



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-20-12

TITLE: **Approving** With Conditions an Application for **Public Development** (Application Number 2009-0089.002)

Commissioner Pikolycky moves and Commissioner Lohbauer 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:

2009-0089.002

Applicant:	Buena Vista Township
Municipality:	Buena Vista Township
Management Area:	Pinelands Village
Date of Report:	March 13, 2020
Proposed Development:	Demolition of a single family dwelling, 50 years old or older.

WHEREAS, after Pinelands Commission issuance on March 13, 2020 of the Public Development Application Report for this application, the April 3, 2020 Pinelands Commission monthly meeting when this application was scheduled to be acted on was canceled due to the pandemic health emergency; and

WHEREAS, on March 18, 2020, the Pinelands Commission received a written request from the applicant indicating that since the April 3, 2020 Pinelands Commission meeting was canceled, the applicant was requesting emergency authorization to demolish the single family dwelling subject of this application because it was in imminent danger of collapse and created a public safety issue; and

WHEREAS, by email dated March 18, 2020, the Executive Director notified the applicant that, after consultation with Commission Chair, the applicant's request to immediately demolish the single family dwelling subject of this application was authorized in accordance with the provision in the Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-4.5) that authorizes the Executive Director to perform whatever action is minimally necessary to remedy a danger to public safety; and

WHEREAS, it remains necessary for the Pinelands Commission to act on this after-the-fact application; and

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 2009-0089.002 for public development is hereby **approved** subject to the conditions recommended by the Executive Director.

Record of Commission Votes

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

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: May 8, 2020



Nancy Wittenberg
Executive Director



Richard Prickett
Chairman



State of New Jersey

THE PINELANDS COMMISSION

PO Box 359

NEW LISBON, NJ 08064

(609) 894-7300

www.nj.gov/pinelands



PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

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

RICHARD PRICKETT
Chairman
NANCY WITTENBERG
Executive Director

March 13, 2020

Teresa Kelly, Mayor (via email)
Buena Vista Township
890 Harding Highway
P.O. Box 605
Buena, NJ 08310

Re: Application # 2009-0089.002
Block 4527, Lot 5
Buena Vista Township

Dear Mayor Kelly:

The Commission staff has completed its review of this application for demolition of a single family dwelling, 50 years old or older. Enclosed is a copy of a Public Development Application Report. On behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its April 3, 2020 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 (3): Appeal Procedure
March 13, 2020 public comment letter
February 7, 2020 Commission letter

c: Secretary, Buena Vista Township Planning Board (via email)
Buena Vista Township Construction Code Official (via email)
Buena Vista Township Environmental Commission (via email)

Atlantic County Department of Regional Planning and Development (via email)
David Scheidegg, PE, PP (via email)
Mark Demitroff (via email)



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 Governor
 SHEILA Y. OLIVER
 Lt. Governor

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

RICHARD PRICKETT
 Chairman
 NANCY WITTENBERG
 Executive Director

PUBLIC DEVELOPMENT APPLICATION REPORT

March 13, 2020

Teresa Kelly, Mayor (via email)
 Buena Vista Township
 890 Harding Highway
 P.O. Box 605
 Buena, NJ 08310

Application No.: 2009-0089.002
 Block 4527, Lot 5
 Buena Vista Township

This application proposes demolition of a single family dwelling, 50 years old or older, located on the above referenced 5.88 acre parcel in Buena Vista Township.

STANDARDS

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

Land Use (N.J.A.C. 7:50-5.27(a))

The parcel is located in the Pinelands Village of Richland. The demolition of a single family dwelling is permitted in the Pinelands Area.

Cultural Resource Standards (N.J.A.C. 7:50-6.151)

The evidence of cultural activity on the parcel, including the existing dwelling, lacks any potential for designation as a historic resource. Based upon this determination, a cultural resource survey was not required.

PUBLIC COMMENT

The CMP defines the proposed demolition 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 March 3, 2020. The Commission’s public comment period closed on March 13, 2020. A letter (attached) dated March 13, 2020 providing written public comment on the application was submitted at the Commission’s March 13, 2020 meeting. Oral public comment from the letter writer summarizing the comments provided in that letter was also provided at the Commission’s March

13, 2020 meeting.

Public Comment: The submitted public comment expresses concerns regarding the relationship between the demolition of the dwelling proposed in this application, the regulation contained in the Pinelands Comprehensive Management Plan and the New Jersey Local Redevelopment and Housing Law.

Staff Response: The Commission appreciates the commenter's interest in the Pinelands Area. The Commission staff has reviewed the proposed demolition of the dwelling for consistency with all regulations contained in the Pinelands Comprehensive Management Plan. Based upon that review, it is the Commission staff's opinion that the proposed demolition is consistent with all regulations contained in the Pinelands Comprehensive Management Plan. The Commission staff believes that commenter's concerns are separate and apart from the regulations administered by the Pinelands Commission. Attached please find a letter dated February 7, 2020 that the Commission staff previously sent to the commenter regarding the relationship between municipal Redevelopment Plans in the Pinelands Area and the Pinelands Comprehensive Management Plan.

CONDITIONS

1. Disposal of any debris may only occur at an appropriately licensed facility.
2. Prior to any demolition, the applicant shall obtain any other necessary permits and approvals.
3. Reconstruction of a single family dwelling, within five years of its demolition, does not require an application to the Pinelands Commission.

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 demolition subject to the above conditions.



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SHEILA Y. OLIVER
Lt. Governor

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

RICHARD PRICKETT
Chairman
NANCY WITTENBERG
Executive Director

PINELANDS COMMISSION
APPEAL PROCEDURE

The Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal any determination made by the Executive Director to the Commission in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted by someone meeting the definition of an interested party will be transmitted to the New Jersey Office of Administrative Law for a hearing. Any such appeal must be made in writing to the Commission and received by the Commission's office no later than 5:00 PM on March 31, 2020 and include the following information:

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

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

MARK DEMITROFF
822 MAIN AVENUE, VINELAND (RICHLAND), NJ 08360-9346

RE: APPLICATION NO. 2009-0089.002

March 13, 2020
Attn: Deputy Attorney General Kristina Miles
Pinelands Commission
PO Box 359
New Lisbon, NJ 08064

Demolition of a Building

Deputy Attorney General Miles,

Pursuant to N.J.S.A. 52:17A-11, I ask your assistance in resolving the matter of Application No. 2009-0089.002. It is my understanding that the Deputy Attorney General counsels the Pinelands Commission on all legal issues in a manner that is imbued with public trust to further the public interest.

This application to demolish a historic building should be denied for one of two conflicting reasons, as jointly issues #1 & #2 present a Catch 22 paradox.

1—It is unclear who the applicant is and by what authority they operate.

The structure at issue is part and parcel of Richland Redevelopment, a project duly certified by the Pinelands Commission in January 2008. In a letter provided to me (M. Demitroff) by Mr. Horner dated February 7, 2020, the relationship between the Pinelands Commission and Richland Redevelopment is laid out. The Director of Regulatory Programs (C. Horner) states:

"The Commission reviews and Redevelopment Plan for consistency with all requirements of the CMP. Until the Commission certifies (approves) a Redevelopment Plan, it does not take effect. In addition, no actual development that is proposed in a Redevelopment Plan can occur until a development application is approved by the Commission in accordance with the provisions of the CMP."

According to Mr. Horner, “no actual development that is proposed in a Redevelopment Plan can occur until a development application is approved by the Commission.”

Herein lies the dilemma, on December 30, 2013 by Ordinance No. 8-2013 (*attached as addenda*) Richland Redevelopment officially ended in plan.

The Richland Village “White House” of demolition is “real property” that is integral to Richland Village Redevelopment scheme. Its acquisition, extant, operation, and development is only enabled in-so-far as a certified plan is in place, which would in-turn be regulated by New Jersey Local Redevelopment and Housing Law. The enabling plan that Pinelands had certified in 2008 was repealed on December 30, 2013. Thus Buena Vista Township (BVT) no longer operates in the role of either the redevelopment entity or the redeveloper. My municipality is not able to meet applicable statutory criteria that would enable it to apply to the Pinelands Commission for the demolition permit in the first place.

It stands to reason that if no actual development proposed in a Redevelopment scheme can occur until a development application is approved by the Commission, then (re)development must correspondingly cease when an approved plan is repealed. If we accept Ordinance No. 08-2013—as certified by Ms. Grogan—then BVT Richland Village Redevelopment has ended, as has BVT’s role as redeveloper, ending development.

#2—It’s complicated, but BVT’s own legal interpretation must first go to the Planning & Zoning Board.

Buena Vista Township later claimed through Ordinance that Richland Village Redevelopment had after-all not ended by the invocation of Ordinance No. 08-2013, which in process was considered *ab initio*. If the basis of BVT solicitor’s claim against Ordinance No. 08-2013 is to be accepted, then by the solicitor’s interpretation of Redevelopment Law a redeveloper first has to go the Planning & Zoning Board before reaching out to the Pinelands Commission if a redevelopment action can be deemed in compliance.

In 2004 a new governing body introduced Ordinances 2-2014 and 6-2014 to disenfranchise the will of the previous committee by the reinterpretation of a new committee. The new committee argued that Ordinance No. 08-2013 had a fatal flaw—the previous administration failed in effect of their initiative by not going before the Planning & Zoning Board first.

The Solicitor argued, “there was no public hearing held before the Planning Board as required by N.J.S.A.40A:12A-1 et seq, “The Local Redevelopment and Housing Law,” i.e., a municipality cannot circumvent the Planning and Zoning Board. I can find absolutely no reference in The Local Redevelopment and Housing Law to back up the Solicitor’s argument.

We are repeatedly told the opposite by Horner; a municipality does not have to go before a Planning & Zoning Board.

With some irony, Ordinances 2-2014 and 6-2014—as certified by Ms. Grogan—did not go before a Planning & Zoning Board. This indicates that they too are null and void. In turn, Application No. 2009-0089.002 (by the solicitor’s interpretation) is null and void since BVT too failed to go before a Planning & Zoning Board before it came before the Pinelands Commission.

It is it possible to put the toothpaste back into the empty tube.

I await your response. In the interim the Pinelands Commission cannot approve Application No. 2009-0089.002.

Sincerely,

Mark Demitroff

**ORDINANCE NO. 8 - 2013
AN ORDINANCE REPEALING ORDINANCE NO. 4 - 2006
AND ORDINANCE NO. 9 - 2006 OF THE TOWNSHIP OF BUENA VISTA**

WHEREAS, on March 13, 2006, the Township Committee of the Township of Buena Vista enacted Ordinance No. 4-2006 adopting a Redevelopment Plan which identified an area in Richland Village known as the Richland Village Redevelopment Area; and

WHEREAS, on July 10, 2006, the Township Committee of the Township of Buena Vista enacted Ordinance No. 9-2006 amending Ordinance 4-2006 to bring the Township Ordinance in conformity with the criteria set forth in N.J.S.A. 40A:12-5 or 40A:12A-14 as appropriate.

WHEREAS, the Township Committee has determined that after seven (7) years and the expenditure of millions of dollars in public funds through the acquisition of property in the Richland Village Redevelopment Area, the Redevelopment Plan has not resulted in the redevelopment of the Richland Village Area but has, in fact, contributed to and exacerbated the deterioration of the area; and

WHEREAS, the Township Committee determined that the redevelopment of Richland Village can best be accomplished by repealing the Ordinances which created the Richland Redevelopment Area and permit the area to be developed by the private sector.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Buena Vista, County of Atlantic, State of New Jersey as follows:

Section 1. Repeal of Development Plans

1. Ordinance No. 4 - 2006 is hereby repealed
2. Ordinance No. 9 - 2006 is hereby repealed

Section 2. Severability

If any section, sentence or any part of this ordinance is held unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not affect, and pair or invalidate the remainder of the Ordinance, but shall be confined in its effect to this section, sentence or other part of this ordinance directly involved in the controversy which judgment shall have been rendered.

Section 3. Repealer

All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed as to such inconsistency only.

Section 4. Effective Date

This Ordinance shall take effect immediately after final passage and publication as required by law.

TOWNSHIP COMMITTEE OF THE
TOWNSHIP OF BUENA VISTA

BY: 
SUE A. BARBER - MAYOR

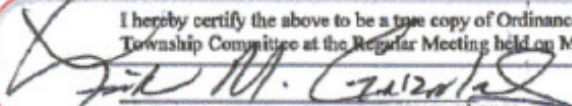
PASSED ON FIRST READING: NOVEMBER 25, 2013
INTRODUCTION PUBLICATION: DECEMBER 11, 2013
PASSED ON FINAL READING ON: DECEMBER 30, 2013
INTRODUCTION PUBLICATION: JANUARY 8, 2014

ATTEST:

LINDA M. GONZALES - TOWNSHIP CLERK

	Y	N	ABSENT	ABSTAIN
BARBER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
BYLONE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
KELLY	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HARLAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CHIARELLO	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

I hereby certify the above to be a true copy of Ordinance No. 8 - 2013 passed on second and final reading by the Township Committee at the Regular Meeting held on Monday, December 30, 2013.


LINDA M. GONZALES - TOWNSHIP CLERK

ORDINANCE NO. 6 - 2014

AN ORDINANCE OF THE TOWNSHIP OF BUENA VISTA, COUNTY OF ATLANTIC, STATE OF NEW JERSEY RESCINDING ORDINANCE NO. 8-2013 AND DECLARING THE SAME NULL AND VOID AB INITIO SINCE THE SAME WAS NOT ADOPTED IN ACCORDANCE WITH THE PROVISIONS OF N.J.S.A. 40A:12A-1 THE "LOCAL REDEVELOPMENT AND HOUSING LAW"

WHEREAS, by Resolution, the Township Committee of the Township of Buena Vista directed and authorized the Planning Board of the Township of Buena Vista to undertake a preliminary investigation, pursuant to the Notice, hearing and other requirements of the local Redevelopment Housing Law, N.J.S.A.40A:12A-1 et seq in order to recommend to the Township whether the Richland area of the Township is a Redevelopment Area according to the criteria set forth in N.J.S.A.40A:12A-5 and;

WHEREAS, the Planning Board of the Township Committee after proper notice and hearings as outlined and required by the Local Redevelopment and Housing Law unanimously adopted Planning Board Resolution No. 14-2005, June 30, 2005, recommending that the Richland Area be declared an area in need of Redevelopment pursuant to the said Local Redevelopment and Housing Law, and;

WHEREAS, a Redevelopment Plan, dated January 2006 entitled "Richland Village Redevelopment Plan" was ultimately approved and adopted by Planning Board Resolution No. 13-2006 on January 26, 2006 recommending that the same be adopted by the Township Committee of the Township of Buena Vista, and;

WHEREAS, all proper procedures set forth in the Local Redevelopment and Housing Law were followed including notice to effective property owners, public hearing and studies, and;

WHEREAS, the Township Committee of the Township of Buena Vista adopted Ordinance No. 4-2006 on March 13, 2006 being known as, "An Ordinance adopting a Redevelopment Plan for the Richland Village Redevelopment Area (Exhibit C Richland Village Redevelopment Area Tax Block and Lot Map dated January 2006) in the Township of Buena Vista, Atlantic County, State of New Jersey pursuant to the Local Redevelopment and Housing Law, N.J.S.A.40A:12-1 et seq," and;

WHEREAS, the Township Committee of the Township of Buena Vista on December 11, 2013 introduced Ordinance No. 8-2013 entitled "An Ordinance Repealing Ordinance No. 4-2006 and Ordinance No. 9-2006, and;

WHEREAS, there was no notification or submission of the repeal of the Richland Village Redevelopment Area submitted to the Planning Board, or notice to property owners and;

WHEREAS, there was no public hearing held before the Planning Board as required by N.J.S.A.40A:12A-1 et seq, "The Local Redevelopment and Housing Law"; and;

WHEREAS, Ordinance No. 8-2013 is noted with an introduction publication of January of 8, 2014 which was after the adoption date of December 30, 2013, and;

WHEREAS, the adoption of Ordinance No. 8-2013 is violative of the Local Redevelopment and Housing Law.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Buena Vista, County of Atlantic, State of Jersey that this governing body hereby declares Ordinance No. 8-2013 null and void as being improperly adopted and shall be void ab initio; and

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Buena Vista, County of Atlantic, State of New Jersey that the statements of the Preamble be incorporated herein by this reference thereto; and

BE IT FURTHER ORDAINED that this Ordinance shall take effect immediately upon final passage and publication in accordance with law

TOWNSHIP COMMITTEE OF THE
TOWNSHIP OF BUENA VISTA

BY: _____
CHUCK CHIARELLO - MAYOR

PASSED ON FIRST READING ON: FEBRUARY 10, 2014

INTRODUCTION PUBLISHED ON: FEBRUARY 19, 2014

PASSED ON FINAL READING ON:

FINAL PUBLICATION ON:

ATTEST:

LINDA M. GONZALES - TOWNSHIP CLERK



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

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RICHARD PRICKETT
Chairman
NANCY WITTENBERG
Executive Director

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

February 7, 2020

Mr. Mark Demitroff
822 Main Avenue
Vineland, N.J. 08360

Re: Municipal Redevelopment Plans
in the Pinelands Area

Dear Mr. Demitroff:

I am writing in response to your letter inquiring as to the relationship between municipal "Redevelopment Plans" in the State of New Jersey and the Pinelands Comprehensive Management Plan (CMP).

Although your letter specifically inquires about Buena Vista Township, this letter addresses the relationship of all municipal Redevelopment Plans in the Pinelands Area, including Buena Vista Township's, to the CMP.

In the Pinelands Area, any municipal Redevelopment Plan is subject to the same Pinelands Commission review and certification (approval) process as any other Pinelands Area municipal land use or zoning ordinance. The Commission reviews any Redevelopment Plan for consistency with all requirements of the CMP. Until the Commission certifies (approves) a Redevelopment Plan, it does not take effect. In addition, no actual development that is proposed in a Redevelopment Plan can occur until a development application is approved by the Commission in accordance with the provisions of the CMP.

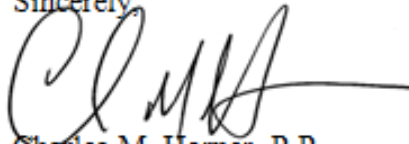
I also wanted to note that it remains necessary for a municipality/applicant to secure all other approvals or permits that may be required by other agencies in the State of New Jersey.

Except as applicable to the Commission's regulations, I do not have the expertise or knowledge to offer guidance on the role and requirements of the New Jersey Department of Community Affairs and New Jersey municipalities with respect to the designation of redevelopment areas or the adoption, review, approval and implementation of Redevelopment Plans.

I hope this letter clarifies the role of the Pinelands Commission with Redevelopment Plans in the Pinelands Area.

Please do not hesitate to contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. M. Horner', with a long horizontal flourish extending to the right.

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



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-20-13

TITLE: Approving With Conditions an Application for a Waiver of Strict Compliance (Application Number 1983-5274.003)

Commissioner Lohbauer moves and Commissioner Jannarone 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 application for Waiver of Strict Compliance be approved with conditions:

1983-5274.003

Applicant: Phil Kornbluth
Municipality: Jackson Township
Management Area: Pinelands Regional Growth Area
Date of Report: March 13, 2020
Proposed Development: Single family dwelling.

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 Findings of Fact and Conclusion of the Executive Director for the requested Waiver of Strict Compliance; and

WHEREAS, the Pinelands Commission hereby determines that the requested Waiver conforms to the standards for approving an application for a Waiver of Strict Compliance based on extraordinary hardship as set forth in N.J.A.C 7:50-4.62, N.J.A.C. 7:50-4.63 and N.J.A.C. 7:50-4.65 if the conditions recommended by the Executive Director are imposed; 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 1983-5274.003 for a Waiver of Strict Compliance is hereby **approved** subject to the conditions recommended by the Executive Director.

Record of Commission Votes

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

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: May 8, 2020

Nancy Wittenberg
Executive Director

Richard Prickett
Chairman



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Lt. Governor

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

RICHARD PRICKETT
Chairman
NANCY WITTENBERG
Executive Director

REPORT ON AN APPLICATION FOR A WAIVER OF STRICT COMPLIANCE

March 13, 2020

Phil Kornbluth
5 Benner Court
Bridgewater, NJ 08807

Re: Application # 1983-5274.003
Block 20601, Lots 17 & 18
Jackson Township

Dear Mr. Kornbluth:

The Commission staff has completed its review of the above referenced application for a Waiver of Strict Compliance (Waiver) proposing the development of a single family dwelling on the above referenced parcel. 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 April 3, 2020 meeting.

FINDINGS OF FACT

This application is for the development of a single family dwelling serviced by an individual on-site septic waste water treatment system on the above referenced 1.07 acre parcel in Jackson Township. The parcel is located within a Pinelands Regional Growth Area and in Jackson Township's RG-2 zoning district. In this zoning district, Jackson Township's certified land use ordinances establishes a residential density requirement of 1.0 acre to develop a single family dwelling unit that is serviced by an individual on-site waste water treatment system.

On June 6, 1983, the Pinelands Commission denied an application (App. No. 1983-5274.001) for a Waiver to develop five single family dwellings, one each, on old Block 59, Lots 2, 2A, 2B, 55C and 55D. Those five lots were subsequently consolidated into three lots now known as Block 20501, Lot 2 and Block 20601, Lots 17 and 18. On March 2, 1992, certain amendments to the Waiver regulations contained in the Pinelands Comprehensive Management Plan (CMP) became effective. One of those amendments eliminated the requirement to attempt to purchase vacant adjacent land as part of a Waiver application if the parcel subject of the Waiver application met certain minimum standards. The current application proposes to develop one single family dwelling on combined 0.55 acre Block 20601, Lot 17 and 0.52 acre Block 20601, Lot 18.

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

A portion of the parcel is wetlands as defined in the CMP (N.J.A.C. 7:50-6.5(a)2). The wetlands continue onto adjacent lands. Any development of the parcel would be located within 300 feet of these wetlands. The applicant has submitted no information to demonstrate that the proposed development would not cause a significant adverse impact on the 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 standard 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, 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.

The Ocean County Soils Survey indicates that there are Downer, Galloway and Mullica soils on this parcel. A site inspection and soil borings taken at the highest topographic elevation on the parcel indicates that the soils on the parcel have a seasonal high water table of less than five feet below the natural ground surface. The applicant has submitted no information to demonstrate that the septic system could be located in an area on the parcel where the seasonal high water table is at least 5 feet below the natural ground surface. Since the available information indicates the seasonal high water table on the parcel is less than 5 feet below the natural ground surface, the applicant is requesting a Waiver from the seasonal high water table standard contained in the CMP (N.J.A.C. 7:50- 6.84(a)5vi).

The CMP (N.J.A.C. 7:50-4.65(b)8) 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 a septic system could be located in an area on the parcel where the seasonal high water table is at least 2 feet below the natural ground surface and not within 50 feet of any surface water body. The applicant has demonstrated that a proposed septic system could be located in an area on the parcel where the seasonal high water table is at least 2 feet below the natural ground surface and not within 50 feet of any surface water body.

The parcel includes all contiguous land in common ownership on or after January 14, 1981. The proposed single family dwelling will be the sole principal use of the parcel. The development of a single family dwelling on the parcel will not require any lot area or residential density variances pursuant to Jackson Township's certified land use ordinances.

The development of a single family dwelling on the parcel will be consistent with the purposes and provisions of the Pinelands Protection Act, the Federal Act and the CMP. A single family dwelling can be developed on the parcel without violating any of the substantial impairment and consistency criteria contained in the CMP (N.J.A.C. 7:50-4.65).

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

PUBLIC COMMENT

The applicant provided the requisite public notice. Public notice to all property owners within 200 feet of the parcel was completed on February 11, 2020. Newspaper public notice was completed on February 13, 2020. The application was designated as complete on the Commission's website on March 3, 2020. The Commission's public comment period closed on March 13, 2020. No public comments were received by the Commission regarding this application.

CONCLUSION

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

The first condition is that the only relief sought is from one or more of the standards contained in the CMP (N.J.A.C. 7:50-6) for certain specified types of development. One of the specified types of development is a single family dwelling on a parcel within a Pinelands Regional Growth Area which is at least 20,000 square feet, excluding road rights of way, in size and is not served by a centralized wastewater treatment system. This application is for a Waiver from the wetlands buffer standard and minimum depth to seasonal high water table standard when utilizing and an onsite septic system contained in N.J.A.C. 7:50-6. The applicant is proposing to develop a single family dwelling serviced by an individual on-site waste water treatment system on a 1.07 acre (46,609 square foot) parcel. The parcel contains more than 20,000 square feet, excluding road rights-of-way, and is located in 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)1v.

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 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. Jackson Township's master plan and land use ordinances have been certified by the Pinelands Commission. The development of a single family dwelling on this 1.07 acre lot serviced by an individual on-site waste water treatment system does not require a municipal lot area or 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. The 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).

As required by N.J.A.C. 7:50-4.62(b), the proposed dwelling will not result in substantial impairment of the resources of the Pinelands or be inconsistent with the provisions of the Pinelands Protection Act, the Federal Act or the CMP in accordance with the criteria set forth in N.J.A.C. 7:50-4.65.

As required by N.J.A.C. 7:50-4.62(c), and with the conditions recommended below, the proposed dwelling will not involve trespass or create a public or private nuisance by being materially detrimental or injurious to other property or improvements in the area in which the parcel is located, increase the danger of fire or endanger public safety.

The CMP (N.J.A.C. 7:50-4.62(d)) requires that the Waiver only grant the minimum relief necessary to relieve the extraordinary hardship. The proposed single family dwelling is the minimum relief necessary to relieve the extraordinary hardship which has been shown to exist.

The CMP (N.J.A.C. 7:50-4.62(d)1iii) requires the acquisition and redemption of 0.25 Pinelands Development Credits (PDCs) whenever a Waiver provides relief from one or more of the standards of N.J.A.C. 7:50-6. As the applicant is obtaining a Waiver from the wetlands buffer and groundwater quality standards (N.J.A.C. 7:50-6.84(a)5vi.), a condition is included to require the applicant to purchase the requisite 0.25 PDCs.

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 Potential Development Plan, prepared by WJH Engineering, dated 7/27/2018 and revised to 1/6/2020.
2. To maintain the maximum feasible buffer to wetlands, all proposed development, including clearing and land disturbance, shall be located at least 50 feet from all wetlands and be located in the northwest corner of the parcel.
3. The septic system must be located in an area where the seasonal high water table is at least two feet below the natural ground surface.
4. The proposed dwelling must utilize an alternate design onsite wastewater treatment system authorized pursuant to the CMP on a 1.0 acre lot and approved for use by the Pinelands Commission and the New Jersey Department of Environmental Protection.
5. Appropriate measures shall be taken during construction to preclude sedimentation from entering wetlands.
6. Sufficient drywells or comparable alternative shall be installed to contain all stormwater runoff from the house.

7. The driveway shall be constructed of crushed stone or comparable material.
8. 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.
9. Prior to Commission issuance of a letter advising that any municipal or county permit or approval may take effect, a copy of a recorded deed (or stamped, receipted deed filed for recordation) consolidating Block 20601, Lots 17 and 18 into one lot must be submitted to the Commission.
10. 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 indicated that the requisite 0.25 PDCs have been acquired and submitted to the PDC Bank for redemption.
11. This Waiver shall expire April 3, 2025 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 April 3, 2025 or if any renewal or extension of any permit or approval or issuance of a new construction permit is necessary after that date.
12. Prior to completion of an application for the development of the dwelling, a copy of a recorded deed containing all of the above conditions shall be submitted to the Pinelands Commission. The deed shall specify that the conditions are being imposed pursuant to a March 13, 2020 Pinelands Commission Report on an Application for a Waiver of Strict Compliance for App. No. 1983-5274.003. The deed shall also indicate that the conditions are enforceable by the Pinelands Commission, Jackson Township and any other party of interest.

With the above conditions, the applicant qualifies for a Waiver from the requirements of N.J.A.C. 7:50-6.14 and 6.84(a)5vi.

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

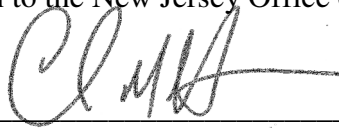
The CMP (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal this recommendation in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted 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 and received by the Commission's office no later than 5:00 PM on March 31, 2020 and 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, Jackson Township Planning Board (via email)
 - Jackson Township Construction Code Official (via email)
 - Jackson Township Environmental Commission (via email)
 - Secretary, Ocean County Planning Board (via email)
 - Ocean County Health Department (via email)
 - Walter Joseph Hopkin, PE, PP, CME (via email)



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-20- 14

TITLE: Resolution Authorizing the Executive Director to Execute an Extension of the Time Period for Atlantic County to Acquire the Remaining Acreage to Complete its Obligations Under the Secondary Impacts Agreement for Interchange 44 of the Garden State Parkway

Commissioner Lloyd moves and Commissioner Irick seconds the motion that:

WHEREAS, on January 7, 2014, the Pinelands Commission (Commission) and Atlantic County (the County) entered into a Secondary Impacts Agreement (the Agreement) as a means of obviating the potential secondary impacts associated with the completion of Interchange 44 of the Garden State Parkway; and

WHEREAS, this Agreement obligated the County to limit the development potential of parcels located within 1.5 miles of Interchange 44 (356 acres) within the Pinelands Area; and

WHEREAS, the County had 3 years to obviate the secondary impacts within this 1.5 mile area, referred to in the Agreement as Tier 1; and

WHEREAS, the Agreement afforded the County the opportunity to request an extension of the time period to complete its obligation to obviate secondary impacts from the Commission's Executive Director for a period of up to 18 months with the submission of documentation demonstrating that completion of the task to obviate secondary impacts in Tier 1 was imminent and would be completed within the extended time period; and

WHEREAS, the County has focused all of its efforts to obviate secondary impacts associated with the Interchange 44 project within Tier 1; and

WHEREAS, on March 5, 2020, the County sent a letter advising that it had completed acquisition of 327 acres of lands within Tier 1 and would be closing on an additional 15 acres within the next thirty days; and

WHEREAS, the County will need to identify and acquire only 14 additional acres to complete its obligations under the Agreement; and

WHEREAS, the County has indicated that it is continuing its efforts to work with Galloway Township to acquire lands owned by the Township located in Tier 1; and

WHEREAS, the County has requested an 18-month extension to complete its acquisition of the remaining 29 acres required by the Agreement; and

WHEREAS, the Agreement contains a provision that requires the County to pay an amount equal to fair market value of any acreage that it fails to acquire within Tier 1 within six years from the effective date of the Agreement; i.e. January 7, 2020, to a non-profit, government entity or university or college to undertake the acquisition of Pinelands Development Credits from agricultural lands or other projects, including land acquisition, to improve water quality within the boundaries of Tiers 1 through 3 in Atlantic County; and

WHEREAS, the Commission believes it is preferable to allow the County to complete its acquisition of the remaining 29 acres rather than having the County provide funds to a non-profit, governmental entity or university to complete the task for it, given the County's diligent effort to date to complete its obligations under the Agreement; and

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

NOW, THEREFORE BE IT RESOLVED that the Commission authorizes the Executive Director to execute an addendum to the Secondary Impacts Agreement granting the County another 24 months from January 7, 2020 to complete its acquisition of 29 acres within Tier 1.

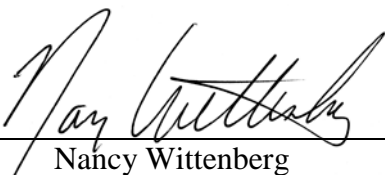
Record of Commission Votes

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

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: May 8, 2020



Nancy Wittenberg
Executive Director



Richard Prickett
Chairman



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-20- 15

TITLE: To Approve the Pinelands Commission’s 2019 Annual Report

Commissioner Lloyd moves and Commissioner Lohbauer seconds the motion that:

WHEREAS, in September 2006, then Governor Corzine issued Executive Order #37; and

WHEREAS, Executive Order #37 called for the preparation and approval of a comprehensive report concerning the operations of each State authority; and

WHEREAS, the report shall set forth the significant actions of the Commission; and

WHEREAS, since the report is to be done on an annual basis and it includes much of the same information as the Commission's Annual Report, which is required by the Pinelands Protection Act, the two reports have been combined every year since 2007 as a cost savings measure to eliminate waste and promote efficiency as called for in Executive Order #37; and

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

NOW, THEREFORE BE IT RESOLVED that the attached 2019 Annual Report be approved, submitted to the Governor's Authorities Unit and posted on the Commission's web site.

Record of Commission Votes

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

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: May 8, 2020

Nancy Wittenberg
Executive Director

Richard Prickett
Chairman