

DIMENSIONS

SMART GROWTH IN THE HIGHLANDS REGION

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Buried in the Highlands Act, both figuratively and literally, is a provision which mandates that the Highlands Council adopt a “smart growth component” as part of the Regional Master Plan (“RMP”) for the region. The Act requires that this smart growth component include an assessment of opportunities for appropriate development, including an identification of undeveloped areas in the Highlands Planning Area which are not significantly constrained by environmental limitations and are located near or adjacent to existing development and infrastructure. Highlands Water Protection and Planning Act, N.J.S.A. 13:20-11(a) (6). The Highlands Council, in the RMP, has targeted smart growth, as well as regional housing needs, for “designated centers”:

Smart growth is an approach to resource planning and management where growth and development are concentrated and organized around “centers” with compact, walkable, bicycle-friendly land use patterns, typically including mixed-use development with a range of housing choices. RMP at page 197.

Although there are twenty centers in the Highlands region designated by the State Planning Commission, all have expired. The RMP calls for reassessment of these expired centers – both to protect Highlands resources and to provide areas for growth. RMP at page 371.

Restrictions on Development and Economic Growth in the Highlands Area

In contrast to the Pinelands Comprehensive Management Plan (CMP), the Highlands RMP does not provide areas for regional growth.

The 415,000 acre Preservation Area is off-limits for all but extremely large lot development, since the DEP Highlands Rules prohibit public sewer and water service and permit new septic systems on lots of 25 to 88 acres. N.J.A.C. 7:38-3.4.

In the Planning Area, the major tool to enforce RMP conformance is sewer and water policy. N.J.A.C. 7:38-1.1(k) and N.J.S.A. 58:1A-15.1. The RMP restricts public sewer and water service primarily to the Existing Community Zone. The Existing Community Zone comprises 17% of the Highlands Region, and only 11% of this zone (@16,000 acres) is available for development. See, RMP at p. 113. Where public sewer and water are not available, development on septic systems is permitted only on very large lots:

- Protection Zone: 19.9 to 43.6 acres;
- Conservation Zone: 7.7 to 16.8 acres; and
- Existing Community Zone: 7.2 to 14.1 Acres.

(Source: March 2010, Highlands Council “Average Lot Size per Septic System by Land Use Capability Zone for Conforming Municipalities in the Planning Area of the Highlands Region.”) Non-residential development is also restricted based upon septic flow. For example, a new 70,000 square foot supermarket in the Existing Community Zone would require a minimum of 201 acres.

Thus, the practical impact of the DEP Highlands Rules and the RMP is that no more than 16,000 acres of the 859,000 acre Highlands Area region may, in theory, be developable at reasonable densities on public sewer and water.

Designated Centers

To date, there has been minimal interest by towns in the designation of centers for future growth. Of 45 towns which have obtained Highlands conformance approval, only eleven (11) have requested center designation. These eleven centers are to an extent illusory, planned but not

yet implemented, since zoning has not been proposed or adopted.

The Highlands Council has approved plans for centers in the following municipalities: Byram Township, Wharton Borough, Alpha Borough, Hackettstown Borough, Pohatcong Township, Phillipsburg Borough, Lopatcong Township, Hopatcong Township, Washington Township (Morris County), Randolph Township and Oxford Township. The narrative center descriptions suggest that many of the designated centers are designed not to allow new development, but to revitalize an existing business district or to allow the redevelopment of an older industrial or brownfield site. A careful search of the eleven conformance reports containing centers shows a total of 229 acres which appear to be vacant and developable within designated centers in six (6) towns.

Compliance with the Smart Growth Mandate?

A plan which allows development in less than 2% of the Highlands region and the designation of a 229 acre “smart growth area” is inadequate to meet the needs of the Highlands region for economic growth and a variety and choice of housing, including affordable housing. The problem is exacerbated by the fact that zoning has not been implemented in any of the eleven towns with designated centers. The result is that, almost a decade after passage of the Highlands Act, there are no areas presently available for smart growth pursuant to the Highlands Regional Master Plan.

About the Author:

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