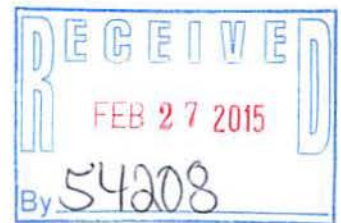




TOWNSHIP OF GREENWICH

MUNICIPAL BUILDING
321 Greenwich Street
Stewartville, New Jersey 08886



Kimberly Viscomi
Township Clerk
Phone (908) 859-0909
Fax (908) 454-6158

Margaret Nordstrom
Executive Director
NJ Highlands Council
100 North Road Route 531
Chester NJ 07930

Subject: Highlands RMP Comments
Greenwich Township, Warren County, NJ

Dear Ms. Nordstrom;

Please accept the following as formal comments from Greenwich Township regarding the Highlands RMP, and related conformance documents implemented the policies of the RMP, for your consideration.

These comments are summarized as follows:

- 1. Wastewater Management Plan (WMP) Review and Approval** - As you are aware, Greenwich Township has made numerous attempts over the last several years to seek Highlands Council Consistency review for its WMP. NJDEP's Water Quality Management Rules were readopted with amendments on July 7, 2008 at which time Greenwich Township requested and was granted alternative assignment as the planning authority on July 9, 2009. In accordance with applicable state regulation in effect, Greenwich submitted an updated wastewater management plan to NJDEP on April 6, 2011. At that time we also submitted a copy to the Highlands Council requesting a consistency determination in accordance with the provisions at N.J.A.C. 7:15-3.10 and N.J.A.C. 7:38-1.1. The current approved WMP is substantially inconsistent with the Highlands RMP.

At no time did the Township consent to defer review of the WMP either as part of or until after plan conformance was completed. Yet despite our numerous attempts, this issue remains unresolved. The Highlands RMP and Plan Conformance process needs to be amended to avoid unnecessary delay in conducting consistency reviews of Wastewater Management Plans.

- 2. Septic Density** - We previously commented that the plan needs to provide specific guidance on the density limitations in the "Conservation Zone" that are necessary to protect groundwater resources in the Township. Greenwich adopted new zoning in 2007 which created the Resource Conservation District (RCD). In establishing the RCD zone, the Township determined that a density of 1DU/10AC for cluster with a mandatory 80% open space set-aside, and 1DU/20AC for conventional (non-cluster)

development was necessary to protect groundwater supplies. The Township objects to policies in the Plan that would allow for the expansion of wastewater treatment facilities and service areas, or relaxation of nitrate standards in the Conservation Zone for cluster development.

The plan includes a "Land Use Capability Zone Map" that shows the majority of the "Conservation Zone" in Greenwich Township as being Environmentally Constrained. In addition, as memorialized in the plan, a significant portion of Greenwich Township is identified as "Prime Ground Water Recharge" and underlain by "Carbonate Rock" which protect the drinking water supplies of existing residents. As such, the Township objects to the Highlands Council establishing a lower nitrate standard for the Conservation Zone than would apply in the Protection Zone. Given the resource constraints and significance of the groundwater resources Greenwich Township, the nitrate standards for the Protection Zone should apply the Environmentally Constrained Conservation Zone to avoid any degradation to existing drinking water supplies.

3. **Land Use Capability Zones** - Given the existence of high-water value land within Greenwich Township, the designation of "Land Use Capability Zones" in the Township appear to be arbitrary. The "Conservation Environmentally Constrained Zone" excludes undeveloped stream corridors. Extensive areas of contiguous forest and habitat for threatened and endangered species within the Preservation Area or adjacent to areas designated as "Protection Zone" are misclassified within the Township as either "Conservation Zone" or "Existing Community Zone". Isolated low density residential developments are classified as Existing Community Zone in both the Planning and Preservation Area even though they lack any opportunity for additional development. The "Land Use Capability Zone Map" should be amended to include all resource constraints such as stream corridors and prime recharge within the "Environmentally Constrained Sub-Zone" of the "Conservation Zone", exclude low density residential developments or environmentally constrained lands such as stream corridors from the "Existing Community Zone", and include contiguous undeveloped stream corridors and forested areas in the "Protection Zone".
4. **RMP Updates/Map Adjustments** - As part of its petition, Greenwich Township previously identified several RMP Updates and/or Map Adjustments that were necessary due to errors or omissions in the Highlands RMP that need to be addressed and incorporated into RMP. To date these remain unresolved.

As stated in the Land Use Plan of the Master Plan Highlands Element "All updates shall occur prior to adoption of the Highlands Element". As such the Township cannot proceed with adoption of the Highlands Element until these adjustments are adopted by the Highlands Council and incorporated into the RMP.

Greenwich Township believes that the following specific RMP Updates/Map Adjustments must be made to the Plan before municipal conformance can proceed:

- a) Inclusion of the municipally owned property at Block 26 Lot 2 within the Existing Community Zone in its entirety. Mapping used did not reflect development that had already occurred and the site is intended for use as a future COAH compliance site.

- b) Category 1 stream corridors need to be included within environmentally constrained sub zone.
 - c) A developed area known as Stewartville was placed in environmentally constrained sub zone- which should be reviewed so as to not deter or complicate future expansion of sewer utility to the area to address health and safety concerns.
5. **Cost of Land Preservation** -The plan does not provide sufficient details regarding the land preservation priorities within the “Protection” and “Conservation” Zones, nor does it provide a financial analysis of the cost to preserve these lands as required under the Act. The plan should be amended to include the identification of lands that should be preserved because they lack any development potential due either to resource or capacity constraints. The plan should include the estimated cost necessary to acquire these lands by either fee simple or conservation easement.
6. **Amount and Type of Development** - The plan does not adequately address the requirement of the Act to “determine the amount and type of development the region can sustain” and places a significant burden on the municipalities to develop the details that are necessary to understand the land use and zoning implications of the plan. The plan should be amended to include an estimate of the development potential within each municipality based on the “Land Use Capability Zone Map” and consistent with the resource constraints and capacity limitations in the plan.
7. **Financial Impact** - As required under the Act, the plan does not include sufficient financial analysis to determine the municipal cost of conforming to the various programs and requirements of the plan including, but not limited to, an understanding of the effect of development limitations on county and municipal property tax base. Prior to adoption the plan should be amended to include an estimate of the cost to address ALL conformance requirements in the plan for each municipality in the Highlands along with an estimate of the cost to address landowner equity concerns and the anticipated reduction in assessed land value due to the development restrictions included in the plan.

There are many provisions in the RMP and conformance documents that obligates the Township to undertake certain activities that may require the Township to incur cost but for which an obligation to fund the activity is not provided at this time. Those activities include administrative requirements, planning/technical studies, and subsequent compliance activities. In our original petition submission we previously highlighted many of those and requested clarification, and in some cases ask that those requirements be deferred until such time as that guidance and applicable funding were available.

The Township remains concerned that compliance with the RMP within the Planning Area may impose financial requirements on the Township. Further, the Highlands Councils has established priorities regarding the amount and timing of funding regarding certain compliance activities that does not reflect the Townships priorities or concerns. The implementation schedule provided to the township as part of its conformance review included reference to many “tasks” that are required for full plan conformance that were never reviewed as part of the Municipal Petition. We previously requested that the Highlands Council provide additional guidance, such as an example of what would be in the applicable ordinances listed in Item 11, and an explanation of what the various conformance plans and programs listed in Item 9 would entail. To date we have not received any clarification in this regard.

The following implementation tasks identify conformance requirements that the Township would be obligated to after initial Plan Conformance is completed. Only a limited number of these tasks are labeled as "Optional" suggesting that the remaining tasks are mandatory. In most cases no grant monies have been allocated, and in instances where grant monies are allocated there is no description of the required scope of services to be performed by the Township so the Township cannot determine whether they can perform the required task(s) for the grant monies allocated.

Implementation Tasks Required for Full Conformance	Funding Provided
Municipal Master Plan Elements	
e. Agriculture Retention/Farmland Preservation Plan Element	Yes
g. Sustainable Economic Development Plan Element	Yes
Highlands Land Use Ordinances	
a. Adopt Planning Area Petition Ordinance	Yes
b. Adopt Checklist Ordinance	Yes
Zoning Map Update – Adopted (Update to reflect Highlands Overlay Zones, Districts)	Yes
Cluster Development for Agricultural Resource Areas	
a. Municipal Cluster Development Plan	No
b. Municipal Cluster Development Ordinance and Design Guidelines	No
Resource Management Plans and Programs	
a. Water Use and Conservation Management Plan	No
b. Habitat Conservation and Management Plan	Yes
c. Stream Corridor Protection/Restoration Plan (optional)	Yes
d. Wastewater Management Plan	Yes
e. Septic System Management/Maintenance Plan	No
g. Scenic Resource Management Plan (optional)	No
h. Municipal Stormwater Management Plan	No
i. Regional Stormwater Management Plan	No
j. Land Preservation and Land Stewardship Program	No
k. Forest Stewardship Plan (optional)	No
Board of Health Ordinances	No
a. Septic System Maintenance	No
b. Potential Contaminant Source Management	No
Implementing Ordinances for Management Plans and Programs	No
a. Water Use and Conservation Management Plan Ordinance	No
b. Habitat Conservation and Management Plan Ordinance	No
c. Stream Corridor Ordinance	No
e. Tree Clearing Ordinance	No
f. Right to Farm Ordinance	No
h. Scenic Resource Mgmt Ordinance	No
i. Stormwater Management Ordinance	No

Greater clarification is needed either in the form of guidance documents explaining what the task consists of and/or examples of what the various ordinances will require as part of initial

Plan Conformance. Additionally, any conformance document or grant allocation should include a clear statement of understanding consistent with previously provided assurances that grants received as part of plan conformance would not be subject to repayment regardless of whether the township proceeds with or withdraws from conformance within the Planning Area

8. **Implications on Home Rule** - There are many provisions in the RMP and implementing conformance documents within the Planning Area that the Highlands Council has retained sole authority over things normally and customarily done at the municipal level which will create an extraordinarily hardship on applicants and be very onerous on the municipality.

As an example, the township objects to the following language pertaining to the exclusion of the Township in any request by an applicant to seek a map adjustment or center designation. IN THE Model Land Use Ordinance.

"In the event the applicant is seeking to modify the extent of any Highlands District boundary line, the applicant must obtain prior approval from the Highlands Council through submittal of an RMP Update, Map Adjustment or Highlands Center Designation in such manner as required by the Highlands Council, or as specifically provided otherwise in this Ordinance."

The Land Use Ordinance needs to be amended to remove any reference to a Highlands Center Designation. Furthermore, the ordinance needs to make clear that any application for a map change, adjustment or other designation sought by an applicant would first be submitted directly to the Township for review and approval. The township would then seek, if they so choose to proceed, approval from the Highlands Council. In this way the Township is not excluded from any decision which results in changes to the conformance documents.

Greenwich Township remains concerned that the generality of certain terms regarding such things as "intensity and density of use" as being potentially contrary to current municipal zoning were the township zoning may be more restrictive than envisioned by the Highlands Council. The Township specifically objects to deferring a thorough and complete review of the required conformance ordinances ordinance until after initial conformance is complete.

The Highlands Council has retained sole authority for reviewing and approving any application proposing installation of new or extended water supply or wastewater collection/treatment utility infrastructure. The Highlands Council further precludes the municipal authority from finding a development application complete until after the Highlands Council has completed its review. This provision would seem to constitute an unfair and unreasonable burden on the applicant and would prohibit the applicable municipal authority from taking any action prior to a Council's decision. In addition, it is unclear exactly what the intent and scope of the Highlands review would entail. For example, the application would presumably have to include not only the type of use but also the intensity and density of development in order to make a determination whether extension of water or wastewater systems are appropriate.

The township believes that prior mandatory review and approval by the Highlands Council may run contrary to municipal interest and would be best served as a required condition to preliminary subdivision or site plan approval following initial municipal review and approval of the site plan application to ensure that the proposed uses and bulk standards of the zoning ordinance are met. The provision for retaining authority can be easily addressed by making a condition of any approvals that the applicant seek concurrence of that finding by the State agency having regulatory authority as is currently done under the MLUL.

As currently proposed virtually ALL development applications will need to be reviewed by the Highlands Council. It would seem as if the Highlands Council will be creating a duplication of effort thereby imposing an unfair burden on the applicant and in doing so may inadvertently preclude the municipal authority from conducting a thorough review of the application.

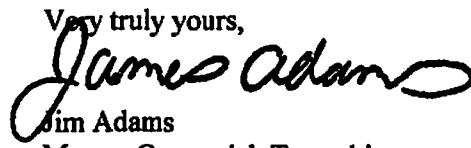
9. **COAH Compliance** – The Township previously followed guidance from the Highlands Council regarding compliance with State Affordable Housing Rules which guidance was subsequently invalidated by the courts. The RMP must provide the Township with a clear understanding and high level of confidence regarding obligations necessary to maintain the Substantive Certification at a time when the future of the States Affordable Housing Rules is uncertain. Even as recently as last year, the rules proposed by the Council of Affordable Housing included municipal obligations that were grossly in excess with the amount of development that can be accommodated by the RMP.
10. **Mandatory Clustering** - Although the Township supports the use of residential and non-residential clustering where the result would be the retention of farmland consistent with community character and resource protection, we object to mandatory clustering.

The Regional Master Plan allows for relaxation of certain resource protection standards for cluster developments and it is unclear who/how that determination would be made or how/where that would apply. The resulting density may also be inconsistent with maintaining existing community character.

Greenwich Township supports the use of clustering as an option rather than a mandatory requirement within the Agricultural Resource Area which includes most of the Township and only if the resource protection standards are met, in locations and densities that do not relax water quality standards due to individual onsite septic systems, and are otherwise compatible.

The conformance documents also provide in part that clustering shall be permitted where necessary to avoid land disturbance activities such as steep slope. The Township does not agree that clustering should be an as of right provision available to any development anywhere in the township. Clustering should not be applied as a way to circumvent reduced development potential due to steep slopes or other resource constraints. If clustering is used it should be developed at the build out intensity determined by the resource protections standards and only if the majority (eg 80%) of the land area can be set aside as open space under appropriate deed restrictions.

Thank you for the opportunity to provide these comments. We look forward to your response.

Very truly yours,

Jim Adams
Mayor, Greenwich Township

Cc: Greenwich Township Committee
Greenwich Township Planning Board
Greenwich Township Highlands Task Force