



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-12- 30

TITLE: Approving With Conditions Applications for **Public Development** (Application Numbers 1997-0045.008, 1997-0257.003, 2002-0399.002, 2010-0055.001 & 2011-0075.001)

Commissioner Ashmun moves and Commissioner Ficcaglia seconds the motion that:

- 1997-0045.008 **LENAPE REGIONAL HIGH SCHOOL DISTRICT BOARD OF EDUCATION**, Tabernacle Township, Rural Development and Regional Growth Area, construction of a 5,700 square feet concrete pad and the installation of bleachers (Date of Report: August 27, 2012);
- 1997-0257.003 **NEW JERSEY TURNPIKE AUTHORITY**, Galloway Township, Rural Development and Regional Growth Area, construction of a full interchange at the intersection of the Garden State Parkway and Jimmie Leeds Road and the widening of Jimmie Leeds Road (Date of Report: August 27, 2012, Amended September 12, 2012);
- 2002-0399.002 **ATLANTIC COUNTY DEPARTMENT OF REGIONAL PLANNING & DEVELOPMENT**, Egg Harbor Township, Regional Growth Area, improvements to the existing intersection of Fire and Mill Roads (Date of Report: September 4, 2012);
- 2010-0055.001 **NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION RESOURCE DEVELOPMENT**, Washington and Bass River Townships, Preservation Area District, replacement of the Martha's Furnace pedestrian/vehicle bridge (Date of Report: August 27, 2012); and
- 2011-0075.001 **NEW JERSEY DEPARTMENT OF TRANSPORTATION**, Upper Township, Pinelands Village and Rural Development Area, road improvements to State Highway 50 (Date of Report: August 27, 2012).

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:

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.

- 1997-0045.008** **LENAPE REGIONAL HIGH SCHOOL DISTRICT BOARD OF EDUCATION**, Tabernacle Township, Rural Development and Regional Growth Area, construction of a 5,700 square feet concrete pad and the installation of bleachers (Date of Report: August 27, 2012);

- 1997-0257.003** **NEW JERSEY TURNPIKE AUTHORITY**, Galloway Township, Rural Development and Regional Growth Area, construction of a full interchange at the intersection of the Garden State Parkway and Jimmie Leeds Road and the widening of Jimmie Leeds Road (Date of Report: August 27, 2012, Amended September 12, 2012);

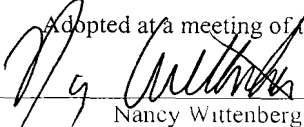
- 2002-0399.002** **ATLANTIC COUNTY DEPARTMENT OF REGIONAL PLANNING & DEVELOPMENT**, Egg Harbor Township, Regional Growth Area, improvements to the existing intersection of Fire and Mill Roads (Date of Report: September 4, 2012);


- 2010-0055.001** **NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION RESOURCE DEVELOPMENT**, Washington and Bass River Townships, Preservation Area District, replacement of the Martha's Furnace pedestrian/vehicle bridge (Date of Report: August 27, 2012); and

- 2011-0075.001** **NEW JERSEY DEPARTMENT OF TRANSPORTATION**, Upper Township, Pinelands Village and Rural Development Area, road improvements to State Highway 50 (Date of Report: August 27, 2012).

Record of Commission Votes

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

Adopted at a meeting of the Pinelands Commission

 Nancy Wittenberg
 Executive Director

Date: September 14, 2012

 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: ApplInfo@njpines.state.nj.us

Mark S. Lohbauer
 Chairman

Nancy Wittenberg
 Executive Director

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

August 27, 2012

James Hager
 Lenape Regional High School District Board of Education
 93 Willow Grove Road
 Shamong, NJ 08066

Re: Application #: 1997-0045.008
 Block 401, Lots 3, & 12.01 - 12.05
 Tabernacle Township

Dear Mr. Hager:

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 September 14, 2012 meeting.

FINDINGS OF FACT

This application is for the construction of a 5,700 square foot concrete pad and the installation of bleachers with a 1,200 seat capacity on the above referenced 209 acre parcel in Tabernacle Township. Seneca High School is located on the parcel. The parcel is located partly in a Pinelands Rural Development Area (113 acres) and partly in a Pinelands Regional Growth Area (96 acres). The proposed development is located within a Pinelands Rural Development Area.

On October 13, 2000, the Commission approved the development of a regional high school on the above referenced parcel (App. No. 1997-0045.001). That approval included the construction of a football stadium with a 4,550 square foot concrete pad and bleachers with a 507 seat capacity. The proposed 5,700 square foot concrete pad and bleachers with a 1,200 seat capacity will replace the existing 4,550 square foot concrete pad and bleachers with a 507 seat capacity.

The proposed development will be located over existing impervious surfaces and maintained lawn areas. The proposed soil disturbance appears to be limited to that which is necessary to accommodate the proposed development.



There are wetlands located on and within 300 feet of the above referenced parcel. As part of the application for the construction of the existing high school, it was determined that the disposal field for the wastewater treatment facility would be located at least 300 feet from wetlands and that all other development in the Rural Development Area would maintain a 250 foot buffer to wetlands. The development proposed in the current application will be located at least 250 feet from wetlands.

The applicant has demonstrated that the proposed development is consistent with the stormwater management standards contained in the Pinelands Comprehensive Management Plan (CMP). To meet these standards, the applicant proposes that a 6,000 square foot portion of a driveway, that was previously approved to be paved, will remain as stone. Should paving of the concerned portion of the driveway be proposed, an application for that paving must be completed with the Commission and the applicant must address the stormwater management standards of the CMP.

Based upon the existing conditions, the location of proposed development relative to existing development and a review of information available to the Commission staff, it was determined that a survey for the presence of threatened and endangered species of plants and animals was not required.

A cultural resource survey was previously completed for the above referenced parcel. The survey confirmed the presence of five potentially significant cultural resources. All of the potential resources are located within the required wetland buffers and will not be subject to any development related disturbance.

PUBLIC COMMENT

This applicant provided the requisite legal notices. Legal notice to required land owners within 200 feet of the above referenced parcel was completed on July 13, 2012. Newspaper public notice was completed for the application on July 16, 2012. The application was designated as complete on the Commission's website on July 24, 2012. The Commission's public comment period closed on August 10, 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)11). 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 prepared by Dante Guzzi Engineering Associates and dated June 6, 2012.
2. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.
3. Any propose revegetation shall adhere to the "Vegetation" standards of the CMP. Where appropriate, the applicant is encouraged to utilize the following native grasses for revegetation: Switch grass, Little bluestem and Broom-sedge.
4. Prior to any development, the applicant shall obtain any other necessary permits and approvals.

5. Any proposed paving of the concerned 6,000 square foot portion of the existing driveway requires completion of an application with the Pinelands Commission and said application shall address the CMP stormwater management standards.

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/EMD

- c: Secretary, Tabernacle Township Planning Board
Burlington County Planning Board
Dante Guzzi
Ernest Deman



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

Mark S. Lohbauer
 Chairman

Nancy Wittenberg
 Executive Director

**AMENDED REPORT ON AN APPLICATION FOR
 MAJOR PUBLIC DEVELOPMENT**
 (Page 2, revised 2nd full para. & added 3rd full para.)

September 12, 2012

Richard Raczynski, P.E.
 New Jersey Turnpike Authority
 PO Box 5042
 Woodbridge, NJ 07095

Re: Application #: 1997-0257.003
 Garden State Parkway Interchange 41
 Garden State Parkway & Jimmie Leeds Road
 Galloway Township

Dear Mr. Raczynski:

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 September 14, 2012 meeting.

FINDINGS OF FACT

This application is for the construction of a full interchange at the intersection of the Garden State Parkway and Jimmie Leeds Road and the widening of Jimmie Leeds Road. This application also proposes the construction of a 27,500 square foot New Jersey State Police barrack serviced by public sanitary sewer within the Garden State Parkway right-of-way at the Atlantic City Service Area. Most of the proposed development is located in the Parkway Overlay District and underlain by Pinelands Regional Growth Area and Pinelands Rural Development Area. A portion of the proposed improvement to Jimmie Leads Road is located outside of the Parkway Overlay District in a Pinelands Regional Growth Area and Pinelands Rural Development Area.

There is an existing access road at the intersection of the Garden State Parkway and Jimmie Leeds Road which provides full north/south ingress and egress to the Garden State Parkway through the Atlantic City Service Area. This application proposes the construction of two access ramps and two egress ramps at the concerned intersection to replace the existing access road to the Atlantic City Service Area. The existing access road will be realigned and will be utilized for access to the proposed State Police Barracks. The proposed State Police barracks will replace the existing Bass River State Police barracks



located at milepost 53 on the Garden State Parkway. The applicant has indicated that the proposed interchange improvements will eliminate the current operational deficiencies and traffic safety issues.

This application proposes to widen approximately 1,650 linear feet of Jimmie Leeds Road located in the Pinelands Area. The road will be widened from a maximum paved width of 45 feet to a maximum paved width of 80 feet. An additional 900 linear feet of proposed improvements to Jimmie Leeds Road are located outside of the Pinelands Area.

The Parkway Overlay District (N.J.A.C. 7:50-5.35(b)) permits the improvement and expansion of existing interchanges, as well as outlying and accessory facilities associated with operation and maintenance of the highway, provided the improvements do not induce changes in the location, pattern or intensity of land use which would be inconsistent with the Pinelands land use program. This application proposes improvements to an existing interchange which currently provides full north/south ingress and egress to the Garden State Parkway through the Atlantic City Service Area. This application also proposes the development of a State Police barracks associated with the operation of the Garden State Parkway. The interchange improvements and State Police Barracks are both permitted uses within the Parkway Overlay District.

To determine whether the proposed interchange improvements and State Police barracks would induce any changes in land use that would be of concern, Commission staff examined the area within a 1.5 mile radius of the existing interchange. All privately owned lands in the Pinelands Area within this 1.5 mile radius are located in a Regional Growth Area, Military and Federal Installation Area or have already been permanently preserved pursuant to the 2010 Memorandum of Agreement between the Pinelands Commission and the Richard Stockton College of New Jersey. Therefore, land use impacts inconsistent with the Pinelands program are not expected to result.

The proposed development will be located primarily within maintained grassed areas, partially in paved areas and partially within forested areas. The proposed development will disturb approximately 2.68 acres of forested areas. The proposed clearing and soil disturbance appears to be limited to that which is necessary to accommodate the proposed development.

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. To stabilize disturbed areas, the applicant proposes to utilize grass species which meet that recommendation.

There are wetlands located within 300 feet of the proposed development. The proposed development will disturb 0.288 acres of wetlands. The applicant has demonstrated that there is no feasible alternative to the proposed development that does not involve development in wetlands or that will result in a less significant adverse impact on wetlands. The proposed development will not result in a substantial impairment of the resources of the Pinelands. With the conditions below, all practical measures are being taken to mitigate the impact on the wetlands. The applicant has demonstrated that the need for the interchange improvements overrides the importance of protecting the wetlands. Therefore, in accordance with the CMP (N.J.A.C. 7:50-6.13), the proposed road improvements (linear development) are a permitted use in wetlands.

The applicant has demonstrated that the proposed development is consistent with the stormwater management standards contained in the CMP. To meet the stormwater management standards, the applicant will be expanding an existing stormwater infiltration basin.

Threatened and endangered plant and animal species surveys were previously prepared in the vicinity of the proposed development for the Garden State Parkway Widening Project (App. No. 1997-0257.001) and the Commission certified (approved) Richard Stockton College Master Plan. The survey completed for the Richard Stockton College verified the location of a population of Pine Barrens treefrog in the vicinity of the proposed development. No development will take place in habitat critical to the survival of the identified local population of Pine Barrens treefrog. No habitat critical to the survival of any other threatened or endangered animal species or populations of any threatened or endangered plant species were located within the project area.

A cultural resource survey was prepared for the proposed development. No cultural resources eligible for Pinelands designation were found within the project area.

PUBLIC COMMENT

This applicant provided the requisite legal notices. Legal notice to required land owners within 200 feet of the above referenced parcel was completed on March 14, 2012. Newspaper public notice was completed for the application on March 15, 2012. The application was designated as complete on the Commission's website on July 25, 2012. The Commission's public comment period closed on August 10, 2012. The Commission has not received any public comments regarding the application.

CONCLUSION

The proposed development is a permitted use within the Garden State Parkway Overlay District (N.J.A.C. 7:50-5.35), Regional Growth Area (N.J.A.C. 7:50-5.28(a)) and 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.

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of 44 sheets, prepared by the RBA Group and dated as follows:
 - Sheets 1 & 39 – undated
 - Sheets 2, 3, 8-38 & 40-44 -- March 2012; last revised July 16, 2012
 - Sheets 4-7 – March 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 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 wetlands and shall be maintained in place until all development has been completed and the area has been stabilized.
5. Any change of use of the Bass River State Police barracks located at milepost 53 on the Garden State Parkway requires the completion of an application with the Commission.

6. Prior to any development, the applicant shall obtain any other necessary permits and approvals. In addition, prior to the construction of any portion of the proposed development which will result in a disturbance of any wetlands area, the applicant shall obtain a Freshwater Wetlands Permit pursuant to the New Jersey Freshwater Wetlands Protection Act.

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.

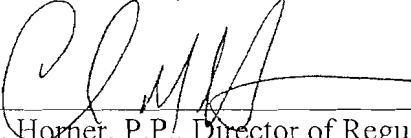
APPEAL

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/EMD

c: Secretary, Galloway Township Planning Board
Galloway Township Environmental Commission
Atlantic County Department of Regional Planning and Development
Drew Markewicz
Ernest Deman



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

Mark S. Lohbauer
 Chairman

Nancy Wittenberg
 Executive Director

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

(Corrected Copy – Added Amended to Report title)

September 4, 2012

John Peterson, PP, Deputy Director
 Atlantic County Department of Regional Planning & Development
 PO Box 719
 Northfield, NJ 08225-0719

Re: Application #: 2002-0399.002
 Fire and Mill Roads
 Egg Harbor Township

Dear Mr. Peterson:

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 September 14, 2012 meeting.

FINDINGS OF FACT

This application is for improvements to the existing intersection of Fire and Mill Roads in Egg Harbor Township. Development is proposed in all four quadrants of the existing intersection. Only development located in the southwest and northwest quadrants of the intersection is located in the Pinelands Area and subject of this application. The remainder of the proposed development is located outside of the Pinelands Area. The portion of the proposed intersection located in the Pinelands Area is located in a Pinelands Regional Growth Area.

On August 27, 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 September 14, 2012 meeting. Thereafter, on August 29, 2012 the applicant submitted information clarifying the proposed grass seed mix to be used for the project. This Amended Report on an Application for Public Development is being issued to reflect that fact (Page 2, paragraph 2.)

Existing Fire Road consists of one through travel lane in each direction. The application proposes to widen Fire Road from an existing width ranging between 24 feet and 28 feet to a width ranging from 36 feet to 60 feet. The widening will be for approximately 1,358 linear feet to the west of the intersection



with Mill Road. The widening will accommodate a left hand turning lane and two through travel lanes in each direction at the intersection.

Existing Mill Road also consists of one through travel lane in each direction. The application proposes to widen Mill Road from an existing width ranging between 24 feet and 27 feet to a width ranging from 25 feet to 43 feet. The widening will be for approximately 830 linear feet to the north of the intersection with Fire Road. The widening will accommodate a left hand turning lane, a right hand turning lane and one through travel lane in each direction at the intersection.

The proposed intersection improvements will be located within existing paved areas and maintained gravel and grass shoulders. The proposed clearing and soil disturbance appears to be limited to that which is necessary to accommodate the proposed intersection 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 utilize grasses that meet that recommendation.

There are wetlands located within 300 feet of the proposed development. The proposed development is a modification of an existing intersection and will result in the disturbance of 0.08 acres of wetlands. To improve the quality of existing stormwater runoff discharging to wetlands, the applicant is proposing the installation of an infiltration trench within the Mill Road right-of-way. The proposed trench will intercept existing stormwater runoff that currently discharges directly to wetlands.

As required by the CMP, the applicant has demonstrated that:

1. There is no feasible alternative to the proposed development that does not involve development in wetlands or that would result in a less significant impact on wetlands;
2. The proposed development will not result in substantial impairment of the resources of the Pinelands; and
3. The need for the proposed development overrides the importance of protecting the wetlands because the proposed development is necessary to accommodate safety improvements to the existing intersection.

With the conditions below, all practical measures are being taken to mitigate impacts on wetlands. Therefore, in accordance with the CMP (N.J.A.C. 7:50-6.13), the proposed intersection improvements (linear development) are a permitted use in wetlands.

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 demonstrated that the proposed development is consistent with the stormwater regulations contained in the CMP.

Based upon the location of existing development, the proposed limits of disturbance and a review of information available to the Commission staff, it was determined that a survey for the presence of threatened or endangered species of plants and wildlife was not required.

A cultural resource survey was prepared for this application. No cultural resources eligible for Pinelands designation were found within the project area.

PUBLIC COMMENT

This applicant provided the requisite newspaper public notice. Newspaper public notice was completed for the application on May 12, 2012. The Commission's public comment period closed on August 10, 2012. The application was designated as complete on the Commission's website on July 31, 2012. The Pinelands Commission has not received any public comments regarding the application.

CONCLUSION

The proposed intersection improvements are a permitted use in a Regional Growth Area (N.J.A.C. 7:50-5.28(a)). If the following conditions are imposed, the proposed development will be consistent with the management standards contained in Subchapter 6 of the CMP and Egg Harbor 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, containing seven sheets, prepared by the Atlantic County Department of Regional Planning and Development and dated as follows:
 - Sheet PSI-1 – undated
 - Sheet EP-2 through EP-7 – December 9, 2011
 - Sheet PM-1 – October 21, 2011 and revised October 19, 2011.
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 necessary NJDEP Freshwater Wetlands Permits and any other necessary permits and approvals.
6. The proposed stormwater runoff infiltration trench located in the Mill Road right-of-way shall be constructed within six months of completion of the proposed Fire and Mill Roads intersection improvements.

APPEAL

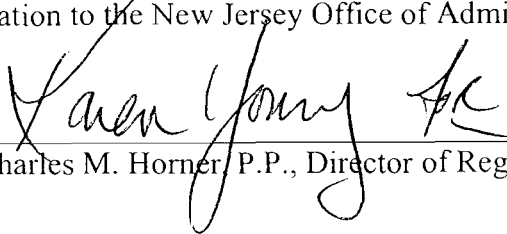
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Administrative Law for a hearing. Any such appeal must be made in writing to the Commission within eighteen days of the date of this Report and must include the following information:

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

- c: Secretary, Egg Harbor Township Planning Board
Egg Harbor Township Environmental Commission



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 Chairman

Kim Guadagno
 Lt. Governor

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

Nancy Wittenberg
 Executive Director

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

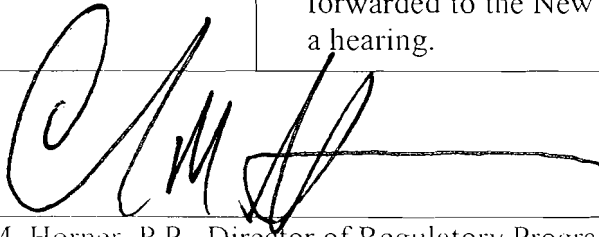
August 27, 2012

Richard Boomazian, Assistant Commissioner
 Division of Natural Historic Resources
 NJDEP Resource Development
 501 E. State Street
 Trenton, NJ 08625-0404

Application Information:	App. No. 2010-0055.001 Area of Parcel: 1,080 Acres Wharton State Forest Block 73, Lot 19 Block 106, Lot 1 Bass River Township Block 27, Lot 23 Washington Township
Proposed Development:	Replacement of the Martha's Furnace Pedestrian/Vehicle Bridge
Management Area:	Preservation Area District
Relevant Facts:	<ul style="list-style-type: none"> The plan, consisting of ten sheets, was prepared by Lippincott Jacobs Consulting Engineers and dated as follows: Sheets 1 & 4 -October 22, 2010; last revised June 28, 2012 Sheet 2 -May 18, 2010 Sheets 3 & 5-8 -October 22, 2010; last revised July 22, 2011 Sheet 9 -December 17, 2010; last revised July 22, 2011 Sheet 10 -July 22, 2011 The proposed 90' x 6' pedestrian bridge will span the Oswego River. Demolition of the existing bridge and riprap for the proposed bridge will result in 0.049 acres of wetlands disturbance and requires an NJDEP Freshwater Wetlands Permit.



	<ul style="list-style-type: none"> The applicant conducted a survey for threatened and endangered plants. The applicant has demonstrated that the proposed development will not have an irreversible adverse impact on the survival of any local populations of Pinelands threatened and endangered plant species or on habitats that are critical to the survival of any local populations of threatened or endangered animal species.
Public Notice:	<ul style="list-style-type: none"> Public notice not required by the Pinelands Comprehensive Management Plan (CMP). On July 30, 2012, the application was designated as complete on the Commission's website. No public comments received through the close of public comment period on August 10, 2012.
Conclusion:	<ul style="list-style-type: none"> The proposed development is consistent with the standards contained in the CMP.
Recommendation:	<ul style="list-style-type: none"> On behalf of the Commission's Executive Director, I recommend that the Pinelands Commission approve this application at its September 14, 2012 meeting.
Appeal of Recommendation:	<p>The CMP (N.J.A.C. 7:50-4.91) provides that parties who meet the legal requirement to qualify as an "interested party," the right to appeal this recommendation. Any appeal must be made in writing to the Commission within 18 days of the date of this Report and include the information specified in the CMP (N.J.A.C. 7:50-4.91). Any valid appeal will be forwarded to the New Jersey Office of Administrative Law for a hearing.</p>



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

- c. Secretary, Washington Township Planning Board
 Secretary, Bass River Township Planning Board
 Bass River Construction Code Official
 Ed Karn, Lippincott & Jacobs Consulting Engineers



State of New Jersey
 THE PINELANDS COMMISSION
 P.O. Box 379
 NEW LISBON, NJ 08064
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Chris Christie
 Governor
 Kim Guadagno
 Lt. Governor

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

Mark S. Lohbauer
 Chairman
 Nancy Wittenberg
 Executive Director

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

August 27, 2012

Jo Ann Asadpour
 New Jersey Department of Transportation
 1035 Parkway Avenue
 Trenton, NJ 08625

Re: Application #: 2011-0075.001
 State Routes 49 & 50
 Marshall Avenue, Kendell Lane and Tuckahoe Mount Pleasant Road
 Upper Township

Dear Ms. Asadpour:

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 September 14, 2012 meeting.

FINDINGS OF FACT

This application is for proposed road improvements to State Route 50 in Upper Township. Associated with the proposed State Route 50 road improvements, the application also proposes various improvements within the State Route 49, Marshall Avenue, Kendell Lane and Tuckahoe-Mount Pleasant Road rights-of-way. The proposed development is located in the Pinelands Village of Tuckahoe and in a Pinelands Rural Development Area.

The proposed road improvements to State Route 50 are:

- Paving to a width of 40' and providing for one travel lane in each direction from Route 49 to Delaware Avenue. Route 50 is currently paved to an average width of 35' in the project area.
- A left hand turn lane will be provided onto Marshall Avenue.
- Four foot wide sidewalks along both sides of Rt. 50 from Rt. 49 to Marshall Avenue.



The proposed road improvements within the other rights-of-way are:

- The Marshall Avenue intersection with Rt. 50 will be widened to provide for left and right hand turn lanes. The road will be widened from 30' to 35' for 180' feet west of Rt. 50.
- Kendall Lane will be widened from 15' to 18' between Rt. 50 and Tuckahoe-Mount Pleasant Road.
- The Rt. 50 and Tuckahoe-Mount Pleasant Road intersection will be modified to eliminate northbound traffic on Tuckahoe-Mount Pleasant Road between Kendall Lane and Rt. 50.
- The Rt. 49 intersection with Rt. 50 will be widened to provide for left and right hand turn lanes. The road will be widened from 40' to 50' for 280' west of Rt. 50.

Additional road improvements located outside of the Pinelands Area are proposed within the State Route 50 right-of-way. Those road improvements include the replacement of the existing Tuckahoe River Bridge.

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 areas to be revegetated are currently maintained grassed areas or paved areas.

There are wetlands located within 300 feet of the proposed development. The proposed development is a modification of existing roadways and intersections. As required by the CMP, the applicant has demonstrated that:

1. There is no feasible alternative to the proposed development that does not involve development in wetlands or that would result in a less significant impact on wetlands;
2. The proposed development will not result in substantial impairment of the resources of the Pinelands; and
3. The need for the proposed development overrides the importance of protecting the wetlands because the proposed development is necessary to accommodate safety improvements to the existing roadways and intersections.

With the conditions below, all practical measures are being taken to mitigate impacts on wetlands. Therefore, in accordance with the CMP (N.J.A.C. 7:50-6.13), the proposed roadway and intersection improvements (linear development) are a permitted use in wetlands.

The applicant has demonstrated that the proposed development is consistent with the stormwater management standards contained in the CMP. To meet the stormwater management standards, the application proposes to remove 13,000 square feet of impervious surface from the existing Route 49 and Weatherby Road intersection. The proposed development will result in a 435 square foot decrease in impervious surfaces in the drainage area.

The applicant completed a threatened and endangered plant species habitat assessment for the proposed development. 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 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 survey.

PUBLIC COMMENT

This applicant provided the requisite legal notices. Newspaper public notice was completed for the application on June 14, 2012. The application was designated as complete on the Commission's website on July 31, 2012. The Commission's public comment period closed on August 10, 2012. The Commission has not received any public comments regarding the application.

CONCLUSION

The proposed development is a permitted use within the Rural Development Area (N.J.A.C. 7:50-5.26(b)10) and a Pinelands Village (N.J.A.C. 7:50-5.27(a)). 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 41 sheets, prepared by Parsons Transportation Group and dated as follows:
 - Sheets 1 & 19-23 – January 31, 2012
 - Sheets 2, 3, 6, 7, 10-14 & 24-28 – January 26, 2012
 - Sheets 4, 5, 8, 9 & 16-18 – March 28, 2012
 - Sheet 15 – January 27, 2012
 - Sheets 29-39 – undated
 - Sheets 40 & 41 – April 5, 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 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 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.

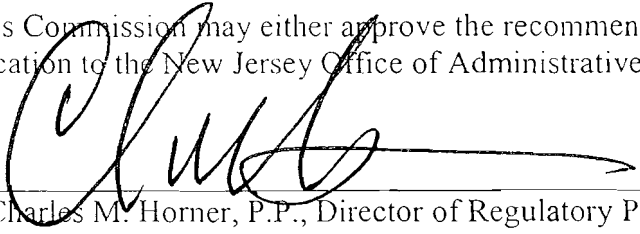
APPEAL

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/EMD

c: Secretary, Upper Township Planning Board
Cape May County Planning Board
Patrick McHugh
Ernest Deman



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-12- 31

TITLE: Issuing an Order to Conditionally Certify Ordinance 2012-04, Amending Chapter 15 (Zoning) of the Code of Plumsted Township

Commissioner Haas
seconds the motion that:

moves and Commissioner Pickett

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

WHEREAS, Resolution #PC4-83-60 of the Pinelands Commission specified that any amendment to Plumsted 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 #PC4-83-60 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 Plumsted Township to assist the municipality in completing its response to the three sets of Comprehensive Management Plan amendments; and

WHEREAS, by email dated October 25, 2011, Plumsted 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 October 25, 2011, the Executive Director notified the Township that an extension was granted until December 31, 2011; and

WHEREAS, by email dated January 25, 2012, Plumsted Township notified the Commission of the need for a further extension; and

WHEREAS, by letter dated January 27, 2012, the Executive Director notified the Township that an extension was granted until April 30, 2012; and

WHEREAS, by email dated April 5, 2012, Plumsted Township notified the Commission of the need for an additional extension to accommodate the Township's adoption schedule; and

WHEREAS, by letter dated April 9, 2012, the Executive Director notified the Township that an extension was granted until May 9, 2012; and

WHEREAS, on May 2, 2012, Plumsted Township adopted Ordinance 2012-04, amending Chapter 15 (Zoning) 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 2012-04 on May 4, 2012; and

WHEREAS, by letter dated May 29, 2012, the Executive Director notified the Township that Ordinance 2012-04 would require formal review and approval by the Pinelands Commission; and

WHEREAS, a public hearing to receive testimony on Ordinance 2012-04 was duly advertised, noticed and held on June 13, 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 2012-04 sufficiently implements the forestry and wetlands management amendments to the Comprehensive Management Plan; and

WHEREAS, the Executive Director has further found that Ordinance 2012-04 does not sufficiently implement the cluster development amendments to the Comprehensive Management Plan; and

WHEREAS, the Executive Director has submitted a report to the Commission recommending issuance of an order to certify with conditions that Ordinance 2012-04, amending Chapter 15 (Zoning) of the Code of Plumsted Township, is in conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, the Commission's CMP Policy and Implementation Committee has reviewed the Executive Director's report and has recommended that Ordinance 2012-04 be conditionally certified; and

WHEREAS, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning Ordinance 2012-04 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 with conditions that Ordinance 2012-04, amending Chapter 15 (Zoning) of the Code of Plumsted Township, is in conformance with the Pinelands Comprehensive Management Plan. To obtain full certification of Ordinance 2012-04 by the Pinelands Commission, Plumsted Township must amend Chapter 15 (Zoning) of its Code in accordance with Attachment A of this Order. The Township need not adopt the conditions in Attachment A verbatim; revisions comparable thereto or consistent therewith in intent may also be acceptable.
2. Plumsted Township shall have until January 12, 2013 to adopt and submit the revisions to Chapter 15 (Zoning) of its Code to the Pinelands Commission for approval pursuant to N.J.A.C. 7:50-3.45 and Attachment A hereto.

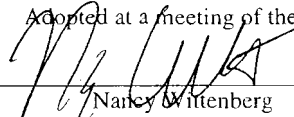
3. If the Township fails to submit the revisions to Chapter 15 (Zoning) pursuant to N.J.A.C. 7:50-3.45 and Attachment A hereto by January 12, 2013, or if such a submission is not fully certified by the Pinelands Commission, Ordinance 2012-04 shall be disapproved.
4. In the event that Ordinance 2012-04 is disapproved, the certified status of the Master Plan and Land Use Ordinances of Plumsted Township shall be suspended until such time as the Township submits amendments which adequately address the April 2009 amendments to the Pinelands Comprehensive Management Plan. During such period of suspension, the Commission shall review all development applications in accordance with the procedures and standards which govern development in areas without certified local plans and ordinances (N.J.A.C. 7:50-4, Part II).
5. Any additional amendments to Plumsted 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.

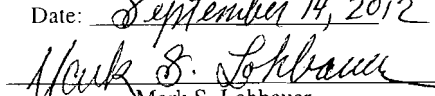
Record of Commission Votes

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

Adopted at a meeting of the Pinelands Commission

Date: September 14, 2012


 Nancy Whitenberg
 Executive Director


 Mark S. Lohbauer
 Chairman



State of New Jersey
THE PINELANDS COMMISSION
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(609) 894 7300
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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 ORDINANCE 2012-04, AMENDING CHAPTER 15 (ZONING)
OF THE CODE OF PLUMSTED TOWNSHIP**

August 31, 2012

Plumsted Township
121 Evergreen Road
New Egypt, NJ 08533

FINDINGS OF FACT

I. Background

The Township of Plumsted is located in northern Ocean County, in the northwestern portion of the Pinelands Area. Pinelands municipalities adjacent to Plumsted Township include the Townships of Manchester and Jackson in Ocean County and New Hanover and Pemberton in Burlington County.

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

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 October 25, 2011, Plumsted 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 October 25, 2011, the Executive Director notified the Township that an extension was granted until December 30, 2011.

By email dated January 25, 2012, Plumsted Township notified the Commission of the need for a further extension. By letter dated January 27, 2012, the Executive Director notified the Township that an extension was granted until April 30, 2012.

By email dated April 5, 2012, Plumsted Township notified the Commission of the need for an additional extension. By letter dated April 9, 2012, the Executive Director notified the Township that an extension was granted until May 9, 2012.

On May 2, 2012, Plumsted Township adopted Ordinance 2012-04, amending Chapter 15 (Zoning) 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 2012-04 on May 4, 2012.

By letter dated May 29, 2012, the Executive Director notified the Township that Ordinance 2012-04 would require formal review and approval by the Pinelands Commission.

II. Master Plans and Land Use Ordinances

The following ordinance has been submitted to the Pinelands Commission for certification:

- * Ordinance 2012-04, amending Chapter 15 (Zoning) of the Code of Plumsted Township, introduced on April 4, 2012 and adopted on May 2, 2012.

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

1. **Natural Resource Inventory**

Not applicable.

2. **Required Provisions of Land Use Ordinance Relating to Development Standards**

Forestry

Ordinance 2012-04 amends Chapter 15 (Zoning) of the Township's Code by revising and adding definitions related to forestry. Specifically, terms for such forestry activities as "artificial regeneration," "clearcutting" and "disking" are added and the existing definition of "forestry" is revised to make clear that it includes these and other silvicultural practices. Ordinance 2012-04

further amends Chapter 15 by replacing Section 15-14.21.d.3, in its entirety, with an amended set of standards applicable to forestry activities in the Pinelands Area. Included in this revised section are detailed standards for a wide variety of silvicultural practices, as well as limitations on amount of land that may be subject to these practices and the Pinelands Native Forest Types in which such practices may or may not be conducted.

The amended forestry standards adopted by Ordinance 2012-04 are consistent with the March 2010 amendments to the Pinelands Comprehensive Management Plan.

Wetlands Management

Ordinance 2012-04 amends Chapter 15 of the Township's Code by adding wetlands management to the list of uses permitted in the Township's PA (Preservation Area) zoning district. Ordinance 2012-04 also revises Section 15-14.21.a.3 to indicate that wetlands management may be permitted in wetlands, subject to the standards of the Comprehensive Management Plan. In so doing, Ordinance 2012-04 sufficiently responds to the December 2009 Comprehensive Management Plan amendments relative to wetlands management

Development Transfer Program

Ordinance 2012-04 amends Chapter 15 by revising the provisions of the Township's development transfer program to clarify the types of uses which may be permitted on noncontiguous lands used to meet density requirements. Specifically, Ordinance 2012-04 states that all noncontiguous lands utilized in the development transfer program must be permanently protected through recordation of a deed of restriction, with only the following uses permitted: low intensity recreation, ecological management and forestry. Limits on clearing and impervious surface then also apply to these uses. In addition, in cases where agricultural uses exist on the lands to be protected, Ordinance 2012-04 provides that such agricultural uses may be permitted to continue and, in some cases, expand, if certain conditions related to impervious surface and the preparation of Resource Management System Plans are met.

The amended development transfer program standards adopted by Ordinance 2012-04 are consistent with the April 2009 amendments to the Pinelands Comprehensive Management Plan.

Cluster Development

Ordinance 2012-04 amends Chapter 15 by adding residential cluster development as a permitted use in the Township's Pinelands Forest Area (FA) and Pinelands Rural Development Area zoning districts (RD-1 and RD-2). Furthermore, Ordinance 2012-04 indicates that whenever two or more residential units are proposed in these 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 2012-04, 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. The homeowners association may contract with a non-profit conservation organization, the municipality or another public agency for management of the open space. In the absence of a

homeowners association, the Township Planning Board may approve ownership and management of the open space by a non-profit conservation organization or the Township, or incorporation of the open space 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 2012-04 provides that such agricultural uses may be permitted to continue and, in some cases, expand, if certain conditions related to impervious surface and the preparation of Resource Management System Plans are met. Should a cluster development applicant elect to continue or expand an existing agricultural use on the parcel, Ordinance 2012-04 requires that all of the new dwelling units to be constructed in the cluster development utilize on-site septic waste water treatment systems designed to reduce the level of nitrate/nitrogen in the waste water in accordance with N.J.A.C. 7:50-6.84(a)5 or the standards set forth in the Commission's Alternate Design Treatment Systems Pilot Program.

Ordinance 2012-04 specifies that the number of residential lots permitted within a cluster development will be calculated based on the size of the parcel of land and the permitted density allowed in Chapter 15 for the zoning district(s) in which the project will be located. For example, 11 units would be permitted on a 200 acre parcel located in the Township's FA District, where the permitted density is one unit per 18 acres. Ordinance 2012-04 also provides bonus density to parcels of 50 or more acres in size. This bonus density ranges from 10 to 30%, depending on the size of the parcel and the permitted density of the zone in which the parcel is located. The larger the parcel and the lower the permitted density, the larger the percentage of bonus density provided. The bonus density percentages and acreage thresholds adopted by Ordinance 2012-04 are identical to those contained in N.J.A.C. 7:50-5.19(d)1 of the Comprehensive Management Plan.

Ordinance 2012-04 does incorporate several changes to the CMP clustering regulations. First, Ordinance 2012-04 requires that the open space portion of a cluster development equal or exceed 50 percent of the total parcel. The CMP contains no such minimum requirement.

Second, although Ordinance 2012-04 provides that the average size of residential lots within a cluster development shall not exceed 1.1 acres, as is specified in the CMP, the ordinance allows this average lot size to be increased under certain circumstances. Specifically, if the Planning Board engineer determines there are "reasonable conditions on the site limiting the dilution capacity of the open space", the average lot size may be increased to 1.5 acres in order to "accommodate larger septic systems on each lot".

Finally, Ordinance 2012-04 requires the submission of a Yield Plan for any proposed cluster development. This Yield Plan is described as a conceptual layout plan which shows the location of all proposed lots, streets, rights-of-way, primary resources (wetlands, floodplains, steep slopes and vernal ponds) and secondary resources (viewsheds, local landmarks, Natural Heritage Priority Areas, etc.). The presence of wetlands, floodplains, steep slopes, existing easements and the suitability of soils for septic systems must also be delineated and accounted for in the layout. According to Section 15-14.21.s.6(a), each building lot depicted on the Yield Plan must contain an acre of upland and buildable land or an average lot size of 1.1 acres. Section 15-14.21.s.6(b) then specifies that the minimum lot area for clustering is one acre, with an average of 1.1 acres, unless the Planning Board engineer determines an increase to 1.5 acres is warranted to accommodate larger septic systems. Additional design standards are required for cluster

developments as part of the Yield Plan, including setbacks from cropland and pastureland (100 feet), permanently preserved farmland (300 feet) and active recreation areas (150 feet).

Pinelands municipalities have always had the general ability to refine the various standards and provisions of the Comprehensive Management Plan and tailor them to local conditions, provided Comprehensive Management Plan goals and objectives continue to be achieved. In addition, Subchapter 6 (Management Programs and Minimum Standards) of the Comprehensive Management Plan expressly recognizes that municipalities may adopt more restrictive regulations, provided such regulations are compatible with the goals and objectives of the Plan. 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, Plumsted Township has chosen to incorporate three provisions which differ from those in the Comprehensive Management Plan. The first of these provisions, the requirement for a minimum of 50% open space on any parcel subject to cluster development, does not raise any issues. Although the CMP does not contain an explicit requirement for a percentage of open space, the density and minimum lot size requirements for clustering which apply in the Pinelands Forest and Rural Development Areas are such that at least 50% open space will be the end result in any case. The fact that Plumsted's ordinance will contain a specific minimum percentage is not expected to create any conflicts with CMP clustering standards.

The second provision adopted by the Township, the increased average lot size for cluster developments, is not consistent with the Comprehensive Management Plan's objectives for clustering. The CMP amendments were designed to limit all residential lots to one acre, thereby minimizing clearing and other site disturbance and ensuring the maximum amount of protected open space in each cluster development. A small degree of flexibility (the average of 1.1 acres) was incorporated in the CMP to recognize unusual site conditions. Increasing this average from 1.1 to 1.5 acres could mean that half of the residential lots in a cluster development will be as large as two acres in size, twice the size of the normally required one acre. The Township has indicated (see Exhibit #1) that the reason for the increased average lot size is a concern with dilution capacity of the open space area associated with a cluster development. The Executive Director is unaware of any circumstances where individual lots need to be enlarged in size due to the dilution capabilities of contiguous open space. If there are dilution constraints, such that CMP water quality standards would not be met due to the number of homes being proposed within a cluster development, the solution is fewer residential lots or the use of alternate design treatment systems, not an increase in lot size to accommodate larger individual septic systems. Ordinance 2012-04 will need to be revised to eliminate this provision.

The third provision adopted by the Township, related to yield plans, is also problematic. Yield plans are acceptable insofar as they are used by municipalities for purposes of reviewing proposed layouts and ensuring important natural, cultural and historic resources are appropriately protected. However, when such plans are used by municipalities as a means of reducing the number of units in a particular development, they run afoul of the CMP. The Commission itself,

in its adoption of the clustering rules in April of 2009, specifically rejected the use of yield plans in the traditional sense. While the Executive Director does not believe the Township's intent is to use its yield plan requirements for such purposes, the language in Ordinance 2012-04 is, at best, unclear. Requiring cluster development applicants to submit conceptual plans for review by and discussion with the Planning Board is fine. Requiring such applicants to show the location of all proposed one acre lots on these concept plans is also fine. However, Section 15-14.21.s.6(a) of Ordinance 2012-04 states that each one acre development lot shown on a yield plan must be comprised entirely of uplands and buildable land. Section 15-14.21.s.6(c)1 further indicates that the building or development lots shall not encroach upon any identified primary and secondary conservation areas. Certainly, this is the ideal situation and the Executive Director understands it is important for the Township to be able to verify that each proposed one acre lot is buildable. However, prohibiting any wetlands or wetlands buffer areas from being included in the one acre lots is not necessary, nor is it consistent with CMP standards as it could serve to reduce the potential "yield" on a site, particularly when coupled with the Township's other buffer and setback requirements. Obviously, homes and septic systems cannot be developed in wetlands or required wetlands buffer areas. This does not mean that small portions of such areas cannot be included within individual residential lots, if necessary to achieve the density permitted in the Township's ordinance and the bonus units provided by Ordinance 2012-04. These provisions will need to be deleted from the ordinance. The language in Section 15-14.21.s.6 will also need to be revised to make clear that the purpose of a yield plan for cluster development in the Pinelands Area is merely to guide development to appropriate locations on a site, not to reduce the number of units which results from applying permitted density and bonus provisions.

The amendments adopted by Ordinance 2012-04 do not sufficiently respond to the April 2009 Comprehensive Management Plan amendments relative to cluster development and are not fully consistent with the land use and development standards of the Comprehensive Management Plan.

With the adoption of the amendments set forth in Attachment A, this standard for certification will be met.

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

Ordinance 2012-04 amends Chapter 15 by replacing Section 15-14.21.d.2, 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 2012-04 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

Ordinance 2012-04, amending Chapter 15 (Zoning) of the Code of Plumsted Township, is not fully consistent with the standards and provisions of the Pinelands Comprehensive Management Plan.

With the adoption of the amendments set forth in Attachment A, this standard for certification will be met.

11. Conformance with Energy Conservation

Not applicable.

12. Conformance with the Federal Act

No special issues exist relative to the Federal Act. However, Ordinance 2012-04, amending Chapter 15 (Zoning) of the Code of Plumsted Township, is not fully consistent with the standards and provisions of the Pinelands Comprehensive Management Plan.

With the adoption of the amendments set forth in Attachment A, this standard for certification will be met.

13. Procedure to Resolve Intermunicipal Conflicts

Not applicable.

PUBLIC HEARING

A public hearing to receive testimony concerning Plumsted Township's application for certification of Ordinance 2012-04 was duly advertised, noticed and held on June 13, 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 2012-04 were accepted through June 15, 2012 and were received from the following individuals:

David Roberts, AICP/PP, LLA, Plumsted Township Planner (see Exhibit #1)

CONCLUSION

Based on the Findings of Fact cited above, the Executive Director has concluded that Ordinance 2012-04 sufficiently implements the December 2009 and March 2010 amendments to the Pinelands Comprehensive Management Plan related to forestry and wetlands management. The Executive Director has further concluded that Ordinance 2012-04 does not fully implement the April 2009 amendments to the Comprehensive Management Plan related to residential cluster development and therefore does not fully comply with Comprehensive Management Plan standards for the certification of municipal master plans and land use ordinances. Accordingly, the Executive Director recommends that the Commission issue an order to conditionally certify Ordinance 2012-04 of Plumsted Township.

SRG/CPL
Attachments

**ATTACHMENT A TO EXECUTIVE DIRECTOR'S AUGUST 31, 2012
REPORT ON PLUMSTED TOWNSHIP ORDINANCE 2012-04**

Adoption of the following amendments, or comparable revisions, to Chapter 15 (Zoning) of the Code of Plumsted Township will make Ordinance 2012-04 consistent with the Pinelands Comprehensive Management Plan and complete the Township's response to the August 2009 amendments to the Pinelands Comprehensive Management Plan:

1. Amend Section 15-14.21.s.4(a) to read as follows:
 - (a) Residential lots shall be one acre in size but may be larger if dictated by unusual site conditions. In no case shall the average size of residential lots within a cluster exceed 1.1 acres.

2. Amend Section 15-14.21.s.6(a) to read as follows:
 - (a) Yield Plans must be prepared as conceptual layout plans in accordance with the standards of the Land Subdivision Ordinance, containing proposed lots, streets, rights-of-way, and other pertinent features. It must be drawn to scale and drawn on a sealed survey prepared by a licensed New Jersey land surveyor. It must be a realistic layout reflecting a development pattern that could actually be built, after delineating and accounting for the presence of wetlands, floodplains, steep slopes, existing easements or encumbrances and, if unsewered, the suitability of soils for subsurface sewage disposal. The Yield Plan must accommodate lots of one acre in size and shall not be used as a means of reducing the number of residential lots permitted within the cluster in accordance with Section 15-14.21.s.2 above.

3. Amend the first paragraph of Section 15-14.21.s.6(b) to read as follows:

Minimum lot area: 1 acre, or an average lot area of 1.1 acres if dictated by unusual site conditions.

4. Amend Section 15-14.21.s.6(c)(1) to read as follows:
 - (1) To the maximum extent feasible, building lots shall not encroach upon Primary and Secondary Conservation Areas as defined in Chapter 15-4.1A;



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June 11, 2012

Executive Director's Report on
Plumsted Twp. Ord. #2012-04
August 31, 2012
Exhibit #1

MEMORANDUM

TO: Susan Grogan, PP, AICP
Chief Planner, Pinelands Commission

FROM: David G. Roberts, AICP/PP, LLA, 
Plumsted Township Planner

RE: Plumsted Ordinance 2012-04: Amendments to Chapter 15, Section 14 of
Plumsted Code- Pinelands Mandatory Clustering Provisions

Maser Project No. 11001048G

In response to your email received on June 11 regarding the Commission's consideration of Township Ordinance 2012-04 adopting the Pinelands Mandatory Clustering Provisions as revised per Commission staff comments on Planning Board's revisions to proposed ordinance, please accept the following comments:

1. Ordinance 2012-04, in its first draft, originally inserted a provision that allows the minimum size of a clustered lot to be increased to 1.5 acres when there is a concern regarding sufficient septic percolation capacity. Based on the receipt of staff comments, that provision was revised to specify that the average size of a clustered lot could be increased by the Planning and Land Use Board to 1.5 acres if the Board Engineer determined that the dilution capacity of the open space was limited and further allows the Board to condition its approval on the larger average lots subject to concurrence by the Pinelands Commission. We expect that should such a case arise, the Board Engineer would provide the Commission with the factual support for the concern regarding the dilution capacity of the open space and the 1.5 acre average condition would apply only if the Commission concurred.
2. Ordinance 2012-04, in its first draft included some provisions from the Township's RA-5 regulations that require that a Yield Plan be submitted as part of the review process for a clustered subdivision in the FA, RD-1 and RD-2 Zones. Commission staff comments were received that caused the Board to revise the ordinance in the adopted version of 2012-04 to clarify that the Yield Plan would not diminish the yield



Susan Grogan, PP
June 11, 2012
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of the cluster development. Specifically, language in the original ordinance that referenced “confirmation of density” and “maximum number of dwelling units” were stricken and replaced with “Design of the clustered and open space portions of a site shall be based upon a Yield Plan”. The Board has used what the Township’s zoning ordinance calls Yield Plans, which are effectively concept plans, to guide the layout of several cluster developments in the RA-5 Zone in the non-Pinelands portions of the Township over the years that fostered a collaborative design process with applicants that has resulted in more effective use of open space as greenways or that has contributed to the Township’s outstanding farmland preservation efforts.

Unfortunately, I need to attend the Planning Implementation Committee meeting of the State Planning Commission on Wednesday morning and cannot be in attendance when the Pinelands Commission considers Ordinance 2012-04. I hope these comments will assist the Commission in understanding Plumsted’s adopted clustering provisions.

Cc: Ronald Dancer, Township Administrator
Jack Mallon, PE, Township and Planning Board Engineer