

New Jersey Pinelands Commission
THE PROCESS FOR CONSIDERING AN INTERGOVERNMENTAL AGREEMENT
June 23, 2008

Under normal circumstances, the Pinelands Commission expects that a public agency's development plans will conform to all of the land use [N.J.A.C. 7:50, Subchapter 5] and development standards [N.J.A.C. 7:50, Subchapter 6] of the Pinelands Comprehensive Management Plan [CMP]. However, there may be instances where a public agency believes that a specific development plan can not conform to all of the CMP's requirements.

Although the Pinelands Commission expects these types of situations to be very rare, the CMP [N.J.A.C. 7:50 – 4.52 (c)] does allow the Commission to enter into an intergovernmental agreement that authorizes a public agency to undertake development activities that are not fully consistent with Pinelands land use and development standards. The Pinelands Commission recognizes its obligation to exercise this discretionary authority very carefully and, under no circumstance can consider such an agreement unless the relief sought from CMP standards is offset by other measures that will provide at least an equivalent level of protection of the Pinelands.

In order to properly discharge its responsibilities, the Commission's Executive Director works with a committee of Commission members [the Public and Government Programs Committee] to evaluate requests for intergovernmental agreements and, if warranted, prepare a formal agreement for the full Commission's consideration. This process consists of twelve steps, as outlined below, and may take 12 months or longer to complete:

Step 1. A public agency should contact the Commission's Executive Director if it believes its proposed development plan can not meet the land use or environmental standards of the CMP and wishes to pursue an intergovernmental agreement. The Executive Director will arrange for the public agency's representatives to meet with the Commission's staff to review the proposal in more detail.

Step 2. The Executive Director will provide the agency's representatives with a preliminary opinion as to whether its proposed project appears to be consistent with the types of other activities authorized by the Commission through intergovernmental agreements.

Step 3. If the agency wishes to proceed with its request, it will prepare a proposal that provides the following information and submit the proposal to the Executive Director.

1. A description of the project and at least a conceptual site plan. The project description and site plan must address both short term and long term development plans for the site.

2. If the project site is part of a larger tract of land, a description and at least a conceptual site plan illustrating any existing and future development and management plans for the remainder of the tract.
3. A detailed description of the need for the project and the public purposes it will serve.
4. A list of public agencies and non-governmental organizations that have been consulted regarding this project and information about their views or recommendations about the project.
5. The status of project financing, including an estimate of costs and preliminary or firm funding commitments.
6. The status of project planning and design work. At a minimum, a preliminary assessment of wetland, rare plant and rare animal resources that may exist on the tract must be included.
7. A detailed listing of CMP land use and development standards that can not or likely will not be met and why they can't be met.
8. A description of design measures to be taken to reduce the extent of the project's non-conformity with CMP standards.
9. A detailed listing of other CMP development standards for which insufficient information is currently available to assess the project's conformance.
10. A description of project alternatives [other locations for the project and other on-site designs] that were considered and why they weren't pursued.
11. The specific measures that are proposed to provide an equivalent or better level of protection of the Pinelands than would be achieved if the CMP's standards were strictly followed. These may include one or more environmental initiatives, including the protection of land elsewhere and the remediation of environmental impacts on this tract or elsewhere.

Step 4. The Commission's Director of Regulatory Programs shall organize the staff's review of the proposal and advise the agency's representative of any supplemental information that should be incorporated into to the proposal to help in the Commission's evaluation.

Step 5. The public agency's proposal, along with the Executive Director's preliminary assessment of the proposal, will be provided to Public and Government Programs Committee members. The agency will brief the Committee on its proposal at the Committee's next available meeting.

Step 6. Following the briefing, the Public and Government Programs Committee, in consultation with the Executive Director, shall determine whether the Commission should consider entering into an intergovernmental agreement for the project.

Step 7. If an intergovernmental agreement is to be prepared, the Executive Director shall assign the appropriate staff member(s) to work with the agency to complete any remaining planning and design work, address any outstanding matters and to draft the intergovernmental agreement.

Step 8. The Executive Director shall consult with the Public and Government Programs Committee as the agreement is being prepared and will fully brief the Committee as to the specific contents of the draft agreement before scheduling a public hearing on the proposal.

Step 9. The Executive Director shall conduct a public hearing and prepare a written report addressing the public's comments on the proposed agreement. The report shall present a formal recommendation as to whether the Commission should approve the agreement. A proposed resolution memorializing the recommendation shall also be prepared.

Step 10. The Executive Director shall review the report and the proposed resolution with the Public and Government Programs Committee.

Step 11. The Public and Government Programs Committee's recommendation shall be incorporated into the proposed resolution. If the Committee disagrees with the Executive Director's recommendation, it may request that the Executive Director also prepare an alternative resolution for the Commission to consider

Step 12. The full Pinelands Commission shall consider the resolution(s) at its next available meeting.