



State of New Jersey

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September 23, 2010

Sean Thompson
Acting Executive Director
Council on Affordable Housing
101 South Broad Street
P.O. Box 813
Trenton, NJ 08625-0813

RE: Jacob Haberman Objection to Hampton Borough Petition for Substantive Certification and Housing Element and Fair Share Plan

Dear Mr. Thompson:

The Highlands Water Protection and Planning Council (Highlands Council) is pleased to provide the Council on Affordable Housing (COAH) with the following response to the objection filed by Jacob Haberman (Haberman) regarding the Petition for Substantive Certification of the Borough of Hampton (Hampton). Haberman's objection proposes the inclusion of the Haberman site; however, the site fails to provide a realistic opportunity for low and moderate income housing and should be rejected under N.J.A.C. 5:96-4.1. In accordance with N.J.A.C. 5:96-4.1, any person may file with COAH an objection to a municipality's Housing Element and Fair Share Plan so long as the objection, at a minimum, demonstrates that a site proposed for inclusion in the municipality's Fair Share Plan is "suitable" within the meaning of N.J.A.C. 5:97-3.13. See N.J.A.C. 5:96-4.1(a)6. However, only if COAH's Executive Director deems an objection complete and valid shall a party have standing as an objector and be entitled to mediation of its objection. See N.J.S.A. 4:96-4.2(a). The Executive Director of COAH has discretion to reject an objection that is incomplete and invalid. As discussed more fully below, the site is inconsistent with the Highlands Act and the Highlands Regional Master Plan (RMP).

The Haberman Property

Haberman is the owner of 144 acres of land in Hampton known as Block 23, Lot 1 and Block 24, Lot 2 (Property). Block 23, Lot 1 is located within the Planning Area of the Highlands Region and Block 24, Lot 2 is located in the Preservation Area. In 1985, Haberman filed a lawsuit against Hampton challenging the local zoning ordinance as violating the Mount Laurel doctrine. In 1988, the parties entered into a Settlement Agreement and in 1991 the Court entered a Final Judgment of Compliance. The terms of the Settlement Agreement indicates that Hampton, in 1985, had a zero

unit new construction obligation and a 27-unit rehabilitation obligation. Pursuant to the Settlement Agreement, Hampton Borough rezoned the entire Haberman tract as an Affordable Housing Zone and authorized Haberman to develop 300 market-rate townhouse units on Block 24, Lot 2 (the portion of the property in the Preservation Area) and associated open space, utilities, and recreational uses on Block 23, Lot 1 (the portion of the property in the Planning Area). The Settlement Agreement contemplated that the high density project required major improvements to Hampton's water supply system and construction of a new wastewater treatment facility. Haberman agreed to provide a \$270,000, or \$10,000 per rehabilitation obligation unit, payment in lieu into a Rehabilitation Housing Assistance Fund to help satisfy Hampton's 27-unit court-ordered obligation, and another \$730,000 for improvements to the water and wastewater infrastructure to support the project. The site proposed no on-site affordable units.

Hampton's Housing Element and Fair Share Plan

Hampton is located partially in the Preservation Area and partially in the Planning Area of the Highlands Region. Hampton is therefore required to conform the local master plan and development regulations, as they relate to the Preservation Area, with the goals, policies and standards of the RMP, and may voluntarily choose to conform to the RMP regarding the Planning Area. On December 8, 2009, Hampton Borough submitted to the Highlands Council a Petition for Plan Conformance seeking to conform its master plan and development regulations for the entire municipality. The RMP's natural resource protection standards therefore apply to the entire municipality, including Hampton's land in the Planning Area. Under the Plan Conformance Guidelines and the Plan Conformance Grant Program, the Borough submitted to the Highlands Council in March 2010 an identification of prior round sites and a draft housing element and fair share plan so that the Highlands Council could highlight potential consistency issues that may arise during Plan Conformance review prior to the Borough's final adoption of its Fair Share Plan. The Highlands Council noted at that time that a prior round site, known as the Haberman site, has significant RMP consistency issues and cannot be developed for the intended purpose in conformance with the RMP.

Hampton was also required under the RMP and the Plan Conformance Guidelines to petition COAH by June 8, 2010 for substantive certification of its conforming housing element and fair share plan or institute an action for declaratory judgment granting Hampton repose in the Superior Court pursuant to the Fair Housing Act. Any sites or mechanisms included in the housing element and fair share plan are required to be reviewed by the Highlands Council to determine their consistency with the RMP. On June 7, 2010 Hampton Borough's Planning Board adopted a Housing Element and Fair Share Plan and the Governing Body adopted a resolution authorizing submission of a conforming Third Round Housing Element and Fair Share Plan to COAH and the Highlands Council.

Based on COAH's growth share methodology under the Third Round Rules, Hampton has a fair share obligation of 24 low- and moderate-income housing units. Since Hampton chooses to conform its master plan and development regulations with the RMP for the entire municipality, Hampton has a fair share obligation of 10 affordable housing units under COAH's Third Round Rules, with a rehabilitation obligation (the basis of the original Haberman settlement) of 4 units rather than 27. The revised fair share obligation is based on the COAH's guidance for conforming Highlands municipalities. COAH's guidance is based upon the Highlands Municipal Build-Out

Report for Hampton Borough, estimating growth from 2008 to full build out under the RMP, in addition to actual growth from 2004 through 2008. The revised rehabilitation obligation is determined under COAH's Third Round Rules. Hampton Borough's Fair Share Plan proposes two projects to fully satisfy the Borough's Third Round Fair Share Obligation: a supportive/special needs housing project and an accessory apartment program. Based on complete satisfaction of its fair share obligations through alternative mechanisms and in light of preliminary findings of the Highlands Council, Hampton chose to exclude the Haberman site from the Third Round Fair Share Plan as the site was no longer feasible based on changed circumstances (i.e., the passage of the Highlands Act and RMP conformance). Moreover, as we previously advised, a preliminary review indicates that the two projects proposed to fully satisfy Hampton Borough's third round fair share obligations do not appear to have any Highlands RMP consistency issues that would limit their potential for development.

Haberman Objection

On August 27, 2010, Haberman filed an objection to Hampton's Third Round Housing Element and Fair Share Plan. Haberman's Objection is twofold: 1) the exclusion of the Haberman site in the Preservation Area, as approved in the 1991 Final Judgment of Compliance, from Hampton's Third Round Fair Share Plan is inconsistent with N.J.A.C. 5:97-6.5(a); and 2) the Planning Area site of his Property is suitable for construction of the 300 market-rate units as demonstrated in the August 26, 2010 report from Creigh Rahenkamp & Associates.

1. Preservation Area Site

Haberman initially objects to Hampton's Fair Share Plan on the basis that Hampton excluded from its Third Round Plan the inclusionary development project contemplated in the 1991 Final Judgment of Compliance without a threshold finding by COAH of whether the prior round site "continues to present a realistic opportunity" in violation of N.J.A.C. 5:97-6.5(a). Significantly, Haberman concedes in the Objection that development of the inclusionary housing project in the Preservation Area is no longer feasible as a result of the enactment of the Highlands Act in 2004 that immediately revoked planned, but unbuilt, water and sewer infrastructure in the Preservation Area. The site was therefore made unsuitable as a matter of law in 2004. See In Re Petition for Substantive Cert. Southampton, 338 N.J. Super. 103, 116-17 (App. Div. 2001) (lack of water and sewer infrastructure precludes development of a high density residential development, and thus not suitable for inclusion in a municipal petition for substantive certification under COAH's regulations).

Haberman's interpretation of N.J.A.C. 5:97-6.5 to require a threshold finding by COAH of site suitability would result in Hampton adopting a Housing Element and Fair Share Plan in clear violation of the Mount Laurel doctrine and COAH's regulations. As you know, COAH issued letters to Preservation Area towns after the passage of the Highlands Act advising that they reassess inclusion of prior round sites in the Preservation Area in order to determine whether these projects continued to be feasible and whether they may be entitled to an exemption under the Highlands Act. In cases where projects were not entitled to an exemption and therefore no longer feasible under COAH's regulations, towns were required to adopt and file alternative mechanisms to satisfy their fair share obligations in the Third Round Plans. Hampton did not receive such a letter from COAH as the Borough was not at the time under COAH's jurisdiction. However, Haberman's Preservation

Area development was clearly not entitled to a Highlands Act exemption. Haberman did not secure local or State development approval and initiate construction before 2007 and thus the exemption at N.J.S.A. 13:20-28(3) does not apply. The Legislature did create a specific exemption for a limited class of affordable housing sites at N.J.S.A. 13:20-28(17); however, this exemption is specifically limited to certain designated areas under the State Development and Redevelopment Plan. As the Haberman property is located in the Rural Environmentally Sensitive Planning Area (PA4B) and is not designated as Planning Area 1 (Metropolitan) or Planning Area 2 (Suburban) as required by the Highlands Act exemption, the exemption at N.J.S.A. 13:20-28(17) clearly does not apply. The site was therefore made unsuitable as a matter of law under the Highlands Act. Accordingly, Hampton was correct to exclude Haberman's project proposed for the Preservation Area from the Fair Share Plan since the project is not entitled to an exemption and there is no access to infrastructure, rendering the project unsuitable for development.¹ COAH is now authorized to evaluate the validity of the Third Round Fair Share Plan pursuant to N.J.A.C. 5:97-6.5(c). Mediation is certainly not required on this issue when both parties agree that the Preservation Area site is no longer feasible as a result of adoption of the Highlands Act.

2. Planning Area Site

Haberman further objects to Hampton's Fair Share Plan by now identifying the Planning Area portion of Haberman's Property for development of the 300 market-rate units as a means for Hampton to meet its fair share obligations. In doing so, however, Haberman fails to demonstrate first, that the Haberman project is necessary for Hampton to satisfy its adjusted fair share obligation of 4 rehabilitation units, and, second, that the Planning Area site is any more suitable as a matter of law than the Preservation Area site within the meaning N.J.A.C. 5:97-3.13.

The Fair Housing Act, N.J.S.A. 52:27D-311, requires a municipality to adopt a housing element that provides a realistic opportunity for achievement of the low- and moderate-income housing needs of the region. COAH defines "realistic opportunity" to mean "a reasonable likelihood that the affordable housing in a municipality's Housing Element and Fair Share Plan will actually be constructed or provided during the 10-year period of certification based upon a careful analysis of the elements in the municipality's plan including . . . the suitability of specific sites as set forth in N.J.A.C. 5:97-3.13. Under N.J.A.C. 5:97-3.13, and in keeping with Executive Order 112, and the Memorandum of Understanding between COAH and the Highlands Act, a site identified to produce affordable housing in the Highlands Region is suitable if it is: 1) "available, approvable, developable and suitable"; 2) consistent with the State Development and Redevelopment Plan; and 3) complies with the land use policies delineated in the Highlands Water Protection and Planning Act, N.J.S.A. 13:20-1 et seq., the NJDEP Highlands Planning Rules, N.J.A.C. 7:38, and the Highlands Regional Master Plan.

First, Haberman fails to demonstrate initially that development of the Planning Area site actually assists Hampton in satisfaction of its fair share obligations. The Haberman site was originally approved as an affordable housing zone in Hampton's 1991 zoning ordinance as a way for Hampton to fully satisfy its court-ordered fair share obligations of 27 rehabilitation units through a payment in lieu. The site was never identified as an inclusionary housing site. COAH has since determined that

¹ Hampton would have been required to remove the Haberman project from the Fair Share Plan in 2004 had it been under COAH jurisdiction.

Hampton has a 10-unit new construction obligation and 4-unit rehabilitation obligation under the Third Round regulations as a result of conformance with the RMP.² It is unclear from the Objection how development of 300 market-rate units actually assists Hampton in satisfaction of the revised fair share obligations. Hampton chose to fully satisfy its current 4-unit rehabilitation share through two identified projects in its Fair Share Plan, neither of which relies on Haberman's payment in lieu. Consequently, at the outset, Haberman's Objection does not identify a site necessary to satisfy Hampton's rehabilitation unit obligations.

Second, the Planning Area site is not "available, approvable, developable and suitable" in order to create a realistic opportunity for actual construction of affordable housing. Under COAH's regulations, any site designated for new affordable housing is "available, suitable, developable and approvable" if it meets the following criteria:

1. The site has clear and is free of encumbrances which preclude development of affordable housing;
2. The site is adjacent to compatible land uses and has access to appropriate streets;
3. Adequate sewer and water capacity, as defined under N.J.A.C. 5:97-1.4, shall be available to the site or the site is subject to a durational adjustment pursuant to N.J.A.C. 5:97-5.4; and
4. The site can be developed consistent with the Residential Site Improvement Standards, N.J.A.C. 5:21, where applicable. Deviations from those standards are to be done in accordance with N.J.A.C. 5:21-3.

Furthermore, COAH defines a "suitable site" to mean:

a site that has clear title and is free of encumbrances which preclude development of affordable housing; is adjacent to compatible land uses; has access to appropriate streets, water and sewer infrastructure; can be developed consistent with the Residential Site Improvement Standards and the rules and regulations of all agencies with jurisdiction over the site; and is consistent with the site suitability criteria delineated in N.J.A.C. 3:97-3.13.

[N.J.A.C. 5:97-1.4]

Haberman fails to demonstrate anywhere in the Objection that the Planning Area site may be served with water and sewer infrastructure. As discussed above, the Highlands Act expressly prohibits construction of new public water systems and wastewater collection systems in the Preservation Area. (See N.J.S.A. 58:11A-7.1 and -12A-4.1). The mandatory pull back of planned, but unbuilt, sewer service areas and restrictions on new water supply systems under the Highlands Act, NJDEP's Highlands Planning Rules and the RMP immediately applied to that portion of the Haberman site in

² Haberman also questions COAH's methodology for adjusting fair share obligations based on a municipality's conformance with the RMP (See, Objection, p.4). Fair Share Housing Center (FSHC) made a similar objection in the matters of Housing Element and Fair Share Plans of Bloomsbury Borough, Town of Clinton, High Bridge Borough, Greenwich Township, Parsippany Troy-Hills Township and Wharton Borough to which the Highlands Council responded on September 15, 2010. We rely on our response to FSHC to address Haberman's objection to COAH's methodology under the Third Round rules.

the Preservation Area proposed for the 300 townhouse units, making development of the townhouses essentially infeasible. The same restrictions on utility extensions for the Preservation Area were incorporated into the RMP to restrict new development on land designated as Protection Zone, Conservation Zone, or Conservation Environmentally Constrained Subzone in the Planning Area where there is no existing infrastructure. Haberman's entire property is designated under the RMP's land use capability mapping as Protection Zone, Conservation Zone and Conservation Environmentally Constrained Subzone. Since Hampton Borough seeks to conform its local master plan and zoning ordinances to the RMP for the entire municipality, the ability of this project to secure the necessary state and local approvals for construction of a new public water system and public wastewater system necessary to support the proposed 300-unit project is virtually impossible. The lack of water and sewer infrastructure to support development of high density housing is essential to COAH's consideration of the Haberman Site, and failure to demonstrate any potential for such infrastructure renders a project unsuitable within the meaning of COAH's regulations. See In re Petition for Substantive Cert. of Southampton Township, supra, 338 N.J. Super. at 114.

Moreover, the Planning Area does not have the water or sewer capacity to support the proposed project. The original terms of the Settlement Agreement indicated that the water supply system would require improvements to support the 300 unit development, including construction of a "loop" of the water lines in the vicinity of the Haberman Property and the upgrading, improvement or replacement of water storage, pumping and transmission facilities throughout the water system. Haberman also agreed to construct an on-site wastewater treatment facility. The Settlement Agreement clearly indicates the lack of necessary water and sewer capacity at the site. Moreover, at no time has the Haberman Property, including that portion in the Planning Area, been part of an approved areawide Water Quality Management Plan or amendment to the wastewater management plan submitted to NJDEP. The Upper Delaware Water Quality Management Plan does not designate the site as a sewer service area, which is a requirement for any NJDEP permit (e.g., NJPDES, Treatment Works Approval) under the Water Quality Planning Act and N.J.A.C. 7:15, the Water Quality Management Planning Rules. The Planning Area site therefore does not have the mandatory water or sewer capacity to make the site "suitable." See N.J.A.C. 5:97-1.4 (definitions of "sewer capacity" and "water capacity").

Second, the Planning Area site is located in the Rural Environmentally Sensitive Planning Area, or PA4B, under the State Plan. The state-wide planning policies of the State Plan guide high density development out of PA4B given the prevalence of natural and agricultural resources in that area. Development of Haberman's 300 residential units in an area where there is no existing infrastructure, there is no approved water quality management plan, and there are significant natural and agricultural resources located on and adjacent to the Property (as more fully discussed below in our consistency review) is inconsistent with the goals, policies and objectives of the State Plan, and thus, Hampton's Fair Share Plan would be inconsistent with the State Plan if it identified the Planning Area site as an affordable housing site.

Finally, the Planning Area site has significant Highlands RMP consistency issues that will severely constrain development of the site, and therefore inclusion of the Haberman project in the Borough's Housing Element and Fair Share Plan is not appropriate. Hampton has chosen to conform the master plan and development regulations with the RMP for the entire municipality. Thus, the resource protection standards of the RMP apply to Haberman's entire Property. Staff of the

Highlands Council therefore performed a consistency review of the project, as proposed in the expert report as part of Haberman's Objection. A description of the Planning Area site and summary of our findings based on the most up to date scientific data and RMP capability maps are as follows:

- Block 23, Lot 1 (Planning Area – 77 acres) and Block 24, Lot 2 (Preservation Area – 63 acres)
- The original settlement agreement for the Haberman project is 300 market rate units to be built on Block 24, Lot 2 (Preservation Area) and associated commercial development to accommodate accessory uses, including recreation, utilities and sewerage treatment facilities to be built anywhere on the Property.
- The objection as submitted to COAH proposes the development of the 300 market rate units on Block 23, Lot 1, the 77 acre Planning portion of the property.
- Block 23, Lot 1 is designated under the RMP as Protection Zone, Conservation Zone and Conservation Environmentally Constrained Subzone (primarily the Conservation Zone – Environmentally Constrained Subzone), all of which constrain the creation or expansion of public water and wastewater systems;
- The proposed provision of water supply to the site is unclear. No information is supplied on the method of supplying water to 300 units. The RMP restricts the extension of public water supply to areas of the Planning Area designated as Protection and Conservation Zone.
- The Project density is far too high for the use of septic systems. Therefore, the project is proposed to be serviced by an on-site wastewater treatment system. The expansion of public water and waste water systems in the Protection Zone and Conservation Zone – Environmentally Constrained Subzone is prohibited by the RMP unless the development can meet the standards for cluster development which includes an 80% open space set aside. The current proposal does not meet this standard, and it is unclear how this standard could be met given the level of development proposed for the site. The project yield (in units) is based on the septic system yield for all lands that are part of the project within the Planning Area.
- The septic density limits for the Conservation Zone – Environmentally Constrained Subzone for the HUC14 in which the proposed project is located is 10 acres per unit. The septic system yield for Block 23, Lot 1 is 7 units. The proposal exceeds the maximum permitted septic density by 293 units.
- The site is not located in an approved sewer service area (based on the NJDEP iMap data), despite the 1988 date of the Settlement Agreement. Such a designation is a requirement for NJDEP approval of the project;
- No local or state regulatory approvals have been issued in order to commence construction;
- Contains forest in Forest Resource Area, which is subject to stringent limitations. Most of these forested areas are within the Highlands Open Water Buffers, which have even more stringent requirements;
- Significant area of undisturbed Highlands Open Waters Buffers, which under the RMP may not be disturbed. Existing agricultural uses are specifically not considered “disturbance” by the RMP;
- Small areas of Prime Ground Water Recharge Area, which under the RMP may not be disturbed;

- Significant Area of Critical Wildlife Habitat, which under the RMP may not be disturbed (Habitat for the red-headed woodpecker listed on New Jersey's threatened species list);
- Agricultural Resource Area with soils that are highly suitable for agricultural use, which triggers RMP requirements for cluster development of residential projects;
- Carbonate Rock Area for entire Property, which requires investigation but is not necessarily a bar to development;
- Federally-designated Musconetcong River as Wild and Scenic River that runs along property line of Block 23, Lot 1, which requires notification of the National Park Service for review; and
- Current Water Deficit Area (See Significant RMP Goals, Policies and Objectives #8 and Executive Order 114 - Requirements Related to Water Deficit Projects in the addendum)

Given the considerable disturbance that will be required due to the density of the Haberman project, significant impacts will occur to the Highlands natural and agricultural resources present on and around the site. Additionally, expansion of public water and wastewater systems in the Conservation Zone of the Planning Area is limited only to those developments that meet the cluster development criteria established by the RMP. No evidence is presented in the Objection that such standards could be met given the size of the site, the constraints involved and the development levels proposed. Therefore, major development of the site would be inconsistent with the Highlands Act directly, as well as with the goals, policies and objectives of the RMP.³

Haberman suggests in the Objection that the site was included in the Conservation Zone in error, or that a Map Adjustment could be recommended by the Borough of Hampton. In other words, Haberman challenges the RMP itself. Hampton has not applied for a Map Adjustment regarding the Haberman property on the basis of satisfaction of fair share obligations, nor does it seem necessary since its Third Round Fair Share Plan proposes mechanisms to fully satisfy the obligation. Moreover, the Haberman site clearly lacks the features of the Existing Community Zone, and is typical of the Conservation Zone. The RMP designation of this site is completely consistent with the land use policies underlying the Conservation Zone. However, even if the Existing Community Zone did apply to the site, requirements regarding Highlands Open Waters, Prime Ground Water Recharge Areas, Forests in Forest Areas, etc., would apply and result in significant limitations for this site.

Based on the foregoing, we request that the Objection be found invalid, and rejected for purposes of mediation since the parties would never be able to reach an agreement on inclusion of the Haberman site in the Third Round Fair Share Plan as a matter of law. Given the lack of existing infrastructure and carrying capacity and the prevalence of significant environmental and agricultural resources on and around the Property, the Haberman site is unable to create a realistic opportunity for Hampton's fair share plan.

³ The significant RMP goals, policies and objectives implicated as a result of the designation of the area as Conservation Zone and Protection Zone, the existing environmental and agricultural resources, and lack of water and wastewater treatment infrastructure are summarized in the attached addendum.

Thank you for your consideration of this response to the Objection. Should you have questions or concerns regarding this matter, please contact Thomas A. Borden, Deputy Executive Director and Chief Counsel, at tom.borden@highlands.state.nj.us or at (908) 879-6737, ext. 103.

Yours sincerely,



Eileen Swan
Executive Director

c: Guilet D. Hirsch, Esq.
Richard Cushing, Esq.

Addendum

ADDENDUM

Significant RMP Goals, Policies and Objectives Hampton Borough

1. Forest in Forest Resource Area and Planning Area Forest in Protection or Conservation Zone
 - a. **Policy 1B2:** To limit through local development review and Highlands Project Review human development of forests to low impact residential development in the Protection Zone.
 - b. **Objective 1A2d:** To prohibit through Plan Conformance, local development review and Highlands Project Review the expansion or creation of public water supply systems or public wastewater collection and treatment systems or community-based on-site wastewater facilities into forested areas of the Forest Resource Area within the Planning Area except as provided for in Policy 2J4 with Objectives 2J4a through 2J4d, and Policy 2K3 with Objectives 2K3a through 2K3e, and within the Preservation Area except as provided for in Policy 2I1 and Objectives 2I1a and 2I1b.
2. Highlands Open Waters Protection Buffers in Conservation or Protection Zone in Planning Area
 - a. **Objective 1D5c:** Prohibit modifications to Riparian Areas in the Protection Zone except where a waiver is approved by the NJDEP or the Highlands Council under Policy 7G1 or 7G2.
3. Highlands Open Water Buffers in the Preservation Area
 - a. **Objective 1D4b:** Preservation Area buffers for Highlands Open Waters shall comply with the Highlands Preservation Area rules at N.J.A.C. 7:38, which provide that all major Highlands developments are prohibited within Highlands Open Waters and its adjacent 300 foot buffer in the Preservation Area except for linear development, which may be permitted provided that there is no feasible alternative for the linear development outside Highlands Open Waters or its buffer. Structures or other land improvements existing within Highlands Open Waters buffer in the Preservation Area on August 10, 2004 may remain, provided that the area of disturbance is not increased other than through a HPAA. For purposes of this Objective when considering land for conversion to non-agricultural land uses, historic or current agricultural land uses shall not be considered land improvements, development, land disturbances, or land uses.
4. Critical Wildlife Habitat
 - a. **Policy 1A2:** To limit human development in the Forest Resource Area in the Preservation Area in order to protect and enhance forest resources, forest ecosystem integrity, Critical Habitat, and the quantity and quality of water resources.
 - b. **Policy 1F2:** To prohibit through Plan Conformance, local development review and Highlands Project Review the direct impact of new human development or expansion or increased intensity of existing development within Critical Habitat.

5. Critical Wildlife Habitat in the Preservation Area
 - a. **Policy 1F7:** To require through local development review and Highlands Project Review that projects qualifying as major Highlands Developments, affecting or potentially affecting Critical Habitat in the Preservation Area, comply with the NJDEP Preservation Area Rules at N.J.A.C. 7:38-3.11 and with the minimum standards and criteria outlined in the Critical Habitat Conservation and Management Plan. All projects in the Preservation Area that are not major Highlands Developments shall comply with Policies 1F1 through 1F6.
6. Protection Zone
 - a. **Policy 6C1:** To limit new human development in the Protection Zone to redevelopment, exempt activities, and environmentally-compatible low density new land uses, in accordance with RMP resource protection needs and water quality and quantity capacity constraints and to ensure that the impacts of development using exemptions under the Highlands Act (see Policy 7F1) are considered in regional protection measures.
7. Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-zones of the Planning Area
 - a. **Policy 2J4:** To minimize, through Plan Conformance, local development review and Highlands Project Review, the creation or extension of public water supply systems within the Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-zones of the Planning Area, and to allow for the creation or extension of public water supply systems where appropriate within the Existing Community Zone
8. Current Deficit Area (water availability)
 - a. **Policy 2B6:** To require through Plan Conformance (including through a Water Use and Conservation Plan developed under Objective 2B8c), local development review, Highlands Project Review, and interagency coordination that proposed public water supply and wastewater service areas, new or increased water allocations and bulk water purchases will not directly or indirectly cause or contribute to a Net Water Availability deficit, and where feasible will help mitigate any existing deficit.
 - b. **Objective 2B6a:** Areawide Water Quality Management Plans, Wastewater Management Plans or their amendments shall ensure that the proposed service area will not directly or indirectly cause or contribute to a Net Water Availability deficit, and shall be in conformance with any Water Use and Conservation Plan developed under Objective 2B8c.
 - c. **Policy 2B8:** To require through Plan Conformance, local development review, and Highlands Project Review the efficient and effective use of water availability, the planning for future water needs, the reduction and elimination of water deficits, and the mitigation of new consumptive or depletive use in any Current Deficit Areas or subwatersheds that could become deficit areas based on projected development and

water uses, to ensure sustainable water supply, water resource and ecological values in conformance with RMP policies and objectives.

- d. **Objective 2B8a:** Prevent net increases in consumptive or depletive water uses in Current Water Deficit Areas to prevent exacerbation of and help reduce or eliminate the deficit to ensure sustainable water supply, water resource and ecological values, emphasizing techniques including, but not limited to water reuse, recycling and conservation.
- e. **Objective 2B8b:** Proposed new consumptive or depletive water uses within a Current Deficit Area shall only occur under the auspices of a Water Use and Conservation Management Plan approved under Objective 2B8c or through mitigation of the proposed consumptive or depletive use within the same HUC14 subwatershed through: a permanent reduction of existing consumptive and depletive water uses; ground water recharge in excess of the requirements of N.J.A.C. 7:8 (Stormwater Management Rules); or other permanent means. Where a Water Use and Conservation Management Plan has not been approved: 1. Each project shall achieve mitigation ranging from 125% to 200%, based on the severity of the Current Deficit and the amount of consumptive or depletive water use proposed; 2. Total consumptive and depletive water uses from any single project and all projects combined are not to exceed the Conditional Water Availability of Objectives 2B3a or 2B3b for any HUC14 subwatershed; 3. Mitigation shall be successfully completed prior to initiation of the water use, except as required by #4, below. Mitigation may be phased in keeping with project development; 4. For water uses where the combination of proposed consumptive and depletive water uses and current subwatershed deficit is high, according to a schedule established by the Highlands Council, off-site mitigation shall be successfully completed prior to any on-site construction. On-site mitigation shall be successfully completed prior to initiation of the water use but may be implemented concurrent with on-site construction. Mitigation may be phased in keeping with the level of consumptive or depletive water uses; and Mitigation plans for a project shall include: specific objectives for each mitigation component; monitoring and reporting requirements; methods by which shortfalls in meeting the mitigation objectives shall be addressed through additional action; and be guaranteed through performance bonds.
- f. **Objective 2B8c:** Water Use and Conservation Management Plans shall be required through municipal Plan Conformance for all subwatersheds to meet the policies and objectives of Goal 2B, to ensure efficient use of water through water conservation and Low Impact Development Best Management Practices, and to avoid the creation of new deficits in Net Water Availability. Where developed for Current Deficit Areas, the plans shall include provisions to reduce or manage consumptive and depletive uses of ground and surface waters as necessary to reduce or eliminate deficits in Net Water Availability, or to ensure continued stream flows to downstream Current Deficit Areas from Existing Constrained Areas, to the

maximum extent practicable within each HUC14 subwatershed. Water Use and Conservation Management Plans shall demonstrate through a detailed implementation plan and schedule how and when the current deficit will be resolved in a subwatershed prior to approval for new water uses in the subwatersheds with the most severe deficits (i.e., in excess of 0.25 million gallons per day), and the plan shall be implemented prior to initiation of new water uses.

- g. **Objective 2B8d:** All water users within a Current Deficit Area shall seek funding and opportunities to meet the intent of Objective 2B4b.
 - h. **Objective 2J2a:** Limit future water system demand and reduce existing demand where feasible by water systems that are dependent on Current Deficit Areas or Existing Constrained Areas as a source of water.
9. Preservation Area
- a. **Policy 2I1:** To prohibit the expansion or creation of public water supply systems, public wastewater collection and treatment systems and community on-site treatment facilities in the Preservation Area unless approved through a Highlands Applicability Determination (HAD) or a HPAA with waiver pursuant to N.J.A.C. 7:38 and Policy 7G1.
10. Riparian Area
- a. **Objective 1D5b:** Limit disturbance of existing natural vegetation or increases in impervious area within High and Moderate Integrity Riparian Areas in any Land Use Capability Zone to the minimum alteration feasible in areas beyond Highlands Open Waters buffer requirements; protect the water quality of adjacent Highlands Open Waters; and maintain or restore habitat value of the Riparian Area.
 - b. **Objective 2I1b:** The expansion or creation of public water supply systems, public wastewater collection and treatment systems and community on-site treatment facilities in the Preservation Area as approved through a HPAA with waiver pursuant to N.J.A.C. 7:38 and Policy 7G1 shall maximize the protection of sensitive environmental resources including avoidance of Highlands Open Waters buffer areas, Riparian Areas, the forested portion of the Forest Resource Area, agricultural lands of Agricultural Resource Areas, Steep Slopes, Prime Ground Water Recharge Areas, and Critical Habitat.
 - c. **Objective 2J4a:** Prohibit new, expanded or extended public water systems within the Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-zones of the Planning Area unless they are shown to be necessary for and are approved by the Highlands Council for one or more of the purposes listed below. For approvals regarding parts 1, 2, and 3, the project must maximize the protection of sensitive environmental resources such as Highlands Open Waters buffer areas, Riparian Areas, the forested portion of the Forest Resource Area, agricultural lands of Agricultural Resource Areas, Steep Slopes, Prime Ground Water Recharge Areas and Critical Habitat. For approvals regarding part 3, the project must avoid disturbance of Highlands Open Waters buffer areas, Riparian Areas, Steep Slopes

and Critical Habitat, and must minimize disturbance of the forested portion of the Forest Resource Area, agricultural lands of Agricultural Resource Areas, and Prime Ground Water Recharge Areas. The extension or creation of systems shall follow the requirements in Objective 2J4b (parts 2 and 3). The applicable purposes are: 1. To address through a waiver under Policy 7G1 or 7G2 a documented existing or imminent threat to public health and safety from contaminated domestic and other on-site water supplies that is of sufficient scale to justify a public water supply and where no alternative is feasible that would sufficiently assure long-term protection of public health and safety. Such needs shall have highest priority for allocation of existing system capacity; 2. To address development permitted through a Highlands Redevelopment Area or takings waiver under Policy 7G1 or 7G2; or 3. To serve a cluster development that meets all requirements of Objective 2J4b.

- d. **Objective 2K3c:** Prohibit new, expanded or extended public wastewater collection and treatment systems and community on-site treatment facilities within the Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-zones of the Planning Area unless they are shown to be necessary for and are approved by the Highlands Council for one or more of the purposes listed below. For approvals regarding parts 1, 2, and 3, the project must maximize the protection of sensitive environmental resources such as Highlands Open Waters buffer areas, Riparian Areas, the forested portion of the Forest Resource Area, agricultural lands of Agricultural Resource Areas, Steep Slopes, Prime Ground Water Recharge Areas and Critical Habitat. For approvals regarding part 3, the project must avoid disturbance of Highlands Open Waters buffer areas, Riparian Areas, Steep Slopes and Critical Habitat, and must minimize disturbance of the forested portion of the Forest Resource Area, agricultural lands of Agricultural Resource Areas, and Prime Ground Water Recharge Areas. The choice of extension or creation of systems shall follow the requirements in Objective 2K3d (2 and 3). The applicable purposes are: 1. To address through a waiver under Policy 7G1 or 7G2 a documented existing or imminent threat to public health and safety from a pattern of failing septic systems (where the failing systems cannot reasonably be addressed through rehabilitation or replacement) or highly concentrated septic systems, where the threat is of sufficient scale to justify a public wastewater collection and treatment system or community on-site treatment facility and where no alternative is feasible that would sufficiently assure long-term protection of public health and safety. To address other issues of public health and safety, such needs shall have highest priority for allocation of existing system capacity; 2. To address development permitted through a Highlands Redevelopment Area or takings waiver under Policy 7G1 or 7G2; or 3. To serve a cluster development that meets all requirements of Objective 2K3d.

11. Agricultural Resource Area

- a. **Policy 3A5:** Where it is not feasible to preserve agricultural lands within the ARA by such methods as fee simple acquisition, easement acquisition, or a TDR Program,

require mandatory clustering through Municipal Plan Conformance, local development review and Highlands Project Review for residential development in an ARA. Cluster development within the Planning Area that incorporates public or community on-site wastewater utilities shall meet the requirements of Policy 2J4 with Objectives 2J4a through 2J4d, and Policy 2K3 with Objectives 2K3a through 2K3e, and within the Preservation Area shall meet the requirements of Policy 2I1 and Objectives 2I1a and 2I1b, and where reliant on septic systems shall meet the requirements of Objective 6I1a.

12. Carbonate Rock

- a. **Policy 1K2:** To identify and delineate through local development review and Highlands Project Review land areas that drain surface water into the Carbonate Rock Area, as changes in the quantity, quality and rate of discharge of surface water runoff from upslope lands can impair ground water resources in the Carbonate Rock Area.
- b. **Policy 1K4:** To ensure through Plan Conformance that municipalities in, or within subwatersheds draining directly to, the Carbonate Rock Area protect public health and safety and the quality of ground waters from inappropriate land uses and pollutant discharges.
- c. **Objective 1K4b:** Applications for site plan or subdivision approval will include a multi-phased geotechnical site investigation (e.g., test borings, test pits) to locate any potential karst features and potential hazards to public health and safety, structures and ground water quality.
- d. **Objective 1K4c:** Local development reviews and Highlands Project Reviews and requirements shall ensure that all potential hazards to public health and safety, structures and ground water quality, including but not limited to concentrated surface water flows that dissolve carbonate rock, are fully addressed and mitigated in the construction plans and subsequent approval process, with the maximum emphasis on nonstructural measures, including, but not limited to, avoidance of modifications to the karst features.
- e. **Objective 1K4d:** Public works projects, including but not limited to water supply, sewerage, stormwater and transportation facilities, shall be constructed and maintained such that the potential for damage from karst features and the contamination of ground water are avoided.
- f. **Objective 1K4e:** Highlands Project Reviews and requirements and local development reviews (where applicable) shall prohibit new land uses and facilities that constitute unacceptable risks of discharge due to karst topography where karst features have been identified, including but not limited to: Underground storage tanks; Solid waste landfills; Hazardous waste storage and disposal; and Hazardous materials storage and handling.

13. Prime Ground Water Recharge Area

- a. **Objective 2D4e:** Prohibit through Plan Conformance, local development review and Highlands Project Review the expansion or creation of public water supply systems or public wastewater collection and treatment systems or community-based on-site wastewater facilities into a Prime Ground Water Recharge Area within the Protection or Conservation Zone within the Planning Area except as provided for in Policy 2J4 with Objectives 2J4a through 2J4d, and Policy 2K3 with Objectives 2K3a through 2K3e, and within the Preservation Area except as provided for in Policy 2I1 and Objectives 2I1a and 2I1b.
- b. **Objective 2J4a:** Prohibit new, expanded or extended public water systems within the Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-zones of the Planning Area unless they are shown to be necessary for and are approved by the Highlands Council for one or more of the purposes listed below. For approvals regarding parts 1, 2, and 3, the project must maximize the protection of sensitive environmental resources such as Highlands Open Waters buffer areas, Riparian Areas, the forested portion of the Forest Resource Area, agricultural lands of Agricultural Resource Areas, Steep Slopes, Prime Ground Water Recharge Areas and Critical Habitat. For approvals regarding part 3, the project must avoid disturbance of Highlands Open Waters buffer areas, Riparian Areas, Steep Slopes and Critical Habitat, and must minimize disturbance of the forested portion of the Forest Resource Area, agricultural lands of Agricultural Resource Areas, and Prime Ground Water Recharge Areas. The extension or creation of systems shall follow the requirements in Objective 2J4b (parts 2 and 3). The applicable purposes are: 1. To address through a waiver under Policy 7G1 or 7G2 a documented existing or imminent threat to public health and safety from contaminated domestic and other on-site water supplies that is of sufficient scale to justify a public water supply and where no alternative is feasible that would sufficiently assure long-term protection of public health and safety. Such needs shall have highest priority for allocation of existing system capacity; 2. To address development permitted through a Highlands Redevelopment Area or takings waiver under Policy 7G1 or 7G2; or 3. To serve a cluster development that meets all requirements of Objective 2J4b.
- c. **Objective 2K3c:** Prohibit new, expanded or extended public wastewater collection and treatment systems and community on-site treatment facilities within the Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-zones of the Planning Area unless they are shown to be necessary for and are approved by the Highlands Council for one or more of the purposes listed below. For approvals regarding parts 1, 2, and 3, the project must maximize the protection of sensitive environmental resources such as Highlands Open Waters buffer areas, Riparian Areas, the forested portion of the Forest Resource Area, agricultural lands of Agricultural Resource Areas, Steep Slopes, Prime Ground Water Recharge Areas and Critical Habitat. For approvals regarding part 3, the project must avoid disturbance of Highlands Open Waters buffer areas, Riparian Areas, Steep Slopes

and Critical Habitat, and must minimize disturbance of the forested portion of the Forest Resource Area, agricultural lands of Agricultural Resource Areas, and Prime Ground Water Recharge Areas. The choice of extension or creation of systems shall follow the requirements in Objective 2K3d (2 and 3). The applicable purposes are: 1. To address through a waiver under Policy 7G1 or 7G2 a documented existing or imminent threat to public health and safety from a pattern of failing septic systems (where the failing systems cannot reasonably be addressed through rehabilitation or replacement) or highly concentrated septic systems, where the threat is of sufficient scale to justify a public wastewater collection and treatment system or community on-site treatment facility and where no alternative is feasible that would sufficiently assure long-term protection of public health and safety. To address other issues of public health and safety, such needs shall have highest priority for allocation of existing system capacity; 2. To address development permitted through a Highlands Redevelopment Area or takings waiver under Policy 7G1 or 7G2; or 3. To serve a cluster development that meets all requirements of Objective 2K3d.

14. Conservation Zone

- a. **Objective 2B4d:** The highest priority for agricultural water uses in the Conservation Zone shall be those Preservation Area uses that promote agricultural and horticultural uses and opportunities that are compatible with protection of the Highlands environment, and those Planning Area uses that promote the continuation and expansion of agricultural, horticultural, recreational, and cultural uses and opportunities. Compatible agricultural and horticultural uses shall minimize consumptive water uses through efficiency measures.
- b. **Policy 6D3:** To limit through Plan Conformance, local development review and Highlands Project Review the use and development of lands within the Conservation Zone to agriculture use and development, including ancillary and support uses, redevelopment of existing developed areas, and environmentally-compatible low density land uses that are to the maximum extent possible achieved in compact development patterns, to be designed and developed in a manner which is compatible with the long term use of adjacent land for agricultural purposes.
- c. **Objective 6D3b:** Centers in the Conservation Zone, potentially including clustered development, shall be at densities appropriate to the Zone, the community character, the State Development and Redevelopment Plan, and the use of septic systems or community wastewater systems.

15. Protection Zone or Conservation Zone or Environmentally Constrained Sub-Zones in Planning Area

- a. **Objective 2J4a:** Prohibit new, expanded or extended public water systems within the Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-zones of the Planning Area unless they are shown to be necessary for and are approved by the Highlands Council for one or more of the purposes listed below. For approvals regarding parts 1, 2, and 3, the project must maximize the protection

of sensitive environmental resources such as Highlands Open Waters buffer areas, Riparian Areas, the forested portion of the Forest Resource Area, agricultural lands of Agricultural Resource Areas, Steep Slopes, Prime Ground Water Recharge Areas and Critical Habitat. For approvals regarding part 3, the project must avoid disturbance of Highlands Open Waters buffer areas, Riparian Areas, Steep Slopes and Critical Habitat, and must minimize disturbance of the forested portion of the Forest Resource Area, agricultural lands of Agricultural Resource Areas, and Prime Ground Water Recharge Areas. The extension or creation of systems shall follow the requirements in Objective 2J4b (parts 2 and 3). The applicable purposes are: 1. To address through a waiver under Policy 7G1 or 7G2 a documented existing or imminent threat to public health and safety from contaminated domestic and other on-site water supplies that is of sufficient scale to justify a public water supply and where no alternative is feasible that would sufficiently assure long-term protection of public health and safety. Such needs shall have Highest priority for allocation of existing system capacity; 2. To address development permitted through a Highlands Redevelopment Area or takings waiver under Policy 7G1 or 7G2; or 3. To serve a cluster development that meets all requirements of Objective 2J4b.

- b. **Objective 2J4b:** Clustered development served by public water supply within the Protection Zone, the Conservation Zone, and the Environmentally-Constrained Sub-zones of the Planning Area shall be approved only if the following conditions are met: 1. The development impacts are otherwise consistent with the requirements of the RMP, including provisions for mandatory clustering in Agricultural Resource Areas pursuant to Policy 3A5; 2. Extension of an existing public water system will occur only where the cluster development is within or immediately adjacent to an Existing Area Served with available capacity; 3. Creation of a new public water system will occur only where such development is not within or immediately adjacent to an Existing Area Served with available capacity; 4. The clustered development preserves at least 80% of the cluster project area in perpetuity for environmental protection or agricultural purposes. To the maximum extent feasible the developed portion (i.e., not including wetlands, Highlands Open Waters buffers, and recreational lands) occupies no more than 10% of the cluster project area if served by a public or community on-site wastewater system; and 5. Where the preserved land in the cluster project area is dedicated to agricultural purposes, the cluster development ordinance and an Agriculture Retention/Farmland Preservation Plan supports continued agricultural viability of the agricultural land and requires the implementation of best management practices, including development and implementation of a Farm Conservation Plan that addresses the protection of water and soil resources prepared by the USDA Natural Resources Conservation Service (NRCS), Technical Service Provider (TSP), appropriate agent or NJDA staff, and approved by the local Soil Conservation District (SCD).

- c. **Objective 2J4d:** All development within the Highlands Region, in areas that are not served by public water systems, shall be at a density that can be supported by on-site wells. Where cluster development in the Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-zones of the Planning Area will be served by on-site wells, and the undeveloped land is preserved for agricultural purposes in perpetuity, the cluster development in combination with the Agriculture Retention/Farmland Preservation Plan required by Objective 2J4b shall provide for best management practices that protect the on-site wells from contamination resulting from agricultural practices and shall include provisions to minimize or reduce net pollutant loadings from the total cluster project area including the preserved agricultural lands.
- d. **Objective 2K3c:** Prohibit new, expanded or extended public wastewater collection and treatment systems and community on-site treatment facilities within the Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-zones of the Planning Area unless they are shown to be necessary for and are approved by the Highlands Council for one or more of the purposes listed below. For approvals regarding parts 1, 2, and 3, the project must maximize the protection of sensitive environmental resources such as Highlands Open Waters buffer areas, Riparian Areas, the forested portion of the Forest Resource Area, agricultural lands of Agricultural Resource Areas, Steep Slopes, Prime Ground Water Recharge Areas and Critical Habitat. For approvals regarding part 3, the project must avoid disturbance of Highlands Open Waters buffer areas, Riparian Areas, Steep Slopes and Critical Habitat, and must minimize disturbance of the forested portion of the Forest Resource Area, agricultural lands of Agricultural Resource Areas, and Prime Ground Water Recharge Areas. The choice of extension or creation of systems shall follow the requirements in Objective 2K3d (2 and 3). The applicable purposes are: 1. To address through a waiver under Policy 7G1 or 7G2 a documented existing or imminent threat to public health and safety from a pattern of failing septic systems (where the failing systems cannot reasonably be addressed through rehabilitation or replacement) or highly concentrated septic systems, where the threat is of sufficient scale to justify a public wastewater collection and treatment system or community on-site treatment facility and where no alternative is feasible that would sufficiently assure long-term protection of public health and safety. To address other issues of public health and safety, such needs shall have highest priority for allocation of existing system capacity; 2. To address development permitted through a Highlands Redevelopment Area or takings waiver under Policy 7G1 or 7G2; or 3. To serve a cluster development that meets all requirements of Objective 2K3d.
- e. **Objective 2K3d:** Clustered development served by a public wastewater collection and treatment system or community on-site treatment facility within the Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-zones of the Planning Area shall be approved only if the following conditions are met: 1. The

development impacts are otherwise consistent with the requirements of the RMP, including provisions for mandatory clustering in Agricultural Resource Areas; 2. Extension of an existing public wastewater collection and treatment system will occur only where the cluster development is within or immediately adjacent to an Existing Area Served with available capacity; 3. Creation of a community on-site treatment facility will occur only where such development is not within or immediately adjacent to an Existing Area Served with available capacity, where the proposed system is designed, permitted, and constructed at a capacity limited to the needs of the clustered development, and where the system does not create the potential for future expansion into areas that are not the subject of cluster developments immediately adjacent to the initial cluster served; 4. The cluster development preserves at least 80% of the cluster project area in perpetuity for environmental protection or agriculture purposes. To the maximum extent feasible the developed portion of the project area (e.g., not including wetlands, Highlands Open Waters buffers, and recreational lands) occupies no more than 10% of the cluster project area if served by a public or community on-site wastewater system; and 5. Where the preserved land in the cluster project area is dedicated to agricultural purposes, the cluster development ordinance and an Agriculture Retention/Farmland Preservation Plan supports continued agricultural viability of the agricultural land and requires the implementation of best management practices, including development and implementation of a Farm Conservation Plan that addresses the protection of water and soil resources prepared by the USDA Natural Resources Conservation Service (NRCS), Technical Service Provider (TSP), appropriate agent or NJDA staff, and approved by the local Soil Conservation District (SCD).

- f. **Objective 2K3f:** All development within the Highlands Region, in areas which are not served by public wastewater collection and treatment system or community on-site treatment facility, shall be at a density that can be supported by septic systems under Goal 2L. Where cluster development in the Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-Zones of the Planning Area shall be served by on-site wells, and the undeveloped land is preserved for agricultural purposes in perpetuity, the cluster development and the Agriculture Retention/Farmland Preservation Plan required by Objective 2K3d in combination shall include provisions for best management practices that protect the on-site wells from contamination resulting from agricultural practices and shall include provisions to minimize or reduce net pollutant loadings from the total cluster project area including the preserved agricultural lands.
- g. **Objective 6H1b:** Prevent the extension or creation of water and wastewater utility services in the Protection Zone, Conservation Zone and Environmentally Constrained Sub-Zones of the Planning Area, unless they meet the requirements of Policy 2J4 with Objectives 2J4a through 2J4d, and Policy 2K3 with Objectives 2K3a

through 2K3e, and will maximize the protection of agricultural and environmentally sensitive resources.

Executive Order 114 - Requirements Related to Water Deficit Projects:

No. 9: The DEP shall take appropriate action to ensure that no water allocation permit is issued for any development project located in the Protection Zone, the Conservation Zone, or the Environmentally-Constrained Sub-Zones, as delineated in the Highlands Plan, within a HUC14 subwatershed that is in, or anticipated to be in, a deficit of net water availability, as identified by the Highlands Plan, until such time that a Municipal Water Use and Conservation Management Plan, consistent with the policies in the Highlands Plan, has been approved by the Highlands Council and has been fully implemented.

No. 10: The DEP shall take appropriate action to ensure that no approval is given to any portion of a Water Quality Management Plan amendment in the Protection Zone, the Conservation Zone, or the Environmentally-Constrained Sub-Zones, as delineated in the Highlands Plan, within a HUC14 subwatershed that is in, or anticipated to be in, a deficit of net water availability, as identified by the Highlands Plan, unless the approval is conditioned on a Municipal Water Use and Conservation Management Plan, consistent with the policies in the Highlands Plan, having been approved by the Highlands Council and having been fully implemented.