

D R A F T (October 6, 2009)

**Comparison of Highlands Plan Conformance versus Non-Conformance
for Rockaway Township's Planning Area**

| <u>Item #</u> | <u>Plan Conformance (opt in)</u> | <u>Non-Conformance (opt out)</u> | <u>Opt In (Y/N)</u> |
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| A. General Issues | | | |
| 1 | Strong presumption of validity applies to local master plan, ordinances & local decisions in conformance with RMP. | Less deference to local decisions. Scrutiny in accordance with MLUL. <i>(No change from current system.)</i> | |
| 2 | Highlands provides Twp with legal representation, if requested. | Twp must provide for its own legal representation. | |
| 3 | Highlands provides Twp with planning grants. | Twp provides funding for planning program updates. | |
| 4 | Highlands Property Tax Stabilization Bd may authorize funds to stabilize Twp budget due to impacts from RMP implementation, including decline in property values directly related to Highlands Act. | Twp does not have access to Highlands tax stabilization funds. | |
| 5 | Plan Conformance equivalent to Plan Endorsement by State Planning Commission; brings assistance from State. | Twp may seek State Plan Endorsement on its own. | |
| 6 | Cooperation in regional planning effort to protect Rockaway and Highlands' environmental resources. | Local approach to protecting Rockaway and Highlands' environmental resources using current (or future) ordinances and review procedures. | |
| 7 | Twp may opt in/opt out at any time (Twp can opt out later). | Twp may opt in/opt out at any time (Twp can opt out later). | |

| B. Affordable Housing Obligation | | | |
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| 1 | Housing Plan deadline extended to June 8, 2010. | Housing Plan deadline extended to June 8, 2010. | |
| 2 | Twp would have a 147-unit growth share obligation. | Twp would have a 322-unit growth share obligation. | |
| 3 | <p>Twp has option to participate in Regional Affordable Housing Dev. Planning Program, either as sending or receiving municipality. <i>[similar to an RCA]</i></p> <p>Under Program, sending municipality can transfer up to 50% of its housing obligation to other participating municipalities in Highlands.</p> | Twp must address its affordable housing obligation in twp. No sending of units to other municipalities. | |
| C. Municipal Build-Out | | | |
| 1 | <p>Highlands Build-Out Analysis (in Modules 1 & 2 Rpts) estimates Twp's full development potential under RMP regs. Analysis indicates twp's capacity for growth, as follows:</p> <ul style="list-style-type: none"> Residential units = 96 (41 sewered + 55 septic) Non-residential sq ft = 294,569 (675 jobs) | <p>Morris County Planning Dept prepared a concurrent Build-Out Analysis to estimate Twp's full development potential under a scenario of non-conformance. Analysis indicates twp's capacity for growth, as follows:</p> <ul style="list-style-type: none"> Residential units = 1,462¹ Non-residential sq ft = 1,001,418¹ | |
| 2 | Estimated tax revenues based on Highlands Build-Out Analysis = \$2.1 million. | Estimated tax revenues based on County Build-Out Analysis = \$17.9 million. | |
| 3 | <p>The following assumptions were made:</p> <ul style="list-style-type: none"> Results do not account for approved but not yet built projects, developments exempt from Highlands Act, potential redevelopment and/or rezoning, & any density increases due to participation in voluntary TDR program. | <p>The following assumptions were made:</p> <ul style="list-style-type: none"> Results account for some (but not all) approved but not yet built projects, but do not account for potential redevelopment and/or rezoning. | |

¹ Numbers may change slightly as County finalizes their analysis.

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| | <ul style="list-style-type: none"> • In conformance with RMP, all developable lots in the Protection Zone, Conservation Zone, or ECZ-Environmentally Constrained Sub-Zone were removed from sewer service area & calculated as septic. • In conformance with RMP, potential development in sewer service areas based on municipal zoning (and required min. 1,400 sq ft developable land), whereas potential development in septic areas calculated based on nitrate dilution standards set forth in RMP. • Build-out results of sewer service areas reduced by 56% because build-out results constrained by wastewater utility capacity. • Build-out results also constrained by Net Water Availability of subwatershed, but shortfall less than shortfall for wastewater utility capacity, so no further reduction to build-out results. • Environmental constraints analyzed incl.: <ol style="list-style-type: none"> 1. Open waters + 300 ft protection buffers; 2. Steep slopes (15+% & btwn 10-15% in riparian areas); 3. Flood prone areas. | <ul style="list-style-type: none"> • All developable lots in Protection Zone, Conservation Zone, or ECZ-Environmentally Constrained Sub-Zone kept in sewer service area & calculated as sewer service. • Potential development in both sewer service & septic areas based on municipal zoning; in addition, sewer service areas required min. 5,000 sq ft of developable land & septic areas required 1 ac of developable land. • Build-out results not reduced based on sewer or water utility capacity; utility capacity adjustments may be prepared in future. • Build-out results not reduced based on Net Water Availability data; water availability adjustments may be prepared in future. • Environmental constraints analyzed incl.: <ol style="list-style-type: none"> 1. Wetlands with no buffer area; 2. Steep slopes (20+%); 3. Riparian areas (with 300 ft buffers for C1 streams, 150 ft buffers for trout producing streams, & 50 ft for others). | |
| 4 | Constraints on water availability may restrict Twp's potential for sewer extensions into lands that are not actively served by wastewater utility, but are otherwise | Twp's Wastewater Management Plan would not need to exclude lands designated in RMP as Protection Zone, Conservation Zone or ECZ-Environmentally Constrained | |

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| | eligible for sewer service in RMP (e.g., NJDEP-approved sewer service areas in the ECZ or Lake Community Sub-Zone.) | Sub-Zone from sewer service areas. | |
| D. Impacts on Planning Program | | | |
| 1 | <p>As detailed in Initial Assessment Report (May 2009), a number of amendments are required to Twp's master plan & ordinances to conform to RMP. These amendments include:</p> <ul style="list-style-type: none"> • An updated (NRI) (<i>see draft Module 4 Rpt</i>). • An updated Master Plan, incl. new/revised goals, Land Use Plan, Housing Plan, Conservation Plan, Utilities Plan, Circulation Plan, Open Space Plan, Community Facilities Plan, Economic Plan, Historic Preservation Plan, and Development Transfer Plan (optional) (<i>see draft Module 5 Rpt</i>). • Incorporated in these plans are new/revised Community Forestry Plan, Stream Corridor Protection/ Restoration Plan, Critical Habitat Conservation & Management Plan, Lake Management Plan(s), Water Use & Conservation Management Plan, Stormwater Management Plan & Wastewater Management Plan. • Updated land use regs, incl. new/revised definitions, dists & regs, regs on water & wastewater resources, low impact dev best management practices, application procedures & submission checklists, & notice requirements (<i>see model distributed for Module 6</i>). | <p>Twp only required to update its planning program in accordance with MLUL (master plan reexamination required every 6 years).</p> | |

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| | <ul style="list-style-type: none"> Updated stormwater management regulations. | | |
| 2 | <p>Examples of major regulatory changes incl.:</p> <ul style="list-style-type: none"> 300 ft protection buffer required around open waters (streams, wetlands). 1,000 ft protection buffer required around vernal pools → all development required to employ Low Development BMPs to avoid disturbance, minimize impacts, and mitigate all adverse modification so no net loss of habitat value. Disturbance prohibited on slopes 20% or >, slopes 15-20% that are forested, & slopes 10% or > in riparian areas. Prohibition of new or extended utilities in the Protection Zone, Conservation Zone, or ECZ-Environmentally Constrained Sub-Zone, unless necessary to address public health threats, cluster development, or Highlands Redevelopment Areas. | <p>No regulatory changes required. Existing regs incl.:</p> <ul style="list-style-type: none"> 0, 150 or 300 ft buffers required around streams (based on classification as C1, trout producing, or other); 0, 50 or 150 ft buffers required around wetlands (based on classification as ordinary, intermediate, or exceptional resource value). 0, 50 or 150 ft buffers required around vernal pools (based on classification as ordinary, intermediate, or exceptional resource value). Disturbance limited to 40% on slopes 10-15%, to 30% on slopes 15-25%, & to 15% on slopes 25% or >. New or extended utilities in accordance with Wastewater Management Plan. | |
| 3 | <p>Twp required to submit RMP Updates and/or Map Adjustments, including factual revisions or corrections.</p> | <p>Twp not required to submit RMP Updates and/or Map Adjustments.</p> | |

| <i>E. Regulatory Control</i> | | | |
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| 1 | <p>Once Twp receives Plan Conformance, it has obligation to maintain plans & ordinances in conformance with RMP (periodically verified through submission of status reports).</p> <p>Plan Conformance may be revoked if Council finds Twp has taken action inconsistent with RMP.</p> | Twp not subject to Highlands review & approval. | |
| 2 | Twp must gain approval from Council prior to adoption of any ordinances or regulations relating to RMP. | Twp not subject to Highlands review & approval. | |
| 3 | <p>Twp must get authorization from Council before local approval of certain types of applications, including those involving properties within:</p> <ul style="list-style-type: none"> • Special Environmental Zones • Critical Habitat Areas • Historic &/or Scenic Resource Areas • Applications for new/extended utility infrastructure, use of Net Water Availability, or use of Conditional Water Availability. | Twp not subject to Highlands review & approval. | |
| 4 | <p>Twp decisions pertaining to development applications are subject to call-up & subsequent review by Highlands Council.</p> <p>They may require a hearing on application, in which case, Highlands Council may approve application for development, deny it, or issue an approval with conditions.</p> | Twp not subject to Highlands review & approval. | |
| <i>F. Transfer of Development Rights (TDR) Program</i> | | | |
| 1 | Twp has option to participate in Highlands Transfer of Development Rights (TDR) Program. | Twp may participate in Highlands TDR Program only as a Receiving Zone, & is conditioned on: | |

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| | <p>Intended to preserve lands containing sensitive resources by permitting transfer of development potential from areas identified for preservation (Sending Zones), to areas more appropriate to accommodate increased growth (Receiving Zones).</p> <p>Participation is <u>strictly voluntary</u>.</p> | <ul style="list-style-type: none"> • approval by Highlands Council & • Twp seeking Plan Endorsement by the State Planning Commission. | |
| 2 | <p>If Twp decides to participate in TDR Program, all lands in a Protection or Conservation Zone, whether in the Preservation Area or Planning Area, shall be eligible to serve as Sending Zones.</p> <p>This equates to 19,966 acres of land in Rockaway Twp.</p> | <p>Twp may not seek designation of Sending Zones.</p> | |
| 3 | <p>If Twp. decides to participate in TDR Program, lands in Existing Community Zone or Highlands Redevelopment Areas shall be eligible to serve as Receiving Zones, upon approval by Highlands Council.</p> <p>Highlands Council has identified portions of the Rockaway Townsquare Mall area as Potential Voluntary TDR Receiving Zones, incl:</p> <ul style="list-style-type: none"> • Block 11001 Lots 1-5 and 8-10 identified as potential Redevelopment & Infill Opportunities (lands served by sewer utility with remaining capacity). • Block 11002 Lot 1 identified as potential Greenfield Opportunity (undeveloped lands in approved sewer service area that could support | <p>Twp may seek designation of Receiving Zones upon approval by Highlands Council, provided that Twp seeks Plan Endorsement by State Planning Commission.</p> | |

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| | development). | | |
| <i>G. Future Development of Rockaway Townsquare Mall</i> | | | |
| 1 | <p>Portion of site available for additional development. If opt in, impacts are as follows:</p> <ul style="list-style-type: none"> • In ECZ, which is where Highlands encourages future growth, if compatible with the protection & character of Highlands environment. • Not in open waters buffer & no environmental constraints (paved, previously disturbed area). • Only limitations appear to be lack of wastewater utility capacity and Net Water Availability, which is Twp-wide issue (not specific to mall). To address limitations, Twp must: <ol style="list-style-type: none"> 1. Develop Water Use & Conservation Management Plans that will establish provisions to reduce or manage consumptive & depletive uses of ground & surface waters. 2. Assign highest priority for use of Net or Conditional Water Availability within an ECZ to TDR Receiving Zones, infill dev, Highlands Redevelopment Area, affordable housing projects where at least 10% of the units are affordable, or new areas for development that meet all other requirements of the RMP. 3. Require, in all cases, efficient use of water through water conservation & Low Impact Development BMPs, incl. energy | <p>Portion of site available for additional development. If opt in, proposal subject to Twp ordinances & areawide Water Quality Management Plan & Wastewater Management Plan.</p> | |

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| | efficient bldg orientation/design, reuse & recycling of bldg materials, drought-tolerant landscaping, stormwater mgmt. | | |
| 2 | As noted in Section F.3. above, the Highlands Council has identified portions of the Rockaway Townsquare Mall as a Potential Voluntary TDR Receiving Zone, which is where a transfer of development rights from Sending Zones can be used to increase the density/ intensity of underlying zoning. | Twp may seek designation of Receiving Zones upon approval by Highlands Council, provided that Twp seeks Plan Endorsement by State Planning Commission. | |