

Bloomsbury Borough is entirely within the Highlands preservation area and is conforming to the Highlands Regional Master Plan (RMP). The Highlands Council adopted a Resolution designating the project site as a Highlands redevelopment area on June 15, 2017 (Resolution 2017-7).

An expansion or creation of public wastewater collection systems in the Highlands preservation area is prohibited unless approved through an exemption or a Highlands Preservation Area Approval (HPAA) with waiver from the Department. The Highlands Council reviewed the proposed amendment for consistency with the RMP and issued a letter dated January 3, 2019, conditionally deeming the proposed amendment consistent with the expectation that the HPAA with waiver from the Department, discussed below, would be forthcoming. Additionally, the Highlands Council provided the following conditions as part of their consent: continued monitoring of subsurface conditions of the carbonate bedrock to allow the maximized use of low-impact development for stormwater management and placement of a conservation restriction on the remainder of the undeveloped property.

Pursuant to N.J.A.C. 7:15-4.4(c)1, areas in the Highlands preservation area are eligible for sewer service, as stated at N.J.A.C. 7:38-2.6, if they are approved in accordance with an HPAA with a waiver in accordance with N.J.A.C. 7:38-6. An application for an HPAA with waiver was received by the Department on March 23, 2018 (Permit No. 1003-17-0001.1, SHR 180002). The Department's Division of Land Use Regulation has determined that the project qualifies for an HPAA with waiver under N.J.A.C. 7:38-6.

This notice is to inform the public that a plan amendment has been proposed for the Upper Delaware WQM Plan and the Borough of Bloomsbury and Hunterdon County WMPs. All information related to these plans and the proposed amendment is located at:

New Jersey Department of Environmental Protection Division
of Water Monitoring and Standards
Bureau of Environmental Analysis, Restoration and Standards
PO Box 420, Mail Code 401-041
401 East State Street
Trenton, New Jersey 08625-0420

The Department's file is available for inspection between 9:00 A.M. and 4:00 P.M., Monday through Friday. An appointment to inspect the file may be arranged by calling the Bureau of Environmental Analysis, Restoration and Standards at (609) 633-1441.

In accordance with N.J.A.C. 7:38-11.6(c), a public hearing will be held by the Department on the proposed amendment at which time all interested persons may appear and shall be given an opportunity to be heard. The February 18, 2020 New Jersey Register notice referenced above, the Water Quality Management Planning Program Public Notices webpage, and a Listserv announcement contained reference to a public hearing scheduled to be held at the Bloomsbury Fire Hall, 91 Brunswick Ave, Bloomsbury, NJ 08804 on Friday, March 20, 2020, at 11:00 A.M. to allow for public comment on the proposed amendment. This hearing was not able to take place at that time and has been rescheduled for 1:00 P.M. on Monday, June 5, 2020, at the Bloomsbury Fire Hall, 91 Brunswick Ave, Bloomsbury, NJ 08804, and will end at 4:00 P.M. or the conclusion of all public testimony, whichever comes sooner.

Interested persons may also submit written comments on the proposed amendment to the Department at the address cited above. Comments should reference Program Interest No. 435437, Activity No. AMD180002 and must be submitted within 30 days of the date of the public hearing. A copy of the written comments should also be sent to:

Gregory Ploussas
CPL Partnership, LLC
95 Matawan Road Second Floor
Matawan, New Jersey 07747

Sewer service is not guaranteed by adoption of this amendment since it represents only one part of the permit process and other issues may need to be addressed. Inclusion in the sewer service area resulting from adoption of this amendment does not eliminate the need to obtain all necessary permits, approvals, or certifications required by any Federal, State, county, or municipal review agency with jurisdiction over this project/activity.

CORRECTIONS

(a)

STATE PAROLE BOARD

Notice of Action on Petition for Rulemaking

Petitioner: Ronald Robbins.

Take notice that on January 31, 2020, the State Parole Board (SPB) received a petition for rulemaking from the above captioned petitioner. A notice acknowledging receipt of the petition and summarizing the suggested rule changes to N.J.A.C. 10A:71 was submitted to the Office of Administrative Law for publication in the New Jersey Register. The SPB hereby certifies that the petition was duly considered at its meeting on March 25, 2020, and determined the following:

The petitioner suggests that the SPB consider immaturity and attributes of youth at the time of crime for all criminal acts by all offenders under age 18 and maturity and growth since incarceration as a factor at N.J.A.C. 10A:71-3.11(b). The petitioner referenced Federal and various State case law regarding the courts' acknowledgement that the age of an offender at the time of the offense and the corresponding lack of maturity are matters to be considered at the time of sentencing. The petitioner also referenced parole regulations from other states that were amended to include, in essence, consideration of growth and increased maturity during the course of the inmate's incarceration. In assessing the matter, the SPB is of the belief that the maturity developed by an inmate over the length of incarceration has been a factor taken into consideration by SPB members in the assessment of an inmate for parole release. As the SPB recognizes that this factor is in practice utilized in decision-making in appropriate cases, the SPB agrees with the petitioner that N.J.A.C. 10A:71-3.11(b) be amended to include reference to this factor. The SPB will, therefore, proceed with the initiation of the rulemaking process to amend N.J.A.C. 10A:71-3.11(b) accordingly.

The petitioner suggests that the SPB publish in the annual report, pursuant to N.J.A.C. 10A:71-1.9(a), statistical data (mean, median, mode, range, standard deviation) on: (a) all FETs imposed on inmates, grouped by sentence authority from: (i) pursuant to Title 2A (1948); (ii) pursuant to Title 2C (1979); (iii) pursuant to N.E.R.A. (No Early Release Act) (1997); and from (iv) total number of months of FETs imposed, multiplied by the average yearly cost to the New Jersey Department of Corrections (NJDOC) for these inmates; (b) all FETs imposed on inmates longer than 36 months for all three sentencing groups and total number of months of FETs imposed, multiplied by the average yearly cost to the NJDOC for these inmates; and (c) number of 2nd, 3rd, 4th, 5th FETs, etc., for all three sentencing groups and the total number of months FETs imposed, multiplied by the average yearly cost to the NJDOC for these inmates. The petitioner suggests that the FET decisions of the SPB impact on the NJDOC budget and that the public should be aware of the fiscal cost of the SPB decision-making. The petitioner offers a formula as to the cost relating to the SPB decision-making. The petitioner suggests that FET data will result in less errors (less denials of parole) in the SPB decision-making and result in cost savings. The petitioner suggests that there would be managerial benefits from compiling data. The SPB does not agree that the presentation of the FET data as suggested by petitioner is warranted. The imposition of a FET is based on the individual characteristics of an inmate's case; an assessment of numerous factors; and is not related to sentencing structure as outlined by the petitioner. The SPB has published presumptive eligibility terms and when a FET is imposed the decision is based on the merits of the individual inmate's case and not what the future cost would be to continue the incarceration of the inmate. The SPB does not believe that the publishing of FET data in the format suggested by the petitioner for the purpose of assessing SPB decision-making in relation to fiscal concerns presents a reliable or appropriate basis to assess SPB decision-making. Fiscal impact is not a factor relevant to the decision-making process. As to whether an error in SPB decision-making in a case occurred is a matter for the appropriate judicial body to determine. The SPB determined to deny the suggested rule change.

The petitioner suggests that the SPB provide particularized factors at N.J.A.C. 10A:71-3.14(h) to define the current vague standard of "clearly

inappropriate” for 36 plus month FETs. The petitioner suggests the following language: The SPB shall provide particularized written findings to support a conclusion that a FET of less than 36 months is clearly inappropriate due to lack of satisfactory progress. N.J.A.C. 10A:71-3.21(d)1 and 2. These findings shall not be based on N.J.A.C. 10A:71-3.11(b) factors, but only on findings related to prior record and inmate character as determined by inmate progress reports, disciplinary record, and programming. In the alternative, the petitioner suggests the following language: “clearly inappropriate” shall be demonstrated by findings of three or more of the following factors: minimizing participation or responsibility for offense; lack of insight into root causes of antisocial behaviors; two or more prior felony convictions; two prior violations of conditions of parole or probation; lack of required program participation and/or lack of insight into program participation benefits and material learned; disciplinary infraction within last three years; or pattern of more than one disciplinary infraction per year of incarceration. The petitioner alleges that it is double counting and arbitrary to utilize the factors identified as a basis to deny parole as the same factors utilized to determine a future eligibility term greater than 36 months. The petitioner is critical of the SPB decision-making in the establishment of future eligibility terms in excess of 36 months. The SPB does not agree with the petitioner that the standard requires definition as offered by the petitioner; does not agree in the petitioner’s assessment that double counting occurs; and does not agree that utilization of factors at N.J.A.C. 10A:71-3.11 in the assessment of parole release and the assessment of an appropriate future eligibility term constitutes arbitrary decision-making. Factors relevant to the decision to deny an inmate parole remain relevant in the assessment of the establishment of a future eligibility term in excess of the presumptive range. In those limited number of cases in which a future eligibility term in excess of the presumptive range is imposed, the inmate does receive a detailed explanation as to the basis for the imposition of the future eligibility term and the impact of the factors utilized in the rendering of said determination. SPB decision-making is subject to judicial review and in numerous cases the consideration of N.J.A.C. 10A:71-3.11(b) factors in the establishment of a future eligibility term has not been determined to be arbitrary. The SPB determined to deny the suggested rule change.

The petitioner suggested that the SPB publish in the annual report the number of psychological/psychiatric exams ordered pursuant to N.J.S.A. 30:4-123.54a and 30:4-123.52(d) and N.J.A.C. 10A:71-3.7(i), as well as their total cost and total number of times outside (non-NJDOC and/or SPB) contractors have been used for these exams. The SPB shall also publish non-individually identifiable totals of the conclusions of these exams in four categories: of highly recommended release; recommended release; recommended denial; highly recommended denial. The SPB shall also publish the number of times inmates presented their own psychiatric experts for these types of exams in support of parole. Petitioner believes that the public should be cognizant as to the amount of money spent on psychiatric exams; that since the LSIR score has been validated there is a question of whether the SPB is overspending on these exams and whether these exams are really necessary; that utilizing the LSIR score in decision-making is cheaper; and that the LSIR can be done by any social worker or NJDOC classification employee. The SPB notes that the SPB budget is public information and that information related to the bidding process and contractual matters related to professional services for the performance of mental health evaluations that include a LSIR assessment required for the parole hearing process is public information. The SPB does not view it necessary to publish the mere number of examinations performed; nor does the SPB perceive the relevancy of publishing the conclusions of such examinations; and nor does the SPB perceive the relevancy in publishing the number of cases in which an inmate presents to the SPB their own evaluation. The Parole Act of 1979, N.J.S.A. 30:4-123.45 et seq., requires the performance of a mental health evaluation in every case being considered for parole and requires that the SPB consider same, as well as consider a risk assessment instrument (the LSIR). As the mental health evaluation is required to be performed by statute, it cannot be replaced by the utilization of the LSIR score. The SPB determined to deny the suggested rule change.

The petitioner suggested that the SPB publish in its annual report, N.J.A.C. 10A:71-1.9(a), statistics (mean, median, mode, range, standard

deviation) of (i) raw LSIR scores; (ii) adjusted LSIR scores; and (iii) adjustments made to LSIR scores for all inmates. The SPB shall ensure all current inmates have LSIR intake and LSIR release calculated and cited on their Face Sheet report. The petitioner alleges, in essence, that publishing LSIR scores will promote transparency and public confidence in a fair and balanced application of the law of risk assessments; that publicized scores provide a valuable resource for the comparison and contrasting of scores; that publicizing scores will guarantee public interest in a valid scoring system; and that the public disclosure of scores will ensure LSIR calculations Statewide and in individual cases do not fall outside the mainstream. The SPB does not believe that the mere publication of scores is relevant to the allegations put forth by the petitioner. The LSIR has been validated for New Jersey and is performed by trained professional staff. Any issues related to scoring is a matter to be addressed through training and professional dialogue. As to there being an intake LSIR score and the LSIR score being on an inmate’s Face Sheet, those are matters to be addressed by the NJDOC. The SPB does identify the score on the inmate’s Case Assessment and Notice of Decision forms utilized by the SPB and, therefore, the inmate is cognizant of same. The SPB determined to deny the suggested rule change.

The petitioner suggested that the SPB add as a mitigating factor to Notice of Decision form (NJSPB Form 05.035N, 03/18/15, a/k/a the “green sheet”) Eligible for full minimum custody status, but not available (due to NJDOC policy/practice). The petitioner points out that the current NJDOC policy/practices/procedures are infringing on liberty interests of many inmates with life sentences or are preventing inmates from obtaining this mitigating factor. The petitioner does not explain the phrase “but not available (due to NJDOC policy/practice).” The SPB notes that eligibility for full minimum custody status is a determination to be rendered by the NJDOC. To include the petitioner’s suggested language on the Notice of Decision form would require the SPB to make such an eligibility determination, which the SPB declines to do. Further, the SPB’s Notice of Decision form presently recognizes minimum custody status as a mitigating factor. Such status includes gang minimum, as well as full minimum custody status. The SPB, therefore, does not see the necessity to include the suggested language on the Notice of Decision form. The SPB determined to deny the suggested rule change.

The petitioner suggested that the SPB add as a relevant mitigating and denial factor to Notice of Decision form (NJSPB Form 05.035N, 03/18/15, a/k/a the “green sheet”) and/or at N.J.A.C. 10A:71-3.11(b) age-related statistics for recidivism of inmates of all ages. The petitioner believes that age is a material factor; that including same will improve accuracy of decision-making; and that using statistics relating to age would approve efficiency of parole hearings by eliminating the discussion of age and putting the focus on the underlying roots of anti-social behavior. The SPB does not believe that statistical data regarding age-related recidivism rates constitutes a relevant factor in the decision-making process and that same be incorporated on the Notice of Decision form utilized in the parole process. Parole decisions are rendered based on the assessment of the circumstances, history, and related factors of each individual inmate’s case. The SPB determined to deny the suggested rule change.

The petitioner suggested that the SPB publish specific standards for educational requirements for SPB members who are involved in decision-making on parole release and FETs. There shall be a bar against former law enforcement officials from participation in these decisions unless they have a law degree and judicial experience, or received a four-year criminology/criminal justice, sociology, or psychology degree from an accredited university or college in existence and shall be 10 years out of law enforcement employment before applying for SPB decision-making duties. The petitioner, in essence, believes that law enforcement personnel are not qualified to render parole decisions and that a conflict of interest exists for law enforcement personnel to be involved in parole decision-making. The SPB notes that SPB members are appointed by the Governor with the advice and consent of the Senate from persons that meet the qualifications established by the Legislature at N.J.S.A. 30:4-123.47(a). The establishment of qualifications necessary to be met by a SPB member is the prerogative of the Legislature and not within the purview of the SPB. The SPB determined to deny the suggested rule change.

The petitioner suggested that the SPB grant all special needs and mentally impaired inmates an attorney for all board hearings where the SPB relies on confidential mental health reports. The inmate shall not be allowed to see the mental health reports but the attorney shall review them and file a brief detailing any and all problematic conclusions, tests, exams, procedures, diagnoses, or facts relied upon by the expert in making their conclusions. The SPB does not believe that all special needs classified inmates and in the petitioner’s assessment mentally impaired inmates require the assistance of an attorney during the parole hearing process. The SPB does, however, recognize that there are certain inmates that may be incapable of participating in the parole hearing process without assistance. In such cases, a competency evaluation is performed by professional staff and if the offender is determined not to be competent, an application for the assignment of counsel is submitted on behalf of the SPB by the Division of Law to the appropriate Assignment Judge of the Superior Court-Law Division (see N.J.A.C. 10A:71-3.12(b)). Only upon counsel being assigned will the hearing process proceed. As a procedure

does exist for the assignment of counsel in appropriate cases, the SPB determined to deny the suggested rule change.

The petitioner suggested that the SPB provide a clear and specific definition at N.J.A.C. 10A:71-1.1 of the nature and extent of “one-on-one counseling” including who, when, how long, why, and under what conditions it will be considered completed by the SPB. It is the position of the SPB that the defining of matters such as the duration, the content, and completion of one-on-one counseling is not within the expertise of the SPB. Such determinations are within the purview of those professionals trained to provide appropriate counseling services. The SPB determined to deny the suggested rule change.

In accordance with the provisions of N.J.S.A. 52:14B-4(f) and N.J.A.C. 1:30-4.2, the State Parole Board has mailed a copy of this notice of action on the petition for rulemaking to the petitioner.
