

STATE

STATE PLANNING COMMISSION

Plan Endorsement; Period of Endorsement

Proposed Amended Rules: N.J.A.C. 5:85-7.21

Authorized By: State Planning Commission, Gerry Scharfenberger, Secretary and
Director of the Office for Planning Advocacy

Authority: N.J.S.A. 52:18A-203

Calendar Reference: See Summary below for explanation of exception to calendar
requirement

Proposal Number: PRN 2014-TBD

Submit written comments by TBD to:

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The agency proposal follows:

Summary

The State Planning Commission ("Commission") pursuant to N.J.S.A. 52:18A-203, proposes N.J.A.C. 5:85-7.21(f) to extend the period of approvals otherwise set forth in N.J.A.C. 5:85-7.21, which period was previously suspended by operation of the Permit Extension Act, for certain approvals including, but not limited to, plan endorsements and center designations.

On September 6, 2008, the Legislature enacted the Permit Extension Act of 2008, L. 2008, c. 78. The Act provided that, for certain identified government approvals, the running of the period of approval was automatically suspended for a period of time designated as the "extension period". The original extension period set forth in Chapter 78 ran from January 1, 2007 through July 1, 2010. The Legislature subsequently extended that extension period on two occasions: through December 31, 2012 (pursuant to L. 2009, c. 336), and then through December 31, 2014 (pursuant to L. 2012, c. 48). Included among the approvals covered by the Act are, among others, plan endorsements and center designations.

The proposed regulation provides that any endorsement of a plan, designation of a center, or other approval governed by subsections (a) through (e)

approved by the Commission prior to September 6, 2008, is extended an additional three years beyond its otherwise applicable expiration date. This extension in no way prevents a municipality from re-establishing or amending any endorsement of a plan, designation of a center, or other approval prior to expiration of such.

Since February 2010, the recessionary low point for private sector employment in New Jersey, the policies implemented by the State of New Jersey have led to significant economic improvement, most notably the creation of more than 140,000 private sector jobs and a significant reduction in the unemployment rate. Nevertheless, due to, among other things, the recession and its lingering impacts, the reality for many municipalities is that development and redevelopment projects have been delayed. Accordingly, despite the best efforts of the private sector and governments at all levels, development and redevelopment previously contemplated has not come to fruition at the pace once anticipated.

Those economic realities must be viewed in light of other circumstances impacting municipalities relevant to plan endorsement and center designation. For example, for many municipalities the expense of re-establishing plan endorsements or center designations – costs that often times can equal hundreds of thousands of dollars – may be untenable. Given limited municipal resources, some towns are refocusing their limited resources to only the most essential services. In view of that reality, many municipalities would suffer a significant financial hardship in the near-term if required to re-establish a plan endorsement or center designation.

Those expenses must be juxtaposed with the impact of failing to re-establish plan endorsement or center designation. In short, failure to re-establish plan endorsement or center designations may only compound the problem for municipalities as these designations facilitate smart growth in myriad ways including eligibility for economic incentives and triggering of land use standards. Failure to maintain plan endorsement and center designation status would thus frustrate economic development and re-development, thereby perpetuating the economic circumstances that have, in recent years, delayed economic growth in some areas.

Accordingly, the Commission proposes to amend N.J.A.C. 5:85-7.21 by extending, for three years, the validity of plan endorsements and center designations approved by the Commission prior to September 6, 2008. Doing such will not only delay the incursion of significant costs by impacted municipalities (thereby, allowing limited resources to be focused on other essential services), but will also ensure certainty for businesses in the near-term that are considering economic development and re-development projects.

As the Commission has provided a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirements, pursuant to N.J.A.C. 1:30-3.3(a)(5).

Social Impact

The proposed amendments at N.J.A.C. 5:85-7.21(f) will have a positive social impact in municipalities that will benefit from economic activity, job creation, and revenue generation. As discussed in the "Summary," this amendment benefits

municipalities in two related ways. First, the amendment delays the incursion of significant expense by municipalities seeking to re-establish plan endorsements and center designations, thereby allowing their limited resources to be re-directed to essential services and other needs. Second, this amendment ensures that specified geographic areas remain eligible for myriad economic incentives and land use standards, ensuring certainty for the near-term land use horizon, thereby facilitating economic activity and job creation that, in turn, will lead to revenue generation in the form of, among other things, increased ratable and taxable income.

From an economic development perspective, the proposed amendment will provide certainty to the business community. By understanding the near-term land use horizon, that certainty will facilitate economic activity and job creation.

Economic Impact

The proposed amendments at N.J.A.C. 5:85-7.21(f) will have a positive economic impact on the State and impacted municipalities. Not only will municipalities delay the incursion of significant expense in seeking to re-establish plan endorsements and center designations, but this amendment ensures that specified geographic areas remain eligible for myriad economic incentives and land use standards, increasing certainty in the near-term land use horizon thereby facilitating economic activity, job creation, and revenue generation.

Federal Standards Statement

There are no Federal standards or requirements applicable to the proposed amendments. As a result, a Federal standards analysis is not required.

Jobs Impact

The proposed amendments at N.J.A.C. 5:85-7.21(f) may have a positive impact on jobs and job growth in the State. As discussed in the Social Impact and Economic Impact Statements, the proposed amendment will ensure that specified geographic areas remain eligible for myriad economic incentives and land use standards. As such developers will have greater certainty with respect to the near-term land use horizon and may be more inclined to proceed with economic development and redevelopment in specified areas.

Agriculture Industry Impact

The proposed amendments at N.J.A.C. 5:85-7.21(f) are unlikely to have an appreciable impact on the agricultural industry because the vast majority of impacted land is not in agricultural production.

Regulatory Flexibility Statement

The proposed amendments at N.J.A.C. 5:85-7.21(f) impose no reporting, recordkeeping, or other compliance requirements on small business. The basis for this finding is that plan endorsement and center designations are sought by municipalities – not businesses.

Housing Affordability Impact Statement

The proposed amendments at N.J.A.C. 5:85-7.21(f) are unlikely to have a significant change in the average costs associated with housing. The acreage of land affected by the proposed amendment is fairly minimal in comparison to the acreage of

land in New Jersey in total, and, therefore, the amendment is unlikely have a measurable effect on housing costs.

Smart Growth Development Impact Analysis

The proposed amendments at N.J.A.C. 5:85-7.21(f) will have a positive impact on smart growth areas in the State through the maintenance of existing Planning Areas 1 or 2 and Center Designated lands, thus encouraging additional housing production in those areas.

Full text of the proposed amended rules follows:

N.J.A.C. 5:85-7.21 (2014)

§ 5:85-7.21 Period of endorsement

(a) Endorsement of any plan shall be valid for 10 years.

(b) In the Pinelands, as defined by N.J.A.C. 7:50-2.11, the Pinelands Commission's certification of a municipality's master plan and land use ordinances pursuant to N.J.A.C. 7:50-3.31 et seq., is deemed equivalent to endorsement by the Commission for the purposes of qualifying municipalities for benefits of plan endorsement, provided the municipality's master plan and land use ordinances remains certified. Pinelands

Regional Growth Areas, Pinelands Towns and Pinelands Villages within the municipalities having Pinelands Commission certified plans and implementing land use ordinances are deemed equivalent to designated regional centers, town centers and village centers, respectively, as defined in the State planning rules and State Plan, for the purposes of determining eligibility for State agency benefits of plan endorsement.

(c) Urban complex strategic revitalization plans and corridor plans, including any centers, cores or nodes designated therein, approved prior to January 7, 2002, shall remain endorsed for a period of 10 years from January 7, 2002.

(d) Designated centers, cores and nodes approved prior to January 7, 2002, shall remain endorsed for a period of six years from January 7, 2002.

(e) Designated centers approved after January 7, 2002 and prior to July 1, 2004, other than centers designated in an endorsed plan, shall be endorsed for a period of six years from the date of designation by the Commission.

(f) Any endorsement of a plan, designation of a center, or other approval governed by subsections (a) through (e) approved by the Commission prior to September 6, 2008, is hereby extended an additional three years beyond its otherwise applicable expiration date. This extension, however, in no way prevents a municipality from re-establishing or amending any endorsement of a plan, designation of a center, or other approval prior to expiration of such.