



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-22- 22

TITLE: **Approving** With Conditions Applications for **Public Development** (Application Numbers 1987-1159.062, 1991-0820.118 & 2009-0213.002)

Commissioner Irick moves and Commissioner Lohbauer seconds the motion that:

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

1987-1159.062

Applicant:	Stafford Township
Municipality:	Stafford Township
Management Area:	Pinelands Regional Growth Area
Date of Report:	June 15, 2022
Proposed Development:	Construction of a 4,000 square foot emergency services building and associated site improvements;

1991-0820.118

Applicant:	Pemberton Township Board of Education
Municipality:	Pemberton Township
Management Area:	Pinelands Military/Federal Installation Area
Date of Report:	June 15, 2022
Proposed Development:	Construction of a parking lot, placement of a 4,980 square foot temporary classroom unit and the realignment of an existing driveway at the Fort Dix Elementary School; and

2009-0213.002

Applicant:	Galloway Township
Municipality:	Galloway Township
Management Area:	Pinelands Regional Growth Area
Date of Report:	June 15, 2022
Proposed Development:	Installation of a public sanitary sewer main within the White Horse Pike and Mannheim Avenue rights-of-way.

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

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

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

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

NOW, THEREFORE BE IT RESOLVED that Application Numbers 1987-1159.062, 1991-0820.118 & 2009-0213.002 for public development are hereby **approved** subject to the conditions recommended by the Acting Executive Director.

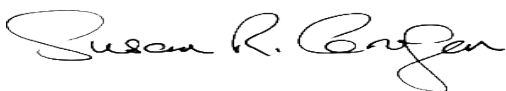
Record of Commission Votes

	AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*
Avery	X				Lettman	X				Pikolycky	X			
Christy	X				Lloyd	X				Quinn	X			
Holroyd	X				Lohbauer	X				Matos			X	
Irick	X				McCurry	X								
Jannarone	X				Meade			X						

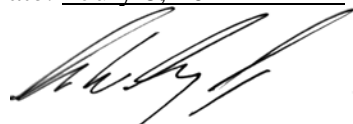
*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: July 8, 2022



Susan R. Grogan
Acting Executive Director



Alan W. Avery Jr.
Vice Chair



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

LAURA E. MATOS
Chair
SUSAN R. GROGAN
Acting Executive Director

June 15, 2022

Matthew von der Hayden, Administrator (via email)
Stafford Township
260 Bay Avenue
Manahawkin NJ 08050

Re: Application # 1987-1159.062
Block 25, Lot 36
Stafford Township

Dear Mr. von der Hayden:

The Commission staff has completed its review of this application for construction of a 4,000 square foot emergency services building and associated site improvements. Enclosed is a copy of a Public Development Application Report. On behalf of the Commission's Acting Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its July 8, 2022 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 Acting 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, Stafford Township Planning Board (via email)
Stafford Township Construction Code Official (via email)
Stafford Township Environmental Commission (via email)
Secretary, Ocean County Planning Board (via email)
Frank J. Little, PE, PP, CME (via email)



State of New Jersey

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SHEILA Y. OLIVER
Lt. Governor

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

LAURA E. MATOS
Chair
SUSAN R. GROGAN
Acting Executive Director

PUBLIC DEVELOPMENT APPLICATION REPORT

June 15, 2022

Matthew von der Hayden, Administrator (via email)
Stafford Township
260 Bay Avenue
Manahawkin NJ 08050

Application No.: 1987-1159.062
Block 25, Lot 36
Stafford Township

This application proposes construction of a 4,000 square foot emergency services building and associated site improvements on the above referenced four acre parcel in Stafford Township.

STANDARDS

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

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

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

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

The existing four acre parcel is primarily forested. Approximately 1.1 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. The applicant proposes to utilize a seed mixture which meets that recommendation.

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 of the CMP. To meet the stormwater management standards, the applicant proposes to construct a stormwater infiltration basin.

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 landowners within 200 feet of the above referenced parcel was completed on February 7, 2022. Newspaper public notice was completed on February 25, 2022. The application was designated as complete on the Commission's website on May 10, 2022. The Commission's public comment period closed on June 10, 2022. No public comment was submitted to the Commission regarding this application.

CONDITIONS

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of 13 sheets, prepared by Owen, Little & Associates, Inc., and dated as follows:
 - Sheets 1, 3-6 & 8 - November 30, 2021; last revised June 13, 2022
 - Sheets 2, 7 & 11 - November 30, 2021; last revised January 18, 2022
 - Sheets 9, 12 & 13 - November 30, 2021; last revised March 1, 2022
 - Sheet 10 - January 18, 2022; last revised March 1, 2022
2. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.
3. Any proposed revegetation shall adhere to the "Vegetation" standards of the CMP. Where appropriate, the applicant is encouraged to utilize the following Pinelands native grasses for revegetation: Switch grass, Little bluestem and Broom-sedge.
4. Prior to any development, the applicant shall obtain any other necessary permits and approvals.

CONCLUSION

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



State of New Jersey

THE PINELANDS COMMISSION

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

LAURA E. MATOS
Chair
SUSAN R. GROGAN
Acting Executive Director

PINELANDS COMMISSION **APPEAL PROCEDURE**

The Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal any determination made by the Executive Director to the Commission in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted by someone meeting the definition of an interested party will be transmitted to the New Jersey Office of Administrative Law for a hearing. Any such appeal must be made in writing to the Commission and received by the Commission's office no later than 5:00 PM on July 5, 2022 and include the following information:

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

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



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LAURA E. MATOS
Chair
SUSAN R. GROGAN
Acting Executive Director

June 15, 2022

Daniel Smith (via email)
Pemberton Township Board of Education
PO Box 228
Pemberton NJ 08068

Re: Application # 1991-0820.118
Block 943, Lot 1
Pemberton Township

Dear Mr. Smith:

The Commission staff has completed its review of this application for construction of a parking lot, placement of a 4,980 square foot temporary classroom unit and the realignment of an existing driveway at the Fort Dix Elementary School. Enclosed is a copy of a Public Development Application Report. On behalf of the Commission's Acting Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its July 8, 2022 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 Acting 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, Pemberton Township Planning Board (via email)
Pemberton Township Construction Code Official (via email)
Pemberton Township Environmental Commission (via email)
Secretary, Burlington County Planning Board (via email)
Andrew Yoder, EIT (via email)



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LAURA E. MATOS
Chair
SUSAN R. GROGAN
Acting Executive Director

PUBLIC DEVELOPMENT APPLICATION REPORT

June 15, 2022

Daniel Smith (via email)
Pemberton Township Board of Education
PO Box 228
Pemberton NJ 08068

Application No.: 1991-0820.118
Block 943, Lot 1
Pemberton Township

This application proposes construction of a parking lot, placement of a 4,980 square foot temporary classroom unit and the realignment of an existing driveway at the Fort Dix Elementary School located on the above referenced 709.56 acre parcel in Pemberton Township. The proposed parking lot will contain 45 parking spaces.

STANDARDS

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

Land Use (N.J.A.C. 7:50-5.29(a))

The proposed development is located in a Pinelands Military and Federal Installation Area. The proposed development will be located in the Pinelands Protection Area portion of the Military and Federal Installation Area. No development is proposed in the Pinelands Preservation Area District or a Pinelands Forest Area. The proposed development is a permitted land use in a Pinelands Military and Federal Installation Area.

Wetlands Standards (N.J.A.C. 7:50-6.6)

There are wetlands located within 300 feet of the parcel. The proposed development will be located at least 300 feet from wetlands.

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

The proposed development will be located partially within an existing forested area and partially within a maintained grass area. Approximately 0.77 acres of forest will be cleared to accommodate the

proposed parking lot. The proposed clearing and soil disturbance is limited to that which is necessary to accommodate the proposed development.

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 of the CMP. To meet the stormwater management standards, the applicant will be constructing a stormwater infiltration basin.

On July 9, 2004, the Commission approved the development of parking improvements and a stormwater infiltration basin on Block 943, Lot 1 (App. No 1991-0820.031). The stormwater infiltration basin that was constructed as part of App. No. 1991-0820.031 is not properly infiltrating stormwater runoff. To address this issue, the applicant has submitted information proposing to remove and replace the soils within the bottom of the existing stormwater infiltration basin approved in App. No. 1991-0820.031 within six weeks of initiation of the development proposed in App. No. 1991-0820.118.

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 landowners within 200 feet of the above referenced parcel was completed on February 16, 2022. Newspaper public notice was completed on February 21, 2022. The application was designated as complete on the Commission's website on May 26, 2022. The Commission's public comment period closed on June 10, 2022. No public comment was submitted to the Commission regarding this application.

CONDITIONS

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of 12 sheets, prepared by Remington & Vernick Engineers, all sheets dated September 2, 2021 and last revised May 5, 2022.
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 300 feet from wetlands.

6. Within six weeks of initiation of the development proposed in this application, or not later than December 31, 2022, the soils within the bottom of the existing stormwater infiltration basin approved by the Commission in App. No. 1991-0820.031 shall be remove and replaced as proposed by the applicant.

CONCLUSION

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



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LAURA E. MATOS
Chair
SUSAN R. GROGAN
Acting Executive Director

PINELANDS COMMISSION **APPEAL PROCEDURE**

The Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal any determination made by the Executive Director to the Commission in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted by someone meeting the definition of an interested party will be transmitted to the New Jersey Office of Administrative Law for a hearing. Any such appeal must be made in writing to the Commission and received by the Commission's office no later than 5:00 PM on July 5, 2022 and include the following information:

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

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



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LAURA E. MATOS
Chair
SUSAN R. GROGAN
Acting Executive Director

June 15, 2022

Christian Johansen, Township Manager (via email)
Galloway Township
300 E. Jimmie Leeds Road
Galloway NJ 08205

Re: Application # 2009-0213.002
White Horse Pike and Mannheim Avenue rights-of-way
Block 459, Lot 10
Galloway Township

Dear Mr. Johansen:

The Commission staff has completed its review of this application for installation of a public sanitary sewer main within the White Horse Pike and Mannheim Avenue rights-of-way. Enclosed is a copy of a Public Development Application Report. On behalf of the Commission's Acting Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its July 8, 2022 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 Acting 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, Galloway Township Planning Board (via email)
Galloway Township Construction Code Official (via email)
Galloway Township Environmental Commission (via email)
Atlantic County Department of Regional Planning and Development (via email)
Vincent J. Polistina, PE, PP, CME (via email)



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

LAURA E. MATOS
Chair
SUSAN R. GROGAN
Acting Executive Director

PUBLIC DEVELOPMENT APPLICATION REPORT

June 15, 2022

Christian Johansen, Township Manager (via email)
Galloway Township
300 E. Jimmie Leeds Road
Galloway NJ 08205

Application No.: 2009-0213.002
White Horse Pike and Mannheim Avenue rights-of-way
Block 459, Lot 10
Galloway Township

This application proposes installation of 2,105 linear feet of public sanitary sewer main within the White Horse Pike and Mannheim Avenue rights-of-way in Galloway Township. This application also proposes the installation of a sanitary sewer pumping station on Block 459, Lot 10.

The proposed sanitary sewer main will service existing commercial and residential development that are currently serviced by onsite septic systems.

STANDARDS

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

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

The proposed development is located 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 & 6.13)

There is a wetland located on the southerly side of the White Horse Pike right of way. The CMP prohibits most development in wetlands and requires a buffer of up to 300 feet to wetlands.

The proposed sanitary sewer pumping station will be located greater than 300 feet from wetlands.

Approximately 950 linear feet of the proposed public sanitary sewer main in the White Horse Pike right of way will be located within 300 feet of the wetland. The approximately 950 linear feet of the proposed

public sanitary sewer main will maintain a 100 foot buffer to the wetland. The sanitary sewer main will be located in the disturbed road shoulder of the White Horse Pike.

Approximately 110 linear feet of the proposed public sanitary sewer main in the Mannheim Avenue right-of-way will be located within 300 feet of the wetland. The approximately 110 linear feet of the proposed public sanitary sewer main will maintain a 175 foot buffer to the wetland. The sanitary sewer main will be located in the disturbed road shoulder of Mannheim Avenue.

The CMP permits the installation of linear improvements (public sanitary sewer mains) in the required buffer to wetlands provided the applicant demonstrates that certain CMP conditions are met. The applicant has demonstrated that there is no feasible alternative to the proposed development that does not involve development in the required buffer to wetlands or that will result in a less significant adverse impact to the required buffer to wetlands. In addition, the proposed development will not result in a substantial impairment of the resources of the Pinelands. With the conditions below, all practical measures are being taken to mitigate the impact on the required buffer to wetlands. The portion of the proposed sanitary sewer main within the required buffer to wetlands is required to replace an existing failed commercial onsite septic system. The applicant has demonstrated that the need for the sanitary sewer main overrides the importance of protecting the required buffer to wetlands.

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

The proposed development will be located under existing pavement and within maintained grassed road shoulders. The proposed soil disturbance is limited to that which is necessary to accommodate the development.

The Landscaping and Revegetation guidelines of the CMP recommend the use of grasses that are tolerant of droughty, nutrient poor conditions. The existing grasses within the maintained road shoulder are non-native. The applicant proposes to replant non-native grasses along the maintained road shoulder.

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

The Commission staff reviewed the application for evidence of cultural resources within the project area. Based upon the lack of potential for significant cultural resources within the project area, 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 7, 2022. Newspaper public notice was completed on May 10, 2022. The application was designated as complete on the Commission's website on May 25, 2022. The Commission's public comment period closed on June 10, 2022. No public comment was submitted to the Commission regarding this application.

CONDITIONS

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

Sheet 1 - April 2022

Sheets 2 & 4 - October 12, 2018; last revised December 10, 2018

Sheet 3 - October 12, 2018; last revised May 18, 2022

Sheet 5 - January 1, 1998; last revised December 10, 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. 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.



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LAURA E. MATOS
Chair
SUSAN R. GROGAN
Acting Executive Director

PINELANDS COMMISSION **APPEAL PROCEDURE**

The Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal any determination made by the Executive Director to the Commission in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted by someone meeting the definition of an interested party will be transmitted to the New Jersey Office of Administrative Law for a hearing. Any such appeal must be made in writing to the Commission and received by the Commission's office no later than 5:00 PM on July 5, 2022 and include the following information:

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

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



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-22- 23

TITLE: Issuing an Order to Certify Ordinance 10-2022, Amending Chapter 225 (Zoning) of the Code of Egg Harbor Township by Adopting the Timber Ridge Redevelopment Plan

Commissioner Irick moves and Commissioner Holroyd seconds the motion that:

WHEREAS, on October 1, 1993, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Egg Harbor Township; and

WHEREAS, Resolution #PC4-93-139 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 municipal 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 #PC4-93-139 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 April 20, 2022, Egg Harbor Township adopted Ordinance 10-2022, amending Chapter 225 (Zoning) of the Township Code by revising Section 225-99, Timber Ridge Redevelopment Area, to incorporate the Timber Ridge Redevelopment Plan, dated February 2022; and

WHEREAS, the Pinelands Commission received a certified copy of Ordinance 10-2022 on April 25, 2022; and

WHEREAS, by letter dated May 18, 2022, the Acting Executive Director notified Egg Harbor Township that Ordinance 10-2022 would require formal review and approval by the Pinelands Commission; and

WHEREAS, a public hearing to receive testimony on Ordinance 10-2022 was duly advertised, noticed and remotely held on June 7, 2022 at 9:30 a.m. with live broadcast on the Pinelands Commission's public YouTube channel and opportunity for the public to call-in during the live broadcast; and

WHEREAS, the Acting Executive Director has found that Ordinance 10-2022 is consistent with the standards and provisions of the Pinelands Comprehensive Management Plan; and

WHEREAS, the Acting Executive Director has submitted a report to the Commission recommending issuance of an order to certify that Ordinance 10-2022 is in conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, the Commission's CMP Policy and Implementation Committee has reviewed the Acting Executive Director's report and has recommended that Ordinance 10-2022 be certified; and

WHEREAS, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning Ordinance 10-2022 and has reviewed the Acting Executive Director's report; and

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

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

expiration of the review period the Governor shall approve same, in which case the action shall become effective upon such approval.

NOW, THEREFORE BE IT RESOLVED that

1. An Order is hereby issued to certify that Ordinance 10-2022, amending Chapter 225 (Zoning) of the Code of Egg Harbor Township by adopting the Timber Ridge Redevelopment Plan, is in conformance with the Pinelands Comprehensive Management Plan.
2. Any additional amendments to Egg Harbor Township’s certified Master Plan and Land Use Ordinances shall be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 to determine if said amendments raise a substantial issue with respect to the Comprehensive Management Plan. Any such amendment shall become effective only as provided in N.J.A.C. 7:50-3.45.

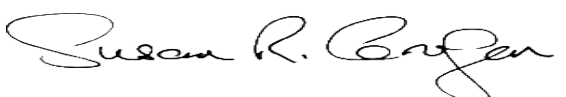
Record of Commission Votes

	AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*
Avery	X				Lettman	X				Pikolycky	X			
Christy	X				Lloyd	X				Quinn	X			
Holroyd	X				Lohbauer	X				Matos			X	
Irick	X				McCurry				A					
Jannarone	X				Meade			X						

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: July 8, 2022



Susan R. Grogan
Acting Executive Director



Alan W. Avery Jr.
Vice Chair



State of New Jersey
 THE PINELANDS COMMISSION
 PO Box 359
 NEW LISBON, NJ 08064
 (609) 894-7300
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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

LAURA E. MATOS
 Chair
 SUSAN R. GROGAN
 Acting Executive Director

Report on Ordinance 10-2022, Amending Chapter 225 (Zoning) of the Code of Egg Harbor Township

June 24, 2022

Egg Harbor Township
 3515 Bargaintown Road
 Egg Harbor Township, NJ 08234

Findings of Fact

I. Background

The Township of Egg Harbor is located in the southeastern portion of the Pinelands Area, in Atlantic County. Pinelands municipalities adjacent to Egg Harbor Township include Corbin City, Estell Manor City, Galloway Township, Hamilton Township, and Weymouth Township in Atlantic County, as well as Upper Township in Cape May County.

On October 1, 1993, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Egg Harbor Township.

On April 20, 2022, Egg Harbor Township adopted Ordinance 10-2022, amending Chapter 225, Zoning, of the Township's Code to incorporate the Timber Ridge Redevelopment Plan, dated February 2022. The Pinelands Commission received a certified copy of Ordinance 10-2022 on April 25, 2022.

By letter dated May 18, 2022, the Acting Executive Director notified the Township that Ordinance 10-2022 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 10-2022, amending Chapter 225, Zoning, of the Code of Egg Harbor Township, introduced on March 2, 2022 and adopted on April 20, 2022.

This ordinance has been reviewed to determine whether it conforms with the standards for certification of municipal master plans and land use ordinances as set out in N.J.A.C. 7:50-3.39 of the Pinelands Comprehensive Management Plan (CMP). The findings from this review are presented below. The numbers used to designate the sections below correspond to the numbers used to identify the standards in N.J.A.C. 7:50-3.39.

1. Natural Resource Inventory

Not applicable.

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

Ordinance 10-2022 amends Chapter 225, Zoning, of the Code of Egg Harbor Township to incorporate the Timber Ridge Redevelopment Plan, dated February 2022. The redevelopment plan applies to a 48.5-acre redevelopment area consisting of four vacant, wooded lots (Block 1223, Lots 5, 6, 8; Block 1305, Lot 7) located in the vicinity of the Black Horse Pike (US Route 322), Spruce Avenue and Fork Road (see Exhibit 1). Approximately 41.8 acres of the redevelopment area is within the Highway Business (HB) District, while 6.7 acres is within the RG-4 Residential (RG-4) District. The entire redevelopment area is located in a Pinelands Regional Growth Area.

The goal of the plan is to redevelop the area with commercial uses fronting the Black Horse Pike and garden apartments sited in the rear of the lots. To that end, the redevelopment plan establishes the Timber Ridge Redevelopment Area (TRRA) Overlay District. Except as modified by the redevelopment plan, the TRRA Overlay District incorporates all the land development regulations applicable to the underlying certified zoning districts, including the minimum environmental standards of the Pinelands CMP.

The TRRA Overlay District permits garden apartments at a gross residential density of 4.5 units per acre for the entirety of the redevelopment area. The redevelopment plan also requires 8 residential units be made affordable to low- and moderate-income households, which would be in addition to the maximum number of units permitted at 4.5 units per acre. In total, the redevelopment plan permits up to 226 units within the redevelopment area, which represents an increase in the residential zoning capacity of the Township's Regional Growth Area of 186 units. Standards for garden apartments include a minimum tract size of 7 acres, a maximum of 12 units per building, and a maximum building height of 35 feet.

The TRRA Overlay District also permits a variety of commercial uses, including retail, restaurants, professional and business offices, medical offices, banks, supermarkets, personal services, shopping centers, and commercial recreation facilities. Standards for commercial development include a minimum tract size of 5 acres, a minimum gross floor area of 2,500 square feet and a maximum building height of 45 feet. Within the commercial portion of the site, multiple buildings are permitted on one parcel if they are under common ownership and designed in a coordinated manner with shared maintenance, access, and parking.

The redevelopment plan also includes various design, parking and landscaping standards applicable to both residential and commercial developments. Any proposed development under this redevelopment plan is required to be substantially similar to the concept plan incorporated therein (see Exhibit 2).

Within a Regional Growth Area, the CMP allows Pinelands municipalities to permit any use, except for certain waste management facilities, provided that residential density and opportunities for the use of Pinelands Development Credits (PDCs) are appropriately accommodated (N.J.A.C. 7:50-5.28). The Township has determined that the entire redevelopment area, including the 41.8 acres currently zoned Highway Business (HB), is appropriate for residential uses. Therefore, the Township is required to provide appropriate residential densities and opportunities for the use of PDCs.

The CMP (N.J.A.C. 7:50-5.28(a)1) assigns Egg Harbor Township's Regional Growth Area a base density of 3.5 units per upland acre and requires the Township to provide bonus density of an additional 1.75 units per upland acre through the use of PDCs. In 2002, the Commission approved a 30% reduction in these required densities for the Township's Regional Growth Area in accordance with N.J.A.C. 7:50-5.28(a)7iii. As a result, the Township's overall Regional Growth Area zoning plan must accommodate a base density of only 2.5 units per upland acre and provide for additional bonus density of 1.25 units per upland acre through the use of PDCs. Based on these reduced densities and taking into consideration the 40 units already permitted by the existing underlying zoning, the Township is required to zone for at least 196 units on the 48.5 acres included in the Timber Ridge Redevelopment Area. As noted above, the Redevelopment Plan adopted by Ordinance 10-2022 permits a maximum of 226 units, which satisfies this residential zoning obligation. As discussed further in Section 8 below, opportunities for PDC use have been sufficiently accommodated and *guaranteed* if any residential units are developed in the redevelopment area.

Ordinance 10-2022 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

The Timber Ridge Redevelopment Plan adopted by Ordinance 10-2022 maintains the existing development application submission requirements and review procedures applicable to the underlying zoning districts. This includes the requirement that no local permitting agency shall determine that any application for development is complete unless it is accompanied by a Certificate of Filing from the Pinelands Commission. Therefore, this standard for certification is met.

4. Requirement for Municipal Review and Action on All Development

Not applicable.

5. Review and Action on Forestry Applications

Not applicable.

6. Review of Local Permits

Not applicable.

7. Requirement for Capital Improvement Program

Not applicable.

8. Accommodation of Pinelands Development Credits

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

In order to comply with N.J.A.C. 7:50-5.28(a)3, the Timber Ridge Redevelopment Plan requires that PDCs be acquired and redeemed for 25% of all residential units within the redevelopment area, with the exception of up to 8 units made affordable to low- and moderate-income households as required by the plan. Any affordable units beyond the 8 required by the plan will require that PDCs be acquired and redeemed at the 25% rate. This 25% requirement is identical to that already in place in the Township's RG-4 District, which underlies a small portion of the Redevelopment Area.

As discussed in Section 2 above, the CMP requires the Township to adopt a zoning plan that permits at least 196 units in the redevelopment area. The Timber Ridge Redevelopment Plan adopted by Ordinance 10-2022 meets this requirement by permitting a maximum of 226 units, 218 of which will be market rate units and 8 of which will be affordable housing units.

The CMP also specifies that the Township's zoning plan for the area should provide an *opportunity* for the use of 60 rights (15 PDCs). Under this traditional approach, PDCs would need to be used for 33% of the units permitted in the Redevelopment Area, but only when a developer chooses to exceed the permitted base density. The adopted Redevelopment Plan takes a slightly different approach and mandates the use of PDCs for 25% of all market rate units in the Redevelopment Area, regardless of project density. This results in a requirement for acquisition and redemption of up to 55 rights (13.75 PDCs), which is 47 rights more than provided by the Township's current certified zoning plan.

While the 25% PDC requirement is not as high a number as would be provided through the more traditional approach described above requiring 33%, it is important to remember that the traditional base-density/bonus-density approach utilized throughout the Pinelands Area only provides an *opportunity* for the use of PDCs. There is no requirement under the traditional

approach that any PDCs be used in any particular development project. Ordinance 10-2022 *guarantees* a PDC redemption rate of 25% for the residential component of any project within the redevelopment area. Given the greater certainty provided by this approach, the Acting Executive Director finds that the PDC requirements adopted by Ordinance 10-2022 are consistent with CMP standards.

This standard for certification is met.

9. Referral of Development Applications to Environmental Commission

Not applicable.

10. General Conformance Requirements

Ordinance 10-2022 is consistent with the standards and provisions of the Pinelands Comprehensive Management Plan. Therefore, this standard for certification is met.

11. Conformance with Energy Conservation

Not applicable.

12. Conformance with the Federal Act

Ordinance 10-2022 is consistent with the standards and provisions of the Pinelands Comprehensive Management Plan. No special issues exist relative to the Federal Act. Therefore, this standard for certification is met.

13. Procedure to Resolve Intermunicipal Conflicts

Ordinance 10-2022 does not affect lands that are adjacent to any other municipalities. Therefore, intermunicipal conflicts are not anticipated. This standard for certification is met.

Public Hearing

A public hearing to receive testimony concerning Egg Harbor Township's application for certification of Ordinance 10-2022 was duly advertised, noticed and held on June 7, 2022, at 9:30 a.m. Mr. Lanute conducted the hearing, which was held remotely and broadcasted live on the Pinelands Commission's public YouTube channel. The public was provided the opportunity to call-in during the public hearing to provide testimony. No testimony was received.

Written comments on Ordinance 10-2022 were accepted through June 10, 2022. However, no written comments were received.




Conclusion

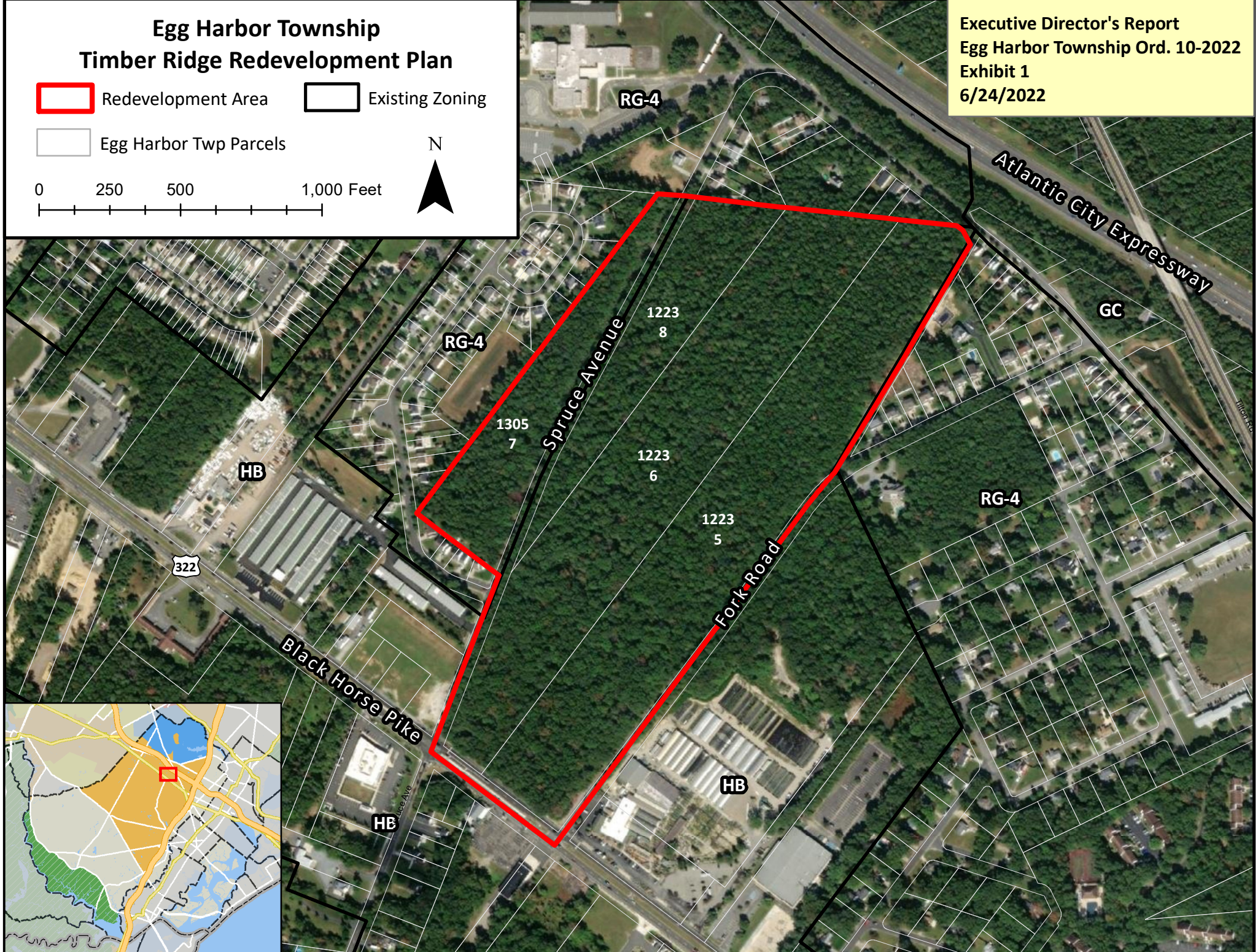
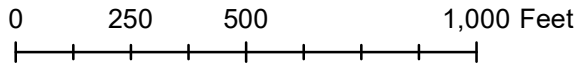
Based on the Findings of Fact cited above, the Acting Executive Director has concluded that Ordinance 10-2022, amending Chapter 225, Zoning, of the Code of Egg Harbor Township, complies with Comprehensive Management Plan standards for the certification of municipal master plans and land use ordinances. Accordingly, the Acting Executive Director recommends that the Commission issue an order to certify Ordinance 10-2022 of Egg Harbor Township.

SRG/DBL/KLE/CEH
Attachments

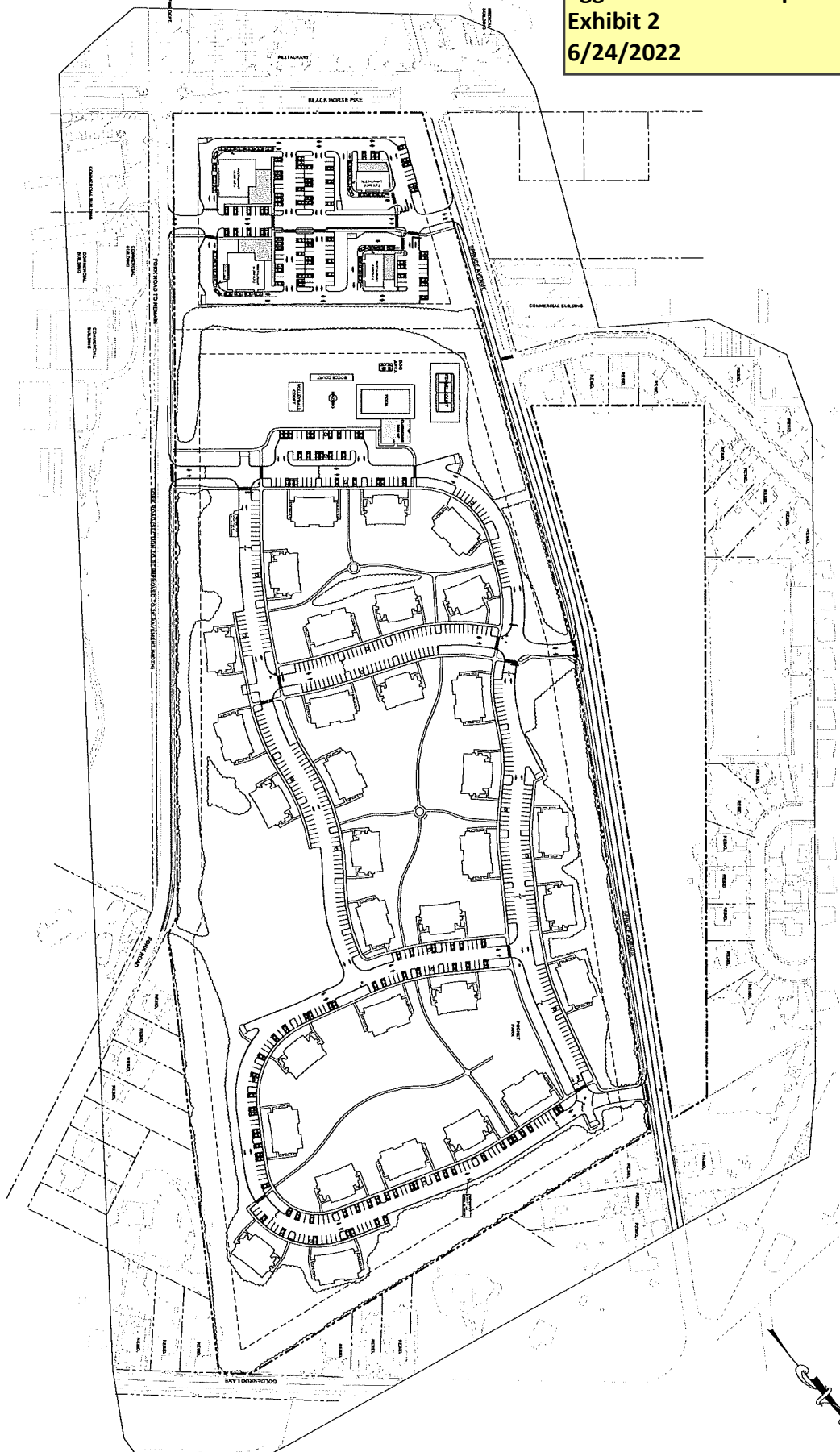
Egg Harbor Township Timber Ridge Redevelopment Plan



Executive Director's Report
Egg Harbor Township Ord. 10-2022
Exhibit 1
6/24/2022

-  Redevelopment Area
-  Existing Zoning
-  Egg Harbor Twp Parcels



**Executive Director's Report
Egg Harbor Township Ord. 10-2022
Exhibit 2
6/24/2022**



MODEL NO.	UNITS	TOTAL BUILDINGS	TOTAL UNITS
	8	16	128
	8	16	128
TOTAL		32	256



THIS PLAN IS NOT VALID UNLESS A RAISED SEAL IS AFFIXED HERETO

DATE: 6/24/2021
SCALE: AS SHOWN
DRAWN BY: JLD
CHECKED BY: JLD
PROJECT NO: 1825-10

DIXON ASSOCIATES ENGINEERING, LLC
 1000 ROUTE 130 SOUTH
 FREEHOLD, NJ 08041
 TEL: 732-329-7000 FAX: 732-329-7001
 WWW.DIXON-ASSOCIATES.COM
 A Professional Engineering Firm License No. 2402-00001

KEVIN J. DIXON, P.E.
 PROFESSIONAL ENGINEER
 N.J. LIC. No. 240274



**OVERALL SITE PLAN
TIMBER RIDGE
BLOCK 1223 LOTS 5, 6 & 8
BLOCK 1305 LOT 7
TOWNSHIP OF EGG HARBOR
ATLANTIC COUNTY, NEW JERSEY**



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-22- 24

TITLE: Issuing an Order to Certify the Evesham Township General Reexamination and Master Plan Amendment and Ordinance 5-3-2022, Amending Chapter 160 (Zoning) of the Code of Evesham Township

**Commissioner Lloyd moves and Commissioner Lohbauer
seconds the motion that:**

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

WHEREAS, Resolution #PC4-83-57 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 municipal 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 #PC4-83-57 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, Resolution #PC4-06-43 of the Pinelands Commission endorsed the Southern Medford/Evesham Sub-regional Natural Resource Protection Plan, which put forth a series of implementation strategies designed to: protect important natural resources in Medford and Evesham Townships, most notably water quality; promote less land-consumptive development patterns and accommodate development within appropriate areas; establish greater predictability in the development permitting process to avoid site-specific development and natural resource conflicts; and promote land stewardship practices to further conservation objectives; and

WHEREAS, Resolution #PC4-06-43 further directed the Executive Director to work with the Townships of Evesham and Medford and the New Jersey Department of Environmental Protection to implement the strategies of the Southern Medford/Evesham Sub-regional Natural Resource Protection Plan; and

WHEREAS, on January 20, 2022, the Evesham Township Planning Board adopted Resolution 2021-PB-20, approving the Evesham Township General Reexamination and Master Plan Amendment, dated December 6, 2021; and

WHEREAS, the Evesham Township General Reexamination and Master Plan Amendment recommends amending the Township's zoning plan within the Pinelands Area portion of the Township consistent with the Southern Medford/Evesham Sub-regional Natural Resource Protection Plan; and

WHEREAS, the Pinelands Commission received a certified copy of Planning Board Resolution 2021-PB-20 and the General Reexamination and Master Plan Amendment on January 21, 2022; and

WHEREAS, pursuant to N.J.A.C. 7:50-3.32 of the Comprehensive Management Plan, the Executive Director cannot accept a master plan amendment for formal review and certification without an adopted ordinance that implements said master plan, unless no such ordinance is necessary; and

WHEREAS, by letter dated March 9, 2022, the Acting Executive Director notified Evesham Township that the General Reexamination and Master Plan Amendment would be deemed incomplete until such time that the necessary implementing ordinances were adopted and submitted to the Commission for certification; and

WHEREAS, on May 4, 2022, Evesham Township adopted Ordinance 5-3-2022, amending Chapter 160 (Zoning) of the Code of Evesham Township, which implements the recommendations of the General Reexamination and Master Plan Amendment; and

WHEREAS, the Pinelands Commission received a certified copy of Ordinance 5-3-2022 on May 17, 2022; and

WHEREAS, by letter dated May 18, 2022, the Acting Executive Director notified Evesham Township that the General Reexamination and Master Plan Amendment and Ordinance 5-3-2022 would require formal review and approval by the Pinelands Commission; and

WHEREAS, a public hearing to receive testimony on the Evesham Township General Reexamination and Master Plan Amendment and Ordinance 5-3-2022 was duly advertised, noticed and remotely held on June 7, 2022 at 9:30 a.m. with live broadcast on the Pinelands Commission’s public YouTube channel and opportunity for the public to call-in during the live broadcast; and

WHEREAS, the Acting Executive Director has found the Evesham Township General Reexamination and Master Plan Amendment and Ordinance 5-3-2022 are consistent with the standards and provisions of the Pinelands Comprehensive Management Plan; and

WHEREAS, the Acting Executive Director has submitted a report to the Commission recommending issuance of an order to certify the Evesham Township General Reexamination and Master Plan Amendment and Ordinance 5-3-2022 are in conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, the Commission’s CMP Policy and Implementation Committee has reviewed the Acting Executive Director’s report and has recommended that the Evesham Township General Reexamination and Master Plan Amendment and Ordinance 5-3-2022 be certified; and

WHEREAS, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning the Evesham Township General Reexamination and Master Plan Amendment and Ordinance 5-3-2022 and has reviewed the Acting Executive Director’s report; and

WHEREAS, the Pinelands Commission accepts the recommendation of the Acting 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 the Evesham Township General Reexamination and Master Plan Amendment and Ordinance 5-3-2022, amending Chapter 160 (Zoning) of the Code of Evesham Township, are in conformance with the Pinelands Comprehensive Management Plan.
2. Any additional amendments to Evesham Township’s certified Master Plan and Land Use Ordinances shall be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 to determine if said amendments raise a substantial issue with respect to the Comprehensive Management Plan. Any such amendment shall become effective only as provided in N.J.A.C. 7:50-3.45.

Record of Commission Votes

	AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*
Avery	X				Lettman	X				Pikolycky	X			
Christy	X				Lloyd	X				Quinn	X			
Holroyd	X				Lohbauer	X				Matos			X	
Irick	X				McCurry				A					
Jannarone	X				Meade			X						

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: July 8, 2022



Susan R. Grogan
Acting Executive Director



Alan W. Avery Jr.
Vice Chair



State of New Jersey
 THE PINELANDS COMMISSION
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 NEW LISBON, NJ 08064
 (609) 894-7300
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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

LAURA E. MATOS
 Chair
 SUSAN R. GROGAN
 Acting Executive Director

Report on the Evesham Township General Reexamination and Master Plan Amendment and Ordinance 5-3-2022, Amending Chapter 160 (Zoning) of the Code of Evesham Township

June 24, 2022

Evesham Township
 984 Tuckerton Road
 Marlton, NJ 08053

Findings of Fact

I. Background

The Township of Evesham is located in the western portion of the Pinelands Area, in Burlington County. Pinelands municipalities adjacent to Evesham Township’s Pinelands Area include the Townships of Berlin and Waterford in Camden County and Medford Township in Burlington County.

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

Starting in June 2004, the Pinelands Commission, in coordination with Evesham Township, Medford Township, and the New Jersey Department of Environmental Protection (NJDEP), facilitated a planning process to develop the Southern Medford/Evesham Sub-regional Natural Resource Protection Plan (M-E Plan). The multi-year planning effort culminated in a plan that included strategies designed to: protect important natural resources in the project area, most notably water quality; promote less land-consumptive development patterns and accommodate development within appropriate areas; establish greater predictability in the development permitting process to avoid site-specific development and natural resource conflicts; and promote land stewardship practices to further conservation objectives.

In July 2006, the Pinelands Commission endorsed the M-E Plan and directed the Executive Director to work with the Townships of Evesham and Medford and the NJDEP to implement the strategies recommended in the plan. Subsequently, the Commission identified implementation of the M-E Plan’s recommended strategies as a priority during its 2014 comprehensive plan review process.

On January 20, 2022, the Evesham Township Planning Board adopted Resolution 2021-PB-20, approving the Evesham Township General Reexamination and Master Plan Amendment, dated December 6, 2021. The report recommends amendments to the Township's zoning ordinance to establish two new zoning districts and to adopt a revised zoning map. The recommended zoning changes align with the strategies of the M-E Plan and implement a number of the rezoning recommendations made in the M-E Plan. The Pinelands Commission received a certified copy of Planning Board Resolution 2021-PB-20 and the General Reexamination and Master Plan Amendment on January 21, 2022.

By letter dated March 9, 2022, the Acting Executive Director notified Evesham Township that, in accordance with N.J.A.C. 7:50-3.32, the General Reexamination and Master Plan Amendment would be deemed incomplete until such time that one or more necessary implementing ordinances were adopted and submitted to the Commission for certification.

On May 4, 2022, Evesham Township adopted Ordinance 5-3-2022, amending Chapter 160 (Zoning) of the Code of Evesham Township and implementing the recommendations of the General Reexamination and Master Plan Amendment. The Pinelands Commission received a certified copy of Ordinance 5-3-2022 on May 17, 2022.

By letter dated May 18, 2022, the Acting Executive Director notified Evesham Township that the General Reexamination and Master Plan Amendment and Ordinance 5-3-2022 would require formal review and approval by the Pinelands Commission.

II. Master Plans and Land Use Ordinances

The following documents have been submitted to the Pinelands Commission for certification:

- * Planning Board Resolution 2021-PB-20, approving the Evesham Township General Reexamination and Master Plan Amendment, adopted January 20, 2022; and
- * Ordinance 5-3-2022, amending Chapter 160 (Zoning) of the Code of Evesham Township, introduced on March 9, 2022 and adopted on May 4, 2022.

This master plan amendment and ordinance 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 (CMP). The findings from this review are presented below. The numbers used to designate the respective items correspond to the numbers used to identify the standards in N.J.A.C. 7:50-3.39.

1. Natural Resource Inventory

Not applicable.

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

General Reexamination Report and Master Plan Amendment

Evesham Township's General Reexamination and Master Plan Amendment reviews the major problems and objectives related to land development identified in the Township's previous Master Plan (2006) and subsequent Reexamination Reports (2010, 2011, and 2012). It discusses the extent to which those problems and objectives have been addressed or remain valid and the extent to which there have been changes in the assumptions, policies, and objectives that previously informed the Township's master plan and development regulations. The report includes various recommendations as well as a draft ordinance and draft zoning map. These recommended zoning changes align with the strategies of the Southern Medford/Evesham Sub-regional Natural Resource Protection Plan (M-E Plan).

For the Pinelands Area portion of the Township, the report recommends rezoning a contiguous area of undeveloped, permanently preserved forested land from the Rural Development-2 (RD-2) District to the Township's existing Forest Agricultural (FA) District (see Exhibits 4 and 5). The M-E Plan recommended these lands be redesignated as Pinelands Forest Area to maintain the open space corridor that connects to Wharton State Forest in Medford Township. The proposed zoning change will necessitate a change in the underlying Pinelands Management Area from a Rural Development Area (RDA) to Forest Area.

The report also recommends establishing two new zoning districts that better recognize the large, developed communities of Barton Run and Kings Grant (see Exhibit 2 and 3). These two communities are in a Pinelands Rural Development Area (RDA). They are both sewered, include multiple housing types, and exhibit lot patterns that equate to densities of between 5 and 9 dwelling units per acre. The CMP does not permit this level of intensity in the RDA, nor does it permit sewer infrastructure in the RDA. Both developments were approved by the Commission through Waivers of Strict Compliance in the early 1980's. The Township's existing zoning for these areas is consistent with the CMP. However, in meeting the CMP's RDA requirements, it has resulted in many non-conforming lots and structures in these communities. Consequently, minor expansions or modifications to existing residential structures (i.e., construction of an outdoor deck) may only be permitted through the municipal variance process.

The M-E Plan recommended that the existing Kings Grant community be redesignated from RDA to a Regional Growth Area to ameliorate these nonconforming lots and structures and the administrative costs associated with them. The Barton Run community was not included in the M-E Plan study area. However, it is similarly impacted by its RDA status and is contiguous with an existing Regional Growth Area in Evesham Township. The proposed zoning changes will necessitate a change in the underlying Pinelands Management Area from RDA to Regional Growth Area.

Ordinance 5-3-2022

Ordinance 5-3-2022 amends Chapter 160, Zoning, of the Code of Evesham Township and implements the recommendations of the General Reexamination and Master Plan Amendment. It adopts an amended zoning map, dated August 11, 2021 (see Exhibit 1). The amended zoning map rezones approximately 671 acres from the Township's Rural Development-2 (RD-2) District to the Forest Agricultural (FA) District, where permitted uses are limited to agriculture,

forestry, low intensity recreation and clustered single-family homes at a density of one unit per 20 acres. With the exception of one relatively small lot, all lands subject to the rezoning have been permanently preserved as a result of NJDEP Green Acres easement purchases, the Sanctuary settlement agreement and homeowners association open space agreements. Redesignation to Forest Area appropriately recognizes the existing deed restrictions and land uses in the area (open space and a Girl Scout camp).

The ordinance also establishes two new zoning districts: the Regional Growth – 1 Barton Run (RG-1BR) District and the Regional Growth – 2 Kings Grant (RG-2KG) District. As discussed above, the goal of these two new districts is to align the Township's zoning plan to the existing development patterns of the Barton Run and Kings Grant communities.

The RG-1BR District permits single-family detached dwelling units, group homes, low-intensity recreation facilities and high-intensity recreation facilities, excluding amusement parks, hotels, and motels. The district also permits *existing* two-family dwelling units, single-family semi-detached, townhouses and multi-family dwelling units. The RG-1BR District has a base residential density of 0.5 units per acre and a maximum residential density of 3.0 units per acre achievable through the use of Pinelands Development Credits. The minimum lot size requirement for new single-family dwelling units is 10,000 square feet.

The RG-2KG District permits the same uses as the RG-1BR District, and additionally permits golf courses and accessory uses thereto in recognition of the existing Links Golf Club. Although the golf course itself is not included in the zoning change, the RG-2KG District boundaries have been drawn so as to incorporate the existing golf clubhouse, thereby facilitating its reconstruction and connection to sanitary sewer. In terms of residential development, the RG-2KG District has a base residential density of 0.5 units per acre and a maximum residential density of 2.0 units per acre achievable through the use of Pinelands Development Credits. The minimum lot size requirement for new single-family dwelling units is 20,000 square feet.

Dimensional requirements for existing residential uses in the RG-1BR and RG-2KG districts have been carefully selected by the Township based on a detailed survey of existing development patterns within each of these communities in order to minimize non-conforming lots and structures.

The adopted zoning map delineates the boundaries of the new RG-1BR and RG-2KG districts. These new districts incorporate lands formerly zoned Rural Development-1 (RD-1). Acreages of the zoning changes are displayed in Table 1 below. The boundaries of these zones are aligned with the existing developed areas of these communities, thereby limiting additional growth potential within these areas. It is noted that within Kings Grant, a large area of open space has been included within the RG-2KG District. This area is permanently preserved open space owned by the Kings Grant Homeowners Association. Given its relationship to the existing Kings Grant community, the Township opted to include it in the RG-2KG District.

Table 1. Summary of Pinelands Area Zoning Changes in Acres

Certified Zoning District	Proposed Zoning District			Total
	Regional Growth - 1 Barton Run (RG-1BR)	Regional Growth - 2 Kings Grant (RG-2KG)	Forest Agricultural (FA)	
Rural Development 1 (RD-1)	119	733	-	852
Rural Development 2 (RD-2)	-	-	671	671
Total	119	733	671	1,523

As noted above, all of the zoning changes implemented by Ordinance 5-3-2022 require changes to the underlying Pinelands management areas. The acreages of the management area changes are summarized in Table 2 below.

Table 2. Summary of Evesham Township's Pinelands Management Area Changes

Pinelands Management Area	Total Acres Existing	Total Acres Proposed	Net Change
Pinelands Area			
Regional Growth Area	649	1,484	+ 875
Rural Development Area	8,546	7,047	- 1,546
Forest Area	1,243	1,907	+ 671
Non-Pinelands Area			
Regional Growth Area (PNR)	3,867	3,867	-
Outside Pinelands National Reserve	4,626	4,626	-
Total	18,931	18,931	0

N.J.A.C. 7:50-5.11 of the CMP provides guidelines for the Commission to use when determining whether management area changes are appropriate to be considered via the municipal conformance process or through a formal rulemaking process to amend the CMP's Land Capability Map. Among these guidelines is consideration of whether a proposed management area change would create a free-standing management area. As indicated on the attached exhibits, the lands rezoned by Ordinance 5-3-2002 from RDA to the Forest Area represent the expansion of an existing Pinelands Forest Area. Likewise, the new RG-1BR District is connected to an existing Regional Growth Area within the Township. However, the new RG-2KG District is separated from the expanded RGA by a single lot, thus creating a small gap. The lot in question is currently zoned for commercial development and the Township has opted not to rezone it at this time. It will remain in the RDA. Although this creates a small separation between the two new RGA zoning districts, the intent of the CMP guideline is met because the management area change is merely a recognition of existing development.

Since the new RG-1BR and RG-2KG Districts will be located within a Regional Growth Area, the CMP requires that appropriate residential density and opportunities for the use of Pinelands Development Credits are provided (N.J.A.C. 7:50-5.28). The CMP (N.J.A.C. 7:50-5.28(a)1) assigns Evesham Township's Regional Growth Area a base density of 2.0 units per upland acre and requires the Township to provide bonus density of an additional 1.0 unit per upland acre through the use of PDCs. Since minimal opportunities for development are available based on the configuration of the zones, these opportunities would largely apply to redevelopment. For example, there is interest in redeveloping the former Barton Run Swim Club property for residential development. Any such residential development or redevelopment would be subject to the 3.0 dwelling units per acre maximum density established for the new RG-1BR District, and PDCs would be required for any units above the base density of 0.5 dwelling units per acre.

The Evesham Township General Reexamination and Master Plan Amendment and Ordinance 5-3-2022 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 5-3-2022 rezones 875 acres from the RDA to the RGA and locates this rezoned acreage within two new zoning districts (RG-1BR and RG-2KG), both of which permit residential development. The ordinance establishes permitted residential densities for both zoning districts and provides an opportunity to increase those densities through the use of PDCs.

In the new RG-1BR District, PDCs may be used to increase density from 0.50 to 3.0 units per acre. In the new RG-2KG District, PDCs may be used to increase density from 0.50 to 2.0 units per acre. Because the boundaries of both new zones have been drawn so as to include only developed lands and deed restricted open space, future residential development is likely to be extremely limited, as is the use of PDCs. However, due to the very low base densities established by Ordinance 5-3-2002, any residential redevelopment projects that do occur will almost certainly involve the use of PDCs to achieve densities consistent with the existing developed communities. Therefore, this standard is met.

9. Referral of Development Applications to Environmental Commission

Not applicable.

10. General Conformance Requirements

The Evesham Township General Reexamination and Master Plan Amendment and Ordinance 5-3-2022 are consistent with the standards and provisions of the Pinelands Comprehensive Management Plan. Therefore, this standard for certification is met.

11. Conformance with Energy Conservation

Not applicable.

12. Conformance with the Federal Act

The Evesham Township General Reexamination and Master Plan Amendment and Ordinance 5-3-2022 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 zoning changes implemented by Ordinance 5-3-2022 involve lands that are adjacent to Medford Township. These zoning changes align with a strategy of the Southern Medford/Evesham Sub-regional Natural Resource Protection Plan. The Pinelands Commission coordinated with both Medford Township and Evesham Township in the development of the plan.

Furthermore, the Kings Grant and Barton Run zoning changes have been implemented to align with existing development of those communities with minimal opportunities for additional development. The lands rezoned from RD-2 to FA are almost entirely permanently preserved lands that connect with other preserved lands in Medford. Therefore, intermunicipal conflicts are not anticipated. This standard for certification is met.

Public Hearing

A public hearing to receive testimony concerning Evesham Township's application for certification of its General Reexamination and Master Plan Amendment and Ordinance 5-3-2022 was duly advertised, noticed and held on June 7, 2022, at 9:30 a.m. Mr. Lanute conducted the hearing, which was held remotely and broadcasted live on the Pinelands Commission's public YouTube channel. The public was provided the opportunity to call-in during the public hearing to provide testimony. No testimony was received.






Written comments on the Evesham Township General Reexamination and Master Plan Amendment and Ordinance 5-3-2022 were accepted through June 10, 2022. However, no written comments were received.

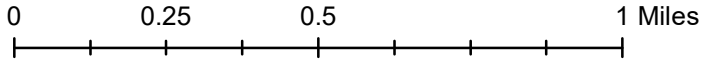
Conclusion

Based on the Findings of Fact cited above, the Acting Executive Director has concluded that the Evesham Township General Reexamination and Master Plan Amendment and Ordinance 5-3-2022, amending Chapter 160, Zoning, of the Code of Evesham Township, comply with Comprehensive Management Plan standards for the certification of municipal master plans and land use ordinances. Accordingly, the Acting Executive Director recommends that the Commission issue an order to certify the General Reexamination and Master Plan Amendment and Ordinance 5-3-2022 of Evesham Township.

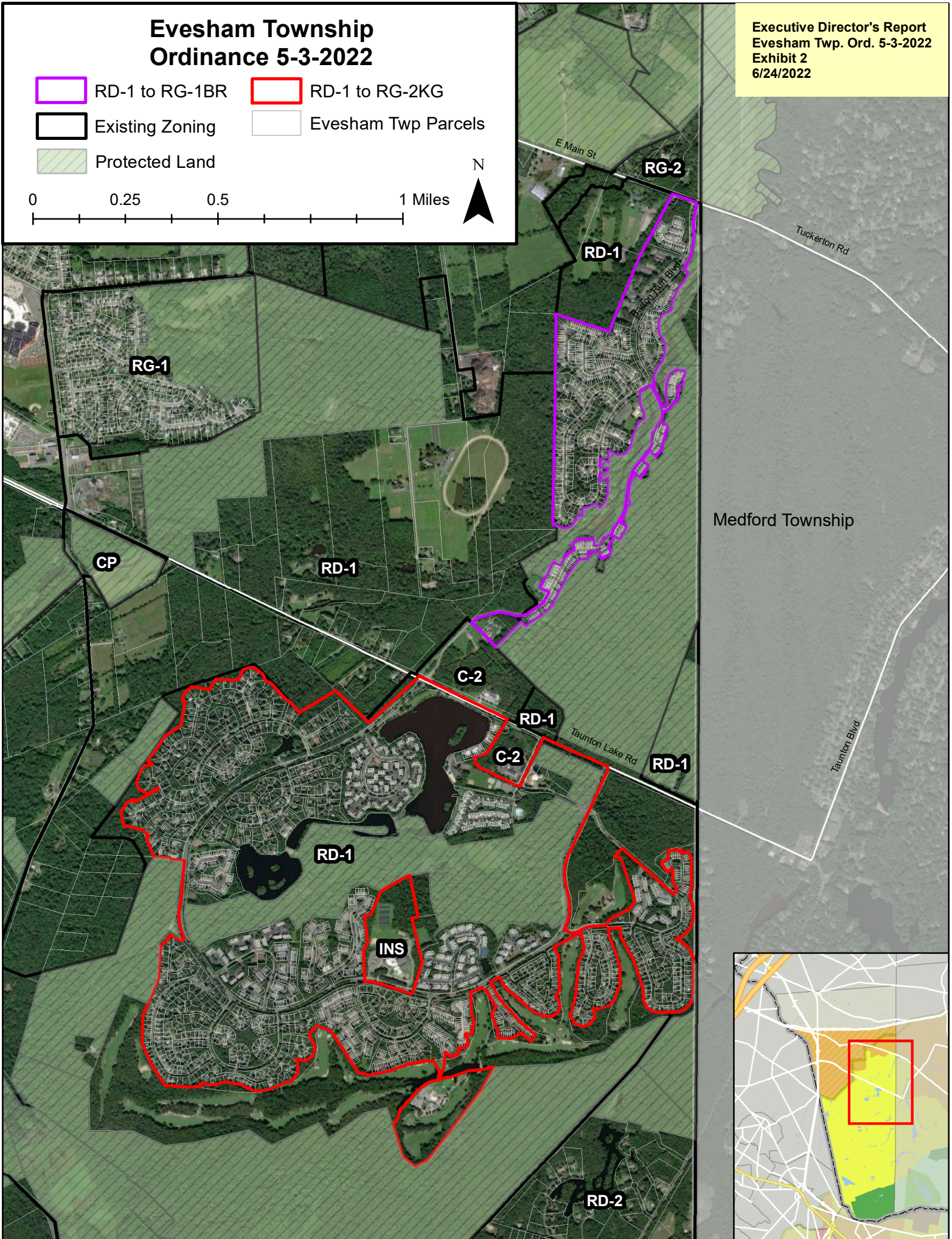
SRG/DBL/KLE/CEV
Attachments

Evesham Township Ordinance 5-3-2022

-  RD-1 to RG-1BR
-  RD-1 to RG-2KG
-  Existing Zoning
-  Evesham Twp Parcels
-  Protected Land



Executive Director's Report
Evesham Twp. Ord. 5-3-2022
Exhibit 2
6/24/2022



Medford Township

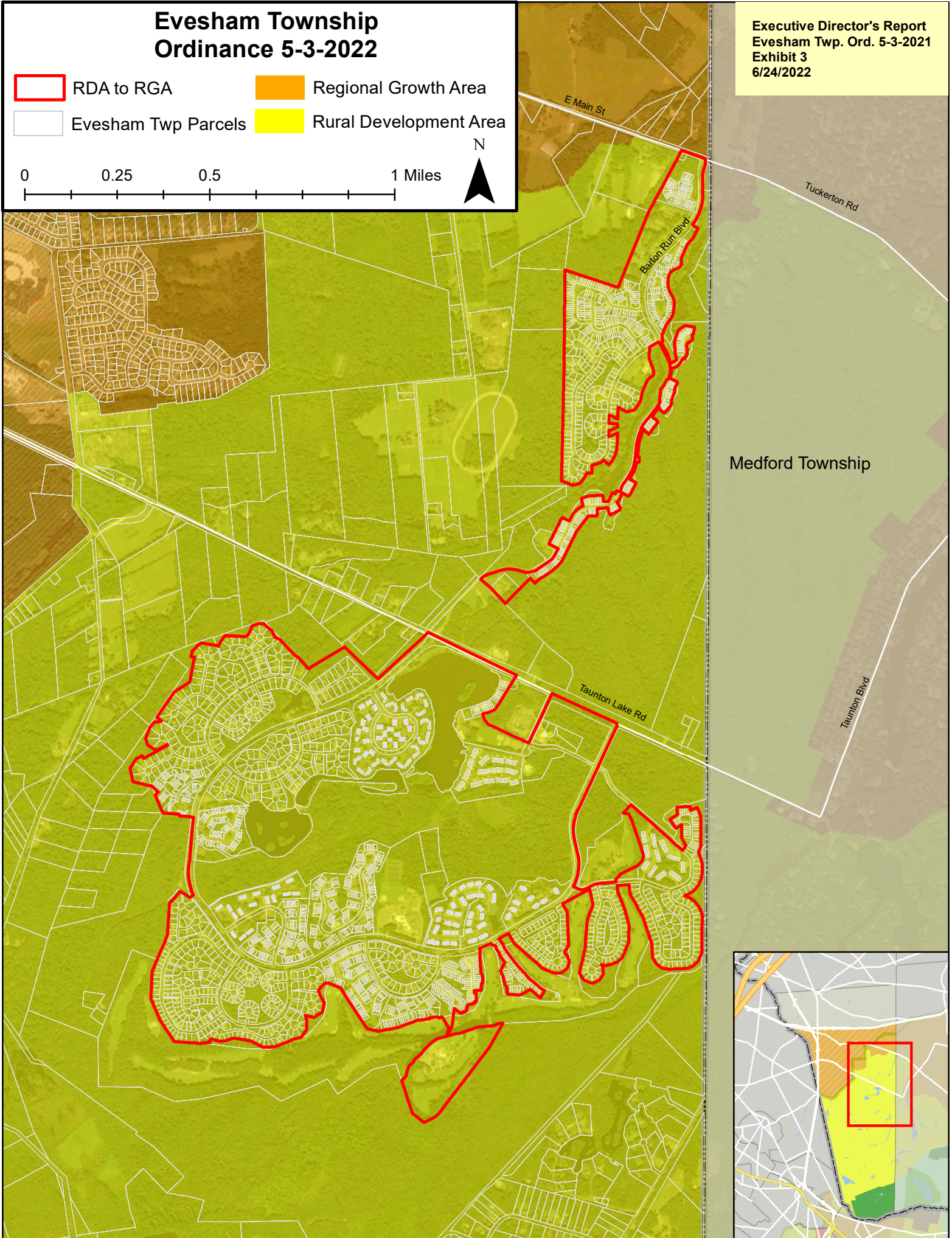
Evesham Township Ordinance 5-3-2022

-  RDA to RGA
-  Regional Growth Area
-  Evesham Twp Parcels
-  Rural Development Area

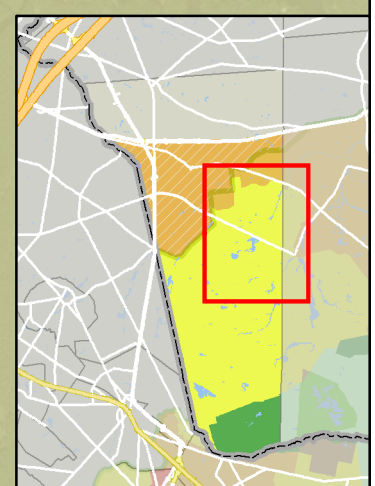
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Executive Director's Report
Evesham Twp. Ord. 5-3-2021
Exhibit 3
6/24/2022







Medford Township

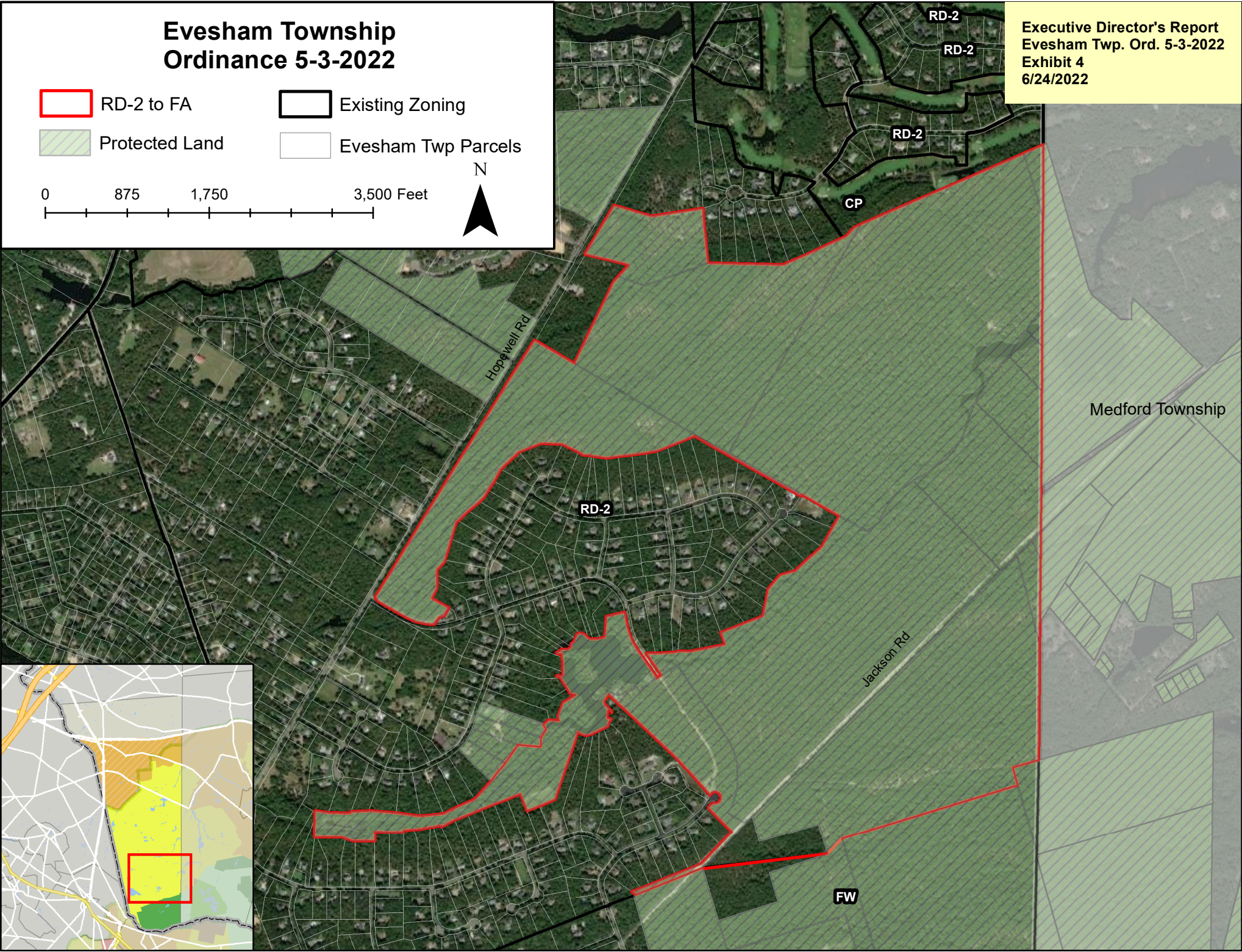


Evesham Township Ordinance 5-3-2022

Executive Director's Report
Evesham Twp. Ord. 5-3-2022
Exhibit 4
6/24/2022

-  RD-2 to FA
-  Existing Zoning
-  Protected Land
-  Evesham Twp Parcels

0 875 1,750 3,500 Feet

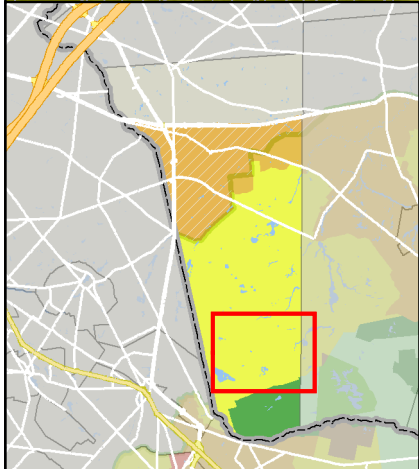
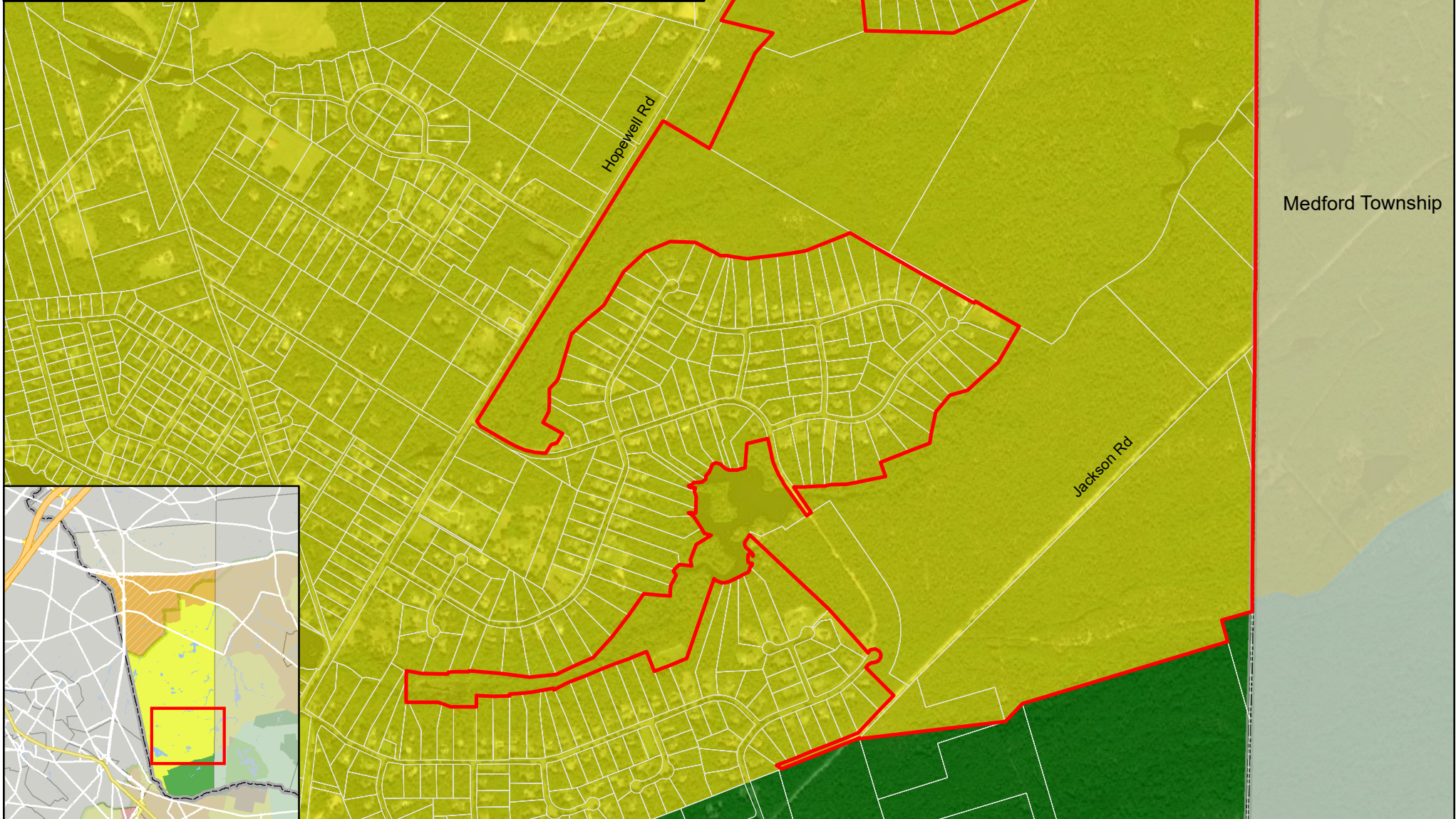


Evesham Township Ordinance 5-3-2022

Executive Director's Report
Evesham Twp. Ord. 5-3-2022
Exhibit 5
6/24/2022

-  RDA to FA
-  Rural Development Area
-  Evesham Twp Parcels
-  Forest Area

0 875 1,750 3,500 Feet





RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-22- 25

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

Commissioner Lloyd moves and Commissioner Lohbauer seconds the motion that:

WHEREAS, the Kirkwood-Cohansey aquifer is a fresh-water reservoir underlying the New Jersey Pinelands that contains at least 17 trillion gallons of water; and

WHEREAS, the Kirkwood-Cohansey aquifer provides potable and non-potable water to hundreds of thousands of people in South Jersey and sustains the ecology of the Pinelands by supporting wetlands and unique Pinelands vegetation and animal communities; and

WHEREAS, withdrawals from the Kirkwood-Cohansey aquifer can adversely impact the essential character of the Pinelands environment if they cause changes to habitats, reduce the quantity of water in the Preservation Area or encourage inappropriate patterns of development; and

WHEREAS, in 2001, the New Jersey Legislature enacted a law (P.L. 2001 c.165) calling for a study of the ecological impacts of human activities, including wells and diversions, on the ecology of the Pinelands Area; and

WHEREAS, the law directed the Commission, in cooperation with the New Jersey Department of Environmental Protection, Rutgers University, the United States Fish and Wildlife Service and the United States Geological Survey, to “assess and prepare a report on the key hydrologic and ecological information necessary to determine how the current and future water supply needs within the pinelands area may be met while protecting the Kirkwood-Cohansey aquifer system”; and

WHEREAS, twelve separate studies were ultimately completed in order to address two major questions: the hydrologic effects of groundwater diversions from the Kirkwood-Cohansey aquifer on stream flows and wetland water levels; and the ecological effects of streamflow and groundwater-level changes on aquatic and wetland communities; and

WHEREAS, pump tests, monitoring, and hydrologic modeling and assessment studies characterized the aquifer and generated data and an understanding of the changes to groundwater levels and streamflow that might occur from groundwater pumping; and

WHEREAS, the habitat, plant, and animal studies simulated changes to groundwater levels and evaluated the impacts of the lowered water table on those habitats, plants, and animals; and

WHEREAS, the water depth reductions simulated in the “Frog Development” study showed a clear increase in impacts to the studied species, including Pine Barrens tree frog, spring peeper, and southern leopard frog, beginning at 10 cm (4 inches) of groundwater drawdown with increasing impacts from successively greater drawdown depths; and

WHEREAS, based on these findings, the Pinelands Commission has determined that it is appropriate and necessary to amend the Comprehensive Management Plan to significantly strengthen the ecological protections of the Kirkwood-Cohansey aquifer; and

WHEREAS, the Commission is therefore proposing amendments that will provide clearer, quantifiable standards for assessing the ecological impacts of nonagricultural diversions from the aquifer, introduce new, quantifiable standards to protect the available water supply in the watershed in which a division will be located, expand the scope of wells that will be subject to the new standards, limit new or increased diversions from the Kirkwood-Cohansey to appropriate Pinelands management areas and clarify and expand water conservation requirements; and

WHEREAS, the Acting Executive Director has submitted to the Commission draft amendments to N.J.A.C. 7:50-1.6, 2.11 and 6.86 of the Comprehensive Management Plan to accomplish the above-described objectives in a manner that furthers the goals of the Comprehensive Management Plan and recognizes the special resources of the Pinelands that the Commission is charged with protecting; and

WHEREAS, the proposed Comprehensive Management Plan amendments were discussed and reviewed during focus group meetings from 2015 to 2022 hosted by the Commission, through presentations at the New Jersey Water Supply Advisory Council and during multiple public meetings of the Commission’s CMP Policy & Implementation Committee over the past several years; and

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

WHEREAS, the Pinelands Commission wishes to formally consider the amendments to the Comprehensive Management Plan set forth in the attachment hereto, dated June 22, 2022; and

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

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

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

NOW, THEREFORE, BE IT RESOLVED that:

1. The Commission hereby authorizes the Acting Executive Director to submit the proposed amendments to the Comprehensive Management Plan, attached hereto and dated June 22, 2022, and the required supporting documentation to the Office of Administrative Law for publication as proposed regulations;
2. The Acting Executive Director shall transmit the proposed amendments to all Pinelands municipalities and counties and the Pinelands Municipal Council for review;
3. The public comment period on the proposed amendments shall extend 60 days from the date of publication of the proposal in the *New Jersey Register* and the Acting Executive Director shall affix the date of a public hearing to receive comments on the proposed amendments; and
4. Subsequent to the comment period, the Acting Executive Director shall expeditiously prepare proposed final amendments, with any pertinent changes to these amendments, for review by the Commission’s CMP Policy and Implementation Committee, and shall submit same to the Commission for final action.

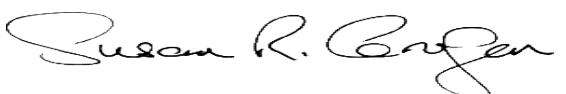
Record of Commission Votes

	AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*
Avery	X				Lettman	X				Pikolycky	X			
Christy	X				Lloyd	X				Quinn	X			
Holroyd	X				Lohbauer	X				Matos			X	
Irick	X				McCurry	X								
Jannarone	X				Meade			X						

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: July 8, 2022



Susan R. Grogan
Acting Executive Director



Alan W. Avery, Jr
Vice Chair

June 22, 2022

ENVIRONMENTAL PROTECTION

PINELANDS COMMISSION

Pinelands Comprehensive Management Plan

Fees; Definitions; and Water Quality

Proposed Amendments: N.J.A.C. 7:50-1.6, 2.11, and 6.86

Authorized By: New Jersey Pinelands Commission, Susan R. Grogan, Acting 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:

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

October 12, 2022, at 9:30 A.M.

Richard J. Sullivan Center

15C Springfield Road

New Lisbon, New Jersey

Submit written comments by regular mail, facsimile, or email by November 5, 2022, to:

Susan R. Grogan, P.P., AICP

Acting Executive Director

Pinelands Commission

PO Box 359

New Lisbon, NJ 08064

Facsimile: (609) 894-7330

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

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

The agency proposal follows:

Summary

The New Jersey Pinelands Commission (Commission) proposes to amend Subchapter 1, General Provisions; Subchapter 2, Interpretations and Definitions; and Subchapter 6, Management Programs and Minimum Standards of the Pinelands Comprehensive Management Plan (CMP). The CMP has been guiding land use and development activities in the Pinelands since it took effect on January 14, 1981. The CMP has been amended many times, most recently in January 2022 through a set of amendments related to stormwater management (see 54 N.J.R. 138(b)).

The Kirkwood-Cohansey aquifer is a fresh-water reservoir underlying the New Jersey Pinelands and containing an estimated 17 trillion gallons of water. It is a source of potable and non-potable water to hundreds of thousands of people in South Jersey and sustains the ecology of the Pinelands by supporting wetlands and unique Pinelands vegetation and animal communities. As a result, withdrawals from the aquifer can impact the essential character of the Pinelands

environment if they cause changes to habitats, reduce the quantity of water in the Preservation Area, or encourage inappropriate patterns of development. Water withdrawals are also referred to as diversions or wells throughout this rulemaking.

The current standards in the CMP that govern water withdrawals in the Pinelands Area were last amended in 1994. As explained in greater detail below, a series of studies on the impacts of diversions on the Kirkwood-Cohansey aquifer illuminated the need to update the CMP to better protect the aquifer. The proposed amendments strengthen protections to the Kirkwood-Cohansey aquifer and the Pinelands ecology while ensuring a sufficient water supply for development in the more growth-oriented areas of the Pinelands Area.

The New Jersey Legislature enacted a law in 2001 calling for a study of the ecological impacts of human activities, such as diversions, on the ecology of the Pinelands Area. The bill directed the Commission, in cooperation with the Department of Environmental Protection, Rutgers University, the United States Fish and Wildlife Service and the United States Geological Survey, to “assess and prepare a report on the key hydrologic and ecological information necessary to determine how the current and future water supply needs within the pinelands area may be met while protecting the Kirkwood-Cohansey aquifer system.” (P.L. 2001 c. 165).

The series of studies that resulted from this bill became collectively known as the Kirkwood-Cohansey Project. The Project addressed two major questions: (1) the hydrologic effects of ground-water diversions from the Kirkwood-Cohansey aquifer on stream flows and wetland water levels and (2) the ecological effects of streamflow and ground-water-level changes on aquatic and wetland communities.

Twelve separate studies were completed as part of the Kirkwood-Cohansey Project, which are described at <https://www.nj.gov/pinelands/science/complete/kc/>. They showed a direct

correlation between simulated groundwater withdrawals and/or simulated streamflow reductions on the distribution and composition of wetland-forest communities, individual wetland species, and wetland-indicator groups. The studies assessed impacts from diversions on nine frog species, the federally endangered wetlands plant swamp pink, fish and invertebrate assemblages, and vegetation types. Taken together, the studies predicted reductions in the plants and animals that are characteristic of undisturbed Pinelands ecosystems caused by groundwater withdrawals. In particular, the studies showed that a decline of the water table by more than four inches in wetlands caused a sharp decline in wetlands vegetation and reduced the survival rates of three species of frogs found in the Pinelands, including the spring peeper, the southern leopard frog, and the state-threatened Pine Barrens tree frog.

Multiple studies in the K-C Project assessed impacts related to water supply in terms of the water budget. These studies compared water inputs through rainfall and infiltration versus water losses through transpiration and pumping. A hydrologic framework study characterized the hydrogeology of the aquifer. A hydrologic assessment of three watersheds modeled changes to the water budget and created water table maps. An evapotranspiration study evaluated impacts to the water budget due to loss of water evaporated from surfaces or transpired by vegetation. Finally, a hydrologic modeling study built on the other water budget studies by measuring groundwater and stream flow responses to groundwater withdrawal scenarios. Models were developed to estimate withdrawal impacts. The findings of the Kirkwood-Cohansey Project form the basis for most of the proposed amendments, which significantly strengthen the ecological protections of the Kirkwood-Cohansey aquifer. The Commission is proposing clearer, quantifiable standards for assessing the ecological impacts of nonagricultural diversions from the Kirkwood-Cohansey aquifer (referred to in the proposal as “adverse local impact”) and

introducing new, quantifiable standards to protect the available water supply in the watershed in which a diversion will be located (referred to in the rule as “adverse regional impact.”).

The protections to the Kirkwood-Cohansey aquifer will also be strengthened by expanding the scope of wells that will be subject to the proposed standards. The threshold pumping volume at which a well will need to meet the standards in N.J.A.C. 7:50-6.86 is being reduced from 100,000 gallons per day to 50,000 gallons per day.

The proposed amendments require applicants for diversions in the Kirkwood-Cohansey aquifer to conduct specific tests, analyses, and modelling to demonstrate whether the proposed diversion will have an adverse regional or local impact.

To protect the more ecologically sensitive areas of the Pinelands Area, the Commission is proposing to limit new or increased diversions from the Kirkwood-Cohansey aquifer to Agricultural Production Area and the more growth-oriented Pinelands Management Areas. In addition, a diversion will only be permitted if an applicant can demonstrate that no alternative water supply source is available or viable.

The amendments clarify the current water conservation requirements and impose notice requirements on well applicants in the Kirkwood-Cohansey aquifer to better address issues associated with potential limits on water available for future growth and water demand.

The only two amendments that do not apply solely to the Kirkwood-Cohansey aquifer are those related to inter- and intra-basin transfers of water. The Commission is proposing to strengthen and clarify provisions related to such transfers.

New definitions are being proposed at N.J.A.C. 7:50-2.11 for terms that are used in the proposed amendments at N.J.A.C. 7:50-6.86. The Commission is also proposing to amend its fee

schedule at N.J.A.C. 7:50-1.6 to specifically address applications for wells, in addition to making minor, non-substantive changes to the existing fee rules.

The current water management rule is broader in that it addresses diversions from all aquifers in the Pinelands Area, except for one provision that applies only to diversions in the Kirkwood-Cohansey aquifer. As explained in greater detail below, the Commission is proposing to eliminate the standards for diversions in the other aquifers and adopt standards that will apply only to diversions in the Kirkwood-Cohansey aquifer that are above the pumping threshold of 50,000 gallons per day or more. All other wells, however, will be considered development pursuant to N.J.A.C. 7:50-2.11 and subject to all other applicable provisions of the CMP. These include geothermal wells, wells not in the Kirkwood-Cohansey aquifer, and wells that are below the threshold pumping volume in the proposed new standards.

It is also important to note that the proposed new water management standards do not replace any development standards in the CMP. Well applicants must continue to comply with all other applicable standards in the CMP, including those related to the protection of threatened and endangered species at N.J.A.C. 7:50-6.27 and 6.33 and wetlands and wetlands transition areas at N.J.A.C. 7:50-6, Part 1.

Given the technical nature of the proposed standards and analysis, the United States Geological Survey (USGS) will be assisting the Commission in its review of diversion applications. To offset the costs of the USGS's review, the Commission intends to require escrow payments from diversion applicants pursuant to N.J.A.C. 7:50-1.7.

The proposed amendments were discussed and reviewed during various focus group and stakeholder meetings from 2015 to 2022 hosted by the Commission, through presentations at the New Jersey Water Supply Advisory Council, and during multiple public meetings of the full

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

A more detailed description of the proposed amendments follows.

Subchapter 1

The Commission is proposing to amend its existing fee schedule to include a specific fee for certain well applications at N.J.A.C. 7:50-1.6. The current fee rule does not distinguish wells from other types of nonresidential development and does not adequately represent the projected costs for reviewing well applications under the proposed new standards. The Commission is proposing an application fee of \$6,000 for any well in the Kirkwood-Cohansey aquifer that is required to meet the criteria and standards at proposed N.J.A.C. 7:50-6.86(d). For all other wells, including geothermal wells and those that are not subject to the standards at proposed N.J.A.C. 7:50-6.86(d), the application fee will continue to be calculated based on construction costs as set forth at N.J.A.C. 7:50-1.6(c). The difference in the two fees reflects the more extensive review process that is concurrently being proposed at N.J.A.C. 7:50-6.86 for wells of a certain size in the Kirkwood-Cohansey aquifer.

Additional amendments to the existing fee schedule are proposed to correct a cross-reference at N.J.A.C. 7:50-1.6(c), relocate the existing text in N.J.A.C. 7:50-1.6(c) describing

typical construction costs so that it more logically follows the table provided in the rule, and clarify at N.J.A.C. 7:50-1.6(a) that development application fees, once submitted to the Commission, are not transferable to subsequent applicants.

Subchapter 2

New definitions are being added at N.J.A.C. 7:50-2.11 for terms in the proposed amendments at N.J.A.C. 7:50-6.86: “divert” or “diversion,” “stream low flow margin,” “well,” and “zone of influence.” The definitions of “divert” or “diversion” and “well” refer to withdrawals of water and are identical to those used by the New Jersey Department of Environmental Protection (hereafter referred to as DEP) in its water supply allocation permits rules at N.J.A.C. 7:19-1.3. “Stream low flow margin” and “zone of influence” are hydrogeologic terms used to measure the impacts of a diversion on the available water supply and the hydrogeology surrounding the diversion, respectively.

Subchapter 6

The Commission is proposing amendments to the water management rule at N.J.A.C. 7:50-6.86, which governs the transfer, exportation, and withdrawal of water in and from the Pinelands Area.

Export of Water Outside the Pinelands Area (recodified N.J.A.C. 7:50-6.86(a))

The Commission is proposing to recodify N.J.A.C. 7:50-6.86(b), which prohibits the export of water outside the Pinelands Area except as provided for in N.J.S.A. 58:1A-7.1, as N.J.A.C. 7:50-6.86(a).

Interbasin Transfer of Water (recodified N.J.A.C. 7:50-6.86(b))

The proposed amendments clarify and strengthen the current restriction on transferring water between different basins in the Pinelands Area (“interbasin transfer”) by explicitly prohibiting such transfers and identifying and defining two basins in the Pinelands Area at recodified N.J.A.C. 7:50-6.86(b).

The current rule at existing N.J.A.C. 7:50-6.86(a) merely requires that interbasin transfers be avoided to the “maximum extent practical.” The Commission is proposing to prohibit such transfers, to better align with the intent of the statute and reflect past policy, and to limit adverse impacts to the Pinelands environment related to the reduction in stream base flows that can result from interbasin transfers.

The current rule does not define the term “basin,” which can describe many different drainage areas or watersheds. Using watershed management areas designated by the New Jersey Department of Environmental Protection (DEP), the Commission has clarified what the term “basin” means by delineating two basins in the proposed amendments: the Atlantic and Delaware basins. As used in this provision, the Atlantic Basin includes those portions of watershed management areas within the Pinelands Area that drain to the Atlantic Ocean, including the Barnegat Bay Watershed (WMA 13), the Mullica Watershed (WMA 14), the Great Egg Harbor Watershed (WMA 15), and the Cape May Watershed (WMA 16). The Delaware River Basin includes those portions of watershed management areas that drain to the Delaware River or the Delaware Bay, including the Rancocas Watershed (WMA 19) and the Maurice, Salem, and Cohansey Watershed (WMA 17). Delineating specific basins in this way reduces ambiguity in the existing rule.

Intrabasin Transfer of Water (new N.J.A.C. 7:50-6.86(c))

The Commission is proposing to add a provision to explicitly allow the transfer of water between HUC-11 watersheds within either the Atlantic or Delaware basins at proposed N.J.A.C. 7:50-6.86(c). HUC-11 watersheds are geographic areas delineated by the United States Geological Survey and are defined in the CMP at N.J.A.C. 7:50-2.11.

This provision is intended to add clarity and flexibility to the water management standards, as the current rule is unclear as to whether such transfers are permissible. The specific allowance of intrabasin transfers is designed to provide an opportunity to address the needs of future permitted growth in the Pinelands Area. If the intrabasin transfer involves water sourced from the Kirkwood-Cohansey aquifer, it must meet the criteria and standards set forth in proposed N.J.A.C. 7:50-6.86(d).

Diversions from the Kirkwood-Cohansey Aquifer (recodified N.J.A.C. 7:50-6.86(d))

The current standard in the CMP for nonagricultural diversions from the Kirkwood-Cohansey aquifer requires only that the diversion “not result in any adverse ecological impact on the Pinelands Area.” Existing N.J.A.C. 7:50-6.86(e). The Commission is proposing to recodify this provision at N.J.A.C. 7:50-6.86(d) and strengthen it by: (1) defining “ecological impact” with specific, measurable standards; (2) requiring well applicants to conduct tests, analyses, and modelling to evaluate ecological impacts; and (3) expanding the scope of wells that will be subject to the new standards and requirements. Proposed N.J.A.C. 7:50-6.86(d).

Scope of proposed rule

The current water management standards for withdrawals from the Kirkwood-Cohansey aquifer apply only to diversions over 100,000 gallons of water per day. Existing N.J.A.C. 7:50-6.86(e). The Commission is proposing, at recodified N.J.A.C. 7:50-6.86(d), to expand the scope

of wells that will be subject to the proposed new requirements by lowering that threshold to 50,000 gallons of water or more a day.

The proposed amendments also specify that the 50,000 gallon per day threshold includes all of an applicant's existing diversions in the same HUC-11 watershed, in addition to the new or increased diversion. For example, if an applicant currently diverts 40,000 gallons of water a day and is proposing to divert an additional 20,000 gallons of water a day through a new well or from one of the applicant's existing wells in the same HUC-11 watershed, the new diversion will be subject to the new standards even though it is less than 50,000 gallons per day, as the total diversion would be 60,000 gallons of water a day. The decision to consider all of an applicant's diversions in the same HUC-11 watershed is based upon DEP's Technical Memorandum 12-2 (TM 12-2), which requires DEP to consider all diversions covered under one DEP Water Allocation Permit when evaluating new water allocation permit applications. Structuring the Commission's evaluation of water diversion impacts to groups of wells and diversions proposed or operated by the same applicant or owner mirrors the DEP requirement and should promote consistency between the two agency's review procedures.

There are two categories of wells in the Kirkwood-Cohansey aquifer that will not be subject to the new standards: (1) diversions to be used exclusively for agricultural or horticultural use; and (2) the replacement of an existing well with a diversion rate of 50,000 gallons of water per day or more, provided the existing well is sealed in accordance with N.J.A.C. 7:9-9 and the replacement well is approximately the same depth as the existing well, diverts from the same aquifer, has the same or lesser pump capacity, is within 100 feet of the existing well, and is in the same HUC-11 watershed as the existing well. N.J.A.C. 7:50-6.86(d)2.

The new standards proposed at N.J.A.C. 7:50-6.86(d) will apply only to diversions from the Kirkwood-Cohansey aquifer. All other wells will continue to be considered development pursuant to N.J.A.C. 7:50-2.11 and subject to all other applicable provisions of the CMP. These include geothermal wells, wells not in the Kirkwood-Cohansey aquifer, and wells that pump less than 50,000 gallons per day.

It should be noted that DEP requires water allocation permits for diversions greater than 100,000 gallons per day. There could be instances under the Commission's proposed amendments where an applicant in the Pinelands Area is required to meet the CMP standards for a new or increased diversion but is not required to apply for a water allocation permit from DEP for the same diversion because it is less than 100,000 gallons per day.

Permissible Areas

To protect the more ecologically sensitive portions of the Pinelands Area, the Commission is proposing to limit new or increased diversions from the Kirkwood-Cohansey aquifer to the following Pinelands Management Areas: Regional Growth Area, Pinelands Towns, Rural Development Area, Military and Federal Installation Area, and the 24 Pinelands Villages that are not located in the Pinelands Preservation Area. Not only is most existing development in the Pinelands Area located in these management areas, but the CMP also directs and encourages new development here as well. Requiring new and increased diversions to be located in the same management areas as the existing and new development to be served is fully in keeping with long-standing CMP requirements for other types of infrastructure. New and increased diversions from the Kirkwood-Cohansey aquifer will also continue to be permitted in the Agricultural Production Area, where the Commission is charged with maintaining agriculture

as an essential element of the Pinelands region. Such diversions will not be permitted in the Preservation Area District, Forest Area and Special Agricultural Production Area, which comprise the most ecologically sensitive portions of the Pinelands Area. Proposed N.J.A.C. 7:50-6.86(d)3.

Alternative Sources

Diversions from the Kirkwood-Cohansey aquifer are currently permitted only if there are no “viable alternative water supply sources” available. Existing N.J.A.C. 7:50-6.86(e)1. The Commission proposes to clarify this standard at N.J.A.C. 7:50-6.86(d)4 by permitting diversions only if an applicant demonstrates that no alternative water supply source is available or viable. The proposed amendment provides examples of alternative sources, which include non-Kirkwood-Cohansey aquifer sources and public water purveyors and suppliers. The Commission will maintain a list of alternative water supply sources, referenced in the proposed rule, which can be found on the Commission’s website. If there is an alternative water supply source on the Commission’s list that an applicant does not believe is viable, the applicant will have to demonstrate to the Commission the reason why the source is not viable. Reasons for lack of viability could include prohibitive cost, limits on available technology, and significant timing issues.

Adverse Ecological Impact

The current rules at existing N.J.A.C. 7:50-6.86(c) require all wells to be “designed and located so as to minimize impacts on wetlands and surface waters” but provide no quantifiable measures to ensure the well meets that standard. Existing N.J.A.C. 7:50-6.86(e)2 is similarly vague as it requires well applicants in the Kirkwood-Cohansey aquifer to demonstrate that the diversion “will not result in any adverse ecological impact on the Pinelands Area,” without

defining adverse ecological impact or providing any criteria for measuring the ecological impacts.

The amendments reframe the existing standards, adding clarity and measurable criteria. Proposed N.J.A.C. 7:50-6.86(d)(5) defines “adverse ecological impact” as an adverse regional impact and/or adverse local impact, which are each explained in detail at N.J.A.C. 7:50-6.86(d)(6) and (7). Quantifiable standards are being proposed at N.J.A.C. 7:50-6.86(d)(6) and (7) to help determine whether a proposed withdrawal from the Kirkwood-Cohansey aquifer will have a regional or adverse local impact.

When determining impacts to the Kirkwood-Cohansey aquifer, the Commission will consider all of the applicant’s allocations under one water allocation permit or water use registration issued by DEP in the same HUC-11 watershed. Although the existing rule at N.J.A.C. 7:50-6.86(c) was always intended to require consideration of all allocations under one permit, the language was not clear and caused confusion. Proposed N.J.A.C. 7:50-6.86(d)1 clarifies that all allocations, in addition to the proposed diversion, will be included in the evaluation if they are under one DEP water allocation permit or water use registration. For example, if an applicant already has a DEP water allocation permit for 100,000 gallons a day and has applied to the Commission for a new well that will withdraw an additional 20,000 gallons a day under the same permit, the Commission will evaluate the ecological impacts from the total withdrawal of 120,000 gallons per day. The new standards and review process set forth in these amendments will apply.

Although the existing rule at N.J.A.C. 6.86(c) requires that all wells be designed to minimize impacts on wetlands and surface waters, the proposed amendments remove that requirement for wells outside the Kirkwood-Cohansey aquifer. The decision to eliminate the

requirement is based on the fact that the Kirkwood Cohansey aquifer is the primary source of water supporting the Pinelands Area and Pinelands ecosystems. Drawdowns from other aquifers do not have the same impact on water availability and ecosystems in the Pinelands as do those from the Kirkwood-Cohansey aquifer. Wells proposed outside the Kirkwood-Cohansey aquifer will remain subject to the wetlands protection standards of the CMP, which apply to all development in the Pinelands Area. At the same time, wells in other aquifers will be required to meet other development standards in the CMP including those in Subchapter 6 that prohibit certain impacts to wetlands (N.J.A.C. 7:50 – 6.1 et seq), vegetation (N.J.A.C. 7:50-6.23 through 6.27), and to fish and wildlife (7:50-6.33 and 6.34).

Adverse Regional Impact

One of the major goals of the proposed rulemaking is to protect against decreases in regional water availability due to new or increased water diversions. A proposed diversion will be deemed to have an adverse regional impact if it, combined with all existing permitted allocations in the same HUC-11 watershed, exceeds a specific threshold at which water availability in that watershed will be deemed to be adversely impacted. Proposed N.J.A.C. 7:50-6.28(d)6. When determining whether a diversion meets this criteria, all allocations permitted and registered by DEP in that HUC-11 watershed will be considered, not just the applicant's permitted allocations.

The water availability threshold proposed by the Commission is based on the stream low flow margin, which is defined in the proposed amendments at N.J.A.C. 7:50-2.11, and used by DEP to estimate water availability throughout the State of New Jersey. Computations of the stream low flow margin are published in the New Jersey Statewide Water Supply Plan ("Water

Supply Plan”) for each HUC-11 in the State. They are an estimate of the amount of water that would remain in a stream system during a specified drought period. The Water Supply Plan includes calculations for the volume of water that can be removed from a HUC–11 watershed without impacting the stream low flow margin and stressing the watershed based on all known allocations.

The Commission is proposing to restrict the amount of water that can be diverted from a HUC-11 watershed to 20 percent of the stream low flow margin. In the event a proposed diversion cannot meet this threshold, the amendments allow applicants to offset the diversion on a gallon-for-gallon basis so that the proposed diversion, combined with all other allocations in the watershed, no longer exceeds 20 percent of the stream low flow margin. Proposed N.J.A.C. 7:50-6.86(d)5i. Examples of offset measures include: the recharge of previously non-infiltrated stormwater runoff in the Pinelands Area; the recharge of treated wastewater that is currently discharged via a regional sewage treatment plant that discharges treated wastewater into the Delaware River or Atlantic Ocean; development of a desalinization facility; and sewerage system inflow and infiltration abatement and/or water distribution infrastructure leak auditing and correction.

This same flexibility is being offered to an applicant who proposes a diversion in a HUC-11 watershed that is already constrained by withdrawals exceeding 20 percent of the stream low flow margin -- before the proposed diversion is even factored in. In those situations, the diversion will be allowed if the applicant can permanently offset the new diversion in the same manner as described at N.J.A.C. 7:50-6.86(d)5i. N.J.A.C. 7:50-6.86(d)6ii.

An applicant will be required to identify all offset measures and provide the Commission a detailed description of the measures, including the volume of water that will be offset,

timeframes for implementing the offsets, a description of the entity that will be implementing the offset measures, and an explanation of the entity's authority to implement the measures. N.J.A.C. 7:50-6.86(d)6iii(2).

It should be noted that the Commission is proposing a more stringent standard for maintaining water availability than that advised by DEP in the Water Supply Plan. As a tool for regional protection of the water table aquifer contributing to stream flows, the Water Supply Plan recommends limiting aquifer withdrawals to no more than 25 percent of the stream low flow margin. The Commission is proposing a lower threshold of total withdrawals from a HUC-11 watershed to better protect water supply in the Kirkwood-Cohansey aquifer. The more restrictive 20 percent of the stream low flow margin volume is intended to recognize climate change effects on aquifer recharge due to greater extremes in drought and rainfall patterns.

In addition, the five percent difference between the Commission's proposal and DEP's threshold also accounts for water diverted for agricultural and horticultural purposes, which the Commission does not have the authority to review or limit. The lower stream low flow margin threshold being proposed by the Commission assures that the additional five percent of the stream low flow margin allowed by DEP could be dedicated to agricultural and horticultural purposes.

The proposed amendments at N.J.A.C. 7:50-6.86(d)6 require an applicant to calculate the sum of the proposed diversion and all existing permitted allocations in the affected HUC-11 watershed. Using data from the Water Supply Plan, the applicant is required to show whether that sum exceeds 20 percent of the stream low flow margin for the year of peak use established in the New Jersey Statewide Water Supply Plan. Lastly, the applicant is required to submit a

report to the Commission detailing the calculations and the impact of the proposed diversion on the available portion of the 20 percent stream low flow margin in the affected HUC-11.

Adverse Local Impact

Proposed N.J.A.C. 7:50-6.86(d)7 prohibits a proposed diversion from having an adverse impact on wetlands and the most ecologically sensitive areas in the Pinelands Area, also referred to as an “adverse local impact.” The Commission is proposing specific, quantifiable standards to determine whether a well will have an adverse local impact. The standards are based on the studies of the Kirkwood-Cohansey Project, which revealed the adverse effects of aquifer withdrawals on the distribution of wetlands and wetland habitats necessary for the survival of threatened and endangered plant and animal species. The proposed amendments also update the methodologies currently at N.J.A.C. 7:50-6.86(c) for measuring the impact of a diversion on wetlands and surface water.

A diversion will be deemed to have an adverse local impact if it results in any drawdown of the water table in the most ecologically sensitive areas of the Pinelands, which include any portion of the Preservation Area District, a Forest Area, or a Special Agricultural Production Area in the affected HUC-11 watershed. A diversion will also be deemed to have an adverse local impact if it results in a drawdown of the water table by more than four inches of the wetland nearest to the “zone of influence,” defined at N.J.A.C. 7:50-2.11 as the area of ground water in the affected HUC-11 watershed that experiences an impact attributable to the pumping well. N.J.A.C. 7:50-6.28(d)7.

The applicant is required to conduct tests and run models to establish whether the diversion will have an adverse local impact. N.J.A.C. 7:50-6.28(d)7i. The proposed application

requirements clarify, strengthen, and update the testing methodologies in existing N.J.A.C. 7:50-6.86(c), which requires only that “hydrologic analyses” be conducted in accordance with DEP guidelines from a technical manual that has since been replaced with a newer manual with a different title. (Technical Memorandum 12-2, Hydrogeologic Testing and Reporting Procedures in Support of New Jersey Water Allocation Permit in effect at the time of application (“TM 12-2”). N.J.A.C. 7:50-6.28(d)7i (1).)

The applicant will first be required to submit an analysis of potential drawdown impacts using the Thiem analysis. After completing the Thiem analysis, the applicant is required to submit to the Commission a proposed hydrogeologic test (also known as a pump test) developed in accordance with TM12-2. N.J.A.C. 7:50-6.28(d)7i(2). This design phase gives applicants the opportunity to demonstrate to the Commission how the pump test will provide accurate results.

The pump test design can be flexible, but the proposed rule lists the minimum required design elements, which include installation of a single pumping well, observation wells to monitor water levels and collect time-drawdown data, and at least one piezometer to measure surface water and water table decline at the wetlands nearest to the proposed well. Other locations to be monitored are the nearest boundaries of a Forest Area or a Special Agricultural Production Area, or the Preservation Area District in the same HUC-11 watershed. Where one of the designated boundaries is located further from, but in the same direction as another management area boundary to be monitored (nested), the more distant boundary would not be required to have a piezometer. Where different management area boundaries are located in different directions from the proposed diversion (not nested, but adjacent), a piezometer would be required at each management area boundary. N.J.A.C. 7:50-6.28(d)7i(2)(A) to (D). The applicant may include additional observation wells or piezometers at additional locations in the

design of the pump test. As pump test design is also required by DEP, it is expected that applicants will also be conferring with the DEP Bureau of Water Allocation during pump test design to assure that the design meets requirements of that agency.

If an applicant is unable to gain access to properties where piezometers are required, the applicant may propose to install them at comparable locations if the alternate placement will adequately measure surface water and water table decline at the locations specified at N.J.A.C. 7:50-6.28(d)7i(2). In such circumstances, the applicant would be required to provide information to the Commission to show how the alternate locations will provide measurements of surface water and water table decline that are comparable to the measurements that would be taken at the preferred locations. Factors that would go into a determination of whether the alternate locations could produce comparable measurements include comparable distance from the preferred location, no known differences in other withdrawals between the preferred and alternate locations, and no known naturally occurring differences in hydrologic or hydrogeologic characteristics. An example of an alternate location that would not be approved is one where there is a 100,000 gallon per day well that is pumping between the proposed new well and the alternate location, but not between the proposed new well and the preferred location. Another example of an unacceptable alternate location is where the preferred location is a wetlands that is fed by groundwater, but the alternate location is known to be perched and fed only by infiltration (rain).

After completing the pump test, the applicant is required to submit to the Commission a hydrogeologic report prepared in accordance with TM12-2 that includes the testing procedures, data collected and analyzed, and evaluation of the effect of the proposed diversion on the Kirkwood-Cohansey aquifer. N.J.A.C. 7:50-6.28(d)7i(3). The Commission will notify the

applicant regarding whether the pump test design, test, and report have been completed appropriately in a consecutively executed application process. Applicants will be encouraged to concurrently consult with DEP as a pump test is also required by that agency.

Using the results of the hydrogeologic test, the applicant is next required to calculate an estimated zone of influence created by the proposed diversion and submit a groundwater flow model using the modular hydrologic model of the United States Geological Survey, MODFLOW. The MODFLOW model will enable the applicant to calculate the zone of influence of the water table at the nearest boundaries of the Preservation Area District, Forest Area, and Special Agricultural Production Area in the affected HUC-11 watershed as well as the boundary of the wetland nearest to the proposed diversion in the same HUC-11 watershed. N.J.A.C. 7:50-6.28(d)7i(4).

Water Conservation

The current water management rule at existing N.J.A.C. 7:50-6.86(d) requires all well applicants to “address measures in place or to be taken to increase water conservation in all areas to be served by the proposed well or system.” The Commission is proposing to reword this requirement and add clarity by defining water conservation measures as “measurable efforts by public and private water system operators and local agencies to reduce water demand by users and reduce losses in the water distribution system.” N.J.A.C. 7:50-6.86(d)8. Examples of water conservation measures include implementation of the WaterSense water conservation program of the United States Environmental Protection Agency, or of the LEEDs building standards of the United States Green Building Council, implementation of a peak demand fee structure, or requiring mandatory soil moisture/rain sensors for all landscape irrigation systems.

The Commission will no longer require water saving devices to be installed in all new development in areas served by central sewers, as is currently required at N.J.A.C. 7:50-6.86(a). Instead, it is proposing at N.J.A.C. 7:50-6.86(d)8 to broaden the water conservation measures that will be deemed acceptable as part of a well application. The current water conservation requirement is limited to areas served by sewers and was meant to be an indirect conservation measure to limit the amount of water exported from the Pinelands Area by sewer pipes, by also targeting those areas likely to be served by public community water systems. The Commission is replacing this requirement with broader and more flexible conservation requirements that do not preclude the implementation of conservation measures in sewer service areas but add options for conservation other than the difficult to enforce requirement to install water saving devices. At the same time, the proposed rule recognizes that there are some areas that may be served by public community water systems but are not connected to public sewers. While those areas may be considered to recharge any water used that is discharged to individual subsurface disposal systems, those areas may also be using large volumes of water for lawn irrigation or other consumptive uses.

Notice Requirements

Recognizing that a diversion in one municipality may affect the availability of water in another municipality, the Commission is proposing at N.J.A.C. 7:50-6.86(d)9 to require well applicants are required to notify the municipality and county in which the proposed diversion will be located as well as all other municipalities and counties in the affected HUC-11 watershed of the proposed diversion. This requirement will apply to private well applicants as well as public well applicants.

Notice for private and public well applicants is to include: a detailed description of the proposed diversion, including the source, location, quantity and/or allocation of water to be diverted; and the potential impact of the proposed diversion on the volume of water in the affected HUC-11 watershed that will be available for future diversions. Private well applicants will also have to include in their notice: a statement advising that written comments on the application may be submitted to the Pinelands Commission; a statement advising that the application is available for inspection at the office of the Pinelands Commission; and the address and phone number of the Pinelands Commission. Public well applicants are also required to comply with the existing notice provisions at N.J.A.C. 7:50-4.53(e), which apply to all major public development.

Social Impact

The Kirkwood-Cohansey aquifer is a vital resource that sustains the Pinelands ecosystem and provides potable and non-potable water to hundreds of thousands of people, businesses, and farms in southern New Jersey. The proposed amendments establish stricter standards for withdrawals from the aquifer, which will result in stronger protections to the ecosystem and greater protections to the supply of water for agricultural operations in the Pinelands Agricultural Production Area and permitted development in the more growth-oriented areas of the Pinelands Area. These enhanced protections to the Pinelands ecology and regional water supply are expected to have a positive social impact in the Pinelands Area, as protection of resources in the Pinelands benefits society within the Pinelands and in the surrounding areas. These stronger protections will ensure that existing users will be able to continue to rely on the Kirkwood-Cohansey aquifer for community water supplies, private home wells, and industrial and agricultural uses in southern New Jersey.

Economic Impact

The proposed amendments will have a positive economic impact on the growth-oriented areas of the Pinelands, as they limit new diversions from the Kirkwood-Cohansey to the Regional Growth Area, Pinelands Towns, Rural Development Area, Agricultural Production Area, Military and Federal Installation Area, and 24 specific Pinelands Villages. Wells that support new or existing development in these areas will be permissible if they meet the new proposed standards and criteria. For the existing residential and nonresidential uses and agricultural operations that currently withdraw water from the Kirkwood-Cohansey aquifer, the rules are designed to ensure continued reliance on the aquifer. This translates into an economic benefit for those water users, as accessing new water sources, such as wells, distribution lines, or utility fees, could be very costly.

There will be added costs for applicants proposing new or expanded non-agricultural diversions of at least 50,000 gallons per day from the Kirkwood-Cohansey aquifer. An application fee of \$6,000 has been established for all such proposed projects, and an escrow payment will be required to fund the USGS's review of the testing, modelling and analysis required by the proposed amendments. Since 2017, the Commission has received 30 applications for new or increased diversions, most of which proposed withdrawals from the Kirkwood-Cohansey. Of those applications, only 13 would have been subject to the application fee and escrow requirements proposed in this rulemaking.

There will be additional costs associated with new non-agricultural withdrawals of between 50,000 to 100,000 gallons per day from the aquifer, as the proposed amendments require testing, modeling and analyses to assess the ecological impact of the proposed withdrawal. DEP already requires similar analyses and modeling for diversions of 100,000

gallons per day or more. By lowering the threshold to 50,000 gallons per day, the proposed amendments will result in smaller wells in the Pinelands Area incurring costs for testing, modeling and analyses that are not currently required under DEP rules. Of the 30 applications for new or increased diversions received by the Commission since 2017, it is estimated that only eight would have incurred these additional costs, either because of the new 50,000 gallon per day threshold or because the proposed rule clarifies that wells owned in common will be grouped for purposes of determining whether the 50,000 gallon per day threshold is exceeded. Based on its past application activity, and the limitations imposed in the proposed amendments, the Commission anticipates that the total number of applications for new and increased divisions in the Kirkwood-Cohansey will continue to be low, with a small percentage subject to the additional costs associated with the proposed amendments.

Additional costs may also be incurred to meet the proposed water conservation and offset requirements, which will vary depending on the type of measures that are implemented. For individual users served by the water system, however, conservation measures may reduce costs based on lower water usage. For the system owner, development costs could potentially be reduced through the Pinelands Infrastructure Trust, which provides low-cost loans and grants to municipalities developing infrastructure to support growth in Pinelands Regional Growth Areas.

In some instances, the proposed amendments will require that new development rely on water outside the Kirkwood-Cohansey aquifer – from alternative water sources in deeper aquifers or from water purveyors or public community system interconnections. The initial costs associated with deeper wells or creating more extensive water supply distribution systems and interconnections may initially be greater than the costs of a new well in the Kirkwood-Cohansey aquifer.

Environmental Impact

The Kirkwood-Cohansey aquifer contains at least 17 trillion gallons of fresh water that lies beneath a 3,000 square mile area of the Pinelands Area. It sustains a vast ecosystem by supplying water to almost all the wetlands, streams, and rivers in the Pinelands, as well as being the primary water source for people, business, and farms in and immediately around the Pinelands Area. The proposed amendments prohibit diversions that will adversely impact the Pinelands ecology and the local water supply based on clear, measurable standards. These enhanced protections are anticipated to have a positive environmental impact.

Through legislation enacted in 2001, the New Jersey Legislature directed the Pinelands Commission to study how future water supply needs can be met from the Kirkwood-Cohansey aquifer without adversely impacting the ecosystem. P.L. 2001, c. 165. The studies, conducted jointly by the Commission and other government and educational entities and known collectively as the Kirkwood-Cohansey Project, established a clear link between the aquifer and the ecosystem. Simulated groundwater withdrawals and streamflow reductions reduced the distribution and composition of wetland-forest communities, individual wetland species, and wetland-indicator groups. In turn, there was a reduction in the survival rate of certain animal and plant species, including the state-threatened Pine Barrens tree frog and federally endangered wetland plant, swamp pink, when the water table in wetlands declined. The study of frogs, in particular, demonstrated a sharp decline in populations when the water table was lowered by four inches. Taken together, the studies predicted that groundwater withdrawals will reduce the populations of plants and animals that are characteristic of undisturbed Pinelands ecosystems.

Based on these studies, the Commission is proposing to strengthen protections for wetlands, and the animal and plant species that rely on wetlands habitats for survival, by requiring an assessment of the ecological impact of a proposed diversion. The amendments will prohibit diversions that would result in the drawdown of the water table of any portion of the most ecologically sensitive Pinelands management areas: the Preservation Area District, Forest Area and Special Agricultural Production Area. In less restrictive management areas, the amendments will prohibit diversions that result in the drawdown of the water table by more than four inches in wetlands nearest to the zone of influence (the area of ground water that experiences an impact attributable to a pumping well).

The proposed amendments expand the scope of diversions that will be subject to the stricter standards and criteria. The CMP's water management provisions currently apply only to total diversions of 100,000 gallons or more per day. The Commission is proposing to lower this threshold to total diversions of 50,000 gallons or more per day from the Kirkwood Cohansey aquifer in the same HUC-11 watershed. The volume determination is based on all of an applicant's allocations under a water allocation permit, water use registration issued by DEP, which will ensure that more wells will be subject to the proposed new standards and further protect the Pinelands ecology and water supply.

The proposed amendments also limit the adverse effects of withdrawals on the sustainability of the water supply in HUC-11 watersheds in the Kirkwood-Cohansey aquifer. Excessive withdrawals can diminish available water supply for existing uses such as community water systems, private home wells, businesses, agriculture, and ecosystems. The Commission is proposing a specific, measurable standard to assess and limit the impact of a proposed diversion on water availability in a particular watershed. The standard is based on the stream low flow

margin, a tool formulated by the DEP for regional protection of the water table aquifer. The New Jersey Statewide Water Supply Plan (Water Supply Plan) includes estimates of this stream low flow margin for each HUC-11 watershed in the State. Withdrawals in any HUC-11 watershed that exceed a specific portion of that low flow margin are expected to reduce stream flows such that a stream may dry up during annual low flow periods or droughts, thus impacting wetlands habitats and species, existing human uses, and stressing the watershed. These calculations are based on all known allocations approved and registered by DEP.

The Commission's proposal to limit aquifer withdrawals to no more than 20 percent of the stream low flow margin for each HUC-11 watershed will strengthen the protections of the water supply in the Pinelands Area, as the CMP does not currently impose specific limits on withdrawals. This threshold limit of 20 percent is also stricter than that recommended by the Water Supply Plan, which says that up to 25 percent of the stream low flow margin could be diverted without causing streams to dry up during annual low flow periods or droughts. The lower threshold will protect Pinelands plants, animals, and habitats, as well as existing withdrawals for public water supplies, agriculture, and other businesses. The Commission also chose a lower threshold in recognition that climate change may result in longer or more frequent drought periods.

When evaluating whether a proposed diversion meets this stream low flow margin threshold, the proposed amendments require the Commission to consider all the existing permitted allocations in the same HUC-11 watershed, not just the proposed diversion. This consideration mirrors the methodology by which the low flow margin is estimated in the Water Supply Plan and will ensure a more complete and accurate evaluation of how stressed the watershed will be from the proposed new diversion in light of all existing allocations.

Other provisions in the proposed amendments also serve to protect the environment, including the explicit prohibition on the interbasin transfers of water. Prohibiting such transfers is a key tool in limiting adverse environmental impacts related to the reduction in stream base flows that can result from the transfers. The restriction against interbasin transfers is also strengthened by defining the two basins between which water cannot be transferred.

To better protect the most ecologically sensitive areas of the Pinelands, the Commission is proposing to limit new or increased diversions from the Kirkwood-Cohansey aquifer to the Agricultural Production Area and the following growth-oriented Pinelands Management Areas: Regional Growth Area, Pinelands Towns, Rural Development Area, Military and Federal Installation Area, and 24 specific Pinelands Villages. This is expected to minimize future impacts to groundwater quantities in the Preservation Area District, the Special Agricultural Production Area, and the Forest Area.

The Commission is proposing to strengthen and clarify the water conservation requirement currently in the CMP by requiring documentation of measures that have been implemented or that are planned for implementation and requiring that the conservation efforts be measurable. The amendments also broaden the water conservation requirements of the current rule by requiring conservation to occur not just in areas served by centralized sanitary sewer systems, but throughout all areas to be served by the proposed diversion.

Federal Standards Statement

Section 502 of the National Parks and Recreation Act of 1978 (16 U.S.C. § 471i) called upon the State of New Jersey to develop a comprehensive management plan for the Pinelands

National Reserve. The original plan adopted in 1980 was subject to the approval of the United States Secretary of the Interior, as are all amendments to the plan.

The Federal Pinelands legislation sets forth rigorous goals that the plan must meet, including the protection, preservation, and enhancement of the land and water resources of the Pinelands. The proposed amendments are designed to meet those goals by imposing stringent requirements and restrictions on groundwater withdrawals from the Kirkwood-Cohansey aquifer, which in turn will protect wetlands habitats and plants and animals that are characteristic of undisturbed Pinelands ecosystems, including at least one wetlands plant that is on the federal endangered species list.

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

Jobs Impact

The Commission anticipates that this rulemaking will not have any significant impact on job creation and retention in New Jersey. Engineering and other professional work will be needed to comply with the testing and modeling requirements in the proposed amendments. These requirements align closely with those currently imposed by DEP but under the proposed amendments, they will apply to a slightly larger group of wells (those that will pump 50,000 gallon per day or more). Overall, the Pinelands Commission does not believe that the rulemaking will result in a significant impact on jobs.

Agriculture Industry Impact

The rulemaking will have no direct impact on the agriculture industry, as exclusively agricultural uses are not deemed development under the CMP and do not require application to

the Commission. The proposed amendments permit new and expanded diversions in the Pinelands Agricultural Production Area and explicitly exempt diversions exclusively for agricultural or horticultural use from complying with the new standards. It is anticipated that the amendments will indirectly benefit farm operations that rely upon the Kirkwood-Cohansey aquifer for water by protecting regional water supply.

The Kirkwood-Cohansey aquifer provides water for upland agriculture and for the cranberry bogs and blueberry farms throughout the Pinelands Area. Farmers depend on water from the aquifer for irrigation and cranberry growers use large amounts of water from the aquifer to maintain their bogs. The amendments strengthen the protections to the Kirkwood-Cohansey aquifer water supply, which in turn will benefit the agriculture industry in the Pinelands Area and surrounding areas.

The proposed standard for maintaining water availability could benefit the agricultural industry. The Commission is proposing to limit withdrawals from the Kirkwood-Cohansey aquifer to no more than 20 percent of the stream low flow margin for the HUC-11 watershed in which a proposed diversion is located. This represents a five percent difference between the Commission's proposal and DEP's recommended threshold, which is 25 percent of the stream low flow margin. The difference in the threshold suggests that an additional five percent of the stream low flow margin might be allowed by DEP for agricultural and horticultural purposes that the Commission does not regulate.

Regulatory Flexibility Analysis

In accordance with the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the Commission has evaluated whether the proposed amendments will impose any

reporting, recordkeeping, and other compliance requirements on small businesses. Most businesses in the Pinelands Area may be characterized as small in size and employment compared to the rest of New Jersey. However, the proposed amendments do not differentiate by size of business and thus will impact all businesses equally in terms of absolute costs.

Small businesses proposing new or increased diversions in the Kirkwood-Cohansey reservoir may incur costs from hiring professional consultants, such as engineers. Although under the current rules small businesses incur similar costs, the proposed rules require additional analyses and modeling, which could increase the costs. Also, where new or increased diversions require offsets on a gallon-per-gallon basis for withdrawals beyond 20 percent of the stream low flow margin, small businesses may incur costs associated with those offsets depending on the method of implementing the offsets. Similarly, businesses served by a water supply system that is subject of an application for a new or increased withdrawal from the Kirkwood-Cohansey aquifer may also be required to institute water conservation measures and may therefore incur a cost depending on the method of implementing conservation.

The Commission has balanced the costs imposed on small businesses by the proposed amendments against the environmental benefits to be achieved by the amended well requirements and determined that it would be inappropriate to exempt small businesses from these requirements. As noted above in the Environmental Impact statement, the amendments impose stricter requirements on water withdrawals from the Kirkwood-Cohansey aquifer, which will result in healthier ecosystems and less threats to the plants and animals that thrive in those undisturbed ecosystems.

Housing Affordability Impact Analysis

The Commission does not anticipate this rulemaking will have a significant impact on the affordability of housing. Costs may be incurred by developers, municipalities, or utilities related to implementing conservation measures or offsets, where required. Those upfront costs may result in a minor incremental increase in housing costs where a community water supply is served by a new or increased diversion from the Kirkwood-Cohansey aquifer. Additional impacts to housing affordability are expected to be minimal, as DEP already imposes similar requirements for well modeling and testing. There may be situations, however, where the regional impact to the aquifer cannot be offset and a housing project may be required to seek an alternative water supply source. The additional costs for extending the infrastructure would likely be passed along in housing prices.

Smart Growth Development Impact Analysis

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

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

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

Racial and Ethnic Community Criminal Justice and Public Safety Impact

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

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

SUBCHAPTER 1. GENERAL PROVISIONS

7:50-1.6 Fees

(a) Except as provided in (a)1 and 2 below, all applications required or permitted by any provision of this Plan shall be accompanied by a nonrefundable, **nontransferable** application fee of \$250.00 or a fee calculated according to the fee schedule set forth in (b) through (l) below, whichever is greater. No application filed pursuant to this Plan shall be reviewed or considered complete unless all fees required by this Part have been paid and any escrow required pursuant to N.J.A.C. 7:50-1.7 has been submitted.

1.-2. (No change.)

(b) (No change.)

(c) The application fee for a commercial, institutional, industrial, or other non-residential development application submitted pursuant to N.J.A.C. 7:50-4.14, 4.33, 4.52, or 4.66 shall be calculated in accordance with the following, based on typical construction costs, except as provided in (c)1 through **10** [9] below: [Typical construction costs shall include all costs associated with the development for which the application is being submitted, including, but not limited to, site improvement and building improvement costs, but shall not include interior furnishings, atypical features, decorative materials or other similar features.]

Construction Cost	Required Application Fee
\$0 - \$500,000	1.25 percent of construction costs
\$500,001 - \$1,000,000	\$6,250 + 1 percent of construction costs above \$500,000
Greater than \$1,000,000	\$11,250 + 0.75 percent of construction costs above \$1,000,000

Typical construction costs shall include all costs associated with the development for which the application is being submitted, including, but not limited to, site improvement and building improvement costs, but shall not include interior furnishings, atypical features, decorative materials or other similar features.

Supporting documentation of the expected construction costs shall be submitted as part of the application for development, unless the maximum fee pursuant to (e)3 [(e)4] below is required, in which case no such documentation shall be necessary.

1.-7. (No change.)

8. For the demolition of a structure 50 years or older, the fee shall be \$250.00; [and]

9. For the development of a solar energy facility, the fee shall be \$1,500 plus \$500.00 per acre of land to be developed, or portion thereof, including any off-site development; **and**[.]

10. For a well, the application fee shall be:

i. \$6,000 for any well in the Kirkwood-Cohansey aquifer that is required to meet the criteria and standards at N.J.A.C. 7:50-6.86(d); or

ii. Calculated based on construction costs as set forth at N.J.A.C. 7:50-1.6(c) for wells that are not subject to the criteria and standards at N.J.A.C. 7:50-6.86(d).

(d)-(l) (No change.)

SUBCHAPTER 2. INTERPRETATIONS AND DEFINITIONS

7:50-2.11 Definitions

When used in this Plan, the following terms shall have the meanings ascribed to them.

...

"Divert" or "Diversion" means the taking of water from a river, stream, lake, pond, aquifer, well, other underground source, or other waterbody, whether or not the water is returned thereto, consumed, made to flow into another stream or basin, or discharged elsewhere.

...

"Stream low flow margin" means the difference between a stream's September median flow and its statistical flow, which is the seven-day flow average in the 10-year period for the stream (7Q10) as reported in the New Jersey Statewide Water Supply Plan, New Jersey Department of Environmental Protection, 2017, New Jersey Water Supply Plan 2017-2022: 484p, <http://www.nj.gov/dep/watersupply/wsp.html> " as amended and supplemented.

...

"Well" means a hole or excavation deeper than it is wide, that is drilled, bored, core driven, jetted, dug or otherwise constructed for the purpose of the removal of, investigation of, or exploration for water.

...

"Zone of influence" means the area of ground water that experiences an impact attributable to a pumping well.

...

SUBCHAPTER 6. MANAGEMENT PROGRAMS AND MINIMUM STANDARDS

7:50-6.86 Water Management

[(a) Interbasin transfer of water between watersheds in the Pinelands should be avoided to the maximum extent practical. In areas served by central sewers, water-saving devices such as watersaving toilets, showers and sink faucets shall be installed in all new development.]

[(b)](a) Water shall not be exported from the Pinelands except as otherwise provided in N.J.S.A.

58:1A-7.1.

(b) A diversion that involves the interbasin transfer of water in the Pinelands Area between the Atlantic Basin and the Delaware Basin, as defined in (1) and (2) below, or outside of either basin, shall be prohibited.

1. The Atlantic Basin is comprised of Watershed Management Areas 13, 14, 15, and 16, as identified by the New Jersey Department of Environmental Protection at <https://www.state.nj.us/dep/seeds/docs/watersheds.pdf>.

2. The Delaware Basin is comprised of Watershed Management Areas 17, 18, 19, and 20 as identified by the New Jersey Department of Environmental Protection at <https://www.state.nj.us/dep/seeds/docs/watersheds.pdf>.

(c) A diversion involving the intrabasin transfer of water between HUC-11 watersheds in the same basin, Atlantic or Delaware as defined in (b) above, shall be permitted.

If such an intrabasin transfer involves water sourced from the Kirkwood-Cohansey aquifer, the diversion shall meet the criteria and standards set forth at (d) below.

(d) A new diversion or an increase in allocation from either a single existing diversion source or from combined existing diversion sources in the same HUC-11 watershed and in the Kirkwood-Cohansey aquifer, that results in a total diversion of 50,000 gallons of water per day or more, (hereafter referred to as “proposed diversion”) shall meet the criteria and standards set forth at (3) through (9) below. “Allocation” shall mean a diversion permitted under a Water Allocation Permit or Water Use Registration Number issued by the New Jersey Department of Environmental Protection pursuant to N.J.A.C. 7:19.

1. When evaluating whether the proposed diversion meets the criteria set forth in (3) through (9) below, all of the applicant’s allocations in a HUC-11 watershed, in addition to the proposed diversion, shall be included in the evaluation.

2. The standards set forth at (3) through (9) below shall not apply to:

i. A new well that is to replace an existing well, provided the existing well is sealed in accordance with N.J.A.C. 7:9-9 and the new replacement well will:

(1) Be approximately the same depth as the existing well;

(2) Divert from the same aquifer as the existing well;

water supply sources include, but are not limited to, groundwater and surface water sources that are not part of the Kirkwood-Cohansey aquifer, and public water purveyors and suppliers, as defined at N.J.A.C. 7:19-1.3. A list of alternative water supply sources is available at the offices of the Pinelands Commission and at <https://www.nj.gov/pinelands/> .

- 5. A proposed diversion shall not have an adverse ecological impact on the Kirkwood-Cohansey aquifer. Adverse ecological impact means an adverse regional impact and/or an adverse local impact, as described at (6) and (7) below.**

- 6. A proposed diversion shall be deemed to have an adverse regional impact if it, combined with all existing permitted allocations in the same HUC-11 watershed, exceeds 20 percent of the stream low flow margin for the year of peak use established in the New Jersey Statewide Water Supply Plan at <https://www.nj.gov/dep/watersupply/pdf/wsp.pdf> for the HUC-11 watershed where the proposed diversion will be located (hereafter referred to as “the affected HUC-11 watershed”).**
 - i. If a proposed diversion is deemed to have an adverse regional impact, it shall be permitted only if an applicant permanently offsets the diversion on a gallon-for-gallon basis in accordance with the following:**

- (1) Offsets shall be implemented in the affected HUC-11 watershed and include, but are not limited to:**

 - (A) The recharge of previously non-infiltrated stormwater runoff in the Pinelands Area;**
 - (B) The recharge of treated wastewater that is currently discharged via a regional sewage treatment plant that discharges treated wastewater into the Delaware River or Atlantic Ocean;**
 - (C) Development of a desalinization facility; and**
 - (D) Sewerage system inflow and infiltration abatement and/or water distribution infrastructure leak auditing and correction.**
- ii. A proposed diversion in a HUC-11 watershed where water withdrawals already exceed 20 percent of the stream low flow margin established in the New Jersey Statewide Water Supply Plan shall be deemed to have an adverse regional impact unless an applicant can permanently offset the entire diversion in accordance with (i)1 above.**
- iii. Unless the submission requirements are modified or waived pursuant to N.J.A.C. 7:50-4.2(b)3, all applications shall include the information required at N.J.A.C. 7:50-4.2(b)4 or (5) as well as the following:**

 - (1) Using data on low flow margin in the New Jersey Statewide Water Supply Plan in effect at the time of application, the applicant shall calculate the sum of the proposed diversion and**

all existing permitted allocations in the affected HUC-11 watershed, and show whether that sum exceeds 20 percent of the stream low flow margin for the year of peak use established in the New Jersey Statewide Water Supply Plan. The applicant shall submit a report that includes all required calculations and a summary of the impact of the proposed diversion on the available portion of the 20 percent stream low flow margin in the affected HUC-11.

- (2) The applicant shall identify all offset measures and provide to the Commission a detailed description of the measures, including the volume of water that will be offset, timeframes for implementing the offsets, a description of the entity that will be implementing the offset measures and an explanation of the entity's authority to implement the measures.**

- 7. A proposed diversion shall be deemed to have an adverse local impact in the Pinelands Area if it results in the drawdown of the water table as defined at N.J.A.C. 7:19-6.2 of any portion of the Preservation Area District, Forest Area, or Special Agricultural Production Area in the affected HUC-11 watershed, or of more than four inches of the wetland nearest to the estimated zone of influence in the affected HUC-11 watershed.**

- i. Application requirements**

- (1) The applicant shall submit an analysis of potential drawdown impacts using the Thiem method in accordance with the New Jersey Geological & Water Survey Technical Memorandum 12-2, Hydrogeologic Testing and Reporting Procedures in Support of New Jersey Water Allocation Permit in effect at the time of application (hereafter referred to as “TM 12-2”).**
- (2) Upon completion of the Thiem analysis, the applicant shall submit a proposed hydrogeologic test procedure, developed in accordance with TM12-2, which shall include, at a minimum, the installation of:**

 - (A) A single pumping well;**
 - (B) Observation wells to sufficiently monitor water levels while the test well is pumped at a constant rate;**
 - (C) Observation wells to collect time-drawdown data for aquifer characterization; and**
 - (D) At least one piezometer to measure surface water and water table decline at: the nearest boundaries of the Preservation Area District, Forest Area or Special Agricultural Production Area in the affected HUC-11 watershed found in any direction from the proposed well location; and the wetlands nearest to the estimated zone of influence in the affected HUC-11 watershed.**

- (I) If the applicant cannot gain access to the parcels at the locations listed in ii(4) above for placement of piezometer(s), the applicant may propose to install piezometers at comparable locations if the alternate placement will adequately measure surface water and water table decline at the locations listed in 2(D) above.**
 - (II) Piezometers shall be tested to ensure hydraulic responsiveness and the results of such testing shall be included in the report submitted pursuant to N.J.A.C. 7:50-6.86(d)7i(3);**
- (3) Following the Commission’s review of the hydrogeologic test procedure, the applicant shall complete the test and submit a final hydrogeologic report prepared in accordance with the “Hydrogeological Report” section of TM 12-2, which shall describe the field procedures used, all data gathered, analysis of the data, and evaluation of the effect of the proposed diversion on the Kirkwood-Cohansey aquifer.**
- (4) Using the results of the hydrogeologic testing performed in accordance with N.J.A.C. 7:50-6.86(d)7i(3), the applicant shall calculate an estimated zone of influence created by the proposed diversion and submit a groundwater flow model using the modular hydrologic model of the United States**

Geological Survey, (MODFLOW) in use at the time of the application. The MODFLOW model shall calculate the zone of influence of the water table at: (1) the nearest boundaries of the Preservation Area District, Forest Area, or Special Agricultural Production Area in the affected HUC-11 watershed and (2) the boundary of the wetland nearest to the proposed diversion in the same HUC-11 watershed.

- 8. An applicant for a proposed diversion shall provide written documentation of water conservation measures that have been implemented, or that are planned for implementation, for all areas to be served by the proposed diversion. Water conservation measures are measurable efforts by public and private water system operators and local agencies to reduce water demand by users and reduce losses in the water distribution system.**

- 9. The following notice requirements shall apply to proposed diversions:**
 - i. For applications submitted pursuant to N.J.A.C. 7:50-4.31 through 4.50, the applicant shall provide notice of the application to the municipality and county in which the proposed diversion will be located, as well as all other municipalities and counties in the affected HUC-11 watershed. The notice shall state:**
 - (1) The nature of the application submitted to the Pinelands Commission and a detailed description of the proposed**

diversion, including the source, location, quantity and/or allocation of water to be diverted;

- (2) The potential impact of the proposed diversion on the volume of water in the affected HUC-11 watershed that will be available for future diversions;**
- (3) That written comments on the application may be submitted to the Pinelands Commission;**
- (4) That the application is available for inspection at the office of the Pinelands Commission; and**
- (5) The address and phone number of the Pinelands Commission.**

ii. For applications submitted pursuant to N.J.A.C. 7:50-4.51 through 4.60, the applicant shall provide notice of the application for public development pursuant to N.J.A.C. 7:50-4.53. In addition, the applicant shall provide notice of the application to all municipalities and counties in the affected HUC-11 watershed. The notice shall include the information required at N.J.A.C. 7:50-4.53(e) as well as the following:

- (1) A detailed description of the proposed diversion, including the source, location, quantity and/or allocation of water to be diverted; and**
- (2) A statement of the potential impact of the proposed diversion on the volume of water in the affected HUC-11 watershed that will be available for future diversions.**

- iii. No application for which notice pursuant to i. or ii. above is required shall be deemed complete until proof that the requisite notice has been given is received.**



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-22- 26

TITLE: To Authorize the Acting Executive Director to Continue to Expend Funds for Fiscal Year 2023 at the Same Level of Expenditures as Fiscal Year 2022 until the Adoption of the Fiscal Year 2023 Budgets

Commissioner Pikolycky moves and Commissioner Jannarone seconds the motion that:

WHEREAS, pursuant to the Pinelands Protection Act, the Pinelands Commission is charged with continuing implementation and monitoring of the Pinelands Comprehensive Management Plan; and

WHEREAS, it is anticipated that the New Jersey Legislature will appropriate \$3,399,000 to support the Commission’s operations during Fiscal Year 2023; and

WHEREAS, the Commission’s Personnel & Budget Committee has reviewed this resolution and recommended its adoption by the Commission; 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 actions shall become effective upon such approval.

NOW, THEREFORE, BE IT RESOLVED that the Acting Executive Director is authorized to continue to expend funds during Fiscal Year 2023 at the same level of expenditures as Fiscal Year 2022 until the Commission’s adoption of the Fiscal Year 2023 Budgets.

Record of Commission Votes

	AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*
Avery	X				Lettman	X				Pikolycky	X			
Christy	X				Lloyd	X				Quinn	X			
Holroyd	X				Lohbauer	X				Matos			X	
Irick	X				McCurry	X								
Jannarone	X				Meade			X						

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: July 8, 2022

Susan R. Grogan
Acting Executive Director

Alan W. Avery, Jr.
Vice Chair