



CITY OF OCEAN CITY

AMERICA'S GREATEST FAMILY RESORT

OFFICE OF CITY CLERK

April 7, 2009

Mr. Benjamin Spinelli, Executive Director
Department of Community Affairs
Office of Smart Growth
P.O. Box 204
Trenton, NJ 08625-0204

Dear Mr. Spinelli:

Enclosed are three (3) certified copies of a resolution entitled, "*A Resolution Authorizing the Mayor to Execute a Memorandum of Understanding Between the City of Ocean City and the New Jersey Office of Smart Growth.*" This resolution was adopted by the Ocean City Council members on March 26, 2009 at a Regular Council meeting, held in Council Chambers.

At your convenience would you please sign all three copies and return one signed copy to the Ocean City Clerk's Office, 861 Asbury Avenue, Ocean City, NJ 08226.

Thank you for your assistance in this matter.

Regards

Sheila Cottrell, RMC
Deputy City Clerk

U.S. DEPT. OF
COMMUNITY AFFAIRS
OFFICE OF SMART GROWTH

2009 APR 13 A 11:42

RECEIVED

CITY OF OCEAN CITY
CAPE MAY COUNTY, NEW JERSEY

RESOLUTION 09-45-369

A RESOLUTION AUTHORIZING THE MAYOR
TO EXECUTE A MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF OCEAN CITY AND THE NEW JERSEY OFFICE OF SMART GROWTH

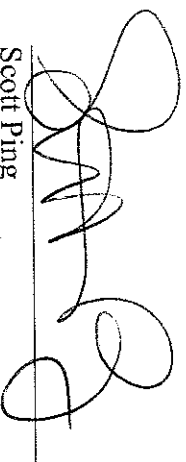
WHEREAS, the City of Ocean City desires to enter into a Memorandum of Understanding with the New Jersey Office of Smart Growth to assist in implementing the Action Plan; and

WHEREAS, the tasks that need to be performed as outlined in the attached Memorandum of Understanding to this Resolution and incorporated within this Resolution by reference will take longer than the time periods allowed by administrative rules while an application for plan endorsement is pending necessitating an extension of time; and

WHEREAS, the City of Ocean City filed its Petition for Initial Plan Endorsement with the New Jersey Office of Smart Growth on September 6, 2007; and

WHEREAS, by adoption of this Resolution the City of Ocean City is committing to the implementation of the tasks outlined within the attached Memorandum of Understanding as and when indicated.

BE IT FURTHER RESOLVED that the City of Ocean City that the Mayor is hereby authorized to execute on behalf of the City of Ocean City the Memorandum of Understanding between the City of Ocean City and the New Jersey Office of Smart Growth which is attached.


Scott Ping
Council President

Files/Smart Growth

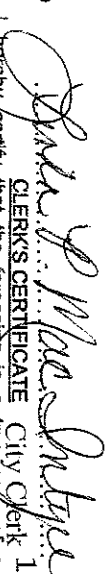
Offered by COUNCILWOMAN BERGMAN Seconded by COUNCILMAN KEMENOSH

The above resolution was duly adopted by the City Council of the City of Ocean City, New Jersey, at a meeting of

said Council duly held on the26TH..... day ofMARCH..... 20...09

FINANCE
PURCHASE
ADMIN
PLAN & ENG

NAME	AYE	NAY	ABSENT	ABSTAINED
Allegretto	X			
Bergman	X			
Hartzell	X			
Kemenosh	X			
Ping	X			
Sheppard	X			
Wagner	X			


CLERK'S CERTIFICATE City Clerk I
hereby certify that the foregoing is a true copy of a
Resolution adopted by the City Council of the City of Ocean
City, in the County of Cape May, New Jersey at a meeting
held on the 26 day of March 20 09
Deputy City Clerk

MEMORANDUM OF UNDERSTANDING

This memorandum of understanding, dated March 26, 2009 is hereby entered into by and between the **New Jersey Office of Smart Growth** (hereinafter referred to as "Office of Smart Growth") and **City of Ocean City, Cape May County**, (hereinafter referred to as "petitioning municipality") to establish a cooperative process designed to support the efforts of the petitioning municipality to receive Initial Plan Endorsement as defined by the State Planning Rules.

WHEREAS, the petitioning entity has submitted a petition for Plan Endorsement to the State Planning Commission and the Office of Smart Growth that has been deemed complete; and

WHEREAS, the State Planning Commission evaluates and approves petitions for Plan Endorsement on the basis of their consistency with the goals, policies and strategies of the State Development and Redevelopment Plan (State Plan); and

WHEREAS, the Office of Smart Growth and the State agencies have conducted a substantive review of the petition; and

WHEREAS, as a result of this substantive review, the Office of Smart Growth and the State agencies have identified areas of concern that need to be addressed before the Office of Smart Growth can make a recommendation to the State Planning Commission that the petition is consistent with the State Plan; and

WHEREAS, in order to evaluate the petition for consistency with the State Plan, the Office of Smart Growth has sent the petitioning entity a letter outlining the areas of concern and requesting additional information within a specified period of time; and

WHEREAS, properly prepared planning activities require time, must be subject to adequate public input throughout the process and should not be unduly rushed due to time constraints; and

WHEREAS, the time periods contemplated by the State Planning Rules for consideration of petitions for Plan Endorsement do not in many cases afford appropriate and sufficient time periods for the completion of such planning activities and consequently may operate to penalize a petitioning entity for not meeting such time requirements; and

WHEREAS, the petitioning entity has stated its desire to undertake the necessary steps required for evaluation of its current planning efforts and to take the necessary actions identified by the Office of Smart Growth, the relevant state agencies and the State Planning Commission for the petitioning entity to receive Plan Endorsement; and

WHEREAS, the time periods contemplated by the State Planning Rules for consideration of petitions for Plan Endorsement have been established for the benefit of the petitioning entities to provide them with assurance that their petitions for Plan Endorsement will be considered and evaluated within appropriate time frames; and

WHEREAS, in seeking to foster sound planning, it is both preferable and desirable for the Office of Smart Growth to continue to work with the petitioning entity and progressing toward achieving Plan Endorsement; and

WHEREAS, at the State Planning Commission meeting of September 20, 2006, the Office of Smart Growth proposed a mechanism to allow the Office of Smart Growth, the relevant State agencies and petitioning entity to continue to work towards Plan Endorsement; and

WHEREAS, the State Planning Commission adopted a resolution on October 18, 2006 at its meeting which authorizes the Office of Smart Growth to continue to work with petitioning entities towards achieving Plan Endorsement by allowing for an extension of the time period contemplated by the State Planning Rules through the execution of a Memorandum of Understanding (MOU) and an agreed upon Action Plan and the establishment of timelines for the completion and evaluation of the tasks outlined by the Action Plan; and

WHEREAS, in order for DEP to amend the Coastal Zone Management Rules to make a center endorsed by the Commission into a CAFRA Center, DEP must be able to make a finding that the center is consistent with the purposes of the Coastal Area Facility Review Act, N.J.S.A. 13:19-1 et seq., and the Coastal Zone Management Rules; and

WHEREAS, in accordance with this resolution, the petitioning entity, in an effort to continue to work towards Plan Endorsement, may agree to an extension of the time period within which its petition for Plan Endorsement is to be evaluated under the State Planning Rules and, with approval of the State Planning Commission, accordingly may enter into an agreement with the Office of Smart Growth, memorialized by a MOU, to continue to work towards Plan Endorsement with the extended period of time; and

WHEREAS, the extension of time authorized by the MOU shall be contingent on the petitioning entity's compliance with an approved Action Plan, compliance with this Memorandum of Understanding and the petitioning entity's good faith efforts to progress toward Plan Endorsement, as determined by the Executive Director of the Office of Smart Growth; and

WHEREAS, the agreed upon Action Plan shall describe specific tasks, establish a timelines for completion of the items in the Action Plan and for evaluation of the petition, and condition the time extension on the continuing active participation of the petitioning entity in the Plan Endorsement process; and

WHEREAS, the Office of Smart Growth and the State agencies will work with the petitioning entity to develop an acceptable Action Plan with appropriate timelines for the associated tasks; and

WHEREAS, once an agreement is reached regarding timelines within the Action Plan, and the MOU is authorized at a public meeting of the petitioning entity's governing body, the timelines within the Action Plan will become binding, non-negotiable and subject only to further extension for good cause at the discretion of the Executive Director of the Office of Smart Growth; and

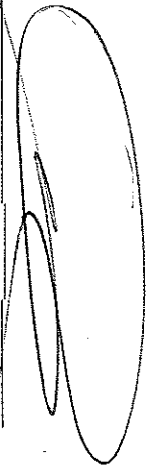
WHEREAS, in the event that the petitioning entity fails to meet the timelines agreed to in the Action Plan as determined by the Executive Director of the Office of Smart Growth, the petitioning entity will be deemed to have defaulted in its obligations under the terms of the MOU and the petition for Plan Endorsement will be evaluated for consistency with the State Plan as of the date of such default,

THEREFORE, in recognition of the forgoing, the Office of Smart Growth and the petitioning entity hereby agree to the following:

1. Petitioning Municipality is granted an extension of time to work with the Office of Smart Growth, to provide necessary documentation of its planning efforts and to resolve issues of consistency with the State Plan and achieve Plan Endorsement. Notice of this extension of time shall be provided in accordance with the terms of N.J.A.C. 5:85-1.6 (b) and will post notice of the extension on the OSG web site.
2. Petitioning entity acknowledges the receipt of a letter dated March 31, 2008, from the NJOSG setting forth all current issues concerning consistency with the State Plan and the necessary provisions to be made to achieve Plan Endorsement.
3. Petitioning municipality acknowledges receipt of an "action plan" from the NJOSG detailing requirements for petitioning municipality to achieve Initial Plan Endorsement and setting forth a timetable for meeting the current deficiencies in its petition for Initial Plan Endorsement. A copy of that action plan is annexed hereto and made a part hereof.
4. Petitioning entity hereby acknowledges that any extension authorized by an MOU shall be conditioned upon the petitioning entity's compliance with an agreed upon Action Plan, attached hereto, that describes specific tasks, establishes a timeline for completion of the items in the Action Plan and for evaluation of the petition, and shall further by conditioned upon the continuing active participation of the petitioning entity in the plan endorsement process.

5. All deadlines contained in the annexed Action Plan are subject to agreement between the petitioning entity and the interested State Agencies. In the event that petitioning entity fails to meet the timelines agreed to in the Action Plan, petitioning municipality will be deemed to have defaulted in its obligations under the terms of this memorandum and the petitioning municipality's petition for Initial Plan Endorsement will be evaluated for consistency with the State Plan as of the date of such default.

The terms of this memorandum and the attachments hereto are hereby agreed to between the State Planning Commission and City of Ocean City, Cape May County.



Sal Perillo, Mayor
City of Ocean City



Attest

Date: *March 26, 2009*



Benjamin Spinelli, Executive Director
Office of Smart Growth



Attest

Date:

OCEAN CITY ACTION PLAN

Notice = DEP CAFRA Requirements

Item No.	Subject	Action Item	Deliverable	Township Deadline	State Review Deadline
A1	Updated Land Use Element	Amend the 2001 Land Use Plan and existing development regulations to ensure these documents are consistent with one another.	Amended and Adopted Land Use Element	2 Years	
A2	New Recreation/Open Space/Fish Element	Produce open space and recreation element for Master Plan to ensure provision of accessible regional and neighborhood open space and recreation facilities. The plan must identify and examine the open space and recreation resources important to the municipality, and map out an implementation strategy to protect, manage and improve them. An official map as well as a user friendly map shall be created as part of the Master Plan Element.	Element Adopted	2 Years	
B2	State Plan Policy Map	CSG and DEP would like Ocean City to define their intended boundary.	Planning area boundaries (Shape File)	6 months	
C1	Fair Share Plan	The Fair Share Plan will incorporate relevant agreements and information arising from Plan Endorsement negotiations taking place through this Action Plan. Ocean City's 1987-1992 obligation remains at 411 units and the rehabilitation share has been re-calculated to 139. The city shall provide a "Fair Share Plan" indicating how they intend to address the three round total of the 1987-1992 new construction obligation plus the 1999-2012 new construction obligation as well as the rehab share as identified in the Housing Element.	Fair Share Plan (that is ready to go through public approval process).	18 Months	
D1	Coastal Consistency Statement	This statement shall address natural resources protection and coastal management in Ocean City through demonstration of consistency of local plans and ordinances with the goals of the Coastal Zone Management Program found in the Coastal Zone Management rules at N.J.A.C. 7:2E et seq. Municipal plans shall also be consistent with existing DEP rules, permits or plans including Atlantic Stormwater Regulations and Federal River Management Plans.	Coastal Consistency Statement	45 Days	
D2	Water Supply Study/Plan	Ocean City's sewer service is provided by the New Jersey American Water Company. Water is supplied from the Atlantic City 800-foot sands aquifer by ten public wells and one private well, as well as one public well in Upper Township. The City's petition does not indicate the level of service they currently provide to the City and if current and future populations will be adequately served in the future. Municipalities must provide documentation that water supply capacity exists for the amount of growth detailed in the Master Plan. This documentation must identify existing and proposed water supply sources. For existing public water sources, identify the available approved allocations and firm capacity. Ocean City shall evaluate their water supply and compare this information to projected water use based on population estimates and projections. This "capacity analysis" will be based on utility service capacity (allocation) and current usage will be reflected in the updated utilities element, described in the PJA. The study shall include a statement as to its intention to participate in the Gibson Run State Water Supply Study, as well as any county consent	Water Supply Plan	2 Years	

D3	Environmental Zoning	Wetlands within the City are zoned residential, specifically the areas between Simpson and Bay Haven Streets and 25th-29th Streets. This land is currently preserved as a park and bird sanctuary, but zoning map does not reflect this. Additional wetlands were outlined in the ERI. Single lots in Meriton Park, which was filed and built in the 1960s, are undeveloped and may still be wetlands. With land at a premium, efforts to fix and build on these lots continue. State determination of wetland status is required. (Page 6) The 2001 Land Use Element of the Master Plan and its associated zoning map do not delineate the coastal wetlands and bay islands as any zone. Although they probably cannot be developed under any wetlands rules, the lack of a designation makes it difficult to answer questions about lots that are mapped in the typical grid pattern of subdivision. (Page 6)	Updated Zoning Code	18 Months	
C4	Wastewater Management Plan	Petitioners shall prepare a petiole municipal-wide WWP for review by DEP's Office of Planning and Sustainable Communities (OPSC). For the purposes of Plan Endorsement, OPSC will review municipal WWP's for consistency with the Municipality's Petition for Plan Endorsement, Department cross-program regulatory and planning policies, and the State Development and Redevelopment Plan. A Wastewater Management Plan guides the implementation of a township-wide wastewater management strategy. The Plan establishes sewer service areas and septic densities, ensures that the capacities of water supply and treatment infrastructure are matched and directs the implementation of other water quality protection measures. Please see the PJA for implementation measures.	Wastewater Management Plan, ready to go through the approval process	18 Months	
E1	Approved Municipal Emergency Plan	The Township shall provide evidence that it has an Emergency Operating Plan approved by the NJ State Police.	Copy of approval from NJ State Police.	6 Months	