

May 23, 2006

The Honorable Paul C. Brush
Mayor of Dover Township
Dover Township
33 Washington Street
Toms River, New Jersey 08753

Re: Dover Township Petition for Initial Plan Endorsement – Consistency Report

Dear Mayor Brush:

The Office of Smart Growth (OSG) and our state agency partners have substantively reviewed the petition submitted by the Township of Dover for Initial Plan Endorsement and would like to commend the Township for its active participation and dedication to the plan endorsement process. However, significant consistency issues remain that need to be resolved prior to OSG recommendation for endorsement.

Pursuant to the Policy Directive approved by the State Planning Commission on April 19, 2006 regarding the plan endorsement process for CAFRA municipalities that had petitions that were deemed complete prior to March 15, 2006, I have outlined the additional information that is required in order for OSG to recommend your petition for endorsement by the State Planning Commission (SPC). These items are summarized below and will be addressed by the attached Draft Action Plan.

OSG and our state agency partners are committed to working with the Township to establish a timeline to address the consistency issues outlined in this report in order for Dover Township to receive plan endorsement from the State Planning Commission and to achieve CAFRA Center designation subsequently from the Department of Environmental Protection (DEP).

State Agency Consistency Review

The SPC reviews petitions for plan endorsement and endorses them on the basis of their consistency with the goals, policies and strategies of the State Plan. Upon review of the petition, OSG and the state agencies have identified areas of concern that need to be addressed before OSG can make a recommendation to the SPC finding the petition consistent with the State Plan.

In order for DEP to amend the Coastal Zone Management Rules to make centers endorsed by the SPC into a CAFRA Center, DEP must be able to make a finding that the center is consistent with the purposes

of the Coastal Area Facility Review Act (CAFRA) and the Coastal Zone Management Rules. DEP must determine whether accepting a center would result in unacceptable harm to the coastal ecosystem or the resources of the built or natural environment.

Attached are two documents, “Requirements for Municipal Plan Endorsement Consistency” and “Requirements for CAFRA Consistency” that provide guidance on what is needed in order to achieve plan endorsement by the SPC and to achieve CAFRA center designation from DEP subsequently thereafter. You can find these and other Plan Endorsement-related documents online at the OSG web site, <http://www.nj.gov/dca/osg/plan/endorsement.shtml>.

Policy for Implementing the approved SPC Policy Directive

The Policy Directive provides a six-month extension for OSG and the state agencies to work with the CAFRA municipalities to resolve consistency issues. Pursuant to the Policy Directive, the six-month time extension begins at the issuance this Consistency Report by OSG. The extension is subject to agreement through a Memorandum of Understanding (MOU) between the Township and the SPC.

Accompanying the Consistency Report is a Draft Action Plan that provides timelines for completing tasks outlined in the Report. The timelines within the Draft Action Plan are subject to agreement between the petitioning municipality and OSG. Once agreement is reached regarding timelines within the Action Plan, and the MOU is authorized by the petitioning municipality’s governing body, the timelines within the Action Plan will be binding and non-negotiable.

Should the Township choose not to enter into the MOU to resolve the consistency issues contained in the Consistency Report, the six-month extension shall become null and void, and OSG will forward the Consistency Report to the SPC for review in accordance with N.J.A.C. 5:85-7.6. Furthermore, in the event that the Township fails to meet the timelines agreed to in the Action Plan, the petitioning municipality will be deemed to have defaulted in its obligations under the terms of the MOU and the petitioning municipality’s petition for Initial Plan Endorsement will be evaluated for consistency with the State Plan as of the date of such default.

Consistency Issues

Dover Township previously withdrew its Plan Endorsement petition but later re-submitted with additional documents, including a Community Vision, draft Master Plan, Downtown Master Plan and the Housing Element & Fair Share Plan. On April 27, 2006, Township officials and planners participated in a workshop with OSG and the Department of Transportation (NJDOT) to discuss the proposed centers, land use and transportation. Progress was made during the workshop in trying to redefine center boundaries, though further discussion is needed on land use and urban design in some of the centers.

Although significant progress has been made, OSG and other state agencies have identified areas of concern that need to be addressed before OSG can make a recommendation to the SPC finding the petition consistent with the State Plan. These items are summarized below and will be addressed by the attached Action Plan.

Center-Based Development

The original regional center of 21 square miles has been significantly reduced, and the strip along Route 9 has been eliminated due to capacity constraints. However, OSG and the state agencies continue to have some concerns regarding the proposed center boundaries, as other problems that were part of the original

proposal still remain. The new boundaries still encourage strip development strung along major roads, especially along Route 37. Also, the petition lacks detailed discussion of mixed uses and compact development for most of these Centers. During the workshop, the state agencies highlighted opportunities to potentially break up the Centers into more compact forms without impacting property-owner equity. Center boundaries will need to be revised based on desired land use patterns, transportation issues, and environmental resources.

On various levels, the Draft Master Plan recognizes the need for more compact development forms, citing the benefits that this will provide with regard to reducing the costs of transportation, utilities and other infrastructure and services. The plan also notes that different areas of the Township vary in their planning objectives and needs. For example, the master plan suggests that off-street parking requirements of individual property owners could be reduced for Downtown Toms River and the barrier island communities, with demand being served by municipal or shared garage structures. The Township should consider applying this philosophy to other Centers to support more compact development. According to the master plan, public transportation is a weakness that impacts the Township's economic potential (p.36). The petition should carry this further by linking transportation issues with land use. A network of pedestrian- and transit-oriented, compact centers could help spur demand for public transportation.

The petition needs to clarify how the Township will integrate smart growth concepts into its planning and regulations. While the recommendations for downtown and the barrier islands are relatively clear, the vision for the development of other Centers needs more detail. The petition should provide clearer direction for Centers that are less reliant on the auto-oriented land use patterns and site designs. Graphics illustrating desired patterns, prototypes or typical center development plans would be helpful.

Transportation

Role of State Roads

State highways are generally more appropriate as edges rather than cores of Centers. The workshop illustrated limited potential for providing pedestrian amenities that would connect one side of Route 37 to the other. However, where opportunities exist for development or redevelopment, parcels on Route 37 and other highways should be zoned to provide for mixed uses with the ability to serve not just automobile traffic but also pedestrians on that parcel's side of the highway. County roads and certain sections of Route 9 may have greater potential for a pedestrian-friendly streetscape.

Road Network

The Township should identify opportunities for a road network that relies on state, county and local roads. The workshop revealed that many locals already improvise their own networks to avoid congestion on the major routes. This situation is less than ideal for residents of areas that bear this additional traffic burden. However, by formally planning for a network and creating measures to mitigate the impacts of traffic in residential areas, the Township should be able to produce a system that operates better than the current model for the various stakeholders involved (drivers, residents).

Transit-Oriented Development

As mentioned above under Center-Based Development, the Township's Master Plan considers public transportation a weakness. However, as with transportation in general, there is significant opportunity to address this issue by linking land use and transit. The Township currently contains 67 designated bus stops, including 12 bus shelters. As Centers become more defined, the Township should begin working with NJ TRANSIT so that bus routes and stops are coordinated with future foci of development. This

issue can be addressed conceptually prior to endorsement, with more detailed steps for planning and implementation outlined in the PIA.

The Toms River Business Improvement District (BID) has been working with DOT to refine a transit village concept for the downtown. In light of the BID's interests in assembling land for redevelopment, the existing bus Park & Ride lot has been a key subject. While DOT recently improved and expanded this lot to accommodate more travelers and buses, it is willing to consider options for transit-oriented development (TOD) and/or a potential property swap, provided that bus operations and the 1,000+ commuters that use this important regional bus hub are properly accommodated.

In order to further the above efforts, the Township will have to incorporate TOD opportunities and concepts into its Master Plan, and eventually into its zoning ordinance.

Center Justification

Consistency with State Plan Goals and Policies

The petition should refer to specific State Plan goals and policies to demonstrate that the proposed Centers are consistent with the State Plan. This statement should articulate a true concept of mixed uses within structures to encourage transit and pedestrian activity and reduce growth in automobile trips within the proposed centers.

Center Criteria

The State Plan outlines qualitative and quantitative criteria on Centers, including their function, density and employment base, discussed in pages 240-244 of the State Plan. OSG will provide a template for the assessment of center criteria. The data should be differentiated between developable and currently developed land, excluding wetlands and waterways from density calculations.

Water Supply

During the workshop, DEP indicated that data and information on both the allocation permit and the water supply master plan for the region may become available during the summer. As much as is feasible, the Township should coordinate with DEP to incorporate this information into its planning efforts. Please see the Water Supply section under DEP CAFRA Consistency Issues.

Affordable Housing Sites

The Township has a significant number of prior round and growth share obligations that will have to be addressed in tandem with the Plan Endorsement process. Proposed affordable housing sites, especially the concentration in North-West Dover, need to be reviewed in conjunction with any existing environmental constraints, as DEP's Landscape Project data indicates that there may be habitat resources. The Township's affordable housing status will also be shaped by COAH's determination on the applicability of Low Income Housing Tax Credits for prior round obligations. Any resulting modifications to the Housing Plan in this regard will have to be reflected in the Center boundaries, Land Use Element, and growth projections.

Open Space & Recreation

The public hearing, on April 24, 2006, revealed significant concerns about the general lack of open space and recreation opportunities in the Township. While the Conservation, Open Space & Recreation

Element of the Draft Master Plan demonstrates sufficient provision for regional facilities, it recognizes that deficiencies exist with regard to neighborhood parks and certain recreation facilities.

Please provide a formal response detailing the following:

- The Township's plans for sites such as Anchor Reef Marina and the Dover Mall, specifically what the Township will be doing to protect and enhance open space/recreation opportunities.
- Opportunities for neighborhood recreation facilities and parks in proposed Centers. These facilities by their very nature should be accessible to most area residents by walking. In the case of downtown Toms River, it is clear that public riverfront access is a priority. For other Centers, especially for North-West Dover with its proposed influx of residents, the Township should provide detail on existing facilities and outline how it will address current deficiencies and/or accommodate future growth (e.g. potential acquisition of open space, or provision of recreation facilities via redevelopment).
- Plans and/or opportunities to coordinate with the local school district to provide greater general public access to high school athletic facilities outside of school session.

Detailed plans to address and implement the above issues may be incorporated into later phases of Plan Endorsement negotiations or in the PIA, as amendments to the Master Plan, redevelopment plans, zoning, etc.

Parking

While adding parking supply via shared garages will help aid revitalization in downtown and other centers, it should be part of a broader effort that also includes strategic pricing, signage and other techniques. For instance, the Toms River BID already provides valuable parking information on its website. The benefits of additional parking can be maximized if it is coordinated with other parking-related initiatives. The construction of any parking garages should also be correlated to opportunities for mixed-use infill development of other sites that are currently surface lots. OSG and DOT can provide technical assistance to address the parking supply concern through the PIA.

Build-out/Capacity Analysis

The Township should proceed with its proposed build-out analysis, as data from this work will help address a number of issues, especially transportation and water supply.

Emergency Planning

The petition should include formal evidence that the Township has an Emergency Operating Plan approved by the NJ State Police. OSG expects that the approval letter, rather than the full plan, will be part of the petition.

Cross-Acceptance Proposed Map Changes

This section outlines responses to the Township's proposed map changes from the Ocean County Cross-Acceptance Report. The following changes use the numbering and area names from that report and outline the state agencies' response. Some of these boundaries will have to be finalized through continued negotiations.

1. Shelter Cove Township Park – The Township proposes a change from PA5 to Park. Aerial photography shows tennis courts, ball fields and parking lots. OSG and DOT preliminarily concur

that this area should be changed to Park; other state agencies have not yet reviewed this proposed change.

2. Stooling Point Island – The Township proposes a change from Park to PA5. Since this area is not known to be a park, OSG and DOT preliminarily concur that this area should be changed to PA5; other state agencies have not yet reviewed this proposed change.
3. Bayside Park – The Township notes that this area may have been confused with Stooling Point and should be a Park rather than PA5B. OSG and DOT generally concur but the agencies will need to work with the Township to clarify and fix the boundaries; other state agencies have not yet reviewed the proposed change.
4. Little Sedge Island – The Township states that this area should be PA5B instead of Park. OSG and DOT preliminarily concur that this area should be changed to PA5B; other state agencies have not yet reviewed this proposed change.
5. Chadwick Beach Park – The Township notes that this area may have been confused with Little Sedge Island and should be a Park rather than PA5B. OSG and DOT preliminarily concur, but the GIS shapefile provided by the County in Cross-acceptance appears to be mislocated and misdrawn. The park is located about a block to the south. Other state agencies have not yet reviewed this proposed change.
6. Cattus Island County Park – The Township notes that the boundaries of this park vary between the State Plan Preliminary Policy Map and the Township's Land Use Plan. OSG and DOT preliminarily concur that the Township's plan better matches the aerial photography; other state agencies have not yet reviewed this proposed change.
7. Bayview Heights – The Township proposes a change from PA5 to PA2, as this area has already been developed and is part of the sewer service area. Aerial photography shows a residential subdivision. OSG and DOT preliminarily concur that this area should be changed to PA2; other state agencies have not yet reviewed this proposed change.
8. Winding River Park – The Township notes that the park boundaries shown on the Preliminary Policy Map differ from the boundary known to the Township, and that certain areas should be changed from Park to PA5. OSG and DOT generally concur but boundaries will need to be clarified; other state agencies have not yet reviewed this proposed change.
9. Hooper Avenue (near Fischer Boulevard) – The Township proposes a change from PA2 to PA5 for this area. Please note that the Preliminary Policy Map already reflects this change.
10. Hooper Avenue (between Fischer Boulevard and South Shore Drive) – The Township disagrees with the change from PA2 to PA5 in the Preliminary Policy Map, calling for the area to be changed back to PA2. OSG and DOT preliminarily agree in part: developed areas should be changed back to PA2; however, the undeveloped areas contain wetlands and should remain as PA5. Other state agencies have not yet reviewed this proposed change.
11. North Bay Avenue – The Township proposes that the area be changed from PA2 to PA5 due to the presence of wetlands. OSG and DOT preliminarily concur that this area should be changed to PA5; other state agencies have not yet reviewed this proposed change.
12. Ocean County College (Church Road) – The Township notes that the boundary of the PA5 area encompassing the College differs slightly between the Land Use Plan and the Preliminary Policy Map. The Township proposes that this area zoned Conservation/Residential should be PA5. OSG and DOT preliminarily concur; other state agencies have not yet reviewed this proposed change.
13. EB Leone Conservation Area – The Township proposes that this area be changed from a PA2 with CES to Park. OSG and DOT preliminarily concur that this area should be changed to Park; other state agencies have not yet reviewed this proposed change.

DEP CAFRA Consistency Issues

In addition to the zoning ordinance, discussed in part above, DEP will need to find the following items consistent in order to support a center(s) with regard to its CAFRA rules. DEP will provide technical assistance to complete the CAFRA requirements discussed below. These items will be early action items in the PIA, unless the Township can address them prior to endorsement.

Zoning Ordinance

The Zoning Ordinance revisions and/or new ordinances must implement the policies and recommendations of the Master Plan, and accurately reflect center boundaries and/or planning area changes and ordinances that implement appropriate Critical Environmental Site and environs protection measures, including zoning, resource protection, and site plan and subdivision ordinance revisions that are consistent with coastal goals and wastewater management plans. The Township must provide documentation of effective ordinances that implement both center-based development and protection for environmentally sensitive features.

Water Supply

The Township must provide documentation that water supply capacity exists for the amount of growth detailed in the Master Plan. This documentation must identify existing and proposed water supply sources. For existing public water sources, the Township should identify the available approved allocations and firm capacity. In addition, the Township must identify local water conservation measures required to ensure efficient use of available resources and methods to be used to promote wastewater reuse.

Most of the Township's potable water supply is provided by a private purveyor, United Water Toms River. In September 2005, DEP banned all new connections to United Water's system because the company had exceeded its water allocation in three of the past five years. United has applied for a new permit to use more than 6 billion gallons a year, up from the current allocation of 4.282 billion gallons. DEP officials said last year that they would expedite the company's permit application. Representatives of DEP's Division of Water Supply said recently that a decision on the increased allocation request could be made as early as this summer.

Wastewater Management Plan

The Ocean County Wastewater Management Plan has expired and is no longer current. The Township must work with Ocean County to revise the Dover Township portion of the Plan. The Wastewater Management Plan must be up-to-date, comply with Executive Order 109 guidance and be consistent with the master plan and petition. Proposed wastewater service must be pulled back from the Fringe, Rural and Environmentally Sensitive Planning Areas, and other areas not proposed for growth.

Coastal Consistency Statement

This statement must address natural resource protection and coastal management in Barnegat Township through demonstration of consistency of local plans and ordinances with the goals of the Coastal Zone Management Program found in the Coastal Zone Management rules at N.J.A.C.7:7E. Municipal plans must also be consistent with any existing DEP rule, permit or plan including Municipal Stormwater Regulations and Federal River Management Plans.

Planning and Implementation Agreement (PIA)

Generally, the PIA should be formatted by subject with corresponding numbering. OSG will provide a template for this format. Through negotiations, the timeframes in the PIA will be revised to be more specific (i.e. time periods for completion of specific tasks).

For PIA entries that require NJDOT assistance, the state assistance column should have an asterisk denoting the following: “When requested, NJDOT will give priority consideration to providing technical assistance consistent with program requirements and subject to the availability of state resources.”

General

- The Township shall submit drafts of all new and revised planning documents required by this PIA to OSG and DEP.
- Upon fulfillment of DEP’s CAFRA consistency requirements, DEP shall publish in the New Jersey Register a notice of its determination to accept, reject, or reject and revise the boundaries of any centers, cores, nodes or planning areas that are part of Plan Endorsement.
- The Township shall submit a biennial report to OSG and the public concerning the terms of this PIA and related efforts pursuant to NJAC 5:85-7.12(c). Due to the volume of significant PIA items likely to be addressed in the first year, OSG will recommend to the State Planning Commission that the first review be pushed up to a year after endorsement.
- Coordinate with planning efforts of adjoining municipalities, the County and State and regional planning efforts particularly concerning: regional planning, transportation, economic development, tourism, natural resource protection and open space and recreation.
- Upon the satisfactory completion of PIA items that lead to the fulfillment of all the requirements for Advanced Plan Endorsement, OSG will recommend to the State Planning Commission that the Township receive Advanced Plan Endorsement. The PIA may then be adjusted accordingly.

Zoning

- In addition to revising the zoning ordinance as mentioned above, the Township shall provide copies of its annual report of zoning activities per the MLUL requirement outlined in N.J.S.A. 40:55D-70.1

Open Space & Recreation

- The Conservation, Open Space & Recreation Element of the Draft Master Plan recognizes that significant deficiencies exist in neighborhood parks and certain recreation facilities. The Plan also outlines techniques and resources for the Township to address these issues. OSG and DEP can work with the Township to outline PIA items to help enhance the provision of open space and recreation facilities.

Historic Preservation

- The Historic Preservation Element of the Draft Master Plan identifies historic sites in the Township and the need for a mechanism to help protect these sites, including consideration for a historic preservation ordinance. DEP's State Historic Preservation Office will review the element and provide assistance to help effectuate its recommendations.

Transportation

- The Township shall develop specific recommendations to improve the local roadway network both within and outside centers need to be included. The recommendations should also establish the design parameters for creating "complete" streets that serve all modes of transportation. The discussion should address the role of on-street parking in creating a pedestrian environment. The discussion should also address specific improvements for biking such as bike boulevards or other bike connectivity improvements. The analysis should compare the proposed roadway connections to currently pending subdivision and site plan applications to ensure that opportunities to make connections are not lost.
- The Township shall work with DOT and NJ TRANSIT so that improvements for roads and transit service are coordinated with center-based development. (Note: This item shall be more specified near the end of the Plan Endorsement process.)

Infrastructure

- The Township shall prepare an updated Capital Improvement Plan to help implement the Master Plan and support growth.

Board of Education Five-Year Facilities Plan

- The Township shall prepare an updated Capital Improvement Plan to help implement the Master Plan and support growth.

Ciba Geigy

- The Township recently designated the Ciba Geigy site as a redevelopment area. Due to the environmental remediation necessary for this area, consideration of potential center-based development in this area should be left to the PIA. As Plan Endorsement lasts ten years, the Township may want to place trigger mechanisms in the PIA to open up discussion of a Center for this area, in case such considerations arise prior to expiration of endorsement.

Environmental

- Develop a Stream Corridor Protection Plan establishing the basis for a municipal Stream Corridor Protection Ordinance. The plan shall consider all waterways within or forming the boundary of a municipality and any State-required stream setback, wetland transition area, and riparian buffer. The plan shall also:

- establish a comprehensive waterways map which will denote the standard limits of construction disturbance for each waterway based upon the best currently available information.
 - identify areas where existing or proposed development patterns conflict with and any State required stream setback, wetlands transition area, and riparian buffer.
 - provide for a systematic procedure to allow for alternative stream corridor construction setbacks based on an evaluation of the specific stream corridors in the study area to determine the extent of the features critical to supporting the functions of a healthy riparian buffer for the stream corridors in question and the requirements of applicable State statutes and regulations.
 - identify and prioritize locations for rehabilitation of areas with disturbed stream corridors.
- Develop a Wellhead Protection Plan to manage potential sources of contamination and threatening activities that occur within a source water protection area. Plans shall include delineation of the source water protection area, an inventory of known and potential contamination sources, a determination of water supply system susceptibility to these contaminants, public outreach and education about threats, implementation measures to prevent, reduce or eliminate threats, and contingency planning strategies to address with water supply contamination or service interruption emergencies. Source Water Protection Plans can be developed for the protection of either groundwater supplies of drinking water, wellhead protection areas or surface water supplies, intakes and reservoirs and their drainage.

Per the standard PIA items listed in DEP's CAFRA Consistency Requirements, the petitioner should also consider including the following in its PIA:

- Develop a Habitat Conservation Plan specifying conservation requirements and implementation measures to protect habitat of Federal and State listed threatened and endangered species. Conservation Plan requirements may include a mix of options that include the creation, enhancement, restoration, acquisition or preservation of habitat and/or monetary contributions for these purposes.

Critical areas of forest and wetlands exist primarily along the river and stream corridors associated with the Toms River and Silver Bay, and lands along Barnegat Bay. Mikes Island, in Barnegat Bay off of Ortley Beach is a Natural Heritage Priority Site primarily for its bird nesting habitat.

- Develop a Water Conservation Plan that shall:
 - reduce water consumption levels
 - reduce the loss and waste of water
 - improve efficiency in the use of water
 - increase recycling and reuse in the water supply
 - extend the life of current water supplies by reducing the rate of growth in demand
- Develop a Septic Management Plan establishing the strategies and implementation measures necessary to ensure that septic systems are properly maintained and that new systems are located, designed, installed and maintained in accordance with State statute and regulation so as to protect ground water quality and to ensure the continuing viability of this means of wastewater management.

Conclusion

Pursuant to N.J.A.C. 5:85-7.5 (f), the Township must submit the additional information requested above in order for your plan to be evaluated for consistency with the goals, policies and strategies of the State Plan. OSG and our state agency partners will work with the Township to revise the petition to include the items identified within this letter and to help the Township achieve plan endorsement no later than March 15, 2007. Again, we look forward to meeting with you to discuss the next steps.

Thank you again for your commitment to the Plan Endorsement process. If you have any questions or concerns, please feel free to contact Jung Kim, Area Planner for Ocean County, at (609)-633-6139 or via email at jkim@dca.state.nj.us.

Sincerely,

Eileen Swan
Executive Director

Attachments

ES;jk

c: Gregory P. McGuckin, Council President
Salvatore Mattia, Planning Board Chairman
Mark Mutter, Municipal Clerk
Fred Ebenau, Township Administrator
Garry Mundy, Township Attorney
Mark Healey, Heyer, Gruel & Associates
Mark Troncone, Dover Township
Jay Lynch, Dover Township Planner