

RESOLUTION 2006-24

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL REVIEW OF PROPOSED WQMP AMENDMENT FOR ALPHA BOROUGH

WHEREAS, the Highlands Water Protection and Planning Act (the "Highlands Act") has created a public body corporate and politic with corporate succession known as the Highlands Water Protection and Planning Council (the "Highlands Council");

WHEREAS, Section 8 of the Highlands Act mandates that the Highlands Council adopt a Regional Master Plan in order to protect and enhance the significant values of the resources in the Highlands Region; and

WHEREAS, Section 11.a(6)(c) of the Highlands Act states that the Regional Master Plan shall, in its smart growth component, identify undeveloped areas in the planning area, which are not significantly constrained by environmental limitations such as steep slopes, wetlands, or dense forests, are not prime agricultural areas, and are located near or adjacent to existing development and infrastructure; and

WHEREAS, Section 11.a(6)(d) of the Highlands Act states that the Regional Master Plan shall, in its smart growth component, identify water and wastewater infrastructure that would support or limit development and redevelopment in the planning area; and

WHEREAS, the New Jersey Department of Environmental Protection ("NJDEP") had adopted rules at N.J.A.C. 7:38-1.1 et seq. ("Highlands Rules") governing the NJDEP's review of projects in the Highlands Region; and

WHEREAS, the Highlands Rules, at N.J.A.C. 7:38-1.1, specifies that pending completion of the Regional Master Plan, NJDEP shall not approve a Water Quality Management Plan amendment for a project proposed in the Planning Area of the Highlands Region without first obtaining a recommendation from the Highlands Council; and

WHEREAS, on March 20, 2006, NJDEP published a public notice stating that it had reviewed a proposed amendment to the Upper Delaware Water Quality Management Plan, submitted by Alpha 519 L.L.C., in accordance with Executive Order No. 109 (2000) and N.J.A.C. 7:15-5.18, to include all 25.4 acres of Block 96 Lot 5 in the Borough of Alpha in the Future Sewer Service Area of the Phillipsburg Wastewater Treatment Facility; and

WHEREAS, a Case Management Order issued by the Honorable Victor Ashrafi, from the Superior Court of New Jersey, Docket No. SOM-L-000623-04, dated April 11, 2006 was issued in reference to *Mount Laurel* litigation on Block 96 Lot 5 involving a project to build ninety-two single family three-bedroom homes, four three-bedroom condos, eight two-bedroom condos, and four one-bedroom condos; and

WHEREAS, the Case Management Order included a provision respectfully requesting that the Highlands Council respond to the proposed amendment for Block 96 Lot 5 within thirty days from the receipt of the proposed amendment; and

WHEREAS, the Highlands Council received the proposed amendment for Block 96 Lot 5 on May 4, 2006 and conducted a staff review recommending the proposed amendment with conditions; and

WHEREAS, the Highlands Council's Natural Resource Committee reviewed the proposed amendment for Block 96 Lot 5 and decided to seek additional public comment which was accomplished by providing public notice of the opportunity to submit comment on or before June 1, 2006; and

WHEREAS, the Highlands Council wishes to provide a response regarding the proposed amendment for Block 96 Lot 5 on or before June 5, 2006.

NOW, THEREFORE, BE IT RESOLVED

1. The Highlands Council is presently unable to provide a substantive recommendation, regarding the proposed Water Quality Management Plan amendment for Block 96 Lot 5 in Alpha Borough, within the requested 30 day time period given the preliminary information that is under development for the Regional Master Plan.
2. Additional information regarding the proposed amendment may be provided to the Highlands Council on or before June 1, 2006 at 5:00 pm.
3. The Highlands Council requests that NJDEP consider all comments received by the Highlands Council and the Chairman and the Executive Director are hereby authorized to compile and forward to NJDEP all public comments received on the proposed amendment for on or before June 1, 2006.

CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its regular meeting held on the 1st day of June, 2006.



John Weingart, Chairman