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DRAFT FOR REVIEW BY THE HIGHLANDS COUNCIL

Highlands Regional Master Plan Municipal Plan Conformance

FREQUENTLY ASKED QUESTIONS

What is “Plan Conformance?” A municipality achieves Plan Conformance by aligning all relevant aspects of its local planning program with the Highlands Regional Master Plan (RMP). While the specifics will vary for each municipality, Plan Conformance will typically require amendments to the local Master Plan, Plan Maps, Land Use Regulations, Zoning Ordinances, and Zoning Map. Plan Conformance automatically provides a “legal shield” to the municipalities, whereby the Highlands Council is required to defend certain decisions made under Plan Conformance and courts are required to give extraordinary deference to plans and ordinances adopted under the process.

Is Plan Conformance required? Municipal Plan Conformance is required for any land area within the Highlands Preservation Area but is voluntary with respect to any land located in the Highlands Planning Area. In both cases, the Highlands Council is required to provide grants covering the reasonable expenses of Plan Conformance for any municipality, from a special fund established by the Act. After July 1, 2008, the Highlands Protection Fund will have over \$20 million dollars that can be used for municipal and county Plan Conformance.

Is there a deadline? Within nine (9) to fifteen (15) months after adoption of the RMP, any municipality having land in the Preservation Area must be deemed by the Highlands Council to have achieved Plan Conformance for that area. The Highlands Council will notify all effected municipalities of this requirement upon adoption of the RMP. t. Petitioners may at the same time seek Plan Conformance for any land in the Planning Area; however, this is not required. No deadlines apply to Plan Conformance Petitions for land in the Planning Area.

How can municipalities file petitions within such a short time? The Highlands Council recognizes that 9-15 months is a very limited timeframe and does not expect or require that municipalities complete the comprehensive planning process necessary to achieve Plan Conformance with every aspect of the RMP during that time. Instead, the Council will provide assistance to municipalities to meet “Basic Conformance.” Basic Conformance will involve completion of a set of immediately-required tasks, with a commitment to completing the remaining long-term tasks in accordance with a realistic implementation schedule and accompanying grant funding. The Council will provide a package of Basic Conformance

documents for municipal use in adopting the immediately-required components of municipal Master Plans, Land Use Regulations, and Environmental Resource Inventories. An Action Plan and Implementation Schedule will govern the completion and timing of remaining obligations.

How will Plan Conformance affect future development? The primary focus of Basic Conformance is to ensure immediate protection of critical Highlands resources from future development, while the municipality works toward full Plan Conformance. To provide a full understanding of how conformance with the RMP will affect future development and redevelopment within a municipality, the full “Plan Conformance” process begins with a comprehensive analysis of the locality’s environmental resources, developable land inventory, and infrastructure capacity. The analysis will focus heavily on water availability and wastewater treatment capacity, including anticipated septic system yields. These are dependent in large part on location in Highlands areas, zones and subzones. In addition, information on sensitive Highlands Resources such as stream buffers, steep slopes and critical habitat will be assessed. Using maps, technical data and a build-out analysis tool provided by the Highlands Council, the municipality will gain an understanding of the constraints to and/or the opportunities for development in the various parts of its community. This information will ultimately determine the municipality’s maximum potential for development and/or redevelopment, as constrained by Highlands regulatory provisions.

The most significant potential impacts on future municipal development in those areas without wastewater utilities will likely derive from constraints on both water availability and septic system capacity. Where residential housing is supported by individual septic systems, for example, the RMP will require density limitations based on nitrate dilution analysis. Actual septic system yields will vary by subwatershed based on estimated subwatershed recharge.

Is it mandatory that a conforming municipality accept growth? The Highlands Act does not require that any municipality accept growth beyond the limits of its zoning regulations and in many ways may further restrict growth based on resource or utility constraints. The RMP specifically includes a policy indicating that growth is discretionary. Where a municipality voluntarily decides to grow (for example, by extending public sewers), the RMP includes Smart Growth principles to ensure that utility capacity and available land are used in an efficient, environmentally sustainable manner. Municipalities may decide to voluntarily designate regional Transfer of Development Rights receiving zones so long as this growth is consistent with the RMP and the municipality has done a resource assessment and infrastructure capacity study to prove the feasibility of the proposal.

How will Plan Conformance affect the local planning program? The results of the preceding analyses will inform the local planning effort, revealing areas in which capacity may be insufficient to support intended patterns of development, and/or in which capacity is underutilized and could offer potential for alternate development (or preservation) strategies. The municipality will assess the type and degree of changes needed to align its planning program with the study findings, while at the same time considering the many other needs and interests of the community. These changes will likely involve the Master Plan, Plan Maps, Land Use/Development Regulations, Environmental Resource Inventory, Zoning Ordinances, and Zoning Map.

What will a conforming municipal Master Plan achieve? A conforming municipal Master Plan will provide the framework for a resource-centered, capacity-based planning program that protects and preserves Highlands resources at the local level. While it will continue to promote the general purposes of zoning and the specific goals and objectives of the municipality, it will place these within the context of the Highlands regional environment and the legislative mandate requiring its protection. It will adopt mandatory goals, policies, and objectives of the RMP and will lay the groundwork for a series of land use regulations governing water and wastewater, special resources, and all Highland Resource Areas located within the municipality.

Specifically, what must be done to conform? The mandatory elements for inclusion in a conforming Master Plan and Land Use regulatory program are detailed in the Highlands Council, Plan Conformance Requirements papers. The Highlands Council will provide more detailed information as part of the Plan Conformance process.