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November 5, 2001

**MEMORANDUM OF AGREEMENT
BETWEEN
THE NEW JERSEY PINELANDS COMMISSION
AND
BERKELEY TOWNSHIP**

I. PURPOSE

This Memorandum of Agreement between Berkeley Township and the New Jersey Pinelands Commission (hereinafter "Commission") is intended to facilitate the review of certain development projects undertaken by Berkeley Township in the Pinelands Area. The Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-4.52(c)) provides that "the Commission may enter into intergovernmental memoranda of agreement with any agency of the federal, state or local government which authorize such agency to carry out specified development activities without securing individual development approval from the Commission" under the Pinelands Comprehensive Management Plan (CMP).

II. MUTUAL AGREEMENTS

A. The Commission and Berkeley Township agree that:

1. The following development does not require a formal Commission application:
 - a) The resurfacing or reconstruction of a right-of-way constructed of an impervious material which will not result in an increase in the width of the existing impervious surface.
 - b) Activities normally associated with the maintenance of drainage ditches as defined in the following manner: a linear excavation below the natural ground surface that is designed and maintained to convey stormwater runoff.
2. At least 15 days prior to undertaking the activities specified in (A.1), the Engineer for Berkeley Township shall submit to the Commission a narrative description of the proposed development and a copy of a U.S.G.S. quadrangle identifying the location of the development.
3. If the Commission determines that the proposed development does not meet the criteria established in (A.1), Berkeley Township agrees to file a formal Commission application for the development. Berkeley Township also agrees that no development may occur until obtaining Commission approval.

- B. The Commission and Berkeley Township agree that:
1. The following general classes of development will not require the filing of a formal application for the approval of the Commission provided no new discharges to wetlands or wetlands buffers are proposed:
 - a) The replacement-in-type of any bridge greater than 50 years old or the replacement of any bridge less than 50 years old, provided the area of disturbance associated with each is less than 5000 square feet.
 - b) The replacement of existing culverts meeting the following criteria:
 - i. The area of non-impervious disturbance will not exceed 5000 square feet;
 - ii. The culvert will be replaced with one of equivalent size;
 - iii. The length of the culvert is not increased by more than a total of 20 feet.
 - c) The construction of drainage structures involving the following:
 - i. The piping of existing drainage ditches that have been designed and maintained for stormwater conveyance structures provided that:
 - aa. The pipe will conform to the existing alignment of the ditch as much as possible; and
 - bb. The pipe will be constructed at a location that will not vary more than two feet measured horizontally from the existing limits of the ditch; and
 - cc. The pipe invert will not extend more than six inches below the existing bottom of the ditch; and
 - dd. Any pavement widening proposed in conjunction with the pipeline shall not exceed 5000 square feet.
 - ii. The installation of new stormwater infiltration inlets and pipes for the infiltration of runoff from existing roadway pavement provided that the results of soil borings are submitted with an estimation of the elevation of the seasonal high water table.

- iii. The extension of existing stormwater drainage systems along existing roadways provided that, where feasible, the proposed stormwater drainage systems will provide adequate infiltration volume to accommodate at least 1-1/4 inches of runoff from the paving surfaces draining to the system. The results of soil borings must be submitted with an estimation of the elevation of the seasonal high water table.
 - d) Roadway intersection improvements provided the area of non-impervious disturbance will not exceed 5,000 square feet.
 - e) Other classes of development provided:
 - i. The development will not result in grading, clearing and disturbance in excess of 5,000 square feet; and
 - ii. The development will not require a freshwater wetlands permit authorization under the Freshwater Wetlands Protection Act or any other permit for development in wetlands required by the N.J. Department of Environmental Protection; and
 - iii. The development project will not require a water allocation permit from the N.J. Department of Environmental Protection for a well or for an increase in the diversion from an existing well; and
 - iv. If applicable, either the development is served by public sanitary sewer or if the development is served by an onsite wastewater system, the development will not result in new or increased waste water flows in accordance with the applicable provisions of the CMP (N.J.A.C. 7:50-6.84(a)4viii or (a)5ix); and
 - v. The development does not involve the clean-up of a hazardous waste site; and
 - vi. The development does not require a NJPDES permit.
2. At least forty-five (45) days prior to the commencement of any of these activities, the Engineer for Berkeley Township shall submit to the Commission a narrative description of the proposed activity, a copy of a U.S.G.S. quadrangle on which the location of the proposed development has been indicated and a copy of the plan for the project.

3. Within thirty (30) days of receipt of the information submitted pursuant to (B.2), the Commission staff will provide comments regarding the consistency of the proposal with the requirements of the CMP. If the Commission fails to notify Berkeley Township of its determination within the prescribed time frame, Berkeley Township may proceed with the activity as proposed.
4. If any portion of a project proposal submitted pursuant to (B.2) is found to be inconsistent with the requirements of the CMP, Berkeley Township agrees that the project will be modified until the Commission staff determines that the proposed development is consistent with the standards of the CMP. No development shall occur until the Commission staff determines the development is consistent. If Berkeley Township disagrees with a determination of inconsistency by the Commission staff, it may submit a formal application pursuant to paragraph (II.C) below.

C. Berkeley Township understands that:

1. Any activity not identified in (A.1) or (B.1) will require an application to the Commission; and
2. In accordance with the CMP (N.J.A.C. 7:50-4.52(b)), the proposed development may not occur until an application has been completed and the Commission has approved the project.

D. The Commission and Berkeley Township agree that:

1. By October 1 of each year, Berkeley Township will provide to the Commission a list and description of all projects planned for the upcoming calendar year.
2. By November 15 of each year, the Commission will advise Berkeley Township of any projects identified in accordance with (D.1) that may raise issues with respect to the provisions of the Pinelands Comprehensive Management Plan, such as those regarding wetlands, the protection of threatened/endangered plant and animal species and those regarding the protection of historic, archaeological and cultural resources.
3. The Commission and Berkeley Township agree to hold an annual meeting prior to December 31 of each year to discuss the status of the projects identified by Berkeley Township in accordance with (D.1).

III. EFFECTIVE DATE AND DURATION

- A. In accordance with N.J.S.A. 13:18A-5(h), this MOA shall take effect subsequent to the Governor's review and approval of the Pinelands Commission minutes authorizing entry of this MOA and then upon approval and signature by the authorized representative of all parties.
- B. This agreement shall remain in effect until otherwise amended or terminated by either party upon sixty (60) days written notice.

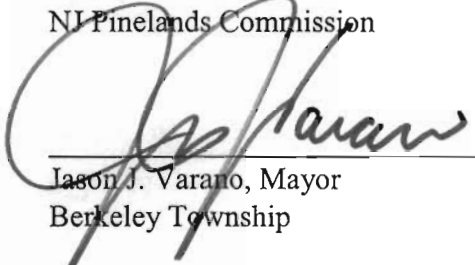
IV. SIGNATURES



Annette M. Barbaccia
Executive Director
NJ Pinelands Commission

1/22/02

Date

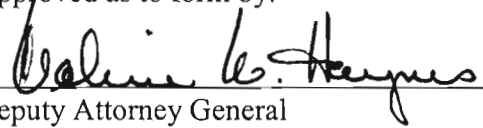


Jason J. Varano, Mayor
Berkeley Township

1-29-01

Date

Approved as to form by:



Deputy Attorney General
State of New Jersey

1/3/02

Date