



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-07-_____

TITLE: Issuing an Order to Certify Ordinance 07-06, Amending Chapter 109 (Land Use and Development) of the Code of Jackson Township

Commissioner _____ moves and Commissioner _____ seconds the motion that:

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

WHEREAS, Resolution #PC4-83-58 of the Pinelands Commission specified that any amendment to the Township's certified Master Plan and Land Use Ordinances be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 (Submission and Review of Amendments to Certified Master Plans and Land Use Ordinances) of the Comprehensive Management Plan to determine if said amendment raises a substantial issue with respect to conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, Resolution #PC4-83-58 further specified that any such amendment shall only become effective as provided in N.J.A.C. 7:50-3.45 of the Comprehensive Management Plan; and

WHEREAS, on April 10, 2003, the Pinelands Commission adopted Resolution #PC4-03-38 to authorize its Permanent Land Protection Committee and the Commission staff to pursue permanent land protection opportunities in the Toms River corridor area and to form a task force to further this effort; and

WHEREAS, twenty individuals representing natural resources, planning and governmental interests were invited to participate on the Toms River Corridor Task Force and asked to assess the natural resources of the corridor, prioritize protection areas, suggest and implement land protection strategies and craft a regional land use and natural resource protection plan for the area; and

WHEREAS, through a series of meetings in 2003 and 2004 and with the help of a number of technical contributors and Commission staff, the Toms River Corridor Task Force developed a comprehensive plan and implementation strategy for directing development within the corridor into clustered areas while preserving important natural resources, wildlife habitat and open space; and

WHEREAS, on February 13, 2004, the Toms River Corridor Task Force unanimously endorsed a Regional Natural Resource Protection Plan for the Toms River Corridor and recommended it to the Pinelands Commission, Ocean County, Jackson Township and Manchester Township for implementation; and

WHEREAS, on March 12, 2004, the Pinelands Commission adopted Resolution PC4-04-22, endorsing the Toms River Corridor Task Force's Regional Natural Resource Protection Plan for the Toms River Corridor and directing the Executive Director to work with the Department of Environmental Protection, Ocean County, Jackson Township and Manchester Township on the implementation of the recommendations contained therein, recognizing that certain recommendations may need to be adapted to accommodate the particular circumstances of any of these entities; and

WHEREAS, on July 19, 2004, the Jackson Township Planning Board adopted Resolution 2004-34, approving a report entitled "Reexamination of the 1982 Master Plan Addendum for the Pinelands Area of Jackson Township" which recommended adoption of a revised zoning plan for the Pinelands Area based on the recommendations of the Toms River Corridor Report, including

changes in both zoning boundaries and permitted uses, as well as measures designed to enhance the protection of habitat for threatened and endangered species; and

WHEREAS, on April 15, 2005, the Pinelands Commission certified Resolution 2004-34, along with Ordinances 40-04 and 0-05 which amended Chapter 109 (Land Use and Development) of the Township's Code by implementing a number of recommendations made in the Toms River Corridor Report and the Township's Master Plan Reexamination Report, including zoning changes and requirements for cluster development; and

WHEREAS, on September 9, 2005, the Pinelands Commission certified Jackson Township Ordinance 27-05 which amended Chapter 109 by establishing the Toms River Corridor Buffer Overlay as recommended in the Toms River Corridor Report and the Township's 2004 Master Plan Reexamination Report; and

WHEREAS, on March 27, 2006, Jackson Township adopted Ordinance 07-06, amending Chapter 109 (Land Use and Development) of the Township's Code by establishing two new zoning districts, the PED-1 and PED-9 (Planned Environmental Development) Districts, as recommended in the Toms River Corridor Report and the Township's 2004 Master Plan Reexamination Report; and

WHEREAS, Ordinance 07-06 also adopts a revised zoning map, dated March 27, 2006, to reflect the location of the new zones within the Township's Pinelands Area; and

WHEREAS, the Pinelands Commission received an adopted copy of Ordinance 07-06 on May 16, 2006 and a copy of the March 27, 2006 zoning map adopted by Ordinance 07-06 on September 5, 2007; and

WHEREAS, by letter dated September 6, 2007, the Executive Director notified the Township that Ordinance 07-06 would require formal review and approval by the Pinelands Commission; and

WHEREAS, a public hearing on Ordinance 07-06 was duly advertised, noticed and held on October 11, 2007 at the Manchester Township Municipal Building, 1 Colonial Drive, Manchester, New Jersey at 7:00 p.m. and

WHEREAS, the Executive Director has found that Ordinance 07-06 is consistent with the standards and provisions of the Pinelands Comprehensive Management Plan; and

WHEREAS, the Executive Director has submitted a report to the Commission recommending the issuance of an order to certify that Ordinance 07-06, amending Chapter 109 (Land Use and Development) of the Code of Jackson Township, is in conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, the Commission's CMP Policy and Implementation Committee has reviewed the Executive Director's report and has recommended that Ordinance 07-06 be certified; and

WHEREAS, the Pinelands Commission has duly considered all public testimony concerning Ordinance 07-06 and has reviewed the Executive Director's report; and

WHEREAS, the Pinelands Commission accepts the recommendation of the Executive Director; and

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

NOW, THEREFORE BE IT RESOLVED that

1. An Order is hereby issued to certify that Ordinance 07-06, amending Chapter 109 (Land Use and Development) of the Code of Jackson Township, is in conformance with the Pinelands Comprehensive Management Plan.
2. Any additional amendments to the Township's certified Master Plan and Land Use Ordinances shall be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 to determine if said amendments raise a substantial issue with respect to the Comprehensive Management Plan. Any such amendment shall become effective only as provided in N.J.A.C. 7:50-3.45.

Record of Commission Votes

	AYE	NAY	NP	ABS		AYE	NAY	NP	ABS		AYE	NAY	NP	ABS
Ashmun					Haas					McIntosh				
Brown					Hagaman					Witt				
Campbell					Kennedy					Tomasello				
Ficcaglia					Lee					Wilson				
Galletta					Lloyd									

Adopted at a meeting of the Pinelands Commission

Date: _____

 John C. Stokes
 Executive Director

 Betty Wilson
 Chair

**REPORT ON ORDINANCE 07-06, AMENDING CHAPTER 109
(LAND USE AND DEVELOPMENT) OF THE CODE OF JACKSON TOWNSHIP**

October 26, 2007

Jackson Township
95 West Veterans Highway
Jackson, NJ 08527

FINDINGS OF FACT

I. **Background**

The Township of Jackson is located in the northern portion of the Pinelands Area, in Ocean County. Pinelands municipalities that abut Jackson Township include the Townships of Dover, Plumsted and Manchester in Ocean County.

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

On April 10, 2003, the Pinelands Commission adopted Resolution #PC4-03-38, authorizing its Permanent Land Protection Committee and the Commission staff to pursue permanent land protection opportunities in the Toms River corridor area and to form a task force to further this effort. Twenty individuals representing natural resources, planning and governmental interests were invited to participate on the Toms River Corridor Task Force and asked to assess the natural resources of the corridor, prioritize protection areas, suggest and implement land protection strategies and craft a regional land use and natural resource protection plan for the area. Through a series of meetings in 2003 and 2004 and with the help of a number of technical contributors and Commission staff, the Toms River Corridor Task Force developed a comprehensive plan and implementation strategy for directing development within the corridor into clustered areas while preserving important natural resources, wildlife habitat and open space. On February 13, 2004, the Toms River Corridor Task Force unanimously endorsed a Regional Natural Resource Protection Plan for the Toms River Corridor and recommended it to the Pinelands Commission, Ocean County, Jackson Township and Manchester Township for implementation. The Pinelands Commission adopted Resolution PC4-04-22 on March 12, 2004, endorsing the Toms River Corridor Task Force's Regional Natural

Resource Protection Plan for the Toms River Corridor and directing the Executive Director to work with the Department of Environmental Protection, Ocean County, Jackson Township and Manchester Township on the implementation of the recommendations contained therein, recognizing that certain recommendations may need to be adapted to accommodate the particular circumstances of any of these entities.

On July 19, 2004, the Jackson Township Planning Board adopted Resolution 2004-34, approving a report entitled "Reexamination of the 1982 Master Plan Addendum for the Pinelands Area of Jackson Township". This Reexamination Report was based on a review of existing and changed conditions, policies and objectives, as well as the Regional Natural Resource Protection Plan for the Toms River Corridor issued in February of 2004 by the Toms River Corridor Task Force. The Reexamination Report recommended adoption of a revised zoning plan for the Pinelands Area which would incorporate changes in both zoning boundaries and permitted uses, as well as measures designed to enhance the protection of habitat for threatened and endangered species. The Township subsequently adopted Ordinances 40-04, 06-05 and 27-05, revising Chapter 109 (Land Use and Development) of the Township's Code to implement a number of the recommendations made in the master plan reexamination report, including zoning map revisions, cluster development requirements and provisions for the Toms River Corridor Buffer Overlay. The Pinelands Commission certified Resolution 2004-34 and Ordinances 40-04 and 06-05 on April 15, 2005 and Ordinance 27-05 on September 9, 2005.

On March 27, 2006, Jackson Township adopted Ordinance 07-06, amending Chapter 109 (Land Use and Development) of the Township's Code by establishing two new zoning districts, the PED-1 and PED-9 (Planned Environmental Development) Districts, as recommended in the Toms River Corridor Report and the Township's 2004 Master Plan Reexamination Report. Ordinance 07-06 also adopts a revised zoning map, dated March 27, 2006, to reflect the location of these new zones within the Township's Pinelands Area. The Pinelands Commission received an adopted copy of Ordinance 07-06 on May 16, 2006. The Township subsequently provided the Commission with a copy of its revised March 27, 2006 zoning map, as adopted by Ordinance 07-06, on September 5, 2007.

By letter dated September 6, 2007, the Executive Director notified the Township that Ordinance 07-06 would require formal review and approval by the Pinelands Commission.

II. Master Plans and Land Use Ordinances

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

- * Ordinance 07-06, amending Chapter 109 (Land Use and Development) of the Code of Jackson Township, introduced on March 13, 2006 and adopted on March 27, 2006.

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

1. Natural Resource Inventory

Not applicable.

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

Ordinance 07-06 amends Chapter 109 (Land Use and Development) of the Code of Jackson Township by establishing two new zoning districts, the PED-1 and PED-9 (Planned Environmental Development) Districts, and adopting a revised zoning map (dated March 27, 2006) to reflect the location of these new zones within the Pinelands Area. Based on this zoning map, approximately 223 acres of land located along the Township's boundary with Manchester Township are rezoned from the RG-4 District in the Regional Growth Area to the new PED-9 District in the Rural Development Area. In addition, approximately 10 acres of land are rezoned from the RG-4 District to the new PED-1 District, within the Regional Growth Area. As a result of these zoning changes, Jackson Township's RG-4 District has been eliminated in its entirety.

Permitted uses in the new PED-9 District include agriculture, churches, municipal parks, playgrounds and buildings and single family detached housing at a maximum density of one unit per 9 acres. All residential development in the PED-9 District is required to be clustered on one acre lots. Lands not assigned to individual residential lots must be permanently deed restricted as open space with no further development permitted through imposition of a conservation easement. Permitted density in the new PED-9 District was established at one unit per 9 acres to be consistent with that already in place for Jackson's largest existing Rural Development Area zoning district, the adjacent RD-9 District. The zoning plan for the Township's expanded Rural Development Area is consistent with N.J.A.C. 7:50-5.26(a) which provides that the total number of authorized units in this management area may not exceed one unit for every 3.2 acres of privately owned undeveloped upland.

Permitted uses in the new PED-1 District are identical to those of the PED-9 District with the exception of the maximum permitted density for residential development. In the PED-1 District, a density of one unit per 3.2 acres is permitted. Again, all development in the PED-1 District must be clustered on one acre lots.

Ordinance 07-06 also provides for the clustering of units from the two new PED Districts onto contiguous (commonly owned) lands in Manchester Township as part of a planned retirement community development, provided such development is in conformance with the provisions of Manchester's land use ordinance, the lands in Jackson Township are then permanently deed restricted to preclude future development and an intergovernmental agreement between the two municipalities has been executed. Ordinance 07-06 specifies that a maximum of 250 units may be generated from the PED Districts in Jackson Township for this purpose.

The PED Districts were established by Ordinance 07-06 as the final part of the Township's implementation of the Regional Natural Resource Protection Plan for the Toms River Corridor issued in February of 2004 by the Toms River Corridor Task Force. The relevant pages of that Plan are attached hereto (see Exhibit #1). As set forth in the Toms River Corridor Plan, the objective of the PED zoning is to direct development away from environmentally sensitive land by encouraging and facilitating cluster development in sewerred, upland areas which are appropriate for higher density residential development. Lands rezoned by Ordinance 07-06 from the Regional Growth Area to the Rural Development Area (the PED-9 District) are a recognized, important population center for the threatened northern pine snake and are also known to harbor at least one endangered plant species. By requiring any on-site development which occurs to be clustered and further providing the opportunity for the clustering of units from the PED-9 District to adjacent lands in Manchester Township, the protection of critical habitat will be maximized. At the same time, an appropriate amount of residential development will be allowed on less critical or environmentally sensitive lands. As noted in the Toms River Corridor Plan, it may be necessary for sewer connections to run through the new PED-9 District in the Rural Development Area to serve the planned retirement community in Manchester Township where development is to be clustered. This would not normally be permitted under the Comprehensive Management Plan and is not something which is reflected in Jackson Township Ordinance 07-06. The need for such sewer connections and their location in terms of Pinelands management areas will need to be addressed by the Commission at the time development applications are filed.

Residential zoning capacity in Jackson Township is significantly reduced as a result of the zoning changes adopted by Ordinance 07-06. Permitted residential density in the RG-4 Zone was six units per acre (with the use of Pinelands Development Credits), equating to a zoning capacity of over 1,400 units. Under the new PED zoning, a maximum of 28 units would be permitted if development occurred on-site in Jackson. If the clustering of units on to contiguous lands in

Manchester Township occurs, 250 units are feasible. In either case, a significant reduction in theoretical residential zoning capacity results from the zoning and management area changes adopted by Ordinance 07-06. It should be recognized, however, that the environmental constraints associated with 223 acres rezoned to the PED-9 District greatly reduce the practical impact of these zoning and management area changes. In any case, the amended zoning plan now in place for the Township’s remaining Regional Growth Area continues to comply with N.J.A.C. 7:50-5.28(a)1 in terms of residential zoning capacity.

The chart below shows the impact of the management area changes adopted by Ordinance 07-06 on the distribution of land in the Pinelands Area of Jackson Township.

Pinelands Management Area	As Currently Certified (acres)	As Amended by Ordinance 07-06 (acres)	Net Change (acres)
Preservation Area District	9,400	9,400	0
Forest Area	6,150	6,150	0
Rural Development Area	4,900	5,123	+223
Pinelands Village	1,400	1,400	0
Regional Growth Area	2,250	2,027	-223
Military and Federal	6,200	6,200	0

Other Amendments

Ordinance 07-06 amends Chapter 109 by adding clubhouses and community recreation buildings associated with certain age-restricted developments as a permitted use in the PV (Pinelands Village) Zone. This amendment raises no substantial issues with respect to Comprehensive Management Plan land use and development standards.

Ordinance 07-06 is consistent with the land use and development standards of the Comprehensive Management Plan. Therefore, this standard for certification is met.

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

Ordinance 07-06 amends Chapter 109 of the Township’s Code by establishing submission, review and approval standards for general development plans. In

addition, Ordinance 07-06 amends Chapter 109 by providing the Township's Planning and Zoning Boards with the ability to enlist the services of a qualified environmental scientist to review application materials submitted as part of an Environmental Impact Statement when, due to the particular characteristics of a site, such review is beyond the expertise of the professionals normally employed by the Township to perform such reviews. The qualified environmental scientist will be required to report to the Planning or Zoning Board as appropriate on the methodology utilized to assess environmental impacts, the scope and comprehensiveness of the Environmental Impact Statement and the credibility of the findings made in that Statement. A copy of the environmental scientist's report must also be provided to the Township's Environmental Commission.

The amendments adopted by Ordinance 07-06 are not inconsistent with those set forth in the Comprehensive Management Plan relative to the content of development applications. This standard for certification is met.

4. Requirement for Municipal Review and Action on All Development

Not applicable.

5. Review and Action on Forestry Applications

Not applicable.

6. Review of Local Permits

Not applicable.

7. Requirement for Capital Improvement Program

Not applicable.

8. Accommodation of Pinelands Development Credits

As described above in section 2, Ordinance 07-06 adopts a revised zoning map for the Pinelands Area portion of Jackson Township which reflects both a reduction in the overall size of the municipality's Regional Growth Area and the rezoning of a small amount of land within the remaining Regional Growth Area from a relatively high density residential zone to a lower density residential zone. With respect to the rezoning of land within the Regional Growth Area, there will be little if any practical impact on residential zoning capacity or the potential use of

Pinelands Development Credits due to the size (less than 10 acres) of the affected area. Obviously, the redesignation of 223 acres of vacant land from the Regional Growth Area to the Rural Development Area reduces opportunities for the use of Pinelands Development Credits in Jackson Township but so too does it reduce the Township's obligation to provide these opportunities. The zoning plan in place for the Township's remaining Regional Growth Area continues to comply with N.J.A.C. 7:50-5.28(a)3. Therefore, this standard for certification is met.

9. Referral of Development Applications to Environmental Commission

Not applicable.

10. General Conformance Requirements

Ordinance 07-06, amending Chapter 109 (Land Use and Development) of the Code of Jackson Township, is consistent with the standards and provisions of the Pinelands Comprehensive Management Plan.

This standard for certification is met.

11. Conformance with Energy Conservation

Not applicable.

12. Conformance with the Federal Act

Ordinance 07-06, amending Chapter 109 (Land Use and Development) of the Code of Jackson Township, is consistent with the standards and provisions of the Pinelands Comprehensive Management Plan. No special issues exist relative to the Federal Act.

This standard for certification is met.

13. Procedure to Resolve Intermunicipal Conflicts

Lands rezoned by Ordinance 07-06 from the RG-4 District to the PED-1 and PED-9 Districts are located on Jackson Township's boundary with Manchester Township. The adjacent lands in Manchester Township have been similarly rezoned through Manchester Ordinance 07-018. The ordinances of both municipalities provide for the clustering of 250 units from the PED lands in Jackson Township to the PED-1 District in Manchester Township. The revised

zoning plans in both municipalities resulted from a cooperative effort among the two townships, the Pinelands Commission and Ocean County which led to development of the Toms River Corridor Plan. As a result, intermunicipal conflicts are not expected to occur.

This standard for certification is met.

PUBLIC HEARING

A public hearing to receive testimony concerning Jackson Township's application for certification of Ordinance 07-06 was duly advertised, noticed and held on October 11, 2007 at the Manchester Township Municipal Building, 1 Colonial Drive, Manchester, New Jersey at 7:00 p.m. The hearing was held at the same time and location as the public hearing on Manchester Township's corresponding ordinance (Ordinance 07-018) and master plan amendments. Approximately 20 people attended. Ms. Grogan conducted the hearing at which the following testimony was received:

Tom Thomas, Manchester Township planner, stated that Ordinance 07-018 is a dual purpose ordinance designed to implement not only the recommendations of the Toms River Corridor Plan but also a court settlement of a Mt. Laurel lawsuit. He noted that the Toms River Corridor Plan was completed in 2004 as part of a cooperative effort among the Pinelands Commission and Manchester and Jackson Townships. The Plan identifies those areas appropriate for development and preservation and has now been converted into ordinance format. The residential densities and development potential reflected in the ordinance are consistent with the court settlement. Following that settlement, the Township agreed to allow for the transfer of 250 additional units from Jackson Township to Manchester Township as a means of protecting sensitive lands in Jackson. The court order provided for 350 units on the Stavola tract (PED-1 Zone). Added together, there are now 600 units allowed in the PED-1 Zone; this total is reflected in Ordinance 07-018. Mr. Thomas stated that, to his knowledge, there had never been a transfer of this magnitude in New Jersey. This is therefore a unique opportunity to protect environmentally sensitive lands and achieve regional planning objectives. He noted that there is still work to do; specifically, the two municipalities need to enter into an intergovernmental agreement to facilitate the transfer of units. The need for that agreement is reflected in the master plan amendments and Ordinance 07-018. Mr. Thomas concluded by stating that Ordinance 07-018 is the result of significant and successful coordination between the Township and the Commission.

Ron Heksch introduced himself as an attorney with the firm Giordano, Halleran & Ciesla and stated that he represented one of the property owners affected by Ordinance 07-018, Stavola Construction Company. Mr. Heksch stated that the

intermunicipal agreement referred to in Ordinance 07-018 is critical for his client. He asked that his client be able to provide input in the development of the agreement, noting that Ordinance 07-18 does affect property owners and his client in particular. He stated that his client is being asked to deed restrict hundreds of acres in return for the right to build a certain number of homes on other land. Moreover, Pinelands Development Credits have not been allocated to the lands which will be deed restricted and, in fact, his client will be required to purchase Pinelands Development Credits in order to build. Mr. Heksch noted that Ordinance 07-018 allows for 600 units to be built in Manchester's PED-1 Zone and this is the number of units his client expects to build.

Mr. Heksch further stated that the Toms River Corridor Plan was put together without input from his client or any other landowners. His client would at least like to have some input into the intergovernmental agreement and be kept informed of its progress. Mr. Heksch concluded by stating that his client will be giving up development rights to a lot of land in Jackson Township. Without the intergovernmental agreement, his client will only be able to build 350 units in Manchester. Therefore, the agreement should be completed as quickly as possible.

Hal McDonald introduced himself as a resident of the Renaissance development in Manchester Township. He stated that he was in support of the Commission's certification of the Jackson and Manchester ordinances. He referred to Fremont Avenue, located within the Renaissance development, and noted it was currently a gravel and dirt road which presents problems in cases of emergency. For safety purposes, the road needs to be paved. Mr. McDonald stated that he hoped once the ordinances were certified, the Commission would be able to issue a Certificate of Filing for the road which would then allow the developer to complete paving of the road within 90 days.

Karen Vaccaro, also a resident of the Renaissance development, stated that she concurred with the testimony offered by Mr. McDonald. She described the Renaissance development as consisting of 1,901 homes on 663 acres. Ms. Vaccaro stated that if there were to be an emergency, the Renaissance residents would be unable to vacate the development due to limited access. She concluded by stating her support for the Manchester master plan amendments and Ordinance 07-018 and asked that the Commission certify both documents, thereby allowing the paving of Fremont Avenue to proceed.

Ms. Grogan reminded those present that written comments on Jackson Township Ordinance 07-06 and Manchester Township's master plan amendments and Ordinance 07-018 would be accepted through October 18, 2007.

There being no further testimony, the hearing was concluded at 7:30 p.m.

Written comments on Ordinance 07-06 were received from the following party:

Captain P.L. Beachy, Commanding Officer, U.S. Naval Air Engineering Station.
Lakehurst (see Exhibit #2)

CONCLUSION

Based on the Findings of Fact cited above, the Executive Director has concluded that the Ordinance 07-06 is consistent with Comprehensive Management Plan standards for the certification of municipal master plans and land use ordinances. Accordingly, the Executive Director recommends that the Commission issue an order to certify Ordinance 07-06 of Jackson Township.

SRG/CJA
Attachments