

## **Public Comments Received for the Consistency Determination for “Hamptons at Pohatcong”:**

- EAI Investments, LLC
- Eco Action Initiatives of Warren County, Inc.
- Phillipsburg Riverview Organization – Pohatcong Projects Committee
- New Jersey Highlands Coalition
- New Jersey Conservation Foundation

### **Public Comment Summary**

The public comments received proposed both support for and rebuttals to the Highlands Council’s Draft Consistency Determination for the Hamptons at Pohatcong proposed development. In summary, the comments state that:

- The Highlands Council disregarded the history of this site as Pohatcong Township’s only designated Mt. Laurel site;
- The mapping of the site as Conservation Zone and Conservation-Environmentally Constrained Subzone is the determining factor for the Consistency Determination findings and that this mapping appears to be based only on the fact that the property is actively farmed, and nothing else. The site should be mapped Existing Community Zone because it is surrounded on three sides by this zone and because the site is suitable for Mt. Laurel development. The site should not be Conservation Zone and all policies relating to the Conservation Zone should not be applicable;
- The Consistency Determination is based on a factually incorrect assumption that the Project includes a road crossing through a Highland Open Water Corridor on the Property – this feature was deleted and a footpath is proposed instead;
- The Highlands Council should not utilize Landscape Project Version 3.0 since it was released several years after the site was designated as suitable for a Mt. Laurel development.
- EAI provided the number of units that will be affordable housing (44) of the total number of unit proposed (396);
- EAI states that Aqua New Jersey has confirmed to them that their wells along the Delaware River near the Lopatcong/Phillipsburg border are ground water wells under the influence of surface water (the Delaware River);
- EAI states that no quantification of compliance with the TMDL for pathogens is warranted since DEP has determined the project will result in no measurable change in water quality for the Category 1 waters adjacent to the site;
- EAI states that the project has not yet been fully engineered and EAI expects to incorporate water conservation and recycling features, in accordance with any applicable construction standards;
- The Governor’s Executive Order mandates that communities facing issues of scarce resources should consider development that include only affordable housing, rather than inclusionary developments, to solve their affordable housing obligations. The Council should identify potential sites for such developments in municipalities and identify funding sources to develop these sites for affordable housing;
- There is a site in Pohatcong Township that is within an existing sewer service area, close to major transportation routes, jobs, and stores. The site is Block 78, Lot 1 and locally called Gramana Farms;
- Risk of developing on Karst and long-term safety issues;

- The "hardship exemption" which applies to compliance or non-compliance with the applicable Flood Hazard Control Act riparian zone (NJAC 7:13) does not apply to the Stormwater Management rules at NJAC 7:8; Therefore, the Stormwater Management rule's Special Water Resource Protection Areas (SWRPA) are stand alone rules for purposes of permitting and compliance; The FHACA does not establish the SWRPA, does not regulate disturbance of a SWRPA, and therefore cannot supply an "exemption" to an entity established by a completely different set of rules and permitting processes. In short, a riparian zone "hardship exemption" to an FHCA riparian zone cannot be applied to a SWRPA established by the Stormwater Management Rules;
- It must be determined and verified, before any further action can be taken, the sources of water for this project supplied by Aqua New Jersey. If it is determined that water is being drawn from the Delaware River, a permit for diversion of surface water must be approved by both NJDEP and DRBC;
- Anywhere in the Draft Consistency Determination where the Council states "insufficient information" or "information unknown", the Council should consistently mark those items as Inconsistent with the RMP;
- The Critical Habitat section appears deficient because only one species of concern is listed, the upland sandpiper, while it has been NJCF's understanding since the early 1990's that the Alpha/Pohatcong Grasslands were designated as a Natural Heritage Priority Site because they are (or were) home to at least six Threatened or Endangered species of grassland birds;
- The proposed stormwater design includes discharge the Delaware Heights Park, a Green Acres funded park. This is an inappropriate private use of land preserved and held in trust for public use;
- It appears that the proposed project is inconsistent with several policies not noted on the checklist: Policy 2J5, Policy 2J7 and 2J7a.

### **Highlands Council Consistency Determination Edits**

Several comments received were not addressed by Consistency Determination as they pertain to issues beyond the scope of the Consistency Determination, such as whether NJDEP properly implemented its own regulations. A Highlands Council Consistency Determination is focused entirely on the Regional Master Plan. Staff did not feel several comments warranted changes to the Consistency Determination.

A few comments have been reflected in changes to the Consistency Determination. The WQMP project file was reviewed and it was confirmed that the proposed project was modified to remove a road crossing. The Consistency Determination was modified to delete that reference. The proposed project application file did not indicate the number of units that will be affordable housing. EAI has now provided the number of units that will be affordable housing (44) of the total number of unit proposed (396), indicating the project does meet the 10% affordable housing criteria in Objective 2B4a. The Consistency Determination has been edited to reflect this change. The proposed project application did not indicate the exact location of sewer lines relative to the Wellhead Protection Area onsite. EAI has stated in its public comments that there are no sewer mains located within Tier 1 of the Wellhead Protection Area, and thus is consistent with Objective 2H2a. However, information was not provided regarding location or construction of sewer laterals, and until that information is provided, the proposed project is inconsistent with Objective 2H2a. Regarding water use and conservation, EAI states that the project has not yet been fully engineered and EAI expects to incorporate water conservation and recycling features, in accordance with any applicable construction standards. The Consistency Determination has been edited to make note of the applicant's comment.

However, consistency with the RMP would require that incorporation of these features be a condition of approval.