



PINELANDS  
PRESERVATION  
ALLIANCE

May - June 2011  
Issue 57

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## Upcoming Event

Exploring  
the Ecology of  
the Pines

May 25, 2011

7:00 p.m.

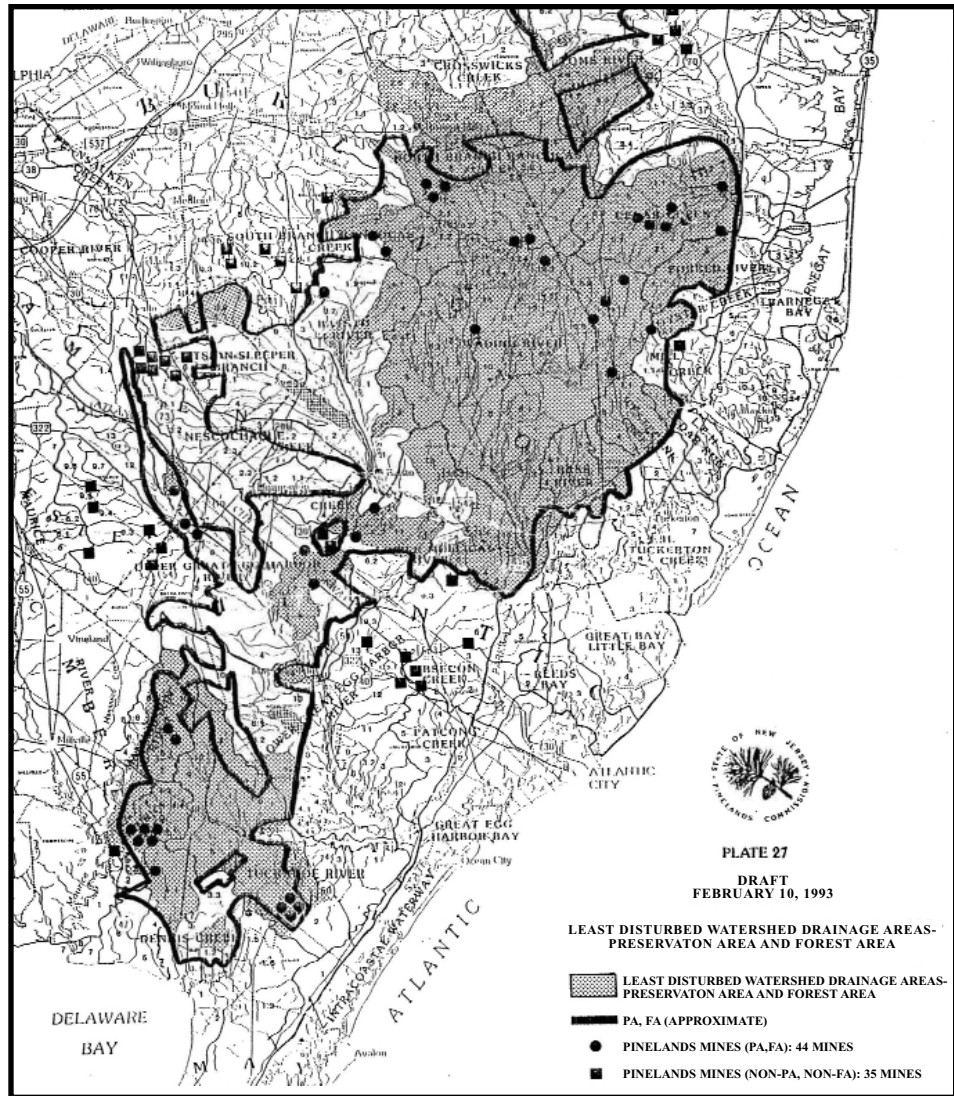
PPA Bishop Farmstead

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# PINELANDS WATCH



Map drafted in 1993 showing Pinelands Mining sites.

## **Rules could allow 24 Solar Energy Facilities in the Preservation Area of Pinelands**

The Pinelands Commission has proposed amendments to the Comprehensive Management Plan (CMP) that spell out where and how solar energy facilities can be built within the New Jersey Pinelands.

Currently, solar energy systems that supply electricity to a home or business establishment are allowed in any management area of the Pinelands. It's the larger, industrial-scale solar energy facilities that would supply electricity

for commercial sale that are the subject of the new rule proposal. These amendments, if approved, would allow municipalities to permit such industrial solar energy facilities as a principal use in all management areas of the Pinelands – including the Preservation Area.

Pinelands Preservation Alliance supports solar energy generation, but we do not support sacrificing forest and threatened and endangered

*continued on page 2*

wildlife habitat in exchange for solar energy generation when acres upon acres of impervious surface exist elsewhere throughout the Pinelands and the State that should be utilized for solar installations.

In summary, the Pinelands Commission proposed solar energy facility rules would allow:

1. Development of a solar energy facility as a principal use in the Preservation, Forest and Special Agricultural Production (cranberry growing) areas on previously disturbed parcels including:

- existing landfills (which appears to cover both former and operating landfills),
- sites in need of remediation due to soil or groundwater contamination,
- resource extraction (mining) sites,
- development of other portions (not previously disturbed) of the parcel if required for purposes of landfill closure or site remediation, and
- expansion of existing on-site or off-site infrastructure or new infrastructure (such as power lines and equipment buildings) if necessary to accommodate the solar energy facility.

2. Siting of solar energy facilities in the open space as part of a clustered residential development in the Forest and Rural Development areas.

The Pinelands Commission has not mapped the sites it thinks qualify under these standards, so it is impossible to predict the full extent of environmental damage these rules may cause in the Preservation, Forest and Agricultural Production areas of the Pinelands.

Pinelands Preservation Alliance cannot support these rules unless the following changes are made:

1. The Preservation Area should be excluded from development of solar energy facilities. The Preservation Area was established to protect contiguous forest and habitat and prohibit the construction or development of land uses that would adversely affect the long term ecological integrity of the area.

The Preservation Area contains at least 5 landfill and hazardous waste sites and 19 mining sites. Depending on how the Commission interprets the proposed rule, there might be many more old sites, now reforested, that would qualify. Under the new rules this could allow for the development of at least 24 solar energy facilities! Such industrial facilities should be located near or on top of existing development in designated growth areas.

2. If located on a former landfill or mining site, the facility or structure must be on previously disturbed

lands that have not been subsequently restored by nature or people, become reforested, or become habitat critical to the survival of a threatened or endangered species of animal or plant.

3. Solar energy facilities should not be allowed on the open space set aside as part of a residential cluster development in the Forest and Rural Development areas of the Pinelands. This is double-dipping for the use of the land. Forested open space should remain forested and should not be cleared to accommodate a solar energy facility when it can be located on top of the buildings.

4. Additional infrastructure to support the solar energy facility should only be allowed if all requirements of subchapter 6 are met – meaning limiting clearing, not disturbing threatened and endangered species habitat, etc.

5. The rules as proposed are shot through with ambiguous terms and requirements. Two among several examples of critical but ambiguous phrases are “previously disturbed site” or “under an obligation to be restored.” These ambiguities must be fixed in a way that maximizes the protection of Pinelands resources.

**The public should not be asked to choose one environmental protection over another to accommodate develop interests.** Let’s tell the developers and government officials to design developments properly and utilize the impervious surfaces that already exist.

**The public needs to voice their concerns at the Pinelands Commission public hearing and also submit written comments.** PPA will post its written comments on our website for the public to utilize.

**A public hearing concerning this proposal will be held on:**

**Thursday, May 19, 2011 at 7:00 P.M.**

Richard J. Sullivan Center

15C Springfield Road, New Lisbon, New Jersey

Submit written comments by regular mail, facsimile or e-mail by June 17, 2011 to:

Susan R. Grogan, P.P., AICP

Chief Planner

Pinelands Commission

P.O. Box 359, New Lisbon, NJ 08064

Facsimile: (609)894-7330

E-mail: [planning@njpines.state.nj.us](mailto:planning@njpines.state.nj.us)

**Copy of the rule proposal can be found at:**  
**<http://www.state.nj.us/pinelands/cmp/amend/>**

# Municipal Cluster Ordinance Deadline Approaching

The Pinelands Commission adopted amendments to the Pinelands Comprehensive Management Plan (CMP) in April 2009 which require mandatory clustering of residential development in the Pinelands Forest and Rural Development Areas. These amendments require clustering of residential development on one acre lots whenever two or more units are proposed in either of the two management areas, with the balance of the property permanently protected from development. The idea is to protect habitat and not spread houses, lawns and roads evenly across forested properties.

Pinelands municipalities are required to revise their certified master plans and land use ordinances to be consistent with these new rules. The Pinelands Commission is working to provide these ordinances to the applicable municipalities over the next couple of months, but Pinelands Preservation Alliance (PPA) has expressed concern over a few provisions within these rules and has drafted its own model ordinance for towns to consider.

PPA identified three major flaws with the rule as adopted by the Pinelands Commission:

1. The rule favors giving developers bonus densities on clustered sites, so more units would be built and less open space protected than local zoning would provide.
2. Agricultural operations can continue and even expand into "preserved" natural areas after cluster development, resulting in further loss of natural habitats and water quality.
3. The open space can be owned by an individual, adjacent land owner, making it very unlikely the restrictions on development will actually be enforced over time.

Municipalities have the opportunity to adopt ordinances that implement clustering but avoid these defects.

First, the provision for density bonuses leaves an opening for municipal cluster ordinances to provide a density bonus only in cases where the developer aggregates lots that were previously owned by different people. If a town believes this scenario will not arise or will be rare given its particular situation, it can propose an ordinance that provides no bonus densities.

Second, the extension of agricultural operation on shared open space can be limited if a town provides justification for limiting this use. For instance, if water quality is in jeopardy of being impaired as a result of a clustered development and continuing agricultural operation, the

Pinelands Commission should approve the ordinance without the agricultural use and expansion language.

Third, the rule outlines a set of requirements for the ownership and deed of restriction of the open space within a clustered development. These requirements allow for several ownership options as long as the land is held with deed of conservation restriction in favor of the residents of the cluster development. A municipality can adopt an ordinance that requires the protected open space be owned only by the neighborhood association, a nonprofit conservation group or government agency, or the municipality itself.

The benefits of mandatory clustering are to prevent sprawling housing development without increasing the total number of units in the Forest and Rural Development zones, and to permanently protect large tracts of open space without allowing the clearing of forested open land to intensive uses such as housing, roads and farming. Clustering should not be used to force more housing and more water quality impacts on municipalities in Pinelands zones that are not supposed to be intensively developed.

## **What can you do:**

Pinelands Preservation Alliance has drafted a model clustering ordinance that, if adopted, would meet the Pinelands requirements. The model ordinance would accomplish the legitimate goals of clustering and avoid the potential negative impacts.

1. Obtain a copy of the model municipal ordinance from PPA's website – [www.pinelandsalliance.org](http://www.pinelandsalliance.org) under Protection/PPA At Work/Current Issues and Campaigns.
2. Bring a copy to the attention of your town council for adoption.
3. Contact your local elected and appointed officials and ask that density bonuses, additional uses of open space, and individual, adjacent land ownership options for the open space be excluded from the ordinance language.

**Please contact us if you have any questions and if we can help you further.**

Editor: Theresa Lettman

Distributed to members of the Pinelands Watch Network and other members of the public. If you would like to receive these alerts, please contact Theresa Lettman at (609) 859-8860 Ext 22 or [theresa@pinelandsalliance.org](mailto:theresa@pinelandsalliance.org).

Prior issues are available at: [www.pinelandsalliance.org](http://www.pinelandsalliance.org)

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