



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-12- 17

TITLE: Approving With Conditions an Amended Application for a Public Development (Application Number 1997-0585.002)

Commissioner McGlinchey moves and Commissioner Witt seconds the motion that:

WHEREAS, the Pinelands Commission has reviewed the Findings of Fact, Conclusion and the recommendation of the Executive Director that the following application for a Public Development be approved with conditions:

1997-0585.002 COUNTY OF BURLINGTON, Pemberton & Southampton Townships, Regional Growth Area and Agricultural Production Area, widening of approximately 2.8 miles of County Route 530 (Date of Report: May 21, 2012).

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

WHEREAS, the Pinelands Commission hereby adopts the Findings of Fact and Conclusion of the Executive Director; 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; 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.

NOW, THEREFORE BE IT RESOLVED that the following application for Public Development is hereby **approved** subject to the conditions recommended by the Executive Director.

1997-0585.002 COUNTY OF BURLINGTON, Pemberton & Southampton Townships, Regional Growth Area and Agricultural Production Area, widening of approximately 2.8 miles of County Route 530 (Date of Report: May 21, 2012).

Record of Commission Votes

	AYE	NAY	NP	ABS		AYE	NAY	NP	ABS		AYE	NAY	NP	ABS
Ashmun	X				Haas	X				Prickett				X
Brown	X				Harris	X				Quinn	X			
Earlen	X				Jackson			X		Rohan Green	X			
Ficcaglia	X				Lloyd	X				Witt	X			
Galletta	X				McGlinchey	X				Lohbauer	X			

Adopted at a meeting of the Pinelands Commission

Date: June 8, 2012

Nancy Wittenberg
Nancy Wittenberg
Executive Director

Mark S. Lohbauer
Mark S. Lohbauer
Chairman



State of New Jersey

THE PINELANDS COMMISSION

PO Box 359

NEW LISBON, NJ 08064

(609) 894 7300

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

Nancy Wittenberg
Executive Director

**AMENDED REPORT ON AN APPLICATION FOR
MAJOR PUBLIC DEVELOPMENT**

May 21, 2012

Michael Nei, PE
County of Burlington
Office of County Engineers
P.O. Box 6000
Mount Holly, NJ 08060

Please Always Refer To
This Application Number

Re: Application #: 1997-0585.002
County Route 530 & Magnolia Road
Pemberton and Southampton Twps.

Dear Mr. Nei:

The Commission staff has completed its review of the above referenced application. Based upon the facts and conclusions contained in this Report, on behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its June 8, 2012 meeting.

FINDINGS OF FACT

This application is for widening of approximately 2.8 miles (15,000 linear feet) of County Route 530 in Pemberton and Southampton Townships. The application also includes the proposed realignment of a portion of Magnolia Road. The majority of the proposed development is located in a Pinelands Regional Growth Area and a Pinelands Agricultural Production Area. A portion of the proposed road improvements are located in Pemberton Borough. Pemberton Borough is not located in the Pinelands Area.

County Route 530 currently consists of four travel lanes and is approximately 44 feet in width. The proposed widening will provide four 12 foot travel lanes, six foot wide paved shoulders and a continuous 14 foot wide center turn lane for a total pavement width of 74 feet. The applicant also proposes to relocate and improve the existing County Route 530/Magnolia

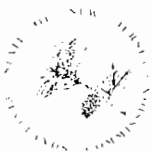
www.nj.gov/pinelands

General Information: Info@njpines.state.nj.us

Application Specific Information: AppInfo@njpines.state.nj.us 1 9 9 7 0 5 8 5 . 0 0 2 *

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Road intersection. Relocating the concerned intersection within Pemberton Borough requires the realignment of a 140 linear foot section of Magnolia Road in the Pinelands Area.

On February 22, 2012, the Commission staff issued a Report on an Application for Public Development recommending approval of the proposed application with conditions at the Commission's April 13, 2012 meeting. Thereafter, the applicant requested that the Commission not act on the application. This Amended Report on an Application for Public Development is being issued to reflect certain revisions to the "Findings of Fact" section of the Report regarding the release of an existing conservation easement and the recommend conditions of approval regarding release of that deed restriction.

Vegetation Management Standards

The proposed road improvements will be located over existing paved roadways, maintained grass shoulders, wooded areas, agricultural lands and developed areas. The proposed clearing and extent of soil disturbance appears to be limited to that which is necessary to accommodate the proposed road improvements. The Landscaping and Revegetation guidelines of the Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-6.26(a)4) recommend the use of grasses that are tolerant of droughty, nutrient poor conditions. The applicant proposes to use grasses that meet this recommendation.

Stormwater Management Standards

The applicant has demonstrated that the proposed road improvements are consistent with the stormwater management standards of the Pinelands Comprehensive Management Plan (CMP). The application proposes four stormwater management basins and seven stormwater management swales in the Pinelands Area. Two of these stormwater management facilities are located on a parcel that is currently deed restricted for conservation purposes. That parcel is commonly referred to as the Katona Farm parcel. The CMP (N.J.A.C. 7:50-6.84(a)6.vi.(4)) provides that the Commission may grant an exception to stormwater management standards if it is demonstrated that the stormwater management standards cannot be met on a parcel proposed for development or that stormwater management would be more effectively achieved through alternative measures. To minimize the extent to which the two proposed stormwater management facilities will encroach upon the Katona Farm, in accordance with N.J.A.C. 7:50-6.84 (a) 6.vi.(4), the application proposes additional stormwater runoff rate and volume control measures within the same drainage area within the Pinelands Area. The proposed additional stormwater runoff rate and volume control measures are sufficient to offset the granting of the stormwater management exception.

Wetlands Standards

There are freshwater wetlands located immediately adjacent to portions of the proposed road improvements. The proposed widening will require the disturbance of 0.37 acres (16,117 square feet) of wetlands for road paving, grading and stormwater outfall structures. The applicant has demonstrated that there is no feasible alternative to the proposed road improvements in wetlands that would result in a less significant adverse impact on wetlands. The applicant has

demonstrated that the proposed road improvements will not result in 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. The applicant has demonstrated that the need for the proposed road improvements overrides the importance of protecting the wetlands. The applicant has represented that the concerned roadway has a high number of motor vehicle accidents, including fatalities. The proposed road improvements are necessary to improve the safety of the existing roadway. The proposed road improvements require a freshwater wetland permit in accordance with the New Jersey Department of Environmental Protection Freshwater Wetlands Protection Act Rules.

Threatened and Endangered Species Standards

After review of available information regarding threatened and endangered plants and animal species, a threatened and endangered species habitat survey for Barred owl was completed for the application. The survey determined that the areas that will be impacted by the proposed development are not habitat critical to the survival of a local population of Barred owl. The proposed development will not result in an irreversible adverse impact to habitat critical to the survival of a local population of threatened or endangered animal species or the survival of any local population of threatened or endangered plants.

Cultural Resource Standards

The applicant prepared a cultural resource survey for the project. The survey determined that no cultural resources eligible for Pinelands designation were found within the project area.

Proposed Road Improvements on Lands Deed Restricted for Conservation Purposes

The applicant proposes to acquire additional road right-of-way along the length of the project to accommodate the proposed road improvements. In particular, right of way is proposed to be acquired on Block 701, Lots 2, 3 & 3.01, commonly referred to as the Katona Farm in Southampton Township. The applicant proposes road pavement and linear stormwater basins on the Katona Farm. The portion of the Katona Farm parcel on which the proposed improvements will be constructed is an active upland agricultural field.

In 1983 the Burlington County Board of Chosen Freeholders secured a Deed of Conservation Easement (Attachment One) on Block 701, Lots 2, 3 & 3.01. That deed restriction prohibits most "structures" on the concerned parcel. That deed restriction also conveyed to Burlington County the Pinelands Development Credits (PDCs) that were allocated to the concerned lands. Those PDCs were subsequently sold by Burlington County to the Pinelands Development Credit Bank.

The applicant proposes to have the existing Deed of Conservation Easement released from that portion of the Katona Farm upon which road improvements are proposed. The Commission staff completed a review of feasible alternatives to the proposed development on the Katona Farm. At the start of the staff review, the proposed road pavement encroached approximately 19 feet from the limit of the existing right of way onto the Katona Farm for the

entire 3,172.88 foot County Route 530 frontage of the parcel. In addition, proposed stormwater management facilities encroached an additional approximate 70 feet beyond the edge of proposed pavement onto the Katona Farm. At that time, the proposed improvements resulted in a maximum encroachment into Katona Farm from County Route 530 of approximately 89 feet.

To assist the Commission staff with a review of possible road construction alternatives, the Commission arranged for a civil engineer from the New Jersey Department of Transportation to evaluate the proposed design and possible construction alternatives to eliminate or reduce the road improvement encroachment on to Katona Farm. By memorandum dated September 16, 2009, the New Jersey Department of Transportation engineer concluded that the currently proposed design is the most prudent and feasible alternative satisfying the requirements of the project purpose and need. By letter dated November 25, 2009, (Attachment Two) the Commission staff concluded that the proposed encroachment of pavement and stormwater facilities onto the Katona Farm parcel was, within reason, the only feasible alternative to accommodate the stormwater for the proposed road improvements.

In cooperation with the County, the Commission staff's review ultimately resulted in a reduction in the extent of encroachment by the stormwater management facilities onto the Katona Farm. (The 19 feet of encroachment for the proposed pavement remained unchanged.) The maximum encroachment of the proposed stormwater facilities onto the Katona Farm was reduced from 70 feet to 40 feet from the edge of proposed pavement. This results in an approximate maximum encroachment onto the Katona Farm from the edge of existing right-of-way of 59 feet. In total the proposed road improvements will encroach on approximately 3.5 acres of the Katona Farm.

Release of the Deed of Conservation Easement

The proposed development will encroach on approximately 3.5 acres of the Katona Farm. This acreage is currently encumbered by a Deed of Conservation Easement which would prohibit the road improvements proposed to be constructed on Katona Farm. Burlington County is the holder of this easement.

As stated in the Deed of Conservation Easement, its purpose was to preserve the Katona Farm in its natural, scenic, open and existing state to the greatest extent practicable and to protect lands that are of prime agricultural importance located in the Pinelands Area. In 1979, the Legislature passed the New Jersey Conservation Restrictions and Historic Restrictions Act, which is codified at N.J.S.A. 13:8B-1 *et seq.* The applicant does not believe that it is subject to this Act, because Katona Farms was acquired utilizing only County funds and the applicant believes the Commission's approval of its public development application satisfies the obligations of that Act. It is not within the Commission's authority to determine application of or compliance with the requirements of the New Jersey Conservation Restrictions and Historic Restrictions Act. The Commission's authority is limited to determining whether the proposed project is consistent with the requirements of the CMP. The applicant, as holder of the easement, has indicated its intent to release the easement on the 3.5 acres of the Katona Farm to be utilized for construction of the proposed road improvements. In addition, as discussed below, as a

condition of this approval, the applicant will provide an offset to ameliorate any impacts of such release on the Pinelands Development Credit (PDC) Program.¹

The within situation is unique and predates the formation of the Pinelands Development Credit Bank. Today, Deeds of Conservation Restriction, imposed prior to severance of the allocated PDCs, are held by the State of New Jersey, Department of Environmental Protection. Historically, conservation restrictions placed on lands conserved through the severance of PDCs have never been lifted. However, because of the unique circumstances of the current application, namely the safety concerns to be addressed by the proposed project, the County's efforts to reduce the extent of encroachment onto the Katona Farm, and the New Jersey Department of Transportation engineer's conclusion that the currently proposed design is the most prudent and feasible alternative satisfying the requirements of the project purpose and need, release of the conservation restrictions on the 3.5 acres of the Katona Farm is necessary for public health, welfare and safety.

The use of 3.5 acres of the Katona Farm for the proposed development project, however, must be balanced by the protection of agricultural lands located within the Pinelands Area portion of Burlington County. One of the prime preservation purposes articulated in the 1983 Deed of Conservation Easement for the Katona Farm was the protection and enhancement of agriculture in the Pinelands and the protection of lands that are of prime agricultural importance. The 1983 Deed of Conservation Easement also recognized the importance of agriculture and active farming to the economic health and wellbeing of the citizens of Burlington County.

To offset the release of the portion of the Deed of Conservation Easement on the Katona Farm currently in place on the 3.5 acres needed for the proposed road improvements, the Staff recommends that the County be required to permanently protect other active agricultural lands in that portion of the County located in the Pinelands Area. Because the situation presented by this application is unique, in that the lands involved were conserved through a County program that was a predecessor to the PDC Bank, there is no set formula to determine the how large the offset should be. The Pinelands CMP (7:50-4.54) authorizes the Executive Director to incorporate any reasonable condition that she finds necessary to achieve the objectives of the CMP. The staff recommends that the amount of land to be protected be determined based on a combination of the NJDEP, Green Acres' diversion formula, and an existing framework that the Commission has employed to evaluate the appropriateness of an environmental offset in the past.

For the diversion of recreation and conservation lands conserved through the use of Green Acres funding, the Green Acres' regulations provide that 3 acres of replacement land must be given to the State for every acre of unappraised conservation/recreation lands diverted to another purpose. If the Green Acres' diversion formula were applied alone, a replacement of 10.5 acres of agricultural lands would be required (3.5 acres of impact x 3 = 10.5 acres). However, as discussed above, the within release involves lands that were conserved through a program that was essentially a predecessor to the PDC Bank and involved the severance of PDCs

¹ See N.J.S.A. 13:8B-6, delineating the factors to be considered by the Commissioner of DEP when approving the release of a conservation restriction, including any State, regional or local program in furtherance of the protection of the lands in their natural state.

and their ultimate sale to the PDC Bank. Given that, the fact that a PDC deed restriction has historically never been released, and the importance of the PDC Program to the success of the Pinelands protection program, additional compensation is warranted.

The CMP's Waiver of Strict Compliance rules generally provide relief in the form of construction of one dwelling unit, which constitutes the minimum relief necessary, in most instances, to alleviate an extraordinary hardship. Generally, this dwelling unit results in approximately 0.5 acres of disturbance. The CMP provides that .25 PDCs (or one development right) is required to build this one dwelling unit. This equivalency formula (0.5 acres of disturbance for .25 PDCs or 1 development right) has been used by the Commission in the past in determining the offset required for development of electric transmission lines through the Preservation Area District.

Applying both the Green Acres' diversion formula (3 x 3.5 acres diverted = 10.5 acres) and the PDC formula (i.e. ((10.5 acres) x .25 PDCs/0.5 acres) yields 21 rights or 5.25 PDCs (21/4). The County should therefore be required to protect agricultural lands in the Pinelands Area portion of the County to which a minimum of 5.25 PDCs have been allocated by the Commission. Depending upon the acreage of uplands/wetlands present on the protected agricultural lands, this would result in the protection of 126 to 189 acres of land (approximately 6 to 9 acres of land are preserved in the Pinelands Area through the severance of .25 PDCs).

The staff further recommends that the County be provided with the option of transferring the above-described land protection obligation to the Commission itself, by making a monetary contribution to the Pinelands Conservation Fund. Should the County elect to pursue this option, it would need to contribute \$202,986 to the Pinelands Conservation Fund for the conservation of agricultural lands located within the Pinelands Area portion of Burlington County. This contribution is equivalent to the purchase of 5.25 PDCs based on the mean sales price of \$9,666 for 0.25 PDC during the most recent quarter (January-March 2012).

PUBLIC COMMENT

This applicant provided the requisite public legal notices. Newspaper public notice was completed for the application on November 22, 2011. Notice to required land owners within 200 feet of proposed stormwater basins was completed on December 12, 2011. The application was designated as complete on the Commission's website on December 15, 2011. The Commission's public comment period closed on January 13, 2012. The Commission received two written public comments and oral comments from one individual regarding the application. Copies of the two written comments are attached (Attachment Three).

Public Comment One: In writing, the commenter posed seven questions regarding the proposed road improvement. Five of the questions concerned compensation for property taken by the proposed development, access to the property during construction, notice of the construction schedule, contact information for property damage and whether the development plan had been revised since an unspecified meeting date held at Burlington County College. A sixth question requests the amount of the commenter's property which would be taken for the proposed road

improvements. The seventh question inquired as to who should be contacted to schedule an appointment to review the development plan.

Staff Response to Comment One: The commenter may wish to contact the Burlington County Engineering Department to discuss the five questions pertaining to compensation for property taken by the proposed development, access to the property during construction, notice of the construction schedule, contact information for property damage and whether the development plans had been revised since an unspecified meeting date held at the Burlington County College. The Commission's regulations and review process do not address these five matters. The plan indicates that the proposed roadway pavement will extend approximately ten additional feet onto the commenter's property. The Commission staff twice attempted to contact the commenter to schedule a review of the application file. The commenter did not contact the Commission staff to schedule that file review.

Public Comment Two: In writing, the commenter expressed concern regarding a Blackjack oak tree growing near the Shady Oak Apartments in Borough of Pemberton. The commenter indicates that the tree is listed as a champion tree by the New Jersey Department of Environmental Protection.

Staff Response to Comment Two: The concerned tree is not located within the Pinelands Area and the tree location is not shown on the submitted development plan. Therefore, it is unclear if the proposed development will impact the concerned tree. By copy of this letter we are advising the New Jersey Department of Environmental Protection, Division of Parks and Forestry of the concern.

Public Comment Three: Verbally, the commenter indicated that information submitted by the County and contained in the Commission's application file provided the current number of vehicles that utilize the concerned roadway per day and the number of accidents that occurred between 2000 and 2002. The commenter further indicated that the number of accidents did not appear "high" given the number of vehicles that utilize the roadway each day. The commenter also indicated the proposed cost of 27 million dollars to prevent the number of reported accidents was high. The commenter was also concerned about the siting of stormwater facilities on land that has been deed restricted through the sale of Pinelands Development Credits. The commenter noted that impacts to the deed restricted land could be avoided by developing stormwater facilities on the north side of the County Route 530 right-of-way. In addition, the commenter was concerned with the potential offset required for impacting the concerned deed restricted land and whether that offset would be based upon the New Jersey Conservation Restriction and Historic Preservation Restriction Act or NJDEP Green Acre regulations.

Staff Response to Comment Three: The Commission's regulations do not address the commenter's concerns regarding accident rates, project cost and the need for a particular project. The only regulatory basis provided in the Commission's regulations to address the commenter's concern regarding need for the project is that an applicant must address whether the development of road improvements in a wetland constitutes a need more important than protecting the wetland. This application proposes to encroach on 0.37 acres of wetlands for road paving, grading and stormwater outfalls. The Commission staff believes the applicant has demonstrated

that the impact to 0.37 acres of wetlands to address public safety overrides the importance of protecting those of wetlands. With regard to an offset for the proposed encroachment onto 3.5 acres of the Katona Farm, which is currently subject to the Deed of Conservation Easement, as discussed above, the Commission staff is recommending that the County either acquire and preserve agricultural lands, located within the Pinelands Area portion of Burlington County, to which a minimum of 5.25 PDCs have been allocated by the Commission or the make a contribution of \$202,986 to the Pinelands Conservation Fund.

CONCLUSION

The proposed development is a permitted use in a Pinelands Regional Growth Area (N.J.A.C. 7:50-5.28(a)) and a Pinelands Agricultural Production Area (N.J.A.C. 7:50-5.24(b)9). If the following conditions are imposed, the proposed development will be consistent with the management standards contained in Subchapters 5 & 6 of the CMP.

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of 27 sheets, prepared by Michael Baker, Jr., Inc. and dated as follows:

Sheet 1 – December 2011
Sheets 2-28 – January 20, 2012
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. Silt fencing, hay bales or other appropriate measures shall be installed prior to construction to preclude sediment from entering freshwater wetlands and shall be maintained in place until all development has been completed and the area has been stabilized.
5. No development activities, as defined in the CMP at N.J.A.C. 7:50-2.11, including, but not limited to clearing and site preparation, shall occur within the Pinelands Area portion of the project until the applicant has provided:
 - i. a) recorded copies of the deed restrictions acquired and placed on agricultural lands in the Pinelands Area portion of Burlington County to which a minimum of 5.25 PDCs have been allocated by the Commission pursuant to N.J.A.C. 7:50-5.43; or
 - b) a contribution of \$202,986 to the Pinelands Commission for inclusion in the Pinelands Conservation Fund. Any such contribution shall be

utilized for the conservation of agricultural lands in the portion of Burlington County located within the Pinelands Area in accordance with the terms of the Pinelands Conservation Fund program; and

- ii. the applicant has obtained any other applicable permit and/or approvals, including but not limited to any approvals from the NJDEP, including but not limited to a certificate issued in accordance with the requirements of the New Jersey Conservation Restriction and Historic Restriction Act, N.J.S.A. 13:8B-6 and, prior to construction of any portion of the proposed development which will result in disturbance of any wetland areas, authorization pursuant to the New Jersey Department of Environmental Protection Freshwater Wetlands Protection Act Rules.
6. Prior to any development activities occurring on any portion of Block 701, Lots 2, 3 & 3.01, the applicant shall provide a recorded copy of an amended Deed of Conservation Easement evidencing the release of all deed restrictions on the 3.5 acres on which road improvements are proposed.

As the proposed development conforms to the standard 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.

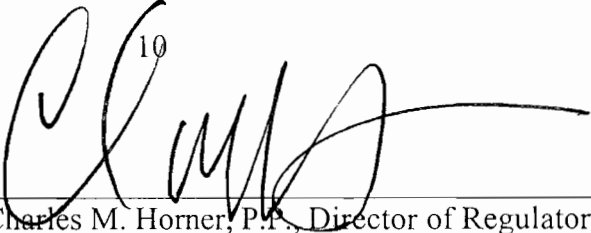
APPEAL

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 within eighteen days of the date of this Report and must include the following information:

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

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

Recommended for Approval by:

¹⁰
Charles M. Horner, P.E., Director of Regulatory Programs

CMH/ED

Attach. (3) One: Deed of Conservation Easement for Block 701, Lots 2, 3 & 3.01.
Two: November 25, 2009 Commission Letter
Three: Written Public Comments Letters dated 4/3007 and 1/13/12

c: Pemberton Township Planning Board
Pemberton Township Environmental Commission
Southampton Township Planning Board
Southampton Township Environmental Commission
Burlington County Planning Board
Judeth Yeany, Esq., NJDEP
Darren Riegler
Theresa Lettman
Robert & Elaine Zeigler
Thomas Besselman
NJDEP, Parks and Forestry
Executive Director, PDC Bank
Ernest Deman

ATTACHMENT ONE

Conservation Deed Restriction for Block 701, Lots 2, 3 & 3.01 in Southampton Township

REC'D NOV 3 2006

1201-5A
701-2, 3, 3A, 10, 11, 12, 13

KATONA FARM

COUNTY OF BURLINGTON
CONSIDERATION: *None*
REALTY TRANSFER FEE: *9200*
DATE: *10-20-83* BY: *[Signature]*

DEED OF CONSERVATION EASEMENT

This indenture dated *October 19*, 1983 between LAN-N.J. Properties, Inc., A New Jersey Corporation, located at 399 Park Ave., New York, N.Y., herein referred to as the GRANTOR (Seller), and the BOARD OF CHOSEN FREEHOLDERS OF THE COUNTY OF BURLINGTON, a body corporate and politic of the State of New Jersey, having its principal place of business at 49 Rancocas Road, Mount Holly, New Jersey 08060, hereinafter referred to as the GRANTEE (Buyer);

WITNESSETH:

ALL THAT CERTAIN tract of land and premises situate, lying and being in the Township of Southampton, County of Burlington and State of New Jersey, described as follows:

BEGINNING at a point in the Southerly line of South Pemberton Road (66 feet wide) corner to lands now or formerly of Israel Greenberg and runs:

(1) Along the Southerly line of South Pemberton Road South 86 degrees 57 minutes 00 seconds East 2877.63 feet to a point corner to lands now or formerly of Grover Ayrer; thence'

(2) Along said Ayrer South 4 degrees 56 minutes 32 seconds West 295.24 feet to a point corner to the same; thence

(3) Still along said Ayrer South 86 degrees 57 minutes 00 seconds East 295.24 feet to a point corner to the same and

PREPARED BY: *[Signature]*

in the line of lands now or formerly of Preston Richards; thence

(4) Along said Richards South 4 degrees 56 minutes 32 seconds West 5839.94 feet to a point common corner to the same and lands now or formerly of John Borko; thence

(5) Along said Borko South 5 degrees 17 minutes 58 seconds West 1800.79 feet to a point in the line of the same and corner to lands now or formerly of Harry O. Hughes; thence

(6) Along said Hughes North 87 degrees 44 minutes 55 seconds West 1837.56 feet to a point corner to the same; thence

(7) Still along said Hughes South 7 degrees 25 minutes 52 seconds East 1142.82 feet to a point corner to the same; then

(8) Still along said Hughes South 18 degrees 55 minutes 18 seconds East 486.11 feet to a point in the center line of the Vincentown-Pemberton Road, along which it runs

(9) South 79 degrees 07 minutes 09 seconds West 457.36 feet to a point corner to lands now or formerly of William C. Adams; thence

(10) Along said Adams North 19 degrees 27 minutes 40 seconds West 350.00 feet to a point corner to the same; thence

(11) Still along said Adams South 79 degrees 07 minutes 09 seconds West 200.00 feet to a point corner to the same and in the line of lands now or formerly of Maris P. Kirkbride; thence

(12) Along said Kirkbride North 19 degrees 27 minutes 40 seconds West 10.15 feet to a point corner to the same; the

(13) Still along said Kirkbride North 4 degrees 15 minutes 21 seconds West 1859.50 feet to a point corner to the same; thence

(14) Still along said Kirkbride North 70 degrees 46 minutes 01 seconds West 1962.48 feet to a point corner to the same; thence

(15) Still along said Kirkbride South 37 degrees 06 minutes 58 seconds West 1178.42 feet to a point in the line of the same and corner to lands now or formerly of Charles Green; thence

(16) Along said Green North 58 degrees 16 minutes 03 seconds West 887.70 feet to a point corner to the same; thence

(17) Still along said Green South 13 degrees 07 minutes 16 seconds West 765.80 feet to a point common corner to the same and lands now or formerly of Kingway Associates, Inc.; thence

(18) Along said Kingway Associates, Inc., North 86 degrees 02 minutes 54 seconds West 39.00 feet to a point in the Easterly line of New Jersey State Highway U.S. Route 206 (80 feet wide) along which it runs

(19) North 3 degrees 58 minutes 06 seconds West 1267.34 feet to the point of curvature of a curve in said line; thence

(20) Northwardly still along said Easterly line of Route 206 along the arc of a circle curving to the right with a radius of 1870.08 feet, an arc distance of 840.46 feet (chord being North 8 degrees 54 minutes 25 seconds East 833.40 feet) to the point of tangency of said curve; thence

(21) Still along said Easterly line of Route 206 (84 feet



wide) North 21 degrees 46 minutes 54 seconds East 400.06 feet to a point corner to a public right-of-way conveyed by Edwin B. Haines, et als, to the Township of Southampton; thence

(22) Along said right-of-way South 62 degrees 38 minutes 28 seconds East 71.20 feet to a point corner to the same; thence

(23) Still along said right-of-way North 1 degree 22 minutes 12 seconds East 43.29 feet to a point corner to the same; thence

(24) Still along said right-of-way North 62 degrees 38 minutes 28 seconds West 56.03 feet to a point in the Easterly line of said Route 206 along which it runs;

(25) North 21 degrees 46 minutes 54 seconds East 635.54 feet to a point corner to lands now or formerly of Edwin B. Haines; thence

(26) Along said Haines South 89 degrees 59 minutes 08 seconds East 404.22 feet to a point corner to the same; thence

(27) Still along said Haines in part and lands now or formerly of George F. Goley, III, North 11 degrees 57 minutes 32 seconds East 733.29 feet to a point corner to the same and in line of lands now or formerly of Isreal Greenberg; thence

(28) Along said Greenberg South 89 degrees 55 minutes 22 seconds East 1166.21 feet to a point corner to the same; thence

(29) Still along said Greenberg North 4 degrees 45 minutes 22 seconds East 879.01 feet to a point corner to the same; thence

(30) Still along said Greenberg North 73 degrees 32 minutes 01 seconds East 1076.29 feet to a point corner to the same; thence

(31) Still along said Gr-enberg North 4 degrees 08 minutes 04 seconds East 3120.48 feet to the Place of Beginning.

Containing within said bounds 801.365 acres.

ALSO KNOWN AS BLOCK 1201, LOT 5A and BLOCK 701, LOTS 2, 3, 3A, 10, 11, 12 & 13 as shown on the tax map of the Township of Southampton, County of Burlington and State of New Jersey.

WHEREAS, it is the desire of the GRANTEE to assist in the protection of natural environmental systems; and

WHEREAS, one of the Grantees prime preservation purposes is to protect and enhance agriculture in the Pinelands and to protect lands that are of prime agricultural importance; and

WHEREAS, the Grantor and the Grantee recognizing the importance of agriculture and active farming to the economic health and well-being of the citizens of Burlington County and recognizing a Right to Farm; and

WHEREAS, GRANTOR and GRANTEE desire that the Property be preserved in its natural, scenic, open and existing state to the greatest extent practicable and for such purpose GRANTOR desires to grant to GRANTEE a conservation easement as hereinafte described:

NOW, THEREFORE, GRANTOR for and in consideration of TWO HUNDRED NINETY SEVEN THOUSAND AND FIVE HUNDRED (\$297,500) DOLLARS


the receipt of which is acknowledged, hereby conveys, transfers, sells and grants unto GRANTEE, its successors and assigns, an easement and interest in the Property for the purpose of protecting the Property in its natural, scenic, open and existing state on the following terms and conditions, with which both GRANTOR and GRANTEE hereby agree to comply and to enforce separately or jointly with the New Jersey Pinelands Commission, a body corporate and politic of the State of New Jersey:

1. No trees, shrubs or other vegetation now existing on the Property shall be removed or destroyed excepting those activities necessary to good land management and proper practices for agriculture, horticulture and other products compatible with the native Pinelands environment.

2. No topsoil, sand, gravel, loam, rock or other minerals shall be removed or extracted from the Property excepting may be necessary for agriculture purposes on the property.

3. GRANTOR hereby reserves and retains unto itself, its heirs, successors and assigns, all rights to the use of water flowing in or through the property. It is specifically recognized that the GRANTOR has the right to develop and construct in accordance with good soil conservation practices and all other applicable rules and regulations a source of water supply for agricultural uses.

4. No buildings or structures shall be erected on the property except, as provided for herein, as support for agricultural production and the sales of agricultural products on site. It



is specifically agreed upon and recognized that there exists the right to ~~maintain~~ 4 dwelling units on the property.

5. No dumping or placing of soil or other substance or material as landfill and no dumping or placing of trash, waste or unsightly or offensive materials shall be permitted on the Property. Normal refuse from brush cuttings, chaff and the like resulting from the normal operation of the Property shall be allowed.

6. Nothing contained herein shall be construed to convey to the Public any right of access to or use of the Property and GRANTOR for itself, its successors and assigns shall, subject to Paragraph 7 hereof, retain the exclusive right of access and use the Property. GRANTOR shall also allow by prearrangement, visitations from school classes and other groups for educational and scientific purposes. Such visitations shall be reasonable in number and at reasonable times so as not to interfere with agricultural operations.

7. Nothing herein contained shall be deemed to restrict the right of the GRANTOR to maintain all roads and trails existing upon the Property on the date hereof.

8. No hunting, fishing, trapping, killing or taking of wildlife shall be permitted unless granted by the fee owner and in accordance with proper wildlife management practices.

9. Nothing herein contained shall be construed to convey to the public any right of access to or use of the Property

and GRANTOR, for itself, its successors and assigns shall, subject to the above limitations retain the exclusive right of access to and use of the Property.

10. GRANTEE and its agents shall be permitted access to and to enter upon, the Property at all reasonable times but solely for the purpose of inspection in order to enforce and assure compliance with the terms and conditions herein contained. GRANTEE agrees to give GRANTOR 24 hours advance notice of its intent to enter the Property and further, to limit such times of entry to the daylight hours on regular business days of the week.

11. It is understood that this instrument imposes no obligation on the GRANTOR and no restrictions on the use of the Property except as specifically set forth herein. Nothing contained herein shall be construed to interfere with the right of the GRANTOR, its successors, assigns, licenses and any party claiming under them to utilize the Property in such manner as they may deem desirable, subject to the terms and conditions hereof.

12. This instrument shall be binding upon the GRANTOR, its successors and assigns, and upon the GRANTEE, its successors and assigns.

13. This DEED is made subject to any existing easement record.

14. Subject to the rights, public and private, in the

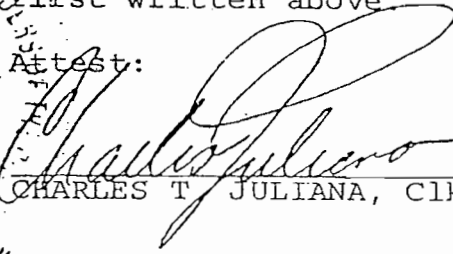
of the Property included within the lines of State Highway Route 206, the Vincentown Pemberton Road and the South Pemberton Road County Road 530.

15. The GRANTOR agrees that this instrument transfers ownership to the GRANTEE of the TWENTY-NINE AND THREE QUARTERS (29.75) Pinelands Development Credits allocated to the subject Property by the New Jersey Pinelands Commission "Letter of Interpretation #251" dated August 10, 1983.

INWITNESS WHEREOF and intending to be legally bound, the GRANTOR and GRANTEE, respectively have caused this Indenture to be executed by SELLERS and Freeholder Director, attested by their duly authorized WITNESS AND Clerk/Administrator and the respective corporate seal to be hereto affixed the day and year

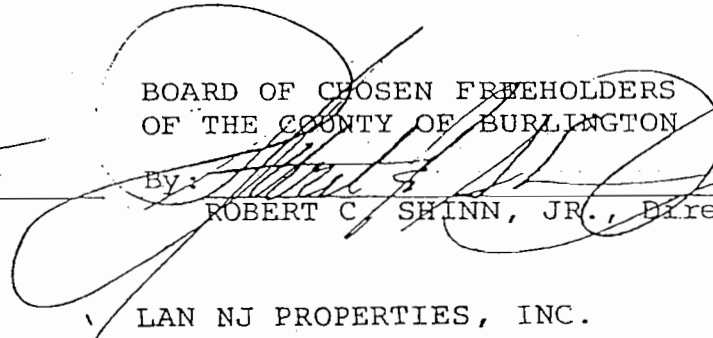
first written above.

Attest:


CHARLES T. JULIANA, Clk/Admr.

BOARD OF CHOSEN FREEHOLDERS
OF THE COUNTY OF BURLINGTON

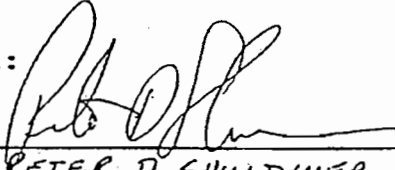
By:


ROBERT C. SHINN, JR., Dire

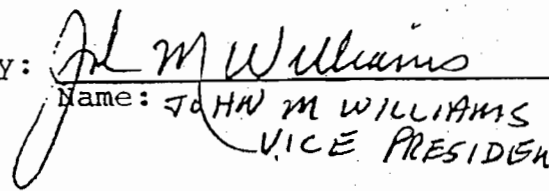
LAN NJ PROPERTIES, INC.

(SEAL)

Attest:

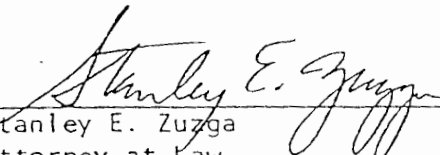

Name: PETER D SHULDINER
SECRETARY

By:


Name: JOHN M WILLIAMS
VICE PRESIDENT

STATE OF NEW JERSEY)
) SS:
COUNTY OF BURLINGTON)

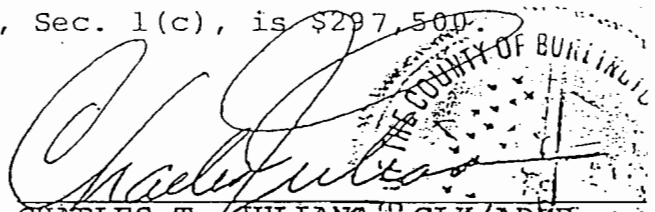
BE IT REMEMBERED that on this 19th day of October in the year of our Lord one thousand nine hundred and eighty-three the subscriber, Stanley E. Zuzga, personally appeared John M. Williams, Vice President of Lan - NJ Properties, Inc. who I am satisfied is the person who signed the within instrument and he acknowledged that he signed, sealed with the corporate seal and delivered the same as such officer aforesaid and that the within instrument is the voluntary act and deed of such corporation, made by virtue of a Resolution of its Board of Directors. The full and actual consideration paid or to be paid for the transfer of title to realty evidence by the within deed as such consideration is defined in P.L. 1968, c. 49, Sec. 1(c), is \$297,500.

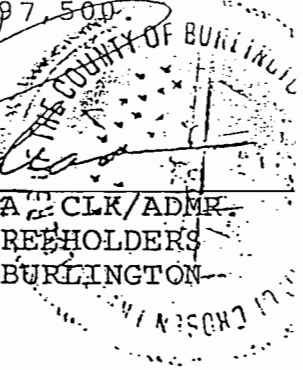


Stanley E. Zuzga
Attorney at Law
State of New Jersey

STATE OF NEW JERSEY)
) SS:
COUNTY OF BURLINGTON)

BE IT REMEMBERED that on this 19th day of October in the year of our Lord one thousand nine hundred and eighty-three the subscriber, CHARLES T. JULIANA, Clerk/Administrator, personally appeared ROBERT C. SHINN, JR., Director of the BOARD OF CHOSEN FREEHOLDERS OF THE COUNTY OF BURLINGTON who I am satisfied is the person who signed the within instrument and he acknowledged that he signed, sealed with the corporate seal and delivered the same as such officer aforesaid and that the within instrument is the voluntary act and deed of such corporation, made by virtue of a Resolution of its Board of Directors. The full and actual consideration paid or to be paid for the transfer of title to realty evidenced by the within deed as such consideration is defined in P.L. 1968, c. 49, Sec. 1(c), is \$297,500.


CHARLES T. JULIANA, CLK/ADMN
BOARD OF CHOSEN FREEHOLDERS
OF THE COUNTY OF BURLINGTON





Sworn and subscribed before me this 19th day of October, 1983

Marguerite A. Clark
MARGUERITE A. CLARK
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES JUL 26, 1987

10218

RECEIVED
CLERK'S OFFICE
MAY 11 11 02 AM '83

RECORDED

CLERK'S OFFICE
MAY 11 11 02 AM '83

RECEIVED 10-20-83
at 11:34 o'clock PM
and Recorded in the Clerk's Office
of Burlington County at Mt. Holly
in Book 2764 of
Deeds folio 126

Edward A. Kelly, Jr. Clerk

Per R

Legal Dept.

N/e

ATTACHMENT TWO

November 25, 2009 Commission Letter



State of New Jersey
THE PINELANDS COMMISSION

PO Box 359
NEW LISBON, NJ 08064
(609) 894-7300

JON S. CORZINE
Governor

JOHN C. STOKES
Executive Director

November 25, 2009

R. Thomas Jaggard, P.E.
County of Burlington
Office of County Engineer
P.O. Box 6000
Mount Holly, NJ 08060

Please Always Refer To
This Application Number

Re: Application #1997-0585.002
County Route 530
Pemberton Township
Southampton Township

Dear Mr. Jaggard:

I am writing to follow up on our meeting of September 17, 2009 regarding the County's proposal to construct certain road improvements to Burlington County Route 530 on land subject of a conservation easement.

With respect to the background regarding this issue, in 1983 the Burlington County Board of Chosen Freeholders secured a conservation deed restriction on certain lands (Block 701, Lots 2, 3 & 3.01), commonly referred to as the Katona Farm, located adjacent to Burlington County Route 530. It is our understanding that the deed restriction prohibits most "development," including road improvements, on the concerned lands. That deed restriction also conveyed to Burlington County the Pinelands Development Credits (PDCs) that were allocated to the concerned lands. Those PDCs were subsequently sold by Burlington County to the Pinelands Development Credit Bank.

As reflected in my April 7, 2009 letter (copy enclosed) regarding this matter, the Pinelands Development Credit Bank asked that the Commission staff review the proposed roadway design and feasible construction alternatives and determine the extent to which relief, if any, may be required from the concerned PDC deed restriction to allow for proposed County Route 530 road improvements on the deed restricted lands. Please note that the Commission staff's review should not be considered, nor was it intended to be, an extensive analysis of all economic, traffic engineering, road construction and social impacts of possible road construction



www.nj.gov/pinelands

E-mail: info@njpines.state.nj.us



* 1 9 9 7 0 5 8 5 . 0 0 2 *

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alternatives. The staff's review was intended to provide a review of facts provided by the County and determine whether those facts, when subject to a reasonable degree of inquiry and review, identified any feasible road construction alternatives other than the currently proposed road design.

On July 1, 2009, we met with Burlington County to discuss the proposed road improvements on the Katona Farm. At that meeting, we discussed a number of road design alternatives and the County provided a review of various road design alternatives that had been considered and rejected for various design and traffic safety reasons. Based upon the road design proposed at that time, the road pavement encroached onto the Katona Farm parcel by 30 feet for the entire 3,172.88 foot frontage of the Katona Farm parcel along County Route 530. In addition, a proposed stormwater basin resulted in an additional 70 feet of encroachment for approximately 900 linear feet paralleling County Route 530 on the Katona Farm parcel. In total, the proposed road pavement and stormwater basin would have resulted in a 3.63 acre encroachment on the 604 acre Katona Farm parcel.

In an attempt to reduce encroachment onto the Katona Farm, the Commission staff asked the County at the meeting to evaluate the minimum stormwater facilities that would be required if the Commission was to waive all stormwater management requirements for this section of the road. (The applicant would still provide those stormwater facilities necessary for traffic safety.) The Pinelands Comprehensive Management Plan (CMP) contains a provision where an exception to the stormwater requirements may be granted provided the applicant proposes to provide stormwater offsets within the same drainage area within the Pinelands Area. At the conclusion of the meeting, I indicated that the County should evaluate additional stormwater management alternatives to reduce stormwater facility encroachment onto the Katona Farm parcel.

In response, Burlington County considered several alternatives to reduce proposed stormwater facility impacts to the Katona Farm parcel. On July 30, 2009, we met to review the results of the County's investigation. At that meeting, the County presented a design reducing the stormwater basin encroachment from 70 feet to 40 feet for the 900 linear foot length. This design would result in a 3.01 acre encroachment on the 604 acre Katona Farm parcel. This reduction was accomplished by reducing that stormwater basin to only provide sufficient volume to ensure traffic safety. The applicant will be designing stormwater facilities within the same drainage area within the Pinelands Area to offset the stormwater exception for this section of the road.

In response to this proposed reduction in encroachment, I indicated that the extent of the stormwater facility encroachment remained a concern and indicated that the Commission would require the services of a civil engineer to further review the matter. Because the Commission staff does not have civil engineering expertise with respect to road construction alternatives, it was agreed that a civil engineer from the New Jersey Department of Transportation would evaluate the proposed design and possible construction alternatives to reduce the encroachment onto the Katona Farm parcel.

An initial meeting was held between the applicant, the Commission staff and the NJDOT engineer on July 30, 2009. The purpose of that meeting was to familiarize the NJDOT engineer with the specific stormwater issue to be reviewed.

The proposed stormwater design was reviewed by the NJDOT engineer. The NJDOT engineer independently met with the applicant's engineers on August 17, 2009 to discuss various aspects of the stormwater design.

By memorandum dated September 16, 2009 (copy enclosed), the NJDOT engineer concluded that there was no feasible alternative to the stormwater facility proposed on the Katona Farm parcel. That memorandum outlined several design alternatives, including constructing stormwater facilities to the north of County Route 530 and construction techniques to further reduce the amount of impacts to the Katona Farm parcel. The NJDOT engineer concluded that a stormwater facility to the north of County Route 530 was not feasible due to grading, seasonal high water table and wetland constraints which would have resulted in stormwater overflowing any stormwater facility during large rainfall events onto County Route 530. In addition, the NJDOT engineer concluded that the alternative construction techniques, such as guiderails and retaining walls, were cost preventative based on the minimal additional reduction to the Katona Farm parcel encroachment.

Based on our review of the submitted information and the conclusions reached by the New Jersey Department of Transportation, we concluded that the proposed reduction in encroachment by the proposed stormwater facility onto the Katona Farm parcel from 70 feet to 40 feet from the existing right-of-way for 900 linear feet for road improvements is, within reason, the only feasible alternative to accommodate the stormwater for the proposed road improvements.

By copy of this letter I am updating the PDC Bank and the NJDEP regarding this matter. If you have any questions, please feel free to contact me.

Sincerely,



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

Enclosures(2): July 24, 2009 Project Overview
September 16, 2009 NJDOT Memorandum

c: Judeth Yeany, Esq., Green Acres Program w/encl.
Guillermo Vivas, PDC Bank w/encl.
Helene Chudzik, Esq. w/encl.
John C. Stokes, Executive Director w/o encl.
Stacey Roth, Esq. w/o encl.
David Ahdout, NJDOT w/o encl.

ATTCHMENT THREE

April 3, 2007 and January 13, 2012 Public Comment Letters

APP# 19970585 002
Doc Type 100

From: Joel Mott
To: ApplInfo
Date: 1/17/2012 9:07 AM
Subject: Fwd: CR-530 S.Pemberton Rd. improvement

JAN 18 2012

Scanned 

Info Rec

12/30/11



>>> "T Besselman" <oji1160@verizon.net> 1/13/2012 4:08 PM >>>

To whom it may concern, I am writing to express a concern I have with Application# 19970585.002 Burlington County Board of Chosen Freeholders- CR-530 South Pemberton Rd. improvement. I am writing to inform you that along the roadway in front of the Shady Oaks Apts. 191 W. Hampton St.(CR-530) there is a tree growing which is listed in the NJDEP Div. of Parks and Forestry website listing of N.J.champion trees as the largest known example of Quercus marilandica (Blackjack oak) in N.J. Although it's not a T&E species it is a very unusual example and if anything can be done to work around it should be considered.

Sincerely, Thomas Besselman, Browns Mills, NJ

APR 30 2007

Robert & Elaine Zeigler
127 S. Pemberton Rd.
Pemberton, NJ 08068

App # 19970585.2
DocType 100

APR 30 2007

Scanned

April 27, 2007

Re: Pinelands Development Application #1997-0585.002

Info Recv
4/25/07

To whom it may concern;

This letter is in reference to application #1997-0585.002. We received a notice of attempt to deliver a certified letter on April 24, 2007. It was picked up on April 25, 2007. The letter was postmarked and dated April 20, 2007. In this letter it states that we have 10 days to respond or make comments to its contents so if this arrives late, it is of no fault on our part. We called your office on April 25, and were told to write and send my comments and to explain the above situation. Our questions are as follows:

1. Have the plans been revised since the meeting at the Burlington County College?
2. How much of our property is scheduled to be taken?
3. Who determines how and what we are compensated for and when?
4. What do we do when work begins with receiving mail, access for entering and exiting the premises and for trash and recycle pick up?
5. Who do we contact to make an appointment to inspect the plans and will there be someone available to explain the items that we do not understand?
6. Will there be any other notice given with an actual schedule date for construction?
7. Who should be contacted in the event damage occurs during construction?

We would also like to request a copy of the Executive Director's findings and conclusions.

Thank You,

Robert & Elaine Zeigler



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-12- 18

TITLE: Approving With Conditions Applications for Public Development (Application Numbers 2011-0087.001 & 2011-0088.001)

Commissioner Ficcaglia moves and Commissioner Baur seconds the motion that:

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

2011-0087.001 TOWNSHIP OF HAMILTON, Hamilton Township, Rural Development Area, realignment of approximately 1,650 linear feet of existing road pavement within the East Walnut Street right-of-way (Date of Report: May 18, 2012); and

2011-0088.001 TOWNSHIP OF HAMILTON, Hamilton Township, Pinelands Village and Rural Development Area, realignment of approximately 3,700 linear feet of existing road pavement within the Strand Avenue right-of-way (Date of Report: May 18, 2012).

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, 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; and

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

NOW, THEREFORE BE IT RESOLVED that the following applications for public development are hereby approved subject to the conditions recommended by the Executive Director.

2011-0087.001 TOWNSHIP OF HAMILTON, Hamilton Township, Rural Development Area, realignment of approximately 1,650 linear feet of existing road pavement within the East Walnut Street right-of-way (Date of Report: May 18, 2012); and

2011-0088.001 TOWNSHIP OF HAMILTON, Hamilton Township, Pinelands Village and Rural Development Area, realignment of approximately 3,700 linear feet of existing road pavement within the Strand Avenue right-of-way (Date of Report: May 18, 2012).

Record of Commission Votes

AYE NAY NP ABS				AYE NAY NP ABS				AYE NAY NP ABS			
Ashmun	X			Haas	X			Prickett	X		
Brown	X			Harris	X			Quinn	X		
Earlen	X			Jackson			X	Rohan Green	X		
Ficcaglia	X			Lloyd	X			Witt	X		
Galletta	X			McGlinchey	X			Lohbauer	X		

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

Date: June 8, 2012
Mark S. Lohbauer
Mark S. Lohbauer
Chairman



State of New Jersey

THE PINELANDS COMMISSION

PO BOX 359

NEW LISBON, NJ 08064

(609) 894 7300

CHRIS CHRISTIE
Governor
KIM GUADAGNO
Lt. Governor

Nancy Wittenberg
Executive Director

**REPORT ON AN APPLICATION FOR
MAJOR PUBLIC DEVELOPMENT**

May 18, 2012

Michael Jacobs, Township Administrator
Township of Hamilton
6101 Thirteenth Street
Mays Landing, NJ 08330

Please Always Refer To
This Application Number

Re: Application #: 2011-0087.001
East Walnut Street
Hamilton Avenue

Dear Mr. Jacobs:

The Commission staff has completed its review of the above referenced application. Based upon the facts and conclusions contained in this Report, on behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its June 8, 2012 meeting.

FINDINGS OF FACT

This application proposes to realign the approximately 1,650 linear feet of existing road pavement of East Walnut Street east of Route 50 in Hamilton Township. The proposed development is located in a Pinelands Rural Development Area.

East Walnut Street is an existing two lane paved municipal road which averages approximately 15 feet in width. The existing pavement will be removed. This application proposes to realign the pavement to straighten the roadway and to provide a uniform width of 15 feet.

The proposed development will be located within existing paved areas and maintained grass and gravel shoulder areas. The proposed clearing and soil disturbance appears to be limited to that which is necessary to accommodate the proposed road improvements. The Landscaping and Revegetation guidelines of the Pinelands Comprehensive Management Plan (CMP) recommend the use of grasses that are tolerant of droughty, nutrient poor conditions. The applicant proposes to use grasses that meet this recommendation.



www.nj.gov/pinelands

General Information: Info@njpines.state.nj.us

Application Specific Information: ApplInfo@njpines.state.nj.us 20110088.001*

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There will be no increase in the volume and rate of stormwater run-off from the project area after development than occurred prior to the proposed development. The applicant has indicated that the proposed road improvements will result in a decrease of approximately 1,253 square feet of impervious surfaces.

There are freshwater wetlands located within 300 feet of the proposed road improvements. The proposed realignment will result in a maximum two foot disturbance of the existing grass and gravel shoulders. The proposed road improvements will maintain an appropriate buffer to the concerned wetlands.

The project area does not appear to contain suitable habitat for threatened or endangered animal species. The applicant completed a threatened and endangered plant habitat assessment. The assessment determined that the project area does not contain suitable habitat for any threatened or endangered plant species. Based upon the proposed limits of disturbance, the location of existing development and a review of information available to the Commission staff, it was determined that a survey for the presence of threatened or endangered plant and animal species was not required.

Information available to the Commission staff did not provide sufficient evidence of significant cultural resources to require a full cultural resource survey.

PUBLIC COMMENT

This applicant provided the requisite newspaper public notice. Newspaper public notice was completed for the application on March 29, 2012. The application was designated as complete on the Commission's website on May 1, 2012. The Commission's public comment period closed on May 11, 2012. The Commission has not received any public comments regarding the application.

CONCLUSION

The proposed development is a permitted use in a Pinelands Rural Development Area (N.J.A.C. 7:50-5.26(b)10). If the following conditions are imposed, the proposed development will be consistent with the management standards contained in Subchapters 5 & 6 of the CMP and Hamilton Township's certified master plan and land use ordinance.

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of three sheets (Sheets 14-16), prepared by Remington, Vernick & Walberg Engineers, all sheets dated September 9, 2011 and revised March 21, 2012.
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. Silt fencing, hay bales or other appropriate measures shall be installed prior to construction to preclude sediment from entering freshwater wetlands and shall be

maintained in place until all development has been completed and the area has been stabilized.

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

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.

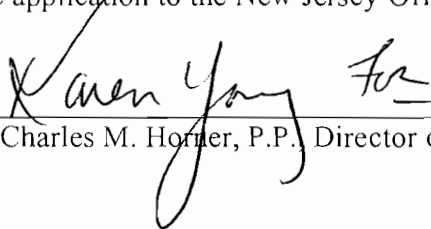
APPEAL

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 within eighteen days of the date of this Report and must include the following information:

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

If no appeal is received, the Pinelands Commission may either approve the recommendation 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

CMH/ED

- c: Secretary, Hamilton Township Planning Board
Hamilton Township Environmental Commission
Atlantic County Department of Regional Planning and Development
Edward Walberg



State of New Jersey

THE PINELANDS COMMISSION

PO Box 359

NEW LISBON, NJ 08064

(609) 894 7300

CHRIS CHRISTIE
Governor
KIM GUADAGNO
Lt. Governor

Nancy Wittenberg
Executive Director

**REPORT ON AN APPLICATION FOR
MAJOR PUBLIC DEVELOPMENT**

May 18, 2012

Michael Jacobs, Township Administrator
Township of Hamilton
6101 Thirteenth Street
Mays Landing, NJ 08330

Please Always Refer To
This Application Number

Re: Application #: 2011-0088.001
Strand Avenue
Hamilton Avenue

Dear Mr. Jacobs:

The Commission staff has completed its review of the above referenced application. Based upon the facts and conclusions contained in this Report, on behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its June 8, 2012 meeting.

FINDINGS OF FACT

This application proposes to realign approximately 3,700 linear feet of existing road pavement of Strand Avenue, between West Point Avenue and Brooklyn Avenue, in Hamilton Township. The proposed development is located partially in the Pinelands Village of Mizpah and partially in a Pinelands Rural Development Area.

Strand Avenue is an existing two lane paved municipal road which averages approximately 18 feet in width. The existing pavement will be removed. The proposed pavement realign is intended to straighten the roadway and to provide a uniform paved width of 18 feet.

The proposed development will be located within existing paved areas and maintained grass and gravel shoulder areas. The proposed clearing and soil disturbance appears to be limited to that which is necessary to accommodate the proposed road improvements. The Landscaping and Revegetation guidelines of the Pinelands Comprehensive Management Plan (CMP) recommend the use of grasses that are tolerant of droughty, nutrient poor conditions. The applicant proposes to use grasses that meet this recommendation.

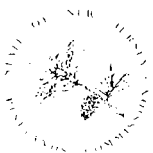
www.nj.gov/pinelands

General Information: Info@njpines.state.nj.us

Application Specific Information: ApplInfo@njpines.state.nj.us 20110088.001*

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There will be no increase in the volume and rate of stormwater run-off from the project area after development than occurred prior to the proposed development. The applicant has indicated that the proposed road improvements will result in a decrease of approximately 2,593 square feet of impervious surfaces.

There are freshwater wetlands located within 300 feet of the proposed road improvements. The proposed roadway pavement will be located no closer to wetlands than the existing roadway pavement.

The project area does not appear to contain suitable habitat for threatened or endangered animal species. The applicant completed a habitat assessment for threatened and endangered plant species. The assessment determined that the project area does not contain suitable habitat for any threatened or endangered plant species. Based upon the proposed limits of disturbance, the location of existing development and a review of information available to the Commission staff, it was determined that a survey for the presence of threatened or endangered plant and animal species was not required.

Information available to the Commission staff did not provide sufficient evidence of significant cultural resources to require a full cultural resource survey.

PUBLIC COMMENT

This applicant provided the requisite newspaper public notice. Newspaper public notice was completed for the application on March 29, 2012. The application was designated as complete on the Commission's website on May 1, 2012. The Commission's public comment period closed on May 11, 2012. The Commission has not received any public comments regarding the application.

CONCLUSION

The proposed development is a permitted use in a Pinelands Village (N.J.A.C. 7:50-5.27(a)1) and a Pinelands Rural Development Area (N.J.A.C. 7:50-5.26(b)10). If the following conditions are imposed, the proposed development will be consistent with the management standards contained in Subchapters 5 & 6 of the CMP and Hamilton Township's certified master plan and land use ordinance.

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of five sheets (Sheets 8-13), prepared by Remington, Vernick & Walberg Engineers, all sheets dated September 9, 2011 and revised March 21, 2012.
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. Silt fencing, hay bales or other appropriate measures shall be installed prior to construction to preclude sediment from entering freshwater wetlands and shall be

maintained in place until all development has been completed and the area has been stabilized.

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

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.

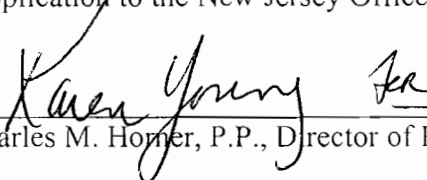
APPEAL

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 within eighteen days of the date of this Report and must include the following information:

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

If no appeal is received, the Pinelands Commission may either approve the recommendation 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

CMH/ED

- c: Secretary, Hamilton Township Planning Board
 Hamilton Township Environmental Commission
 Atlantic County Department of Regional Planning and Development
 Edward Walberg



State of New Jersey

THE PINELANDS COMMISSION

PO Box 359

NEW LISBON, NJ 08064

(609) 894 7300

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

Nancy Wittenberg
Executive Director

**REPORT ON AN APPLICATION FOR
MAJOR PUBLIC DEVELOPMENT**

May 18, 2012

Michael Jacobs, Township Administrator
Township of Hamilton
6101 Thirteenth Street
Mays Landing, NJ 08330

Please Always Refer To
This Application Number

Re: Application #: 2011-0088.001
Strand Avenue
Hamilton Avenue

Dear Mr. Jacobs:

The Commission staff has completed its review of the above referenced application. Based upon the facts and conclusions contained in this Report, on behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its June 8, 2012 meeting.

FINDINGS OF FACT

This application proposes to realign approximately 3,700 linear feet of existing road pavement of Strand Avenue, between West Point Avenue and Brooklyn Avenue, in Hamilton Township. The proposed development is located partially in the Pinelands Village of Mizpah and partially in a Pinelands Rural Development Area.

Strand Avenue is an existing two lane paved municipal road which averages approximately 18 feet in width. The existing pavement will be removed. The proposed pavement realign is intended to straighten the roadway and to provide a uniform paved width of 18 feet.

The proposed development will be located within existing paved areas and maintained grass and gravel shoulder areas. The proposed clearing and soil disturbance appears to be limited to that which is necessary to accommodate the proposed road improvements. The Landscaping and Revegetation guidelines of the Pinelands Comprehensive Management Plan (CMP) recommend the use of grasses that are tolerant of droughty, nutrient poor conditions. The applicant proposes to use grasses that meet this recommendation.

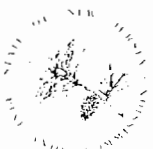
www.nj.gov/pinelands

General Information: Info@njpines.state.nj.us

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There will be no increase in the volume and rate of stormwater run-off from the project area after development than occurred prior to the proposed development. The applicant has indicated that the proposed road improvements will result in a decrease of approximately 2,593 square feet of impervious surfaces.

There are freshwater wetlands located within 300 feet of the proposed road improvements. The proposed roadway pavement will be located no closer to wetlands than the existing roadway pavement.

The project area does not appear to contain suitable habitat for threatened or endangered animal species. The applicant completed a habitat assessment for threatened and endangered plant species. The assessment determined that the project area does not contain suitable habitat for any threatened or endangered plant species. Based upon the proposed limits of disturbance, the location of existing development and a review of information available to the Commission staff, it was determined that a survey for the presence of threatened or endangered plant and animal species was not required.

Information available to the Commission staff did not provide sufficient evidence of significant cultural resources to require a full cultural resource survey.

PUBLIC COMMENT

This applicant provided the requisite newspaper public notice. Newspaper public notice was completed for the application on March 29, 2012. The application was designated as complete on the Commission's website on May 1, 2012. The Commission's public comment period closed on May 11, 2012. The Commission has not received any public comments regarding the application.

CONCLUSION

The proposed development is a permitted use in a Pinelands Village (N.J.A.C. 7:50-5.27(a)1) and a Pinelands Rural Development Area (N.J.A.C. 7:50-5.26(b)10). If the following conditions are imposed, the proposed development will be consistent with the management standards contained in Subchapters 5 & 6 of the CMP and Hamilton Township's certified master plan and land use ordinance.

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of five sheets (Sheets 8-13), prepared by Remington, Vernick & Walberg Engineers, all sheets dated September 9, 2011 and revised March 21, 2012.
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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. Silt fencing, hay bales or other appropriate measures shall be installed prior to construction to preclude sediment from entering freshwater wetlands and shall be

maintained in place until all development has been completed and the area has been stabilized.

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

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.

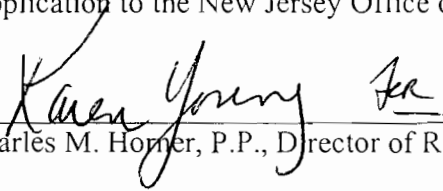
APPEAL

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 within eighteen days of the date of this Report and must include the following information:

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

If no appeal is received, the Pinelands Commission may either approve the recommendation 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. Homer, P.P., Director of Regulatory Programs

CMH/ED

- c: Secretary, Hamilton Township Planning Board
Hamilton Township Environmental Commission
Atlantic County Department of Regional Planning and Development
Edward Walberg



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-12-19

TITLE: Issuing an Order to Certify the Resolution PB 12-12, Approving the 2012 Master Plan Reexamination Report of Monroe Township, and Ordinance 0:11-2012, Amending Chapter 175 (Land Management) of the Code of Monroe Township.

Commissioner Ashmun moves and Commissioner Witt seconds the motion that:

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

WHEREAS, Resolution #PC4-83-76 of the Pinelands Commission specified that any amendment to the Township's certified Master Plan and Land Use Ordinances be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 (Submission and Review of Amendments to Certified Master Plans and Land Use Ordinances) of the Comprehensive Management Plan to determine if said amendment raises a substantial issue with respect to conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, Resolution #PC4-83-76 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 16, 2009, the Pinelands Commission adopted amendments to the Comprehensive Management Plan related to mandatory residential cluster development in the Pinelands Forest and Rural Development Areas; and

WHEREAS, on October 9, 2009, the Pinelands Commission adopted amendments to the Comprehensive Management Plan related to wetlands management; and

WHEREAS, on November 13, 2009, the Pinelands Commission adopted amendments to the Comprehensive Management Plan related to forestry; and

WHEREAS, these three sets of amendments took effect on April 6, 2009, December 21, 2009 and March 1, 2010, respectively; and

WHEREAS, municipalities located within the Pinelands Area are required to adopt ordinance amendments necessary for conformance with any Comprehensive Management Plan amendments within one year of the effective date of any such amendments; and

WHEREAS, on June 11, 2010, the Pinelands Commission adopted Resolution PC4-10-27, extending the time period for response to the clustering and wetlands management amendments to March 1, 2011 in order to provide municipalities with sufficient time for consideration, preparation and adoption of master plan and ordinance amendments to address the three sets of Comprehensive Management Plan amendments simultaneously; and

WHEREAS, Commission staff subsequently provided a model ordinance and other guidance to Monroe Township to assist the municipality in completing its response to the three sets of Comprehensive Management Plan amendments; and

WHEREAS, by email dated November 15, 2011, Monroe Township notified the Commission of the need for an extension of the March 1, 2011 deadline for adoption and submission of the necessary ordinance amendments; and

WHEREAS, by letter dated November 15, 2011, the Executive Director notified the Township that an extension was granted until March 31, 2012; and

WHEREAS, on February 23, 2012, the Monroe Township Planning Board adopted Resolution PB 12-12, approving the Township's 2012 Master Plan Reexamination Report; and

WHEREAS, included in the Master Plan Reexamination Report is a discussion of the need to respond to the three sets of recently adopted amendments to the Pinelands Comprehensive Management Plan; and

WHEREAS, on March 27, 2012, Monroe Township adopted Ordinance 0:11-2012, amending Chapter 175 (Land Management) of the Township's Code in response to the forestry, wetlands management and residential clustering amendments to the Pinelands Comprehensive Management Plan; and

WHEREAS, the Pinelands Commission received a certified copy of Ordinance 0:11-2012 on April 3, 2012; and

WHEREAS, the Pinelands Commission received an adopted copy of Planning Board Resolution PB 12-12 on April 11, 2012; and

WHEREAS, by letter dated April 24, 2012, the Executive Director notified the Township that the Resolution PB 12-12 and Ordinance 0:11-2012 would require formal review and approval by the Pinelands Commission; and

WHEREAS, a public hearing to receive testimony on Resolution PB 12-12 and Ordinance 0:11-2012 was duly advertised, noticed and held on May 9, 2012 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m.; and

WHEREAS, the Executive Director has found that Ordinance 0:11-2012 sufficiently implements the forestry, wetlands management and cluster development amendments to the Comprehensive Management Plan; and

WHEREAS, the Executive Director has further found that Resolution PB 12-12 and Ordinance 0:11-2012 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 Resolution PB 12-12, approving the 2012 Master Plan Reexamination Report of Monroe Township, and Ordinance 0:11-2012, amending Chapter 175 (Land Management) of the Code of Monroe Township, 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 Resolution PB 12-12 and Ordinance 0:11-2012 be certified; and

WHEREAS, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning Resolution PB 12-12 and Ordinance 0:11-2012 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 Resolution PB 12-12, approving the 2012 Master Plan Reexamination Report of Monroe Township, and Ordinance 0:11-2012, amending Chapter 175 (Land Management) of the Code of Monroe Township, are in conformance with the Pinelands Comprehensive Management Plan.

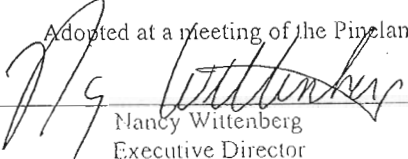
2. Any additional amendments to Monroe Township's certified Master Plan and Land Use Ordinances shall be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 to determine if said amendments raise a substantial issue with respect to the Comprehensive Management Plan. Any such amendment shall become effective only as provided in N.J.A.C. 7:50-3.45.

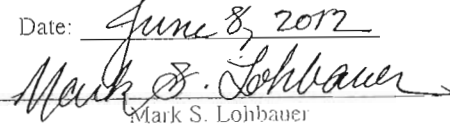
Record of Commission Votes

	AYE	NAY	NP	ABS		AYE	NAY	NP	ABS		AYE	NAY	NP	ABS
Ashmun	X				Haas	X				Prickett	X			
Brown	X				Harris	X				Quinn	X			
Earlen				X	Jackson			X		Rohan Green	X			
Ficcaglia	X				Lloyd	X				Witt	X			
Galletta	X				McGlinchey	X				Lohbauer	X			

Adopted at a meeting of the Pinelands Commission

Date: June 8, 2012


 Nancy Wittenberg
 Executive Director


 Mark S. Lohbauer
 Chairman



State of New Jersey
THE PINELANDS COMMISSION
PO Box 359
NEW LISBON, NJ 08064
(609) 894-7300
www.nj.gov/pinelands



Chris Christie
Governor

Kim Guadagno
Lt. Governor

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

Mark S. Lohbauer
Chairman

Nancy Wittenberg
Executive Director

**REPORT ON RESOLUTION PB 12-12, ADOPTING THE 2012 MASTER PLAN
REEXAMINATION REPORT, AND ORDINANCE 0:11-2012, AMENDING CHAPTER 175
(LAND MANAGEMENT) OF THE CODE OF MONROE TOWNSHIP**

May 25, 2012

Monroe Township
125 Virginia Avenue
Williamstown, NJ 08094

FINDINGS OF FACT

I. Background

The Township of Monroe is located in the western section of the Pinelands Area in Gloucester County. Pinelands municipalities that abut Monroe Township's Pinelands Area include Franklin Township in Gloucester County, Winslow Township in Camden County and the Borough of Folsom and the Township of Buena Vista in Atlantic County.

On September 3, 1983, the Pinelands Commission fully certified the Master Plan and Comprehensive Land Management Ordinance of Monroe Township, now codified as Chapter 175 (Land Management) of the Township's Code.

On January 16, 2009, the Pinelands Commission adopted amendments to the Comprehensive Management Plan related to mandatory residential cluster development in the Pinelands Forest and Rural Development Areas. On October 9, 2009, the Pinelands Commission adopted amendments to the Comprehensive Management Plan related to wetlands management. On November 13, 2009, the Pinelands Commission adopted amendments to the Comprehensive Management Plan related to forestry. These three sets of amendments took effect on April 6, 2009, December 21, 2009 and March 1, 2010, respectively.

Municipalities located within the Pinelands Area are required to adopt ordinance amendments necessary for conformance with any Comprehensive Management Plan amendments within one year of the effective date of any such amendments. On June 11, 2010, the Pinelands Commission adopted Resolution PC4-10-27, extending the time period for response to the clustering and wetlands management amendments to March 1, 2011 in order to provide municipalities with sufficient time for consideration, preparation and adoption of master plan and ordinance amendments to address the three sets of Comprehensive Management Plan amendments simultaneously. Commission staff subsequently

provided a model ordinance and other guidance to the Township to assist the municipality in completing its response to the three sets of Comprehensive Management Plan amendments.

By email dated November 15, 2011, Monroe Township notified the Commission of the need for an extension of the March 1, 2011 deadline for adoption and submission of the necessary ordinance amendments. By letter dated November 15, 2011, the Executive Director notified the Township that an extension was granted until March 31, 2012.

On February 23, 2012, the Monroe Township Planning Board adopted Resolution PB 12-12, approving the Township's 2012 Master Plan Reexamination Report. This Reexamination Report addresses the need to revise and update the Township's land use ordinance to achieve consistency and compliance with the three sets of CMP amendments adopted by the Commission. The Pinelands Commission received an adopted copy of Resolution PB 12-12 on April 11, 2012.

On March 27, 2012, Monroe Township adopted Ordinance 0:11-2012, amending Chapter 175 (Land Management) of the Township's Code in response to the forestry, wetlands management and residential clustering amendments to the Pinelands Comprehensive Management Plan. The Pinelands Commission received a certified copy of Ordinance 0:11-2012 on April 3, 2012.

By letter dated April 24, 2012, the Executive Director notified the Township that Resolution PB 12-12 and Ordinance 0:11-2012 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:

- * Resolution PB 12-12, approving the 2012 Master Plan Reexamination Report of Monroe Township, adopted by the Planning Board on February 23, 2012; and
- * Ordinance 0:11-2012, amending Chapter 175 (Land Management) of the Code of Monroe Township, introduced on March 13, 2012 and adopted on March 27, 2012.

These amendments have been reviewed to determine whether they conform with the standards for certification of municipal master plans and land use ordinances as set out in N.J.A.C. 7:50 3.39 of the

zoning districts, cluster development will be required. The ordinance then sets forth the standards which all such cluster developments must meet, including a one acre lot size requirement, the location of the development area itself on a parcel and the provision of accessory recreational amenities.

According to Ordinance 0:11-2012, the balance of the parcel located outside the residential cluster development area must be permanently protected through recordation of a deed of conservation restriction. This open space area must be owned and managed by a homeowners association, a non-profit conservation organization or the Township, or it may be incorporated as part of one of the lots within the cluster development area. Permitted uses in the open space area are limited to low intensity recreation, ecological management and forestry, subject to specific limitations on clearing and impervious surface. In addition, in cases where agricultural uses exist on the lands to be protected, Ordinance 0:11-2012 provides that such agricultural uses may be permitted to continue and, in some cases, expand, if certain conditions related to impervious

Moreover, when the Commission adopted its clustering amendments, a new certification standard was incorporated in order to make clear that this practice extends to the Forest and Rural Development Area residential clustering program. N.J.A.C. 7:50-3.39(a)2ix provides that municipalities may propose and the Commission may approve clustering ordinances that contain different standards than those set forth at N.J.A.C. 7:50-5.19(c) and (d), provided such standards are supported through the application of sound land use planning principles, are based upon local conditions or circumstances and do not undermine the overall objectives of the Forest and Rural Development clustering program.

In this case, Monroe Township has chosen to apply a reduced scenic setback requirement to cluster developments, rather than eliminate the requirement entirely. Many of the Township's Forest and Rural Development zoning districts contain vacant land which fronts on the Black Horse Pike. The Township felt that the maintenance of at least 100 feet from this and other roads was important for both aesthetic (scenic) and safety purposes. The 100 foot standard adopted by Ordinance 0:11-2012 is unlikely to have a significant impact on a developer's ability to design a clustering project with one acre lots. In some cases, the 100 foot scenic setback will constitute the front yard of a new one acre lot. In others, it may be the rear yard, depending on the design of the cluster development. In either case, the Commission's goal of locating new residential development in such a way as to take advantage of existing infrastructure will still be met.

The amendments adopted by Ordinance 0:11-2012 sufficiently respond to the April 2009, Comprehensive Management Plan amendments relative to cluster development.

Ordinance 0:11-2012 is consistent with the land use and development standards of the Comprehensive Management Plan. Therefore, this standard for certification is met.

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

Ordinance 0:11-2012 amends Chapter 175 by replacing Section 175-107B, in its entirety, with an amended set of application requirements for municipal forestry permits. For forestry activities on parcels of land enrolled in the New Jersey Forest Stewardship Program, an applicant needs only to submit to the municipality a copy of his or her approved Stewardship Plans. For all other forestry applications, the list of submission requirements includes a forestry management plan, information concerning threatened and endangered plants and animals, cultural resources and the use of herbicides, written comments from the New Jersey State Forester and a Certificate of Filing issued by the Pinelands Commission.

The amended forestry application requirements adopted by Ordinance 0:11-2012 are consistent with the March 2010 amendments to the Pinelands Comprehensive Management Plan. Therefore, this standard for certification is met.

4. Requirement for Municipal Review and Action on All Development

Not applicable.

5. **Review and Action on Forestry Applications**

Not applicable.

6. **Review of Local Permits**

Not applicable.

7. **Requirement for Capital Improvement Program**

Not applicable.

8. **Accommodation of Pinelands Development Credits**

Not applicable.

9. **Referral of Development Applications to Environmental Commission**

Not applicable.

10. **General Conformance Requirements**

Resolution PB 12-12, adopting the 2012 Master Plan Reexamination Report, and Ordinance 0:11-2012, amending Chapter 175 (Land Management) of the Code of Monroe Township, 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**

Resolution PB 12-12, adopting the 2012 Master Plan Reexamination Report, and Ordinance 0:11-2012, amending Chapter 175 (Land Management) of the Code of Monroe Township, 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

Not applicable.

PUBLIC HEARING

A public hearing to receive testimony concerning Monroe Township's application for certification of Resolution PB 12-12 and Ordinance 0:11-2012 was duly advertised, noticed and held on May 9, 2012 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m. Ms. Grogan conducted the hearing, at which no testimony was received.

Written comments on Ordinance Resolution PB 12-12 and Ordinance 37-2011 were accepted through May 9, 2012 and were received from the following individual:

Jaclyn Rhoads, Ph.D., Director for Conservation Policy, Pinelands Preservation Alliance (see Exhibit #1)

EXECUTIVE DIRECTOR'S REPOSE

The issue raised by Ms. Rhoads concerning density bonuses for cluster development in the Pinelands Forest and Rural Development Areas is one which was the subject of much discussion by the Commission when the clustering rules were adopted in 2009. Ultimately, the Commission adopted amendments to the CMP which mandate the provision of bonus densities to all cluster developments which involve 50 or more acres in the Pinelands Forest and Rural Development Areas. Monroe Township has adopted these mandatory density bonus provisions verbatim; therefore, the provisions of Ordinance 0:11-2012 are fully consistent with the CMP. The CMP does provide Pinelands municipalities with the opportunity to adopt clustering standards which are different from, and in some cases more restrictive than, those set forth in the CMP. However, municipalities are not obligated to do so.

CONCLUSION

Based on the Findings of Fact cited above, the Executive Director has concluded that Resolution PB 12-12 and Ordinance 0:11-2012 sufficiently implement the April 2009, December 2009 and March 2010 amendments to the Pinelands Comprehensive Management Plan and complies with Comprehensive Management Plan standards for the certification of municipal master plans and land use ordinances. Accordingly, the Executive Director recommends that the Commission issue an order to certify Resolution PB 12-12 and Ordinance 0:11-2012 of Monroe Township.

SRG/CMO
Attachment



PINELANDS PRESERVATION ALLIANCE

Bishop Farmstead, 17 Pemberton Road, Southampton, New Jersey 08088

Phone: 609-859-8860

Fax: 609-859-8804

E-mail: ppa@pinelandsalliance.org

Website: www.pinelandsalliance.org

May 9, 2012

Susan Grogan
NJ Pinelands Commission
15 Springfield Road
P.O. Box 359
New Lisbon, New Jersey 08064

Re: Ordinance #0:11-2012 – Monroe Township

Dear Ms. Grogan:

Please find below Pinelands Preservation Alliance (PPA) comments on the Monroe Township cluster ordinance 0:11-2012. Pinelands Preservation Alliance (PPA) supports clustering development, but not the bonus densities unless specifically tied to aggregation of lots.

The CMP cluster development rules say developers of cluster developments must be given “bonus” units beyond what the local zoning currently allows. However, the CMP also expressly states that municipalities may propose alternative cluster rules that do not include a bonus density. The CMP rule that allows this flexibility to municipalities states as follows:

N.J.A.C. 7:50-3.39(a)2.ix:

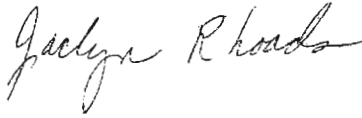
The Commission may certify municipal clustering ordinances that contain different clustering standards than those set forth in N.J.A.C. 7:50-5.19 (c) and (d) provided that those standards are supported through sound land use planning principles, are based upon local conditions or circumstances that warrant such changes and do not undermine the overall goals and objectives of the Forest and Rural Development Area clustering program set forth at N.J.A.C. 7:50-5.19 (c) and (d)

Sound planning principles support restricting the intensity of development and the number of additional units in environmentally intact and important areas of the Pinelands, because more units bring more disturbance and more pollutants from septic systems, lawns, and impervious surfaces. For this reason, the Pinelands Commission has itself limited development in numerous cases based on finding that an area of intact forest is of high ecological value.

PPA does not support the Monroe Township residential clustering development ordinance unless changes are made to revise the bonus density requirements to expressly state bonus densities are only provided if lots are aggregated. Suggested language is provided in the adopted clustering amendments to the CMP.

Please contact me at 609-859-8860 x18 or by email at Jaelyn@pinelandsalliance.org with any questions.

Sincerely,

A handwritten signature in cursive script that reads "Jaelyn Rhoads". The signature is written in black ink and is positioned below the word "Sincerely,".

Jaelyn Rhoads, Ph.D.
Director for Conservation Policy



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-12- 20

TITLE: Resolution Authorizing the Executive Director to Enter into a Memorandum of Agreement with Ocean County Regarding Proposed Development Project at the Ocean County Airport Located within the Robert Miller Airpark Complex

Commissioner Haas moves and Commissioner Rohan Green seconds the motion that:

WHEREAS, the New Jersey Pinelands Commission (the Commission) is a public body, corporate and politic which was established to prepare and administer the Pinelands Comprehensive Management Plan (the "CMP") to protect the resources of the Pinelands Area of the State of New Jersey; and

WHEREAS, Section 6 of the Pinelands Protection Act authorizes the Commission "to enter into any and all agreements or contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient, or desirable for the purposes of the Commission to carry out any power expressly given in this act;" and

WHEREAS, N.J.A.C. 7:50-4.52(c)2 authorizes the Commission to enter into intergovernmental memoranda of agreement with any agency of the Federal, State or local government which authorizes such agency to carry out specified development activities that may not be fully consistent with the provisions of N.J.A.C. 7:50-5 and 6, provided such agency demonstrates and the Commission finds that variation from the standards of the Pinelands CMP is accompanied by measures that will, at a minimum, afford an equivalent level of protection of the resources of the Pinelands as would be provided through strict application of the CMP's standards; and

WHEREAS, N.J.A.C. 7:50-4.52(c)1 authorizes the Commission to enter into intergovernmental memoranda with any agency of the Federal, State or local government which authorizes such agency to carry out specified development activities without securing individual development approvals from the Commission; and

WHEREAS, Ocean County is the owner of the Ocean County Airport which located within the Robert Miller Airpark Complex located in Berkeley and Lacey Townships, Ocean County, New Jersey; and

WHEREAS, the Airport is located on 822 acres within the 955 acre Robert Miller Airpark property; and

WHEREAS, of the Airport's 822 acres, approximately 585 acres are located within the legislatively designated Preservation Area and the remaining 237 acres are in a Forest Area; thus the totality of the Airport is located within the Pinelands Area and subject to the requirements of the Pinelands CMP; and

WHEREAS, Ocean County has proposed a number of development projects for the Airport, which are depicted on the "Future Development Plan", prepared by C&S Engineers, Inc., dated March 20, 2012; and

WHEREAS, these proposed development projects include construction of a crosswind runway and parallel taxiway, a 500 foot shift southwest of the existing runway, obstruction removal activities, apron expansion west of the existing terminal building, pavement maintenance, maintenance and replacement of runway and taxiway lighting, signage, and PAPI/REIL systems, construction of 9 new "T" hangars and 5 acres for undesignated future development at the Airport; and

WHEREAS, the County has represented and the Commission expects that the additional 5 acres of undesignated development will be utilized only when necessary to satisfy FAA safety related requirements or regulations, DEP or Commission regulations or requirements, or to accommodate technological advances; and

WHEREAS, the crosswind runway, 500' runway shift and obstruction removal activities are important safety improvements proposed to bring the Airport into conformance with current FAA design standards; and

WHEREAS, the area of the proposed crosswind runway appears to have been cleared prior to 1976 and is currently cleared and maintained as such; and

WHEREAS, the proposed development projects are expected to impact habitat critical to the survival of certain threatened and endangered animal species; and

WHEREAS, a strict application of the Pinelands CMP would not permit a development to be carried out that results in irreversible adverse impacts to habitats that are critical to the survival of any local populations of threatened and endangered plant or animal species; and

WHEREAS, the proposed Obstruction Removal activities, in the form of tree removal and topping, is proposed to occur within wetlands and the 300 foot wetland buffers; and

WHEREAS, the Pinelands CMP at N.J.A.C. 7:50-6.6 prohibits development in wetlands and wetland buffers except for activities expressly authorized pursuant to Part I of Subchapter 6; and

WHEREAS, removal of vegetation within wetlands and wetland buffers to meet FAA clearance requirements for airport runways and taxiways is not an authorized activity pursuant to Part I; and

WHEREAS, as a result implementation of the proposed development projects require deviations from the threatened and endangered animal species standards CMP (N.J.A.C. 7:50-6.33) and the wetland and wetland buffer standards (N.J.A.C. 7:50-6.1 through 6.20) of the Pinelands CMP; and

WHEREAS, the MOA contains measures that will, at a minimum, afford an equivalent level of protection for the resources of the Pinelands as would be provided through strict application of the land use and environmental standards contained within the Pinelands CMP; and

WHEREAS, these measures include the acquisition and deed restriction against future development of at least 485 acres of upland threatened or endangered species habitat located in the vicinity of RMAP. These uplands will contain a minimum of 345 acres of suitable, characteristic Pine snake, Corn snake or Timber Rattlesnake habitat and 50 acres of suitable, characteristic Pine Barren Tree Frog Habitat; and

WHEREAS, the County has three years to meet this acquisition obligation and the end of which the County has agreed to escrow funds at \$7,500 per acres of land remaining to be acquired and to contribute an additional 5% annually to that fund to finance the acquisition of any remaining offset lands; and\

WHEREAS, at the end of 5 years from the date of execution by the last signatory of the MOA all funds remaining in the escrow account will be transferred to the Pinelands Conservation Fund to be used by the Commission to fund acquisition of lands of high ecological value in the Ocean County portion of the Pineland; and

WHEREAS, the County has also agreed to provide the Commission's Executive Director with quarterly progress reports delineating its efforts during the quarter to satisfy its acquisition obligation; and

WHEREAS, the impacts to grassland bird "effective habitat" (i.e. area of open contiguous habitat greater than 50 meters from developed, urban, or forest cover types) will be addressed through the creation of additional grassland bird habitat at the Airport, as a result of the removal of scrub shrub vegetation and pine/oak forest as part of obstruction removal activities; which will effectively result in an increase of approximately 22 acres of grassland bird habitat at the Airport; and

WHEREAS, The County is also proposing a number of other management practices and environmental commitments to reduce the potential impacts of the proposed development projects on the resources of the Pinelands, including but not limited to, construction of two Reptile Habitat Management Areas; implementation of timing restrictions, monitoring by qualified environmental personnel, installation of snake exclusion fencing and other fencing to demarcate limits of disturbance; implementation of the Grassland Management and Mowing Plan, the Specifications for Tree Removal and Tree Topping within Wetlands and 300-foot Wetland Buffers Report and the Sickie Leaved Golden Aster Management Plan Report and Commitments; and

WHEREAS, the Airport was originally opened in 1968 and predates the creation of the Pinelands Commission in 1979 and the adoption of the Pinelands CMP in 1981; and

WHEREAS, new airport facilities are not a permitted use within the Preservation Area; and

WHEREAS, the Airport, which has been in existence and operating since 1968, is a pre-existing, non-conforming use; and

WHEREAS, the Pinelands CMP at N.J.A.C. 7:50-5.2(b) permits the expansion or alteration of any non-conforming use which was in existence on January 14, 1981 provided that such use has 1) not been abandoned or terminated subsequent to January 14, 1981; 2) the expansion or alteration of the use is in accordance with the minimum standards of N.J.S.A. 7:50-6; and 3) the area of expansion does not exceed 50% of the floor area, the area of use or the capacity of use, whichever is applicable, on January 14, 1981; and

WHEREAS, historically, it has been difficult to determine the appropriate standard to utilize in determining whether development at this Airport results in greater than a 50% expansion of the Airport use; and

WHEREAS, Rather, than expend resources definitively analyzing the issue, the County has agreed to offset the potential for a deviation of the 50 percent expansion requirement; and

WHEREAS, Paragraph VI.A.6 of the MOA requires the Authority to submit a formal application to the Commission if there is any material addition to, deviation from or modification to the proposed development project; and

WHEREAS, the Executive Director conducted a public hearing to receive testimony regarding a proposed intergovernmental memorandum of agreement to authorize the implementation of the proposed development project on April 18, 2012 at the Berkeley Township Town Hall, Berkeley Township, New Jersey; and

WHEREAS, the Executive Director in her report entitled "Report On A Proposed Memorandum Of Agreement Between The New Jersey Pinelands Commission And Ocean County Regarding Proposed Development At Robert Miller – Ocean County Airport", dated May 16, 2012, concluded that the variations from the standards of the Pinelands CMP that would be permitted under the MOA are accompanied by measures, as discussed above, that will, at a minimum, afford an equivalent level of protection of the resources of the Pinelands than would be provided through a strict application of the standards of the Pinelands CMP; and

WHEREAS, the Policy and Implementation Committee has reviewed the proposed MOA and recommends it for approval; and

WHEREAS, the Pinelands Commission, based upon the Executive Director's May 16, 2012 report, finds that the MOA, dated May 16, 2012, attached hereto, satisfies the standards of N.J.A.C. 7:50-4.52(c) which authorizes the Commission to enter into such agreements; and

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

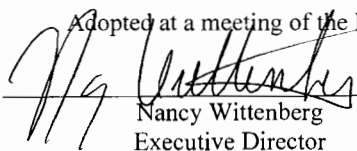
NOW, THEREFORE BE IT RESOLVED that the Pinelands Commission agrees to enter into the Memorandum of Agreement Between The New Jersey Pinelands Commission And Ocean County Regarding Proposed Development At Robert Miller – Ocean County Airport, dated June 8, 2012 and hereby authorizes the Executive Director to execute the agreement.

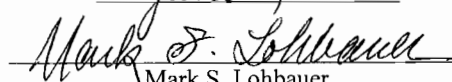
Record of Commission Votes

AYE NAY NP ABS				AYE NAY NP ABS				AYE NAY NP ABS			
Ashmun	X			Haas	X			Prickett	X		
Brown	X			Harris	X			Quinn	X		
Earlen	X			Jackson		X		Rohan Green	X		
Ficcaglia	X			Lloyd	X			Witt	X		
Galletta	X			McGlinchey	X			Lohbauer	X		

Adopted at a meeting of the Pinelands Commission

Date: June 8, 2012


Nancy Wittenberg
Executive Director


Mark S. Lohbauer
Chairman

**MEMORANDUM OF AGREEMENT
BETWEEN
THE NEW JERSEY PINELANDS COMMISSION
AND
THE COUNTY OF OCEAN
June 8, 2012**

I. PURPOSE

This Memorandum of Agreement (MOA) is entered into between the New Jersey Pinelands Commission (the "Commission") and the County of Ocean (the "County"). The County is the owner of Ocean County Airport (the "Airport") and Robert J. Miller Airpark ("RMAP") located in Berkeley and Lacey Townships, Ocean County, New Jersey. The Commission is an independent political subdivision of the State of New Jersey created pursuant to Section 4 of the Pinelands Protection Act, N.J.S.A 13:18A-1, et seq., and charged with the implementation of the Act and the Pinelands "Comprehensive Management Plan" (the "CMP"), N.J.A.C. 7:50. The Commission is also the planning entity authorized under Section 502 of the National Parks and Recreation Act of 1978.

The RMAP complex located southwest of Route 530 in Berkeley and Lacey Townships is comprised of approximately 955 Acres of which 822 acres are dedicated to the Ocean County Airport, as shown on the Airport Layout Plan dated December 2011 and Airport Land Release & Proposed Parcel Plan dated December 2011 and prepared by C&S Engineers, Inc. Note acreages are approximate and will be verified by survey.

The County is proposing to conduct certain development projects on the Airport portion of the property, as depicted in Figure 1 entitled "Future Development Plan", prepared by C&S Engineers, Inc., dated March 20, 2012, and attached hereto as Exhibit A. The proposed projects include safety improvements, maintenance and other development projects. Two of these projects, the crosswind runway and the apron expansion, were included in the Airport Layout Plan prepared by C&S Engineers, Inc., dated December 2011, and attached hereto as Exhibit B (hereinafter the "ALP").

The totality of the RMAP Property, including the Airport, is located within the Pinelands Area and, thus, is subject to the requirements of the Pinelands CMP. The proposed development projects are expected to impact habitat critical to the survival of certain threatened and endangered animal species located at the RMAP Property. The Pinelands CMP prohibits development that will result in irreversible adverse impacts to habitats that are critical to the survival of a local population of threatened or endangered animal species (N.J.A.C. 7:50-6.33.) Moreover, tree removal activities required for compliance with FAA FAR Part 77¹ will be

¹ Federal Aviation Regulations (FAR) Part 77 Objects Affecting Navigable Airspace identifies and defines FAA's clearance requirements for civil airport imaginary surfaces including the primary, approach and transitional surfaces for all airport runways.

conducted within wetlands and wetland buffers. These activities are not consistent with the wetlands standards of the Pinelands CMP (N.J.A.C. 7:50-6.1 *et al.*) Consequently, strict application of the requirements of the Pinelands CMP would not permit the County to undertake the proposed development projects.

This MOA is required in order to permit the proposed development projects to proceed in accordance with N.J.A.C. 7:50-4.52(c)2. This MOA will also establish an alternative application process in accordance with N.J.A.C. 7:50-4.52(c)1.

II. BACKGROUND

A. Ocean County Airport and RMAP Property

The Airport is located on 822 acres within the 955 acre RMAP property in Berkeley and Lacey Townships. Much of the property is located within the Preservation Area. The remaining property is located within a Forest Area as defined by the Pinelands CMP. With regard to the Airport itself, of its 822 acres, approximately 585 acres are located within the legislatively designated Preservation Area and the remaining 237 acres are in a Forest Area. This MOA would authorize development solely within the 822 acre Airport property.

A majority of the 955 acre RMAP property is undeveloped. Of the 822 acre portion of the RMAP designated as Airport property, approximately 200 acres is utilized by airport facilities (runways, taxiways, aprons, roads, buildings, safety areas and highly maintained turf) the remaining 622 acres, of designated airport property, is undeveloped. Additionally, a majority of the remaining 133 acres of RMAP property located outside the Airport property, is also mainly undeveloped with the exception of several relatively small areas or facilities operated or managed by other County departments. These areas include the Lacey Road Garage (County Road Department), the Office of Emergency Management (County Sheriff's Department) and a satellite building of the County Parks Department. The Parks Department also manages two recreational areas within the RMAP, the County Fairgrounds and a small picnic area (Dog Park) across from the Airfield terminal building. All of the facilities outside of the airfield operations area are located within the Forest Area District with the exception of the Lacey Road Garage and the small picnic area /dog park.

B. The Airport

The Airport originally opened in 1968 and has undergone a number of improvements since then. These improvements primarily addressed environmental and aviation safety issues and were approved by the Commission through individual public development applications.

The Airport is a general aviation airport featuring: a 5,950 x 100 ft runway (Runway 6-24), a high intensity lighting system, precision approach equipment, upgraded airfield signage, a 536,550 sq ft aircraft parking apron, three "T-hangar" buildings incorporating 36 aircraft parking units, a 15,000 sq ft maintenance and storage building, an 8,150 sq ft maintenance hangar, a 4,050 sq ft general storage building and a fuel dispensing area with three 12,000 gallon underground storage tanks containing 24,000 gallons of jet fuel and 12,000 gallons of gasoline,

and ancillary aviation related structures. In addition, a 11,600 sq ft terminal building was completed in February 2012 under Application No. 1985-0949.026 to replace an aging 2,150 sq ft terminal building. Also a 22,100 sq ft maintenance hangar was completed in 2007 and a 19,500 sq ft maintenance hangar has yet to be constructed. Both of these structures were approved by the Pinelands Commission under Application No. 1985-0949.023.

The airport has approximately 100 based aircraft and averages 31,000 flight operations per year. In addition to accommodating private planes, the airport supports corporate jets, forest fire planes, the civil air patrol and emergency services aircraft.

C. Proposed Development Projects

The County is proposing to undertake a number of proposed development projects at the Airport. These projects, which are discussed more fully below, include safety improvements, maintenance and other development projects (see Exhibit A).

1. The Crosswind Runway and Parallel Taxiway Project

The FAA requires airports to have an approved airport layout plan (ALP) in order to receive grant funds for airport improvements. The ALP is required to depict existing and planned improvements. The last update of the ALP was completed in 1992 and certified by the FAA in October of that year. Although the majority of the projects within that Layout Plan have been constructed, the largest remaining project is the construction of a visual approach 3,600 ft by 75 ft crosswind runway and parallel taxiway to improve safety of landing and take-off operations at the Airport. The FAA approved the Environmental Assessment and issued a Finding of No Significant Impact (EA/FONSI) for the construction of the Crosswind Runway on October 21, 2004. The FAA subsequently approved a Written Reevaluation of the EA on May 21, 2009. (Attached hereto as Exhibit C.) Additionally, an updated ALP was prepared concurrently with this MOA and the FAA has accepted a draft Airport Layout Plan dated December 2011 as a "Plan on File" pending review and acceptance of the Final ALP.

The Crosswind Runway and Parallel Taxiway (Crosswind Runway) project is solely an airport safety improvement project designed for the safety of smaller aircraft. The Crosswind Runway is proposed as a Utility Runway for Category A and B Design Group I and II aircraft, which are 12,500 lbs or under. These smaller aircraft are most vulnerable to the effects of crosswinds. The Crosswind Runway is primarily required during the winter months when the prevailing northwest winds consistently create a significant crosswind component. At 3,600 feet in length, the proposed Crosswind Runway will be shorter than the existing runway, and, thus, the County does not expect that it will attract larger or additional aircraft. The Crosswind Runway will be constructed perpendicular to the existing 6-24 Runway, at the southwestern end of the Airport.

2. Other Proposed Development Projects

In addition to the construction of a Crosswind Runway project, the following additional projects are proposed and are expected to result in the full build-out of the Airport:

- a. Construction of nine (9) aircraft “T” hangars, approximately 275ft by 50ft each to house aircraft and accessory storage space, and associated taxi lanes.

The County is proposing construction of the “T” Hangars in order to provide additional aircraft hangar space. The “T” Hangars protect aircraft from weathering. The County expects that the additional “T” Hangars will not induce additional use of the Airport by new patrons, but that they will be utilized by current Airport patrons.

- b. Maintenance and replacement of runway and taxiway lighting, signage, and PAPI/REIL systems; including conduits, cables, bases, power and control systems.
- c. R/W 6-24 Obstruction Removal, which includes tree topping (approx. 120 acres) and tree removal (approx. 17 acres).

There is an ongoing requirement to remove obstructions to the navigable airspace for the existing Runway 6-24. Obstruction Removal refers to two types of disturbance, tree removal and tree topping. Obstruction Removal was performed during 1992 within the pine-oak forest at the southwest and northeast ends of Runway 6-24, which consisted solely of tree topping. The current project proposes more comprehensive compliance with the FAA FAR Part 77 requirements, identifying all recommended obstruction removal for existing facilities. FAR Part 77 identifies and defines FAA’s clearance requirements for civil airport imaginary surfaces including the primary, approach and transitional surfaces for all airport runways;

- d. Expansion of the apron west of the existing terminal building.

The Apron Expansion to the West of the Existing Terminal is required to provide additional aircraft parking, improve aircraft circulation and reduce congestion within the existing active apron.

- e. A 500 foot extension/safety area improvement (“shift”) west of runway 6-24, in order to provide the required 1,000 square foot safety area between the runway and CR 530.

The 500-Foot Shift will shift the runway 500 feet to the southwest to provide the required 1,000’ safety area between the Runway 24 end and Route 530 and is considered a safety improvement. The runway shift will move the landing/takeoff area 500 feet further southwest of County Route 530 and is intended to reduce the potential for a conflict with traffic along Route 530. This project necessarily includes shifting of the runway approach lighting 500 feet to the west. This project will also increase the overall length of the runway, which will provide an additional margin of safety during landing. The increase in length will not allow

for use of the airport by larger planes, but will make landing and taking off safer for the planes that already use the Airport.

f. Pavement maintenance.

Airport pavements must be maintained to provide a smooth operating surface and to prevent the generation of foreign object debris (FOD). Pavement maintenance refers to joint and crack sealing; rejuvenation; resurfacing; and/or replacing of existing paved runways, taxiways, aprons, access roads and auto parking areas. Repaving will require milling to remove existing deteriorated surface material and possibly removal of the entire pavement section in order to restore and compact failing subbase. Clean topsoil may be placed along pavement edges in order to “feather” the pavement surface into the adjacent unpaved surface. Also included is the periodic replacement of pavement markings.

g. Five (5) acres of future, currently undesignated, development at the Airport.

The County has proposed reserving Five (5) acres at the Airport for potential future development projects that may occur as a result of changes or advances in technology, or may arise because of a currently unidentified need. The future development projects are expected to be minor and would not constitute a high intensity use. Examples of future development might result from technological advances in equipment and materials such as improvements in runway safety lighting, or improvements or upgrades to electrical facilities or utilities. The development of office space or industrial space is not intended to be included as a future development project.

All of the proposed development projects that are delineated above and included under this MOA are depicted on Exhibit A attached hereto and include the associated utilities to support their operation. Many of the proposed development projects are also depicted on Exhibit B, the Airport Layout Plan dated December 2011 and some of these projects, including the crosswind runway were included in Airport Master Plans since the 1970’s. Based on a review of aerial photographs, the area for the proposed Crosswind Runway was cleared prior to 1982 (Exhibit D, Appendix E, Figure 2) and appears to have been maintained as early successional vegetation through annual mowing.

III. IMPACTS ON THE RESOURCES OF THE PINELAND ASSOCIATED WITH THE PROJECTS

Based on a review of the documents delineated in Attachment I, especially the “Endangered and Threatened Species Impact Assessment and Species Habitat Management Plan for Proposed Airpark Improvements” for the Robert J. Miller Airpark, Berkeley & Lacey Townships, Ocean County, New Jersey, prepared by ASGECI, dated June 27, 2008, and amended by a letter from ASGECI, dated June 7, 2012, both of which are attached hereto as Exhibit D, and the provisions of the Pinelands CMP, it appears that the proposed development projects will not be consistent with the threatened or endangered animal species standards at N.J.A.C. 7:50-6.33 and the wetlands and wetlands buffers standards at N.J.A.C. 7:50-6.1 et seq.

A. Threatened or Endangered Species Habitat

A total of nine (9) endangered and threatened animal species and one (1) Pinelands-listed plant species were identified as potentially present at the RMAP.

Table 1: Potential Endangered or Threatened Species Occurring Within the RMAP

Common Name	Scientific Name	Federal Status	NJ State Status	Pinelands Comm. Status	Global Element Rank	State Element Rank
ANIMALS						
Pine barrens treefrog	<i>Hyla andersonii</i>	--	T	Listed	G4	S3
Northern pine snake	<i>Pituophis m. melanoleucus</i>	--	T	Listed	G4 T4	S3
Timber rattlesnake	<i>Crotalus h. horridus</i>	--	E	Listed	G4 T4	S2
Corn snake	<i>Elaphe g. guttata</i>	--	E	Listed	G5T5	S1
Cooper's hawk	<i>Accipiter cooperii</i>	--	T / T	Listed	G5	S3B, S4N
Barred owl	<i>Strix varia</i>	--	T / T	Listed	G5	S3B
Red-headed woodpecker	<i>Melanerpes erythrocephalus</i>	--	T/T	Listed	G5	S2B, S2N
Grasshopper sparrow	<i>Ammodramus savannarum</i>	--	T	Listed	G5	S2
Savannah sparrow	<i>Passerculus sandwichensis</i>	--	T	Listed	G5	S2B, S4N
PLANTS						
Sickle-leaved golden aster	<i>Chrysopsis falcate</i>	--	--	Listed	G3G4	S3

The County engaged Amy S. Greene Environmental Consultants Inc. (ASGECI) to undertake threatened and endangered species surveys at the RMAP. ASGECI developed survey protocols for these species and following approval of the survey protocols by the Commission staff, performed field investigations and surveys.

ASGECI used a conservative landscape based approach combined with field verification and limited surveying to assess potential impacts to threatened or endangered species habitat located at the RMAP. ASGECI performed a survey of the vegetation communities within the RMAP, which included the following major plant communities/cover types: pine-oak forest, Pinelands scrub-shrub, cool season grass, non-native early successional, native pinelands early successional, warm season grass, barren land, freshwater wetlands, detention basins an sickle-leaved golden aster. ASGECI subsequently assessed the habitat value of each of these vegetation communities for the life functions of the nine (9) threatened or endangered animal species identified as potentially occurring at the RMAP. If suitable habitat was located at the RMAP and

confirmed sightings were documented in the vicinity of the RMAP property, ASGECI made the assumption that such threatened or endangered species was present at the RMAP and then utilized the habitat value of the vegetation communities for the species to determine whether that vegetation community provided critical or suitable habitat for the specific threatened or endangered species.

A report entitled “Critical Habitat Survey for Endangered and Threatened Species For Proposed Airpark Improvements, Robert J. Miller Airpark, Berkeley Township, Ocean County, New Jersey,” dated February 22, 2007 and prepared by ASGECI (Critical Habitat Survey), documented the findings of the field investigations and provided an assessment of critical habitat for the identified species. (Attached hereto as Exhibit E). Based on the findings and assessment in that report, and with concurrence from the Commission, the RMAP was found to contain critical habitat for six (6) of the nine (9) animal species: Grasshopper Sparrow, Savannah Sparrow, Northern Pine snake, Timber Rattlesnake, Corn snake, and Pine Barrens Tree Frog. Additionally, the Airport was found to contain a number of clusters, two containing 8,000 to 13,100 plants, of sickle-leaved golden aster.

1. Threatened or Endangered Animal Species

Implementation of the proposed development projects is expected to result in adverse impacts to habitat that may be critical to the survival of six (6) local populations of threatened or endangered animal species found at the RMAP. The majority of the impacts proposed will occur to areas identified as either pine-oak forest, pinelands scrub shrub vegetation and, to a lesser degree, grassland. Temporary impacts as well as permanent impacts, including conversion to a different vegetation community type, are expected to occur. The expected permanent impacts to the various vegetation communities are summarized in Table 2 below and will result from the construction of the Crosswind Runway and Parallel Taxiway (Crosswind Runway), the 500-Foot Shift West of Runway 6-24 (500-Foot Shift), “T” Hangar and Taxi Lane Construction (“T” Hangars) and from Obstruction Removal.

Table 2: Summary of Impacts to Vegetation Communities by Project (acres)

Proposed Projects	Vegetation Communities										
	Pine-Oak Forest		Pinelands scrub shrub	Early Successional Vegetation					Freshwater Wetlands		Barren Land
	Removal	Topping		Cool season grass	Non native early successional	Native pinelands early successional	Warm season grass	Sickle leaved golden aster	Removal	Topping	
Crosswind Runway and Parallel Taxiway	19.91	33.54		5.62		1.37	1.34	Impact		0.26	0.23
"T" Hangar and Taxi Lane Construction	8.67			0.42		0.45					
500-ft Shift West of Runway 6-24	3.69	35.36		0.02		1.16		Impact		3.52	0.53
Obstruction Removal	1.79	116.96	13.84						1.18	3.08	
Apron Expansion to West of Existing Terminal				3.2							
Pavement Maintenance											
Total	34.06*	185.86*	13.84	9.26		2.98	1.34	Impact	1.18	6.86	0.76

* Includes impacts within 300 foot wetland buffer

The habitat impacts attributable to the proposed development projects are described in Table 4.4 of Exhibit D and summarized below in Table 3:

Table 3: Summary of Impacts to Endangered or Threatened Species Habitat (acres)

Pine Snake, Corn Snake & Timber Rattlesnake	Pine-Oak Forest		Pinelands scrub shrub	Early successional	Freshwater Wetlands	
	Removal*	Topping*			Removal	Topping
Obstruction Removal	1.79	116.96	13.84		1.18	3.07
Crosswind Runway Project	19.91	33.54				0.26
500-Foot Runway Shift	3.69	35.36				3.52
"T" Hangar and Taxilane						
TOTAL	25.4	185.9	13.84		1.18	6.86
Pine Barrens Treefrog	Pine-Oak Forest		Pinelands scrub shrub	Early successional	Freshwater Wetlands	
	Removal	Topping			Removal	Topping
Obstruction Removal	0.01	13.11	0.8		0.72	1.65
Crosswind Runway Project						
500-Foot Runway Shift	1.91	19.38				3.52
"T" Hangar and Taxilane						
TOTAL	1.92	32.49	0.8		0.72	5.17
Grasshopper Sparrow	Pine-Oak Forest		Pinelands scrub shrub	Early successional	Freshwater Wetlands	
	Removal	Topping			Removal	Topping
Obstruction Removal						
Crosswind Runway Project				4.78		
500-Foot Runway Shift				1.71		
"T" Hangar and Taxilane				0.013		
TOTAL				6.59		

As discussed above, the County's threatened and endangered species consultant utilized a conservative landscaped based approach combined with field verification of habitat and limited surveying to identify habitat that would potentially be impacted by the proposed development projects and to determine whether such habitat constituted critical or suitable habitat for a specific threatened or endangered species. Additionally, one of the proposed activities, obstruction removal, specifically tree topping, is expected to result in only temporary impacts to suitable snake habitat and may improve the value of the habitat for one of the snake species, Northern Pine snake, because of the resultant decrease in canopy cover and expected increase in herbaceous and shrub cover in the area of topping. The County, however, has offered to address all of the potential threatened or endangered species habitat impacts attributable to the proposed development projects.

2. Threatened or Endangered Plant Species

Sickle leaved golden aster (*Chrysopsis falcata*), a threatened or endangered plant of the Pinelands, can be found at the Airport. Specifically, two areas of the Airport are colonized with large numbers of sickle leaved golden aster plants and there are an additional eight (8) discrete clusters of plants located at the Airport. The large colonies and discrete clusters of plants within

the Airport constitute a single population. Within just the two large colonies, there are approximately 21,100 plants.

Two of the proposed development projects, the Crosswind Runway project and the 500-ft “Shift” of runway 6-24, will result in direct impacts to several discrete clusters of sickle leaved golden aster plants. These clusters consist of approximately 315 plants in all. However, based on the location of the plants within the far end of the largest discrete cluster, away from the area of disturbance for the proposed development, and the fact that only one half of the areas of the other three discrete clusters will be disturbed for the placement of runway and taxiway pavement, it is estimated that +/- 100 plants may be impacted. Since the population of sickle leaved golden aster at the Airport is estimated to be greater than 20,000 individuals, the loss of approximately 100 plants represents less than 0.5% of the total population at the Airport. This percentage is so low that it will not result in an irreversible adverse impact on the survival of the local population of sickle leaved golden aster. An extremely large and healthy population will remain following implementation of the proposed development projects.

Additionally, the County is proposing to transplant impacted individuals. The County is proposing to have the plants moved by qualified environmental monitoring personnel to the southeastern portion of the Airport. The County has had success with transplanting sickle leaved golden asters at the site as authorized by a prior Commission public approval. Approximately, 87% of the plants transplanted as a result of that approval successfully survived relocation and are expected to thrive.

There is also the potential for indirect impacts to four (4) discrete clusters of sickle leaved golden aster should unnecessary site disturbance or careless equipment movement occur during construction. To prevent this, the County will require its contractor to install a physical barrier to protect portions of discrete clusters located beyond the limit of disturbance.

Lastly, a Sickle Leaved Golden Aster Management Plan was developed for the Airport by ASGECI for the County and is dated March 10, 2006. (Attached hereto as Exhibit F). This Management Plan include management commitments designed to ensure that development proposals and management practices at the Airport are performed in a way that will encourage the long term survival of the sickle leaved golden aster population at the Airport. The commitments of this Management Plan will be followed during the County’s implementation of the proposed development projects.

B. Wetlands and Wetland Buffers

Obstruction Removal in the form of tree removal and topping is proposed to occur within wetlands and the 300 foot wetland buffers. The potential impacts associated with these activities are as follows:

Table 4: Summary of Impacts to Wetlands and Wetland Buffers

	Obstruction Removal		Crosswind Runway and Parallel Taxiway		500-ft Shift West of Runway 6-24	
	Removal	Topping	Removal	Topping	Removal	Topping
Wetlands	1.18	3.08		0.27		3.52
300 ft Wetland Buffers	2.59	32.36		6.00	1.91	19.38
TOTAL	3.77	35.44	0	6.27	1.91	22.9

* includes .80 acres of Pinelands scrub shrub vegetation located within the a 300 ft wetland buffer that will be removed.

The Pinelands CMP at N.J.A.C. 7:50-6.6 prohibits development in wetlands and wetland buffers except for activities expressly authorized pursuant to Part I of Subchapter 6. Removal of vegetation within wetlands and wetland buffers to meet FAA clearance requirements for airport runways and taxiways is not an authorized activity pursuant to Part I. As a result, the proposed tree and vegetation removal activities within wetlands and wetland buffers would not be authorized absent a deviation from the wetlands standards of the Pinelands CMP as permitted by this MOA.

In contrast, the proposed tree topping activities in wetlands and wetland buffers would not be inconsistent with the wetland requirements of the Pinelands CMP, provided such activities do not result in the disturbance of any soils or vegetation within the vicinity of the proposed tree topping activities. The County intends to conduct its obstruction removal activities within wetlands and wetland buffers in accordance with the specifications contained within Appendix B, of Exhibit D. With regard to tree topping, these specifications provide that “trees proposed for topping be individually topped by climbers.” Given that no soils or vegetation disturbance is anticipated for tree topping, these activities would be consistent with the wetlands and wetland buffers standards of the Pinelands CMP.

C. 50% Expansion Provision, N.J.A.C. 7:50-5.2(b)

Much of the existing airport and, likewise, most of the proposed development projects, are located within the Preservation Area. New airport facilities are not a permitted use within the Preservation Area. As a result, the Airport, which was in existence on January 14, 1981, is a pre-existing, non-conforming use. The Pinelands CMP at N.J.A.C. 7:50-5.2(b) permits the expansion or alteration of any non-conforming use which was in existence on January 14, 1981 provided that such use has 1) not been abandoned or terminated subsequent to January 14, 1981; 2) the expansion or alteration of the use is in accordance with the minimum standards of N.J.S.A. 7:50-6; and 3) the area of expansion does not exceed 50% of the floor area, the area of use or the capacity of use, whichever is applicable, on January 14, 1981. Historically, it has been difficult to determine the appropriate standard to utilize in determining whether development at this Airport results in greater than a 50% expansion of the Airport use. As individual development applications for improvement projects at the Airport were submitted to the Commission for its review, it has become increasingly more difficult to determine whether the 50 percent expansion threshold has been reached. This uncertainty is further exacerbated by the fact that the Airport spans two different management areas, the Preservation Area and a Forest Area. Airport facilities are a permitted use under certain conditions within a Forest Area. N.J.A.C. 7:50-5.23. Additionally, the demarcation between the two management areas is not based on a surveyed line and, therefore, is not clearly discernible within the area of Airport operations. Consequently, it is

entirely possible that the proposed development projects covered by this MOA coupled with previously approved projects will exceed the 50% expansion threshold. Such conclusion, to some extent, is dependent upon which test, floor area, area of use or capacity of use, one applies to evaluate the proposed development. Although it may be argued that the threshold will not be exceeded, such an argument would require significantly more analysis. Rather, than expend resources definitively analyzing the issue, the County has agreed to offset the potential for a deviation of the 50 percent expansion requirement by deed restricting 75 acres against future development.

IV. MEASURES PROPOSED TO AFFORD AN EQUIVALENT OR BETTER LEVEL OF PROTECTION FOR THE RESOURCES OF THE PINELANDS

As discussed in Paragraph III above, the implementation of the proposed development projects is expected to result in impacts to habitat for certain threatened and endangered animal species. Additionally, the proposed tree and vegetation removal activities within wetlands and wetland buffers to meet FAA clearance requirements for airport runways and taxiways is expected to result in unauthorized impacts to wetlands and wetlands buffers. Consequently, the proposed development projects are not consistent with the strict application of the following requirements of the Pinelands CMP: 1) N.J.A.C. 7:50-6.1 *et al.* (Wetlands) and 2) N.J.A.C. 7:50-6.33 (Protection of threatened or endangered wildlife).

In order to provide an equivalent level of protection of the resources of the Pinelands, the County is proposing to acquire and deed restrict against future development 485 acres of upland threatened or endangered species habitat located in the vicinity of RMAP. These uplands will contain a minimum of 345 acres of suitable, characteristic Pine snake, Corn snake or Timber Rattlesnake habitat and 50 acres of suitable, characteristic Pine Barren Tree Frog Habitat. The County proposes to acquire and deed restrict these lands within three years of the effective date of this MOA. The County has agreed to consult with the Commission's staff to identify suitable habitat with high ecological value to satisfy its offset obligations and agrees to focus its acquisition efforts on lands identified by the Commission staff as primary acquisition sites before undertaking efforts to acquire lands identified by Commission staff as secondary acquisition sites. The County has agreed to submit quarterly progress reports to the Commission's Executive Director delineating the progress it has made during that quarter in meeting its acquisition obligations. Additionally, at the end of the three years, the County has agreed to place a sum of money equal to \$7,500 per acres of land remaining to be acquired into an escrow account to fund the acquisition of the remaining offset acreage. The County has also agreed to increase the monies maintained in the escrow account annually by 5%. Lastly, the County has agreed that at the end of five years from the date of execution of this MOA by the last signatory, any money remaining in the escrow account will be transferred to the Pinelands Conservation Fund and used by the Commission to fund acquisition of lands of high ecological value in the Ocean County portion of the Pinelands.

The amount of acreage to be deed restricted is based on an offset ratio of 1:1 for temporary impacts to threatened or endangered species habitat and 3:1 for permanent impacts to threatened or endangered species habitat potentially impacted by the proposed development projects. Some of this acreage is being proposed to offset potential impacts to approximately 1.18 acres of

wetland habitat and 4.5 acres of habitat located within wetland buffers. Furthermore, 15 acres of this acreage is being proposed as an offset for 5 acres of additional development to be conducted at the Airport at some point in the future. Lastly, 75 acres of this acreage are being proposed as an offset for the 50% expansion provision of N.J.A.C. 7:50-5.2(b). The County has agreed to record a Deed of Conservation Restriction(s), in a form similar to that attached as Exhibit G, for all properties acquired to satisfy this offset obligation.

Additionally, the impacts to grassland bird “effective habitat” (i.e. area of open contiguous habitat greater than 50 meters from developed, urban, or forest cover types) will be addressed through the creation of additional grassland bird habitat, as a result of the removal of scrub shrub vegetation and pine/oak forest as part of obstruction removal activities to be conducted at the RMAP. This will effectively result in an increase of approximately 22 acres of grassland bird habitat at the Airport overall.

The County is also proposing to construct two Reptile Habitat Management Areas (RHMA) on the Airport. These RHMA will be created by manipulation of existing vegetation communities. The RHMA will consist of approximately 25.5 acres and will be located within two separate areas within the portions of the Airport. Specifications for the RHMA are set forth in Appendix C of Exhibit D. Implementation of the RHMA is expected to increase and improve the quality of nesting, denning, and basking habitat within these areas of the Airport.

The County is also proposing a number of management practices and environmental commitments to reduce the potential impacts of the proposed development projects on the resources of the Pinelands. These include implementation of: 1) the Environmental Commitments set forth in Appendix D of Exhibit D, which include, but are not limited to, timing restrictions, monitoring by qualified environmental personnel, installation of snake exclusion fencing and other fencing to demarcate limits of disturbance, etc.; 2) the Grassland Management and Mowing Plan set forth in Appendix A of Exhibit D; 3) the Specifications for Tree Removal and Tree Topping within Wetlands and 300-foot Wetland Buffers; and 4) the Sickie Leaved Golden Aster Management Plan Report and Commitments set forth in Appendix H of Exhibit D.

V. BASIS FOR THE MOA

The Pinelands CMP (N.J.A.C. 7:50-4.52 (c)2) authorizes the Commission to enter into intergovernmental memoranda with any agency of the Federal, State or local government that authorizes such agency to carry out specified development activities that may not be fully consistent with the provisions of the Pinelands CMP, specifically N.J.A.C. 7:50-5 and 6. The agency must demonstrate, and the Commission must find, that any proposed development that is not fully consistent with the standards of the Pinelands CMP is accompanied by measures that will, at a minimum, afford an equivalent level of protection of the resources of the Pinelands as would be provided through strict application of the standards of the Pinelands CMP.

As discussed above, the proposed development projects are not fully consistent with the threatened and endangered wildlife standards (N.J.A.C. 7:50 -6.33) and the wetland and wetland buffer standards (N.J.A.C. 7:50-6.1 et seq.) of the Pinelands CMP. As discussed in Paragraph IV above, the County has proposed a number of measures including the permanent protection of 485

acres of threatened or endangered species habitat that includes wetlands and wetland buffers and two reptile habitat management areas that the County intends to create. The measures discussed in Paragraph IV, when taken together, will afford at least an equivalent level of protection of the resources of the Pinelands impacted by the proposed development project as would be provided by strict application of the Pinelands CMP. As a result, entry of this MOA authorizing deviations from the standards of the Pinelands CMP pertaining to the threatened and endangered wildlife and wetlands and wetland buffers standards (N.J.A.C. 7:50-6.33 & 6.1 et seq.) is warranted.

In accordance with N.J.A.C. 7:50-4.52(c)1, the Commission may also enter into an intergovernmental memoranda with any agency of the Federal, State or local government which authorizes such agency to carry out specified development activities without securing individual development approvals from the Commission, provided that the specified development activities are consistent with the provisions of N.J.A.C. 7:50-5 and 6. Because the County, as part of this MOA, is proposing measures that will afford an equivalent level of protection of the resources of the Pinelands as would be accomplished by Subchapters 5 & 6, execution of a MOA authorizing alternative application procedures is also warranted.

VI. AGREEMENTS

A. The County agrees that:

1. The County will provide the following information to the Commission staff thirty (30) days prior to commencing site preparation for or construction of, whichever occurs first, each of the proposed development projects delineated in Paragraph II.C. above:
 - a. A narrative description of the proposed project.
 - b. A copy of the Airport Layout Map identifying the location of the proposed development project.
 - c. A copy of the detailed building or construction plans for the proposed development project.
 - d. A detailed Stormwater Management Plan that complies with the requirements of N.J.A.C. 7:50-6.84.
 - e. If applicable, a detailed analysis demonstrating compliance with 2 parts per million standard of N.J.A.C. 7:50-6.84(a)4ii.
 - f. A detailed analysis demonstrating compliance with all other applicable standards of Subchapter 6 of the Pinelands CMP for which a deviation has not been expressly provided by this MOA.
 - g. A statement demonstrating compliance with the terms and conditions of this MOA.

- h. If applicable pursuant to N.J.S.A. 13:9B-1 et seq. and N.J.A.C. 7:7A, a Freshwater Wetlands Permit application.
 - i. A description of any changes in the scope, design, impacts, etc. of the projects from what is described in Paragraph II.C. and Exhibit D.
- 2. The County will obtain any and all certificates, licenses, consent, approvals, or permits required from any State and/or Federal entity prior to authorizing or initiating commencement of site preparation or construction of any of the proposed development projects delineated in Paragraph II.C. No part of this MOA is intended to release the County and/or its designated contractor(s) from the responsibility to obtain all required approvals.
- 3. The County will construct or will require its contractor(s) to construct any of the proposed development projects delineated in Paragraph II.C. in accordance with the terms of this MOA, including all Exhibits attached hereto and made a part hereof, and all of the standards of the Pinelands CMP from which a deviation has not been expressly authorized by this Agreement, and it will incorporate these obligations into the terms of every contract for the contraction of any of the proposed development projects.
- 4. The County, for any of the proposed development projects delineated in Paragraph II.C., will comply with or will require its contractor(s) to comply with the following: 1) the Environmental Conditions set forth in Appendix D of Exhibit D; 2) the Specifications for Tree Removal and Tree Topping set forth in Appendix B of Exhibit D; 3) the Sickie Leaved Golden Aster Management Plan Report and Commitments set forth in Appendix H of Exhibit D; and 4) the recommendations and timing restrictions set forth in the Species Management Plan set forth in Section 5 of Exhibit D.
- 5. If it is determined by the Executive Director of the Commission that any portion of a proposed development project submitted to the Commission staff pursuant to Paragraph IV.A.1 is inconsistent with the requirements of this MOA and/or any of the standards of Subchapter 5 and 6 of the Pinelands CMP for which a deviation has not been expressly provided by this MOA, the County agrees that the project will be modified until the Executive Director determines that the proposed development project is consistent with such requirements. If the County disagrees with the Executive Director's determination, it may file a complete application in accordance with N.J.A.C. 7:50-4.52(b) and seek formal Commission approval of the project. The proposed development project may not proceed until the public development application review process has been completed and the Commission has issued a resolution approving the development project.
- 6. Any material addition to, deviation from or modification to the proposed development projects as delineated in Paragraph II.C. and the Exhibits attached

hereto, shall require the County to submit a formal public development application in accordance with N.J.A.C. 7:50-4.52(b) to the Commission and seek formal Commission approval of such Public Development Application for the project. The proposed development project may not proceed until the public development application review process has been completed and the Commission has issued a resolution approving the development project.

7. To the extent that new information becomes available or changes are made to the scope or design of the proposed development projects as delineated in Paragraph II.C. and the Exhibits attached hereto that would result in more than a de minimis change to the impacts associated with the same, but would not be considered material in accordance with Paragraph VI.A.6, the County shall submit such information or changes to the Commission staff for review for a consistency determination by the Executive Director in accordance with Paragraph VI.B.2.
8. If the Executive Director determines that as a result of new information or any change to the scope or design of the proposed development project(s) submitted to him in accordance with Paragraph VI.A.7., the proposed development project is inconsistent with the requirements of this MOA or a standard of the Pinelands CMP from which a deviation has not been authorized by this Agreement or results in a material increase in the threatened or endangered animal species habitat or wetlands/wetland buffers impacts associated with the proposed development project(s) for which deviations have been authorized by this MOA, the County agrees, on behalf of itself and its contractors, to modify the proposed development project(s) until the Executive Director determines that it is consistent with all requirements of this MOA and the Pinelands CMP. If the County disagrees with the Executive Director's determination, it may file a complete Public Development Approval application pursuant to N.J.A.C. 7:50-4.52(b) and seek formal approval from the Pinelands Commission of the project. The proposed development project may not proceed until the public development application review process has been completed and the Commission has issued a resolution approving the development project.
9. The County will not commence any of the proposed development project(s) delineated in Paragraph II.C. until it receives written authorization from the Commission staff indicating that the proposed development project(s) is consistent with the requirements of the MOA and the requirements of the CMP set forth in Paragraph V.A.1 above or to the extent that new information becomes available or changes are made to the scope or design pursuant to Paragraph V.A.7., the County has received written a authorization to proceed from the Executive Director pursuant to Paragraph VI.B.4.
10. Within three years of the effective date of this MOA, the County agrees to acquire and deed restrict 485 acres of upland threatened or endangered species habitat against future development in perpetuity. These lands shall, at a minimum, contain 354 acres of suitable, characteristic Pine snake, Corn snake or Timber

Rattlesnake habitat and 60 acres of suitable, characteristic Pine Barren Tree Frog Habitat. The County agrees to consult with the Commission's staff to identify suitable habitat with high ecological value to satisfy the obligations of this Paragraph and agrees to focus its acquisition efforts on lands identified by the Commission staff as primary acquisition sites before undertaking efforts to acquire lands identified by Commission staff as secondary acquisition sites.

11. The County shall utilize its best efforts to complete the obligations of Paragraph VI.A.10 above no later than 3 years after the date of execution of this MOA by the last signatory. If, after 3 years, the County has not acquired and deed restricted all 485 acres, it shall execute an escrow agreement with the Commission and place a sum of money equivalent to \$7,500 per acre of land of the 485 acres remaining to be acquired. Each year after establishment of the escrow account, the County shall increase the monies maintained in the escrow account by 5%. At the end of 5 years from the date of execution of this MOA by the last signatory, the County agrees that all monies remaining in the escrow account shall be transferred to the Pinelands Conservation Fund and used by the Commission to fund acquisition of lands of high ecological value in the Ocean County portion of the Pinelands.
12. The deed restriction(s) required pursuant to Paragraph VI.A.10 above shall be in a form similar to that attached hereto as Exhibit G, shall be approved by the Executive Director prior to recordation, shall run with the land in perpetuity and shall be referenced in the deed or other legal conveyance of any interest in such property. The County shall provide the Executive Director with evidence of the imposition of the required deed restriction within three (3) months of the acquisition of any lands in satisfaction of the obligations of Paragraph VI.A.10.
13. The County shall submit written progress reports to the Commission's Executive Director every three (3) months, commencing three months following the execution of this MOA by all parties. Such progress reports shall detail the progress that has been made completing its obligations pursuant to Paragraph VI.A.10. Additionally, the County shall attend a meeting of the Commission's Policy and Implementation Committee annually, around the anniversary date of the execution of this MOA by the last signatory, to brief the Committee on its efforts to satisfy the obligations of Paragraph VI.A.10.
14. The County shall implement development of the Reptile Habitat Management Areas at the Airport in accordance with the specifications set forth in Appendix C of Exhibit D attached hereto.
15. The County will provide the Commission a copy of any revised or amended Airport Layout Plan within thirty (30) days of the approval of same by the FAA.
16. The County shall adhere to and implement the following:

- a. The Grassland Management and Mowing Plan contained within Appendix A of Exhibit D at the Airport; and
 - b. The Sickle Leaved Golden Aster Management Plan Report and Commitments set forth in Appendix H of Exhibit D.
17. The County agrees that the “Future Development Plan”, prepared by C&S Engineers, Inc., dated March 20, 2012, and attached hereto as Exhibit A, constitutes build out of the Airport.
 18. The County agrees that it with the proposed development authorized herein it has exceeded the 50% expansion provision set forth at N.J.A.C. 7:50-5.2.

B. The Pinelands Commission agrees:

1. The Commission will not require the filing of formal public development applications in accordance with the CMP (N.J.A.C. 7:50-4.52(b)) for the proposed development projects delineated in Paragraph II.C. unless:
 - a. A proposed development project submitted to the Commission staff pursuant to Paragraph IV.A.1 is inconsistent with the requirements of this MOA and/or any of the standards of Subchapter 5 and 6 of the Pinelands CMP for which a deviation has not been expressly provided by this MOA, and the County has not modified the proposed development project to render it consistent with such requirements;
 - b. There is a material addition to, deviation from or modification to any of the proposed development projects; or
 - c. As a result of new information or any change to the scope or design of the proposed development project(s) submitted to the Executive Director in accordance with Paragraph VI.A.7., the proposed development project is inconsistent with the requirements of this MOA or a standard of the Pinelands CMP from which a deviation has not been authorized by this Agreement or will result in a material increase in the threatened or endangered animal species habitat or wetlands/wetland buffers impacts associated with the proposed widening project(s) for which deviations have been authorized by this MOA, and the County has not modified the proposed development project to render it consistent with such requirements.
2. Within thirty (30) days of receipt of the information submitted pursuant to Paragraphs VI.A.1.h or VI.A.7, the Executive Director will provide written authorization in accordance with Paragraph VI.B.4 or the Commission staff will provide a written explanation of deficiencies in accordance with Paragraph VI.B.3.

3. If the Executive Director determines that any portion of a proposed development project is inconsistent with this MOA and/or the provisions of the CMP from which a deviation has not been authorized by this Agreement, then the Commission staff shall provide a written explanation of the deficiencies and identify specific actions that must be taken by the County to remedy such deficiencies.
4. If the Commission staff determines, after review of information submitted in accordance with Paragraphs VI.A.1.h or VI.A.7 and/or in response to any deficiency letter issued by the Commission pursuant to Paragraph VI.B.3, that a proposed development project is consistent with this MOA and the provisions of the CMP from which a deviation has not been authorized by this Agreement, it shall issue a written authorization to the County setting forth this determination. This written authorization shall constitute a public development approval and no further action by the Commission shall be required.

C. The Commission and the County agree:

1. To meet periodically to discuss this MOA, the status of the proposed development projects and any other issues of mutual concern.

VII. EFFECTIVE DATE AND DURATION

1. In accordance with N.J.S.A. 13:18A-5(h), this MOA shall take effect following the conclusion of the Governor's review period and approval of the Pinelands Commissions minutes authorizing entry of this MOA and then upon approval and signature by the authorized representatives of all parties
2. This agreement shall remain in effect unless amended by written consent of both Parties or otherwise terminated or suspended by the Pinelands Commission or terminated by both parties upon sixty (60) days written notice.

(Signatures on Next Page)

VIII. SIGNATURES

NEW JERSEY PINELANDS COMMISSION

Date: _____

By: _____
Nancy Wittenberg, Executive Director

Approved as to form by:

Date: _____

By: _____
Kristen Heinzerling, Deputy Attorney General
State of New Jersey

OCEAN COUNTY

Date: _____

By: _____
Gerry P. Little, Freeholder Director
Ocean County

Approved as to form by:

Date: _____

By: _____
John C. Sahradnik, Esq.
County Counsel



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-12- 21

TITLE: To Authorize the Executive Director to Continue to Expend Funds for Fiscal Year 2013 at the Same Level of Expenditures as Fiscal Year 2012 until the Adoption of the Fiscal Year 2013 Budgets

Commissioner Haas moves and Commissioner Prickett seconds the motion that:

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

WHEREAS, it is anticipated that the New Jersey Legislature will appropriate \$2,469,000 to support the Commission's operations during Fiscal Year 2013; and

WHEREAS, the Personnel and Budget Committee recommends Commission adoption of this resolution; 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 authorized to continue to expend funds during Fiscal Year 2013 at the same level of expenditures as Fiscal Year 2012 until adoption of the Fiscal Year 2013 Budgets by the Commission.

Record of Commission Votes

	AYE	NAY	NP	ABS		AYE	NAY	NP	ABS		AYE	NAY	NP	ABS
Ashmun	X				Haas	X				Prickett	X			
Brown			X		Harris	X				Quinn	X			
Earlen			X		Jackson			X		Rohan Green	X			
Ficcaglia	X				Lloyd	X				Witt	X			
Galletta			X		McGlinchey			X		Lohbauer	X			

Adopted at a meeting of the Pinelands Commission

Date: June 8, 2012

Nancy Wittenberg
Nancy Wittenberg
Executive Director

Mark S. Lohbauer
Mark S. Lohbauer
Chairman