



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-24- 01

TITLE: Authorizing the Execution of a Memorandum of Agreement between the Pinelands Commission and Pemberton Township Regarding Accessibility Improvements to Pemberton Lake Trail

Commissioner Lohbauer moves and Commissioner Pikolycky seconds the motion that:

WHEREAS, the New Jersey Pinelands Commission is a public body, corporate and politic which was established to prepare and administer the Pinelands Comprehensive Management Plan (CMP) to protect the resources of the Pinelands Area; and

WHEREAS, Pemberton Township was incorporated by the New Jersey Legislature in 1826; and

WHEREAS, Pemberton Lake is part of the Pemberton Lake Wildlife Management Area in Pemberton Township, Burlington County and is made up of three parcels, Block 825, Lots 7.01, 7.04 and 7.05; and

WHEREAS, Pemberton Township owns two of these parcels, Block 825, Lots 7.01 and 7.04; and

WHEREAS, the State of New Jersey owns the third parcel, Block 825, Lot 7.05, and the New Jersey Department of Environmental Protection manages the Pemberton Lake Wildlife Management Area; and

WHEREAS, the Pemberton Lake Trail is an existing dirt walking trail located within the wildlife management area; and

WHEREAS, the Township proposes to improve a portion of the Pemberton Lake Trail that starts at its parking area on Magnolia Road and proceeds proximate to the shoreline of the lake to the trail head at the New Jersey Department of Environmental Protection's parking area on Coleman's Bridge Road;

WHEREAS, the proposed improvements include the placement of crushed gravel within the existing length and width of the trail, leveling the trail to no more than a 5% grade along its entire length and installing boardwalks at two areas of the trail that are prone to being wet; and

WHEREAS, the proposed improvements would make the trail firm, stable and flat from side to side so it is more accessible to individuals with mobility issues; and

WHEREAS, portions of the Pemberton Lake Trail proposed for improvements are located within wetlands and wetlands buffers; and

WHEREAS, although the CMP authorizes the development of trails within wetlands and wetlands buffers if certain standards are met, the proposed improvements are not consistent with all of these standards and may not proceed unless the Commission authorizes a deviation from same; and

WHEREAS, N.J.A.C. 7:50-4.52(c)2 authorizes the Commission to enter into an intergovernmental memorandum of agreement with any agency of the Federal, State or local government which authorizes such agency to carry out specified development activities that may not be fully consistent with the provisions of N.J.A.C. 7:50-5 and 6, provided such agency demonstrates and the Commission finds that variation from the standards of the Pinelands CMP is accompanied by measures that will, at a minimum, afford an equivalent level of protection of the resources of the Pinelands as would be provided through strict application of the CMP's standards; and

WHEREAS, to offset the impacts associated with the proposed improvements, the Township proposes: to 1) revegetate two wetlands buffer areas within the project site, one (4,980 square feet) adjacent to the Magnolia Road parking area and the other (9,250 square feet) adjacent to the Coleman's Bridge Road parking area, with native Pinelands vegetation; 2) create a rain garden in a portion of the denuded area adjacent to the parking area on Magnolia Road; 3) install a gate at each end of the improved trail that is designed to permit pedestrians, wheelchairs, walkers and electric scooters to enter the trail, while prohibiting entry by off-road vehicles; 4) install wooden rail and post barriers at specific points along the trail in the vicinity of the Pemberton Bypass that are currently used unlawfully by off-road vehicles to access the trail and 5) create two accessible parking spaces at the existing Coleman's Bridge Road parking area; and

WHEREAS, N.J.A.C. 7:50-4.52(c)1 authorizes the Commission to enter into an intergovernmental agreement with any agency of the Federal, State or local government which authorizes such agency to carry out specified

development activities without securing individual development approvals from the Commission, provided that the specified development activities are consistent with the provisions of N.J.A.C. 7:50-5 and 6; and

WHEREAS, establishing an alternate permitting process will facilitate the Township’s submission of additional information to the Commission concerning the proposed project and the proposed offsetting measures; and

WHEREAS, the Township has agreed, prior to commencing any site preparation or construction of any portion of the proposed improvements, that it will obtain and provide the following: 1) a Right of Entry from the New Jersey Department of Environmental Protection, to authorize construction of the improvements on that portion of the Pemberton Lake Trail located on the parcel owned by the State of New Jersey and managed by the Department; and 2) a General Freshwater Wetlands Permit 17 to authorize installation of the proposed improvements within freshwater wetlands; and

WHEREAS, the Commission’s CMP Policy & Implementation Committee reviewed and indicated support for the draft Memorandum of Agreement at its November 29, 2023 meeting and agreed to forego further review, provided public comment did not result in any recommended substantive changes to the agreement; and

WHEREAS, a public hearing to receive testimony on the proposed Memorandum of Agreement was duly advertised, noticed and held remotely on December 13, 2023 at 2:00 p.m. with live broadcast on the Pinelands Commission’s public YouTube channel and opportunity for the public to call-in during the live broadcast; and

WHEREAS, the comment period for submission of written comments from the public closed on December 18, 2023 with no comments received; and

WHEREAS, the Executive Director has submitted a report to the Commission recommending issuance of an order to execute the Memorandum of Agreement; and

WHEREAS, the Commission has duly considered the public testimony submitted to the Commission concerning the Memorandum of Agreement and has reviewed the Executive Director’s report; and

WHEREAS, the Commission finds that the offsetting measures proposed by the Township will provide an equivalent level of protection for the resources of the Pinelands as would be provided through strict application of the CMP; and

WHEREAS, the Commission further finds that the Memorandum of Agreement, attached hereto, satisfies the standards of N.J.A.C. 7:50-4.52(c), which authorizes the Commission to enter into such agreements; and

WHEREAS, the 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 the Commission agrees to enter into the attached Memorandum of Agreement with Pemberton Township.

BE IT FURTHER RESOLVED that the Commission authorizes the Executive Director to execute this Memorandum of Agreement.

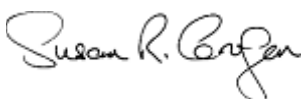
Record of Commission Votes

	AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*
Asselta	X				Lettman			X		Rittler Sanchez	X			
Avery	X				Lohbauer	X				Wallner	X			
Christy			X		Mauriello	X				Matos	X			
Holroyd	X				Meade	X								
Irick	X				Pikolycky	X								

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: January 12, 2024



Susan R. Grogan
Executive Director



Laura E. Matos
Chair



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THE PINELANDS COMMISSION
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PHILIP D. MURPHY
Governor
TAHESHA L. WAY
Lt. Governor

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

LAURA E. MATOS
Chair
SUSAN R. GROGAN
Executive Director

January 3, 2024

REPORT ON A PROPOSED MEMORANDUM OF AGREEMENT BETWEEN THE NEW JERSEY PINELANDS COMMISSION AND PEMBERTON TOWNSHIP REGARDING ACCESSIBILITY IMPROVEMENTS TO PEMBERTON LAKE TRAIL

FINDINGS OF FACT

Pemberton Township, with the assistance of the Pinelands Preservation Alliance (PPA), a non-governmental environmental organization, is proposing to improve a portion of an existing dirt walking trail located along the perimeter of Pemberton Lake in the Pinelands Area. These improvements are intended to make the trail accessible to individuals with mobility issues. The proposed trail improvements will be conducted on portions of the trail located in wetlands and wetland buffers. The proposed Memorandum of Agreement (MOA) would authorize a deviation from the wetland and buffer standards of the Pinelands Comprehensive Management Plan (CMP) and establish an alternate permitting process to facilitate construction of the trail improvements.

I. Background and Purpose of the Memorandum of Agreement (MOA)

Pemberton Lake Trail is located within the Pemberton Lake Wildlife Management Area (WMA). It is comprised of three sections: 1) an approximately 0.74 mile section that starts at a parking area located on Magnolia Road and then proceeds proximate to the lakeshore to the entrance of a parking area located off Coleman's Bridge Road; 2) an approximately 0.30 mile section that starts at the entrance of the Coleman's Bridge Road parking area then proceeds up Coleman's Bridge Road to its intersection with the Pemberton Bypass; and 3) an approximately 0.28 mile section that runs proximate to the bypass from the intersection with Coleman's Bridge Road to a point where the trail joins back to the first section. The Township plans to flatten and stabilize a 0.65 mile portion of the trail that is located proximate to the lake's banks.

Pemberton Lake Trail is a good candidate for a place for accessible nature recreation. The trail is close to homes and easy to reach for Pemberton Township residents. The trail is short, provides lovely views of Pemberton Lake and has places for fishing or enjoying the scenery along its length and at either end.

There is growing interest among public and nonprofit land managers in providing better opportunities for people with disabilities to access recreational resources throughout the State, including the Pinelands. People with disabilities that impair their ability to enjoy natural places make up a large portion of the population. In Pemberton Township, 14.3 % of the population self-identifies as having a disability. Of these individuals, 57.7% identify as having mobility issues.

One mechanism to provide better access to nature is by making low impact and affordable improvements to suitable existing trails. The Pemberton Lake project will serve as a demonstration project on the costs, feasibility, impacts and effectiveness of this kind of accessible trail project in a Pinelands setting.

II. Proposed Project and Offset

The Township is proposing to fill and grade portions of the trail within its existing width of four feet. Additionally, two boardwalks, each approximately 20 feet in length, would be constructed in portions of the trail that are prone to being wet. These boardwalks would be placed directly on the ground, without the use of posts or anchors.

The proposed project is expected to result in impacts to 0.038 acres (1,656 square feet) of wetlands and 0.296 acres (12,894 square feet) of wetland buffers. To offset these impacts, Pemberton is proposing to revegetate two areas within the project site, one (4,980 square feet) adjacent to the Magnolia Road parking area and the other (9,250 square feet) adjacent to the Coleman's Bridge Road parking area, with native Pinelands vegetation. Both of these areas are currently denuded and located within required wetlands buffer areas. Pemberton also plans to create a 350 square foot rain garden within a portion of the area to be revegetated adjacent to the parking area on Magnolia Road.

Additionally, Pemberton proposes to construct two accessible parking spaces at the Coleman's Bridge Road parking area and install a gate at each end of the improved trail that is designed to permit pedestrians, wheelchairs, walkers and electric scooters to enter the trail, while prohibiting entry by off-road vehicles. Pemberton also plans to install wooden rail and post barriers at specific points along the trail in the vicinity of the Pemberton Bypass that are currently used unlawfully by off-road vehicles to access the trail.

III. Basis for the MOA

In order for the Commission to enter into a MOA with a governmental entity that permits development that may not be fully consistent with the land use and development standards (N.J.A.C. 7:50-5 and 6) of the Pinelands CMP, the governmental entity must demonstrate and the Commission must find that variations from the Plan are accompanied by measures that will, at a minimum, afford an equivalent level of protection for the resources of the Pinelands than would be provided through strict application of the CMP. N.J.A.C 7:50-4.52(c)2.

The Commission may also enter into an MOA with any agency of the Federal, State or local government which authorizes such agency to carry out specified development activities without securing individual development approvals from the Commission, provided that the specified development activities are consistent with the land use and environmental standards of the CMP. N.J.A.C. 7:50-4.52(c)1.

IV. Findings

The information provided in the Township's request for this MOA supports the need for the accessibility improvements proposed for the Pemberton Lake Trail. The Pinelands National Reserve contains a wide assortment of open spaces and recreational opportunities. However, although hundreds of miles of trails suitable for hiking and bicycling exist throughout the Pinelands, as well as countless unmarked, sand roads that are also used for such purposes, few of these trails would be considered accessible.

As discussed above, Pemberton Lake Trail is a good candidate for accessible natural recreation. Additionally, as a pre-existing trail, the improvements required to render it accessible will not result in significant environmental impacts to Pinelands flora and fauna. Although the project will result in impacts to wetlands and buffers, the offsetting measures proposed by the Township will provide an equivalent level of protection for these resources as required by the CMP. These measures include revegetation of denuded wetlands buffer areas onsite, installation of gates and wooden barriers to restrict use of the improved trail by off-road vehicles, development of accessible parking spaces and construction of a rain garden that will serve to educate the public on the use of such green infrastructure to reduce stormwater runoff.

The MOA also establishes an alternate permitting process. In lieu of submitting individual public development applications for revegetation of the two denuded areas and creation of the rain garden, the Township would submit the specific information set forth in the MOA. Provided that this information demonstrates consistency with the relevant provisions of the Pinelands CMP, for which a deviation was not authorized, and the terms of the MOA, such development will be approved through a letter issued by the Executive Director. The alternate permitting process would also be available to the Township for minor, de minimis changes to the scope or design of the trail improvements, provided such changes do not have more than a de minimis impact to wetlands, wetland buffers or threatened or endangered plants or animal species or habits for such animals. This process allows for expedited review and approval of the offsets and any de minimis changes and will facilitate completion of the project on a timely basis. Additionally, given the proposed offset afford an equivalent level of protection of the resources of the Pinelands as strict application of the CMP, the proposed project is consistent with the development standards of the CMP and implementation of an alternate permitting process is authorized.

V. Public Hearing

Pursuant to N.J.A.C. 7:50-4.52(c)3, a public hearing to receive testimony concerning the proposed MOA was duly advertised and noticed. The hearing was conducted by Executive Director Susan R. Grogan and held virtually, via ZOOM, on December 13, 2023 at 2:00 p.m. Two individuals attended the hearing. Executive Director Grogan, Stacey Roth and Paul Leakan of the Commission's staff were present at the hearing.

At the outset of the public hearing, Executive Director Grogan provided a summary of the terms of the MOA being requested and the offset proposed by the Township. Ms. Grogan noted that written comment concerning the proposed MOA would be accepted by mail, fax or email until 5:00 p.m. on December 18, 2023.

Ms. Grogan advised the public that following the hearing, a staff report would be prepared with recommended actions concerning the proposed MOA for the Commission's review. This report would include a summary of any testimony provided at the hearing and any written comments received before the record closed on December 18, 2023. Ms. Grogan further advised that the Commission's CMP Policy & Implementation Committee was expected to discuss the proposed MOA at its January 26, 2024 meeting. However, if little public comment was received and did not result in any recommended substantive changes to the MOA itself, the full Commission could consider the proposed MOA at its meeting on January 12, 2024.

The following testimony was received at the hearing.

Daniel Hornickel, Business Administrator, appeared on behalf of Pemberton Township in support of the project. Mr. Hornickel testified that the Township has been working with PPA on this project and hoped to receive Commission approval following the public hearing so that the Township could move forward with smoothing portions of the trail and installing two boardwalks. He confirmed that the Township planned to use crushed gravel for the project and indicated that although the gravel would not come from the Pinelands, it would be sourced from Mercer or Hunterdon counties in New Jersey. Mr. Hornickel stated the Township had done its due diligence by having its engineer work with PPA on the wetlands delineation and by having Princeton Hydro prepare a report as to the efficacy of using Trap Rock gravel on the project. He said that the Township is excited about this project, and that it was going to help the community. Mr. Hornickel stated many disabled veterans reside within Pemberton Township and would benefit from the project. He hoped that the Commission received comments that were positive and supportive of the project and that it unanimously approved the MOA.

Sean Kane-Holland, Access Nature Disability Advocate, PPA, appeared on behalf of the PPA. Mr. Holland testified that PPA was looking forward to completing the MOA process for the project and was eager to get shovels in the ground. He stated that there were over 51,000 people in Burlington County with disabilities and of those individuals 26,000 have ambulatory issues. Making improvements to the Pemberton Lake Trail will provide better access to nature for these individuals. He also stated that he hoped the Commission would use what had been learned from the MOA process for this project, to make the process more efficient so that more trails and outdoor recreational opportunities may be made available to individuals with disabilities.

There being no further testimony, the hearing concluded at 2:14 p.m.

No written comments were received regarding the proposed MOA.

VI. Conclusion and Recommendation

The proposed MOA would authorize a deviation from the wetlands and wetland buffer standards of the Pinelands CMP in order to permit improvements to the Pemberton Lake Trail to make it accessible for individuals with mobility challenges. As discussed above, the project involves grading and the installation of gravel and two boardwalks on the existing dirt trail.

The MOA includes the following measures to offset the wetlands and buffer impacts associated with the proposed project:

1. Revegetation of two wetlands buffer areas within the project site, one (4,980 square feet) adjacent to the Magnolia Road parking area and the other (9,250 square feet) adjacent to the Coleman's Bridge Road parking area, with native Pinelands vegetation;
2. Creation of a rain garden within a portion of the denuded area adjacent to the parking area on Magnolia Road;
3. Installation of a gate at each end of the improved trail that is designed to permit pedestrians, wheelchairs, walkers and electric scooters to enter the trail, while prohibiting entry by off-road vehicles;
4. Installation of wooden rail and post barriers at specific points along the trail in the vicinity of the Pemberton Bypass that are currently used unlawfully by off-road vehicles to access the trail; and

5. Creation of two accessible parking spaces at the existing Coleman's Bridge Road parking area.

The MOA is accompanied by measures that, at a minimum, afford an equivalent level of protection for the resources of the Pinelands as required by N.J.A.C. 7:50-4.52(c)2. That being the case, the Commission's authorization of an alternative application process for the Township's trail improvements in accordance with N.J.A.C. 7:50-4.52(c)1 is also warranted. The Executive Director, therefore, recommends that the Commission enter into this MOA with Pemberton Township regarding accessibility improvements to the Pemberton Lake Trail.

Memorandum of Agreement
Between the New Jersey Pinelands Commission
and Pemberton Township
_____, 2024

I. PURPOSE

This Memorandum of Agreement (“MOA”) is entered into between the New Jersey Pinelands Commission (“Commission”), an independent political subdivision of the State of New Jersey, having its offices at 15 Springfield Road, P.O. Box 359, New Lisbon, New Jersey 08064; and the Township of Pemberton (the “Township”), a municipality, with its offices at 500 Pemberton-Browns Mills Road, Pemberton, New Jersey 08068.

Pemberton Township (“the Township”) is proposing to improve a portion of an existing walking trail in the Pinelands Area located along the perimeter of Pemberton Lake. These improvements will render the trail accessible to individuals with mobility (ambulatory) disabilities. The Township is proposing to flatten and stabilize a 0.65 mile portion of the trail located adjacent to the banks of the lake. In order to achieve its goal, the Township will need to grade and fill portions of the trail. The Pinelands Preservation Alliance (PPA), a non-governmental environmental organization, is assisting the Township with the project.

Portions of the existing Pemberton Lake Trail are located within wetlands and wetlands buffers. The Pinelands Comprehensive Management Plan (“CMP”) authorizes the development of trails within wetlands and wetland buffers provided certain standards are met. Specifically, (1) there is no feasible alternative route that does not involve development in a wetland/buffer, or, if none, that another feasible route which results in less significant adverse impacts on wetlands/buffers does not exist; (2) the need for the proposed linear improvement cannot be met by existing facilities or modification thereof; (3) the use represents a need which overrides the importance of protecting the wetland/buffer; (4) development of the facility will include all practical measures to mitigate the adverse impact on the wetland; and (5) the resources of the Pinelands will not be substantially impaired as a result of the facility and its development as determined exclusively based on the existence of special and unusual circumstances. (N.J.A.C. 7:50-6.13.)

As discussed below, the Township proposes to install gravel upon most of the existing dirt trail as part of its improvement project. There are other practical measures, such as the installation of boardwalks, that would have less impact on wetlands/buffers. The Township has advised that installation of boardwalks along the entire length of the trail proposed for improvement is cost prohibitive. Consequently, absent the Commission’s approval of this MOA permitting a deviation from the wetland and wetland buffer standards of the Pinelands CMP, N.J.A.C. 7:50-6.6, -6.13 and -6.14, respectively, the project would not be allowed. This MOA will also establish an alternative application process in accordance with N.J.A.C. 5:50-4.52(c)1.

II. BACKGROUND

Pemberton Lake is part of the Pemberton Lake Wildlife Management Area (“WMA”). It is located in the Township of Pemberton, Burlington County and is made up of three parcels. Two of these parcels, Block 825, Lots 7.01 and 7.04, are owned by Pemberton Township. The State of New Jersey owns the third parcel, Block 825, Lot 7.05, and the New Jersey Department of Environmental Protection manages the WMA.

Pemberton Lake Trail is an existing walking trail located within the WMA. It is comprised of three sections: 1) an approximately 0.74 mile section that starts at a parking area located on Magnolia Road and then proceeds proximate to the lakeshore to the entrance of a parking area located off Coleman’s Bridge Road; 2) an approximately 0.30 mile section that starts at the entrance of the Coleman’s Bridge Road parking area then proceeds up Coleman’s Bridge Road to its intersection with the Pemberton Bypass; and 3) an approximately 0.28 mile section that runs proximate to the bypass from the intersection with Coleman’s Bridge Road to a point where the trail joins back to the first section. (Exhibit A).

Pemberton Lake is a scenic, manmade 45-acre impoundment off of Magnolia Road. The lake is bracketed by Magnolia Road, the Pemberton Bypass (Route 530), and Coleman’s Bridge Road. There are wetlands to the north and south of the trail. These wetlands feed into the North Branch of the Rancocas Creek and are part of the Rancocas Creek Watershed.

Pemberton Lake Trail is a good candidate for a place for accessible nature recreation. The trail is close to many homes and, thus, easy to visit for Pemberton residents. The trail is short, provides lovely views of Pemberton Lake and has places for fishing or enjoying the scenery along its length and at either end.

III. THE PROJECT

The Pinelands National Reserve represents an important recreational resource and contains a wide assortment of public open spaces including, but not limited to, two national wildlife refuges, numerous State-owned parks, forests and wildlife management areas, and county and municipal parks. Hundreds of miles of trails suitable for hiking and bicycling exist throughout the Pinelands as well as countless unmarked sand roads that are also used for these purposes.

The Pinelands CMP protects those natural resources necessary for compatible recreational uses and promotes recreational opportunities in a manner that minimizes land use conflicts by permitting low-intensity, recreational uses in undeveloped areas and directing more intensive recreational uses to developed areas. In order to be certified by the Commission, municipal

master plans and land use ordinances must contain a program to protect and enhance recreational resources.

There is a growing interest among public and nonprofit land managers to provide better opportunities for people with disabilities to access recreational resources in the Pinelands and coastal areas of the State through low impact and affordable improvements to suitable, existing trails. The Pemberton Lake project will serve as a demonstration project on the costs, feasibility, impacts and effectiveness of this kind of accessible trail project in a Pinelands setting.

The PPA received a grant from the Inclusive Healthy Communities program of the New Jersey Department of Human Services that allocates \$57,100 for accessibility improvements to trails in the Pinelands, including materials, equipment and professional fees associated with completing such projects. PPA is partnering with Pemberton Township to devote these funds to this project.

A. Need for Accessible Trails

People with disabilities that impair their ability to enjoy natural places make up a large portion of the population. According to the 2022 U.S. Census estimates, the total population of the seven counties located within the Pinelands National Reserve is about 2.4 million people. Approximately 14% of these individuals, just over 340,000, identify as having a disability. Ambulatory challenges account for 49% of these disabilities.

The percentage of people with disabilities is similar in Pemberton Township. Specifically, 14.3% of the Township's population self-identifies as having a disability. Of these individuals, 57.7% face mobility challenges.

The United States Department of Agriculture, Forest Service's Accessibility Guidebook for Outdoor Recreation and Trails, dated 2013, defines accessibility as a facility that complied with accessibility guidelines/standards when it was built or altered. With regard to trails, these standards require that the trail be firm and stable, at least 36 inches wide, with no more than a 5% grade (except for short segments), and without gaps or protruding obstacles. Based on these standards, it is likely that the vast majority of existing trails in Pemberton Township and the Pinelands National Reserve as a whole are not accessible, because they (1) are not flat due to gaps in the soil, slopes, protruding tree roots and puddles, (2) have sand that is too soft in places for regular wheelchairs or walkers, and (3) are not maintained, so the condition of these trails changes over time.

According to the Forest Service, the best way to integrate accessibility is to design programs and facilities to the greatest extent possible, without separate or segregated access for people with disabilities. The goal is independence, integration, and dignity for all visitors.

B. Health Benefits from Spending Time Outdoors

Although it is intuitive that human health is deeply intertwined with outdoor spaces and the environment, studies have proven the health benefits of spending time outside.¹ This growing body of research supports the beneficial effects that exposure to the natural world has on health, reducing stress and promoting healing.² These studies suggest that nature is not only nice to have, but it's a have-to-have for physical health and cognitive function.

C. Proposed Improvements

Pemberton Township is proposing to improve portions of the existing Pemberton Lake Trail. The existing trail starts at Pemberton's Magnolia Road parking area and proceeds proximate to the shoreline of Lake Pemberton to the trailhead at the New Jersey Department of Environmental Protection's Lake Pemberton WMA parking area on Coleman's Bridge Road. (Exhibit A.) The trail runs along the top of what was once a dyke or sand road created when the lake was part of a cranberry farm. There is an existing 905-square-foot boardwalk adjacent to the Magnolia Road parking area that extends to a pier on the west side of Pemberton Lake. The remainder of the trail is not accessible for individuals with mobility challenges, because it is uneven, has soft and wet spots, and has a steep incline. However, it is sufficiently wide, dry and flat along most of its course, to be readily improved to make it accessible.

Consistent with the United States Forest Service Guidelines³, the Township proposes to make improvements to the existing dirt trail to make it firm, stable and flat from side to side (4 feet wide) with no more than a 5% grade along its entire length. Specifically, the Township proposes to fill and grade portions of the trail within its existing width, to create a compacted subgrade to a 95% proctor density, i.e., on-site soil density equal to 95% of the maximum achievable compact. Clean gravel will then be placed on the trail, at variable depths depending on existing elevation, to match the existing grade edges. (See Stone Path Detail, Sheet 7 of Exhibit A.)

¹*Prescribing Nature: A Physician's Perspective on Wellness and the Outdoors*, <https://www.landscapeforms.com/blog/Pages/Prescribing-Nature-Article.aspx>

²*Ecopsychology: How immersion in Nature Benefits Your Health*, Jim Robbins, *Yale Environment* 360 (2020), <https://e360.yale.edu/features/ecopsychology-how-immersion-in-nature-benefits-your-health>, See also. *Nature and mental health: An Ecosystem Service Perspective*, Bratman et al., *Science Advances*, July 24, 2019, <https://www.science.org/doi/10.1126/sciadv.aax0903>.

³ US Forest Service Trail Accessibility Guidelines (FSTAG) dated 2013, <https://www.fs.usda.gov/sites/default/files/FSTAG-2013-Update.pdf>. See also <https://www.fs.usda.gov/sites/default/files/FSORAG-2013-Update.1.pdf>

For two portions of the trail, both 48 square feet, located in wetlands, the Township is proposing construction of two, separate boardwalks. These boardwalks would be constructed from pressure-treated lumber in sections 12 feet long by 4 feet wide. The deck of the boardwalk would consist of slats that are 2" x 8" x 4' within cleats that are 2" x 2" x 12'. The deck would sit on a backbone of 6" x 6" x 5' wood support structures. The boardwalk would also include two 4" x 4" x 12' side rails. The Township proposes to place the boardwalks directly on the ground. The use of posts or anchors is not proposed. (See Boardwalk Segment Detail, Sheet 7 of Exhibit A).

Pemberton Township is also proposing to install two accessible parking spaces at the Coleman's Bridge Road parking area. These new parking spaces will be paved. The remaining parking area will remain gravel. Currently, there are no accessible parking spaces in that parking area.

Pemberton Township intends to conduct the improvements using existing Township staff and resources, as well as PPA staff and volunteers. Additionally, once the improvements are completed, signage will be installed at each end of the trail advising that the trail is designed to be accessible to those using wheelchairs and that use of motorized vehicles, bicycles and horses is prohibited on the trail. The availability of the accessible trail will be promoted on various websites. Additionally, the Township intends to maintain the trail by conducting quarterly inspections and making repairs as necessary.

IV. MEASURES PROPOSED TO AFFORD AN EQUIVALENT OR BETTER LEVEL OF PROTECTION FOR THE RESOURCES OF THE PINELANDS

The proposed project is expected to result in the placement of gravel (i.e. fill) over 0.038 acres (1,656 square feet) of wetlands and 0.296 acres (12,894 square feet) of wetland buffers. To offset these impacts, Pemberton is proposing to revegetate two areas within the project site: one (4,980 square feet) adjacent to the Magnolia Road parking area and the other (9,250 square feet) adjacent to the Coleman Bridge Road parking area, with native Pinelands vegetation. Both of these areas are currently denuded and located within wetlands buffer areas. Pemberton also plans to install a 350-square-foot rain garden within the area to be revegetated adjacent to the Magnolia Road parking area.

Additionally, the Township proposes to install a gate at each end of the improved trail that is designed to permit pedestrians, wheelchairs, walkers and electric scooters to enter the trail, while making it difficult or impossible to enter with a motorcycle or ATV. The Township will also install wooden rail and post barriers at specific points along the Pemberton Bypass that are currently used unlawfully by motorcyclists to access the trail.

V. THE BASIS OF THE MOA

The Pinelands CMP at N.J.A.C. 7:50-4.52(c)2 authorizes the Commission to enter into intergovernmental memoranda of agreement with any agency of the Federal, State or local government to authorize such agency to carry out specified development activities that may not be fully consistent with the provisions of the CMP. In order to qualify for a MOA, the governmental entity must demonstrate, and the Commission must find, that any proposed development that may not be fully consistent with the provisions of the Pinelands CMP is accompanied by measures that will, at a minimum, afford a level of protection for the resources of the Pinelands equivalent to that provided by strict application of the standards of the Plan. As discussed above in Paragraph IV, Pemberton Township has proposed measures designed to offset the wetlands and wetland buffer impacts attributable to the project and these measures will afford, at a minimum, an equivalent level of protection for the resources of the Pinelands.

In accordance with N.J.A.C. 7:50-4.52(c)i, the Commission may also enter into intergovernmental memoranda of agreement with any agency of the Federal, State or local government which authorizes such agency to carry out specified development activities without securing individual development approvals from the Commission, provided that the specified development activities are consistent with the provisions of N.J.A.C. 7:50-5 and 6. Execution of this MOA also warrants alternative application procedures because the Township is proposing measures that will afford an equivalent level of protection of the resources of the Pinelands as would be accomplished by application of the standards in Subchapters 5 and 6, which makes the MOA consistent with requirements of the Pinelands CMP.

VI. AGREEMENTS

A. The Township agrees:

1. The proposed improvements to the Pemberton Lake Trail will be constructed in accordance with the following:
 - a. The Plan entitled "Pinelands Preservation Alliance, Pemberton Lake, Accessible Trail Improvement Plans, Block 825, Lots 7.01, 7.04 & 7.05, Township of Pemberton, Burlington County, New Jersey", prepared by Adams, Rehmann & Heggan, Associates, Inc., dated September 22, 2023, consisting of 7 sheets, and attached hereto as Exhibit A and incorporated herein by reference; and
 - b. Stormwater Management Narrative for Pemberton Lake Accessible Walking Trail & Restoration Area, Pinelands Preservation Alliance, Block 825, Lots 7.01, 7.04, & 7.05, Township of Pemberton, Burlington County, New Jersey, " prepared by Adams, Rehmann & Heggan, Associates, Inc., dated June 26, 2023.

2. It will undertake the following to provide an equivalent level of protection for the resources of the Pinelands:
 - a. Magnolia Road Parking Area– 4,980 sq. ft. Sand Area
 - i. It will revegetate the existing 4,980 sq. ft. sand area located adjacent to the Magnolia Road parking area in accordance with the vegetation standards of the Pinelands CMP at N.J.A.C. 7:50-6.23 through -6.27.
 - ii. It will construct a rain garden on a 350 sq. ft. portion of the 4,980 sq. ft. sand area located adjacent to the Magnolia Road parking area.
 - b. Coleman’s Bridge Road Parking Area – 9,250 sq. ft. Barren Area
 - i. It will revegetate a 9,250 sq. ft. area located at the trail head adjacent to the Coleman’s Bridge Road parking area in accordance with the vegetation standards of the Pinelands CMP at N.J.A.C. 7:50-6.23 through –6.27.
 - ii. It will construct two accessible parking spaces at the Coleman’s Bridge Road parking area.
 - c. Other Offsetting Measures
 - i. It will install a gate at the trailhead at each end of the improved trail that is designed to permit pedestrians, wheelchairs, walkers, electric scooters and other mobility assisting devices to enter the trail, while prohibiting entry by off-road vehicles.
 - ii. It will install wooden barriers at other known areas used by off-road vehicles for trail access, to prevent future access by these vehicles.
3. At least thirty (30) days prior to commencing construction of the proposed improvements to the Lake Pemberton Trail, the Township shall provide the following information to the Executive Director:
 - a. Revegetation plans for revegetation of the 4,980 sq. ft. area adjacent to Magnolia Road and revegetation of the 9,250 sq. ft. area at the trailhead of the Coleman’s Bridge Road parking area. Such revegetation plans shall include:

- i. A list of the native Pinelands trees, plants and/or grasses that will be used in the revegetation plan. At a minimum, the plans for both denuded areas shall include the use of the following Pinelands native grasses: switchgrass, little bluestem and broomsedge, where appropriate. The revegetation plan for the Coleman’s Bridge Road area shall include the planting of a combination of pitch pine and shortleaf pine at an equivalent rate of 300-400 plants per acre. Temporary fencing shall also be installed to protect the revegetated areas during maturation of the planted vegetation.
 - ii. A plan or sketch showing the locations of the plantings and temporary fencing.
 - iii. A plan for replacement of vegetation that does not survive after planting, and percentage survival rate for replanted vegetation required to ensure viability of the replanted areas in perpetuity.
- b. A plan for creation of the rain garden adjacent to the Magnolia Road parking area. This plan shall include the following:
- i. A plan depicting the existing conditions;
 - ii. A proposed site plan;
 - iii. A planting plan that includes a planting schedule listing the names of the plants, the number and size of each plant that will be planted and the location where the plants will be planted. Only native Pinelands trees, plants and grasses shall be used to create this rain garden. The Commission’s Green Infrastructure Implementation Project plans may be used as a model, see:

[www.nj.gov/pinelands/infor/yard/20220711_PinelandsCommission_AsBuilt%20\(2\).pdf](http://www.nj.gov/pinelands/infor/yard/20220711_PinelandsCommission_AsBuilt%20(2).pdf));
 - iv. A plan showing planting details;
 - v. A conceptual drawing of what the rain garden is expected to look like upon completion; and

- vi. A plan for replacement of vegetation that does not survive after planting, and percentage survival rate for replanted vegetation required to ensure viability of the replanted area in perpetuity.
- 4. It will ensure that its staff, as well as any staff or volunteers provided by the Pinelands Preservation Alliance, any other entity or individuals who volunteer on their own, to assist with the construction of the proposed project, comply with the obligations of this MOA and all requirements of the Pinelands CMP, unless a deviation therefrom is expressly authorized by this Agreement.
- 5. Obtain any and all certificates, licenses, consents, approvals, or permits required from any other State and/or Federal entity, including but not limited to a Freshwater Wetlands General Permit 17 and a Right of Entry from the New Jersey Department of Environmental Protection, prior to commencing site preparation or construction of any portion of the proposed improvements to the Lake Pemberton Trail project, including the offsetting measures delineated in Paragraph VI.A.2 above. No part of this MOA is intended to release the Township and/or any of its consultants, including the Pinelands Preservation Alliance, staff, volunteers, assignees, or successors from the responsibility to obtain all required approvals.
- 6. Incorporate the terms of this MOA, as well as the obligation to comply with all requirements of the Pinelands CMP from which a deviation has not been expressly authorized by this Agreement into any agreements, contracts, or other legal documents pertaining in any way to the construction of the Lake Pemberton Trail Project.
- 7. Any material addition, deviation, or modification to the proposed Lake Pemberton Trail project as delineated in Exhibit A, shall require the Township to submit a formal public development application in accordance with N.J.A.C. 7:50-4.52(b) to the Commission and seek formal Commission approval of such addition, deviation, or modification. Any construction activities that may have commenced on the Lake Pemberton Trail project shall cease and no further development may proceed until the public development application review process has been completed and the Commission has issued a resolution approving the addition, deviation, or modification to the Lake Pemberton Trail project.

8. To the extent that new information becomes available or changes are made to the scope or design of the proposed Pemberton Lake Trail project that would result in more than a de minimis change to the impacts to wetlands, wetland buffers or threatened or endangered plants or animals species or habits for such animals, but would not be considered material and subject to Paragraph VI.A.7., the Township shall submit the new information or changes to the Executive Director who shall determine whether the proposed development remains consistent with the terms of this MOA, the requirements of N.J.A.C. 7:50-5 or 6 not addressed by this MOA, and Exhibit A and issue a written consistency determination.

9. If the Executive Director determines that as a result of the new information or any de minimis change to the scope or design of the proposed Pemberton Lake Trail project is inconsistent with the terms of this MOA or a standard of the Pinelands CMP from which a deviation has not been expressly authorized by this agreement or results in increased impacts to threatened or endangered animal species habitat or plant species, or wetlands or wetland buffers associated with the proposed Pemberton Lake Trail project, the Township shall modify the proposed development project(s) until the Executive Director determines that it is consistent with all requirements of this MOA and the Pinelands CMP. If the Township disagrees with the Executive Director's determination, it may file an application for public development pursuant to N.J.A.C. 7:50-4.52(b) and seek formal approval from the Pinelands Commission of the project. The proposed development project may not proceed until the public development application review process has been completed and the Commission has issued a resolution approving the development project.

10. The terms of this MOA shall immediately be suspended in the event that the Executive Director determines that an unresolved violation of the terms of this MOA, a requirement of the Pinelands CMP for which a deviation is not authorized by this Agreement, or a written authorization issued by the Executive Director has occurred on the site of the Pemberton Lake Trail Project (Portions of Block 825, Lots 7.01, 7.04 & 7.05, Township of Pemberton, Burlington County, New Jersey). The Township shall have thirty (30) days to seek reinstatement of this MOA by providing the Commission with a written agreement itemizing the steps the Township will take to remedy the violation and a timeline for completion of such steps. If the measures and timeline for completion proposed by the Township are acceptable to the Executive Director, following Commission concurrence, she shall issue a letter to the Township reinstating the terms of this MOA. Failure of the Township to

complete the measure required to cure the violation or make changes to its submission following staff review within the specified timeline may result in reinstatement of the suspension.

11. The Township shall attend a meeting of the Commission's CMP Policy & Implementation Committee to provide a summary of the project following completion of the total project, including 1) the grading and installation of gravel and boardwalks on the Pemberton Lake Trail; 2) revegetation of and installation of the rain garden on a portion of the area adjacent to the Magnolia Road parking area; 3) revegetation of the denuded area at the trail head at the Coleman's Bridge Road parking area; 4) installation of gates at the trailheads at each end of the improved trail; 5) installation of wooden barriers to prevent access to the trail by off-road vehicles; and (6) construction of the two accessible parking spaces at the Coleman's Bridge Road parking area.
12. Notify the Commission upon the completion of each component of the project, including improvements to the Pemberton Lake Trail, revegetation of each of the denuded areas, construction of the rain garden and installation of the gates and wooden barriers as required in Paragraphs VI.A.1 and 2 above.

B. The Pinelands Commission agrees:

1. The Commission shall not require the filing of formal public development applications in accordance with N.J.A.C. 7:50-4.52(b) for the proposed improvements to the Lake Pemberton Trail and implementation of the offsetting measures set forth in Paragraphs VI.A.1 and 2 above, unless:
 - a. Any of the proposed offsetting measures set forth in Paragraph VI.A.2 are inconsistent with the requirements of this MOA and/or any of the standards of Subchapter 5 and 6 of the Pinelands CMP for which a deviation has not been expressly provided by this MOA, and the Township has not modified the proposed development project to render it consistent with such requirements;
 - b. There is a material addition to, deviation from, or modification to any of the proposed development projects; or
 - c. As a result of new information or any change to the scope or design of the proposed development project(s) submitted to the Executive Director in accordance with Paragraph VI.A.8., the proposed

development project is inconsistent with the requirements of this MOA or a standard of the Pinelands CMP from which a deviation has not been authorized by this Agreement or will result in a material increase in the threatened or endangered animal species habitat or wetlands/wetland buffers impacts associated with the proposed project for which deviations have been authorized by this MOA, and the Township has not modified the proposed development project to render it consistent with such requirements.

2. Within thirty (30) days of receipt of the information submitted pursuant to Paragraphs VI.A.3 or VI.A.8, the Executive Director will provide written authorization in accordance with Paragraph VI.B.4 or the Commission staff will provide a written explanation of deficiencies in accordance with Paragraph VI.B.3.
3. If the Executive Director determines that any portion of a proposed project is inconsistent with this MOA and/or the provisions of the CMP from which a deviation has not been authorized by this Agreement, then the Commission staff shall provide a written explanation of the deficiencies and identify specific actions that must be taken by the Township to remedy such deficiencies.
4. If the Commission staff determines, after review of information submitted in accordance with Paragraphs VI.A.3 or VI.A.8 and/or in response to any deficiency letter issued by the Commission pursuant to Paragraph VI.B.3, that a proposed project is consistent with this MOA and the provisions of the CMP from which a deviation has not been authorized by this Agreement, it shall issue a written authorization to the Township setting forth this determination. This written authorization shall constitute a public development approval and no further action by the Commission shall be required.
5. In the event of a suspension of the terms of this MOA in accordance with Paragraph VI.A.10, the Executive Director shall, following the Commission's concurrence, issue a letter to the Township reinstating the terms of this MOA following the Township's submission of a written agreement in accordance with Paragraph VI.A.10 and the acceptance of same by the Executive Director and the Commission. The Executive Director retains the right to a violation unresolved until such time as the Township has implemented all measures set forth within its written agreement.

VII. EFFECTIVE DATE, DURATION AND SIGNATURES

1. In accordance with N.J.S.A. 13: 18A-5(h), this MOA shall take effect following the conclusion of the Governor's review period and approval of the Pinelands Commission meeting minutes authorizing execution of this MOA and then upon approval and signature by the authorized representatives of all parties.
2. This agreement shall remain in effect unless amended by written consent of both Parties or otherwise terminated or suspended by the Pinelands Commission or terminated by both parties upon sixty (60) days written notice or suspended by the Commission in accordance with Paragraph VI.A.10.
3. This MOA, along with any exhibits, appendices, addendums, or schedules, attached hereto and incorporated herein by reference and any subsequent written amendments executed by the parties, constitutes the entire agreement of the parties, and supersedes all previous understandings and agreements between the parties, whether oral or written. The Parties hereby acknowledge and represent that said parties have not relied on any representation, assertion, guarantee, warranty, collateral contract or other assurance, except those set forth in this MOA, made by or on behalf of any other party or any other person whatsoever, prior to the execution of this MOA.
4. This MOA may be executed in counterparts. All such counterparts shall constitute an original and all of which together shall constitute one and the same agreement, binding upon the parties. Faxed and electronic signatures shall constitute original signatures.

IN WITNESS WHEREOF, the parties have caused their duly authorized representatives to execute this MOA on and as of the day and year written below. This MOA shall be executed in at least three (3) original copies, one of which is to be delivered to Pemberton Township and two (2) of which are to be delivered to the Pinelands Commission.

Pemberton Township

Witnessed:

By: _____
 Name: _____
 Title: _____
 Date: _____

By: _____
 Name: _____
 Title: _____
 Date: _____

New Jersey Pinelands Commission

Witnessed:

By: _____

Susan R. Grogan
Executive Director

Date: _____

By: _____

Name: _____

Title: _____

Date: _____

Exhibit A

Pemberton Lake Accessible Trail Improvement Plans
Block 825, Lots 7.01, 7.04 & 7.05
Pemberton Township, Burlington County, NJ
Dated September 22, 2023, revised November 1, 2023