



ASSOCIATION OF NEW JERSEY  
ENVIRONMENTAL COMMISSIONS

September 10, 2007

Mr. Ben Spinelli, Esq  
Executive Director  
Office of Smart Growth  
Department of Community Affairs  
P.O. Box 204  
Trenton, NJ 08625

Dear Mr. Spinelli,

ANJEC commends the staff of the Office of Smart Growth for their continuing hard work on the new Plan Endorsement Guidelines. Thank you for considering our comments and suggestions on the initial draft. The revised draft of 8.13.07 is a much improved and clearer guideline to the process. Since it was changed considerably, ANJEC has additional comments and suggestions that we would like to ask you to consider:

1. P. 5-6 and elsewhere, when a timetable is stated in days, please clarify whether it means calendar days or working days.
2. P. 7, list of planning documents to be submitted, please include a time frame for the Annual Reports of the Board of Health and Environmental Commission (5 years? 10 years?)
3. P. 8, PE Advisory Committee. ANJEC agrees with requiring at least 2 members of the public on the committee. In the description of the function and role of the committee, please include a statement that makes clear that this committee has primary responsibility for keeping the residents informed about and, when appropriate, engaged in the plan endorsement process.
4. P. 8-9, Municipal Self-Assessment Report and p. 10, Community Visioning Standards. The draft did not include a new version of these. Since they are important elements of the petitioning process and ANJEC and other members of the interested public gave numerous comments about them, please make revised drafts available before your vote on the complete Guidelines.
5. P. 9, under Step 3, why is TREND in capital letters?
6. P. 13, Monitoring. The Guidelines might need to include a sentence about what will occur if a municipality fails to file an annual report.
7. P. 14 onward, Consistency Requirements. Please make reference, where appropriate, to the corresponding State Plan Goals and Policies section rather than paraphrasing the State Plan. The State will likely be using the current State Plan for another 18 months or so and many municipalities will be initiating Plan Endorsement during this time. Housing, Transportation, Historic, Cultural and Scenic Resources, Water Resources, Open Lands and Natural Systems, Energy, Agriculture, etc, all have specific State Plan sections that a municipality should be referencing. The description of standards in the current draft is sometimes vague or anecdotal, or states standard in the negative: i.e. "the State Plan does not support...." When a new State Plan is adopted, the references can be updated in the Guidelines at that time.
8. P. 15, paragraph 2, first sentence: "As much of New Jersey is built out, many of the municipalities that will petition for Plan Endorsement are not blank slates where the State Plan could be applied in a wholesale manner." Please delete or rewrite this sentence. The State Plan can absolutely be applied as is to all areas of the state, since it has policies and goals for all different densities of development.
9. P. 20, under Housing, Draft Implementing Documents/Ordinances. We would recommend removing "desired document" for Development Fee Ordinance and Growth Share Ordinance. These should be listed as possible tools but not necessarily desirable in every municipality.

10. Pp. 20-23, Conservation. Please replace the first sentence, "Conservation of natural resources is important as it contributes to the quality of life..." with something like: "Conservation of the State's natural resources and systems is a primary goal of the State Plan." The list of elements of an NRI should read:

Geography/Topography, including steep slopes

Geology

Hydrology, including HUC 14 watershed boundaries, areas of critical water supply concern including Category 1 stream drainage areas, Wild and Scenic River data, wellhead protection areas, aquifer recharge areas, source water protection areas, shellfish transition or buffer areas

Soils

Wetlands as defined under the Freshwater Wetlands Protection Act and coastal wetlands laws

Vegetation, including habitat for threatened, endangered and priority species and forest cover

Wildlife/Habitat, including an index of plant and animal species and their distribution (you require this on p. 22 under Habitat Conservation Plan)

Land Use

Critical Environmental Sites (CES) and Historic and Cultural Sites (HCS) as identified on the State Plan Policy Map

11. p. 22, Habitat Conservation Plan, for towns with significant habitat. Please define "significant", so municipalities can evaluate if this requirement will apply to them.

Thank you for your consideration of our comments and suggestions.

Sincerely,



Barbara Palmer  
Project Director/Land Use Planning

cc. Members of the State Planning Commission  
Tracie Gelbstein, Esq



## CAHE

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**Testimony of  
Paul Chrystie, Executive Director  
On Plan Endorsement Guidelines and Processes  
August 22, 2007**

Thank you for the opportunity to provide further input on Plan Endorsement, specifically on the guidelines and processes to achieve Plan Endorsement.

First, I want to thank the staff at the Office of Smart Growth. The process that has gotten us to this point has been open and inclusive, for which Ben Spinelli and his staff should be commended. While the documents may not be exactly as we would write them, for the most part they are a tremendous improvement over the guidelines and processes that exist today.

Accordingly, I only want to touch on a few points.

Although it is in the draft guidelines before you today, I think it bears repeating that a petition to for substantive certification is a critical element of an endorsed plan. An endorsed municipality should have land use ordinances with as little vulnerability to challenge as possible, and lack of COAH protection is an enormous vulnerability with implications for the environment, transportation, and planning, in addition to affordable housing. To allow an endorsed plan to be eviscerated by builder litigation would be an egregious waste of municipal and state staff time and taxpayer money. While concerns about duplication of effort at the municipal level are appropriate, the fact is that the time frames associated with the revised COAH rules, adoption of endorsement guidelines and preparation of municipal petitions is such that there will be no wasted effort or expense for municipalities.

I do want to raise a concern about language concerning new centers on page 18 of the August 18 draft. The last phrase in that section suggests that State Plan criteria will be applied in different ways. We would argue that a petition is either consistent or it isn't. However, we would also note that this concern is in some ways more related to the State Plan itself. A determination of consistency will be much simpler and more understandable the simpler and more understandable the Plan itself is. We would therefore take this opportunity to highlight again our belief that the Plan should be as simple as possible (see our correspondence with Eileen Swan on this issue) and then endorsement criteria should be applied consistently.

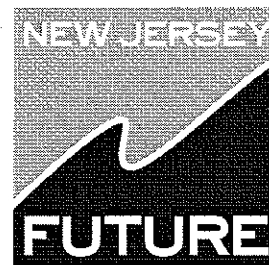
Assuming the Plan Endorsement process works as anticipated, any change in municipal land use ordinances outside of the PIA should be an extraordinary event. Accordingly,

we believe OSG should consider a mechanism to get update on zoning changes as they happen so that in the event they are inconsistent they are flagged sooner rather than later. Receiving such updates only annually as envisioned by 7:19(b), combined with revocation process in 7:20, an inconsistent land use plan in an endorsed municipality could be in place for months, with the municipality receiving the benefits of plan endorsement. 7:19 should also put on hold benefits received as part of endorsement if municipality is late with annual report.

While the guidelines and processes for Plan Endorsement are much improved, this effort will fail if the Plan Endorsement Benefits are not enhanced significantly. Of the 70 benefits outlined, only 14 are associated with Plan Endorsement. If programs entirely within the discretion of a state agency, such as DOT's discretionary local aid program, do not include benefits for Plan Endorsement, what possible reason could there be for a municipality to go through the appropriately rigorous process to become endorsed? If endorsement does not bring with it DEP permit reviews ahead of non-endorsed municipalities, why bother? We understand that OSG may not be the agency to compel cabinet level departments to step up to the plate in a meaningful way, but the Governor's office can and should. The current State Plan outlines priorities for investments that begin with urban centers and move quickly to endorsed plans, and state agencies should be asked to justify why their spending and permitting processes should **not** follow those priorities, rather than search for those processes that should.

Thank you for the opportunity to appear here today, and I'd be happy to answer any questions.

# MEMORANDUM



To: Plan Implementation Committee  
From: Jay Corbalis  
Date: 8/22/07  
Re: Municipal Plan Endorsement Guidelines

Thank you for the opportunity to testify regarding the most recent draft of the new plan endorsement guidelines. New Jersey Future would like to commend the Office of Smart Growth for their hard work in revising the guidelines. The new draft is a substantial improvement in terms of clarity and will make it easier for municipalities to know exactly what is expected from them in the endorsement process.

There are several substantive issues within the new guidelines that NJ Future would like to highlight. First is the requirement that municipalities petition for substantive certification to COAH in order to be endorsed. NJ Future strongly supports this requirement for several reasons:

- First, to the extent that the Plan Endorsement process is designed as a means for the State Planning Commission to coordinate local governments' land use obligations to the state, omitting affordable housing obligations would render endorsement incomplete.
- Second, we do not believe that the State should endorse, nor offer the benefits of endorsement, to municipalities that are not addressing their constitutional obligations under the Fair Housing Law and COAH rules.
- Finally, and perhaps most importantly, a municipality not protected by COAH or the courts is vulnerable to a builder's remedy lawsuit that could undermine all of its land use planning, rendering endorsement moot.

Additionally, NJ Future is glad to see the guidelines address not only how to provide affordable housing, but where. To be truly effective, affordable housing should be integrated within the existing fabric of the community, not isolated from it. We believe the new draft provides clear guidance for municipalities on how to accomplish this.

The second issue is the added requirement for a municipality to provide a Municipal Environmental and Public Health Impacts Plan. While we recognize and support the efforts of OSG in addressing the historical injustices that have resulted in a disproportionate number of low income residents living near contaminated sites, the guidelines, as written, are both misguided and unworkable. The guidelines state that "A plan that considers environmental justice issues must avoid zoning/planning that allows for the development of low income housing near sites which emit pollutants, and/or are contaminated or potentially contaminated". While laudable in its intent, this statement contains a dangerous implication, namely, that market value housing built on the same sites would be permissible under the guidelines. Simply put, public health impacts from pollution affect all populations equally, regardless of income. If a site is deemed

unsuitable for the construction of low income housing due to health concerns, the same must necessarily be true for all housing. We would ask OSG to revise the guidelines to reflect this reality.

Third, NJ Future is concerned with the new requirement that towns with "significant habitat" develop a Habitat Conservation Plan. Leaving aside the question of what constitutes "significant habitat", we feel that this requirement places an unnecessary and potentially overwhelming burden on municipalities and that the goals of the requirement could be accomplished more effectively at the county or regional level. The guidelines state that "ecosystems do not exist in regards to municipal borders, but rather flow continuously across them. Successful ecosystem management will only result from an integrative, multi-municipality, cooperative approach". Unfortunately, the guidelines provide no mechanism for accomplishing this. Instead they place a heavy burden on individual municipalities to plan for something that is recognized as a regional issue requiring a regional solution. In short, requiring municipal habitat conservation plans will provide little if any benefit to wildlife and endangered species, while the additional costs associated with conducting such a plan will provide a significant disincentive for towns to enter into the endorsement process. We would ask OSG to reconsider the necessity of this requirement.

Finally, we would like to applaud OSG for adding to the list of potential benefits of plan endorsement. Any changes that help bring the benefits of plan endorsement in line with the costs to municipalities are welcomed by NJ Future. We would encourage state agencies to continue adding to the list of eligible benefits in the hope that it will persuade more municipalities to enter into plan endorsement. Thank you.

**HELEN HENDRICKSON HEINRICH PP CLA**

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Madison, New Jersey 07940  
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August 22, 2007

**MEMO: BEN SPINELLI, EXECUTIVE DIRECTOR, OSG**  
**FROM: HELEN H. HEINRICH, PPCLA**  
**SUBJ: COMMENTS ON THE DOCUMENTS AMENDING THE MUNICIPAL  
PLAN ENDORSEMENT PROCESS**

Thank you for the opportunity to offer suggestions again on these all-important guidelines and rule changes. We applaud the major efforts your staff has made to pull these together and understand the urgency of getting a clear picture of the Plan Endorsement process out to municipalities and the public. Good planning should be done first, then followed by implementing regulation, rather than the other way around. Environmental regulation that increasingly sets standards far beyond those of the federal or any other state government could make efforts to do truly comprehensive community planning a waste of time and money. There should be no wording that requires a municipality seeking Plan Endorsement to "comply with ALL regulations" of any state agency. This opens the door to the constant changes and denial of completeness that has delayed the center designation and Plan Endorsement processes to this point in NJ's state planning.

Here are some suggestions we would add at this point:

**Guidelines:**

Plan Endorsement Advisory Committee: both the Guideline section and the proposed rule changes still leave it open for the Mayor to appoint only Planning Board, governing body, and other boards (to which he has the power to appoint people) and some member of the general public friendly to the party line as to land use. There must be a broader base even on the Advisory Committee to make it more likely that the planning improvements agreed upon in the PIA are politically supported over the years it might take to implement them.

Furthermore, there is no effort to appoint anyone with business experience, perhaps a representative from the Chamber of Commerce. OSG must scrutinize those advisory committees to make sure their makeup is broad enough to include as many different kinds of stakeholders as possible.

The required visioning process: Undergoing a visioning process for a rural community where farmland is being preserved with public dollars seems to be an unexplored new planning tool with few good models. Most visioning processes in rural areas to date concentrate only on the scenarios of development vs. no development, without consideration of real alternatives to support the agricultural industry. The NJDA's Economic Development Strategies updated annually provide a guide to what might be already existing and trends for the future that the community could consider enhancing. The PIC and especially state agencies must make sure in the Pre-petition Meeting to insist that rural communities include facts about agriculture now and potentials for the future in their "visioning" process.

### Part III: Plan Endorsement Consistency Requirements

P. 18 Land Use: Regarding new centers in suburban and rural areas – the wording suggests that ability to create new villages and hamlets is being removed. They can't be a completely self-contained town and still be small-scale and rural. How can you have "conservation development zoning" of any significance without becoming a "new center"? Yet you are on record supporting new villages and hamlets that would not meet the definition outlined in this section.

P. 21 Conservation: please add wording that notifies towns that Stream Corridor Plans must not conflict with USDA agricultural conservation program requirements or farmland owners would lose supportive programs. Municipalities should be alerted to the fact that state rules for water supply, wetlands and stream corridors and other regulatory programs have special provisions to enable agriculture and forestry to continue and yet still protect critical resources.

P. 22 The guidelines for the Habitat Conservation Plan are too vague, open-ended and could lead to declaring all open land within the community "potential habitat". This is an invitation for DEP to continually ratchet up requirements to protect newly identified threatened and endangered species, thus delaying full Plan Endorsement even further. Habitat plans will be very expensive for both towns and landowners. Basing them upon the Landscape Project mapping that has not undergone the rule making process, so that the public really sees how focus on this one resource area to the exclusion of others as well as housing, businesses, transportation etc., can have serious negative effects on local economic sustainability.

The mix of habitat development options that might be permitted is helpful but not if DEP is able to increase the levels of protection at will beyond the Action Plan and PIA.

P. 30 Economic Development: This element in comprehensive planning gets short shrift in NJ despite the fact that the MLUL encourages it for every master plan. These guidelines should make it clear up front that the Economic Development master plan element must be done by ALL municipalities seeking Plan Endorsement, not just large urban communities. The paragraph noting that this is a requirement for even smaller municipalities seeking Plan Endorsement (p. 32) should be up front, not the last one in the section.



There's nothing in this section to alert towns that agriculture may be an important economic development opportunity. Most NJ counties and towns are blind to this potential that's so important to agricultural viability.

There should be a requirement to coordinate with the county economic development and redevelopment plans and programs.

P. 35 Agriculture: The increased involvement of the NJDA with municipalities with significant agriculture is critical to the sustainability of agriculture in NJ. The State Plan has a good checklist for municipalities to use in testing whether they are "ag-friendly" in the 23 Statewide Policies for agriculture. But even the majority of professional planners never seem to call these to the attention of even rural communities

Requiring some municipalities to utilize TDR is very welcome. Opportunities should not be lost to provide equity to landowners of property where planning has reduced their land values.

**Rules:** Most of the comments above should be reflected in the appropriate sections in the amended rules.

P. 6 Plan Endorsement Advisory Committee: The requirements for this committee are such that this body could include only one member that is not already serving on township boards etc. There must be inclusion of stakeholders and others not enmeshed in local government to be part of the process. Somewhere suggestions should be made to community about the types of people they should include and the PIC must scrutinize the town's development of this committee to ensure broad participation of all sectors of the community. Typically large landowners including farmers are bypassed in these planning processes. This leaves them no choice but to take legal or political action late in the planning process.



# THE TOWNSHIP OF BRIDGEWATER

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August 21, 2007

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Trenton, NJ 08625-0204

RECEIVED  
2007 AUG 28 A 10:32  
NJ DEPT OF  
COMMUNITY AFFAIRS  
OFFICE OF SMART GROWTH

Re: Response to the *Draft Municipal Plan Endorsement Guidelines*  
*As Last Revised on August 13, 2007*

Ladies and Gentlemen of the Office of Smart Growth.

Mayor Patricia Flannery has reviewed the *Draft Municipal Plan Endorsement Guidelines* as most recently revised on August 13, 2007 and asked that comments be prepared to reflect the Township's perspective. We recognize that this document is intended to outline the Plan Endorsement Process and Consistency Requirements. In this response, we offer areas of concern, recommended supplemental language, and areas in need of clarification. These additions would allow Bridgewater Township, and many other municipal members of Regional Centers, to be confident that their unique circumstances are addressed.

No two Regional Centers are alike. Similarly, no two communities within their Regional Center are the same. The difference in municipal character may range widely, and yet the participants in the Regional center have a common thread that knits their communities into a functional fabric. Bridgewater Township is a municipality that is a member of a three-municipality Regional Center. Each municipality in this Regional Center has its unique history and character. What is of critical importance to each community is their view of 'identity' and their commitment made to residents that the character of that community will not be negatively disrupted. With this in mind, we offer the following comments and concerns in an effort to retain our 'quality of life' in the hope that our vision is still consistent with the broad vision of the Regional Center concept and in line with the *Draft Municipal Plan Endorsement Guidelines*.

## **Part I** (Introduction beginning Page 4)

No comment is offered

## Part II ( Plan Endorsement Process beginning on Page 7)

### Step 1. No comment is offered.

### Step 2. Plan Endorsement Advisory Committee

a. Reference is made to the 'Petitioning Municipality' and "Petitioner". There should be an understanding throughout the document that the 'Petitioning Municipality' must not be the collective members of the Regional Center, but rather that it means each individual municipality that participates in the Regional Center.

b. It is recommended that a member of the Endorsement Advisory Committee should also be the municipal Housing Coordinator since that person is involved in the COAH program. Due to the fact that COAH certification is time-sensitive to Plan Endorsement, this is considered to be a suitable member of the Endorsement Advisory Committee.

c. The Municipal Assessment Report is meant to "...assess the consistency of the existing community vision and planning documents with the State Plan." It is recommended that the Report Template require that the assessment specify the consistencies and inconsistencies in the policies, goals and principles established as a Smart-Growth policy for a *Center* and for *Regional Center* as well. Rationale is that this will afford a better understanding of the points of 'disconnect' which may exist in specific municipal visions. This vision (and associated 'disconnects') would be discerned through the review of Master Plans, Re-examination Reports and other Planning documents. This will also 'set on the record' those areas where negotiation must be focused.

### Step 3 (State Opportunities & Constraints Assessment beginning on Page 9)

a. To paraphrase a portion of this Step, *State agencies will develop assessments for growth, development, transportation, wastewater and water supply capacity, and environmental constraints in impacts on natural resources and wildlife.* The assessments of the state should not be binding on a municipality if that municipality believes that there are areas of impact that are incorrect. This Step does not afford a formal process whereby the municipality would accept, reject, or require further research into the conclusions of the state's investigations.

### Step 4 (Community Visioning beginning on Page 10)

a. There are specific guidelines and requirements for undergoing a community visioning process. The concern is that the *Draft Municipal Plan Endorsement Guidelines* states on Page 10, paragraph 4:

*The final Community Vision, goals and objectives shall be consistent with the State Plan, and should guide the municipality's planning, not just for the short term but with a 2-year planning horizon that forecasts the local conditions at the conclusion of that period.*

Municipalities are well-aware that there may be goals, objectives, and eventually, rules promoted in the State Plan which are contrary to the vision of a community. The above language does not

permit deviation from the clear mandate of this provision. We find this to be problematic in that it does not permit departure from this stated directive.

- A municipality may elect *not* to meet each and every goal and objective in the State Plan.
- While the state may offer its tacit approval for relief when there are unique circumstances related to the strict application of a rule, the truth is that others may invoke their right to litigate - to seek enforcement of the strict interpretation of this language.

If this is not the intent, the text of the *Draft Municipal Plan Endorsement Guidelines* should be modified. As written, this provision is not workable.

#### Step 5 (Consistency Review beginning on Page 11)

The first paragraph states that the OSG will develop the Action Plan and MOU which requires that the petitioner bring the local plan into consistency with the State Plan. As previously mentioned, this language does not permit a municipality to conflict with the State Plan in any way:

*OSG will draft an Action Plan and MOU outlining the steps petitioner needs to take to bring local plans into consistency with the State Plan, applying the standards for plans and ordinances defined in the Requirements section of the Guidelines..."*

There is no formal process for the OSG- drafted Action Plan to be modified by the municipality in such a way that it is consistent with the vision of the community, but in conflict with a provision of the State Plan. Negotiation of the content is not discussed in this section.

If this is not the intent, the text of the *Draft Municipal Plan Endorsement Guidelines* should be modified.

#### Step 6 (Action Plan Implementation beginning on Page 11)

The OSG develops the Action Plan which is to be endorsed by the municipality. There appears to be no sure-amendment or appeal process for a desired amendment to the Action Plan by the Municipality if the vision of the municipality changes within the effective timeframe of the Plan Endorsement. In fact, the *Draft Municipal Plan Endorsement Guidelines* gives the right for decision on amendment to only one person. There is no provision for appeal.

*Once adopted by the governing body, the Action Plan may only be amended for good cause at the discretion of the OSG Executive Director.*

While it is recognized that Centers are *designated growth areas*, there are communities which do not wish to have increased density in their center. Particularly in the Regional Center scenario, one municipality, such as Bridgewater, wishes not to have this growth, while the other participants in the Regional Center may wish to promote growth. Bridgewater has other aspects which contribute to the vitality of the Center such as a Regional Shopping Center, Regional High School, office complexes and a County technical school and library, to name a few.

The TDR option is not endorsed by the community. The language of the *Draft Municipal Plan Endorsement Guidelines* at this section suggests that the TDR issue is one which is purely voluntary, but later in the document, it is made clear that this may not be the case. If the State Plan requires the TDR concept for Centers, there is the potential to be required to defend against a litigation threat due to the fact that Centers are a *designated growth area*.

#### Step 7 (OSG Recommendation Report and Draft PIA)

This section includes alternatives which, in effect, offers an appeal process. This is a concept which should be considered for each Step and each Part identified in the process.

#### Step 8 (State Planning Commission Endorsement)

There are no comments offered.

#### Step 9 (Monitoring and Benefits)

There are no comments offered.

### **Part III - Plan Endorsement Consistency Requirements (beginning on Page 14)**

This section produces concern in that there is a *requirement for external consistency* which is the requirement that the petition must be consistent with documents that have not yet been adopted. It also suggests that the petition must be consistent with documents which may be amended some time in the future. None of the documents in these Guidelines are identified as to the specific date of the publication that the municipality is agreeing to have consistency with. It is not reasonable to expect a municipality to agree to consistency with documents which have not even been drafted or which may be modified some time in the future. The following documents are in one or more of these categories:

- State Development and Redevelopment Plan
- State Programs and Initiatives (e.g. Economic Growth Strategy)
- COAH,
- CAFRA,
- Water Quality Management Plan,
- Water Supply Master Plan,
- DOT corridor studies.
- County Plans and programs

The potential for problems is enormous. As mentioned at the Pre-Petition meeting held in Trenton, the details of these documents are not yet fully known. The adoption of the *Municipal Plan Endorsement Guidelines* should be stalled until all documents are published. Then, there can be meaningful dialog and negotiation.

In addition, to enter the Municipal Self-Assessment phase without these documents deprives the municipality of adequate information to enthusiastically participate in the process.

Page 14, Paragraph 4 states:

*The petition shall also describe how local land use and zones, whether existing or proposed, correspond with Centers and Planning Areas depicted on the State Plan Policy Map.*

This strongly supports the notion that if the Regional Center is to receive endorsement, Bridgewater will be *required* to modify its zoning to encourage growth, with greater development intensity, mixed uses, etc. within the limits of the Regional Center. If this is not the intent, then clarification to the *Draft Municipal Plan Endorsement Guidelines* is warranted.

Page 14, Paragraph 5 states:

*Consistency is also considered against state agency plans and programs that further smart growth principles. The petitioner must therefore demonstrate consistency in a comprehensive fashion to fully enjoy the benefits of endorsement...*

Page 15 notes that New Jersey is a diverse state and recognizes that flexibility is an important feature. Having recognized this trait, the document states:

*However, the recognition of local conditions and constraints does not mean overriding sound planning principles.*

This is a clear message that if Bridgewater does not endorse the smart growth principle of an 'area of growth' for its portion of the Regional Center, all the public participation and visioning that was done for the Master Plan (which overwhelmingly endorsed no intensification of development in the Township) is irrelevant. This is despite the fact that public participation and visioning was noted in the *Draft Municipal Plan Endorsement Guidelines* as a critical component to the comprehensive plan. (Page 14, last sentence)

Page 16 - The Master Plan-General Information requires that:

*The plan should outline goals and objectives following from the vision and based on sound planning principles.*

If sound planning principles for a Center insists on growth and intensification of development, Bridgewater would not be able to comply. It has been the hope of the Township that the condition of intensified development could be absorbed by the other parties in the Regional Center.

If accommodations can be made specifically for Regional Centers, as opposed to the isolated Center, incontrovertible clarity to this effect should be provided in this document.

Page 17 – Land Use

The notation regarding Centers is made which does not distinguish the Center from the *Regional Center*:

*...the State Plan calls for growth to be concentrated in Centers, while protecting the Environs... The center of a neighborhood or town should be composed of mixed-use buildings...*

It also states:

*Retrofitting suburban sprawl...The State Plan does not support the designation of a center in this context if local planning maintains the status quo, replacing one big box store, strip mall or "towne centre" with another. Even if current opportunities are limited, the municipality should have the planning and ordinances in place that identify potential centers to retrofit aging, vacant retail complexes into mixed-use, pedestrian-friendly developments.*

It goes on to recommend:

*A defunct mall should be reconstituted to provide retail services along with a mix of office, residential and specialty uses by constructing new buildings on the parking lot...*

The *Draft Municipal Plan Endorsement Guidelines* should consider that these measures may be applied differently to the communities within the Regional Center. An individual member of a Regional Center, such as Bridgewater, could opt-out to increased density due to overwhelming community resistance to this concept; the text should be amended to afford this option.

Page 19 –Zoning Ordinance, Schedule and Map-absolute requirement Underline has been added for emphasis.)

*To implement the land use plan, a municipality must have zoning documents in place that meet the consistency requirement of these Guidelines. Where development and growth are proposed, the zoning ordinance shall have mechanisms to promote[d] mixed-use development.*

In the case of a *designated growth area* as defined for a Center, the Regional Center should be specifically-distinguished to afford the opportunity for intensified development in some of the participating members of the Regional Center and not for other members.

## Page 20 – Housing

It is stated that:

*Affordable housing shall be located in areas designated for growth by the State Plan or through the Plan Endorsement Process.*

Since Bridgewater far-exceeds its COAH obligation, Bridgewater wants to be assured that participation in the Regional Center designation does not obligate Bridgewater to have more affordable housing than it is required to have, based on its own development activity. Without COAH rules fully in place, this assurance is not available at the present time. This speaks to the recommendation that these guidelines should be the final step in the process, and not adopted until after all the other DCA departments have finished their work.

## Page 24 – Transportation

Bridgewater has a train stop for commuters and at this time does not wish to have the intensity typical for transit-oriented development. The *Draft Municipal Plan Endorsement Guidelines* states that the Circulation Plan of the Master Plan:

*Shall consider transit-oriented development with the goal of bringing in more people, economic development, and affordable housing closer to transit service.*

It is requested that a firmer statement be made to emphasize that this is an option, not a requirement, that would be imposed by any other state agency in the DCA. If all other DCA documents were already completed, this may be more readily accepted.

## Page 35- Transfer of Development Rights

The *Draft Municipal Plan Endorsement Guidelines* suggests that the TDR program may not be a voluntary one. It may be imposed as a requirement by the state.

*The state may encourage or, in certain cases, require a petitioner to pursue Transfer of Development Rights (TDR) in the Plan Endorsement process or as part of the PLA if the municipality faces development pressures on open space, farmland, or historic resources and has opportunity elsewhere to concentrate development.*

This provision is viewed as one where the uncertainty may have a chilling effect on a municipality, particularly when a municipality does not want to participate. This is especially troublesome if the municipality is within a *designated growth area*.

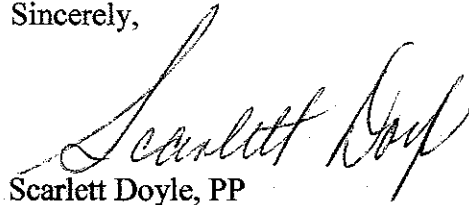
## Part IV - Plan Endorsement Benefits

There are no comments offered.



Thank you for your consideration of these comments. We sincerely believe that it is necessary to add flexibility in the guidelines that would be applicable to a Regional Center.

Sincerely,

A handwritten signature in cursive script, reading "Scarlett Doyle".

Scarlett Doyle, PP  
Township Planner

Prepared For  
Patricia Flannery  
Mayor

**From:** Spinelli, Ben  
**Sent:** Thursday, July 12, 2007 12:01 PM  
**To:** Gelbstein, Tracie; Esser, Danielle; Webb, Erika  
**Subject:** FW:

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**From:**  
**Sent:** None  
**Subject:**

**HELEN HENDRICKSON HEINRICH PP CLA**

**71 Green Village Road  
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**Ben Spinelli, Executive Director  
NJ Office of Smart Growth  
NJ DCA  
PO Box 204  
Trenton, NJ 08625-0204**

Dear Ben,

As a Professional Planner on behalf of the farm community and NJ Farm Bureau, I appreciate the opportunity to comment on the proposed guidelines for Municipal Plan Endorsement. This process is critical if the State Plan and its policies are to be implemented at the local level where the power to plan lies. The State Plan's Statewide Policies for Agriculture and the Equity Policy are of major importance if New Jersey communities are to plan for agricultural viability. Please call or email me if you have questions about any of the following comments.

**COMMENTS ON  
THE DRAFT GUIDELINES  
FOR MUNICIPAL PLAN ENDORSEMENT  
6 20 07 DRAFT**

**Summary:**

We appreciate the fact that the NJ Department of Agriculture (NJDA) is to take a major role in deliberations with municipalities during the Plan Endorsement process. The NJDA Division of Agricultural and Natural Resources along with

the State Agriculture Development Committee (SADC) has been addressing the need for information pertinent to rural areas that want an increasingly viable agricultural economic future as well as a landscape. By incorporating the documents and materials the NJDA has developed for rural municipalities to use while planning FOR agriculture, the Plan Endorsement guidelines could be even more on target for agriculture . These include:

- The Agriculture Smart Growth Plan
- The Annual Economic Development Strategies
- The Land Use Planning Toolbox (online at [www.state.nj.us/agriculture/toolbox.htm](http://www.state.nj.us/agriculture/toolbox.htm))
- The SADC Guidelines for Comprehensive County and Municipal Agricultural Retention and Farmland Preservation Plans
- The SADC Targeting Strategy

Other resources and models will be suggested as we comment on the sections of these Guidelines. There is however, a serious lack of models for a productive visioning process for communities with over 5% of their territory in agriculture. Most strategies use urban or suburban graphic pictures in which development contrasts with less developed land. This is usually farmland that may or may not remain forever in that quiescent state in the process of staying viable. Viable productive agriculture always includes buildings, not just bucolic empty farm fields. It does a disservice to the nonfarm public to mislead them about the nature of the future agricultural landscape if sustained agricultural viability is truly a planning goal.

A distinct statement of where the state agencies must make a time and resource commitment as part of the MOUs, Action Plans, and Plan Implementation Agendas seems to be missing. This is curious given the discussions about this need by the State Planning Commission (SPC). More than their list of benefits is needed.

### **Comments on the Draft Municipal Plan Endorsement Guidelines**

We support the requirement that municipalities with greater than 5% of their land in agriculture submit documents pertaining to support for agricultural viability, farmland preservation, and gather pertinent information about the state of agriculture within their town and region and trends for the future.

Plan Endorsement Advisory Committee required. We strongly support this requirement and believe the municipality must show that it has made an effort to identify the affected stakeholders and to include them in the makeup of the Committee. Many rural towns have an Agricultural Advisory Committee or a joint Open Space/Farmland Preservation Committee that should have a seat on the Plan Endorsement Advisory Committee.

P. 6 Pre-petition: In the list of required documents, the "Farmland Preservation Plan element" should read "Farmland Preservation and Agricultural Retention Plan element" because the SADC is now emphasizing agricultural retention beyond land preservation in county and municipal plans.

P. 8 Initial Assessment:

Community Inventory should include more information about the state of business and industry within the municipality and, in rural communities, the state of the agricultural industry, beyond data about land in farms. This information is available through the NJDA or the USDA National Agriculture Statistics Service that, in NJ, also has all the data from Farmland Assessment forms. The NJDA has on its website a guide for doing an assessment of the agricultural industry. So a community with more than 5% of its land in agriculture has a wealth of information sources to add to their inventory.

Smart Growth Assessment must show how the municipality is consistent with the Equity Policy and the Statewide Policies for Agriculture. We find that most municipalites and their planners totally ignore these sections of the State Development and Redevelopment Plan (SDRP).

P. 10 State Agency Capacity Analysis: there is nothing in this section to alert municipalities with greater than 5% of their land in agriculture that their documents will be carefully reviewed by the NJDA. This section should include language about the NJDA role here, not just in the limited section on Agriculture on page 31. Transportation, wastewater and water supply capacity are agricultural issues.

P. 11 Community Visioning: There is a total lack of models and guidelines to help rural communities with more than 5% agriculture do a vision that considers the future of farming within the community. The Office of Smart Growth and state agency work with rural communities on Plan Endorsement so far is developing methods to fulfill this requirement, but just hiring a planning firm to conduct the typical visual assessment work is insufficient. It could even be potentially harmful to the future of farming if the community is led to envision bucolic countryside with no changes in the working landscape.

P. 13 MOU and Action Plan: there is nothing in this section to suggest that the state agencies themselves have made any commitments as part of the Action Plan, commitments with deadlines that move the process along. The Director of the Office of Smart Growth signs the agreement along with the municipal government officials, but this section should say that this would happen after the Director made every effort to negotiate commitments and resources out of the relevant state agencies.

We encourage any actions that helps municipalities plan for growth while at the same time preserving farmland - i.e. TDR, and density transfer. Rural communities are even more vulnerable to the wrong kind of growth if they try to plan to exclude it.

P. 14 Plan Endorsement Requirements for Consistency: The list does not include the NJ Agricultural Smart Growth Plan that communities with greater than 5% of their land in agriculture should use as a guide along with the policies in the SDRP. There is no mention of consistency with county or municipal economic development plans  
per se, the economic blueprints for the future.

P. 15 We strongly approve of the statement about planning for rural communities and supports "consideration ...to creating a Village or Hamlet or help preserve open space and natural resources". It is time to put more attention on the SDRP's provision for new villages and hamlets, new centers to stop the continual message from planners and municipal officials that there should be no growth in rural areas.

P. 16 Sustainability - Integration into all facets of planning: What is meant by "sustainability" here, just reduction of greenhouse gases? What about economic sustainability that appears to be related to the availability of housing? The NJDA Agricultural Smart Growth Plan makes Sustainability one of its major elements but includes land preservation, Right to Farm, availability of a well-trained and educated work force, tax incentives, and relief from overly harsh or inappropriate state and local regulations in it along with resource sustainability. This section needs to be expanded and more diverse references added to the list.

P. 17 Land Use: what "farmland" data is meant here, Farmland Assessment data? Preserved farms? There are several categories of data mapped for farmland that should be listed here.

P. 18 We strongly support the description of "New centers in suburban and rural areas" as we believe that rural communities must plan for growth or they will lose their farms and their rural character. There are too many professional planners and municipal officials that want to be excused from planning for growth because they believe that the SDRP forbids it in rural areas.

P. 19 The list of documents for the Land Use review does not include a Housing Plan element, a requirement of the MLUL. Farms need housing that is affordable and close to the agricultural operation.

We would like to see the Agricultural Retention and Preservation Plan a required document for communities with more than 5% land in farming.

The list of information sources and examples should include reference to the NJDA Land Use Toolbox on their website ([www.state.nj.us/agriculture/toolbox.htm](http://www.state.nj.us/agriculture/toolbox.htm)) and the Hunterdon County Environmental Toolbox sections on planning for agriculture.

P. 21 We protest the requirement that a municipality identify, preserve, conserve or utilize habitat for endangered or threatened "and candidate" species based on Landscape Project mapping that is in precise and so broad as to be meaningless. Most farmland could be considered grassland bird habitat - if planted to native grasses instead of crops. It is unacceptable for the State Planning Commission to encourage restrictive mapping and loss of productive land when the SDRP has such strong policies about agricultural sustainability as an industry.

#### Circulation

P. 23. Small towns "with only local roads" must consider circulation of farm vehicles and plan for improvements to enhance the movement of equipment and goods to market. Many farmers operate on disparate parcels of farmland and must travel on local roads or state highways in order to reach them. This section should reference the DVRPC's study for the Burlington County Freeholders of circulation for the Route 206 Corridor that includes a plan for circulation to reduce roadway problems for farmers and guides the State and county to act to enhance agricultural movement in their road improvements. For this study, farmers identified bridge impediments, lack of wide enough shoulders to move farm equipment out of the way of other travelers, lights especially turning lights too short for farm vehicles to make the turn, limits on trucks on roads surrounding farms that use trucking to move their product to market, etc.

P. 24. Farmland owners consider trails and greenways an invasion of privacy and a threat to valuable livestock and crops. Trespass and vandalism continue to be serious problems that reduce farm income even without increasing public access to the interior of farms. The landowner remains liable for whatever the public does even on a mapped greenway, and there is no one for the landowner to call to enforce trespass laws or to maintain the right of way. Greenways and trails often become wildlife corridors that encourage wildlife that damage crops and reduce farm viability. The Office of Smart Growth and municipal planners must take this experience into account when they "consider" establishing greenways and trails.

P. 25. The Municipal Stormwater Management Plan is listed as a required element on this page but not in the list on P. 21.

P. 28 Economic Development last but not least: agricultural economic development must be a component of all sections of this part of the petition if a town has greater than 5% agricultural land.

P. 30 The NJDA Economic Development Strategies for NJ Agriculture updated annually should be added to the list of information resources.

P. 31 Agriculture: This section makes no mention of the Appendix 6.4 to the Preliminary 2005 State Plan titled New Jersey Department of Agriculture Plan Endorsement Guidance. It should include all of the elements in that guidance document and also include the new county and municipal requirements for farmland preservation . It should include the NJDA Economic Development Strategies and any efforts a town might make to reduce right to farm conflicts beyond passage of an ordinance conforming to the Right to Farm statute. This is critical because all studies show that the major threat to agricultural viability in New Jersey is action by municipalities through planning or regulation.

P. 33 Transfer of Development Rights: We strongly support any measures the Office of Smart Growth can take to educate and persuade more communities, especially rural ones, of the utility of TDR Receiving Areas in achieving their farmland, open space, or historic preservation goals.

P. 35 Planning and Implementation Agreement (PIA): There is no mention here of commitments from the state agencies as to time schedules or concrete actions they agree to take to assist the municipality in achieving Plan Endorsement. The PIA is "a written agreement between the SPC and the petitioning municipality" but should have specifics directing state agencies about their responsibilities as well as listing those of the municipality.

P. 39 Monitoring: Should this be "Monitoring and Plan Endorsement Renewal/Revocation"? There is little about expiration of the endorsement after 10 years or about the ability of any party to challenge the municipality for not living up to its PIA.

Appendix: Agriculture: The resources for information and examples should include:

NJ Agriculture Smart Growth Plan  
NJ Department of Agriculture Economic Development Strategies issued annually  
NJ Department of Agriculture Land Use Toolbox on their website [www.state.nj.us/agriculture/toolbox.htm](http://www.state.nj.us/agriculture/toolbox.htm)

Thank you for your consideration of these comments. We hope that you will use them to make the Municipal Plan Endorsement Guidelines as effective as they can be.

Yours truly,

Helen H. Heinrich PP CLA

Cc: Peter Furey  
Monique Purcell





**New Jersey State League  
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William G. Dressel, Jr., EXECUTIVE DIRECTOR

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July 11, 2007

Ben Spinelli, Executive Director  
Office of Smart Growth  
Department of Community Affairs  
101 South Broad Street  
PO Box 204  
Trenton, NJ 08625-0204

Re: Plan Endorsement Guidelines

Dear Mr. Spinelli:

In anticipation of consideration by the State Planning Commission (SPC) of proposed "plan endorsement guidelines," the purpose of this letter is to briefly summarize and outline our thoughts and concerns regarding this proposal. At the outset, we believe it is appropriate to note our appreciation for the hard-work and countless hours the Office of Smart Growth (OSG) staff has put into this proposal and in working with local governments.

The new guidelines seek to revamp an earlier process that most believe was unsuccessful. The League believes, however, that the existing plan endorsement process (i.e. "initial plan endorsement" and "advanced plan endorsement") could have very well worked if State agencies had bought into the process and if the ensuing benefits could justify participation in the process. If this lesson is not learned, then no process will be successful. Municipal governments have now engaged in three rounds of cross-acceptance. It is well past the appropriate time for the State agencies to accept the State plan, and provide the benefits necessary to make plan endorsement a worthwhile investment for taxpayers. While we believe the proposed guidelines continue to move in the right direction, we do have on-going concerns that should be addressed before approval by the SPC.

**COAH Petition and Wastewater Management Plan Requirements**

First, the draft guidelines require a petition for substantive certification from the Council on Affordable Housing (COAH.) This is problematic and simply unworkable for a number of reasons. First, under "Housing" on page 19, the guidelines read, "*The Plan Endorsement petition must include a Housing Element & Fair Share Plan that fulfills sound planning principles for housing as well as requirements for substantive certification by the Council on Affordable Housing.*"

Later, under relevant documents it is stated that a "petition" for COAH certification is required. We note that COAH compliance is an on-going process that will be achieved over-time. How can a municipality fulfill housing and COAH requirements at the time of a plan endorsement petition? This opens the door for on-going challenges to plan endorsement certification and this uncertainty undermines sound planning.

Furthermore, a COAH petition is in of itself a costly process, often running in the tens of thousands of dollars. By placing such a cost prohibitive requirement at the front end of the process, OSG will, unintentionally, discourage participation.

The State Supreme Court recently denied all petitions for certification regarding the challenges to COAH's third round regulations. The agency now has until the end of the year to adopt new

regulations. This will require the over 200 municipalities that have already filed petitions with COAH to either amend or resubmit their petitions, thus delaying their requirement to seek plan endorsement within three years.

We note that when the COAH regulations were adopted, municipalities, as a condition of COAH certification, need to achieve "initial plan endorsement" within three years of petitioning COAH. That was later changed to three years of achieving COAH certification. Now that "initial plan endorsement" is being phased out, it appears more will be required of municipalities in order to maintain their COAH certification.

Thus, with this delay, the entrance of the municipalities with COAH petitions into plan endorsement will be delayed. In the meanwhile, municipalities who choose not to seek COAH certification will likely not seek plan endorsement because of this up-front requirement. Urban areas, which typically have not sought certification from either agency, will again likely not seek certification.

At this moment, we do not know what will be required of municipalities seeking COAH certification. It is an undefined process, and we fail to see how one state agency can directly link its regulatory requirements to what is now an undefined process.

The League supports sound planning and affordable housing. We do not believe that such planning, however, can be achieved through regulatory requirements and linkages between different agencies. These requirements will, inadvertently, discourage participation in the plan endorsement process, and should be removed.

Instead, what we believe may streamline the process for both plan endorsement and COAH certification is an affirmative statement of reciprocity from both agencies. If local governments are assured that the work that they contract out at a high hourly cost would be honored by both agencies and could be used in both petitions, it would be an incentive. We acknowledge that this concept is rather vague and we would welcome the opportunity to work with OSG, COAH and other interested parties to define this.

Additionally, on page 25 of the draft it is indicated that a "wastewater management plan" is required as part of the plan endorsement petition. Currently, the DEP is taking comments on proposed regulations that will impact such plans, and the ability to get approval for such plans depends on if and when these regulations are approved. Like the COAH petition, this is cost and labor intensive requirement that is put on the front end of the process, which will only serve as a disincentive for local governments. And like the COAH petition requirement, it should be removed as a requirement.

#### **Redundant Procedures, Additional Costs**

Additionally, it would be beneficial if such an approach was formalized between OSG and other State agencies. For instance, if it was clear that a municipality would not be asked to perform a build-out analysis if it already has been done in compliance with requirements of another State office, plan endorsement would be a more cost-friendly process.

One consistent comment we have heard from our members regarding compliance with State certification is that it is costly, and this is compounded by unnecessary delays. Addressing the two points above will help reduce costs.

#### **Plan Endorsement Advisory Committee**

The new guidelines require the appointment of a plan endorsement advisory committee. Since existing law allows the creation of an advisory committee (local ordinance in accord with the Municipal Land Use Law), we recommend the advisory board shall be created "in accordance with N.J.S.A. 40:55D-1 et. seq., the Municipal Land Use Law Chapter 291, 1975, Sec 40:55D-27A;

*"40:55D-27. Citizens advisory committee*

*a. After the appointment of a planning board, the mayor may appoint one or more persons as a citizens' advisory committee to assist or collaborate with the planning board in its duties, but such person or persons shall have no power to vote or take other action required of the board. Such person or persons shall serve at the pleasure of the mayor."*

In addition, the follow-through with the governing body and the State should be done by the planning board. Making an advisory board part of the planning board process, will reduce redundancy, cost and time. It will ensure that the decision-makers are all in agreement, that the public hearing process has been properly obeyed and that the principles of PE are immediately integrated with understanding into the application hearing process. In addition, the planning board already operates under firm legal and ethical dictates.

**Areas in Need of Redevelopment under the Local Redevelopment and Housing Law**

Page 13 of the proposed guidelines (dated June 11) stated,

*"...the petitioner shall be entitled to assistance from the smart growth teams within individual State agencies to attain consistency with State Plan and to enhanced scoring for planning grants (to the extent the grants are supported through New Jersey's annual budget process). Petitioners are also entitled to commence application for the following geographic specific planning programs:*

*Transfer of Development Rights receiving areas;  
DOT's Transit Village program;  
Areas in Need of Redevelopment under the LRHL; and  
CAFRA coastal center designations."*

Furthermore, this is later listed as a "benefit":

<i>1. Area in Need of Redevelopment</i>	<i>Coordinated approach between the State agencies, counties and municipalities to designate areas appropriate for growth and preservation based on the LRHL and smart growth planning principles, and the tools available to create and implement a redevelopment plan once the designation is approved</i>
-----------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Currently, if a municipality declares an area in need of redevelopment and the land is in planning area one or two, the municipality must merely notice the Department of Community Affairs. If it is in a more sensitive area, the municipality needs DCA approval prior to designation becoming effective. This is set forth in NJSA 40A:12A-6(b)(5) as follows:

*"Upon the adoption of a resolution, the clerk of the municipality shall, forthwith, transmit a copy of the resolution to the Commissioner of Community Affairs for review. If the area in need of redevelopment is not situated in an area in which development or redevelopment is to be encouraged pursuant to any State law or regulation promulgated pursuant thereto, the determination shall not take effect without first receiving the review and the approval of the commissioner. If the commissioner does not issue an approval or disapproval within 30 calendar days of transmittal by the clerk, the determination shall be deemed to be approved. If the area in need of redevelopment is situated in an area in which development or redevelopment is to be encouraged pursuant to any State law or regulation promulgated pursuant thereto, then the determination shall take effect after the clerk has transmitted a copy of the resolution to the commissioner."*

Once the determination is effective, the municipality then must provide notice to all persons that filed objection notices with the municipality during the investigation of the area in need. The phrasing of the guidelines (with the use of the word "entitled") seems to suggest that without a plan endorsement action plan, the OSG could take the position that the proposed area in need is not "situated in an area in which development or redevelopment is to be encouraged" and therefore needs DCA to approve before it becomes effective. It would also be an expansive reading of the existing law. Unlike Transit Villages or CAFRA center designations, which come from the State, an area in need of redevelopment is a local designation.

If the "certification" gets that municipality enhanced benefits for qualification as one of the areas, there is a good policy goal to achieve. But it should exclude areas in need of redevelopment as they are essentially a local decision that the State monitors (so that you don't designate environmentally sensitive areas, etc.) rather than a power that comes from the DCA to the municipality. Increased coordination is the goal obviously. It does not, however, address the central issue of whether plan endorsement is a jurisdictional foundation to being able to designate an area in need of redevelopment. Such an interpretation is not supported by municipalities and also arguably beyond the state's powers under the LHRL.

#### **Jurisdiction of Local Governments**

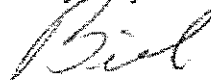
We must note that some of the documents are either requested or required are not always under the jurisdiction of the local governments. For instance, documents developed by the Board of Education may not necessarily be provided, and hazardous planning documents are usually under the jurisdiction of the county government.

In conclusion, we note that some of the "benefits" of plan endorsement are vital to the well-being of our citizens. Cost-prohibitive procedures delay the process of obtaining benefits that are funded by all the citizens of New Jersey. It is our mutual responsibility to assure that all these benefits are available to as many of our communities as possible. Our taxpayers deserve no less.

Furthermore, at the June SPC meeting, Chairman McKenna and Commissioner Wilson both made comments regarding helping municipalities cope with the costs of the procedure. The Chair raised the possibility of spreading the costs of plan endorsement over a period of time, thus making it more municipal budget friendly. The Commissioner suggested that the costs should be exempt from the budget "cap" that municipalities operate under. These are excellent ideas, particularly in light of the new 4% budget cap levy that municipalities now operate under, and we would be happy to discuss these ideas in greater detail with you.

We would appreciate you providing copies of this letter to the full State Planning commission in advance of your July 18 meeting. And, we would greatly appreciate the Commission's consideration of these concerns.

Very Truly Yours,



William G. Dressel, Jr.  
Executive Director

# COALITION FOR AFFORDABLE HOUSING AND THE ENVIRONMENT

## MEMORANDUM

**DATE:** April 26, 2007

**TO:** Ben Spinelli  
Office of Smart Growth

**FROM:** Paul Chrystie  
Coalition for Affordable Housing and the Environment

**SUBJECT:** Plan Endorsement Guidelines

Thank you for the opportunity to review and comment upon the Office of Smart Growth's draft municipal and county Plan Endorsement guidelines. The Coalition for Affordable Housing and the Environment offers the following recommendations that we believe will better achieve the goals of the State Planning Act and better promote our goals of environmental protection, sound planning and affordable housing opportunities.

A significant concern that we did not directly address at our April 23 meeting is the proposed endorsement benefit of "procedural (permit streamlining) regulatory changes." The Coalition has long believed that if the State wishes to direct growth into areas appropriate for growth and away from areas inappropriate for growth that it should direct its permit review resources accordingly. To us that means moving permit applications in growth areas to the top of the pile for review, and moving permit applications in non-growth areas to the bottom of the pile.

What it does *not* mean is institution of arbitrary deadlines, weakening of standards or other measures that will lead to less public involvement in the review process or less environmental protection for citizens in growth areas than for citizens in non-growth areas. The Coalition would be supportive of a policy under which permit applications in growth areas receive the same rigorous review of permit applications in non-growth areas, except that an application in a growth area receives the attention of the permitting agency and its staff prior to any application in a non-growth area. The Coalition would not support a policy that leads to differential levels of environmental protection based on location in a growth or non-growth area, and does not believe that such a policy is statutorily permissible.

### Substantive Certification

The Coalition is pleased that a petition for substantive certification is a prerequisite for plan endorsement. As we have noted throughout the process, to develop a comprehensive land use plan designed to, among other things, manage growth and protect the environment, and then to leave that land use plan vulnerable to litigation that could complete undo it, is short-sighted and counterproductive. We appreciate that despite some disagreement with that view in some narrow quarters (which is in contrast

to the broad consensus supporting the Coalition's perspective) that OSG continues to include this common-sense measure in its draft endorsement guidelines.

It is important for a variety of reasons that this policy be applied equitably to all municipalities. First, simple fairness demands it. Second, if the State Plan successfully directs the majority of New Jersey's growth to urbanized communities, and yet its endorsement guidelines do not require those communities to address their ongoing constitutional affordable housing obligations, the promise of the Plan to create sustainable communities throughout the state will be lost.

#### Plan Endorsement Advisory Committee

The Coalition believes that such a committee should be mandatory for both municipal and county plan endorsement efforts, and for county plan endorsement the committee must include opportunities for participation by all the constituent municipalities.

#### Public Transit

The endorsement process should treat every existing public transit facility, especially rail, as a potential transit village, and apply the criteria of the NJDOT transit village program to those facilities whether they are under consideration for a transit village designation or not. Transit facilities in municipalities contemplating growth should be assumed to be an appropriate growth location, absent environmental constraints, and if a municipality is considering growth away from the transit facility prior to or instead of at the facility, the burden of proof should be on the municipality to explain how such a growth plan is consistent with the State Plan.

Conversely, proposed transit facilities, especially new service, should be subject to the same rigorous review as proposed roadway capacity expansion. Expansion of public transit is not necessarily a smart growth strategy, especially if it promotes growth in inappropriate locales, and as such should not be automatically considered an endorseable plan.

#### Environmental Infrastructure

Municipal and county analysis of water supply and wastewater treatment facilities should include analysis of flaws and weaknesses in the existing system and steps that would be required to address those flaws and weaknesses. In particular, this analysis should identify the amount of water supply lost through leaking pipes, the extent to which rain and other events lead to discharge of untreated sewage directly into waterways, and the cost to remediate those conditions. Addressing these flaws and weaknesses is a smart growth strategy in that it will support further growth in already-developed areas without additional impact on the environment.

#### Endorsement Criteria

As the Coalition has made clear in the past, it does not believe that Plan Endorsement should be granted unless and until a municipal or county plan is consistent with the State Plan. Granting endorsement based on a timetable to become consistent would

result in growth inconsistent with the State Plan taking place in endorsed municipalities and counties and would undermine both the State Plan and the State Planning Act.

#### Green Building

While encouraging green building is an admirable goal, green building standards should be applied across the board and not solely to affordable housing. In addition, analysis should be done to determine whether any increased initial cost serves to prevent low- and moderate-income households from obtaining affordable housing (and thus rendering the energy cost savings moot) and what strategies might mitigate those increased initial costs.

#### Open Space and Recreation

The Open Space and Recreation plan element should “lay out an implementation strategy that serves to acquire, protect, manage and improve these resources.”

#### Farmland Preservation

The Farmland Preservation/Agricultural Retention Plan should include strategies designed to minimize or eliminate adjacent incompatible uses.

#### County Plan Endorsement

The County Plan Endorsement process should include in the vision statement, growth projections and other appropriate places inclusion of visions, projections and other relevant data from municipalities that have been endorsed or that are in the endorsement pipeline.

A county's Plan Endorsement petition should be accompanied by a resolution from the Board of Freeholders (not “or” the planning board, as currently contemplated) to demonstrate political support for the petition.

Again, thank you for the opportunity to provide feedback on the draft guidelines. Please feel free to contact me if I can provide any further information regarding our suggestions.

Public Comment, April 17<sup>th</sup> 2007

To: State Planning Commission

From: Barbara Palmer, Association of New Jersey Environmental Commissions

ANJEC supports the State Plan and Plan Endorsement and we are glad to see the progress the Office of Smart Growth is making both on Cross-Acceptance and on issuing drafts of the new Plan Endorsement Guidelines and proposed Plan Endorsement Rules.

It is very important that Cross-Acceptance is brought to conclusion this spring. We would ask the State Planning Commission to do all you can to support the staff in this process and make sure the staff has the resources it needs to conclude X-A and move on to the draft of the new State Plan.

I would like to thank the staff for making the Plan Endorsement Guideline drafts available in advance of the meeting for review. Obviously a lot of thought and hard work has gone into these drafts and there is a lot of detail and substance in them. I don't want to take up time with comments on the details, but I do have a number of general comments that I would like to share with you:

First on the proposed revised Plan Endorsement Rules:

1. The rules are quite detailed about the petitioning process and the documents required. It had been discussed in the past that the Rules be kept general with regard to the petitioning process and submission requirements, with reference to the guidelines for all details. The purpose for keeping the Rules general is to give the SPC and OSG the freedom to adjust the details of the process in the guidelines as they see what works and what does not work well without needing to go through the lengthy rule change process. If it turns out, for instance, that an up-front Build-out Analysis is too onerous for many petitioners, putting this requirement in the rules makes it more difficult to make adjustments.
2. That said, the requirements as listed in the Rules are not completely consistent with the requirements in the draft guidelines. All the specifics need to be in the guidelines as well. The rules make reference several times to submission of a draft PIA, where the guidelines discuss mostly an action plan, for instance. And the Guidelines require annual status reports from endorsed municipalities, the Rules ask for bi-annual reports. Those sorts of things can easily be fixed by an editorial eye.
3. ANJEC strongly supports the rule change requiring two public hearings during the plan endorsement process and we are pleased to see this in the draft. (The paragraph 5:85-7.8c at the bottom of page 8 lost part of the sentence that specifies what happens when the OSG Executive director receives at least 10 requests for a public hearing. We hope the ED will continue to schedule a hearing in that case)

Comments on the Draft Municipal Plan Endorsement Guidelines:

1. In general, there is a lot of detail and explanation about the petitioning process and about the required elements, but the guidelines are missing the concise, step-by-step



petition details. A lot of the information is actually in the Rules, where you may not want to be so detailed. Step- by-step requirements need to be in the Guidelines, including a check list, which is referred to but was not included yet.

2. The Guidelines draft is missing the significant link to the State Plan Goals and Policies. This is essential, and perhaps it is in the Smart Growth Assessment Report, which was also not included yet.
3. ANJEC views the Natural Resource Inventory and a ROSI, a Recreation and Open Space Inventory, as essential elements of an initial assessment. The guidelines place them far down on the list of possible requirements. The information contained in an NRI is essential for proper community visioning and land use planning, not an add-on.
4. ANJEC strongly supports the requirements for community visioning and inclusive planning. However, we are concerned that the tasks required by doable and affordable even by smaller and less wealthy municipalities. Much of the information requested in the Community Inventory may well be in the existing Master Plan if it is up-to-date. A review of this might serve as well as a new document. A back-of-the envelope build-out analysis is not that easy to do well, perhaps it could be required only once in the process. The guidelines make only one reference to the time required, 1 to 6 months for the adoption of a vision statement, but the guidelines would be well-served by including an estimated timeline for the whole process. You may also want to include a waiver provision for items that are not relevant. Requiring specific map colors, for instance, could mean a municipality has to spend thousands to redo existing mapping.
5. We have discussed in the past the need for stakeholder involvement and good public outreach during the plan endorsement process. We are pleased to see the explicit recommendation of a Plan Endorsement Advisory Committee to guide the process in each municipality. However, the only further reference to public outreach is one sentence "Remember to keep the public informed of your progress...." This needs to be expanded and fleshed out with detailed public outreach guidelines.

I did not have time yet to review the draft County Guidelines, but I do have a lot of specific comments on the details of the drafts that I would like to send you in writing.

Thank you!

Memo To: Tracie Gelbstein, Office of Smart Growth  
From: Candy Ashmun on behalf of NJCF  
and Barbara Palmer, ANJEC  
Re: Suggested Text for PE Guidelines, Conservation Section, pp. 20-21  
Date: June 29 2007

**General Comment:** The draft asks municipalities in their Conservation Plan “to provide a framework for the conservation activities of not just the municipality but also other municipalities, sectors, and levels of government...” This is beyond what municipal planning can accomplish. In the suggested text below, we grouped the requirements by NRI, Conservation Plan Element as defined by MLUL, and required Ordinances.

## Conservation

The Plan Endorsement petition shall include the following items that identify and characterize the environmentally-significant features of the municipality and set out the land use plans, policies, strategies, recommendations and regulations that the municipality has adopted to facilitate protection and sustainable use of those features. The items required for endorsement are:

1. A **Natural Resource Inventory (NRI)** – also referred to as an Environmental Resource Inventory (ERI) – a document that uses narrative, maps, tables and illustrations to describe all of the municipality’s water, land, plant, animal and open space resources, and the conditions and activities that impact them. An NRI is a factual document that provides a basis for policy decisions related to land use.
2. A master plan **Conservation Plan** that provides for the preservation, conservation and utilization of natural resources, including, to the extent appropriate, energy, open space, water supply, forests, soil, marshes, wetlands, harbors, rivers and other waters, fisheries, endangered or threatened species of wildlife and other resources...as described in the Municipal Land Use Law [NJSA 40:55D – 28b(8)].

The element must also contain sections setting forth a

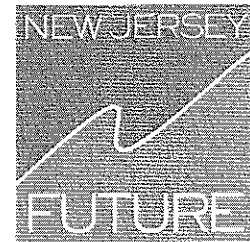
- *protection plan for stream corridors*
- *plan for complying with TMDL limits*
- *plan for protecting environmental and public health.*

Towns with significant habitat must also include a *habitat conservation plan*, and towns in the CAFRA zone must include a *coastal consistency plan*. The Conservation Plan Element should explain how it relates to the conservation activities of adjacent towns and regional entities.

3. To implement the conservation plan, a municipality is asked to adopt the following ordinances for endorsement:
  - **Water Conservation Ordinance**
  - **Wellhead Protection Ordinance**
  - **Stream Corridor Protection Ordinance**
  - **TMDL Ordinance**

## MEMORANDUM

**To:** Ben Spinelli, Tracie Gelbstein, OSG  
**From:** Chris Sturm, Senior Director of State Policy, New Jersey Future  
**Subject:** Amended Draft Plan Endorsement Guidelines  
**Date:** June 29, 2007



www.njfuture.org  
609-393-0008

NJF would like to applaud OSG on the progress made on the Plan Endorsement Guidelines and supporting documents. Plan endorsement is an important way to align local government plans and ordinances with state objectives, and participation will be significant. The number of municipalities seeking endorsement is rising, and will continue to escalate due to a number of factors including the desire for:

- Coastal center designation
- Transfer of development rights
- Renewal of center designations
- Need to keep COAH certification (pending COAH rule resolution)
- Desire to alter sewer service areas per the proposed Water Quality Management Planning rules.

In addition, to realize State Plan implementation, the Commission must target certain places for endorsement. This includes distressed cities and older towns that may not seek endorsement but desperately need assistance to ensure they participate in— and contribute to— New Jersey's prosperity. There are other locations that are of statewide significance such as key transit stops where development should be facilitated to encourage transit usage (thus addressing the goals of the Energy Master Plan and Greenhouse Gas Initiative.) To ensure a smooth and efficient process for all participants, including state government, it is imperative that the SPC direct OSG and the state agencies to invest the time needed to refine the guidelines and associated documents.

Following below are my comments on the draft documents. Please note that these comments should be complemented by a careful line-by-line review by staff and outside planners and local officials.

### **Make the documents clearer and easier to understand.**

- Create a subcommittee of the SPC (including some of the local government representatives) to oversee creation by OSG of final user-friendly documents designed for local officials. Create as soon as guidelines are adopted.
- Add a table of contents to the guidelines.
- Add summary lists: of submission requirements (organized by "level of requirement"), required public participation sessions, etc.

- Fix the flow chart to add “Certificate of Eligibility” and to better indicate timeframes.
- Explain why statewide indicators are included in the template, and how local government should use them.
- Ensure that densities shown on pp. 21 – 24 are consistent with the State Plan. Explain that they may change if the Plan does. Fix or delete the chart on page 25.
- For each subject area (like “Land Use” or “Housing”) clearly list each of the requirements according to the “level”. Highlight the requirements. Clarify exactly WHAT is required. For example, must a municipality have an *approved* WMP, or have submitted a proposed WMP?

### **Maintain & Improve Clear Standards for Consistency Determination**

- NJF welcomes the statement on page 15 that planning documents be “up-to-date”. Clarify that this is a requirement to *receive* endorsement, not to enter the process.
- NJF strongly affirms the requirement that municipalities must petition for substantive certification from COAH (or have achieved resolution through the courts) in order to receive plan endorsement. We developed this position in concert with our Enhanced Endorsement Task Force in 2005 and 2006. (Note that the League of Municipalities abstained on this issue.) There are several reasons:
  - The state should not endorse, or offer the benefits of endorsement to, communities that are not addressing their obligations under the constitution, the Fair Housing Law, and the COAH rules.
  - A municipality that is not protected by COAH or the courts is vulnerable to a builder’s remedy lawsuit that could undo all of its land use plans and ordinances, thus invalidating endorsement itself. In fact, the state would be remiss not to protect municipalities with this requirement.
  - Plan endorsement is designed as a means for the SPC to coordinate for local governments all of their land use-related obligations to the state. Leaving affordable housing out would render endorsement ineffective from this perspective.
  - As a practical matter, there are likely to be few municipalities seeking endorsement that are not also seeking COAH approvals. We believe the overlap between the processes to be so substantial, that the requirement will not be onerous.
  - The one area of concern regards the distressed urban communities that are unlikely to need protection from COAH or the courts. We will urge the SPC to adopt the revised endorsement process for urban centers that OSG has proposed, where they can petition one neighborhood at a time, which would delay the requirement for city-wide COAH participation. We will explore other creative approaches with OSG, COAH, and the League of Municipalities.
- We expect consistency standards to become clearer over time, and urge the SPC to charge OSG with articulating clarified standards.

### **Fully integrate plan endorsement with other state agency rules and programs**

- Clearly define the build-out requirements for municipalities. Clearly state (and ensure) that these requirements meet those for other state regulations, including COAH’s third round rules, and the WQMP rules.

**Ensure that requirements of plan endorsement are commensurate with the benefits**

- Push state agencies to link their programs to endorsement and add to the list of benefits.
- Carefully consider removing requirements that are not already required by existing law or regulation or are generally considered to be part of sound planning, especially where requirements are unclear, and may be addressed by other levels of government. For example, the Commission should consider waiting to require Habitat Conservation Plans, until DEP's rule making process is complete, until it's clear whether local or county governments will be the responsible party, technical guidance documents are available, and case studies exist.
- Limit plan endorsement to land use-related activities. For example, hazard planning is beyond this category and would impose extra costs for a non-essential requirement.

**Integrate Municipal, County and Regional Endorsement**

- Add language in the introduction that explains the relationship between the plan endorsement process between counties and municipalities.
- Create a role for counties to review and comment on municipal plan endorsement petitions, as a means of ensuring municipal plans make sense from a regional perspective and to facilitate coordination between neighboring municipalities.

**Maintain SPC Involvement in Implementation and Monitoring**

- The proposed guidelines allow OSG to approve changes to an approved Action Plan. This may be appropriate for minor changes. A threshold should be established for "major changes" that require SPC approval.

Memo To: Tracie Gelbstein, Office of Smart Growth  
From: Candy Ashmun on behalf of NJCF  
and Barbara Palmer, ANJEC  
Re: OSG Amended Draft PE Guidelines  
Date: June 26 2007

**General Comment:** The tasks outlined in this document are all designed to provide the information and actions that will be taken by the Local Governments, the State Agencies and the OSG to bring better planning coordination by ensuring consistency with the State Plan as the overall guidance for investments and actions by all levels of Government. Unfortunately, though the language is in general comprehensible and implementable by the OSG and agencies, it is not written for the local elected and appointed officials who must be an active partner in its implementation. The result of circulating the PE Guidelines as written will be an assumption that the only way for a municipality to participate is to hire a consultant and turn the whole process over to him/her. Though consultants can and will be a valuable asset in this process, the very fact of being unable to take even the first step without large expenditures of money will discourage all but the wealthiest communities and those guaranteed money from the various grant programs. In short, to be effective these guidelines need to be written in such a way as to facilitate the process at the local level, and that requires that they be crystal clear and include a glossary of terms to bridge the gaps between the language of government practitioners and municipal officials both elected and appointed.

**General Comment:** The Flow chart does not accurately describe the activities as described in the text. Changes are recommended below.

**General Comment:** The Guidelines use a lot of web-based links. Please consider that not all municipalities or the members of their committees and commissions have access to high-speed internet connections, particularly since you intend to add illustrations and graphics. You may want to have an easy-to-download text-only version available as well.

## INTRODUCTION

### INTRODUCTION

The introduction confuses the rationale and basis for amending the PE Guidelines with a true introduction of the material to follow. Check attached recommended rewrite for Introduction to Guidelines.

## Step One: Pre-petition

Resolution for Appointment of the Municipal Plan Endorsement Advisory Committee  
(Petitioner)

Resolution Authorizing Letter of intent to Petition for Plan Endorsement (Petitioner)

~~Resolution approving Letter of Intent~~ Submittal of Existing Current municipal plans (Petitioner)

State agency Preliminary Report (State)

Educational Material (State)

Smart Growth team Contact Information

Pre Petition Meeting (Petitioner and State)

Deleted: 1

### A. Introduction:

**Comment:** The introduction to Step One seems to say that the State Agency Initial Assessment will assess “whether available resources and infrastructure accommodate “trend” growth projections.” Where do these projections come from? It goes on to state “Plans that are inconsistent with the State Plan and are unsupported by available resources and infrastructure will be addressed during the Action Plan stage.” It is totally unclear as to what is meant by this sentence. Are the State Agencies empowered to establish growth trends in a given municipality? Inconsistency with State Plan policies is a clear comparison and the policies cover protection of resources as well as provision of infrastructure. The add in of future growth trends at a point before the municipality has reviewed its future growth or done any visioning is unclear and seems to add something besides consistency with policy.

**Recommendation:** Rewrite the Introduction to explain that the Pre-Petition step is designed 1) to gather all relevant available local and state sources and 2) bring all the prospective players together to discuss next steps.

## **B. Resolution for Appointment of the Municipal Plan Endorsement Advisory Committee**

This requirement is a very good addition to the Guidelines. The rationale and make-up of the Committee is well done but the actual methodology, i.e. when and how the appointments will be made and the organization of the Committee is lacking. The suggestion that the Committee should fall under the Planning Board as related to the MLUL C 40:55D-27 is inappropriate. Those committees are appointed by the Mayor to “assist or collaborate with the planning board in its duties”. The Plan Endorsement Advisory Committee is functioning as a body representing the people, the professionals and the appointed officials in the municipality with a much broader perspective. The Planning Board must be a part of the discussion but the committee must not be bound by the “the planning board and its duties”.

### **Recommendation:**

In order to clarify, it would be helpful to have the Committee created by Resolution of the Governing Body at the same time as the Resolution covering the Letter of Intent (see Step One—Pre-Petition) is adopted. The Resolution creating the Committee should establish the makeup, the terms, and the organization of the Committee (e.g. is the Chairman appointed or elected by the Committee, etc.?) and the ethical standards that must be met by the members. Copies of all the materials submitted to OSG in the Pre-Petition Step should be first vetted by the Committee. Subsequent materials and negotiations will be done by the Committee subject to the approval of the Governing body. All municipal professional and appointed officials will be at the disposal of the Advisory Committee to assist in the Endorsement process. All appointments to and meetings of the PE Advisory Committee should be in accordance with Ethics codes and the Open Public Meetings statutes.

## **C. Resolution Authorizing Letter of Intent to Petition for Plan Endorsement**

## **D. Submittal of Current Municipal Plans and Background Documents to OSG.**

**Comment:** Do all documents need to be up-to-date to be submitted at this stage? The Guidelines state this on page 15, but that could mean substantial work for municipalities that have not updated their master plan, etc, before they can take Step One.

**Recommendations:** Updating of planning documents can be part of the Action Plan. The materials submitted to OSG in Step One should include the Mandatory Annual Reports of the Board of Adjustment, the Board of Health and the Environmental Commission as well as any enforcement actions taken locally by the DEP.

## **E. State Agency Preliminary Review**

**Comment:** The short period of time and the nature of the documents makes the use of the word “assessment” perilously misleading. More appropriately it would be an informational review, meaning for example that the agencies will request that the municipality in its own review must consider certain items of concern e.g. regulated access to a major state highway, stream buffering for a C1 stream, affordable housing obligations, etc.

Including the appointed PE Advisory Committee will avoid many future misunderstandings.

**Recommendation:** Change the title to more nearly describe what is possible to bring to the pre-petition meeting. Most importantly, include the municipal PE Advisory Committee or at least a delegation of same in the Pre-Petition meeting.

## **Step Two: Municipal Self Assessment**

Community inventory and Preliminary Vision (Petitioner)  
SDRP Municipal Consistency Report (Petitioner)

**General Comment:** Neither the flow chart nor the document makes clear how, when, or in what form the Petition is submitted.

The term Initial Assessment does little to describe the activities called for in Step Two. The self assessment and analysis of the consistency of existing planning with policies in the SDRP are very important to achieving a realistic PIA or Action Agenda.

Commenting on the Community Inventory without the Survey and Worksheet template may not be useful, but a few comments on the description (p. 8): It should acknowledge that much of this information can be compiled by the Advisory Committee from the Master Plan and from the current Census Report, etc. The description also asks for "projections", which would not be part of an inventory of current characteristics. The description calls for public outreach in completing the inventory. This is not necessary. The public outreach and involvement is needed to complete a Preliminary Vision, which should be performed at this point.

**Recommendation:** Change Step Two to describe what it is and also make it clear that the report from such an analysis is a part of the Petition.

**Comment on Template for Report:** The template includes several sections that can not be completed without comprehensive Community Visioning: Visioning and Public Participation, Internal Consistency in Local Planning, the Sustainability Statement and the Consistency with State Plan Analysis. The flow chart changes have moved the Community Visioning to Step Four. Step Two is the appropriate place for the first session of visioning involving the public at large. If Community Visioning is not included in Step Two, the SDRP Municipal Consistency Report needs to be substantially reworked.

**Recommendation:** The appropriate place for Community Visioning in the Plan Endorsement Process is during the work on the Community Inventory and the Consistency Report. Another session also involving the broader public and the PE Advisory Committee should take place in Step Four at which time the Vision and Strategies devised in the First Visioning Process can be analyzed in light of the capacity analysis in Step Three and revised conclusions drawn.

**Comment on Template for Consistency:** The draft states: "The petitioner should select the Goals most relevant to the petition and delete any irrelevant tables." In an evaluation of State Plan consistency, it is not appropriate to delete State Plan goals and policies. The petitioner can state in the analysis why a certain goal might not be relevant, but they should not be instructed to delete goals.

The Indicators are not sufficiently related to local action to make them applicable in a report on municipal consistency. Perhaps in the sustainability section of the report some discussion of applicable state indicators that are supported by the local plans would be more appropriate and relevant to municipal planning. The Center Criteria and Policies section must reflect the numbers in the current State Plan. Please check for errors. The section also needs to state that the density numbers and others might or will change with the adoption of the revised State Plan.



### Step Three: State agency assessment (45 days)

OSG, DEP, DOT, Transit capacity analysis (State)  
Capacity Report (State)

**General Comment:** In the final paragraph of the description of the capacity analysis by state agencies the document says that the data from the State Agency Assessment should be used in the Step Four Visioning.

**Recommendation:** As noted above the first visioning session should take place during the Municipal Self Assessment in Step Two in order to engage the larger public in the process early on in the process. The Visioning in Step Four then becomes an opportunity to review the initial vision in light of the capacity analysis and to provide a second opportunity for the larger public to work with the PE Advisory Committee to develop a realistic vision and strategies to achieve that Vision.

### Step Four: Community visioning

Adoption of a Community Vision and Implementation Strategies (Petitioner)  
Submit File Resolution Adopting and Community Vision (Petitioner)  
Submit adopted Vision Statement and Report on Visioning Process (Petitioner)  
Plan Endorsement Petition Complete (must OSG declare it complete as in current process?)

### Step Five: MOU and Action plan Development of Action Plan Requirements and Benefits (60 days)(Petitioner and State)

State Planning Commission SPC consideration at next public meeting  
Resolution by local governing body approving Action Plan (Petitioner)  
Municipality completes action plan  
Issuance of Certificate of Eligibility (State)

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### Step Six: State Planning Commission Endorsement

Consistency review and recommendation (45 days) (State)  
Planning Implementation Agreement (PIA) (State and Petitioner)  
Entitlement to Benefits package

**General Comment:** The section on Applying the State Plan... (p.15) paragraph 2 begins: "As much of New Jersey is built out, many of the municipalities that will petition for Plan Endorsement are not blank slates where the State Plan could be applied in a wholesale manner." This is a misstatement and hopefully doesn't indicate a misunderstanding among the staff. The State Plan applies to all parts of the state and all levels of development. That's why there are different Policy Objectives for the various Planning Areas.

[We are still in the process of reviewing the specifics on pages 16 to 36, as well as the Appendix]

### Step Seven: Monitoring

Annual Report (Petitioner)  
If necessary, Amendments to Endorsed Plan and benefits package

**From:** McVicker, Wendy  
**Sent:** Tuesday, June 26, 2007 12:46 PM  
**To:** Gelbstein, Tracie  
**Subject:** FW: Proposed Municipal Planning Guidelines  
FYI

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**From:** Susan Kennedy [mailto:susan@littoralsociety.org]  
**Sent:** Tuesday, June 19, 2007 10:43 AM  
**To:** Spinelli, Ben  
**Cc:** debbie.mans@gov.state.nj.us  
**Subject:** Proposed Municipal Planning Guidelines

Ben:

Aside from our concerns already expressed to you about the guidance being considered without the benefit of the revised rule, which provides the regulatory authority for the guidance, we have the following concerns about some of the language in the guidance documents. Several times throughout the guidance documents it is stated that petitioner's that go through the plan endorsement process will be eligible for "streamlined regulatory review." For example, Page 1 of Benefits Chart, under the heading of "Plan Endorsement" contains the following statement:

"Once the State Planning Commission has endorsed a petitioner's plan as consistent with the State Plan, state agencies will provide benefits to the municipality that will assist in implementing the endorsed plan. This assistance will include providing technical assistance, direct state capital investment, priority for state grants and low-interest loans, **and streamlined regulatory review.**"

Similarly, page 2 of the Municipal Guidelines document states:

"Upon endorsement of a municipal plan, municipalities are entitled to various financial and technical incentives that will allow them to make their endorsed plans a reality. These incentives include enhanced scoring for grant funding, low-interest loans, tax credits, **and streamlined regulatory review.**"

And page 36 of the Municipal Guidelines states:

"Once the State Planning Commission has endorsed a petitioner's plan as consistent with the State Plan, state agencies will provide benefits to the municipality that will assist in implementing the endorsed plan. This assistance will include providing technical assistance, direct state capital investment, priority for state grants and low-interest loans, and **streamlined regulatory review.**"

There is no definition or explanation for what is meant by the term "streamlined regulatory review" in these documents and its meaning is left up to the discretion of the reader. We cannot emphasize enough how problematic this language is – in fact it is a lightning rod for the environmental community – because of its clear connotations of the "fast tracking" of regulatory review and its implications that there will be a relaxation of regulatory standards for those who participate in the plan endorsement process. As long-term participants in the state planning process and the development of these guidelines, we have been assured time and time again that relaxation of the regulatory standards for plan endorsement petitioners would not be part of the

revised guidelines and were surprised to see both this language and the language throughout the proposed rule regarding “substantive regulatory changes.” This is why our comments to you focused on the rule itself and is also why we believe you cannot consider the guidelines without first considering and finalizing the rule. If some type of relaxation of the substantive regulations is not what you mean by this language – and, again, we have been assured throughout this process that it is not – then we cannot emphasize enough how important it is that this language be replaced to better reflect the SPC’s true intentions. For example, on page 2 of the benefits chart, the regulatory process and benefits that plan endorsement petitioners will receive is explained as follows:

“...**coordinated state agency review** and advice from relevant State agencies on implementation of State Plan into local and county planning decisions related to master plan review and updates, infrastructure improvement, development regulations, design standards, and resource protection.”

We think this statement better expresses what we have been told the regulatory benefits would be – the opportunity to have all of the state agencies with regulatory authority over a municipal plan help shape the plan and inform the petitioner exactly what is expected of them up front. We believe you should replace each instance of “streamlined regulatory review” with “coordinated regulatory review” to better reflect this intent and to avoid the negative connotations associated with the term “streamlined.”

Thank you for your consideration of our concerns.

Best regards,

Susan M. Kennedy  
Policy Advocate  
American Littoral Society  
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(609) 656-0731