



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-23-11

TITLE: **Approving** With Conditions an Application for **Public Development** (Application Number 1981-0809.010)

Commissioner Avery moves and Commissioner Lohbauer seconds the motion that:

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

1981-0809.010

Applicant:	New Jersey Department of Transportation
Municipality:	Jackson Township
Management Area:	Pinelands Forest Area
Date of Report:	March 24, 2023
Proposed Development:	Replacement of an existing access road bridge at the NJDEP Forest Resource Education Center.

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

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

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

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

NOW, THEREFORE BE IT RESOLVED that Application Number 1981-0809.010 for public development is hereby **approved** subject to the conditions recommended by the Executive Director.

Record of Commission Votes

	AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*
Asselta	X				Lettman	X				Pikolycky			X	
Avery	X				Lloyd	X				Wallner	X			
Christy			X		Lohbauer	X				Matos	X			
Holroyd	X				Mauriello	X								
Irick			X		Meade			X						

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: April 14, 2023

Susan R. Grogan
Executive Director

Laura E. Matos
Chair



State of New Jersey

THE PINELANDS COMMISSION

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PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

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

LAURA E. MATOS
Chair

SUSAN R. GROGAN
Executive Director

March 24, 2023

John Mikusa (via email)
New Jersey Department of Transportation
1035 Parkway Avenue
P.O. Box 600
Trenton, NJ 08625-0600

Re: Application # 1981-0809.010
Block 16001, Lot 1
Jackson Township

Dear Mr. Mikusa:

The Commission staff has completed its review of this application for the proposed replacement of an existing bridge at the New Jersey Department of Environmental Protection Forest Resource Education Center located on the above referenced 124 acre parcel. Enclosed is a copy of a Public Development Application Report. On behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its April 14, 2023 meeting.

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

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

Sincerely,

for Charles M. Horner, P.P.

Director of Regulatory Programs

Enc: Appeal Procedure

c: Secretary, Jackson Township Planning Board (via email)
Jackson Township Construction Code Official (via email)
Jackson Township Environmental Commission (via email)
Secretary, Ocean County Planning Board (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
Executive Director

PUBLIC DEVELOPMENT APPLICATION REPORT

March 24, 2023

John Mikusa (via email)
New Jersey Department of Transportation
1035 Parkway Avenue
P.O. Box 600
Trenton, NJ 08625-0600

Application No.: 1981-0809.010
Block 16001, Lot 1
Jackson Township

This application proposes the replacement of an existing bridge at the New Jersey Department of Environmental Protection (NJDEP) Forest Resource Education Center located on the above referenced 124 acre parcel in Jackson Township.

The NJDEP Forest Resource Education Center includes a state nursery and an interpretive center building which provides educational information on forest succession, forestry, forest fires and native wildlife. The bridge provides road access to the interpretive center building. The existing timber bridge is 27 feet in length and 12 feet wide. The applicant has indicated that the existing bridge is deteriorating and that the bridge replacement is necessary to provide for safe travel conditions. This application proposes to remove and replace the existing bridge with a concrete bridge. The concrete bridge will be 26 feet in length and 21 feet wide. The additional width will provide for a 12 foot single lane road and a five foot wide pedestrian walkway along the eastern side of the bridge. The proposed pedestrian walkway will tie into an existing path located on each side of the bridge.

There is an existing overhead electric utility line located on the west side of the bridge. This application proposes the re-routing of the existing electrical utility line (including four new utility poles) to the east side of the bridge.

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

Land Use (N.J.A.C. 7:50-5.23)

The proposed development is located within a Pinelands Forest Area. The replacement of a bridge is permitted in a Pinelands Forest Area.

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

The proposed bridge replacement and electric utility line relocation will be located entirely in wetlands and the required buffer to wetlands. The CMP permits bridges and utility lines (linear improvements) in wetlands and the required buffer to wetlands provided the applicant demonstrates that certain CMP specified conditions are met.

The proposed bridge replacement will disturb approximately 1,830 square feet of wetlands and the proposed electric utility line relocation, including the four proposed utility poles, will disturb approximately 1,480 square feet of wetlands. In total, the proposed bridge replacement and electric utility line relocation will disturb approximately 3,310 square feet of wetlands.

The applicant has demonstrated that there is no feasible alternative to the proposed development that does not involve development in wetlands and the required buffer to wetlands or that will result in a less significant adverse impact to the wetlands and 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 wetlands and the required buffer to wetlands. The applicant has represented that the proposed development is necessary to improve traffic and pedestrian safety. The applicant has demonstrated that the need for the proposed development overrides the importance of protecting the wetlands.

The proposed stormwater management infiltration facility will maintain a 220 foot buffer to wetlands. The stormwater management infiltration facility is proposed to be located in an area currently operating as a NJDEP tree nursery. The applicant has demonstrated that the proposed stormwater facility will not result in a significant adverse impact to wetlands (N.J.A.C. 7:50-6.7).

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

The proposed bridge replacement and electric utility line relocation will be located over existing gravel and grassed areas and within existing forested land. The proposed bridge replacement and electric utility line relocation will disturb approximately 14,810 square feet of forested land. All soil disturbance and clearing is limited to that which is necessary to accommodate the proposed development.

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

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

The applicant has demonstrated that the proposed development is consistent with the CMP stormwater management standards. To meet these standards, the application proposes to construct a stormwater infiltration facility.

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

A cultural resource survey was completed for the proposed development. The survey determined that no significant cultural resources exist within the project area.

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 March 15, 2022. Newspaper public notice was completed on November 8, 2022. The application was designated as complete on the Commission's website on February 27, 2023. The Commission's public comment period closed on March 10, 2023. 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 68 sheets, prepared by Hardesty & Hanover, LLC and dated as follows:

Sheets 1-36 - November 3, 2022
Sheets 37-68 - undated
2. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.
3. Any proposed revegetation shall adhere to the "Vegetation" standards of the CMP. Where appropriate, the applicant is encouraged to utilize the following Pinelands native grasses for revegetation: Switch grass, Little bluestem and Broom-sedge.
4. Prior to any development, the applicant shall obtain any other necessary permits and approvals.
5. Appropriate measures shall be taken during construction to preclude sedimentation from entering wetlands and shall be maintained in place until all development has been completed and the area has been stabilized.
6. Prior to any wetland disturbance, the applicant shall obtain all necessary permits and approvals, including authorization pursuant to the New Jersey Freshwater Wetlands Protection Act.

CONCLUSION

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



State of New Jersey

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

LAURA E. MATOS
Chair

SUSAN R. GROGAN
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 April 11, 2023 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. PC4-23-12

TITLE: **Approving With Conditions Applications for Waivers of Strict Compliance** (Application Numbers 1988-1096.001 & 2000-0528.001)

Commissioner Asselta moves and Commissioner Avery seconds the motion that:

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

1988-1096.001

Applicant:	Ian Wildman
Municipality:	Pemberton Township
Management Area:	Pinelands Regional Growth Area
Date of Report:	March 16, 2023
Proposed Development:	Single family dwelling; and

2000-0528.001

Applicant:	Alex Berilla/ Golden Bison Investment
Municipality:	Pemberton Township
Management Area:	Pinelands Regional Growth Area
Date of Report:	March 16, 2023
Proposed Development:	Single family dwelling.

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

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

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

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

NOW, THEREFORE BE IT RESOLVED that Application Numbers 1988-1096.001 & 2000-0528.001 for Waivers of Strict Compliance are hereby **approved** subject to the conditions recommended by the Executive Director.

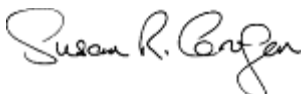
Record of Commission Votes

	AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*
Asselta	X				Lettman	X				Pikolycky			X	
Avery	X				Lloyd	X				Wallner	X			
Christy			X		Lohbauer	X				Matos	X			
Holroyd	X				Mauriello	X								
Irick			X		Meade			X						

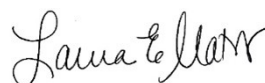
*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: April 14, 2023



Susan R. Grogan
Executive Director



Laura E. Matos
Chair



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

LAURA E. MATOS
Chair
SUSAN R. GROGAN
Executive Director

REPORT ON AN APPLICATION FOR A WAIVER OF STRICT COMPLIANCE

March 16, 2023

Ian Wildman (via email)
221 Dennis Avenue
Browns Mills NJ 08015

Re: Application # 1988-1096.001
Block 78, Lot 21 (formerly Lots 21-29)
Pemberton Township

Dear Mr. Wildman:

The Commission staff has completed its review of the above referenced application for a Waiver of Strict Compliance (“Waiver”) based upon an extraordinary hardship for the development of one single family dwelling on the above referenced 0.46 acre parcel. Based upon the facts and conclusions contained in this Report, on behalf of the Commission’s Executive Director, I am recommending that the Pinelands Commission approve this application for a Waiver with conditions at its April 14, 2023 meeting.

FINDINGS OF FACT

This application is for the development of one single family dwelling serviced by public sanitary sewer on the above referenced 0.46 acre parcel in Pemberton Township. The parcel is located in a Pinelands Regional Growth Area and in Pemberton Township’s R-80 zoning district. In this zoning district, Pemberton Township’s land use ordinance, certified by the Commission, establishes a minimum lot size of 8,000 square feet to develop a single family dwelling serviced by public sanitary sewer.

The Pemberton Township tax map indicates that original Block 78, Lots 21-29 have been consolidated into one parcel, now known as Block 78, Lot 21.

An application for a Waiver based upon extraordinary hardship (N.J.A.C. 7:50-4.63) for the development of one single family dwelling on original Block 78, Lots 21-29 was approved by the Pinelands Commission on March 10, 2000 (App. No. 1988-1096.001). A development application for the proposed dwelling was subsequently completed with the Commission and a Certificate of Filing, denoting completion of that development application, was issued on February 21, 2001.

The Pinelands Comprehensive Management Plan (CMP, N.J.A.C. 7:50-4.70(c)) provides that any Waiver based upon an extraordinary hardship (N.J.A.C. 7:50-4.63) shall expire five years after the

Waiver is approved by the Commission unless all necessary construction permits have been issued and other CMP specified requirements are met. Based on the submitted information, all necessary construction permits were not received for the proposed development and the Waiver approval expired on March 10, 2005, five years after Commission approval.

A second application for a Waiver based upon extraordinary hardship (N.J.A.C. 7:50-4.63) for the development of one single family dwelling on original Block 78, Lots 21-29 was approved by the Pinelands Commission on January 11, 2008. Based on the submitted information, all necessary construction permits were not received for the proposed development within five years of Commission approval of the Waiver and the second Waiver approval expired on January 11, 2013.

A third application for a Waiver based upon extraordinary hardship (N.J.A.C. 7:50-4.63) for the development of one single family dwelling on current Block 78, Lot 21 was approved by the Pinelands Commission on September 12, 2014. Based on the submitted information, all necessary construction permits were not received for the proposed development within five years of Commission approval of the Waiver and the third Waiver approval expired on September 12, 2019.

The appropriate resource capability maps and other information available to the Commission staff have been reviewed.

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

The CMP (N.J.A.C. 7:50-4.65(b)6) requires that for an applicant to qualify for a Waiver to develop a single family dwelling in a Pinelands Regional Growth Area, it must be demonstrated that no development, including clearing and land disturbance, will be located on wetlands. The application proposes a variable buffer to wetlands. The proposed buffer to wetlands ranges in width from 50 feet to approximately 115 feet. No development, including clearing and land disturbance, will be located on wetlands.

The parcel includes all contiguous land in common ownership on or after January 14, 1981. The proposed single family dwelling will be the sole principal use of the entire contiguous parcel. The development of a single family dwelling on the parcel will not require any lot area or residential density variances pursuant to Pemberton Township's certified land use ordinance. The development of a single family dwelling on the parcel will be consistent with the purposes and provisions of the Pinelands Protection Act, the Federal Act and the CMP. The proposed single family dwelling will not result in a substantial impairment of the resources of the Pinelands Area as required by the CMP (N.J.A.C. 7:50-4.65(b)).

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

PUBLIC COMMENT

The applicant has provided the requisite public notices. Newspaper public notice was completed on October 22, 2022. Public notice to all property owners within 200 feet of the parcel was completed on February 23, 2023. The application was designated as complete on the Commission's website on February 27, 2023. The Commission's public comment period closed on March 10, 2023. No public comment was received by the Commission for this application.

CONCLUSION

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

N.J.A.C. 7:50-4.63(a) sets forth five conditions which must be met to qualify for a Waiver based on an extraordinary hardship.

The first condition is that the only relief sought is from one or more of the standards contained in N.J.A.C. 7:50-6 for certain specified development. One of the specified types of development is a single family dwelling on a parcel within a Pinelands Regional Growth Area, Pinelands Town or Pinelands Village which will be serviced by a centralized wastewater treatment system (public sanitary sewer). This application is for a Waiver from the buffer to wetlands standard contained in N.J.A.C. 7:50-6. The applicant is proposing to develop a single family dwelling serviced by public sanitary sewer on a 0.46 acre parcel located in a Pinelands Regional Growth Area. As a result, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)iv.

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

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

The fourth condition is that all necessary municipal lot area and density variances have been obtained if the parcel is located in a municipality whose master plan and land use ordinance have been certified by the Pinelands Commission. Pemberton Township's master plan and land use ordinance have been certified by the Pinelands Commission. In the Township's R-80 zoning district, Pemberton Township's certified land use ordinance establishes a minimum lot size of 8,000 square feet to develop a single family dwelling serviced by public sanitary sewer. This application proposes to develop a single family dwelling serviced by public sanitary sewer on a 0.46 acre (20,177 square foot) parcel. No municipal lot area or density variance is required to develop the proposed single family dwelling. As a result, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)4.

The fifth condition is that the development of the parcel will not violate any of the criteria contained in N.J.A.C 7:50-4.65(b). N.J.A.C. 7:50-4.65(a) precludes the granting of a Waiver which permits a parcel

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

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

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

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

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

The CMP (N.J.A.C. 7:50-4.62(d)1iii) requires the acquisition and redemption of 0.25 Pinelands Development Credits (PDCs) whenever a Waiver provides relief from one or more of the standards of N.J.A.C. 7:50-6. This Waiver provides relief from the buffer to wetlands standard of N.J.A.C. 7:50-6. The Waiver requires the acquisition and redemption of 0.25 PDCs. As the application is obtaining a Waiver from the minimum buffer to wetlands standard (N.J.A.C. 7:50-6.14), a condition is included in this Report to require the applicant to acquire and redeem the requisite 0.25 PDCs.

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

1. Except as modified by the below conditions, the proposed development shall adhere to the plot plan prepared by Navier Engineering, LLC, undated and last revised on November 8, 2022.
2. The proposed dwelling shall be serviced by public sanitary sewer.
3. Except as provided in N.J.A.C. 7:50-5.1(c), the single family dwelling approved herein shall be the sole principal use of the parcel.
4. No development, including clearing and land disturbance, shall extend beyond the "proposed wetlands buffer" as depicted on the above referenced plan.
5. Prior to construction, silt fencing, hay bales or other appropriate measures shall be installed to preclude sedimentation from entering wetlands. The proposed sedimentation barrier shall be maintained in place until all development has been completed and the area has been stabilized.

6. Drywells, pervious pavement, small scale infiltration basin(s) or comparable alternative designed in accordance with the New Jersey Department of Environmental Protection, Best Management Practice shall be installed to retain and infiltrate stormwater runoff generated from the total roof area of the single family dwelling by a 10-year, 24-hour storm.
7. The driveway shall be constructed of crushed stone or other permeable material.
8. Access to the parcel shall be limited to Dogwood Street.
9. Prior to the Commission issuance of a letter advising that any municipal or county permit or approval may take effect, the Commission must receive a letter from the Pinelands Development Credit Bank indicating that the requisite 0.25 Pinelands Development Credits have been acquired and submitted to the Pinelands Development Credit Bank for redemption.
10. This Waiver shall expire April 14, 2028 unless all necessary construction permits have been issued by that date. The Waiver shall also expire if any construction permit is allowed to expire or lapse after April 14, 2028, or if any renewal or extension of any permit or approval or issuance of a new construction permit is necessary after that date.
11. A copy of a recorded deed containing all of the above conditions shall be submitted to the Pinelands Commission prior to Commission issuance of a letter advising that any submitted municipal or county permit or approval may take effect. The deed shall specify that the conditions are being imposed pursuant to a Waiver of Strict Compliance approved by the Pinelands Commission on April 14, 2023 for App. No. 1988-1096.001. The deed shall also indicate that the conditions previously required by Commission approval of a Waiver on March 10, 2000, a Waiver approval on January 11, 2008 and a Waiver approval on September 12, 2014, all three Waivers now expired, are superseded by the conditions required by the April 14, 2023 Waiver approval. The deed shall also indicate that the conditions are enforceable by the Pinelands Commission, Pemberton Township and any other party of interest.

With the above conditions, the applicant qualifies for a Waiver of Strict Compliance from the requirements of N.J.A.C. 7:50-6.14.

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

APPEAL

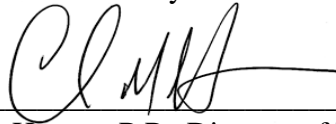
The CMP (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal this recommendation in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted by someone meeting the definition of an interested party will be transmitted to the New Jersey Office of Administrative Law for a hearing. Any such appeal must be made in writing to the Commission and received by the Commission's office no later than 5:00 PM on April 3, 2023 and include the following information:

1. the name and address of the person requesting the appeal;

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

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

Recommended for Approval by: _____



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

- c: Secretary, 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)
Josef Argenio (via email)



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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
 Executive Director

REPORT ON AN APPLICATION FOR A WAIVER OF STRICT COMPLIANCE

March 16, 2023

Alex Berilla (via email)
 Golden Bison Investment
 36 Mega Way
 Furlong PA 18925

Re: Application # 2000-0528.001
 Block 517, Lot 5
 Pemberton Township

Dear Mr. Berilla:

The Commission staff has completed its review of the above referenced application for a Waiver of Strict Compliance (“Waiver”) based upon an extraordinary hardship proposing the development of one single family dwelling on the above referenced 1.0 acre parcel. Based upon the facts and conclusions contained in this Report, on behalf of the Commission’s Executive Director, I am recommending that the Pinelands Commission approve this application with conditions at its April 14, 2023 meeting.

FINDINGS OF FACT

This application is for the development of one single family dwelling, serviced by an on-site septic wastewater treatment system (“alternate design septic system”) intended to reduce the level of nitrate/nitrogen in the wastewater on the above referenced 1.0 acre parcel. The parcel is located in a Pinelands Regional Growth Area and in Pemberton Township’s R-1 zoning district. In this zoning district, Pemberton Township’s land use ordinance, certified by the Commission, establishes a minimum lot size of one acre to develop a single family dwelling serviced by an alternate design septic system.

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

The CMP (N.J.A.C. 7:50-6.84(a)5vi) requires that a septic system be located in an area where the depth to the seasonal high water table is at least five feet below the natural ground surface. The Burlington County Soils Survey indicates that there are Lakehurst soils on this parcel. These soils may have a seasonal high water table of less than five feet below the natural ground surface. Three soil borings were performed by the applicant’s consultant for the Waiver application. The soil borings confirmed a seasonal high water table of less than five feet below the natural ground surface at the location of the borings. The applicant has submitted no information to demonstrate that the septic system could be located in an area on the parcel where the seasonal high water table is at least five feet below the natural

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

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

The CMP (N.J.A.C. 7:50-4.65(b)6) requires that to qualify for a Waiver to develop a single family dwelling in a Pinelands Regional Growth Area, it must be demonstrated that any required wastewater disposal field will be located in an area where the seasonal high water table is at least two feet (24 inches) below the natural ground surface. The wastewater disposal field proposed to service the single family dwelling subject of this application will be located in an area where the seasonal high water table is between 25 and 27 inches below the natural ground surface.

The CMP (N.J.A.C. 7:50-4.65(b)6) also requires that to qualify for a Waiver to develop a single family dwelling in a Pinelands Regional Growth Area, it must be demonstrated that no development, including clearing and land disturbance, will be located on wetlands. The application proposes a 30 foot buffer to wetlands. No development, including clearing and land disturbance, will be located on wetlands.

The parcel includes all contiguous land in common ownership on or after January 14, 1981. The proposed single family dwelling will be the sole principal use of the entire contiguous parcel. The development of a single family dwelling on the parcel will not require any lot area or residential density variances pursuant to Pemberton Township's certified land use ordinance. The development of a single family dwelling on the parcel will be consistent with the purposes and provisions of the Pinelands Protection Act, the Federal Act and the CMP. The proposed single family dwelling will not result in a substantial impairment of the resources of the Pinelands Area as required by the CMP (N.J.A.C. 7:50-4.65(b)).

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

PUBLIC COMMENT

The applicant has provided the requisite public notices. Public notice to all property owners within 200 feet of the parcel was completed on February 1, 2023. Newspaper public notice was completed on February 3, 2023. The application was designated as complete on the Commission's website on February 15, 2023. The Commission's public comment period closed on March 10, 2023. One written public comment (attached) was received by the Pinelands Commission on February 15, 2023 regarding this application.

Written Public Comment: The commenter expressed concern that they did not receive public notice of the Waiver application. The commenter also indicated that the applicant should abide by Pinelands and wetlands restrictions.

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

The applicant provided the requisite public notice to all property owners within 200 feet of the parcel. Public notice was also published in the Burlington County Times newspaper on February 3, 2023. As part of the Waiver application process, the applicant is required to submit a copy of a certified list of property owners within 200 feet of the parcel prepared by the municipality. The certified list of property owners prepared by the municipality indicates that the commenter does not own property within 200 feet of the parcel.

The applicant has demonstrated that the proposed dwelling meets the minimum standards of the CMP to qualify for a Waiver. The Commission's Waiver regulations are designed to provide all property owners in the Pinelands Area with at least a minimum beneficial use of a parcel consistent with constitutional requirements. The proposed development will maintain a 30 foot buffer to wetlands.

CONCLUSION

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

N.J.A.C. 7:50-4.63(a) sets forth five conditions which must be met to qualify for a Waiver based on an extraordinary hardship.

The first condition is that the only relief sought is from one or more of the standards contained in N.J.A.C. 7:50-6 for certain specified development. One of the specified types of development is a single family dwelling on a parcel within a Pinelands Regional Growth Area, Pinelands Town or Pinelands Village which is at least 20,000 square feet, excluding road rights of way, in size and not serviced by public sanitary sewer. This application is for a Waiver from the minimum depth to seasonal high water table standard when utilizing an onsite septic system and the required buffer to wetlands standard contained in N.J.A.C. 7:50-6. The applicant is proposing to develop a single family dwelling serviced by an alternate design septic system on a 1.0 acre parcel. The parcel contains more than 20,000 square feet, excluding road rights of way, and is located in a Pinelands Regional Growth Area. As a result, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)1v.

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

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

The fourth condition is that all necessary municipal lot area and density variances have been obtained if the parcel is located in a municipality whose master plan and land use ordinances have been certified by the Pinelands Commission. The Pemberton Township land use ordinances have been certified by the Pinelands Commission. In the R-1 zoning district, Pemberton Township's certified land use ordinance establishes a minimum lot size of 1.0 acre to develop a single family dwelling serviced by an alternate design septic system. This application proposes to develop a single family dwelling serviced by an alternate design septic system on a 1.0 acre lot. No municipal lot area or density variance is required to develop the proposed single family dwelling. As a result, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)4.

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

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

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

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

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

The CMP (N.J.A.C. 7:50-4.62(d)1iii) requires the acquisition and redemption of 0.25 Pinelands Development Credits (PDCs) whenever a Waiver provides relief from one or more of the standards of N.J.A.C. 7:50-6. As the applicant is obtaining a Waiver from the minimum depth to seasonal high water table standard (N.J.A.C. 7:50-6.84(a)5vi) and the required buffer to wetlands standard (N.J.A.C. 7:50-6.14), a condition is included to require the applicant to acquire and redeem the requisite 0.25 PDCs.

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

1. Except as modified by the below conditions, the proposed development shall adhere to the plot plan prepared by Avila Engineering dated September 10, 2021 and last revised July 1, 2022.

2. No development, including clearing and land disturbance, shall be located outside of the 0.45 acre development envelope depicted on the above referenced plan.
3. Drywells, pervious pavement, small scale infiltration basin(s) or comparable alternative measures designed in accordance with the New Jersey Department of Environmental Protection, Best Management Practice shall be installed to retain and infiltrate stormwater runoff generated from the total roof area of the single family dwelling by a 10-year, 24-hour storm.
4. 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.
5. The driveway shall be constructed of crushed stone or other permeable material.
6. Prior to Commission issuance of a letter advising that any municipal or county permit or approval may take effect, the Commission must receive a letter from the Pinelands Development Credit Bank indicating that the requisite 0.25 PDCs have been acquired and submitted to the PDC Bank for redemption.
7. The proposed dwelling must utilize an alternate design onsite septic system authorized by the CMP for use on 1.0 acre parcels and approved for use by the Pinelands Commission and the New Jersey Department of Environmental Protection.
8. The septic system shall be located in an area where the seasonal high water table is at least two feet below the natural ground surface. Sufficient fill shall be placed in the area of the septic system to meet the requirements of Chapter 9A.
9. Except as provided in N.J.A.C. 7:50-5.1(c), the single family dwelling approved herein shall be the sole principal use of the parcel.
10. This Waiver shall expire April 14, 2028 unless all necessary construction permits have been issued by that date. The Waiver shall also expire if any construction permit is allowed to expire or lapse after April 14, 2028 or if any renewal or extension of any permit or approval or issuance of a new construction permit is necessary after that date.
11. A copy of a recorded deed containing all of the above conditions shall be submitted to the Pinelands Commission prior to completion of a development application with the Commission for the proposed dwelling. The deed shall specify that the conditions are being imposed pursuant to a March 16, 2023 Pinelands Commission Report on an Application for a Waiver of Strict Compliance for Application # 2000-0528.001. The deed shall also indicate that the conditions are enforceable by the Pinelands Commission, the Burlington County Health Department, Pemberton Township and any other party of interest.

With the above conditions, the applicant qualifies for a Waiver from the requirements of N.J.A.C. 7:50-6.84(a)5vi and N.J.A.C. 7:50-6.14.

Since the applicant meets the provisions of N.J.A.C. 7:50-4.62, N.J.A.C. 7:50-4.63(a) and N.J.A.C. 7:50-4.65 for the development of a single family dwelling on the parcel, it is recommended that the

Pinelands Commission **APPROVE** the requested Waiver of Strict Compliance subject to the above conditions.

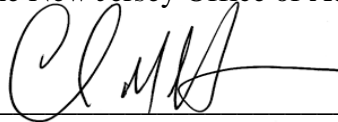
APPEAL

The CMP (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal this recommendation in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted by someone meeting the definition of an interested party will be transmitted to the New Jersey Office of Administrative Law for a hearing. Any such appeal must be made in writing to the Commission and received by the Commission's office no later than 5:00 PM on April 3, 2023 and include the following information:

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

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

Recommended for Approval by: _____



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

- c: Secretary, 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)
 Burlington County Health Department (via email)
 Mike Avila (via email)
 Piero Benites (via email)
 Jonas Singer (via email)
 Madeline Ebet (via email)



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-23- 13

TITLE: Issuing an Order to Certify Waterford Township Ordinance 2023-1, Amending Chapter 176 (Land Use, Development and Zoning) of the Code of Waterford Township, and Ordinance 2023-2, Adopting the Second Amendment to the Haines Boulevard Redevelopment Plan

Commissioner Lohbauer moves and Commissioner Asselta seconds the motion that:

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

WHEREAS, Resolution #PC4-83-56 of the Pinelands Commission specified that any amendment to Waterford 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 #PC4-83-56 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 January 25, 2023, Waterford Township adopted Ordinance 2023-1, amending Chapter 176 (Land Use, Development and Zoning) of the Code of Waterford Township by repealing Section 176-14D, which provided development application submission requirements applicable to the Haines Boulevard Redevelopment Area; and

WHEREAS, on January 25, 2023, Waterford Township also adopted Ordinance 2023-2, adopting the Second Amendment to the Haines Boulevard Redevelopment Plan; and

WHEREAS, the Pinelands Commission received certified copies of Ordinances 2023-1 and 2023-2 on January 26, 2023; and

WHEREAS, by letter dated February 10, 2023, the Executive Director notified Waterford Township that Ordinances 2023-1 and 2023-2 would require formal review and approval by the Pinelands Commission; and

WHEREAS, a public hearing to receive testimony on Ordinances 2023-1 and 2023-2 was duly advertised, noticed and remotely held on March 8, 2023 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 Executive Director has found that Ordinances 2023-1 and 2023-2 are consistent with the standards and provisions of the Pinelands Comprehensive Management Plan; and

WHEREAS, the Executive Director has submitted a report to the Commission recommending issuance of an order to certify that Ordinances 2023-1 and 2023-2 are in conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, the Commission's CMP Policy and Implementation Committee has reviewed the Executive Director's report and has recommended that Ordinances 2023-1 and 2023-2 be certified; and

WHEREAS, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning Ordinances 2023-1 and 2023-2 and has reviewed the Executive Director's report; and

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

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

NOW, THEREFORE BE IT RESOLVED that

1. An Order is hereby issued to certify that Waterford Township Ordinance 2023-1, amending Chapter 176 (Land Use, Development and Zoning) of the Code of Waterford Township, and Ordinance 2023-2, adopting the Second Amendment to the Haines Boulevard Redevelopment Plan, are in conformance with the Pinelands Comprehensive Management Plan.
2. Any additional amendments to Waterford 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.

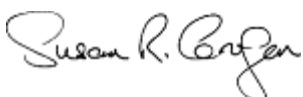
Record of Commission Votes

	AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*
Asselta	X				Lettman	X				Pikolycky			X	
Avery	X				Lloyd	X				Wallner	X			
Christy			X		Lohbauer	X				Matos	X			
Holroyd				A	Mauriello	X								
Irick			X		Meade			X						

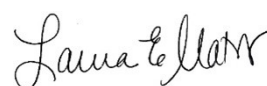
*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: April 14, 2023



Susan R. Grogan
Executive Director



Laura E. Matos
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
 Executive Director

Report on Waterford Township Ordinance 2023-1, Amending Chapter 176 (Land Use, Development and Zoning) of the Code of Waterford Township, and Ordinance 2023-2, Adopting the Second Amendment to the Haines Boulevard Redevelopment Plan

March 31, 2023

Waterford Township
 2131 Auburn Avenue
 Atco, NJ 08004

Findings of Fact

I. Background

The Township of Waterford is located in the western portion of the Pinelands Area, in eastern Camden County. Pinelands municipalities that abut Waterford Township include the Boroughs of Berlin and Chesilhurst and the Townships of Berlin and Winslow in Camden County, the Townships of Evesham, Medford and Shamong in Burlington County and the Town of Hammonton in Atlantic County.

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

On January 25, 2023, Waterford Township adopted Ordinance 2023-1, amending Chapter 176 (Land Use, Development and Zoning) of the Code of Waterford Township, and Ordinance 2023-2, adopting the Second Amendment to the Haines Boulevard Redevelopment Plan. The Pinelands Commission received certified, adopted copies of Ordinances 2023-1 and 2023-2 on January 26, 2023.

By letter dated February 10, 2023, the Executive Director notified Waterford Township that Ordinances 2023-1 and 2023-2 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:

- * Ordinance 2023-1, amending Chapter 176 (Land Use, Development and Zoning) of the Code of Waterford Township, introduced on January 1, 2023, and adopted on January 25, 2023; and
- * Ordinance 2023-2, adopting the Second Amendment to the Haines Boulevard Redevelopment Plan, introduced on January 1, 2023, and adopted on January 25, 2023.

These ordinances 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 Land Use Ordinance Relating to Development Standards

Previously Certified Haines Boulevard Redevelopment Plan

In 2001, Waterford Township adopted a Redevelopment Plan for the Haines Boulevard Redevelopment Area, an area encompassing approximately 142 acres of land at the intersection of State Highway 73 and U.S. Highway 30 in the Regional Growth Area (see Exhibit #1). At that time, the Redevelopment Area was already substantially developed with a mixture of residential and commercial uses. The original Haines Boulevard Redevelopment Plan, adopted by Ordinance 2001-30, permitted a variety of nonresidential uses including commercial retail centers, conference centers, hotels, theaters, warehousing, research and design laboratories and light manufacturing facilities. Ordinance 2001-30 was reviewed by the Commission and found to raise no substantial issues with respect to conformance with the CMP.

In 2016, after many years with no redevelopment activity, the Township adopted the first amendment to the Haines Boulevard Redevelopment Plan via Ordinance 2016-25. The Commission certified the amendment in 2017. The amendment added residential and mixed-use development within the Redevelopment Area and included provisions to promote the development of affordable housing. The amendment established six zoning districts within the existing Redevelopment Area (see Exhibit #1). The RD-1 District permits single family dwelling units at five units per acre. The RD-2 District permits single-family dwelling units, duplexes, and townhouses at six units per acre. The TOD/Mixed-Use District permits a variety of commercial retail and services along with mixed-use buildings with apartments over retail, duplexes, townhouses, and apartment buildings at 12 units per acre. The Community Commercial District permits a variety of commercial retail and services as well as mixed-use buildings with apartments over retail at a density of five units per acre. The Institutional Use District permits all

uses within the Community Commercial District in addition to various educational, healthcare, and civic uses as well as assisted living facilities, duplexes and townhomes at a density of 6 units per acre. Lastly, the Utilities District permits public service infrastructure such as the existing water tower, electric transmission lines and electric substation. To promote the development of affordable housing, the amended Redevelopment Plan requires a 20 percent affordable housing set aside for projects of five or more residential units. Additionally, projects composed entirely of affordable units are permitted to be developed at a density of eight units per acre in the RD-1, RD-2, CC, and ID districts.

The Second Amendment to the Haines Boulevard Redevelopment Plan

Ordinance 2023-2 adopts the second amendment to the Haines Boulevard Redevelopment Plan. The amendment establishes a Planned Industrial (PI) Overlay District within the existing Redevelopment Area. The PI Overlay District is approximately 63.5 acres and spans the entirety of three lots (Block 204, lots 1, 2, and 3) within the Redevelopment Area (see Exhibit #1). Portions of the overlay contain the site of a former drive-in movie theater and multi-plex movie theater, which ceased operation in 1991 and 2009, respectively. The district overlays the following Redevelopment Area zoning districts: Community Commercial, Institutional Use, RD-2 Residential and TOD/Mixed-Use. Within the PI Overlay District development is permissible under either the permitted uses and standards of the underlying zoning district or the permitted uses and standards of the overlay district.

The PI Overlay District permits a variety of non-residential uses including office buildings, research facilities, warehousing, light manufacturing, online commerce businesses, mini warehousing and self-storage, indoor commercial health/recreational facilities, and flex space uses. The overlay district provides area and bulk standards for large tract development (tracts 10 acres or greater) and small tract development (tracts less than 10 acres). Additional development standards are also provided for maximum building height, outdoor storage, parking and loading, and landscaped buffers. For large tract development, a 100-foot buffer is required when abutting an existing residential use or residential zone. The development standards also require that all buildings of 100,000 square feet or more must be designed and constructed to support rooftop solar installation in accordance with P.L. 2021, c.290. Lastly, any non-residential development permitted under the provisions of the PI Overlay District is required to redeem Pinelands Development Credits (PDCs) at a rate of one quarter (1/4) PDC for every 17,000 square feet of gross floor area within principal use buildings.

Ordinance 2023-2 also revises the development review process applicable to the entirety of the Redevelopment Area (see Section 3) and modifies provisions exempting affordable housing from PDC requirements (see Section 8).

Impacts to the Residential Zoning Capacity of the Redevelopment Area

Because the PI Overlay District provides an alternative set of permitted uses and standards to the existing underlying zoning, the residential zoning capacity of the Redevelopment Area theoretically remains unchanged. The previously certified Redevelopment Plan established a residential zoning capacity that allowed for a maximum of 792 new residential units, which equates to a gross density of 5.6 units per acre in the Redevelopment Area as a whole. Such a density is significantly higher than that prescribed by the CMP for Waterford Township's Regional Growth Area. The CMP requires the Township to zone for a density of only 3.375 units

per upland acre in its Regional Growth Area, which translates to 479 units in the redevelopment area (N.J.A.C. 7:50-5.28(a)1 and 3). In certifying the first amendment to the Haines Boulevard Redevelopment Plan, the Commission found that the Redevelopment Plan met the CMP criteria for increased residential densities in the Regional Growth Area (N.J.A.C. 7:50-5.28(a)7).

However, based on information provided by the Township and information submitted by a prospective redeveloper (see Exhibits # 2 and #3), there is a strong likelihood that the PI Overlay District will be developed exclusively for non-residential use if Ordinance 2023-2 is certified. Given these facts, Commission staff has evaluated whether the area included in the new overlay district is appropriate for non-residential development, whether the remainder of the redevelopment area outside the overlay district is meeting the CMP-prescribed residential density requirements, and whether the PDC program is negatively impacted by the expected loss in residential development potential within the PI Overlay District.

The surrounding highways, existing development patterns and prior zoning and uses support the appropriateness of this area for non-residential development. The PI Overlay District has access to State Highway 73 and U.S. Highway 30. Existing non-residential development is found along Highway 73 in nearby Berlin Borough and Berlin Township as well as north of the Redevelopment Area within Waterford Township. Furthermore, since the Township's original certification in 1983, these lots were previously included in the Township's Planned Industrial (PI) and Planned Highway Business (PHB) Districts, both non-residential zones. The PI Overlay District permits similar uses to the existing PHB Zone. Lastly, there are remaining impervious surfaces, underground utilities, and stormwater management facilities from the prior drive-in movie theater and multi-plex theater.

The remainder of the Redevelopment Area continues to not only meet but exceed the CMP's prescribed residential density for that area. If the PI Overlay District is developed exclusively for non-residential use, the residential zoning capacity of the Redevelopment Area would be reduced from 792 units to 349 units. This equates to a gross density of 3.99 units per acre for the remainder of the Redevelopment Area outside of the PI Overlay District, which is still exceeding the 3.375 units per upland acre minimum established by the CMP.

Importantly, the PI Overlay District includes a PDC requirement for permitted non-residential development in recognition of the potential elimination of up to 443 residential units and opportunities for the use of up to 133 PDC rights if the area is developed for nonresidential use. When a municipality has determined that an area is appropriate for residential development in its Regional Growth Area, zoned for residential uses and established a PDC obligation, the Commission must carefully evaluate proposals to rezone for strictly non-residential uses with a careful eye to the impacts to the Pinelands Development Credit Program. As discussed in Section 8 below, the PDC requirements for the PI Overlay District, in addition to the revised PDC exemption for affordable housing units, ensure that the PDC Program is not negatively impacted by these amendments.

Ordinances 2023-1 and 2023-2 are consistent with CMP goals and objectives for the Regional Growth Areas. Therefore, this standard for certification is met.

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

Ordinance 2023-1 amends Chapter 176 (Land Use, Development and Zoning) of the Code of Waterford Township by repealing the simplified permitting system for the Haines Boulevard Redevelopment Area. The simplified permitting system was adopted by Ordinance 2011-19 and amended by Ordinance 2017-6. Both ordinances were certified by the Commission in 2012 and 2017, respectively.

The simplified permitting system allowed applicants proposing development served by sewer and consistent with the approved Haines Boulevard Redevelopment Plan to forego submission of delineated wetlands mapping, threatened and endangered species surveys, cultural resource surveys (with the exception of Block 301, Lot 13), and a Certificate of Filing from the Pinelands Commission. Provided that the proposed development was found to be consistent with the Redevelopment Plan by the Township's Local Review Officer, the applicant could apply directly to the Township Joint Land Use Board without first receiving a Certificate of Filing from the Pinelands Commission. The Local Review Officer was required to transmit certain information about the proposed development, including anticipated water demand, to the Commission when the application was deemed complete. All subsequent local development approvals were required to be submitted to the Commission for review as required by the CMP.

The first local development approval to be granted under the simplified permitting system did not occur until November of 2021. To date, the Commission has received local development approvals related to three development applications. Given the increased complexity of the Haines Boulevard Redevelopment Plan and the challenges realized in the administration of the simplified permitting system, the Township has opted to repeal these provisions.

As noted above, Ordinance 2023-2 adopts the second amendment to the Haines Boulevard Redevelopment Plan. The amendment, among other things, establishes a revised development review process for the entirety of the Redevelopment Area. All development applications deemed complete or substantially modified after January 25, 2023 are required to adhere to the Township's standard development review process. This will include application to the Pinelands Commission and receipt of a Certificate of Filing prior to an application being deemed complete by the Township Land Use Board.

A few aspects of the prior simplified permitting system are maintained in this revised development review process for the Redevelopment Area. Applicants will not be required to submit mapping of delineated wetlands nor will they be required to submit any cultural resource surveys (with the exception of Block 203, Lot 1 where a cultural resource survey is required). They will also continue to be required to submit information describing anticipated water needs of the proposed development and the proposed source for necessary water supply. Notably, the development review process does not expressly waive the need for threatened and endangered species surveys when deemed necessary during the Commission's review of an application.

It is important to note that field work by Commission staff previously verified that there are no wetlands in the Redevelopment Area or within 300 feet of the Redevelopment Area. Therefore, it is unnecessary for development applications in the Redevelopment Area to include mapping of delineated wetlands. Likewise, through site visits and research, the Commission's archaeologist previously concluded that, with the exception of Block 203, Lot 1, cultural resource surveys are not necessary within the Redevelopment Area.

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 sufficiently 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.

The first amendment to the Haines Boulevard Redevelopment Plan required that PDCs be acquired and redeemed for 30 percent of all market-rate residential units in projects of five units or more in the Redevelopment Area. Affordable housing units were excluded from the PDC requirement until such time as the number of affordable units proposed in the Redevelopment Area exceeded 240, at which point PDCs would be required for all future units at the 30 percent rate, whether they are affordable or market-rate. This provided for the opportunity for the use of up to 165 rights (41.25 full PDCs) in the Haines Boulevard Redevelopment Area.

Ordinance 2023-2 maintains these PDC requirements with one exception: the number of affordable units exempt from the 30 percent PDC requirement is reduced from 240 units to 140 units. This reduced figure recognizes the Township's latest plan for affordable housing targeted for the redevelopment area based on its court-ordered settlement agreement with the Fair Share Housing Center.

Additionally, Ordinance 2023-2 requires that any non-residential development permitted under the provisions of the PI Overlay District redeem Pinelands Development Credits (PDCs) at a rate of one quarter (1/4) PDC for every 17,000 square feet of gross floor area within principal use buildings. The Township included these provisions in recognition of the significant reduction in

potential residential units and potential use of PDCs if the PI Overlay District were developed exclusively for non-residential uses.

To evaluate whether the PDC requirements of the PI Overlay District adequately protect the Pinelands Development Credit Program, staff evaluated the potential PDC yield for the three lots in the overlay district under the minimum residential density requirements prescribed by the CMP. If these three lots were zoned for residential development, the CMP would require that they allow for a minimum base density of 2.25 units per acre with a bonus density achieved through PDC use of an additional 1.125 units per acre. This would result in the opportunity for the use of 71 rights.

Commission staff evaluated the potential level of PDC redemption under the PI Overlay provisions based on information provided by the Township. A prospective redeveloper has proposed a warehouse facility on Block 204, Lots 1 and 2 with a gross square footage of approximately 955,500 square feet. This equates to a PDC obligation of 57 PDC rights under the PI Overlay provisions. Additionally, a prospective redeveloper has proposed an approximately 15,000 square foot commercial sports flooring and manufacturing building on Block 204, Lot 3, which would require the redemption of a single PDC right. Therefore, under the PI Overlay District there is a potential for the redemption of approximately 58 PDC rights, which is comparable to imposing a 27 percent mandatory PDC requirement for this area if zoned for the minimum density permitted by the CMP.

While 27 percent is not as high a number as would be provided through the more traditional zoning approach where Pinelands Development Credits would account for 33 percent of the total number of permitted units, it is important to remember that the traditional base density/bonus density approach utilized throughout the Pinelands Area only provides an *opportunity* for the use of Pinelands Development Credits. There is no requirement under the traditional approach that any credits be used in any particular development project. Ordinance 2023-2 *guarantees* that Pinelands Development Credits will be purchased and redeemed as part of the approval of any non-residential development within the PI Overlay District.

The CMP focuses on the use of PDCs as a means of increasing permitted residential densities in Regional Growth Areas. However, N.J.A.C. 7:50-5.28(a)7i expressly authorizes municipalities to adopt bonus or incentive programs for Regional Growth Area that go beyond the minimum required by the CMP, provided that such programs do not interfere with or otherwise impair the municipality's obligation to provide sufficient opportunities for the use of PDCs. While this provision has not often been used in association with nonresidential development, two other municipalities (Berlin and Winslow townships) previously adopted PDC requirements applicable to nonresidential uses in their commercial and industrial zones. The Commission found that the Berlin and Winslow Township ordinances represented an appropriate exercise of municipal flexibility that did not interfere with any other CMP standards and certified them on that basis. Waterford Township Ordinance 2023-2 adopts a similarly creative approach, one that facilitates the municipality's redevelopment goals while ensuring that all CMP standards, particularly those related to the PDC program, continue to be met.

This standard for certification is met.

9. Referral of Development Applications to Environmental Commission

Not applicable.

10. General Conformance Requirements

Waterford Township Ordinances 2023-1 and 2023-2, amending Chapter 176 (Land Use, Development and Zoning) of the Code of Waterford Township and adopting the Second Amendment to the Haines Boulevard Redevelopment Plan, are consistent with the standards and provisions of the Pinelands Comprehensive Management Plan.

This standard for certification is met.

11. Conformance with Energy Conservation

Not applicable.

12. Conformance with the Federal Act

Waterford Township Ordinances 2023-1 and 2023-2, amending Chapter 176 (Land Use, Development and Zoning) of the Code of Waterford Township and adopting the Second Amendment to the Haines Boulevard Redevelopment Plan, are consistent with the standards and provisions of the Pinelands Comprehensive Management Plan. No special issues exist relative to the Federal Act.

This standard for certification is met.

13. Procedure to Resolve Intermunicipal Conflicts

The new PI Overlay District abuts Berlin Borough's Regional Growth Area. In Berlin Borough, the adjacent lands straddle State Highway 73 and are included in the PC-2 (Neighborhood Commercial) Zone, where a wide variety of retail and service uses are permitted, as well as offices, restaurants, health clubs, child care centers and animal hospitals. Preexisting residential uses are also permitted. Additionally, the ordinance requires a minimum buffer of 100 feet from existing residential uses and residential zones. Therefore, intermunicipal conflicts are not anticipated and this standard for certification is met.

Public Hearing

A public hearing to receive testimony concerning Waterford Township's application for certification of Ordinances 2023-1 and 2023-2 was duly advertised, noticed and held on March 8, 2023, 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 Waterford Township Ordinances 2023-1 and 2023-2 were accepted through March 10, 2023 and were received from the following individuals:

Michael Ward, Community Development Director, and Robert Scott Smith, P.L.S., P.P., Land Use Board Planner, Waterford Township (see Exhibit #2)

David Roberts, AIPC/PP, on behalf of AASMWF Property, LLC (see Exhibit #3)







Conclusion

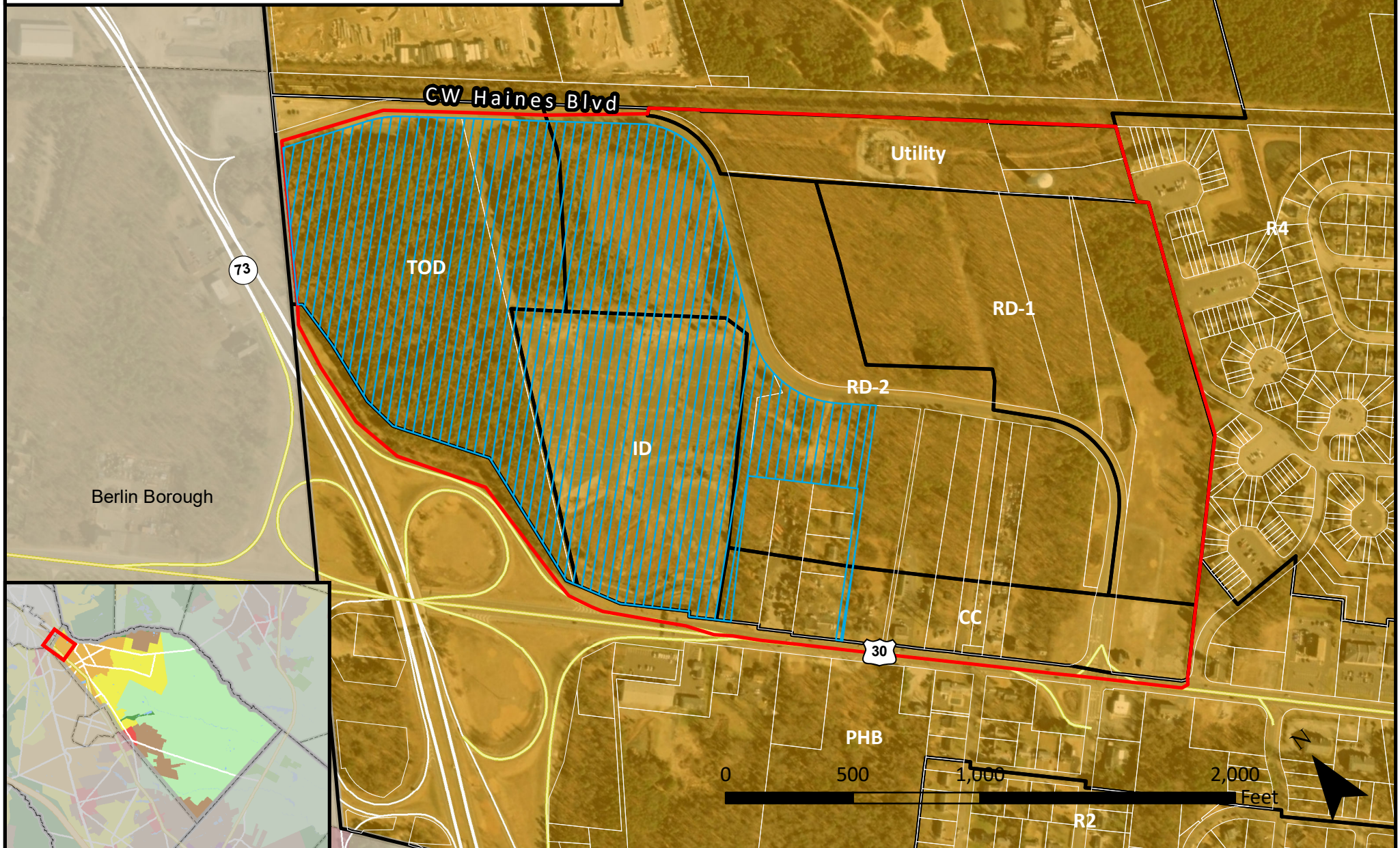
Based on the Findings of Fact cited above, the Executive Director has concluded that Waterford Township Ordinances 2023-1 and 2023-2 comply with Comprehensive Management Plan standards for the certification of municipal master plans and land use ordinances. Accordingly, the Executive Director recommends that the Commission issue an order to certify Ordinances 2023-1 and 2023-2 of Waterford Township.

SRG/DBL/KLE/CWT
Attachments

Waterford Township Haines Boulevard Redevelopment Area

Executive Director's Report
Waterford Twp Ord. 2023-1 and -2
3/31/2023
Exhibit #1

-  Planned Industrial Overlay Zone
-  Redevelopment Area
-  Pinelands Management Area
-  Existing Zoning
-  Regional Growth Area
-  Lots



**WATERFORD TOWNSHIP
OFFICE OF
COMMUNITY DEVELOPMENT**
2131 Auburn Avenue
Atco, New Jersey 08004

March 9, 2023

via e-mail Susan.Grogan@pinelands.nj.gov

and regular mail

Susan R. Grogan, P.P., AICP

Executive Director

Pinelands Commission

15 Springfield Road/P.O. Box 359

New Lisbon, NJ 08064

RE: Narrative Support For Waterford Township Ordinance #2023-2

Dear Ms. Grogan:

Kindly allow this letter to set forth the factual historical basis, and confirm municipal support, for Waterford Township's adoption of Ordinance #2023-2 on January 25, 2023. Ordinance #2023-2 was intended to constitute Amendment No. 2 to the Haines Boulevard Redevelopment Plan that was originally adopted on October 16, 2001. The intent of Ordinance #2023-2 is to spur the development of various commercial industrial uses within specified areas of the previously designated Haines Boulevard Redevelopment Area. This Ordinance creates an overlay known as the Planned Industrial Overlay District. The Planned Industrial Overlay District will consist solely of an approximately 66 acre tract of vacant land located at the western most edge of the Township's Regional Growth Area, at the intersection of State Highway 73 and US Highway Route 30.

Lot 1 in the District consists of 23 acres of "scrub trees" and vines, with no physical access along its primary frontage on Route 73. Today, the only roadway access is from Haines Boulevard. The property was once cleared but has naturally revegetated over the last 50 years of vacancy and disuse.

Lot 2 in the District was the site of the Atco Drive-In Movie Theater. The Drive-In opened in 1955, and it's still very visible in aerial photos. In 1991, the Atco Multiplex opened on the property offering a 14 screen theater complex. The Multiplex was successful for a short period but closed in 2009. All buildings were demolished in 2011 but the paving and subsurface utilities, including an elaborate stormwater management system remain.

The lengthy vacancy and disuse of the affected Lots has contributed to a moribund economic atmosphere that has long pervaded the entire Haines Boulevard Redevelopment Area.

The Lots in question are within the limits of the Haines Boulevard Redevelopment Plan ("HBRP"). The HBRP was initially adopted in October 2001 to stimulate interest and (it was hoped) redevelopment of approximately 146 acres of

both vacant and developed lands that were under the private ownership of nineteen (19) individual property owners. Some of these properties were large and had limited access or exposure to the adjoining US 30, the White Horse Pike. The original planners of Haines Boulevard reasonably believed that its connection to two (2) major four lane highways would be a stimulus for development.

Much to the disappointment of Township officials and residents alike, virtually no interest was generated over the subsequent two (2) decades. For many reasons, including the lack of adequate sanitary sewer and public water infrastructure within the Haines Boulevard right-of-way, and the continually financially ailing New Jersey Transit Atlantic City Rail Line (which maintains a station on Haines Boulevard), the land within the Redevelopment Area has remained largely vacant and undeveloped.

The initial 2001 HBRP utilized a 1997 Township Zoning District designated as "Planned Highway Business" for the entire mapped area. That Zoning authorized a broad list of allowed commercial uses, including warehousing, light manufacturing, assembly and wholesale.

A 2016 amendment (Amendment No. 1) to the HBRP, proposed five (5) new "Land Use Areas" that encouraged mixed uses, many of which contemplated retail and market rate and affordable residential uses at varying densities. However, that Amendment still resulted in very little interest from prospective builders and developers.

An approved residential project proposed by Conifer Realty LLC shall eventually bring ninety-five (95) Affordable Housing apartment units to the easterly portion of the Redevelopment Area. However, most parcels included in the HBRP remain vacant and undeveloped today.

In May 2022, Township Officials were approached by representatives of Active Acquisitions, LLC. They expressed interest in developing a large scale warehousing facility at the westerly edge of the HBRP. Their proposal did not meet any of the standards of the five (5) "Land Use Areas" contained in the HBRP.

Their proposal would be situated within the "Land Use Areas" identified as "TOD/Mixed Use" and "ID Institutional". TOD/Mixed Use Standards include retail and personal service uses, eating establishments, child care centers, two (2) family dwellings and townhomes and other mixed uses. The ID Institutional "Land Use Area" includes uses such as educational facilities, assisted living facilities, community centers, hotels and conference centers along with two (2) family dwellings and townhouses.

After a meeting between Active Acquisitions, LLC and Township Officials, the Township initiated several meetings with the Pinelands Commission's Acting Director, Ms. Susan Grogan, and the Commission's Planner, Mr. Brad Lanute. The Township presented their desire to amend the HBRP with respect to Block 204, Lots 1 and 2 to permit the construction of the two (2) warehouses on those Lots.

Several additional meetings occurred, and to assist the Township, the Pinelands Commission supplied a draft Ordinance for the Township's review and consideration. The Township reviewed the draft and utilized it to prepare Township Ordinance No. 2022-20. That Ordinance was then reviewed by the Planning Board and on October 17, 2022 the Planning Board found that the Ordinance was consistent with the Township's Master Plan. The Ordinance was then considered and adopted by the Township on October 26, 2022. It was submitted to the Pinelands Commission for review, which recommended further amendment.

Susan R. Grogan, P.P., AICP
RE: Waterford Township Ordinances #2023-2
March 9, 2023
Page 3

Ordinance No. 2022-20 affirmed the Township's intent to amend the HBRP with respect to Block 204, Lots 1, 2 and 3 to permit "Alternative Industrial Development." The Ordinance also established a new list of permitted uses, which include the proposed warehousing, shipping and receiving, cold storage, light manufacturing and assembly, e-commercial sales operations and other specific, non-residential uses. All of the allowed uses in the Ordinance strongly resemble those originally permitted under the Planned Highway Business (PHB) zoning.

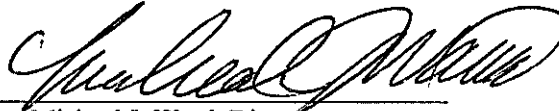
Significantly, Ordinance #2023-2 amended certain provisions of Ordinance #2022-20, as requested by the Pinelands Commission. The Township submits that the amendments in Ordinance #2023-2 create flexibility and enhanced opportunity, by enabling a prospective redeveloper to develop either under the standards of the Overlay District or under the criteria established by the 2016 Redevelopment Plan for the underlying districts. The Plan Standards also ensure that sufficient Pinelands Development Credits are redeemed for all commercial uses in the Planned Industrial Overlay Districts and in the 2016 Redevelopment Plan's "RD1" and "RD2" Districts.

More importantly, the Overlay District is contiguous to commercial and industrial uses and zones located in the immediately adjacent, non-Pinelands municipalities of Berlin Borough and Berlin Township. The subject tract is not located in any preserved or environmentally sensitive areas, and is not in proximity to any residential area. All vehicles from within the District must exit onto two State Highways, thus minimizing the opportunity for adverse traffic impact from all redevelopment efforts.

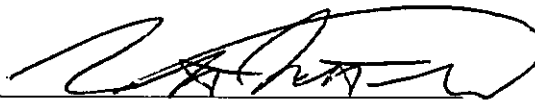
In conclusion, the Township Committee looks forward with great anticipation to the Commission's approval of Ordinance #2023-2. The Township will then be able to welcome the groundbreaking on Block 204 Lots 1 and 2 for the Active Acquisitions project, the first substantial site development within the Haines Boulevard Redevelopment Area since the HBRP's creation in 2001. With 100 percent of its land area subject to the rules set forth in Pinelands Comprehensive Management Plan, the Township has always struggled to stimulate any level of growth in the various management areas affecting its lands, even in its Regional Growth area. This Ordinance adoption is key to the future economic well-being of the Township and its residents.

Very truly yours,

WATERFORD TOWNSHIP OFFICE OF
COMMUNITY DEVELOPMENT



By: Michael J. Ward, Director



By: Robert Scott Smith, P.L.S., P.P.
Land Use Board Planner

cc: Brad Lanute, P.P. (via e-mail only)
David Patterson, Esquire
Waterford Township Clerk, Dawn Liedtka



DAVID GLYNN ROBERTS, AICP/PP, LLA, LEED AP ND
37 Bayview Avenue, Bayville, NJ 08721
732.616.9828
dgrplanningdesign.com
dgr@dgrplanningdesign.com

MEMORANDUM

DATE: 3/10/2023

TO: Planning Office
Pinelands Commission
PO Box 359
New Lisbon, NJ 08064
VIA Email: planning@pinelands.nj.gov

FROM: David Glynn Roberts, AICP/PP, LLA, LEED AP ND
For AASMWF Property, LLC (Designated Redeveloper of Block 204, Lots 1 & 2)

SUBJECT: COMMENTS OF DESIGNATED REDEVELOPER IN SUPPORT OF WATERFORD
ORDINANCES 2023-1 and 2023-2

This memorandum provides professional planning comments regarding the consistency of Waterford Township Ordinances 2023-1 and 2023-2 with the New Jersey Pinelands Commission's adopted Comprehensive Management Plan (CMP) and to offer support of approval by the Commission on behalf of the Township's Redeveloper for a proposed project on Block 204, Lots 1 & 2, designated as such by Township of Waterford Resolution #2022-324 adopted on December 14, 2022. The Redeveloper has been working with the Township and Commission's professional staff to develop ordinance standards that incorporate the goals and objectives of the CMP.

The Township of Waterford's Haines Boulevard Redevelopment Area (the "Area") consists of 146 acres in the northwest corner of the Township and shares a municipal border with Berlin Borough. The tract is proximate to mass transit and has available potable water, stormwater, and sanitary sewer infrastructure. There are several commercially developed properties along the Area's southern edge on Route 30, but the Area is largely vacant land, including an abandoned former movie theater site (Block 204, Lot 2) and adjacent vacant land (Block 204, Lot 1) that comprise the southwest corner of the Redevelopment Area at the interchange of US Route 30 and NJ Route 73. The Redevelopment Area is also adjacent to the Atco train station on NJ Route 73. Atco is a stop on the Atlantic City Rail Line that travels between Atlantic City and Philadelphia.

In 2001, the Township Committee declared the Area an "Area in Need of Redevelopment" as defined in the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A: 12A-1 et seq. On October 16, 2001 a Redevelopment Plan for the Area was recommended by the Planning Board and subsequently adopted by the Township Committee. The current Haines Boulevard Redevelopment Plan (HBRP)



replaced the original redevelopment plan in April of 2016 and was subsequently amended (Amendment #1) in October of 2016, 15 years after the original redevelopment plan was adopted. The 2016 HBRP introduced the concept of Transit-Oriented Development (TOD) to the entire Redevelopment Area, including a variety of residential uses and densities “to incentivize development and widen the Township’s economic base. This Plan considers opportunities and revised land use standards that will promote development within the Haines Boulevard Redevelopment Area”.

Despite the amendment to the HBRP to incentivize residential development near the Atco train station, there was no response to the Plan from the development community in the more than five years that passed. As a result, the Township Committee determined that it was in the public interest to amend the Haines Boulevard Redevelopment Plan to permit alternative commercial development on Block 204, Lots 1, 2 and 3, among the largest parcels within the Redevelopment Area, and the parcels with direct access to two major highways (Routes 30 and 73). That amendment to the HBRP (Amendment #2) is the purpose of Waterford Ordinance 2023-2, while the purpose of Waterford Ordinance 2023-1 is to refine the streamlining of the review and approval of redevelopment projects within an ordinance that already exists.

The properties affected by Ordinance 2023-2 (Block 204, Lots 1-3) are located within a Regional Growth Area under the Pinelands CMP, which is described as “an area of existing development and adjacent lands capable of accommodating growth while protecting the essential character and environment of the Pinelands”. Lots 1 and 2 are within 1 mile of developed sites such as the former Kmart shopping center, former Owens Corning site, Tractor Supply Company, and the recently approved Capital Flooring building within the Redevelopment Area on Lot 3. As noted in a letter to the Redeveloper dated December 15, 2022, the Pinelands Commission has determined that no wetlands exist on Block 204, Lots 1 & 2. In addition, an ecological analysis of Lots 1 and 2 determined that development would have no impact on critical habitat for threatened and endangered species because the property is located within three major roadways, is previously developed and underutilized, the surrounding landscape includes significant human disturbance, and because the site is absent of water sources.

The proposed ordinance does not replace the TOD land uses previously approved by the Commission in the 2016 HBRP, but is substantially consistent with the underlying zoning within the Redevelopment Area, which permits warehousing and other commercial uses in the subject Ordinance. Ordinance 2023-2 amends the HBRP to allow for a variety of commercial uses as an alternative on the large parcels situated between Haines Boulevard and Routes 30 and 73. Given the economic forces that have emerged and driven the increase in national and regional demand for domestic delivery of goods purchased online, the Township, using the tools provided in the Local Redevelopment and Housing Law (NJSA 40A:12A, et. seq.), has brought about the best opportunity to finally see redevelopment of a portion of

the Redevelopment Area with uses that will provide immediate economic benefits, including employment, with minimal impacts given their access to existing major highways.

With regard to the potential for the subject ordinance to enable a redevelopment project involving warehousing, statewide guidance for the siting of various forms of warehouses, including “last mile” facilities was provided by the Office Of Planning Advocacy (OPA) in a document entitled: “*Distribution Warehousing and Goods Movement Guidelines Policy*”, adopted September 7, 2022. The document states the following regarding the siting of last mile facilities, as an example: “*accommodation should be made for customers in more rural and less suburban areas, where smaller last-mile facilities may be needed to address the final leg of the delivery system or for purposes of cold storage, and generally involve less noxious equipment, comprising a greater proportion of delivery vans than tractor-trailers. It should be noted that last-mile facilities, can, however, still generate high levels of traffic, and should be located in State-designated Centers, Cores, Nodes, Redevelopment Areas, and other formerly developed and underutilized sites, proximate to appropriately scaled interchanges, highways (including along highways), and other transportation infrastructure*”. The properties that are the subject of the proposed ordinances are in a designated redevelopment area within a Regional Growth Area in the CMP and are also “formerly developed and underutilized sites, proximate to appropriately scaled interchanges, highways (interchange of Routes 30 and 73) and other transportation infrastructure” (Atco Train Station).

Finally, Ordinance 2023-2 has incorporated provisions and recommendations from Commission professional staff related to PDCs, as well as refinements to provisions for buffering between commercial and residential uses. As proposed, Ordinance 2023-2 offers a balanced and desirable redevelopment opportunity for properties that were considered “blighted” 22 years ago and have remained vacant despite attempts to incentivize redevelopment of various uses. There would be no detrimental impacts on the purpose or intent of the Commission’s CMP as a result of the approval of Ordinance 2023-2 or Ordinance 2023-1. Implementation of both ordinances will foster development within the Regional Growth Area of the Pinelands where infrastructure can support it, while generating PDC revenue for preservation of lands elsewhere in the Pinelands Area.



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-23- 14

TITLE: To Authorize the Executive Director to Establish an Additional Account at The Bank of Princeton for Purposes of Accepting Application Fees Through a Third-Party Payment Module

Commissioner Lloyd moves and Commissioner Lohbauer seconds the motion that:

WHEREAS, the Pinelands Commission wishes to provide applicants with the option of paying all required application fees on-line through a third-party payment module; and

WHEREAS, the Pinelands Commission has engaged Edmunds GovTech as the third party to host the Commission’s on-line fee payment module; and

WHEREAS, in order to ensure that the security of the Commission’s current Operating Account is not compromised, the Executive Director has recommended establishment of a separate bank account to accept the automatic deposits from the third party; and

WHEREAS, the Bank of Princeton requires an authorizing resolution of the Commission in order to create such an additional account; and

WHEREAS, the Commission’s Personnel & Budget Committee has reviewed the proposed on-line payment plan and recommends the establishment of an additional, separate bank account; and

WHEREAS, the Pinelands Commission concurs with the recommendation of the Executive Director; and

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

NOW, THEREFORE, BE IT RESOLVED that the Executive Director is hereby authorized to establish an additional account at The Bank of Princeton for purposes of accepting application fees through the Edmunds GovTech third party payment module.

Record of Commission Votes

	AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*
Asselta	X				Lettman	X				Pikolycky			X	
Avery	X				Lloyd	X				Wallner	X			
Christy			X		Lohbauer	X				Matos	X			
Holroyd	X				Mauriello	X								
Irick			X		Meade			X						

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: April 14, 2023

Susan R. Grogan
Executive Director

Laura E. Matos
Chair



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-23- 15

TITLE: To Authorize the Executive Director to Submit an Application to the New Jersey Historic Trust for a 2023 Preserve New Jersey Historic Preservation Fund Grant and to Certify the Availability of Matching Funds

Commissioner Avery moves and Commissioner Lohbauer seconds the motion that:

WHEREAS, the New Jersey Historic Trust is offering Capital Level II matching grants through the Preserve New Jersey Historic Preservation Fund in 2023 for a wide range of historic preservation projects; and

WHEREAS, agencies and entities of the State government are eligible to apply for grants through this program; and

WHEREAS, to be eligible for a grant, a property must be listed in or eligible to be listed in the New Jersey Register of Historic Places and/or the National Register of Historic Places; and

WHEREAS, Fenwick Manor is listed in both the New Jersey and National Registers of Historic Places; and

WHEREAS, Capital Level II grant applicants may apply for grants of \$150,001 - \$750,000; and

WHEREAS, Capital Level II grants require the recipient to provide matching funds on a 1:1 basis, with the Historic Trust funding 50 percent of the total project cost and the grantee responsible for the remaining 50 percent; and

WHEREAS, the New Jersey Historic Trust requires an applicant to obtain the formal authorization of its governing body for submission of the grant application and to document the availability and commitment of matching funds; and

WHEREAS, the New Jersey Historic Trust requires that all grant funds be used for work conforming to the *Secretary of the Interior's Standards*; and

WHEREAS, through a Historic Site Management grant awarded to the Commission by the New Jersey Historic Trust in 2022, a Preservation Plan has been completed detailing the exterior and interior rehabilitation needs of Fenwick Manor in accordance with the *Secretary of the Interior's Standards*; and

WHEREAS, the Commission wishes to apply for a Capital Level II grant which will be used to complete much of the rehabilitation work required for Fenwick Manor defined in the Preservation Plan; and

WHEREAS, in its Fiscal Year 2016-2022 adopted budgets, the Pinelands Commission reserved funding for repainting of the exterior of Fenwick Manor, \$75,000 of which is available to match a Capital Level II grant; and

WHEREAS, in Fiscal Year 2022, the State of New Jersey made a special \$500,000 appropriation to the Pinelands Commission for the rehabilitation and long-term maintenance of Fenwick Manor, all of which is being made available to match a Capital Level II grant; and

WHEREAS, the total available match for a Capital Level II grant is therefore \$575,000; and

WHEREAS, the Commission's Personnel & Budget Committee has reviewed the Fenwick Manor Preservation Plan and has recommended the Commission's submission of an application to the New Jersey Historic Trust for a Capital Level II grant; 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 Pinelands Commission hereby approves and endorses an application for a Capital Level II grant through the New Jersey Historic Trust and the Preserve New Jersey Historic Preservation Fund for the rehabilitation and preservation of Fenwick Manor.
2. The Pinelands Commission hereby certifies that it will provide all necessary matching funds, up to a maximum of \$575,000.
3. The Executive Director is hereby authorized to submit the grant application and confirm and sign all assurances associated with that application.

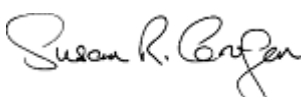
Record of Commission Votes

	AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*
Asselta	X				Lettman	X				Pikolycky			X	
Avery	X				Lloyd	X				Wallner	X			
Christy			X		Lohbauer	X				Matos	X			
Holroyd	X				Mauriello	X								
Irick			X		Meade			X						

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: April 14, 2023



Susan R. Grogan
Executive Director



Laura E. Matos
Chair