



PINELANDS PRESERVATION ALLIANCE

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January 4, 2017

Dr. Gerard Scharfenberger, Executive Director
New Jersey State Planning Commission
225 W. State St., 3rd Floor
P.O. Box 820
Trenton, NJ 08625

Re: Toms River, Ocean County Petition for Plan Endorsement/Center Designation

Dear Dr. Scharfenberger,

Pinelands Preservation Alliance has reviewed the Toms River Petition for Plan Endorsement for the new Center Designations. Approximately 16 acres of Toms River Township fall within the Pinelands National Reserve, an area governed by both federal and state policy. This area is of particular interest to Pinelands Preservation Alliance.

The new Toms River Plan designates this area, in the southwest corner of Toms River Township (Block 505, Lots 14 and 15, "Area"), as part of the Route 37 West Highway Core. The Area is separated from the remainder of the Route 37 West Highway Core by the 1,306 acre Route 37 Industrial Center to the west and the five-lane Route 37 to the north. Jaylin Holdings has proposed the development of a Super Walmart on this parcel, across the municipal border into Manchester Township. The property owner has demonstrated intent to develop this parcel for many years. The entire Area proposed for Core designation, plus additional land in Manchester Township, is included in the Jaylin development application and permit for the Walmart store.

PPA has specific objections to the designation of this Area, disconnected from the remainder of the Route 37 West Highway Core, as a Core.

1. The Area does not meet the definition of a Core as set forth in N.J.A.C. 7:7-13.2 or in the 2010 New Jersey State Development and Redevelopment Plan.

The Planning Commission must respect the requirements the State has created for growth area designations. The proposed designation for the Area does not meet the standards for Core designation. N.J.A.C. 7:7-13.2 defines a Core as: "a pedestrian-oriented area of commercial and civic uses serving the surrounding municipality or center, generally including some housing and access to public transportation." The 2010 State Plan expands on and contextualizes this definition by specifying: "the Core is the commercial, cultural and civic heart of the Center or urban area. It is a bustling place which provides a dynamic setting for human interaction."

The Area does not meet this definition and must not be designated a Core. It is not pedestrian-oriented, has no access to public transportation, and does not contain mixed commercial, civic, and residential uses. It seems highly unlikely that residents of Toms River Township would consider the proposed

Walmart as the commercial, cultural, or civic heart of their community, and such a store is similarly unlikely to spark dynamic human interaction.

The Area is serviced only by Route 37 and Northampton Boulevard, neither of which have sidewalks. It is not accessible by pedestrians from the remainder of the Route 37 West Highway Core. A pedestrian trip to this proposed store would be dangerous, and there is no public transportation available nearby.

Based on the development currently proposed in the Route 37 West Highway Core, the Area's uses will not meet the definition of a core, as it would include only one building. The CAFRA Individual Permit issued in September of 2016 (1500-04-0001.3 CAF160001) for this parcel describes a 193,240 SF Walmart retail store that includes a parking area able to accommodate 774 vehicles. The adjacent lands, held by the same property owner, are subject to conservation restrictions. Neighboring areas in Manchester are also to be maintained as pine snake corridors and protected lands. Ongoing litigation to which Pinelands Preservation Alliance is a party is likely to reduce the development footprint and increase the conservation restriction lands.

As the land is subject to strict conservation restrictions, the Area would not be used for additional commercial uses or for civic uses or housing. One large retail store accommodating 774 cars does not constitute a pedestrian-oriented area of mixed uses. While the portion of the core to the east of the industrial park may be pedestrian-oriented and of mixed use, the Area cannot be considered as the same Core due to the large barrier between the two areas that is not accessible to pedestrians. The Planning Commission's goals are to encourage smart growth and create more pedestrian-friendly environments, but acceptance of this Area as a Core would signal to municipalities that those goals are not priorities.

Given the strengths and existing framework of Toms River Township, the opportunities for development of civic centers that promote interaction are great. Many areas of Toms River Township could become even more important to the community, such as the Downtown Toms River area. Areas such as these are or have the potential to be the commercial, civic, and cultural heart of the community. Downtown Toms River, in addition to providing many shopping and dining opportunities, regularly hosts community events. Other areas with a similar setup and purpose could grow into additional civic centers. This Area would not. It would be counter to Toms River Township's goals to designate this Area, slated for a single retail store, as a Core.

2. The designation of the Area as a Core, without regard to the proposed development in the Area across municipal lines, runs counter to the objectives of the Coastal Area Facility Review Act (CAFRA, N.J.S.A.13:19-1 et seq.).

The findings and declarations of the Coastal Area Facility Review Act refer precisely to this kind of a situation, in which the state must assist municipalities to manage the multiple interests of development and the environment. Specifically, it declares that the State must assist in the assessment of impacts on the environment stemming from the future location and kinds of development (N.J.S.A.13:19-2). With the knowledge of the future location and kind of development proposed for this site, it is the responsibility of the state to address the consequences, particularly when the development crosses municipal boundaries.

That the Area and the land within Manchester Township are ecologically significant is not disputed by the Department of Environmental Protection (DEP) or the developer, Jaylin Holdings. The DEP and Jaylin came to a settlement recognizing the importance of the pine snake habitat the land contains.

Within Toms River Township, all of the adjacent land (the undeveloped portions of lots 14 and 15) is to be maintained as a permanent conservation restriction pine snake corridor area. The land also brings ecological benefits such as wetland habitat, stormwater management, and nutrient (particularly nitrogen) uptake, which are important services for the Barnegat Bay watershed. The change in designation from Suburban Coastal Planning Area to Core, if incorporated into the CAPRA regulations, could result in an increase in allowable impervious cover from 30% to 80 %.

It is the responsibility of the State Planning Commission to protect the coastal integrity and environment of Toms River and Manchester Townships. To do this effectively, the State must consider a development crossing municipalities to be the one parcel that it is, and not allow arbitrary distinctions between the land on one side of a municipal border and on the other to be used to avoid reasonable and necessary controls on the design of new developments. The State application treats these parcels as one development, and it must continue to view the Area as part of the single development parcel under its current designation as a Suburban Coastal Planning Area.

3. Increased development in the Area violates N.J.A.C. 7:7-9.36.

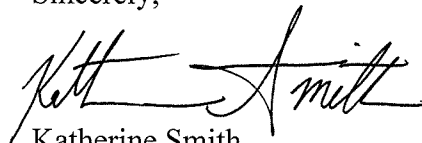
Development of this parcel over the existing 30% impervious cover limit would be in violation of New Jersey law. In addition to the main objectives set forth in CAFRA, N.J.A.C. 7:7-9.36 specifically states: "Development of endangered or threatened wildlife or plant species habitat is prohibited unless it can be demonstrated, through an endangered or threatened wildlife or plant species impact assessment as described at N.J.A.C. 7:7-11, that endangered or threatened wildlife or plant species habitat would not directly or through secondary impacts on the relevant site or in the surrounding area be adversely affected." According to a DEP review issued in 2010, approximately 90% of the land area within the parcel is suitable habitat for the northern pine snake, and a northern pine snake hibernaculum was identified in the initial development site. The DEP issued restrictions and required mitigation to protect the northern pine snake to some extent as a result of these findings.

PPA objects to portions of the CAFRA permit issued in September 2016 for this development (1500-04-001.3 CAF160001). However, the CAFRA permit and the associated mitigation and conservation plans represent the DEP's decision that these restrictions are the minimum requirements to prevent adverse effects to the northern pine snake. These requirements include protecting all proposed undeveloped land in the Area as a pine snake corridor. Development beyond this would cause adverse effects to this threatened species beyond what the DEP has already deemed acceptable. Increasing allowable development within the Area to 80% impervious cover could have devastating consequences for the northern pine snake and would set a dangerous precedent for other municipalities with threatened and endangered species within their boundaries.

The Planning Commission must reject the proposed change of the Area from a Suburban Coastal Planning Area to a CAFRA Core. The Area does not meet the definition of a CAFRA Core. Accepting this Area as a Core would fundamentally change the way municipalities view the planning process, and would undermine the Planning Commission's mission to promote community growth inclusive of pedestrians and public transportation. The change would create arbitrary regulatory boundaries in a site slated for development, which would adversely affect threatened wildlife, wetland and forested habitat, and stormwater management. The State must continue to look at proposed developments in a holistic manner, without regard to arbitrary designations. Accepting this change would set a dangerous precedent for other municipalities that may propose regulatory changes impacting neighboring municipalities.

Thank you for your attention to the goals and objectives of the State of New Jersey. Please feel free to contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Katherine Smith". The signature is fluid and cursive, with the first name "Katherine" written in a larger, more prominent script than the last name "Smith".

Katherine Smith
Policy Advocate
Pinelands Preservation Alliance

CC:
Peter Kasabach, New Jersey Future
Michele Byers, New Jersey Conservation Foundation