



State of New Jersey
THE PINELANDS COMMISSION
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NEW LISBON, NJ 08064
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PHILIP D. MURPHY
Governor
SHEILA Y. OLIVER
Lt. Governor

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

LAURA E. MATOS
Chair
SUSAN R. GROGAN
Executive Director

MEMORANDUM

To: CMP Policy & Implementation Committee

From: Susan R. Grogan 
Executive Director

Date: March 22, 2023

Subject: March 31, 2023 Committee meeting

Enclosed please find the agenda for the Committee's upcoming meeting on March 31, 2023. We have also enclosed the following:

- The minutes from the Committee's February 24, 2023 meeting;
- A draft resolution and report on Waterford Township Ordinances 2023-1 and 2023-2; and
- A copy of the January 2022 State legislation related to municipal impoundment and disposal of certain all-terrain vehicles, dirt bikes and snowmobiles, together with a number of municipal implementing ordinances

The Committee meeting will be conducted in-person and via teleconference. Specific access information will be provided to all Committee members in a separate email. The public is invited to attend the meeting in-person or view and participate in the meeting through the following YouTube link:

www.youtube.com/c/PinelandsCommission



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CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

March 31, 2023 – 9:30 a.m.

This meeting will be held in-person and virtually

Richard J. Sullivan Center for Environmental Policy and Education
Terrence D. Moore Conference Room
15C Springfield Road
New Lisbon, New Jersey

Watch the meeting on the Pinelands Commission YouTube channel:

www.youtube.com/c/PinelandsCommission

To Provide Public Comment, Please Dial: 1-929-205-6099 Meeting ID: 859 5952 1332

Agenda

1. Call to Order
2. Adoption of minutes from the February 24, 2023 CMP Policy & Implementation Committee meeting
3. Review of Executive Director's report on Waterford Township Ordinances 2023-1 and 2023-2, amending Chapter 176 (Land Use, Development and Zoning) of the Township's Code and adopting the Second Amendment to the Haines Boulevard Redevelopment Plan
4. Review of 2022 all-terrain vehicle State legislation and discussion of municipal ordinances
5. Update on the Commission's March 7, 2023 Land Preservation Summit
6. Update on CMP amendments and priorities
7. Public Comment

CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

This meeting was conducted both remotely and in-person
The public could view/comment through Pinelands Commission YouTube link:

<https://www.youtube.com/watch?v=P8RR6S8-ODI>

Meeting ID: 880 7744 3281
Richard J. Sullivan Center
15C Springfield Rd
New Lisbon, New Jersey 08064
February 24, 2023 - 9:30 a.m.

MINUTES

Members in Attendance – Alan W. Avery, Jr., Mark S. Lohbauer, Edward Lloyd, Chair Laura E. Matos

Members Absent – Jerome H. Irick, Theresa Lettman

Commission Staff in Attendance – Gina Berg, John Bunnell, Ernest Deman, April Field, Susan R. Grogan, Brad Lanute, Paul Leakan, Trent Maxwell, Stacey P. Roth, Steven Simone, and Ed Wengrowski. Also in attendance was Janice Venables from the Governor’s Authorities Unit.

1. Call to Order

Chair Matos called the meeting to order at 9:31 a.m.

2. Adoption of the Minutes from the January 27, 2023, CMP Policy and Implementation Committee Meeting

Commissioner Lloyd moved the adoption of the minutes for the January 27, 2023, Committee meeting. Commissioner Lohbauer seconded. All members voted in favor.

3. Presentation by Pemberton Township and the Pinelands Preservation Alliance on a proposed Memorandum of Agreement (MOA) with the Commission

Susan R. Grogan, Executive Director (ED), discussed the Commission’s history with Memoranda of Agreement (MOA), the process for consideration of an MOA, and the steps for establishing the agreement. (attached) The Pinelands Comprehensive Management Plan (CMP) allows the Commission to enter into MOAs with other public entities to establish streamlined permitting procedures or to authorize a deviation from CMP standards. The P&I Committee must make a recommendation to the full Commission as to whether the agency should consider entering into the proposed MOA. ED Grogan noted that offsets are a requirement of deviation MOAs, typically met through the preservation of land. She also indicated that the deviation in this proposal was for construction in wetlands buffers.

Chair Matos added that this is the first of several discussions of this proposed MOA in public

meetings and that the MOA process includes many opportunities for input. She encouraged Committee members to ask questions and learn more about the proposal.

Carleton Montgomery, Executive Director of the Pinelands Preservation Alliance (PPA), and Daniel Hornickel, Business Administrator at Pemberton Township, gave a joint presentation on the proposed trail construction near Pemberton Lake Wildlife Management Area (presentation attached) that would require a MOA.

Mr. Montgomery stated the PPA recognized that accessibility issues may preclude disabled persons from recreating on typical Pinelands trails. The Alliance launched its “Pinelands is for Everyone” program and reached out to the administration in Pemberton Township. The two entities identified Pemberton Lake as a good site on which to create an accessible trail.

Mr. Hornickel thanked the Commission for having a process that could make the accessible trail possible. He said the Township has a large population of disabled veterans and others with mobility issues. He further described municipal commitments to completing the project and maintaining the site. He added the trail upgrades would provide a public good for disabled persons and cause minimal disruption to the Pinelands.

Mr. Montgomery presented pictures and maps of the trail setting and features to show slope and trail surface issues that pose potential hazards to disabled persons using the trail. He also showed images of existing accessible trails elsewhere in the Pinelands to show what the proposed Pemberton Lake trail might look like. He also discussed walling off a denuded location with a wooden barrier to allow for restoration and revegetation. This is the proposed offset for the deviation MOA.

Commissioner Avery asked if the image of the steep slope in the presentation is part of the trail or leads to a ravine. Mr. Montgomery said it is part of the trail.

Mr. Montgomery said that boardwalk construction style trails are proposed only in locations that are habitually wet. The remainder of the trail would be graded and surfaced in compacted aggregate. He said that a boardwalk style for the entire trail would be cost prohibitive.

Commissioner Lloyd expressed support for the project and asked if wheelchairs need a certain wheel width to work on the current trails and if the proposed trail will accommodate all types of wheelchairs.

Charlotte Borgensen, a member of the PPA featured in the presentation, said her wheelchair is all-terrain and functions well in most off-road settings but struggles on the existing trail’s soft sands. A manual wheelchair would have even more trouble and could potentially tip over.

Mr. Hornickel said the goal is to allow people with all types of wheelchairs and visual impairments to use the trail.

Mr. Montgomery added that PPA has spent a lot of time on addressing accessibility for different wheelchair types.

Commissioner Lohbauer asked how long the project will take to complete.

Mr. Montgomery said they have not done a project like this before and are not entirely sure. Mr. Hornickel added that Pemberton has a capable public works staff that hopes to finish the project quickly.

Commissioner Lohbauer said the restoration of the offset area may be the biggest component of the project. Mr. Montgomery said PPA has ample experience with mitigating those issues but that restoration will take multiple years.

Commissioner Lohbauer asked if the Township envisions spreading the word about the trail upgrades and their improved accessibility for disabled persons.

Mr. Hornickel said yes, and that Pemberton publishes a quarterly newsletter. He said there was a lot of public excitement about the project when it was first announced in the fall of 2021. Mr. Hornickel said he hoped disability alliances would also spread the word that a new accessible trail is available in the Pinelands.

Mr. Montgomery said that when PPA launched its Pinelands is for Everyone project, it held several public outreach events to gain input from residents on the challenges for people with disabilities. He said there are limits to how they can recreate comfortably, safely, and reliably.

Chair Matos suggested involving the Division of Disability Services at the New Jersey Department of Human Services. Mr. Montgomery said they are already involved and supportive of the project. The Division launched its Inclusive Healthy Communities Grant Program in 2020 and PPA saw an opportunity for assistance in funding the accessible trails project.

ED Grogan added the Pemberton Township project may be a template for similar projects that are anticipated. A similar project in Stafford Township is being planned and may also need a MOA for trail construction in wetlands buffers.

Stacey Roth, Chief of Legal and Legislative Affairs, asked if any construction would occur inside the Wildlife Management Area (WMA). Mr. Montgomery said construction would occur both inside and outside the WMA.

Ms. Roth asked if the New Jersey Department of Environmental Protection (DEP) would be participating with the project. Mr. Montgomery said yes. ED Grogan added that a DEP representative was present in previous meetings with PPA and the Township.

Commissioner Avery asked if Pemberton Township, the State DEP, and the Commission would be the three signatories to the agreement. ED Grogan said that was correct.

Mr. Hornickel added that PPA has a license from the Township for the trail. They entered into a five-year licensing agreement to allow PPA to improve the trails.

Commissioner Lohbauer asked if the upgraded trail would include access to an electric vehicle charging station. Mr. Hornickel said that could be a future phase.

Commissioner Avery mentioned that the Barnegat Branch trail uses a similar construction technique but is 10 feet wide to accommodate bicycles. The standard wheelchair works well on that trail because it is compacted stone dust. Commissioner Avery suggested visiting county parks and that most of them have enhanced accessibility. Mr. Montgomery agreed and cited Double Trouble village as a good example.

Commissioner Avery asked if the crushed stone aggregate surface in the wetlands buffer is the primary reason for the MOA. ED Grogan said yes.

Commissioner Lloyd asked if there was any concern about motorbikes using the trail. Mr. Montgomery said yes, and that a barrier would be erected to discourage motorbikes from entering the trail. Mr. Hornickel added that the Township will work on preventative measures.

Ms. Roth asked if the trail is accessible from the former Burlington County College site. Mr. Hornickel said no.

Commissioner Lohbauer expressed support for the project.

Chair Matos asked for a vote to recommend that the full Commission authorize moving forward with the proposed MOA at its March meeting. Commissioner Lohbauer made the motion. Commissioner Lloyd seconded. All Commissioners voted in favor.

4. Discussion of the Commission's landfill closure assessment program

Ed Wengrowski, Environmental Technologies Coordinator, gave a presentation on the Commission's landfill closure assessment program (presentation attached). Mr. Wengrowski's presentation discussed the CMP prescriptions for capping solid waste landfills that predate the Commission, standard methods for managing and monitoring leachate and other hazardous byproducts of landfills, identification of significant ecological risks to wetlands from legacy landfills, and typical ecological screening criteria.

Commissioner Lohbauer thanked Mr. Wengrowski and asked if any of the 60 legacy landfills in the Pinelands Area are still operating.

Mr. Wengrowski said there is only one that is still operational: the Cape May Landfill. The other landfills were closed by the early- to mid-1980s, and some ceased operation prior to the adoption of the CMP. Some were closed with an impermeable cap, while most of them not been capped and have remained inactive for the past four decades.

Commissioner Lohbauer said the Commission should acquire the additional data on the 60 landfill sites regarding harmful contaminants, capping status, nearby Environmentally Sensitive Natural Resources (ESNR), and any monitoring wells. He asked if the Commission had that information or if it will acquire that data.

Mr. Wengrowski indicated that broad screening was done in-house in 2010 followed by a Rapid Landfill Assessment project by United States Geological Survey (USGS). Those projects looked at DEP monitoring reports, GIS layers for sensitive receptors, and contaminants of concern. At least one constituent was categorized as high risk at most landfills. A wide array of contaminants was identified as low risk.

Commissioner Lohbauer asked how the Commission's role in landfill regulation differs from the DEP and if the Commission's review is only triggered by an application for development. He also asked if the Commission staff has the capacity and regulatory authority to require treatment if contaminants are impacting environmentally sensitive receptors.

Mr. Wengrowski said that assessing ecological impacts is the Pinelands focus and the DEP focuses on public health.

ED Grogan said the Commission has different standards from DEP and the Commission review is limited to when an application comes in because a municipality has some incentive to move forward with capping a landfill, such as the installation of a solar field on the capped landfill.

ED Grogan added the Commission is looking to hire a new Environmental Technologies Coordinator to assist with landfill closures and associated development projects.

Commissioner Avery asked if the DEP's regulatory authority over landfills varies by the date the landfills stopped receiving waste. ED Grogan said they have different dates. Mr. Wengrowski added most of them closed in the 1980s prior to adoption of the CMP.

Commissioner Avery asked if most of the closed facilities were public. Mr. Wengrowski said yes.

5. Public Comment

Carleton Montgomery, Executive Director at PPA, asked if the Commission has evaluated or has data indicating that landfill capping has successfully prevented groundwater contamination at the Stafford Township, Big Hill, and Southern Ocean landfills. He also asked if evaluating success is a fundable project.

Mr. Wengrowski said no evaluation has been completed. He said leaving landfills uncapped leaves them vulnerable to atmospheric conditions and oxygenation, which can speed up the decomposition process. By placing an impermeable cap on the landfill, the materials inside remain preserved. The Environmental Protection Agency (EPA) continues to recommend capping of landfills in certain cases, even for landfills without a liner, as it does reduce the amount of infiltration that would occur.

Commissioner Avery commented that one of the benefits of capping the landfills is gas management.

Heidi Yeh, Policy Director at PPA, commended Mr. Wengrowski's presentation. She mentioned concerns about warehouse sprawl in the Pinelands Area raised by Commissioners at the November 2022 Climate Committee meeting. She said that the logistics industry is important in New Jersey, but that not all sites are suitable for warehouse development.

Ms. Yeh commented that the New Jersey State Planning Commission's Office of Planning Advocacy (OPA) has created a document with best management practices to help municipalities plan for warehouse development. Ms. Yeh added that there are bills pending in the State Legislature that would give these practices enforcement power and give more consideration to regional planning. She said the Commission is well-positioned to take a leadership role in the matter.

Ms. Roth stated the Commission is aware of the warehouse guidelines, which were previously distributed to Committee members. She noted the staff tracks legislation related to implementation of the guidelines.

Michelle Forman of Pemberton Township asked about other development that could occur on landfills. Chair Matos replied that other development constitutes any sort of structure or facility built on top of the landfill. ED Grogan added it would be any development the municipality proposes.

Commissioner Lohbauer said that recreational facilities like golf courses and soccer fields have been built on top of landfills.

Ms. Forman asked about the status of an Open Public Records Act (OPRA) request. Ms. Forman asked if she could receive a hard copy of response documents. ED Grogan said yes.

Ms. Forman asked about the status of her appeal. Ms. Roth said it was under her review and a response would be provided within a few days.

Ms. Forman asked if there was a timeline for completing review of appeals. Ms. Roth said no. Chair Matos added there is no established timeline or framework for these reviews and that the timeframe depends on the staff's workload.

Ms. Forman asked if she would receive her response in the mail. Ms. Roth said yes. ED Grogan added that the Commission will contact Ms. Forman when it is ready, and she can come in person to pick up the documents.

Esmé Devenny of the Fair Share Housing Center commented on the Fair Housing Act (N.J.S.A. 52:27d-329.9), which allows municipalities to require a reduced number of affordable housing units when necessary for economic feasibility reasons. She expressed concern that developers are justifying reduced affordable housing units due to the economic constraints imposed by Pinelands requirements for Pinelands Development Credits for residential development. She mentioned an example in Egg Harbor Township where the Township is allowing the developer to proceed with just eight affordable units. She added the Center is concerned that this issue will continue in the Pinelands Area.

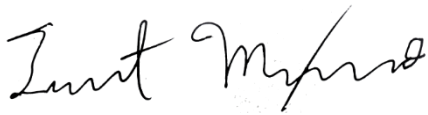
Chair Matos closed public comment at 11:29 a.m.

Commissioner Lohbauer thanked Ed Wengrowski for his career working at the Commission and wished him well in his retirement.

Commissioner Lloyd commended Mr. Wengrowski on his twenty-year service to the Pinelands and his ability to communicate with the Commissioners on technical issues.

Chair Matos asked for a motion to adjourn the meeting. Commissioner Lohbauer gave the motion. Commissioner Avery seconded. All members voted in favor. The meeting adjourned at 11:33 am.

Certified as true and correct:



Trent R. Maxwell, Planning Technical Assistant

Date: March 16, 2023



Process for an Intergovernmental
Memorandum of Agreement
February 24, 2023

Memoranda of Agreement

The CMP authorizes the Commission to enter into MOAs with public entities for two purposes:

- To establish streamlined permitting procedures
- To authorize deviations from CMP standards, provided measures are included to ensure equivalent protection of Pinelands resources

History of MOAs

- The Commission has entered into 23 new or amended MOAs since 2002
 - 13 permit streamlining MOAs
 - 10 deviation MOAs
 - the majority dealt with the expansion of existing public facilities
 - Offsetting measures resulted in permanent protection of 9,740 acres in the Pinelands Area

Process for Consideration of an MOA

- Originally developed in 2008, an expanded 13-step process was established in 2016 by the Commission's MOA Policy Advisory Committee
- The process applies to all proposed MOAs that authorize deviations from CMP standards
- MOAs may only be executed between the Commission and other public agencies

Process for Consideration of an MOA: Recommended Changes

Step 1. Commission staff meets with the public agency to discuss a proposed development plan. If all CMP standards cannot be met, staff may identify appropriate options for the agency's consideration, including:

- modification or relocation of the project
- a waiver of strict compliance
- an MOA

Process for Consideration of an MOA: Recommended Changes

Step 2. The Executive Director and Commission Chair meet with the public agency to discuss the proposed development project and the process and potential for an MOA.

Step 3. The public agency submits a written proposal to the Executive Director

- Conceptual site plan, public purpose, project partners and financing, offsetting measures

Process for Consideration of an MOA: Recommended Changes

Step 4. The Executive Director advises the public agency of the need for any additional information

Step 5. The public agency briefs the P&I Committee on its proposal

Step 6. The P&I Committee makes a recommendation as to whether the Commission should consider entering into the proposed MOA

Process for Consideration of an MOA: Recommended Changes

Step 7.

- The Executive Director briefs the full Commission at its next meeting on the public agency's proposal and the P&I Committee's recommendation.
- The Commission determines whether to authorize the staff to move forward with the administrative process and draft an MOA. If yes, the Commission provides a schedule for development and consideration of the MOA.

Process for Consideration of an MOA: Recommended Changes

Step 8. The Executive Director assigns appropriate staff member(s) to work with the public agency and determines the need for any escrow payments. Staff prepares a draft MOA and shares/discusses it with the public agency.

Step 9. Staff consults with and briefs the P&I Committee on the draft MOA.

Process for Consideration of an MOA: Recommended Changes

Step 10. Staff conducts a public hearing on the MOA and prepares a report and recommendation.

Step 11. Staff reviews the MOA, report and recommendation with the P&I Committee.

Step 12. The P&I Committee makes a recommendation to the full Commission.

Step 13. The Commission considers the resolution at its next meeting.

Questions?





Pemberton Lake

Accessible Trail

PROPOSAL BY PEMBERTON TOWNSHIP AND
THE PINELANDS PRESERVATION ALLIANCE



Pemberton Bypass

Rancocas Conservancy

Pemberton Township

Magnolia Road

Division of Fish and Wildlife























Key Points

- There is a public need for more accessible trails
- This park is easy to reach for Pemberton residents
- The lake and trail are very scenic
- Uses existing trail with no need to widen or remove vegetation
- Stone will stabilize surface and not change soil chemistry or water quality
- PPA and Fish and Wildlife will restore damaged area

Pinelands Commission Landfill Closure Assessment Program

Policy and
Implementation
Committee
Meeting

February 24, 2023



N.J.A.C. 7:50-6.75 Landfills

(c) All landfills that ceased operation on or after September 23, 1980 if located in the Preservation Area or on or after January 14, 1981 if located in the Protection Area shall be capped with an ***impermeable material*** unless it can be clearly demonstrated that:

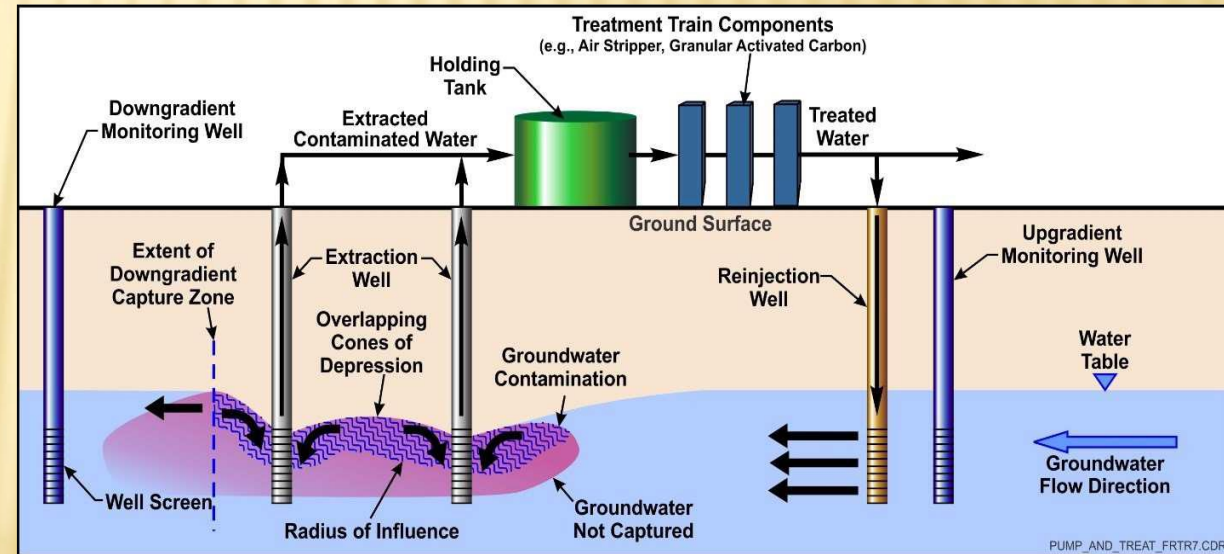
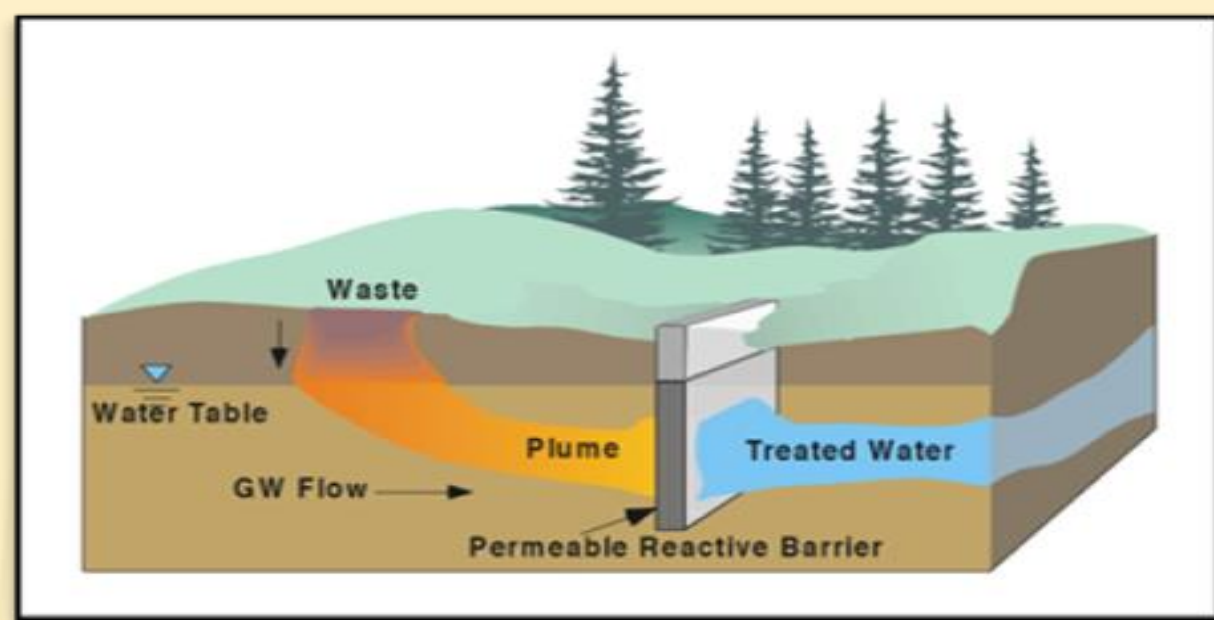
1. The landfill accepted only vegetative waste or construction debris for disposal;
2. An ***alternative means of addressing the public health and ecological risks*** associated with the landfill is available that will **afford an equivalent level of protection** of the resources of the Pinelands than would be provided if the landfill were capped with an impermeable material;
3. No leachate plume associated with the landfill exists and the landfill is not generating leachate; or
4. ***A leachate plume associated with the landfill exists but poses no significant ecological risk to wetlands.***



Impermeable material cap is the standard presumptive remedy ($K=1 \times 10^{-7}$ cm/sec) Typ. 40 mil HDPE heat or solvent welded seams

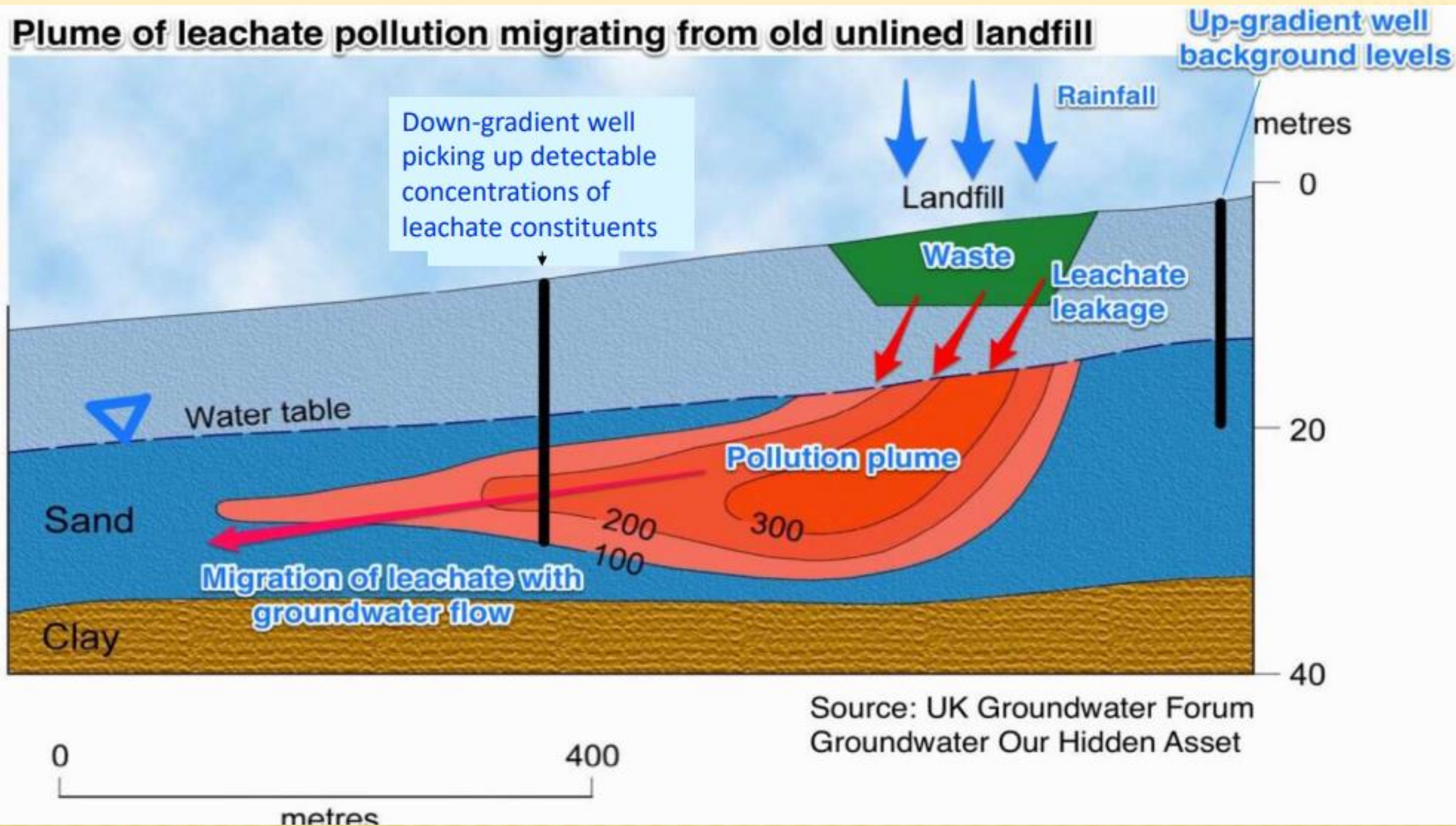


Permeable soil cover (Typ. 2' thick) is not an alternate means of addressing a public health or ecological risk – **used where no such risk exists**



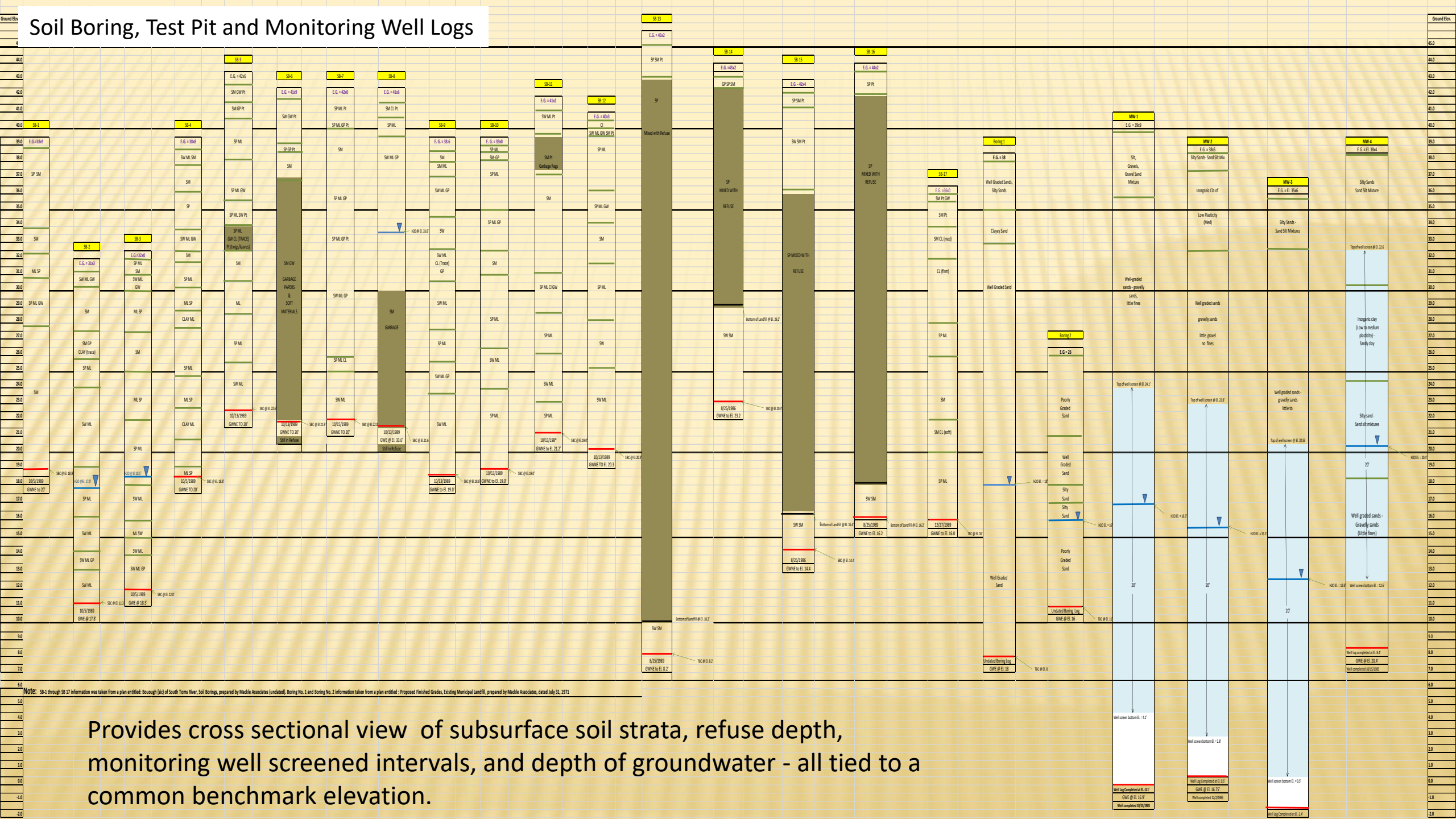
Permeable Reactive Barrier and Groundwater Pump and Treat Systems are examples of EPA approved *alternative means to addressing public health or ecological risks*

Plume of leachate pollution migrating from old unlined landfill



Source: UK Groundwater Forum
Groundwater Our Hidden Asset

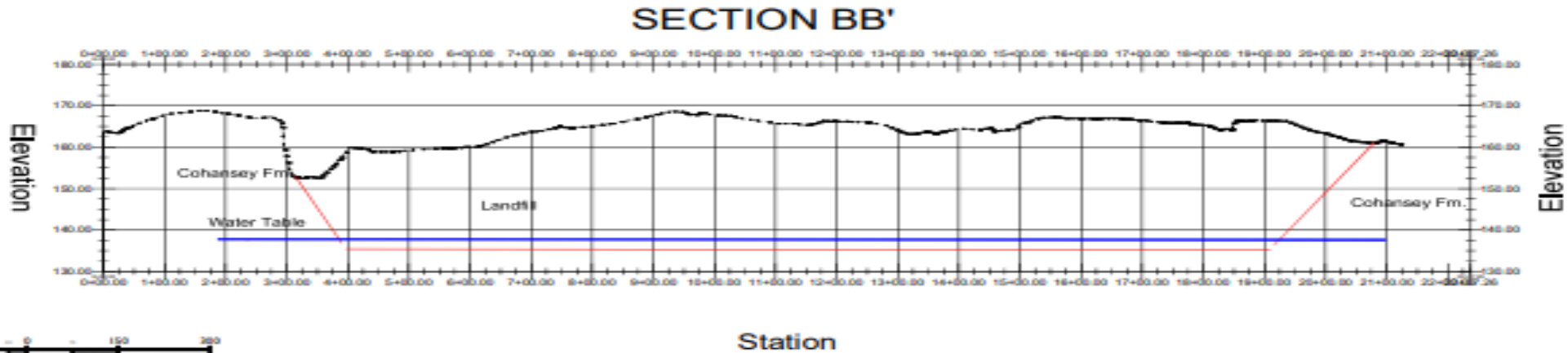
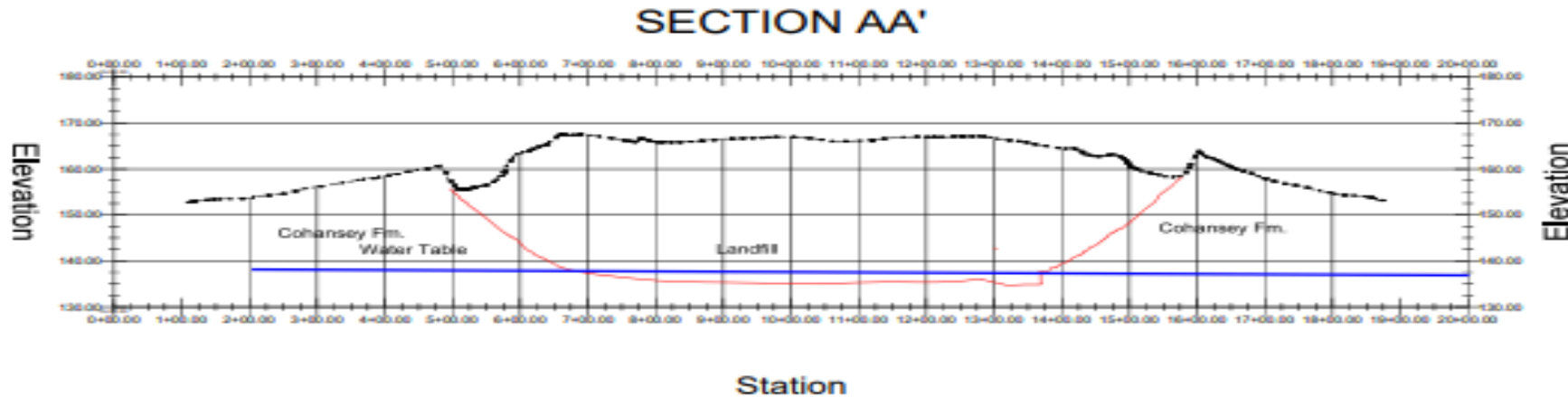
Soil Boring, Test Pit and Monitoring Well Logs



NOTE: SB-1 through SB-17 information was taken from a plan entitled: Bouough [sic] of South Toms River, Soil Borings, prepared by Mackie Associates (undated). Boring No. 1 and Boring No. 2 information taken from a plan entitled: Proposed Finished Grades, Existing Municipal Landfill, prepared by Mackie Associates, dated July 31, 1971

Provides cross sectional view of subsurface soil strata, refuse depth, monitoring well screened intervals, and depth of groundwater - all tied to a common benchmark elevation.

Longitudinal cross sections depict surface elevation depth (elevation) of refuse and elevation of the water table – components of the hydrogeologic site model



Estimating Groundwater Flow Direction

- Minimum of three water table surface (piezometric) elevations are required.

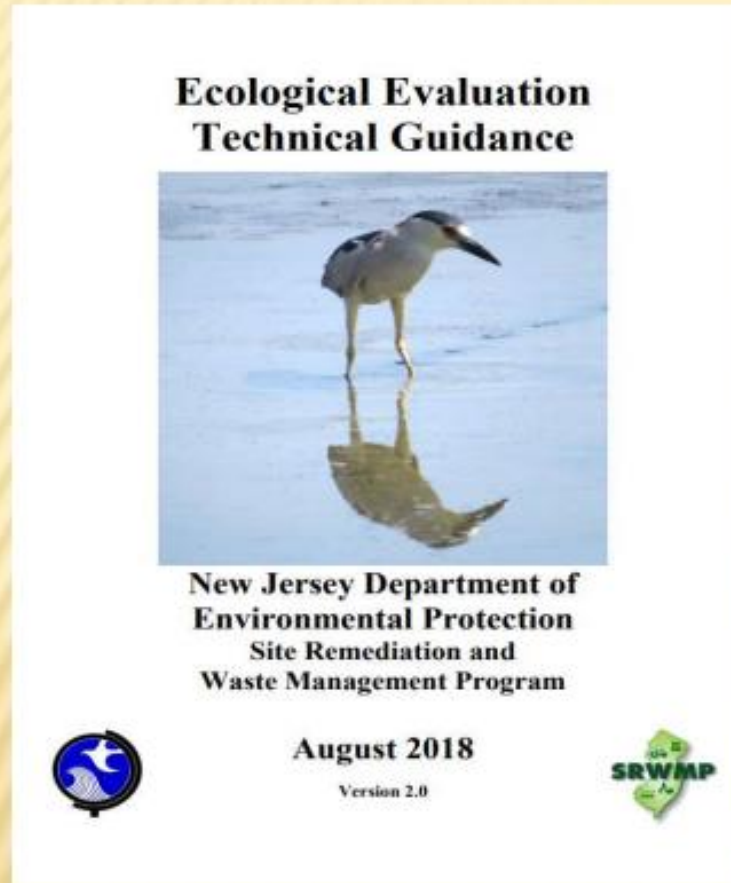
- Several water level readings taken during multiple seasons is best.



Environmentally Sensitive Natural Resources (ESNRs)

MW-5 and MW-3 are upgradient wells
MW-1 and MW-4 are side-gradient wells
MW-2 is the downgradient well

Determination of “No Significant Risk to Wetlands” (Ecological Receptors)



Technical guidance on how to conduct an Ecological Evaluation and Ecological Risk Assessment (per NJAC 7:26E-1.16 and 7:26E-4.8) for environmentally sensitive natural resources associated with contaminated sites.



Detailed technical training by senior staff from NJDEPs Site Remediation and Waste Management Program, Bureau of Environmental Evaluation and Risk Assessment, and private consultants

Determination of “No Significant Risk to Wetlands”

(Wetlands = Ecological Receptors = Environmentally Sensitive Natural Resources)



- Environmentally Sensitive Natural Resources (ESNR)
ESNRs are defined as environmentally sensitive areas pursuant to the, the Pinelands Protection Act, the Pinelands Comprehensive Management Plan
- Contaminants of Potential Ecological Concern (COPEC) -Present in groundwater monitoring wells –The list of these COPECs continues to evolve PFAS, Personal Care Products, Pharmaceuticals, EDCs, etc.
- Area of Concern (Landfilled area boundary)

Determination of “No Significant Risk to Wetlands”

- The Ecological Evaluation (EE) seeks to identify the presence or absence of contaminant migration pathways
- Concentration values from ground water monitoring wells are compared to ESC or Ecological Screening Criteria values
- ESC values are NJDEP values for individual contaminants that were usually derived by dosing experiments and that are mainly based on the no observed adverse effect level
- The ESC are generally conservative levels designed to protect the target organisms based on direct exposure.



Prescribing Leachate Constituent Testing Parameters

- NJPDES permits issued when the Pinelands Area landfills ceased operating prescribe groundwater monitoring requirement by frequency (quarterly/annually) and by parameter specificity.

Typical (old) Landfill NJPDES list

Aldrin/Dieldrin	Lindane
*Ammonia N	Manganese
Arsenic & compounds	Mercury & compounds
Barium	Methoxychlor
Benzidine	*Nitrate N
BOD	pH
Cadmium	Phenols
COD	PCBs
Chloride	Selenium
Chromium (hex & compounds)	Silver & compounds
Coliform bacteria	Sodium
Copper	Spec Cond.
Cyanide	Sulfate
DDT & metabolites	TDS
Endrin	Total organic halogen
Fecal coliform	Total VOC
Fluoride	Toxaphene
Hardness	Zinc and Compounds
Iron	2,4-D
Lead & compounds	2,4,5-TP (Fenoprop/Silvex)

* Often cited as "Landfill Signature" Chemicals

Updated testing requirements required by the PC

- Target Compound List + 30 (TCL+30) and Target Analyte List (TA) parameters including:
- Sixty-six (66) Semi-Volatile Organic Compounds – many are likely human carcinogens
- Twenty-two (22) TAL metals more extensive with some duplication
- Contaminants of Emerging Concern, including:
- PFAS compounds commonly referred to as "forever chemicals". (NETFOSAA, NMEFOSAA, PFBS, PFDA, PFDaA, PFHpA, PFHxA, PFNA, PFOS, PFOA, PFTeA, PFTriA, PFUnAPFNA, PFOS, PFOA). USGS research finds that these may be present in landfill leachate. May be limitations on sampling older monitoring wells that often contain Teflon (PFAS) tubing
- Endocrine Disrupting Chemicals (EDCs) – Bisphenol E, Bisphenol F, Bisphenol A, Bisphenol AF, Bisphenol B, Bisphenol S, 17 alpha-Dihydroequilin, Equilenin, Equilin, 17 beta-Estradiol, Estriol, Estrone, 17 alpha-Ethinyl-Estradiol
- General Chemistry Parameters

NJDEP Ecological Screening Criteria

Toxic Substance	CAS Number	Surface Water (ug/L)						Sediment (mg/kg)				Soil (mg/kg)						
		Fresh Water (FW2) Criteria			Saline Water (SE & SC) Criteria			Fresh Water Criteria		Saline Water Criteria		Wildlife PRGs (flora and fauna)	Terrestrial Plant Tox Benchmarks	EcoSSLs ²⁰				
		Aquatic		Human Health	Aquatic		Human Health	Lowest Effects Level (LEL) ¹	Severe Effects Level (SEL) ²	Effects Range Low (ER-L) ⁴	Effects Range Medium (ER-M) ⁵			Plants	Soil Invertebrates	Avian	Mammalian	
		Acute	Chronic		Acute	Chronic												
Acenaphthene	83-32-9		38 ⁸	670(h)			990(h)	See Saline Criteria ³ 0.0067 ¹³		0.016	0.500	20 ⁹						
Acenaphthylene	208-96-8		4840 ⁸					See Saline Criteria ³ 0.00587 ¹³		0.044	0.640	682 ⁹						
Acrolein	107-02-8		0.19 ⁸	6.1(h)			9.3(h)	0.0000152 ²				5.27 ⁹						
Acrylonitrile	107-13-1		66 ⁸	0.051(hc)			0.25(hc)	0.0012 ²				0.0239 ⁹						
Aldrin	309-00-2	3	0.017 ²	0.000049(hc)	1.3		0.000050(hc)	0.002	8	See Freshwater Criteria ⁶		0.00332 ⁹						
Aluminum	7429-90-5							2.55% ¹⁵			1.8% ¹⁵		50					
Ammonia, un-ionized	7664-41-7	See N.J.A.C. 7:9B-1.14(e)			See N.J.A.C. 7:9B-													
Anthracene	120-12-7		0.035 ⁸	8,300(h)			40,000(h)	0.22	0.0572 ²	370	0.085	1.1	1,480 ⁹					
Antimony	7440-36-0		80 ⁸	5.6(h)(T)			640(h)(T)		3 ¹⁵			9.3 ¹⁵	5 ⁹	5		78	0.27	
Arsenic	7440-38-2	340(d)(s)	150(d)(s)	0.017(hc)(T)	69(d)(s)	36(d)(s)	0.061(hc)(T)	6	9.9790 ²	33	8.2	70	9.9 ^{9,10}	10	18		43	46
Asbestos	1332-21-4			7x10 ⁷ fibers/L >10um(h)														
Barium	7440-39-3		220 ⁸	2,000(h)(T)								48 ¹⁵	283 ¹¹	500		330		2,000
Benz(a)anthracene	56-55-3		0.025 ⁸	0.038(hc)			0.18(hc)	0.320	0.108 ⁸	1,480	0.261	1.6	5.21 ⁹					
Benzene	71-43-2		114 ⁸	0.15(hc)			3.3(hc)	See Saline Criteria ³ 0.142 ²			0.34 ⁷		0.255 ⁹					
Benzidine	92-87-5		824 ¹⁰	0.000086(hc)			0.00020(hc)											
3,4-Benzofluoranthene (Benzo(b)fluoranthene)	205-99-2		9.07 ⁸	0.038(hc)			0.18(hc)	10.4 ⁸				1.800 ¹⁵	59.8 ⁹					
Benzo(k)fluoranthene	207-08-9			0.38(hc)			1.8(hc)	0.240	1,340	See Freshwater Criteria ⁶			148 ⁹					
Benzo(g,h,i)perylene	191-24-2		7.64 ⁸					0.170	320	See Freshwater Criteria ⁶			119 ⁹					
Benzo(a)pyrene (BaP)	50-32-8		0.014 ⁸	0.0038(hc)			0.018(hc)	0.37	1,440	0.430		1.6	1.52 ⁹					
Beryllium	7440-41-7		3.6 ⁸	6.0(h)(T)			42(h)(T)	0.150 ⁸					10 ⁹	10		40		21
BHC (Benzohexachloride)								0.003	12	See Freshwater Criteria ⁶								
alpha-BHC (alpha-HCH)	319-84-6		12.4 ⁸	0.0026(hc)			0.0049(hc)	0.006	10				0.0994 ⁹					
beta-BHC (beta-HCH)	319-85-7		0.495 ⁸	0.0091(hc)			0.017(hc)	0.005	21				0.00398 ⁹					
gamma-BHC (gamma-HCH/Lindane)	58-89-9	0.95	0.026 ⁸	0.98(h)	0.16		1.8(h)	0.003	1				0.00500 ⁹					
Biphenyl	92-52-4												60 ⁹					
Bis(2-chloroethyl) ether	111-44-4		1900 ⁸	0.030(hc)			0.53(hc)	3.520 ⁸					23.7 ⁹					
Bis(2-chloroisopropyl) ether	108-60-1			1,400(h)			65,000(h)						19.9 ⁹					
Bis(2-ethylhexyl) phthalate	117-81-7		0.3 ⁸	1.2(hc)			2.2(hc)	0.182 ²	0.750 ¹⁵	0.18216 ¹⁵	2.64651 ¹⁵		0.925 ⁹					
Boron	7440-42-8												0.5 ⁹	0.5				
Bromine	7726-95-6												10 ⁹	10				
Bromodichloromethane (Dichlorobromomethane)	75-27-4			0.55(hc)			17(hc)						0.540 ⁹					
Bromoform	75-25-2		230 ⁸	4.3(hc)			140(hc)	0.492 ²					15.9 ⁹					

Identification of an appropriate landfill closure strategy is based on the presence or absence of contaminants of environmental concern and the presence or absence of a contaminant migration pathway.

- Concentrations of landfill leachate constituents, if detected in groundwater nearest the wetlands are compared to the published Ecological Screening Criteria (ESC) values.
- If detections are below the ESC values, or there is no migration pathway, we would conclude the landfill does not pose a significant ecological risk to the wetlands.
- If detections are above the ESC values, and a migration pathway exists, we would conclude that the landfill poses a significant ecological risk to the wetlands requiring an impermeable cap or an alternative means of addressing the ecological risk to the wetlands



Photo by Joel Mott

Questions and Discussion



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-23-_____

TITLE: Issuing an Order to Certify Waterford Township Ordinance 2023-1, Amending Chapter 176 (Land Use, Development and Zoning) of the Code of Waterford Township, and Ordinance 2023-2, Adopting the Second Amendment to the Haines Boulevard Redevelopment Plan

Commissioner _____ **moves and Commissioner** _____
seconds the motion that:

WHEREAS, on July 8, 1983, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Waterford Township; and

WHEREAS, Resolution #PC4-83-56 of the Pinelands Commission specified that any amendment to Waterford Township's certified Master Plan and 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 municipal master plans and land use ordinances) of the Comprehensive Management Plan to determine if said amendment raises a substantial issue with respect to conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, Resolution #PC4-83-56 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 January 25, 2023, Waterford Township adopted Ordinance 2023-1, amending Chapter 176 (Land Use, Development and Zoning) of the Code of Waterford Township by repealing Section 176-14D, which provided development application submission requirements applicable to the Haines Boulevard Redevelopment Area; and

WHEREAS, on January 25, 2023, Waterford Township also adopted Ordinance 2023-2, adopting the Second Amendment to the Haines Boulevard Redevelopment Plan; and

WHEREAS, the Pinelands Commission received certified copies of Ordinances 2023-1 and 2023-2 on January 26, 2023; and

WHEREAS, by letter dated February 10, 2023, the Executive Director notified Waterford Township that Ordinances 2023-1 and 2023-2 would require formal review and approval by the Pinelands Commission; and

WHEREAS, a public hearing to receive testimony on Ordinances 2023-1 and 2023-2 was duly advertised, noticed and remotely held on March 8, 2023 at 9:30 a.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 Executive Director has found that Ordinances 2023-1 and 2023-2 are consistent with the standards and provisions of the Pinelands Comprehensive Management Plan; and

WHEREAS, the Executive Director has submitted a report to the Commission recommending issuance of an order to certify that Ordinances 2023-1 and 2023-2 are in conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, the Commission's CMP Policy and Implementation Committee has reviewed the Executive Director's report and has recommended that Ordinances 2023-1 and 2023-2 be certified; and

WHEREAS, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning Ordinances 2023-1 and 2023-2 and has reviewed the Executive Director's report; and

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

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

NOW, THEREFORE BE IT RESOLVED that

1. An Order is hereby issued to certify that Waterford Township Ordinance 2023-1, amending Chapter 176 (Land Use, Development and Zoning) of the Code of Waterford Township, and Ordinance 2023-2, adopting the Second Amendment to the Haines Boulevard Redevelopment Plan, are in conformance with the Pinelands Comprehensive Management Plan.
2. Any additional amendments to Waterford 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	A/R*		AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*
Avery					Lettman					Pikolycky				
Asselta					Lloyd					Wallner				
Christy					Lohbauer					Matos				
Holroyd					Mauriello									
Irick					Meade									

* A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: _____

 Susan R. Grogan
 Executive Director

 Laura E. Matos
 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

LAURA E. MATOS
 Chair
 SUSAN R. GROGAN
 Executive Director

Report on Waterford Township Ordinance 2023-1, Amending Chapter 176 (Land Use, Development and Zoning) of the Code of Waterford Township, and Ordinance 2023-2, Adopting the Second Amendment to the Haines Boulevard Redevelopment Plan

March 31, 2023

Waterford Township
 2131 Auburn Avenue
 Atco, NJ 08004

Findings of Fact

I. Background

The Township of Waterford is located in the western portion of the Pinelands Area, in eastern Camden County. Pinelands municipalities that abut Waterford Township include the Boroughs of Berlin and Chesilhurst and the Townships of Berlin and Winslow in Camden County, the Townships of Evesham, Medford and Shamong in Burlington County and the Town of Hammonton in Atlantic County.

On July 8, 1983, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Waterford Township.

On January 25, 2023, Waterford Township adopted Ordinance 2023-1, amending Chapter 176 (Land Use, Development and Zoning) of the Code of Waterford Township, and Ordinance 2023-2, adopting the Second Amendment to the Haines Boulevard Redevelopment Plan. The Pinelands Commission received certified, adopted copies of Ordinances 2023-1 and 2023-2 on January 26, 2023.

By letter dated February 10, 2023, the Executive Director notified Waterford Township that Ordinances 2023-1 and 2023-2 would require formal review and approval by the Pinelands Commission.

II. Master Plans and Land Use Ordinances

The following documents have been submitted to the Pinelands Commission for certification:

- * Ordinance 2023-1, amending Chapter 176 (Land Use, Development and Zoning) of the Code of Waterford Township, introduced on January 1, 2023, and adopted on January 25, 2023; and
- * Ordinance 2023-2, adopting the Second Amendment to the Haines Boulevard Redevelopment Plan, introduced on January 1, 2023, and adopted on January 25, 2023.

These ordinances have been reviewed to determine whether they conform 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 (CMP). 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

Previously Certified Haines Boulevard Redevelopment Plan

In 2001, Waterford Township adopted a Redevelopment Plan for the Haines Boulevard Redevelopment Area, an area encompassing approximately 142 acres of land at the intersection of State Highway 73 and U.S. Highway 30 in the Regional Growth Area (see Exhibit #1). At that time, the Redevelopment Area was already substantially developed with a mixture of residential and commercial uses. The original Haines Boulevard Redevelopment Plan, adopted by Ordinance 2001-30, permitted a variety of nonresidential uses including commercial retail centers, conference centers, hotels, theaters, warehousing, research and design laboratories and light manufacturing facilities. Ordinance 2001-30 was reviewed by the Commission and found to raise no substantial issues with respect to conformance with the CMP.

In 2016, after many years with no redevelopment activity, the Township adopted the first amendment to the Haines Boulevard Redevelopment Plan via Ordinance 2016-25. The Commission certified the amendment in 2017. The amendment added residential and mixed-use development within the Redevelopment Area and included provisions to promote the development of affordable housing. The amendment established six zoning districts within the existing Redevelopment Area (see Exhibit #1). The RD-1 District permits single family dwelling units at five units per acre. The RD-2 District permits single-family dwelling units, duplexes, and townhouses at six units per acre. The TOD/Mixed-Use District permits a variety of commercial retail and services along with mixed-use buildings with apartments over retail, duplexes, townhouses, and apartment buildings at 12 units per acre. The Community Commercial District permits a variety of commercial retail and services as well as mixed-use buildings with apartments over retail at a density of five units per acre. The Institutional Use District permits all

uses within the Community Commercial District in addition to various educational, healthcare, and civic uses as well as assisted living facilities, duplexes and townhomes at a density of 6 units per acre. Lastly, the Utilities District permits public service infrastructure such as the existing water tower, electric transmission lines and electric substation. To promote the development of affordable housing, the amended Redevelopment Plan requires a 20 percent affordable housing set aside for projects of five or more residential units. Additionally, projects composed entirely of affordable units are permitted to be developed at a density of eight units per acre in the RD-1, RD-2, CC, and ID districts.

The Second Amendment to the Haines Boulevard Redevelopment Plan

Ordinance 2023-2 adopts the second amendment to the Haines Boulevard Redevelopment Plan. The amendment establishes a Planned Industrial (PI) Overlay District within the existing Redevelopment Area. The PI Overlay District is approximately 63.5 acres and spans the entirety of three lots (Block 204, lots 1, 2, and 3) within the Redevelopment Area (see Exhibit #1). Portions of the overlay contain the site of a former drive-in movie theater and multi-plex movie theater, which ceased operation in 1991 and 2009, respectively. The district overlays the following Redevelopment Area zoning districts: Community Commercial, Institutional Use, RD-2 Residential and TOD/Mixed-Use. Within the PI Overlay District development is permissible under either the permitted uses and standards of the underlying zoning district or the permitted uses and standards of the overlay district.

The PI Overlay District permits a variety of non-residential uses including office buildings, research facilities, warehousing, light manufacturing, online commerce businesses, mini warehousing and self-storage, indoor commercial health/recreational facilities, and flex space uses. The overlay district provides area and bulk standards for large tract development (tracts 10 acres or greater) and small tract development (tracts less than 10 acres). Additional development standards are also provided for maximum building height, outdoor storage, parking and loading, and landscaped buffers. For large tract development, a 100-foot buffer is required when abutting an existing residential use or residential zone. The development standards also require that all buildings of 100,000 square feet or more must be designed and constructed to support rooftop solar installation in accordance with P.L. 2021, c.290. Lastly, any non-residential development permitted under the provisions of the PI Overlay District is required to redeem Pinelands Development Credits (PDCs) at a rate of one quarter (1/4) PDC for every 17,000 square feet of gross floor area within principal use buildings.

Ordinance 2023-2 also revises the development review process applicable to the entirety of the Redevelopment Area (see Section 3) and modifies provisions exempting affordable housing from PDC requirements (see Section 8).

Impacts to the Residential Zoning Capacity of the Redevelopment Area

Because the PI Overlay District provides an alternative set of permitted uses and standards to the existing underlying zoning, the residential zoning capacity of the Redevelopment Area theoretically remains unchanged. The previously certified Redevelopment Plan established a residential zoning capacity that allowed for a maximum of 792 new residential units, which equates to a gross density of 5.6 units per acre in the Redevelopment Area as a whole. Such a density is significantly higher than that prescribed by the CMP for Waterford Township's Regional Growth Area. The CMP requires the Township to zone for a density of only 3.375 units

per upland acre in its Regional Growth Area, which translates to 479 units in the redevelopment area (N.J.A.C. 7:50-5.28(a)1 and 3). In certifying the first amendment to the Haines Boulevard Redevelopment Plan, the Commission found that the Redevelopment Plan met the CMP criteria for increased residential densities in the Regional Growth Area (N.J.A.C. 7:50-5.28(a)7).

However, based on information provided by the Township and information submitted by a prospective redeveloper (see Exhibits # 2 and #3), there is a strong likelihood that the PI Overlay District will be developed exclusively for non-residential use if Ordinance 2023-2 is certified. Given these facts, Commission staff has evaluated whether the area included in the new overlay district is appropriate for non-residential development, whether the remainder of the redevelopment area outside the overlay district is meeting the CMP-prescribed residential density requirements, and whether the PDC program is negatively impacted by the expected loss in residential development potential within the PI Overlay District.

The surrounding highways, existing development patterns and prior zoning and uses support the appropriateness of this area for non-residential development. The PI Overlay District has access to State Highway 73 and U.S. Highway 30. Existing non-residential development is found along Highway 73 in nearby Berlin Borough and Berlin Township as well as north of the Redevelopment Area within Waterford Township. Furthermore, since the Township's original certification in 1983, these lots were previously included in the Township's Planned Industrial (PI) and Planned Highway Business (PHB) Districts, both non-residential zones. The PI Overlay District permits similar uses to the existing PHB Zone. Lastly, there are remaining impervious surfaces, underground utilities, and stormwater management facilities from the prior drive-in movie theater and multi-plex theater.

The remainder of the Redevelopment Area continues to not only meet but exceed the CMP's prescribed residential density for that area. If the PI Overlay District is developed exclusively for non-residential use, the residential zoning capacity of the Redevelopment Area would be reduced from 792 units to 349 units. This equates to a gross density of 3.99 units per acre for the remainder of the Redevelopment Area outside of the PI Overlay District, which is still exceeding the 3.375 units per upland acre minimum established by the CMP.

Importantly, the PI Overlay District includes a PDC requirement for permitted non-residential development in recognition of the potential elimination of up to 443 residential units and opportunities for the use of up to 133 PDC rights if the area is developed for nonresidential use. When a municipality has determined that an area is appropriate for residential development in its Regional Growth Area, zoned for residential uses and established a PDC obligation, the Commission must carefully evaluate proposals to rezone for strictly non-residential uses with a careful eye to the impacts to the Pinelands Development Credit Program. As discussed in Section 8 below, the PDC requirements for the PI Overlay District, in addition to the revised PDC exemption for affordable housing units, ensure that the PDC Program is not negatively impacted by these amendments.

Ordinances 2023-1 and 2023-2 are consistent with CMP goals and objectives for the Regional Growth Areas. Therefore, this standard for certification is met.

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

Ordinance 2023-1 amends Chapter 176 (Land Use, Development and Zoning) of the Code of Waterford Township by repealing the simplified permitting system for the Haines Boulevard Redevelopment Area. The simplified permitting system was adopted by Ordinance 2011-19 and amended by Ordinance 2017-6. Both ordinances were certified by the Commission in 2012 and 2017, respectively.

The simplified permitting system allowed applicants proposing development served by sewer and consistent with the approved Haines Boulevard Redevelopment Plan to forego submission of delineated wetlands mapping, threatened and endangered species surveys, cultural resource surveys (with the exception of Block 301, Lot 13), and a Certificate of Filing from the Pinelands Commission. Provided that the proposed development was found to be consistent with the Redevelopment Plan by the Township's Local Review Officer, the applicant could apply directly to the Township Joint Land Use Board without first receiving a Certificate of Filing from the Pinelands Commission. The Local Review Officer was required to transmit certain information about the proposed development, including anticipated water demand, to the Commission when the application was deemed complete. All subsequent local development approvals were required to be submitted to the Commission for review as required by the CMP.

The first local development approval to be granted under the simplified permitting system did not occur until November of 2021. To date, the Commission has received local development approvals related to three development applications. Given the increased complexity of the Haines Boulevard Redevelopment Plan and the challenges realized in the administration of the simplified permitting system, the Township has opted to repeal these provisions.

As noted above, Ordinance 2023-2 adopts the second amendment to the Haines Boulevard Redevelopment Plan. The amendment, among other things, establishes a revised development review process for the entirety of the Redevelopment Area. All development applications deemed complete or substantially modified after January 25, 2023 are required to adhere to the Township's standard development review process. This will include application to the Pinelands Commission and receipt of a Certificate of Filing prior to an application being deemed complete by the Township Land Use Board.

A few aspects of the prior simplified permitting system are maintained in this revised development review process for the Redevelopment Area. Applicants will not be required to submit mapping of delineated wetlands nor will they be required to submit any cultural resource surveys (with the exception of Block 203, Lot 1 where a cultural resource survey is required). They will also continue to be required to submit information describing anticipated water needs of the proposed development and the proposed source for necessary water supply. Notably, the development review process does not expressly waive the need for threatened and endangered species surveys when deemed necessary during the Commission's review of an application.

It is important to note that field work by Commission staff previously verified that there are no wetlands in the Redevelopment Area or within 300 feet of the Redevelopment Area. Therefore, it is unnecessary for development applications in the Redevelopment Area to include mapping of delineated wetlands. Likewise, through site visits and research, the Commission's archaeologist previously concluded that, with the exception of Block 203, Lot 1, cultural resource surveys are not necessary within the Redevelopment Area.

This standard for certification is met.

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

N.J.A.C. 7:50-3.39(a)8 specifies that in order to be certified by the Commission, municipal land use ordinances must provide for sufficiently residentially zoned property in the Regional Growth Area to be eligible for an increase in density to accommodate Pinelands Development Credits (PDCs) as provided for in N.J.A.C. 7:50-5.28(a)3.

The first amendment to the Haines Boulevard Redevelopment Plan required that PDCs be acquired and redeemed for 30 percent of all market-rate residential units in projects of five units or more in the Redevelopment Area. Affordable housing units were excluded from the PDC requirement until such time as the number of affordable units proposed in the Redevelopment Area exceeded 240, at which point PDCs would be required for all future units at the 30 percent rate, whether they are affordable or market-rate. This provided for the opportunity for the use of up to 165 rights (41.25 full PDCs) in the Haines Boulevard Redevelopment Area.

Ordinance 2023-2 maintains these PDC requirements with one exception: the number of affordable units exempt from the 30 percent PDC requirement is reduced from 240 units to 140 units. This reduced figure recognizes the Township's latest plan for affordable housing targeted for the redevelopment area based on its court-ordered settlement agreement with the Fair Share Housing Center.

Additionally, Ordinance 2023-2 requires that any non-residential development permitted under the provisions of the PI Overlay District redeem Pinelands Development Credits (PDCs) at a rate of one quarter (1/4) PDC for every 17,000 square feet of gross floor area within principal use buildings. The Township included these provisions in recognition of the significant reduction in

potential residential units and potential use of PDCs if the PI Overlay District were developed exclusively for non-residential uses.

To evaluate whether the PDC requirements of the PI Overlay District adequately protect the Pinelands Development Credit Program, staff evaluated the potential PDC yield for the three lots in the overlay district under the minimum residential density requirements prescribed by the CMP. If these three lots were zoned for residential development, the CMP would require that they allow for a minimum base density of 2.25 units per acre with a bonus density achieved through PDC use of an additional 1.125 units per acre. This would result in the opportunity for the use of 71 rights.

Commission staff evaluated the potential level of PDC redemption under the PI Overlay provisions based on information provided by the Township. A prospective redeveloper has proposed a warehouse facility on Block 204, Lots 1 and 2 with a gross square footage of approximately 955,500 square feet. This equates to a PDC obligation of 57 PDC rights under the PI Overlay provisions. Additionally, a prospective redeveloper has proposed an approximately 15,000 square foot commercial sports flooring and manufacturing building on Block 204, Lot 3, which would require the redemption of a single PDC right. Therefore, under the PI Overlay District there is a potential for the redemption of approximately 58 PDC rights, which is comparable to imposing a 27 percent mandatory PDC requirement for this area if zoned for the minimum density permitted by the CMP.

While 27 percent is not as high a number as would be provided through the more traditional zoning approach where Pinelands Development Credits would account for 33 percent of the total number of permitted units, it is important to remember that the traditional base density/bonus density approach utilized throughout the Pinelands Area only provides an *opportunity* for the use of Pinelands Development Credits. There is no requirement under the traditional approach that any credits be used in any particular development project. Ordinance 2023-2 *guarantees* that Pinelands Development Credits will be purchased and redeemed as part of the approval of any non-residential development within the PI Overlay District.

The CMP focuses on the use of PDCs as a means of increasing permitted residential densities in Regional Growth Areas. However, N.J.A.C. 7:50-5.28(a)7i expressly authorizes municipalities to adopt bonus or incentive programs for Regional Growth Area that go beyond the minimum required by the CMP, provided that such programs do not interfere with or otherwise impair the municipality's obligation to provide sufficient opportunities for the use of PDCs. While this provision has not often been used in association with nonresidential development, two other municipalities (Berlin and Winslow townships) previously adopted PDC requirements applicable to nonresidential uses in their commercial and industrial zones. The Commission found that the Berlin and Winslow Township ordinances represented an appropriate exercise of municipal flexibility that did not interfere with any other CMP standards and certified them on that basis. Waterford Township Ordinance 2023-2 adopts a similarly creative approach, one that facilitates the municipality's redevelopment goals while ensuring that all CMP standards, particularly those related to the PDC program, continue to be met.

This standard for certification is met.

9. Referral of Development Applications to Environmental Commission

Not applicable.

10. General Conformance Requirements

Waterford Township Ordinances 2023-1 and 2023-2, amending Chapter 176 (Land Use, Development and Zoning) of the Code of Waterford Township and adopting the Second Amendment to the Haines Boulevard Redevelopment Plan, are consistent with the standards and provisions of the Pinelands Comprehensive Management Plan.

This standard for certification is met.

11. Conformance with Energy Conservation

Not applicable.

12. Conformance with the Federal Act

Waterford Township Ordinances 2023-1 and 2023-2, amending Chapter 176 (Land Use, Development and Zoning) of the Code of Waterford Township and adopting the Second Amendment to the Haines Boulevard Redevelopment Plan, are consistent with the standards and provisions of the Pinelands Comprehensive Management Plan. No special issues exist relative to the Federal Act.

This standard for certification is met.

13. Procedure to Resolve Intermunicipal Conflicts

The new PI Overlay District abuts Berlin Borough's Regional Growth Area. In Berlin Borough, the adjacent lands straddle State Highway 73 and are included in the PC-2 (Neighborhood Commercial) Zone, where a wide variety of retail and service uses are permitted, as well as offices, restaurants, health clubs, child care centers and animal hospitals. Preexisting residential uses are also permitted. Additionally, the ordinance requires a minimum buffer of 100 feet from existing residential uses and residential zones. Therefore, intermunicipal conflicts are not anticipated and this standard for certification is met.

Public Hearing

A public hearing to receive testimony concerning Waterford Township's application for certification of Ordinances 2023-1 and 2023-2 was duly advertised, noticed and held on March 8, 2023, at 9:30 a.m. Mr. Lanute conducted the hearing, which was held remotely and broadcasted live on the Pinelands Commission's public YouTube channel. The public was provided the opportunity to call-in during the public hearing to provide testimony. No testimony was received.

Written comments on Waterford Township Ordinances 2023-1 and 2023-2 were accepted through March 10, 2023 and were received from the following individuals:

Michael Ward, Community Development Director, and Robert Scott Smith, P.L.S., P.P., Land Use Board Planner, Waterford Township (see Exhibit #2)

David Roberts, AIPC/PP, on behalf of AASMWF Property, LLC (see Exhibit #3)







Conclusion

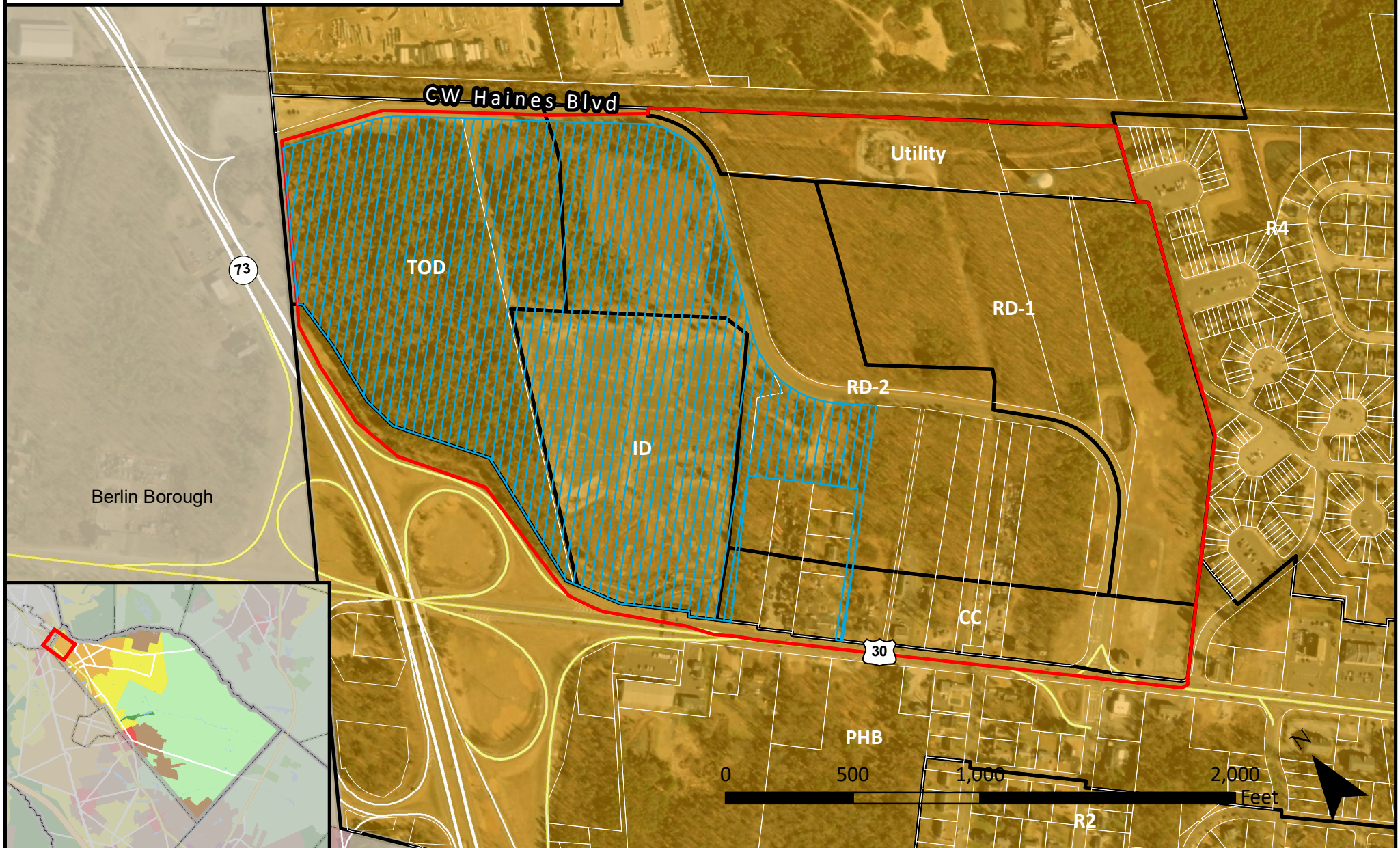
Based on the Findings of Fact cited above, the Executive Director has concluded that Waterford Township Ordinances 2023-1 and 2023-2 comply with Comprehensive Management Plan standards for the certification of municipal master plans and land use ordinances. Accordingly, the Executive Director recommends that the Commission issue an order to certify Ordinances 2023-1 and 2023-2 of Waterford Township.

SRG/DBL/KLE/CWT
Attachments

Waterford Township Haines Boulevard Redevelopment Area

Executive Director's Report
Waterford Twp Ord. 2023-1 and -2
3/31/2023
Exhibit #1

-  Planned Industrial Overlay Zone
-  Redevelopment Area
-  Pinelands Management Area
-  Existing Zoning
-  Regional Growth Area
-  Lots



**WATERFORD TOWNSHIP
OFFICE OF
COMMUNITY DEVELOPMENT**
2131 Auburn Avenue
Atco, New Jersey 08004

March 9, 2023

via e-mail Susan.Grogan@pinelands.nj.gov

and regular mail

Susan R. Grogan, P.P., AICP

Executive Director

Pinelands Commission

15 Springfield Road/P.O. Box 359

New Lisbon, NJ 08064

RE: Narrative Support For Waterford Township Ordinance #2023-2

Dear Ms. Grogan:

Kindly allow this letter to set forth the factual historical basis, and confirm municipal support, for Waterford Township's adoption of Ordinance #2023-2 on January 25, 2023. Ordinance #2023-2 was intended to constitute Amendment No. 2 to the Haines Boulevard Redevelopment Plan that was originally adopted on October 16, 2001. The intent of Ordinance #2023-2 is to spur the development of various commercial industrial uses within specified areas of the previously designated Haines Boulevard Redevelopment Area. This Ordinance creates an overlay known as the Planned Industrial Overlay District. The Planned Industrial Overlay District will consist solely of an approximately 66 acre tract of vacant land located at the western most edge of the Township's Regional Growth Area, at the intersection of State Highway 73 and US Highway Route 30.

Lot 1 in the District consists of 23 acres of "scrub trees" and vines, with no physical access along its primary frontage on Route 73. Today, the only roadway access is from Haines Boulevard. The property was once cleared but has naturally revegetated over the last 50 years of vacancy and disuse.

Lot 2 in the District was the site of the Atco Drive-In Movie Theater. The Drive-In opened in 1955, and it's still very visible in aerial photos. In 1991, the Atco Multiplex opened on the property offering a 14 screen theater complex. The Multiplex was successful for a short period but closed in 2009. All buildings were demolished in 2011 but the paving and subsurface utilities, including an elaborate stormwater management system remain.

The lengthy vacancy and disuse of the affected Lots has contributed to a moribund economic atmosphere that has long pervaded the entire Haines Boulevard Redevelopment Area.

The Lots in question are within the limits of the Haines Boulevard Redevelopment Plan ("HBRP"). The HBRP was initially adopted in October 2001 to stimulate interest and (it was hoped) redevelopment of approximately 146 acres of

both vacant and developed lands that were under the private ownership of nineteen (19) individual property owners. Some of these properties were large and had limited access or exposure to the adjoining US 30, the White Horse Pike. The original planners of Haines Boulevard reasonably believed that its connection to two (2) major four lane highways would be a stimulus for development.

Much to the disappointment of Township officials and residents alike, virtually no interest was generated over the subsequent two (2) decades. For many reasons, including the lack of adequate sanitary sewer and public water infrastructure within the Haines Boulevard right-of-way, and the continually financially ailing New Jersey Transit Atlantic City Rail Line (which maintains a station on Haines Boulevard), the land within the Redevelopment Area has remained largely vacant and undeveloped.

The initial 2001 HBRP utilized a 1997 Township Zoning District designated as "Planned Highway Business" for the entire mapped area. That Zoning authorized a broad list of allowed commercial uses, including warehousing, light manufacturing, assembly and wholesale.

A 2016 amendment (Amendment No. 1) to the HBRP, proposed five (5) new "Land Use Areas" that encouraged mixed uses, many of which contemplated retail and market rate and affordable residential uses at varying densities. However, that Amendment still resulted in very little interest from prospective builders and developers.

An approved residential project proposed by Conifer Realty LLC shall eventually bring ninety-five (95) Affordable Housing apartment units to the easterly portion of the Redevelopment Area. However, most parcels included in the HBRP remain vacant and undeveloped today.

In May 2022, Township Officials were approached by representatives of Active Acquisitions, LLC. They expressed interest in developing a large scale warehousing facility at the westerly edge of the HBRP. Their proposal did not meet any of the standards of the five (5) "Land Use Areas" contained in the HBRP.

Their proposal would be situated within the "Land Use Areas" identified as "TOD/Mixed Use" and "ID Institutional". TOD/Mixed Use Standards include retail and personal service uses, eating establishments, child care centers, two (2) family dwellings and townhomes and other mixed uses. The ID Institutional "Land Use Area" includes uses such as educational facilities, assisted living facilities, community centers, hotels and conference centers along with two (2) family dwellings and townhouses.

After a meeting between Active Acquisitions, LLC and Township Officials, the Township initiated several meetings with the Pinelands Commission's Acting Director, Ms. Susan Grogan, and the Commission's Planner, Mr. Brad Lanute. The Township presented their desire to amend the HBRP with respect to Block 204, Lots 1 and 2 to permit the construction of the two (2) warehouses on those Lots.

Several additional meetings occurred, and to assist the Township, the Pinelands Commission supplied a draft Ordinance for the Township's review and consideration. The Township reviewed the draft and utilized it to prepare Township Ordinance No. 2022-20. That Ordinance was then reviewed by the Planning Board and on October 17, 2022 the Planning Board found that the Ordinance was consistent with the Township's Master Plan. The Ordinance was then considered and adopted by the Township on October 26, 2022. It was submitted to the Pinelands Commission for review, which recommended further amendment.

Susan R. Grogan, P.P., AICP
RE: Waterford Township Ordinances #2023-2
March 9, 2023
Page 3

Ordinance No. 2022-20 affirmed the Township's intent to amend the HBRP with respect to Block 204, Lots 1, 2 and 3 to permit "Alternative Industrial Development." The Ordinance also established a new list of permitted uses, which include the proposed warehousing, shipping and receiving, cold storage, light manufacturing and assembly, e-commercial sales operations and other specific, non-residential uses. All of the allowed uses in the Ordinance strongly resemble those originally permitted under the Planned Highway Business (PHB) zoning.

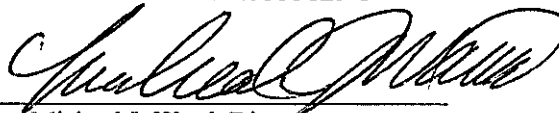
Significantly, Ordinance #2023-2 amended certain provisions of Ordinance #2022-20, as requested by the Pinelands Commission. The Township submits that the amendments in Ordinance #2023-2 create flexibility and enhanced opportunity, by enabling a prospective redeveloper to develop either under the standards of the Overlay District or under the criteria established by the 2016 Redevelopment Plan for the underlying districts. The Plan Standards also ensure that sufficient Pinelands Development Credits are redeemed for all commercial uses in the Planned Industrial Overlay Districts and in the 2016 Redevelopment Plan's "RD1" and "RD2" Districts.

More importantly, the Overlay District is contiguous to commercial and industrial uses and zones located in the immediately adjacent, non-Pinelands municipalities of Berlin Borough and Berlin Township. The subject tract is not located in any preserved or environmentally sensitive areas, and is not in proximity to any residential area. All vehicles from within the District must exit onto two State Highways, thus minimizing the opportunity for adverse traffic impact from all redevelopment efforts.

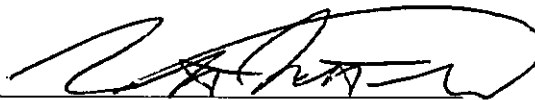
In conclusion, the Township Committee looks forward with great anticipation to the Commission's approval of Ordinance #2023-2. The Township will then be able to welcome the groundbreaking on Block 204 Lots 1 and 2 for the Active Acquisitions project, the first substantial site development within the Haines Boulevard Redevelopment Area since the HBRP's creation in 2001. With 100 percent of its land area subject to the rules set forth in Pinelands Comprehensive Management Plan, the Township has always struggled to stimulate any level of growth in the various management areas affecting its lands, even in its Regional Growth area. This Ordinance adoption is key to the future economic well-being of the Township and its residents.

Very truly yours,

WATERFORD TOWNSHIP OFFICE OF
COMMUNITY DEVELOPMENT



By: Michael J. Ward, Director



By: Robert Scott Smith, P.L.S., P.P.
Land Use Board Planner

cc: Brad Lanute, P.P. (via e-mail only)
David Patterson, Esquire
Waterford Township Clerk, Dawn Liedtka



DAVID GLYNN ROBERTS, AICP/PP, LLA, LEED AP ND
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dgr@dgrplanningdesign.com

MEMORANDUM

DATE: 3/10/2023

TO: Planning Office
Pinelands Commission
PO Box 359
New Lisbon, NJ 08064
VIA Email: planning@pinelands.nj.gov

FROM: David Glynn Roberts, AICP/PP, LLA, LEED AP ND
For AASMWF Property, LLC (Designated Redeveloper of Block 204, Lots 1 & 2)

SUBJECT: COMMENTS OF DESIGNATED REDEVELOPER IN SUPPORT OF WATERFORD
ORDINANCES 2023-1 and 2023-2

This memorandum provides professional planning comments regarding the consistency of Waterford Township Ordinances 2023-1 and 2023-2 with the New Jersey Pinelands Commission's adopted Comprehensive Management Plan (CMP) and to offer support of approval by the Commission on behalf of the Township's Redeveloper for a proposed project on Block 204, Lots 1 & 2, designated as such by Township of Waterford Resolution #2022-324 adopted on December 14, 2022. The Redeveloper has been working with the Township and Commission's professional staff to develop ordinance standards that incorporate the goals and objectives of the CMP.

The Township of Waterford's Haines Boulevard Redevelopment Area (the "Area") consists of 146 acres in the northwest corner of the Township and shares a municipal border with Berlin Borough. The tract is proximate to mass transit and has available potable water, stormwater, and sanitary sewer infrastructure. There are several commercially developed properties along the Area's southern edge on Route 30, but the Area is largely vacant land, including an abandoned former movie theater site (Block 204, Lot 2) and adjacent vacant land (Block 204, Lot 1) that comprise the southwest corner of the Redevelopment Area at the interchange of US Route 30 and NJ Route 73. The Redevelopment Area is also adjacent to the Atco train station on NJ Route 73. Atco is a stop on the Atlantic City Rail Line that travels between Atlantic City and Philadelphia.

In 2001, the Township Committee declared the Area an "Area in Need of Redevelopment" as defined in the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A: 12A-1 et seq. On October 16, 2001 a Redevelopment Plan for the Area was recommended by the Planning Board and subsequently adopted by the Township Committee. The current Haines Boulevard Redevelopment Plan (HBRP)



replaced the original redevelopment plan in April of 2016 and was subsequently amended (Amendment #1) in October of 2016, 15 years after the original redevelopment plan was adopted. The 2016 HBRP introduced the concept of Transit-Oriented Development (TOD) to the entire Redevelopment Area, including a variety of residential uses and densities “to incentivize development and widen the Township’s economic base. This Plan considers opportunities and revised land use standards that will promote development within the Haines Boulevard Redevelopment Area”.

Despite the amendment to the HBRP to incentivize residential development near the Atco train station, there was no response to the Plan from the development community in the more than five years that passed. As a result, the Township Committee determined that it was in the public interest to amend the Haines Boulevard Redevelopment Plan to permit alternative commercial development on Block 204, Lots 1, 2 and 3, among the largest parcels within the Redevelopment Area, and the parcels with direct access to two major highways (Routes 30 and 73). That amendment to the HBRP (Amendment #2) is the purpose of Waterford Ordinance 2023-2, while the purpose of Waterford Ordinance 2023-1 is to refine the streamlining of the review and approval of redevelopment projects within an ordinance that already exists.

The properties affected by Ordinance 2023-2 (Block 204, Lots 1-3) are located within a Regional Growth Area under the Pinelands CMP, which is described as “an area of existing development and adjacent lands capable of accommodating growth while protecting the essential character and environment of the Pinelands”. Lots 1 and 2 are within 1 mile of developed sites such as the former Kmart shopping center, former Owens Corning site, Tractor Supply Company, and the recently approved Capital Flooring building within the Redevelopment Area on Lot 3. As noted in a letter to the Redeveloper dated December 15, 2022, the Pinelands Commission has determined that no wetlands exist on Block 204, Lots 1 & 2. In addition, an ecological analysis of Lots 1 and 2 determined that development would have no impact on critical habitat for threatened and endangered species because the property is located within three major roadways, is previously developed and underutilized, the surrounding landscape includes significant human disturbance, and because the site is absent of water sources.

The proposed ordinance does not replace the TOD land uses previously approved by the Commission in the 2016 HBRP, but is substantially consistent with the underlying zoning within the Redevelopment Area, which permits warehousing and other commercial uses in the subject Ordinance. Ordinance 2023-2 amends the HBRP to allow for a variety of commercial uses as an alternative on the large parcels situated between Haines Boulevard and Routes 30 and 73. Given the economic forces that have emerged and driven the increase in national and regional demand for domestic delivery of goods purchased online, the Township, using the tools provided in the Local Redevelopment and Housing Law (NJSA 40A:12A, et. seq.), has brought about the best opportunity to finally see redevelopment of a portion of

the Redevelopment Area with uses that will provide immediate economic benefits, including employment, with minimal impacts given their access to existing major highways.

With regard to the potential for the subject ordinance to enable a redevelopment project involving warehousing, statewide guidance for the siting of various forms of warehouses, including “last mile” facilities was provided by the Office Of Planning Advocacy (OPA) in a document entitled: “*Distribution Warehousing and Goods Movement Guidelines Policy*”, adopted September 7, 2022. The document states the following regarding the siting of last mile facilities, as an example: “*accommodation should be made for customers in more rural and less suburban areas, where smaller last-mile facilities may be needed to address the final leg of the delivery system or for purposes of cold storage, and generally involve less noxious equipment, comprising a greater proportion of delivery vans than tractor-trailers. It should be noted that last-mile facilities, can, however, still generate high levels of traffic, and should be located in State-designated Centers, Cores, Nodes, Redevelopment Areas, and other formerly developed and underutilized sites, proximate to appropriately scaled interchanges, highways (including along highways), and other transportation infrastructure*”. The properties that are the subject of the proposed ordinances are in a designated redevelopment area within a Regional Growth Area in the CMP and are also “formerly developed and underutilized sites, proximate to appropriately scaled interchanges, highways (interchange of Routes 30 and 73) and other transportation infrastructure” (Atco Train Station).

Finally, Ordinance 2023-2 has incorporated provisions and recommendations from Commission professional staff related to PDCs, as well as refinements to provisions for buffering between commercial and residential uses. As proposed, Ordinance 2023-2 offers a balanced and desirable redevelopment opportunity for properties that were considered “blighted” 22 years ago and have remained vacant despite attempts to incentivize redevelopment of various uses. There would be no detrimental impacts on the purpose or intent of the Commission’s CMP as a result of the approval of Ordinance 2023-2 or Ordinance 2023-1. Implementation of both ordinances will foster development within the Regional Growth Area of the Pinelands where infrastructure can support it, while generating PDC revenue for preservation of lands elsewhere in the Pinelands Area.

CHAPTER 353
(CORRECTED COPY)

AN ACT concerning all-terrain vehicles and dirt bikes and amending various parts of the statutory law.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of P.L.2019, c.505 (C.39:3C-35) is amended to read as follows:

C.39:3C-35 Impoundment of certain vehicles, disposition.

1. a. Except as provided in subsection e. of this section, a snowmobile, all-terrain vehicle, or dirt bike operated on any public street, highway, or right-of-way in violation of section 17 of P.L.1973, c.307 (C.39:3C-17) shall be impounded by the law enforcing agency and subject to a fee and costs as hereinafter provided:

(1) For a first offense, the snowmobile, all-terrain vehicle, or dirt bike shall be impounded for not less than seven days and shall be released to the registered owner upon proof of registration and insurance and payment of a fee of \$500 payable to the municipality, plus reasonable towing and storage costs.

(2) For a second or subsequent offense, the snowmobile, all-terrain vehicle, or dirt bike shall be impounded for not less than 14 days and shall be released to the registered owner upon proof of registration and insurance and payment of a fee of \$750 payable to the municipality, plus reasonable towing and storage costs.

b. If the registered owner of a snowmobile, all-terrain vehicle, or dirt bike impounded pursuant to subsection a. of this section fails to claim the impounded snowmobile, all-terrain vehicle, or dirt bike and pay all outstanding fees and costs by midnight of the 30th day following the day on which the snowmobile, all-terrain vehicle, or dirt bike was impounded, that snowmobile, all-terrain vehicle, or dirt bike may be sold at public auction. Notice of the sale shall be given by the impounding entity by certified mail to the owner of the snowmobile or all-terrain vehicle, if the owner's name and address are known, and to the holder of any security interest filed with the Chief Administrator of the New Jersey Motor Vehicle Commission, and by publication in a form prescribed by the chief administrator by one insertion, at least five days before the date of the sale, in one or more newspapers published in this State and circulating in the municipality in which the snowmobile, all-terrain vehicle, or dirt bike is impounded.

c. At any time prior to a sale pursuant to subsection b. of this section, the owner or other person entitled to the snowmobile, all-terrain vehicle, or dirt bike may reclaim possession upon showing proof of registration and insurance and paying all outstanding fees and costs associated with the impoundment, and reasonable towing and storage costs.

The owner-lessor of a snowmobile, all-terrain vehicle, or dirt bike impounded pursuant to paragraph (1) or (2) of subsection a. of this section shall be entitled to reclaim possession without payment and the lessee shall be liable for all outstanding fees and costs associated with the impoundment, towing and storage of the snowmobile or all-terrain vehicle.

d. Any proceeds obtained from the sale of a snowmobile, all-terrain vehicle, or dirt bike at public auction pursuant to subsection b. of this section in excess of the amount owed to the impounding entity for the reasonable costs of towing and storage and any fees or other costs associated with the impoundment of the snowmobile, all-terrain vehicle, or dirt bike shall be returned to the owner of that snowmobile, all-terrain vehicle, or dirt bike, if the owner's name and address are known. If the owner's name and address are unknown or the person or entity cannot be located, the net proceeds shall be administered in accordance with the "Uniform Unclaimed Property Act," R.S.46:30B-1 et seq.

e. A municipality may by ordinance declare that an all-terrain vehicle or dirt bike operated on any public street, highway, or right-of-way in violation of section 17 of P.L.1973, c.307 (C.39:3C-17) poses an immediate threat to the public health, safety, or welfare and designate such all-terrain vehicles or dirt bikes so operated as contraband subject to forfeiture in accordance with the provisions of N.J.S.2C:64-1 et seq. An all-terrain vehicle or dirt bike forfeited pursuant to the provisions of N.J.S.2C:64-1 et seq. as authorized by this subsection shall be disposed of in accordance with the provisions of N.J.S.2C:64-6 or, at the discretion of the entity funding the prosecuting agency involved, may be destroyed.

2. N.J.S.2C:64-1 is amended to read as follows:

Property subject to forfeiture.

2C:64-1. Property Subject to Forfeiture.

a. Any interest in the following shall be subject to forfeiture and no property right shall exist in them:

(1) Controlled dangerous substances; firearms which are unlawfully possessed, carried, acquired or used; illegally possessed gambling devices; untaxed or otherwise contraband cigarettes or tobacco products; unlawfully possessed container e-liquid; untaxed special fuel; unlawful sound recordings and audiovisual works; and items bearing a counterfeit mark. These shall be designated prima facie contraband.

(2) All property which has been, or is intended to be, utilized in furtherance of an unlawful activity, including, but not limited to, conveyances intended to facilitate the perpetration of illegal acts, or buildings or premises maintained for the purpose of committing offenses against the State.

(3) Property which has become or is intended to become an integral part of illegal activity, including, but not limited to, money which is earmarked for use as financing for an illegal gambling enterprise.

(4) Proceeds of illegal activities, including, but not limited to, property or money obtained as a result of the sale of prima facie contraband as defined by subsection a. (1), proceeds of illegal gambling, prostitution, bribery and extortion.

(5) An all-terrain vehicle or dirt bike which has been operated on a public street, highway, or right-of-way in violation of section 17 of P.L.1973, c.307 (C.39:3C-17) in a municipality that has passed an ordinance declaring that such all-terrain vehicles or dirt bikes so operated pose an immediate threat to the public health, safety, or welfare and designating such vehicles as contraband as authorized by subsection e. of section 1 of P.L.2019, c.505 (C.39:3C-35).

b. Any article subject to forfeiture under this chapter may be seized by the State or any law enforcement officer as evidence pending a criminal prosecution pursuant to N.J.S.2C:64-4 or, when no criminal proceeding is instituted, upon process issued by any court of competent jurisdiction over the property, except that seizure without such process may be made when not inconsistent with the Constitution of this State or the United States, and when

(1) The article is prima facie contraband; or

(2) The property subject to seizure poses an immediate threat to the public health, safety or welfare.

c. For the purposes of this section:

"Items bearing a counterfeit mark" means items bearing a counterfeit mark as defined in section 1 of P.L.1997, c.57 (C.2C:21-32).

"Unlawful sound recordings and audiovisual works" means sound recordings and audiovisual works as those terms are defined in section 1 of P.L.1991, c.125 (C.2C:21-21) which were produced in violation of section 1 of P.L.1991, c.125 (C.2C:21-21).

"Unlawfully possessed container e-liquid" means container e-liquid as defined in section 2 of P.L.1990, c.39 (C.54:40B-2) that is possessed for retail sale by a person that is not licensed as a vapor business pursuant to section 4 of P.L.2019, c.147 (C.54:40B-3.3).

"Untaxed special fuel" means diesel fuel, No. 2 fuel oil and kerosene on which the motor fuel tax imposed pursuant to R.S.54:39-1 et seq. is not paid that is delivered, possessed, sold or transferred in this State in a manner not authorized pursuant to R.S.54:39-1 et seq. or P.L.1938, c.163 (C.56:6-1 et seq.).

3. N.J.S.2C:64-6 is amended to read as follows:

Disposal of forfeited property.

2C:64-6. Disposal of Forfeited Property.

a. Property which has been forfeited shall be destroyed if it can serve no lawful purpose or it presents a danger to the public health, safety or welfare. An all-terrain vehicle or dirt bike operated in violation of section 17 of P.L.1973, c.307 (C.39:3C-17) which has been forfeited may be destroyed, at the discretion of the entity funding the prosecuting agency involved. All other forfeited property or any proceeds resulting from the forfeiture and all money seized pursuant to this chapter shall become the property of the entity funding the prosecuting agency involved and shall be disposed of, distributed, appropriated and used in accordance with the provisions of this chapter.

The prosecutor or the Attorney General, whichever is prosecuting the case, shall divide the forfeited property, any proceeds resulting from the forfeiture or any money seized pursuant to this chapter with any other entity where the other entity's law enforcement agency participated in the surveillance, investigation, arrest or prosecution resulting in the forfeiture, in proportion to the other entity's contribution to the surveillance, investigation, arrest or prosecution resulting in the forfeiture, as determined in the discretion of the prosecutor or the Attorney General, whichever is prosecuting the case. Notwithstanding any other provision of law, such forfeited property and proceeds shall be used solely for law enforcement purposes, and shall be designated for the exclusive use of the law enforcement agency which contributed to the surveillance, investigation, arrest or prosecution resulting in the forfeiture.

The Attorney General is authorized to promulgate rules and regulations to implement and enforce the provisions of this act.

b. For a period of two years from the date of enactment of P.L.1993, c.227 (C.26:4-100.13 et al.), 10% of the proceeds obtained by the Attorney General under the provisions of subsection a. of this section shall be deposited into the Hepatitis Inoculation Fund established pursuant to section 2 of P.L.1993, c.227 (C.26:4-100.13).

c. Beginning two years from the date of enactment of P.L.1993, c.227 (C.26:4-100.13 et al.) and in subsequent years, 5% of the proceeds obtained by the Attorney General under the provisions of subsection a. of this section shall be deposited into the Hepatitis Inoculation Fund established pursuant to section 2 of P.L.1993, c.227 (C.26:4-100.13).

4. This act shall take effect immediately.

Approved January 10, 2022.

CITY OF ABSECON

ORDINANCE 10-2022

AN ORDINANCE DECLARING AN ALL-TERRAIN VEHICLE OR DIRT BIKE OPERATED ON A PUBLIC STREET, HIGHWAY OR RIGHT OF WAY IN VIOLATION OF N.J.S.A. 39:3C-17 AN IMMEDIATE THREAT TO THE PUBLIC HEALTH, SAFETY OR WELFARE AND DESIGNATING SUCH VEHICLES AS CONTRABAND SUBJECT TO FORFEITURE; THEREFORE, AMENDING THE CODE OF THE CITY OF ABSECON, ADDING CHAPTER 131 – ALL-TERRAIN VEHICLES

§ 131-1

WHEREAS, N.J.S.A. 39:3C-35 states that a snowmobile, all-terrain vehicle or dirt bike is prohibited from operating on a public street, highway or right of way unless properly registered, operated and insured in accordance with N.J.S.A. 39:3C-17 and allows the vehicle to be impounded until proof is provided of registration and insurance; and

WHEREAS, despite the legislation, the City of Absecon, as well as many other municipalities in the State and other States have experienced an increase in illegally operated all- terrain vehicles and dirt bikes upon the public streets, highways and rights of way, causing a threat to the public welfare by interfering with pedestrian and vehicle traffic, and resulting in traffic accidents and further eluding the Absecon Police Department causing further dangerous conditions; and

WHEREAS, City Council of the City of Absecon declares that an all-terrain vehicle or dirt bike operated on any public street, highway, or right of way in violation of N.J.S.A. 39:3C-17 and N.J.S.A. 39:3C-35 poses an immediate threat to the public health, safety or welfare and hereby designates such all-terrain vehicles and dirt bikes so operated as contraband subject to forfeiture in accordance with the provisions of N.J.S.A. 2C:64-1, et seq. An all-terrain vehicle or dirt bike so forfeited pursuant to the provisions of N.J.S.A. 2C:64-1, et seq. as authorized hereby shall be disposed of in accordance with the provisions of N.J.S.A. 2C:64-6 or at the discretion of the City Council or such other agency funding the prosecution.

WHEREAS, City Council of the City of Absecon finds that this will provide the Absecon Police Department and the residents with an avenue of removing illegal vehicles from the street's highways and rights of way and finds it to be in the best interest of the City.

NOW, THEREFORE, BE IT ORDAINED that the City Council of the City of Absecon declares an all-terrain vehicle or dirt bike operated on any public street, highway, or right of way in violation of N.J.S.A. 39:3C-17 and N.J.S.A. 39:3C-35 poses an immediate threat to the public health, safety or welfare and hereby designates such all-terrain vehicles or dirt bikes so operated as contraband subject to forfeiture in accordance with the provisions of N.J.S.A. 2C:64-1, et seq. An all-terrain vehicle or dirt bike so forfeited pursuant to the provisions of N.J.S.A. 2C:64-1 et seq. as authorized hereby shall be disposed of in accordance with the provisions of N.J.S.A. 2C:64-6 or at the discretion of the City Council or such other agency funding the prosecution.

§ 131-2 Direct disbursing of gasoline from gas stations prohibited.

WHEREAS, City Council of the City of Absecon declares that any person owning a gas station in the City of Absecon disbursing gas from gas pumps located on said property to the general public is hereby prohibited from disbursing or allowing to be disbursed gasoline directly into any all-terrain vehicle or dirt bike.

WHEREAS, City Council of the City of Absecon declares that any person owning a gas station in the City of Absecon disbursing gas to the general public is hereby prohibited from allowing any person, including customers, to disburse gasoline from gas pumps located on said property directly into any all-terrain vehicle or dirt bike.

WHEREAS, City Council of the City of Absecon declares that all persons are hereby prohibited from disbursing gasoline from gas pumps located at gas stations directly into any all-terrain vehicle or dirt bike.

This Section shall not prohibit the distribution of gasoline directly into an all-terrain vehicle or direct bike driven to a gas station on a properly registered trailer, truck, or other lawful means of conveyance.

§131-3 Violations and penalties

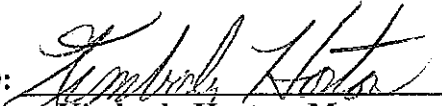
Any person who shall be convicted of a violation of the terms and conditions of this Article shall pay a fine of not less than \$500 nor more than \$1,000 for the first offense and not less than \$1,000 nor more than \$2,500 for any subsequent offense within a calendar year.


BE IT FURTHER ORDAINED that should any portion of this Ordinance be deemed unenforceable by a court of competent jurisdiction, that portion so determined to be unenforceable, shall be void and the balance hereof shall remain in full force and effect.

BE IT FURTHER ORDAINED that:

1. Any Ordinance or parts of ordinances, which are inconsistent with the provisions of this Ordinance, are hereby repealed to the extent of any such inconsistency.
2. This ordinance shall take effect upon final adoption and publication as required by Law.

DATED: July 7th, 2022

SIGNED: 
Kimberly Horton, Mayor

ATTEST: 
Carie A. Crone, RMC, Municipal Clerk

Passed on first reading at a regular meeting of the Municipal Council held on June 16th, 2022. Laid over and advertised for public hearing and final adoption on July 7th, 2022. Notice is hereby given that the foregoing Ordinance was approved for final adoption by the Municipal Council of the City of Absecon at a regular meeting held on July 7th, 2022.

Egg Harbor Township

Ordinance No. 39

2022

An ordinance to amend the Code of the Township of Egg Harbor, Chapter 213 entitled “Vehicles and Traffic” specifically by establishing a new Section 213-36 entitled “All-terrain vehicles and dirt bikes.”

WHEREAS, pursuant to N.J.S.A. 39:3C-35e, a municipality may by ordinance declare that an all-terrain vehicle or dirt bike operated on any public street, highway, or right-of-way in violation of section 17 of P.L.1973, c.307 (C.39:3C-17) poses an immediate threat to the public health, safety, or welfare and designate such all-terrain vehicles or dirt bikes so operated as contraband subject to forfeiture in accordance with the provisions of N.J.S.2C:64-1 et seq.; and

WHEREAS, the Township Committee of the Township of Egg Harbor declares that all unregistered and all-terrain vehicles or dirt bikes operated on any public street, highway, or within the right of way in violation of N.J.S.A. 39:3C-17 pose an immediate threat to the public health, safety or welfare and pursuant to N.J.S.A. 39:3C-35 designates all such all-terrain vehicles and dirt bikes so operated, be deemed as contraband subject to forfeiture in accordance with the provisions of N.J.S.A. 2C:64-1, et seq.

WHEREAS, An all-terrain vehicle or dirt bike so forfeited pursuant to the provisions of N.J.S.A. 2C:64-1, et seq. as authorized hereby shall be disposed of in accordance with the provisions of N.J.S.A 2C:64-6.

WHEREAS, the Township Committee of the Township of Egg Harbor finds it to be in the best interests of the Municipality to remove unregistered and illegally operated all-terrain vehicles or dirt bikes from the streets, highways, and right of ways.

NOW, THEREFORE BE IT ORDAINED, by the Township Committee of the Township of Egg Harbor, in the County of Atlantic, New Jersey hereby amends the Code of the Township of Egg Harbor, by adding a new section to Chapter 213, entitled “**Vehicles and Traffic**”, as follows:

SECTION 1. Chapter 213 of the Code of the Township of Egg Harbor **Section 213-36** entitled “**All-terrain vehicles and dirt bikes**” is hereby established as follows:

§213-36. All-terrain vehicles and dirt bikes.

- A. Declaration. The Township has determined that all-terrain vehicles and dirt bikes operated on the main traveled portions of public streets, highways, and right-of-ways in violation of N.J.S.A.:3C-17 poses an immediate threat to the public health, safety, or welfare.
- B. No person shall operate an all-terrain vehicle, or dirt bike upon the main traveled portion of any public street or highway or within the right-of-way limits, except under the following conditions:
 - (1) If properly registered, all-terrain vehicles and dirt bikes may cross, as directly as possible, public streets or highways, except limited access highways, provided that such crossing can be made in safety and that it does not interfere with the free

movement of vehicular traffic approaching from either direction on the public street or highway, after it has come to a complete stop and yielded to the right-of-way to all vehicular traffic upon any public street or highway before crossing the public street or highway.

- (2) If it is impracticable for a properly registered all-terrain vehicle and dirt bike to gain immediate access to an area adjacent to a public highway where it may be operated in accordance with subsection 1., then the all-terrain vehicle or dirt bike may be operated adjacent and parallel to the public highway for the sole purpose of gaining access to the area of lawful operation.
- C. Any all-terrain vehicle or dirt bike found to have been operated in violation of §213-36.B. shall be impounded as contraband by the Police Department in accordance with the provisions of N.J.S.A. 39:3C-35. Further, said all-terrain vehicle or dirt bike impounded shall be subjected to forfeiture and disposed of in accordance with the provisions of N.J.S.2C:64-1 et seq.
- D. Violations and penalties. In addition to the impoundment and forfeiture provisions above, any person violating or failing to comply with any of the provisions of this Chapter shall, upon conviction thereof, be punishable by a fine of \$100 for the first offense, and for subsequent offenses a fine of at least \$100 and not more than \$2,000, or by imprisonment for a term not exceeding 90 days, or community service for a term not exceeding 90 days. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.

SECTION 2. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.

SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by a Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 4. This Ordinance shall take effect upon final passage, adoption and publication in the manner prescribed by law.

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF EGG HARBOR, IN THE COUNTY OF ATLANTIC AND STATE OF NEW JERSEY, HELD JULY 20, 2022, AND WILL BE FURTHER CONSIDERED FOR FINAL PASSAGE AFTER A PUBLIC HEARING THEREON AT A REGULAR MEETING OF SAID TOWNSHIP COMMITTEE IN THE TOWNSHIP HALL, IN SAID TOWNSHIP ON AUGUST 17, 2022 AT 5:30 P.M.

Dated: July 20, 2022

Eileen M. Tedesco, RMC
Township Clerk

1 TOWNSHIP OF HAMILTON

ORDINANCE NO.: #2033-2023

ORDINANCE OF THE TOWNSHIP OF HAMILTON DECLARING AN ALL-TERRAIN VEHICLE OR DIRT BIKE OPERATED ON A PUBLIC STREET, HIGHWAY OR RIGHT OF WAY IN VIOLATION OF NJSA 39:3C-17 AN IMMEDIATE THREAT TO THE PUBLIC HEALTH, SAFETY OR WELFARE AND DESIGNATING SUCH VEHICLES AS CONTRABAND SUBJECT TO FORFEITURE

WHEREAS, NJSA 39:3C-35 states that a snowmobile, all-terrain vehicle or dirt bike is prohibited from operating on a public street, highway or right of way unless properly registered, operated and insured in accordance with NJSA 39:3C-17 and allows the vehicle to be impounded until proof is provided of registration and insurance; and

WHEREAS, despite the legislation, the Township of Hamilton, as well as many other municipalities in the State and other States have experienced an increase in illegally operated all-terrain vehicles and dirt bikes upon the public streets, highways and rights of way, causing a threat to the public welfare by interfering with pedestrian and vehicle traffic, and resulting in traffic accidents and further eluding the Township of Hamilton Police Department causing further dangerous conditions; and

WHEREAS, the Township of Hamilton declares that an all-terrain vehicle or dirt bike operated on any public street, highway, or right of way in violation of NJSA 39:3C-17 poses an immediate threat to the public health, safety or welfare and hereby designates such all-terrain vehicles or dirt bikes so operated as contraband subject to forfeiture in accordance with the provisions of NJSA 2C:64-1 et seq. An all-terrain vehicle or dirt bike so forfeited pursuant to the provisions of NJSA 2C:64-1 et seq. as authorized hereby shall be disposed of in accordance with the provisions of NJSA 2C:64-6 or at the discretion of the Township of Hamilton or other such agency funding the prosecution, may be destroyed; and

WHEREAS, the Township of Hamilton finds that this will provide the Township of Hamilton Police Department and the residents with an avenue of removing illegal vehicles from the streets, highways and rights of way and finds it to be in the best interest of the Township;

NOW THEREFORE, BE IT ORDAINED that the Township of Hamilton declares an all-terrain vehicle or dirt bike operated on any public street, highway or right of way in violation of NJSA 39:3C-17 poses an immediate threat to the public health, safety or welfare and hereby designates such all-terrain vehicles or dirt bikes so operated as contraband subject to forfeiture in accordance with the provisions of NJSA 2C:64-1 et seq. An all-terrain vehicle or dirt bike so forfeited pursuant to the provisions of NJSA 2C:64-1 et seq. as authorized hereby shall be disposed of in accordance with the provisions of NJSA 2C:64-6 or at the discretion of the Township or such other agency funding the prosecution, may be destroyed. The prohibition set forth herein shall not apply to licensed low speed vehicles.

BE IT FURTHER ORDAINED that should any portion of this Ordinance be deemed unenforceable by a competent jurisdiction, that portion so determined to be unenforceable shall be void and the balance hereof shall remain in full force and effect.

This Ordinance shall take effect upon adoption and publication according to law.

**TOWNSHIP COMMITTEE OF THE
TOWNSHIP OF HAMILTON,
COUNTY OF ATLANTIC and
STATE OF NEW JERSEY**

ATTEST:

Rita Martino, RMC, CMR
Township Clerk

Carl Pitale, Mayor

COMMITTEE MEMBER	MOTION	YES	NO	ABSTAIN	ABSENT
CHEEK					
LINK					
SCHENKER					
WITHERSPOON					
MAYOR PITALE					

FIRST READING AND INTRODUCTION: March 6, 2023

FINAL READING AND ADOPTION: