



JON S. CORZINE
Governor

State of New Jersey

Highlands Water Protection and Planning Council
100 North Road (Route 513)
Chester, New Jersey 07930-2322
(908) 879-6737
(908) 879-4205 (fax)
www.highlands.state.nj.us



JOHN R. WEINGART
Chairman

EILEEN SWAN
Executive Director

DRAFT - FOR CONSIDERATION AT THE MAY 1, 2008 MEETING OF THE HIGHLANDS COUNCIL

Cluster Development Goals, Policies, and Objectives

RMP Policies and Objectives Addressed

Objective 1A2d To prohibit through Plan Conformance, local development review and Highlands Project Review the expansion or creation of public water supply systems or public wastewater collection and treatment systems or community-based on-site wastewater facilities into forested areas of the Forest Resource Area within the Planning Area except as provided for in Policy 2J4 with Objectives 2J4a through 2J4d, and Policy 2K3 with Objectives 2K3a through 2K3e, and within the Preservation Area except as provided for in Policy 2I1 and Objectives 2I1a and 2I1b.

Objective 2B9e. Give highest priority for the use of Net Water Availability for non-agricultural water uses to clustered or compact development, Highlands Redevelopment Areas as designated by the Highlands Council, and Receiving Zones that result in the preservation of agricultural and environmentally sensitive lands.

Note: Policies 2J1, 2J4, 2K3 and 3C1 with their Objectives, plus Objectives 6B1e and 6B7a, are Utilities GPOs related to cluster development, which are being proposed for modification to the wording shown here. These will also be presented for Council discussion with other Utilities GPOs. The original GPOs are shown in ~~strikeout~~, followed by the new GPOs underlined.

Policy 2I1 To prohibit the expansion or creation of public water supply systems, public wastewater collection and treatment systems and community on-site treatment facilities in the Preservation Area unless approved through a Highlands Applicability Determination or a Highlands Preservation Area Approval with waiver pursuant to N.J.A.C. 7:38.

Policy 2J4 To minimize, through Plan Conformance, local development review and Highlands Project Review, the creation or extension of public water supply systems within the Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-zones of the Planning Area, and to allow for the creation or extension of public water supply systems where appropriate within the Existing Community Zone.

Objective 2J4a Prohibit new, expanded or extended public water systems

within the Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-zones of the Planning Area unless they are shown to be necessary for and are approved by the Highlands Council for one or more of the purposes listed below, and will maximize the protection of sensitive environmental resources including avoidance of Open Water buffer areas, Riparian Areas, the forested portion of the Forest Resource Area, agricultural lands within the Agricultural Resource Areas, Steep Slopes, Prime Ground Water Recharge Areas and Critical Habitat Areas. The extension or creation of such systems shall follow the requirements in Objective 2J4b (parts 2 and 3). The applicable purposes are:

1. To address a documented existing or imminent threat to public health and safety from contaminated domestic and other on-site water supplies that is of sufficient scale to justify a public water supply and where no alternative is feasible that would sufficiently assure long-term protection of public health and safety. To address other issues of public health and safety. Such needs shall have highest priority for allocation of existing system capacity;
2. To serve a designated Highlands Redevelopment Area;
3. To serve a cluster development that meets all requirements of Objective 2J4b; or
4. To avoid the taking of property without just compensation.

Objective 2J4b Clustered development served by public water supply within the Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-zones of the Planning Area shall be approved only if the following conditions are met:

1. The development impacts are otherwise consistent with the requirements of the RMP, including provisions for mandatory clustering in Agricultural Resource Areas pursuant to Policy 3A6;
2. Extension of an existing public water system will occur only where the cluster development is within or immediately adjacent to an Existing Area Served with available capacity;
3. Creation of a new public water system will occur only where such development is not within or immediately adjacent to an Existing Area Served with available capacity;
4. The clustered development preserves at least 80 percent of the project area in perpetuity for environmental protection or agricultural purposes, and to the maximum extent feasible the developed portion of the project area (i.e., not including wetlands, open water buffers, recreational lands) is no more than 10 percent if served by a public or community on-site wastewater system.
5. Where the preserved land in the cluster project area is preserved for agricultural purposes, the cluster development ordinance and an Agriculture Retention/Farmland Preservation Plan requires continued agricultural viability of the agricultural land and the implementation of best management practices, including development and implementation of a Farm Conservation Plan focused on the protection of soil and water resources and prepared by the USDA Natural Resources Conservation Service or appropriate NJDA staff and approved by the local Soil Conservation District

(SCD).

Objective 2J4d (Former 2J4c) All development within the Highlands Region, in areas that are not served by public water systems, shall be at a density that can be supported by on-site wells. Where cluster development in the Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-zones of the Planning Area shall be served by on-site wells, and the undeveloped land is preserved for agricultural purposes in perpetuity, the cluster design in combination with the Agriculture Retention/Farmland Preservation Plan required by Objective 2J4b shall provide for best management practices that protect the on-site wells from contamination resulting from agricultural practices and shall include provisions to minimize or reduce net pollutant loadings from the total project area including the preserved agricultural lands.

Policy 2K3 To provide adequate, appropriate, efficient and cost-effective wastewater management to all development in the Highlands Region, through Plan Conformance, local development review and Highlands Project Review.

Objective 2K3c Prohibit new, expanded or extended public wastewater collection and treatment systems and community on-site treatment facilities within the Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-zones of the Planning Area unless they are shown to be necessary for and are approved by the Highlands Council for one or more of the purposes listed below, and will maximize the protection of sensitive environmental resources including avoidance of Open Water buffer areas, Riparian Areas, the forested portion of the Forest Resource Area, agricultural lands of the Agricultural Resource Area, Steep Slopes, Prime Ground Water Recharge Areas, and Critical Habitat Areas. The choice of extension or creation of systems shall follow the requirements in Objective 2K3d (2 and 3). The applicable purposes are:

1. To address a documented existing or imminent threat to public health and safety from a pattern of failing septic systems (where the failing systems cannot reasonably be addressed through rehabilitation or replacement) or highly concentrated septic systems, where the threat is of sufficient scale to justify a public wastewater collection and treatment system or community on-site treatment facility and where no alternative is feasible that would sufficiently assure long-term protection of public health and safety. To address other issues of public health and safety. Such needs shall have highest priority for allocation of existing system capacity;
2. To serve a designated Highlands Redevelopment Area;
3. To serve a cluster development that meets all requirements of Objective 2K3d; or
4. To avoid the taking of property without just compensation.

Objective 2K3d Clustered development served by a public wastewater collection and treatment system or community on-site treatment facility within the Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-zones of the Planning Area shall be approved only if the following conditions are met:

1. The development impacts are otherwise consistent with the requirements of the RMP, including provisions for mandatory clustering in Agricultural Resource Areas;
2. Extension of an existing public wastewater collection and treatment system will occur only where the cluster development is within or immediately adjacent to an Existing Area Served with available capacity;
3. Creation of a community on-site treatment facility will occur only where such development is not within or immediately adjacent to an Existing Area Served with available capacity, where the proposed system is designed, permitted and constructed at a capacity limited to the needs of the clustered development, and where the system does not create the potential for future expansion into areas that are not the subject of cluster developments immediately adjacent to the initial cluster served; and
4. The cluster development preserves at least 80 percent of the project area in perpetuity for environmental protection or agricultural purposes, and to the maximum extent feasible the developed portion of the project area (i.e., not including wetlands, open water buffers, recreational lands) is no more than 10 percent if served by a public or community on-site wastewater system.
5. Where the preserved land in the cluster project area is preserved for agricultural purposes, the cluster development ordinance and an Agriculture Retention/Farmland Preservation Plan requires continued agricultural viability of the agricultural land and the implementation of best management practices, including development and implementation of a Farm Conservation Plan focused on the protection of soil and water resources and prepared by the USDA Natural Resources Conservation Service or appropriate NJDA staff and approved by the local Soil Conservation District (SCD).

Objective 2K3e (Former 2K4a, 2K4b) Allow the expansion or creation of wastewater collection systems within the Existing Community Zone of the Planning Area, other than the Environmentally-Constrained Sub-zone, to serve lands which are appropriate for designated TDR Receiving Zones, infill or redevelopment, to meet needs equivalent to Objective 2K3c within the Existing Community Zone, or to serve new areas for development that meet all other requirements of the RMP. The highest priority for allocation of excess or additional wastewater treatment capacity is to areas where there are clusters of failed septic systems that are located within or adjacent to Existing Areas Served. TDR Receiving Areas, where designated, affordable housing projects (where the affordable units exceed 10% of the total units), infill and redevelopment shall have higher priority for capacity than other developments requiring expansion of sewer service areas within this Zone.

Objective 2K3f All development within the Highlands Region, in areas which are not served by public wastewater collection and treatment system or community on-site treatment facility, shall be at a density that can be supported by septic systems under Goal 2L. Where cluster development in the Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-zones of the Planning Area shall be served by on-site wells, and the undeveloped land is

preserved for agricultural purposes in perpetuity, the cluster design and the Agriculture Retention/Farmland Preservation Plan required by Objective 2K3d in combination shall include provisions for best management practices that protect the on-site wells from contamination resulting from agricultural practices and shall include provisions to minimize or reduce net pollutant loadings from the total project area including the preserved agricultural lands.

Objective 2L2e New residential development using septic systems where clustering or conservation design techniques are employed shall have a gross density (for all parcels involved in the development proposal) based on the nitrate dilution target appropriate for the LUCM Zone, but with the density for the developed portion of the site based on a nitrate dilution target not to exceed 10 mg/L or any more stringent requirement as required by N.J.A.C. 7:15.

Policy 3A6 Where it is not feasible to preserve agricultural lands within the Agricultural Resource Area (ARA) by such methods as fee simple acquisition, easement acquisition, or a TDR program, require mandatory clustering through Plan Conformance, local development review, and/or Highlands Project Review for residential development in an ARA. Cluster development within the Planning Area that incorporates public or community on-site wastewater utilities shall adhere to Policy 2J4 with Objectives 2J4a through 2J4d, and Policy 2K3 with Objectives 2K3a through 2K3e, within the Preservation Area shall adhere to Policy 2I1 and Objectives 2I1a and 2I1b, and where reliant on septic systems shall adhere to Objective 6G1b.

Objective 3A6a Implement regulations requiring that cluster or conservation design within an Agricultural Resource Area support the preservation of farmland, avoid conflicts with agriculture, maintain and enhance the sustainability and continued viability of the agricultural industry, protect important farmland soils, and meet resource management and protection requirements of the RMP.

Objective 3A6b Implement regulations requiring that all cluster or conservation design development proposed in an Agricultural Resource Area be buffered appropriately with existing natural resources, such as hedgerows or trees, or with new buffers to avoid conflicts between non-agricultural development and agricultural activities, and to protect existing agricultural uses and sensitive environmental resources.

Objective 3A6c Implement regulations requiring that all land preserved in perpetuity for environmental protection or agricultural purposes as a result of clustering be subject to a conservation easement enforceable by the Highlands Council and at least one of the following: the appropriate municipality, the County Agriculture Development Board, the State Agriculture Development Committee, or Green Acres.

Objective 3A6d Where the preserved land in the cluster project area is preserved for agricultural purposes, require continued agricultural viability of the agricultural land and the implementation of best management practices through the cluster development ordinance and an Agriculture Retention/Farmland Preservation Plan, including development and implementation of a Farm

Conservation Plan focused on the protection of soil and water resources and prepared by the USDA Natural Resources Conservation Service or appropriate NJDA staff and approved by the local Soil Conservation District (SCD).

Policy 3C1 To prohibit through Plan Conformance, local development review and Highlands Project Review the development of additional water and wastewater infrastructure in an Agricultural Resource Area within the Protection Zone and the Preservation Area, unless they meet the requirements of Policy 2J4 with Objectives 2J4a through 2J4d, and Policy 2K3 with Objectives 2K3a through 2K3e, and will maximize the preservation of agricultural lands within the Agricultural Resource Area.

Policy 6B1 To limit through Plan Conformance, local development review and Highlands Project Review, to the maximum extent permitted by law, development and use of undeveloped lands that are critical to protect, restore, or enhance sensitive environmental resources of the Highlands Region, including but not limited to Forests, Critical Habitat, Highlands Open Waters and their buffers, Riparian Areas, Steep Slopes, Prime Ground Water Recharge Areas, Wellhead Protection Areas, and Agricultural Resource Areas.

Objective 6B1e Prevent the extension or creation of water and wastewater utility services in the Protection Zone, Conservation Zone and Environmentally Constrained Sub-zones of the Planning Area, unless they meet the requirements of Policy 2J4 with Objectives 2J4a through 2J4d, and Policy 2K3 with Objectives 2K3a through 2K3e, and will maximize the protection of agricultural and environmentally sensitive resources.

Objective 6B1f Cluster and conservation design development plans and regulations shall incorporate smart growth design principles including but not limited to: locating development adjacent to existing infrastructure such as water, wastewater, transportation, and public facilities to limit the degree of new impervious surface, and permitting smaller residential lots in order to incorporate community open space and existing natural resources into the design.

Objective 6B7a Center based development initiatives should be planned within the Existing Community Zone to meet minimum density thresholds consistent with the State Development and Redevelopment Plan. Higher densities of five dwelling units and above are encouraged in areas designated as TDR Receiving Zones where benefits under the Highlands Act will be applied. Attainment of these density thresholds is discretionary, and shall be consistent with the resource and capacity goals and requirements in this plan. Centers in the Protection Zone and Conservation Zone, potentially including clustered development, shall be at densities appropriate to the zone, the community character and the use of septic systems or community wastewater systems.

Policy 6D3 To encourage owners of lands which are eligible for exemptions under the Highlands Act to voluntarily offer their land for acquisition, participate in the TDR program, or engage in contiguous or non-contiguous clustering in cooperation with other exempt landowners, and comply with standards and

criteria which protect the land and water resources of the Highlands Region from any adverse impacts.

Objective 6G1b Adopt municipal and county master plans and land development regulations which require that cluster developments preserve in perpetuity for environmental protection or agricultural purposes at least 80 percent of the project area, and to the maximum extent feasible that the developed portion of the project area (i.e., not including wetlands, open water buffers, recreational lands) is no more than 10 percent if served by a public or community on-site wastewater system.

Policy 6G2 To require conforming municipalities and counties to include site development programs, such as clustering to preserve land in perpetuity for environmental protection or agricultural purposes.

Objective 6N1c Implement flexible site development review programs that allow for adjustments such as reduction of minimum setbacks, modification of uniform road frontage requirements, increase in maximum permitted height or allowing non-contiguous clustering of development entitlements where necessary to mitigate or eliminate adverse impacts on Highlands natural resources.

Objective 6N1g Restrict site disturbance, clearing and grading to the minimum necessary to make reasonable use of the designated building envelope for the parcel proposed for development.

Objective 7G1b Establish municipal clustering programs which allow for the clustering of development rights from willing landowners whose property is entitled to an exemption under the Highlands Act, for both contiguous and non-contiguous properties, so as to minimize the impact of such exempted development on the ecological integrity of the Highlands Region or the fiscal integrity of the municipality.
