

RESOLUTION NO. 142-2009

TOWNSHIP OF TEWKSBURY
SUBMISSION OF PETITION FOR PLAN CONFORMANCE
TO THE HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
FOR LAND IN THE PRESERVATION AREA

WHEREAS, the Highlands Water Protection and Planning Act (Highlands Act), N.J.S.A. 13:20-1 et seq., finds and declares that protection of the New Jersey Highlands is an issue of State level importance because of its vital link to the future of the State's drinking water supplies and other significant natural resources; and

WHEREAS, the Highlands Act creates a coordinated land use planning system requiring the Highlands Water Protection and Planning Council (Highlands Council) to prepare and adopt a Regional Master Plan for the Highlands Region; and

WHEREAS, the Highlands Act requires that within nine to 15 months after the effective date of the Regional Master Plan, September 8, 2008, each municipality located wholly or partially in the Preservation Area shall submit revisions to the municipal master plan, development regulations and other regulations, as applicable to the development and use of land in the Preservation Area, as may be necessary to conform them with the goals, requirements and provisions of the Regional Master Plan (Plan Conformance); and

WHEREAS, the Township of Tewksbury is located in the Highlands Region with lands lying within the Preservation Area, as defined by the Highlands Act; and

WHEREAS, the Highlands Council prepared and distributed to the Highlands municipalities Plan Conformance Guidelines outlining the process and procedures for petitioning the Highlands Council for Plan Conformance; and

WHEREAS, the Highlands Council's Plan Conformance Guidelines also require that a Petition for Plan Conformance be filed with the Highlands Council no later than December 8, 2009, which includes a comprehensive package of planning and implementation documents that meet the requirements of the Highlands Act, the Regional Master Plan and the Highlands Plan Conformance Guidelines.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Tewksbury, County of Hunterdon, New Jersey, hereby submits this Petition for Plan Conformance to the Highlands Council for that portion of our jurisdiction lying within the Preservation Area in accordance with the Highlands Act, the Regional Master Plan, and the Highlands Plan Conformance Guidelines; and

BE IT FURTHER RESOLVED that the Township Committee of the Township of Tewksbury wishes to express its concern with regards to issues it feels the New Jersey Legislature and/or the Highlands Council have left unresolved and urges both bodies to reverse, advocate for change and/or amend applicable law as indicated below. These issues include:

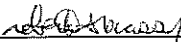
1). The loss of value for landowners in the Preservation Area continues to mount with no source of adequate funding in place to compensate for this loss nor any mechanism developed to calculate this loss; the new regional planning approach and the more stringent environmental regulatory standards should be accompanied, as a matter of wise public policy and fairness to property owners, by a strong and significant commitment by the State of New Jersey to fund the acquisition of these lands;

2). The dual appraisal method for landowners wishing to preserve their land through one of the many State, County and Local preservation programs was allowed to expire; it should be renewed for a minimum of 5 years, retroactive to the June 30 expiration, with any applications submitted during the expired period eligible for the dual appraisal method to determine value;

- 3). The blanket exemption for utilities and industrial uses which allow for the construction of power substations, generating stations and utility structures in the Preservation Area should be revoked unless the utility agrees to construct said stations and equipment on previously designated Brownfield sites so as to encourage reuse of these Brownfield sites rather than continue to destroy land not permitted for industrial or commercial construction;
- 4). The type of septic systems allowed exclude "extraordinary" measures, such as mounded systems, soil replacement systems and the like to overcome depth to groundwater and depth to permeable strata limitations. This, in essence, rules out most septic system construction across the Township of Tewksbury as nearly all will require some type of extraordinary measure. The New Jersey Department of Environmental Protection (NJDEP) should re-address this through NJAC 7:9A to ensure property owners have multiple means of septic construction and re-construction available to them should an existing system fail.
- 5). The northern portion of Tewksbury is within the Agricultural Resource Area (ARA) mapped by the Council. The Land Use Ordinance states that the goal for the ARA is the protection and promotion of sustainable agriculture however the definition of agricultural or horticultural uses appears to be limited to food, forage, and fodder, including animal production. Equestrian uses in a non-production aspect, such as horse boarding and stabling for recreation are not specifically included. Tewksbury has a significant equestrian heritage, which is prominent across the Township. These uses need to be promoted to the fullest extent and the Highlands Council needs to consider these as part of the agricultural and horticultural definition.
- 6). The Township Committee wants to ensure that the Highlands Council position on litigation against a municipality that has conformed to the Highlands process is one of protect and defend the action of the municipality where said action was in compliance and concert with the Highlands Regional Master Plan, as may be amended and any current and future Highlands Council regulations. Should the municipality not prevail on any litigation where it and/or counsel provided by the Highlands Council and/or State of New Jersey, the State of New Jersey fully covers the monetary judgment as awarded, not the taxpayers of the municipality.
- 7). Those areas of the RMP, such as a model septic system maintenance ordinance, that are not yet finalized, shall be subject to review and comment by the Township of Tewksbury prior to consideration of municipal adoption.

CLERK'S CERTIFICATION

THIS IS TO CERTIFY that the above is a true copy of a resolution adopted by the Township Committee of the Township of Tewksbury at a meeting of said Township Committee conducted on December 8, 2009.



Roberta A. Brassard
Municipal Clerk