

ENTERED
Office of Proceedings
June 10, 2024
Part of
Public Record

WILLIAM C. HORNER
(RETIRED)
WILLIAM L. HORNER
wlh@hornerlaw.net

HORNER & HORNER, L.L.C.
ATTORNEYS AT LAW
67 MARKET STREET
P.O. BOX 66
SALEM, NJ 08079
—
TEL (856) 935-0958
FAX (856) 935-1708

June 10, 2024

Via Electronic Filing

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
U.S. Surface Transportation Board
395 E Street SW
Washington, DC 20423

**Re: Petition of Mannington Township, County of Salem, New Jersey
for Leave to Intervene in Proceedings of
Petition for Declaratory Order of Township of Pilesgrove, County of Salem,
New Jersey (In re SMS Rail Services, Inc.)
Docket No.: FD 36770**

Dear Ms. Brown:

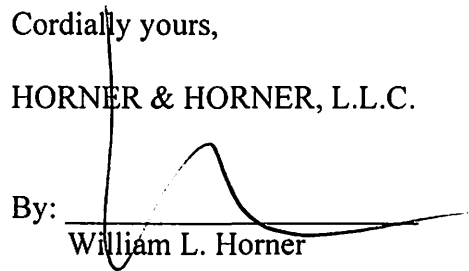
I represent the Township of Mannington, a New Jersey municipal corporation. Attached for filing is Mannington's Petition for Leave to Intervene in the above referenced proceeding.

The Township of Mannington is a public/governmental entity. It is my understanding that no fee is required for this filing.

Please call or write if you have any questions or concerns.

Cordially yours,

HORNER & HORNER, L.L.C.

By: 
William L. Horner

WLH:jcc

Cc: Esther A. Mitchell, Clerk (via email only)
Frank J. Hoerst, III, Esq. (via email only)
David A. Avedissian, Esq. (via email only)
Ekaterine N. Eleftheriou, Esq. (via email only)

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. FD 36770

**PETITION FOR DECLARATORY ORDER OF TOWNSHIP OF PILESGROVE,
COUNTY OF SALEM, NEW JERSEY**

**PETITION OF TOWNSHIP OF MANNINGTON, COUNTY OF SALEM, NEW JERSEY
FOR LEAVE TO INTERVENE**

On April 22, 2024, the Township of Pilesgrove, a New Jersey municipal corporation located in Salem County, New Jersey (“Pilesgrove”) filed a petition requesting a declaratory order from the Surface Transportation Board (“Board”) as to whether and to what extent the Interstate Commerce Commission Termination Act of 1995 (“ICCTA”) preempts Pilesgrove’s municipal zoning and site plan regulations, and certain requirements of New Jersey’s Uniform Construction Code (“UCC”), with regard to the land development and land use activities of SMS Rail Service, Inc. (“SMS”) within Pilesgrove Township in connection with SMS’s recently commenced entertainment-based intrastate railroad excursions.

The Township of Mannington, a New Jersey municipal corporation also located in Salem County, New Jersey (“Mannington”), which shares a municipal boundary with Pilesgrove, and through which SMS’s rail line also extends, hereby petitions the Board for leave to intervene in Pilesgrove’s proceeding, and requests that the Board’s declaratory order also address SMS’s development and use of land within Mannington designated as Tax Map Block 67, Lots 14.01, 14.02 and 18 (the “subject property” or “subject Mannington property”) for trackside customer

entertainment and recreation activities in connection with the same railroad excursion services that are the subject of Pilesgrove's petition. Specifically, Mannington seeks confirmation from the Board that SMS's activities at the subject Mannington property, as described in the Mannington Township Solicitor's April 10, 2024, correspondence to the Mannington Township Zoning Officer (attached hereto as EXHIBIT B), are not entitled to ICCTA preemption, and are therefore subject to the New Jersey Municipal Land Use Law, *N.J.S.A. 40:55D-1, et seq.* ("MLUL"), and Mannington's land use regulations adopted pursuant thereto.

Mannington's Zoning Officer has issued notices of violation and municipal court complaints/summonses to SMS and its apparent operational affiliate, Woodstown Central Railroad ("WCR"), and also to the County of Salem, New Jersey, a political subdivision of the State of New Jersey (the "County") which owns the subject Mannington property (see copies of notices of violations attached hereto as EXHIBIT C, and copies of complaints/summonses attached hereto as EXHIBIT D).¹ If the Board's declaratory order confirms there is no ICCTA preemption of state and local laws with respect to SMS's land development and land use activities within Mannington as described in attached EXHIBIT B, the municipal court can, in good conscience, determine whether and to what extent such development and use are subject to Mannington's zoning and site plan review regulations pursuant to the MLUL. If the municipal court determines that the MLUL and Mannington's land use regulations are applicable to SMS's excursion-related operations at the subject property as described in attached EXHIBIT B, then SMS cannot conduct those development and use activities without first obtaining use variance and site plan approvals from the Mannington Township Planning Board, meaning that, pending such approvals, SMS's development and use of the subject property for trackside customer entertainment and recreation

¹ Municipal court appearances are currently scheduled for July 25, 2024.

activities in connection with its intrastate railroad excursions must cease, and SMS must remove all violative structures, facilities, improvements, and installations from the subject property.

A certification of the Mannington Zoning Officer is attached hereto as EXHIBIT A to confirm the completeness and accuracy of the factual information set forth in EXHIBIT B, and to confirm that EXHIBITS C and D are true copies of the notices of violations/orders to cease, and the municipal court complaints/summonses, that have been issued to SMS, WCR, and the County.

BACKGROUND AND LEGAL ANALYSIS

NO ICCTA PREEMPTION

Mannington became aware of SMS's activities at the subject property during the fall and early winter of 2023, whereupon the Township Solicitor submitted inquiries to SMS's attorney that resulted in the exchange of correspondence that is included as part of attached EXHIBIT B. The last of SMS's attorney's letters, dated April 9, 2024, made no mention of the "Easter Bunny Express" activities that had just been investigated by the Mannington Zoning Officer on March 30, 2024, which caused the Township Solicitor (1) to conclude that SMS was not allowing its attorney to fully disclose the true nature and extent of SMS's activities at the subject property, and (2) to recommend that the Zoning Officer promptly enforce Mannington's zoning requirements through municipal court action against SMS, WCR, and the County. Mannington's Zoning Officer's observations of SMS's activities at the subject property, as relayed to the Township Solicitor, and the Township Solicitor's enforcement recommendations, are set forth in attached EXHIBIT B, along with the Township Solicitor's analysis of decisions by the Board and the former Interstate Commerce Commission supporting the Township Solicitor's conclusion that SMS's activities are not entitled to ICCTA preemption.

The Township Solicitor's legal analysis, starting on page 6 of attached EXHIBIT B, summarizes the following decisions which involved questions of preemption under 49 U.S.C.A. § 10501:

Napa Valley Wine Train, Inc. – Pet. for Declaratory Order, 7 I.C.C.2d 954 (1991)

Fun Trains, Inc. – Operation Exemption – Lines of CSX Transportation, Inc. and Florida Department of Transportation, FD 33472 (STB served March 5, 1998)

Borough of Riverdale – Pet. for Declaratory Order – The New York Susquehanna and Western Railway Corporation, FD 33466 (STB served September 10, 1999)

Denver & Rio Grande Railway Historical Foundation D/B/A Denver & Rio Grande Railroad, L.L.C. – Pet. for Declaratory Order, FD 35496 (STB served February 23, 2012)

All Aboard Florida – Operations LLC and All Aboard Florida – Stations – Construction and Operations Exemption – In Miami, Fla. and Orlando, Fla., FD 35680 (STB served December 21, 2012)

Denver & Rio Grande Railway Historical Foundation – Pet. for Declaratory Order, FD 35496 (STB served August 18, 2014)

Denver & Rio Grande Railway Historical Foundation – Pet. for Declaratory Order, FD 35496 (STB served March 24, 2015)

The Township Solicitor concluded, based on the Zoning Officer's observations and the aforesaid analysis, that:

1. SMS's excursion operations are conducted entirely within the state of New Jersey and are not connected in any way to the nation's interstate passenger rail system; therefore, SMS's excursion train turnaround and customer debarkation operations at the subject property, and SMS's trackside entertainment and recreation area operations at the subject property, are not entitled to federal preemption under the ICCTA;
2. SMS's excursion train turnaround and customer debarkation operations at the subject property, and SMS's trackside entertainment and recreation facilities and activities at the subject property, are not "integrally related to" the provision of interstate rail

transportation service or otherwise “inherently transportation” for purposes of ICCTA preemption; and

3. any *freight* operations on SMS’s rail line through Mannington Township that might be “interstate” in nature, whether conducted by SMS or other carriers, and any commonly used dispatching system that might serve such freight carriers as well as SMS’s excursion service operations, are not sufficient to bring SMS’s wholly intrastate passenger rail service, or its excursion train turnaround and customer debarkation operations at the subject property, or its trackside entertainment and recreation area operations at the subject property, within STB jurisdiction and ICCTA preemption.

For these reasons, as explained in attached EXHIBIT B, the Township Solicitor advised the Mannington Zoning Officer that SMS’s excursion-related operations at the subject property – including its excursion train turnaround, customer debarkation, and trackside entertainment and recreation operations, structures, facilities, improvements, and installations – are subject to all state, county, and municipal laws and regulations, including Mannington’s zoning and site plan review requirements, and that the Mannington Zoning Officer should immediately issue notices of violation to SMS, WCR, and the County for the above operations, and immediately initiate enforcement action against these three parties in Mannington’s municipal court, which the Zoning Officer has done (see copies of notices and complaints/summonses attached hereto as EXHIBITS C and D, respectively).

As explained above, the County is involved in this matter because the County owns the land comprising the subject Mannington property, and because the subject property is believed to be included in the County’s lease of the rail line to SMS. Also, according to Section 5 on page 3 of the County’s lease agreement with SMS (copy attached to Pilesgrove’s Petition for Declaratory

Order as Exhibit B), the County is entitled to share in gross revenues and gross ticket sales generated by SMS's rail operations, which presumably includes revenue from SMS's excursion ticket sales. Accordingly, and as certified below, Mannington is serving a copy of this Petition for Leave to Intervene on the County and the County Solicitor.

DISCUSSION

MANNINGTON SHOULD BE PERMITTED TO INTERVENE

The governing standard provides that the Board may grant intervention by a party with an interest in the proceeding when intervention "[w]ill not unduly disrupt the schedule" and "[w]ould not unduly broaden the issues." 49 C.F.R. § 1112.4(a). For the following reasons Mannington's proposed intervention clearly meets that standard, and also the attendant requirements of 49 C.F.R. § 1112.4(b):

1. Mannington has a Legitimate Interest in this Proceeding (49 C.F.R. § 1112.4(b)(1)). As explained in attached EXHIBIT B, Mannington's zoning and site plan regulations were duly adopted pursuant to the MLUL to promote public health, safety, and welfare. Congress's enactment of ICCTA did not intend to deprive Mannington's ability to regulate SMS's excursion operations through its zoning and site plan ordinances, according to which SMS is required to submit a complete site plan/variance application to the Mannington Township Planning Board explaining and depicting its existing and proposed development and use of the subject property, and to provide sworn testimony and evidence at a public hearing at which the Planning Board, nearby property owners, and other interested parties can learn about, ask questions, and present any concerns or objections with respect to SMS's existing and proposed operations at the subject

property. Any Mannington Township Planning Board approval of SMS's excursion-related activities would establish a clear benchmark of permitted-versus-non-permitted development and uses at the subject property, with reasonable conditions imposed as necessary to promote the public good and the intent and purposes of Mannington's zone plan and zoning ordinance. Mannington's regulation of SMS's excursion-related operations in this manner would have absolutely no effect on, and thus would not delay, interfere with, frustrate, or defeat the efficiency of, any of SMS's interstate railroad operations; nor would it foreclose or restrict SMS's ability to conduct its entertainment excursions or its freight operations (or any potential ICCTA-preempted interstate passenger service) through other parts of Mannington Township on its main rail line; nor would it in any way impinge upon interstate commerce or the federal regulation thereof. In short, Mannington's regulation of SMS's excursion-related activities at the subject property would not impose any unreasonable burden on interstate railroading. Also, as explained above, Mannington has already commenced an enforcement action against SMS in municipal court, and a specific determination by the Board as to the non-preemption of Mannington's municipal land use regulations would provide useful guidance for the municipal court in deciding that case.

2. Mannington's Support of Pilesgrove's Petition; Mannington's Request for Similar Relief (49 C.F.R. § 1112.4(b)(2) and (3)). Mannington supports Pilesgrove's petition for all of the reasons stated above, as well as for the reasons stated in Pilesgrove's petition. Mannington asks the Board to confirm, as part of the declaratory order requested by Pilesgrove, that SMS's excursion-related operations at the subject Mannington property, as described in attached EXHIBIT B, are not entitled to federal

preemption under the ICCTA, and are thus subject to Mannington's municipal land use regulations pursuant to the MLUL.

3. Mannington's Participation will not Unduly Broaden the Issues (49 C.F.R. § 1112.4(a)(2)). Mannington's objectives in regulating SMS's operations are essentially the same as Pilesgrove's, and SMS's operations at the subject Mannington property involve similar customer-related activities in connection with the same excursions, and along the same track line, that are at issue in Pilesgrove's petition. This similarity of subject matter and municipal regulatory objectives warrants review of Pilesgrove's and Mannington's concerns in a single proceeding on grounds of administrative efficiency, rather than necessitating two separate, nearly simultaneous, and essentially identical proceedings.

4. Mannington's Participation will not Disrupt the Schedule (49 C.F.R. § 1112.4(a)(1)). Mannington anticipates that its participation in Pilesgrove's proceeding will have no effect whatsoever on the procedural schedule. Mannington received Pilesgrove's petition on May 24, 2024 and is filing this petition with reasonable promptness. The Board has not yet rendered a decision on Pilesgrove's petition; indeed, the Board's online docket information for Pilesgrove's proceeding suggests that SMS has not yet submitted any formal filing to the Board. Mannington has no present plans to serve discovery, file additional pleadings or evidence, or seek any other relief besides a determination in the Board's declaratory order that SMS's activities at the subject Mannington property are not entitled to federal preemption under the ICCTA and are therefore subject to all municipal land use regulations pursuant to the MLUL. Mannington necessarily reserves its right to submit additional evidence or argument,

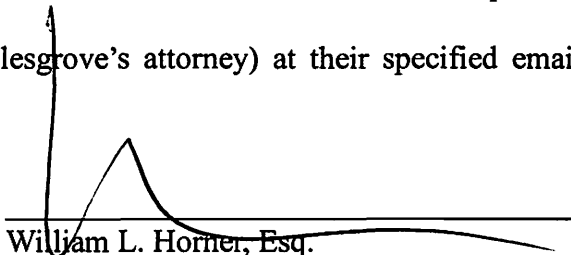
and would do so in conformance with applicable timeframes following any notification that such additional evidence or argument is necessary or appropriate.

CONCLUSION

For the foregoing reasons Mannington requests that the Board grant Mannington's intervention in this proceeding so as to permit Mannington to participate fully and to receive, contemporaneously with other parties involved, access to all pleadings, discovery, and investigative materials. Mannington also requests the Board to include confirmation in its declaratory order that SMS's operations at the subject Mannington property, as described in attached EXHIBIT B, are not entitled to preemption under the ICCTA.

CERTIFICATE OF FILING AND SERVICE

I hereby certify that, on June 10, 2024, I am filing Mannington's Petition for Leave to Intervene, including all attachments, using the Board's online filing portal, and that I am causing SMS, WCR, and the County to be served with copies of the Petition and attachments by certified mail, return receipt requested, and also by regular mail, at their addresses as set forth on the following Service List, and that I am emailing copies of the Petition and attachments to the parties' attorneys named in the Service List (including Pilesgrove's attorney) at their specified email addresses.



William L. Horner, Esq.
Horner & Horner, L.L.C.
67 Market Street / P.O. Box 66
Salem, New Jersey 08079
Email: wlh@hornerlaw.net
Phone: (856) 935-0958
Fax: (856) 935-1708

SERVICE LIST
(Docket No. FD 36770)

Jeffrey L. Sutch, President
Jim Pfeiffer, COO
SMS Rail Service, Inc.
P.O. Box 711
Bridgeport, NJ 08014

Woodstown Central Railroad
650 Alloway-Woodstown Road
Woodstown, NJ 08098

Frank J. Hoerst, III, Esq. (Attorney for SMS Rail Service, Inc./Woodstown Central Railroad)
13 West Avenue
P.O. Box 217
Woodstown, NJ 08098
Email: fhoerstlaw@comcast.net
Phone: (856) 769-1700

David A. Avedissian, Esq. (Attorney for SMS Rail Service, Inc./Woodstown Central Railroad)
135 Kings Highway East
Haddonfield, NJ 08033
Email: david@avedissianlaw.com
Phone: (856) 857-1901

County of Salem
c/o Stacy L. Pennington
Clerk of the Board of Commissioners
Fifth Street Office Complex
110 Fifth Street, Suite 400
Salem, NJ 08079

Karin M. Wood, Esq. (Attorney for County of Salem)
Salem County Counsel
110 Fifth Street, Suite 400
Salem, NJ 08079
Email: counsel@salemcountynj.gov
Phone: (856) 935-7510, ext. 8109 or 8109

Ekaterine N. Eleftheriou, Esq. (Attorney for Township of Pilesgrove)
The Vigilante Law Firm, P.C.
99 North Main Street
Mullica Hill, NJ 08062
Email: kat@thevigilantelawfirm.com
Phone: (856) 223-9990

EXHIBIT A
(Certification of Zoning Officer)

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. FD 36770

**PETITION FOR DECLARATORY ORDER OF TOWNSHIP OF PILESGROVE,
COUNTY OF SALEM, NEW JERSEY**

CERTIFICATION OF

ROBERT L. SCHMID, MANNINGTON TOWNSHIP ZONING OFFICER

IN SUPPORT OF

**PETITION OF TOWNSHIP OF MANNINGTON, COUNTY OF SALEM, NEW JERSEY
FOR LEAVE TO INTERVENE**

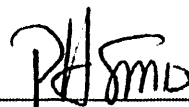
I, ROBERT L. SCHMID certify as follows:

1. I am the Mannington Township Zoning Officer and have full knowledge of the matters set forth in this certification.
2. On March 30, 2024, I personally investigated the property located in Mannington Township, Salem County, New Jersey, designated as Tax Map Block 67, Lots 14.01, 14.02, and 18 (the "Property") which is the subject of the above referenced Petition for Leave to Intervene ("Petition"). Mr. Chase Spadavecchi, a representative of SMS Rail Service, Inc./Woodstown Central Railroad, who was present at the Property to oversee the operations I observed, gave me permission to enter upon the Property and conduct my investigation, and he remained at the Property for the duration of my investigation.

3. I reported my observations to Mannington Township Solicitor, William L. Horner, Esq., shortly after completing the investigation, and I provided him with a copy of an online "Facebook Events" advertisement for the "Easter Bunny Express" operations I observed.
4. I have reviewed Mr. Horner's April 10, 2024 letter to me which is attached to the Petition as EXHIBIT B and hereby confirm that it contains a true, complete, and correct description of the operations, activities, site improvements, and facilities I observed during my investigation of the Property, and a complete and correct verbatim recitation of the text of the aforesaid online advertisement.
5. On April 18, 2024, I issued Notices of Violation/Orders to Cease to SMS Rail Service, Inc., Woodstown Central Railroad, and the County of Salem, copies of which are attached to the Petition as EXHIBIT C. My mailings to Woodstown Central Railroad were returned by the post office as undeliverable because there is no mailbox at that entity's specified street address, but I subsequently hand-delivered Woodstown Central Railroad's Notice and Order to representatives of SMS Rail Service, Inc./Woodstown Central Railroad whom I encountered at the specified street address.
6. On April 30, 2024, I issued municipal court complaints/summonses to SMS Rail Service, Inc., Woodstown Central Railroad, and the County of Salem, copies of which are attached to the Petition as EXHIBIT D.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

DATE: 6/10/24



ROBERT L. SCHMID

EXHIBIT B

(Solicitor Letter Recommending Enforcement)

HORNER & HORNER, L.L.C.
ATTORNEYS AT LAW

67 MARKET STREET

P.O. BOX 66

SALEM, NJ 08079

TEL (856) 935-0958

FAX (856) 935-1708

WILLIAM C. HORNER
(RETIRED)
WILLIAM L. HORNER
wlh@hornerlaw.net

April 10, 2024

Via Email and Regular Mail

Robert L. Schmid, Zoning Officer
Mannington Township
491 Route 45
Salem, NJ 08079

**Re: Zoning Violation Enforcement – SMS Rail Service, Inc./County of Salem
Railroad-Related Development, Operations, and Activities
Block 67, Lots 14.01, 14.02 and 18 (near Mannington Mills Road)**

Dear Mr. Schmid:

I am writing to you in my capacity as Mannington Township Solicitor to provide advice, recommendations, and legal support for your enforcement against the ongoing zoning violations at the above referenced property. I recommend that you include a copy of this letter and its attachments with any notice or summons you issue. I will also send you, by separate email, copies of the Interstate Commerce Commission and Surface Transportation Board opinions that are summarized in this letter, so that you can review them if you wish, and provide them to anyone else upon request.

Advertisement/Description of SMS Train Excursion:

On March 30, 2024, the date you inspected the subject property, you discovered the following excursion description in an online advertisement for the Woodstown Central Railroad's March 23-March 30 "Easter Bunny Express":

Hop aboard the Woodstown Central for the Easter Bunny Express! Celebrate the holiday with friends and family as you embark on a springtime excursion. Sit back and relax aboard our beautifully decorated vintage train as you take in the changing countryside. During your journey, the Easter Bunny will meet with every child aboard the train!

Our train will take you through the blossoming forests and fertile farmland of historic Salem County before reaching the Easter Bunny's home at Fenwick Grove! There, passengers will have the opportunity to disembark the train and go for an egg hunt! Guests will have 30 minutes to look for eggs and take in the scenic creekside views before returning home on the train.

This is an enchanting springtime journey you and your family won't soon forget.

For a more private experience, groups can book our historic 16-seat Caboose car, featuring an all-wooden interior and an authentic coal-burning stove.

Excursion run times are 10am, 12pm, 2pm, and 4pm

Address: 650 Alloway-Woodstown Road, Woodstown NJ

Parking: Free parking at location

Price: Starting at \$35 for Adults, \$25 for Children, and \$5 for toddlers

Table Car: \$150 per table (up to 4 people per table)

Private Caboose: \$750 (up to 16 people)

Duration: 90-95 mins

The Property:

The subject property consists of about 2.57 acres owned by the County of Salem (hereafter "the County"). Until recently, the property was undeveloped and unused except as the site of existing railroad tracks that are believed to be operated by SMS Rail Service, Inc. (hereafter "SMS"), and which are believed to have been recently repaired and/or upgraded by SMS.

Recent Improvement and Development of the Property:

Based on your observations at the property as described to me during our March 30, 2024, telephone conversation and our subsequent conversations, and as explained in your subsequent inspection report and depicted in the photos you took, the property has recently been improved and developed as follows:

1. Trees and vegetation have been removed and woodchips have been spread widely across the property.
2. A wooden platform with steps has been constructed at a location near the railroad tracks.
3. A large storage shed has been constructed/installed.
4. Four port-a-pots have been installed.
5. A hand-washing station has been installed.
6. One or more trash receptacles have been installed.
7. Several picnic tables have been installed.
8. Two firepits have been installed, accompanied by benches.
9. Decorations and signage (relating to the Easter holiday) has been installed.

10. Portions of 8-foot fencing or screening material have been constructed at various points along the boundaries of, or within, the property.
11. Additional sections of track, in a configuration that I believe is called a “wye,” has been installed at the property as a turnout or turnaround facility to re-direct trains. A portion of the wye is located within a few feet of a single-family home on an adjoining property.

Recently Commenced Use of the Property:

Based on your observations as described to me during our March 30, 2024, telephone conversation and our subsequent conversations, and as explained in your subsequent inspection report and depicted in the photos you took, the property is currently being used as an excursion train turnaround and customer debarkation area, and also as a trackside customer entertainment and recreation area, all in connection with SMS’s “Woodstown Central Railroad” operations. More specifically, you have observed that:

1. An excursion train, which transports customers in one or more passenger cars, enters the property from the northeast via the main track and stops within the property where the excursion customers (which you estimated to be approximately fifty in number, including many children) disembark the train via a wooden platform and steps, roam about the property, and enjoy facilities, entertainment and concessions for a specified period of time (believed to be approximately one-half hour as explained in the above cited online advertisement) before reboarding the train and continuing the excursion.
2. During or after the customer debarkation process, the train’s engine is detached from the passenger cars and proceeds further southward along the main track to be switched from the main track onto the southern section of the wye, on which it then moves in reverse, in a northwestwardly direction, toward Route 45.
3. After coming to a stop at the terminus of the wye near Route 45 (with the engine being, at that point, just a few feet from the exterior wall of a residential house on adjoining property), the engine proceeds in a forward direction, this time along the northern section of the wye, back to the main track, where it then backs up southward to re-connect to the passenger cars in order for the train to return, by heading northeasterly on the main track with the engine in front and facing forward, to the excursion’s point of origination.
4. After the engine has completed the above-described “k-turn” maneuver and has been re-connected to the train, the customers reboard the passenger cars for the return trip.

Zoning Requirements (No Zoning Permit; Prohibited Use):

SMS’s activities at the property, specifically: SMS’s construction and use of the new sections of the wye at the property as a turnaround for the rail excursions; SMS’s use of the property as a point of customer debarkation; SMS’s use of the property as a trackside customer

entertainment and recreation area in connection with the excursions; all structures, facilities, improvements, and installations at the property; and all other development and use of the property for such purposes, constitute violations of the following Mannington Township zoning regulations:

1. Section 70-68.C. of the Mannington Township Code entitled "Zoning permits" provides that "[n]o building or other structure shall be erected, moved, added to, or structurally altered and no lot shall be cleared, graded, or otherwise prepared for an open land use without first obtaining a zoning permit therefore from the zoning officer." **It is my understanding that you have received no zoning permit application from SMS, the County, or any other person or entity with respect to the subject property, nor have you issued any zoning permit for any development or use of the subject property.**
2. Section 70-35 entitled "Use regulations" provides that "[n]o use or occupancy of any building, structure or land shall hereafter be changed to a different use or occupancy and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered, unless in conformity with all of the regulations herein specified for the district in which it is located..." The subject property is located in a CONS-Conservation zoning district. The listed "permitted" and "conditionally-permitted" uses in the CONS district, as set forth in 70 Attachment 2 on page 70 Attachment 2:1 of the Mannington Township Land Development Ordinance (Code Chapter 70), do not include "excursion train turnaround and customer debarkation areas" or "trackside entertainment and recreation areas in connection with rail excursions." Further, the preamble set forth in 70 Attachment 7 on page 70 Attachment 7:1 of the Land Development Ordinance provides that "[a]ll uses not expressly permitted in the above lists are prohibited..." A **"prohibited use" can only be developed and conducted if the Mannington Township Planning Board grants variance approval for such use and development pursuant to N.J.S.A. 40:55D-70.d., and it is my understanding that, to your knowledge, no variance approval has been granted by the Mannington Township Planning Board for the subject property.**

Site Plan Review Requirements (No Site Plan Approval):

Section 70-70 of the Mannington Township Code (regarding site plan applicability) provides that "[s]ite plan review shall be required for all new or expanded uses except agriculture and single-family residential principal and accessory uses..." **It is my understanding that, to your knowledge, no site plan approval has been granted by the Mannington Township Planning Board for the subject property.**

Enforcement Recommendations:

For the reasons explained in this letter I recommend that you immediately send summonses to the railroad operator's representatives, and also to the County as property owner (and County Counsel), at their addresses listed below, with notices demanding immediate cessation of the following violations based on your inspection report:

1. **Illegal *use* of the subject property as a point of train turn-around and debarkation for SMS's "Woodstown Central Railroad" excursions, and as a trackside customer entertainment and recreation area in connection with such excursions, without a zoning permit, and without variance and site plan approval from the Mannington Township Planning Board. Such use must cease immediately unless and until it has been granted variance and site plan approval by the Mannington Township Planning Board.**
2. **Illegal *development* of the subject property with structures, facilities, improvements, and installations (including installation of any new sections of the "wye" that are used only for excursion purposes) without a zoning permit, and without variance and site plan approval from the Mannington Township Planning Board. All such structures, facilities, improvements, and installations must be removed from the property immediately unless and until they have been granted variance and site plan approval by the Mannington Township Planning Board.**

I also recommend that you request the municipal court to impose fines pursuant to the Mannington Township Code for any failure to cease the above violations.

The summonses and notices should be sent to:

**Jim Pfeiffer, COO
SMS Rail Service, Inc.
P.O. Box 711
Bridgeport, NJ 08014**

**Jeffrey L. Sutch, President
SMS Rail Service, Inc.
P.O. Box 711
Bridgeport, NJ 08014**

**Woodstown Central Railroad
650 Alloway-Woodstown Road
Woodstown, NJ 08098**

**County of Salem
c/o Stacy L. Pennington
Clerk of the Board of Commissioners
Fifth Street Office Complex
110 Fifth Street, Suite 400
Salem, NJ 08079**

**Karin M. Wood, Esq.
Salem County Counsel
110 Fifth Street, Suite 400
Salem, NJ 08079**

I am recommending the immediate issuance of notices and summonses in this situation rather than any preliminary warnings of the sort you might typically provide to alleged zoning violators because, in this case, the operator and the land owner are sophisticated entities who are well-versed in the law, and also because SMS has already been put on notice of the Township's concerns. Specifically, I have been in communication with the attorney for SMS for the past three months attempting to obtain information from him about the existing and proposed development and use of the subject property. As you can see from the attached copies of our correspondence, SMS's attorney's responses have been slow and, considering what you witnessed at the property on March 30, somewhat evasive and lacking in detail. Accordingly, I believe that any preliminary notice or warning of the sort you might typically provide as a courtesy prior to issuance of summonses would, in this instance, result only in periods of further delay during which the violative uses would continue, and the violative structures, facilities, improvements, and installations would remain in place.

Legal Analysis re: No Federal Preemption:

Railroads in the United States of America enjoy broad federal protections against state, county and municipal ordinances that might impair or impede their interstate operations. These protections are found primarily in the current Interstate Commerce Commission Termination Act (ICCTA), which was enacted in the 1990s to update the prior Interstate Commerce Act (ICA). Both acts were intended to promote interstate commerce in our country by establishing nationwide regulations for railroad operations that preempt state, county, and municipal requirements so that interstate railroad operators are not subjected to a burdensome "patchwork of regulations."

I suspect that, in response to your summonses, the representatives of SMS will claim that its excursion turnaround and customer debarkation operations at the subject property, and its trackside entertainment and recreation area operations at the property, are protected by ICCTA preemption from Mannington Township's zoning and site plan requirements because these developments and uses of the property are "part of" SMS's overall railroading operations. However, as explained in the following case summaries, the ICCTA only establishes federal preemption over state, county and municipal regulations for transportation by rail carriers "between a place in a State and a place in the same or another State *as part of the interstate rail network.*" SMS's excursion turnaround and customer debarkation operations at the subject property, and its trackside entertainment and recreation area operations at the property, are not entitled to ICCTA preemption because these operations do not constitute or involve interstate rail transportation.

1. Napa Valley Wine Train, Inc. – Petition for Declaratory Order, 7 Interstate Commerce Commission Reports 954 (1991), is an important case about excursion railroad non-preemption because, even though it was decided by the prior (now non-existent) Interstate Commerce Commission (ICC), it is still regularly cited as precedential authority in decisions by the Surface Transportation Board (STB) which is the ICC's successor agency under the ICCTA. The Wine Train case involved an 18-mile railroad excursion through Napa Valley that stopped only at towns within the state of California and involved only small amounts of freight service. The ICC explained that federal

preemption only applied to entirely “intrastate” railroad operations if such operations were sufficiently “linked to and part of” the nation’s interstate rail system to be deemed “interstate commerce.” In the Wine Train case the ICC found that the Wine Train did not connect with Amtrak or any other interstate passenger service, either by connecting stations or by “through-ticketing” arrangements, and that the Wine Train was marketed as a tourist excursion and dining experience solely in Napa Valley, and not as an interstate passenger service. The ICC noted that the Wine Train excursions were round-trip only, and thus did not move passengers from different points, but rather picked passengers up and dropped them off at the same point. For these reasons the ICC found that the Wine Train’s excursion operations were not entitled to federal preemption because the excursion operations did not have a sufficient *nexus* to interstate commerce. The ICC also found that, although the Wine Train’s limited interstate freight operations might enjoy federal preemption, those freight operations did not provide a sufficient nexus to interstate commerce to establish federal regulation and preemption of Wine Train’s strictly intra-state passenger operations. The ICC observed that there was no indication that Congress had intended to authorize the ICC to regulate the Wine Train’s passenger operations, or to deprive California of the right to do so.

2. Fun Trains, Inc. – Operation Exemption, STB Finance Docket No. 33472 (March 5, 1998), which was decided by the Surface Transportation Board pursuant to the then-recently enacted ICCTA, involved a rail operator that intended to provide one-way and round-trip entertainment train service entirely within the state of Florida, between the towns of Hollywood and Poinciana (241 miles), with deluxe coach accommodations, food and beverage service, and on-board entertainment, for tourists traveling between the Orlando Disney World area and southeastern Florida. Like the Wine Train, the Fun Train did not propose to provide passenger service to intermediate points along the line, nor did the Fun Train intend to enter into joint ticketing or through-ticketing arrangements with Amtrak or any other passenger carrier. The STB analyzed the Fun Train case under the ICCTA preemption language of 49 U.S.C. 10501(a)(2)(A), which gives the STB jurisdiction over “transportation by rail carriers between a place in ‘a State and a place in the same or another State as part of the interstate rail network,’” and concluded that “there is no indication that Fun Train’s operations will be sufficiently linked to or will be part of interstate commerce,” and that Fun Train’s operations were therefore not subject to STB jurisdiction or ICCTA preemption.
3. Denver & Rio Grande Railway Historical Foundation (DRGHF) – Petition for Declaratory Order, STB Finance Docket No. 35496 (February 23, 2012; August 18, 2014; and March 24, 2015), involved three STB decisions relating to DRGHF’s operation of a tourist-based passenger excursion service on a 21-mile segment of railroad track in Colorado using a self-propelled rail-bus (i.e., a maintenance-of-way vehicle modified for passenger service called the “Silver Streak”) to carry passengers to rafting expeditions on the Upper Rio Grande River during summer months (as well as “freight” consisting of the rafts). DRGHF also owned and operated a 1.8-acre parcel of land thirty miles away from the track where it stored and repaired rail cars in violation of a municipal zoning ordinance. DRGHF asserted that its storage and

maintenance of the rail cars on the 1.8-acre parcel qualified as “transportation by rail carrier” over which the STB had exclusive jurisdiction pursuant to 49 U.S.C. 10501(a) of the ICCTA. In deciding the case, the STB reviewed the ICCTA requirement that, to be within the STB’s jurisdiction, and thus subject to ICCTA preemption, an activity (1) must constitute “transportation,” and (2) must be performed by, or under the auspices of, a “rail carrier.” The STB found that storing rail cars on the parcel was not “transportation” and that, although DRGHF may have been a “rail carrier,” the ICCTA’s preemption did not cover “wholly intra-state tourist excursion service and facilities used solely in providing such service.” The STB also cited its earlier decision in *Borough of Riverdale – Petition for Declaratory Order*, STB Docket No. 33466 (September 10, 1999), a New Jersey case in which the STB noted that “activities and facilities not integrally related to the provision of interstate rail transportation service are not subject to STB jurisdiction or federal preemption”; that, like any non-railroad property or operation, such activities and facilities are subject to applicable state and local regulation; and that STB’s jurisdiction, and the ICCTA’s preemption, are limited only to those facilities that are part of a railroad’s ability to provide transportation services. (In the Riverdale decision the STB explained that “not all of a rail carrier’s activities are ‘inherently transportation’ falling under the STB’s jurisdiction and thus covered under 49 U.S.C. § 10501(b).”)

4. *All Aboard Florida (AAF) – Construction and Operation Exemption*, STB Finance Docket No. 35680 (December 21, 2012), involved a railroad company’s proposal to construct and operate a 230-mile rail line entirely within the state of Florida that would not be part of the nation’s interstate rail network. The STB confirmed non-preemption in the AAF case on the same grounds as discussed in the other cases cited above, but also noted that AAF’s use of the same railroad tracks that were used for interstate freight operations by other carriers, and the fact that AAF’s trains would be dispatched along with those freight carriers from the same central dispatching facility, were also insufficient factors to bring AAF’s excursion service within the STB’s jurisdiction and the ICCTA’s preemption.

Conclusion:

SMS’s “Woodstown Central Railroad” excursion operations are conducted entirely within the state of New Jersey and are not connected in any way to the nation’s interstate passenger rail system; therefore, SMS’s excursion turnaround and customer debarkation operations at the subject property, and SMS’s trackside entertainment and recreation area operations at the property, are not entitled to federal preemption under the ICCTA.

SMS’s excursion turnaround and customer debarkation operations at the subject property, and SMS’s trackside entertainment and recreation facilities and activities at the property, are not “integrally related to” the provision of interstate rail transportation service or otherwise “inherently transportation” for purposes of ICCTA preemption.

Any freight operations on SMS’s rail line through Mannington Township that might be “interstate” in nature, whether conducted by SMS or other carriers, and any commonly used

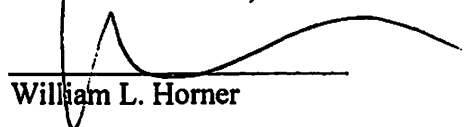
dispatching system that might serve such freight carriers as well as SMS's excursion service operations, are not sufficient to bring SMS's wholly intra-state passenger rail service, or its excursion turnaround and customer debarkation operations at the subject property, or its trackside entertainment and recreation area operations at the property, within STB jurisdiction and ICCTA preemption.

For these reasons, according to the above ICC/STB decisions, SMS's "Woodstown Central Railroad" operations at the property are subject to all state, county, and municipal laws and regulations, including Mannington Township's zoning and site plan review requirements. At present, Mannington Township's concerns focus only on SMS's excursion turnaround, customer debarkation, and trackside entertainment and recreation operations, structures, facilities, improvements, and installations at the subject property, and not on whatever other excursion or freight operations might be conducted on other portions of SMS's railroad track system within other parts of Mannington Township.

Mannington Township's zoning and site plan regulations were duly adopted pursuant to the Municipal Land Use Law to promote public health, safety, and welfare. Congress's enactment of ICCTA did not intend to deprive Mannington Township's ability to regulate SMS's excursion operations through its zoning and site plan ordinances, according to which SMS is required to submit a complete site plan/variance application to the Mannington Township Planning Board explaining and depicting its proposed development and use of the property, and to provide sworn testimony and evidence at a public hearing at which nearby property owners (including those who own or reside at the house that is within only a few feet of the wye) can learn about, ask questions, and present any concerns or objections to SMS's proposed operations. Any planning board approval of SMS's excursion-related activities would establish a clear benchmark of permitted versus non-permitted development and uses at the property, with reasonable conditions imposed as necessary to promote the public good and the intent and purposes of Mannington Township's zone plan and zoning ordinance. Such conditions might include, for example, prohibiting Woodstown Central Railroad excursion trains from using the section of the wye that is next to the adjoining house, or only allowing such use for excursion purposes during specific limited time periods. Mannington Township's regulation of SMS's excursion-related operations in this manner would have absolutely no effect on, and thus would not delay, interfere with, frustrate, or defeat the efficiency of, any of SMS's interstate railroad operations; nor would it foreclose or restrict SMS's ability to conduct its excursion or its freight operations through other parts of Mannington Township on its main rail line; nor would it in any way impinge upon interstate commerce or the federal regulation thereof. In short, Mannington Township's regulation of SMS's excursion-related activities would not impose any unreasonable burden on interstate railroading.

Cordially yours,

HORNER & HORNER, L.L.C.

By: 
William L. Horner

WLH:jcc

Cc: Esther A. Mitchell, Clerk (via email only)

WILLIAM C. HORNER
(RETIRED)
WILLIAM L. HORNER
wlh@hornerlaw.net

HORNER & HORNER, L.L.C.
ATTORNEYS AT LAW
87 MARKET STREET
P.O. BOX 88
SALEM, NJ 08079
—
TEL (856) 935-0938
FAX (856) 935-1708

December 21, 2023

Via Email Only
Frank J. Hoerst, III, Esq.
13 West Avenue / P.O. Box 217
Woodstown, NJ 08098

**Re: Railroad-Related Development and Activities in Mannington Township
Tax Map Block 67, Lots 14.01, 14.02 and 18 (near Mannington Mills Road)**

Dear Frank:

As we discussed during our recent telephone conversation, the Mannington Township Zoning Officer has observed railroad track installation, maintenance and/or repairs, and what appear to be other development activities, at or in the vicinity of the above referenced Salem County Railroad properties.

The Mannington Township Committee is not concerned about the railroad track installation, maintenance and/or repairs. However, with the understanding that you represent the railroad operator, the Township Committee has asked me to make inquiries to you about:

- the apparent trackside development activities;
- any uses or activities that are intended to occur within the trackside areas; and
- the persons or entities by and for whom any trackside uses and activities will be conducted.

This letter is presented with the understanding that railroad activities are subject to broad federal preemption from local land use regulations, but that municipalities are nonetheless entitled to request and obtain information about railroad development activities and uses, and to conduct reasonable inspections of the properties where such development activities and uses occur.

Please provide the following:

1. The name and address of the business entity that operates the railroad at the above referenced property.
2. The names, titles, and contact information for the officers or owners of the railroad-operating business entity with whom Mannington Township representatives may communicate directly.
3. The Mannington Tax Map Block and Lot designations of all properties (including those referenced above) at which track installation, maintenance and/or repairs, and other

development activities are being, will be, or have recently been commenced or conducted near Mannington Mills Road.

4. The names and addresses of all persons or entities who are responsible for the land development activities that are being, will be, or have recently been commenced or conducted at the properties specified in response to request 3, above.
5. A narrative description/explanation of all development activities that are being, will be, or have recently been commenced or conducted at the properties specified in response to request 3, above, including all new buildings, structures, amenities, and other installations that will be constructed, installed, or placed at those properties, and any stormwater management facilities.
6. Nine (9) copies each of all surveys, site plans, building/architectural plans, and stormwater management information for the properties specified in response to request 3, above, and for the development activities that are being, will be, or have recently been commenced or conducted at those properties.
7. A narrative description/explanation of all uses, activities, events, entertainments, exhibits, or displays that are being, or have recently been commenced or conducted, or that are intended or proposed to be commenced or conducted, at the properties specified in response to request 3, above, including any embarkation/debarkation of passengers; loading/unloading of freight; driveway access and/or parking areas for vehicles; and any concessions such as food, beverage, and souvenir sales, and "rail-bike" rentals.
8. The names and addresses of all persons or entities who are responsible for operating the uses, activities, events, entertainments, exhibits, displays, or concessions that are described or explained in response to request 7, above, and the names, titles, and contact information for the officers or owners with whom Mannington Township representatives may communicate directly.
9. Please provide information in response to requests 1 through 8, above, for any other railroad-related developments or uses that are being, will be, or have recently been commenced or conducted in other areas of Mannington Township.

Please call or write if you have any questions or concerns about this request.

Cordially yours,

HORNER & HORNER, L.L.C.

By:

William L. Horner

WLH:jcc

Cc: Esther A. Mitchell, Clerk (via email only)

Of Counsel:
Mati Jarve (NJ, PA, AZ)
*Certified by the Supreme Court of
New Jersey as a Civil Trial Attorney
Certified by the National Board of Trial
Advocates as a Civil Trial Advocate*

HOERST LAW, LLC
FRANK J. HOERST, III
ATTORNEY AT LAW
The Glass House
13 West Avenue, Post Office Box 217
Woodstown, New Jersey 08098
Office: (856) 769-1700 ~ Fax: (856) 769-0361
Email: fhoerstlaw@comcast.net

Of Counsel:
Richard F. Klineburger, III
*Certified by the Supreme Court of
New Jersey as a Criminal Trial Attorney*



January 17, 2024

William L. Horner, Esq.
Horner & Horner, L.L.C.
67 Market Street/P.O. Box 66
Salem, New Jersey 08079

Re: Activities Mannington Township

Dear Bill:

First, let me wish you a happy new year and hopefully you are feeling much better and recovering from your episode. My office was closed during the holidays and thus the delay in responding.

After reviewing your letter of December 21, 2023, Jim Pfeiffer, COO, SMS Rail Service, Inc., prepared the requested information. The responses are numbered corresponding to your letter. Also, I made an onsite inspection of the activity taking place, which at this time and with the exception of activity set forth in paragraph 7, is clearly within the category of materials/equipment maintenance, and repair.

1. SMS Rail Service, Inc.
Physical Address: 513 Sharptown Road
Logan Township, NJ 08014

Mailing Address: Post Office Box 711
Bridgeport, NJ 08014

2. Jim Pfeiffer, COO
SMS Rail Service, Inc.
Post Office Box 711
Bridgeport, NJ 08014
Phone: (856) 467-4800, ext. 303
Email: jpfeiffer@smsrail.com

Jeffrey L. Sutch, President
SMS Rail Service, Inc.
Post Office Box 711
Bridgeport, NJ 08014
Phone: (856) 467-4800, ext. 302

3. **Mannington Township Tax Map: Block 67, Lots 14.01, 14.02 and 18**
4. **See answer to number 1 above.**
5. **Rehabilitation of existing rail infrastructure in accordance with the contract between the County of Salem and the New Jersey Department of Transportation, which was entered into between the entities on or about September 9, 2022 and is relevant to NJDOT's Rail Freight Assistance Program. This project has included the installation of one new #8 turnout, crossties, and 1,400 feet of 115# rail, together with a portable shed building.**
6. **N/A**
7. **Temporary parking and materials/equipment staging areas have been established during the pendency of the infrastructure rehabilitation project. During three weekends in October of 2023, the area was used as a destination for seasonal passenger excursions, where passengers were allowed to disembark the train and collect a pumpkin while the train crew was preparing the train for the trip northward. No food and/or beverage sales were conducted at the property, although SMS provided free of charge a pumpkin donut and a cup of cider to each of its patrons. No souvenir sales are conducted at the property. There will be no railbike rentals at the property and there are currently no railbike excursions being offered on the rail line.**
8. **See answers to numbers 1 and 2 above.**
9. **Although it is impossible to answer this question with any specificity, in addition to the above, constant maintenance activities of varying degrees will be taking place on the rail line in Mannington Township.**

Please have my assurance that if any activity may fall outside the exemption, we will make application to the Mannington Township Planning Board. If you or officials of Mannington Township wish to make an onsite inspection, I ask that you please work through my office as this type of activity calls for the engagement of sophisticated rail repair equipment and safety is our primary concern.

Please advise if you have any questions as I will be representing SMS Rail Service, Inc. in Salem County.

Respectfully submitted,


FRANK J. HOERST, III

FJH:ci

HORNER & HORNER, L.L.C.

ATTORNEYS AT LAW

67 MARKET STREET

P.O. BOX 66

SALEM, NJ 08079

TEL (856) 935-0938

FAX (856) 935-1708

WILLIAM C. HORNER
(RETIRED)

WILLIAM L. HORNER
wlh@hornertlaw.net

January 22, 2024

Via Email Only

Frank J. Hoerst, III, Esq.
13 West Avenue / P.O. Box 217
Woodstown, NJ 08098

Re: Additional Information Requested
Railroad-Related Development and Activities in Mannington Township
Tax Map Block 67, Lots 14.01, 14.02 and 18 (near Mannington Mills Road)

Dear Frank:

Thank you for your January 17, 2024 response to my December 21, 2023 letter. Please provide responses to the following additional questions:

- A. Please provide a complete copy of the September 9, 2022 contract referred to in paragraph 5 of your letter and, any exhibits, plans, documents, or materials that are referenced in the contract.**
- B. Are any driveways or parking areas being constructed, or proposed to be constructed, that will remain at the above referenced properties after the rail infrastructure rehabilitation is complete?**
 - 1. If so, who will use the driveways and parking areas, and for what purposes?**
- C. What is the current use of the portable shed building referred to in paragraph 5 of your letter?**
- D. Is the portable shed building intended to remain at the property after the rail infrastructure rehabilitation is complete?**
 - 1. If so, what is the proposed use of the portable shed building after the rail infrastructure rehabilitation is complete?**
- E. Will the above referenced properties be used as a destination, or as a point of embarkation or disembarkation for rail excursion passengers?**
 - 1. If so, what activities or uses will be conducted at the properties by or for the passengers?**

F. Will railbike excursions be offered on any rail lines within Mannington Township?

- 1. If so, what activities or uses will be conducted at the above referenced properties by or for the rail-bikers?**
- 2. If so, will SMS Rail Service, Inc. manage the railbike operations in Mannington Township, or will it contract with another person or entity who will manage the railbike operations? (If another person or entity, please provide the business name of the operator, and the names, titles, and contract information for the officers or owners with whom Mannington Township representatives may communicate directly.)**

Please call or write if you have any questions or concerns about this request for additional information.

Cordially yours,

HORNER & HORNER, L.L.C.

By:

William L. Horner

WLH:jcc

Cc: Esther A. Mitchell, Clerk (via email only)

Of Counsel:
Mati Jarve (NJ, PA, AZ)
*Certified by the Supreme Court of
New Jersey as a Civil Trial Attorney
Certified by the National Board of Trial
Advocates as a Civil Trial Advocate*

HOERST LAW, LLC
FRANK J. HOERST, III
ATTORNEY AT LAW
The Green House
13 West Avenue, Post Office Box 217
Woodstown, New Jersey 08098
Office: (856) 769-1700 ~ Fax: (856) 769-0361
Email: fhoerstlaw@comcast.net

Of Counsel:
Richard F. Klineburger, III
*Certified by the Supreme Court of
New Jersey as a Criminal Trial Attorney*



February 27, 2024

William L. Horner, Esq.
Horner & Horner, L.L.C.
67 Market Street/P.O. Box 66
Salem, New Jersey 08079

Re: **Activities Mannington Township**

Dear Bill:

Regarding your letter of January 22, 2024, my client has answered your questions as follows:

- A. Please provide a complete copy of the September 9, 2022, contract referred to in paragraph 5 of your letter and, any exhibits, plans, documents, or materials that are referenced in the contract. SMS is not a party to the contract; thus, it is not at liberty to disclose the particulars of it. The Contract is between the State of New Jersey and the County of Salem. Requests for further information should be directed to the appropriate representative(s) of the County or State.
- B. Are any driveways or parking areas being constructed, or proposed to be constructed, that will remain at the above referenced properties after the rail infrastructure rehabilitation is complete? No.
 1. If so, who will use the driveways and parking areas, and for what purposes?
- C. What is the current use of the portable shed building referred to in paragraph 5 of your letter? Storage of parts and supplies, as needed to support common carrier rail operations. By way of further answer, the extant shed replaces a shed (a run-down box truck body) that existed on the property at the time of SMS's assumption of common carrier obligations on the rail line. The previous shed was a hazard that was remediated by installation of the new, safer, and more aesthetically pleasing shed.
- D. Is the portable shed building intended to remain at the property after the rail infrastructure rehabilitation is complete? Yes.
 1. If so, what is the proposed use of the portable shed building after the rail infrastructure rehabilitation is complete? Storage of parts and supplies, as needed to support common carrier rail operations.

E. Will the above referenced properties be used as a destination, or as a point of embarkation or disembarkation for rail excursion passengers? There exists the potential that the Wye will be used as a stop or terminus, just like any location along the rail line, and that passengers may be allowed to disembark the train, just like any location along the rail line.

1. If so, what activities or uses will be conducted at the properties by or for the passengers? Activities at the property, if any, will vary depending on the season, excursion, and time availability.

F. Will railbike excursions be offered on any rail lines within Mannington Township? There exists the potential that railbike excursions will, in the future, be offered on the rail line, which could include portions that traverse Mannington Township. At this time, there are no concrete operating plans to expand upon.

1. If so, what activities or uses will be conducted at the above referenced properties by or for the rail-bikers?
2. If so, will SMS Rail Service, Inc. manage the railbike operations in Mannington Township, or will it contract with another person or entity who will manage the railbike operations? (If another person or entity, please provide the business name of the operator, and the names, titles, and contract information for the officers or owners with whom Mannington Township representatives may communicate directly.)

I would like to inquire as to whether or not specific concerns have been raised by either members of the public or your municipal governing body as to the activity that is taking place with regard to my client. In furtherance of that, might I suggest that a meeting be scheduled where the Mayor, you, representatives of SMS and me meet at my office so we can discuss any major concerns that have.

Upon receipt, please give me a call and we can discuss these answers if you like. Thank you.

Yours very truly,



FRANK J. HOERST, III

FJH:ci
c: Jim Pfeiffer, COO

HORNER & HORNER, L.L.C.
ATTORNEYS AT LAW

67 MARKET STREET
P.O. BOX 68
SALEM, NJ 08079

TEL (856) 933-0938
FAX (856) 933-1708

WILLIAM C. HORNER
(RETIRED)
WILLIAM L. HORNER
wlh@hornertlaw.net

March 6, 2024

Via Email Only

Frank J. Hoerst, III, Esq.
13 West Avenue / P.O. Box 217
Woodstown, NJ 08098

Re: Additional Information Requested (2)
Railroad-Related Development and Activities in Mannington Township
Tax Map Block 67, Lots 14.01, 14.02 and 18 (near Mannington Mills Road)

Dear Frank:

Thank you for your February 27, 2024 response to my January 22, 2024 letter. It might be helpful at some point to meet to discuss your client's activities, but for now the goal is to obtain precise written documentation of exactly what is happening and intended to happen at the properties in order to determine whether and to what extent the current and proposed activities and uses are preempted by federal law, or whether they are subject to municipal regulations. Accordingly, I ask that you please provide responses to the following additional questions and requests for information:

- A. Please provide complete copy(ies) of the agreement(s) between your client and the county and/or state (or between your client and any other party) by which your client is required or allowed to rehabilitate the existing rail infrastructure as explained in paragraph 5 of your January 17, 2024 letter. Also please provide copies of any exhibits, plans, documents, or other materials that are referenced in the agreement(s).
- B. Please provide complete copy(ies) of the agreement(s) between your client and the county and/or state (or between your client and any other party) by which your client has assumed common carrier obligations on the rail line as mentioned in your February 27, 2024 letter. Also please provide copies of any exhibits, plans, documents, or other materials that are referenced in the agreement(s).
- C. Please list and describe the "varied" seasonal or other periodic activities or uses that might be conducted at the properties by or for rail excursion passengers as mentioned in Section E.1. of your February 27, 2024 letter.
- D. Will railbike excursions or usage be offered during year 2024 on any rail lines within Salem County as to which your client has assumed common carrier obligations?
 1. If so, in which municipalities will the railbike excursions or usage be offered?

2. If so, what structures, improvements, or facilities will be constructed, installed, or placed at or near the rail lines for use in connection the rail-biking operations, and where in Salem County will such structures, improvements, or facilities be located?
3. If so, what activities or uses will be conducted at or near the rail lines by or for the rail-bikers?
4. If so, will SMS Rail Service, Inc. manage the railbike operations in Salem County, or will it contract with another person or entity who will manage the railbike operations? (If another person or entity, please provide the business name of the operator, and the names, titles, and contract information for the officers and owners.)

Please call or write if you have any questions or concerns about this request for additional information.

Cordially yours,

HORNER & HORNER, L.L.C.

By:

William L. Horner

WLH:jcc

Cc: Esther A. Mitchell, Clerk (via email only)

Of Counsel:
Mati Jarve (NJ, PA, AZ)
*Certified by the Supreme Court of
New Jersey as a Civil Trial Attorney
Certified by the National Board of Trial
Advocates as a Civil Trial Advocate*

HOERST LAW, LLC
FRANK J. HOERST, III
ATTORNEY AT LAW
The Ocean House
13 West Avenue, Post Office Box 217
Woodstown, New Jersey 08098
Office: (856) 769-1700 ~ Fax: (856) 769-0361
Email: fhoerstlaw@comcast.net

Of Counsel:
Richard F. Klineburger, III
*Certified by the Supreme Court of
New Jersey as a Criminal Trial Attorney*



April 9, 2024

William L. Horner, Esq.
Horner & Horner, L.L.C.
67 Market Street/P.O. Box 66
Salem, New Jersey 08079

**Re: Letter March 6, 2024 - Railroad-Related Development and Activities
Mannington Township Tax Map Block 67, Lots 14.01, 14.02 and 18**

Dear Bill:

As a follow-up to our earlier conversation and now upon my return to the office, I have had the opportunity to review your letter of March 6, 2024. As you so readily admit, I have responded to your two prior requests with the thorough and complete information requested.

You have included the Municipal Clerk in your communication, I have done likewise. I have had the great fortune of practicing law in Salem County for fifty years and I have always valued the relationships that I have developed, especially with municipalities and their governing bodies. Please do not be offended, but I must honestly report that I do not see the need or the basis for the detailed request contained in your letter of March 6, 2024.

As I have indicated in prior communications, my client is proud of the reputation that they have developed and the services that they have provided in a unique way to this community that is solely lacking in this type of entertainment. The rides on our cars have been enjoyed by family and a great number of public officials and we have received nothing but favorable reports as to the educational and entertainment value of this venture.

I have asked in prior communications that you provide specific information that would constitute the basis of your request and if so a confirmation that the same inquiry has been made of each and every business entity that is involved in Mannington Township. As I have advised, we have nothing on the books at present time for any altered activity in Mannington Township and I have assured you that if we do, we will advise the appropriate Planning Board Officials and Township Committee, if necessary, of our proposed and intended activity. Also, I have advised that your inquiry regarding what has transpired with Salem County is best directed to Karin Wood, Esquire, Salem County Solicitor.

April 9, 2024

Page 2 of 2

I have advised that my client and I stand ready, willing and able to meet so that we discuss, but I think it is an overreach in your request and the detailed items A through D1 through 4. If you feel that I am in error, please answer the questions that I have outlined in this letter specifically itemizing your concerns for what may be anticipated future activities of my client. As always, I stand ready, willing and able to meet with you and the Committee or the Mayor or designee.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'FJH' with a large checkmark-like flourish at the end.

FRANK J. HOERST, III

FJH:ci

c: Jim Pfeiffer, COO

Esther A. Mitchell, Clerk

EXHIBIT C

(Notices of Violation/Orders to Cease)

MANNINGTON TOWNSHIP

MUNICIPAL BUILDING

491 Route 45

Mannington, NJ 08079

(856) 935-2359 Ext. 104

NOTICE OF VIOLATION AND ORDER TO CEASE

NAME: SMS RAIL SERVICE, INC.
C/O JEFFREY L. SUTCH, PRESIDENT
STREET: P.O. BOX 711
CITY: BRIDGEPORT STATE: NJ ZIP: 08014

ADDRESS OF SUBJECT PROPERTY:

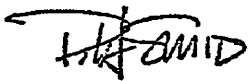
BLOCK: 67 LOTS: 14.01, 14.02 AND 18

It has been determined that activities and improvements related to the operation of the Woodstown Central Railroad (WCR) on the lots and upon the tracks on the lots referenced above are not a permitted principal, accessory or conditional use in the Conservation District. Those activities and improvements are being conducted in violation of the following township ordinances:

1. Ordinance §70-68.C requires issuance of a zoning permit before any structure may be erected and/or land prepared for open use. No zoning permit has been issued.
2. Ordinance §70-35 prohibits a change of use or occupancy of any building, structure or land, or construction of buildings or structures, unless in conformity with all the regulations specified for the district. Excursion train turnaround and/or customer debarkation areas, and trackside entertainment and recreation areas in connection with rail excursions, are not permitted uses in the district, and no variance approval has been obtained.
3. Ordinance §70-70 requires site plan review for all new or expanded uses. Site plan review/approval has not been obtained.

I am hereby instructing you to immediately cease all operations related to WCR on, and to remove all related improvements from the subject property unless and until such uses and improvements have been granted variance and site plan approval from the Mannington Township Planning Board. A copy of a letter from Mr. William Horner, Township Solicitor to me dated April 10, 2024 is included with this notice to provide you with an understanding of the Township's position in this matter.

Additionally, a court summons has been filed with the Mid Salem County Court. If you have any questions, you may contact me by phone or email at Zoning@ManningtonTwp.org.



ROBERT SCHMID, ZONING OFFICER

APRIL 18, 2024

MANNINGTON TOWNSHIP

MUNICIPAL BUILDING

491 Route 45

Mannington, NJ 08079

(856) 935-2359 Ext. 104

NOTICE OF VIOLATION AND ORDER TO CEASE

NAME: WOODSTOWN CENTRAL RAILROAD
STREET: 650 ALLOWAY-WOODSTOWN ROAD
CITY: WOODSTOWN STATE: NJ ZIP: 08098

ADDRESS OF SUBJECT PROPERTY:

BLOCK: 67 LOTS: 14.01, 14.02 AND 18

It has been determined that activities and improvements related to the operation of the Woodstown Central Railroad (WCR) on the lots and upon the tracks on the lots referenced above are not a permitted principal, accessory or conditional use in the Conservation District. Those activities and improvements are being conducted in violation of the following township ordinances:

1. Ordinance §70-68.C requires issuance of a zoning permit before any structure may be erected and/or land prepared for open use. No zoning permit has been issued.
2. Ordinance §70-35 prohibits a change of use or occupancy of any building, structure or land, or construction of buildings or structures, unless in conformity with all the regulations specified for the district. Excursion train turnaround and/or customer debarkation areas, and trackside entertainment and recreation areas in connection with rail excursions, are not permitted uses in the district, and no variance approval has been obtained.
3. Ordinance §70-70 requires site plan review for all new or expanded uses. Site plan review/approval has not been obtained.

I am hereby instructing you to immediately cease all operations related to WCR on, and to remove all related improvements from the subject property unless and until such uses and improvements have been granted variance and site plan approval from the Mannington Township Planning Board. A copy of a letter from Mr. William Horner, Township Solicitor to me dated April 10, 2024 is included with this notice to provide you with an understanding of the Township's position in this matter.

Additionally, a court summons has been filed with the Mid Salem County Court. If you have any questions, you may contact me by phone or email at Zoning@ManningtonTwp.org.



ROBERT SCHMID, ZONING OFFICER

APRIL 18, 2024

MANNINGTON TOWNSHIP

MUNICIPAL BUILDING

491 Route 45

Mannington, NJ 08079

(856) 935-2359 Ext. 104

NOTICE OF VIOLATION AND ORDER TO CEASE

NAME: COUNTY OF SALEM
C/O STACY L. PENNINGTON, CLERK OF THE BOARD OF COMMISSIONERS
STREET: 110 FIFTH STREET, SUITE 400
CITY: SALEM STATE: NJ ZIP: 08079

ADDRESS OF SUBJECT PROPERTY:

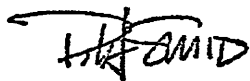
BLOCK: 67 LOTS: 14.01, 14.02 AND 18

It has been determined that activities and improvements related to the operation of the Woodstown Central Railroad (WCR) on the lots and upon the tracks on the lots referenced above are not a permitted principal, accessory or conditional use in the Conservation District. Those activities and improvements are being conducted in violation of the following township ordinances:

1. Ordinance §70-68.C requires issuance of a zoning permit before any structure may be erected and/or land prepared for open use. No zoning permit has been issued.
2. Ordinance §70-35 prohibits a change of use or occupancy of any building, structure or land, or construction of buildings or structures, unless in conformity with all the regulations specified for the district. Excursion train turnaround and/or customer debarkation areas, and trackside entertainment and recreation areas in connection with rail excursions, are not permitted uses in the district, and no variance approval has been obtained.
3. Ordinance §70-70 requires site plan review for all new or expanded uses. Site plan review/approval has not been obtained.

I am hereby instructing you to immediately cease all operations related to WCR on, and to remove all related improvements from the subject property unless and until such uses and improvements have been granted variance and site plan approval from the Mannington Township Planning Board. A copy of a letter from Mr. William Horner, Township Solicitor to me dated April 10, 2024 is included with this notice to provide you with an understanding of the Township's position in this matter.

Additionally, a court summons has been filed with the Mid Salem County Court. If you have any questions, you may contact me by phone or email at Zoning@ManningtonTwp.org.



ROBERT SCHMID, ZONING OFFICER

APRIL 18, 2024

EXHIBIT D
(Municipal Court Complaints/Summonses)

Complaint 2024

The State of New Jersey
(Please Print) VS.
Defendant's Name: First Initial Last
SMS RAIL SERVICE
Address: PO BOX 711 BRIDGEPORT
State: NJ Zip Code: 08804 Telephone: [] Check if cell phone []
Birth Date: [] Mo. Day Yr. Sex Eyes Weight Height Restrictions
Email Address: [] Ethnicity: [] Race: []
Driver's Lic. No. [] State: [] Exp. Date: []
Complaining Witness: ROBERT SCHMID
MANNINGTON TWP.
Residing at: 491 RT. 45
by certification or on oath, says that to the best of his/her knowledge or information and belief, the named defendant on or about the
Month Day Year
County of SALEM NJ
did commit the following offense:

NO DESCRIPTION OF OFFENSE, AL

Violation of (one charge only) 70-76
(Statute, Regulation or Ordinance Number)
LOCATION OF OFFENSE: 491 RT. 45 Describe Location: MANNINGTON AVE.
H: Subscribed and sworn to before
is day of yr.
Signature of Complaining Witness: [] OR []
Signature of Person Administering Oath: []
PROBABLE CAUSE DETERMINATION FOR ISSUANCE OF PROCESS:
COURT USE ONLY
The cause is found for the issuance of this Complaint-Summons
Signature of Judicial Officer: []
Signature of Judge: []
LAW / CODE ENFORCEMENT USE ONLY
The complaining witness is a law enforcement officer or a code enforcement officer with territorial and subject matter jurisdiction and a judicial probable cause determination is not required prior to the issuance of this Complaint-Summons.
Signature of Judicial Officer: []
Signature of Judge: []

SUMMONS

YOU ARE HEREBY SUMMONED TO APPEAR BEFORE THIS COURT TO ANSWER THIS COMPLAINT. IF YOU FAIL TO APPEAR ON THE DATE AND AT THE TIME STATED, A FINANCIAL SANCTION MAY BE IMPOSED. A WARRANT MAY BE ISSUED FOR YOUR ARREST, OR BOTH.

NOTICE TO APPEAR

COURT APPEARANCE REQUIRED: [] COURT DATE: 7/25/24 9:30 AM
Month Day Year Time

Complaint 2024

The State of New Jersey
(Please Print) VS.
Defendant's Name: First Initial Last
SMS RAIL SERVICE
Address: PO BOX 711 BRIDGEPORT
State: NJ Zip Code: 08804 Telephone: [] Check if cell phone []
Birth Date: [] Mo. Day Yr. Sex Eyes Weight Height Restrictions
Email Address: [] Ethnicity: [] Race: []
Driver's Lic. No. [] State: [] Exp. Date: []
Complaining Witness: ROBERT SCHMID
MANNINGTON TWP.
Residing at: 491 RT. 45
by certification or on oath, says that to the best of his/her knowledge or information and belief, the named defendant on or about the
Month Day Year
County of SALEM NJ
did commit the following offense:

NO VARIABLE APPROVAL
(DESCRIPTION OF OFFENSE)

Violation of (one charge only) 70-35
(Statute, Regulation or Ordinance Number)
LOCATION OF OFFENSE: 491 RT. 45 Describe Location: MANNINGTON AVE.
OATH: Subscribed and sworn to before
me this day of yr.
Signature of Complaining Witness: [] OR []
Signature of Person Administering Oath: []
PROBABLE CAUSE DETERMINATION FOR ISSUANCE OF PROCESS:
COURT USE ONLY
Probable cause is found for the issuance of this Complaint-Summons
Yes [] No []
Signature of Judicial Officer: []
Yes [] No []
Signature of Judge: []
LAW / CODE ENFORCEMENT USE ONLY
The complaining witness is a law enforcement officer or a code enforcement officer with territorial and subject matter jurisdiction and a judicial probable cause determination is not required prior to the issuance of this Complaint-Summons.
Signature of Judicial Officer: []
Signature of Judge: []

SUMMONS

YOU ARE HEREBY SUMMONED TO APPEAR BEFORE THIS COURT TO ANSWER THIS COMPLAINT. IF YOU FAIL TO APPEAR ON THE DATE AND AT THE TIME STATED, A FINANCIAL SANCTION MAY BE IMPOSED. A WARRANT MAY BE ISSUED FOR YOUR ARREST, OR BOTH.

NOTICE TO APPEAR

COURT APPEARANCE REQUIRED: [] COURT DATE: 7/25/24 9:30 AM
Month Day Year Time

Complaint 2024

The State of New Jersey
(Please Print) VS.
Defendant's Name: First Initial Last
SMS RAIL SERVICE
Address: PO BOX 711 BRIDGEPORT
State: NJ Zip Code: 08804 Telephone: [] Check if cell phone []
Birth Date: [] Mo. Day Yr. Sex Eyes Weight Height Restrictions
Email Address: [] Ethnicity: [] Race: []
Driver's Lic. No. [] State: [] Exp. Date: []
Complaining Witness: ROBERT SCHMID
MANNINGTON TWP.
Residing at: 491 RT. 45
by certification or on oath, says that to the best of his/her knowledge or information and belief, the named defendant on or about the
Month Day Year
County of SALEM NJ
did commit the following offense:

NO ZONING PERMIT
(DESCRIPTION OF OFFENSE)

Violation of (one charge only) 70-68.2
(Statute, Regulation or Ordinance Number)
LOCATION OF OFFENSE: 491 RT. 45 Describe Location: MANNINGTON AVE.
OATH: Subscribed and sworn to before
me this day of yr.
Signature of Complaining Witness: [] OR []
Signature of Person Administering Oath: []
PROBABLE CAUSE DETERMINATION FOR ISSUANCE OF PROCESS:
COURT USE ONLY
Probable cause is found for the issuance of this Complaint-Summons
Yes [] No []
Signature of Judicial Officer: []
Yes [] No []
Signature of Judge: []
LAW / CODE ENFORCEMENT USE ONLY
The complaining witness is a law enforcement officer or a code enforcement officer with territorial and subject matter jurisdiction and a judicial probable cause determination is not required prior to the issuance of this Complaint-Summons.
Signature of Judicial Officer: []
Signature of Judge: []

SUMMONS

YOU ARE HEREBY SUMMONED TO APPEAR BEFORE THIS COURT TO ANSWER THIS COMPLAINT. IF YOU FAIL TO APPEAR ON THE DATE AND AT THE TIME STATED, A FINANCIAL SANCTION MAY BE IMPOSED. A WARRANT MAY BE ISSUED FOR YOUR ARREST, OR BOTH.

NOTICE TO APPEAR

COURT APPEARANCE REQUIRED: [] COURT DATE: 7/25/24 9:30 AM
Month Day Year Time

The State of New Jersey
(Please Print) VS.

Defendant's Name: First Initial Last
WOODSTOWN CENTRAL RAILROAD
Address
650 Aikway Woodstown City WOODSTOWN
State Zip Code Telephone: Check if cell phone ☐

Mo. Day Yr. Sex Eyes Weight Height Restrictions
Address Ethnicity Race
State Exp. Date

STATE OF NEW JERSEY
COUNTY OF SALEM

Complaining Witness: ROBERT SCHMID
MANNINGTON TWP.
(Identify Dept./Agency Represented) (Badge No.)
Residing at 491 RT. 45
by certification or on oath, says that to the best of his/her knowledge or information and belief, the named defendant on or about the

Month Day Year Time
County of SALEM NJ
did commit the following offense:

NO SITE PLAN APPROVAL
(DESCRIPTION OF OFFENSE)

Violation of (one charge only) 70-70
(Statute, Regulation or Ordinance Number)

IN CASE OF CODE Describe Location
MANETO AVE

I, Subscribed and sworn to before
s day of yr.
CERTIFICATION: I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

OR
Signature of Complaining Witness

Signature of Person Administering Oath
(Signature of Complaining Witness)

PROBABLE CAUSE DETERMINATION FOR ISSUANCE OF PROCESS:

COURT USE ONLY LAW / CODE ENFORCEMENT USE ONLY

Probable cause is found for the issuance of this Complaint-Summons
Yes No
(Signature of Judicial Officer)
(Signature of Judge)

YOU ARE HEREBY SUMMONED TO APPEAR
BEFORE THIS COURT TO ANSWER THIS COMPLAINT. IF YOU FAIL TO APPEAR ON THE DATE AND AT THE TIME STATED, A FINANCIAL SANCTION MAY BE IMPOSED. A WARRANT MAY BE ISSUED FOR YOUR ARREST, OR BOTH.

NOTICE TO APPEAR

COURT APPEARANCE REQUIRED COURT DATE Month Day Year Time 7:30 PM 4/25/24

4/25/24 4:30 PM

The State of New Jersey
(Please Print) VS.

Defendant's Name: First Initial Last
WOODSTOWN CENTRAL RAILROAD
Address
650 Aikway Woodstown City WOODSTOWN
State Zip Code Telephone: Check if cell phone ☐

Birth Date: Mo. Day Yr. Sex Eyes Weight Height Restrictions
Email Address Ethnicity Race
Driver's Lic. No. State Exp. Date

STATE OF NEW JERSEY
COUNTY OF SALEM

Complaining Witness: ROBERT SCHMID
MANNINGTON TWP.
(Identify Dept./Agency Represented) (Badge No.)
Residing at 491 RT. 45
by certification or on oath, says that to the best of his/her knowledge or information and belief, the named defendant on or about the

Month Day Year Time
County of SALEM NJ
did commit the following offense:

NO VARIANCE APPROVAL
(DESCRIPTION OF OFFENSE)

Violation of (one charge only) 70-35
(Statute, Regulation or Ordinance Number)

LOCATION OF OFFENSE CODE Describe Location
MANETO AVE

OATH: Subscribed and sworn to before
me this day of yr.
CERTIFICATION: I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

OR
(Signature of Complaining Witness)

(Signature of Person Administering Oath) (Signature of Complaining Witness)

PROBABLE CAUSE DETERMINATION FOR ISSUANCE OF PROCESS:

COURT USE ONLY LAW / CODE ENFORCEMENT USE ONLY

Probable cause is found for the issuance of this Complaint-Summons
Yes No
(Signature of Judicial Officer)
(Signature of Judge)

YOU ARE HEREBY SUMMONED TO APPEAR
BEFORE THIS COURT TO ANSWER THIS COMPLAINT. IF YOU FAIL TO APPEAR ON THE DATE AND AT THE TIME STATED, A FINANCIAL SANCTION MAY BE IMPOSED. A WARRANT MAY BE ISSUED FOR YOUR ARREST, OR BOTH.

NOTICE TO APPEAR

COURT APPEARANCE REQUIRED COURT DATE Month Day Year Time 9:30 AM 4/25/24

4/25/24 9:30 AM

The State of New Jersey
(Please Print) VS.

Defendant's Name: First Initial Last
WOODSTOWN CENTRAL RAILROAD
Address
650 Aikway Woodstown City WOODSTOWN
State Zip Code Telephone: Check if cell phone ☐

Birth Date: Mo. Day Yr. Sex Eyes Weight Height Restrictions
Email Address Ethnicity Race
Driver's Lic. No. State Exp. Date

STATE OF NEW JERSEY
COUNTY OF SALEM

Complaining Witness: ROBERT SCHMID
MANNINGTON TWP.
(Identify Dept./Agency Represented) (Badge No.)
Residing at 491 RT. 45
by certification or on oath, says that to the best of his/her knowledge or information and belief, the named defendant on or about the

Month Day Year Time
County of SALEM NJ
did commit the following offense:

NO ZONING PERMIT
(DESCRIPTION OF OFFENSE)

Violation of (one charge only) 70-68.C
(Statute, Regulation or Ordinance Number)

LOCATION OF OFFENSE CODE Describe Location
MANETO AVE

OATH: Subscribed and sworn to before
me this day of yr.
CERTIFICATION: I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

OR
(Signature of Complaining Witness)

(Signature of Person Administering Oath) (Signature of Complaining Witness)

PROBABLE CAUSE DETERMINATION FOR ISSUANCE OF PROCESS:

COURT USE ONLY LAW / CODE ENFORCEMENT USE ONLY

Probable cause is found for the issuance of this Complaint-Summons
Yes No
(Signature of Judicial Officer)
(Signature of Judge)

YOU ARE HEREBY SUMMONED TO APPEAR
BEFORE THIS COURT TO ANSWER THIS COMPLAINT. IF YOU FAIL TO APPEAR ON THE DATE AND AT THE TIME STATED, A FINANCIAL SANCTION MAY BE IMPOSED. A WARRANT MAY BE ISSUED FOR YOUR ARREST, OR BOTH.

NOTICE TO APPEAR

COURT APPEARANCE REQUIRED COURT DATE Month Day Year Time 9:30 AM 4/25/24

4/25/24 9:30 AM

Complaint 2024
The State of New Jersey
(Please Print) VS.
Defendant's Name: First Initial Last
COUNTY OF SALEM
110 FIFTH ST. City SALEM
State NJ Zip Code 08079 Telephone: Check if cell phone ☐
Mo. Day Yr. Sex Eyes Color Weight Height Restrictions
Address Ethnicity Race
State Exp. Date

STATE OF NEW JERSEY
COUNTY OF SALEM
Complaining Witness: ROBERT SCHMID
MANNINGTON TWP.
Residing at 491 RT. 45
by certification or on oath, says that to the best of his/her knowledge or information and belief, the named defendant on or about the
County of SALEM NJ
I commit the following offense:

NO SITE PLAN APPROVAL
(DESCRIPTION OF OFFENSE)

Violation of (one charge only) 70-70
(Statute, Regulation or Ordinance Number)
LOCATION OF OFFENSE C D D E Describe Location
MANETO AVE.
OATH: Subscribed and sworn to before
me this day of yr.
(Signature of Complaining Witness) OR
(Signature of Person Administering Oath)

PROBABLE CAUSE DETERMINATION FOR ISSUANCE OF PROCESS:
COURT USE ONLY
LAW / CODE ENFORCEMENT USE ONLY
The complaining witness is a law enforcement officer or a code enforcement officer with territorial and subject matter jurisdiction and a judicial probable cause determination is not required prior to the issuance of this Complaint-Summons.
YOU ARE HEREBY SUMMONED TO APPEAR BEFORE THIS COURT TO ANSWER THIS COMPLAINT. IF YOU FAIL TO APPEAR ON THE DATE AND AT THE TIME STATED, A FINANCIAL SANCTION MAY BE IMPOSED. A WARRANT MAY BE ISSUED FOR YOUR ARREST, OR BOTH.

NOTICE TO APPEAR
COURT APPEARANCE REQUIRED
COURT DATE: 7 25 24 9:30 AM PM

Complaint 2024
The State of New Jersey
(Please Print) VS.
Defendant's Name: First Initial Last
COUNTY OF SALEM
110 FIFTH ST. City SALEM
State NJ Zip Code 08079 Telephone: Check if cell phone ☐
Mo. Day Yr. Sex Eyes Color Weight Height Restrictions
Address Ethnicity Race
State Exp. Date

STATE OF NEW JERSEY
COUNTY OF SALEM
Complaining Witness: ROBERT SCHMID
MANNINGTON TWP.
Residing at 491 RT. 45
by certification or on oath, says that to the best of his/her knowledge or information and belief, the named defendant on or about the
County of SALEM NJ
I did commit the following offense:

NO VARIANCE APPROVAL
(DESCRIPTION OF OFFENSE)

Violation of (one charge only) 70-35
(Statute, Regulation or Ordinance Number)
LOCATION OF OFFENSE C D D E Describe Location
MANETO AVE
OATH: Subscribed and sworn to before
me this day of yr.
(Signature of Complaining Witness) OR
(Signature of Person Administering Oath)

PROBABLE CAUSE DETERMINATION FOR ISSUANCE OF PROCESS:
COURT USE ONLY
LAW / CODE ENFORCEMENT USE ONLY
The complaining witness is a law enforcement officer or a code enforcement officer with territorial and subject matter jurisdiction and a judicial probable cause determination is not required prior to the issuance of this Complaint-Summons.
YOU ARE HEREBY SUMMONED TO APPEAR BEFORE THIS COURT TO ANSWER THIS COMPLAINT. IF YOU FAIL TO APPEAR ON THE DATE AND AT THE TIME STATED, A FINANCIAL SANCTION MAY BE IMPOSED. A WARRANT MAY BE ISSUED FOR YOUR ARREST, OR BOTH.

NOTICE TO APPEAR
COURT APPEARANCE REQUIRED
COURT DATE: 7 25 24 9:30 AM PM

Complaint 2024
The State of New Jersey
(Please Print) VS.
Defendant's Name: First Initial Last
COUNTY OF SALEM
110 FIFTH ST. City SALEM
State NJ Zip Code 08079 Telephone: Check if cell phone ☐
Mo. Day Yr. Sex Eyes Color Weight Height Restrictions
Address Ethnicity Race
State Exp. Date

STATE OF NEW JERSEY
COUNTY OF SALEM
Complaining Witness: ROBERT SCHMID
MANNINGTON TWP.
Residing at 491 RT. 45
by certification or on oath, says that to the best of his/her knowledge or information and belief, the named defendant on or about the
County of SALEM NJ
I did commit the following offense:

NO ZONING PERMIT
(DESCRIPTION OF OFFENSE)

Violation of (one charge only) 90-68.4
(Statute, Regulation or Ordinance Number)
LOCATION OF OFFENSE C D D E Describe Location
MANETO AVE
OATH: Subscribed and sworn to before
me this day of yr.
(Signature of Complaining Witness) OR
(Signature of Person Administering Oath)

PROBABLE CAUSE DETERMINATION FOR ISSUANCE OF PROCESS:
COURT USE ONLY
LAW / CODE ENFORCEMENT USE ONLY
The complaining witness is a law enforcement officer or a code enforcement officer with territorial and subject matter jurisdiction and a judicial probable cause determination is not required prior to the issuance of this Complaint-Summons.
YOU ARE HEREBY SUMMONED TO APPEAR BEFORE THIS COURT TO ANSWER THIS COMPLAINT. IF YOU FAIL TO APPEAR ON THE DATE AND AT THE TIME STATED, A FINANCIAL SANCTION MAY BE IMPOSED. A WARRANT MAY BE ISSUED FOR YOUR ARREST, OR BOTH.

NOTICE TO APPEAR
COURT APPEARANCE REQUIRED
COURT DATE: 7 25 24 9:30 AM PM