



State of New Jersey

DEPARTMENT OF STATE
NEW JERSEY STATE PLANNING COMMISSION
PO Box 820
TRENTON, NJ 08625-0820

CHRIS CHRISTIE
Governor

GERRY SCHARFENBERGER, PH.D.
Director

KIM GUADAGNO
Lieutenant Governor

**New Jersey State Planning Commission
Minutes of the Meeting Held on January 18, 2017
State House Annex
Committee Room 1
125 West State Street, Trenton, New Jersey**

CALL TO ORDER

Chair McKenna called the January 18, 2017 meeting of the New Jersey State Planning Commission (SPC) to order at 9:59 a.m.

OPEN PUBLIC MEETINGS ACT

It was announced that notice of the date, time and place of the meeting had been given in accordance with the Open Public Meetings Act.

ROLL CALL

Members Present

John Eskilson, Public Member
Roberta Lang, Designee for Douglas Fisher, Secretary, Department of Agriculture
Dave Vitali, Designee for Lt. Governor Kim Guadagno, Department of State
Andy Swords, Designee for Richard Hammer, Commissioner, Department of Transportation
Shing-Fu Hsueh, Mayor, West Windsor, Public Member
Dan Kennedy, Designee for Bob Martin, Commissioner, Department of Environmental Protection
Charles McKenna, Chief Executive Officer, Schools Development Authority
Don Palombi, Designee for Charles Richman, Commissioner, Department of Community Affairs
Edward McKenna, Chairman, Public Member

Members Not Present

Ray Martinez, Chief Administrator, Motor Vehicle Commission
Thomas Michnewicz, Public Member

Others Present

(See Attachment A)

PLEDGE OF ALLEGIANCE

Chair McKenna asked everyone to stand for the Pledge of Allegiance.

APPROVAL OF MINUTES

Chair McKenna asked for a motion to approve the Minutes of the February 17, 2016 and May 18, 2016 meetings. Commissioner Lang made the motion and it was seconded by Commissioner Eskilson. With no further discussion or questions. Chair McKenna asked for a roll call vote: Ayes: (9) John Eskilson Roberta Lang, Dave Vitale, Andy Swords, Shing-Fu Hsueh, Dan Kenney, Charles McKenna, Don Palombi, Ed McKenna. Nays: (0). Abstains: (0). The February 17, 2016 and May 18, 2016 minutes were approved.

CHAIR'S COMMENTS

There were no comments from Chair McKenna at this time.

DIRECTOR'S REPORT

Director Scharfenberger reported that since the last SPC meeting, the Office for Planning Advocacy has continued to work on a number of ongoing projects.

OPA is continuing its efforts to meet with all municipalities with shared borders along a military installation to discuss future development plans. We have begun reaching out to bases in the northern and southern portions of the state, namely, Picatinny Arsenal and the Coast Guard Training Center in Cape May. Meetings were subsequently held with Manchester Township, Rockaway Township, and the City of Cape May.

The corporate campus project continues to be an important initiative. OPA has recently updated its inventory as properties see new uses or redevelopment, or as new properties become available. The municipalities that are new to the inventory will be contacted to set up meetings for OPAs corporate campus best practices presentation. Director Scharfenberger also recently met with representatives of Princeton and Plainsboro to discuss vacancies in those municipalities. Princeton has a number of smaller office buildings along Route 1 that they would like to see redeveloped. Plainsboro is facing the prospect of Bristol Myers Squibb leaving their facility by 2018 for a new campus in Lawrenceville. The BMS facility consists of three buildings totaling more than half a million square feet.

OPA has been contacted by a number of towns inquiring about creating commercial nodes for various economic development projects. Staff is currently reviewing the sites and working with other state agencies to determine the viability of each.

OPA attended the Together North Jersey Executive Committee meeting at the Bloustein School on June 16, 2016 and a follow-up meeting on January 13, 2017. This is the beginning of the implementation phase of the TNJ initiative. OPA was assigned to the Competitive Task Force, and will contribute to the other three: Livability, Efficient and Resilient, as needed.

Director Scharfenberger served on the PGA Executive Committee for the 2016 tournament. Every aspect of the tournament, from security, to transportation, to emergency services was addressed by the team. It was impressive to see the effort all of the agencies put forth to ensure that every detail was addressed and the tournament would proceed without incident. The result was an incident-free event that went about as smoothly as anyone could have hoped for.

OPA has learned that a bill has been introduced that will add Areas in Need of Redevelopment within Pinelands Rural Development Areas to the Qualified Incentive Areas. It appears that the change will only affect one site in the Pinelands.

OPA has also recently been contacted by Cape May County for assistance with the redevelopment of the Cape May County Airport. The site is currently an interesting mix of uses including municipal, manufacturing, retail, a museum, in addition to the airport. The vacant Evelon building is slated for demolition and there are several brownfields areas that will need remediation. The County asked if they could be put on the agenda for a future BRIT meeting.

The Interagency Work Group had a meeting on June 13, 2016 with Garfield and Fair Lawn as the two presenting municipalities. There were approximately 60 people in attendance. A summary of the agency comments and next steps are in the process of being compiled and sent to both municipalities. Colin Driver, the Economic Development Director of Somerville also gave an update on Somerville's brownfield clean up and redevelopment efforts. Somerville had initially presented that site at an IAWG meeting in April of 2013. It was gratifying to see a former landfill site that was brought before the IAWG move into the construction phase, which in turn will create jobs and a solid ratable for the city. OPA is currently looking at a number of municipalities to consider for the next IAWG meeting.

Director Scharfenberger gave a special thank you to DAG, Val DiPippo, for her extraordinary work on the regulation revisions. He noted that although she had every right to, she never lost her temper with the staff, as she was peppered emails, phone calls and requests over the last several months. Her calm demeanor, diligence and superior work ethic is what ultimately got this initiative over the finish line.

Director Scharfenberger welcomed planner Colleen McGurk to OPA. Ms. McGurk comes very highly regarded and noted that we were excited to have her join the team and help with the growing number of projects we have coming up in 2017.

In closing, Director Scharfenberger thanked the members of the Commission, the Administration and State Agencies for all of the support and assistance they provided to OPA on our various initiatives.

NEW BUSINESS

Election of Vice Chair

Chair McKenna made a motion to nominate John Eskilson as Vice Chair. The motion was seconded by Commissioner Hsueh. Mr. Eskilson accepted the nomination. With no further discussion, Chair McKenna asked for a roll call vote: Ayes: (9) John Eskilson, Roberta Lang, Dave Vitale, Andy Swords, Shing-Fu Hsueh, Dan Kennedy, Charles McKenna, Don Palombi, Ed McKenna. Nays: (0). Abstains: (0).

State Planning Commission Subcommittee Reorganization

Chair McKenna asked if any of the current members for both the Plan Implementation Committee and Plan Development Committee wished to be replaced at this time. All members were in favor of maintaining the current memberships as is. Chair McKenna noted that an additional public member was needed for the PIC. Chair McKenna agreed to sit on the committee on a temporary basis. Commissioner Lang made a motion to maintain the current memberships with the addition of Chair McKenna serving on the PIC on a temporary basis. The motion was seconded by Vice Chair Eskilson. With no further discussion, Chair McKenna asked for a roll call vote: Ayes: (9) John Eskilson, Roberta Lang, Dave Vitale, Andy Swords, Shing-Fu Hsueh, Dan Kennedy, Charles McKenna, Don Palombi, Ed McKenna. Nays: (0). Abstains: (0).

Resolution No. 2017-01 Approval of the Annual Meeting Schedule of the State Planning Commission for 2017

Commissioner Lang made a motion to approve the annual meeting schedule and it was seconded by Commissioner Palombi. With no further discussion, Chair McKenna asked for a roll call vote: Ayes: (9) John Eskilson, Roberta Lang, Dave Vitale, Andy Swords, Shing-Fu Hsueh, Dan Kennedy, Charles McKenna, Don Palombi, Ed McKenna. Nays: (0). Abstains: (0). Resolution No. 2017-01 was approved.

Resolution 2017-02 Conditionally Approving the Petition for Plan Endorsement Submitted by the Township of Toms River and Designating State Plan Map Amendments

Barry Ableman provided a PowerPoint presentation on the Toms River Plan Endorsement petition. He presented background, demographics and the plan endorsement timeline for Toms River. Mr. Ableman explained that Toms River has addressed the issue of resiliency after Superstorm Sandy during this time; noting the master plan was updated at the end of 2106 incorporating resiliency in the appropriate elements of the master plan. Mr. Ableman also reviewed each of the goals of the State Plan and how Toms River meets those goals.

Mr. Ableman further explained that the petition was heard at a PIC meeting in December 2016 and the committee agreed to move the petition to the full SPC with some conditions. He went on to note that once the conditions were met by the township, the State Plan Map would be updated and then the township could seek CAFRA consistency through DEP. Mr. Ableman also reviewed the before and after maps of Toms River.

Lastly, Mr. Ableman noted that the recommendation from OPA was to conditionally approve the Toms River petition for Plan Endorsement and the proposed map amendments.

Chair McKenna asked for questions or comments from the Commission. Seeing none, Chair McKenna opened the floor to representatives of Toms Rivers.

Dave Roberts, Town Planner for Toms River acknowledged the efforts of Jay Lynch, former town planner, who retired in December in bringing the township to this morning's very important benchmark for the township. He also extended greetings and thank you from Mayor Kelaher, Business Administrator Shives and the entire township council.

Mr. Roberts noted that the staff report reflects the 10 year journey between the township, OPA and the State agency partners. He also noted that it was clear that there has been compromise and fine tuning during this time.

He explained that if you look at the extent of what the mainline coastal centers had encompassed and look now at the centers and cores along the highway there has been quite a bit of preservation. He further noted that the township also had the challenge of dealing with the aftermath of Superstorm Sandy. The township is one of the first coastal centers to come before the SPC where resiliency has been a focus with the efforts by the interagency team, OPA and the township. He thanked DCA for the post Sandy grant program that helped the township immensely.

Mr. Roberts explained that the planning work from the Sandy grant is now being integrated into the township's master plan with resiliency elements being included into the individual master plan elements.

Chair McKenna asked for questions or comments from the Commission. Seeing none, Chair McKenna offered congratulations to Toms River for their many achievements. He noted that there were representatives from the Pinelands Preservation Alliance that will be speaking against one aspect of the petition.

Chair McKenna commented that it was extraordinary to see the amount of work that has gone in to this effort and that it was amazing what has been done as far as the wastewater management plan, and all the hard work that has been done by the people in Toms River. Chair McKenna also mentioned the township's settlement with the Fair Share Housing organization and the number of affordable housing units that the township has obligated itself to create. He felt that it showed great intelligence on the part of all sides in resolving the matter. He wished the township good luck in the future. He also thanked the township planners, OPA and State agency staff for their hard work.

Mr. Ableman noted that in the resolution there were a couple of typos that needed to be addressed.

Mr. Ableman spoke to those in the resolution noting that on page two, the fourth from the last "Whereas" should read: *"Whereas, the staff and director of OPA have determined that the petition will meet the requirements for Plan Endorsement when, as detailed in the PIA, the township revises and adopts the official zoning map, Township zoning ordinances, the Master Plan with resiliency recommendations incorporated into each element (where necessary), reflecting proposed changes to centers, planning areas, and cores based on the SGP; and."*

Commissioner Kennedy asked for clarification, that a standalone resiliency strategy was not being adopted but that they were incorporating elements of the resiliency strategy into all the elements of the master plan. It was confirmed that the resiliency strategy would be incorporated in the necessary elements of the master plan.

Mr. Ableman noted that the same corrections were necessary on page three in the fourth "Be it further resolved" *"Be It Further Resolved, that the Commission hereby authorizes the conditional Plan Endorsement to become a final Plan Endorsement upon the Township's adoption of a municipal zoning map, zoning ordinance, the Master Plan with resiliency recommendations incorporated into each element, as set forth in the PIA, Exhibit B; and."*

Chair McKenna asked if the Commission members agreed with the proposed amendments. All were in favor. At this time, Chair McKenna opened the floor to public comment on the Toms River matter.

PUBLIC COMMENT on Toms River Township Presentation

Katherine Smith, Policy Advocate for the Pinelands Preservation Alliance, commented that she was present to specifically discuss an area within Toms River Township that is part of the Pinelands National Reserve. She noted that she appreciate the SPC's attention to this matter and all the work that Toms River Township has put into the petition. They specifically appreciate the incorporation of the goals of preserving national resources by the township. She noted that the Alliance does have some recommendations and objections that they think could dramatically improve the plan and make it more consistent with existing regulations.

She explained that the specific area of concern within Toms River Township was the part of the Pinelands National Reserve which was mostly within the Route 37 economic corridor in the southwest portion of the town. One of the major objections was that the existing NJ Administrative Code 7:7 and how it specifically excludes categories of land from being included within a center as discussed in her letter of January 17, 2017 (Attachment B). Ms. Smith read off the various categories.

She explained that she looked into these specific sites and particularly the areas mapped as state, threatened or endangered species habitat within Toms River Township and noted they were also included in the GIS maps enclosed with her comments (Attachment B). Specifically, the Alliance looked at the State map threatened endangered habitat within the Pinelands National Reserve and the majority of that was included within Lots 14 and 15 of Block 505 of Toms River Township. They know that this area has Northern Pine Snakes present as a state threatened species and also could be habitat for other State threatened and endangered species. The current administrative code does preclude the inclusion of this threatened habitat in a center. She also noted that the parcel has wetlands, which is another type of site that is excluded from inclusion in a center.

Ms. Smith noted that it was the responsibility of the State Planning Commission to uphold these existing regulations to protect New Jersey's environment and water. Particularly, it is important that the State Planning Commission look at development that might cross municipal lines. For instance, in this case between Toms River Township and Manchester Township, consider how development across these lines could affect State resources like rare and endangered species and wetlands. She explained that the Alliance is particularly asking for the exclusion of this area from the industrial center that Toms River has proposed; trusting that the State Planning Commission will uphold these existing regulations, State laws and the environment in their consideration of these center designations.

Wilma Frey, Senior Policy Manager, New Jersey Conservation Foundation which is a statewide land trust and environmental group in existence in New Jersey for about 60 years, noted that the foundation has always been a strong supporter of state and regional planning. Ms. Frey noted that she has been personally involved in the state planning efforts since before the 2001 State Plan came out and that the foundation is very interested in having a good state plan.

Ms. Frey noted that a primary goal of state and regional planning is to direct development to appropriate locations and away from inappropriate ones. Another responsibility of the State Planning Commission is to ensure that planning and development is consistent with state goals and policies, state objectives and regulatory requirements and standards of the State. It is also the responsibility of the State Planning Commission to look beyond the borders of a specific municipality and into how individual municipalities may interact with neighboring municipalities, contingent municipalities and other entities. Ms. Frey explained that in this case, the Foundation is echoing the concerns of the Pinelands Preservation Alliance regarding Block 505 Lots 14 and 15 which are at the very boundary of the municipality of Toms River and within the Pinelands National Reserve. Ms. Frey pointed out that in the goals for the Toms River area, Goal #2 Conserve Natural Resources and Goal #7 Preserve and Enhance Areas of Cultural, Scenic, Open Space and Recreational Value that the Pinelands National Reserve, which is an international biases for a reserve, was not even mentioned and was certainly not taken into account in the proposed plan by the Township.

Ms. Frey stated that the Foundation is asking that the Commission postpone any approval to this plan or segment off lots 14 and 15 and withhold approval of those lots in the State Plan because of the various issues and the impact of these two lots that are not being considered. She stressed that the lots are both threatened and endangered species habitat, they have wetland values and they also have critical environmental resources.

She further noted that the land is proposed to be basically an industrial site or, her understanding, a Walmart and that you were not likely to have a Walmart without a sewer service area. The Water Quality Management Planning Rules require the exclusion of any acreage over 25 acres of threatened and endangered species habitat, wetlands, category one streams, to be removed from a sewer service area, noting that it was presumably done in the update. She further noted that although these two lots were slightly under 25 acres, they are directly contiguous to other property that has exactly the same attributes and environmental sensitivity. Ms. Frey stressed the Commission should not only look at the proposed Toms River plan in this particular area, but also at the adjacent National Reserve properties, water quality management planning and the environmental attributes of the contiguous and adjacent properties to these two very sensitive lots that are habitat for threatened and endangered species. She explained that the Foundation was asking the Commission to not approve the Toms River plan with respect to Lots 14 and 15. She noted that it flies in the face of good sound state planning for directing development to appropriate places and not directing it to inappropriate places.

Chair McKenna asked for questions from the Commission members with respect to the two public comments. Chair McKenna asked if Ms. Smith and Ms. Frey had seen the comments from Toms River with respect to the Pinelands Preservation Alliance's initial written comments. They had seen the response.

Commissioner Kennedy noted that the particular parcel of concern was not new to either the Pinelands Preservation Alliance or to DEP. He questioned why the Alliance chose to use generalized GIS statewide coverage data, when they knew based on litigation that there was superior site specific data available for the sites.

Ms. Smith responded that the generalized data was utilized because it is the data that is referenced by the NJ Administrative Code as areas to be excluded. There was a brief discussion on the use of generalized data being a very narrow snapshot of the regulation opposed to using the superior site specific data.

Chair McKenna commented for clarification that the endorsement for Toms River was conditional, that it will still need to be approved by the DEP for CAFRA consistency. He also noted that the lots in question are currently in litigation and asked if Commissioner Kennedy could provide any generalized comments not specific to the actual litigation.

Commissioner Kennedy noted that, in any case, when the Commission acts on boundaries and draws boundaries it is subject to local approvals and State permits. The boundaries do not create a development footprint de facto for property owners. There is a review process at the department, for example, in his role, not being the land use assistant commissioner, but in coordination directly with the assistant commissioner who has authority under NJAC 7:7 that was referenced in the Alliance's comments. He explained that the CAFRA consistency step has not been taken, but it is very much true that the department uses data that is referenced in the regulations. In addition, the regulations allow us to use data that supersedes and that is superior when there is type specific data available. He explained that there is site specific data available, not that there are no environmental constraints on the two lots; but there are portions of the lots that have been permitted for development and have permits. He further explained that the department, very carefully, reviewed the entire extent of the 16 acres, did look at the extent of the development that was approved and carefully considered whether or not the inclusions of the lots were appropriate based on the data available and placed this matter under very high scrutiny and attention. The department feels confident that the extent of the center designation is appropriate and knows that in all cases that the SPC acts and then the local permitting and State permitting follow. Permits will have to be approved by the department.

Commissioner Kennedy commented that CAFRA consistency is a step under NJAC 7:7 and disputes the idea that the Commission is responsible for NJAC 7:7; it is the DEP's responsibility, not the Commission's.

He noted that he thinks that the Commission is doing a good job in considering the bigger picture issues, in the past it has been bogged down and gerrymandered lines to meet regulatory requirements, and feels that is when the Commission is at its worst. He feels the Commission is at its best when it keeps the perspective to a high level, when it defers as much and coordinates with the regulating departments like DEP and DOT.

In deference to Toms River, he feels that that this endorsement represents a balancing act, and that we can argue about 16 acres, but on net the benefits to the environment far outweigh the existing status quo. The department feels that this is a positive opposed to a negative. Lastly, in the end if plan endorsement is going to be a meaningful process the Commission cannot get bogged down in making 16 acre decisions when the property is already permitted and ready for development, it is contested in the courts and there is a due process that will take shape; whatever the outcome. The Commission is drawing lines significantly based upon up-to-date data, which has site specific information not generalized GIS coverages that are inaccurate. Commissioner Kennedy stressed that the department has reviewed the conditional endorsement and was supportive of moving forward with the inclusion of the center.

Chair McKenna commented that when the Commission receives comments such as the Alliance's those comments are taken very seriously and there is due diligence in the reviewing the concerns. The Commission has also reviewed the response letter from Toms River with the same due diligence. He also noted that since the subject properties were in litigation he felt it would not be appropriate for the Commission to get bogged down in that; the courts will rule on that matter.

Lastly, he noted that the Commission has to take into consideration its member departments and look to them for their guidance to a certain extent in matters such as this concern and defer to that guidance to a certain extent. He further noted that there is pending litigation that may or may not alter the action taken by the Commission today that this is a conditional endorsement and will require certain obligations to be undertaken by Toms River and the endorsement will be subject to review again, in the future, at the departmental level. He does not feel that the Commission should attempt to supersede a department that sits on the Commission by ignoring their recommendation and based

upon what is now a pending piece of litigation as well as the comments of the public. He feels that it is important for the Commission to encourage municipalities and counties to engage in this type of intense planning process and to not discourage Toms River.

Chair McKenna made a motion to approve Resolution No. 2017-02 as amended. Commissioner Hsueh seconded the motion.

Chair McKenna asked for questions or comments. Commissioner Palombi asked if the section of the resolution could be read that was modified to reflect Mr. Ableman's comments. It was noted that one page 2 in the 6th "Whereas," the "resiliency recommendations within all the elements" would be added as well as in the 4th "Be it Further Resolved," on page 3.

Commissioner Kennedy noted that he had one point of clarification for the record. He stated that the two lots of concern were in the sewer service area, they went through due process to be in the sewer service area and remain in the sewer service area based on DEP's current rules.

With no further questions or comments on Resolution No. 2017-02 as amended, Chair McKenna asked for a roll call vote: Ayes: (9) John Eskilson, Roberta Lang, Dave Vitale, Andy Swords, Shing-Fu Hsueh, Dan Kenney, Charles McKenna, Don Palombi, Ed McKenna. Nays: (0). Abstains: (0). Resolution No. 2017-02 was approved.

Rick Brown, DEP, personally thanked the Commission for their time. Speaking on behalf as someone working in professional planning in New Jersey he wanted the Commission to know how hard Toms River had worked. First, the town has started working on resiliency in their master plan and that work is reflected in the resolution. He pointed out that the plan endorsement process does not require towns to consider resiliency in their ordinances or plans. He also pointed out that Toms River has agreed to work with DEP to look at improving storm water management on sites as they are redeveloped to come up with common sense low tech water quality improvement measures. He explained that is was important to know because when sites are redeveloped in New Jersey storm water management is not required under State regulations unless there is an additional acre cleared or pave more than a quarter acre of new pavement. The whole idea that Toms River is going to work with the DEP to come up with storm water treatments for the smaller sites is great and hopefully encourages other towns along the coast and along Barnegat Bay to do the same.

PUBLIC COMMENT

There were no public comments at this time.

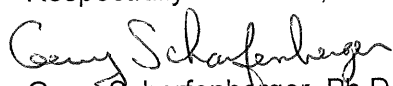
COMMISSIONER REPORTS

There were no Commissioner Reports.

ADJOURNMENT

With no further comments from the SPC or the public, Chair McKenna asked for a motion to adjourn. The motion was made by Commissioner Lang and seconded by Commissioner Eskilson. All were in favor. The meeting was adjourned at 11:05 a.m.

Respectfully submitted,


Gerry Scharfenberger, Ph.D.

Secretary, State Planning Commission

Dated: January 23, 2017

NEW JERSEY STATE PLANNING COMMISSION

DATE: JANUARY 18, 2017

TIME: 9:30 AM

LOCATION: STATE HOUSE ANNEX, COMMITTEE ROOM 1

NAME	AFFILIATION
Wilma Frey	New Jersey Conservation Fedn.
Katherine Smith	Pinelands Preservation Alliance
Susan Weber	NJ Set - Planning
Ashley Kerr	NJ Farm Bureau



PINELANDS PRESERVATION ALLIANCE

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January 17, 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 (PPA) has received the response from the Township of Toms River to PPA's initial comments on the Plan Endorsement/Center Designation petition. PPA objects to the inclusion of Block 505 Lots 14 and 15 (the "Site") in the proposed Industrial Center, for three reasons.

First, the January 6th letter from the Township of Toms River incorrectly states that "Block 505 Lots 14 and 15 have been in the designated 1999 CAFRA Mainland Town Center [which permits eighty percent impervious cover]." Actually, less than half of the Site is in the Mainland Town Center as per the most recent CAFRA centers layer; the majority of the Site is in the Coastal Suburban Planning Area, which only permits thirty percent impervious cover. The attached map identifies the parts the Site in each planning area. In the decision in *Pinelands Preservation Alliance and Michael Perlmutter v. State of New Jersey Department of Environmental Protection and Jaylin Holdings, LLC*, 436 N.J. Super. 510 (App. Div. 2014), the Appellate Division stated that "[i]t is undisputed" that the site "is located on the CAFRA Planning Map within the boundaries of a 'Coastal Suburban Planning Area'... subjecting it to a thirty percent impervious cover limit."

The Township's January 6th letter states that the Township "is not seeking to increase the impervious coverage any more than what was previously included"... We concur with the Township's position that the impervious coverage limits on the Site should not increase. In order to effect the Township's position on impervious coverage, the Commission must leave the Site in its current designation.

Second, N.J.A.C. 7:7 specifically excludes certain areas within the 1999 CAFRA Center, including within this Site. In the *Jaylin* case, the court held that the Permit Extension Act did prevent the boundaries of the mainland Coastal Regional Center from expiring, but that the actual boundaries were unclear. The court specifically instructed the Department of Environmental Protection (DEP) to determine whether any of the areas listed in N.J.A.C. 7:7E-5B.6(e) were present in the proposed development area. The regulation lists six types of areas ineligible for center designation:

1. Areas mapped as endangered or threatened wildlife species habitat on the Department's Landscape Maps of Habitat for Endangered, Threatened or Other Priority Species;
2. Areas mapped as Natural Heritage Program priority sites, excluding those lands within the boundaries of these sites mapped in the URBAN lands layer extracted from the most recent NJDEP Land Use/Land Cover GIS data set;
3. Land that is owned by Federal, State, county or municipal agencies or conservation organizations and dedicated to recreation, conservation of natural resources, wildlife protection, or wildlife management;
4. Special water resource protection areas along a Category One water established under the Stormwater Management rules, N.J.A.C. 7:8. Surface waters that are designated Category One are listed in the Surface Water Quality Standards at N.J.A.C. 7:9B;
5. Wetlands as defined at N.J.A.C. 7:7E-3.27; and
6. Areas identified as Coastal Critical Environmental Sites. The data are available as a download at the CAFRA Planning Map layers webpage.

These areas remain substantially the same (with citation updates) in the October 2016 amendment N.J.A.C. 7:7.¹

Based on the Landscape Maps of Habitat for Endangered, Threatened, or Other Priority Species, almost the entirety of lots 14 and 15 of block 505 of Toms River Township is state threatened habitat. This habitat stretches slightly southeast of these lots. There are also wetlands present in this parcel.

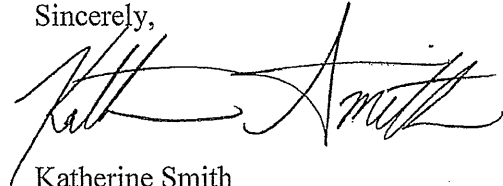
Preliminary GIS maps are enclosed indicating the extent of these areas, which is not considered part of the center by the state. The municipality and tax parcel maps are from the New Jersey Geographic Information Network, managed by the NJ Office of Information Technology. The habitat (including threatened and endangered species, critical environmental sites, and wetlands) and Coastal Area Facility Review Act layers are from the New Jersey DEP Bureau of GIS.

As evident in this map, there are also areas outside the Pinelands National Reserve area that are designated as coastal critical environmental sites, wetlands, or threatened and/or endangered species habitat. It is also possible that these areas are within 300 feet of Category One surface water. PPA recommends that Toms River Township reexamine the proposed center designations to keep consistent with current laws.

¹ http://www.nj.gov/dep/rules/rules/njac7_7.pdf

Third, Toms River's vision for the Industrial Center includes "high-tech clusters", a "technology and business incubator", a satellite college campus, and new manufacturing businesses. Toms River also seeks to limit land uses that conflict with this vision. If the Commission re-designates the Site, it will be used for a Walmart. That conflicts with the vision detailed by Toms River for the Industrial Center, and indeed could crowd out the types of businesses Toms River seeks to attract to the Industrial Center.

Sincerely,

A handwritten signature in black ink, appearing to read 'Katherine Smith', written in a cursive style.

Katherine Smith
Policy Advocate
Pinelands Preservation Alliance

Encl:

Toms River Township Areas of Concern
Lots 14 and 15, Block 505 Toms River Township

Toms River Township Areas of Concern

Legend

2012 Parcels selection

Toms River 2017

Wetlands

CAFRA Centers

Critical Environmental Sites

Threatened and Endangered Species Habitat

RANK

Habitat-specific requirements

Special Concern

State Threatened

State Endangered

Pinelands Management Areas

MGT_NAME

Regional Growth Area

Rural Development Area



Toms River Township Lots 14 and 15

Legend

- 2012 Parcels selection
- Toms River 2017
- Wetlands
- CAFRRA Centers
- Critical Environmental Sites
- Threatened and Endangered Species Habitat
- RANK**
 - Habitat-specific requirements
 - Special Concern
 - State Threatened
 - State Endangered
- Pinelands Management Areas
- MGT_NAME**
 - Regional Growth Area
 - Rural Development Area

