



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-18- 31

TITLE: Approving With Conditions an Application for Public Development (Application Number 1982-2731.011)

Commissioner Galletta moves and Commissioner Lohbauer 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:

1982-2731.011

Applicant:	Ocean County Board of Chosen Freeholders
Municipality:	Manchester Township
Management Area:	Pinelands Regional Growth Area
Date of Report:	September 21, 2018
Proposed Development:	Construction of an 18,400 square foot bus garage, a 9,000 square foot office building, a 30,000 square foot warehouse and a 3.9 acre leaf composting 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 1982-2731.011 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

Date: October 17, 2018

Nancy Wittenberg
Nancy Wittenberg
Executive Director

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

SEAN W. EARLEN
Chairman
NANCY WITTENBERG
Executive Director

September 21, 2018

Ernest Kuhlwein
Ocean County Board of Chosen Freeholders
PO Box 2191
Toms River, NJ 08753

Re: Application # 1982-2731.011
Block 72, Lot 7
Manchester Township

Dear Mr. Kuhlwein:

The Commission staff has completed its review of this application for construction of an 18,400 square foot bus garage, a 9,000 square foot office building, a 30,000 square foot two story warehouse and a 3.9 acre leaf composting 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 October 12, 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)
- Steve Morey, CEP
- Marian Petitt





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

SEAN W. EARLEN
Chairman
NANCY WITTENBERG
Executive Director

PUBLIC DEVELOPMENT APPLICATION REPORT

September 21, 2018

Ernest Kuhlwein
Ocean County Board of Chosen Freeholders
PO Box 2191
Toms River, NJ 08753

Application No.: 1982-2731.011
Block 72, Lot 7
Manchester Township

This application proposes construction of an 18,400 square foot bus garage, a 9,000 square foot office building, a 30,000 square foot two story warehouse and a 3.9 acre leaf composting facility located on the above referenced 54.88 acre parcel in Manchester Township. An existing Ocean County Road Department Garage facility is located on the parcel.

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)

The parcel is located in 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. 7:50-6.6)

There are wetlands located on the above referenced parcel. All development 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 14 acres of forest will be cleared to accommodate the proposed development. The proposed clearing and 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 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)

Three threatened and endangered (T&E) plant and animal species surveys were previously completed on an overall parcel that included the 54.88 acre parcel subject of this application. Two surveys were completed for residential development applications that included the 54.88 acre parcel subject of this application. A third survey for certain T&E plants was completed on the 54.88 acre parcel for the development of the existing County road department garage facility that is located on the parcel. Those surveys demonstrated that the 54.88 acre parcel does not contain habitat that is critical to the survival of any local population of T&E animal species or any local population of T&E plant species.

Water Quality Standard (N.J.A.C. 7:50-6.83)

The proposed development will be serviced by public sanitary sewer.

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 enlarging an existing stormwater infiltration basin and constructing two underground stormwater infiltration trenches.

Air Quality Standards (N.J.A.C. 7:50-6.94)

The applicant has submitted information demonstrating that the proposed development is consistent with the air quality standards contained in the CMP.

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 25, 2018. Newspaper public notice was completed on May 31, 2018. The application was designated as complete on the Commission's website on September 4, 2018. The Commission's public comment period closed on September 14, 2018. The Commission received one public comment regarding this application.

Commenter #1: The commenter requested a copy of the Executive Director's findings and conclusion.

Staff Response: The commenter will receive a copy of this report.

CONDITIONS

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of 22 sheets, prepared by Mott MacDonald, all sheets dated May 2018 and revised to July 2018.
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.



Philip D. Murphy
Governor

Sheila Y. Oliver
Lt. Governor

State of New Jersey

THE PINELANDS COMMISSION

PO Box 359

NEW LISBON, NJ 08064

(609) 894-7300

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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

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 4:00 PM on October 9, 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- 32

TITLE: Approving With Conditions an Application for Public Development (Application Number 2001-0236.001)

Commissioner Lohbauer moves and Commissioner Chila 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:

2001-0236.001

Applicant: Monroe Township
Municipality: Monroe Township
Management Area: Pinelands Regional Growth Area
Date of Report: September 21, 2018
Proposed Development: Construction of four recreational fields and a 193 space parking lot

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 2001-0236.001 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

Date: October 12, 2018

Nancy Wittenberg
Nancy Wittenberg
Executive Director

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

SEAN W. EARLEN
Chairman
NANCY WITTENBERG
Executive Director

September 21, 2018

Kevin Heydel, Business Administrator
Monroe Township
125 Virginia Avenue
Williamstown, NJ 08094

Re: Application # 2001-0236.001
Block 13001, Lots 16 & 28
Monroe Township

Dear Mr. Heydel:

The Commission staff has completed its review of this application for construction of four recreational fields and a 193 space parking lot. 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 October 12, 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, Monroe Township Planning Board (via email)
- Monroe Township Construction Code Official (via email)
- Monroe Township Environmental Commission (via email)
- Secretary, Gloucester County Planning Board (via email)
- John Helbig, PP, AICP (via email)
- Eleanor Pontano





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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

SEAN W. EARLEN
 Chairman
 NANCY WITTENBERG
 Executive Director

PUBLIC DEVELOPMENT APPLICATION REPORT

September 21, 2018

Kevin Heydel, Business Administrator
 Monroe Township
 125 Virginia Avenue
 Williamstown, NJ 08094

Application No.: 2001-0236.001
 Block 13001, Lots 16 & 28
 Monroe Township

This application proposes construction of four recreational fields and a 193 space parking lot on the above referenced 51.91 acre parcel in Monroe Township. The Township's Owens Park recreational facility is located on Lot 28.

The proposed improvements also include the development of a 6,400 linear foot, ten foot wide, pedestrian path and a 1.77 acre dog park.

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)

The parcel is located in a Pinelands Regional Growth Area. The proposed recreational facilities are a permitted land use in a Pinelands Regional Growth Area.

Wetlands Standards (N.J.A.C. 7:50-6.7)

There are wetlands located on the parcel. The applicant has demonstrated that if the proposed development maintains a 240 foot buffer to wetlands, the proposed development will not result in a significant adverse impact on the wetlands.

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

The proposed development will be located over existing agricultural fields, maintained grassed areas, farmland and wooded areas. Approximately 2.84 acres of forest will be cleared to accommodate the

proposed development. The proposed clearing and 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.

Water Quality (N.J.A.C. 7:50-6.83)

The applicant has represented that the existing Owens Park recreational facility is serviced by public sanitary sewer.

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 the stormwater management standards, the applicant will be constructing two stormwater infiltration basins and six underground stormwater infiltration trenches.

Air Quality Standards (N.J.A.C. 7:50-6.94)

The applicant has submitted information demonstrating that the proposed development is consistent with the CMP air quality standards.

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. Notice to required land owners within 200 feet of the above referenced parcel was completed on March 12, 2018. Newspaper public notice was completed on March 17, 2018. The application was designated as complete on the Commission's website on September 4, 2018. The Commission's public comment period closed on September 14, 2018. The Commission received one public comment regarding this application.

Commenter #1: The commenter is concerned about the impact of the proposed development on Pinelands habitat and the environment, the loss of open space, the impacts of the proposed development on groundwater and increased impervious surface limiting groundwater recharge. The commenter also expressed a concern regarding the development of recreational facilities on a parcel that is included in the New Jersey Department of Environmental Protection (NJDEP) Green Acres Program. The commenter is further concerned with the stormwater management facilities breeding mosquitos and the potential for people utilizing the park to trespass onto their immediately adjacent farm.

Staff Response: The Commission staff appreciates the commenter's interest in the Pinelands Area. The proposed development is a permitted land use based upon the regulations contained in the CMP. The proposed development also meets the environmental

standards of the CMP, including the threatened and endangered species protection standards. The applicant's proposed stormwater management plan demonstrates consistency with the stormwater management standards contained in the Monroe Township land use ordinance and the CMP. In part, the stormwater management standards require infiltration on the parcel of the increase in stormwater runoff.

The applicant submitted information indicating that the original proposal for the parcel included the development of an indoor recreational building and that the parcel was purchased using funding from the NJDEP Green Acre Program. The construction of an indoor recreational building would have required a parkland diversion from the NJDEP Green Acres Program. The Monroe Township Council held a public hearing for the proposed parkland diversion on July 22, 2013. The applicant ultimately decided not to pursue the construction of an indoor recreational building.

The maintenance of the proposed stormwater management facilities is the responsibility of Monroe Township. The commenter may wish to discuss her stormwater facility maintenance concerns with an appropriate municipal official.

The Commission staff understands the commenter's concern regarding trespass on her property. The regulations in the CMP do not address trespass. The commenter may also wish to discuss this concern with an appropriate Township official.

CONDITIONS

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of 16 sheets, prepared by Adams, Rehman & Heggan Associates, all sheets dated February 2018 and revised to August 2, 2018.
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. All development, including clearing and land disturbance, shall be located at least 240 feet from wetlands.
6. 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.



Philip D. Murphy
Governor

Sheila Y. Oliver
Lt. Governor

State of New Jersey

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Application Specific Information: 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 4:00 PM on October 9, 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.

AppInfo - Abutter Comments, Application Number 2001-0236.001

From: e pontano <epontano54@yahoo.com>
To: "AppInfo@njpines.state.nj.us" <AppInfo@njpines.state.nj.us>
Date: 3/28/2018 10:16 AM
Subject: Abutter Comments, Application Number 2001-0236.001
CC: "epontano54@yahoo.com" <epontano54@yahoo.com>
Attachments: Abutter Comments Application Number2001-0236-001.pdf

Good Morning,

As an abutter to Pinelands Application #2001-0236.001 (Monroe Township, Gloucester County, Clayton Road Route 610, Block 13001, Lots 16 & 28), I called the Pinelands Commission Office Monday, March 26th to determine if I could submit a letter with my comments/concerns regarding the project. The office noted that I could email my letter to the attention of Mr. Ernest Deman, and it is my understanding that the Monroe Township application was not yet complete, as the Township had not yet paid the necessary application fees as of the time of my call. I have attached a letter listing my concerns regarding development of the Pinelands properties adjacent to my active farm (PDF format--please let me know if there are any issues opening the file). If possible, please keep me informed on any status changes on the application and if a decision is made on the application. Thank you for your time and consideration of abutters' concerns.

Sincerely,

Eleanor Pontano

Resident and Farm Owner, Monroe Township NJ
697 Clayton Rd.
Williamstown NJ, 08094
Email: epontano54@yahoo.com
Phone: (609) 617-7755 (cell)

The Pinelands Commission
PO Box 359
New Lisbon, New Jersey 08064

March 27, 2018

Re: Pinelands Application #2001-0236-001
Block 13001, Lots 16 and 28
Clayton Road
Monroe Township, Gloucester County
ARH #30-01020.15

Dear Members of the Commission,

As an abutter to the proposed site for Pinelands Application #2001-0236-001, I am writing to inform the Pinelands Commission of my property status as an active farm and highlight some of my concerns with the aforementioned application which will allow development of Pineland forest and open space in close proximity to my farm. My home and farm are located on Block 13001, Lots 20 and 19. I have followed the Monroe Township Council Parkland Diversion Public Hearing on the proposed project in July of 2013 when it was originally planned to occupy 5 acres of conserved Open Space property on Lot 16. The lots listed in the current Pinelands Application (16 and 28) are undeveloped open space (Green Acres)/woodlands or park space that continues to support wildlife. Additionally, the forested region of Lot 16 is continuous with undisturbed Pinelands that extend to Tuckahoe Road. Minor perturbation to the natural habitat has been performed over the past decade with the construction of ball fields and a roller hockey rink on Lot 28 within Owen's Park.

Thus, my concerns are first and foremost, how will the proposed construction including ~90,000 square feet of recreation center and associated impervious surface for access and parking impact the Pinelands habitat and environment? The existing park and open space designations of the site allow nature and the public to co-exist, enjoying outdoor recreation in this area; a massive building structure would disrupt the very purpose for this parcel—OPEN SPACE for outdoor enjoyment. Furthermore, this building would require water and sewer service, along with retention basins to manage stormwater runoff. I am concerned about using the groundwater (underground aquifer) that serves the homes along Clayton Rd. as a water source for supplying the building and for maintenance purposes such as irrigation. Groundwater is finite, and the demand for water for such a structure may exceed what the aquifer can provide, especially in times of drought as we've seen over the past couple of years. With increased impervious surface, there will also be reduced area for natural groundwater recharge and the need for stormwater management. We are still dealing with issues of improper care and maintenance of surrounding retention basins for Williamstown Middle School, a short distance from the proposed site. The poor drainage has fostered a robust breeding ground for mosquitos, posing a risk for disease carried by such insects including West Nile Virus. I have had to call animal control to investigate dead/dying birds on my property to ensure that they were not positive for this pathogen, and this is an ongoing problem in the area.

In addition to direct environmental impact, construction of this massive structure on currently undeveloped Pinelands will negatively impact my farm. I have partnered with a local farmer to sustainably grow and harvest rye, with the goal of transitioning to an alfalfa crop (no irrigation or treatments required for either crop). He harvests the crop with his professional equipment, bails the hay, and transports it for his use. Despite a thick hedge and marked 'no trespassing' signage surrounding the property, high school students entered the farm and set bales of hay on fire several years ago. The fire was contained by the Fire Department before the woodland areas were impacted. However, this raises a major concern: what will happen to the Pinelands when we transition from a peaceful outdoor and undeveloped parcel to a bustling, massive community center? While the proposed recreation center location poses convenience to local ballfields and schools, it does not bring any benefit or service to the Pinelands that it will be replacing.

I enjoy waking up every morning surrounded by nature—the flock of turkeys that frequent my farm, the deer, families of foxes, birds, and other woodland wildlife that call the woods around Owen's Park home. I enjoy the clean well water that my family drinks from our underground aquifer, and I enjoy farming the land that has been in my family for 100 years. My plea is for the Commission to keep this small slice of Pinelands intact, in a community where trees and open space that were once familiar to me and my children are disappearing rapidly. A project of this magnitude is a major ecological disruption to Pineland forest that fosters outdoor recreation for our community while continuing to serve as a wildlife habitat. Further deforestation and development runs the risk of disrupting the delicate balance that is currently maintained between nature and public use/enjoyment that we've managed to sustain thus far.

Sincerely,

Eleanor Pontano

Third-generation Monroe Township Resident
697-699 Clayton Road
Williamstown, NJ 08094



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-18- 83

TITLE: Approving With Conditions an Application for a Waiver of Strict Compliance (Application Number 1985-0713.002)

Commissioner Avery moves and Commissioner Lohbauer 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:

1985-0713.002

Applicant: Arthur and Brenda Allen
Municipality: Southampton Township
Management Area: Pinelands Agricultural Production Area
Date of Report: September 21, 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 1985-0713.002 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*	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

Date: October 17, 2018

Nancy Wittenberg
Nancy Wittenberg
Executive Director

Sean W. Earlen
Sean W. Earlen
Chairman



State of New Jersey

THE PINELANDS COMMISSION

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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

SEAN W. EARLEN
Chairman
NANCY WITTENBERG
Executive Director

REPORT ON AN APPLICATION FOR A WAIVER OF STRICT COMPLIANCE

September 21, 2018

Arthur and Brenda Allen (via email)
10 Allen Court
Tabernacle, NJ 08088

Re: Application # 1985-0713.002
Block 1702, Lot 26
Southampton Township

Dear Mr. and Mrs. Allen:

The Commission staff has completed its review of the above referenced application for a Waiver of Strict Compliance (Waiver) proposing the development of one 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 October 12, 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 40 acre parcel in Southampton Township. The parcel is located in a Pinelands Agricultural Production Area and in Southampton Township's Agricultural Production zoning district. In this zoning district, Southampton Township's certified land use ordinances permit a proposed single family dwelling at a gross density of one unit per 10 acres provided that the dwelling is accessory to an active agricultural operation.

The applicant is proposing to develop a single family dwelling accessory to an existing active berry agricultural operation on the parcel. The proposed dwelling will be occupied by an operator or an employee of the farm actively engaged in and essential to the berry agricultural operation. The applicant has submitted information demonstrating that the parcel qualifies for agricultural assessment. The applicant has submitted a farm management plan demonstrating that the parcel will be farmed as a unit unto itself. A dwelling accessory to an active agricultural operation is a permitted use in a Pinelands Agricultural Production Area pursuant to the Pinelands Comprehensive Management Plan (CMP, N.J.A.C. 7:50-5.24(a)2).



A Waiver for the development of a single family dwelling accessory to an agricultural operation on the parcel was approved by the Pinelands Commission on May 12, 1995. A development application for the dwelling authorized by that Waiver was never completed with the Commission. All necessary construction permits were not received for the proposed development by May 12, 2000. Therefore, the Waiver expired on May 12, 2000, five years after approval of the Waiver, in accordance with the provisions of the CMP (N.J.A.C. 7:50-4.70(c)).

A second application for a Waiver for the development of a single family dwelling accessory to an agricultural operation on the parcel was approved by the Commission on April 12, 2013. A development application for the proposed dwelling was subsequently completed with the Commission. On September 28, 2017, the Commission issued a Certificate of Filing for the proposed single family dwelling. All necessary construction permits for the dwelling were not received by April 12, 2018. Therefore, the Waiver expired on April 12, 2018, five years after approval of the Waiver, in accordance with the provisions of the CMP (N.J.A.C. 7:50-4.70(c)).

Accordingly, this new application for a Waiver for the parcel has been completed.

On May 30, 2013, the Commission issued a Third Amended Letter of Interpretation (LOI) #382 allocating 0.50 Pinelands Development Credits (PDCs) to the parcel (App. No. 1985-0713.001). That LOI reserved the right to construct one single family dwelling on the parcel. Subsequently, the 0.50 PDCs allocated to this parcel were severed and the requisite PDC deed restriction was imposed.

The parcel has been site inspected by several members of the Commission staff. In addition, the appropriate resource capability maps and data available to the staff have been reviewed.

The Burlington County Soil Survey indicates that there are Pocomoke and Klej soils on the parcel. These soils have a seasonal high water table of less than 5 feet below the natural ground surface. A total of three soil borings were previously performed by the applicant's consultant and a member of the Commission staff for the original Waiver application. Those borings revealed a seasonal high water table of less than 5 feet below the natural ground surface at the location of the borings. 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. The applicant previously submitted a soil boring as part of the Waiver application approved on May 12, 1995 demonstrating that the seasonal high water table at the proposed location of the septic system is at least 2 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 requirement contained in N.J.A.C. 7:50-6.84(a)4iv.

Portions of the parcel are a hardwood swamp type wetlands and a pitch pine lowlands type wetlands as defined in the CMP (N.J.A.C. 7:50-6.5(a)2 and 3). The remainder of the parcel is an active blueberry field located in wetland soils as defined in the CMP (N.J.A.C. 7:50-6.3). 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 wetlands. 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 requirement contained in N.J.A.C. 7:50-6.14.

The CMP (N.J.A.C. 7:50-4.65(b)) requires that to qualify for a Waiver to develop a single family dwelling in a Pinelands Agricultural Production Area, no development, except for development otherwise permitted in wetlands and wetlands buffers by the CMP, shall be located within 50 feet of wetlands. The proposed dwelling will utilize an existing dirt driveway. That existing driveway is located in wetlands and the required buffer to wetlands. The applicant has demonstrated that all proposed development can be located at least 50 feet from wetlands.

The CMP (N.J.A.C. 7:50-4.65(b)8) also requires that for an applicant to qualify for a Waiver to develop a single family dwelling in in a Pinelands Agricultural Production 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 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 Southampton 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. Newspaper public notice was completed on August 2, 2018. Public notice to all property owners within 200 feet of the parcel was completed on August 7, 2018. The application was designated as complete on the Commission's website on August 21, 2018. The Commission's public comment period closed on September 14, 2018. No public comment was submitted to the Pinelands Commission regarding the application.

CONCLUSION

N.J.A.C. 7:50-4.62 sets forth the standards which must be met before a Waiver can be approved. 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 N.J.A.C. 7:50-6 for certain specified development. One of the specified categories of development is a single family dwelling accessory to an active agricultural operation in an Agricultural Production Area as set forth in N.J.A.C. 7:50-5.24(a)2.

The applicant is seeking to develop a single family dwelling accessory to an active agricultural operation in an Agricultural Production Area that meets all the criteria contained in N.J.A.C. 7:50-5.24(a)2. As a result, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)1ix.

The second condition is that the parcel includes all contiguous land in common ownership on or after January 14, 1981, including all 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). Since the proposed single family dwelling will be accessory to the existing berry agricultural use, 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. Southampton Township's master plan and land use ordinance have been certified by the Pinelands Commission. The certified ordinance does not require a municipal 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 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.

N.J.A.C. 7:50-4.62(d)1i requires the reduction, as set forth in N.J.A.C. 7:50-5.43(b)3, of any PDCs allocated to the parcel pursuant to N.J.A.C. 7:50-5.43(b). N.J.A.C. 7:50-5.43(b)3iii requires that the PDC entitlement for a parcel be reduced by 0.25 PDC for each reserved right to build a dwelling unit on the parcel. On May 30, 2013, the Commission issued a Third Amended Letter of Interpretation (LOI) #382 allocating 0.50 Pinelands Development Credits (PDCs) to the parcel (App. No. 1985-0713.001). That LOI reserved the right to construct one single family dwelling on the parcel. Subsequently, the 0.50 PDCs allocated to this parcel were severed and the PDC deed restriction imposed.

N.J.A.C. 7:50-4.62(d)1iii requires the acquisition and redemption of 0.25 PDCs whenever the Waiver provides relief from one or more of the standards of N.J.A.C. 7:50-6. The applicant is obtaining a Waiver from the seasonal high water table and minimum buffer to wetlands requirements contained in N.J.A.C. 7:50-6.84(a)4iv and N.J.A.C. 7:50-6.14. The applicant purchased and redeemed 0.25 PDCs on March 22, 2018 for the prior Waiver that subsequently expired.

With the conditions recommended below, the applicant meets the requirements contained in N.J.A.C. 7:50-4.62(c).

To meet the requirements of the CMP (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 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 site plan prepared by Environmental Consulting of Southern New Jersey, dated April 12, 2012 and last revised February 14, 2013.
2. All development associated with the single family dwelling, including clearing and land disturbance, except for the existing dirt driveway, shall maintain the maximum feasible buffer to wetlands but not less than 50 feet.
3. Silt fencing, hay bales or other appropriate measures shall be installed prior to construction to preclude sedimentation from entering wetlands.
4. Sufficient dry wells or comparable alternative shall be installed to contain all stormwater runoff from the dwelling.
5. Access to the single family dwelling shall be from the existing dirt driveway. Other than normal and customary repair and maintenance, the existing dirt driveway shall not be improved without first obtaining any necessary New Jersey Department of Environmental Protection Freshwater Wetlands Permit. Any proposed improvements to the driveway shall not result in an impermeable surface.
6. The septic system shall be located in an area where the seasonal high water table is at least 2 feet below the natural ground surface. Sufficient fill shall be placed in the area of the septic system to meet the requirements of NJDEP, Standards for Individual Subsurface Sewage Disposal Systems (N.J.A.C 7:9A).
7. Except as provided in N.J.A.C. 7:50-5.1(c), the sole principal use of the parcel shall be agriculture, forestry, and the single family dwelling proposed as accessory to the agricultural use. Any future development of the parcel shall be accessory to that sole principal use.
8. This Waiver shall expire October 10, 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 October 10, 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 September 21, 2018 Pinelands Commission Report on an Application for a Waiver of Strict Compliance (“Waiver Report”) for App. No. 1985-0713.002. The deed shall indicate that the conditions previously required by the March 22, 2013 Waiver Report for App. No. 19850713.002, approved by the Pinelands Commission on April 12, 2013, have since expired and are superseded by the conditions required by the September 21, 2018 Waiver Report approved by the Pinelands Commission on October 12, 2018. The deed shall also indicate that the conditions are enforceable by the Pinelands Commission, Southampton Township and any other party of interest.

With the above conditions, the applicant qualifies for a Waiver from the requirements of N.J.A.C. 7:50-6.14 and 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 accessory to an active agricultural operation on the parcel, it is recommended that the Pinelands Commission **APPROVE** the requested Waiver of Strict Compliance subject to the above conditions.

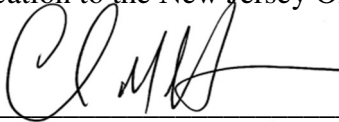
APPEAL

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 4:00 PM on October 9, 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, Southampton Township Planning Board (via email)
Southampton Township Construction Code Official (via email)
Southampton Township Environmental Commission (via email)

Secretary, Burlington County Planning Board (via email)
Burlington County Health Department (via email)
Suze Brandt (via email)



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-18- 34

TITLE: Issuing an Order to Certify the Housing Element and Fair Share Plan and Ordinances 1993-2018 and 1994-2018 of Galloway Township

Commissioner Barr moves and Commissioner Galletta
seconds the motion that:

WHEREAS, on March 6, 1987, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of the Township of Galloway; and

WHEREAS, Resolution #PC4-87-19 of the Pinelands Commission specified that any amendment to the Township's certified Master Plan and 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 #PC4-87-19 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 3, 2018, the Galloway Township Planning Board adopted Resolution 6A-2018, approving the Township's 2018 Housing Element and Fair Share Plan; and

WHEREAS, on August 14, 2018, Galloway Township adopted Ordinance 1993-2018, amending Chapter 233 (Land Management) of the Township's Code by adopting affordable housing requirements for purposes of implementing the recommendations of the Housing Element and Fair Share Plan; and

WHEREAS, on August 14, 2018, Galloway Township also adopted Ordinance 1994-2018, approving a redevelopment plan for the Nantucket Redevelopment Area that includes increased residential densities and requirements for the provision of affordable housing and use of Pinelands Development Credits; and

WHEREAS, the Pinelands Commission received certified copies of Ordinances 1993-2018 and 1994-2018 on August 16, 2018; and

WHEREAS, the Pinelands Commission received a certified and complete copy of the 2018 Housing Element and Fair Share Plan on August 24, 2018; and

WHEREAS, by letter dated August 27, 2018, the Executive Director notified the Township that the 2018 Housing Element and Fair Share Plan and Ordinances 1993-2018 and 1994-2018 would require formal review and approval by the Pinelands Commission; and

WHEREAS, a public hearing to receive testimony on the 2018 Housing Element and Fair Share Plan and Ordinances 1993-2018 and 1994-2018 was duly advertised, noticed and held on September 12, 2018 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m.; and

WHEREAS, the Executive Director has found that the 2018 Housing Element and Fair Share Plan and Ordinances 1993-2018 and 1994-2018 are 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 Galloway Township's 2018 Housing Element and Fair Share Plan and Ordinances 1993-2018 and 1994-2018 are 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 the 2018 Housing Element and Fair Share Plan and Ordinances 1993-2018 and 1994-2018 be certified; and

WHEREAS, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning the 2018 Housing Element and Fair Share Plan and Ordinances 1993-2018 and 1994-2018 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 Galloway Township's 2018 Housing Element and Fair Share Plan and Ordinances 1993-2018 and 1994-2018 are in conformance with the Pinelands Comprehensive Management Plan.
2. Any additional amendments to Galloway 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.

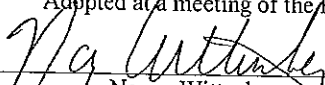
Record of Commission Votes

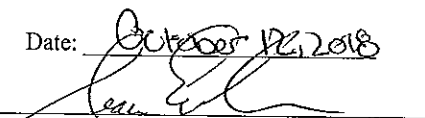
AYE NAY NP A/R*					AYE NAY NP A/R*					AYE NAY NP A/R*				
Ashmun			X		Howell	X				Prickett	X			
Avery	X				Jannarone			X		Quinn	X			
Barr	X				Lloyd	X				Rohan Green			X	
Chila	X				Lohbauer	X				Earlen	X			
Galletta	X				Pikolycky	X								

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: October 12, 2018


 Nancy Wittenberg
 Executive Director


 Sean W. Earlen
 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

SEAN W. EARLEN
Chairman
NANCY WITTENBERG
Executive Director

**REPORT ON GALLOWAY TOWNSHIP'S 2018 HOUSING ELEMENT
AND FAIR SHARE PLAN AND ORDINANCES 1993-2018 AND 1994-2018**

September 28, 2018

Galloway Township
300 E. Jimmie Leeds Road
Galloway, NJ 08205

FINDINGS OF FACT

I. **Background**

The Township of Galloway is located in the southeastern portion of the Pinelands Area, in Atlantic County. Pinelands municipalities that abut Galloway Township include Port Republic City, Egg Harbor City and the Townships of Hamilton, Egg Harbor and Mullica in Atlantic County, as well as Washington and Bass River Townships in Burlington County.

On March 6, 1987, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Galloway Township.

On May 3, 2018, the Galloway Township Planning Board adopted Resolution 6A-2018, approving the Township's 2018 Housing Element and Fair Share Plan.

On August 14, 2018, Galloway Township adopted Ordinance 1993-2018, amending Chapter 233 (Land Management) of the Township's Code by adopting affordable housing requirements for purposes of implementing the recommendations of the Housing Element and Fair Share Plan.

On August 14, 2018, Galloway Township also adopted Ordinance 1994-2018, approving a redevelopment plan for the Nantucket Redevelopment Area that includes increased residential densities and requirements for the provision of affordable housing and use of Pinelands Development Credits. The Nantucket Redevelopment Area is located in a Pinelands Regional Growth Area.

The Pinelands Commission received certified copies of Ordinances 1993-2018 and 1994-2018 on August 16, 2018 and a certified and complete copy of the 2018 Housing Element and Fair Share Plan on August 24, 2018.

By letter dated August 27, 2018, the Executive Director notified the Township that the 2018 Housing Element and Fair Share Plan and Ordinances 1993-2018 and 1994-2018 would require formal review and approval by the Pinelands Commission.

II. Master Plans and Land Use Ordinances

The following master plan and ordinance amendments have been submitted to the Pinelands Commission for certification:

- * The 2018 Housing Element and Fair Share Plan of Galloway Township, adopted by the Planning Board on May 3, 2018;
- * Ordinance 1993-2018, amending Chapter 233 (Land Management) of the Code of Galloway Township, introduced on July 10, 2018 and adopted on August 14, 2018; and
- * Ordinance 1994-2018, adopting the Nantucket Redevelopment Plan, introduced on July 10, 2018 and adopted on August 14, 2018.

These amendments have been reviewed to determine whether they conform 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. 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**

Galloway Township's 2018 Housing Element and Fair Share Plan contains updated data and analysis on the Township's current and projected demographic, housing stock, and employment characteristics as well as an updated Fair Share Plan for the cumulative period 1987-2025. The Township's Fair Share Plan indicates a rehabilitation obligation of 180 units, a prior round obligation of 328 units and a third round prospective need of 884 units. Also included in the Fair Share Plan are detailed descriptions of the residential development projects, both completed and anticipated, that address the municipality's obligation. In the Pinelands Area, these projects include several that have been fully constructed, two that have been approved by the Commission (Heritage Village and Blue Heron Pines) and one (Nantucket) that is the subject of a newly recommended redevelopment plan. The Fair Share Plan further recommends the adoption of an ordinance to require that certain housing developments in the Pinelands Regional Growth Area provide a 20% set-aside for affordable housing units. These recommendations reflect the terms of a 2018 settlement agreement between Galloway Township and Fair Share Housing Center.

Ordinances 1993-2018 and 1994-2018 adopt amendments necessary to implement the recommendations of the 2018 Housing Element and Fair Share Plan.

Ordinance 1993-2018 amends Chapter 233 (Land Management) of the Code of Galloway Township by creating a new Article XII, entitled “Affordable Housing”. The new Article XII includes provisions relating to rehabilitation, accessory apartments, new construction guidelines, affirmative marketing, occupancy standards and other administrative and enforcement matters related to affordable housing. Ordinance 1993-2018 also adopts affordable housing set-aside requirements applicable to residential development in the Township’s Regional Growth Area, Pinelands Villages and Pinelands Town area. Specifically, a 20% set-aside is required for all residential projects of five or more units and all mixed-use projects containing five or more residential units. All such development will continue to be subject to the currently certified zoning in these areas. Permitted densities and residential zoning capacity remain unchanged.

Ordinance 1994-2018 adopts a Redevelopment Plan for an area identified as the “White Horse Pike Corridor Phase 4A”. The new Redevelopment Area, also known as the Nantucket Redevelopment Area, encompasses approximately 60 acres within the Township’s Regional Growth Area. It is located on the north side of Route 30, adjacent to the Pinelands Village of Pomona (see Exhibit #1). All lands in the redevelopment area are currently included in the Township’s HC-2 (Highway Commercial) District where a wide variety of nonresidential uses is permitted. In addition, age-restricted housing is permitted as a conditional use in the HC-2 District at a density of 9.5 units per acre on parcels of at least 15 acres in size. This conditional use was added to the HC-2 District many years ago but has thus far not resulted in the development of any new housing units. With the exception of one existing commercial use, all lands included in the redevelopment area are vacant.

The Nantucket Redevelopment Plan is intended to encourage mixed use development that will provide new residential and commercial opportunities in Galloway Township and revitalize the White Horse Pike corridor. To that end, Ordinance 1994-2018 permits mixed use development in the Nantucket Redevelopment Area, consisting of market multi-family and affordable multi-family residential development and community commercial/office uses. Maximum residential density is 10 units per acre, just slightly higher than the 9.5 units per acre currently allowed in the underlying HC-2 District. The ordinance also requires that 20% of all units in the Nantucket Redevelopment Area be set aside as affordable housing units. Pinelands Development Credits must be acquired and redeemed for 30% of all units in the Redevelopment Area, excluding any required affordable housing units.

According to the Redevelopment Plan and Fair Share Plan, at least 306 total units are expected to be developed, 60 of which must be affordable units. In addition, a minimum of 40,000 square feet of commercial or office space is required. Permitted development may be accommodated in mixed use or “stand alone” buildings. Any development that occurs within the Redevelopment Area must comply with all other municipal application requirements and development regulations, as well as the Comprehensive Management Plan.

Based on the new 10 unit per acre permitted density in the Redevelopment Area, Ordinance 1994-2018 permits a maximum of 600 residential units, 30 more than under the previously certified HC-2 District designation. Such a density is significantly higher than that prescribed by the Comprehensive Management Plan for Galloway’s Regional Growth Area. N.J.A.C. 7:50-5.28(a)1 and 3 require the Township to zone for a density of only 3.75 units per upland acre in its

Regional Growth Area. However, the Comprehensive Management Plan does provide municipalities with the ability to zone portions of their Regional Growth Areas for higher densities, provided the lands in question are appropriate for more intensive development, infrastructure exists or can be provided to support the increased density and sufficient opportunities for the use of Pinelands Development Credits are provided. The Nantucket Redevelopment Area meets these standards.

Galloway Township's 2018 Housing Element and Fair Share Plan and Ordinances 1993-2018 and 1994-2018 are consistent with the land use and development standards of the Comprehensive Management Plan. Therefore, this standard for certification is met.

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

Not applicable.

4. Requirement for Municipal Review and Action on All Development

Not applicable.

5. Review and Action on Forestry Applications

Not applicable.

6. Review of Local Permits

Not applicable.

7. Requirement for Capital Improvement Program

Not applicable.

8. Accommodation of Pinelands Development Credits

Ordinance 1994-2018 adopts a new redevelopment plan for a portion of Galloway Township's Regional Growth Area. Based on this plan, multi-family residential development will be permitted at a density of 10 units per acre in the 60-acre Nantucket Redevelopment Area, with the use of Pinelands Development Credits required for 30% of all proposed units. Units made affordable to low- and moderate-income households for purposes of satisfying the 20% set-aside requirement in the Redevelopment Area are exempt from this Pinelands Development Credit requirement. Affordable housing units beyond the required 20% set-aside will require that Pinelands Development Credits be acquired and redeemed at the 30% rate.

The development standards set forth in the Nantucket Redevelopment Plan (10 units per acre maximum density; 30% required PDCs) are very similar to those previously certified by the Commission in the underlying HC-2 District (9.5 units per acre; 30% required PDCs). A new exemption for affordable housing units has been incorporated in recognition of the Township's need to plan for its relatively large affordable housing obligation. The result is little change in theoretical zoning capacity or opportunities for the redemption of Pinelands Development Credits in the Township's Regional Growth Area. At most, 600 new units could be developed and 144 rights (36 Pinelands Development Credits) could be redeemed. As was the case under the prior zoning plan, these numbers are well in excess of what the Comprehensive Management Plan prescribes for Galloway's Regional Growth Area.

It is important to note that both the prior HC-2 District standards and the new Nantucket Redevelopment Area standards described above represent a departure from the traditional zoning and Pinelands Development Credit strategy outlined in N.J.A.C. 7:50-5.28(a). This section of the Comprehensive Management Plan anticipates that municipalities will establish "base" densities in their various Regional Growth Area zoning districts and then provide opportunities to increase such densities through the use of Pinelands Development Credits. In Galloway's Regional Growth Area, the Comprehensive Management Plan establishes a "base" density of 2.5 units per developable acre and directs the Township to provide for "bonus" density through the use of Pinelands Development Credits to allow for a total of 3.75 units per developable acre. There is nothing in the CMP that prevents municipalities from exceeding these minimum requirements, which is exactly what Galloway Township has elected to do. The Township has chosen to provide for higher density in the Nantucket Redevelopment Area as a means of spurring commercial development and satisfying the municipality's affordable housing obligation. At the same time, the Township has adopted standards to ensure that Pinelands Development Credit use will be a significant part of whatever development projects ultimately come to fruition in the redevelopment area.

Rather than relying on the traditional approach of providing developers with the *option* of using Pinelands Development Credits to increase permitted density, Ordinance 1994-2018 *guarantees* a PDC redemption rate of 30% for residential development within the Redevelopment Area, with the exception of affordable housing units. Given the greater certainty provided by this approach, the Executive Director finds that the PDC requirements adopted by Ordinance 1994-2018 are consistent with Comprehensive Management Plan standards.

This standard for certification is met.

9. Referral of Development Applications to Environmental Commission

Not applicable.

10. General Conformance Requirements

Galloway Township's 2018 Housing Element and Fair Share Plan and Ordinances 1993-2018 and 1994-2018 are consistent with the standards and provisions of the Pinelands Comprehensive Management Plan. This standard for certification is met.

11. Conformance with Energy Conservation

Not applicable.

12. Conformance with the Federal Act

Galloway Township's 2018 Housing Element and Fair Share Plan and Ordinances 1993-2018 and 1994-2018 are consistent with the standards and provisions of the Pinelands Comprehensive Management Plan. No special issues exist relative to the Federal Act. Therefore, this standard for certification is met.

13. Procedure to Resolve Intermunicipal Conflicts

The redevelopment area established by Ordinance 1994-2018 does not include lands that are adjacent to any other municipalities. Therefore, intermunicipal conflicts are not anticipated and this standard for certification is met.

PUBLIC HEARING

A public hearing to receive testimony concerning Galloway Township's application for certification of its 2018 Housing Element and Fair Share Plan and Ordinances 1993-2018 and 1994-2018 was duly advertised, noticed and held on September 12, 2018 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m. Ms. Grogan conducted the hearing, at which no testimony was received.

Written comments were accepted through September 14, 2018; however, no such comments were received.

CONCLUSION







Based on the Findings of Fact cited above, the Executive Director has concluded that Galloway Township's 2018 Housing Element and Fair Share Plan and Ordinances 1993-2018 and 1994-2018 comply with 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 the 2018 Housing Element and Fair Share Plan and Ordinances 1993-2018 and 1994-2018 of Galloway Township.

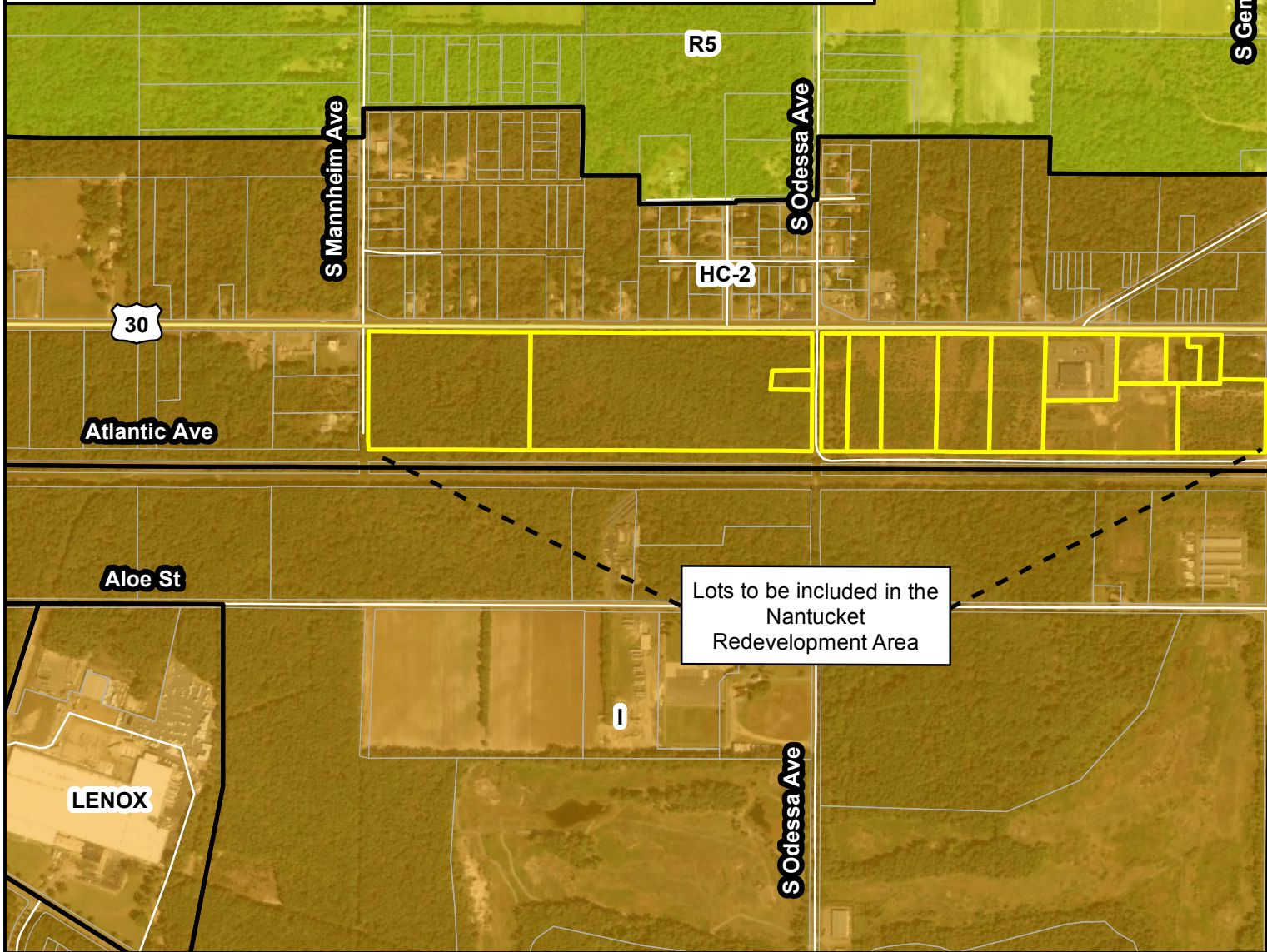
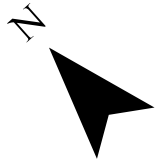
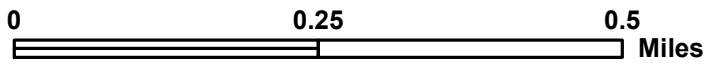
SRG/CGA
Attachment

Existing Conditions of Lots to be Rezoned

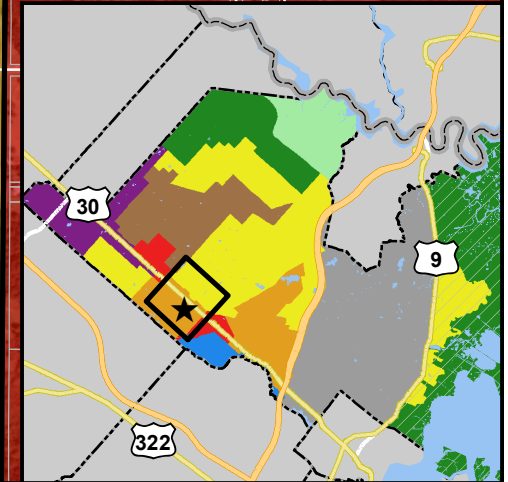
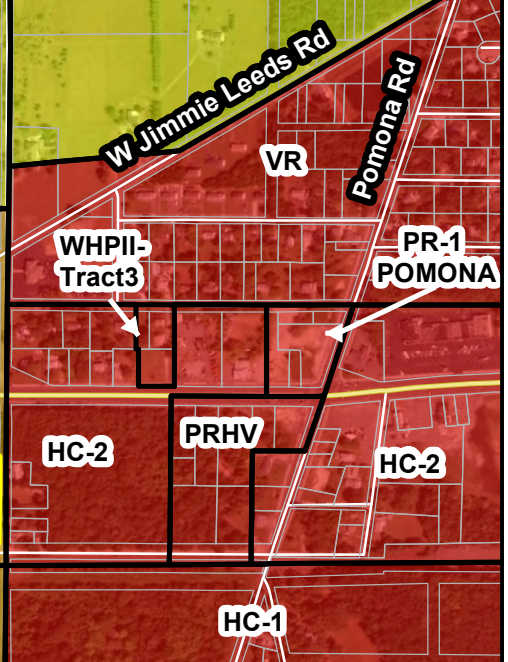
Executive Director's Report
Galloway Ordinance 1994-2018
Exhibit 1
9/28/2018

Pinelands Management Areas

-  Rural Development Area
-  Pinelands Village
-  Regional Growth Area
-  Rezoned Lots
-  Parcels
-  Existing Zoning



Lots to be included in the Nantucket Redevelopment Area





RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-18- 35

TITLE: Issuing an Order to Certify Pemberton Township Ordinance 13-2018, Amending the Browns Mills Town Center Redevelopment Plan

Commissioner Avery moves and Commissioner Wajd seconds the motion that:

WHEREAS, on June 3, 1983, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Pemberton Township; and

WHEREAS, Resolution #PC4-83-52 of the Pinelands Commission specified that any amendment to the Township's certified Master Plan and 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 #PC4-83-52 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 September 8, 2017, the Pinelands Commission certified the Browns Mills Town Center Redevelopment Plan, as adopted and amended by Pemberton Township Ordinances 12-2011 and 15-2017, respectively; and

WHEREAS, on July 11, 2018, Pemberton Township adopted Ordinance 13-2018, further amending the Browns Mills Town Center Redevelopment Plan by adopting a revised zoning plan for the redevelopment area; and

WHEREAS, the Browns Mills Town Center Redevelopment Area is located entirely within a Pinelands Regional Growth Area; and

WHEREAS, the Pinelands Commission received a certified copy of Ordinance 13-2018 on August 17, 2018; and

WHEREAS, by letter dated August 27, 2018, the Executive Director notified the Township that Ordinance 13-2018 would require formal review and approval by the Pinelands Commission; and

WHEREAS, a public hearing to receive testimony on Ordinance 13-2018 was duly advertised, noticed and held on September 12, 2018 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m.; and

WHEREAS, the Executive Director has found that Ordinance 13-2018 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 13-2018 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 13-2018 be certified; and

WHEREAS, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning Ordinance 13-2018 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 Pemberton Township Ordinance 13-2018, amending the Browns Mills Town Center Redevelopment Plan, is in conformance with the Pinelands Comprehensive Management Plan.
2. Any additional amendments to Pemberton 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.

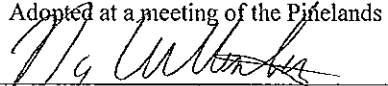
Record of Commission Votes

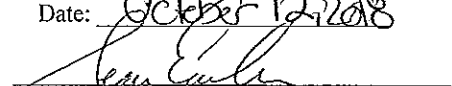
AYE NAY NP A/R*				AYE NAY NP A/R*				AYE NAY NP A/R*			
Ashmun			X	Howell	X			Prickett	X		
Avery	X			Jannarone		X		Quinn	X		
Barr	X			Lloyd	X			Rohan Green		X	
Chila	X			Lohbauer			R	Earlen	X		
Galletta	X			Pikolycky	X						

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: October 12, 2018


 Nancy Wittenberg
 Executive Director


 Sean W. Earlen
 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

SEAN W. EARLEN
Chairman
NANCY WITTENBERG
Executive Director

**REPORT ON PEMBERTON TOWNSHIP ORDINANCE 13-2018,
AMENDING THE BROWNS MILLS TOWN CENTER REDEVELOPMENT PLAN**

September 28, 2018

Pemberton Township
500 Pemberton-Browns Mills Road
Pemberton, NJ 08068

FINDINGS OF FACT

I. Background

The Township of Pemberton is located in eastern Burlington County, in the northwestern section of the Pinelands Area. Pinelands municipalities that abut Pemberton Township include New Hanover, Springfield, Southampton and Woodland Townships in Burlington County and Manchester and Plumsted Townships in Ocean County.

On June 3, 1983, the Pinelands Commission fully certified the Master Plan and codified Land Use Ordinances of Pemberton Township.

On September 8, 2017, the Pinelands Commission certified the Browns Mills Town Center Redevelopment Plan, as adopted and amended by Pemberton Township Ordinances 12-2011 and 15-2017, respectively. The Redevelopment Plan effectively established a new zoning plan for the Browns Mills Town Center Redevelopment Area, which is located entirely within a Pinelands Regional Growth Area.

Also in 2017, the Township began working with the New Jersey Department of Community Affairs, Local Planning Services, on a revised vision for the Browns Mills Town Center Redevelopment Area. That planning process led to the drafting of revisions to the redevelopment plan, both to simplify the extensive design standards contained in the prior plan and to better address residential development potential in the area.

On July 11, 2018, Pemberton Township adopted Ordinance 13-2018, amending the Browns Mills Town Center Redevelopment Plan by adopting a revised zoning plan for the redevelopment area. The Pinelands Commission received a certified copy of Ordinance 13-2018 on August 17, 2018.

By letter dated August 27, 2018, the Executive Director notified the Township that Ordinance 13-2018 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 13-2018, amending the Browns Mills Town Center Redevelopment Plan, introduced on June 20, 2018 and adopted on July 11, 2018.

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. 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 Land Use Ordinance Relating to Development Standards**

Ordinance 13-2018 amends the Browns Mills Town Center Redevelopment Plan previously enacted by Ordinances 12-2011 and 15-2017. Located entirely within a Pinelands Regional Growth Area, the Browns Mills Town Center Redevelopment Area is centered around Pemberton-Browns Mills, Juliustown and Trenton Roads and contains extensive areas of existing development. Ordinance 13-2018 does not change the boundaries of the Redevelopment Area itself. Rather, the ordinance adopts a new zoning plan within the Redevelopment Area that reflects revised permitted uses and residential densities. Whereas the prior redevelopment plan called for six districts within the Redevelopment Area, Ordinance 13-2018 establishes only four. The boundaries of the new TC-MU (Town Center Mixed Use), TC-R (Town Center Retail), TC-N (Town Center Neighborhood) and TC-WD (Town Center Waterfront Development) Districts are depicted on Exhibit #1.

Ordinance 13-2018 permits various types of residential development in the TC-MU, TC-N and TC-WD Districts, including single-family detached units, attached single-family units (duplexes and townhouses), apartments and assisted living facilities. Permitted densities range from five to 20 units per acre, with requirements for the use of Pinelands Development Credits associated with residential developments of five or more units. A wide variety of nonresidential uses is permitted in the TC-MU and TC-R Districts, with a more limited list of uses permitted in the TC-WD District. Exhibit #2 shows existing building types and areas where redevelopment opportunities exist within the Redevelopment Area.

Residential zoning capacity under the amended Redevelopment Plan is difficult to determine, given that it is somewhat dependent on the redevelopment of already developed properties. The Township's estimates of residential zoning capacity under the prior plan included the potential for some 250 new units, a figure that included a small number of condominiums or apartments on the second and third floors of certain commercial buildings. Residential development potential under the amended Plan adopted by Ordinance 13-2018 is likely not significantly

different, despite the higher permitted density for apartments and assisted living facilities. While somewhat higher than the CMP's prescribed density for Pemberton's Regional Growth Area (3.0 units per upland acre), this permitted intensity of development is not inconsistent with CMP standards given the availability of infrastructure and the primarily developed nature of this portion of Pemberton's Regional Growth Area.

Pemberton Township Ordinance 13-2018 is consistent with the land use and development standards of the Comprehensive Management Plan. Therefore, this standard for certification is met.

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

Not applicable.

4. Requirement for Municipal Review and Action on All Development

Not applicable.

5. Review and Action on Forestry Applications

Not applicable.

6. Review of Local Permits

Not applicable.

7. Requirement for Capital Improvement Program

Not applicable.

8. Accommodation of Pinelands Development Credits

The revised zoning plan adopted by Ordinance 13-2018 for the Browns Mills Town Center Redevelopment Area permits new residential development (single-family detached units, attached single-family units apartments and assisted living facilities) within three different zoning districts (TC-MU, TC-N and TC-WD). Permitted densities range from five units per acre for single-family detached units to 10 units per acre for single family attached units (duplexes and townhouses). A maximum density of 20 units per acre is permitted for apartments and assisted living facilities.

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 sufficiently residentially zoned property in the Regional Growth Area to be eligible for an increase in density to accommodate Pinelands Development Credits

(PDC) as provided for in N.J.A.C. 7:50-5.28(a)3. In order to comply with N.J.A.C. 7:50-5.28(a)3, Ordinance 13-2018 requires that PDCs be acquired and redeemed for 25% of all single-family detached, single-family attached, multifamily and assisted living facility units in the Redevelopment Area. This requirement applies only to projects of five or more units (i.e., major developments) and does not include condominiums or apartments over retail stores.

While the 25% requirement for residential development in the redevelopment area 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 particular development project. Ordinance 13-2018 *guarantees* that PDCs will be purchased and redeemed as part of the approval of any major residential development within the redevelopment area, regardless of the density or number of units that are ultimately built. Given the greater certainty provided by this approach, the Township's desire to promote mixed use development and the higher density permitted overall in the Redevelopment Area, the Executive Director believes that the 25% PDC requirement adopted by Ordinance 13-2018 should be viewed as being consistent with Comprehensive Management Plan standards.

This standard for certification is met.

9. Referral of Development Applications to Environmental Commission

Not applicable.

10. General Conformance Requirements

Pemberton Township Ordinance 13-2018, amending the Browns Mills Town Center Redevelopment Plan, is consistent with the standards and provisions of the Pinelands Comprehensive Management Plan.

This standard for certification is met.

11. Conformance with Energy Conservation

Not applicable.

12. Conformance with the Federal Act

Pemberton Township Ordinance 13-2018, amending the Browns Mills Town Center Redevelopment Plan, is consistent with the standards and provisions of the Pinelands Comprehensive Management Plan. No special issues exist relative to the Federal Act.

This standard for certification is met.

13. Procedure to Resolve Intermunicipal Conflicts

The Browns Mills Town Center Redevelopment Area is not contiguous with or adjacent to any other municipalities. Therefore, this standard is not applicable.

PUBLIC HEARING

A public hearing to receive testimony concerning Pemberton Township's application for certification of Ordinance 13-2018 was duly advertised, noticed and held on September 12, 2018 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m. Ms. Grogan conducted the hearing, at which no testimony was received.

Written comments were accepted through September 14, 2018; however, none were received.

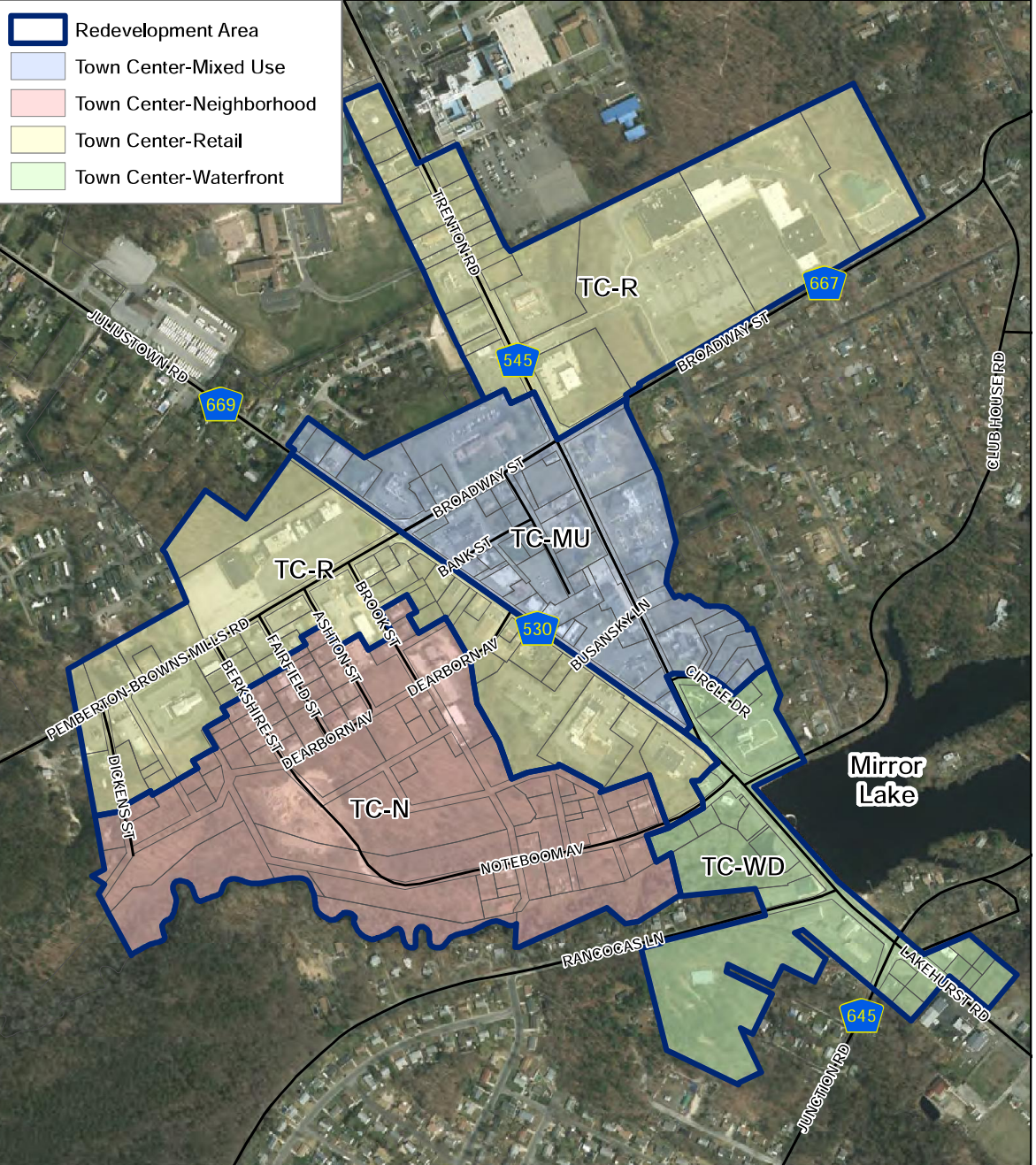
CONCLUSION



Based on the Findings of Fact cited above, the Executive Director has concluded that Pemberton Township Ordinance 13-2018, amending the Browns Mills Town Center Redevelopment Plan, complies with 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 13-2018 of Pemberton Township.

SRG/CPE
Attachments

Map 7

New Districts in the Browns Mills Redevelopment Area

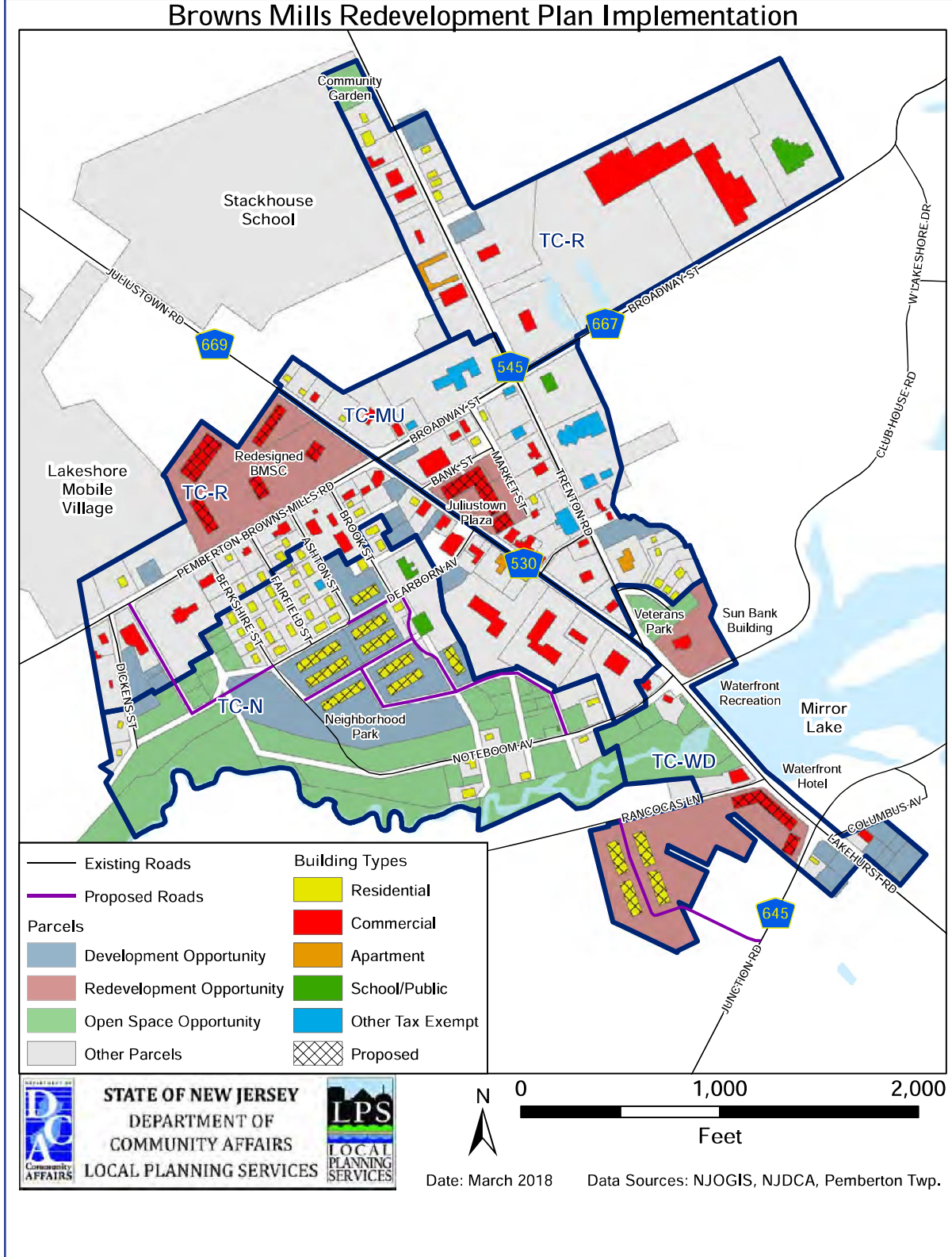



STATE OF NEW JERSEY
 DEPARTMENT OF
 COMMUNITY AFFAIRS

LOCAL PLANNING SERVICES

N 0 1,000 2,000
 Feet
 Date: March 2018 Data Sources: NJGIS, NJDCA, Pemberton Twp.

Map 14

Browns Mills Redevelopment Plan Implementation





RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-18- 36

TITLE: Determining the Eligibility of a Parcel of Land for Acquisition by the Department of Environmental Protection Pursuant to the Limited Practical Use Program

Commissioner Uyad moves and Commissioner Lohbauer seconds the motion that:

WHEREAS, the Pinelands Commission has reviewed the Findings of Fact, Conclusion and recommendation of the Executive Director that the following parcel is eligible for acquisition under the Limited Practical Use program:

2007-0398.001 Brian Tomasino, Block 134.01, Lot 4; Block 134.02, Lot 3; Block 146, Lot 3; Block 152, Lot 3; Galloway Township, 4.15 ac.; Pinelands Town (TR zoning district); waiver application denied August 10, 2018.

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

WHEREAS, the Pinelands Commission hereby adopts the Findings of Fact and Conclusion of the Executive Director for this parcel; and

WHEREAS, the Pinelands Commission hereby determines that the parcel conforms to the criteria set forth in N.J.A.C. 7:50-9.2 and 9.3 for eligibility for acquisition under the Limited Practical Use program; 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 the Pinelands Commission approves the acquisition of the following parcel and authorizes the Executive Director to transmit the name of this property owner to the Department of Environmental Protection for acquisition, provided that the landowner freely agrees to sell his parcel:

2007-0398.001 Brian Tomasino, Block 134.01, Lot 4; Block 134.02, Lot 3; Block 146, Lot 3; Block 152, Lot 3; Galloway Township, 4.15 ac.; Pinelands Town (TR zoning district); waiver application denied August 10, 2018.

Record of Commission Votes

	AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*
Ashmun					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

Date: October 12, 2018

Nancy Wittenberg
Nancy Wittenberg
Executive Director

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

SEAN W. EARLEN
Chairman
NANCY WITTENBERG
Executive Director

REPORT ON PROPERTY ELIGIBILITY FOR THE PINELANDS LIMITED PRACTICAL USE PROGRAM

August 30, 2018

Brian Tomasino.
4 Brookview Lane
Granby CT 06035

Please Always Refer to
This Application Number
App. No. 2007-0398.001
Galloway Township
Block 134.01, Lot 4
Block 134.02, Lot 3
Block 146, Lot 3
Block 152, Lot 3

Dear Mr. Tomasino:

The Commission staff has completed its review of this application for eligibility in the Pinelands Limited Practical Use (LPU) land acquisition program. On behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application at its October 12, 2018 meeting.

FINDINGS OF FACT

This application is for a determination of eligibility for the Pinelands Limited Practical Use Land Acquisition Program. The property is located in Galloway Township's TR (Town Residential) zoning district within a Pinelands Town management area and contains 4.15 acres. An application for a Waiver of Strict Compliance by the applicant to develop a home on this parcel was denied by the Pinelands Commission on August 10, 2018.

The subject parcel contains all contiguous land in common ownership on or after January 14, 1981. There are no principal structures located on the parcel. No resource extraction operation has been approved for this parcel. No development has been approved for this parcel. There are no Pinelands Development Credits allocated to the parcel. Based on the available information, the parcel cannot be developed consistent with the requirements of the Comprehensive Management Plan (CMP). The applicant owns less than 50 acres of land in the Pinelands as of July 17, 1995.

CONCLUSION

N.J.A.C.7:50-9.2 and 7:50-9.3 set forth the standards which must be met in order for a property to be determined eligible for the Limited Practical Use Program. The first condition is that the Pinelands Commission has either denied a Waiver of Strict Compliance for the parcel in question pursuant to N.J.A.C. 7:50-4, Part V or has approved a Waiver of Strict Compliance for the parcel and granted a transferable development right to other lands in accordance with N.J.A.C.7:50-4.66(b)3 and 5.30(a). As the applicant received a Waiver denial on August 10, 2018, the applicant meets the criteria contained in N.J.A.C. 7:50-9.2(a)1.

The second condition is that the parcel contains less than 50 acres. As the parcel contains 4.15 acres, the parcel meets the criteria contained in N.J.A.C. 7:50-9.2(a) 2.

The third condition is that the standards contained in N.J.A.C. 7:50-9.3 relative to the ownership and the present and potential uses of the parcel in question have been met. The applicant has demonstrated that the parcel meets the standards contained in N.J.A.C. 7:50-9.3 so the parcel meets the criteria contained in N.J.A.C. 7:50-9.2(a)3.

The property is eligible for the Limited Practical Use acquisition program because all program eligibility criteria in N.J.A.C. 7:50-9.2 and N.J.A.C. 7:50-9.3 have been met. As a result, it is recommended that the Pinelands Commission APPROVE the application and notify the Department of Environmental Protection that the subject parcel is eligible to be acquired under the provisions of N.J.A.C. 7:50-9.

APPEAL

The Pinelands Comprehensive Management Plan (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 no later than 5:00 PM on September 28, 2018 and include the following information:

- A. the name and address of the person requesting the appeal;
- B. the application number;
- C. a brief statement of the basis for the appeal; and
- D. 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 will act on this application at its meeting on October 12, 2018. At this meeting, the Commission may either approve the determination of the Executive Director or refer the application to the Office of Administrative Law for a hearing.

If you have any questions, please contact Betsy Piner of our staff.

Sincerely,



Susan R. Grogan, P.P., AICP
Chief Planner



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-18- 37

TITLE: To Adopt Amendments to the Comprehensive Management Plan in Accordance with the Administrative Procedure Act (Alternate Design Wastewater Treatment Systems Pilot Program)

Commissioner Avery moves and Commissioner Lloyd seconds the motion that:

WHEREAS, on June 8, 2018, the Pinelands Commission authorized the publication of proposed amendments to the Comprehensive Management Plan through adoption of Resolution PC4-18-18; and

WHEREAS, the proposed amendments, which eliminate the installation deadline for alternate design wastewater treatment systems participating in the Commission's Pilot Program, were published in the July 16, 2018 issue of the New Jersey Register at 50 N.J.R. 1523(a); and

WHEREAS, the Pinelands Commission held a public hearing to elicit public comment on the proposed amendments on August 29, 2018; and

WHEREAS, the Pinelands Commission also solicited written comment on the proposed amendments through September 14, 2018; and

WHEREAS, the Pinelands Commission received and reviewed one comment on the proposed amendments; and

WHEREAS, the Pinelands Commission wishes to adopt the proposed amendments in accordance with the September 28, 2018 Notice of Adoption; and

WHEREAS, pursuant to N.J.S.A. 13:18A-5h, no action authorized by the Commission in adopting the Comprehensive Management Plan or amendments thereto shall have force or effect until thirty (30) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period the Governor shall approve same, in which case the action shall become effective upon such approval.

NOW, THEREFORE BE IT RESOLVED that

1. The Pinelands Commission hereby adopts the proposed Comprehensive Management Plan amendments, as published in the July 16, 2018 New Jersey Register, and in accordance with the attached September 28, 2018 Notice of Adoption.
2. The Executive Director shall forward the amendments and minutes of this action to the Governor of the State of New Jersey, and shall also forward these amendments to the United States Secretary of the Interior for review in accordance with Section 502 of the National Parks and Recreation Act of 1978.
3. The amendments shall take effect as provided in the Pinelands Protection Act and upon publication in the New Jersey Register.

Record of Commission Votes

	AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*
Ashmun					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: October 12, 2018
Sean W. Earlen
Sean W. Earlen
Chairman

PINELANDS COMMISSION

Pinelands Comprehensive Management Plan

Pilot Program for Alternate Design Wastewater Treatment Systems

Adopted Amendments: N.J.A.C. 7:50-6.84, 10.22 and 10.23

Proposed: July 16, 2018 at 50 N.J.R. 1523(a)

Adopted: October 12, 2018 by the New Jersey Pinelands Commission,
Nancy Wittenberg, Executive Director

Filed: _____, 2018 **without change**

Authorized by: New Jersey Pinelands Commission

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

Effective Date: ____, 2018

Expiration Date: Exempt.

The New Jersey Pinelands Commission (Commission) is adopting amendments to Subchapters 6, Management Programs and Minimum Standards, and 10, Pilot Programs, of the Pinelands Comprehensive Management Plan (CMP). These amendments were proposed on July 16, 2018 at 50 N.J.R. 1523(a). Their purpose is to allow for continued installation of certain wastewater treatment technologies in the Pinelands Area.

In association with publication of the proposed amendments in the July 16, 2018 issue of the New Jersey Register, the Pinelands Commission transmitted the proposal to each Pinelands municipality and county, as well as to other interested parties, for review and comment. Additionally, the Pinelands Commission:

- Sent notice of the public hearing to all persons and organizations that subscribe to the Commission's public hearing registry;
- Placed advertisements of the public hearing in the four official newspapers of the Commission, as well as on the Commission's own web page;
- Submitted the proposed amendments to the Pinelands Municipal Council pursuant to N.J.S.A. 13:18A-7f;
- Distributed the proposed amendments and new rule to the news media maintaining a press office in the State House Complex; and
- Published a copy of the proposed amendments on its web page at www.nj.gov/pinelands

Summary of Hearing Officer Recommendations and Agency Response:

A formal public hearing was held before the Commission staff on August 29, 2018. One individual attended the hearing and provided oral testimony on the rule proposal. The hearing officer's recommendations are in accordance with the public comment and agency responses below.

The hearing was recorded on magnetic tape which is on file at the Commission's office at 15 Springfield Road, New Lisbon, New Jersey. The record of this rulemaking is available for inspection in accordance with applicable law by contacting:

Betsy Piner

Pinelands Commission

P.O. Box 359

New Lisbon, NJ 08064

Summary of Public Comments and Agency Responses:

The Commission accepted oral comments on the July 16, 2018 proposal at the above-discussed August 29, 2018 public hearing and written comments by regular mail, facsimile or e-mail through September 14, 2018.

Comments were received from one individual: Rich Bizub, Director for Water Programs, Pinelands Preservation Alliance. Mr. Bizub expressed support for the proposed amendments and the Pilot Program as a whole. He agreed it was appropriate to remove the installation deadline for pilot program technologies and important to provide an opportunity for new technologies to participate in the program. The Commission appreciates this expression of support.

Federal Standards Statement

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

The Federal Pinelands legislation sets forth rigorous goals which the plan must meet, including the protection, preservation and enhancement of the land and water resources of the Pinelands. The amendments now being adopted are designed to meet those goals by allowing for the continued installation and monitoring of alternate design wastewater treatment systems for residential development in the Pinelands Area.

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

RULE PROPOSALS

INTERESTED PERSONS

Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until the date indicated in the proposal. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal.

The required minimum period for comment concerning a proposal is 30 days. A proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. Most notices of proposal include a 60-day comment period, in order to qualify the notice for an exception to the rulemaking calendar requirements of N.J.S.A. 52:14B-3. An extended comment deadline will be noted in the heading of a proposal or appear in subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-6.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

ENVIRONMENTAL PROTECTION

(a)

PINELANDS COMMISSION

Pinelands Comprehensive Management Plan Pilot Program for Alternate Design Wastewater Treatment Systems

Proposed Amendments: N.J.A.C. 7:50-6.84, 10.22, and 10.23

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

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

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

Proposal Number: PRN 2018-064.

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

August 29, 2018, at 9:30 A.M.
Richard J. Sullivan Center
15C Springfield Road
New Lisbon, New Jersey

Submit written comments by regular mail, facsimile, or e-mail by
September 14, 2018, to:

Susan R. Grogan, P.P., AICP
Chief Planner
Pinelands Commission
PO Box 359
New Lisbon, NJ 08064
Facsimile: (609) 894-7330

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

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

The agency proposal follows:

Summary

The New Jersey Pinelands Commission (Commission) proposes to amend N.J.A.C. 7:50-6, Management Programs and Minimum Standards, and 10, Pilot Programs of the Pinelands Comprehensive Management Plan (CMP). The Pinelands CMP has been guiding land use and development activities in the Pinelands since it took effect on January 14, 1981. Since that time, the CMP has been amended a number of times, most recently in March 2018, through a set of amendments

related to fees, escrows, application requirements and procedures, public notice and mailing requirements, water quality standards, landfill closure, signs, and the Pilot Program for Alternate Design Wastewater Treatment Systems (see 50 N.J.R. 969(a)).

The proposed amendments relate solely to the Pilot Program for Alternate Design Wastewater Treatment Systems. They are intended to modify the standards of this long-standing pilot program to allow for the continued installation of certain wastewater treatment technologies in the Pinelands Area. A more detailed description of the pilot program and proposed amendments follows.

In 2000, the Pinelands Commission formed a special Ad Hoc Septic System Committee to research alternate septic system technologies that might better meet the water quality standards of the Comprehensive Management Plan (N.J.A.C. 7:50-6, Part VIII) for residential development on lots smaller than 3.2 acres, where such lots were already authorized pursuant to N.J.A.C. 7:50-5. In its research efforts, the Committee consulted wastewater engineering professionals, State and regional on-site technology demonstration projects, alternate treatment system technology manufacturers, Pinelands Area county health departments and other State and local agencies. Based on this research, the Committee identified five technologies that it determined could be expected to meet Pinelands water quality standards for residential development on lots smaller than 3.2 acres in size. The identified technologies were the Amphidrome, Ashco RFS^{III}, Cromaglass, Bioclere, and FAST treatment systems. Based upon nitrogen removal expectations and the Pinelands Septic Dilution Model, the Committee concluded the Amphidrome, Cromaglass, Bioclere, and FAST systems could be permitted on lots of at least one acre and that the Ashco RFS^{III} system could be allowed on residential lots of at least 1.5 acres. All of the identified systems utilize proven biological nutrient removal processes to reduce nitrogen levels in treated wastewater. The water quality requirements of N.J.A.C. 7:50-6, Part VIII, include provisions that are aimed at controlling the amount of nitrogen that enters the environment because nitrogen itself is a significant pollutant and because it often serves as an indicator of changes in overall water quality.

The Ad Hoc Septic System Committee unanimously recommended that an interim program be developed for the approval, installation, and monitoring of the five identified wastewater treatment technologies and that the interim program include conditions and safeguards to govern their use. To implement these recommendations, the Pinelands Commission adopted a set of amendments to the Comprehensive Management Plan that authorized the use of the technologies through the establishment of the Alternate Design Treatment Systems Pilot Program (see 34 N.J.R. 722(a); 2804(b)). These Comprehensive Management Plan amendments, which took effect on August 5, 2002, are codified at N.J.A.C. 7:50-10, Part IV. The Pilot Program was implemented to provide a means to test whether the five identified technologies could be maintained and operated, so as to meet the water quality standards of the

Comprehensive Management Plan in a manner that a homeowner can be reasonably expected to follow.

Implementation of the Pilot Program commenced on August 5, 2002, with the first pilot program treatment system installed in 2004. As of June 2017, a total of 305 pilot program systems have been installed in association with single-family residential development in 28 different Pinelands municipalities.

N.J.A.C. 7:50-10.23 of the Comprehensive Management Plan requires that the Executive Director review the Alternate Design Treatment Systems Pilot Program periodically and report the findings of that evaluation to the Pinelands Commission in a program implementation report. The criteria by which the Pilot Program is periodically evaluated are set forth at N.J.A.C. 7:50-10.23(b)1 through 6. The Executive Director issued program implementation reports in 2006, 2009, and 2012. Links to all reports may be found on the Commission's website at www.nj.gov/pinelands. In response to the recommendations set forth in these reports, the Commission adopted amendments to the Comprehensive Management Plan to:

- Authorize the installation of Pilot Program technologies in all Pinelands municipalities;
- Provide the ability to install more than 10 of any Pilot Program technology in the same residential development;
- Grant permanent approval status to three Pilot Program technologies (Amphidrome, Bioclere, and FAST) in recognition of their demonstrated ability to meet CMP water quality standards;
- Remove one technology (Ashco RFS^{III}) from the Pilot Program due to its commercial unavailability in the Pinelands Area;
- Remove one technology (Cromaglass) from the Pilot Program due to its inability to meet CMP water quality standards;
- Provide the Executive Director with the authority to impose an immediate suspension on all new installations of a Pilot Program technology that is not adhering to the requirements of the program or meeting CMP water quality standards;
- Provide an opportunity for additional prescreened technologies to enter the Pilot Program; and
- Continue the Pilot Program by allowing installation of new systems through August 5, 2018.

The above-referenced CMP amendments took effect in 2006, 2007, 2010, 2014, and 2018 and may be found at 37 N.J.R. 4133(a), 38 N.J.R. 4133(a); 39 N.J.R. 1970(a), 5077(b); 42 N.J.R. 987(a), 2422(a); 46 N.J.R. 319(a), 1877(a); and 49 N.J.R. 3075(a), 50 N.J.R. 969(a).

The Executive Director completed a fourth Implementation Report in November 2017, last revised in April 2018 (http://www.nj.gov/pinelands/landuse/current/altseptic/Final%20April%202018%20%202018_ImplementationReport.pdf). In this report, the Executive Director found that:

- The continued use of advanced on-site treatment technologies is essential to the efficient use and orderly development of the growth-oriented areas of the Pinelands Area.
- The Pilot Program provides an appropriate means to test whether technologies can be maintained and operated, so as to meet CMP water quality standards in a manner that a homeowner can reasonably be expected to follow.
- The Pilot Program has been successful in identifying technologies that achieve compliance with Pinelands water quality standards when used for residential development on appropriately-sized lots.
- Landowners in the Pinelands Area benefit when new technologies are accepted into the Pilot Program, expanding choices and stabilizing prices.
- Proper operation and maintenance remains crucial to the long-term performance of the Pilot Program technologies.

Based on these findings, the Executive Director recommended that the Commission continue to monitor and evaluate the four technologies currently in the Pilot Program and issue another implementation report in November 2019. The Executive Director further recommended that two new technologies be added to the Pilot Program in 2018. Finally, the Executive Director recommended that the Commission amend the CMP to remove the current August 5, 2018 installation deadline for Pilot Program technologies.

The Commission is now proposing amendments to the CMP to revise the Pilot Program in response to the findings and recommendations set forth in the 2017 implementation report. Specifically, N.J.A.C. 7:50-10.22(a)4 and 10.23(h) are proposed for deletion in order to remove the August 5, 2018 deadline for installation of pilot program technologies. The Commission believes the installation deadline is no longer necessary, given that the Executive Director has the authority, pursuant to recodified N.J.A.C. 7:50-10.22(a)5, to immediately suspend all installations of a particular technology if monitoring data shows the system is not meeting CMP water quality standards. Likewise, the Executive Director may suspend installations if it becomes evident that a technology vendor is not complying with the terms of the Pilot Program. The Executive Director may also require an increased lot size for a particular technology if monitoring results indicate a larger land area is necessary to meet CMP water quality standards. Because sufficient safeguards exist, a fixed installation deadline is not needed. It is worth noting that a fixed deadline has also proven over time to be difficult to administer. It often impacts development applications in progress and can only be changed upon completion of a lengthy rulemaking process.

In addition to removal of the installation deadline, recodified N.J.A.C. 7:50-10.22(a)6v is proposed for amendment to clarify the required certifications that must be provided to the Commission as a condition for use of an alternate design pilot program treatment system. This subparagraph previously required that the manufacturer of each system (or the manufacturer's agent) certify to the Commission and the county board of health that installation of each system has been properly completed. An amendment is proposed to require that the certification be made by both the manufacturer and a New Jersey licensed professional engineer, and that the certification relate not only to proper installation of the system but also to its proper operation. These amended certification requirements will now be fully consistent with those already set forth in N.J.A.C. 7:50-6.84(a)5v for advanced treatment systems that have been permanently authorized for use in the Pinelands Area. To avoid confusion, the Commission believes it important that certification requirements for all systems be identical.

N.J.A.C. 7:50-6.84(a)5iv(2)(F) and (3)(F) are proposed for amendment to update the cross-references in these sections to the Pilot Program requirements that are recodified at N.J.A.C. 7:50-10.22(a)5.

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

Social Impact

No adverse social impact is anticipated as a consequence of the adoption of the proposed amendments. Society as a whole benefits from the protection of the Pinelands and the proposed amendments are designed to do just that. Any social impacts that do result are expected to be positive. Conversely, a negative social impact might result should the proposed amendments not be adopted. This stems from the fact that the existing rules, at N.J.A.C. 7:50-10.22(a)4 and 10.23(h), prohibit the installation of pilot program treatment systems after August 5, 2018. Absent the adoption of the proposed amendments, pilot program systems could no longer be used after that date for residential development on unsewered properties of less than 3.2 acres in the Pinelands Area. Even with the proposal of the herein amendments, there will be a period of several months after August 5th when installation of new pilot program systems cannot proceed because the rulemaking process will not yet be complete.

Economic Impact

The economic impact of the proposed amendments to the Pilot Program for Alternate Design Wastewater Treatment Systems will clearly be positive for those landowners seeking to develop their one- to 3.2-acre properties in unsewered areas of the Pinelands Area. Without the proposed amendments, use of pilot program technologies would not be permitted after August 5, 2018. Landowners would then have limited options available to them; they could only use one of the three permanently approved advanced treatment technologies. Reduced choices could drive up the prices of these three approved technologies. Non-adoption of the amendments would also create a problem for landowners and homebuilders with applications in progress, if they were

unable to install their proposed pilot program systems prior to August 5, 2018. The Commission is seeking to minimize negative economic impacts by proposing the amendments at this time, so as to shorten the time period within which pilot program system installations will not be permitted and limit the number of negatively affected property owners and applicants

Environmental Impact

Elimination of the installation deadline associated with the Alternate Design Wastewater Treatment Systems Pilot Program is expected to provide environmental benefit. Elimination of the deadline provides a continued opportunity for installation of new systems, which carries with it the opportunity for the Commission to collect data and monitor existing pilot program technologies and authorize new prescreened advanced wastewater treatment systems to enter the program and be installed and monitored. The installation of additional systems will result in more monitoring and testing of effluent, and this will ultimately provide the Commission with more data to be evaluated as part of the pilot program. Provided they are maintained properly, these systems provide the potential for improved water quality when compared with conventional septic systems.

Federal Standards Statement

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

The Federal Pinelands legislation sets forth rigorous goals that the plan must meet, including the protection, preservation, and enhancement of the land and water resources of the Pinelands. The proposed amendments are designed to meet those goals by allowing for the continued installation and monitoring of alternate design wastewater treatment systems for residential development through a highly successful pilot program.

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

Jobs Impact

Elimination of the impending deadline in the Pilot Program provides a continued opportunity for new home construction in areas that are zoned for such use, but are not served by public sewerage infrastructure. The proposed amendments may, therefore, result in the creation of jobs associated with new home construction. Conversely, non-adoption of the proposed amendments could have a negative impact on job creation by limiting the options of a small number of residential homebuilders in the unsewered portions of the Pinelands Area.

Agriculture Industry Impact

The proposed amendments are not expected to impact the agriculture industry in the Pinelands.

Regulatory Flexibility Analysis

The proposed amendments allow for installation of certain wastewater treatment technologies for residential development in the Pinelands Area beyond the August 5, 2018 deadline currently specified in the CMP. They also clarify certification requirements involving such technologies for purposes of ensuring consistency throughout the CMP. All of the other reporting, recordkeeping, and compliance requirements of the Pilot Program continue to apply to the manufacturers of alternate design wastewater treatment systems authorized for use in the Pinelands Area. It is believed that at least some of these manufacturers may be small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. In meeting the standards for use of the authorized technologies that would continue to be authorized under the Pilot Program, these businesses may continue to incur costs relative to ensuring compliance with the maintenance and monitoring requirements of recodified N.J.A.C. 7:50-10.22(a)6. It is unlikely, however, that engaging professional services will be necessary in order to do so. The design of systems for approval by county health departments and other agencies requires the services of a professional engineer under existing State law; that requirement is not changed by the proposed amendments.

Furthermore, the requirements at recodified N.J.A.C. 7:50-10.22(a)6 merely involve the provision of certain manuals, maintenance guarantees, and other documents that the manufacturers already have on hand, as well as the provision of resources for the collection and analysis of effluent sampling. This is not to say that the requirements represent insignificant costs for the manufacturers, particularly for the five-year non-cancellable maintenance contract required by N.J.A.C. 7:50-10.22(a)6vii. However, these requirements are a critical part of the proposed pilot program and the Commission would not be able to extend or expand the program without them. In any case, it is likely that the associated costs will be passed on to the homeowner by the manufacturers. These costs represent a relatively small price to pay for the opportunity to develop lots that would otherwise not be developable.

No differing requirements have been established for small businesses under the Pilot Program. Instead, the same maintenance and monitoring requirements will continue to be imposed relative to the authorized technologies, regardless of business size. This is necessary to balance protection of Pinelands resources with the Commission's desire to provide a continued opportunity for residential development on lots that are less than 3.2 acres in size in unsewered areas of the Pinelands. In fact, the Commission has identified proper system maintenance as the primary factor in ensuring that the alternate technologies will function in a manner that is consistent with CMP water quality standards. It is, therefore, critical that the requirements continue to be imposed on all of the manufacturers or their agents.

The proposed amendments impose no other reporting, recordkeeping, or compliance requirements on small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

Housing Affordability Impact Analysis

The proposed amendments have the potential to reduce the cost of alternate design treatment systems for those landowners seeking to develop homes on lots between one and 3.2 acres in size in the unsewered portions of the Pinelands Area. With the removal of the installation deadline for such systems, current and future technologies participating in the Pilot Program may continue to be used. A range of options for landowners is thereby preserved, perhaps leading to increased competition among the vendors of existing and new pilot program technologies, resulting in decreased costs of the systems for homeowners.

While the proposed amendments may result in a decrease in the costs of alternate design treatment systems, and, therefore, a decrease in the average cost of housing utilizing such systems, it is important to note that these systems are being installed in the unsewered portions of the Pinelands Area and primarily in the Regional Growth Areas, Pinelands Villages, and Pinelands Towns. Permitted densities in the unsewered portions of these management areas are relatively low, ranging from one unit per acre to one unit per 3.2 acres. Housing units in those portions of the Pinelands Area within which most affordable housing is targeted or anticipated would not be affected as such units are typically expected to be served by public sanitary sewer.

Smart Growth Development Impact Analysis

The proposed amendments allow for the continued installation and monitoring of alternate design treatment systems for residential development in the Pinelands Area through the Commission's Pilot Program. These systems are used by landowners in the unsewered portions of the Pinelands Area that are zoned for residential development on lots of less than 3.2 acres in size. These areas are primarily located in Regional Growth Areas, Pinelands Villages, and Pinelands Towns, management areas designated for development by the CMP, equivalent to designated centers under the State Development and Redevelopment Plan. The proposed amendments do not increase the amount of permitted residential development in these management areas; rather, they provide a continued opportunity for the development of housing in accordance with municipal zoning plans that were previously approved by the Commission. Thus, the proposed amendments are not expected to result in any changes in housing production within designated centers or in any other portions of the Pinelands Area. There will be no effect on new construction in Planning Areas 1 and 2, or within designated centers, as

designated by the State Development and Redevelopment Plan as these State Planning Areas do not exist in the Pinelands Area.

Racial and Ethnic Community Criminal and Public Safety Impact

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

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

SUBCHAPTER 6. MANAGEMENT PROGRAMS AND MINIMUM STANDARDS

PART VIII—WATER QUALITY

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

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

1.-4. (No change.)

5. Individual on-site septic waste water treatment systems that are intended to reduce the level of nitrate/nitrogen in the waste water, provided that the following standards are met:

i.-iii. (No change.)

iv. The design of the system and its discharge point, and the size of the entire contiguous parcel on which the system or systems is located, will ensure that ground water exiting from the entire contiguous parcel or entering a surface body of water will not exceed two parts per million nitrate/nitrogen calculated pursuant to the Pinelands dilution model dated December, 1993, as amended, (Appendix A) subject to the provisions of (a)5v below and based on the following assumptions and requirements. For purposes of this section, the entire contiguous parcel may include any contiguous lands to be dedicated as open space as part of the proposed development but may not include previously dedicated road rights-of-way or any contiguous lands that have been deed restricted pursuant to N.J.A.C. 7:50-5.30 or 5.47:

(1) (No change.)

(2) For Amphidrome, Bioclere, and FAST systems:

(A)-(E) (No change.)

(F) The manufacturer or its agent shall provide to each owner an operation and maintenance manual and shall provide a five-year warranty consistent with the requirements of N.J.A.C. 7:50-10.22[(a)6viii](a)5viii;

(G)-(J) (No change.)

(3) Other on-site septic waste water treatment systems shall only be credited with reducing total nitrogen concentration to the extent authorized by an experimental monitoring program approved by the Pinelands Commission. Such an experimental monitoring program shall only be approved if:

(A)-(E) (No change.)

(F) The system meets all the requirements in N.J.A.C. 7:50-10.22[(a)6i](a)5i through x; and

(G) (No change.)

v.-ix. (No change.)

6. (No change.)

SUBCHAPTER 10. PILOT PROGRAMS

PART IV—ALTERNATE DESIGN TREATMENT SYSTEMS PILOT PROGRAM

7:50-10.22 General standards

(a) Alternate design pilot program treatment systems shall be authorized for residential use in all municipalities provided that the following standards are met:

1.-3. (No change.)

[4. The USEPA ETV or NSF/ANSI Standard 245 technologies approved by the Commission for participation in the pilot program pursuant to N.J.A.C. 7:50-10.23(b) are authorized to be installed until August 5, 2018.]

[5.] 4. The Executive Director shall submit an annual report to the Commission describing installation, maintenance, and performance data for each technology. The Executive Director also shall submit an interim report to the Commission if it is determined there is a significant installation, maintenance, or performance issue with one or more technologies that needs to be addressed before the issuance of the next annual report. Copies of each annual and interim report shall be provided to each manufacturer and agent of a technology that is discussed in that report. If it is determined in a report either that a manufacturer or its agent is not adhering to any of the requirements of this pilot program or that any one of the technologies, based on maintenance or installation issues or on an evaluation of all the monitoring results for that technology under this pilot program, is not meeting the minimum water quality standards in N.J.A.C. 7:50-6.83 or the two parts per million total nitrogen requirement in [(a)6x] (a)5x below on all lots smaller than 3.2 acres or on lots smaller than a particular size because the effluent exiting the system is higher than was anticipated in establishing the lot sizes in (a)3 above:

i.-ii. (No change.)

[6.] 5. Conditions for use of alternate design pilot program treatment systems are as follows:

i.-iv. (No change.)

v. The manufacturer or its agent and a New Jersey licensed professional engineer shall certify to the Commission and the local board of health that installation of each system has been properly completed and that the system and all of its components are operating properly. The manufacturer or its agent shall include in the certification the cost of the installation and a description of any problem encountered during the installation;

vi.-xiii. (No change.)

(b)-(c) (No change.)

7:50-10.23 Pinelands Commission approval and evaluation

(a)-(g) (No change.)

[(h) Nothing in this section shall be construed to authorize the installation of any USEPA ETV and NSF/ANSI Standard 245 treatment technology approved by the Commission for participation in the pilot program after August 5, 2018 as set forth in N.J.A.C. 7:50-10.22(a)4, unless a rule has been adopted by the Commission that expressly authorizes such installation pursuant to (f) or (g) above.]

HEALTH

(a)

PUBLIC HEALTH SERVICES BRANCH

DIVISION OF FAMILY HEALTH SERVICES

CHILD AND ADOLESCENT HEALTH PROGRAM

Screening of Children for Elevated Blood Lead Levels

Proposed Readoption with Amendments: N.J.A.C. 8:51A

Authorized By: Shereef Elnahal, M.D., M.B.A., Commissioner, Department of Health, in consultation with the Public Health Council.

Authority: N.J.S.A. 26:2-137.2 et seq., particularly 26:2-137.7.

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

Proposal Number: PRN 2018-062.

Submit electronic comments to <http://www.nj.gov/health/legal/ecomments.shtml>, or written comments to the address below, by September 14, 2018, to:

Joy L. Lindo, Director
Office of Legal and Regulatory Compliance
Office of the Commissioner

THREE MINUTE MESSAGE ON CLIMATE CHANGE

My name is Riki Losiewicz. I spoke to you last on June 8th. At that time, I pointed out to the Commissioners, that the Pinelands and its assets, are a global responsibility.

We are living in extraordinary times. We are facing the challenges of climate change. In my estimation, we are grossly ill prepared. Look to the West, and to our South. Historic fires fueled by drought and unusually high temperatures have destroyed vast areas in California. Historic flooding from Hurricane Florence has recently destroyed whole towns in the Carolinas. Conceivably, New Jersey could be one drought away from it's own fire storm or another flood. How will we respond? Can this Commission say, with all confidence, that they are ready to protect the Pinelands with every advantage available to us?

When the Hopi counsel of elders meet on an issue, they base their decision on how it will effect the next 7 generations of their people. I contend, that the Pinelands Preservation Act, was written based on generational thinking. We need such thinking today. I do not underestimate the importance of the input of this Commission, or, the need for public input.

And now, a reading from the book of Seuss.

"I speak for the trees, let them grow, let them grow. But nobody listens too much don't you know. I speak for the trees and I'll yell and I'll shout. For all the fine things on earth, that are on their way out." Those words are from Dr. Seuss's book The Lorax. A book that I have just donated to the Pineland Commission's library. If you have not read it, I highly recommend that you do so for it was written at the time the Pineland's Preservation Act was composed. The shared thread is the protection and preservation of our forests and trees essential to our own survival. By design, the members of this Commission, their knowledge and skills are diverse so that together they may in a most constructive way, address the changing needs of the Pinelands.

I have in my hand, the coastal regulations of the Pinelands Preservation act which is but a portion of the total document. This was not meant to be written in stone for it is written on the trees. This is our starting point. The regulations here are binding and guide New Jersey's towns when it comes to protecting our environment. We are loosing ground. How will we move forward and face the destructive forces of nature?

Many things have changed since this Act was written. We have learned that the forest has an interconnected communication system.

The forest floor has an existing root system designed by nature to nurture the surrounding species of plants in need of water or nitrogen. By this method, a mother tree will send its progeny what it needs to survive. If a tree is under insect attack, it can send an electrical alarm signal to the surrounding trees. That transmitted information allows those trees time to create a chemical in their leaves that is capable of repelling those insects. They work cooperatively together for the health of the ecosystem.

I am horrified by clear cutting of old growth forests. Hubris, for a man to think he can pull out a species list and create a better ecosystem by destroying the existing one. There is a distinction between a non native species and an invasive one.

I am here to remind you that we humans are a part of nature not mere observers. Have you heard of the Methuselah tree? It is a Bristlecone pine located in California calculated to be over 4,841 years old which is quite impressive by any standard. Does anyone know how old the oldest tree in New Jersey is? Age, 400 years it is a White Oak, location, Salem New Jersey in the Friends burial grounds. The oldest tree was a White Oak located in Basking Ridge in the Presbyterian Cemetery but, that was cut down in 2017. I find it ironic that our oldest trees are not to be found in our State Forests but in our grave yards.

Colony trees are not our enemies. In Utah they have the "Trembling Giant" also known as the Pando tree. This is a clonal colony of Quaking Aspen with a connected root system that is over 80,000 years old. I suppose Christmas tree farms could be thought of as non native colony trees, but we wouldn't hold that against them and want them clear cut. Santa would not like that.

Corporate giants already have plans in place to profit from the consequences of climate change. In March of this year Walmart has filed for a patent on robotic bees. Pollinator drones to be sold when our bees are extinct. Another corporation has a patent on a system to grow plants in the air. Aeroponics, a method which does not use soil to produce produce. What is wrong with our soil? Well you can ask the makers of neonicotinoids an insecticide that coats our seeds and affects the central nervous system.

That, is the plan for our future. How will we respond to that plan? What is our plan? This is a pivotal time in the history of shaping our environment. May I suggest, as possible projects to fund, ones that address the issues of climate change.

Wake up little Suzie, the movie is over, it's 4 o'clock, and we're in trouble deep.