

MEMORANDUM OF UNDERSTANDING

This memorandum of understanding, dated _____, 2006 is hereby entered into by and between the New Jersey State Planning Commission (hereinafter referred to as “Commission”) and **Municipality Name, County Name**, (hereinafter referred to as “petitioning municipality”) to establish a cooperative process designed to support the efforts of the petitioning municipality to receive Initial Plan Endorsement as defined by the State Planning Act and CAFRA Center Designation.

WHEREAS, the 1993 amendments to the Coastal Area Facility Review Act (CAFRA), N.J.S.A. 13:19-1 et seq. required that the rules adopted to implement those amendments be closely coordinated with the State Development and Redevelopment Plan (State Plan); and

WHEREAS, in response to these statutory amendments, the Department of Environmental Protection (DEP) adopted new rules for determining impervious cover limits and vegetative cover percentages for sites in the CAFRA area based on the site’s location in a CAFRA center, core or node, Coastal Planning Area or coastal center with a higher impervious cover allowed in a coastal or CAFRA center; and

WHEREAS, the Coastal Zone Management Rules were intended to encourage development in areas with existing development and infrastructure, discourage sprawl development, and protect sensitive natural resources; and

WHEREAS, these coastal centers were adopted by DEP as an interim measure to accommodate planned imminent development until the municipalities coastal centers on the mainland had been given the opportunity to obtain center designation through the Commission’s plan endorsement process, which is a prerequisite to obtaining CAFRA center status; and

WHEREAS, because these coastal centers were intended to be an interim measure, they were not subject to the comprehensive planning and analysis such as that provided by the Commission’s plan endorsement process; and

WHEREAS, a five-year expiration date was imposed on the boundaries of coastal centers located on the mainland, expiring on February 7, 2005; and

WHEREAS, the DEP rule proposal provided that coastal centers within towns that had held pre-petition meetings with the Office of Smart Growth (OSG) before July 5, 2005 would be temporarily re-established until March 15, 2007 upon adoption of the rule, and to maintain the re-established center the municipality had to receive a determination of completeness by the Office of Smart Growth prior to March 15, 2006; and

WHEREAS, coastal centers within towns that requested pre-petition meetings by August 4, 2005, held pre-petition meetings prior to October 15, 2005, and had a petition deemed complete by the Office of Smart Growth pursuant to the State Planning Rules prior to March 15, 2006 would be temporarily re-established until March 15, 2007; and

WHEREAS, the re-established mainland coastal center boundaries remain effective until they expire on March 15, 2007 or until the municipality's petition for Initial Plan Endorsement has been approved by the Commission and DEP has determined the appropriateness of the Commission approved center boundary as a CAFRA center boundary, whichever occurs first; and

WHEREAS, at the Commission meeting on March 15, 2006, a Policy Directive was introduced that would provide municipalities within CAFRA with petitions for Plan Endorsement that were deemed complete by March 15, 2006 a six-month time extension to resolve issues of consistency with the State Plan through a Memorandum of Understanding (MOU); and

WHEREAS, On April 19, 2006, the Commission approved the Policy Directive providing for an extended timeframe for the consistency review of the Plan Endorsement process for CAFRA municipalities whose petitions were deemed complete prior to March 15, 2006; and

WHEREAS, the petitioning municipality has met the requirements of the above-described policy directive by holding a pre-petition meeting and having its petition deemed complete prior to March 15, 2006; and

WHEREAS, the Commission evaluates petitions for Plan Endorsement on the basis of their consistency with the goals, policies and strategies of the State Plan; and

WHEREAS, in order for DEP to amend the Coastal Zone Management Rules to make a center endorsed by the Commission 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, N.J.S.A. 13:19-1 et seq., and the Coastal Zone Management Rules;

WHEREAS, the 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, or would otherwise be clearly inconsistent with the purposes of the Coastal Area Facility Review Act, and the Coastal Zone Management Rules; and

WHEREAS, the Office of Smart Growth's staff review of the planning documents submitted with the petitions has raised significant concerns about the consistency of the CAFRA municipalities' petitions with the goals, policies and strategies of the State Plan and State Plan Policy Map, as well as CAFRA; and

WHEREAS, in recognition of the substantial time, money and effort undertaken by the petitioning municipality to achieve Initial Plan Endorsement, the OSG, the DEP and all involved State Agencies are working together to assist the petitioning municipality to achieve Initial Plan Endorsement from the Commission and CAFRA Center Designation subsequently thereafter;

In recognition of the forgoing the parties hereby agree as follows:

1. Petitioning Municipality is granted a six (6) month extension of time from the date of the issuance of the Consistency Report dated, 2006, to resolve issues of consistency with the State Plan and achieve Initial Plan Endorsement. Notice of this extension of time will be provided in accordance with the terms of N.J.A.C. 5:85-1.6 (b) and will post notice of the extension on the OSG web site.
2. Petitioning municipality acknowledges the receipt of a letter from the OSG setting forth all current issues concerning consistency with the State Plan and the necessary provisions to be made to achieve Initial Plan Endorsement. A copy of that letter entitled Consistency Issues is annexed hereto and made a part hereof.
3. Petitioning municipality hereby acknowledges receipt of documents entitled Requirements for Municipal Initial Plan Endorsement Consistency (Initial Plan Endorsement Bar) and Requirements for CAFRA consistency (CAFRA Bar) as well as the Commission's Policy Directive issued March 15, 2006 and approved on April 19, 2006 by resolution of the Commission. A copy of that resolution has also been provided to petitioning municipality.
4. Petitioning municipality acknowledges receipt of an "action plan" from the OSG detailing requirements for petitioning municipality to achieve Initial Plan Endorsement and setting forth a timetable for meeting the current deficiencies in its petition for Initial Plan Endorsement. A copy of that action plan is annexed hereto and made a part hereof.
5. Petitioning municipality agrees to continue its efforts to achieve Initial Plan Endorsement and approval of its CAFRA Center by working with the OSG, the DEP and all other interested State Agencies to achieve consistency with the State Plan and the requirements of CAFRA and the Coastal Zone Management Rules.
6. All deadlines contained in the annexed action plan are subject to agreement between the petitioning municipality and the interested State Agencies. In the event that petitioning municipality fails to meet the timelines agreed to in the action plan, petitioning municipality will be deemed to have defaulted in its obligations under the terms of this memorandum 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.
7. Petitioning municipality acknowledges that achieving CAFRA Center Designation is contingent upon meeting additional requirements as set forth in the annexed document entitled Requirements for CAFRA Consistency. Certain items contained in the annexed action plan concern meeting requirements of

the Department of Environmental Protection for obtaining that designation. There is an additional time period for meeting those obligations in relation to obtaining CAFRA Center Designation. Petitioning municipality will be working simultaneously to meet the necessary requirements of Initial Plan Endorsement and CAFRA Center Designation. Due to the additional time period allotted and the additional obligations for CAFRA Center Designation, failure to meet the time requirements set forth in the action plan for items related to CAFRA Center Designation only will not result in default as set forth in paragraph 6 of this memorandum.

The terms of this memorandum and the attachments hereto are hereby agreed to between the State Planning Commission and **Municipality Name, County Name**.

Municipality Name

Attest

Date:

STATE PLANNING COMMISSION

Attest

Date: