



State of New Jersey

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November 23, 2004

MEMORANDUM TO: Members, State Planning Commission

FROM: Adam Zellner, Executive Director

RE: Petition submitted by Hovsons, Inc. and Heritage Minerals, Inc. to Amend the State Plan Policy Map for the Heritage Minerals Tract, Manchester Township, Ocean County

INTRODUCTION

This Report concerns the map amendment petition submitted by Hovsons, Inc. and Heritage Minerals, Inc. for property in Manchester and Berkeley Townships. The petition does not propose any change in Planning Area designation for the lands in Berkeley Township currently classified a PA 5. The petition was determined to be complete on August 5, 2004. The required notice for the petition was provided. No request for a public hearing was received so none was held. No public comments were received during the 90 day public comment period.

The parcel that is subject of this petition is part of a larger parcel that is known as the Heritage Minerals Tract. The Heritage Minerals Tract consists of approximately 7,175 acres. The entire 7,175 acre parcel is located in the Pinelands National Reserve. A total of 3,087.7 acres of the parcel is located within the Pinelands Area and is not the subject of this petition. The remaining 4,087.4 acres is located outside the Pinelands Area within the coastal zone (PNR/CAFRA parcel). The area that is the subject of the petition is located on the PNR/CAFRA parcel. The PNR/CAFRA parcel, as it is presently configured, is in a Suburban Planning Area (PA 2) and an Environmentally Sensitive Area (PA 5).

The map amendment is being proposed pursuant to a settlement between Hovsons and Homeland Corporation and the New Jersey Department of Environmental Protection (DEP) and the Pinelands Commission. The relevant stipulation of the settlement states that "the State Defendants shall support an application by Plaintiffs to the New Jersey State Planning Commission to designate the Development Area as a Suburban Planning Area (PA 2) under the State Development and Redevelopment Plan. As part of this application, the Plaintiffs and the State Defendants shall also support redesignation of all of the remainder of the property...to an Environmental Sensitive Planning Area (PA 5) under the State Development and Redevelopment

Plan.” As required by the settlement, both DEP and the Pinelands Commission have submitted letters in support of the petition. The proposed map amendment would place the wooded portions of the PNR/CAFRA parcel in PA 5 and place the “development area,” roughly corresponding to the portion of the site disturbed by past mining activity, in PA 2. The settlement provides for the development of 2,450 dwelling units and 20,000 square feet of commercial space within the portion of the parcel that is proposed to be designated PA 2. Upon issuance of the CAFRA permit, the settlement will result in the immediate deed restriction of all the proposed PA 5 lands as well as lands in the Pinelands Area including the 362.42 acre parcel in Berkeley Township that is not part of the Heritage Minerals Tract, and their eventual donation to the State or a designated non-profit, protecting them in perpetuity from future development. The proposed map amendment allows the larger settlement between Hovsons and Homeland Corporation and the NJDEP and the Pinelands Commission to go forward and will result in the protection of over 6,300 acres of land, including wetlands, threatened and endangered species habitat and large contiguous forests from future development.

Currently, a total of 610.2 acres of the PNR/CAFRA parcel is located in Planning Area 2. This area is part of a larger PA 2 that includes much of northeastern Ocean County and extends into southeastern Monmouth County where it is contiguous with a Metropolitan Planning Area (PA 1). A total of 296.5 acres of the 610.2 acres that is currently designated as PA2 is proposed to be designated as an Environmentally Sensitive Planning Area (PA 5). The remaining 313.7 acres that is currently PA 2 will remain as PA 2. Currently, a total of 3,477.2 acres of the PNR/CAFRA parcel is located in PA 5. A total of 681.6 acres that is designated as PA 5 is proposed to be designated as PA 2. The remaining 2,795.6 acres of PA 5 would remain as PA 5. This includes the land in Berkeley Township that is part of the Heritage Minerals Tract. The net result of the proposed amendment would be that a total of 995.3 acres of the PNR/CAFRA parcel would be located in PA 2 and 3,092.1 acres would be located in PA 5. A consequence of the proposed map amendment would be to separate the PA 2 on the PNR/CAFRA parcel from the larger PA 2 that adjoins the parcel.

The Heritage Minerals Tract has direct access to State Highway Routes 37 and 70. Sewer lines with available capacity are located in Colonial Drive, within one hundred and fifty (150’) feet of the development area. The wastewater from this Tract will be treated at the Ocean County’s Central Treatment Facility, which has ample capacity to service the Heritage Minerals Tract. Water will be provided by the Manchester Utilities Authority (MUA) and will be extended to the site from Colonial Drive. The nearest water lines to the site are located along State Highway 37 and along Alexander Avenue and Bone Hill Road.

STATE PLANNING RULES FOR MAP AMENDMENTS

The State Planning Rules only allow the Executive Director of the Office of Smart Growth to recommend that a petition for a map amendment be approved if it is determined that the proposed map amendment is consistent with the State Development and Redevelopment Plan (N.J.A.C. 5:85-8.6(a)). In order to assist the Executive Director in making that determination, the State Planning Rules require in N.J.A.C. 5:85-8.4(b)3 that all petitions for map amendments must include the following:

3. A statement describing:

- i. How the amendment promotes local, regional and State goals and objectives;
- ii. How the amendment will impact public sector decisions; and
- iii. The reason(s) why the amendment cannot await the next revision of the State Development and Redevelopment Plan;

The following sections represent an analysis of whether the petition meets these three requirements for having map amendment approved. The analysis of the petition's overall consistency with the State plan will be included as part of the analysis of State goals and objectives.

LOCAL, REGIONAL AND STATE GOALS

Manchester Township Master Plan

The Manchester Township Master Plan was adopted in 1993 and amended twice in 1995, and twice in 1999. The plan sets forth 15 goals and objectives. The proposed map amendment will help further the following goals:

3. To permit future residential and nonresidential growth in a coordinated and managed approach.
4. To protect environmentally sensitive areas, such as wetlands and floodplains, and stream corridors.
5. To preserve woodland and open space areas within the Pinelands National Reserve and CAFRA Areas.
6. To encourage and enhance the beautification of the Township and retain its rural use through the proper land use, land subdivision, site plan and other development controls.
7. To continue to use practical and flexible development criteria, in order to protect existing open space, conserve the natural landscape, protect sensitive ecological areas and provide for development on a controlled and comprehensive basis.
15. To relate the Master Plan and development policies with the State Development and Redevelopment Plan, the Pinelands Comprehensive Management Plan, and Coastal Area Facilities Review Act.

Redevelopment of a former mine site with utility access for housing represents a coordinated and managed approach to accommodating residential growth. Allowing development on the disturbed portion of the site (to be mapped PA 2) while preventing it from occurring on the bulk of the forested area (to be mapped PA 5) will protect environmentally sensitive areas, while also preserving woodland and opens space area within both the Pinelands National Reserve and the CAFRA area. The map amendment will provide existing open space, conserve the natural landscape, and protect sensitive ecological areas while providing for development on a controlled and comprehensive basis.

Ocean County Comprehensive Master Plan

The most recent plan for Ocean County contains a set of goals and objectives intended to address issues of regional concern to the residents of the County, and to provide a regional perspective to land use and other issues facing Ocean County. The proposed map amendment helps promote goals 1, 2 and 5, which are as follows:

1. Continue coordinated and consistent County-wide policies to preserve, maintain and enhance the County's natural resources and encourage the adoption of similar policies by municipalities and state and federal agencies.
2. Continue to provide a coordinated management program to control the spatial development of the County by directing new growth to environmentally suitable areas that can be provided with essential infrastructure and support facilities.
5. Continue to develop a cohesive identity for Ocean County through the preservation of historical, cultural and natural features by drawing on the unique community identities of consistent municipalities.

The map amendment will help preserve the County's natural resources, by removing environmentally sensitive forested lands from areas of PA 2 and redesignating them as PA 5. The existing and proposed PA 5 along with the lands in the Pinelands Area will be deed restricted and donated as open space. The map amendment will direct growth to a site already denuded by past mining activities, and with ready access to roadways and public utilities. The map amendment promotes the preservation of natural features, specifically forested areas, wetlands and threatened and endangered species habitat located in the Pinelands National Reserve.

Pinelands Comprehensive Management Plan

The area of the proposed map amendment is also located in the Pinelands National Reserve. It is not under the regulatory jurisdiction of the Pinelands Commission, as it is also located in the CAFRA area outside of the Pinelands Area, giving the NJDEP regulatory authority. However, the access road connecting the property with Route 70 is partially located outside the overlap area in the Pinelands area, requiring the approval of the Pinelands Commission. In addition, the Pinelands Commission has planning responsibility for that portion in the Pinelands National Reserve located outside of the Pinelands Area. Therefore, the goals of the Pinelands Comprehensive Management Plan are relevant to this petition.

The Pinelands Protection Act, which authorized the establishment of the Pinelands Commission, sets forth the following five goals for the Comprehensive Management Plan for lands outside of the Preservation Area:

- Preserve and maintain the essential character of the existing Pinelands environment, including the plant and animal species indigenous thereto and the habitat therefore;
- Protect and maintain the quality of surface and ground waters;
- Promote the continuation and expansion of agricultural and horticultural uses;
- Discourage piecemeal and scattered development;
- Encourage appropriate patterns of compatible residential, commercial and industrial development, in or adjacent to areas already utilized for such purposes, in order to accommodate

regional growth influences in an orderly way while protecting the Pinelands environment from the individual and cumulative adverse impacts thereof.

The map amendment helps further four of these five goals (the map amendment does not relate to agricultural preservation, since no agricultural activities have been or are currently located on the site). First, portions of the forested areas on the site exhibit features associated with the essential character of the Pinelands. The forested lands on the PNR/CAFRA parcel are part of a large contiguous forest that extends into the Pinelands Area and contains wetlands and threatened and endangered species habitat. The map amendment protects these areas by placing them within PA 5, while facilitating their eventual donation to the State along with the portion of the Heritage Minerals Tract located in the Pinelands Area and the parcel in Berkeley Township that is not part of the Heritage Minerals Tract. Second, streams and wetlands are found within the proposed PA 5 area—these water resources will be protected in their natural state. Finally, the proposed map amendment discourages piecemeal and scattered development while encouraging appropriate patterns of compatible development. The Heritage Minerals Tract is located near a mix of small-lot single-family and multifamily residential uses, as well as the local high school. It also has convenient access to the Township's commercial areas. The development is also consistent with prevailing use patterns. It is located in close proximity to a number of dense residential retirement communities with densities ranging from three to eight units per acre. The area proposed to be PA 2 has access to major roads and commercial areas.

Consistency of the Map Amendment with the Provisions of the State Plan

In addition to the map amendment being required to be consistent with the State Plan, the State Planning rules (N.J.A.C. 5:85-8.4(b)4) require that the map amendment be consistent with any endorsed plan for any adjoining municipality, county or region. Since no county, regional or municipal plans adjoining Manchester Township have been endorsed by the State Planning Commission, this report will focus exclusively on the consistency of the proposed map amendment with the State Plan itself.

The State Development and Redevelopment Plan as adopted in March 2001 consists of two main components. The first component consists of eight statewide goals, each of which is supported by a number of strategies. This component also includes several dozen statewide policies that address 19 substantive policy areas and are intended to provide guidance for county, municipal, regional and state planning initiatives. The second component includes the State Plan Policy Map that divides most of the State into seven Planning Areas and sets delineation criteria and policies for each area.

The State Plan of Development and Redevelopment sets forth eight goals, which are derived from the State Planning Act. The proposed map amendment specifically supports goals 2, 3, 4, 7 and 8, which are as follows:

Goal #2: Conserve the State's Natural Resources and Systems;

Goal #3: Promote Beneficial Economic Growth, Development and Renewal for All Residents of New Jersey

Goal #4: Protect the Environment, Prevent and Clean Up Pollution

Goal #7: Preserve and Enhance Areas with Historic, Cultural, Scenic, Open Space and Recreational Value

Goal #8: Ensure Sound and Integrated Planning and Implementation Statewide

Goal 2: The proposed map amendment places the environmentally sensitive portions of the Heritage Minerals Tract in the PA 5 area. The settlement with DEP and Pinelands Commission goes even further, deed restricting these PA 5 land in perpetuity from future development, and providing for their eventual donation to the State or a designated non-profit. The total amount of land to be protected and donated is approximately 6,540 acres (including the separate parcel in Berkeley Township that is not part of the Heritage Minerals Tract). With regard to the natural systems, the protected lands are also known to be habitats for endangered and threatened species, including the Northern pine snake, grasshopper sparrows, sickle-leaved golden asters and Pickering's morning glory. As part of the settlement agreement, the development of the Heritage Tract will also be accompanied by the creation of enhanced habitat for the grasshopper sparrow and sickle-leaved golden aster.

Goal 3: The development of the Heritage Minerals Tract promotes beneficial growth and renewal, by reclaiming a mine site for housing.

Goal 4: As stated under Goal 2, the forested and environmentally sensitive portions of the site, including some currently mapped PA 2, will be mapped PA 5 and deed restricted against future development. Moreover, a small portion of the mined area, to be designated PA 2, currently contains slightly higher than background concentrations of naturally occurring radioactive materials as the result of past mining activities. These mine tailings, which occupy a small part of the total 995-acre development area, will be fully remediated as per the settlement agreement.

Goal 7: As described under Goals 2 and 4, the map amendment will further the preservation of significant open space lands, totaling some 6,500 acres. Further, the existing lakes on the Heritage Minerals Tract, created as part of past mining activities, will be transformed into recreational and scenic amenities for the residents of the proposed development.

Goal 8: The map amendment promotes sound and integrated planning, as it brings the State Plan Policy Map into greater consistency with the physical attributes of the Heritage Minerals property, and the relative suitability of its sub-areas for development. It will also result in consistency between the State Plan and the Pinelands Comprehensive Management Plan in this area.

Planning Area 2

There are four delineation criteria for the Suburban Planning Area (PA-2), which is the proposed designation for the development area of the Heritage CAFRA Tract. They are described below, along with an analysis of the extent to which the development area meets the criteria.

1. Population density of less than 1,000 persons per square mile

The developed portion of the Heritage CAFRA Tract would have 2,450 age-restricted housing units and 20,000 square feet of commercial space on approximately 995 acres (1.55 square miles). The expected population density in the development area would be greater than 1,000 persons per square mile. This density is entirely a result of the decision in the settlement to confine PA 2 designation to the development area, separating it from the remainder of the PA 2 that adjoins the parcel. The area proposed for PA 2 designation would be considered along with the extensive nearby areas that are also classified as PA 2 if the contiguity with the off-tract PA 2 was maintained. The population density target is a guide only and is to apply throughout the PA 2 area, not just isolated portions thereof. If the PA 2 on the Heritage Minerals Tract were to remain connected to the remaining PA 2 adjoining the Tract, this criteria would be met.

2. Natural systems and infrastructure systems reasonably anticipated to be in place by 2020 that have the capacity to support development that meets the Policy Objectives of this Planning Area. These systems include public water supply, sewage collection and treatment facilities, stormwater, transportation, public schools and parks

If development takes place in accordance with the stipulations of the settlement, then the necessary systems to support development that meets the policy objectives of PA 2 will be in place by 2020. In fact, the physical wastewater and public water infrastructure of the area is in place and has sufficient capacity to serve the site today. All that remains is to extend the necessary pipes, located at the perimeter of the site, into the site itself. The developer will make these extensions when construction of the project moves forward. Similarly, the roadway infrastructure of the area is already sufficient to serve the proposed development, and the developer will extend or improve roadways into the site from both the north and west sides. Stormwater infrastructure will be internal to the development and will be constructed in accordance with CAFRA requirements. Since the proposed development will be age restricted, it will not impact on the public schools. With respect to parks and recreation, on-site recreation opportunities will be provided, including a clubhouse with pool and bocce courts and two existing manmade lakes that will serve as a scenic resource. In addition, several thousand acres will be deed restricted and donated as open space. In summary, all needed infrastructure systems and community facilities will be in place by 2020 if the development proceeds as expected in accordance with the settlement.

3. A land area contiguous to the Metropolitan Planning Area

Currently, the PA 2 on-site is part of a much larger PA 2 that includes much of northeastern Ocean County and a portion of southeastern Monmouth County. That PA 2 is contiguous to a Metropolitan Planning Area (PA 1) in Monmouth County. The proposed map amendment would result in the PA 2 on-site not being contiguous with the off-site PA 2 and hence not contiguous with the PA 1. This lack of contiguity with the PA 2 area to the north is a result of the decision to confine the on-site PA-2 designation to the development area. The proposed development area would be separated from the remainder of the PA 2 area by the forested portion of the Heritage Minerals Tract that is to be deed-restricted against future development and is proposed to be shifted into a PA 5. However, the settlement agreement allows for a four lane access road to be constructed through the portion of the proposed PA 5 that is currently PA 2. This criteria would be met if the on-site PA 2 were to remain connected to the off-site PA 2 along the access

road corridor. Since the road goes through an area that is environmentally sensitive, this area of the PA 2 should be categorized as a Critical Environmental Site (CES).

4. Land area greater than one square mile

The total area that will be designated as PA 2 on the Heritage Minerals Tract based on the proposed map amendment is greater than 1 square mile in total area, thereby meeting this delineation criteria. In addition, it is being recommended that a connection be maintained between the PA 2 that is being proposed for a portion of the Heritage Minerals Tract and the remainder of the PA 2 that adjoins the Heritage Minerals Tract. This connection should be along the route of the right-of-way from Colonial Drive to the development site.

In summary, the area proposed for designation as PA 2 meets two of the four delineation criteria for such designation and it is being recommended that the map amendment requested in the petition be modified to maintain a connection between the on-site and off-site PA 2 so that it will meet the other 2 criteria.

Planning Area 5

The State Plan includes three delineation criteria for the Environmentally Sensitive Planning Area (PA 5), which the area to be designated PA 5 in this map amendment meets. The proposed amendment would shift all of the areas outside the proposed development area into PA 5. This decision to designate all of the Heritage Tract outside of the development area PA 5 was the result of negotiations leading up to the settlement between Hovsons and the NJDEP and Pinelands Commission. Virtually all of this area is and will remain forested. The delineation criteria for PA 5 are listed below, together with an analysis of how the proposed area to be designated PA 5 meets these criteria.

1. Population density less than 1,000 persons per square mile.

The area proposed for designation as PA-5 has no human population and is not proposed for any human development, thereby meeting this criteria.

2. Land area greater than one square mile.

Consisting of several thousand acres, the area proposed for PA-5 designation is much greater in size than one square mile and is contiguous with areas designated as Parks and Natural Areas Planning Area by the State Plan and areas designated as Forest Area by the Pinelands Commission.

3. One or more of the following features outside Centers:

- a. trout production waters and trout maintenance waters and their watersheds;**
- b. pristine non-tidal Category I waters and their watersheds upstream of the lowest Category I stream segment;**
- c. watersheds of existing or planned potable water supply sources;**

- d. prime aquifer recharge areas of potable water supply sources and carbonate formations associated with recharge areas or aquifers;**
- e. habitats of populations of endangered or threatened plant or animal species;**
- f. coastal wetlands;**
- g. contiguous freshwater wetlands systems;**
- h. significant natural features or landscapes such as beaches, coastal spits, barrier islands, critical slope areas, ridge lines, gorges and ravines, and important geological features (including those associated with karst topography) or unique ecosystems; and/or**
- i. prime forested areas, including mature stands of native species.**

Portions of the proposed area to be designated PA 5 include habitats of populations of endangered and threatened species, contiguous freshwater wetlands systems, and prime forested areas. The PA 5 designation along with the terms of the settlement will help ensure that these areas are protected in perpetuity.

In summary, the proposed area for PA 5 designation meets the three delineation criteria for this area.

Consistency with the Policies of the State Plan

The requested map amendment is being made pursuant to a settlement reached by the developer, the Department of Environmental Protection and the Pinelands Commission. The settlement is intended to accomplish the twin goals of providing housing and preserving in perpetuity a large, contiguous tract of open space. The proposed map amendment would further a number of the statewide policies of the State Plan. In addition, the proposed amendment would help to further the State Plan policies specific to both PA 2 and PA 5.

Statewide Policies

The State Plan includes several dozen statewide policies that address 19 substantive policy areas, which include the following:

- 4. Infrastructure Investments
- 11. Water Resources
- 12. Open Lands And Natural Systems
- 17. Planning Regions Established By Statute

The specific policies, which the proposed amendment would promote, are as follows:

Infrastructure Investment Policy 4: Infrastructure, Development and Redevelopment. This policy states that development, redevelopment and economic growth should be in locations “well suited with respect to present or anticipated public facilities and services and where infrastructure can be provided at private expense or with reasonable expenditure of public funds and in accordance with the provisions of the State Plan.” The development area identified in the settlement can easily be served by sewer from either the Union Branch or Wranglebrook interceptors, both of which are connected to Ocean County’s Central Treatment Facility. The County has indicated that these facilities will be able to handle all sewage generated from the

project. The project would receive water service from the Manchester Utilities Authority. The project is also well served with respect to roadways, as it is located near two major state highways (Routes 70 and 37) and will be directly connected to both.

Water Resources Policy 4: Prevention of Water Pollution; and Water Resources Policy 7: Wetlands. These policies call for the protection of water resources by managing the character, location and intensity of development, and by protecting and enhancing wetlands. The Heritage CAFRA Tract includes two manmade lakes. Intermediate-value wetlands have been found along the water's edge of some of these lakes. If the map amendment is approved, the settlement will provide for a water quality buffer of no less than 75 feet for structures and impervious surfaces. A 300-foot buffer will be provided in some areas. The proposed buffers will be consistent with CAFRA rules for freshwater wetlands. The map amendment will therefore help to protect these water resources by ensuring that a development that provides an appropriate buffer will be implemented and ending the uncertainty over how the site will be developed. In addition, areas of wetlands, which are currently in PA 2, will be placed in PA 5. These wetlands, along with the large areas of wetlands already located in PA 5, will be permanently protected by the conservation easement that is required to be imposed by the settlement agreement.

Water Resources Policy 33: Managing Development and Redevelopment Outside of Flood Plains. To be in accordance with this policy, development should be constructed so as not to increase the runoff rate or flood peak. The proposed development, which would be enabled by the granting of the requested map amendment, will be constructed so that no discharge to any surface water body will be permitted. Infiltration basins and vegetated swales will be used throughout the site to handle stormwater runoff. All of the runoff generated by the "water quality storm" will be recharged within 72 hours of the storm, and a backup drainage system will be provided.

Open Space and Recreational Lands Policy 7: Open Space and Redevelopment. This policy states that in redevelopment programs, recreational and public open space be acquired, developed and maintained to create an attractive and desirable quality of life in the project. The settlement, the implementation of which would be enabled by the proposed map amendment, includes the permanent set-aside of thousands of acres of open space surrounding the developed area. Moreover, all of the open space acres would be shifted into Planning Area 5. These actions would ensure that the open space adjoining the proposed project will be a permanent benefit for the project itself, the larger community and the State as a whole. In addition, recreational open space will be provided within the development for the residents thereof.

Open Space and Recreational Lands Policy 16: Contiguous Open Space. The settlement will preserve thousands of acres of contiguous open space located on all sides of the development area. Virtually all of the area that will be preserved is currently forested. Specific decisions were made to ensure that all the open space on the site would be contiguous. Moreover, the site is contiguous to significant regional public open space resources, including the Whiting Wildlife Management Area and the Manchester Wildlife Management Area.

Open Space and Recreational Lands Policy 19: Resident and Migratory Threatened and Endangered Species. The State Plan calls for the identification and protection of habitat for

threatened and endangered species. In accordance with this policy, the settlement agreement includes a detailed habitat plan that will protect, create and enhance habitat for the endangered plant and animal species that have been found on the site.

Planning Regions Established by Statute Policy 1: Reliance on Plans and Regulations. The policy of the State Plan toward the region governed by the Pinelands Commission is that reliance on the plans and regulations of the Commission will implement the State Plan in that region. Toward this end, as described earlier in the this report, the map amendment helps further four of the five goals set forth in the Pinelands Protection Act for the Pinelands Comprehensive Management Plan for lands located outside of the Preservation Area. It helps maintain surface and groundwater quality through the use of sanitary sewers and buffers adjacent to wetlands and the water's edge. It preserves the vast bulk of the site as characteristic Pinelands forest, and it makes special accommodations to enhance the habitat of threatened and endangered species on the site. It also discourages piecemeal and scattered development and encourages an appropriate pattern of development by restricting the proposed developed area to the existing developed mine site and providing connections to adjacent built-up areas, while avoiding development in the Pinelands Area portion of the site.

Policies Specific To Each Planning Area

In addition to the statewide policies, the State Development and Redevelopment Plan includes specific intentions and policies for each planning area. The settlement agreement which would be enabled by the requested map amendment would further the implementation of the sets of policies specific to each of the two planning areas involved in the amendment.

Planning Area 2

The State Plan describes the Suburban Planning Area as areas that are generally located adjacent to the more densely developed Metropolitan Planning Area, but can be distinguished from it by a lack of high intensity centers and by the availability of vacant developable land. Areas designated as PA2 are or will be served by urban infrastructure, except that there is limited, if any, availability of alternative modes of transportation to the automobile. The area has generally been designated for growth in municipal master plans.

The intentions of the State Development and Redevelopment Plan for Planning Area 2 are as follows:

- Provide for much of the state's future development;
- Promote growth in Centers and other compact forms;
- Protect the character of existing stable communities;
- Protect natural resources;
- Redesign areas of sprawl;
- Reverse the current trend toward further sprawl; and
- Revitalize cities and towns.

In addition, the overall policy for Planning Area 2, as set forth in Policy #1 under the Plan's list of Policies for Planning Areas, is to promote growth in Centers and other appropriate areas. The

proposed map amendment is consistent with the overall policy and intentions for PA 2. The proposed developed area that would be enabled by the requested map amendment, while not in a Center is relatively compact for a suburban area, having a gross density of roughly 2.5 units per acre, and it is confined to an existing disturbed mine site, avoiding sprawl into the surrounding forested area. The settlement protects natural resources by providing for the protection of a very large existing forested area in perpetuity while confining development to an existing disturbed area, and by providing adequate wetland buffers and habitat enhancement for rare and endangered species.

The State Plan also includes policy objectives in 11 substantive areas for Planning Area 2. These areas are (1) land use, (2) housing, (3) economic development, (4) transportation, (5) natural resource conservation, (6) agriculture, (7) recreation, (8) redevelopment, (9) historic preservation, (10) public facilities and services, and (11) intergovernmental coordination. Of these substantive areas, the land use, housing, natural resource conservation, and public facilities and services objectives have direct bearing on the project. The compliance of the settlement agreement, which would be enabled by the requested map amendment, with the relevant objectives is discussed below.

1. **Land use.** The State Plan calls for guiding new development and redevelopment into more compact forms, which the settlement agreement does by providing for a compact residential development at a moderate density with a small commercial component, confined essentially to the footprint of a discontinued mining operation. The State Plan also recommends providing densities supporting transit; the overall density and linear orientation of the proposed age-restricted development will be conducive to the provision of senior-oriented paratransit services. The State Plan further recommends preserving the environs as parkland or farmland without compromising the Planning Area's ability to accommodate future growth, which the settlement accomplishes by preserving almost all of the existing forested area while providing for development in the existing disturbed mining area.

2. **Housing.** The State Plan recommends the provision of a full range of housing, primarily in Centers, and that housing, particularly age-restricted housing, be developed with maximum access to services. While the proposed development is not located in a Center, it will be located close to the Township's municipal complex and major shopping areas. It will also include a commercial development intended to serve the development. The State Plan also recommends that housing in the Environs (i.e., outside Centers) be planned and located so as to protect existing character. The settlement does this by preserving essentially all of the existing forested area while confining new development to the disturbed mining area.

5. **Natural Resource Conservation.** This policy calls for the conservation of natural open space systems, the strategic location of open space, the buffering of Critical Environmental Sites, and the protection of linear natural systems. By preserving the existing forested area surrounding the site, including threatened and endangered species habitat and providing wetlands and water's edge buffers, the proposal provides for natural resource conservation in accordance with this policy.

7. Recreation. The policy calls for providing maximum recreation opportunities and facilities at the neighborhood, local and regional levels by concentrating on the rehabilitation and maintenance of existing facilities. It also calls for the creation of regional parkland within or near Centers. The development proposal includes a recreation facility intended to serve the community. In addition, the forested area proposed for PA 5 designation will serve as regional open space for the proposed development, the nearby areas in PA 2 and the Pinelands Town of Lakehurst, which is in the immediate vicinity and is considered a designated center pursuant to the Memorandum of Agreement between the Pinelands Commission and the State Planning Commission.

Planning Area 5

PA 5 areas are large contiguous land areas with valuable ecosystems and wildlife habitats. These lands have remained somewhat undeveloped or rural in character. They may have significant topographical, geological or ecological features. Mining, forestry and other resource-based industrial development may be found in these areas. The State Plan provides for the protection of critical natural resources, the maintenance of the balance of ecological systems and beneficial growth. The ecological systems of the Environmentally Sensitive Planning Area (PA 5) should be protected by carefully linking the location, character and magnitude of development to the capacity of the natural and built environment to support new growth and development on a long-term, sustainable resource basis. Large contiguous areas of undisturbed habitat should be maintained to protect sensitive natural resources and wildlife, and they should capitalize and expand upon the inherent efficiencies of concentrated development patterns.

The intentions of the State Development and Redevelopment Plan for Planning Area 5 are as follows:

Protect environmental resources through the protection of large contiguous areas of land;
Accommodate growth in Centers;
Protect the character of existing stable communities;
Confine programmed sewers and public water services to Centers; and
Revitalize cities and towns.

The development proposal that will be enabled by the map amendment has been explicitly designed to protect the contiguous forested area, which will be located in PA 5, while allowing development on the existing disturbed mining area, which will be located in PA 2. There will be no growth in the PA 5 portion of the Heritage Minerals Tract because all residential and commercial development will be located in the area to be designated as PA 2. The lands proposed for PA 5 designation will be deed-restricted in perpetuity against future development, will eventually be conveyed to the State or a designated non-profit, and will remain forested.

Like those for PA 2, the policy objectives for PA 5 are divided into 11 substantive areas: (1) land use, (2) housing, (3) economic development, (4) transportation, (5) natural resource conservation, (6) agriculture, (7) recreation, (8) redevelopment, (9) historic preservation, (10) public facilities and services, and (11) intergovernmental coordination. Of these areas, the land use and natural resource conservation policies have a direct bearing on this application for a map

amendment. The other substantive areas relate primarily to the development of human settlements in PA 5, which this petition does not contemplate.

1. **Land Use.** This policy calls for protecting natural systems by guiding development into Centers and establishing development boundaries and greenbelts around Centers. It also recommends that open space networks, critical habitats, and large contiguous tracts of land be maintained outside Centers. In the present case, the entire area proposed for PA-5 designation would be protected, in perpetuity, as forest. Critical species habitat would be protected and, in some cases, enhanced. The forested area would function as a permanent greenbelt around the area proposed for development and a partial greenbelt around the Pinelands Town of Lakehurst.

2. **Natural Resource Conservation.** This policy calls for the protection of “large, contiguous tracts and corridors of recreation, forest or other open space land that protects natural systems and sensitive natural resources, including endangered species, ground and surface water resources, wetland systems, natural landscapes of exceptional value, critical slope areas, scenic vistas and other significant environmentally sensitive features.” The proposed map amendment would enable the settlement agreement to do just this. Thousands of acres of contiguous forested land would be protected under the proposal, including habitat for at least three threatened or endangered plant and animal species, surface water resources and wetlands, all of which overlay the important Kirkwood-Cohansey aquifer. These resources will be protected in perpetuity under the settlement. Designation of these areas as PA 5 will enable the settlement to move forward and ensure their permanent protection.

In conclusion, this analysis has shown that the area proposed for designation as PA 5 would help advance the policies of the State Plan for the Environmentally Sensitive Planning Area.

IMPACT ON PUBLIC SECTOR DECISIONS

Currently, there are inconsistencies among the Pinelands Comprehensive Management Plan, the State Development and Redevelopment Plan, CAFRA regulations and the approved Water Quality Management Plan as to which portions of the Heritage Minerals Tract are designated as development areas and which portions are designated for conservation. Implementation of the settlement will result in the elimination of these inconsistencies. The Pinelands Commission has proposed an amendment to the Land Capability Map in the Comprehensive Management Plan so that the management areas will be consistent with the planning area boundaries that are proposed in this map amendment. If the proposed map amendment is approved, the petitioners will seek to have the water quality management plan amended so that the sewer service area coincides with the PA 2 boundary. That in turn will enable DEP to issue a CAFRA permit for the proposed development plan as long as it is consistent with the settlement and otherwise complies with DEP’s regulations. The issuance of the CAFRA permit will enable the conveyance of the 6,500 acres outside of the development area to the State.

NEED TO ACT ON THE AMENDMENT BEFORE THE READOPTION OF THE STATE DEVELOPMENT AND REDEVELOPMENT PLAN

This map amendment is the result of a settlement agreement between the petitioner, DEP and the Pinelands Commission. The settlement brought to a conclusion several lawsuits involving the Heritage Minerals Tract and the separate parcel in Berkeley Township with the initial lawsuit having been filed in the 1990s. To delay implementation of the settlement until the mapping changes could be incorporated into the State Plan when it is readopted would delay the ability of the parties to the settlement realize the benefits that they are gaining from the settlement for nearly a year. Based on these benefits, it would be inappropriate to require that the parties to the litigation wait until the readoption of the State Plan to effectuate the map amendment that is a key component of the settlement.

CONCLUSION

The proposed State Plan Policy Map amendment which would redesignate disturbed areas of an existing mine site in Manchester Township, Ocean County that are currently designated PA 5 into the Suburban Planning Area, while redesignating a portion of the adjoining forested lands that are currently designated PA 2 into the Environmentally Sensitive Planning Area. Currently, both the disturbed mine site and the forested lands are divided between the two planning areas in a manner that bears no relation to physical features of the property or the relative suitability of different areas for development. The map amendment is necessary so that a legal settlement can move forward which will provide for a housing development on the mining site, while protecting the forested lands in perpetuity and providing for their eventual conveyance to the State or a designated non-profit, thereby greatly increasing the amount of publicly owned forest land in the area. With the proposed modification, the proposed map amendment is consistent with the delineation criteria established by the State Plan for both planning areas and is consistent with the statewide policies of the Plan and the intentions and policies for each Planning Area. Based on the definition of consistency in the State Planning rules, the map amendment, as modified, is consistent with the State Plan and I recommend it be approved with the following modification:

1. The proposed map amendment shall be modified so that there will be an area not to exceed 200 feet in width linking the area that will be PA 2 on the Heritage Minerals Tract with the PA 2 that adjoins the subject parcel. This area will be designated as a CES within Planning Area 2. The area to be designated shall contain the access road from Colonial Drive that is authorized by the settlement as well as any infrastructure that will be extended from the PA 2 along Colonial Drive adjoining the parcel. The petitioner shall provide mapping of the map amendment approved herein, within 90 days of this approval. The State Plan Policy Map boundaries approved herein shall be depicted on drafting film at a scale of 1:24,000 and corresponding to the United States Geological Survey (U.S.G.S.) 7.5 minutes topographic quadrangle maps or in digital files conforming to national standards of 1:24,000 scale accuracy.