

TOWNSHIP OF TOMS RIVER
33 Washington Street
Toms River, NJ 08753
732-341-1000

Jay Lynch, PP #19, AICP
Township Planner, Ext. 8354
Fax Number: 732-341-0828
E-mail: jlynch@tomsrivertownship.com

MEMORANDUM

May 1, 2009

To: Leigh Jones, NJ Office of Smart Growth

Re: Monthly Report No. 3

This is the third in a series of monthly reports on Toms River's efforts to secure Plan Endorsement. Our schedule calls for reaching agreement with the staff of the Office of Smart Growth no later than June 30, 2009, followed by completion of Action Plan items by the end of 2009.

On some other issues, we continue to pursue Court approval of our affordable housing plan while monitoring the legislative actions relative to COAH issues. We continue to move ahead in that regard. We have a meeting request from the Court Master to go over the substantive issues of our submission. That meeting should take place no later than mid-May.

Based on our analysis of the remaining vacant and developable land, we believe that the use of noncontiguous clustering in order to increase lot coverage in certain areas that would lie outside designated centers will not yield great results, but we will keep this approach in our plan in order to take advantage of those situations where it will increase yield.

We are preparing a map that we hope to have in your hands by May 4 that shows our current recommendations for Centers, but commercial nodes as well. The following narrative provides a description of the approaches that will be shown on the map:

1. Designate a center in the northwest part of the Township in accordance with the boundaries shown on an earlier submission as the Northwest Dover Center. The name will probably change in the final document, but we believe the boundaries represent a reasonable approach to this important area. Since much of this proposed center is already developed, our efforts will focus on improving pedestrian flows to the commercial elements of the center along Route 9 and Route 70, which will require some pedestrian access along Massachusetts Avenue as well. We believe the focal point of the center will be at the intersection of Route 9 and Route 70 in the vicinity of the existing shopping center. Just to the south of that center is an old subdivision consisting of undeveloped lots and paper streets – typical of many parts of the Township that were subdivided with small lots that were sold off with newspaper or magazine subscriptions in the early part of the 20th century. In order to make productive use of this significant parcel we anticipate using the redevelopment process in order allow for development since there are a few small parcels in private ownership that need to be acquired and consolidated with the majority of the land that is in private ownership. We expect to do a mixed use development on that large tract, providing a blend between the lower cost mobile home park to the south and the shopping center located at the intersection. We

are also making the cross-connections between Route 9 and Massachusetts Avenue providing pedestrian and vehicle links throughout the area along West Hickory Street and North Maple Avenue. As indicated in our earlier submissions, this is an area where we have a number of inclusionary and 100 percent affordable housing developments. The area is also served by NJ Transit along Route 9.

2. The Silverton, Cedar Grove and Toms River Regional Center would be located essentially as shown in your map to us. We could discuss some fine tuning of boundaries, but essentially they would stay in play as centers. The Regional Center boundaries might more appropriately reflect the smaller area reflected in the earlier Township submission.
3. The Gilford Park/Bay Shore center does not appear to be consistent with the other centers that are shown. It has no focal point and probably should be deferred until the PIA for further consideration at that time.
4. The North Beach and Ortley Beach centers should remain as they are barrier island developments.
5. A number of commercial or corridor nodes are proposed as a part of the plan. They include the largely industrial westerly portion of Route 37 near Manchester Township, the commercial center at Routes 9 and 571, the southeasterly quadrant of Hooper Avenue and Route 571 that now houses a large shopping center but has some vacant land "mixed use" opportunities, and the commercial node at Fischer Boulevard and Bay Avenue. The Route 37 Redevelopment Area that lies east of Fischer Boulevard and extends to the bridge should fall in a commercial node as well as it is one of the more heavily traveled portions of the Township during the summer months and carries with it significant commercial potential.

During Plan Implementation, we would propose continuing our discussions on the size and scale of Centers, perhaps with the designations carrying with them lower impervious coverages than the amounts permitted under CAFRA Rules. Specifically, we would look at the Ciba/BASF site as one that could develop as a center with many desirable mixed use, employment, recreation and open space characteristics, but at an overall impervious coverage limitation of only about 45 percent. Route 37 west of the Winding River Park has numerous commercial areas that are focused in the easterly portion on the hospital and in the westerly portion will be influenced to a large extent by the development on the Ciba/BASF property. This is an area of linear development, but it has two focal points and probably could be considered a corridor node, and a lower coverage rate of about 55 percent might be appropriate. Another corridor of development that may take more time to flesh out would be the portion of Route 9 between Route 571 and Cox Cro Road. This area is in need of road improvements, but now provides significant opportunities for mixed use, inclusionary and commercial development based on current zoning. Lot coverage in the Route 9 corridor could be a more modest 45-50%.

I want to reiterate our concerns about the impact of lowered development potential in our commercial corridors on the recently completed property tax revaluation. I also want to restate our concerns about the significant disparity between the size of the labor force in Ocean County and the number of private sector jobs, where we rank 20th out of the 21 counties. Failure to zone and control land development in a way that will attract job centers will continue to place long-term burdens on the heavily traveled north-south arterials.

It is hoped that we can engage in productive discussions not only on the above topics, including the potential for staging Center designations, but on developing an incentive-based approach to the remediation of areas that were developed with less than desirable surface water quality management systems. In the interest of improving water quality in the surface water system, including the Toms River and Barnegat Bay, attention should be given to creating methods for treating the older areas with upgrades funded by new development.

Toms River is at an advanced stage of development and, as such, needs to be sensitive not only to future development impacts, which are largely mitigated by new stormwater regulations, but to correcting pre-existing problems as new development and redevelopment continues in the Township. In that regard, please see the following from Appendix D of our Stormwater Management Plan setting forth our Mitigation Plan Criteria and List of Projects:

MITIGATION PLAN CRITERIA

The following criteria are required for a mitigation plan proposal in conjunction with a proposed development that is granted a variance or exemption from the stormwater management design and performance standards of the Township's Land Development Ordinance.

Proposed: Mitigation Project Criteria:

- The mitigation project must be implemented in the same drainage area as the proposed development. If a suitable site cannot be located in the same drainage area as the proposed development, the mitigation project may provide mitigation that is not equivalent to the impacts for which the variance or exemption is sought, but that addresses the same issue. For example, if a variance is given because the 80 percent TSS requirement is not met, the selected project may address water quality impacts due to fecal impairment. Listed below are specific projects that can be used to address the mitigation option.
- The project must provide additional benefits and/or protection for groundwater recharge, stormwater runoff quality and quantity from previously developed property that does not currently meet the design and performance standards outlined in the Municipal Stormwater Management Plan.
- The developer must ensure the long-term maintenance of the project, including the maintenance requirements under Chapters 8 and 9 of the NJDEP Stormwater BMP Manual.
- The applicant can select one of the following projects listed to compensate for the deficit from the performance standards resulting from the proposed project. More detailed information on the projects can be obtained from the Township Engineer. Listed below are specific projects that can be used to address the mitigation requirement.
- The mitigation proposal must demonstrate that there will be no detrimental impacts as part of the said proposal to downstream water bodies or properties.

- The mitigation proposal shall exceed the requirements of what would have been required as part of the original project in regards to water quality, quantity and/or recharge.

Proposed: Mitigation Project Submission Requirements:

Impact from noncompliance - provide documentation quantifying what would be required for the project to achieve the standards, the extent to which this value will be achieved on site and the extent to which the value must be mitigated off site.

- Supporting information regarding the need for the waiver including;
 1. The waiver cannot be due to a condition created by the applicant. If the applicant can comply with the Stormwater Management rules through a reduction in the scope of the project, the applicant has created the condition and a waiver cannot be issued. Demonstrate that the need for a waiver is not created by the applicant.

However, subject to approval by the appropriate Land Use Board and the Toms River Township Department of Community Development, the applicant can propose a mitigation proposal that will exceed what would have been required onsite as a way to potentially acquire a waiver.

2. Provide supporting documentation of the site conditions, particular to the subject property, that prevent the construction of a stormwater management facility that would achieve full compliance with the design and performance standards. Site conditions may include soil type, the presence of karst geology, acid soils, a high groundwater table, unique conditions that would create an unsafe design, as well as conditions that may provide a detrimental impact to public health, welfare and safety.
 3. Demonstration that the grant of the requested waiver/exemption would not result in an adverse impact that would not be compensated for by off site mitigation.
- Sensitive Area - Identify areas that are sensitive to the proposed activity related to the performance standard form which a waiver is sought. Demonstrate that the mitigation site contributes to the same sensitive area.

- Design of the Mitigation Project - Provide the design details of the mitigation project. This includes, but is not limited to, drawings, calculations and other information needed to evaluate the mitigation project.
- Responsible Party - List the party or parties responsible for the construction and the maintenance of the mitigation project. Documentation must be provided to demonstrate that the responsible party's aware of, has authority to, and accepts the responsibility for construction and maintenance. Under no circumstance shall the responsible party be an individual single-family homeowner.
- Maintenance - Include a maintenance plan that addresses the maintenance criteria at N.J.A.C. 7:8-5:8. In addition, if the maintenance responsibility is being transferred to the municipality or another entity, the entity responsible for the cost of the maintenance must be identified. The municipality may provide the option for the applicant to convey the mitigation project to the municipality, if the applicant provides for the cost of maintenance in perpetuity. The estimate shall be prepared by the applicant and approved by the Township Engineer.
- Permits - Obtain any and all necessary local, State or another applicable permit for the mitigation measures or project must be obtained prior to the municipal approval of the project for which mitigation is being provided.
- Construction - Demonstrate that the construction of the mitigation project coincides with the construction of the proposed project. A certificate of occupancy or final approval by the municipality for the project requiring mitigation cannot be issued until the mitigation project or measure receives final approval. Any mitigation projects proposed by the municipality to offset the stormwater impacts of that municipality's own projects must be completed within 6 months of the completion of the municipal project. In order to remain in compliance with their NJDPES General Permit.

LIST OF MITIGATION PROJECTS

#1 Water Quality Projects- Based on the fact that the Township of Toms River is a mature Township from a development standpoint, and a significant amount of development has occurred adjacent to the Township's coastlines, there are a significant amount of untreated stormwater outfalls that discharge directly to the Barnegat Bay. It is the Township's thought that treating these outfalls for water quality has the greatest chance of an immediate improvement to be realized by the Barnegat Bay.



This project would mitigate a waiver of relief from the requirement of removing 80% TSS from a project's stormwater outfall by installing (2) subsurface water quality chambers immediately upstream of existing outfalls (that discharge directly to the Barnegat Bay, or an adjoining lagoon). The chambers to be provided will be of a type that does not require cartridges, filters etc. and that can be maintained by Department of Public Works personnel by cleaning and sediment removal only. The chambers shall provide a minimum of 50% TSS each.

#2 Water Quality, Quantity & Recharge Projects- Upgrade Township Regional Stormwater Basins from vegetated bottom to Sand Bottom type (if soil conditions permit) to promote recharge, infiltration & associated flow reductions and to enhance water quality.



#3 Water Quality & Recharge Projects - Upgrade privately owned basins that various Homeowners Associations are seeking the Township to take ownership of and upgrade them from vegetated bottom to Sand Bottom type (if soil conditions permit) to promote recharge, infiltration & associated flow reductions and to enhance water quality.

#4 Water Quality

Provide goose management measures, including public education at Bayside Park.



Mitigation Fund:

As a method to fund future mitigation projects, provide future maintenance for mitigation projects and to possibly combine funding to provide larger more regional

mitigation projects, the Township will adopt an ordinance to setup an account for financial management of these projects.