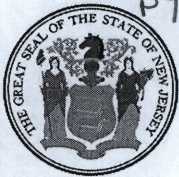


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State of New Jersey
THE PINELANDS COMMISSION
PO Box 359
NEW LISBON, NJ 08064
(609) 894-7300
www.nj.gov/pinelands



Chris Christie
Governor

Kim Guadagno
Lt. Governor

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

Mark S. Lohbauer
Chairman

Nancy Wittenberg
Executive Director

March 26, 2015

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



Dear Mr. Lupp:

Enclosed are the Pinelands Commission meeting minutes for February 13, 2015 for your information.

Sincerely,

Melody A. Wood,
Receptionist

PC1
Enclosure: Minutes

PC2-7

PINELANDS COMMISSION MEETING
Richard J. Sullivan Center
Terrence D. Moore Conference Room
15 Springfield Road
New Lisbon, New Jersey
Friday, January 30, 2015 – 9:30 a.m.

MINUTES

**PINELANDS COMMISSION SPECIAL MEETING
Conducted in conjunction with the
CMP Policy and Implementation Committee Meeting**

MEMBERS IN ATTENDANCE: Chairman Mark Lohbauer, Candace Ashmun (via telephone), Sean Earlen, Paul E. Galletta, Robert Jackson, Ed Lloyd, Richard Prickett and Ed McGlinchey (2nd Alternate)

OTHER COMMISSIONER PRESENT: Alan W. Avery, Jr.

STAFF PRESENT: Executive Director Nancy Wittenberg, Stacey Roth, Larry Liggett, Susan R. Grogan, Paul Leakan, Betsy Piner and DAG Kristen Heinzerling.

During the course of the Policy and Implementation Committee, DAG Heinzerling announced that a closed session was needed following which, it was possible that formal action would be taken. There were nine Commission members present, representing a quorum of the Commission, thus formal action was taken by the Commission.

The Policy and Implementation Committee continued its meeting in open session at 11:10 a.m.

Noting that this issue had not been on the agenda, Ms. Heinzerling read a resolution into the record regarding the maintenance of confidentiality by Commissioners in reviewing un-redacted documents. The text of that resolution (PC4-15-02) follows:

PC2-8

WHEREAS, in the course of working toward settlement of pending OPRA litigation Pinelands Preservation Alliance v. Pinelands Commission (BUR-L-1744-14), certain Pinelands Commission documents were produced in full and certain Pinelands Commission documents were produced in redacted form or withheld due to the confidential and privileged nature of these documents;

WHEREAS, individual board members have asked to review the documents that were redacted and/or withheld due to the confidential and privileged nature of the documents; and

WHEREAS, the documents were redacted and/or withheld under OPRA and in the ensuing litigation because certain privileges, including attorney-client privilege and deliberative process, attach to the documents; and

WHEREAS, in addition to Pinelands Preservation Alliance v. Pinelands Commission (BUR-L-1744-14), the Pinelands Commission is also defending other litigation, to which the documents pertain, related to its January 10, 2014 vote on the proposed Memorandum of Agreement between the Pinelands Commission and the Board of Public Utilities, In the Matter of the Resolution Authorizing the Executive Director to Enter Into a Memorandum of Agreement With The Board of Public Utilities Regarding Construction of Approximately 15 Miles of 22-Mile, 24-Inch Natural Pipeline in the State Designated Pinelands Area (A-003035-13); and

WHEREAS, due to the pending litigation, there is a need to ensure there is no inadvertent waiver of confidentiality or any privileges associated with the documents.

***NOW, THEREFORE BE IT RESOLVED** that Pinelands Commission acknowledges that the subject documents are privileged and confidential;*

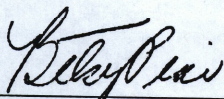
***BE IT FURTHER RESOLVED** that the Commission does not intend to waive any privileges attached to the subject documents and is specifically not waiving any privileges that attach to these documents when an individual board member reviews them; and*

***BE IT FURTHER RESOLVED** individual board members remain under a duty to keep the documents and information contained in the subject documents confidential pursuant to N.J.S.A. 52:13D-25.*

Commissioner Lloyd moved the adoption of the resolution. Commissioner Jackson seconded the motion and all Commissioners present voted in the affirmative with the exception of Commissioner Earlen, who voted No.

The meeting adjourned at 11:16 a.m. (moved by Commissioner Earlen and seconded by Commissioner Jackson).

Certified as true and correct:



Betsy Pifer,
Principal Planning Assistant

Date: February 18, 2015

NOW, THEREFORE BE IT RESOLVED that Pinelands Commission acknowledges that the subject documents are privileged and confidential;

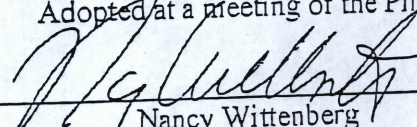
BE IT FURTHER RESOLVED that the Commission does not intend to waive any privileges attached to the subject documents and is specifically not waiving any privileges that attach to these documents when an individual board member reviews them; and

BE IT FURTHER RESOLVED individual board members remain under a duty to keep the documents and information contained in the subject documents confidential pursuant to N.J.S.A. 52:13D-25.

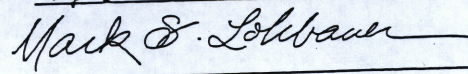
Record of Commission Votes

	AYE	NAY	NP	ABS		AYE	NAY	NP	ABS		AYE	NAY	NP	ABS
Ashmun	X				Galletta	X				Prickett	X			
Avery	X				Jackson	X				Quinn			X	
Brown			X		Jannarone			X		Rohan Green			X	
DiBello			X		Lloyd	X				Witt			X	
Earlen		X			McGlinchey	X				Lohbauer	X			

Adopted at a meeting of the Pinelands Commission


 Nancy Wittenberg
 Executive Director

Date: 1/30/15


 Mark S. Lohbauer
 Chairman

PINELANDS COMMISSION MEETING¹

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

MINUTES

February 13, 2015

Commissioners Present

Candace Ashmun, Alan W. Avery Jr., Bill Brown, Joe DiBello, Sean Earlen, Ed Lloyd, Paul E. Galletta, Richard Prickett, Robert Jackson, Jane Jannarone, Ed McGlinchey, Gary Quinn, D'Arcy Rohan Green and Chairman Mark Lohbauer. Also present were Executive Director Nancy Wittenberg, Governor's Authorities Unit Liaison Amy Herbold and Deputy Attorney General Kristen Heinzerling.

Commissioners Absent

Fran Witt

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

DAG Heinzerling read the Open Public Meetings Act Statement.

Ms. Wittenberg called the roll and announced the presence of a quorum. (There were 14 Commissioners present.)

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

Minutes

Chairman Lohbauer presented the minutes from the January 16, 2015 Commission meeting. Commissioner Ashmun moved the adoption of the minutes. Commissioner Rohan Green seconded the motion.

The minutes of the January 16, 2015 Commission meeting were adopted by a vote of 14 to 0.

Committee Chairs' ReportsPersonnel & Budget Committee

Vice Chairman Avery provided an update on the February 3, 2015 Personnel and Budget Committee meeting:

The Committee adopted the minutes from the December 2, 2014 meeting.

Nancy Wittenberg and Jessica Lynch reviewed the financial statements and the November and December Check Registers, electronic disbursements and application fees. There was a discussion concerning the potential purchase of a generator(s) to keep the Commission functioning in emergencies. Michelle Russell provided an update on employee actions. The Committee met in Closed Session.

Commissioner McGlinchey said that he was not able to attend the meeting and would have liked to be part of the generator discussion. He recommends purchasing a 20kW generator.

Policy & Implementation Committee

Chairman Lohbauer provided an update on the January 30, 2015 Policy and Implementation Committee meeting.

The Committee adopted the minutes of the October 31, 2014 meeting.

The Committee recommended Commission certification of Barnegat Township Ordinance #2014-23, adding mixed use development as a conditional use in the Neighborhood Commercial Zone within the Regional Growth Area.

The Committee discussed its interest in reviewing the procedure for considering Memoranda of Agreement (MOA).

Chairman Lohbauer said he suggested creating an Ad Hoc Committee to investigate if there was a need to amend the Comprehensive Management Plan (CMP) to address MOA's in a different manner. He encouraged Commissioners to contact him with any suggestions and hopes to make a decision about this at the next Policy & Implementation Committee meeting on February 27.

The Committee met in closed session to discuss litigation matters.

The Committee returned from closed session and functioned as the full Commission by adopting Resolution PC4-15-02 entitled *Confidentiality and Privilege of Certain Documents* with eight affirmative votes.

Chairman Lohbauer added that as a result of the resolution, Commissioners have the ability to review email between staff and other entities from the MOA between the Commission and Board of Public Utilities (BPU) regarding construction of a natural gas pipeline.

Commissioner Rohan Green said she is happy to see the MOA process be evaluated after the events during the BPU MOA.

Executive Director's Reports

Ms. Nancy Wittenberg updated the Commission on the following:

- Commissioners were advised that there are two sets of email correspondence pertaining to the Board of Public Utilities MOA that are available to view. She advised Commissioners to contact her if they would like to review them.
- Staff has engaged in discussions with the applicant and Hammonton regarding conditions and limitations on the soccer activities proposed for the Tuckahoe Turf Farm. These conditions would allow for the continuation of soccer events on a limited basis while the Commission develops a pilot program consistent with the CMP. Staff learned that the bill (S2125/A3257) was up for consideration on February 12, 2015. Ms. Wittenberg said the bill would expand the types of use qualifying as low intensity recreation on Pinelands Development Credit (PDC) deed restricted land in Pinelands Agricultural Production Areas. Staff prepared a letter for the Senate Economic Growth Committee (See attached). Ms. Wittenberg said she went to the hearing to provide testimony, and it went very well. She said the Committee chose to hold the bill and requested an update on the progress of the development of the pilot program in about 4 ½ months.
- She attended a joint meeting with Woodland Township officials and New Jersey Department of Environmental Protection (NJDEP) representatives regarding the Franklin Parker Preserve.
- The Pinelands Municipal Council met on February 11. They did not have a quorum. Robert Auermuller, Wharton Forest Superintendent delivered a presentation on the William Penn project.
- Staff has had preliminary discussions with New Jersey Natural Gas regarding a natural gas pipeline that is being proposed on land that traverses the Joint Base McGuire Dix Lakehurst (JBMDL). She said the Commission has not received a formal application.

Commissioner Ashmun said JBMDL is required to apply to the Commission for all proposed development.

Mr. Chuck Horner provided an update on the following:

- The Commission received a request for an Amended Certificate of Filing for the Tuckahoe Turf soccer application to include lands in Winslow and Waterford townships. The Commission received a site plan approval for the soccer activities issued by the Town of Hammonton. That approval is currently under review. The Commission has 15 days to either request more information, send a letter of no further review or issue a letter for a Commission staff public hearing.

Commissioner McGlinchey asked if, as part of the development of the pilot program, a municipality would be able to choose whether they can participate in the program.

Ms. Grogan said the Commission would need to decide if participation in the pilot program would be mandatory.

Commissioner McGlinchey said he thinks towns should have the option of participation. He said this is why the Commission needs to re-establish the Agriculture Committee.

- Mr. Horner said at last month's Commission meeting an article was discussed about Southampton Township in which municipal officials insinuated that Commission staff had concluded that the municipal complex could not be expanded. He said that he spoke with the Mayor and Administrator of Southampton Township. He said they both conveyed that it was not their intent to suggest that they purchased property based on Commission staff's assessment. The Township will be working with the planning office on rezoning the parcel that houses the municipal public works facility in order to allow its expansion.
- The Commission received an application for a commercial use on the Cape May County Municipal Utilities Authority (CMCMUA) landfill property. In 2009, the Commission approved a landfill expansion on the site. As part of that public development approval, CMCMUA had to address the presence of Red-headed Woodpecker. CMCMUA was required to submit a conservation plan, while specific areas were to be deed restricted and other areas were to remain wooded. A discrepancy remains over the deed-restricted lands and the conditions of the public development approval.

Commissioner Ashmun requested a map of the CMCMUA property.

Chairman Lohbauer asked what type of development is being proposed.

Mr. Horner said they are proposing a natural gas fueling station.

Commissioner Avery asked if this was a public and private development application.

Mr. Horner said that has yet to be determined.

- Staff will meet with Jackson Township officials on February 25 to review the Commission's application process and municipal permitting procedures.

Ms. Stacey Roth provided the Commission with an update on the status of the New Jersey Turnpike Authority's (NJTA) efforts to address the secondary impacts associated with the widening of the Garden State Parkway between mileposts 30-80 (see presentation slide). Ms. Roth reminded that Commissioners that as part of its review of the Memorandum of Agreement for the widening project, the Commission had retained the Delaware Valley Regional Planning Commission (DVRPC) to conduct secondary impacts analysis for the project. DVRPC's analysis identified the potential for secondary impacts to occur at Interchanges 58 & 69. In order to provide a mechanism to address these potential secondary impacts, the NJTA and the Commission had entered into a Secondary Impacts Agreement. As part of that agreement the NJTA agreed to obviate secondary impacts in the vicinity of Interchanges 58 & 69 by memorializing the existing zoning on conforming lots located up to 1 ½ miles from the Interchange on major feeder roads. The Secondary Impacts Agreement obligated the NJTA to undertake efforts to memorial the zoning for 5 years from the date of execution of the MOA by all parties and provided for a one year extension. The NJTA obtained an extension before January 4, 2014. That extension expired on January 5, 2015. As of January 5, 2015, the Commission has four years to complete memorializing zoning on the remaining conforming lots.

Ms. Roth advised that NJTA has been very successful in its efforts to obviate potential secondary impacts. Additionally, she reported that on December 30, 2014, NJTA acquired the George Cluen, LLC property. As a result of that acquisition approximately 1,475 acres in the vicinity of Interchange 69 have been addressed. She noted that there is not much land left to be acquired.

Ms. Roth asked for an oral motion to approve a two-year extension of the agreement so NJTA can complete any pending acquisitions. She also asked that the agreement be amended to allow staff to approve two additional extensions, if necessary.

An oral motion was moved by Commissioner Lloyd. The motion was seconded by Commissioner Earlen.

Commissioner Lloyd said because the Commission no longer has an acquisition consultant and the NJTA has done a good job of acquiring lands, the extension makes sense.

Commissioner McGlinchey said he would feel more comfortable only allowing for one 1-year extension after the two years have expired.

The original motion was amended after discussion amongst the Commissioners. The amended motion authorized staff to negotiate with the NJTA to amend the Secondary Impacts Agreement to provide NJTA with 2 more years to fulfill the Agreement's obligations and memorialize zoning with the possibility of two- one year extensions should the NJTA demonstrate to the staff that completion of a task(s) required pursuant to the

PC2-14

Agreement is imminent and that the task(s) will be completed within the extended time period. Staff was also directed to discuss with NJTA the possibility that the Commission retains any money left over in the escrow account to complete any tasks remaining at the end of the ten year agreement period, i.e. January 5, 2019.

All the Commissioners voted in favor of the amended motion. Commissioner McGlinchey was not present for the vote.

Public Development Projects and Other Permit Matters

Chairman Lohbauer said there is one public development application that is being recommended for approval today. He said Egg Harbor City is proposing to build a fishing pier at an existing municipal park.

Commissioner Galletta moved the adoption of a resolution Approving With Conditions an Application for Public Development (Application Number 1994-0336.004)(See Resolution # PC4-15-03). Commissioner Earlen seconded the motion.

The Commission adopted the resolution by a vote of 13 to 0 (Commissioner McGlinchey was not present at the time of the vote). All voted in favor.

Chairman Lohbauer presented the next resolution approving waivers for the development of two single family dwellings.

Commissioner Galletta said although he does not know the applicant of the Hammonton application, he is recusing himself because he believes the property in question abuts his parcel of land in Hamilton Township. Commissioner Galletta stood and left the dais to sit in the audience.

Commissioner Lloyd moved the adoption of a resolution Approving With Conditions Applications for Waivers of Strict Compliance (Application Numbers 1995-1379.001 & 2005-0257.001)(See Resolution # PC4-15-04). Commissioner Brown seconded the motion.

The Commission adopted the resolution by a vote of 13 to 0. All voted in favor with Commissioner Galletta not participating in the vote.

Resolutions Relating to Municipal Ordinances

Commissioner Ashmun moved the adoption of a Resolution Issuing an Order to Certify Ordinance 2014-23, Amending Chapter 55 (Land Use) of the Code of Barnegat Township (See Resolution # PC4-15-05). Commissioner Earlen seconded the motion.

The Commission adopted the resolution by a vote of 14 to 0.

Public Comment on Agenda Items and Pending Public Development Applications

Bill Wolfe said the New Jersey Natural Gas pipeline the Executive Director mentioned in her report is causing an enormous public dispute. He said there are many components of the project and if pre-application meetings are being held, the public needs to know. Mr. Wolfe asked if the recusal process had been altered because a Commissioner did not exit the room.

Chairman Lohbauer said that Commissioner Galletta has gone on the record that when he is recusing himself from voting on an application, he will not leave the room.

Mr. Wolfe said he does not agree with that.

Ordinances Not Requiring Commission Action

Chairman Lohbauer asked if any Commissioners had questions regarding the ordinances not requiring Commission action:

- Barnegat Township Ordinance 2014-35
- Egg Harbor Township Ordinance 29-2014

No members of the Commission had questions.

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

Chairman Lohbauer asked members of the public who plan to speak today to refrain from making ad hominem attacks on staff. He said Commissioners appreciate public comment on substantive issues.

Bill Wolfe urged Commissioners as part of their review of the MOA process to strengthen the "equivalent protection" language. He said the current standards allow for too much discretion. He also recommended adopting technical standards. He said this would promote transparency. He recommended defining "public agency" and "public purpose". He suggested imposing an administrative moratorium on any MOAs while the rules are pending revision. He questioned at what point in time did the application for the pipeline become an MOA. He also said the only role the Governor has at the Commission is the ability to veto the Commission's minutes.

Cidnie Richards commended Chairman Lohbauer for his work on the P&I Committee and the possible Ad Hoc Committee. She asked for the status of the South Jersey Gas pipeline application.

Ms. Wittenberg said the Commission does not have an application.

Fred Akers of the Great Egg Harbor Watershed Association provided comments on the need for reviewing the MOA process (See attached comments).

Marianne Clemente said she saw on the agenda the change in the limit from five minutes to three minutes for public comment. She said this was an attempt to stifle the public. She

said the Commission needs to hear what the public has to say. (Note: There was no such item on the agenda.)

Tony DiLodovico said the New Jersey Builders Association is finalizing a stormwater infiltration basin report in conjunction with NJDEP. He said he met with Commission staff a number of months ago to discuss basins in the Pinelands. He said Commission staff was very helpful and professional to work with. He said he would be happy to present the material in the report to the Commission or staff upon completion. He said after listening to the discussion at today's meeting that he would like to volunteer his time to be involved in the review of the MOA process. He described some of his professional experience that relates to MOAs. He also said that he serves as Vice Chairman of the Ocean County Soil Conservation District, on that body he encourages the public to speak but does not believe anyone should be disruptive or make personal attacks on staff.

Arnold Fishman said he was confused by the response provided to Cidnie Richards about the South Jersey Gas application. He said the application is not over because the matter is currently before the Appellate Division. He added the matter will not be over until the Appellate Division makes a determination. He said he was happy to volunteer his time as a member of the public if the Ad Hoc Committee for the review of the MOA process ever comes to fruition.

Chairman Lohbauer said Mr. Fishman was correct but he believes staff's response to Ms. Richards was fair.

Bill Wolfe briefed the Commission on his recent complaint to the Joint Legislative Committee on Ethical Standards.

Commissioner Rohan Green asked DAG Heinzerling to explain the resolution from the last Policy & Implementation Committee meeting. She asked what it means for Commissioners.

DAG Heinzerling said the resolution states that the Commission is recognizing its statutory obligation to keep certain confidential documents confidential. She said the resolution also affirms that the Commission is not waiving its privileges.

Commissioner Earlen asked Ms. Wittenberg if she has received anything new from South Jersey Gas.

Ms. Wittenberg said no.

Commissioner Lloyd said his understanding of the resolution was to allow Commissioners to view the unredacted emails, while at the same time maintaining the Commission's position in Court.

Commissioner McGlinchey asked Chairman Lohbauer if it was an appropriate time to make a motion to create an Agricultural Committee.

PC2-17

Chairman Lohbauer recommended waiting until the next Policy & Implementation Committee meeting to further discuss an Agricultural Committee.

Closed Session Resolution

DAG Heinzerling read a resolution to retire into closed session to discuss pending litigation and collective bargaining.

Commissioner Jackson moved to retire into closed session. Commissioner Ashmun seconded the motion. The Commission agreed to retire into closed session by a vote of 14 to 0, beginning at 11:01 a.m.

Return to Open Session

Commissioner Jackson made a motion to return to open session. Commissioner Prickett seconded the motion. The meeting resumed at 11:58 a.m. Commissioner Brown left the meeting.

DAG Heinzerling said pending litigation and collective bargaining were discussed in closed session.

Commissioner Avery made a motion to Authorize the Attorney General's office to settle the matter involving the Pinelands Preservation Alliance. The motion was seconded by Commissioner Jackson. The motion passed by a vote of 12 to 1, with Commissioner Earlen voting no.

Commissioner Earlen left the meeting.

Adjournment

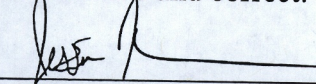
Commissioner Prickett asked Mr. Paul Leakan for an update on the Pinelands Short Course.

Mr. Leakan said so far 300 people have signed up and there is push to get families to sign up for the new family friendly track of courses.

Chairman Lohbauer asked his fellow Commissioners to reach out to him if they hadn't already about their thoughts on the MOA Committee.

Commissioner Galletta moved to adjourn the meeting. Commissioner Jackson seconded the motion. The Commission agreed to adjourn at 12:06 p.m.

Certified as true and correct:



Jessica Noble, Executive Assistant

Date: February 25, 2015

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RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-15- 03

TITLE: Approving With Conditions an Application for Public Development (Application Number 1994-0336.004)

Commissioner Galletta moves and Commissioner Earlen seconds the motion that:

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

1994-0336.004

Applicant: Egg Harbor City
Municipality: Egg Harbor City
Management Area: Pinelands Town
 Pinelands Forest Area

Date of Report: February 2, 2015
Proposed Development: Construction of a 352 square foot public fishing pier at the Egg Harbor City Lake.

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

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

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

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

NOW, THEREFORE BE IT RESOLVED that Application Number 1994-0336.004 for public development is hereby **approved** subject to the conditions recommended by the Executive Director.

Record of Commission Votes

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

Adopted at a meeting of the Pinelands Commission

Date: Feb. 13, 2015

Nancy Wittenberg
 Nancy Wittenberg
 Executive Director

Mark S. Lohbauer
 Mark S. Lohbauer
 Chairman



State of New Jersey
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Chris Christie
Governor

Kim Guadagno
Lt. Governor

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

Mark S. Lohbauer
Chairman

Nancy Wittenberg
Executive Director

February 2, 2015

Lisa Jampetti, Mayor
Egg Harbor City
500 London Avenue
Egg Harbor, NJ 08215

Re: Application # 1994-0336.004
Block 954, Lot 1
City of Egg Harbor City

Dear Mayor Jampetti:

The Commission staff has completed its review of this application for the construction of a 352 square foot public fishing pier at the Egg Harbor City Lake. On January 26, 2015, we mailed a cover letter and a Public Development Application Report for this application. Enclosed, please find a revised copy of the Report, dated February 2, 2015, which corrects the Pinelands Management Area information. On behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its February 13, 2015 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, City of Egg Harbor City Planning Board (via email)
- City of Egg Harbor City Construction Code Official (via email)
- Atlantic County Department of Regional Planning and Development (via email)
- Timothy Michel, P.P.





Chris Christie
Governor

Kim Guadagno
Lt. Governor

State of New Jersey
THE PINELANDS COMMISSION
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NEW LISBON, NJ 08064
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Mark S. Lohbauer
Chairman

Nancy Wittenberg
Executive Director

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

PUBLIC DEVELOPMENT APPLICATION REPORT
(Corrected Copy – Page 1, para. 4 Pinelands Management Area)

February 2, 2015

Lisa Jampetti, Mayor
Egg Harbor City
500 London Avenue
Egg Harbor, NJ 08215

Application No.: 1994-0336.004

Location: Block 954, Lot 1
City of Egg Harbor City

This application proposes the construction of a 352 square foot public fishing pier on the above referenced 400 acre lot in the City of Egg Harbor City. The proposed pier is 30 feet in length. There is an existing municipal park, campground and the Egg Harbor City Lake located on the lot.

Soil stockpiles were placed within a 1.63 acre portion of an existing field on the above referenced lot without application to the Commission in violation of the application requirements of the City of Egg Harbor City land use ordinance and the Pinelands Comprehensive Management Plan (CMP). The applicant has indicated that the soil stockpiles were placed on the lot by a third party and that the City will address the violations by removing and lawfully disposing of the soil stockpiles by June 15, 2015. Thereafter, the City will allow the area to naturally revegetate.

STANDARDS

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

Land Use (N.J.A.C. 7:50-5.23(a)6)

The lot is located partially in a Pinelands Town Management Area (35.2 acres) and partially in a Pinelands Forest Area (364.8 acres). The proposed fishing pier will be located in the Pinelands Forest Area portion of the lot. The proposed fishing pier meets the CMP requirements to qualify as a low intensity recreational use and is, therefore, a permitted land use in a Pinelands Forest Management Area.

Wetlands Standards (N.J.A.C. 7:50-6.12)

The proposed fishing pier will be located within the open water of the Egg Harbor City Lake. The CMP defines a lake as a wetland. Public piers (water dependent recreational facilities) are authorized in

wetlands provided, among other conditions, there is a demonstrated need for the facility that cannot be met by existing facilities and the facility will not result in a significant adverse impact on wetlands. The applicant has demonstrated that the proposed development will meet all conditions of N.J.A.C. 7:50-6.12.

PUBLIC COMMENT

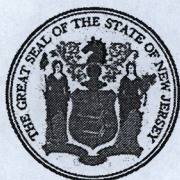
The CMP defines the proposed development as "minor" development. The CMP does not require public notice for minor public development applications. The application was designated as complete on the Commission's website on December 23, 2014. The Commission's public comment period closed on January 16, 2015. 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 Remington, Vernick and Walberg Engineers and dated December 3, 2014.
2. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.
3. Any proposed revegetation shall adhere to the "Vegetation" standards of the CMP. Where appropriate, the applicant is encouraged to utilize the following Pinelands native grasses for revegetation: Switch grass, Little bluestem and Broom-sedge.
4. Prior to any development, the applicant shall obtain any other necessary permits and approvals.
5. All of the soil stockpiles on the lot shall be removed and lawfully disposed of by June 15, 2015. Thereafter, the City shall allow the area to naturally revegetate.

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.



Chris Christie
Governor

Kim Guadagno
Lt. Governor

State of New Jersey

THE PINELANDS COMMISSION

PO Box 359

NEW LISBON, NJ 08064

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Mark S. Lohbauer
Chairman

Nancy Wittenberg
Executive Director

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

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 within eighteen days of the date of the Executive Director's determination and must 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. PC4-15- 04

TITLE: Approving With Conditions Applications for Waivers of Strict Compliance (Application Numbers 1995-1379.001 & 2005-0257.001)

Commissioner Lloyd moves and Commissioner Brown seconds the motion that:

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

App. No. 1995-1379.001 Applicant: Michael Kelly
Municipality: Hamilton Township
Management Area: Regional Growth
Proposed Development: Single family dwelling (Date of Report: January 26, 2015); and

App. No. 2005-0257.001 Applicant: Anthony Jacobs
Municipality: Town of Hammonton
Management Area: Pinelands Town
Proposed Development: Single family dwelling (Date of Report: January 26, 2015).

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

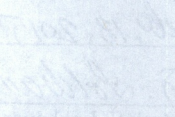
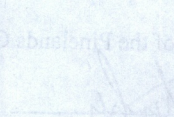
WHEREAS, the Pinelands Commission hereby adopts the Findings of Fact and Conclusion of the Executive Director for each of the requested Waivers of Strict Compliance; and

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

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

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

App. No. 1995-1379.001 Applicant: Michael Kelly
Municipality: Hamilton Township
Management Area: Regional Growth
Proposed Development: Single family dwelling (Date of Report: January 26, 2015); and

Mark S. Lombardi
 Chairman

App. No. 2005-0257.001 Applicant: Anthony Jacobs

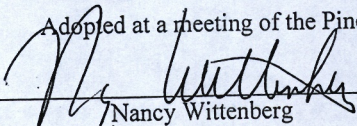
Municipality: Town of Hammonton
 Management Area: Pinelands Town
 Proposed Development: Single family dwelling (Date of Report: January 26, 2015).

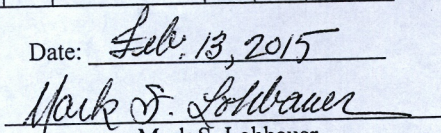
Record of Commission Votes

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

Adopted at a meeting of the Pinelands Commission

Date: Feb. 13, 2015


 Nancy Wittenberg
 Executive Director


 Mark S. Lohbauer
 Chairman



State of New Jersey
THE PINELANDS COMMISSION
PO Box 359
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Chris Christie
Governor
Kim Guadagno
Lt. Governor

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

Mark S. Lohbauer
Chairman
Nancy Wittenberg
Executive Director

REPORT ON AN APPLICATION FOR A WAIVER OF STRICT COMPLIANCE

January 26, 2015

Michael Kelly
Quality Modular Homes, LLC
1409 Route 50
Mays Landing, NJ 08330

Re: Application # 1995-1379.001
Block 1135.01, Lot 5
Hamilton Township

Dear Mr. Kelly:

The Commission staff has completed its review of the above referenced application. Based upon the facts and conclusions contained in this Report, on behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its February 13, 2015 meeting.

FINDINGS OF FACT

This application is for the development of a single family dwelling served by a conventional onsite septic system on the above referenced 4.3 acre parcel in Hamilton Township. The parcel is located in a Pinelands Regional Growth Area and in Hamilton Township's GA-I zoning district. In this zoning district, a dwelling served by a conventional onsite septic system requires a minimum lot size of 3.2 acres in accordance with Hamilton Township's certified land use ordinance.

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

A development application for the proposed dwelling was completed with the Commission and a Certificate of Filing (Inconsistent) was issued on December 2, 1996. The Certificate of Filing noted that the proposed development was inconsistent with the buffer to wetlands requirement of the Hamilton Township land use ordinance and the Pinelands Comprehensive Management Plan (CMP).

There are wetlands as defined in the Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-6.5(a)) on and within 300 feet of the parcel. Any development of the parcel would be located within 300 feet of these wetlands. Based on the quality and location of the wetlands, the proposed development will cause a significant adverse impact on the wetlands. As there will be a significant adverse impact on wetlands



located within 300 feet of the proposed development, the applicant is requesting a Waiver of Strict Compliance (Waiver) from the buffer to wetlands requirements contained in the CMP (N.J.A.C. 7:50-6.14).

The CMP (N.J.A.C. 7:50-4.65(b)6.) requires that for an applicant to qualify for a Waiver to develop a single family dwelling in a Pinelands Regional Growth Area, it must be demonstrated that no development, including clearing and land disturbance, will be located on wetlands. The applicant has demonstrated that no development, including clearing and land disturbance, will be located on wetlands.

Information available to the Commission staff indicates the potential presence of threatened and endangered animal species or habitat critical to their survival and populations of threatened and endangered plant species on and in the vicinity of the parcel. The applicant proposes to locate all development on the 4.3 acre parcel within a proposed 0.74 acre development envelope. The applicant proposes to impose a deed restriction on the remaining 3.56 acres of the parcel to prohibit any further development, including clearing or land disturbance, unless a threatened and endangered species survey is undertaken demonstrating consistency with the threatened and endangered species protection standards of the Hamilton Township land use ordinance and the CMP. With the conditions recommended below the applicant has demonstrated that the proposed development is designed to avoid irreversible adverse impacts on habitat that is critical to the survival of any local population of threatened or endangered animal species or to any local population of threatened or endangered plant species in accordance with N.J.A.C. 7:50-6.33 and 6.34.

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

Only if the parcel is developed in accordance with the conditions below will the adverse impacts on wetlands be minimized.

PUBLIC COMMENT

The applicant has provided the requisite public notice. Public notice to all property owners within 200 feet of the parcel was completed on September 29, 2014. Newspaper public notice was completed on October 8, 2014. The application was designated as complete on the Commission's website on December 16, 2014. The Commission's public comment period closed on January 16, 2015. No public comment was submitted to the Pinelands Commission regarding this application.

CONCLUSION

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

N.J.A.C. 7:50-4.63(a) sets forth 5 conditions which must be met for an applicant to qualify for an extraordinary hardship pursuant to that subsection.

The first condition is that the only relief sought is from one or more of the standards contained in N.J.A.C. 7:50-6 for certain specified development. One of the specified categories of development is as follows:

- v. A single family dwelling on a parcel within a Pinelands Regional Growth Area, Pinelands Town or Pinelands Village which is at least 20,000 square feet (0.46 acres), excluding road rights of way, in size and is not served by a centralized waste water treatment system.

This application is only for a Waiver from the buffer to wetlands standard contained in N.J.A.C. 7:50-6. The applicant is seeking to develop a single family dwelling served by an onsite septic system on a 4.3 acre parcel within a Pinelands Regional Growth Area. As a result, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)1 v.

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

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

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

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

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

The CMP (N.J.A.C. 7:50-4.62(d)1.iii) requires the acquisition and redemption of 0.25 Pinelands Development Credits whenever a Waiver provides relief from one or more of the standards of N.J.A.C. 7:50-6. As the applicant is obtaining a Waiver from the buffer to wetlands requirements contained in

N.J.A.C. 7:50-6.14, a condition is included in this Report to require the applicant to purchase the requisite 0.25 Pinelands Development Credits.

With the conditions recommended below, the applicant meets the requirements contained in N.J.A.C.-7:50-4.62(d).

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

1. Except as modified by the below conditions, the proposed development shall adhere to the plot plan prepared by Bernard Surveying LLC, dated April 16, 2012 and revised to December 4, 2014.
2. All development, including clearing and land disturbance, shall be located within the proposed development envelope as depicted on the above referenced plan.
3. The proposed septic system shall be located in an area where the seasonal high water table is at least five feet beneath the natural ground surface.
4. Prior to Commission issuance of a letter advising that any municipal or county approval or permit may take effect, a copy of a recorded deed restriction proposed by the applicant must be submitted to the Commission prohibiting any development, including clearing and land disturbance, outside of the designated development envelope on the above referenced plan unless a threatened and endangered species survey is undertaken demonstrating consistency with the threatened and endangered species protection standards.
5. Except as provided in N.J.A.C. 7:50-5.1(c), the single family dwelling approved herein shall be the sole principal use of the parcel.
6. Appropriate measures shall be taken during construction to preclude sedimentation from entering wetlands and shall be maintained in place until all development has been completed and the area has been stabilized.
7. Sufficient dry wells or a comparable alternative shall be installed to contain all stormwater runoff from the house.
8. The driveway shall be constructed of crushed stone or other permeable material.
9. Prior to Commission issuance of a letter advising that any municipal or county permit or approval may take effect, the Commission must receive a letter from the Pinelands Development Credit Bank indicating that the requisite 0.25 Pinelands Development Credits have been acquired and submitted to the Pinelands Development Credit Bank for redemption.
10. This Waiver shall expire February 13, 2020 unless all necessary construction permits have been issued by that date. The Waiver shall also expire if any construction permit is allowed to expire or lapse after February 13, 2020 or if any renewal or extension of any permit or approval or issuance of a new construction permit is necessary after that date.

11. A copy of a recorded deed containing all of the above conditions shall be submitted to the Pinelands Commission prior to Commission issuance of a letter advising that any submitted municipal or county permit or approval may take effect. The deed shall specify that the conditions are being imposed pursuant to a Waiver of Strict Compliance approved by the Pinelands Commission on February 13, 2015 for App. No. 1995-1379.001. The deed shall also indicate that the conditions are enforceable by the Pinelands Commission, the Atlantic County Division of Public Health, Hamilton Township and any other party of interest.

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

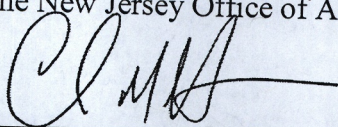
Since the applicant meets the provisions of N.J.A.C. 7:50-4.62, N.J.A.C. 7:50-4.63(a) and N.J.A.C. 7:50-4.65 for the development of one single family dwelling on the parcel, it is recommended that the Pinelands Commission **APPROVE** the requested Waiver of Strict Compliance subject to the above conditions.

APPEAL

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

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

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

Recommended for Approval by: 
Charles M. Horner, P.P., Director of Regulatory Programs

- c: Secretary, Hamilton Township Planning Board (via email)
- Hamilton Township Construction Code Official (via email)
- Hamilton Township Environmental Commission (via email)
- Atlantic County Department of Regional Planning and Development (via email)
- Atlantic County Division of Public Health (via email)



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

Mark S. Lohbauer
Chairman

Nancy Wittenberg
Executive Director

REPORT ON AN APPLICATION FOR A WAIVER OF STRICT COMPLIANCE

January 26, 2015

Anthony Jacobs
144 Maple Street
Hammonton, NJ 08037

Re: Application # 2005-0257.001
Block 3505, Lot 11
Town of Hammonton

Dear Mr. Jacobs:

The Commission staff has completed its review of the above referenced application. Based upon the facts and conclusions contained in this Report, on behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its February 13, 2015 meeting.

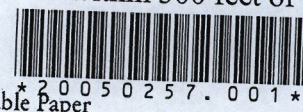
FINDINGS OF FACT

This application is for the development of a single family dwelling served by public sanitary sewer on the above referenced 2.4 acre parcel in the Town of Hammonton. The parcel is located in the Pinelands Town of Hammonton and in Hammonton's R-1 zoning district. The R-1 zoning district permits one dwelling per 12,500 square feet when served by public sanitary sewer in accordance with Hammonton's certified municipal land use ordinance.

An application for a Waiver of Strict Compliance (Waiver) for the development of a single family dwelling served by public sanitary sewer on the above referenced parcel was approved by the Pinelands Commission on March 10, 2006. A development application for the proposed dwelling was subsequently completed with the Commission and a Certificate of Filing was issued on May 26, 2006. However, all necessary construction permits were not received for the proposed development. Therefore, pursuant to the Pinelands Comprehensive Management Plan (CMP, N.J.A.C. 7:50-4.70(c)), the Waiver expired on March 10, 2011, five years after Commission approval of the Waiver.

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

There are wetlands as defined in the CMP (N.J.A.C. 7:50-6.5(a)) on and within 300 feet of the parcel which continue onto adjacent lands. Any development of the parcel would be located within 300 feet of



these wetlands. Based on the quality and location of the wetlands, the proposed development will cause a significant adverse impact on the wetlands. As there will be a significant adverse impact on wetlands located within 300 feet of the proposed development, the applicant is requesting a Waiver from the buffer to wetlands requirements contained in N.J.A.C. 7:50-6.14.

The CMP (N.J.A.C. 7:50-4.65(b)6.) requires that for an applicant to qualify for a Waiver to develop a single family dwelling in a Pinelands Town Management Area, it must be demonstrated that no development, including clearing and land disturbance, will be located on wetlands. The applicant has demonstrated that no development, including clearing and land disturbance, will be located on wetlands.

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

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

PUBLIC COMMENT

The applicant has provided the requisite public notice. Public notice to all property owners within 200 feet of the parcel was completed on September 26, 2014. Newspaper public notice was completed on October 1, 2014. The application was designated as complete on the Commission's website on December 10, 2014. The Commission's public comment period closed on January 16, 2015. The Pinelands Commission received one written public comment (attached) regarding the application.

Public Comment: The commenter is concerned that the development of the proposed dwelling will result in damage to their property from flooding and inquires whether there is a plan to redirect stormwater runoff.

Staff Response to Comment: In the absence of proposed road improvements, the Commission's regulations do not require stormwater management for the development of one single family dwelling. This application proposes the development of one dwelling. The commenter may wish to discuss stormwater management concerns with an appropriate municipal official as part of the municipal construction permit application.

CONCLUSION

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

N.J.A.C. 7:50-4.63(a) sets forth 5 conditions which must be met for an applicant to qualify for an extraordinary hardship pursuant to that subsection.

The first condition is that the only relief sought is from one or more of the standards contained in N.J.A.C. 7:50-6 for certain specified development. One of the specified categories of development is as follows:

- iv. A single family dwelling on a parcel within a Regional Growth Area, Pinelands Town or Pinelands Village which will be served by a centralized waste water treatment system.

This application is only for a Waiver from the buffer to wetlands standard contained in N.J.A.C. 7:50-6. The applicant is seeking to develop a single family dwelling, served by public sanitary sewer, on a parcel located in the Pinelands Town of Hammonton. As a result, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)1iv.

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

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

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

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

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

The CMP (N.J.A.C. 7:50-4.62(d)1.iii) requires the acquisition and redemption of 0.25 Pinelands Development Credits (PDCs) whenever the Waiver provides relief from one or more of the standards of N.J.A.C. 7:50-6. As the applicant is obtaining a Waiver from the buffer to wetlands requirement contained in N.J.A.C. 7:50-6.14, a condition is included to require the applicant to purchase the requisite 0.25 PDCs.

With the conditions recommended below, the applicant meets the requirements contained in N.J.A.C. 7:50-4.62(d).

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

1. Except as modified by the below conditions, the proposed development shall adhere to the plot plan prepared by Peterman Engineering, LLC dated September 1, 2005 and last revised December 8, 2005.
2. The proposed dwelling shall be served by public sanitary sewer.
3. No development, including clearing and land disturbance, shall extend beyond the "proposed wetlands buffer" as depicted on the above referenced plan.
4. Appropriate measures shall be taken during construction to preclude sedimentation from entering wetlands and shall be maintained in place until all development has been completed and the area has been stabilized.
5. Sufficient dry wells or comparable alternative shall be installed to contain all storm water run-off from the house.
6. The driveway shall be constructed of crushed stone or other permeable material.
7. Except as provided in N.J.A.C. 7:50-5.1(c), the single family dwelling approved herein shall be the sole principal use of the parcel.
8. Prior to Commission issuance of a letter advising that any municipal or county permit or approval may take effect, the Commission must receive a letter from the Pinelands Development Credit Bank indicating that the requisite 0.25 Pinelands Development Credits have been acquired and submitted to the Pinelands Development Credit Bank for redemption.
9. This Waiver shall expire February 13, 2020 unless all necessary construction permits have been issued by that date. The Waiver shall also expire if any construction permit is allowed to expire or lapse after February 13, 2020 or if any renewal or extension of any permit or approval or issuance of a new construction permit is necessary after that date.
10. A copy of a recorded deed containing all of the above conditions shall be submitted to the Pinelands Commission prior to Commission issuance of a letter advising that any submitted municipal or county permit or approval may take effect. The deed shall specify that the conditions are being imposed pursuant to a Waiver of Strict Compliance approved by the Pinelands Commission on February 13, 2015 for App. No. 2005-0257.001. The deed shall also indicate that the conditions previously required by Commission approval of a Waiver on March 10, 2006, now expired, are superseded by the conditions required by the February 13, 2015 Waiver approval. The deed shall state that the conditions are enforceable by the Pinelands Commission, the Town of Hammonton and any other party of interest.

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

Since the applicant meets the provisions of N.J.A.C. 7:50-4.62, N.J.A.C. 7:50-4.63(a) and N.J.A.C. 7:50-4.65 for the development of a single family dwelling on the parcel, it is recommended that the Pinelands Commission **APPROVE** the requested Waiver of Strict Compliance subject to the above conditions.

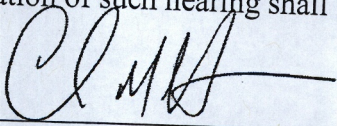
APPEAL

The CMP (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal 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 within eighteen days of the date of this Report and must include the following information:

1. the name and address of the person requesting the appeal;
2. the application number;
3. 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.

Recommended for Approval by: _____


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

Attach. 9/30/14 Public Comment Letter

- c: Secretary, Hammonton Planning Board (via email)
Hammonton Construction Code Official (via email)
Hammonton Environmental Commission (via email)
Junetta Dix
Robert & Louise Geiling



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-15- 05

TITLE: Issuing an Order to Certify Ordinance 2014-23, Amending Chapter 55 (Land Use) of the Code of Barnegat Township

Commissioner Ashmun moves and Commissioner Erklen seconds the motion that:

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

WHEREAS, Resolution #PC4-83-29 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 #PC4-83-29 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 October 20, 2014, Barnegat Township adopted Ordinance 2014-23, amending Chapter 55 (Land Use) of the Township's Code by adding mixed use development as a conditional use in that portion of the C-N (Neighborhood Commercial) Zone located in the Pinelands Regional Growth Area; and

WHEREAS, the Pinelands Commission received a certified copy of Ordinance 2014-23 on October 27, 2014; and

WHEREAS, by letter dated October 29, 2014, the Executive Director notified the Township that Ordinance 2014-23 would require formal review and approval by the Pinelands Commission; and

WHEREAS, a public hearing to receive testimony on Ordinance 2014-23 was duly advertised, noticed and held on November 19, 2014 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m.; and

WHEREAS, the Executive Director has found that Ordinance 2014-23 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 2014-23 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 Ordinances 2014-23 be certified; and

WHEREAS, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning Ordinance 2014-23 and has reviewed the Executive Director's report; and

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

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

NOW, THEREFORE BE IT RESOLVED that

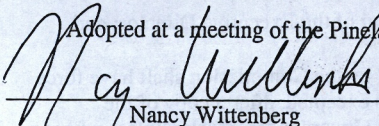
1. An Order is hereby issued to certify that Ordinance 2014-23, amending Chapter 55 (Land Use) of the Code of Barnegat Township, is in conformance with the Pinelands Comprehensive Management Plan.
2. Any additional amendments to Barnegat Township's certified Master Plan and Land Use Ordinances shall be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 to determine if said amendments raise a substantial issue with respect to the Comprehensive Management Plan. Any such amendment shall become effective only as provided in N.J.A.C. 7:50-3.45.

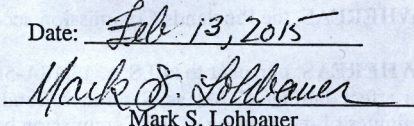
Record of Commission Votes

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

Adopted at a meeting of the Pinelands Commission

Date: Feb 13, 2015


 Nancy Wittenberg
 Executive Director


 Mark S. Lohbauer
 Chairman



Chris Christie
Governor

Kim Guadagno
Lt. Governor

State of New Jersey

THE PINELANDS COMMISSION

PO Box 359

NEW LISBON, NJ 08064

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Mark S. Lohbauer
Chairman

Nancy Witzberg
Executive Director

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

REPORT ON ORDINANCE 2014-23, AMENDING CHAPTER 55 (LAND USE) OF THE CODE OF BARNEGAT TOWNSHIP

January 30, 2015

Barnegat Township
900 West Bay Avenue
Barnegat, NJ 08005

FINDINGS OF FACT

I. Background

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

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

On October 20, 2014, Barnegat Township adopted Ordinance 2014-23, amending Chapter 55 (Land Use) of the Township's Code by adding mixed use development as a conditional use in that portion of the C-N (Neighborhood Commercial) Zone located in the Pinelands Regional Growth Area. The Pinelands Commission received a certified copy of Ordinance 2014-23 on October 27, 2014.

By letter dated October 29, 2014, the Executive Director notified the Township that Ordinance 2014-23 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 2014-23, amending Chapter 55 (Land Use) of the Code of Barnegat Township, introduced on August 18, 2014 and adopted on October 20, 2014.

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

1. Natural Resource Inventory

Not applicable.

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

Ordinance 2014-23 amends Chapter 55 (Land Use) of the Code of Barnegat Township by adding mixed use development as a conditional use in the C-N (Neighborhood Commercial) Zone. Prior to the adoption of Ordinance 2014-23, permitted uses in the C-N Zone were limited to various retail and service uses, professional offices, self-storage facilities, churches, libraries, nursing homes and other institutional uses. According to the standards adopted by Ordinance 2014-23, mixed use development must include retail/commercial space on the first floor and age-restricted multi-family apartments on the second and third floors. The residential component of a mixed use development must be in conjunction with at least 90,000 square feet of retail/commercial space. Maximum residential density is 11 units per acre and Pinelands Development Credits must be used for 25 percent of all units in a mixed use project. In order to qualify for the conditional use, properties must be at least 13 acres in size and have a minimum frontage of 1,500 feet on a County road. Finally, Ordinance 2014-23 specifies that mixed use development is permitted only on properties in the C-N Zone that are located within a Pinelands Regional Growth Area.

The C-N Zone in the Regional Growth Area is located along West Bay Avenue, immediately to the north of Ocean Acres (see Exhibit #1). Based on the Township's analysis, there is one approximately 15-acre parcel in the C-N Zone that could satisfy the new conditional use standards for mixed use development. Ordinance 2014-23 therefore creates the potential for approximately 165 new units in the C-N Zone, all of which would be age-restricted apartments. The purchase of PDCs would be necessary for 25 percent, or 42, of these potential units.

The standards adopted by Ordinance 2014-23 for mixed use development are appropriate for a Regional Growth Area. In addition, the ordinance provides a new opportunity for residential development within Barnegat's Regional Growth Area in a manner that achieves an appropriate balance between "base" units and those requiring the use of Pinelands Development Credits. Therefore, Ordinance 2014-23 is consistent with the land use and development standards of the Comprehensive Management Plan and this standard for certification is met.

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

Not applicable.

4. Requirement for Municipal Review and Action on All Development

Not applicable.

5. Review and Action on Forestry Applications

Not applicable.

6. Review of Local Permits

Not applicable.

7. Requirement for Capital Improvement Program

Not applicable.

8. Accommodation of Pinelands Development Credits

Ordinance 2014-23 amends Chapter 55 (Land Use) of Barnegat Township's Code by adding mixed use development as a conditional use in the Regional Growth Area portion of the C-N (Neighborhood Commercial) Zone. Based on the standards adopted by Ordinance 2014-23, mixed use developments will contain a residential component in the form of age-restricted apartments. Such apartments are to be permitted at a maximum density of 11 units per acre, with the use of Pinelands Development Credits required for 25 percent of all units.

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 sufficiently residentially zoned property in the Regional Growth Area to be eligible for an increase in density to accommodate Pinelands Development Credits as provided for in N.J.A.C. 7:50-5.28(a)3. By allowing mixed use development as a conditional use in the C-N (Neighborhood Commercial) Zone, Ordinance 2014-23 increases the amount of land available for residential development in Barnegat Township's Regional Growth Area by approximately 15 acres. In order to comply with N.J.A.C. 7:50-5.28(a)3, Ordinance 2014-23 requires that PDCs be acquired and redeemed for 25 percent of all residential units in any mixed use development in the C-N Zone (one right for every four units). Based on the 11 unit per acre maximum density established for the new conditional use, the PDC requirements adopted by Ordinance 2014-23 will result in an opportunity for the use of 42 rights (10.5 full Credits).

While the 25 percent requirement for mixed use developments in the C-N Zone is not as high a number as would be provided through the more traditional zoning approach where PDCs would account for 33 percent of the total number of permitted units, it is important to remember that the traditional base density/bonus density approach utilized throughout the Pinelands Area only provides an *opportunity* for the use of PDCs. There is no requirement under the traditional approach that any PDCs be used in any particular development project. Ordinance 2014-23 *guarantees* that PDCs will be purchased and redeemed as part of the approval of any mixed use development within the C-N Zone, regardless of the density or number of units which are

ultimately built. Given the greater certainty provided by this approach, the Executive Director believes that the 25 percent PDC requirement adopted by Ordinance 2014-23 should be viewed as being consistent with Comprehensive Management Plan standards.

This standard for certification is met.

9. Referral of Development Applications to Environmental Commission

Not applicable.

10. General Conformance Requirements

Ordinance 2014-23, amending Chapter 55 (Land Use) of the Code of Barnegat Township, is consistent with standards and provisions of the Pinelands Comprehensive Management Plan.

This standard for certification is met.

11. Conformance with Energy Conservation

Not applicable.

12. Conformance with the Federal Act

Ordinance 2014-23, amending Chapter 55 (Land Use) of the Code of Barnegat Township, is consistent with standards and provisions of the Pinelands Comprehensive Management Plan. No special issues exist relative to the Federal Act.

This standard for certification is met.

13. Procedure to Resolve Intermunicipal Conflicts

Not applicable.

PUBLIC HEARING

A public hearing to receive testimony concerning Barnegat Township's application for certification of Ordinance 2014-23 was duly advertised, noticed and held on November 19, 2014 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m. Ms. Grogan conducted the hearing, at which no testimony was received.

Written comments on Ordinance 2014-23 were accepted through November 25, 2014; however, none were received.

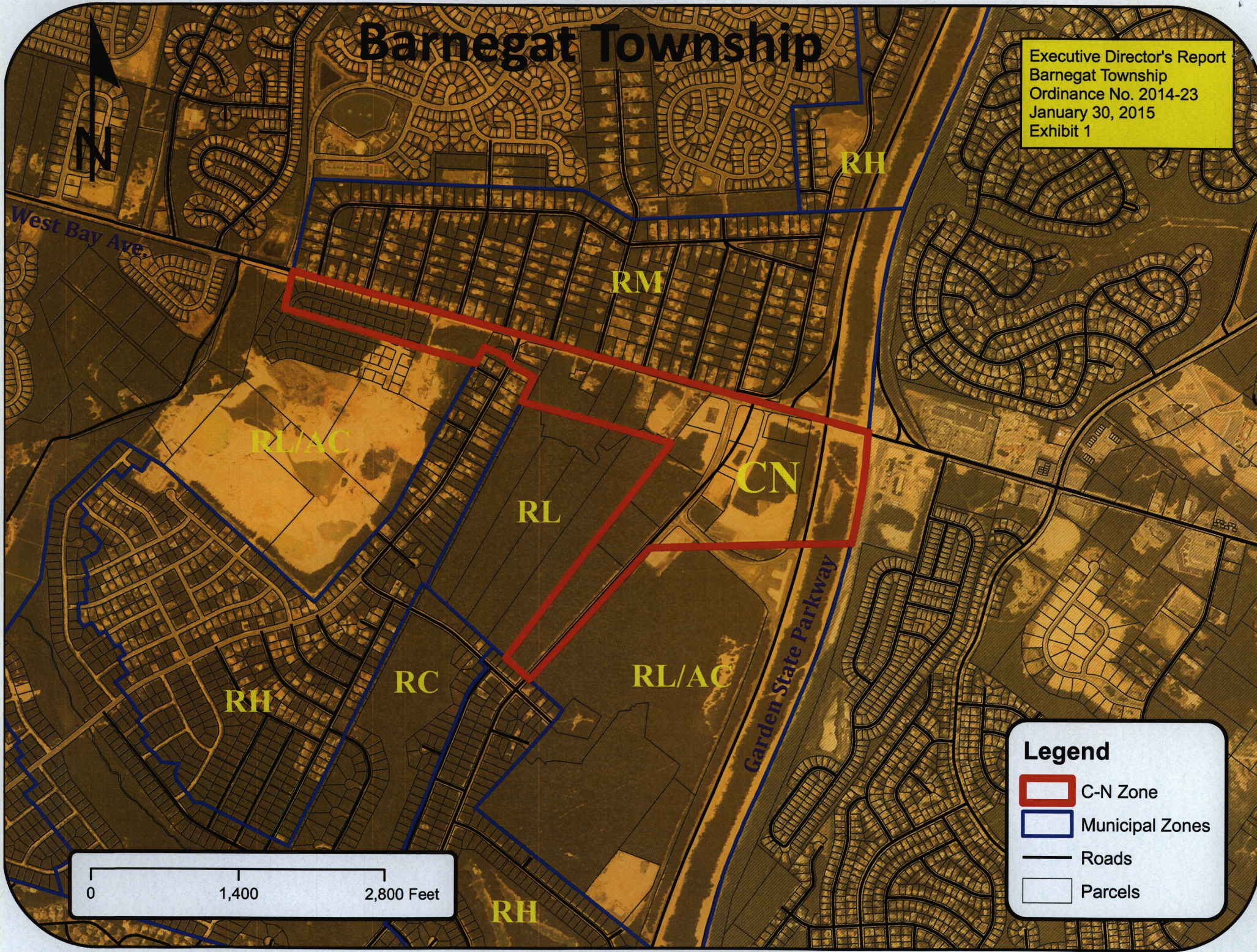
CONCLUSION

Based on the Findings of Fact cited above, the Executive Director has concluded that Ordinance 2014-23, amending Chapter 55 (Land Use) of the Code of Barnegat Township, is consistent with the standards and provisions of the Pinelands Comprehensive Management Plan. Accordingly, the Executive Director recommends that the Commission issue an order to certify Ordinance 2014-23 of Barnegat Township.

SRG/CBA
Attachment

Barnegat Township

Executive Director's Report
Barnegat Township
Ordinance No. 2014-23
January 30, 2015
Exhibit 1



Legend

-  C-N Zone
-  Municipal Zones
-  Roads
-  Parcels



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

Kim Guadagno
Lt. Governor

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

Mark S. Lohbauer
Chairman

Nancy Wittenberg
Executive Director

February 11, 2015

Senator Raymond J. Lesniak
985 Stuyvesant Ave.
Union, NJ 07083

Re: S2125/A3257 – Expands Type of Use Qualifying as Low Intensity Recreational Use on PDC Deed Restricted Lands in Pinelands Agricultural Production Areas

Dear Senator Lesniak:

The above referenced bill is listed for consideration by the Senate Economic Growth Committee at its meeting scheduled for tomorrow February 12, 2015. The purpose of this letter is to advise you of the Pinelands Commission's concerns with this bill.

The bill is intended to address issues involving soccer tournaments occurring on a preserved farm in the Pinelands. The soccer activities addressed by the bill are violative of both the Pinelands Comprehensive Management Plan and an existing deed restriction. This is about much more than letting kids play soccer. S2125/A3257 would allow large scale soccer events on deed restricted farms located within Pinelands Agricultural Production Areas (APA). The Pinelands Comprehensive Management Plan is very protective of agriculture and mostly limits lands in APAs to farming. This bill has the potential to reduce such farms to backdrops for unrelated commercial activities and eliminate the restrictions imposed on land preserved under the Pinelands Development Credit (PDC) program. This is also about broader issues dealing with agricultural tourism and economic opportunities.

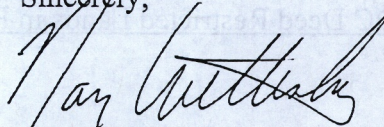
Cognizant of the broader issues, the Commission has been working with the entity that is the impetus for the proposed legislation to seek an avenue to address its concerns. In fact, until only a few days ago, the Commission believed that it had resolved that entity's concerns through a proposal that would have permitted the continued use of the farm for commercial soccer events for two years, pending the Commission's development and implementation of a pilot program to address the broader issue. That proposal provided ample marketing opportunities for the entity and eliminates the need for a legislative remedy.

Moreover, implementation of a pilot program would provide the Commission with a means to address this issue on a broad scale rather than focusing on just youth soccer at one farm. We plan to evaluate all types of enhanced agricultural tourism and economic opportunities to identify those that would be consistent with the goals of the Pinelands Protection Act and, thus, appropriate in the Pinelands Area. Based on the results of the pilot program, the Commission then would be in the position to decide whether broader application of the program was warranted.

In closing, the Commission requests that the above referenced proposed legislation not be advanced out of Committee. The Commission has identified a path forward to address this issue and would like the opportunity to analyze and evaluate potential resolution of the broader issue through implementation of a pilot program, similar to what was accomplished for SADC preserved farmlands through the Governor's conditional veto of S837. Further, as discussed in the attached letter to Senator Van Drew and Assemblyman Andrzejczak, the proposed legislation raises complex state regulatory and Federal statutory issues. The Pineland Commission is the regional planning entity called for by the National Parks and Recreation Act of 1978, 16 U.S.C. §471i. This Act requires that any change to the Pinelands Comprehensive Management Plan, such as that included in this bill, require approval by the Department of the Interior.

I plan to attend tomorrow's Committee meeting and will be available to answer any questions you may have.

Sincerely,



Nancy Wittenberg
Executive Director

- c: Members of the Senate Economic Growth Committee (w/ attachments)

Garden State Widening Project



- In January 2009, the Pinelands Commission entered into a Memorandum of Agreement with the New Jersey Turnpike Authority for the Widening of the Garden State Parkway Between Mile Posts 30 and 80
 - In developing that MOA, the Pinelands Commission retained the DVRPC to analyze potential secondary impacts associated with the GSP Widening Project
 - In order to obviate secondary impacts in the vicinity of Interchanges 69 and 58, NJTA agreed to memorialize zoning on frontage lots located on major feeder roads within 1.5 miles within 1.5 miles of the interchange.
- NJTA placed approximately \$15 million dollars in escrow based on \$10,000 per acres for conforming lots. These funds were to be used by the NJTA for 5 years to memorialize zoning and by the Commission 5 years thereafter.

NJTA also contributed approximately \$915,000 to the PCF to be utilized to memorialize zoning on the undersized lots in this area.



The Great Egg Harbor Watershed Association

P.O. Box 109
Newtonville, NJ 08346

856-697-6114
Fred_akers@gehwa.org

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Sarah Summerville

Jamie Cromartie

Clark Sprigman

Pat Sprigman

Clay Emerson

STAFF

Lynn Maun
Secretary &
Coordinator

Fred Akers
Administrator

February 13, 2015

Mark Lohbauer, Chairman
NJ Pinelands Commission
P.O. Box 359
New Lisbon, NJ 08064

RE: Intergovernmental Memoranda of Agreement Process Review

Dear Chairman Lohbauer:

The Pinelands Commission needs to review and strengthen the Memorandum of Agreement process now, and there is no clearer example of why you need to do this than the high cost of the failure of your proposed Memorandum of Agreement with the Board of Public Utilities for the South Jersey Gas pipeline.

The public has requested that the Pinelands Commission review the Memorandum of Agreement process for at least 2 years now, and it was a significant item commented upon during the Plan Review Process that was then allowed to disappear from that process.

The following is a time line of data point narratives regarding MOAs:

* On September 14, 2012, the Pinelands Preservation Alliance submitted extensive written comments requesting the Amendment of the Intergovernmental MOA Provisions of the CMP. In their comments, they suggested that the Commission should replace the existing CMP procedure for using intergovernmental Memoranda of Agreement (MOAs) to waive or reduce CMP environmental standards for individual development projects with a revised procedure for public facility plans. They not only provided extensive general recommendations in this regard, but they also provided extensive line by line edits for actual language changes in CMP section **7:50-4.52-(c) Intergovernmental agreements.**

* On September 28, 2012, I submitted formal public comments during the Plan Review Process on behalf of the Great Egg Harbor Watershed Association, first recommending the total removal of the MOA process from the CMP, and as an alternative to adopt PPA's detailed recommendations.

(Continued on next page)

* Then on October 23, 2012, the Pinelands Preservation Alliance released their 2012 State of the Pinelands Report. On page 2 of this report, the PPA Executive Director recommends this key reform as #6 that PPA thinks is most essential:

6. Intergovernmental Memorandum of Agreement (MOA) rules reform. The MOA procedure has become a real Trojan Horse that is weakening the Commission and the CMP from within. The procedure needs to be eliminated, or at least reformed to ensure it is only used for genuinely public projects.

* Then from the Minutes of the November 9, 2012 Plan Review Committee meeting, a Summary of Comments Received report was presented which highlighted that there were 16 public comments to Reduce the number of Intergovernmental MOAs/amend or improve CMP provisions regarding MOAs, and Chairperson Ashmun noted that the MOA provisions were reviewed at length by a small sub-committee of Commissioners in 2007.

She suggested staff re-review the records from that time to determine whether the same issues exist and whether there is anything that can be done to resolve lingering or new concerns. Chairperson Ashmun requested that the staff distribute the 2007 MOA review documents to the Committee members for their consideration.

Ms. Grogan replied that the documents should be updated to reflect the existence of new MOAs completed since 2007. Mr. Liggett added that a review of MOAs completed during the period since the previous Plan Review will be provided in the Plan Review Progress Report.

* Then from the Minutes of the January 11, 2013 Plan Review Committee meeting, Upon completion of discussion of all topics on the list, Ms. Wittenberg briefly reviewed the Committee's observations, noting that PDC program enhancements, use of the Kirkwood-Cohansey Aquifer Study results, MOAs, Black Run Watershed protections, T & E species protocol and survey requirements, native vegetation standards, stormwater, and planning (redevelopment) seemed to have generated the most interest from Committee members for consideration for the second-round rule proposal.

* Then from the March 8, 2013 meeting Minutes of the Plan Review Committee meeting, Stacey Roth advised that the mechanism for Memoranda of Agreement (MOAs) had been reviewed in depth recently in response to public perception that deviation MOAs were being used increasingly more frequently. She stated that she would complete an internal review of the recent assessment of MOAs to identify concerns and potential solutions, and would return to the Committee with any recommendations.

This was the last data point I could find or recall regarding the response by the Plan Review Committee and the Pinelands Commission staff to address the public concerns regarding Memoranda of Agreements during the Plan Review process.

So I suggest that you not only owe it to the public to take up a serious review of the Intergovernmental Memorandum of Agreement Provisions of the CMP and fix them now, but you also owe it to yourselves to fix it now to prevent the tremendous costs in dollars and loss of public confidence from another massive MOA failure, because your current MOA process is fatally flawed.

Sincerely,
Fred Akers