

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MEETING MINUTES OF MAY 21, 2026

PRESENT

CARL J. RICHKO)	CHAIR
KURT ALSTEDE)	VICE CHAIR
MARY AMOROSO)	COUNCIL MEMBERS
JOSEPH BASRALIAN)	
DANIEL BUSH)	
WILLIAM KIBLER)	
TAMMY KOOP)	
HELEN LE FROIS)	
WILLIAM KIBLER)	
MELONIE MARANO)	
MATTHEW OSWALD)	
KELLEY SMITH)	
JAMES VISIOLI)	

ABSENT:

TIMOTHY DOUGHERTY)
BRUCE JAMES)

CALL TO ORDER 218TH meeting of the New Jersey Highlands Water Protection and Planning Council was called to order at 4:01 pm at the Highlands Council Offices in Chester, NJ.

ROLL CALL

Roll call was taken. Members James and Dougherty were absent. All other Council Members were present. *The following staff members were present: Ben Spinelli, Gabrielle Gallagher, James Humphries, Maryjude Haddock-Weiler, Kelley Curran, Neda Hartman, Sarah Friend, Tom Tagliareni, Carole Dicton, Kyli Engle, Diana Swiderski, Meghan Smith, and Annette Tagliareni. Present via teleconference: Bruce Velzy, Deputy Attorney General's (DAG's) office and Azeem Chaudry, Associate Counsel, Governor's Authorities Unit (GAU).*

OPEN PUBLIC MEETINGS ACT was recited.

PLEDGE OF ALLEGIANCE was recited.

CHAIRMAN'S REPORT

Chair Richko announced that his granddaughter Meghan Smith will be an unpaid Summer GIS Intern at the Highlands Council.

EXECUTIVE DIRECTOR'S REPORT

Mr. Spinelli reported on the following items:

1. Congratulations to Chair Richko on his USTA Tennis Official of the Year recognition.

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2. Today's agenda items. Two grants (Alpha and Byram); Lopatcong Township's application for Highlands Redevelopment; and two open space properties for Federal HCA program funding submittal.
3. Drought continues. Entire Highlands region is still in a moderate to severe drought. If the Highlands is in a drought, the state is in a drought. Not just drinking water supplies, there are also environmental and agricultural impacts from this long-term deficit.
4. Patronize your favorite Highlands farms.
5. Open Space & Recreation Plan continues to move forward. Received a very preliminary draft. Draft should be ready for public comment in July.
6. Climate project data collection and analysis continue to move on.
7. Monitoring Program and Recommendations Report (MPRR) should be ready for review by the Council in July. Two more sections were reviewed by the RMP Amendment Committee, and more sections will be provided. Anticipating that this will provide the basis for several actions including new RMP elements on impervious coverage, climate change, and data center design and siting.
8. Met with representatives of Harmony Township regarding Plan Conformance/requesting a Conformance Assessment grant to evaluate the impact of full conformance. Thank you to Member Smith – plan to present to Franklin Township in early June.
9. Starting to get the final affordable housing settlements from Highlands towns. We received all Somerset County municipalities.
10. Met with Exxon and Clinton Township again to analyze the site of the research facility for preservation.
11. Attended Chester Township Agricultural Fair on May 20, 2026. Gave us an opportunity to introduce our work and our marketing and branding efforts to agricultural producers and raise awareness of the enjoynjhighlands.com website.
12. Maryjude Haddock-Weiler and I will present at the 2026 NJ Planning & Redevelopment Conference in June.
13. Presented a webinar in conjunction with Raritan Headwaters on Thursday, April 23. It is available for review on our website.
[\[https://www.raritanheadwaters.org/2026/04/24/protecting-critical-water-resources-in-the-highlands/\]](https://www.raritanheadwaters.org/2026/04/24/protecting-critical-water-resources-in-the-highlands/)
14. Union Township is now a fully-conforming municipality. Adopted their Highlands Master Plan Element and the Land Use Ordinance.
15. Meeting with representatives of Bernards Township (Somerset County) in June to discuss conformance – 100% Planning Area town.
16. Still operating with a 2011 budget. Modest additional investment is needed to add critical staff and access to existing sources of funding for open space preservation and land stewardship.
17. Personnel – Two open positions 1) Environmental Specialist 2 (Resource Management Specialist/Forester) – interviews are currently being conducted; 2) Part Time IT position - application submittal extended to Friday, June 5th.

At this time, Chair Richko asked if any Council members had comments or questions on the Executive Director's report.

Member Le Frois acknowledged Governor Sherrill's letter to the federal Department of Agriculture looking for federal relief in the wake of crop losses due to cold April temperatures.

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APPROVAL OF HIGHLANDS COUNCIL MINUTES OF APRIL 16, 2026

Chairman Richko asked for a motion on the Council Minutes of April 16, 2026.

Member Marano made a motion to approve the Highlands Council Minutes of April 16, 2026. Member Amoroso seconded it.

A roll call was taken. The Highlands Council Minutes of April 16, 2026, were APPROVED 13-0.

BUDGET & FINANCE COMMITTEE

Resolution – Approval of FY2026 Highlands Protection Fund Capital Budget for Plan Conformance Funding Grants

Committee Chair Visioli reported that the Budget & Finance Committee met on May 11, 2026, and reviewed two grant requests that totaled \$47,000:

- Alpha Borough, Warren County – Climate Resiliency Component of the Master Plan
- Byram Township, Sussex County – Stormwater Management Planning

James Humphries, Director of Planning, Science and GIS, added that Alpha is a 100% conforming planning area town and Byram is a 100% conforming planning and preservation area town.

Chairman Richko asked for a motion on the resolution.

Member Visioli moved the resolution. Member LeFrois seconded it.

Council Comment

There was no Council comment.

Public Comment

There was no public comment.

A roll call vote was taken. The resolution was APPROVED 13-0.

PLAN CONFORMANCE COMMITTEE

Resolution – New Jersey Highlands Water Protection and Planning Council Determination on Application for Highlands Redevelopment Area Designation for Phillipsburg Mall – Township of Lopatcong, Warren County, Block 102, Lots 9, 9.01 and 9.03, and Township of Pohatcong, Warren County, Block 1, Lot 1.01

Committee Chair Kibler reported that the Plan Conformance Committee met on April 7, 2026, and Council staff will provide an overview.

James Humphries, Director of Planning, Science and GIS, gave a summary of Highlands Redevelopment Area Designations. Mr. Humphries also provided an overview of the application for a Highlands Redevelopment Area in Lopatcong and Pohatcong Townships, Warren County, for

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Council's consideration. The presentation may be found on Council's website:
https://www.nj.gov/njhighlands/about/calendar/2026/05_may/mtgppt_may2026.pdf

At this time, Chair Richko acknowledged representatives attending today's meeting on behalf of this application.

Michael Lavery, Esq., Lopatcong Township Attorney – Mr. Lavery gave an overview of the location and size of the proposed warehouse.

Paul M. Sterbenz, Lopatcong Township Engineer (*via teleconference*) – Mr. Sterbenz gave an overview of the entire application.

Chairman Richko asked for a motion on the resolution.

Member Oswald moved the resolution. Member Smith seconded it.

Council Comment

Chair Richko requested that Mr. Humphries explain mitigation for loss of farmland; for which he provided an explanation.

Member Kibler expressed disappointment that leadership from Lopatcong Township was not in attendance. Member Kibler raised questions on litigation, topography, stormwater recharge, soils on site, undeveloped farmland in need of redevelopment, disturbed vs. undisturbed farmland, and agricultural resource areas. He commented that New Jersey is the most densely populated state in the country and urban sprawl is a continued threat to our landscape, which is not consistent with the RMP.

Member Van Abs mentioned that the Goal 6J portion on redevelopment in the RMP is very sparse and doesn't explain how it is to be defined or developed. Member Van Abs felt we should work on the specifics of the farmland loss mitigation process.

Member Van Abs asked whether the proposed mitigation is for only a small portion of land and whether the resolution can be changed to account for the entire parcel. Mr. Humphries responded that the mitigation could be increased to cover the loss of all farmland activity on the properties, but not the entire lot as that includes non-farmland areas. Member Van Abs asked if that change needed a motion to revise the Consistency Review and Recommendations Report or it could be done by consent of the Council. Chair Richko asked if members opposed to making that change and no objections were made by any members.

Member Oswald questioned whether we are consistent in our rules and the report on the rules, as opposed to changing the report to fit the rules.

Member Bush inquired whether there is a need for a waiver and whether it still meets plan conformance when considering the entire parcel of farmland.

Member Marano had concerns about stormwater management and sinkholes, as well as the historic preservation of the Bridge Tenders House that is in close proximity to the property.

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Paul Sterbenz responded that Lopatcong has a Karst Ordinance. The township will follow state rules for stormwater management that include the evaluation of soil and rock profile. Any sinkholes found are typically filled with concrete. To help with noise pollution, reforestation and a sound barrier will be built to fill the gap between the wall and wood line.

Vice Chair Alstede stated that not all farmland is economically viable for a farmer to own. Member Alstede added from a planning perspective, this particular piece of farmland is not the most attractive because it is landlocked in a highly suburban area.

Member Basralian inquired what the mitigation payment will be, who is going to control how to invest it, and how sure we are that it will be used to protect the residents in New Jersey that depend on water from the Highlands.

Member Smith agreed with Vice Chair Alstede's comments and noted the owner of the farmland has engaged in talks with a developer to sell the property. He seems to have concluded that the property is no longer viable for him to farm. Ms. Smith believes the SADC will not be interested due to the size of the property so it will be up to the municipality or county to preserve it.

Carl Richko stated the Council voted on this proposal in October 2024 and a majority voted in favor of the resolution. At that time, there were only 11 Council members (10 present) and the vote was 6-4, but the Highlands Act requires eight affirmative votes to approve a motion.

Public Comment

Dante DiPirro, Esq., Hopewell – Mr. DiPirro represented Phillipsburg Riverview Organization and spoke in opposition of the Redevelopment Area application. Mr. DiPirro submitted his comments for the record.

Jeff Tittel, Lambertville – Mr. Tittel spoke in opposition of the Redevelopment Area application. Mr. Tittel submitted his comments for the record.

Elliott Ruga, New Jersey Highlands Coalition – Mr. Ruga spoke in opposition of the Redevelopment Area application.

Sarah Hare, Hope Township – Ms. Hare spoke in opposition of the Redevelopment Area application.

Sandy Barringer, Lopatcong Township – Ms. Barringer spoke in opposition of the Redevelopment Area application.

Julia Somers, New Jersey Highlands Coalition – Ms. Somers spoke in opposition of the Redevelopment Area application.

Guy Citron, Tewksbury Township – Mr. Citron spoke in opposition of the Redevelopment Area application.

Mike King, Phillipsburg – Mr. King spoke in opposition of the Redevelopment Area application.

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Susan Sica, Phillipsburg – Ms. Sica spoke in opposition of the Redevelopment Area application.

Rita Codioli, Phillipsburg – Ms. Codioli spoke in opposition of the Redevelopment Area application.

Matthew Watts, Phillipsburg – Mr. Watts spoke in opposition of the Redevelopment Area application.

Philip G. Berg, Washington Township (Morris County) – Mr. Berg spoke in opposition of the Redevelopment Area application.

Hana Katz, Cherry Hill – Ms. Katz spoke in opposition of the Redevelopment Area application.

Member Oswald left the meeting temporarily at 6:06 pm.

Member Oswald returned to the meeting at 6:07 pm.

Alicia Wygall, Hunterdon County – Ms. Wygall spoke in opposition of the Redevelopment Area application.

Jill Snook, Pohatcong Township – Ms. Snook spoke in opposition of the Redevelopment Area application.

Christopher Bauknight, Washington Borough (Warren County) – Mr. Bauknight spoke in opposition of the Redevelopment Area application.

Neil Moorcraft, Greenwich Township – Mr. Moorcraft represented Bloomsbury Coalition Against Warehouse Sprawl and spoke in opposition of the Redevelopment Area application.

Council Comment

Member Van Abs asked Chief Counsel Gallagher about the definition of the term “site” as it is used in the Highlands Act.

Ms. Gallagher responded that a lot or lots are part of a site in its entirety of what is being developed or redeveloped.

Member Amoroso inquired whether the Council needs to fine-tune our regulations.

Ms. Gallagher responded that the Council could adjust or add more detail to definitions, but on a general basis we have always maintained consistent standards for redevelopment areas.

Vice Chair Alstede asked if the farmland portion of the site qualifies for redevelopment and how much disturbance is allowed.

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Mr. Humphries responded that currently the zoning for that area is either for high-density housing or industrial purposes. Lopatcong is a conforming planning area town. Since this proposed project is not in the sewer service area, the town needs to obtain a waiver from the Highlands Council to allow the development. Alternatively, Lopatcong could withdraw from conformance in the planning area and request a water quality management plan amendment from the DEP to place this in a sewer service area. If the town was non-conforming, development on the property could be larger, but Lopatcong has not shown interest in withdrawing from plan conformance.

A roll call vote was taken. The resolution was APPROVED 10-3.

OTHER BUSINESS

Resolution – Approval of Applications Under the Highlands Open Space Partnership Funding Program Pursuant to Administrative Rule N.J.A.C. 7:70-1 et seq.

Mr. Humphries gave an overview of the Highlands Open Space Partnership Program and the application for Council's consideration. The presentation may be found on Council's website: https://www.nj.gov/njhighlands/about/calendar/2026/05_may/mtgppt_may2026.pdf

Chairman Richko asked for a motion on the resolution.

Member Bush moved the resolution. Member Smith seconded it.

Council Comment

There was no Council comment.

Public Comment

Irene Sergonis, Budd Lake – Ms. Sergonis thanked the Council for considering Mount Olive for this resolution.

A roll call vote was taken. The resolution was APPROVED 12-0, with one abstention by Member Basralian.

OLD/NEW BUSINESS

There was no old/new business.

Chair Richko opened the meeting for public comment and noted the 3-minute limit.

Public Comments

Julia Somers, NJ Highlands Coalition – Ms. Somers commented in opposition to two items: the proposal by Department of Homeland Security to convert a warehouse in Roxbury into an ICE detention center and on legislation that property owned by a non-profit or religious organization is exempt from the Housing Element & Fair Share Plan.

Member Bush made a motion to adjourn the meeting. Member Kibler seconded it. All were in favor. The meeting was adjourned at 6:39 pm.

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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: 6/18/2026

Name: *Diana Swiderski*

Diana Swiderski, Administrative Assistant

Vote on the Approval of Minutes	Motion	Second	Yes	No	Abstain	Absent
Councilmember Alstede						√
Councilmember Amoroso			√			
Councilmember Basralian			√			
Councilmember Bush			√			
Councilmember Dougherty						√
Councilmember James						√
Councilmember Kibler		√	√			
Councilmember Koop			√			
Councilmember LeFrois			√			
Councilmember Marano			√			
Councilmember Oswald	√		√			
Councilmember Smith						√
Councilmember Van Abs			√			
Councilmember Visioli			√			
Chairman Richko			√			

**PUBLIC COMMENT SUBMITTED AT
HIGHLANDS COUNCIL MEETING ON
MAY 21, 2026**

From: [Kristy Pereira](#)
To: [Highlands \[HIGHLANDS\]](#)
Cc: kristyk_14@hotmail.com
Subject: [EXTERNAL] Warehouse in Pohatcong Opposition.
Date: Thursday, May 21, 2026 7:46:59 AM

To the Highlands Preservation Board and Relevant Officials,

I am writing as a resident of the Parkside region of Pohatcong Township to strongly oppose the proposed warehouse development on the currently preserved farmland under consideration.

This land is beautiful and we should value that not just now, but in future years. It supports local wildlife, protects the nearby stream ecosystem, and provides an important environmental buffer for the surrounding neighborhoods. Replacing conserved farmland with large-scale warehouse construction would permanently damage the character and environmental health of our area. I don't fully understand the highlands preservation board and hope to learn more, but I feel the board exists to help us and help save our state's environment and ecosystem. I will learn more so I am well rounded.

It is common for many of us to feel our region is already oversaturated with warehouses. Many existing nearby facilities remain partially occupied or unused, demonstrating that this proposal is being driven by speculative development and profit rather than genuine community or economic need. Continuing to industrialize preserved land while existing warehouse space sits vacant is irresponsible and short-sighted. I don't understand why these are always the go to, why no one would want to put in a community center or park. I am sure it has to do with money, but still.

The impacts to residents would be substantial:

- Increased heavy truck traffic on local roads already strained by commercial transportation
- Greater danger to pedestrians, families, and children in residential areas
- Significant increases in nighttime noise and light pollution
- Damage to local wildlife habitats and water quality
- Loss of open space and farmland that can never be restored once developed

Many of us already hear warehouse activity from neighboring facilities late at night with our windows open. Adding another major industrial site directly behind homes and family neighborhoods would severely diminish residents' quality of life.

As a parent of small children, I am especially concerned about the safety implications of increased truck traffic in our community. Our area has already experienced tragedy connected to commercial truck activity, including the murder of a woman in nearby Bloomsbury involving a truck driver. Expanding industrial traffic near residential neighborhoods only heightens concerns for public safety and community well-being.

I also want to express concern regarding the scheduling and location of the public meeting. Holding the meeting nearly an hour away from the affected residents and during normal working hours creates a significant barrier to public participation. Community members who will be directly impacted deserve a meaningful opportunity to be heard through accessible

meeting times and locations.

I strongly support the alternative vision being advocated by local residents to preserve this land as protected open space or parkland for future generations. Preserving farmland and natural areas aligns far more closely with the goals of environmental stewardship, community health, and responsible planning than additional warehouse construction.

I understand you have a challenging decision to make and there may be things I am not aware of. I don't feel I can adequately express how heavy my heart is about this. I know that is not your concern, but I so desperately want to convey my message. Many of us feel helpless. So, I ask that you please consider rejecting this proposal and prioritize the long-term environmental integrity, safety, and quality of life of Pohatcong Township residents.

Sincerely,

**Kristy Pereira
9 Parkside Ave
Pohatcong Township Resident**

(716) 863-2342

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From: Jeff Tittel
To: Spinelli, Ben [HIGHLANDS]
Subject: [EXTERNAL] Opposition To Phillipsburg Mall Redevelopment Resolution
Date: Thursday, May 21, 2026 1:30:58 PM

Letter to Ben Spinelli, Executive Director, New Jersey Highlands Council
My Opposition to CONSIDERATION OF RESOLUTION – Approval of
Determination on Application for Highlands Redevelopment Area Designation for
Phillipsburg Mall, Township of Lopatcong, Warren County, Block 102, Lots 9, 9.01
And 9.03 and Township of Pohatcong, Warren County, Block 1, Lot 1.01

From Jeff Tittel

This isn't smart growth — it's dumb growth. It is a blatant shell game designed by developers to turn New Jersey's protected Highlands into a playground for mega-warehouses. Using the paved footprint of a dead mall as an "environmental shield" to force an industrial footprint onto 40 acres of active farmland and sensitive watershed is an absolute scam. It completely bastardizes the original intent of the Highlands Act, which was passed to protect our drinking water and preserve our agricultural heritage — not to act as a regulatory loophole for developers looking to maximize warehouse square footage.

The Highlands Council is supposed to be the gatekeeper of our state's most vulnerable natural resources. By even considering a redevelopment waiver for this environmentally constrained rear parcel, the Council is rolling out the red carpet for more truck traffic, massive stormwater runoff into the Lopatcong Creek watershed, and the permanent destruction of priority farmland soils. You cannot "mitigate" away a massive block of concrete with a few patchwork trees and artificial buffers. The developer is treating the Highlands Act like a rulebook to be gamed instead of a law designed to protect our future. This is a terrible deal for Warren County, a terrible deal for our clean water, and the fight to stop it will continue.

This dirty deal violates the intent, spirit, and goals of the Highlands Act. Instead of limiting redevelopment to the footprint of the previous mall and parking lot, this proposal uses a bait-and-switch strategy to expand warehouse sprawl into environmentally sensitive farmland next to a Category One stream. Worse still, this site could later become a massive polluting data center or even an Ai facility, creating even greater energy demands, truck traffic, water consumption, and environmental degradation. The warehouse could even be turned into an ICE Detention Facility. This is not only a major mistake — it sets a dangerous precedent for similar developments throughout the Highlands and will undermine protections across the entire region.

The definition and purpose of redevelopment under the New Jersey Highlands Water Protection and Planning Act (N.J.S.A. 13:20-1 et seq.) does not include a massive expansion of impervious cover onto previously undeveloped farmland. Redevelopment is defined as the reuse, reconstruction, or conversion of previously developed, underutilized, or contaminated land parcels. The Act was intended to concentrate growth within already disturbed areas, not allow sprawling industrial development onto untouched natural landscapes.

Redevelopment is not an exemption from the Highlands Act. Any redevelopment proposal must still comply with the goals and protections established by the law. This project clearly

violates those protections. The Legislature specifically mandated that the Highlands Regional Master Plan protect and enhance water quality and water supply, preserve contiguous forests and natural lands, protect wetlands and steep slopes, preserve farmland and historic resources, encourage compatible agricultural uses, and promote true smart growth and brownfield redevelopment.

The purpose of redevelopment in the Highlands is to balance economic vitality with strict ecological preservation. Redevelopment was designed to:

- Protect drinking water supplies by confining development to already disturbed sites.
- Prevent suburban sprawl and preserve open space.
- Encourage cleanup and rehabilitation of contaminated properties.
- Revitalize abandoned commercial areas without sacrificing farmland or forests.

This proposal does exactly the opposite.

The approved 900,000-square-foot warehouse at the former mall site already represents approximately 300,000 additional square feet of impervious surface compared to the old mall complex. If the proposed additional 400,000-square-foot warehouse expansion onto the 40 acres of farmland is approved, the total increase in impervious surface would exceed 700,000 square feet beyond what previously existed on the property. There are no meaningful additional stormwater protections proposed to offset this enormous increase in runoff.

The Highlands Act also imposes strict environmental limitations on redevelopment projects. The rules requires 300-foot protections around streams, wetlands, and open waters to preserve fragile aquatic ecosystems and prevent polluted runoff. The project would encroach upon and adversely impact protected buffers surrounding a Highlands Waters Category One trout production stream and its tributaries. Such impacts are prohibited under DEP regulations and the Highlands Regional Master Plan.

This project is also located in karst limestone geology, an area highly vulnerable to sinkholes and groundwater contamination. Because of the limestone geology, it is impossible to adequately recharge stormwater runoff onsite as required under DEP regulations. Polluted runoff from massive warehouse roofs and parking lots would inevitably flow into nearby waterways and threaten downstream drinking water supplies.

The Highlands Council Staff Recommendation attempts to justify the project through so-called mitigation measures, including reforestation areas and a “Highlands Environmental Resource Zone.” These trade-offs are a myth. You cannot replace the natural groundwater recharge and ecological functions of undisturbed farmland and forests with engineered landscaping and scattered plantings. Once the land is paved over, those environmental functions are permanently lost.

This proposal also represents another chapter in the warehousing of rural New Jersey. Replacing productive farmland with massive distribution centers brings diesel pollution, traffic congestion, noise, and industrialization into communities that were never designed to absorb such impacts. It permanently destroys some of the state’s best agricultural soils while degrading the quality of life for surrounding residents.

The Highlands Act was created to stop exactly this kind of abuse. If the Highlands Council allows developers to piggyback environmentally sensitive farmland onto a previously

developed commercial site in order to exploit redevelopment loopholes, then every warehouse developer in the state will attempt the same scheme. That would gut the Highlands Act from the inside out and destroy the integrity of the entire Regional Master Plan.

The Highlands region is not a sacrifice zone for warehouse sprawl, data centers, and speculative industrial development. It is the source of drinking water for millions of New Jersey residents and one of the last remaining landscapes protecting our forests, farms, streams, and rural communities.

The Highlands Council must reject this application outright. If the Council fails to uphold the law and protect the region from this reckless overdevelopment, then it will prove that the Highlands Act is no longer being used as a shield for clean water and open space, but as a weapon for developers to exploit. Once these protections are weakened, the damage will spread far beyond Warren County. Future generations will inherit more flooding, more polluted water, more truck traffic, fewer farms, and a Highlands region carved apart by industrial sprawl.

You cannot pave over the Highlands and pretend you are protecting it. The people of New Jersey deserve better than backroom loopholes, corporate giveaways, and environmental surrender masquerading as redevelopment. The Council must stand with the law, the environment, and the public interest — not warehouse speculators looking to cash in on the destruction of one of the state's most important natural resources.

Sincerely ,Jeff Tittel

Founder, Highlands Coalition and NJ Highlands Coalition

Former Director, NJ Sierra Club -Recognized as Lead Advocate,Lobbyist
for writing and passing the Highlands Act

Former Chair Ringwood Environmental Commission and member Planning
Board
SOAR

Founder, Skylands CLEAN /

Third-generation property owner in the Highlands Preservation Area

NJ Highlands Coalition Lifetime Achievement Award 2024

From: Bill WOLFE
To: Spinelli, Ben [HIGHLANDS]
Cc: MJ King; Julia Somers; Ruga Elliott; aniull.ramos; Taylor McFarland, NJ Sierra Club; emile@niconservation.org; Trittel, Jeff; Jeff Pillets
Subject: [EXTERNAL] public testimony 5/21/26 agenda item #9
Date: Tuesday, May 19, 2026 2:32:55 PM

Dear Director Spinelli:

I am unable to attend the May 21 Council meeting, so please accept the following as my testimony on item #9 on the agenda:

"CONSIDERATION OF RESOLUTION – Approval of Determination on Application for Highlands Redevelopment Area Designation for Phillipsburg Mall, Township of Lopatcong, Warren County, Block 102, Lots 9, 9.01 And 9.03 and Township of Pohatcong, Warren County, Block 1, Lot 1.01 (*voting matter with public comment*)"

Please hit the link below to access the text of my testimony. Please let me know if is OK to submit testimony in this linked format. If not, I will cut and paste the text.

I particularly direct your and the Council's attention to the closing four points.

ZOMBIE Warehouse On Farmland Is Back Before The Highlands Council On Thursday

<https://bwolfe.substack.com/p/zombie-warehouse-on-farmland-is-back>

Respectfully,

Bill Wolfe

Philadelphia PA

Wolfenotes

ZOMBIE Warehouse On Farmland Is Back Before The Highlands Council On Thursday

[bill wolfe](#)

May 19, 2026

The insane proposal to develop more warehouse capacity in the Highlands on prime agricultural lands is back before the Highlands Council on Thursday at 4 pm at the Council's Offices (see [the Council Agenda](#) item #9 and the [Staff Report on the project](#)).

When this proposal initially emerged, I wrote to expose how the Council's Staff Report was seriously flawed and conflicted with the objectives and standards of the Regional Master Plan and Highlands Act, see:

- [Pending Warehouse "Redevelopment" Approval Makes A Mockery Of The Highlands Act And The Highlands Council's New "Warehouse Policy" - The Council Is Bending The Rules To PROMOTE Warehouse Development On Farmland](#)

The proposal was strongly opposed and powerful testimony to the Council led to a vote that failed to get sufficient votes for approval. Many thought the project was dead and I applauded the Council, see:

- [The NJ Highlands Council Killed A Controversial Warehouse Project On Farmland - 4 Council Members Voted NO To Defend The Integrity Of The Regional Master Plan](#)

The developers filed a lawsuit against the Council, but curiously, by mutual consent of the parties, the project is back before the Council for another vote. I find that curious because the Judge did not remand the case back to the Council or dismiss the lawsuit.

Why would either party agree to this outcome? There is no legal record either to document the issues.

So now that the project is back before the Council on Thursday, I'll briefly mention additional issues that failed to get focused attention during the original Council vote.

First, the project is located on karst limestone geology. It is impossible to recharge stormwater runoff on site as required by DEP regulations due to the karst and limestone, which is highly prone to sinkholes.

Instead of addressing this issue and denying the project, the Staff Report merely suggests that the stormwater recharge will occur “somewhere off site”.

This is highly irresponsible, particularly given major high profile sinkhole disasters in the region, including the extended closure of I-80 and the sinkhole disaster in Phillipsburg.

Council members must be reminded of the sinkhole risks and deny this project for its failure to manage stormwater.

Second, the polluted stormwater runoff from the project would degrade a Category One (C1) trout production stream and tributary. This is prohibited by DEP regulations and surface water quality standards, and the RMP, because there can be no degradation in existing water quality of C1 streams (including physical, chemical, and biological conditions). This is a very difficult if not impossible standard to meet.

Third, the project would encroach upon, destroy, and adversely impact the functions of the protected stream buffers of a C1 waterway. This is prohibited by DEP regulations and the RMP.

Fourth, the Staff Report recommends a mitigation plan whereby prime agricultural soils would be excavated and trucked off site to “somewhere else”. This is absurd on its face and illustrates the stunts that the Staff Report engaged in to approve this project. These abuses make the project not only inconsistent with the RMP and the Highlands Act and DEP regulations, but arbitrary, capricious, and an abuse of discretion (for the lawyers out there).

I urge people to attend and make these - and other - powerful arguments to members of the Highlands Council to support their NO VOTE.

From: [Spinelli, Ben \[HIGHLANDS\]](#)
To: [Tagliareni, Annette \[HIGHLANDS\]](#)
Subject: Fw: [EXTERNAL] supplemental comments on Redevelopment approval
Date: Tuesday, May 26, 2026 8:47:07 AM

From: Bill WOLFE <bill_wolfe@comcast.net>
Sent: Friday, May 22, 2026 3:04 PM
To: Spinelli, Ben [HIGHLANDS] <Ben.Spinelli@highlands.nj.gov>
Cc: dante@dantelawyer.com <dante@dantelawyer.com>; Dante DiPirro <dante.dipirro@gmail.com>; MJ King <trhugger@yahoo.com>
Subject: [EXTERNAL] supplemental comments on Redevelopment approval

Dear Director Spinelli:

Please accept this following supplement to my prior comments on the Council's redevelopment approval last night. I understand that comments may be submitted until COB today, 5/22/26.

I would like to make legal points as summarized below:

1) the Highlands Act does not authorize the Council to aggregate land parcels in the way the Council did in this case to avoid compliance with the 70% impervious cover standard (and related infrastructure restrictions);

2) Portions of the Redevelopment RMP are not authorized by the Highlands Act and conflict with the Highlands Act. **It is a legal question whether the Highland Council was authorized by the Highlands Act to make the designation by combined disparate parcels of land to meet the 70% minimum. The Staff and the Council enjoy no judicial deference for legal conclusions.**

The Council relied only on the Regional Master Plan Addendum, but the Highlands Act provides no statutory authority for the provisions of it the Council relied on. **Some of the redevelopment designation provisions of the RMP themselves might not be authorized.**

The Highlands Act authorizes the Council to make the designation based on the 70% IC standard. **But the Highlands Act does NOT define "site". see:**

<https://law.justia.com/codes/new-jersey/title-13/section-13-20-3/>

The RMP does not define "site".

The RMP Addendum "Procedures For Highlands Redevelopment Area Designation" does not define "site", but it relies on it.

The definition of "site" is highly substantive and thus its application becomes a legal question.

The RMP addendum made up out of whole cloth the following applied "definition" of "site" (without actually defining it): (page 2)

https://www.nj.gov/njhighlands/planning/rmp/amendments/amendment_pdfs/highlands_redev_procedures.pdf

"A municipality proposes a Highlands Redevelopment Area with multiple contiguous properties under varied ownership or control."

On page 4, the RMP addendum includes additional criteria that effectively define "site":

"Factors to be considered during the process of establishing a Highlands Redevelopment Area boundary include:

(a) Ownership and contiguity of parcel" (more)

Where did the Council and the RMP find legislative authorization for those factors and definition? I can't find it in the Highlands Act

I can't find them in the DEP Highlands regulations, which also do not define "site", see: 7:38-1.4 Definitions

https://dep.nj.gov/wp-content/uploads/rules/rules/njac7_38.pdf

The DEP Highlands regulations include a related definition regarding redevelopment, but this definition is NOT used in the DEP development waiver regulations or the Highlands RMP:

"Property as a whole" means all lots assembled as one investment or to further one development plan. The property as a whole may include more than one municipal tax block or lot. The property as a whole may also include blocks or lots that were previously sold or developed, if those blocks or lots and the remaining unsold or undeveloped blocks or lots were part of one."

There seems to be some confusion and conflict between the terms "site" and "property as a whole".

If the Act authorizes contiguous land assemblies (e.g. "property as a whole") the way the RMP and redevelopment approval in this case, why is that definition and criteria not used in the redevelopment designation approved last night?

Why is the term "site" not defined anywhere?

The Council's application of discretion with respect to the term "site" is not authorized by the Highlands Act, particularly given this absence of a definition of "site" in the Act or the RMP.

So what is the specific legislative provision the Act and RMP the council relies on regarding a "site"?

Does the Council take the legal position that the RMP relied on broadly delegated and implicit legal authority to define a "site"? That would conflict with traditional methods of statutory interpretation, particularly on such a major policy and planning issue.

The RMP redevelopment addendum includes this language to authorize the redevelopment designation. This language effectively defines and applies the concept of a "site", but without a definition of the term:

"A site having at least 70% of its total area covered with lawfully existing impervious surface, as that term is defined

In the Highlands Act, N.J.S.A. 13:20-3"

The "term" "site" is NOT defined in the Highlands Act or at the cited authorizing provision, ***N.J.S.A. 13:20-3***". So this RMP provision has no legal meaning and no statutory basis.

The Highlands RMP Addendum then goes on to add another condition to the Council's redevelopment authority: i.e. compliance with DEP regulations. Here is the language from the redevelopment oriented DEP regulations, which again do NOT define "site":

"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."

Finally, the method in the Staff Report the Council relied on and just approved for aggregating disparate parcels to avoid compliance with standards establishes a dangerous precedent and huge loophole.

As drafted and applied in this decision, there are no limits to the power of the Highlands Council to designate parcels of land for redevelopment and issue waivers (other than providing notice to landowners).

This means the Council could aggregate any or every parcel and deploy the redevelopment designation to avoid other regulatory constraints. This planning method would allow leapfrog development to consume farmland nearby existing development, as the IC from existing development would be used to justify redevelopment of virgin farmland.

The Highlands Act did not authorize this kind of abuse and the Council's decision is *ultra vires* and contrary to the Act

Bill Wolfe

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Via Email and Hand-Delivery

May 21, 2026

New Jersey Highlands Council
ATTN: Mr. Ben Spinelli and Council Members
100 North Road, Chester NJ 07930
Email: ben.spinelli@highlands.nj.gov

Re: Pohatcong application for Highlands Redevelopment Area designation
Submission on behalf of Phillipsburg Riverview Organization

Dear Mr. Spinelli and Council Members:

I represent the Phillipsburg Riverview Organization and submit this letter on behalf of the non-profit organization on the above-referenced application that is scheduled for public hearing and consideration by the Highlands Council at today's Highlands Council meeting.

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PRELIMINARY STATEMENT

The application and proposed project seek to convert 40 acres of farmland into a redevelopment area and a 300,00 sf warehouse. The farmland is actively-farmed, of significant agricultural value and identified by Warren County as a priority for protection and preservation. The application and project would impermissibly destroy important farmland, locate redevelopment on undeveloped lands, and impair Highlands Resources from the loss of valuable agricultural land, impairment of streams, and impairment/loss of drinking water supply. The application violates the Highlands Act (the "Act") and Regional Master Plan ("RMP"). The application also fails to meet Regional Master Plan Addendum 2019-1 (Procedures for Redevelopment Area Designation) (the "Addendum"), as interpreted and applied in consistency with the Act's terms, intent and purpose and those of the RMP. Therefore, the application must be denied.

ARGUMENT

For the Highlands Council to approve a Highlands Redevelopment Area, the applicant must meet the requirements of RMP Addendum 2019-1 (Procedures for Redevelopment Area Designation), as interpreted and applied with full consistency with the Highlands Act's terms, intent and purpose and those of the RMP. As set forth below, the application must be denied because:

- ❖ the application does not meet the standard for redevelopment as set forth in the Highlands Act (including that the 70% impervious coverage requirement is not met because the farmland is not "a site" (singular) at which at least 70% of the area thereof is covered with impervious surface as expressly required by the Act); t
- ❖ the application is not consistent Act and RMP's mandate of protecting agricultural lands and agriculture and limiting redevelopment to previously developed sites;
- ❖ the application and proposed development would cause or contribute to impairment of any Highlands Resources, from the loss of valuable agricultural land, impairment of streams, and impairment/loss of drinking water supply; and
- ❖ application and proposed project do not and cannot satisfactorily mitigate against the loss and/or impairment of important farmland.

I. The application must be denied because the site does not meet the standard for redevelopment as set forth in the Highlands Act, namely, that redevelopment shall be limited to either: (1) a site that is a designated brownfield; or (2) a site that has 70% existing impervious coverage.

The Highlands Act provides the following in the subsection governing designation of redevelopment areas: "Any areas identified for possible redevelopment pursuant to this subsection shall be either a brownfield site designated by the Department of Environmental Protection or a site

at which at least 70% of the area thereof is covered with impervious surface. N.J.S.A. 13-20-9b (emphasis added)

The Act repeats this expressed limitation in the section governing contents of the regional master plan: In preparing the smart growth component of the regional master plan, the council shall "identify areas appropriate for redevelopment and set appropriate density standards for redevelopment. **Any area identified for possible redevelopment pursuant to this subparagraph shall be either a brownfield site designated by the Department of Environmental Protection or a site at which at least 70% of the area thereof is covered with impervious surface.** N.J.S.A. 13:20-116(h) (emphasis added)

As such, the Act provides only a site that meets one of two specific types shall be appropriate for designation as a redevelopment area, a site designated a brownfield or a site that already has 70% impervious cover. The express language of the Act and its intent does not authorize consideration of multiple sites when performing the 70% impervious cover calculation (the Act specifically says "a site" -- singular -- at which at least 70% of the area is impervious cover; that language is clear, state statute is controlling law, and accordingly any rule, regulation, requirement, process or RMP provision that is inconsistent with the statute is legally invalid, inapplicable and unenforceable).

Here, the site in the application is a farm that is (1) not a brownfield site designated by NJDEP and (2) not a site covered by 70% of impervious surface. It is unimproved land, is significant farmland, and is protected by the Highlands Act. It is not part of the old mall site that has already received separate development approval. Therefore, the application does not present either of the only two types of sites that can be considered for designation as a redevelopment area and the application must be denied.

In addition, the application should be denied under RMP Addendum 2019-1. The Addendum limits redevelopment area designation as follows: "Applicants may petition the Highlands Council for Highlands Redevelopment Area designation for cases involving either, an NJDEP designated Highlands brownfield, or an area consisting of 70% or more lawfully existing impervious surface." See Section 3.1 (General Approach). The Addendum's process and its restatement of the Act's brownfield site or 70% impervious cover site requirement must be fully consistent with the Act and the Act's express terms, intent and purpose. Interpreted and applied as such, the Addendum requires that the application be denied.

First, because the RMP Addendum 2019-1 must be interpreted and applied consistent with N.J.S.A. 13-20-9b and N.J.S.A. 13:20-116(h) of the Act, the application must be denied because the site in the application is a farm that is (1) not a brownfield site designated by NJDEP and (2) not a site covered by 70% of impervious surface. See this Point I above.

Second, because the RMP Addendum 2019-1 must be interpreted and applied consistent with the goals and other provisions of the Act and with the goals and provisions of the RMP, the application must be denied because the 70% current impervious surface requirement can only apply to previously developed land and cannot apply to undeveloped farmland. The Act and RMP only permit redevelopment of previously developed land (settled land and property that has become dilapidated, underutilized or vacant) and if so, only if the impervious surfaces comprise 70% or

more. See Point II, herein. This farm is not already developed and does not already have 70% impervious cover.

Third, the terms, intent and purpose of the Act and RMP do not legally permit farmland to be lumped in with other land in order to manufacture and overall impervious cover calculation that is 70% or greater. To do so would violate that RMP and Act's terms, intent and purposes to protect farmland and only permit redevelopment on land that has already been developed. This application seeks to manipulate the 70% impervious coverage calculation of the site by impermissibly and artificially aggregating the site with another site (the old mall site). This would destroy pristine farmland in the guise of "redevelopment" when there was never development in the first place. This violates the terms, intent and purposes of the Act and RMP.

Fourth, granting this application and allowing the misuse of the 70% calculation of "a site" by considering other sites, would create unintended consequences and a potential loophole that would risk consuming the Highlands Region with sprawl, condemning the Region to a death of a thousand cuts, and violate the Act and RMP. To start with, allowing the farmland here to be turned into a warehouse would create a loophole that undermines the essential purposes of the Act and RMP. Then, other developers might start seeking elsewhere to turn farmland and open space near their developed land into more development. Worse still, each time a developer converts such farmland and open space into more development, they can then expand the circle of development out further, once again using the impervious surfaces of their development to outweigh and convert nearby farmland and open space into more development via an aggregated 70% impervious cover calculation. Before long, the expanding development could cause loss the loss of farmland and open space, loss of natural resources, loss of drinking water supply, and possible complete conversion of the entire Region into sprawl. The time to reject this loophole and resultant violation of the terms, intent and purposes of the Act and RMP is now before pandoras box is opened.

For the foregoing reasons, the application does not meet the 70% impervious coverage requirement and must be denied.

II. The application must be denied because the proposed Highlands Redevelopment Area and proposed development are not consistent with the Highlands Act and Regional Master Plan.

For approval of a Redevelopment Area designation application, RMP Addendum 2019-1 at 3.1(b) requires that a proposed Redevelopment Area be compatible with the goals of the Highlands Act and RMP. See Section 3.1(b). Here, the application must be denied because it does not satisfy the terms, intent and purpose of the RMP and Act of: (1) protecting agricultural lands and agriculture; or (2) limiting redevelopment to settled areas or properties that have become blighted, underutilized or vacant.

(a) The application must be denied because it does not satisfy the terms, intent and purpose of the Act and RMP because it fails to protect agricultural lands and agriculture.

The terms, intent and purpose of the RMP and Act include the mandate to protect and preserve agricultural lands and agriculture. In this regard, the RMP contains express provisions that make clear the importance of protecting and preserving farmland and agriculture and establish

policies, goals and practices designed to protect and preserve farmland and agriculture in the Highlands. Some of those express provisions include the following:

The RMP and Highlands Act recognize the importance of agriculture in the Region and the goal of promoting and expanding it in the Planning Area. See RMP p.40 (Agriculture) (The RMP and the Highlands Act recognize that agriculture is an "important element" of the Highlands Region and the RMP outlines programs to "promote compatible agriculture in the Preservation Area and to promote and expand it in the Planning Area.")

Agriculture is vital, provides economic benefits and maintains the rural character of the Highlands communities. See RMP p.91 (Agricultural Resources) (Agriculture is a vital component of the economy, culture and landscape of the Highlands Region. It provides economic benefits through both agricultural production and by maintaining the rural character of Highlands communities.)

It is important to preserve agricultural resources and viability of agriculture lands particularly through sustainable agriculture. See RMP p.18 (Agricultural Resources) (Sustainable agriculture consists of land management and land use policies that are necessary to sustain and preserve agricultural resources and the viability of the agricultural industry in the Highlands Region)

It is important to retain agricultural lands, enhance agricultural resources, and the agricultural industry. RMP p.177 (Agricultural Resources) (Agriculture is a vital component of the Highlands Region's culture, landscape and economy. It provides important economic benefits to the Highlands Region in the form of agricultural production and agri-tourism, provides a local food source to area residents using less energy than would be required to import produce from other regions, and helps maintain the Highland's rural character. Agriculture is also an industry in which the land is the primary instrument of production. Therefore, it is imperative to retain the land base and preserve contiguous areas of agriculture to sustain and enhance agricultural resources and the agricultural industry.)

The RMP's major goals and objectives include to preserve agricultural land and the viability of the agricultural industry. See RMP p.177-178. (Agricultural Resources) (The major Goals, Policies, and Objectives for Agricultural Resources seek to meet two essential objectives of the Highlands Act; the preservation of agricultural land and the viability of the agricultural industry.)

The Highlands Region has experienced a steady loss of agricultural lands. See RMP p.91

The RMP supports agricultural viability in the Highlands Region. See RMP p.98

The RMP has a policy of protecting and enhancing lands within the Highlands Region currently or capable of being used for agricultural purpose and ensuring that agricultural lands and lands adjacent to them are not developed in a manner that conflicts with agricultural uses. See RMP p.193 (Policy 6H2: To protect and promote agriculture by protecting and enhancing lands within the Highlands Region currently or capable of being used for agricultural purposes and ensuring that lands associated with or adjacent to agricultural lands are not developed in a manner that conflicts with the ongoing agricultural uses.)

The RMP has a policy of guiding development away from agricultural lands. See RMP p.187 (The RMP establishes a framework for future land use which guides development away from environmentally sensitive lands and agricultural lands.) See RMP p.192 (Goal 6H: Guide development away from environmentally sensitive lands and agricultural lands)

The RMP emphasizes that new development should protect environmentally sensitive and agricultural lands, be located in areas with existing development wherever feasible. See RMP p.192 (Introduction to Subpart C Regional guidance for Development and Redevelopment) (The RMP emphasizes that new development should protect environmentally sensitive and agricultural lands, be located in areas with existing development wherever feasible, and be designed in ways that make efficient use of land while creating sustainable communities.)

Significant agricultural lands, including agricultural lands in a Conservation Zone, should be preserved when possible and non-agricultural development should be limited. See RMP p.111 (Future Land Use) (The Conservation Zone consists of areas with significant agricultural lands and interspersed with associated woodlands and environmental features that should be preserved when possible. Non-agricultural development activities will be limited in area and intensity due to infrastructure constraints and resource protection goals.)

The RMP has a goal of protecting and enhancing agricultural uses and to preserve agricultural land in a conservation zone. See RMP p.189 (Goal 6d: Protection and enhancement of agricultural uses and preservation of associated land and water resources in the Highlands in the Conservation Zone.)

The RMP has a policy of protecting existing agricultural uses in the Conservation Zone from incompatible development. See RMP p.189 (Policy 6d1: To protect existing agricultural uses in the Conservation Zone from incompatible development.)

The RMP has an objective of mapping and protecting significant agricultural lands within the Highlands Region. See p.189 (Objective 6D1a: The Conservation Zone of the Land Use Capability Zone Map shall include regionally significant agricultural lands within the Highlands Region.)

Individually and comprehensively, these provisions of the RMP make abundantly clear that the terms, intent and purposes of the Highlands Act and RMP are to protect agricultural lands and agriculture.

Here, the application does not satisfy the terms, intent and purpose of the RMP and Act of protecting agricultural lands and agriculture because the approval of the application would destroy important farmland and harm agriculture in the Highlands. Approving the application would destroy approximately 40 acres of existing and currently farmed land, land that constitutes significant agricultural land and which is on Warren County's priority list for acquisition and preservation. Approving the application would also take actively-farmed land out of production thus injuring agriculture in the Highlands. For all of these reasons, the application does not comply with the terms, intent and purposes of the Highlands Act and RMP, and the application must be denied.

(b) The application must be denied because it does not satisfy the terms, intent and purpose of the Act and RMP because it fails to limit redevelopment to previously settled areas or to properties that have become blighted, underutilized or vacant.

The terms, intent and purpose of the Act and RMP include the mandate to limit redevelopment to places that have already been developed. The rationale is clear, it is poor public policy to destroy undeveloped farmland and good public policy to redevelop land that has already been developed (especially when such land is property has become blighted, underutilized or vacant). So, the Act and RMP establish the imperative of limiting redevelopment to already developed lands.

The RMP contains express provisions that make clear the importance of limiting redevelopment to previously settled areas or to properties that have become blighted, underutilized or vacant. Some of those express provisions include the following:

Redevelopment is a planning tool that is a tool for settled areas, underutilized areas, brownfields, and grayfields. See RMP p.195 (Redevelopment) (Redevelopment is a planning tool that converts underutilized areas, brownfields, and grayfields into new land uses through structure replacement, infill, and adaptive reuse approaches. Redevelopment will help to meet the Region’s growth needs by optimizing the efficient use of previously settled areas with existing communities and available infrastructure, thus conserving natural resources. Brownfields and grayfields are two types of sites which commonly possess characteristics worthy of investigating for purposes of redevelopment. The definition of a brownfield is, “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 of a contaminant.” Grayfields are sites usually containing industrial or commercial facilities exhibiting signs of abandonment or underutilization in areas with existing infrastructure, but without evidence or expectation of contamination.)

Redevelopment activities are appropriate in previously settled areas, thus conserving natural resources and protecting drinking water supply and advancing smart growth principles, and are used to transform vacant, underutilized, or blighted properties into productive uses. See RMP p.107 (Development and Redevelopment) (Redevelopment activities may be accommodated in previously settled areas, thus conserving natural resources and protecting drinking water supply and advancing smart growth principles in the Region. Redevelopment can transform vacant, underutilized, or blighted properties into productive uses.)

The RMP strives to accommodate regional growth and development needs primarily through the reuse and redevelopment of previously developed areas, including brownfields, grayfields, and underutilized sites. See RMP p.325 (Redevelopment) (The RMP strives to accommodate regional growth and development needs primarily through the reuse and redevelopment of previously developed areas, including brownfields, grayfields, and underutilized sites. These areas generally have access to existing utility and transportation infrastructure and often are located in or near existing communities. As they have already been developed, these sites will have comparably fewer environmental constraints than undeveloped areas and the reuse of developed lands conserves natural resources and maximizes infrastructure

investments. However, not all such sites are in locations conducive to redevelopment, especially where redevelopment could harm surrounding environmentally sensitive resources.)

In the Planning Area redevelopment sites may include grayfields and underutilized areas. RMP p.195 (Redevelopment) (In the Planning Area, Highlands Redevelopment Areas include redevelopment sites and brownfield sites using the Preservation Area definition, but may in addition include grayfields and underutilized areas, depending on the Land Use Capability Zone of the area. Infill is permissible in any of the Highlands Redevelopment Areas as long as the area meets the designation requirements. Highlands Redevelopment Areas may be designated for the entire property, a portion of the property, or for collections of contiguous parcels in part or in whole.)

The RMP has a goal of accommodating regional growth and development needs through reuse and redevelopment of previously developed areas. See p.195 (Goal 6J: Accommodation of regional growth and development needs through the reuse and redevelopment of previously developed areas, including brownfields grayfields and underutilized sites.)

The RMP has a policy of encouraging redevelopment in the ECZ in the Planning Area of brownfields, grayfields, and other previously developed areas. See RMP p.195 (Policy 6J2: To encourage redevelopment in the ECZ in the Planning Area of brownfields, grayfields, and other previously developed areas that have adequate water, wastewater, transportation capacity, and are appropriate for increased land use intensity or conversion to greenfields, as approved through Plan Conformance or the Highlands Redevelopment Area Designation process.)

The RMP has a policy of encouraging redevelopment in the Conservation and Protection Zones in the Planning Area of brownfields and grayfields. RMP p.195 (Policy 6J3: To encourage redevelopment in the Conservation and Protection Zones in the Planning Area of brownfields and grayfields that have adequate water, wastewater, transportation capacity, and are appropriate for increased land use intensity or conversion to greenfields, as approved through Plan Conformance or the Highlands Redevelopment Area Designation process.)

The RMP has a goal of concentrating redevelopment in existing developed areas. See RMP p.195 (Goal 6K: Concentrate residential, commercial and industrial development, redevelopment and economic growth in existing developed areas in locations with limited environmental constraints, access to existing utility and transportation infrastructure.)

The RMP has a policy of promoting the redevelopment of of brownfields, grayfields, and other previously developed areas. See RMP p.195 (Policy 6k1: To promote redevelopment of brownfields, grayfields, and other previously developed areas in a manner consistent with the goals and requirements of the Plan.)

The RMP has a policy of encouraging redevelopment of certain land that has already been developed with 70% or greater impervious surfaces. See RMP p.195 (Policy 6J1: To encourage Preservation Area redevelopment of sites with 70% or greater impervious surfaces or a brownfield in areas designated by the Highlands Council as Highlands Redevelopment Areas in accordance with N.J.A.C 7:38-6.6 and 6.7.)

Here, the application does not satisfy the terms, intent and purpose of the RMP and Act of limiting redevelopment to previously settled areas or to properties that have become blighted, underutilized or vacant. Approving the application would permit development of pristine, undeveloped, actively-farmed agricultural land. Although redeveloping a vacant and blighted old mall could be consistent with the Act and RMP, destroying farmland to permit redevelopment is flatly contrary to the Act and RMP. Moreover, allowing the destruction of farmland through designation of a Highlands Redevelopment Area would risk creating a loophole that would invite future applications to destroy farmland or open space by allowing "redevelopment" of land that was never "developed" in the first place. This would be a violation of the Act and RMP, a step too far, and a step the Highlands Council should not take. For all of these reasons, the application does not comply with the terms, intent and purposes of the Highlands Act and RMP, and the application must be denied.

III. The application must be denied because the application and proposed development do not comply with the prohibition against causing or contributing to an impairment of any Highlands Resources, including the loss of valuable agricultural land, impairment of streams and water quality, and impairment/loss of drinking water supply.

RMP Addendum 2019-1 limits redevelopment area designation as follows: "The Highlands Council may determine that a proposed Highlands Redevelopment Area is inappropriate based on the fact that the proposed redevelopment is not focused in previously disturbed areas, may disturb Highlands Resources and/or would promote new development incompatible with the goals of the Highlands Act and the RMP." See Section 3.1(c)

The application and proposed development would cause or contribute to the loss of valuable agricultural land. This is established in Point II herein.

The application and proposed development would cause or contribute to the impairment of streams and water quality. First, the polluted stormwater runoff from the proposed project would degrade a Category One ("C1") trout production stream and tributary. This is prohibited by DEP regulations and surface water quality standards, and the RMP, because there can be no degradation in existing water quality of C1 streams (including physical, chemical, and biological conditions). Second, the project would encroach upon, destroy, and adversely impact the functions of the protected stream buffers of a C1 waterway, which is prohibited by DEP regulations and the RMP. Third, the proposed development would add \$300,000 sf of impermeable surface to the already approved 900,000 sf of warehouse already approved on a separate site (adjacent old mall site). The proposed additional impermeable surface has been proposed without any additional planned or proposed stormwater control and would impair and potentially destroy the Lopatcong creed on its way to the Delaware River. Fourth, the proposed project would be located on karst limestone and limestone geology and as such the site is extremely unlikely to be able to meet NJDEP regulation requirements for on-site recharge of stormwater runoff. In addition to causing impairment of streams and water quality, it should be noted that it would create sinkhole risks which is a considerable concern given major high profile sinkhole disasters in the region, including the extended closure of I-80 and the sinkhole disaster in Phillipsburg.

The application and proposed development would cause or contribute to the impairment or loss of drinking water supply. One of the central purposes of the Highlands Act is to preserve and

protect drinking water. Residents in the area of this proposed development and elsewhere around the state (including thousands perhaps millions of others that get their drinking water from the Delaware River, to which these lands drain) rely on the Highlands for their drinking water. Moreover, the state is experiencing a drought which would be exacerbated by the development of undeveloped lands. The increased impervious cover and lack of stormwater control would seriously cause or impair the loss of drinking water supply.

For all of the foregoing reasons, the application must be denied.

IV. The application must be denied because the application and proposed project do not and cannot satisfactorily mitigate against the loss and/or impairment of important farmland.

RMP Addendum 2019-1 requires that any proposed development must be able to mitigate any loss and/or impairment of farmland soils. Here, the proposed development does not and cannot satisfactorily mitigate such loss/impairment.

This farm has important farmland soils and is within the Agricultural Resource Area, which soils should not be disturbed. The Staff Report proposes a mitigation plan whereby prime agricultural soils would be excavated and trucked off-site to some unknown and undisclosed location. The proposed mitigation of prime ag soils is unworkable and insufficient. The proposal is at best "paper mitigation" that would not provide true mitigation and would violate the agricultural protection provisions of the Act and RMP.

For all of the foregoing reasons the application must be denied

CONCLUSION

The application violates the Highlands Act (the "Act") and Regional Master Plan ("RMP"). The application also fails to meet Regional Master Plan Addendum 2019-1 (Procedures for Redevelopment Area Designation) (the "Addendum"), as interpreted and applied consistent with the Act's terms, intent and purpose and those of the RMP. Therefore, the application must be denied

Respectfully submitted,



Dante DiPirro, Esq.