

PUBLIC COMMENTS SUBMITTED AT HIGHLANDS
COUNCIL MEETING ON DECEMBER 3, 2015

Comments to the Highlands Council, December 3, 2015

My name is Deborah Post.

The DEP is in the process of preparing revised Highlands septic density regulations based on revisited nitrate dilution data.

The new regulations, if structured and implemented honestly, will return some, not all, property value to harmed Highlands landowners. This goal is laudable. Please appreciate that as property value is returned to landowners, the “just compensation” nut that this Council is charged with fulfilling will also be reduced. The task of fairly compensating landowners, while never easy, will become easier.

However, there is an undiscussed glitch in the way the new regulations are being proposed. The private well data in the revisited nitrate dilution modeling is being mapped onto the existing six zones in this Council’s Regional Master Plan. That is the Community, Conservation and Protection Zones in both the Planning and the Preservation Area, that’s six zones in total. The mapping I am referring to may be found in the chart appendices to the United State Geological Services report titled Median Nitrate Concentrations in Groundwater in the NJ Highlands Region Estimated Using Regression Models and Land Surface Characteristics prepared in cooperation with the NJDEP.

But the six zones in the current plan were created using the old nitrate dilution model which has been totally discredited scientifically. So, when new data is mapped into zones based on old data, the result is nonsensical and fails to produce accurate septic densities based on the new data for all landowners. It becomes a slight of hand with what appears to be being given back with one hand is then taken away simultaneously by the other hand.

Let me try to explain with an example: A landowner with open space cleared land in the Protection Zone of the Preservation Area is currently allowed one build right per 25 acres. Recall that the current DEP regulations distinguish between forested and unforested land in applying the DEP septic densities in the Preservation Area only, which is the only area of their authority under the Act. The proposed new densities in the Protection Zone of the Preservation Area will reduce the 25 acre requirement for a home to only 22 acres, statistically irrelevant. In contrast, that same open space landowner would have the acreage requirement reduced to 12 acres if the DEP’s forested / unforested mapping were to remain in place.

I am sure the greens here today will be pleased to learn these facts as they have been screaming in Trenton about new rules that will basically do nothing to change the status quo.

If the revised nitrate dilution models are to be applied with integrity, the mapping of the Regional Master Plan must be redone completely using the data in the USGS report. And I mean a zero-based remapping, not a tweak here and there. That remapping is in the purview of this Council and you must make it happen. Indeed the Highlands Act at NJSA 13:20-12 requires this Council to plan based upon and in compliance with the NJDEPs standards.

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(d) identify transportation, water, wastewater, and power infrastructure that would support or limit development and redevelopment in the planning area. This analysis shall also provide proposed densities for development, redevelopment, or voluntary receiving zones for the transfer of development rights;

(e) identify potential voluntary receiving zones in the planning area for the transfer of development rights through the appropriate expansion of infrastructure or the modified uses of existing infrastructure;

(f) issue model minimum standards for municipal and county master planning and development regulations outside of the preservation area, including density standards for center-based development to encourage, where appropriate, the adoption of such standards;

(g) identify special critical environmental areas and other critical natural resource lands where development should be limited; and

(h) identify areas appropriate for redevelopment and set appropriate density standards for redevelopment. Any area identified for possible redevelopment pursuant to this subparagraph shall be either a brownfield site designated by the Department of Environmental Protection or a site at which at least 70% of the area thereof is covered with impervious surface.

b. The resource assessment, transportation component, and smart growth component prepared pursuant to subsection a. of this section shall be used only for advisory purposes in the planning area and shall have no binding or regulatory effect therein.

12. (New section) In addition to the contents of the regional master plan described in section 11 of this act, the plan shall also include, with respect to the preservation area, a land use capability map and a comprehensive statement of policies for planning and managing the development and use of land in the preservation area, which shall be based upon, comply with, and implement the environmental standards adopted by the Department of Environmental Protection pursuant to sections 33 and 34 of this act, and the resource assessment prepared pursuant to paragraph (1) of subsection a. of section 11 of this act.

These policies shall include provision for implementing the regional master plan by the State and local government units in the preservation area in a manner that will ensure the continued, uniform, and consistent protection of the Highlands Region in accordance with the goals, purposes, policies, and provisions of this act, and shall include:

a. a preservation zone element that identifies zones within the preservation area where development shall not occur in order to protect water resources and environmentally sensitive lands and which shall be permanently preserved through use of a variety of tools, including but not limited to land acquisition and the transfer of development rights; and

b. minimum standards governing municipal and county master