



LANDFILL CLOSURE AND COMPLYING WITH PINELANDS REGULATIONS

The Stafford Business Park is 307 acres of land on the west side of the Garden State Parkway, just south of Route 72, which was designated for development in the Pinelands Comprehensive Management Plan (CMP).

The site contains an old, unlined landfill and a smaller, illegal landfill, as well as a county facility, a state motor vehicle inspection station, and a few office buildings. Stafford Township has been under a long-standing obligation to remediate and cap the municipal landfill, but has done nothing because of the cost. A developer, Walters Homes, has now contracted with the town to develop the site with 520 houses and a big shopping center (as well as about 100 affordable units discreetly separated from the other housing), in exchange for funding the landfill remediation work. The town would pay nothing towards the landfill remediation. This development plan would require waiving all of the Pinelands CMP requirements via a Memorandum of Agreement (MOA) with the Pinelands Commission.

Although the development of the business park can be a good way to raise funds for the project, any private development in the Pinelands should be required to meet the requirements of the CMP. The fact that the township sees the private development as a financing tool for a public purpose (remediation of the landfills) does not change the fact that it is private development, which will be designed and constructed by a private business, will be owned

by private parties, will generate private profit, and must, therefore, meet the requirements of the CMP. In addition, the Pinelands Commission should require the township to pursue the potential public funding opportunities for closing the landfill and development, as well as development opportunities on the landfill site, to their conclusion before the Commission even considers waiving CMP requirements for any part of the project.

All Pinelands residents should be concerned about this project, because if the MOA is approved by the Commission, then it will set a precedent that will allow CMP requirements to be waived for private developers.

Use of a Memorandum of Agreement: *PPA believes that the use of the MOA procedure to reduce or waive CMP standards for private development is both bad policy and contrary to the terms of the CMP.* Remediation of the landfills themselves may be facilitated by the MOA procedure if the public agency is, in reality, carrying out the remediation work using public land and public funds. Using private development to avoid public financing of the public obligation to remediate the landfills does not convert the private development to public development. It is essential, therefore, that the Commission distinguish the genuine public development from the building of houses and commercial space that will be privately financed, will be privately owned, and will generate private profits.

Threatened and Endangered Species Habitats: The Commission staff believes the identified T&E wildlife habitats and plant populations may have to be disturbed or eliminated if the two landfills are to be remediated.

Where it is clear that the landfill remediation necessarily requires removal of T&E plant populations, or the destruction of T&E wildlife habitats, PPA believes a public interest waiver may be justified in light of state legal mandates that the landfills be removed or capped. We are not, however, persuaded this is so in all cases.

With respect to the pine snake dens, in particular, it appears to PPA that these dens can be saved because neither of them is actually on a landfill site. The final shape of the capped landfill could be adjusted to ensure the den is not covered by the grading or detention basins to be built. Although the den is in an area that an engineer might prefer to clear in the landfill capping and grading process, the Commission should insist that an engineering plan be drawn up and considered in which the dens would not be disturbed.



Sign at the entrance to the Stafford Business Park on Route 72.

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In no case should the Commission authorize "relocation" of pine snakes as "mitigation," whether or not it grants a waiver of the habitat protection rule. Relocation has not been shown to be effective and, at least in the circumstances at the Stafford Business Park, there is no basis to assume relocation will cause less harm to the pine snake population than allowing the population to make its own adjustments, if it can, to the changes in the landscape in which it lives. In all cases, construction work should be timed to ensure that individual snakes or treefrogs are not killed in the construction process itself.

Funding Options: Documents received from Stafford indicate that the municipal council approved the business park area as a redevelopment area on October 4, 2005. According to the Local Housing and Redevelopment Law, there are certain requirements that need to be met to designate a redevelopment area, and this designation then allows for several funding opportunities to redevelop brownfield sites. *Stafford Township, as well as the private developer, are now eligible for funding through the New Jersey Economic Development Authority (EDA) and possibly through NJDEP.* One fund, among many, is the Hazardous Discharge Site Remediation Fund (HDSRF), which allows entities to receive financial assistance and grants to clean up and reuse contaminated sites. The Brownfields Site Remediation Bill, recently amended, provides 50 percent reimbursement of clean up costs for land used for affordable housing and up to 75 percent reimbursement for land used for conservation or recreation purposes. Such recreation purposes can include active sports or a similar use of outdoor recreation.

It is also appropriate that the county and municipal governments contribute to the funding of the landfill remediation. Under the current proposal, the township actually makes money on the deal (by selling the land to the private developer), and the county comes away with new facilities and decades of free rent. Other things being equal, that would be fine. But in this case other things are not equal. The financing of the deal is driving the demand for exemptions from the CMP in the scope and design of the development. In these circumstances, it is more fitting that the responsible public agencies contribute to the closure costs.

Development Design:

The design of the business park development can be altered to make the most efficient use of land, and of the landfills.

First, the design should include use of the municipal landfill itself. Facilities such as a new county recycling facility, the department of motor vehicles and the ice rink could be placed on the landfill after it is capped. Examples of such construction on closed landfills abound. Many can be found on the EPA website's Superfund Redevelopment Program pages at www.epa.gov/superfund/programs/recycle/success/casestud/. Using the municipal landfill for such facilities in this case could open up more land on the northern side of the site for houses or commercial development.

Second, the developer could build its housing more densely. The proposed design includes a small amount of multiuse con-



A view of the undeveloped portion of the Stafford Business Park

struction, but there is no good reason it could not include more multiuse, more townhouses and smaller lot single family homes in order to generate more revenue from a given amount of developable land.

Firebreak: Walters Homes and Stafford Township claim that the Division of Parks and Forestry and Division of Fish and Wildlife are proposing a fire break in the Stafford Wildlife Management Area (WMA), which is public land, regardless of any development that may or may not occur in the Stafford Business Park. *PPA believes the firebreak should not be built on the public's land in order to promote more intensive private development within the Stafford Business Park.* It is our understanding, moreover, that the Stafford Forge WMA has benefited from the federal Land and Water Conservation Fund, which would appear to require a federal review of any use of the WMA land for the proposed purpose.

According to CMP requirements, no application for development approval in moderate, high and extreme fire hazard areas is to be approved unless there is access for fire fighting equipment and a fuel break is provided around human use structures of 100 dwelling units or more. This fuel break is required to be a 200 foot perimeter fuel break around the development. The Stafford landfill can be included as part of the fire break, and no where in the CMP does it allow for fuel breaks to be on public land.

PDC requirements: *It is particularly important to ensure a consistent, well-justified PDC obligation applied to the municipal rezoning for the residential portion of any development, because the residences are going to have a large impact on the ecology of the area, both direct in displacing habitat and natural communities and indirect through the residents' use of fertilizers and chemicals, as well as the likely increased impact on the neighboring WMA from illegal ORVs.* Moreover, Stafford has not supplied any PDC demand in its zoning to date. If PDCs are to serve the function of helping protect undeveloped lands as compensation for the residential development taking place in

Pinelands growth areas, then the obligation must be taken seriously in cases like this one.

The argument that this project should be given a lesser PDC obligation because the developer is "guaranteeing" a certain PDC purchase is not persuasive, because (a) the developer, according to its own claims to the Commission, must build the residential portion at a relatively high density to generate the desired income, and (b) this rationale has not, so far as we can see, been applied to other rezonings tied to specific development projects. Indeed, Commission staff have said there will be more such zoning changes from commercial to residential requested by other municipalities in the near future. The Commission must have an objective, rigorous and consistent methodology for this situation.

In February 2005, the Commission staff made a presentation about the business park proposal, which cited among the Commission's "principal questions" the question "Can the obligation to purchase +/- 153½ Pinelands Development Credits (+/- 614 development rights) be reduced to a financially feasible level?" This suggested to us that the "by the book" calculation for this project is about 153 PDCs, but that the developer sought to negotiate a different number in order to reduce its costs - to make the final number "financially feasible" according to the developer's financial plan.

Mitigation through land acquisition: *PPA is skeptical of the claim that violations of the CMP's T&E habitat protection standard at the business park can be justified by public purchase of other parcels in Stafford.* First, we believe the land in question was going to be purchased on its own merits, independent of the business park development, so the business park project should get no credit for that purchase. Second, we have not seen any evidence that the parcels proposed for purchase represent pine snake habitat or will benefit the local pine snake population affected by the business park project. Third, there is no commitment that the land will be bought with the developer's money, as opposed to public funds; if it is purchased with public funds, then it cannot serve as a remedy for harm done by, or attributable to, the private development portion of the business park. Finally, the land in question is in the Forest Area, zoned at 15.8 acres per unit. Purchasing 260 acres of this relatively protected land is not a sufficient offset for the proposed waivers of CMP standards.

What you can do:

- Follow the Pinelands Commission Public and Government and full Commission meetings. These meetings present an opportunity for the public to give their comments and also get updates on important issues such as this. Tell the Commission to uphold the CMP requirements.
- Attend the Stafford Township Council and Planning Board meetings. These meetings are also open to the public and provide for public comments.

Pinelands Commission Public & Government Committee Meeting Schedule

Monday, January 30, 2006 (6:00 pm)
Monday, February 27, 2006 (6:00 pm)
Monday, March 27, 2006 (6:00 pm)
Monday, May 1, 2006 (6:00 pm)
Tuesday, May 30, 2006 (6:00 pm)

Meetings are held at the Pinelands
Commission's Richard J. Sullivan
Center, 15C Springfield Road, New
Lisbon, NJ

Stafford Township Council Meets

1st & 3rd Tuesday of the month
260 E. Bay Avenue, Manahawkin
at 7:00 pm

PINELANDS COMMISSION 2005 MEETING SCHEDULE

Friday, January 13, 2006 (9:30 a.m.)
Friday, February 10, 2006 (9:30 a.m.)
Friday, March 10, 2006 (9:30 a.m.)
Thursday, April 6, 2006 (7:00 p.m.)
Friday, May 12, 2006 (9:30 p.m.)

**Pinelands Commission Meetings are open to
the public. For meeting location call the
Commission at 609-894-7300.**

What is this? Why me?

PINELANDS WATCH is a publication created by the Pinelands Preservation Alliance. Its purpose is to encourage those who are concerned about conservation issues in the Pinelands to get involved and make a difference.

Those who want to thwart the goals of the Pinelands Protection Act rely on public ignorance and apathy. But the Pinelands has survived and will continue to survive because people like you stay informed and active.

Pinelands Watch provides a summary of the most serious current issues in the Pinelands. Each edition focuses on one of these issues and provides references for getting more information, and it suggests options for taking action.

You probably know a lot of people who love the Pinelands and want it preserved. Share this publication with them, and call or e-mail us so we can send it to them in the future.

Most importantly, call us if you are not currently on the Pinelands Watch mailing list and ask to have your name added.



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