



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-20- 21

TITLE: **Approving** With Conditions an Application for **Public Development** (Application Number 1986-1408.012)

Commissioner Lohbauer moves and Commissioner Irick seconds the motion that:

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

1986-1408.012

Applicant:	Woodbine Municipal Utilities Authority
Municipality:	Borough of Woodbine
Management Area:	Pinelands Town
Date of Report:	June 17, 2020
Proposed Development:	Improvements to an existing municipal potable water treatment facility.

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 Conclusion of the Executive Director for the proposed development; and

WHEREAS, the Pinelands Commission hereby determines that the proposed public development conforms 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 Number 1986-1408.012 for public development is hereby **approved** subject to the conditions recommended by the Executive Director.

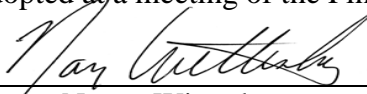
Record of Commission Votes

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

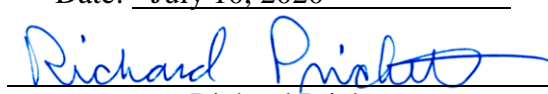
*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: July 10, 2020



 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

June 17, 2020

Mayor William Pickolycky (via email)
Woodbine Municipal Utilities Authority
501 Washington Avenue
Woodbine, NJ 08270

Re: Application # 1986-1408.012
Block 65, Lots 1-3
Borough of Woodbine

Dear Mayor Pickolycky:

The Commission staff has completed its review of this amended application for improvements to an existing municipal potable water treatment facility. Enclosed is a copy of an Amended Public Development Application Report. On behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the amended application with conditions at its July 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, Borough of Woodbine Planning Board (via email)
Borough of Woodbine Construction Code Official (via email)
Secretary, Cape May County Planning Board (via email)
Cape May County Health Department (via email)
Bruce S. Graham, P.E. (via email)



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

AMENDED PUBLIC DEVELOPMENT APPLICATION REPORT

June 17, 2020

Mayor William Pickolycky (via email)
 Woodbine Municipal Utilities Authority
 501 Washington Avenue
 Woodbine, NJ 08270

Application No.: 1986-1408.012
 Block 65, Lots 1-3
 Borough of Woodbine

This application proposes improvements to an existing potable water treatment facility located on the above referenced 4.32 acre parcel in the Borough of Woodbine.

On August 9, 2019, the Commission approved an application for the construction of a 200 square foot shed, a 480 square foot garage and a 660 square foot expansion of an existing paved parking lot (App. No. 1986-1408.008). This application proposes to increase the square footage of the previously approved 480 square foot garage to 2,000 square feet.

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 Woodbine. The proposed development is a permitted land use in a Pinelands Town Management Area.

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

The proposed development will be located in an existing developed and/or 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.

PUBLIC COMMENT

The CMP defines the proposed development as “minor” development. The CMP does not require public notice for minor public development applications. This amended application was designated as complete on the Commission’s website on May 27, 2020. The Commission’s public comment period closed on June 12, 2020. 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 ten sheets, prepared by Van Note Harvey and Associates, and dated as follows:

Sheets 1- 8 & 10 - December 19, 2017; last revised January 17, 2020
Sheet 9 - October 18, 2017; last revised January 17, 2020
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 July 6, 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- 22

TITLE: **Approving** With Conditions Applications for **Public Development** (Application Numbers 2003-0530.012 & 2020-0085.001)

Commissioner Lohbauer moves and Commissioner Jannarone 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:

2003-0530.012

Applicant: **GEH Solar 1, LLC on behalf of the Greater Egg Harbor Regional School District**

Municipality: Egg Harbor City

Management Area: Pinelands Town

Date of Report: June 17, 2020

Proposed Development: Installation of a 20,445 square foot ground mounted solar energy facility at the Cedar Creek High School; and

2020-0085.001

Applicant: **Egg Harbor Township Municipal Utilities Authority**

Municipality: Egg Harbor Township

Management Area: Pinelands Military/Federal Installation Area

Pinelands Regional Growth Area

Date of Report: June 18, 2020

Proposed Development: Installation of 1,675 linear feet of sanitary sewer main within the Delilah Road right-of-way.

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 2003-0530.012 & 2020-0085.001 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*			
Avery			X	Irick	X			Pikolycky	X		
Christy	X			Jannarone	X			Quinn	X		
Earlen	X			Lloyd	X			Rohan Green			X
Howell			X	Lohbauer	X			Prickett	X		

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: July 10, 2020

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

June 17, 2020

Pierre Moses
GEH Solar 1, LLC (via email)
2060 Winding Brook Way
Scotch Plains, NJ 07076

Re: Application # 2003-0530.012
Block 16, Lot 1
Egg Harbor City

Dear Mr. Moses:

The Commission staff has completed its review of this application for installation of a 20,445 square foot ground mounted solar energy facility at the Cedar Creek High 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 July 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, Egg Harbor City Planning Board (via email)
Egg Harbor City Construction Code Official (via email)
Atlantic County Department of Regional Planning and Development (via email)
Jesse Dougherty, PE, Sr. Project Engineer (via email)

Thomas Grossi, Board Secretary (via email)
Derrick A. Manka (via email)



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

PUBLIC DEVELOPMENT APPLICATION REPORT

June 17, 2020

Pierre Moses
GEH Solar 1, LLC (via email)
2060 Winding Brook Way
Scotch Plains, NJ 07076

Re: Application # 2003-0530.012
Block 16, Lot 1
Egg Harbor City

This application proposes the installation of a 20,445 square foot ground mounted solar energy facility at the Cedar Creek High School located on the above referenced 66.23 acre parcel. The proposed solar energy facility will be an accessory use to the existing school. The 20,445 square foot solar energy facility subject of this application will be installed on grassed areas.

An additional approximately 93,735 square feet of proposed solar energy facility will be installed over existing paved parking areas and partially on the roof of the school. The proposed installation of accessory solar facilities on existing impervious surfaces or existing structures does not require application to the Commission (N.J.A.C. 7:50-4.1(a)20).

The applicant has indicated that the proposed 114,180 square foot solar energy facility will produce 2,009.7 kW per year, which represents approximately seventy percent of the school's annual electric use.

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 the City of Egg Harbor City. The proposed development is a permitted land use in a Pinelands Town.

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

The proposed development will be located within existing maintained non-native grassed areas. The proposed soil disturbance is limited to that which is necessary to accommodate the proposed development.

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 January 30, 2020. Newspaper public notice was completed on February 3, 2020. The application was designated as complete on the Commission's website on May 26, 2020. The Commission's public comment period closed on June 12, 2020. The Commission received one written public comment regarding this application.

Commenter #1: The commenter indicated that they lived adjacent to the school and inquired as to the location and footprint of the proposed solar energy facility.

Staff Response: On March 27, 2020, the Commission staff provided the commenter with a map of the proposed solar energy facility.

CONDITIONS

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of ten sheets, prepared by Marathon Engineering Associates, and dated as follows:

Sheets 1-10- January 22, 2020; revised April 17, 2020
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 July 6, 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.



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

June 18, 2020

Michael Duffy (via email)
Egg Harbor Township Municipal Utilities Authority
3515 Bargaintown Road
Egg Harbor Township, NJ 08234

Re: Application # 2020-0085.001
Delilah Road
Egg Harbor Township

Dear Mr. Duffy:

The Commission staff has completed its review of this application for installation of 1,675 linear feet of sanitary sewer main within the Delilah Road right-of-way. 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 July 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, Egg Harbor Township Planning Board (via email)
Egg Harbor Township Construction Code Official (via email)
Egg Harbor Township Environmental Commission (via email)
Atlantic County Department of Regional Planning and Development (via email)
Vincent J. Polistina, PE (via email)



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

PUBLIC DEVELOPMENT APPLICATION REPORT

June 18, 2020

Michael Duffy (via email)
 Egg Harbor Township Municipal Utilities Authority
 3515 Bargaintown Road
 Egg Harbor Township, NJ 08234

Application No.: 2020-0085.001
 Delilah Road
 Egg Harbor Township

This application proposes installation of 1,675 linear feet of sanitary sewer main within the Delilah Road right-of-way located in Egg Harbor Township. The proposed sewer main will connect to an existing sanitary sewer main in Delilah Road and extend west until it reaches the Delilah Road and Tilton Road intersection.

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) & 5.29)

The proposed sanitary sewer main is located entirely within the Delilah Road right-of-way. Delilah Road is a county road. Approximately 730 linear feet of the proposed sanitary sewer main is located in a Pinelands Regional Growth Area and approximately 945 linear feet of the proposed sanitary sewer main is located in a Military and Federal Installation Management Area.

The portion of the proposed sanitary sewer main located in a Pinelands Regional Growth Area is a permitted land use.

In the area of Egg Harbor Township where the 945 linear feet of sanitary sewer main is proposed, the Delilah Road right-of-way is bounded on one side by a Pinelands Regional Growth Management Area and on the other side by a Military and Federal Installation Management Area. When two Pinelands land management area boundaries coincide with a road right of way, the boundaries of the two respective Pinelands land management areas extend to the centerline of the road right-of-way. The proposed sanitary sewer main is located on the Military and Federal Installation Management Area side of the Delilah Road right-of-way.

The CMP permits, with conditions, any public purpose use undertaken by or on behalf of another level of government in a Military and Federal Installation Management Area. The proposed sanitary sewer main meets the CMP conditions that are applicable to the proposed development of a sanitary sewer main in the Delilah Road right-of-way and it is a permitted land use in a Military and Federal Installation Management Area.

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

The proposed development will be located under existing pavement and within existing maintained grassed road shoulders. The proposed soil disturbance is limited to that which is necessary to accommodate the 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 applicant has provided the requisite public notice. Newspaper public notice was completed on May 8, 2020. The application was designated as complete on the Commission's website on May 11, 2020. The Commission's public comment period closed on June 12, 2020. 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 four sheets, prepared by Houser Engineering, LLC. all sheets dated May 29, 2019 and revised to March 3, 2020.
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 July 6, 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-_____23_____

TITLE: Issuing an Order to Certify Ordinance 2020-5, Amending Chapter 55 (Land Use) of the Code of Barnegat Township.

Commissioner Lloyd moves and Commissioner Lohbauer seconds the motion that:

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

WHEREAS, Resolution #PC4-83-29 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 #PC4-83-29 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 May 8, 2020, Barnegat Township adopted Ordinance 2020-5, amending Chapter 55, Land Use, of the Code of Barnegat Township by revising standards applicable to condominium development in the C-N (Neighborhood Commercial) Zone; and

WHEREAS, the Pinelands Commission received a certified copy of Ordinance 2020-5 on May 12, 2020; and

WHEREAS, by letter dated May 14, 2020, the Executive Director notified the Township that Ordinance 2020-5 would require formal review and approval by the Pinelands Commission; and

WHEREAS, a public hearing to receive testimony on Ordinance 2020-5 was duly advertised, noticed and remotely held on June 10, 2020 at 9:30 a.m. with live broadcast on the Pinelands Commission's public YouTube channel and opportunity for the public to call-in; and

WHEREAS, the Executive Director has found that Ordinance 2020-5 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 2020-5, amending Chapter 55, Land Use, of the Code of Barnegat Township, 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 2020-5 be certified; and

WHEREAS, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning Ordinance 2020-5 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 Ordinance 2020-5, amending Chapter 55, Land Use, of the Code of Barnegat Township, is in conformance with the Pinelands Comprehensive Management Plan.
2. Any additional amendments to Barnegat 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			X		Jannarone	X				Rohan Green			X	
Christy	X				Lloyd	X				Prickett	X			
Earlen	X				Lohbauer	X								
Howell			X		Pikolycky	X								
Irick	X				Quinn	X								


*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: July 10, 2020



 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 ORDINANCE 2020-5, AMENDING CHAPTER 55 (LAND USE)
 OF THE CODE OF BARNEGAT TOWNSHIP**

June 26, 2020

Barnegat Township
 900 West Bay Avenue
 Barnegat, NJ 08005

FINDINGS OF FACT

I. Background

The Township of Barnegat is located in southern Ocean County, in the eastern portion of the Pinelands Area. Pinelands municipalities that border Barnegat Township include the Townships of Lacey, Ocean, Stafford and Little Egg Harbor in Ocean County, and the Townships of Bass River and Woodland in Burlington County.

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

On May 8, 2020, Barnegat Township adopted Ordinance 2020-5, amending Chapter 55 (Land Use) of the Code of Barnegat Township. The ordinance amends condominium standards applicable to the Neighborhood Commercial (C-N) Zone. Condominium developments are a conditional use in that portion of the C-N Zone located in the Pinelands Regional Growth Area. The ordinance establishes a maximum affordable housing set-aside for such developments; exempts from Pinelands Development Credit requirements those units that are provided as affordable up to the maximum affordable housing set-aside; modifies minimum unit size requirements; and modifies requirements for outdoor recreational amenities.

The Pinelands Commission received a certified copy of Ordinance 2020-5 on May 12, 2020. By letter dated May 14, 2020, the Executive Director notified the Township that Ordinance 2020-5 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 2020-5, Amending Chapter 55 (Land Use), introduced on March 3, 2020 and adopted on May 8, 2020.

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 2020-5 amends the condominium standards applicable to the Neighborhood Commercial (C-N) Zone. In 2017, the Commission certified Ordinance 2017-12, which established condominium developments as a conditional use in that portion of the C-N Zone located in the Pinelands Regional Growth Area. This area of the Township is located along West Bay Avenue, immediately to the north of Ocean Acres (see Exhibit #1). As was the case in 2017, there remains only one parcel that meets the standards for a condominium development within the C-N Zone. The parcel is slightly less than 10 acres in size, with a potential for 148 new units based on the maximum permitted density of 15 units per acre.

Ordinance 2020-5 establishes a 20% limit on the number of condominium units that may be set aside as affordable to low- and moderate-income households. No minimum set-aside requirement is established. The ordinance also provides that no more than 10 of the units may be made affordable to low-income households.

As noted, the Commission previously certified Ordinance 2017-12, which required that Pinelands Development Credits be purchased and redeemed for 25% of all units in a condominium development within the C-N Zone. Ordinance 2020-5 exempts units made affordable to low- and moderate-income households from this Pinelands Development Credit requirement, provided that such affordable units do not exceed 20% of the total number of units in a proposed development. Given the residential unit potential of 148 units, Ordinance 2020-5 would permit a maximum of 29 affordable units to be exempted from Pinelands Development Credit requirements. The remaining 119 market-rate units would require the purchase and redemption of 30 rights (7.5 full Credits).

Additionally, Ordinance 2020-5 reduces the minimum two-bedroom unit size from 1,100 square feet to 950 square feet with a minimum of 70% of the two-bedroom units having no less than 1,100 square feet. It also eliminates the requirement for a pool as part of a condominium

development, and further provides that developments with 50 or more units are required to include a clubhouse with a minimum size of 1,000 square feet and at least 17 square feet per unit.

The standards adopted by Ordinance 2020-5 for condominium developments are appropriate for a Regional Growth Area and have no effect on its residential development potential. Therefore, Ordinance 2020-5 is consistent with the land use and development standards of the Comprehensive Management Plan. 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.

Barnegat Township previously established a permitted density of 15 units per acre for condominium developments in its C-N Zone, with the use of PDCs required for 25% of all units. Ordinance 2020-5 does not change the permitted density or residential development potential of Barnegat Township's Regional Growth Area; however, it does exempt a small number of affordable housing units from the existing PDC requirement. Ordinance 2020-5 exempts those units made affordable to low- and moderate-income households, provided that such affordable units do not exceed 20% of the total proposed units. PDCs must still be purchased and redeemed for 25% of all market-rate units developed as part of a condominium development.

Based on the standards for condominium development previously adopted by Ordinance 2020-12 and certified by the Commission, a maximum of 148 units is permitted. Ordinance 2020-5 allows a maximum of 29 affordable units to be excluded from the calculation of a project's PDC obligation. The remaining 119 market-rate units require the purchase and redemption of 30 rights (7.5 full Credits). Because the ordinance establishes no minimum affordable housing set-aside requirement, there is still the opportunity for use of up to 37 rights (9.25 full Credits) if a project were to be developed without any affordable housing units.

While the 25 percent requirement for condominium developments in the C-N Zone is not as high a number as would be provided through the more traditional zoning approach where PDCs would account for 33 percent of the total number of permitted units, it is important to remember that the traditional base density/bonus density approach utilized throughout the Pinelands Area only provides an opportunity for the use of PDCs. There is no requirement under the traditional approach that any PDCs be used in any development project. Ordinance 2020-5 maintains the guarantee that PDCs will be purchased and redeemed as part of the approval of any condominium development within the C-N Zone, regardless of the density or number of units ultimately built. The exemption of affordable housing units results in a very small reduction in PDC potential (7 rights). Appropriate and sufficient opportunities for the use of PDCs remain in the C-N Zone and elsewhere in Barnegat's Regional Growth Area.

Therefore, this standard for certification is met.

9. Referral of Development Applications to Environmental Commission

Not applicable.

10. General Conformance Requirements

Ordinance 2020-5 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 2020-5 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 C-N Neighborhood Commercial Zone does not border any neighboring municipalities of Barnegat Township. As such, no intermunicipal conflicts are expected.

Therefore, this standard for certification is met.

PUBLIC HEARING

A public hearing to receive testimony concerning Barnegat Township's application for certification of Ordinance 2020-5 was duly advertised, noticed and held on June 10, 2020 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 2020-5 were accepted through June 15, 2020. However, no written comments were received.

CONCLUSION

Based on the Findings of Fact cited above, the Executive Director has concluded that Ordinance 2020-5, amending Chapter 55 (Land Use) of the Code of Barnegat 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 2020-5 of Barnegat Township.

SRG/DBL/CBA
Attachment

Barneгат Township Neighborhood Commercial (C-N) Zone

Executive Director's Report
Barneгат Ordinance 2020-5
Exhibit 1
6/26/2020

Pinelands Management Areas

- Regional Growth Area

Parcels

Existing Zoning

0 0.25 0.5 Miles

