



JON S. CORZINE
Governor

State of New Jersey

Highlands Water Protection and Planning Council
100 North Road (Route 513)
Chester, New Jersey 07930-2322
(908) 879-6737
(908) 879-4205 (fax)
www.highlands.state.nj.us



JOHN R. WEINGART
Chairman

EILEEN SWAN
Executive Director

MEETING AGENDA

Thursday, September 18, 2008 - 10:00 a.m.

1. CALL TO ORDER
2. ROLL CALL
3. OPEN PUBLIC MEETINGS ACT
4. PLEDGE OF ALLEGIANCE
5. APPROVAL OF MINUTES – August 21, 2008
6. CHAIRMAN'S REPORT (and Council Member Reports)
7. EXECUTIVE DIRECTOR'S REPORT
8. COMMITTEE REPORTS
 - a. Budget and Finance Committee – Council Member Cogger
9. CONSIDERATION OF RESOLUTION – *Approval of FY09 General Operating Budget* - (voting matter with public comment)
10. CONSIDERATION OF RESOLUTION – *Approval of Certain Planning Assistance Grants* - (voting matter with public comment)
11. CONSIDERATION OF RESOLUTIONS – *Consistency Determinations for Proposed Water Quality Management Plan Amendments* - (voting matters with public comment)
 - a. 200/202 Howard Boulevard, Mount Arlington, Areawide WQMP: Upper Raritan and Upper Delaware, NJDEP Activity #AMD070004
 - b. Pilot Travel Center, Union Township, Areawide WQMP: Upper Raritan, NJDEP Activity #AMD070002
 - c. Hamptons at Pohatcong, Pohatcong Twp (Phillipsburg STP), Areawide WQMP: Upper Delaware, NJDEP Activity #AMD030001
 - d. Holland Township Wastewater Management Plan, Areawide WQMP: Upper Delaware
 - e. Trump National Golf Club, Bedminster Twp, Areawide WQMP: Upper Raritan WQMP, Somerset County WMP
12. CONSIDERATION OF RESOLUTION – *Approval of Contract for Printing Services* - (voting matter with public comment)
13. REGIONAL MASTER PLAN IMPLEMENTATION PROCEDURES – (voting matter with public comment)
14. PUBLIC COMMENTS
15. EXECUTIVE SESSION (if deemed necessary)
16. ADJOURN

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF SEPTEMBER 18, 2008

PRESENT

JOHN WEINGART) CHAIRMAN

BILL COGGER)
DEBBIE PASQUARELLI) COUNCIL MEMBERS
TRACY CARLUCCIO)
JACK SCHRIER)
MIMI LETTS)
KURT ALSTEDÉ)
ERIK PETERSON)
JANICE KOVACH)
GLEN VETRANO)
TIM DILLINGHAM)

TELECONFERENCE

TAHESHA WAY)
SCOTT WHITENACK)

ABSENT

ELIZABETH CALABRESE)

CALL TO ORDER

The Chairman of the Council, John Weingart, called the 77th meeting of the New Jersey Highlands Water Protection and Planning Council to order at 10:09 am.

ROLL CALL

The members introduced themselves.

OPEN PUBLIC MEETINGS ACT

Chairman Weingart announced that the meeting was called in accordance with the Open Public meetings Act, N.J.S.A. 10:4-6 and that the Highlands Council had sent written notice of the time, date, and location of this meeting to pertinent newspapers or circulation throughout the State and posted on the Highlands Council website.

APPROVAL OF MINUTES OF August 21, 2008

Mr. Schrier introduced the motion to approve the minutes. Mr. Cogger seconded the motion. Mr. Vetrano, Ms. Calabrese and Ms. Pasquarelli were absent. Mr. Dillingham abstained. All other members present voted to approve. The minutes were APPROVED.

CHAIRMAN'S REPORT

Chairman Weingart noted that this is the first meeting after the Governor declined to veto the minutes and signed an executive order on September 5th. The Chairman noted that the Plan officially went into effect as of September 8, 2008. He described how the Governor expressed his appreciation of the Council as well as the staff.

EXECUTIVE DIRECTOR'S REPORT

Ms. Swan introduced the Financial Consultant, Greg Della Pia. She explained his role within the Highlands Staff as well his municipal and state experience which were of benefit to the Council.

Ms. Swan stated that the RMP was posted on the website after the Governor had signed the Executive Order on Friday, September 5th. The Governor's Press Release and Executive Order 114 were also posted. She explained that the RMP became effective on Monday September 8th and that on Tuesday all municipalities and counties were sent a CD containing the RMP as well as copies of the Executive Order, Council Resolution on Adoption of the RMP, information on Initial Assessment Grants and information on both Basic and Full Conformance. She explained that this was to allow municipalities to move forward before receiving the Regional Master Plan in hard copy. It will still be several weeks before printed copies will be available for distribution. The Technical Reports supporting the RMP have also been posted on the website. She explained that it takes a lot of time to format the final documents and post the documents online. She explained that the response to comment document for both the 2006 and the 2007 comments will have been posted by end of today.

In terms of Water Quality Management Plans (WQMPs), Ms. Swan explained that Highlands counties are already working on WQMPs. Ms. Swan noted that a template for consistency determinations for WQMPs has been sent to NJDEP along with the submittal requirements. This allows them to advise counties, as well as municipalities, of the necessary planning that the NJDEP will require for approval of WQMPs. The Council will also continue to do consistency determinations when the plans are submitted to NJDEP.

EO114 will require the Council to make some changes to conformance and setting priorities. EO114 ordered that the Highlands Council shall work in cooperation with COAH, DEP, and DCA to review the Round 3 projections for consistency, and assist in developing adjusted growth projections for areas which will conform with the RMP. She explained the responsibilities of the Highlands Council to support and maximize affordable housing opportunities while also preserving critical resources. Some of these requirements will require expediting some of the work associated with these responsibilities. She explained that staff has prepared an RFQ to assist with the work associated with the EO and the obligations that the Council must meet under A500 (P.L. 2008, Chapter 46). A regional system for affordable housing planning must be created consistent with A500. The Highlands Build Out will have to be revised to consider the COAH requirement of a planning horizon of 2018 and local build out needs to be done so that the adjusted numbers will be consistent with the RMP for conforming towns. The scope of services would be for assisting the Council with implementation of the goals, policies and objectives of the RMP with respect to the COAH regulations assist in implementing EO114 and A500. This will be brought before the Council when more information is available.

Mr. Schrier stated that there is a lack of clarity within the Executive Order regarding COAH regulations and the Highlands Regional Master Plan, municipalities need clear direction as they have time constraints. Ms. Swan stated that she understands the concerns of the towns. Council staff has met with COAH and have worked to get answers for the towns to provide direction. Towns that conform to the RMP will have the opportunity to have an extension to file their housing plans and have their numbers adjusted to be consistent with the RMP. For towns that do not conform, they will not fall under the adjusted projections consistent with the Highlands RMP in regards to COAH.

In that instance, they will be treated like the rest of the State in regards to COAH requirements. She stated that when an agreement is reached on an approach with COAH and that is approved by the Council, then a letter will be sent to the municipalities clarifying the requirements and regulations. This would clarify that extensions will be available for those municipalities conforming if they submit a letter of intent of conformance, adopt a resolution regarding that intent (on or before December 8, 2009), for municipalities in the Planning Area the letter of intent would specify if conformance would be for the Planning Area of their municipality and also that they intend to submit a petition for Plan Conformance. They would submit a request for a waiver to COAH in order to get the time extension, with the letter of intent for Plan Conformance.

Mr. Schrier verified that the letter of intent and Resolution would not be binding for the Planning Area. Ms. Letts stated that if a municipality were to submit a Resolution of intent, but then choose not to comply, they will not be penalized. It was discussed that all municipalities have the right to submit a Resolution of intent and receive an extension. It was noted that a consultant with COAH experience will be necessary to assist the Council staff with the work regarding the new affordable housing requirements in A500.

Mr. Cogger asked about the status of the COAH MOU. He was advised that work was ongoing and that agreement had to be reached by November 4th. Chairman Weingart reiterated that the Council needs to consider if they are supportive of the approach Ms. Swan put forward regarding the letter to be sent to the municipalities regarding COAH regulations. No members were opposed and Ms. Swan was authorized to negotiate the agreement with COAH and send out the letter advising municipalities.

Ms. Swan then discussed petition for Plan Endorsement for lands in the Planning Area that was submitted to the State Planning Commission's Office of Smart Growth. Documents supporting the Highlands Council's petition for Plan Endorsement are under review by the Office of Smart Growth. She explained that the Highlands Council's petition is the first Special Resource Area petition and that the staff has worked using the Office of Smart Growth for consistency with the State Plan.

Ms. Swan noted that comments were received from the Office of Smart Growth as well as other state agencies and these were all considered in the development and preparation of the RMP. She explained that there was a presentation to the State Planning Commission regarding the Highlands Council and the RMP. The open process regarding the Highlands was emphasized. There was also emphasis made to the State Planning Commission regarding interoffice coordination. All involved agencies have been involved and updated during the process of creating the RMP. Therefore, the agencies represented on the State Planning Commission shared in the information that was included in the RMP and had opportunities to make suggested changes. Thus it was anticipated that those agencies were familiar with the Plan and had already had input.

Mr. Borden explained that a notice regarding the implications of the Permit Extension Act for the Highlands Region has been sent for publication in the New Jersey Register. Essentially it states that there are no designated growth areas in the Regional Master Plan and the entire Highlands Region, including all 88 Highlands municipalities, is as a matter of law excluded from the Permit Extension Act. Another notice was registered regarding the adoption of the RMP and its effective date of September 8, 2008.

Ms. Swan reviewed NJDEP actions on WQMPs that have been previously reviewed by the Highlands Council (including Heritage 55 in Randolph Township and Pinnacle Communities Development in Oakland Borough). Heritage 55 was approved and she noted the statements of the Highlands Council included in the determination. NJDEP found that Randolph Township Water conservation projects have more than met the 125% mitigation. Mr. Dillingham stated that the Randolph township preservation program and mitigation work was town-wide, and wanted to know how the mitigation will be tracked so that it will apply regarding this project. Ms. Swan explained that a tally will be kept.

In the case of Pinnacle, the project was denied and the NJDEP found four reasons for this denial. The denial addressed specific issues regarding the interbasin transfer of water, the fact that the site is a legitimate habitat for barn owl, it is also a natural heritage site, and finally their recently submitted wastewater management plan identified other sites that were more appropriate.

Mr. Glen Vetrano joined the meeting. Chairman Weingart noted that Mr. Vetrano has decided not to seek a second term on the Highlands Council, but will remain until a replacement has been found. He explained that both Ms. Way and Mr. Whitenack were participating by phone.

BUDGET AND FINANCE COMMITTEE

Mr. Cogger provided a report of the work of the Budget and Finance Committee. He reported that updated accounting software will be utilized this fiscal year. He thanked Ranji Persaud of the staff for all of his work and the level of detail of the records.

He discussed the State appropriation of \$2.4 million for Highlands Council operations. In preparing the FY09 General Operating Budget, nearly \$500,000 will be carried forward from the FY08 operating budget. Therefore, the State reduction of the Council's operating budget will not adversely impact Council fiscal operations for this fiscal year. He noted that the Highlands Council is presently understaffed to meet the aggressive Plan Conformance process for 88 municipalities and seven counties. He asked if any Council members had any specific questions for Greg Della Pia. Mr. Della Pia stated that the FY09 General Operating Budget is based on a very good plan for fiscal responsibility. He provided an overview of the efficiency of the new accounting system and described the work staff has done to utilize the system.

Ms. Letts also recognized Mr. Persaud for his work. Ms. Swan thanked Mr. Cogger for his work on the Budget. Chairman Weingart noted that there was a draft resolution regarding the General Operating Budget. Mr. Alstede pointed out the increase in training funding. Ms. Swan explained the need for Council staff training, particularly for staff to do continuing education to maintain their planning licenses. She also noted other opportunities, including field work and training for stream restoration planning. Mr. Schrier asked about opportunities for training and made some recommendations. Ms. Swan explained that there is constant research regarding training. Mr. Schrier noted that there may be opportunities for training with some volunteer organizations. Ms. Swan stated that they want to continue doing this type of work. Ms. Swan also explained the Graduate Studies Program funding for interns. Ms. Carluccio stated that it is totally appropriate to fund training on stream restoration and that it is important to get the best training possible. It is a training that is heavy in both science and calculus.

Mr. Alstede asked if rent for the building had increased. Ms. Swan stated that this is negotiated by the Department of Treasury and noted that it had been raised and that a retroactive payment for adjusted rent was necessary.

RESOLUTIONS

I. CONSIDERATION OF RESOLUTION – Approval of FY09 General Operating Budget (voting matter with public comment)

Mr. Schrier moved the motion to approve resolution, Ms. Letts seconded the motion. Ms. Calabrese and Ms. Pasquarelli were absent. (Ms. Pasquarelli noted later that she would like to abstain). ALL members present voted in favor.

Chairman Weingart noted that the Personnel Committee will be meeting later today.

II. CONSIDERATION OF RESOLUTIONS – Approval of Certain Planning Assistance Grants (voting matter with public comment)

Summary: *The Highlands Council initiated a grant application process for Initial Assessment grants to municipalities within the seven Highlands Counties in furtherance of Plan Conformance, in an annual amount not to exceed \$1,500,000. Council staff reviewed the grant applications and recommend grants for Council consideration.*

1. Consideration of Resolution – Initial Assessment Grant for Holland Township

The Township of Holland is requesting an Initial Assessment Grant in the amount of \$17,000. This is the first grant that they are applying for.

Mr. Schrier moved the motion to approve resolution, Ms. Kovach seconded the motion. Ms. Calabrese and Ms. Pasquarelli were absent. ALL members present voted in favor. There was no public comment.

2. Consideration of Resolution – CP3 Grant for Sussex County

The County of Sussex is applying for a grant. Previous grants included a CP3 grant for parcel data which was executed in June of 2006, a Prior Approval Grant for \$15,000 which was executed in June of 2006, a Sewer and Water grant for \$25,000 which was executed in June of 2006. They also have two agricultural grants: one for Agritourism and one for a Commercial Kitchen grant. They may need additional extensions for the two agricultural grants.

Ms. Swan explained that this grant is for a business process to capture all lot line adjustments and other spatially enabled information and to support local GIS data. The hope is that this could be a model for other Counties moving forward. They are requesting \$15,000 and the staff (in particular the Director of GIS) recommends approval for this grant. Although this was submitted as an Initial Assessment Grant, it is actually another CP3 grant.

Mr. Cogger moved the motion to approve resolution, Ms. Kovach seconded the motion. Ms. Calabrese and Ms. Pasquarelli were absent.

Mr. Dillingham asked about how the GIS work will be done and how it advances the RMP. Mr. Keren stated that the work that they will be doing will link their municipal records (such as deeds) with the land management system. This would allow for gaining a large amount of information fairly quickly. He stated that Morris County has a similar process in place that they are continuing to

update. It helps in terms of RMP updates, as well as gathering additional information about parcels. Mr. Dillingham asked if the larger benefit would be to utilize this type of system throughout the Highlands. Chairman Weingart asked if there was anything within the grant to have Sussex County to interact with other Counties so that they may have a similar business plan in place. Mr. Keren stated that this is the intent of this business model. Ms. Letts asked if there are County Planners meetings to discuss these issues and Ms. Swan stated that these meeting were ongoing.

Chairman Weingart asked for the vote on this resolution. Ms. Calabrese and Ms. Pasquarelli were absent. Mr. Vetrano abstained. ALL members present voted in favor. There was no public comment.

EXTENSION REQUESTS – Ms. Swan noted that the Township of Bethlehem had some extenuating situations and will be needing an extension for the initial assessment grant. No action from the Highlands Council is necessary.

III. CONSIDERATION OF RESOLUTION - Approval for Printing Services (voting matter with public comment)

Ms. Swan explained that a contract was awarded previously for printing, but in working with AKRF it has been found that higher quality paper would be necessary to properly print the mapping and the photographs. She explained the pricing, and how the price per unit will go down significantly with an order of 2,500 (instead of 1,000). The price do this on quality 100% recycled paper under the current contract would exceed the agreed upon price. Therefore, it is being requested to put out an amended RFP to all of the companies that responded to the original and then find the most appropriate printer.

Mr. Schrier asked how many copies were requested previously. Ms. Swan stated approximately 300 hard copies and 300 on CD. Ms. Swan stated that the municipalities stated they would typically like 3 copies. The Executive and Legislative branches will also be needing numerous copies. Mr. Schrier stated that he isn't sure it is necessary to have this many copies made. Ms. Swan explained the costs of printing the RMP in house versus using this contract.

There was discussion on the costs of printing. Mr. Cogger asked about how to update the RMP. Ms. Swan stated updates will be posted but a new version will not be printed for 6 years. Chairman Weingart noted that copies will be sold at cost. Mr. Borden explained that the demand will be greater with the final plan than it was for draft RMP. There was further discussion on the difference in printing services and what affects the costs.

Ms. Pasquarelli joined the meeting.

Chairman Weingart stated that there is a Resolution regarding the printing services.

Ms. Carluccio moved the motion to approve resolution, Ms. Letts seconded the motion. Ms. Calabrese was absent. ALL members present voted in favor.

Mr. Dillingham stated that it is important to provide a quality copy to the public. There was no public comment.

IV. CONSIDERATION OF RESOLUTION - WQMP Amendments

(voting matter with public comment)

The process for providing consistency determinations to NJDEP for WQMPs, pursuant to N.J.A.C 7:38-1.1 was then outlined. These consistency determinations are factual comparisons of the proposed WQMP amendment to all relevant aspects of the RMP policies, objectives and programs. The review template has been completely revised for this purpose.

Ms. Swan explained that Consistency Determinations for four Areawide WQMP Amendments were released for public comment on August 27, 2008, with comments due by close of business on September 8, 2008. Comments were received on all four Consistency Determinations. Highlands Council staff have summarized the public comments and modified the Consistency Determinations as appropriate. She stated that the track changes in the documents show where they were revised in response to comments received. The maps used by the staff are posted on the Council web site at: <http://www.highlands.state.nj.us/njhighlands/implementation/project>.

Ms. Swan clarified that the first four Consistency Determinations are for project-specific amendments and that the fifth is a municipal wastewater management plan.

The Consistency Determinations were as follows:

1. 200/202 Howard Boulevard, Mt. Arlington, the applicant is the Borough

The proposed amendment consists of allowing two existing residential properties, 200 Howard Boulevard (Block 65, Lot 1) and 202 Howard Boulevard (Block 64, Lot 7), that are currently within the Upper Raritan WQMP area to have sewage conveyed through the Borough of Mount Arlington WMP area and treated by the Musconetcong Sewerage Authority (MSA) sewage treatment plant (STP), which is located in the Upper Delaware WQMP area. The two single-family residential properties currently discharge into septic systems, which have been certified by the Borough as failing. Therefore, an estimated 600 gpd of additional sewage flow will be conveyed to the MSA STP. Deed restrictions will be placed on the lots to prevent future flow increases. The project was found to be consistent with all but one of the applicable goals, policies, and objectives of the Regional Master Plan. The exception is Objective 2B8b which requires 125% mitigation of the increase in consumptive/depletive water use. Ms. Swan also noted that Borough of Mt. Arlington already has many water conservation projects in place. NJDEP may find that they have already met these mitigation requirements.

PUBLIC COMMENT:

David Shope: He asked for clarification and also about the cost of this to these two property owners. He expressed his confusion about what is being discussed.

Darren Phil, Borough Engineer of Mount Arlington and Dave Clark, Principal Engineer: He noted that the Borough had requested 5 years ago regarding redevelopment in this area. They have been looking into including these two properties in the wastewater management plan and including them into the sewers. He stated that there are costs to attach to the sewer and then the user fee established by the ordinance – these are the only fees being assessed.

Ms. Pasquarelli asked about the additional cost as far as escrow fees? Mr. Phil answered that there will not be any escrow fees. There was no additional assessment done. Ms. Pasquarelli asked is this

is a health and safety issue. Mr. Phil noted that it is due to the failing septic systems. Ms. Letts asked how this will be monitored. Mr. Phil explained that it is per dwelling unit – so they cannot subdivide or create a duplex. It is a flow based on a single family home. Ms. Letts asked what will happen if they go over the 300 gpd. Mr. Phil explained that it is an estimate. Ms. Carluccio asked about testing for failed septic system. Mr. Phil stated that there was confirmation from the property owners and the Borough's health department also verified that that the septic was failing. This is covered by shared services. Ms. Carluccio asked about the water conservation measures for these two homes. Mr. Phil explained that a large portion of the town of the water comes from the Morris County MUA and is an interbasin transfer. The Borough implemented an annual water assessment regarding leakage and this has been very successful. They have also acknowledged the large townhouse projects which have been required to follow odd/even days, to conserve water. Ms. Carluccio asked regarding these two specific homes and the implementation of water conservation measures. Mr. Phil explained the deed restrictions, but that there weren't any other restrictions or implementation measures required by NJDEP.

Mr. Cogger stated that reviewing the document on this and the consistency determination note she pointed out that there are areas without any notation. There was explanation that this is a full template for review of any amendment. Areas without notation did not apply to this project. There was clarification that this document will then be passed on to the NJDEP.

Chairman Weingart asked if there is a deadline regarding consistency determinations. There are No deadlines but staff have been turning these around expeditiously. Ms. Swan stated that the staff was urged to move these as quickly as possible. Ms. Pasquarelli asked about 2b8b on page 8 and asked why this is inconsistent (regarding the statement of approved Conservation Plans) Ms. Swan pointed out that it is inconsistent because there is no approval - the information on the mitigation work has not all been forwarded to the Highlands Council. The consistency reviews are advisory to NJ DEP.

Chairman Weingart noted the resolution for forwarding consistency determinations.

Mr. Schrier moved the motion to approve resolution, Mr. Dillingham seconded the motion.

Mr. Vetrano asked about his ability to vote on this matter and any conflicts of interest present. Mr. Borden suggested that he abstain until it can be looked into it further.

Ms. Carluccio opposed. Ms. Calabrese was absent. Mr. Vetrano abstained. ALL members present voted in favor.

Ms. Pasquarelli asked for clarification on the consistency determination being sent to the NJDEP. Ms. Swan explained how the form lays out what is consistent and what is not consistent. This is then forwarded to NJDEP. No specific recommendations or suggestions are made.

2. Pilot Travel Center, Union Township, the applicant is Pilot Travel Center

This is a proposed amendment to the Upper Raritan Water Quality Management Plan and the Union Township Wastewater Management Plan that would allow for the expansion of the existing on-site discharge to ground water wastewater treatment facility for the redevelopment of the site formerly known as Johnny's Truck Stop. The proposed sewer service area for the new facility is restricted to the existing impervious cover footprint of the previous Johnny's Truck Stop; the proposed project has no increase in impervious surface. The total area to be redeveloped is 7.5 acres

of the 11.75-acre lot. The projected wastewater flow is 6,500 gpd. The project will use an on-site well for water supply and will discharge treated wastewater back to ground water.

Ms. Swan noted that this project was found inconsistent with policies: 1b7 Forest, 1f2 Critical Habitat, 6h1 Redevelopment and Sensitive lands as well as objectives 1k4c Carbonate Rock. As well as the mitigation of 125%— in addition any undisturbed critical lands should be deed restricted.

Ms. Swan asked that staff member Ms. Ross explain a change within this project. Ms. Ross noted that a site plan was turned in after the application was submitted. It showed that there were two septic fields in the undeveloped section of the site (within critical habitat).

Public Comment:

Elliot Ruga – He noted that the project will be drawing from a watershed that is deficit. He referred to the Executive Order 114 item 10 where it is stated that the NJDEP shall not approve further water use within a HUC 14 that is in or anticipated to be in deficit. He read from EO114.

Mr. Schrier asked about the deed restriction – is it a requirement? Mr. Borden stated that this would be part of the consistency determination. Mr. Dillingham stated that it will be noted to NJDEP that the deed restriction will be necessary. He also asked that the cover letter state what is in the report.

Mr. Dillingham spoke about the letter that would be sent to NJDEP regarding consistency determinations and how they would be structured. Mr. Alstede stated that in reading the comments – regarding a statement that the site is 100% built out. Ms. Swan reiterated that when it was reviewed without the site plan, it was believed that there wouldn't be additional disturbance. However, after reviewing the site plan, the septic fields would be in a previously undisturbed area.

Mr. Schrier moved the motion to approve resolution, Ms. Kovach seconded the motion. Ms. Calabrese was absent. ALL members present voted in favor.

The Pilot Travel Center project was found to be inconsistent with Policies 1B7 (forest clearing), 1F2 (critical habitat), and 6H1 (redevelopment and sensitive lands) and with Objectives 1K4c (carbonate rock) and 2B8b (the requirement for 125% mitigation of the increase in depletive water use). There was no public comment.

3. “Hamptons at Pohatcong”, the applicant is EAI Investments

Proposed amendment to the Upper Delaware WQMP submitted on behalf of EAI Investments, LLC, for an expansion of the Phillipsburg STP sewer service area to include the proposed Hamptons at Pohatcong development in Pohatcong Township, Warren County. The proposed development is a Mount Laurel inclusive development (under Superior Court jurisdiction in the matter of EAI Investments, L.L.C. v. Township of Pohatcong) consisting of 396 residential units and associated recreational park (six 1-bedroom units, 26 2-bedroom units, 364 3-bedroom units of which 352 are planned as single-family residential units). Project was deemed inconsistent with the Highlands Regional Master Plan.

Ms. Swan reviewed the primary issues including the extension of both water and wastewater facilities into the conservation zone not associated clustering present, a waiver for public health and safety, extension in the agricultural zone without mandatory clustering. Water availability constraints in 2

HUC14 subwatersheds, encouragement of structures in Highlands open water buffers, proposal to dispose stormwater offsite were also issues. Stormwater recharge requirements have been waived by DEP without the requirement of recharge. There was conflicting information regarding wildlife habitat as well as insufficient information regarding low impact development, karst topography concerns, compliance regarding a TMDL for pathogens, well head protection, and maximum feasible water conservation measures.

Ms. Carluccio moved the motion to approve resolution, Ms. Kovach seconded the motion. Ms. Calabrese was absent.

PUBLIC COMMENT:

Judith Forbes, resident of Pohatcong: She stated that endangered birds the savanna sparrow and the kestrel were found on and around this site by Blane Rothhouser in 2006.

Neil Yoskin, attorney representing EAI Investments – Representing EAI Investments: He stated that the RMP seems to target several COAH Round 2 sites for elimination. He congratulated Ms. Swan for the speed with which she addressed their concerns. Mr. Yoskin spoke about the project and comments that were made regarding it and the RMP. He noted that this project has been in the Townships affordable housing since 1988 – and has been approved since 1996. It was as early as 1996 that the Superior Court order that a wastewater management plan be processed for this site – it was not filed until 2002, and was not until July of this year that the DEP set forth the notice. He stated that the site is unusual that it has a metropolitan area and PA1 adjacent to it. He presented a photo of the area. He explained that there is high density housing on 3 sides of this project. Each of the issues surrounding this property have been discussed with Highlands Staff. The property has been designated as a Conservation Area – which leads to inconsistency issues. He explained that many of the issues have been surrounding an erosion ditch which has become a Category 1 body of water and now a Highlands Open Water. He spoke about water quality and the buffer requirements. He stated that the Executive Order gives the Highlands Council the ability to approve or find consistent, within Conservation Zone consistent under certain circumstances. Mr. Yoskin noted that by issuing a report of inconsistency to NJDEP, the Highlands Council will be interfering with the Township's affordable housing.

Chairman Weingart inquired as to why this project has not been completed. Mr. Yoskin replied that it was held up partially from the need for an updated WMP and other changes in regulations (and the necessary updates to the project). He expounded on the regulatory issues of this project and changes that have had to be made for consistency.

Ms. Pasquarelli asked about the erosion ditch. Mr. Yoskin stated that it doesn't appear as a stream on USGS mapping. It is a ditch on the county soils map. He explained that regarding the stormwater rules, it is identified as a stream. She spoke about the Wastewater Management Plan amendment and whether it is for this project or areawide. Mr. Yoskin explained that it would be specific for this project/area, not for Phillipsburg. He spoke about the history of the allocations for Pohatcong and Phillipsburg. Ms. Pasquarelli explained that this amendment is separate from the Wastewater Amendments that have been ordered for all municipalities. She asked about why Mr. Yoskin is here and why they are asking the Council to reconsider. Mr. Yoskin stated that they don't believe this area should be mapped as a Conservation Zone, but also that he wanted to point out that the Executive order gives the Council the ability to find projects within the Conservation Zone consistent, given certain conditions.

Mr. Yoskin stated that the Executive Order provides the Highlands Council with discretion to alter the findings in the RMP. Mr. Schrier stated that he would like the legal opinion on this from the Council's Chief Counsel. Mr. Borden asked about which section of the Executive Order he is Mr. Yoskin was referring to. Mr. Yoskin stated that section 7 is directed to the NJDEP. He read areas of the Executive Order and expressed how he believes they apply to this project. He stated that the Highlands Council can conditionally approve the WMP. Mr. Borden stated that it is clear from EO 114 that it is NJDEP that has the authority and responsibility on these issues. He suggested that the Council make their consistency determination based upon the provisions in the RMP.

Laura Oldman, resident of Pohatcong: She noted that the site is surrounded on two sides. The map that was shown didn't show that there is a large sweeping site of agricultural lands. This area is a breeding area for endangered grassland birds (there are very few appropriate sites in NJ). Pohatcong is not a growing population. She also noted that the obligation for COAH is actually 26 units. She stated that there haven't been any additional projects because most of them have been very large and far over exceed both the need and the requirements for affordable housing. She stated that the staff has done an excellent job at reviewing this project and finding the inconsistencies.

Helen Heinrich, NJ Farm Bureau: She asked whether these projects been reviewed at the Natural Resource Committee. Chairman Weingart stated that the Council has been acting on these matters as a committee of the whole. Ms. Heinrich asked about how the public is notified for amendments. Ms. Swan stated that there is a service list and the documents are posted on the Council's website—but stated that there is a public comment period before final approval as well.

Peggy Snyder, consulting engineer of ECHO: She wanted to clarify a statement of Mr. Yoskin – the project doesn't meet the stormwater requirements. Specifically they do not meet the recharge requirements. Mr. Yoskin responded that there is a waiver within the stormwater requirements. So it is not accurate to say that it isn't compliant with the stormwater rules. Ms. Snyder stated that there is no waiver for karst areas.

VOTE: *ALL members present voted in favor. The resolution was APPROVED.*

4. Holland Township Wastewater Management Plan Applicant is the Township

The Holland Township Wastewater Management Plan (WMP) Consistency Determination Review was a town-wide WMP review and many inconsistencies were found. Among the inconsistencies was the amendment to the WMP for the extension of the Sewer Service Area into the Conservation Zone and the Conservation – Environmentally Constrained Sub-Zone, which is inconsistent with the policies and objectives of the Highlands Regional Master Plan.

Holland Township proposes amendments to the WMP that include adding to the approved Sewer Service Area the Huntington Knolls PCD/PSV project (Block 24, Lots 3 & 13) including 158 residential units, 2 group homes, a private clubhouse, office/retail space (27,000 sq. ft.), and an 80 seat restaurant, which was previously reviewed by the Highlands Council as a project-specific WQMP amendment (see attached comment letter to the NJDEP); the Gardner project (Block 6 Lot 61) including 2 three-bedroom rental apartments and 12 residential units; a future school expansion

(150 students); in-fill development of existing lots and future subdivision of new lots (18 lots); and a future commercial development (20,000 sq ft).

For the purposes of a WMP review, the Highlands Council utilizes the Highlands Council GIS data for Highlands Domestic Sewerage Facilities Existing Area Served (HDSF EAS) defined in the Highlands Council Utility Capacity Technical Report, as that portion of an approved Sewer Service Area where existing infrastructure is in place (i.e, pipes in the ground). Portions of an approved Sewer Service Area without infrastructure in place are reviewed in concert with, and under the same review criteria as, any proposed future creation/expansion/extension of the service area, and are referred to as future sewer service area. The WMP proposes all portions of the town outside the Sewer Service Area as *General Service Area for Wastewater Facilities with Planning Flows of Less Than 2,000 gpd which Discharge to Ground Water* (i.e., septic systems), and the Highlands Council reviews these areas for consistency with the appropriate RMP policies.

Ms. Kovach moved the motion to approve resolution, Ms. Carluccio seconded the motion. Ms. Calabrese was absent.

Public Comment:

Michael Keady, Friends of Holland Highlands: He commended the staff on their review of the project. He was pleased consideration was given to his comments. He spoke of the grant that was given to Holland. He pointed out that there were no representatives from the Township and that he believes that they are not fully understanding and respecting the Highlands regulations.

Mr. Dillingham stated that the letter to NJDEP needs to state that there needs to be changes made since it is so inconsistent. Ms. Pasquarelli suggested that the discussion of conformance should not be included in the consistency determination – she believes that it is inappropriate. (She asked for removal of the last sentence of the Conclusion). There was discussion on the consistency determinations.

Chairman Weingart clarified that Mr. Dillingham is asking for a change in the language to focus on the gross inconsistencies. Ms. Swan stated that changes could be made to the Conclusion wording as well as the cover letter to NJ DEP and the letter sent to the applicant.

VOTE: Ms. Pasquarelli opposed. ALL other members present voted in favor. The resolution was APPROVED.

Mr. Vetrano had to leave the meeting.

5. Trump National Golf club, Bedminster Twp

A proposal has been submitted that consists of expanding the sewer service area to build guest cottages, reuse of the Lamington Farm RF (aka Trump National Golf Club) effluent for irrigation, and use of on-site ponds and wells for irrigation (Block 39, Lots 8, 10, 11, 12.02, and 12.03, Block 38, Lots 9, 13, and 14). Ms. Swan noted that this was discussed by the Natural Resource Committee.

Mr. Cogger moved the motion to approve resolution, Ms. Carluccio seconded the motion. Ms. Calabrese was absent.

PUBLIC COMMENT:

Mr. Ed Russo, on behalf of Donald Trump and the Trump Association: He noted that the project will move forward with the recommendations made by the staff. The cottages will be removed and in regards to the 125% mitigation, there is a data available that they will be able to do this onsite. He noted that they will be communicating to NJDEP that they will meet those recommendations. Ms. Letts asked for some more information on the mitigation plan. Mr. Russo gave a quick overview of their plans.

Mr. Dillingham stated that he is not satisfied that the project will in fact move forward and meet these recommendations simply based on spoken word regarding the future actions (without supporting documentation). He stated that there it doesn't appear that all of the inconsistencies have been addressed. Dr. Van Abs stated that the staff recommendations will remain and that the report to NJDEP will state that they are inconsistent. He stated that the project is clearer now that on site systems are present. There was discussion about the wording of the consistency determinations and the letters that will be sent to NJDEP. Ms. Carluccio explained that the Council needs to vote on the consistency determination as written, not including the verbal testimony regarding the changes the applicant will move forward with to be consistent. She noted that the wording in the determination should be careful about wording regarding NJDEP's decision on consistency.

Judith Forbes: She spoke of her concerns about the quality of water that will be recharged from a golf course (particularly regarding the chemicals which will be applied).

Ms. Pasquarelli asked for clarification about what Ms. Carluccio wanted changed. Ms. Carluccio asked for a rewording regarding NJDEP decision on consistency. It was also stated that recommendations will be removed from the Consistency determinations. Mr. Dillingham spoke about the letter that will accompany the consistency determination and that the language will specify that the Highlands Council will not consider a project consistent until all of the listed inconsistencies are met.

VOTE: Mr. Dillingham was opposed. ALL other members present voted in favor.

Chairman Weingart checked who was on the phone – Mr. Whitenack answered. Ms. Swan noted the staff who had worked very hard on these determinations, specifically Chris Ross, Jim Hutzelmann, Erin Lynam, and Erika Webb.

V. REGIONAL MASTER PLAN IMPLEMENTATION PROCEDURES

Ms. Swan noted that there are three parts to discuss under Regional Master Plan Implementation Procedures. First is the issue regarding the WQMPs. Chairman Weingart noted that there will be two types of reviews: one will be consistency determinations for another state agencies and one will be final decision of the Highlands Council. He noted the time that the Council has spent reviewing WQMP. He recommended delegating the consistency determinations for NJDEP's WQMP reviews and water allocations permits to the staff.

Ms. Letts stated that she liked reviewing the staff's recommendations as it was informing. Mr. Cogger stated that he doesn't believe that it is necessary. It was noted that the Council has not done

anything but agree with the staff recommendations. Mr. Schrier stated that he also believes that it is informative to review these consistency determinations. He believes that there is a value in reviewing the WQMP. Mr. Cogger recommended that a committee be formed involving those interested in reviewing the WQMPs. It was noted that Ms. Swan contacted the Pinelands regarding their process for this. She explained the process and the organization of how the Pinelands handles the review of WQMPs.

Ms. Carluccio stated that it is interested in what the Pinelands is doing. She expressed the differences between the inconsistencies the Highlands Council finds versus what the Pinelands finds. She believes that the Council has a responsibility to review these WQMPs. It is important the Council deliberate on the findings because there are issues that will come forth regarding consistency. Reviewing these also broadens the knowledge of the Council as well as the towns on these plans. Even though they are only advisory, these reviews are still very important. Removing the review from the council, would make it seem less important and less of an important responsibility of the Council. She also noted that it is important that the Council hear public comment. If the public and applicant are going to comment it would be awkward for the Council not to review it.

Mr. Cogger noted that when Mr. Dillingham stated that new information brought in during a comment will not affect the consistency determination. Mr. Cogger noted that there is time lost in simply reviewing the staff recommendation and moving it. So far, all that has been done is to duplicate the work the staff has already done and move it forward. There was discussion about whether the Council should review the WQMPs or delegate it to the staff or a subcommittee. Ms. Pasquarelli noted the importance of the council reviewing them. Mr. Alstede noted that the process will now be objective about whether the aspects of the project are consistent or inconsistent.

Mr. Schrier noted that at the Pinelands, during a meeting regarding the project, there is communication about what can be done for consistency. He noted that having a recommendation from the staff in the form of a letter will help in guidance, and he believes that this could be useful. Mr. Dillingham noted that the WQMPs are a key part of what determines what happens on the land. He believes that is important for the Council to review it. Mr. Peterson recommended that comments be limited in time.

Ms. Swan noted that the staff will be doing more than simply the consistency determinations. She pointed out that the staff has delivered on the date stated. She expressed that the reviews are objective. They are consistent or they aren't. More than one meeting per month will be necessary. She spoke of the different aspects that will require both staff and Council review. Mr. Schrier asked about if it is possible to simply accept the staff recommendations on a trial basis and see that if it works. Mr. Dillingham and Ms. Pasquarelli asked if the trial could go the other way. Ms. Carluccio stated that the Council's review today actually didn't take much time.

Mr. Schrier introduced a motion to allow the staff recommendations to stand without Council review. Mr. Peterson seconded that motion.

Mr. Alstede asked what would happen if a Council member has a question. Ms. Swan stated that the documents will be provided ahead of time and that she may be contacted if there is a question. Chairman noted that in the past, regarding WQMPs, the Council has always accepted the staff's recommendations. Ms. Letts noted that the Council will not be well informed on these WQMPs.

VOTE: Mr. Peterson, Mr. Schrier and Mr. Cogger voted in favor. All others were opposed to the motion. The resolution did not pass.

Chairman Weingart stated that the Audit, Personnel, and Budget and Finance Committees will remain and that all other issues will be reviewed by a full Council.

VI. CONSIDERATION OF RESOLUTION - Procedure for Redevelopment Area Designation (voting matter with public comment)

On June 16, 2008, the Highlands Council released a revised procedure for the designation of redevelopment areas in the Preservation Area, along with a summary of changes from the draft procedures of May 2007 and the draft impervious surfaces method of February 2008, based on public comments received. Comments were received by July 16, 2008. A summary of public comments, proposed Council responses and a final procedure have been provided for Council review. Staff recommends adoption of the procedure. She noted that these are for the Preservation Area – as this is a two step process. In terms of the Planning Area, the Council will be doing both sides of the equation.

Mr. Schrier moved the motion to approve resolution, Ms. Letts seconded the motion. Ms. Calabrese was absent.

Mr. Dillingham discussed the definitions regarding Highlands Redevelopment. He noted that it should be articulated that the “purpose language be expanded”. Specifically, that Redevelopment sites act as growth areas and that the purpose is to focus or concentrate growth within these areas so that they do not occur in other inappropriate areas. He is concerned about having high density growth surrounded by sprawl. Also under 3 on page 9 he stated that it is important to note that the Council may impose regulations in order to make ensure compliance and as consistent with the RMP as necessary. Chairman Weingart recommended making it clear in the beginning, in the scope section. It was noted that the definition for Highlands Redevelopment from the RMP will be used. There was additional discussion on how to properly define the redevelopment areas. Mr. Dillingham stated the need to discuss why the redevelopment areas have been designated and why they are appropriate. Ms. Swan explained that a process needs to be established for each area.

Ms. Carluccio noted that under the purpose and scope, it should be clarified that the goal for the brownfields and redevelopment areas are to be viewed as to enable preserving the environmentally critical and sensitive areas. She also stated that the Smart Growth definition seems to imply less environmental protection. These redevelopment areas will have lower standards, but that the RMP will still be applied.

Ms. Carluccio asked about the flow chart and asked about the statement “70% contiguous parcels”. Ms. Swan gave an example. Dr. Van Abs suggested a language change to 70% of the land affected by contiguous parcels. She expressed that the issues surrounding defining impervious cover has not been flushed out. Care needs to be taken regarding impervious cover and particularly regarding 70% of a parcel versus 70% of the land.

Ms. Kovach left the meeting.

It was explained that these Procedures will be consistent with the Plan but different than what is in the Plan. Mr. Dillingham offers the amendment that on page 3, the sentence “the purpose of redevelopment is to...” To add at the end of the sentence “to concentrate growth, accommodate development which might otherwise occur in areas inconsistent with the RMP and advance opportunities for affordable housing...”

Ms. Carluccio seconded. Ms. Pasquarelli asked if this would also address contaminated sites. It was discussed to add “rebuild, restore or enhance” to the same sentence.

Chairman Weingart asked for a vote on the amendment and the amendment failed. There were other suggestions which also did not pass by majority. Ms. Letts asked what would trigger this redevelopment designation process. Ms. Swan gave examples and explained when it would occur.

PUBLIC COMMENT:

Mark Zakutansky: He noted that these procedures seem to have the Council assists people in developing without public input. He made suggestions about areas that should have more public input. He noted issues with some of the definitions (including redevelopment area, impervious surface). They would welcome any changes to the redevelopment definition – he gave specific recommendations. Regarding the definition of impervious surface, he believes that it provides too much latitude. Interested parties should include both the public and non-profit, not just applicants. Mr. Zakutansky made a suggestion for meetings; specifically to create an inquiry meeting where the public and non-profits can give input. Pre-application meetings should also allow an opportunity for nonprofits and the public to give input on redevelopment projects. He also asked that there be possibly a recording or minutes taken so it is easier to understand what occurred at the meeting. Also on page 9, he commented on recommendations that will be made to the applicant to make those publicly available. He believes that this will enable a truly transparent process.

Mr. Borden asked for second on this resolution – Mr. Peterson seconded. There were not enough affirmative votes for the issue, accordingly Chairman Weingart stated that this issue will have to be revisited.

PUBLIC COMMENT:

Julia Somers, NJ Highlands Coalition – In response to the WQMP reviews, the checklist is very helpful and informative. However, she asked that there be a process in which the public can access paperwork for review. Also, the notice of review of WQMPs – there needs to be better process for informing the public regarding when these meetings will occur and when the comments will be due.

Elliot Ruga, NJ Highlands Coalition – He offered the suggestion to make maps for each watershed and identifies them properly and is linked to the table of available water. This would make the RMP more user friendly. He also noted that the RMP doesn’t note any follow up that will occur after a consistency determination. However, the information sent to municipalities this month states that they are to adjust language according to the items identified in the consistency determination. He stated that people may have different views as to what may achieve consistency.

If it is up to the applicant to review their projects for consistency, this could have negative effects. The Council should do a final review to ensure consistency.

David Shope - He expressed that he finds the Budget to be insufficient, as there are no subheading. Regarding resolution 11a – he spoke about the numbers regarding septic flow. He finds them to be low and the analysis inadequate. He stated that he feels bad for the homeowners. Mr. Shope believes that the deed restrictions are unfair.

Monique Purcell, NJ Department of Agriculture – Regarding the WQMP amendment process, she asked that the Council and NJDEP provide clarity regarding the impact of Executive Order 114. She stated that now the County Plans have been adopted, these should be reviewed rather than project by project and asked that after these plans are adopted, what would be an amendment that would trigger EO 114. She noted that there will be an enormous amount of work before the Council.

Joy Farber, Office of Smart Growth – She thanked Ms. Swan and Mr. Borden for their presentation yesterday before that State Planning Commission. The Office of Smart Growth complemented the work of the staff. They have received the petition for endorsement of the plan. She spoke about the letter going to municipalities regarding COAH and the appropriate regulations. She asked to be involved in the process of creating this letter.

Chairman noted that the next meeting is October 16th at 4pm. Ms. Pasquarelli noted that she didn't vote on the Budget – but she did want to abstain.

Mr. Schrier moved the motion to adjourn.

CERTIFICATION

I hereby certify that the foregoing is a true copy of the minutes of the meeting of the Highlands Water Protection and Planning Council.

Date: 10/3/08

Name: 
 Laura C. Forrest, Administrative Assistant

Vote on the Approval of these Minutes

	<u>Motion</u>	<u>Second</u>	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Councilmember Alstede	_____	_____	_____	_____	_____	✓
Councilmember Calabrese	_____	_____	✓	_____	_____	_____
Councilmember Carluccio	_____	_____	_____	_____	_____	✓
Councilmember Cogger	✓	_____	✓	_____	_____	_____
Councilmember Dillingham	_____	_____	_____	_____	_____	✓
Councilmember Kovach	_____	_____	✓	_____	_____	_____
Councilmember Letts	_____	✓	✓	_____	_____	_____
Councilmember Pasquarelli	_____	_____	✓	_____	_____	_____
Councilmember Peterson	_____	_____	_____	_____	_____	✓

Vote on the Approval of these Minutes

	<u>Motion</u>	<u>Second</u>	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Councilmember Schrier	_____	_____	✓	_____	_____	_____
Councilmember Vetrano	_____	_____	_____	_____	_____	✓
Councilmember Way	_____	_____	_____	_____	_____	✓
Councilmember Whitenack	_____	_____	✓	_____	_____	_____
Councilmember Weingart	_____	_____	✓	_____	_____	_____

PUBLIC COMMENTS SUBMITTED

Comments for the September 18, 2008 New Jersey Highlands Council Meeting

Elliott Ruga, New Jersey Highlands Coalition

1. I offer the following suggestion to help make the RMP friendlier to all users: A map that outlines each of the 183 subwatersheds in the Highlands and identifies them by their hydrologic unit code. By providing such a cross reference, one would have a geographic reference to the Water Availability table in the Technical Report Addenda and a better geographic orientation as to the opportunities and limitations on projects, municipalities and counties per the Land Use Capability series of maps. For example, looking at the Water Availability Map-- the HUC-14 in the central Highlands, halfway between I-80 and I-78, shaded medium blue and bordered north and south by green HUC-14s, what subwatershed am I looking at?

2. The Regional Master Plan does not specify what, if any, follow-up or further actions are required after the Council has made a Consistency Determination to approve with conditions, or deny a project. However, in both the Basic Plan Conformance and Plan Conformance documents that were included in the information packages sent to all Highlands municipalities earlier this month, conforming municipalities are instructed to amend project application checklists to include the following language:

“For non-exempt development applications having received a Consistency Determination indicating that specific revisions are required to achieve consistency, a certification from the applicant’s professional(s) affirming that the plans have been revised to specifically address the inconsistencies identified by the Highlands Council and to the best of his/her professional knowledge, they have achieved consistency.”

That’s it?

Consistency determinations are based upon interpretations of policy and facts. It is not a stretch to anticipate that an applicant may interpret policies and objectives quite differently than the Council and its staff. A tweak in a site plan may accomplish the applicant’s threshold for achieving consistency but upon

further scrutiny by the Council, that tweak may found to be entirely inadequate in correcting what the Council had found to be inconsistent.

If it is left entirely up to the applicant to police its adherence to the policies and objectives of the Regional Master Plan, the Council's own consensus-based and thoughtful judgments will be re-purposed at the pleasure of special interests. The results could be devastating.

The public has every reason to expect that projects found inconsistent with the RMP will be corrected to the satisfaction of the Council and only after project plans have been resubmitted (preferably in a digital format, of course) and judged by the Council and not by the applicant, to be consistent per the Council's initial intent and findings.

I certainly don't rule out the possibility that the language I have processed is not in sync with the Council's intent. If such is the case, I more than welcome your clarification.

RESOLUTION 2008-32
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
APPROVAL OF FISCAL YEAR 2009 GENERAL OPERATING BUDGET

WHEREAS, the Highlands Water Protection and Planning Act (Highlands Act) has created a public body corporate and politic with corporate succession known as the Highlands Water Protection and Planning Council; and

WHEREAS, Section 6.g of the Highlands Act authorizes the Highlands Council to conduct its business as needed to effectuate the purposes of the enabling legislation; and

WHEREAS, to satisfy its duties, responsibilities and obligations under the Highlands Act, the Council desires to prepare a general operating budget for Fiscal Year 2009; and

WHEREAS, the Budget and Finance Committee at its September 11, 2008 meeting reviewed a proposed general operating budget for Fiscal Year 2009; and

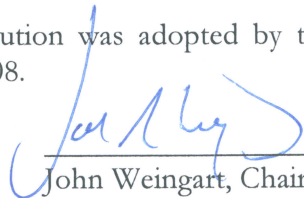
WHEREAS, the Budget and Finance Committee recommends the approval of the proposed general operating budget for Fiscal Year 2009.

NOW, THEREFORE, BE IT RESOLVED that the Highlands Council approves the attached Fiscal Year 2009 General Operating Budget; and

BE IS FURTHER RESOLVED that the Budget and Finance Committee shall review the budget periodically and make recommended adjustments to the Council, as appropriate.

CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its regular meeting held on the 18th of September, 2008.



John Weingart, Chairman

**Vote on the Approval of
this Resolution**

	<u>Motion</u>	<u>Second</u>	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Councilmember Alstede	_____	_____	✓	_____	_____	_____
Councilmember Calabrese	_____	_____	_____	_____	_____	✓
Councilmember Carluccio	_____	_____	✓	_____	_____	_____
Councilmember Cogger	_____	_____	✓	_____	_____	_____
Councilmember Dillingham	_____	_____	✓	_____	_____	_____
Councilmember Kovach	_____	_____	✓	_____	_____	_____
Councilmember Letts	_____	✓	✓	_____	_____	_____

**Vote on the Approval of
this Resolution**

	<u>Motion</u>	<u>Second</u>	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Councilmember Pasquarelli	_____	_____	_____	_____	✓ _____	_____
Councilmember Peterson	_____	_____	✓ _____	_____	_____	_____
Councilmember Schrier	✓ _____	_____	✓ _____	_____	_____	_____
Councilmember Vetrano	_____	_____	✓ _____	_____	_____	_____
Councilmember Way	_____	_____	✓ _____	_____	_____	_____
Councilmember Whitenack	_____	_____	✓ _____	_____	_____	_____
Councilmember Weingart	_____	_____	✓ _____	_____	_____	_____

HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
HIGHLANDS GENERAL OPERATING BUDGET FY09

Revenues:

State of New Jersey Appropriation	\$	2,400,000.00
Balance from prior fiscal year	\$	489,453.02
Miscellaneous Revenues & Reimbursements	\$	4,500.00
Total Revenues	\$	2,893,953.02

Expenditures:

Salaries	\$	1,964,978.57
Materials and Supplies	\$	64,800.00
Other Operating Expenses	\$	411,719.45
Maintenance and Repairs	\$	268,000.00
Equipment, Additions, and Improvements	\$	184,455.00
Total Expenditures:	\$	2,893,953.02

RESOLUTION 2008-33
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
APPROVAL OF CERTAIN PLANNING ASSISTANCE GRANTS

WHEREAS, the Highlands Water Protection and Planning Act (Highlands Act) has created a public body corporate and politic with corporate succession known as the Highlands Water Protection and Planning Council (Highlands Council); and

WHEREAS, the Highlands Act authorizes the Highlands Council to enter into any and all agreements or contracts, execute any and all instruments to carry out any power, duty or responsibility under the Highlands Act; and

WHEREAS, Section 18 of the Highlands Act authorizes the Highlands Council to make available grants and other financial and technical assistance to municipalities and counties in furtherance of the Regional Master Plan; and

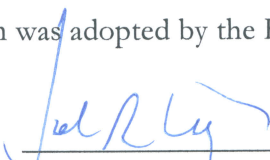
WHEREAS, on February 28, 2008 the Highlands Council by Resolution 2008-4 authorized the initiation of a grant application process for Initial Assessment grants to municipalities within the seven Highlands counties in furtherance of Plan Conformance, in an annual amount not to exceed \$1,500,000; and

WHEREAS, the Highlands Council staff has reviewed the following grant applications and recommends approval by the Highlands Council;

NOW, THEREFORE, BE IT RESOLVED by the Highlands Council that the Executive Director, or her designee, is hereby authorized to enter into a grant agreement with Holland Township for an Initial Assessment Grant in an amount not to exceed \$17,139.00.

CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its meeting held on the 18th day of September, 2008.



 John Weingart, Chairman

Vote on the Approval of this Resolution

	<u>Motion</u>	<u>Second</u>	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Councilmember Alstede	_____	_____	✓	_____	_____	_____
Councilmember Calabrese	_____	_____	_____	_____	_____	✓
Councilmember Carluccio	_____	_____	✓	_____	_____	_____
Councilmember Cogger	_____	_____	✓	_____	_____	_____
Councilmember Dillingham	_____	_____	✓	_____	_____	_____
Councilmember Kovach	_____	✓	✓	_____	_____	_____
Councilmember Letts	_____	_____	✓	_____	_____	_____
Councilmember Pasquarelli	_____	_____	_____	_____	_____	✓
Councilmember Peterson	_____	_____	✓	_____	_____	_____
Councilmember Schrier	✓	_____	✓	_____	_____	_____

**Vote on the Approval of
this Resolution**

	<u>Motion</u>	<u>Second</u>	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Councilmember Vetrano	_____	_____	<u>✓</u>	_____	_____	_____
Councilmember Way	_____	_____	<u>✓</u>	_____	_____	_____
Councilmember Whitenack	_____	_____	<u>✓</u>	_____	_____	_____
Councilmember Weingart	_____	_____	<u>✓</u>	_____	_____	_____

RESOLUTION 2008-34
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
APPROVAL OF CERTAIN PLANNING ASSISTANCE GRANTS

WHEREAS, the Highlands Water Protection and Planning Act (Highlands Act) has created a public body corporate and politic with corporate succession known as the Highlands Water Protection and Planning Council (Highlands Council); and

WHEREAS, the Highlands Act authorizes the Highlands Council to enter into any and all agreements or contracts, execute any and all instruments to carry out any power, duty or responsibility under the Highlands Act; and

WHEREAS, Section 18.b of the Highlands Act authorizes the Highlands Council to make available grants and other financial and technical assistance to municipalities and counties in furtherance of the Regional Master Plan; and

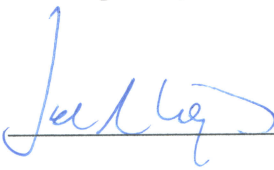
WHEREAS, on August 4, 2005, the Highlands Council by Resolution 2005-27 authorized the initiation of a grant application process for certain grant categories, and included among the categories Zoning and Parcel Analysis grants; and

WHEREAS, the Highlands Council staff has reviewed the following grant application and recommends approval by the Highlands Council;

NOW THEREFORE, BE IT RESOLVED by the Highlands Council that the Executive Director, or her designee, is authorized to enter in a grant agreement with Sussex County for an amount not to exceed \$15,000.

CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its meeting held on the 18th day of September, 2008.



John Weingart, Chairman

RESOLUTION 2008-34

Vote on the Approval of this Resolution

	<u>Motion</u>	<u>Second</u>	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Councilmember Alstede	_____	_____	✓	_____	_____	_____
Councilmember Calabrese	_____	_____	_____	_____	_____	✓
Councilmember Carluccio	_____	_____	✓	_____	_____	_____
Councilmember Cogger	_____	_____	✓	_____	_____	_____
Councilmember Dillingham	_____	_____	✓	_____	_____	_____
Councilmember Kovach	_____	✓	✓	_____	_____	_____
Councilmember Letts	_____	_____	✓	_____	_____	_____
Councilmember Pasquarelli	_____	_____	_____	_____	_____	✓
Councilmember Peterson	_____	_____	✓	_____	_____	_____
Councilmember Schrier	✓	_____	✓	_____	_____	_____
Councilmember Vetrano	_____	_____	_____	_____	✓	_____
Councilmember Way	_____	_____	✓	_____	_____	_____
Councilmember Whitenack	_____	_____	✓	_____	_____	_____
Councilmember Weingart	_____	_____	✓	_____	_____	_____

RESOLUTION 2008-37

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL PROPOSED WATER QUALITY MANAGEMENT PLAN AMENDMENT FOR PILOT TRAVEL CENTER, UNION TOWNSHIP

WHEREAS, the Highlands Water Protection and Planning Act (Highlands Act) has created a public body corporate and politic with corporate succession known as the Highlands Water Protection and Planning Council (Highlands Council);

WHEREAS, the New Jersey Department of Environmental Protection (NJDEP) had adopted rules at N.J.A.C. 7:38-1.1 et seq. (Highlands Rules) governing the NJDEP's review of projects in the Highlands Region; and

WHEREAS, the Highlands Rules, at N.J.A.C. 7:38-1.1, specifies that upon adoption of the Regional Master Plan, NJDEP shall not approve a Water Quality Management Plan (WQMP) amendment for a project proposed in the Planning Area or Preservation Area of the Highlands Region without first obtaining a consistency determination from the Highlands Council; and

WHEREAS, the Highlands Rules, at N.J.A.C. 7:38-1.1, were adopted in accordance with the Highlands Act as well as the Water Quality Management Act which specifically requires a continuing planning process to coordinate and integrate water quality management plans with related Federal, State, regional and local comprehensive land use, functional and other relevant planning activities; and

WHEREAS, a proposal has been submitted that consists of a proposed amendment to the Upper Raritan Water Quality Management Plan and the Union Township Wastewater Management Plan that would allow for the expansion of the existing on-site discharge to ground water wastewater treatment facility for the redevelopment of the site formerly known as Johnny's Truck Stop (Block 11, Lot 24.3); and

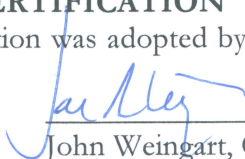
WHEREAS, consistent with NJDEP's Highlands Rules at N.J.A.C. 7:38-1.1, and the procedures adopted by the Highlands Council pursuant to Resolution 2007-18 for review of WQMP amendments for a proposed project, Highlands Council staff conducted a consistency determination for the Proposed Amendment based upon the standards and policies set forth in the adopted Regional Master Plan (RMP); and

WHEREAS, the Highlands Council duly considered the Proposed Amendment, the Highlands Council staff consistency determination, which was posted on the Highlands Council website, and all public comments;

NOW, THEREFORE, BE IT RESOLVED by the Highlands Council that the Executive Director is hereby authorized to provide the consistency determination to NJDEP on behalf of the Highlands Council.

CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its meeting held on the 18th day of September, 2008.



John Weingart, Chairman

RESOLUTION 2008-37

Vote on the Approval of this Resolution

<u>Motion</u>	<u>Second</u>	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
_____	_____	✓	_____	_____	_____
_____	_____	_____	_____	_____	✓
_____	_____	✓	_____	_____	_____
_____	_____	✓	_____	_____	_____
_____	_____	✓	_____	_____	_____
_____	✓	✓	_____	_____	_____
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_____	_____	✓	_____	_____	_____
_____	_____	✓	_____	_____	_____
_____	_____	✓	_____	_____	_____

RESOLUTION 2008-38

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL PROPOSED WATER QUALITY MANAGEMENT PLAN AMENDMENT FOR HAMPTONS AT POHATCONG, POHATCONG TOWNSHIP

WHEREAS, the Highlands Water Protection and Planning Act (Highlands Act) has created a public body corporate and politic with corporate succession known as the Highlands Water Protection and Planning Council (Highlands Council);

WHEREAS, the New Jersey Department of Environmental Protection (NJDEP) had adopted rules at N.J.A.C. 7:38-1.1 et seq. (Highlands Rules) governing the NJDEP's review of projects in the Highlands Region; and

WHEREAS, the Highlands Rules, at N.J.A.C. 7:38-1.1, specifies that upon adoption of the Regional Master Plan, NJDEP shall not approve a Water Quality Management Plan (WQMP) amendment for a project proposed in the Planning Area or Preservation Area of the Highlands Region without first obtaining a consistency determination from the Highlands Council; and

WHEREAS, the Highlands Rules, at N.J.A.C. 7:38-1.1, were adopted in accordance with the Highlands Act as well as the Water Quality Management Act which specifically requires a continuing planning process to coordinate and integrate water quality management plans with related Federal, State, regional and local comprehensive land use, functional and other relevant planning activities; and

WHEREAS, a proposal has been submitted that consists of a proposed amendment to the Upper Delaware WQMP submitted on behalf of EAI Investments, LLC, for an expansion of the Phillipsburg STP sewer service area to include the proposed Hamptons at Pohatcong development (Block 93, Lots 4 and 5) in Pohatcong Township, Warren County; and

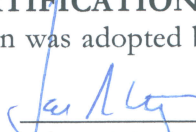
WHEREAS, consistent with NJDEP's Highlands Rules at N.J.A.C. 7:38-1.1, and the procedures adopted by the Highlands Council pursuant to Resolution 2007-18 for review of WQMP amendments for a proposed project, Highlands Council staff conducted a consistency determination for the Proposed Amendment based upon the standards and policies set forth in the adopted Regional Master Plan (RMP); and

WHEREAS, the Highlands Council duly considered the Proposed Amendment, the Highlands Council staff consistency determination, which was posted on the Highlands Council website, and all public comments;

NOW, THEREFORE, BE IT RESOLVED by the Highlands Council that the Executive Director is hereby authorized to provide the consistency determination to NJDEP on behalf of the Highlands Council.

CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its meeting held on the 18th day of September, 2008.



John Weingart, Chairman

RESOLUTION 2008-38

**Vote on the Approval of
this Resolution**

	<u>Motion</u>	<u>Second</u>	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Councilmember Alstede	_____	_____	✓	_____	_____	_____
Councilmember Calabrese	_____	_____	_____	_____	_____	✓
Councilmember Carluccio	✓	_____	✓	_____	_____	_____
Councilmember Cogger	_____	_____	✓	_____	_____	_____
Councilmember Dillingham	_____	_____	✓	_____	_____	_____
Councilmember Kovach	_____	✓	✓	_____	_____	_____
Councilmember Letts	_____	_____	✓	_____	_____	_____
Councilmember Pasquarelli	_____	_____	✓	_____	_____	_____
Councilmember Peterson	_____	_____	✓	_____	_____	_____
Councilmember Schrier	_____	_____	✓	_____	_____	_____
Councilmember Vetrano	_____	_____	✓	_____	_____	_____
Councilmember Way	_____	_____	✓	_____	_____	_____
Councilmember Whitenack	_____	_____	✓	_____	_____	_____
Councilmember Weingart	_____	_____	✓	_____	_____	_____

RESOLUTION 2008-39

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL PROPOSED WATER QUALITY MANAGEMENT PLAN AMENDMENT FOR HOLLAND TOWNSHIP WASTEWATER MANAGEMENT PLAN

WHEREAS, the Highlands Water Protection and Planning Act (Highlands Act) has created a public body corporate and politic with corporate succession known as the Highlands Water Protection and Planning Council (Highlands Council);

WHEREAS, the New Jersey Department of Environmental Protection (NJDEP) had adopted rules at N.J.A.C. 7:38-1.1 et seq. (Highlands Rules) governing the NJDEP's review of projects in the Highlands Region; and

WHEREAS, the Highlands Rules, at N.J.A.C. 7:38-1.1, specifies that upon adoption of the Regional Master Plan, NJDEP shall not approve a Water Quality Management Plan (WQMP) amendment for a project proposed in the Planning Area or Preservation Area of the Highlands Region without first obtaining a consistency determination from the Highlands Council; and

WHEREAS, the Highlands Rules, at N.J.A.C. 7:38-1.1, were adopted in accordance with the Highlands Act as well as the Water Quality Management Act which specifically requires a continuing planning process to coordinate and integrate water quality management plans with related Federal, State, regional and local comprehensive land use, functional and other relevant planning activities; and

WHEREAS, a proposal has been submitted that consists of amendments to the Wastewater Management Plan that include adding to the approved Sewer Service Area the Huntington Knolls PCD/PSV project (Block 24, Lots 3 & 13); the Gardner project (Block 6 Lot 61); a future school expansion; in-fill development of existing lots and future subdivision of new lots; and a future commercial development; and

WHEREAS, consistent with NJDEP's Highlands Rules at N.J.A.C. 7:38-1.1, and the procedures adopted by the Highlands Council pursuant to Resolution 2007-18 for review of WQMP amendments for a proposed project, Highlands Council staff conducted a consistency determination for the Proposed Amendment based upon the standards and policies set forth in the adopted Regional Master Plan (RMP); and

WHEREAS, the Highlands Council duly considered the Proposed Amendment, the Highlands Council staff consistency determination, which was posted on the Highlands Council website, and all public comments;

NOW, THEREFORE, BE IT RESOLVED by the Highlands Council that the Executive Director is hereby authorized to provide the consistency determination to NJDEP on behalf of the Highlands Council.

CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its meeting held on the 18th day of September, 2008.



John Weingart, Chairman

RESOLUTION 2008-39

<u>Vote on the Approval of this Resolution</u>	<u>Motion</u>	<u>Second</u>	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Councilmember Alstede	_____	_____	✓	_____	_____	_____
Councilmember Calabrese	_____	_____	_____	_____	_____	✓
Councilmember Carluccio	_____	✓	✓	_____	_____	_____
Councilmember Cogger	_____	_____	✓	_____	_____	_____
Councilmember Dillingham	_____	_____	✓	_____	_____	_____
Councilmember Kovach	✓	_____	✓	_____	_____	_____
Councilmember Letts	_____	_____	✓	_____	_____	_____
Councilmember Pasquarelli	_____	_____	_____	✓	_____	_____
Councilmember Peterson	_____	_____	✓	_____	_____	_____
Councilmember Schrier	_____	_____	✓	_____	_____	_____
Councilmember Vetrano	_____	_____	✓	_____	_____	_____
Councilmember Way	_____	_____	✓	_____	_____	_____
Councilmember Whitenack	_____	_____	✓	_____	_____	_____
Councilmember Weingart	_____	_____	✓	_____	_____	_____

RESOLUTION 2008-40
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
PROPOSED WATER QUALITY MANAGEMENT PLAN AMENDMENT FOR
TRUMP NATIONAL GOLF CLUB, BEDMINSTER TOWNSHIP

WHEREAS, the Highlands Water Protection and Planning Act (Highlands Act) has created a public body corporate and politic with corporate succession known as the Highlands Water Protection and Planning Council (Highlands Council);

WHEREAS, the New Jersey Department of Environmental Protection (NJDEP) had adopted rules at N.J.A.C. 7:38-1.1 et seq. (Highlands Rules) governing the NJDEP's review of projects in the Highlands Region; and

WHEREAS, the Highlands Rules, at N.J.A.C. 7:38-1.1, specifies that upon adoption of the Regional Master Plan, NJDEP shall not approve a Water Quality Management Plan (WQMP) amendment for a project proposed in the Planning Area or Preservation Area of the Highlands Region without first obtaining a consistency determination from the Highlands Council; and

WHEREAS, the Highlands Rules, at N.J.A.C. 7:38-1.1, were adopted in accordance with the Highlands Act as well as the Water Quality Management Act which specifically requires a continuing planning process to coordinate and integrate water quality management plans with related Federal, State, regional and local comprehensive land use, functional and other relevant planning activities; and

WHEREAS, a proposal has been submitted that consists of expanding the sewer service area to build guest cottages, reuse of the Lamington Farm RF (aka Trump National Golf Club) effluent for irrigation, and use of on-site ponds and wells for irrigation (Block 39, Lots 8, 10, 11, 12.02, and 12.03, Block 38, Lots 9, 13, and 14); and

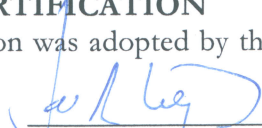
WHEREAS, consistent with NJDEP's Highlands Rules at N.J.A.C. 7:38-1.1, and the procedures adopted by the Highlands Council pursuant to Resolution 2007-18 for review of WQMP amendments for a proposed project, Highlands Council staff conducted a consistency determination for the Proposed Amendment based upon the standards and policies set forth in the adopted Regional Master Plan (RMP); and

WHEREAS, the Highlands Council duly considered the Proposed Amendment, the Highlands Council staff consistency determination, which was posted on the Highlands Council website, and all public comments;

NOW, THEREFORE, BE IT RESOLVED by the Highlands Council that the Executive Director is hereby authorized to provide the consistency determination to NJDEP on behalf of the Highlands Council.

CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its meeting held on the 18th day of September, 2008.



John Weingart, Chairman

RESOLUTION 2008-40

<u>Vote on the Approval of this Resolution</u>	<u>Motion</u>	<u>Second</u>	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Councilmember Alstede	_____	_____	✓	_____	_____	_____
Councilmember Calabrese	_____	_____	_____	_____	_____	✓
Councilmember Carluccio	_____	✓	✓	_____	_____	_____
Councilmember Cogger	✓	_____	✓	_____	_____	_____
Councilmember Dillingham	_____	_____	_____	✓	_____	_____
Councilmember Kovach	_____	_____	✓	_____	_____	_____
Councilmember Letts	_____	_____	✓	_____	_____	_____
Councilmember Pasquarelli	_____	_____	✓	_____	_____	_____
Councilmember Peterson	_____	_____	✓	_____	_____	_____
Councilmember Schrier	_____	_____	✓	_____	_____	_____
Councilmember Vetrano	_____	_____	_____	_____	_____	✓
Councilmember Way	_____	_____	_____	_____	_____	✓
Councilmember Whitenack	_____	_____	✓	_____	_____	_____
Councilmember Weingart	_____	_____	✓	_____	_____	_____

RESOLUTION 2008-35
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
APPROVAL OF CONTRACT FOR PRINTING SERVICES

WHEREAS, the Highlands Water Protection and Planning Act (Highlands Act) has created a public body corporate and politic with corporate succession known as the Highlands Water Protection and Planning Council (Highlands Council); and

WHEREAS, Section 6.g of the Highlands Act authorizes the Highlands Council to conduct its business as needed to effectuate the purposes of the enabling legislation; and

WHEREAS, the Highlands Council determined that a firm with expertise in offset printing is necessary to support the Highlands Council's administrative operations, more specifically, the printing of the Highlands Council's Regional Master Plan; and

WHEREAS, to address the above need, the Highlands Council prepared a Request for Proposal (RFP) to provide printing services, which was posted on the Highlands Council's website and noticed in newspapers of general circulation; and

WHEREAS, numerous applicants submitted proposals and qualifications submittals prior to the deadline of May 12, 2008; and

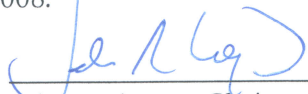
WHEREAS, the initial RFP was amended by the Highlands Council and sent to the applicants who had submitted proposals and qualifications submittals to the initial RFP; and

WHEREAS, the Highlands Council staff will evaluate the proposals and qualifications of the applicants submitted before the deadline of September 23, 2008 and recommend to the Executive Director a printing service that is best suited to meet the needs articulated by the Highlands Council's RFP;

NOW, THEREFORE, BE IT RESOLVED by the Highlands Council that the Executive Director, or her designee, is hereby authorized to enter into a contract with the recommended printing service for an amount not to exceed \$60,000.

CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its regular meeting held on the 18th day of September, 2008.



John Weingart, Chairman

RESOLUTION 2008-35

**Vote on the Approval of
this Resolution**

	<u>Motion</u>	<u>Second</u>	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Councilmember Alstede	_____	_____	✓	_____	_____	_____
Councilmember Calabrese	_____	_____	_____	_____	_____	✓
Councilmember Carluccio	✓	_____	✓	_____	_____	_____
Councilmember Cogger	_____	_____	✓	_____	_____	_____
Councilmember Dillingham	_____	_____	✓	_____	_____	_____
Councilmember Kovach	_____	_____	✓	_____	_____	_____
Councilmember Letts	_____	✓	✓	_____	_____	_____
Councilmember Pasquarelli	_____	_____	✓	_____	_____	_____
Councilmember Peterson	_____	_____	✓	_____	_____	_____
Councilmember Schrier	_____	_____	✓	_____	_____	_____
Councilmember Vetrano	_____	_____	✓	_____	_____	_____
Councilmember Way	_____	_____	✓	_____	_____	_____
Councilmember Whitenack	_____	_____	✓	_____	_____	_____
Councilmember Weingart	_____	_____	✓	_____	_____	_____

FINAL DRAFT FOR HIGHLANDS COUNCIL REVIEW, 21 AUGUST 2008

PROCEDURES FOR HIGHLANDS REDEVELOPMENT AREA DESIGNATIONS

August 2008

1.1 Purpose and scope

The Highlands Act and New Jersey Department of Environmental Protection (NJDEP) Highlands Rules (N.J.A.C. 7:38) mandate the application of protection standards for Highlands resources in the Preservation Area. Any activities defined as major Highlands development but not exempted under the Act must meet these standards through a Highlands Preservation Area Approval (HPAA) from NJDEP. In certain instances, however, NJDEP can issue a HPAA with a waiver providing limited relief from specific standards.

One waiver provided by the Highlands Act allows certain brownfield sites and previously developed areas to be redeveloped, through NJDEP approval of an HPAA with Redevelopment Waiver. The Highlands Rules mandate that the Highlands Council must first designate an appropriate Redevelopment Area. This document outlines the procedures by which the Highlands Council will designate Redevelopment Areas. Following such a designation, an application may be submitted to NJDEP for the HPAA with Redevelopment Waiver.

(a) The following establishes the procedures for an applicant requesting a Highlands Redevelopment Area designation and the standards by which the Highlands Council determines that an area within the Preservation Area is appropriate for such a designation. It is intended to assist applicants with early identification of potential appropriate redevelopment areas.

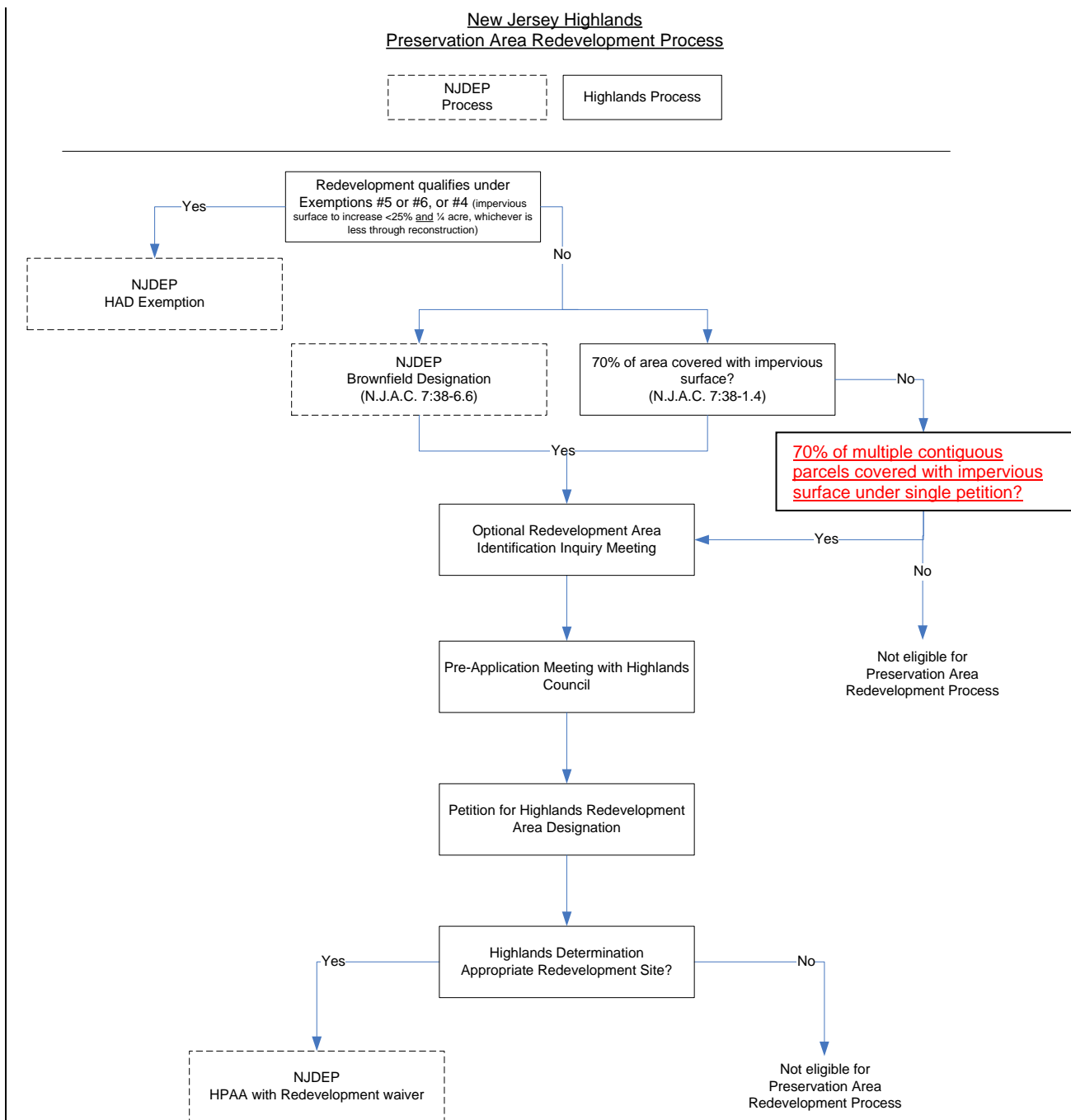
Applications may come before the Council via different means: 1) when one or more individuals are proposing a Redevelopment Area on one or more contiguous properties that they control; 2) when a municipality is proposing multiple contiguous properties for a proposed Redevelopment Area; and 3) when a municipality is partnering with a landowner or group of landowners to identify a Redevelopment Area. The Council staff will consult with County officials as deemed appropriate.

The flow chart on the following page identifies the process for an applicant requesting a Highlands Redevelopment Area designation in the Preservation Area. As depicted in the flow chart, if the proposed redevelopment does not meet the requirements of a Highlands Act Exemption, the next step is for an interested party to pursue a Redevelopment Area designation as per (b) below.

(b) The Highlands Council may identify an area as appropriate for redevelopment if the area satisfies the requirements presented herein and is either:

1. A Highlands brownfield site designated by the Department of Environmental Protection pursuant to N.J.A.C. 7:38-6.6;
2. A site at which at least 70% percent of the area is covered with impervious surface as that term is defined in N.J.A.C. 7:38-1.4.

FINAL DRAFT FOR HIGHLANDS COUNCIL REVIEW, 21 AUGUST 2008



FINAL DRAFT FOR HIGHLANDS COUNCIL REVIEW, 21 AUGUST 2008

1.2 Definitions

Highlands Brownfield – Any former or current commercial or industrial site that is currently vacant or underutilized and on which there has been or there is suspected to have been, a discharge or contaminant that meets the designation of a brownfield site pursuant to N.J.A.C. 7:38-6.6. There are three tracks under which a site may serve as a Highlands Brownfield, provided that the contamination onsite is not the result of a current or previous agricultural use:

1. Track One addresses sanitary landfill sites;
2. Track Two addresses sites that may have already met the NJDEP remediation requirements and legally disturbed areas as of August 10, 2004; and
3. Track Three addresses sites with suspected or confirmed onsite contamination that have not yet received a No Further Action letter.

Highlands Redevelopment - A process to rebuild, restore or enhance a previously developed area that is appropriate for economic investment and community development in accordance with the Smart Growth principles of the Regional Master Plan. The purpose of redevelopment is to transform an underutilized or distressed area into an economically viable and productive part of the community. Redevelopment activities may include the removal and replacement of existing structures, adaptive reuse or infill of additional structures within areas which are substantially developed or surrounded by development, or conversion to recreational sites, parks, natural resources conservation, or other dedicated open space purposes.

Highlands Regional Master Plan – The Regional Master Plan (RMP) including all supporting technical documents, or any revisions thereof approved or adopted by the New Jersey Highlands Water Protection and Planning Council pursuant to N.J.S.A 13:20-8.

Highlands Area Resource - Those features of the Highlands that merit special protection pursuant to N.J.S.A. 13:20-1 et seq. and the protection policies and objectives of the Regional Master Plan including, but not limited to: Highlands open waters and buffers; flood hazard areas; steep slopes; forested areas; rare, threatened or endangered species habitat; rare or threatened plant habitat; areas with historic or archaeological features; and unique or irreplaceable land types.

Highlands Preservation Area Approval – A Highlands Preservation Area Approval (HPAA) means a permit from the NJDEP to engage in a regulated activity in the Highlands Preservation Area issued pursuant to the Highlands Act.

Highlands Preservation Area Approval with Redevelopment Waiver – The Highlands Act features a provision that may allow for a waiver of any provision of a Highlands permitting review on a case-by-case basis for redevelopment in certain previously developed areas in the Preservation Area. A redevelopment waiver applies when a site is a NJDEP brownfield-designated site (N.J.A.C. 7:38-6.6) or when the Highlands Council identifies a site at which at least 70 percent of the area thereof is covered with impervious surface (N.J.A.C. 7:38-6.7). A request for a waiver must be submitted along with an HPAA application, as set forth in N.J.A.C. 7:38-6.1. Thus, an applicant must obtain a *Highlands Preservation Area Approval with Redevelopment Waiver*.

FINAL DRAFT FOR HIGHLANDS COUNCIL REVIEW, 21 AUGUST 2008

Highlands Redevelopment Area – The portion of a parcel or parcels of land for which a Highlands Redevelopment Area designation is approved by the Highlands Council.

Highlands Redevelopment Area Designation – A Highlands Council designation that an area within the Preservation Area is appropriate for redevelopment under N.J.S.A. 13:20-9.b and 11.a(6)(h).

Highlands Resource Area Determination (HRAD) – A process to identify and/or verify the location of any Highlands resource area features that are subject to the protection requirements under N.J.A.C: 7:38. The HRAD is not a permit, but rather a process intended to confirm the presence, absence or location of a Highlands resource area on or adjacent to a site.

Impervious Surface – Any structure, surface, or improvement that reduces or prevents absorption of stormwater into land, and includes, but is not limited to, porous paving, paver blocks, gravel, crushed stone, decks, patios, elevated structures, and other similar structures, surfaces, or improvements.

Interested Party – A person who owns or is under contract to purchase a property eligible for designation of a Redevelopment Area, or the municipality or county within which a proposed Redevelopment Area is located.

Preservation Area – That portion of the Highlands Region so designated by N.J.S.A 13:20-7b.

Smart Growth – A strategic approach that utilizes comprehensive planning to guide design, development, and revitalization of communities. Smart growth principles support sound land use decisions and serve as an advocate for informing future land management decisions that consider environmental protection needs in the context of efficient land development. In order to accommodate local and regional economic development of the Highlands Region, Goals 6J, 6K, 6L and 6N of the RMP encourage growth to occur in locations that have limited environmental constraints, represent existing developed areas that have access to infrastructure, encourage compatible redevelopment, allow the application of compact development concepts, and are in accordance with community character. The Highlands Act refers to the prohibition and limitation of construction and development within the Preservation Area and the revocation of previously approved water and sewer service areas that lack existing infrastructure, in support of this preservation goal. The Highlands Act recognizes the State Development and Redevelopment Plan goal to encourage development patterns that are consistent with existing infrastructure and land use development and discourages scattered piecemeal development patterns. Therefore, infrastructure investments in the Highlands serve to support public health and safety, environmental resource protection and efficient land development in support of local and regional conditions.

1.3 General Approach

As shown in the flow chart above, the first step is to determine if the proposed redevelopment would meet the requirements of Exemption #4, #5 or #6 of the Highlands Act (Section 30).

- Exemption #4 provides for: “The reconstruction of any building or structure for any reason within 125% of the footprint of the lawfully existing impervious surfaces on the site,

FINAL DRAFT FOR HIGHLANDS COUNCIL REVIEW, 21 AUGUST 2008

provided that the reconstruction does not increase the lawfully existing impervious surface by one-quarter acre or more. This exemption shall not apply to the reconstruction of any agricultural or horticultural building or structure for a non-agriculture or non-horticultural use.”

- Exemption #5 provides for: “Any improvement to a single family dwelling in existence on the date of enactment of this act, including but not limited to an addition, garage, shed, driveway, porch, deck, patio, swimming pool, or septic system.”
- Exemption #6 provides for: “Any improvement, for non-residential purposes, to a place of worship owned by a nonprofit entity, society or association, or association organized primarily for religious purposes, or a public or private school, or a hospital, in existence on the date of enactment of this act, including but not limited to new structures, an addition to an existing building or structure, a site improvement, or a sanitary facility.”

Each of these three exemptions addresses redevelopment of or improvements to specific classes of existing development – single family dwellings, religious facilities, schools, hospitals and non-agricultural buildings in general. In each case, designation of a Redevelopment Area by the Highlands Council is not necessary and would be inappropriate because no waiver is required from the NJDEP Preservation Area regulations or the Regional Master Plan, based on the exemption. Applicants for such projects should directly apply for a Highlands Applicability Determination regarding the exemption (N.J.A.C. 7:38-2.4).

If the proposed redevelopment project is not exempt, then a petition for Redevelopment Area designation may be submitted to the Highlands Council regarding either NJDEP-designated brownfields or existing impervious surfaces greater than 70 percent. These procedures include an informal process by which petitioners may receive guidance from the Highlands Council on the viability of a Redevelopment Area designation and the information requirements for a formal petition. The formal process involves submittal of a petition, staff review by the Highlands Council staff, staff recommendation to the Highlands Council, and final determination by the Highlands Council with provision for public review and comment. Upon approval of a Redevelopment Area designation, an application for Highlands Preservation Area Approval with Redevelopment Waiver may be submitted to the NJDEP for consideration under N.J.A.C. 7:38-6.1.

There are several critical implications regarding Redevelopment Area designation:

1. The “Redevelopment Area” may be part of a parcel, all of a parcel, part or all of multiple contiguous parcels in common ownership, or part or all of multiple parcels not in common ownership for which a combined Redevelopment Area petition has been submitted.
2. The Highlands Council anticipates that many Redevelopment Area designations will be defined as including less than entire parcels, with the remainder of the parcel restricted from further development due to environmental constraints. The NJDEP identification of a brownfields site and the extent of existing impervious surfaces both provide the basis for determining the maximum extent of a Redevelopment Area by the Highlands Council, but site constraints may result in designation of a smaller area.

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3. The Highlands Council may determine that a proposed Redevelopment Area is inappropriate despite meeting the initial criteria, based on the likelihood that the designation will promote redevelopment incompatible with the goals of the Highlands Act and the Regional Master Plan.
4. Within a Redevelopment Area designated by the Highlands Council, NJDEP may grant a waiver from strict application of the Highlands Preservation Areas Rules under N.J.A.C. 7:38-6.6 and 6.7. However, those rules provide for brownfields that “The proposed redevelopment meets the requirements at N.J.A.C. 7:38-6.2 to the maximum extent possible, taking into consideration cost and existing technology” (Section 6.6), and for sites meeting the 70 percent impervious surface threshold that “The proposed redevelopment meets the requirements at N.J.A.C. 7:38-6.2 to the maximum extent possible while still addressing the identified redevelopment need” (Section 6.7). Therefore, the NJDEP waiver will protect environmental resources wherever feasible.
5. NJDEP also may restrict aspects of a project to avoid secondary impacts, under N.J.A.C. 7:38-6.4(i), which provides: “In cases where the Department determines to approve a waiver in accordance with this chapter, the approval will include specific conditions to restrict any activities that might otherwise occur as a result of the waiver. These conditions include but are not limited to conservation restrictions, resolutions from a municipal utilities authority restricting sewage flows, physical limitations on sewer lines and/or pump stations and other mechanisms necessary to preclude secondary impacts that may otherwise result from the approved activities.” In general practice, NJDEP intends to require conservation restrictions on that part of an affected property that is not subject to redevelopment or remedy of contaminated areas.

1.4 Redevelopment Area Designation Inquiry Meeting

(a) For all parties seeking information about the potential for designation of an area as a Highlands Redevelopment Area, it is recommended that a *voluntary* informal redevelopment area inquiry meeting be convened with staff of the Highlands Council prior to proceeding with a more comprehensive pre-application meeting and petition for redevelopment. This meeting also serves as an opportunity to assist interested parties in the identification of Highlands Council and other data and technical resources that may be available in support of a petition application. An applicant requesting an inquiry meeting shall do so in writing and is encouraged to provide as much information regarding the proposed Highlands Redevelopment Area as possible, using Section 1.5 as a general guide.

1.5 Request for Pre-application Meeting

(a) For all applications requesting a Highlands Redevelopment Area Designation, a pre-application meeting with staff of the Highlands Council is required. (Please note that this pre-application meeting is not the same as required for an application to NJDEP for an HPAA with Redevelopment Waiver.) The Highlands Council may invite municipal and county planning representatives as appropriate. The applicant shall submit a request to the Highlands Council for a pre-application meeting and the following information in writing (with copies sent to the affected municipality and county) so that the Highlands Council staff may provide the greatest degree of guidance regarding the specific request for Redevelopment Area designation:

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1. A description of the proposed Highlands Redevelopment Area including block and lot number designation of the properties, and street addresses where applicable;
2. A map showing the boundaries of the affected properties and the proposed Highlands Redevelopment Area;
3. Acreage of the proposed Highlands Redevelopment Area and of the affected properties;
4. Existing local zoning and land use of the properties;
5. A description of existing structures on the subject site, including historic structures;
6. A list of any encumbrances on the properties comprising the proposed Highlands Redevelopment Area, including but not limited to easements, deed restrictions, and covenants;
7. A description of the proposed redevelopment project to be located within the proposed Highlands Redevelopment Area;
8. A map from the Highlands Council Property Search Tool indicating the affected properties and any Highlands Resources on those properties, to the extent available from the Property Search Tool; and
9. A description of how the subject site conforms to Section 1.1(b) above. For areas other than brownfields, (i.e., a site which includes at least 70% impervious surface), and application must include a delineation of the existing impervious surface supporting the minimum 70% calculation. For brownfield sites, an applicant must obtain and provide a brownfield designation from the NJDEP.

(b) After receipt of a request for a pre-application meeting and supporting information submitted in accordance with Section 1.5 above, the Highlands Council shall contact the applicant and the applicable constituent municipality (and county, as deemed appropriate) to schedule a pre-application meeting. As part of this meeting, the Highlands Council will identify any known Highlands Resources that may constrain the designation of a Redevelopment Area.

(c) Any statements or recommendations made by any representative of the Highlands Council in the context of a pre-application meeting shall be considered non-binding on the prospective applicant, the constituent municipality and county, and the Highlands Council, and shall confer no legal rights.

(d) A summary of the issues discussed during the pre-application meeting will be made available to the public via the staff recommendation report described in Section 1.7.

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1.76 Petitions for Highlands Redevelopment Area Designation

(a) Any interested party may petition the Highlands Council to approve designation of a Highlands Redevelopment Area, providing the site meets the requirements presented herein and having satisfied the requirements for a Pre-Application Meeting under Section 1.5, above.

(b) All petitions for a Highlands Redevelopment Area designation shall be submitted to the Highlands Council in writing, and signed by the Interested Party. Such petitions shall include the information required in Section 1.5 above and those items required by NJDEP as listed in NJDEP's Highlands Preservation Area Approval (HPAA) Pre-Application Checklist (NJDEP issues the HPAA with Redevelopment Waiver; but only after the Highlands Council issues the Redevelopment Area Designation). A copy of NJDEP's HPAA Pre-Application Checklist is located in Appendix A and can be downloaded from NJDEP's website at <http://www.nj.gov/dep/highlands/process.htm>.

1.87 Preliminary Determination

(a) Highlands Council staff shall determine if the Petition for a Highlands Redevelopment Area Designation is administratively complete in accordance with Section 1.5 above and will report those findings to the Council, the NJDEP Divisions of Land Use Regulation and Watershed Management, any directly affected municipality and county, and the public.

(b) For any petition that is deemed administratively complete, the Highlands Council shall review the proposed area for redevelopment against the Highlands RMP Resource Protection and Smart Growth standards and policies for each relevant LUCM Zone. All GIS data layers utilized in Highlands Council reviews are available at the Highlands Council website: http://www.highlands.state.nj.us/njhighlands/actmaps/maps/gis_data.html.

There are RMP goals, policies, and objectives related specifically to the issue of future land use within each LUCM Zone, that will further guide the Council's review of proposed redevelopment areas. It is the policy of the Council to promote compatible development and redevelopment within the Existing Community Zone and to promote the restoration and redevelopment of brownfields, particularly those located in or adjacent to transportation corridors or transit stations. In the Conservation Zone, it is the policy of the Council to limit the use and development of lands to agricultural use and development, redevelopment of existing developed areas, and environmentally-compatible low density land uses. It is the policy of the Council to limit new human development in the Protection Zone to redevelopment, exempt activities, and environmentally-compatible low density new land uses and to ensure that any future development or redevelopment is subject to standards and criteria which protect the land and water resources of the zone from any potential adverse impact.

(c) The Highlands Council staff shall present a draft report with recommendations to the Highlands Council to approve, deny, or approve with conditions the proposed Redevelopment Area, based on the criteria set forth below:

1. At least 70% percent of the proposed Redevelopment Area is impervious surface, or the site is a brownfield designated by NJDEP

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2. The proposed Highlands Redevelopment Area will not result or contribute to impairment of any Highlands resource located on or adjacent to the Highlands Redevelopment Area, either through exclusion of such areas or through conditions on the designation that ensures their protection, or will minimize through similar means the disturbance of those resources to which the waiver would specifically apply.
 3. The proposed Highlands Redevelopment Area is found to be substantially consistent with the resource protection and smart growth standards of the Regional Master Plan in accordance with ~~and will advance~~ the intent and purpose of the Highlands Act ~~with regard to designated Redevelopment Areas.~~ The Act allows a waiver of any provision of a Highlands permitting review on a case-by-case basis for a redevelopment proposal, conditioned upon the finding that it meets the requirements of the narrative criteria described in Section 36 of the Act (N.J.S.A 13:20-34). These criteria include the following: 1) would have a de minimis impact on water resources and would not cause or contribute to a significant degradation of surface or ground waters; 2) would cause minimal feasible interference with the natural functioning of animal, plant and other natural resources; 3) will result in minimum feasible alteration or impairment of the aquatic ecosystem; 4) will not jeopardize the continued existence of endangered animal or plant species; 5) is located or constructed as to neither endanger human life or property nor otherwise impair public health, safety and welfare; 6) would result in minimal practicable degradation of unique or irreplaceable land types, historical or archaeological areas, and existing public scenic attributes; and 7) meets all other applicable NJDEP standards, rules, and regulations and State laws.
 4. There is sufficient water supply and wastewater capacity to serve the proposed Highlands Redevelopment Area, from on-site systems, from adjacent areas already served by public water and wastewater systems, or through a limited extension of public water or wastewater systems that will not cause or contribute to secondary growth effects in the intervening area. As per the Highlands Preservation Area rules at N.J.A.C. 7:38-2.5, the extension of any existing public water system to serve development in the Preservation Area is ~~prohibited except where~~ a proposed project receives a HPAAs pursuant to N.J.A.C. 7:38-6 (with sections 6.6 and 6.7 specifically applying to Redevelopment Areas).
 5. Such other unique or mitigating criteria as the Highlands Council staff deems appropriate based on policies and objectives of the RMP.
 6. The proposed Redevelopment Area is compatible with existing municipal zoning or the Redevelopment Area designation is conditioned upon municipal rezoning.
- (d) The Highlands Council staff may consult with the NJDEP Divisions of Land Use Regulation and Watershed Management regarding the draft recommendations.
- (e) The Highlands Council staff may share with the applicant the draft recommendations prior to presenting the recommendations to the Council. This will afford the applicant an opportunity to provide additional data and information to the staff prior to a final Council determination.

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(f) The Highlands Council staff shall present a final report with recommendations to the Highlands Council to approve, deny, or approve with conditions, with public notice on the Council's Web site at www.highlands.state.nj.us at least 10 business days before the Council meeting at which the recommendation will be considered. The petitioner shall give public notice by publication of a legal notice in the newspaper of record for the municipality where the project is located, at the petitioner's expense, at least 10 business days before the Council meeting.

1.98 Final Determination

(a) The Highlands Council shall approve, approve with conditions, or deny an application requesting a Highlands Redevelopment Area identification within 90 days of deeming the requirements of Section 1.7 above complete, or for good cause, within such additional period of time as the Highlands Council shall notify the applicant in writing is required to complete its review. The Highlands Council's final determination shall be based upon all information submitted to the Highlands Council, any site visit conducted, the criteria set forth in Section 1.7 above, and public comments received prior to or at the Highlands Council meeting at which the recommendation will be considered. The Highlands Council's final determination shall include written findings of fact and conclusions based thereon, and shall be considered effective 10 business days after delivery of the meeting minutes to the Governor, unless vetoed by the Governor pursuant to N.J.S.A. 13:20-5.j.

(b) In cases where the Highlands Council determines that a proposed Highlands Redevelopment Area is appropriate for redevelopment, the final determination may include specific conditions to restrict any activities that might otherwise occur as a result of the final determination. These conditions may include, but are not limited to, deed restrictions, resolutions from a municipal utilities authority restricting sewage flows, physical limitations on sewer lines and/or pump stations and other mechanisms necessary to preclude secondary impacts that may otherwise result from the identification of the Highlands Redevelopment Area.

(c) After receiving an approved Highlands Redevelopment Area identification from the Highlands Council, the applicant may submit an application for an HPAA with Redevelopment Waiver to the Department of Environmental Protection in accordance with N.J.A.C. 7:38-6.6 or N.J.A.C. 7:38-6.7.

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APPENDIX A

NJDEP'S HPAA PRE-APPLICATION CHECKLIST

(Available at: <http://www.nj.gov/dep/highlands/docs/hpaachk.pdf>)

**Draft Redevelopment Site Designation Procedures
Summary of Public Comments and Responses – August 2008**

COMMENT: Numerous comments stated strong objection to the term “substantially consistent” in terms of a proposed project’s compliance with Regional Master Plan (RMP) standards regarding resource protection and smart growth. A proposed project should be “consistent” with all standards required under the Highlands Act and RMP. To use the term “substantially consistent” allows for broad interpretation and a possible relaxation of standards, which would not be appropriate.

RESPONSE: The original purpose of the term was to recognize that the purpose of a redevelopment waiver is to allow redevelopment that does not fully comply with the normal provisions of the Preservation Area Rules at N.J.A.C. 7:38 and with the RMP. However, the Highlands Council recognizes that the term “substantially consistent” did not provide sufficient clarity. The word “substantially” was removed and the sentence in the procedures (item #3 in Section 1.7 regarding review criteria) was rewritten to say: “The proposed Highlands Redevelopment Area is found to be consistent with the resource protection and smart growth standards of the Regional Master Plan in accordance with the intent and purpose of the Highlands Act with regard to designated Redevelopment Areas.” New text was included that states that the Highlands Act allows a waiver of any provision of a Highlands permitting review on a case-by-case basis for a redevelopment proposal, conditioned upon the finding that it meets the requirements of the narrative criteria described in Section 36 of the Act (N.J.S.A 13:20-34). A summary of those narrative criteria was included in the text.

COMMENT: Numerous comments stated strong objection to any proposed expansion of public water and wastewater systems for redevelopment projects in the Preservation Area.

RESPONSE: The Redevelopment Area Designation procedures are aimed at identifying a suitable Redevelopment Area so that an applicant may apply for a Highlands Preservation Area Approval (HPAA) with Redevelopment Waiver. The Highlands Act at N.J.S.A. 13:20-33 allows for waivers related to redevelopment projects in the Preservation Area, including the extension of public water and wastewater systems, where the Redevelopment Area is designated by the Highlands Council. As per the Highlands Preservation Area rules at N.J.A.C. 7:38-2.5, the extension of any existing public water system to serve development in the Preservation Area is prohibited except where a proposed project receives a HPAA pursuant to N.J.A.C. 7:38-6 (Sections 6.6 and 6.7 specifically apply to Redevelopment Areas). Reference to these Preservation Area rules was included in the procedures (item #4 in Section 1.7 regarding review criteria).

COMMENT: One comment expressed disappointment that such an important policy as Redevelopment Area Designation Procedures, which will be the cornerstone of much of the development allowed in the Preservation Area going forward, was released just a month prior to the adoption of the RMP.

RESPONSE: The Council acknowledges the comment. It should be noted that a previous draft of the document was made available to the public in May 2007. The June 2008 draft procedures document was revised based on public comment and was released for public comment well after the close of the RMP public comment period.

COMMENT: One comment expressed concurrence with the major changes from the May 2007 draft regarding site eligibility and approves of the Council's decision to remove projects eligible for redevelopment under Exemptions 4, 5, and 6 in the Highlands Act. Removing these smaller projects puts them in proper context on a site specific basis, and alleviates concerns that smaller residential sites would be grouped together and targeted by developers or municipalities as redevelopment sites. However, there was another separate comment that stated that including the various exemptions into the redevelopment area designations is not necessary because they do not directly relate to areas that will qualify as eligible for redevelopment, i.e., areas with 70% existing impervious cover.

RESPONSE: The Council acknowledges both opinions. It is the belief of Council staff that it is appropriate to remove projects eligible for redevelopment under Exemptions 4, 5, and 6 in the Redevelopment Area Designation procedures. Some small project areas will be able to meet the 70% impervious cover requirement but can more directly be addressed by exemptions from the Highlands Act. The purpose of a Redevelopment Area designation is to allow NJDEP to determine whether an HPAA with redevelopment waiver can be granted. Exempt developments do not need an HPAA at all, making the Redevelopment Area designation unnecessary.

COMMENT: One comment stated that prohibiting designation of brownfield sites without land disturbance for redevelopment is a positive step in the June 2008 procedures, as there are many small sites which may have ground water contamination, but are otherwise undisturbed.

RESPONSE: The Council acknowledges the comment.

COMMENT: One comment questioned why the Council would want to give a second staff-intensive review to a site that has already been designated as a "brownfield" by NJDEP. After that exhaustive review, the process is still not complete because Item (c) on page 10 indicates that the applicant now "may submit an application for an HPAA with Redevelopment Waiver to the Department of Environmental Protection..."

RESPONSE: The Highlands Council is legislatively mandated to identify appropriate Redevelopment Areas while the NJDEP has been granted the legislative authority to issue HPAA permits. As per N.J.A.C 7:38-6.7, (a) "In accordance with N.J.S.A 13:20-33b(2), the Department may, on a case by case basis, waive any of the provisions for an HPAA if such waiver is necessary for redevelopment of certain previously developed areas in the Preservation area identified by the Council pursuant to N.J.S.A 13:20-9b and N.J.S.A 13:20-11a(6)(h). A waiver under this section shall apply only to Department-designated Highlands brownfield sites designated pursuant to (b) below, and identified as an area appropriate for redevelopment by the Council." NJDEP designation of a brownfield is an acknowledgement of the existing contamination. The Highlands Council then

determines whether the site is appropriate for redevelopment under the RMP; this is not a duplication of the brownfield designation because it focuses on whether redevelopment will address resource protection and smart growth provisions of the RMP. NJDEP's review is then to determine the extent of the specific waivers and the application of all other regulatory requirements for the specific project proposal. The Highlands Council designation process does not involve site plan and remedial action reviews, which are appropriately addressed through the NJDEP permit review. The Highlands Council and NJDEP will coordinate on this three-step process established by the Highlands Act to minimize redundancy of submittals and reviews.

COMMENT: Several comments applauded the Council's decision to rescind the concept of defining grass as impervious cover. One comment expressed concern, however, that the switch to "barren land" might open other parcels to redevelopment without proper definition of that term.

RESPONSE: The Council acknowledges the comment. The current Redevelopment Area Designation procedures do not use the term "barren land," but instead utilizes the definition of impervious surfaces that is presented in the Highlands Act which is "any structure, surface, or improvement that reduces or prevents absorption of stormwater into land, and includes porous paving, paver blocks, gravel, crushed stone, decks, patios, elevated structures, and other similar structures, surfaces, or improvements."

COMMENT: One comment expressed concern about the portion of the flow chart on page 2 that indicates that when it is determined that a project is not qualified under Exemption 4, 5, or 6 and the area is not covered with at least 70% impervious surface, it appears that the landowner can apply for redevelopment through a municipal redevelopment process. This process must be further clarified, as it implies that such redevelopment would be allowed at less than 70% impervious, in violation of the Act. The commenter also expressed concern that the procedures do not limit the footprint of the redevelopment site to any particular size, nor do they limit its expansion to contiguous parcels. In other sections of the Act, such as Exemption #4, such expansion is limited to 125% of the existing developed footprint, not to exceed ¼ acre of impervious cover. The commenter noted that another question that arises from this policy is whether municipalities or counties presenting a petition for redevelopment of contiguous parcels not in common ownership are required to show proof that they have willing sellers for those properties.

RESPONSE: The Highlands Act only provides for Highlands Council designation of Redevelopment Areas for sites that have 70% or more impervious cover or are designated as brownfields by NJDEP. A site that does not meet one of the two thresholds and does not qualify for an exemption will be required to obtain an HPAA from NJDEP without a redevelopment waiver. The procedures aim to identify appropriate "redevelopment areas," not development footprints. As per the Highlands Preservation Area rules at N.J.A.C. 7.38-6.7 a "waiver under this section shall apply only to *an area* if and when the Highlands Council identifies a site at which at least 70 percent of the *area thereof* is covered with impervious surface." [emphasis added] As described on Page 1 of the Redevelopment Area Designations procedures, the Council defines this "area" to be: 1) when one or more individuals are proposing a Redevelopment Area on one or more contiguous

properties that they control; 2) when a municipality is proposing multiple contiguous properties for a proposed Redevelopment Area; and 3) when a municipality is partnering with a landowner or group of landowners to identify a Redevelopment Area. The Highlands Act does not specifically limit the increase of impervious cover, but does provide for narrative standards that NJDEP must address prior to approving an HPAA with redevelopment waiver. Therefore, the Highlands Council will focus its review on the appropriate size of the designated Redevelopment Area and on identifying any resource protection and smart growth provisions of the RMP that should be addressed.

COMMENT: One comment noted that with respect to Section 1.4 (Inquiry Meeting) and Section 1.5 (Pre-application Meeting), these meetings are exploratory in nature; however, there is no mechanism for informing the public of these meetings. Since these meetings are basically “conceptual” meetings, the public should be included and allowed input; public access needs to be provided. The same commenter noted that in regard to the section - Petition for Redevelopment Area Designation - petitions should require legal notice to the public. It is suggested that petitioners must be required to publish a legal notice at least 10 days prior to any hearing in the newspaper of record for the municipality where the project is located.

RESPONSE: The Inquiry Meeting is an opportunity for all parties seeking information about the *potential* for designation of an area as a Highlands Redevelopment Area to convene with Council staff. It is a voluntary informal meeting that offers the opportunity for directly involved parties to be provided with data and technical resources that may be available in support of a petition application. Based upon the meeting, these parties may determine that the potential redevelopment designation is not practical or feasible or they may choose to proceed in the process to the more comprehensive pre-application meeting and petition for redevelopment. Proprietary information may be discussed. Public access and input would not be appropriate at such an early stage of the process. With respect to the Pre-application meeting, text was added to the procedures that states that a summary of the issues discussed during the pre-application meeting will be made available to the public via the staff recommendation report described in Section 1.7. In regard to the Petition for Redevelopment Area Designation, text was added to the procedures (in current Section 1.7) that states that the petitioner shall give public notice by publication of a legal notice in the newspaper of record for the municipality where the project is located, at the petitioner’s expense, at least 10 business days before the Council meeting at which the staff recommendation will be considered.

COMMENT: One comment noted that Section 1.6 was skipped; thus, the following sections should be renumbered.

RESPONSE: The Council acknowledges the comment; the subsequent sections were appropriately renumbered.

COMMENT: One comment stated that the definition of “Highlands Redevelopment” as listed in Section 1.2 (Definitions) should not include the phrase “conversion to recreational sites, parks,

natural resources conservation, or other dedicated open space purposes.” This language sends the wrong message about redevelopment and its purpose.

RESPONSE: The Council staff feels that it is appropriate to keep the phrase in as written. However, to address the commenter’s concern that this language may send the wrong message about redevelopment and its purpose, new language was added into the definition that states that the purpose of redevelopment is to transform an underutilized or distressed area into an economically viable and productive part of the community.

COMMENT: One comment stated that the purpose of redevelopment should be more clearly stated in the procedures. The purpose of redevelopment is to transform an underutilized or distressed area into an economically viable and productive part of the community. The commenter noted that if the redevelopment goal in the Highlands is to encourage reuse of unproductive areas and get them back on the tax rolls, then the entire Redevelopment Area Designation process should be simplified. As this June 2008 draft is written, it will discourage redevelopment. Instead, the draft as written accommodates the conversion of all previously disturbed areas covered by impervious surfaces into parks and dedicated open spaces. It was suggested that the designation procedures clarify the purpose of redevelopment, and highlight the fact that its primary purpose is to create opportunities to offset losses incurred by RMP restrictions.

RESPONSE: The Council acknowledges the commenter’s opinion. The goal of the procedures is to establish the mechanism by which an applicant may request a Highlands Redevelopment Area designation and the standards by which the Highlands Council determines that an area within the Preservation Area is appropriate for such a designation. It is intended to assist applicants with early identification of potential appropriate redevelopment areas. As stated in the previous response, new language was added into the definition of “Highlands Redevelopment” that states that the purpose of redevelopment is to transform an underutilized or distressed area into an economically viable and productive part of the community. Doing so will not always put property back onto the tax rolls, but if not for private sector use the land should in some way provide a significant benefit to the community (e.g., active recreational facilities, community service facilities).

COMMENT: One comment suggested that the Redevelopment Area Designations review process should include review by only one agency. Review by both the Council, Council staff, and NJDEP is redundant, duplicative, time consuming and not cost-effective.

RESPONSE: As indicated in a previous response, the Highlands Council is legislatively mandated to identify appropriate Redevelopment Areas while the NJDEP has been granted the legislative authority to issue HPAA permits. As per N.J.A.C 7:38-6.7, (a) “In accordance with N.J.S.A 13:20-33b(2), the Department may, on a case by case basis, waive any of the provisions for an HPAA if such waiver is necessary for redevelopment of certain previously developed areas in the Preservation area identified by the Council pursuant to N.J.S.A 13:20-9b and N.J.S.A 13:20-11a(6)(h).”

COMMENT: One comment stated that although this latest draft of the procedures has attempted to simplify the process, it has not succeeded. The Highlands Council should be looking for ways to simplify the process, not enlarge it.

RESPONSE: The Council acknowledges the opinion but disagrees. The draft final procedures have a more condensed set of information requirements yet these simplified requirements will still allow staff to conduct comprehensive reviews of proposed redevelopment area designations against the goals, policies, and objectives of the Regional Master Plan.

COMMENT: One comment submitted on behalf of several interested parties concluded that the current document is inadequate to meet the requirements of the Act, the RMP and the NJDEP waiver process. The comment points out that the narrative explanation of the revised procedures includes the following statement, “Public comments indicate that the requirements were onerous for a procedure that has, as its endpoint, the designation of redevelopment area.” While the “endpoint” for the Council may be the designation of a redevelopment area, it is clear that such designations must be in conformance with the RMP. It is imperative that the Council request sufficient information to support its own analysis of site suitability under the RMP. The commenter does not feel that the information requirements in the May 2007 draft were onerous.

COMMENT: One comment submitted on behalf of several interested parties suggested that substituting the DEP procedures for granting development waivers is not acceptable and does not absolve the Council of its responsibility to adhere to the Goals, Policies and Objectives of the Regional Master Plan. On the contrary, such a substitution is an abdication of the Council’s statutory responsibility to designate redevelopment areas as suitable under the RMP.

RESPONSE: The Council is strongly committed and legislatively mandated to ensure that the implementation of any redevelopment project will provide protection of natural resources, environmentally sensitive areas, open space, and agricultural lands, and will enhance and reflect community character. The Council is requiring sufficient information, in a step-wise manner (from initial Inquiry Meeting to Pre-application Meeting to Petition for Highlands Redevelopment Area Designations) to ultimately ensure that a proposed Highlands Redevelopment Area will not result or contribute to impairment of any Highlands resource located on or adjacent to the Highlands Redevelopment Area. As described in the procedures, the Council shall review a proposed area for redevelopment against all of the RMP resource protection and smart growth standards and policies. The applicant submittal requirements contained in the June 2008 draft review procedures are sufficient to enable the Council staff to conduct thorough and effective reviews of a proposed redevelopment area against the Goals, Policies and Objectives of the RMP.

Subsequent to the Council staff’s review of the required pre-application meeting materials and the conduct of the meeting itself, the interested party may petition the Council to approve designation of a Highlands Redevelopment Area. As per the Highlands Redevelopment Area Designation procedures, such petitions must include all the submittal requirements for the pre-application meeting and those items required by NJDEP as listed in NJDEP’s HPAA Pre-Application Checklist (these same materials will be required to be submitted in the next step of the process – when the

NJDEP will be reviewing the proposed HPAA with Redevelopment Waiver). This was done to ensure that the Council staff has adequate information to conduct the Highlands Council review and to avoid redundancy with HPAA submittal requirements. This does not constitute “Substituting the DEP procedures for granting development” nor does it “absolve the Council of its responsibility to adhere to the Goals, Policies, and Objectives” of the Regional Master Plan.” The Council staff will be conducting an independent comprehensive review of the proposed redevelopment area against the Goals, Policies and Objectives of the RMP using all the material submitted by the petitioner.

COMMENT: One comment submitted on behalf of several interested parties stated that the May 2007 draft included provisions that applications require evidence of municipal participation and public notice as well as statements by reputable governmental agencies identifying the presence of any natural or historical resources. In addition, the applications require the identification of several Highlands resources that may be present. These application requirements are important for three compelling reasons: 1) they inform the applicant upfront of the criteria the Highlands Council will consider in order for approval of a Highlands Redevelopment Area; 2) they require a degree of procedural transparency and public and municipal participation; and 3) they are consistent with the Goals, Policies and Objectives of the Regional Master Plan.

RESPONSE: With respect to procedural transparency and public and municipal participation, in the section titled “Request for Pre-Application Meeting” in the redevelopment procedures, it is indicated that the Council may invite municipal and county planning representatives as appropriate. Further, the Council meeting at which the Petition for Highlands Redevelopment Area Designation will be discussed is a public meeting at which municipal officials and members of the public may provide input. Further, new text was added to the procedures that states that the petitioner shall give public notice by publication of a legal notice in the newspaper of record for the municipality where the project is located at least 10 business days before the Council meeting.

COMMENT: One comment submitted on behalf of several interested parties urged the Council to return to the May 4, 2007 Draft Procedures for Highlands Redevelopment Site Approval, and provided suggestions regarding the May 4, 2007 Draft Procedures, as the June, 2008 draft was felt to be, in comparison, an abandonment of necessary standards and procedures. Various text changes were proposed to the May 4, 2007 draft (these addenda deal largely with public hearing issues, notifying municipal clerks, newspaper public notices, etc.).

RESPONSE: The Council believes that the June 2008 Procedures for Highlands Redevelopment Area Designations will effectively implement the intent of the Highlands Act and does not agree with the comment to return to the May 2007 Procedures. The suggested text changes to the May 2007 do not appear in the text of June 2008 version of the procedures.

**DRAFT – FOR CONSIDERATION AT THE SEPTEMBER 18, 2008
MEETING OF THE HIGHLANDS COUNCIL**

**COMMENTS-RESPONSES REGARDING THE DRAFT
PROCEDURE FOR NOMINATION, EVALUATION AND INVENTORY OF
HIGHLANDS REGIONALLY SIGNIFICANT SCENIC RESOURCES**

Introduction

COMMENT: One comment submitted on behalf of multiple groups stated that the Introduction had been improved and offered support for the statement: “The Highlands Council may also designate and institute region-wide protection standards for broad categories of regional scenic resources within the Region that warrant protection.” The comment encouraged the Council to be proactive in advancing this protection. The comment called for protection of scenic byways, water supply reservoirs, rivers and streams, natural features, panoramas and valleys, and cultural landscapes.

RESPONSE: The Council acknowledges the comment.

Purpose and Scope

COMMENT: One comment submitted on behalf of multiple groups suggested that the “Purpose and Scope” be expanded to reference the NJDEP Rules, NJAC 7:38-3.12(c), and ensure that all “existing public scenic attributes” referred to in the Rules would automatically be included in the Scenic Resource Inventory and receive immediate protections.

RESPONSE: The Council acknowledges the comment, but made no change to the purpose and scope of the Procedure. The Highlands Council has initially identified a Scenic Resource Inventory of 131 scenic resource areas, including national historic landmarks, publicly-owned parks, forests, and recreation areas. This inventory will serve as a baseline from which to begin to refine a list of scenic resources. The NJDEP Rules provide regulatory protection for the Preservation Area. The Preservation Area Standards outlined in Subchapter 3 include protection for “Unique or irreplaceable land types and existing scenic attributes.” “Existing public scenic attributes” are defined as “any Federal, State, county or municipal parks, forests, wildlife management areas and natural areas,” etc. (7:38-3.12(c)). These “existing public scenic attributes” have already been afforded protection through the Rules, limiting impacts to “minimum practicable degradation.” (7:38-3.12(d))

Regionally Significant Scenic Resources

COMMENT: One comment stated that the definition of Regionally Significant Scenic Resources should be more precisely defined. It was suggested that the current definition is too inclusive and allows for nomination of too many potential resources. The comment called for the establishment of targeted criteria and weighting of these criteria. It also called for greater limitation and the establishment of thresholds, such as a resource of a certain size or a scenic byway of a minimum length.

RESPONSE: The Council acknowledges the comments, but made no change to the definition of a Regionally Significant Resource. The definition and criteria for designation as written in the Procedure establishes the opportunity for a nominating entity to provide sufficient justification to support the nomination. Placing size limits or similar thresholds on a scenic resource nomination may serve to eliminate some number of potential scenic resources, and would not advance the purpose of the Procedure which is to identify and protect regionally significant scenic resources in the Highlands. The Procedure does state that in the case of ridgelines, they “should be continuous for at least one mile as measured along the ridge.”

Third Party Nominations

COMMENT: Several comments stated that third party nominations should not be accepted and that municipal participation should be required for any nomination to be made. Additionally it was suggested that municipal environmental commissions or planning boards could serve as a third party nomination entity.

COMMENT: One comment stated that if third party nominations are allowed, endorsement should be required from the local planning board and the local governing body and county Freeholder board if county

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land or a roadway is involved. It was suggested that requiring agreement between all three bodies would assure agreement of the planning and implementation of any scenic designation.

COMMENT: Several comments expressed frustration that third party nominations may only be accomplished with the endorsement of the local governing body. These comments stated that the requirement for municipal endorsement would render the nominating process ineffective and negate most nominations because municipalities are not motivated to protect such resources. The comments pointed out that scenic resource protection is a mandate of the Highlands Act and municipalities should not have veto power over nomination and protection of regionally significant scenic resources.

COMMENT: One comment submitted on behalf of multiple groups stated that a process should be devised to deal with third party nominations; one that would occur separate and apart from the municipal governmental processes. It was further suggested that “community consensus” should refer to not only consensus within municipalities, but also to other communities, such as, the conservation community, the hiking community, the climbing community, the bird watching community, etc.

RESPONSE: The Procedure provides for participation by third parties in the nomination process with the endorsement of the municipal or county government agency. Local government involvement is necessary in order to effectuate the management and future protection of the scenic resources.

Notification of Property Owners

COMMENT: Several comments stated that private property owners should be given both notification and veto power over identification of resources on their land.

RESPONSE: The nominating entity is required to provide public notice of each scenic resource nomination or of a list of nominated scenic resources. Additionally, when a municipality implements the components of the management plan, such as a scenic resource ordinance or overlay zone for scenic resource protection, the affected landowners will be officially notified. Veto power by private landowners over a governmental process would not be appropriate.

Support for Scenic Resource Inventory Procedures

COMMENT: Several comments expressed support for the identification and protection of scenic resources within the Highlands. The comments agreed that the nomination process should not be limited to the conformance process.

RESPONSE: The Council acknowledges the comment. As stated in the Procedure under 2.1 (a) Timeframe, the nomination process may occur either during plan conformance or any time in the future.

Scenic Design Advisory Board

COMMENT: Several comments supported the creation of a Highlands Scenic Design Advisory Board. One comment anticipated that environmental advocacy groups would be appointed to the Scenic Design Advisory Board and stated that the public should be equally represented on the Board.

RESPONSE: The Scenic Design Advisory Board is intended to be comprised of individual members of the public who possess an understanding of scenic resources, landscape design and similar areas of expertise. The emphasis will be on expertise, not interest group, but the Highlands Council will endeavor to ensure that the Advisory Board will address these issues in a professional and capable manner. Additionally, public outreach will occur with each nomination process.

Ridgeline Protection

COMMENT: One comment submitted on behalf of multiple groups supported the prohibition of development near ridges. The comment called for the addition of the following statement: “No part of any new structure on a ridge or mountainside shall be permitted to extend into the area that lies within 200 vertical feet of the ridgeline, and no development shall be permitted over 1100 foot elevation.”

RESPONSE: The Council acknowledges the comment. The proposed statement would be more appropriately included in a ridgeline protection standard and will be considered when the Council develops

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such standards. A scenic resource management plan submitted to the Council may include provisions of this nature if appropriate for the resource being protected.

Public Vantage Point

COMMENT: Several comments stated that the “public vantage point” should be better defined. They suggested that some distance from a view should be applied and the distance should vary from one resource to another depending upon the type of resource.

RESPONSE: The Procedure requires the nomination of each scenic resource to describe the attributes of the resource as well as the public vantage points and extent of view. The appendices provide a method for developing viewsheds and profiles. Due to the varied nature of scenic resources, a “one size fits all” method is not appropriate; rather, the procedures rely on staff review, the Scenic Design Advisory Board and a public process to ensure that the selected public vantage points are justified.

Scenic Resource Analysis and Management Plan

COMMENT: Several comments expressed great concern that the requirement of a management plan with each nomination would be overly burdensome and would prevent most nominations from being made. It was suggested that the management plan not be a requirement for listing on the Inventory, but rather required as a second step in the process. It was further suggested that management plans could be prepared by non-profit groups, educational or professional organizations, or the Highlands Council.

COMMENT: One comment submitted on behalf of multiple groups suggested that the outline of the management plan be expanded to include, acquisition or donation of scenic or recreational easements, or a plan for acquisition in fee.

COMMENT: One comment asked for more details about the requirements of a management plan and the standards such a plan must meet.

RESPONSE: The Procedure has been amended to incorporate a two step process where the management plan component would be required as part of the second step, after a resource has been recommended by the Scenic Design Advisory Board as eligible for inclusion in the Scenic Resource Inventory. The nominating entity, as part of the proposed management plan, may include standards, ordinances, acquisition or other mechanisms deemed appropriate for protection of the resource. The nominating entity may choose to contract with an outside entity for the preparation of the management plan, such as an educational or professional institution, but the official submission would be the responsibility of the nominating entity.

Non-conforming Municipalities

COMMENT: One comment submitted on behalf of multiple groups suggested that local governments that do not participate in the conformance process should not be afforded the same level of involvement in the nomination process because those municipalities would be more likely to oppose rather than support scenic resource protection.

RESPONSE: The goal of the Procedure is to provide opportunity for regionally significant scenic resources to be identified and protected. This goal is served by being inclusive of all Highlands municipalities, regardless of their participation in plan conformance.

Outdoor Recreation Resources

COMMENT: One comment submitted on behalf of multiple groups suggested incorporating outdoor recreation resources into the Scenic Resources Inventory. The comment pointed out that the inventory of parks and recreation lands and scenic resources as listed in the Draft Historic, Cultural, Scenic Recreation and Tourism Technical Report were the same and protection of both resources is required by the Highlands Act.

RESPONSE: Although outdoor recreation resources may also be scenic resources, many are not. The Procedure has been developed to provide for nomination, evaluation and designation of scenic resources within the Highlands Region.

Water Features

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COMMENT: One comment submitted on behalf of multiple groups stated that the water features included under “natural features” should not have to meet the “outstandingly remarkable” criteria of the National Wild and Scenic Rivers Act because the Procedure addresses resources that are regionally significant for the Highlands, not the nation.

RESPONSE: The Procedure states that in order to be considered “outstandingly remarkable” the river resource should be “significant at a regional **or** national scale.” [emphasis added] The Procedure throughout refers to resources that are regionally significant to the Highlands Region.

Natural Features

COMMENT: One comment submitted on behalf of multiple groups suggested that natural features should also include woodlands, forests, wetlands, marshes, meadows, bogs, fens and swamps, that are visually remarkable or that meet critical habitat criteria according to the Regional Master Plan.

RESPONSE: Each of the natural features suggested for inclusion may be nominated and will be included if they meet the criteria as regionally significant scenic resources.

Scenic Resource Evaluations

COMMENT: One comment questioned who would conduct the evaluations of scenic resource nominations and make recommendations to the Scenic Design Advisory Board. A question was also raised regarding possible veto power of the actions of the Scenic Design Advisory Board.

RESPONSE: As stated in the Procedure: “Highlands Council staff will prepare evaluations and recommendations based upon the ... evaluation criteria and present these to the Advisory Board for consideration.” (Section 2.2 b) The recommendations of the Advisory Board do not constitute an action of the Highlands Council. The Council may accept the recommendations of the Advisory Board, or make its own determination regarding whether a nomination meets the appropriate evaluation criteria.

Consequences of Nomination

COMMENT: One comment questioned the implications of listing a scenic resource on the inventory. The question was raised in relation to a development proposal; whether the presence of a scenic resource would be grounds for denial.

COMMENT: One comment was concerned with the land use implications of viewshed management and requested more details be made available to the public. It was pointed out that the public outreach is part of the process, but the public would not be able to effectively participate if they were not aware of how the nominations may affect their property rights.

RESPONSE: The management plan developed to support a nomination would establish the implications of being designated a regionally significant scenic resource and inclusion in the inventory. Adoption of the nomination by the Highlands Council will include a requirement for implementation of the management plan. In addition to the public outreach component, public notice, and public meeting required of the nominating entity, the Highlands Council will consider and make a determination on each nomination at a public meeting.

General Comments

COMMENT: One comment submitted on behalf of multiple groups suggested that the discussion of the National Wild and Scenic Rivers Act should apply more broadly to other scenic resource areas, not just waterways.

RESPONSE: The Council acknowledges the comment; however, no change was made to the Procedure. Although the Council “accepts the five goals in support of the Highlands Region Scenic Resources,” the specific language of the goals of the National Wild and Scenic Rivers Act was developed to address river corridors.

COMMENT: One comment submitted on behalf of multiple groups suggested that at the same time that municipalities identify regionally significant scenic resources, they should also identify locally significant scenic resources.

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RESPONSE: The Procedure states that, “Locally significant scenic resources may be identified as part of RMP Plan Conformance; however, the Highlands Scenic Inventory is specific to “regionally significant” scenic resources.”

COMMENT: Several comments identified specific resources, both historic and scenic, that ought to be included in the Inventory.

RESPONSE: Specific nominations should be formally submitted according to the Procedure once it is adopted by the Highlands Council.

COMMENT: Several comments suggested that the definitions listed under scenic byway/corridor should be cross-referenced in the glossary.

RESPONSE: The Council acknowledges the comment; however, no change was made to the Procedure. The definitions for the various scenic byway/corridor resources are contained within the section describing those resources (See section 1.2 (b) 1).

COMMENT: One comment stated that the section is well written, clearer and much more understandable with the changes in the updated Procedures.

RESPONSE: The Council acknowledges the comments and appreciates the support for scenic resource protection.