



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: May 21, 2021

Subject: May 28, 2021 Committee meeting

Enclosed please find the agenda for the Committee's upcoming meeting on May 28, 2021. We have also enclosed the following:

- The open and closed session minutes from the Committee's April 30, 2021 meeting;
- A draft resolution and report on the Winslow Township ordinance listed on the agenda;
- A draft resolution and rule proposal for the stormwater management CMP amendments; and
- Chairman Prickett's revised CMP amendment recommendations related to Horizontal Directional Drilling in the Pinelands Area.

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

May 28, 2021 - 9:30 a.m.

Pinelands Commission YouTube link:

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

To provide public comment, please dial (929) 205-6099 Meeting ID: 833 5477 1666

Agenda

1. Call to Order
2. Adoption of open and closed session minutes from the April 30, 2021 CMP Policy & Implementation Committee meeting
3. Presentation on a research proposal
4. **Executive Director's Report**

Winslow Township Ordinance O-2021-005, adopting a Redevelopment Plan for the Randevco Redevelopment Area in the Pinelands Regional Growth Area
5. **Stormwater Management**

Review of final amendments and recommendation of formal rule proposal
6. Discussion of Commission comments on forest stewardship legislation
7. Update on discussion of Horizontal Directional Drilling (HDD) with the New Jersey Department of Environmental Protection
8. 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

April 30, 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, DAG Kristina Miles, Stacey P. Roth, Susan R. Grogan, Gina Berg, John Bunnell, Paul Leakan, Ernest Deman, Jessica Noble, Jessica Lynch and Betsy Piner. 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 9:31 a.m. and Ms. Wittenberg identified all staff attending/participating in the meeting.

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

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

2. Memorandum of Agreement (MOA) between the Pinelands Commission and the South Jersey Transportation Authority

Ms. Roth said the South Jersey Transportation Authority (SJTA) is seeking guidance as it develops its plan to create the grassland conservation and management area (GCMA) required under the 2019 Memorandum of Agreement (MOA) amendment. She noted that of the four alternatives provided by the SJTA consultants (AECOM), included in the packet, two are not viable. She noted that Mr. Deman had been involved in this project with her since the beginning.

Chairman Prickett said that the Commission must make sure that the plan meets CMP standards. Ms. Roth said the primary concern is with the number of trees that would need to be removed to create the minimum amount of habitat. \

Mr. Steve Maser with SJTA and Mr. Anthony Velazquez with AECOM joined the meeting via telephone. Together they made a PowerPoint presentation (*Attachment A to these minutes and posted on the Commission's website at the following address:*

<https://www.nj.gov/pinelands/home/presentations/CMP%20PI%20Committee%20Meeting%2043021.pdf>)

Mr. Maser said, following Atlantic County's acquisition of the Royal Casino horse farm in Hamilton Township as a suitable site for the relocation of upland bird species, environmental studies were begun to evaluate the property and how best to accommodate the required minimum 62 acres of habitat plus the 50-meter buffer the birds require. This must be accomplished while addressing environmental impacts, including no net loss reforestation (NNL) and riparian zone impacts. He noted the high financial cost of offsets to these impacts and the need to minimize the cost of construction and environmental mitigation.

Mr. Velazquez reviewed the four alternatives for the GCMA relocation project while displaying aerial maps. He said the site encompasses about 222 acres adjacent to the eastbound lanes of the Atlantic City Expressway and was established as a horse farm sometime in the 1980s. He said the majority of the property is wetlands, as delineated in yellow, and it is adjacent to the Makepeace Lake Wildlife Management Area. He said the dark blue outlines regulated waters pursuant to the flood area hazard control act under which any sources that drain more than 50 acres are considered regulated waters. He said the pond and downstream channel are such waters. He said the 150' wide riparian zone, as outlined in a blue dashed line, extends to a downstream area where a plant species dependent upon water quality for survival, as designated by the New Jersey Department of Environmental Protection (NJDEP) Natural Heritage Program, is located within a mile. He said removal of vegetation is regulated in riparian zones. He said he was aware of the Committee's previously expressed concern with preserving trees and the plan has tried to avoid wetlands and clearing of mature forest.

He said Alternative #1 was developed by SJTA as the initial alternative to determine the site could meet the 62-acre minimum threshold. At the time, there had been no wetlands delineation. He said this alternative would require about 115 acres of clearing, including right up to the edge of the pond, and would provide for 75 acres of habitat, somewhat more than was required. However, this alternative has significant impact on wetlands and NNL reforestation.

He said for Alternative #2, the wetlands and riparian zones were delineated and with a total clearing of 110 acres, only 60 acres of habitat could be created so this would not meet the minimum acreage requirement and there would be a NNL obligation.

Mr. Velazquez said Alternative 3 avoids wetlands and riparian zones and converts a portion of an existing ditch (portions of which have phragmites) to grassland to achieve the minimum acreage while still preserving the mature upland forest around the existing house. However, the 21.6-acre NNL requirement could get very costly at roughly \$750,000.00 more than Alternative #4.

Mr. Velazquez said Alternative #4 is SJTA's recommendation. It avoids wetlands and riparian zones to the greatest extent possible. It will require removal of the trees surrounding the existing house and the conversion of a scrub filled ditch to grass. It will achieve the 62 acres of habitat while requiring only 99 acres of clearing and has only 9.4 acres of NNL, thus will be less costly. It is the most compact plan, requires the least amount of soil disturbance and clearing and is the least costly to prepare and maintain.

In response to a question from Commissioner Lohbauer, Mr. Maser said the 99 acres of clearing includes that which is already cleared; it is not 99 acres of deforestation. As to the use of the property, Mr. Maser said all the building structures will be demolished and removed. He said because this property was purchased with County open space funds, it is technically a park, but the buildings are an attractive nuisance. He said SJTA has secured the structures but is interested in removing them quickly.

In response to a question from Commissioner Lohbauer as to the requirements of the NNL Reforestation Act, Mr. Velazquez said there is an obligation to replant trees or make a monetary contribution. He said, as there is not sufficient room on the site to replant, and any replanting effort would require another site and another plan, a monetary contribution would be proposed.

Mr. Maser added that because this is a County property, they will try to seek a waiver, particularly since this is a mitigation project and it seems unreasonable to require mitigation for performing mitigation. He noted that several municipalities have successfully applied for grants to do their own reforestation, including Galloway and Egg Harbor Township.

In response to Chairman Prickett's question as to the type of grasses that will be used, Mr. Maser said, in accordance with the grassland plan for the airport site, they will use little bluestem and follow all the same environmental requirements of that original plan.

Ms. Roth noted that the original MOA had required an advisory committee which, she recalled, had included the Commission, NJDEP, and others, including perhaps the Pinelands Preservation Alliance (PPA). SJTA is reconvening that group and will be using the original materials of that plan as their guide.

Mr. Velazquez said the group will include representatives of NJDEP, the Fish and Wildlife Service, the United States Department of Agriculture (USDA), USDA Xerces Society, Conserve Wildlife, NJ Audubon and the Pinelands Commission.

Chairman Prickett said he was impressed with the work done to identify four alternatives, leading to one that addresses all of the environmental concerns.

Ms. Roth said SJTA was seeking guidance today, noting that the Committee had previously expressed an interest in preserving the large trees around the house, as would be the case with Alternative #3, but that would require more clearing than under Alternative #4.

Mr. Velazquez said the area of trees around the house is about 3.5 acres, of which 2.5 acres would be saved but an additional 11 acres would be mowed to do so.

In response to Ms. Roth's question if carbon sequestration is lost if trees are cut or only when they are burned, Commissioner Lohbauer said once the tree is cut, it ceases sequestering carbon. He said he appreciated Commissioner Lloyd's concern with carbon sequestration. Although he himself had asked that the older trees around the house be saved, it appears that Alternative #4 will remove the least number of trees. Also, he said he agreed with Mr. Maser that there should not be a mitigation obligation for performing mitigation but, at the same time, one wouldn't want to remove a source of carbon sequestration. He said although the original MOA was developed to address habitat concerns, he believes the Commission must now also address carbon sequestration.

In response to concerns expressed by Commissioner Lloyd regarding carbon sequestration and if it were preferable to retain the old trees around the house under Alternative #3, Mr. Velazquez said no such analysis had been performed. He said some trees on the northwest side, towards the Makepeace Lake property, are as large as those around the existing structure and will continue to grow. Furthermore, he knew of no plans to burn the trees; rather he thought a contractor would probably take them off site. Mr. Maser added that it could be written into the contract that the trees would not be burned.

In response to Commissioner Prickett's question, Mr. Velazquez said the trees are a typical native Pinelands oak-pine community with mostly red and white oaks.

Commissioner Irick asked whether there were specimen trees around the buildings. Mr. Maser said if any such trees were present and were retained, then a new 50' buffer would have to be calculated around each remaining tree. This is an "all or nothing" scenario. In addition, there was nothing approaching the size of a specimen tree on the site, perhaps only a maximum of 12" to 24" diameter trees.

Ms. Roth asked if the Committee needed additional information or was prepared to make a decision as SJTA is seeking guidance to allow them to move forward.

Commissioner Irick moved the approval of Alternative #4, including the clearing of the large trees around the structures with the caveat that they not be burned.

Commissioner Lohbauer asked for confirmation that Alternative #4 is the least impactful on carbon sequestration of the four alternatives. Ms. Roth said she would work with SJTA to obtain that information. The Committee agreed that if SJTA is able to make that demonstration, the staff will issue a letter stating the SJTA may proceed to implement Alternative #4. If such a demonstration cannot be made, the matter will be scheduled for further discussion at the Committee's May meeting. Ms. Roth confirmed that approval by the full Commission is not required; this is a determination that can be made by this Committee.

Chairman Prickett thanked Mr. Maser and Mr. Velazquez for their presentations. Mr. Maser said the information on carbon sequestration will be provided to Ms. Roth and Mr. Deman promptly.

3. Pinelands Conservation Fund

Ms. Grogan said Ms. Roth and Ms. Berg would make the presentation this morning. She reminded the Committee that this is the last step before proceeding with the next round of the Pinelands Conservation Fund (PCF) land acquisition program. She said the Committee will be reviewing updates to the deed of conservation restriction (DCR) used in prior rounds.

Ms. Roth made the presentation, noting Ms. Berg had prepared the slides (*Attachment B to these minutes and posted on the Commission's website at: <https://www.nj.gov/pinelands/home/presentations/2021%20PCF%20Deed%20of%20Conservation.pdf>*)

Ms. Roth said this was a good segue because the SJTA project will require a DCR and ongoing management and staff considered that when updating this newest version to accommodate both.

Ms. Roth said when she drafts a DCR, the first step is to articulate the purpose. She reminded the Committee that the Commission does not have the authority to own property but Green Acres holds the property rights while the Commission is a third party beneficiary with enforcement rights. She noted that New Jersey Green Acres is wonderful to work with and the process has been in place for some 15-17 years with great success. She said that is in large part because, by partnering with NJDEP, the Commission can take advantage of the New Jersey Conservation Restriction and Historic Preservation Restriction Act should it ever be necessary to lift a deed restriction.

Ms. Roth reviewed the draft deed restriction that addresses concerns regarding grassland habitat, maintenance plans, forestry standards and fish and wildlife management offsets, depending upon the type of project that was submitted. She noted that this updated DCR offers flexibility by including provisions to incorporate by reference, future Commission-approved amendments should they be necessary, and included in the chain of title. This will allow modifications to accommodate maintenance plans for threatened and endangered species or climate factors.

In response to a question from Chairman Prickett, Ms. Roth said she considers this to be the “master” draft and it will be modified according to the specific project with the goal that the properties be left in as natural state as possible.

Ms. Grogan said this is intended to be a template since this acquisition round has a variety of priorities and projects. She said when the projects come before the P&I Committee, the Committee will have a chance to review the applications and maintenance plans and discuss the appropriate deed restriction. She said, in the past, generally the Commission did not see the individual deed restrictions as they were incorporated in the grant agreements and handled by staff.

Ms. Roth said staff had felt some of the previous language was too vague, particularly in regard to forestry and fish and wildlife management. The revised deed restriction specifically prohibits fish and wildlife management activities that are proposed to satisfy a NJDEP mitigation requirement. She noted that that NJDEP is increasingly requiring mitigation for applications outside the Pinelands Area that impact critical habitat. On some occasions, this mitigation has involved purchase of mitigation “credits”. Staff wants to ensure that these mitigation obligations are not met by “enhancements” to existing habitat on PCF properties in the Pinelands Area.

Commissioner Lloyd suggested that the phrase “sole and absolute discretion” of the Commission apply to all these projects. Ms. Grogan suggested an overarching statement to that effect, one that would cover all development and uses proposed on the PCF properties.

In response to Chairman Prickett’s concern regarding prescribed burns, Ms. Roth said there is a difference between controlled burns for fire fuel management vs. prescribed burns to benefit habitat. She noted that prescribed burns for fire abatement is an exempt activity.

Ms. Roth said forestry activities are another area where the Commission will want to have oversight on these preserved lands. The deed restriction uses the “sole and absolute discretion” language relative to forestry. She agreed it should be an overarching statement. She said forestry would be limited to 5% of the parcel.

In response to Commissioner Lloyd's question as to why the 5% limitation on forestry, Ms. Grogan said that limitation has been included in many previous PCF rounds and it originates from the CMP clustering standards, limiting the clearing of open space preserved for cluster development.

Ms. Roth said low-intensity recreation (hunting, fishing, biking and trapping) is permitted but no motorized vehicles of any kind, including bicycles, are permitted. She said as for structures, pathways, bridges etc., they can be maintained for the use of the public but the language is clear that the primary reason for the acquisition is preservation of the land. The revised deed restriction makes clear that athletic fields and other active recreation will not be permitted.

Ms. Grogan said if the Committee is satisfied with the deed restriction, then staff will issue invitations to the Commission's typical preservation partners in May.

Commissioner Lohbauer said he thought these were good improvements and he appreciated that Ms. Roth had successfully incorporated the goals they had discussed previously when developing the scoring criteria.

Commissioner Irick said he believed these additions enhance the program and commended staff on their efforts.

Commissioner Lloyd said he particularly liked the language related to low-intensity recreation.

Commissioner Lohbauer moved that the Committee recommend this deed restriction to the full Commission.

Ms. Grogan said the P&I Committee has oversight of the PCF program and the recommendations do not go to the full Commission unless an unusual project comes in outside of the established parameters.

Commissioner Lohbauer amended his motion to recommend that the P&I Committee approve the changes to the deed restriction. Commissioner Lloyd seconded the motion and all voted in favor.

4. Comprehensive Management Plan application exemptions and procedures

Ms. Roth asked that the Committee meet in closed session with DAG Miles.

Ms. Miles said the purpose of the closed session was to provide information to the Committee regarding a potential moratorium and the Commission's legal authority.

At 10:54 a.m., Commissioner Lohbauer moved that the Committee meet in closed session to receive advice from DAG Miles. Commissioner Lloyd seconded the motion and all voted in agreement.

The meeting resumed in open session at 11:33 a.m. DAG Miles said the P&I Committee had met to receive legal advice.

Chairman Prickett said three proposals have been received from Commission members and he would present his own first. He said he didn't think companies using horizontal directional

drilling (HDD) wanted to damage the environment intentionally and it was not in their best interest to do so. Even though HDD has been an exempt activity for 40 years, he felt it was only recently that the Commission has been made aware of these inadvertent returns (spills) that can damage wetlands. He said he was concerned about the, possibly permanent, impact of bentonite spilling into wetlands and his research has taught him that Pennsylvania has a law regulating HDD additives. He said the additives affect the viscosity of the fluids and they can be petroleum-based substances. He said it was essential that the drilling additives be regulated, that inadvertent spill plans be submitted, allowing the Commission to stop the project if necessary, and that the bentonite meet drinking water standards. He said his amendments apply to both exemptions and wetlands standards for linear improvements.

Commissioner Lohbauer thanked Chairman Prickett for the research and said contamination of wetlands is a serious concern. He said without the requirement of a biotic test to address the spills during the construction of the Southern Reliability Pipeline, there was no way of knowing their impact. He wants the CMP to contain language to require such a test in the future. Also, the hydraulic pressures can be sufficient to damage structures and that should be a serious concern. He said when the Commission approves these projects, it needs to be aware of the potential for this type of damage.

Commissioner Lloyd said these are important issues that the Commission should pursue. The Pinelands is an ecologically sensitive area and the Commission needs to know what is being put in the soil.

Chairman Prickett said he recognized that damage to wetlands could be catastrophic.

Commissioner Irick said it was his view that the language of 7:50-4.1(a)5 (*The repair of existing utility distribution lines;*) and 6. (*The installation of utility distribution lines, except for sewage lines, to serve areas which are effectively developed or development which has received all necessary approvals and permits;*) undermines the CMP. He said the presence of drilling fluids and the size of the soil grains led him to conclude that there are certain areas where the exemptions should not be applied. For example, he asked why the Commission would allow an increase in the size of a pipe without an application. He said that is an expansion, not a repair. He said he wanted to delete both of those exemptions. He said NJDEP permits the repair of onsite septic systems part for part and piece for piece. He said, in contrast, increasing the diameter of a line from 16" to 24" is not a repair.

Commissioner Lohbauer said he supported Commissioner Irick and believed the Commission needed to start with the repeal so that these projects would no longer be exempted from review.

Commissioner Lloyd said he agreed with Commissioner Irick in that these provisions are vague. He said there needed to be a change in the rules to address these two provisions and put the Commission in a position to review the projects, whether they are public or private developments. He said the Commission needed to go to the Governor's office to discuss the potential CMP amendments before proceeding.

Chairman Prickett asked if the Commission would track above-ground utility lines also.

Commissioner Lloyd said he thought the Commission should discuss if there is a subset of projects that should be added to the exemptions but he felt the Commission could move quickly

with repeal. He said to avoid a burden to staff, it should determine how many previously exempt projects would now require applications if the exemptions were repealed.

In response to Chairman Prickett's question as to what should be the next steps, Ms. Grogan said while the Commission is considering amendments, staff could initiate a discussion with the Governor's office regarding its concerns. She said once the formal rulemaking process begins, it will require submitting a written proposal including extensive impact statements and costs to applicants for the Governor's office to review and sign-off on before the Commission can proceed. She said, at this point, she felt the initial discussions with the Governor's office were warranted.

In response to Chairman Prickett's question as to how that would happen, Ms. Roth said it would start, typically, as a policy discussion with staff, most likely Ms. Wittenberg, Ms. Grogan and herself regarding the Commission's interest in repeal. But, she said, additional information is needed, particularly the impact statements.

Ms. Field said, in the absence of Mr. Horner, she wanted to clarify for the Committee the Regulatory Programs office's current process. She said, in particular, she wanted to address the current definition of utility distribution lines, as it covers not only natural gas but also water, electrical, cable, sewer, stormwater discharge etc. She said she wanted to clarify the impacts of repealing that exemption as all those projects would now come before the staff for review. She asked if the Commission wanted all those types of projects to be subject to review.

Ms. Roth said she felt there were legal implications by picking and choosing only select types of utility distribution lines.

Commissioner Irick said all projects using HDD should be reviewed.

In response to Commissioner Lloyd's question as to the number of applications that would be involved, Ms. Field said that is an unknown. Because currently these applications are not reviewed, it is only occasionally that the Commission receives an exemption request.

Ms. Roth said Ms. Field had gone through the Commission's records and identified where either of those exemptions had been used but found perhaps only 30 letters. She reiterated her concern with teasing out only particular types of applications. She said she would go back and review the data again, in response to Commissioner Lloyd's concerns.

Chairman Prickett asked what the approval process would consist of, if repeal were successful and all these projects applied to the Commission. He said repeal would mean staff would have to spend a lot of time reviewing all projects just to give the Commission the number of projects. He said his goal is to regulate HDD.

Commissioner Lohbauer said HDD is not a utility, it is a process, and asked how many of these utilities use it.

Ms. Roth said Regulatory Programs staff members look at the development, not the method of construction, so this is beyond the current development review process.

Ms. Field said to amend the current exemptions to delete or revise certain exempt activities and then to establish rules related to HDD would be a new pathway for staff. She said the CMP does not deal with construction techniques or materials. The Commission typically looks to other agencies for oversight on such matters.

Commissioner Lloyd said he advocated repeal of the exemptions, followed by developing a set of regulations to deal with HDD. He said he thought both efforts should proceed together.

Commissioner Irick said water utilities bore under roads for a 2" diameter pipe, so maybe the exemption should be limited to the size of the pipe, perhaps to only 3". He said we want to know what type of construction will harm the Pinelands.

Commissioner Irick moved to proceed with the parallel track. Commissioner Lohbauer seconded the motion.

Prickett asked for a definition of the parallel track.

Commissioner Irick said parallel track involves working with the Governors' office as to how to repeal 7:50-4.1(a)5 and 6 and look at what types of concerns the Commission has with drilling fluids. Commissioner Lohbauer seconded the motion.

Ms. Roth said she thought she understood that the Committee wanted to repeal the exemptions in 7:50-4.1(a)5 and 6, develop new standards to govern the use of HDD and consult with the Governor's office on the necessary CMP amendments.

Commissioner Irick agreed and amended his motion as stated by Ms. Roth. Commissioner Lohbauer agreed. All voted in favor.

Chairman Prickett said the discussion would continue at the next meeting and perhaps by then, the Commission will have received some response or guidance from the Governor's office.

5. Stormwater Management

Ms. Grogan said there was no full rule proposal for the Committee to review today. She said this is a huge document with much data and staff is still reviewing and refining some of the wording and the impact statements but it will be on the Committee's May agenda.

6. Public Comment

While the Committee waited for the phone lines to open for public comment, Commissioner Lohbauer thanked Ms. Field for clarifying the implications of removing the exemptions for HDD and said he was sensitive to not subjecting the staff to too many applications.

Chairman Prickett said the process will take a while with lots of hurdles.

Ms. Rhyan Grech, with PPA, thanked the Committee for its substantive discussion of HDD. She said, broadly speaking, all projects under the Commission's exemption provisions are considered development and the exemptions should be applied as narrowly as possible. She said PPA is supportive of repealing and amending the provisions regarding HDD and agrees with Commissioner Irick that there are places where pipelines are not appropriate. She also asked if,

as in the initial MOA with SJTA, PPA could be a participant in the advisory committee. She also noted that the AECON report indicates the non-forested area of the horse farm grassland site is mostly wetlands and since it is to provide habitat for upland species, consistent with studies by the Cornell Laboratory of Ornithology, these grassland species avoid wetlands. She asked that the Commission confirm that this property is an appropriate site.

Ms. Roth said she would express to SJTA the interest of PPA in participating in the advisory committee and that she believed the project site consisted of wetlands agricultural fields.

Mr. Deman confirmed that the site had served as horse pasture and the soil composition indicates these are wetlands. Since NJDEP is already part of the advisory committee, it is aware of the suitability of the site, survival of grass species, etc.



There being no other business, Commissioner Lohbauer moved to adjourn the meeting. Commissioner Irick seconded the motion and all voted in agreement. The meeting was adjourned at 12:36 p.m.

Certified as true and correct

A handwritten signature in cursive script, appearing to read "Betsy Piner", is written over a horizontal line.

Betsy Piner
Principal Planning Assistant
May 17, 2021

AECOM

South Jersey Transportation Authority

Grassland Conservation and Management Area Relocation

New Jersey Pinelands Commission
CMP Policy and Implementation Committee Meeting
April 30, 2021



AECOM




Discussion Topics

1. Project Goals
2. Project Site Overview
3. Alternatives Review
4. Next Steps

AECOM

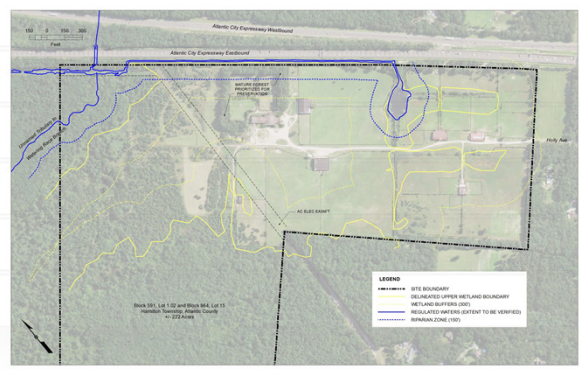



Project Goals

- Create a new Grassland Conservation and Management Area for upland sandpiper and grasshopper sparrow
- Minimum of 62 acres effective nesting habitat (after subtracting a 50-meter buffer)
- Minimize environmental impacts including forest impacts and impacts to sensitive species and habitats
- Minimize the cost of construction and environmental mitigation

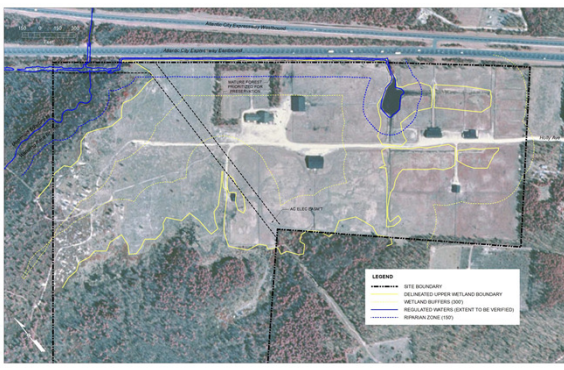
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Site Overview



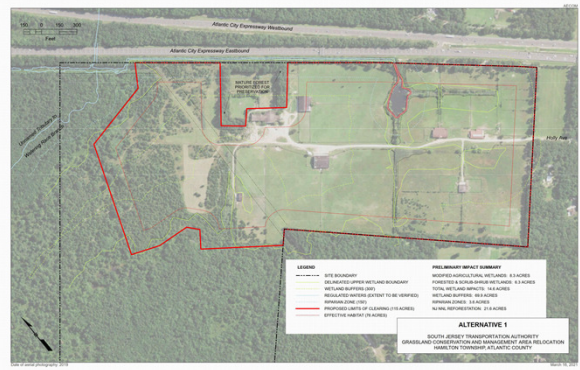
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Historic Limits of Clearing

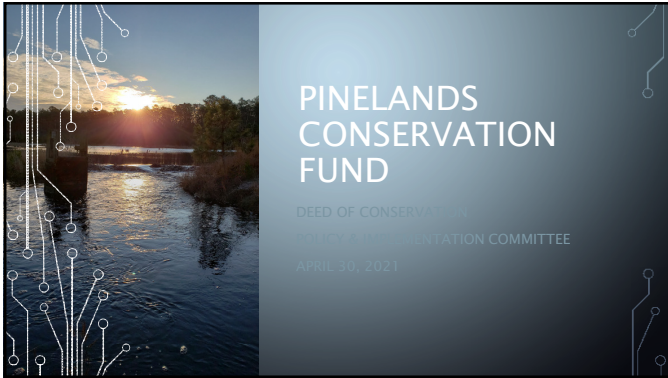


AECOM

ALTERNATIVE 1



ALTERNATIVE 1
SOUTH JERSEY TRANSPORTATION AUTHORITY
GRASSLAND CONSERVATION AND MANAGEMENT AREA RELOCATION
HAMILTON TOWNSHIP, ATLANTIC COUNTY



**PINELANDS
CONSERVATION
FUND**

DEED OF CONSERVATION
PINELANDS IMPLEMENTATION COMMITTEE
APRIL 30, 2021

NEEDED CHANGES TO DEED LANGUAGE TO ADDRESS:

- GRASSLAND HABITAT
- MAINTENANCE PLANS
- FORESTRY STANDARDS
- FISH AND WILDLIFE MANAGEMENT OFFSETS

**EXCERPT:
GRASSLAND
HABITAT**

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.

EXCERPT: MAINTENANCE PLANS FOR OTHER T&E OR CLIMATE FACTORS

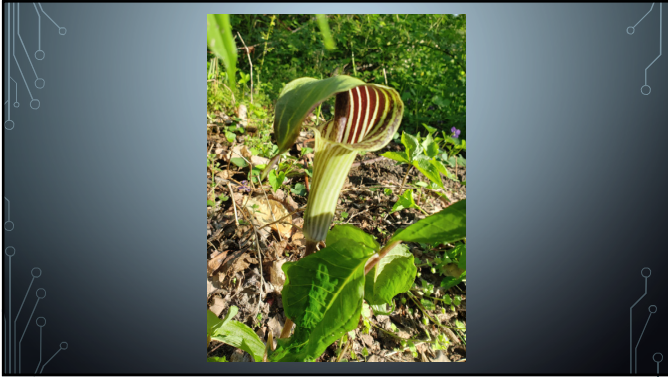
- The designated __x acre portion of the site shall be modified and maintained in accordance with the **threatened and endangered species habitat** management plan or threatened and endangered plant restoration/management/propagation plan dated _____, and any subsequent amendment, that is approved by 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.
- ...the requirements of a **recognized carbon sequestration program or plan**

**EXCERPT:
FORESTRY
STANDARDS**

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**;

**EXCERPT:
FISH &
WILDLIFE
MANAGEMENT**

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;





DRAFT

RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-21-_____

TITLE: Issuing an Order to Certify Winslow Township Ordinance O-2021-005, Adopting the Randevco Redevelopment Plan

Commissioner _____ moves and Commissioner _____ seconds the motion that:

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

WHEREAS, Resolution #PC4-83-30 of the Pinelands Commission specified that any amendment to the Township's certified Master Plan and codified Land Use Ordinances be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 (Submission and Review of Amendments to Certified Master Plans and Land Use Ordinances) of the Comprehensive Management Plan to determine if said amendment raises a substantial issue with respect to conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, Resolution #PC4-83-30 further specified that any such amendment shall only become effective as provided in N.J.A.C. 7:50-3.45 of the Comprehensive Management Plan; and

WHEREAS, on February 23, 2021, Winslow Township adopted Ordinance O-2021-005, approving a Redevelopment Plan for the Randevco Redevelopment Area, which is located in a Pinelands Regional Growth Area; and

WHEREAS, the Pinelands Commission received a certified copy of Ordinance O-2021-005 on February 25, 2021; and

WHEREAS, by letter dated March 3, 2021, the Executive Director notified the Township that Ordinance O-2021-005 would require formal review and approval by the Pinelands Commission; and

WHEREAS, a public hearing to receive testimony on Ordinance O-2021-005 was duly advertised, noticed and remotely held on March 31, 2021 at 9:30 a.m. with live broadcast on the Pinelands Commission's public YouTube channel and opportunity for the public to call-in during the live broadcast; and

WHEREAS, the Executive Director has found that Ordinance O-2021-005 is consistent with the standards and provisions of the Pinelands Comprehensive Management Plan; and

WHEREAS, the Executive Director has submitted a report to the Commission recommending issuance of an order to certify that Ordinance O-2021-005, adopting the Randevco Redevelopment Plan, is in conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, the Commission's CMP Policy and Implementation Committee has reviewed the Executive Director's report and has recommended that Ordinance O-2021-005 be certified; and

WHEREAS, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning Ordinance O-2021-005 and has reviewed the Executive Director's report; and

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

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

NOW, THEREFORE BE IT RESOLVED that

1. An Order is hereby issued to certify that Winslow Township Ordinance O-2021-005, adopting the Randevco Redevelopment Plan, is in conformance with the Pinelands Comprehensive Management Plan.

2. Any additional amendments to Winslow Township’s certified Master Plan and Land Use Ordinances shall be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 to determine if said amendments raise a substantial issue with respect to the Comprehensive Management Plan. Any such amendment shall become effective only as provided in N.J.A.C. 7:50-3.45.

Record of Commission Votes

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

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: _____

 Nancy Wittenberg
 Executive Director

 Richard Prickett
 Chairman



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



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

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

RICHARD PRICKETT
 Chairman
 NANCY WITTENBERG
 Executive Director

**REPORT ON WINSLOW TOWNSHIP ORDINANCE O-2021-005,
 ADOPTING THE RANDEVCO REDEVELOPMENT PLAN**

May 28, 2021

Winslow Township
 125 South Route 73
 Winslow Township, NJ 08037

FINDINGS OF FACT

I. Background

The Township of Winslow is located on the western fringe of the Pinelands Area, in Camden County. Pinelands municipalities adjacent to Winslow Township's Pinelands Area include the Boroughs of Berlin and Chesilhurst and the Township of Waterford in Camden County, the Township of Monroe in Gloucester County, and the Town of Hammonton and the Borough of Folsom in Atlantic County.

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

On February 23, 2021, Winslow Township adopted Ordinance O-2021-005, approving a Redevelopment Plan for the Randevco Redevelopment Area, which is located in a Pinelands Regional Growth Area. The Pinelands Commission received a certified copy of Ordinance O-2021-005 on February 25, 2021.

By letter dated March 3, 2021, the Executive Director notified the Township that Ordinance O-2021-005 would require formal review and approval by the Pinelands Commission.

II. Master Plans and Land Use Ordinances

The following ordinance has been submitted to the Pinelands Commission for certification:

- * Ordinance O-2021-005, adopting the Randevco Redevelopment Plan, introduced on January 19, 2021 and adopted on February 23, 2021.

This ordinance has been reviewed to determine whether it conforms with the standards for certification of municipal master plans and land use ordinances as set out in N.J.A.C. 7:50-3.39 of the Pinelands

Comprehensive Management Plan (CMP). The findings from this review are presented below. The numbers used to designate the respective items correspond to the numbers used to identify the standards in N.J.A.C. 7:50-3.39.

1. Natural Resource Inventory

Not applicable.

2. Required Provisions of Master Plans and Land Use Ordinances Relating to Development Standards

Ordinance O-2021-005 adopts a Redevelopment Plan, dated January 11, 2021, for the Randevco Redevelopment Area. This new Redevelopment Area is approximately 84 acres in size and consists of five lots (Block 2502, Lots 20, 21, 22.01, 23.01 and Block 2504, Lot 3). Four of the lots are contiguous and located between NJ Route 73 and Tansboro Road, while the remaining lot (Block 2504, Lot 3) is located on the opposite side of NJ Route 73 (see Exhibit 2). The contiguous lots account for about 78.7 acres and were zoned PTC (Pinelands Town Center), while the remaining lot is about 5.3 acres and previously zoned PC-2 (Major Commercial District) (see Exhibit 1). The Redevelopment Area is composed of undeveloped woodlands and vacant fields that were previously farmed. The entire Redevelopment Area is located in a Pinelands Regional Growth Area.

The purpose of the Randevco Redevelopment Plan is to enable the development of a new town center through a mixture of commercial and residential uses compactly arranged around a community focal point. To effectuate this development, the plan establishes two underlying zoning districts, a Commercial District and a Residential District, as well as a Main Street Mixed Use Overlay District. The Commercial and Residential Districts are both delineated in the Zoning Map incorporated in the Plan (see Exhibit 3). The Main Street Mixed Use Overlay District is a floating overlay zone. Its boundaries will be established in conjunction with the redeveloper's proposed location of a Main Street right of way. The final boundaries of both the Main Street right of way and the floating overlay zone are to be established upon preliminary site plan approval by the Township Planning Board and are required to be delineated on the site plan in accordance with the Redevelopment Plan. Therefore, the inclusion of the Main Street Mixed Use Overlay District on the zoning map is for illustrative purposes only.

The Main Street Mixed Use Overlay District will overlay the Residential and Commercial Districts delineated on the Zoning Map incorporated in the plan. The plan includes standards for the design of a "Main Street" right of way that is required to connect Tansboro Road with NJ Route 73. The plan requires that the Main Street Mixed Use Overlay District be a minimum contiguous area extending perpendicularly 300 feet from each side of the Main Street right of way for a minimum of 800 feet along the Main Street. This is equivalent to a minimum area of about 12 acres including the right of way. The plan provides the redeveloper with the flexibility to propose an overlay that extends more than 800 feet along the Main Street.

The Main Street Mixed Use Overlay District will permit single-use and mixed-use buildings as well as public gathering spaces to serve as community focal point. The plan requires that at least 50% of the proposed building square footage within the overlay be devoted to mixed-use, multi-

story buildings. The plan also requires that at least 50% of the proposed square footage above the ground floor of mixed-use buildings be devoted to residential uses. The district will permit the following uses in either single-use or mixed-uses buildings: multi-family dwelling units; professional, general, and medical office buildings; hotels; health clubs; retail businesses or personal service establishments; banks and fiduciary institutions; restaurants; entertainment center and theaters; and public parks, plazas, and courtyards. Lastly, a public gathering space of at least 5,000 square feet must be provided.

The Commercial District includes all the Redevelopment Area's frontage along NJ Route 73 and is approximately 32 acres in size. In addition to the commercial uses permitted in the Main Street Mixed Use Overlay, the Commercial District also permits: research facilities; hospital or related health-care facilities; places of worship; and principal use solar facilities. The Redevelopment Plan incorporates CMP standards for principal use solar energy facilities located within a Regional Growth Area (N.J.A.C. 7:50-5.36). The plan also specifies that any such facility must be setback a minimum of 75 feet from the NJ Route 73 right of way and include a buffer that minimizes visibility of the facility from the state highway. Notwithstanding those areas of the Commercial District to be overlaid by the Main Street Mixed Use Overlay District, residential uses are not permitted in the Commercial District.

The Residential District includes all the Redevelopment Area's frontage along Tansboro Road and is approximately 52 acres in size. The Residential District permits: single-family detached dwellings; two-family dwellings; townhouses with up to 6 units per structure; and multi-family dwellings. The Plan requires that 25% of the residential district be reserved for open space and recreation, of which a minimum of 50% must be devoted to unoccupied, naturally vegetated open space.

The plan includes extensive standards for each of the districts and extensive design standards related to building placement, architectural elements, signage, landscaping and buffering, lighting, and fencing. Regarding maximum building height, commercial use buildings, mixed-use buildings, and multi-family residential buildings are permitted up to four stories or 55 feet. Single-family and two-family dwelling units are permitted to build up to 2.5 stories or 35 feet, while Townhouses are permitted to build up to three stories or 40 feet.

Within a Regional Growth Area, the CMP provides that Pinelands municipalities may permit any use, except for certain waste management facilities, provided that residential density and opportunities for the use of Pinelands Development Credits are appropriately accommodated (N.J.A.C. 7:50-5.28). The Redevelopment Plan permits up to 600 units in the Redevelopment Area. This is equivalent to a maximum density of approximately 7 units per acre in the Redevelopment Area as a whole. The Redevelopment Plan also requires that 20% of the for-sale residential units and 15% of the for-rent units proposed be made affordable to low- and moderate-income families. Up to half of the affordable housing obligation may be met through contributions to the Township's affordable housing trust fund pursuant to the Township's affordable housing ordinance.

The permitted density in the Redevelopment Area is significantly higher than the 1.125 units per upland acre that is prescribed for Winslow's Regional Growth Area by the CMP. As mentioned above, the contiguous lots of the Redevelopment Area account for about 78.7 acres and were zoned PTC (Pinelands Town Center), while the remaining lot across NJ Route 73 is about 5.3 acres and previously zoned PC-2 (Major Commercial District). The PC-2 Zone does not permit

residential uses, but the PTC Zone required that 50% of a tract proposed for development be devoted to residential uses, either single-family or townhouses, at a base density of 2 units per acre and maximum density of 5.25 units per acre through the use of Pinelands Development Credits. Under the PTC and PC-2 zoning designations, the Redevelopment Area could have potentially yielded a maximum of 206 units. Therefore, this Redevelopment Plan increases the overall residential zoning capacity of the Township's Regional Growth Area by permitting 394 additional units.

However, the CMP does provide municipalities with the ability to zone portions of their Regional Growth Areas for higher densities, provided that the lands in question are appropriate for more intensive development, infrastructure exists or can be provided to support the increased density and sufficient opportunities for the use of Pinelands Development Credits are provided (N.J.A.C. 7:50-5.28(a)7). As detailed below, the Randevco Redevelopment Area meets these standards for increased density.

With respect to the appropriateness for the intensity of development permitted, it aligns with the Township's long-term goals of planning for increased residential densities in proximity to NJ Route 73 in order to support commercial development along NJ Route 73. The Randevco Redevelopment Area fronts NJ Route 73 and focuses commercial development along that frontage with residential development in the interior of the redevelopment area and along Tansboro Road. The Redevelopment Area is within a mile of the Camden County Library, the Winslow Township Senior Center, the Winslow Township Middle School and High School, as well as the recently completed 264-unit Taylor Woods apartment complex. Additionally, a Commission staff member visited the site to determine whether any wetlands existed on the site. Although access was limited in some areas of the Redevelopment Area, no wetlands were identified on-site. Lastly, the Redevelopment Plan requires that any development in the Redevelopment Area comply with the minimum environmental standards of the CMP.

With respect to the availability of infrastructure to serve the Redevelopment Area, both water and sewer will be provided. It is important to note that the Regional Growth Area of Winslow Township is served by public sewers that discharge to the Camden County Municipal Utilities Authority wastewater treatment plant on the Delaware River. The public water supply is supported, in part, by wells developed in the Kirkwood-Cohansey aquifer. To protect the Kirkwood-Cohansey aquifer and address the export of water from the Pinelands contrary to the CMP, a 2017 amended Memorandum of Understanding (MOU) between the Commission, Winslow Township and the Camden County Municipal Utilities Authority caps withdrawals from the Township's Kirkwood-Cohansey wells and requires the Township to acquire water from alternative sources once the limit on withdrawals has been reached. Based on the MOU, the Township submits annual reports detailing water use. The most recent report submitted for the year March 2020 to February 2021 shows that the Township has not yet reached the caps on the use of Kirkwood-Cohansey water by the Township.

The third condition for approval of increased densities and zoning capacity relates to the accommodation of Pinelands Development Credit opportunities. As discussed in more detail in Section 8 of this report, the Redevelopment Plan requires the acquisition and redemption of Pinelands Development Credits (PDCs) for 25% of all residential units in the Redevelopment Area, with limited exemptions applicable to residential units developed on-site and made affordable to low- and moderate-income households. Thus, Pinelands Development Credit use

has not only been accommodated, but also guaranteed if any residential units are developed in the Redevelopment Area.

Ordinance O-2021-005 is consistent with the land use and development standards of the Comprehensive Management Plan. Therefore, this standard for certification is met.

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

Not applicable.

4. Requirement for Municipal Review and Action on All Development

Not applicable.

5. Review and Action on Forestry Applications

Not applicable.

6. Review of Local Permits

Not applicable.

7. Requirement for Capital Improvement Program

Not applicable.

8. Accommodation of Pinelands Development Credits

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

As described in Section 2 of this report, the Randevco Redevelopment Plan increases the number of residential units permitted in Winslow Township's Regional Growth Area by approximately 394 units. In order to comply with N.J.A.C. 7:50-5.28(a)3, the Randevco Redevelopment Plan requires that PDCs be acquired and redeemed for 25% of all residential units within the Redevelopment Area, with an exception for units developed on-site that are made affordable to low- and moderate-income households as required by the Redevelopment Plan. The Redevelopment Plan also requires that 20% of the for-sale residential units and 15% of the for-rent units proposed be made affordable to low- and moderate-income families. Up to half of the affordable housing obligation may be met through contributions to the Township's affordable housing trust fund pursuant to the Township's affordable housing ordinance. No PDC exemption

would apply to any affordable units developed off-site. Lastly, any units made affordable beyond those required by the Redevelopment Plan will require that PDCs be acquired and redeemed at the 25% rate.

Based on the densities assigned to Winslow Township's Regional Growth Area by the CMP (N.J.A.C. 7:50-5.28), the Township is required to provide an opportunity for the development of residential units at a base-density of 1.125 units per acre, with a bonus-density of up to 1.69 units per acre achievable through the use of PDCs. Given the characteristics of the Redevelopment Area, the municipality is required to permit up to 94 residential units and the opportunity for an additional 47 units through the use of PDCs. In other words, the municipality would have to allow for the opportunity to use 47 rights (11.75 PDCs). This traditional approach requires that municipalities provide the *opportunity* for use of PDCs for 33% of the total number of residential units permitted in their Regional Growth Areas.

The PDC requirements adopted by the Redevelopment Plan will result in an opportunity for the use of up to 139 rights (34.75 Pinelands Development Credits). As described in Section 2 above, the municipality has elected to zone at a much higher density than required by the CMP in order to facilitate the development of a mixed-use, town center development. As a result, far greater opportunities for the use of PDCs are provided than what is required.

While the 25% PDC requirement is not as high a number as would be provided through the more traditional approach described above requiring 33%, it is important to remember that the traditional base-density/bonus-density approach utilized throughout the Pinelands Area only provides an *opportunity* for the use of PDCs. There is no requirement under the traditional approach that any PDCs be used in any particular development project. Ordinance O-2021-005 *guarantees* a PDC redemption rate of 25% for the residential component of any project within the Redevelopment Area. Given the greater certainty provided by this approach, the Executive Director finds that the PDC requirements adopted by Ordinance O-2021-005 are consistent with CMP standards.

This standard for certification is met.

9. Referral of Development Applications to Environmental Commission

Not applicable.

10. General Conformance Requirements

Ordinance O-2021-005 is consistent with the standards and provisions of the Pinelands Comprehensive Management Plan. Therefore, this standard for certification is met.

11. Conformance with Energy Conservation

Not applicable.

12. Conformance with the Federal Act

Ordinance O-2021-005 is consistent with the standards and provisions of the Pinelands Comprehensive Management Plan. No special issues exist relative to the Federal Act. Therefore, this standard for certification is met.

13. Procedure to Resolve Intermunicipal Conflicts

The Redevelopment Plan adopted by Ordinance O-2021-005 does not affect lands that are adjacent to any other municipalities. Therefore, intermunicipal conflicts are not anticipated. This standard for certification is met.

PUBLIC HEARING

A public hearing to receive testimony concerning Winslow Township's application for certification of Ordinance O-2021-005 was duly advertised, noticed and held on March 31, 2021 at 9:30 a.m. Ms. Grogan conducted the hearing, which was held remotely and broadcasted live on the Pinelands Commission's public YouTube channel. The public was provided the opportunity to call-in during the public hearing to provide testimony. No testimony was received.

Written comments on Ordinance O-2021-005 were accepted through April 7, 2021. However, no written comments were received.

CONCLUSION

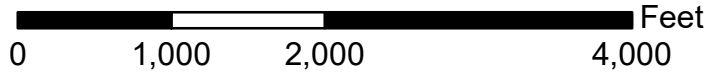
Based on the Findings of Fact cited above, the Executive Director has concluded that Ordinance O-2021-005, adopting the Randevco Redevelopment Plan of Winslow Township, complies with the Comprehensive Management Plan standards for the certification of municipal master plans and land use ordinances. Accordingly, the Executive Director recommends that the Commission issue an order to certify Ordinance O-2021-005 of Winslow Township.

SRG/DBL/CWI
Attachments

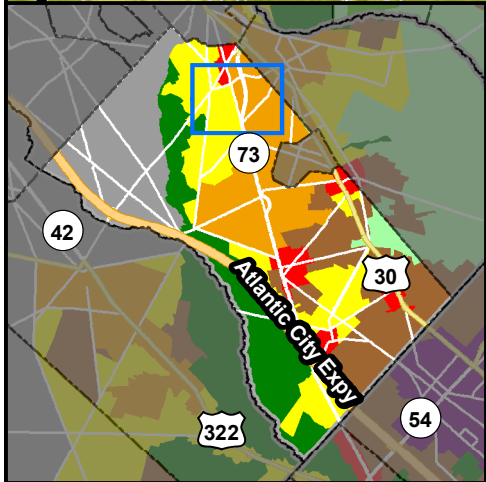
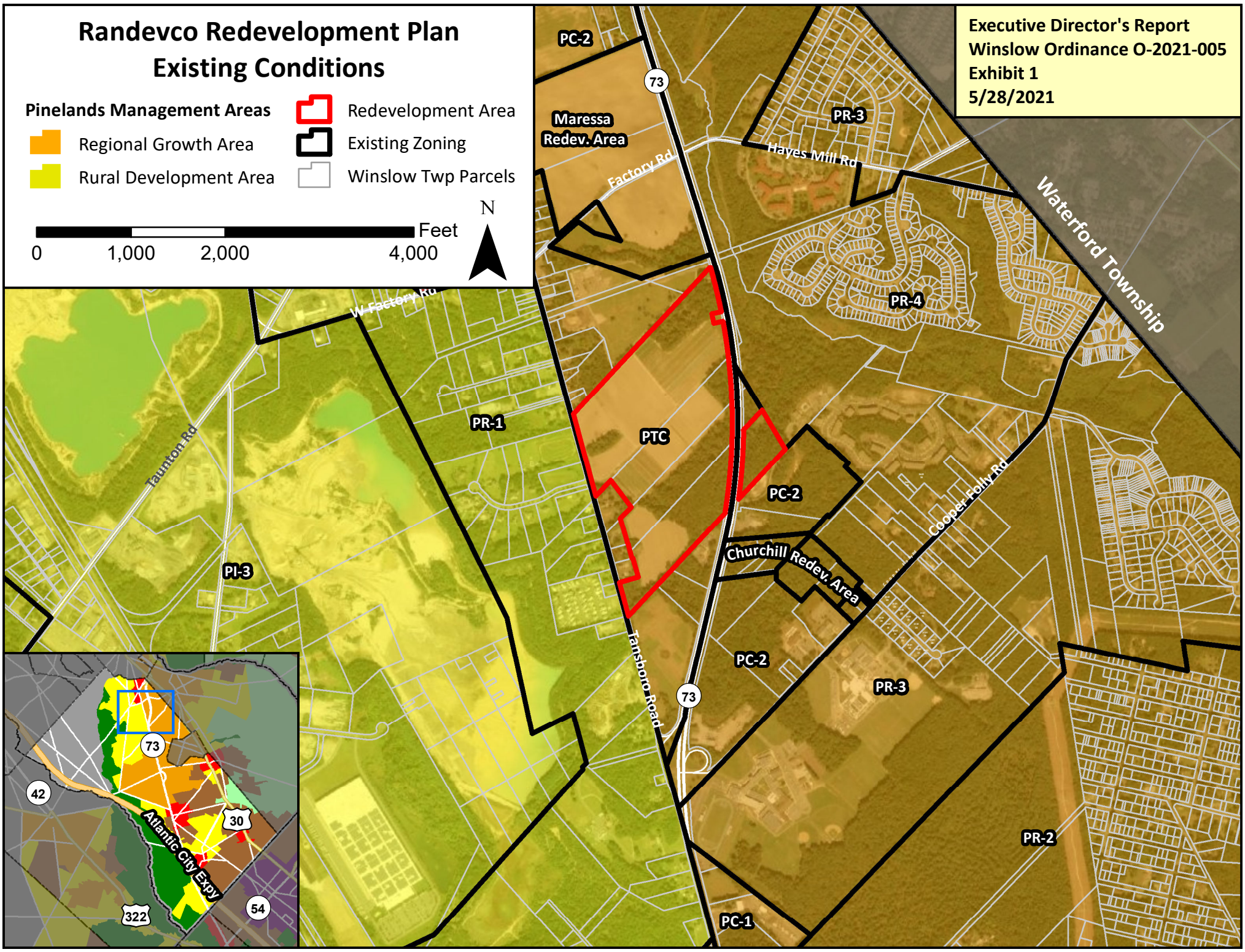
Randevco Redevelopment Plan

Existing Conditions

- Regional Growth Area
- Rural Development Area
- Redevelopment Area
- Existing Zoning
- Winslow Twp Parcels






Executive Director's Report
 Winslow Ordinance O-2021-005
 Exhibit 1
 5/28/2021



Redevelopment Area Aerial

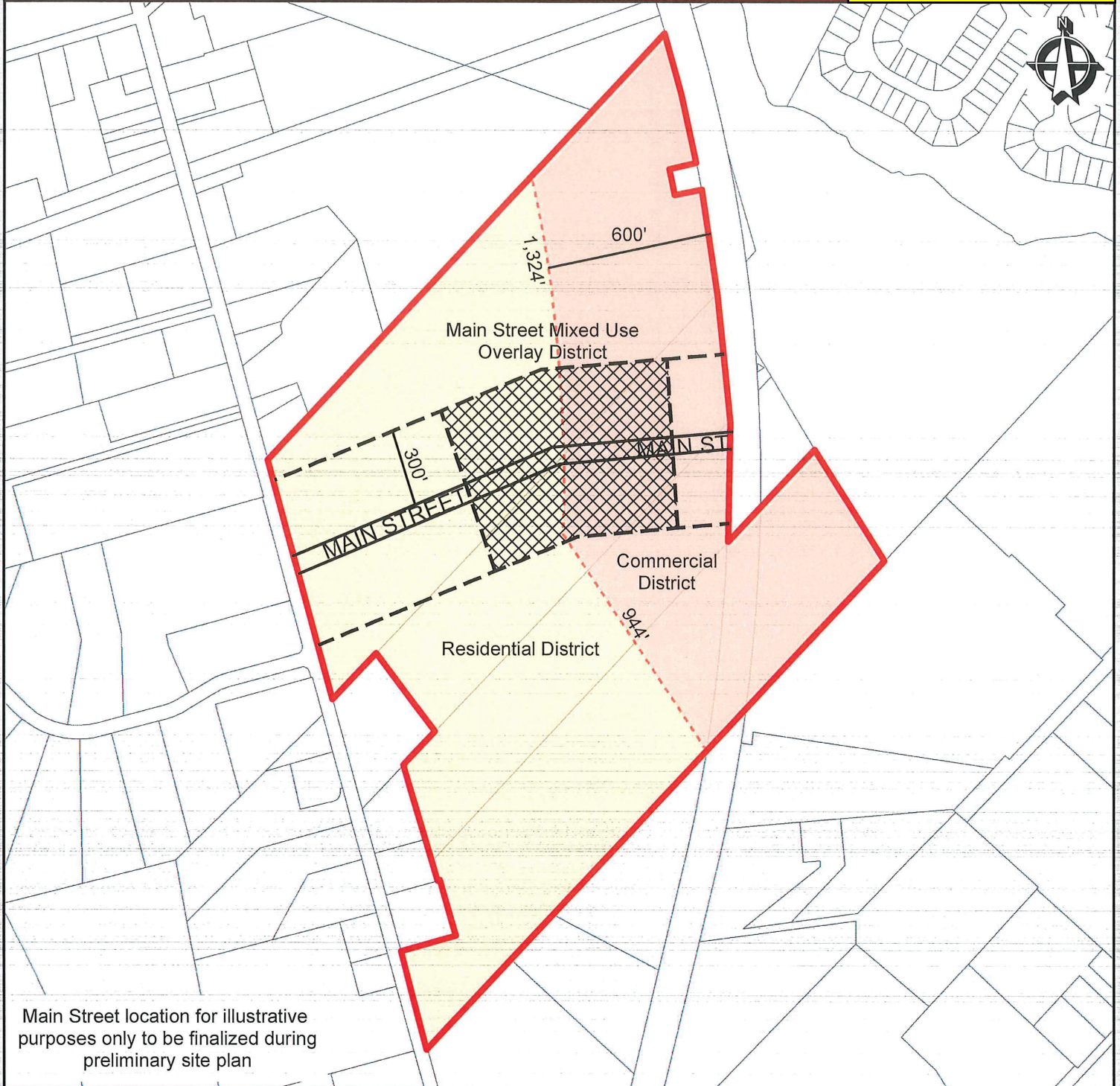
Winslow, N.J.



<p>AERIAL MAP</p>	<p>Legend</p>	 <p>CME ASSOCIATES CONSULTING & MUNICIPAL ENGINEERS</p>								
<p>WINSLOW TWP. CAMDEN COUNTY NEW JERSEY</p>	<p> Study Area</p> <p> Winslow Parcels</p>	<p>3141 BORDENTOWN AVENUE, PARLIN, N.J. 08859 1460 ROUTE 9 SOUTH HOWELL, N.J. 07731 3759 ROUTE 1 SOUTH SUITE 100, MONMOUTH JUNCTION, NJ 08852 ONE MARKET STREET SUITE 1F, CAMDEN, NJ 08102</p> <p>WWW.CMEUSAI.COM</p> <table border="1"> <tr> <td>DATE</td> <td>SCALE</td> <td>LAST REVISED</td> <td>CREATED BY</td> </tr> <tr> <td>2/12/18</td> <td>1:6,000</td> <td>6/28/2018</td> <td>TWA</td> </tr> </table>	DATE	SCALE	LAST REVISED	CREATED BY	2/12/18	1:6,000	6/28/2018	TWA
DATE	SCALE	LAST REVISED	CREATED BY							
2/12/18	1:6,000	6/28/2018	TWA							

Zoning District Boundaries

Executive Director's Report
 Winslow Ordinance O-2021-005
 Exhibit 3
 5/28/2021



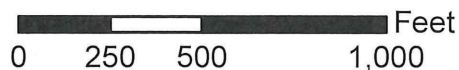
Redevelopment Area
 Zoning District
 Boundary Map

Winslow Township
 Camden County
 New Jersey

Legend

-  Redevelopment Area
-  Main Street Mixed Use Overlay
-  Commercial District
-  Residential District

Source: NJGIN



CONSULTING & MUNICIPAL ENGINEERS

3141 BORDENTOWN AVENUE, PARLIN, N.J. 08859
 1460 ROUTE 9 SOUTH HOWELL, N.J. 07731
 3759 ROUTE 1 SOUTH SUITE 100, MONMOUTH JUNCTION, NJ 08852
 ONE MARKET STREET SUITE 1F, CAMDEN, NJ 08102

WWW.CMEUSAL.COM

DATE	SCALE	LAST REVISED	CREATED BY
09/28/2020	1 inch = 500 feet	11/20/2020	CD/NF



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-21-_____

TITLE: To Authorize the Executive Director to Propose Amendments to the Comprehensive Management Plan in Accordance with the Administrative Procedure Act (Stormwater Management)

Commissioner _____ moves and Commissioner _____ seconds the motion that:

WHEREAS, on February 4, 2004, the New Jersey Department of Environmental Protection (NJDEP) adopted new Stormwater Management Rules (N.J.A.C. 7:8) that addressed stormwater-related water quality, groundwater recharge and water quantity impacts of major development; and

WHEREAS, the Pinelands Commission conducted a detailed review of the 2004 NJDEP regulations and identified amendments to the Pinelands Comprehensive Management Plan (CMP) that were necessary to integrate the NJDEP's new regulations, reflect then state-of-the-art stormwater engineering practices and provide for enhanced protection of Pinelands resources; and

WHEREAS, following adoption by the Pinelands Commission, these CMP amendments took effect on May 1, 2006 and were subsequently implemented by Pinelands municipalities through the adoption of Stormwater Management Plans and Stormwater Control Ordinances; and

WHEREAS, on October 25, 2019, the NJDEP adopted amendments to its Stormwater Management Rules, focusing on the use of green infrastructure to meet groundwater recharge, stormwater runoff quantity and stormwater runoff quality standards; and

WHEREAS, the amended NJDEP rules also revise the Department's definition of major development, which defines the scope of projects to which the amended stormwater rules apply, and modify requirements for the removal of total suspended solids from impervious surfaces; and

WHEREAS, the amended NJDEP rules took effect on March 2, 2020; and

WHEREAS, the Pinelands Commission has once again identified the need to amend the CMP in order to integrate the new NJDEP regulations; and

WHEREAS, the Pinelands Commission has also determined that it is appropriate and necessary to modify the amended NJDEP rules to provide enhanced protection of Pinelands resources and address the potential impacts of climate change on stormwater runoff; and

WHEREAS, the Commission is therefore pursuing adoption of more stringent standards, requiring stormwater management for both major and minor development and limiting the potential for variations or exceptions from stormwater management requirements; and

WHEREAS, the Executive Director has submitted to the Commission draft amendments to N.J.A.C. 7:50-6.84(a)6 of the Comprehensive Management Plan to accomplish the above-described objectives in a manner that furthers the goals of the CMP and recognizes the special resources of the Pinelands that the Commission is charged with protecting; and

WHEREAS, the proposed Comprehensive Management Plan amendments were discussed at multiple public meetings of the Commission's CMP Policy & Implementation Committee in 2020 and 2021; and

WHEREAS, the proposed amendments to the Comprehensive Management Plan have been reviewed by the Pinelands Commission; and

WHEREAS, the Pinelands Commission wishes to formally consider the amendments to the Comprehensive Management Plan set forth in the attachment hereto, dated May __, 2021; and

WHEREAS, the Administrative Procedure Act of 1968, as amended, and the Office of Administrative Law implementing regulations set forth a detailed procedure governing proposed rulemaking; and

WHEREAS, the Pinelands Commission also wishes to obtain the comments of the public, governmental agencies and the Pinelands Municipal Council on the proposed amendments, in accordance with the Pinelands Protection Act and Subchapter 7 of the Comprehensive Management Plan; and

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

NOW, THEREFORE, BE IT RESOLVED that:

1. The Commission hereby authorizes the Executive Director to submit the proposed amendments to the Comprehensive Management Plan, attached hereto and dated May ____, 2021, and the required supporting documentation to the Office of Administrative Law for publication as proposed regulations;
2. The Executive Director shall transmit the proposed amendments to all Pinelands municipalities and counties and the Pinelands Municipal Council for review;
3. The public comment period on the proposed amendments shall extend 60 days from the date of publication of the proposal in the *New Jersey Register* and the Executive Director shall affix the date of a public hearing to receive comments on the proposed amendments; and
4. Subsequent to the comment period, the Executive Director shall expeditiously prepare proposed final amendments, with any pertinent changes to these amendments, for review by the Commission’s CMP Policy and Implementation Committee, and shall submit same to the Commission for final action.

Record of Commission Votes

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

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: _____

Nancy Wittenberg
Executive Director

Richard Prickett
Chairman

May 21, 2021

DRAFT

ENVIRONMENTAL PROTECTION

PINELANDS COMMISSION

Pinelands Comprehensive Management Plan

Definitions; Standards for Certification of Municipal Master Plans and Land Use

Ordinances; Minimum Standards for Point and Non-Point Source Discharges

Proposed Amendments: N.J.A.C. 7:50-2.11, 3.39 and 6.84

Authorized By: New Jersey Pinelands Commission, Nancy Wittenberg, Executive Director.

Authority: N.J.S.A. 13:18A-6j.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: .

A **public hearing** concerning this notice of proposal will be held on:

Wednesday, September 1, 2021, at 9:30 A.M.

Richard J. Sullivan Center

15C Springfield Road

New Lisbon, New Jersey

Submit written comments by regular mail, facsimile, or email by September 17, 2021, to:

Susan R. Grogan, P.P., AICP

Director of Planning

Pinelands Commission

PO Box 359

New Lisbon, NJ 08064

Facsimile: (609) 894-7330

Email: planning@pinelands.nj.gov or through the Commission's website at
<http://nj.gov/pinelands/home/contact/planning.shtml>

The name and mailing address of the commenter must be submitted with all public comments. Commenters who do not wish their names and affiliations to be published in any notice of adoption subsequently prepared by the Commission should so indicate when they submit their comments.

The agency proposal follows:

Summary

The New Jersey Pinelands Commission (Commission) proposes to amend Subchapter 2, Interpretations and Definitions, Subchapter 3, Certification of County, Municipal, and Federal Installation Plans, and Subchapter 6, Management Programs and Minimum Standards of the Pinelands Comprehensive Management Plan (CMP). The CMP has been guiding land use and development activities in the Pinelands since it took effect on January 14, 1981. The CMP has been amended many times, most recently in December 2020 through a set of amendments related to the Pilot Program for Alternate Design Wastewater Treatment Systems (See 52 N.J.R. 2177(a)).

This proposal is in response to amendments adopted by the New Jersey Department of Environmental Protection (DEP) on October 25, 2019, effective March 2, 2020, to its stormwater management rules at N.J.A.C. 7:8 (referred to as “DEP stormwater rule” or “DEP rule”). In those amendments, the DEP replaced the requirement for use of nonstructural stormwater management strategies to the "maximum extent practicable" with a requirement for use of green infrastructure to meet its groundwater recharge, stormwater runoff quantity, and stormwater runoff quality standards. DEP relocated the nonstructural strategies to a different section of its rules (to N.J.A.C 7:8-2.4(g)), so that will now be something municipalities may address in the preparation of their stormwater management plans. Green infrastructure measures or best management practices are intended to mimic natural hydrologic conditions and, thus, typically incorporate infiltration and/or vegetation to a greater extent than traditional stormwater management methods. The DEP also clarified and modified its definition of major development, which defines the scope of projects to which the amended rules apply. Lastly, it amended the stormwater management rule to require total suspended solids (TSS) to be removed from runoff from motor vehicle surfaces and eliminated the TSS removal requirement for runoff from other impervious surfaces not traveled by automobiles, such as rooftops and sidewalks.

The Commission proposes to amend the stormwater management provisions of the CMP at N.J.A.C. 7:50-6.84(a)6 to harmonize them with the amended DEP rule in a manner consistent with the goals of the CMP and recognizing the special resources of the Pinelands that the Commission is charged with protecting. Related, minor changes are also being proposed to the definitions section of the CMP at N.J.A.C. 7:50-2.11 and to the certification requirements for municipal stormwater management plans at N.J.A.C. 7:50-3.39.

The last time the Commission made significant changes to the CMP stormwater management provisions was in 2006, in response to the DEP's 2004 adoption of its stormwater management rule. The Commission conducted an extensive review of the 2004 DEP rule to determine how to mesh the new rule with the CMP in a manner that was most appropriate for the Pinelands. It ultimately decided to adopt Subchapters 5 and 6 of the DEP stormwater rule by incorporating them into the CMP by reference, with modifications to provide additional protections to the resources of the Pinelands. Subchapter 5 of the DEP rule contains design and performance standards for stormwater management measures and Subchapter 6 contains safety standards for stormwater management basins. The modifications adopted by the Commission in 2006 included: a stricter stormwater recharge requirement; a prohibition against discharging stormwater into wetlands and streams; special treatment of stormwater runoff from high pollutant load areas; and an emphasis on soil testing and as-built certifications (See 38 N.J.R. 1829(b)). At the same time, the Commission developed a joint Pinelands-DEP model stormwater control ordinance for adoption by all municipalities located, in whole or in part, in the Pinelands Area.

The Commission has extensively reviewed the DEP's 2020 amendments to its stormwater management rule and has similarly determined that the CMP should continue to incorporate Subchapters 5 and 6 of the DEP rule, as amended. The Commission has also decided to incorporate by reference an additional provision of the DEP rule (N.J.A.C. 7:8-4.6) that addresses municipal variances from the design and performance standards for stormwater management measures.

To protect the resources of the Pinelands beyond what is provided for in the DEP stormwater rule and to further address the impacts of climate change on stormwater runoff, the

Commission is again proposing to adopt additional, more stringent, stormwater management requirements, as discussed in detail below. These changes will strengthen and enhance stormwater management in the Pinelands Area while establishing reasonable requirements for home builders and developers.

The proposed amendments also update, correct, and clarify various provisions of the existing rules.

The proposed amendments were discussed and reviewed at multiple public meetings of the Commission and the Commission's CMP Policy & Implementation Committee in 2020 and 2021. If requested, Commission staff will also provide a presentation on the proposed amendments at a public meeting of the Pinelands Municipal Council (PMC). The PMC, created by the Pinelands Protection Act (N.J.S.A. 13:18A-1 et seq.), is made up of the mayors of the 53 municipalities in the Pinelands Area, or their designees. The Council is empowered to review and comment upon changes proposed by the Commission to the CMP and advises the Commission on matters of interest regarding the Pinelands.

A more detailed description of the proposed amendments follows.

Subchapter 2

The Commission is proposing to add definitions of "HUC-11" or "hydrologic unit code 11" and "HUC-14" or "hydrologic unit code 14" to Subchapter 2, Interpretations and Definitions. The proposed amendments to Subchapter 6 introduce these terms, which are not currently defined in the CMP. HUC-11 and HUC-14 are subwatersheds delineated by the United States Geological Survey.

Subchapter 3

The CMP contains a series of standards that municipal master plans and land use ordinances must meet in order to be certified (approved) by the Commission. N.J.A.C. 7:50-3.39(a). One such standard (N.J.A.C. 7:50-3.39(a)viii) currently requires that Pinelands municipalities establish and implement mitigation plans as part of any municipal stormwater management plan and ordinance adopted for purposes of compliance with NJDEP's requirements. In these mitigation plans, municipalities can identify potential stormwater mitigation projects for applicants that cannot meet CMP stormwater management requirements on the proposed development site. When a municipality grants a variance from the stormwater management requirements, it requires that the off-site mitigation project be selected from the list in the municipality's stormwater management plan, if such a list is included therein. These off-site mitigation projects could remediate existing stormwater problems or areas with existing impervious surfaces.

The Commission is proposing some minor changes to this certification standard so that it will be consistent with changes being proposed to the stormwater management provisions of the CMP at subchapter 6. The term "exception" is being changed to "variance" throughout N.J.A.C. 7:50-3.39(a)2viii to be consistent with the proposed changes to terms in N.J.A.C. 7:50-6.84(a)6vii (existing N.J.A.C. 7:50-6.84(a)6vi).

The Commission is also proposing to remove language from N.J.A.C. 7:50-3.39(a)2viii(2), which currently allows a municipality to grant a variance from CMP stormwater management requirements if the municipality determines that stormwater management would more effectively be achieved through alternative measures. This language is vague and not

consistent with the variance requirements in the DEP stormwater management rule at N.J.A.C. 7:8-4.6, which the Commission is proposing to adopt through incorporation.

The Commission is also proposing to remove N.J.A.C. 7:50-3.39(a)2viii(4), which allows a municipality to collect a monetary contribution from a development applicant in lieu of requiring off-site stormwater mitigation measures. N.J.A.C. 7:50-3.39(a)2viii(5), which requires municipal expenditure of any such contributions within five years of their receipt, is also proposed for deletion. The Commission believes these provisions are not necessary as they have never been invoked by a municipality and can complicate the required mitigation planning for municipalities.

Subchapter 6

The stormwater management provisions of the CMP at N.J.A.C. 7:50-6.84(a)6 currently incorporate Subchapters 5 and 6 of the DEP stormwater rule, N.J.A.C. 7:8. The Commission is proposing to incorporate an additional provision from the DEP rule, N.J.A.C. 7:8-4.6, “Variance from the design and performance standards for stormwater management measures,” into the CMP, with modifications discussed below. (See discussion on proposed change to the “Exceptions” section at proposed N.J.A.C. 7:50-6.84(a)6vii).

Definitions (new N.J.A.C. 7:50-6.84(a)6i)

Many terms in the DEP stormwater rule are either not defined in the CMP or are defined differently. To avoid confusion over which definitions will apply in the Pinelands Area for stormwater management purposes, the Commission is proposing to add a new provision at N.J.A.C. 7:50-6.84(a)6i. This language clarifies that the DEP definitions at N.J.A.C. 7:8-1.2 are

incorporated into the CMP's stormwater management provisions unless a term is defined differently in the CMP, in which case the CMP definition will apply.

The term "major development" is the most significant example of a term that is defined differently in the CMP and the DEP stormwater rule. Both rules rely upon this term to establish the scope of development projects that are subject to the CMP stormwater management requirements, but each defines it differently.

The CMP defines major development as "any division of land into five or more lots; any construction or expansion of any housing development of five or more dwelling units; any construction or expansion of any commercial or industrial use or structure on a site of more than three acres; or any grading, clearing or disturbance of an area in excess of 5,000 square feet."

N.J.A.C. 7:50-2.11. The DEP stormwater rule defines major development as an "individual development, as well as multiple developments, that individually or collectively result in:

1. The disturbance of one or more acres of land since February 2, 2004;
2. The creation of one-quarter acre or more of "regulated impervious surface" since February 2, 2004;
3. The creation of one-quarter acre or more of "regulated motor vehicle surface" since March 2, 2021; or
4. A combination of 2 and 3 above that totals an area of one-quarter acre or more. The same surface shall not be counted twice when determining if the combination area equals one-quarter acre or more..." N.J.A.C. 7:8-1.2.

As explained in greater detail below (in the discussion of proposed changes to the "Recharge" section of the CMP), the Commission decided in 2006 to rely upon the CMP definition of major development instead of adopting the DEP definition. The Commission is not

proposing to change this practice, but new N.J.A.C. 7:50-6.84(a)6i will clarify that the CMP definition of terms such as “major development” will be used when the CMP has a different definition than the DEP rule.

All subsequent sections of the CMP stormwater management provisions will be recodified accordingly.

**Runoff rate and volume, runoff quality and groundwater recharge methodologies
(proposed N.J.A.C. 7:50-6.84(a)6ii, existing N.J.A.C. 7:50-6.84(a)6i)**

When the Commission adopted subsections of the DEP stormwater rule into the CMP in 2006, it also added language directly from the DEP rule into some CMP provisions in addition to incorporating those provisions by reference. The Commission is proposing to remove some of this redundant language from the CMP, which is contained in the DEP rule at N.J.A.C. 7:8-5 and 6, as those subsections are already incorporated into the CMP.

Both the DEP rule and the current CMP incorporate by reference publications of the Natural Resource Conservation Service (NRCS) that describe methodologies for the calculation of stormwater runoff. In proposed N.J.A.C. 7:50-6.84(a)6ii (1), (2) and (3), the Commission proposes to delete the details of those methodologies in existing N.J.A.C. 7:50-6.84(a)6i(1),(2), and (3), and simply refer to N.J.A.C. 7:8-5.7, the DEP provision that contains the details. The Commission, however, is proposing one modification to this DEP provision related to calculation methodologies. The DEP allows the use of two methodologies for stormwater runoff and volume calculations, the Rational Method for peak flow and the Modified Rational Method for hydrograph computation. N.J.A.C. 7:8-5.7(a)1(ii) and 2. The Commission is proposing to prohibit the use of these methodologies for the calculation of stormwater runoff and volumes at

new N.J.A.C. 7:50-6.84(a)6ii(1), as these methods do not involve the use of available, data-intensive models that can produce more comprehensive runoff predictions.

Both the CMP and the DEP rule require applicants to use existing rainfall data published by the National Oceanic and Atmospheric Administration (NOAA) to calculate the volume of stormwater runoff that must be managed. The website addresses that contain this rainfall data have been changed; therefore, updated references are being included at proposed N.J.A.C. 7:50-6.84(a)6ii2.

Runoff requirements (proposed N.J.A.C. 7:50-6.84(a)6iii, existing N.J.A.C. 7:50-6.84(a)6ii)

The Commission is proposing to remove language related to stormwater runoff requirements at proposed N.J.A.C. 7:50-6.84(a)6iii, existing N.J.A.C. 7:50-6.84(a)6ii, as these requirements are already contained in the DEP rule at N.J.A.C. 7:8-5.6. Although the CMP currently incorporates N.J.A.C. 7:8-5.6, the Commission proposal includes amendments to an additional runoff restriction contained therein.

The CMP currently prohibits the direct discharge of stormwater runoff to any wetland, wetlands transition area or stream, at existing N.J.A.C. 7:50-6.84(a)6ii(4), proposed N.J.A.C. 7:50-6.84(a)6iii(1). That same provision also prohibits stormwater runoff from being directed in such a way as to increase the volume and rate of discharge into any surface water body that existed prior to development of the parcel. The Commission has always interpreted this latter restriction to also prohibit such runoff from increasing the volume and rate of discharge into any wetland or wetlands transition. The Commission is proposing to amend existing N.J.A.C. 7:50-6.84(a)6ii(4), proposed N.J.A.C. 7:50-6.84(a)6iii(1), to clarify that the prohibition extends to wetlands and wetlands transition areas.

The Commission is also proposing to remove language at existing N.J.A.C 7:50-6.84(a)6ii, proposed N.J.A.C. 7:50-6.84(a)6iii, that allows an applicant to deduct the acreage of any undeveloped portion of a parcel from certain stormwater runoff calculations if those areas have been permanently protected from future development or if a deed notice has been filed stating that those areas will be subject to stormwater management when they are proposed for development. Through practice, the Commission has realized that these conditions are unnecessary, as the stormwater rules would require any land that is not permanently protected to comply with stormwater management requirements once it is proposed for development.

Recharge standards (proposed N.J.A.C. 7:50-6.84(a)6iv, existing N.J.A.C. 7:50-6.84(a)6iii)

As explained in greater detail below, the Commission is proposing to expand the scope of development projects that will be required to implement stormwater management measures. These new measures will strengthen protection of Pinelands resources through a reduction in localized flooding and help to maintain water levels within the Kirkwood-Cohansey Aquifer. Like the current CMP, the scope of projects will be based on the CMP definitions of major and minor development.

When the Commission adopted portions of the DEP stormwater rule in 2006, it chose not to adopt the DEP definition of major development at N.J.A.C. 7:8-1.2. This definition establishes the scope of projects subject to the DEP's stormwater management requirements. The CMP definitions of major and minor development are the foundation for requirements throughout the CMP and the Commission concluded that adopting a set of definitions applicable only to stormwater management could cause confusion and create inconsistencies for the regulated community in the Pinelands.

For the same reasons, the Commission has again decided to use the CMP definitions of major and minor development for purposes of stormwater management. Although the CMP will continue to incorporate many of the DEP's stormwater management standards, the scope of projects subject to those standards (as well as additional Pinelands-specific standards in the CMP) will continue to be based on the CMP definitions of minor and major development, and not the DEP definition of major development.

While the DEP stormwater rule does not define or use the term minor development, the CMP uses both its definition of minor and major development to help establish the scope of projects required to comply with stormwater management. The CMP defines major development as “any division of land into five or more lots; any construction or expansion of any housing development of five or more dwelling units; any construction or expansion of any commercial or industrial use or structure on a site of more than three acres; or any grading, clearing or disturbance of an area in excess of 5,000 square feet.” The construction of four or fewer dwelling units is deemed minor residential development under the CMP and the construction or expansion of any commercial or industrial use or structure on a site less than three acres or any grading, clearing or disturbance of an area less than 5,000 square feet. is deemed minor nonresidential development. N.J.A.C. 7:50-2.11.

Minor residential development (N.J.A.C. 7:50-6.84(a)6iv(2))

To reduce the impact of stormwater runoff from minor residential development in the Pinelands Area, the Commission is proposing to require all minor residential development to comply with a modified stormwater management requirement. Currently, minor residential development in the Pinelands is not required to implement any stormwater management

measures unless the development involves the construction of new roads. N.J.A.C. 7:50-2.11; 6.84(a)6vi(1).

The Commission analyzed residential development trends in the Pinelands Area to see whether the CMP is adequately controlling stormwater runoff from residential development. It found that the overwhelming number of residential development applications completed with the Commission over the last 11 years were for minor development. Of 817 applications completed, 767 were for minor residential development (one to four units) and 50 were for major development (more than 5 units). Because most minor residential development does not include the construction of roads, most of the 767 developments were not required to implement any stormwater management measures under the existing CMP stormwater rule.

Based on this analysis, the Commission is proposing that all minor residential development be required to retain and infiltrate stormwater runoff solely from the roof(s) of the new dwelling(s). Expanding stormwater management to minor residential development in this manner will further reduce the volume of stormwater runoff and thereby reduce the potential of localized flooding. Redirecting rooftop runoff to green infrastructure measures that provide infiltration and groundwater recharge will help maintain water levels in the Kirkwood Cohansey Aquifer. The minor residential development requirements are being added to the “recharge” section of the rule at proposed N.J.A.C. 7:50-6.84(a)6iv(2) and the exemption for minor residential development is being removed from existing N.J.A.C. 7:50-6.84(a)6vi(1), proposed N.J.A.C. 7:50-6.84(a)6vii.

Minor residential development will be required to retain and infiltrate the stormwater volume generated on the roof(s) of the dwelling(s) through one or more green infrastructure best management practices including, but not limited to: dry wells, pervious pavement systems, or

small scale bioretention systems, such as a rain garden. See proposed N.J.A.C. 7:50-6.84(a)6iv(2)A.

The calculation of stormwater runoff volume will be based on the area of the roof and the 10-year storm. N.J.A.C. 7:50-6.84(a)6iv(2). A key difference between the stormwater management requirements for minor and major residential development is that major development will have to retain and infiltrate stormwater runoff generated from the net increase in all impervious surfaces, whereas minor residential development will only have to retain and infiltrate stormwater runoff generated from the roof(s) of the dwelling(s).

There may be limited situations where a project could be deemed minor residential development under the CMP and major development under the DEP stormwater rule. In those situations, the CMP will prevail and the stormwater standards for minor residential development will apply. For example, a two-lot subdivision in a Pinelands Rural Development Area, with one house proposed for development on each lot, would be deemed minor development under the CMP but could be deemed major development under the DEP stormwater rule, if it resulted in disturbance of more than one acre of land. Similarly, a single-family dwelling in a Pinelands Forest Area would also qualify as minor residential development under the CMP but could be defined as major development under the DEP rule, if the CMP's 200 foot scenic setback requirement necessitated the clearing of an acre of land to accommodate a driveway or other improvements. In both of these examples, the the development would be defined as minor residential under the CMP and be subject to the stormwater recharge standards at proposed N.J.A.C. 7:50-6.84(a)6iv(2). In most cases, the proposed changes to the CMP will result in a much larger amount of stormwater being retained and infiltrated than the DEP stormwater rule requires.

Minor non-residential development (N.J.A.C. 7:50-6.84(a)6iv(3)(A))

The Commission is also proposing to expand the stormwater management requirements for minor non-residential development. The CMP defines minor non-residential development as the construction or expansion of any commercial or industrial use or structure on a site less than three acres or any grading, clearing or disturbance of an area less than 5,000 square feet (See N.J.A.C. 7:50-2.11). Such development is not required to comply with the current CMP's stormwater management requirements unless the cumulative development over a five-year period results in the grading, clearing or disturbance of an area greater than 5,000 square feet. N.J.A.C. 7:50-6.84(a)6vi(1).

In deciding whether to extend stormwater management to minor non-residential development, the Commission concluded that the chemicals originating from motor vehicles, even in small areas such as individual parking spaces, justifies a requirement to capture and remove those pollutants before they enter the groundwater table. Proposed N.J.A.C. 7:50-6.84(a)6iv(3)(A) will require onsite infiltration of stormwater runoff from new motor vehicle surfaces in compliance with the DEP stormwater runoff quality standards contained in N.J.A.C. 7:8-5.5, for any minor non-residential development that results in an increase of 1,000 square feet or more of regulated motor vehicle surface, as defined at N.J.A.C. 7:8-1.2. Only the stormwater generated on these surfaces will be required to be recharged onsite.

The Commission is requiring infiltration of a smaller volume of water from these motor vehicle surfaces than is currently required for major development in the Pinelands Area and smaller than is being proposed for minor residential development. Instead of requiring the stormwater runoff volume to be based on the 10-year storm, the volume of stormwater runoff

generated from regulated motor vehicle surfaces of minor non-residential development will be based on the smaller “water quality design storm,” which is 1.25 inches of rain over a 24-hour period. This smaller volume requirement is sufficient because most pollutants from motor vehicles get carried away in the first inch of rainfall, often referred to as the “first flush”. By infiltrating the volume of stormwater runoff from that first inch of rainfall, many of the pollutants will be filtered out before mixing with groundwater.

The requirements for minor non-residential development will be added to the Recharge section at proposed N.J.A.C. 7:50-6.84(a)6iv(3) and the exemption for minor non-residential development will be removed from existing N.J.A.C. 7:50-6.84(a)6vi(1).

The CMP will continue to require that minor nonresidential development involving the grading, clearing or disturbance of an area in excess of 5,000 square feet within any five-year period be required to comply with the CMP stormwater management standards for major development. The Commission is proposing to recodify that requirement from N.J.A.C. 7:50-6.84(a)6vi(1) to N.J.A.C. 7:50-6.84(a)6iv(3)(B).

Application requirements for minor development (N.J.A.C. 7:50-6.84(a)6iv(4))

The application requirements for all minor development will be included in a new provision at N.J.A.C. 7:50-6.84(a)6iv(4). An applicant will be required to submit a plan, certified by a design engineer, showing detailed information and drawings of each green infrastructure stormwater management measure, in addition to soil profiles, soil permeability test elevation, soil permeability rate, and the elevation of and vertical separation to the seasonal high water table. An applicant will also have to submit a certification by the design engineer that the

infiltrated stormwater will not adversely impact basements or septic systems of the proposed development.

Stormwater runoff from high pollutant loading areas (HPLA) (proposed N.J.A.C. 7:50-6.84(a)6iv(5), existing N.J.A.C. 7:50-6.84(a)6iii(2))

The Commission is proposing to clarify the CMP provision regarding treatment of stormwater runoff from high pollutant loading areas (HPLA) at proposed N.J.A.C. 7:50-6.84(a)6iv(5), existing N.J.A.C. 7:50-6.84(a)6iii(2). The HPLA requirements were added to the CMP in 2006 to address DEP's prohibition against the direct discharge of stormwater runoff from HPLAs to groundwater recharge systems. If stormwater runoff cannot be discharged into groundwater, the alternative is for the direct discharge of stormwater runoff from HPLAs into surface waterbodies, such as wetlands and streams, which has long been prohibited in the CMP. To resolve this issue, the Commission began requiring applicants to remove 90 percent of the major pollutant load, also referred to as total suspended solids (TSS), from stormwater runoff from HPLAs before entering an infiltration basin (groundwater recharge system). This was agreed to by DEP and codified in existing N.J.A.C. 7:50-6.84(a)6iii(2)(C) in 2006.

This provision, however, inadvertently implies that the 90 percent TSS removal be attained before the stormwater runoff enters an infiltration basin. Despite how the provision was drafted, the Commission had always intended to allow the infiltration basin to serve as one of the devices used to achieve the 90 percent removal standard, as an infiltration basin itself can remove up to 60 percent of TSS. To correct this, the Commission is proposing to amend the TSS removal language at proposed N.J.A.C. 7:50-6.84(a)6iv(5), existing N.J.A.C. 7:50-6.84(a)6iii(2), to clarify that 90 percent TSS removal can be achieved by routing stormwater runoff through one

or more stormwater management measures, in series, which could include the infiltration basin itself. A key element of this proposed revision is removing references to “pretreatment” of the stormwater runoff, as pretreatment implies that 90 percent TSS removal has to occur prior to the runoff entering an infiltration basin.

This provision also currently mandates that applicants use specific types of devices to achieve 90 percent TSS removal. The Commission believes applicants should have more flexibility in how to achieve that removal standard. It is proposing to remove references to specific stormwater management devices and require only that applicants use stormwater management measures that are: (1) designed to remove TSS in accordance with the New Jersey Stormwater Best Practices Manual or (2) certified by DEP. Proposed N.J.A.C. 7:50-6.84(a)6iv(5)(C)(I) and (II), existing N.J.A.C. 7:50-6.84(a)6iii(2)(C)(I)-(V).

Nitrogen removal (proposed N.J.A.C. 7:50-6.84(a)6iv(6))

The Commission is also proposing to add a quantitative nitrogen removal standard for major development at N.J.A.C. 7:50-6.84(a)6iv(6). This provision will require all major development to implement stormwater management measures designed to achieve a minimum of 65 percent reduction of the post-construction nitrogen load from the developed site from stormwater runoff generated from the water quality design storm. A “developed site” includes permanent lawn or turf areas that are specifically intended for active human use, as nitrogen fertilizer applied to managed turf has long been identified as a significant source of nitrogen in stormwater in New Jersey, and in the Pinelands specifically. Original New Jersey Pinelands Comprehensive Management Plan (November 1981); New Jersey Stormwater Best Management Practices Manual, Chapter 4 (Feb. 2004).

The original New Jersey Pinelands Comprehensive Management Plan, effective January 14, 1981, recognized that the ecosystem of the Pinelands cannot accept elevated concentrations of nitrogen without risk of irreparable harm. Elevated nitrogen levels in the sandy soils, surface waters and shallow groundwater of the Pinelands can provide the opportunity for invasive plant and animal species to out-compete and displace native biota that is adapted to naturally low levels of these nutrients. Moreover, elevated nitrogen levels can reduce berry production in blueberry crops. Original New Jersey Pinelands Comprehensive Management Plan (November 1981).

Since its inception, the Commission has sought to control the release of nitrogen in the Pinelands. This fundamental concern is reflected throughout the CMP, which itself states that the CMP's water quality requirements include "provisions that are aimed at controlling the amount of nitrogen which enters the environment both because nitrogen in itself is a significant pollutant, but also because it often serves as an indicator of changes in overall water quality." N.J.A.C. 7:50-10.21(b). An example is the CMP's onsite wastewater treatment system requirements, which are intended to reduce nitrogen loading where development densities preclude sufficient nitrogen dilution in groundwater. N.J.A.C. 7:50-6, Appendix A and 10.21

The Commission has chosen to impose a stricter nitrogen removal requirement than DEP, because it believes that DEP's nitrogen removal standard (removal to the "maximum extent feasible") will not sufficiently protect Pinelands resources. See N.J.A.C. 7:8-5.5(f). The Commission's decision to require 65 percent nitrogen removal from stormwater runoff in the CMP is consistent with its long history of controlling nitrogen to protect the ecosystem.

The proposed standard is attainable by combining two different best management practices in series. The New Jersey Stormwater Best Management Practices Manual (BMP

Manual) provides a method to calculate total nitrogen removal rates when this occurs. For example, based on the calculation method in the BMP Manual, stormwater routed through a vegetated swale and then discharged to an infiltration basin could achieve 65 percent removal of nitrogen.

Stormwater management measure design, siting and construction standards (proposed N.J.A.C. 7:50-6.84(a)6v, existing N.J.A.C. 7:50-6.84(a)6iv)

The Commission is proposing to update terminology at proposed N.J.A.C. 7:50-6.84(a)6v and vi, existing N.J.A.C. 7:50-6.84(a)6iv and v, by substituting the term “stormwater management measure” for “infiltration basin,” as an infiltration basin is now considered only one type of available stormwater management measures. The proposed amendments also clarify that the groundwater mounding analysis required in proposed N.J.A.C. 7:50-6.84(a)6v(3), existing N.J.A.C. 7:50-6.84(a)6iv(3), will apply only to major development. Minor changes are also being proposed at N.J.A.C. 7:50-6.84(a)6v(6), existing N.J.A.C. 7:50-6.84(a)6iv(5), to maintain consistent use of terminology.

The standards contained in proposed N.J.A.C. 7:50-6.84(a)6v(4), existing N.J.A.C. 7:50-6.84(a)6iv(4), will be clarified and reorganized by removing the following requirements: 1) limit site disturbance, as that is already addressed in the CMP at N.J.A.C. 7:50-6.23; 2) maximize stormwater management efficiencies, as the standard is vague and the CMP already requires stormwater management measures to be designed and maintained in accordance with the BMP Manual; and 3) maintain aesthetic conditions, as the standard is too subjective and the CMP already contains landscaping standards at N.J.A.C. 7:50-6.24 and 6.26

Consistent with DEP’s new stormwater rule, the Commission is proposing to require stormwater management measures that are smaller in size and distributed spatially throughout a parcel, rather than a single, larger measure. The CMP currently requires applicants to achieve this goal “to the maximum extent practical” at N.J.A.C. 7:50-6.84(a)6iv(4). This requirement will become mandatory by removing the language “to the maximum extent practical” at N.J.A.C. 7:50-6.84(a)6v(4). Further, by limiting the contributory drainage area to defined maximum acreages, the new rules eliminate the subjective nature of the prior maximum extent practical standard.

The stormwater pretreatment requirement, which is grouped together with other requirements at N.J.A.C. 7:50-6.84(a)6iv(4), will become a separate requirement at N.J.A.C. 7:50-6.84(a)6v(5). To address some confusion about whether this standard requires treatment of stormwater runoff prior to the runoff entering an infiltration basin, the Commission is proposing to reword it to more succinctly to require that methods of treating stormwater prior to entering any stormwater management measure are to be incorporated into the design of the measure to the maximum extent practical.

The Commission is also proposing to add a requirement that dry wells be designed to prevent access by amphibian and reptiles, as they become trapped in the dry wells.

As-built requirements (proposed N.J.A.C. 7:50-6.84(a)6vi, existing N.J.A.C. 7:50-6.84(a)6v)

The CMP at N.J.A.C. 7:50-6.84(a)6v requires testing of stormwater management measures after all construction has been completed to ensure that the measures are performing as designed. Amendments to the post-construction requirements at proposed N.J.A.C. 7:50-6.84(a)6vi will clarify that the requirements apply only to major development. The Commission

is also proposing minor changes at N.J.A.C. 7:50-6.84(a)6vi, existing N.J.A.C. 7:50-6.84(a)6v, to clarify that the test results required under this provision are to be reviewed either by a municipal engineer or other appropriate reviewing engineer in recognition of the fact that some development is proposed by county or State entities and therefore is not subject to municipal review and approval. The term “field permeability testing” is being shortened to “permeability testing” to acknowledge that some permeability testing is done in a lab and not in the field. Other non-substantive language changes are being proposed at N.J.A.C. 7:50-6.84(a)6vi, existing N.J.A.C. 7:50-6.84(a)6v.

Exceptions (proposed N.J.A.C. 7:50-6.84(a)6vii, existing N.J.A.C. 7:50-6.84(a)6vi)

The CMP currently allows for waivers and exceptions to be granted if an applicant for a private or public development project demonstrates that it cannot meet the CMP stormwater management standards on the site of the proposed development. (See N.J.A.C. 7:50-6.84(a)6vi(3) and (4)). The Commission is proposing to add more detail and clarity to this section, as described below, in order to strengthen off-site mitigation requirements.

Municipal variances from stormwater management requirements for private development

The Commission is proposing to clarify the circumstances under which Pinelands municipalities can grant variances from the CMP’s stormwater management requirements.

Currently, a Pinelands municipality can grant a variance (currently called a “waiver”) for a private, major development application in the Pinelands Area that cannot meet CMP stormwater management requirements on the parcel proposed for development. (See N.J.A.C. 7:50-6.84(a)6vi(3)). Municipalities will continue to have the discretion to grant such variances, but the proposed amendments at N.J.A.C. 7:50-6.84(a)6vii(1) will now incorporate the municipal

variance provision of the DEP stormwater rule at N.J.A.C. 7:8-4.6, with modifications specific to the Pinelands Area.

The municipal variance provisions of the DEP rule were not incorporated in the CMP by the Commission in 2006. However, the DEP rule, as amended in 2020, now includes more detailed off-site mitigation requirements that, with some modifications, the Commission believes will adequately protect environmental resources in the Pinelands.

By incorporating N.J.A.C. 7:8-4.6 into the CMP at proposed N.J.A.C. 7:50-6.84(a)6vii(1), municipalities will be able to grant variances from the following stormwater management standards contained in N.J.A.C. 7:8-5.3 to 5.6, which are incorporated into the CMP: 1) on-site design and performance standards for green infrastructure; 2) groundwater recharge; and 3) stormwater runoff quality standards. Municipalities will also be able to grant variances from the CMP's on-site recharge standards at proposed N.J.A.C. 7:50-6.84(a)6iv.

To further protect the resources of the Pinelands, the Commission is proposing to add conditions to DEP's variance standards. Proposed N.J.A.C. 7:50-6.84(a)6vii(1)(A) will require that all mitigation projects approved by variance be located in the Pinelands Area and within either the same HUC-14 or HUC-11 watershed as the parcel proposed for development. The DEP variance provisions at N.J.A.C. 7:8-4.6 require mitigation projects be located in the same HUC-14 watershed, but it may not always be feasible to find a mitigation site that is in both the Pinelands Area and the same HUC-14. Some HUC-14 watersheds extend beyond the boundary of the Pinelands Area and may contain very little land in the Pinelands Area. If an applicant can demonstrate that there are no available locations for off-site mitigation within that portion of the HUC-14 in the Pinelands Area, the Commission is proposing to allow a mitigation project to be

identified in the next largest watershed, the HUC-11. If a mitigation project is proposed for the HUC-11, rather than the HUC-14, it must still be located within the Pinelands Area.

The CMP currently requires that any proposed mitigation project be consistent with the municipal stormwater management plan certified by the Commission pursuant to N.J.A.C. 7:50-3, unless that plan does not identify appropriate parcels or projects where mitigation may occur. This provision will remain unchanged but will be recodified as N.J.A.C. 7:50-6.84(a)6vii(1)(B).

The Commission is also proposing at N.J.A.C. 7:50-6.84(a)6vii(5)(C), to require that the total volume of stormwater infiltrated off-site as part of a mitigation project approved by a municipality equal or exceed the on-site volume required by the CMP at proposed N.J.A.C. 7:50-6.84(a)6iv.

Exceptions from stormwater requirements for public development projects

The Commission is proposing to clarify and strengthen the off-site mitigation requirements for public development projects at proposed N.J.A.C. 7:50-6.84(a)6vii(2). It has decided not to adopt the DEP provisions for waivers and exemptions for public development projects at N.J.A.C. 7:50-5, as the DEP rule imposes less stringent requirements on public linear projects, such as roads, for off-site mitigation and provides a blanket exemption from implementing stormwater management measures for utility lines, including pipelines, with no requirement for off-site mitigation.

In addition to the DEP provisions being less stringent than the current CMP off-site mitigation requirements for stormwater management, they are also fundamentally inconsistent with the way the Commission has traditionally addressed public development in the Pinelands Area that cannot meet other standards in the CMP. Such development must either seek a Waiver of Strict Compliance to relieve an extraordinary hardship or satisfy a compelling public need or

seek a Memorandum of Agreement (MOA) with the Commission that provides for a deviation from CMP standards. N.J.A.C. 7:50-4:61-4.70 and 4.52(c)2. In either case, waiver or MOA, offsetting measures are required to ensure the protection of Pinelands resources. These offsetting measures often take the form of land preservation or redemption of Pinelands Development Credits.

To maintain consistency in the treatment of public development projects throughout the CMP, the Commission is proposing that off-site mitigation continue to be required whenever the Commission grants relief from CMP stormwater standards for a public development application. To provide stronger protection of Pinelands environmental resources, the Commission is proposing, at N.J.A.C. 7:50-6.84(a)6vii(2), to strengthen the off-site mitigation requirements by requiring that public development projects meet the same conditions and requirements that private development projects are required to meet to receive a municipal variance from stormwater management standards, as discussed above. This would apply to both linear projects, such as a roadway, nonlinear projects, such as a parking lot for a public school, and utility lines.

It should be noted that only a handful of applicants have applied for exceptions since the CMP was amended in 2006 to allow for them. For example, road and sidewalk widening projects that could not meet stormwater management requirements because the projects traversed freshwater wetlands were required to offset the effects of the projects. For one road widening project, the Commission required the applicant to offset the proposed increase in impervious surfaces and changes in rates of runoff by removing an area of existing pavement that was located in the same drainage area as the proposed improvements.

Another public development project involved the construction of a commuter parking lot across from a train station on the site of a previous soil remediation project. Stormwater

management measures would not meet the depth to seasonal high or permeability rate standards of the CMP. The Commission required the applicant to offset the increase in impervious surfaces by removing sections of existing pavement from two nearby roads that were located within the same drainage area as the commuter parking lot. The applicant also was required to install a manufactured treatment device (MTD) to treat stormwater from the parking lot prior to entering the existing stormwater conveyance infrastructure.

The Commission's standards for exceptions and mitigation will continue to be more stringent than those applicable in the rest of the State but will provide better protection of the Pinelands and remain consistent with long-standing Commission policy.

Other changes to "Exceptions" provision

The provision that prohibits the application of any provision in DEP's stormwater rule that allows for exemptions and waivers from the stormwater standards, unless explicitly allowed in the CMP, will be recodified as N.J.A.C. 7:50-6.84(a)6vii(3).

The Commission is also proposing to add a provision at N.J.A.C. 7:50-6.84(a)6vii(4) to explicitly ban the granting of variances or exceptions from the CMP's prohibition against discharging stormwater runoff into wetlands and streams.

Maintenance Standards (proposed N.J.A.C. 7:50-6.84(a)6viii, existing N.J.A.C. 7:50-6.84(a)6vii)

The Commission is proposing to clarify that the CMP's existing stormwater maintenance standards, now at N.J.A.C. 7:50-6.84(a)6viii, apply only to major development. Minor, non-substantive language changes are also proposed at N.J.A.C. 7:50-6.84(a)6viii(1)(A), existing

N.J.A.C. 7:50-6.84(a)6vii(1), to clarify that maintenance plans for major development are required pursuant to the DEP rule and must be supplement in accordance with the CMP.

The Commission is also proposing to add less stringent maintenance standards for minor development at N.J.A.C. 7:50-6.84(a)6viii(2). For minor development, a maintenance plan will be required in accordance with N.J.A.C. 7:50-6.84(a)6viii(2)(A). Such a maintenance plan must include a copy of the stormwater plan required pursuant to N.J.A.C. 7:50-6.84(a)6iv(4) and a description of all required maintenance activities and the frequency of such maintenance activities. Proposed N.J.A.C. 7:50-6.84(a)6viii(2)(B) is being added to permit the assignment or transfer of stormwater maintenance responsibilities to the owner or tenant of the parcel subject to the minor development application.

New Jersey Stormwater Best Practices Manual (proposed N.J.A.C. 7:50-6.84(a)6ix, existing N.J.A.C. 7:50-6.84(a)6viii)

Minor, non-substantive changes are being proposed at N.J.A.C. 7:50-6.84(a)6ix (existing N.J.A.C. 7:50-6.84(a)6viii)).

As the Commission has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking requirement at N.J.A.C. 1:30-3.3(a)5.

Social Impact

By continuing to incorporate key provisions of the DEP's recently amended stormwater management rule, while retaining and adding more stringent measures to further protect the resources of the Pinelands, the Commission anticipates this rulemaking will have a positive

social impact in the Pinelands Area. Protection of resources in the Pinelands benefits society within the Pinelands and in the surrounding areas.

The social benefits from the DEP's amended stormwater management rule are described in detail in its 2019 rule proposal at 50 N.J.R. 2375(a) and include reducing flooding potential, improving water quality, increasing groundwater recharge, protecting stream channel integrity, reducing erosion, maintaining the adequacy of bridges and culverts, improving air quality, reducing heat island effect, and decreasing energy use. Through incorporation of key provisions of DEP's rule, these benefits will extend to the Pinelands Area.

In addition to the benefits listed above, the Commission's modifications to the DEP's stormwater requirements will have an even greater positive social impact in the Pinelands Area, as the modifications will provide enhanced protection of Pinelands resources. Requiring stormwater management for minor residential and nonresidential development will result in the infiltration of more stormwater, removal of more pollutants from stormwater runoff prior to its entering groundwater, maintenance of the water levels of the vital Kirkwood-Cohansey Aquifer, and the further reduction of localized flooding in the Pinelands.

The Commission's more stringent nitrogen removal requirement will also have a positive social impact, as the unique ecology of the Pinelands Area is especially sensitive to nitrogen. Fertilizer on lawn and turf has been identified as the largest source of nitrogen pollution in the State and the Commission's quantitative nitrogen removal requirement will extend to newly developed permanent lawn and turf areas. This is expected to result in greater nitrogen removal from the stormwater flowing from these areas.

The stricter conditions for off-site mitigation will also provide additional protections of Pinelands resources by ensuring that all mitigation for private or public development be required

to offset the effects of stormwater runoff from the proposed development within the same watershed and that the offsets occur within the Pinelands Area.

To be granted an exception from meeting stormwater requirements on-site, a public project will have to meet the same conditions and be subject to the same requirements as a private development that cannot meet the standards onsite. This requirement is more stringent than DEP's waiver and exemption standards for public linear projects but is consistent with how the Commission handles public development projects in other CMP provisions.

Each of the stricter stormwater management measures being proposed by the Commission will result in societal benefits by affording enhanced protection of the resources in the Pinelands.

Economic Impact

The Commission's proposal is expected to have little to no economic impact and in some areas, a positive impact. The DEP summarized the economic impact of its amended stormwater rule at 50 N.J.R. 2375(a). This statement addresses only those economic impacts of the modifications to the DEP rule that the Commission is proposing in the CMP, as well as some additional proposed changes to the CMP's stormwater provisions.

The following parties may be economically affected by the proposed amendments to the CMP: land developers, suppliers of green infrastructure components (such as plants, pervious pavement, bioretention soil mixes), property owners, applicants, and review agencies.

Land developers

The Commission does not expect that its proposed green infrastructure requirement for minor residential development will significantly affect the cost of a development project. Developers will be required only to retain and infiltrate stormwater runoff generated from the roof(s) of the dwellings, which in most cases will be a much smaller total volume than that which is required for major development. Developers will likely have to install only one or possibly two green infrastructure best management practices (BMPs), such as a rain garden and/or dry well(s) to infiltrate stormwater runoff from the roof(s) of the dwelling(s). Green infrastructure BMPs should not add any significant cost to the development project. For example, rain gardens can be installed in lieu of more conventional landscape plantings, providing similar esthetic benefits and additional environmental benefits. In addition to replenishing groundwater, properly located drywells can also direct roof runoff away from residences, preventing costly damage from moisture and seepage into basements.

The proposed requirements for stormwater management on minor nonresidential projects is also not expected to result in a significant cost increase. If a minor nonresidential development involves greater than 1,000 square feet of impervious surface used by motor vehicles, the developer will be required to infiltrate the stormwater runoff from only those new impervious surfaces, with measures designed to reduce the post-construction load of total suspended solids (TSS) in the runoff generated from the water quality design storm. A green infrastructure BMP required to infiltrate the water quality design storm is relatively small, about one-fourth the size of an infiltration BMP designed to infiltrate the runoff volume from the larger 10-year, 24 hour storm.

Applicants for minor development will be required to conduct soil tests and submit plans certified by a design engineer as part of the application process, and a maintenance plan, which

will result in additional new costs. These additional costs may be partially offset by having the engineer perform the tests in conjunction with soil testing performed for an onsite septic system and/or testing performed to identify the distance between the seasonal high-water table and the basement floor. Because proper design and operation of an infiltration BMP such as a rain garden, a dry well or an infiltration basin is highly dependent on a thorough evaluation of site specific soil and groundwater conditions, the evaluation of the site by a licensed professional engineer is considered essential.

The DEP cited research by the United States Environmental Protection Agency (USEPA) in its 2019 rule proposal at 50 N.J.R. 2375(a) showing that, for the majority of 17 case studies, low impact development, which includes the use of green infrastructure BMPs, such as bioretention systems, grass swales, and pervious paving systems, resulted in reduced overall costs (15 to 80 percent) when compared to conventional designs, which include underground vaults, manufactured treatment devices, curbs, and gutters (USEPA, 2007). In only a few cases were the initial low impact development costs higher than those for conventional designs. The research also showed that in all cases, the use of low impact development resulted in reduced volumes and pollutant loadings, as well as non-monetized benefits such as improved aesthetics, expanded recreational opportunities, and increased property values (USEPA, 2007). Additional information on costs associated with green infrastructure can be found at DEP's rule proposal at 50 N.J.R. 2375(a).

The proposed amendments to the requirement that developers remove 90 percent of TSS from stormwater runoff in high pollutant load areas (HPLA) is intended to clarify the intent of the existing CMP rule language at N.J.A.C 7:50-6.84(a)6iii(2)(C). The CMP currently implies that stormwater runoff from HPLA must be pretreated to achieve the 90 percent TSS removal

prior to infiltration. The amendment will clarify that the requirement can be met by routing stormwater runoff through one or more stormwater management measures, which could include a bioretention system alone or an infiltration basin as the last BMP in the treatment train. Importantly, the 90 percent TSS removal would not need to be attained prior to infiltration but can instead be met through infiltration. This will significantly reduce costs associated with installation of stormwater management measures. For example, a gas station could use an infiltration basin to help meet the 90 percent TSS removal requirement and would not be required to use multiple TSS removal BMPs before the stormwater enters an infiltration basin, as the CMP currently implies.

Providing more flexibility to developers in how they meet the 90 percent TSS removal requirement can also reduce costs. Whereas the CMP currently identifies specific types of green infrastructure BMPs that must be used to meet the 90 percent TSS reduction requirement, the proposed changes will give a developer greater latitude on which BMPs it can use, potentially reducing costs.

Likewise, the proposed clarification that developers are required only to treat stormwater runoff prior to entering infiltration basins to the maximum extent practical could reduce costs to developers.

There are no anticipated increased costs to developers who seek municipal variances or exceptions from the onsite stormwater management requirements under the proposed changes to the CMP.

Suppliers of Green Infrastructure Inputs

With the expanded requirement of stormwater management for minor development in the Pinelands Area, the Commission expects a positive economic impact to the local providers of select fill soils, native plants, and other materials related to the construction of green infrastructure -- beyond the positive economic impact already anticipated based on the expanded requirements for green infrastructure for major development.

Property Owners

Property owners who are also the land developers of minor development projects will incur the same costs as land developers associated with installation of green infrastructure, as described above.

Property owners who acquire land that was part of a minor development project will incur modest, additional costs associated with maintaining the required stormwater management measures. As the DEP explained in its 2019 rule proposal at 50 N.J.R. 2375(a), green infrastructure maintenance is equal to or lower than the maintenance cost of conventional stormwater management measures. The Commission is proposing modified stormwater management for minor development that will necessitate a few small structures. For example, it is unlikely that a minor residential development will require a large retention basin, which would be more costly to construct and maintain. Likewise, green infrastructure BMPs can be used to meet the stormwater management requirements for minor nonresidential development and for reduction in total suspended solids from high pollutant loading areas.

As DEP reported in its rule proposal at 50 N.J.R. 2375(a), green infrastructure has direct and indirect economic and social benefits that may increase the value of properties containing, or in the vicinity of, green infrastructure over those containing or near conventional stormwater management BMPs.

Applicants and Review Agencies

The proposed stormwater management requirements for minor development may result in increased costs for municipalities and local review agencies who will be required to review the stormwater plans associated with such development applications. However, the specific and objective green infrastructure requirements and design details in the NJDEP's Stormwater BMP Manual will provide clear direction to the designer and reviewer of stormwater management design plans.

The Commission does not expect any additional costs to municipalities associated with the proposed standards for granting variances from the onsite stormwater management requirements. The CMP currently authorizes municipalities to grant such variances and the proposed changes provide additional guidance and specificity to municipalities in reviewing variance applications.

As DEP explained in its rule proposal at 50 N.J.R. 2375(a), most review agencies are municipalities who own and operate a municipal separate storm sewer system. Because green infrastructure reduces the volume of stormwater through infiltration, evapotranspiration, or reuse, downstream storm sewer systems will receive less stormwater volume from sites managed with green infrastructure than sites managed with conventional stormwater facilities. As a result, review agencies may see less additional expenditures related to stormwater management due to a reduction in stormwater volume leaving private development sites and entering the municipal storm sewer system.

Finally, Pinelands municipalities will also incur costs because of the need to revise their stormwater management plans and stormwater control ordinances to conform with the proposed amendments, once adopted. The Commission will continue with its normal practice of drafting

and providing model ordinances for municipalities to consider, thereby offsetting some of these costs. While the adoption of master plan and ordinance amendments represents a cost to municipalities, it is expected to be nominal.

Environmental Impact

The Commission anticipates that the proposed stormwater management amendments will have significant environmental benefits. The amendments are expected to minimize impacts of increased stormwater runoff due to climate change and result in enhanced protection of the Pinelands Area. Specifically, they will result in the infiltration of more stormwater, removal of more pollutants from stormwater runoff prior to entering groundwater, maintenance of water levels of the Kirkwood-Cohansey Aquifer, and the further reduction of localized flooding in the Pinelands.

By incorporating key provisions of the DEP rule into the CMP and by modifying many of those provisions to impose additional and more stringent requirements, the environmental benefits described by DEP at 50 N.J.R. 2375(a) will be even greater in the Pinelands Area.

Requiring stormwater management for the runoff from the roofs of minor residential development will result in the infiltration of a much greater amount of stormwater. As discussed in the summary above, the vast majority of completed applications for residential development in the Pinelands Area over the past 11 years were for minor development. Those developments were required to manage stormwater runoff only if the proposed development involved the construction of roads. The proposed rule will capture much more stormwater runoff for infiltration and is expected to help reduce localized flooding and maintain Kirkwood Cohansey Aquifer water levels.

Similarly, by expanding stormwater management to minor non-residential development, the rulemaking is expected to have a positive environmental impact through the greater removal of pollutants from stormwater runoff. The onsite infiltration of stormwater runoff from motor vehicle surfaces for any minor non-residential development that results in an increase of 1,000 square feet or more of regulated motor vehicle surface, as defined at N.J.A.C. 7:8-1.2, will ensure that most of the pollutants leaked from motor vehicles and deposited by tire wear on these sites will get captured before infiltrating through the soils and into groundwater.

Setting a specific nitrogen removal standard of 65 percent will help maintain the ecological balance within the Pinelands Area, as an overabundance of nitrogen in water can upset that balance and adversely affect the environment. This is especially so in the Pinelands Area, which is particularly sensitive to nitrogen. The original New Jersey Pinelands Comprehensive Management Plan from 1981 recognized that the ecosystem of the Pinelands cannot accept elevated concentrations of nitrate without risk of irreparable harm. Elevated nitrogen levels in the sandy soils of the Pinelands can upset the nutrient balance that the plants rely upon, with negative impacts that range from harming local populations of threatened and endangered plant species to reducing berry production in blueberry crops. Original New Jersey Pinelands Comprehensive Management Plan (November 1981). The nitrogen removal requirement will also extend to newly developed permanent lawn and turf areas, as fertilizer on lawn and turf has been identified as the largest source of nitrogen pollution in the State.

The proposed conditions for off-site recharge of stormwater will provide stronger environmental protection of the Pinelands Area. The CMP will require off-site mitigation for both private and public projects that cannot meet the stormwater management requirements on the parcel of land to be developed. By requiring off-site mitigation for all public development

projects, the CMP will continue to be more restrictive than the DEP rule and in turn, more protective of the Pinelands environmental resources. The current prohibition against discharging stormwater runoff into wetlands will also continue to apply to offsite mitigation, offering more ecological protection of the Pinelands Area.

The CMP will also continue to require that all underground and above-ground utility line projects meet the stormwater runoff requirements. This is more stringent than the DEP rule, which exempts utility lines from meeting the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements. Under the proposed amendments to the CMP, utility line projects will be eligible for off-site mitigation if they cannot meet the requirements onsite.

Requiring green infrastructure to manage stormwater runoff will also have positive impacts on the environment by helping reduce carbon dioxide, a greenhouse gas that is a significant contributor to climate change. The vegetation that green infrastructure often relies upon to filter pollutants from stormwater can sequester carbon from the atmosphere and enhance carbon sequestration in soils. In addition, transitioning from concrete-based stormwater management infrastructure to green infrastructure will reduce greenhouse gas emissions associated with the manufacturing of concrete infrastructure.

The Commission's stormwater management standards, including those for exceptions and mitigation, will continue to be more stringent than those applicable in the rest of the State under the DEP stormwater rule, but will provide better protection of the Pinelands and remain consistent with long-standing Commission policy.

Federal Standards Statement

Section 502 of the National Parks and Recreation Act of 1978 (16 U.S.C. § 471i) called upon the State of New Jersey to develop a comprehensive management plan for the Pinelands National Reserve. The original plan adopted in 1980 was subject to the approval of the United States Secretary of the Interior, as are all amendments to the plan.

The Federal Pinelands legislation sets forth rigorous goals that the plan must meet, including the protection, preservation, and enhancement of the land and water resources of the Pinelands. The proposed amendments are designed to meet those goals by imposing stringent stormwater management requirements on development in the Pinelands Area, which will provide greater protection of the Pinelands resources.

The Federal Clean Water Act (33 U.S.C. §§ 251 et seq.) regulates stormwater runoff and nonpoint source pollution control. The Federal Clean Water Act requires permits under Section 402 of that Act (33 U.S.C. § 1342) for certain stormwater discharges. Section 319 of the Clean Water Act (33 U.S.C. § 1329) authorizes a Federal grant-in-aid program to encourage states to control nonpoint sources. The Commission's existing and proposed regulations are designed to control stormwater and minimize nonpoint source pollution and are fully consistent with the Federal requirements.

There are no other Federal requirements that apply to the subject matter of these amendments.

Jobs Impact

The Commission anticipates that this rulemaking will not have any significant impact on job creation and retention in New Jersey beyond the minimal impacts sited by the DEP at 50 N.J.R. 2375(a). Engineering and other professional work will be needed to comply with the stormwater management construction and maintenance requirements for minor residential and

non-residential development in the Pinelands Area but overall, the Pinelands Commission does not believe that the rulemaking will result in a significant impact on jobs.

Agriculture Industry Impact

The rulemaking will not impact agricultural uses in the Pinelands Area, as agricultural activities are not included in the CMP definitions of major and minor development and thus not subject to the stormwater management requirements. The positive impacts on the environment, such as reduced flooding, improved water quality, increased groundwater recharge, and increased protection of stream channel integrity, could benefit the agricultural industry.

Regulatory Flexibility Analysis

In accordance with the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the Commission has evaluated whether the proposed amendments will impose any reporting, recordkeeping, and other compliance requirements on small businesses. Most businesses in the Pinelands Area may be characterized as small in size and employment compared to the rest of New Jersey. However, the proposed amendments do not differentiate by size of business and thus will impact all businesses equally.

Small businesses proposing minor development in the Pinelands Area may be required to construct and maintain stormwater management measures, albeit to a lesser extent than is required for major development. Additional costs may also be incurred from hiring professional consultants such as engineers. Small businesses proposing major development will have to comply with the Commission's more stringent, quantitative nitrogen removal standard.

The impact of the new stormwater management requirements for minor and major development is not unique to small businesses; the costs that may be incurred by small businesses are the same as to any individual person or homeowner undertaking minor or major development, as defined in the CMP.

The Commission has balanced the costs imposed on small businesses by the proposed amendments against the environmental benefits to be achieved by the new stormwater management requirements and determined that it would be inappropriate to exempt small businesses from these requirements. As noted above in the Environmental Impact statement, the additional, more stringent stormwater management requirements being proposed by the Commission will result in the infiltration of more stormwater, removal of more pollutants from stormwater runoff prior to entering groundwater table, maintenance of water levels of the Kirkwood-Cohansey Aquifer, and the further reduction of localized flooding in the Pinelands.

Housing Affordability Impact Analysis

The Commission does not anticipate this rulemaking will have a significant impact on the affordability of housing. Minor residential development will be required to retain and infiltrate stormwater runoff generated from the roof(s) of the dwellings by installing green infrastructure best management practices. In most cases, developers will have to install only one or two green infrastructure best management practices (BMPs), such as a rain garden and dry well. This requirement is not expected to add any significant cost associated with housing or have an effect on the affordability of housing.

Smart Growth Development Impact Analysis

N.J.S.A. 52:14B-4 requires that proposed amendments be evaluated to determine their impacts, if any, on housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan (State Plan). Planning Areas 1 and 2 do not exist in the Pinelands Area. Likewise, the State Plan does not designate centers within the Pinelands Area. Instead, N.J.S.A. 52:18A-206.a provides that the State Plan shall rely on the Pinelands CMP for land use planning in the Pinelands. The Commission has evaluated the impact of the proposed amendments on Pinelands management areas designated by the CMP that are equivalent to Planning Areas 1 and 2 and designated centers, namely, the Regional Growth Areas, Pinelands Villages, and Pinelands Towns.

These three management areas are designated for development by the CMP and are equivalent to designated centers under the State Plan. The rulemaking will not increase the amount of permitted residential development in these management areas and are not expected to result in any changes in housing density within designated centers or in any other portions of the Pinelands Area.

There will be no effect on new construction in Planning Areas 1 and 2, as designated by the State Development and Redevelopment Plan, as these State Planning Areas do not exist in the Pinelands Area.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Commission has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

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

SUBCHAPTER 2. INTERPRETATIONS AND DEFINITIONS

7:50-2.11 Definitions

"HUC 11" or "hydrologic unit code 11" means an area within which water drains to a particular receiving surface water body, also known as a subwatershed, which is identified by an 11-digit hydrologic unit boundary designation, delineated within New Jersey by the United States Geological Survey.

"HUC 14" or "hydrologic unit code 14" means an area within which water drains to a particular receiving surface water body, also known as a subwatershed, which is identified by a 14-digit hydrologic unit boundary designation, delineated within New Jersey by the United States Geological Survey.

SUBCHAPTER 3. CERTIFICATION OF COUNTY, MUNICIPAL, AND FEDERAL INSTALLATION PLANS

7:50-3.39 Standards for certification of municipal master plans and land use ordinances

- (a) Municipal master plans and land use ordinances, and any parts thereof, shall be certified only if:
1. (No change.)
 2. They include provisions that:
 - i.-vii. (No change.)

- viii. Establish and implement a mitigation plan as part of any municipal stormwater management plan and ordinance adopted in accordance with N.J.A.C. 7:8-4.2(c)11 that:
- (1) Identifies those measures necessary to offset the granting of [exceptions to] **variances from** the standards set forth in N.J.A.C. 7:50-6.84(a)6i through v;
 - (2) Specifies that [exceptions to] **variances from** the standards set forth in N.J.A.C. 7:50-6.84(a)6i through v will be considered only in cases where an applicant is able to demonstrate **in accordance with N.J.A.C. 7:8-4.6** that such standards cannot be met on a particular parcel [or where the municipality determines that stormwater management would more effectively be achieved through alternative measures];
 - (3) Requires that any [off-site] mitigation measures identified pursuant to (a)2viii(1) above occur within the Pinelands Area and the same [drainage area] **HUC14** as the parcel proposed for development, **unless no such mitigation project is available, in which case the mitigation measures shall be located within the Pinelands Area and same HUC11 as the parcel proposed for development; and**
 - [(4) Allows for monetary contributions to be made to the municipality in lieu of performing the off-site mitigation measures identified pursuant to (a)2viii(1) above, with the

amount of any such in-lieu contribution being equivalent to the cost of implementing and maintaining the stormwater

management measures for which an exception is granted; and

- (5) Requires that the municipality expend any contributions collected pursuant to (a)2viii(4) above within five years of their receipt; and]

ix. (No change.)

3.-13. (No change.)

(b) (No change.)

SUBCHAPTER 6. MINIMUM STANDARDS FOR POINT AND NON-POINT SOURCE DISCHARGES

7:50-6.84 Minimum standards for point and non-point source discharges

(a) The following point and non-point sources may be permitted in the Pinelands:

1.-5. (No change.)

6. Surface water runoff in accordance with N.J.A.C. 7:8-4.6, 5 and 6, as amended, except as modified and supplemented **as follows** [pursuant to the following]:

- i. **For purposes of this section, the definition of terms adopted by the New Jersey Department of Environmental Protection at N.J.A.C. 7:8-1.2 are incorporated herein, unless a term is defined differently at N.J.A.C. 7:50-2.11, in which case the definition in this Plan shall apply.**

[i.]ii. Runoff rate and volume, runoff quality and groundwater recharge methodologies:

- (1) **Stormwater** [R]runoff rate and volumes shall be calculated in accordance with [the USDA Natural Resources Conservation Service (NRCS) Runoff Equation, Runoff Curve Numbers, Dimensionless Unit Hydrograph, as described in the NRCS National Engineering Handbook Part 630 - Hydrology and Title 210 - Engineering, 210-3-1 Small Watershed Hydrology (WINTR-55) Version 1.0, incorporated herein by reference, as amended and supplemented. Information regarding these methodologies is available from the Natural Resources Conservation Service website at http://www.wsi.nrcs.usda.gov/products/W2Q/H&H/Tools_Models/WinTr55.html https://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1044171.pdf or at Natural Resources Conservation Service, 220 Davidson Avenue, Somerset, New Jersey 08873; (732) 537-6040. Alternative methods of calculation may be utilized, provided such alternative methods are at least as protective as the NRCS methodology within when considered on a regional stormwater management area basis] **N.J.A.C. 7:8-5.7, except that the Rational Method for peak flow and the Modified Rational Method for hydrograph computations shall not be used; and**

- (2) Stormwater runoff shall be calculated using NRCS methodology by separately calculating and then combining the runoff volumes from pervious and directly connected impervious surfaces within each drainage area within the parcel;
- (3) Calculations of stormwater runoff from unconnected impervious surfaces shall be based, as applicable, upon the Two-Step Method described in the New Jersey Stormwater Best Management Practices Manual developed by the New Jersey Department of Environmental Protection, dated February 2004, incorporated herein by reference, as amended and supplemented and available at <http://www.njstormwater.org/bmp-manual2.htm>, or the NRCS methodology; and]
- [(4)](2) In calculating stormwater runoff using the NRCS methodology, the appropriate 24-hour rainfall depths developed by the National Oceanic and Atmospheric Administration, https://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.html?bkmrk=nj, shall be utilized. [Information regarding these rainfall data is available from the National Oceanic and Atmospheric Administration (NOAA) at <http://www.hdsc.nws.noaa.gov/hdsc/pfds/index.html> or DOC/NOAA/National Weather Service, Office of Hydrologic Development, Hydrometeorological Design Studies Center, Bldg.

SSMC2-W/OHD13, 1325 East-West Highway, Silver Spring,
Maryland 20910-3283; (301) 713-1669 extension 154.]

[ii]iii. Runoff shall meet the requirements in [(a)6ii(4) and (5) below and one of (a)6ii(1), (2) or (3)] **N.J.A.C. 7:8-5.6 and (1) and (2)** below:

- (1) The post-development stormwater runoff hydrographs generated from the parcel by a two-year, 10-year and 100-year storm, each of a 24-hour duration, shall not exceed, at any point in time, the parcel's pre-development runoff hydrographs for the same storms;
or
- (2) Under post-development site conditions:
 - (A) There shall be no increase in pre-development stormwater runoff rates from the parcel for the two-year, 10-year and 100-year storm; and
 - (B) Any increased stormwater runoff volume or change in stormwater runoff timing for the two-year, 10-year and 100-year storms shall not increase flood damage at or downstream of the parcel. When performing this analysis for the predevelopment site conditions, all off-site development levels shall reflect existing conditions. When performing this analysis for post-development site conditions, all off-site development levels shall reflect full development potential in accordance with those municipal

land use ordinances certified by the Commission pursuant to N.J.A.C. 7:50-3; or

(3) The peak post-development stormwater runoff rates for the parcel for the two-year, 10-year and 100-year storms shall be 50, 75 and 80 percent, respectively, of the parcel's peak pre-development stormwater rates for the same storms. Peak outflow rates from onsite stormwater measures for these storms shall be adjusted where necessary to account for the discharge of increased stormwater runoff rates and/or volumes from areas of the parcel not controlled by onsite measures. These percentages need not be applied to those portions of the parcel that are not proposed for development at the time an application is submitted to the Commission pursuant to N.J.A.C. 7:50-4, provided that:

- (A) Such areas have been permanently protected from future development by conservation easement, deed restriction, or other acceptable legal measures; or
- (B) A deed notice has been filed stating that such areas will be subject to the standards of this section at the point in time they are proposed for development in the future;]

[(4)] (1) There shall be no direct discharge of stormwater runoff from any point or nonpoint source to any wetland, wetlands transition area or surface waterbody. In addition, stormwater runoff shall not be directed in such a way as to increase the volume and rate of discharge into any **wetland**,

wetlands transition area or surface water body from that which existed prior to development of the parcel; and

[(5)](2) To the maximum extent practical, there shall be no direct discharge of stormwater runoff onto farm fields [so as] to protect farm crops from damage due to flooding, erosion, and long-term saturation of cultivated crops and cropland.

[iii.]iv. Recharge standards

(1) For all major development[s], **as defined in N.J.A.C. 7:50-2.11**, the total runoff volume generated from the net increase in impervious surfaces by a 10-year, 24-hour storm shall be retained and infiltrated onsite;

(2) **For all minor development, as defined at N.J.A.C. 7:50-2.11, that involves the construction of four or fewer dwelling units, the runoff generated from the total roof area of the dwelling(s) by a 10-year, 24-hour storm shall be retained and infiltrated as follows:**

(A) **Installation of one or more green infrastructure stormwater management measures designed in accordance with the New Jersey Stormwater Best Management Practices (BMP) Manual as defined in N.J.A.C. 7:8-1, incorporated herein by reference as amended and supplemented and available at**

https://www.nj.gov/dep/stormwater/bmp_manual2.htm

(hereinafter referred to as “BMP Manual” or “New Jersey Stormwater Best Management Practices Manual”). Appropriate green infrastructure stormwater management measures include, but are not limited to:

- (I) Dry wells;**
- (II) Pervious pavement systems; and**
- (III) Small scale bioretention systems, including, rain gardens;**

(3) For minor development, as defined at N.J.A.C. 7:50-2.11, that involves any nonresidential use, the following standards shall apply:

- (A) If the proposed development will result in an increase of 1,000 square feet or more of regulated motor vehicle surfaces as defined at N.J.A.C. 7:8-1.2, the stormwater runoff quality standards contained in N.J.A.C. 7:8-5.5 shall apply. The water quality design storm volume generated from these surfaces shall be recharged onsite; and**
- (B) If the proposed development involves the grading, clearing or disturbance of an area in excess of 5,000 square feet within any five-year period, the standards**

for major development set forth at (a)6i through ix shall also apply;

(4) In order to demonstrate compliance with the requirements of (2) or (3) above, applications for minor development shall include at least the following information:

(A) A plan, certified by a design engineer, that includes the type and location of each green infrastructure stormwater management measure and a cross section drawing of each such measure showing the associated soil profile, soil permeability test elevation, soil permeability rate and the elevation of and vertical separation to the seasonal high water table;

(B) A certification by the design engineer that each green infrastructure stormwater management measure will not adversely impact basements or septic systems of the proposed development;

[(2)] (5) In high pollutant loading areas (HPLA) and areas where stormwater runoff is exposed to source material, as defined at N.J.A.C. 7:8-5.4[(a)2iii(1) and (2)] (b)3i and ii, the following additional water quality standards shall apply:

(A) (No change.)

(B) The stormwater runoff originating from HPLAs and areas where stormwater runoff is exposed to source material shall

be segregated and prohibited from co-mingling with stormwater runoff originating from the remainder of the parcel **unless it is first routed through one or more stormwater management measures required in (C), below;**

- (C) The stormwater runoff from HPLAs and areas where stormwater runoff is exposed to source material shall [be subject to pretreatment to achieve 90 percent removal of total suspended solids] **incorporate stormwater management measures designed to reduce the post-construction load of total suspended solids (TSS) by at least 90 percent in stormwater runoff generated** from the water quality design storm established in N.J.A.C. 7:8-5.5[(a)](d) [prior to infiltration, using: one or more of the following measures, designed in accordance with the New Jersey Best Management Practices Manual developed by the New Jersey Department of Environmental Protection, dated February 2004, incorporated herein by reference, as amended and supplemented] **using one or more of the measures identified in (I) and (II) below. In meeting this requirement, the minimum 90 percent removal of total suspended solids may be achieved by utilizing multiple stormwater management measures in series:**

- (I) [Bioretention system] **Any measure designed in accordance with the New Jersey Stormwater Best Management Practices Manual to remove total suspended solids. Any such measure must be constructed to ensure that the lowest point of infiltration within the measure maintains a minimum of two feet of vertical separation from the seasonal high water table; and**
- [(II) Sand filter;
- (III) Wet ponds, which shall be hydraulically disconnected by a minimum of two feet of vertical separation from the seasonal high water table and shall be designed to achieve a minimum 80 percent removal of total suspended solids;
- (IV) Constructed stormwater wetland: and]
- [(V)](II) Other measures certified by the Department of Environmental Protection, including a Media Filtration System manufactured treatment device with a minimum 80 percent removal of total suspended solids as verified by the New Jersey Corporation for Advanced Technology; and
- (D) If the potential for contamination of stormwater runoff by petroleum products exists onsite, prior to being conveyed to

the [pretreatment facility] **stormwater management measure** required in [(a)6iii(4)](C) above, the stormwater runoff from the HPLAs and areas where stormwater runoff is exposed to source material shall be conveyed through an oil/grease separator or other equivalent manufactured filtering device providing for the removal of petroleum hydrocarbons.

- (6) For all major development, as defined at N.J.A.C. 7:50-2.11, stormwater management measures shall be designed to achieve a minimum of 65 percent reduction of the post-construction total nitrogen load from the developed site, including permanent lawn or turf areas that are specifically intended for active human use as described in N.J.A.C. 7:50-6.24(c)3, in stormwater runoff generated from the water quality design storm. In achieving a minimum 65 percent reduction of total nitrogen, the design of the site shall include green infrastructure in accordance with the BMP Manual and shall optimize nutrient removal. The minimum 65 percent total nitrogen reduction may be achieved by using a singular stormwater management measure or multiple stormwater management measures in series.**

[iv.]v. [Infiltration basin] **Stormwater management measure** design, siting and construction standards:

- (1) Stormwater [infiltration facilities] **management measures designed to infiltrate stormwater** shall be designed, constructed and maintained to provide a minimum separation of at least two feet between the elevation of the lowest point of [the bottom of the] infiltration [facility] and the seasonal high water table;
- (2) Stormwater [infiltration facilities] **management measures designed to infiltrate stormwater** shall be sited in suitable soils verified by [field] testing to have permeability rates between one and 20 inches per hour. A factor of safety of two shall be applied to the soil's [field-tested] permeability rate in determining the infiltration [facility's] **measure's** design permeability rate. If such soils do not exist on the parcel proposed for development or if it is demonstrated that it is not practical for engineering, environmental or safety reasons to site the stormwater infiltration [basin] **measures(s)** in such soils, the stormwater infiltration [basin] **measure(s)** may be sited in soils verified by [field] testing to have permeability rates in excess of 20 inches per hour, provided that stormwater is routed through a bioretention system prior to infiltration. Said bioretention system shall be designed, installed and maintained in accordance with the New Jersey Stormwater Best Management Practices Manual [developed by the New Jersey

Department of Environmental Protection, dated February 2004, incorporated herein by reference, as amended and supplemented];

- (3) **For all major development, as defined at N.J.A.C. 7:50-2.11,** [G]groundwater mounding analysis shall be required for purposes of assessing the hydraulic impacts of mounding of the water table resulting from infiltration of stormwater runoff from the maximum storm designed for infiltration. The mounding analysis shall provide details and supporting documentation on the methodology used. Groundwater mounds shall not cause stormwater or groundwater to breakout to the land surface or cause adverse impacts to adjacent water bodies, wetlands or subsurface structures, including, but not limited to basements and septic systems. Where the mounding analysis identifies adverse impacts, the [infiltration facility] **stormwater management measure** shall be redesigned or relocated, as appropriate;
- (4) [To the maximum extent practical, stormwater management measures on a parcel shall be designed to limit site disturbance, maximize stormwater management efficiencies, maintain or improve aesthetic conditions and incorporate pretreatment as a means of extending the functional life and increasing the pollutant removal capability of structural stormwater management facilities.] The use of stormwater management measures that are smaller in size and distributed spatially throughout a parcel, rather than the

use of a single, larger [structural] stormwater management measure shall be required [to the maximum extent practical];

- (5) **Methods of treating stormwater prior to entering any stormwater management measure shall be incorporated into the design of the stormwater management measure to the maximum extent practical;**

[(5)](6) To avoid sedimentation that may result in clogging and reduction of infiltration capability and to maintain maximum soil infiltration capacity, the construction of stormwater **management measures that rely upon** infiltration [basins] shall be managed in accordance with the following standards:

- (A) No stormwater [infiltration basin] **management measure** shall be placed into operation until its drainage area has been completely stabilized. Instead, upstream runoff shall be diverted around the [basin] **measure** and into separate, temporary stormwater management facilities and sediment basins. Such temporary facilities and basins shall be installed and utilized for stormwater management and sediment control until stabilization is achieved in accordance with N.J.A.C. 2:90, Standards for Soil Erosion and Sediment Control in New Jersey;

- (B) If, for engineering, environmental or safety reasons, temporary stormwater management facilities and sediment basins cannot be constructed on the parcel in accordance with [(a)6iv(5)](A) above, the stormwater [infiltration basin] **management measure** may be placed into operation prior to the complete stabilization of its drainage area provided that the [basin's] **measure's** bottom during this period is constructed at a depth at least two feet higher than its final design elevation. When the drainage area has been completely stabilized, all accumulated sediment shall be removed from the [infiltration basin] **stormwater management measure**, which shall then be excavated to its final design elevation; and
- (C) To avoid compacting [an infiltration basin's subgrade soils,] **the soils below a stormwater management measure designed to infiltrate stormwater**, no heavy equipment, such as backhoes, dump trucks or bulldozers shall be permitted to operate within the footprint of the stormwater [infiltration basin] **management measure**. All excavation required to construct a stormwater [infiltration basin] **management measure that relies on infiltration** shall be performed by equipment placed outside the [basin] **footprint of the stormwater management measure**. If

this is not possible, the soils within the excavated area shall be renovated and tilled after construction is completed.

Earthwork associated with stormwater [infiltration basin] **management measure** construction, including excavation, grading, cutting or filling, shall not be performed when soil moisture content is above the lower plastic limit; and

- (7) **Dry wells shall be designed to prevent access by amphibian and reptiles.**

[v.]vi. As-built requirements **for major development, as defined in N.J.A.C.**

7:50-2.11:

- (1) After all construction activities have been completed on the parcel and finished grade has been established in [the infiltration basin] **each stormwater management measure designed to infiltrate stormwater**, replicate post-development [field] permeability tests shall be conducted to determine if as-built soil permeability rates are consistent with design permeability rates. The results of such tests shall be submitted to the municipal engineer **or other appropriate reviewing engineer**. If the results of the post-development [field] permeability tests fail to achieve the minimum required design permeability rate, utilizing a factor of safety of two, the [infiltration basin] **stormwater management measure** shall be renovated and re-tested until [such minimum] **the** required permeability rates are achieved; and

(2) After all construction activities and required field testing have been completed on the parcel, as-built plans, including as-built elevations of all stormwater management measures shall be submitted to the municipal engineer **or other appropriate reviewing engineer to serve as a document of record**. Based upon **that** [the municipal] engineer's review of the as-built plans, all corrections or remedial actions deemed [by the municipal engineer to be] necessary due to the failure to comply with design standards and/or for any reason concerning public health or safety, shall be completed by the applicant. In lieu of review by the municipal engineer, the municipality may engage a licensed professional engineer to review the as-built plans and charge the applicant for all costs associated with such review.

[vi.]**vii.** Exceptions:

- [(1) The standards set forth in (a)6i through v above shall not apply to minor residential development, provided such development does not involve the construction of any new roads, or to minor non-residential development, provided such development does not involve the grading, clearing or disturbance of an area in excess of 5,000 square feet within any five-year period;
- (2) The use of nonstructural strategies in accordance with N.J.A.C. 7:8-5.3 shall not be required for development which would create less than one acre of disturbance;

- (3) Provided an applicant for major development pursuant to N.J.A.C. 7:50-4.31 through 4.50 is able to demonstrate that the standards set forth in (a)6i through v above cannot be met on the parcel proposed for development or that stormwater management would more effectively be achieved through alternative measures, strict compliance with said standards may be waived at the discretion of the municipality in which the proposed development is located, provided the municipal stormwater management plan certified by the Commission pursuant to N.J.A.C. 7:50-3 specifies the circumstances under which such alternative measures would be appropriate and identifies those parcels or projects elsewhere in the Pinelands Area where any off-site mitigation would be permitted to occur;
- (4) Provided an applicant for major public development pursuant to N.J.A.C. 7:50-4.51 through 4.60 is able to demonstrate that the standards set forth in (a)6i through v above cannot be met on the parcel proposed for development or that stormwater management would more effectively be achieved through alternative measures, an exception may be granted at the discretion of the Commission, provided any such measures occur within the Pinelands Area and within the same drainage area as the parcel proposed for development and are sufficient to offset the granting of the exception. The proposed alternative measures must be consistent

with the stormwater management plan certified by the Commission pursuant to N.J.A.C. 7:50-3 for the municipality in which the proposed development is located, unless said stormwater plan does not provide for appropriate mitigation for the particular exception being granted or identify appropriate parcels or projects where off-site mitigation may occur; and]

(1) For applications submitted pursuant to N.J.A.C. 7:50-4.31 through 4.50, a municipality may grant a variance in accordance with N.J.A.C. 7:8-4.6, as amended, from the on-site design and performance standards for green infrastructure, the standards for groundwater recharge, stormwater runoff quality, and stormwater runoff quality at N.J.A.C. 7:8-5.3, 5.4, 5.5, and 5.6, and the on-site recharge standards set forth at (a)6iv above, provided that:

(A) All mitigation projects shall be located in the Pinelands Area and in the same HUC 14 as the parcel proposed for development. If the applicant demonstrates that no such mitigation project is available, the municipality may approve a variance that provides for mitigation within the same HUC 11 as the parcel proposed for development, provided the mitigation project is located in the Pinelands Area;

- (B) The proposed mitigation project shall be consistent with the stormwater management plan certified by the Commission pursuant to N.J.A.C. 7:50-3 for the municipality in which the parcel proposed for development is located, unless said stormwater plan does not identify appropriate parcels or projects where mitigation may occur; and**
- (C) Any variance from the on-site recharge standards set forth at (a)6iv above shall require that the total volume of stormwater infiltrated by the mitigation project equals or exceeds the volume required at (a)6iv.**
- (2) For applications submitted pursuant to N.J.A.C. 7:50-4.51 through 4.60, the Commission may grant an exception in accordance with the standards contained in N.J.A.C. 7:50-4.6, as amended, from the on-site design and performance standards for green infrastructure, groundwater recharge, stormwater runoff quality, and stormwater runoff quality at N.J.A.C. 7:8-5.3, 5.4, 5.5, and 5.6 and on-site recharge standards set forth at (a)6iv above, provided the conditions set forth at (1) above are met.**
- [(5)] (3) Unless specifically included in [(a)6vi(1) through (4)] (1) and (2) above, the exemptions, exceptions, applicability standards and**

waivers of strict compliance for stormwater management contained in N.J.A.C. 7:8 shall not apply.

- (4) **No variances or exceptions shall be granted from iii(1), above, which prohibits the direct discharge of stormwater runoff to any wetland, wetlands transition area or surface waterbody and the direction of stormwater runoff in such a way as to increase in volume and rate of discharge into any wetland, wetlands transition area or surface water body from that which existed prior to development of the parcel.**

[vii.]**viii.** Maintenance standards:

- (1) **For all major development, as defined at N.J.A.C. 7:50-2.11, the following standards shall apply:**

[(1)](A) Maintenance plans **shall be** required pursuant to N.J.A.C. 7:8-5.8 **and** shall be supplemented [so as] to include reporting of inspection and repair activities. Said plans shall include accurate and comprehensive drawings of all stormwater management measures on a parcel, including the specific latitude and longitude and block/lot number of each stormwater management measure. Maintenance plans shall specify that an inspection, maintenance and repair report will be updated and submitted annually to the municipality;

[(2)](B) Stormwater management measure easements shall be provided by the property owner as necessary for facility inspections and maintenance and preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities. The purpose of the easement shall be specified in the maintenance agreement; and

[(3)](C) An adequate means of ensuring permanent financing of the inspection, maintenance, repair and replacement plan shall be implemented and shall be detailed in the maintenance plan. Financing methods shall include, but not be limited to[.]:

[(A)](I) The assumption of the inspection and maintenance program by a municipality, county, public utility or homeowners association;

[(B)](II) The required payment of fees to a municipal stormwater fund in an amount equivalent to the cost of both ongoing maintenance activities and necessary structural replacements.

(2) For all minor development, as defined at N.J.A.C. 7:50-2.11, the following standards shall apply:

(A) Maintenance plans shall be required for all stormwater management measures installed in accordance with (a)6iv(2) and (3), above. The BMP Manual may be

utilized as a guide for developing maintenance plans which shall include, at minimum:

- (I) A copy of the certified plan required pursuant to (a)6iv(4);**
- (II) A description of the required maintenance activities for each stormwater management measure; and**
- (III) The frequency of each required maintenance activity.**

(B) Responsibility for maintenance of stormwater management measures may be assigned or transferred to the owner or tenant of the parcel.

[viii.]**ix.** Unless specifically mandated pursuant to (a)6i through viii above, the New Jersey Stormwater Best Management Practices Manual [developed by the New Jersey Department of Environmental Protection, dated February 2004, as amended], may be utilized as a guide in determining the extent to which stormwater management activities and measures meet the standards of (a)6i through viii above.

P&I Committee Members,

Amendments 1,2 and 4 which I proposed to the P&I Committee at the April 2021 meeting have been amended to include environmentally sensitive areas not appropriate for HDD and a requirement to deposit the slurry wastes generated by the process at a sanitary landfill or some other designated site. The amendments are in bold. The revisions are underlined. I have also added amendments for Part X **Scenic**, 7:50-5.22 **Preservation Area District** Minimum Standards and 7:50-5.25 Minimum Standards governing the distribution and intensity of land use in **Special Agricultural Production Areas**.

Thank You,

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. Horizontal directional drilling shall not be used under: the surface waters and tributaries of wild and scenic rivers and scenic corridors found within 7:50-6.105., surface waters within the Preservation Area District and the surface waters or within wetlands in the Special Agricultural Production Areas.

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. **All slurry waste generated by Horizontal Directional Drilling shall be removed from site and transported to a sanitary landfill or some other designated site.**

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 shall not be used under: the surface waters and tributaries of wild and scenic rivers and scenic corridors found within 7:50-6.105, the surface waters within the Preservation Area District and the surface waters or within wetlands in the Special Agricultural Production Areas.**

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.

Draft Amendment #5, in bold and underlined below.

PART X-SCENIC

7:50-6.101 Purpose

The Pinelands is a complex of environmental values that presents a definable visual character to residents and visitors. This character contributes substantially to the attractiveness of the area and therefore is an important element to the area's economy. This Part is intended to ensure that development will take advantage of and enhance the visual character of the Pinelands.

7:50-6.102 Scenic management program

In order to be certified under the provisions of N.J.A.C. 7:50-3, a municipal master plan or land use ordinance must provide a program for the protection of the scenic values of the Pinelands. It is not necessary that the municipal program incorporate the literal terms of the program set out in this Part; rather, a municipality may adopt alternative and additional techniques which will achieve equivalent protection of scenic values which would be achieved under the provisions of this Part.

7:50-6.104

(a) Except as provided in this section, no permit shall be issued for development other than for agricultural commercial establishments unless the applicant demonstrates that all buildings are set back at least 200 feet from the center line of the scenic corridor.

(b) If compliance with the 200-foot setback is constrained by environmental or other physical considerations, such as wetland, or active agricultural operation, the building shall be set back as close to 200 feet as practical and the site shall be considered as special scenic corridors in any part of the Pinelands.

7:50-6.104 Requirements for scenic corridors

(a) Except as provided in this section, no permit shall be issued for development other than for agricultural commercial establishments unless the applicant demonstrates that all buildings are set back at least 200 feet from the center line of the scenic corridor.

(b) If compliance with the 200-foot setback is constrained by environmental or other physical considerations, such as wetland, or active agricultural operation, the building shall be set back as close to 200 feet as practical and the site shall be

Requirements for scenic corridors

7:50-6.105

(a) The following rivers are hereby designated to be wild and scenic rivers and scenic corridors of special significance to the Pinelands. All structures within 1,000 feet of the center line of these rivers shall be designed to avoid visual impacts as viewed from the river:

1. Great Egg Harbor River-Great Egg Bay (Garden State Parkway) to Route 536.
2. Tuckahoe River-Great Egg Bay to the Route 552 crossing in Milmay.
3. Middle River-Great Egg Bay to Schoolhouse Lane crossing north of Corbin City.
4. Mullica River-Garden State Parkway to Medford Road crossing at the Medford, Waterford, and Shamong Township boundaries.
5. Wading River-Confluence with the Mullica River to Route 563 crossing at Speedwell.
6. Oswego River-Confluence with the Wading River to Sim Place reservoir dam.
7. Batsto River-Confluence with Mullica River to Carranza Memorial Road crossing at Shamong and Tabernacle Township boundaries.
8. Bass River-Confluence with the Mullica River to Stage Road crossing in Bass River State Forest.

9. Nescochague Creek-Confluence with the Mullica River to confluence with Great Swamp Branch and Albertson Branch.

10. GreatSwampBranch-ConfluencewithNescochagueCreektRoute206 bridge in Hammonton.

11. Rancocas Creek-Route 530 crossing in Browns Mills to the Pinelands boundary.

12. CedarCreek-Route 9 crossing to the dam at BamberLake.

13. WestCreek-ConfluencewithDelawareBay to Pickle Factory Pond above Route 550.

14. DennisCreek-ConfluencewithDelawareBaytotheheadwatersofthe mainstem in the Great Cedar Swamp west on Route 9.

15. NorthBranchoftheForkedRiver-GardenStateParkwaytotheconfluence with Cave Cabin Branch east of Howardsville. 218

16. Toms River-From the Central Railroad of New Jersey bridge to the Route 528 crossing east of Cassville.

17. Maurice River-Delaware Bay to Manumuskin River.

18. Manumuskin River-Confluence with the Maurice River to the Route 49 crossing near Cumberland Road.

19. Mount Misery Branch-Route 70 crossing to the Greenwood Branch continuing to the North Branch of the Rancocas Creek.

7:50-6.111 Location of utilities

(a) New utility distribution lines to locations not presently served by utilities shall be placed underground, except for those lines which are located on or adjacent to active agricultural operations.

(b) All electric transmission lines shall be located on existing towers or underground to the maximum extent practical.

(c) Above-ground generating facilities, switching complexes, pumping stations, and

substations shall be screened with vegetation from adjacent uses in accordance with N.J.A.C. 7:50-6, Part II.

(d) Horizontal Directional Drilling shall not be used under the surface waters and tributaries of wild and scenic rivers and scenic corridors found within 7:50-6.105.

Draft Amendment #6, in bold and underlined below.

7:50-5.22

Minimum standards governing the distribution and intensity of development and land use in the Preservation Area District

(a) The following uses shall be permitted in the Preservation Area District:

1. Residential dwelling units in accordance with the cultural housing provisions of N.J.A.C. 7:50-5.32.
2. Berry agriculture and horticulture of native plants and other agricultural activities compatible with the existing soil and water conditions that support traditional Pinelands berry agriculture.
3. Forestry.
4. Beekeeping.
5. Fish and wildlife management and wetlands management.
6. Low intensity recreational uses, provided that:
 - i. The parcel proposed for low intensity recreational use has an area of at least 50 acres;
 - ii. The recreational use does not involve the use of motorized vehicles except for necessary transportation;
 - iii. Access to bodies of water is limited to no more than 15 linear feet of frontage per 1,000 feet of water body frontage;
 - iv. Clearing of vegetation, including ground cover and soil disturbance, does not exceed five percent of the parcel; and
 - v. No more than one percent of the parcel will be covered with impervious surfaces.

(b) In addition to the uses permitted under (a) above, a municipality may, at its option, permit the following uses in the Preservation Area District:

4. Public service infrastructure which is necessary to serve only the needs of the Preservation Area District uses. Centralized waste water treatment and collection facilities shall be permitted to service the Preservation Area District only in accordance

with N.J.A.C. 7:50-6.84(a)2. Communications cables not primarily intended to serve the needs of the Preservation Area District may be permitted provided that they are installed within existing developed rights of way and are installed underground or are attached to road bridges, where available, for the purpose of crossing water bodies or wetlands. **Horizontal directional drilling shall not be used under surface waters within the Preservation Area District.**

Draft Amendment #7, in bold and underlined below.

7:50-5.25 Minimum Standards governing the distribution and intensity of land use in Special Agricultural Production Areas.

(b) In addition to the uses permitted under (a) above, a municipality may, at its option, permit the following uses in a Special Agricultural Production Area:

1. Public service infrastructure which is necessary to serve only the needs of the Special Agricultural Production Areas may be permitted provided that they are installed within existing developed rights of way and are installed underground or are attached to road bridges, where available, for the purpose of crossing water bodies or wetlands. **Horizontal directional drilling shall not be used under surface waters or within wetlands in the Special Agricultural Production Areas.**

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?