May 25, 2023

NJ Highlands Council Announces New Policy Restricting Warehouse Developments

New Jersey warehouse developers, take note: the New Jersey Highlands Council (the council) has published its policy standards for the siting of warehouses in the New Jersey Highlands Region. Under the new council standards, which were released on April 28, 2023, warehouses are prohibited throughout the Highlands Preservation Zone as well as in a variety of ecologically sensitive zones in municipalities that have opted into Highlands Plan Conformance. Moreover, even where warehouses are allowed, the council has promulgated additional requirements concerning factors that must be considered during the site review process.

By way of background, the New Jersey Highlands Region comprises more than 800,000 acres of natural resources across seven counties in Northern New Jersey. The council was delegated the authority to manage New Jersey's Highlands Region by the Highlands Water Protection and Planning Act of 2004, which designated approximately 398,000 acres of the region as the Highlands Preservation Area, with the remainder of land considered the Highlands Planning Area. A map identifying the respective contours of the Highlands Preservation Area and the Highlands Planning Area can be accessed here.

The Highlands Council states that the policy standards seek to "work hand-in-hand" with the State Planning Commission's Distribution Warehousing and Goods Movement Guidelines, issued in September 2022, and they attempt to strike a balance between environmental stewardship and practical warehousing needs. To this end, the Highlands Plan Conformance bans all warehouse development within the Preservation Area. Warehouses also face new restrictions in municipalities that have opted in to Highlands Plan Conformance (i.e., have amended their zoning and master plan documents to be consistent with Highlands Council regulations). In these Plan Conformance municipalities, warehouses are now prohibited in certain areas as well. These warehouse-target policy standards are an unusual instance of the council imposing bans and limitations specific to a proposed use rather than restricting development based on the environmental conditions at a site.

In addition to identifying areas where new warehousing is not permitted moving forward, the council's policy standards also introduce new rules for site review in the areas where warehouse facilities are still allowed. Specifically, a site review for a proposed warehouse must now cover (1) proximity and access to transportation, (2) watershed impervious coverage, and (3) water and sewer infrastructure. The policy standards also encourage towns in the Highlands to update their zoning ordinances to clearly define warehousing and distribution centers apart from general and industrial and other commercial uses.

The full council policy standards document can be read here. If you have questions about the implications of these new rules for your proposed development activities, please contact the authors of this advisory or any member of the Day Pitney Real Estate and Environmental team.

Authors



Todd W. Terhune
Partner

Parsippany, NJ | (973) 966-8040

tterhune@daypitney.com



Katharine A. Coffey
Partner

Parsippany, NJ | (973) 966-8323

kcoffey@daypitney.com



Craig M. Gianetti
Partner

Parsippany, NJ | (973) 966-8053

cgianetti@daypitney.com



Peter J. Wolfson
Partner

Parsippany, NJ | (973) 966-8298

pwolfson@daypitney.com



Nicole M. Magdziak
Partner

Parsippany, NJ | (973) 966-8027

nmagdziak@daypitney.com



Luke S. Pontier
Partner

Parsippany, NJ | (973) 966-8714

lpontier@daypitney.com



Drew A. Levinson
Senior Associate

Parsippany, NJ | (973) 966-8051

dlevinson@daypitney.com



Thomas J. Malman
Partner

Parsippany, NJ | (973) 966-8179

tmalman@daypitney.com