



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



EILEEN SWAN
Executive Director

January 28, 2008

Ms. Terry Pilawski, Chief
Bureau of Watershed Regulation
New Jersey Department of Environmental Protection
P.O. Box 418
401 E. State St.
Trenton, NJ 08625-0418

Re: Proposed Amendment to the Upper Raritan Water Quality Management Plan (WQMP)
Mine Hill Township Wastewater Management Plan (WMP)
Canfield Builders Associates
Mine Hill Township, Morris County

Dear Ms. Pilawski:

On behalf of the Highlands Water Protection and Planning Council (Highlands Council), in accordance with N.J.A.C. 7:38-1.1(k), please accept the following recommendation on the above-referenced proposed amendment to the Upper Raritan Water Quality Management Plan (Proposed Amendment) through the Mine Hill Township Wastewater Management Plan.

Based on a review of the conceptual site plan as applied to the 46.7-acre project site and its relationship to the remainder of the original 228 acre parcel under the settlement agreement for this project, the Highlands Council approved a resolution on January 17, 2008 to recommend that the New Jersey Department of Environmental Protection (NJDEP) approve the proposed WQMP amendment, contingent upon changes to address the inconsistencies with the Final Draft Regional Master Plan (Final Draft RMP) as discussed more fully below. Please be advised that this recommendation is not for immediate adoption, as some of the issues will require significant effort. Some, but not all, of these inconsistencies with the RMP may be addressed through relatively minor modifications of the site development plan, and recommendations are provided regarding these options. Also, the Council is providing recommendations that could mitigate the project's impact for other inconsistencies with the RMP and it is recommended that NJDEP require resolution of these matters prior to approval of the amendment.

Overview and Procedural History

The Proposed Amendment would allow for the construction of the Canfield residential development on an approximately 228-acre property located on Block 411, Lot 1; Block 606, Lot 1; Block 1002, Lot 1; and Block 1101, Lot 1 in Mine Hill, Morris County. The Proposed Amendment was reviewed by NJDEP in accordance with Executive Order No. 109 (2000) and N.J.A.C. 7:15. On December 18, 2006, the NJDEP provided public notice of the Proposed Amendment in the New Jersey Register (see 38 N.J.R. 5413(b)). On March 5, 2007, notice of a thirty day extension of the public comment period was published in the New Jersey Register (see 39 N.J.R. 800(a)). The Highlands Council was subsequently asked for its recommendations in accordance with N.J.A.C. 7:38.

The Highlands Council's Natural Resource Committee reviewed the Proposed Amendment at meetings on September 20, 2007, and again on January 17, 2008 subsequent to receipt of additional technical information from the applicant. The staff recommendation and project review checklist, dated January 12, 2008 (attached with accompanying mapping showing the entire parcel and the proposed development footprint), provides updated information based upon the Final Draft RMP and the information submitted by the applicant. On January 17, 2008, the Highlands Council reviewed the staff recommendation and heard testimony from representatives of the applicant, Mine Hill Township, and members of the public. After due consideration, the Highlands Council authorized the issuance of the following findings and recommendations.

Findings and Recommendations

1. Critical Wildlife Habitat: The Proposed Amendment would result in significant disruption of Critical Habitat for wood turtle identified through NJDEP's Landscape Project Version 3, covering much of the project area, which likely cannot be avoided by limited reductions in the development footprint. The applicant has submitted a report prepared for Mine Hill Township by Herpetological Associates, which concluded a lack of threatened and endangered species on site. The Highlands Council did not independently judge this conclusion but rather recommends that the NJDEP, as the source of the Landscape Project data, evaluate the report and determine whether this conclusion is warranted in part or in whole, which could reduce or eliminate the level of inconsistency with the Final Draft RMP. The applicant has expressed a willingness to provide on-site evaluations that would augment the report's evaluations, which were conducted from public rights-of-way.
2. Net Water Availability deficits: This site would exacerbate the deficit of net water availability in a HUC14 subwatershed through additional consumptive or depletive uses, which is inconsistent with the Final Draft RMP. This conflict can be resolved by the applicant providing 125% mitigation of consumptive and depletive uses in the source HUC14 through water conservation, enhanced recharge or a combination of these techniques. The Final Draft RMP considers the project site and the source wells to be in separate HUC14s. Therefore, the increased water use is considered depletive and the mitigation should occur in the source subwatershed. The mitigation required would be 102,228 gpd (81,782 gpd * 125%). This mitigation requirement is completely independent of the recharge mitigation cited in #8 below, as the site of mitigation would be in two different subwatersheds. Each must be addressed separately in the two different HUC14s.

However, based on the current USGS aquifer model that the applicant references in their comments, there is the potential that the two HUC14s are hydrogeologically connected and may be addressed as a composite hydrologic unit. The Highlands Council did not independently verify this

conclusion, but NJDEP may do so if sufficient documentation is provided by the applicant to justify this approach. If the HUC14s are addressed as a composite unit, the additional water use would be considered consumptive and require a 29,646 gpd ($81,782 \text{ gpd} * 29\% * 125\%$) mitigation. If this is the case, the water use mitigation requirement could be met in either HUC14, including through additional on-site recharge. However, the water use mitigation volume is in addition to the recharge volume requirement cited in #8 below.

3. Sensitive Areas: The proposed development site includes some lands that are within steep slopes, open water protection areas, riparian areas, and the 1,000 foot buffer for NJDEP certified vernal pools, all of which are inconsistent with the Final Draft RMP. Based on a review of the conceptual site plan, a modification of the site plan may be feasible regarding these resources. Consistency with the Final Draft RMP can only be achieved if these resources are excluded from the development footprint, and the applicant has indicated a willingness to do so. In addition, a conservation easement (enforceable by the Highlands Council and NJDEP) must be required as a condition of approval to ensure that all environmentally sensitive lands outside of the development footprint are protected from future activities.

4. Clustering: The wastewater and water policies of the Final Draft RMP regarding extension of utility services into the Protection Zone require clustering of development such that 80% of the site is preserved for environmental resources protection. It is not clear, based on the applicant's material, whether this requirement has been satisfied by the accompanying settlement agreement. Based on the Highlands Council's analysis, the 228-acre parcel would require a minimum of 182.4-acres dedicated to open space for environmental resources protection. While the applicant has referenced that 190 acres will be dedicated from the original 228-acre site and an adjacent parcel (apparently next to a school and potentially to be used for active recreation), the conservation restrictions placed on those areas are not clear. A 178-acre dedication on the site is also referenced but that does not fully satisfy the 80% dedication. Due to the need to avoid other resources on the project site, it should not prove difficult for the applicant to fulfill the 80% requirement. NJDEP should require that additional documentation be submitted detailing the parcel location, size, and nature of the easement being dedicated, to confirm that the 80% requirement is met.

5. Forest Resources: The proposed development site includes disturbance of forest resources. Consistency with the Final Draft RMP would require that the project implement very low impact design Best Management Practices (BMPs).

6. Smart Growth and Conservation: In addition to the use of low impact design BMPs, consistency has not been specified with water conservation policies of the Final Draft RMP, and compliance with those RMP requirements should be included as a requirement of any adopted WQMP amendment.

7. Mines: The Final Draft RMP does not include specific policies regarding site-specific impacts of public health and safety regarding abandoned mines. However, this site is known to have mine features and the Highlands Council recommends that the applicant's responsibility, under both State and local regulations to ensure that the development does not cause or contribute to health or safety problems due to former mines, be incorporated as a requirement of the WQMP amendment approval as well. The applicant has indicated a willingness to accept this requirement.

8. Prime ground water recharge areas: Most of the development site is located within, and would result in the development of, a prime ground water recharge area in the Protection Zone, which is inconsistent with the Final Draft RMP. This conflict cannot be resolved due to its extensive intersection with the development footprint. However, if the applicant is able to resolve

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all of the above inconsistencies with the Final Draft RMP, the Highlands Council recommends that the Proposed Amendment be approved with the condition that the applicant: 1) uses very low impact development design techniques to minimize impervious surfaces and disturbance to native vegetation; and 2) designs the stormwater facilities to recharge 125% of pre-development site recharge volumes within the same HUC14 subwatershed, to meet the recharge mitigation requirements of the Final Draft RMP. The latter provision is in addition to the mitigation of consumptive and depletive water uses cited in #2.

If you have any questions or comments regarding this matter, please feel free to contact me at (908) 879-6737.

Very truly yours,



Eileen Swan
Executive Director

Enc.: Project Review, Checklist, Maps

cc: Attached Service List