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# Report on Regional Planning Programs in New Jersey

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The Draft Preliminary  
State  
Development  
AND  
Redevelopment  
Plan  
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## REGIONAL PLANNING programs IN NEW JERSEY

### HACKENSACK MEADOWLANDS DEVELOPMENT COMMISSION

The Hackensack Meadowlands are a large tidal marsh-estuary system surrounded by a vast urban complex. Severe disruptions have affected the Meadowlands throughout the history of the state, including ditching, diking, the use of insecticides, industrial pollution, road and railroad construction, dumping, dredging, and filling. More than 7,000 acres have been subjected to various forms of scattered development and an extremely haphazard land use pattern. (Nelson, "Crazy-Quilting the Jersey Meadows," landscape Architecture 42, 43 (Jan. 1974)) Most of the Meadowlands became an extensive garbage dump receiving noxious waste from industries and solid waste of the surrounding metropolitan region. (M. Greenburg, Solid Waste Planning in Metropolitan Regions 13 (1976))

In response to the problems facing the Meadowlands, the New Jersey legislature passed the Hackensack Meadowlands Reclamation and Development Act. (1968 N.J. Laws 404, codified at N.J. Stat. Ann. 13:17-1 et seq. (West Supp. 1986)) The Legislature found the Meadowlands to be "a land resource of incalculable opportunity for new jobs, homes and recreational sites" whose comprehensive development, "due to their strategic location in the heart of a vast metropolitan area with urgent needs for more space for industrial, commercial, residential, and public recreational and other uses," could no longer be deferred. (N.J. Stat. Ann. 13:17-1 (West Supp. 1986)) The Legislature determined that the Meadowlands required special protection from water and air pollution, special arrangements for the disposal of solid wastes, and the consideration of ecological factors and preservation of the delicate natural balance in evaluating development. The Act therefore created the Hackensack Meadowlands Development Commission and the Hackensack Meadowlands Municipal Committee.

The Hackensack Meadowlands Development Commission (HMDC) constitutes an independent "political subdivision of the State established as an instrumentality exercising public and essential governmental functions." (N.J. Stat. Ann. 13:17-5 (West Supp. 1986) ) The HMDC consists of seven members: the Commissioner of the Department of Community Affairs (sitting ex officio) and six citizens of the state, appointed by the Governor subject to Senate confirmation. Of the six citizen members, two must be residents of municipalities in Bergen County and two must be residents of municipalities in Hudson County, with no more than one citizen member from any single municipality. No more than three of the six may be members of the same political party.

The Meadowlands District, the area over which the HMDC has jurisdiction, lays within Bergen County, Hudson County, and fourteen municipalities; it covers about 32 square miles. (See

N.J. Stat. Ann. 13:17-4 (West Supp. 1986)) The District contains woodlands, upland meadows, tidal lands, salt and fresh marsh, and waterways. The Act directs the HMDC to prepare and adopt a master plan that sets forth standards for the comprehensive development of the District. (N.J. Stat. Ann. 13:17-9 (West Supp. 1986)) The Act requires the master plan to contain provisions for the location and use of buildings, structures, facilities, and land for solid waste disposal. (N.J. Stat. Ann. 13:17-11 (a) (West Supp. 1986)) The Act also authorizes the adoption by the HMDC of codes and standards covering land use, comprehensive zoning, subdivisions, building construction and design, housing, »•>•>• and water pollution, and solid waste disposal. (N.J. Stat. Ann. 13:17-11(b) (West Supp. 1986))

The Hackensack Meadowlands Municipal Committee (Municipal Committee) consists of the mayors of the fourteen municipalities in which the District lays. (N.J. Stat. Ann. 13:17-7 (West Supp. 1986)) The Municipal Committee acts as an advisory body to the HMDC. It reviews all plans, codes, and standards proposed by the HMDC and makes recommendations concerning these proposals and any other matter that the Municipal Committee may deem advisable. (N.J. Stat. Ann. 13:17-8 (West Supp. 1986))

; The HMDC released its Master Plan in 1970. (See N.J. Admin. Code tit. 19, 3-1.1 et seq. (Supp. 1984)) The Plan recommends that a substantial portion of the District be set aside as permanent open space. Close to these open areas are to be "islands" containing high-density, high-rise housing. Industrial facilities, research parks, and warehousing are to be located in other areas specified by the Master Plan. The Plan designates the western edge of the District as a belt of medium-density housing and a substantial regional shopping center, a sports complex, and other regional facilities.

No building or other structure may be constructed or altered within the area shown on the Master Plan unless the HMDC has issued a permit for the work. (N.J. Stat. Ann. 13:17-12 (West Supp. 1986)) The HMDC also regulates all subdivisions and land development within the District. (N.J. Stat. Ann. 13:17-13 (West Supp. 1986)) All building construction or alterations must meet engineering standards adopted by the HMDC. (N.J. Stat. Ann. 13:17-12 (West Supp. 1986); see N.J. Admin. Code tit. 19, 6-1.1 et seq. (Supp. 1984) (District building code)) All subdivisions and land development must comply with the Master Plan, must provide adequate drainage facilities, easements, road improvements, and water and sewer systems, and must be accompanied by adequate performance guarantees and maintenance bonds. (N.J. Stat. Ann. 13:17-13 (West Supp. 1986)) ; see N.J. Admin. Code tit. 19, 4-1.1 et seq. (District zoning ( regulations) , 5-1.1 et seq. (District subdivision regulations) (Supp. 1984))

The Meadowlands Commission, however, is more than a regulatory agency. The Act directs the HMDC to provide solid waste disposal facilities to relieve the need for the extensive dumping that historically has occurred in the Meadowlands. (N.J. Stat. Ann. 13:17-10 (b) (West Supp. 1986)) Pursuant to this directive, the HMDC operates the world's largest garbage baler (Sheehan, "Solid Waste Planning for the Meadowlands," New Jersey Municipalities 24 (April 1979)), which reduces by about two-and-one-half times the amount of land needed for solid waste disposal. The HMDC also is authorized to undertake its own redevelopment projects. (N.J. Stat. Ann. 13:17-20 (West Supp. 1986)) To carry out these activities, the HMDC has the power to issue bonds, to impose special assessments, to acquire property by condemnation or purchase, and to accept gifts from and enter into cooperative arrangements with federal and local government agencies. (N.J. Stat. Ann. 13:17-6 (West Supp. 1986))

One commentator has stated that with the Hackensack Meadowlands Reclamation and Development Act, "for the first time, in New Jersey's history, the theology of local control has been reformed under the obvious need for more effective and comprehensive planning." (Nelson at 44) In preparing or amending the Master Plan, the HMDC was merely to give "due consideration" to existing patterns of development in and any development plans adopted by the fourteen municipalities. (N.J. Stat. Ann. 13:17-9(b) (West Supp. 1986)) The Act renders null and void any local code that is inconsistent with the Master Plan and allows the municipalities only to enact zoning ordinances and other codes and standards that effectuate the purposes of the Master Plan. (N.J. Stat. Ann. 13:17-11 (b) (West Supp. 1986))

The Act circumscribes municipal authority in additional ways. Municipalities must refer all municipal projects to the HMDC for review and approval before taking any action on the project requiring the expenditure of public funds. (N.J. Stat. Ann. 13:17-12 (West Supp. 1986)) Applications for subdivisions, site plans, and building permits must be submitted to the HMDC for approval before approval by a municipality. (N.J. Stat. Ann. 13:17-14 (West Supp. 1986)) Finally, the HMDC must be given notice of and be considered an interested party at any municipal or county hearing regarding "the adoption or amendment of a master plan, official map, zoning or subdivision regulations, or ... the granting of variances or special exceptions, involving property within the district or within 200 feet of its borders." (N.J. Stat. Ann. 13:17-16 (West Supp. 1986))

#### PINELANDS COMMISSION

The Pinelands are an expanse of forest covering roughly one million acres, part or all of 52 municipalities, and one-quarter of the State of New Jersey. The Pinelands have long been recognized as an environmental treasure; they harbor many

endangered plant and animal species in combinations found nowhere else in the world. Since the colonial period, the Pinelands have supported lumbering, bog-iron production, sand and gravel extraction, and cranberry cultivation. Throughout this history, the Pinelands ecosystem retained its ability to maintain itself in the face of human activities. Other human activities over the past few decades, however, proved less compatible. Development pressures grew throughout the Pinelands and threatened the continued viability of the ecosystem. In response, there was an increasing awareness that the Pinelands function as a total ecosystem and require a regional approach, to land use management.

Over a decade of study and planning by state and federal agencies led to a number of government actions in the late 1970s instituting a region-wide mechanism for managing land use in the Pinelands. The National Parks and Recreation Act passed by Congress in 1978 established the Pinelands National Reserve, covering about one million acres of land in seven counties and 56 municipalities, and authorized the creation of a planning entity responsible for preparing a comprehensive management plan for the Pinelands. (16 U.S.C.A. 471i (West 1985)) To comply with the federal law, Governor Byrne issued Executive Order 71 on February 8, 1979, creating the Pinelands Commission and making most development in the Pinelands subject to Commission approval during the planning period. Later in 1979, the New Jersey Legislature adopted the Pinelands Protection Act (1979 N.J. laws 111, codified as amended at N.J. Stat. Ann. 13:18A-1 et seq. (West Supp. 1986)), which endorsed efforts to plan for the Pinelands, designated the Pinelands Commission as the regional planning entity called for by the federal legislation, and continued the interim restrictions on development.

The Pinelands Commission (Commission) is an independent "political subdivision of the State established as an instrumentality exercising public and essential governmental functions." (N.J. Stat. Ann. 13:18A-4 (West Supp. 1986)) The 15-member Commission consists of seven members appointed by the governing bodies of each of the seven Pinelands counties, seven members appointed by the Governor, and one appointed by the U. S. Secretary of the Interior. (N.J. Stat. Ann. 13:18A-5 (West Supp. 1986)) The Pinelands Protection Act also created the Pinelands Municipal Council, consisting of the mayor (or his or her designee) of each municipality wholly or partially located in the Pinelands area. (N.J. Stat. Ann. 13:18A-7 (West Supp. 1986)) The Pinelands Municipal Council is to review and comment on the comprehensive management plan and any revisions to the plan prepared by the Commission, as well as to make recommendations to the Commission on other matters the Municipal Council deems advisable.

The Pinelands Protection Act delineated the Pinelands Area as the jurisdiction of the Commission. The Pinelands Area is

slightly smaller than the Pinelands National Reserve and includes land in 52 municipalities. (See N.J. Stat. Ann. 13:18A-U (West Supp. 1986)) "Die Pinelands Area consists of a 368,000-acre "Preservation Area," which has many characteristics of a wilderness, and the 566,000-acre "Protection Area," which is somewhat more developed.

The Pinelands Protection Act directed the Commission to a comprehensive management plan containing the following elements, among others:

- (1) an assessment of the Pinelands Area's natural resources and carrying capacity;
- (2) a map of the National Reserve showing major areas of critical ecological importance and areas of scenic, open space, cultural, and recreational significance;
- (3) a land use capability map and a comprehensive statement of policies for planning and managing the development and use of land in the Pinelands Area;
- (4) a coordination and consistency component detailing the ways in which local, state, and federal policies and programs may best be coordinated to promote the goals of the plan. (N.J. Stat. Ann. 13:18A-8 (West Supp. 1986))

The Act also established goals for the plan to promote for the two components of the Pinelands Area. The goals with respect to the more developed Protection Area are:

- (1) to preserve and maintain the essential character of the existing Pinelands environment;
- (2) to protect and maintain the quality of surface and ground waters;
- (3) to promote the continuation and expansion of agricultural and horticultural uses;
- (4) to discourage piecemeal and scattered development; and
- (5) to encourage appropriate patterns of compatible residential, commercial, and industrial development in or adjacent to areas already used for such purposes. (N.J. Stat. Ann. 13:18A-8(b) (West Supp. 1986))

The goals with respect to the relatively undeveloped Preservation Area are:

- (1) to preserve an extensive and contiguous area of land in its natural state;
- (2) to promote compatible agricultural, horticultural, and recreational uses;
- (3) to prohibit any construction or development which is incompatible with the area;

- (4) to provide a sufficient amount of undeveloped land to accommodate specific wilderness management practices necessary to maintain the area's special ecology; and
- (5) to protect and preserve the quantity and quality of surface and ground waters. (N.J. Stat. Ann. 13:18A-8(c) (West Supp. 1986))

The State of New Jersey adopted the Comprehensive Management Plan on November 21, 1980. (See N.J. Admin. Code tit. 7, ch. 50 (Supp. 1981)) The Plan consists of a series of policies and programs that are the product of studies of natural resources, historic and archaeological resources, sociocultural factors, physical resources, current and expected growth pressures, and the cost of implementing the Plan. The Plan also contains rules for the certification of county, municipal, and federal installation plans and land use ordinances, rules governing the review of development proposals, and detailed minimum standards for development or construction within the Pinelands Area.

The Pinelands Protection Act required that, subsequent to the adoption of the Comprehensive Management Plan, no application for development within the Pinelands Area may be approved by a local or state agency unless such approval conforms to the provisions of the Plan. (N.J. Stat. Ann. 13:18A-10(c) (West Supp. 1986)) The Act directed all counties and municipalities located wholly or partially within the Pinelands Area to revise their raster plans and land use ordinances, subject to review and certification by the Commission, so that they implement the objectives of the Plan and conform to the development standards contained in the Plan. (N.J. Stat. Ann. 13:18A-12 (West Supp. 1986)) If any county or municipality fails to enact the appropriate revisions, the Commission has the authority to adopt and enforce such regulations as may be necessary to implement the standards contained in the Plan, fid.) As of December 1983, 36 municipalities and four counties had completed the certification process. (N.J. Pinelands Commission, A Progress Report on the First Three Years of Implementation 1-1 (1983))

One of the most interesting features of the Plan is the way it divides permitting authority between the Commission and local governments. Once a local government has had its master plan and land use ordinances certified by the Commission, it is free to issue and deny permits for development on the basis of those ordinances. However, any application for development approval must be filed first with the Commission, - this gives the Commission an opportunity to review and comment on development proposals at the earliest possible stage. Each local government also must give notice to the Commission of any preliminary or final development approval. The Commission may then "call up" the local approval for review. If the Commission finds that the local approval is inconsistent with the policies of the Comprehensive Management Plan, then the local government must

modify or revoke the approval. If" a. county or municipality does not obtain certification of its plans and ordinances, then no development may take place without direct Commission approval and the Commission can approve development despite denial of approval by the county or municipality.

The Commission thus has allowed local governments to retain as much autonomy as they choose. By certifying local plans and ordinances for conformity with the Plan, the Commission relieves itself of the responsibility of reviewing all development proposals while still providing for implementation of the Plan's objectives, policies, and standards. By retaining jurisdiction in areas where local plans and ordinances do not conform to the Plan, the Commission has ensured that it can protect the Pinelands directly.