



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-20- 01

TITLE: Approving With Conditions Applications for **Public Development** (Application Numbers 1985-0202.005, 1986-1154.004, 1988-0471.002 & 1988-0706.021)

Commissioner Loebauer moves and Commissioner Earlen seconds the motion that:

WHEREAS, the Pinelands Commission has reviewed the Public Development Application Reports and the recommendation of the Executive Director that the following applications for Public Development be approved with conditions:

1985-0202.005

Applicant:	Hamilton Township Board of Education
Municipality:	Hamilton Township
Management Area:	Pinelands Regional Growth Area
Date of Report:	December 20, 2019
Proposed Development:	Installation of 300 linear feet of sidewalk and rubber surfacing of three existing playground areas at the Joseph C. Shaner Memorial Elementary School;

1986-1154.004

Applicant:	Franklin Township
Municipality:	Franklin Township
Management Area:	Pinelands Agricultural Production Area
Date of Report:	December 19, 2019
Proposed Development:	Construction of 853 linear feet of wooden boardwalk and associated recreational improvements at the Piney Hollow Preservation Area;

1988-0471.002

Applicant:	Evesham Township
Municipality:	Evesham Township
Management Area:	Pinelands Rural Development Area
Date of Report:	December 19, 2019
Proposed Development:	Improvements to the Braddock Mill Road dam at Union Mill Lake; and

1988-0706.021

Applicant:	Town of Hammonton
Municipality:	Town of Hammonton
Management Area:	Pinelands Town
Date of Report:	December 19, 2019
Proposed Development:	Installation of 830 linear feet of three inch groundwater discharge pipe at the Boyer Avenue Wastewater Facility.

WHEREAS, no request for a hearing before the Office of Administrative Law concerning the Executive Director's recommendation has been received for any of these applications; and

WHEREAS, the Pinelands Commission hereby adopts the Conclusion of the Executive Director for each of the proposed developments; and

WHEREAS, the Pinelands Commission hereby determines that each of the proposed public developments conform to the standards for approving an application for public development set forth in N.J.A.C. 7:50-4.57 if the conditions recommended by the Executive Director are imposed; and

WHEREAS, pursuant to N.J.S.A. 13A-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 and Governor shall approve same, in which case the action shall become effective upon such approval.

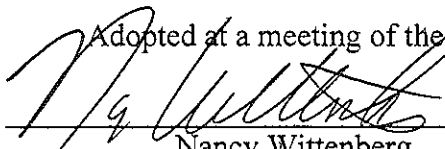
NOW, THEREFORE BE IT RESOLVED that Application Numbers 1985-0202.005, 1986-1154.004, 1988-0471.002 & 1988-0706.021 for public development are hereby **approved** subject to the conditions recommended by the Executive Director.

Record of Commission Votes

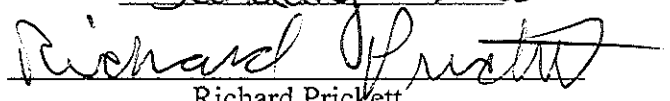
AYE NAY NP A/R*				AYE NAY NP A/R*				AYE NAY NP A/R*			
Ashmun			X	Irick	X			Quinn	X		
Avery	X			Jannarone	X			Rohan Green			X
Christy	X			Lloyd	X			Prickett	X		
Earlen	X			Lohbauer	X						
Howell	X			Pikolycky	X						

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission


 Nancy Wittenberg
 Executive Director

Date: January 10, 2020


 Richard Prickett
 Chairman



State of New Jersey

THE PINELANDS COMMISSION

PO Box 359

NEW LISBON, NJ 08064

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PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

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

RICHARD PRICKETT
Chairman
NANCY WITTENBERG
Executive Director

December 20, 2019

Anna Marie Fala, Business Administrator
Hamilton Township Board of Education (via email)
1876 Dr. Dennis Foreman Drive
Mays Landing, NJ 08330

Re: Application # 1985-0202.005
Block 809, Lots 17 & 18
Hamilton Township

Dear Ms. Fala:

The Commission staff has completed its review of this application for installation of 300 linear feet of sidewalk and rubber surfacing of three existing playground areas at the Joseph C. Shaner Memorial Elementary School. Enclosed is a copy of a Public Development Application Report. On behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its January 10, 2020 meeting.

Any interested party may appeal this recommendation in accordance with the appeal procedure attached to this document. If no appeal is received, the Pinelands Commission may either approve the recommendation of the Executive Director or refer the application to the New Jersey Office of Administrative Law for a hearing.

Prior to any development, the applicant shall obtain any other necessary permits and approvals.

Sincerely,

Charles M. Horner, P.P.
Director of Regulatory Programs

Enc: Appeal Procedure

c: Secretary, Hamilton Township Planning Board (via email)
Hamilton Township Construction Code Official (via email)
Atlantic County Department of Regional Planning and Development (via email)
William B. Edwards, PE (via email)



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

RICHARD PRICKETT
Chairman
NANCY WITTENBERG
Executive Director

PUBLIC DEVELOPMENT APPLICATION REPORT

December 20, 2019

Anna Marie Fala, Business Administrator
Hamilton Township Board of Education (via email)
1876 Dr. Dennis Foreman Drive
Mays Landing, NJ 08330

Application No.: 1985-0202.005
Block 809, Lots 17 & 18
Hamilton Township

This application proposes installation of 300 linear feet of sidewalk and rubber surfacing of three existing playground areas at the Joseph C. Shaner Memorial Elementary School on the above referenced 9.58 acre parcel in Hamilton Township.

STANDARDS

The Commission staff has reviewed the proposed development for consistency with all standards of the Pinelands Comprehensive Management Plan (CMP). The following reviews the CMP standards that are relevant to this application:

Land Use (N.J.A.C. 7:50-5.28(a))

The proposed development is located within a Pinelands Regional Growth Area. The proposed development is a permitted land use in a Pinelands Regional Growth Area.

Wetlands Standards (N.J.A.C. 7:50-6.14)

There are wetlands located on the above referenced parcel. The proposed sidewalk and rubber surfacing will be located no closer to wetlands than existing development.

Vegetation Management Standards (N.J.A.C. 7:50-6.23 & 6.26)

The proposed development will be located in an existing developed and maintained grassed area. The proposed soil disturbance is limited to that which is necessary to accommodate the proposed development.

The Landscaping and Revegetation guidelines of the CMP recommend the use of grasses that are tolerant of droughty, nutrient poor conditions. The applicant proposes to utilize a seed mixture which meets that recommendation.

Stormwater Management Standards (N.J.A.C.7:50-6.84(a)6)

The applicant has demonstrated that the proposed development is consistent with the stormwater management standards contained in the CMP. To meet the stormwater management standards, the applicant will be constructing an underground stormwater infiltration system.

Cultural Resource Standards (N.J.A.C. 7:50-6.151)

The Commission staff reviewed the application for evidence of cultural resources on the parcel. Based upon the lack of potential for significant cultural resources on the parcel, a cultural resource survey was not required.

PUBLIC COMMENT

The applicant has provided the requisite public notices. Notice to required land owners within 200 feet of the above referenced parcel was completed on May 28, 2019. Newspaper public notice was completed on June 1, 2019. The application was designated as complete on the Commission's website on November 8, 2019. The Commission's public comment period closed on December 13, 2019. No public comment was submitted to the Commission regarding this application.

CONDITIONS

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of 14 sheets, prepared by Edwards Engineering Group, Inc. and dated as follows:

Sheets 1-9 & 11-15 - April 22, 2019; revised August 15, 2019
Sheet 10 - April 22, 2019; revised October 4, 2019
2. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.
3. Any proposed revegetation shall adhere to the "Vegetation" standards of the CMP. Where appropriate, the applicant is encouraged to utilize the following Pinelands native grasses for revegetation: Switch grass, Little bluestem and Broom-sedge.
4. Prior to any development, the applicant shall obtain any other necessary permits and approvals.

CONCLUSION

As the proposed development conforms to the standards set forth in N.J.A.C. 7:50-4.57, it is recommended that the Pinelands Commission **APPROVE** the proposed development subject to the above conditions.



State of New Jersey

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

RICHARD PRICKETT
Chairman
NANCY WITTENBERG
Executive Director

PINELANDS COMMISSION **APPEAL PROCEDURE**

The Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal any determination made by the Executive Director to the Commission in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted by someone meeting the definition of an interested party will be transmitted to the New Jersey Office of Administrative Law for a hearing. Any such appeal must be made in writing to the Commission and received by the Commission's office no later than 5:00 PM on January 8, 2020 and include the following information:

1. the name and address of the person requesting the appeal;
2. the application number;
3. the date on which the determination to be appealed was made;
4. a brief statement of the basis for the appeal; and
5. a certificate of service (a notarized statement) indicating that service of the notice has been made, by certified mail, on the clerk of the county, municipal planning board and environmental commission with jurisdiction over the property which is subject of this decision.

Within 15 days following receipt of a notice of valid appeal, the Executive Director shall initiate the procedures for assignment of an Administrative Law Judge to preside at the hearing pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and the procedures established by the Office of Administrative Law. The time, date and location of such hearing shall be designated by the Office of Administrative Law.



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RICHARD PRICKETT
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NANCY WITTENBERG
Executive Director

December 20, 2019

Anna Marie Fala, Business Administrator
Hamilton Township Board of Education (via email)
1876 Dr. Dennis Foreman Drive
Mays Landing, NJ 08330

Re: Application # 1985-0202.005
Block 809, Lots 17 & 18
Hamilton Township

Dear Ms. Fala:

The Commission staff has completed its review of this application for installation of 300 linear feet of sidewalk and rubber surfacing of three existing playground areas at the Joseph C. Shaner Memorial Elementary School. Enclosed is a copy of a Public Development Application Report. On behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its January 10, 2020 meeting.

Any interested party may appeal this recommendation in accordance with the appeal procedure attached to this document. If no appeal is received, the Pinelands Commission may either approve the recommendation of the Executive Director or refer the application to the New Jersey Office of Administrative Law for a hearing.

Prior to any development, the applicant shall obtain any other necessary permits and approvals.

Sincerely,

Charles M. Horner, P.P.
Director of Regulatory Programs

Enc: Appeal Procedure

c: Secretary, Hamilton Township Planning Board (via email)
Hamilton Township Construction Code Official (via email)
Atlantic County Department of Regional Planning and Development (via email)
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Chairman
NANCY WITTENBERG
Executive Director

PUBLIC DEVELOPMENT APPLICATION REPORT

December 20, 2019

Anna Marie Fala, Business Administrator
Hamilton Township Board of Education (via email)
1876 Dr. Dennis Foreman Drive
Mays Landing, NJ 08330

Application No.: 1985-0202.005
Block 809, Lots 17 & 18
Hamilton Township

This application proposes installation of 300 linear feet of sidewalk and rubber surfacing of three existing playground areas at the Joseph C. Shaner Memorial Elementary School on the above referenced 9.58 acre parcel in Hamilton Township.

STANDARDS

The Commission staff has reviewed the proposed development for consistency with all standards of the Pinelands Comprehensive Management Plan (CMP). The following reviews the CMP standards that are relevant to this application:

Land Use (N.J.A.C. 7:50-5.28(a))

The proposed development is located within a Pinelands Regional Growth Area. The proposed development is a permitted land use in a Pinelands Regional Growth Area.

Wetlands Standards (N.J.A.C. 7:50-6.14)

There are wetlands located on the above referenced parcel. The proposed sidewalk and rubber surfacing will be located no closer to wetlands than existing development.

Vegetation Management Standards (N.J.A.C. 7:50-6.23 & 6.26)

The proposed development will be located in an existing developed and maintained grassed area. The proposed soil disturbance is limited to that which is necessary to accommodate the proposed development.

The Landscaping and Revegetation guidelines of the CMP recommend the use of grasses that are tolerant of droughty, nutrient poor conditions. The applicant proposes to utilize a seed mixture which meets that recommendation.

Stormwater Management Standards (N.J.A.C.7:50-6.84(a)6)

The applicant has demonstrated that the proposed development is consistent with the stormwater management standards contained in the CMP. To meet the stormwater management standards, the applicant will be constructing an underground stormwater infiltration system.

Cultural Resource Standards (N.J.A.C. 7:50-6.151)

The Commission staff reviewed the application for evidence of cultural resources on the parcel. Based upon the lack of potential for significant cultural resources on the parcel, a cultural resource survey was not required.

PUBLIC COMMENT

The applicant has provided the requisite public notices. Notice to required land owners within 200 feet of the above referenced parcel was completed on May 28, 2019. Newspaper public notice was completed on June 1, 2019. The application was designated as complete on the Commission's website on November 8, 2019. The Commission's public comment period closed on December 13, 2019. No public comment was submitted to the Commission regarding this application.

CONDITIONS

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of 14 sheets, prepared by Edwards Engineering Group, Inc. and dated as follows:

Sheets 1-9 & 11-15 - April 22, 2019; revised August 15, 2019
Sheet 10 - April 22, 2019; revised October 4, 2019
2. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.
3. Any proposed revegetation shall adhere to the "Vegetation" standards of the CMP. Where appropriate, the applicant is encouraged to utilize the following Pinelands native grasses for revegetation: Switch grass, Little bluestem and Broom-sedge.
4. Prior to any development, the applicant shall obtain any other necessary permits and approvals.

CONCLUSION

As the proposed development conforms to the standards set forth in N.J.A.C. 7:50-4.57, it is recommended that the Pinelands Commission **APPROVE** the proposed development subject to the above conditions.



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RICHARD PRICKETT
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PINELANDS COMMISSION **APPEAL PROCEDURE**

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1. the name and address of the person requesting the appeal;
2. the application number;
3. the date on which the determination to be appealed was made;
4. a brief statement of the basis for the appeal; and
5. a certificate of service (a notarized statement) indicating that service of the notice has been made, by certified mail, on the clerk of the county, municipal planning board and environmental commission with jurisdiction over the property which is subject of this decision.

Within 15 days following receipt of a notice of valid appeal, the Executive Director shall initiate the procedures for assignment of an Administrative Law Judge to preside at the hearing pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and the procedures established by the Office of Administrative Law. The time, date and location of such hearing shall be designated by the Office of Administrative Law.



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Application Specific Information: AppInfo@pinelands.nj.gov

RICHARD PRICKETT
Chairman
NANCY WITTENBERG
Executive Director

December 19, 2019

Robert Corrales, Township Manager (via email)
Evesham Township
984 Tuckerton Road
Marlton, NJ 08053

Re: Application # 1988-0471.002
Braddock Mill Road
Block 71.01, Lot 1
Evesham Township

Dear Mr. Corrales:

The Commission staff has completed its review of this application for improvements to the Braddock Mill Road dam at Union Mill Lake. Enclosed is a copy of a Public Development Application Report. On behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its January 10, 2020 meeting.

Any interested party may appeal this recommendation in accordance with the appeal procedure attached to this document. If no appeal is received, the Pinelands Commission may either approve the recommendation of the Executive Director or refer the application to the New Jersey Office of Administrative Law for a hearing.

Prior to any development, the applicant shall obtain any other necessary permits and approvals.

Sincerely,

Charles M. Horner, P.P.

Director of Regulatory Programs

Enc: Appeal Procedure

c: Secretary, Evesham Township Planning Board (via email)
Evesham Township Construction Code Official (via email)
Evesham Township Environmental Commission (via email)
Secretary, Burlington County Planning Board (via email)
Tim Staszewski, P.E., C.M.E. (via email)



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RICHARD PRICKETT
Chairman
NANCY WITTENBERG
Executive Director

PUBLIC DEVELOPMENT APPLICATION REPORT

December 19, 2019

Robert Corrales, Township Manager
Evesham Township
984 Tuckerton Road
Marlton, NJ 08053

Application No.: 1988-0471.002
Braddock Mill Road
Block 71.01, Lot 1
Evesham Township

This application proposes improvements to the Braddock Mill Road dam at Union Mill Lake located within the Braddock Mill Road right-of-way and on the above referenced 2.0 acre parcel in Evesham Township.

The application proposes the removal of two approximately 50 linear foot long concrete culverts under Braddock Mill Road, the installation of a new 46 linear foot long concrete culvert under Braddock Mill Road, a new dam spillway and associated dam improvements.

A portion of the proposed development will be located north of the Braddock Mill road right-of-way which is outside of the Pinelands Area. The proposed dam improvements will result in less than 5,000 square feet of disturbance in the Pinelands Area.

STANDARDS

The Commission staff has reviewed the proposed development for consistency with all standards of the Pinelands Comprehensive Management Plan (CMP). The following reviews the CMP standards that are relevant to this application:

Land Use (N.J.A.C. 7:50-5.26)

The proposed development is located in a Pinelands Rural Development Area. The proposed improvements to the existing dam are a permitted use in a Pinelands Rural Development Area.

Wetlands Standards (N.J.A.C. 7:50-6.13)

The dam improvements will be located within wetlands and the required buffer to wetlands. The proposed development will result in the disturbance of approximately 0.035 acres of wetlands in the

Pinelands Area. The CMP permits linear improvements, such as dams, in wetlands and the required buffer to wetlands provided an applicant demonstrates that certain conditions are met. The applicant has demonstrated that there is no feasible alternative for the proposed development that does not involve development in wetlands and the required buffer to wetlands or that will result in a less significant adverse impact to wetlands. In addition, the proposed development will not result in a substantial impairment of the resources of the Pinelands. With the conditions recommended below, all practical measures will be taken to mitigate the impact on wetlands and the required buffer to wetlands. The applicant has indicated that the dam improvements are necessary to meet the New Jersey Department of Environmental Protection (NJDEP), Dam Safety requirements. The applicant has demonstrated the need for the proposed development overrides the importance of protecting the concerned wetlands.

The proposed wetlands disturbance requires a wetlands permit under the New Jersey Freshwater Wetlands Protection Act. A New Jersey Freshwater Wetlands General Permit 18 was issued by the NJDEP on October 8, 2019.

Vegetation Management Standards (N.J.A.C. 7:50-6.23 & 6.26)

The proposed development will be located within open water and sandy barren areas. The soil disturbance is limited to that which is necessary to accommodate the proposed development.

The Landscaping and Revegetation guidelines of the CMP recommend the use of grasses that are tolerant of droughty, nutrient poor conditions. The applicant proposes to utilize a seed mixture which meets that recommendation.

Cultural Resource Standards (N.J.A.C. 7:50-6.151)

The proposed dam improvements will result in less than 5,000 square feet of disturbance in the Pinelands Area. Available cultural resource data indicates the possible presence of an historic 19th century sawmill that may have been associated with the existing dam. A condition is included in this report requiring the Commission staff to be present during any construction related disturbance to determine whether any structural remains of a former dam associated with the sawmill may be present.

PUBLIC COMMENT

The CMP defines the proposed development as “minor” development. The CMP does not require public notice for minor public development applications. The application was designated as complete on the Commission’s website on December 3, 2019. The Commission’s public comment period closed on December 13, 2019. No public comment was submitted to the Commission regarding this application.

CONDITIONS

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of 22 sheets, prepared by Remington & Vernick Engineers and dated as follows:

Sheets 1, 2, 4, 5, 8-12, 15, 16, 19 & 22 - dated 1/3/2017

Sheets 3, 6, 7, 17, 18 & 20 - dated 1/3/2017; revised to 7/2019

Sheets 13 & 14 - dated 1/3/2017; revised to 12/2019

Sheet 21 - dated 1/3/2017; revised to 6/2019.

2. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.
3. Any proposed revegetation shall adhere to the "Vegetation" standards of the CMP. Where appropriate, the applicant is encouraged to utilize the following Pinelands native grasses for revegetation: Switch grass, Little bluestem and Broom-sedge.
4. Prior to any development, the applicant shall obtain any other necessary permits and approvals.
5. Appropriate measures shall be taken during construction to preclude sedimentation from entering wetlands and shall be maintained in place until all development has been completed and the area has been stabilized.
6. The applicant shall notify the Pinelands Commission staff prior to commencement of any construction related disturbance so that the Commission staff may record any structural remains of a former dam associated with the sawmill that may be present.
7. If during construction any archaeological data is discovered, the applicant shall immediately cease construction, and notify Pinelands Commission staff.

CONCLUSION

As the proposed development conforms to the standards set forth in N.J.A.C. 7:50-4.57, it is recommended that the Pinelands Commission **APPROVE** the proposed development subject to the above conditions.



State of New Jersey

THE PINELANDS COMMISSION

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RICHARD PRICKETT
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NANCY WITTENBERG
Executive Director

PINELANDS COMMISSION **APPEAL PROCEDURE**

The Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal any determination made by the Executive Director to the Commission in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted by someone meeting the definition of an interested party will be transmitted to the New Jersey Office of Administrative Law for a hearing. Any such appeal must be made in writing to the Commission and received by the Commission's office no later than 5:00 PM on January 7, 2020 and include the following information:

1. the name and address of the person requesting the appeal;
2. the application number;
3. the date on which the determination to be appealed was made;
4. a brief statement of the basis for the appeal; and
5. a certificate of service (a notarized statement) indicating that service of the notice has been made, by certified mail, on the clerk of the county, municipal planning board and environmental commission with jurisdiction over the property which is subject of this decision.

Within 15 days following receipt of a notice of valid appeal, the Executive Director shall initiate the procedures for assignment of an Administrative Law Judge to preside at the hearing pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and the procedures established by the Office of Administrative Law. The time, date and location of such hearing shall be designated by the Office of Administrative Law.



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Application Specific Information: AppInfo@pinelands.nj.gov

RICHARD PRICKETT
Chairman
NANCY WITTENBERG
Executive Director

December 19, 2019

Robert Vettese (via email)
Town of Hammonton
100 Central Avenue- Town Hall
Hammonton, NJ 08037

Re: Application # 1988-0706.021
Block 4204, Lots 8, 9 & 11 - 17
Town of Hammonton

Dear Mr. Vettese:

The Commission staff has completed its review of this application for the installation of 830 linear feet of three inch groundwater discharge pipe at the Boyer Avenue Wastewater Facility. Enclosed is a copy of a Public Development Application Report. On behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its January 10, 2020 meeting.

Any interested party may appeal this recommendation in accordance with the appeal procedure attached to this document. If no appeal is received, the Pinelands Commission may either approve the recommendation of the Executive Director or refer the application to the New Jersey Office of Administrative Law for a hearing.

Prior to any development, the applicant shall obtain any other necessary permits and approvals.

Sincerely,

Charles M. Horner, P.P.

Director of Regulatory Programs

Enc: Appeal Procedure

c: Secretary, Town of Hammonton Planning Board (via email)
Town of Hammonton Construction Code Official (via email)
Town of Hammonton Environmental Commission (via email)
Atlantic County Department of Regional Planning and Development (via email)
Marianne G. Risley (via email)



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RICHARD PRICKETT
Chairman
NANCY WITTENBERG
Executive Director

PUBLIC DEVELOPMENT APPLICATION REPORT

December 19, 2019

Robert Vettese (via email)
Town of Hammonton
100 Central Avenue- Town Hall
Hammonton, NJ 08037

Application No.: 1988-0706.021
Block 4204, Lots 8, 9 & 11 - 17
Town of Hammonton

This application proposes the installation of 830 linear feet of three inch groundwater discharge pipe at the Boyer Avenue Wastewater Facility located on the above referenced 180.87 acre parcel in the Town of Hammonton.

On June 7, 2001, the Commission approved an application for the development of the Boyer Avenue Wastewater Facility (App. No. 1988-0706.002). As part of that application a groundwater interceptor trench, a pumping station and a groundwater discharge pipe that discharged the intercepted groundwater onto Block 4303, Lot 20, adjacent to the Boyer Avenue Wastewater Facility parcel, was approved. Approximately 375 linear feet of groundwater discharge pipe was subsequently installed on Block 4303, Lot 20.

By letter dated May 30, 2019, the Town of Hammonton advised the Commission staff that legal action had been taken directing Hammonton to cease the discharge of intercepted groundwater to Block 4303, Lot 20 and to remove the discharge pipe from that parcel. Hammonton indicated that the removal of the groundwater discharge pipe from Block 4303, Lot 20 and the elimination of the groundwater pipe discharge on Block 4303, Lot 20 would expose existing residential dwellings adjoining the Boyer Avenue Wastewater Facility parcel and their septic systems to possible foundation and septic system flooding by groundwater mounding, thereby creating a health and safety issue. By letter dated June 10, 2019, the Commission's Executive Director determined that immediate action was necessary to remedy or prevent a condition that was dangerous to life, health or safety, and therefore authorized the relocation and installation of a proposed groundwater discharge pipe onto the Boyer Avenue Wastewater Facility parcel.

The Executive Director's June 10, 2019 letter also required the Town of Hammonton to complete an after-the-fact application for the installation of the groundwater discharge pipe on the Boyer Avenue Facility parcel. This application constitutes that after-the-fact application.

STANDARDS

The Commission staff has reviewed the proposed development for consistency with all standards of the Pinelands Comprehensive Management Plan (CMP). The following reviews the CMP standards that are relevant to this application:

Land Use (N.J.A.C. 7:50-5.27)

The proposed development is located in the Pinelands Town of Hammonton. The proposed development is a permitted use in a Pinelands Town.

Wetlands Standards (N.J.A.C. 7:50-6.14)

There are wetlands located within 300 feet of the above referenced parcel. All development, including clearing and land disturbance, will be located at least 300 feet from wetlands.

Vegetation Management Standards (N.J.A.C. 7:50-6.23 & 6.26)

The proposed development will be located within a forested area. Approximately 1,500 square feet of forest will be cleared to accommodate the proposed development. The proposed disturbance is limited to that which is necessary to accommodate the proposed development.

The Landscaping and Revegetation guidelines of the CMP recommend the use of grasses that are tolerant of droughty, nutrient poor conditions. The applicant proposes to utilize a seed mixture which meets that recommendation.

Cultural Resource Standards (N.J.A.C. 7:50-6.151)

The Commission staff reviewed the application for evidence of cultural resources on the parcel. Based upon the lack of potential for significant cultural resources on the parcel, a cultural resource survey was not required.

PUBLIC COMMENT

The CMP defines the proposed development as “minor” development. The CMP does not require public notice for minor public development applications. The application was designated as complete on the Commission’s website on November 26, 2019. The Commission’s public comment period closed on December 13, 2019. No public comment was submitted to the Commission regarding this application.

CONDITIONS

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of two sheets, prepared by Adams, Rehmann & Heggan Associates, Inc., both sheets dated September 23, 2019, and revised to October 29, 2019.
2. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.

3. Any proposed revegetation shall adhere to the "Vegetation" standards of the CMP. Where appropriate, the applicant is encouraged to utilize the following Pinelands native grasses for revegetation: Switch grass, Little bluestem and Broom-sedge.
4. Prior to any development, the applicant shall obtain any other necessary permits and approvals.

CONCLUSION

As the proposed development conforms to the standards set forth in N.J.A.C. 7:50-4.57, it is recommended that the Pinelands Commission **APPROVE** the proposed development subject to the above conditions.



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

PINELANDS COMMISSION **APPEAL PROCEDURE**

The Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal any determination made by the Executive Director to the Commission in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted by someone meeting the definition of an interested party will be transmitted to the New Jersey Office of Administrative Law for a hearing. Any such appeal must be made in writing to the Commission and received by the Commission's office no later than 5:00 PM on January 7, 2020 and include the following information:

1. the name and address of the person requesting the appeal;
2. the application number;
3. the date on which the determination to be appealed was made;
4. a brief statement of the basis for the appeal; and
5. a certificate of service (a notarized statement) indicating that service of the notice has been made, by certified mail, on the clerk of the county, municipal planning board and environmental commission with jurisdiction over the property which is subject of this decision.

Within 15 days following receipt of a notice of valid appeal, the Executive Director shall initiate the procedures for assignment of an Administrative Law Judge to preside at the hearing pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and the procedures established by the Office of Administrative Law. The time, date and location of such hearing shall be designated by the Office of Administrative Law.



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-20- 02

TITLE: Approving With Conditions an Application for a Waiver of Strict Compliance (Application Number 2017-0213.001)

Commissioner Lohbauer moves and Commissioner Earlen seconds the motion that:

WHEREAS, the Pinelands Commission has reviewed each of the Findings of Fact, Conclusion and the recommendation of the Executive Director that the following application for Waiver of Strict Compliance be approved with conditions:

2017-0213.001

Applicant: Christian and Diana Sabella
Municipality: Waterford Township
Management Area: Pinelands Preservation Area District
Date of Report: December 19, 2019
Proposed Development: Single family dwelling.

WHEREAS, no request for a hearing before the Office of Administrative Law concerning the Executive Director's recommendation has been received for this application; and

WHEREAS, the Pinelands Commission hereby adopts the Findings of Fact and Conclusion of the Executive Director for the requested Waiver of Strict Compliance; and

WHEREAS, the Pinelands Commission hereby determines that the requested Waiver conforms to the standards for approving an application for a Waiver of Strict Compliance based on extraordinary hardship as set forth in N.J.A.C 7:50-4.62, N.J.A.C. 7:50-4.63 and N.J.A.C. 7:50-4.65 if the conditions recommended by the Executive Director are imposed; and

WHEREAS, pursuant to N.J.S.A. 13A-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 and Governor shall approve same, in which case the action shall become effective upon such approval.

NOW, THEREFORE BE IT RESOLVED that Application Number 2017-0213.001 for a Waiver of Strict Compliance is hereby **approved** subject to the conditions recommended by the Executive Director.

Record of Commission Votes

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

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Nancy Wittenberg
Nancy Wittenberg
Executive Director

Date: January 10, 2020

Richard Prickett
Richard Prickett
Chairman



State of New Jersey

THE PINELANDS COMMISSION

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PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

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

RICHARD PRICKETT
Chairman
NANCY WITTENBERG
Executive Director

REPORT ON AN APPLICATION FOR A WAIVER OF STRICT COMPLIANCE

December 19, 2019

Christian and Diana Sabella (via email)
25 Tilton Street
Hammonton, NJ 08037

Re: Application # 2017-0213.001
Block 6805, Lot 4
Waterford Township

Dear Mr. and Mrs. Sabella:

The Commission staff has completed its review of the above referenced application for a Waiver of Strict Compliance (“Waiver”) proposing the development of a single family dwelling on the above referenced parcel. Based upon the facts and conclusions contained in this Report, on behalf of the Commission’s Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its January 10, 2020 meeting.

FINDINGS OF FACT

This application is for the development of a single family dwelling serviced by an onsite septic system on the above referenced 11.14 acre parcel in Waterford Township. The parcel is located in the Pinelands Preservation Area District and in Waterford Township’s Preservation District zoning district. In this zoning district, Waterford Township’s certified land use ordinance permits single family dwellings on existing lots containing at least 1.0 acre provided the applicant meets the requirements of the cultural housing provision of the certified municipal ordinance (Section 176-57A) and the Pinelands Comprehensive Management Plan (CMP, N.J.A.C. 7:50-5.32).

The applicant is proposing to develop a single family dwelling on the parcel pursuant to the cultural housing provision contained in the Waterford Township land use ordinance and the CMP. The applicant has submitted information demonstrating that Diana Sabella qualifies to develop a single family dwelling on the parcel pursuant to the cultural housing provision contained in the Waterford Township land use ordinance and the CMP.

The Camden County Soils Survey indicates that there are Woodstown and Glassboro soils, Woodstown and Galloway soils and Berryland soils on this parcel. These soils have a seasonal high water table of less than five feet below the natural ground surface. The applicant has submitted no information to demonstrate that the septic system could be located in an area where the seasonal high water table is at least five feet below the natural ground surface. Since the available information indicates the seasonal

high water table on the entire parcel is less than five feet below the natural ground surface, the applicant is requesting a Waiver from the seasonal high water table standard contained in the CMP (N.J.A.C. 7:50- 6.84(a)5vi.).

The parcel has been site inspected by two members of the Commission's staff. Additionally, the appropriate resource capability maps and data available to the staff have been reviewed.

The parcel includes all contiguous land in common ownership on or after January 14, 1981. The proposed single family dwelling will be the sole principal use of the entire contiguous parcel. A single family dwelling can be developed on the parcel without violating any of the criteria contained in N.J.A.C. 7:50-4.65(b) if the conditions recommended below are imposed.

Pursuant to N.J.A.C. 7:50-5.43(b)4, the applicant is entitled to 0.25 Pineland Development Credits for this 11.14 acre parcel. If the proposed development of a single family dwelling is approved pursuant to the provisions of the CMP, the allocation of PDCs for this parcel would be reduced to zero.

Only if the parcel is developed in accordance with the conditions recommended below will the adverse impacts on seasonal high water table be minimized.

PUBLIC COMMENT

The applicant has provided the requisite public notices. Public notice to all property owners within 200 feet of the parcel was completed on October 29, 2019. Newspaper public notice was completed on October 29, 2019. The application was designated as complete on the Commission's website on December 2, 2019. The Commission's public comment period closed on December 13, 2019. No public comment was submitted to the Pinelands Commission regarding the application.

CONCLUSION

The CMP (N.J.A.C. 7:50-4.62) sets forth the standards which must be met before a Waiver can be approved. The CMP (N.J.A.C. 7:50-4.62(a)) requires that for a Waiver application to be approved based on extraordinary hardship, the applicant must demonstrate that the conditions of either N.J.A.C. 7:50-4.63(a) or (b) have been met.

N.J.A.C. 7:50-4.63(a) sets forth five conditions which must be met for an applicant to qualify for an extraordinary hardship pursuant to that subsection.

The first condition is that the only relief sought is from one or more of the standards contained in N.J.A.C. 7:50-6 for certain specified development. One of the specified types of development is a single family dwelling proposed on a parcel of at least 1.0 acre in accordance with the cultural housing provision (N.J.A.C. 7:50-5.32). This application is for a Waiver from the minimum depth to seasonal high water table requirement when utilizing an onsite septic system. The applicant is proposing to develop a single family dwelling on a 11.14 acre parcel in accordance with the cultural housing provision. Therefore, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)1i.

The second condition is that the parcel includes all contiguous land in common ownership on or after January 14, 1981, including lands which are contiguous as a result of ownership of other contiguous lands. Since the parcel includes all such contiguous land, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)2.

The third condition is that the proposed use will be the sole principal use on the entire contiguous parcel, except as expressly provided in N.J.A.C. 7:50-5.1(c). As the proposed single family dwelling will be the sole principal use on the parcel, except as expressly provided in N.J.A.C. 7:50-5.1(c), the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)3.

The fourth condition is that all necessary municipal lot area and density variances have been obtained if the property is located in a municipality whose master plan and land use ordinances have been certified by the Pinelands Commission. Waterford Township's master plan and land use ordinances have been certified by the Pinelands Commission. The certified ordinance does not require a lot area or density variance. As a result, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)4.

The fifth condition is that the development of the parcel will not violate any of the criteria contained in N.J.A.C. 7:50-4.65(b). N.J.A.C. 7:50-4.65(a) precludes the granting of a Waiver which permits a parcel to be developed unless such development will be consistent with the purposes and provisions of the Pinelands Protection Act, the Federal Act and the CMP and will not result in a substantial impairment of the resources of the Pinelands Area. N.J.A.C. 7:50-4.65(b) sets forth the circumstances which do not comply with N.J.A.C. 7:50-4.65(a). With the conditions recommended below, the proposed development will not violate any of the circumstances contained in N.J.A.C. 7:50-4.65(b). As a result, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)5.

Since the applicant meets all five conditions set forth in N.J.A.C. 7:50-4.63(a), the applicant has demonstrated that an extraordinary hardship exists pursuant to N.J.A.C. 7:50-4.62(a).

As required by N.J.A.C. 7:50-4.62(b), the proposed dwelling will not result in substantial impairment of the resources of the Pinelands or be inconsistent with the provisions of the Pinelands Protection Act, the Federal Act or the CMP in accordance with the criteria set forth in N.J.A.C. 7:50-4.65.

As required by N.J.A.C. 7:50-4.62(c) and with the conditions recommended below, the proposed dwelling will not involve trespass or create a public or private nuisance by being materially detrimental or injurious to other property or improvements in the area in which the parcel is located, increase the danger of fire or endanger public safety.

The CMP (N.J.A.C. 7:50-4.62(d)) requires that the Waiver only grant the minimum relief necessary to relieve the extraordinary hardship. The proposed single family dwelling is the minimum relief necessary to relieve the extraordinary hardship which has been shown to exist.

The CMP (N.J.A.C. 7:50-4.62 (d)1i) also requires the reduction as set forth in the CMP of any PDCs that are allocated to the parcel. The CMP (N.J.A.C. 7:50-5.43(b) allocates PDCs to this parcel. As required by the CMP (N.J.A.C. 7:50-5.43(b)3ii and 3iii), a condition is included to require the reduction in the PDC allocated to this parcel by 0.25 PDCs if the single family dwelling subject of this Waiver application is developed or for any reserved right to build the single family dwelling subject of this Waiver application.

The CMP (N.J.A.C. 7:50-4.62(d)1ii) further requires the acquisition and redemption of any PDCS that are otherwise required pursuant to N.J.A.C. 7:50-5.27, 5.28 or 5.32. The CMP (N.J.A.C. 7:50-5.32) provides that the development of a single family dwelling on a lot of at least 3.2 acres in accordance with the cultural housing provision does not require the acquisition and redemption of any PDCS.

The CMP (N.J.A.C. 7:50-4.62(d)1iii) further requires the acquisition and redemption of 0.25 Pinelands Development Credits (PDCs) whenever a Waiver provides relief from one or more of the standards of N.J.A.C. 7:50-6. As the applicant is obtaining a Waiver from the seasonal high water table standard (N.J.A.C. 7:50-6.84(a)4iv), a condition is included to require the applicant to purchase the requisite 0.25 PDCs.

To meet the requirements of N.J.A.C. 7:50-4.62, N.J.A.C. 7:50-4.63(a) and N.J.A.C.-7:50 4.65, the Pinelands Commission staff has determined that the parcel must be developed in accordance with the following conditions:

1. Except as modified by the below conditions, the proposed development shall adhere to the plot plan prepared by Key Engineers, Inc., dated August 14, 2019 and last revised November 22, 2019.
2. The proposed septic system must be located in an area where the seasonal high water table is at least two feet below the natural ground surface.
3. All development, including clearing and land disturbance, shall maintain a 300 foot buffer to wetlands, as shown on the above referenced plan. No development, including clearing and land disturbance, except for the continuation of agriculture within the currently farmed portion of the parcel, is permitted within wetlands or within 300 feet of wetlands as delineated on the above referenced plan.
4. Except as provided in N.J.A.C. 7:50-5.1(c), the single family dwelling approved herein shall be the sole use of the parcel.
5. Pursuant to the cultural housing provision of the Waterford Township land use ordinance and the CMP, the single family dwelling shall be the principal place of residence of Diana Sabella.
6. Any allocation of Pinelands Development Credits to the parcel shall be reduced by 0.25 PDCs in accordance with N.J.A.C. 7:50-5.43(b)3ii and 3iii.
7. This Waiver shall expire January 10, 2025 unless all necessary construction permits have been issued by that date. The Waiver shall also expire if any construction permit is allowed to expire or lapse after January 10, 2025 or if any renewal or extension of any permit or approval or issuance of a new construction permit is necessary after that date.
8. Prior to Commission issuance of a letter advising that any county or municipal approval or permit may take effect, the Commission must receive a letter from the Pinelands Development Credit Bank indicating that the requisite 0.25 PDCs have been acquired and submitted to the Pinelands Development Credit Bank for redemption.
9. Prior to Commission issuance of a letter advising that any county or municipal approval or permit may take effect, a copy of a recorded deed containing all of the above conditions shall be submitted to the Pinelands Commission. The deed shall specify that the conditions are being imposed pursuant to a December 19, 2019 Pinelands Commission Report on an Application for a Waiver of Strict Compliance (“Waiver Report”) for App. No. 2017-

0213.001. The deed shall also indicate that the conditions are enforceable by the Pinelands Commission, Waterford Township and any other party of interest.

With the above conditions, the applicant qualifies for a Waiver of Strict Compliance from the requirements of N.J.A.C. 7:50-6.84(a)5vi.

Since the applicant meets the provisions of N.J.A.C. 7:50-4.62, N.J.A.C. 7:50-4.63 and N.J.A.C. 7:50-4.65 for the development of one single family dwelling on the subject lot, it is recommended that the Pinelands Commission **APPROVE** the requested Waiver of Strict Compliance subject to the above conditions.

APPEAL

The CMP (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal this recommendation in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted by someone meeting the definition of an interested party will be transmitted to the New Jersey Office of Administrative Law for a hearing. Any such appeal must be made in writing to the Commission and received by the Commission's office no later than 5:00 PM on January 7, 2020 and include the following information:

1. the name and address of the person requesting the appeal;
2. the application number;
3. a brief statement of the basis for the appeal; and
4. a certificate of service (a notarized statement) indicating that service of the notice has been made, by certified mail, on the clerk of the county, municipal planning board and environmental commission with jurisdiction over the property which is subject of this decision.

If no appeal is received, the Pinelands Commission may either approve the determination of the Executive Director or refer the application to the New Jersey Office of Administrative Law for a hearing.



Recommended for Approval by: _____
Charles M. Horner, P.P., Director of Regulatory Programs

- c: Secretary, Waterford Township Planning Board (via email)
Waterford Township Construction Code Official (via email)
Waterford Township Environmental Commission (via email)
Secretary, Camden County Planning Board (via email)
Camden County Health Department (via email)
R. Scott Smith (via email)

Motion Failed



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-20- 03

TITLE: Resolution Addressing the Remand of the South Jersey Gas Company Application Due to a Significant Change in Material Fact

Commissioner Lehauer moves and Commissioner Huwell seconds the motion that:

WHEREAS, the Pinelands Commission (Commission) is an independent political subdivision of the State of New Jersey created pursuant to Section 4 of the Pinelands Protection Act (the Act), N.J.S.A. 13:18A-1, *et seq.*, and charged with the implementation of the Act and the Pinelands Comprehensive Management Plan (the CMP), N.J.A.C. 7:50; and

WHEREAS, the Commission is also the planning entity authorized under Section 502 of the National Parks and Recreation Act of 1978; and

WHEREAS, on May 21, 2015, South Jersey Gas Company ("South Jersey Gas") filed a revised application ("Original application") to install approximately 15 miles of an approximately 22-mile, 24-inch natural gas pipeline within the Pinelands ("Project"); and

WHEREAS, as discussed in the Original application, the Project was intended to provide natural gas required to repower the BL England electrical generation plant ("BLE plant" or "BLE") at Beesley's Point in Upper Township 95% of the time and to provide natural gas redundancy to the southernmost portion of South Jersey Gas's service territory; and

WHEREAS, 9.51 miles of the proposed Project would be located within a Forest Area; and

WHEREAS, the Project is considered "public service infrastructure" as defined by the Pinelands CMP at N.J.A.C. 7:50-2.11; and

WHEREAS, "public service infrastructure" is a permitted use in a Forest Area if it is demonstrated that the proposed infrastructure is "intended to primarily serve only the needs of the Pinelands," N.J.A.C. 7:50-5.23(b)(12); and

WHEREAS, South Jersey Gas's Original application represented that the Project's primary purpose would be to provide the natural gas required to repower the BLE plant, which is located within the Pinelands; and

WHEREAS, the Commission, on December 9, 2016, approved Pinelands Resolution No. PC4-16-42 setting forth the process by which the it would review South Jersey Gas's Original application and the Pinelands Preservation Alliance ("PPA") subsequently appealed that resolution ("process appeal"); and

WHEREAS, after considering the Original application and public comment, the February 17, 2017 Executive Director's Recommendation Report concluded that the Project was consistent with the CMP, because the proposed pipeline would serve the BLE plant, an existing Pinelands business, more than 95% of the time, and thus it would primarily serve only the needs of the Pinelands; and

WHEREAS, on February 24, 2017, the Commission approved Pinelands Resolution No. PC4-17-03, which adopted the factual findings in the February 17, 2017 Executive Director's Recommendation Report, and approved the Project as delineated in the Original application; and

WHEREAS, the PPA, New Jersey Sierra Club, and Environment New Jersey appealed the Commission's approval of the Project and adoption of Pinelands Resolution No. PC4-17-03 ("substantive appeals"); and

WHEREAS, R.C. Cape May Holdings, LLC, (“RCCM”) the entity that owns and operates BLE, intervened in the appeal; and

WHEREAS, on February 27, 2019, RCCM filed a motion seeking permission to withdraw as an intervenor, because it had decided not to repower the BLE plant; and

WHEREAS, RCCM’s decision not to repower BLE with natural gas changes a fundamental fact relied upon by the Pinelands Commission for its finding that the project was “intended to primarily serve only the needs of the Pinelands”; and

WHEREAS, RCCM’s decision not to repower BLE with natural gas is a fundamental change in the scope of the Project delineated in the Original application and the prior approval of same; and

WHEREAS, in correspondence dated March 6, 2019, the Commission’s Executive Director informed South Jersey Gas that, based on the new information that RCCM would not repower BLE with natural gas, the factual basis for the Commission’s approval, as detailed in the February 17, 2017 Executive Director’s Recommendation Report, had substantially changed and the approval was no longer justified; and

WHEREAS, South Jersey Gas did not provide a substantive response to the March 6, 2019 letter; and

WHEREAS, by letter dated April 12, 2019, South Jersey Gas advised the Commission that the Commission should not reconsider its previous approval of South Jersey Gas’s natural gas pipeline application, unless the Appellate Division remanded the matter to the Commission and that South Jersey Gas felt it was entitled to an adjudicatory hearing prior to any revocation of its existing approval pursuant to the Administrative Procedures Act; and

WHEREAS, on May 10, 2019, the Pinelands Commission filed a motion to remand the appeals on Resolution No. PC4-17-03 (granting South Jersey Gas’s application) and Resolution No. PC4-16-42 (regarding the Commission’s review process for South Jersey Gas’s application); and

WHEREAS, on May 20, 2019, PPA and New Jersey Sierra Club opposed the motion to remand the process appeal, and South Jersey Gas opposed the motion to remand the substantive appeals; and

WHEREAS, by Order dated May 29, 2019, the Appellate Division granted the Commission’s motion to remand the matter back to the Commission so it could reconsider its approval of the Project “in light of the decision by R.C. Cape May Holdings, LLC, not to re-fire the B.L. England plant with natural gas”; and

WHEREAS, in the May 29, 2019 Order, the Appellate Division rejected all arguments submitted in opposition to the Commission’s remand motion, did not retain jurisdiction, and dismissed the appeals; and

WHEREAS, despite having received written notice from the Commission’s Executive Director that the approval was no longer justified given the material change from the scope of the project in the Original application, i.e. that the Project would no longer serve BLE 95% of the time, South Jersey Gas has not voluntarily relinquished its approval, submitted a new application, or modified its existing application filed on May 21, 2015 to account for the substantially changed facts or provided any formal indication of its intentions whatsoever relative to the Project; and

WHEREAS, South Jersey Gas acknowledged in its Appellate Division filings that BLE will no longer be served by the Project, and thus there are no material facts in dispute and an adjudicatory hearing is not required; and

WHEREAS, given South Jersey Gas’s failure to provide information to account for the substantial change in facts and to address how the current scope of the Project satisfies the public service infrastructure requirements for a Forest Area set forth at N.J.A.C. 7:50-5.23(b)12, the application is incomplete; 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.

Motion Failed

NOW, THEREFORE BE IT RESOLVED, because the Project has significantly changed, i.e. it will no longer serve BL England, the submitted application no longer addresses the Forest Area Public Infrastructure standard of the Pinelands CMP at N.J.A.C. 7:50-5.23(b)12. As a result, SJG may not proceed with the Project.

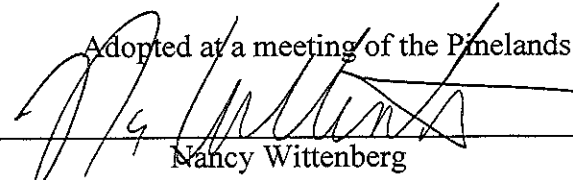
Record of Commission Votes

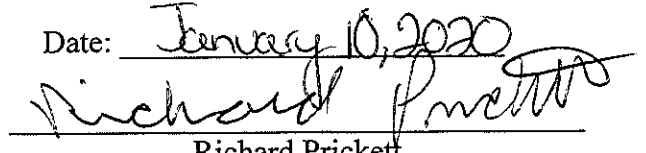
AYE NAY NP A/R*				AYE NAY NP A/R*				AYE NAY NP A/R*			
Ashmun			X	Irick	X			Quinn		X	
Avery		X		Jannarone		X		Rohan Green			X
Christy		X		Lloyd			R	Prickett	X		
Earlen		X		Lohbauer	X						
Howell	X			Pikolycky			R				

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: January 10, 2020


 Nancy Wittenberg
 Executive Director


 Richard Prickett
 Chairman