

**FOR CONSIDERATION AT THE OCTOBER 13, 2011 MEETING OF THE
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance – Final Consistency Review and Recommendations Report**

APPENDIX A

PUBLIC COMMENTS/HIGHLANDS COUNCIL RESPONSES

Petition for Plan Conformance

Borough of Ringwood, Passaic County

Public Comment Period: Aug. 10, 2011 - Aug. 25, 2011

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PUBLIC COMMENTS RECEIVED

Written comments regarding the Borough of Ringwood's Petition for Plan Conformance were accepted by the Highlands Council through the close of the Public Comment period on August 25, 2011. Comments were provided by the following individuals/entities:

1. Ronald Pagano, landowner in Ringwood Borough; and
2. Erica Van Auken, New Jersey Highlands Coalition.

The comments are summarized in the section that follows with Highlands Council responses provided below, for each.

Comments Submitted by Ronald Pagano, owner of Ringwood parcels identified as Block 801 Lots 3, 4 and 4.04 ("subject parcels"). Mr. Pagano submitted several planning documents and plans in support of his comments.

1. **Comment:** Mr. Pagano has developed plans to construct senior community housing on the subject parcels (a project know as Skyline Senior Village). The comment report submitted by Burgis Associates (dated August 25, 2011) on behalf of Mr. Pagano requested a Land Use Capability Zone Map update (from Protection Zone to Existing Community Zone) for his parcel. The report provides a planning analysis in support of that request.

Response: The Highlands Council reviewed the documentation and details provided by Mr. Pagano and his consultants regarding the requested RMP Update for his subject parcel. The Highlands Regional Master Plan (RMP) includes a process for the Highlands Council to verify and approve new, corrected or updated factual information as RMP Updates. The basis for Mr. Pagano's request is outlined in the Burgis Associates report. However, the report does not provide any factual site data that would warrant an RMP Update. It should also be noted that the Borough's Petition for Plan Conformance did not include a request for an RMP Update, although such a request was made to the Borough by Mr. Pagano's attorney in a 2008 letter to the Borough's Planning Board. In the case of the subject parcels, the site contains important Highlands resources used to define the Protection Zone including critical habitat, Prime Ground Water Resource Area, riparian area and forest resources. Additionally, the site is lacking in several key Existing Community Zone features (i.e., does not contain existing development, water utility or wastewater utility infrastructure, and is not within 1 mile of a transit station). Therefore the Highlands Council concludes that the Protection Zone in this area has been mapped properly on the RMP's Land Use Capability Map.

Without providing a factual update, the nature of the analysis and the ultimate conclusions contained in the report suggest that Mr. Pagano's request is more properly deemed a Map Adjustment. There is an important distinction between a request for an RMP Update and a Map Adjustment. As specified in the RMP in Policy 6G1, an RMP Update is based upon the receipt of "new, corrected or updated factual information and verification by the Highlands Council, when and where necessary to improve the accuracy of the RMP." The report does not provide new or updated data factual information to improve the accuracy of the RMP. In some cases an RMP Update will result in a change to the RMP's Land Use Capability Zone Map to reflect development which has been built since the adoption of the RMP. In contrast to the RMP Update which is

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based solely upon factual updates, the RMP includes Policy 6G2 to allow petitions by municipalities for Map Adjustments to the Land Use Capability Zone Map. The Map Adjustment process allows for limited changes to the Land Use Capability Map based on local planning factors where no net loss of resources or resource values will occur. The criteria required for a Map Adjustment is set forth in the RMP. Only the municipality may request that the Highlands Council consider a Map Adjustment, not an individual landowner. The Borough did not make any such request, so no Map Adjustment or RMP Update is appropriate at this time.

In addition, it should be noted that the Highlands Act specifically required that NJDEP limit the approved sewer service area within the Preservation Area to the existing area served, plus any exempt developments. Extensions to the approved Future Sewer Service Area may only be approved by NJDEP in specific instances, such as to address a threat to public health and safety, to serve a redevelopment project within a Highlands Redevelopment Area approved by the Highlands Council, and to avoid a taking of private property. The proposed project does not meet any of the requirements of the Highlands Act for approval of sewer service, whether supplied onsite or offsite, and has not received a Highlands Preservation Area Approval with such waivers. A Map Adjustment, if approved, remains subject to these restrictions.

2. **Comment:** The planning documents submitted by Mr. Pagano consultants present a case advocating for development of the Skyline Senior Village. The comment submittal includes a site plan, aerial photograph, planning reports, and legal correspondence with the Ringwood Planning Board. The documents provide a description of the project, the subject parcels, and surrounding area. The planning report also provides an analysis of the proposed project's consistency with the Borough's Master Plan, the Highlands RMP, and COAH requirements. However, no specific comment in these documents was made regarding Ringwood's Plan Conformance Petition.

Response: The Highlands Council acknowledges the submittals regarding the subject parcels. However, the Highlands Council does not make general consistency determinations on development potential for specific parcels unless they have been identified by the municipality in a Highlands Center, Highlands Redevelopment Area designation, RMP Update, or Map Adjustment. No such requests were made by Ringwood Borough, nor was the site included in its Fair Share Plan, so no consistency determination is warranted at this time. However, the landowner may use the consistency review mapping tool on the Highlands Council website to gain an understanding of how the site would be reviewed.

<http://maps.njhighlands.us/hgis/cons/default.asp>

If the landowner wishes to pursue other avenues for utilization of the subject parcels within Highlands Council jurisdiction (e.g., a Highlands Preservation Area Approval with Redevelopment waiver, which is limited to sites with a minimum of 70% existing impervious surface), then a more definitive review may be appropriate at that time. . However based on a cursory review of the parcels, the site does contain the previously mentioned Highlands resources (hence the Protection Zone designation) and appears to have no areas of existing impervious surfaces. Thus, the parcels would appear to have limited, if any, opportunity for improvement under a redevelopment waiver. The applicant is advised to review the Highlands Council's *Procedures for Highlands Redevelopment Area Designation* for more information.

www.highlands.state.nj.us/njhighlands/implementation/redevelopment_procedures_103008_final.pdf

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Comments Submitted by Erica Van Auken, New Jersey Highlands Coalition.

- 1. Comment:** The Highlands Coalition supports the Borough's petition, particularly the plans to rehabilitate existing sites and the Borough's goal of ecotourism. These aspects of the petition are a smart alternative given the Preservation Area constraints on the Borough.

Response: The Highlands Council acknowledges the comment and supports the Borough's stated goals of redevelopment and ecotourism. These goals are supported by grant funding as identified in the Implementation Plan and Schedule.

- 2. Comment:** The Borough's current zoning for commercial and industrial uses infringe on Highlands resources such open water buffers and forests. Such impacts would be counter to the Borough's goal of ecotourism.

Response: As part of the Plan Conformance process, the Borough will be adopting the Highlands resource protections afforded in the RMP as codified in the Highlands Land Use Ordinance. Any impacts to Highlands resources would be evaluated in that context. Furthermore, as Ringwood is entirely in the Preservation Area, NJDEP Highlands Rules would apply to major Highlands development projects as well.

- 3. Comment:** The Borough's identification of the Peter's Mine Rd. site for inclusion in its Fair Share Plan puts public health at risk due to its proximity to the Ford Motor Co. Superfund site.

Response: The Peter's Mine Rd. site was previously approved by COAH as a prior round site but the Borough has removed it for consideration its Final Fair Share Plan submitted to COAH (now the Department of Community Affairs) in June 2010, due to doubts regarding whether the site could meet the requirements in a Highlands Council consistency review.