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ANNOTATED INDEX**Letter**

Date: May 22nd, 1995  
 To: Herb Simmens  
 From: Tom D'Allesio, Area Planning Mgr.

Letter expresses D'Allessio's opposition to waiver request in Hillsborough. Approves of other region waiver requests, but states that the Hillsborough case raises important issues which should be hashed out in center designation process.

**Letter**

Date: April 3rd, 1996  
 To: Mayor Kenneth Scherer  
 From: Shirley Bishop

Infamous "Congratulations!" letter, informing Mayor Scherer that Sub Cert had been granted. Enclosures:

Executive Summary of Sub. Cert, also dated April 3d (in file)  
 Resolution Granting Sub. Cert. (In file)

## Attachments:

March 4th, 1996 COAH compliance report, authored by  
 Monica Etz (In file)

**Map**

Date: July, 1995  
 Prepared: Kinsey & Hand

Map of PAC/HCF site, with ownership of lots indicated.

**Letter**

Date: December 14th, 1995  
 To: Robert Heibell, Van Cleef Engineering  
 From: Martin Bierbaum, NJDEP

Letter is notice of adoption by DEP of the Somerset County Wastewater Management Plan amendment, but specifically notes that the Hillsborough PAC/HCF section of the amendment was dropped from consideration and not adopted.

**Letter**

Date: March 6th, 1996  
 To: Barbara Lawrence  
 From: Kinsey & Hand

Letter and attached excerpts from report on similar case in Washington Twp., where waiver of center designation seemed even more appropriate than in the instant case. Attachments also include letters from the township attorney and the developers, apparently discussing their intention to ask COAH for waiver of center designation. It is unclear, however, whether a formal waiver request was even considered by COAH; there is also mention of Washington Township's request for center designation, which COAH

mentions in its resolution granting Substantive Certification. This may be what eventually transpired.

**Report**

Date: July 17th, 1995  
To: COAH (Presumably)  
From: Kinsey & Hand, attys for Gateway at Sunnymead

Admirably specific report outlines Hiller's objections. Specifics are included on wastewater and water service plans.

Highlights:

Site is not "suitable," because roads can't handle increased traffic. Housing element and fair share plan made no findings to the contrary. Also, surrounding land in both micro (farms, woods, and a cemetery) and macro scale (adjoining municipalities) are PA 4 and thus inconsistent with development.

Site is not "approvable," because all bodies with jurisdiction have not okayed it, namely, Somerset County Planning Board, which issued a report critical of, inter alia, the traffic assessment submitted by the developer and asked for more information. Unknown whether they received a response.

Housing element and master plan was fraught with errors and inconsistencies. Report intimates that COAH was misled as to state of water and sewer infrastructure on the tract.

1991 General Development Plan, in which PAC/HCF site first received approval for development from Hillsborough Planning Board, originally contained sewage treatment aspects, including 2 sewage pump stations, "force mains," and a new sewage treatment plant on the western edge of the site.

**Resolution**

Date: April, 3rd, 1996  
To: Hillsborough  
From: COAH

Resolution granting Sub. Cert.

**Letter**

Date: May 5th, 1994  
To: Thomas Bates, Hillsborough Twp. Planning Board  
From: Thomas D'Amico, Somerset Cty. Planning Board

In letter, D'Amico expresses Somerset County's serious doubts about capacities of roads (Amwell Road, which is two lanes at site; Mill Lane, narrow, bumpy, and rutted; etc.). Says much more info needed on impact. Notes that PAC/HCF is inconsistent with Somerset

County's Master Plan.

Says developer's submission is incomplete without requested info and takes no action. Unknown whether response received.

The Office of State Planning can not waive Center Designation

The Resource Planning and Management Map (RPMM) "reflects the intergovernmental consensus arrived at during the cross-acceptance process" in creating the State Development and Redevelopment Plan (SDRP). N.J.A.C. 17:32-8.2(a). A waiver of center designation requirement by the Office of State Planning for development in Planning Area 4 or a grant of center designation at the border of two planning areas which would, in effect, amend the boundary between the planning areas constitutes an amendment of the RPMM. The State Planning Rules authorize only the State Planning Commission to approve any amendments to the RPMM. See N.J.A.C. 17:32-8.5(d). The Director of the Office of State Planning may disapprove a request for an amendment of the RPMM, but there are no circumstances under which he may approve such a request. See N.J.A.C. 17:32-8.5(f). In addition, the State Planning Rules preclude an amendment of the RPMM when the land area in question is actively under regulatory review at any level of government. N.J.A.C. 17:32-8.5(f)3. The proposed PAC/HCF project is currently under review by the DEP for ?????? and the Somerset County???? for ???

The Mill Lane Site has not received Approval for Consistency Review

The COAH regulations require that a developable site obtain approval for consistency review under § 208 of the Clean Water Act (CWA), 33 U.S.C. § 1251 et seq. prior to substantive certification. N.J.A.C. 5:93-5.3(b). In New Jersey, the DEP performs CWA § 208 consistency reviews under procedures set out in the Water Quality Management (WQM) Planning rules. See N.J.A.C. 7:15 et seq. The proposed PAC/HCF project has not yet obtained a consistency review approval. In addition, one of the factors considered by the DEP in determining if a project is consistent with the appropriate WQM Plan is the identification of an appropriate wastewater service area for the project. N.J.A.C. 7:15-3.2(c)1. The proposed PAC/HCF project site does not have a wastewater service infrastructure and is, therefore, inconsistent with the applicable area WQM plan.

**EXECUTIVE ORDERS**

(a)

**OFFICE OF THE GOVERNOR****Governor Jim Florio****Executive Order No. 114(1994)****State Development and Redevelopment Plan**

Issued: January 11, 1994.

Effective: January 11, 1994.

Expiration: Indefinite.

WHEREAS, in 1985, the New Jersey Legislature enacted the State Planning Act (N.J.S.A. 52:18A-196 *et seq.*) calling for the creation of a State Development and Redevelopment Plan (State Plan) to be used as a tool for assessing suitable locations for infrastructure, housing, economic growth and conservation to bring about rational, managed growth and development in all regions of the State; and

WHEREAS, the State Plan was adopted by the State Planning Commission in June 1992, after five years of discussion and negotiation with the citizens of New Jersey in a widely regarded "cross-acceptance" process and, while the State Plan is not regulatory, it does provide necessary guidance for responsible stewardship of the State's natural resources and open space; and

WHEREAS, in adopting the State Planning Act, the Legislature declared that the State requires sound and integrated statewide planning to conserve its natural resources, revitalize its urban centers, protect the quality of its environment and provide affordable housing and adequate public services at reasonable cost while promoting beneficial economic growth, development and renewal; and

WHEREAS, the State Planning Act recognizes that the historic haphazard patterns of growth have threatened the quality of life in New Jersey and have failed to provide for the revitalization of our urban centers, sufficient affordable housing stock, or adequate conservation of natural resources, and therefore, requires the adoption of a coordinated, integrated and comprehensive plan for growth, development, renewal and conservation of all regions of the State and identifies areas for growth, agriculture, open space, and other appropriate designations; and

WHEREAS, the State Plan provides a framework for streamlining permitting procedures and cost savings for the mutual benefit of the public and private sectors; and

WHEREAS, the State Plan is based upon an economic impact assessment which estimates that full implementation can save taxpayers \$1.3 billion in capital infrastructure costs over 20 years and up to \$400 million annually in operating costs statewide; and

WHEREAS, the State Planning Commission has entered Memoranda of Understanding with the Capital Budgeting and Planning Commission, the Council on Affordable Housing, the Department of Environmental Protection and Energy, the Department of Transportation and New Jersey Transit, establishing successful cooperative relationships directed toward reaching the goals of the State Plan; and

WHEREAS, success in achieving the rational development goals of the State Planning Act, and the substantial cost savings which can be derived through full implementation of the State Plan, requires broad based acceptance and implementation of the State Plan's goals and mechanisms by all State agencies and departments, and coordinated planning among the State departments and agencies and local governments;

NOW, THEREFORE, I, JAMES J. FLORIO, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the statutes of this State, do hereby ORDER and DIRECT:

1. All State Departments and agencies shall:

a. Adopt and incorporate as part of their agency programmatic mission, policies which comport with the State Plan and act in a coordinated fashion in investing resources at the State and local level in implementing the State Plan and achieving their programmatic missions.

b. In their joint endeavors to implement the State Plan together with the State Planning Commission, encourage growth and development and direct infrastructure to locations and in patterns recommended by the strategies and policies contained in the State Plan.

c. Adopt policies which facilitate the establishment of development "centers" and encourage development which is consistent with the policy

objectives of "planning areas" which constitute the "resource and management structure" of the State Plan.

d. Participate and cooperate with the Office of State Planning in its review and assessment of the functional plans of the departments or agencies, including, but not limited to water supply, natural resources, air quality, energy, open space and historic conservation, affordable housing, transportation, airport systems and rail systems, and encourage interdepartmental and interagency participation on advisory bodies related to policy and plan development to assure coordination in the implementation of the State Plan.

e. Support the Office of State Planning in the fulfillment of its statutory responsibilities with respect to its planning activities, including but not limited to, the legislatively mandated infrastructure needs assessment, monitoring, and evaluation program.

f. Collaborate in data base development and the exchange of information among departments and agencies, and establish appropriate institutional mechanisms, including data compatibility, to assure that data base development and the exchange of information occurs.

g. Coordinate efforts with the Office of State Planning to assist municipalities in gaining designation of development "centers."

h. Coordinate efforts with the Office of State Planning to assist distressed cities in developing Strategic Revitalization Plans.

i. Report to the Governor and Office of State Planning on June 1, 1994, and every six months thereafter, on their efforts in furtherance of this Order.

2. All State agencies and departments are authorized and directed, to the extent not inconsistent with law, to cooperate with and provide support to the Office of State Planning and State Planning Commission and furnish them with such information, including statistical and planning data, and assistance necessary to accomplish the purposes of this Order.

3. This Order shall take effect immediately.

(b)

**OFFICE OF THE GOVERNOR****Governor Jim Florio****Executive Order No. 115(1994)****State Hazard Mitigation Team**

Issued: January 14, 1994.

Effective: January 14, 1994

Expiration: Indefinite.

WHEREAS, various natural hazards have caused physical and financial impact in New Jersey and will continue to do so and these impacts have resulted in unexpected costs to county and local governments as well as degradation of the State's health, safety, environment, infrastructure and economy; and

WHEREAS, the opportunities to significantly mitigate the impacts of coastal storms, hurricanes, floods, wildfires, earthquakes, and other natural hazards are identifiable and should be executed as funding is available; and

WHEREAS, there exist the skills, expertise, and talent within the Executive Branch departments and independent authorities to examine and make recommendations to reduce the vulnerability of New Jersey's citizens and property; and

WHEREAS, Executive Order No. 12 (1970—Cahill) and Executive Order No. 39 (1954—Meyner) directs State agencies to fully participate in the emergency management system; and

WHEREAS, the Office of Emergency Management in the Department of Law and Public Safety is charged with the responsibility to administer the State's comprehensive emergency management programs; and

WHEREAS, the Governor's Advisory Council on Emergency Services is empowered to authorize expenditures from the Governor's Emergency Services Fund, upon approval of the Governor, to provide relief from an emergency; and

WHEREAS, a need exists to provide formal recognition, authority and responsibility to this organizational structure;

NOW, THEREFORE, I, JAMES J. FLORIO, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

TO: Ed Lloyd  
FROM: Matt Garamone  
DATE: November 20, 1996  
RE: Hillsborough case

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**Can the Office of State Planning waive the State Planning Commission's requirements regarding the center designation process?**

Subchapter 8 of State Planning Rules (NJAC 17:32 et seq) sets out the procedures for amending the Resource Planning and Management Map (RPMM). The pertinent sections of these procedures are as follows:

17:32-8.5(d) - states that only the State Planning Commission may dispose of a petition to amend the RPMM, except as set forth in 17:32-8.5(f).

17:32-8.5(f) - lists the circumstances in which the Director of the Office of State Planning may disapprove petitions to amend the RPMM including the following:

1. The petition is incomplete, contains false information or is improperly submitted.
2. The petition involves land areas that have been the subject of a previous petition submitted and disposed of in accordance with this subchapter within the previous 3 years.
3. The petition involves land areas that are actively under regulatory review at any level of government (active regulatory review includes the filing of an application under the MLUL, the County Planning Act or any other State, county or Federal permit process).
4. The petition requests an amendment that conflicts with the criteria set forth in the SDRP.
5. The petition is based on an improper application of, or a misunderstanding of, the role of the SDRP.
6. In the case of planning areas, the petition involves a land area smaller than 1 square mile in size.
7. For reasons not anticipated in this rule but, in the judgment of the Director of the Office of State Planning, the petition conflicts with the purposes for providing this amendment process, in which case the Director shall advise the State Planning Commission to promulgate appropriate amendments to these rules.