



# RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-18- 08

TITLE: Approving With Conditions an Application for Public Development (Application Number 1983-5837.062)

Commissioner Galletta moves and Commissioner Barr 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:

1983-5837.062

Applicant: ONYX Renewable Partners, LP on behalf of South Jersey Transportation Authority

Municipality: Egg Harbor Township

Management Area: Pinelands Military/Federal Installation Area

Date of Report: February 16, 2018

Proposed Development: Construction of a ground mounted solar energy facility at the Atlantic City International Airport.

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 1983-5837.062 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*			
Ashmun			X	Howell	X			Prickett	X		
Avery	X			Jannarone			X	Quinn			X
Barr	X			Lloyd	X			Rohan Green			X
Chila	X			Lohbauer	X			Earlen	X		
Galletta	X			Pikolycky	X						

\*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission  
Nancy Wittenberg  
Nancy Wittenberg  
Executive Director

Date: March 9, 2018  
Sean W. Earlen  
Sean W. Earlen  
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@njpines.state.nj.us  
Application Specific Information: AppInfo@njpines.state.nj.us

Sean W. Earlen  
Chairman

Nancy Wittenberg  
Executive Director

February 16, 2018

John Drexinger  
ONYX Renewable Partners, LP  
1 AAA Drive, Suite 500  
Robbinsville, NJ 08691

Re: Application # 1983-5837.062  
Block 101, Lot 9  
Egg Harbor Township

Dear Mr. Drexinger:

The Commission staff has completed its review of this application for construction of a ground mounted solar energy facility at the Atlantic City International Airport. 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 March 9, 2018 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)
- John Kornick





# State of New Jersey

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General Information: Info@njpines.state.nj.us  
Application Specific Information: AppInfo@njpines.state.nj.us

Sean W. Earlen  
Chairman

Nancy Wittenberg  
Executive Director

## **PUBLIC DEVELOPMENT APPLICATION REPORT**

February 16, 2018

John Drexinger  
ONYX Renewable Partners, LP  
1 AAA Drive, Suite 500  
Robbinsville, NJ 08691

Application No.: 1983-5837.062  
Block 101, Lot 9  
Egg Harbor Township

This application proposes construction of a ground mounted solar energy facility at the Atlantic City International Airport located on the above referenced 2,381 acre parcel in Egg Harbor 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. 7:50-5.29)**

The Pinelands Protection Act designates the boundaries of the 938,000 acre Pinelands Area. Within the boundaries of the Pinelands Area, the Pinelands Protection Act also designates the 366,000 acre Pinelands Preservation Area and the 572,000 acre Pinelands Protection Area. The CMP then establishes Management Areas such as Regional Growth, Rural Development, Military and Federal Installation that overlay the entire Pinelands Area.

The parcel subject of this application is located in a Military and Federal Installation Management Area. The CMP permits any proposed use associated with the function of a federal installation in a Military and Federal Installation Management Area. The applicant has indicated that the proposed use will provide electricity to an existing Air Rescue and Fire Fighting building on the parcel.

The CMP requires that, where feasible, proposed development in a Military and Federal Installation Management Area shall be located in the Pinelands Protection Area portion of the Pinelands Area. The development proposed in this application meets this requirement.

As further provided for in the CMP, the proposed use will not require any development in a Forest Management Area or the Preservation Area District Management Area.

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

The proposed development will be located within an existing 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. To stabilize the disturbed areas, the applicant proposes to utilize a seed mixture which meets that recommendation.

Threatened and Endangered Species Standards (N.J.A.C. 7:50-6.27 & 6.33)

On February 26, 2004, the Commission entered into a Memorandum of Agreement (MOA) with the South Jersey Transportation Authority (SJTA). The MOA specified mitigation measures to address the environmental impacts of MOA specified “Short-Term Development Projects.” The mitigation measures addressed loss of critical habitat for threatened grassland bird species, stormwater management and wetlands protection.

The MOA specified “Short Term Development Projects” do not require formal application to the Commission. The proposed ground mounted solar energy facility was not specifically identified in the MOA, resulting in this formal application to the Commission.

The proposed ground mounted solar energy facility will be located entirely within an area identified in the MOA for “Auxiliary Area Development.” Development activities specified in the MOA to occur within the “Auxiliary Area Development” included aircraft maintenance hangers, air freight warehouses and aircraft taxiways. Based on the proposed ground mounted solar energy facility being located entirely within the limits of the “Auxiliary Area Development area,” the proposed development is consistent with the MOA.

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 CMP stormwater management standards. To meet these standards, the application proposes to construct an underground stormwater infiltration facility.

**PUBLIC COMMENT**

The applicant has provided the requisite public notices. Newspaper public notice was completed on December 21, 2017. The application was designated as complete on the Commission’s website on January 11, 2018. The Commission’s public comment period closed on February 9, 2018. 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 eight sheets, prepared by K2 Consulting Engineers, Inc., all sheets dated July 3, 2017 and revised to December 11, 2017.
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. In accordance with the CMP (N.J.A.C. 7:50-5.36(a)4), the proposed solar energy facility shall be removed and the site restored within 12 months of termination of its use.

### **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.



Philip D. Murphy  
Governor

Sheila Y. Oliver  
Lt. Governor

## State of New Jersey

THE PINELANDS COMMISSION

PO Box 359

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General Information: [Info@njpines.state.nj.us](mailto:Info@njpines.state.nj.us)  
Application Specific Information: [AppInfo@njpines.state.nj.us](mailto:AppInfo@njpines.state.nj.us)



Sean W. Earlen  
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 at the Commission office no later than 5:00 PM on March 8, 2018 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. PC4-18- 09

**TITLE:** Approving With Conditions an Application for Public Development (Application Number 2008-0301.001)

Commissioner Avery moves and Commissioner Galletta 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:

2008-0301.001  
**Applicant:** Office of the Ocean County Engineer  
**Municipality:** Manchester Township  
**Management Area:** Pinelands Forest Area  
**Date of Report:** February 16, 2018  
**Proposed Development:** Realignment of the intersection of Beckerville Road and Route 70.

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 2008-0301.001 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*
Ashmun			X		Howell	X				Prickett	X			
Avery	X				Jannarone			X		Quinn			X	
Barr	X				Lloyd	X				Rohan Green			X	
Chila	X				Lohbauer	X				Earlen	X			
Galletta	X				Pikolycky	X								

\*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission  
Nancy Wittenberg  
Nancy Wittenberg  
Executive Director

Date: March 9, 2018  
Sean W. Earlen  
Sean W. Earlen  
Chairman



# State of New Jersey

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Philip D. Murphy  
Governor

Sheila Y. Oliver  
Lt. Governor

General Information: Info@njpines.state.nj.us  
Application Specific Information: AppInfo@njpines.state.nj.us

Sean W. Earlen  
Chairman

Nancy Wittenberg  
Executive Director

February 16, 2018

John N. Ernst, P.E. (via email)  
Ocean County Engineer  
129 Hooper Ave.  
P.O. Box 2191  
Toms River, NJ 08754-2191

Re: Application # 2008-0301.001  
Beckerville Road and Route 70  
Manchester Township

Dear Mr. Ernst:

The Commission staff has completed its review of this application for realignment of the Beckerville Road and Route 70 intersection. 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 March 9, 2018 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, Manchester Township Planning Board (via email)  
Manchester Township Construction Code Official (via email)  
Manchester Township Environmental Commission (via email)  
Secretary, Ocean County Planning Board (via email)  
Rebecca Murphy (via email)







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Philip D. Murphy  
Governor

Sheila Y. Oliver  
Lt. Governor

General Information: Info@njpines.state.nj.us  
Application Specific Information: AppInfo@njpines.state.nj.us

Sean W. Earlen  
Chairman

Nancy Wittenberg  
Executive Director

## **PUBLIC DEVELOPMENT APPLICATION REPORT**

February 16, 2018

John N. Ernst, P.E (via email)  
Ocean County Engineer  
129 Hooper Ave.  
P.O. Box 2191  
Toms River, NJ 08754-2191

Application No.: 2008-0301.001  
Beckerville Road and Route 70  
Manchester Township

This application proposes to realign the existing Beckerville Road and Route 70 intersection in Manchester Township.

The proposed realigned intersection will be located approximately 2,020 linear feet west of the existing Beckerville Road and Rt. 70 intersection. The application proposes to construction a new 450 linear foot section of Beckerville Road that will result in a "T" intersection with Route 70. A 300 linear foot portion of Route 70 will be widened by four feet at the proposed intersection with Beckerville Road. Approximately 2,020 linear feet of paving will be removed from the existing Beckerville Road right-of-way and the concerned area will be revegetated with native Pinelands grasses.

### **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. 7:50-5.23)**

The proposed development is located in a Pinelands Forest Area. Road improvements (public service infrastructure) intended to primarily serve only the needs of the Pinelands are permitted in a Pinelands Forest Area. The proposed development is a permitted use in a Pinelands Forest Management Area.

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

The proposed road improvement will be located over existing pavement and gravel shoulder, and within an existing forested land. The proposed development will disturb approximately 0.37 acres of forested land. All soil disturbance and clearing 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 area tolerant of droughty, nutrient poor conditions. The applicant proposes to utilize a seed mixture which meets that recommendation.

Threatened and Endangered Species Standards (N.J.A.C. 7:50-6.27 & 6.33)

The applicant completed a habitat assessment and a visual survey for the presence of critical habitat for Northern pine snake and Barred owl on and in the immediate vicinity of the proposed development. The habitat assessment and visual survey determined that the concerned area did not contain critical habitat for Northern pine snake or Barred owl.

The applicant also performed a threatened and endangered plant survey for the presence of Silvery aster, Broom crowberry, Stiff tick trefoil, Little ladies tresses, Butterfly-pea, Small everlasting, Virginia False-gromwell, Narrow-leaf vervain and Sickle-leaved golden aster. The results of the threatened and endangered plant survey indicated that no threatened or endangered plant species were present on or in the vicinity of the proposed development.

The applicant has demonstrated that the proposed development will not have an irreversible adverse impact on habitats critical to the survival of Northern pine snake or Barred owl, and on any local populations of threatened or endangered plant species.

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

The applicant proposes to remove approximately 63,416 square feet of existing pavement from the Beckerville Road right-of-way. The intersection realignment will result in 14,280 square feet of new pavement. The proposed development will result in a reduction of 49,136 square feet of pavement. The applicant has demonstrated that there will be no increase in the volume and rate of stormwater runoff from the project after the development then occurred prior to the proposed development.

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

A cultural resource survey was prepared for this application. It was determined that there were no cultural resources eligible for Pinelands designation within the project area.

**PUBLIC COMMENT**

The applicant has provided the requisite public notices. Newspaper public notice was completed on January 5, 2018. The application was designated as complete on the Commission's website on January 26, 2018. The Commission's public comment period closed on February 9, 2018. The Commission received one written public comment (attached) regarding this application.

Public Comment One: The Mayor of Manchester Township, Kenneth T. Palmer, supports the proposed road improvements and believes that the concerned improvements will provide safer driving conditions for Manchester residents and visitors.

Staff Response: The Commission staff appreciates the commenter's interest in the Pinelands Area.

### **CONDITIONS**

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of 37 sheets, prepared by John N. Ernst and dated as follows:  
  
Sheets 1 - 6 and 8 - 37 - dated January 2018  
Sheet 7 - dated January 2018 and last revised 1/29/18.
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.

### **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.



## Manchester Township

1 Colonial Drive • Manchester, NJ 08759 • (732)657-8121

Office of The Mayor

Kenneth T. Palmer  
Mayor

December 9, 2016

The Pinelands Commission  
P. O. Box 359  
New Lisbon, NJ 08064  
[ApplInfo@njpines.state.nj.us](mailto:ApplInfo@njpines.state.nj.us)

Subject: Pinelands Commission / Public Development Application for Realignment  
of Beckerville Road and Route 70 in Manchester Township

Dear Sirs,

The following comments are provided from Mayor Kenneth T. Palmer, Manchester Township, concerning the subject Public Development Application for the public right-of-way and on Block 125, lot 1 and Block 124, lot 1, Manchester Township:

Manchester Township is fully supportive of the recommended changes as it will be safer for our residents and visitors driving in Manchester.

If you have any questions, please feel free to contact the Mayor's office at 732-657-8121 ext. 3105.

Very truly yours,

Kenneth T. Palmer  
Mayor

Cc: John N. Ernst, Ocean County Engineer  
129 Hooper Avenue, Toms River, NJ 08754-2191  
[JErnst@co.ocean.nj.us](mailto:JErnst@co.ocean.nj.us)



Philip D. Murphy  
Governor

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Sean W. Earlen  
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 March 8, 2018. The appeal must 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. PC4-18- 10

**TITLE:** Approving With Conditions an Application for a Waiver of Strict Compliance (Application Number 2001-0477.001)

Commissioner Lohbauer moves and Commissioner Lloyd 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:

**2001-0477.001**

**Applicant:** Adam Pjatikin  
**Municipality:** Waterford Township  
**Management Area:** Pinelands Rural Development Area  
**Date of Report:** February 16, 2018  
**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 2001-0477.001 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	Howell	X			Prickett	X		
Avery	X			Jannarone		X		Quinn			X
Barr	X			Lloyd	X			Rohan Green			X
Chila	X			Lohbauer	X			Earlen	X		
Galletta	X			Pikolycky	X						

\*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission  
Nancy Wittenberg  
Nancy Wittenberg  
Executive Director

Date: March 9, 2018  
Sean W. Earlen  
Sean W. Earlen  
Chairman



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Philip D. Murphy  
 Governor

Sheila Y. Oliver  
 Lt. Governor

General Information: Info@njpines.state.nj.us  
 Application Specific Information: AppInfo@njpines.state.nj.us

Sean W. Earlen  
 Chairman

Nancy Wittenberg  
 Executive Director

**REPORT ON AN APPLICATION FOR A WAIVER OF STRICT COMPLIANCE**

February 16, 2018

Adam Pjatikin  
 719 Burnt Mill Road  
 Atco, NJ 08004

Re: Application # 2001-0477.001  
 Block 3803, Lot 3  
 Waterford Township

Dear Mr. Pjatikin:

The Commission staff has completed its review of this 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 March 9, 2018 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 17.57 acre parcel in Waterford Township. The parcel is located within a Pinelands Rural Development Area and in Waterford Township's RR zoning district. In this zoning district, Waterford Township's certified land use ordinances require a residential density requirement of one dwelling unit per 5.7 acres.

On November 7, 2003, the Pinelands Commission approved a Waiver for the development of a single family dwelling serviced by an onsite septic system on the parcel. An application for development of the proposed dwelling was subsequently completed with the Commission and a Certificate of Filing was issued on May 28, 2004. The Pinelands Comprehensive Management Plan (CMP, N.J.A.C. 7:50-4.70(c)) provides that the Waiver expired on November 7, 2008 unless all necessary municipal construction permits were issued by that date.

Information was provided to the Commission staff in October of 2017 that the single family dwelling subject of the Waiver was under construction on the parcel. The Commission staff subsequently verified that the single family dwelling subject of the Waiver was under construction on the parcel.



On November 6, 2017, the Commission staff received a copy of a Camden County septic system permit for the proposed dwelling that was issued on November 1, 2017. On November 28, 2017, the Commission staff received a copy of a municipal construction permit for the proposed dwelling that was issued on May 16, 2017. By letter dated November 30, 2017, the Commission staff notified the current owner of the parcel that the November 7, 2003 Waiver expired on November 7, 2008. On January 30, 2018, the current application for a new Waiver was completed with the Commission.

A portion of the parcel is wetlands as defined in the CMP (N.J.A.C. 7:50-6.5(a)2). The wetlands continue onto adjacent lands. Any development of the parcel would be located within 300 feet of these wetlands. The applicant has submitted no information to demonstrate that the proposed development would not cause a significant adverse impact on the wetlands. Based on the quality and location of the wetlands, the proposed development will cause a significant adverse impact on the wetland. As there will be a significant adverse impact on wetlands located within 300 feet of the proposed development, the applicant is requesting a Waiver from the buffer to wetlands standard contained in the CMP (N.J.A.C. 7:50-6.14).

The CMP (N.J.A.C. 7:50-4.65(b)6) requires that, to qualify for a Waiver to develop a single family dwelling in a Pinelands Rural Development Area, it must be demonstrated that no development, including clearing and land disturbance, will be located on or within 50 feet of wetlands. The applicant has demonstrated that no development, including clearing and land disturbance, will be located on or within 100 feet of wetlands.

The Camden County Soils Survey indicates that there are Fallsington, Woodstown and Klej 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 on the parcel where the seasonal high water table is at least 5 feet below the natural ground surface. Since the available information indicates the seasonal high water table on the parcel is less than 5 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)4iv.).

The CMP (N.J.A.C. 7:50-4.65(b)8) requires that for an applicant to qualify for a Waiver to develop a single family dwelling in a Pinelands Rural Development Area, it must be demonstrated that a septic system could be located in an area on the parcel where the seasonal high water table is at least 2 feet below the natural ground surface and not within 50 feet of any surface water body. The applicant has demonstrated that a proposed septic system could be located in an area on the parcel where the seasonal high water table is at least 2 feet below the natural ground surface and not within 50 feet of any surface water body.

The parcel has been site inspected by a member 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 parcel. The development of a single family dwelling on the parcel will not require any lot area or residential density variances pursuant to Waterford Township's certified land use ordinances. A single family dwelling can be developed on the parcel without violating any of the substantial impairment and consistency criteria contained in the CMP (N.J.A.C. 7:50-4.65) if the conditions recommended below are imposed.

Only if the parcel is developed in accordance with the conditions recommended below will the adverse impacts on the wetlands and groundwater quality be minimized.



## PUBLIC COMMENT

The applicant provided the requisite public notice. Public notice to all property owners within 200 feet of the parcel was completed on December 15, 2017. Newspaper public notice was completed on December 19, 2017. The application was designated as complete on the Commission's website on January 30, 2018. The Commission's public comment period closed on February 9, 2018. No public comments were received by the Commission regarding this 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 an 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 the CMP (N.J.A.C. 7:50-6) for certain specified development. One of the specified categories of development is as follows:

- vii. A single family dwelling on a parcel within a Pinelands Rural Development Area that complies with the density and lot area standards set forth in N.J.A.C. 7:50-5.26(a) and (c);

This application is only for a Waiver from the wetlands buffer standard and minimum depth to seasonal high water table standard when utilizing an onsite septic system contained in N.J.A.C. 7:50-6. The applicant is seeking to develop a single family dwelling on a parcel within a Pinelands Rural Development Area that complies with the residential density and lot area standards set forth in N.J.A.C. 7:50-5.26(a) and (c). The proposed single family dwelling on the 17.57 acre parcel meets the residential density and lot area standards established in this portion of the Pinelands Rural Development Area in Waterford Township's certified land use ordinances. As a result, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)1vii.

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, 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 parcel 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 ordinances do not require any municipal lot area or density variances. 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 substantial impairment of the resources of the Pinelands Area criteria contained in the CMP (N.J.A.C. 7:50-4.65(b)). The CMP (N.J.A.C. 7:50-4.65(a)) also 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. 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 application meets the criteria set forth in N.J.A.C. 7:50-4.63(a)5.

Since the applicant meets all the 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 the CMP (N.J.A.C. 7:50-4.62(c)), 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)1.iii) also 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. The Commission staff previously received notification from the Pinelands Development Credit Bank that the applicant acquired and redeemed the requisite 0.25 PDCs. The applicant meets the requirement contained in N.J.A.C. 7:50-4.62(d)1.iii.

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, dated December 8, 2017 and revised to January 22, 2018.
2. To maintain the maximum feasible buffer to wetlands, all proposed development, including clearing and land disturbance, shall be located at least 100 feet from all wetlands and be located in the northern corner of the parcel.
3. The septic system must be located in an area where the seasonal high water table is at least two feet below the natural ground surface.
4. Appropriate measures shall be taken during construction to preclude sedimentation from entering freshwater wetlands.
5. Sufficient drywells or comparable alternative shall be installed to contain all stormwater runoff from the house.
6. The driveway shall be constructed of crushed stone or comparable material.
7. Except as provided in N.J.A.C. 7:50-5.1(c), the single family dwelling approved herein shall be the sole principal use of the parcel.

8. This Waiver shall expire March 9, 2023 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 March 9, 2023 or if any renewal or extension of any permit or approval or issuance of a new construction permit is necessary after that date.
9. A copy of a recorded deed containing all of the above conditions shall be submitted to the Pinelands Commission prior to Commission issuance of a letter advising that any submitted municipal or county permit or approval may take effect. The deed shall specify that the conditions are being imposed pursuant to a February 16, 2018 Pinelands Commission Report on an Application for a Waiver of Strict Compliance (“Waiver Report”) for App. No. 2001-0477.001. The deed shall indicate that the conditions previously required by the October 10, 2003 Waiver Report for App. No. 2001-0477.001, approved by the Pinelands Commission on November 7, 2003, have since expired and are superseded by the conditions required by the February 16, 2018 Waiver Report approved by the Pinelands Commission on March 9, 2018. 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 from the standards of N.J.A.C. 7:50-6.14 and N.J.A.C. 7:50- 6.84(a)4iv.

Since the applicant meets the provisions 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 for the development of one single family dwelling on the parcel, it is recommended that the Pinelands Commission **APPROVE** the requested Waiver of Strict Compliance subject to the above conditions.

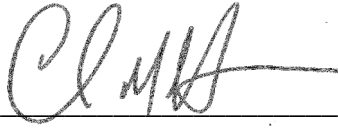
### **APPEAL**

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 at the Commission office no later than 5:00 PM on March 8, 2018 and must 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)
- Robert Scott Smith, PLS, PP (via email)