

STATE

STATE PLANNING COMMISSION

Plan Endorsement

Period of Endorsement

Adopted Amendment: N.J.A.C. 5:85-7.21

Proposed: October 20, 2014, at 46 N.J.R. 2105(a)

Adopted: <DATE>, by State Planning Commission, Gerald Scharfenberger, Director.

Filed: <DATE>, **without change**.

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

Effective Date: September 21, 2009.

Expiration Date: September 21, 2016.

Summary of Public Comments and Agency Responses:

The Department received written comments from the following representatives of organizations:

1. Tim Dillingham, Executive Director, American Littoral Society (ALS);
2. Walter Lane, Director of Planning, Somerset County Planning Board;
3. Christine Marion, Planning Director, Morris County Planning Board;
4. Carol Ann Short, Chief Executive Officer, New Jersey Builders Association (NJBA);
5. Chris Sturm, Senior Director of State Policy, New Jersey Future (NJF);
6. Louis Joyce, President, New Jersey County Planners Association (NJCPA); and
7. Jean Public

COMMENT: The Somerset and Morris County Planning Boards, the NJBA, and NJCPA expressed support for the proposed amendments. All agree that given the time, effort, and expense expended on plan endorsements and center designations, as well as the lingering impacts of the recession, the plan endorsements and center designations should be extended to prevent additional costs and economic damage.

RESPONSE: The State Planning Commission (“the Commission”) is grateful for the commenters’ support.

COMMENT: Jean Public expressed opposition for all permit extensions premised on the belief that interested parties should reapply when they desire to take action.

RESPONSE: Since February 2010, the recessionary low point for private sector employment in New Jersey, the state has created a significant number of jobs and has seen unemployment drop. Nevertheless, due to, among other things, the recession and its lingering impacts, the reality for many municipalities is that development and redevelopment projects have been delayed. Accordingly, development and redevelopment previously contemplated has not come to fruition at the pace once anticipated. Indeed, in December 2014, the Legislature passed and Governor Christie signed P.L. 2014, c.84, which again extended the Permit Extension Act to December 31, 2015. That legislative action further underscores – but does not obviate – the need and appropriateness of these amendments.

Those economic realities must be viewed in light of other circumstances impacting municipalities relevant to plan endorsement and center designation. For example, for many municipalities the expense of re-establishing plan endorsements or center designations - costs that often times can equal hundreds of thousands of dollars - may be untenable. Given limited

municipal resources, some towns are refocusing their limited resources to only the most essential services. In view of that reality, many municipalities would suffer a significant financial hardship in the near-term if required to re-establish a plan endorsement or center designation.

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

Accordingly, these amendments will not only delay the incursion of significant costs by impacted municipalities (thereby allowing limited resources to be focused on other essential services), but will also ensure certainty for businesses in the near-term that are considering economic development and re-development projects.

COMMENT: The ALS expressed concern that, as evidenced by the aftermath of Superstorm Sandy, current development patterns resulting from the State's land use policies and municipal land use decisions are putting people and property in harm's way. ALS requested that the Commission work with municipalities to amend the boundaries of center designations to reflect current community needs, critical habitat preservation, water supply threats, water quality issues such as water recharge and storm water management, and coastal hazard risk, instead of instituting a blanket extension of center designations. Additionally, ALS requested that the Commission rely on updated information available in the Water Supply Master Plan, Water

Quality Management Rules and County Plans, State and County Hazard Mitigation Plans, and other statewide planning documents when planning sustainable and resilient communities.

RESPONSE: Much of the work suggested by ALS occurred when the centers were originally designated. Centers contain areas designated as protected or preserved in addition to areas for development, thereby eliminating the need to remove them from a given planning area for preservation's sake. Furthermore, center boundaries are not fixed. If a municipality voluntarily brings new information to the Commission – an ability currently possessed by municipalities and one unaffected by these amendments – that alters the bases underlying the adopted map, the Commission can make the needed alterations. N.J.A.C. 5:85-8.3. Finally, DEP still has significant jurisdiction over environmentally sensitive areas regardless of whether they are included in a designated center.

COMMENT: As an alternative to the current proposed amendment, NJF recommends that the Commission extend center designations in coastal areas for a one-year period. During this time, the Commission should assist municipalities in performing risk assessments, including mapping areas likely to be flooded today and in 2050. These assessments should identify areas and populations that will be at risk. The corresponding maps should guide revisions to center boundaries. Understanding that not all areas are affected by flooding associated with sea-level rise and being cognizant of the economic circumstances resulting from the recession of 2010, NJF recommends that centers outside of the CAFRA region be granted the three-year extension as proposed.

RESPONSE: The Commission appreciates NJF's agreement with the proposal on plan endorsements and center designations that fall outside of CAFRA regions. With respect to

coastal areas, coastal municipalities are conducting extensive planning in recognition of the potential hazards illustrated by NJF. If a municipality voluntarily brings new information to the Commission – an ability currently possessed by municipalities and one unaffected by these amendments – that alters the bases underlying the adopted map, the Commission can make the needed alterations. N.J.A.C. 5:85-8.3.

Federal Standards Statement

Executive Order No. 27 (1994) and P.L. 1995, c. 65, require that a State agency that adopts, readopts, or amends rules that exceed Federal standards or requirements include in the rulemaking a comparison with Federal law. The adopted amendments do not cause the rules to, or amend any rule that does, exceed Federal standards or requirements, as there are no Federal standards or requirements. Therefore, a Federal standards analysis is not required.

Full text of the adopted rules follows:

5:85-7.21 Period of endorsement

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

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

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

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

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

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

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