



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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Lt. Governor

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Commissioner

Robert C. Shea, Esq.
R.C. Shea & Associates
244 Main Street
Toms River, New Jersey 08753

November 10, 2011

RE: DLUR File No. 1500-04-0001.2 (APL100001)
Applicant: Jaylin Holdings, LLC
Block: 505 Lots: 14 & 15
Toms River Township, Ocean County
Block: 44 Lots: 2-5

Dear Mr. Shea:

Pursuant to your request, I am providing this letter on behalf of the Department of Environmental Protection ("DEP") to evidence the status of Jaylin Holdings, LLC's ("Jaylin") Coastal Area Facility Review Act ("CAFRA") and Freshwater Wetlands ("Wetlands") permit applications.

On November 8, 2004, Jaylin filed an application for an individual CAFRA permit to construct a 208,433 square foot Wal-Mart retail store with a 19,554 square foot garden center and 1,198 parking spaces. On or about June 1, 2006, the DEP's Division of Land Use Regulation denied the application and Jaylin filed a timely administrative hearing request. Thereafter, the parties engaged in alternative dispute resolution pursuant to the DEP's ADR program in effect at that time.

As a result of the mediation, Jaylin submitted a revised application in September 2009 which reduced the scale of the development and provided mitigation proposals to respond to concerns raised in the denial regarding the existence of pine snake habitat on the development site. The plans reviewed by the DEP with the September 2009 submission are listed below.¹

On March 15, 2010, the DEP issued a denial of the revised CAFRA permit application and again Jaylin filed a timely administrative hearing request. The parties continued to engage in settlement discussions and on December 1, 2010 Jaylin submitted an amended "Endangered or Threatened Wildlife

¹ The plans were prepared by Bohler Engineering, dated and revised as noted, entitled "PRELIMINARY AND FINAL SITE PLAN & MINOR SUBDIVISION FOR WAL-MART REAL ESTATE BUSINESS TRUST, PROPOSED WAL-MART STORE (#1844-05), NEW JERSEY STATE HIGHWAY ROUTE #37 & NORTHAMPTON BOULEVARD, BLOCK 44, LOTS 2, 3, 5 AND PART OF LOT 4, MANCHESTER TOWNSHIP, TAX MAP SHEETS 7.02, 8 & 9 (DATED APRIL, 1973); BLOCK 505, LOTS 14 & 15, TOMS RIVER TOWNSHIP, TAX MAP SHEET 54 (DATED SEPTEMBER, 1996) OCEAN COUNTY, NEW JERSEY", dated June 26, 2009, unrevised, except Sheet #5 which was last revised on June 3, 2010.

Habitat Impact Assessment", a "CAFRA" Addendum to Previously Submitted Statement of Compliance" and an "Analysis of Conceptual Habitat Evaluation Method for Northern Pine Snakes". Jaylin also submitted "Habitat Enhancement Plans" dated November 29, 2010, a "Pine Snake Habitat Enhancement Concept" dated June 3, 2010 and a Wetlands Mitigation Plan dated June 3, 2010.

The DEP has determined that the proposed application with the added acquisition and habitat enhancement proposed by Jaylin's December 1, 2010 submission likely meets the coastal zone management regulations. As a result, on January 14, 2011, the DEP published a Notice of Intent to Settle in the DEP Bulletin and Jaylin mailed notices to all persons and groups who had previously commented on the pending applications. The DEP gave interested persons an opportunity to comment, and, in response to requests for an extension, extended the time to comment until March 10, 2011. DEP also provided Notices of Intent to Settle to the Townships of Toms River and Manchester and invited comment.

Since publication of the Notice of Intent to Settle, the DEP has been reviewing comments submitted by interested parties and preparing its response to comments. In addition, Jaylin and the DEP have continued their discussions relative to the sequencing of the pine snake habitat enhancements, wetlands mitigation and construction for the project. As a result of those discussions, and its thorough review of the public comments, the DEP anticipates it will publish an additional Notice of the Settlement in the Bulletin in December.

If you require anything further, do not hesitate to contact DAG Lewin Weyl at 609-633-8109.

Sincerely,



Mark J. Pedersen
Acting Director

Division of Land Use Regulation

cc: Mr. R.S. Gasirowski
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