



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



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

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

RICHARD PRICKETT
 Chairman
 SUSAN R. GROGAN
 Acting Executive Director



Pinelands
 Comprehensive
 Management Plan
Four Decades of Protection

NEW JERSEY PINELANDS COMMISSION MEETING AGENDA

Friday, August 13, 2021 - **9:30 a.m.**

Pinelands Commission YouTube link:

<https://www.youtube.com/channel/UCBgpC8sbR3Acrjo7ppxs3Uw>

To Provide Public Comment, Please Dial: 1-929-205-6099 Meeting ID: 833 5477 1666

1. Call to Order

- Open Public Meetings Act Statement
- Roll Call
- Pledge Allegiance to the Flag
- Election of Vice Chairman

2. Adoption of Minutes

- June 11, 2021

3. Committee Chairs' and Executive Director's Reports

4. Matters for Commission Consideration *Where the Record is Closed*

A. Permitting Matters

- Office of Administrative Law
 - None
- Review of Local Approvals
 - None
- Public Development Projects and Waivers of Strict Compliance
 Resolution Approving With Conditions (2) Applications for Public Development:
 - Application No. 1985-0434.004 - New Jersey Motor Vehicle Commission
 Installation of a potable water treatment infiltration system at an existing Motor Vehicle Inspection Station

Winslow Township

- Application No. 1990-0868.033-New Jersey Department of Environmental Protection
Spot treatment of herbicide to control invasive plant species within 16.4 acres that were previously cleared to restore visibility from the Bass River State Forest fire observation tower
Bass River Township

B. Planning Matters

- Municipal Master Plans and Ordinances
 - None
- Other Resolutions
 - None
- CMP Amendments
 - None

5. Public Comment on Public Development Applications and Waivers of Strict Compliance *Where the Record is Not Closed.*

A. Public Development Projects

- Application No. 1985-0160.013 – New Jersey Department of Environmental Protection
Installation of a 10,800 square foot geothermal well field for the heating and cooling of the Batsto Visitors Center
Washington Township
- Application No. 1990-0868.035 – New Jersey Department of Environmental Protection, Natural & Historic Resources
Demolition and reconstruction of Lake Absegami beach recreation facility
Bass River Township
- Application No. 2007-0318.001 – New Jersey Department of Environmental Protection, NJ Forest Service
Creation of a 60 foot wide firebreak for 13 miles along Allen and Oswego Roads. Forest thinning of 1,559 acres within Bass River State Forest
Bass River Township
- Application No. 2015-0087.003 – Egg Harbor City
Atlantic Avenue pedestrian path
Egg Harbor City

B. Waivers of Strict Compliance

- Application No. 1999-0082.001 – Boehm
Single family dwelling
Galloway Township

6. Master Plans and Ordinances Not Requiring Commission Action

- Egg Harbor Township Ordinance 25-2021
- Manchester Township Ordinance 21-19
- Monroe Township Ordinances O:09-2021, O:10-2021 & O:11-2021
- Mullica Township Ordinance 7-2021
- Ocean Township Ordinances 2021-3 & 2021-4
- Weymouth Township Ordinance 579-2021

7. Other Resolutions

- Authorizing Certain Members of the Pinelands Commission and Staff to Sign Checks

8. General Public Comment

9. Resolution to Retire into Closed Session (if needed) – Personnel, Litigation and Acquisition Matters (*The Commission reserves the right to reconvene into public session to take action on closed session items.*)

10. Adjournment

Upcoming Meetings

Tues., Aug. 24, 2021	Personnel & Budget Committee Meeting (9:30 a.m.)
Fri., Aug. 27, 2021	Policy & Implementation Committee Meeting (9:30 a.m.)
Fri., Sept. 10, 2021	Pinelands Commission Meeting (9:30 a.m.)

To ensure adequate time for all members of the public to comment, we will respectfully limit comments to three minutes. Questions raised during this period may not be responded to at this time but where feasible, will be followed up by the Commission and its staff.

Pinelands Commission and Committee meeting agendas are posted on the Commission's Website and can be viewed at www.nj.gov/pinelands/ for more information on agenda details, e-mail the [Public Programs Office](mailto:PublicProgramsOffice@pinelands.nj.gov) at Info@pinelands.nj.gov.



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PINELANDS COMMISSION MEETING

MINUTES
June 11, 2021

The June 11, 2021 Pinelands Commission meeting was conducted remotely. All participants were present via Zoom conference and the meeting was livestreamed through YouTube: <https://www.youtube.com/watch?v=2KU8bDXcgvo>

Commissioners Participating in the Meeting

Alan W. Avery Jr., Shannon Higginbotham, Jerome H. Irick, Jane Jannarone, Ed Lloyd, Mark Lohbauer, William Pikolycky, and Chairman Richard Prickett. Also participating were Acting Executive Director Susan R. Grogan and Deputy Attorney General (DAG) Kristina Miles and Governor's Authorities Unit representative Rudy Rodas.

Commissioners Absent

Daniel Christy, Jordan P. Howell, Gary Quinn and D'Arcy Rohan Green.

Call to Order

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

DAG Miles read the Open Public Meetings Act Statement (OPMA).

Chairman Prickett announced that Executive Director Nancy Wittenberg is taking a Leave of Absence from the Commission and in accordance with the Commission's Bylaws, has designated Susan R. Grogan as Acting Executive Director.

Acting Executive Director Grogan called the roll and announced the presence of a quorum.

Minutes

Chairman Prickett presented the open and closed session minutes from the Commission's May 14, 2021 meeting. Commissioner Avery moved the adoption of the minutes. Commissioner Pikolycky seconded the motion.

The open and closed session minutes from the May 14, 2021 Commission meeting were adopted by a vote of 8 to 0.

Chairman Prickett said the annual organization meeting will occur during the July Commission meeting. He said the Commission will elect a Vice-Chairman and select Committee Chairs and membership during that meeting. He said nominations can be submitted to Jessica Noble via e-mail.

Chairman Prickett said in mid-May a few Commissioners and staff met with New Jersey Department of Environmental Protection (NJDEP) Commissioner Shawn LaTourette to discuss ways the Commission and the Department can work together on issues. The following topics were also discussed: off-road vehicles (ORVs), Horizontal Directional Drilling (HDD), climate change and land acquisition funding.

Committee Reports

Chairman Prickett provided an update of the May 28, 2021 Policy & Implementation Committee meeting:

The Committee adopted the minutes (open and closed sessions) of its April 30, 2021 meeting.

The Committee recommended Commission approval of Winslow Township Ordinance O-2021-005, adopting a Redevelopment Plan for the Randevco Redevelopment Area.

The Committee recommended the Commission propose rules related to stormwater management, pending approval by the Governor's Proposed Rules office.

The Committee received an update on four bills currently before the New Jersey legislature related to forest stewardship.

Following a presentation by the Science Office, the Committee endorsed a proposal to apply for an U.S. Environmental Protection Agency Wetland Program Development Grant to study box turtles. The program requires 25% matching funds, roughly \$108,000, which would come from the Pinelands Conservation Fund.

The Committee continued its discussion of horizontal directional drilling (HDD) and its interest in reviewing applications using that technique. Committee members will review Chairman Prickett's draft rule changes and will ask staff to provide a history of the exemption provisions in the CMP and other HDD issues at an upcoming meeting.

Commissioner Lohbauer said soon after the NJDEP meeting with Commissioner LaTourette, the NJ Division of Fish and Wildlife closed a number of wildlife management areas in South Jersey because of an uptick in unauthorized use.

Commissioner Lohbauer provided an update of the May 19, 2021 Climate Committee meeting.

The Committee adopted the minutes of its April 21, 2021 meeting.

Staff provided an update on pending forestry legislation currently before the Legislature.

The Committee discussed solar energy facility regulations and potential amendments to the Pinelands Comprehensive Management Plan (CMP).

The Committee also discussed improvements at the Commission's offices that would reduce its carbon footprint.

Commissioner Pikolycky said he would like the Commission to determine short- and long-term goals related to landfill solar projects.

Commissioner Avery said the application fees received for Fiscal Year (FY) 2021 have exceeded the projected amount. He noted that he was interviewed by the Office of the State Auditor as part of the audit process.

Acting Executive Director's Report

Acting ED Grogan provided information on the following:

- Invitations were mailed to alternate design wastewater technology vendors. The Septic Pilot Program is currently able to accept up to five new technologies.
- Invitations were sent to the Commission's land preservation partners regarding the latest round of Pinelands Conservation Fund (PCF) grant monies.
- Several years ago, a Jackson Township/Manchester Township sewer and water project was awarded a grant from the Pinelands Infrastructure Trust Fund (PITF). At this time, the applicants have requested that the funding be used entirely for the sewer extension. The sewer extension will serve proposed future development in both municipalities. Funding for the water supply will be provided by the developer. Pemberton Township is proceeding with its water project, which was also chosen as a PITF project.
- A large sale of Pinelands Development Credits (PDCs) was processed by the PDC Bank. Sixty-seven rights were sold by one property owner and purchased by one developer for a project in South Toms River.
- After over 25 years at the Commission, Betsy Piner is retiring effective July 1.

Chuck Horner, Director of Regulatory Programs, provided information on the following regulatory matters:

- Staff is working with an applicant and their attorney regarding a transitional housing project for veterans in Barnegat Township. The property is located in a Pinelands Forest Area and permitted use issues need to be worked out.
- Staff participated in another municipal Zoom hearing regarding the clearing of a six-acre parcel in Galloway Township. An in-person court hearing is scheduled for June.
- Hamilton Township is completing a threatened and endangered species study to determine if certain species are still present on a 20-acre, deed-restricted area within the Liepe Tract Recreation Complex.
- The Commission received two requests for emergency authorizations, both of which are for bridge replacements in Atlantic County. One bridge is in Folsom Borough and falls under an existing Memorandum of Agreement between the Commission and Atlantic County. The other bridge is located in Hamilton Township. Once the Acting ED speaks with the Chairman about the bridge project, the letter granting the emergency authorization will be shared with all Commissioners. The County will submit an application in the coming weeks.
- A cell tower application proposed at the EMS/Fire Station in Chatsworth has been referred back to the Woodland Township Land Use Board and will be heard in July. Staff reviewed the approval from the original Woodland Township Land Use Board and determined that it did not demonstrate that the proposed tower qualified as an accessory use. The application remains called up.
- Staff worked with Woodland Township to resolve a clearing violation on approximately three acres of municipal Rights-of-way (ROW). The applicant is required to revegetate and install gates to prohibit vehicles from using the cleared ROW. A portion of ROW will remain as a firebreak.

Stacey Roth, Chief of Legal and Legislative Affairs thanked Commissioners for filing their Financial Disclosure Statements in a timely manner.

Paul Leakan, Communications Officer, said the Pinelands Summer Short Course is scheduled for July 15th and will be held at both historic Whitesbog Village and Wells Mills Park in Ocean County. Attendees can learn about the ecology and history of the Pinelands, listen to live music and take guided tours. Copies of two different Pine Barrens Byway brochures have been printed and will be distributed along the route. Joel Mott continues to hold weekly webinars through Zoom and has been educating hundreds of students virtually.

Public Development Projects and Other Permit Matters

Chairman Prickett presented a resolution recommending approval of two public development applications: a two lot subdivision in Medford Township and a building addition to a Forest Fire Service headquarters located in Hamilton Township.

Commissioner Lohbauer made a motion Approving With Conditions Applications for Public Development (Application Numbers 2013-0010.002 & 2018-0186.002) (See Resolution # PC4-21-14). Commissioner Lloyd seconded the motion.

Director Horner said the subdivision application is a follow up from the application the Commission approved to construct a new Municipal building in Medford Township. He said there was an existing dwelling on the same parcel as the new municipal building and this subdivision application will separate the dwelling from the municipal building. He noted that the newly constructed municipal building recently opened.

Chairman Prickett asked about the historic relevance of the existing structure.

Director Horner said the dwelling is located in a historic district and a Certificate of Appropriateness was issued as part of the approval for the development of the new municipal building to handle the historic significance of the existing dwelling.

The Commission adopted the resolution by a vote of 8 to 0.

Planning Matters

Chairman Prickett presented a resolution recommending certification of Winslow Township Ordinance O-2021-005.

Commissioner Avery made a motion Issuing an Order to Certify Winslow Township Ordinance O-2021-005, Adopting the Randevco Redevelopment Plan (See Resolution # PC4-21-15). Commissioner Lohbauer seconded the motion.

Brad Lanute, Planning Specialist, said the proposed redevelopment plan will be situated on approximately 84 acres in the Regional Growth Area. He said the plan will consist of a Commercial District Zone located along Route 73, a Residential District that will front along Tansboro Road and a Mixed Use Overlay District that will consist of compact mixed use development. The Mixed Use Overlay District is a floating zone and will allow the developer to choose the actual location of the Main Street ROW. He said the goal of the redevelopment plan is to create a new Town Center. He said the plan will permit up to 600 residential units at 7 units per acre. He added that the town and the Commission have an agreement in place regarding water usage in order to ensure protection of the Kirkwood-Cohansey Aquifer.

Chairman Prickett asked about the open space component in the redevelopment plan.

Mr. Lanute said 25% of the Residential District has been designated for open space and recreation and half of that 25% has been set aside for unoccupied, naturally vegetated open space.

The Commission adopted the resolution by a vote of 8 to 0

Public Comment on Public Development Applications and Items where the record is open

Chairman Prickett read the list of Public Development Applications. No one provided comment on the applications.

Ordinances Not Requiring Commission Action

Chairman Prickett read the list of ordinances not requiring Commission action.

- Egg Harbor Township Ordinance 23-2021
- Franklin Township Ordinance 7-2021

No questions were raised.

Other Resolutions

Chairman Prickett presented a resolution related to CMP Amendments.

Commissioner Avery made a motion To Authorize the Acting Executive Director to Propose Amendments to the Comprehensive Management Plan in Accordance with the Administrative Procedure Act (Stormwater Management) (See Resolution # PC4-21-16). Commissioner Lloyd seconded the motion.

Acting Executive Director Grogan said the amendments that have been shared are a proposal, not an adoption. She said the proposal will authorize staff to submit the amendments to the Office of Administrative Law (OAL) for review and publication in the New Jersey Register. The 60-day comment will begin, followed by a formal public hearing, and later this year will come back before the Commission for adoption. She noted that the proposal was shared with and reviewed by the Governor's Proposed Rules office. Staff responded to questions and concerns raised by the Proposed Rules office.

Acting ED Grogan thanked the Commission's internal stormwater team for their efforts on the amendment proposal.

The Commission adopted the resolution by a vote of 8 to 0.

Chairman Prickett presented the final resolution, which enables the Commission to make purchases until a new budget is adopted.

Commissioner Lloyd made a motion To Authorize the Acting Executive Director to Continue to Expend Funds for Fiscal Year 2022 at the Same Level of Expenditures as Fiscal Year 2021 until the Adoption of the Fiscal Year 2022 Budget (See Resolution # PC4-21-17). Commissioner Lohbauer seconded the motion.

The Commission adopted the resolution by a vote of 8 to 0.

General Public Comment

Rhyan Grech of the Pinelands Preservation Alliance (PPA) said PPA is looking forward to the Summer Short Course and thanked the Communication and Education staff for their work. She said if the Commission should consider an amendment for solar standards,

landfills need to be considered on a case-by-case basis. She said each landfill in the Pinelands is unique. She hopes the Commission will protect the natural resources rather than easing regulations, even if it is for a renewable energy project.

Fred Akers of the Great Egg Harbor Watershed Association said both bridge projects in Atlantic County seeking emergency authorization are located on federally designated Wild and Scenic Rivers. He said the National Park Service Section 7 review has found no issues. He said the National Park Service Budget has allocated funds to the Pinelands Commission. He asked if there was any news on a federal appointee to the Commission.

Chairman Prickett said he had not heard anything but suggested that it may be time to reach out to the National Park Service.

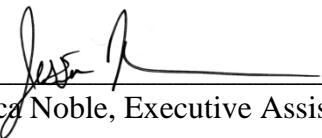
Amy Lansford of Haddonfield, NJ, urged the Commission to ensure its due diligence and protect drinking water when solar is proposed at a landfill site.

Adjournment

Commissioner Lohbauer and Chairman Prickett both expressed how much Betsy Piner will be missed once she retires.

Commissioner Avery moved to adjourn the meeting. Commissioner Pikolycky seconded the motion. The Commission agreed to adjourn at 10:39 a.m.

Certified as true and correct:



Jessica Noble, Executive Assistant

Date: June 21, 2021



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-21-14

TITLE: **Approving** With Conditions Applications for **Public Development** (Application Numbers 2013-0010.002 & 2018-0186.002)

Commissioner Lohbauer moves and Commissioner Lloyd seconds the motion that:

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

2013-0010.002

Applicant: New Jersey Forest Fire Service
Municipality: Hamilton Township
Management Area: Pinelands Regional Growth Area
Date of Report: May 19, 2021
Proposed Development: Construction of two building additions, totaling 1,457 square feet, to an existing New Jersey Forest Fire Headquarters; and

2018-0186.002

Applicant: Medford Township
Municipality: Medford Township
Management Area: Pinelands Regional Growth Area
Date of Report: May 18, 2021
Proposed Development: Two lot subdivision and no further development.

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

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

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

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

NOW, THEREFORE BE IT RESOLVED that Application Numbers 2013-0010.002 & 2018-0186.002 for public development are hereby **approved** subject to the conditions recommended by the Executive Director.

Record of Commission Votes

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

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: June 11, 2021

Susan R. Grogan
Acting Executive Director

Richard Prickett
Chairman



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NANCY WITTENBERG
Executive Director

May 19, 2021

Russell Fenton Jr., Division Forest Firewarden (via email)
New Jersey Forest Fire Service
PO Box 420
Trenton, NJ 08625

Re: Application # 2013-0010.002
Block 987, Lots 2 & 3
Hamilton Township

Dear Mr. Fenton:

The Commission staff has completed its review of this application for construction of two building additions, totaling 1,457 square feet, to an existing New Jersey Forest Fire Service Headquarters. Enclosed is a copy of a Public Development Application Report. On behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its June 11, 2021 meeting.

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

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

Sincerely,

Charles M. Horner, P.P.

Director of Regulatory Programs

Enc: Appeal Procedure

c: Secretary, Hamilton Township Planning Board (via email)
Hamilton Township Construction Code Official (via email)
Atlantic County Department of Regional Planning and Development (via email)
Robert Romano, PE, PP, CME (via email)



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PUBLIC DEVELOPMENT APPLICATION REPORT

May 19, 2021

Russell Fenton Jr., Division Forest Firewarden (via email)
New Jersey Forest Fire Service
PO Box 420
Trenton, NJ 08625

Application No.: 2013-0010.002
Block 987, Lots 2 & 3
Hamilton Township

This application proposes construction of two building additions, totaling 1,457 square feet, to an existing 2,072 square foot New Jersey Forest Fire Service Headquarters office building located on the above referenced 4.81 acre parcel in Hamilton Township. One building addition will be a 220 square foot vestibule and lobby and the second addition will be 1,237 square feet of office.

STANDARDS

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

Land Use (N.J.A.C. 7:50-5.28)

The proposed development is located in a Pinelands Regional Growth Area. The proposed development is a permitted land use in a Pinelands Regional Growth Area.

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

The proposed development will be located within existing maintained lawn area comprised of non-native grasses. The proposed soil disturbance is limited to that which is necessary to accommodate the proposed development.

The Landscaping and Revegetation guidelines of the CMP recommend the use of grasses that are tolerant of droughty, nutrient poor conditions.

Water Quality Standard (N.J.A.C. 7:50-6.83)

The proposed development will be serviced by public sanitary sewer.

PUBLIC COMMENT

The CMP defines the proposed development as ‘minor’ development. The CMP does not require public notice for minor public development applications. The application was designated as complete on the Commission’s website on April 26, 2021. The Commission’s public comment period closed on May 14, 2021. No public comment was submitted to the Commission regarding this application.

CONDITIONS

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of four sheets, prepared by Owen, Little & Associates, Inc., all sheets dated January 13, 2021 and revised to April 12, 2021.
2. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.
3. Any proposed revegetation shall adhere to the "Vegetation" standards of the CMP. Where appropriate, the applicant is encouraged to utilize the following Pinelands native grasses for revegetation: Switch grass, Little bluestem and Broom-sedge.
4. Prior to any development, the applicant shall obtain any other necessary permits and approvals.

CONCLUSION

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



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PINELANDS COMMISSION **APPEAL PROCEDURE**

The Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal any determination made the by Executive Director to the Commission in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted by someone meeting the definition of an interested party will be transmitted to the New Jersey Office of Administrative Law for a hearing. Any such appeal must be made in writing to the Commission and received by the Commission's office no later than 5:00 PM on June 7, 2021 and include the following information:

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

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



State of New Jersey

THE PINELANDS COMMISSION

PO Box 359

NEW LISBON, NJ 08064

(609) 894-7300

www.nj.gov/pinelands



PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

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

RICHARD PRICKETT
Chairman
NANCY WITTENBERG
Executive Director

May 18, 2021

Katherine Burger, Township Manager (via email)
Medford Township
17 N. Main Street
Medford, NJ 08055

Re: Application # 2018-0186.002
Block 1601, Lot 2
Medford Township

Dear Ms. Burger:

The Commission staff has completed its review of this application for a two lot subdivision and no further development. Enclosed is a copy of a Public Development Application Report. On behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its June 11, 2021 meeting.

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

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

Sincerely,

Charles M. Horner, P.P.

Director of Regulatory Programs

Enc: Appeal Procedure

c: Secretary, Medford Township Planning Board (via email)
Medford Township Construction Code Official (via email)
Medford Township Environmental Commission (via email)
Secretary, Burlington County Planning Board (via email)
Timothy Prime, Esq. (via email)



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RICHARD PRICKETT
 Chairman
 NANCY WITTENBERG
 Executive Director

PUBLIC DEVELOPMENT APPLICATION REPORT

May 18, 2021

Katherine Burger, Township Manager (via email)
 Medford Township
 17 N. Main Street
 Medford, NJ 08055

Application No.: 2018-0186.002
 Block 1601, Lot 2
 Medford Township

This application proposes a two lot subdivision and no further development of the above referenced 3.22 acre parcel in Medford Township. The newly constructed Medford Township Municipal Building and an existing single family dwelling are located on the parcel. The single family dwelling is owned by the Township.

On November 8, 2019, the Commission approved the construction of a 23,516 square foot municipal building on the above referenced parcel (App. No. 2018-0186.001).

The proposed subdivision will create a 2.418 acre lot containing the municipal building and a 0.801 acre lot containing the single family dwelling.

STANDARDS

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

Land Use (N.J.A.C. 7:50-5.28)

The 3.22 acre parcel is located in the Township's RHO zoning district.

The Commission certified municipal land use ordinance for Medford Township provides that the residential density for the RHO zoning district is 1.25 dwellings per acre (equivalent to one dwelling per 34,848 square feet) when serviced by public sanitary sewer. The application proposes to locate the existing dwelling serviced by public sanitary sewer on a proposed 34,912 square foot lot.

The Commission certified Township land use ordinance permits commercial use and office buildings in the RHO zoning district on lots of at least 10,000 square feet. The application proposes to locate the municipal building on a 105,328 square foot lot.

The parcel is located in a Pinelands Regional Growth Area. The proposed subdivision is permitted in a Pinelands Regional Growth Area.

PUBLIC COMMENT

The CMP defines the proposed development as ‘minor’ development. The CMP does not require public notice for minor public development applications. The application was designated as complete on the Commission’s website on April 21, 2021. The Commission’s public comment period closed on May 14, 2021. No public comment was submitted to the Commission regarding this application.

CONDITIONS

1. The proposed subdivision shall adhere to the plan, prepared by Environmental Resolutions, Inc., dated February 8, 2021 and revised to April 16, 2021.
2. The applicant shall obtain any other necessary permits and approvals for the subdivision.

CONCLUSION

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



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General Information: Info@pinelands.nj.gov
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RICHARD PRICKETT
Chairman
NANCY WITTENBERG
Executive Director

PINELANDS COMMISSION
APPEAL PROCEDURE

The Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal any determination made the by Executive Director to the Commission in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted by someone meeting the definition of an interested party will be transmitted to the New Jersey Office of Administrative Law for a hearing. Any such appeal must be made in writing to the Commission and received by the Commission's office no later than 5:00 PM on June 4, 2021 and include the following information:

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

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



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-21- 15

TITLE: Issuing an Order to Certify Winslow Township Ordinance O-2021-005, Adopting the Randevco Redevelopment Plan

Commissioner Avery moves and Commissioner Lohbauer seconds the motion that:

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

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

WHEREAS, Resolution #PC4-83-30 further specified that any such amendment shall only become effective as provided in N.J.A.C. 7:50-3.45 of the Comprehensive Management Plan; and

WHEREAS, on February 23, 2021, Winslow Township adopted Ordinance O-2021-005, approving a Redevelopment Plan for the Randevco Redevelopment Area, which is located in a Pinelands Regional Growth Area; and

WHEREAS, the Pinelands Commission received a certified copy of Ordinance O-2021-005 on February 25, 2021; and

WHEREAS, by letter dated March 3, 2021, the Executive Director notified the Township that Ordinance O-2021-005 would require formal review and approval by the Pinelands Commission; and

WHEREAS, a public hearing to receive testimony on Ordinance O-2021-005 was duly advertised, noticed and remotely held on March 31, 2021 at 9:30 a.m. with live broadcast on the Pinelands Commission's public YouTube channel and opportunity for the public to call-in during the live broadcast; and

WHEREAS, the Executive Director has found that Ordinance O-2021-005 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 O-2021-005, adopting the Randevco Redevelopment Plan, is in conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, the Commission's CMP Policy and Implementation Committee has reviewed the Executive Director's report and has recommended that Ordinance O-2021-005 be certified; and

WHEREAS, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning Ordinance O-2021-005 and has reviewed the Executive Director's report; and

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

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

NOW, THEREFORE BE IT RESOLVED that

1. An Order is hereby issued to certify that Winslow Township Ordinance O-2021-005, adopting the Randevco Redevelopment Plan, is in conformance with the Pinelands Comprehensive Management Plan.
2. Any additional amendments to Winslow Township’s certified Master Plan and Land Use Ordinances shall be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 to determine if said amendments raise a substantial issue with respect to the Comprehensive Management Plan. Any such amendment shall become effective only as provided in N.J.A.C. 7:50-3.45.

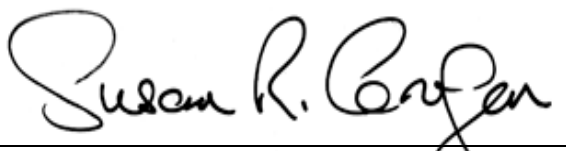
Record of Commission Votes

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


*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: June 11, 2021



 Susan R. Grogan
 Acting Executive Director



 Richard Prickett
 Chairman



State of New Jersey
 THE PINELANDS COMMISSION
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PHILIP D. MURPHY
 Governor
 SHEILA Y. OLIVER
 Lt. Governor

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

RICHARD PRICKETT
 Chairman
 NANCY WITTENBERG
 Executive Director

**REPORT ON WINSLOW TOWNSHIP ORDINANCE O-2021-005,
 ADOPTING THE RANDEVCO REDEVELOPMENT PLAN**

May 28, 2021

Winslow Township
 125 South Route 73
 Winslow Township, NJ 08037

FINDINGS OF FACT

I. Background

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

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

On February 23, 2021, Winslow Township adopted Ordinance O-2021-005, approving a Redevelopment Plan for the Randevco Redevelopment Area, which is located in a Pinelands Regional Growth Area. The Pinelands Commission received a certified copy of Ordinance O-2021-005 on February 25, 2021.

By letter dated March 3, 2021, the Executive Director notified the Township that Ordinance O-2021-005 would require formal review and approval by the Pinelands Commission.

II. Master Plans and Land Use Ordinances

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

- * Ordinance O-2021-005, adopting the Randevco Redevelopment Plan, introduced on January 19, 2021 and adopted on February 23, 2021.

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 (CMP). The findings from this review are presented below. The numbers used to designate the respective items correspond to the numbers used to identify the standards in N.J.A.C. 7:50-3.39.

1. Natural Resource Inventory

Not applicable.

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

Ordinance O-2021-005 adopts a Redevelopment Plan, dated January 11, 2021, for the Randevco Redevelopment Area. This new Redevelopment Area is approximately 84 acres in size and consists of five lots (Block 2502, Lots 20, 21, 22.01, 23.01 and Block 2504, Lot 3). Four of the lots are contiguous and located between NJ Route 73 and Tansboro Road, while the remaining lot (Block 2504, Lot 3) is located on the opposite side of NJ Route 73 (see Exhibit 2). The contiguous lots account for about 78.7 acres and were zoned PTC (Pinelands Town Center), while the remaining lot is about 5.3 acres and previously zoned PC-2 (Major Commercial District) (see Exhibit 1). The Redevelopment Area is composed of undeveloped woodlands and vacant fields that were previously farmed. The entire Redevelopment Area is located in a Pinelands Regional Growth Area.

The purpose of the Randevco Redevelopment Plan is to enable the development of a new town center through a mixture of commercial and residential uses compactly arranged around a community focal point. To effectuate this development, the plan establishes two underlying zoning districts, a Commercial District and a Residential District, as well as a Main Street Mixed Use Overlay District. The Commercial and Residential Districts are both delineated in the Zoning Map incorporated in the Plan (see Exhibit 3). The Main Street Mixed Use Overlay District is a floating overlay zone. Its boundaries will be established in conjunction with the redeveloper's proposed location of a Main Street right of way. The final boundaries of both the Main Street right of way and the floating overlay zone are to be established upon preliminary site plan approval by the Township Planning Board and are required to be delineated on the site plan in accordance with the Redevelopment Plan. Therefore, the inclusion of the Main Street Mixed Use Overlay District on the zoning map is for illustrative purposes only.

The Main Street Mixed Use Overlay District will overlay the Residential and Commercial Districts delineated on the Zoning Map incorporated in the plan. The plan includes standards for the design of a "Main Street" right of way that is required to connect Tansboro Road with NJ Route 73. The plan requires that the Main Street Mixed Use Overlay District be a minimum contiguous area extending perpendicularly 300 feet from each side of the Main Street right of way for a minimum of 800 feet along the Main Street. This is equivalent to a minimum area of about 12 acres including the right of way. The plan provides the redeveloper with the flexibility to propose an overlay that extends more than 800 feet along the Main Street.

The Main Street Mixed Use Overlay District will permit single-use and mixed-use buildings as well as public gathering spaces to serve as community focal point. The plan requires that at least 50% of the proposed building square footage within the overlay be devoted to mixed-use, multi-

story buildings. The plan also requires that at least 50% of the proposed square footage above the ground floor of mixed-use buildings be devoted to residential uses. The district will permit the following uses in either single-use or mixed-uses buildings: multi-family dwelling units; professional, general, and medical office buildings; hotels; health clubs; retail businesses or personal service establishments; banks and fiduciary institutions; restaurants; entertainment center and theaters; and public parks, plazas, and courtyards. Lastly, a public gathering space of at least 5,000 square feet must be provided.

The Commercial District includes all the Redevelopment Area's frontage along NJ Route 73 and is approximately 32 acres in size. In addition to the commercial uses permitted in the Main Street Mixed Use Overlay, the Commercial District also permits: research facilities; hospital or related health-care facilities; places of worship; and principal use solar facilities. The Redevelopment Plan incorporates CMP standards for principal use solar energy facilities located within a Regional Growth Area (N.J.A.C. 7:50-5.36). The plan also specifies that any such facility must be setback a minimum of 75 feet from the NJ Route 73 right of way and include a buffer that minimizes visibility of the facility from the state highway. Notwithstanding those areas of the Commercial District to be overlaid by the Main Street Mixed Use Overlay District, residential uses are not permitted in the Commercial District.

The Residential District includes all the Redevelopment Area's frontage along Tansboro Road and is approximately 52 acres in size. The Residential District permits: single-family detached dwellings; two-family dwellings; townhouses with up to 6 units per structure; and multi-family dwellings. The Plan requires that 25% of the residential district be reserved for open space and recreation, of which a minimum of 50% must be devoted to unoccupied, naturally vegetated open space.

The plan includes extensive standards for each of the districts and extensive design standards related to building placement, architectural elements, signage, landscaping and buffering, lighting, and fencing. Regarding maximum building height, commercial use buildings, mixed-use buildings, and multi-family residential buildings are permitted up to four stories or 55 feet. Single-family and two-family dwelling units are permitted to build up to 2.5 stories or 35 feet, while Townhouses are permitted to build up to three stories or 40 feet.

Within a Regional Growth Area, the CMP provides that Pinelands municipalities may permit any use, except for certain waste management facilities, provided that residential density and opportunities for the use of Pinelands Development Credits are appropriately accommodated (N.J.A.C. 7:50-5.28). The Redevelopment Plan permits up to 600 units in the Redevelopment Area. This is equivalent to a maximum density of approximately 7 units per acre in the Redevelopment Area as a whole. The Redevelopment Plan also requires that 20% of the for-sale residential units and 15% of the for-rent units proposed be made affordable to low- and moderate-income families. Up to half of the affordable housing obligation may be met through contributions to the Township's affordable housing trust fund pursuant to the Township's affordable housing ordinance.

The permitted density in the Redevelopment Area is significantly higher than the 1.125 units per upland acre that is prescribed for Winslow's Regional Growth Area by the CMP. As mentioned above, the contiguous lots of the Redevelopment Area account for about 78.7 acres and were zoned PTC (Pinelands Town Center), while the remaining lot across NJ Route 73 is about 5.3 acres and previously zoned PC-2 (Major Commercial District). The PC-2 Zone does not permit

residential uses, but the PTC Zone required that 50% of a tract proposed for development be devoted to residential uses, either single-family or townhouses, at a base density of 2 units per acre and maximum density of 5.25 units per acre through the use of Pinelands Development Credits. Under the PTC and PC-2 zoning designations, the Redevelopment Area could have potentially yielded a maximum of 206 units. Therefore, this Redevelopment Plan increases the overall residential zoning capacity of the Township's Regional Growth Area by permitting 394 additional units.

However, the CMP does provide municipalities with the ability to zone portions of their Regional Growth Areas for higher densities, provided that the lands in question are appropriate for more intensive development, infrastructure exists or can be provided to support the increased density and sufficient opportunities for the use of Pinelands Development Credits are provided (N.J.A.C. 7:50-5.28(a)7). As detailed below, the Randevco Redevelopment Area meets these standards for increased density.

With respect to the appropriateness for the intensity of development permitted, it aligns with the Township's long-term goals of planning for increased residential densities in proximity to NJ Route 73 in order to support commercial development along NJ Route 73. The Randevco Redevelopment Area fronts NJ Route 73 and focuses commercial development along that frontage with residential development in the interior of the redevelopment area and along Tansboro Road. The Redevelopment Area is within a mile of the Camden County Library, the Winslow Township Senior Center, the Winslow Township Middle School and High School, as well as the recently completed 264-unit Taylor Woods apartment complex. Additionally, a Commission staff member visited the site to determine whether any wetlands existed on the site. Although access was limited in some areas of the Redevelopment Area, no wetlands were identified on-site. Lastly, the Redevelopment Plan requires that any development in the Redevelopment Area comply with the minimum environmental standards of the CMP.

With respect to the availability of infrastructure to serve the Redevelopment Area, both water and sewer will be provided. It is important to note that the Regional Growth Area of Winslow Township is served by public sewers that discharge to the Camden County Municipal Utilities Authority wastewater treatment plant on the Delaware River. The public water supply is supported, in part, by wells developed in the Kirkwood-Cohansey aquifer. To protect the Kirkwood-Cohansey aquifer and address the export of water from the Pinelands contrary to the CMP, a 2017 amended Memorandum of Understanding (MOU) between the Commission, Winslow Township and the Camden County Municipal Utilities Authority caps withdrawals from the Township's Kirkwood-Cohansey wells and requires the Township to acquire water from alternative sources once the limit on withdrawals has been reached. Based on the MOU, the Township submits annual reports detailing water use. The most recent report submitted for the year March 2020 to February 2021 shows that the Township has not yet reached the caps on the use of Kirkwood-Cohansey water by the Township.

The third condition for approval of increased densities and zoning capacity relates to the accommodation of Pinelands Development Credit opportunities. As discussed in more detail in Section 8 of this report, the Redevelopment Plan requires the acquisition and redemption of Pinelands Development Credits (PDCs) for 25% of all residential units in the Redevelopment Area, with limited exemptions applicable to residential units developed on-site and made affordable to low- and moderate-income households. Thus, Pinelands Development Credit use

has not only been accommodated, but also guaranteed if any residential units are developed in the Redevelopment Area.

Ordinance O-2021-005 is consistent with the land use and development standards of the Comprehensive Management Plan. Therefore, this standard for certification is met.

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

Not applicable.

4. Requirement for Municipal Review and Action on All Development

Not applicable.

5. Review and Action on Forestry Applications

Not applicable.

6. Review of Local Permits

Not applicable.

7. Requirement for Capital Improvement Program

Not applicable.

8. Accommodation of Pinelands Development Credits

N.J.A.C. 7:50-3.39(a)8 specifies that in order to be certified by the Commission, municipal land use ordinances must provide for sufficient residentially zoned property in the Regional Growth Area to be eligible for an increase in density to accommodate Pinelands Development Credits (PDCs) as provided for in N.J.A.C. 7:50-5.28(a)3.

As described in Section 2 of this report, the Randevco Redevelopment Plan increases the number of residential units permitted in Winslow Township's Regional Growth Area by approximately 394 units. In order to comply with N.J.A.C. 7:50-5.28(a)3, the Randevco Redevelopment Plan requires that PDCs be acquired and redeemed for 25% of all residential units within the Redevelopment Area, with an exception for units developed on-site that are made affordable to low- and moderate-income households as required by the Redevelopment Plan. The Redevelopment Plan also requires that 20% of the for-sale residential units and 15% of the for-rent units proposed be made affordable to low- and moderate-income families. Up to half of the affordable housing obligation may be met through contributions to the Township's affordable housing trust fund pursuant to the Township's affordable housing ordinance. No PDC exemption

would apply to any affordable units developed off-site. Lastly, any units made affordable beyond those required by the Redevelopment Plan will require that PDCs be acquired and redeemed at the 25% rate.

Based on the densities assigned to Winslow Township's Regional Growth Area by the CMP (N.J.A.C. 7:50-5.28), the Township is required to provide an opportunity for the development of residential units at a base-density of 1.125 units per acre, with a bonus-density of up to 1.69 units per acre achievable through the use of PDCs. Given the characteristics of the Redevelopment Area, the municipality is required to permit up to 94 residential units and the opportunity for an additional 47 units through the use of PDCs. In other words, the municipality would have to allow for the opportunity to use 47 rights (11.75 PDCs). This traditional approach requires that municipalities provide the *opportunity* for use of PDCs for 33% of the total number of residential units permitted in their Regional Growth Areas.

The PDC requirements adopted by the Redevelopment Plan will result in an opportunity for the use of up to 139 rights (34.75 Pinelands Development Credits). As described in Section 2 above, the municipality has elected to zone at a much higher density than required by the CMP in order to facilitate the development of a mixed-use, town center development. As a result, far greater opportunities for the use of PDCs are provided than what is required.

While the 25% PDC requirement is not as high a number as would be provided through the more traditional approach described above requiring 33%, it is important to remember that the traditional base-density/bonus-density approach utilized throughout the Pinelands Area only provides an *opportunity* for the use of PDCs. There is no requirement under the traditional approach that any PDCs be used in any particular development project. Ordinance O-2021-005 *guarantees* a PDC redemption rate of 25% for the residential component of any project within the Redevelopment Area. Given the greater certainty provided by this approach, the Executive Director finds that the PDC requirements adopted by Ordinance O-2021-005 are consistent with CMP standards.

This standard for certification is met.

9. Referral of Development Applications to Environmental Commission

Not applicable.

10. General Conformance Requirements

Ordinance O-2021-005 is consistent with the standards and provisions of the Pinelands Comprehensive Management Plan. Therefore, this standard for certification is met.

11. Conformance with Energy Conservation

Not applicable.

12. Conformance with the Federal Act

Ordinance O-2021-005 is consistent with the standards and provisions of the Pinelands Comprehensive Management Plan. No special issues exist relative to the Federal Act. Therefore, this standard for certification is met.

13. Procedure to Resolve Intermunicipal Conflicts

The Redevelopment Plan adopted by Ordinance O-2021-005 does not affect lands that are adjacent to any other municipalities. Therefore, intermunicipal conflicts are not anticipated. This standard for certification is met.

PUBLIC HEARING

A public hearing to receive testimony concerning Winslow Township's application for certification of Ordinance O-2021-005 was duly advertised, noticed and held on March 31, 2021 at 9:30 a.m. Ms. Grogan conducted the hearing, which was held remotely and broadcasted live on the Pinelands Commission's public YouTube channel. The public was provided the opportunity to call-in during the public hearing to provide testimony. No testimony was received.

Written comments on Ordinance O-2021-005 were accepted through April 7, 2021. However, no written comments were received.

CONCLUSION

Based on the Findings of Fact cited above, the Executive Director has concluded that Ordinance O-2021-005, adopting the Randevco Redevelopment Plan of Winslow Township, complies with the Comprehensive Management Plan standards for the certification of municipal master plans and land use ordinances. Accordingly, the Executive Director recommends that the Commission issue an order to certify Ordinance O-2021-005 of Winslow Township.

SRG/DBL/CWI
Attachments



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-21- 16

TITLE: To Authorize the Acting Executive Director to Propose Amendments to the Comprehensive Management Plan in Accordance with the Administrative Procedure Act (Stormwater Management)

**Commissioner Avery moves and Commissioner Lloyd
seconds the motion that:**

WHEREAS, on February 4, 2004, the New Jersey Department of Environmental Protection (NJDEP) adopted new Stormwater Management Rules (N.J.A.C. 7:8) that addressed stormwater-related water quality, groundwater recharge and water quantity impacts of major development; and

WHEREAS, the Pinelands Commission conducted a detailed review of the 2004 NJDEP regulations and identified amendments to the Pinelands Comprehensive Management Plan (CMP) that were necessary to integrate the NJDEP's new regulations, reflect then state-of-the-art stormwater engineering practices and provide for enhanced protection of Pinelands resources; and

WHEREAS, following adoption by the Pinelands Commission, these CMP amendments took effect on May 1, 2006 and were subsequently implemented by Pinelands municipalities through the adoption of Stormwater Management Plans and Stormwater Control Ordinances; and

WHEREAS, on October 25, 2019, the NJDEP adopted amendments to its Stormwater Management Rules, focusing on the use of green infrastructure to meet groundwater recharge, stormwater runoff quantity and stormwater runoff quality standards; and

WHEREAS, the amended NJDEP rules also revise the Department's definition of major development, which defines the scope of projects to which the amended stormwater rules apply, and modify requirements for the removal of total suspended solids from impervious surfaces; and

WHEREAS, the amended NJDEP rules took effect on March 2, 2020; and

WHEREAS, the Pinelands Commission has once again identified the need to amend the CMP in order to integrate the new NJDEP regulations; and

WHEREAS, the Pinelands Commission has also determined that it is appropriate and necessary to modify the amended NJDEP rules to provide enhanced protection of Pinelands resources and address the potential impacts of climate change on stormwater runoff; and

WHEREAS, the Commission is therefore pursuing adoption of more stringent standards, requiring stormwater management for both major and minor development and limiting the potential for variations or exceptions from stormwater management requirements; and

WHEREAS, the Executive Director has submitted to the Commission draft amendments to N.J.A.C. 7:50-6.84(a)6 of the Comprehensive Management Plan to accomplish the above-described objectives in a manner that furthers the goals of the CMP and recognizes the special resources of the Pinelands that the Commission is charged with protecting; and

WHEREAS, the proposed Comprehensive Management Plan amendments were discussed at multiple public meetings of the Commission's CMP Policy & Implementation Committee in 2020 and 2021; and

WHEREAS, the proposed amendments to the Comprehensive Management Plan have been reviewed by the Pinelands Commission; and

WHEREAS, the Pinelands Commission wishes to formally consider the amendments to the Comprehensive Management Plan set forth in the attachment hereto, dated June 10, 2021; and

WHEREAS, the Administrative Procedure Act of 1968, as amended, and the Office of Administrative Law implementing regulations set forth a detailed procedure governing proposed rulemaking; and

WHEREAS, the Pinelands Commission also wishes to obtain the comments of the public, governmental agencies and the Pinelands Municipal Council on the proposed amendments, in accordance with the Pinelands Protection Act and Subchapter 7 of the Comprehensive Management Plan; 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. The Commission hereby authorizes the Acting Executive Director to submit the proposed amendments to the Comprehensive Management Plan, attached hereto and dated June 10, 2021, and the required supporting documentation to the Office of Administrative Law for publication as proposed regulations;
2. The Acting Executive Director shall transmit the proposed amendments to all Pinelands municipalities and counties and the Pinelands Municipal Council for review;
3. The public comment period on the proposed amendments shall extend 60 days from the date of publication of the proposal in the *New Jersey Register* and the Executive Director shall affix the date of a public hearing to receive comments on the proposed amendments; and
4. Subsequent to the comment period, the Acting Executive Director shall expeditiously prepare proposed final amendments, with any pertinent changes to these amendments, for review by the Commission’s CMP Policy and Implementation Committee, and shall submit same to the Commission for final action.

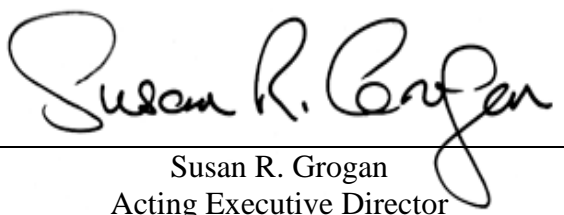
Record of Commission Votes

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

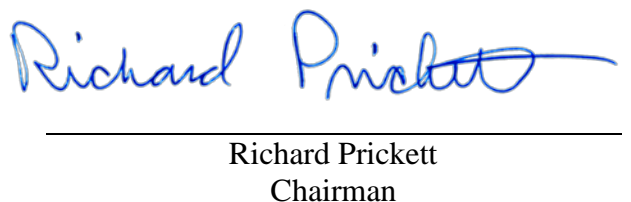
*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: June 11, 2021



 Susan R. Grogan
 Acting Executive Director



 Richard Prickett
 Chairman

June 10, 2021

DRAFT

ENVIRONMENTAL PROTECTION

PINELANDS COMMISSION

Pinelands Comprehensive Management Plan

Definitions; Standards for Certification of Municipal Master Plans and Land Use

Ordinances; Minimum Standards for Point and Non-Point Source Discharges

Proposed Amendments: N.J.A.C. 7:50-2.11, 3.39 and 6.84

Authorized By: New Jersey Pinelands Commission, Nancy Wittenberg, Executive Director.

Authority: N.J.S.A. 13:18A-6j.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number:

A **public hearing** concerning this notice of proposal will be held on:

Wednesday, September 1, 2021, at 9:30 A.M.

Richard J. Sullivan Center

15C Springfield Road

New Lisbon, New Jersey

Submit written comments by regular mail, facsimile, or email by September 17, 2021, to:

Susan R. Grogan, P.P., AICP

Director of Planning

Pinelands Commission

PO Box 359

New Lisbon, NJ 08064

Facsimile: (609) 894-7330

Email: planning@pinelands.nj.gov or through the Commission's website at
<http://nj.gov/pinelands/home/contact/planning.shtml>

The name and mailing address of the commenter must be submitted with all public comments. Commenters who do not wish their names and affiliations to be published in any notice of adoption subsequently prepared by the Commission should so indicate when they submit their comments.

The agency proposal follows:

Summary

The New Jersey Pinelands Commission (Commission) proposes to amend Subchapter 2, Interpretations and Definitions, Subchapter 3, Certification of County, Municipal, and Federal Installation Plans, and Subchapter 6, Management Programs and Minimum Standards of the Pinelands Comprehensive Management Plan (CMP). The CMP has been guiding land use and development activities in the Pinelands since it took effect on January 14, 1981. The CMP has been amended many times, most recently in December 2020 through a set of amendments related to the Pilot Program for Alternate Design Wastewater Treatment Systems (See 52 N.J.R. 2177(a)).

This proposal is in response to amendments adopted by the New Jersey Department of Environmental Protection (DEP) on October 25, 2019, effective March 2, 2020, to its stormwater management rules at N.J.A.C. 7:8 (referred to as “DEP stormwater rule” or “DEP rule”). In those amendments (see 50 N.J.R. 2375(a)), the DEP replaced the requirement for use of nonstructural stormwater management strategies to the "maximum extent practicable" with a requirement for use of green infrastructure to meet its groundwater recharge, stormwater runoff quantity, and stormwater runoff quality standards. DEP relocated the nonstructural strategies to a different section of its rules (to N.J.A.C 7:8-2.4(g)), so that will now be something municipalities may address in the preparation of their stormwater management plans. Green infrastructure measures or best management practices are intended to mimic natural hydrologic conditions and, thus, typically incorporate infiltration and/or vegetation to a greater extent than traditional stormwater management methods. The DEP also clarified and modified its definition of major development, which defines the scope of projects to which the amended rules apply. Lastly, it amended the stormwater management rule to require total suspended solids (TSS) to be removed from runoff from motor vehicle surfaces and eliminated the TSS removal requirement for runoff from other impervious surfaces not traveled by automobiles, such as rooftops and sidewalks.

The Commission proposes to amend the stormwater management provisions of the CMP at N.J.A.C. 7:50-6.84(a)6 to harmonize them with the amended DEP rule in a manner consistent with the goals of the CMP and recognizing the special resources of the Pinelands that the Commission is charged with protecting. Related, minor changes are also being proposed to the definitions section of the CMP at N.J.A.C. 7:50-2.11 and to the certification requirements for municipal stormwater management plans at N.J.A.C. 7:50-3.39.

The last time the Commission made significant changes to the CMP stormwater management provisions was in 2006, in response to the DEP's 2004 adoption of its stormwater management rule. The Commission conducted an extensive review of the 2004 DEP rule to determine how to mesh the new rule with the CMP in a manner that was most appropriate for the Pinelands. It ultimately decided to adopt Subchapters 5 and 6 of the DEP stormwater rule by incorporating them into the CMP by reference, with modifications to provide additional protections to the resources of the Pinelands. Subchapter 5 of the DEP rule contains design and performance standards for stormwater management measures and Subchapter 6 contains safety standards for stormwater management basins. The modifications adopted by the Commission in 2006 included: a stricter stormwater recharge requirement; a prohibition against discharging stormwater into wetlands and streams; special treatment of stormwater runoff from high pollutant load areas; and an emphasis on soil testing and as-built certifications (See 38 N.J.R. 1829(b)). At the same time, the Commission developed a joint Pinelands-DEP model stormwater control ordinance for adoption by all municipalities located, in whole or in part, in the Pinelands Area.

The Commission has extensively reviewed the DEP's 2020 amendments to its stormwater management rule and has similarly determined that the CMP should continue to incorporate Subchapters 5 and 6 of the DEP rule, as amended. The Commission has also decided to incorporate by reference an additional provision of the DEP rule (N.J.A.C. 7:8-4.6) that addresses municipal variances from the design and performance standards for stormwater management measures.

To protect the resources of the Pinelands beyond what is provided for in the DEP stormwater rule and to further address the impacts of climate change on stormwater runoff, the

Commission is again proposing to adopt additional, more stringent, stormwater management requirements, as discussed in detail below. These changes will strengthen and enhance stormwater management in the Pinelands Area while establishing reasonable requirements for home builders and developers.

The proposed amendments also update, correct, and clarify various provisions of the existing rules.

The proposed amendments were discussed and reviewed at multiple public meetings of the Commission and the Commission's CMP Policy & Implementation Committee in 2020 and 2021. If requested, Commission staff will also provide a presentation on the proposed amendments at a public meeting of the Pinelands Municipal Council (PMC). The PMC, created by the Pinelands Protection Act (N.J.S.A. 13:18A-1 et seq.), is made up of the mayors of the 53 municipalities in the Pinelands Area, or their designees. The Council is empowered to review and comment upon changes to the CMP proposed by the Commission and advises the Commission on matters of interest regarding the Pinelands.

A more detailed description of the proposed amendments follows.

Subchapter 2

The Commission is proposing to add definitions of "HUC-11" or "hydrologic unit code 11" and "HUC-14" or "hydrologic unit code 14" to Subchapter 2, Interpretations and Definitions. The proposed amendments to Subchapter 6 introduce these terms, which are not currently defined in the CMP. HUC-11 and HUC-14 are subwatersheds delineated by the United States Geological Survey.

Subchapter 3

The CMP contains a series of standards that municipal master plans and land use ordinances must meet in order to be certified (approved) by the Commission. N.J.A.C. 7:50-3.39(a). One such standard (N.J.A.C. 7:50-3.39(a)viii) currently requires that Pinelands municipalities establish and implement mitigation plans as part of any municipal stormwater management plan and ordinance adopted for purposes of compliance with DEP's requirements. In these mitigation plans, municipalities can identify potential stormwater mitigation projects for applicants that cannot meet CMP stormwater management requirements on the proposed development site. When a municipality grants a variance from the stormwater management requirements, it requires that the off-site mitigation project be selected from the list in the municipality's stormwater management plan, if such a list is included therein. These off-site mitigation projects could remediate existing stormwater problems or areas with existing impervious surfaces.

The Commission is proposing some minor changes to this certification standard so that it will be consistent with changes being proposed to the stormwater management provisions of the CMP at subchapter 6. The term "exception" is being changed to "variance" throughout N.J.A.C. 7:50-3.39(a)2viii to be consistent with the proposed changes to terms in N.J.A.C. 7:50-6.84(a)6vii (existing N.J.A.C. 7:50-6.84(a)6vi).

The Commission is also proposing to remove language from N.J.A.C. 7:50-3.39(a)2viii(2) that allows a municipality to grant a variance from CMP stormwater management requirements if the municipality determines that stormwater management would more effectively be achieved through alternative measures. This language is vague and not consistent with the

variance requirements in the DEP stormwater management rule at N.J.A.C. 7:8-4.6, which the Commission is proposing to adopt through incorporation.

The Commission is also proposing to remove N.J.A.C. 7:50-3.39(a)2viii(4), which allows a municipality to collect a monetary contribution from a development applicant in lieu of requiring off-site stormwater mitigation measures. N.J.A.C. 7:50-3.39(a)2viii(5), which requires municipal expenditure of any such contributions within five years of their receipt, is also proposed for deletion. The Commission believes these provisions are not necessary as they have never been invoked by a municipality likely because of the administrative and financial burden resulting from this provision.

Subchapter 6

The stormwater management provisions of the CMP at N.J.A.C. 7:50-6.84(a)6 currently incorporate Subchapters 5 and 6 of the DEP stormwater rule, N.J.A.C. 7:8. The Commission is proposing to incorporate an additional provision from the DEP rule, N.J.A.C. 7:8-4.6, “Variance from the design and performance standards for stormwater management measures,” into the CMP, with modifications discussed below. (See discussion on proposed change to the “Exceptions” section at proposed N.J.A.C. 7:50-6.84(a)6vii).

Definitions (new N.J.A.C. 7:50-6.84(a)6i)

Many terms in the DEP stormwater rule are either not defined in the CMP or are defined differently. To avoid confusion over which definitions will apply in the Pinelands Area for stormwater management purposes, the Commission is proposing to add a new provision at N.J.A.C. 7:50-6.84(a)6i. This language clarifies that the DEP definitions at N.J.A.C. 7:8-1.2 are

incorporated into the CMP's stormwater management provisions unless a term is defined differently in the CMP, in which case the CMP definition will apply.

The term "major development" is the most significant example of a term that is defined differently in the CMP and the DEP stormwater rule. Both rules rely upon this term to establish the scope of development projects that are subject to the CMP stormwater management requirements, but each defines it differently.

The CMP defines major development as "any division of land into five or more lots; any construction or expansion of any housing development of five or more dwelling units; any construction or expansion of any commercial or industrial use or structure on a site of more than three acres; or any grading, clearing or disturbance of an area in excess of 5,000 square feet."

N.J.A.C. 7:50-2.11. The DEP stormwater rule defines major development as an "individual development, as well as multiple developments, that individually or collectively result in:

1. The disturbance of one or more acres of land since February 2, 2004;
2. The creation of one-quarter acre or more of "regulated impervious surface" since February 2, 2004;
3. The creation of one-quarter acre or more of "regulated motor vehicle surface" since March 2, 2021; or
4. A combination of 2 and 3 above that totals an area of one-quarter acre or more. The same surface shall not be counted twice when determining if the combination area equals one-quarter acre or more..." N.J.A.C. 7:8-1.2.

As explained in greater detail below (in the discussion of proposed changes to the "Recharge" section of the CMP), the Commission decided in 2006 to rely upon the CMP definition of major development instead of adopting the DEP definition. The Commission is not

proposing to change this practice, but new N.J.A.C. 7:50-6.84(a)6i will clarify that the CMP definition of terms such as “major development” will be used when the CMP has a different definition than the DEP rule.

All subsequent sections of the CMP stormwater management provisions will be recodified accordingly.

**Runoff rate and volume, runoff quality and groundwater recharge methodologies
(proposed N.J.A.C. 7:50-6.84(a)6ii, existing N.J.A.C. 7:50-6.84(a)6i)**

When the Commission adopted subsections of the DEP stormwater rule into the CMP in 2006, it also added language directly from the DEP rule into some CMP provisions in addition to incorporating those provisions by reference. The Commission is proposing to remove some of this redundant language from the CMP, which is contained in the DEP rule at N.J.A.C. 7:8-5 and 6, as those subsections are already incorporated into the CMP.

Both the DEP rule and the current CMP incorporate by reference publications of the Natural Resource Conservation Service (NRCS) that describe methodologies for the calculation of stormwater runoff. In proposed N.J.A.C. 7:50-6.84(a)6ii(1), (2) and (3), the Commission proposes to delete the details of those methodologies in existing N.J.A.C. 7:50-6.84(a)6i(1),(2), and (3), and simply refer to N.J.A.C. 7:8-5.7, the DEP provision that contains the details. The Commission, however, is proposing one modification to this DEP provision related to calculation methodologies. Specifically, the Commission is codifying its current practice of allowing only the NRCS methodology. Although DEP allows the use of the Rational Method for peak flow or the Modified Rational Method for hydrograph computation described at N.J.A.C. 7:8-5.7(a)1(ii)

and 2, the Commission requires the NRCS methodology, because it is a more conservative methodology and, therefore, more protective of the resources of the Pinelands.

Both the CMP and the DEP rule require applicants to use existing rainfall data published by the National Oceanic and Atmospheric Administration (NOAA) to calculate the volume of stormwater runoff that must be managed. The website addresses that contain this rainfall data have been changed; therefore, updated references are being included at proposed N.J.A.C. 7:50-6.84(a)6ii2.

Runoff requirements (proposed N.J.A.C. 7:50-6.84(a)6iii, existing N.J.A.C. 7:50-6.84(a)6ii)

The Commission is proposing to remove language related to stormwater runoff requirements at proposed N.J.A.C. 7:50-6.84(a)6iii, which is existing N.J.A.C. 7:50-6.84(a)6ii, as these requirements are already contained in the DEP rule at N.J.A.C. 7:8-5.6. The Commission is also proposing to amend the current restrictions in the CMP that prohibits the direct discharge of stormwater runoff to any wetland, wetlands transition area or stream, at existing N.J.A.C. 7:50-6.84(a)6ii(4), which would be recodified as N.J.A.C. 7:50-6.84(a)6iii(1). That same provision also prohibits stormwater runoff from being directed in such a way as to increase the volume and rate of discharge into any surface water body that existed prior to development of the parcel. The Commission has always interpreted this latter restriction to also prohibit such runoff from increasing the volume and rate of discharge into any wetland or wetlands transition area. The Commission is proposing to amend existing N.J.A.C. 7:50-6.84(a)6ii(4), proposed N.J.A.C. 7:50-6.84(a)6iii(1), to clarify that the prohibition extends to wetlands and wetlands transition areas.

The Commission is also proposing to remove language at existing N.J.A.C. 7:50-6.84(a)6ii, recodified as N.J.A.C. 7:50-6.84(a)6iii, that sets forth conditions an applicant must meet to be able to deduct the acreage of any undeveloped portion of a parcel from certain stormwater runoff calculations. The CMP currently allows an undeveloped area of the property to be deducted from the stormwater calculations only if the area has been permanently protected from future development or if the applicant files a deed notice stating that the area will be subject to stormwater management when it is proposed for development. Through practice, the Commission has realized that these conditions are unnecessary, as the stormwater rules would require any land that is not permanently protected to comply with stormwater management requirements once it is proposed for development. As a result, recodified N.J.A.C. 7:50-6.84(a)6iii, will continue to permit an applicant to deduct undeveloped acreage from stormwater runoff calculations. However, the filing of a deed notice on the undeveloped acreage will no longer be required.

Recharge standards (proposed N.J.A.C. 7:50-6.84(a)6iv, existing N.J.A.C. 7:50-6.84(a)6iii)

As explained in greater detail below, the Commission is proposing to expand the scope of development projects that will be required to implement stormwater management measures. These new measures will strengthen protection of Pinelands resources through a reduction in localized flooding and help to maintain water levels within the Kirkwood-Cohansey Aquifer. Like the current CMP, the scope of projects will be based on the CMP definitions of major and minor development.

When the Commission adopted portions of the DEP stormwater rule in 2006, it chose not to adopt the DEP definition of major development at N.J.A.C. 7:8-1.2. This definition establishes

the scope of projects subject to the DEP's stormwater management requirements. The CMP definitions of major and minor development are the foundation for requirements throughout the CMP and the Commission concluded that adopting a set of definitions applicable only to stormwater management could cause confusion and create inconsistencies for the regulated community in the Pinelands.

For the same reasons, the Commission has again decided to use the CMP definitions of major and minor development for purposes of stormwater management. Although the CMP will continue to incorporate many of the DEP's stormwater management standards, the scope of projects subject to those standards (as well as additional Pinelands-specific standards in the CMP) will continue to be based on the CMP definitions of minor and major development, and not the DEP definition of major development.

While the DEP stormwater rule does not define or use the term minor development, the CMP uses both its definitions of minor and major development to help establish the scope of projects required to comply with stormwater management. The CMP defines major development as "any division of land into five or more lots; any construction or expansion of any housing development of five or more dwelling units; any construction or expansion of any commercial or industrial use or structure on a site of more than three acres; or any grading, clearing or disturbance of an area in excess of 5,000 square feet." The construction of four or fewer dwelling units is deemed minor residential development under the CMP. The construction or expansion of any commercial or industrial use or structure on a site less than three acres or any grading, clearing or disturbance of an area less than 5,000 square feet is deemed minor nonresidential development. N.J.A.C. 7:50-2.11.

Minor residential development (N.J.A.C. 7:50-6.84(a)6iv(2))

To reduce the impact of stormwater runoff from minor residential development in the Pinelands Area, the Commission is proposing to require all minor residential development to comply with a limited stormwater management requirement. Currently, minor residential development in the Pinelands is not required to implement any stormwater management measures unless the development involves the construction of new roads. N.J.A.C. 7:50-2.11; 6.84(a)6vi(1).

The Commission analyzed recent residential development trends in the Pinelands Area to determine how much development was subject to the CMP's stormwater management requirements. It found that the overwhelming number of residential development applications completed with the Commission over the last 11 years were for minor development. Of 817 applications completed, 767 were for minor residential development (one to four units) and 50 were for major development (more than 5 units). Because most minor residential development does not include the construction of roads, most of the 767 developments were not required to implement any stormwater management measures under the existing CMP stormwater rule.

Based on this analysis, the Commission is proposing that all minor residential development be required to retain and infiltrate stormwater runoff solely from the roof(s) of the new dwelling(s). Expanding stormwater management to minor residential development in this manner will further reduce the volume of stormwater runoff and thereby reduce the potential for localized flooding. Redirecting rooftop runoff to green infrastructure measures that provide infiltration and groundwater recharge will help maintain water levels in the Kirkwood-Cohansey Aquifer. The minor residential development requirements are being added to the "recharge" section of the rule at proposed N.J.A.C. 7:50-6.84(a)6iv(2) and the exemption for minor

residential development is being removed from existing N.J.A.C. 7:50-6.84(a)6vi(1), proposed N.J.A.C. 7:50-6.84(a)6vii.

Minor residential development would be required to retain and infiltrate the stormwater volume generated on the roof(s) of the dwelling(s) through one or more green infrastructure best management practices including, but not limited to: dry wells, pervious pavement systems, or small scale bioretention systems, such as a rain garden. See proposed N.J.A.C. 7:50-6.84(a)6iv(2)A.

The calculation of stormwater runoff volume will be based on the area of the roof and the 10-year storm. N.J.A.C. 7:50-6.84(a)6iv(2). A key difference between the stormwater management requirements for minor and major residential development is that major development will have to retain and infiltrate stormwater runoff generated from the net increase in all impervious surfaces, whereas minor residential development will only have to retain and infiltrate stormwater runoff generated from the roof(s) of the dwelling(s).

There may be limited situations where a project could be deemed minor residential development under the CMP and major development under the DEP stormwater rule. In those situations, the CMP will prevail and the stormwater standards for minor residential development will apply. For example, a two-lot subdivision in a Pinelands Rural Development Area, with one house proposed for development on each lot, would be deemed minor development under the CMP but could be deemed major development under the DEP stormwater rule, if it resulted in disturbance of more than one acre of land. Similarly, a single-family dwelling in a Pinelands Forest Area would also qualify as minor residential development under the CMP but could be defined as major development under the DEP rule, if the CMP's 200 foot scenic setback requirement necessitated the clearing of an acre of land to accommodate a driveway or other

improvements. In both of these examples, the development would be defined as minor residential under the CMP and be subject to the stormwater recharge standards at proposed N.J.A.C. 7:50-6.84(a)6iv(2). In most cases, the proposed changes to the CMP will result in a much larger amount of stormwater being retained and infiltrated than the DEP stormwater rule requires.

Minor non-residential development (N.J.A.C. 7:50-6.84(a)6iv(3)(A))

The Commission is also proposing to expand the stormwater management requirements for minor non-residential development. The CMP defines minor non-residential development as the construction or expansion of any commercial or industrial use or structure on a site less than three acres or any grading, clearing or disturbance of an area less than 5,000 square feet (See N.J.A.C. 7:50-2.11). Such development is not required to comply with the current CMP's stormwater management requirements unless the cumulative development over a five-year period results in the grading, clearing or disturbance of an area greater than 5,000 square feet. N.J.A.C. 7:50-6.84(a)6vi(1).

In deciding whether to extend stormwater management to minor non-residential development, the Commission concluded that the chemicals originating from motor vehicles, even in small areas such as individual parking spaces, justify a requirement to capture and remove those pollutants before they enter the groundwater table. Proposed N.J.A.C. 7:50-6.84(a)6iv(3)(A) will require onsite infiltration of stormwater runoff from new motor vehicle surfaces in compliance with the DEP stormwater runoff quality standards contained in N.J.A.C. 7:8-5.5, for any minor non-residential development that results in an increase of 1,000 square feet or more of regulated motor vehicle surface, as defined at N.J.A.C. 7:8-1.2. Only the stormwater generated on these surfaces will be required to be recharged onsite.

The Commission is requiring infiltration of a smaller volume of water from these motor vehicle surfaces than is currently required for major development in the Pinelands Area and smaller than is being proposed for minor residential development. Instead of requiring the stormwater runoff volume to be based on the 10-year storm, the volume of stormwater runoff generated from regulated motor vehicle surfaces of minor non-residential development will be based on the smaller “water quality design storm,” which is 1.25 inches of rain over a 24-hour period. This smaller volume requirement is sufficient because most pollutants from motor vehicles get carried away in the first inch of rainfall, often referred to as the “first flush”. By infiltrating the volume of stormwater runoff from that first inch of rainfall, many of the pollutants will be filtered out before mixing with groundwater.

In order to understand how many applications would likely be affected by the proposed extension of stormwater management requirements to certain minor nonresidential development, a review of past application activity was conducted. The Commission found that only 455 or 36 percent of the nonresidential development applications completed with the Commission over the last 11 years were required to manage stormwater in accordance with the CMP’s stormwater management standards. The remainder (800 completed applications) did not qualify as major development and therefore were not required to manage stormwater. These 800 minor nonresidential applications were for a broad range of development types, many of which (small building additions, building demolitions, irrigation wells and hiking trails) would likely not be impacted by the proposed requirement to infiltrate stormwater runoff from new regulated motor vehicle surfaces. Depending on their size and extent, minor nonresidential applications for road widening or the expansion of parking lots could be affected by the new standard; however, it was

not possible to identify the exact number of prior applications that fit into this category without a more detailed review of site plans and other application materials.

The requirements for minor non-residential development will be added to the Recharge section at proposed N.J.A.C. 7:50-6.84(a)6iv(3) and the exemption for minor non-residential development will be removed from existing N.J.A.C. 7:50-6.84(a)6vi(1).

The CMP will continue to require that minor nonresidential development involving the grading, clearing or disturbance of an area in excess of 5,000 square feet within any five-year period be required to comply with the CMP stormwater management standards for major development. The Commission is proposing to recodify that requirement from N.J.A.C. 7:50-6.84(a)6vi(1) to N.J.A.C. 7:50-6.84(a)6iv(3)(B).

Application requirements for minor development (N.J.A.C. 7:50-6.84(a)6iv(4))

The application requirements for all minor development will be included in a new provision at N.J.A.C. 7:50-6.84(a)6iv(4). An applicant will be required to submit a plan, certified by a design engineer, showing detailed information and drawings of each green infrastructure stormwater management measure, in addition to soil profiles, soil permeability test elevation, soil permeability rate, and the elevation of and vertical separation to the seasonal high water table. An applicant will also have to submit the design engineer's certification that the infiltrated stormwater will not adversely impact basements or septic systems of the proposed development.

Stormwater runoff from high pollutant loading areas (HPLA) (proposed N.J.A.C. 7:50-6.84(a)6iv(5), existing N.J.A.C. 7:50-6.84(a)6iii(2))

The Commission is proposing to clarify the CMP provision regarding treatment of stormwater runoff from high pollutant loading areas (HPLA) at proposed N.J.A.C. 7:50-6.84(a)6iv(5), existing N.J.A.C. 7:50-6.84(a)6iii(2). The HPLA requirements were added to the CMP in 2006 to address DEP's prohibition against the direct discharge of stormwater runoff from HPLAs to groundwater recharge systems. The only permissible option for stormwater runoff under the DEP rule would be discharge from HPLAs into surface waterbodies, such as wetlands and streams, which has long been prohibited in the CMP, for stormwater from all areas, not just HPLAs. To resolve this issue, the Commission began requiring applicants to remove 90 percent of the major pollutant load, also referred to as total suspended solids (TSS), from stormwater runoff from HPLAs before the runoff enters an infiltration basin (groundwater recharge system). This was agreed to by DEP and codified in existing N.J.A.C. 7:50-6.84(a)6iii(2)(C) in 2006.

This provision, however, inadvertently implies that the 90 percent TSS removal be attained before the stormwater runoff enters an infiltration basin. Despite how the provision was drafted, the Commission had always intended to allow the infiltration basin to serve as one of the devices used to achieve the 90 percent removal standard, as an infiltration basin itself can remove up to 80 percent of TSS. To correct this, the Commission is proposing to amend the TSS removal language at proposed N.J.A.C. 7:50-6.84(a)6iv(5), existing N.J.A.C. 7:50-6.84(a)6iii(2), to clarify that 90 percent TSS removal can be achieved by routing stormwater runoff through one or more stormwater management measures, in series, which could include the infiltration basin itself. A key element of this proposed revision is removing references to "pretreatment" of the stormwater runoff, as pretreatment implies that 90 percent TSS removal has to occur prior to the runoff entering an infiltration basin.

This provision also currently mandates that applicants use specific types of devices to achieve 90 percent TSS removal. The Commission believes applicants should have more flexibility in how to achieve that removal standard. It is proposing to remove references to specific stormwater management devices and require only that applicants use stormwater management measures that are: (1) designed to remove TSS in accordance with the New Jersey Stormwater Best Practices Manual or (2) certified by DEP. Proposed N.J.A.C. 7:50-6.84(a)6iv(5)(C)(I) and (II), existing N.J.A.C. 7:50-6.84(a)6iii(2)(C)(I)-(V).

Nitrogen removal (proposed N.J.A.C. 7:50-6.84(a)6iv(6))

The Commission is also proposing to add a quantitative nitrogen removal standard for major development at N.J.A.C. 7:50-6.84(a)6iv(6). This provision will require all major development to implement stormwater management measures designed to achieve a minimum of 65 percent reduction of the post-construction nitrogen load from the developed site from stormwater runoff generated from the water quality design storm. A “developed site” includes permanent lawn or turf areas that are specifically intended for active human use, as nitrogen fertilizer applied to managed turf has long been identified as a significant source of nitrogen in stormwater in New Jersey, and in the Pinelands specifically. Original New Jersey Pinelands Comprehensive Management Plan (November 1981); New Jersey Stormwater Best Management Practices Manual, Chapter 4 (Feb. 2004).

The original New Jersey Pinelands Comprehensive Management Plan, effective January 14, 1981, recognized that the ecosystem of the Pinelands cannot accept elevated concentrations of nitrogen without risk of irreparable harm. Elevated nitrogen levels in the sandy soils, surface waters and shallow groundwater of the Pinelands can provide the opportunity for invasive plant

and animal species to out-compete and displace native biota that is adapted to naturally low levels of these nutrients. Moreover, elevated nitrogen levels can reduce berry production in blueberry crops. Original New Jersey Pinelands Comprehensive Management Plan (November 1981).

Since its inception, the Commission has sought to control the release of nitrogen in the Pinelands. This fundamental concern is reflected throughout the CMP, which itself states that the CMP's water quality requirements include "provisions that are aimed at controlling the amount of nitrogen which enters the environment both because nitrogen in itself is a significant pollutant, but also because it often serves as an indicator of changes in overall water quality." N.J.A.C. 7:50-10.21(b). An example is the CMP's onsite wastewater treatment system requirements, which are intended to reduce nitrogen loading where development densities preclude sufficient nitrogen dilution in groundwater. N.J.A.C. 7:50-6, Appendix A and 10.21

The Commission has chosen to impose a stricter nitrogen removal requirement than DEP, because it believes that DEP's nitrogen removal standard (removal to the "maximum extent feasible") will not sufficiently protect Pinelands resources. See N.J.A.C. 7:8-5.5(f). The Commission's decision to require 65 percent nitrogen removal from stormwater runoff in the CMP is consistent with its long history of controlling nitrogen to protect the ecosystem.

The proposed standard is attainable by combining two different best management practices in series. The New Jersey Stormwater Best Management Practices Manual (BMP Manual) provides a method to calculate total nitrogen removal rates achieved when BMPs are used in series. For example, based on the calculation method in the BMP Manual, stormwater routed through a vegetated swale and then discharged to an infiltration basin could achieve 65 percent removal of nitrogen.

Stormwater management measure design, siting and construction standards (proposed N.J.A.C. 7:50-6.84(a)6v, existing N.J.A.C. 7:50-6.84(a)6iv)

The Commission is proposing to update terminology at proposed N.J.A.C. 7:50-6.84(a)6v and vi, existing N.J.A.C. 7:50-6.84(a)6iv and v, by substituting the term “stormwater management measure” for “infiltration basin,” as an infiltration basin is now considered only one of several types of available stormwater management measures. The proposed amendments also clarify that the groundwater mounding analysis required in proposed N.J.A.C. 7:50-6.84(a)6v(3), existing N.J.A.C. 7:50-6.84(a)6iv(3), would apply only to major development. Minor changes are also being proposed at N.J.A.C. 7:50-6.84(a)6v(6), existing N.J.A.C. 7:50-6.84(a)6iv(5), to maintain consistent use of terminology.

The standards contained in proposed N.J.A.C. 7:50-6.84(a)6v(4), existing N.J.A.C. 7:50-6.84(a)6iv(4), will be clarified and reorganized by removing the following requirements: 1) limit site disturbance, as that is already addressed in the CMP at N.J.A.C. 7:50-6.23; 2) maximize stormwater management efficiencies, as the standard is vague and the CMP already requires stormwater management measures to be designed and maintained in accordance with the BMP Manual; and 3) maintain aesthetic conditions, as the standard is too subjective and the CMP already contains landscaping standards at N.J.A.C. 7:50-6.24 and 6.26

Consistent with DEP’s new stormwater rule, the Commission is proposing to require stormwater management measures that are smaller in size and distributed spatially throughout a parcel, rather than a single, larger measure. The CMP currently requires applicants to achieve this goal “to the maximum extent practical” at N.J.A.C. 7:50-6.84(a)6iv(4). This requirement will become mandatory by removing the language “to the maximum extent practical” at N.J.A.C. 7:50-6.84(a)6v(4). Further, by limiting the contributory drainage area to defined maximum

acreages, the new rules eliminate the subjective nature of the prior maximum extent practical standard.

The stormwater pretreatment requirement, which is grouped together with other requirements at N.J.A.C. 7:50-6.84(a)6iv(4), will become a separate requirement at N.J.A.C. 7:50-6.84(a)6v(5). To address some confusion about whether this standard requires treatment of stormwater runoff prior to the runoff entering an infiltration basin, the Commission is proposing to reword it to more succinctly to require that methods of treating stormwater prior to entering any stormwater management measure are to be incorporated into the design of the measure to the maximum extent practical.

The Commission is also proposing to add a requirement that dry wells be designed to prevent access by amphibians and reptiles, as they become trapped in the dry wells.

As-built requirements (proposed N.J.A.C. 7:50-6.84(a)6vi, existing N.J.A.C. 7:50-6.84(a)6v)

The CMP at N.J.A.C. 7:50-6.84(a)6v requires testing of stormwater management measures after all construction has been completed to ensure that the measures are performing as designed. Amendments to the post-construction requirements at proposed N.J.A.C. 7:50-6.84(a)6vi would clarify that the requirements apply only to major development. The Commission is also proposing minor changes at N.J.A.C. 7:50-6.84(a)6vi, existing N.J.A.C. 7:50-6.84(a)6v, to clarify that the test results required under this provision are to be reviewed either by a municipal engineer or other appropriate reviewing engineer in recognition of the fact that some development is proposed by county or State entities and therefore is not subject to municipal review and approval. The term “field permeability testing” is being shortened to “permeability testing” to acknowledge that some permeability testing is done in a lab and not in

the field. Other non-substantive language changes are being proposed at N.J.A.C. 7:50-6.84(a)6vi, existing N.J.A.C. 7:50-6.84(a)6v.

Exceptions (proposed N.J.A.C. 7:50-6.84(a)6vii, existing N.J.A.C. 7:50-6.84(a)6vi)

The CMP currently allows for waivers and exceptions to be granted if an applicant for a private or public development project demonstrates that it cannot meet the CMP stormwater management standards on the site of the proposed development. (See N.J.A.C. 7:50-6.84(a)6vi(3) and (4)). The Commission is proposing to add more detail and clarity to this section, as described below, in order to strengthen off-site mitigation requirements.

Municipal variances from stormwater management requirements for private development

The Commission is proposing to clarify the circumstances under which Pinelands municipalities can grant variances from the CMP's stormwater management requirements.

Currently, a Pinelands municipality can grant a variance (currently called a "waiver") for a private, major development application in the Pinelands Area that cannot meet CMP stormwater management requirements on the parcel proposed for development. (See N.J.A.C. 7:50-6.84(a)6vi(3)). Municipalities will continue to have the discretion to grant such variances, but the proposed amendments at N.J.A.C. 7:50-6.84(a)6vii(1) will now incorporate the municipal variance provision of the DEP stormwater rule at N.J.A.C. 7:8-4.6, with modifications specific to the Pinelands Area.

The municipal variance provisions of the DEP rule were not incorporated in the CMP by the Commission in 2006. However, the DEP rule, as amended in 2020, now includes more

detailed off-site mitigation requirements that, with some modifications, the Commission believes will adequately protect environmental resources in the Pinelands.

Incorporation of N.J.A.C. 7:8-4.6 into the CMP at proposed N.J.A.C. 7:50-6.84(a)6vii(1), would provide municipalities the authority to grant variances from the following stormwater management standards: 1) on-site design and performance standards for green infrastructure; 2) groundwater recharge; and 3) stormwater runoff quality standards. Municipalities will also be able to grant variances from the CMP's on-site recharge standards at proposed N.J.A.C. 7:50-6.84(a)6iv.

To further protect the resources of the Pinelands, the Commission is proposing to modify DEP's variance standards. Proposed N.J.A.C. 7:50-6.84(a)6vii(1)(A) will require that all mitigation projects approved by variance be located in the Pinelands Area and within either the same HUC-14 or HUC-11 watershed as the parcel proposed for development. The DEP variance provisions at N.J.A.C. 7:8-4.6 require mitigation projects to be located in the same HUC-14 watershed. However, it may not always be feasible to find a mitigation site that is in both the Pinelands Area and the same HUC-14. Some HUC-14 watersheds extend beyond the boundary of the Pinelands Area and contain very little land in the Pinelands Area. If an applicant can demonstrate that there are no available locations for off-site mitigation within that portion of the HUC-14 in the Pinelands Area, the Commission is proposing to allow a mitigation project to be identified in the next largest watershed, the HUC-11. If a mitigation project is proposed for the HUC-11, rather than the HUC-14, it must still be located within the Pinelands Area.

The CMP currently requires that any proposed mitigation project be consistent with the municipal stormwater management plan certified by the Commission pursuant to N.J.A.C. 7:50-

3, unless that plan does not identify appropriate parcels or projects where mitigation may occur. This provision will remain unchanged but will be recodified as N.J.A.C. 7:50-6.84(a)6vii(1)(B).

The Commission is also proposing at N.J.A.C. 7:50-6.84(a)6vii(5)(C), to require that the total volume of stormwater infiltrated off-site as part of a mitigation project approved by a municipality equal or exceed the on-site volume required by the CMP at proposed N.J.A.C. 7:50-6.84(a)6iv.

Exceptions from stormwater requirements for public development projects

The Commission is proposing to clarify and strengthen the off-site mitigation requirements for public development projects at proposed N.J.A.C. 7:50-6.84(a)6vii(2). It has decided not to adopt the DEP provisions for waivers and exemptions for public development projects at N.J.A.C. 7:50-5, as the DEP rule imposes less stringent requirements on public linear projects, such as roads, for off-site mitigation and provides a blanket exemption from implementing stormwater management measures for utility lines, including pipelines, with no requirement for off-site mitigation.

In addition to the DEP provisions being less stringent than the current CMP off-site mitigation requirements for stormwater management, they are also fundamentally inconsistent with the way the Commission has traditionally addressed public development in the Pinelands Area that cannot meet other standards in the CMP. Such development must either seek a Waiver of Strict Compliance to relieve an extraordinary hardship or satisfy a compelling public need or seek a Memorandum of Agreement (MOA) with the Commission that provides for a deviation from CMP standards. N.J.A.C. 7:50-4:61-4.70 and 4.52(c)2. In either case, waiver or MOA, offsetting measures are required to ensure the protection of Pinelands resources. These offsetting

measures often take the form of land preservation or redemption of Pinelands Development Credits.

To maintain consistency in the treatment of public development projects throughout the CMP, the Commission is proposing that off-site mitigation continue to be required whenever the Commission grants relief from CMP stormwater standards for a public development application. To provide stronger protection of Pinelands environmental resources, the Commission is proposing, at N.J.A.C. 7:50-6.84(a)6vii(2), to strengthen the off-site mitigation requirements by requiring that public development projects meet the same conditions and requirements that private development projects are required to meet to receive a municipal variance from stormwater management standards. This provision would apply to both linear projects, such as a roadway and utility lines, and nonlinear projects, such as a parking lot for a public school.

It should be noted that only a handful of applicants have applied for exceptions, which going forward will be called variances, since the CMP was amended in 2006 to allow for them. Most of these exception applications were for road and sidewalk widening projects that could not meet stormwater management requirements because the projects traversed freshwater wetlands. The Commission required offsetting measures to mitigate the effects of the projects. For example, the applicant for one road widening project was required to offset the proposed increase in impervious surfaces and changes in rates of runoff by removing an area of existing pavement that was located in the same drainage area as the proposed improvements.

Another public development project involved the construction of a commuter parking lot across from a train station on the site of a previous soil remediation project. Stormwater management measures could not meet the depth to seasonal high or permeability rate standards of the CMP. The Commission required the applicant to offset the increase in impervious surfaces

by removing sections of existing pavement from two nearby roads that were located within the same drainage area as the commuter parking lot. The applicant also was required to install a manufactured treatment device (MTD) to treat stormwater from the parking lot prior to the stormwater entering the existing stormwater conveyance infrastructure.

The Commission's standards for exceptions and mitigation will continue to be more stringent than those applicable in the rest of the State in order to provide additional protection for the resources of the Pinelands and remain consistent with long-standing Commission policy.

Other changes to "Exceptions" provision

The provision that prohibits the application of any provision in DEP's stormwater rule that allows for exemptions and waivers from the stormwater standards, unless explicitly allowed in the CMP, will be recodified as N.J.A.C. 7:50-6.84(a)6vii(3).

The Commission is also proposing to add a provision at N.J.A.C. 7:50-6.84(a)6vii(4) to explicitly ban the granting of variances or exceptions from the CMP's prohibition against discharging stormwater runoff into wetlands and streams.

Maintenance Standards (proposed N.J.A.C. 7:50-6.84(a)6viii, existing N.J.A.C. 7:50-6.84(a)6vii)

The Commission is proposing to clarify that the CMP's existing stormwater maintenance standards, now at N.J.A.C. 7:50-6.84(a)6viii, apply only to major development. Minor, non-substantive language changes are also proposed at N.J.A.C. 7:50-6.84(a)6viii(1)(A), existing N.J.A.C. 7:50-6.84(a)6vii(1), to clarify that maintenance plans for major development are required pursuant to the DEP rule and must be supplement in accordance with the CMP.

The Commission is also proposing to add maintenance standards for minor development at N.J.A.C. 7:50-6.84(a)6viii(2), which are less stringent than for major development. Specifically, for minor development, a maintenance plan will be required in accordance with N.J.A.C. 7:50-6.84(a)6viii(2)(A). Such a maintenance plan must include a copy of the stormwater plan required pursuant to N.J.A.C. 7:50-6.84(a)6iv(4) and a description of all required maintenance activities and the frequency of such maintenance activities. Proposed N.J.A.C. 7:50-6.84(a)6viii(2)(B) is being added to permit the assignment or transfer of stormwater maintenance responsibilities to the owner or tenant of the parcel which is the subject of the minor development application.

New Jersey Stormwater Best Practices Manual (proposed N.J.A.C. 7:50-6.84(a)6ix, existing N.J.A.C. 7:50-6.84(a)6viii)

Minor, non-substantive changes are being proposed at N.J.A.C. 7:50-6.84(a)6ix (existing N.J.A.C. 7:50-6.84(a)6viii)).

As the Commission has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking requirement at N.J.A.C. 1:30-3.3(a)5.

Social Impact

By continuing to incorporate key provisions of the DEP's recently amended stormwater management rule, while retaining and adding more stringent measures to further protect the resources of the Pinelands, the Commission anticipates this rulemaking will have a positive

social impact in the Pinelands Area. Protection of resources in the Pinelands benefits society within the Pinelands and in the surrounding areas.

The social benefits from the DEP's amended stormwater management rule are described in detail in its 2019 rule proposal at 50 N.J.R. 2375(a) and include reducing flooding potential, improving water quality, increasing groundwater recharge, protecting stream channel integrity, reducing erosion, maintaining the adequacy of bridges and culverts, improving air quality, reducing heat island effect, and decreasing energy use. Through incorporation of key provisions of DEP's rule, these benefits will extend to the Pinelands Area.

In addition to the benefits listed above, the Commission's modifications to the DEP's stormwater requirements will have an even greater positive social impact in the Pinelands Area, as the modifications will provide enhanced protection of Pinelands resources. Requiring stormwater management for minor residential and nonresidential development will result in the infiltration of more stormwater, removal of more pollutants from stormwater runoff prior to its entering groundwater, maintenance of the water levels of the vital Kirkwood-Cohansey Aquifer, and the further reduction of localized flooding in the Pinelands.

The Commission's more stringent nitrogen removal requirement will also have a positive social impact, as the unique ecology of the Pinelands Area is especially sensitive to nitrogen. Fertilizer on lawn and turf has been identified as the largest source of nitrogen pollution in the State and the Commission's quantitative nitrogen removal requirement will extend to newly developed permanent lawn and turf areas. This is expected to result in greater nitrogen removal from the stormwater flowing from these areas.

The stricter conditions for off-site mitigation will also provide additional protections of Pinelands resources by ensuring that all mitigation for private or public development be required

to offset the effects of stormwater runoff from the proposed development within the same watershed and that the offsets occur within the Pinelands Area.

To be granted an exception from meeting stormwater requirements on-site, a public project will have to meet the same conditions and be subject to the same standards as a private development that cannot meet the stormwater requirements onsite. This standard for granting an exception is more stringent than DEP's waiver and exemption standards for public linear projects. This provides greater protection for the resources of the Pinelands. It is also consistent with how the Commission handles public development projects in other CMP provisions.

Each of the stricter stormwater management measures being proposed by the Commission will result in societal benefits by affording enhanced protection of the resources in the Pinelands.

Economic Impact

The Commission's proposal is expected to have little to no economic impact and in some areas, a positive impact. The DEP summarized the economic impact of its amended stormwater rule at 50 N.J.R. 2375(a). This statement addresses only those economic impacts of the modifications to the DEP rule that the Commission is proposing in the CMP, as well as some additional proposed changes to the CMP's stormwater provisions.

The following parties may be economically affected by the proposed amendments to the CMP: land developers, suppliers of green infrastructure components (such as plants, pervious pavement, bioretention soil mixes), property owners, applicants, and review agencies.

Land developers

The Commission does not expect that its proposed green infrastructure requirement for minor residential development will significantly affect the cost of a development project. Developers will be required only to retain and infiltrate stormwater runoff generated from the roof(s) of the dwellings, which in most cases will be a much smaller total volume than that which is required for major development. Developers will likely have to install only one or possibly two green infrastructure best management practices (BMPs), such as a rain garden and/or dry well(s) to infiltrate stormwater runoff from the roof(s) of the dwelling(s). Green infrastructure BMPs should not add any significant cost to the development project. For example, rain gardens can be installed in lieu of more conventional landscape plantings, providing similar esthetic benefits and additional environmental benefits. In addition to replenishing groundwater, properly located drywells can also direct roof runoff away from residences, preventing costly damage from moisture and seepage into basements.

The proposed requirements for stormwater management by minor nonresidential projects are also not expected to result in a significant cost increase. If a minor nonresidential development involves more than 1,000 square feet of impervious surface used by motor vehicles, the developer will be required to infiltrate the stormwater runoff from only those new impervious surfaces, with measures designed to reduce the post-construction load of total suspended solids (TSS) in the runoff generated from the water quality design storm. A green infrastructure BMP required to infiltrate the water quality design storm is relatively small, about one-fourth the size of an infiltration BMP designed to infiltrate the runoff volume from the larger 10-year, 24 hour storm.

Applicants for both minor residential and non-residential development will be required to conduct soil tests and submit plans certified by a design engineer as part of the application

process, and a maintenance plan, which will result in additional new costs. These additional costs may be partially offset by having the engineer perform the tests in conjunction with soil testing performed for an onsite septic system and/or testing performed to identify the distance between the seasonal high-water table and the basement floor. Because proper design and operation of an infiltration BMP such as a rain garden, a dry well or an infiltration basin is highly dependent on a thorough evaluation of site specific soil and groundwater conditions, the evaluation of the site by a licensed professional engineer is considered essential.

In its 2019 rule proposal at 50 N.J.R. 2375(a), the DEP cited United States Environmental Protection Agency (USEPA) research showing that, for the majority of 17 case studies, low impact development, which includes the use of green infrastructure BMPs, such as bioretention systems, grass swales, and pervious paving systems, resulted in reduced overall costs (15 to 80 percent) when compared to conventional designs, which include underground vaults, manufactured treatment devices, curbs, and gutters (USEPA, 2007). In only a few cases were the initial low impact development costs higher than those for conventional designs. The research also showed that in all cases, the use of low impact development resulted in reduced volumes and pollutant loadings, as well as non-monetized benefits such as improved aesthetics, expanded recreational opportunities, and increased property values (USEPA, 2007). Additional information on costs associated with green infrastructure can be found at DEP's rule proposal at 50 N.J.R. 2375(a).

The proposed amendments to the requirement that developers remove 90 percent of TSS from stormwater runoff in high pollutant load areas (HPLA) are intended to clarify the intent of the existing CMP rule language at N.J.A.C 7:50-6.84(a)6iii(2)(C). The CMP currently implies that stormwater runoff from HPLA must be pretreated to achieve the 90 percent TSS removal

prior to infiltration. The amendment will clarify that the requirement can be met by routing stormwater runoff through one or more stormwater management measures, which could include a bioretention system alone or an infiltration basin as the last BMP in the treatment train. Importantly, the 90 percent TSS removal would not need to be attained prior to infiltration but can instead be met through infiltration. This will significantly reduce costs associated with installation of stormwater management measures. For example, a gas station could use an infiltration basin to help meet the 90 percent TSS removal requirement and might not need to use multiple TSS removal BMPs before the stormwater enters an infiltration basin, as the CMP currently implies.

Providing more flexibility to developers in how they meet the 90 percent TSS removal requirement can also reduce costs. Whereas the CMP currently identifies specific types of green infrastructure BMPs that must be used to meet the 90 percent TSS reduction requirement, the proposed changes will give a developer greater latitude on which BMPs it can use, potentially reducing costs.

Likewise, the proposed clarification that developers are required only to treat stormwater runoff prior to entering infiltration basins to the maximum extent practical could reduce costs to developers.

There are no anticipated increased costs to developers who seek municipal variances or exceptions from the onsite stormwater management requirements under the proposed changes to the CMP.

Suppliers of Green Infrastructure Inputs

With the extension of stormwater management requirements to minor development in the Pinelands Area, the Commission expects a positive economic impact to the local providers of select fill soils, native plants, and other materials related to the construction of green infrastructure -- beyond the positive economic impact already anticipated based on the expanded requirements for green infrastructure for major development.

Property Owners

Property owners who are also the land developers of minor development projects will incur the same costs associated with installation of green infrastructure as would land developers.

Property owners who acquire parcels of land that were created as part of a minor development project will incur modest, additional costs associated with maintaining the required stormwater management measures. As the DEP explained in its 2019 rule proposal at 50 N.J.R. 2375(a), green infrastructure maintenance is equal to or lower than the maintenance cost of conventional stormwater management measures. The Commission is proposing modified stormwater management for minor development that will necessitate a few small structures. For example, it is unlikely that a minor residential development will require a large retention basin, which would be more costly to construct and maintain. Likewise, green infrastructure BMPs can be used to meet the stormwater management requirements for minor nonresidential development and for reduction in total suspended solids from high pollutant loading areas.

As DEP reported in its rule proposal at 50 N.J.R. 2375(a), green infrastructure has direct and indirect economic and social benefits that may increase the value of properties containing, or in the vicinity of, green infrastructure over those containing or near conventional stormwater management BMPs.

Applicants and Review Agencies

The proposed stormwater management requirements for minor development may result in increased costs for municipalities and local review agencies who will be required to review the stormwater plans associated with such development applications. However, the specific and objective green infrastructure requirements and design details in the DEP's Stormwater BMP Manual will provide clear direction to both designers and reviewers of stormwater management design plans.

The Commission does not expect municipalities to incur any additional costs associated with the proposed standards for granting variances from the onsite stormwater management requirements. The CMP currently authorizes municipalities to grant such variances and the proposed changes provide additional guidance and specificity to municipalities in reviewing variance applications.

As DEP explained in its rule proposal at 50 N.J.R. 2375(a), most review agencies are municipalities who own and operate a municipal separate storm sewer system. Because green infrastructure reduces the volume of stormwater through infiltration, evapotranspiration, or reuse, downstream storm sewer systems will receive less stormwater volume from sites managed with green infrastructure than sites managed with conventional stormwater facilities. As a result, review agencies may see less additional expenditures related to stormwater management due to a reduction in stormwater volume leaving private development sites and entering the municipal storm sewer system.

Finally, Pinelands municipalities will also incur costs because of the need to revise their stormwater management plans and stormwater control ordinances to conform with the proposed amendments, once adopted. The Commission will continue with its normal practice of drafting

and providing model ordinances for municipalities to consider, thereby offsetting some of these costs. While the adoption of master plan and ordinance amendments represents a cost to municipalities, it is expected to be nominal.

Environmental Impact

The Commission anticipates that the proposed stormwater management amendments will have significant environmental benefits. The amendments are expected to minimize impacts of increased stormwater runoff due to climate change and result in enhanced protection of the Pinelands Area. Specifically, they will result in the infiltration of more stormwater, removal of more pollutants from stormwater runoff prior to entering groundwater, maintenance of water levels of the Kirkwood-Cohansey Aquifer, and the further reduction of localized flooding in the Pinelands.

By incorporating key provisions of the DEP rule into the CMP and by modifying many of those provisions to impose additional and more stringent requirements, the environmental benefits described by DEP at 50 N.J.R. 2375(a) will be even greater in the Pinelands Area.

Requiring stormwater management for the runoff from the roofs of minor residential development will result in the infiltration of a much greater amount of stormwater. As discussed in the summary above, the vast majority of completed applications for residential development in the Pinelands Area over the past 11 years were for minor development. Those developments were required to manage stormwater runoff only if the proposed development involved the construction of roads. The proposed rule will capture much more stormwater runoff for infiltration and is expected to help reduce localized flooding and maintain Kirkwood-Cohansey Aquifer water levels.

Similarly, by expanding stormwater management to minor non-residential development, the rulemaking is expected to have a positive environmental impact through the greater removal of pollutants from stormwater runoff. The onsite infiltration of stormwater runoff from motor vehicle surfaces for any minor non-residential development that results in an increase of 1,000 square feet or more of regulated motor vehicle surface, as defined at N.J.A.C. 7:8-1.2, will ensure that most of the pollutants leaked from motor vehicles and deposited by tire wear on these sites will get captured before infiltrating through the soils and into groundwater.

Setting a specific nitrogen removal standard of 65 percent will help maintain the ecological balance within the Pinelands Area, as an overabundance of nitrogen in water can upset that balance and adversely affect the environment. This is especially so in the Pinelands Area, which is particularly sensitive to nitrogen. The original New Jersey Pinelands Comprehensive Management Plan from 1981 recognized that the ecosystem of the Pinelands cannot accept elevated concentrations of nitrate without risk of irreparable harm. Elevated nitrogen levels in the sandy soils of the Pinelands can upset the nutrient balance that the plants rely upon, with negative impacts that range from harming local populations of threatened and endangered plant species to reducing berry production in blueberry crops. Original New Jersey Pinelands Comprehensive Management Plan (November 1981). The nitrogen removal requirement will also extend to newly developed permanent lawn and turf areas, as fertilizer on lawn and turf has been identified as the largest source of nitrogen pollution in the State.

The proposed conditions for off-site recharge of stormwater will provide stronger environmental protection of the Pinelands Area. The CMP will require off-site mitigation for both private and public projects that cannot meet the stormwater management requirements on the parcel of land to be developed. By requiring off-site mitigation for all public development

projects, the CMP will continue to be more restrictive than the DEP rule and in turn, more protective of the Pinelands environmental resources. The current prohibition against discharging stormwater runoff into wetlands will also continue to apply to offsite mitigation, offering more ecological protection of the Pinelands Area.

The CMP will also continue to require that all underground and above-ground utility line projects meet the stormwater runoff requirements. This is more stringent than the DEP rule, which exempts utility lines from meeting the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements. Under the proposed amendments to the CMP, utility line projects will be eligible for off-site mitigation if they cannot meet the requirements onsite.

Requiring green infrastructure to manage stormwater runoff will also have positive impacts on the environment by helping reduce carbon dioxide, a greenhouse gas that is a significant contributor to climate change. The vegetation that green infrastructure often relies upon to filter pollutants from stormwater can sequester carbon from the atmosphere and enhance carbon sequestration in soils. In addition, transitioning from concrete-based stormwater management infrastructure to green infrastructure will reduce greenhouse gas emissions associated with the manufacturing of concrete infrastructure.

The Commission's stormwater management standards, including those for exceptions and mitigation, will continue to be more stringent than those applicable in the rest of the State under the DEP stormwater rule, but will provide better protection of the Pinelands and remain consistent with long-standing Commission policy.

Federal Standards Statement

Section 502 of the National Parks and Recreation Act of 1978 (16 U.S.C. § 471i) called upon the State of New Jersey to develop a comprehensive management plan for the Pinelands

National Reserve. The original plan adopted in 1980 was subject to the approval of the United States Secretary of the Interior, as are all amendments to the plan.

The Federal Pinelands legislation sets forth rigorous goals that the plan must meet, including the protection, preservation, and enhancement of the land and water resources of the Pinelands. The proposed amendments are designed to meet those goals by imposing stringent stormwater management requirements on development in the Pinelands Area, which will provide greater protection of the Pinelands resources.

The Federal Clean Water Act (33 U.S.C. §§ 251 et seq.) regulates stormwater runoff and nonpoint source pollution control. The Federal Clean Water Act requires permits under Section 402 of that Act (33 U.S.C. § 1342) for certain stormwater discharges. Section 319 of the Clean Water Act (33 U.S.C. § 1329) authorizes a Federal grant-in-aid program to encourage states to control nonpoint sources. The Commission's existing and proposed regulations are designed to control stormwater and minimize nonpoint source pollution and are fully consistent with the Federal requirements.

There are no other Federal requirements that apply to the subject matter of these amendments.

Jobs Impact

The Commission anticipates that this rulemaking will not have any significant impact on job creation and retention in New Jersey beyond the minimal impacts sited by the DEP at 50 N.J.R. 2375(a). Engineering and other professional work will be needed to comply with the stormwater management construction and maintenance requirements for minor residential and

non-residential development in the Pinelands Area but overall, the Pinelands Commission does not believe that the rulemaking will result in a significant impact on jobs.

Agriculture Industry Impact

The rulemaking will not impact agricultural uses in the Pinelands Area, as agricultural activities are not included in the CMP definitions of major and minor development and thus not subject to the stormwater management requirements. The positive impacts on the environment, such as reduced flooding, improved water quality, increased groundwater recharge, and increased protection of stream channel integrity, could benefit the agricultural industry.

Regulatory Flexibility Analysis

In accordance with the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the Commission has evaluated whether the proposed amendments will impose any reporting, recordkeeping, and other compliance requirements on small businesses. Most businesses in the Pinelands Area may be characterized as small in size and employment compared to the rest of New Jersey. However, the proposed amendments do not differentiate by size of business and thus will impact all businesses equally.

Small businesses proposing minor development in the Pinelands Area may be required to construct and maintain stormwater management measures, albeit to a lesser extent than is required for major development. Additional costs may also be incurred from hiring professional consultants such as engineers. Small businesses proposing major development will have to comply with the Commission's more stringent, quantitative nitrogen removal standard.

The impact of the new stormwater management requirements for minor and major development is not unique to small businesses; the costs that may be incurred by small businesses are the same as to any individual person or homeowner undertaking minor or major development, as defined in the CMP.

The Commission has balanced the costs imposed on small businesses by the proposed amendments against the environmental benefits to be achieved by the new stormwater management requirements and determined that it would be inappropriate to exempt small businesses from these requirements. As noted above in the Environmental Impact statement, the additional, more stringent stormwater management requirements being proposed by the Commission will result in the infiltration of more stormwater, removal of more pollutants from stormwater runoff prior to entering groundwater table, maintenance of water levels of the Kirkwood-Cohansey Aquifer, and the further reduction of localized flooding in the Pinelands.

Housing Affordability Impact Analysis

The Commission does not anticipate this rulemaking will have a significant impact on the affordability of housing. Minor residential development will be required to retain and infiltrate stormwater runoff generated from the roof(s) of the dwellings by installing green infrastructure best management practices. In most cases, developers will have to install only one or two green infrastructure best management practices (BMPs), such as a rain garden and dry well. This requirement is not expected to add any significant cost associated with housing or have an effect on the affordability of housing.

Smart Growth Development Impact Analysis

N.J.S.A. 52:14B-4 requires that proposed amendments be evaluated to determine their impacts, if any, on housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan (State Plan). Planning Areas 1 and 2 do not exist in the Pinelands Area. Likewise, the State Plan does not designate centers within the Pinelands Area. Instead, N.J.S.A. 52:18A-206.a provides that the State Plan shall rely on the Pinelands CMP for land use planning in the Pinelands. The Commission has evaluated the impact of the proposed amendments on Pinelands management areas designated by the CMP that are equivalent to Planning Areas 1 and 2 and designated centers, namely, the Regional Growth Areas, Pinelands Villages, and Pinelands Towns.

These three management areas are designated for development by the CMP and are equivalent to designated centers under the State Plan. The rulemaking will not increase the amount of permitted residential development in these management areas and are not expected to result in any changes in housing density within designated centers or in any other portions of the Pinelands Area.

There will be no effect on new construction in Planning Areas 1 and 2, as designated by the State Development and Redevelopment Plan, as these State Planning Areas do not exist in the Pinelands Area.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Commission has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the proposal follows (additions indicated with boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 2. INTERPRETATIONS AND DEFINITIONS

7:50-2.11 Definitions

"HUC 11" or "hydrologic unit code 11" means an area within which water drains to a particular receiving surface water body, also known as a subwatershed, which is identified by an 11-digit hydrologic unit boundary designation, delineated within New Jersey by the United States Geological Survey.

"HUC 14" or "hydrologic unit code 14" means an area within which water drains to a particular receiving surface water body, also known as a subwatershed, which is identified by a 14-digit hydrologic unit boundary designation, delineated within New Jersey by the United States Geological Survey.

SUBCHAPTER 3. CERTIFICATION OF COUNTY, MUNICIPAL, AND FEDERAL INSTALLATION PLANS

7:50-3.39 Standards for certification of municipal master plans and land use ordinances

- (a) Municipal master plans and land use ordinances, and any parts thereof, shall be certified only if:
1. (No change.)
 2. They include provisions that:
 - i.-vii. (No change.)

- viii. Establish and implement a mitigation plan as part of any municipal stormwater management plan and ordinance adopted in accordance with N.J.A.C. 7:8-4.2(c)11 that:
- (1) Identifies those measures necessary to offset the granting of [exceptions to] **variances from** the standards set forth in N.J.A.C. 7:50-6.84(a)6i through v;
 - (2) Specifies that [exceptions to] **variances from** the standards set forth in N.J.A.C. 7:50-6.84(a)6i through v will be considered only in cases where an applicant is able to demonstrate **in accordance with N.J.A.C. 7:8-4.6** that such standards cannot be met on a particular parcel [or where the municipality determines that stormwater management would more effectively be achieved through alternative measures];
 - (3) Requires that any [off-site] mitigation measures identified pursuant to (a)2viii(1) above occur within the Pinelands Area and the same [drainage area] **HUC14** as the parcel proposed for development, **unless no such mitigation project is available, in which case the mitigation measures shall be located within the Pinelands Area and same HUC11 as the parcel proposed for development; and**
 - [(4) Allows for monetary contributions to be made to the municipality in lieu of performing the off-site mitigation measures identified pursuant to (a)2viii(1) above, with the

amount of any such in-lieu contribution being equivalent to the cost of implementing and maintaining the stormwater

management measures for which an exception is granted; and

- (5) Requires that the municipality expend any contributions collected pursuant to (a)2viii(4) above within five years of their receipt; and]

ix. (No change.)

3.-13. (No change.)

(b) (No change.)

SUBCHAPTER 6. MINIMUM STANDARDS FOR POINT AND NON-POINT SOURCE DISCHARGES

7:50-6.84 Minimum standards for point and non-point source discharges

(a) The following point and non-point sources may be permitted in the Pinelands:

1.-5. (No change.)

6. Surface water runoff in accordance with N.J.A.C. 7:8-4.6, 5 and 6, as amended, except as modified and supplemented **as follows** [pursuant to the following]:

- i. **For purposes of this section, the definition of terms adopted by the New Jersey Department of Environmental Protection at N.J.A.C. 7:8-1.2 are incorporated herein, unless a term is defined differently at N.J.A.C. 7:50-2.11, in which case the definition in this Plan shall apply.**

[i.]ii. Runoff rate and volume, runoff quality and groundwater recharge methodologies:

- (1) **Stormwater** [R]runoff rate and volumes shall be calculated in accordance with [the USDA Natural Resources Conservation Service (NRCS) Runoff Equation, Runoff Curve Numbers, Dimensionless Unit Hydrograph, as described in the NRCS National Engineering Handbook Part 630 - Hydrology and Title 210 - Engineering, 210-3-1 Small Watershed Hydrology (WINTR-55) Version 1.0, incorporated herein by reference, as amended and supplemented. Information regarding these methodologies is available from the Natural Resources Conservation Service website at http://www.wsi.nrcs.usda.gov/products/W2Q/H&H/Tools_Models/WinTr55.html https://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1044171.pdf or at Natural Resources Conservation Service, 220 Davidson Avenue, Somerset, New Jersey 08873; (732) 537-6040. Alternative methods of calculation may be utilized, provided such alternative methods are at least as protective as the NRCS methodology within when considered on a regional stormwater management area basis] **N.J.A.C. 7:8-5.7, except that the Rational Method for peak flow and the Modified Rational Method for hydrograph computations shall not be used; and**

- (2) Stormwater runoff shall be calculated using NRCS methodology by separately calculating and then combining the runoff volumes from pervious and directly connected impervious surfaces within each drainage area within the parcel;
- (3) Calculations of stormwater runoff from unconnected impervious surfaces shall be based, as applicable, upon the Two-Step Method described in the New Jersey Stormwater Best Management Practices Manual developed by the New Jersey Department of Environmental Protection, dated February 2004, incorporated herein by reference, as amended and supplemented and available at <http://www.njstormwater.org/bmp-manual2.htm>, or the NRCS methodology; and]
- [(4)](2) In calculating stormwater runoff using the NRCS methodology, the appropriate 24-hour rainfall depths developed by the National Oceanic and Atmospheric Administration, https://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.html?bkmrk=nj, shall be utilized. [Information regarding these rainfall data is available from the National Oceanic and Atmospheric Administration (NOAA) at <http://www.hdsc.nws.noaa.gov/hdsc/pfds/index.html> or DOC/NOAA/National Weather Service, Office of Hydrologic Development, Hydrometeorological Design Studies Center, Bldg.

SSMC2-W/OHD13, 1325 East-West Highway, Silver Spring,
Maryland 20910-3283; (301) 713-1669 extension 154.]

[ii]iii. Runoff shall meet the requirements in [(a)6ii(4) and (5) below and one of (a)6ii(1), (2) or (3)] **N.J.A.C. 7:8-5.6 and (1) and (2)** below:

- (1) The post-development stormwater runoff hydrographs generated from the parcel by a two-year, 10-year and 100-year storm, each of a 24-hour duration, shall not exceed, at any point in time, the parcel's pre-development runoff hydrographs for the same storms;
or
- (2) Under post-development site conditions:
 - (A) There shall be no increase in pre-development stormwater runoff rates from the parcel for the two-year, 10-year and 100-year storm; and
 - (B) Any increased stormwater runoff volume or change in stormwater runoff timing for the two-year, 10-year and 100-year storms shall not increase flood damage at or downstream of the parcel. When performing this analysis for the predevelopment site conditions, all off-site development levels shall reflect existing conditions. When performing this analysis for post-development site conditions, all off-site development levels shall reflect full development potential in accordance with those municipal

land use ordinances certified by the Commission pursuant to N.J.A.C. 7:50-3; or

(3) The peak post-development stormwater runoff rates for the parcel for the two-year, 10-year and 100-year storms shall be 50, 75 and 80 percent, respectively, of the parcel's peak pre-development stormwater rates for the same storms. Peak outflow rates from onsite stormwater measures for these storms shall be adjusted where necessary to account for the discharge of increased stormwater runoff rates and/or volumes from areas of the parcel not controlled by onsite measures. These percentages need not be applied to those portions of the parcel that are not proposed for development at the time an application is submitted to the Commission pursuant to N.J.A.C. 7:50-4, provided that:

- (A) Such areas have been permanently protected from future development by conservation easement, deed restriction, or other acceptable legal measures; or
- (B) A deed notice has been filed stating that such areas will be subject to the standards of this section at the point in time they are proposed for development in the future;]

[(4)] (1) There shall be no direct discharge of stormwater runoff from any point or nonpoint source to any wetland, wetlands transition area or surface waterbody. In addition, stormwater runoff shall not be directed in such a way as to increase the volume and rate of discharge into any **wetland**,

wetlands transition area or surface water body from that which existed prior to development of the parcel; and

[(5)](2) To the maximum extent practical, there shall be no direct discharge of stormwater runoff onto farm fields [so as] to protect farm crops from damage due to flooding, erosion, and long-term saturation of cultivated crops and cropland.

[iii.]iv. Recharge standards

(1) For all major development[s], **as defined at N.J.A.C. 7:50-2.11**, the total runoff volume generated from the net increase in impervious surfaces by a 10-year, 24-hour storm shall be retained and infiltrated onsite;

(2) **For all minor development, as defined at N.J.A.C. 7:50-2.11, that involves the construction of four or fewer dwelling units, the runoff generated from the total roof area of the dwelling(s) by a 10-year, 24-hour storm shall be retained and infiltrated as follows:**

(A) **Installation of one or more green infrastructure stormwater management measures designed in accordance with the New Jersey Stormwater Best Management Practices (BMP) Manual as defined in N.J.A.C. 7:8-1, incorporated herein by reference as amended and supplemented and available at**

https://www.nj.gov/dep/stormwater/bmp_manual2.htm

(hereinafter referred to as “BMP Manual” or “New Jersey Stormwater Best Management Practices Manual”). Appropriate green infrastructure stormwater management measures include, but are not limited to:

- (I) Dry wells;**
- (II) Pervious pavement systems; and**
- (III) Small scale bioretention systems, including rain gardens;**

(3) For minor development, as defined at N.J.A.C. 7:50-2.11, that involves any nonresidential use, the following standards shall apply:

- (A) If the proposed development will result in an increase of 1,000 square feet or more of regulated motor vehicle surfaces as defined at N.J.A.C. 7:8-1.2, the stormwater runoff quality standards contained in N.J.A.C. 7:8-5.5 shall apply. The water quality design storm volume generated from these surfaces shall be recharged onsite; and**
- (B) If the proposed development involves the grading, clearing or disturbance of an area in excess of 5,000 square feet within any five-year period, the standards**

for major development set forth at (a)6i through ix shall also apply;

(4) In order to demonstrate compliance with the requirements of (2) or (3) above, applications for minor development shall include at least the following information:

(A) A plan, certified by a design engineer, that includes the type and location of each green infrastructure stormwater management measure and a cross section drawing of each such measure showing the associated soil profile, soil permeability test elevation, soil permeability rate and the elevation of and vertical separation to the seasonal high water table;

(B) A design engineer's certification that each green infrastructure stormwater management measure will not adversely impact basements or septic systems of the proposed development;

[(2)] (5) In high pollutant loading areas (HPLA) and areas where stormwater runoff is exposed to source material, as defined at N.J.A.C. 7:8-5.4[(a)2iii(1) and (2)] (b)3i and ii, the following additional water quality standards shall apply:

(A) (No change.)

(B) The stormwater runoff originating from HPLAs and areas where stormwater runoff is exposed to source material shall

be segregated and prohibited from co-mingling with stormwater runoff originating from the remainder of the parcel **unless it is first routed through one or more stormwater management measures required in (C), below;**

- (C) The stormwater runoff from HPLAs and areas where stormwater runoff is exposed to source material shall [be subject to pretreatment to achieve 90 percent removal of total suspended solids] **incorporate stormwater management measures designed to reduce the post-construction load of total suspended solids (TSS) by at least 90 percent in stormwater runoff generated** from the water quality design storm established in N.J.A.C. 7:8-5.5[(a)](d) [prior to infiltration, using: one or more of the following measures, designed in accordance with the New Jersey Best Management Practices Manual developed by the New Jersey Department of Environmental Protection, dated February 2004, incorporated herein by reference, as amended and supplemented] **using one or more of the measures identified in (I) and (II) below. In meeting this requirement, the minimum 90 percent removal of total suspended solids may be achieved by utilizing multiple stormwater management measures in series:**

- (I) [Bioretention system] **Any measure designed in accordance with the New Jersey Stormwater Best Management Practices Manual to remove total suspended solids. Any such measure must be constructed to ensure that the lowest point of infiltration within the measure maintains a minimum of two feet of vertical separation from the seasonal high water table; and**
- [(II) Sand filter;
- (III) Wet ponds, which shall be hydraulically disconnected by a minimum of two feet of vertical separation from the seasonal high water table and shall be designed to achieve a minimum 80 percent removal of total suspended solids;
- (IV) Constructed stormwater wetland: and]
- [(V)](II) Other measures certified by the Department of Environmental Protection, including a Media Filtration System manufactured treatment device with a minimum 80 percent removal of total suspended solids as verified by the New Jersey Corporation for Advanced Technology; and
- (D) If the potential for contamination of stormwater runoff by petroleum products exists onsite, prior to being conveyed to

the [pretreatment facility] **stormwater management measure** required in [(a)6iii(4)](C) above, the stormwater runoff from the HPLAs and areas where stormwater runoff is exposed to source material shall be conveyed through an oil/grease separator or other equivalent manufactured filtering device providing for the removal of petroleum hydrocarbons.

- (6) **For all major development, as defined at N.J.A.C. 7:50-2.11, stormwater management measures shall be designed to achieve a minimum of 65 percent reduction of the post-construction total nitrogen load from the developed site, including permanent lawn or turf areas that are specifically intended for active human use as described in N.J.A.C. 7:50-6.24(c)3, in stormwater runoff generated from the water quality design storm. In achieving a minimum 65 percent reduction of total nitrogen, the design of the site shall include green infrastructure in accordance with the BMP Manual and shall optimize nutrient removal. The minimum 65 percent total nitrogen reduction may be achieved by using a singular stormwater management measure or multiple stormwater management measures in series.**

[iv.]v. [Infiltration basin] **Stormwater management measure** design, siting and construction standards:

- (1) Stormwater [infiltration facilities] **management measures designed to infiltrate stormwater** shall be designed, constructed and maintained to provide a minimum separation of at least two feet between the elevation of the lowest point of [the bottom of the] infiltration [facility] and the seasonal high water table;
- (2) Stormwater [infiltration facilities] **management measures designed to infiltrate stormwater** shall be sited in suitable soils verified by [field] testing to have permeability rates between one and 20 inches per hour. A factor of safety of two shall be applied to the soil's [field-tested] permeability rate in determining the infiltration [facility's] **measure's** design permeability rate. If such soils do not exist on the parcel proposed for development or if it is demonstrated that it is not practical for engineering, environmental or safety reasons to site the stormwater infiltration [basin] **measures(s)** in such soils, the stormwater infiltration [basin] **measure(s)** may be sited in soils verified by [field] testing to have permeability rates in excess of 20 inches per hour, provided that stormwater is routed through a bioretention system prior to infiltration. Said bioretention system shall be designed, installed and maintained in accordance with the New Jersey Stormwater Best Management Practices Manual [developed by the New Jersey

Department of Environmental Protection, dated February 2004, incorporated herein by reference, as amended and supplemented];

- (3) **For all major development, as defined at N.J.A.C. 7:50-2.11,** [G]groundwater mounding analysis shall be required for purposes of assessing the hydraulic impacts of mounding of the water table resulting from infiltration of stormwater runoff from the maximum storm designed for infiltration. The mounding analysis shall provide details and supporting documentation on the methodology used. Groundwater mounds shall not cause stormwater or groundwater to breakout to the land surface or cause adverse impacts to adjacent water bodies, wetlands or subsurface structures, including, but not limited to basements and septic systems. Where the mounding analysis identifies adverse impacts, the [infiltration facility] **stormwater management measure** shall be redesigned or relocated, as appropriate;
- (4) [To the maximum extent practical, stormwater management measures on a parcel shall be designed to limit site disturbance, maximize stormwater management efficiencies, maintain or improve aesthetic conditions and incorporate pretreatment as a means of extending the functional life and increasing the pollutant removal capability of structural stormwater management facilities.] The use of stormwater management measures that are smaller in size and distributed spatially throughout a parcel, rather than the

use of a single, larger [structural] stormwater management measure shall be required [to the maximum extent practical];

- (5) **Methods of treating stormwater prior to entering any stormwater management measure shall be incorporated into the design of the stormwater management measure to the maximum extent practical;**

[(5)](6) To avoid sedimentation that may result in clogging and reduction of infiltration capability and to maintain maximum soil infiltration capacity, the construction of stormwater **management measures that rely upon** infiltration [basins] shall be managed in accordance with the following standards:

- (A) No stormwater [infiltration basin] **management measure** shall be placed into operation until its drainage area has been completely stabilized. Instead, upstream runoff shall be diverted around the [basin] **measure** and into separate, temporary stormwater management facilities and sediment basins. Such temporary facilities and basins shall be installed and utilized for stormwater management and sediment control until stabilization is achieved in accordance with N.J.A.C. 2:90, Standards for Soil Erosion and Sediment Control in New Jersey;

- (B) If, for engineering, environmental or safety reasons, temporary stormwater management facilities and sediment basins cannot be constructed on the parcel in accordance with [(a)6iv(5)](A) above, the stormwater [infiltration basin] **management measure** may be placed into operation prior to the complete stabilization of its drainage area provided that the [basin's] **measure's** bottom during this period is constructed at a depth at least two feet higher than its final design elevation. When the drainage area has been completely stabilized, all accumulated sediment shall be removed from the [infiltration basin] **stormwater management measure**, which shall then be excavated to its final design elevation; and
- (C) To avoid compacting [an infiltration basin's subgrade soils,] **the soils below a stormwater management measure designed to infiltrate stormwater**, no heavy equipment, such as backhoes, dump trucks or bulldozers shall be permitted to operate within the footprint of the stormwater [infiltration basin] **management measure**. All excavation required to construct a stormwater [infiltration basin] **management measure that relies on infiltration** shall be performed by equipment placed outside the [basin] **footprint of the stormwater management measure**. If

this is not possible, the soils within the excavated area shall be renovated and tilled after construction is completed.

Earthwork associated with stormwater [infiltration basin] **management measure** construction, including excavation, grading, cutting or filling, shall not be performed when soil moisture content is above the lower plastic limit; and

- (7) **Dry wells shall be designed to prevent access by amphibian and reptiles.**

[v.]vi. As-built requirements **for major development, as defined at N.J.A.C.**

7:50-2.11:

- (1) After all construction activities have been completed on the parcel and finished grade has been established in [the infiltration basin] **each stormwater management measure designed to infiltrate stormwater**, replicate post-development [field] permeability tests shall be conducted to determine if as-built soil permeability rates are consistent with design permeability rates. The results of such tests shall be submitted to the municipal engineer **or other appropriate reviewing engineer**. If the results of the post-development [field] permeability tests fail to achieve the minimum required design permeability rate, utilizing a factor of safety of two, the [infiltration basin] **stormwater management measure** shall be renovated and re-tested until [such minimum] **the** required permeability rates are achieved; and

(2) After all construction activities and required field testing have been completed on the parcel, as-built plans, including as-built elevations of all stormwater management measures shall be submitted to the municipal engineer **or other appropriate reviewing engineer to serve as a document of record**. Based upon **that** [the municipal] engineer's review of the as-built plans, all corrections or remedial actions deemed [by the municipal engineer to be] necessary due to the failure to comply with design standards and/or for any reason concerning public health or safety, shall be completed by the applicant. In lieu of review by the municipal engineer, the municipality may engage a licensed professional engineer to review the as-built plans and charge the applicant for all costs associated with such review.

[vi.]**vii.** Exceptions:

- [(1) The standards set forth in (a)6i through v above shall not apply to minor residential development, provided such development does not involve the construction of any new roads, or to minor non-residential development, provided such development does not involve the grading, clearing or disturbance of an area in excess of 5,000 square feet within any five-year period;
- (2) The use of nonstructural strategies in accordance with N.J.A.C. 7:8-5.3 shall not be required for development which would create less than one acre of disturbance;

- (3) Provided an applicant for major development pursuant to N.J.A.C. 7:50-4.31 through 4.50 is able to demonstrate that the standards set forth in (a)6i through v above cannot be met on the parcel proposed for development or that stormwater management would more effectively be achieved through alternative measures, strict compliance with said standards may be waived at the discretion of the municipality in which the proposed development is located, provided the municipal stormwater management plan certified by the Commission pursuant to N.J.A.C. 7:50-3 specifies the circumstances under which such alternative measures would be appropriate and identifies those parcels or projects elsewhere in the Pinelands Area where any off-site mitigation would be permitted to occur;
- (4) Provided an applicant for major public development pursuant to N.J.A.C. 7:50-4.51 through 4.60 is able to demonstrate that the standards set forth in (a)6i through v above cannot be met on the parcel proposed for development or that stormwater management would more effectively be achieved through alternative measures, an exception may be granted at the discretion of the Commission, provided any such measures occur within the Pinelands Area and within the same drainage area as the parcel proposed for development and are sufficient to offset the granting of the exception. The proposed alternative measures must be consistent

with the stormwater management plan certified by the Commission pursuant to N.J.A.C. 7:50-3 for the municipality in which the proposed development is located, unless said stormwater plan does not provide for appropriate mitigation for the particular exception being granted or identify appropriate parcels or projects where off-site mitigation may occur; and]

(1) For applications submitted pursuant to N.J.A.C. 7:50-4.31 through 4.50, a municipality may grant a variance in accordance with N.J.A.C. 7:8-4.6, as amended, from the on-site design and performance standards for green infrastructure, the standards for groundwater recharge, stormwater runoff quality, and stormwater runoff quality at N.J.A.C. 7:8-5.3, 5.4, 5.5, and 5.6, and the on-site recharge standards set forth at (a)6iv above, provided that:

(A) All mitigation projects shall be located in the Pinelands Area and in the same HUC 14 as the parcel proposed for development. If the applicant demonstrates that no such mitigation project is available, the municipality may approve a variance that provides for mitigation within the same HUC 11 as the parcel proposed for development, provided the mitigation project is located in the Pinelands Area;

- (B) The proposed mitigation project shall be consistent with the stormwater management plan certified by the Commission pursuant to N.J.A.C. 7:50-3 for the municipality in which the parcel proposed for development is located, unless said stormwater plan does not identify appropriate parcels or projects where mitigation may occur; and**
- (C) Any variance from the on-site recharge standards set forth at (a)6iv above shall require that the total volume of stormwater infiltrated by the mitigation project equals or exceeds the volume required at (a)6iv.**
- (2) For applications submitted pursuant to N.J.A.C. 7:50-4.51 through 4.60, the Commission may grant an exception in accordance with the standards contained in N.J.A.C. 7:50-4.6, as amended, from the on-site design and performance standards for green infrastructure, groundwater recharge, stormwater runoff quality, and stormwater runoff quality at N.J.A.C. 7:8-5.3, 5.4, 5.5, and 5.6 and on-site recharge standards set forth at (a)6iv above, provided the conditions set forth at (1) above are met.**
- [(5)] (3) Unless specifically included in [(a)6vi(1) through (4)] (1) and (2) above, the exemptions, exceptions, applicability standards and**

waivers of strict compliance for stormwater management contained in N.J.A.C. 7:8 shall not apply.

- (4) **No variances or exceptions shall be granted from iii(1), above, which prohibits the direct discharge of stormwater runoff to any wetland, wetlands transition area or surface waterbody and the direction of stormwater runoff in such a way as to increase in volume and rate of discharge into any wetland, wetlands transition area or surface water body from that which existed prior to development of the parcel.**

[vii.]**viii.** Maintenance standards:

- (1) **For all major development, as defined at N.J.A.C. 7:50-2.11, the following standards shall apply:**

[(1)](A) Maintenance plans **shall be** required pursuant to N.J.A.C. 7:8-5.8 **and** shall be supplemented [so as] to include reporting of inspection and repair activities. Said plans shall include accurate and comprehensive drawings of all stormwater management measures on a parcel, including the specific latitude and longitude and block/lot number of each stormwater management measure. Maintenance plans shall specify that an inspection, maintenance and repair report will be updated and submitted annually to the municipality;

[(2)](B) Stormwater management measure easements shall be provided by the property owner as necessary for facility inspections and maintenance and preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities. The purpose of the easement shall be specified in the maintenance agreement; and

[(3)](C) An adequate means of ensuring permanent financing of the inspection, maintenance, repair and replacement plan shall be implemented and shall be detailed in the maintenance plan. Financing methods shall include, but not be limited to[.]:

[(A)](I) The assumption of the inspection and maintenance program by a municipality, county, public utility or homeowners association;

[(B)](II) The required payment of fees to a municipal stormwater fund in an amount equivalent to the cost of both ongoing maintenance activities and necessary structural replacements.

(2) For all minor development, as defined at N.J.A.C. 7:50-2.11, the following standards shall apply:

(A) Maintenance plans shall be required for all stormwater management measures installed in accordance with (a)6iv(2) and (3), above. The BMP Manual may be

utilized as a guide for developing maintenance plans which shall include, at minimum:

- (I) A copy of the certified plan required pursuant to (a)6iv(4);**
- (II) A description of the required maintenance activities for each stormwater management measure; and**
- (III) The frequency of each required maintenance activity.**

(B) Responsibility for maintenance of stormwater management measures may be assigned or transferred to the owner or tenant of the parcel.

[viii.]**ix.** Unless specifically mandated pursuant to (a)6i through viii above, the New Jersey Stormwater Best Management Practices Manual [developed by the New Jersey Department of Environmental Protection, dated February 2004, as amended], may be utilized as a guide in determining the extent to which stormwater management activities and measures meet the standards of (a)6i through viii above.



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-21- 17

TITLE: To Authorize the Acting Executive Director to Continue to Expend Funds for Fiscal Year 2022 at the Same Level of Expenditures as Fiscal Year 2021 until the Adoption of the Fiscal Year 2022 Budget

Commissioner Lloyd moves and Commissioner Lohbauer seconds the motion that:

WHEREAS, pursuant to the Pinelands Protection Act, the Pinelands Commission is charged with continuing implementation and monitoring of the Pinelands Comprehensive Management Plan; and

WHEREAS, it is anticipated that the New Jersey Legislature will appropriate \$3,249,000 to support the Commission’s operations during Fiscal Year 2022; 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 actions shall become effective upon such approval.

NOW, THEREFORE, BE IT RESOLVED that the Acting Executive Director is authorized to continue to expend funds during Fiscal Year 2022 at the same level of expenditures as Fiscal Year 2021 until the Commission’s adoption of the Fiscal Year 2022 Budgets.

Record of Commission Votes

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

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: June 11, 2021

Susan R. Grogan
Acting Executive Director

Richard Prickett
Chairman



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-21-_____

TITLE: **Approving** With Conditions Applications for **Public Development** (Application Numbers 1985-0434.004 & 1990-0868.033)

Commissioner _____ moves and Commissioner _____
seconds the motion that:

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

1985-0434.004

Applicant: **New Jersey Motor Vehicle Inspection Station – Winslow**
Attn: Stephen Moorhatch
Municipality: Winslow Township
Management Area: Pinelands Rural Development Area
Date of Report: June 16, 2021
Proposed Development: Installation of a potable water treatment infiltration system at an existing New Jersey Motor Vehicle Commission inspection station; and

1990-0868.033

Applicant: **John Sacco, State Forester**
New Jersey Department of Environmental Protection
Municipality: Bass River Township
Management Area: Pinelands Preservation Area District
Date of Report: June 17, 2021
Proposed Development: Spot treatment of herbicide to control invasive plant species within 16.4 acres that were previously cleared to restore visibility from the Bass River State Forest fire observation tower.

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

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

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

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

NOW, THEREFORE BE IT RESOLVED that Application Numbers 1985-0434.004 & 1990-0868.033 for public development are hereby **approved** subject to the conditions recommended by the Executive Director.

Record of Commission Votes

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

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: _____

 Susan R. Grogan
 Acting Executive Director

 Richard Prickett
 Chairman



State of New Jersey

THE PINELANDS COMMISSION

PO Box 359

NEW LISBON, NJ 08064

(609) 894-7300

www.nj.gov/pinelands



PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

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

RICHARD PRICKETT
Chairman
NANCY WITTENBERG
Executive Director

June 16, 2021

Stephen Moorhatch (via email)
New Jersey Motor Vehicle Inspection Station - Winslow
550 Spring Garden Road
Hammonton, NJ 08037

Re: Application # 1985-0434.004
Block 6207, Lot 1
Winslow Township

Dear Mr. Moorhatch:

The Commission staff has completed its review of this application for installation of a potable water treatment infiltration system at an existing New Jersey Motor Vehicle Commission inspection station. Enclosed is a copy of a Public Development Application Report. On behalf of the Commission's Acting Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its July 9, 2021 meeting.

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

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

Sincerely,

Charles M. Horner, P.P.

Director of Regulatory Programs

Enc: Appeal Procedure

c: Secretary, Winslow Township Planning Board (via email)
Winslow Township Construction Code Official (via email)
Winslow Township Environmental Commission (via email)
Secretary, Camden County Planning Board (via email)
Robert May (via email)



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Lt. Governor

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

RICHARD PRICKETT
Chairman
NANCY WITTENBERG
Executive Director

PUBLIC DEVELOPMENT APPLICATION REPORT

June 16, 2021

Stephen Moorhatch (via email)
New Jersey Motor Vehicle Inspection Station - Winslow
550 Spring Garden Road
Hammonton, NJ 08037

Application No.: 1985-0434.004
Block 6207, Lot 1
Winslow Township

This application proposes installation of a potable water treatment infiltration system at an existing New Jersey Motor Vehicle Commission inspection station located on the above referenced 37 acre parcel in Winslow Township.

The existing inspection station is serviced by potable water well. The applicant will be installing a new potable water treatment system within an existing building to manage pH, iron levels and odor. The water treatment system will be periodically backwashed. The applicant will be installing an underground infiltration system to contain and infiltrate the water generated during the backwash process. The underground infiltration system consists of a concrete cylinder shaped tank that is 6.5 feet wide and 3.5 feet deep.

STANDARDS

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

Land Use (N.J.A.C. 7:50-5.26)

The proposed development is located in a Pinelands Rural Development Area. The proposed infiltration system will be accessory to the existing motor vehicle inspection station. The existing motor vehicle inspection station is a permitted land use in a Rural Development Area. Accessory uses to a permitted land use are also permitted in a Pinelands Rural Development Area.

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

There are wetlands located on the parcel. The proposed development will be located greater than 300 feet from wetlands.

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

The proposed development will be located within an existing maintained lawn area comprised of non-native grasses. The proposed soil disturbance is limited to that which is necessary to accommodate the proposed development.

The Landscaping and Re-vegetation guidelines of the CMP recommend the use of grasses that are tolerant of droughty, nutrient poor conditions.

Water Quality Standard (N.J.A.C. 7:50-6.83)

The depth to seasonal high water table at the location of the proposed infiltration system is at least five feet.

PUBLIC COMMENT

The CMP defines the proposed development as ‘minor’ development. The CMP does not require public notice for minor public development applications. The application was designated as complete on the Commission’s website on May 17, 2021. The Commission’s public comment period closed on June 11, 2021. No public comment was submitted to the Commission regarding this application.

CONDITIONS

1. Except as modified by the below conditions, the proposed development shall adhere to the plan prepared by Advanced GeoServices and dated May 20, 2019.
2. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.
3. Any proposed revegetation shall adhere to the "Vegetation" standards of the CMP. Where appropriate, the applicant is encouraged to utilize the following Pinelands native grasses for revegetation: Switch grass, Little bluestem and Broom-sedge.
4. Prior to any development, the applicant shall obtain any other necessary permits and approvals.

CONCLUSION

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



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SHEILA Y. OLIVER
Lt. Governor

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

RICHARD PRICKETT
Chairman
NANCY WITTENBERG
Executive Director

PINELANDS COMMISSION
APPEAL PROCEDURE

The Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal any determination made by the Executive Director to the Commission in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted by someone meeting the definition of an interested party will be transmitted to the New Jersey Office of Administrative Law for a hearing. Any such appeal must be made in writing to the Commission and received by the Commission's office no later than 5:00 PM on July 6, 2021 and include the following information:

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

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



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PHILIP D. MURPHY
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SHEILA Y. OLIVER
Lt. Governor

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

RICHARD PRICKETT
Chairman
NANCY WITTENBERG
Executive Director

June 17, 2021

John Sacco, State Forester (via email)
New Jersey Department of Environmental Protection, Division of Parks and Forestry
501 East State St.
PO Box 420
Trenton, NJ 08625

Re: Application # 1990-0868.033
Block 48, Lots 1 & 2
Block 49, Lot 12
Bass River Township

Dear Mr. Sacco:

The Commission staff has completed its review of this application for spot treatment of herbicide to control invasive plant species within 16.4 acres that were previously cleared to restore visibility from the Bass River State Forest fire observation tower. Enclosed is a copy of a Public Development Application Report. On behalf of the Commission's Acting Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its July 9, 2021 meeting.

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

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

Sincerely,

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

Enc: Appeal Procedure

c: Secretary, Bass River Township Planning Board (via email)
Bass River Township Construction Code Official (via email)
Secretary, Burlington County Planning Board (via email)
Todd Wyckoff (via email)

William Zipse, Supervising Forester (via email)
Samantha Hensen, Assistant Regional Forester (via email)
Courtney Compton, Assistant Regional Forester (via email)



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 NEW LISBON, NJ 08064
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PHILIP D. MURPHY
 Governor
 SHEILA Y. OLIVER
 Lt. Governor

RICHARD PRICKETT
 Chairman
 NANCY WITTENBERG
 Executive Director

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

PUBLIC DEVELOPMENT APPLICATION REPORT

June 17, 2021

John Sacco (via email)
 New Jersey Department of Environmental Protection, Division of Parks and Forestry
 501 East State St.
 PO Box 420
 Trenton, NJ 08625

Application No.: 1990-0868.033
 Block 48, Lots 1 & 2
 Block 49, Lot 12
 Bass River Township

This application proposes spot treatment of herbicide to control invasive plant species within 16.4 acres that were previously cleared to restore visibility from the Bass River State Forest fire observation tower on the above referenced 435.3 acre parcel in Bass River Township. The purpose of the proposed herbiciding is to facilitate natural regeneration of historic tree plantations, including native and previous plantation trees.

On April 12, 2019, the Commission approved the clearing of 16.4 acres of trees to restore visibility in all directions from the existing Bass River State Forest fire observation tower (App. No. 1990-0868.031).

The applicant has identified two invasive plant species, Japanese stiltgrass and Japanese barberry, within portions of the 16.4 acre cleared area. This application proposes spot treatment of herbicide to facilitate regeneration of the historic tree plantations by suppressing these invasive plant species. A pre-emergent and post-emergent herbicide application and foliar/basal bark herbicide application will occur using a utility terrain vehicle, backpack sprayers or handheld sprayers. The same herbicide treatments will be applied each year, for a maximum of 10 years, or until the invasive plant species have been eliminated and tree seedlings become established.

STANDARDS

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

Land Use (N.J.A.C. 7:50-5.22(b))

The 435.3 acre parcel is located partially in the Pinelands Preservation Area District (405.2 acres),

partially in a Pinelands Rural Development Area (18.8 acres) and partially in a Pinelands Village (11.3 acres).

The 16.4 acres proposed for spot treatment of herbicide are located in the Pinelands Preservation Area District portion of the parcel. The existing Bass River State Forest fire observation tower is also located in the Pinelands Preservation Area District. The proposed spot application of herbicide is permitted in the Pinelands Preservation Area District as a silvicultural practice for site preparation.

Forestry (N.J.A.C. 7:50-6.41)

The CMP permits herbicide treatment as a silvicultural practice for site preparation provided the following five conditions are met:

1. Condition One: The proposed treatment is identified in an application submitted to the Pinelands Commission. The submitted Pinelands application identifies the proposed herbicide treatment.
2. Condition Two: Control of competitive plant species is clearly necessary. The applicant represents that Japanese stiltgrass is a fast growing invasive annual grass species and Japanese barberry is an invasive shrub species and that both species inhibit natural plant community structure and germination.
3. Condition Three: Control of competitive plant species by other non-chemical means is not practical. The applicant represents that non-chemical means are not practical considering the amount of Japanese stiltgrass on the 16.4 acres and mowing is not a viable means of controlling Japanese barberry because it will severely damage the natural regeneration of tree seedlings and can lead to re-sprouting and significant spread of the concerned competitive plant species.
4. Condition Four: All chemicals shall be expressly labeled for forestry use and shall be used and mixed in a manner that is consistent with relevant State and Federal requirements. The applicant represents that all herbicides will adhere to the label, as pesticide labels constitute legal documents that include rates of application, time of year for deployment, in certain instances, and proper weather and site conditions for application.
5. Condition Five: In Pine-Shrub Oak Native Forest Types, herbicide treatments shall only be permitted as a method to temporarily suppress shrub-oak understory in order to facilitate pine regeneration. All such herbicide treatments shall be applied in a targeted manner so that there will be no significant reduction in tree or shrub-oak re-sprouting outside those areas subject to the herbicide treatment. The proposed herbicide treatments will not occur in a Pine-Shrub Oak Native Forest Type.

The applicant has demonstrated that the five conditions to permit the use of herbicide for silvicultural site preparation will be met.

Threatened and Endangered Species Standards (N.J.A.C. 7:50-6.27 & 6.33)

Available information identifies known sightings of threatened and endangered (T&E) animal and plant

species in the vicinity of the proposed herbiciding. The Commission staff reviewed the proposed herbiciding to determine whether it was designed to avoid irreversible adverse impacts on habitats that are critical to the survival of any local populations of T&E animal species and irreversible adverse impacts on the survival of any local populations of T&E plant species.

The T&E animal species of concern are Barred owl, Northern pine snake and Timber rattlesnake. Based upon the existing cleared habitat and available contiguous State owned lands, the proposed spot treatment of herbicide is designed to avoid an irreversible adverse impact on habitat that is critical to the survival of any local populations of T&E animal species.

As part of Commission approval of the application (App. No. 1990-0868.031) for the clearing of 16.4 acres of trees to restore visibility in all directions from the existing Bass River State Forest fire observation tower, the applicant was required to conduct a visual survey in the area proposed for tree clearing to avoid potential irreversible adverse impact to any local population of Broom crowberry, a CMP designated T&E plant species. The applicant conducted the visual survey and concluded that Broom crowberry was not present in the area proposed for tree clearing. Prior to the proposed spot treatment of herbicide, the applicant proposes to conduct another visual survey for Broom crowberry. If Broom crowberry is identified, the applicant proposes to buffer any such area from the spot application of herbicide and to temporarily place a tarp over the plant(s) during spraying. The proposed spot treatment of herbicide is designed to avoid irreversible adverse impacts on the survival of any local populations of T&E plant species.

PUBLIC COMMENT

The applicant has provided the requisite public notices. Notice to required landowners within 200 feet of the above referenced parcel was completed on April 10, 2021. Newspaper public notice was completed on April 9, 2021. The application was designated as complete on the Commission's website on June 1, 2021. The Commission's public comment period closed on June 11, 2021. No public comment was submitted to the Commission regarding this application.

CONDITIONS

1. The proposed activities shall adhere to the "Proposal For Silvicultural Activity On State Forest And Park Lands, New Jersey Forestry Services, dated February 2, 2021.
2. Prior to any herbiciding, the applicant shall obtain any other necessary permits and approvals.
3. In accordance with the Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-6.45), this approval authorizing herbiciding in association with a silvicultural operation shall expire in 10 years on July 9, 2031.
4. To avoid irreversible adverse impacts on any local population of Broom Crowberry that may be present, NJDEP shall conduct a visual survey of the 16.4 acres for Broom crowberry prior to any spot treatment of herbicide. If the visual survey identifies Broom Crowberry, the applicant shall install a temporary protective barrier around any identified plant(s) and a temporary plastic covering during spot application of herbicide to avoid irreversible adverse impacts on the survival of any local population of Broom Crowberry.

CONCLUSION

As the proposed herbiciding 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 herbiciding subject to the above conditions.



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Lt. Governor

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

RICHARD PRICKETT
Chairman
NANCY WITTENBERG
Executive Director

PINELANDS COMMISSION
APPEAL PROCEDURE

The Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal any determination made by the Executive Director to the Commission in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted by someone meeting the definition of an interested party will be transmitted to the New Jersey Office of Administrative Law for a hearing. Any such appeal must be made in writing to the Commission and received by the Commission's office no later than 5:00 PM on July 6, 2021 and include the following information:

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

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



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-21-_____

TITLE: Authorizing Certain Members of the Pinelands Commission and Staff to Sign Checks

Commissioner _____ moves and Commissioner _____ seconds the motion that:

WHEREAS, the Pinelands Commission maintains a checking account at The Bank of Princeton to pay operating expenses and clear debts; and

WHEREAS, the Pinelands Commission wishes to provide authorization to sign checks to those individuals in the following positions to sign the Pinelands Commission’s checks:

- 1) Richard Prickett, Chairman;
- 2) Alan Avery, Vice Chair and Chair of the Personnel and Budget Committee;
- 3) Susan Grogan, Acting Executive Director and Director of Planning;
- 4) Charles Horner, Director of Regulatory Programs; and
- 5) Jessica Lynch, Business Manager

WHEREAS, two signatures are required for all checks written, including the signature of one of the two authorized Commission members and the signature of one of the three authorized Commission staff members; and

WHEREAS, this resolution supersedes any previous resolution of the Commission that authorized check signers by name or position title; 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 the Pinelands Commission hereby authorizes the following individuals to sign checks:

- 1) Richard Prickett, Chairman;
- 2) Alan Avery, Vice Chair and Chair of the Personnel and Budget Committee;
- 3) Susan Grogan, Acting Executive Director and Director of Planning;
- 4) Charles Horner, Director of Regulatory Programs; and
- 5) Jessica Lynch, Business Manager

Record of Commission Votes

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

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: _____

Susan R. Grogan
Acting Executive Director

Richard Prickett
Chairman



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Governor
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Lt. Governor

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

RICHARD PRICKETT
Chairman
SUSAN R. GROGAN
Acting Executive Director

MEMORANDUM

To: Members of the Pinelands Commission

From: Brad Lanute
Planning Specialist

Date: August 2, 2021

Subject: No Substantial Issue Findings

During the past two months (June and July 2021), the Planning Office reviewed nine ordinance amendments that were found to raise no substantial issues with respect to the standards of the Pinelands Comprehensive Management Plan (CMP). They included the following:

Egg Harbor Township Ordinance 25-2021 – amends Chapter 225 (Zoning) of the Township Code to allow existing residential homes in the Neighborhood Commercial (NB) District to be further improved in accordance with existing standards of Chapter 225 for non-conforming improved lots. The NB Zone is located within a Pinelands Regional Growth Area.

Manchester Township Ordinance 21-19 – amends Chapter 245 (Land Use and Development) of the Township Code to provide procedures and standards for temporary zoning permits for “on-demand storage structures” on both active construction sites and residential properties as well as for temporary charitable bins.

Monroe Township Ordinance O:09-2021 - amends Chapter 175 (Land Management) of the Township Code to revise the Regional Growth Commercial (RG-C) District regulations to provide that existing residential uses, for which a valid certificate of occupancy has been issued, be considered a conforming use and subject to the Schedule of Limitations for similar uses in the Regional Growth Planned Residential (RG-PR) District. Both the RG-C and the RG-PR districts are located within a Pinelands Regional Growth Area.

Monroe Township Ordinance O:10-2021 - amends Chapter 175 (Land Management) of the Township Code to revise accessory building and structure standards applicable Township-wide. It provides that the maximum combined square footage of accessory buildings shall not be larger than that of the principal building. It also provides setback requirements and maximum height requirements for storage sheds.

Monroe Township Ordinance O:11-2021 - amends Chapter 175 (Land Management) of the Township Code to supplement existing provisions related to inspections, grading waiver applications, and certain waivers for in-ground pools. It also permits the Township Engineer to waive coverage and setback requirements related to pools. Lastly, the definition of “Lot Coverage” is amended to exclude the water surface area of any swimming pool from counting toward lot coverage.

Mullica Township Ordinance 7-2021 – amends Chapter 144 (Land Development) of the Township Code to revise general regulations for accessory structures in all zoning districts. The ordinance provides maximum square footage limitations on accessory structures based on parcel acreage. It also expressly restricts sanitary facilities in any accessory structure.

Ocean Township Ordinance 2021-3 - amends Chapter 322 (Stormwater Control) of the Township Code to revise stormwater control provisions applicable to the portion of the Township outside of the state-designated Pinelands Area but within the Pinelands National Reserve (PNR). In 2007, the Pinelands Commission certified the Township’s land development regulations and zoning plan for the PNR portion of the Township.

Ocean Township Ordinance 2021-4 –amends Chapter 410 (Zoning) of the Township Code to establish Section 410-43.3, Temporary Outdoor Dining Area. This new section contains procedures and standards for the permitting of temporary outdoor dining areas. The provisions limit temporary outdoor dining areas to existing retail food establishments and restaurant facilities located within the C-1, C-2, WD, TC, and TC-MXD districts. These districts are all located outside of the state-designated Pinelands Area but within the PNR portion of the Township. In 2007, the Pinelands Commission certified the Township’s land development regulations and zoning plan for the PNR portion of the Township.

Weymouth Township Ordinance 579-2021 – amends Chapter 155 (Land Use) of the Township Code to amend application procedures for the development of a single-family dwelling. These amendments repeal the Township’s alternative permitting program that was certified pursuant to N.J.A.C. 7:50-3.83. Repeal of these provisions effectively revert the Township to the pre-existing application procedures that require applicants for the development of a single-family dwelling to first apply to the Pinelands Commission and receive a certificate of filing prior to obtaining any other necessary permits from the Township.

Disclaimer

These minutes reflect the actions taken by the Commission during its August 13, 2021 meeting. Although these minutes have been approved by the Commission, no action authorized by the Commission during this meeting, as reflected in these minutes, shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of these minutes has been delivered to the Governor for review, unless prior to expiration of the review period the governor approves same, in which case the action shall become effective upon such approval. These minutes were delivered to the Governor on August 23, 2021

PINELANDS COMMISSION MEETING

MINUTES
August 13, 2021

The August 13, 2021 Pinelands Commission meeting was conducted remotely. All participants were present via Zoom conference and the meeting was livestreamed through YouTube: <https://www.youtube.com/watch?v=-dkmg2nbNnc>

Commissioners Participating in the Meeting

Alan W. Avery Jr., Daniel Christy, Shannon Higginbotham, Jordan P. Howell, Jerome H. Irick, Jane Jannarone, Ed Lloyd, Mark Lohbauer, William Pikolycky, Gary Quinn, D'Arcy Rohan Green and Chairman Richard Prickett. Also participating were Acting Executive Director Susan R. Grogan and Deputy Attorney General (DAG) Kristina Miles and Governor's Authorities Unit representative Rudy Rodas.

Commissioners Absent

Jane Jannarone

Call to Order

Chairman Prickett called the meeting to order at 9:33 a.m.

DAG Miles read the Open Public Meetings Act Statement (OPMA).

Acting Executive Director Grogan called the roll and announced the presence of a quorum.

The Commission pledged allegiance to the Flag.

PC2-48

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Remembering the Former Executive Director

passed away on June 24, 2021. He then read a resolution recognizing her accomplishments during her tenure as Executive Director of the Pinelands Commission.

Commissioner Avery moved the resolution Honoring and Recognizing Nancy Wittenberg for Her Achievements as the Executive Director of the New Jersey Pinelands Commission (See Resolution # PC4-21-18). Commissioner Lohbauer seconded the motion.

The Commission adopted the resolution by a vote of 11 to 0.

A number of Commissioners expressed their admiration of Ms. Wittenberg's dedication at the Commission over the last decade, which included expansion of the public education programs and construction of the interpretive center. Ms. Wittenberg spent much of her career in the public sector. Commissioners also expressed deep condolences to Ms. Wittenberg's family.

Chairman Prickett said Ms. Wittenberg will be remembered for her tenacity, her ability to assist applicants and for her intelligence.

Minutes

Chairman Prickett presented the minutes from the Commission's June 11, 2021 meeting. Commissioner Pikolycky moved the adoption of the minutes. Commissioner Higginbotham seconded the motion.

The minutes from the June 11, 2021 Commission meeting were adopted by a vote of 11 to 0.

Election of Vice Chairman

Chairman Prickett said Commissioner Alan Avery has been nominated for Vice Chairman. There were no other nominations for Vice Chairman.

Commissioner Lohbauer moved the nomination of Alan Avery as Vice Chairman. Commissioner Pikolycky seconded the motion. All were in favor.

Vice Chairman Avery thanked Commissioners for their continued support.

Committee Reports

Chairman Prickett provided an update of the July 30, 2021 Policy & Implementation Committee meeting:

The Committee adopted the minutes of its May 28, 2021 meeting.

The Committee reviewed a final draft of the comments to be submitted to the Legislature on several forest stewardship bills.

The Committee discussed the goals drafted by staff for the Greenwood Forest Stewardship Plan.

The Committee received an update on the Commission's Electric Transmission Right-of-Way Maintenance Pilot Program.

The Committee received a presentation from the New Jersey Department of Environmental Protection (NJDEP) on the Department's draft rules related to Horizontal Directional Drilling (HDD). The Committee then continued its discussion of the CMP's utility distribution line application exemptions.

Commissioner Lohbauer provided an update of the July 14, 2021 Climate Committee meeting.

The Committee adopted the minutes of its May 19, 2021 meeting.

The Committee was joined by the New Jersey Forest Service, which delivered a presentation on Forest Carbon & Climate Information.

He noted the Committee will not meet in August. He said staff is working on an analysis of the energy consumption at the Commission's office in an effort to reduce its carbon footprint.

Chairman Prickett read an excerpt from the 1979 Pinelands Protection Act (13:18A-5. (g)) regarding the Commission's responsibility to appoint an Executive Director. He said he would like the Personnel & Budget Committee to make a recommendation on how to search for an Executive Director using a fair and transparent process to identify a qualified individual to lead the Commission. He added that today he is asking all Commissioners for feedback about the process.

Commissioner Lohbauer said he would be recusing from the discussion because he is interested in applying for the Executive Director position. (Commissioner Lohbauer was moved to a waiting room in Zoom.)

Commissioner Avery said to date there have been four Executive Directors, and all have been appointed by the Commission. He said two extensive searches have occurred in the past for the replacement of Executive Directors. He noted that he chaired one of the search committees. He said that in his August 9, 2021 memo to Commissioners, he outlined the various processes used in the past, including the previous job description and recruitment schedule. He suggested that Commissioner Lloyd be a member of the Committee rather than an alternate based on Commissioner Lohbauer's recusal. He said the Commission has a responsibility by statute to hire and appoint an Executive Director. He said the process will be fair, open and transparent.

Commissioner Lloyd said he thinks the Commission should move forward with forming a search committee. He noted that with the help of Commissioner Irick, he suggested some

changes to the job description to ensure that the best candidate is reached. He said he would like to see the job advertised and distributed extensively.

Commissioner Lloyd made an oral motion that the Commission form and appoint a search committee as outlined in Commissioner Avery's August 9, 2021 memo and to move forward with advertising the job posting for Executive Director, including any other duties the Committee needs to perform to ensure a transparent and far-reaching search. Commissioner Higginbotham seconded the motion.

Stacey Roth, the Commission's Chief of Legal and Legislative Affairs, confirmed for the Chairman that the Commission has the authority to make oral motions.

Rudy Rodas from the Governor Authorities Unit said his office would like to have some input in the search process for an Executive Director and he added that his office had not seen the memo from Commissioner Avery.

Chairman Prickett apologized for not sharing the memo and said the Governor's office will be kept apprised of the search committee's work.

Commissioner Lloyd said he amends his oral motion to include providing information related to the search committee to the Governor's Authorities Unit. Commissioner Higginbotham agreed with the amendment to the motion.

Commissioner Pikolycky suggested that someone from the Governor's office be part of the search committee or someone from the NJDEP.

Commissioner Rohan Green said the Commission needs to maintain its independence during this process.

Commissioner Pikolycky agreed.

Commissioner Lloyd said no one from the Governor's office should serve on the search committee. He said it's the Commission's responsibility to appoint an Executive Director. He said per Commissioner Avery's memo, Terry Moore should be invited to serve on the search committee as a public member.

Mr. Rodas said he would like to see the discussion put on hold until the next Commission meeting. He noted the item is not listed on the agenda.

Chairman Prickett said the Governor's Authorities Unit was made aware that the Personnel & Budget Committee Chair was going to take the lead on the search committee efforts.

Commissioner Avery said the memo that was shared with Commissioners was a summation of how the Commission conducted the past searches for an Executive Director. The memo also recommended inviting former Executive Director Terry Moore to join as a public member of the committee. He added that he agrees with Commissioner Lloyd in moving forward with making a decision on the formation of the search committee today.

Commissioner Howell, Commissioner Quinn, Commissioner Rohan Green, Commissioner Higginbotham, Commissioner Christy and Commissioner Irick all agreed that it was imperative to move forward with the search for a new Executive Director.

The oral motion passed by a vote of nine affirmative votes, one recusal (Commissioner Lohbauer) and one abstention (Commissioner Pikolycky).

[Secretary's Note: The Governor vetoed the above motion on September 3, 2021.]

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Commissioner Avery said the Personnel & Budget Committee meeting originally scheduled for July was rescheduled to August 24th. He said the Fiscal Year 2019 and Fiscal Year 2020 Audits continue to progress.

Acting Executive Director's Report

Acting ED Grogan provided information on the following:

- The Governor's office notified the Commission that it has approved the Commission's request to hire new staff to fill vacant positions. The Governor's office also approved two pending promotions and salary adjustments dating back to July of 2020.
- A revised Request for Proposal (RFP) has been posted to the Commission's website for painting Fenwick Manor. Bids are due by September 8th. The Commission will award the contract by resolution.
- Staff will return to the office full time on September 7th. Public meetings and hearings must remain virtual until further guidance is issued by the Governor's office.
- Around the time Nancy Wittenberg began at the Commission, she was involved in moving the administrative functions of the Pinelands Development Credit Bank from the Department of Banking & Insurance to the Commission. It was not an easy task, but she was successful in making it happen. The Bank remains active and busy, and the price of Pinelands Development Credits (PDCs) continues to increase. A representative from the City of Nashville requested a meeting to discuss the PDC Bank program in the City's effort to explore Transfer of Development Rights (TDR) to better direct development to save a historic portion of Nashville.

Chairman Prickett noted that the Bank board has not held a meeting for quite a while.

Acting ED Grogan said it would be a challenge for the Bank board to hold a meeting because there are several vacancies and no Chairman has been designated.

Commissioner Howell said in his role as university researcher he is working on a peer-reviewed paper on the PDC program that should be completed later this year. He said he met with Acting ED Grogan and Brad Lanute and they provided important data. He added that the paper will be available publicly once it is completed.

Chuck Horner, Director of Regulatory Programs, provided information on the following regulatory matters:

- Staff are reviewing two landfill capping applications located in Pemberton Township and Woodbine Borough. Both applications propose to install solar facilities once the landfills are appropriately capped.
- A pre-application meeting was held on August 3, 2021 to discuss a proposal for approximately 11 miles of underground electric transmission cable located in Egg Harbor Township for off-shore wind turbines.
- A Certificate of Filing was issued for a 215,000 square foot cannabis cultivation warehouse in Winslow Township.

Chairman Prickett said he would like to have a discussion about electric transmission lines as they relate to off-shore wind at an upcoming P&I Committee.

Ms. Roth said the Governor recently signed a statute regarding off-shore wind and connection to the grid, which removes permitting authority from municipalities and gives it to the Board of Public Utilities (BPU). She suggested inviting someone from the BPU to participate in the discussion.

Commissioner Lohbauer asked if the underground electric transmission line application is proposing Horizontal Directional Drilling (HDD).

Director Horner said the applicant noted that they would be doing open trenching to install the electric lines. He cautioned that this was only a pre-application meeting and more details would be available later.

Ms. Roth said in April the Governor signed the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, which established the Cannabis Regulatory Commission (CRC). The CRC is requiring municipalities to opt in or out of permitting/siting recreational cannabis facilities within their communities by August 21, 2021. If a municipality misses the deadline, there is a default provision that automatically permits the siting of the facilities for five years. It is tough for municipalities to make these decisions when the CRC has yet to promulgate regulations. She said the Act establishes six classes of licenses: Cultivation License, Manufacturer License, Wholesaler License, Distributor License, Retailer License and Carrier License.

She said it is still unclear if growing cannabis is considered an agricultural use. She said there are many questions that remain unanswered due to the potential regulations, land use questions and the deadline for towns to adopt ordinances. She added that the Commission is limited to what is permitted in the Comprehensive Management Plan (CMP) but amendments to the CMP may be necessary to address the environmental impacts of cannabis-growing operations.

Acting ED Grogan suggested the Commission wait on discussing the matter until the CRC issues its proposed regulations. She said she hopes those rules will define what constitutes agriculture. She said many Pinelands municipalities are adopting ordinances due to the deadline, but the Commission's approval of the ordinances should wait until the CRC issues its regulations.

Commissioner Lloyd asked if Pinelands towns are aware of the deadline to adopt ordinances related to cannabis.

ED Grogan said yes, and the towns are actively adopting ordinances. She said about 35 of the 53 municipalities in the Pinelands have adopted a blanket prohibition against all classes of cannabis. Some towns are permitting certain facilities in specific zoning areas. There is a wide variety of approaches and, as of right now, there are only two municipalities that staff haven't heard from.

Paul Leakan, the Commission's Communications Officer, said the Commission recently organized and carried out two important education and outreach events. He said the fifth annual Pinelands Summer Short Course was held on July 15th, and it featured guided ecology walks, tours of historic buildings, a guided canoe trip and demonstrations of the Commission's ground penetrating radar equipment. He said the two locations, Whitesbog and Wells Mills County Park, were perfect venues and thanked the Commission's partners, Stockton University, the Whitesbog Preservation Trust and the Ocean County Department of Parks and Recreation.

He also noted that the Commission held its first-ever virtual Pinelands Orientation for Newly Elected Officials on July 27th. The event featured four presentations, which were recorded and are available for viewing on the Commission's YouTube Channel at any time. He sent the links to the presentations to nearly 1,500 recipients, and the combined video of the presentations has been viewed 165 times thus far.

Lastly, Mr. Leakan noted that the Commission is currently organizing the annual Pinelands-themed World Water Monitoring Challenge, which will be held at Batsto Lake on October 22nd.

Commissioner Howell signed off of the meeting at 11:00 a.m.

Public Development Projects and Other Permit Matters

Chairman Prickett presented a resolution recommending approval of a public development application for a potable water treatment infiltration system at a Motor Vehicle Center in Winslow Township.

Ms. Roth said staff created separate resolutions for each public development application.

Commissioner Lloyd made a motion Approving With Conditions Application for Public Development (Application Number 1985-0434.004)(See Resolution # PC4-21-19). Commissioner Lohbauer seconded the motion.

The Commission adopted the resolution by a vote of 9 to 0.

Chairman introduced the next resolution. He said the applicant is proposing to use herbicide to control invasive species in a particular portion of Bass River State Forest.

Commissioner Avery made a motion Approving With Conditions Application for Public Development (Application Number 1990-0868.033). Commissioner Pikolycky seconded the motion.

Director Horner took a moment to explain the CMP regulations regarding herbicides. He said the CMP clearly states that the use of herbicides is not permitted in public or utility Rights-of-Ways (ROW). He said if an applicant is proposing to use herbicide, staff would review the application to ensure that is consistent with the wetlands, water quality and endangered species standards of the CMP. He noted there are very few applications for herbicide use in the Pinelands. He noted there is one exception in the rules related to the use of herbicides. He said the forestry rules permit the use of herbicides if certain conditions can be met.

Director Horner said 16 acres of forest were cleared to improve the visibility of the Bass River Forest fire tower several years ago. He said today the New Jersey Forest Service is interested in applying herbicide to spot treat an invasive plant species that has colonized in the vicinity (see attached slide).

Director Horner reviewed the conditions that must be met in order to use herbicides in the Pinelands (see attached slide).

Commissioner Lohbauer said he didn't recall ever approving an application to use herbicides to control invasive species. He was interested in what type of herbicide the forest service is planning to use. He said Roundup and Milestone are very potent and he is concerned about the long-lasting effects of these herbicides. He added that ten years is a long time to be applying the herbicide.

Director Horner said Branwen Ellis, Environmental Specialist, will review the several herbicides that the Forest Service could use. He noted that the Forest Service has reserved the right to use any herbicide that is authorized for forestry use.

Ms. Ellis said the Forest Service plans to use glyphosate-based herbicides to control the invasive species so the native and plantation species can grow. They plan to use the herbicide on as-needed and limited basis once the trees are successfully growing.

Commissioner Lohbauer said he doesn't agree with the use of glyphosate-based products on public lands because of its toxicity. He asked if the Forest Service considered manually removing the Japanese stiltgrass.

Ms. Ellis said the Forest Service did consider manual removal but the risk of spreading the seeds of the stiltgrass was too high and not effective.

Commissioner Lloyd said he shares Commissioner Lohbauer's concerns. He said he would like to see the Commission determine which herbicides the Forest Service use. He said he has reservations about approving a 10-year herbicide plan, because science is evolving

every day and there may be a better way to control the invasive species. He said the Forest Service created this problem by cutting the trees and he asked if the application can be put on hold. Lastly, he said he would like to see the Forest Service demonstrate that it can meet the water quality standards of the plan.

Commissioner Higginbotham said from her experience with invasive species the need to act quickly is very important.

Commissioner Irick raised concerns about the effects of the herbicide on the honey bee population and also raised concerns about the 10-year application of herbicides at the site. He asked if staff examined the site after the tree clearing occurred.

Director Horner said staff have not been to the site since the clearing but have viewed photographs. He added that the 10-year provision was added to the report for two reasons: it's typical of a forestry application and public development application approvals do not expire. He said staff can ask the Forest Service if it is amenable to a one- or two-year approach. He noted that the goal of the Forest Service is to get the invasive species under control so the saplings have a chance to grow.

Chairman Prickett asked Director Horner if he thought the Forest Service would accept waiting one month to act of the application.

Director Horner said Ms. Ellis has been in touch with the Forest Service and they have given consent to waiting to act on the application if necessary.

Commissioner Rohan Green suggested a site visit to Bass River State Forest.

Director Horner said if there is an interest to visit the site, it can be arranged. He added that the forest is public land.

DAG Miles cautioned the Commissioners not to conduct their own research on the application as there is already a record.

Ms. Roth suggested that the original motion for the application be withdrawn.

Commissioner Pikolycky made a motion to withdraw his motion for Application Number 1990-0868.033.

Commissioner Lloyd made a motion to table Application Number 1990-0868.033 to the September Commission meeting. Commissioner Lohbauer seconded the motion. The motion carried by a vote of 10 to 0.

Chairman Prickett suggested that the P&I Committee look further into the use of herbicides in the Pinelands.

Commissioner Avery said he would not make it the highest priority.

Commissioner Quinn left the meeting at 11:45 a.m.

Other Resolutions

Chairman Prickett presented a resolution to permit certain Commissioners and staff members the ability to sign Commission issued checks.

Commissioner Avery made a motion Authorizing Certain Members of the Pinelands Commission and Staff to Sign Checks (See Resolution # PC4-21-19). Commissioner Lohbauer seconded the motion.

The Commission adopted the resolution by a vote of 9 to 0.

Commissioner Christy left the meeting at 11:47 a.m.

Ordinances Not Requiring Commission Action

Chairman Prickett read the list of ordinances not requiring Commission action.

- Egg Harbor Township Ordinance 25-2021
- Manchester Township Ordinance 21-19
- Monroe Township Ordinances O:09-2021, O:10-2021 & O:11-2021
- Mullica Township Ordinance 7-2021
- Ocean Township Ordinances 2021-3 & 2021-4
- Weymouth Township Ordinance 579-2021

No questions were raised.

Public Comment on Public Development Applications and Items where the record is open

Chairman Prickett read the list of Public Development Applications.

Bill Zipse of the New Jersey Forest Service said he is both a forester and a licensed pesticide applicator. He said Branwen Ellis of the Commission's staff did a good job of representing the application. He said the Forest Service does not plan to spray for 10 years. He said the plan is to deploy limited amounts of herbicide and wait to see the reaction. He said there was a similar application in Greenbank in Wharton State Forest in 2014. He offered condolences on the passing of Nancy Wittenberg.

Ms. Ellis provided the application number for the Greenbank plantation application (1992-0102.006). (Note: The public development report was subsequently provided to all Commissioners.)

Jason Howell of the Pinelands Preservation Alliance provided comment on Application No. 2007-0318.001 (Oswego Road Firebreak). He said by widening this road, which is a substantial change from the current size, it will enable vehicles to drive faster, including off-road vehicles (ORVs).

General Public Comment

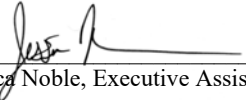
Rhyan Grech of the Pinelands Preservation Alliance (PPA) expressed condolences on the passing of Nancy Wittenberg. She commended the Public Programs staff on the Summer Short Course and the Pinelands Orientation. She said the recent IPCC climate report directly linked human activity to climate change. She encouraged the Commission to enact protections to address climate change. She also expressed support for the search committee. She raised concerns about the recent legislation that allows wind infrastructure projects to bypass municipal approval.

Jason Howell of the Pinelands Preservation Alliance (PPA) said the spreading of asphalt milling in the Pinelands is becoming a problem. The NJDEP Commissioner is undertaking a new stakeholder process for a map at Wharton State Forest. He said it is important to define what recreational uses are permitted, as opposed to focusing only on what is prohibited.

Adjournment

Commissioner Lohbauer moved to adjourn the meeting. Commissioner Avery seconded the motion. The Commission agreed to adjourn at 12:15 p.m.

Certified as true and correct:



Jessica Noble, Executive Assistant

Date: August 23, 2021