



State of New Jersey
THE PINELANDS COMMISSION

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

August 22, 2011

David Ahdout
New Jersey Department of Transportation
P.O. Box 600
Trenton, NJ 08625

Please Always Refer To
This Application Number

Re: Application #: 2003-0403.001
State Highway Route 72
County Route 554 (West Bay Avenue)
Barnegat Township
Stafford Township

Dear Mr. Ahdout:

The Commission staff has completed its review of the above referenced application. Based upon the facts and conclusions contained in this Report, on behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its September 9, 2011 meeting.

FINDINGS OF FACT

This application is for widening of the westbound shoulder of State Highway Route 72 (Route 72) and the realignment of the existing Route 72 and Ocean County Route 554 intersection in Barnegat and Stafford Townships. The proposed development is located in a Pinelands Regional Growth Area, a Pinelands Forest Area and the Pinelands Preservation Area District.

The Rt. 72 shoulder pavement widening will range from three feet to six feet. The majority of the shoulder pavement widening will be three feet in width. The paved shoulder widening will begin approximately 5,205 feet east of Ocean County Route 539 and end approximately 1,560 feet west of Dusty Miller Drive. The proposed project spans a distance of approximately 37,900 linear feet in length. However, the proposed paved shoulder widening within the project area is approximately 8,880 linear feet in length.

www.nj.gov/pinelands

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

Application Specific Information: ApplInfo@njpines.state.nj.us 2 0 0 3 0 4 0 3 . 0 0 1 *

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In the project area, Route 72 is currently paved to a width of approximately 42 feet. The proposed widening will allow for an additional westbound travel lane to allow for a safe and efficient evacuation of Long Beach Island in emergency situations.

This application also proposes the realignment of the existing Route 72 and Ocean County Route 554 intersection. The application proposes to reconfigure the exiting intersection to create a T-intersection.

The proposed shoulder widening and associated stormwater swales will be located over grass and gravel shoulders. The proposed clearing and soil disturbance appears to be limited to that which is necessary to accommodate the proposed shoulder roadway improvements. The applicant has represented that the proposed shoulder widening will take place at existing grade and that no fill will be utilized for the proposed shoulder widening. The applicant will be utilizing topsoil in the area of the proposed removal of the westbound Route 554 exit lane. The Landscaping and Revegetation guidelines of the Pinelands Comprehensive Management Plan (CMP) recommend the use of grasses that are tolerant of droughty, nutrient poor conditions. The applicant proposes to utilize grasses that meet that recommendation.

There are freshwater wetlands located immediately adjacent to the proposed shoulder widening. No development will be located in wetlands. The applicant has demonstrated that there is no feasible alternative to the proposed shoulder widening that does not involve development in wetland buffers that would result in a less significant adverse impact on wetlands. The applicant has demonstrated that the proposed shoulder widening will not result in substantial impairment of the resources of the Pinelands. With the conditions below, all practical measures are being taken to mitigate the impact on the wetlands. The applicant has demonstrated that the need for the proposed shoulder widening overrides the importance of protecting the wetlands. The proposed shoulder widening is proposed to provide for a safe and efficient evacuation of Long Beach Island.

The applicant has demonstrated that the proposed development is consistent with the stormwater regulations contained in the CMP. The applicant will be constructing approximately 11,406 linear feet of 10 foot wide, two foot deep, stormwater infiltration swales.

The applicant's environmental consultant provided information to the Commission that the proposed development, including the proposed roadside swales, will be located in maintained roadsides. Based upon the existing conditions, the location and extent of proposed development relative to existing development and a review of information available to the Commission staff, it was determined that a survey for the presence of threatened and endangered species of plants and animals was not required.

A cultural resource survey was prepared for the project. It was determined that there were no cultural resources eligible for Pinelands designation within the project area.

PUBLIC COMMENT

The applicant has provided the requisite public notice. The application was posted on the Commission's website as received. Subsequently, the application was marked as complete on the Commission's website on August 2, 2011. The Pinelands Commission has received four public comments on the application. Of those public comments, three were written comments and one was verbal comment offered at the August 12, 2011 Commission meeting. Copies of the three written public comments are attached.

Public Comment One and Two: Two of the written commenters requested a copy of the Executive Director's Report.

Staff Response One and Two: All four public commenters will receive a copy of the Executive Director's Report.

Public Comment Three: One of the written commenters was concerned with the increased potential for vehicles to leave the roadway and enter their property, potentially endangering their children. Staff Response Three: The commenter indicated that they made their traffic safety concerns known to NJDOT. The Commission's regulations do not address traffic safety.

Public Comment Four: The verbal commenter noted that road shoulders are potential habitat for certain threatened and endangered plant species. The commenter was also concerned about the source of any proposed fill material to be utilized during the proposed development. Lastly, this commenter was concerned about the potential establishment of non-native plants from the placement of non-native fill material. Staff Response Four: The Commission staff reviewed its records for sitings of threatened and endangered plant and animal species and the results of a Natural Heritage Database search by the New Jersey Department of Environmental Protection. Those records indicate the potential presence of *Rhynchospora Knieskernii* (Knieskern beaked rush) and *Helonias bullata* (Swamp pink) in the vicinity of the proposed development. The above noted plant species are wetland plants. No development is proposed in wetlands. The Commission staff requested that the applicant address threatened and endangered plant and animal species. The applicant's environmental consultant provided information to the Commission that the proposed development, including the proposed roadside swales, will be located in maintained roadsides. The applicant submitted information to the Commission indicating that the proposed development will take place at existing grade and that no fill will be utilized for the proposed development. The applicant will be utilizing topsoil in the area of the proposed removal of the westbound Route 554 entrance way to permit the establishment of native Pinelands grasses.

CONCLUSION

The proposed development is a permitted use in a Pinelands Regional Growth Area (N.J.A.C. 7:50-5.28), Pinelands Forest Area (N.J.A.C. 7:50-5.2) and a Pinelands Preservation Area (N.J.A.C. 7:50-5.2). If the following conditions are imposed, the proposed development will be consistent with the standards contained in Subchapters 5 & 6 of the CMP.

1. Except as modified by the below conditions, the proposed development shall adhere to the plans, consisting of 24 sheets, prepared by Arora and Associates, P.C., all sheets dated July 1, 2011.
2. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.
3. The proposed development shall adhere to the "Vegetation" standards of the CMP. In appropriate areas, the applicant is encouraged to utilize the following Pinelands native grasses for revegetation that are tolerant of droughty, nutrient poor conditions: Switch grass, Little bluestem and Broom-sedge.
4. Prior to any development, the applicant shall obtain any other necessary permits and approvals.
5. Silt fencing, hay bales or other appropriate measures shall be installed prior to construction to preclude sediment from entering freshwater wetlands and shall be maintained in place until all development has been completed and the area has been stabilized.
6. Based upon the extent of disturbance associated with the proposed stormwater management swales, prior to construction, the applicant shall submit information demonstrating that the proposed development of the stormwater management swales is consistent with the threatened and endangered plant species protection standards of the CMP. The applicant shall not commence construction prior to submission of that information and receipt of a Commission letter agreeing with the conclusion of the submitted information. Alternatively, prior to Commission action on this application, to eliminate this condition, the applicant may clarify the previously submitted information to demonstrate consistency with the threatened and endangered plant species protection standards of the CMP.

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

APPEAL

The CMP (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal this recommendation in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted by someone meeting the definition of an interested party will be transmitted to the New Jersey Office of Administrative Law for a hearing. Any such appeal must be made in writing to the Commission within eighteen days of the date of this Report and must include the following information:

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

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

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

Recommended for Approval by: _____


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

EMD/CMH

Enclosures(3): Public Comment Letters

- c: Secretary, Barnegat Township Planning Board
Barnegat Township Environmental Commission
Secretary, Stafford Township Planning Board
Stafford Township Environmental Commission
Ocean County Planning Board
Jennifer Young
George Bilgrav
Manuel Perira
Theresa Lettman
Ernest M. Deman