

Figure 1

QUESTIONS & ANSWERS ABOUT PLAN ENDORSEMENT

"The quickest way to legally defend a planning area change is to obtain Plan Endorsement"
NJ Office of Smart Growth staff, 7/13/04

What is Plan Endorsement?

Plan Endorsement is official recognition by the NJ State Planning Commission that a local, county, or regional plan is consistent with the State Development and Redevelopment Plan (State Plan). Government agencies can voluntarily submit their plans for endorsement by the State Planning Commission. Those whose plans receive Endorsement make the commitment to implement the endorsed plan.

Who is eligible to petition for Plan Endorsement?

Municipalities, counties, groups of municipalities and/or counties, and regional agencies are eligible.

What are the benefits of Plan Endorsement?

State agencies will provide benefits in the form of technical assistance, state capital investments, priority for state grants and loans and regulatory changes to implement the endorsed plan. In addition, the State Planning Commission will help petitioners seeking Plan Endorsement to simultaneously receive needed plan approvals from various state agencies. For example, the State Planning Commission can arrange a consolidated process of receiving substantive certification from the Council on Affordable Housing or amendments to Water Quality Management Plans sought by petitioners.

The State Planning Commission will give priority to petitions received from counties, regional entities or from municipalities that submit their master plans as part of a petition from a county or regional entity. In addition, the State Planning Commission will give priority consideration to a) municipal petitions that are supported by counties with endorsed plans and b) joint petitions from more than one municipality in a given region.

Plan Endorsement should give municipal master plans greater legal standing. Municipal land use decisions have been upheld in the past, in part based on consistency with the State Plan.

What are the potential disadvantages of Plan Endorsement?

Plan Endorsement can be an expensive and time-consuming process if Advanced Plan Endorsement is being sought. Realistically, the process of receiving Initial Plan Endorsement and then Advanced Plan Endorsement could take up to 18 months or longer. That does not include the time (and expense) necessary to prepare all of the materials required for submission. The question is, is this time and resources well spent, if it results in a legally sound and defensible plan?

How do you petition for Plan Endorsement?

Plan Endorsement is a two-phase process. Municipalities can apply for Initial Plan Endorsement and be eligible for a limited set of benefits. They can then apply for Advanced Plan Endorsement to receive a more comprehensive set of benefits.

To petition for **Initial Plan Endorsement**, a municipality must submit to the State Planning Commission its master plan and mandatory sub-elements, any amendments to the master plan, and a Reexamination Report, if one was adopted during or after master plan adoption. It must also submit Board of Education five-year facilities plans and the municipal capital improvement program. The master plan must contain or be accompanied by population, household and employment projections; land use inventory and zoning map; natural resource inventory (which can be based on information available from DEP); "municipal environmental justice inventory" (list of known polluted or contaminated sites which can be obtained from DEP); housing element; circulation element or, in its absence, a summary of existing and proposed transportation facilities and their ability to accommodate projected growth; and infrastructure inventory. There are additional documents that must accompany the petition. One of these documents is called the Planning and Implementation Agreement. The draft of the Agreement that is submitted with the petition must identify the petitioner's means and schedule for achieving the goals of the endorsed plan.

Petitions for **Advanced Plan Endorsement** must be accompanied by additional information. This includes a zoning build-out analysis; analysis of estimated capacity of the natural and built infrastructure to address full build-out conditions; and adopted or anticipated community design guidelines. In addition, it requires documentation of substantive certification from COAH (or a judgment of compliance from the court); may require detailed environmental plans including an Environmental Justice Plan, Historic Preservation Plan, Open Space, Recreation and Parks Plan, Habitat Conservation Plan, and a highly detailed "Water Resource Management Plan." In addition, a draft Planning and Implementation Agreement must be prepared. Other components may include detailed transportation plans and agricultural plans and ordinances. A municipality may apply for Advanced Plan Endorsement in stages. For example, a municipality may first seek endorsement of its transportation plans and then seek endorsement of its agricultural plans.

Although the Plan Endorsement process requires extensive documentation, in fact what it requires are many elements of a municipal master plan that should be prepared regardless. For example, community design guidelines should be articulated in a community design sub-element of the Land Use Plan element. An analysis of maximum growth potential, given current zoning and environmental constraints, should be done as part of the Land Use Plan Element. Estimating the capacity of water resources, transportation networks and other natural and built infrastructure systems to support additional growth is an equally important component of the Master Plan.

An Environmental Justice Plan and Habitat Conservation Plan are relatively new concepts. Environmental Justice Plans address the potential impact of polluted sites to low-income and racial or ethnic populations. Habitat Conservation Plans address ways to protect habitats of endangered and threatened species.

Is Plan Endorsement mandatory?

Tough to answer. The State Planning Rules state that it is a voluntary process (5:85-7.1). However, the following is also true:

- 1) Initial Plan Endorsement is a pre-requisite for adopting a Transfer of Development Rights (TDR) ordinance
- 2) The proposed COAH rules (July, 2004) require that municipalities obtain Initial Plan Endorsement within 3 years of receiving Substantive Certification (the process of receiving COAH protection for municipal housing plans).
- 3) The 2004 Preliminary State Plan acknowledges a recommendation made by the Highlands Task Force to ensure that petitions for plan endorsement involving the Highlands submitted prior to the adoption of the Highlands regional master plan are consistent with decisions being made by the Highlands Council.

Who can help municipalities expedite the Plan Endorsement process?

Municipalities can solicit a variety of entities to help prepare necessary submissions for Plan Endorsement. Of course, the NJ Office of Smart Growth staff is available to assist both in referring communities to appropriate resources and explain the Plan Endorsement process. There are many other organizations and agencies that might help as well. For instance, communities within the Raritan Basin watershed might obtain some of the needed environmental data and analysis from the New Jersey Water Supply Authority. The Hunterdon County Planning Board can assist municipalities in preparing zoning build-out analyses, providing GIS (computer mapped) natural resource data, share population projections and transportation infrastructure data. Also, the County can provide sample master plan language from other communities and model ordinances.

The State Planning Commission will streamline the Plan Endorsement review of any municipal plan (or regional plan of a group of municipalities) that accompanies a County plan.

What is a Plan Endorsement Contract?

Petitioners seeking Advanced Plan Endorsement enter into a Plan Endorsement Contract with the State Planning Commission. By doing so, they are specifying the commitments the petitioner is making to meet the requirements of Plan Endorsement. It also commits State agencies to provide resources to help the petitioner implement its plan.

Can the State Planning Commission revoke endorsement of a Plan?

Failure of a petitioner to honor the terms and the conditions of its Planning and Implementation Agreement can result in revocation by the State Planning Commission. The same applies to previously designated Centers.

Can a municipality amend an Endorsed Plan?

Yes. Only the original petitioner may do so.

How long does official endorsement last?

Endorsement lasts for 10 years. Municipalities that received Center Designation prior to January 7, 2002 (Flemington) remain endorsed for six years from January 7, 2002.

Do municipalities have to identify growth centers in their master plans in order to be considered for Plan Endorsement?

No, according to Office of Smart Growth staff. The State Planning Commission will review the master plan for its overall consistency with the State Plan in making a determination. Municipalities may have sound justification for not providing center-based growth and need to articulate this. Absence of existing or planned community wastewater systems and/or public water supplies could be reasons for not encouraging center-based growth. Nothing in the State Plan says that all municipalities must designate growth centers. However, it does strongly encourage communities to undertake zoning build-out analyses to determine how much growth their zoning allows and capacity analyses to figure out the best way to accommodate the growth so that it does not compromise natural or built resources important to the municipality.

How do other State rules or regulations relate to Plan Endorsement?

Recently, the Municipal Land Use Law was amended allowing municipalities throughout New Jersey to take advantage of a planning tool called the Transfer of Development Rights (TDR). Transfer of Development Rights allows development to be transferred from one part of a municipality to another or from one municipality to another in order to help preserve land in desired locations. A municipality, however, can only enact a TDR ordinance if receives Initial Plan Endorsement.

The Highlands Water Protection and Planning Act will require the Highlands Planning Council to obtain Plan Endorsement of a Highlands Regional Master Plan, specifically for the sections of the Plan that address the Highlands Planning Area. Municipalities that voluntarily comply with the Highlands Regional Master Plan provisions for the Planning Area will receive the same benefits as those that obtain Plan Endorsement.

The proposed new COAH rules (2004) require municipalities that receive substantive certification from COAH to also obtain Initial Plan Endorsement within the first three-year review. COAH will conduct a review every three years to ensure that municipalities are actively pursuing their affordable housing obligations.

Where can I find out more about Plan Endorsement?

Visit the Office of Smart Growth webpage at

<http://www.nj.gov/dca/osg/docs/stateplanningrules051704.pdf> (State Planning Rules) or
<http://www.nj.gov/dca/osg/docs/2004peguidelines.pdf> (Plan Endorsement Guidelines).