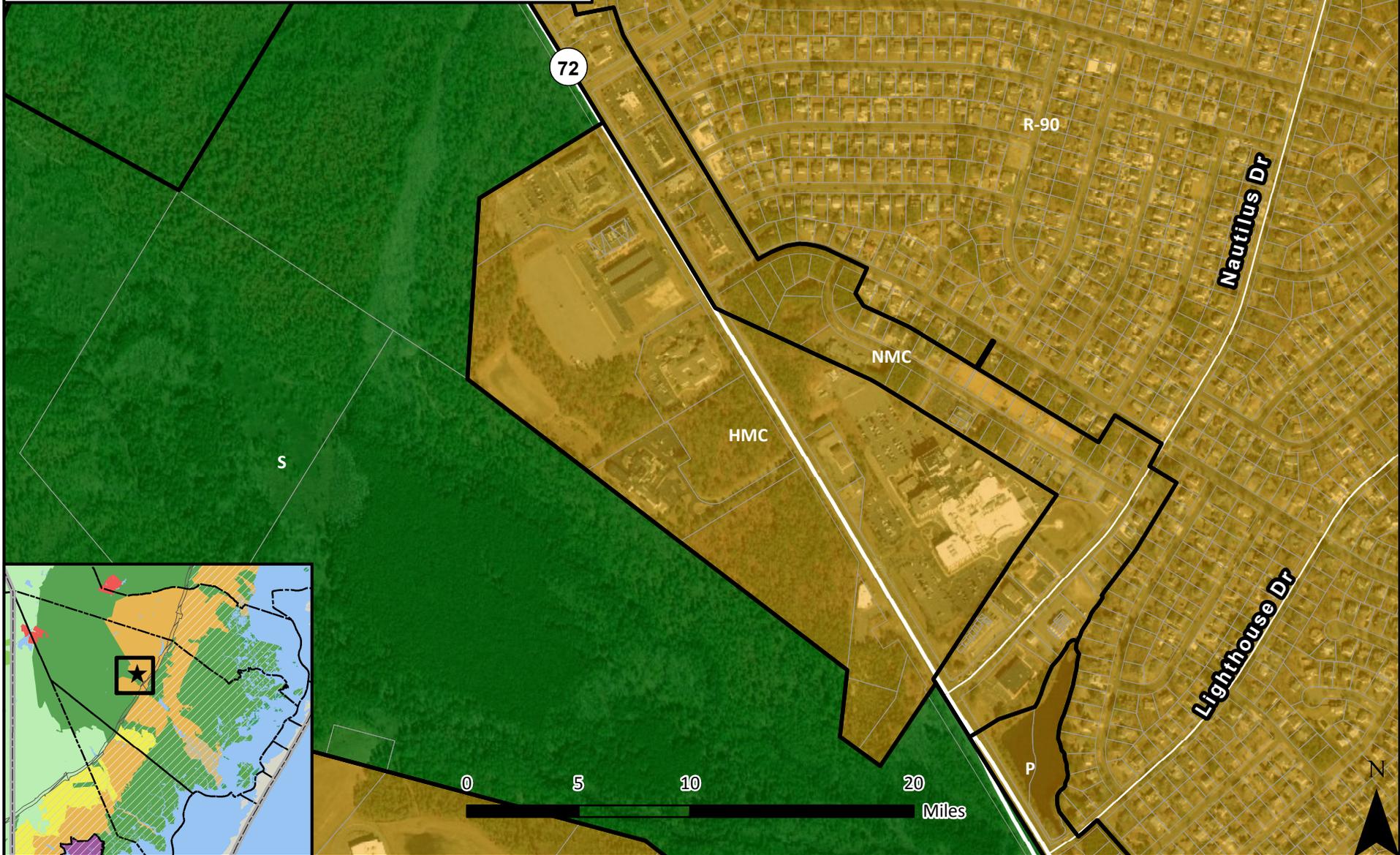
Based on the Findings of Fact cited above, the Executive Director has concluded that Ordinance 2018-19, amending Chapter 211 (Zoning) of the Code of Stafford Township, complies with Comprehensive Management Plan standards for the certification of municipal master plans and land use ordinances. Accordingly, the Executive Director recommends that the Commission issue an order to certify Ordinance 2018-19 of Stafford Township.

SRG/CST
Attachment

Highway Medical Commercial (HMC) Zone

Executive Director's Report
Stafford Ordinance 2018-19
Exhibit 1
1/25/2019

- Existing Zoning
- Parcels
- Pinelands Management Areas
 - Forest Area
 - Regional Growth Area





RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-19- 00

TITLE: Issuing an Order to Certify Winslow Township Ordinance O-2018-025, Adopting the Maressa Redevelopment Plan

Commissioner Galletta moves and Commissioner Jamarc seconds the motion that:

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

WHEREAS, Resolution #PC4-83-30 of the Pinelands Commission specified that any amendment to the Township's certified Master Plan and codified Land Use Ordinances be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 (Submission and Review of Amendments to Certified Master Plans and Land Use Ordinances) of the Comprehensive Management Plan to determine if said amendment raises a substantial issue with respect to conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, Resolution #PC4-83-30 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 20, 2018, Winslow Township adopted Ordinance O-2018-025, approving a redevelopment plan for the Maressa Redevelopment Area in the Pinelands Regional Growth Area; and

WHEREAS, the Pinelands Commission received a certified copy of Ordinance O-2018-025 on November 28, 2018; and

WHEREAS, by letter dated November 30, 2018, the Executive Director notified the Township that Ordinance O-2018-025 would require formal review and approval by the Pinelands Commission; and

WHEREAS, a public hearing to receive testimony on Ordinance O-2018-025 was duly advertised, noticed and held on January 9, 2019 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 Winslow Township Ordinance O-2018-025 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 Winslow Ordinance O-2018-025, adopting the Maressa Redevelopment Plan, 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 O-2018-025 be certified; and

WHEREAS, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning Ordinance O-2018-025 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

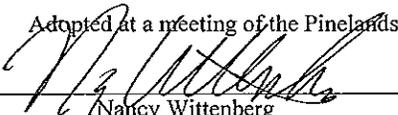
1. An Order is hereby issued to certify that Winslow Township Ordinance O-2018-025, adopting the Maressa Redevelopment Plan, is in conformance with the Pinelands Comprehensive Management Plan.
2. Any additional amendments to Winslow Township's certified Master Plan and Land Use Ordinances shall be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 to determine if said amendments raise a substantial issue with respect to the Comprehensive Management Plan. Any such amendment shall become effective only as provided in N.J.A.C. 7:50-3.45.

Record of Commission Votes

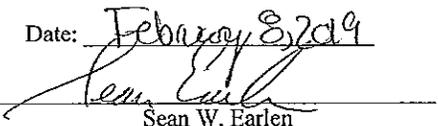
	AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*
Ashmun			X		Howell	X				Prickett	X			
Avery	X				Jannarone	X				Quinn			X	
Barr	X				Lloyd	X				Rohan Green			X	
Chila			X		Lohbauer	X				Earlen	X			
Galletta	X				Pikolycky	X								

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission


 Nancy Wittenberg
 Executive Director

Date: February 8, 2019


 Sean W. Earlen
 Chairman



State of New Jersey
 THE PINELANDS COMMISSION
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 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

SEAN W. EARLEN
 Chairman
 NANCY WITTENBERG
 Executive Director

**REPORT ON WINSLOW TOWNSHIP ORDINANCE O-2018-025,
 ADOPTING THE MARESSA REDEVELOPMENT PLAN**

January 25, 2019

Winslow Township
 125 South Route 73
 Winslow Township, NJ 08037

FINDINGS OF FACT

I. Background

The Township of Winslow is located on the western fringe of the Pinelands Area, in Camden County. Pinelands municipalities adjacent to Winslow Township's Pinelands Area include the Boroughs of Berlin and Chesilhurst and the Township of Waterford in Camden County, the Township of Monroe in Gloucester County, and the Town of Hammonton and the Borough of Folsom in Atlantic County.

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

On November 20, 2018, Winslow Township adopted Ordinance O-2018-025, approving a redevelopment plan for the Maressa Redevelopment Area in the Pinelands Regional Growth Area. The Pinelands Commission received a certified copy of Ordinance O-2018-025 on November 28, 2018.

By letter dated November 30, 2018, the Executive Director notified the Township that Ordinance O-2018-025 would require formal review and approval by the Pinelands Commission.

II. Master Plans and Land Use Ordinances

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

- * Ordinance O-2018-025, adopting the Maressa Redevelopment Plan, introduced on September 25, 2018 and adopted on November 20, 2018.

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 Master Plans and Land Use Ordinances Relating to Development Standards**

Ordinance O-2018-025 adopts a Redevelopment Plan, dated September 20, 2018, for the Maressa Redevelopment Area. This new Redevelopment Area consists of four lots (Block 1502, Lots 10, 25 and 33 and Block 2502, Lot 15) and is located on Route 73 near the municipality's northern border (see Exhibit #1). In total, 105 acres are included in the new redevelopment area, 29 of which were previously located in the PC-2 (Commercial) Zone and 76 of which were in the PTC (Pinelands Town Center) Zone where a mix of residential and commercial uses is required. The entire redevelopment area is currently vacant and located in a Pinelands Regional Growth Area.

The purpose of the Maressa Redevelopment Plan is to facilitate a mix of commercial and residential uses in the Redevelopment Area, with commercial uses along the highway (Route 73) and residential development toward the rear of the parcels. To that end, permitted uses in the Redevelopment Area include single-family dwellings and townhouses, as well as a variety of nonresidential uses including offices, research facilities, hospitals, retail stores, banks, restaurants and gas stations. All such nonresidential uses must be located within 600 feet of the Route 73 right of way. A maximum density of five units per acre is permitted for single-family dwellings. Townhouses are permitted at a density of eight units per acre on Block 2502, Lot 15 and at five units per acre on the other lots in the Redevelopment Area. The acquisition and redemption of Pinelands Development Credits is required for 25 percent of all residential units in the Redevelopment Area. No exemption for affordable housing units has been provided because the Redevelopment Plan does not require that any of the new units be made affordable to low and moderate income households. Any development that occurs within the redevelopment area must comply with all other municipal application requirements and development regulations, as well as the Comprehensive Management Plan.

The Maressa Redevelopment Plan provides an opportunity for development of 594 units in Winslow's Regional Growth Area, nearly 400 more than permitted by the underlying zoning plan. The permitted densities in the Redevelopment Area are significantly higher than that prescribed by the Comprehensive Management Plan, which requires the Township to zone for a density of only 1.125 units per upland acre in its Regional Growth Area. However, the Comprehensive Management Plan does provide municipalities with the ability to zone portions of their Regional Growth Areas for higher densities, provided the lands in question are appropriate for more intensive development, infrastructure exists or can be provided to support the increased density and sufficient opportunities for the use of Pinelands Development Credits are provided. The Maressa Redevelopment Area meets these standards, as detailed below.

In terms of environmental conditions, several of the lots included in the Redevelopment Area do contain a significant amount of wetlands (see Exhibit #2). Field delineation of the wetlands will be required to determine their exact extent as well as required wetlands buffer areas. The Redevelopment Plan acknowledges these wetlands constraints and appropriately permits a variety of housing types as well as the ability to reduce lot area and bulk requirements through cluster development as a means of providing design flexibility for future residential development projects. These measures provide a reasonable opportunity for the permitted densities to be achieved, as is required pursuant to N.J.A.C. 7:50-3.39(a)2vii, while ensuring that CMP wetlands protection standards are met.

With respect to the availability of infrastructure to serve the Redevelopment Area, both water and sewer will be provided. Importantly, a 2017 amended Memorandum of Understanding amongst the Commission, Winslow Township and the Camden County Municipal Utilities Authority sets forth a plan for the provision of water to the Township's entire Regional Growth Area in a manner that ensures protection to the Kirkwood/Cohansey aquifer. The Memorandum of Understanding requires that water from a non-Kirkwood/Cohansey source be provided to serve future development once water demands reach a certain point.

The third condition for approval of increased densities and zoning capacity relates to the accommodation of Pinelands Development Credit opportunities. As discussed in more detail in Section 8 of this report, the Redevelopment Plan requires the use of Pinelands Development Credits for 25 percent of all residential units in the Redevelopment Area, regardless of project density. Thus, Pinelands Development Credit use has not only been accommodated, it has been guaranteed in the Redevelopment Area.

Ordinance O-2018-025 is consistent with the land use and development standards of the Comprehensive Management Plan. Therefore, this standard for certification is met.

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

Not applicable.

4. Requirement for Municipal Review and Action on All Development

Not applicable.

5. Review and Action on Forestry Applications

Not applicable.

6. Review of Local Permits

Not applicable.

7. Requirement for Capital Improvement Program

Not applicable.

8. Accommodation of Pinelands Development Credits

Ordinance O-2018-025 adopts a new redevelopment plan for a portion of Winslow Township's Regional Growth Area. Based on this plan, 594 units will be permitted in the Maressa Redevelopment Area, with the use of Pinelands Development Credits (PDC) required for 25 percent of all proposed units. No exemption for affordable housing units is provided, as the Township's Housing Element and Fair Share Plan do not call for any such units in the Redevelopment Area. The result is increased residential zoning capacity and opportunities for the redemption of PDCs in the Township's Regional Growth Area. A maximum of 594 new units can be developed, which would require the redemption of 149 rights (37.25 PDCs). These numbers are well in excess of what the Comprehensive Management Plan prescribes for Winslow's Regional Growth Area.

It is important to note that the new Maressa Redevelopment Area standards described above represent a departure from the traditional zoning and PDC strategy outlined in N.J.A.C. 7:50-5.28(a). This section of the Comprehensive Management Plan anticipates that municipalities will establish "base" densities in their various Regional Growth Area zoning districts and then provide opportunities to increase such densities through the use of PDCs. In Winslow's Regional Growth Area, the Comprehensive Management Plan establishes a "base" density of 1.125 units per developable acre and directs the Township to provide for "bonus" density through the use of PDCs to allow for a total of 1.69 units per developable acre. There is nothing in the CMP that prevents municipalities from exceeding these minimum requirements, which is exactly what Winslow Township has elected to do. The Township has chosen to provide for higher density in the Maressa Redevelopment Area as a means of facilitating a mixture of housing types and attracting additional commercial ratables on a major highway. At the same time, the Township has adopted standards to ensure that PDC use will be a significant part of any redevelopment project.

Rather than relying on the traditional approach of providing developers with the *option* of using PDCs to increase permitted density, Ordinance O-2018-025 *guarantees* a PDC redemption rate of 25 percent for all residential development within the Redevelopment Area, regardless of project density. Given the greater certainty provided by the Township's overall approach in terms of PDC use, the Executive Director finds that the PDC requirements adopted by Ordinance O-2018-025 are consistent with Comprehensive Management Plan standards. This standard for certification is met.

9. Referral of Development Applications to Environmental Commission

Not applicable.

10. General Conformance Requirements

Ordinance O-2018-025 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 O-2018-025 is 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

The redevelopment area established by Ordinance O-2018-025 does not include lands that are adjacent to any other municipalities. Therefore, intermunicipal conflicts are not anticipated and this standard for certification is met.

PUBLIC HEARING

A public hearing to receive testimony concerning Winslow Township's application for certification of Ordinance O-2018-025 was duly advertised, noticed and held on January 9, 2019 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m. Ms. Grogan conducted the hearing, at which no testimony was received.

Written comments were accepted through January 11, 2019; however, no such comments were received.

CONCLUSION

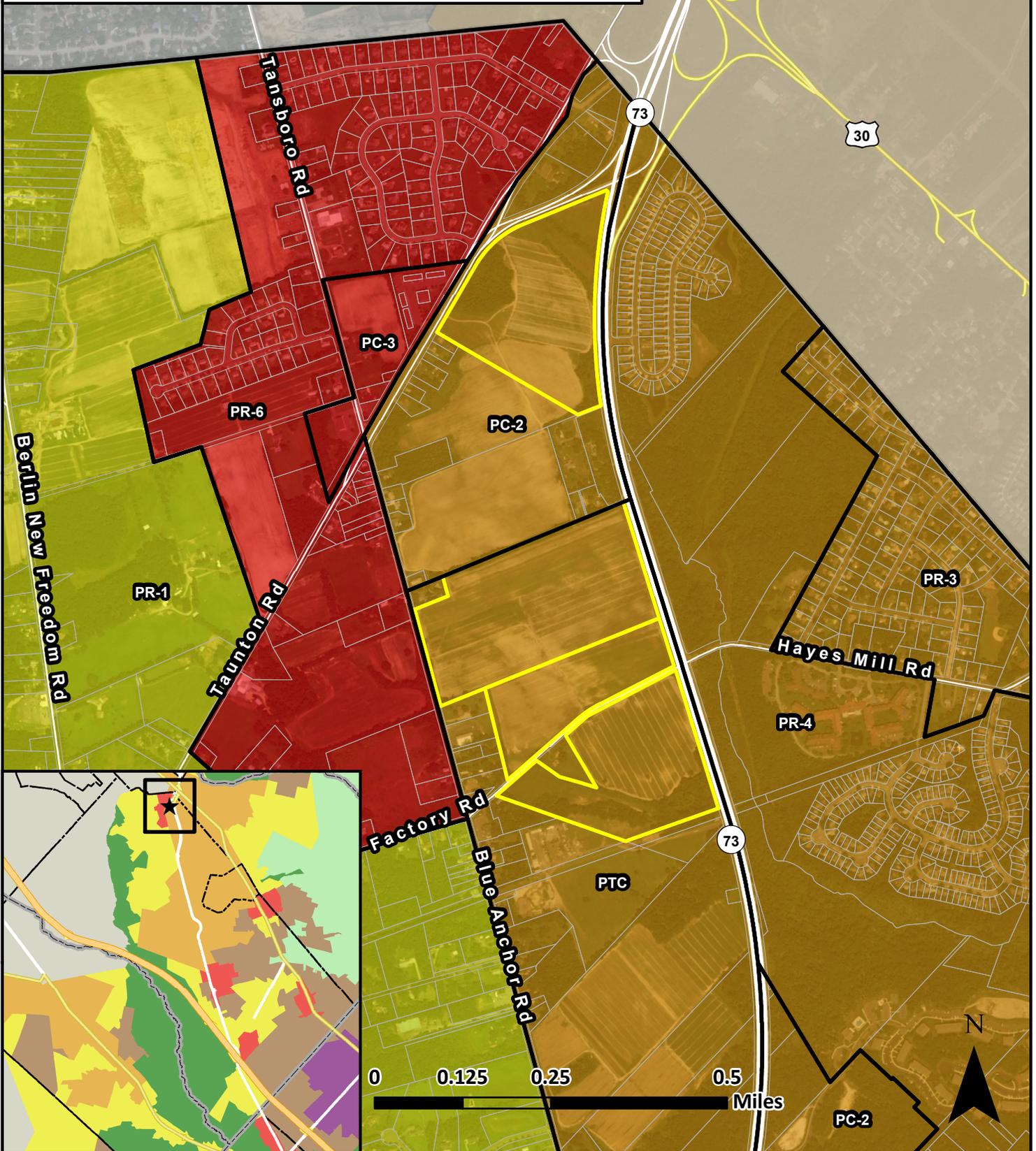
Based on the Findings of Fact cited above, the Executive Director has concluded that Ordinance O-2018-025, adopting the Maressa Redevelopment Plan, complies with Comprehensive Management Plan standards for the certification of municipal master plans and land use ordinances. Accordingly, the Executive Director recommends that the Commission issue an order to certify Ordinance O-2018-025 of Winslow Township.

SRG/CWI
Attachments

Maressa Redevelopment Plan

Executive Director's Report
Winslow Ordinance O-2018-25
Exhibit 1
1/25/2019

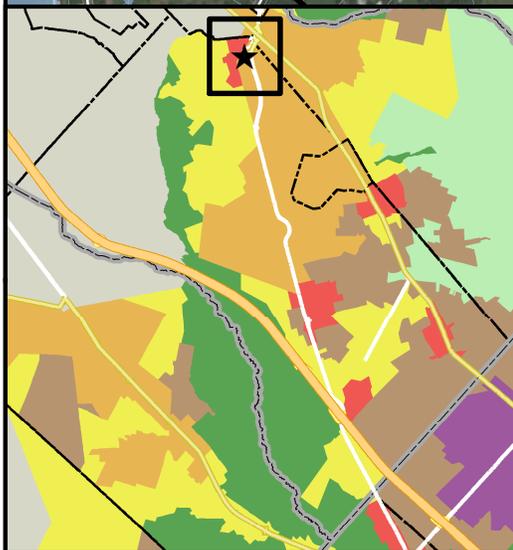
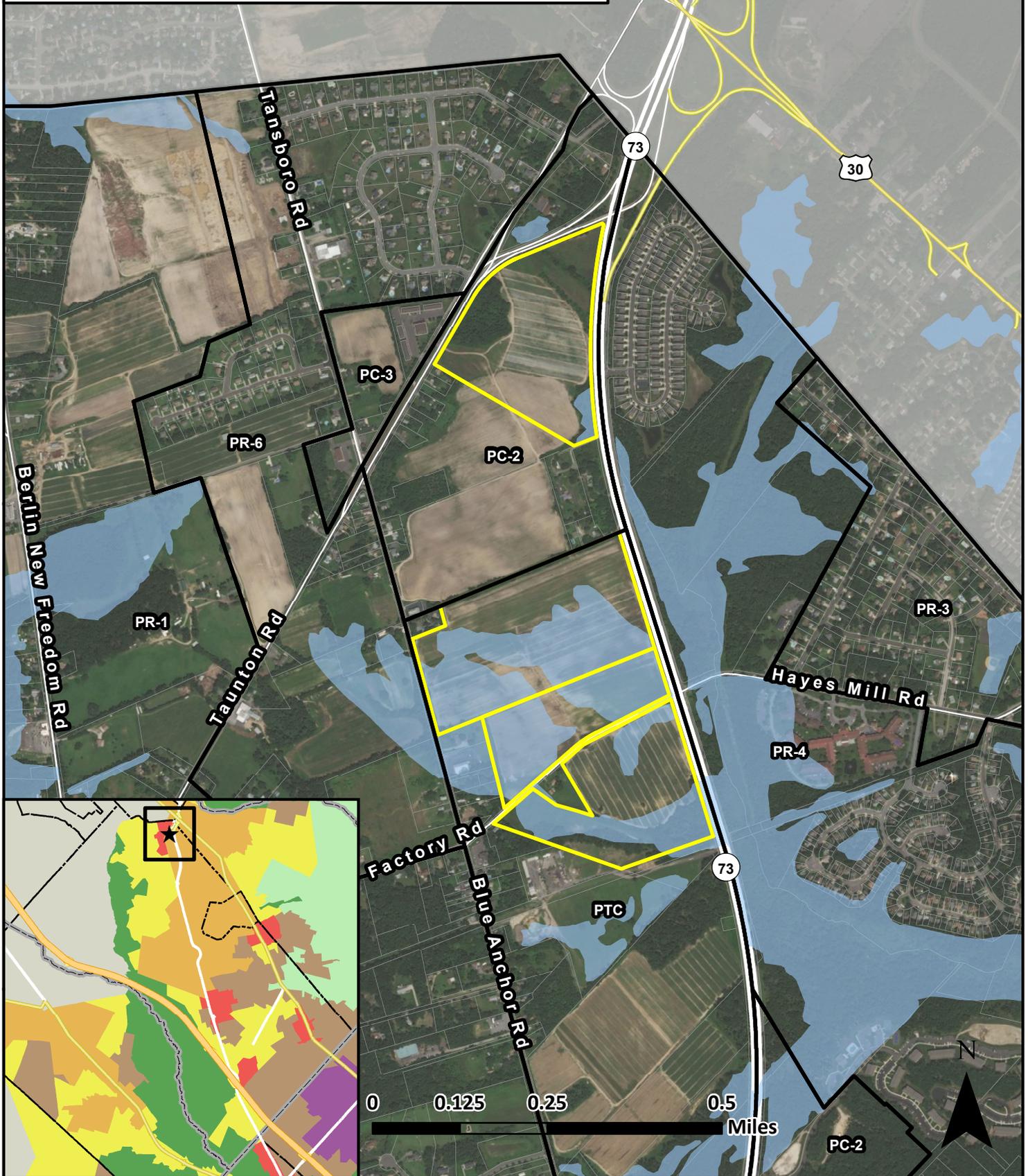
-  Redevelopment Parcels
-  Parcels
-  Existing Zoning
- Pinelands Management Areas**
-  Regional Growth Area
-  Pinelands Village
-  Rural Development Area



Maressa Redevelopment Plan

-  Redevelopment Parcels
-  Pinelands Wetlands
-  Parcels
-  Existing Zoning

Executive Director's Report
Winslow Ordinance O-2018-25
Exhibit 2
1/25/2019





RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-19- 09

TITLE: To Adopt an Amendment to the Pinelands Infrastructure Master Plan

Commissioner Barr moves and Commissioner Pikolycky
seconds the motion that:

WHEREAS, P.L. 1985, Chapter 302 (the Pinelands Infrastructure Trust Bond Act) authorized creation of a debt of the State of New Jersey by issuance of bonds in the sum of \$30,000,000 for the purpose of providing grants and loans to local units of government in the Pinelands Area for infrastructure capital projects necessary to accommodate development in the Regional Growth Areas; and

WHEREAS, P.L. 1985, Chapter 302 required that the Pinelands Commission adopt an infrastructure master plan to be used in evaluating projects to be financed, to specify funding structure in terms of grants and loans to be awarded, and to recommend the level of funding for selected projects; and

WHEREAS, the Department of Environmental Protection adopts regulations regarding grant and loan procedures and regulations regarding allowable costs in N.J.A.C. 7:22 – 6 and 7 to implement the awards specified in the adopted Pinelands Infrastructure Master Plan; and

WHEREAS, on January 16, 1987, the Pinelands Commission adopted the original Pinelands Infrastructure Master Plan by Resolution PC4-87-03; and

WHEREAS, since that time, the Pinelands Commission adopted a number of amendments to the Pinelands Infrastructure Master Plan, most recently in 2006 through Resolution PC4-06-12; and

WHEREAS, the Pinelands Commission awarded all available funding to various wastewater construction projects and to a program that provided a portion of planning costs to Pinelands municipalities for the purposes of preparing utility service plans; and

WHEREAS, repayment of loans issued under the Pinelands Infrastructure Master Plan and earlier amendments has resulted in the availability of approximately \$15,000,000 in the Pinelands Infrastructure Trust Fund; and

WHEREAS, the Pinelands Commission has conducted outreach among Pinelands municipalities and utility authorities to gauge the needs for infrastructure to support the demands of the Regional Growth Area; and

WHEREAS, it is necessary to revise the Pinelands Infrastructure Master Plan to create a framework for ranking new projects and to design a structure for funding that will address the current needs for infrastructure; and

WHEREAS, a public hearing to receive testimony on a proposed amendment to revise the project ranking criteria and funding structure was duly advertised, noticed and held on January 3, 2019 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 7:00 p.m.; and

WHEREAS, the Executive Director has found that the amendment supports the objectives of the Pinelands Infrastructure Bond Act; and

WHEREAS, the Executive Director has submitted a report to the Commission recommending adoption of the January 2019 Pinelands Infrastructure Master Plan amendment; and

WHEREAS, the Commission's CMP Policy and Implementation Committee has reviewed the Executive Director's report and has recommended that the January 2019 Infrastructure Master Plan amendment be adopted; and

WHEREAS, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning the amendment 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

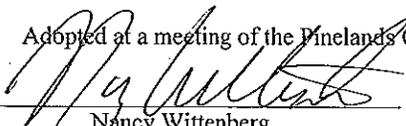
1. An Order is hereby issued to amend the Pinelands Infrastructure Master Plan by revising the project ranking criteria and funding structure in accordance with the January 2019 amendment.
2. The Executive Director shall issue a request for project proposals and in the event that projects are submitted to and evaluated by the Commission in accordance with the amended Infrastructure Master Plan, selection of projects and funding awards will be considered in a future amendment.

Record of Commission Votes

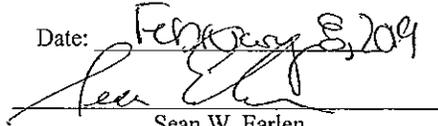
AYE NAY NP AR*				AYE NAY NP AR*				AYE NAY NP AR*			
Ashmun			X	Howell	X			Prickett	X		
Avery	X			Jannarone	X			Quinn			X
Barr	X			Lloyd	X			Rohan Green			X
Chila			X	Lohbauer	X			Earlen	X		
Galletta	X			Pikolycky	X						

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission


 Nancy Wittenberg
 Executive Director

Date: February 8, 2019


 Sean W. Earlen
 Chairman



State of New Jersey
THE PINELANDS COMMISSION
PO Box 359
NEW LISBON, NJ 08064
(609) 894-7300
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PHILIP D. MURPHY
Governor
SHEILA Y. OLIVER
Lt. Governor

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

SEAN W. EARLEN
Chairman
NANCY WITTENBERG
Executive Director

REPORT ON THE JANUARY 2019 PINELANDS INFRASTRUCTURE TRUST MASTER PLAN AMENDMENT TO SET RANKING CRITERIA AND FUNDING STRUCTURE

The 1985 Pinelands Infrastructure Trust Fund (PITF) Bond Act created an initial source of funding with the goal of defraying the costs of infrastructure in Pinelands Regional Growth Areas while simultaneously offering land value equity to property owners in the Preservation Area, Agricultural Production Area and Special Agricultural Production Area through the use of Pinelands Development Credits (PDC). The PITF Act directed the Pinelands Commission to prepare a Master Plan to evaluate and identify infrastructure projects and to include a funding structure through which the State would administer grants and/or loans for projects that are identified in the Master Plan. The Act allows funding for a wide array of infrastructure projects to support development in the Regional Growth Area. Infrastructure projects may include wastewater (including stormwater and green infrastructure), water supply, or transportation, as long as it serves new development in the Regional Growth Area with the potential to generate demand for PDCs.

The Commission previously adopted a PITF Master Plan and amendments that set forth projects and ranking, and funds were disbursed in the form of loans and grants. Repayment of loans has replenished the Fund. Currently, there is approximately \$15 million available in the Trust Fund. Considering the length of time that has elapsed since the prior funding rounds, the Commission sought input from local governments and utilities regarding current infrastructure needs. Staff reached out via mail, e-mail, web notice, telephone and in-person meetings with local officials and utility authorities. Staff reviewed that input along with historical information to assist with preparation of the proposed PITF Master Plan Amendment.

Several projects are intended to be subsidized and this Master Plan amendment will establish the criteria by which projects will be evaluated and the funding structure through which loans and grants may be offered pending approval by the State legislature. Pending Commission adoption of the January 2019 amendment, Commission staff anticipates issuing a Request for Proposals by mid-March 2019. Following receipt and ranking of project proposals, a second Master Plan amendment will be prepared and provided to the Commission for consideration. That second amendment will include a list of specific projects, ranked in accordance with this January 2019 amendment, and will be forwarded for legislative approval upon resolution of the Commission.

PUBLIC HEARING

A public hearing to receive testimony concerning the PITF Master Plan amendment ranking criteria and funding structure was duly advertised, noticed, and held on January 3, 2019 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 7:00 P.M. Ms. Susan Grogan conducted the hearing. Testimony was given by two members of the public:

1. Mark Demitroff (see Exhibit #1)
2. April Jenkins

Written comments on the PITF Master Plan amendment were accepted through January 10, 2019 and were received from the following individuals:

1. Mark Demitroff (see Exhibit #1)
2. Ian Borden, PP, AICP of Professional Design Services LLC. January 2, 2019 e-mail (see Exhibit #2)
3. Philip Sartorio, Community Development Director, Hamilton Township. January 3, 2019 letter (see Exhibit #3)
4. Albert Yodakis, Director of Public Works, Manchester Township. January 4, 2019 letter (see Exhibit #4)
5. David Harpell, Executive Director, Jackson Township Municipal Utilities Authority. January 7, 2019 e-mail (see Exhibit #5)

EXECUTIVE DIRECTOR'S RESPONSE

One commenter in public testimony and written comments (Exhibit #1) stated that he was opposed to the amendment because it supports redevelopment. The commenter said redevelopment may occur in Pinelands Villages, as they are designated growth areas under the State Development and Redevelopment Plan. The commenter further notes that redevelopment should not be used in the Pinelands Area because no government agency oversees it.

Response: The PITF Act does not allow PITF funding to be used to support development or redevelopment in Pinelands Villages, but only in Pinelands Regional Growth Areas. In addition, any development or redevelopment that is proposed within the Pinelands Area will be required to meet all Comprehensive Management Plan environmental standards as well as CMP land use and intensity standards for development in the applicable management area.

The second commenter giving oral testimony and one commenter who submitted written comments (Exhibit #4) stated support of the amendment without raising any specific issues.

Response: The commenters' support is noted.

One commenter (Exhibit #2) indicates that a lack of sewer and water has hindered development in the Regional Growth Areas of Manchester and Jackson townships. Support is offered for the amendment and the funding structure.

Response: The commenter's support is noted.

One commenter (Exhibit #3) notes that the ranking criteria are acceptable, but questions whether points will be assigned on a scale or only on an "all or nothing" basis. He further states that the funding structure should be modified so that projects which satisfy municipal affordable housing obligations will

receive a higher proportion of grant to loan on a sliding scale so that a greater percentage of affordable housing will result in a higher proportion of the funding to be allocated as a grant.

Response: In response to the question about points assigned to ranking criteria, the draft amendment includes point scales for each of the mandatory factors. As implied by the language of the draft amendment that bonus factors may be awarded “up to 10 points”, proportional points may be assigned to these factors. If funding demand is such that competitive projects must be more closely evaluated, bonus factors will be allocated points on a scale of 0 – 10 points.

As to the comment regarding affordable housing, it is appropriate that municipal affordable housing obligations be addressed in the Regional Growth Areas. The proposed amendment recognizes that the accommodation of affordable housing obligations often necessitates higher density development and awards a greater number of points in the ranking system to projects that would support higher numbers of units and greater numbers of Pinelands Development Credits. Additional points will be awarded for projects that serve areas zoned for residential development at a net density of at least 3.7 units per acre. In addition, the factor associated with local matching funds indicates that financial hardship may be taken into account when considering whether 10 percent of the project funding must come from non-PITF sources. Project proposals will be required to lay out the financial hardship which will be considered in the ranking process. It is conceivable that such financial hardship may be related to a municipality’s need to fund and construct infrastructure for affordable housing projects. No specific change to the funding allocation is recommended for this amendment, but may be part of a future amendment if deemed necessary.

One commenter (Exhibit #5) stated that strains on limited resources caused by new regulatory mandates would hinder new infrastructure in Regional Growth Areas without the availability of the PITF. The commenter supports the ranking criteria and requests that the requirement for local matching funds be limited to no more than 10 percent of project costs, although additional points might be awarded if more than 10 percent in local matching funds are provided.

Response: The proposed amendment would award points for projects with a minimum match of 10 percent in non-PITF funding as the commenter suggests, but also allows some flexibility where financial hardship has been clearly documented in the PITF project proposal. The commenter’s support of the amendment is noted.

CONCLUSION

Based on the background and comments described above, the Executive Director has concluded that the January 2019 PITF Master Plan amendment will support the objectives of the PITF Act. Accordingly, the Executive Director recommends that the Commission adopt the Amendment as proposed.

ATTACHMENTS

gab

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

RE: PINELANDS VILLAGES

January 03, 2019
Pinelands Commission
PO Box 359
New Lisbon, NJ 08064

Pinelands Infrastructure Master Plan
Proposed Amendment

Pinelands Commissioners,

Please include this document as testimony for the Pinelands Infrastructure Master Plan Proposed Amendment hearing of January 03, 2019.

ABSTRACT

Pinelands Villages—now inappropriately deemed as Regional Growth Areas—should not be included as Pinelands Infrastructure Trust Fund (PITF) recipients since “significant” redevelopment will likely become the preferred tool to achieve Pinelands Infrastructure Master Plans’ goals (e.g., Richland Village). 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 can’t be. Additionally the PC lacks authority to determine if redevelopment parcels meet the standards of “land in need of redevelopment.” Normally, the Department of Community Affairs (DCA) performs that duty, but by Memorandum of Agreement (MOA, 1999) with the PC, the DCA has no say over Pinelands redevelopment. Also, the 1999 MOA indicated the SPC (*also* DCA, OPA) 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). The very planning 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 (*also* DCA, OPA) 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 (*also* DCA, OPA), 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.

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 .

(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.

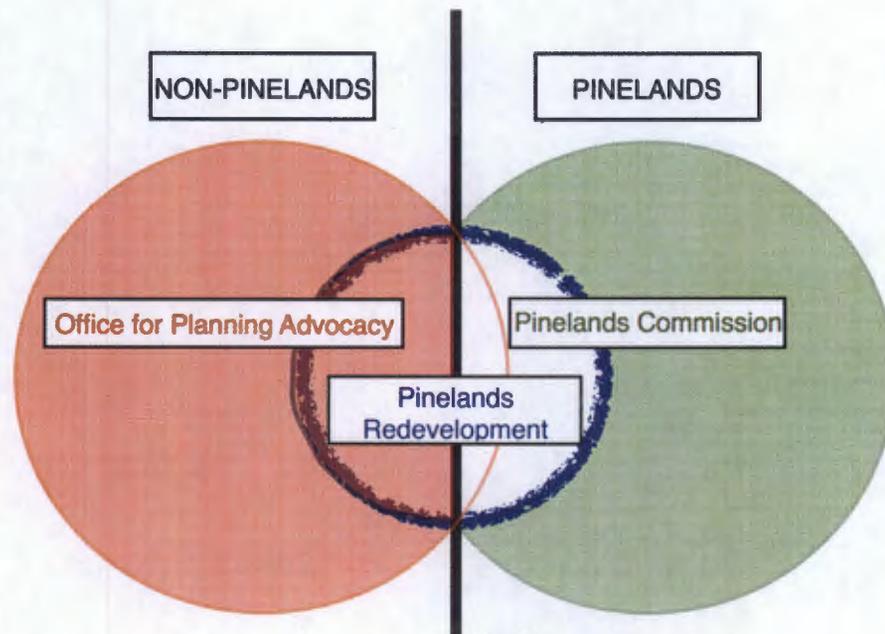
(above) Excerpt from NJLFB Chair, T. Neff, response to M. Demitroff’s query, February 28, 2011.

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).

Municipal land-use applications within the PNR 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 the PC’s 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 the PC’s primary clients - not the developers, and the PC must fully safeguard our individual and societal rights, as well as the Pinelands cultural and environmental ecosystem.

Redevelopment will in all likelihood be a preferred tool of targeted economic growth under PITF in the Pinelands. Yet for all the previous reasons stated above, redevelopment does not comport to the Pinelands Comprehensive Management Plan, and in extension cannot be invoked in the disbursement of PITF. A workable relationship between redevelopment and PITF must be addressed in the final Pinelands Infrastructure Master Plan, yet this component is conspicuously absent from this proposed amendment.



CONCLUSION

Redevelopment cannot be used anywhere 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 was 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 (*also* DCA, OPA) 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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State of New Jersey
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF LAW
25 MARKET STREET
PO Box 093
TRENTON, NJ 08626-0093

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

PAULA T. DOW
Attorney General

ROBERT M. HANNA
Director

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.
13:18A-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.



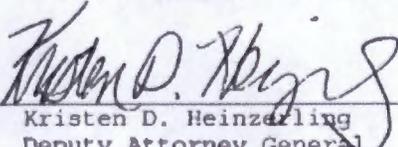
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November 23, 2011
Page 2

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. 5471i(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. Heinzerling
Deputy Attorney General

C: AAG Kevin Auerbacher
AAG Robert H. Stoloff
DAG John Renella
DAG Christine Piatek

Piner, Betsy

From: Ian Borden P.P., AICP <iborden@pds-nj.com>
Sent: Wednesday, January 02, 2019 10:49 AM
To: Planning, PC
Subject: Planning and Conformance Submissions

Below is the result of your feedback form. It was submitted by Ian Borden P.P., AICP (iborden@pds-nj.com) on Wednesday, January 2, 2019 at 10:49:12

email: iborden@pds-nj.com

subject: Planning and Conformance Submissions

print_blank_fields: 1

Name: Ian Borden P.P., AICP

Affiliation: Professional Design Services LLC

Mailing Address: 1245 Airport Road Lakewood NJ 08701

Phone Number: 7323630060

Message: We represent a number of landowners and developers seeking to development areas within the Regional Growth Zone of Manchester and Jackson Townships, which developments will require the purchase of PDC's. The absence of public water and sewer facilities have hindered the growth of these areas. Please accept these comments in support of the PITF Master Plan Amendment, including the proposed funding structure.

Submit: Submit

Philip C. Sartorio, PP/AICP, CFM
Community Development Director
(609)625-4762 x490
Fax: (609)909-1348
psartorio@townshipofhamilton.com

6101 Thirteenth Street
Mays Landing, New Jersey 08330
www.townshipofhamilton.com



*New Jersey's Largest
Municipality*

January 3, 2019

Nancy Wittenberg, Executive Director
NJ Pinelands Commission
PO Box 359
15 Springfield Road
New Lisbon, NJ 08064

Re: Comment on proposed amendments to the Pinelands Infrastructure Master Plan

Dear Ms. Wittenberg:

Enclosed are Hamilton Township's comments on the proposed amendments to the Pinelands Infrastructure Trust Master Plan.

As discussed in my meeting with Larry Liggett, Gina Berg and Ed Wengrowski, Hamilton Township is considering applying for funding through the PITF to undertake transportation improvements that are essential for the development have an approximately 475 unit inclusionary development located in the Regional Growth Area of the Township. The development of this project, which has General Development Plan approval, will require the use of over 23 Pinelands Development Credits. Development of this project also helps the Township address a portion of its affordable housing obligation.

Pursuant to the public notice of this hearing, my comments are limited to discussion of the mandatory and bonus factor ranking criteria and the funding award structure.

Thank you for the opportunity to submit these comments.

Sincerely,

Phil Sartorio

Philip Sartorio, PP/AICP, CFM

Cc: M. Jacobs, Administrator (encl)

Comments on the draft Pinelands Infrastructure Trust
Master Plan Amendment:
Township of Hamilton, Atlantic County NJ

1. Ranking Criteria - Mandatory requirements: Hamilton Township has no issue with the four factors to be evaluated under the Mandatory Requirements. It would, however, be helpful if the Master Plan, or the application form/instructions (when available) included information on how the point points would be allocated and awarded.

- Is each factor worth a maximum of 25 points? Since the plan has an allowance for hardship applications, it would not make sense for factor 3 (local matching funds) to be scored the same as PDC use.
- Will points be given on an all or nothing (or binary) basis or will there be a gradation of points (e.g. will an application for a project that only meets the minimum PDC potential of 12.5 credits be awarded the same amount of points as a project with the potential use of 18 PDCs)?

2. Ranking Criteria - Bonus Factors: Just as with the mandatory requirements it would be helpful to know how the points will be allocated and awarded for the bonus factors.

- Is each factor going to be worth the same amount of points?
- Will a project that just meet the minimum criteria be awarded the same number of points as a project that exceeds the criteria by a significant amount (for example - will a project serving a zone with a net density of 5 units/acre receive be allocated the same or more points than a project with a net density of 3.7 units/acre)?

3. Funding award structure: The Master Plan should include a provision that modifies the PITF loan/grant ratio where the local project is needed for the municipality to satisfy a significant percentage of its affordable housing obligation. For the purpose of these comments, the following changes are suggested:

<u>% of Local Affordable Obligation</u>	<u>Proposed Financing Structure</u>
< 5%	No change to draft
5% - 15%	45% Loan 45% Grant
> 15%	10% Local Match 40% Loan 50% Grant 10% Local Match



Pinelands Infrastructure Trust Fund
Master Plan Amendment
January 2019 Exhibit #4

MANCHESTER TOWNSHIP

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DEPARTMENT OF PUBLIC WORKS

ALBERT YODAKIS, PE, PP, CPWM
DIRECTOR OF PUBLIC WORKS

KENNETH T. PALMER
MAYOR

January 4, 2018

Nancy Wittenberg, Executive Director
The Pinelands Commission
15 Springfield Road
PO Box 359
New Lisbon, NJ 08064

Re: Pinelands Infrastructure Trust Master Plan Amendment
Letter of Support

Dear Director Wittenberg:

I have received and reviewed a copy of the draft amendment to the funding allocation and ranking criteria for the Pinelands Infrastructure Trust Master Plan. Please accept this letter as our support of the proposed amendment and financing structure.

The Township is of the opinion that the outlined financing structure will allow municipalities to utilize the proposed funds to complete meaningful projects which will have a positive impact on the Pinelands.

If you have any questions regarding this matter or require any additional specifics to support the township's position, please do not hesitate to contact me.

Very truly yours,

Albert Yodakis, PE, PP, CME, CPWM
Director of Public Works

Berg, Gina

From: Berg, Gina
Sent: Monday, January 07, 2019 4:03 PM
To: Grogan, Susan; Piner, Betsy; Liggett, Larry
Cc: Wengrowski, Ed
Subject: FW: Pinelands Infrastructure Trust Fund

From: David Harpell [<mailto:dharpell@jacksonmua.com>]
Sent: Monday, January 07, 2019 3:58 PM
To: Berg, Gina
Subject: [EXTERNAL] RE: Pinelands Infrastructure Trust Fund

Gina,

I apologize that we did not testify or provide comments earlier on the Pinelands Infrastructure Trust Master Plan Amendment. As we have previously relayed, Jackson MUA is fully supportive of any infrastructure financing that will support the Pinelands Infrastructure Master Plan and the timing of this program is very fortuitous as the NJ I-Bank has limited resources and water and sewer utilities are dealing with many new regulatory mandates including the Water Quality Accountability Act. In short, these funding issues will very likely prevent extending utilities in the Pinelands Regional Growth Areas without a program such as the Pinelands Infrastructure Trust Fund. I personally think the ranking criteria seems reasonable and would like to keep the local match in the 10% range with more points provided for a higher local match.

In short, I think a program such as this is both reasonable and necessary to meet your infrastructure goals.

Respectfully,
David Harpell
Executive Director
Jackson Township MUA
(732)928-2222 x240

From: Berg, Gina [<mailto:Gina.Berg@pinelands.nj.gov>]
Sent: Thursday, August 30, 2018 9:29 AM
To: David Harpell
Subject: Pinelands Infrastructure Trust Fund

Good Morning,

The Pinelands Commission is seeking input regarding potential projects that might qualify for funding through the Pinelands Infrastructure Trust Fund. Attached is a copy of our letter that requests input about infrastructure needs and gives a brief description of the funding to be made available for projects that support any Pinelands Regional Growth management area. If you have any questions or if you would like to schedule a meeting to discuss potential infrastructure projects and the Pinelands Infrastructure Trust Fund, please contact me via e-mail or through the phone number below.

Gina Berg
Resource Planner

NJ Pinelands Commission
(609) 894-7300 ext. 136

PINELANDS INFRASTRUCTURE TRUST MASTER PLAN AMENDMENT
PROJECT RANKING CRITERIA AND FUNDING STRUCTURE
JANUARY 2019

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Overview

The Pinelands Infrastructure Fund (PITF) was established in 1985 to help local governments and utility authorities defray the costs associated with supporting the population and economic growth targeted to Pinelands Regional Growth Areas. The Pinelands Infrastructure Bond Act became law on August 23, 1985. Voters subsequently approved a bond issue that allowed \$30 million to fund the PITF. The funds are disbursed through grants and loans for certain types of infrastructure projects that serve the needs of Pinelands Regional Growth Areas. The types of infrastructure that may be funded pursuant to the Act include wastewater treatment and collection systems, stormwater management facilities, water supply systems, and transportation projects. To date, only wastewater projects have been funded.

The Pinelands Commission prepared the original Pinelands Infrastructure Master Plan as required by the PITF Act. The Infrastructure Master Plan accomplished three things. First, it delineated a funding structure for loans, grants, and local matching funds (40%, 40%, and 20%, respectively). Second, it created a ranking system by which proposed infrastructure projects would be judged for funding eligibility. Third, it generated the list of projects that were deemed eligible for the initial round of funding. Projects proposed for funding must first be approved by the Pinelands Commission and are then forwarded to the State Infrastructure Bank for processing and legislative approval.

At this time, the repayment of loans from earlier funding rounds has replenished the PITF and there is approximately \$15 million available to disburse as loans or grants. In July 2018, Commission staff reviewed the program with the CMP Policy & Implementation Committee. Subsequently, the Commission staff reached out via mail, e-mail, web notice, telephone and in-person meetings with local officials and utility authorities to gauge the infrastructure needs of the Regional Growth Areas. Commission staff has also been working to create a new set of ranking criteria by which to evaluate any applications for funding.

The new ranking criteria and funding structure are the subjects of this proposed PITF Master Plan amendment. A future amendment will be prepared to incorporate the list of projects recommended for funding. Following review of this proposed amendment by the Policy & Implementation Committee, a public hearing must be held regarding the amendment. Then, the proposal will return to the Committee for a recommendation to forward it on to the Commission for approval. The amended Master Plan should then be submitted to the Department of Environmental Protection for updating any regulations for consistency with the Water Bank (formerly Environmental Infrastructure Trust) process.

Following adoption of this amendment to the Pinelands Infrastructure Master Plan, the Commission will then announce a Request for Proposals to solicit applications for project

funding. Submitted applications will be ranked by staff and reviewed by the Policy & Implementation Committee. Subsequently, a second Master Plan amendment will be prepared. The second amendment will revise the funding structure, if necessary, and it will include the list of projects to be funded. The second amendment will then proceed through the same route of public hearing, committee review, formal Commission action and submittal to the Water Bank. The list of projects identified in the second Master Plan amendment is intended to proceed through legislative adoption as part of the overall Intended Use Plan prepared by the Water Bank for SFY2020.

Objectives

The purpose of this Pinelands Infrastructure Trust Master Plan amendment is twofold. First, it proposes to create a new set of ranking criteria for evaluating projects involving wastewater, water supply or transportation to serve the needs of the Pinelands Regional Growth Areas. Second, it proposes a new funding structure to disburse available funds from the Pinelands Infrastructure Trust. The ranking criteria offer an objective means for comparing the relative value of an array of infrastructure projects against goals related to the Pinelands Comprehensive Management Plan and to the Pinelands Infrastructure Bond Act. Specifically, the project must serve development in the Pinelands Regional Growth Areas and any facilities must be located in or serve the Pinelands Area.

The ranking criteria are also intended to measure projects alongside community needs and environmental objectives. Funding will only be awarded to wastewater (including stormwater and green infrastructure), transportation, or water supply projects. The proposed funding structure will require that a portion of the funds be disbursed funds as loans. That structure will allow future funding rounds to be made available as loans are fully repaid.

In addition, the Pinelands Infrastructure Act was intended to enhance the environmental objective of land preservation and value equity through the Pinelands Development Credit (PDC) program. Therefore, any project that receives PITF funding in this round must support new residential development or redevelopment that will need PDCs to be completed. A higher potential for PDC use will result in a higher ranking score.

The remaining objectives of the funding are reflected in the ranking criteria and include consideration of project cost per residential unit, environmental enhancements, and Kirkwood-Cohansey aquifer benefits.

Ranking Criteria

There are two categories of ranking criteria: mandatory requirements and bonus factors. Mandatory requirements allow any project to earn up to 100 points. Up to an additional 70 points can be earned for bonus factors. Please see the ranking criteria, below.

Mandatory Requirements

All projects must provide service to a Regional Growth Area. Only infrastructure that allows new residential or mixed use development and redevelopment will be considered. Only project costs associated with facilities and infrastructure inside the Pinelands Area will be eligible for funding. A project may be awarded up to 100 points on mandatory requirements.

1. Level of Service (40 points)

Number of new dwelling units potentially served based on municipal zoning. Higher number of total units will result in greater points awarded.

- 25 -50 residential units = 5 points
- 50 - 100 residential units = 10 points
- 100 - 200 residential units = 15 points
- 200 - 300 units = 20 points
- 300 – 400 units = 25 points
- 400 – 500 units = 30 points
- Greater than 500 units = 40 points

2. Potential for PDC use - based on certified municipal zoning (40 points)

The project may serve areas where PDC use is optional or mandatory. Mandatory use is granted additional points in bonus factors. Potential use of greater numbers of PDCs increases awarded points.

- 5 PDCs (20 rights) = 5 points for voluntary use; 10 points for mandatory use
- 7.5 PDCs (30 rights) = 7 points for voluntary use; 15 points for mandatory use
- 10 PDCs (40 rights) = 10 points for voluntary use; 20 points for mandatory use
- 12.5 PDCs (50 rights) = 12 points for voluntary use; 25 points for mandatory use
- 15 PDCs (60 rights) = 15 points for voluntary use; 30 points for mandatory use
- Greater than 15 PDCs (>60 rights) = 20 points; 40 points for mandatory use

3. Local matching funds (20 points)

Not less than 10% of project funding must come from non-PITF sources, unless a hardship exists and the project otherwise is highly ranked.

- 10% - 25% match = 7 points
- 26% - 40% match = 14 points

Greater than 41% match = 20 points

Bonus Factors

No more than 70 points total will be awarded for these bonus factors. Each factor may be awarded up to 10 points.

1. Development meets EPA Water Sense standards
2. Best Management Practice enhanced stormwater techniques and green infrastructure that exceeds current Pinelands Comprehensive Management Plan regulations
3. Water supply for development is from a non-Kirkwood/Cohansey water source
4. Project recharges wastewater to groundwater
5. Lower cost per dwelling unit in PITF funding
6. Serves areas where the certified municipal zoning ordinance mandates use of PDCs for at least 16.7% of the market rate units in any residential project
7. Serves areas zoned for residential development at a net density of at least 3.7 units per acre

Financing Structure

According to the Pinelands Infrastructure Trust Act, the Infrastructure Master Plan sets the funding structure which may be amended periodically. When the funding structure includes a portion of the award to be disbursed as loan(s), the Act requires that the interest rate will not “exceed 50% of the average interest rate of the Bond Buyer Municipal Bond Index for bonds available for purchase during the last 26 weeks preceding approval of the loan....” Terms of the loan or grant agreement shall be specified by the State Treasurer.

The Act limits project costs that would be eligible for award to those remaining after deducting any Federal contribution. The Act indicates that the following costs may be included in the project award:

- Acquisition and development of real estate for use in connection with the project
- Execution of agreements or franchises
- Procurement of engineering, inspection, planning, legal, financial or other professional services
- Administrative, organizational or operating expenses incident to the authorized project
- Establishment of working capital

The Pinelands Infrastructure Master Plan financing structure for disbursement of the loans and grants will be amended as follows:

1. The portion awarded as loans will be 50% of the total project award.
2. The portion awarded as grants will be 40% of the total project award.
3. A local match of 10% of the total project award will be required. In cases where a hardship has been identified, the local match may be waived and the award will be allocated as 50% loan and 50% grants.
4. Loans will carry an interest rate of 1%.

Outline for Project Funding Applications

- I. Application form
 - a. See attached form
 - b. Project Map (all maps must also be submitted in GIS formats)
 - i. Facility and infrastructure location
 - ii. Zoning district boundaries
 - iii. Development to be served boundary
 - iv. Pinelands Management Area boundaries
 - v. Municipal Boundaries
 - vi. Scale
 - vii. Compass Rose
- II. Detailed Proposal
 - a. Facilities, System and Service Area Description
 - b. Block and lot numbers, if applicable
 - c. Municipal Zoning Districts to be served
 - d. PDC Use – total number of residential units to be served (subject to verification)
 - i. Number of units expected as PDC units
 - ii. Assurance of PDC use where voluntary
 - e. Municipal/Regional Benefits (for example, where the project will correct an existing problem or support redevelopment of an area)
 - f. Best Management Practices, Conservation, or Environmental Design Elements of Project
 - g. Costs – including a statement of the local or non-PITF funding match for the project and a statement of Federal funding associated with the project
 - h. Governing body resolution indicating intent to provide local match
 - i. Project Schedule

Appendix I. Application Form

I. Applicant Information

Applicant Name

Applicant Address

Contact Name and Address

Contact Phone Number

II. Costs and Financing

Estimated Total Project Cost _____

Local Match Funds _____

Federal Funds _____

PITF Funding Assistance Requested _____

III. Detailed Proposal

Attach project description and map as described in “Outline for Project Funding Applications”

IV. Resolution of the Governing Body

Attach a copy of the adopted resolution authorizing application and assigning the point of contact