

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-005025-14-T2
A-003417-15-T2

IN RE THE PINELANDS :
COMMISSION'S CONSISTENCY : Civil Action
DETERMINATIONS APPROVING :
TUCKAHOE TURF FARM INC.'S :
APPLICATION NO. 1984- :
0389.009 :
X

APPELLANTS' APPENDIX
Volume II
(239a-513a)

Renée Steinhagen
Attorney No. 038691989
NEW JERSEY APPLESEED PILC
50 Park Place, Room 1025
Newark, N.J. 07102
(973) 735-0523

Attorney for Pinelands
Preservation Alliance and New
Jersey Conservation Foundation

TABLE OF CONTENTS

Page Numbers	Description of Document
	Volume 1
1a - 16a	Amended Statement of Items Comprising the Record.
17a	Pinelands Commission Violation Report, dated October 23, 2013.
18a - 31a	Waterford Township Planning & Zoning Application by South Jersey Barons Youth Club, dated November 22, 2013. a. Project narrative, informal review workshop application. b. Jefferis Engineering review of temporary use of fields for soccer, dated November 21, 2013.
32a - 33a	Waterford Township Violation letter dated December 9, 2013.
34a - 35a	Pinelands Commission letter to Betts indicating soccer use requires an application, dated January 16, 2014.
36a - 39a	MSSL 2014 Planned Usage of Tuckahoe Turf Farms, dated February 12, 2014.
40a - 41a	Pinelands Commission violation letter to Betts dated April 21, 2014.
42a - 45a	Atlantic County Agriculture Development Board letter to Commission of May 2, 2014 and resolution regarding TTF passed February 18, 2014.
46a - 48a	Resolution passed by the Camden County Agriculture Development Board regarding TTF adopted May 13, 2014.
49a - 50a	Wittenberg letter to temporarily allow soccer to continue, dated July 17, 2014.
51a	Wittenberg letter to Atlantic County Freeholders ref TTF events, August 6, 2014.
52a - 56a	Harrison letter to Wittenberg reference to operations of TTF, dated August 6, 2014.
57a - 58a	Wittenberg letter in response for extension of deadline to cease soccer events, dated August 12, 2014.
59a	Email from Grogan to Avery reference to severed PDCs of Tuckahoe property, August 29, 2014.
60a	Pinelands Commission application page submitted

	by MSSL, dated September 2, 2014.
61a	Wittenberg letter to US Soccer Federation reference to TTF events, dated September 2, 2014.
62a	Wittenberg letter to Atlantic County Board of Agriculture, dated October 2, 2014.
63a - 65a	Atlantic County Agriculture Development Board resolution regarding TTF, adopted September 9, 2014 dated February 10, 2015.
66a	Memorandum from Rhonda Ward to Commission file, PDC deed restriction status of Hammonton property, dated March 19, 2014.
67a	Memorandum from Rhonda Ward to Commission file, parcels subject to TTF application, dated October 16, 2014.
68a - 71a	Property tax block and lot mapping.
72a - 73a	TTF Application Approach dated October 17, 2014.
74a	Email from Harrison to Wittenberg reference to proposed usage by MSSL and the Barons, dated November 13, 2014.
75a - 77a	Camden County Agriculture Development Board resolution regarding TTF, adopted November 13, 2014
78a - 79a	Email from Harrison to Wittenberg number of events at TTF, dated November 20, 2014.
80a - 82a	Email from Harrison to Wittenberg reference to a proposed agreement, dated December 9, 2014.
83a - 91a	Email from Harrison to Wittenberg revised agreement, dated December 10, 2014. a. Draft TTF Betts/MSSL/Barons proposal, dated December 10, 2014. b. Betts usage conditions.
92a - 95a	Email from Harrison to Wittenberg changes in terms of agreement, dated December 11, 2014. a. Draft TTF Betts/MSSL/Barons proposal, dated December 10, 2014.
96a - 97a	Email Roth to Harrison about changing applicant on Certificate of filing, dated December 11, 2014.
98a - 99a	Email from Harrison to Wittenberg reference the discussion at Commission meeting, dated December 12, 2014.
100a - 101a	Email Harrison to Commission requesting additional applicants, dated December 16, 2014.
102a	Email Roth to Harrison about amending

	applicants, December 16, 2014.
103a - 104a	Email from Roth to Harrison about the inconsistent certificate of filing that was going to be mailed, dated December 17, 2014.
105a - 110a	Pinelands Commission letter and Inconsistent Certificate of Filing on Hammonton property, dated December 17, 2014.
111a - 113a	Harrison letter to Commission amending block and lots of application, dated January 7, 2015.
114a - 128a	Town of Hammonton Planning Board Resolution No 10-14, dated February 4, 2015.
129a - 137a	Expert Planning Testimony by Kernan for TTF, dated January 8, 2015.
138a - 141a	TTF Property tax block and lot mapping.
142a - 145a	Harrison letter to Commission discussing Inconsistent Certificate of Filing, dated February 9, 2015.
146a - 151a	Letter from PPA to Commission, dated February 18, 2015, discussing agreements. a. Commission letter to Senator Lesniak, dated February 11, 2015. b. Commission letter to PPA in response to February 18th correspondence, dated March 6, 2015.
152a - 153a	Email reference Commission preparation of a call-up letter to the Hammonton Planning Board resolution, dated February 20, 2015.
154a	Letter from TTF to Commission requesting extension of time for review, February 23, 2015.
155a - 156a	Harrison letter to Commission reference amended Certificate of Filing, dated March 6, 2015.
157a	Email Harrison to Wittenberg meeting with PPA, dated March 9, 2015.
158a - 161a	Email from Roth to Harrison reference to potential additional settlement terms, March 12, 2015. a. Potential additional settlement terms agreement.
162a - 170a	Email from Harrison to Wittenberg reference to potential additional terms, dated March 25, 2015. a. Potential additional settlement terms agreement. b. Letter from Harrison to Roth reference to the agreement, dated March 25, 2015.

171a - 175a	Email from Roth to Wittenberg, response letter to TTF on final settlement terms. a. Letter to Harrison, Commission not accepting settlement terms, dated March 26, 2015.
176a - 178a	Commission Call up letter on the Hammonton Planning Board approval, dated March 27, 2015.
179a - 184a	Email from Harrison to Wittenberg with response to Commission letter, dated March 30, 2015. a. Potential additional settlement terms agreement. b. Letter from Harrison rejecting the activities as intensive recreation, dated March 30, 2015.
185a - 188a	Email from Roth to Harrison, review of latest revisions, dated March 30, 2015. a. Potential additional settlement terms agreement.
189a - 191a	Email from Roth to Harrison reference to settlement terms, dated March 31, 2015. a. Potential additional settlement terms agreement.
192a - 193a	Wittenberg letter to Harrison reference already scheduled events for 2015, dated April 1, 2015.
194a - 196a	Email Harrison to Hammonton Planning Board secretary concerning changes in agreement, dated April 1, 2015. a. Letter dated April 1, 2015.
197a - 199a	Email from Harrison to Wittenberg objection to agreement being acted on by Commission, dated April 6, 2015. a. Letter from Tuckahoe to Commission discussing Stipulation of Settlement, dated April 6, 2015.
200a - 208a	Pinelands Commission Meeting Minutes of April 10, 2015.
209a - 213a	Pinelands Commission, letter and Inconsistent Certificate of Filing, dated April 24, 2015.
214a - 223a	Pinelands Commission Meeting Minutes of May 8, 2015.
224a - 230a	Stipulation of Settlement, Pinelands Commission, Tuckahoe Turf Farm LLC and Mid-Atlantic Soccer Showcase League, dated May 11, 2015.
231a - 238a	Pinelands Commission Meeting Minutes of June 12, 2015.

	Volume 2
239a - 271a	Town of Hammonton Planning Board resolutions a. Resolution No. 10-14, passed May 6, 2015. b. Amended Resolution No. 10-14 May 6, 2015.
272a - 277a	Letter Environmental Resolutions to Waterford Township Planning Board, dated May 27, 2015.
278a - 295a	Expert Planning Testimony by Kernan for TTF dated May 2015.
296a - 297a	Pinelands Commission No Call Up letter, Hammonton Planning Board, dated May 26, 2015.
298a - 307a	Waterford Township Planning Board meeting minutes of June 1, 2015.
308a - 310a	Waterford Township Planning Board meeting minutes of July 1, 2015.
311a - 313a	Letter from Commission to TTF call-up letter and scheduling public hearing, dated October 13, 2015.
314a - 318a	Letter from Commission to TTF rescheduling public hearing, dated November 6, 2015.
319a - 323a	Letter from Commission to TTF rescheduling and correcting block, lot, municipality and acreage of call-up, dated November 9, 2015.
324a - 327a	Commission letter to TTF calling up local approval, dated January 7, 2016.
328a - 330a	Waterford Township Planning Board resolution No 16-04, dated February 1, 2016.
331a - 338a	Waterford Township Planning Board resolution No 15-12, dated February 1, 2016.
339a	Harrison letter to Commission Waterford Township's amended approval resolves issues, dated February 10, 2016.
340a - 341a	Pinelands Commission's No-Call letter, application consistent, dated March 10, 2016.
342a - 343a	Memorandum Commission to Waterford Township Zoning Officer reference zoning permit, dated March 25, 2016.
344a - 362a	Hammonton Deed block, lot and dates: a. May 1, 1995, PDC restriction, Block 5601, Lots 1-9, Block 5602, Lots 3-7. b. May 11, 1999, PDC restriction, Block 297, Lot 10 and Block 298, Lots 6-7. c. June 15, 2004, State Agriculture Deed of Easement, Block 5002, Lot 11.
363a - 404a	Waterford Deed block, lot and dates: a. March 30, 1994, PDC restriction, Block 297, Lot 11, Block 298, Lots 1-4, Block 299, lots 1-

	4. b. May 11, 1999, PDC restriction, Block 297, Lot 10. c. September 30, 2003, State Agriculture Deed of Easement, Block 297, Lots 1&3. d. February 6, 2007, State Agriculture Deed of Easement, Block 297, Lot 9.
405a - 406a	Notice of Appeal, dated July 6, 2015.
407a - 408a	Civil Case Information Statement, dated July 6, 2015.
409a - 410a	Amended notice of appeal, August 5, 2015.
411a - 419a	Amended Civil Case Information Statement, dated August 5, 2015. a. Pinelands Commission Inconsistent Certificate of Filing, dated April 24, 2016. b. Pinelands Commission determination consistent, dated May 26, 2015.
420a - 421a	Notice of Appeal, dated April 9, 2016.
422a - 425a	Civil Case Information Statement, dated April 9, 2016. a. Pinelands Commission determination consistent, March 10, 2016.
426a - 427a	Notice of Motion to Consolidate, dated April 8, 2016.
428a - 433a	Steinhagen Certification, dated April 8, 2016.
434a - 435a	Notice for 30 day extension.
436a - 446a	Steinhagen Certification and exhibits, dated October 21, 2016.
447a	Order Granting consolidation, dated May 25, 2016.
448a	Letter from Department of Interior to Wittenberg reference to bills S2125 and A3247.
449a - 452a	Memorandum of Agreement between State Agriculture Development Committee and Pinelands Commission, dated October 9, 2001.
453a - 468a	Memo to County Agriculture Development Boards from Susan Craft, outlining guidance documents on Deed of Easement and recreational uses, dated April 29, 2010. a. Interpreting the Provisions of the Deed of Easement, Report No. 1, General Guidance, revised, May 26, 2011. b. Interpreting the Provisions of Deed of Easement, Report No. 2m Recreational Uses, April 23, 2010.
469a - 471a	Senate Bill No. 2125
472a - 473a	Senate Community and Urban Affairs Committee

	statement to Senate Bill No. 2125.
474a	Chapter 285, recreational use agriculture
475a - 506a	South Jersey Gas Appellate Decision, November 7, 2016.
507a - 513a	NJ Pinelands Commission By-Laws, (Adopted June 1, 1979, as amended May 9, 1997)

APP# 1984-0389.009
Doc Type 150

DATE 5-8-15

MAY 13 2015

Scanned

PLANNING/ZONING BOARD
TOWN OF HAMMONTON
NOTICE OF DETERMINATION

This form must be filed with the Pinelands Commission within five (5) days following any approval denied or granted by the Planning Board on an application for development within the Pinelands Area of the Town, except in those instances where such development is "exempted" under the provisions of the Pinelands Management Plan.

1. Applicant's Name Tuckahoe Turf Farms, Inc.
2. Applicant's Address 401 Myrtle Street

Hammonton, NJ 08037
Mid Atlantic Super Showcase Region

3. Tax Block and Lot Number (s) of the property proposed for development:

Tax Block 5001-5601-5602-5002

Tax Lot 5-7 1-9 3-7 & 3-7

4. Provide, as an attachment, a copy of the Board's resolution approving or denying the final application for development. If the application was approved by the board, also provide one copy of any final plans for same.

5. CERTIFICATE OF FILING NUMBER 1984-0389-009
DATE OF ISSUE 12-17-14

6. SUBMISSION ITEMS:

Amended
RESOLUTION ☒ PRELIMINARY ☐ FINAL 5-6-15
PLANS ☐ DATE ☐
ENGINEERS REPORT ☐ DATE ☐
PLANNER REPORT ☐ DATE ☐
TRAFFIC CONSULTANT REPORT ☐ DATE ☐
FIS REPORT ☐ EIS REPORT ☐
FIRE DEPARTMENT LETTER ☐ DATE ☐

REVISED STORMWATER MANAGEMENT REPORT
PLANS ☐ PRELIMINARY ☐ FINAL ☐

MAY 13 2015

MAY 13 2015

FITZGERALD, McGROARTY & MALINSKY, P.A.

747 Shore Road

Linwood, New Jersey 08221

(609) 927-0015

Attorneys for Town of Hammonton Planning Board

APPLICATION OF TUCKAHOE TURF	:	TOWN OF HAMMONTON
FARMS, INC., FOR COMPLETENESS,	:	PLANNING BOARD
PRELIMINARY AND FINAL MAJOR	:	
SITE PLAN AND WAIVER APPROVAL	:	APP. NO. 10-14
FOR LOTS 5-7 OF BLOCK 5001, LOT	:	DECISION AND RESOLUTION
11 OF BLOCK 5002, LOTS 1-9 OF	:	
BLOCK 5601, LOTS 3-7 (EXCLUDING	:	
LOT 4.01) OF BLOCK 5602,	:	
COMMONLY KNOWN AS 401 NORTH	:	
MYRTLE STREET	:	

THIS MATTER having been heard by the Planning Board of the Town of Hammonton on December 17, 2014, at a regularly scheduled meeting at the Town Hall of the Town of Hammonton and the Board having reviewed the application and plans as submitted and a quorum being present; and

WHEREAS, the Town of Hammonton Planning Board has heard the testimony of Consulting Engineer Robert A. Vettese, P.E., of Adams, Rehmann and Heggan Assoc., Inc, and received his report dated December 12, 2014; and

WHEREAS, the Town of Hammonton Planning Board has heard the testimony of Consulting Traffic Engineer and Consulting Planner Kevin J. Dixon, P.E., P.P., C.M.E., of Dixon Associates, Engineering, LLC, and received his report of December 16, 2014; and

WHEREAS, the Town of Hammonton Planning Board has received the following documents and submissions of the Applicant:

- a. Town of Hammonton Land Development Application dated October 2, 2014;
- b. Town of Hammonton Tax and Assessment Report;
- c. New Jersey Pineland's Commission Inconsistent Certificate of Filing dated December 17, 2014;
- d. Submission checklist for Preliminary Major Site Plan;
- e. Submission checklist for Final Major Site Plan;
- f. Three (3) page document titled Attachment to Application Form List of Waivers;
- g. Notice to Property Owners within a 200 foot radius of the property;
- h. Corporate Ownership Disclosure Statement;
- i. Camden County Agriculture Development Board Resolution in reference to Tuckahoe Turf Farms adopted November 13, 2014;
- j. Atlantic County Agriculture Development Board Resolution in reference to Tuckahoe Turf Farms adopted September 9, 2014;
- k. August 6, 2014, correspondence from Robert Jones, Town of Hammonton Chief of Police;
- l. Four (4) 8 ½ x 11 marked up parcel maps of the site;
- m. Two (2) page document titled MSSSL-Match Day at Tuckahoe Turf Farm;
- n. Undated correspondence from Chief Michael Ruberton of the Hammonton Fire Department to Allen Carter; and
- o. December 17, 2014, correspondence from the Pinelands Commission to

Steve Shillings of the Mid-Atlantic Soccer Showcase League and South Jersey Elite Youth Barrens.

WHEREAS, the following Exhibits were submitted by the Applicant during the hearing:

- A-1 August 6, 2014, correspondence from Robert Jones, Town of Hammonton Chief of Police;
- A-2 Tuckahoe Turf Farms Soccer Event Layout 1 Plan (1 sheet) prepared by Kernan Consulting Engineers, dated October 23, 2014;
- A-3 Tuckahoe Turf Farms Soccer Event Layout 2 Plan (1 sheet) prepared by Kernan Consulting Engineers, dated October 23, 2014;
- A-4 Tuckahoe Turf Farms Soccer Event Layout 3 Plan (1 sheet) prepared by Kernan Consulting Engineers, dated October 23, 2014;
- A-5 Tuckahoe Turf Farms Soccer Event Layout 4 Plan (1 sheet) prepared by Kernan Consulting Engineers, dated October 23, 2014;
- A-6 6" x 9" color double sided marketing handout;
- A-7 Chart consisting of two (2) pages, titled Yearly Sod Totals in Millions of SQ. FT.; and
- A-8 Marked up aerial of the site prepared by Kernan Consulting Engineers, dated October 23, 2014.

WHEREAS, the Town of Hammonton Planning Board has received the following document from the Pinelands Commission:

- a. Three (3) page document containing usage and general conditions for this application.

WHEREAS, the Town of Hammonton Planning Board based on the exhibits submitted, the reports and testimony of the Board Consultants, and the testimony presented on behalf of the Applicant makes the following findings of fact and conclusions:

1. The Applicant is Tuckahoe Turf Farms, Inc., with an address of 401 North Myrtle Street, Hammonton, New Jersey 08037. Betts and Betts, LLC, is the owner of the subject property and has consented to this application.

2. Appearing on behalf of the Applicant was William F. Harrison, Esquire, of Genova Burns, LLC.

3. The application was deemed complete on December 17, 2014.

4. Testifying on behalf of the application was Allen Carter, employee in charge of sales and advertising for the Applicant; William J. Murray, retired Lieutenant from the Camden County Police Department; and J. Timothy Kernan, P.E., P.P., C.M.E., of Kernan Consulting Engineers.

5. Members of the public that testified regarding the application included:

a. Rocco Colasurdo of 420 Boyer Avenue testified that the Applicant runs a good, efficient, clean, safe operation and expressed support for the application.

6. A New Jersey Pinelands Inconsistent Certificate of Filing was issued to the Applicant on December 17, 2014. The Certificate of Filing set forth that the application as proposed is inconsistent with the following standards:

- a. Permitted use in the Agriculture Production Area (N.J.A.C. 7:50-5.24(a));
- b. Pinelands Development Credit Deed Restriction (N.J.A.C. 7:50-

5.47(b)(3)); and

c. Wetland Protection Standards (N.J.A.C. 7:50-6.7).

7. The site is located in the AP Agriculture Production District. The property that is the subject of this application consists of 310 acres. The Applicant is requesting preliminary and final major site plan approval to allow soccer games and practices on the site. **This approval is specifically limited to soccer games and practices. The Applicant shall not permit or allow any other sports activities or sporting events on the site.**

8. The proposed application complies with the area and bulk requirements of the AP Zoning District and no variances are required.

9. Based upon the testimony presented on behalf of the application, documents submitted in support of the application, as well as the reports and testimony of the Planning Board Professional Consultants, the Planning Board found that the proposed soccer activities do not interfere with or eliminate any of the agricultural uses currently existing on the farm.

10. Submission waivers were requested by the Applicant from the requirements of:

- a. §175-58(A)(2)(a) and §175-58(B)(2)(a) - which requires the Applicant to submit 12 copies of the plat prepared in accordance with §175-70 and §175-71 respectively.
- b. §175-58(A)(2)(c) and §175-58(B)(2)(c) - which requires the Applicant to provide copies of any protective covenants or deed restrictions applying or to be applied to the property.
- c. §175-58(A)(2)(I) - which requires submission of an environmental impact statement. This waiver is conditioned upon the Applicant making

application to and appearing before the Town of Hammonton Environmental Commission and complying with any and all conditions imposed by such commission.

- d. §175-58(A)(20) - which requires the submission of a traffic impact study.

The submission waivers are approved based upon the testimony presented on behalf of the application, documents submitted in support of the application, as well as the reports and testimony of the Planning Board Professional Consultants.

- 11. Design waivers were requested by the Applicant from the requirements of:

- a. §175-118(A)(1) and §175-112 - to provide onsite lighting at an average minimum of 0.5 foot candles on the property.
- b. §175-118(A)(2) - which requires all parking areas to be paved and curbed.
- c. §175-118(A)(3) - which requires all parking areas to be located on the same lot it serves.
- d. §175-118(A)(4)(a) - which requires all parking areas to be landscaped.

The design waivers are approved based upon the testimony presented on behalf of the application, documents submitted in support of the application, as well as the reports and testimony of the Planning Board Professional Consultants.

- 12. This approval is subject to recommendations of the Town of Hammonton Public Works and Transportation Committee, the Town of Hammonton Police Department and the Town of Hammonton Fire Department.

- 13. The Applicant will comply with all outstanding conditions of the Board and Board Consultants set forth in the reports or in the testimony, unless modified, and will submit

any required revised plans or other documents within 180 days of the date of this Decision and Resolution for the review and approval of the Board Consultants. The conditions the Applicant shall comply with include, but are not limited to the following:

Town Conditions

- a. The Applicant shall not have or allow any picnic tables and/or bleachers on the site.
- b. The Applicant shall have a maximum of six (6) vendors occupying a maximum of 6 total stations on site. A local farmer with a farm stand shall not constitute as a vendor for the purposes of this condition.
- c. The Applicant shall check with the Town of Hammonton Fire Department to make sure the stations set up by the vendors conform to the International Fire Code Standards.
- d. The Applicant agreed to enter into a Developer's Agreement with the Town of Hammonton to maintain those portions of Myrtle Street, Oak Road and Pine Road located off site, but utilized as a result of the soccer activities. As part of the Developer's Agreement the Applicant shall be required to maintain, repair and if deemed necessary by the Town, in the Town's sole discretion replace the millings currently located on Myrtle Street, however, the Applicant shall not be required to pave any roads or install guardrail.
- e. The Applicant agreed to maintain in good condition so as to prevent washboarding and potholes, those portions of Myrtle Street, Oak Road and

Sandy Causeway Road that are located on-site. The Applicant shall take all necessary measures to maintain a stabilized surface on the previously mentioned roadways, but shall not be required to pave any roads or install guardrail.

- f. The Applicant shall submit an operational plan depicting, at a minimum, safe egress and ingress; sufficient parking areas; the location of all police officers, personnel directing traffic, and crossing guards; the location of all vendors; and the location of any temporary signage; to the Planning Board Planner/Traffic Engineer for his review and approval and shall make any changes to the plan as required by the Planning Board Planner/Traffic Engineer, in his sole discretion. A final version of the operational plan approved by the Planning Board Planner/Traffic Engineer shall be submitted to the Planning Board Secretary.
- g. The Applicant agreed that the operational plan shall be subject to any changes or comments of the Town of Hammonton Chief of Police at any time, deemed necessary by the Chief to protect the public health, safety and welfare, in the Chief's sole discretion.
- h. The Applicant shall make sure all crossing guards and individuals directing traffic are at least 17 years of age or older and possess a valid drivers license.
- i. The Applicant shall only have police officers on Route 206 directing traffic.

- j. The Applicant shall not allow and take steps to ensure that there is no parking on Route 206.
- k. The Applicant agreed to identify all no parking areas with temporary no parking signs. The Applicant shall use its best efforts to obtain permission from the New Jersey State Police to place temporary no parking signs on Route 206.
- l. The Applicant shall take all necessary measures to maintain a stabilized surface on all designated parking areas.
- m. The Applicant shall comply at all times with the Americans with Disabilities Act.
- n. All soccer games shall be played and completed during daylight and no games shall be played at night. The Applicant shall be allowed to have practices (which may include scrimmages) at night a maximum of four days a week.
- o. The Applicant shall clean up the site after any and all soccer events and make sure all trash is placed into dumpsters.
- p. If at anytime a majority of the farm ceases to be utilized as a turf farm then soccer activities and events shall cease and no longer be permitted on the site.

Pinelands Commission and Town Conditions

Usage Conditions:

- a. Tuckahoe Turf will limit the usage of the Farm for soccer events to:

- i. 8 events a year or the hourly equivalent not to exceed 192 hours;
 - ii. An event day shall consist of a maximum of 12 hours; and
 - iii. No more than a maximum of 35 fields and no more than fifteen percent (15%) of the total acreage of the farm may be used for an event.
- b. To the extent that any soccer event does not use the full 24 hours allocated to that event, those unused hours may be utilized on the Farm for any soccer activities, other than events, as follows:
- i. The smallest increment of time that may be allocated or used for soccer activities, other than events, at the Farm, is whole hour increments;
 - ii. No more than 4 fields may be utilized when the Farm is used for any soccer activities occurring at the Farm other than days that are part of an event; and
 - iii. No more than 100 persons may actively participate in such soccer activities occurring at the Farm other than days that are part of an event.
- c. The Applicant shall within sixty (60) days from execution of the Stipulation of Settlement with the Pinelands Commission submit the following information to the Town of Hammonton Zoning Officer for review and approval and then annually, at least sixty (60) days prior to the commencement of soccer activities in any calendar year:

- i. A copy of the schedule of soccer events to be conducted at Tuckahoe Turf Farm;
- ii. A copy of the practice schedule for the soccer practices to be conducted at Tuckahoe Turf Farm;
- iii. A copy of the schedule for any other soccer activities being conducted at Tuckahoe Turf Farm, including, but not limited to camps, games, tryouts, scrimmages, etc.

If the information submitted by the Applicant demonstrates compliance with the condition of this Decision and Resolution, the Zoning Officer shall prepare, but not issue, a Zoning Permit authorizing the proposed soccer activities at Tuckahoe Turf Farm for that calendar year. Prior to the Zoning Officer issuing the permit, the Zoning Officer shall advise the Pinelands Commission by fax notification of his/her intent to issue a Zoning Permit. The Pinelands Commission shall review the notice of intent to issue the Zoning Permit in accordance with N.J.A.C. 7:50-4.40. No proposed use authorized by the Zoning Permit shall commence unless the Commission staff issues a letter in accordance with N.J.A.C. 7:50-4.40 indicating that the Zoning Permit shall take effect. If the Commission staff determines that the Zoning Permit raises a substantial issue with the minimum standards of the Certified Municipal Land Use Ordinance and the Pinelands Comprehensive Management Plan, the Zoning Permit shall be subject to a Commission hearing in accordance with N.J.A.C. 7:50-

4.40 through N.J.A.C. 7:50-4.42.

General Conditions:

- a. The soccer events and any soccer activities shall only occur on lands owned by Tuckahoe Turf Farm, that were in active field agricultural use as of February 7, 1979, and that are currently actively used for turf production as part of the existing farming operation;
- b. A 200 foot no activity buffer shall be maintained between the property boundary and all lands used for soccer events or any soccer activities;
- c. Soccer events or any soccer activities occurring at Tuckahoe Turf Farm and any uses, activities or temporary structures associated therewith, including but not limited to parking, shall not occur within wetlands as defined in Subchapter 6, Part I of the Pinelands Comprehensive Management Plan;
- d. A plan shall be prepared depicting the portions of the subject parcel that may be used for soccer events or any soccer activities, including but not limited to the location of the fields, parking areas, food stalls, portable and temporary sanitary facilities, observation areas, wetlands, and the required 200 foot no activity buffer;
- e. No permanent structures, except for structures used exclusively for the agricultural operation or permitted in accordance with the requirements of the Pinelands Comprehensive Management Plan, shall be placed on the property. Prohibited permanent structures include, but are not limited to,

goals, impervious parking areas, driveways, electrical hook ups, lights, etc.;

- f. Any temporary structures associated with soccer events on the Farm shall not be placed on the parcel more than 24 hours prior to the start of an event and shall be removed within 24 hours of the conclusion of the event;
- g. Parking will occur only in areas that were recently harvested and prior to those areas being reseeded. Parking shall be prohibited on any public roads proximate to the Farm except where authorized by Hammonton;
- h. Sufficient temporary, unpaved parking areas will be provided to ensure that all vehicles coming to the Farm for a soccer event or any soccer activities will be able to park in designated parking areas;
- i. Use of motorized vehicles, other than for emergency transportation, shall be limited to existing roads located at the Farm and the designated parking areas;
- j. No areas shall be paved or covered with impervious materials of any kind to accommodate or permit a portion of the Farm to be used for soccer events or any soccer activities;
- k. No clearing of vegetation shall occur to accommodate, permit or expand the use of the Farm for soccer events or any soccer activities;
- l. No water bodies shall be involved and may be used for activities associated with soccer events or any soccer activities occurring at the Farm;

- m. Traffic controls required for soccer events or any soccer activities will be coordinated with the applicable municipality's Police Department;
- n. At least 2 ingress routes and 2 different egress routes shall be provided for each soccer event, except as otherwise authorized by Hammonton
- o. Sufficient portable and temporary sanitary facilities shall be provided to accommodate the number of attendees anticipated for a soccer event or any soccer activities; and
- p. The existing agricultural use at the farm cannot be replaced or removed to accommodate soccer events or soccer activities at the Farm.

14. This approval is based upon the full and diligent adherence by the Applicant to all representations made to the Board. Any failure of the Applicant or the Applicant's successors or assigns to fully adhere to all of the provisions of this approval and all representations made by or on behalf of the Applicant, directly or indirectly, in the hearing or in the application documents, may be deemed to be a material breach of this approval. Such a breach will constitute a violation of the Development Ordinance and the Town may remedy such violation by the withholding of building permits, certificates of occupancy, continuing certificates of occupancy, or any other permit, approval or certificate for the property which is the subject of this approval. In addition, the Town may seek the imposition of fines or penalties pursuant to the Land Management Ordinance or may pursue any other remedy available to it at law or in equity, including an action in the Superior Court to enjoin such violation or to compel performance or compliance.

15. The Applicant shall comply with all federal, state and local laws, rules and regulations and shall obtain any and all other necessary government approvals required for this approval. If as a result of the review by any other governmental agency there is any change in the approval by this Board or any modification of any statement or representation made by or on behalf of the Applicant, the Applicant must notify the Board and the Board shall have the right to review that issue as it may relate to or impact this approval and the Board may modify or amend this approval as appropriate. Approvals which may be required include, but are not necessarily limited to, the Atlantic County Planning Board, the New Jersey Pinelands Commission, and the Town of Hammonton Municipal Utilities Division.

16. All references in this Decision and Resolution to the Applicant shall, where appropriate for the context, also mean the Applicant's successors or assigns. If any provision of this Decision and Resolution or the application thereof shall be held to be invalid or unenforceable to any extent, the remainder of this Decision and Resolution shall not be effected thereby and shall remain enforceable to the full extent of the law.

17. This approval is conditioned upon payment of all applicable fees and escrows.

18. This preliminary and final major site plan approval confers upon the Applicant the rights set forth in N.J.S.A. 40:55D-50 and N.J.S.A. 40:55D-52, subject to compliance with any outstanding conditions of this approval. This approval is conditioned upon the submission of an acceptable performance guarantee and inspection escrow, as may be required, and a preconstruction conference with the Town Engineer if deemed necessary by the Town Engineer.

NOW, THEREFORE, BE IT DECIDED AND RESOLVED by the Planning Board of the Town of Hammonton that this application for Completeness, Preliminary and Final Major

Site Plan and Waiver Approval is granted as set forth above by a vote of eight (8) in favor, none (0) opposed and one (1) abstaining.

Edward H. Marinelli
EDWARD MARINELLI, CHAIRMAN

Dated: 5-6-15

Patricia Berenato
PATRICIA BERENATO, SECRETARY

RE: Tuckahoe Turf Farms, Inc.
For Completeness, Preliminary and Final Major Site Plan and Waiver Approval
William F. Harrison, Esquire
10-14

BOARD VOTING IN FAVOR:
Capelli, DeMarco, DiDonato, Esposito,
Hozik, Marinelli, Messina, Pheribo

BOARD OPPOSED: ABSTAINING:
Kent

Amended

FTZGERALD, McGROARTY & MALINSKY, P.A.

747 Shore Road

Linwood, New Jersey 08221

(609) 927-0015

Attorneys for Town of Hammonton Planning Board

APPLICATION OF TUCKAHOE TURF	:	TOWN OF HAMMONTON
FARMS, INC., FOR COMPLETENESS,	:	PLANNING BOARD
PRELIMINARY AND FINAL MAJOR	:	
SITE PLAN AND WAIVER APPROVAL	:	APP. NO. 10-14
FOR LOTS 5-7 OF BLOCK 5001, LOT	:	DECISION AND RESOLUTION
11 OF BLOCK 5002, LOTS 1-9 OF	:	
BLOCK 5601, LOTS 3-7 (EXCLUDING	:	
LOT 4.01) OF BLOCK 5602,	:	
COMMONLY KNOWN AS 401 NORTH	:	
MYRTLE STREET	:	

THIS MATTER having been heard by the Planning Board of the Town of Hammonton on December 17, 2014, at a regularly scheduled meeting at the Town Hall of the Town of Hammonton and the Board having reviewed the application and plans as submitted and a quorum being present; and

WHEREAS, the Town of Hammonton Planning Board has heard the testimony of Consulting Engineer Robert A. Vettese, P.E., of Adams, Rehmann and Heggan Assoc., Inc, and received his report dated December 12, 2014; and

WHEREAS, the Town of Hammonton Planning Board has heard the testimony of Consulting Traffic Engineer and Consulting Planner Kevin J. Dixon, P.E., P.P., C.M.E., of Dixon Associates, Engineering, LLC, and received his report of December 16, 2014; and

WHEREAS, the Town of Hammonton Planning Board has received the following documents and submissions of the Applicant:

- a. Town of Hammonton Land Development Application dated October 2, 2014;
- b. Town of Hammonton Tax and Assessment Report;
- c. New Jersey Pineland's Commission Inconsistent Certificate of Filing dated December 17, 2014;
- d. Submission checklist for Preliminary Major Site Plan;
- e. Submission checklist for Final Major Site Plan;
- f. Three (3) page document titled Attachment to Application Form List of Waivers;
- g. Notice to Property Owners within a 200 foot radius of the property;
- h. Corporate Ownership Disclosure Statement;
- i. Camden County Agriculture Development Board Resolution in reference to Tuckahoe Turf Farms adopted November 13, 2014;
- j. Atlantic County Agriculture Development Board Resolution in reference to Tuckahoe Turf Farms adopted September 9, 2014;
- k. August 6, 2014, correspondence from Robert Jones, Town of Hammonton Chief of Police;
- l. Four (4) 8 ½ x 11 marked up parcel maps of the site;
- m. Two (2) page document titled MSSSL-Match Day at Tuckahoe Turf Farm;
- n. Undated correspondence from Chief Michael Ruberton of the Hammonton Fire Department to Allen Carter; and
- o. December 17, 2014, correspondence from the Pinelands Commission to

Steve Shillings of the Mid-Atlantic Soccer Showcase League and South Jersey Elite Youth Barrens.

WHEREAS, the following Exhibits were submitted by the Applicant during the hearing:

- A-1 August 6, 2014, correspondence from Robert Jones, Town of Hammonton Chief of Police;
- A-2 Tuckahoe Turf Farms Soccer Event Layout 1 Plan (1 sheet) prepared by Kernan Consulting Engineers, dated October 23, 2014;
- A-3 Tuckahoe Turf Farms Soccer Event Layout 2 Plan (1 sheet) prepared by Kernan Consulting Engineers, dated October 23, 2014;
- A-4 Tuckahoe Turf Farms Soccer Event Layout 3 Plan (1 sheet) prepared by Kernan Consulting Engineers, dated October 23, 2014;
- A-5 Tuckahoe Turf Farms Soccer Event Layout 4 Plan (1 sheet) prepared by Kernan Consulting Engineers, dated October 23, 2014;
- A-6 6" x 9" color double sided marketing handout;
- A-7 Chart consisting of two (2) pages, titled Yearly Sod Totals in Millions of SQ. FT.; and
- A-8 Marked up aerial of the site prepared by Kernan Consulting Engineers, dated October 23, 2014.

WHEREAS, the Town of Hammonton Planning Board has received the following document from the Pinelands Commission:

- a. Three (3) page document containing usage and general conditions for this application.

WHEREAS, the Town of Hammonton Planning Board based on the exhibits submitted, the reports and testimony of the Board Consultants, and the testimony presented on behalf of the Applicant makes the following findings of fact and conclusions:

1. The Applicant is Tuckahoe Turf Farms, Inc., with an address of 401 North Myrtle Street, Hammonton, New Jersey 08037. Betts and Betts, LLC, is the owner of the subject property and has consented to this application.

2. Appearing on behalf of the Applicant was William F. Harrison, Esquire, of Genova Burns, LLC.

3. The application was deemed complete on December 17, 2014.

4. Testifying on behalf of the application was Allen Carter, employee in charge of sales and advertising for the Applicant; William J. Murray, retired Lieutenant from the Camden County Police Department; and J. Timothy Kernan, P.E., P.P., C.M.E., of Kernan Consulting Engineers.

5. Members of the public that testified regarding the application included:

a. Rocco Colasurdo of 420 Boyer Avenue testified that the Applicant runs a good, efficient, clean, safe operation and expressed support for the application.

6. A New Jersey Pinelands Inconsistent Certificate of Filing was issued to the Applicant on December 17, 2014. The Certificate of Filing set forth that the application as proposed is inconsistent with the following standards:

a. Permitted use in the Agriculture Production Area (N.J.A.C. 7:50-5.24(a));
b. Pinelands Development Credit Deed Restriction (N.J.A.C. 7:50-

5.47(b)(3)); and

c. Wetland Protection Standards (N.J.A.C. 7:50-6.7).

7. The site is located in the AP Agriculture Production District. The property that is the subject of this application consists of 310 acres. The Applicant is requesting preliminary and final major site plan approval to allow soccer games and practices on the site. **This approval is specifically limited to soccer games and practices. The Applicant shall not permit or allow any other sports activities or sporting events on the site.**

8. The proposed application complies with the area and bulk requirements of the AP Zoning District and no variances are required.

9. Based upon the testimony presented on behalf of the application, documents submitted in support of the application, as well as the reports and testimony of the Planning Board Professional Consultants, the Planning Board found that the proposed soccer activities do not interfere with or eliminate any of the agricultural uses currently existing on the farm.

10. Submission waivers were requested by the Applicant from the requirements of:
- a. §175-58(A)(2)(a) and §175-58(B)(2)(a) - which requires the Applicant to submit 12 copies of the plat prepared in accordance with §175-70 and §175-71 respectively.
 - b. §175-58(A)(2)(c) and §175-58(B)(2)(c) - which requires the Applicant to provide copies of any protective covenants or deed restrictions applying or to be applied to the property.
 - c. §175-58(A)(2)(I) - which requires submission of an environmental impact statement. This waiver is conditioned upon the Applicant making

application to and appearing before the Town of Hammonton Environmental Commission and complying with any and all conditions imposed by such commission.

- d. §175-58(A)(20) - which requires the submission of a traffic impact study.

The submission waivers are approved based upon the testimony presented on behalf of the application, documents submitted in support of the application, as well as the reports and testimony of the Planning Board Professional Consultants.

- 11. Design waivers were requested by the Applicant from the requirements of:

- a. §175-118(A)(1) and §175-112 - to provide onsite lighting at an average minimum of 0.5 foot candles on the property.
- b. §175-118(A)(2) - which requires all parking areas to be paved and curbed.
- c. §175-118(A)(3) - which requires all parking areas to be located on the same lot it serves.
- d. §175-118(A)(4)(a) - which requires all parking areas to be landscaped.

The design waivers are approved based upon the testimony presented on behalf of the application, documents submitted in support of the application, as well as the reports and testimony of the Planning Board Professional Consultants.

- 12. This approval is subject to recommendations of the Town of Hammonton Public Works and Transportation Committee, the Town of Hammonton Police Department and the Town of Hammonton Fire Department.

- 13. The Applicant will comply with all outstanding conditions of the Board and Board Consultants set forth in the reports or in the testimony, unless modified, and will submit

any required revised plans or other documents within 180 days of the date of this Decision and Resolution for the review and approval of the Board Consultants. The conditions the Applicant shall comply with include, but are not limited to the following:

Town Conditions

- a. The Applicant shall not have or allow any picnic tables and/or bleachers on the site.
- b. The Applicant shall have a maximum of six (6) vendors occupying a maximum of 6 total stations on site. A local farmer with a farm stand shall not constitute as a vendor for the purposes of this condition.
- c. The Applicant shall check with the Town of Hammonton Fire Department to make sure the stations set up by the vendors conform to the International Fire Code Standards.
- d. The Applicant agreed to enter into a Developer's Agreement with the Town of Hammonton to maintain those portions of Myrtle Street, Oak Road and Pine Road located off site, but utilized as a result of the soccer activities. As part of the Developer's Agreement the Applicant shall be required to maintain, repair and if deemed necessary by the Town, in the Town's sole discretion replace the millings currently located on Myrtle Street, however, the Applicant shall not be required to pave any roads or install guardrail.
- e. The Applicant agreed to maintain in good condition so as to prevent washboarding and potholes, those portions of Myrtle Street, Oak Road and

Sandy Causeway Road that are located on-site. The Applicant shall take all necessary measures to maintain a stabilized surface on the previously mentioned roadways, but shall not be required to pave any roads or install guardrail.

- f. The Applicant shall submit an operational plan depicting, at a minimum, safe egress and ingress; sufficient parking areas; the location of all police officers, personnel directing traffic, and crossing guards; the location of all vendors; and the location of any temporary signage; to the Planning Board Planner/Traffic Engineer for his review and approval and shall make any changes to the plan as required by the Planning Board Planner/Traffic Engineer, in his sole discretion. A final version of the operational plan approved by the Planning Board Planner/Traffic Engineer shall be submitted to the Planning Board Secretary.
- g. The Applicant agreed that the operational plan shall be subject to any changes or comments of the Town of Hammonton Chief of Police at any time, deemed necessary by the Chief to protect the public health, safety and welfare, in the Chief's sole discretion.
- h. The Applicant shall make sure all crossing guards and individuals directing traffic are at least 17 years of age or older and possess a valid drivers license.
- i. The Applicant shall only have police officers on Route 206 directing traffic.

- j. The Applicant shall not allow and take steps to ensure that there is no parking on Route 206.
- k. The Applicant agreed to identify all no parking areas with temporary no parking signs. The Applicant shall use its best efforts to obtain permission from the New Jersey State Police to place temporary no parking signs on Route 206.
- l. The Applicant shall take all necessary measures to maintain a stabilized surface on all designated parking areas.
- m. The Applicant shall comply at all times with the Americans with Disabilities Act.
- n. All soccer games shall be played and completed during daylight and no games shall be played at night. The Applicant shall be allowed to have practices (which may include scrimmages) at night a maximum of four days a week.
- o. The Applicant shall clean up the site after any and all soccer events and make sure all trash is placed into dumpsters.
- p. If at anytime a majority of the farm ceases to be utilized as a turf farm then soccer activities and events shall cease and no longer be permitted on the site.

Pinelands Commission and Town Conditions

Usage Conditions:

- a. Tuckahoe Turf will limit the usage of the Farm for soccer events to:

- i. 8 events a year or the hourly equivalent not to exceed 192 hours;
 - ii. An event day shall consist of a maximum of 12 hours; and
 - iii. No more than a maximum of 35 fields and no more than fifteen percent (15%) of the total acreage of the farm may be used for an event.
- b. To the extent that any soccer event does not use the full 24 hours allocated to that event, those unused hours may be utilized on the Farm for any soccer activities, other than events, as follows:
 - i. The smallest increment of time that may be allocated or used for soccer activities, other than events, at the Farm, is whole hour increments;
 - ii. No more than 4 fields may be utilized when the Farm is used for any soccer activities occurring at the Farm other than days that are part of an event; and
 - iii. No more than 100 persons may actively participate in such soccer activities occurring at the Farm other than days that are part of an event.
- c. The Applicant shall within sixty (60) days from execution of the Stipulation of Settlement with the Pinelands Commission submit the following information to the Town of Hammonton Zoning Officer for review and approval and then **annually, at least sixty (60) days prior to the commencement of soccer activities** in any calendar year:

- i. A copy of the schedule of soccer events to be conducted at Tuckahoe Turf Farm;
- ii. A copy of the practice schedule for the soccer practices to be conducted at Tuckahoe Turf Farm;
- iii. A copy of the schedule for any other soccer activities being conducted at Tuckahoe Turf Farm, including, but not limited to camps, games, tryouts, scrimmages, etc.

If the information submitted by the Applicant demonstrates compliance with the condition of this Decision and Resolution, the Zoning Officer shall prepare, but not issue, a Zoning Permit authorizing the proposed soccer activities at Tuckahoe Turf Farm for that calendar year. Prior to the Zoning Officer issuing the permit, the Zoning Officer shall advise the Pinelands Commission by fax notification of his/her intent to issue a Zoning Permit. The Pinelands Commission shall review the notice of intent to issue the Zoning Permit in accordance with N.J.A.C. 7:50-4.40. No proposed use authorized by the Zoning Permit shall commence unless the Commission staff issues a letter in accordance with N.J.A.C. 7:50-4.40 indicating that the Zoning Permit shall take effect. If the Commission staff determines that the Zoning Permit raises a substantial issue with the minimum standards of the Certified Municipal Land Use Ordinance and the Pinelands Comprehensive Management Plan, the Zoning Permit shall be subject to a Commission hearing in accordance with N.J.A.C. 7:50-

4.40 through N.J.A.C. 7:50-4.42.

General Conditions:

- a. The soccer events and any soccer activities shall only occur on lands owned by Tuckahoe Turf Farm, that were in active field agricultural use as of February 7, 1979, and that are currently actively used for turf production as part of the existing farming operation;
- b. A 200 foot no activity buffer shall be maintained between the property boundary and all lands used for soccer events or any soccer activities;
- c. Soccer events or any soccer activities occurring at Tuckahoe Turf Farm and any uses, activities or temporary structures associated therewith, including but not limited to parking, shall not occur within wetlands as defined in Subchapter 6, Part I of the Pinelands Comprehensive Management Plan;
- d. A plan shall be prepared depicting the portions of the subject parcel that may be used for soccer events or any soccer activities, including but not limited to the location of the fields, parking areas, food stalls, portable and temporary sanitary facilities, observation areas, wetlands, and the required 200 foot no activity buffer;
- e. No permanent structures, except for structures used exclusively for the agricultural operation or permitted in accordance with the requirements of the Pinelands Comprehensive Management Plan, shall be placed on the property. Prohibited permanent structures include, but are not limited to,

goals, impervious parking areas, driveways, electrical hook ups, lights, etc.;

- f. Any temporary structures associated with soccer events on the Farm shall not be placed on the parcel more than 24 hours prior to the start of an event and shall be removed within 24 hours of the conclusion of the event;
- g. Parking will occur only in areas that were recently harvested and prior to those areas being reseeded. Parking shall be prohibited on any public roads proximate to the Farm except where authorized by Hammonton;
- h. Sufficient temporary, unpaved parking areas will be provided to ensure that all vehicles coming to the Farm for a soccer event or any soccer activities will be able to park in designated parking areas;
- I. Use of motorized vehicles, other than for emergency transportation, shall be limited to existing roads located at the Farm and the designated parking areas;
- j. No areas shall be paved or covered with impervious materials of any kind to accommodate or permit a portion of the Farm to be used for soccer events or any soccer activities;
- k. No clearing of vegetation shall occur to accommodate, permit or expand the use of the Farm for soccer events or any soccer activities;
- l. No water bodies shall be involved and may be used for activities associated with soccer events or any soccer activities occurring at the Farm;

- m. Traffic controls required for soccer events or any soccer activities will be coordinated with the applicable municipality's Police Department;
- n. At least 2 ingress routes and 2 different egress routes shall be provided for each soccer event, except as otherwise authorized by Hammonton
- o. Sufficient portable and temporary sanitary facilities shall be provided to accommodate the number of attendees anticipated for a soccer event or any soccer activities; and
- p. The existing agricultural use at the farm cannot be replaced or removed to accommodate soccer events or soccer activities at the Farm.

14. This approval is based upon the full and diligent adherence by the Applicant to all representations made to the Board. Any failure of the Applicant or the Applicant's successors or assigns to fully adhere to all of the provisions of this approval and all representations made by or on behalf of the Applicant, directly or indirectly, in the hearing or in the application documents, may be deemed to be a material breach of this approval. Such a breach will constitute a violation of the Development Ordinance and the Town may remedy such violation by the withholding of building permits, certificates of occupancy, continuing certificates of occupancy, or any other permit, approval or certificate for the property which is the subject of this approval. In addition, the Town may seek the imposition of fines or penalties pursuant to the Land Management Ordinance or may pursue any other remedy available to it at law or in equity, including an action in the Superior Court to enjoin such violation or to compel performance or compliance.

15. The Applicant shall comply with all federal, state and local laws, rules and regulations and shall obtain any and all other necessary government approvals required for this approval. If as a result of the review by any other governmental agency there is any change in the approval by this Board or any modification of any statement or representation made by or on behalf of the Applicant, the Applicant must notify the Board and the Board shall have the right to review that issue as it may relate to or impact this approval and the Board may modify or amend this approval as appropriate. Approvals which may be required include, but are not necessarily limited to, the Atlantic County Planning Board, the New Jersey Pinelands Commission, and the Town of Hammonton Municipal Utilities Division.

16. All references in this Decision and Resolution to the Applicant shall, where appropriate for the context, also mean the Applicant's successors or assigns. If any provision of this Decision and Resolution or the application thereof shall be held to be invalid or unenforceable to any extent, the remainder of this Decision and Resolution shall not be effected thereby and shall remain enforceable to the full extent of the law.

17. This approval is conditioned upon payment of all applicable fees and escrows.

18. This preliminary and final major site plan approval confers upon the Applicant the rights set forth in N.J.S.A. 40:55D-50 and N.J.S.A. 40:55D-52, subject to compliance with any outstanding conditions of this approval. This approval is conditioned upon the submission of an acceptable performance guarantee and inspection escrow, as may be required, and a preconstruction conference with the Town Engineer if deemed necessary by the Town Engineer.

NOW, THEREFORE, BE IT DECIDED AND RESOLVED by the Planning Board of the Town of Hammonton that this application for Completeness, Preliminary and Final Major

Site Plan and Waiver Approval is granted as set forth above by a vote of eight (8) in favor, none (0) opposed and one (1) abstaining.

Edward H. Marinelli

EDWARD MARINELLI, CHAIRMAN

Dated: 5-6-15

Patricia Berenato

PATRICIA BERENATO, SECRETARY

RE: Tuckahoe Turf Farms, Inc.
For Completeness, Preliminary and Final Major Site Plan and Waiver Approval
William F. Harrison, Esquire
10-14

BOARD VOTING IN FAVOR:
Capelli, DeMarco, DiDonato, Esposito,
Hozik, Marinelli, Messina, Pheribo

BOARD OPPOSED: ABSTAINING:
Kent

Christopher J. Noll, PE, CME, FP
President & CEO
Barbara J. Fegley, AICP, FP
Sec./Treas. & Sr. Vice President
William H. Kirchner, PE, CME, N-2
Vice President



OCT 22 2015

Rakesh R. Darji, PE, FP, CME, CFM
Joseph R. Hirsh, PE, CME, CPWM
Joseph P. Orsino, CET
Marc H. Selover, LSRR, PG

525 Fellowship Road • Suite 300 • Mount Laurel • New Jersey • 08054

Telephone (856) 235-7170 • Fax (856) 273-9239 • www.erinj.com

May 27, 2015
46097 01

Re: Tuckahoe Turf Farm, Inc.
Preliminary & Final Major Site Plan
401 N. Myrtle Street (Hammonton)
Block 7506, Lot 1; Block 7505 Lot 1; Block 7502, Lots 2 & 3
Block 7503 Lots 1, 3, 4, 5, 10, 11 & 12; Block 7504, Lots 1-4 and 10-12
Block 7602 Lots 10-13
Waterford Township
Application #13PB-14

Waterford Township Planning Board
2131 Auburn Ave.
Atco, N.J. 08004

Attn: Edward Toussaint, Board Secretary

Dear Board Members,

We have reviewed an application for Preliminary and Final Major Site Plan submitted by Tuckahoe Turf Farm, Inc., and offer the following for your consideration:

Submitted Documents

The following documents were submitted and reviewed by our office:

1. Completed Waterford Township Department of Planning & Zoning Application, dated April 28, 2015.
2. Preliminary Major Site Plan Checklist, dated April 24, 2015.
3. Final Major Site Plan Checklist, dated April 24, 2015.
4. Tuckahoe Turf Farms Soccer Event Layout Diagrams, 4 Sheets, last revised March 7, 2015, prepared by Kernan Consulting Engineers.
5. Expert Planning Testimony Report, prepared by Kernan Consulting Engineers, dated October 2014.

Stacey Arcari, PE, FP, CME, PTOE
G. Jeffrey Hanson, PE, CME
Timothy Kalinikakani, LIA, FP, CPSI
Matthew V. Litvinas, PE, CME
C. Jeremy Noll, PE, CME



Benjamin R. Weller, PE, CME, CPWM, S-3, C-3
Harry R. Fox, NICET III, CPSI
Paul R. Henry, S-2, C-2, W-2, T-2
John T. Potts, W-2, T-2
John L. Scott, Jr., PLS
Charles L. Walton, PE, LS, FP

6. Resolution of the Camden County Agriculture Development Board, dated November 13, 2014.
7. Resolution of the Atlantic County Agriculture Development Board, dated September 9, 2014.
8. Correspondence from Hammonton Fire Chief.
9. Correspondence from Hammonton Police Chief, dated August 6, 2014.
10. Pinelands Commission Amended Inconsistent Certificate of Filing, dated April 24, 2015.
11. Attachment to Application Form, List of Waivers (Preliminary).
12. Attachment to Application Form, List of Waivers (Final).

Proposal

The Applicant is seeking Preliminary and Final Major Site Plan approval for an agricultural use with on-farm direct marketing activities. More specifically, the Applicant is proposing to market its product (sod) by hosting youth soccer tournaments on its sod fields. The property is located in the Agricultural (AG) Zoning District. Agricultural use is a permitted use in the AG Zone.

The site is a 711.41 Acre site located on several parcels surrounding Walker Road, north of Union Road. Portions of the farm are also located within the Town of Hammonton (Atlantic County) and Winslow Township.

Waivers

The Applicant is seeking waivers from the following Preliminary Major Site Plan requirements:

1. Environmental Impact Statement – *Considering the historical use of the site as a sod farm, we have no objection to the waiver.*
2. Cultural Resource Survey – *Considering the historical use of the site as a sod farm, we have no objection to the waiver.*
3. Traffic Impact Statement – *We recommend that the waiver be denied. A Traffic Impact Statement should be submitted. The impacts of traffic generated by the activities on local roads and intersections should be analyzed.*

4. Municipal Services and Utilities Impact Statement – *We have no objection to the waiver.*
5. Stormwater Management Calculations – *We have no objection to the waiver.*
6. Feasibility of conveying and treating the sewage generated by the proposed development within an existing system – *We have no objection to the waiver.*
7. Schools – *We have no objection to the waiver.*
8. Police, fire and ambulance services and protection – *We have no objection to the waiver.*
9. Road and traffic, specifically with reference to any Township circulation plan – *We have no objection to the waiver, with the condition that a Traffic Impact Statement be submitted.*
10. Sanitation and Trash Disposal – *The information submitted indicates that temporary sanitation and trash disposal facilities will be provided and then removed at the conclusion of the events. We have no objection to the waiver.*
11. Copies of protective covenants, easements and/or deed restrictions – *Pinelands Commission has indicated that the site is bound to deed restrictions related to Pinelands Development Credits. We recommend that submission of all protective covenants, easements and/or deed restrictions be submitted for review.*
12. A key map with north arrow. – *We recommend that the waiver be denied.*
13. Composite environmental constraints map at the same scale as the preliminary plat. – *We recommend that the waiver be denied.*
14. A boundary survey by a licensed New Jersey land surveyor, certified on a date within 6 months of the submission. – *We have no objection to the waiver, provided that sufficient information is provided for the purposes of our review.*
15. Title block. – *We recommend that the waiver be denied.*
16. Certification of ownership or consent from owner. – *We recommend that the waiver be denied.*
17. Approval signature and date lines for the Chairman and Secretary. – *We recommend that the waiver be denied.*
18. Existing and proposed contours. – *We recommend that the waiver be denied.*

19. Existing structures and uses within the tract. - *The information submitted is sufficient for the purposes of our review. We have no objection to the waiver.*
20. Existing structures and uses within 300' of the boundary. - *The information submitted is sufficient for the purposes of our review. We have no objection to the waiver.*
21. The features for preservation. - *The information submitted is sufficient for the purposes of our review. We have no objection to the waiver.*
22. Features which represent any constraints for development, generally indicating the area most suitable for development, the area least suitable for development and various degrees of suitability between these two extremes. - *We have no objection to the waiver, provided that the wetlands and wetlands buffers are illustrated.*
23. The location of existing utility structures such as water and sewer mains, utility structures, gas transmission lines and high power tension lines on the tract and within 200' of its boundaries. - *The information submitted is sufficient for the purposes of our review. We have no objection to the waiver.*
24. The location, type, and width of all existing and proposed easements and the use for which they are intended to be limited. - *The information submitted is sufficient for the purposes of our review. We have no objection to the waiver.*
25. Deed descriptions [including metes and bounds], easements, covenants, restrictions and roadway dedications. - *The information submitted indicates that portions of the site are subject to Pineland Development Credit deed restrictions and State Agriculture Development Committee deed restrictions. We recommend that the waiver be denied.*
26. Location of all drainage structures. - *The information submitted is sufficient for the purposes of our review. We have no objection to the waiver.*
27. Existing and proposed street and lot layout. - *The information submitted is sufficient for the purposes of our review. We have no objection to the waiver.*

Completeness Review

Considering the large amount of information that has not been submitted as required by the Township's Preliminary Major Site Plan Checklist the Board may wish to consider the Application incomplete until the information has been submitted.

Zoning Review

The property in question is located in the Agricultural (AG) Zoning District.

1. The information submitted indicates that the proposed use is agricultural with on-farm direct marketing activities. The use is a permitted use in the AG Zone.
2. The Applicant should be prepared to provide testimony regarding the nature of the soccer tournaments, specifically frequency of the tournaments, days of the week, times of day and the total number of people that can be expected to attend a typical tournament.
3. It is indicated that portions of the property are subject to deed restrictions related to Pinelands Development Credits. The Pinelands Commission has indicated that the proposed private commercial soccer use is inconsistent with the uses of the parcel permitted by the PDC deed restriction. The Inconsistent Certificate of Filing also states that the use is not an accessory use and is not permitted. We recommend conditioning any Board approval upon the Pineland PDC deed restriction and use issues being satisfactorily addressed by the Applicant.

Site Layout & Parking

1. The Applicant has illustrated the various parking layouts on the submitted Soccer Event Layout drawings. Details for means of ingress and egress, traffic circulation within the parking areas, dimensions of the parking space and handicap accessibility and signage should be provided.
2. The Applicant should be prepared to discuss the means by which traffic is ushered into and out of the site.
3. The Applicant should be prepared to discuss access arrangements for Emergency Service vehicles.

Lighting

1. No information has been provided regarding the proposed/existing site lighting. The Applicant should be prepared to discuss site lighting, if any is proposed.

Miscellaneous

1. The Applicant should be prepared to provide testimony regarding the availability of sanitary facilities (i.e. restrooms) and handicap accessibility of same.

Waterford Township Planning Board

May 27, 2015

Page 6 of 6

2. The Applicant should be prepared to provide testimony regarding the preparation and serving of concessions (i.e. food and drink).
3. As a condition of any approval it is recommended that the proposal reviewed and approved by the Township Police Department and Emergency Medical Services as a condition of any approval.

Permits and Approvals

The following permits and approvals are required:

1. Waterford Township EMS
2. Waterford Township Police Department
3. Pinelands Commission
4. All others as required.

Should you or the applicant have any questions please do not hesitate to the contact me.

Sincerely,



G. Jeffrey Hanson PE, CME
Planning Board Engineer

GJH

Cc: Edward F. Brennan, Esquire, Planning Board Solicitor
Betts and Betts, LLC, 401 N. Myrtle Street, Hammonton, NJ 08078
William F. Harrison, Esquire, 494 Broad Street, Newark, NJ 07102
J. Timothy Kernan, PE, Kingsway Commons, 935 Kings Highway, Suite 100, West Deptford, NJ 08086

File: G:\46000 - Waterford Twp\46097 01_RvwLtr_05.27.15

OCT 22 2015

Expert Planning Testimony

for:

TUCKAHOE TURF FARMS
Block 7502, Lots 2 & 3
Block 7503, Lots 1, 3, 4, 5 & 10-12
Block 7504, Lots 1-4 & 10-12
Block 7505, Lot 1
Block 7506, Lot 1
Block 7602, Lots 10-13
401 N. Myrtle Street

Township of Waterford
Camden County, New Jersey

Prepared for:

SAJE Enterprises, LLC
8 Cornwall Court
East Brunswick, NJ 08816

Prepared by:

J. Timothy Kernan, Inc.
Kingsway Commons, Suite 100
935 Kings Highway
West Deptford, NJ 08086

J. Timothy Kernan, P.E., P.P., C.M.E.
President
NJ Professional Planner License #05400

May 2015

JTK, Inc. File: KE14046



Introduction

Name of Applicant: Tuckahoe Turf Farms, Inc.

Name of Owner: Betts and Betts, LLC

Type of Application: Preliminary and Final Major Site Plan

Name of Project: Tuckahoe Turf Farms (TTF)

Zone: AG, Agricultural District

Present Use of Property: Agricultural Use for Cultivation and Sale of Turf Products

Proposed Use of Property: Agricultural Use with Accessory On-farm Direct Marketing Activities (soccer)

Adjacent Land Uses:

North: Woodlands which are part of the Wharton State Forest in the Preservation District

Southeast: Boundary with Hammonton, Agricultural Fields

Southwest: Boundary with Winslow Township, Woodlands, Agricultural Fields and Limited Single-Family Residences

Property Location: The subject property is approximately 1 ¼ miles west of Route 206 on North Myrtle Street in the Township of Waterford, Camden County. It is comprised of 22 parcels totaling approximately 370 acres.

Project Description

Tuckahoe Turf Farms (TTF) owns a turf farm located within the Town of Hammonton, Waterford Township and Winslow Township. TTF operates as an agricultural farm producing and selling turf products. TTF also has agreements with the Mid-Atlantic Soccer League (MSSL) and South Jersey Barons which allow those organizations to conduct soccer activities and events on existing turf fields.

The applicant proposes the continuation of the organized activities and events on a limited basis. No permanent structures are placed on the property related to these activities. Parking for events is provided in recently harvested areas. Food and beverages are made available to participants and spectators by vendors. Portable toilets and trash containers are rented for events. There is absolutely no clearing of vegetation and no impermeable surfaces are proposed.

Materials Reviewed

1. Waterford Township Planning and Zoning Application, dated January 28, 2015;
2. Waterford Township Preliminary Major Site Plan Checklist;
3. Waterford Township Final Major Site Plan Checklist;
4. Statement of waivers requested from requirements of Preliminary Major Site Plan Checklist;
5. Statement of waivers requested from requirements of Final Major Site Plan Checklist
6. Description of submitted proposed use and operation of buildings;
7. Map of Tuckahoe Turf Farms, dated 10/23/14, last revised 3/4/15;
8. Map of Tuckahoe Turf Farms, Soccer Event Layout 1, dated 10/23/14, last revised 3/7/15;
9. Map of Tuckahoe Turf Farms, Soccer Event Layout 2, dated 10/23/14, last revised 3/6/15;
10. Map of Tuckahoe Turf Farms, Soccer Event Layout 3, dated 10/23/14, last revised 3/6/15;
11. Map of Tuckahoe Turf Farms, Soccer Event Layout 4, dated 10/23/14, last revised 3/6/15;
12. Waterford Township tax maps (2);
13. Corporate Ownership Disclosure Statement;

14. Street addresses of the subject property;
15. Tuckahoe Turf Farms advertising materials;
16. Exhibits of yearly sod totals
17. Decision and Resolution of the Town of Hammonton Planning Board, dated May 6, 2015;
18. Stipulation of Settlement Amongst the New Jersey Pinelands Commission, Tuckahoe Turf Farm, LLC and Mid-Atlantic Soccer Showcase League, dated April 24, 2015;
19. Certificate of Filing from the New Jersey Pinelands Commission, dated April 24, 2015;
20. Camden County Agriculture Development Board Resolution regarding activities and events held at TTF, adopted November 13, 2014;
21. Site visits on October 1, 2014 and October 12, 2014;
22. Summary of TTF history of operations including a proposal of conditions to allow temporary soccer activities;
23. Correspondence to the New Jersey Pinelands Commission from Ed Kertz, President of Atlantic County Board of Agriculture, dated September 10, 2014;
24. Correspondence to the State Agricultural Development Committee from Ed Kertz, President of Atlantic County Board of Agriculture, dated September 10, 2014;
25. Atlantic County Agriculture Development Board Resolution regarding activities and events held at TTF, adopted September 9, 2014;
26. Cover letter prepared by Teal S. Jefferis, PE, CME, CDT of Jefferis Engineering Associates, LLC to the New Jersey Pinelands Commission, dated August 29, 2014;
27. NJ Pinelands Commission Development Application and Supplement to Application, dated August 27, 2014;
28. Zoning Exhibit – Hammonton Tracts (ZE-2), sheet 1 of 1 prepared by Teal S. Jefferis, P.E. of Jefferis Engineering Associates, LLC dated January 24, 2014, last revised August 26, 2014;
29. Correspondence to the New Jersey Pinelands Commission from Andrew B. Robins, Esq. of Sills Cummis & Gross, dated August 25, 2014;

30. Correspondence to Andrew B. Robins, Esq. from Nancy Wittenberg, Executive Director of the New Jersey Pinelands Commission, dated August 12, 2014;
31. Correspondence to the New Jersey Pinelands Commission from William F. Harrison, Esq., of Genova Burns Giatomasi Webster LLC, dated August 6, 2014;
32. Correspondence from the Town of Hammonton Police Chief, dated August 6, 2014;
33. Correspondence to the New Jersey Pinelands Commission from Andrew B. Robins, Esq. of Sills Cummis & Gross, dated August 5, 2014;
34. Correspondence to Howard C. Long, Jr., Esq. of Wade, Long, Wood & Kennedy, LLC from Nancy Wittenberg, Executive Director of the New Jersey Pinelands Commission, dated July 17, 2014;
35. Time Line Summary of Meetings and Actions with the NJ Pinelands Commission, prepared by Teal Jefferis, PE, dated May 14, 2014;
36. Pre-Application Conference Response to the New Jersey Pinelands Commission, prepared by Teal Jefferis, PE, dated February 12, 2014 with letter from Tuckahoe Turf Farms, Inc. (Attachment A), MSSSL, Inc. 2014 Planned Usage Schedule, dated February 12, 2014 (Attachment B), South Jersey Barons Youth Club, Inc. 2014 Planned Usage Schedule, dated February 12, 2014 (Attachment C), Evaluation of Temporary Soccer Use as a Low Intensity Recreational Use, dated February 12, 2014 (Attachment D);
37. New Jersey Pinelands Commission Comprehensive Management Plan (CMP);
38. Waterford Township Land Use, Development & Zoning Ordinances;
39. Municipal Land Use Law (MLUL).

Site Plan Review

In accordance with the New Jersey Municipal Land Use Law (MLUL) (**N.J.S.A. 40:55D-25a(2)**), the Planning Board has the power to hear and decide requests for site plan review pursuant to Article 6 of said act. Article 6 also outlines the contents of local ordinances addressing provisions for land use, development and zoning, among others. The ordinances of Waterford Township that relate to the proposed soccer activities at the subject property are discussed below, as well as a recent agricultural management practice (AMP) approved by the State Agriculture Development Committee (SADC).

Waterford Township, Chapter 176 Land Use, Development & Zoning

Article I. Title, Purpose and Definitions

In accordance with §176-9[2], Accessory Use, Structure or Building is defined as a use, structure or building which:

1. *Is subordinate to and serves a principal building or a principal use.*

The on-farm direct marketing activities and events are subordinate and incidental to and serve the principal use of the turf farm. Events are limited to 8 per year (2 days each) on a maximum of 35 fields or the hourly equivalent of said field usage not to exceed the equivalent of 192 hours event usage per year, and are scheduled to avoid impact on farm operations. These events expose participants and visitors to the farm, its equipment, harvesting activities, and the different stages of growth and development of the turf grass. The organizations participating in these events provide direct reference and links to TTF on their websites, resulting in increased exposure. These activities result in direct sales for TTF, particularly for athletic fields, because organizations and participants utilize and are exposed to the farm product.

2. *Is subordinate in area, extent and purpose to the principal structure or principal building or use served.*

The on-farm direct marketing activities and events are subordinate in area, extent and purpose to the principal use of the turf farm. No more than a maximum of 35 fields and no more than fifteen percent (15%) of the total acreage of the farm may be used for an event. The areas of the farm that are used for soccer activities and events vary based on the agricultural use of the farm and not all areas are used at one time. There is no impact to the quality of the turf for subsequent harvesting and sale, which is the main purpose of the turf farm.

3. *Contributes primarily to the comfort, convenience or necessity of the occupants, business or industry of the principal structure or principal use served.*

The on-farm direct marketing activities and events contribute primarily to the necessity of TTF's business and perhaps the industry as a whole.

Unfortunately, as with other agricultural uses, turf farms struggle to stay in operation. Prior to 2008, TTF's primary customers were residential and commercial developers. As a result

of the recession in 2008, the sales to developers dramatically declined and overall sales dropped by fifty percent (50%). To continue to exist as a business, it is necessary for TTF to find innovative ways to remain competitive and market its products.

In order to promote the marketing and sale of its crop, and to supplement revenue, TTF has entered into an agreement with the South Jersey Barons for soccer events for a five (5) year term beginning August 1, 2010 and continuing through July 31, 2015, with an additional five (5) year renewal option. The agreement expressly provides for the "coordination of such events on crop of approximately 50 to 75 acres." The soccer activities include soccer practice and soccer tournaments, which are held on the existing turf fields. Both the South Jersey Barons and the Mid-Atlantic Soccer Showcase League ("MSSL") have been utilizing the farm for soccer pursuant to this agreement. The turf fields used for soccer are based on the rotation of the crop to protect the harvest, and no restoration or replanting is necessary after the games. Additionally, there is no impact on the property as all equipment is temporary and removed upon completion of the games. Parking occurs only on fallow land primarily where the crop was recently harvested.

The soccer activities are incidental to and complement the farming operations and they are integral to the turf business. The use for soccer events has promoted TTF's crop by bringing in potential customers from throughout the eastern United States to experience the quality and use of TTF's crop firsthand. This has created numerous business opportunities for TTF, and its revenue has been significantly enhanced through sales that have resulted from the use of the farm for these soccer events. These have included sales to school boards and municipal and county governments for recreational fields. These sales have been a direct result of government officials coming to the farm as parents to watch their children play soccer and see the quality of the turf. For local government officials, the choice for recreational fields is between natural and artificial turf. As a result of the local officials seeing firsthand the durability of the turf, TTF is able to compete successfully with competitors selling artificial turf. In addition to increasing sales to local governments and school boards, the use of the turf farm for soccer has enhanced the ability to market the turf for college and professional sports teams. Representatives of those teams are invited to see the condition of the turf immediately after its use for soccer and then invited back to see how quickly the turf recovers. These marketing activities have also resulted in significant sales of turf.

4. *Is located on the same parcel as the principal structure or principal use served.*

The on-farm direct marketing activities and events are located on the same parcel(s) as the principal use of the turf farm.

In accordance with §176-9[7], Agricultural or Horticultural Purpose or Use is defined as:

- A. Principal Uses – Any production of plants or animals useful to man, including but not limited to: forage or sod crops; grains and feed crops; dairy animals and dairy productions, poultry and poultry products, livestock, including beef cattle, sheep, swine, horses, ponies mules or goats, and including the breeding and grazing of any or all of such animals; bees and apiary products, fur animals, trees and forest products, fruits of all kinds, including grapes, nuts and berries, vegetables, nursery, floral, ornamental and greenhouse products, or any land devoted to and meeting the requirements and qualifications for payment or other compensation pursuant to a soil conservation program under an agency of the Federal Government.

- B. Accessory Uses – Any structure, excluding residential dwellings, used for storing agricultural equipment or farm produce, housing livestock or poultry or processing dairy products.

Article VIII. General Provisions and Design Standards

§ 176-45. Agriculture

In accordance with §176-45A., all agricultural activities and fish and wildlife management activities, including the preparation of land and the planting, nurturing and harvesting of crops, shall be carried out in accordance with recommended management practices established for the particular agricultural activity by the New Jersey Department of Agriculture, the Soil Conservation Service, and the New Jersey Agricultural Experimental Station at Rutgers University..

At its January 31, 2014 meeting, the SADC approved an AMP for On-Farm Direct Marketing Facilities, Activities and Events, and revised Right-to-Farm Procedures. The new rules became effective on April 7, 2014 (N.J.A.C. 2:76-2A.13).

Article XI. Zoning Districts and district regulations

§176-129. Agricultural District.

In accordance with §176-129.1C., Agriculture is a permitted use in the AG Zoning District. TTF has been in operation as a turf farm for over 30 years, serving both residential and commercial clients, including the National Football League and Major League Baseball. Athletic fields account for a substantial percentage of TTF's current sales.

In accordance with §176-118, Accessory uses are also permitted. TTF has agreements in place to allow a limited number of soccer activities and events to take place on the farm each year. These activities and events constitute an agricultural management practice for on-farm direct marketing facilities, activities and events, as further discussed below.

State of New Jersey Department of Agriculture

AMP for On-Farm Direct Marketing Facilities, Activities, and Events [N.J.A.C. 2:76-2A.13]

N.J.A.C. 2:76-2A.13(b) defines the following words and terms, in part:

"Farm-based recreational activities" means recreational offerings that are uniquely suited to occurring on a farm and are related to marketing the agricultural or horticultural output of the commercial farm. Such activities are accessory to, and serve to increase, the direct-market sales of the agricultural output of the commercial farm by enhancing the experience of purchasing agriculture products for the purpose of attracting customers to the commercial farm. Examples of farm-based recreational activities, provided they demonstrate the required relationship to marketing the output of the commercial farm, may include but are not limited to: corn mazes; hayrides and wagon rides; agricultural animal display or petting areas; farm tours; horseback riding; pony

rides; hiking; bird watching; sleigh rides; tractor pulls; hunting and fishing; and bonfires. Activities and related infrastructure not considered farm-based recreational activities include but are not limited to: athletic fields; paintball; hot-air ballooning; karting and other similar racetracks; carnival-type amusement rides; and the flying of hobby, private, or commercial aircraft.

"On-farm direct marketing" means the on-farm facilities, activities, and events that are used to facilitate and provide for direct, farmer-to-consumer sales of the agricultural output of the commercial farm and products that contribute to farm income.

"On-farm direct marketing activities" means agriculture-related offerings made available by a commercial farm that are accessory to, and serve to increase, the direct-market sales of the agricultural output of the commercial farm. Such activities are designed to attract customers to a commercial farm by enhancing the experience of purchasing agricultural products and include but are not limited to: agriculture-related educational activities; farm-based recreational activities; and ancillary entertainment-based activities.

"On-farm direct marketing events" means agriculture-related functions offered by a commercial farm that are accessory to, and serve to increase, the direct-market sales of the agricultural output of the commercial farm. Such events are designed to attract customers to a commercial farm by enhancing the experience of purchasing agricultural products; may include on-farm direct marketing activities as components; are either product-based or farm-based; and occur seasonally and are non-permanent in nature. Product-based events, provided they demonstrate the required relationship to marketing the output of the commercial farm, may include but are not limited to: an apple, peach, strawberry, pumpkin, wine, or other agricultural or horticultural product festival held at a commercial farm that produces that particular product. Farm-based events, provided they demonstrate the required relationship to marketing the output of the commercial farm, may include but are not limited to: seasonal harvest festivals held at a commercial farm that produces such seasonal farm products, farm open house events, and farm-to-table events that showcase the agricultural output of the commercial farm.

The entire AMP sets forth the standards for on-farm direct marketing facilities, activities and events that commercial farms must comply with to receive the protections of the Right-to-Farm Act, N.J.S.A. 4:1C-1 et seq.

In accordance with N.J.A.C. 2:76-2A.13(r)1., this agricultural management practice does not preclude a commercial farm from requesting a site-specific agricultural management practice determination for on-farm direct marketing facilities, activities, and events pursuant to N.J.A.C. 2:76-2.3 and 2.4. A board or the Committee, pursuant to N.J.A.C. 2:76-2.3 and 2.4, may make site-specific agricultural management practice determinations for facilities, activities, and events, provided such site-specific agricultural management practice determinations are consistent with the practices set forth in this section.

In fact, on November 13, 2014, the Camden County Agriculture Development Board (CADB) adopted a resolution concerning TTF's consistency with the agricultural management practice standards for on-farm direct marketing activities and events which makes the following findings:

1. Said resolution supports the Tuckahoe Turf Farm's efforts to pursue agritourism events and activities that are compatible with and help to advance direct, farmer-to-consumer sales of the agricultural output of the farm, including limited athletic tournaments held

on the farm, particularly given recent Census of Agriculture data indicating that New Jersey turf farms are in jeopardy.

2. The Board further recognizes these specific activities held at Tuckahoe Turf Farms as another example of a farm-based recreational activity uniquely suited to occurring on the farm.
3. Based on information provided by representatives of Tuckahoe Turf Farms at a meeting of the Camden County Agriculture Development Board held on May 13, 2014 and the personal knowledge of various Board members with similar past events held at the farm, Tuckahoe Turf Farm's On-Farm Direct Marketing Activities and Events are consistent with the standards of the AMP including hours of operation, lighting, sanitary facilities, signs and parking, N.J.A.C. 2:76-2A.13(c)-(k).
4. Tuckahoe Turf Farm's On-Farm Direct Marketing Activities and Events comply with section 13(l) of the AMP requiring that there be a negligible impact on the farm's continued use of the land for agricultural purposes in that the activities and events at Tuckahoe Turf Farms have no impact on the farm's continued use of land for agricultural purposes. N.J.A.C. 2:76-2A.13(l).

Based on the determination of the CADB that the soccer activities at Tuckahoe Turf constitute on-farm direct marketing, a defined agricultural management practice, the proposed use is a permitted use in an agricultural zone pursuant to N.J.S.A. 4:1C-9. Based on the determination of the CADB, N.J.S.A. 4:1C-9h specifically authorizes Tuckahoe Turf Farms to conduct "farm-based recreational activities provided that the activities are related to marketing the agricultural or horticultural output of the commercial farm." The CADB found that the soccer activities were directly related to the marketing of the turf produced at the farm.

It should be noted that no athletic fields have been or are being established at TTF. Unlike an athletic field, there is no defined area where soccer is being played with fixed goal posts, lined play areas, spectator stands, etc. The areas being played on vary from event to event based on the agricultural use of the property. After the event is over, the area used remains as it was before the event: a turf farm, not an athletic field. When a game ends at an athletic field, the area remains an athletic field even though there are no games being played on it.

Based upon the above factual outline of ordinances, laws, rules, regulations and determinations made with regard to the subject property, it is my professional opinion that the soccer activities and events held at Tuckahoe Turf Farms are permitted either as part of a permitted agricultural use or as a permitted accessory use in the AG, Agricultural District in the Township of Waterford.

Introduction

Name of Applicant: Tuckahoe Turf Farms, Inc.

Name of Owner: Betts and Betts, LLC

Type of Application: Interpretation of Zoning Map or Ordinance

Name of Project: Tuckahoe Turf Farms (TTF)

Zone: AP, Agricultural Production Zoning District

Present Use of Property: Agricultural Use for Cultivation and Sale of Turf Products

Proposed Use of Property: Agricultural Use with Accessory On-farm Direct Marketing Activities (soccer)

Adjacent Land Uses:

Northwest:	Boundary with Waterford Township. Additional Agricultural Fields
Southwest:	Agricultural
Northeast:	Woodlands which are part of the Wharton State Forest in the Preservation Area
Southeast:	Woodlands, Agricultural Fields
and	Limited Single-Family Residences

Property Location: The subject property is approximately three-quarters of a mile west of Route 206 on North Myrtle Street, Causeway Road and Oak Road in the Town of Hammonton, Atlantic County. It is comprised of 18 parcels totaling approximately 310 acres.

Project Description

Tuckahoe Turf Farms (TTF) owns a turf farm located within the Town of Hammonton, Waterford Township and Winslow Township. TTF operates as an agricultural farm producing and selling turf products. TTF also has agreements with the Mid-Atlantic Soccer League (MSSL) and South Jersey Barons which allow those organizations to conduct soccer activities and events on existing turf fields.

The applicant proposes the continuation of the organized activities and events on a limited basis. No permanent structures are placed on the property related to these activities... Parking for events is provided in recently harvested areas. Food and beverages are made available to participants and spectators by vendors. Portable toilets and trash containers are rented for events. There is absolutely no clearing of vegetation and no impermeable surfaces are proposed.

Materials Reviewed

1. Town of Hammonton Land Development Application, dated October 1, 2014;
2. Site visits on October 1, 2014 and October 12, 2014;
3. Summary of TTF history of operations including a proposal of conditions to allow temporary soccer activities;
4. Correspondence to the New Jersey Pinelands Commission from Ed Kertz, President of Atlantic County Board of Agriculture, dated September 10, 2014;
5. Correspondence to the State Agricultural Development Committee from Ed Kertz, President of Atlantic County Board of Agriculture, dated September 10, 2014;
6. Atlantic County Agriculture Development Board Resolution regarding activities and events held at TTF, adopted September 9, 2014;
7. Cover letter prepared by Teal S. Jefferis, PE, CME, CDT of Jefferis Engineering Associates, LLC to the New Jersey Pinelands Commission, dated August 29, 2014;
8. NJ Pinelands Commission Development Application and Supplement to Application, dated August 27, 2014;
9. Zoning Exhibit – Hammonton Tracts (ZE-2), sheet 1 of 1 prepared by Teal S. Jefferis, P.E. of Jefferis Engineering Associates, LLC dated January 24, 2014, last revised August 26, 2014;
10. Correspondence to the New Jersey Pinelands Commission from Andrew B. Robins, Esq. of Sills Cummis & Gross, dated August 25, 2014;

11. Correspondence to Andrew B. Robins, Esq. from Nancy Wittenberg, Executive Director of the New Jersey Pinelands Commission, dated August 12, 2014;
12. Correspondence to the New Jersey Pinelands Commission from William F. Harrison, Esq., of Genova Burns Giatomasi Webster LLC, dated August 6, 2014;
13. Correspondence from the Town of Hammonton Police Chief, dated August 6, 2014;
14. Correspondence to the New Jersey Pinelands Commission from Andrew B. Robins, Esq. of Sills Cummis & Gross, dated August 5, 2014;
15. Correspondence to Howard C. Long, Jr., Esq. of Wade, Long, Wood & Kennedy, LLC from Nancy Wittenberg, Executive Director of the New Jersey Pinelands Commission, dated July 17, 2014;
16. Time Line Summary of Meetings and Actions with the NJ Pinelands Commission, prepared by Teal Jefferis, PE, dated May 14, 2014;
17. Pre-Application Conference Response to the New Jersey Pinelands Commission, prepared by Teal Jefferis, PE, dated February 12, 2014 with letter from Tuckahoe Turf Farms, Inc. (Attachment A), MSSL, Inc. 2014 Planned Usage Schedule, dated February 12, 2014 (Attachment B), South Jersey Barons Youth Club, Inc. 2014 Planned Usage Schedule, dated February 12, 2014 (Attachment C), Evaluation of Temporary Soccer Use as a Low Intensity Recreational Use, dated February 12, 2014 (Attachment D);
18. New Jersey Pinelands Commission Comprehensive Management Plan (CMP);
19. Town of Hammonton Zoning Ordinance;
20. Hammonton Downtown Code prepared by Brown & Keener, November 28, 2011 version;
21. Master Plan Amendment – Land Use Element prepared by Brown & Keener;
22. 2011 Master Plan Reexamination Report prepared by Brown & Keener; and
23. Municipal Land Use Law (MLUL).

Interpretation

In accordance with the New Jersey Municipal Land Use Law (MLUL) (N.J.S.A. 40:55D-70b), the applicant is requesting an interpretation of the zoning ordinance. The Zoning Board of Adjustment has the power to hear and decide requests for interpretation of the zoning map or ordinance or for decisions upon other special questions upon which such board is authorized to pass by any zoning or official map ordinance, in accordance with said act.

Town of Hammonton, Chapter 175 Land Development

Article XIII. Zoning

§175-148. Agricultural Production District.

In accordance with §175-148.C., Agriculture is a permitted use in the AP Zoning District. TTF has been in operation as a turf farm for over 25 years, serving both residential and commercial clients, including the National Football League and Major League Baseball. Athletic fields account for approximately 80% of TTF's current sales.

In accordance with §175-148.K., Accessory uses are also permitted. TTF has agreements in place to allow a limited number of soccer activities and events to take place on the farm each year. These activities and events constitute an agricultural management practice for on-farm direct marketing facilities, activities and events, as further discussed below.

In accordance with §175-10, Accessory Structure or Use is defined as a building, structure or use which:

A. *Is subordinate and incidental to and serves a principal building or a principal use.*

The on-farm direct marketing activities and events are subordinate and incidental to and serve the principal use of the turf farm. Events are limited to two to three days at one time on a seasonal basis, and are scheduled to avoid impact on farm operations. These events expose participants and visitors to the farm, its equipment, harvesting activities, and the different stages of growth and development of the turf grass. The organizations participating in these events provide direct reference and links to TTF on their websites, resulting in increased exposure. These activities result in direct sales for TTF, particularly for athletic fields, because organizations and participants utilize and are exposed to the farm product.

B. *Is subordinate in area, extent and purpose to the principal structure or principal building or a principal use.*

The on-farm direct marketing activities and events are subordinate in area, extent and purpose to the principal use of the turf farm. The areas of the farm that are used for soccer activities and events vary based on the agricultural use of the farm and not all areas are used at one time. There is no impact to the quality of the turf for subsequent harvesting and sale, which is the main purpose of the turf farm.

- C. *Contributes primarily to the comfort, convenience or necessity of the occupants, business or industry of the principal structure or principal use served.*

The on-farm direct marketing activities and events contribute primarily to the necessity of TTF's business and perhaps the industry as a whole.

Unfortunately, as with other agricultural uses, turf farms struggle to stay in operation. Prior to 2008, TTF's primary customers were residential and commercial developers. As a result of the recession in 2008, the sales to developers dramatically declined and overall sales dropped by fifty percent (50%). To continue to exist as a business, it is necessary for TTF to find innovative ways to remain competitive and market its products.

In order to promote the marketing and sale of its crop, and to supplement revenue, TTF has entered into an agreement with the South Jersey Barons for soccer events for a five (5) year term beginning August 1, 2010 and continuing through July 31, 2015, with an additional five (5) year renewal option. The agreement expressly provides for the "coordination of such events on crop of approximately 50 to 75 acres." The soccer activities include soccer practice and soccer tournaments, which are held on the existing turf fields. Both the South Jersey Barons and the Mid-Atlantic Soccer Showcase League ("MSSL") have been utilizing the farm for soccer pursuant to this agreement. The turf fields used for soccer are based on the rotation of the crop to protect the harvest, and no restoration or replanting is necessary after the games. Additionally, there is no impact on the property as all equipment is temporary and removed upon completion of the games. Parking occurs only on fallow land primarily where the crop was recently harvested.

The soccer activities are incidental to and complement the farming operations and they are integral to the turf business. The use for soccer events has promoted TTF's crop by bringing in potential customers from throughout the eastern United States to experience the quality and use of TTF's crop firsthand. This has created numerous business opportunities for TTF, and its revenue has been significantly enhanced through sales that have resulted from the use of the farm for these soccer events. These have included sales to school boards and municipal and county governments for recreational fields. These sales have been a direct result of government officials coming to the farm as parents to watch their children play soccer and see the quality of the turf. For local government officials, the choice for recreational fields is between natural and artificial turf. As a result of the local officials seeing firsthand the durability of the turf, TTF is able to compete successfully with competitors selling artificial turf. In addition to increasing sales to local governments and school boards, the use of the turf farm for soccer has enhanced the ability to market the turf for college and professional sports teams. Representatives of those teams are invited to see the condition of the turf immediately after its use for soccer and then invited back to see how quickly the turf recovers. These marketing activities have also resulted in significant sales of turf.

- D. *Is located on the same parcel as the principal structure or principal use served.*

The on-farm direct marketing activities and events are located on the same parcel(s) as the principal use of the turf farm.

Article XII. Design, Performance and Evaluation Standards

§ 175-88. Agricultural management.

In accordance with **§175-88.B.**, the owner of land used for agricultural or horticultural purposes.....may: (1) Produce agricultural and horticultural crops, ...(3) Provide for the wholesale and retail marketing of the agricultural output and related products, including the construction of building and parking areas in conformance with the town's standards.

In accordance with **§175-88.C.(1)**, all agricultural activities.....shall be carried out in accordance with recommended management practices established for the particular agricultural activity by the New Jersey Department of Agriculture,.....(3) At such time as the State Agriculture Development Committee (SADC) is established.....and at such time as said Committee develops and recommends the program of Agricultural Management Practices (AMPs)....., said AMPs, as developed and recommended by said Committee, shall be the standards to be applied to all agricultural uses in the town, insofar as applicable,.....

At its January 31, 2014 meeting, the SADC approved an AMP for On-Farm Direct Marketing Facilities, Activities and Events, and revised Right-to-Farm Procedures. The new rules became effective on April 7, 2014 (N.J.A.C. 2:76-2A.13).

In accordance with **§175-88.E.(1)**, Farmland within the town's Agricultural Production District and Special Agricultural Production District shall be maintained and protected for open space or farming purposes to the maximum extent practicable.

State of New Jersey Department of Agriculture

AMP for On-Farm Direct Marketing Facilities, Activities, and Events [N.J.A.C. 2:76-2A.13]

N.J.A.C. 2:76-2A.13(b) defines the following words and terms, in part:

"Farm-based recreational activities" means recreational offerings that are uniquely suited to occurring on a farm and are related to marketing the agricultural or horticultural output of the commercial farm. Such activities are accessory to, and serve to increase, the direct-market sales of the agricultural output of the commercial farm by enhancing the experience of purchasing agriculture products for the purpose of attracting customers to the commercial farm. Examples of farm-based recreational activities, provided they demonstrate the required relationship to marketing the output of the commercial farm, may include but are not limited to: corn mazes; hayrides and wagon rides; agricultural animal display or petting areas; farm tours; horseback riding; pony rides; hiking; bird watching; sleigh rides; tractor pulls; hunting and fishing; and bonfires. Activities and related infrastructure not considered farm-based recreational activities include but are not limited to: athletic fields; paintball; hot-air ballooning; karting and other similar racetracks; carnival-type amusement rides; and the flying of hobby, private, or commercial aircraft.

"On-farm direct marketing" means the on-farm facilities, activities, and events that are used to facilitate and provide for direct, farmer-to-consumer sales of the agricultural output of the commercial farm and products that contribute to farm income.

"On-farm direct marketing activities" means agriculture-related offerings made available by a commercial farm that are accessory to, and serve to increase, the direct-market sales of the agricultural output of the commercial farm. Such activities are designed to attract customers to a commercial farm by enhancing the experience of purchasing agricultural products and include but are not limited to: agriculture-related educational activities; farm-based recreational activities; and ancillary entertainment-based activities.

"On-farm direct marketing events" means agriculture-related functions offered by a commercial farm that are accessory to, and serve to increase, the direct-market sales of the agricultural output of the commercial farm. Such events are designed to attract customers to a commercial farm by enhancing the experience of purchasing agricultural products; may include on-farm direct marketing activities as components; are either product-based or farm-based; and occur seasonally and are non-permanent in nature. Product-based events, provided they demonstrate the required relationship to marketing the output of the commercial farm, may include but are not limited to: an apple, peach, strawberry, pumpkin, wine, or other agricultural or horticultural product festival held at a commercial farm that produces that particular product. Farm-based events, provided they demonstrate the required relationship to marketing the output of the commercial farm, may include but are not limited to: seasonal harvest festivals held at a commercial farm that produces such seasonal farm products, farm open house events, and farm-to-table events that showcase the agricultural output of the commercial farm.

The entire AMP sets forth the standards for on-farm direct marketing facilities, activities and events that commercial farms must comply with to receive the protections of the Right-to-Farm Act, N.J.S.A. 4:1C-1 et seq.

In accordance with N.J.A.C. 2:76-2A.13(r)1., this agricultural management practice does not preclude a commercial farm from requesting a site-specific agricultural management practice determination for on-farm direct marketing facilities, activities, and events pursuant to N.J.A.C. 2:76-2.3 and 2.4. A board or the Committee, pursuant to N.J.A.C. 2:76-2.3 and 2.4, may make site-specific agricultural management practice determinations for facilities, activities, and events, provided such site-specific agricultural management practice determinations are consistent with the practices set forth in this section.

In fact, on September 9, 2014, the Atlantic County Agriculture Development Board adopted a resolution concerning TTF's consistency with the agricultural management practice standards for on-farm direct marketing activities and events which made the following findings:

Based on a site visit conducted on Monday, September 8, 2014 and the information provided by Tuckahoe Turf Farms, Tuckahoe Turf Farm's On-Farm Direct Marketing Activities and Events are consistent with the standards of the AMP including hours of operation, lighting, sanitary facilities, signs and parking. N.J.A.C. 2:76-2A.13(c)-(k).

Tuckahoe Turf Farm's On-Farm Direct Marketing Activities and Events comply with section 13(l) of the AMP requiring that there be a negligible impact on the farm's continued use of the land for agricultural purposes in that the activities and events at Tuckahoe Turf Farms have no impact on the farm's continued use of land for agricultural purposes. N.J.A.C. 2:76-2A.13(l).

It should be noted that no athletic fields have been or are being established at TTF. Unlike an athletic field, there is no defined area where soccer is being played with fixed goal posts, lined play areas, spectator stands, etc. The areas being played on vary from event to event based on the agricultural use of the property. After the event is over, the area used remains as it was before the event: a turf farm, not an athletic field. When a game ends at an athletic field, the area remains an athletic field even though there are no games being played on it.

Based upon the above factual outline of ordinances, laws, rules, regulations and determinations made with regard to the subject property, it is my professional opinion that the soccer activities and events held at Tuckahoe Turf Farms are a permitted accessory use in the AP Zoning District in the Town of Hammonton.



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

Mark S. Lohbauer
Chairman

Nancy Wittenberg
Executive Director

May 26, 2015

Tuckahoe Turf Farm, Inc.
P.O. Box 148
801 N. Myrtle Street
Hammonton, NJ 08037

NOTIFICATION OF REVIEW OF LOCAL AGENCY APPROVAL(S)

DETERMINATION: CONSISTENT – APPROVAL(S) MAY TAKE EFFECT

APPLICATION #	1984-0389.009
Agency Approval(s) Reviewed	- Final Site Plan Approval issued by the Hammonton Planning Board - Amended Final Site Plan Approval issued by the Hammonton Planning Board
Applicant	Tuckahoe Turf Farm, Inc.
Parcel	Block 5001, Lots 5 - 7 Block 5002, Lot 11 Block 5601, Lots 1 - 9 Block 5602, Lots 3 - 7 Town of Hammonton Agricultural Production Area, AP Zoning District: 204 acres
Proposed Development	Establishment of a private commercial soccer use with no site improvements
Plans reviewed	Not Applicable

CONDITIONS FOR DEVELOPMENT:

1. The proposed soccer use shall not be located in wetlands.
2. This application is for the establishment of the proposed soccer use only. Any other future development of the parcel, including any proposed site improvements, requires application to the Commission and shall be governed by the Town of Hammonton land use ordinances and the Pinelands Comprehensive Management Plan.
3. By June 23, 2015 Tuckahoe Turf shall submit the requisite schedules to the Hammonton Zoning Officer to demonstrate compliance with the conditions contained in Hammonton Planning Board's Amended Resolution #10-14. If the submitted information demonstrates compliance with the conditions, the Zoning Officer shall advise the Pinelands Commission by fax notification of their intent to issue a zoning permit. No proposed use authorized by the Zoning Permit shall commence unless the Commission staff issues a letter indicating that the Zoning Permit shall take effect.



4. The information specified in Condition 3 shall be submitted to the Hammonton Zoning Officer annually, at least sixty (60) days prior to the commencement of soccer activities in any calendar year for the next two years (2016 and 2017).

If you have any questions, please contact Rhonda L. Ward of our staff.

Sincerely,



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

- c: Secretary, Town of Hammonton Planning Board (via email)
Town of Hammonton Construction Code Official (via email)
Town of Hammonton Environmental Commission (via email)
Atlantic County Department of Regional Planning and Development (via email)
William F. Harrison, Esq.

**Waterford Township Planning Board
Regular Meeting June 1st, 2015**

The regular meeting of the Waterford Township Planning Board was called to order by Chairman Giangiulio followed by the salute to the flag. Chairman Giangiulio read the notice to the public.

Roll call was taken and the following members were present:

- Mayor William Richardson,
- Rich Beswick,
- Al Campbell,
- Mike Achey,
- Ralph Condo,
- Lynn Ferguson,
- Tom Giangiulio,
- Brian Kraus.

Also present were

- Ed Toussaint Zoning Official, and
- Ted Brennan, Board Solicitor.

Those absent were

- Roe Iles,
- Rich Jacoby, and
- Jon Becker.

.....

Tuckahoe Turf Farm, Block 7506 Lots 1 & B 7501/ 2&3, 7503/ 1,3,4,5, 10&12, 7504, 1-4 & 10-12, 7602/10-13.

401 N. Myrtle Street Hammonton NJ.

Major Site Plan.

Appearing on behalf of the applicant are Bill Harrison Esq. and Mark Rinaldi Esq. At this time those giving testimony were sworn in. Alan Carter, sales manager of Tuckahoe Turf, he has been with Tuckahoe turf since 1986 with the original owners. Mr. Carter stated he is in charge of sales, educational tours, and mobile apps. This site is 369 acres in Waterford, as well as other towns. In 1979 this was a sod farm, production took 1 ½ years to harvest, then start planting before the harvest. The ground is completely irrigated, and there are trial and error selections. Mr. Carter also explained this was a cash crop farm with 14 acres of sod in Tuckahoe, then they moved to Hammonton/Waterford due to access and soil. When the economy took a fall, MLB and NFL were the major clients. With the current use there are 8 tournaments a year, with 2 days per tournament. There is a continuous rotation of the fields/ parking ingress and egress. There are multiple entrances to the farm. There are event coordinators all with walkie/talkies. There are no permanent structures set up the nets are temporary and can be moved, no scoreboards. 1 to 2 days before each tournament, the nets go up. There are event staff that go around and clean up trash, there are port a pots on the fields as well. The fields are sand based <??> and there are no

lights to the fields. There is a group that uses the fields that may set up temporary lighting like a flood light. There are signs set up prior to the event, they are the yard/lawn type signs that are temporary and removed after a day or two. The events are on weekends and the farm is shut down on Sundays. There is some retail sales on Saturdays. The harvesting of the fields is around 2 or 3 am when it is cooler. There are a maximum of 34 fields and there are 10 teams per field maximum in the summer. Before the teams arrive, there is a packet of information that is emailed to them so they know where to enter and exit, they look for the MSSL signs. Mr. Carter stated we have received Pinelands approval. The Chamber of Commerce is developing a brochure with a link on the MSSL site. The applicant stated they are open to suggestions for traffic, and they do permit vendors for the day of the event.

Next to appear before the board is William Murray a retired Lieutenant of Camden County Police Department, he retired in July of 2014. Mr. Murray stated that he is employed by MSSL, he is the director of operations handling traffic control areas, ingress, and egress. They set up temporary fencing for parking, there are directional signs installed weeks before the tournament. Mr. Murray stated there is active communication with the local authorities prior to the event. The local people are familiar with the turf farm and the activities. Mr. Murray stated that the staff is constantly moving traffic, the traffic jams may be 10 minutes tops, and any back up is on the turf property. The emergency services such as EMT's use John Deer Gator tractors to get around quickly, and Ambulances get an escort. Mr. Murray testified that he has worked 5 events at the turf farm, there have been no parking issues, and he will hire what personnel is needed, along with all safety equipment such as vests, etc.

Next to provide testimony is Tim Kernan of Kernan Engineers. Mr. Kernan is a Licensed Planner and Engineer in the State of New Jersey. Mr. Kernan stated this is a permitted use, it is agricultural, and a resolution has been adopted that soccer activities are consistent with the agricultural requirements. Everything Pinelands requested is shown on the plan, and he is in agreement with the Engineer's letter. Mr. Hanson addressed the checklist items per his letter. A waiver is requested for an environmental impact statement, a waiver for providing historical use of the property, the applicant agrees to prepare a traffic impact statement, there is no impact on municipal services, a waiver is also requested for storm water management as there is no grading and no impervious surfaces, there is no sewer as there will be port a pots, and waiver of a school impact report. Pinelands has placed deed restrictions, and the board has requested copies. Mr. Kernan will comply with supplying the North arrow on the plans, will identify wetlands, asked for a waiver of a boundary survey and a topography survey, he will add the title block, the owner has signed the certificate of ownership, USGS contours have been used. Mr. Kernan also asked for a waiver of existing structures, preservation features, and he will provide suitable areas, as well as waiver of a utilities plan. The applicant seeks waivers of providing easements, street and lot layout, will provide deed restrictions, and drainage. This is an agricultural zone, for low intensity uses.

Mr. Hanson asked about vendors. Mr. Hanson stated Hammonton permits 6 vendors by resolution. Mr. Hanson commented that the certificate of filing is inconsistent, the AG zone permits a low intensity recreational use, this is not low intensity, and this is not an accessory use, and Pinelands has allowed local approval dated May 26th, 2015. Mr. Harrison stated that Pinelands has agreed with restrictions. The applicant has the opportunity to enter into the pilot program. Mr. Hanson asked about Handicap parking, and Mr. Murray stated he will have designated areas for handicap parking, with accessibility to the restrooms, and the farm is flat. We have 4 seated gators to transport as well. Mr. Carter commented that Hammonton has the

Board of Health come out to verify and inspect each of the vendors. Mr. Hanson mentioned that the EMS needs to be reviewed as well by local authorities. Mr. Toussaint stated he has nothing to add since Mr. Hanson addressed items in detail. Mr. Hanson asked about the directional signs and if NJDOT has provided approval. Mr. Toussaint stated the traffic light that needs to be monitored is in Winslow, and the signs are in Winslow and Hammonton.

Mr. Condo commented that the food vendors need to comply with all county and local regulations. Mr. Harrison stated until last year, the applicant was unaware of all of the regulations for this use. The activities have been in Hammonton and will be in Waterford. Vendors must comply with health department regulations. Mr. Condo asked if the applicant has been made aware that our services such as EMS, Fire, Police will be from Waterford. Mr. Toussaint expressed that is why the violation was sent, there was an injury and Waterford was not informed.

Chairman Giangiulio added that the handicap accessibility needs to be in compliance with Federal ADA regulations. Based on Mr. Acheys concerns with the possibility of forest fires, the applicant has agreed to meet with the Forestry service. Mr. Murray added that there is training prior to, and during the event for emergencies. EMT's come from Browns Mills, they go to Atlantic Care. The soccer association pays the EMT's. Mr. Beswick asked what the location of the 6 vendors are. Ms. Ferguson commented that the sod production, and the operating soccer tournaments, what will change. Mr. Carter stated the athletic portion has become a great asset, and the direct marketing has served it's purpose. Chairman Giangiulio mentioned dealing with the residents' complaints. Mr. Murray stated he is willing to go door to door, and can make adjustments. He can direct traffic anywhere, he is willing to be ADA compliant, create traffic counts, number of parking spaces, and number of cars. With nothing further from the Board, Chairman Giangiulio opened this portion of the meeting up to the public.

Appearing from the public is Robert Buehler of 603 Flemming Pike. Mr. Buehler commented that traffic gets backed up to the woods and he cannot get out of his driveway. The speed limit is 25 MPH, too many cars speeding. Trash is thrown out of cars on private lots. Mr. Murray stated when the emails are sent out with packages and instructions, the trash and blocking driveways will be addressed.

With nothing further from the public, Chairman Giangiulio closed the public portion. Mr. Condo made a motion to deem the application incomplete, Mayor Richardson seconded the motion. The application will be back to the board on June 15th.

On roll call vote:

- W. Richardson Yes
- R. Beswick Yes
- A. Campbell Yes
- M. Achey Yes
- R. Condo Yes
- L. Ferguson Yes
- T. Giangiulio Yes
- B. Kraus Yes

Alternate Brian Kraus will be seated on this application at the next meeting.

[Block 5002 Lot 11 and Block 297 Lot 9 (both Betts) are similar.]

CAMDEN COUNTY, NJ; JAMES BEACH, COUNTY CLERK; EASEMENT—OR BOOK 07263
PG 0952 RECORDED 11/24/2003 14:38:61

FILE NUMBER 200-103820 RECORDING FEES 210.00; M-NOT 0.00; RTF 0.00 RECORDED
BY: joanw

<shaded text not fully legible>

20499

**DEED OF EASEMENT
STATE OF NEW JERSEY
AGRICULTURE RETENTION AND DEVELOPMENT PROGRAM**

Prepared by: /s/ _____
William A. Schnurr
Deputy Attorney General

Record and Return to:
CHARGE, RECORD & RETURN
\$#GARDEN STATE ABSTRACT CO., INC.
112J CENTRE BLVD.
NORTH CROSSINGS
MARLTON, NJ 08058

This Deed is made September 30th, 2003

BETWEEN DiMeglio Enterprises, LLC, whose address is 594 White Horse Pike, Atco, New Jersey 08004, and is referred to as the Grantor;

AND the State Agriculture Development Committee, whose address is, P.O. Box 330, Trenton, New Jersey 08625 and is referred to as the Grantee or Committee.

The Grantor, Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns grants and conveys to the Grantee a development easement, **all of the Pinelands Development Credit(s)** and nonagricultural development rights on the Premises, located in the Townships of Waterford and Winslow, County of Camden, described in the attached Schedule A, incorporated by reference in this Deed of Easement, for and in consideration of the sum of **\$321,300.00** Dollars. Any reference in this Deed of Easement to "Premises" refers to the property described in Schedule A.

The tax map reference for the Premises is:

Township of Waterford:
Block 292, Lot 1
Block 293, Lot 1
Block 294, Lot 3

Block 297, Lots 1 and 3

Township of Winslow:

Block 6602, Lot 7

Block 7101, Lots 5 and 15

Block 7104, Lots 1 and 3

WHEREAS, the legislature of the State of New Jersey has declared that the development of agriculture and the retention of farmlands are important to the present and future economy of the State and the welfare of the citizens of the State; and

WHEREAS, the Grantor is the sole and exclusive owner of the Premises; and

WHEREAS, the Grantee believes that the retention and preservation of agricultural lands is beneficial to the public health, safety and welfare of the citizens of the State of New Jersey; and

WHEREAS, the Premises are located in an Agricultural Production Area in the Pinelands Area, which is designated under the Pinelands Comprehensive Management Plan as eligible for Pinelands Development Credits; and

WHEREAS, the New Jersey Pinelands Commission has contributed funding for the Grantee's acquisition of the Pinelands Development Credits allocated to the Premises; and

WHEREAS, the Pinelands Commission has certain rights and obligations in this Deed of Easement pursuant to N.J.S.A. 13:8A-1 *et seq.* and N.J.A.C. 7:50.

NOW THEREFORE, THE GRANTOR, GRANTOR'S HEIRS, EXECUTORS, ADMINISTRATORS, PERSONAL OR LEGAL REPRESENTATIVES, <0953> [2] SUCCESSORS AND ASSIGNS PROMISES that the Premises will be owned, used and conveyed subject to, and not in violation of the following restrictions:

1. Any development of the Premises for nonagricultural purposes is expressly prohibited.
2. The Premises shall be retained for agricultural use and production in compliance with N.J.S.A. 4:1C-11 *et seq.*, P.L. 1983, c. 32, and all other rules promulgated by the State Agriculture Development Committee, (hereinafter Committee), **as limited by the provisions of this Deed of Easement.** Agricultural use shall mean the use of the Premises for common farmsite activities including, but not limited to: production, harvesting, storage, grading, packaging, processing and the wholesale and retail marketing of crops, plants, animals and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease and pest control, disposal of farm waste, irrigation, drainage and water management and grazing.
 - i. **Agricultural use shall also include forestry, fish, wildlife management and beekeeping.**
 - ii. **Retail market areas shall not exceed 5000 square feet.**
 - iii. **Any disposal of farm waste regulated by the Pinelands Commission shall be in compliance with Paragraph 6 of this Deed of Easement.**

3. Grantor certifies that at the time of the application to sell the development easement to the Grantee and at the time of the execution of this Deed of Easement the nonagricultural uses indicated on attached Schedule (B) existed on the Premises. All other nonagricultural uses are prohibited except as expressly provided in this Deed of Easement.
4. All nonagricultural uses, if any, existing on the Premises at the time of the landowner's application to the Grantee as set forth in Section 3 above may be continued and any structure may be restored or repaired in the event of partial destruction thereof, subject to the following:
 - i. No new structures or the expansion of pre-existing structures for nonagricultural use are permitted;
 - ii. No change in the pre-existing nonagricultural use is permitted;
 - iii. No expansion of the pre-existing nonagricultural use is permitted; and
 - iv. In the event that the Grantor abandons the pre-existing nonagricultural use, the right of the Grantor to continue the use is extinguished.
5. No sand, gravel, loam, rock, or other minerals shall be deposited on or removed from the Premises excepting only those materials required for the agricultural purpose for which the land is being used. Any such materials removed from the Premises for the agricultural purpose for which the land is being used shall be done in compliance with the Pinelands Comprehensive Management Plan (PCMP), N.J.A.C. 7:50 and in some circumstances, approval by the Pinelands Commission may be required pursuant to the PCMP.
6. No dumping or placing of trash, waste material, **including sewage sludge or sludge products derived from sewage sludge**, shall be permitted on the Premises unless expressly recommended by the Committee as an agricultural management practice **and unless approved by the Pinelands Commission pursuant to its regulations.**
<0954> [3]
 - i. **Sewage sludge means the solid residue and associated liquid resulting from the physical, chemical or biological treatment of wastewater in a domestic treatment works.**
7. No activity shall be permitted on the Premises which would be detrimental to drainage, flood control, water conservation, erosion control, or soil conservation, nor shall any other activity be permitted which would be detrimental to the continued agricultural use of the Premises.
 - i. Grantor shall obtain within one year of the date of this Deed of Easement, a farm conservation plan approved by the local soil conservation district.
 - ii. Grantor's long term objectives shall conform with the provisions of the farm conservation plan.
8. Grantee, **the Pinelands Commission** and **their** agents shall be permitted access to, and to enter upon, the Premises at all reasonable times, but solely for the purpose of inspection in order to enforce and assure compliance with the terms and conditions of this Deed of Easement. Grantee **and the Pinelands Commission** agree to give Grantor at least 24 hours advance notice of its intention to enter the Premises, and further, to limit such times of entry to the daylight hours on regular business days of the week.
9. Grantor may use the Premises to derive income from certain recreational activities such as hunting, fishing, cross country skiing and ecological tours, only if such activities do not interfere with the actual use of the land for agricultural production and that the activities only utilize the Premises in its existing condition. Other recreational activities from which

income is derived and which alter the Premises, such as golf courses and athletic fields, are prohibited.

10. Nothing shall be construed to convey a right to the public of access to or use of the Premises except as stated in this Deed of Easement or as otherwise provided by law.
11. Nothing shall impose upon the Grantor any duty to maintain the Premises in any particular state, or condition, except as provided for in this Deed of Easement.
12. Nothing in this Deed of Easement shall be deemed to restrict the right of Grantor to maintain all roads and trails existing upon the Premises as of the date of this Deed of Easement. Grantor shall be permitted to construct, improve or reconstruct any roadway necessary to service crops, bogs, agricultural buildings, or reservoirs as may be necessary.
13. At the time of this conveyance, Grantor has one (1) existing single family residential buildings on the Premises and zero (0) residential buildings used for agricultural labor purposes. Grantor may use, maintain, and improve existing buildings on the Premises for agricultural, residential and recreational uses subject to the following conditions:
 - i. Improvements to agricultural buildings shall be consistent with agricultural uses;
 - ii. Improvements to residential buildings shall be consistent with agricultural or single and extended family residential uses. Improvements to residential buildings for the purpose of housing agricultural labor are permitted only if the housed agricultural labor is employed on the Premises; and
 - iii. Improvements to recreational buildings shall be consistent with agricultural or recreational uses. No additions to such buildings shall be <0955> [4] constructed without the approval of the Pinelands Commission pursuant to the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50.
 - iv. Grantor shall not demolish any structures on the Premises that are greater than 50 years old without the approval of the Pinelands Commission pursuant to the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50.

No historic building or structure located on the Premises may be demolished by the Grantor or any other person without the prior approval of the State Agriculture Development Committee. Historic building or structure is a building or structure that, as of the date of this Deed of Easement, has been included in the New Jersey Register of Historic Places established pursuant to N.J.S.A. 13:1B-15.128 *et. seq.*

14. Grantor may construct any new buildings for agricultural purposes. The construction of any new buildings for residential use, regardless of its purpose, shall be prohibited except as follows:
 - i. To provide structures for seasonal housing of agricultural labor employed on the Premises but only with the approval of the Committee **and the Pinelands Commission**. If the Committee **and the Pinelands Commission** grant approval for the construction of agricultural labor housing, such housing shall not be used as a residence for Grantor, Grantor's spouse, Grantor's parents, Grantor's lineal descendants, adopted or natural, Grantor's spouse's parents, Grantor's spouse's lineal descendants, adopted or natural<>
 - a. **Seasonal housing of agricultural labor means residential dwellings, for the seasonal use of employees of an agricultural or horticultural use, which because of their character or location are not to be used for permanent housekeeping units and which are otherwise accessory to a principal use of the parcel for agriculture; and**

- ii. To provide structures for year-round housing of agricultural labor employed on the Premises but only with the approval of the Committee and the Pinelands Commission and only if the Grantor has retained the appropriate number of Pinelands Development Credits, as identified in Paragraph 24, for the construction of such housing at the time of the conveyance of this Deed of Easement. If the Committee and the Pinelands Commission grant approval for the construction of agricultural labor housing, such housing shall not be used as a residence for Grantor, Grantor's spouse, Grantor's parents, Grantor's lineal descendants, adopted or natural, Grantor's spouse's parents, Grantor's spouse's lineal descendants, adopted or natural;
- iii. To construct a single family residential building anywhere on the Premises in order to replace any single family residential building in existence at the time of conveyance of this Deed of Easement but only with the approval of the Committee **and the Pinelands Commission** pursuant to the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50.
- iv. No residual dwelling site opportunities have been allocated pursuant to the provisions of N.J.A.C. 2:76-6.17. No residential buildings are permitted on the Premises except as provided in this Deed of Easement.

For the purpose of this Deed of Easement: <0956> [5] "Residual dwelling site opportunity" means the potential to construct a residential unit and other appurtenant structures on the Premises in accordance with N.J.A.C. 2:76-6.17.

- 15. The land and its buildings which are affected may be sold collectively or individually for continued agricultural use as defined in Section 2 of this Deed of Easement. However, no division of the land shall be permitted without the approval in writing of the Grantee **and the Pinelands Commission**. In order for the Grantor to receive approval, the Grantee **and the Pinelands Commission** must find that the division shall be for an agricultural purpose and result in agriculturally viable parcels. Division means any division of the Premises, for any purpose, subsequent to the effective date of this Deed of Easement.
 - i. For purposes of this Deed of Easement, "Agriculturally viable parcel" means that each parcel is capable of sustaining a variety of agricultural operations that yield a reasonable economic return under normal conditions, solely from each parcel's agricultural output.
- 16. In the event of any violation of the terms and conditions of this Deed of Easement, Grantee **or the Pinelands Commission** may institute, in the name of the State of New Jersey, any proceedings to enforce these terms and conditions including the institution of suit to enjoin such violations and to require restoration of the Premises to its prior condition. The Committee and the Pinelands Commission do not waive or forfeit the right to take any other legal action necessary to insure compliance with the terms, conditions, and purpose of this Deed of Easement by a prior failure to act.
- 17. This Deed of Easement imposes no obligation or restriction on the Grantor's use of the Premises except as specifically set forth in this Deed of Easement.
- 18. This Deed of Easement is binding upon the Grantor, the Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns and the Grantee; it shall be construed as a restriction running with the land and shall be binding upon any person to whom title to the Premises is transferred as well as upon the heirs, executors,

administrators, personal or legal representatives, successors, and assigns of all such persons.

19. Throughout this Deed of Easement, the singular shall include the plural, and the masculine shall include the feminine, unless the text indicates otherwise.
20. The word 'Grantor' shall mean any and all persons who lawfully succeed to the rights and responsibilities of the Grantor, including but not limited to the Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns.
21. Wherever in this Deed of Easement any party shall be designated or referred to by name or general reference, such designation shall have the same effect as if the words, 'heirs, executors, administrators, personal or legal representatives, successors and assigns' have been inserted after each and every designation.
22. Grantor, Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns further transfers and conveys to Grantee all of the nonagricultural development rights and development credits appurtenant to the lands and Premises described herein. Nothing contained herein shall preclude the conveyance or retention of said rights by the Grantee as may be permitted by the laws of the State of New Jersey in the future. **In the event that the law permits the conveyance of said development rights, Grantee agrees to reimburse the Pinelands Commission (36) percent of the value of the development rights as determined at the time of the subsequent conveyance.**

<0957> [6]

23. That portion of the net proceeds, representing the value of the land only (and not the value of the improvements), of a condemnation award or other disposition of the Premises following termination of this Deed of Easement, as permitted pursuant to N.J.S.A. 4:1C-11 *et seq.*, P.L. 1983, c. 32, shall be distributed among the Grantor and the Grantee in shares in proportion to the fair market value of their interests in the Premises on the date of execution of this Deed of Easement. For this purpose, the Grantee's allocable share of the proceeds shall be the net proceeds multiplied by a fraction, **the numerator of which is the value of the development easement as determined by the Committee pursuant to N.J.A.C. 2:76-19 at the time of the initial acquisition** and the denominator of which is the full fair market value of the unrestricted Premises as certified by the Committee at the time of the initial acquisition, which is identified as (3,600.00/4,500.00). **Furthermore, the Grantee's proceeds shall be distributed between the Grantee and the Pinelands Commission in shares in proportion to their respective cost share grants on the date of execution of this Deed of Easement. The Grantee shall use its share of the proceeds in a manner consistent with the provisions of N.J.S.A. 4:1C-11 *et seq.*, P.L. 1983, c. 32.**
24. Grantor has not retained any Pinelands Development Credits for the right to construct year-round agricultural labor housing pursuant to Paragraph 14ii or for the purpose of exercising a residual dwelling site opportunity, if any have been allocated, pursuant to Paragraph 14iv.
25. Grantor agrees that impervious coverage of the Premises shall not exceed 10% of the total acreage of the Premises. Impervious coverage shall include, but not be limited to, houses, barns, stables, sheds, silos, outhouses, cabanas and other buildings, swimming pools, docks or decks. Temporary greenhouses and other temporary coverings that do not have impervious floors shall be excluded from the computation of the impervious coverage area.

The Grantor signs this Deed of Easement as of the date of the top of the first page. If the Grantor is a corporation, this Deed of Easement is signed and attested to by its proper corporate officers, and its corporate seal, if any, is affixed.

DiMeglio Enterprises, LLC

/s/ _____
Anthony DiMeglio, Jr., Member

/s/ _____
Anthony DiMeglio, III, Member

/s/ _____
Robert DiMeglio, Member

/s/ _____
David DiMeglio, Member

Waterford Township Planning Board
Regular Meeting July 6th , 2015

The regular meeting of the Waterford Township Planning Board was called to order by Chairman Giangiulio followed by the salute to the flag. Chairman Giangiulio read the notice to the public. Roll call was taken and the following members were present:

- Mayor William Richardson,
- Rich Beswick,
- Mike Achey,
- Ralph Condo,
- Lynn Ferguson,
- Rich Jacoby,
- Tom Giangiulio,
- Brian Kraus.

Also present were

- Ed Toussaint Zoning Official, and
- Lou Cappelli, Board Solicitor.

Those absent were

- Al Campbell,
- Roe Iles, and
- Jon Becker.

....

Tuckahoe Turf Farm, Block 7506 Lots 1 & B 7501/ 2&3, 7503/ 1,3,4,5, 10&12, 7504, 1-4 & 10-12, 7602/10-13.

401 N. Myrtle Street Hammonton NJ.

Major Site Plan.

Appearing on behalf of the applicant are Bill Harrison Esq. and Mark Rinaldi Esq. Mr. Harrison gave a brief summary of the application and discussion from the last meeting. Pinelands approval was granted for Hammonton, it's a 711 acre site, a 7 page site plan was provided, a traffic summary report was also provided. Mr. Rinaldi addressed Mr. Alan Carter who remains under oath as he was sworn in at the last meeting. Mr. Carter explained how the tournament dates happen, what the process is and the number of fields that are needed. Mr. Carter stated this is all youth soccer tournaments within Pinelands limits there are 8 tournaments on Saturdays and Sundays from 8 am till 6 or 7 pm. There is a steady pace of traffic in and out all day. There are food vendors that set up 1 or 2 days in advance and the cleanup is the next day or Sunday night. The Parking is addressed by MSSL as they present a plan as a checklist before each event. There are 4 to 5 manager's onsite, and EMS is hired. There are no restrictions from the Turf Farm. Restrooms are provided and the handicap accessible are nearest to the fields.

Next to provide additional testimony is William Murray 334 Longwood Drive, Haddonfield. Mr. Murray is the Director of Operations for MSSL Soccer. Mr. Murray stated ADA parking is available, if the tournament is 2 days the handicap parking is extended, signage is always posted. There are special personnel to assist with directions, and the handicap parking area is flat. The

handicap parking is closest to the field and the restrooms. There are John Deere Gators that can transport if necessary as there are 12 on the property, and 2 seat 4 people. Mr. Murray stated they are over prepared for handicap parking. He has also spoken with Chief Dan Cormaney of the Waterford Twp. Police Department, MSSL will hire an off duty police officer and next week he is meeting with Mr. Murray onsite. Mr. Murray also spoke with Chief David Cilona of the Waterford Township Fire Department and discussed logistics of the property and Mr. Murray agreed to speak with the State Fire Service. They feel this is not an issue, and the grass and road create a buffer. Mr. Murray stated evacuation in the event of an emergency would not be an issue and he is familiar with the property. Mr. Murray spoke with Betty Ann Gardner Chief of the Waterford EMS and discussed dispatching for any emergencies for Waterford and Hammonton, and any secondary employment if needed. EMT's will respond first, then call the Ambulance. Gators are provided to EMS, and 2 Hammonton Police Officer's are hired for each tournament. Mr. Hansen asked if the ADA parking spots are checked to be sure they meeting the ADA requirements.

Next to provide testimony is Nicholas Aiello of 1313 Mt. Holly Rd., Burlington, NJ. Mr. Aiello testified to his credentials, and was deemed an expert. Mr. Aiello testified that he visited the site during a tournament and at peak parking there were approximately 3200 vehicles. At that time there were adequate parking spaces provided, in fact there was an excess of parking available. Mr. Aiello testified that the ADA spaces are adjacent to the fields, there are adequate spaces, and they meet the requirements. The grade where the ADA spaces were was level, and the ground was firm. NJAC regulates sporting events, and the main access points are in Hammonton. Each parking area had flaggers to clear the aisles. 3 pm. is the peak of the queuing onsite, not on the roadway. There was approximately 30 seconds to 1 minute on the que *<sic>*. The main 2 roadways are Flemming Pike and Spring Road. Mr. Hansen asked if anyone spot checks the ADA spaces. Mr. Murray commented that cones 3 were used, maps were provided online to locate the necessary areas, as well as signage throughout the site. Chairman Giangiulio asked about the surface when it's dry it may be more packed and stable when the ground is wet, will it accommodate a wheelchair? Are all of the spaces checked prior to each event? Mr. Toussaint also commented from event to event is ADA compliance met, what are the size of the spaces, what is the grade, however testimony from the applicant is that they will comply. Mr. Condo stated the number of spaces, the slope, and surface requirements need to be met, but the applicant has testified that they will comply. At that point, we can randomly inspect the site. Mr. Toussaint agreed, he would need a plan. Mr. Harrison stated the applicant agrees to submit a parking plan including handicap and accessibility will be provided as requested. Mr. Murray stated they have a former Military police officer that will be designated to handicap parking.

Chairman Giangiulio asked Mr. Carter if notice of a tournament could be sent out 30 days prior. Chairman Giangiulio also asked about trash pick up. Mr. Carter responded that trash pick-up is minimal but he will coordinate that. They have knocked on residential doors apologizing when there was an issue with trash, and weather stopped us from cleaning up right away. Chairman Giangiulio asked about the Food Vendors. Mr. Carter testified that there are 5 some with multiple locations, with a maximum of 10 locations, and all of them have Board of Health approvals.

There is no lighting for tournaments, there is a rule that everyone is off the farm at dusk. Mr. Toussaint commented he would like to see an agreement with the Farm, MSSL, and Pinelands, listing the Pinelands standards/requirements. 60 days prior to any event a schedule, practice schedule, or any other soccer activities be submitted for approval.

When the Zoning permit is issued, that will go to Pinelands, after Pinelands approves, then the zoning permit can be issued annually for a 3 year approval. Then the process would begin again after 3 years. Chairman Giangiulio added that a handicap parking plan should be submitted as well. Chairman Giangiulio asked if the local farmers are excluded from the vendor count and Mr. Carter stated yes.

With nothing further from the board, Chairman Giangiulio opened this portion of the meeting up to the public. With no one from the public wishing to speak on this application, the public portion was closed. Mr. Condo requested that the applicant provide letters from each of the Waterford Township entities that spoke with Mr. Murray regarding parking, police, and EMS services, and Mr. Murray agreed to provide that information. Mr. Toussaint added that the timing of set up and clean up should be addressed prior to the event as well as a legible parking plan must be submitted for Mr. Toussaint's review. Mr. Condo made a motion to approve the preliminary and final application for Tuckahoe Turf Farm, with listed conditions, and Mr. Kraus seconded the motion.

On roll call vote:

- W. Richardson Yes
- R. Beswick No
- M. Achey Yes
- R. Condo Yes
- L. Ferguson Yes
- T. Giangiulio Yes
- B. Kraus Yes



Chris Christie
Governor

Kim Guadagno
Lt. Governor

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

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



Mark S. Lohbauer
Chairman

Nancy Wittenberg
Executive Director

October 13, 2015

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
Tuckahoe Turf Farm, Inc.
P.O. Box 148
801 N. Myrtle Street
Hammonton, NJ 08037

Re: Application # 1984-0389.009
Block 5001, Lots 5 - 7
Block 5002, Lot 11
Block 5601, Lots 1 - 9
Block 5602, Lots 3 - 7 (excluding Lot 4.01)
Town of Hammonton

Dear Applicant:

A Commission public hearing is necessary to review the issue raised by the zoning permit issued on September 22, 2015 by the Hammonton Zoning Officer for the proposed establishment of a private commercial soccer use with no site improvements on the above-referenced 310 acre parcel.

The Public Hearing has been scheduled for:

Monday, November 9, 2015
2:00PM
New Jersey Pinelands Commission
Springfield Road
New Lisbon, New Jersey 08064

The issue to be reviewed at the public hearing is:

1. Whether the establishment of a private commercial soccer use is a permitted use in Hammonton's AP zoning district as set forth in Hammonton's certified land use ordinances and in a Pinelands Agricultural Production Area as set forth in N.J.A.C. 7:50-5.24(a).

Specifically, this issue is raised because the intensity of the proposed use, as described in the undated "Schedule of Soccer Events at Tuckahoe Turf Farm in 2015" subject of the September 22, 2015 zoning permit, exceeds the 192 total hours of soccer events/use



authorized by the Hammonton Planning Board's May 6, 2015 amended preliminary and final major site plan and waiver approval (Resolution # 10-14).

Copies of the cited regulations can be viewed on the Commission's website (www.nj.gov/pinelands).

If you wish to resolve the issue(s) necessitating the public hearing so that the scheduled hearing will not be necessary, please submit a written request to adjourn the hearing prior to the hearing date. The hearing will then be rescheduled. If the issue(s) is resolved before the hearing date, the public hearing will be canceled. If the issue(s) is not resolved and a written request to adjourn the hearing is not submitted, the application can be recommended for denial based on the information contained in the file.

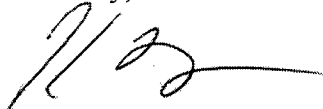
If you wish to attend the public hearing, please follow the instructions contained in the attached "Public Hearing Procedures". This attachment includes specific instructions for completing the required public notice if you want the Pinelands Commission to conduct a public hearing on the application.

The Pinelands Commission must make a determination on the proposed development within 45 days of the date of this letter unless a written request to adjourn the hearing is submitted or the public notice requirements are not fulfilled. Alternatively, you may request a hearing at the New Jersey Office of Administrative Law instead of the Commission's public hearing. Such a request would waive the time period in which the Commission must act on the application. If you wish to have a hearing at the New Jersey Office of Administrative Law, you must inform the Commission in writing by November 2, 2015.

NO DEVELOPMENT MAY BE CARRIED OUT ON THE ABOVE-REFERENCED PARCEL UNTIL SUCH TIME AS THE PINELANDS COMMISSION HAS ACTED ON THE PROPOSED DEVELOPMENT.

If you have any questions, please contact Branwen Ellis of our staff.

Sincerely,



for Charles M. Horner, P.P.

Director of Regulatory Programs

enc: Public Hearing Procedures

c: Secretary, Town of Hammonton Planning Board (via email)
 Town of Hammonton Construction Code Official (via email)
 Town of Hammonton Environmental Commission (via email)
 Atlantic County Department of Regional Planning and Development (via email)
 William F. Harrison, Esq. (via email)

PUBLIC HEARING PROCEDURES

In order to attend the public hearing, legal notice of the public hearing must be provided. The notice shall be published, posted or mailed, as relevant, by October 30, 2015.

The legal notice must include the following information:

- a. the time and place of the hearing;
- b. that the hearing is being conducted pursuant to the provisions of the Comprehensive Management Plan;
- c. the name and address of the applicant;
- d. a statement that the hearing concerns whether the proposed development is a permitted use in Hammonton's AP zoning district as set forth in Hammonton's certified land use ordinances and in a Pinelands Agricultural Production Area as set forth in the Comprehensive Management Plan;
- e. a statement that the application and supporting materials are available for public inspection and copying at the principal offices of the Pinelands Commission; and
- f. a statement that any person may at such public hearing speak or submit a written statement.

The notice shall be provided to the following agencies and persons:

1. Secretary, Hammonton Planning Board;
2. Hammonton Environmental Commission;
3. Atlantic County Department of Regional Planning and Development;
4. All landowners within 200 feet of any border of the above-referenced parcel;
5. By publication of notice of the hearing at least once in a newspaper having general circulation in Hammonton; and
6. By conspicuously posting on the above-referenced parcel a notice of the public hearing.

An affidavit must be filed with the Pinelands Commission by November 2, 2015 that all of the notice requirements have been fulfilled. If the required public notice is completed but the required affidavit is not filed with the Commission by November 2, 2015, the Pinelands Commission staff reserves the right to adjourn the public hearing to another date.



Chris Christie
Governor

Kim Guadagno
Lt. Governor

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

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



Mark S. Lohbauer
Chairman

Nancy Wittenberg
Executive Director

November 6, 2015

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
Tuckahoe Turf Farm, Inc.
P.O. Box 148
801 N. Myrtle Street
Hammonton, NJ 08037

Re: Application # 1984-0389.009
Block 5001, Lots 5 - 7
Block 5002, Lot 11
Block 5601, Lots 1 - 9
Block 5602, Lots 3 - 7 (excluding Lot 4.01)
Town of Hammonton

Dear Applicant:

A Commission public hearing remains necessary to review the issue raised by the zoning permit issued on September 22, 2015 by the Hammonton Zoning Officer for the proposed establishment of a private commercial soccer use with no site improvements on the above-referenced 310 acre parcel. Please be further advised that the preliminary and final major site plan approval and waiver granted by the Waterford Township Planning Board also raises a substantial issue and will be reviewed at the hearing.

The Public Hearing scheduled for November 9, 2015 was adjourned at the request of the applicant's attorney. The Public Hearing has been rescheduled for:

Tuesday, December 15, 2015
2:00PM
New Jersey Pinelands Commission
Springfield Road
New Lisbon, New Jersey 08064

The issue to be reviewed at the public hearing is:

1. Whether the establishment of a private commercial soccer use is a permitted use in Hammonton's AP zoning district as set forth in Hammonton's certified land use ordinances, Waterford's AG zoning district as set forth in Waterford's certified land use ordinances and in a Pinelands Agricultural Production Area as set forth in N.J.A.C. 7:50-5.24(a).



Specifically, this issue is raised in Hammonton because the intensity of the proposed use, as described in the undated "Schedule of Soccer Events at Tuckahoe Turf Farm in 2015" subject of the September 22, 2015 Zoning Permit, exceeds the 192 total hours of soccer events/use authorized by the Hammonton Planning Board's May 6, 2015 amended preliminary and final major site plan and waiver approval (Resolution # 10-14).

This issue is also raised because Waterford Township's preliminary and final major site plan approval and waiver does not contain specific conditions, such as the number of soccer events per calendar year and the total hours of soccer activity per year, to limit the intensity of the proposed use on the parcel.

Copies of the cited regulations can be viewed on the Commission's website (www.nj.gov/pinelands).

If you wish to resolve the issue(s) necessitating the public hearing so that the scheduled hearing will not be necessary, please submit a written request to adjourn the hearing prior to the hearing date. The hearing will then be rescheduled. If the issue(s) is resolved before the hearing date, the public hearing will be canceled. If the issue(s) is not resolved and a written request to adjourn the hearing is not submitted, the application can be recommended for denial based on the information contained in the file.

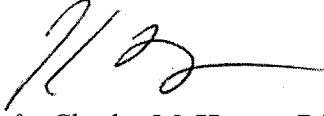
If you wish to attend the public hearing, please follow the instructions contained in the attached "Public Hearing Procedures". This attachment includes specific instructions for completing the required public notice if you want the Pinelands Commission to conduct a public hearing on the application.

As a result of the requested adjournment, the time for the Pinelands Commission to act on the application has been waived in accordance with the provisions of the Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-4.4(b)). The Pinelands Commission will act on the application at a Commission meeting to be determined by the Executive Director at the public hearing. The time for the Commission to act on the application will be further extended if another adjournment is requested or if the public notice requirements are not fulfilled. Alternatively, you may request a hearing at the New Jersey Office of Administrative Law instead of the Commission's public hearing. Such a request would waive the time period in which the Commission must act on the application. If you wish to have a hearing at the New Jersey Office of Administrative Law, you must inform the Commission in writing by December 8, 2015.

NO DEVELOPMENT MAY BE CARRIED OUT ON THE ABOVE-REFERENCED PARCEL UNTIL SUCH TIME AS THE PINELANDS COMMISSION HAS ACTED ON THE PROPOSED DEVELOPMENT.

If you have any questions, please contact Branwen Ellis of our staff.

Sincerely,



for Charles M. Horner, P.P.

Director of Regulatory Programs

enc: Public Hearing Procedures

c: Secretary, Town of Hammonton Planning Board (via email)
Town of Hammonton Construction Code Official (via email)
Town of Hammonton Environmental Commission (via email)
Secretary, Waterford Township Planning Board (via email)
Waterford Township Construction Code Official (via email)
Waterford Township Environmental Commission (via email)
Atlantic County Department of Regional Planning and Development (via email)
Secretary, Camden County Planning Board (via email)
William F. Harrison, Esq.

PUBLIC HEARING PROCEDURES

In order to attend the public hearing, legal notice of the public hearing must be provided. The notice shall be published, posted or mailed, as relevant, by December 5, 2015.

The legal notice must include the following information:

- a. the time and place of the hearing;
- b. that the hearing is being conducted pursuant to the provisions of the Comprehensive Management Plan;
- c. the name and address of the applicant;
- d. a statement that the hearing concerns whether the proposed development is a permitted use in Hammonton's AP zoning district as set forth in Hammonton's certified land use ordinances, Waterford's AG zoning district as set forth in Waterford's certified land use ordinances and in a Pinelands Agricultural Production Area as set forth in the Comprehensive Management Plan;
- e. a statement that the application and supporting materials are available for public inspection and copying at the principal offices of the Pinelands Commission; and
- f. a statement that any person may at such public hearing speak or submit a written statement.

The notice shall be provided to the following agencies and persons:

1. Secretary, Hammonton Planning Board;
2. Hammonton Environmental Commission;
3. Atlantic County Department of Regional Planning and Development;
4. Secretary, Waterford Township Planning Board;
5. Waterford Township Environmental Commission;
6. Secretary, Camden County Planning Board;
7. All landowners within 200 feet of any border of the above-referenced parcel;
8. By publication of notice of the hearing at least once in a newspaper having general circulation in Hammonton;
9. By publication of notice of the hearing at least once in a newspaper having general circulation in Waterford; and
10. By conspicuously posting on the above-referenced parcel a notice of the public hearing.

An affidavit must be filed with the Pinelands Commission by December 8, 2015 that all of the notice requirements have been fulfilled. If the required public notice is completed but the required affidavit is not filed with the Commission by December 8, 2015, the Pinelands Commission staff reserves the right to adjourn the public hearing to another date.



Chris Christie
Governor

Kim Guadagno
Lt. Governor

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

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



Mark S. Lohbauer
Chairman

Nancy Wittenberg
Executive Director

Corrected Copy – Re: Block, Lot, Municipality and Acreage References

November 9, 2015

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
Tuckahoe Turf Farm, Inc.
P.O. Box 148
801 N. Myrtle Street
Hammonton, NJ 08037

Re: Application # 1984-0389.009
Block 5001, Lots 5 - 7
Block 5002, Lot 11
Block 5601, Lots 1 - 9
Block 5602, Lots 3 - 7 (excluding Lot 4.01)
310 acres
Town of Hammonton

Block 7502, Lots 2 - 3
Block 7503, Lots 1, 3 - 5, & 10 - 12
Block 7504, Lots 1 - 4, & 10 - 12
Block 7505, Lot 1
Block 7506, Lot 1
Block 7602, Lots 10 - 13
369.05 acres
Waterford Township

Block 6602, Lot 7
Block 7101, Lots 5 & 15
Block 7104, Lots 1 & 3
31.6 acre
Winslow Township

Dear Applicant:

A Commission public hearing remains necessary to review the issue raised by the zoning permit issued on September 22, 2015 by the Hammonton Zoning Officer for the proposed establishment of a private commercial soccer use with no site improvements on a 310 portion of the above-referenced 710.65 acre parcel. Please be further advised that the preliminary and final major site plan approval and waiver



granted by the Waterford Township Planning Board for a 369.05 acre portion of the above-referenced parcel also raises a substantial issue and will be reviewed at the hearing.

The Public Hearing scheduled for November 9, 2015 was adjourned at the request of the applicant's attorney. The Public Hearing has been rescheduled for:

Tuesday, December 15, 2015
2:00PM
New Jersey Pinelands Commission
Springfield Road
New Lisbon, New Jersey 08064

The issue to be reviewed at the public hearing is:

1. Whether the establishment of a private commercial soccer use is a permitted use in Hammonton's AP zoning district as set forth in Hammonton's certified land use ordinances, Waterford's AG zoning district as set forth in Waterford's certified land use ordinances and in a Pinelands Agricultural Production Area as set forth in N.J.A.C. 7:50-5.24(a).

Specifically, this issue is raised in Hammonton because the intensity of the proposed use, as described in the undated "Schedule of Soccer Events at Tuckahoe Turf Farm in 2015" subject of the September 22, 2015 Zoning Permit, exceeds the 192 total hours of soccer events/use authorized by the Hammonton Planning Board's May 6, 2015 amended preliminary and final major site plan and waiver approval (Resolution # 10-14).

This issue is also raised because Waterford Township's preliminary and final major site plan approval and waiver does not contain specific conditions, such as the number of soccer events per calendar year and the total hours of soccer activity per year, to limit the intensity of the proposed use on the parcel.

Copies of the cited regulations can be viewed on the Commission's website (www.nj.gov/pinelands).

If you wish to resolve the issue(s) necessitating the public hearing so that the scheduled hearing will not be necessary, please submit a written request to adjourn the hearing prior to the hearing date. The hearing will then be rescheduled. If the issue(s) is resolved before the hearing date, the public hearing will be canceled. If the issue(s) is not resolved and a written request to adjourn the hearing is not submitted, the application can be recommended for denial based on the information contained in the file.

If you wish to attend the public hearing, please follow the instructions contained in the attached "Public Hearing Procedures". This attachment includes specific instructions for completing the required public notice if you want the Pinelands Commission to conduct a public hearing on the application.

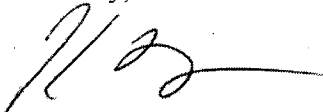
As a result of the requested adjournment, the time for the Pinelands Commission to act on the application has been waived in accordance with the provisions of the Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-4.4(b)). The Pinelands Commission will act on the application at a Commission meeting to be determined by the Executive Director at the public hearing. The time for the Commission to act on the application will be further extended if another adjournment is requested or if the public notice requirements are not fulfilled. Alternatively, you may request a hearing at the New

Jersey Office of Administrative Law instead of the Commission's public hearing. Such a request would waive the time period in which the Commission must act on the application. If you wish to have a hearing at the New Jersey Office of Administrative Law, you must inform the Commission in writing by December 8, 2015.

NO DEVELOPMENT MAY BE CARRIED OUT ON THE ABOVE-REFERENCED PARCEL UNTIL SUCH TIME AS THE PINELANDS COMMISSION HAS ACTED ON THE PROPOSED DEVELOPMENT.

If you have any questions, please contact Branwen Ellis of our staff.

Sincerely,



for Charles M. Horner, P.P.

Director of Regulatory Programs

enc: Public Hearing Procedures

c: Secretary, Town of Hammonton Planning Board (via email)
 Town of Hammonton Construction Code Official (via email)
 Town of Hammonton Environmental Commission (via email)
 Secretary, Waterford Township Planning Board (via email)
 Waterford Township Construction Code Official (via email)
 Waterford Township Environmental Commission (via email)
 Secretary, Winslow Township Planning Board (via email)
 Winslow Township Construction Code Official (via email)
 Winslow Township Environmental Commission (via email)
 Atlantic County Department of Regional Planning and Development (via email)
 Secretary, Camden County Planning Board (via email)
 William F. Harrison, Esq.

PUBLIC HEARING PROCEDURES

In order to attend the public hearing, legal notice of the public hearing must be provided. The notice shall be published, posted or mailed, as relevant, by December 5, 2015.

The legal notice must include the following information:

- a. the time and place of the hearing;
- b. that the hearing is being conducted pursuant to the provisions of the Comprehensive Management Plan;
- c. the name and address of the applicant;
- d. a statement that the hearing concerns whether the proposed development is a permitted use in Hammonton's AP zoning district as set forth in Hammonton's certified land use ordinances, Waterford's AG zoning district as set forth in Waterford's certified land use ordinances and in a Pinelands Agricultural Production Area as set forth in the Comprehensive Management Plan;
- e. a statement that the application and supporting materials are available for public inspection and copying at the principal offices of the Pinelands Commission; and
- f. a statement that any person may at such public hearing speak or submit a written statement.

The notice shall be provided to the following agencies and persons:

1. Secretary, Hammonton Planning Board;
2. Hammonton Environmental Commission;
3. Atlantic County Department of Regional Planning and Development;
4. Secretary, Waterford Township Planning Board;
5. Waterford Township Environmental Commission;
6. Secretary, Camden County Planning Board;
7. All landowners within 200 feet of any border of the above-referenced parcel;
8. By publication of notice of the hearing at least once in a newspaper having general circulation in Hammonton;
9. By publication of notice of the hearing at least once in a newspaper having general circulation in Waterford; and
10. By conspicuously posting on the above-referenced parcel a notice of the public hearing.

An affidavit must be filed with the Pinelands Commission by December 8, 2015 that all of the notice requirements have been fulfilled. If the required public notice is completed but the required affidavit is not filed with the Commission by December 8, 2015, the Pinelands Commission staff reserves the right to adjourn the public hearing to another date.



Chris Christie
Governor

Kim Guadagno
Lt. Governor

State of New Jersey

THE PINELANDS COMMISSION

PO Box 359
NEW LISBON, NJ 08064
(609) 894-7300
www.nj.gov/pinelands



Mark S. Lohbauer
Chairman

Nancy Wittenberg
Executive Director

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

January 7, 2016

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
Tuckahoe Turf Farm, Inc.
P.O. Box 148
801 N. Myrtle Street
Hammonton, NJ 08037

Re: Application # 1984-0389.009
Block 5001, Lots 5 - 7
Block 5002, Lot 11
Block 5601, Lots 1 - 9
Block 5602, Lots 3 - 7 (excluding Lot 4.01)
310 acres
Town of Hammonton

Block 7502, Lots 2 - 3
Block 7503, Lots 1, 3 - 5, & 10 - 12
Block 7504, Lots 1 - 4, & 10 - 12
Block 7505, Lot 1
Block 7506, Lot 1
Block 7602, Lots 10 - 13
369.05 acres
Waterford Township

Block 6602, Lot 7
Block 7101, Lots 5 & 15
Block 7104, Lots 1 & 3
31.6 acre
Winslow Township

Dear Applicant:

By letter dated November 9, 2016, we advised that a Commission public hearing was necessary to review the substantial issue raised by the Zoning Permit issued on September 22, 2015 by the Hammonton Zoning Officer for the proposed establishment of a private commercial soccer use with no site improvements on a 310 portion of the above-referenced 710.65 acre parcel. That letter also advised that a Commission public hearing was necessary to review the preliminary and final major site plan



approval and waiver granted by the Waterford Township Planning Board for a 369.05 acre portion of the above-referenced parcel. That Public Hearing was adjourned at the request of the applicant's attorney.

By e-mail dated December 4, 2015, we were advised by the Hammonton Zoning Officer that the Zoning Permit issued on September 22, 2015 was revoked on December 4, 2015. Based upon the September 22, 2015 Zoning Permit being revoked, the concerned permit is no longer subject of this Commission public hearing.

However, a Commission public hearing remains necessary to review the issue raised by the preliminary and final major site plan approval and waiver granted by the Waterford Township Planning Board for the proposed establishment of a private commercial soccer use with no site improvements on a 369.05 acre portion of the above-referenced 710.65 acre parcel.

The Public Hearing scheduled for December 15, 2015 was adjourned at the request of the applicant's attorney. The Public Hearing has been rescheduled for:

Thursday, February 18, 2016
2:00PM
New Jersey Pinelands Commission
Springfield Road
New Lisbon, New Jersey 08064

The issue to be reviewed at the public hearing is:

1. Whether the establishment of a private commercial soccer use is a permitted use in Waterford's AG zoning district as set forth in Waterford's certified land use ordinances and in a Pinelands Agricultural Production Area as set forth in N.J.A.C. 7:50-5.24(a).

This issue is also raised because Waterford Township's preliminary and final major site plan approval and waiver does not contain specific conditions, such as the number of soccer events per calendar year and the total hours of soccer activity per year, to limit the intensity of the proposed use on the parcel.

Copies of the cited regulations can be viewed on the Commission's website (www.nj.gov/pinelands).

If you wish to resolve the issue(s) necessitating the public hearing so that the scheduled hearing will not be necessary, please submit a written request to adjourn the hearing prior to the hearing date. The hearing will then be rescheduled. If the issue(s) is resolved before the hearing date, the public hearing will be canceled. If the issue(s) is not resolved and a written request to adjourn the hearing is not submitted, the application can be recommended for denial based on the information contained in the file.

If you wish to attend the public hearing, please follow the instructions contained in the attached "Public Hearing Procedures". This attachment includes specific instructions for completing the required public notice if you want the Pinelands Commission to conduct a public hearing on the application.

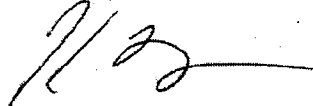
As a result of the requested adjournment, the time for the Pinelands Commission to act on the application has been waived in accordance with the provisions of the Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-4.4(b)). The Pinelands Commission will act on the application at a Commission meeting to be determined by the Executive Director at the public hearing. The time for the

Commission to act on the application will be further extended if another adjournment is requested or if the public notice requirements are not fulfilled. Alternatively, you may request a hearing at the New Jersey Office of Administrative Law instead of the Commission's public hearing. Such a request would waive the time period in which the Commission must act on the application. If you wish to have a hearing at the New Jersey Office of Administrative Law, you must inform the Commission in writing by February 11, 2016.

NO DEVELOPMENT MAY BE CARRIED OUT ON THE ABOVE-REFERENCED PARCEL UNTIL SUCH TIME AS THE PINELANDS COMMISSION HAS ACTED ON THE PROPOSED DEVELOPMENT.

If you have any questions, please contact Branwen Ellis of our staff.

Sincerely,



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

enc: Public Hearing Procedures

- c: Secretary, Town of Hammonton Planning Board (via email)
Town of Hammonton Construction Code Official (via email)
Town of Hammonton Environmental Commission (via email)
Secretary, Waterford Township Planning Board (via email)
Waterford Township Construction Code Official (via email)
Waterford Township Environmental Commission (via email)
Secretary, Winslow Township Planning Board (via email)
Winslow Township Construction Code Official (via email)
Winslow Township Environmental Commission (via email)
Atlantic County Department of Regional Planning and Development (via email)
Secretary, Camden County Planning Board (via email)
William F. Harrison, Esq.

PUBLIC HEARING PROCEDURES

In order to attend the public hearing, legal notice of the public hearing must be provided. The notice shall be published, posted or mailed, as relevant, by February 8, 2016.

The legal notice must include the following information:

- a. the time and place of the hearing;
- b. that the hearing is being conducted pursuant to the provisions of the Comprehensive Management Plan;
- c. the name and address of the applicant;
- d. a statement that the hearing concerns whether the proposed development is a permitted use in Waterford's AG zoning district as set forth in Waterford's certified land use ordinances and in a Pinelands Agricultural Production Area as set forth in the Comprehensive Management Plan;
- e. a statement that the application and supporting materials are available for public inspection and copying at the principal offices of the Pinelands Commission; and
- f. a statement that any person may at such public hearing speak or submit a written statement.

The notice shall be provided to the following agencies and persons:

1. Secretary, Waterford Township Planning Board;
2. Waterford Township Environmental Commission;
3. Secretary, Camden County Planning Board;
4. All landowners within 200 feet of any border of the above-referenced parcel;
5. By publication of notice of the hearing at least once in a newspaper having general circulation in Waterford; and
6. By conspicuously posting on the above-referenced parcel a notice of the public hearing.

An affidavit must be filed with the Pinelands Commission by February 11, 2016 that all of the notice requirements have been fulfilled. If the required public notice is completed but the required affidavit is not filed with the Commission by February 11, 2016, the Pinelands Commission staff reserves the right to adjourn the public hearing to another date.

APP # 19840389.009
Doc Type 150

FEB 8 2016

Scanned _____

RESOLUTION NO. 16-04

WATERFORD TOWNSHIP
PLANNING BOARD

RESOLUTION MEMORIALIZING DECISION



- ☒ Approved
- ☐ General Conditions
- ☐ Specific Conditions
- ☐ Denied

- ☐ Minor Subdivision
- ☐ Major Subdivision Preliminary

Application No. 13PB-14
Applicant: Tuckahoe Turf Farm, Inc.
401 N. Myrtle St., Hammonton, NJ

- ☐ Major Subdivision Final

- ☐ Minor Site Plan
- ☐ Major Site Plan, Preliminary
- ☐ Major Site Plan, Final
- ☐ Conditional Use

Owner: Betts and Betts, LLC
401 N. Myrtle St. Hammonton, NJ

Block: 7506, Lot 1
Block 7505, Lot 1
Block 7502, Lots 2&3
Block 7503, Lots 1, 3, 4, 5 and 10-12
Block 7504, Lots 1-4 and 10-12
Block 7602, Lots 10-13
Action: July 6, 2015

- ☐ Waiver
- ☐ Use Variance
- ☐ Bulk Variances
- ☒ Other: Amendment to Resolution 15-12

WHEREAS, Tuckahoe Turf Farm, Inc. (hereinafter the "Applicant") has applied to the Waterford Township Planning Board (hereinafter the "Board") for the following approval:

Amendment to Resolution 15-12, Memorializing the Board's Approval of the Application for Preliminary and Final Site Plan Approval, with waivers, for agricultural use with on-farm direct marketing activities; and

WHEREAS, pursuant to N.J.S.A. 40:55D-12, this Application did not require additional notice as the requested changes are not a "significant condition" of the original memorializing resolution; and

WHEREAS, the original Application was considered by the Board at regular public hearings on June 1 and July 6, 2015, approved by the Board at its regular public meeting held on July 6, 2015, and Memorialized by Resolution 15-12 at a regular public meeting held on September 21, 2015; and

WHEREAS, the Applicant subsequently received correspondence from the Pinelands Commission, dated November 6, 2015 and submitted to the Board in consideration of the Applicant's request for an Amended Resolution; and

WHEREAS, the November 6, 2015 Pinelands correspondence requested that more specific conditions be outlined within Resolution 15-12, including the number of soccer events per calendar year and the total hours of soccer activity per year; and

WHEREAS, for purposes of consistency, the Applicant has requested that those applicable terms and conditions should be consistent with those memorialized by the corresponding Hamilton Township Resolution, dated May 6, 2015 under Application Number 10-14; and

WHEREAS, new paragraphs 20 and 21, as set forth below, have been requested for inclusion into Resolution 15-12:

20. The Applicant will limit the usage of the Farm for soccer events to:

- i. Eight (8) events per year, or the hourly equivalent, not to exceed 192 hours;
- ii. One (1) event day shall consist of a maximum of twelve (12) hours;
- iii. No more than a maximum of thirty-five (35) fields, and no more than fifteen percent (15%) of the total acreage of the farm may be used for an event.

21. To the extent that any soccer event does not use the full twenty-four (24) hours allocated to that event, those unused hours may be utilized on the Farm for any soccer activities, other than events, as follows:

- i. The smallest increment of time that may be allocated or used for soccer activities at the Farm, other than events, is one (1) hour;
- ii. No more than four (4) fields may be utilized when the Farm is used for any soccer activities occurring at the Farm other than days that are part of an event;
- iii. No more than one hundred (100) persons may actively participate in such soccer activities occurring at the Farm other than on days that are part of an event.

WHEREAS, Mr. William Harrison, Esq., Attorney for the Applicant, appeared at the Board's regular public meeting on February 1, 2016 to formally request the amendment; and

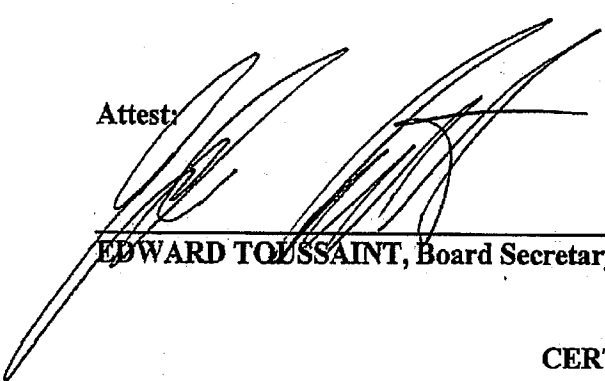
WHEREAS, upon a motion duly made and seconded, the Board having found that the requested amendments are reasonable in light of the November 6, 2015 Pinelands correspondence, and that the requested amendments present no significant change to the existing terms and conditions of Resolution 15-12, hereby grants the Applicant's request for an amendment; and

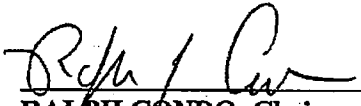
NOW, THEREFORE, BE IT RESOLVED, that Amended Resolution 15-12, attached hereto and incorporated herein by reference, supersedes and controls over any prior version of the Board's Memorializing Resolution; and

BE IT FURTHER RESOLVED, that by subsequent motion duly made and seconded, the amendment hereby granted was authorized by the Board for memorialization and adoption at the February 1, 2016 meeting; and

BE IT FURTHER RESOLVED, that certified copies of this resolution of memorialization be sent, via regular mail, to the Applicant within ten (10) days of the date of adoption, and a copy of this resolution shall be filed with the Administrative Officer or Clerk of the Township, Township Construction Official and Zoning Officer. A brief notice of this decision shall be published in the official newspaper of the Township.

Attest:


EDWARD TOUSSAINT, Board Secretary


RALPH CONDO, Chairman

CERTIFICATION

I HEREBY CERTIFY that the Planning Board of the Township of Waterford, County of Camden, State of New Jersey adopted the foregoing Resolution at its meeting held in the Municipal Building, 2131 Auburn Avenue, Atco, New Jersey, February 1, 2016, and said resolution was authorized for memorialization at the meeting held February 1, 2016.

Rita M Hanna, Ed.D., Recording Secretary

FEB 8 2016

RESOLUTION NO. 15-12

WATERFORD TOWNSHIP
PLANNING BOARD

RESOLUTION MEMORIALIZING DECISION

- ☒ Approved
- ☒ General Conditions
- ☒ Specific Conditions
- ☐ Denied

☐ Minor Subdivision

☐ Major Subdivision

Preliminary

☐ Major Subdivision

Final

☐ Minor Site Plan

☒ Major Site Plan,

Preliminary

☒ Major Site Plan, Final

☐ Conditional Use

Application No. 13PB-14

Applicant: Tuckahoe Turf Farm, Inc.

401 N. Myrtle St., Hammonton, NJ

Owner: Betts and Betts, LLC

401 N. Myrtle St. Hammonton, NJ

Block: 7506, Lot 1

Block 7505, Lot 1

Block 7502, Lots 2&3

Block 7503, Lots 1, 3, 4, 5 and 10-12

Block 7504, Lots 1-4 and 10-12

Block 7602, Lots 10-13

Action: July 6, 2015

☒ Waiver

☐ Use Variance

☐ Bulk Variances

☐ Other

WHEREAS, Tuckahoe Turf Farm, Inc. (hereinafter the "Applicant") has applied to the Waterford Township Planning Board (hereinafter the "Board") for the following approval:

Preliminary and Final Site Plan Approval, with waivers, for agricultural use with on-farm direct marketing activities. More specifically, the Applicant is proposing to market its product, sod, by hosting youth soccer tournaments on its sod fields; and

WHEREAS, the application was considered by the Board at public hearings on June 1 and July 6, 2015; and

WHEREAS, it appears that all jurisdictional and procedural requirements of the Waterford Township Code and the NJ Municipal Land Use Law have been satisfied; and

WHEREAS, the Board has considered the application and the evidence and arguments submitted by the Applicant in support thereof; and

WHEREAS, the Board has considered the recommendations and comments of its professional staff; and

WHEREAS, it appears the requirements necessary to grant the requested Preliminary and Final Major Site Plan, with waivers, has been satisfied subject to the findings of fact and conclusions below; and

WHEREAS, the Board has made the following findings of fact and conclusions:

1. The Applicant has requested the following approvals:
 - a. Preliminary and Final Major Site Plan approval, with waivers, for an agricultural use with on-farm direct marketing activities, the hosting of youth soccer tournaments on Applicant's sod fields.
2. The Applicant submitted the following as exhibits:
 - a. Application documents, dated April 28, 2015.
 - b. Preliminary Major Site Plan Checklist, dated April 24, 2015.
 - c. Final Major Site Plan Checklist, dated April 24, 2015.
 - d. Preliminary and Final Major Site Plan, 7 sheets, prepared by Maser Consulting, PA, dated June 25, 2015.
 - e. Expert Planning Testimony Report prepared by Kernan Consulting Engineers, dated October 2014.
 - f. Resolution of the Camden County Agriculture Development Board, dated November 13, 2014.
 - g. Resolution of the Atlantic County Agriculture Development Board, dated September 9, 2014.
 - h. Correspondence from Hammonton Fire Chief Michael Ruberton.
 - i. Correspondence from Hammonton Police Chief Robert Jones, dated August 6, 2014.
 - j. Attachment to Application Form, List of Waivers (Preliminary).
 - k. Attachment to Application Form, List of Waivers (Final).

FEB 8 2016

1. Pinelands Commission Determination, dated May 26, 2015.
- m. "Memorandum, Tuckahoe Turf Farm – Soccer Tournament Observations," prepared by Maser Consulting, PA, dated June 25, 2015.
3. The subject property is zoned Agricultural Zoning District [AG].
4. On June 1, 2015 and on July 6, 2015, the Applicant appeared before the Board seeking Preliminary and Final Major Site Plan approval, with waivers, to conduct youth soccer tournaments on its sod fields. The Applicant was represented by William Harrison, Esquire, who indicated that the Applicant is seeking Preliminary and Final Site Plan approval, with waivers. Mr. Harrison indicated the proposed use would enable the Applicant to directly market its agricultural product, sod. Mark Rinaldi, Esquire assisted in the presentation of the application.
5. Jeffrey Hanson of ERI reviewed his report dated July 2, 2015 and prepared on behalf of the Board.
6. Alan Carter, an employee of the Applicant, testified that the Mid-Atlantic Soccer Showcase League (MSSL) organization plans most of the events for the soccer tournaments. The Applicant determines what fields can or cannot be used. Representatives of MSSL and the teams participating in the tournament visit the location of the tournament 3–4 weeks in advance to plot out the fields. Subsequent to the tournaments, cleanup crews come in and restore the fields to the condition they were in prior to the tournament. All tournaments would involve youth soccer teams, only. The Applicant would be limited to 8 tournaments per year by the Pinelands Commission. Tournaments would take place on Saturdays and Sundays from 8:00AM through 7:00PM. Food vendors would be permitted on the premises and would set up beforehand. Parking areas would be established where turf has already been harvested. There are no plans for permanent lighting; temporary lighting is needed occasionally for local youth clubs only, not for the tournaments. The MSSL has an event plan checklist and managers on site to direct emergency personnel.
7. William Murray of Haddonfield, NJ, testified that he is the Director of Operations for MSSL. Mr. Murray testified that handicap accessible parking is created for all parking areas and that MSSL accommodates any special requests for special needs individuals. MSSL assigns personnel to all parking areas and establishes adequate signage for directions and handicap parking areas. The handicap parking areas are set up as close to the fields and portable toilets as possible. In addition, MSSL has 12 Gator vehicles to assist in the transportation of special needs individuals. Mr. Murray further testified that he had communications with the Waterford Township Police Chief Daniel Cormaney, Fire Chief David Cilona, and EMS Chief Betty Anne Gardner, and agreed to provide a letter from each department confirming these conversations. Mr. Murray indicated that there was adequate coordination with each member of the emergency personnel team and that, if necessary, additional emergency personnel would be hired in case of emergency at the tournaments.

8. Nicholas Aiello, PE, of Maser Consulting, next testified as an expert in engineering on behalf of the Applicant. He testified that adequate parking is available and that excess parking areas also existed. The amount of parking provided exceeds the amount required by the Waterford Ordinance. He further testified that traffic control was more than sufficient and that a parking plan with ADA designation would be provided in advance of tournaments.
9. The Board expressed concerns about compliance with ADA standards and concerns about the cleanup of the property after tournaments were concluded.
10. The Board opened the hearing to the public and no one from the public testified.
11. After considering the testimony and exhibits presented by the Applicant, the Board concluded that the application has met all requirements for Preliminary and Final Major Site Plan approval, with waivers, for the operation of youth soccer tournaments.

WHEREAS, a motion was duly made by Mr. Condo and duly seconded by Mr. Kraus to approve the Preliminary and Final Major Site Plan application, with waivers, contingent upon all requirements as further set forth in the recitation of the Applicant's testimony and conditions as set forth below.

ROLL CALL VOTE on the motion was recorded as follows:

IN FAVOR: Mayor Richardson, Mr. Achey, Ms. Ferguson, Mr. Kraus, Mr. Condo, and Chairman Giangiulio.

OPPOSED: Mr. Beswick.

ABSTAIN: None.

NOW, THEREFORE, BE IT RESOLVED, that the application of Tuckahoe Turf Farm for Preliminary and Final Major Site Plan approval, with waivers, is APPROVED; and

BE IT FURTHER RESOLVED, that the approval hereby granted is made subject to the following general and specific conditions as applicable:

1. The Applicant shall promptly pay any professional staff fees billed, in excess of the required application escrows, or file a written protest with the Township Business Administrator within seven (7) days of receipt of a final voucher from the Township.
2. These General Conditions of Approval and any additional conditions of approval shall be binding upon the Applicant, the owner, developer, and any of their successors and/or assigns.
3. The Applicant shall obtain approval from any other county, state or municipal agency having jurisdiction over the application, including, but not limited to, the Camden County Board of Health, the Camden County Planning Board, Camden County Soil Conservation District, New Jersey Department of Transportation, and the Pinelands Commission.

4. The Applicant has submitted certain plans and documents which were accepted by the Board as part of its application and further made certain representations and provided testimony at the time of the public hearing, all of which has been relied upon by the Board in making its determination. Should there be any material deviation from said documents, plans, representations or testimony or from any conditions contained herein, the Board may, upon notice to the Applicant and an opportunity to be heard, elect to rescind its approval.
5. The Applicant shall provide a confirming letter from each of the Waterford Township departments that spoke with Mr. Murray regarding parking, fire, police, and EMS services within ten (10) days of the date this Resolution is received by the Applicant.
6. The Applicant shall also notify the Waterford Township Police, Fire and EMS departments of all activities on an event-by-event basis within a reasonable time prior to each event, and shall staff events in accordance with the recommendations of these services.
7. The Applicant shall not permit food vendors on the premises more than forty-eight (48) hours before or after the youth soccer tournaments take place.
8. Temporary sanitation and trash disposal facilities shall be removed within twenty-four (24) hours of the conclusion of the events.
9. The Applicant shall satisfy the Pinelands Commission conditions set forth in the Pinelands Certificate of Filing allowing the proposed use which is incorporated herein by reference.
10. The Applicant shall provide personnel onsite to assist special needs individuals.
11. The Applicant shall confirm with the Waterford Township Fire Marshal to make sure that stations set up by vendors conform to the International Fire Code Standards.
12. All vendors must be informed that their setups must comply with all applicable county and local regulations, including those of the Camden County Board of Health.
13. The Applicant shall comply with all outstanding conditions of the Board and Board consultants set forth in the reports or in the testimony, unless modified.
14. The Applicant shall submit an operational plan depicting, at a minimum: (i) safe ingress and egress; (ii) sufficient parking areas; (iii) the location of all police officers, personnel directing traffic, and crossing guards; (iv) the location of all vendors; and (v) the location of any temporary signage; to the Planning Board Planner/Traffic Engineer for his review and approval and shall make any changes to the plan as required by the Planning Board Planner/Traffic Engineer, in his sole discretion. A final version of the operations plan approved by the Planning Board Planner/Traffic Engineer shall be submitted to the Planning Board Secretary.
15. The Applicant agrees that the operational plan shall be subject to any changes or comments of the Waterford Township Chief of Police at any time, deemed necessary by the Chief to protect the public health, safety and welfare, in the Chief's sole discretion.

FEB 8 2016

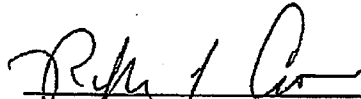
16. The Applicant shall ensure that all crossing guards and individuals directing traffic are at least 17 years of age or older and possess a valid driver's license.
17. The Applicant shall take all necessary measures to maintain a stabilized surface on all designated parking areas.
18. The Applicant shall comply at all times with the Americans with Disabilities Act.
19. All soccer games shall be completed during daylight and no games shall be played at night. The Applicant shall be allowed to have practices (which may include scrimmages) at night a maximum of four (4) days per week.
20. The Applicant will limit the usage of the Farm for soccer events to:
 - i. Eight (8) events per year, or the hourly equivalent, not to exceed 192 hours;
 - ii. One (1) event day shall consist of a maximum of twelve (12) hours;
 - iii. No more than a maximum of thirty-five (35) fields, and no more than fifteen percent (15%) of the total acreage of the farm may be used for an event.
21. To the extent that any soccer event does not use the full twenty-four (24) hours allocated to that event, those unused hours may be utilized on the Farm for any soccer activities, other than events, as follows:
 - i. The smallest increment of time that may be allocated or used for soccer activities at the Farm, other than events, is one (1) hour;
 - ii. No more than four (4) fields may be utilized when the Farm is used for any soccer activities occurring at the Farm other than days that are part of an event;
 - iii. No more than one hundred (100) persons may actively participate in such soccer activities occurring at the Farm other than on days that are part of an event.
22. If at any time a majority of the farm ceases to be utilized as a turf farm, then soccer activities and events shall cease and no longer be permitted on the site.
23. The Applicant shall submit within 60 days from execution of the Stipulation of Settlement with the Pinelands Commission the following information to the Waterford Township Zoning Officer for review and approval and then annually, at least 60 days prior to the commencement of soccer activities in any calendar year: (i) a copy of the scheduled soccer events to be conducted at Tuckahoe Turf Farm; (ii) a copy of the practice schedule for the soccer practices to be conducted at Tuckahoe Turf Farm; (iii) a copy of the schedule for any soccer activities being conducted at Tuckahoe Turf Farm, including, but not limited to camps, games, tryouts, and scrimmages.

If the information submitted by the Applicant demonstrates compliance with the conditions of this decision and resolution, the Zoning Officer shall prepare, but not issue, a zoning

permit authorizing the proposed soccer activities at Tuckahoe Turf Farm for the calendar year. Prior to the Zoning Officer issuing the permit, the Zoning Officer shall advise the Pinelands Commission by fax notification of his/her intent to issue a Zoning Permit. The Pinelands Commission shall review the notice of intent to issue the zoning permit in accordance with NJAC 7:50-4.40. No proposed use authorized by zoning permit shall commence unless the Commission staff issues a letter in accordance with NJAC 7:50-4.40 indicating that the zoning permit shall take effect. If the Commission staff determines that the zoning permit raises a substantial issue with the minimum standards of the Certified Municipal Land Use Ordinance and the Pinelands Comprehensive Management Plan, the zoning permit shall be subject to a Commission hearing in accordance with NJAC 7:50-4.40 through NJAC 7:50-4.42.

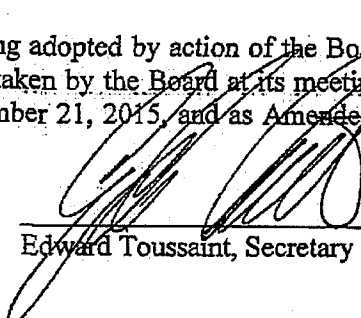
24. Soccer events or any soccer activities occurring at Tuckahoe Turf Farm and any uses, activities or temporary structures associated therewith, including, but not limited to parking, shall not occur within wetlands as defined in Subchapter 6, Part 1 of Pinelands Comprehensive Management Plan.
25. No permanent structures shall be placed on the property, except for structures used exclusively for the agricultural operation in accordance with the requirements of the Pinelands Comprehensive Management Plan. Prohibited permanent structures include, but are not limited to, goals, impervious parking areas, driveways, electrical hookups, and lights.
26. Parking will occur only in areas that were recently harvested and prior to those areas being reseeded.
27. Sufficient temporary, unpaved parking areas will be provided to ensure that all vehicles coming to the farm for a soccer event or any soccer activity will be able to park in designated parking areas.
28. No water body shall be involved or may be used for activities associated with soccer events or any soccer activities occurring on the farm.
29. Traffic controls required for soccer events or any soccer activities will be coordinated with the Waterford Township Police Department.
30. This approval is based upon the full and diligent adherence by the Applicant to all the representations made to the Board. Any failure of the Applicant or the Applicant's successors and/or assigns to fully adhere to all of the provisions of this approval and all representations made by or on behalf of the Applicant, directly or indirectly, in the hearing or in the application documents, may be deemed a material breach of this approval. Such a breach will constitute a violation of the development ordinance and the town may remedy such violation by withholding building permits, certificates of occupancy, continuing certificates of occupancy or any other permit, approval or certificate for the property for which is the subject of this approval. In addition, the Township may seek fines and other remedies.
31. This approval is conditioned upon payment of all applicable fees and escrows.

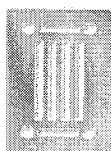
BE IT FURTHER RESOLVED, that certified copies of this resolution of memorialization be sent, via regular mail, to the Applicant within ten (10) days of the date of adoption, and a copy of this resolution shall be filed with the Administrative Officer or Clerk of the Township, Township Construction Official and Zoning Officer. A brief notice of this decision shall be published in the official newspaper of the Township.


RALPH CONDO, Chairman

CERTIFICATION

This resolution of memorialization, being adopted by action of the Board on this 1st day of February 2016, is a true copy of the action taken by the Board at its meeting held on July 6, 2015, as memorialized by the Board on September 21, 2015, and as Amended by action of the Board on this 1st day of February, 2016.


Edward Toussaint, Secretary



**GENOVA
BURNS**
ATTORNEYS-AT-LAW

Genova Burns LLC
494 Broad Street, Newark, NJ 07102
Tel: 973.533.0777 Fax: 973.533.1112
Web: www.genovaburns.com

William F. Harrison, Esq.
Partner
Member of NJ Bar
wharrison@genovaburns.com
Direct: 973-535-4430

February 10, 2016

APP # 19840389.009
Doc Type 150
FEB 12 2016
Scanned ✓

VIA ELECTRONIC AND REGULAR MAIL

Mr. Charles M. Horner, Director of Regulatory Programs
Pinelands Commission
P O Box 359
New Lisbon, NJ 08064

Re: Tuckahoe Turf Farms, Inc.
Application No. 1984-0389.009

Dear Mr. Horner:

As you are aware, this firm represents Tuckahoe Turf Farms, Inc. and MSSL in connection with the referenced matter. In response to the letter from the Pinelands Commission (the "Commission") scheduling a public hearing on the preliminary and final major site plan approval and waiver granted by the Waterford Township Planning Board for the proposed soccer activities, enclosed please find the Planning Board's amended resolution, which limits the number of soccer events and hours permitted annually consistent with the Settlement Agreement and the Hammonton Planning Board resolution which the Commission allowed to take effect. As this amended resolution resolves the outstanding issue to be reviewed at the public hearing scheduled for February 18, 2016, please cancel the hearing and issue a letter allowing the Waterford Planning Board's resolution to take effect immediately.

Thank you for your attention to this matter. Please contact me with any questions you may have.

Very truly yours,

GENOVA BURNS LLC

William F. Harrison
WILLIAM F. HARRISON

WFH/KEB:pp
Enclosure

c: Secretary, Waterford Township Planning Board (w/o enc.) (via email)
Richard Wells, Esq. (w/o enc.) (via email)
Allen Carter (w/o enc.) (via email)
David Betts (w/o enc.) (via email)
James Betts (w/o enc.) (via email)
Steve Shilling (w/o enc.) (via email)
Ashley Donlan (w/o enc.) (via email)



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

Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

March 10, 2016

Tuckahoe Turf Farm, Inc.
P.O. Box 148
801 N. Myrtle Street
Hammonton, NJ 08037

NOTIFICATION OF REVIEW OF LOCAL AGENCY APPROVAL(S)

DETERMINATION: CONSISTENT – APPROVAL(S) MAY TAKE EFFECT

APPLICATION #	1984-0389.009
Agency Approval(s) Reviewed	Amended Preliminary and Final Site Plan Approval (Resolution No.16-04 amending Resolution 15-12) issued by the Waterford Township Planning Board
Applicant	Tuckahoe Turf Farm, Inc.
Parcel	Block 5001, Lots 5 - 7 Block 5002, Lot 11 Block 5601, Lots 1 - 9 Block 5602, Lots 3 - 7 Town of Hammonton Block 7502, Lots 2 - 3 Block 7503, Lots 1, 3 - 5, & 10 - 12 Block 7504, Lots 1 - 4, & 10 - 12 Block 7505, Lot 1 Block 7506, Lot 1 Block 7602, Lots 10 - 13 Waterford Township Block 6602, Lot 7 Block 7101, Lots 5 & 15 Block 7104, Lots 1 & 3 Winslow Township Agricultural Production Area, AG Zoning District: 369.05 acres Agricultural Production Area, PA Zoning District: 31.6 acres Agricultural Production Area, AP Zoning District: 310 acres
Proposed Development	Establishment of a private commercial soccer use with no site improvements
Plans reviewed	Not Applicable

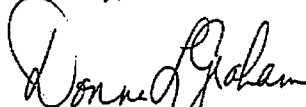


CONDITIONS FOR DEVELOPMENT:

1. The proposed soccer use shall not be located in wetlands.
2. This application is for the establishment of the proposed soccer use only. Any other future development of the parcel, including any proposed site improvements, requires application to the Commission and shall be governed by Waterford Township's land use ordinances and the Pinelands Comprehensive Management Plan.

If you have any questions, please contact Branwen Ellis of our staff.

Sincerely,



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

- c:
- Secretary, Town of Hammonton Planning Board (via email)
 - Town of Hammonton Construction Code Official (via email)
 - Town of Hammonton Environmental Commission (via email)
 - Secretary, Waterford Township Planning Board (via email)
 - Waterford Township Construction Code Official (via email)
 - Waterford Township Environmental Commission (via email)
 - Secretary, Winslow Township Planning Board (via email)
 - Winslow Township Construction Code Official (via email)
 - Winslow Township Environmental Commission (via email)
 - Atlantic County Department of Regional Planning and Development (via email)
 - Secretary, Camden County Planning Board (via email)
 - William F. Harrison, Esq.



Chris Christie
Governor

Kim Guadagno
Lt. Governor

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

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



Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

MEMORANDUM

To: Edward Toussaint, Zoning Officer, Waterford Township

From: Branwen Ellis
Environmental Specialist

Through: Charles M. Horner, P.P. *cmh*
Director of Regulatory Programs

Date: March 25, 2016

Subject: Pinelands Application # 1984-0389.009
Waterford Township Zoning Permit #16-010

We have reviewed Waterford Township's February 23, 2016 email notification of its intent to release a Zoning Permit for Pinelands Commission App. No. 1984-0389.009. For the reason specified below, Township issuance and release of the concerned Zoning Permit does not raise any issues with the Commission.

Waterford Township Planning Board Resolution No. 15-12, as amended by Resolution No. 16-04 provides, in part, that the use of the parcel subject of this application for certain soccer activities is conditioned upon the applicant limiting that use to eight soccer events per year, or the hourly equivalent, of soccer activities not to exceed 192 hours (Condition 20).

The Commission staff has reviewed the proposed "Schedule of Soccer Events at Tuckahoe Turf in 2016" submitted to Waterford Township by the applicant that will be subject of the above referenced Township Zoning Permit. Based upon our review, the total hours of soccer events and activities on the parcel are equal to approximately 1,111 hours. The total hours of soccer activities on the parcel exceeds the 192 hours provided for use of the parcel for soccer events and activities specified in Condition 20 of the concerned Township Resolutions.

On January 19, 2016, State legislation took effect that defines field sports, including but not limited to soccer and soccer tournaments that meet certain conditions and are conducted in a Pinelands Agricultural Production Area as a low intensity recreational use. This means that soccer activities meeting the conditions specified in the legislation are now a permitted land use in a Pinelands



Agricultural Production Area. The parcel upon which the soccer events and activities are proposed in this application is located in a Pinelands Agricultural Production Area.

As the proposed soccer events and activities in this application are now a permitted land use in a Pinelands Agricultural Production Area, the consistency of whether the soccer events and activities proposed on the "Schedule of Soccer Events at Tuckahoe Turf in 2016" meet Condition 20 of Township Resolutions No. 15-12 and No. 16-04 is now solely a municipal determination.

If the Township issues and releases the concerned Zoning Permit, please provide a copy of the permit to our office. Please do not hesitate to contact us with any questions.

Hammonton Deeds

May 1, 1995 Block 5601, Lots 1-9
Block 5602, Lots 3-7

June 15, 2004 Block 5002, Lot 11

May 11, 1999 Block 5001, Lots 5-7

0006702

Deed Prepared By:

Allen D. Cater

PINELANDS DEVELOPMENT CREDIT DEED RESTRICTION FOR AGRICULTURAL PRODUCTION AREA

THIS INDENTURE dated May 1, 1995

Made by: George W. Betts and Thomas H. Betts
PO Box 148
Hammonton, NJ 08037
hereinafter referred to as GRANTOR;

In favor of the State of New Jersey, Department of Environmental Protection, C/O CN 035, Trenton, New Jersey, 08625, hereinafter referred to as GRANTEE. This transfer is made for no monetary consideration.

WITNESSETH:

WHEREAS, GRANTOR owns in fee simple all that certain Land known as:

Block 5601, Lots 1,2,3,4,5,6,7,8 and 9
Block 5602, Lots 3,4,5,6 and 7

on the tax maps of the Municipality of the Town of Hammonton, County of Atlantic, and State of New Jersey and;

WHEREAS the Land is located in an area designated under the Pinelands Comprehensive Management Plan as eligible for the use right known as Pinelands Development Credits and;

WHEREAS the New Jersey Pinelands Commission has determined there are 10.75 transferable Pinelands Development Credits allowable to the Land,

NOW THEREFORE, for and in consideration of the right to sell, transfer and assign the Pinelands Development Credits allocable to the Land by means of a Pinelands Development Credit Certificate the GRANTOR hereby conveys, sells, transfers and assigns to GRANTEE, its successors and assigns, the following conservation restriction:

1. The Land, which is located in an Agricultural Production Area, may only be used in perpetuity for the following uses:

Agriculture; farm related housing in accord with N.J.A.C. 7:50-5.24(a)2; forestry; low intensity recreational uses in which the use of motorized vehicles is not permitted except for necessary transportation, access to water bodies is limited to no more than 15 feet of frontage per 1000 feet of frontage on the water body, clearing of vegetation does not exceed five percent of the parcel, and no more than one percent of the parcel will be covered with impermeable surfaces; agricultural sales establishments, excluding supermarkets and restaurants and convenience stores, where the principal goods or products available for sale were produced in the Pinelands and the sales area does not exceed 5,000 square feet; agricultural products processing facilities; airports and heliports accessory to agricultural uses and which are used exclusively for the

Consideration : \$ 0.00 Exempt Code: E

County	State	N.P.E.R.F	Total
0.00	0.00	0.00	0.00
laverne	Date: 02/28/1996		



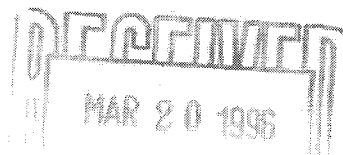
storage, fueling, loading and operation of aircraft as part of an ongoing agricultural operation; fish and wildlife management; and agricultural employee housing as an accessory use.

2. Nothing herein contained shall be construed to convey to the public any right of access to or use of the Land, and GRANTOR, for itself, its successors and assigns shall, subject to Paragraph 3 hereof, retain the exclusive right of access to and use of the Land.

3. This conservation restriction shall be fully enforceable by the GRANTEE as well as by the New Jersey Pinelands Commission, which is a specific beneficiary of the conservation restriction, in an action a law or equity or both. Moreover, GRANTEE and the New Jersey Pinelands Commission and their respective agents shall be permitted access to, and to enter upon, the Land at all reasonable times but solely for the purpose of inspection in order to enforce and assure compliance with the terms and conditions herein contained. GRANTEE and the New Jersey Pinelands Commission agree to give GRANTOR 24 hours advance notice of their intention to enter the Land, and further, to limit such times of entry to the daylight hours on regular business days of the week.

4. It is understood that this instrument imposes not obligation on the GRANTOR and no restrictions on the development of the Land or the making of construction of improvements thereon in furtherance of the uses of the Land specifically reserved and set forth in Paragraph 1 hereof. Nothing herein contained shall be construed to interfere with the right of the GRANTOR, its successors, assigns, licensees and any party claiming under them to utilize the Land in such manner as they may deem desirable within the scope of the uses herein reserved to GRANTOR in Paragraph 1 hereof.

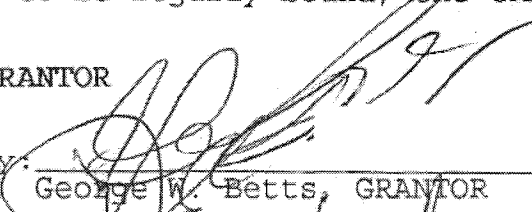
5. This instrument shall be binding upon the GRANTOR, its successors and assigns.



IN WITNESS WHEREOF, and intending to be legally bound, the GRANTOR has executed this indenture.

WITNESS

GRANTOR

By: 
George W. Betts, GRANTOR

By: _____
By: 
Thomas H. Betts, GRANTOR

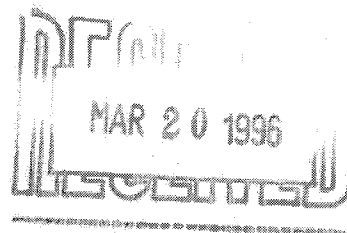
STATE OF NEW JERSEY, COUNTY OF ATLANTIC SS.:
I CERTIFY that on May 1, 1995

George W. Betts and Thomas H. Betts

personally came before me and acknowledged under oath, to my satisfaction that each person:

- (a) is named in and personally signed this document; and
- (b) signed, sealed and delivered this document at his act and deed; and
- (c) this transfer is made for no monetary consideration.


Ellen Rose Ennis, Notary Public
ELLEN ROSE ENNIS
NOTARY PUBLIC of NEW JERSEY
My Commission Expires April 6, 1996



RECORDED
ATLANTIC COUNTY

1996 FEB 28 PM 2:11

Lori Mooney
COUNTY CLERK

DEED

Dated: 2 / 20 , 1996

Record and return to:

George W. Betts
and
Thomas H. Betts

Grantor.

TO

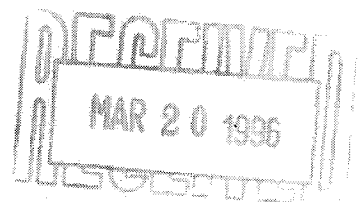
State of New Jersey Department of
Environmental Protection

Grantee.

Mr. John T. Ross
State of New Jersey
PINELANDS DEVELOPMENT CREDIT BANK
CN 035
Trenton, New Jersey 08625

In compliance with statute I have presented
an abstract of the within to all assessors of
the taxing district therein mentioned.

LORI MOONEY, Clerk



Prepared by: Allen D. Carter

Allen D. Carter

JUL 21 1999

RECEIVED

PINELANDS DEVELOPMENT CREDIT DEED RESTRICTION
FOR AGRICULTURAL PRODUCTION AREA

THIS INDENTURE dated MAY 11, 1999

Made by: George W. Betts and Thomas H. Betts
PO Box 366
Tuckahoe, NJ 08250
hereinafter referred to as GRANTOR;

In favor of the State of New Jersey, Department of Environmental Protection, C/O CN 035, Trenton, New Jersey, 08625, hereinafter referred to as GRANTEE. This transfer is made for no monetary consideration. ✓

WITNESSETH:

WHEREAS, GRANTOR owns in fee simple all that certain Land known as:

Block 297, Lot 10
Block 298, Lots 6, 7 and 8

on the tax maps of the Municipality of the Township of Waterford, County of Camden, and State of New Jersey and;

and
Block 5001, Lots 5, 6 and 7

on the tax maps of the Municipality of the Town of Hammonton, County of Atlantic, and the State of New Jersey and;

WHEREAS the Land is located in an area designated under the Pinelands Comprehensive Management Plan as eligible for the use right known as Pinelands Development Credits and;

WHEREAS the New Jersey Pinelands Commission has determined there are 6.5 transferable Pinelands Development Credits allowable to the Land,

NOW THEREFORE, for and in consideration of the right to sell, transfer and assign the Pinelands Development Credits allocable to the Land by means of a Pinelands Development Credit Certificate the GRANTOR hereby conveys, sells, transfers and assigns to GRANTEE, its successors and assigns, the following conservation restriction:

1. The Land, which is located in an Agricultural Production Area, may only be used in perpetuity for the following uses:

Agriculture; farm related housing in accord with N.J.A.C. 7:50-5.24(a)2; forestry; low intensity recreational uses in which the use of motorized vehicles is not permitted except for necessary transportation, access to water bodies is limited to no more than 15 feet of frontage per 1000 feet of frontage on the water body, clearing of vegetation does not exceed five percent of the parcel, and no more than one percent of the parcel will be covered with impermeable surfaces; agricultural

DB5025-0800

349a

sales establishments, excluding supermarkets and restaurants and convenience stores, where the principal goods or products available for sale were produced in the Pinelands and the sales area does not exceed 5,000 square feet; agricultural products processing facilities; airports and heliports accessory to agricultural uses and which are used exclusively for the storage, fueling, loading and operation of aircraft as part of an ongoing agricultural operation; fish and wildlife management; and agricultural employee housing as an accessory use.

2. Nothing herein contained shall be construed to convey to the public any right of access to or use of the Land, and GRANTOR, for itself, its successors and assigns shall, subject to Paragraph 3 hereof, retain the exclusive right of access to and use of the Land.

3. This conservation restriction shall be fully enforceable by the GRANTEE as well as by the New Jersey Pinelands Commission, which is a specific beneficiary of the conservation restriction, in an action a law or equity or both. Moreover, GRANTEE and the New Jersey Pinelands Commission and their respective agents shall be permitted access to, and to enter upon, the Land at all reasonable times but solely for the purpose of inspection in order to enforce and assure compliance with the terms and conditions herein contained. GRANTEE and the New Jersey Pinelands Commission agree to give GRANTOR 24 hours advance notice of their intention to enter the Land, and further, to limit such times of entry to the daylight hours on regular business days of the week.

4. It is understood that this instrument imposes not obligation on the GRANTOR and no restrictions on the development of the Land or the making of construction of improvements thereon in furtherance of the uses of the Land specifically reserved and set forth in Paragraph 1 hereof. Nothing herein contained shall be construed to interfere with the right of the GRANTOR, its successors, assigns, licensees and any party claiming under them to utilize the Land in such manner as they may deem desirable within the scope of the uses herein reserved to GRANTOR in Paragraph 1 hereof.

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

DB5025-0801

IN WITNESS WHEREOF, and intending to be legally bound, the GRANTOR has executed this indenture.

WITNESS

GRANTOR

By: By: 

George W. Betts, GRANTOR

By: 

Thomas H. Betts, GRANTOR

STATE OF NEW JERSEY, COUNTY OF ATLANTIC

SS.:

I CERTIFY that on

, 1999

George W. Betts and Thomas H. Betts

personally came before me and acknowledged under oath, to my satisfaction that each person:

- (a) is named in and personally signed this document; and
- (b) signed, sealed and delivered this document at his act and deed; and
- (c) this transfer is made for no monetary consideration.


Ellen Rose Ennis, Notary Public

ELLEN R. NARDI
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires April 6, 2003

085025-0802

351a

DEED

Dated: June 1, 1999

George W. Betts & Thomas H. Betts
P. O. Box 366
Tuckahoe, NJ 08250

Grantor

TO

State of New Jersey
Department of Environmental Protection

Grantee

Record and Return To:

John T. Ross
Executive Director
PINELANDS DEVELOPMENT CREDIT BANK
CN 035
Trenton, NJ 08625

PA
2100
300
0400

359

RECORDED - CAMDEN COUNTY

99 JUN 25 AM 11:08

James Beach

1206718

DB5025-0803

DEED OF EASEMENT



STATE OF NEW JERSEY
AGRICULTURE RETENTION AND DEVELOPMENT

Instr # 4064731
Recorded/Filed CL
06/29/2004 13:44

MICHAEL J. GARVIN
Atlantic County Clerk
Bk 7770 Pg 1 of 10

This Deed is made JUNE 15, 2004

BETWEEN Betts and Betts, LLC, a New Jersey Limited Liability Company, whose address is P.O. Box 366, Tuckahoe, New Jersey, 08250, and is referred to as the Grantor;

AND the State Agriculture Development Committee, whose address is, P.O. Box 330, Trenton, New Jersey 08625 and is referred to as the Grantee or Committee.

The Grantor, Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns grants and conveys to the Grantee a development easement, **all of the Pinelands Development Credit(s)** and nonagricultural development rights on the Premises, located in the Town of Hammonton, County of Atlantic, described in the attached Schedule A, incorporated by reference in this Deed of Easement, for and in consideration of the sum of Eighty Five Thousand Six Hundred Ninety Five and 15/100 Dollars (\$85,695.15). Any reference in this Deed of Easement to "Premises" refers to the property described in Schedule A.

The tax map reference for the Premises is:

Town of Hammonton

Block 5002, Lot 11

CHARGE, RECORD & RETURN
GARDEN STATE ABSTRACT CO., INC.
112J CENTRE BLVD.
NORTH CROSSINGS
MARLTON, NJ 08053

WHEREAS, the legislature of the State of New Jersey has declared that the development of agriculture and the retention of farmlands are important to the present and future economy of the State and the welfare of the citizens of the State; and

WHEREAS, the Grantor is the sole and exclusive owner of the Premises; and

WHEREAS, the Grantee believes that the retention and preservation of agricultural lands is beneficial to the public health, safety and welfare of the citizens of the State of New Jersey; and

WHEREAS, the Premises are located in an Agricultural Production Area in the Pinelands Area, which is designated under the Pinelands Comprehensive Management Plan as eligible for Pinelands Development Credits; and

WHEREAS, the Pinelands Commission has certain rights and obligations in this Deed of Easement pursuant to N.J.S.A. 13:8A-1 et seq. and N.J.A.C. 7:50.

NOW THEREFORE, THE GRANTOR, GRANTOR'S HEIRS, EXECUTORS, ADMINISTRATORS, PERSONAL OR LEGAL REPRESENTATIVES, SUCCESSORS AND ASSIGNS PROMISES that the Premises will be owned, used and conveyed subject to, and not in violation of the following restrictions:

1. Any development of the Premises for nonagricultural purposes is expressly prohibited.
2. The Premises shall be retained for agricultural use and production in compliance with N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32, and all other rules promulgated by the State Agriculture Development Committee,

Prepared by:

William A. Schnurr
Deputy Attorney General

Record and Return to:

TIB JB

Easement. Agricultural use shall mean the use of the Premises for common farmsite activities including, but not limited to: production, harvesting, storage, grading, packaging, processing and the wholesale and retail marketing of crops, plants, animals and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease and pest control, disposal of farm waste, irrigation, drainage and water management and grazing.

- i. **Agricultural use shall also include fish and wildlife management, forestry and beekeeping.**
- ii. **Retail market areas shall not exceed 5000 square feet.**
- iii. **Any disposal of farm waste regulated by the Pinelands Commission shall be in compliance with Paragraph 6 of this Deed of Easement.**

3. Grantor certifies that at the time of the application to sell the development easement to the Grantee and at the time of the execution of this Deed of Easement the nonagricultural uses indicated on attached Schedule (B) existed on the Premises. All other nonagricultural uses are prohibited except as expressly provided in this Deed of Easement.

4. All nonagricultural uses, if any, existing on the Premises at the time of the landowner's application to the Grantee as set forth in Section 3 above may be continued and any structure may be restored or repaired in the event of partial destruction thereof, subject to the following:

- i. No new structures or the expansion of pre-existing structures for nonagricultural use are permitted;
- ii. No change in the pre-existing nonagricultural use is permitted;
- iii. No expansion of the pre-existing nonagricultural use is permitted; and
- iv. In the event that the Grantor abandons the pre-existing nonagricultural use, the right of the Grantor to continue the use is extinguished.

5. No sand, gravel, loam, rock, or other minerals shall be deposited on or removed from the Premises excepting only those materials required for the agricultural purpose for which the land is being used. Any such materials removed from the Premises for the agricultural purpose for which the land is being used shall be done in compliance with the Pinelands Comprehensive Management Plan (PCMP), N.J.A.C. 7:50 and in some circumstances, approval by the Pinelands Commission may be required pursuant to the PCMP.

6. No dumping or placing of trash, waste material, **including sewage sludge or sludge products derived from sewage sludge**, shall be permitted on the Premises unless expressly recommended by the Committee as an agricultural management practice **and unless approved by the Pinelands Commission pursuant to its regulations.**

- i. **Sewage sludge means the solid residue and associated liquid resulting from the physical, chemical or biological treatment of wastewater in a domestic treatment works.**

7. No activity shall be permitted on the Premises which would be detrimental to drainage, flood control, water conservation, erosion control, or soil conservation, nor shall any other activity be permitted which would be detrimental to the continued agricultural use of the Premises.

T.B
JB

- i. Grantor shall obtain within one year of the date of this Deed of Easement, a farm conservation plan approved by the local soil conservation district.
- ii. Grantor's long term objectives shall conform with the provisions of the farm conservation plan.

8. Grantee and its agents shall be permitted access to, and to enter upon, the Premises at all reasonable times, but solely for the purpose of inspection in order to enforce and assure compliance with the terms and conditions of this Deed of Easement. Grantee agrees to give Grantor at least 24 hours advance notice of its intention to enter the Premises, and further, to limit such times of entry to the daylight hours on regular business days of the week.

9. Grantor may use the Premises to derive income from certain recreational activities such as hunting, fishing, cross country skiing and ecological tours, only if such activities do not interfere with the actual use of the land for agricultural production and that the activities only utilize the Premises in its existing condition. Other recreational activities from which income is derived and which alter the Premises, such as golf courses and athletic fields, are prohibited.

10. Nothing shall be construed to convey a right to the public of access to or use of the Premises except as stated in this Deed of Easement or as otherwise provided by law.

11. Nothing shall impose upon the Grantor any duty to maintain the Premises in any particular state, or condition, except as provided for in this Deed of Easement.

12. Nothing in this Deed of Easement shall be deemed to restrict the right of Grantor to maintain all roads and trails existing upon the Premises as of the date of this Deed of Easement. Grantor shall be permitted to construct, improve or reconstruct any roadway necessary to service crops, bogs, agricultural buildings, or reservoirs as may be necessary.

13. At the time of this conveyance, Grantor has zero (0) existing single family residential buildings on the Premises and zero (0) residential buildings used for agricultural labor purposes. Grantor may use, maintain, and improve existing buildings on the Premises for agricultural, residential and recreational uses subject to the following conditions:

- i. Improvements to agricultural buildings shall be consistent with agricultural uses;
- ii. Improvements to residential buildings shall be consistent with agricultural or single and extended family residential uses. Improvements to residential buildings for the purpose of housing agricultural labor are permitted only if the housed agricultural labor is employed on the Premises;
- iii. Improvements to recreational buildings shall be consistent with agricultural or recreational uses. No additions to such buildings shall be constructed without the approval of the Pinelands Commission pursuant to the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50; and
- iv. **Grantor shall not demolish any structures on the Premises that are greater than 50 years old without the approval of the Pinelands Commission pursuant to the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50.**

No historic building or structure located on the Premises may be demolished by the Grantor or any other person without the prior

T.B.
2/13

approval of the State Agriculture Development Committee. Historic building or structure is a building or structure that, as of the date of this Deed of Easement, has been included in the New Jersey Register of Historic Places established pursuant to N.J.S.A. 13:1B-15.128 et. seq.

14. Grantor may construct any new buildings for agricultural purposes. The construction of any new buildings for residential use, regardless of its purpose, shall be prohibited except as follows:

- i. To provide structures for **seasonal** housing of agricultural labor employed on the Premises but only with the approval of the Committee **and the Pinelands Commission**. If the Committee **and the Pinelands Commission** grant approval for the construction of agricultural labor housing, such housing shall not be used as a residence for Grantor, Grantor's spouse, Grantor's parents, Grantor's lineal descendants, adopted or natural, Grantor's spouse's parents, Grantor's spouse's lineal descendants, adopted or natural;
 - a. **Seasonal housing of agricultural labor means residential dwellings, for the seasonal use of employees of an agricultural or horticultural use, which because of their character or location are not to be used for permanent housekeeping units and which are otherwise accessory to a principal use of the parcel for agriculture.**
- ii. To provide structures for year-round housing of agricultural labor employed on the Premises but only with the approval of the Committee and the Pinelands Commission and only if the Grantor has retained the appropriate number of Pinelands Development Credits, as identified in Paragraph 24, for the construction of such housing at the time of the conveyance of this Deed of Easement. If the Committee and the Pinelands Commission grant approval for the construction of agricultural labor housing, such housing shall not be used as a residence for Grantor, Grantor's spouse, Grantor's parents, Grantor's lineal descendants, adopted or natural, Grantor's spouse's parents, Grantor's spouse's lineal descendants, adopted or natural;
- iii. To construct a single family residential building anywhere on the Premises in order to replace any single family residential building in existence at the time of conveyance of this Deed of Easement but only with the approval of the Committee **and the Pinelands Commission** pursuant to the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50.
- iv. No residual dwelling site opportunities have been allocated pursuant to the provisions of N.J.A.C. 2:76-6.17. No residential buildings are permitted on the Premises except as provided in this Deed of Easement.

For the purpose of this Deed of Easement:

"Residual dwelling site opportunity" means the potential to construct a residential unit and other appurtenant structures on the Premises in accordance with N.J.A.C. 2:76-6.17.

15. The land and its buildings which are affected may be sold collectively or individually for continued agricultural use as defined in Section 2 of this Deed of Easement. However, no division of the land shall be permitted without the approval in writing of the Grantee **and the Pinelands Commission**. In order for the Grantor to receive approval, the Grantee **and the Pinelands Commission** must find that the division shall be for an agricultural purpose and result in

T.B
LB

agriculturally viable parcels. Division means any division of the Premises, for any purpose, subsequent to the effective date of this Deed of Easement.

- i. For purposes of this Deed of Easement, "Agriculturally viable parcel" means that each parcel is capable of sustaining a variety of agricultural operations that yield a reasonable economic return under normal conditions, solely from each parcel's agricultural output.

16. In the event of any violation of the terms and conditions of this Deed of Easement, Grantee or the **Pinelands Commission** may institute, in the name of the State of New Jersey, any proceedings to enforce these terms and conditions including the institution of suit to enjoin such violations and to require restoration of the Premises to its prior condition. The Committee and the Pinelands Commission do not waive or forfeit the right to take any other legal action necessary to insure compliance with the terms, conditions, and purpose of this Deed of Easement by a prior failure to act.

17. This Deed of Easement imposes no obligation or restriction on the Grantor's use of the Premises except as specifically set forth in this Deed of Easement.

18. This Deed of Easement is binding upon the Grantor, the Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns and the Grantee; it shall be construed as a restriction running with the land and shall be binding upon any person to whom title to the Premises is transferred as well as upon the heirs, executors, administrators, personal or legal representatives, successors, and assigns of all such persons.

19. Throughout this Deed of Easement, the singular shall include the plural, and the masculine shall include the feminine, unless the text indicates otherwise.

20. The word 'Grantor' shall mean any and all persons who lawfully succeed to the rights and responsibilities of the Grantor, including but not limited to the Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns.

21. Wherever in this Deed of Easement any party shall be designated or referred to by name or general reference, such designation shall have the same effect as if the words, 'heirs, executors, administrators, personal or legal representatives, successors and assigns' have been inserted after each and every designation.

22. Grantor, Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns further transfers and conveys to Grantee all of the nonagricultural development rights and development credits appurtenant to the lands and Premises described herein, including the 1.25 Pinelands Development Credit that has been allocated to the Premises. Nothing contained herein shall preclude the conveyance or retention of said rights by the Grantee as may be permitted by the laws of the State of New Jersey in the future.

23. That portion of the net proceeds, representing the value of the land only (and not the value of the improvements), of a condemnation award or other disposition of the Premises following termination of this Deed of Easement, as permitted pursuant to N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32, shall be distributed among the Grantor and the Grantee in shares in proportion to the fair market value of their interests in the Premises on the date of execution of this Deed of Easement. For this purpose, the Grantee's allocable share of the proceeds shall be the net proceeds multiplied by a fraction, **the numerator of which is the value of the development easement as determined by the Committee pursuant to N.J.A.C. 2:76-19 at the time of the initial acquisition** and the denominator of which is the full fair market value of the unrestricted

T.B
JLB

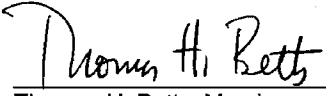
Premises as certified by the Committee at the time of the initial acquisition, which is identified as (3,753/12,000).

24. Grantor has not retained any Pinelands Development Credits for the right to construct year-round agricultural labor housing pursuant to Paragraph 14(ii) or for the purpose of exercising a residual dwelling site opportunity, if any have been allocated, pursuant to Paragraph 14(iv).

25. Grantor agrees that impervious coverage of the Premises shall not exceed 10% of the total acreage of the Premises. Impervious coverage shall include, but not be limited to, houses, barns, stables, sheds, silos, outhouses, cabanas and other buildings, swimming pools, docks or decks. Temporary greenhouses and other temporary coverings that do not have impervious floors shall be excluded from the computation of the impervious coverage area.

The Grantor signs this Deed of Easement as of the date of the top of the first page. If the Grantor is a corporation, this Deed of Easement is signed and attested to by its proper corporate officers, and its corporate seal, if any, is affixed.


George W. Betts, Member


Thomas H. Betts, Member

LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF NEW JERSEY, COUNTY OF ~~MERCER~~ ^{Camden} SS.:

I CERTIFY that on June 15, 2004, George W. Betts and Thomas H. Betts personally appeared before me, who, being by me duly sworn on their oaths, depose and make proof to my satisfaction, that they are the Voting Members of Betts and Betts, LLC named in the within Instrument; that the execution, as well as the making of this Instrument, has been duly authorized by Betts and Betts LLC, that the conveyance of the non-agricultural development rights and credits in the Premises has been authorized by an affirmative vote of the Voting Members representing more than 50% of the voting membership interests of the L.L.C. in accordance with the Operating Agreement; that the said Instrument is signed and delivered by said George W. Betts and Thomas H. Betts as and for the voluntary act and deed of said Betts and Betts L.L.C. in my presence; and that the full and actual consideration paid to purchase a development easement as evidenced by the DEED OF EASEMENT is \$85,695.15 and the mutual obligations and benefits contained herein.

Sworn to and subscribed before me, the date aforesaid

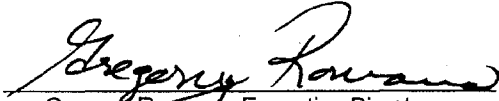

Print name and title below signature

Roberta A. Locke
Notary Public of
New Jersey
Commission Expires
October 27, 2008

T.B.
JLB

(STATE AGRICULTURE DEVELOPMENT COMMITTEE)

The State Agriculture Development Committee has approved the purchase of the development easement on the Premises pursuant to the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32 and the Garden State Preservation Trust Act, N.J.S.A. 13:8C-1 et seq., P.L. 1999, c.152 and hereby accepts and approves the foregoing restrictions, benefits and covenants.



Gregory Romano, Executive Director
State Agriculture Development Committee

6-14-04

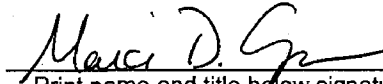
Date

STATE OF NEW JERSEY, COUNTY OF Mercer SS.:

I CERTIFY that on June 14, 20 04.

Gregory Romano personally came before me and acknowledged under oath, to my satisfaction, that this person:

- (a) is named in and personally signed this DEED OF EASEMENT,
- (b) signed, sealed and delivered this DEED OF EASEMENT as the Committee's act and deed, and
- (c) is the Executive Director of the State Agriculture Development Committee.



Print name and title below signature

Marci D. Green
Attorney at Law
State of New Jersey

S:\Pinelands 2002B\Atlantic\Betts & Betts\Deed.doc

T.B.
LB

SCHEDULE A



PERKS REUTTER ASSOCIATES

CONSULTING ENGINEERS

Description of Property

Block 5002, Lot 11
Hammonton Town
Atlantic County, New Jersey

ALL THAT CERTAIN tract or parcel of land situate in the Township of Hammonton Town, County of Atlantic and State of New Jersey, being more particularly described as follows:

BEGINNING at an iron pin & cap marking the intersection of centerlines of Myrtle Avenue (50 feet wide) and Oak road (50 feet wide), said beginning point having New Jersey Plane Coordinate System, NAD 1983, (NJPCS) values of N309321.3607 Feet and E411521.5466 Feet and from said Beginning Point and in said bearing system running thence, (1) S.49°17'24"E., a distance of 1,320.00 feet to an iron pin & cap; thence, (2) S.40°42'36"W., a distance of 256.70 feet to an iron pin & cap; thence, (3) S.84°11'39"W., a distance of 1,010.67 feet to an iron pin & cap; thence, (4) N.49°17'24"W., a distance of 624.50 feet to an iron pin & cap in the northwest sideline of Oak Road ; thence, (5) N.40°42'36"E., a distance of 990.00 feet to the POINT OF BEGINNING.

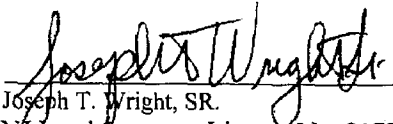
SAID ABOVE DESCRIBED tract or parcel of land containing within said bounds 24.1460 acres more or less.

The above description was written pursuant to a certain map entitled "Survey of Property for the State of New Jersey, State Agriculture Development Committee", designated as Block 5002, Lot 11, on the Official Tax Assessment Map of the Town of Hammonton, County of Atlantic, State of New Jersey, said survey was prepared by Perks Reutter Associates, Fairway Corporate Center, 4300 Haddonfield Road, Suite 115, Pennsauken, NJ 08109, dated December 08, 2003 and is marked as file No. SADCS192.

T.B.

Fairway Corporate Center, 4300 Haddonfield Road, Suite 115, Pennsauken, NJ 08109, 856-488-6200, FAX 856-488-4302
1520 Locust Street, 4th Floor, Philadelphia, Pennsylvania, 19102, 215-732-9970, FAX 215-732-6940
146 Montgomery Avenue, Bala Cynwyd, PA 19004, 610-667-7080, FAX 610-667-7490
e-mail: ENGINEER@PERKSREUTTER.COM

PERKS REUTTER ASSOCIATES


Joseph T. Wright, SR.
No. Land Surveyor License No. 21775

May 26, 2004
LegalDescription.doc

T.B
J.B

SCHEDULE B

Grantor certifies that at the time of the application to sell the development easement to the Grantee no nonagricultural uses existed. Grantor further certifies that at the time of the execution of this Deed of Easement no nonagricultural uses exist.

T.B.
RB

Waterford Deeds

March 30, 1994

Block 297, Lot 11 Block 7503, Lot 3
Block 298, Lot 1 Block 7504, Lot 1
Block 298, Lot 2 Block 7504, Lot 2
Block 298, Lot 3 Block 7504, Lot 3
Block 298, Lot 4 Block 7502, Lot 4
Block 299, Lot 4 Block 7602, Lot 10
Block 299, Lot 3 Block 7602, Lot 11
Block 299, Lot 2 Block 7602, Lot 12
Block 299, Lot 1 Block 7602, Lot 13

May 11, 1999

Block 297, Lot 10 Block 7503, Lot 4

September 30, 2003

Block 297, Lot 1 Block 7503, Lot 11
Block 297, Lot 3 Block 7503, Lot 10

February 6, 2007

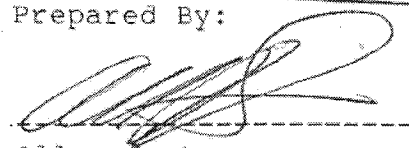
Block 297, Lot 9 Block 7503, Lot 5

Block and Lots, PDC restricted with no deeds included

Block 297, Lot 1	Block 7503, Lot 1
Block 297, Lot 7	Block 7503, Lot 12
Block 298, Lot 8	Block 7504, Lot 2
Block 298, Lot 4	Block 7504, Lot 4
Block 298	Block 7504, Lot 10
Block 298	Block 7504, Lot 12
Block 293, Lot 1	Block 7505, Lot 1
Block 292, Lot 1	Block 7506, Lot 1

Consideration \$	0.00
Exempt Code = E	06/13/1994
County	.00
State	.00
N.P.N.R.F.	.00
AL TOTAL	.00

Prepared By:

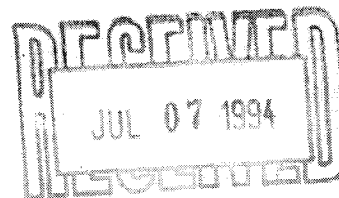


Allen Carter

PINELANDS DEVELOPMENT CREDIT DEED RESTRICTION
FOR AGRICULTURAL PRODUCTION AREA

THIS INDENTURE dated *March 30*, 1994

Made by: George W. Betts and Thomas H. Betts
PO Box 148
Hammononton, NJ 08037
hereinafter referred to as GRANTOR;



In favor of the State of New Jersey, Department of Environmental Protection, C/O CN 035, Trenton, New Jersey, 08625, hereinafter referred to as GRANTEE. This transfer is made for no monetary consideration.

WITNESSETH:

WHEREAS, GRANTOR owns in fee simple all that certain Land known as:

Block 297, Lot 11
Block 298, Lots 1, 2, 3 and 4
Block 299, Lots 1, 2, 3 and 4

on the tax maps of the Municipality of Waterford Township, County of Camden, and State of New Jersey and;

WHEREAS the Land is located in an area designated under the Pinelands Comprehensive Management Plan as eligible for the use right known as Pinelands Development Credits and;

WHEREAS the New Jersey Pinelands Commission has determined there are 9.25 transferable Pinelands Development Credits allowable to the Land,

NOW THEREFORE, for and in consideration of the right to sell, transfer and assign the Pinelands Development Credits allocable to the Land by means of a Pinelands Development Credit Certificate the GRANTOR hereby conveys, sells, transfers and assigns to GRANTEE, its successors and assigns, the following conservation restriction:

1. The Land, which is located in an Agricultural Production Area, may only be used in perpetuity for the following uses:

Agriculture; farm related housing in accord with N.J.A.C. 7:50-5.24(a)2; forestry; low intensity recreational uses in which the use of motorized vehicles is not permitted except for necessary transportation, access to water bodies is limited to no more than 15 feet of frontage per 1000 feet of frontage on the water body, clearing of vegetation does not exceed five percent of the parcel, and no more than one percent of the parcel will be covered with impermeable surfaces; agricultural sales establishments, excluding supermarkets and restaurants and convenience stores, where the principal goods or products available for sale were produced in the Pinelands and the sales area does not exceed 5,000 square feet; agricultural products

storage, fueling, loading and operation of aircraft as part of an ongoing agricultural operation; fish and wildlife management; and agricultural employee housing as an accessory use.

Notwithstanding the above, in addition to no (0) homes in existence on the property, not more than one (1) residential lot may be subdivided from the property and each such lot shall contain one (1) acre of land

In consideration of the residential development right retained in this section, the allocation of Pinelands Development Credits has been reduced.

2. Nothing herein contained shall be construed to convey to the public any right of access to or use of the Land, and GRANTOR, for itself, its successors and assigns shall, subject to Paragraph 3 hereof, retain the exclusive right of access to and use of the Land.

3. This conservation restriction shall be fully enforceable by the GRANTEE as well as by the New Jersey Pinelands Commission, which is a specific beneficiary of the conservation restriction, in an action a law or equity or both. Moreover, GRANTEE and the New Jersey Pinelands Commission and their respective agents shall be permitted access to, and to enter upon, the Land at all reasonable times but solely for the purpose of inspection in order to enforce and assure compliance with the terms and conditions herein contained. GRANTEE and the New Jersey Pinelands Commission agree to give GRANTOR 24 hours advance notice of their intention to enter the Land, and further, to limit such times of entry to the daylight hours on regular business days of the week.

4. It is understood that this instrument imposes not obligation on the GRANTOR and no restrictions on the development of the Land or the making of construction of improvements thereon in furtherance of the uses of the Land specifically reserved and set forth in Paragraph 1 hereof. Nothing herein contained shall be construed to interfere with the right of the GRANTOR, its successors, assigns, licensees and any party claiming under them to utilize the Land in such manner as they may deem desirable within the scope of the uses herein reserved to GRANTOR in Paragraph 1 hereof.

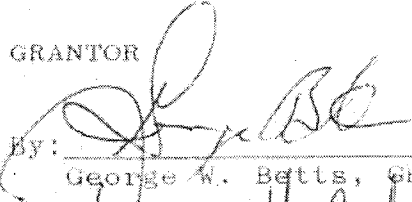
5. This instrument shall be binding upon the GRANTOR, its successors and assigns.

RECEIVED
JUL 07 1994
365a

IN WITNESS WHEREOF, and intending to be legally bound, the GRANTOR has executed this indenture.

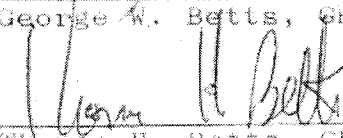
WITNESS

GRANTOR

By: 

George W. Betts, GRANTOR

By: 

By: 

Thomas H. Betts, GRANTOR

STATE OF NEW JERSEY, COUNTY OF ATLANTIC

SS.:

I CERTIFY that on March 30, 1994

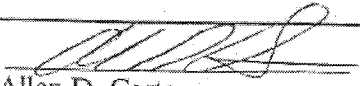
George W. Betts and Thomas H. Betts

personally came before me and acknowledged under oath, to my satisfaction that each person:

- (a) is named in and personally signed this document; and
- (b) signed, sealed and delivered this document at his act and deed; and
- (c) this transfer is made for no monetary consideration.


Ellen Rose Ennis, Notary Public

ELLEN ROSE ENNIS
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires April 6, 1998

Prepared by: 

Allen D. Carter

JUL 21 1999

RECEIVED

PINELANDS DEVELOPMENT CREDIT DEED RESTRICTION
FOR AGRICULTURAL PRODUCTION AREA

THIS INDENTURE dated *MAY 11*, 1999

Made by: George W. Betts and Thomas H. Betts
PO Box 366
Tuckahoe, NJ 08250
hereinafter referred to as GRANTOR;

In favor of the State of New Jersey, Department of Environmental Protection, C/O CN 035, Trenton, New Jersey, 08625, hereinafter referred to as GRANTEE. This transfer is made for no monetary consideration. ✓

WITNESSETH:

WHEREAS, GRANTOR owns in fee simple all that certain Land known as:

Block 297, Lot 10
Block 298, Lots 6, 7 and 8

on the tax maps of the Municipality of the Township of Waterford,
County of Camden, and State of New Jersey and;

and
Block 5001, Lots 5, 6 and 7

on the tax maps of the Municipality of the Town of Hammonton, County of Atlantic, and the State of New Jersey and;

WHEREAS the Land is located in an area designated under the Pinelands Comprehensive Management Plan as eligible for the use right known as Pinelands Development Credits and;

WHEREAS the New Jersey Pinelands Commission has determined there are 6.5 transferable Pinelands Development Credits allowable to the Land,

NOW THEREFORE, for and in consideration of the right to sell, transfer and assign the Pinelands Development Credits allocable to the Land by means of a Pinelands Development Credit Certificate the GRANTOR hereby conveys, sells, transfers and assigns to GRANTEE, its successors and assigns, the following conservation restriction:

1. The Land, which is located in an Agricultural Production Area, may only be used in perpetuity for the following uses:

Agriculture; farm related housing in accord with N.J.A.C. 7:50-5.24(a)2; forestry; low intensity recreational uses in which the use of motorized vehicles is not permitted except for necessary transportation, access to water bodies is limited to no more than 15 feet of frontage per 1000 feet of frontage on the water body, clearing of vegetation does not exceed five percent of the parcel, and no more than one percent of the parcel will be covered with impermeable surfaces; agricultural

DB5025-0800

367a

sales establishments, excluding supermarkets and restaurants and convenience stores, where the principal goods or products available for sale were produced in the Pinelands and the sales area does not exceed 5,000 square feet; agricultural products processing facilities; airports and heliports accessory to agricultural uses and which are used exclusively for the storage, fueling, loading and operation of aircraft as part of an ongoing agricultural operation; fish and wildlife management; and agricultural employee housing as an accessory use.

2. Nothing herein contained shall be construed to convey to the public any right of access to or use of the Land, and GRANTOR, for itself, its successors and assigns shall, subject to Paragraph 3 hereof, retain the exclusive right of access to and use of the Land.

3. This conservation restriction shall be fully enforceable by the GRANTEE as well as by the New Jersey Pinelands Commission, which is a specific beneficiary of the conservation restriction, in an action a law or equity or both. Moreover, GRANTEE and the New Jersey Pinelands Commission and their respective agents shall be permitted access to, and to enter upon, the Land at all reasonable times but solely for the purpose of inspection in order to enforce and assure compliance with the terms and conditions herein contained. GRANTEE and the New Jersey Pinelands Commission agree to give GRANTOR 24 hours advance notice of their intention to enter the Land, and further, to limit such times of entry to the daylight hours on regular business days of the week.

4. It is understood that this instrument imposes not obligation on the GRANTOR and no restrictions on the development of the Land or the making of construction of improvements thereon in furtherance of the uses of the Land specifically reserved and set forth in Paragraph 1 hereof. Nothing herein contained shall be construed to interfere with the right of the GRANTOR, its successors, assigns, licensees and any party claiming under them to utilize the Land in such manner as they may deem desirable within the scope of the uses herein reserved to GRANTOR in Paragraph 1 hereof.

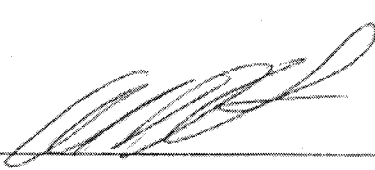
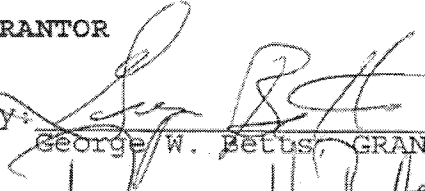
5. This instrument shall be binding upon the GRANTOR, its successors and assigns.

DB5025-0801

IN WITNESS WHEREOF, and intending to be legally bound, the GRANTOR has executed this indenture.

WITNESS

GRANTOR

By: By: 

George W. Betts, GRANTOR

By: 

Thomas H. Betts, GRANTOR

STATE OF NEW JERSEY, COUNTY OF ATLANTIC
I CERTIFY that on

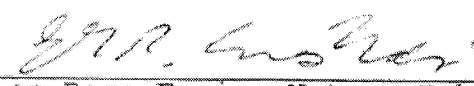
SS.:

, 1999

George W. Betts and Thomas H. Betts

personally came before me and acknowledged under oath, to my satisfaction that each person:

- (a) is named in and personally signed this document; and
- (b) signed, sealed and delivered this document at his act and deed; and
- (c) this transfer is made for no monetary consideration.


Ellen Rose Ennis, Notary Public

ELLEN R. NARDI
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires April 6, 2003

085025-0802

369a

DEED

Dated: June 1, 1999

George W. Betts & Thomas H. Betts
P. O. Box 366
Tuckahoe, NJ 08250

Record and Return To:

Grantor

John T. Ross
Executive Director
PINELANDS DEVELOPMENT CREDIT BANK
CN 035
Trenton, NJ 08625

TO

State of New Jersey
Department of Environmental Protection

Grantee

PA
2100
300
2400

309

RECORDED-CAMDEN COUNTY

99 JUN 25 AM 11:08

James Beach

1206718

20499

DEED OF EASEMENT

STATE OF NEW JERSEY AGRICULTURE RETENTION AND DEVELOPMENT PROGRAM

This Deed is made September 30th, 2003

BETWEEN DiMeglio Enterprises, LLC, whose address is 594 White Horse Pike, Atco, New Jersey 08004, and is referred to as the Grantor;

AND the State Agriculture Development Committee, whose address is, P.O. Box 330, Trenton, New Jersey 08625 and is referred to as the Grantee or Committee.

The Grantor, Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns grants and conveys to the Grantee a development easement, **all of the Pinelands Development Credit(s)** and nonagricultural development rights on the Premises, located in the Townships of Waterford and Winslow, County of Camden, described in the attached Schedule A, incorporated by reference in this Deed of Easement, for and in consideration of the sum of **\$321,300.00** Dollars. Any reference in this Deed of Easement to "Premises" refers to the property described in Schedule A.

The tax map reference for the Premises is:

Township of Waterford:

Block 292, Lot 1

Block 293, Lot 1

Block 294, Lot 3

Block 297, Lots 1 and 3

Township of Winslow:

Block 6602, Lot 7

Block 7101, Lots 5 and 15

Block 7104, Lots 1 and 3

CHARGE, RECORD & RETURN
GARDEN STATE ABSTRACT CO., INC.
112J CENTRE BLVD.
NORTH CROSSINGS
MARLTON, NJ 08058

WHEREAS, the legislature of the State of New Jersey has declared that the development of agriculture and the retention of farmlands are important to the present and future economy of the State and the welfare of the citizens of the State; and

WHEREAS, the Grantor is the sole and exclusive owner of the Premises; and

WHEREAS, the Grantee believes that the retention and preservation of agricultural lands is beneficial to the public health, safety and welfare of the citizens of the State of New Jersey; and

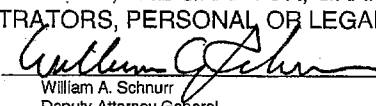
WHEREAS, the Premises are located in an Agricultural Production Area in the Pinelands Area, which is designated under the Pinelands Comprehensive Management Plan as eligible for Pinelands Development Credits; and

WHEREAS, the New Jersey Pinelands Commission has contributed funding for the Grantee's acquisition of the Pinelands Development Credits allocated to the Premises; and

WHEREAS, the Pinelands Commission has certain rights and obligations in this Deed of Easement pursuant to N.J.S.A. 13:8A-1 et seq. and N.J.A.C. 7:50.

NOW THEREFORE, THE GRANTOR, GRANTOR'S HEIRS, EXECUTORS, ADMINISTRATORS, PERSONAL OR LEGAL REPRESENTATIVES,

Prepared by:


William A. Schnurr
Deputy Attorney General

Record and Return to:

CAMDEN COUNTY, NJ: JAMES BEACH, COUNTY CLERK; EASEMENT-OR BOOK 07263 PG 0952 RECORDED 11/24/2003 14:38:51
FILE NUMBER 2003103620 RECORDING FEES 210.00; M-NOT 0.00; RTF 0.00; RECORDED BY: joanw

SUCCESSORS AND ASSIGNS PROMISES that the Premises will be owned, used and conveyed subject to, and not in violation of the following restrictions:

1. Any development of the Premises for nonagricultural purposes is expressly prohibited.
2. The Premises shall be retained for agricultural use and production in compliance with N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32, and all other rules promulgated by the State Agriculture Development Committee, (hereinafter Committee), **as limited by the provisions of this Deed of Easement.** Agricultural use shall mean the use of the Premises for common farmsite activities including, but not limited to: production, harvesting, storage, grading, packaging, processing and the wholesale and retail marketing of crops, plants, animals and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease and pest control, disposal of farm waste, irrigation, drainage and water management and grazing.
 - i. **Agricultural use shall also include forestry, fish, wildlife management and beekeeping.**
 - ii. **Retail market areas shall not exceed 5000 square feet.**
 - iii. **Any disposal of farm waste regulated by the Pinelands Commission shall be in compliance with Paragraph 6 of this Deed of Easement.**
3. Grantor certifies that at the time of the application to sell the development easement to the Grantee and at the time of the execution of this Deed of Easement the nonagricultural uses indicated on attached Schedule (B) existed on the Premises. All other nonagricultural uses are prohibited except as expressly provided in this Deed of Easement.
4. All nonagricultural uses, if any, existing on the Premises at the time of the landowner's application to the Grantee as set forth in Section 3 above may be continued and any structure may be restored or repaired in the event of partial destruction thereof, subject to the following:
 - i. No new structures or the expansion of pre-existing structures for nonagricultural use are permitted;
 - ii. No change in the pre-existing nonagricultural use is permitted;
 - iii. No expansion of the pre-existing nonagricultural use is permitted; and
 - iv. In the event that the Grantor abandons the pre-existing nonagricultural use, the right of the Grantor to continue the use is extinguished.
5. No sand, gravel, loam, rock, or other minerals shall be deposited on or removed from the Premises excepting only those materials required for the agricultural purpose for which the land is being used. Any such materials removed from the Premises for the agricultural purpose for which the land is being used shall be done in compliance with the Pinelands Comprehensive Management Plan (PCMP), N.J.A.C. 7:50 and in some circumstances, approval by the Pinelands Commission may be required pursuant to the PCMP.
6. No dumping or placing of trash, waste material, **including sewage sludge or sludge products derived from sewage sludge**, shall be permitted on the Premises unless expressly recommended by the Committee as an agricultural management practice **and unless approved by the Pinelands Commission pursuant to its regulations.**

- i. **Sewage sludge means the solid residue and associated liquid resulting from the physical, chemical or biological treatment of wastewater in a domestic treatment works.**

7. No activity shall be permitted on the Premises which would be detrimental to drainage, flood control, water conservation, erosion control, or soil conservation, nor shall any other activity be permitted which would be detrimental to the continued agricultural use of the Premises.

- i. Grantor shall obtain within one year of the date of this Deed of Easement, a farm conservation plan approved by the local soil conservation district.
- ii. Grantor's long term objectives shall conform with the provisions of the farm conservation plan.

8. Grantee, **the Pinelands Commission** and their agents shall be permitted access to, and to enter upon, the Premises at all reasonable times, but solely for the purpose of inspection in order to enforce and assure compliance with the terms and conditions of this Deed of Easement. Grantee **and the Pinelands Commission** agree to give Grantor at least 24 hours advance notice of its intention to enter the Premises, and further, to limit such times of entry to the daylight hours on regular business days of the week.

9. Grantor may use the Premises to derive income from certain recreational activities such as hunting, fishing, cross country skiing and ecological tours, only if such activities do not interfere with the actual use of the land for agricultural production and that the activities only utilize the Premises in its existing condition. Other recreational activities from which income is derived and which alter the Premises, such as golf courses and athletic fields, are prohibited.

10. Nothing shall be construed to convey a right to the public of access to or use of the Premises except as stated in this Deed of Easement or as otherwise provided by law.

11. Nothing shall impose upon the Grantor any duty to maintain the Premises in any particular state, or condition, except as provided for in this Deed of Easement.

12. Nothing in this Deed of Easement shall be deemed to restrict the right of Grantor to maintain all roads and trails existing upon the Premises as of the date of this Deed of Easement. Grantor shall be permitted to construct, improve or reconstruct any roadway necessary to service crops, bogs, agricultural buildings, or reservoirs as may be necessary.

13. At the time of this conveyance, Grantor has one (1) existing single family residential buildings on the Premises and zero (0) residential buildings used for agricultural labor purposes. Grantor may use, maintain, and improve existing buildings on the Premises for agricultural, residential and recreational uses subject to the following conditions:

- i. Improvements to agricultural buildings shall be consistent with agricultural uses;
- ii. Improvements to residential buildings shall be consistent with agricultural or single and extended family residential uses. Improvements to residential buildings for the purpose of housing agricultural labor are permitted only if the housed agricultural labor is employed on the Premises; and
- iii. Improvements to recreational buildings shall be consistent with agricultural or recreational uses. No additions to such buildings shall be

E3E

Page 4 of 9

constructed without the approval of the Pinelands Commission pursuant to the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50.

- iv. **Grantor shall not demolish any structures on the Premises that are greater than 50 years old without the approval of the Pinelands Commission pursuant to the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50.**

No historic building or structure located on the Premises may be demolished by the Grantor or any other person without the prior approval of the State Agriculture Development Committee. Historic building or structure is a building or structure that, as of the date of this Deed of Easement, has been included in the New Jersey Register of Historic Places established pursuant to N.J.S.A. 13:1B-15.128 et. seq.

14. Grantor may construct any new buildings for agricultural purposes. The construction of any new buildings for residential use, regardless of its purpose, shall be prohibited except as follows:

- i. To provide structures for **seasonal** housing of agricultural labor employed on the Premises but only with the approval of the Committee **and the Pinelands Commission**. If the Committee **and the Pinelands Commission** grant approval for the construction of agricultural labor housing, such housing shall not be used as a residence for Grantor, Grantor's spouse, Grantor's parents, Grantor's lineal descendants, adopted or natural, Grantor's spouse's parents, Grantor's spouse's lineal descendants, adopted or natural

a. Seasonal housing of agricultural labor means residential dwellings, for the seasonal use of employees of an agricultural or horticultural use, which because of their character or location are not to be used for permanent housekeeping units and which are otherwise accessory to a principal use of the parcel for agriculture; and

- ii. To provide structures for year-round housing of agricultural labor employed on the Premises but only with the approval of the Committee and the Pinelands Commission and only if the Grantor has retained the appropriate number of Pinelands Development Credits, as identified in Paragraph 24, for the construction of such housing at the time of the conveyance of this Deed of Easement. If the Committee **and the Pinelands Commission** grant approval for the construction of agricultural labor housing, such housing shall not be used as a residence for Grantor, Grantor's spouse, Grantor's parents, Grantor's lineal descendants, adopted or natural, Grantor's spouse's parents, Grantor's spouse's lineal descendants, adopted or natural;

- iii. To construct a single family residential building anywhere on the Premises in order to replace any single family residential building in existence at the time of conveyance of this Deed of Easement but only with the approval of the Committee **and the Pinelands Commission** pursuant to the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50.

- iv. No residual dwelling site opportunities have been allocated pursuant to the provisions of N.J.A.C. 2:76-6.17. No residential buildings are permitted on the Premises except as provided in this Deed of Easement.

For the purpose of this Deed of Easement:

E3E

Page 5 of 9

"Residual dwelling site opportunity" means the potential to construct a residential unit and other appurtenant structures on the Premises in accordance with N.J.A.C. 2:76-6.17.

15. The land and its buildings which are affected may be sold collectively or individually for continued agricultural use as defined in Section 2 of this Deed of Easement. However, no division of the land shall be permitted without the approval in writing of the Grantee **and the Pinelands Commission**. In order for the Grantor to receive approval, the Grantee **and the Pinelands Commission** must find that the division shall be for an agricultural purpose and result in agriculturally viable parcels. Division means any division of the Premises, for any purpose, subsequent to the effective date of this Deed of Easement.

i. For purposes of this Deed of Easement, "Agriculturally viable parcel" means that each parcel is capable of sustaining a variety of agricultural operations that yield a reasonable economic return under normal conditions, solely from each parcel's agricultural output.

16. In the event of any violation of the terms and conditions of this Deed of Easement, Grantee **or the Pinelands Commission** may institute, in the name of the State of New Jersey, any proceedings to enforce these terms and conditions including the institution of suit to enjoin such violations and to require restoration of the Premises to its prior condition. The Committee and the Pinelands Commission do not waive or forfeit the right to take any other legal action necessary to insure compliance with the terms, conditions, and purpose of this Deed of Easement by a prior failure to act.

17. This Deed of Easement imposes no obligation or restriction on the Grantor's use of the Premises except as specifically set forth in this Deed of Easement.

18. This Deed of Easement is binding upon the Grantor, the Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns and the Grantee; it shall be construed as a restriction running with the land and shall be binding upon any person to whom title to the Premises is transferred as well as upon the heirs, executors, administrators, personal or legal representatives, successors, and assigns of all such persons.

19. Throughout this Deed of Easement, the singular shall include the plural, and the masculine shall include the feminine, unless the text indicates otherwise.

20. The word 'Grantor' shall mean any and all persons who lawfully succeed to the rights and responsibilities of the Grantor, including but not limited to the Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns.

21. Wherever in this Deed of Easement any party shall be designated or referred to by name or general reference, such designation shall have the same effect as if the words, 'heirs, executors, administrators, personal or legal representatives, successors and assigns' have been inserted after each and every designation.

22. Grantor, Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns further transfers and conveys to Grantee all of the nonagricultural development rights and development credits appurtenant to the lands and Premises described herein. Nothing contained herein shall preclude the conveyance or retention of said rights by the Grantee as may be permitted by the laws of the State of New Jersey in the future. **In the event that the law permits the conveyance of said development rights, Grantee agrees to reimburse the Pinelands Commission (36) percent of the value of the development rights as determined at the time of the subsequent conveyance.**

23. That portion of the net proceeds, representing the value of the land only (and not the value of the improvements), of a condemnation award or other disposition of the Premises following termination of this Deed of Easement, as permitted pursuant to N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32, shall be distributed among the Grantor and the Grantee in shares in proportion to the fair market value of their interests in the Premises on the date of execution of this Deed of Easement. For this purpose, the Grantee's allocable share of the proceeds shall be the net proceeds multiplied by a fraction, **the numerator of which is the value of the development easement as determined by the Committee pursuant to N.J.A.C. 2:76-19 at the time of the initial acquisition** and the denominator of which is the full fair market value of the unrestricted Premises as certified by the Committee at the time of the initial acquisition, which is identified as (3,600.00/4,500.00).

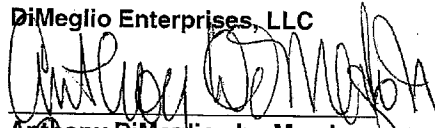
Furthermore, the Grantee's proceeds shall be distributed between the Grantee and the Pinelands Commission in shares in proportion to their respective cost share grants on the date of execution of this Deed of Easement. The Grantee shall use its share of the proceeds in a manner consistent with the provisions of N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32.

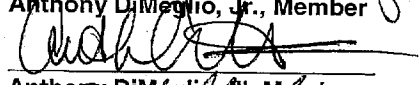
24. Grantor has not retained any Pinelands Development Credits for the right to construct year-round agricultural labor housing pursuant to Paragraph 14ii or for the purpose of exercising a residual dwelling site opportunity, if any have been allocated, pursuant to Paragraph 14iv.

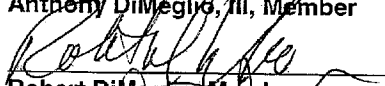
25. Grantor agrees that impervious coverage of the Premises shall not exceed 10% of the total acreage of the Premises. Impervious coverage shall include, but not be limited to, houses, barns, stables, sheds, silos, outhouses, cabanas and other buildings, swimming pools, docks or decks. Temporary greenhouses and other temporary coverings that do not have impervious floors shall be excluded from the computation of the impervious coverage area.

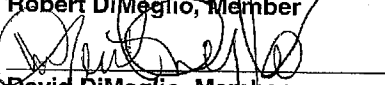
The Grantor signs this Deed of Easement as of the date of the top of the first page. If the Grantor is a corporation, this Deed of Easement is signed and attested to by its proper corporate officers, and its corporate seal, if any, is affixed.

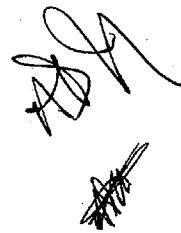
DiMeglio Enterprises, LLC


Anthony DiMeglio, Jr., Member


Anthony DiMeglio, III, Member


Robert DiMeglio, Member


David DiMeglio, Member



(LIMITED LIABILITY COMPANY ACKNOWLEDGMENT)

STATE OF NEW JERSEY, COUNTY OF MERCER SS.:

I CERTIFY that on Sept 30, 2003, the subscriber Anthony DiMeglio, Jr., personally appeared before me, who, being by me duly sworn on his oath, deposes and makes proof to my satisfaction, that he is a Member of DiMeglio Enterprises, L.L.C., the L.L.C. named in the within Instrument; that the execution, as well as the making of this Instrument, has been duly authorized by a proper resolution of L.L.C., that said Instrument was signed and delivered by said Member as and for the voluntary act and deed of said L.L.C., in presence of deponent, and that the full and actual consideration paid to purchase a development easement as evidenced by the DEED OF EASEMENT is \$321,300.00 and the mutual obligations and benefits contained herein.

Sworn to and subscribed before me, the date aforesaid

Catherine M. Wescoat

Print name and title below signature

Catherine M. Wescoat / Notary Public Exp 10-31-07
(LIMITED LIABILITY COMPANY ACKNOWLEDGMENT)

STATE OF NEW JERSEY, COUNTY OF MERCER SS.:

I CERTIFY that on Sept 30, 2003, the subscriber Anthony DiMeglio, III, personally appeared before me, who, being by me duly sworn on his oath, deposes and makes proof to my satisfaction, that he is a Member of DiMeglio Enterprises, L.L.C., the L.L.C. named in the within Instrument; that the execution, as well as the making of this Instrument, has been duly authorized by a proper resolution of L.L.C., that said Instrument was signed and delivered by said Member as and for the voluntary act and deed of said L.L.C., in presence of deponent, and that the full and actual consideration paid to purchase a development easement as evidenced by the DEED OF EASEMENT is \$321,300.00 and the mutual obligations and benefits contained herein.

Sworn to and subscribed before me, the date aforesaid

Catherine M. Wescoat

Print name and title below signature

Catherine M. Wescoat / Notary Public Exp 10-31-07
(LIMITED LIABILITY COMPANY ACKNOWLEDGMENT)

STATE OF NEW JERSEY, COUNTY OF MERCER SS.:

I CERTIFY that on Sept 30, 2003, the subscriber Robert DiMeglio, personally appeared before me, who, being by me duly sworn on his oath, deposes and makes proof to my satisfaction, that he is a Member of DiMeglio Enterprises, L.L.C., the L.L.C. named in the within Instrument; that the execution, as well as the making of this Instrument, has been duly authorized by a proper resolution of L.L.C., that said Instrument was signed and delivered by said Member as and for the voluntary act and deed of said L.L.C., in presence of deponent, and that the full and actual consideration paid to purchase a development easement as evidenced by the DEED OF EASEMENT is \$321,300.00 and the mutual obligations and benefits contained herein.

Sworn to and subscribed before me, the date aforesaid

Catherine M. Wescoat

Print name and title below signature

Catherine M. Wescoat / Notary Public Exp 10-31-07

[Handwritten signature]

[Handwritten signature]

(LIMITED LIABILITY COMPANY ACKNOWLEDGMENT)

STATE OF NEW JERSEY, COUNTY OF MERCER SS.:

I CERTIFY that on Sept 30, 2003, the subscriber David DiMeglio, personally appeared before me, who, being by me duly sworn on his oath, deposes and makes proof to my satisfaction, that he is a Member of DiMeglio Enterprises, L.L.C., the L.L.C. named in the within Instrument; that the execution, as well as the making of this Instrument, has been duly authorized by a proper resolution of L.L.C., that said Instrument was signed and delivered by said Member as and for the voluntary act and deed of said L.L.C., in presence of deponent, and that the full and actual consideration paid to purchase a development easement as evidenced by the DEED OF EASEMENT is \$321,300.00 and the mutual obligations and benefits contained herein.

Sworn to and subscribed before me; the date aforesaid

Catherine M. Wescoat

Print name and title below signature

Catherine M. Wescoat / Notary Public Exp 10/31/07

(STATE AGRICULTURE DEVELOPMENT COMMITTEE)

The State Agriculture Development Committee has approved the purchase of the development easement on the Premises pursuant to the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32 and the Garden State Preservation Trust Act, N.J.S.A. 13:8C-1 et seq., P.L. 1999, c.152 and hereby accepts and approves the foregoing restrictions, benefits and covenants.

Gregory Romano

Gregory Romano, Executive Director
State Agriculture Development Committee

10/9/03
Date

STATE OF NEW JERSEY, COUNTY OF Mercer SS.:

I CERTIFY that on 10 / 9, 20 03,

Gregory Romano personally came before me and acknowledged under oath, to my satisfaction, that this person:

- (a) is named in and personally signed this DEED OF EASEMENT,
- (b) signed, sealed and delivered this DEED OF EASEMENT as the Committee's act and deed, and
- (c) is the Executive Director of the State Agriculture Development Committee.

Angelou C. Ezeilo

Print name and title below signature

Angelou C. Ezeilo

Attorney at Law, State of New Jersey

[Handwritten signature]

[Handwritten signature]

(PINELANDS COMMISSION)

The Pinelands Commission has approved the purchase of the development easement and Pinelands Development Credits on the Premises pursuant to the Pinelands Protection Act, N.J.S.A. 13:18A-1 to 29 and the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50 and has authorized the contribution of funding for such purchase in the amount of \$116,400 representing 36% of the total purchase price for the development easement and 4.85 Pinelands Development Credits.

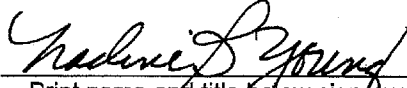

John C. Stokes, Executive Director Date 5/13/03
Pinelands Commission

STATE OF NEW JERSEY, COUNTY OF Burlington SS.:

I CERTIFY that on May 13, 20 03,

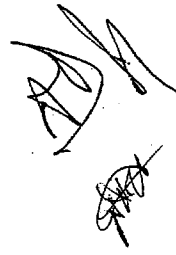
John C. Stokes personally
came before me and acknowledged under oath, to my satisfaction, that this
person:

- (a) is named in and personally signed this DEED OF EASEMENT,
- (b) signed, sealed and delivered this DEED OF EASEMENT as the
Commission's act and deed, and
- (c) is the Executive Director of the Pinelands Commission.


Print name and title below signature
NADINE B. YOUNG

NOTARY PUBLIC OF NEW JERSEY
My Commission Expires June 15, 2007

S:\Pinelands2002\Around\Camden\DIMeglio\deed.doc





PERKS REUTTER ASSOCIATES

CONSULTING ENGINEERS

SCHEDULE A

Description of Lands
In
Township of Waterford, Camden County, NJ
Block 292, Lot 1
and.
Township of Winslow, Camden County, NJ
Block 6602, Lot 7
Lands of
DiMeglio Enterprises, L.L.C.

All that certain tract or parcel of land situate in the Township of Waterford and Township of Winslow, County of Camden and State of New Jersey, bounded and described as follows;

Beginning at the point of intersection of the southeasterly line of Fleming Pike, (also known as County Route No. 723), (50 feet wide) and the southwesterly line of Union Road, (50 feet wide), located in the Township of Waterford, Camden County, New Jersey, said beginning point having New Jersey Plane Coordinate System, NAD1983, (NJPCS) values of N311174.7184 feet and E404129.2250 feet and from said beginning point and in said bearing system running thence;

- (1); S24°34'12"E, measured along the southwesterly line of said Union Road, 98.86 feet to the intersection of same with the northwesterly right-of-way line of New Jersey Transit Corp., being Block 319, Lot 1, thence;
- (2); S54°47'30"W, measured along the northwesterly right-of-way line of said Railroad, crossing the Municipal Corporate-boundary line between the Township of Waterford, Camden County, New Jersey and the Township of Winslow, Camden County, New Jersey, 568.41 feet to a set iron pin with cap in the line of Lot 1, Block 6600, being lands of New Jersey Transit Corp., located in the Township of Winslow, Camden County, New Jersey and corner to Lot 6, Block 6602, being lands now or formerly of Anthony Grasso, thence;
- (3); N25°04'10"W, measured along the line of Lot 6, Block 6602, 125.14 feet to a set iron pin with cap at a corner to same in the southeasterly line of Fleming Pike, as aforementioned, thence;

Fairway Corporate Center, 4300 Haddonfield Road, Suite 115, Pennsauken, NJ 08109, 856-488-6200, FAX 856-488-4302
1520 Locust Street, 4th Floor, Philadelphia, Pennsylvania, 19102, 215-732-9970, FAX 215-732-6940
146 Montgomery Avenue, Bala Cynwyd, PA 19004, 610-667-7080, FAX 610-667-7490
e-mail: ENGINEER@PERKSREUTTER.COM

- (4); N57°25'50"E, measured along the southeasterly line of said Pike, recrossing the Municipal Corporate boundary line between the Township of Waterford and the Township of Winslow, as aforementioned, 565.23 feet to the point and place of beginning.

The gross area of Lot 1, Block 292, contains 0.925 acres or 40,290 square feet more or less.

The gross area of Lot 7, Block 6602 contains 0.514 acres or 22,390 square feet more or less.

The net "Easement" area contains 1.439 acres or 68,680 square feet more or less.

The above description was written pursuant to a certain map entitled "Survey of Property for the State of New Jersey, State Agriculture Development Committee", designated as Block 292, Lot 1; Block 293, Lot 1; Block 294, Lot 3 and Block 297, Lots 1 & 3, on the Municipal Tax Assessment Map of the Township of Waterford; County of Camden and Block 6602, Lot 7; Block 7101, Lots 5 & 15 and Block 7104, Lots 1 & 3 on the Municipal Tax Assessment Map of the Township of Winslow, County Camden, State of New Jersey, said survey was prepared by Reutter Engineering, Fairway Corporate Center, 4300 Haddonfield Road, Suite 115, Pennsauken. NJ 08109, dated February 27, 2003, revised to April 30, 2003 and is marked as file No. SADC5117.

April 30, 2003
Date

Edward G. Duckinfield, Jr.
Edward G. Duckinfield, Jr., PLS
NJ License No. 15880



PERKS REUTTER ASSOCIATES

CONSULTING ENGINEERS

SCHEDULE A

Description of Lands
In
Township of Waterford, Camden County, NJ
Block 293, Lot 1
and.
Township of Winslow, Camden County, NJ
Block 7101, Lots 5 & 15
Lands of
DiMeglio Enterprises, L.L.C.

All that certain tract or parcel of land situate in the Township of Waterford and Township of Winslow, County of Camden and State of New Jersey, bounded and described as follows;

Beginning at the point of intersection of the southeasterly right-of-way line of New Jersey Transit Corp., being Block 319, Lot 1 and the southwesterly line of Union Road, (50 feet wide), located in the Township of Waterford, Camden County, New Jersey, said beginning point having New Jersey Plane Coordinate System, NAD1983, (NJPCS) values of N311038.5378 feet and E404191.4874 feet and from said beginning point and in said bearing system running thence;

- (1); S24°34'12"E, measured along the southwesterly line of said Union Road crossing the Municipal Corporate Boundary line between the Township of Waterford, Camden County, New Jersey and the Township of Winslow, Camden County, New Jersey, 1821.53 feet to a found concrete monument, lettered "V&I" in the line of same, corner to Lot 16, Block 7101, being lands now or formerly of Nelson R. and Janice W. Avery, located in the Township of Winslow, Camden County, New Jersey, thence;
- (2); S65°25'48"W, measured along the line of Lot 16, Block 7101, 272.00 feet to a found iron pin with cap, lettered "V&I" at a corner to same, thence;
- (3); S24°34'12"E, continuing along the line of Lot 16, Block 7101, 1052.38 feet to a point corner to same, thence;
- (4); S64°56'54"W, still measured along the line of Lot 16, Block 7101, 11.91 feet to another point corner to same, thence;

Fairway Corporate Center, 4300 Haddonfield Road, Suite 115, Pennsauken, NJ 08109, 856-488-6200, FAX 856-488-4302
1520 Locust Street, 4th Floor, Philadelphia, Pennsylvania, 19102, 215-732-9970, FAX 215-732-6940
146 Montgomery Avenue, Bala Cynwyd, PA 19004, 610-667-7080, FAX 610-667-7490
e-mail: ENGINEER@PERKSREUTTER.COM

- (5); S25°04'06"E, measured along the line of Lot 16, Block 7101, 242.53 feet to a found $\frac{3}{4}$ " iron pipe at a corner to same in the northwesterly line of Spring Road, (50 feet wide), thence;
- (6); S65°25'48"W, measured along the northwesterly line of said road, 287.20 feet to a set iron pin with cap in the line of same, corner to Lot 14.01, Block 7101, being lands now or formerly of Paul Parzanese, thence;
- (7); N24°34'12"W, measured along the line of Lot 14.01, Block 7101, 1295.00 feet to a set iron pin with cap at a corner to same and in the line of Lot 4, Block 7101, being lands now or formerly of Anthony Grasso, thence;
- (8); N65°25'48"E, measured along the line of Lot 4, Block 7101, 25.77 feet to a set iron pin with cap at a corner to same, thence;
- (9); N25°04'10"W, measured along the line of Lot 5, Block 7101, 1716.75 feet to a set iron pin with cap at a corner to same in the southeasterly right-of-way line of New Jersey Transit Corp., being Lot 1, Block 6600, as aforementioned, located in the Township of Winslow, Camden County, New Jersey, thence;
- (10); N54°47'30"E, measured along the southeasterly right-of-way line of said railroad, being Lot 1, Block 6600, located in the Township of Winslow and Lot 1, Block 319, located in the Township of Waterford, recrossing the Municipal Corporate boundary line as aforementioned, 567.96 feet to the point and place of beginning.

The gross area of Lot 1, Block 293, contains 4.485 acres or 195,370 square feet more or less.

The gross area of Lot 5, Block 7101 contains 17.890 acres or 779,297 square feet more or less.

The gross area of Lot 15, Block 7101, contains 8.769 acres or 381,983 square feet more or less.

The net "Easement" area contains 31.144 acres or 1,356,650 square feet more or less.

The above description was written pursuant to a certain map entitled "Survey of Property for the State of New Jersey, State Agriculture Development Committee", designated as Block 292, Lot 1; Block 293, Lot 1; Block 294, Lot 3 and Block 297, Lots 1 & 3, on the Municipal Tax Assessment Map of the Township of Waterford, County of Camden and Block 6602, Lot 7; Block 7101, Lots 5 & 15 and Block 7104, Lots 1 & 3 on the Municipal Tax Assessment Map of the Township of Winslow, County Camden, State of New Jersey, said survey was prepared by Reutter Engineering, Fairway Corporate Center, 4300 Haddonfield Road, Suite 115, Pennsauken. NJ 08109, dated February 27, 2003, revised to April 30, 2003 and is marked as file No. SADC5117.

April 30, 2003
Date

Edward G. Duckinfield, Jr.
Edward G. Duckinfield, Jr., PLS
NJ License No. 15880



PERKS REUTTER ASSOCIATES
CONSULTING ENGINEERS

SCHEDULE A

Description of Lands
In
Township of Waterford, Camden County, NJ
Block 294, Lot 3
Lands of
DiMeglio Enterprises, L.L.C.

All that certain tract or parcel of land situate in the Township of Waterford, County of Camden and State of New Jersey, bounded and described as follows;

Beginning at the point of intersection of the southeasterly line of Fleming Pike, (also known as County Route No. 723), (50 feet wide), and the northeasterly line of Union Road, (50 feet wide), said beginning point having New Jersey Plane Coordinate System, NAD1983, (NJPCS) values of N311201.8990 feet and E404171.7759 feet and from said beginning point and in said bearing system running thence;

- (1); N57°25'50"E, measured along the southeasterly line of said Fleming Pike, 736.99 feet to a set iron pin with cap in the line of same, corner to Lot 2, Block 294, being lands now or formerly of John DiMeglio, thence;
- (2); S49°40'54"E, measured along the line of Lot 2, Block 294, 62.91 feet to a set iron pin with cap at a corner to same in the northwesterly right-of-way line of New Jersey Transit Corp., being Lot 1, Block 319, thence;
- (3); S54°47'30"W, measured along the northwesterly right-of-way line of said Railroad, 769.74 feet to the point of intersection of same with the northeasterly line of Union Road, as aforementioned, thence;
- (4); N24°34'12"W, measured along the northeasterly line of Union Road, 96.50 feet to the point and place of beginning.

The gross area of Lot 3, Block 294, contains 1.347 acres or 58,656 square feet more or less.

The net "Easement" area contains 1.347 acres or 58,656 square feet more or less.

Fairway Corporate Center, 4300 Haddonfield Road, Suite 115, Pennsauken, NJ 08109, 856-488-6200, FAX 856-488-4302
1520 Locust Street, 4th Floor, Philadelphia, Pennsylvania, 19102, 215-732-9970, FAX 215-732-6940
146 Montgomery Avenue, Bala Cynwyd, PA 19004, 610-667-7080, FAX 610-667-7490
e-mail: ENGINEER@PERKSREUTTER.COM

The above description was written pursuant to a certain map entitled "Survey of Property for the State of New Jersey, State Agriculture Development Committee", designated as Block 292, Lot 1; Block 293, Lot 1; Block 294, Lot 3 and Block 297, Lots 1 & 3, on the Municipal Tax Assessment Map of the Township of Waterford, County of Camden and Block 6602, Lot 7; Block 7101, Lots 5 & 15 and Block 7104, Lots 1 & 3 on the Municipal Tax Assessment Map of the Township of Winslow, County Camden, State of New Jersey, said survey was prepared by Reutter Engineering, Fairway Corporate Center, 4300 Haddonfield Road, Suite 115, Pennsauken, NJ 08109, dated February 27, 2003, revised to April 30, 2003 and is marked as file No. SADC5117.

April 30, 2003
Date

Edward G. Duckinfield, Jr.
Edward G. Duckinfield, Jr., PLS
NJ License No. 15880



PERKS REUTTER ASSOCIATES
CONSULTING ENGINEERS

SCHEDULE A

Description of Lands
In
Township of Waterford, Camden County, NJ
Block 297, Lots 1 & 3
and
Township of Winslow, Camden County
Block 7104, Lot 1
Lands of
DiMeglio Enterprises, L.L.C.

All that certain tract or parcel of land situate in the Township of Waterford and Township of Winslow, County of Camden and State of New Jersey, bounded and described as follows;

Beginning at the point of intersection of the southeasterly right-of-way line of New Jersey Transit Corp., being Lot 1, Block 319 and the northeasterly line of Union Road, (50 feet wide), located in the Township of Waterford, Camden County, New Jersey, said beginning point having New Jersey Plane Coordinate System, NAD1983, (NJPCS) values of N311067.8696 feet and E404233.0548 feet and from said beginning point and in said bearing system running thence;

- (1); N54°47'30"E, measured along the southeasterly right-of-way line of New Jersey Transit Corp., 792.04 feet to a set iron pin with cap in the line of same, corner to Lot 7, Block 297, being lands now or formerly of John DiMeglio, thence;
- (2); S49°40'54"E, measured along the line of Lot 7, Block 297, 759.30 feet to a found concrete monument lettered "Key Engineers", at a corner to same, thence;
- (3); N40°53'39"E, continuing along the line of Lot 7, Block 297, 291.56 feet to another found concrete monument lettered "Key Engineers", in the line of same, corner to Lot 10, Block 297, being lands now or formerly of Thomas H. Betts and George W. Betts, thence;
- (4); S51°27'24"E, measured along the line of Lot 10, Block 297, 886.51 feet to a found concrete monument lettered "Key Engineers", in the line of same, corner to Lot 9, Block 297, being lands now or formerly of Betts and Betts, L.L.C. thence;

Fairway Corporate Center, 4300 Haddonfield Road, Suite 115, Pennsauken, NJ 08109, 856-488-6200, FAX 856-488-4302
1520 Locust Street, 4th Floor, Philadelphia, Pennsylvania, 19102, 215-732-9970, FAX 215-732-6940
146 Montgomery Avenue, Bala Cynwyd, PA 19004, 610-667-7080, FAX 610-667-7490
e-mail: ENGINEER@PERKSREUTTER.COM

- (5); S40°19'06"W, measured along the line of Lot 9, Block 297, Lot 6.01, Block 297, being land now or formerly of Mary Lou Witcraft, Lot 6, Block 297, also being lands now or formerly of Mary Lou Witcraft, crossing the Municipal Corporate boundary line between the Township of Waterford, Camden County, New Jersey and the Township of Winslow, Camden County, New Jersey and continuing along the line of Lot 2, Block 7104, being lands now or formerly of Marie M. Rendina, Alva J. Sauser and Gelsomino Delguercio, located in the Township of Winslow, Camden County, New Jersey, 1951.22 feet to a found concrete monument lettered "Key Engineers" at a corner to same in the northeasterly line of Union Road, as aforementioned, thence;
- (6); N24°34'12"W, measured along the northeasterly line of said Union Road, passing over a found concrete monument lettered "Key Engineers" at a distance of 907.85 feet from the beginning of this course, and recrossing the Municipal Corporate boundary line between the Township of Waterford and the Township of Winslow, as aforementioned, a total distance of 2038.99 feet to the point and place of beginning.

The gross area of Lot 1, Block 297, contains 21.730 acres or 946,545 square feet more or less.

The gross area of Lot 3, Block 297, contains 31.920 acres or 1,390,445 square feet more or less.

The gross area of Lot 1, Block 7104, contains 1.670 acres or 72,736 square feet more or less.

The net "Easement" area contains 55.320 acres or 2,409,726 square feet more or less.

The above description was written pursuant to a certain map entitled "Survey of Property for the State of New Jersey, State Agriculture Development Committee", designated as Block 292, Lot 1; Block 293, Lot 1; Block 294, Lot 3 and Block 297, Lots 1 & 3, on the Municipal Tax Assessment Map of the Township of Waterford, County of Camden and Block 6602, Lot 7; Block 7101, Lots 5 & 15 and Block 7104, Lots 1 & 3 on the Municipal Tax Assessment Map of the Township of Winslow, County Camden, State of New Jersey, said survey was prepared by Reutter Engineering, Fairway Corporate Center, 4300 Haddonfield Road, Suite 115, Pennsauken, NJ 08109, dated February 27, 2003, revised to April 30, 2003 and is marked as file No. SADC5117.

April 30, 2003
Date

Edward G. Duckinfield, Jr.
Edward G. Duckinfield, Jr., PLS
NJ License No. 15880

[Handwritten signatures]

SCHEDULE B

Grantor certifies that at the time of the application to sell the development easement to the Grantee no nonagricultural uses existed. Grantor further certifies that at the time of the execution of this Deed of Easement no nonagricultural uses exist.

A handwritten signature in black ink, appearing to be "R. J. Smith", is located in the bottom right corner of the page. The signature is written in a cursive style with a large initial "R" and a long horizontal stroke extending to the right.

DEED OF EASEMENT

23742

STATE OF NEW JERSEY
AGRICULTURE RETENTION AND DEVELOPMENT PROGRAM

This Deed is made February 6, 2007

BETWEEN Betts and Betts, LLC, a New Jersey Limited Liability Company, whose address is P.O. Box 366, Tuckahoe, New Jersey, 08250, and is referred to as the Grantor;

AND the State Agriculture Development Committee, whose address is, P.O. Box 330, Trenton, New Jersey 08625 and is referred to as the Grantee or Committee.

The Grantor, Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns grants and conveys to the Grantee a development easement, **all of the Pinelands Development Credit(s)** and nonagricultural development rights on the Premises, located in the Township of Waterford, County of Camden, described in the attached Schedule A, incorporated by reference in this Deed of Easement, for and in consideration of the sum of One Hundred Twenty-Four Thousand Fifty Nine and 60/100 Dollars (\$124,059.60). Any reference in this Deed of Easement to "Premises" refers to the property described in Schedule A.

This Deed replaces a previous deed that was executed on June 15, 2004, where the above consideration was paid, but the Deed was never recorded as its whereabouts are unknown.

The tax map reference for the Premises is:

Township of Waterford
Block 297, Lot 9

WHEREAS, the legislature of the State of New Jersey has declared that the development of agriculture and the retention of farmlands are important to the present and future economy of the State and the welfare of the citizens of the State; and

WHEREAS, the Grantor is the sole and exclusive owner of the Premises; and

WHEREAS, the Grantee believes that the retention and preservation of agricultural lands is beneficial to the public health, safety and welfare of the citizens of the State of New Jersey; and

WHEREAS, the Premises are located in an Agricultural Production Area in the Pinelands Area, which is designated under the Pinelands Comprehensive Management Plan as eligible for Pinelands Development Credits; and

WHEREAS, the Pinelands Commission has certain rights and obligations in this Deed of Easement pursuant to N.J.S.A. 13:8A-1 et seq. and N.J.A.C. 7:50.

NOW THEREFORE, THE GRANTOR, GRANTOR'S HEIRS, EXECUTORS, ADMINISTRATORS, PERSONAL OR LEGAL REPRESENTATIVES, SUCCESSORS AND ASSIGNS PROMISES that the Premises will be owned, used and conveyed subject to, and not in violation of the following restrictions:

1. Any development of the Premises for nonagricultural purposes is expressly prohibited.
2. The Premises shall be retained for agricultural use and production in compliance with N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32, and all other

Prepared by:

William A. Schnurr
Deputy Attorney General

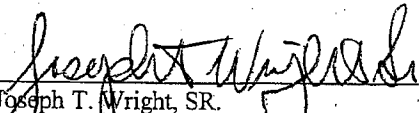
Record and Return to:

CHARGE, RECORD & RETURN
GARDEN STATE ABSTRACT CO., INC.
112J CENTRE BLVD.
NORTH CROSSINGS
MARLTON, NJ 08053

CAMDEN COUNTY, NJ, JAMES BEACH, COUNTY CLERK, DEED-OR BOOK 03475 PG 0423 RECORDED 02/15/2007 11:35:08
FILE NUMBER 2007018787, RECORDING FEES \$150.00, M-NCT 000, RTF 0.00, RECORDED BY: jbellw



PERKS REUTTER ASSOCIATES


Joseph T. Wright, SR.
NJ Land Surveyor License No. 21775

May 26, 2004
LegalDescription.doc

TUB

SD

SCHEDULE B

Grantor certifies that at the time of the application to sell the development easement to the Grantee no nonagricultural uses existed. Grantor further certifies that at the time of the execution of this Deed of Easement no nonagricultural uses exist.

TIB

93

rules promulgated by the State Agriculture Development Committee, (hereinafter Committee), **as limited by the provisions of this Deed of Easement.** Agricultural use shall mean the use of the Premises for common farmsite activities including, but not limited to: production, harvesting, storage, grading, packaging, processing and the wholesale and retail marketing of crops, plants, animals and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease and pest control, disposal of farm waste, irrigation, drainage and water management and grazing.

- i. **Agricultural use shall also include fish and wildlife management, forestry and beekeeping.**
- ii. **Retail market areas shall not exceed 5000 square feet.**
- iii. **Any disposal of farm waste regulated by the Pinelands Commission shall be in compliance with Paragraph 6 of this Deed of Easement.**

3. Grantor certifies that at the time of the application to sell the development easement to the Grantee and at the time of the execution of this Deed of Easement the nonagricultural uses indicated on attached Schedule B existed on the Premises. All other nonagricultural uses are prohibited except as expressly provided in this Deed of Easement.

4. All nonagricultural uses, if any, existing on the Premises at the time of the landowner's application to the Grantee as set forth in Section 3 above may be continued and any structure may be restored or repaired in the event of partial destruction thereof, subject to the following:

- i. No new structures or the expansion of pre-existing structures for nonagricultural use are permitted;
- ii. No change in the pre-existing nonagricultural use is permitted;
- iii. No expansion of the pre-existing nonagricultural use is permitted; and
- iv. In the event that the Grantor abandons the pre-existing nonagricultural use, the right of the Grantor to continue the use is extinguished.

5. No sand, gravel, loam, rock, or other minerals shall be deposited on or removed from the Premises excepting only those materials required for the agricultural purpose for which the land is being used. Any such materials removed from the Premises for the agricultural purpose for which the land is being used shall be done in compliance with the Pinelands Comprehensive Management Plan (PCMP), N.J.A.C. 7:50 and in some circumstances, approval by the Pinelands Commission may be required pursuant to the PCMP.

6. No dumping or placing of trash, waste material, **including sewage sludge or sludge products derived from sewage sludge**, shall be permitted on the Premises unless expressly recommended by the Committee as an agricultural management practice **and unless approved by the Pinelands Commission pursuant to its regulations.**

- i. **Sewage sludge means the solid residue and associated liquid resulting from the physical, chemical or biological treatment of wastewater in a domestic treatment works.**

7. No activity shall be permitted on the Premises which would be detrimental to drainage, flood control, water conservation, erosion control, or soil conservation, nor shall any other activity be permitted which would be detrimental to the continued agricultural use of the Premises.

- i. Grantor shall obtain within one year of the date of this Deed of Easement, a farm conservation plan approved by the local soil conservation district.
- ii. Grantor's long term objectives shall conform with the provisions of the farm conservation plan.

8. Grantee and its agents shall be permitted access to, and to enter upon, the Premises at all reasonable times, but solely for the purpose of inspection in order to enforce and assure compliance with the terms and conditions of this Deed of Easement. Grantee agrees to give Grantor at least 24 hours advance notice of its intention to enter the Premises, and further, to limit such times of entry to the daylight hours on regular business days of the week.

9. Grantor may use the Premises to derive income from certain recreational activities such as hunting, fishing, cross country skiing and ecological tours, only if such activities do not interfere with the actual use of the land for agricultural production and that the activities only utilize the Premises in its existing condition. Other recreational activities from which income is derived and which alter the Premises, such as golf courses and athletic fields, are prohibited.

10. Nothing shall be construed to convey a right to the public of access to or use of the Premises except as stated in this Deed of Easement or as otherwise provided by law.

11. Nothing shall impose upon the Grantor any duty to maintain the Premises in any particular state, or condition, except as provided for in this Deed of Easement.

12. Nothing in this Deed of Easement shall be deemed to restrict the right of Grantor to maintain all roads and trails existing upon the Premises as of the date of this Deed of Easement. Grantor shall be permitted to construct, improve or reconstruct any roadway necessary to service crops, bogs, agricultural buildings, or reservoirs as may be necessary.

13. At the time of this conveyance, Grantor has zero (0) existing single family residential buildings on the Premises and zero (0) residential buildings used for agricultural labor purposes. Grantor may use, maintain, and improve existing buildings on the Premises for agricultural, residential and recreational uses subject to the following conditions:

- i. Improvements to agricultural buildings shall be consistent with agricultural uses;
- ii. Improvements to residential buildings shall be consistent with agricultural or single and extended family residential uses. Improvements to residential buildings for the purpose of housing agricultural labor are permitted only if the housed agricultural labor is employed on the Premises;
- iii. Improvements to recreational buildings shall be consistent with agricultural or recreational uses. No additions to such buildings shall be constructed without the approval of the Pinelands Commission pursuant to the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50; and
- iv. **Grantor shall not demolish any structures on the Premises that are greater than 50 years old without the approval of the Pinelands Commission pursuant to the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50.**

No historic building or structure located on the Premises may be demolished by the Grantor or any other person without the prior approval of the State Agriculture Development Committee. Historic building or structure is a building or structure that, as of the date of this Deed of Easement, has been included in the New Jersey Register of Historic Places established pursuant to N.J.S.A. 13:1B-15.128 et. seq.

14. Grantor may construct any new buildings for agricultural purposes. The construction of any new buildings for residential use, regardless of its purpose, shall be prohibited except as follows:

- i. To provide structures for **seasonal** housing of agricultural labor employed on the Premises but only with the approval of the Committee **and the Pinelands Commission**. If the Committee **and the Pinelands Commission** grant approval for the construction of agricultural labor housing, such housing shall not be used as a residence for Grantor, Grantor's spouse, Grantor's parents, Grantor's lineal descendants, adopted or natural, Grantor's spouse's parents, Grantor's spouse's lineal descendants, adopted or natural;
 - a. **Seasonal housing of agricultural labor means residential dwellings, for the seasonal use of employees of an agricultural or horticultural use, which because of their character or location are not to be used for permanent housekeeping units and which are otherwise accessory to a principal use of the parcel for agriculture.**
- ii. To provide structures for year-round housing of agricultural labor employed on the Premises but only with the approval of the Committee **and the Pinelands Commission** and only if the Grantor has retained the appropriate number of Pinelands Development Credits, as identified in Paragraph 24, for the construction of such housing at the time of the conveyance of this Deed of Easement. If the Committee **and the Pinelands Commission** grant approval for the construction of agricultural labor housing, such housing shall not be used as a residence for Grantor, Grantor's spouse, Grantor's parents, Grantor's lineal descendants, adopted or natural, Grantor's spouse's parents, Grantor's spouse's lineal descendants, adopted or natural;
- iii. To construct a single family residential building anywhere on the Premises in order to replace any single family residential building in existence at the time of conveyance of this Deed of Easement but only with the approval of the Committee **and the Pinelands Commission** pursuant to the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50.
- iv. No residual dwelling site opportunities have been allocated pursuant to the provisions of N.J.A.C. 2:76-6.17. No residential buildings are permitted on the Premises except as provided in this Deed of Easement.

For the purpose of this Deed of Easement:

"Residual dwelling site opportunity" means the potential to construct a residential unit and other appurtenant structures on the Premises in accordance with N.J.A.C. 2:76-6.17.

15. The land and its buildings which are affected may be sold collectively or individually for continued agricultural use as defined in Section 2 of this Deed of Easement. However, no division of the land shall be permitted without the approval in writing of the Grantee **and the Pinelands Commission**. In order for the Grantor to receive approval, the Grantee **and the Pinelands Commission**

must find that the division shall be for an agricultural purpose and result in agriculturally viable parcels. Division means any division of the Premises, for any purpose, subsequent to the effective date of this Deed of Easement.

- i. For purposes of this Deed of Easement, "Agriculturally viable parcel" means that each parcel is capable of sustaining a variety of agricultural operations that yield a reasonable economic return under normal conditions, solely from each parcel's agricultural output.

16. In the event of any violation of the terms and conditions of this Deed of Easement, Grantee **or the Pinelands Commission** may institute, in the name of the State of New Jersey, any proceedings to enforce these terms and conditions including the institution of suit to enjoin such violations and to require restoration of the Premises to its prior condition. The Committee and the Pinelands Commission do not waive or forfeit the right to take any other legal action necessary to insure compliance with the terms, conditions, and purpose of this Deed of Easement by a prior failure to act.

17. This Deed of Easement imposes no obligation or restriction on the Grantor's use of the Premises except as specifically set forth in this Deed of Easement.

18. This Deed of Easement is binding upon the Grantor, the Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns and the Grantee; it shall be construed as a restriction running with the land and shall be binding upon any person to whom title to the Premises is transferred as well as upon the heirs, executors, administrators, personal or legal representatives, successors, and assigns of all such persons.

19. Throughout this Deed of Easement, the singular shall include the plural, and the masculine shall include the feminine, unless the text indicates otherwise.

20. The word 'Grantor' shall mean any and all persons who lawfully succeed to the rights and responsibilities of the Grantor, including but not limited to the Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns.

21. Wherever in this Deed of Easement any party shall be designated or referred to by name or general reference, such designation shall have the same effect as if the words, 'heirs, executors, administrators, personal or legal representatives, successors and assigns' have been inserted after each and every designation.

22. Grantor, Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns further transfers and conveys to Grantee all of the nonagricultural development rights and development credits appurtenant to the lands and Premises described herein, including the 1.75 Pinelands Development Credits that have been allocated to the premises. Nothing contained herein shall preclude the conveyance or retention of said rights by the Grantee as may be permitted by the laws of the State of New Jersey in the future.

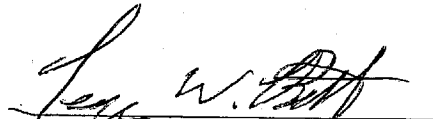
23. That portion of the net proceeds, representing the value of the land only (and not the value of the improvements), of a condemnation award or other disposition of the Premises following termination of this Deed of Easement, as permitted pursuant to N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32, shall be distributed among the Grantor and the Grantee in shares in proportion to the fair market value of their interests in the Premises on the date of execution of this Deed of Easement. For this purpose, the Grantee's allocable share of the proceeds shall be the net proceeds multiplied by a fraction, **the numerator of which is the value of the development easement as determined by the Committee pursuant to N.J.A.C. 2:76-19 at the time of the initial acquisition** and the denominator of which is the full fair market value of the unrestricted

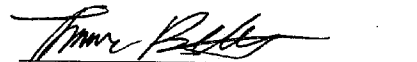
Premises as certified by the Committee at the time of the initial acquisition, which is identified as (3,780/5,606).

24. Grantor has not retained any Pinelands Development Credits for the right to construct year-round agricultural labor housing pursuant to Paragraph 14(ii) or for the purpose of exercising a residual dwelling site opportunity, if any have been allocated, pursuant to Paragraph 14(iv).

25. Grantor agrees that impervious coverage of the Premises shall not exceed 10% of the total acreage of the Premises. Impervious coverage shall include, but not be limited to, houses, barns, stables, sheds, silos, outhouses, cabanas and other buildings, swimming pools, docks or decks. Temporary greenhouses and other temporary coverings that do not have impervious floors shall be excluded from the computation of the impervious coverage area.

The Grantor signs this Deed of Easement as of the date of the top of the first page. If the Grantor is a corporation, this Deed of Easement is signed and attested to by its proper corporate officers, and its corporate seal, if any, is affixed.


George W. Betts, Member


Thomas H. Betts, Member

LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF New Jersey, COUNTY OF Atlantic SS.:

I CERTIFY that on February 6, 2007, George W. Betts personally appeared before me, who, being by me duly sworn on his oath, depose and make proof to my satisfaction, that he is a Voting Member of Betts and Betts, LLC named in the within Instrument; that the execution, as well as the making of this Instrument, has been duly authorized by Betts and Betts LLC, that the conveyance of the non-agricultural development rights and credits in the Premises has been authorized by an affirmative vote of the Voting Members representing more than 50% of the voting membership interests of the L.L.C. in accordance with the Operating Agreement; that the said Instrument is signed and delivered by said George W. Betts as and for the voluntary act and deed of said Betts and Betts L.L.C. in my presence; and that the full and actual consideration paid to purchase a development easement as evidenced by the DEED OF EASEMENT is \$124,059.60 and the mutual obligations and benefits contained herein.

Sworn to and subscribed before me, the date aforesaid

2-6-2007



Print name and title below signature
Dolores A. Hill

DOLORES A. HILL
Notary Public, State of New Jersey
My Commission Expires March 12, 2009

LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF New Jersey COUNTY OF Atlantic SS.:

I CERTIFY that on February 6, 2007, Thomas H. Betts personally appeared before me, who, being by me duly sworn on his oath, depose and make proof to my satisfaction, that he is a Voting Member of Betts and Betts, LLC named in the within Instrument; that the execution, as well as the making of this Instrument, has been duly authorized by Betts and Betts LLC, that the conveyance of the non-agricultural development rights and credits in the Premises has been authorized by an affirmative vote of the Voting Members representing more than 50% of the voting membership interests of the L.L.C. in accordance with the Operating Agreement; that the said Instrument is signed and delivered by said Thomas H. Betts as and for the voluntary act and deed of said Betts and Betts L.L.C. in my presence; and that the full and actual consideration paid to purchase a development easement as evidenced by the DEED OF EASEMENT is \$124,059.60 and the mutual obligations and benefits contained herein.

Sworn to and subscribed before me, the date aforesaid

Dolores A. Hill

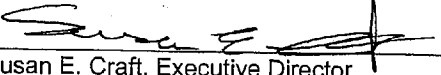
Print name and title below signature

Dolores A. Hill

DOLORES A. HILL
Notary Public, State of New Jersey
My Commission Expires March 12, 2009

(STATE AGRICULTURE DEVELOPMENT COMMITTEE)

The State Agriculture Development Committee has approved the purchase of the development easement on the Premises pursuant to the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32 and the Garden State Preservation Trust Act, N.J.S.A. 13:8C-1 et seq., P.L. 1999, c.152 and hereby accepts and approves the foregoing restrictions, benefits and covenants.


Susan E. Craft, Executive Director
State Agriculture Development Committee

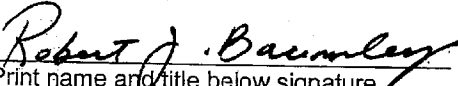
1/31/07
Date

STATE OF NEW JERSEY, COUNTY OF MERCER SS.:

I CERTIFY that on JANUARY 31, 2007.

Susan E. Craft personally came before me and acknowledged under oath, to my satisfaction, that this person:

- (a) is named in and personally signed this DEED OF EASEMENT,
- (b) signed, sealed and delivered this DEED OF EASEMENT as the Committee's act and deed, and
- (c) is the Executive Director of the State Agriculture Development Committee.


Print name and title below signature

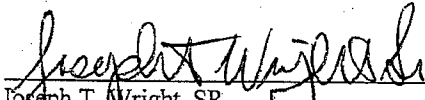
ROBERT J. BAUMLEY
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires June 11, 2011

S:\Pinelands 2002B\Camden\Betts & Betts\Deed.doc

RETURN NUMBER - 36672



PERKS REUTTER ASSOCIATES


Joseph T. Wright, SR.
NJ Land Surveyor License No. 21775

May 26, 2004
LegalDescription.doc

TIB

SD

SCHEDULE B

Grantor certifies that at the time of the application to sell the development easement to the Grantee no nonagricultural uses existed. Grantor further certifies that at the time of the execution of this Deed of Easement no nonagricultural uses exist.

TUB

93

SCHEDULE A



PERKS REUTTER ASSOCIATES

C O N S U L T I N G E N G I N E E R S

Description of Property

Block 297, Lot 9
Waterford Township
Camden County, New Jersey

ALL THAT CERTAIN tract or parcel of land situate in the Township of Waterford, County of Camden and State of New Jersey, being more particularly described as follows:

BEGINNING at a Found Pin & Cap on the Northerly side of Walker AVE., in the Division Line between Lots 6A Block 297 & Lot 9 Block 297, Being lands now or formerly of Betts & Betts L.L.C, Said Beginning point having New Jersey Plane Coordinate System, NAD 1983, (NJPCS) values of N308791.9267 Feet and E407582.1053 Feet and from said Beginning Point and in said bearing system running thence, (1) N.49°48'45"W., a distance of 2,168.34 feet to an Iron Pin; thence, (2) N.40°11'15"E., a distance of 659.32 feet to a Iron Pin & Cap; thence, (3) S.49°48'45"E., a distance of 2,168.34 feet to a point on the sideline of Walker Road; thence, (4) S.40°11'15"W., a distance of 659.32 feet to the POINT OF BEGINNING.

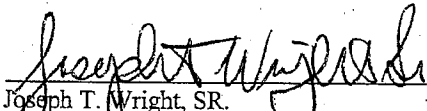
SAID ABOVE DESCRIBED tract or parcel of land containing within said bounds 32.820 acres more or less.

The above description was written pursuant to a certain map entitled "Survey of Property for the State of New Jersey, State Agriculture Development Committee", designated as Block 297, Lot 9, on the Municipal Tax Assessment Map of the Township of Waterford, County of ^{Camden} ~~Atlantic~~, State of New Jersey, said survey was prepared by Perks Reutter Associates, Fairway Corporate Center, 4300 Haddonfield Road, Suite 115, Pennsauken, NJ 08109, dated December 08, 2003 and is marked as file No. SADC5193.

TJB
JB

Fairway Corporate Center, 4300 Haddonfield Road, Suite 115, Pennsauken, NJ 08109, 856-488-6200, FAX 856-488-4302
1520 Locust Street, 4th Floor, Philadelphia, Pennsylvania, 19102, 215-732-9970, FAX 215-732-6940
146 Montgomery Avenue, Bala Cynwyd, PA 19004, 610-667-7080, FAX 610-667-7490
e-mail: ENGINEER@PERKSREUTTER.COM

PERKS REUTTER ASSOCIATES


Joseph T. Wright, SR.
NJ Land Surveyor License No. 21775

May 26, 2004
LegalDescription.doc

TUB

SD

SCHEDULE B

Grantor certifies that at the time of the application to sell the development easement to the Grantee no nonagricultural uses existed. Grantor further certifies that at the time of the execution of this Deed of Easement no nonagricultural uses exist.

TIB

§3

STATE OF NEW JERSEY
AFFIDAVIT OF CONSIDERATION FOR USE BY SELLER

(Chapter 49, P.L. 1968, as amended through Chapter 33, P.L. 2006)
To be recorded with deed pursuant to Chapter 49, P.L. 1968 as amended by Chapter 308, P.L. 1991 (N.J.S.A. 46:15-6 et seq.)
BEFORE COMPLETING THIS AFFIDAVIT, PLEASE READ THE INSTRUCTIONS ON THE REVERSE SIDE OF THIS FORM.

STATE OF NEW JERSEY COUNTY OF CAMDEN } SS. Municipality: Township of Waterford	County Municipal Code 0435	FOR RECORDER'S USE ONLY Consideration \$ _____ RTF paid by seller \$ _____ Date _____ By _____
--	--------------------------------------	--

* Use symbol "C" to indicate that fee is exclusively for county use.

(1) **PARTY OR LEGAL REPRESENTATIVE** (See Instructions #3 and 4 attached)
Deponent, **Nicole Wilson**, being duly sworn according to law upon his/her oath deposes and says that he/she is the **Officer of Title Co.** in a deed dated **2/06/07** transferring real property identified as Block No. **297** Lot No. **9** located at **609 Walker Ave, Waterford** and annexed hereto.
(Street Address, Municipality, County)

(2) **CONSIDERATION: \$124,959.60** (See Instructions #1, 5, 6 and 7)

(2A) REQUIRED CALCULATION OF EQUALIZED ASSESSED VALUATION FOR ALL CLASS 4A COMMERCIAL PROPERTY TRANSACTIONS:

Total Assessed Valuation ÷ Director's Ratio = Equalized Valuation
\$ _____ ÷ _____ = \$ _____

If equalized valuation amount is in excess of \$1,000,000, the 1% fee is imposed on Buyer on entire amount of consideration. If Director's Ratio is less than 100%, the equalized valuation will be an amount greater than the assessed value. If Director's Ratio is equal to or in excess of 100%, the assessed value will be equal to the equalized value.

(3) FULL EXEMPTION FROM FEE (See Instruction #8)

Deponent states that this deed transaction is fully exempt from the Realty Transfer Fee imposed by c. 49, P.L. 1968, as amended through c. 66, P.L. 2004 for the following reason(s). Explain in detail. Mere reference to exemption symbol is not sufficient. **(b) By or to the United States of America, this State, or any instrumentality, agency or subdivision**

(4) PARTIAL EXEMPTION FROM FEE NOTE: All boxes below apply to grantor(s) only. ALL BOXES IN APPROPRIATE CATEGORY MUST BE CHECKED. Failure to do so will void claim for partial exemption. (See Instruction #9)

Deponent claims that this deed transaction is exempt from the State portion of the Basic fee imposed by c. 176, P.L. 1975; c. 113, P.L. 2004; and c. 66, P.L. 2004 for the following reason(s):

A. SENIOR CITIZEN (See Instruction #9)

- | | |
|---|--|
| ☐ Grantor(s) 62 years of age or over.* | ☐ Owned and occupied by grantor(s) at time of sale. |
| ☐ One- or two-family residential premises. | ☐ Owners as joint tenants must all qualify. |
| ☐ Resident of the State of New Jersey. | |

B. BLIND (See Instruction #9)

- | | |
|--|--|
| ☐ Grantor(s) legally blind.* | DISABLED (See Instruction #9) |
| ☐ One- or two-family residential premises. | ☐ Grantor(s) permanently and totally disabled.* |
| ☐ Owned and occupied by grantor(s) at time of sale. | ☐ Receiving disability payments.* |
| ☐ Owners as joint tenants must all qualify. | ☐ Not gainfully employed.* |
| ☐ Resident of the State of New Jersey. | ☐ One- or two-family residential premises. |
| | ☐ Owned and occupied by grantor(s) at time of sale. |
| | ☐ Owners as joint tenants must all qualify. |
| | ☐ Resident of the State of New Jersey. |

* IN THE CASE OF HUSBAND AND WIFE, ONLY ONE GRANTOR NEED QUALIFY IF OWNED AS TENANTS BY THE ENTIRETY.

C. LOW AND MODERATE INCOME HOUSING (See Instruction #9)

- | | |
|---|--|
| ☐ Affordable according to HUD standards. | ☐ Reserved for occupancy. |
| ☐ Meets income requirements of region. | ☐ Subject to resale controls. |

(5) NEW CONSTRUCTION (See Instruction #10) - Affidavit must be executed by Grantor

- | | |
|---|---|
| ☐ Entirely new improvement. | ☐ Not previously occupied. |
| ☐ Not previously used for any purpose. | ☐ "NEW CONSTRUCTION" printed clearly at the top of the first page of the deed. |

Deponent makes this Affidavit to induce the County Clerk or Register of Deeds to record the deed and accept the fee submitted herewith in accordance with the provisions of c. 49, P.L. 1968, as amended through c. 33, P.L. 2006.

Subscribed and sworn to before me
this **Sixth**
day of **February**, 20 **07**

Linda Kohl
Notary Public
Linda Kohl

Signature of Deponent
112 J Centre Boulevard
Marlton, NJ 08053
Address of Deponent

Betts and Betts, LLC
Name of Grantor
P.O. Box 366
Tuckahoe, NJ 08250
Address of Grantor at Time of Sale

Garden State Abstract Company
Name/Company of Settlement Officer

This form is prescribed by the Director, Division of Taxation in the Department of the Treasury, as required by law, and may not be altered or amended without the approval of the Director.

FOR OFFICIAL USE ONLY	
Instrument Number _____	County _____
Deed Number _____	Book _____ Page _____
Deed Dated _____	Date Recorded _____

Linda Kohl
Notary Public State of NJ
My Comm. Expires 3/28/2010

A 5025 14



New Jersey Judiciary
Superior Court - Appellate Division
NOTICE OF APPEAL

FILED
APPELLATE DIVISION

JUL 09 2015

Type or clearly print all information. Attach additional sheets if necessary.		ATTORNEY / LAW FIRM / PRO SE LITIGANT	
TITLE IN FULL (AS CAPTIONED BELOW): In re The Pinelands Commission's Consistency Determination Approving Tuckahoe Turf Farm Inc.'s Application No. 1984-0389.009		NAME Renee Steinhagen/NJ Applesced PILC STREET ADDRESS 744 Broad Street, Rm. 1525 CITY Newark STATE NJ ZIP 07102 PHONE NUMBER 973-735-0523 EMAIL ADDRESS steinhagen_pilc@yahoo.com	
ON APPEAL FROM TRIAL COURT JUDGE		TRIAL COURT OR STATE AGENCY The Pinelands Commission	TRIAL COURT OR AGENCY NUMBER App. No. 1984-0389.009

Notice is hereby given that Pinelands Preservation Alliance; NJ Conservation appeals to the Appellate Division from a ☐ Judgment or ☐ Order entered on _____ in the ☐ Civil ☐ Criminal or ☐ Family Part of the Superior Court or from a ☒ State Agency decision entered on May 26, 2015.

If not appealing the entire judgment, order or agency decision, specify what parts or paragraphs are being appealed.

Have all issues, as to all parties in this action, before the trial court or agency been disposed of? (In consolidated actions, all issues as to all parties in all actions must have been disposed of.) ☒ Yes ☐ No

If not, has the order been properly certified as final pursuant to R. 4:42-2? ☐ Yes ☐ No

For criminal, quasi-criminal and juvenile actions only:

Give a concise statement of the offense and the judgment including date entered and any sentence or disposition imposed:

This appeal is from a ☐ conviction ☐ post judgment motion ☐ post-conviction relief.
If post-conviction relief, is it the ☐ 1st ☐ 2nd ☐ other _____ specify

Is defendant incarcerated? ☐ Yes ☐ No

Was bail granted or the sentence or disposition stayed? ☐ Yes ☐ No

If in custody, name the place of confinement:

Defendant was represented below by:
☐ Public Defender ☐ self ☐ private counsel _____ specify

Notice of appeal and attached case information statement have been served where applicable on the following:

Name	Date of Service
Trial Court Judge	
Trial Court Division Manager	
Tax Court Administrator	
State Agency	The Pinelands Commission
Attorney General or Attorney for other Governmental body pursuant to R. 2:5-1(a), (e) or (h)	July 6, 2015

Other parties in this action:

Name and Designation	Attorney Name, Address and Telephone No.	Date of Service
Tuckahoe Turf Farm, Inc.	P.O. Box 148, Hammonton, NJ 08037	July 6, 2015
Hammonton Planning Board	Fitzgerald, McGroarty & Malinsky, PA 747 Shore Road, Linwood, NJ 08221	July 6, 2015

Attached transcript request form has been served where applicable on the following:

Name	Date of Service	Amount of Deposit
Trial Court Transcript Office		
Court Reporter (if applicable)		
Supervisor of Court Reporters		
Clerk of the Tax Court		
State Agency		

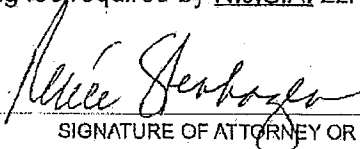
Exempt from submitting the transcript request form due to the following:

- ☐ No verbalim record.
- ☐ Transcript in possession of attorney or pro se litigant (four copies of the transcript must be submitted along with an electronic copy).
List the date(s) of the trial or hearing:
- ☐ Motion for abbreviation of transcript filed with the court or agency below. Attach copy.
- ☐ Motion for free transcript filed with the court below. Attach copy.

I certify that the foregoing statements are true to the best of my knowledge, information and belief.
I also certify that, unless exempt, the filing fee required by N.J.S.A. 22A:2 has been paid.

July 6, 2015

DATE


SIGNATURE OF ATTORNEY OR PRO SE LITIGANT

A 5025 14

FILED
APPELLATE DIVISION

New Jersey Judiciary
Superior Court - Appellate Division
CIVIL CASE INFORMATION STATEMENT

JUL 09 2015

Please type or clearly print all information.

TITLE IN FULL (1)

In re The Pinelands Commission's Consistency Determination Approving
Tuckahoe Turf Farm, Inc's Application No. 1984-0389.009

TRIAL COURT OR AGENCY CASE NUMBER (2)

App. No. 1984-0389.009

■ Attach additional sheets as necessary for any information below.

(3) APPELLANT'S ATTORNEY EMAIL ADDRESS: steinhagen_pilc@yahoo.com

☐ PLAINTIFF ☐ DEFENDANT ☒ OTHER (SPECIFY) Objectors (Interested Nonprofit Organizations)

NAME

Renee Steinhagen, NJ Applesseed PILC (Att. No. 038691989)

CLIENT

Pinelands Preservation Alliance; ~~XXXX~~

STREET ADDRESS

744 Broad Street, Rm. 1525

CITY

Newark

STATE

NJ

ZIP

07102

TELEPHONE NUMBER

973-735-053

(4) RESPONDENT'S ATTORNEY * EMAIL ADDRESS:

NAME

Acting Attorney General John Hoffman

CLIENT

The Pinelands Commission

STREET ADDRESS

P.O. Box 080, 25 W. Market St.

CITY

Trenton

STATE

NJ

ZIP

08625

TELEPHONE NUMBER

609-292-4925

* Indicate which parties, if any, did not participate below or were no longer parties to the action at the time of entry of the judgment or decision being appealed.

(5) GIVE DATE AND SUMMARY OF JUDGMENT, ORDER, OR DECISION BEING APPEALED AND ATTACH A COPY:

In a letter dated May 26, 2015, The Pinelands Commission ("PC") issued a consistency determination (otherwise known as a "No Call Up" letter) approving Tuckahoe Turf Farm, Inc.'s ("TTF") application to permit establishment of a private commercial soccer use in a deed restricted Agricultural Production Area (the "Action").

(6) Are there any claims against any party below, either in this or a consolidated action, which have not been disposed of, including counterclaims, cross-claims, third-party claims and applications for counsel fees?

☐ YES ☒ NO

If so, has the order been properly certified as final pursuant to R. 4:42-2? (If not, leave to appeal must be sought. R. 2:2-4.2.5-6)

☒ YES ☐ NO

(If the order has been certified, attach, together with a copy of the order, a copy of the complaint or any other relevant pleadings and a brief explanation as to why the order qualified for certification pursuant to R. 4:42-2.)

Were any claims dismissed without prejudice?

☐ YES ☒ NO

If so, explain and indicate any agreement between the parties concerning future disposition of those claims.

(7) Is the validity of a statute, regulation, executive order, franchise or constitutional provision of this State being questioned? (R. 2:5-1(h))

☐ YES ☒ NO

(8) GIVE A BRIEF STATEMENT OF THE FACTS AND PROCEDURAL HISTORY:

In Oct. 2013, PC became aware that certain deed restricted parcels owned by TTF were being used for organized soccer activities. On 4/21/14 PC issued a Violation Letter to TTF with respect to those parcels located in Hammonton. On 7/17/14, PC issued a second letter to TTF stating that all soccer practices and events must cease by 8/31/14. This was subsequently extended to 11/30/14. After receiving a full application by TTF seeking permission to hold soccer events, PC, on 12/17/14, issued an "Inconsistent Certificate of Filing" ("ICF") for TTF's Hammonton parcels. Nonetheless, on 2/4/15, the Hammonton Planning Bd. (HPB) passed Res. 10-14 approving such activities. On 3/26/15, PC stated in a letter to TTF that it believed that soccer activities were not consistent with the standards of the Pinelands Comprehensive Management Plan ("CMP"). On 4/24/15, PC issued an amended ICF for TTF's restricted parcels in Hammonton, Winslow and Waterford. On 5/6/15, the HPM issued an amended approval of TTF's activities; and on 5/26/15, PC issued a No Call Up letter approving TTF's application as approved by the HPB.

- (9) TO THE EXTENT POSSIBLE, LIST THE PROPOSED ISSUES TO BE RAISED ON THE APPEAL AS THEY WILL BE DESCRIBED IN APPROPRIATE POINT HEADINGS PURSUANT TO R. 2:6-2(a)(5). (Appellant or cross-appellant only.):
1. Whether PC's Action violates the Pinelands Protection Act, NJSA 13:18A-1 et seq. and the Pinelands CMP regulations applicable to commercial uses in the Agricultural Production Area, NJAC 7:50-5.24(a), because the use in question is not among the permitted uses set forth in the CMP for TTF's Hammonton parcels;
 2. Whether PC's Action violates the terms of the conservation deed restrictions recorded on TTF's Hammonton properties because the use in question is not a permitted use; and
 3. Whether PC acted arbitrarily and capriciously in taking the Action without holding a hearing pursuant to its regulations and/or making findings of fact and law justifying the Action in a public record.

- (10) IF YOU ARE APPEALING FROM A JUDGMENT ENTERED BY A TRIAL JUDGE SITTING WITHOUT A JURY OR FROM AN ORDER OF THE TRIAL COURT, COMPLETE THE FOLLOWING:

1. Did the trial judge issue oral findings or an opinion? If so, on what date? _____ ☐ YES ☐ NO
2. Did the trial judge issue written findings or an opinion? If so, on what date? _____ ☐ YES ☐ NO
3. Will the trial judge be filing a statement or an opinion pursuant to R. 2:5-1(b)? ☐ YES ☐ NO

Caution: Before you indicate that there was neither findings nor an opinion, you should inquire of the trial judge to determine whether findings or an opinion was placed on the record out of counsel's presence or whether the judge will be filing a statement or opinion pursuant to R. 2:5-1(b).

DATE OF YOUR INQUIRY: _____

1. IS THERE ANY APPEAL NOW PENDING OR ABOUT TO BE BROUGHT BEFORE THIS COURT WHICH:

- (11) (A) Arises from substantially the same case or controversy as this appeal? ☐ YES ☒ NO
- (12) (B) Involves an issue that is substantially the same, similar or related to an issue in this appeal? ☐ YES ☒ NO
- (13) 2. WAS THERE ANY PRIOR APPEAL INVOLVING THIS CASE OR CONTROVERSY? ☐ YES ☒ NO

- (14) IF THE ANSWER TO EITHER 1 OR 2 ABOVE IS YES, STATE:

Case Name: _____

Appellate Division Docket Number: _____

Civil appeals are screened for submission to the Civil Appeals Settlement Program (CASP) to determine their potential for settlement or, in the alternative, a simplification of the issues and any other matters that may aid in the disposition or handling of the appeal. Please consider these when responding to the following question. A negative response will not necessarily rule out the scheduling of a preargument conference.

- (15) State whether you think this case may benefit from a CASP conference. ☒ YES ☐ NO

Explain your answer:

PPA and NJCF are open to discussing this matter with both the PC and TTF to see if there is a viable resolution that respects the CMP and the deed restriction.

- (16) I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

(17) Pinelands Preservation Alliance; ~~XXXX~~

Name of Appellant or Respondent

(18) Renee Steinhagen/NJ Appleseed PILc

Name of Counsel of Record
(or your name if not represented by counsel)

(19) July 6, 2015

Date

(20)

Signature of Counsel of Record
(or your signature if not represented by counsel)



New Jersey Judiciary
Superior Court - Appellate Division
AMENDED NOTICE OF APPEAL

Type or clearly print all information. Attach additional sheets if necessary.		ATTORNEY / LAW FIRM / PRO SE LITIGANT			
TITLE IN FULL (AS CAPTIONED BELOW): In re The Pinelands Commission's Consistency Determination Approving Tuckahoe Turf Farm Inc.'s Application No. 1984-0389.009		NAME Renee Steinhagen/NJ Appleseed PILC			
		STREET ADDRESS 744 Broad Street, Rm. 1525			
		CITY Newark	STATE NJ	ZIP 07102	PHONE NUMBER 973-735-0523
		EMAIL ADDRESS steinhagen_pilc@yahoo.com			
ON APPEAL FROM					
TRIAL COURT JUDGE	TRIAL COURT OR STATE AGENCY The Pinelands Commission	TRIAL COURT OR AGENCY NUMBER App. No. 1984-0389.009			

Notice is hereby given that Pinelands Preservation Alliance: NJ Conservation F. appeals to the Appellate Division from a ☐ Judgment or ☐ Order entered on _____ in the ☐ Civil ☐ Criminal or ☐ Family Part of the Superior Court or from a ☒ State Agency decision entered on May 26, 2015.

If not appealing the entire judgment, order or agency decision, specify what parts or paragraphs are being appealed.

Have all issues, as to all parties in this action, before the trial court or agency been disposed of? (In consolidated actions, all issues as to all parties in all actions must have been disposed of.) ☒ Yes ☐ No

If not, has the order been properly certified as final pursuant to R. 4:42-2? ☐ Yes ☐ No

For criminal, quasi-criminal and juvenile actions only:

Give a concise statement of the offense and the judgment including date entered and any sentence or disposition imposed:

This appeal is from a ☐ conviction ☐ post judgment motion ☐ post-conviction relief.

If post-conviction relief, is it the ☐ 1st ☐ 2nd ☐ other _____
specify

Is defendant incarcerated? ☐ Yes ☐ No

Was bail granted or the sentence or disposition stayed? ☐ Yes ☐ No

If in custody, name the place of confinement:

Defendant was represented below by:

☐ Public Defender ☐ self ☐ private counsel _____
specify

Notice of appeal and attached case information statement have been served where applicable on the following:

	Name	Date of Service
Trial Court Judge		
Trial Court Division Manager		
Tax Court Administrator		
State Agency	Pinelands Commission-Sean Moriarty, DAG.	August 5, 2015
Attorney General or Attorney for other Governmental body pursuant to R. 2:5-1(a), (e) or (h)		
Other parties in this action:		

Name and Designation	Attorney Name, Address and Telephone No.	Date of Service
Tuckahoe Turfarm, Inc.	William Harrison, Esq. Genova Burns 494 Broad St., Newark, NJ 07102	August 5, 2015
Hammonton Planning Board	Fitzgerald, McGroarty & Malinsky, PA 747 Shore Road, Linwood, NJ 08221	August 5, 2015

Attached transcript request form has been served where applicable on the following:

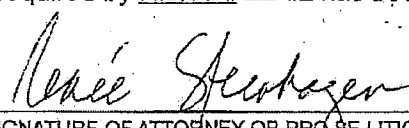
	Name	Date of Service	Amount of Deposit
Trial Court Transcript Office			
Court Reporter (if applicable)			
Supervisor of Court Reporters			
Clerk of the Tax Court			
State Agency			

Exempt from submitting the transcript request form due to the following:

- ☐ No verbatim record.
- ☐ Transcript in possession of attorney or pro se litigant (four copies of the transcript must be submitted along with an electronic copy).
List the date(s) of the trial or hearing:
- ☐ Motion for abbreviation of transcript filed with the court or agency below. Attach copy.
- ☐ Motion for free transcript filed with the court below. Attach copy.

I certify that the foregoing statements are true to the best of my knowledge, information and belief.
I also certify that, unless exempt, the filing fee required by N.J.S.A. 22A:2 has been paid.

August 5, 2015
DATE


SIGNATURE OF ATTORNEY OR PRO SE LITIGANT



New Jersey Judiciary
Superior Court - Appellate Division
CIVIL CASE INFORMATION STATEMENT

AMENDED

Please type or clearly print all information.

TITLE IN FULL (1)

In re The Pinelands Commission's Consistency Determination Approving
Tuckahoe Turf Farm, Inc's Application No. 1984-0389.009

TRIAL COURT OR AGENCY DOCKET NUMBER (2)

App. No. 1984-0389.009

■ Attach additional sheets as necessary for any information below.

(3) APPELLANT'S ATTORNEY EMAIL ADDRESS: steinhagen_pile@yahoo.com

☐ PLAINTIFF ☐ DEFENDANT ☒ OTHER (SPECIFY) Objectors (Interested Nonprofit Organizations)

NAME

Renée Steinhagen, NJ Applesed PILC (Att. No. 038691989)

CLIENT

Pinelands Preservation Alliance; NJCF

STREET ADDRESS

744 Broad Street, Rm. 1525

CITY

Newark

STATE

NJ

ZIP

07102

TELEPHONE NUMBER

973-735-053

(4) RESPONDENT'S ATTORNEY * EMAIL ADDRESS:

NAME

Sean D. Moriarty, DAG

CLIENT

The Pinelands Commission

STREET ADDRESS

P.O. Box 080, 25 W. Market St.

CITY

Trenton

STATE

NJ

ZIP

08625

TELEPHONE NUMBER

609-292-4925

* Indicate which parties, if any, did not participate below or were no longer parties to the action at the time of entry of the judgment or decision being appealed.

(5) GIVE DATE AND SUMMARY OF JUDGMENT, ORDER, OR DECISION BEING APPEALED AND ATTACH A COPY:

In a letter dated May 26, 2015, The Pinelands Commission ("PC") issued a consistency determination (otherwise known as a "No Call Up" letter) approving Tuckahoe Turf Farm, Inc.'s ("TTF") application to permit establishment of a private commercial soccer use in a deed restricted Agricultural Production Area (the "Action").

(6) Are there any claims against any party below, either in this or a consolidated action, which have not been disposed of, including counterclaims, cross-claims, third-party claims and applications for counsel fees? ☐ YES ☒ NO

If so, has the order been properly certified as final pursuant to R. 4:42-2? (If not, leave to appeal must be sought R. 2:2-4, 2:5-6) ☒ YES ☐ NO

(If the order has been certified, attach, together with a copy of the order, a copy of the complaint or any other relevant pleadings and a brief explanation as to why the order qualified for certification pursuant to R. 4:42-2.)

Were any claims dismissed without prejudice? ☐ YES ☒ NO

If so, explain and indicate any agreement between the parties concerning future disposition of those claims.

(7) Is the validity of a statute, regulation, executive order, franchise or constitutional provision of this State being questioned? ☐ YES ☒ NO (R. 2:5-1(h))

(8) GIVE A BRIEF STATEMENT OF THE FACTS AND PROCEDURAL HISTORY:

In Oct. 2013, PC became aware that certain deed restricted parcels owned by TTF were being used for organized soccer activities. On 4/21/14 PC issued a Violation Letter to TTF with respect to those parcels located in Hammonton. On 7/17/14, PC issued a second letter to TTF stating that all soccer practices and events must cease by 8/31/14. This was subsequently extended to 11/30/14. After receiving a full application by TTF seeking permission to hold soccer events, PC, on 12/17/14, issued an "Inconsistent Certificate of Filing" ("ICF") for TTF's Hammonton parcels. Nonetheless, on 2/4/15, the Hammonton Planning Bd. (HPB) passed Res.10-14 approving such activities. On 3/26/15, PC stated in a letter to TTF that it believed that soccer activities were not consistent with the standards of the Pinelands Comprehensive Management Plan ("CMP"). On 4/24/15, PC issued an amended ICF for TTF's restricted parcels in Hammonton, Winslow and Waterford. On 5/6/15, the HPM issued an amended approval of TTF's activities; and on 5/26/15, PC issued a No Call Up letter approving TTF's application as approved by the HPB.

(9) TO THE EXTENT POSSIBLE, LIST THE PROPOSED ISSUES TO BE RAISED ON THE APPEAL AS THEY WILL BE DESCRIBED IN APPROPRIATE POINT HEADINGS PURSUANT TO R. 2:6-2(a)(5). (Appellant or cross-appellant only.):

Appellants restate and incorporate the three issues set forth in their Case Information Sheet, dated July 6, 2015, as if fully stated herein and add:

4. Whether the PC invalidly delegated to its Executive Director the decision as to whether the proposed development conformed with the minimum standards of the CMP without review by the PC.

(10) IF YOU ARE APPEALING FROM A JUDGMENT ENTERED BY A TRIAL JUDGE SITTING WITHOUT A JURY OR FROM AN ORDER OF THE TRIAL COURT, COMPLETE THE FOLLOWING:

1. Did the trial judge issue oral findings or an opinion? If so, on what date? _____ ☐ YES ☐ NO

2. Did the trial judge issue written findings or an opinion? If so, on what date? _____ ☐ YES ☐ NO

3. Will the trial judge be filing a statement or an opinion pursuant to R. 2:5-1(b)? ☐ YES ☐ NO

Caution: Before you indicate that there was neither findings nor an opinion, you should inquire of the trial judge to determine whether findings or an opinion was placed on the record out of counsel's presence or whether the judge will be filing a statement or opinion pursuant to R. 2:5-1(b).

DATE OF YOUR INQUIRY: _____

1. IS THERE ANY APPEAL NOW PENDING OR ABOUT TO BE BROUGHT BEFORE THIS COURT WHICH:

(11) (A) Arises from substantially the same case or controversy as this appeal? ☐ YES ☒ NO

(12) (B) Involves an issue that is substantially the same, similar or related to an issue in this appeal? ☐ YES ☒ NO

(13) 2. WAS THERE ANY PRIOR APPEAL INVOLVING THIS CASE OR CONTROVERSY? ☐ YES ☒ NO

(14) IF THE ANSWER TO EITHER 1 OR 2 ABOVE IS YES, STATE:

Case Name: _____

Appellate Division Docket Number: _____

Civil appeals are screened for submission to the Civil Appeals Settlement Program (CASP) to determine their potential for settlement or, in the alternative, a simplification of the issues and any other matters that may aid in the disposition or handling of the appeal. Please consider these when responding to the following question. A negative response will not necessarily rule out the scheduling of a preargument conference.

(15) State whether you think this case may benefit from a CASP conference. ☒ YES ☐ NO

Explain your answer:

PPA and NJCF are open to discussing this matter with both the PC and TTF to see if there is a viable resolution that respects the CMP and the deed restriction.

(16) I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

(17) Pinelands Preservation Alliance; NJCF
Name of Appellant or Respondent

(18) Renée Steinhagen/NJ Appleseed PILC
Name of Counsel of Record
(or your name if not represented by counsel)

(19) August 5, 2015

Date

(20)

Renée Steinhagen
Signature of Counsel of Record
(or your signature if not represented by counsel)



Chris Christie
Governor

Kim Guadagno
Lt. Governor

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

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



Mark S. Lohbauer
Chairman

Nancy Wittenberg
Executive Director

April 24, 2015

Tuckahoe Turf Farm, Inc.
P.O. Box 148
801 N. Myrtle Street
Hammonton, NJ 08037

Re: Application # 1984-0389.009
Block 5001, Lots 5 - 7
Block 5002, Lot 11
Block 5601, Lots 1 - 9
Block 5602, Lots 3 - 7 (excluding Lot 4.01)
Town of Hammonton

Block 7502, Lots 2 - 3
Block 7503, Lots 1, 3 - 5 & 10 - 12
Block 7504, Lots 1 - 4 & 10 - 12
Block 7505, Lot 1
Block 7506, Lot 1
Block 7602, Lots 10 - 13
Waterford Township

Block 6602, Lot 7
Block 7101, Lots 5 & 15
Block 7104, Lots 1 & 3
Winslow Township

Dear Applicant:

Pursuant to N.J.A.C. 7:50-4.2(c) of the Pinelands Comprehensive Management Plan, the completion of your application has resulted in the issuance of the enclosed *Amended Inconsistent Certificate of Filing*. The reason(s) for the inconsistency is explained on Page 3 and must be resolved.

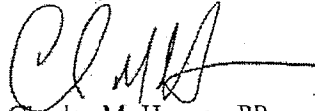
The Certificate of Filing is not an approval. It is the document necessary to allow any local or county agency to review and act on your proposed development application. All local and county permits and approvals granted for the proposed development are subject to review by the Pinelands Commission. **No approval shall take effect and no development may occur until the Commission issues a letter indicating that the approval may take effect.**



Upon receipt of any local agency approval, please submit a copy to the Commission's office with the additional items listed on the enclosed *Local Agency Approval Submission Checklist*.

If you have any questions, please contact Rhonda L. Ward of our staff.

Sincerely,



Charles M. Horner, PP
Director of Regulatory Programs

Enc: Inconsistent Certificate of Filing
Local Agency Approval Submission Checklist

c: Secretary, Town of Hammonton Planning Board (via email)
Town of Hammonton Construction Code Official (via email)
Town of Hammonton Environmental Commission (via email)
Secretary, Waterford Township Planning Board (via email)
Waterford Township Construction Code Official (via email)
Waterford Township Environmental Commission (via email)
Secretary, Winslow Township Planning Board (via email)
Winslow Township Construction Code Official (via email)
Winslow Township Environmental Commission (via email)
Atlantic County Department of Regional Planning and Development (via email)
Secretary, Camden County Planning Board (via email)
William F. Harrison, Esq. (w/encl.)



New Jersey Pinelands Commission
PO Box 359
New Lisbon, NJ 08064
(609) 894-7300



Chris Christie
Governor

Kim Guadagno
Lt. Governor

Mark S. Lohbauer
Chairman

Nancy Wittenberg
Executive Director

AMENDED INCONSISTENT CERTIFICATE OF FILING

INCONSISTENT

Application #: 1984-0389/009

Applicant: Treckahoe Turf Farm, Inc.

Municipality: Town of Hammonton, Waterford & Whitestown Townships

(See attached cover letter for Block Lot(s))

Agricultural Production Area, AG Zoning District: 369.05 acres

Agricultural Production Area, PA Zoning District: 31.6 acres

Agricultural Production Area, AP Zoning District: 311.11 acres

Proposed Development

Establishment of a private commercial soccer use with no site improvements

Plan(s) Subject of Certificate of Filing

Not Applicable

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

April 24, 2015

Date

Please see the additional pages for more information and conditions

BACKGROUND

Existing development:

- Agricultural use: sod farm

Relevant Information:

- Based upon available wetlands mapping, there are wetlands located on and within 300 feet of the parcel.
- The Pinelands Development Credits (PDCs) allocated to the parcel subject of this application have been severed or extinguished and the requisite deed restrictions were imposed limiting permitted land uses on the parcel.
- The proposed private commercial soccer use was established prior to completion of an application with the Commission in violation of the application requirements of the Town of Hammonton and Waterford land use ordinances and the Pinelands Comprehensive Management Plan.
- This application represents that the proposed use will only be located on lands in active sod production.

CONDITIONS

1. The proposed soccer use shall not be located in wetlands.
2. This application is for the establishment of the proposed soccer use only. Any other future development of the parcel, including any proposed site improvements, requires application to the Commission and shall be governed by the Town of Hammonton, Waterford Township and Winslow Township land use ordinances and the Pinelands Comprehensive Management Plan.
3. Item(s) on the attached *Inconsistencies* document must be resolved prior to Commission issuance of a letter indicating that any approval can take effect.

INCONSIST

NEXT STEPS

- This Certificate of Filing is not an approval.
- Submit a copy of this Certificate of Filing to all county and municipal agencies that are required to review and act on your application (municipal planning board, building department, county health department, etc.).
- Send a copy of all approvals/permits that are issued by the county or municipality to the Pinelands Commission for review. Please use the attached *Local Agency Approval Submission Checklist* to make sure you are submitting all required documentation related to the approval/permit.
- No local approval/permit takes effect and no development can occur until the Pinelands Commission has reviewed the approval. When we complete our review, we will issue you a letter stating that the approval/permit can take effect.

INCONSISTENCIES:

This application as currently proposed is inconsistent with the following standard(s) of the Town of Hammononton, Waterford Township and Winslow Township certified land use ordinances and the Pinelands Comprehensive Management Plan (CMP):

1. Permitted use in an Agricultural Production Area (N.J.A.C. 7:50-5.24(a))

This application proposes the establishment of a private commercial soccer use accessory to an existing sod farm located on the above referenced parcel in Hammononton, Waterford and Winslow. The applicant has not demonstrated that the proposed use meets the definition of accessory use contained in the Commission certified (approved) Town of Hammononton land, Waterford or Winslow use ordinances and the CMP or otherwise demonstrated that the proposed use is permitted in a Pinelands Agricultural Production Area. The application is inconsistent with the permitted use standards in a Pinelands Agricultural Production Area contained in the Commission certified (approved) Town of Hammononton, Waterford and Winslow land use ordinances and the CMP.

2. Pinelands Development Credit Deed Restriction (N.J.A.C. 7:50-5.47(b)(3))

The proposed private commercial soccer use is inconsistent with the uses of the parcel permitted by the PDC deed restriction previously imposed on the parcel.

Commission receipt of any county or municipal approval or permit for the development as currently proposed will likely result in the scheduling of a Commission staff public hearing to review the issues raised by the above-referenced inconsistency(ies).



Chris Christie
Governor
Kim Guadagno
Lt. Governor

State of New Jersey
THE PINELANDS COMMISSION
PO Box 359
New Lisbon, NJ 08054
(609) 894-7300
www.nj.gov/pinelands

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



Mark S. Lohbauer
Chairman
Nancy Wittenberg
Executive Director

May 26, 2015

Tuckahoe Turf Farm, Inc.
P.O. Box 148
801 N. Myrtle Street
Hammonton, NJ 08037

NOTIFICATION OF REVIEW OF LOCAL AGENCY APPROVAL(S)

DETERMINATION: CONSISTENT - APPROVAL(S) MAY TAKE EFFECT

APPLICATION #	1984-0389.009
Agency Approval(s) Reviewed	- Final Site Plan Approval issued by the Hammonton Planning Board - Amended Final Site Plan Approval issued by the Hammonton Planning Board
Applicant	Tuckahoe Turf Farm, Inc.
Parcel	Block 5001, Lots 5 - 7 Block 5002, Lot 11 Block 5601, Lots 1 - 9 Block 5602, Lots 3 - 7 Town of Hammonton Agricultural Production Area, AP Zoning District: 204 acres
Proposed Development	Establishment of a private commercial soccer use with no site improvements
Plans reviewed	Not Applicable

CONDITIONS FOR DEVELOPMENT:

1. The proposed soccer use shall not be located in wetlands.
2. This application is for the establishment of the proposed soccer use only. Any other future development of the parcel, including any proposed site improvements, requires application to the Commission and shall be governed by the Town of Hammonton land use ordinances and the Pinelands Comprehensive Management Plan.
3. By June 23, 2015 Tuckahoe Turf shall submit the requisite schedules to the Hammonton Zoning Officer to demonstrate compliance with the conditions contained in Hammonton Planning Board's Amended Resolution #10-14. If the submitted information demonstrates compliance with the conditions, the Zoning Officer shall advise the Pinelands Commission by fax notification of their intent to issue a zoning permit. No proposed use authorized by the Zoning Permit shall commence unless the Commission staff issues a letter indicating that the Zoning Permit shall take effect.

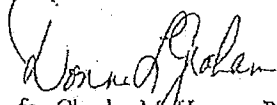
The Pinelands -- Our Country's First National Reserve
New Jersey Is An Equal Opportunity Employer - Printed on Recycled and Recyclable Paper



4. The information specified in Condition 3 shall be submitted to the Hammonton Zoning Officer annually, at least sixty (60) days prior to the commencement of soccer activities in any calendar year for the next two years (2016 and 2017).

If you have any questions, please contact Rhonda L. Ward of our staff.

Sincerely,



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

- c: Secretary, Town of Hammonton Planning Board (via email)
Town of Hammonton Construction Code Official (via email)
Town of Hammonton Environmental Commission (via email)
Atlantic County Department of Regional Planning and Development (via email)
William R. Harrison, Esq.

A 3417 15 FILED
APPELLATE DIVISION



New Jersey Judiciary
Superior Court - Appellate Division
NOTICE OF APPEAL

APR 11 2016

Julia
CLERK

Type or clearly print all information. Attach additional sheets if necessary.		ATTORNEY / LAW FIRM / PRO SE LITIGANT					
TITLE IN FULL (AS CAPTIONED BELOW): In re The Pinelands Commission's Consistency Determination Approving Tuckahoe Turf Farm Inc.'s Application No. 1984-0389.009		NAME Renee Steinhagen/NJ Applesseed PILC STREET ADDRESS 744 Broad Street, Rm. 1525 <table style="width: 100%; border: none;"> <tr> <td style="border: none; width: 33%;">CITY Newark</td> <td style="border: none; width: 15%;">STATE NJ</td> <td style="border: none; width: 15%;">ZIP 07102</td> <td style="border: none; width: 37%;">PHONE NUMBER 973-735-0523</td> </tr> </table> EMAIL ADDRESS steinhagen_pilc@yahoo.com		CITY Newark	STATE NJ	ZIP 07102	PHONE NUMBER 973-735-0523
CITY Newark	STATE NJ	ZIP 07102	PHONE NUMBER 973-735-0523				
ON APPEAL FROM							
TRIAL COURT JUDGE	TRIAL COURT OR STATE AGENCY The Pinelands Commission	TRIAL COURT OR AGENCY NUMBER App. No. 1984-0389.009					
Notice is hereby given that <u>Pinelands Preservation Alliance; NJ Conservation F.</u> appeals to the Appellate Division from a ☐ Judgment or ☐ Order entered on _____ in the ☐ Civil ☐ Criminal or ☐ Family Part of the Superior Court or from a ☒ State Agency decision entered on <u>March 10, 2016</u>. If not appealing the entire judgment, order or agency decision, specify what parts or paragraphs are being appealed. Have all issues, as to all parties in this action, before the trial court or agency been disposed of? (In consolidated actions, all issues as to all parties in all actions must have been disposed of.) ☒ Yes ☐ No If not, has the order been properly certified as final pursuant to R. 4:42-2? ☐ Yes ☐ No							
For criminal, quasi-criminal and juvenile actions only: Give a concise statement of the offense and the judgment including date entered and any sentence or disposition imposed: This appeal is from a ☐ conviction ☐ post judgment motion ☐ post-conviction relief. If post-conviction relief, is it the ☐ 1st ☐ 2nd ☐ other _____ specify Is defendant incarcerated? ☐ Yes ☐ No Was bail granted or the sentence or disposition stayed? ☐ Yes ☐ No If in custody, name the place of confinement: Defendant was represented below by: ☐ Public Defender ☐ self ☐ private counsel _____ specify							

Notice of appeal and attached case information statement have been served where applicable on the following:

	Name	Date of Service
Trial Court Judge		
Trial Court Division Manager		
Tax Court Administrator		
State Agency	Pinelands Commission-Sean Moriarty, DAG.	April 8, 2016
Attorney General or Attorney for other Governmental body pursuant to R. 2:5-1(a), (e) or (h)		

Other parties in this action:

Name and Designation	Attorney Name, Address and Telephone No.	Date of Service
Tuckahoe Turfarm, Inc.	William Harrison, Esq. Genova Burns 494 Broad St., Newark, NJ 07102	April 9, 2016
Waterford Twp. Planning Board	Edward Brennan, Florio, Perrucci, Steinhardt & Fader 235 Broubalow Way, Phillipsburg, NJ 08865	April 9, 2016

Attached transcript request form has been served where applicable on the following:

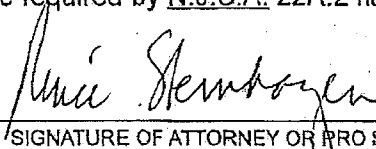
	Name	Date of Service	Amount of Deposit
Trial Court Transcript Office			
Court Reporter (if applicable)			
Supervisor of Court Reporters			
Clerk of the Tax Court			
State Agency			

Exempt from submitting the transcript request form due to the following:

- ☐ No verbatim record.
- ☐ Transcript in possession of attorney or pro se litigant (four copies of the transcript must be submitted along with an electronic copy).
List the date(s) of the trial or hearing:
- ☐ Motion for abbreviation of transcript filed with the court or agency below. Attach copy.
- ☐ Motion for free transcript filed with the court below. Attach copy.

I certify that the foregoing statements are true to the best of my knowledge, information and belief.
I also certify that, unless exempt, the filing fee required by N.J.S.A. 22A:2 has been paid.

April 9, 2016
DATE


SIGNATURE OF ATTORNEY OR PRO SE LITIGANT



New Jersey Judiciary
Superior Court - Appellate Division
CIVIL CASE INFORMATION STATEMENT

A 3417 15 FILED
APPELLATE DIVISION
APR 11 2016

Please type or clearly print all information.

TITLE IN FULL (1)

In re The Pinelands Commission's Consistency Determination Approving
Tuckahoe Turf Farm, Inc's Application No. 1984-0389.009

TRIAL COURT OR AGENCY DOCKET NUMBER

App. No. 1984-0389.009

■ Attach additional sheets as necessary for any information below.

(3) APPELLANT'S ATTORNEY EMAIL ADDRESS: steinhagen_pilc@yahoo.com

☐ PLAINTIFF ☐ DEFENDANT ☒ OTHER (SPECIFY) Objectors (Interested Nonprofit Organizations)

NAME

Renee Steinhagen, NJ Applesed PILC (Att. No. 038691989)

CLIENT

Pinelands Preservation Alliance; NJCF

STREET ADDRESS

744 Broad Street, Rm. 1525

CITY

Newark

STATE

NJ

ZIP

07102

TELEPHONE NUMBER

973-735-053

(4) RESPONDENT'S ATTORNEY EMAIL ADDRESS:

NAME

Sean D. Moriarty, DAG

CLIENT

The Pinelands Commission

STREET ADDRESS

P.O. Box 080, 25 W. Market St.

CITY

Trenton

STATE

NJ

ZIP

08625

TELEPHONE NUMBER

609-292-4925

* Indicate which parties, if any, did not participate below or were no longer parties to the action at the time of entry of the judgment or decision being appealed.

(5) GIVE DATE AND SUMMARY OF JUDGMENT, ORDER, OR DECISION BEING APPEALED AND ATTACH A COPY:

In a letter dated March 10, 2016, The Pinelands Commission ("PC") issued a consistency determination (otherwise known as a "No Call Up" letter) approving Tuckahoe Turf Farm, Inc.'s ("TTF") application to permit establishment of a private commercial soccer use in a deed restricted Agricultural Production Area (the "Action") in Waterford Township.

(6) Are there any claims against any party below, either in this or a consolidated action, which have not been disposed of, including counterclaims, cross-claims, third-party claims and applications for counsel fees? ☐ YES ☒ NO

If so, has the order been properly certified as final pursuant to R. 4:42-2? (If not, leave to appeal must be sought. R. 2:2-4,2:5-6) ☒ YES ☐ NO

(If the order has been certified, attach, together with a copy of the order, a copy of the complaint or any other relevant pleadings and a brief explanation as to why the order qualified for certification pursuant to R. 4:42-2.)

Were any claims dismissed without prejudice? ☐ YES ☒ NO

If so, explain and indicate any agreement between the parties concerning future disposition of those claims.

(7) Is the validity of a statute, regulation, executive order, franchise or constitutional provision of this State being questioned? (R. 2:5-1(h)) ☐ YES ☒ NO

(8) GIVE A BRIEF STATEMENT OF THE FACTS AND PROCEDURAL HISTORY:

In Oct. 2013, PC became aware that certain deed restricted parcels owned by TTF were being used for organized soccer activities. On 1/16/14 PC issued a Letter to TTF calling all soccer activities "intensive recreational" activity. On 7/17/14, PC issued a second letter to TTF stating that all soccer practices and events must cease by 8/31/14. This was subsequently extended to 11/30/14. After receiving a full application by TTF seeking permission to hold soccer events, PC, on 3/26/15, stated in a letter to TTF that it believed that soccer activities were not consistent with the standards of the Pinelands CMP. On 4/24/15, PC issued an amended Inconsistent Certificate of Filing for TTF's restricted parcels in Hammonton, Winslow, and Waterford Twp. On 9/21/2015 the Waterford Twp. Planning Bd. ("WPB") issued an approval of TTF's activities; and on 11/9/2015 and 1/7/16, PC issued a Call-Up letter with respect to those properties. On 2/1/15 WPB amended its Resolution, and on 3/10/16, PC issued a No Call Up letter approving TTF's application as approved by the WPB in Resolution 16-04.

- (9) TO THE EXTENT POSSIBLE, LIST THE PROPOSED ISSUES TO BE RAISED ON THE APPEAL AS THEY WILL BE DESCRIBED IN APPROPRIATE POINT HEADINGS PURSUANT TO R. 2:6-2(a)(5). (Appellant or cross-appellant only.):
1. Whether PC's Action violates the Pinelands Protection Act, NJSA 13:18A-1 et seq., as supplemented by P.L.2015, c.285 (2016), the Pinelands CMP regulations applicable to commercial uses in the Agricultural Production Area, and Sec. 502 of the National Parks and Recreation Act of 1978;
 2. Whether PC's Action violates the terms of the conservation deed restrictions recorded on TTF's Waterford Twp. Properties; and
 3. Whether PC acted arbitrarily and capriciously in taking the Action without holding a hearing and/or making findings of fact justifying the Action in a public record and by invalidly delegating to its Executive Director the decision as to whether the proposed development conformed with the minimum standards of the CMP without review by the PC.

- (10) IF YOU ARE APPEALING FROM A JUDGMENT ENTERED BY A TRIAL JUDGE SITTING WITHOUT A JURY OR FROM AN ORDER OF THE TRIAL COURT, COMPLETE THE FOLLOWING:

1. Did the trial judge issue oral findings or an opinion? If so, on what date? _____ ☐ YES ☐ NO
2. Did the trial judge issue written findings or an opinion? If so, on what date? _____ ☐ YES ☐ NO
3. Will the trial judge be filing a statement or an opinion pursuant to R. 2:5-1(b)? ☐ YES ☐ NO

Caution: Before you indicate that there was neither findings nor an opinion, you should inquire of the trial judge to determine whether findings or an opinion was placed on the record out of counsel's presence or whether the judge will be filing a statement or opinion pursuant to R. 2:5-1(b).

DATE OF YOUR INQUIRY: _____

1. IS THERE ANY APPEAL NOW PENDING OR ABOUT TO BE BROUGHT BEFORE THIS COURT WHICH:

- (11) (A) Arises from substantially the same case or controversy as this appeal? ☒ YES ☐ NO
- (12) (B) Involves an issue that is substantially the same, similar or related to an issue in this appeal? ☒ YES ☐ NO

- (13) 2. WAS THERE ANY PRIOR APPEAL INVOLVING THIS CASE OR CONTROVERSY? ☐ YES ☒ NO

- (14) IF THE ANSWER TO EITHER 1 OR 2 ABOVE IS YES, STATE:

Case Name:

Appellate Division Docket Number:

In re The Pinelands Consistency Determination Approving Tuckahoe

Farm Inc.'s Application No. 1984-0389.009

A-5025-14

Civil appeals are screened for submission to the Civil Appeals Settlement Program (CASP) to determine their potential for settlement or, in the alternative, a simplification of the issues and any other matters that may aid in the disposition or handling of the appeal. Please consider these when responding to the following question. A negative response will not necessarily rule out the scheduling of a preargument conference.

- (15) State whether you think this case may benefit from a CASP conference. ☐ YES ☒ NO.
- Explain your answer:

- (16) I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

(17) Pinelands Preservation Alliance;NJCF

(18) Renee Steinhagen/NJ Appleseed PILC

Name of Appellant or Respondent

Name of Counsel of Record

(or your name if not represented by counsel)

(19) April 9, 2016

(20)

Date

Signature of Counsel of Record
(or your signature if not represented by counsel)



Chris Christie
Governor
Kim Guadagno
Lt. Governor

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

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



Sean W. Earlen
Chairman
Nancy Wittenberg
Executive Director

March 10, 2016

Tuckahoe Turf Farm, Inc.
P.O. Box 148
801 N. Myrtle Street
Hammonton, NJ 08037

NOTIFICATION OF REVIEW OF LOCAL AGENCY APPROVAL(S)

DETERMINATION: CONSISTENT – APPROVAL(S) MAY TAKE EFFECT

APPLICATION #	1984-0389.009
Agency Approval(s) Reviewed	Amended Preliminary and Final Site Plan Approval (Resolution No.16-04 amending Resolution 15-12) issued by the Waterford Township Planning Board
Applicant	Tuckahoe Turf Farm, Inc.
Parcel	Block 5001, Lots 5 - 7 Block 5002, Lot 11 Block 5601, Lots 1 - 9 Block 5602, Lots 3 - 7 Town of Hammonton Block 7502, Lots 2 - 3 Block 7503, Lots 1, 3 - 5, & 10 - 12 Block 7504, Lots 1 - 4, & 10 - 12 Block 7505, Lot 1 Block 7506, Lot 1 Block 7602, Lots 10 - 13 Waterford Township Block 6602, Lot 7 Block 7101, Lots 5 & 15 Block 7104, Lots 1 & 3 Winslow Township Agricultural Production Area, AG Zoning District: 369.05 acres Agricultural Production Area, PA Zoning District: 31.6 acres Agricultural Production Area, AP Zoning District: 310 acres
Proposed Development	Establishment of a private commercial soccer use with no site improvements
Plans reviewed	Not Applicable

The Pinelands -- Our Country's First National Reserve
New Jersey Is An Equal Opportunity Employer - Printed on Recycled and Recyclable Paper

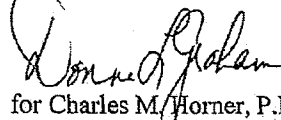


CONDITIONS FOR DEVELOPMENT:

1. The proposed soccer use shall not be located in wetlands.
2. This application is for the establishment of the proposed soccer use only. Any other future development of the parcel, including any proposed site improvements, requires application to the Commission and shall be governed by Waterford Township's land use ordinances and the Pinelands Comprehensive Management Plan.

If you have any questions, please contact Branwen Ellis of our staff.

Sincerely,



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

- c:
- Secretary, Town of Hammonton Planning Board (via email)
 - Town of Hammonton Construction Code Official (via email)
 - Town of Hammonton Environmental Commission (via email)
 - Secretary, Waterford Township Planning Board (via email)
 - Waterford Township Construction Code Official (via email)
 - Waterford Township Environmental Commission (via email)
 - Secretary, Winslow Township Planning Board (via email)
 - Winslow Township Construction Code Official (via email)
 - Winslow Township Environmental Commission (via email)
 - Atlantic County Department of Regional Planning and Development (via email)
 - Secretary, Camden County Planning Board (via email)
 - William F. Harrison, Esq.

RENÉE STEINHAGEN
Attorney No. 038691989
New Jersey Appleseed PILC
744 Broad Street, Suite 1525
Newark, NJ 07102
(973) 735-0523

Attorneys for Pinelands
Preservation Alliance and New Jersey
Conservation Foundation

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-005025-14-T2

IN RE THE PINELANDS	:	
COMMISSION'S CONSISTENCY	:	<u>Civil Action</u>
DETERMINATION APPROVING	:	
TUCKAHOE TURF FARM INC.'S	:	NOTICE OF MOTION TO CONSOLIDATE
APPLICATION NO. 1984-0389.009	:	

TO: Sean Moriarity, DAG
Office of Attorney General
Richard Hughes Justice Complex
P.O. Box 093
25 W. Market Street
Trenton, New Jersey 08625-

William F. Harrison, Esq.
Genova Burns LLC
484 Broad Street,
Newark, NJ 07102.

PLEASE TAKE NOTICE that Appellants, Pinelands Preservation
Alliance and New Jersey Conservation Foundation hereby move,
pursuant to R. 4:38-1 and R. 2:8-1 to consolidate two related
appeals, which share the same Pinelands Commission application

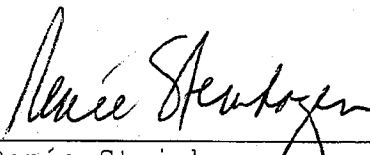
number, raise the same legal issues and challenge sequential decisions by the Pinelands Commission to issue two consistency determinations (otherwise known as a "No Call Up" letters) approving Tuckahoe Turf Farm, Inc.'s application to permit establishment of a private commercial soccer use in a deed restricted Agricultural Production Area located in Hammonton and Waterford Township. Neither No Call Up letter involves property located in Winslow Township though such properties are listed in the most recent No-Call Up letter. Appellants in A-005025-14-T2, and the "new" appeal, which is being filed at the same time as this motion, are the same parties and thus consent to this motion to consolidate.

PLEASE TAKE FUTHER NOTICE that in support of their motion, Appellants will rely upon the Certification of Renée Steinhagen, with exhibits submitted hereto.

Respectfully submitted,

NJ APPLESEED PUBLIC INTEREST
PUBLIC INTEREST LAW CENTER

By:


Renée Steinhagen

Date: April 8, 2016

RENÉE STEINHAGEN
Attorney No. 038691989
New Jersey Appleseed PILC
744 Broad Street, Suite 1525
Newark, NJ 07102
(973) 735-0523

Attorneys for Pinelands
Preservation Alliance and New Jersey
Conservation Foundation

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-005025-14-T2

IN RE THE PINELANDS	:	
COMMISSION'S CONSISTENCY	:	<u>Civil Action</u>
DETERMINATION APPROVING	:	
TUCKAHOE TURF FARM INC.'S	:	STEINHAGEN CERTIFICATION
APPLICATION NO. 1984-0389.009	:	

Renée Steinhagen, of full age, does hereby certify as follows:

1. I am an attorney at New Jersey Appleseed, which represents the Pinelands Preservation Alliance and the New Jersey Conservation Foundation(collectively "Appellants") in the above-captioned matter, A-005025-14-T2, and a second appeal, which will share the same caption, but is yet undocketed. I have personal information as to the issues and facts implicated in this motion, which support granting our application to consolidate.

2. In and during October 2013, the Pinelands Commission became aware that certain deed restricted parcels owned by Tuckahoe Turf Farm, Inc. ("TTF") were being used for organized soccer activities. Such parcels were located in the Town of Hammonton, Waterford Township and Winslow Township. In a letter dated January 16, 2014 the Pinelands Commission issued a letter to TTF calling its activities "intensive recreational facilit[ies]." On April 21, 2014, the Pinelands Commission issued a Violation letter to TTF concerning such activities, but limited the reach of that letter to TTF's properties located in the Town of Hammonton.

3. On July 17, 2014, the Pinelands Commission issued a letter stating that all soccer practices and events on all restricted parcels must cease by August 31, 2014. This was subsequently extended to November 30, 2014. After TTF submits a full application to the Pinelands Commission, the Commission issued an "Inconsistent Certificate of Filing" only for parcels located in Hammonton. Notwithstanding this "ICF" or "Call Up" Letter, the Hammonton Planning Board passed a Resolution approving the soccer tournaments on TTF parcels located in that Town.

4. In a letter dated April 24, 2015, the Pinelands Commission issued an Amended Inconsistent Certificate of Filing to TTF with respect to all its restricted properties located in

Hammonton, Waterford Township and Winslow Township. On May 6, 2015, Hammonton Planning Board amended its Resolution 10-14; and on May 26, 2015, the Pinelands Commission issued a No-Call Up Letter pertaining to the Planning Board's amended local approval of TTF's soccer activities.

5. On July 6, 2015, the Pineland Preservation Alliance filed a Notice of Appeal and Case Information Statement challenging the Pinelands Commission's consistency determination with respect to the Hammonton parcels. This appeal was amended to include New Jersey Conservation Foundation and add one legal issue on August 5, 2015. See Appellants Case Information Statements, dated July 6 and August 5 attached hereto as Exhibit A. The Pinelands Commission and TTF responded on July 27, 2015 and July 28, 2015, respectively.

6. The Appellate Division delayed scheduling the briefing of this appeal, A- 005025-14-T2 due to an internal question by the court of whether the Pinelands Commission determination was a final agency decision; and only recently, on March 28, 2016, did the Attorney General in this matter file an Amended Statement of the Items Comprising the Record on Appeal (after consenting to Appellants' request to supplement the record with additional documents they had received pursuant to an OPRA request).

7. Since the filing of the Notice of Appeal last summer to date the Pinelands Commission continued to process TTF's application. On September 21, 2015, the Waterford Township Planning Board ("WPB") issued an approval with respect to TTF's restricted parcels located in Waterford. On September 22, 2015, the Hammonton Zoning Officer issued a zoning permit for the 2015 schedule of soccer events in Hammonton.

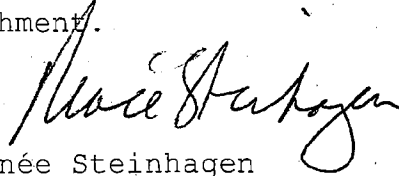
8. On October 1, 2015, the Pinelands Commission issued a Call-Up Letter with respect to the Hammonton Zoning Permit, allegedly because the permit exceeded the total hours of soccer events authorized by the Hammonton Planning Board's May 6, 2015. Approval. On November 6, 2015, the Pinelands Commission issued another Call-Up Letter, which again covered the Hammonton Zoning Permit, but also included the preliminary and final major site approval plan approved by the WPB on September 21, 2015. A corrected copy of that Call-Up Letter was dated November 9, 2015.

9. On January 7, 2016, the Pinelands Commission issued another Called-Up Letter with respect to the Waterford Township parcels because the approval did not contain the number of soccer events and hours per year, and on February 1, 2016, the WPB amended its Resolution 15-12, and adopted Resolution 16-04 in its stead.

10. In a letter dated March 10, 2016, the Pinelands issued a No-Call Up Letter with respect to the amended WPB approval, and Appellants are filing a Notice of Appeal and Case Information Statement simultaneously with this Motion, on April 8, 2016. See a copy of such documents attached as Exhibit B. A review of the legal issues raised in this appeal indicate that they are nearly identical to those raised in A-005025-14-T2. Effective January 16, 2016, the New Jersey Legislature enacted a statute seeking to supplement the Pinelands Comprehensive Management Plan to redefine low intensive recreational activities permitted in the area governed by the CMP, which may or may not impact the resolution of the legal issues raised in this second appeal. Notwithstanding this slight difference, Appellants seek to consolidate these two appeals and brief them as one.

11. It should be noted that on March 31, 2016, the Hammonton Zoning Officer issued a new draft zoning permit, which was received by the Commission on April 1, 2016. We anticipate that the Commission will issue another No-Call Up Letter with respect to the Hammonton parcels that are the subject of the first appeal. Accordingly, we anticipate having to file a Second Amended Appeal in that matter.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.



Renée Steinhagen
New Jersey Appleseed
Public Interest Law Center

Dated: April 8, 2016

Attorneys for Pinelands
Preservation Alliance and New Jersey
Conservation Foundation

IN RE THE PINELANDS
COMMISSION'S CONSISTENCY
DETERMINATIONS,

NOTICE OF MOTION
FOR 30-DAY EXTENSION

William F. Harrison, Esq.
Genova Burns LLC
484 Broad Street,
Newark, NJ 07102.

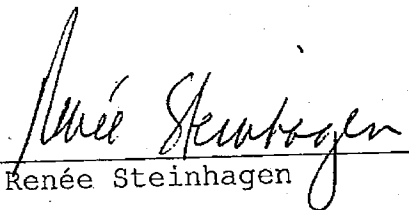
434a

Statement of Items Comprising the Record filed in this matter on October 7, 2016, and only recently was able to assemble, review and complete our appendix. An additional 30 days is needed to prepare the Brief in this matter.

PLEASE TAKE FUTHER NOTICE that in support of their motion, Appellants will rely upon the Certification of Renée Steinhagen submitted hereto.

Respectfully submitted,

NJ APPLESEED PUBLIC INTEREST
PUBLIC INTEREST LAW CENTER

By: 
Renée Steinhagen

Date: October 21, 2016

RENÉE STEINHAGEN
New Jersey Appleseed PILC
50 Park Place, Rm. 1025
Newark, NJ 07102
(973) 735-0523

Attorneys for Pinelands
Preservation Alliance and New Jersey
Conservation Foundation

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-005025-14T2
A-003417-15T2

IN RE THE PINELANDS
COMMISSION'S CONSISTENCY
DETERMINATION,

: Civil Action

:
: CERTIFICATION OF
: RENÉE STEINHAGEN

Renée Steinhagen, of full age, does hereby certify as follows:

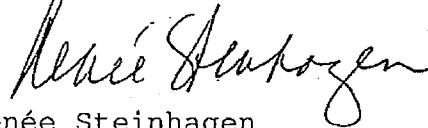
1. I am an attorney at New Jersey Appleseed, which represents the Pinelands Preservation Alliance and New Jersey Conservation Foundation, and the New Jersey Environmental Lobby (collectively "Appellants") in the above-captioned matters. I have personal information as to the issues raised in this administrative motion.
2. This matter involves two appeals from two final agency decisions of the Pinelands Commission with respect

to a development application filed by Tuckahoe Turf Farm to permit soccer use on certain deed-restricted parcels located within the jurisdiction of the Commission. The first appeal, involving property located in Hammonton, was originally filed on July 6, 2015, which was amended to add the NJ Conservation Foundation as a party on August 5, 2015. The second appeal, involving property located in Waterford, was filed almost a year later on April 9, 2016.

3. In an Order, dated May 25, 2016, this Court granted Appellants' Motion to Consolidate the two matters. (Order attached hereto as Exhibit A)
4. In a letter dated June 3, 2016 I informed the Team Leader that I had spoken with the State, and we had agreed that Appellants' Brief and Appendix would be due 30 days after the State filed an amended Statement of Items Comprising the Record ("SICR") reflecting the consolidation of the two matters. (Letter is attached hereto as Exhibit B)
5. On or about July 25, 2016 the State filed a Second Amended Statement of Items Comprising the Record in the Consolidated Appeal. It was not until August 26, 2016 that the Appellate Division issued an amended scheduling order. That Order required Appellants to serve their initial Brief and Appendix on September 26, 2016.

6. In a letter dated September 23, 2016, I informed the Case Manager that counsel for the State and I were still talking about the existence of additional documents that belonged in the SICR, and therefore, I was requesting a 30-day extension. (Letter from Renée Steinhagen to Susan Brown, dated September 23, 2016, attached hereto as Ex. C, with attachment)
7. On October 7, 2016, I received the Fourth Amended SICR, which the State had filed on September 28, 2016. (Cover Letter, dated September 28, 2016 attached hereto as Ex. D) I had never received the Third Amended SICR, and Mr. Moriarty and I have never figured out the reason why that is the case.
8. This past week, I was able to meet with my clients, review the SICR and determine which documents would be included in our Appendix. Since I have only now become familiar with all the relevant documents involved in this matter, I need additional time to prepare Appellants' brief.
9. Today, I e-mailed Counsel for TTF, and Counsel for the Pinelands Commission to request their consent to this motion; they both graciously consented to my request.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

A handwritten signature in cursive script, appearing to read "Renée Steinhagen".

Renée Steinhagen
New Jersey Appleseed
Public Interest Law Center

Dated: October 21, 2016

ORDER ON MOTION

IN RE THE PINELANDS COMMISSION'S
CONSISTENCY DETERMINATION

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-005025-14T2
MOTION NO. M-006323-15
BEFORE PART E
JUDGE(S): CARMEN MESSANO
MARIE P SIMONELLI

MOTION FILED: 04/11/2016

BY: PINELANDS PRESERVATION ALLIANCE

ANSWER(S)
FILED:

SUBMITTED TO COURT: May 19, 2016

ORDER

THIS MATTER HAVING BEEN DULY PRESENTED TO THE COURT, IT IS, ON THIS
25th day of May, 2016, HEREBY ORDERED AS FOLLOWS:

MOTION BY APPELLANT

MOTION TO CONSOLIDATE APPEAL WITH
A-3417-15T2

GRANTED

SUPPLEMENTAL:

FOR THE COURT:



CARMEN MESSANO, P.J.A.D.

1984-0389.009 STATEWIDE
ORDER - REGULAR MOTION
SMB



June 3, 2016

Susan Brown, Team Leader
Appellate Division, Superior Court of NJ
P.O. Box 006
25 Market Street
Trenton, New Jersey 07102

Re: In re the Pinelands Commission's Consistency Determination
A-005025-14T2 and A-3417-15T2

Dear Ms. Brown:

I am writing to you to inform the court of my new address and advise you of my phone conversation with Sean Moriarty, the DAG assigned to these two matters, after we spoke earlier today. First, New Jersey Appleseed PILC has moved its offices to:

Renee Steinhagen
NJ Appleseed PILC
50 Park Place, Rm. 1025
Newark, NJ 07102

Second, I called Mr. Moriarty immediately after we spoke. He had just received the May 25, 2016 Order consolidating the two matters, and extending Appellants' time to file a brief and appendix. He acknowledged that he would be filing a second SICRA, and requested that I provide him with any documents that my clients, Pinelands Preservation Alliance ("PPA") and New Jersey Conservation Foundation ("NJCF"), believe are part of the record so as facilitate that process. Mr. Moriarty is getting married next week and so he could not give me a date certain as to when he would be filing the SICRA. We did agree, however, that PPA's and NJCF's brief and appendix would not be due until 30 days after the SICRA is filed.

Thank you for your consideration of this matter.

Sincerely,

Cc: Sean Moriarty, DAG
William F. Harrison, Esq.

New Jersey Appleseed
Public Interest Law Center of New Jersey
50 Park Place, Suite 1025
Newark, New Jersey 07102

Phone: 973.735.0523 Fax: 973-710-4653
Email: steinhagen_pilc@yahoo.com
Website: www.njanappleseed.org

Exhibit B



September 23, 2016

Suzanne Brown, Case Manager
Appellate Division
Richard Hughes Justice Complex
P.O. Box 006
Trenton, New Jersey 08625-0006

Re: In re The Pinelands Commission's Consistency
Determination, (Consolidated) Docket Nos.
A-005025-14T2 (Hammonton) and A-003417-15T2 (Waterford)

Dear Ms. Brown:

I am writing to you on behalf of Pinelands Preservation Alliance to request a 30-day extension to file our initial Brief and Appendix in the aforementioned consolidated matters. These matters were consolidated in June of this year, and the State filed a Second Amended Statement of Items Comprising the Record (SICR) on July 27, 2016. That SICR added documents relating to A-003417-15 to the Amended SICR filed on March 28, 2016 relating to A-005025-14. On August 26, 2016, this office issued an Amended Scheduling Order (attached hereto) since the previous scheduling order had required Appellants' Brief to be filed prior to the State submitting the Second Amended SICR.

Over the past few weeks, Appellants have been reviewing documents and requesting the State to add additional documents to the Second Amended SICR regarding A-003417-15. The State has agreed and will be filing a Third Amended SICR. Accordingly, we are requesting an extension so our initial brief and appendices in this consolidated matter would be due on October 26, 2015. The state has consented to this request.

New Jersey Appleseed
Public Interest Law Center of New Jersey
50 Park Place, Rm. 1025
Newark, New Jersey 07102

Phone: 973.735.0523 Fax: 973-710-4653
Email: steinhagen_pilc@yahoo.com
Website: www.njappleseed.org

Exhibit C

Thank-you very much for your anticipated consideration of
this matter.

Respectfully submitted,


Renée Steinhagen, Esq.

Cc: Sean Moriarity, DAG
William F. Harrison, Esq.

AMENDED

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-005025-14T2
A-003417-15T2

IN RE THE PINELANDS COMMISSION'S CONSISTENCY SCHEDULING ORDER
DETERMINATION

An appeal having been filed in the above matter,

IT IS HEREBY ORDERED that the time for filing and serving briefs and
appendices shall not be later than as follows:

- a) BRIEF-APPELLANTS BRIEF AND APPENDIX (due date:09/26/2016)
NJ APPLESEED PUBLIC INTEREST LAW CENTER - RENEE W STEINHAGEN
- b) BRIEF-RESPONDENTS BRIEF AND APPENDIX (due date:10/26/2016)
ATTORNEY GENERAL LAW - SEAN D MORIARTY
- c) BRIEF-RESPONDENTS BRIEF AND APPENDIX (due date:10/26/2016)
GENOVA BURNS LLC - WILLIAM F HARRISON
- d) BRIEF-REPLY BRIEF (due date:11/07/2016)
NJ APPLESEED PUBLIC INTEREST LAW CENTER - RENEE W STEINHAGEN

IT IS FURTHER ORDERED that when service of a brief is made by
ordinary mail on its due date, three days shall be added to the due
date of the next brief as provided in R.1:3-3; and

IT IS FURTHER ORDERED that if appellant has not already filed three
additional copies of the transcript with the Clerk and served one
copy on any one respondent for the use of all the respondents, same
are to be filed and served within ten days hereof; and

IT IS FURTHER ORDERED that five copies of each brief and appendix
shall be filed with the Clerk, along with a proof of service
indicating that two copies were served on each party to the appeal
and one copy of the transcript was served on any one respondent; and

IT IS FURTHER ORDERED that in the event of default by appellant
regarding any provision of this order, THE APPEAL WILL BE SUBJECT TO
DISMISSAL WITHOUT FURTHER NOTICE; and

IT IS FURTHER ORDERED that if any respondent fails to file a brief
within the time directed by this order, such respondent will be
subject to preclusion from further participation in the appeal.

WITNESS, the Honorable Carmen Messano, Presiding Judge for
Administration, at Trenton, this 26th day of August, 2016.

s/JOSEPH H. ORLANDO
JOSEPH H. ORLANDO
CLERK OF THE APPELLATE DIVISION

T-82



CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

State of New Jersey
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF LAW
25 MARKET STREET
PO Box
TRENTON, NJ 08625-0

CHRISTOPHER S. PORRINO
Attorney General

MICHELLE L. MILLER
Acting Director

September 28, 2016

Joseph H. Orlando, Clerk
Superior Court of New Jersey
Appellate Division
P.O. Box 006
Trenton, NJ 08625

Received
Oct 7, 2016

Re: In re: The Pinelands Commission's Consistency
Docket No.: A-005025-14T2 & A-3417-15T2

Dear Mr. Orlando:

Enclosed please find an original and one copy of
Respondent, New Jersey Pinelands Commission's Fourth Amended
Statement of Items Comprising the Record on Appeal.

Sincerely yours,

CHRISTOPHER S. PORRINO
ATTORNEY GENERAL OF NEW JERSEY

By: *Sean D. Moriarty*
Sean D. Moriarty
Deputy Attorney General

c: William F. Harrison, Esq. (via regular mail)
Renee Steinhagen Esq. (via regular mail)
Stacey Roth, Esq. (via email)



Exhibit D

ORDER ON MOTION

IN RE THE PINELANDS COMMISSION'S
CONSISTENCY DETERMINATION

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-005025-14T2
MOTION NO. M-006323-15
BEFORE PART E
JUDGE(S): CARMEN MESSANO
MARIE P SIMONELLI

MOTION FILED: 04/11/2016

BY: PINELANDS PRESERVATION ALLIANCE

ANSWER(S)
FILED:

SUBMITTED TO COURT: May 19, 2016

ORDER

THIS MATTER HAVING BEEN DULY PRESENTED TO THE COURT, IT IS, ON THIS
25th day of May, 2016, HEREBY ORDERED AS FOLLOWS:

MOTION BY APPELLANT

MOTION TO CONSOLIDATE APPEAL WITH
A-3417-15T2

GRANTED

SUPPLEMENTAL:

FOR THE COURT:



CARMEN MESSANO, P.J.A.D.

1984-0389.009 STATEWIDE
ORDER - REGULAR MOTION
SMB



United States Department of the Interior

NATIONAL PARK SERVICE
Northeast Region
United States Custom House
200 Chestnut Street
Philadelphia, PA 19106-2878

IN REPLY REFER TO

1.A.2. (NER-PINE)

JUL 10 2014

Nancy Wittenberg
Executive Director
The Pinelands Commission
P.O. Box 359
New Lisbon, NJ 08064

Dear Ms. Wittenberg:

Thank you for sharing the background information regarding the permitted use issues involving Tuckahoe Turf Farms and the concerns regarding New Jersey bills S2125 and A3247.

We agree with your assessment and with your recommendation that consideration of the bills should be held until the issues can be resolved. We are pleased to hear that discussions are underway with the property owners and the soccer clubs and with other state agencies to try to resolve the issues. We would be willing to participate if it would be helpful.

From our perspective, we think that the Comprehensive Management Plan (CMP) would need to be amended in order to bring organized sporting events within the definition of low intensive recreation. Any such amendment to the CMP would require that the process for amending the CMP be followed. Should this amendment come forward as a recommendation, it would have to be reviewed and approved by the Secretary of the Interior. Because of the complexity of the issue and the potential impacts of this proposed change, a thorough analysis will be required prior to our approval.

We hope the state will hold consideration of the bills and that the discussions will lead to an agreeable solution.

Sincerely,

Michael A. Caldwell
Regional Director

**MEMORANDUM OF AGREEMENT
BETWEEN
THE STATE AGRICULTURE DEVELOPMENT COMMITTEE
AND
THE PINELANDS COMMISSION**

This Memorandum of Agreement is made between the New Jersey Pinelands Commission and the State Agriculture Development Committee.

WHEREAS, the purpose of this Agreement is to set forth the procedures to be followed and the responsibilities of each of the signatories with respect to the purchase and retirement of PDCs allocated to lands being subjected to farmland development easements by the SADC;

WHEREAS, the Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-1.1 et seq.) adopted pursuant to the Pinelands Protection Act, P.L. 1979, c. 111 (C.13:18A-1 et seq.) allocates Pinelands Development Credits (hereinafter "PDCs") to certain lands in the Preservation Area District, the Agricultural Production Area and the Special Agricultural Production Area of the Pinelands Area (N.J.A.C. 7:50-4.71 et seq.); and

WHEREAS, the Pinelands Commission issues Letters of Interpretation as to its determination of the number of PDCs allocated to an individual parcel pursuant to N.J.A.C. 7:50-4.71 et seq.; and

WHEREAS, the State Agriculture Development Committee (hereinafter "SADC") was established pursuant to the Right to Farm Act, P.L. 1983, c.31 (N.J.S.A. 4:1C-11 et seq.) to promote the interests of productive agriculture and farmland retention; and

WHEREAS, SADC is authorized to acquire farmland and farmland development easements and all of the appurtenant non-agricultural development rights and development credits and to provide cost share grants to Counties to acquire farmland, farmland development easements and non-agricultural development rights and development credits within the Pinelands; and

WHEREAS, the State of New Jersey has appropriated monies for the purchase of Pinelands Development Credits for Fiscal Years 2000 and 2001; and

WHEREAS, the Pinelands Commission has entered into a Memorandum of Agreement with the New Jersey Department of Environmental Protection and the Pinelands Development Credit Bank, attached hereunto as Appendix A, which requires the Pinelands Commission to prepare a spending plan for the purchase of Pinelands Development Credits for submission to the Commissioner of the Department of Environmental Protection for its submission to and for the approval of the Director of the Division of Budget and Accounting, Department of Treasury; and

WHEREAS, the SADC and the Commission desire to establish a program whereby the Commission

shall provide the SADC with up to four million dollars that was transferred to the Pinelands Commission in fiscal year 2001 pursuant to the spending plan that was submitted by the DEP to Treasury, as set forth more fully in Appendix A, to fund the purchase and retirement of PDCs allocated to lands being SADC or being subjected to farmland development easements by the SADC.

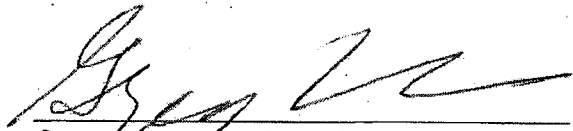
NOW, THEREFORE, the parties agree to the following:

1. For Fiscal Year 2002, the SADC shall initially allocate the sum of up to \$9.0 million to be used to purchase farmland and farmland development easements within the Pinelands for farmland to which PDCs are allocated pursuant to the provisions of the Pinelands Comprehensive Management Plan (CMP) at N.J.A.C. 7:50-5.41 et seq. To the extent authorized by the spending plan prepared pursuant to Appendix A, the Pinelands Commission shall make up to \$4 million from Fiscal Year 2001 available to purchase the PDCs allocated to farms for which the SADC is acquiring the development easements.
2. The number of PDCs allocated to each farm selected by the SADC for preservation shall be determined by the Commission in accordance with the provisions of the CMP at N.J.A.C. 7:50-5.41 et seq.
3. Farmland development easements within the Pinelands for farmland to which PDCs are allocated pursuant to the provisions of the CMP shall be acquired by the SADC pursuant to the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., the Garden State Preservation Trust Act, N.J.S.A. 13:8C-1 et seq. and the regulations promulgated thereunder.
4. The purchase price for the PDCs applicable to each farmland development easement to be paid by the Commission shall be determined pursuant to the provisions of the CMP at N.J.A.C. 7:50-5.54.
5. The amount of funds to be provided to the SADC by the Commission to pay for the PDCs for each farmland preservation easement shall not exceed the value of the PDCs as determined by the Commission.
6. In the event that a landowner agrees to accept an amount less than the value of the farmland development easement applicable to his farm as certified by the SADC, the difference between the certified value and the accepted amount shall be shared by the SADC and the Commission in proportion to the certified value of the farmland development easement and the value of the PDCs.
7. No PDC that is acquired or obtained in connection with the acquisition of a development easement on farmland by the State, using constitutionally dedicated moneys in whole or in part or with monies appropriated for the Pinelands Development Credit Purchase Program established pursuant to the CMP at N.J.A.C. 7:50-5.51 et seq., shall be transferred, sold, conveyed, redeemed or otherwise used in any way. All such Pinelands development credits

shall be retired permanently.

8. Title to be conveyed to the SADC on all farmland development easements shall be consistent with SADC requirements governing title and closing procedures as set forth in N.J.S.A. 13:8C-1 et seq. and N.J.S.A. 4:1C et seq.
9. For all transactions utilizing monies contributed by the Commission for the purchase and retirement of PDCs, the SADC shall review the easement to be placed upon the property to ensure that the easement contains the restrictions necessary to comply with the requirements of the CMP at N.J.A.C. 7:50-5.47 in addition to the restrictions required by the Agriculture Retention and Development Act. For these transactions, the easement to be placed upon the property from which PDCs are purchased by the SADC shall be in favor of the SADC and the State of New Jersey, Pinelands Commission and shall be expressly enforceable by both entities.
10. Funds for the purchase of PDCs for each farmland development easement shall be transferred from the Commission to the SADC at least 15 days prior to closing of title by the SADC. Such funds shall be provided in the form of a check payable to the SADC. If the closing of title does not occur within 30 days of receipt of the funds, the SADC shall return the funds to the Commission.
11. Farmland development easements within the Pinelands Area for which PDCs are allocated in accordance with the provisions of the CMP, to be acquired pursuant to this MOA shall be subject to prior approval of the Garden State Preservation Trust.
12. The acquisition of farmland development easements within the Pinelands Area for which PDCs are allocated in accordance with the provisions of the CMP, pursuant to this MOA shall be subject to the appropriation of funds for each acquisition by the New Jersey Legislature and approval by the Governor. The proportionate share of any lands from which PDCs are purchased by the SADC with monies appropriated by the State of New Jersey for the Pinelands Development Credit Purchase Program shall be attributed to the Department of Environmental Protection as preserved farmland.
13. The SADC shall provide notice to the Pinelands Commission and the Pinelands Development Credit Bank of all PDCs retired in accordance with this MOA. The notice to the Pinelands Development Credit Bank shall include: a copy of the Letter of Interpretation allocating the PDCs to the parcel in question; the name of the property owner; and the acreage that is subject to a development easement.
14. In accordance with N.J.S.A. 13:18A-5(h) and N.J.S.A. 4:1C-4(f), this MOA shall take effect subsequent to the Governor's approval of the Minutes of the Commission and SADC authorizing the entry of this MOA and upon signature of the authorized representatives of the parties.

15. None of the up to 4 million dollars being provided hereunder to SADC for the retirement of PDC's from the monies transferred to the Pinelands Commission in fiscal year 2001 for this purpose may be used to satisfy any local matching funds requirement.
16. This agreement shall remain in effect unless amended by formal action by all parties. Any amendment will take effect subsequent to the Governor's approval of the Minutes of the Commission and SADC authorizing the entry of this MOA and upon signature of the authorized representatives of the parties.



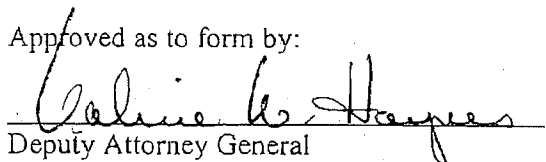
Gregory Romano, Executive Director
State Agriculture Development Committee

Date: 9-28-01



Annette M. Barbaccia, Executive Director
New Jersey Pinelands Commission

Date: 10/12/01

Approved as to form by:


Valerie W. Hays
Deputy Attorney General
State of New Jersey

Date: 10/9/01

C:\Eudora\Attach\SADC419B.WPD\HPC\dmg



State of New Jersey

STATE AGRICULTURE DEVELOPMENT COMMITTEE
HEALTH / AGRICULTURE BUILDING
PO Box 330
TRENTON NJ 08625-0330

CHRIS CHRISTIE
Governor
KIM GUADAGNO
Lt. Governor

DOUGLAS H. FISHER
Secretary

Susan E. Craft
Executive Director
(609) 984-2504
(609) 292-7988
(609) 633-2004 - Fax

TO: County Agriculture Development Board Administrators
Nonprofit Organizations
Municipal Planning Incentive Grant Coordinators
State Board of Agriculture Members
New Jersey Farm Bureau

FROM: Susan E. Craft

DATE: April 29, 2010

SUBJECT: Guidance Documents on Deed of Easement Interpretation:
Reports on General Guidance and Recreational Uses

As you know, the Deed of Easement Subcommittee (Subcommittee) has been examining various provisions of the Deed of Easement to determine where clarification may be needed to ensure consistent interpretation and related decision-making by the State Agriculture Development Committee (SADC) and its preservation partners.

This process is intended to clarify the SADC's interpretation of the Deed of Easement as it relates to the increasingly wide range of issues and landowner requests concerning permissible uses of preserved farmland. This process is not intended to and will not impose any new requirements on landowners.

The attached two reports – briefly summarized below – set forth guidance for how the SADC interprets the Deed of Easement in general, and specifically as it relates to recreational uses. The SADC accepted the reports from the Subcommittee at its meeting on April 23rd and directed that they be distributed to farmland preservation partners. **If you have any questions, comments or feel there are areas that need further clarification, please forward those questions or concerns to the SADC by May 28th.**

"Report No. 1: General Guidance" explains the foundation for the SADC's interpretation of the Deed of Easement. Interpretation of the Deed of Easement requires an understanding not only of its key provisions, but also of the statutes that created the Farmland Preservation Program, as well as the SADC and its authority. The first section of the report – "Statutes and Regulations Pertinent to Interpreting the SADC Deed of Easement" – summarizes the statutory references, rules and Deed of Easement provisions that are particularly relevant in addressing issues of interpretation.

The common direction provided by the implementing statutes, Deed of Easement and rules have been distilled into four key principles, which can be found on Page 6. The four principles, along with the summary of relevant statutes and regulations, reflect the foundation for the SADC's decision-making in issues pertaining to interpretation of the Deed of Easement. We believe they will be useful in clarifying for farmland preservation partners the key factors the SADC considers in determining permissibility of various activities under the Deed of Easement.

Report No. 2, "Recreational Uses on Preserved Farms," was developed in response to requests from a number of landowners seeking to conduct a wide range of recreational activities on preserved farmland. Guidance in this report reflects the statutorily-derived principle that agriculture must remain the first priority use of the land.

Further, the types of recreational uses specifically permitted under Paragraph 9 of the Deed of Easement – hunting, fishing, cross-county skiing and ecological tours – suggest that the Deed of Easement intends to permit only very passive uses that do not interfere with the use of the land for agriculture. While each case must be evaluated based on its own facts, generally the more intense the recreational use – in terms of frequency, duration, scale or impact on the land – the more likely the SADC is to view it as a violation of the Deed of Easement.

The report also discusses several examples of recreational activities in relation to their permissibility under the Deed of Easement, including agritourism. In summary, the SADC considers agritourism activities that are directly related to agricultural production, or associated with marketing of the agricultural output of the farm, as common farmsite activities that generally are permitted by the Deed of Easement provided that agricultural production remains the first priority use of the land.

The purpose of both reports is to help county agriculture development boards, nonprofits, landowners and other interests better understand what the SADC believes are the relevant considerations in determining allowable uses of preserved farmland.

Attachments

S:\Stewardship of Preserved Farms\Deed of Easement Subcommittee\Deed Interpretations\memotoFFpartners.doc

STATE AGRICULTURE DEVELOPMENT COMMITTEE
DEED OF EASEMENT ASSESSMENT SUBCOMMITTEE

INTERPRETING THE PROVISIONS OF THE DEED OF EASEMENT

REPORT NO. 1

GENERAL GUIDANCE

Subcommittee Members:

Alan Danser

Torrey Reade

James Waltman

Denis C. Germano

Revised: May 26, 2011

**STATUTES AND REGULATIONS
PERTINENT TO INTERPRETING
THE
SADC DEED OF EASEMENT**

A. SADC Mission and Statutory Mandate.

It is useful to review the statutes that created the SADC and the powers delegated to it in order to understand and develop a context for interpreting the Deed of Easement (DoE).

Statutory Authority. The SADC was created pursuant to the Right to Farm Act (NJSA 4:1C-1 et seq), hereinafter “RTF Act”. Pertinent excerpts from the Legislative Findings of the RTF Act (NJSA 4:1C-2) include the following (emphasis added):

- ❑ *“The retention of agricultural activities would serve the best interest of all citizens of his State by insuring the numerous social, economic and environmental benefits which accrue from one of the largest industries in the Garden State”;*
- ❑ *“It is necessary to establish a systematic and continuing effort to examine the effect of governmental regulation on the agricultural industry”;*
- ❑ *All State departments and agencies thereof should encourage the maintenance of agricultural production and a positive agricultural business climate”;*
- ❑ *It is the express intention of this act to establish as the policy of this State the protection of commercial farm operations from nuisance actions, where recognized methods and techniques of agricultural production are applied...”*

The RTF Act further identifies the duties of the Committee (NJSA 4:1C-6&7) identified:

- ☐ *"Consider any matter relating to the improvement of farm management practices";*
- ☐ *"Study, develop and recommend to the appropriate state departments and agencies...a program of agricultural management practices which shall include...air and water control, noise control, pesticide control....";*
- ☐ *"...recommend to the Governor, the Legislature and the appropriate State departments and agencies thereof any actions which should be taken that recognize the need to provide a proper balance among the varied and sometimes conflicting interests of all lawful activities in the State, minimize unnecessary constraints on essential agricultural activities, and are consistent with the promotion of the public health, safety and welfare";*
- ☐ *"Generally act as an advocate for and promote the interest of productive agriculture and farmland retention within the administrative processes of State Government.*

The next statute of reference is the Agriculture Retention and Development Act ("ARDA"; NJSA 4:1C-11 et seq) which creates the farmland preservation program.

Legislative findings of the ARDA include:

- ☐ *The strengthening of the agricultural industry and the preservation of farmland are important to the present and future economy of the State and the welfare of the citizens of the State, and that the Legislature and the people have demonstrated recognition of this fact through their approval of the "Farmland Preservation Bond Act of 1981," P.L. 1981, c. 276;*
- ☐ *All State departments and agencies thereof should encourage the maintenance of agricultural production and a positive agricultural business climate;*
- ☐ *It is necessary to authorize the establishment of State and county organizations to coordinate the development of farmland preservation programs within identified areas where agriculture will be presumed the first priority use of the land and where certain financial, administrative and regulatory benefits will be made available to those landowners who choose to participate, all as hereinafter provided.*

Finally, the Farmland Preservation Bond Act of 1981, as well as subsequent bond acts, the ARDA and the Garden State Preservation Trust Act ("GSPT") (NJSA 13:8C-1 et seq.) contain definitions of "farmland preservation" that reflect an emphasis on the **first priority use of the land is increased productive agricultural activity**:

"Farmland preservation program" means any program authorized by law which shall have as its principal purpose the long term preservation of significant masses of contiguous agricultural land and the maintenance and support of increased agricultural production as the first priority use of that land" (c.276 P.L. 1981);

"Farmland preservation program" or "municipally approved farmland preservation program" ...means any voluntary program....which has as its principal purpose the long-term preservation of significant masses of reasonably contiguous agricultural land within agricultural development areas... and the maintenance and support of increased agricultural production as the first priority use of that land" (NJSA 4:1C-13.h.);

and

"Farmland preservation", "farmland preservation purposes" or "preservation of farmland" means the permanent preservation of farmland to support agricultural or horticultural production as the first priority use of that land" (NJSA 13:8C-3).

Review of this series of statutory references leads us to believe that the SADC was created to promote and protect the viability of New Jersey's agricultural industry. This was to be accomplished by 1) permanently preserving the farmland base to support agricultural production as the first priority use of the land; 2) establishing accepted agricultural management practices; and 3) helping create a positive business climate by advocating for the agricultural industry through the processes of State government.

B. Interpreting the SADC Deed of Easement

From this place of statutory reference, the SADC developed and published, in the form of regulation, the State Farmland Preservation Program Deed of Easement (DoE) at N.J.A.C. 2:76-6.15(a). The goal of that document is to further the SADC's mission of permanently preserving the agricultural land base for agricultural use and production so that the agricultural industry can be sustained into the future.

It is particularly important to keep in mind that the easement must be read, and interpreted, in its entirety, so that the interpretation of each individual provision is consistent with the overall intent of the document and the interpretation of all other provisions.

Furthermore, N.J.A.C. 2:76-6.15(c) states, "The deed restrictions contained in (a) above shall be liberally construed to effectuate the purpose and intent of the Farmland Preservation Bond Act, P.L. 1981, c.276 and the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., c.32".

As summarized above, the Agriculture Retention and Development Act, the Garden State Preservation Bond Act and all bond acts providing funding for farmland preservation purposes subsequent to the Farmland Preservation Bond Act of 1981 all recognize that agricultural or horticultural production is the first priority use of the land. This is consistent with the language contained in paragraph 2 below which requires the Premises be retained for agricultural use and production in compliance with the Agriculture Retention and Development Act and all other rules promulgated by the SADC.

Following are key provisions of the DoE. Pursuant to SADC's regulations, the word "**Premises**" means the property under easement which is defined by the legal metes and bounds description contained in the deed of easement.

Paragraph 1: Any development of the Premises for nonagricultural purposes is expressly prohibited.

Paragraph 2: The Premises shall be retained for agricultural use and production in compliance with N.J.S.A. 4:1C-11 et seq., P.L. 1983, c. 32, and all other rules promulgated by the State Agriculture Development Committee, (hereinafter Committee). Agricultural use shall mean the use of the premises for common farm site activities including, but not limited to: production, harvesting, storage, grading, packaging, processing and the wholesale and retail marketing of crops, plants, animals and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease and pest control, disposal of farm waste, irrigation, drainage and water management, and grazing.

Paragraph 3: Grantor certifies that at the time of the application to sell the development easement to the Grantee and at the time of the execution of this Deed of Easement the nonagricultural uses indicated on attached Schedule (b) existing on the Premises. All other nonagricultural uses are prohibited except as expressly provided in this Deed of Easement.

Paragraph 7: No activity shall be permitted on the Premises which would be detrimental to drainage, flood control, water conservation, erosion control, or soil conservation, nor shall any other activity be permitted which would be detrimental to the continued agricultural use of the Premises.

i. Grantor shall obtain within one year of the date of this Deed of Easement a farm conservation plan approved by the local soil conservation district.

ii. Grantor's long term objectives shall conform with the provisions of the farm conservation plan.

Paragraph 9: Grantor may use the Premises to derive income from certain recreational activities such as hunting, fishing, cross country skiing and ecological tours, only if such activities do not interfere with the actual use of the land for agricultural production and that the activities only utilize the Premises in its existing condition. Other recreational activities from which income is derived and which alter the Premises, such as golf courses and athletic fields, are prohibited.

Paragraph 10: Nothing shall impose upon the Grantor any duty to maintain the Premises in any particular state, or condition, except as provided for in this Deed of Easement.

Paragraph 17: This Deed of Easement imposes no obligation or restriction on the Grantor's use of the Premises except as specifically set forth in this Deed of Easement.

PRINCIPLES FOR INTERPRETING THE DEED OF EASEMENT

The SADC's rules at N.J.AC. 2:76-6.15 can be amended to provide principles for interpreting the Deed of Easement to help guide SADC, CADBs and other easement holders in their decision making as follows:

2:76-6.2 Definitions

"Deed of Easement" means the instrument restricting the Premises for agricultural purposes that is recorded with the county clerk's office pursuant to the provisions of section 24 of P.L. 1983, c. 32 (N.J.S.A. 4:1C-31), section 5 of P.L. 1988, c. 4 (N.J.S.A. 4:1C-31.1), section 1 of P.L. 1989, c. 28 (N.J.S.A. 4:1C-38), section 1 of P.L. 1999, c. 180 (N.J.S.A. 4:1C-43.1), or sections 37 through 40 of P.L. 1999, c. 152 (N.J.S.A. 13:8C-37 through 13:8C-40). For land acquired in fee simple title for farmland preservation purposes, the deed transferring the restricted fee ownership of the land by the Committee or other entity is considered the Deed of Easement.

2:76-6.15 Deed restrictions

(a) - (b) (No change.)

(c) The deed restrictions contained in (a) above shall be liberally construed to effectuate the purpose and intent of the Farmland Preservation Bond Act, P.L. 1981, c. 276, and **all subsequent bond acts or legislation enacted for the purpose of providing funding for farmland preservation purposes**, the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32, **and the Garden State Preservation Trust Act, N.J.S.A. 13:8C-1 et seq.**

(d) As used in this subchapter, the following words and terms shall have the following meanings:

1. “The Premises shall be retained for agricultural use and production,” pursuant to (a) (2) above, means that no portion of the Premises shall be dedicated, in whole or in part, for a purpose other than maintaining and supporting agricultural or horticultural use and production.

i. “Dedication” pursuant to (d)1 above means a use, activity or management of the land that restricts, interferes with or inhibits the potential to utilize the Premises for the primary purpose of agricultural or horticultural use and production at the present time or in the future.

(e) When interpreting the deed restrictions contained in the Deed of Easement, the Committee shall apply the following principles:

1. The deed restrictions shall apply uniformly to all areas within the Premises including all buildings, structures and the land itself;

2. The provisions of the Deed of Easement shall be read and interpreted in their entirety and in context with all other applicable statutes and regulations; and

3. Any use, activity or treatment of the land that is prohibited by the Deed of Easement is prohibited at all times, regardless of duration or frequency.

STATE AGRICULTURE DEVELOPMENT COMMITTEE
DEED OF EASEMENT ASSESSMENT SUBCOMMITTEE

INTERPRETING THE PROVISIONS OF THE DEED OF EASEMENT
REPORT NO. 2
RECREATIONAL USES

Subcommittee Members:

Date: April 23, 2010

Alan Danser
Torrey Reade
James Waltman
Stephen P. Dey
Denis C. Germano

Recreational Uses on Preserved Farms

The State Agriculture Development Committee (SADC) increasingly is receiving requests to use some portion of a preserved farm for recreational activities. Proposed uses include everything from paintball games and hunting preserves to motorcycle tracks, hot air ballooning and airplane landing strips.

To help ensure consistency in the evaluation of these types of requests by the SADC, county agriculture development boards and nonprofit organizations, the SADC is offering this guidance document. Please note that the content of this guidance document is not "new" and does not impose any additional requirements on landowners. It simply is meant to clarify what the SADC believes are the relevant considerations in determining which recreational activities may be permitted on preserved farms under the deed of easement, and existing applicable statutes and regulations. As with any questions regarding interpretation of the deed of easement, all relevant provisions of the deed of easement must be read together, rather than relying on just one or more specific provisions of the deed to be the sole basis for a decision.

It is important to remember that, in accordance with the Agriculture Retention and Development Act and Garden State Preservation Trust Act, agricultural production must be the first priority use of the premises.

Agriculture Retention and Development Act (NJSA 4:1C-13.h):

"Farmland preservation program" or "municipally approved farmland preservation program" ... means any voluntary program ... which has as its principal purpose the long-term preservation of significant masses of reasonably contiguous agricultural land within agricultural development areas ... and the maintenance and support of increased agricultural production as the first priority use of that land."

Garden State Preservation Trust Act (NJSA 13:8C-3)

"Farmland preservation," "farmland preservation purposes" or "preservation of farmland" means the permanent preservation of farmland to support agricultural or horticultural production as the first priority use of that land."

The SADC believes that first priority use means there is no activity on the premises that restricts or inhibits the potential to utilize the entirety of the premises for all types of agricultural production at the present time or in the future. Therefore, when a landowner affirmatively or effectively "dedicates" any portion of the preserved farm to a recreational use, the SADC believes that violates the principle that agriculture is to be the first priority use of the land.

The understanding that recreational activities cannot interfere with use of the land for agriculture is reinforced in Paragraph 9 of the deed of easement – the provision that most directly addresses recreational uses. Paragraph 9 reads:

Grantor may use the Premises to derive income from certain recreational activities such as hunting, fishing, cross country skiing and ecological tours, only if such activities do not interfere with the actual use of the land for agricultural production and that the activities only utilize the Premises in its existing condition. Other recreational activities from which income is derived and which alter the Premises, such as golf courses and athletic fields, are prohibited.

The word “**certain**” is important because it indicates that not all recreational uses are intended to be permitted.

Further, the examples given (hunting, fishing, cross country skiing and ecological tours) suggest the intent of this provision was to allow, specifically, only very passive recreational uses that do not affect, or “**interfere with**” the production activities on the farm.

The SADC interprets “**interfere with**” to mean that recreational uses cannot “limit” the type of agricultural production that can take place on the farm currently or in the future.

The SADC interprets “**existing condition**” to mean that there are no improvements made to the premises to accommodate the recreational use. Furthermore, there cannot be intentional agricultural inactivity to accommodate the recreational use. Traditional seasonal hunting, fishing, cross-country skiing and ecological tours are entirely subordinate to the agricultural use of the farm, and literally use the property in its “**existing condition.**”

But other recreational uses may not be subordinate to the agricultural use of the farm. Clearly, corn cannot be planted or animals pastured in a field that will be used for paintball, motorcycling or hot air ballooning. In order to sustain these kinds of recreational uses, a landowner is much more likely to allow certain portions of the farm to go fallow, or to just mow them to keep the grass and plants at a height that does not interfere with the recreational use. This, in effect, would amount to the landowner “dedicating” a portion of the preserved farm to a recreational use, which would displace agriculture as the first priority use of the land and, therefore, run counter to the Farmland Preservation Program’s enabling statutes and deed of easement.

The SADC considers the following factors particularly relevant in evaluating whether a proposed recreational use falls into the very passive category allowed in Paragraph 9 and meets other applicable provisions of the deed of easement. This applies to consideration of requests to conduct recreational activities in any and all areas of the farm – the cultivated fields, woods, steep slopes, wet areas and areas between the house and barns, etc. – covered by the deed of easement.

A. No Dedication of Land or Agricultural Structures for Recreational Use – Agriculture must remain the first priority use of the premises in accordance with the Farmland Preservation Program’s enabling statutes. The SADC views any activities that restrict the type of agricultural use to which the land or buildings can be put in order to support a recreational use, as a dedication of all or part of the premises for a recreational use. The SADC, therefore, would consider such dedication as a violation of the deed of easement. Dedication does not require an affirmative decision by a landowner to reserve all or any part of the farm for a recreational use; rather, dedication can simply be the practical result of such a decision.

B. The Land Must Be Used in Its Existing Condition – If the recreational use requires any improvements or alterations to the land or agricultural structures, the SADC would view this as a violation of Paragraph 9 of the deed of easement.

C. No Commercial Recreational Uses – The SADC would not allow commercial development of the land or agricultural structures for a nonagricultural use in accordance with Paragraph 1:

Paragraph 1: Any development of the Premises for nonagricultural purposes is expressly prohibited.

The SADC would consider the commercial recreational use of preserved farmland – where recreation constitutes the first priority use of the land – to constitute recreational development and a change in the agricultural use of the land. Therefore, the SADC would view the commercial use of the land or agricultural structures for a recreational purpose as a violation of the deed of easement (unless it is determined to be a permitted agritourism activity).

It is important to note that Paragraph 9 of the deed of easement clearly allows landowners to “derive income from certain recreational activities.” The SADC’s concern here is not with activities that merely derive income but those that are commercial in nature, meaning that they constitute recreation-based businesses.

It should be noted that while commercial recreational uses are not permitted under the deed of easement, they may be allowed in certain limited circumstances pursuant to N.J.S.A. 4:1C-32.1, which enables landowners to apply to the SADC for a permit to conduct a commercial nonagricultural use.

D. Very Passive Uses Permitted – The examples of allowable activities in Paragraph 9 – traditional seasonal hunting, fishing, cross-country skiing and ecological tours – are all very passive, sharing certain common characteristics: 1) They are small in scale and leave a light footprint on the land; 2) they are short-term, sporadic or occasional in duration, as

opposed to frequent, consistent or constant use; and 3) they tend to involve a limited number of participants. Therefore, the more intense the recreational use – in terms of frequency, duration, scale or impact on the land – the more likely the SADC is to view it as a violation of the intent of Paragraph 9, or to pose a threat to soil or water resources or continued agricultural use of the land in violation of Paragraph 7.

Paragraph 7 of the deed of easement states:

No activity shall be permitted on the Premises which would be detrimental to drainage, flood control, water conservation, erosion control, or soil conservation, nor shall any other activity be permitted which would be detrimental to the continued agricultural use of the Premises.

Following are a few examples of how the SADC would apply relevant provisions of the deed of easement in determining whether a proposed recreational use is permitted:

Field-Based Recreation: The examples of prohibited activities in Paragraph 9 – athletic fields and golf courses – as well as the examples of alternatively permitted activities, demonstrate the intent of this provision was to not allow preserved farms to be used for sporting events and other organized recreational activities more suited to public parks and playgrounds. Furthermore, organized activities are more likely to result in a landowner's dedication of all or part of the land for a recreational use and its ancillary needs. Ancillary needs generally include parking, sanitary facilities and other participant/spectator accommodations. Therefore, the SADC would view maintaining the land to support field-based recreation as a violation of the deed of easement.

Snowmobiles: A landowner may want to be able to open his or her farm to a local snowmobiling club on the weekends for 4-8 weeks during the winter. Snowmobiling uses the land in its existing condition, and snowmobiles ride on top of snow rather than on the land. This small-scale, relatively infrequent use would likely pose no threat to the soil or other agricultural resources of the farm. While the specifics of each individual request need to be examined independently, the SADC generally would permit occasional use of the farm for snowmobiling, for a small number of individuals and with no alterations to the land.

ATVs: On the other hand, if a landowner wanted to open a preserved farm to the public for daily ATV riding, that likely would not be permitted. While ATV riding uses the land in its existing condition, intensive or persistent use of vehicles poses a substantial risk for soil erosion and compaction. Therefore, subject to an evaluation of frequency and duration, the SADC would likely not permit public use of the preserved farm for ATV riding.

Barn Dance: A landowner might want to use a barn on the preserved farm to host a dance every week or once a month. Given such a proposed frequency, it is likely the landowner would make some change to the barn (lighting, permanently removing agricultural equipment, etc.) to get the barn into a condition that would support its use as a dance hall.

Further, it is also reasonable to expect that the landowner would not make any changes to the barn or use it for agricultural purposes in a way that would interfere with the recreational use of the structure. Therefore, the SADC would view this as a "dedication" of the barn for a recreational use, which it would not permit (unless approved as a commercial nonagricultural activity pursuant to N.J.S.A. 4:1C-32.1). On the other hand, if a landowner wanted to use the barn to host a one-time charity fund-raising dance, that is an activity the SADC could permit (providing other aspects, such as parking arrangements, do not interfere with the agricultural use of the land or violate other provisions of the deed of easement). Such a one-time use would not displace agriculture as the first priority use of the building and, therefore, would not constitute a "dedication" for a recreational use. An SADC authorization for deed of easement purposes, of course, would not preclude the need for a landowner to comply with local ordinances.

Agritourism: The SADC views agritourism activities that are directly related to agricultural production or that are associated with marketing of the agricultural output of the farm, as common farmsite activities. Common farmsite activities are permitted by the deed of easement as defined in N.J.A.C. 2:76-3.12. Therefore, these types of activities are allowed provided that agriculture remains the first priority use of the land and the activities are conducted in a way that does not violate any provisions of the deed of easement. For example, the SADC finds it entirely permissible for a farmer who grows corn for grain or food to cut a corn maze into that field, provided that the purpose of the maze is to help market the agricultural output of the farm, or that the corn that is harvested is sold for an agricultural purpose. However, if the corn were grown only to support the maze – with no harvest or marketing purpose – the SADC likely would view that as a violation of the deed of easement. A petting zoo featuring farm animals is a common farmsite activity, provided that its purpose is to help market the agricultural output of the farm. On the other hand, the SADC likely would not permit a petting zoo with non-farm animals that more resembled an actual zoo. Farms commonly conduct hayrides as a way to draw visitors to the farm to market their products. However, the SADC likely would view a haunted hayride that was not linked to marketing the output of the farm or that was not directly related to agricultural production, as a violation of the deed of easement.

Intensive Uses: It is important to note that even an activity that is explicitly allowed, such as hunting, can be considered a violation of the deed of easement if it becomes the first priority use of the premises. The SADC views hunting as a common farmsite activity – and, therefore, permitted by the deed of easement – in those instances where the activity is very passive in nature, utilizes the land in its existing condition, and agricultural use and production is the first priority use of the land. This is the case with traditional seasonal hunting, where the land is managed for agriculture as the first priority use, and the landowner allows hunting as an additional use that does not interfere with agricultural production. In contrast, landowners are not permitted to manage the land for hunting as the first priority use of the premises. The SADC would be likely to find hunting or any other recreational activity in violation of the deed of easement if any of the following conditions exists: an annual crop is not harvested for agricultural production purposes; the premises is not being used in its existing condition;

improvements have been made to accommodate the activity, or the activity is contrary to any other provision of the deed of easement.

Wildlife Viewing/Ecological Tours: Wildlife viewing or ecological tours are similar to hunting in that the SADC views them as permitted in instances where the activity is very passive in nature, utilizes the land in its existing condition, and agricultural use and production is the first priority use of the land. The SADC would consider the same type of conditions that apply to the evaluation of hunting (above) when considering the permissibility of wildlife viewing or ecological tours.

Summary:

This guidance document recognizes certain limited, very passive recreational uses are permitted on preserved farmland while reinforcing the fact that the purpose of farmland preservation is to establish a land base for farming and agricultural production now and in the future. New Jerseyans have invested more than \$1 billion to permanently protect nearly 200,000 acres for agricultural use. Recreational uses that supplant agricultural production as the first priority use of that land, or that are of sufficient intensity that they limit or discourage production, are contrary to that goal.

While the deed of easement recognizes certain limited opportunities for recreational activities, New Jersey's preserved farms were never intended to serve as public parkland. Ensuring that production agriculture remains the first priority use of preserved farms will maximize the availability of preserved farmland to farmers, discourage non-farmers from pursuing recreational uses that limit or restrict the agricultural potential of the land, and as a result help keep preserved farmland available and more affordable for future generations who want to farm.

[First Reprint]
SENATE, No. 2125

STATE OF NEW JERSEY
216th LEGISLATURE

INTRODUCED JUNE 2, 2014

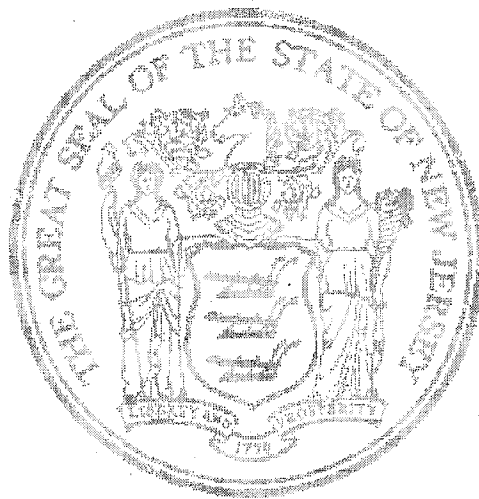
Sponsored by:
Senator **JEFF VAN DREW**
District 1 (Atlantic, Cape May and Cumberland)

SYNOPSIS

Provides that determination by county agriculture development board or State Agriculture Development Committee as to what qualifies as farm-based recreational activity in pinelands protection area is binding on Pinelands Commission.

CURRENT VERSION OF TEXT

As reported by the Senate Community and Urban Affairs Committee on December 10, 2015, with amendments.



(Sponsorship Updated As Of: 12/18/2015)

1 AN ACT concerning ¹**[certain]** farm-based¹ recreational ¹**[use on**
 2 certain lands within the pinelands area] activities¹ and
 3 supplementing P.L.1979, c.111 (C.13:18A-1 et seq.).
 4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
 6 of New Jersey:
 7

8 1. a. ¹**[Notwithstanding the provisions of the comprehensive**
 9 management plan or any rule or regulation to the contrary, a
 10 recreational use that meets the conditions set forth in this section
 11 shall be allowed as a low intensity recreational use on lands subject
 12 to a Pinelands development credit deed restriction and located
 13 within an agricultural production area:

14 (1) the recreational use involves only minimal or temporary
 15 damage to the agricultural or horticultural use of the lands;

16 (2) the recreational use does not include the development of any
 17 permanent structures on any lands in agricultural or horticultural
 18 use; and

19 (3) the recreational use is of a temporary nature] Any final
 20 determination by a county agriculture development board or the
 21 State Agriculture Development Committee, as applicable under the
 22 "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et seq.), as to what
 23 qualifies as a farm-based recreational activity under subsection h. of
 24 section 6 of P.L.1983, c.31 (C.4:1C-9) in the protection area shall
 25 be binding upon the Pinelands Commission and shall constitute a
 26 permitted agricultural or horticultural use in the protection area.
 27 For the purposes of this section, "farm-based recreational activity"
 28 includes but is not limited to field sports, provided that no
 29 permanent athletic fields are established¹.

30 b. A landowner engaging in, or allowing, ¹**[a recreational use**
 31 meeting the criteria set forth in] any activity determined by a
 32 county agriculture development board or the State Agriculture
 33 Development Committee to qualify as a farm-based recreational
 34 activity pursuant to¹ subsection a. of this section shall not be
 35 deemed to be in violation of any deed restriction related to
 36 allowable ¹**[recreational]**¹ uses on the ¹**[lands.]** land imposed in
 37 accordance with any law, any rule or regulation adopted pursuant
 38 thereto, or any other government action.

39 c. As used in this section:

40 "County agriculture development board" means a county
 41 agriculture development board established pursuant to the
 42 "Agriculture Retention and Development Act," P.L.1983, c.32
 43 (C.4:1C-11 et seq.).

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
 not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SCU committee amendments adopted December 10, 2015.

- 1 "State Agriculture Development Committee" means the State
- 2 Agriculture Development Committee established pursuant to
- 3 section 4 of the "Right to Farm Act," P.L.1983, c.31 (C.4:1C-4).¹
- 4
- 5 2. This act shall take effect immediately.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 2125

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 10, 2015

The Senate Community and Urban Affairs Committee reports favorably and with committee amendments Senate Bill No. 2125.

This bill, as amended by the committee, would provide that any final determination by a county agriculture development board (CADB) or the State Agriculture Development Committee (SADC) as to what qualifies as a farm-based recreational activity under the "Right to Farm Act" in the pinelands protection area would be binding upon the Pinelands Commission and constitute a permitted agricultural or horticultural use in the pinelands protection area. Under the bill, as amended by the committee, "farm-based recreational activity" includes but is not limited to field sports, provided that no permanent athletic fields are established.

The bill, as amended by the committee, also provides that a landowner engaging in, or allowing, any activity determined by a CADB or the SADC under the bill to qualify as a farm-based recreational activity would not be deemed to be in violation of any deed restriction related to allowable uses on the land imposed in accordance with any law, any rule or regulation adopted pursuant thereto, or any other government action.

As amended and reported by the committee, this bill is identical to Assembly Bill No. 3257 (2R) as also amended and reported by the committee.

COMMITTEE AMENDMENTS:

The committee amended the bill to require that any final determination by a county agriculture development board or the State Agriculture Development Committee, as applicable under the "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et seq.), as to what qualifies as a farm-based recreational activity under subsection h. of section 6 of P.L.1983, c.31 (C.4:1C-9) in the pinelands protection area shall be binding upon the Pinelands Commission, and shall constitute a permitted agricultural or horticultural use in the pinelands protection area. The amendments also provide that "farm-based recreational activity" includes field sports, as long as no permanent athletic fields are established on the land.

The amendments also provide that a landowner engaging in, or allowing, any farm-based recreational activity on land in the pinelands protection area cannot be deemed to be in violation of any deed restriction related to allowable uses on that land imposed in accordance with law, any rule or regulation adopted pursuant thereto, or any other government action.

CHAPTER 285

AN ACT concerning low intensity recreational use of agricultural production areas within the pinelands area and supplementing P.L.1979, c.111 (C.13:18A-1 et seq.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.13:18A-8.1 Certain field sports conducted in pinelands area deemed low intensity recreational use.

1. Field sports, including but not limited to soccer and soccer tournaments, conducted or occurring in an agricultural production area within the pinelands area, shall constitute a low intensity recreational use under the comprehensive management plan adopted pursuant to the “Pinelands Protection Act,” P.L.1979, c.111 (C.13:18A-1 et seq.), provided that no permanent structure is established to accommodate the use.

2. This act shall take effect immediately.

Approved January 19, 2016.

NOT FOR PUBLICATION WITHOUT THE
APPROVAL OF THE APPELLATE DIVISION

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NOS. A-1685-15T1
A-2705-15T1
A-2706-15T1

IN THE MATTER OF THE PETITION
OF SOUTH JERSEY GAS COMPANY FOR
A DETERMINATION PURSUANT TO THE
PROVISIONS OF N.J.S.A. 40:55D-19.

APPROVED FOR PUBLICATION

November 7, 2016

APPELLATE DIVISION

IN THE MATTER OF THE PETITION
OF SOUTH JERSEY GAS COMPANY FOR
A CONSISTENCY DETERMINATION FOR
A PROPOSED NATURAL GAS PIPELINE.

Argued October 11, 2016 — Decided November 7, 2016

Before Judges Yannotti, Fasciale and Gilson.

On appeal from the Board of Public Utilities,
No. GO13111049, and from the Executive
Director of the Pinelands Commission,
Application No. 2012-0056.001.

Mariel R. Bronen of the New York bar, admitted
pro hac vice, argued the cause for appellant
Pinelands Preservation Alliance (Dechert LLP,
attorneys; Ms. Bronen, George G. Gordon and
Roxanne R. Wright, on the brief).

Renée Steinhagen argued the cause for
appellants New Jersey Sierra Club and
Environment New Jersey (New Jersey Appleseed
Public Interest Law Center, attorneys; Ms.
Steinhagen, on the brief).

Ted Nissly (Fried, Frank, Harris, Shriver &
Jacobson LLP) of the Washington, D.C. bar,
admitted pro hac vice, argued the cause for
amici curiae Brendan T. Byrne, James J.
Florio, and Christine Todd Whitman (Mr. Nissly

and Cole Schotz, P.C., attorneys; Christopher P. Massaro and Mark J. Pesce, of counsel and on the brief; Mr. Nissly, Douglas Baruch (Fried, Frank, Harris, Shriver & Jacobson LLP) of the Washington, D.C. bar, admitted pro hac vice, and Mary Elizabeth Phipps (Fried, Frank, Harris, Shriver & Jacobson LLP) of the New York bar, admitted pro hac vice, on the brief).

Caroline Vachier, Deputy Attorney General, argued the cause for respondents New Jersey Board of Public Utilities and New Jersey Pinelands Commission (Christopher S. Porrino, Attorney General, attorney; Melissa H. Raksa, Assistant Attorney General, of counsel; Ms. Vachier, Helene P. Chudzik, Geoffrey R. Gersten and Timothy P. Malone, Deputy Attorneys General, on the brief).

Ira G. Megdal argued the cause for respondent South Jersey Gas Company (Cozen O'Connor, P.C., attorneys; Mr. Megdal, Peter J. Fontaine and Mark A. Lazaroff, on the brief).

John G. Valeri, Jr., argued the cause for respondent-intervenor R.C. Cape May Holdings, L.L.C. (Chiesa Shahinian & Giantomasi, P.C., attorneys; Mr. Valeri and Michael K. Plumb, on the brief).

James W. Glassen, Assistant Deputy Rate Counsel, argued the cause for respondent Division of Rate Counsel (Stephanie A. Brand, Director, New Jersey Division of Rate Counsel, attorney; Mr. Glassen, on the brief).

The opinion of the court was delivered by

YANNOTTI, P.J.A.D.

These appeals arise from a proposal by South Jersey Gas Company (SJG) to construct a natural gas pipeline through several

municipalities in the Pinelands Area. On December 14, 2015, Nancy Wittenberg, Executive Director of the Pinelands Commission (Commission), issued a letter finding that SJG's proposed pipeline was consistent with the minimum standards of the Pinelands Comprehensive Management Plan (CMP), N.J.A.C. 7:50-1.1 to -10.35. In addition, on December 16, 2015, the Board of Public Utilities (Board) granted a petition by SJG pursuant to N.J.S.A. 40:55D-19, and determined that the Municipal Land Use Law (MLUL), N.J.S.A. 40:55D-1 to -163, and any local governmental development regulations adopted pursuant to the MLUL, shall not apply to the construction or operation of the pipeline.

Pinelands Preservation Alliance (PPA) and the New Jersey Sierra Club and Environment New Jersey (jointly, Sierra Club) appeal from the Board's December 16, 2015 decision. Sierra Club also appeals from Wittenberg's determination.

For the reasons that follow, we remand the matter to the Commission for further proceedings and a final decision on whether SJG's proposed pipeline is consistent with the minimum standards of the CMP. We also affirm the Board's decision granting SJG's petition pursuant to N.J.S.A. 40:55D-19, but remand the matter to the Board for entry of an amended order stating that approval of the petition is conditioned upon a final decision of the Commission that the pipeline conforms to the CMP.

I.

We briefly summarize the pertinent facts and procedural history. The B.L. England Generating Station (BLE) at Beesley's Point in Upper Township, Cape May County, is a 447-megawatt electricity-generating facility that is powered using coal, oil, and diesel fuel. BLE provides electric power to the Pennsylvania, New Jersey, and Maryland markets. In 2006, the New Jersey Department of Environmental Protection (DEP) ordered Atlantic City Electric Company (ACE), which was then the owner of BLE, to meet certain emissions standards, repower, or shut BLE down. In 2007, ACE sold BLE to RC Cape May Holdings (RC), an affiliate of a Delaware limited liability company, Rockland Capital.

In 2012, DEP amended its 2006 order, and gave RC until 2016 to comply. RC decided to repower the facility using natural gas provided by SJG, which is a public utility that provides natural gas to approximately 360,000 customers within Camden, Cape May, Cumberland, Gloucester, and Salem Counties. SJG proposed to construct a pipeline that consists of 1) a "dedicated line" that would run about eight miles in Upper Township, from an interconnect point/regulator station to the metering station at BLE; and (2) a "reliability line" that would run about fourteen miles from Maurice River Township to the interconnect point/regulator station in Upper Township, where it would connect

to SJG's existing transmission and distribution systems and serve as a secondary source of supply for SJG's customers in Southern Jersey during a natural gas emergency.

The pipeline would be constructed within three state regulatory pinelands management areas: the Pinelands Rural Development Area, the Pinelands Village, and the Pinelands Forest Area. Under the CMP, public service infrastructure is a permitted land use in the Rural Development Areas, N.J.A.C. 7:50-5.26(b)(10), and in the Pinelands Villages, N.J.A.C. 7:50-5.27(a)(1). Public service infrastructure is, however, only permitted in the Forest Areas if "intended to primarily serve only the needs of the Pinelands." N.J.A.C. 7:50-5.23(b)(12).

On July 24, 2012, SJG filed a development application with the Commission, seeking authorization and approval to construct the pipeline. The Commission's staff deemed the application complete on July 29, 2013, but found that the proposed project did not meet the land use requirements in the CMP for the Forest Areas. The Commission's staff informed SJG that it had not established that the pipeline was "intended to primarily serve only the needs of the Pinelands" because it would serve SJG customers outside of the Pinelands.

On April 29, 2013, the Board issued an order authorizing SJG to impose tariffs and allocate costs of constructing the pipeline.

In addition, in June 2013, the Board granted SJG's petition for issuance of an order finding that the proposed pipeline complied with N.J.A.C. 14:7-1.4, a regulation that governs the siting of natural gas pipelines, and requires compliance with certain federal safety regulations.

On November 4, 2013, SJG filed a petition with the Board, seeking an order pursuant to N.J.S.A. 40:55D-19, declaring that the MLUL and any ordinance or regulation made under the authority of the MLUL shall not apply to the proposed pipeline project (the MLUL petition). The Board designated Commissioner Joseph L. Fiordaliso to serve as hearing officer, and Commissioner Fiordaliso thereafter held the first public hearing on SJG's MLUL petition.

Meanwhile, the Commission's staff and the Board's staff negotiated and drafted a memorandum of agreement (MOA), to allow the project to be built in the Pinelands Area even though staff had determined that it did not comply with the minimum standards of the CMP. N.J.A.C. 7:50-4.52(c)(2) provides that the Commission may enter into an intergovernmental agreement with any Federal, State, or local government, that allows "such agency" to carry out "specified development activities that may not be fully consistent with" N.J.A.C. 7:50-5 (minimum standards for land use and intensity), and N.J.A.C. 7:50-6 (management programs and minimum

standards for development and land use in the Pinelands).¹

On December 9, 2013, the Commission's staff held a public hearing and accepted written comments on the completed draft MOA. At the hearing, representatives from PPA and Sierra Club objected to the project. Members of the public also submitted comments opposing and supporting the project. In addition, four former Governors – Governors Brendan T. Byrne, Thomas Kean, James J. Florio, and Christine Todd Whitman – opposed the project, taking the position that it would compromise the integrity of the CMP.

On January 3, 2014, Wittenberg issued a report recommending that the Commission approve the MOA. She explained that the project would serve two purposes: (1) permitting the repowering of BLE; and (2) providing SJG with the ability to supply natural gas to its customers in Atlantic and Cape May counties in emergencies. At the Commission's meeting on January 10, 2014, the Commission members considered a resolution authorizing Wittenberg to execute the MOA.

The Commission has fifteen members. N.J.S.A. 13:18A-5(a). Seven members voted in favor of the resolution, seven members voted against it, and one member recused himself from voting on

¹ It should be noted that although the proposed MOA was an agreement between the Commission and the Board, it was SJG, not the Board, which would be engaged in the "specified development" activity.

the resolution. Because the Commission's by-laws provide that the affirmative vote of eight members is required for the Commission to take action on a motion or resolution, the MOA was not approved. SJG thereafter filed a notice of appeal from the Commission's failure to take action approving the MOA. In July 2014, DEP agreed that RC would have until May 2017 to comply with its 2006 order.

In May 2015, SJG submitted a revised pipeline development application to the Commission, along with additional information intended to show that the pipeline could be built in the Forest Area because it was "intended to primarily serve only the needs of the Pinelands." N.J.A.C. 7:50-5.23(b)(12). SJG noted that the project had been modified to reduce the impacts in the Forest Area by prohibiting additional interconnections with the line and relocating the interconnect point/regulator station out of the Forest Area.

In addition, SJG replaced three miles of open-cut installation with horizontal-directional drilling. SJG disclosed its previously-confidential agreement with RC, which requires SJG to provide RC an uninterrupted supply of natural gas to BLE for at least 350 days per year. SJG also provided a report from PJM Interconnection, L.L.C. (PJM), which stated that continued operation of BLE was vital to the relevant service area.

In August 2015, the Commission's Director of Regulatory

Programs found that the application was complete and issued a Certificate of Filing (COF), which stated in part:

Based on review of the application, including newly submitted information, materials in the record and review of prior applications, the applicant has demonstrated that the proposed gas main is consistent with the permitted use standards of the CMP. Specifically, the proposed pipeline is designed to transport gas to an existing facility, the [BLE] plant (built in 1963) that is located in the Pinelands.

Wittenberg advised the Commission that after the issuance of the COF, SJG could continue its MLUL proceeding before the Board. Wittenberg told the Commission that after the Board's proceedings, staff would review the application another time to ensure compliance with the CMP.

On August 21, 2015, Wittenberg wrote to the Board's Executive Director and enclosed a copy of the COF. She requested copies of any petitions that SJG filed with the Board regarding the pipeline project, including SJG's previously-filed MLUL petition, all associated hearing and meeting notices and transcripts, copies of all staff reports, and any draft orders pertaining to SJG's proposed pipeline project. In October 2015, Fiordaliso conducted two more public hearings and an evidentiary hearing on the MLUL petition. PPA was permitted to participate in the evidentiary hearing.

II.

In a letter dated December 14, 2015, Wittenberg informed the Board's Executive Director that "[b]ased on [the] Pinelands Commission['s] staff expertise and experience administering the CMP and our review of the record, the prior finding of consistency with the CMP in the [COF] issued on August 14, 2015 remains unchanged." She noted that any order by the Board authorizing SJG's installation of its pipeline had to be consistent with the minimum standards in the CMP rules, since that development would occur in the Pinelands Area.

Wittenberg reviewed the information she had received from the Board and addressed the public's comments concerning the project's consistency with the CMP. She rejected the claim that her staff's initial finding that SJG's project was inconsistent with the CMP standards in N.J.A.C. 7:50-5.23 could not be changed. Wittenberg explained that SJG had revised its proposal by: (1) moving the proposed interconnect point/regulator station from the Forest Area and to Pinelands Village; and (2) adding a new provision limiting the company's ability to connect new customers in the Forest Area.

SJG also had submitted new and updated information that previously had not been available for review. She wrote:

Specifically, . . . the proposed pipeline [will] be available to serve the [BLE] plant 95% of the time. The proposed project will

also provide an ancillary benefit of providing redundant gas service to those customers of [SJG] who live both inside and outside of the Pinelands Area during an operational upset. Given that the primary purpose of the proposed project is to provide gas to the [BLE] plant 95% of the time, a fact not available at the time of the Executive Director's initial decision, Commission staff found that the [SJG] had demonstrated the project's consistency with the Forest Area use standards of the Pinelands CMP, i.e., that the proposed project primarily serves only the needs of the Pinelands by serving the needs of a facility located in the Pinelands 95% of the time.

Wittenberg rejected the claim that SJG did not intend that its proposed pipeline project would primarily serve to repower BLE. She explained:

The Pinelands CMP at N.J.A.C. 7:50-5.23(b)12 permits the development of public service infrastructure, which includes natural gas transmission lines, within a Forest Area, if such infrastructure is intended to primarily serve only the needs of the Pinelands. The term 'Pinelands' is defined by the Pinelands CMP at N.J.A.C. 7:40-2.11 as including both the Pinelands Natural Reserve and the Pinelands Area. Consequently, the term "Pinelands" is broader than the term "Pinelands Area" which is defined by the Pinelands CMP as the area designated as such by Section 10(a) of the Pinelands Protection Act.

Wittenberg concluded that SJG had demonstrated that its proposed pipeline is consistent with the permitted use standards of the CMP. She wrote that the pipeline is designed primarily to transport gas to BLE, an existing facility located in the

Pinelands. She found that the project is "intended to primarily serve only the needs of the Pinelands," and was a permitted use in the Forest Area, pursuant to N.J.A.C. 7:50-5.23(b)(12).

III.

On December 16, 2015, the Board issued its order on SJG's MLUL petition. The Board reviewed all the evidence and testimony of the numerous public comments including those provided by PPA, the COF, and Wittenberg's December 14, 2015, consistency determination. The Board noted that Wittenberg had concluded the project was consistent with the minimum standards of the CMP. The Board found that SJG had met its burden of proof under N.J.S.A. 40:55D-19, and had established that the project was reasonably necessary for the service, convenience or welfare of the public.

The Board considered the need for the project, the pipeline routing, and cost allocation. It found that: (1) conversion of BLE from coal and oil to gas-fired generation provides an environmental benefit; (2) continued operation of that plant would serve a need for capacity in the area and provides a clean source of in-state power in furtherance of New Jersey's Energy Master Plan ("EMP"); (3) the project would enhance the reliability of SJG's service territories; and (4) there was no alternative route that would have less adverse environmental impacts.

The Board also found that when the nearby Oyster Creek nuclear

power plant is taken out of service in 2019, BLE will be the only significant base-load power generating station in the coastal area of Southern New Jersey. Repowering BLE will increase power generation by thirty percent and reduce the production of greenhouse gases, including nitrogen oxides and sulfur dioxide.

The Board rejected PPA's contentions that SJG's real intention is to serve only its existing customers in Atlantic and Cape May Counties, as evidenced by its statements that it would pursue the project independently of the repowering of BLE, and that SJG's pipeline and the repowering of BLE would not serve the needs of the Pinelands.

The Board explained that, while it was "sensitive to the alleged environmental, health and safety concerns raised by the local residents," it was persuaded by the evidence that SJG "has considered the environmental impacts of the [p]roject and has committed to constructing the [p]ipeline guided by the goal of minimizing those impacts where they cannot be avoided." The Board noted that SJG's experts had analyzed the effect the alternative routes would have on the environment and had selected the preferred route based upon environmental-permitting considerations and DEP's input.

PPA and Sierra Club thereafter filed their notices of appeal. We consolidated the appeals, and also granted a motion by RC to

intervene. In addition, we granted a motion by Governors Byrne, Florio and Whitman to appear as amici curiae.

On appeal, PPA raises the following issues: (1) the Board and the Commission's Executive Director lacked jurisdiction to review the proposed project because the Commission had already declined to approve it under the Pinelands Protection Act, N.J.S.A. 13:18A-1 to -58, and the CMP rules; (2) the Commission and its Executive Director acted arbitrarily, capriciously, or contrary to law by failing to adhere to its original finding that the proposed pipeline violated the CMP; (3) the Commission erred by failing to conduct any review and taking any action on the proposed pipeline project; and (4) the Board acted arbitrarily, capriciously, or contrary to law by approving SJG's petition pursuant to N.J.S.A. 40:55D-19.

In its appeals, Sierra Club argues: (1) the Board's decision to grant SJG's MLUL petition was wrong as a matter of law; (2) the Board's approval of the MLUL petition must be conditioned upon the review and approval by the Commission of SJG's pipeline application; (3) the Commission erred by failing to ensure that all development in the Pinelands is consistent with the CMP; (4) the Executive Director did not have authority to issue a COF for the project and end Commission review; and (4) the Executive

Director erred by finding that SJG's project was consistent with the CMP.

IV.

PPA argues that the Executive Director did not have jurisdiction or was precluded from issuing her December 14, 2015 consistency determination because: (1) the Commission's staff had determined that the project, as initially proposed, did not comply with the minimum standards of the CMP and SJG did not appeal that determination; (2) the Commission refused to take action approving the MOA, which would have allowed the project to proceed and SJG had appealed that determination; and (3) the pending appeal deprived the Commission and its staff from exercising any jurisdiction with regard to the project until the appeal was dismissed in May 2016. We find no merit in these arguments.

As we have explained, the Commission's staff initially determined that SJG had not established that the project was "intended to primarily serve only the needs of the Pinelands," as required by N.J.A.C. 7:50-5.23(b)(12), and therefore could not be constructed in the Forest Area. However, that was a decision on SJG's first application, and it was based on the information that was available at that time.

Furthermore, the Commission did not issue a decision finding that the project, as initially proposed, did not meet the

requirements of N.J.A.C. 7:50-5.23(b)(12). Although the Executive Director recommended that the Commission approve an MOA with the Board, based on the assumption that the project was not "intended to primarily serve only the needs of the Pinelands," the Commission never acted on the recommendation.

Thus, the decision by the Commission's staff on SJG's first application, and the Commission's failure to act on the proposed MOA did not preclude SJG from submitting a revised proposal, with additional information intended to establish that the project met the requirements of N.J.A.C. 7:50-5.23(b)(12). The second application was, in fact, a new matter, which the agency had authority to consider and act upon.

Moreover, SJG's appeal from the Commission's failure to approve the proposed MOA did not preclude the Commission from exercising its jurisdiction to review SJG's revised proposal. Rule 2:9-1(a) provides in part that "the supervision and control of the proceedings on appeal" shall be in the Appellate Division "from the time the appeal is taken[.]" The filing of an appeal generally divests the trial court or agency of jurisdiction to act in the matter under appeal, unless directed to do so by the appellate court. Manalapan Realty, L.P. v. Twp. Comm. of Manalapan, 140 N.J. 366, 376 (1995).

The "proceedings on appeal" in SJG's appeal related to the Commission's failure to approve the MOA. SJG's second development application was a separate matter. We are therefore convinced that SJG's appeal did not divest the agency of jurisdiction to consider the revised development proposal. See Gandolfi v. Town of Hammonton, 367 N.J. Super. 527, 548 (App. Div. 2004) (noting that planning board had jurisdiction to consider new subdivision application despite pendency of appeal challenging prior denial of the application because second application was entirely new).

PPA further argues that the Commission acted arbitrarily, capriciously and unreasonably by failing to adhere to Wittenberg's initial determination that the pipeline as initially proposed did not comply with the CMP. PPA contends that the Commission is bound by principles of collateral estoppel and res judicata from taking a different position regarding the project's compliance with the CMP. PPA asserts the revised proposal was essentially the same as the initial proposal.

Again, we disagree. Collateral estoppel and res judicata do not apply here because Wittenberg's determination pertained to the first application, and the Commission never rendered a final decision on that application. See Hennessey v. Winslow Township, 183 N.J. 593, 599 (2005) (noting that re-litigation of an issue is precluded if the identical issue has been litigated and decided

in a prior proceeding). Moreover, SJG revised its plan and submitted additional information for the Commission's consideration on the issue of CMP compliance.

PPA's arguments on these issues are without sufficient merit to warrant further comment. R. 2:11-3(e)(1)(E).

V.

We turn to PPA's and Sierra Club's arguments that the Executive Director did not have authority to render a final decision on behalf of the Commission regarding the project's compliance with the CMP. Amici curiae also argue that under the Pinelands Act, the Commission was required to vote upon and determine whether SJG's application complied with the minimum standards of the CMP.

Section 502 of the National Parks and Recreation Act of 1978 (the Federal Act), 16 U.S.C.A. § 471i(c), created the Pinelands National Reserve, which includes all or part of fifty-six municipalities in seven southern New Jersey counties. The Federal Act directed the Governor of New Jersey to establish a planning agency to develop a CMP for the National Reserve. 16 U.S.C.A. § 471i(d). Governor Byrne thereafter established the Pinelands Planning Commission. N.J. Exec. Order No. 71 (Feb. 8, 1979), Laws of N.J. 1979, Vol. II, at 1897-1904.

The Pinelands Act was subsequently enacted. It established the Commission, N.J.S.A. 13:18A-4(a), and directed it to prepare a CMP to which county and municipal master plans must conform, N.J.S.A. 13:18A-8 to -10. The Act provided that the CMP must include a program for its implementation "in a manner that will insure the continued, uniform, and consistent protection of the pinelands area in accord with the purposes and provisions of the [state and federal legislation]." N.J.S.A. 13:18A-8(i).

The CMP applies to all development in the Pinelands Area. N.J.A.C. 7:50-1.4. The CMP states in pertinent part that "[t]he Commission bears the ultimate responsibility for implementing and enforcing the provisions" of the Pinelands Act and the CMP. N.J.A.C. 7:50-1.11. The CMP also states that the Executive Director is the chief administrative officer of the Commission, and is "charged with the administration and enforcement of" the CMP subject to the Commission's approval of the Executive Director's actions. N.J.A.C. 7:50-1.21(a).

The CMP sets forth procedures and standards for applications for development in municipalities whose master plans have been certified by the Commission. N.J.A.C. 7:50-4.31 to -4.42. In general, for certified municipalities, the CMP provides that the Executive Director shall initially review preliminary and final municipal approvals for development within the Pinelands. N.J.A.C.

7:50-4.37(a), -4.38(a), and -4.40(a). The CMP further provides that the Commission may review and issue decisions with regard to certain approvals. N.J.A.C. 7:50-4.38(b), -4.42, -4.91(a).

In addition, the CMP establishes procedures for so-called coordinated permitting by State agencies. N.J.A.C. 7:50-4.81 to -4.85. The CMP states that

No department board, bureau, official or other agency of the State of New Jersey shall issue any approval, certificate, license, consent, permit, or financial assistance for the construction of any structure or the disturbance of any land in the Pinelands Area unless such approval or grant is consistent with the minimum standards of [the CMP].

[N.J.A.C. 7:50-4.81(a).]

Before any application for development in the Pinelands Area is filed with a State agency, the applicant must submit a copy of the application to the Commission. N.J.A.C. 7:50-4.81(b). The State agency should not consider the application unless the Executive Director has issued a COF, a notice of filing, and a certificate of completeness, or the Commission has approved an application for public development. Ibid. The Executive Director then determines

what, if any, special interests the Commission has with respect to the application, the extent to which the Commission staff should participate in any proceedings held by the state agency with which the application is to be filed, and whether any Commission review

provided for in this Plan should be conducted before, after or simultaneously with any proceedings to be conducted by the state agency.

[N.J.A.C. 7:50-4.82(a).]

If the Executive Director finds that the State agency may conduct its proceedings on the application "prior to or simultaneously with any Commission review provided for in [the CMP]," the Executive Director issues a COF, which indicates that the application has been filed with the Commission and the applicant is authorized to file the application with the State agency. N.J.A.C. 7:50-4.82(b).

The Executive Director then determines the degree to which Commission staff shall participate in the State agency proceedings. N.J.S.A. 7:50-4.82(c). Such participation "may include, but is not limited to

1. Submitting a written analysis of any concerns and opinions the Commission staff has with respect to the conformance of the proposed development with the minimum standards of the [CMP], including a list of any conditions which it determines should be imposed in the event that the permit is granted;

2. Submitting written evidence with respect to the conformance by the proposed development with the minimum standards of [the CMP].

[N.J.A.C. 7:50-4.82(c).]

The CMP does not, however, expressly provide that, in the coordinated permitting process, the Commission may review a determination by its staff or the Executive Director as to whether a particular development plan meets the minimum standards of the CMP. Furthermore, the CMP does not confer on the Executive Director or the Commission's staff the authority to render final decisions on CMP compliance in these circumstances. There also is no provision in the Pinelands Act that confers upon the Executive Director authority to render a final decision for the Commission in the coordinated permitting process.

Here, the Commission retains final decision-making authority as to whether SJG's proposed pipeline is consistent with the minimum standards of CMP. Indeed, as we have pointed out, the CMP states, "the Commission bears the ultimate responsibility for implementing and enforcing the provisions" of the Pinelands Act and the CMP. N.J.A.C. 7:50-1.11. The Commission therefore retains "ultimate responsibility" under the CMP to review the proposed project and render a final decision on CMP compliance.

On appeal, the Commission argues that N.J.S.A. 40:55D-19 provides sufficient authority for the Board to render a final decision as to whether SJG's development proposal is consistent with the CMP. The Commission points out that the Pinelands Act states that

no State approval, certificate, license, consent, permit, or financial assistance for the construction of any structure or the disturbance of any land within [the Pinelands] shall be granted unless such approval or grant conforms to the provisions of [the CMP].

[N.J.S.A. 13:18A-10(c).]

However, in deciding whether to grant a petition brought under N.J.S.A. 40:55D-19, the Board determines whether the MLUL and local regulations adopted pursuant to the MLUL should be waived. The Board's approval of any MLUL petition must be consistent with the minimum standards of the CMP, but the Board is not empowered to make that determination in the first instance. In this matter, that decision must be made by the Commission, pursuant to its authority under the Pinelands Act and the CMP.

We note that, in this matter, the Board did not make a factual finding on the critical issue of whether SJG's pipeline is "intended to primarily serve only the needs of the Pinelands" and therefore a permitted use in the Forest Area. The Board merely relied upon Wittenberg's decision on this issue, and on that basis, its approval of SJG's MLUL petition complied with N.J.S.A. 13:18A-10(c).

We therefore conclude that the matter must be remanded to the Commission for further proceedings so that the Commission may review the Executive Director's determination, in light of the

objections that have been raised by PPA, the Sierra Club, and amici curiae. The Commission shall determine whether to review the Executive Director's decision based on the factual record developed before the Board, or whether the parties should be permitted to present additional evidence on the question of whether the pipeline is consistent with the minimum standards of the CMP.

The Commission also shall determine whether to refer the matter for a hearing before an Administrative Law Judge (ALJ). In that regard, we note that, under the CMP's provisions for review of development applications in municipalities with certified land use regulations, the Commission may review a preliminary approval if it raises substantial issues of CMP compliance. N.J.A.C. 7:50-4.37(a)-(b).

If so, the Executive Director must give notice of the staff's determination to the applicant, local permitting agency, and any interested persons. N.J.A.C. 7:50-4.37(b). The applicant, local permitting agency, and any interested persons may request a hearing before an ALJ. Ibid. Thereafter, the Commission may issue a final decision on the matter. N.J.A.C. 7:50-4.91(e).

The Commission shall consider whether the same or similar procedures should be followed in reviewing Wittenberg's decision. See In re Application of John Madin, 201 N.J. Super. 105, 128-34 (App. Div.) (holding that municipalities whose development

ordinances have not been certified by the Commission are entitled to an evidentiary hearing on the grant of development approval), certif. granted, 102 N.J. 380 (1985), certif. vacated, 103 N.J. 689 (1986). Moreover, the public should be afforded notice and the opportunity to be heard before the Commission renders a final decision on the application. Id. at 135-36.

In view of our decision, we need not address the other issues raised by the parties concerning the merits of Wittenberg's decision.

VI.

PPA argues that the Board did not have jurisdiction to consider SJG's MLUL petition. It also argues that the Board acted arbitrarily, capriciously and contrary to law in approving SJG's MLUL petition. PPA contends the record does not support the Board's determination that the pipeline is "reasonably necessary for the service, convenience, or welfare of the public," as required by N.J.S.A. 40:55D-19. We disagree.

PPA contends that the Board did not have jurisdiction to review SJG's MLUL petition because SJG previously had appealed the Commission's failure to approve the MOA for the project. We disagree with this contention for essentially the same reasons stated previously regarding PPA's contention that the appeal precluded the Commission from considering SJG's revised

application. The MOA and SJG's MLUL petition both pertained to the pipeline, but these were separate matters before State agencies, each with its own statutory responsibilities. We conclude the Board had jurisdiction to review and act upon SJG's petition.

We turn to PPA's challenge to the Board's decision. The scope of review of the final determination of an administrative agency is limited. In re Carter, 191 N.J. 474, 482 (2007). An agency's decision will be affirmed "unless there is a clear showing that it is arbitrary, capricious, or unreasonable, or that it lacks fair support in the record." In re Herrmann, 192 N.J. 19, 28 (2007). In reviewing an administrative agency's decision, we will grant considerable deference to the agency's expertise, where such expertise is a relevant factor. Campbell v. N.J. Racing Comm'n, 169 N.J. 579, 588 (2001).

Here, SJG petitioned the Board for waiver of the MLUL and local government MLUL regulations and approvals pursuant to N.J.S.A. 40:55D-19, which requires the Board to find that

the present or proposed use by the public utility . . . is necessary for the service, convenience or welfare of the public . . . and that no alternative site or sites are reasonably available to achieve an equivalent public benefit, the public utility . . . may proceed in accordance with such decision of the [Board], any ordinance or regulation made under the authority of this act notwithstanding.

In making its determination, the Board must consider the site, the community zoning plan and zoning ordinances, the physical characteristics of the plot, and the surrounding neighborhood. In re Pub. Serv. Elec. & Gas Co., 35 N.J. 358, 377 (1961). When determining reasonable necessity, the Board must consider alternative sites and their advantages and disadvantages, including their costs. Ibid. The Board also must weigh all of the parties' interests, and where those interests are equally balanced, it must give the utility preference in light of the Legislature's clear intent that the broad public interest to be served is greater than local considerations. In re Monmouth Consol. Water Co., 47 N.J. 251, 258 (1966); Pub. Serv., supra, 35 N.J. at 377.

Here, the Board considered the relevant factors, and there is sufficient credible evidence to support its finding that SJG had shown that the project is "reasonably necessary for the service, convenience or welfare of the public." N.J.S.A. 40:55D-19. The Board found that the "dedicated line" is reasonably necessary and would serve the goals of the EMP, one of which is to expand in-state resources fueled by natural gas. The Board determined that there is a need for electric-generating capacity in the area of BLE, noting that the Oyster Creek nuclear power plant in Southern New Jersey will be retired in 2019.

The Board noted that BLE will be the only significant base-load power generating station in the coastal area of Southern New Jersey. The Board also found that the "dedicated line" will cause a "significant improvement" in air quality in the region, by reducing the production of greenhouse gases, nitrogen oxides, and sulfur dioxide.

In addition, the Board found that the "reliability line" will enhance SJG's ability to provide reliable natural gas service to its customers. The Board noted that presently a single, twenty-mile-long pipeline services 60,000 SJG customers in Cape May County, and a disruption anywhere along this line could jeopardize service to these customers. The Board also noted that there is no other location in SJG's system with "a single upset vulnerability" of this magnitude.

PPA argues that the Board's decision unlawfully waives the pipeline's need to comply with the CMP. We do not agree. As noted previously, N.J.A.C. 7:50-4.81 mandates that no State agency may grant approval, license, or financial assistance for any construction or disturbance in the Pinelands "unless such approval or grant is consistent with the minimum standards of the [CMP]."

Here, the Board's order does not state that the pipeline is not subject to the Pinelands Act or the CMP. Indeed, the Board's decision correctly recognizes that the pipeline must be consistent

with the minimum standards of the CMP. Thus, there is no merit to PPA's contention that the Board has waived compliance with the Pinelands Act and the CMP.

PPA further argues that the Board could not lawfully find that the project conforms to the CMP. PPA contends that the record shows that the pipeline is not "intended to primarily serve only the needs of the Pinelands." We note, however, that the Board did not make its own findings as to whether the project complies with the CMP. The Board merely took note of Wittenberg's determination of December 14, 2015, and relied upon that determination as a basis for concluding that the project met the minimum standards of the CMP. As we have determined, Wittenberg's decision must be reviewed by the Commission and the Commission must decide whether the project complies with the CMP.

PPA also contends that the record does not support the Board's decision that the pipeline furthers the goals of the EMP. PPA asserts the evidence does not show that the pipeline will result in a significant improvement in air quality and other positive environmental impacts. PPA also asserts that while the EMP encourages the use of "clean" energy sources like natural gas, the proposed pipeline violates the Pinelands Act and CMP, and the repowering of BLE is not necessary to ensure the reliability of the natural gas supply to SJG's customers in Southern New Jersey.

PPA's arguments lack sufficient merit to warrant discussion in this opinion. R. 2:11-3(e)(1)(E). Suffice it to say, however, there is sufficient credible evidence in the record to support the Board's findings on these issues, and PPA has provided no basis for this court to second-guess the Board's considered judgment that the pipeline furthers the goals of the EMP and is reasonably necessary for the service, convenience or welfare of the public.

On appeal, Sierra Club contends that the Board's decision waiving municipal approvals was wrong as a matter of law. Sierra Club contends that N.J.S.A. 40:55D-19 does not apply to Pinelands-based reviews and ordinances, and that the Board had no authority to override any local approval that is otherwise required by the Pinelands Act and any ordinances authorized and adopted under that Act. We are not persuaded by this argument.

By its plain language, N.J.S.A. 40:55D-19 gives the Board the authority to waive the MLUL and any local ordinance or regulation adopted pursuant to the MLUL. The Board's authority under N.J.S.A. 40:55D-19 necessarily includes the power to waive any MLUL review of approvals by municipalities in the Pinelands. The Pinelands Act does not limit the exercise of this power. However, as the Board recognized in its final decision, any development project for which local MLUL regulation is waived pursuant to N.J.S.A. 40:55D-

19 remains subject to the Pinelands Act and the minimum standards of the CMP.

Sierra Club also contends that the Board erred by relying upon Wittenberg's December 14, 2015 determination as a basis for its understanding that the project is consistent with the minimum standards of the CMP. As stated previously, Wittenberg was not authorized to render a final consistency determination regarding the project, and the matter will be remanded so that the Commission can render a final decision on that issue.

We therefore conclude that the Board's reliance upon Wittenberg's determination was misplaced. Consequently, the Board's December 16, 2015 order must be amended to state that approval of SJG's MLUL petition shall be conditioned upon issuance of a final decision by the Commission finding that the pipeline project meets the minimum standards of the CMP.

In view of our determination, we need not address the other issues raised by PPA, Sierra Club or amici curiae.

Accordingly, we remand Executive Director Wittenberg's December 14, 2015 determination to the Commission for further proceedings in conformity with this opinion. We also remand the matter to the Board for entry of a modified order, stating that the approval of SJG's petition under N.J.S.A. 40:55D-19 is conditioned upon the Commission's issuance of a final

determination finding that the pipeline project meets the minimum standards of the CMP. In all other respects, the Board's decision and order of December 16, 2015, is affirmed.

The Board's final decision is affirmed in part, and remanded in part for entry of an amended order of approval. In addition, Executive Director Wittenberg's decision is remanded to the Pinelands Commission for further proceedings in accordance with this opinion. We do not retain jurisdiction.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.


CLERK OF THE APPELLATE DIVISION

NEW JERSEY PINELANDS COMMISSION

BY-LAWS

(Adopted June 1, 1979, as amended May 9, 1997)

PREAMBLE

This body corporate and politic having been created by the "Pinelands Protection Act," P.L. 1979 c. 111, (the "Act"), is named the Pinelands Commission (the "Commission") and pursuant to Section 6(a) of the Act, is authorized to make and alter such By-Laws for its operations, internal management, and for the conduct of its affairs and business. The By-Laws of the Commission are as follows:

I. The Commission

Section 1. Purpose. The Pinelands Commission is established as a regional planning and management body by L. 1979, c. 111 (N.J.S.A. 13:18A-1 et seq.), pursuant to P.L. 95-625, §502.

Section 2. Functions. The functions of the Commission are:

- (a) to develop a comprehensive management plan for the Pinelands in accordance with L. 1979, c. 111, §6, and 95-625, §502(d)-(f).
- (b) to evaluate and take action upon applications proposing development and construction in the Pinelands, in accordance with L. 1979, c. 111, §10 and §14, and 95-625, §502(i).
- (c) to review and certify county and municipal master plans pursuant to L. 1979, c. 111, §12.
- (d) to identify lands which are desirable for public acquisition to insure the preservation of the Pinelands pursuant to L. 1979, c. 111, §6(l).
- (e) additional functions as delegated to the Commission by the Legislature in L. 1979, c. 111, and as may be delegated to the Commission by the Legislature hereafter.

Section 3. Offices. The principal office of the Commission shall be located in the Township of Pemberton, County of Burlington, State of New Jersey. The Commission may have offices at such other places within the State of New Jersey as its business may require or make desirable as determined by the Commission.

Section 4. Seal. The Commission shall have a seal which shall bear the words and shall be of such design as determined by the Commission.

Section 5. Membership. The Commission shall consist of 15 members, appointed in accordance with the Act.

II. Officers

Section 1. Number. The officers of the Commission shall be a Chair, Vice Chair, Secretary, and Executive Director. The Commission may also appoint such other officers as it shall deem necessary who shall hold their offices for such terms as shall be determined by the Commission and who shall exercise such powers and perform such duties as shall be determined from time to time by the Commission.

Section 2. The Chair shall:

- (a) preside at all meetings of the Commission;
- (b) rule on all questions of order, subject to appeal to the Commission;
- (c) create Committees in consultation with the Commission;
- (d) appoint Committee members and designate the Chairs thereof as necessary;
- (e) sign all resolutions adopted by the Commission, and any other legal document or instrument authorized by the Commission;
- (f) submit such recommendations and information as he/she shall deem necessary concerning the business, duties and offices of the Commission;
- (g) have such other duties and powers as conferred upon him/her by these By-Laws or by any resolution adopted by the Commission; and
- (h) designate an acting Chair for the conduct of a meeting and signing of resolutions, based upon member seniority, should both the Chair and Vice Chair be absent from a Commission meeting.

Section 3. Vice Chair. The Vice Chair shall perform the duties of the Chair in the event that the Chair is unable to perform such duties by reason of illness, disability, absence, or when requested to perform such duties by the Chair. The Vice Chair shall perform such other duties as may from time to time be assigned by the Chair of the Commission.

Section 4. Secretary. The Secretary shall keep the official records of the Commission, minutes of the actions taken at the meetings of the Commission, and the seal of the Commission; shall certify, when required, copies of records; and shall, from time to time, perform such other duties as shall be assigned to him/her by the Commission. The Secretary may adopt a facsimile signature to be utilized in the performance of assigned responsibilities.

Section 5. Executive Director. The Executive Director shall have all the power delegated to him/her in accordance with these By-Laws, actions of the Commission, or otherwise pursuant to the provision of the Act. He/she shall, subject to the provisions of these By-Laws, be generally in administrative charge of all activities of the Commission. The Executive Director shall designate an Assistant Director to act in his/her place in the event of his/her absence. In the event the Office of Executive Director is vacant the Chair shall designate an Acting Director to fill the office until such time as the Commission acts to appoint an Acting Director. The Executive Director shall:

(a) perform such other duties as are incidental to the office as may be assigned from time to time by the Commission;

(b) have the power to appoint, promote, remove, discipline and supervise employees in accordance with the personnel policies of the Commission;

(c) administer the affairs of the Commission for the efficient, orderly and economical administration of all the administrative and executive affairs of the Commission;

(d) contract for and purchase goods and services in an amount not to exceed that which has been delegated to state agencies pursuant to N.J.S.A. 52:25-23 and approve payments, with concurrence by a duly authorized Commission member, for all goods and services purchased by the Commission;

(e) from time to time, report to the Commission all contracts, purchase orders and change orders entered into pursuant to these By-Laws and appropriate financial information; but the failure of the Executive Director to report the same shall not affect the validity of any action taken by the Executive Director with respect thereto;

(f) in his/her discretion, delegate, in whole or in part, any duty or authority conferred upon him/her by the By-Laws, the comprehensive management plan, or any resolution adopted by the Commission to any member of the staff or agent of the Commission; and

(g) review all applications for construction or development or certification in the Pinelands and shall submit recommendations thereon to the Commission in accordance with the procedures established by the Commission for processing such applications.

Section 6. Selection and Terms of office. The Chair of the Commission shall be appointed by the Governor in accordance with Section 5 of the Act. The Vice Chair shall be elected annually from among the remaining members of the Commission. The Secretary may be the Executive Director of the Commission. The Executive Director shall not be a member of the Commission and shall serve at the pleasure of the Commission. The Executive Director shall hold office for such term or period of time and at such salary as the Commission shall determine. Vacancies in any office, other than in the office of the Chair, may be filled by the Commission as appropriate under this Section.

Section 7. Vacancies. Any vacancies occurring among the members of the Commission by reason of death, resignation, disqualification, incapacity to serve, removal from office in accordance with law, or otherwise, shall be filled in the manner provided for by the Act. No vacancy in the membership of the Commission shall impair the right of a quorum of its members to exercise all the rights and perform all the duties of the Commission.

Section 8. Expenses. Each member of the Commission shall be entitled to seek reimbursement for actual expenses necessarily incurred in the performance of Commission duties, pursuant to policies established by the Commission.

Section 9. The Secretary shall:

(a) attend all meetings of the Commission and act as Secretary thereof and record all notes and shall keep a record of the proceedings at all meetings of the Commission in a minute book and a resolution book or both, which shall be open at all reasonable times to inspection by any member of the Commission or member of the public; and

(b) cause a true copy of the minutes of every meeting to be prepared and delivered to the Governor pursuant to L. 1979, c. 111, §5(h);

(c) maintain records of the Commission's transactions, communications and proceedings, and such records shall be open at all reasonable times to inspection by any member of the Commission;

(d) keep in safe custody the seal of the Commission and shall affix such seal to all papers authorized to be executed by the Commission requiring such seal to be affixed;

(e) cause copies to be made of all minutes, resolutions and other records and documents of the Commission and give certificates under the seal of the Commission to the effect that such copies are true copies and all persons dealing with the Commission may rely on such certificates; and

(f) sign all resolutions authorized and adopted by the Commission.

III. Meetings

Section 1. General Powers. The property, affairs, and business of the Commission shall be managed by the Commission to the extent allocated to it by the Act.

Section 2. Regular Meetings. Regular monthly meetings of the Commission shall be held at a time and place to the designated by the Commission. Adequate notice as defined under the Open Public Meeting Act ("OPMA"), P.L. 1975 c. 231, shall be given by the Secretary.

Section 3. December Meeting. The Commission shall at its regularly scheduled December meeting establish its meeting schedule for the following year and adopt the annual notice of meetings required by the OPMA.

Section 4. Annual Organization Meeting. At the regularly scheduled July meeting the Commission shall take the following actions:

- (a) elect a Vice Chair and the Chair shall appoint Committee Chairs and membership; and
- (b) adopt a budget for the fiscal year beginning July 1. If for reasons beyond the Commission's control this is not possible the Commission shall announce its schedule for anticipated adoption of the budget.

Section 5. Special Meetings. Special meetings of the Commission may be called at any time by the Chair. Any member of the Commission may request that the Chair poll the members for purposes of scheduling a special meeting. The Chair may fix any time and place as the time and place for holding any special meeting. The Secretary shall be informed of the call of such special meeting sufficiently in advance to permit the Secretary to give adequate notice as defined under the OPMA.

Section 6. Emergency Meetings. Emergency meetings, may be called by the Chair at any time in accordance with the OPMA.

Section 7. Quorum. Eight members shall constitute a quorum. If a quorum is not present at any meeting of the Commission, a majority of the Commission members present may agree to meet at another time and place. Notice of any such adjourned meeting shall be given in accordance with the requirements of the OPMA.

Section 8. Manner of Acting. On any question presented the number of members present shall be recorded by the Secretary. Actions may be taken and motions and resolutions adopted by the Commission upon the affirmative vote of at least eight members.

Section 9. Minutes of Meetings. The minutes of each meeting shall reflect the presence of each member in attendance. A true copy of the minutes of every meeting of the Commission shall be prepared and forthwith delivered to the Governor by the Secretary of the Commission. No action taken at such meetings by the Commission shall have effect until the Governor's statutory period of review has expired, after the copy of the minutes has been so delivered. If, in this period, the Governor returns the copy of the minutes with a veto of any action by the Commission at that meeting, the action shall be of no effect.

Section 10. Order of Business. The order of business at each meeting shall be reflected in the agenda which may contain the following items:

- a. Reading of the OPMA statement;
- b. Roll call;
- c. Approval of the minutes of the previous meeting;
- d. Reports;
- e. Actions, Motions and Resolutions;
- f. Other items of interest;
- g. Public Comment;
- h. Executive Session; and
- i. Adjournment.

Section 11. It is the policy of the Commission to provide citizens an opportunity to present suggestions, views and comments respecting the Commission's functions, responsibilities, and proposed actions during a reasonable period of time at each meeting.

Section 12. Whenever the Commission is required by law to hold a public hearing or whenever it shall deem it advisable to hold such a hearing, the requirements set forth in the Comprehensive Management Plan shall be followed. The Hearing Officer may establish procedures for the orderly conduct of any hearing.

IV. Amendments

Section 1. These By-Laws may be amended, repealed or added to by the Commission as necessary and in its discretion at any meeting by a two-thirds vote of the authorized membership of the Commission.

New Jersey Pinelands Commission By-Laws

7

Section 2. No amendment, repeal or addition to these By-Laws may be considered unless notice of same is given in writing and mailed or delivered personally to each member of the Commission at least fourteen days in advance of the meeting at which the motion to adopt the amendment, repeal or addition will be presented.