



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-15- 07

TITLE: Issuing an Order to Conditionally Certify Ordinance O-6-14, Amending Chapter 253 (Land Development) of the Code of Franklin Township

Commissioner Earlson moves and Commissioner Brown seconds the motion that:

WHEREAS, on November 5, 1982, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Franklin Township; and

WHEREAS, Resolution #PC4-82-82 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 #PC4-82-82 further specified that any such amendment shall only become effective as provided in N.J.A.C. 7:50-3.45 of the Comprehensive Management Plan; and

WHEREAS, on July 22, 2014, Franklin Township adopted Ordinance O-6-14, amending Chapter 253 (Land Development) of the Township's Code by adopting revised standards for signs, including digital message boards and changeable message signs; and

WHEREAS, within the Pinelands Area, Ordinance O-6-14 permits digital message boards and changeable message signs in the Rural Development and Agricultural Production Areas; and

WHEREAS, the Pinelands Commission received a certified copy of Ordinance O-6-14 on January 2, 2015; and

WHEREAS, by letter dated February 2, 2015, the Executive Director notified the Township that Ordinance O-6-14 would require formal review and approval by the Pinelands Commission; and

WHEREAS, a public hearing to receive testimony Ordinance O-6-14 was duly advertised, noticed and held on February 25, 2015 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 O-6-14 is not fully 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 with conditions that Ordinance O-6-14, amending Chapter 253 (Land Development) of the Code of Franklin Township, is in conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, the Commission's CMP Policy and Implementation Committee has reviewed the Executive Director's report and has recommended that Ordinance O-6-14 be conditionally certified; and

WHEREAS, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning Ordinance O-6-14 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

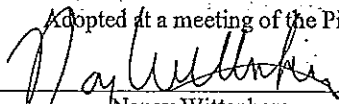
1. An Order is hereby issued to certify with conditions that Ordinance O-6-14, amending Chapter 253 (Land Development) of the Code of Franklin Township, is in conformance with the Pinelands Comprehensive Management Plan. To obtain full certification of Ordinance O-6-14 by the Pinelands Commission, Franklin Township must amend Chapter 253 in accordance with Attachment A of this Order.
2. Franklin Township shall have until August 8, 2015 to adopt and submit the revisions to Chapter 253 to the Pinelands Commission for approval pursuant to N.J.A.C. 7:50-3.45 and Attachment A hereto.
3. If the Township fails to submit the revisions to Chapter 253 pursuant to N.J.A.C. 7:50-3.45 and Attachment A hereto by August 8, 2015, or if such a submission is not fully certified by the Pinelands Commission, Ordinance O-6-14 shall be disapproved.
4. Any additional amendments to Franklin Township's certified Master Plan and Land Use Ordinances shall be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 to determine if said amendments raise a substantial issue with respect to the Comprehensive Management Plan. Any such amendment shall become effective only as provided in N.J.A.C. 7:50-3.45.

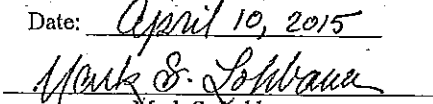
Record of Commission Votes

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

Adopted at a meeting of the Pinelands Commission

Date: April 10, 2015


 Nancy Wittenberg
 Executive Director


 Mark S. Lohbauer
 Chairman

ATTACHMENT A TO EXECUTIVE DIRECTOR'S REPORT, DATED MARCH 27, 2015,
ON FRANKLIN TOWNSHIP'S ORDINANCE O-6-14

Adoption of the following amendments will make Ordinance O-6-14 consistent with the standards and provisions of the Pinelands Comprehensive Management Plan:

§ 253-183 – Signs in R-A, ~~PR-R, PA-P, I, P-I,~~ and Medium-density Residential Zone.

The following sign regulations shall apply to single-family residential and institutional uses within R-A, ~~PR-R, PA-P, I, P-I,~~ and Medium-density Residential Zone.

§ 253-185 – Signs in Zones B, [and] ~~NC, and PN-C.~~

The following sign regulations shall apply in Zones B, [and] ~~NC, and PN-C:~~

§ 253-185.1 – Signs in HC ~~and PH-C~~ Highway Commercial Districts.

The following sign regulations shall apply in the HC ~~and PH-C~~ Highway Commercial Districts:

§ 253-185.2 – Signs in IC, [and] ~~LM, and PLM-I~~ Districts.

The following sign regulations shall apply in Zones B, [and] ~~NC, and PN-C:~~



State of New Jersey
THE PINELANDS COMMISSION
PO Box 359
NEW LISBON, NJ 08064
(609) 894-7300
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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 ORDINANCE O-6-14, AMENDING
CHAPTER 253 (LAND DEVELOPMENT)
OF THE CODE OF FRANKLIN TOWNSHIP**

March 27, 2015

Franklin Township
1571 Delsea Drive
Franklinville, NJ 08322

FINDINGS OF FACT

I. Background

The Township of Franklin is located in the southwestern Pinelands in Gloucester County. Pinelands municipalities adjacent to Franklin Township include Monroe Township, also in Gloucester County; as well as Buena Borough and Buena Vista Township in Atlantic County.

On November 5, 1982, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Franklin Township.

On July 22, 2014, Franklin Township adopted Ordinance O-6-14, amending Chapter 253 (Land Development) of the Township's Code by revising various standards related to signs, including digital message boards and changeable message signs. More specifically, Ordinance O-6-14 permits digital message boards and changeable message signs within the Township's Rural Development and Agricultural Production Areas. The Pinelands Commission received a certified copy of Ordinance O-6-14 on January 2, 2015.

By letter dated February 2, 2015, the Executive Director notified the Township that Ordinance O-6-14 would require formal review and approval by the Pinelands Commission.

II. Master Plans and Land Use Ordinances

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

- * Ordinance O-6-14, amending Chapter 253 (Land Development) of the Code of Franklin Township, introduced on March 11, 2014 and adopted on July 22, 2014.

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

1. Natural Resource Inventory

Not applicable.

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

Ordinance O-6-14 amends Chapter 253 (Land Development) of the Code of Franklin Township by revising various standards related to signs. Ordinance O-6-14 establishes what kinds of signs are permitted within the Township's various zoning districts as well as the number and size of signs permitted at each use. Additionally, Ordinance O-6-14 adopts standards for LED (light-emitting diode) or LCD (liquid-crystal display) digital message boards, illuminated and changeable message signs, including restrictions on their location. LED (light-emitting diode) or LCD (liquid-crystal display) digital message boards are defined by Ordinance O-6-14 as digital signs with changeable content, designed such that the content can be changed a limitless number of times. Pursuant to Ordinance O-6-14, digital message boards and changeable message signs would be restricted to the PR-R, P-I, PH-C, PN-C, and PLM-I Districts in the Township's Rural Development Area and the PA-P District in the Township's Agricultural Production Area.

The scenic management standards of the CMP include a prohibition on signs that are designed to attract attention by physical or lighting change in the Pinelands Area. However, by their very nature, changeable message signs and digital message boards involve messages and advertisements that move or change on a regular basis. This presents a potential conflict with the CMP, which also requires that the character and composition of signs in the Pinelands Area be harmonious with the scenic values of the Pinelands, to the maximum extent practical. But, it is important to note that the sign standards set forth in the CMP were written in 1980, prior to the use of digital or LCD/LED technology in advertising signs. Also noteworthy is the fact that the CMP does not dictate the type of lighting (internal or external) that signs in the Pinelands Area must use. Thus, it is not the use of LCD/LED technology (internal illumination) itself that raises an issue. Rather, it is the fact that digital or LCD/LED signs often involve the changing of one static image to another, or even the use of video, to attract attention. It is the Commission's position that municipal ordinances that adequately address scenic management in their sign ordinances can, in fact, be consistent with the CMP. Indeed, it is the Commission's position that, within development-oriented management areas (Pinelands Regional Growth Areas, Pinelands Towns, and Pinelands Villages), where virtually all types of residential and nonresidential development are permitted by the CMP, it is entirely consistent with the CMP for a municipality to permit the use of digital signs.

While Ordinance O-6-14 does prohibit scrolling, flashing, blinking, and other similar lighting effects, maximum luminance levels are not among the standards adopted by Ordinance O-6-14 to regulate changeable message signs or digital message boards. Nor, does Ordinance O-6-14 require that all changeable message signs or digital message boards be equipped with automatic

dimming controls so that the light emitted by such signs can be adjusted appropriately depending upon ambient lighting conditions. Ordinance O-6-14 also does not regulate how long each message on a changeable message sign or digital message board must remain before a different message is displayed. Although Ordinance O-6-14 incorporates some standards to control the location, size and appearance of changeable message signs and digital message board signs, the Ordinance's language, as adopted, inadequately addresses the scenic values of the Pinelands. But, even if Ordinance O-6-14 had properly addressed the CMP's scenic standards, digital signs are inappropriate within Agricultural Production Areas; they are particularly inappropriate in Rural Development Areas, where the CMP designates all public, paved roads as scenic corridors. Changeable message signs and digital message boards are simply not appropriate outside of the designated development areas of the Pinelands.

Given the rural nature of the area in question and CMP standards and objectives for scenic management, Ordinance O-6-14 is not fully consistent with the land use and development standards of the Comprehensive Management Plan. However, with the adoption of the amendments set forth in Attachment A, or revisions comparable thereto, this standard for certification will be met.

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

Not applicable.

4. Requirement for Municipal Review and Action on All Development

Not applicable.

5. Review and Action on Forestry Applications

Not applicable.

6. Review of Local Permits

Not applicable.

7. Requirement for Capital Improvement Program

Not applicable.

8. Accommodation of Pinelands Development Credits

Not applicable.

9. Referral of Development Applications to Environmental Commission

Not applicable.

10. General Conformance Requirements

Ordinance O-6-14, amending Chapter 115 (Development Regulations) of the Code of Franklin Township, is not fully consistent with the standards and provisions of the Pinelands Comprehensive Management Plan.

With the adoption of the amendments set forth in Attachment A, this standard for certification will be met.

11. Conformance with Energy Conservation

Not applicable.

12. Conformance with the Federal Act

No special issues exist relative to the Federal Act. However, Ordinance O-6-14, amending Chapter 253 (Land Development) of the Code of Franklin Township, is not fully consistent with the standards and provisions of the Pinelands Comprehensive Management Plan.

With the adoption of the amendments set forth in Attachment A, this standard for certification will be met.

13. Procedure to Resolve Intermunicipal Conflicts

Not applicable.

PUBLIC HEARING

A public hearing to receive testimony concerning Franklin Township's application for certification of Ordinance O-6-14 was duly advertised, noticed and held on February 25, 2015 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m. Ms. Grogan conducted the hearing, at which no testimony was received.

Written comments were accepted through March 4, 2015 and were received from the following:

March 4, 2015 letter from Theresa Lettman, Director of Monitoring Programs, Pinelands Preservation Alliance (see Exhibit #1)

March 4, 2015 email from Fran Brooks (see Exhibit #2)

EXECUTIVE DIRECTOR'S RESPONSE

Both Ms. Lettman's letter and Ms. Brooks' also express the opinion that digital signs violate N.J.A.C. 7:50-6.107(a). The scenic management standards of the CMP do indeed prohibit signs that are designed to attract attention by physical or lighting change. Since digital signs involve messages or advertisements that move or change on a regular basis, this presents a potential conflict with CMP provisions that require that the character and composition of signs in the Pinelands Area be harmonious with the scenic values of the Pinelands, to the maximum extent practical. However, it is important to note that the CMP's sign standards were written in 1980, well before the advent of digital or LED/LCD technology in advertising signs. Also noteworthy is the fact that the CMP does not dictate whether signs within the Pinelands should be lighted internally or externally. So, it isn't the use of LCD/LED technology (internal illumination) itself that raises an issue. Rather, it's that digital signs often involve the changing of one static image to another, or even the use of video, to attract attention. Thus, it is the Commission's position that municipal ordinances that adequately address scenic management in their sign ordinances can be consistent with the CMP. Indeed, it is the Commission's position that, within development-oriented management areas (Pinelands Regional Growth Areas, Pinelands Towns, and Pinelands Villages), where virtually all types of residential and nonresidential development are permitted by the CMP, it is entirely consistent with the CMP for a municipality to permit the use of digital signs.

CONCLUSION

Based on the Findings of Fact cited above, the Executive Director has concluded that Ordinance O-6-14 does not fully comply with Comprehensive Management Plan standards for the certification of municipal master plans and land use ordinances. Accordingly, the Executive Director recommends that the Commission issue an order to conditionally certify Ordinance O-6-14 of Franklin Township.

PWT/SRG/CFR
Attachments

ATTACHMENT A TO EXECUTIVE DIRECTOR'S REPORT, DATED MARCH 27, 2015,
ON FRANKLIN TOWNSHIP'S ORDINANCE O-6-14

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§ 253-183 – Signs in R-A, ~~PR-R, PA-P, I, P-I,~~ and Medium-density Residential Zone.

The following sign regulations shall apply to single-family residential and institutional uses within R-A, ~~PR-R, PA-P, I, P-I,~~ and Medium-density Residential Zone.

§ 253-185 – Signs in Zones B, [and] NC, ~~and PN-C.~~

The following sign regulations shall apply in Zones B, [and] NC, ~~and PN-C:~~

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§ 253-185.2 – Signs in IC, [and] LM, ~~and PLM-I~~ Districts.

The following sign regulations shall apply in Zones B, [and] NC, ~~and PN-C:~~



PINELANDS PRESERVATION ALLIANCE

Bishop Farmstead ♦ 17 Pemberton Road ♦ Southampton, NJ 08088
Phone: 609-859-8860 ♦ ppa@pinelandsalliance.org ♦ www.pinelandsalliance.org

March 4, 2015

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

Re: Franklin Township Ordinance - O-6-2014

Dear Ms. Grogan:

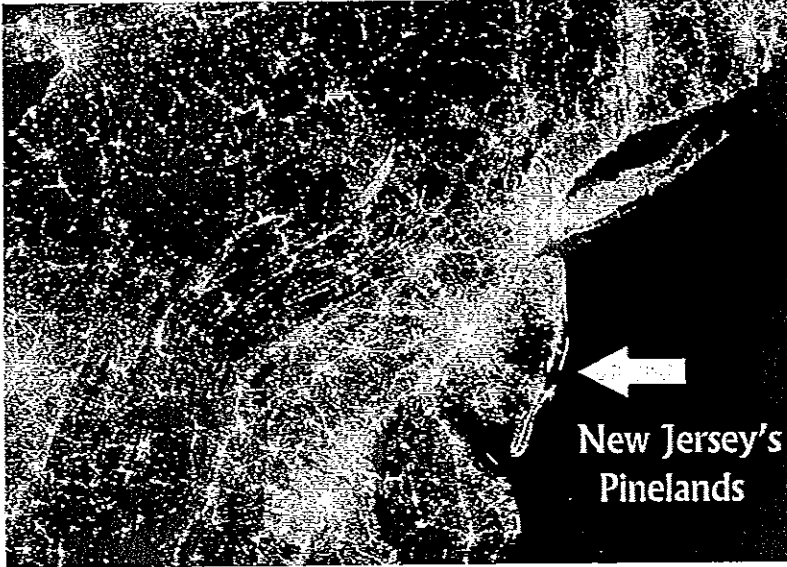
Franklin Township has passed Ordinance O-6-2014 which allows for electronic message signs in the Pinelands Rural Development and Agricultural Production Management areas of the township. PPA believes this ordinance should not be certified because it is not in conformance with the CMP. Section 7:50-3.1 (d) states:

A local authority that incorporates all of the elements of this Plan in its local plan and ordinances will be assured of certification. In contrast, municipal plans and ordinances that deviate from the essential nature of this Plan are unlikely to be certified. However, it is a policy of this Plan to allow municipalities the greatest degree of flexibility and discretion in the preparation of local plans and ordinances so long as the plans and ordinances do not conflict with the ultimate objectives and minimum requirements of this Plan.

Franklin's ordinance conflicts with the minimum requirements of Section 7:50-6.106 on signs which requires each municipality to adopt provisions in its ordinances that contain section 7:50-6.107 (a). This section states:

No sign, other than warning or safety signs, which is designed or intended to attract attention by sudden, intermittent or rhythmic movement, or physical or lighting change, shall be permitted in any area.

Applying the Pinelands Commission's EIA scores to the PR-R and PA-P zones reveals that the area is largely made up of an 80% combined score.



The dark rural areas of the New Jersey Pinelands will change quickly if these types of signs are allowed. The Comprehensive Management Plan got it right in 1980 when it wrote the sign section. The proof is the night sky of New Jersey. Allowing electronic messaging signs in the rural areas will not only allow for ecological light pollution but take away the view shed residents have of the sky.

Respectfully submitted,

Theresa Lettman

Theresa Lettman
Director of Monitoring Programs

From: Fran Brooks <brks627@gmail.com>
To: Betsy Piner <betsy.piner@njpines.state.nj.us>
Date: 3/4/2015 3:53 PM
Subject: Public Comments: Franklin Township Ordinance 0-6-14

Exhibit #2 Executive Director's Report on Franklin Twp. Ordinance O-6-14 March 27, 2015
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78 Moores Meadow Road
Tabernacle, NJ 08088

Ms. Betsy Piner
Principal Planning Assistant
New Jersey Pinelands Commission
15 Springfield Road
PO Box 359
New Lisbon, NJ 08064

Dear Ms. Piner,

I am writing to oppose the certification of the Franklin Township Ordinance O-6-14. This Ordinance will permit LED or LCD digital message boards (AKA digital signs) in the PR-P, P-I, PH-C Districts within the Rural Development Area and the PA-P District within the Agricultural Production Area. My opposition is based on the following reasons:

1) The Ordinance Violates Section 7:50-6.107 (a) of the Mandatory sign provisions.

The CMP recognizes the importance of a static display to the visual character of the Pinelands by expressly prohibiting moving images except to provide for public safety. The enforcement of the letter and spirit of this requirement is particularly important because of the visual and spatial characteristics that were defined by a vernacular of past generations. That vernacular was static and relied on color and physical design to identify the land use.

Contrary to the CMP provision, the Commission has approved the use of digital signs in the Regional Growth Area (RGA) in Egg Harbor Township and in the RGA in Monroe Township (Minutes, Planning and Implementation Committee, May 30, 2014). It also approved digital signs in the Pinelands Towns and Village Areas in Buena Vista Township (Pinelands Commission, November 14, 2014). These approvals violate the current CMP standards.

2) Approval of the Franklin Township Ordinance violates the decision to prohibit digital signs in Rural Development Areas.

Approval of this ordinance will continue the pattern of digital sign creep into another Pinelands management areas, the Rural Development and Agricultural Production Areas. Certification is contrary to a decision that expressly prohibited such signs in the RDA (and FA). During the discussion of the Monroe Township sign ordinance (0:19-2013), at the May 30, 2014 Planning and Implementation Committee meeting, staff expressly stated that it "has included language in the Executive Director's report to both restore the mandatory CMP sign provisions and prohibit the changeable message signs in the FA and RDA" [emphasis added] (Minutes, May 30, 2014, page 4.).

3) The Pinelands Commission has not undertaken a study of digital signs as it said it would.

The Commission should not continue to interpret and re-interpret the CMP sign provisions each time it receives an individual municipal sign ordinance application that contains digital sign provisions. At the October 10, 2014 presentation on the 4th report on the implementation of the Pinelands CMP, staff recommended that the digital sign issue should be examined. Certifying the Franklin Township ordinance is wholly inconsistent with this recommendation. It is time for the Commission to undertake a re-examination of the CMP sign provisions and develop proper standards that address digital signs before it approves another sign ordinance.

Thank you for your attention to these comments.

Sincerely,

Fran Brooks