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State of New Jersey

THE PINELANDS COMMISSION

PO Box 359
NEW LISBON, NJ 08064
(609) 894-7300
www.nj.gov/pinelands



Chris Christie
Governor

Kim Guadagno
Lt. Governor

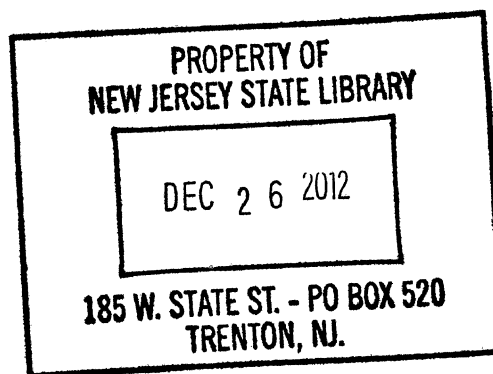
General Information: Info@njpines.state.nj.us
Application Specific Information: AppInfo@njpines.state.nj.us

Mark S. Lohbauer
Chairman

Nancy Wittenberg
Executive Director

December 18, 2012

Mr. Robert Lupp
State Library – NJ Reference Section
185 West State Street
P.O. Box 520
Trenton, New Jersey 08625



Dear Mr. Lupp:

Enclosed are the Pinelands Commission meeting minutes for November 9, 2012 for your information.

Sincerely,

Melody A. Wood
Receptionist

PC1
Enclosure: Minutes

PINELANDS COMMISSION MEETING¹

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

MINUTES

November 9, 2012

Commissioners Present

Candace Ashmun, Bill Brown, Sean Earlen, Leslie Ficaglia, Ed Lloyd, Robert Jackson, Ed McGlinchey, Richard Prickett, Fran Witt and Chairman Mark Lohbauer. Also present were Executive Director Nancy Wittenberg, Governor's Authorities Unit Liaison John Cascarano and Deputy Attorney General Kristen Heinzerling.

Commissioners Absent

Gary Quinn, Paul E. Galletta, D'Arcy Rohan Green and John A. Haas.

Chairman Lohbauer called the meeting to order at 9:35 a.m.

The Commission and public in attendance pledged allegiance to the Flag.

DAG Heinzerling read the Open Public Meetings Act Statement.

Ms. Wittenberg called the roll and announced the presence of a quorum. (There were 10 Commissioners present.)

Minutes

Chairman Lohbauer presented the October 12, 2012 Commission meeting minutes. Commissioner Jackson moved the adoption of the minutes. Commissioner Witt seconded the motion.

¹ Please note that all attachments are maintained with the original minutes, but are not attached to copies. For information about attachments, please contact the office.

Executive Director's Reports

Ms. Nancy Wittenberg updated the Commissioners on the following:

- Staff has been involved with the State on debris management stemming from Hurricane Sandy. She attended a briefing on clean-up efforts, and told DEP if they want to establish sites in the Pinelands for the temporary storage of vegetative debris they do not need to come to the Commission for approval, but need to advise the Commission where they are storing the debris. There are two sites, one in Little Egg Harbor and one in Stafford, where the Commission is working with DEP to allow the temporary storage of construction debris. The Commission will be monitoring these sites along with DEP to ensure that they are only storing debris and not burying it. Mr. Ernest Deman will be performing a site inspection at the Little Egg site later today.

Commissioner Prickett asked if these sites were in the Preservation Area.

Ms. Wittenberg said the Little Egg Harbor site is in the Preservation Area, but the Stafford site is not. She said we did not pick these sites, Little Egg Harbor came to the Commission and DEP and suggested the site, which is the old landfill.

Commissioner Lloyd asked about the size of the Little Egg Harbor site.

Mr. Chuck Horner said the debris is being placed on an already cleared area of about 13 acres. The total parcel is about 25 acres.

Commissioner Jackson raised concerns about possible groundwater contamination due to the disposal of storm related debris.

Ms. Wittenberg also reported:

- Commission staff continues to spend time on the efficiency study. Staff is currently being trained on the new work and implementing new processes. Next week another event will be held to look at another process.
- The Manchester ordinance originally scheduled to be on the agenda will be tabled.
- The Commission received a letter from the U.S. Department of the Interior assigning a new Commissioner, Joseph DiBello.
- The Commission has two new employees: Sarah Smith and Rebecca French-Mesch.
- Mayor Jim Brown from Mullica Township was in attendance.

Mr. Larry Liggett updated the Commission on the following:

- The United States Geological Survey contracts are up for renewal this year. The USGS conducts water monitoring for the Commission and before renewal, staff will look at any changes that may need to be made in their methodology.
- The USGS is also conducting a Rapid Landfill study for the Commission, which is making great progress. The local USGS office has received some additional funding for further studies on flows. If the USGS can gain access onto properties in and around the landfills, the Commission will be able to use this supplemental data.

- The Water Quality Management Planning process for the 7 Pinelands counties is nearing completion. The Commission is waiting only for some adjustments to be finalized with Gloucester and Ocean counties.

Mr. Horner updated the Commission on the following:

- In late October, staff had a site meeting with the Mayor of Mullica and the current owner of what used to be the Sweetwater Casino which is on the Mullica River. Some years ago the restaurant was destroyed by a fire. The current owner is interested in rebuilding; a number of options were discussed. If an application comes in, he said the Commission will work closely with the Township.
- On October 24, staff met with NJDEP's wetlands enforcement staff to review the existing MOA between the two entities concerning wetlands.
- Burlington County was required to preserve agricultural lands to which at least 5.25 PDCs had been allocated as a condition of the Public Development approval for the widening of Route 530. The County has actually retired 11.75 PDCs, permanently deed restricting 250 acres in Tabernacle and Shamong Townships.

Ms. Roth reminded Commissioners they need to complete ethics training by November 12, 2012.

Resolutions Relating to Municipal Ordinances

Commissioner Ficcaglia moved the adoption of a Resolution Issuing an Order to Certify Ordinance 7-2012, Amending Chapter 144 (Land Development) of the Code of Mullica Township (See Resolution # PC4-12-34). Commissioner McGlinchey seconded the motion.

Ms. Grogan said this is Mullica's response to the clustering, forestry and wetlands management amendments the Commission adopted some time ago.

The Commission adopted the resolution by a vote of 10 to 0.

Commissioner McGlinchey moved the adoption of a Resolution Issuing an Order to Certify Ordinance 8-2012, Amending Chapter 144 (Land Development) of the Code of Mullica Township (See Resolution # PC4-12-35). Commissioner Jackson seconded the motion.

Ms. Grogan said this is a management area change that has been in the works for many years. The ordinance will allow for the expansion of the Pinelands Village of Elwood by about 50 acres. The change is being made to add some existing uses into the Village. One of those uses is an existing shell of building that was approved under the Interim Rules, prior to the CMP. The ordinance also rezones about 53 acres to the Forest Area. Many of the parcels being returned to the Forest Area are owned by the Township and are very small in size and are in an environmentally sensitive area.

The Commission adopted the resolution by a vote of 10 to 0.

Mayor Brown thanked the Commission, adding that these rezonings will help the Township, with its economic development efforts in Elwood.

Public Development Projects and Other Permit Matters

Commissioner McGlinchey moved the adoption of a Resolution Approving With Conditions an Application for a Public Development (Application Number 2008-0154.002) (See Resolution # PC4-12-36). Commissioner Jackson seconded the motion.

Commissioner Ashmun said the public development report references the New Jersey Department of Environmental Protection when it should be the New Jersey Legislature.

Mr. Horner said the report will be adjusted.

Chairman Lohbauer asked Commissioner McGlinchey and Commissioner Jackson if they would agree to amend their motion and second to reflect this correction.

Commissioner McGlinchey moved the adoption of a Resolution Approving With Conditions an Application for a Public Development (Application Number 2008-0154.002) (See Resolution # PC4-12-36) with the correction to the report as discussed. Commissioner Jackson seconded the motion.

The Commission adopted the resolution by a vote of 10 to 0.

Commissioner McGlinchey moved the adoption of a Resolution Approving With Conditions a Request for a Waiver of Strict Compliance (Application Number 1986-0243.004) (See Resolution # PC4-12-37). Commissioner Witt seconded the motion.

The Commission adopted the resolution by a vote of 10 to 0.

Resolutions Relating to Municipal Ordinances

Chairman Lohbauer noted that, as Ms. Wittenberg said earlier, staff would like to delay consideration of the Manchester Township ordinance.

Commissioner Ashmun moved to table the certification of the December 2011 Amendments to the Master Plan of Manchester Township and Ordinances 11-025 and 12-015, Amending Chapter 245 (Land Use and Development) of the Code of Manchester Township. Commissioner Ficcgaglia seconded the motion. All were in favor.

Commissioner Ashmun moved the adoption of a Resolution Issuing an Order to Certify Weymouth Township's 2010 Master Plan Land Use Element, 2011 Master Plan and Ordinance 503-2012, Amending Chapter 155 (Land Use) of the Code of Weymouth Township (See Resolution # PC4-12-38). Commissioner Prickett seconded the motion.

Ms. Grogan said this ordinance is Weymouth's response to the cluster, forestry and wetlands management CMP amendments. Weymouth has taken the time to develop a

comprehensive approach. The Township has pre-identified two large areas know as “cluster development zones” within which clustering will be encouraged. The end result is a blending of clustering and density transfer. Staff is very happy with the approach and the work the Township has done to get to this outcome.

The Commission adopted the resolution by a vote of 10 to 0.

Public Comment on Agenda Items and Pending Public Development Applications

Peter Ferwerda of Little Egg Harbor, expressed his concerns over using a closed landfill in Little Egg Harbor to store construction debris from Hurricane Sandy. Mr. Ferwerda said that harmful contaminants such as paint cans and kerosene heaters are being co-mingled with carpets and sheetrock. He is concerned about pollutants infiltrating into the groundwater and asked if the landfill was opening up again. Mr. Ferwerda said a broken stone track mate should be placed at the facility to contain harmful contaminants from entering roadways and further entering the groundwater. He asked the Commission to think twice about using this facility when, not too far north, the Stafford Township transfer facility could be used.

Margit Meissner-Jackson Sierra Club of Ocean County, expressed her concerns over storing debris at the Little Egg Harbor landfill. She asked who would be responsible for monitoring the cleanup activity and if the landfill has been reopened.

Ms. Wittenberg said the Division of Solid and Hazardous Waste is responsible for monitoring the intake. The landfill is temporarily collecting debris for 60 days, it is not re-opening, Ms. Wittenberg said.

Chairman Lohbauer advised the commenters that the Commission hears their concerns and will pass them on to the appropriate authorities.

Other Resolutions

Commissioner Ficcaglia moved the adoption of a Resolution To Authorize the Executive Director to Accept a Grant from the U.S. Environmental Protection Agency to Conduct a Study titled “Comparing the Functional Equivalency of Natural and Created Wetlands” and to Revise the FY 2013 Pinelands Conservation Fund Budget (See Resolution # PC4-12-39). Commissioner Jackson seconded the motion.

Commissioner Ficcaglia said it’s a good idea.

Ms. Wittenberg credited Commission Chief Scientist John Bunnell’s work to get the grant, noting, how difficult it is to get such EPA grants.

The Commission adopted the resolution by a vote of 10 to 0.

Ordinances Not Requiring Commission Action

The following ordinances required no action:

- Egg Harbor Township Ordinance 39-2012

Public Comment on Any Matter Relevant to the Commission's Statutory Responsibilities

Mr. Fred Akers of the Great Egg Harbor River Council said he still has concerns regarding the sewer service area designation under the MOA with NJDEP. He said the P&I Committee is discussing the secondary impacts of a half an interchange on the Garden State Parkway and he feels the secondary impacts of sewerage the Villages would be far more significant. He feels the pressure is stemming from the New Jersey Builders Association.

Closed Session Resolution

DAG Heinzerling read a resolution to retire into closed session to discuss acquisition and anticipated litigation matters.

Commissioner Lloyd moved to retire into closed session. Commissioner Prickett seconded the motion. The Commission agreed to retire into closed session by a vote of 10 to 0.

The Commission met in closed session starting at 10:41 a.m.

Return to Open Session

Chairman Lohabuer reopened the public portion of the meeting at 11:13 a.m.

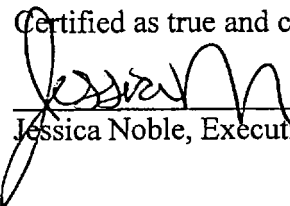
Commissioner Prickett asked why a better place for the hurricane debris was not chosen.

Ms. Wittenberg said she would inquire if DEP will be establishing a permanent place to take the debris.

Adjournment

Commissioner Jackson moved to adjourn the meeting. Commissioner Prickett seconded the motion. The Commission agreed to adjourn at 11:16 a.m.

Certified as true and correct:



Jessica Noble, Executive Assistant

Date: Nov. 16, 2012



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-12- 34

TITLE: Issuing an Order to Certify Ordinance 7-2012, Amending Chapter 144 (Land Development) of the Code of Mullica Township

Commissioner Firraglia moves and Commissioner McGlinchey seconds the motion that:

WHEREAS, on February 3, 1984, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Mullica Township; and

WHEREAS, Resolution #PC4-84-11 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 #PC4-84-11 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 January 16, 2009, the Pinelands Commission adopted amendments to the Comprehensive Management Plan related to mandatory residential cluster development in the Pinelands Forest and Rural Development Areas; and

WHEREAS, on October 9, 2009, the Pinelands Commission adopted amendments to the Comprehensive Management Plan related to wetlands management; and

WHEREAS, on November 13, 2009, the Pinelands Commission adopted amendments to the Comprehensive Management Plan related to forestry; and

WHEREAS, these three sets of amendments took effect on April 6, 2009, December 21, 2009 and March 1, 2010, respectively; and

WHEREAS, municipalities located within the Pinelands Area are required to adopt ordinance amendments necessary for conformance with any Comprehensive Management Plan amendments within one year of the effective date of any such amendments; and

WHEREAS, on June 11, 2010, the Pinelands Commission adopted Resolution PC4-10-27, extending the time period for response to the clustering and wetlands management amendments to March 1, 2011 in order to provide municipalities with sufficient time for consideration, preparation and adoption of master plan and ordinance amendments to address the three sets of Comprehensive Management Plan amendments simultaneously; and

WHEREAS, Commission staff subsequently provided a model ordinance and other guidance to Mullica Township to assist the municipality in completing its response to the three sets of Comprehensive Management Plan amendments; and

WHEREAS, by email dated October 11, 2011, Mullica Township notified the Commission of the need for an extension of the March 1, 2011 deadline for adoption and submission of the necessary ordinance amendments; and

WHEREAS, by letter dated October 13, 2011, the Executive Director notified the Township that an extension was granted until April 13, 2012; and

WHEREAS, by letter dated April 4, 2012, Mullica Township notified the Commission of the need for a further extension; and

WHEREAS, by letter dated April 12, 2012, the Executive Director notified the Township that an extension was granted until June 29, 2012; and

WHEREAS, by letter dated June 18, 2012, Mullica Township notified the Commission of the need for one final extension; and

WHEREAS, by letter dated June 25, 2012, the Executive Director notified the Township that an extension was granted until July 31, 2012; and

WHEREAS, on July 25, 2012, Mullica Township adopted Ordinance 7-2012, amending Chapter 144 (Land Development) of the Township's Code in response to the forestry, wetlands management and residential clustering amendments to the Pinelands Comprehensive Management Plan; and

WHEREAS, the Pinelands Commission received a certified copy of Ordinance 7-2012 on July 30, 2012; and

WHEREAS, by letter dated August 2, 2012, the Executive Director notified the Township that Ordinance 7-2012 would require formal review and approval by the Pinelands Commission; and

WHEREAS, a public hearing to receive testimony on Ordinance 7-2012 was duly advertised, noticed and held on September 10, 2012 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 Ordinance 7-2012 sufficiently implements the forestry, wetlands management and cluster development amendments to the Comprehensive Management Plan; and

WHEREAS, the Executive Director has submitted a report to the Commission recommending issuance of an order to certify that Ordinance 7-2012, amending Chapter 144 (Land Development) of the Code of Mullica 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 7-2012 be certified; and

WHEREAS, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning Ordinance 7-2012 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

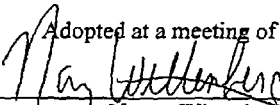
1. An Order is hereby issued to certify that Ordinance 7-2012, amending Chapter 144 (Land Development) of the Code of Mullica Township, is in conformance with the Pinelands Comprehensive Management Plan.
2. Any additional amendments to Mullica Township's certified Master Plan and Land Use Ordinances shall be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 to determine if said amendments raise a substantial issue with respect to the Comprehensive Management Plan. Any such amendment shall become effective only as provided in N.J.A.C. 7:50-3.45.

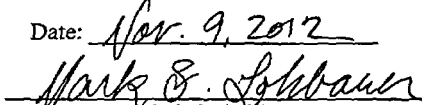
Record of Commission Votes

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

Adopted at a meeting of the Pinelands Commission

Date: Nov. 9, 2012


 Nancy Wittenberg
 Executive Director


 Mark S. Lohbauer
 Chairman

State of New Jersey

THE PINELANDS COMMISSION

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Mark S. Lohbauer
Chairman

Nancy Wittenberg
Executive Director

**REPORT ON ORDINANCE 7-2012, AMENDING CHAPTER 144
(LAND DEVELOPMENT) OF THE CODE OF MULLICA TOWNSHIP**

October 26, 2012

Mullica Township
P.O. Box 317
Elwood, NJ 08217

FINDINGS OF FACT

I. **Background**

The Township of Mullica is located in western Atlantic County, in the central portion of the Pinelands Area. Pinelands municipalities that abut Mullica Township include Washington Township in Burlington County and Egg Harbor City, the Town of Hammonton and the Townships of Galloway and Hamilton in Atlantic County.

On February 3, 1984, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Mullica Township.

On January 16, 2009, the Pinelands Commission adopted amendments to the Comprehensive Management Plan related to mandatory residential cluster development in the Pinelands Forest and Rural Development Areas. On October 9, 2009, the Pinelands Commission adopted amendments to the Comprehensive Management Plan related to wetlands management. On November 13, 2009, the Pinelands Commission adopted amendments to the Comprehensive Management Plan related to forestry. These three sets of amendments took effect on April 6, 2009, December 21, 2009 and March 1, 2010, respectively.

Municipalities located within the Pinelands Area are required to adopt ordinance amendments necessary for conformance with any Comprehensive Management Plan amendments within one year of the effective date of any such amendments. On June 11, 2010, the Pinelands Commission adopted Resolution PC4-10-27, extending the time period for response to the clustering and wetlands management amendments to March 1, 2011 in order to provide municipalities with sufficient time for consideration, preparation and adoption of master plan and ordinance amendments to address the three sets of Comprehensive Management Plan amendments simultaneously. Commission staff subsequently provided a model ordinance and other guidance to the Township to assist the municipality in completing its response to the three sets of Comprehensive Management Plan amendments.



Chris Christie
Governor

Kim Guadagno
Lt. Governor

By email dated October 11, 2011, Mullica Township notified the Commission of the need for an extension of the March 1, 2011 deadline for adoption and submission of the necessary ordinance amendments. By letter dated October 13, 2011, the Executive Director notified the Township that an extension was granted until April 13, 2012.

By letter dated April 4, 2012, Mullica Township notified the Commission of the need for a further extension. By letter dated April 12, 2012, the Executive Director notified the Township that an extension was granted until June 29, 2012.

By letter dated June 18, 2012, Mullica Township notified the Commission of the need for one final extension. By letter dated June 25, 2012, the Executive Director notified the Township that an extension was granted until July 31, 2012.

On July 25, 2012, Mullica Township adopted Ordinance 7-2012, amending Chapter 144 (Land Development) of the Township's Code in response to the forestry, wetlands management and residential clustering amendments to the Pinelands Comprehensive Management Plan. The Pinelands Commission received a certified copy of Ordinance 7-2012 on July 30, 2012.

By letter dated August 2, 2012, the Executive Director notified the Township that Ordinance 7-2012 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 7-2012, amending Chapter 144 (Land Development) of the Code of Mullica Township, introduced on June 26, 2012 and adopted on July 25, 2012.

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

1. **Natural Resource Inventory**

Not applicable.

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

Forestry

Ordinance 7-2012 amends Chapter 144 of the Township's Code by revising and adding definitions related to forestry. Specifically, terms for such forestry activities as "artificial regeneration," "clearcutting" and "disking" are added and the existing definition of "forestry" is revised to make clear that it includes these and other silvicultural practices. Ordinance 7-2012

further amends Chapter 144 by replacing Section 144-123H(3), in its entirety, with an amended set of standards applicable to forestry activities in the Pinelands Area. Included in this revised section are detailed standards for a wide variety of silvicultural practices, as well as limitations on amount of land that may be subject to these practices and the Pinelands Native Forest Types in which such practices may or may not be conducted.

The amended forestry standards adopted by Ordinance 7-2012 are consistent with the March 2010 amendments to the Pinelands Comprehensive Management Plan.

Wetlands Management

Ordinance 7-2012 amends Chapter 144 of the Township's Code by adding wetlands management to the list of uses permitted in the Township's Pinelands Preservation, Agricultural Production and Forest Area zoning districts (PA, AP and FAR). Ordinance 7-2012 also revises Section 144-111A(5) to indicate that wetlands management may be permitted in wetlands, subject to the standards of the Comprehensive Management Plan. In so doing, Ordinance 7-2012 sufficiently responds to the December 2009 Comprehensive Management Plan amendments relative to wetlands management

Development Transfer Program

Ordinance 7-2012 amends Chapter 144 by revising the provisions of the Township's density transfer program to clarify the types of uses which may be permitted on noncontiguous lands used to meet density requirements. Specifically, Ordinance 7-2012 states that all noncontiguous lands utilized in the development transfer program must be permanently protected through recordation of a deed of restriction, with only the following uses permitted: low intensity recreation, ecological management and forestry. Limits on clearing and impervious surface then also apply to these uses. In addition, in cases where agricultural uses exist on the lands to be protected, Ordinance 7-2012 provides that such agricultural uses may be permitted to continue and, in some cases, expand, if certain conditions related to impervious surface and the preparation of Resource Management System Plans are met.

The amended development transfer program standards adopted by Ordinance 7-2012 are consistent with the April 2009 amendments to the Pinelands Comprehensive Management Plan.

Cluster Development

Ordinance 7-2012 amends Chapter 144 by adding residential cluster development as a permitted use in the Township's Pinelands Forest Area zoning district (FAR) and Pinelands Rural Development Area zoning districts (RDA and DVC). Furthermore, Ordinance 7-2012 indicates that whenever two or more residential units are proposed in these zoning districts, cluster development will be required. The ordinance then sets forth the standards which all such cluster developments must meet, including a one acre lot size requirement, the location of the development area itself on a parcel and the provision of accessory recreational amenities.

According to Ordinance 7-2012, the balance of the parcel located outside the residential cluster development area must be permanently protected through recordation of a deed of conservation restriction. This open space area must be owned and managed by a homeowners association, a non-profit conservation organization or the Township, or it may be incorporated as part of one of

the lots within the cluster development area. Permitted uses in the open space area are limited to low intensity recreation, ecological management and forestry, subject to specific limitations on clearing and impervious surface. In addition, in cases where agricultural uses exist on the lands to be protected, Ordinance 7-2012 provides that such agricultural uses may be permitted to continue and, in some cases, expand, if certain conditions related to impervious surface and the preparation of Resource Management System Plans are met. Should a cluster development applicant elect to continue or expand an existing agricultural use on the parcel, Ordinance 7-2012 requires that all of the new dwelling units to be constructed in the cluster development utilize on-site septic waste water treatment systems designed to reduce the level of nitrate/nitrogen in the waste water.

Ordinance 7-2012 specifies that the number of residential lots permitted within a cluster development will be calculated based on the size of the parcel of land and the permitted density allowed in Chapter 144 for the zoning district(s) in which the project will be located. For example, eight units would be permitted on a 200 acre parcel located in the Township's FAR District, where the permitted density is one unit per 25 acres.

Ordinance 7-2012 also provides bonus density to parcels of 50 or more acres in size. This bonus density ranges from 10 to 40%, depending on the size of the parcel and the permitted density of the zone in which the parcel is located. The larger the parcel and the lower the permitted density, the larger the percentage of bonus density provided.

The bonus density percentages and acreage thresholds adopted by Ordinance 7-2012 are identical to those contained in N.J.A.C. 7:50-5.19(d)1 of the Comprehensive Management Plan. However, the Township has elected to make two changes involving applicability of the bonus provisions. First, whereas the Comprehensive Management Plan provides bonus density to any parcel of 50 acres or more, Ordinance 7-2012 specifies that bonus density shall not apply to parcels in common ownership as of April 6, 2009 (the effective date of the Comprehensive Management Plan's clustering amendments). In order to be eligible for bonus density, an applicant must document the acquisition of additional vacant, contiguous land on or after April 6, 2009. Such land must be included in the application for cluster development and result in the preservation of a larger area of open space. Upon the acquisition of such lands, the bonus density provided in Ordinance 7-2012 will then apply to the entire contiguous parcel which is the subject of the cluster development application. Second, Ordinance 7-2012 provides for bonus density in the Forest Area only if the residential cluster development area is contiguous to one of the Township's four Pinelands Village zoning districts, the Devonshire Village Center District in the Rural Development Area or a designated density transfer receiving area in the Pinelands Forest Area. Cluster developments on other properties in the Forest Area will not be eligible for bonus density.

Pinelands municipalities have always had the general ability to refine the various standards and provisions of the Comprehensive Management Plan and tailor them to local conditions, provided Comprehensive Management Plan goals and objectives continue to be achieved. Subchapter 5 (Minimum Standards for Land Uses and Intensities) of the Comprehensive Management Plan expressly recognizes this general ability. Moreover, when the Commission adopted its clustering amendments, a new certification standard was incorporated in order to make clear that this practice extends to the Forest and Rural Development Area residential clustering program. N.J.A.C. 7:50-3.39(a)2ix provides that municipalities may propose and the Commission may approve clustering ordinances that contain different standards than those set forth at N.J.A.C.

7:50-5.19(c) and (d), provided such standards are supported through the application of sound land use planning principles, are based upon local conditions or circumstances and do not undermine the overall objectives of the Forest and Rural Development clustering program.

In this case, Mullica Township has chosen to modify the bonus density provisions now contained in the Comprehensive Management Plan. These provisions were included in the clustering amendments for two reasons: to provide a measure of equity to property owners who will now be required to develop homes on one acre lots rather than on the large estate lots they may have originally anticipated; and, to **encourage** and reward lot consolidation in the Forest and Rural Development Areas in the hope that this would result in larger contiguous areas of protected open space and, consequently, reduced forest fragmentation. Ordinance 7-2012 focuses on the importance of this second objective and takes it one step further, by **requiring** that some amount of lot consolidation occur in order for an application to be eligible for any bonus density. As a result, the owner of an existing 200 acre lot will not be eligible for bonus density unless he or she acquires additional vacant contiguous land and includes that acreage in the cluster development application. Given the size of Mullica's Forest and Rural Development Areas (approximately 22,000 and 2,500 acres, respectively), acquisition of contiguous vacant lands is likely to be feasible in most cases. Ordinance 7-2012 does not specify that any particular amount of contiguous land must be acquired. Thus, the acquisition of even a few vacant acres will render a project eligible for the bonus units and permit an increase the number of permitted units. Applicants are therefore being provided a sufficient opportunity to become eligible for bonus density and take advantage of the additional equity this may provide.

Upon adoption of the clustering amendments, the Commission expressly acknowledged that the above-described variation on the bonus density provisions could be considered by Pinelands municipalities, provided it would not serve to discourage meaningful cluster development in the municipality, and further provided that the municipality in question had the ability to administer such a provision. It is clear that the bonus density standard adopted by Ordinance 7-2012 will not discourage cluster development. On the contrary, they should serve to encourage the acquisition and creation of larger and larger parcels for cluster development, leading to the permanent protection of larger and more meaningful open space areas. There is no question that such an outcome is consistent with the objectives of the clustering amendments. As for administration, the Township will be responsible for determining whether its bonus density standards are met. Commission staff has alerted the municipality to a number of issues which may arise as part of this effort and is confident the Township will address them in an appropriate fashion.

The second change adopted by Ordinance 7-2012 limits bonus density in the Township's Pinelands Forest Area to parcels where the cluster development area will be contiguous with a Pinelands Village, Rural Development mixed use zone or designated Forest receiving area. In other words, the new cluster development must be located adjacent to an area already deemed appropriate and designated for a certain level of development. This requirement was recommended to the Township by Commission staff in recognition of the years of planning which have gone into ensuring that development in the Township's very large Forest Area is encouraged to occur in the most appropriate areas, taking into account existing roads, wetlands and other environmental limitations. Under the Township's existing Forest Area zoning plan, there are multiple FARR (receiving) areas, within which existing undersized lots may be developed and new lots may be created, provided a sufficient amount of noncontiguous land outside the receiving areas is permanently protected. This density transfer program was established by the Township in 1994 and has successfully operated since that time. Thoughtful

integration of the new clustering amendments was necessary so as not to interfere with the density transfer program while still ensuring that an incentive for clustering in appropriate locations was provided. Providing bonus density for clustering on any parcel in the Forest Area would only have encouraged developers to construct homes in the "sending" area, an outcome which would have undermined the density transfer program. Ordinance 7-2012 prevents that from occurring by appropriately limiting the bonus density provisions in the Forest Area, based on local conditions.

The amendments adopted by Ordinance 7-2012 sufficiently respond to the April 2009, Comprehensive Management Plan amendments relative to cluster development.

Ordinance 7-2012 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

Ordinance 7-2012 amends Chapter 144 by replacing Section 144-123H(2), in its entirety, with an amended set of application requirements for municipal forestry permits. For forestry activities on parcels of land enrolled in the New Jersey Forest Stewardship Program, an applicant needs only to submit to the municipality a copy of his or her approved Stewardship Plans. For all other forestry applications, the list of submission requirements includes a forestry management plan, information concerning threatened and endangered plants and animals, cultural resources and the use of herbicides, written comments from the New Jersey State Forester and a Certificate of Filing issued by the Pinelands Commission.

The amended forestry application requirements adopted by Ordinance 7-2012 are consistent with the March 2010 amendments to the Pinelands Comprehensive Management Plan. Therefore, this standard for certification is met.

4. Requirement for Municipal Review and Action on All Development

Not applicable.

5. Review and Action on Forestry Applications

Not applicable.

6. Review of Local Permits

Not applicable.

7. Requirement for Capital Improvement Program

Not applicable.

8. Accommodation of Pinelands Development Credits

Not applicable.

9. Referral of Development Applications to Environmental Commission

Not applicable.

10. General Conformance Requirements

Ordinance 7-2012, amending Chapter 144 (Development Regulations) of the Code of Mullica Township, is consistent with the standards and provisions of the Pinelands Comprehensive Management Plan.

This standard for certification is met.

11. Conformance with Energy Conservation

Not applicable.

12. Conformance with the Federal Act

Ordinance 7-2012, amending Chapter 144 (Development Regulations) of the Code of Mullica Township, is consistent with the standards and provisions of the Pinelands Comprehensive Management Plan. No special issues exist relative to the Federal Act.

This standard for certification is met.

13. Procedure to Resolve Intermunicipal Conflicts

Not applicable.

PUBLIC HEARING

A public hearing to receive testimony concerning Mullica Township's application for certification of Ordinance 7-2012 was duly advertised, noticed and held on September 10, 2012 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 7-2012 were accepted through September 14, 2012 and were received from Jaclyn Rhoads, Ph.D., Director of Conservation Policy, Pinelands Preservation Alliance (see Exhibit #1).

CONCLUSION

Based on the Findings of Fact cited above, the Executive Director has concluded that Ordinance 7-2012 sufficiently implements the April 2009, December 2009 and March 2010 amendments to the Pinelands Comprehensive Management Plan and 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 7-2012 of Mullica Township.

SRG/CMU
Attachment



PINELANDS PRESERVATION ALLIANCE

Bishop Farmstead, 17 Pemberton Road, Southampton, New Jersey 08088

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Fax: 609-859-8804

E-mail: ppa@pinelandsalliance.org

Website: www.pinelandsalliance.org

SEP 14 2012

September 12, 2012

Susan Grogan, Chief Planner
N.J. Pinelands Commission
P.O. Box 359
New Lisbon, New Jersey 08064

Executive Director's Report
on
Mullica Township
Ordinance 7-2012
Exhibit #1
October 26, 2012

Re: Mullica Township Ordinances 7-2012 and 8-2012

Dear Ms. Grogan:

Pinelands Preservation Alliance (PPA) is providing comments on Mullica Township Ordinance 7-2012 – cluster development and 8-2012 – zoning changes. PPA supports the cluster ordinance 7-2012, but opposes 8-2012 zoning changes.

Mullica's cluster ordinance is actually providing incentives to aggregate lots and to create opportunities for clustering. It is limiting bonus densities to those lots that have been aggregated following the adoption of the cluster amendment to the CMP. Therefore, PPA supports its proposed ordinance.

Mullica Township under Ordinance 8-2012 has designated approximately 46 acres from the Forest Area Residential (FAR) district to Elwood Village (EV). Of these acres, 13 are owned by the State and an additional 5 acres are wetlands and wetlands buffers. Mullica officials have indicated that they want the addition to the Village to encourage more commercial development along the White Horse Pike. PPA does not support these changes, since there are other opportunities for such development in more appropriate places.

PPA questions why the remaining 28 acres are needed when currently there are over 70 acres undeveloped within the existing commercial village zone of Elwood. All of these currently zoned acres are suitable for commercial development, and the Commission should consider this opportunity as an innovative way to accommodate development and send it to appropriate lots.

Thank you for the opportunity to comment. Please contact PPA at 609-859-8860 ext. 18 or Jaclyn@pinelandsalliance.org with any questions.

Sincerely,

Jaclyn Rhoads
Jaclyn Rhoads, Ph.D.
Director for Conservation Policy



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-12- 35

TITLE: Issuing an Order to Certify Ordinance 8-2012, Amending Chapter 144 (Land Development) of the Code of Mullica Township

Commissioner McGlinchey moves and Commissioner Jackson seconds the motion that:

WHEREAS, on February 3, 1984, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Mullica Township; and

WHEREAS, Resolution #PC4-84-11 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 #PC4-84-11 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 July 25, 2012, Mullica Township adopted Ordinance 8-2012, amending Chapter 144 (Land Development) of the Township's Code by adopting revisions to the municipal Zoning Map; and

WHEREAS, Ordinance 8-2012 rezones Block 10102, Lots 1 through 8, and Block 10103, Lots 1 and 2, from the FAR (Forest Area Residential) District to the EVC (Elwood Village Center) District; and

WHEREAS, Ordinance 8-2012 also rezones Blocks 4109, 4110, 4111, 4112, 4122, 4123, 4124, 4125, 4134, 4135, 4136, 4137, 4146, 4147, 4148, 4149, 4158, 4159, 4160, 4161, 4170, 4171, 4172 and 4173 from the EV (Elwood Village) District to the FAR District; and

WHEREAS, the above-described rezonings constitute changes in Pinelands management area designations; and

WHEREAS, the Pinelands Commission received a certified copy of Ordinance 8-2012 on July 30, 2012; and

WHEREAS, by letter dated August 2, 2012, the Executive Director notified the Township that Ordinance 8-2012 would require formal review and approval by the Pinelands Commission; and

WHEREAS, a public hearing to receive testimony on Ordinance 8-2012 was duly advertised, noticed and held on September 10, 2012 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 Ordinance 8-2012 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 8-2012, amending Chapter 144 (Land Development) of the Code of Mullica 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 8-2012 be certified; and

WHEREAS, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning Ordinance 8-2012 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

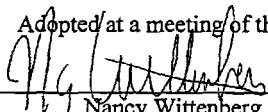
1. An Order is hereby issued to certify that Ordinance 8-2012, amending Chapter 144 (Land Development) of the Code of Mullica Township, is in conformance with the Pinelands Comprehensive Management Plan.
2. Any additional amendments to Mullica Township's certified Master Plan and Land Use Ordinances shall be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 to determine if said amendments raise a substantial issue with respect to the Comprehensive Management Plan. Any such amendment shall become effective only as provided in N.J.A.C. 7:50-3.45.

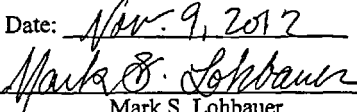
Record of Commission Votes

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

Adopted at a meeting of the Pinelands Commission

Date: Nov. 9, 2012


 Nancy Wittenberg
 Executive Director


 Mark S. Lohbauer
 Chairman



State of New Jersey
THE PINELANDS COMMISSION
PO Box 359
NEW LISBON, NJ 08064
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Chris Christie
Governor

Kim Guadagno
Lt. Governor

General Information: Info@njpinelands.state.nj.us
Application Specific Information: AppInfo@njpinelands.state.nj.us

Mark S. Lohbauer
Chairman

Nancy Wittenberg
Executive Director

**REPORT ON ORDINANCE 8-2012, AMENDING CHAPTER 144
(LAND DEVELOPMENT) OF THE CODE OF MULLICA TOWNSHIP**

October 26, 2012

Mullica Township
P.O. Box 317
Elwood, NJ 08217

FINDINGS OF FACT

I. Background

The Township of Mullica is located in western Atlantic County, in the central portion of the Pinelands Area. Pinelands municipalities that abut Mullica Township include Washington Township in Burlington County and Egg Harbor City, the Town of Hammonton and the Townships of Galloway and Hamilton in Atlantic County.

On February 3, 1984, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Mullica Township.

On July 25, 2012, Mullica Township adopted Ordinance 8-2012, amending Chapter 144 (Land Development) of the Township's Code by adopting revisions to the municipal Zoning Map. These revisions include the rezoning of land from the FAR (Forest Area Residential) District to the EVC (Elwood Village Center) District and the rezoning of land from the EV (Elwood Village) District to the FAR District. The Pinelands Commission received a certified copy of Ordinance 8-2012 on July 30, 2012.

By letter dated August 2, 2012, the Executive Director notified the Township that Ordinance 8-2012 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 8-2012, amending Chapter 144 (Land Development) of the Code of Mullica Township, introduced on June 26, 2012 and adopted on July 25, 2012.

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

1. Natural Resource Inventory

Not applicable.

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

Ordinance 8-2012 amends the Zoning Map of Mullica Township by rezoning Block 10102, Lots 1 through 8, and Block 10103, Lots 1 and 2, from the FAR (Forest Area Residential) District to the EVC (Elwood Village Center) District. Ordinance 8-2012 also rezones Blocks 4109, 4110, 4111, 4112, 4122, 4123, 4124, 4125, 4134, 4135, 4136, 4137, 4146, 4147, 4148, 4149, 4158, 4159, 4160, 4161, 4170, 4171, 4172 and 4173 from the EV (Elwood Village) District to the FAR District. The FAR District is located in a Pinelands Forest Area. The EV and EVC Districts are located in the Pinelands Village of Elwood. Therefore, the zoning changes adopted by Ordinance 8-2012 constitute changes in Pinelands management area designations. The map attached as Exhibit #1 depicts the rezoned areas and the surrounding management area designations.

The area rezoned by Ordinance 8-2012 from the FAR District to the EVC District totals 51.5 acres in size. It is located along the White Horse Pike (Route 30), extending southeast from the existing boundary of Elwood Village (see Exhibit #2). Of the ten lots being rezoned, seven are vacant and three of these are in public ownership. The wetlands which run through the rezoned area (depicted on Exhibit #1) are almost entirely located on these three publicly owned lots. One lot is residentially developed. The remaining two lots are commercially developed, including Block 10103, Lot 2 which is located on the eastern boundary of the rezoned area. It is this lot and its development status which led to the Township's adoption of Ordinance 8-2012.

Block 10103, Lot 2 received an Interim Rules approval in 1979 for the development of a 70-unit motel with banquet facilities. Such approvals were granted by the Commission under the Interim Rules and Regulations which governed the review of applications from June of 1979 until the Comprehensive Management Plan took effect on January 14, 1981. Although an 18,000 square foot building was constructed under the Interim Rules approval, it was never completed. The shell of the building has remained on the parcel for decades. Subsequent property owners proposed to complete the building or redevelop the parcel; however, the Interim Rules approval expired in 1997. Due to that expiration and the location of the parcel in the Pinelands Forest Area, the parcel no longer qualified for the development of a commercial use under the Comprehensive Management Plan. Over the years, other uses were proposed, such as light industrial uses and institutional uses, but these were also not permitted. Rezoning the parcel to the EVC District recognizes its rather unique status and provides for a variety of permitted uses, including shopping centers, nursing homes, bed and breakfasts, restaurants, professional offices, schools, churches and light industrial uses. Residential development is also permitted in the EVC District, on lots of at least two acres in size, in comparison to the 25 acre lot size requirement in the FAR District. It is the Township's hope that the rezoning will lead to reuse and development

of the existing building, as well as some additional small-scale commercial development or redevelopment on the other lots included in the zoning change. As the zoning change is relatively limited in scope and recognizes a unique existing development, it represents an appropriate expansion of the Village. Although three largely wetlands and therefore undevelopable lots are included in the rezoning, they are under public ownership and the change in zoning has no effect on their development potential.

To offset the increase in the size of Elwood Village which results from the above-described zoning change, Ordinance 8-2012 removes 53.25 acres from the Village and returns it to its original Comprehensive Management Plan designation, Pinelands Forest Area. The affected area is located on the western periphery of the Village, south of the White Horse Pike and an existing railroad line (see Exhibit #3). It is comprised of numerous small lots, most of which range in size from 0.09 to 0.37 acres. There is one residentially developed lot of 1.1 acres in size. The remainder of the area is vacant. Ownership is a mixture of private and public, with many of the lots obtained by the municipality through foreclosure. No development application activity has been recorded in the area for over 15 years, perhaps reflecting the difficulty a property owner would encounter in attempting to consolidate enough of the small lots to meet the two acre lot size requirement in the Elwood Village District. By rezoning the area to the Forest Area District, the Township is recognizing its extremely limited development potential and sending a more accurate message to the landowners as to what their development expectations should be. The Township is further choosing to focus the future development potential of Elwood in a different area, along the White Horse Pike in the southeastern portion of the Village. In addition, it is worth noting that the area being rezoned to the Forest Area is located in the Makepeace Lake area which has long been regarded by the Commission as environmentally sensitive and worth of protection. The new Forest Area designation for the 53.25 acres affected by Ordinance 8-2012 is therefore appropriate.

Ordinance 8-2012 is consistent with the land use and development standards of the Comprehensive Management Plan. This standard for certification is met.

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

Not applicable.

4. Requirement for Municipal Review and Action on All Development

Not applicable.

5. Review and Action on Forestry Applications

Not applicable.

6. Review of Local Permits

Not applicable.

7. Requirement for Capital Improvement Program

Not applicable.

8. Accommodation of Pinelands Development Credits

Not applicable.

9. Referral of Development Applications to Environmental Commission

Not applicable.

10. General Conformance Requirements

Ordinance 8-2012, amending the Chapter 144 (Land Development) of the Code of Mullica Township, is consistent with the standards and provisions of the Pinelands Comprehensive Management Plan.

This standard for certification is met.

11. Conformance with Energy Conservation

Not applicable.

12. Conformance with the Federal Act

Ordinance 8-2012, amending Chapter 144 (Land Development) of the Code of Mullica Township, is consistent with the standards and provisions of the Pinelands Comprehensive Management Plan. No special issues exist relative to the Federal Act.

This standard for certification is met.

13. Procedure to Resolve Intermunicipal Conflicts

The lands rezoned by Ordinance 8-2012 are not adjacent to any other municipalities. Therefore, this standard is not applicable.

PUBLIC HEARING

A public hearing to receive testimony concerning Mullica Township's application for certification of Ordinance 8-2012 was duly advertised, noticed and held on September 10, 2012 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m. Ms. Grogan conducted the hearing, at which the following testimony was received:

Mayor James Brown stated that the zoning changes adopted by Ordinance 8-2012 were important to the municipality's planning for its town center (Elwood Village) and ability to attract new commercial development. He asked that the Commission move forward with review and approval of the ordinance as quickly as possible.

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

Written comments on Ordinance 8-2012 were accepted through September 14, 2012 and were received from Jaclyn Rhoads, Ph.D., Director of Conservation Policy, Pinelands Preservation Alliance (see Exhibit #4).

CONCLUSION

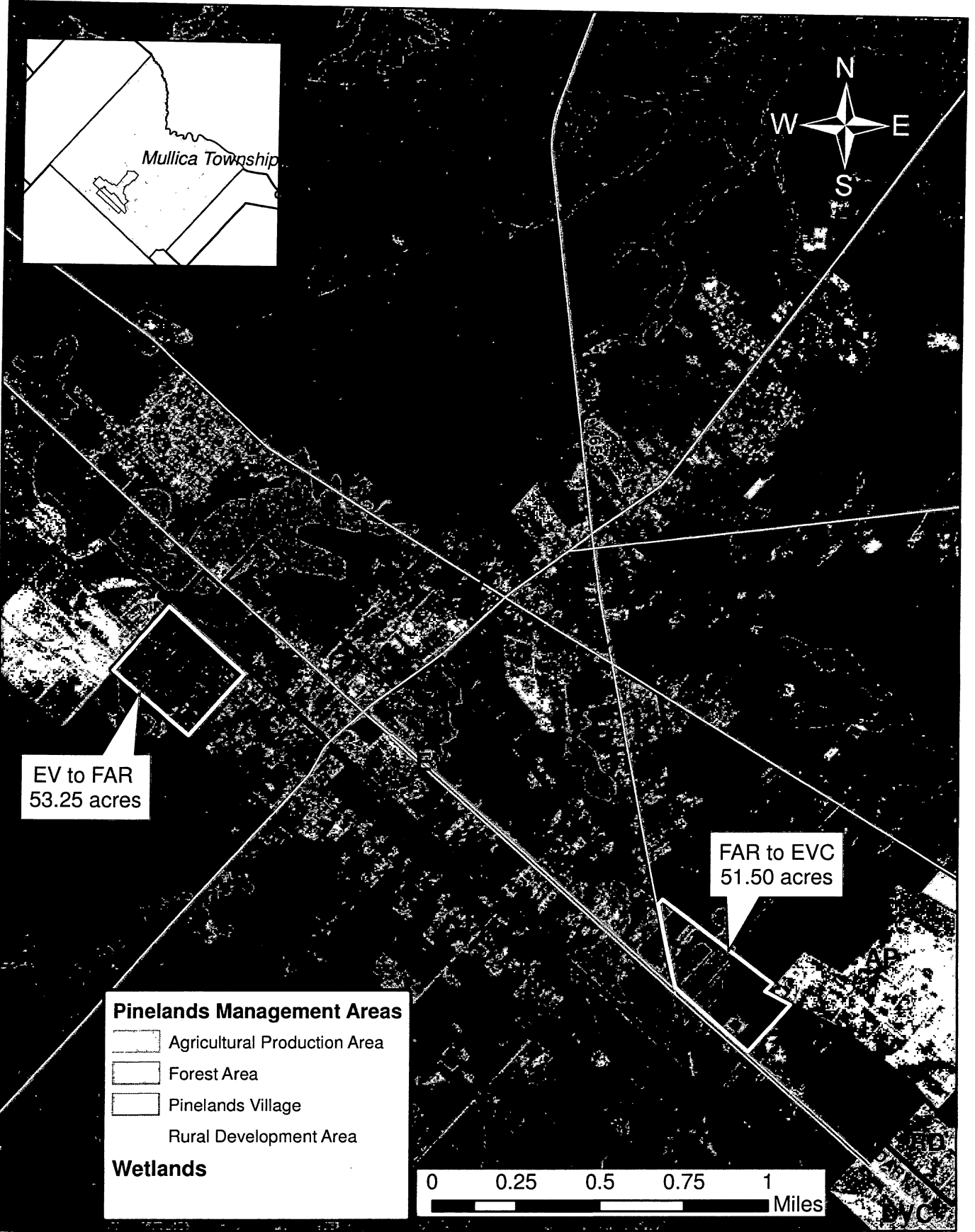
Based on the Findings of Fact cited above, the Executive Director has concluded that Ordinance 8-2012 complies with Comprehensive Management Plan standards for the certification of municipal master plans and land use ordinances. Accordingly, the Executive Director recommends that the Commission issue an order to certify Ordinance 8-2012 of Mullica Township.

SRG/CMU
Attachments

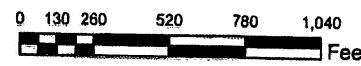
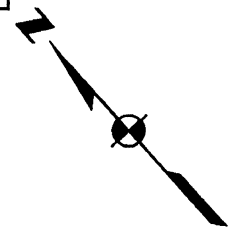
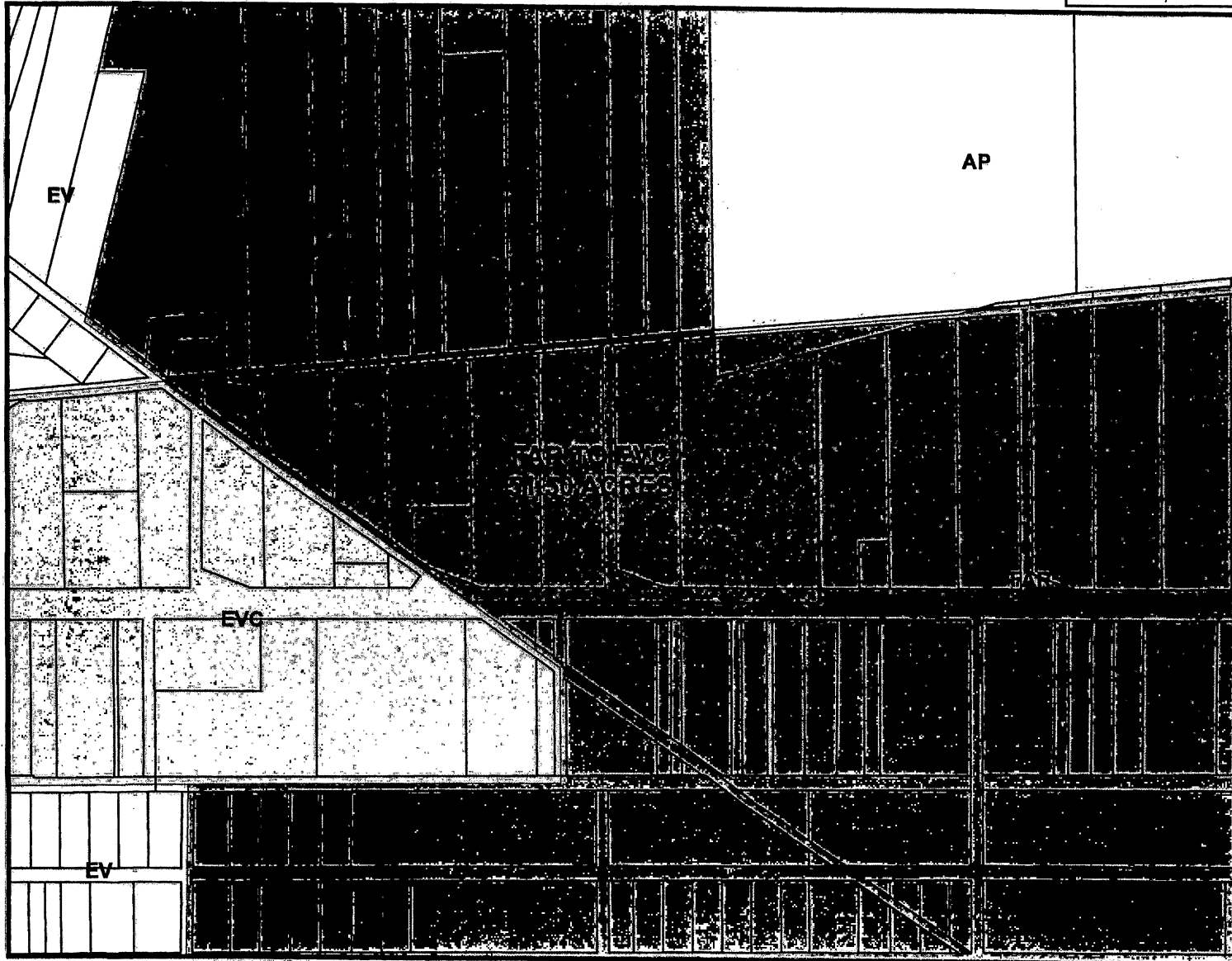


Exhibit #1 Ordinance 8-2012, Mullica Township

October 26, 2012



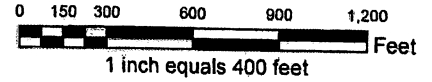
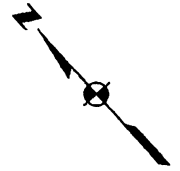
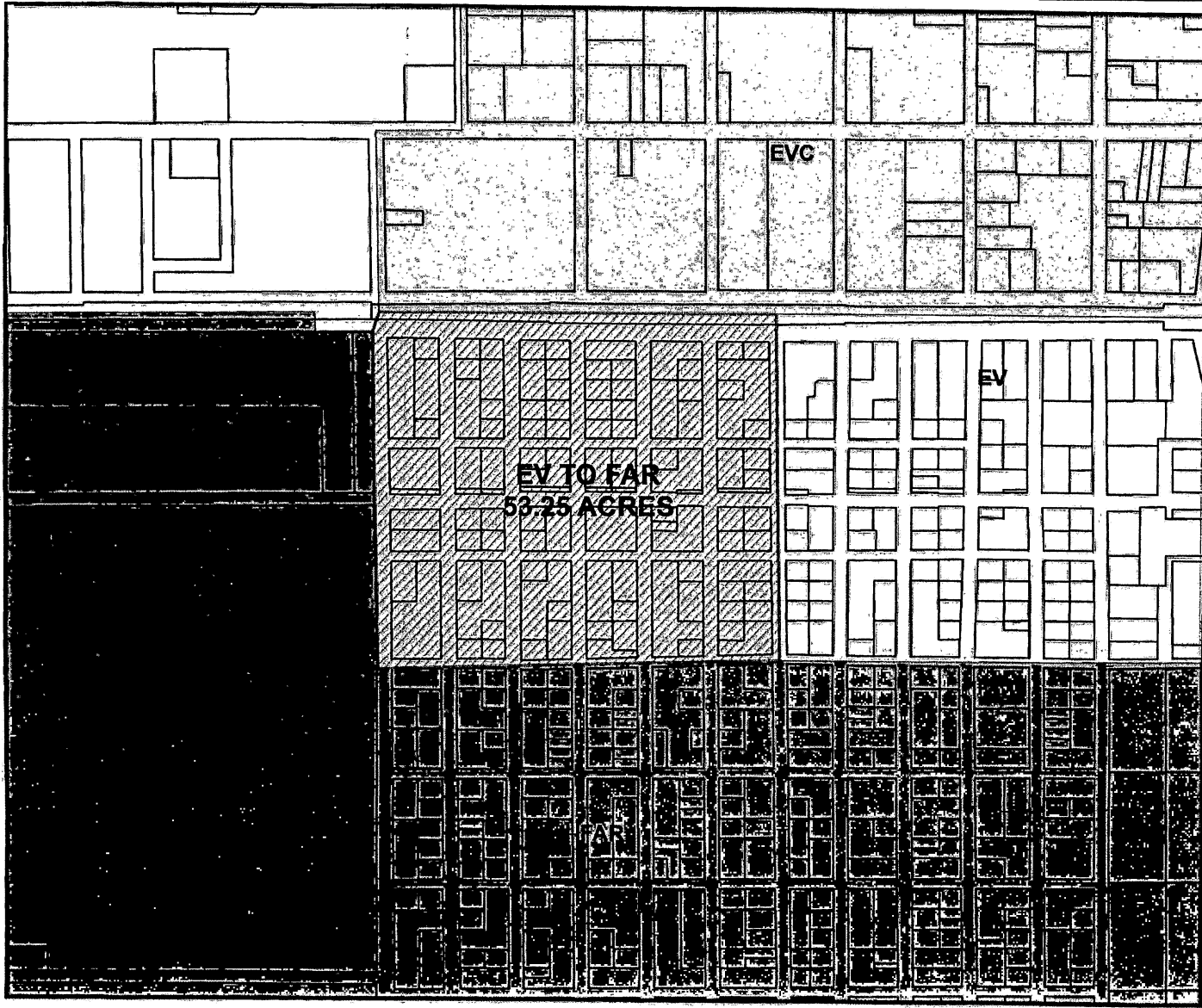
Executive Director's Report
on
Mullica Township
Ordinance 8-2012
Exhibit #2
October 26, 2012



1 inch equals 400 feet

Marathon
Engineering & Environmental Services, Inc.
Atlantic City Office
2922 Atlantic Avenue, Suite 3A, Atlantic City, N.J. 08401
ph (609) 437-2100 fax (609) 437-2101
Certificate of Authorization #24GA27995700

Executive Director's Report
Mullica Township
Ordinance 8-2012
Exhibit #3
October 26, 2012



Marston
Engineering & Environmental Services, Inc.
Atlantic City Office
2922 Atlantic Avenue, Suite 3A, Atlantic City, N.J. 08401
ph (609) 437-2100 fax (609) 437-2101
Certificate of Authorization #24GA27995700



PINELANDS PRESERVATION ALLIANCE

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Fax: 609-859-8804

E-mail: ppa@pinelandsalliance.org

Website: www.pinelandsalliance.org

SEP 14 2012

September 12, 2012

Susan Grogan, Chief Planner
N.J. Pinelands Commission
P.O. Box 359
New Lisbon, New Jersey 08064



Re: Mullica Township Ordinances 7-2012 and 8-2012

Dear Ms. Grogan:

Pinelands Preservation Alliance (PPA) is providing comments on Mullica Township Ordinance 7-2012 – cluster development and 8-2012 – zoning changes. PPA supports the cluster ordinance 7-2012, but opposes 8-2012 zoning changes.

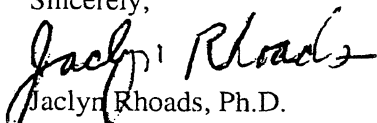
Mullica's cluster ordinance is actually providing incentives to aggregate lots and to create opportunities for clustering. It is limiting bonus densities to those lots that have been aggregated following the adoption of the cluster amendment to the CMP. Therefore, PPA supports its proposed ordinance.

Mullica Township under Ordinance 8-2012 has designated approximately 46 acres from the Forest Area Residential (FAR) district to Elwood Village (EV). Of these acres, 13 are owned by the State and an additional 5 acres are wetlands and wetlands buffers. Mullica officials have indicated that they want the addition to the Village to encourage more commercial development along the White Horse Pike. PPA does not support these changes, since there are other opportunities for such development in more appropriate places.

PPA questions why the remaining 28 acres are needed when currently there are over 70 acres undeveloped within the existing commercial village zone of Elwood. All of these currently zoned acres are suitable for commercial development, and the Commission should consider this opportunity as an innovative way to accommodate development and send it to appropriate lots.

Thank you for the opportunity to comment. Please contact PPA at 609-859-8860 ext. 18 or Jaclyn@pinelandsalliance.org with any questions.

Sincerely,



Jaclyn Rhoads, Ph.D.

Director for Conservation Policy



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-12- 36

TITLE: Approving With Conditions an Application for a **Public Development** (Application Number 2008-0154.002)

Commissioner McGlinchey moves and Commissioner Tuckey seconds the motion that:

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

2008-0154.002 TOWN OF HAMMONTON, Town of Hammonton, Pinelands Town of Hammonton, establishment of commercial and institutional (college educational facility) uses in an existing building (Date of Report: November 9, 2012).

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

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

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

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

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

2008-0154.002 TOWN OF HAMMONTON, Town of Hammonton, Pinelands Town of Hammonton, establishment of commercial and institutional (college educational facility) uses in an existing building (Date of Report: November 9, 2012).

Record of Commission Votes

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

Adopted at a meeting of the Pinelands Commission

Nancy Wittenberg
Nancy Wittenberg
Executive Director

Date: November 9, 2012

Mark S. Lohbauer
Mark S. Lohbauer
Chairman



State of New Jersey

THE PINELANDS COMMISSION

PO Box 359

NEW LISBON, NJ 08064

(609) 894-7300

www.nj.gov/pinelands



Chris Christie
Governor

Kim Guadagno
Lt. Governor

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

Mark S. Lohbauer
Chairman

Nancy Wittenberg
Executive Director

AMENDED REPORT ON AN APPLICATION FOR
MAJOR PUBLIC DEVELOPMENT
(Revise Page 1, 5th Para., 1st Sentence)

November 9, 2012

Steve DiDonato, Mayor
Town of Hammonton
100 Central Avenue
Hammonton, NJ 08037

Re: Application #: 2008-0154.002
Block 2526, Lots 5 & 6
Town of Hammonton

Dear Mayor DiDonato:

The Commission staff has completed its review of the above referenced application. Based upon the facts and conclusions contained in this Report, on behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its November 9, 2012 meeting.

FINDINGS OF FACT

This application is for the establishment of commercial and institutional (college educational facility) uses in an existing 17,620 square foot, three story building on the above referenced 0.71 acre parcel. The proposed development is located in the Pinelands Town of Hammonton.

The application proposes that a portion of the first floor of the existing building will be utilized for commercial retail. The remaining portion of the first floor and the second and third floors will be utilized by the Richard Stockton College of New Jersey for educational facilities. The application also proposes to construct a parking area containing 38 parking spaces.

Information submitted with the application represents that there are ongoing site remediation activities on the concerned parcel. The submitted information indicates that certain hazardous contaminants were found within soil and groundwater samples on the parcel.

In May 2009, the New Jersey Legislature enacted the Site Remediation Reform Act (N.J.S.A. 58:10C-1 et seq.). This Act permits Licensed Site Remediation Professionals (LSRP's) to develop and implement appropriate remedial activities at a site, including environmental investigations and cleanups. The New



Jersey Department of Environmental Protection's role in site remediation under the Act is limited to auditing information submitted by the LSRP to ensure that the remediation work is completed in accordance with all applicable laws, including the Pinelands Comprehensive Management Plan (CMP).

By letter dated September 27, 2012, Henry D. Weigel from the firm of Adams, Rehmann and Heggan advised that he had been retained as the LSRP for the project. The LSRP for the above referenced parcel has represented that the remedial investigation on the concerned parcel is substantially complete and that the cleanup of impacted soils is ongoing. The LSRP indicated that the soil remediation will be completed prior to any proposed site improvements, including paving and construction of stormwater facilities. The LSRP also indicated that the groundwater contamination has shown a generally decreasing trend and that natural attenuation has been selected to address the groundwater contamination. The LSRP indicated that the existing contamination does not pose a vapor intrusion hazard.

The applicant has also submitted a September 28, 2012 letter from Health and Safety Services, Incorporated indicating that the existing building was inspected and that asbestos was located within the building. This letter indicates that all asbestos was removed from the building and the building is safe for occupancy. The letter also indicates that "no other environmental issues were discovered in the building during the asbestos abatement process."

The Pinelands Commission must determine whether the proposed development is consistent with the regulations and standards contained in the Pinelands Comprehensive Management Plan (CMP). This Report makes no findings regarding the consistency of the proposed development with the regulations and standards of other agencies, including those of the New Jersey Department of Environmental Protection, Site Remediation Program.

The proposed development will be located over existing paved and maintained grassed areas. The proposed clearing and soil disturbance appears to be limited to that which is necessary to accommodate the proposed development.

The Landscaping and Revegetation guidelines of the CMP recommend the use of grasses that are tolerant of droughty, nutrient poor conditions. The applicant proposes to utilize grass species that do not meet that recommendation. However, the concerned 0.71 acre parcel is located in developed downtown Hammonton and the areas to be revegetated are currently maintained grassed and paved areas.

There are no wetlands located within 300 feet of the above referenced parcel.

The existing building is, and the proposed uses will be, served by public sanitary sewer.

Hammonton's existing wastewater treatment facility, located on Pleasant Mills Road, discharges wastewater to both Hammonton Creek and the Boyer Avenue wastewater infiltration facility. On February 10, 2011, the Commission approved an application (App. No. 1993-1011.004) to increase the total potable water allocation for the Town of Hammonton. One of the conditions of that approval, in part, was that Hammonton shall prepare, in consultation with the Commission staff, and submit to the Pinelands Commission for approval, a long term comprehensive plan for the treatment and discharge of wastewater. That condition also required that unless a long term comprehensive plan regarding the treatment and discharge of wastewater from the Town of Hammonton was approved by the Commission prior to December 10, 2013, Hammonton shall cease all discharge of treated wastewater to Hammonton Creek by that same date. Another condition of that approval was that the Boyer Avenue infiltration

facility must successfully infiltrate both a minimum monthly average of 807,000 gallons per day of treated sanitary sewage and any proposed cumulative increase of sanitary sewage flows resulting from any public development application(s) approved by the Commission pursuant to N.J.A.C. 7:50-4.51 et.seq. after December 10, 2010. This application proposes to establish a commercial use and an institutional use in an existing building that was previously occupied by various commercial uses.

The applicant has demonstrated that the proposed development is consistent with the stormwater regulations contained in the CMP. The applicant will be constructing two stormwater infiltration basins.

Based upon the existing conditions, the location of proposed development relative to existing development and a review of information available to the Commission staff, it was determined that a survey for the presence of threatened and endangered species of plants and animals was not required.

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

PUBLIC COMMENT

This applicant provided the requisite legal notices. Newspaper public notice was completed for the application on February 29, 2012. Legal notice to required land owners within 200 feet of the above referenced parcel was completed on March 8, 2012. The application was designated as complete on the Commission's website on October 2, 2012. The Commission's public comment period closed on October 12, 2012. The Pinelands Commission has not received any public comments regarding the application.

CONCLUSION

The proposed establishment of retail and institutional uses in an existing building are permitted uses in a Pinelands Town (N.J.A.C. 7:50-5.27(a)). If the following conditions are imposed, the proposed development will be consistent with the management standards contained in Subchapters 5 & 6 of the CMP and the Town of Hammonton certified master plan and land use ordinance.

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of 14 sheets, prepared by Langan and dated as follows:

Sheets 1, 4, 5, 7, 9 & 12-14 – July 20, 2011; revised July 31, 2012
Sheets 2, 3, 6, 8, 10 & 11 – July 20, 2011; revised March 30, 2012
2. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.
3. Any proposed development shall adhere to the "Vegetation" standards of the CMP. Where appropriate, the applicant is encouraged to utilize the following 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. Such permits and approvals include any permits or approvals that that may be required to address the possible presence of environmental issues within the interior of the existing building.

5. All soil remediation activities shall be completed prior to any proposed site improvements, including paving and construction of stormwater facilities.
6. Prior to issuance of a municipal certificate of occupancy for the commercial and institutional (college educational facility) uses proposed in this application, the Town of Hammonton must demonstrate, in writing, that the Boyer Avenue infiltration facility is successfully infiltrating both a minimum monthly average of 807,000 gallons per day of treated sanitary sewage and any proposed cumulative increase of sanitary sewage flows resulting from the uses proposed in this application. Alternatively, the Town of Hammonton may demonstrate, in writing, that when compared to the prior use of the building, the proposed uses will not result in any increase in wastewater flows.

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

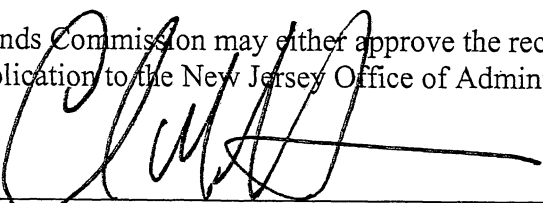
APPEAL

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

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

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

Recommended for Approval by: _____


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

CMH/ED

c: Secretary, Town of Hammonton Planning Board
Town of Hammonton Environmental Commission
Atlantic County Department of Regional Planning and Development
Anand Bhatt
Ernest M. Deman



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-12- 37

TITLE: Approving With Conditions a Request for a Waiver of Strict Compliance (Application Number 1986-0243.004)

Commissioner McGlinchey moves and Commissioner Witt seconds the motion that:

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

1986-0243.004 CHARLES J. PETERSON, Mullica Township, Rural Development Area, 22.71 acre parcel, development of one single family dwelling served by an onsite septic system (Date or Report: October 16, 2012).

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

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

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

WHEREAS, the Pinelands Commission hereby determines that the requested 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.

NOW, THEREFORE BE IT RESOLVED that the following application for a Waiver of Strict Compliance is hereby **approved** subject to the conditions recommended by the Executive Director:

1986-0243.004 CHARLES J. PETERSON, Mullica Township, Rural Development Area, 22.71 acre parcel, development of one single family dwelling served by an onsite septic system (Date or Report: October 16, 2012).

Record of Commission Votes

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

Adopted at a meeting of the Pinelands Commission

Nancy Wittenberg
Nancy Wittenberg
Executive Director

Date: Nov. 9, 2012

Mark S. Lohbauer
Mark S. Lohbauer
Chairman



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



Chris Christie
Governor

Kim Guadagno
Lt. Governor

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

Mark S. Lohbauer
Chairman

Nancy Wittenberg
Executive Director

**REPORT ON AN APPLICATION FOR A
WAIVER OF STRICT COMPLIANCE**

October 16, 2012

Charles J. Peterson
5475 Duerer Street
Egg Harbor City, NJ 08215

Re: Application # 1986-0243.004
Block 9603, Lots 6 & 7
Mullica Township

Dear Mr. Peterson:

The Commission staff has completed its review of the above referenced application. Based upon the facts and conclusions contained in this Report, on behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its November 9, 2012 meeting.

FINDINGS OF FACT

This application is for the development of a single family dwelling, served by an onsite septic system, on the above referenced 22.71 acre parcel in Mullica Township. The parcel is located in a Pinelands Rural Development Area and in Mullica Township's RD zoning district. In this zoning district, Mullica Township's certified land use ordinance establishes a minimum lot size of 3.6 acres for a single family dwelling.

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

A portion of the parcel subject of this application is a pitch pine lowland (N.J.A.C. 7:50-6.5(a)3), a type of wetland, which continues onto adjacent lands. The Pinelands Comprehensive Management Plan (CMP, N.J.A.C. 7:50-6.14) prohibits most development within 300 feet of wetlands unless it is demonstrated that the proposed development will not result in a significant adverse impact on wetlands. The CMP (N.J.A.C. 7:50-6.7) defines the modifications of a wetland that will result in a significant adverse impact.

The development proposed in this application will be located within 300 feet of wetlands. No information has been submitted to demonstrate that the modifications of the wetland proposed by the development would not result in a significant adverse impact on the concerned wetland. Based on the



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quality and location of the wetland, the proposed development will cause a significant adverse impact on the wetland. Therefore, a Waiver of Strict Compliance (Waiver) from the buffer to wetlands requirements contained in the CMP (N.J.A.C. 7:50-6.14) is requested.

One of the requirements contained in the CMP (N.J.A.C. 7:50-4.65(b)) to qualify for a Waiver to develop a dwelling is that no development, including clearing and land disturbance, be located on or within 50 feet of wetlands. The development proposed in this application will maintain a minimum buffer to wetlands of 180 feet.

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 parcel. The development of a single family dwelling on the parcel will not require any lot area or residential density variances pursuant to Mullica Township's certified land use ordinance.

Information available to the Commission staff indicates the potential presence of threatened or endangered plant species on and in the vicinity of the parcel. The applicant proposes to locate all development on the parcel as shown on the plan prepared by Thomas Darcy and Associates, dated June 5, 2012 and last revised September 4, 2012. The applicant has demonstrated that the proposed development will be designed to avoid irreversible adverse impacts on the survival of any local population of threatened or endangered plant species in accordance with the CMP (N.J.A.C. 7:50-6.27.)

The CMP (N.J.A.C. 7:50-4.65(a)) precludes the granting of a Waiver unless such development will be consistent with the purposes and provisions of the Pinelands Protection Act, the Federal Act and the CMP and the development will not result in a substantial impairment of the resources of the Pinelands Area as defined in the CMP (N.J.A.C. 7:50-4.65(b)). The proposed development will not violate any of the circumstances defined in N.J.A.C. 7:50-4.65(b).

PUBLIC COMMENT

The required public legal notices for the Waiver application were completed in March 2012. The application was designated as complete on the Commission's website on April 23, 2012. The Commission's public comment period closed on May 11, 2012. The Commission received no written public comments regarding the application. No public comment was offered at the Commission's May 11, 2012 meeting regarding the 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 an 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.

The CMP (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 categories of development is as follows:

- vii. A single family dwelling on a parcel within a Rural Development Area that complies with the density and lot area standards set forth in N.J.A.C. 7:50-5.26(a) and (c).

This application is only for a Waiver from the wetlands buffer requirements of the CMP. The applicant is seeking to develop a single family dwelling on a parcel in accordance with the residential density and lot area standards of the Mullica Township certified land use ordinance. As a result, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)1vii.

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 residential density variances have been obtained if the parcel is located in a municipality whose master plan and land use ordinances have been certified by the Pinelands Commission. Mullica Township's master plan and land use ordinances have been certified by the Pinelands Commission. The certified ordinances do not require any municipal lot area or density variances. As a result, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)4.

The fifth condition precludes the granting of a Waiver 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 as defined in N.J.A.C. 7:50-4.65(b). 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 required by N.J.A.C. 7:50-4.63(a)5.

Since the applicant meets all the 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).

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 buffer to wetlands requirements contained in N.J.A.C. 7:50-6.14, a condition is included to require the applicant to purchase the requisite 0.25 PDCs. With the conditions recommended below, the applicant meets the requirements contained in N.J.A.C. 7:50-4.62 (d).

To meet the requirements of the CMP (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 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 Thomas Darcy and Associates dated June 5, 2012 and last revised September 4, 2012.
2. All development, including clearing and land disturbance, shall maintain the maximum feasible buffer to all wetlands as shown on the above referenced plan. No development, including

- clearing and land disturbance, is permitted in wetlands or wetlands buffers as delineated on the above referenced plan.
3. Silt fencing, hay bales or other appropriate measures shall be installed prior to construction to preclude sedimentation from entering wetlands.
 4. Sufficient dry wells or comparable alternative shall be installed to contain all stormwater runoff from the dwelling.
 5. The proposed driveway shall be constructed of crushed stone or other permeable material.
 6. Except as provided in N.J.A.C. 7:50-5.1(c), the single family dwelling approved herein shall be the sole principal use of the parcel.
 7. Prior to Commission issuance of a letter indicating that any county or municipal permit or approval may take effect, a recorded copy of a deed consolidating Block 9603, Lots 6 & 7 into one lot must be submitted to the Pinelands Commission.
 8. Prior to Commission issuance of a letter advising that any county or municipal approval or permit may take effect, the Commission must receive a letter from the Pinelands Development Credit Bank indicating that the requisite 0.25 Pinelands Development Credits have been acquired and submitted to the Pinelands Development Credit Bank for redemption.
 9. This Waiver shall expire November 9, 2017 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 November 9, 2017 or if any renewal or extension of any permit or approval or issuance of a new construction permit is necessary after that date.
 10. 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. The deed shall specify that the conditions are being imposed pursuant to a Waiver of Strict Compliance referring to the application number. The deed shall state that the conditions are enforceable by the Pinelands Commission, the Atlantic County Division of Public Health, Mullica Township and any other party of interest.

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

Since the applicant meets the provisions of the CMP (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) for the development of a single family dwelling on the parcel, it is recommended that the Pinelands Commission APPROVE the requested Waiver of Strict Compliance subject to the above conditions.

APPEAL

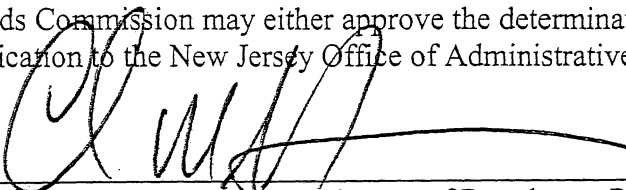
The CMP (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal this recommendation in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted 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 within eighteen days of the date of this Report and must include the following information:

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

If no appeal is received, the Pinelands Commission may either approve the 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.E., Director of Regulatory Programs

BLE/KC/CMH

c: Secretary, Mullica Township Planning Board
Mullica Township Construction Code Official
Mullica Township Environmental Commission
Atlantic County Division of Public Health
Pinelands Development Credit Bank
Donna Graham



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-12- 38

TITLE: Issuing an Order to Certify Weymouth Township's 2010 Master Plan Land Use Element, 2011 Master Plan and Ordinance 503-2012, Amending Chapter 155 (Land Use) of the Code of Weymouth Township

Commissioner Ashmun moves and Commissioner Pickoff seconds the motion that:

WHEREAS, on September 9, 1988, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of the Township of Weymouth; and

WHEREAS, Resolution #PC4-88-89 of the Pinelands Commission specified that any amendment to the Township's certified Master Plan and Land Use Ordinances be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 (Submission and Review of Amendments to Certified Master 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 #PC4-88-89 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 January 16, 2009, the Pinelands Commission adopted amendments to the Comprehensive Management Plan related to mandatory residential cluster development in the Pinelands Forest and Rural Development Areas; and

WHEREAS, on October 9, 2009, the Pinelands Commission adopted amendments to the Comprehensive Management Plan related to wetlands management; and

WHEREAS, on November 13, 2009, the Pinelands Commission adopted amendments to the Comprehensive Management Plan related to forestry; and

WHEREAS, these three sets of amendments took effect on April 6, 2009, December 21, 2009 and March 1, 2010, respectively; and

WHEREAS, municipalities located within the Pinelands Area are required to adopt ordinance amendments necessary for conformance with any Comprehensive Management Plan amendments within one year of the effective date of any such amendments; and

WHEREAS, on June 11, 2010, the Pinelands Commission adopted Resolution PC4-10-27, extending the time period for response to the clustering and wetlands management amendments to March 1, 2011 in order to provide municipalities with sufficient time for consideration, preparation and adoption of master plan and ordinance amendments to address the three sets of Comprehensive Management Plan amendments simultaneously; and

WHEREAS, Commission staff subsequently provided a model ordinance and other guidance to Weymouth Township to assist the municipality in completing its response to the three sets of Comprehensive Management Plan amendments; and

WHEREAS, on March 10, 2010, the Weymouth Township Planning Board adopted a revised Master Plan Land Use Element, dated January 2010, which contains a detailed review of existing conditions and a discussion of the manner in which Weymouth Township should respond to recent amendments to the CMP related to cluster development in the Pinelands Forest Area; and

WHEREAS, the Pinelands Commission received an adopted copy of the January 2010 Master Plan Land Use Element on March 15, 2010; and

WHEREAS, on July 13, 2011, the Weymouth Township Planning Board adopted a new Master Plan, dated July 2011, which contains the January 2010 Land Use Element described above, as well as a Conservation Plan, Historic Preservation Plan, Open Space and Recreation Plan and Recycling & Solid Waste Reduction Plan; and

WHEREAS, the Pinelands Commission received an adopted copy of the July 2011 Master Plan on August 23, 2011; and

WHEREAS, by email dated September 15, 2011, Weymouth Township notified the Commission of the need for an extension of the March 1, 2011 deadline for adoption and submission of the necessary ordinance amendments; and

WHEREAS, by letter dated September 19, 2011, the Executive Director notified the Township that an extension was granted until December 30, 2011; and

WHEREAS, on February 10, 2012, the Commission received a draft copy of Weymouth Township's implementing ordinance, scheduled for adoption on April 4, 2012; and

WHEREAS, by letter dated March 5, 2012, the Executive Director notified the Township that based on the anticipated adoption schedule provided in the draft ordinance, a second extension was granted until April 13, 2012; and

WHEREAS, on April 4, 2012, Weymouth Township adopted Ordinance 503-2012, amending Chapter 155 (Land Use) of the Township's Code in response to the forestry, wetlands management and residential cluster development amendments to the Pinelands Comprehensive Management Plan; and

WHEREAS, the Pinelands Commission received a certified copy of Ordinance 503-2012 on April 17, 2012; and

WHEREAS, by email dated April 17, 2012, Commission staff notified the Township that a copy of the municipality's revised Zoning Map, as adopted by Ordinance 503-2012, would need to be provided before the Commission could commence its formal review process; and

WHEREAS, on July 20, 2012, the Pinelands Commission received a copy of the revised Zoning Map adopted by Ordinance 503-2012; and

WHEREAS, by letter dated August 6, 2012, the Executive Director notified the Township that the January 2010 Master Plan Land Use Element, July 2011 Master Plan and Ordinance 503-2012 would require formal review and approval by the Pinelands Commission; and

WHEREAS, a public hearing to receive testimony on the January 2010 Master Plan Land Use Element, July 2011 Master Plan and Ordinance 503-2012 was duly advertised, noticed and held on September 10, 2012 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m.; and

WHEREAS, the Executive Director has found that the January 2010 Master Plan Land Use Element, July 2011 Master Plan and Ordinance 503-2012 sufficiently implement the forestry, wetlands management and cluster development amendments to the Comprehensive Management Plan; and

WHEREAS, the Executive Director has submitted a report to the Commission recommending issuance of an order to certify that Weymouth Township's January 2010 Master Plan Land Use Element, July 2011 Master Plan and Ordinance 503-2012, amending Chapter 155 (Land Use) of the Code of Weymouth Township, are in conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, the Commission's CMP Policy and Implementation Committee has reviewed the Executive Director's report and has recommended that the January 2010 Master Plan Land Use Element, July 2011 Master Plan and Ordinance 503-2012 be certified; and

WHEREAS, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning the January 2010 Master Plan Land Use Element, July 2011 Master Plan and Ordinance 503-2012 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 Weymouth Township's January 2010 Master Plan Land Use Element, July 2011 Master Plan and Ordinance 503-2012, amending Chapter 155 (Land Use) of the Code of Weymouth Township, are in conformance with the Pinelands Comprehensive Management Plan.

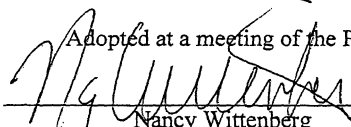
2. Any additional amendments to Weymouth Township's certified Master Plan and Land Use Ordinances shall be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 to determine if said amendments raise a substantial issue with respect to the Comprehensive Management Plan. Any such amendment shall become effective only as provided in N.J.A.C. 7:50-3.45.

Record of Commission Votes

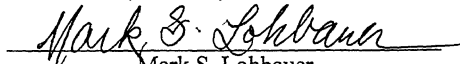
AYE NAY NP ABS				AYE NAY NP ABS				AYE NAY NP ABS			
Ashmun	X			Haas			X	Quinn			X
Brown	X			Jackson	X			Rohan Green			X
Earlen	X			Lloyd	X			Witt	X		
Ficcaglia	X			McGlinchey	X			Lohbauer	X		
Galletta			X	Prickett	X						

Adopted at a meeting of the Pinelands Commission

Date: Nov. 9, 2012



Nancy Wittenberg
Executive Director



Mark S. Lohbauer
Chairman



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



Chris Christie
Governor

Kim Guadagno
Lt. Governor

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

Mark S. Lohbauer
Chairman

Nancy Wittenberg
Executive Director

REPORT ON WEYMOUTH TOWNSHIP'S JANUARY 2010 MASTER PLAN LAND USE ELEMENT, JULY 2011 MASTER PLAN AND ORDINANCE 503-2012, AMENDING CHAPTER 155 (LAND USE) OF THE CODE OF WEYMOUTH TOWNSHIP

October 26, 2012

Weymouth Township
P.O. Box 53
Dorothy, NJ 08317

FINDINGS OF FACT

I. Background

The Township of Weymouth is located on the southwestern fringe of Atlantic County, in the southern portion of the Pinelands Area. Pinelands municipalities that abut Weymouth Township include the City of Estell Manor and the Townships of Buena Vista and Hamilton in Atlantic County and Maurice River Township in Cumberland County.

On September 9, 1988, the Pinelands Commission fully certified the Master Plan and Land Use and Development Regulations of Weymouth Township.

On January 16, 2009, the Pinelands Commission adopted amendments to the Comprehensive Management Plan related to mandatory residential cluster development in the Pinelands Forest and Rural Development Areas. On October 9, 2009, the Pinelands Commission adopted amendments to the Comprehensive Management Plan related to wetlands management. On November 13, 2009, the Pinelands Commission adopted amendments to the Comprehensive Management Plan related to forestry. These three sets of amendments took effect on April 6, 2009, December 21, 2009 and March 1, 2010, respectively.

Municipalities located within the Pinelands Area are required to adopt ordinance amendments necessary for conformance with any Comprehensive Management Plan amendments within one year of the effective date of any such amendments. On June 11, 2010, the Pinelands Commission adopted Resolution PC4-10-27, extending the time period for response to the clustering and wetlands management amendments to March 1, 2011 in order to provide municipalities with sufficient time for consideration, preparation and adoption of master plan and ordinance amendments to address the three sets of Comprehensive Management Plan amendments simultaneously. Commission staff subsequently provided a model ordinance and other guidance to the Township to assist the municipality in completing its response to the three sets of Comprehensive Management Plan amendments.

On March 10, 2010, the Weymouth Township Planning Board adopted a revised Master Plan Land Use Element, dated January 2010, which contains a detailed review of existing conditions and a discussion of the manner in which Weymouth Township should respond to recent amendments to the CMP related to cluster development in the Pinelands Forest Area. The Pinelands Commission received an adopted copy of the January 2010 Master Plan Land Use Element, together with the Planning Board's resolution of adoption, on March 15, 2010.

On July 13, 2011, the Weymouth Township Planning Board adopted a new Master Plan, dated July 2011, which contains the January 2010 Land Use Element described above, as well as a Conservation Plan, Historic Preservation Plan, Open Space and Recreation Plan and Recycling & Solid Waste Reduction Plan. The Pinelands Commission received an adopted copy of the July 2011 Master Plan, together with the Planning Board's resolution of adoption, on August 23, 2011.

By email dated September 15, 2011, Weymouth Township notified the Commission of the need for an extension of the March 1, 2011 deadline for adoption and submission of the necessary ordinance amendments. By letter dated September 19, 2011, the Executive Director notified the Township that an extension was granted until December 30, 2011.

On February 10, 2012, the Commission received a draft copy of Weymouth Township's implementing ordinance, scheduled for adoption on April 4, 2012. By letter dated March 5, 2012, the Executive Director notified the Township that based on the anticipated adoption schedule provided in the draft ordinance, a second extension was granted until April 13, 2012.

On April 4, 2012, Weymouth Township adopted Ordinance 503-2012, amending Chapter 155 (Land Use) of the Township's Code in response to the forestry, wetlands management and residential cluster development amendments to the Pinelands Comprehensive Management Plan. The Pinelands Commission received a certified copy of Ordinance 503-2012 on April 17, 2012.

By email dated April 17, 2012, Commission staff notified the Township that a copy of the municipality's revised Zoning Map, as adopted by Ordinance 503-2012, would need to be provided before the Commission could commence its formal review process. The Pinelands Commission received a copy of the revised Zoning Map adopted by Ordinance 503-2012 on July 20, 2012.

By letter dated August 6, 2012, the Executive Director notified the Township that the January 2010 Master Plan Land Use Element, July 2011 Master Plan and Ordinance 503-2012 would require formal review and approval by the Pinelands Commission.

II. Master Plans and Land Use Ordinances

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

- * The Updated Land Use Element of the Master Plan of the Township of Weymouth, dated January 2010, adopted by the Planning Board on March 10, 2010;
- * Township of Weymouth Master Plan, dated July 2011, adopted by the Planning Board on July 13, 2011; and

- * Ordinance 503-2012, amending Chapter 155 (Land Use) of the Code of Weymouth Township, introduced on February 11, 2012 and adopted on April 4, 2012.

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

1. Natural Resource Inventory

Not applicable.

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

Forestry

Ordinance 503-2012 amends Chapter 155 of the Township's Code by revising and adding definitions related to forestry. Specifically, terms for such forestry activities as "artificial regeneration," "clearcutting" and "disking" are added and the existing definition of "forestry" is revised to make clear that it includes these and other silvicultural practices. Ordinance 503-2012 further amends Chapter 155 by replacing Section 155-57K(3), in its entirety, with an amended set of standards applicable to forestry activities in the Pinelands Area. Included in this revised section are detailed standards for a wide variety of silvicultural practices, as well as limitations on amount of land that may be subject to these practices and the Pinelands Native Forest Types in which such practices may or may not be conducted.

The amended forestry standards adopted by Ordinance 503-2012 are consistent with the March 2010 amendments to the Pinelands Comprehensive Management Plan.

Wetlands Management

Ordinance 503-2012 amends Chapter 155 of the Township's Code by adding a definition of "wetlands management". Ordinance 503-2012 also revises Section 155-57A(1)(e) to indicate that wetlands management may be permitted in wetlands, subject to the standards of the Comprehensive Management Plan. In so doing, Ordinance 503-2012 sufficiently responds to the December 2009 Comprehensive Management Plan amendments relative to wetlands management.

Development Transfer Program

Ordinance 503-2012 amends Chapter 155 by revising the provisions of the Township's Combined Parcel Homestead program to clarify the types of uses which may be permitted on noncontiguous lands used to meet density requirements. Specifically, Ordinance 503-2012 states that all noncontiguous lands utilized in the development transfer program must be permanently protected through recordation of a deed of restriction, with only the following uses permitted:

low intensity recreation, ecological management and forestry. Limits on clearing and impervious surface then also apply to these uses.

The amended development transfer program standards adopted by Ordinance 503-2012 are consistent with the April 2009 amendments to the Pinelands Comprehensive Management Plan.

Cluster Development

Ordinance 503-2012 amends Chapter 155 by adding residential cluster development as a permitted use in the Township's Pinelands Forest Area zoning districts (PFA-10, PFA-20 and PFA-25). Furthermore, Ordinance 503-2012 indicates that whenever two or more residential units are proposed in these zoning districts, cluster development will be required. The ordinance then sets forth the standards which all such cluster developments must meet, including a one acre lot size requirement, the location of the development area itself on a parcel and the provision of accessory recreational amenities. Ordinance 503-2012 also specifies that the number of residential lots permitted within a cluster development will be calculated based on the size of the parcel of land and the permitted density allowed in Chapter 155 for the zoning district(s) in which the project will be located. For example, four units would be permitted on a 100 acre parcel located in the Township's PFA-25 District, where the permitted density is one unit per 25 acres.

According to Ordinance 503-2012, the balance of the parcel located outside the residential cluster development area must be permanently protected through recordation of a deed of conservation restriction. This open space area must be owned and managed by a homeowners association, a non-profit conservation organization, the Township, Atlantic County or the State, or it may be incorporated as part of one of the lots within the cluster development area. Permitted uses in the open space area are limited to low intensity recreation, ecological management and forestry, subject to specific limitations on clearing and impervious surface.

In addition to the above-described general requirements for cluster development, Ordinance 503-2012 also seeks to direct the location of such developments to the most appropriate areas of the Township's Pinelands Forest Area. These areas, referred to as Cluster Development Zones in Ordinance 503-2012, are delineated in Weymouth's January 2010 Master Plan Land Use Element and July 2011 Master Plan and are depicted on the revised zoning map adopted by Ordinance 503-2012. To arrive at the boundaries of these areas, the Township conducted an analysis of its entire Forest Area which took into account wetlands, soils unsuitable for the location of septic systems, areas of high ecological integrity (based on the Commission's own assessment), potential habitat for rare plants and animals, existing development and land tenure patterns. The maps attached as Exhibits #1 through #5 illustrate the analysis performed by the Township and the resulting identification of two areas within the Forest Area deemed most appropriate for larger cluster developments. These two Cluster Development Zones combined contain a total of approximately 950 vacant acres, which equates to just over 20 percent of the municipality's total Forest Area.

Ordinance 503-2012 requires that all major residential development be located in one of the Cluster Development Zones. This includes any development of five or more units, whether or not a subdivision is involved. Within the Cluster Development Zones, development must occur on one acre lots. Noncontiguous lands may be used to meet the density requirements of the underlying zoning (either PFA-10 or PFA-20). As a further incentive, Ordinance 503-2012

provides bonus density to cluster development projects located in the Cluster Development Zones. The bonus ranges from 10 to 40% and applies to the overall parcel involved in the cluster development, including contiguous **and non-contiguous** lands. The larger the overall parcel and the lower the permitted density of the lands in question, the larger the percentage of bonus density provided. Additional requirements for major residential developments in the Cluster Development Zones include the preparation of Forest Stewardship Plans or other forest management plans wherever 50 or more contiguous acres of open space result from the cluster development. Finally, a minimum of 30 percent of the housing units in such developments must be age-restricted.

Whereas major developments (five or more units) must be located in the Cluster Development Zones, minor cluster developments (two to four units) may be located anywhere in the Township's Forest Area. However, no bonus density is provided to such projects and they may only include contiguous lands.

The clustering program adopted by Weymouth Township is, in effect, a creative blending of the CMP's clustering and density transfer programs. Receiving areas (the Cluster Development Zones) are designated, and incentives are provided to locate larger cluster developments in these areas through the use of bonus densities and noncontiguous lands to satisfy density requirements. Clustering will still be required for residential development located outside the receiving areas; however, such projects will not be eligible for bonus density. All of these provisions represent changes to the Comprehensive Management Plan's clustering standards.

Pinelands municipalities have always had the general ability to refine the various standards and provisions of the Comprehensive Management Plan and tailor them to local conditions, provided Comprehensive Management Plan goals and objectives continue to be achieved. Subchapter 5 (Minimum Standards for Land Uses and Intensities) of the Comprehensive Management Plan expressly recognizes this general ability. Moreover, when the Commission adopted its clustering amendments, a new certification standard was incorporated in order to make clear that this practice extends to the Forest and Rural Development Area residential clustering program. N.J.A.C. 7:50-3.39(a)2ix provides that municipalities may propose and the Commission may approve clustering ordinances that contain different standards than those set forth at N.J.A.C. 7:50-5.19(c) and (d), provided such standards are supported through the application of sound land use planning principles, are based upon local conditions or circumstances and do not undermine the overall objectives of the Forest and Rural Development clustering program.

In this case, Weymouth Township has modified Comprehensive Management Plan clustering standards to fit the particular conditions of its Pinelands Forest Area. A detailed analysis was completed to identify appropriate areas for new residential development and the bonus density provisions of the Comprehensive Management Plan were utilized to create an incentive for development in these identified areas. The ability to use noncontiguous lands elsewhere in the Forest Area for density purposes was also provided in an effort to make as much land in the Cluster Development Zones available for development as possible. There will be no reduction in the amount of protected open space associated with cluster developments as a result of the changes adopted by Weymouth. The open space is simply likely to be located elsewhere in the Forest Area, not contiguous to the residential cluster development area. The Township's approach is a creative one which is clearly and appropriately based on local conditions. It represents a successful combination of the density transfer and clustering standards of the Comprehensive Management Plan.

The amendments adopted by the January 2010 Master Plan Land Use Element, July 2011 Master Plan and Ordinance 503-2012 sufficiently respond to the April 2009, Comprehensive Management Plan amendments relative to cluster development and are 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

Ordinance 503-2012 amends Chapter 155 by replacing Section 155-57K(2), in its entirety, with an amended set of application requirements for municipal forestry permits. For forestry activities on parcels of land enrolled in the New Jersey Forest Stewardship Program, an applicant needs only to submit to the municipality a copy of his or her approved Stewardship Plans. For all other forestry applications, the list of submission requirements includes a forestry management plan, information concerning threatened and endangered plants and animals, cultural resources and the use of herbicides, written comments from the New Jersey State Forester and a Certificate of Filing issued by the Pinelands Commission.

The amended forestry application requirements adopted by Ordinance 503-2012 are consistent with the March 2010 amendments to the Pinelands Comprehensive Management Plan. Therefore, this standard for certification is met.

4. Requirement for Municipal Review and Action on All Development

Not applicable.

5. Review and Action on Forestry Applications

Not applicable.

6. Review of Local Permits

Not applicable.

7. Requirement for Capital Improvement Program

Not applicable.

8. Accommodation of Pinelands Development Credits

Not applicable.

9. Referral of Development Applications to Environmental Commission

Not applicable.

10. General Conformance Requirements

Weymouth Township's January 2010 Master Plan Land Use Element, July 2011 Master Plan and Ordinance 503-2012, amending the Chapter 155 (Land Use) of the Code of Weymouth Township, are 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

Weymouth Township's January 2010 Master Plan Land Use Element, July 2011 Master Plan and Ordinance 503-2012, amending Chapter 155 (Land Use) of the Code of Weymouth Township, are consistent with the standards and provisions of the Pinelands Comprehensive Management Plan. No special issues exist relative to the Federal Act.

This standard for certification is met.

13. Procedure to Resolve Intermunicipal Conflicts

The two Forest Area cluster development zones established by Ordinance 503-2012 are located on Weymouth's boundary with Hamilton Township. Adjacent lands in Hamilton are designated as Pinelands Forest Area, where clustering of residential development on one acre lots is required. Given that the development patterns in the two municipalities will be similar, no conflicts anticipated. This standard for certification is met.

PUBLIC HEARING

A public hearing to receive testimony concerning Weymouth Township's application for certification of its January 2010 Master Plan Land Use Element, July 2011 Master Plan and Ordinance 503-2012 was duly advertised, noticed and held on September 10, 2012 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 September 14, 2012 and were received from the following individuals:

Jaclyn Rhoads, Ph.D., Director of Conservation Policy, Pinelands Preservation Alliance (see Exhibit #6)

Charles Gemmel, Gemmel, Todd & Merenich (see Exhibit #7)

EXECUTIVE DIRECTOR'S RESPONSE

In the letter submitted by the Pinelands Preservation Alliance (Exhibit #6), Dr. Rhoads notes that Ordinance 503-2012 requires the preparation of a Forest Stewardship Plan or Forestry management Plan for all permanently protected lands of 50 acres or more resulting from a cluster development. She suggests that the ordinance should reflect the requirement that no more than five percent of the parcel may be cleared, pursuant to the clustering standards of the Comprehensive Management Plan. The five percent clearing limitation is, in fact, contained in Ordinance 503-2012 in two locations: Section 155-157A(1)(a)[4][b] for minor cluster developments and Section 155-157A(1)(b)[5][b] for major developments. The five percent limitation must be reflected in the deed of conservation restriction for the protected open space and, therefore, must be adhered to in any forestry plan prepared for the open space lands.

Mr. Gemmel suggests in his letter (Exhibit #7) that the requirement for a minimum percentage of age-restricted housing in any major cluster development project will discourage cluster development. While there may well be cases where the construction of a small number of age-restricted units does not fit well within the overall design or pattern of a particular cluster development, the Executive Director believes that decisions as to the type and size of residential units are a matter best left to the municipality and the applicant to work out. Ordinance 503-2012 does require 30 percent of new units the designated Cluster Development Zones to be age-restricted, but it also provides bonus density to those developers who seek to construct clustering projects in these zones. The use of noncontiguous lands to meet density and open space requirements is also provided, leading to greater on-site flexibility in project design. Any disincentive to cluster development resulting from the age-restricted housing requirement is likely to be more than offset by these incentives.

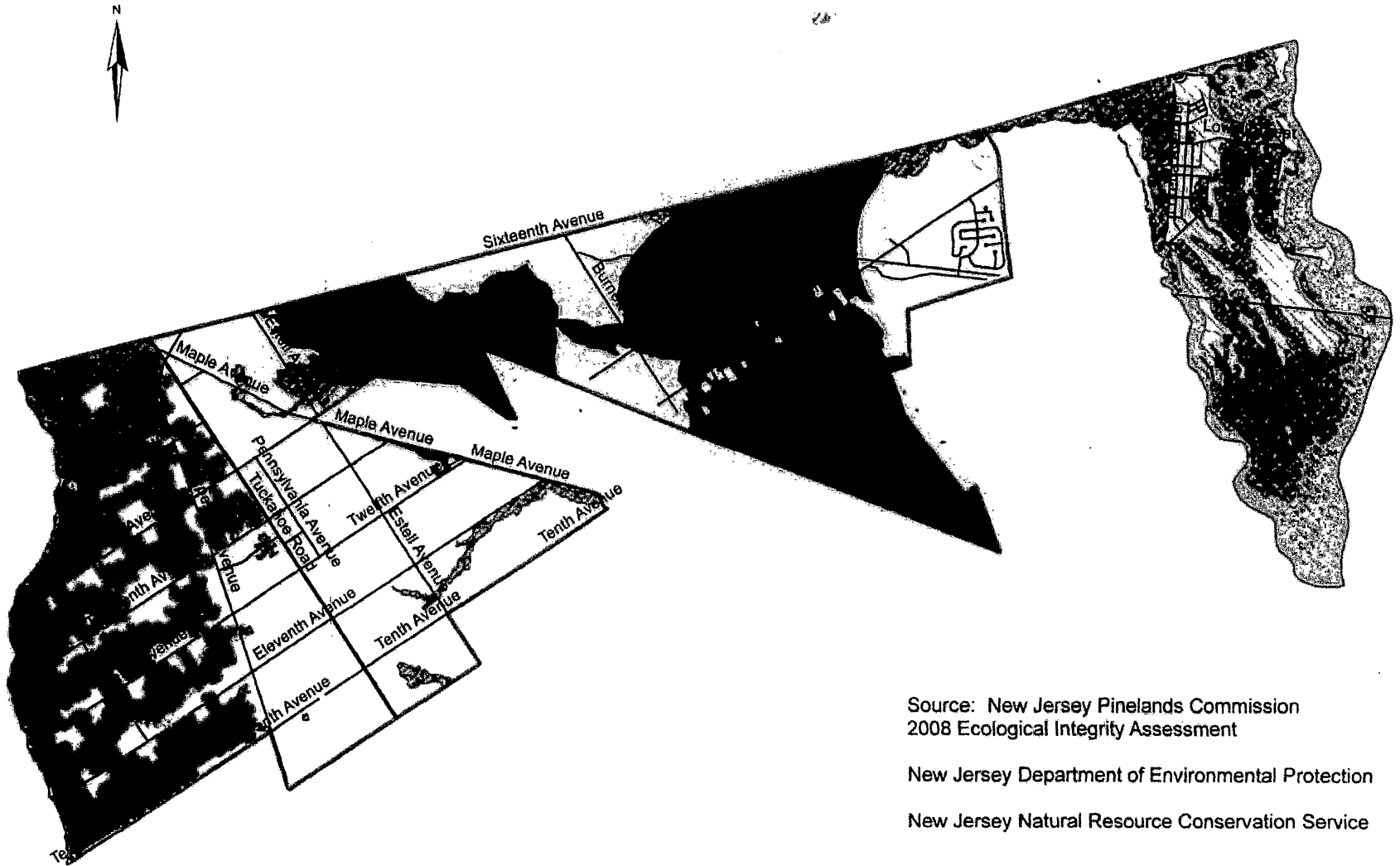
CONCLUSION

Based on the Findings of Fact cited above, the Executive Director has concluded that the January 2010 Master Plan Land Use Element, July 2011 Master Plan and Ordinance 503-2012 sufficiently implement the April 2009, December 2009 and March 2010 amendments to the Pinelands Comprehensive Management Plan and comply 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 the January 2010 Master Plan Land Use Element, July 2011 Master Plan and Ordinance 503-2012 of Weymouth Township.

SRG/CWE
Attachments

Weymouth Township

Combined Environmental Constraints Map Ten



Source: New Jersey Pinelands Commission
2008 Ecological Integrity Assessment

New Jersey Department of Environmental Protection

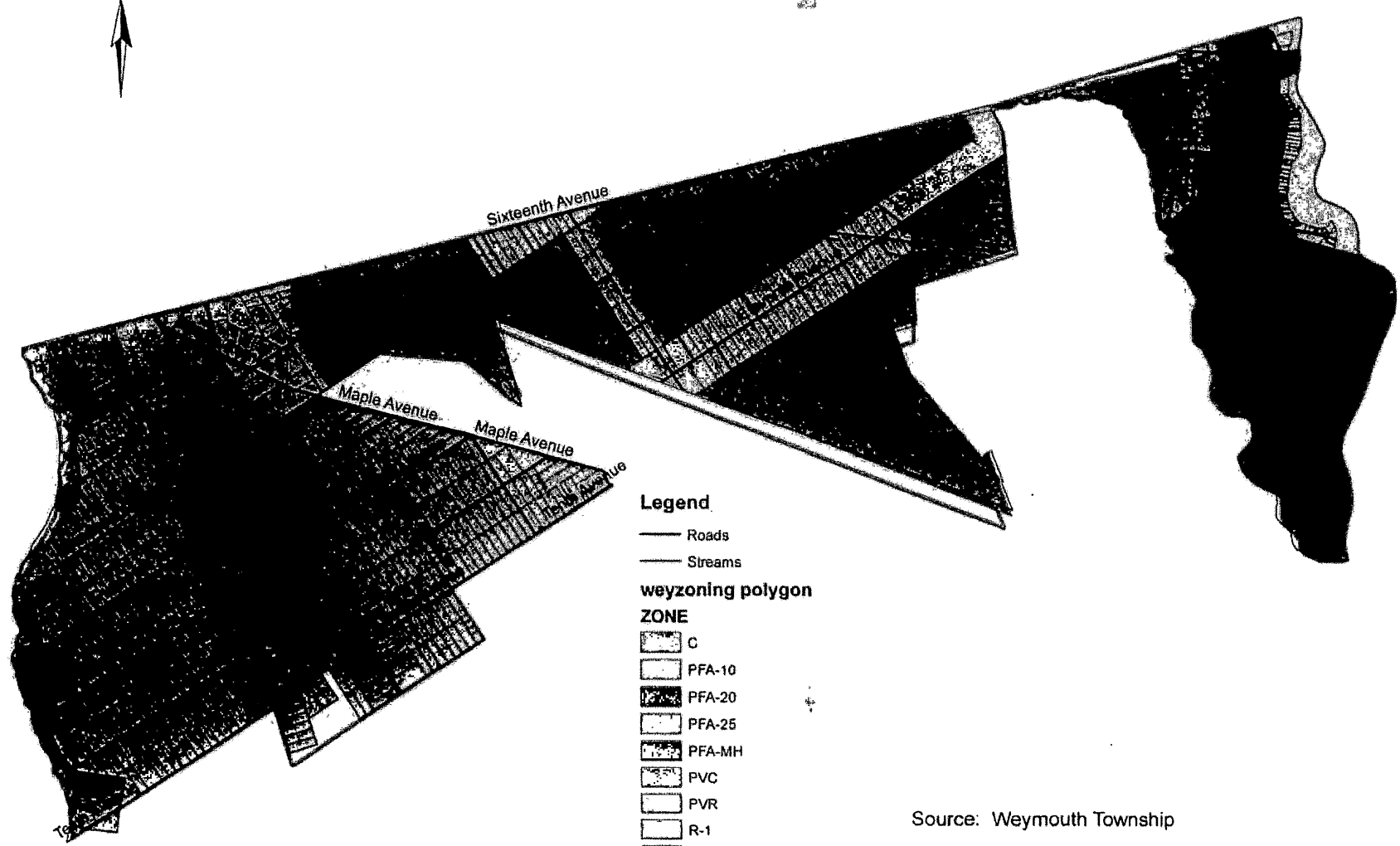
New Jersey Natural Resource Conservation Service

Executive Director's Report
on Weymouth Township
Ordinance 503-2012
October 26, 2012
Exhibit #4

Weymouth Township

Land Parcels

Map Fourteen



Legend

- Roads
- Streams

weyzoning polygon

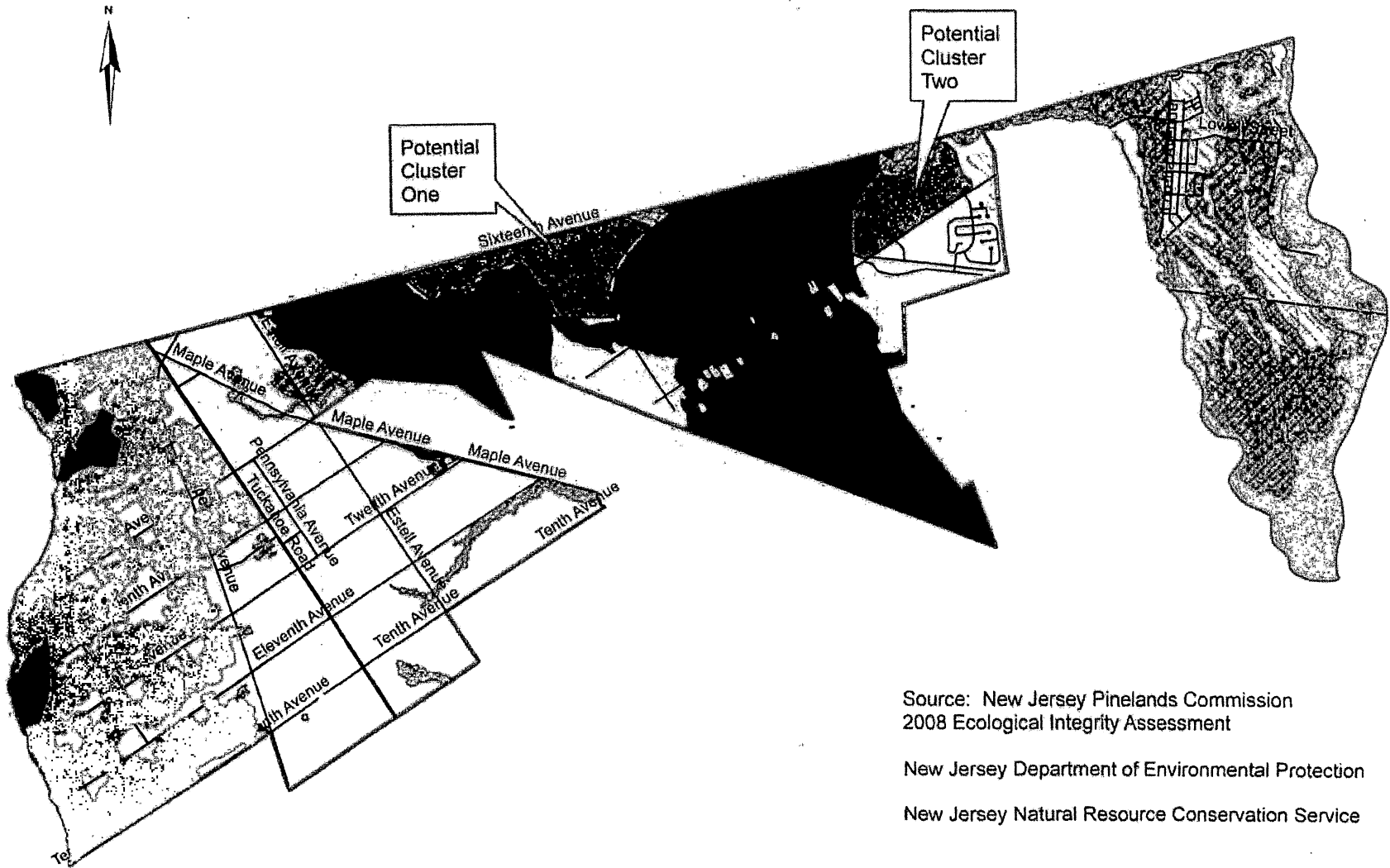
ZONE

- C
- PFA-10
- PFA-20
- PFA-25
- PFA-MH
- PVC
- PVR
- R-1
- R-2
- R-R

Source: Weymouth Township

Weymouth Township

Potential Locations for Clustered Development Map Fifteen



Source: New Jersey Pinelands Commission
2008 Ecological Integrity Assessment

New Jersey Department of Environmental Protection

New Jersey Natural Resource Conservation Service

Executive Director's Report on
Weymouth Twp. Ordinance
#503-2012
October 26, 2012
Exhibit #6



PINELANDS PRESERVATION ALLIANCE

Bishop Farmstead, 17 Pemberton Road, Southampton, New Jersey 08088

Phone: 609-859-8860

Fax: 609-859-8804

E-mail: ppa@pinelandsalliance.org

Website: www.pinelandsalliance.org

September 12, 2012

Susan Grogan, Chief Planner
N.J. Pinelands Commission
P.O. Box 359
New Lisbon, New Jersey 08064

Re: Weymouth Township Ordinance 503-2012

Dear Ms. Grogan:

Pinelands Preservation Alliance (PPA) supports the Cluster Ordinance #503-2012 passed by Weymouth Township.

Provisions in the cluster ordinances that are worthwhile to note include:

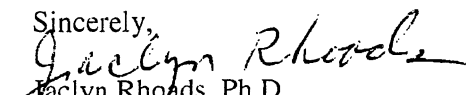
1. Both contiguous and noncontiguous lands shall be owned and managed by a homeowners association, a nonprofit conservation organization, Weymouth Township, Atlantic County or the State- not one of the lots within the cluster development.
2. Although all the Forest Management Area of Weymouth is environmentally sensitive, the receiving areas designated by Weymouth may have the least impact to the Pinelands habitats.
3. The bonus densities are restricted to developments of 5 units or more.

The Weymouth Township Ordinance indicates that all permanently protected land consisting of fifty contiguous acres or more shall be managed according to the provisions of a Forest Stewardship Plan or Forestry Management Plan. The Ordinance should reflect the requirement that no more than 5% percent of the parcel is to be cleared per the requirement in the CMP clustering provision.

PPA urges the Commission to approve this ordinance as it meets the clustering provisions within the CMP while reducing the negative impacts from mandatory bonus densities, with the minor change noted above.

For comments or questions, please contact PPA at 609-859-8860 ext. 18 or Jaclyn@pinelandsalliance.org.

Sincerely,


Jaclyn Rhoads, Ph.D.
Director for Conservation Policy



GEMMEL, TODD & MERENICH

A PROFESSIONAL ASSOCIATION

COUNSELLORS AT LAW

767 SHORE ROAD

P. O. BOX 296

Linwood, New Jersey 08221

TELEPHONE
(609) 927-7200

TELECOPY
(609) 927-3278

E-MAIL
CharlesGammel@Comcast.net

CHARLES GEMMEL
MASTER OF LAWS (TAXATION)

MOLLY TODD MERENICH
MEMBER OF N.J. BAR

ROBERT P. MERENICH
MEMBER OF N.J. BAR

September 14, 2012

(via E-Mail)

The Pinelands Commission
Attn: Susan Grogan, Planner
15 Springfield Road
P. O. Box 359
New Lisbon, NJ 08064

Re: Weymouth Township Ordinance No. 503-2012
Our File No. 12,306-C

Dear Ms. Grogan:

Please be advised that this firm represents CCPQ, Inc. (Martin Hewitt) the owner of property in Weymouth Township known as Lots 1 and 1.01 in Block 84 of the Weymouth Township Tax Map (the "Property"). On the Weymouth Township Zoning Map a portion of the Property is located within the PFA-10 Zoning District, essentially the frontage on 11th Avenue and Walkers Forge Road, with the balance of the Property in the PFA-20 Zoning District. The Zoning Map also shows that a portion of the Property is subject to a Cluster Overlay.

This letter is designed to comment upon the above referenced Weymouth Township Ordinance (the "Ordinance").

The Ordinance, among other things, requires the clustering of single family detached dwellings whenever two or more units are proposed as part of a residential development within the PFA-10, PFA-20 and PFA-25 Zoning Districts. The Ordinance seems to suggest that all developments within the PFA-10, PFA-20 and PFA-25 Zoning Districts, other than individual lot development, is subject to the clustering requirements, not merely the areas containing the Cluster Overlay. For major subdivisions, defined as five or more units, there is a requirement that 30% of the units be age-restricted (the "Restriction"). The Restriction is not applicable to minor subdivisions. It is the Restriction within the Ordinance to which we object for the following reasons:

GEMMEL, TODD & MERENICH
A PROFESSIONAL ASSOCIATION

The Pinelands Commission
Attn: Susan Grogan, Planner
September 14, 2012
Page 2

1. We believe that the Restriction will deter cluster development. We do not believe that age-restricted housing, especially in modest size developments, is compatible with unrestricted housing and vice versa. Those individuals that want to live within an age-restricted development would prefer that the development be completely age-restricted. Likewise those who are looking to live within a non-age-restricted community would probably want the community to be 100% non-age-restricted.
2. The age-restricted units would be more modest in size in recognition that they will more than likely be occupied by older couples without children. On the other hand, the non-age-restricted homes would be larger in size, marketed to families. This divergence in house sizes will discourage cluster development.
3. Weymouth Township already has a significant age-restricted community, being The Oaks at Weymouth, which incidentally is contiguous to the Property. The Oaks is capable, all on its own, of meeting the age-restricted housing demand in Weymouth Township. As such, there would appear to be little if any demand for age-restricted housing within major subdivisions. Requiring it, as the Ordinance does, will discourage construction of cluster development.

The Property is approximately 215 acres of which 95 acres is within the PFA-10 Zoning District and 120 acres is within the PFA-20 Zoning District. The Ordinance, with the applicable density bonus, would allow a 20 unit cluster. Therefore at least six units would have to be age-restricted to meet the Ordinance's requirement. Cluster together age-restricted and non-age-restricted housing in a large development (e.g., in excess of 100 units) might make some sense but not as to a 20 unit development.



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-12- 39

TITLE: To Authorize the Executive Director to Accept a Grant from the U.S. Environmental Protection Agency to Conduct a Study titled "Comparing the Functional Equivalency of Natural and Created Wetlands" and to Revise the FY 2013 Pinelands Conservation Fund Budget

Commissioner Ficoaglica moves and Commissioner Jackson seconds the motion that:

WHEREAS, the Pinelands Commission prepared a proposal to conduct a four-year study titled, "Comparing the Functional Equivalency of Natural and Created Wetlands;" and

WHEREAS, a summary of the grant proposal was reviewed by the chairman of the Commission's Science Advisory Committee and a letter of support provided by the chairman on May 18, 2012; and

WHEREAS, the Commission's Policy and Implementation Committee was briefed on the proposed study and endorsed the submission of the grant proposal at its May 25, 2012 meeting; and

WHEREAS, a summary of the grant proposal was reviewed by the New Jersey Department of Environmental Protection (NJDEP) Endangered and Nongame Species Program (ENSP) staff and Bureau of Land Management (BLM) staff and letters of support were provided by ENSP staff on May 22, 2012 and BLM staff on May 29, 2012; and

WHEREAS, a summary of the grant proposal was reviewed by the U. S. Geological Survey Amphibian Research and Monitoring Initiative (ARMI) and Toxic Substances Hydrology Program (TOXICS) and letters of support were provided by ARMI staff on May 30, 2012 and by TOXICS staff on June 1, 2012;

WHEREAS, a formal grant proposal was submitted to the U.S. Environmental Protection Agency (EPA) to conduct the study; and

WHEREAS, the proposed study will assess the ecological integrity of excavated ponds and stormwater basins by mapping their location throughout the Pinelands, quantifying the impact of land use, monitoring water quality and hydrology, surveying plant and animal assemblages, assessing the occurrence of amphibian pathogens and current-use pesticides, and comparing ecological attributes to natural Pinelands ponds being investigated as part of the Commission's EPA-funded Pond study; and

WHEREAS, the proposed study will contribute to our understanding of the geographic extent of excavated ponds and stormwater basins in the Pinelands and the magnitude of land-use impacts on these created wetlands, identify stormwater basins that may not be functioning and excavated ponds in need of off-road vehicle enforcement by the NJDEP, prioritize excavated ponds for increased protection by the Pinelands Commission, and compare the ecological function of these two types of created wetlands to that of natural Pinelands ponds being investigated as part of the Commission's EPA-funded Pond study; and

WHEREAS, the proposal estimated the total project cost to be \$481,756 of which \$361,317 would be federally funded and \$120,439 represents the Pinelands Commission's share, which would be funded through the Pinelands Conservation Fund; and

WHEREAS, the EPA has awarded a grant to the Pinelands Commission for this research proposal; and

WHEREAS, the Pinelands Commission wishes to accept this grant; and

WHEREAS, start-up costs for the first six months of this project, estimated at \$40,000, require revisions to the FY 2013 Pinelands Conservation Fund Budget, attached hereto; 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 the Governor shall approve same, in which case the action shall become effective upon such approval.

NOW, THEREFORE BE IT RESOLVED that

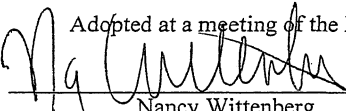
1. The Pinelands Commission hereby accepts a grant from the EPA with a total project cost of \$481,756.
2. The Executive Director is authorized to enter into a Grant Agreement with the EPA to conduct a study titled, "Comparing the Functional Equivalency of Natural and Created Wetlands," and to make such revisions allowed by EPA and required to ensure effective implementation of the project.
3. The Pinelands Commission hereby adopts the attached FY 2013 Pinelands Conservation Fund Budget revisions, dated October 30, 2012.

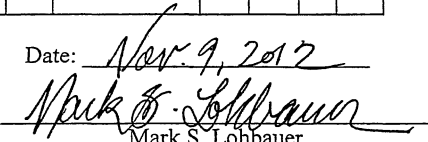
Record of Commission Votes

AYE NAY NP ABS				AYE NAY NP ABS				AYE NAY NP ABS					
Ashmun	<input checked="" type="checkbox"/>				Haas			<input checked="" type="checkbox"/>		Quinn			<input checked="" type="checkbox"/>
Brown	<input checked="" type="checkbox"/>				Jackson	<input checked="" type="checkbox"/>				Rohan Green			<input checked="" type="checkbox"/>
Earlen	<input checked="" type="checkbox"/>				Lloyd	<input checked="" type="checkbox"/>				Witt	<input checked="" type="checkbox"/>		
Ficcaglia	<input checked="" type="checkbox"/>				McGlinchey	<input checked="" type="checkbox"/>				Lohbauer	<input checked="" type="checkbox"/>		
Galletta			<input checked="" type="checkbox"/>		Prickett	<input checked="" type="checkbox"/>							

Adopted at a meeting of the Pinelands Commission

Date: Nov. 9, 2012


Nancy Wittenberg
Executive Director


Mark S. Lohbauer
Chairman

PINELANDS COMMISSION
FY 2013 PINELANDS CONSERVATION FUND BUDGET
PROPOSED REVISION

<u>Revenue Source</u>	<u>FY 2013 Adopted</u>	<u>Proposed Revision</u>	<u>FY 2013 Revised</u>
EPA Natural / Created Wetlands Grant	0	30,000	30,000
Reserves for Pinelands Conservation Activities	4,265,700	10,000	4,275,700
Other Revenue Sources	66,700	0	66,700
TOTAL ANTICIPATED REVENUE	<u>4,332,400</u>	<u>40,000</u>	<u>4,372,400</u>

<u>Expenditure Account</u>	<u>FY 2013 Adopted</u>	<u>Proposed Revision</u>	<u>FY 2013 Revised</u>
<u>Conservation Planning and Research</u>			
Salaries & Wages	144,000	23,900	167,900
Fringe Benefits	53,300	8,600	61,900
Printing/Office Supplies (reference books)	0	200	200
Household Supplies (clothing)	0	300	300
Travel	350	1,000	1,350
Acquisitions - Information Processing Equipment	0	6,000	6,000
Other Expenditures Accounts	51,500	0	51,500
Total Conservation Planning/Research Expenditures	<u>249,150</u>	<u>40,000</u>	<u>289,150</u>
Total Land Acquisition Expenditures	3,908,810	0	3,908,810
Total Community Planning/Design Expenditures	174,440	0	174,440
TOTAL APPROPRIATED EXPENSES	<u>4,332,400</u>	<u>40,000</u>	<u>4,372,400</u>