



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, December 13, 2007 - 4:00 p.m.

1. CALL TO ORDER
2. ROLL CALL
3. OPEN PUBLIC MEETINGS ACT
4. PLEDGE OF ALLEGIANCE
5. APPROVAL OF MINUTES – November 8, 2007 and November 19, 2007
6. CHAIRMAN'S REPORT (and Council Member Reports)
7. EXECUTIVE DIRECTOR'S REPORT
8. COMMITTEE REPORTS
 - a. Natural Resources Committee - Council Member Dillingham
9. CONSIDERATION OF RESOLUTION - *Proposed Amendment to Upper Raritan and Northeast WQMP, Heritage Village 55 (Randolph Twp.)* - (voting matter with public comment)
10. CONSIDERATION OF RESOLUTION - *Proposed Amendment to Upper Delaware WQMP, Huntington Knolls (Holland Township)* - (voting matter with public comment)
11. CONSIDERATION OF RESOLUTION - *Authorizing the Execution of a Memorandum of Understanding among the Highlands Council, the New Jersey State Planning Commission and the Office of Smart Growth* - (voting matter with public comment)
12. CONSIDERATION OF RESOLUTION - *Approving the Annual Meeting Schedule of the Highlands Council for 2008*- (voting matter with public comment)
13. PUBLIC COMMENTS
14. EXECUTIVE SESSION (if needed)
15. ADJOURN

**NEW JERSEY HIGHLANDS WATER PROTECTION
AND PLANNING COUNCIL
MINUTES OF THE MEETING OF DECEMBER 13, 2007**

VIA TELECONFERENCE

JOHN WEINGART)	CHAIRMAN
KURT ALSTEDE)	COUNCIL MEMBERS
TRACY CARLUCCIO)	
TIM DILLINGHAM)	
JANICE KOVACH)	
MIMI LETTS)	
ERIK PETERSON)	
GLEN VETRANO)	
SCOTT WHITENACK)	

PRESENT

BILL COGGER)
JACK SCHRIER)

ABSENT

ELIZABETH CALABRESE)
DEBBIE PASQUARELLI)
TAHESHA WAY)

CALL TO ORDER

The Chairman of the Council, John Weingart, called the 60th meeting of the New Jersey Highlands Water Protection and Planning Council to order at 4:05 pm.

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. Chairman Weingart announced that the Council had provided for a public teleconference and had posted public materials on the website due to the weather conditions.

PLEDGE OF ALLEGIANCE was then recited.

CHAIRMAN'S REPORT

Chairman Weingart asked for a motion for the Minutes of November 8, 2007. Mr. Schrier moved the Minutes and the Motion was seconded by Mr. Cogger. Ms. Letts noted the need to correct the list of Members that were present. Mr. Dillingham abstained and the Motion was APPROVED with nine Members voting in favor. Chairman Weingart asked for a motion for the Minutes of November 19, 2007. Mr. Schrier moved the Minutes and the Motion was seconded by Mr. Cogger. The Motion was APPROVED with ten Members voting in favor.

Mr. Weingart noted that the Agenda item regarding Huntington Knolls would be deferred to the next Council meeting. He also advised the Council that the Council had received a letter alleging that the Council had improperly hired the firm of Siemon and Larson to provide professional planning services because the firm did not have a New Jersey licensed professional planner. The Council's legal staff reviewed the matter and Mr. Weingart sent a responding letter rejecting the claims. Mr. Weingart asked if other Members had anything to report and hearing none he asked for the Executive Director's Report.

EXECUTIVE DIRECTOR'S REPORT

Ms. Swan announced that the Regional Master Plan (Final Draft, November 2007) was printed and sent to all eighty-eight (88) municipalities in the Highlands Region. She also advised the Council that the Council Staff was printing copies for the seven Highlands Counties, the New Jersey Legislators representing the Highlands Region and other interested State agencies and entities. In addition, the Council Staff prepared a CD version that included the Regional Master Plan, the Technical Report Addenda, and the Land Use Capability Zone Map Atlas.

Ms. Swan indicated that the Regional Master Plan had been finalized to include the language amendments approved by the Council. Of particular note was the clarification that the extension of water and wastewater infrastructure or approval of treatment systems in the Preservation Area was prohibited and the only exceptions were those that could be approved in accordance with the limiting provisions of the Highlands Act.

NATURAL RESOURCES COMMITTEE REPORT

Mr. Dillingham reported that the Natural Resources Committee met on December 6, 2007 to discuss two proposed Water Quality Management Plan (WQMP) amendments and a proposed method to identify impervious surfaces for the identification of redevelopment areas in the preservation Area.

The Committee reviewed the proposed WQMP amendment for Heritage 55 in Randolph Township. The project had been granted both State and local approvals and significant site disturbance has occurred on site. The Committee heard from the applicant and from representatives from Randolph Township, who described the efforts to cluster, preserve open space, and remediate on-site contamination. As a result of the discussions at the Committee meeting, the applicant's attorney agreed to deed restrict additional Open Water Protections Areas that had not been disturbed and construct monuments to demarcate these areas. The Committee also asked staff to address water deficit matters through Randolph Township. As a result, the Committee voted to recommend approval conditioned upon these two matters. Mr. Borden advised the Council that the Council staff met with the applicant's representatives and conceptually resolved the areas for conservation restrictions and the placement of monuments.

Mr. Borden then suggested language for the Council's draft Resolution that the Executive Director be authorized to submit a letter recommending approval of the proposed WQMP with the following conditions: 1) the applicant prepare, perfect, and file a conservation easement for the Highlands Open Water Protection Area not already disturbed to preserve these lands and 2) to require the Township of Randolph to remedy the water deficits for the water use of this project in accordance with the standards in the Regional Master Plan. Mr. Dillingham moved the Resolution with these conditions and the Motion was seconded by Mr. Schrier. Ms. Carluccio stated that while the protections for the project have improved, she remained concerned regarding the water deficit matter. Mr. Whitenack stated that he

supported the project with these conditions given the local approvals, remediation and site disturbance. Mr. Peterson joined the meeting. Ms. Letts and Mr. Dillingham asked that Council staff provide additional details for towns to resolve water deficit matters and Ms. Swan committed to advance this issue.

Mr. Weingart asked if members of the public had any comments. Mr. Shope commented that there was a need to explain how there are water deficits in the Highlands which provides water for half of the State. Mr. Weingart asked for a roll call vote. The Resolution was approved with ten in favor and one opposed.

Ms. Swan introduced the Resolution of the approval of a Memorandum of Understanding (MOU) among the Highlands Council, the State Planning Commission (SPC), and the Office of Smart Growth (OSG). Ms. Swan noted that the Executive Director of OSG, Ben Spinelli, and Corey Piasecki, a regional planner from his office, were in attendance. Ms. Swan provided an overview of the MOU which was reviewed by the State and Federal Agency Coordination Committee on October 4, 2007. The draft MOU was posted on the Council website on October 12th and distributed at the Council meeting on October 18th. At the October Meeting the Council and public were advised that the MOU was available on the website. Thereafter, the draft MOU was reviewed by the SPC's Planning Implementation Committee on October 24th where the Committee agreed to add waiver provisions for the Council regarding Plan Endorsement of the RMP. Those waivers were in the ED report to the Council at its November meeting. The State Planning Commission approved the MOU at its meeting on December 5th authorizing the ability to make nonsubstantive revisions. Mr. Schrier moved the Motion and Ms. Kovach seconded the Motion.

Mr. Schrier introduced Mr. Spinelli who described the cooperative process where the SPC, OSG and the Council would share information and use the best available information and science in planning. Mr. Dillingham expressed concern and questioned how the recent science would be used in the Planning Area, how the Council would resolve potential conflicts between housing and the environment, and how designated centers would be addressed. Ms. Letts agreed with these concerns. Ms. Swan noted that the MOU was a process for coordination and any conflicts between the agencies would be resolved where necessary. Mr. Spinelli added that the new Plan Endorsement process takes into account new information.

Mr. Weingart asked for public comment on the Motion. Julia Somers sought clarification on the MOU regarding designated centers. Tony Soriano from Morris County Planning Department asked for notice of the final document, stated that science and policy are distinct, and noted the voluntary nature of Plan Conformance. Ned Ward expressed concern regarding mandating Plan Conformance where it is voluntary. Susan Buck expressed concern that it undermined the intent of the Highlands Act that Plan Conformance is voluntary. David Shope wanted to ensure that agricultural and equity matters were properly addressed. Dave Peifer asked that municipalities receive guidance in the distinction between Plan Conformance and Plan Endorsement.

Council Members discussed a clarification in the MOU regarding designated centers. The Council discussed the use of various terms to clarify the matter and decided to use the phrase to "reestablish or modify" designated centers. Mr. Weingart asked for a roll call vote on the Motion. The Motion was APPROVED with ten members in favor and one opposed.

Mr. Weingart asked for a motion on the Resolution for the 2008 meeting schedule. The Motion was made by Mr. Schrier and seconded by Ms. Letts. Ms. Swan clarified that the schedule includes a meeting on February 28th. The Motion was APPROVED with all members in favor.

PUBLIC COMMENTS

Ned Ward, Harding

He sought clarification on density in agricultural areas, smart growth standards, lake community zone standards, land preservation funding.

Susan Buck, Oxford

Ms. Buck stated that the new version of the RMP is more confusing than the prior draft. She asked that additional mapping and specifics be made available to the public and to Highlands municipalities.

David Shope


Mr. Shope commented that he had read the letters regarding the matter involving the requirement for a licensed professional planner and commented that he disagreed with the Council's position and that the matter was ripe for resolution.

The meeting was adjourned at 5:20 pm.

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: January 25, 2008

Signed: 
Thomas A. Borden, Esq.
Deputy Executive Director and
Chief Counsel

Vote on the Approval of the

December 13, 2007 Minutes Yes No Abstain Absent

Councilmember Alstede	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilmember Calabrese	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilmember Carluccio	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilmember Cogger	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilmember Dillingham	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilmember Kovach	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilmember Letts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilmember Pasquarelli	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilmember Peterson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilmember Schrier	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilmember Vetrano	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Councilmember Way	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilmember Whitenack	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilmember Weingart	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
NATURAL RESOURCES COMMITTEE**

**CHAIR REPORT
FOR THE MEETING OF DECEMBER 6, 2007**

On December 6, 2007, the Natural Resources Committee held a meeting at the New Jersey Highlands Council office in Chester, New Jersey. Notice of the meeting was provided on the Highlands Council's website. Council members present included the Committee Chair Tim Dillingham, Tracy Carluccio and Scott Whitenack. The Highlands Council staff included Eileen Swan, Tom Borden, Dan Van Abs, Jim Hutzelmann, Erin Lynam and Chris Ross. The meeting was called to order at 10:15 am.

Mr. Dillingham provided an overview of the agenda items which included discussion of staff reviews of two specific Water Quality Management Plan ("WQMP")/Wastewater Management Plan ("WMP") amendment proposals (Heritage 55 and Huntington Knolls), and discussion of the technical methods and examples for Redevelopment Site Designations.

Water Quality Management Plan Amendment Reviews

Heritage Village 55

Mr. Dillingham requested that Tom Borden provide an overview of the legal analysis for the Heritage 55 WQMP with respect to the following issues:

1. Whether this project should be deemed exempt from the Highlands Water Protection and Planning Act (Highlands Act); and
2. Whether the New Jersey Department of Environmental Protection's (NJDEP) determination that the project is exempt from the 300 foot buffer requirements under N.J.A.C. 7:8-1.1 et seq. limits the Highlands Council's recommendation on this project.

With regard to Issue #1, Mr. Borden noted that the Heritage Village 55 project is not exempt from the Highlands Act because Exemption #3 (those projects which received local approvals and State permits prior to March 29, 2004 and started construction beyond site preparation before August 10, 2007) is limited to projects in the Preservation Area and this project is located in the Planning Area. Two of the Highlands Act exemptions (#3 and #17) are premised upon the definition of what constitutes a major Highlands Development and this definition includes projects in the Preservation Area. He went on to recommend that the Council should, at a later date, discuss the general policy issue of how the Council should review projects in the Planning Area that received specific local approvals and State permits prior to March 29, 2004.

He further stated that even though the project is not exempt, the staff did review the prior permits for the project and determined that the project did receive local approvals and a State water supply permit prior to March 29, 2004 and initiated construction beyond site preparation prior to August 10, 2007. Accordingly, the staff recommendation was to review the project against the Final Draft Regional Master Plan (RMP) and advise the Council that it may wish to consider these prior approvals in its deliberation on the matter.

In regard to Issue #2, Mr. Borden explained that while the project review identified Final Draft RMP inconsistencies regarding the 300 foot buffer from Highlands Open Waters and Riparian

Areas, the NJDEP determination that the project is exempt from the 300 foot buffer requirements under NJDEP's Stormwater Rules at N.J.A.C. 7:8-1.1. Given this, the Council staff recommended that the Council should specifically identify the Final Draft RMP inconsistencies and should recommend that NJDEP strongly encourage the applicant to address the inconsistencies through redesign of the project.

Mr. Dillingham noted that the Heritage Village 55 proposed amendment was discussed at the September 20, 2007 Natural Resources Committee meeting and since that time, staff conducted additional analysis and a field reconnaissance. He asked that staff provide an overview of that effort. Jim Hutzelmann began the overview by noting that at the September 20, 2007 Committee meeting and in correspondence dated October 17, 2007, representatives of the applicant provided updated information on the project including the description of extensive site preparation activities and installation of improvements, including poured dwelling foundations for several units, and construction of water and wastewater infrastructure at the site. On November 1, 2007, Council staff met representatives of the applicant at the project site and during the site visit was able to document the extent of prior construction activities at the site, including those activities mentioned by the applicant. Mr. Hutzelmann also noted that the latest staff review was conducted against the 2007 Final Draft RMP's Goals, Policies and Objectives, and Land Use Capability Map Series.

Mr. Hutzelmann stated that during the review of the proposed service area and development footprint, the Highlands Council staff identified Highlands Open Water Protection Areas and Riparian Areas within the development footprint. Most of these environmentally sensitive areas (particularly hydric soils) have been disturbed, graded and filled by previous construction. Mr. Borden noted that NJDEP has previously determined that that the project is exempt from the 300 foot buffer requirements under N.J.A.C. 7:8-1.1. Recognizing this, the Council staff recommended that that the Council provide a recommendation to NJDEP that NJDEP strongly encourage that the current development layout be modified to protect the Highlands Open Water protection areas and Riparian Areas. Mr. Dillingham asked how much of the Highlands Open Waters buffer protection area would be encroached upon. Mr. Hutzelmann estimated that the outer 50-feet or so of the buffer would be encroached upon.

Tracy Carluccio pointed out the other environmental constraint identified by the Council staff, which is the utility capacity limitation for the proposed development. Ms. Carluccio referred to the staff memo where it is noted that the WQMP amendment includes extension of an adjacent public water utility owned by the Randolph Township Municipal Utilities Authority (MUA). The Randolph Township MUA is solely supplied by water from the Morris County Municipal Utilities Authority (MCMUA). The MCMUA's wells are located in two HUC14 subwatersheds with deficits of net water availability. Any proposed exacerbation of that deficit is inconsistent with the Final Draft RMP unless 125% mitigation is provided in the deficit subwatershed. Dan Van Abs noted that the extension of the public water utility line has already been completed based on NJDEP permits. Mr. Hutzelmann added that the proposed water use is within the NJDEP water allocation permit limit. Mr. Dillingham acknowledged that point but noted that the source wells are in two deficit HUC 14 subwatersheds, which is not consistent with the policies of the Final Draft RMP. Ms. Carluccio agreed, noting that the Council must apply the policies of the Final Draft RMP. Mr. Dillingham invited representatives of the applicant to speak.

The Town Manager, Mr. John Lovell spoke. He noted that the project dates back seven years. It includes a deed restriction of 155 acres of open space. He also noted a Superfund project across the

street on Calais Road and that the Heritage 55 applicant paid for the remediation efforts of that site in an overall concept to improve environmental conditions for the entire area. The applicant's attorney, Mr. Richard Sweeney, also spoke of the remediation effort on Calais Road and how it benefited all the citizens of the State. His opinion was that it would not have taken place without the applicant's funding and commitment. Mr. Sweeney also spoke of the encroachment into the Highlands Open Water buffers. He noted that there are residences already in existence within the buffer area, on the adjacent property. He also noted that only the back parts of the proposed lots are within the 300-foot buffer and that there would be no roadways within the buffer. Mr. Sweeney indicated that the applicant would be willing to deed restrict the remaining portion of the buffer (the approximately 250-feet remaining of the buffer).

Mr. Dillingham invited members of the public to comment. Ms. Julia Somers of the Highlands Coalition noted that with respect to the applicant proposing to deed restrict the 250-foot buffer behind the houses, that fence construction and/or concrete monuments often facilitate the maintenance of buffers.

Mr. Dillingham inquired about future opportunities for on-site ground water recharge. Dr. Van Abs spoke of rooftop drainage and other mechanisms to return as much water back into the ground as possible. The on-site discharge to ground water will also create recharge using imported water. Mr. Hutzelmann noted that the applicant had submitted modified stormwater management plans at the request of NJDEP, which is intended to provide more recharge than predevelopment.

Ms. Carluccio reiterated her concern that the proposed project entails water withdrawals from two HUC 14 subwatersheds that are in deficit and that she therefore, could not support this project as it is not consistent with the policies of the Final Draft RMP. Mr. Dillingham suggested that a solution to the deficit be found in the source watersheds, and asked whether some response could be implemented in conjunction with this approval. Dr. Van Abs noted that municipalities, in essence, are requesting on behalf of project applicants that NJDEP approve WMP amendments so that the legal burden should perhaps be imposed on the municipalities. Mr. Dillingham suggested that in the recommendation letter to NJDEP, the Highlands Council should recommend that NJDEP require the municipality to investigate measures to recharge ground water. Mr. Whitenack and Mr. Dillingham both noted that the language in the recommendation letter needs to be strong.

Mr. Dillingham instructed staff to meet with the applicant to craft language and delineate the boundaries of the deed restricted area of the Highlands Open Water protection area buffers. He also indicated that staff should craft language regarding the recommendation letter to NJDEP that they require the municipality to investigate measures to recharge ground water in the deficit HUC14s. With these conditions, the Committee would recommend that NJDEP approve the WQMP amendment. These issues will be items for the Council's consideration at the upcoming December 13th Council meeting.

Huntington Knolls

Mr. Hutzelmann directed the Committee members to the Huntington Knolls recommendation memo and review checklist contained in their meeting packet. He provided a synopsis of the proposed project and noted that the Council staff was not provided with a site plan for the project. Thus, the entire parcel was reviewed as a potential sewer service area. Mr. Dillingham noted that staff should indicate to NJDEP that they must provide site plans to the Council for WQMP reviews.

Mr. Hutzelmann explained that the site contains numerous sensitive environmental resources including Steep Slopes, Highlands Open Waters Protection Areas, Riparian Areas, Critical Habitats, Forests, Prime Ground Water Recharge Areas, Wellhead Protection Areas, and Agricultural Resources. He visually presented each of the environmental constraints using the Council's GIS layers. He noted that the staff recommendation is that these areas should be excluded from the sewer service area and development activities should avoid these areas. Mr. Hutzelmann also noted that to be consistent with the Final Draft Plan, extension of utilities to the site requires a cluster development at the appropriate densities and 80% preservation of the site's agriculture or natural resources. Mitigation of the additional consumptive water use at 125% should be required as a condition of approval and incorporated on-site to the maximum extent feasible to ensure that the mitigation occurs at the same time as the development.

Mr. Dillingham indicated that the Council staff recommendation should be strengthened to be more direct with the inconsistencies. He instructed the staff to redraft the recommendation to state that the Council recommends denial of the WQMP amendment as it sees that the site has very little potential for development. Dr. Van Abs indicated that staff will indicate that it is a highly constrained site and that the Council recommends denial unless the applicant can demonstrate that the project, through a point-by-point analysis, is consistent with the goals, policies, and objectives of the Final Draft RMP. This issue will be an item for the Council's consideration at the upcoming December 13th Council meeting.

Mr. Dillingham invited members of the public to comment. The following is a summary of the comments received:

- Strongly supports the Committee's recommendations regarding Huntington Knolls
- Council should consider assisting the municipality to find another site for the proposed project to assist the municipality in meeting its Council on Affordable Housing (COAH) obligations.

Ms. Swan indicated that the Council will work with municipalities regarding their COAH obligations during the Conformance process, including informing them of the Council's COAH grant program.

Redevelopment Site Designations – Discussion of Technical Methods and Examples

Dr. Van Abs indicated that the staff is presenting a new concept for simplifying the 70 percent impervious surface criteria for considering proposed Redevelopment Sites in the Preservation Area. He noted that the staff is not requesting a decision at this time, but simply a consideration of the pros and cons of the proposed concept. Following discussion, the staff would wish to provide a written methodology for public review and comment.

Mr. Hutzelmann conducted a PowerPoint presentation that outlined the proposed approach to delineating Highlands Redevelopment Areas in the Preservation Area. Highlands Redevelopment Areas are limited to redevelopment sites and brownfield sites as designated by the Highlands Council, which are then eligible for waivers from the NJDEP's rules for the Preservation Area. Highlands Council must approve the designation of a redevelopment site and the Highlands Act limits sites to those that sites "at which at least 70% of the area thereof is covered with impervious surface." Moreover, the Highlands Act includes the following definition of "impervious surface" as "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."

The Council staff proposed an overview of a recommended default approach to determining sites where at least 70% of the redevelopment areas is covered with impervious surface. The approach uses an analysis of hardscape surfaces, the use of the TR-55 model to determine the runoff from the water quality design storm for that hardscape area, and then the use of TR-55 to determine the area of non-hardscape developed surfaces that would generate an additional runoff equivalent to 1% of the hardscape runoff, using on-site soil types. This area would be deemed “impervious surface”, but only when adjacent and hydrologically connected to the hardscape surfaces. Ms. Carluccio expressed concerns about TR-55 run-off curves. Dr. Van Abs explained that this is an efficient way for applicants and the Council to determine the 70% impervious criteria, but that site designs in the actual development process would comply with NJDEP’s stormwater management rules. Ms. Swan indicated that if an applicant desires to refute the Council’s determination utilizing this method, they can conduct their own analysis using detailed soil analyses. Dr. Van Abs indicated that the staff will be using a “complicated” real world test case to demonstrate the new concept – the Heath Village proposed redevelopment project.

An aerial view of the Heath Village property was presented. The applicant delineated and Council staff confirmed the hardscape surface at this site. The proposed new method utilizes the commonly used TR-55 curves that are readily available. Staff reiterated that this method is only used for the 70% impervious designation which is simply the beginning of the longer process to conduct a review to determine if a specific proposed redevelopment project is appropriate (consideration of the presence of sensitive environmental resources, etc.). The committee indicated that they want to see the concept in writing before this is released to the public.

Ms. Swan indicated that a representative from Heath Village, Mr. Ed Bogan (project engineer) was in the audience and he was invited to speak. Mr. Bogan provided an overview Heath Village and of the proposed redevelopment. He indicated that the aerial shown only shows the developed portion of the property and that there are extensive undeveloped areas of the property that would be deed restricted.

Mr. Dillingham invited member of the public to comment. Following is a summary of the comments:

- Concerned about the use of TR-55 run-off curves.
- Questioned if the proposed method takes into account the potential of properties being underlain by karst and/or encroached by other environmental features.
- Regarding the ability of applicants to refute the findings of the proposed method, the Council should dictate the alternate method for refuting the findings (commenter suggests the bulk density field testing method or a soil penetrometer).

Mr. Dillingham requested that staff provide to the Committee a written proposal of the proposed methodology. Subsequent to Committee’s decision to release, the draft methodology will be made available for public comment.

Mr. Dillingham adjourned the Natural Resource Committee meeting at 12:15 p.m.

RESOLUTION 2007- 26
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
RECOMMENDATION ON PROPOSED WATER QUALITY MANAGEMENT PLAN
AMENDMENT FOR HERITAGE VILLAGE 55

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 pending completion 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 recommendation 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, sponsors of the proposed Heritage Village 55, an age-restricted residential development on Block 49, former Lots 4 & 6 (subdivided into numerous lots) within Randolph Township, Morris County (Heritage Village 55), have sought an amendment to the Upper Raritan and Northeast WQMP through the Rockaway Valley Regional Sewerage Authority Wastewater Management Plan to allow for construction of Heritage Village 55; and

WHEREAS, the NJDEP has proposed adoption of the amendment for Heritage Village 55 through publication of a notice in the New Jersey Register and is seeking a recommendation from the Highlands Council in accordance with the Highlands Rules at N.J.A.C. 7:38-1.1; 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 review of the WQMP amendment for Heritage Village 55, and presented the conclusions of that review to the Natural Resources Committee of the Highlands Council; and

WHEREAS, the Natural Resources Committee conducted several meetings to review the proposed WQMP amendment for Heritage Village 55; and

WHEREAS, to gain further insight into the proposed project, Highlands Council staff conducted a site visit on November 1, 2007, to determine the project's consistency with the requirements and

standards of the Regional Master Plan, and provided the results of the site visit to the Natural Resources Committee for its consideration; and

WHEREAS, in light of the review and site visit conducted by the Highlands Council staff and the Council's approval to release the Final Draft Highlands Regional Master Plan (Final Draft RMP), the Highlands Council staff prepared a revised recommendation based upon the standards and policies set forth in the Final Draft RMP; and

WHEREAS, the review of the Heritage Village 55 Project revealed that while the project had received local and NJDEP permits prior to March 29, 2004, the project was not deemed exempt under the Highlands Act and that the inconsistencies with the Final Draft RMP, including policies and standards relating to Highlands Open Waters Protection Areas and Water Deficits may be addressed through appropriate conditions of approval; and

WHEREAS, public notice and a copy of the Highlands Council staff recommendation to the Natural Resources Committee was provided on the Council's website and notice was specifically provided to project representatives; and

WHEREAS, on December 6, 2007, the Natural Resources Committee voted to recommend to the Highlands Council that it recommend that the proposed WQMP amendment for Heritage Village 55 be approved by NJDEP with conditions;

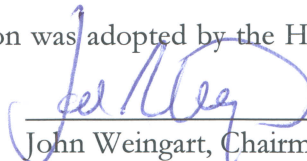
WHEREAS, on December 12, 2007, Highlands Council staff met with representatives of Heritage Village 55 to refine the recommended conditions of the Natural Resources Committee;

NOW, THEREFORE, BE IT RESOLVED by the Highlands Council that the Executive Director is hereby authorized to issue a letter to NJDEP recommending approval of the WQMP amendment provided that the following conditions recommended by the Highlands Council are included in any approval of the WQMP amendment issued by NJDEP:

- 1) That the applicant prepare, perfect and file a conservation easement for that portion of the Highlands Open Water Protection Area not affected by existing construction grading, so as to preserve the remaining lands from future disturbance; and
- 2) That Randolph Township undertakes measures to satisfy the 125% mitigation requirements for water deficits set forth in the Regional Master Plan.

CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its meeting held on the 13th day of December, 2007.



 John Weingart, Chairman

Vote on the Approval of
this Resolution

Yes No Abstain Absent

Councilmember Alstede

_____ ✓ _____ _____ _____

Vote on the Approval of
this Resolution

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

RESOLUTION 2007- 27

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL AUTHORIZING EXECUTION OF A MEMORANDUM OF UNDERSTANDING AMONG THE HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL, THE NEW JERSEY STATE PLANNING COMMISSION, AND THE OFFICE OF SMART GROWTH

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, pursuant to Section 6.g of the Highlands Act, the Highlands Council is empowered to “enter into any and all agreements or contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient, or desirable for the purposes of the council or to carry out any power, duty, or responsibility expressly given in” the Highlands Act; and

WHEREAS, in 1986, the Legislature enacted the State Planning Act recognizing that New Jersey, the nation’s most densely populated state, requires sound and integrated Statewide planning and coordination of Statewide planning with local and regional planning in order to conserve the State’s natural resources, revitalize its urban centers, protect the quality of its environment, and provide needed housing and adequate public services at a reasonable cost while promoting beneficial economic growth, development and renewal; and

WHEREAS, the State Planning Act requires that the State Planning Commission (SPC) develop, adopt, and periodically revise a State Development and Redevelopment Plan (State Plan) which shall provide a coordinated, integrated and comprehensive plan for the growth, development, renewal and conservation of the State and its regions, and which shall identify areas for growth, agriculture, open space conservation and other appropriate designations to be used as a tool for assessing suitable locations for infrastructure, housing, economic growth, and conservation; and

WHEREAS, the Office of Smart Growth (OSG), as staff to the SPC, is charged with providing technical assistance and guidance to counties, municipalities and other planning entities across the State in order to implement the State Planning Act; and

WHEREAS, the Highlands Act created the Highlands Council, a regional planning agency, to develop, adopt and periodically revise a Regional Master Plan (RMP), after consulting with the SPC and other governmental entities, with a goal of protecting and enhancing the significant values of the resources of the Highlands Region; and

WHEREAS, the Highlands Act requires that the Highlands Council submit the RMP to the SPC for plan endorsement exclusively for the Planning Area of the Highlands Region; and

WHEREAS, in order to achieve the shared goals of sound land use planning of the Highlands Council, the SPC, and the OSG, it is mutually beneficial to enter into a Memorandum of Understanding to develop a cooperative planning process that will enable each agency to efficiently and effectively carry out their respective statutory responsibilities; and

WHEREAS, the cooperative planning process developed pursuant to a Memorandum of Understanding will advance coordinated and comprehensive planning in the State, will result in greater predictability and transparency in planning with respect to meeting the mandates of the Highlands Council, the SPC, and the OSG and will benefit State agencies, counties, municipalities and the public; and

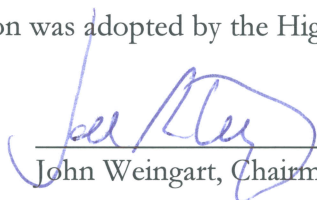
WHEREAS, the Highlands Council's State and Federal Agency Coordination Committee met on October 4, 2007 to review the draft Memorandum of Understanding and recommended consideration of the same by the Highlands Council; and

WHEREAS, on December 5, 2007, the State Planning Commission approved Resolution 2007-09 authorizing the secretary and principal executive officer to execute the Memorandum of Understanding on behalf of the SPC and the Office of Smart Growth;

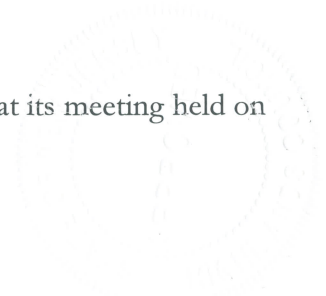
NOW THEREFORE BE IT RESOLVED, that the Highlands Council hereby finds that the Memorandum of Understanding properly effectuates the Highlands Act and the State Planning Act, with the amendments made to clarify the reestablishment or modification of designated centers, and furthermore hereby authorizes its Executive Director to make any necessary minor, non substantive, amendments to properly effectuate the intent of the Council and thereafter to execute the Memorandum of Understanding 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 13th day of December, 2007.



John Weingart, Chairman



Vote on the Approval of
this Resolution

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

RESOLUTION 2007- 28
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
ANNUAL MEETING SCHEDULE FOR 2008

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 Open Public Meetings Act directs public bodies to give adequate written advance notice of regular meetings and to establish and post an annual schedule of regular public meetings; and

NOW, THEREFORE, BE IT RESOLVED

1. The Highlands Council hereby adopts the following schedule of regularly scheduled meetings of the Highlands Council for the year 2008:

January 17, 10 a.m.
February 28, 10 a.m.
March 6, 4 p.m.
March 27, 10 a.m.
April 10, 10 a.m.
April 24, 4 p.m.
May 15, 10 a.m.
June 19, 10 a.m.
July 17, 4 p.m.
August 21, 10 a.m.
September 18, 10 a.m.
October 16, 4 p.m.
November 20, 10 a.m.
December 18, 10 a.m.

2. The Highlands Council's regular public meetings shall be held at the dates and times noted above at its office at 100 North Road, Chester, New Jersey, with the understanding that the Council may choose to make changes in location or time but only with the provision of adequate advance public notice; and

3. The above schedule of regular public meetings shall be posted at the Highlands Council's office and on its web site.

4. In addition, the Highlands Council has scheduled and provided public notice of three public hearings on the Highlands Regional Master Plan – Final Draft November 2007. These public hearings, which are not regularly scheduled public meetings of the Highlands Council, may be attended by a quorum of the Highlands Council will be held at the following locations:

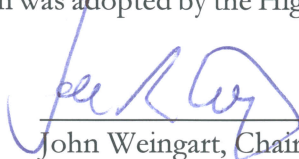
February 6, 2008 from 4 p.m. to end of public comment
Morris County Haggerty Education Center, 53 East Hanover Avenue, Morristown, NJ

February 11, 2008 from 6 p.m. to end of public comment
Passaic County Community College, One College Blvd., Paterson, NJ

February 13, 2008 from 6:30 p.m. to end of public comment
Voorhees High School, 256 County Rt. 513, Glen Gardner, NJ

CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its meeting held on the 13th day of December, 2007.



John Weingart, Chairman

Vote on the Approval of
this Resolution

	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Councilmember Alstede	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilmember Calabrese	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Councilmember Carluccio	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilmember Dillingham	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilmember Kovach	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilmember Letts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilmember Pasquarelli	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Councilmember Peterson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilmember Schrier	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilmember Vetrano	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilmember Way	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Councilmember Weingart	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilmember Whitenack	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**DRAFT – FOR CONSIDERATION AT THE DECEMBER 13, 2007
MEETING OF THE HIGHLANDS COUNCIL**

**RESOLUTION 2007-__
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
RECOMMENDATION ON PROPOSED WATER QUALITY MANAGEMENT PLAN
AMENDMENT FOR HERITAGE VILLAGE 55**

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 pending completion 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 recommendation 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, sponsors of the proposed Heritage Village 55, an age-restricted residential development on Block 49, former Lots 4 & 6 (subdivided into numerous lots) within Randolph Township, Morris County (Heritage Village 55), have sought an amendment to the Upper Raritan and Northeast WQMP through the Rockaway Valley Regional Sewerage Authority Wastewater Management Plan to allow for construction of Heritage Village 55; and

WHEREAS, the NJDEP has proposed adoption of the amendment for Heritage Village 55 through publication of a notice in the New Jersey Register and is seeking a recommendation from the Highlands Council in accordance with the Highlands Rules at N.J.A.C. 7:38-1.1; 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 review of the WQMP amendment for Heritage Village 55, and presented the conclusions of that review to the Natural Resources Committee of the Highlands Council; and

WHEREAS, the Natural Resources Committee conducted several meetings to review the proposed WQMP amendment for Heritage Village 55; and

WHEREAS, to gain further insight into the proposed project, Highlands Council staff conducted a site visit on November 1, 2007, to determine the project's consistency with the requirements and

**DRAFT – FOR CONSIDERATION AT THE DECEMBER 13, 2007
MEETING OF THE HIGHLANDS COUNCIL**

standards of the Regional Master Plan, and provided the results of the site visit to the Natural Resources Committee for its consideration; and

WHEREAS, in light of the review and site visit conducted by the Highlands Council staff and the Council’s approval to release the Final Draft Highlands Regional Master Plan (Final Draft RMP), the Highlands Council staff prepared a revised recommendation based upon the standards and policies set forth in the Final Draft RMP; and

WHEREAS, the review of the Heritage Village 55 Project revealed that while the project had received local and NJDEP permits prior to March 29, 2004, the project was not deemed exempt under the Highlands Act and that the inconsistencies with the Final Draft RMP, including policies and standards relating to Highlands Open Waters Protection Areas and Water Deficits may be addressed through appropriate conditions of approval; and

WHEREAS, public notice and a copy of the Highlands Council staff recommendation to the Natural Resources Committee was provided on the Council’s website and notice was specifically provided to project representatives; and

WHEREAS, on December 6, 2007, the Natural Resources Committee voted to recommend to the Highlands Council that it recommend that the proposed WQMP amendment for Heritage Village 55 be approved by NJDEP with conditions;

WHEREAS, on December 12, 2007, Highlands Council staff met with representatives of Heritage Village 55 to refine the recommended conditions of the Natural Resources Committee;

NOW, THEREFORE, BE IT RESOLVED by the Highlands Council that the Executive Director is hereby authorized to issue a recommendation letter to NJDEP with the following recommendations from the Highlands Council:

- 1)

CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its meeting held on the 13th day of December, 2007.

John Weingart, Chairman

Vote on the Approval of
this Resolution

	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Councilmember Alstede	_____	_____	_____	_____
Councilmember Calabrese	_____	_____	_____	_____
Councilmember Carluccio	_____	_____	_____	_____

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Councilmember Cogger	_____	_____	_____	_____
Councilmember Dillingham	_____	_____	_____	_____
Councilmember Kovach	_____	_____	_____	_____
Councilmember Letts	_____	_____	_____	_____
Councilmember Pasquarelli	_____	_____	_____	_____
Councilmember Peterson	_____	_____	_____	_____
Councilmember Schrier	_____	_____	_____	_____
Councilmember Vetrano	_____	_____	_____	_____
Councilmember Way	_____	_____	_____	_____
Councilmember Weingart	_____	_____	_____	_____
Councilmember Whitenack	_____	_____	_____	_____

**DRAFT – FOR CONSIDERATION AT THE DECEMBER 13, 2007
MEETING OF THE HIGHLANDS COUNCIL**

**RESOLUTION 2007-__
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
RECOMMENDATION ON PROPOSED WATER QUALITY MANAGEMENT PLAN
AMENDMENT FOR HUNTINGTON KNOLLS**

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 pending completion 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 recommendation 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, the Huntington Knolls project is located at Block 24, Lots 3 and 13 in Holland Township, Hunterdon County and consists of the construction of 29 residential buildings which will contain 38 one-bedroom units and 78 two-bedroom units, a clubhouse, an assisted living unit with 50 beds, group home, 10,000 square feet of office space, and 17,000 square feet of retail space (Huntington Knolls Project); and

WHEREAS, the sponsors of the Huntington Knolls Project have sought an amendment to the Upper Delaware WQMP that would expand the sewer service area of the Milford Sewage Treatment Plant to include the Huntington Knolls Project; and

WHEREAS, the NJDEP has proposed adoption of the amendment for the Huntington Knolls Project through publication of a notice in the New Jersey Register and is seeking a recommendation from the Highlands Council in accordance with the Highlands Rules at N.J.A.C. 7:38-1.1; 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 review of the WQMP amendment for the Huntington Knolls Project based upon the standards and policies set forth in the Final Draft Highland Regional Master Plan (Final Draft RMP); and

WHEREAS, the review of the Huntington Knolls Project revealed a number of inconsistencies with the Final Draft RMP, including policies and standards relating to steep slopes, Highlands Open

**DRAFT – FOR CONSIDERATION AT THE DECEMBER 13, 2007
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Waters Protection Areas, Riparian Areas, Critical Habitats, Forests, Prime Ground Water Recharge Areas, Wellhead Protection Areas, and Agricultural Resources; and

WHEREAS, the Highlands Council staff presented the results of its review and recommendation regarding the Huntington Knolls Project to the Natural Resources Committee at the Committee’s December 6, 2007 meeting; and

WHEREAS, public notice and a copy of the Highlands Council staff recommendation to the Natural Resources Committee was provided on the Council’s website and notice was specifically provided to project representatives; and

WHEREAS, based upon the Highlands Council staff recommendation, the Natural Resources Committee voted to recommend that the Highlands Council that a letter be sent to NJDEP recommending the denial of the WQMP amendment for the Huntington Knolls Project;

NOW, THEREFORE, BE IT RESOLVED by the Highlands Council that the Executive Director is hereby authorized to issue a recommendation letter to NJDEP with the following recommendations from the Highlands Council:

- 1)

CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its meeting held on the 13th day of December, 2007.

John Weingart, Chairman

Vote on the Approval of
this Resolution

	<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 Weingart	_____	_____	_____	_____
Councilmember Whitenack	_____	_____	_____	_____

**DISCUSSION ISSUES FOR A MEMORANDUM OF UNDERSTANDING AMONG
THE HIGHLANDS COUNCIL, THE NEW JERSEY STATE PLANNING
COMMISSION, AND THE OFFICE OF SMART GROWTH**

A. Coordination of Planning Process

- Coordinate planning policies
- Share available information

B. Coordination on the State Plan

- Interagency meetings
- State Plan Update - Preservation Area
- State Plan Update - Planning Area subject to Plan Endorsement review by the SPC.

C. Coordination on the RMP

- Recognize centers designated by the SPC
- Within 60 days after adoption, the RMP submitted to the SPC for endorsement review - limited to the Planning Area

D. Coordination of Plan Conformance and Plan Endorsement

- Plan Conformance - Consult with and consider any recommendation from the SPC for lands in the Planning Area.
- Plan Endorsement - Consult with and consider any recommendation from the Highlands Council for lands in the Planning Area.
- MLUL - policy statement indicating the relationship of the proposed development in the master plan to the RMP.
- Center designation through Plan Endorsement or Plan Conformance.

E. Coordination of the Transfer of Development Rights

- Coordinate TDR for any municipality in the Highlands Region or any municipality in the seven Highlands counties
- Identify appropriate centers, designated by the State Planning Commission, as potential voluntary receiving zones.

F. Coordination of redevelopment approvals, grants, and other approvals

- Coordination when a municipality in the Highlands Region seeks designation of an area in need of redevelopment, smart growth grants, or other approval from OSG.
- Highlands Council coordination with OSG on applications from any Planning Area municipality regarding Highlands planning grants or other relevant activities.

MEMORANDUM OF UNDERSTANDING AMONG THE HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL, THE NEW JERSEY STATE PLANNING COMMISSION, AND THE OFFICE OF SMART GROWTH

This MEMORANDUM OF UNDERSTANDING, dated this 19th day of December, 2007 is entered into by and among the New Jersey Highlands Water Protection and Planning Council (“Highlands Council”), the New Jersey State Planning Commission (“SPC”), and the Office of Smart Growth to establish a cooperative planning process that will foster the legislative mandates outlined in both the Highlands Water Protection and Planning Act (“Highlands Act”, N.J.S.A. 13:20-1 et seq.) and the State Planning Act (N.J.S.A. 52:18A-196 et seq.).

WHEREAS, the Legislature, in 1986, enacted the State Planning Act recognizing that New Jersey, the nation’s most densely populated State, requires sound and integrated Statewide planning and coordination of Statewide planning with local and regional planning in order to conserve the State’s natural resources, revitalize its urban centers, protect the quality of its environment, and provide needed housing and adequate public services at a reasonable cost while promoting beneficial economic growth, development and renewal; and

WHEREAS, the State Planning Act requires the SPC to develop, adopt, and periodically revise a State Development and Redevelopment Plan (“State Plan”) which shall provide a coordinated, integrated and comprehensive plan for the growth, development, renewal and conservation of the State and its regions, and which shall identify areas for growth, agriculture, open space conservation and other appropriate designations to be used as a tool for assessing suitable locations for infrastructure, housing, economic growth, and conservation; and

WHEREAS, the State Planning Act requires the SPC to establish a process for the endorsement of municipal, county and regional plans that are consistent with the State Plan; and

WHEREAS, the State Plan, in 2001, designated the New Jersey Highlands Region as a Special Resource Area based upon its unique characteristics and resources of statewide importance; and

WHEREAS, the Legislature, in 2004, enacted the Highlands Act recognizing that the Highlands Region is an essential source of drinking water, provides clean and plentiful drinking water for one-half of the State’s population, contains other exceptional natural resources such as clean air, contiguous forest lands, wetlands, pristine watersheds, and habitat for fauna and flora, includes many sites of historic significance, and provides abundant recreational opportunities for the citizens of the State; and

WHEREAS, the Highlands Act creates two areas within the Highlands Region – the Preservation Area, an area of the New Jersey Highlands with exceptional natural resource value that should be subject to stringent water and natural resource protection standards, policies, planning and regulation and the Planning Area, the area outside of the Preservation Area that should be part of a comprehensive planning approach that serves to protect the water and other significant resources of the entire Highlands Region while also accommodating appropriate patterns of development, redevelopment and economic growth; and

WHEREAS, the Legislature expressly excluded any land located within the boundaries of a regional center or town center, designated by the SPC, from the Preservation Area boundaries; and

WHEREAS, the Highlands Act creates the Highlands Council, a regional planning and protection entity, to develop, adopt and periodically revise a Regional Master Plan (“RMP”), after consulting with the SPC and other governmental entities, with a goal of protecting and enhancing the significant values of the resources of the Highlands Region; and

WHEREAS, the Highlands Act creates a bifurcated system for municipal and county conformance with the RMP (Plan Conformance) – mandatory Plan Conformance for any portion of a municipality and county located wholly or partially in the Preservation Area and voluntary Plan Conformance for the municipalities and counties with lands wholly in the Planning Area or for any portion of a municipality and county lying within the Planning Area; and

WHEREAS, under Plan Conformance, the Highlands Act requires municipalities and counties located wholly or partially in the Preservation Area to submit to the Highlands Council, within nine to fifteen months after the adoption of the RMP, such revisions of the municipal master plan and development regulations or county master plan and associated regulations as may be necessary for those portions of the municipality and County within the Preservation Area in order to conform them with the goals, requirements, and provisions of the RMP; and

WHEREAS, under voluntary Plan Conformance, the Highlands Act provides that municipalities and counties with lands in the Planning Area have the option to petition, at their discretion, the Highlands Council to revise their master plans and associated regulations, as applicable to the development and use of land in the Planning Area, to conform with the goals, requirements, and provisions of the RMP; and

WHEREAS, the Highlands Act establishes preservation goals for the RMP, for both the Preservation Area and Planning Area, to protect, restore, and enhance the quality and quantity of the waters of the Highlands, to preserve environmentally sensitive lands, to preserve lands needed for recreation and conservation, to promote brownfield remediation and redevelopment, to preserve farmland, historic sites and other historic resources, to preserve outdoor recreation opportunities, to promote water resource conservation, and to promote compatible agricultural, horticultural, recreational, and cultural uses and opportunities (collectively “Highlands Resources”); and

WHEREAS, the Highlands Act establishes development goals, in the Preservation Area, to prohibit or limit, to the maximum extent possible, construction or development which is incompatible with the Preservation Area; and

WHEREAS, the Highlands Act establishes development goals, in the Planning Area, to encourage, consistent with the State Plan and smart growth strategies and principles, appropriate patterns of compatible residential, commercial, and industrial development, redevelopment, and economic growth, in or adjacent to areas already utilized for such purposes, and to discourage piecemeal, scattered, and inappropriate development, in order to accommodate local and regional growth and economic development in an orderly way while protecting the Highlands environment from individual and cumulative adverse impacts; and

WHEREAS, the Highlands Act requires that the RMP include opportunities for development, redevelopment, and economic growth through the development of a smart growth component, based on the resource assessment; and

WHEREAS, the Highlands Act requires the Highlands Council to create a regional transfer of development rights (“TDR”) program for the Highlands Region which includes a program of benefits for voluntary receiving zones for any municipality within the seven Highlands Counties; and

WHEREAS, the Highlands Act requires the Highlands Council to identify areas within the Planning Area that are appropriate for development as voluntary receiving zones for a TDR program; and

WHEREAS, the Highlands Act requires the Highlands Council to set a goal of identifying areas within the Planning Area that may be appropriate for development as voluntary receiving zones for TDR that, combined together, constitute four percent of the land area of the Planning Area, to the extent that the goal is compatible with the amount and type of human development and activity that would not compromise the integrity of the ecosystem of the Planning Area; and

WHEREAS, the Highlands Council released the Highlands Draft Regional Master Plan (“draft RMP”) on November 30, 2006, held public hearings throughout the Highlands Region, and received extensive public comment on the draft RMP; and

WHEREAS, the Highlands Act requires the Highlands Council to, within sixty days of adoption of the final RMP, submit the RMP to the SPC for plan endorsement exclusively for the Planning Area of the Highlands Region; and

WHEREAS, the State Planning Act and the Highlands Act mandate that the provisions of the State Planning Act not be construed to affect the plans and regulations of the Highlands Council for that portion of the Highlands Region lying within the Preservation Area; and

WHEREAS, the SPC began a revision to the State Plan with the release of a preliminary plan and commencement of cross-acceptance, a process for soliciting recommendations and objections from the counties, as negotiating entities for the municipalities, on the preliminary plan before the SPC adopts the revised State Plan; and

WHEREAS, the State Planning Act requires the SPC to solicit and give due consideration to the plans, comments and advice of the municipalities, counties, State agencies, Highlands Council and other regional entities when revising the State Plan; and

WHEREAS, the Highlands Council and the SPC recognize that the timing for completion of revisions to the State Plan and adoption of the final RMP may coincide; and

WHEREAS, pursuant to the State Planning Act, the SPC developed plan endorsement as the tool to bring municipal, county and regional plans into consistency with the goals, policies and strategies of the State Plan; and

WHEREAS, the State Planning Commission approved the publication of amended plan endorsement regulations and guidelines to assist municipalities, counties and regional agencies to achieve plan endorsement; and

WHEREAS, these regulations propose to authorize that any of the requirements of plan endorsement may be waived at the discretion of the Executive Director of the Office of Smart Growth, in consultation with the relevant State agencies, if the Director determines that a petitioner has satisfactorily completed the requirement, or has substantially complied with the intent of that requirement, as outlined in the Plan Endorsement Guidelines and related guidance documents; and

WHEREAS, the Highlands Act provides that any portion of a municipality or county located in the Preservation Area shall be exempt from the SPC's plan endorsement process; and

WHEREAS, the Highlands Act provides that for the municipalities and counties in the Planning Area, upon the SPC's endorsement of the RMP, any municipal master plan and development regulations or county master plan and associated regulations that have been approved by the Highlands Council shall be deemed the equivalent of having those plans endorsed by the SPC; and

WHEREAS, the Highlands Act requires the Highlands Council to consult with the SPC before approving, rejecting, or approving with conditions the revised plans and associated regulations of Planning Area municipalities and counties for lands in the Planning Area; and

WHEREAS, neither the Highlands Act nor the State Planning Act require municipalities and counties with lands in the Planning Area to seek Plan Conformance with the RMP through the Highlands Council or seek Plan Endorsement with the State Plan through the SPC; however, municipalities that have received substantive certification from the Council on Affordable Housing are required to obtain Plan Endorsement from the SPC or may obtain Plan Conformance from the Highlands Council; and

WHEREAS, it is mutually beneficial to the Highlands Council and the SPC to enter into this Memorandum of Understanding to develop a cooperative planning process that will enable each agency to carry out their respective statutory responsibilities; and

WHEREAS, the cooperative planning process developed pursuant to this Memorandum of Understanding will advance coordinated and comprehensive planning in the State, will result in greater predictability and transparency in planning with respect to meeting the mandates of the Highlands Council and the SPC and will benefit State agencies, counties, municipalities and the public.

NOW THEREFORE, in consideration of the principles, assurances and premises contained in this Memorandum of Understanding, the Highlands Council and the SPC hereby agree to the following:

A. Coordination of Planning Process

1. A cooperative planning process will be established and maintained among the Highlands Council, the SPC, the Office of Smart Growth ("OSG"), and their respective staff to

advance coordinated and comprehensive State and regional planning, and provide consistent planning policies on which municipalities and counties may rely.

2. The Highlands Council and its staff, the SPC, and OSG shall share all available information useful or necessary to achieve the objectives of this Memorandum of Understanding. The SPC and OSG shall provide the Highlands Council and its staff, in a timely manner, such reports, petitions, recommendations or reviews that are necessary for the Highlands Council to carry out its responsibilities, including reports, petitions, recommendations or reviews generated through cross-acceptance, State Plan development and revision, and plan endorsement processes. The Highlands Council and its staff shall provide the SPC and OSG, in a timely manner, such reports, petitions, recommendations or reviews that are necessary for the SPC and OSG to carry out their responsibilities, including reports, recommendations and reviews generated through the development of the RMP and the review of Plan Conformance submissions.
3. The SPC, OSG, and the Highlands Council and its staff agree that coordinated participation by municipalities and counties will be encouraged to ensure that any information submitted to one agency shall be consistent with that submitted to the other.

B. Coordination on the State Plan

4. In preparing, maintaining and revising the State Plan, the SPC shall solicit and give due consideration to the plans, comments and advice of the Highlands Council. Prior to the adoption of each plan, the commission shall prepare and distribute a preliminary plan to the Highlands Council and shall conduct a joint public informational meeting with the Council for the purpose of providing information on the plan, responding to inquiries concerning the plan, and receiving informal comments and recommendations. In addition, the SPC and OSG shall provide the Highlands Council and its staff with copies of Final County Cross-acceptance Reports received from each of the seven Highlands Counties (Passaic, Bergen, Sussex, Warren, Morris, Hunterdon and Somerset (together the "Highlands Counties")), and copies of any municipal cross-acceptance reports received from any of the 88 municipalities in the Highlands Region.
5. The SPC and OSG shall invite the Highlands Council and its staff to interagency meetings to consider recommendations contained in Highlands Counties' Final Cross-Acceptance Reports.
6. After holding negotiation sessions pertaining to any of the Highlands Counties and any of the 88 municipalities in the Highlands Region, the SPC and OSG shall invite the Highlands Council and its staff to follow-up interagency meetings.
7. To address the pending revision of the State Plan and pending adoption of the RMP, the SPC shall incorporate by reference the adopted RMP into the State Plan for that portion of the Highlands Region lying in the Preservation Area such that the RMP for the Preservation Area constitutes the State Plan for this area. For that portion of the Highlands Region lying in the Planning Area, the SPC shall recognize the comprehensive planning in the RMP for this Special Resource Area and specify that the RMP for the Planning Area will be subject to Plan Endorsement review by the SPC.

C. Coordination on the RMP

8. During the development and preparation of the RMP and any revision thereto, the Highlands Council and its staff shall consult with the SPC and OSG and shall review the State Plan, Plan Endorsement rules, regulations and guidelines prior to submission of the adopted RMP to the SPC for endorsement.
9. During the development and preparation of the smart growth assessment component of the RMP and any revision thereto, the Highlands Council and its staff shall recognize centers designated by the SPC to identify opportunities for residential, commercial, and industrial development, redevelopment and economic growth in the Planning Area.
10. Within 60 days after adopting the RMP, the Highlands Council shall submit the RMP to the SPC for endorsement pursuant to the SPC's adopted rules, regulations and policies and SPC's review of the RMP shall be limited to the Planning Area only.
11. The Plan Development Committee of the Highlands Council, or similarly composed Committee of the Council, shall satisfy the requirement of Plan Endorsement to create a Plan Endorsement Advisory Committee. This Committee shall guide the Highlands Council through the plan endorsement process, and shall serve as liaison with OSG and the other state agencies as it prepares the RMP for endorsement.
12. The Highlands Council has conducted the equivalent of a self-assessment through the preparation of the Regional Master Plan and as a result, the requirement for a self-assessment is waived under Plan Endorsement with the exception of the requirement to perform an assessment of the consistency of petitioner's plans and implementation mechanisms with the goals, policies and strategies of the State Development and Redevelopment Plan.
13. The Highlands Task Force engaged the communities of the Highlands Region in preparing a vision for the future development of the Highlands Region as reflected in the Highlands Act. The Highlands Council has taken additional steps necessary to ensure broad interactive public participation including municipal and county outreach. As a result, the requirement for community visioning is waived under Plan Endorsement.

D. Coordination of Plan Conformance and Plan Endorsement

14. The Highlands Council and its staff shall provide the SPC and OSG with copies of all documents when a municipality or county with lands in the Planning Area submits a petition to the Highlands Council for Plan Conformance and shall consult with and consider any recommendation from the SPC before approving, rejecting, or approving with conditions the revised plans and associated regulations of a Planning Area municipality and county for lands in the Planning Area.
15. The SPC and OSG shall provide the Highlands Council and its staff with copies of all documents concerning any petition for Plan Endorsement that is received involving lands in the Highlands Planning Area and shall consult with and consider any recommendation from

the Highlands Council before approving, rejecting, or approving with conditions a petition for Plan Endorsement.

16. If the SPC or OSG receives a petition for Plan Endorsement from a municipality or county that falls partially within the Preservation Area and partially in the Planning Area, OSG and the SPC shall: a) advise the petitioner that Plan Conformance is required for lands in the Preservation Area and, b) for lands in the Planning Area, shall consult with and consider any recommendation from, the Highlands Council before approving, rejecting, or approving with conditions a petition for Plan Endorsement.
17. The SPC shall include in the Plan Endorsement process a requirement that any petitioner with land located in the Highlands Region submit a specific policy statement indicating the relationship of the proposed development to the final RMP and the coordination with the Highlands Council.
18. The Highlands Council shall include in the Plan Conformance process a requirement that any petitioner with land located in the Highlands Region submit a specific policy statement indicating the relationship of a master plan and implementation strategy to the State Plan.
19. Should a petitioner seek to reestablish or modify center designation or designate additional centers through Plan Endorsement, the SPC and OSG shall consult with and consider any recommendation from the Highlands Council before approving, rejecting, or approving with conditions a petition for Plan Endorsement.
20. Should a petitioner seek to reestablish or modify center designation or designate additional centers through Plan Conformance, the Highlands Council shall consult with and consider any recommendation from the SPC before approving, rejecting, or approving with conditions the revised plans and associated regulations of a Planning Area municipality and county for lands in the Planning Area.

E. Coordination of the Transfer of Development Rights

21. The Highlands Council and its staff shall provide notice to, and consult with, OSG when a municipality in the Highlands Region or in any of the Highlands counties expresses an interest in, or submits an application for, participation in the Highlands TDR program.
22. OSG shall provide notice to, and consult with, the Highlands Council and its staff when a municipality in the Highlands Region or in any of the Highlands counties expresses an interest in, or submits an application for, the participation in the State TDR program.
23. The Highlands Council and its staff shall work with the State Planning Commission to identify appropriate centers, designated by the State Planning Commission, as potential voluntary receiving zones for the Highlands Region TDR program when developing the Highlands TDR program, or revisions thereto, or working with municipalities participating in the Highlands TDR program.


F. Coordination of redevelopment approvals, grants, and other approvals

- 24. The Highlands Council and OSG shall cooperatively review and coordinate State infrastructure capital investment, community development and financial assistance in the Highlands Region in furtherance of the RMP.
- 25. OSG shall provide notice to the Highlands Council and its staff when a municipality in the Highlands Region seeks designation of an area in need of redevelopment, smart growth grants, or other approval from OSG.
- 26. OSG shall consult with the Highlands Council on applications received from any municipality in the Highlands Region regarding the designation of an area in need of redevelopment, smart growth grants, or other approvals from OSG.
- 27. The Highlands Council and its staff shall provide notice and consult with OSG on applications from any municipality partially or wholly in the Planning Area regarding Highlands planning grants or other relevant activities.

BE IT FURTHER AGREED that the Highlands Council, SPC, and OSG authorize this Memorandum of Understanding to be duly executed by their authorized representatives to be effective on the date of this Memorandum.

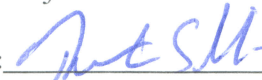
BE IT FURTHER AGREED that this Memorandum of Understanding shall remain in effect unless either agency determines with 60 days written notice to the other agency, to terminate the Memorandum of Understanding.

NEW JERSEY HIGHLANDS COUNCIL

By: 

Title: Executive Director

NEW JERSEY STATE PLANNING COMMISSION

By: 

Title: Secretary - State Planning Commission

OFFICE OF SMART GROWTH

By: 

Title: Executive Director