



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

State of New Jersey
THE PINELANDS COMMISSION
PO Box 359
NEW LISBON, NJ 08064
(609) 894-7300
www.nj.gov/pinelands



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 22, 2021

Subject: April 30, 2021 Committee meeting

Enclosed please find the agenda for the Committee's upcoming meeting on April 30, 2021. We have also enclosed the following:

- The minutes from the Committee's March 26, 2021 meeting;
- A technical memorandum prepared by the South Jersey Transportation Authority's consultants, outlining issues and alternatives related to creation of the new Grassland Conservation and Management Area, as required by the 2019 Amendment to the Memorandum of Agreement. Please note that representatives of the South Jersey Transportation Authority will be attending the Committee meeting via Zoom to discuss the available alternatives and obtain feedback from the Committee.
- A draft deed restriction proposed for use in the upcoming round of Pinelands Conservation Fund land acquisition; and
- A memorandum from Chairman Prickett outlining and including draft CMP amendments related to the use of Horizontal Directional Drilling (HDD) in the Pinelands Area. Commissioner Irick has also prepared suggested amendments; his April 8, 2021 email is attached as well.

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 30, 2021 - 9:30 a.m.

Pinelands Commission YouTube link:

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

To Provide Public Comment, Please Dial: 1-929-205-6099 Meeting ID: 833 5477 1666

Agenda

1. Call to Order
2. Adoption of minutes from the March 26, 2021 CMP Policy & Implementation Committee meeting
3. **Memorandum of Agreement (MOA) between the Pinelands Commission and the South Jersey Transportation Authority**
 - Update on accomplishments under the April 2019 MOA Amendment
 - Discussion of alternatives and issues relating to creation of grassland habitat at the newly acquired Grassland Conservation and Management Area
4. **Pinelands Conservation Fund**

Review and approval of revised deed restriction language for new land acquisition round
5. Comprehensive Management Plan application exemptions and procedures
 - Review of draft CMP amendments related to Horizontal Directional Drilling (HDD)
 - Discussion of available implementation procedures
6. **Stormwater Management**

Review of final amendments and recommendation of formal rule proposal
7. Public Comment

CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

This meeting was conducted remotely
All participants were present via Zoom conference
The public could view/comment through Pinelands Commission YouTube link:
<https://www.youtube.com/channel/UCBgpC8sbR3Acrjo7ppxs3Uw>

Meeting ID: 833 5477 1666

March 26, 2021 - 9:30 a.m.

MINUTES

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

MEMBERS ABSENT: Alan Avery and Jordan Howell

STAFF PRESENT: Nancy Wittenberg, Stacey P. Roth, Susan R. Grogan, Charles Horner, Ed Wengrowski, Brian Szura, Brad Lanute, Gina Berg, John Bunnell, Paul Leakan, Ernest Deman, Marci Green and Jessica Lynch. Also in attendance was Rudy Rodas with the Governor's Authorities Unit.

Call to Order

Chairman Prickett called the Comprehensive Management Plan (CMP) Policy and Implementation (P&I) Committee meeting to order at 9:32 a.m. and Ms. Wittenberg identified all staff attending/participating in the meeting.

1. Adoption of minutes from the February 26, 2021 CMP Policy and Implementation Committee meeting

Commissioner Lohbauer moved the adoption of the minutes of the February 26, 2021 Committee meeting. Commissioner Lloyd seconded the motion. All voted in favor of adopting the minutes.

Commissioner Prickett thanked Ms. Piner for preparing the minutes and thanked Ms. Grogan for her response to comments regarding redevelopment submitted by Mark Demitroff following the Committee's February 26, 2021 meeting.

2. Executive Director's Reports

Barneget Township Ordinance 2021-4, amending Chapter 55 (Land Use) by revising and adding conditional uses in the C-N (Neighborhood Commercial) Zone

Mr. Lanute opened his presentation on Barneget Township Ordinance 2021-4 by displaying the map (Exhibit #1) included in the meeting packet. He identified the portion of the Regional Growth Area (RGA) that is the subject of the ordinance, adjacent to a Garden State Parkway interchange. He said Ordinance 2021-4 adds hotels, motels, and reception and banquet halls as well as assisted living facilities, nursing and convalescent homes and long-term care facilities as conditionally permitted uses in the Neighborhood Commercial (C-N) Zone West of the Parkway. He said under current zoning, permitted uses in the C-N Zone are limited to various retail and

service uses, professional offices, self-storage facilities, churches, libraries, and other institutional uses. He said mixed-use development, consisting of commercial uses and age-restricted apartments, is also permitted in certain portions of the C-N Zone, as are condominiums.

Mr. Lanute said there are three distinct C-N Zones within the Pinelands Area of Barnegat, but Ordinance 2021-4 requires that these conditional uses apply only to the area of the C-N Zone within 1000' of the Garden State Parkway. This ensures that such development will only occur within the RGA. He identified the six subject lots (outlined in yellow), consisting of some 22.5 acres under common ownership, to which the ordinance will apply. He further described height limitations of 60 feet for hotels and 50 feet for assisted living, convalescent care and similar facilities. He provided information regarding lot size and building coverage limitations. He said for assisted living facilities (considered residential uses under the CMP), the ordinance establishes a base density of eight units per acre, a bonus density of up to 12 units per acre through the use of Pinelands Development Credits (PDCs) and a maximum density of 20 units per acre. This would provide for the use of up to 90 PDC rights. He said that staff feels this is appropriate given the density of existing development in the area and the development potential of vacant lands in the C-N Zone as well as the availability of infrastructure. Although the ordinance could theoretically allow as many as 450 new assisted living units, it is unlikely given the Township's interest in adding mixed use and institutional development, hotels, etc.

Mr. Lanute said two commenters spoke at the public hearing and a number of written comments were received as attached to the Executive Director's Report. He said concerns were expressed regarding stormwater runoff, impacts on open space, residential development, housing types and building standards. He said some supportive comments were also received. He said all development in the C-N Zone will be required to meet CMP standards and noted that 77% of Barnegat Township's Pinelands Area is designated either the Preservation Area District (PAD) or Forest Area (FA). He said only 23% of the Township is within the RGA. He said nearly 9,000 acres have been preserved in the Township's Pinelands Area. He reiterated that these new conditional uses will be focused on this small 22.5 acre parcel within the RGA in an area of active development. He noted that despite the concerns expressed by one commenter regarding impact on open space, currently there are no preserved lands in the C-N Zone and the area of concern to that individual is some distance away. Mr. Lanute concluded by stating that staff feels Ordinance 2021-4 meets CMP standards and is recommending certification.

Chairman Prickett asked about the reference he has noted in many reports "...while protecting the essential character and environment of the Pinelands." He asked if, considering the intensity of development anticipated for this site, that phrase is applicable to the property being developed or to the entire Township.

Ms. Grogan said the wording comes directly from the CMP and is used to define and describe the RGA as a management area overall. It is intended to convey that growth in the Pinelands is targeted to the RGA as a way of relieving pressure elsewhere. It is not a standard to be applied to each individual project but serves as an overall goal. She said the language is a reminder to everyone that this is the RGA and development of this nature is its intended use.

In response to Commissioner Lohbauer's question, Mr. Lanute said the red boundary on the map designates the C-N Zone. There is no change to the zoning boundary but the new conditional uses will be permitted only on the lots outlined in yellow as they meet the criteria of being located within 1,000 feet of the Garden State Parkway. He said development of an assisted living facility requires a minimum of five acres so likely would occur on the largest of those lots.

Commissioner Lohbauer noted one small area where the C-N Zone boundary does not align with a lot line. Mr. Lanute said staff advises municipalities to draw their zoning boundaries along lot lines and has been successful in recent years so perhaps this zone was delineated some years ago.

Ms. Grogan said if the mapping is correct, the new conditional uses would not be permitted within the tiny sliver of land outside the C-N Zone. She noted this would not have much impact on the ability to develop the larger property.

In response to Commissioner Lohbauer's question if the largest lot outlined in yellow was landlocked, Mr. Lanute said it had access to both Bay Avenue and Lighthouse Drive.

Commissioner Lloyd said this ordinance screams out spot zoning to help a single landowner and he did not think the Commission should support it. He said there are adjacent property owners who are being denied the same opportunity.

Ms. Grogan said the adjacent lands in the C-N Zone (outlined in red) are already developed or recently approved for development. She said those projects were facilitated by similar ordinances adopted by the Township in recent years that added new conditional uses intended to apply only to very specific properties. She said most municipal redevelopment plans target individual properties as well. She said this ordinance also applies to lands in the C-N Zone in the Pinelands National Reserve, on the east side of the Parkway, but staff focused its report and recommendation on the Pinelands Area west of the Parkway where the Commission has jurisdiction. She said there are other opportunities for development of the conditional uses east of the Parkway.

In response to Chairman Prickett's question if the properties outlined in yellow were owned by the same person, Ms. Grogan said that probably did not matter under Pinelands standards but they were under common ownership, which makes it likely that the entire property will be developed as a whole.

In response to questions from Commissioner Lloyd, Mr. Lanute displayed the larger map showing Barnegat Township's PNR area east of the Parkway where there are other CN Zones.

Commissioner Lloyd said he'd be interested in knowing if these conditional uses will apply to lands east of the Parkway as that might address his spot zoning concerns.

Ms. Grogan said staff has had several discussions with Barnegat Township officials and hoped that they were following along and would call into the meeting so they could answer questions but, if not, staff would obtain the answers prior to the Commission meeting.

Commissioner Irick said he shared Commissioner Lloyd's concerns about spot zoning and he asked how the height and density standards were developed for this zone.

Ms. Grogan said because this ordinance affects only the RGA in the Pinelands Area, the municipality has the flexibility to determine permitted uses and building standards. The CMP contains no maximum height limitations in the RGA.

She said that building standards are generally left up to the municipality. She noted it is not often that the Commission sees ordinances that permit heights exceeding 35 feet but in the RGA and Pinelands Towns, there are some zoning districts where heights of 48 feet (four stories) are permitted. This is a matter that would be better addressed by municipal representatives.

Ms. Grogan said, in terms of permitted density, the only issue here relates to assisted living facilities as all other permitted uses are non-residential. She said the CMP expressly permits assisted living facilities at a density of eight units per acre without the use of PDCs. The Barnegat ordinance mirrors this requirement, and then permits an increase in density to 12 units per acre with the use of PDCs. She said the CMP also provides municipalities with the ability to add additional bonus densities as they do not interfere with the PDC program. She said one must remember that assisted living facilities are not traditional residential development. These are essentially units (rooms) within a larger facility. She said the Township wanted to provide the potential for up to 20 units per acre in order to facilitate the development of assisted living facilities in this location. The Commission has approved similar ordinances in other municipalities in recent years. She said that granting the bonus density is recognition that assisted living is a special type of residential unit. She said staff did not expect all those units would be developed on the eligible property as there will likely be commercial development also.

Commissioner Irick said he felt that the extra eight units per acre was rewarding someone for not using PDCs and was concerned that the CMP sets no limits on height or density. He suggested a moratorium on redevelopment until such time as CMP amendments can be implemented.

Chairman Prickett asked if there weren't a maximum density in the RGA. Ms. Grogan reminded the Committee of the presentation on redevelopment and density in the RGA made at the February 26, 2021 Committee meeting. She said that the CMP prescribes a certain minimum density in the RGA and provides each municipality with the flexibility to increase that density in certain zones, to move the density to different portions of the municipality's RGA and to offer bonus densities. All of these components of a municipal zoning plan must be reviewed by the Commission. When evaluating the suitability of certain densities, staff looks at such things as the availability of infrastructure, environmental constraints on affected properties, accommodation of the use of PDCs, and consistency with the character of the surrounding area. For this situation, one is dealing only with assisted living facilities, which the CMP defines as residential units. She said there is no maximum limit because the CMP is set up to provide maximum flexibility to municipalities in their RGA and allow them to determine factors such as density, height, design and building standards, etc. that fit their communities best. She said the RGA is where maximum flexibility is provided. She said outside the RGA, all the things for which Commissioner Irick expressed concern are addressed and tightly regulated such as the 35-foot height limit and maximum permitted densities. Ms. Grogan said Commissioner Irick's questions are about the fundamental goals and objectives of the CMP and the purpose of each management area. From the beginning, the CMP was set up to allow virtually any use, with the exception of landfills, in the RGA.

In response to Chairman Prickett's questions, Ms. Grogan said all development applications must meet the CMP's minimum environmental standards no matter which management area they are located in. Standards for stormwater management and the protection of threatened and endangered species are the same and must be met whether in RGA or FA. The Township's zoning plan merely provides for permitted uses and building standards. When and if an application for development is filed, wetlands constraints and any other environmental issues will be evaluated. Although a municipality ordinance may permit a certain density, it may not be achievable on every property in the zone.

In response to Commissioner Lloyd's question if she were aware of any environmental constraints that would limit development on this parcel, she said she did not believe so but that would be determined when a development application is submitted. She said she anticipated that stormwater management and air quality, given the number of units, would be the issues of concern.

Commissioner Irick's stated he was concerned about traffic. He said a 60-foot building seemed to be out of character of the neighborhood and he wanted to hear from his fellow Commissioners if they shared his concerns with density and height limitations.

Chairman Prickett said if the Commission feels there needs to be a height limitation then it should be considered but he suspected the Township already has limitations in place considering the cost of fire equipment to accommodate a multi-story building.

Ms. Grogan said recently approved and constructed development in adjacent areas likely exceeds 35 feet. This was necessary to accommodate mixed use development consisting of apartments over retail uses.

Commissioner Lloyd said the CMP does not currently allow the Commission to regulate height in the RGA but perhaps there is the ability to regulate density.

Ms. Grogan said there are CMP standards that regulate density and although there is no absolute cap on density, it is not a "free for all". She said, after all these years, it would be difficult for the Commission to tell the municipalities that they were required to reduce their density, unless an analysis were done to demonstrate that it was necessary to accommodate the number of units, e.g., the presence of wetlands. For this property in Barnegat, there are no wetlands issues.

In response to Chairman Prickett's questions about air quality, Ms. Grogan said the issue is CO₂ and relates to the amount of traffic, parking, intersections and road widening to improve traffic flow. She said the Commission consults with NJDEP on this matter.

Commissioner Lohbauer noted that Commissioner Irick has raised the issue of height restrictions on several occasions. He said he felt that although the Commission didn't regulate height in the RGA, there were other factors that it did regulate such as stormwater, air quality, water supply, wastewater, etc., all of which would have increased impacts with increased height. He said he was comfortable in not imposing height restrictions in the RGA.

Ms. Grogan said the Committee was not required to take a vote today but staff would seek additional information from the Township, particularly responses to Commissioner Lloyd's questions regarding development opportunities on other properties.

Commissioner Lohbauer moved the recommendation to the Commission for the certification of Barnegat Township Ordinance 2021-4, provided the information was provided in advance of the meeting to satisfy Commissioner Lloyd's concerns.

Commissioner Lloyd stated that, based on what he had seen today, he could not recommend this ordinance for certification.

There was no second to the motion and Chairman Prickett declared the motion had failed.

Ms. Roth confirmed with Chairman Prickett that, although the Committee did not make a recommendation to certify Barnegat Township Ordinance 2021-4, the ordinance still will be advanced to the full Commission for consideration at its April 9, 2021 meeting.

3. Pinelands Conservation Fund

Consideration of priorities and schedule for a new round of land acquisition

Ms. Berg said this morning's presentation on a new round of funding for the Pinelands Conservation Fund (*Attachment A to these minutes and posted on the Commission's website at: <https://www.nj.gov/pinelands/home/presentations/March%2026%202021%20PI%20UPDATE.3.pdf>*) was a revised version of that provided to the March 17, 2021 Land Use, Climate Impacts and Sustainability (LUCIS) Committee meeting, with revisions based on the Committee's recommendations. She provided background information about the program since its establishment in 2005, resulting in the permanent protection of 8,969 acres of land through several rounds of projects and funding sources. She said based on the 2019 amended Memorandum of Agreement (MOA) with the South Jersey Transportation Authority (SJTA), additional funding is now sufficient to establish a new round.

Ms. Roth reviewed the provisions of the 2019 amendment to the 2004 MOA with SJTA related to short-term projects at the Atlantic City International Airport. She said the 2004 MOA established a 290-acre Grassland Conservation Management Area on the airport property for certain upland bird and butterfly species. Since that time, due to concern with potential bird strikes or other hazardous interaction with wildlife at the airport, the MOA was amended to allow for year-round mowing to discourage the birds. She said, in exchange, SJTA was to establish grassland habitat elsewhere, enhance existing frosted elfin butterfly habitat on-site, and make a payment of \$3 million to the Pinelands Conservation Fund over six years to be used for land acquisition with a focus on grassland bird habitat, if available.

Ms. Berg continued the presentation while noting the recommendation to spend \$1 million during the new round of acquisitions.

She reviewed the land acquisition priorities and displayed maps showing grassland focus areas (based on NJDEP's landscape project, version 3), the wildland-urban interface focus areas showing areas of highest fire hazards and flood hazard focus areas (showing 500-foot buffer to wetlands), all of which will be considered when projects are submitted for potential funding.

Ms. Berg reviewed the project evaluation matrix, which assigns points to various features, and discussed the rationale for the various factors.

She discussed the deed of conservation restriction and the need to adjust it from previous versions. She said this will be part of the package the Committee will review at its April 30, 2021 meeting.

Ms. Berg outlined the process, noting the schedule calls for opening the acquisition round in late May with proposals accepted through July 30 and recommendations before this Committee in October.

Chairman Prickett, referencing the Climate Change Mitigation row of the matrix, stated that he would like the carbon sequestration/storage criterion to specifically recognize cedar forests, noting that these wetlands-dwelling trees hold their carbon the longest in the Pinelands and, as they are less susceptible to fire, they survive the longest. Also, he said the wetlands of the Black Run watershed (Evesham and Medford townships) could mitigate flooding along the Rancocas.

Ms. Grogan responded that perhaps bonus points could be built-in for the presence of cedars on a site.

Ms. Berg added that it could function just like adding three points for parcels larger than 500 acres.

Ms. Grogan said for more than 10 years, the Commission has focused on ways to provide more protection to the Black Run. If a project in that area were submitted, it would definitely score well according to the matrix. However, she reminded the Committee that this round of the PCF is different because of the grassland habitat focus, which may lead to other projects being ranked higher.

Commissioner Lloyd moved the approval of the matrix and the process outlined for the 2021 round of Pinelands Conservation Fund land acquisition. Commissioner Lohbauer seconded the motion and all voted in favor.

4. Stormwater Management

Review of revised draft amendments and rule proposal

Ms. Grogan reviewed the changes to the draft stormwater management amendments (*Attachment B to these minutes and posted on the Commission's website at:*

https://www.nj.gov/pinelands/home/presentations/PowerPoint%20for%203_26%20PI.pdf),

noting that she was focusing solely on the changes made since the Committee's extensive discussion at its February 26, 2021 meeting. She said it had been a great discussion with a lot of questions and the in-house stormwater team had reviewed the rules as proposed, reviewed the history of certain projects that the Commission had regulated in the past and re-read the NJDEP stormwater rules.

She said most of the changes that have been made since that meeting were relatively minor other than the substantive change related to variances (granted by municipalities for private

development) and exceptions (granted by the Commission for public development) and mitigation.

Ms. Grogan provided the Committee with clarifications that would apply to minor development, noting that this was new territory for the Commission. She reviewed the requirements for a plan indicating the location of green infrastructure measures and associated information regarding soils as well as a certification that no proposed measures will impact basements or septic systems. The revisions also clarify that certain standards required of major development will not apply to minor development.

Ms. Grogan said previously the draft rules relied on NJDEP standards for exceptions, waivers and mitigation when stormwater management standards cannot be met on-site, with some minor adjustments to reflect Pinelands standards. She was always personally somewhat uncomfortable with that approach as there are certain situations for which NJDEP will not require any mitigation. Upon further review, staff now collectively recommends retention of the standards that have been in the CMP since 2006, with a few clarifications. This will mean that for any exception granted, there must be an offset through mitigation. Furthermore, she further described the very clear circumstances under which such exceptions can be granted, noting that none can be granted for a decrease in the total volume of stormwater required to be infiltrated nor for direct discharge of runoff to wetlands. She said when a variance or exception is approved, an off-site mitigation project must also be identified and approved and both public and private development must meet the same requirements.

Ms. Grogan reviewed the mitigation process, noting that the municipalities may elect to list mitigation projects in their stormwater plans. She said the requirement will be retained that such plans explicitly state that variances will be granted only when an applicant can demonstrate that stormwater management standards cannot be met on-site. However staff is suggesting removing a somewhat vague provision allowing for stormwater management variances for “alternative measures” and deleting a provision allowing municipalities to collect *in lieu* contributions from applicants and expending them within five years on stormwater mitigation projects. She said she did not believe it has ever been used and thus seems unnecessary.

From her final slide, Ms. Grogan said there will be no outright exemptions from stormwater management requirements for public development projects and the Commission will not be adopting NJDEP’s waiver provisions for certain public projects. She said, as a result, the Commission’s stormwater standards will be stricter than those outside the Pinelands Area. She said she felt this is entirely appropriate and noted that exceptions are rarely requested or granted in the Pinelands Area.

Commissioner Lohbauer thanked Ms. Grogan and staff for turning around their questions and concerns in such short order. He also said last week he had received a copy of the Pinelands Preservation Alliance’s (PPA) white paper document on climate change solutions ([March 2021 White Paper on Climate Change Solutions for the Pinelands of New Jersey](#)) containing recommendations of things for the Commission to do. *During the course of the discussion it became apparent that not all Commissioners had received copies of the report.* Commissioner Lohbauer noted three recommendations related to the stormwater rules:

- Incorporate non-structural stormwater requirements into site design and embrace the nine strategies that NJDEP has removed from its stormwater rules;
- Require five years of monitoring for all new green infrastructure to guarantee the performance of the systems; and
- Require redevelopment projects to meet stormwater requirements

Ms. Grogan said staff had seen and reviewed the comments. She said the nine non-structural strategies were goals, not standards. NJDEP moved them elsewhere in their rules, believing them to be principles that belonged in municipal stormwater plans, not ordinances. She noted that one of the strategies relates to limits on tree clearing and that is addressed elsewhere in the CMP. She said if the Commission wanted to establish specific limits on tree clearing or affirmatively require tree planting, she suggested that be addressed outside of the stormwater rule discussion. Ms. Grogan said staff had gone through NJDEP's formal responses to these and other comments as it is likely many of them will be raised during the Commission's rulemaking process.

Regarding maintenance and bonding, Ms. Grogan said the CMP already has extensive maintenance requirements and the municipalities can require even more stringent performance guarantees should they choose to do so. She reminded the Committee that the stormwater regulations will now be extended to minor development and it may not be appropriate to impose a maintenance guarantee requirement on the installation of a dry well for a single family dwelling. Staff feels the proposed maintenance requirements are adequate and by adopting the NJDEP rules, they will be further strengthened.

Mr. Szura addressed the comment regarding redevelopment projects by providing an example. If someone were to develop the old Acme shopping center in Browns Mills with no change to impervious surface and thus no change to stormwater runoff, the existing requirements would apply. However if, for example, a Super Wawa were proposed on that site, with a gas station or additional impervious surface, the project would have to meet the high pollutant loading area standards and the new rules would apply.

Commissioner Lohbauer said it seemed to him that PPA was saying if an old development would not be permitted today, under the current CMP, then the Commission should try to impose current stormwater standards when development or redevelopment of that old use is proposed.

Mr. Szura responded that the Commission traditionally does not penalize existing development that pre-dates the Pinelands Commission and would merely confirm that a proposed project would not worsen conditions, e.g. increase in runoff or particulates.

Commissioner Lloyd said he saw that as an opportunity to make improvements at a site

Commissioner Lohbauer said that the NJDEP non-structural strategies had been established in 2004 and are being deleted. He said he felt they were very minimal, such as minimizing soil compaction. He asked if the Commission couldn't incorporate them by reference as they seem very useful and shouldn't just disappear.

Ms. Grogan responded that the concern is that those strategies are written as goals and objectives, not standards, so are not easily administered.

Mr. Wengrowski said the NJDEP Stormwater Best Management Practices Manual (https://www.nj.gov/dep/stormwater/bmp_manual2.htm) identified the nine strategies as the cornerstone of the 2006 stormwater rules. He said since that time, NJDEP has replaced it with green infrastructure that has been found to be far superior. He said one of the appendices in the Manual is a Low Impact Design checklist that allows the site designer to identify how those nine strategies are incorporated into a specific site design.

Mr. Szura said what he receives from the designers is generally a “cut and paste” document that provides no measurable means of verification. He said NJDEP feels the required use of green infrastructure is a better way to meet and measure stormwater standards and he agreed. In response to a question from Commissioner Lohbauer, he said he felt green infrastructure will cover the nine strategies.

Ms. Grogan said staff was hoping to receive the Committee’s consensus on the draft rules so that they could be submitted to the Governor’s Office for review prior to formal proposal by the Commission. She said they were likely to have additional questions and she wanted to keep the process moving with the intent of a vote on a proposal by the Commission at its May 2021 meeting.

Commissioner Lloyd left the meeting at 11:30 a.m.

Ms. Grogan reminded the Committee members that while it is always helpful to receive public comments and questions early in the process, there would also be a two month formal public comment period once the rule proposal has been authorized.

5. Continued discussion of Comprehensive Management Plan application exemptions and procedures (N.J.A.C. 7:50-4.1)

Chairman Prickett said he had four questions that he had submitted to the Executive Director the previous week:

1. Can horizontal directional drilling (HDD) be used to repair or install utility distribution lines without a development review?
2. How does the Commission regulate the drilling fluids, including bentonite and additives used in HDD, so that such development conforms to drinking water standards of the State of New Jersey and the United States?
3. Does HDD in the Pinelands require a permit from the Board of Public Utilities, possibly more specifically from the Bureau of Pipeline Safety?
4. What records should property owners keep when they apply 7:50-4.1 (Applicability) to their projects?

Ms. Wittenberg said the CMP does not have specific rules on HDD and neither does NJDEP. She said NJDEP is beginning to consider addressing rules and she is following that effort closely. She said she will bring information to the Commission when it is available. She said HDD has long been considered a better method than open trenching and only recently have agencies been considering regulation.

Chairman Prickett said in his research he has learned that Pennsylvania regulates HDD. He said if a project using HDD application is exempt, the Commission would not know what chemicals are being used.

Ms. Roth said currently HDD is being used for a myriad of purposes including installation of water and sewer lines and fiber-optic cable. These projects are often exempt (not subject to application requirements). She said if the Commission wants to review all applications that include HDD, then the rules need to be amended. She said NJDEP considers bentonite an inert, non-hazardous substance.

Chairman Prickett said he was concerned that bentonite might be contaminated with heavy metals and he wanted a process to certify that the bentonite used in the Pinelands is pure. He said he wanted to continue this discussion when Ms. Wittenberg and Ms. Roth can return with additional information from NJDEP.

Commissioner Lohbauer said he appreciated that Chairman Prickett has raised this issue and the link to water quality. He said if bentonite contains heavy metals that become deposited in water, there are dangerous impacts about which the Commission would know nothing absent an application. He said he believed the Commission needed to pursue an amendment due to the deleterious effects of heavy metals as well as the impacts of bentonite itself on wetlands plants and animals.

Commissioner Irick said he agreed that HDD should not be exempt from Commission review based on the research he had done and he was also concerned about the distinction between repairing an existing line vs. replacing or enlarging a line. He said he wanted projects involving HDD to come before the Commission.

Chairman Prickett asked what documentation applies when tearing down a house less than 50 years old and rebuilding it.

Mr. Deman said the Commission relies on the municipality to determine if a house is less than 50 years old. He said if the evidence shows that the house is more than 50 years old, staff would go through the review process even if the house were already demolished. He said when a Certificate of Filing is issued for the demolition of a single family dwelling, language is included requiring reconstruction within five years for the project to be exempt from Commission review.

Ms. Wittenberg invited the Committee to send her emails with questions that they want addressed.

Chairman Prickett reminded Commissioners to provide agenda items for the upcoming meeting with Acting NJDEP Commissioner Shawn LaTourette.

6. Public Comment

Ms. Rhyan Grech, with the PPA, referencing the previous mention of the Black Run, said she believed in 2016 there had been a proposal for a management area change in Evesham and Medford townships from Rural Development Area to Forest Area for increased protection of the

watershed. She said she believed the Commission should look at this again. Also, she said PPA felt for a development project that was repurposing a site, the Commission should take advantage of the opportunity to make sure current stormwater standards were met. She said that PPA is generally supportive of the stormwater amendments. She asked how she could be sure that documents provided to the Commission would be distributed to all members.

Ms. Roth, the Commission's ethics liaison officer, said all materials submitted by an applicant or an advocacy group should be sent to the Executive Director for circulation.

Ms. Grech said she felt a program such as NJDEP's permit by registration would be useful to the Commission in tracking exempt projects. She asked for a status update on the South Jersey Gas pipeline project in Hamilton Township and noted that there had been a previous discussion among Commissioners if it were a repair or replacement. She noted the shoddy workmanship that has allowed the spillage of a significant amount of bentonite into Pinelands wetlands in multiple events during the New Jersey Natural Gas Southern Reliability Link pipeline construction, most recently this past Saturday in Chesterfield. She said PPA determined that this was the eleventh confirmed inadvertent return and asked that it be addressed.

Chairman Lohbauer noted that registration for the Pinelands Short Course is now open.

Commissioner Lohbauer moved the adjournment of the meeting at noon. Commissioner Irick seconded the motion. (Note, as Commissioner Lloyd had left the meeting, there was no quorum.)

Certified as true and correct



Betsy Piner
Principal Planning Assistant
April 13, 2021

Pinelands Conservation Fund

Permanent Land Protection

PCF Background

- Established in 2005
- Additional funding through CCMUA
- Priorities amended in 2014
- Permanent land protection: **8,969** acres
- Additional funding through SJTA (2019)
- Suggested acquisition priorities revision in 2021

2019 Amendment to South Jersey Transportation Authority Agreement

- April 12, 2019, the Pinelands Commission authorized execution of amendment to the 2004 MOA between the Commission and the SJTA concerning short term development projects at the Atlantic City International Airport.
- 2004 MOA required creation of a 290 acre Grassland Conservation Management Area on the Airport property.
- 2019 MOA Amendment permitted SJTA to mow the on-site Grassland Conservation Management year round.

2019 MOA Amendment (continued)

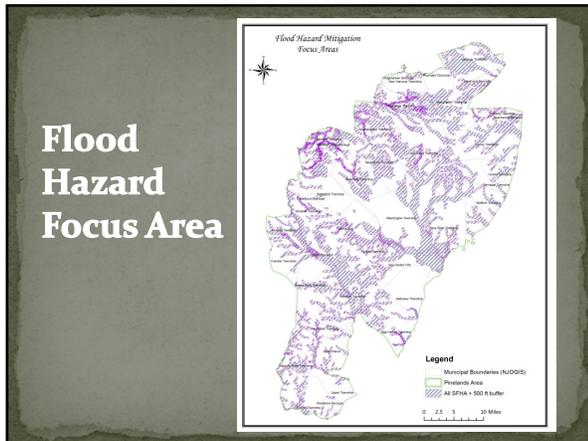
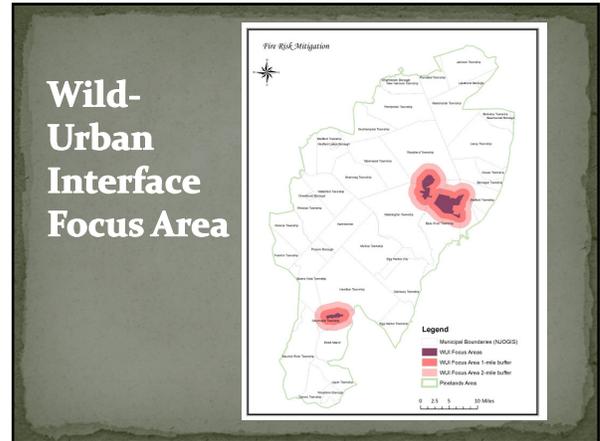
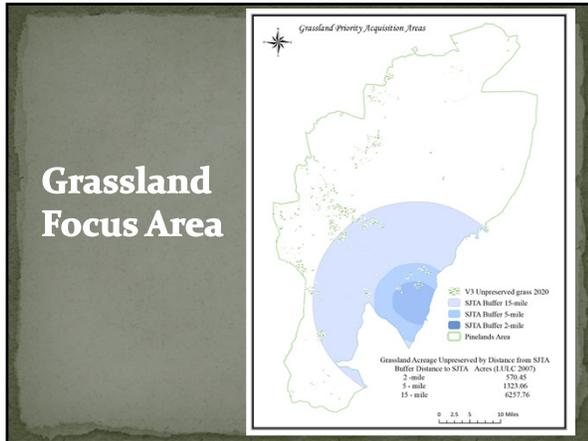
- Offset for the 2019 MOA Amendment:
 - Acquisition, creation and long term maintenance of a new Grassland Conservation and Management Area in the Pinelands.
 - Enhancement of an additional 12 acres site for frosted elfin butterfly.
 - Payments totaling Three Million Dollars were to be made to the Pinelands Conservation Fund for the acquisition of land with a priority given for threatened or endangered grassland bird habitat, if available.

Acquisition 2021

- New funding round
- \$1,000,000
- Acquisition Priorities*
- Process
- Schedule

Land Acquisition Priorities

- Grassland habitats
- Impacts of climate change
 - Carbon sequestration
 - Fire management
 - Flood hazard
- “Traditional” acquisitions
 - 502 Fund Areas
 - Target Areas



Project Evaluation Matrix

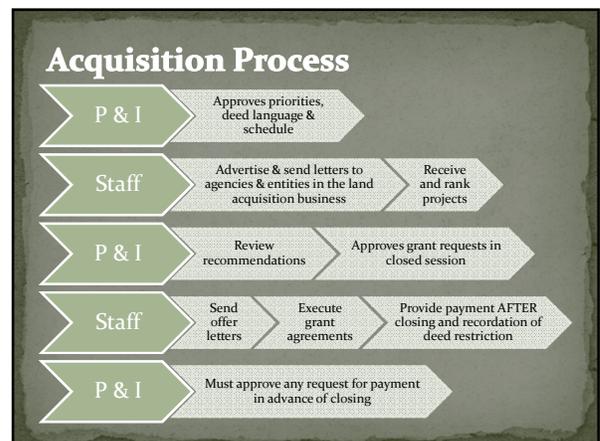
Factor	Low (1)	Medium (3)	High (5)
Location: Is the project in PCF focus area	In RGA, Town, Village or Rural Development Area AND none of the designated focus areas	In designated focus areas and PAD, SAPA, APA or Forest Area	Within a five-mile radius of SIFA and inside the State Pinelands Area
T&E Habitats:	No state/federal T&E habitat per NIDEP Landscape Model AND no NJPC and ENSP sightings	T&E habitat exists based upon NIDEP Landscape model and/or NJPC and ENSP sightings	Grassland habitat exists based upon NIDEP Landscape model and/or NJPC and ENSP sightings
Size:	Less than 50 acres	Between 50 and 100 acres	100 acres or more; add 3 additional points if greater than 500 acres
Contiguity:	Greater than one mile from preserved habitat or open space	Less than one mile from known grassland T&E habitats but not contiguous	Contiguous with preserved habitat or open space
Partner Contribution:	67.7% of acquisition costs	At least 75% acquisition costs	Greater than 75% acquisition costs
Long-Term Maintenance Capability:	No monitoring or maintenance plan/ no identified land steward	Proposed Monitoring and maintenance plan; Not previously implemented	Established Monitoring and maintenance program / Gov't, agency or NGO is prepared to manage land
Climate Change Mitigation:	Flood hazard mitigation	Wildfire Management	Carbon Sequestration/ Storage
Purpose:	Historic Preservation	Open Space	T & E or Climate Change

Deed of Conservation Restriction

Template will be revised to address

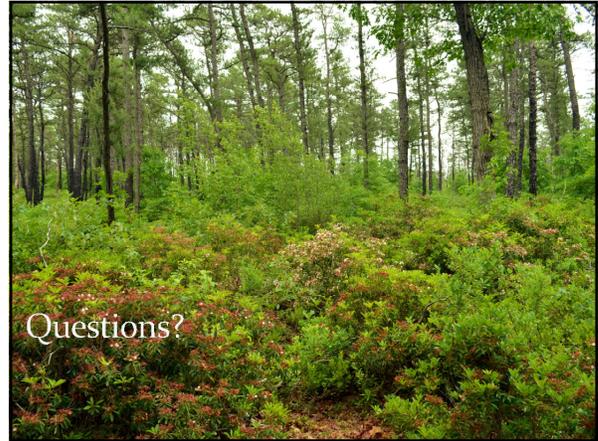
- Habitat maintenance plan (grassland)
- Local populations protections
- Types of forestry practices
- Low intensity recreation
- Land management issues of monitoring and protection

April 30, 2021 P & I meeting for approval



Permanent Land Protection Schedule

- P & I Committee approval
 - March 26, 2021 : Priorities & Matrix
 - April 30, 2021 : Deed of Conservation Restriction
- Open application round ~ late May
- Deadline for submitting proposals ~July 30
- Recommendations to P & I ~ October 2021



Stormwater Management Updated Draft Amendments



Pinelands Commission Policy & Implementation Committee
March 26, 2021

Clarifications for Minor Development

Application requirements:

- Certified plan showing location of proposed green infrastructure measures and the associated soil profile, soil permeability test elevation, soil permeability rate and the elevation of and vertical separation to the seasonal high water table.
- Written certification from design engineer certify that no proposed green infrastructure measures will adversely impact basements or septic systems

Clarifications for Minor Development

65% nitrogen removal standard does not apply.

Groundwater mounding analysis is not required.

As-built requirements do not apply.

Exceptions and Mitigation

If stormwater management requirements cannot be met on-site, based on DEP standards, applicants may request:

- a municipal variance (for private development)
- an exception from the Commission (for public development)

Exceptions and Mitigation

- Variances and exceptions may only be granted from the on-site design and performance standards for green infrastructure, the standards for groundwater recharge, stormwater runoff quality, and stormwater runoff quantity and the on-site recharge standards.
- No decrease in the total volume of stormwater required to be infiltrated is permitted.
- No variance or exception may be granted from the CMP's prohibition on direct discharge of runoff of wetlands, wetlands transition areas or surface water bodies.

Off-site mitigation requirements

- If a variance or exception is approved, an off-site mitigation project must also be identified and approved.
- All mitigation projects must be located in the same HUC-14 drainage area as the proposed development. Sites in the larger HUC-11 drainage area may be approved if necessary.
- All mitigation projects must be located in the Pinelands Area.
- The same requirements will be applied to all public and private development.

Off-site mitigation requirements

- Municipalities may identify potential mitigation projects in their stormwater management plans.
- When a variance or exception is granted, the associated mitigation project must be selected from the list in the stormwater plan (if such a list exists).
- Commission certification of municipal stormwater management plans is required.

Municipal Stormwater Mitigation Plans

N.J.A.C. 7:50-3.39(a)2viii

Retain requirement that municipal plans explicitly state variances will be considered only in cases where an applicant is able to demonstrate that stormwater standards cannot be met on a particular parcel.

Delete provisions that allowed for variances when a municipality determined stormwater management would "more effectively be achieved through alternative measures".

Municipal Stormwater Mitigation Plans

N.J.A.C. 7:50-3.39(a)2viii

Delete provisions that allowed municipalities to collect monetary contributions in lieu of requiring off-site mitigation measures.

The CMP previously allowed municipalities to require such contributions, provided all collected funds were expended on stormwater mitigation activities within five years.

Exceptions and Mitigation for Public Development

The CMP will continue to require off-site mitigation for all public development that cannot meet CMP standards on-site.

No outright exemptions from CMP stormwater management standards will be provided.

NJDEP's waiver provisions for certain public projects (roads, pedestrian access) will not be incorporated in the CMP.

The Commission's standards will continue to be more stringent than those applicable outside the Pinelands Area.



Technical Memorandum

Subject Preliminary Alternatives Analysis	Project name South Jersey Transportation Authority Grassland Conservation and Management Area Relocation	Date April 19, 2021
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Prepared by
Anthony Velazquez

INTRODUCTION

As a follow-up to Pinelands Coordination Meeting #1 (February 9, 2021), this memorandum provides a review of conceptual project alternatives which have been developed to minimize impacts to freshwater wetlands as well as riparian zones, which are regulated under the New Jersey Department of Environmental Protection (NJDEP) Freshwater Wetlands Protection Act Rules (N.J.A.C. 7:7A) and the Flood Hazard Area Control Act Rules (N.J.A.C. 7:13).

This memorandum also provides a comparison of project impacts on qualifying forest protected under the New Jersey No Net Loss (NNL) Compensatory Reforestation Act (N.J.S.A. 13:1L-14.1 *et seq.*) and provides insight into the envisioned extent and depth of ground disturbance as related to the need for archaeological testing.

ALTERNATIVES

Three alternatives to the initial concept were developed to minimize impacts to regulated resources while attempting to achieve the target 62 acres of effective nesting habitat. Two of these alternatives also avoid impacts to an older-growth upland forest area behind the existing residential structure, which has been targeted for preservation by the Pinelands Commission. Maps of all four alternatives are attached.

Alternative 1 is the initial concept developed by SJTA in coordination with the Pinelands Commission to determine site feasibility prior to delineation of wetlands and identification of regulated waters and riparian zones regulated under the NJDEP Freshwater Wetlands Protection Act and the Flood Hazard Area Control Act Rules.

For the purposes of this analysis, it should be noted that Alternative 1 has been modified slightly to conform to the surveyed property boundary; thus acreages slightly differ from SJTA's February 2020 memorandum. Alternative 1 exceeds the 62-acre goal, encompassing approximately 115 acres with an effective habitat area of 76 acres.

Alternative 2 limits conversion of forested and scrub-shrub wetlands to herbaceous communities to the maximum extent possible and avoids impacts (i.e., removal of woody vegetation) in riparian zones. Alternative 2 preserves the older-growth upland forest area behind the existing residential structure, which was targeted for preservation by the Pinelands Commission, but does not meet the 62-acre goal, encompassing approximately 110 acres with an effective habitat area of 60 acres.

Alternative 3 also avoids impacts in riparian zones and limits conversion of forested and scrub-shrub wetlands to herbaceous communities. Alternative 3 also preserves the older-growth upland forest area behind the existing residential structure, which was targeted for preservation by the Pinelands

Commission; however, unlike Alternative 2, it modifies one additional wetland area in order to achieve the target acreage. Alternative 3 encompasses approximately 111 acres and provides 65 acres of effective habitat.

Alternative 4 also avoids impacts in riparian zones and limits conversion of forested and scrub-shrub wetlands to herbaceous communities. Like Alternative 3, Alternative 4 also modifies an additional wetland area to achieve the target acreage, but Alternative 4 does not preserve the older-growth upland forest area behind the existing residential structure. Clearing this area would make for more efficient use of the site and would provide for 62 acres of effective habitat with an overall clearing area of 99 acres.

In considering the alternatives it should be noted that the limits of regulated waters and riparian zones require further review and confirmation, field conditions in the riparian zone need to be confirmed, and coordination with NJDEP is required to verify that non-woody portions of the 150-foot riparian zone can be renovated and subsequently managed without being considered an impact.

As discussed below, each of the alternatives were evaluated for impacts to wetlands and wetland buffers, riparian zones, and qualifying forest protected under the NNL Compensatory Reforestation Act.

WETLANDS AND WETLAND BUFFERS

Alternative 1 was developed prior to formal wetland delineation but avoids NJDEP-mapped wetlands in the northern and western portions of the site. This alternative recognizes the need to change species composition in modified agricultural wetland areas and forested/scrub-shrub wetland ditches at the eastern portion of the property. Alternative 1 would alter the vegetation of approximately 6.3 acres of forested and scrub-shrub wetlands and approximately 8.3 acres of modified agricultural wetlands. This alternative would impact approximately 69.9 acres of 300-foot wetland buffer.

Alternative 2 avoids all field-delineated wetlands in the northern and western portions of the site, but (similar to Alternative 1) changes species composition in modified agricultural wetland areas and in forested/scrub-shrub wetland ditches at the eastern portion of the property. Alternative 2 would alter the vegetation of approximately 1.5 acres of forested and scrub-shrub wetlands and approximately 8.0 acres of modified agricultural wetlands. This alternative would impact approximately 68.1 acres of 300-foot wetland buffer.

Alternative 3 avoids most field-delineated wetlands in the northern and western portions of the site but modifies one additional forested/scrub-shrub wetland ditch in order to achieve the target 62 acres of core habitat. Similar to Alternatives 1 and 2, Alternative 3 would also change species composition in modified agricultural wetland areas and in forested/scrub-shrub wetland ditches at the eastern portion of the property. Alternative 3 would alter the vegetation of approximately 2.1 acres of forested and scrub-shrub wetlands and approximately 8.0 acres of modified agricultural wetlands. This alternative would impact approximately 69.2 acres of 300-foot wetland buffer.

Alternative 4 also avoids most field-delineated wetlands in the northern and western portions of the site and modifies one additional forested/scrub-shrub wetland ditch in order to achieve the target 62 acres of core habitat. Similar to Alternatives 1, 2 and 3, Alternative 4 would also change species composition in modified agricultural wetland areas and in forested/scrub-shrub wetland ditches at the eastern portion of the property. Like Alternative 3, Alternative 4 would alter the vegetation of approximately 2.1 acres of forested and scrub-shrub wetlands and approximately 8.0 acres of modified agricultural wetlands. This alternative would impact approximately 56.9 acres of 300-foot wetland buffer.

Wetland and wetland buffer impacts under each alternative are summarized below.

Wetland Impact Comparison

Alternative	Forested and Scrub-Shrub Wetland Impact	Modified Agricultural Wetland Impact	300' Wetland Buffer Impact
Alternative 1	6.3 Acres	8.3 Acres	69.9 Acres
Alternative 2	1.5 Acres	8.0 Acres	68.1 Acres
Alternative 3	2.1 Acres	8.0 Acres	69.2 Acres
Alternative 4	2.1 Acres	8.0 Acres	56.9 Acres

FLOOD HAZARD AREA CONTROL ACT REQUIREMENTS

Based on topographic survey mapping, it has been determined that the on-site pond (having a drainage area greater than 50 acres) and downstream outlet channel are considered regulated waters pursuant to the NJDEP Flood Hazard Area Control Act Rules (N.J.A.C. 7:13-2.2).

Pursuant to N.J.A.C. 7:13-2.3, every regulated water has a flood hazard area and riparian zone which are defined and regulated under the rule. Regulated activities in flood hazard areas generally include excavation, fill, grading, and the construction of structures. As the project is considered a Major Development pursuant to the NJDEP Stormwater Management rules (N.J.A.C. 7:8), it will not qualify for any permits-by-rule or general permits. The limited grading proposed in flood hazard areas will trigger the need for a Flood Hazard Area Individual Permit.

Regarding riparian zones, the pond and outlet channel will have a 150-foot riparian zone, measured landward of the regulated waters due to the presence of critically dependent plant species identified within one-mile downstream of the site (per NJDEP Natural Heritage Program data request). Conversion of riparian zone vegetation from one grass type to another will likely not be considered a regulated activity requiring mitigation, but removal of scrub-shrub and forest vegetation (as proposed under Alternative 1) will be considered an impact, and will require mitigation.

Pursuant to N.J.A.C. 7:13-11.2 (y), the SJTA would have to demonstrate that there is no other feasible site layout that would reduce or eliminate the area of riparian zone vegetation to be cleared, cut, and/or removed. In addition, Alternative 1 would exceed the one-quarter of an acre impact threshold and would require a hardship exception pursuant to N.J.A.C. 7:13-15.1. The hardship exception support would require SJTA (amongst other proofs) to demonstrate that the hardship is due to an extraordinary situation of the applicant or site condition. Support for the hardship would be difficult with other available (non NJDEP-regulated) land on the site.

Riparian Zone Impacts and Mitigation

Alternative 1 would impact approximately 3.6 acres of riparian zone vegetation compared to zero impacts for Alternatives 2, 3 and 4. Alternative 1 would require an Individual Flood Hazard Area Permit and hardship exception. If hardship were successfully demonstrated for Alternative 1, SJTA would be required to mitigate for the riparian zone impacts. The Great Egg Harbor mitigation bank in Monroe Township, Gloucester County has available riparian zone mitigation credits to support the project (as of February 2021) at a cost of \$500,000 per acre-credit. Mitigation for 3.6 acres of riparian zone vegetation would cost \$1,800,000. Other options for riparian zone mitigation could be explored including creation, enhancement or preservation but may not necessarily reduce costs when considering the likely need for land acquisition. Alternatives 2, 3 and 4 would not impact riparian zone vegetation. Although an Individual Flood Hazard Area Permit will be required for these alternatives, no hardship exception or mitigation will be necessary.

NJ NO NET LOSS COMPENSATORY REFORESTATION ACT

The New Jersey No Net Loss (NNL) Compensatory Reforestation Act (N.J.S.A. 13:1L-14.1 *et seq.*) requires that a State entity submit a compensatory reforestation plan to the New Jersey Forest Service

(NJFS) for each project that results in the deforestation of one-half acre (0.5 ac/21,780 square feet) or more on land the State entity owns or maintains.

The existing forested area and amount of proposed deforestation was calculated for each alternative via the NJFS No Net Loss Grid Analysis as set forth in Section 4 and 5 of the No Net Loss Compensatory Reforestation Program Guidelines (November 14, 2016). Forested areas were delineated using 2019 aerial photography and project area survey that included tree lines. The grid was overlaid on the forested areas in GIS and forest crown cover within each grid square was calculated. Squares with greater than 33% forest cover were isolated and represent NNL qualifying forest.

Impacts to NNL qualifying forest and estimated mitigation under each alternative are summarized below with the estimated reforestation cost based on \$300 per tree with a Tree Replacement Factor (TRF) of 204 trees per acre.

NJ No Net Loss Reforestation Comparison

Alternative	Acres of Qualifying Deforestation	Reforestation Cost
Alternative 1	21.6 Acres	\$1,322,100
Alternative 2	20.5 Acres	\$1,254,600
Alternative 3	21.6 Acres	\$1,322,100
Alternative 4	9.4 Acres	\$575,280

DEPTH OF DISTURBANCE

Preliminary analysis indicates approximately 37 acres of existing grassland and grass/forbland can be renovated to optimize habitat for upland sandpiper and grasshopper sparrow without land disturbance deeper than six inches. This work is expected to include spot areas of manual tree removal, manual or low intensity mechanical removal of forb species, thatch reduction, supplemental seeding and possibly other measures to be developed in coordination with the Pinelands Commission and Advisory Committee. The remainder of the site would require disturbance related to haul roads, structures demolition and removal of forest and shrubland.

Under all alternatives, areas requiring archaeological testing would be significantly reduced by minimally disturbing as much of the existing fields as possible. A map is attached showing areas expected to require minimal disturbance.

CONCLUSIONS AND RECOMMENDATIONS

Alternative 1 was developed as an early concept before existing environmental conditions were fully identified. This alternative provides more than the minimum 62 acres of core habitat but would result in greater wetland and riparian zone impacts than Alternatives 2 or 3.

Alternative 2 does not meet the minimum 62 acres of core habitat and should be discarded.

Alternative 3 slightly exceeds the minimum 62-acre requirement and reduces wetland impacts by approximately 4.2 acres and riparian zone impacts by approximately 3.6 acres in comparison to Alternative 1. Alternative 3 preserves vegetation around the pond and outlet channel, including preserving woody vegetation within the 150-foot riparian zone and restricting all activities within 50-feet of the top of channel bank and would not trigger the need for an Individual Flood Hazard Area permit, nor would it require a hardship exception thereunder. Alternative 3 obviates the need for \$1,800,000 in riparian zone mitigation and has the same NJ NNL Reforestation program impact and mitigation cost as Alternative 1.

Alternative 4 meets the minimum 62-acre requirement and makes the most efficient use of the site. Wetland impacts are identical to Alternative 3. Alternative 4 also preserves vegetation around the pond

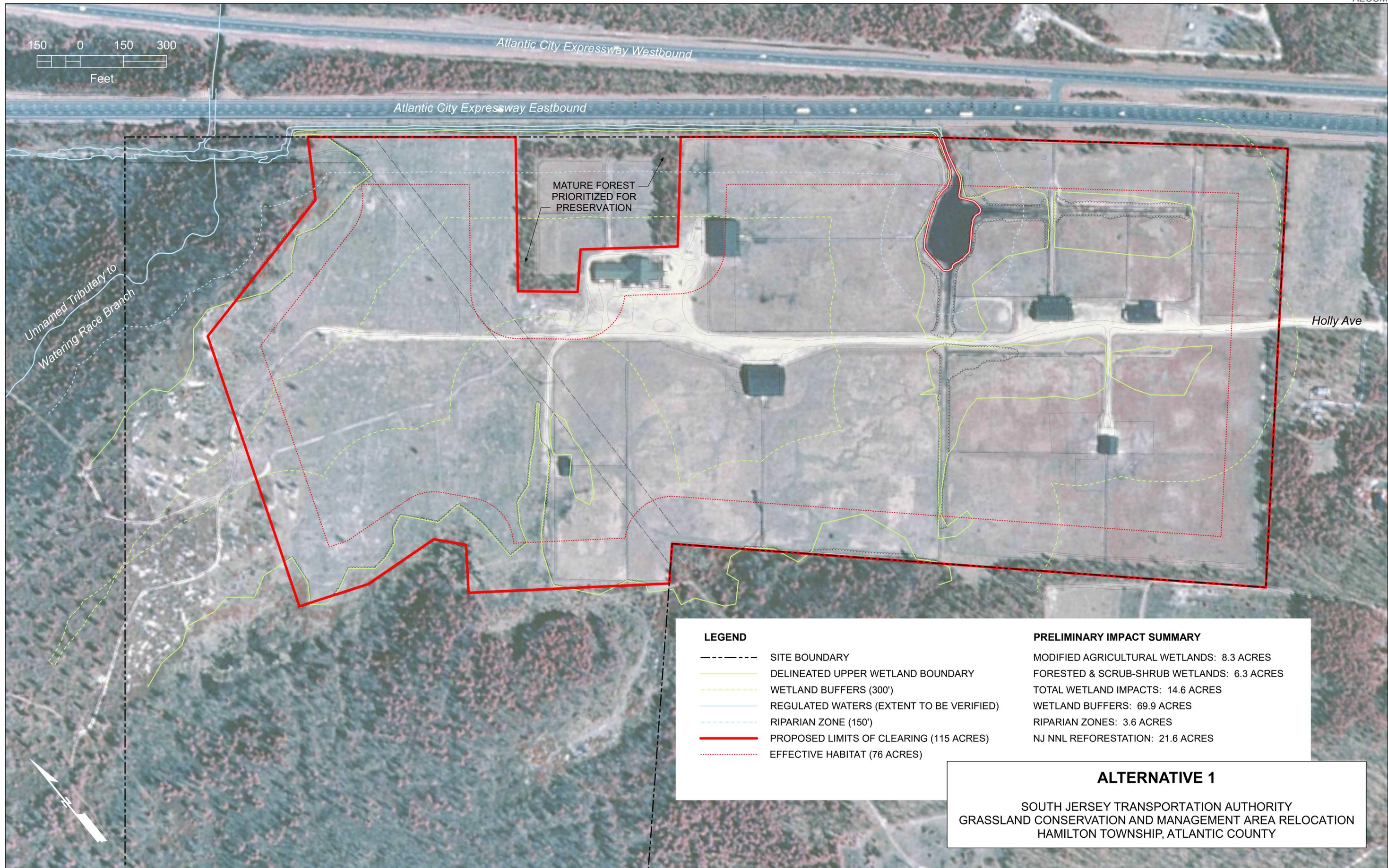
and outlet channel, including preserving woody vegetation within the 150-foot riparian zone and restricting all activities within 50-feet of the top of channel bank and would not trigger the need for an Individual Flood Hazard Area permit, nor would it require a hardship exception thereunder. Most importantly, Alternative 4 substantially reduces impacts to upland forest areas, clearing 12.2 acres less NNL qualifying forest than Alternatives 1 and 3, resulting in a savings of almost \$750,000.

In comparison to Alternative 1, Alternatives 2, 3 and 4 are more environmentally beneficial from a waterway shading, bank stabilization, and overall water quality perspective. Alternative 4 has the added benefit of preserving significantly more acreage of upland forest, resulting in less overall habitat impact and less fragmentation than the other alternatives. This alternative disturbs 12 acres less land than Alternative 3, requiring significantly less grubbing and site restoration, and will ultimately be less costly to construct and maintain.

Based on significant environmental impact and cost savings, Alternative 4 is recommended for advancement. A summary comparison of the alternatives is presented below.

Comparison of Conceptual Alternatives

ALTERNATIVE 1	ALTERNATIVE 2	ALTERNATIVE 3	ALTERNATIVE 4
SIZE Limits of clearing: 115 acres Effective habitat: 76 acres Achieves minimum 62 acres? Yes	SIZE Limits of clearing: 110 acres Effective habitat: 60 acres Achieves minimum 62 acres? No	SIZE Limits of clearing: 111 acres Effective habitat: 65 acres Achieves minimum 62 acres? Yes	SIZE Limits of clearing: 99 acres Effective habitat: 62 acres Achieves minimum 62 acres? Yes
WETLAND IMPACTS - Forest/scrub-shrub: 6.3 acres - Modified agricultural: 8.3 acres - Total wetlands: 14.6 acres - 300' wetland buffers: 69.9 acres	WETLAND IMPACTS - Forest/scrub-shrub: 1.5 acres - Modified agricultural: 8.0 acres - Total wetlands: 9.5 acres - 300' wetland buffers: 68.1 acres	WETLAND IMPACTS - Forest/scrub-shrub: 2.1 acres - Modified agricultural: 8.0 acres - Total wetlands: 10.1 acres - 300' wetland buffers: 69.2 acres	WETLAND IMPACTS - Forest/scrub-shrub: 2.1 acres - Modified agricultural: 8.0 acres - Total wetlands: 10.1 acres - 300' wetland buffers: 56.9 acres
RIPARIAN ZONES - 3.6 acres - Riparian zone mitigation: \$1,800,000	RIPARIAN ZONES - 0 acres - Riparian zone mitigation: \$0	RIPARIAN ZONES - 0 acres - Riparian zone mitigation: \$0	RIPARIAN ZONES - 0 acres - Riparian zone mitigation: \$0
NO NET LOSS REFORESTATION Acres of deforestation: 21.6 Estimated monetary compensation: \$1,322,100	NO NET LOSS REFORESTATION Acres of deforestation: 20.5 Estimated monetary compensation: \$1,254,600	NO NET LOSS REFORESTATION Acres of deforestation: 21.6 Estimated monetary compensation: \$1,322,100	NO NET LOSS REFORESTATION Acres of deforestation: 9.4 Estimated monetary compensation: \$575,280



Atlantic City Expressway Westbound

Atlantic City Expressway Eastbound

Unnamed Tributary to Watering Race Branch

Holly Ave

MATURE FOREST
PRIORITIZED FOR
PRESERVATION

LEGEND		PRELIMINARY IMPACT SUMMARY	
-----	SITE BOUNDARY	MODIFIED AGRICULTURAL WETLANDS:	8.3 ACRES
—	DELINEATED UPPER WETLAND BOUNDARY	FORESTED & SCRUB-SHRUB WETLANDS:	6.3 ACRES
- - - - -	WETLAND BUFFERS (300')	TOTAL WETLAND IMPACTS:	14.6 ACRES
—	REGULATED WATERS (EXTENT TO BE VERIFIED)	WETLAND BUFFERS:	69.9 ACRES
- - - - -	RIPARIAN ZONE (150')	RIPARIAN ZONES:	3.6 ACRES
—	PROPOSED LIMITS OF CLEARING (115 ACRES)	NJ NNL REFORESTATION:	21.6 ACRES
- - - - -	EFFECTIVE HABITAT (76 ACRES)		

ALTERNATIVE 1

SOUTH JERSEY TRANSPORTATION AUTHORITY
GRASSLAND CONSERVATION AND MANAGEMENT AREA RELOCATION
HAMILTON TOWNSHIP, ATLANTIC COUNTY



Atlantic City Expressway Westbound

Atlantic City Expressway Eastbound

MATURE FOREST
PRIORITIZED FOR
PRESERVATION

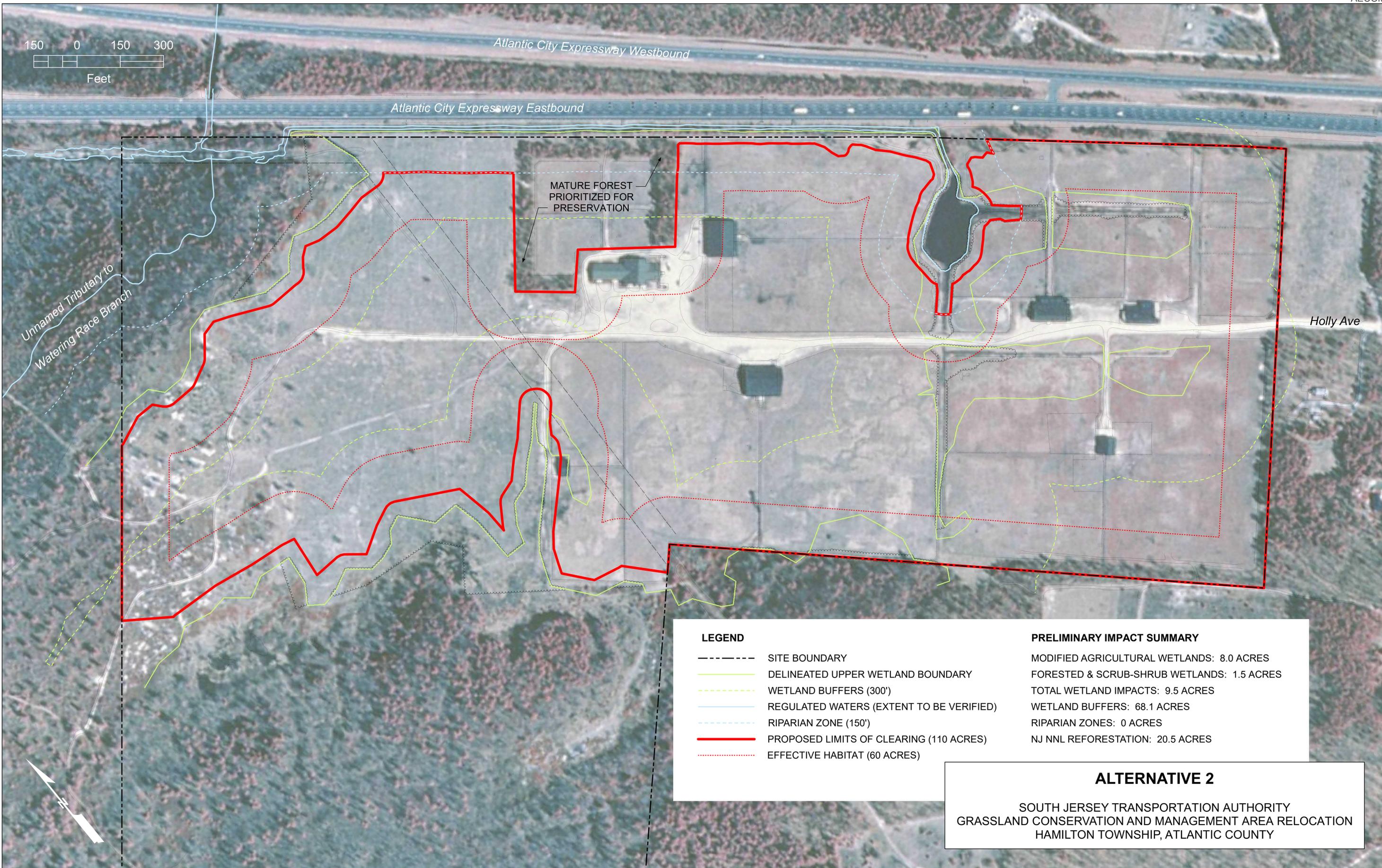
Unnamed Tributary to
Watering Race Branch

Holly Ave

LEGEND		PRELIMINARY IMPACT SUMMARY	
-----	SITE BOUNDARY	MODIFIED AGRICULTURAL WETLANDS:	8.3 ACRES
—	DELINEATED UPPER WETLAND BOUNDARY	FORESTED & SCRUB-SHRUB WETLANDS:	6.3 ACRES
- - - - -	WETLAND BUFFERS (300')	TOTAL WETLAND IMPACTS:	14.6 ACRES
—	REGULATED WATERS (EXTENT TO BE VERIFIED)	WETLAND BUFFERS:	69.9 ACRES
- - - - -	RIPARIAN ZONE (150')	RIPARIAN ZONES:	3.6 ACRES
—	PROPOSED LIMITS OF CLEARING (115 ACRES)	NJ NNL REFORESTATION:	21.6 ACRES
- - - - -	EFFECTIVE HABITAT (76 ACRES)		

ALTERNATIVE 1

SOUTH JERSEY TRANSPORTATION AUTHORITY
GRASSLAND CONSERVATION AND MANAGEMENT AREA RELOCATION
HAMILTON TOWNSHIP, ATLANTIC COUNTY



LEGEND

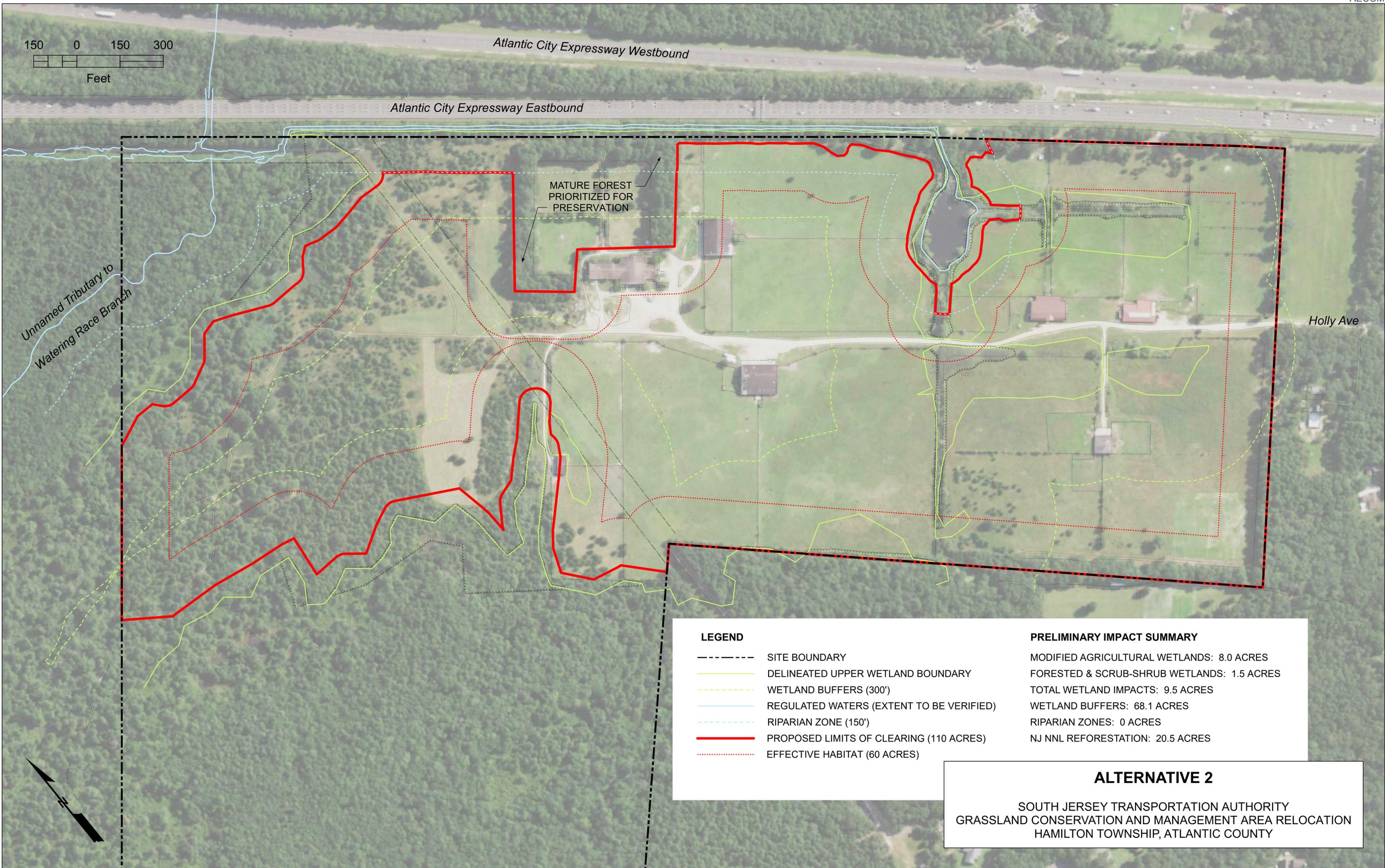
- SITE BOUNDARY
- _____ DELINEATED UPPER WETLAND BOUNDARY
- WETLAND BUFFERS (300')
- _____ REGULATED WATERS (EXTENT TO BE VERIFIED)
- RIPARIAN ZONE (150')
- _____ PROPOSED LIMITS OF CLEARING (110 ACRES)
- EFFECTIVE HABITAT (60 ACRES)

PRELIMINARY IMPACT SUMMARY

- MODIFIED AGRICULTURAL WETLANDS: 8.0 ACRES
- FORESTED & SCRUB-SHRUB WETLANDS: 1.5 ACRES
- TOTAL WETLAND IMPACTS: 9.5 ACRES
- WETLAND BUFFERS: 68.1 ACRES
- RIPARIAN ZONES: 0 ACRES
- NJ NNL REFORESTATION: 20.5 ACRES

ALTERNATIVE 2

SOUTH JERSEY TRANSPORTATION AUTHORITY
GRASSLAND CONSERVATION AND MANAGEMENT AREA RELOCATION
HAMILTON TOWNSHIP, ATLANTIC COUNTY



Atlantic City Expressway Westbound

Atlantic City Expressway Eastbound

Unnamed Tributary to Watering Race Branch

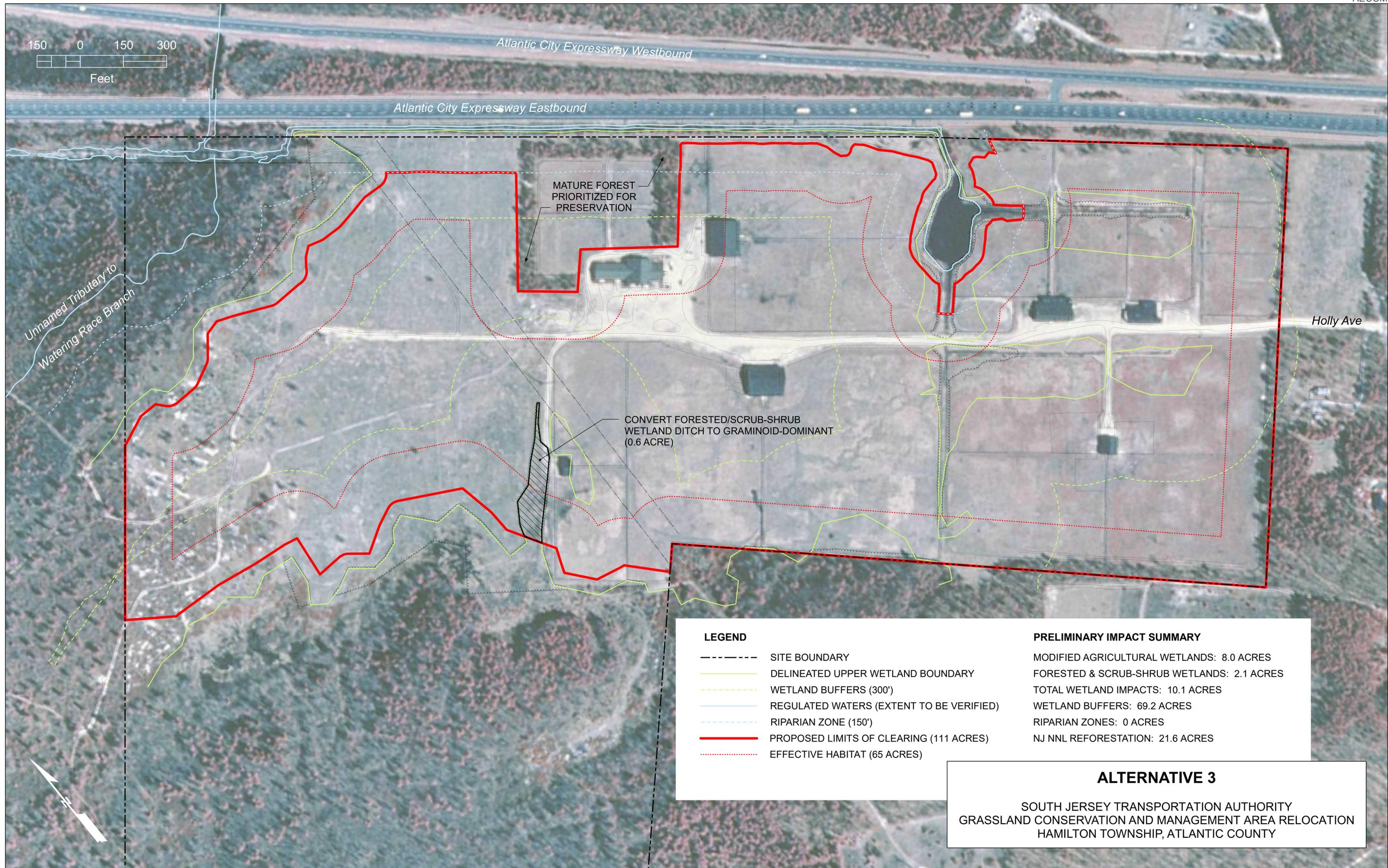
Holly Ave

MATURE FOREST
PRIORITIZED FOR
PRESERVATION

LEGEND		PRELIMINARY IMPACT SUMMARY	
-----	SITE BOUNDARY	MODIFIED AGRICULTURAL WETLANDS:	8.0 ACRES
—	DELINEATED UPPER WETLAND BOUNDARY	FORESTED & SCRUB-SHRUB WETLANDS:	1.5 ACRES
- - - - -	WETLAND BUFFERS (300')	TOTAL WETLAND IMPACTS:	9.5 ACRES
—	REGULATED WATERS (EXTENT TO BE VERIFIED)	WETLAND BUFFERS:	68.1 ACRES
- - - - -	RIPARIAN ZONE (150')	RIPARIAN ZONES:	0 ACRES
—	PROPOSED LIMITS OF CLEARING (110 ACRES)	NJ NNL REFORESTATION:	20.5 ACRES
.....	EFFECTIVE HABITAT (60 ACRES)		

ALTERNATIVE 2

SOUTH JERSEY TRANSPORTATION AUTHORITY
GRASSLAND CONSERVATION AND MANAGEMENT AREA RELOCATION
HAMILTON TOWNSHIP, ATLANTIC COUNTY



Unnamed Tributary to
Watering Race Branch

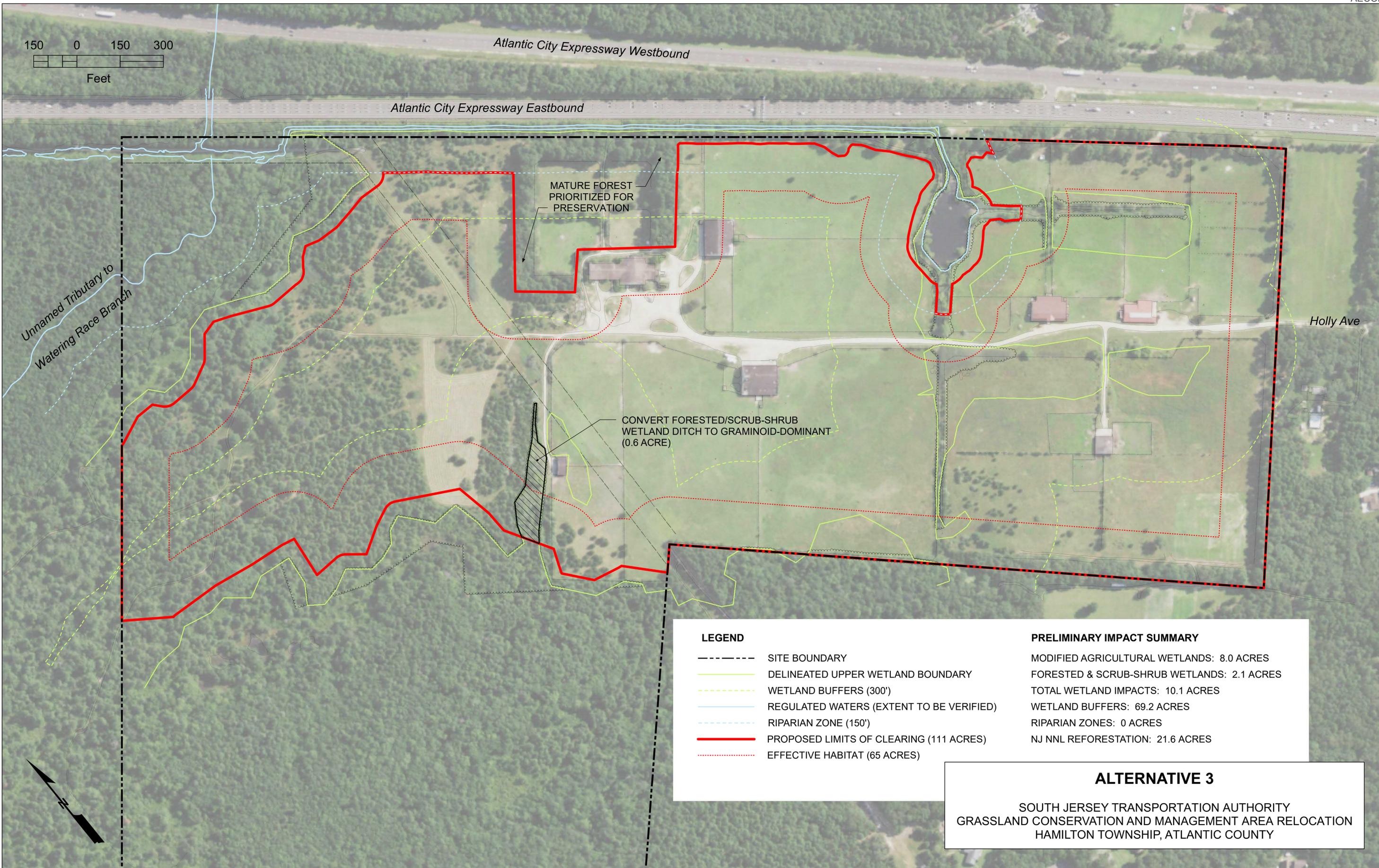
Atlantic City Expressway Westbound

Atlantic City Expressway Eastbound

MATURE FOREST
PRIORITIZED FOR
PRESERVATION

CONVERT FORESTED/SCRUB-SHRUB
WETLAND DITCH TO GRAMINOID-DOMINANT
(0.6 ACRE)

Holly Ave



LEGEND

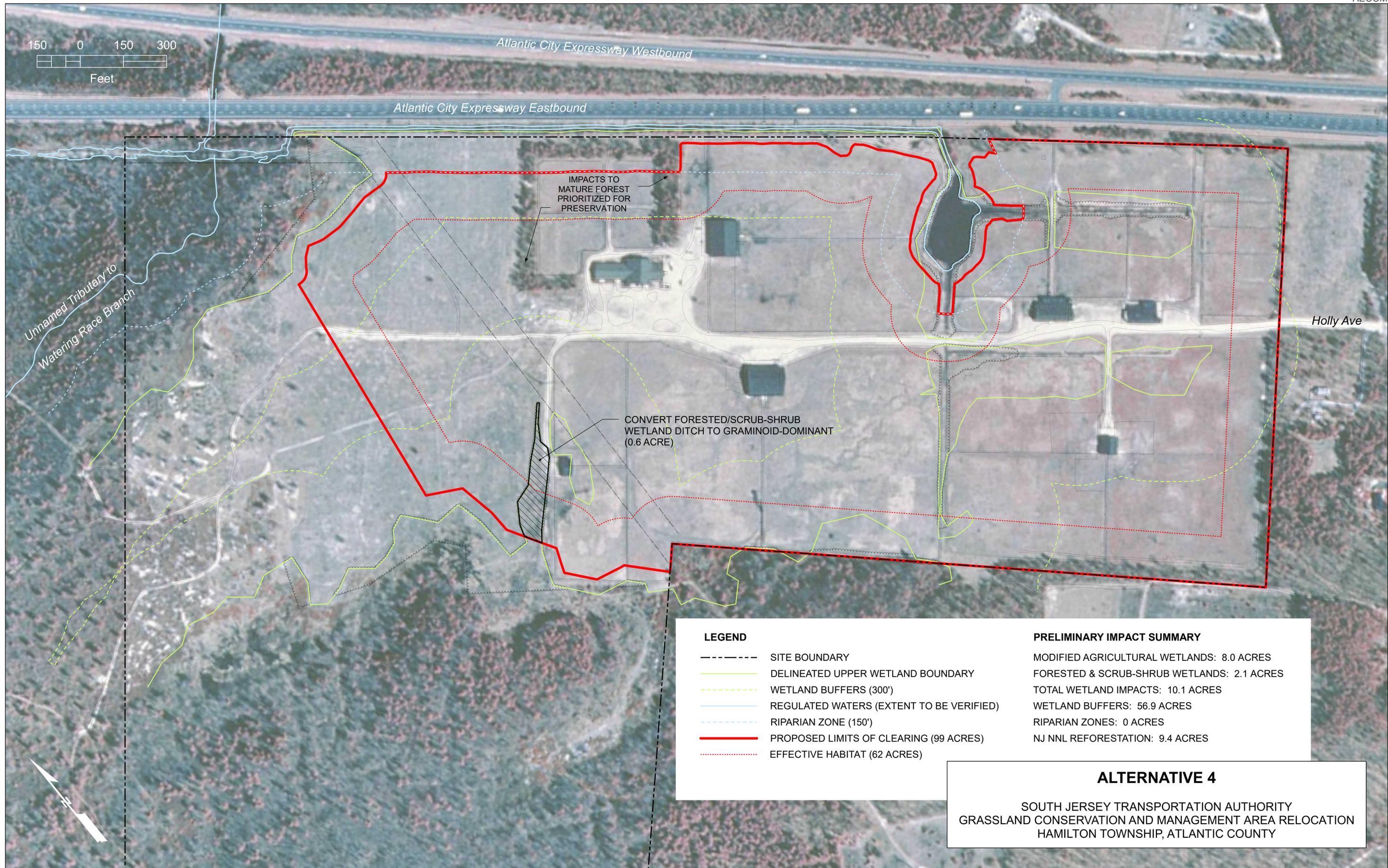
- SITE BOUNDARY
- _____ DELINEATED UPPER WETLAND BOUNDARY
- WETLAND BUFFERS (300')
- _____ REGULATED WATERS (EXTENT TO BE VERIFIED)
- RIPARIAN ZONE (150')
- _____ PROPOSED LIMITS OF CLEARING (111 ACRES)
- EFFECTIVE HABITAT (65 ACRES)

PRELIMINARY IMPACT SUMMARY

- MODIFIED AGRICULTURAL WETLANDS: 8.0 ACRES
- FORESTED & SCRUB-SHRUB WETLANDS: 2.1 ACRES
- TOTAL WETLAND IMPACTS: 10.1 ACRES
- WETLAND BUFFERS: 69.2 ACRES
- RIPARIAN ZONES: 0 ACRES
- NJ NNL REFORESTATION: 21.6 ACRES

ALTERNATIVE 3

SOUTH JERSEY TRANSPORTATION AUTHORITY
GRASSLAND CONSERVATION AND MANAGEMENT AREA RELOCATION
HAMILTON TOWNSHIP, ATLANTIC COUNTY



Unnamed Tributary to
Watering Race Branch

Atlantic City Expressway Westbound

Atlantic City Expressway Eastbound

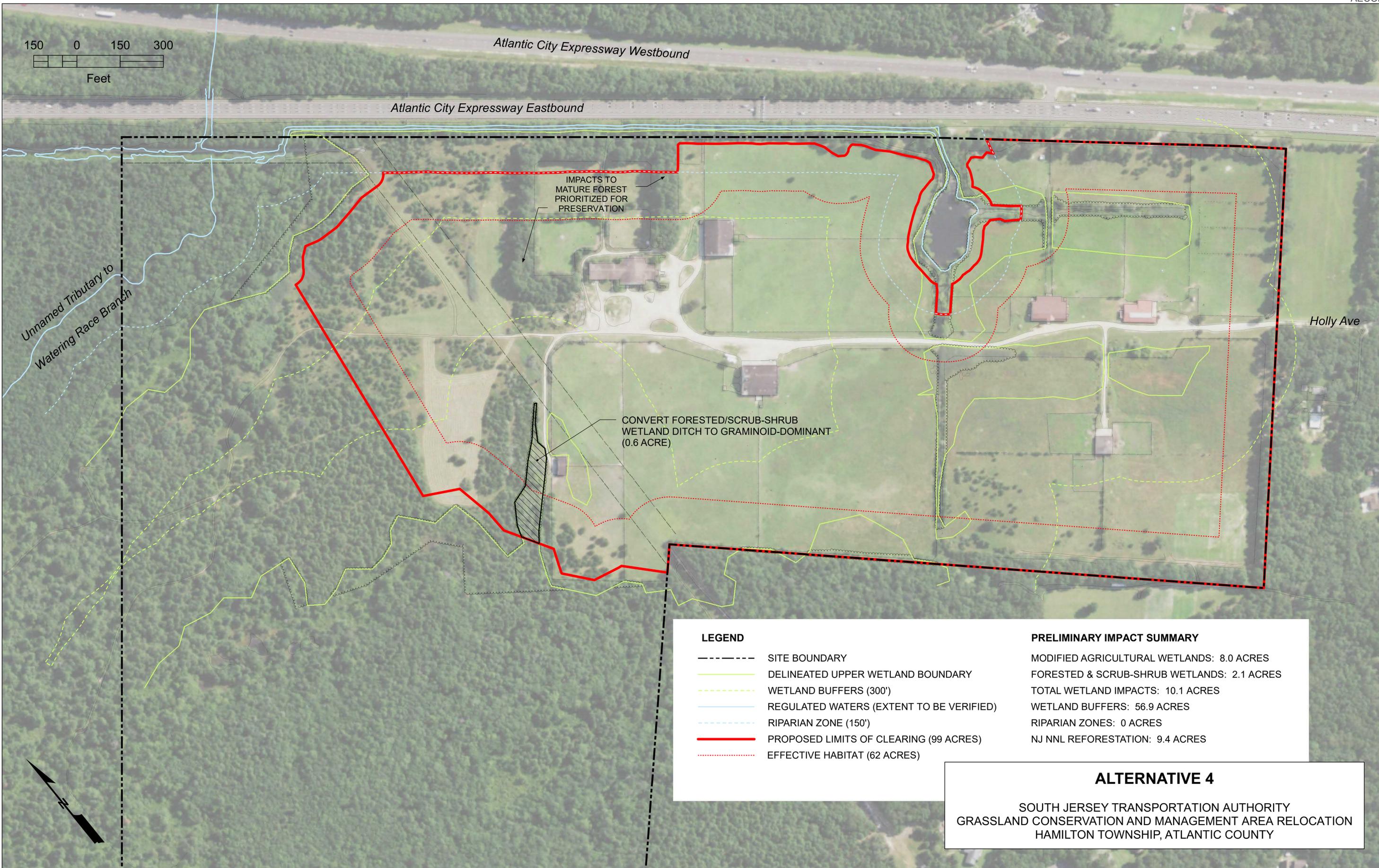
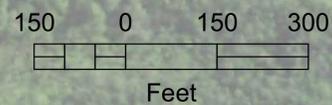
Holly Ave

IMPACTS TO
MATURE FOREST
PRIORITIZED FOR
PRESERVATION

CONVERT FORESTED/SCRUB-SHRUB
WETLAND DITCH TO GRAMINOID-DOMINANT
(0.6 ACRE)

LEGEND		PRELIMINARY IMPACT SUMMARY	
-----	SITE BOUNDARY	MODIFIED AGRICULTURAL WETLANDS:	8.0 ACRES
—	DELINEATED UPPER WETLAND BOUNDARY	FORESTED & SCRUB-SHRUB WETLANDS:	2.1 ACRES
- - - - -	WETLAND BUFFERS (300')	TOTAL WETLAND IMPACTS:	10.1 ACRES
—	REGULATED WATERS (EXTENT TO BE VERIFIED)	WETLAND BUFFERS:	56.9 ACRES
- - - - -	RIPARIAN ZONE (150')	RIPARIAN ZONES:	0 ACRES
—	PROPOSED LIMITS OF CLEARING (99 ACRES)	NJ NNL REFORESTATION:	9.4 ACRES
- - - - -	EFFECTIVE HABITAT (62 ACRES)		

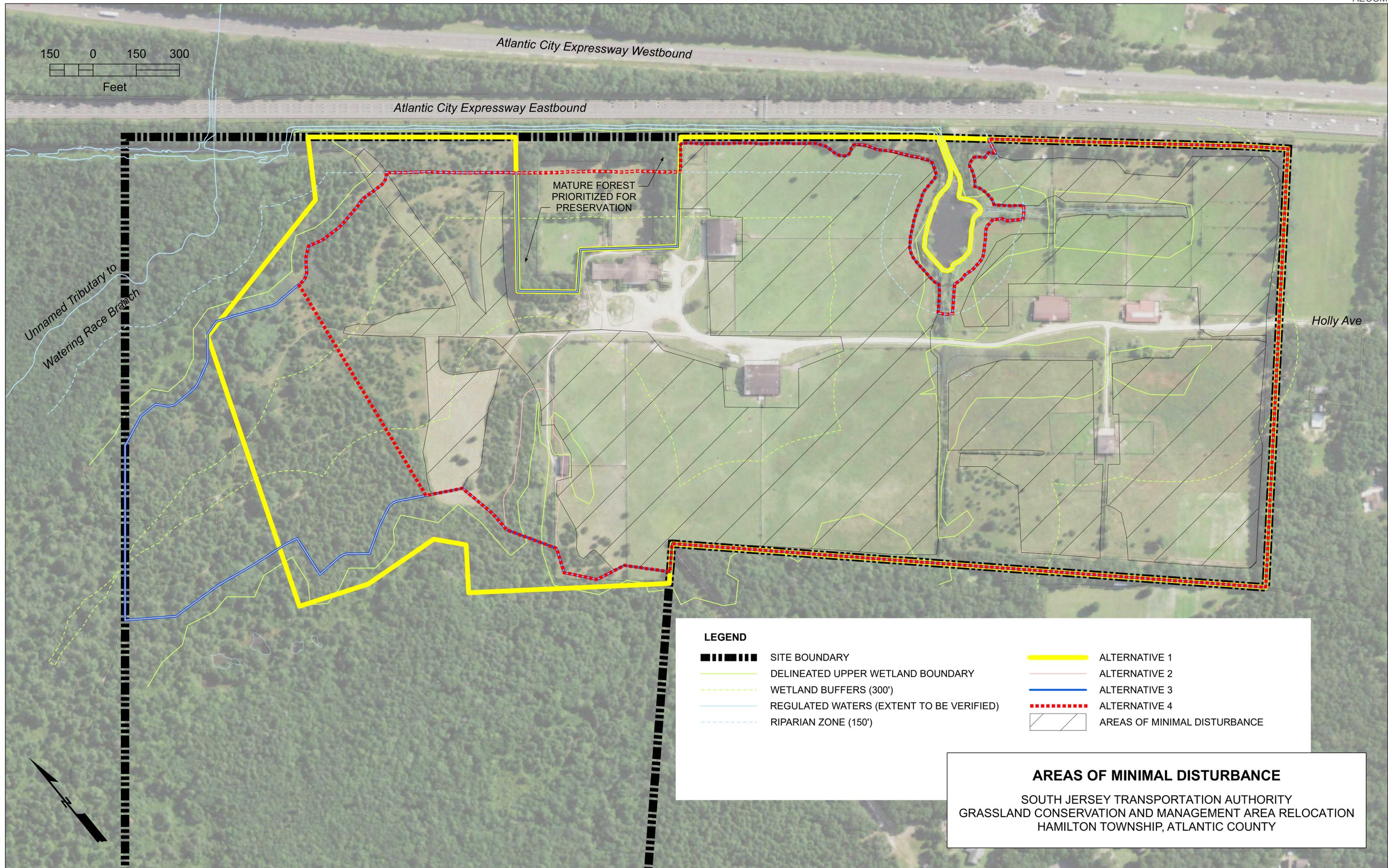
ALTERNATIVE 4
SOUTH JERSEY TRANSPORTATION AUTHORITY
GRASSLAND CONSERVATION AND MANAGEMENT AREA RELOCATION
HAMILTON TOWNSHIP, ATLANTIC COUNTY



LEGEND		PRELIMINARY IMPACT SUMMARY	
-----	SITE BOUNDARY	MODIFIED AGRICULTURAL WETLANDS:	8.0 ACRES
—	DELINEATED UPPER WETLAND BOUNDARY	FORESTED & SCRUB-SHRUB WETLANDS:	2.1 ACRES
- - - - -	WETLAND BUFFERS (300')	TOTAL WETLAND IMPACTS:	10.1 ACRES
—	REGULATED WATERS (EXTENT TO BE VERIFIED)	WETLAND BUFFERS:	56.9 ACRES
- - - - -	RIPARIAN ZONE (150')	RIPARIAN ZONES:	0 ACRES
—	PROPOSED LIMITS OF CLEARING (99 ACRES)	NJ NNL REFORESTATION:	9.4 ACRES
- - - - -	EFFECTIVE HABITAT (62 ACRES)		

ALTERNATIVE 4

SOUTH JERSEY TRANSPORTATION AUTHORITY
GRASSLAND CONSERVATION AND MANAGEMENT AREA RELOCATION
HAMILTON TOWNSHIP, ATLANTIC COUNTY



Atlantic City Expressway Westbound

Atlantic City Expressway Eastbound

Unnamed Tributary to Watering Race Branch

Holly Ave

MATURE FOREST PRIORITIZED FOR PRESERVATION

LEGEND

	SITE BOUNDARY		ALTERNATIVE 1
	DELINEATED UPPER WETLAND BOUNDARY		ALTERNATIVE 2
	WETLAND BUFFERS (300')		ALTERNATIVE 3
	REGULATED WATERS (EXTENT TO BE VERIFIED)		ALTERNATIVE 4
	RIPARIAN ZONE (150')		AREAS OF MINIMAL DISTURBANCE

AREAS OF MINIMAL DISTURBANCE

SOUTH JERSEY TRANSPORTATION AUTHORITY
 GRASSLAND CONSERVATION AND MANAGEMENT AREA RELOCATION
 HAMILTON TOWNSHIP, ATLANTIC COUNTY

PREPARED BY

Signature

Typed or Printed Name

DEED OF CONSERVATION RESTRICTION

THIS INDENTURE dated _____, 20____

Made by:

(Name(s) and addresses of landowner(s))

(hereinafter referred to as GRANTOR);

In favor of The State of New Jersey, Department of Environmental Protection, a principal Department in the Executive Branch of the State of New Jersey, having an address at 401 East State Street, Trenton, New Jersey 08625-0402 (hereinafter referred to as GRANTEE).

This transfer is made for no monetary consideration.

WITNESSETH:

WHEREAS, Grantor is the owner of certain real property known and designated as Block _____, Lot _____ on the tax map of _____, County of _____, State of New Jersey (hereinafter the "Property"), which Property is described in the Exhibit A annexed hereto and incorporated herein by reference; and

WHEREAS, the Grantee is a principal Department of the Executive Branch of State Government charged with the responsibility to formulate comprehensive policies for the conservation of the natural resources of the state, including protection of threatened and endangered species and their associated

habitat, the promotion of environmental protection and the prevention of pollution of the environment of the State (N.J.S.A. 13:1D-9); and

WHEREAS, the purposes of this Deed of Conservation Restriction include:

- a. That the Property will be retained in its natural, scenic, open and existing state, in perpetuity, subject only to the specific rights reserved to the Grantor herein;
- b. That the natural features of the Property will be respected and preserved to the maximum extent consistent with Grantor's exercise of the rights expressly reserved to Grantor herein;
- c. That the Property will be forever protected and preserved in its natural, scenic, open and existing state free from all activities that might damage, compromise or interfere with the ecological diversity, natural beauty or resource quality, or with the natural processes occurring therein; and
- d. The prohibition of any use of the Property that will significantly impair or interfere with the conservation values of the Property or would be inconsistent with the provisions of the Pinelands Comprehensive Management Plan (the "Plan"), codified at N.J.A.C. 7:50.
- e. (Grassland habitats) The designated ___x acre portion of the site shall be maintained as migratory grassland bird habitat in perpetuity and according to the habitat maintenance plan dated _____, and any subsequent amendment, that is approved by the Pinelands Commission and is attached hereto as Exhibit ___ and incorporated herein by reference as if fully set forth as part of the terms, covenants, conditions, obligations and restrictions below.
- f. (Other T&E Protections) The designated ___x acre portion of the site shall be modified and maintained in accordance with the threatened and endangered species habitat management plan or threatened and endangered plant restoration/management/propagation plan dated _____, and any subsequent amendment, that is approved by the Pinelands Commission, and is attached hereto as Exhibit ___ and incorporated by reference as if fully set forth as part of the terms, covenants, conditions, obligations and restrictions below.
- g. (Climate Change) The designated ___x acre portion of the site shall be modified and maintained to sequester carbon in accordance with the requirements of a recognized carbon sequestration program or plan dated _____, and any subsequent amendment, that is approved by the Pinelands Commission, and attached hereto as Exhibit ___ and incorporated by reference as if fully set forth as part of the terms, covenants, conditions, obligations and restrictions below.

WHEREAS, Grantor desires and intends to prohibit development activities in, on, and/or under the Property and to manage the Property, in perpetuity, pursuant to the terms, covenants, conditions and restrictions set forth herein so that the Property will be protected and remain in its natural state and, if previously authorized by the Pinelands Commission as noted in the purpose paragraph above, to manage the designated acreage for _____ (e., f or g above, as appropriate based on the approved project); and

NOW THEREFORE, in consideration of the foregoing and the agreements, terms, covenants, conditions and restrictions contained herein, Grantor, for itself, its successors and assigns hereby declares that Grantor's Property shall be held, transferred, sold, conveyed, leased and occupied subject to the following covenants, conditions, obligations and restrictions hereafter set forth:

1. Except as specifically set forth herein, the following activities shall not be conducted, performed, or take place in, on or under the Property:
 - a. The construction, placement, building, installation, erection, assembly, manufacture, fabrication, alteration, enlargement, renovation or replacement of any building, structure, or pavement in, on, above or beneath the surface of the Property;
 - b. Any disturbance or alteration of the surface topography and natural features of the Property;
 - c. Clearing, cutting, destruction or removal of any tree cover, tree limbs, trees, shrubs, plants, vegetation or other plant material, except that dead, fallen, diseased or infected tree limbs or other vegetation that poses a health or safety hazard may be trimmed or removed;
 - d. The planting of any invasive or non-native plant species;
 - e. Processing, storage, disposal, spreading, placing or dumping of refuse, rubbish, debris, dredge spoils, chemicals, hazardous materials, animal waste, fertilizers, herbicides, pesticides, fungicides, abandoned vehicles or other refuse or offensive materials;
 - f. Placement, installation, dumping, or side casting of any soils or other substances or materials as fill or the stockpiling of soils or other substances or materials on the Property;
 - g. Use of the Property by automobiles, trucks, all-terrain vehicles, trail bikes, motorcycles, snowmobiles or other motorized vehicles;
 - h. Use of the Property for commercial or industrial uses;
 - i. Mining, quarrying, drilling, excavation, dredging, extraction or otherwise removing loam, peat, turf, soil, gravel, sand, coal, rock, mineral, petroleum, natural gas, or other natural resources from the Property; and
 - j. Other activities, uses, disturbances or development that could be detrimental to continuation of the Property in its natural state.
2. Grantor, for itself, its successors, transferees, or assignees, agrees to leave the Property unmolested and in its natural state.
3. Notwithstanding any provision of this Deed of Conservation Restriction to the contrary, the Property may be utilized for:
 - a. Low intensity recreational uses, as defined at N.J.A.C. 7:50-2.11, including hiking, hunting, trapping, fishing, canoeing, nature study, orienteering, horseback riding and non-motorized bicycling. Other active recreational uses, such as golf courses and athletic fields, are prohibited.

- b. Fish & Wildlife management, as defined at N.J.A.C. 7:50-2.11, provided such activities are not proposed to offset impacts to critical threatened or endangered wildlife habitat resulting from any proposed development, whether such development is located within or outside of the Pinelands Area, and as may be permitted by the Pinelands Commission in its sole and absolute discretion, and subject to compliance with applicable local, county, state and federal laws, rules, regulations and ordinances, including the Plan;
 - c. Soil and water conservation practices necessary and appropriate for climate change mitigation purposes;
 - d. Wetland management activities as defined at N.J.A.C. 7:50-2.11, and consistent with the requirements of N.J.A.C. 7:50-6.11;
 - e. Prescribed burning to reduce underbrush (the “fuel” for a fire), in areas that are prone to fire, or to defend against oncoming wildfire;
 - f. Forestry, as defined at N.J.A.C. 7:50-2.11, provided such forestry activities are: consistent with N.J.A.C. 7:50-6.41 through 6.48; approved by the Pinelands Commission, in its sole and absolute discretion, prior to implementation; in compliance with all relevant federal, state and local laws and regulations, including the Plan, and shall not result in more than five percent of the Property being cleared;
 - g. Construct, maintain, improve, replace or repair bridges intended for occasional pedestrian use, paths and trails, fences, stiles, interpretive and directional signs and kiosks, and related and associated structures necessary for the public’s low intensity recreation and conservation use, access, and convenience, in accordance with the Plan;
 - h. Reconstruct, maintain, replace or repair any existing building or other structure on the Property which will be used for the public’s low intensity recreation or conservation uses, including stewardship or management of the Property, in accordance with the Plan; and
 - i. Impose terms, conditions, and restrictions upon the use of the Property which are in addition to, or more restrictive than, this Deed of Conservation Restriction, provided that any use of the Property will not substantially impair or interfere with the conservation values of the Property.
4. Grantor covenants that Grantor has done no act to encumber the Property other than impose this Deed of Conservation Restriction.
 5. Grantor reserves to itself, its successors or assigns, all rights associated with ownership of the Property, including the right to engage in all uses of the Property not inconsistent with the terms, covenants, conditions, and restrictions of this Deed of Conservation Restriction and the requirements of the certified municipal land use ordinances and this Plan. Nothing contained herein shall be construed to interfere with the right of Grantor, its successors or assigns to utilize the Property subject to the terms and conditions of this Deed of Conservation Restriction.

6. Grantor, its successors, transferees, or assignees, shall not sell, lease, exchange, or donate the Property except to the State, federal government, a local government unit, or other qualified tax exempt, nonprofit organization. The Property shall remain subject to this Deed of Conservation Restriction after any conveyance.
7. To accomplish the purposes of this Deed of Conservation Restriction, the Grantor grants the Grantee and the Pinelands Commission, a special beneficiary to this Deed of Conservation Restriction, their employees, agents, representatives, successors, or assigns the following rights:
 - a. To have access to and enter upon the Property at all reasonable times to inspect the Property and enforce the terms of this Deed of Conservation Restriction;
 - b. In addition to the exercise of any statutory or common law right, the right to enforce this Deed of Conservation Restriction by means of any remedy provided for herein or available at law or equity, including but not limited to, enjoining any activity on, or use of, the Property that is inconsistent with the purpose of this Deed of Conservation Restriction;
 - c. To require Grantor or third persons to restore the Property, or any portion thereof, as may be damaged by an inconsistent use or activity; and
 - d. To protect and preserve the Property, and in connection therewith, to determine the consistency of any activity or use for which no express provision is made herein with the purposes of this Deed of Conservation Restriction;
8. This Deed of Conservation Restriction may be amended only by written instrument duly executed by Grantor, Grantee and the Pinelands Commission, their successors or assigns. Such modification shall not be effective until duly recorded with the Office of the Recorder of Deeds for _____ County, New Jersey.
9. The terms and conditions of this Deed of Conservation Restriction shall be governed and construed in accordance with the laws of the State of New Jersey.
10. This Deed of Conservation Restriction and all rights and obligations incidental thereto, whether expressed or implied, shall be construed to be a covenant running with the land and shall be binding upon and inure to the benefit and be enforceable by any successor, transferee, or assignee to the parties hereto.
11. The terms of this Deed of Conservation Restriction may be enforced by any appropriate proceeding in law or equity in any Court or administrative tribunal having jurisdiction, against any person or persons, firm or corporation violating or attempting to violate or circumvent any provision herein contained, either to restrain or enjoin such violation or threat of violation or to recover damages, and the failure or forbearance by any party benefited by these restrictions to enforce any covenant or restriction contained within this document or to

exercise their rights hereunder in the event of any breach by the Grantor or any third persons for any period of time shall in no event be deemed a waiver or estoppel of the right thereafter to enforce the same or exercise a right hereunder.

12. This Deed of Conservation Restriction shall be recorded in the Office of the Recorder of Deeds for _____ County, New Jersey and a reference to this Deed of Conservation Restriction shall be contained in a separate paragraph of any future deed, lease, or document of transfer or conveyance, or any other legal instrument including or affecting the Property described in Schedule A or any portion thereof. Grantor shall give written notice to the Pinelands Commission of any such transfer or conveyance of interest in the Property prior to or within ten (10) days following such transfer or conveyance. Such notice shall include the name and address of the Transferee of such interest. Grantor shall provide a copy of this instrument to all subsequent Transferees of an interest in any part or all of the Property. The failure of the Grantor to perform any act required by this paragraph shall not impair the validity of this Deed of Conservation Restriction or limit its enforceability in any way. Grantor shall not be responsible for the violation of the terms of this Declaration by third parties unless they are acting under the control or authorization of Grantor.
13. Should any covenant or restriction herein contained, or any subsection, sentence, clause, phrase or term of this Deed of Conservation Restriction be declared to be void, invalid, illegal or unenforceable, for any reason, by the adjudication of any Court or other tribunal having jurisdiction, such a declaration shall not affect the validity of the remaining provisions which are hereby declared to be severable and which shall continue to remain in full force and effect.
14. The following exhibits are annexed hereto and shall form a part of this Deed of Conservation Restriction: Exhibit A: Metes and Bounds Description for the Property; Exhibit B: a Metes and Bounds Description of the portions of the Property that may be used for Grassland Habitat management; other threatened and endangered species habitat management or carbon sequestration/other activities to address climate change.

GRANTOR:

Attest

By: _____
Witness

By: _____
GRANTOR

Dated: _____

ACKNOWLEDGEMENT

STATE OF NEW JERSEY :

SS

COUNTY OF _____ :

BE IT REMEMBERED, that on the _____ day of _____, 20_____, before me personally appeared _____, who being duly sworn on his oath, deposes and makes proof to my satisfaction that he or she is the _____ of the Grantor; that the execution and the making of this Deed of Conservation Restriction has been duly authorized by proper resolution of the Grantor, and the seal affixed to this instrument is such corporate seal of the Grantor; and that this Deed of Conservation Restriction was signed and delivered by _____, as and for the voluntary act and deed of said Grantor, in the presence of the deponent.

Signature

Signed and Sworn to before me on this _____ day of _____, 20_____.

Notary Public

My Commission Expires: _____

P&I Committee Members,

I am proposing 4 amendments for the P&I Committee to consider at the April 2021 meeting. They are in bold and underlined below in context with CMP standards. I think they minimize potential hazardous drilling fluids from entering ground and surface waters by requiring certified drilling fluids, and within 100 feet of wetlands also require a Inadvertent Return Contingency Plan. I am not as concerned with areas that are not wetlands as long as the drilling fluids used (bentonite and additives) are certified drinking water compliant. I think Staff and the P&I committee would have to develop policy to implement the amendments. I also think Staff would have to determine if HDD applications went through wetlands and perhaps get an affidavit that drilling fluids were certified. **Guidance for Horizontal Directional Drill Monitoring, Inadvertent Return Response, and Contingency Plans** is linked below. I think something like this booklet should be used as a best practices manual for HDD projects in the Pinelands. I hope the NJDEP is developing such a manual.

Rick Prickett

Draft Amendment #1, in bold and underlined below.

[7:50-4.1](#) Applicability

5. The repair of existing utility distribution lines;
6. The installation of utility distribution lines, except for sewage lines,

Horizontal Directional Drilling, requires use of certified drilling fluids, and within 100 feet of wetlands also require an approved Inadvertent Return Contingency Plan, to serve areas which are effectively developed or development which has received all necessary approvals and

Draft Amendment #2, in bold and underlined below.

7:50-6.83 Minimum standards necessary to protect and preserve water quality

b) Except as specifically authorized in this Part, no development which degrades surface or ground water quality or which establishes new point sources of pollution shall be permitted.

(c) No development **,including Horizontal Directional Drilling** shall be permitted which does not meet the minimum water quality and potable water standards of the State of New Jersey or the United States.

Amendment #3, in bold and underlined below.

7:50-6.87 Prohibited chemicals and materials

(a) Use of the following substances is prohibited in the Pinelands to the extent that such use will result in direct or indirect introduction of such substances to any surface or ground water or any land:

1. Septic tank cleaners; and
2. Waste oil.

3. Drilling fluids that are not NSF/ANSI Standard 60 certified ***

Draft Amendment #4, in bold and underlined below.

SUBCHAPTER 6. MANAGEMENT PROGRAMS AND MINIMUM STANDARDS (p.159-237)

INTRODUCTION

PART I-WETLANDS

7:50-6.13 Linear improvements

(a) Bridges, roads, trails and utility transmission and distribution facilities and other similar linear facilities shall be permitted in wetlands provided that:

1. There is no feasible alternative route for the facility that does not involve development in a wetland or, if none, that another feasible route which results in less significant adverse impacts on wetlands does not exist;
2. The need for the proposed linear improvement cannot be met by existing facilities or modification thereof;
3. The use represents a need which overrides the importance of protecting the wetland;
4. Development of the facility will include all practical measures to mitigate the adverse impact on the wetland **,including Horizontal Directional Drilling, requires use of certified drilling fluids, and within 100 feet from wetlands also require an authorized Inadvertent Return Contingency Plan;** and
5. The resources of the Pinelands will not be substantially impaired as a result of the facility and its development as determined exclusively based on the existence of special and unusual circumstances.

7:50-6.14 wetlands Transition Areas

No development, except for those uses which are specifically authorized in this subchapter, shall be carried out within 300 feet of any wetland, unless the applicant has demonstrated that the proposed development will not result in a significant adverse impact on the wetland, as set forth in N.J.A.C. 7:50-6.7.

Resource Links

Certified Drilling Fluids

1. ***** DRILLING MUD DATA SHEETS** Bentonite NSF/ANSI Standard 60 certified

<https://www.jcarpenterenvironmental.com/bentonite-clays.html>

Pennsylvania DEP Recommended Practices Concerning Horizontal Directional Drilling Additives

<https://www.dep.pa.gov/Business/Energy/OilandGasPrograms/OilandGasMgmt/IndustryResources/InformationResources/Pages/default.aspx>

2. Federal Energy Regulatory Commission - Guidance for Horizontal Directional Drill Monitoring, Inadvertent Return Response, and Contingency Plans

<https://www.ferc.gov/sites/default/files/2020-04/guidance-natural-gas.pdf>

***NSF/ANSI Standard 60

<https://blog.ansi.org/2020/12/nsf-ansi-can-60-2020-water-chemicals-health/>

NJ BPU Bureau of Pipeline Safety

<https://www.nj.gov/bpu/about/divisions/reliability/#:~:text=The%20Bureau%20of%20Pipeline%20Safety%20under%20the%20New,It%20also%20provides%20consultation%20on%20gas%20infrastructure%20issues.>

Questions asked at the March P&I Committee Meeting.

Q1 How does the Commission regulate the drilling fluids including bentonite and additives used in Horizontal Directional Drilling so that such a development conforms with 7:50-6.83 b) and c)?

Q2 Can Horizontal Directional Drilling be used to repair or install utility distribution lines without a Development Review 7:50-4.1 5 & 6?

Q3 How does the Commission regulate the drilling fluids including bentonite and additives used in Horizontal Directional Drilling so that such a development conforms with 7:50-6.83 b) and c)?

Q4 Does Horizontal Directional Drilling in the Pinelands require a permit from the BPU, possibly more specifically the Bureau of Pipeline Safety?

From: Jerry Irick <irickengineering@gmail.com>

Sent: Thursday, April 8, 2021 9:58 AM

To: Rick Prickett <candle53rp@icloud.com>; Wittenberg, Nancy <Nancy.Wittenberg@pinelands.nj.gov>

Subject: [EXTERNAL] Horizontal Directional Drilling and other comments

Hey there Rick and Nancy

Horizontal Directional Drilling

Many inadvertent returns have happened due to poor evaluation of soils and Drilling Fluid pressures that are too high for soil conditions.

Soil Testing before approval

- A) define type of test
- B) how often test ie number of tests per linear feet of drilling
- C) acceptable parameter of soil tests

Drilling Fluid

- A) limit drilling fluid pressures
- B) limit addition of additives to drilling fluid

Define areas where HDD is not permitted

CMP 7:50-4.1

(5) Repair of existing utility lines

The C M P language should be clarified and repair defined as no increase in capacity. repair should be part for part piece for piece.

Distribution lines vs transmission lines vs service lines should be defined. How many connections are permitted from a distribution line.

(6) Effectively developed is very vague

language should be clarified to mean existing construction only

DENSITY

The CMP should be amended to limit density and height in all Zones By not defining limits how can we say we are preserving and protecting the PINES.

I still wish to tour an off road trail after an off road event to see how well the trail is maintained.

THANKS for allowing my comments.

Jerome H Irick

--

Irick Engineering

Civil - Planner - Consultant

1068 E. Landis Ave.

Vineland, NJ 08360

Phone: (856) 794-2800

Fax: (856) 794-8855