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## DEP again nixes Walmart plan, but Christie wants it approved

By **KIRK MOORE** • TOMS RIVER BUREAU • March 23, 2010

**TOMS RIVER** — Gov. Chris Christie said his administration "is in the process of trying to figure out a way to get this done," after regulators at the state Department of Environmental Protection denied a coastal development permit for the proposed Walmart off Route 37 West.

"It will get more review, and the DEP commissioner will be meeting with the folks at Walmart to talk a bout alternatives to their current plan that will make it workable," Christie said of the rejection, which came despite a sweeping redesign of the Walmart site plan.

As it stands now, the project still would replace too much

woodland with pavement and take away habitat for the threatened northern pine snake, state environmental regulators said in denying a coastal development permit.

"There may be a way around it," Christie told the Asbury Park Press editorial board Tuesday afternoon. "The DEP is working on it."

It's the second rejection since June 2006, when developer Jay Grunin and Walmart officials saw their initial proposal turned down after a Coastal Area Facility Review Act application. During an appeal of that first decision, meetings between the developer and staffers at the state DEP led to a new plan for a somewhat downsized store on a site squeezed more onto the Toms River side of the property, leaving much of a portion in Manchester to be preserved as woodland and

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pine snake habitat.

"Now the process starts to try to rectify some of the concerns they have," Robert Shea, the applicant's lawyer, said, striking an optimistic tone. "It was a bit of a surprise to say the least" that pine snakes still are an issue even with plan changes to set aside habitat, Shea said. "That's going to be hashed out with some of the agency people and case managers."

## Mayors miffed

Municipal officials in Toms River and Manchester — who would share property tax revenue from the store straddling their boundary — have been adamant supporters of Walmart since the project was first proposed in 2004. Manchester Mayor Michael Fressola said he and Toms River Mayor Thomas Kelaher will press Christie to intervene.

"Holy mackerel. First they blackmail the guy (Grunin) and forced him to buy the land on Beckerville Road," Fressola said, referring to Grunin's plan to mitigate the project with enhanced pine snake habitat west

of Lakehurst. "Then they reject him anyway. . . . This organization is creating more problems for municipalities. It's not a coastal town, for gosh sakes."

One key factor in the rejection was a review by the state Endangered and Nongame Species Program, which submitted a report March 10 warning that the project "would have direct adverse impacts upon threatened species habitat on site" through the use of 21.4 acres of existing woodland — despite the designers setting aside some woodland for preservation and a buffer area around a snake den site found in 2005.

"Significantly, ENSP's findings indicate that secondary impacts

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are likely to include the abandonment of the existing, on-site northern pine snake hibernaculum, due to the failure to adequately buffer this den from the proposed development," CAFRA reviewers wrote.

The CAFRA report also mentions the DEP's Landscape Project wildlife habitat maps.

"The Landscape Project is a reliable, scientific tool for guiding where growth should or should not occur," said Helen Henderson of the American Littoral Society, an environmental group that is critical of the Walmart plan.

The Landscape Project came under attack in a report on the DEP by a Christie administration transition team, which cited it as an example of what they say is illegal overreach by the agency.

### Local hearings go on

The CAFRA rejection was issued March 15, said DEP spokesman Larry Hajna. Concurrent with the state application, Walmart's plans have been the subject of parallel hearings before the Toms River and Manchester planning boards.

The hearings will continue this spring while the applicants confer with DEP officials, Shea said.

In a 21-page letter signed by David B. Fanz, manager of the DEP's Bureau of Coastal Regulation, CAFRA reviewers said the applicants satisfied 13 sets of coastal rules, and enumerated nine shortcomings they found in the Walmart plan. The top problems include:

**Pine snakes:** Despite the developer's efforts, there still is not enough buffer area to allow snakes to continue using their habitat, the reviewers said.

**Impervious cover:** Developer Grunin and Walmart officials proposed using 14.85 acres on the 43.3-acre site for the building

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and pavement. But citing rules on "special water areas," the DEP calculated the net land area at 36.6 acres. By that reckoning, impermeable cover would total 40.5 percent of the land area, beyond the 30 percent allowed by CAFRA.

Tree and shrub coverage: The redesigned plan still falls short in terms of vegetative cover, the reviewers said.

Part of the determination on impervious cover and trees revolved around whether the site is governed by CAFRA rules for suburban areas, or those for coastal centers, which allow for more intensive land use and impervious coverage. Reviewers said the suburban planning rules, with their more stringent requirements for keeping open land, would apply in this case.

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