



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

State of New Jersey
THE PINELANDS COMMISSION
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NEW LISBON, NJ 08064
(609) 894-7300
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RICHARD PRICKETT
Chairman
NANCY WITTENBERG
Executive Director

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

MEMORANDUM

To: CMP Policy & Implementation Committee

From: Susan R. Grogan 
Director of Planning

Date: April 15, 2020

Subject: April 24, 2020 Committee meeting

Enclosed please find the agenda for the Committee's upcoming meeting on April 24, 2020. We have also enclosed the following:

- The minutes from the Committee's February 28, 2020 meeting
- A draft resolution to approve an extension of the Commission's Secondary Impacts Agreement with Atlantic County associated with expansion of Garden State Parkway Interchange 44. A copy of the County's extension request is also enclosed.
- A memorandum and draft CMP amendments related to the permitting process for public service infrastructure projects that are not required to obtain municipal approvals pursuant to the Municipal Land Use Law (N.J.S.A. 40:55D-19)

Please note that the Committee meeting will be conducted via teleconference. Specific access information will be provided to all Committee members in a separate email. The public will be able to view and participate in the meeting through the following YouTube link:

<https://www.youtube.com/channel/UCBgpC8sbR3Acrjo7ppxs3Uw>

/CS15

cc: All Commissioners (agenda only)



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CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

April 24, 2020 - 9:30 a.m.

Pinelands Commission YouTube link:

<https://www.youtube.com/channel/UCBgpC8sbR3Acrjo7ppxs3Uw>

Agenda

1. Call to Order
2. Adoption of minutes from the February 28, 2020 CMP Policy & Implementation Committee meeting
3. Extension of Garden State Parkway Secondary Impacts Agreement for Interchange 44
4. Review of draft CMP amendments related to coordinated permitting
5. Public Comment
6. Closed Session

CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

**Richard J. Sullivan Center
Terrence D. Moore Room
15 C Springfield Road
New Lisbon, New Jersey
February 28, 2020 - 9:30 a.m.**

MINUTES

MEMBERS IN ATTENDANCE: Chairman Richard Prickett, Sean Earlen, Jerome H. Irick, Ed Lloyd, and Mark Lohbauer

MEMBERS ABSENT: Candace Ashmun and Jordan Howell

STAFF PRESENT: Nancy Wittenberg, Stacey P. Roth, Susan R. Grogan, Ed Wengrowski, Paul Leakan, and Betsy Piner. Also present was Craig Ambrose, with the Governor's Authorities Unit.

1. Call to Order

Chairman Prickett called the meeting of the Comprehensive Management Plan (CMP) Policy and Implementation (P&I) Committee to order at 9:30 a.m.

2. Pledge Allegiance to the Flag

All present pledged allegiance to the Flag.

3. Adoption of minutes from the January 24, 2020 CMP Policy & Implementation Committee Meeting

Commissioner Lohbauer moved the adoption of the January 24, 2020 meeting minutes. Commissioner Earlen seconded the motion. The minutes were adopted, with all Committee members voting in the affirmative.

4. Presentation by the State Agriculture Development Committee: Soil Protection Standards on preserved farms

Ms. Grogan introduced Mr. Jeffrey Everett, Deputy Executive Director, New Jersey State Agriculture Development Committee (SADC).

Mr. Everett said he had been involved with farmland preservation and previously, historic preservation for some 26 years. He said currently SADC is dealing with some of its hottest issues and that his presentation today was one in a series of "road shows", similar to that provided by

Executive Director Susan Payne last year on special occasion events on preserved farms. He said SADC is a multifaceted board consisting of farmers and environmentalists. He said today's presentation is one he has made before agricultural boards, land trusts, farmers, landowners and others as SADC seeks input on their draft proposal regarding soil disturbance.

Mr. Everett's presentation (*Attachment A to these minutes and posted on the Commission's website at:*

[https://www.nj.gov/pinelands/home/presentations/Soil%20Protection%20Standards%20-SADC%20\[Read-Only\].pdf](https://www.nj.gov/pinelands/home/presentations/Soil%20Protection%20Standards%20-SADC%20[Read-Only].pdf)

Mr. Everett noted that soil protection is an issue that SADC has studied for 15 years as it attempts to balance the need for a farmer to have an agriculturally viable parcel while not violating a publicly funded preservation program. He said 99% of landowners are good stewards of the land and support the motto, "private land, public legacy", that appears on the PRESERVED FARMLAND signs erected on their properties. But he said for some, as an example the extreme case of the Quaker Valley Farms operation that removed 15 acres of soil down to bedrock in preparation for the erection of hoopouses, the soil disturbance is irreversible. This is a matter that has been in litigation since 2008. The question is how a farm can be sustainable as farmers care for the present without sacrificing the future. He said this case is precedential nationwide. He said that since the SADC's establishment in 1983, it has been involved with two court cases with the same landowners and each case dealt with the balance of public interest and the needs of the farm. His presentation provided an analysis of the research that SADC has done in conjunction with other entities to determine what level of soil disturbance is appropriate to meet this balance.

Upon concluding his presentation, Mr. Everett said SADC hoped to have a formal proposal published in the New Jersey Register by the end of June, 2020. Meanwhile he encouraged as much input and questions from the Commission and others as it would be helpful in formulating their approach.

Ms. Roth said she would coordinate comment from the Committee as she had done with SADC's draft policies related to special occasion events.

5. Review of draft CMP amendments related to the Alternate Design Treatment Systems Pilot Program

Ms. Grogan reminded the Committee that last month it had received a presentation on the pilot program implementation report, and this month staff is returning with draft amendments. She said the rule language had been distributed prior to the meeting but she was providing slides to highlight the rules. The slides are attached to these minutes and also posted on the Commission's website at:

[https://www.nj.gov/pinelands/home/presentations/Draft%20Septic%20Rules%20February%2020%20\[Read-Only\].pdf](https://www.nj.gov/pinelands/home/presentations/Draft%20Septic%20Rules%20February%2020%20[Read-Only].pdf)

Ms. Grogan noted that the blue text represents those items requiring CMP amendments while those in white are administrative items that can be implemented by the staff.

In response to questions from the Committee, Ms. Grogan said that this is the first of several amendments that will be presented to the Committee before the entire draft proposal is compiled, reviewed by the Committee and advanced to the Commission as a formal rule proposal.

6. Public Comment

No public comment was offered.

7. Closed Session

At 10:55 a.m., Ms. Roth read a resolution for the Committee to meet in closed session to discuss a land acquisition matter.

Commissioner Lloyd moved that the Committee meet in closed session. Commissioner Earlen seconded the motion.

In response to Commissioner Earlen's question if the Committee would be taking action today, Ms. Roth said it would not.

All members voted to meet in closed session and members of the public left the room.

At 11:01 a.m., the Committee met in closed session.

At 11:30 a.m., the meeting resumed in open session. Ms. Roth announced that the Committee had met to discuss potential land acquisition and that the matter would be open for discussion once that acquisition had occurred.

Commissioner Irick noted that the United States Department of Agriculture had released a list of innovative objectives related to climate impacts, including issues such as agricultural productivity, forest management, food loss and waste, etc. He said the matter was shared at a recent meeting of the Rutgers Board of Managers but was still confidential and not for distribution.

Ms. Wittenberg said that Ms. Noble was having a difficult time scheduling a meeting of the Land Use, Climate Impacts and Sustainability Committee (LUCIS).

Commissioner Irick suggested LUCIS meet following the next CMP P&I Committee meeting. The Committee concurred, provided consideration be given to the time involved for two meetings and possibly starting at 9:00 a.m. and concluding by noon.

Ms. Wittenberg said potential agenda items for the LUCIS meeting include:

- A summary of recent New Jersey Department of Environmental Protection (NJDEP) meetings attended by staff;
- A discussion of the potential for on-site solar and electric vehicle charging stations;
- An update on NJDEP fire management; and
- A forest stewardship presentation by Mr. Charles Horner and Ms. Jean Montgomerie.

There being no further business, Commissioner Lohbauer moved to adjourn the meeting at 11:40 a.m. Commissioner Irick seconded the motion and all voted unanimously to adjourn.

Certified as true and correct:



Betsy Piner

Principal Planning Assistant

Date: March 10, 2020

Pilot Program Recommendations

- Continue the Pilot Program through 2025
- Permanently approve SeptiTech
- Remove BioBarrier, Busse GT and Hoot ANR
- Introduce up to 6 new technologies
- Eliminate annual reporting requirement
- Simplify and improve processing of applications

Eliminate Annual Reporting Requirement

7:50-10.22

(a)4 The Executive Director shall periodically ~~submit an annual~~ report to the Commission on the ~~describing~~ installation, maintenance, and performance data for each technology. The Executive Director shall also ~~also submit an~~ ~~interim~~ report to the Commission if it is determined there is a significant installation, maintenance, or performance issue with one or more technologies that needs to be addressed ~~before the issuance of the next annual report.~~

Extend the Pilot Program

7:50-10.23

(c) The Executive Director shall review this pilot program relative to any approved USEPA and NSF/ANSI Standard 245 treatment technologies no later than August 5, 2025 ~~[August 5, 2017]~~, and shall report to the Commission within three months of that date on its implementation.

Extend the Pilot Program

7:50-10.23

(d) If the Executive Director finds that the number of monitoring events for any approved USEPA and NSF/ANSI Standard 245 treatment technologies is not adequate to evaluate any of those technologies under this pilot program in accordance with (c) above, the Executive Director shall so inform the Commission and, upon receiving the Commission's approval, initiate a second review to be completed no later than August 5, 2027 ~~[August 5, 2019]~~.

Graduate SeptiTech

7:50-6.84

(A) For residential development using the Amphidrome, ~~[ø]~~ Bioclere, or SeptiTech system, the system will be located on a parcel of at least one acre for each individual single-family dwelling unit or the system or systems for multi-family developments will be located on a parcel with an overall density equal to or greater than one residential unit per acre of land;

Advanced Treatment Systems: Nonresidential Development

7:50-5.22-5.26 – PAD, FA, APA, RDA

(d) Minimum lot areas for non-residential structures shall be determined by application of the standards contained in N.J.A.C. 7:50-6.84(a)4 whether or not the lot is to be served by a centralized waste water treatment or collection facility pursuant to (b)4 above provided, however, that no such structure shall be located on a parcel of less than one acre. The requirements of this section shall not apply to a nonresidential use to be served by an individual on-site septic waste water treatment system in accordance with N.J.A.C. 7:50-6.84(a)5iii(2).

Advanced Treatment Systems: Nonresidential Development

7:50-5.27 and 5.28 – PV, PT, RGA

(b) No residential dwelling unit or nonresidential use shall be located on a parcel of less than one acre unless served by either:

1. A centralized waste water treatment plant;
2. For residential development, a community on-site waste water treatment system serving two or more dwelling units that meets the standards of N.J.A.C. 7:50-6.84(a)5 or 10.21 through 10.23, provided that the overall residential density on the parcel does not exceed one dwelling unit per acre; or
3. For nonresidential development, an individual on-site septic waste water treatment system that meets the standards of N.J.A.C. 7:50-6.84(a)5.

Pilot Program Recommendations

- Continue the Pilot Program through 2025
- Permanently approve SeptiTech
- Remove BioBarrier, Busse GT and Hoot ANR
- Introduce up to 6 new technologies
- Eliminate annual reporting requirement
- Simplify and improve processing of applications

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Graduate SeptiTech

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1. A centralized waste water treatment plant;
2. For residential development, a community on-site waste water treatment system serving two or more dwelling units that meets the standards of N.J.A.C. 7:50-6.84(a)5 or 10.21 through 10.23, provided that the overall residential density on the parcel does not exceed one dwelling unit per acre; or
3. For nonresidential development, an individual on-site septic waste water treatment system that meets the standards of N.J.A.C. 7:50-6.84(a)5.



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-20-_____

TITLE: Resolution Authorizing the Executive Director to Execute an 18 Month Extension of the Time Period for Atlantic County to Acquire the Remaining Acreage to Complete its Obligations Under the Secondary Impacts Agreement for Interchange 44 of the Garden State Parkway

Commissioner _____ moves and Commissioner _____ seconds the motion that:

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

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

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

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

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

WHEREAS, on March 5, 2020, the County sent a letter advising that it had completed acquisition of 327 acres of lands within Tier 1 and would be closing on an additional 15 acres within the next thirty days, bringing the total amount of its acquisitions to 342 acres; and

WHEREAS, only 14 acres still need to be acquired for the County to complete its obligations under the Agreement; and

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

WHEREAS, the County has requested an 18-month extension to complete its acquisition of the remaining 14 acres required by the Agreement; and

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

WHEREAS, the Commission believes it is preferable to allow the County to complete its acquisition of the remaining 14 acres rather than having the County provide funds to a non-profit, governmental entity or university to complete the task for it, given the County’s diligent effort to date to complete its obligations under the Agreement; and

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

NOW, THEREFORE BE IT RESOLVED that the Commission authorizes the Executive Director to execute an addendum to the Secondary Impacts Agreement granting the County another 18 months from January 7, 2020 to complete its acquisition of 29 acres within Tier 1.

Record of Commission Votes

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

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: _____

Nancy Wittenberg
Executive Director

Richard Prickett
Chairman



Dennis Levinson
County Executive

Atlantic County

Department of Regional Planning and Development

John Peterson
Department Head

Division of Planning
609/645-5898 FAX: 609/645-5836
TDD: 348-5551

Division of Engineering
609/645-5898 FAX: 609/645-5964

Office of GIS

March 5, 2020

Nancy Wittenberg, Executive Director
NJ Pinelands Commission
PO Box 359
15 Springfield Road
New Lisbon, New Jersey 08064

RE: GSP Interchange 44, Galloway Twp. – Secondary Impacts Agreement

Ms. Wittenberg,

Please accept this letter as a request to extend the agreement between Atlantic County and the NJ Pinelands Commission, previously executed in connection with the NJ Turnpike Authority's expansion of Interchange 44 of the Garden State Parkway. To date, Atlantic County has completed acquisition of 327 acres of land within the Tier 1 area targeted for preservation, and will be closing on an additional 15 acres in the next thirty days, bringing our total to 342 acres with over \$1.1 million expended.

The County is continuing its pursuit of lands owned by Galloway Township within the Tier 1 target area, next turning its focus to a 10-acre lot requiring action to clear title. As we work with the Township to address title issues, the County plans to pursue the purchase of a number of smaller privately held lots. The purchase of these lots would ultimately result in total preserved acreage exceeding the requirements of the County's agreement with the Pinelands Commission.

The County has and continues to work diligently to meet its obligations under the agreement, with only 14 acres remaining. In fact, our primary strategy of acquiring and preserving all parcels in fee, rather than pursuing agreements to limit parcel development to what is allowable under current zoning, results in the strongest possible preservation outcomes contemplated by the agreement. However, due to the number of individual acquisitions involved, the process of negotiating, and project delays beyond the County's control, we were unable to meet the deadlines previously established for this project. Based on our progress to date and our planned course of action to purchase and preserve the remaining acreage, we respectfully request the Commission's consideration of an 18-month extension of time to complete this project.



P.O. Box 719 • New Road and Dolphin Avenue • Northfield, New Jersey 08225-0719

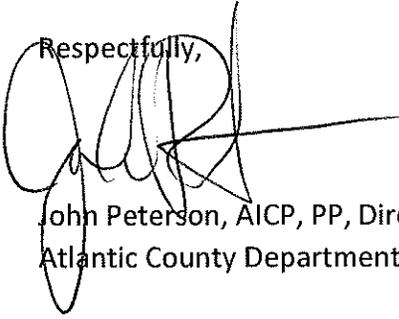
Visit our web site at: <http://www.aclink.org>

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The Commission's consideration of this request is greatly appreciated. If you or your staff have any questions regarding this request or the County's progress to date, please feel free to contact me, or Ranae Fehr, Principal Planner, at 609-645-5898. Thank you.

Respectfully,

A handwritten signature in black ink, appearing to be 'JP', with a long horizontal line extending to the right.

John Peterson, AICP, PP, Director, D/H
Atlantic County Department of Regional Planning and Development



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Application Specific Information: AppInfo@pinelands.nj.gov

MEMORANDUM

To: CMP Policy & Implementation Committee Members

From: Stacey P. Roth 
Chief, Legal & Legislative Affairs

Date: March 12, 2020

Subject: Rule Language to Address Utility Projects that Receive an Exemption of Municipal Review from the Board of Public Utilities Pursuant to N.J.S.A. 40:55D-19

Enclosed please find draft language to address utility projects that receive a Board of Public Utilities exemption from municipal review pursuant to N.J.S.A. 40:55D-19. Staff refers to these rules as the “gap” rules. The “gap” occurs because these utility projects constitute private development applications which are only reviewed by the Commission if the local approval raises a substantial issue as to the conformance of the proposed development with the requirements of the CMP (the call up process provisions at N.J.A.C. 7: 50-4.38 and -4.40.) For utility projects for which BPU grants a petition preempting municipal review, there is currently no provision in the CMP that would provide an opportunity for direct Commission review, thus the “gap”. This is also the case with regard to the CMP’s coordinated permitting provisions at N.J.A.C. 7:50-4.81 through -4.85. In order to respond to the Court’s remand orders concerning the South Jersey Gas and New Jersey Natural Gas applications, the Commission adopted separate review processes by resolution for each application premised on the public development application provisions of the CMP.

The attached rule language was initially presented to the Committee at its June 28, 2019 meeting. At that time, the Committee members suggested a number of potential amendments that would have created a new application process and also directly impacted the existing public development application process. Although staff will continue to identify potential changes and improvements to our application procedures for the Commission’s consideration, it is very important that the Commission move forward with rulemaking to eliminate the gap first identified in the Appellate Division’s decision in Matter of Petition of South Jersey Gas Co., 477 N.J. Super 459 (App. Div. 2016). We believe this rule amendment needs to be included in the first set of CMP amendments and formally proposed as soon as possible.

6/27/19

Full text of the proposed amendments follows (additions indicated in boldface **thus**; deletions in brackets [thus]):

SUBCHAPTER 4. DEVELOPMENT REVIEW

PART VII – COORDINATED PERMITTING WITH STATE AGENCIES

7:50-4.81 General requirements; applicant to submit application to Executive Director

- (a) (No change).
- (b) Prior to filing any application for development in the Pinelands Area with any department, board, bureau, official or other agency of the State of New Jersey, the applicant shall file with the Commission a duplicate copy of the application. The Executive Director may within 30 days require the applicant to submit any additional information which he **or she** determines is necessary in order to evaluate the interest of the Commission in such application. No State department, board, bureau, official or other agency shall deem an application for development complete unless it is accompanied by a Certificate of Filing, a Notice of Filing, a Certificate of Completeness or a resolution of the Pinelands Commission approving[, pursuant to the provisions of Part IV of this subchapter, an application for public] **the proposed** development. Notwithstanding these requirements, the Pinelands Commission may enter into an intergovernmental memorandum of agreement with any State department, board, bureau, official or other agency for the purpose of eliminating or altering any of the procedural requirements set forth in this subsection concerning the review by a State agency of third party development.

7:50-4.86 Action by Commission required

Upon receipt of a final determination by the New Jersey Board of Public Utilities pursuant to N.J.A.C. 7:50-4.83(d) that an application for development of public service infrastructure in the Pinelands Area qualifies for preemption from local review and approval pursuant to N.J.S.A. 40:55D-19, the Commission shall thereafter process and take action on the application for development in accordance with N.J.A.C. 7:50-4.53-4.57. The applicant shall be responsible for fulfilling the notice requirements set forth at N.J.A.C. 7:50-4.53. The requirements of this section shall apply whether or not the applicant is a public agency.