

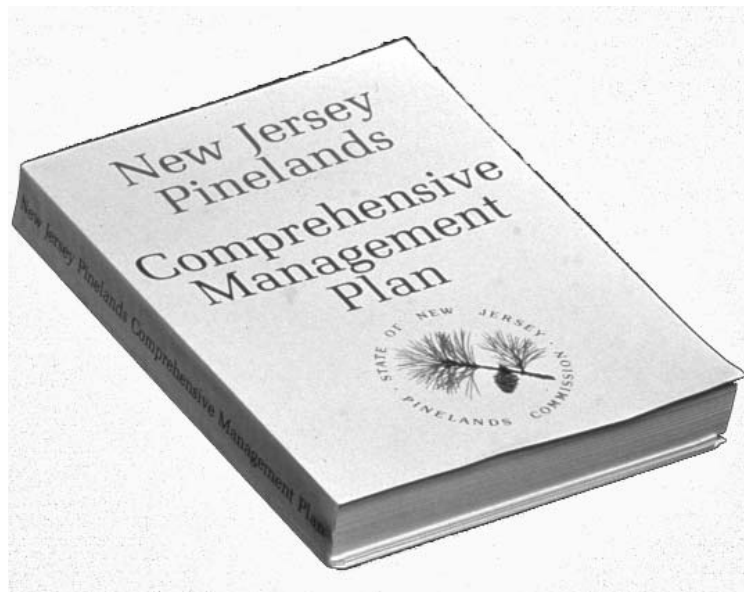


Clustering to Save the Forest, or to Clear the Forest?

The Pinelands Commission recently proposed amendments to the Comprehensive Management Plan (CMP) and has scheduled a public hearing for October 7, 2008 at 7:00 PM at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey. This proposal mandates clustering of new residential development in the Forest and Rural Development area of the Pinelands.

The clustering provision would be mandatory whenever two or more housing units are proposed as part of a residential development, and would require the open space left over to be deed-restricted from further development.

PPA has long advocated for mandatory clustering rules. Unfortunately, the actual rule proposal issued by the Pinelands Commission has serious flaws that undercut its purpose of protecting more land and habitats.



According to the Pinelands Commission:

"Clustering is a type of development that allows reduced minimum lot sizes in exchange for the preservation of open space or some other desirable feature of the property (e.g., a historic site, a scenic vista, etc). The overall density remains the same, but the individual building lots

are smaller than that which would occur under a conventional lot layout. The benefits of clustering include reduced fragmentation of the landscape, protection of sensitive areas, provision of usable open space for the residents of a cluster development, maintenance of rural character through establishment of wooded buffer areas, reduced site improvement costs due to reduced internal roadways and utility extensions, and more of a neighborhood feel."

The clustering provision could be an excellent tool to prevent forest fragmentation and save open space while creating a community atmosphere within the development.

PPA supports clustering, but does not support the current proposal for the following four reasons.

1. *Bonus Densities are mandated in the rule proposal, meaning the rules will force more development in these areas than current rules allow.*

As proposed, the density bonus would apply based on the overall size of the tract, which is the subject of an application for development, submitted to the Commission for review. The Commission originally incorporated bonus densities into the clustering proposal as a means to encourage assemblage of small lots that otherwise would not be aggregated to accommodate clustering development. In the current proposal, the bonus densities would be mandatory, unless a municipality specifically requests to the Commission that they prefer to apply the density bonus provisions only to tracts assembled after the effective date of these proposed amendments. The municipality would have to supply significant justification for this variation to the rule before the Commission would approve the local ordinance. Therefore, the Commission is placing the burden on the municipality rather than incorporating that flexibility into the rule.

2. *Agricultural operations continue after cluster*

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development rights have been used, resulting in "double dipping" and loss of natural habitats and water quality.

The purpose of clustered development is to preserve the natural, undeveloped state of the land left after houses are clustered on a portion of that land. If a developer can both clear the forest for farming and then cluster on one part of the parcel, all natural Pinelands resources are lost.

Currently, only two percent of the Forest Area is used for agricultural operations, but agriculture is a permitted use in the Forest Area according to the CMP, and, as defined, can include forages or sod crops, aquaculture, nurseries, floral and ornamental products, greenhouses, and agricultural commercial establishments that may or may not be associated directly with a farm.

Under the proposed clustering rule, clearing of forest for agricultural operations is permitted as part of a cluster development. The only limit is that the farm has to be in existence for 5 years before the houses are built. This provision would allow for the Forest Area to be replaced by cluster housing developments alongside industrial agriculture operations, which can include greenhouses, sod farms, aquaculture farms and other uses that would destroy the forest and harm the water quality.

PPA considers agriculture and any intensive use of the set aside land as a "double-dip", because the owner sold the land for development, yet may be able to retain the use of the open space for an agricultural operation, could potentially retain ownership, and can increase the impervious surface coverage without limit.

3. Agricultural operations can increase impervious surface with no defined limit.

Under the rule proposal, in addition to creating and running intensive agricultural operations alongside a cluster development, the developer could increase the impervious surface coverage in excess of 3% - indeed without limit - so long as a Resource Management System Plan is completed and approved by the Pinelands Commission. These plans must be designed in accordance with the United States Department of Agriculture, Natural Resources Conservation Services New Jersey Field Office Technical Guide, dated June 2005. However, the Department of Agriculture guide provides no protection for natural resources and no limit on impervious cover, and the Pinelands Commission has no standards for rejecting a plan.

The definition of "Resource Conservation Plan" in the

CMP, N.J.A.C. 7:50-2.11 would be updated and revised to refer to the "Resource Management System Plan" and the applicable Natural Resources Conservation Services standards. Currently, an example copy of a Resource Management System Plan is not available for review; therefore neither the Commission nor the public can determine that 1) it is a reliable plan, and 2) it will be implemented when site reviews are not required.

Even where it applies, the impervious coverage limit will not include temporary and seasonal agricultural uses, dirt lanes and paths used exclusively by farm personnel to access their sites and to which the public would have no access, and changes in crop type or additional clearing of wooded areas. Only those surfaces classified as impervious in Urban Areas by a Department of Agriculture Manual (TR-55) would be included.

The rule proposal requires a 5% maximum on clearing of the open space for low-intensity recreation, ecological management and forestry, and provides for no more than 1% impervious coverage for these uses. These same requirements should be set in place for agricultural operations if they will continue to exist after the cluster development.

4. Open space can be owned by an individual, adjacent land owner.

The rule proposal includes a set of requirements for the ownership and deed of restriction of the open space within a clustered development. The land can be owned by a municipality, homeowner's association, non-profit conservation organization or incorporated as part of one of the lots within the cluster development area. The deed of conservation restriction must be in favor of the residents of the cluster development, and, if provided by municipal ordinance, the municipality or another public agency or non-profit conservation organization and be enforceable by the Pinelands Commission. Moreover, the Commission would allow a municipality to propose additional ownership options.

These requirements are acceptable to PPA, except for the municipality's ability to allow an adjacent land owner (meaning an individual) to own or manage the open space. The problem with this arrangement is that the sum of all ownership interests in the common and open space areas are supposed to total 100 percent, meaning that each individual lot owner retains the ownership rights to a portion of the open space with the understanding that it is restrict-

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ed from development. An adjacent land owner may share in the appreciation and interest of retaining the open space, but does not have any direct involvement or ownership interest since he/she did not purchase any portion of the clustered property.

Pinelands Preservation Alliance needs your help to make sure that a mandatory clustering provision will ultimately protect the natural resources of the Pinelands, not increase development opportunities.

WHAT YOU CAN DO:

1. Submit written comments by November 1, 2008 to the Pinelands Commission and urge the Commission to incorporate the following three essential elements in the rule:

- Agricultural operations shall cease after development rights have been sold if the agricultural operation came into existence after the effective date of the rule adoption.
- Explicit language that indicates to a municipality that they can propose to apply the density bonuses to tracts assembled after the effective date of the proposed amendments.
- Establish an impervious coverage limit for agricultural operations of no more than 5%.

Written comments may be submitted to Ms. Susan R. Grogan, Chief Planner, Pinelands Commission, 15 Springfield Road, P.O. Box 7, New Lisbon, New Jersey 08064. The Commission will also accept written comments by fax (609) 894-7330 or e-mail (planning@njpines.state.nj.us). All comments *must be received by November 1, 2008 and must include the name and mailing address of the commenter.*

2. Attend a public hearing which will be held at the Offices of the Pinelands Commission, Richard J. Sullivan Center, 15 Springfield Road, New Lisbon, New Jersey 08064.

DATE: Tuesday, October 7, 2008

TIME: 7:00 P.M.

If you would like to pre-register to testify at the hearing, please contact Ms. Betsy Piner at the Pinelands Commission office, (609) 894-7300. You may also register to testify at the hearing.

3. Write a letter to the editor to educate others that the

clustering proposal should not be approved in its current form unless changes are made for saving the forest, and not further degradation of water quality and ecosystem impacts.

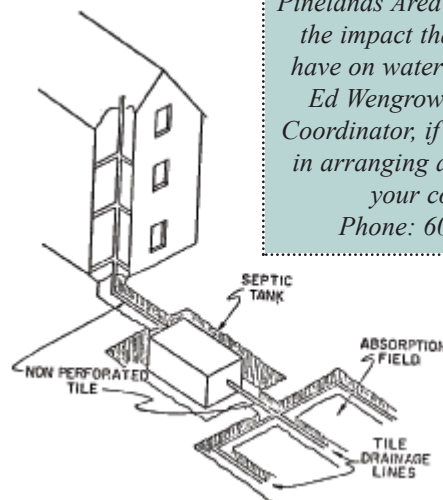
The full clustering rule proposal can be viewed at www.nj.gov/pinelands/cmp/amend/

Septic System Maintenance is Important

Did you know that as a homeowner you're responsible for maintaining your septic system? Did you know that maintaining your septic system protects your investment in your home? Did you know that you should periodically inspect your system and pump out your septic tank?

If properly designed, constructed and maintained, your septic system can provide long-term, effective treatment of household wastewater.

The Pinelands Commission held a series of meetings throughout the Pinelands Area last fall to discuss the impact that septic systems have on water quality. Contact Ed Wengrowski, Wastewater Coordinator, if you are interested in arranging a presentation for your community. Phone: 609-894-7300.



Protect Your Septic System:

1. Regularly inspect your system and pump as necessary.
2. Use water efficiently.
3. Don't dispose of household hazardous wastes in sinks or toilets.
4. Avoid driving or parking vehicles on your drain-field. Plant only grass over and near your drain-field to avoid damage from roots.

Reproduced from A Homeowner's Guide to Septic Systems, EPA

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Membership Categories

- Basic \$35
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All members receive:

- A PPA membership card
- A year's subscription to *Inside the Pinelands*
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- A PPA window sticker
- Discounts on PPA merchandise and events

- A Sponsor will receive an *Exploring the Pine Barrens of New Jersey* map
- A Patron will receive *The Pine Barrens Up Close & Natural* DVD
- A Benefactor will receive a Pinelands Botanical Print by Robin Jess
- A member of the Chairman's Circle will receive a personalized tour of the Pinelands



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