FINAL DRAFT PLAN ENDORSEMENT RULES

5:85-1.4 Definitions

The following terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

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"Action Plan" means an outline of the steps necessary for a petitioner to achieve consistency with the State Development and Redevelopment Plan and endorsement by the State Planning Commission. An Action Plan will provide timelines for: the petitioner and relevant state agencies to complete required tasks; the relevant state agencies to review and evaluate petitioner submissions: and the relevant state agencies to provide or make available benefits that shall accrue to petitioner upon endorsement of the petition as well as any conditions imposed on petitioner for obtaining benefits.

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["Advanced petition" means the optional submission to the State Planning Commission by a petitioner of one or more of its adopted planning efforts, other than those plans and other materials that are required to be submitted as part of an initial petition for plan endorsement. An advanced petition must contain the information required to be submitted to the State Planning Commission pursuant to N.J.A.C. 5:85-7.7 in order for a petitioner to obtain advanced plan endorsement. A petitioner may submit an advanced petition either with an initial petition or after an initial petition has been endorsed by the State Planning Commission. A petitioner may submit additional advanced petitions as it adopts additional planning efforts. The State Planning Commission shall only endorse an advanced petition if it is consistent with the State Development and Redevelopment Plan and if the petitioner's initial petition either has been endorsed by the State Planning Commission or is being endorsed simultaneously with the advanced petition if the petitioner has submitted an advanced petition at the same time as the initial petition.]

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"Center" means an efficient and compact form of development having one or more mixed-use cores and residential neighborhoods and green spaces. Center designations are based on the area, population, density, and employment of the center being considered and features of the surrounding areas. Centers can range in scale from very large, an Urban Center, to the smallest, a Hamlet. Centers range in scale in the following order: Urban, Regional, Town, Village, and Hamlet. Descriptions and criteria for designating each type of center are located in the New Jersey State Development and Redevelopment Plan.

"Center boundary" means the line between a center and its environs. The boundary is defined by physical features, such as rivers, roads, or changes in the pattern of development or by open space, environmentally sensitive features, or farmland.

"Center designation" or "designated center" means a center that has been officially recognized as such by the State Planning Commission. Center designations only may occur as part of the plan endorsement process.

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"Certificate of eligibility" is a document issued by the Executive Director indicating that a petitioner has taken necessary preliminary steps to prepare for plan endorsement, entered into a Memorandum of Understanding and Action Plan with the State Planning Commission and has agreed to develop, adopt and implement plans that are consistent with the State Plan.

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"Community visioning" is a process of involving the public, community and stakeholders in developing a vision statement to guide the future of a municipality, county, or regional entity.

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"Comprehensive plan" means a document, including maps, to guide all aspects of development and preservation in a coordinated way for a given jurisdiction. It includes an inventory and analysis of current conditions in and around the area and plans and policies to guide future actions.

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"Consistency" or "consistent" means that the State Planning Commission determines that a municipal, county**,** [or] regional, neighborhood or special resource area plan, or an amendment thereto, submitted for plan endorsement pursuant to Subchapter 7**,** or a map amendment submitted for approval pursuant to Subchapter 8**,** is the same as or has the same effect as the [provisions in the] State Development and Redevelopment Plan. [In determining consistency the State Planning Commission will consider the ability of the submitted plan to achieve the targets and indicators contained in the State Development and Redevelopment Plan that are applicable to the petitioner; the extent to which the activities listed to be undertaken in each planning area to achieve consistency with the State Development and Redevelopment Plan goals and implement Statewide policies have been or will be done; the consistency of the plan with applicable statutory and regulatory provisions; and whether the plan is based on current information and data. Consistency will be evaluated based on all the provisions of the State Development and Redevelopment Plan with particular emphasis on the following provisions:

1. The Statewide goals, policies and strategies;

2. The policies that apply to all planning areas;

3. The intentions for each relevant planning area;

4. The policy objectives for each relevant planning area;

5. If any change to a planning area boundary is proposed, the delineation criteria, intent and policy objectives for each planning area impacted by any boundary change;

6. The delineation criteria and intent for Critical Environmental Sites and Historic and Cultural Sites;

7. If there is a designated center or a center is proposed for designation, the policies for centers, including the center design policies, and environs; and

8. If a center is proposed to be designated or a change to the boundary of a designated center is proposed, the criteria for designating the type of center that is proposed to be designated or modified.]

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"Core" means a pedestrian-oriented area of commercial and civic uses serving the surrounding municipality or a center, generally including housing and access to public transportation.

"County" means any board, department, division, office, agency or other subdivision of the county duly authorized by the county governing body, or executive, as appropriate, to carry out the requirements of this chapter.

"Critical environmental site" (CES) means an area generally less than a square mile depicted on the State Plan Policy Map, which includes one or more environmentally sensitive features located either outside of a planning area classified as environmentally sensitive by the State Development and Redevelopment Plan or within designated centers located within such planning areas.

"Cross-Acceptance Manual" means a document adopted by the State Planning Commission pursuant to N.J.A.C. 5:85-2.3 for the purpose of guiding negotiating entities through the cross-acceptance process. The manual shall contain, at a minimum, a sample work program, a draft schedule, a sample negotiation agenda, and an outline for the Cross-Acceptance Report.

"Cross-acceptance process" or "cross-acceptance" means a process of comparing planning policies among government levels with the purpose of obtaining consistency between municipal, county, regional, and State plans and the State Development and Redevelopment Plan.

"Cross-Acceptance Report" means a written statement submitted by the negotiating entity to the State Planning Commission describing the findings, recommendations, objections, and other information as set forth in the Cross-Acceptance Manual. The Cross-Acceptance Report can also be submitted by a municipality pursuant to N.J.A.C. 5:85-3.6 or by a regional entity or State agency pursuant to N.J.A.C. 5:85-3.7.

"Demonstrated interest" means a particularized interest that an individual or an entity can specifically identify having in the action the State Planning Commission may take on a petition filed pursuant to subchapters 7 or 8 as a result of specified potential impact that action may have on the individual or entity's right to use, acquire or enjoy property.

"Display ad" means a notification of a public meeting or hearing in one or more newspapers, other than a legal advertisement, to be conducted by the Office of Smart Growth or the State Planning Commission pursuant to these rules. For public meeting or hearing, it shall contain the date of the meeting or hearing, the time of the meeting or hearing, the location of the meeting or hearing and the subject matter of such public meeting or hearing. The advertisements must be of at least four inches in width in a newspaper of general circulation in the jurisdictions to which the meeting, hearing or petition pertains.

"Draft Final State Development and Redevelopment Plan" means a draft of the Final State Development and Redevelopment Plan that has been released for public comment by the State Planning Commission following the cross acceptance process. The draft Final State Development and Redevelopment Plan is the same document as the Interim State Development and Redevelopment Plan that is also referenced in the State Planning Act.

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"Endorsed plan" <u>means a</u> municipal, county**,** [or] regional, <u>neighborhood or special resource area</u> plan which has been approved by the State Planning Commission for [initial or advanced] plan endorsement as a result of finding it consistent with the State Development and Redevelopment Plan, pursuant to N.J.A.C. 5:85-7.

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"Environs" means parts of the municipality or municipalities outside the center boundaries.

"Environmentally sensitive features" means natural attributes or characteristics whose function as part of a natural system or landscape is considered integral or important. For example, a coastal dune and beach system is an environmentally sensitive feature as is an area of

critical habitat or a stream corridor. Environmentally sensitive features of Statewide or regional significance may also be part of the criteria for identification of a Special Resource Area.

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"Executive Director" means the Executive Director of the Office of Smart Growth.

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"Final State Development and Redevelopment Plan" means the plan that the State Planning Commission adopts after releasing and receiving comments on the draft Final State Development and Redevelopment Plan which upon adoption becomes the official State Development and Redevelopment Plan that sets forth Statewide planning policies and serves as the official blueprint for development and redevelopment in New Jersey.

"Goal" or "goals" means a desired state of affairs to which planned effort is directed. The goals of the State Development and Redevelopment Plan are general statements of values derived from the State Planning Act of 1986 and public comments.

"Historic and cultural site" (HCS) means a site of generally less then a square mile depicted on the State Plan Policy Map**,** which includes features or characteristics that have inherent cultural, historic or aesthetic significance of local, regional or Statewide importance. Such features include, but are not limited to, historic sites and districts, greenways and trails, dedicated open space, pre-historic and archaeological sites, scenic vistas and corridors, natural landscapes of exceptional aesthetic or cultural value.

"Impact assessment" means the assessment of the economic, environmental, infrastructure, community life and intergovernmental coordination of the draft Final State Development and Redevelopment Plan required by the State Planning Act and N.J.A.C. 5:85-4.7.

"Infrastructure Needs Assessment" means the assessment of present and prospective conditions, needs and costs with regard to State, county, and municipal capital facilities, including water, sewerage, transportation, sold waste, drainage, flood protection, shore protection and related capital facilities that is required to be part of the State Development and Redevelopment Plan by the State Planning Act and Subchapter 5.

. . .

[“Initial petition” means the information required to be submitted to the State Planning Commission pursuant to N.J.A.C. 5:85-7.4 in order for a petitioner to obtain initial plan endorsement. An initial petition must be consistent with the State Development and Redevelopment Plan in order to be endorsed by the State Planning Commission.]

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"Master Plan" means a comprehensive plan for the development of a county or municipality used to guide development and development regulations. Master Plans are adopted by municipal and county planning boards pursuant to the Municipal Land Use Law (N.J.S.A. 40:55D-28) and the County Planning Act (N.J.S.A. 40:27-1 *et seq*.), respectively.

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"Map amendments" means the changes in the State Plan Policy Map initiated by the State Planning Commission in response to new data or that result from approved by the State Planning Commission of a petition for a map amendment pursuant to Subchapter 8 or approval by the State Planning Commission pursuant to Subchapter 7 of a petition for initial or advanced plan endorsement which includes a proposed map amendment.

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"Memorandum of understanding" means a contract between the State Planning Commission and a petitioner to enter into an Action Plan in order for the petitioner to take the steps needed to achieve consistency with the State Plan, in collaboration with the Office of Smart Growth and the relevant state agencies.

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"Minor map amendment" means an amendment to the State Plan Policy Map which does not exceed 100 acres and for which additional notice is required pursuant to N.J.A.C. 5:85-1.7(b)7 and (g)4.

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["Municipal Strategic Revitalization Plan" see "Strategic Revitalization Plan."]

. . .

"Municipality" means any board, department, division, office, agency, or other subdivision of the municipality duly authorized by the municipal governing body, or executive, as appropriate, to carry out the requirements of this chapter.

"Natural system" means regularly interacting and interdependent components of air, water, land and biological resources.

"Negotiating entity" or "negotiating entities" means a county, or where a county has declined to participate in the cross-acceptance process, some other entity designated by the State Planning Commission to compare and negotiate the Preliminary State Development and Redevelopment Plan.

"Negotiation" means the public dialogue between negotiating entities and the State Planning Commission to arrive at a Statement of Agreement and Disagreements.

"Negotiation session" means a session during which the duly authorized representatives of the State Planning Commission and a negotiating entity and any municipality that has submitted a Cross-Acceptance Report, engage in a dialogue with the purpose of attaining the highest degree of agreement on identified issues.

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"Neighborhood Plan" means a plan submitted by an Urban Center municipality for plan endorsement that pertains specifically to a specific section of the municipality that has been identified as part of an overall strategy by the municipality for eventual endorsement of the municipal master plan and supporting plan elements for the entire municipality.

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"Node" means a concentration of facilities and activities, which are not organized in a compact form.

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"Office of Smart Growth" means the Office in the Department of Community Affairs that staffs the State Planning Commission and provides planning and technical assistance as requested. The Office of Smart Growth serves the same functions as and is the successor to the Office of State Planning (N.J.S.A. 52:18A-201). The Office of Smart Growth website is www.njsmartgrowth.com.

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"Period of Cross-Acceptance" means that period of time extending from date of release of the Preliminary State Development and Redevelopment Plan by the Commission to the release of the Statement of Agreements and Disagreements.

. . .

"Petition" means either a formal request for [initial or advanced] plan endorsement or an amendment to an endorsed plan submitted by a municipality, a county, a regional [agency] planning entity or any grouping thereof [submitted] to the State Planning Commission for review for consistency with State Development and Redevelopment Plan pursuant to Subchapter 7 or a formal request by an entity other than a municipality, county or regional agency for a proposed map amendment in an area that is not subject of an endorsed plan pursuant to Subchapter 8.

. . .

"Petitioner" means a municipality, county[,] or regional planning entity**,** [agency] or any grouping thereof**,** seeking [initial or advanced] plan endorsement or an amendment to an endorsed plan pursuant to Subchapter 7 or an entity other than a municipality, county or regional planning entity [agency] or any group thereof seeking an amendment to the State Plan Policy Map for an area that is not subject of an endorsed plan pursuant to Subchapter 8.

. . .

"Plan" means the legally adopted planning document of a governmental entity submitted for endorsement, as well as the various plan elements, planning studies, and documentation used to prepare or implement it.

. . .

["Plan Endorsement Contract" means an agreement entered into between the State Planning Commission and the petitioner seeking plan endorsement. The Contract sets forth the actions considered necessary to have the plan endorsed, a schedule and the regulatory and priority funding benefits that the petitioner is eligible upon having the petition for plan endorsement approved by the State Planning Commission. A Plan Endorsement Contract is optional for initial petitions for plan endorsement and is required for advanced petitions for plan endorsement.]

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"Plan Endorsement Advisory Committee" or "Advisory Committee" means a citizen based committee appointed by the mayor or governing body to serve as liaison between the governing body or regional planning entity and the public and to guide the plan endorsement process for the petitioner.

. . .

"Plan Endorsement Guidelines" means a document issued by the State Planning Commission for the purpose of guiding petitioners through the plan endorsement process.

. . .

"Plan endorsement process" or "plan endorsement" or "endorsement" means the process undertaken by a municipality, county or regional planning entity [agency, counties and municipalities] or any grouping thereof, to petition the State Planning Commission for a determination of consistency of the submitted plan with the State Development and Redevelopment Plan and wherein upon successful completion of requirements outlined in an Action Plan and Memorandum of Understanding, the State Planning Commission shall make a determination that the submitted plan is consistent with the State Development and Redevelopment Plan, and approve a petition for plan endorsement, wherein said plan shall then be considered endorsed.

. . .

“Plan implementation mechanisms” means zoning and land use ordinances, maps and schedules, natural resource inventories, capital improvement programs and any other relevant means used to implement plans.

. . .

“Planning area” means an area of greater than one square mile that shares a common set of conditions, such as population density, infrastructure systems, level of development, or environmental sensitivity. The State Development and Redevelopment Plan sets forth planning policies that guide growth in the context of those conditions.

. . .

“Planning and Implementation Agreement” means an agreement between the State Planning Commission and the petitioner that outlines how the petitioner proposes to achieve the goals and visions described in the endorsed plan and a schedule therefore and specifies benefits such as technical and financial assistance that will be provided by [available from] State agencies to help advance the implementation of the plan.

. . .

"Policy" means a general rule for action focused on a specific issue, derived from more general goals and strategies. Some policies can be implemented directly through institutional procedures or regulations, others require the establishment of more specific and extensive plans or programs.

“Preliminary State Development and Redevelopment Plan” means the document, including maps, appendices, and other material included by reference approved by the State Planning Commission as the basis for comparing and negotiating with the negotiating entities and the State Planning Commission.

. . .

“Prior center designations” or “previously designated centers” means a center designated pursuant to the State Planning Rules and in effect prior to May 17, 2004 [the adoption of these rules] that was not designated as part of [the] an endorsed plan.

. . .

“Regional" means an area encompassing land in more than one municipality, a county, or more than one county, that is bound together by shared characteristics and regional systems.

"Regional agency" and “regional planning entity” means an agency which performs planning for land development, infrastructure or capital investment planning for a region.

. . .

[“Regional strategic plan” means a plan developed through a partnership of State, county, regional and municipal agencies for labor markets or other areas that defines the needs, opportunities, vision and regional strategies for land use, redevelopment, economic development, housing, public facilities and services, environmental protection and conservation, intergovernmental coordination and quality of community life.]

. . .

“Self-assessment” or “self-assessment report” means the report prepared by a petitioner to provide an overview and analysis of existing conditions of the petitioner, as well a review of existing plans, and an assessment of the consistency of a petitioner’s plans and implementation mechanisms with the goals, policies and strategies of the State Development and Redevelopment Plan.

. . .

"Special Resource Area" means an area or region with unique characteristics or resources of statewide importance which are essential to the sustained wellbeing and function of its own region and other regions or systems – environmental, economic, and social – and to the quality of life for future generations.

. . .

"Special Resource Area Plan" means a plan for a special resource area that is developed for the purpose of protecting and preserving the integrity of a special resource area of statewide significance.

. . .

"State agency" means an agency of the State government, including authorities and cabinet departments, commissions, authorities and State colleges among others.

. . .

"State agency benefit" means any benefit, such as technical assistance, financial assistance, priority consideration for grant awards, special grant funding, or other programs, provided by a relevant state agency, that is exclusively afforded to any petitioner granted a State Planning Commission determination of consistency of its petition for plan endorsement.

. . .

"State Development and Redevelopment Plan" or "State Plan" means the plan prepared and adopted pursuant to the State Planning Act that sets forth Statewide planning policies and serves as the official blueprint for development and redevelopment in New Jersey. It is an expression of Statewide intent and articulates the planning policies that will be needed to reach the goals of the State Planning Act. Local application of these policies occurs through the Plan Endorsement process.

. . .

"State Planning Act" means the enabling legislation for establishing the State Planning Commission, creating the State Plan and delineating the duties of the State Planning Office, as codified at N.J.S.A. 52:18A-196 *et seq*.

. . .

"State Plan Policy Map" means the geographic application of the State Development and Redevelopment Plan goals, strategies, and policies and is comprised of series of maps corresponding to the 1:24,000 scale United States Geological Survey (U.S.G.S.) 7.5 minutes topographic quadrangle maps. The State Plan Policy Map serves as the official map of the State Development and Redevelopment Plan. Each quadrangle map includes at a minimum planning areas, including changes made in the plan endorsement process, endorsed plans, designated centers, cores, and nodes as well as other areas including critical environmental sites, historic and cultural sites, parks and natural areas, military installations, the certification signature, and appropriate initialing of revisions, if any, by the Secretary of the Commission, and the text for each planning area and its planning policies.

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["Strategic revitalization plan" means a plan by a municipality, group of municipalities or an Urban Complex that assesses community strengths and weaknesses, defines overall physical and social strategies to promote regional efficiencies and cooperation, defines physical and social strategies for creating inter-jurisdictional coordination and cooperation, specifies physical and social strategies to target public investments for greatest efficiency and impact and satisfies applicable State agency application requirements to receive expedited consideration for State funding and technical assistance.]

. . .

"Strategy" means a general course of action, which links more general goals of the State Development and Redevelopment Plan with more specific policies.

"Statement of Agreements and Disagreements" means the document approved by the State Planning Commission pursuant to N.J.A.C. 5:85-4.6, which details the highest degree of agreement that is generated during the negotiation of plans between each negotiating entity and the State Planning Commission's negotiating committee.

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<u>"State Opportunities and Constraints Assessment" means a preliminary written assessment of existing land use patterns, infrastructure availability and natural resources provided by the Office of Smart Growth to a petitioner that has submitted a municipal self-assessment report, based on input from relevant state agencies, and used to inform community visioning.</u>

. . .

["Urban complex" means an Urban Center and two or more municipalities within the surrounding Metropolitan Planning Area that exhibit a strong intermunicipal relationship, based on socio-economic factors and public facilities and services, that is defined, integrated and coordinated through a Strategic Revitalization Plan. Urban complexes are nominated jointly by a county or counties and the affected municipalities and are coterminous with municipal boundaries but not necessarily with county boundaries.]

. . .

["Urban complex strategic revitalization plan" means a Strategic Revitalization Plan that may substitute for individual municipal Strategic Revitalization Plans within
Their jurisdiction and that:

1. Describes the relationships that exist within the urban complex;
2. Identifies issues affecting the future growth and viability of the urban complex;
3. Assesses the strengths and weaknesses of the urban complex; and
4. Specifies strategies for regional and cultural cooperation and action.]

. . .

"Written notice" means notice that is provided either electronically or by first class mail.

5:85-1.6 Public participation

(a) Public participation shall include written or oral comments concerning cross-acceptance, plan endorsement, and map amendments presented before or during the public comment period at the meetings of the State Planning Commission or any committee thereof, and at any public hearings conducted pursuant to these rules. All applicable meetings [or hearings] shall be carried out in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-6 *et seq*.<u>, unless otherwise specified</u>.

(b)-(c) (No change.)

[(d) The State Development and Redevelopment Plan is a Statewide policy document – it is an expression of Statewide intent and articulates the planning policies that will be needed to reach the goals of the State Planning Act. Local application of these policies occurs through the Plan Endorsement process. At a minimum, the public may participate in plan endorsement through the following means:

1. Public comment to the State Planning Commission and its committees when a petitioner is seeking approval from the State Planning Commission pursuant to Subchapter 7 of an initial a petition for plan endorsement or an amendment to an endorsed plan;

2. Written communication with petitioners seeking plan endorsement; and

3. Submission of written comments to the Executive Director of the Office of Smart Growth at any time up to 30 days after a public hearing conducted pursuant to N.J.A.C. 5:85-7.5(e), 7.8(e), 7.13(b) or 7.14(g).]

5:85-1.7 Public notice requirements, <u>form, content and timing</u>

(a) (No change.)

(b) [Except for meetings for which public notice is given pursuant to the Open Public Meeting Act, N.J.S.A. 10:4-6 et seq., public] <u>Public</u> notice of meetings or hearings conducted by the State Planning Commission or the Executive Director of the Office of Smart Growth pursuant to these rules shall be provided as follows:

1. by posting on the Office of Smart Growth website;

2. by publishing a display ad or legal advertisement in at least one newspaper of general circulation in the area in which the meeting or hearing will be held;

3. by providing written notice to all persons or organizations who have registered with the Office of Smart Growth to receive public notice of meetings or hearings concerning a particular matter pursuant to N.J.A.C. 5:85-1.6(b);

4. by providing written notice to appropriate regional, State and Federal agencies;

5. if the public notice concerns a [meeting] <u>hearing</u> regarding cross-acceptance pursuant to N.J.A.C. 5:85-3 or 4;

i. by providing written notice to the negotiating entity;

ii. by providing written notice to the mayor, governing body, clerk and planning board of any municipality in which property that is the subject of the petition is located if the municipality is not the petitioner; and

iii. by providing written notice to the board of chosen freeholders, county executive or administrator if any, county clerk and county planning board if the county is not the negotiating entity;

6. if the public notice concerns a [meeting or a] hearing regarding a petition filed pursuant to N.J.A.C. 5:85-7 or 8:

i. by providing written notice to the petitioner;

ii. by providing written notice to the mayor, clerk and planning board of any municipality in which the property that is the subject of the petition is located if the municipality is not the petitioner; and

iii. by providing written notice to the board of chosen freeholders, county executive or administrator, of any, county clerk and county planning board of any county in which property that is subject of the petition is located if the county is not the petitioner; and

7. if the public notice concerns a minor map amendment proposed by the State Planning Commission, by providing written notice to all owners of property that is subject of the petition and all owners of property located within 200 feet of the property that is the subject of the petition.

(c) (No change.)

(d) All public notice requirements to be given for hearings conducted by a municipality or county pursuant to N.J.A.C. 5:85-3[,] or 4 [or 7] shall satisfy timing and content requirements as provided for in section (j) of this subchapter and be provided as follows:

1. By publishing a standard legal advertisement in each official newspaper of the municipality or county required to give public notice;

2. By [notifying] written notice to the mayor, clerk and planning board of any municipality that adjoins the municipality or county required to provide the public notice;

3. By [notifying] written notice to the board of chosen freeholders, county executive or administrator, if any, county clerk and county planning board of any county that adjoins the municipality or county required to provide the public notice;

[4. By notifying the State Planning Commission;]

[5]4. By [notifying] written notice to the Executive Director [of the Office of Smart Growth];

[6]5. [If a municipality is required to provide public notice, by providing] Municipalities shall provide written notice to the municipal planning board, board of education, environmental commission, if any and each authority, board, commission, committee, and department involved in economic development, land use, infrastructure or resource protection in that municipality;

[7]6. [If a county is required to provide public notice, by providing] Counties shall provide written notice to: the county planning board and each authority, board, commission, and department involved in economic development, land use, infrastructure or resource protection in that county; and

[8. If a county is required to provide public notice, by providing written notice] to the mayor, governing body, clerk and planning board of each municipality in that county.

(e) (No change).

(f) All public notice requirements to be given by a petitioner for hearings conducted on plan endorsement pursuant to N.J.A.C. 5:85-7 shall satisfy timing and content requirements as provided for in section (j) of this subchapter and be provided as follows [when the petitioner is not a county or municipality]:

1. By publishing a standard legal advertisement in each official newspaper of each county or municipality for which the petitioner is seeking plan endorsement;

2. By [notifying] written notice to the mayor, governing body, clerk, [and] planning board, environmental commission if any and each authority, board, commission, committee and department involved in economic development, land use, infrastructure or resource protection in the municipality for which plan endorsement is being sought of any municipality for which petitioner is seeking plan endorsement;

3. By [notifying] written notice to the board of chosen freeholders, county executive or administrator, if any, county clerk and county planning board and each authority, board, commission, and department involved in economic development, land use, infrastructure or resource protection in that county of any county that adjoins any county or municipality for which plan endorsement is being sought; and

[4. By notifying the State Planning Commission;]

[5]4. By [notifying] written notice to the Executive Director [of the Office of Smart Growth];

[6. by providing written notice to the mayor, governing body, clerk, planning board, environmental commission, if any and each authority, board, commission committee and

department involved in economic development, land use, infrastructure or resource protection in the municipality for which plan endorsement is being sought; and

7. By providing written notice to the board of chosen freeholders, county executive or administrator, if any, county clerk, county planning board and each authority, board, commission, and department involved in economic development, land use, infrastructure or resource protection in the county for which plan endorsement is being sought.]

(g) (No change).

(h) Within five days of the Office of Smart Growth being informed that notice has been provided pursuant to (d) through (g) above; receiving a completed petition pursuant to N.J.A.C. 5:85-[7 or] 8[,]; or the issuance of the Executive Director's report on a petition submitted pursuant to N.J.A.C. 5:85-[7 or] 8[; or the issuance of a monitoring report by the Executive Director of the Office of Smart Growth pursuant to N.J.A.C. 5:85-7.12 or 7. 13], the Office of Smart Growth shall:

1. Post information concerning said notice, petition or report on the Office of Smart Growth website;

2. Provide written notice concerning said notice petition or report to all persons or organizations who have registered with the Office of Smart Growth to receive public notice concerning a particular matter pursuant to N.J.A.C. 5:85-1.6(b); and

3. Provide written notice concerning said notice, petition or report to appropriate regional, State and Federal agencies.

(j) All public notice of [meetings or] hearings provided pursuant to (b) and (d) through (g) above shall be provided at least 10 days in advance of the meetings or hearings and shall provide the time, date, location, and purpose of the meeting or hearing. The public notice shall also specify that the public can comment orally at the meeting or hearing or submit comments within a specified time period. [Written notice may be provided electronically, by facsimile copy, by the United States Postal service or other comparable delivery system.]

5:85-1.8 Severability Clause

If any section, subsection, provision, clause, or portion of this subchapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remaining portions of this subchapter shall not be affected thereby.

5:85-7.1 Introduction

(a) The State Planning Act includes the legislative finding that significant economies, efficiencies and savings in the development process would be realized by private sector enterprise and by public sector development agencies if the several levels of government would cooperate in preparing and adhering to sound and integrated plans. The legislature further observed that a State Development and Redevelopment Plan needed to be designed for use as a tool for assessing suitable locations for infrastructure, housing, economic growth and conservation. The legislature emphasized the importance of providing local governments in this State with the technical resources and guidance necessary to assist them in developing land use plans and procedures which are based on sound planning information and practice, and to facilitate the development of local plans which are consistent with State and regional plans and programs. To achieve the desired sound planning, the State Planning Act mandates that the Office of State Planning (predecessor to the Office of Smart Growth) provide advice and assistance to regional, county and local planning units.

(b) The State Planning Act specifically authorizes and requires the Office of State Planning to provide planning service to other agencies or instrumentalities of State government, to review the plans prepared by them, and to coordinate planning so as to avoid or mitigate conflicts between plans.
(c) The State Planning Act also requires the Office of State Planning to develop and promote procedures to facilitate cooperation and coordination among State agencies, regional entities, and local governments with regard to the development of plans, programs and policies which affect land use, environmental, capital and economic development issues.
(d) The Plan Endorsement subchapter that follows delineates the process developed by the Office of Smart Growth (successor to Office of State Planning) to increase the degree of consistency among municipal, county, regional and State agency plans and the State Plan and to facilitate implementation of these plans.

5:85-7.2 Purpose and Scope
(a) The purpose of this subchapter is to delineate procedural and substantive requirements of plan endorsement, including minimum submission requirements petitioner must meet in order to achieve plan endorsement and qualify for associated benefits; responsibilities of relevant state agencies in participating in plan endorsement; and responsibilities of the Office of Smart Growth in administering the plan endorsement process.
(b) This section applies to municipalities, counties, regional planning entities and other relevant planning entities seeking plan endorsement.
(c) The State Planning Commission may approve a petition for plan endorsement submitted by a petitioner based upon recommendations of the Office of Smart Growth, in consultation with relevant regional, state and federal agencies and after consideration of public comment.
(d) State agencies shall provide state agency benefits upon an approval of plan endorsement as described in the document entitled Appendix A.
(e) State agencies shall make available certain state agency benefits, agreed upon by the petitioner and relevant state agencies during the plan endorsement process, once the Office of Smart Growth has issued a Certificate of Eligibility.

5:85-7.3 Applicability
(a) Plans that previously received Initial Plan Endorsement from the State Planning Commission shall be eligible for plan endorsement and shall be automatically entitled to a Certificate of Eligibility as described in section 7.18 of this subchapter.
(b) Plans submitted in connection with a petition for initial plan endorsement that have been deemed complete by the Office of Smart Growth prior to the effective date of this rule shall be eligible for consideration for initial plan endorsement under the prior State Planning Rules governing plan endorsement.
(c) Municipal master plans and supporting plan implementation mechanisms submitted by the municipal governing body pursuant to this subchapter.
(d) County master plans and supporting plan implementation mechanisms, submitted by the county governing body pursuant to this subchapter. Municipalities within counties that have been granted plan endorsement shall only qualify for state agency benefits associated with plan endorsement upon receiving plan endorsement of said municipality.
(e) Regional plans for two or more municipalities sharing a common resource or planning theme submitted jointly by the affected municipal governing bodies and pursuant to this

subchapter, provided that each affected municipality individually submit master plans and supporting plan implementation mechanisms. Municipalities within regions that submit regional plans shall only qualify for state agency benefits associated with plan endorsement upon receiving plan endorsement of said municipality. Regional and municipal plan endorsement may be pursued concurrently.

(f) Special resource area plans as defined in the State Development and Redevelopment Plan submitted by the relevant regional planning entity.

(g) Neighborhood plans in municipalities designated as Urban Centers by the State Planning Commission, submitted by the municipal governing body, provided that endorsement of any neighborhood plan is part of an identified overall strategy for eventual endorsement of the master plan and supporting plan elements for the entire municipality.

5:85-7.4 Minimum Public Participation in Plan Endorsement

At a minimum, the public may participate in plan endorsement through the following means:

1. Public comment to the State Planning Commission and its committees when a petitioner is seeking approval of a petition for plan endorsement or an amendment to an endorsed plan from the State Planning Commission pursuant to this subchapter;
2. Written communication with petitioners seeking plan endorsement; and
3. Submission of written comments to the Executive Director of the Office of Smart Growth at any time up to 30 days after a public hearing conducted pursuant to this subchapter;

5:85-7.5 Public Notice Requirements for Office of Smart Growth and Petitioners

(a) All public notice of meetings or hearings conducted by the State Planning Commission regarding plan endorsement shall be provided by the Office of Smart Growth as follows:

1. by posting said notice on the Office of Smart Growth website;
2. by providing written notice concerning said notice to all persons or organizations who have registered with the Office of Smart Growth to receive public notice concerning a particular matter pursuant to N.J.A.C. 5:85-1.6(b); and
3. by providing written notice concerning said notice to appropriate regional, State and Federal agencies.

(b) Within 5 days of Office of Smart Growth either receiving or issuing documents relating to plan endorsement pursuant to this subchapter, notice shall be provided by the Office of Smart Growth as follows:

1. by posting information concerning said documents on the Office of Smart Growth website;
2. by providing written notice concerning said documents to all persons or organizations who have registered with the Office of Smart Growth to receive public notice concerning a particular matter pursuant to N.J.A.C. 5:85-1.6(b); and
3. by providing written notice concerning said documents to appropriate regional, State and Federal agencies, within five days of the Office of Smart Growth.

(c) Within 45 day of a State Planning Commission decision on a petition for plan endorsement pursuant to section 21 of this subchapter, the Office of Smart Growth shall publish notice of the decision in the New Jersey Register.

(d) All public notice of hearings conducted by a municipality, special resource area or county petitioner pursuant to this subchapter shall satisfy timing and content requirements pursuant to section (j) of N.J.A.C. 5:85-1.7(j), and be provided as follows:

1. by publishing a standard legal advertisement in each official newspaper of the municipality or county required to give public notice;

2. by written notice to the mayor, governing body, clerk and planning board, environmental commission, if any, and each authority, board, commission, committee and department involved in economic development, land use, infrastructure or resource protection in the municipality for which plan endorsement is being sought and the mayor, governing body, clerk and planning board of any municipality that adjoins the municipality or county required to provide the public notice;

3. by written notice to the board of chosen freeholders, county executive or administrator, if any, county clerk and county planning board, environmental commission if any and each authority, board, commission, committee and department involved in economic development, land use, infrastructure or resource protection in the municipality for which plan endorsement is being sought and of any county that adjoins the municipality or county required to provide the public notice; and

4. by written notice to the Executive Director.

5:85-7.6 State Agency Responsibilities

(a) The State Planning Commission shall call to its assistance staff of any regional, state or federal agency, regional planning entity, county municipality, or political subdivision thereof, as it requires to implement the plan endorsement program.

(b) Each state agency member of the State Planning Commission, and any other relevant state agency or authority, at the request of the State Planning Commission or the Executive Director, shall prepare a list of state agency benefits available for endorsed plans that shall be designed to encourage participation in plan endorsement, promote implementation of an endorsed plan and promote the policies and goals of the State Development and Redevelopment Plan. These benefits shall be made available only in an area that is the subject of a petition for plan endorsement, provided that the petition has been endorsed by the State Planning Commission. Each list of benefits, funding grants or other programs shall:

1. specify the benefits that will take effect once a petition for plan endorsement has been approved by the State Planning Commission pursuant to section 21 of this subchapter,

2. specify the information that must be included in the petition, the actions that must be taken by petitioner as delineated in an action plan in order for each such benefit to be made available,

3. specify those benefits that only apply in limited areas and the extent and reasons for those limitations.

(c) Each state agency member of the State Planning Commission shall commit to making any necessary modifications to state agency regulations and programs to allow those benefits to accrue to the petitioner.

(d) Each state agency member of the State Planning Commission, and any other relevant state agency or authority, at the request of the State Planning Commission or the Executive Director, shall share the following responsibilities:

1. review and assess the planning documents submitted by a petitioner and provide a written analysis of those planning documents within the time periods provided in this subchapter;

2. provide guidance and assistance with respect to programs available through each state agency or authority that may assist a petitioner to achieve plan endorsement and

implementation of a petitioner's planning strategy in a manner that is consistent with and promotes the goals and policies of the State Development and Redevelopment Plan;

3. prepare a list of required plan implementation mechanisms necessary for a petitioner to achieve consistency with the State Development and Redevelopment Plan and provide adequate and appropriate examples of each such mechanism. In the event that an appropriate example of a required plan implementation mechanism does not exist, the relevant state agency will work with the Office of Smart Growth and the petitioner to develop same which can later be used as an example;

4. make reasonable recommendations to the petitioner and the State Planning Commission concerning requirements for a petitioner to receive plan endorsement and how to adequately implement the planning strategies necessary to achieve consistency with the goals, policies and strategies of the State Development and Redevelopment Plan; and

5. facilitate prioritized technical assistance and coordinated regulatory review of applications of entities with endorsed plans, where the application is determined to be consistent with the endorsed plan and the goals, policies and strategies of the State Development and Redevelopment Plan.

(e) The Office of Smart Growth shall compile and maintain an updated list of all state agency benefits and requirements and make the list available to prospective petitioners.

5:85-7.7 Pre-petition Submission Requirements, Scheduling and Meeting

(a) A prospective petitioner may request a meeting with the Office of Smart Growth when considering whether to petition for plan endorsement. Submission requirements for the request include:

1. a cover letter to the Office of Smart Growth requesting a pre-petition meeting and stating the goals and intent of the prospective petitioner in seeking plan endorsement;
2. a hard color copy and a digital copy of existing planning documents: and
3. a list of existing planning documents that have been submitted.

(b) The Office of Smart Growth shall schedule a pre-petition meeting within 30 after a prospective petitioner satisfies the submission requirements.

(c) The Office of Smart Growth, members of relevant State agencies, and representatives for the petitioner shall attend a pre- petition meeting to discuss the plan endorsement process, goals and intent of prospective petitioner in seeking plan endorsement, and preliminary findings of State agency review of submitted planning documents.

5:85-7.8 Self-Assessment Report, Form, Content, Adoption and Submission Requirements

Petitioner shall prepare a Self-Assessment Report using the format set forth in the self-assessment report template, as appended hereto at Appendix A.

(a) The self-assessment report shall include, as a minimum:

1. an analysis of existing conditions of the area, a review of existing plans, and an assessment of the consistency of a petitioner's plans and implementation mechanisms with the goals and policies of the State Development and Redevelopment Plan;

2. an inventory of key characteristics of the relevant area including, current population and trends, housing and economy trends, available public facilities and services, transportation, water and sewer infrastructure, and natural, cultural and recreational resources;

3. any relevant existing planning documents as listed in the plan endorsement guidelines, to the extent that they were not previously submitted in the pre-petition submission;

4. findings and conclusions regarding consistency with the State Plan, including an assessment of actions needed to achieve consistency, benefits petitioner seeks as a result of plan endorsement, and any requests for waivers of any plan endorsement requirements, including a justification for same;

5. any requests for waivers including justification therefore, in accordance with section 7.9 of this subchapter;

6. for petitioners having designated centers or previously endorsed plans, copies of all monitoring reports created pursuant to the State Planning Rules;

7. for petitioners representing a county, specific reference shall be made to identify and evaluate countywide efforts to provide for efficient use of natural and capital resources and to address planning for conditions for which a map change was requested in the latest round of cross acceptance; and

8. for petitioners representing a special resource area, specific reference shall be made to identify and evaluate planning efforts made specifically to provide for protection of the special resource area.

(b) Petitioner shall hold a public meeting in which the Advisory Committee presents the findings and conclusions of the self-assessment report to the relevant governing body or regional planning entity.

(c) Petitioner shall consider a resolution to pursue plan endorsement and authorize submission of the self-assessment report to the Office of Smart Growth at a public meeting of the relevant governing body or regional planning entity.

(d) Submission of the self-assessment report to the Office of Smart Growth as part of a petition for plan endorsement shall include the following:

1. proof of public notice for all required public meetings;

2. a certified resolution from the governing body, or the regional planning entity for a regional plan or special resource area plan, approving the Self-Assessment Report; and

3. copies of the meeting minutes of each public meeting at which the Self-Assessment Report was reviewed and adopted. The minutes shall include a summary of public comments and copies of written comments filed before or during the public meeting.

5:85-7.9 Waivers

(a) Any of the requirements of plan endorsement may be waived at the discretion of the Executive Director in consultation with the relevant State agencies.

(b) A waiver may be granted provided the Executive Director determines that a petitioner has previously satisfactorily completed the requirement, or has substantially complied with the intent of the requirement, The determination will be based on a consideration of whether standards for plan endorsement as delineated in this subchapter and, if appropriate, whether additional relevant requirements based on guidance provided by the Office of Smart Growth in plan endorsement guidelines and related guidance documents and as agreed upon between the Office of Smart Growth and petitioner, have been met.

(c) A petitioner shall request a waiver for any provision of the plan endorsement process at any time. The request shall include a justification to the Executive Director.

(d) Within five days of receipt of a request for a waiver, the Executive Director shall determine whether the waiver is justified and notify the petitioner in writing of such determination.

(e) The Executive Director shall advise the State Planning Commission of grant of any waivers at the next regularly scheduled Commission meeting following the decision.

5:85-7.10 Advisory Committee Appointment and Membership

Petitioner shall appoint an advisory committee to guide the plan endorsement process, serve as liaison between petitioner and the Office of Smart Growth, and raise public awareness of and participation in the plan endorsement process. Appointments shall be made in accord with any relevant Local Government Ethics Law and be designed to avoid any appearance of impropriety.

(a) For a municipal plan or a neighborhood plan, the advisory committee shall be appointed by the mayor with the advice and consent of the governing body at a public meeting for which adequate notice has been provided. The appointment shall take effect by approval of a resolution of the governing body. The advisory committee shall consist of between 5 and 10 people including: at least one representative of the governing body; at least one Class IV member of the planning board; at least one member of another local board, commission or committee; and at least two public members who reside within the jurisdiction. The public members may not hold an appointed or elected position within the municipality or be employed by said municipality.

(b) For a county plan, the advisory committee shall be appointed by the board of chosen freeholders at a public meeting for which adequate notice has been provided and the appointment shall take effect by approval of a resolution of the board of chosen freeholders. The advisory committee shall consist of between 5 and 10 people including: at least one representative of the board of chosen freeholders; at least one member of the county planning board; at least one member of another county-wide board, commission or committee; and at least two public members who reside within the jurisdiction. The public members may not hold an appointed or elected position within the county or be employed by said county.

(c) For a special resource area plan, the advisory committee shall be appointed by the regional planning entity or by the governing body of each affected municipality, depending on the nature of the plan, at a public meeting for which adequate notice has been provided. The appointment shall take effect upon approval of a resolution of the regional planning entity. The advisory committee shall consist of between 5 and 10 people including: at least one representative of the regional planning entity; at least one member of a planning board from an affected municipality within the region; at least one member of another local board, commission or committee from an affected municipality; and at least two public members who reside within the jurisdiction. The public members may not hold an appointed or elected position within the municipality or be employed by said regional planning entity.

5:85-7.11 State Agency Opportunities and Constraints Assessment and Report

(a) Within 30 days of receipt of a complete Self-Assessment Report and supporting documentation, the relevant State agencies shall compare the findings and conclusions of the petitioner's self-assessment report with the most up-to-date regional and statewide data, evaluate the report with regard to development, infrastructure and natural resources, and make an assessment as to whether trend growth apparent in petitioner's report is sustainable based on the resources and infrastructure available in the municipality, region and state. The assessment shall be made in accordance with this rule and any additional agreed upon standards as described in the plan endorsement guidelines and shall be provided to the Executive Director.

(b) Within 45 days of receipt of the complete Self-assessment Report, the Office of Smart Growth shall include the assessments provided by the relevant state agencies in an Opportunities

and Constraints Assessment Report to the petitioner, summarizing the findings and conclusions of the opportunities and constraints assessment.

(c) The opportunities and constraints assessment report shall be used to inform the visioning process, described in section 13 of this of subchapter, of limitations to development that exist.

(d) The Office of Smart Growth may require a site visit in order to better understand the dynamics of a community, county or region, and to enable the Office of Smart Growth and the state agencies to visualize the attributes and challenges of the area based on first-hand knowledge.

5:85-7.12 Community Visioning Process, Vision Statement Development and Adoption, and Submission Requirements

(a) Petitioner shall perform a community visioning process designed to maximize involvement of the community and structured so as to encourage consensus. Petitioner shall meet minimum requirements for conducting visioning sessions as set forth below and any additional agreed upon standards from plan endorsement guidelines and related support materials which may be called for depending on individual circumstances. Community visioning shall engage the public in many ways through a variety of tools. Each step in which the public is invited to participate shall be widely promoted using each of the following promotional efforts, if available: notice on the official municipal, county or regional entity website; notice on locally broadcast cable TV station(s); articles in local newspapers and written materials posted in municipal buildings, schools and local businesses. Findings of the visioning process shall be used to develop a vision statement for inclusion in the master plan. Minimum requirements for conducting a visioning process include:

1. at least two workshops held in public meetings in which information is gathered, interactive activities occur and a variety of materials relating to the community, such as maps, photos and resource inventories, are made available for review and discussion;

2. at least two public hearings during the course of the visioning process in which a preliminary vision statement is vetted and discussed;

(b) A vision statement of community consensus of its intended future shall be prepared using the information gathered in the visioning process;

(c) Submission of the vision statement to the Office of Smart Growth as part of a petition for plan endorsement shall include the following:

1. proof of public notice for all required public meetings and hearings;

2. a certified resolution from the governing body, or the regional planning entity for a regional plan or special resource area plan, approving the vision statement;

3. copies of materials used in the visioning process;

4. a summary report identifying actions taken to met minimum and agreed upon additional requirements for performing the visioning process; and

5. copies of the meeting minutes of each public meeting and hearing at which the community vision was reviewed and adopted. The minutes shall include a summary of public comments and copies of written comments filed before or during the public meeting or hearing.

5:85-7.13 Complete Petition for Plan Endorsement

In order for a petition for plan endorsement to be considered complete, the following minimum submission requirements must be met:

(a) submission requirements for pre- petition meeting pursuant to section 7.7(a) of

this subchapter;

(b) planning documents, if not already submitted at the pre-petition meeting, and which have been determined to be relevant during the plan endorsement process by the Office of Smart Growth and the petitioner, such as:

1. for municipal petitioners or a group of municipal petitioners jointly seeking regional plan endorsement: a land use plan, including an inventory and map, a zoning ordinance including schedule and map, an inventory of pending significant development applications; a redevelopment plan, an agriculture retention plan; an economic development plan; a housing and fair share element; any draft implementation mechanisms; a natural resources inventory; a conservation plan; a transportation and circulation plan; a community facilities plan; an open space and recreation plan; a statement of consistency with county solid waste management plan and a capital improvement plan;

2. for county petitioners: a land use plan, including an inventory and map, a zoning ordinance including schedule and map, an inventory of pending significant development applications; a redevelopment plan, an agriculture retention plan; an economic development plan; a housing and fair share element; any draft implementation mechanisms; a natural resources inventory; a conservation plan; a transportation and circulation plan; a community facilities plan; an open space and recreation plan;

3. for special resource area petitioners: a land use plan, including an inventory and map, a zoning ordinance including schedule and map, an inventory of pending significant development applications; a redevelopment plan, an agriculture retention plan; an economic development plan; a housing and fair share element; any draft implementation mechanisms; a natural resources inventory; a conservation plan; a transportation and circulation plan; a community facilities plan; an open space and recreation plan; a statement of consistency with county solid waste management plan and a capital improvement plan;

4. submission requirements for the self-assessment report pursuant to section 7.8(a) of this subchapter;

5. submission requirements for the visioning statement pursuant to section 7.12(a) of this subchapter;

6. any additional requirements, agreed upon between petitioner and the Executive Director, based on conditional standards delineated in plan endorsement guidelines.

5:85-7.14 Consistency Review

(a) Within 45 days of receipt of the complete petition for plan endorsement, relevant federal, state and regional agencies shall provide comments regarding consistency of the petition to the Executive Director. State agencies shall have an additional 30 days to perform the consistency review when considering petitions of municipalities reestablishing center designations pursuant to section 23 of this subchapter.

(b) Within 90 days of receipt of the complete petition for plan endorsement, the Office of Smart Growth, in consultation with the relevant federal, state and regional agencies, shall conduct a review of the petition for consistency with the goals, policies and strategies of the State Plan. The Office of Smart Growth shall have an additional 45 days to perform the consistency review when considering petitions of municipalities reestablishing center designations pursuant to section 23 of this subchapter.

(c) A petition will be found consistent with the State Plan if it meets the requirements of this section and agreed upon relevant requirements as delineated in Plan Endorsement Guidelines. In conducting the consistency review, consideration will be given to the ability of the submitted plan to achieve the targets and indicators contained in the State Plan that are applicable to the petitioner; the extent to which the activities listed to be undertaken in each planning area can or will achieve consistency with the State Plan goals and implement Statewide sound planning policies; the consistency of the plan with applicable statutory and regulatory provisions; and whether the plan is based on current information and data. Consistency will be evaluated based on all the provisions of the State Plan with particular emphasis on the following provisions:

1. the Statewide goals, policies and strategies;
2. the policies that apply to all planning areas;
3. the intentions for each relevant planning area;
4. the policy objectives for each relevant planning area;
5. if any change to a planning area boundary is proposed, the delineation criteria, intent and policy objectives for each planning area impacted by any boundary change;
6. the delineation criteria and intent for Critical Environmental Sites and Historic and Cultural Sites;
7. if there is a designated center or a center is proposed for designation, the policies for centers, including the center design policies, and environs; and
8. if a center is proposed to be designated or a change to the boundary of a designated center is proposed, the criteria for designating the type of center that is proposed to be designated or modified.

(d) If a municipal plan, submitted as part of a regional plan or county plan has any discrepancies with the regional plan, county plan or the State Development and Redevelopment Plan, it may be endorsed so long as adequate justification is provided.

(e) If a special resource area plan has any discrepancies with the State Development and Redevelopment Plan, it may be endorsed so long as adequate justification is provided.

(f) During the consistency review period, the Office of Smart Growth may hold a public hearing in an appropriate jurisdiction to receive public comment on the petition if the Executive Director receives a written request for such a hearing within 10 days of public notice of receipt of said petition from:

1. the petitioner;
2. the governing body of a municipality or county which is not the petitioner; or
3. a total of at least 10 written requests from other governmental agencies, advocacy groups or individuals with a demonstrated interest in the petition.

5:85-7.15 Finding of Consistency and Recommendation Report

If the Executive Director determines that a petition for plan endorsement is consistent with the State Development and Redevelopment Plan and the petitioner has fulfilled all requirements for plan endorsement as described in these rules and relevant parts of the Plan Endorsement Guidelines, then the Executive Director shall prepare a recommendation report to the State Planning Commission for its consideration containing detailed findings and conclusions to support the determination. The Executive Director may then issue a Certificate of Eligibility to

petitioner pursuant to section 18 of this subchapter. The State Planning Commission shall then consider the petition pursuant to section 21 of this subchapter.

5:85-7.16 Finding of Potential Consistency, draft Action Plan and Memorandum of Understanding, Consideration by State Planning Commission

If the Executive Director determines that a petition for plan endorsement is potentially consistent with the State Development and Redevelopment Plan and the petitioner has taken reasonable steps toward achieving consistency, but additional action must be taken to complete the self-assessment, visioning, or other action necessary to achieve consistency, the Executive Director shall, in consultation with the relevant state agencies and petitioner, develop a draft Memorandum of Understanding and draft Action Plan pursuant to this subchapter. Then, the Executive Director shall submit the drafts to the State Planning Commission for its consideration at a public hearing.

(a) If the State Planning Commission determines that the self-assessment and visioning process are acceptable, or that a waiver of these requirements has been properly granted, and the terms and conditions of the draft action plan and draft memorandum of understanding are appropriate to achieve consistency, then the Commission shall execute the Memorandum of Understanding and direct the Executive Director to issue a Certificate of Eligibility pursuant to section 18 of this subchapter.

(b) If the State Planning Commission determines that the self-assessment and visioning are not acceptable or that the terms and conditions of the draft action plan and draft memorandum of understanding are not appropriate to achieve consistency, then it shall revise the draft action plan so that it is appropriate to achieve consistency, execute the Memorandum of Understanding and approve the issuance of a Certificate of Eligibility pursuant to section 18 of this subchapter.

(c) If the Executive Director fails to provide a draft Action Plan and draft Memorandum of Understanding to the State Planning Commission and petitioner within the 90 day consistency review period then petitioner may directly petition the State Planning Commission for plan endorsement pursuant to section 20 of this subchapter.

5:85-7.17 Action Plan and Memorandum of Understanding Adoption, Submission and Completion

Within 60 days of the State Planning Commission's execution of the Memorandum of Understanding pursuant to section 16 of this subchapter, or within a reasonable period of time as agreed to by the Executive Director, the petitioner shall authorize execution of the Memorandum of Understanding by resolution at a public hearing of the governing body, or the regional planning entity for a regional plan or special resource area plan, to commit to complete the requirements identified in the Action Plan to achieve endorsement of the petitioner's plan.

(a) Petitioner shall consider adoption of the Memorandum of Understanding and Action Plan at a public hearing of the relevant governing body or regional planning entity.

(b) Municipal petitioners shall present the Memorandum of Understanding and Action Plan to both the planning board and governing body which can be at the same or separate public hearings. The planning board and governing body may choose to hold a joint public hearing to consider adoption of the Memorandum of Understanding and Action Plan.

(c) Petitioner shall submit the fully executed Memorandum of Understanding to the Executive Director. Submission of the executed Memorandum of Understanding shall include the following:

1. proof of public notice for all required public meetings and hearings;

2. a certified resolution from the governing body, or the regional planning entity for a regional plan or special resource area plan, approving execution of the Memorandum of Understanding;

3. a copy of the meeting minutes of each public meeting and hearing at which the Memorandum of Understanding and Action Plan were reviewed and adopted includes a summary of public comments and copies of written comments filed before or during the public hearing(s); and

4. a copy of the certified resolution authorizing execution of the Memorandum of Understanding, a copy of the executed Memorandum of Understanding, and a copy of the approved Action Plan.

(d) If petitioner fails to execute the Memorandum of Understanding to enter into the Action Plan agreement with the State Planning Commission within 60 days of the State Planning Commission's execution of the Memorandum of Understanding, or within a reasonable period of time as agreed to by the Executive Director, the petition will be considered to have been withdrawn without prejudice and the petitioner so notified. Notice of any such withdrawal shall be provided by the Office of Smart Growth to the petitioner, the State Planning Commission and in accordance with section 1.7(h) of these rules.

(e) An approved Action Plan may only be amended for good cause shown at the discretion of the Executive Director. Notice of the any amendments to an Action Plan shall be provided to the State Planning Commission and the public pursuant to N.J.A.C. 5:85-1.7(h).

5:85-7.18 Certificate of Eligibility

A certificate of eligibility may qualify petitioners to receive certain state agency benefits prior to plan endorsement and it authorizes petitioner to pursue parallel planning efforts, including but not limited to, approval of certain growth designations including transfer of development rights receiving areas in smart growth areas and designation of areas in need of redevelopment outside of smart growth areas. The Executive Director shall issue a certificate of eligibility as follows:

1. to petitioners seeking plan endorsement that have submitted a complete petition pursuant to section 13 of this subchapter, and who have been found consistent with the State Development and Redevelopment Plan pursuant to section 14 of this subchapter,

2. to petitioners seeking plan endorsement, within 10 days of receipt of a Memorandum of Understanding that has been executed by petitioner;

3. to petitioners having plans that previously received Initial Plan Endorsement from the State Planning Commission; and

4. to petitioners having plans that were submitted in connection with a petition for initial plan endorsement and that have been deemed complete by the Office of Smart Growth prior to the effective date of this rule.

5:85-7.19 Draft Planning and Implementation Agreement

If necessary, upon completion of the Action Plan or substantial completion of the Action Plan as determined by the Executive Director, the Office of Smart Growth, relevant state agencies and petitioner shall develop a draft Planning and Implementation Agreement that outlines outstanding planning efforts, planning implementation mechanisms, and state agency benefits needed to successfully implement the plan once endorsed. The Planning and Implementation Agreement shall be developed to meet the unique characteristics of the petitioner. The Planning

and Implementation Agreement shall be adopted as part of the State Planning Commission resolution granting endorsement of a petition pursuant to section 21 of this subchapter. Petitioner's endorsement shall be contingent upon fulfilling the obligations of the Planning and Implementation Agreement.

5:85-7.20 Recommendation Report, Review of Petition, and Direct Petition

(a) Within 45 days of completion of an Action Plan, and if relevant, development of a draft Planning and Implementation Agreement pursuant to section 19 of this subchapter, the Executive Director shall evaluate a complete petition for plan endorsement and prepare a recommendation report to the State Planning Commission. The report shall either determine that the plan is consistent or not consistent with the State Plan. If the Executive Director determines the petitioner's plan is not consistent with the State Development and Redevelopment Plan, the Executive Director shall either recommend the necessary changes that should be required by the State Planning Commission to make the petitioner's plan and draft Planning and Implementation Agreement consistent with the State Development and Redevelopment Plan or recommend that the petition be denied by the State Planning Commission.

(b) Within 45 days after receipt of the Executive Director's report, a duly authorized subcommittee of the State Planning Commission shall review the Executive Director's recommendation report and shall recommend that the petition be considered for approval, approval with revisions or denial by the State Planning Commission at its next regularly scheduled meeting.

(c) If the subcommittee requests additional information from petitioner to make its determination, it may add an additional 45 days after receipt of the requested information to prepare its recommendations on the petition.

(d) A petitioner may directly petition the State Planning Commission for plan endorsement under the following circumstances:

1. If the subcommittee fails to make a recommendation on the petition within 45 days of receipt of the Executive Director's Report or within 45 days of receipt of the requested additional information, or if the petitioner disagrees with the recommendation of the subcommittee.

2. If the Office of Smart Growth fails to prepare a draft Action Plan and Memorandum of Understanding pursuant to section 16 of this subchapter.

5:85-7.21 Plan Endorsement by State Planning Commission

(a) Within 45 days after receipt of the subcommittee's recommendation or a direct petition pursuant to section 20 of this subchapter, the State Planning Commission shall conduct a hearing to consider the petition and Executive Director's report and affirm, revise or reverse the Executive Director's recommendation on the petition or the petitioner's direct petition for endorsement. If the State Planning Commission determines that the petition is consistent with the State Development and Redevelopment Plan, it shall approve the petition for plan endorsement and authorize execution of the Planning and Implementation Agreement, if relevant. If the State Planning Commission determines the petition is not consistent with the State Development and Redevelopment Plan, the State Planning Commission shall either request the petitioner to make necessary changes so that the plan is consistent with the State Development and Redevelopment Plan, prepare an Action Plan to address requirements that

must be met in order to achieve consistency with the State Development and Redevelopment Plan, or deny the petition.

1. Within 30 days of the State Planning Commission's action on a petition for plan endorsement, the Executive Director shall notify the petitioner in writing of the State Planning Commission's determination, findings and recommendations regarding the petition.

5:85-7.22 Extension of Time Requirements

(a) The Executive Director may extend, up to 90 days, the time allowed for state actions under this subchapter in the event that the number of requests for plan endorsement or amendments thereto exceeds the resources of the Office of Smart Growth to process those requests.

(b) The Executive Director may extend any time period in this subchapter up to an additional 90 days for the purpose of requesting additional information necessary to adequately and appropriately evaluate a petition for plan endorsement, an amendment to a previously endorsed plan or center designation. The period of review shall be extended 60 days after the receipt of the requested additional information by the Office of Smart Growth.

(c) Public notice of any extensions shall be provided to the petitioner, to those interested persons and organizations who have registered with the Office of Smart Growth in accordance with N.J.A.C.5:85-1.6(b).

5.85-7.23 Period of Endorsement

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

(b) Comprehensive Management Plan Regional Growth Areas, Towns, and Villages that are certified by the Pinelands Commission are recognized as equivalent to being endorsed by the State Planning Commission, for as long as the municipality within which the Pinelands Growth Area, Town or Village is located, remains certified by the Pinelands Commission.

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

(f) Centers endorsed according to sections (d) and (e) above, that have expired effective January 8, 2008, may be temporarily reestablished for a one year period from the effective date of this rule by formally initiating plan endorsement prior to the effective date of this rule. The process for temporary reestablishment of boundaries is as follows:

1. Petitioners shall formally initiate plan endorsement by: submitting documents pursuant to section 7(a) of this subchapter, attending a pre- petition meeting pursuant to section 7(c) of this subchapter, completing a municipal self-assessment report pursuant to section 10 of this subchapter, and appointing an advisory committee pursuant to section 10 of this subchapter.

1. A petitioner shall request temporary reestablishment of an expired center in the cover letter required pursuant to section 7(a) of this subchapter.

2. The Executive Director shall, in consultation with relevant state agencies, establish an interim boundary for the temporarily reestablished center prior to the pre- petition meeting.

3. A map depicting the interim boundary shall be provided to petitioner at the pre-petition meeting and any modifications to the original boundary will be explained as part of the opportunities and constraints report.

(g) A center that has been temporarily reestablished according to (f) above, may be extended for an additional two years, if petitioner qualifies for a Certificate of Eligibility within the one year period, with the following limitations:

1. The boundaries of the reestablished center may be further modified by the Executive Director, in consultation with relevant state agencies, for good cause shown, based on the Consistency Review performed in accordance with section 14 of this subchapter.

2. If petitioner fails to comply with the terms of the Memorandum of Understanding and Action Plan the Executive Director shall prepare a report to the State Planning Commission recommending revocation of the reestablished center. The State Planning Commission shall consider the report at a public hearing and shall affirm, revise or deny the Executive Director's recommendation to revoke within 60 days of receipt of the report.

3. If a complaint is received by the Office of Smart Growth or the State Planning Commission of the failure of a petitioner with a reestablished center to comply with the terms of a Memorandum of Understanding and Action Plan, the Executive Director shall investigate and prepare a report to the State Planning Commission within 45 days of receiving the complaint recommending revocation of the reestablishment of the center. If the investigation establishes that a petitioner has failed to comply with the terms of the Action Plan and Memorandum of Understanding, then the Executive Director shall prepare a report to the State Planning Commission recommending revocation of the reestablished center. The State Planning Commission shall consider the report at a public hearing and shall affirm, revise or deny the Executive Director's recommendation within 60 days of receipt of the report.

5:85-7.24 Monitoring of Endorsed Plans and Designated Centers

(a) The Executive Director shall periodically monitor the status and progress of: endorsed plans and associated Planning and Implementation Agreements, previously designated centers, and the Planning and Implementation Agenda during the term of plan endorsement or prior center designation and shall forward all reports to the State Planning Commission.

(b) Municipalities, counties or other relevant planning entities having endorsed plans or previously designated centers shall provide annual reports to the Executive Director on the status of their Planning and Implementation Agreement efforts, unless otherwise agreed.

1. The annual report shall include: any Board of Adjustment Annual Report on Variances pursuant to 40:55D-70.1; Planning Board reports, and significant updates to other planning materials submitted as part of the petition for plan endorsement, including zoning ordinances or other implementation measures adopted since plan endorsement or prior center designation and submission of the last annual report. The report shall state how these items are consistent with the State Development and Redevelopment Plan, the endorsed plan and the terms of the Planning and Implementation Agreement.

2. If the State Development and Redevelopment Plan has been readopted since a plan was endorsed, the next annual report scheduled to be filed by the petitioner that is due at least six months following said re-adoption shall address whether there are any changes in the

readopted State Development and Redevelopment Plan that impact the endorsed plan. If any such changes are identified, a detailed description of either how the endorsed plan and Planning and Implementation Agreement are consistent with the readopted State Development and Redevelopment Plan or the changes that will be made in the endorsed plan or Planning and Implementation Agreement so that they will be consistent with the readopted State Development and Redevelopment Plan shall be included in the annual report.

(c) At least 30 days prior to adoption of a new or significantly revised plan by municipalities, counties, regional agencies or planning authorities with endorsed plans or previously designated centers, copies of said new or significantly revised plans shall be provided to the Executive Director. Within 30 days after adoption of said new or significantly revised plans identified above, copies shall be provided to the Executive Director. The impacts of the new or significantly revised plan on the endorsed plan shall also be addressed in the next regularly scheduled annual report.

(d) If a complaint is received by the Office of Smart Growth or the State Planning Commission of failure to comply with the terms of an endorsed plan or the Planning and Implementation Agreement or prior center designation or Planning Implementation Agenda, the Executive Director shall investigate and report to the State Planning Commission. Public notice of any such complaint and any report by the Executive Director shall be provided to the petitioner, to those interested persons and organizations who have registered with the Office of Smart Growth in accordance with N.J.A.C. 5:85-1.6(b) and posted on the Office of Smart Growth website.

5:85-7.25 Revocation of Plan Endorsement or Prior Center Designation

(a) If the Executive Director finds that a jurisdiction has made substantial changes to its endorsed plan or previously designated center or has substantially violated the terms of its Planning and Implementation Agreement or Planning and Implementation Agenda so that its endorsed plan or previously designated center are inconsistent with the State Development and Redevelopment Plan, the Executive Director shall:

1. direct the Office of Smart Growth to conduct a public hearing in the affected jurisdiction to receive public comment on the status and progress of the jurisdiction's implementation of the endorsed plan or previously designated center. Minutes of this public hearing shall include a summary of public comments and copies of written comments filed before, or presented at, the public hearing;

2. prepare and forward a monitoring report to the State Planning Commission recommend that plan endorsement or prior center designation be revoked;

3. inform the petitioner, county representatives and the State Planning Commission in writing of the reasons therefore; and

4. provide notice of said recommendation to the relevant planning entity, pursuant to N.J.A.C. 5:85-1.7(h).

(b) Within 60 days of the issuance of the monitoring report by the Executive Director, the State Planning Commission or its duly authorized subcommittee shall review the report of the Executive Director and the State Planning Commission shall affirm, revise, or reverse recommendation based on its determination of whether the endorsed plan or prior center designation remains consistent with the State Development and Redevelopment Plan.

(c) Within 30 days after State Planning Commission action, as set forth in (b) above, the Executive Director shall provide notice of the decision to the petitioner pursuant to N.J.A.C. 5:85-1.7(i).
(d) Upon revocation by the State Planning Commission of an endorsed plan or previously designated center, all benefits and incentives made available to a petitioner shall be rendered null and void.

5:85-7.26 Petitions to Amend Endorsed Plans, Previously Designated Centers, Planning and Implementation Agreements or Planning and Implementation Agendas

(a) Petitions to amend endorsed plans, previously designated centers, Planning and Implementation Agreements or Planning and Implementation Agendas may be submitted by the original petitioner, but only during the annual reporting of the status and progress of the Planning and Implementation Agreement or Planning and Implementation Agenda, unless either the endorsement period for the endorsed plan will end in less than two years or it can be demonstrated that, for special reasons, the proposed amendment cannot await the next annual reporting.
(b) A petition to amend an endorsed plan, or a previously designated center, a Planning and Implementation Agreement or Planning and Implementation Agendas shall include, at a minimum:

1. A self-assessment report, fully completed and signed by the petitioner or a duly authorized official, representing the petitioner;
2. A statement updating the petitioner's latest annual report if the petition amendment is not being proposed as part of a annual report;
3. A list of the documents being submitted;
4. Proof that notice of the submission of the amendment petition to the State Planning Commission and the Executive Director has been provided pursuant to N.J.A.C. 5:85-1.7;
5. A certified resolution from each governing body, or regional agency for a regional plan or special resource area plan, that is impacted by the proposed amendment approving the amendment petition being submitted and designating the official of the municipality, county or regional agency to submit the petition and execute any requested or required amendment to the existing Planning and Implementation Agreement or Planning and Implementation Agenda;
6. A copy of the meeting minutes of each public meeting or hearing at which the petition to amend was reviewed, and of the hearing during which the resolution endorsing the amendment petition was approved. The minutes shall include a summary of public comments and copies of written comments filed before or at the public meeting;
7. If any changes to the State Plan Policy Map are proposed, both the proposed and current State Plan Policy Map boundaries shall be depicted in digital files conforming to national standards of 1:24,000 scale accuracy and as provided in the Plan Endorsements Guidelines established by the State Planning Commission;
8. One hard color copy and one electronic copy of the petitioner's proposed amendment;
9. A narrative description of public participation and planning coordination efforts used to prepare and submit the amendment petition;
10. A statement describing:
    i. How the amendment promotes local, regional and state goals and objectives;

ii. How the amendment will impact public sector decisions;
iii. The reason(s) why the amendment cannot await the next revision of the State Development and Redevelopment Plan; and
iv. The reason(s) why the amendment is not being proposed as part of a annual report if the amendment is not being proposed as part of a annual report; and

11. A report describing:
i. How the proposed amendment is consistent with the State Development and Redevelopment Plan; and
ii. How the amendment helps the municipality, county, regional and state agencies achieve consistency with the State Development and Redevelopment Plan and the endorsed plan or previously designated centers; or
iii. Why the current Planning and Implementation Agreement or Planning and Implementation Agenda item that is proposed to be changed cannot be implemented and why the proposed change to the Planning and Implementation Agreement or Planning and Implementation Agenda will accomplish the same purpose as well or better as the original agreement or agenda.

(c) Within 60 days of the receipt of a petition to amend, the Executive Director shall provide written notice to the petitioner and the State Planning Commission, as to whether the petition complies with this subchapter.

(d) In cases where the Executive Director finds that the petition to amend has not been submitted in accordance with this subchapter, the Executive Director shall inform the petitioner in writing within 60 days after receipt of the amendment of the deficiencies of the petition. If a revised petition to amend is not resubmitted within 90 days after receipt of the Executive Director's notice, or as otherwise agreed, or is submitted incorrectly it will be considered withdrawn without prejudice and the petitioner so notified. The Executive Director shall provide notice of any such withdrawal to those interested persons and organizations who have registered with the Office of Smart Growth in accordance with N.J.A.C. 5:85-1.6(b) and post such information on the Office of Smart Growth website.

(e) In cases where the Executive Director finds that the petition to amend is submitted in accordance with this subchapter, or is resubmitted correctly pursuant to (a) and (b) above, the Executive Director shall provide public notice in accordance with N.J.A.C. 5:85-1.7(h) and send copies of the petition, plan and supporting documents to the state agencies represented on the State Planning Commission and any other relevant state or federal agency.

(f) The relevant state and federal agencies receiving copies of a petition to amend pursuant to (e) above shall provide comments to the Executive Director within 60 days.

(g) Within the state and federal agency 60-day review period, the Office of Smart Growth may hold a public hearing in an appropriate jurisdiction to receive public comment on the petition with public notice provided pursuant to N.J.A.C. 5:85-1.7(b).

(h) The Office of Smart Growth shall hold a public hearing if the Executive Director receives a written request for such a hearing from the petitioner, the governing body of a municipality or county which is not the petitioner or a total of at least 10 written requests from other governmental agencies, advocacy groups or individuals with a demonstrated interest in the petition within 10 days of the Office of Smart Growth providing notice public notice pursuant to (e) above that a petition to amend has been submitted in accordance with this subchapter.

(i) In cases where the Executive Director determines that a petition to amend is submitted in accordance with this section, the Executive Director shall determine within 90 days after the

conclusion of the state and federal agency review period whether the amendment petition is consistent with the State Development and Redevelopment Plan.

(j) The Executive Director shall prepare a report containing detailed findings and conclusions concerning the consistency of the petition to amend with the State Development and Redevelopment Plan. The Executive Director shall provide notice of the report pursuant to N.J.A.C. 5:85-1.7(h) and forward the report to the State Planning Commission, the petitioner and post the report on the Office of Smart Growth website.

1. If the Executive Director determines that the petition to amend is consistent with the State Development and Redevelopment Plan, the Executive Director shall recommend that the amendment petition be approved by the State Planning Commission.

2. If the Executive Director determines that the petition to amend is not consistent with the State Development and Redevelopment Plan, the Executive Director shall either recommend the necessary changes that should be required by the State Planning Commission to make the amendment petition consistent with the State Development and Redevelopment Plan or recommend that the petition to amend be denied by the State Planning Commission.

3. If the Executive Director fails to submit a recommendation to the State Planning Commission concerning a petition to amend that has been determined to have been submitted pursuant to this subchapter within the 90-day time period set forth in (i) above, the petitioner may request that the State Planning Commission take action on the amendment petition.

(k) The State Planning Commission and any duly authorized subcommittee shall review the recommendation of the Executive Director that the amendment petition was submitted in accordance with this subchapter and the determination as to whether the petition to amend is consistent with the State Development and Redevelopment Plan.

(l) Within 60 days after receipt of the recommendation, the State Planning Commission shall conduct a hearing on the petition to amend and affirm, revise or reverse the Executive Director's determination on the amendment petition based on its determination whether the amendment petition is consistent with the State Development and Redevelopment Plan.

(m) The Executive Director shall, within 30 days after State Planning Commission action as set forth in (j) or (k) above, notify the petitioner in writing of the State Planning Commission's determination, findings and recommendations regarding the amendment petition.

(n) Within 45 days of the State Planning Commission determining whether the petitioner's petition to amend was submitted in accordance with this section and is consistent with the State Development and Redevelopment Plan, the Executive Director shall provide public notice of said determination pursuant to N.J.A.C. 5:85-1.7(i).