



CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. 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



JACK J. SCHRIER
Acting Chairman

EILEEN SWAN
Executive Director

MEETING AGENDA
Thursday, March 17, 2011 at 4:00 pm

1. CALL TO ORDER
2. ROLL CALL
3. OPEN PUBLIC MEETINGS ACT
4. PLEDGE OF ALLEGIANCE
5. APPROVAL OF MINUTES – February 17, 2011
6. ACTING-CHAIRMAN'S REPORT (and Council Member Reports)
7. EXECUTIVE DIRECTOR'S REPORT
8. PUBLIC HEARING AND CONSIDERATION OF RESOLUTION –
Petition for Plan Conformance submitted by Lopatcong Township, Warren
County (voting matter with public comment)
9. PUBLIC HEARING AND CONSIDERATION OF RESOLUTION –
Petition for Plan Conformance submitted by Somerset County (voting matter
with public comment)
10. PUBLIC COMMENTS (*please note – the Council requests that public comments be limited
to three (3) minutes per person. Questions raised in this period will not be responded to at this
time but, where feasible, will be followed up by the Council and its staff.*)
11. EXECUTIVE SESSION (if deemed necessary)
12. ADJOURN

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF MARCH 17, 2011

PRESENT

JACK SCHRIER) ACTING CHAIRMAN

KURT ALSTEDE) COUNCIL MEMBERS

TRACY CARLUCCIO)

BILL COGGER)

MICHAEL FRANCIS)

ROBERT HOLTAWAY)

MIMI LETTS)

CARL RICHKO)

JAMES VISIOLI)

VIA TELECONFERENCE

JANICE KOVACH)

ABSENT

GLEN VETRANO)

CALL TO ORDER

The Acting Chairman of the Council, Jack Schrier, called the 103rd meeting of the New Jersey Highlands Water Protection and Planning Council to order at 4:07pm.

ROLL CALL

Roll call was taken. Mr. Vetrano was absent. Ms. Kovach was present via teleconference. All other Council Members were present.

OPEN PUBLIC MEETINGS ACT

Acting Chairman Schrier 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.

PLEDGE OF ALLEGIANCE was then recited.

APPROVAL OF MINUTES OF FEBRUARY 17, 2011

Ms. Letts introduced a motion to approve the minutes. Mr. Visioli seconded it. Mr. Vetrano was absent. All other members present and on telephone conferencing voted to approve. The minutes were APPROVED 10-0.

ACTING CHAIRMAN'S REPORT

Acting Chairman Schrier referred to Item #11 on the agenda for Executive Session and stated that Council will entertain a motion to discuss recent litigation matters and personnel matters due to the recent staff vacancies.

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF MARCH 17, 2011

EXECUTIVE DIRECTOR’S REPORT

Plan Conformance Update

Ms. Swan gave a brief summary update to the Council on Plan Conformance Petition reviews. To date 64 Petitions (from 59 Municipalities and 5 Counties) have been submitted to the Highlands Council (51 have been deemed administratively complete and posted to the Highlands Council website - including 2 Counties). Of these, seventeen Petitions have been approved (Townships – Bethlehem, Byram, Chester, Denville, Green, Mahwah, Mount Olive, Rockaway, Tewksbury and West Milford; Boroughs – Califon, Glen Gardner, Hampton, High Bridge & Lebanon; Towns – Clinton; and Passaic County). On today’s meeting agenda are Lopatcong Township and Somerset County.

There are six municipal response periods underway for municipalities (Townships – Franklin, Holland, Parsippany-Troy Hills, and Washington (Morris); Boroughs – Kinnelon and Bloomingdale). Fifteen additional Draft Consistency Reports are prepared and under internal review; another eleven are in development by Staff. Ms. Swan also noted that Council staff is currently working with the municipalities that the Council has approved because they are moving forward on their Highlands Implementation Plan and Schedule. Ms. Swan showed four different maps which showed the progress of Highlands Council’s seventeen approvals of the Petitions for Plan Conformance.

Plan Conformance Grant Program Update

Ms. Swan then presented a chart which showed the average amounts requested for reimbursement by municipalities that are participating in Plan Conformance grant activities. She noted that this analysis has been updated to include the average costs associated with the Municipal Response Period. Ms. Swan advised the Highlands Council that on average the expenses of the seven Modules are very close to the projected base amounts as set forth in the chart.

<u>Towns</u>	<u>Base Amount</u>	<u>Average</u>	<u>Number</u>
Module 1	\$15,000	\$13,783	71
Module 2	\$10,000	\$ 6,654	69
Module 3	\$ 7,500	\$13,822	56
Module 4	\$ 2,000	\$ 3,198	59
Module 5	\$ 2,500	\$ 6,304	52
Module 6	\$ 5,000	\$ 4,359	49
Module 7	<u>\$ 8,000</u>	<u>\$ 7,394</u>	46
Module Subtotal	\$50,000	\$55,514	
<u>Municipal Response Costs</u>	<u>\$ 8,000</u>	<u>\$ 9,387</u>	11
Plan Conformance Cost	\$58,000	\$64,901	

Highlands Development Credit Bank Update

Ms. Swan announced that due to an unprecedented amount of interest in the Third Round Consideration for Highlands Development Credits (HDCs), HDC Bank Chair Ted Maglione has worked with staff to reschedule the next Bank Board Meeting to July 28, 2011 at 1:00pm. Many applicants sought extra time to complete their applications and provide the required proofs so the April 7 and August 4 Bank Board Meeting have been cancelled. Additionally, the deadline for

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF MARCH 17, 2011

submitting an HDC Certificate Application to the HDC Bank for third round consideration has been extended from March 24, 2011 to June 23, 2011. Ms. Swan noted that the HDC Certificate Application may be found on the Highlands website.

Public Hearing and Consideration of Resolution – Petition for Plan Conformance by Lopatcong Township, Warren County

Acting Chairman Schrier recognized Lopatcong Township’s Planning Board Chair Jim Van Vliet and offered him the opportunity to speak on behalf of the Township’s Petition for Plan Conformance. Mr. Van Vliet thanked the Council staff for their cooperation with the back and forth negotiations regarding Lopatcong’s Petition for Plan Conformance and appreciated the Council’s professionalism.

Ms. Swan acknowledged Chris Ross as Highlands staff liaison for Lopatcong Township. Ms. Swan then proceeded with the PowerPoint presentation of the Lopatcong Township Petition for Plan Conformance. She presented photographs of Lopatcong so the Council could focus on the character of the community and the past planning and protection initiatives of Lopatcong Township. Ms. Swan presented background statistics and information for Lopatcong Township.

- Incorporated: 1851
- Population (2009 est.): 8,383
- Land Area: 4,721 acres / 7.4 sq. mi.
- Preserved Lands: 488 acres
- Wetlands: 76 acres
- Total Forest: 1,245 acres
- Farmland: 1,112 acres

Ms. Swan presented significant Highlands statistics as they pertain to Lopatcong Township:

- Preservation Area Lands: 1,049 acres – 22%
- Planning Area Lands: 3,672 acres – 78%
- Protection Zone – 956 acres – 20% (Roads 8%)
- Existing Community Zone – 1,697 acres – 36%
- Conservation Zone – 1,700 acres – 36%
- Highlands Open Water Protection – 957 acres – 20%
- Forest Resource Area – 1,244 acres – 26%
- Conservation Priority Areas – 554 acres – 12%
- Agricultural Priority Areas – 1,858 acres – 38%

**Lopatcong Township
Background Statistics – Land Use**

NJDEP Land Use/Land Cover (2007)	Plan	Pres	Percent
Residential (Single & Multi Family)	1,066	268	28.2%
Commercial (Retail)	170	6	3.7%
Industrial & Transportation & Utilities	211	11	4.7%
Agriculture (Crops & Plantations)	881	207	23.0%

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
 MINUTES OF THE MEETING OF MARCH 17, 2011

Recreational Lands (Public & Private)	275	0	5.8%
Extractive Mining	0	0	0.0%
Other Urban or Built-Up Land	272	7	5.9%
Subtotal Developed Lands	2,874	499	71.4%
Mixed Forest	541	489	21.8%
Shrub & Scrub	73	43	2.5%
Mixed Wetlands	63	13	1.6%
Barren Lands	71	4	1.6%
Water	47	1	1.0%
Subtotal Natural Lands	795	551	28.5%
Total	3,669	1,049	100.0%

Ms. Swan then showed a movie representing a ‘fly over’ of Lopatcong Township. The movie offered an opportunity to focus on the landscape of the Township, the infrastructure and the built and natural environments. Ms. Swan pointed out the contaminated site Ingersoll-Rand property which Council would consider as an RMP Update as part of Lopatcong Township’s Petition review. Ms. Swan then showed the land use ordinance maps for the Township.

Ms. Swan then reported that Lopatcong Township maintains an up-to-date and comprehensive Master Plan (including all mandatory elements and numerous optional elements) and has a history of proactive engagement in community planning and conservation initiatives:

- Master Plan Reexamination – 2005
- Open Space and Recreation Update – 2004
- Stormwater Management Plan – 2006
- Redevelopment Plan for Ingersoll-Rand Site – 2006 and 2007

Ms. Swan then provided a summary of the proactive redevelopment planning that Lopatcong Township has advanced over the years for the Ingersoll-Rand Site:

- Area in Need of Redevelopment: In 2006, Lopatcong adopted a resolution delineating the brownfield site as a redevelopment area. The site adjoins the industrial uses in Phillipsburg and has over 3,000 feet of frontage along Route 22. A mixed use Commercial/Industrial complex is envisioned. On August 23, 2006, the DCA’s Office of Smart Growth approved it as an area in need of redevelopment.
- Administrative Consent Order: NJDEP issued a 1994 ACO overseeing the numerous areas of concern regarding hazardous waste contamination, 24 monitoring wells and 17 recovery wells. Sampling shows elevated levels of chlorinated volatile organic compounds and petroleum hydrocarbons. Block 101 Lots 1 and 1.01 are deed restricted to preclude both residential use and the use of groundwater for human consumption.

Ms. Swan displayed a slide showing the Ingersoll-Rand site and outlined the RMP Update and Highlands Redevelopment Area requested by Lopatcong Township as part of their Petition for Plan Conformance:

- RMP Update: Lopatcong Township requested an RMP Update to include the site in the Highlands Contaminated Site Inventory, to update the Highlands Contaminated Sites Inventory exhibits in both the Highlands Environmental Resource Inventory and Master

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF MARCH 17, 2011

Plan Highlands Element. The RMP Update is proposed to be approved by the Highlands Council through this Petition review acknowledging that this is a contaminated site.

- Highlands Redevelopment Area: The Highlands Council's approval of Lopatcong's Petition would not approve this site as a Highlands Redevelopment Area at this time. The approval would provide technical and financial assistance to further study the designation of a Highlands Redevelopment Area which would have to be formally approved by the Highlands Council at a later date.

Acting Chairman Schrier asked why Council would have to look at the Ingersoll-Rand property study later as a Highlands Redevelopment Area rather than approving now. Ms. Swan responded that the feasibility study would provide a more detailed analysis of infrastructure availability and capacity, Highlands resources and development potential on the site.

Mr. Richko questioned why the site is deed restricted for residential use but not for commercial use. Ms. Swan responded that the deed restriction for any residential use was part of the sale of property from Ingersoll-Rand to Phillipsburg Associates, II, LP and was likely due to concerns regarding future liability. She reported that Council staff had reached out to the NJDEP to get an update of the status of the site remediation activities on the site. She noted that the NJDEP did not issue the deed restriction on this site through the ACO and then provided the status of the cleanup. Mr. Richko asked what the use is currently. Ms. Swan responded that the portion in Lopatcong is currently under agricultural use.

Ms. Carluccio asked if the site was ever referred as a Superfund site by NJDEP. Mr. Borden commented that he did not believe so and Ms. Swan responded that the information received from the NJDEP did not give us that information. Ms. Carluccio questioned that it is deed restricted. Ms. Swan noted that the deed restriction was by virtue of a sale from Ingersoll-Rand to Phillipsburg Associate, II, LP.

Ms. Letts asked who is responsible for clean up. Ms. Swan responded that Ingersoll-Rand would be responsible for the cleanup and are regularly reporting out to NJDEP and provided a fact sheet on the status of the cleanup. Mr. Francis asked if the entire site is considered a brownfield site. Ms. Swan responded that the entire site is considered a brownfield site given the fact that the 1994 ACO includes the entire site.

Ms. Letts asked how large the area in Lopatcong is. Ms. Swan responded approximately 93 acres. Ms. Swan went back to the slide of the Ingersoll-Rand site and showed the portion of the site in Lopatcong. Ms. Swan further stated that when Council staff looks at potential Highlands Redevelopment Area sites like this the entire area is considered.

Ms. Carluccio commented that under the RMP the portion of the site in Lopatcong is in the Agricultural Resource Area and in the Conservation Zone. Ms. Swan responded that it is in the Conservation Zone but is not shown in our mapping as a contaminated site until a Regional Master Plan Update is considered. Ms. Swan further stated that having looked at the entire site and getting the information from NJDEP and working with the professionals in Lopatcong, all the information shows that the entire site should be considered in examining the potential for a Highlands Redevelopment Area. Ms. Swan specified that the Highlands Act sets forth a goal for

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF MARCH 17, 2011

redevelopment opportunities in brownfield sites where properties are adjacent to developed areas. Ms. Carluccio reiterated that under the RMP the site is currently an Agriculture Resource Area in the Conservation Zone and is not a redevelopment area. Ms. Swan clarified that the Department of Community Affairs has designated the area as an 'area of need of redevelopment', but the Highlands Council has yet to take any action to designate a 'Highlands Redevelopment Area'. Ms. Swan added that the site would be mapped a Highlands Contaminated Site as an RMP Update if Council approves Lopatcong Township's Petition for Plan Conformance as this designation is purely a factual issue.

In response to a question from Council member Alstede, Ms. Swan added that she reached out to Monique Purcell of the Department of Agriculture for her opinion on the site because Council staff looks at the specific information on each site and as the Lopatcong area of the site is in agricultural use she called the Department. Mr. Alstede asked what their opinion was. Ms. Purcell who was present at the meeting stated that the Department of Agriculture fully supports the idea of looking at the site as a potential Highlands Redevelopment Area. Ms. Purcell continued to add that it makes complete sense since it is surrounded by development, adjacent to existing development and there is potential for supporting infrastructure. Ms. Monique stated that it would be much more productive and useful to the agricultural community to have that site identified as a Highlands Redevelopment Area.

Mr. Alstede asked what is contaminated and is there any current use of the buildings on the site. Ms. Swan gave a brief history of the contamination on the site and the current use of the developed side of the site for pharmaceutical research, light manufacturing, warehousing and distribution, and office space.

Ms. Swan then provided an overview of the Petition of Plan Conformance and the administrative record for Lopatcong Township as follows:

12/7/09	Petition for Plan Conformance Submitted
3/31/10	Petition Deemed Administratively Complete
4/9/10	Petition Posted to Highlands Council Website
12/16/10	Draft Consistency Report Sent to Municipality
2/17/11	Final Draft Report Posted to Highlands Council Website
3/4/11	End of Public Comment Period 3/4/11 (Start 2/17/11)
3/15/11	Final Report Posted to Highlands Council Website
3/17/11	Highlands Council Public Hearing

Ms. Swan noted that Lopatcong Township had completed the Module submittals required under Plan Conformance and that this PowerPoint is posted to Council's website as part of the record. With respect to Module 1 and 2, the Highlands Municipal Build-Out Report for Lopatcong Township was completed by the Highlands Council in collaboration with the municipality prior to a finding of Administrative Completeness of the Petition. The Report is dated September 2009 and a revised version was posted to the Highlands Council website on September 30, 2010. Staff RMP Consistency Finding is that Lopatcong Township Highlands Municipal Build-Out Report is consistent with the RMP. With respect to Module 3, the Council staff found that Lopatcong Township's Fair Share Plan and Housing Element was consistent with the RMP.

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF MARCH 17, 2011

Ms. Swan then continued with her presentation with respect to the Environmental Resource Inventory, Module 4, Ms. Swan noted that it describes and illustrates Highlands Resources, Resource Areas, and Special Protection Areas in the Municipality. The Staff RMP Consistency Finding is that Lopatcong Township's Environmental Resource Inventory is consistent with the RMP.

With respect to the Master Plan Highlands, Module 5, Ms. Swan noted that the Staff RMP Consistency Finding is that Lopatcong Township's Master Plan Highlands Element is consistent with the RMP. With respect to the Highlands Area Land Use Ordinance, Module 6, Ms. Swan noted that these regulatory provisions protect Highlands Resources and effectuate the policies, goals, and objectives of RMP at the local level. The Staff RMP Consistency Finding is that Lopatcong Township's Highlands Area Land Use Ordinance is consistent with the RMP.

With respect to the Municipal Petition for Plan Conformance, Module 7, Ms. Swan noted that it consists of all Petition Supporting Materials: Petitioning Resolution/Ordinance, Self-Assessment Report, List of Current Planning Documents, and the Highlands Implementation Plan & Schedule. The Staff RMP Consistency Finding is that Lopatcong Township's Petition for Plan Conformance is consistent with the RMP.

Ms. Swan then presented a summary of the public comments received and a summary of the draft responses prepared by Highlands Council staff for Lopatcong Township's Petition for Plan Conformance. The public comment period for Lopatcong Township's Petition for Plan Conformance opened on February 17, 2011 and closed March 4, 2011. Notice was given in area newspapers as well as on the Highlands Council website and through the Highlands Council e-mail alert system. Comments received from:

- New Jersey Farm Bureau
- Association of New Jersey Environmental Commissions
- New Jersey Highlands Coalition

Comments submitted by Helen Heinrich, New Jersey Farm Bureau:

Comment 1: The New Jersey Farm Bureau believes that the Ingersoll Rand property offers much more to the future of agriculture if it were to become a significant Receiving Zone in the Highlands TDR program than it would if kept in agricultural production, and asks that the Highlands Council help the town keep this concept as a top planning priority.

Response: The Highlands Council acknowledges support for consideration of this site as a TDR Receiving Zone.

Ms. Swan noted that Lopatcong Township did a TDR feasibility study on the Ingersoll-Rand property but were looking primarily at residential use. There could be further study to see if TDR could be used for commercial use.

Comment 2: The New Jersey Farm Bureau endorses the condition requiring review of the township's Right to Farm ordinance and development of an Agricultural Retention and Farmland Plan. We urge the municipality and the Highlands Council to make a thorough review of all the community's land use and other regulation to make sure it confirms to the Right to Farm Act and supports the positive business environment required by the Highlands Act.

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF MARCH 17, 2011

Response: The Highlands Council acknowledges support for these conditions, and agrees that the planning work should address compliance with the Right to Farm Act. The Highlands Council routinely coordinates with the NJ Department of Agriculture and will continue to do so on such planning activities.

Comment 3: Contends that § 6.10.4 of the draft Highlands Land Use Ordinance continues to mislead conforming municipalities that they can either rely on what measures they have adopted in the past to deal with farming or determine new provisions as they develop and adopt the Highlands land use overlay. The definition of a Farm used to determine permitted uses is outdated.

Response: The Highlands Council will work with each municipality to ensure that all final language in their Highlands Land Use Ordinance meets all statutory requirements. The Highlands Land Use Ordinance is not finalized until after Highlands Council approval of a Petition for Plan Conformance, and is adopted in full conformance with the Municipal Land Use Law including opportunities for public comment. To the extent that modifications are needed, they may be achieved through this process.

Comment 4: The New Jersey Farm Bureau is concerned that the process for woodland owners to obtain Exemption #7 is not clear. Can township officials with appropriate training, review and approve actions prescribed by a forestry official and accepted by the State Forester?

Response: It is critically important to note that the provisions of this section, and in fact all provisions of the Highlands Land Use Ordinance, apply to development activities regulated under the Highlands Land Use Ordinance, not to exempt activities or those excluded under § 2.1. Actions to improve forest health and productivity are generally conducted under a Woodland Management Plan or are de minimis actions associated with existing land uses, not regulated under the Highlands Land Use Ordinance. Any activity conducted under the auspices of an approved Woodland Management Plan or the normal harvesting of forest products in accordance with a State Forester-approved Forest Management Plan is exempt from the provisions of § 6.1, and in fact, from the entirety of the Highlands Area Land Use Ordinance, pursuant to Highlands Act Exemption #7, as specifically called out in the Highlands Area Land Use Ordinance at § 2.4. There is no additional process needed under the Highlands Land Use Ordinance to verify the existence of the exemption.

Comments submitted by Dave Peifer, ANJEC:

Comment 1: The parcels identified as Block 101 Lots 1 and 1.01 are environmentally constrained and to designate the site as a Highlands Redevelopment Area will place the sensitive features at risk due to NJDEP's ability to grant waivers. The parcel is part of a larger Agricultural Resource Area and designation of a redevelopment area would conflict with the RMP policies regarding ARAs. The designation would place prime agricultural soils present at risk and eliminate agricultural uses. The site is not currently served by water or sewer infrastructure. ANJEC questions the brownfield status of the site, and is concerned about the underlying carbonate rock issues.

Response: Lopatcong requested an RMP Update to include the site in the Highlands Contaminated Site Inventory. The 1994 ACO identifies the 343-acre site which includes numerous areas of concern of alleged hazardous waste contamination and the results of sampling show elevated levels of chlorinated volatile organic compounds and petroleum hydrocarbons. The portion of the site in Lopatcong Township (Block 101 Lots 1 and 1.01) is deed restricted to preclude both

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF MARCH 17, 2011

residential use and the use of the groundwater for human consumption. The Highlands Council has not yet designated a Highlands Redevelopment Area.

Ms. Letts asked why the site is not considered a Highlands Redevelopment Area. Ms. Swan commented that Council does not know how it could or would be used and with the Highlands Implementation Plan and Schedule, Lopatcong would prepare a study on the site. The study would also look at available infrastructure which would assist in gaining an understanding of what development would be feasible on the site. Ms. Letts asked when the study would be complete. Mr. Borden responded to say that the Schedule allocated \$10,000 to do the work in the next fiscal year. Ms. Letts asked what happens if it goes over the stipulated amount. Ms. Swan stated the Council staff would come back to Council if Township needs additional funds to complete the study. Ms. Swan noted that Council does not have sufficient information to consider the site as a Highlands Redevelopment Area at this time. Ms. Swan continued with her presentation and Council staff response to Mr. Peifer's comment.

The Council's approval of Lopatcong's Petition provides assistance to further study the designation which would have to be formally approved by the Highlands Council. The Highlands Act requires the Council to "promote brownfield remediation and redevelopment in the Highlands Region" and mandates that very same goal in the RMP. Further, the Highlands Act (at N.J.S.A. 13:20-2 and 13:20-10.c (9)) dictates redevelopment and economic growth "in or adjacent to" already developed areas. The RMP puts great emphasis on the reuse and redevelopment of previously developed areas, including brownfields, grayfields, and underutilized sites. Policy 6M1 encourages and supports the restoration and redevelopment of contaminated areas. Designation of prime agricultural soils does not take into account any site-specific soil contamination, but rather is based on NRCS soil surveys. Therefore, the mapping of prime agricultural soils will not always be supported by site-specific information. Finally, as a Planning Area site, this property is not subject to NJDEP permitting authority under the Highlands Act, and so waivers under N.J.A.C. 7:38 are not applicable.

Comment 2: ANJEC contends that municipalities with shared infrastructure such as water supply and sewer that petition for Plan Conformance not be dealt with individually but rather through a sub-regional planning structure.

Response: The Highlands Council is very aware of the regional aspect of shared infrastructure but cannot hold some petitions while other municipalities are completing their materials. The Highlands Council does identify inter-municipal issues as it reviews Petitions from neighboring municipalities, and raises these issues as needed.

Mr. Borden commented to further answer Ms. Lett's comment earlier that Phillipsburg has also submitted a Petition for Plan Conformance and as such the potential for the redevelopment planning on the Ingersoll-Rand site would be a coordinated effort with both Phillipsburg and Lopatcong.

Comments submitted by Julia Somers, New Jersey Highlands Coalition:

Comment 1: The New Jersey Highlands Coalition cannot support approval of this petition, and recommends that the Council deny it. We understand and encourage the Council's enthusiasm to conform as much of the Highlands as possible including the entirety of Lopatcong. However, we do not think the Council should be compromising on implementation of its RMP in order to

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF MARCH 17, 2011

achieve that goal and believe the Council is being held hostage to the Township's wishes as the Council works to conform both Preservation and Planning Areas of the Township.

Response: In no way does the Highlands Council consider the Petition to compromise the goals of the Highlands Act or the provisions of the RMP. The Highlands Act actually mandates the active promotion of the redevelopment of brownfield sites and dictates redevelopment and economic growth "in or adjacent to" already developed areas. It is a clear goal of the Highlands Act and the RMP to discourage development on environmentally and agriculturally significant lands and promote the redevelopment of brownfields and grayfields.

Comment 2: The New Jersey Highlands Coalition contends that the site being considered for a redevelopment designation (Block 101, Lots 1 and 1.01) is constrained by deed restriction, environmental constraints, and that it is not a brownfield.

Response: As specified in the ACO in the response above, the site includes hazardous waste contamination and sampling results have shown elevated levels of chlorinated volatile organic compounds and petroleum hydrocarbons. The nature of deed restrictions and ACO conditions with regard to development on this site shall be addressed through the Highlands Redevelopment Area planning process and site design, as well as any suggested modifications to the remediation activities associated with the site.

Comment 3: If the Ingersoll Rand site is considered a brownfield appropriate for redevelopment, that reasoning would suggest the entire Lopatcong Superfund site (in other words, tens of thousands of acres of the Musconetcong Valley's prime farmland) should also potentially become brownfields and therefore eligible for redevelopment area designation, which the Coalition believes is not what the RMP calls for.

Response: The use of brownfield properties for redevelopment is highly dependent upon the nature of the brownfield, its location relative to other development and supporting infrastructure, and other factors. The Ingersoll Rand site is an approved LRHL Redevelopment Area in both Phillipsburg and Lopatcong and is immediately adjacent to developed lands that have public water supply and wastewater infrastructure making the potential development area an extension of existing development patterns. This situation is markedly different from that of a sprawling area of contamination that has little or no relationship to existing development patterns or infrastructure.

Comment 4: Under present COAH rules, Lopatcong still must provide 31 Growth Share Units on conforming sites not yet identified. We question whether this will be possible and need to be reassured that the Township can meet its obligations.

Response: Lopatcong's plan only indicates 8 Accessory Apartment units whose locations are as yet unidentified, not 31 units as indicated in the Comment. Accessory Apartment programs do not need to identify specific sites at the time of submission of a Fair Share Plan as per COAH's rules. The Final Consistency Review and Recommendations Report notes: "The Accessory Apartment program will include lots serviced by septic systems and domestic wells, however, the exact locations of the units are not known at this time. To be consistent with the RMP, any accessory apartments to be serviced by septic systems will have to meet the nitrate dilution standards applicable to the Land Use Capability Zone(s) in which they will be located, or be exempt from the Highlands Act."

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF MARCH 17, 2011

Comment 5: The Final Draft Report notes “With respect specifically to the Highlands Redevelopment Area Designation, it is recognized that there is potential for a coordinated redevelopment effort between the municipalities of Lopatcong, Phillipsburg, and Alpha, all three of which have submitted Petitions for Plan Conformance. The Highlands Council looks forward to exploring the potential for such a coordinated effort with the three municipalities.” We strongly encourage the Council to pursue this cooperative effort.

Response: The Highlands Council agrees and will continue to work with these municipalities toward a sub-regional approach.

Comment 6: Funding has been allocated for a number of Plans, all of which we support.

Response: The Highlands Council acknowledges the New Jersey Highlands Coalition’s support for the recommended funding allocations.

Ms. Swan then summarized the Staff Recommendation for Lopatcong Township’s Petition for Plan Conformance that it be approved with the following conditions:

- Adoption of Approved Checklist Ordinance
- Adoption of Planning Area Petition Ordinance
- Adoption of Completed Environmental Resource Inventory
- Adoption of Completed Master Plan Highlands Element
- Completion and Adoption of Highlands Land Use Ordinance
- Adoption of Updated Zoning Map
- Wastewater Management Plan (WMP)

Ms. Swan noted that Council staff prepared the work for a Wastewater Management Plan model and it was sent down to NJDEP, comments were received, so Council staff is close to having an agreed upon model.

- Compliance with Fair Housing Act (COAH Certification). This condition requires updates on COAH proceedings and Council review of any proposed changes to the Fair Share Plan and Housing Element.
- Update/Development & Implementation of:
 - Water Use & Conservation Management Plan
 - Stormwater Management Plan (updates only)
 - Habitat Conservation and Management Plan
 - Land Preservation & Stewardship Program
 - Septic System Management/Maintenance Plan
 - Sustainable Economic Development Plan
 - Right to Farm Ordinance
 - Cluster Development Plan
 - Agricultural Retention Plan
 - Stream Corridor Protection & Restoration Plan
 - Highlands Redevelopment Area Planning

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF MARCH 17, 2011

Ms. Swan reminded Council that all obligations for the work continued on Plan Performance are always conditioned upon the availability of funding because the Highlands Act made it clear that municipalities would have that funding for the reasonable costs associated for Plan Conformance.

Ms. Swan then reported the previous Highland Protection Fund grants for Lopatcong Township. Fair Share Planning Grant for the development of a Housing Element and Fair Share Plan is complete. Lopatcong's TDR Feasibility Grant to explore TDR is complete. Ms. Swan reported that potential receiving zones were limited due to zoning and infrastructure. One site assessed is the Ingersoll-Rand property. Lopatcong's Initial Assessment Grant report is complete and their Water Use and Conservation Management Plan pilot grant is ongoing.

Ms. Swan then reported the future Highlands Protection Fund grants for Lopatcong Township:

- Sustainable Economic Development Plan to enhance and provide for sustained economic viability and optimization of the Township's limited growth capacity;
- Highlands Redevelopment Area Plan to initiate planning to examine potential for redevelopment areas consistent with the Regional Master Plan;
- Habitat Conservation and Management Plan to identify species at risk, options for restoration of habitat, and standards for mitigation of unavoidable impacts of public and private projects; and
- Stream Corridor Protection Restoration Plan to protect/restore streams and to mitigate the impacts of future land uses

Ms. Kovach's connection was lost. Ms. Kovach was re-connected at 2:07pm.

Acting Chairman Schrier reported that the PowerPoint presentation was impressive as always and this is important because the Highlands Council prides itself on transparency and the work staff does is well known to the public.

Ms. Carluccio made a motion to table the Resolution for Lopatcong Township. Mr. Richko seconded it. Ms. Carluccio began to give her reasons for tabling. Mr. Alstede commented that tabling does not allow for discussion. All other members present and on telephone conferencing voted on the motion to table. The motion was DENIED 8-2.

Mr. Visioli made a motion to approve the Resolution for Lopatcong Township. Mr. Holtaway seconded it.

Council Discussion

Ms. Letts asked if Council could get an update on the plan for the redevelopment of the Ingersoll-Rand site. Ms. Swan responded that the work would be completed by Lopatcong Township through the grant funding and that the Council could determine how often a status report is provided. Mr. Van Vliet commented that Lopatcong Township and Phillipsburg have been working to redevelop this site for over ten years. Mr. Van Vliet stated that he would be happy to report back to Council and coordinate with staff quarterly or whenever, however, there may be times that there is no progress. Lopatcong Township wants to see this property developed since the progress has not been expeditious up until now. Ms. Letts stated that this process may take another 5-10 years. Ms. Letts asked if the funding would help it along. Mr. Van Vliet said that the funding would help to determine what the Township could develop on the property. The Township has received many

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF MARCH 17, 2011

different proposals to date and had to reject all residential projects. Ms. Letts asked if there is a town planner actively in this process and Mr. Van Vliet confirmed that their planner has been actively engaged.

Mr. Cogger clarified that the deed restriction on residential was between two private parties and there is no governmental enforcement on the property. Mr. Van Vliet responded that as far as he knew that was correct. Mr. Cogger stated that perhaps the two private parties may change the decision. Mr. Borden commented that Ingersoll-Rand, as the responsible party for the remedial activities, may have required a deed restriction so to protect them from any future liabilities.

Mr. Visioli asked who the redevelopment entity is. Mr. Van Vliet responded that the governing body is the redevelopment entity. Mr. Holtaway stated that calling it a redevelopment seemed questionable on land that was never developed. Mr. Holtaway further stated that as it was part of the original site prior to Phillipsburg Associates, it was one piece. Mr. Holtaway questioned how severe the brownfield area is. Mr. Holtaway further stated that Council may create precedent in this case and it may be disadvantageous for future applications. Mr. Holtaway notes that the Farm Bureau and Department of Agriculture support an examination of redevelopment opportunities which improves his comfort level but feels Council should discuss this further to be more comfortable with the outcome.

Mr. Francis is concerned about what the higher level plan/concept will be on the site. Mr. Francis noted that Lopatcong Township may have more opportunity to redevelop their section of the site. Mr. Francis stated that Council would like to be kept abreast of Lopatcong Township's plan whether it be quarterly or bi-monthly. Ms. Letts would be interested to see Lopatcong Township's plan even if they do not have a potential developer/buyer. Mr. Van Vliet responded that he would have his professionals set up a schedule for the Council.

Mr. Richko is concerned that Council uses the word redevelopment when the area in Lopatcong Township was never developed. Mr. Borden responded that the brownfield definition is broadly defined to allow a brownfield site to be developed or allow a brownfield site to be developed as a greenfield. A brownfield site, by definition, may be either developed or protected depending on the environmental resources on the site and that is why the Council staff would like a study. .

Mr. Visioli stated that the Township will be driven by the economy and Lopatcong Township has the ability to say what plan they would like to see on the site.

Ms. Carluccio wanted to comment against the resolution as the site is highly contaminated and Council sees evidence of that in the groundwater, perhaps soils, VOCs which are very difficult to remove. Ms. Carluccio stated that Council talked at great length during the development of the RMP and one of her concerns was through our brownfield and redevelopment program we might put developments in inappropriate places, so Council did come up with the brownfields to greenfields idea. Ms. Carluccio does not understand why it was not considered a Superfund site by NJDEP. Ms. Carluccio further commented that by approving this resolution we are accepting this as a contaminated site and studying it for redevelopment which in a sense pushes it in that direction. Ms. Carluccio brought up Mr. Cogger's comment that the two parties may undo their deed restriction. Ms. Carluccio stated that the relevant classifications for Council are that it is a

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF MARCH 17, 2011

Conservation Zone with environmental constraints according to our land use capability zone map and it is in an Agricultural Resource Area. Mr. Carluccio adds, with due respect to the Farm Bureau and Department of Agriculture, that it does not seem that their recommendations are tied to a use by the farmer there, but a political consideration on what can be developed or redeveloped. Ms. Carluccio feels Council should not approve this and would be open to an amendment on the petition to remove consideration of this site as a contaminated site and remove the funding for the continued analysis of the site.

Mr. Cogger asked if the town did not conform in the Planning Area, what limit of control Council would have. Ms. Swan responded that the limit of Council's control would be if the Township needed a Waste Water Management Plan, a consistency determination by the Highlands Council would be required under the NJDEP rules and if the Township needed a Water Allocation Permit there is a statutory requirement that the permit have to be deemed consistent with the RMP. Mr. Cogger stated that by recognizing this as a contaminated site it allows the Township to have funding to examine the potential use and Lopatcong Township would report back to Council. Ms. Swan clarified that it is an RMP Update for a factual determination that this is a contaminated site. Mr. Cogger added that Council would consider the RMP update as a contaminated site but still not a Highlands Redevelopment Area and at that point in time if Council does not like the redevelopment function, Council can deny it. Ms. Swan concurred and stated that the Township may then request to be removed as a conforming municipality for the Planning Area. Mr. Cogger concluded that Council has an advisory role.

Ms. Carluccio asked Mr. Van Vliet how important this site is to Lopatcong Township. Mr. Van Vliet responded that it is extremely important economically to the Township as it is the last substantial piece of property that can be commercially developed in the Township. He added that the Township has planned to protect and maintain the agricultural lands to the east and seeks to develop the lands adjacent to Phillipsburg. Their petition in the Planning Area would protect those lands. Ms. Carluccio's conclusion is that Council is funding the Township so the site may be redeveloped. Acting Chairman Schrier commented that further studies may determine that it is not appropriate and Council will determine if it should be redeveloped.

Mr. Alstede asked that if municipal zoning permitted industrial commercial use on the site in the Planning Area would Council be having this discussion now regardless of the site's status as a brownfield and couldn't Lopatcong simply move ahead on the project. Ms. Swan responded to say that yes the Township could move ahead. Mr. Alstede asked then what is the difference. Mr. Alstede commented that Council needs to keep in mind that, regardless of the brownfield area, Phillipsburg/Lopatcong area is a viable area for growth. Mr. Alstede commented that this is a great opportunity for a TDR analysis. Ms. Swan stated that that is the kind of feasibility study staff does regarding capacity based planning and it is all taken into consideration. Ms. Swan continued to say that part of what staff is doing is trying to bring State agencies together to address these issues and as such has reached out to Executive Director Caren Franzini of New Jersey Economic Development Authority to get economic development planning assistance so staff has professionals on hand to assist the municipalities because EDA has more knowledge in those areas.

Discussion continued to go back and forth with Council Members on the pros and cons of developing and redeveloping the Ingersoll-Rand site and considering the Resolution before them.

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF MARCH 17, 2011

Mr. Alstede commented on the importance of regional planning and the shared approach with the municipalities, also the importance of infrastructure and transportation. Ms. Carluccio urged Council to remember to look at protecting water in Highlands and all uses need to be put in prospective.

Acting Chairman Schrier noted that this is not an application but we are trying to learn more if and when the need arises. He noted that the Council is the Highlands Water Protection and Planning Council and must be concerned about planning for the Highlands Region as well as protecting the water resources and the environmental resources. In this case, the Council has an opportunity to help a municipality seeking to plan.

Mr. Alstede asked besides the Ingersoll-Rand property what other undeveloped areas are there in the Planning Area for residential use. Mr. Van Vliet stated east of the Ingersoll-Rand property the only large available residential area is called Sycamore Landing and it is an inclusionary development which will provide the Township with credits to meet COAH obligations. Mr. Van Vliet further stated that Lopatcong is unique as it is classified as an urban, suburban and rural area.

Acting Chairman Schrier opened the public hearing on Lopatcong Township's Petition for public comment on the proposed Resolution.

Public Comment

Monique Purcell, Department of Agriculture – Ms. Purcell reiterated her comments earlier that the Department of Agriculture agrees with Highlands staff recommendations for the Ingersoll-Rand site. Ms. Purcell further states that when mapping was done at 30,000 feet those are done by looking at contiguous acres of agricultural lands and then we zoom in and look at the parcel we are discussing. Ms. Purcell urged Council to look at parcels that are being discussed and not assume that every parcel is within the Conservation Zone as necessarily appropriate for agricultural use. Ms. Purcell stated that the Department of Agriculture's decision was not political, but common sense.

Helen Heinrich, New Jersey Farm Bureau – Ms. Heinrich stated that the maps on the wall show that Lopatcong is 90% in the agriculture resource area. Ms. Heinrich supports Lopatcong Township's Petition for Plan Conformance and look forward to the municipality taking the funding and looking into a TDR receiving area at some point. Ms. Heinrich hopes Council will approve the Lopatcong Township's Petition and do what is best for the land, water and people.

Mr. Richko questioned Ms. Heinrich that the property is not being farmed. Ms. Heinrich says that it is probably being farmed for hay for farm assessment, but not productively or profitably farmed.

David Peifer, Association of New Jersey Environmental Commission – Mr. Peifer does not think the Council appreciates what is in front of them today. Mr. Peifer states the site is a worst case scenario for successful cleanup and there is no telling where that water has gone through the karst condition. Mr. Peifer admits that his submitted comments regarding the waiver were incorrect. Mr. Peifer is concerned how Council will go forward regarding karst conditions. Mr. Peifer further states that there has to be some way for Council to be sure or more confident about the nature of that contamination and how it is playing out in the region around it before Council goes through the

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF MARCH 17, 2011

process of redevelopment. Mr. Peifer urges Council to have a better and clearer understanding of the pollution.

Julia Somers, New Jersey Highlands Coalition – Ms. Somers commented that it is the first time the Coalition has opposed a Petition and she had thought it would be a rare moment that the Department of Agriculture, Farm Bureau and Mr. Alstede were in agreement. Ms. Somers feels the ACO is confusing and thanks the Council for providing it. Ms. Somers states that most of what Council has discussed on the site in Phillipsburg is in general terms, so there is a lot Council needs to know about the site. Ms. Somers further states that the approval of Council to move forward to redevelop should be for lands that have been developed before. Ms. Somers argues that Council's approval will move this further to become a commercial/redevelopment site and this is regional planning that Council is trying to do and Council will set a poor precedent.

Mr. Alstede left the meeting at 6:05pm. Mr. Alstede returned to the meeting at 6:06pm

David Shope, owns property in Lebanon Township – Mr. Shope stated Council was speculating on the Lopatcong Township's Petition for Plan Conformance and if the Township opts into the Planning Area, the Township is subject to a set of regulations some of which have yet to be developed. Mr. Shope suggests that Lopatcong Township reconsiders this application.

Council Comment

Ms. Letts commented that based on Council's discussion that Council staff adds in the report that Lopatcong Township report back to Council quarterly on the feasibility study of the site.

Mr. Richko commented that he has been going back and forth with his decision on this petition. Mr. Richko further comments that after he heard Mr. Van Vliet state that the site was the only area the Township could develop and that other areas in the Planning Area would be preserved through this Petition, Mr. Richko decided to vote yes and thanked the Township for conforming in the Preservation and Planning Areas.

All members present and on telephone conferencing voted on the Resolution by roll call. The Resolution was APPROVED 9-1.

At this time commemorative photos were taken as the Acting Chair presented a framed certificate regarding the approval of the Plan Conformance Petition to Planning Board Chair Jim Van Vliet.

A brief recess was taken at 6:15pm. Ms. Kovach left the meeting at 6:16pm.

Mr. Cogger reconvened the meeting at 6:21pm.

Public Hearing and Consideration of Resolution– Petition for Plan Conformance by Somerset County

Mr. Cogger comments that Council will now proceed with the Somerset County Petition for Plan Conformance. Ms. Swan reported that there were no representatives from Somerset County. Ms. Swan acknowledged Chris Danis as Highlands Staff liaison for Somerset County.

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF MARCH 17, 2011

Ms. Swan presented background statistics and information for Somerset County.

- Total County Land Area: 195,,123 Acres (305 Sq/m)
- Highlands Portion: 47,555 Acres - 24%
- Preservation Area: 1,009 Acres - 2%
- Planning Area: 46,546 Acres - 98%
- Bernards Township, Bernardsville Borough, Far Hills and Peapack-Gladstone are entirely in the Planning Area.
- Bedminster Township has lands in both the Planning and Preservation Areas.

Ms. Swan then presented a map of Somerset County's infrastructure and areas served by Highlands water.

Ms. Swan reported on Somerset County's planning initiatives. Somerset County Planning Board has been assisting in the creation of quality communities since September 1954 and has a history of proactive engagement in planning and conservation initiatives. The Mission is to: "Positively influence the process of growth and change in the County so that it provides the optimum living and working environment for its residents and employers, build balanced communities, promote regional awareness and cooperation, protect the natural environment and preserve its rich history, farmland and natural beauty." The County has been particularly active in serving as a pilot for development of a NJDEP Wastewater Management Plan and continues to be a regional lead in economic development working with the Regional Center Partnership.

Ms. Swan showed an administrative record for Somerset County as follows:

PETITION FOR PLAN CONFORMANCE ADMINISTRATIVE RECORD

12/8/09	Petition for Plan Conformance Submitted
8/12/10	Petition Deemed Administratively Complete
8/20/10	Petition Posted to Highlands Council Website
1/13/11	Draft Consistency Report Sent to County
2/17/11	Final Draft Report Posted to Highlands Council Website
3/4/11	End of Public Comment Period (Started 2/17/11)
3/15/11	Final Report Posted to Highlands Council Website
3/17/11	Highlands Council Public Hearing

Acting Chairman Schrier returned to the meeting at 6:25pm.

With respect to Task A: Environmental Resource Inventory. Ms. Swan noted the following describes and illustrates Highlands Resources, Resource Areas, and Special Protection Areas in the County. The Staff RMP Consistency Finding is that Somerset County's Environmental Resource Inventory is consistent with the RMP. With respect to Task B: Master Plan Highlands Element, Ms. Swan noted the following incorporates RMP Goals & Objectives into county planning; provides basis for effectuation of RMP. The Staff RMP consistency finding is that Somerset County's Master Plan Highlands Element is consistent with the RMP.

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF MARCH 17, 2011

With respect to Task C: Lands and Facilities Regulations, Ms. Swan noted the facilities regulations waiver which was granted on March 10, 2010. The Development Resolution incorporates development application checklist requirements, notice provisions, and Highlands Council call-up allowances. The Staff RMP Consistency Finding is that Somerset County's is consistent with lands and facilities regulations and development resolution. With respect to Task D: Petition for Plan Conformance, Ms. Swan noted that it consists of the Self-Assessment Report and Implementation Plan & Schedule. The Staff RMP Consistency Finding is that Somerset County's Petition for Plan Conformance is consistent with the RMP.

Ms. Swan reported that the public comment period for Somerset County's Petition for Plan Conformance opened February 17, 2011, and closed March 4, 2011. Notice was given in area newspapers as well as on the Highlands Council website and through the Highlands Council e-mail alert system. No comments were received.

Ms. Swan then summarized the Staff Recommendation for Somerset County's Petition for Plan Conformance that it be approved with the following conditions:

- Completion & Adoption of Planning Documents:
 - Environmental Resource Inventory
 - Master Plan Highlands Element
 - Land Development Resolution
- Adherence to Highlands Implementation Plan and Schedule
- Additional Priority Tasks – Funding Allocated
 - Inventory of Conservation Easements, Highlands portion of County
 - The Highlands Council has completed a 2011 update of all “fee-simple” preserved lands in the Highlands Region and will work with Somerset County to inventory and map existing conservation easements to further refine open space mapping.

Ms. Swan then showed a map which outlined the County preserved lands; other preserved lands and preserved forms in Somerset County.

- Develop Sustainable Economic Plan Element for the County Highlands Region that may be incorporated into the County Strategic Master Plan and other local and master plan elements.
- Related to this funding, Somerset County has also expressed interest in assisting the Highlands Council in promoting the evaluation of potential TDR receiving areas.

Mr. Visioli made a motion on the Resolution for the Tewksbury Township. Mr. Holtaway seconded it.

Council Comment

Mr. Francis commented on the conservation easement issue and noted that it is extremely important.

Mr. Holtaway as a representative from Bedminster Township is happy Somerset County is moving forward with their Petition.

Mr. Cogger commented on the importance of an overlay of easements.

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF MARCH 17, 2011

Acting Chairman Schrier opened the public hearing on Somerset County's Petition for public comment on the proposed Resolution.

Public Comment

Julia Somers - New Jersey Highlands Coalition – Ms. Somers stated that comments were not submitted on Somerset County's Petition and urges Council to approve.

All members present voted on the Resolution by roll call. The Resolution was APPROVED 8-0.

Acting Chair Schrier then opened the meeting for general public comments.

Public Comments

Hank Klumpp owns 150 acres in Tewksbury Township – Mr. Klumpp thanked the Council for having this late meeting for him and the farmers. Mr. Klumpp made note of Item #10 on the meeting agenda regarding public comments. Mr. Klumpp read a statement that he submitted to Council for the record regarding the meeting agenda and his unanswered questions by Council. Mr. Klumpp requests that his written comments be attached to the minutes.

Acting Chairman Schrier asked for an amendment to the meeting agenda Item #10 that the language be changed from "...Questions raised in this period will not be responded to at this time..." to "...may not be responded to at this time...". Council agreed unanimously to change the language.

Jon Holt, Friends of Fairmont Historic District – Mr. Holt stated that he came to today's meeting to keep Council up to date on the happenings of the JCP&L substation. Mr. Holt commented that NJDEP on February 4th found project exempt and ignored the good work of the Highlands Council staff. Mr. Holt stated that Friends of Fairmount have appealed. Also, filed with the NJDEP a request for a stay and also asked JCP&L to hold off work and their answer was "no". Mr. Holt stated that JCP&L were at the site this morning cutting trees down and after reaching out to NJDEP, construction did stop at mid-day today. Mr. Holt would like Council's help with appeal and stay. Mr. Holt thanked Council for their time and commented that Friends of Fairmont need a voice in Trenton on the appeal and stay and that it should not be a political football but based on common sense facts. Mr. Holt submitted a copy of Friends of Fairmount Historic District's website campaign to stop the substation for the record. Mr. Holt reported that over 4,000 faxes have been sent to Trenton regarding this issue asking the Governor and NJDEP to honor the stay while this is being appealed.

Acting Chairman Schrier stated that Council cannot comment since the issue is in litigation and Council's opinion and decision on this issue still stands.

David Shope, owns property in Lebanon Township – Mr. Shope commented that the Highlands Council has zoned land for agricultural purposes and have caused a health menace. Mr. Shope submitted a map regarding the location of critical water-supply management areas. Mr. Shope stated that Senator Smith sacrificed our equity for continued building. Mr. Shope also reported that his comments are not always attached to the minutes and echoes Mr. Klumpp's comments.

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF MARCH 17, 2011

David Peifer, a Tewksbury Township resident – Mr. Peifer urges Council to listen to what Mr. Holt says and do what Council can to support. Mr. Peifer feels Council take a firm position on this and be clear what is said.

Wilma Frey, a Tewksbury Township resident – Ms. Frey urges Council to strongly support Friends of Fairmount and join in the lawsuit to defend Council's right to declare consistency and the other agencies' respect with Council's decision. Ms. Frey further states that Council should defend its work and the recommendations Council made because they were accurate and correct. Mr. Frey stated that given a limited area to voice those recommendations they were fundamental to the historic district.

Julie Somers, New Jersey Highlands Coalition – Ms. Somers commented that Tewksbury is an important issue and ask Council to take this action. Ms. Somers feels NJDEP is pushing the envelope but important for all work Council is doing. Ms. Somers noted that Senator Smith's office is in Piscataway.

Hank Klumpp owns property in Tewksbury Township – Mr. Klumpp questioned if Highlands Council will be a legal shield for Tewksbury Township.

Mr. Borden commented that Tewksbury Township sent a letter seeking an answer to this question and Council will advise Tewksbury accordingly.

Acting Chairman Schrier stated that he would entertain a Motion to go into Executive Session. Ms. Letts made a Motion which was seconded by Mr. Cogger. Acting Chairman Schrier specified that the Executive Session was for the Council to be briefed on recent developments regarding litigation as well as personnel matters regarding existing vacancies. The Motion was unanimously approved.

Mr. Cogger made a motion to adjourn the regular meeting and Mr. Richko seconded it. The regular meeting was adjourned at 6:58pm.

Council went into Executive Session. The Executive Session ended at 7:45pm and the Council came back into regular session.

Mr. Borden specified that the Highlands Council was briefed in Executive Session on pending matters in litigation involving various appeals filed after the adoption of the Highlands Regional Master Plan as well as recent appeals regarding the Council's approval of municipal Petitions for Plan Conformance. In addition, the Council was briefed on personnel matters regarding the Highlands Council's existing staff vacancies.

Upon a motion and second the meeting was adjourned.

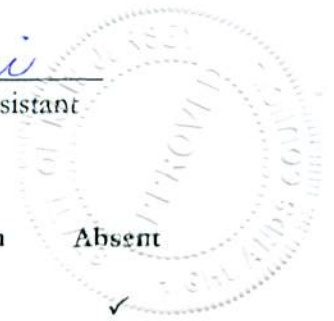
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF MARCH 17, 2011

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: 5/20/11

Name: Annette Tagliareni
Annette Tagliareni, Executive Assistant



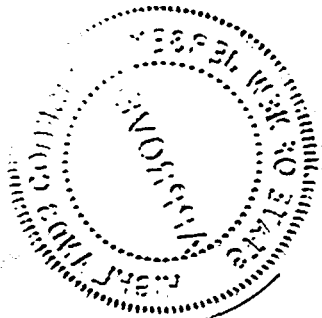
Vote of the Approval of
These Minutes

	Motion	Second	Yes	No	Abstain	Absent
Councilmember Alstede						✓
Councilmember Carluccio			✓			
Councilmember Cogger			✓			
Councilmember Francis			✓			
Councilmember Holtaway			✓			
Councilmember Kovach	✓		✓			
Councilmember Letts		✓	✓			
Councilmember Richko			✓			
Councilmember Vetrano						✓
Councilmember Visioli			✓			
Acting Chairman Schrier			✓			

OFFICE OF THE ATTORNEY GENERAL
STATE OF NEW JERSEY

NOTIFICATION

It is hereby notified that the following is the name of the person who has been appointed as the guardian of the person of the minor named below.



[Signature]
Attorney General

Notary Public

of the County of _____

Notary Public

Witness my hand and seal this _____ day of _____, 19____.

PUBLIC COMMENTS SUBMITTED

My name is Hank Klumpp. I own 150 acres in the Highlands Preservation Area.

In the Meeting Agenda, I see Item 10 - Public Comments - reads - "Questions raised in this period will not be responded to at this time but, where feasible, will be followed up by the Council and its staff."

Well, I guess my questions are not considered feasible by you because for almost seven years now I have been asking them with NO answers from you.

How can you justify taking property values with no money for compensation in place?

How can you strip people of equity?

How can you have no record of scientific study that put my property into the Highlands Preservation Area when property down the road is not?

Are these questions feasible?

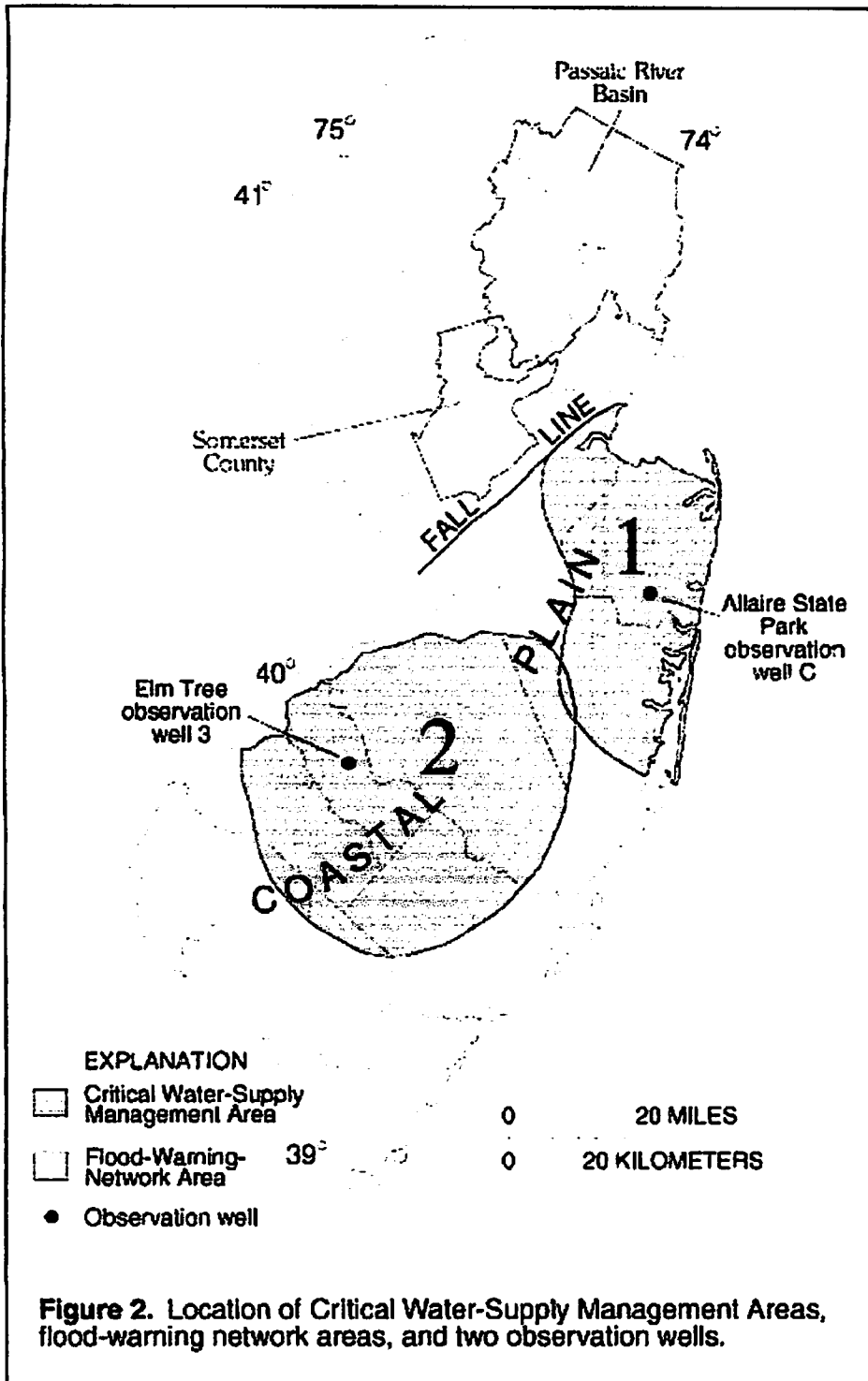
After talking to another farmer about the Highlands mess we agreed that if I bought a John Deere tractor and it would not run I would not go back to the manufacturer for answers to the problem but to my local John Deere dealer who would be expected to handle the problem. However, if the dealer could not come up with answers to solve the problem they would contact their manufacturer who designed and made the tractor for answers.

You are my John Deere dealer and I have come to you with a problem. If you are unable

to help me with answers to my
problem than you have to go
to your manufacturer, Trenton,
Legislators, who designed and
made the Act for answers.

Hank Klumpp

24 Longview Road
Lebanon, NJ 08833
908-832-7634



www.StopTheSubstation.com



FRIENDS OF FAIRMOUNT HISTORIC DISTRICT
2 FOX HILL ROAD, CALIFON, NJ 07830

HELP US STOP THE SUBSTATION

*Click here to take action and send
a letter to Governor Christie and
Commissioner Martin NOW!!!*

JCP&L's proposed Tewksbury Electric Substation will destroy the Fairmount Historic District and endanger the lives of nearby neighbors. JCP&L is days away from starting construction. However, our state government has the power to stop the project. Here's what you can do...

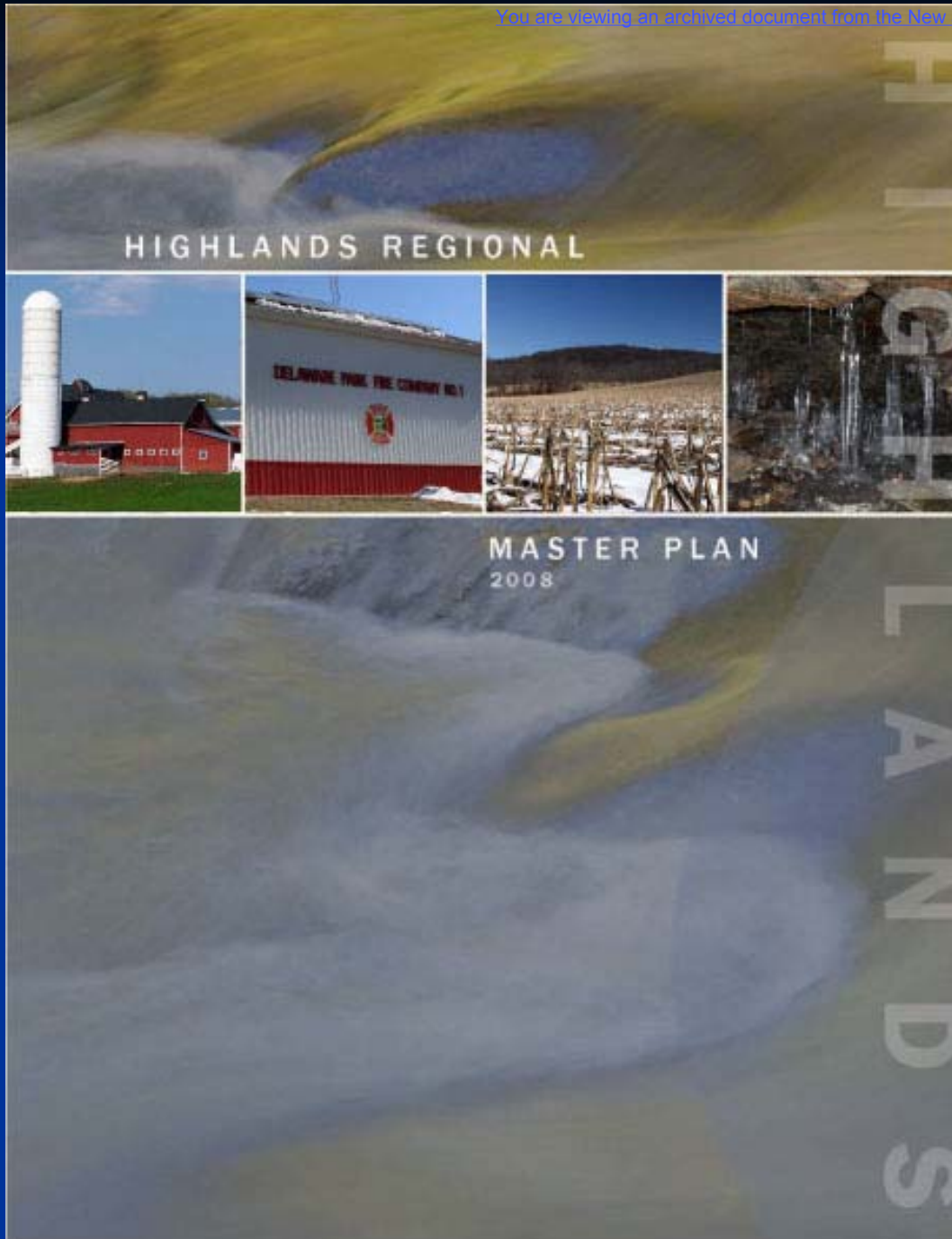
First, watch the YouTube Video below. Then **click here to send a message** to Governor Christie and NJ Department of Environmental Protection Commissioner Bob Martin urging them to **stop this inappropriate and unsafe project.**



Thank you for your support. Please pass a link to this website - www.stophesubstation.com - along to friends and family so they can join the campaign to **Stop the Substation.** You can also visit the **Stop The Substation YouTube Channel** ([click here](#)) and **FaceBook Page** ([click here](#)) for additional images, videos and information.



Comments submitted at Highlands Council Meeting on March 17, 2011 by Jon Holt. Page 1 of 1



Highlands Council Meeting

March 17, 2011



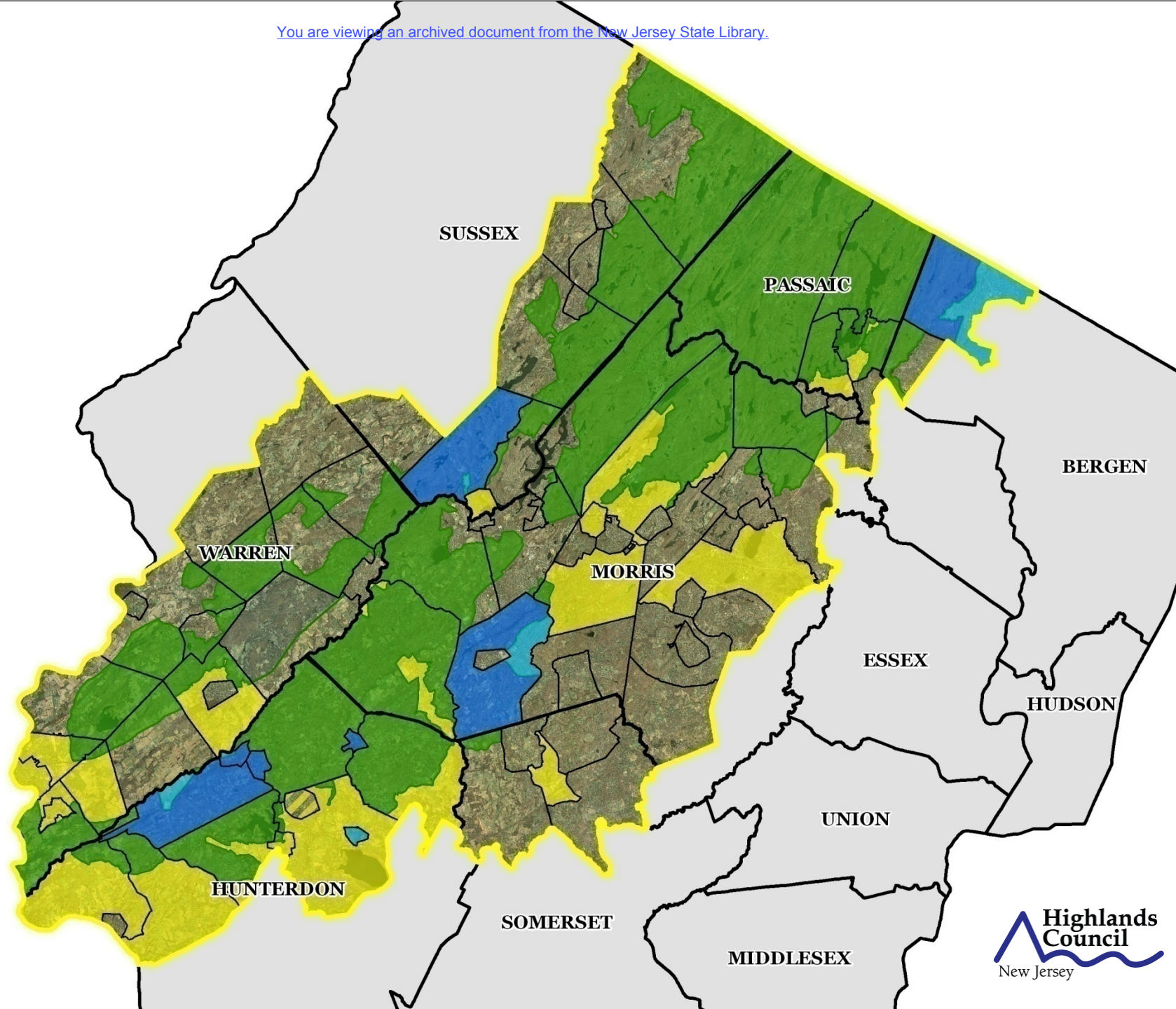
Plan Conformance Update

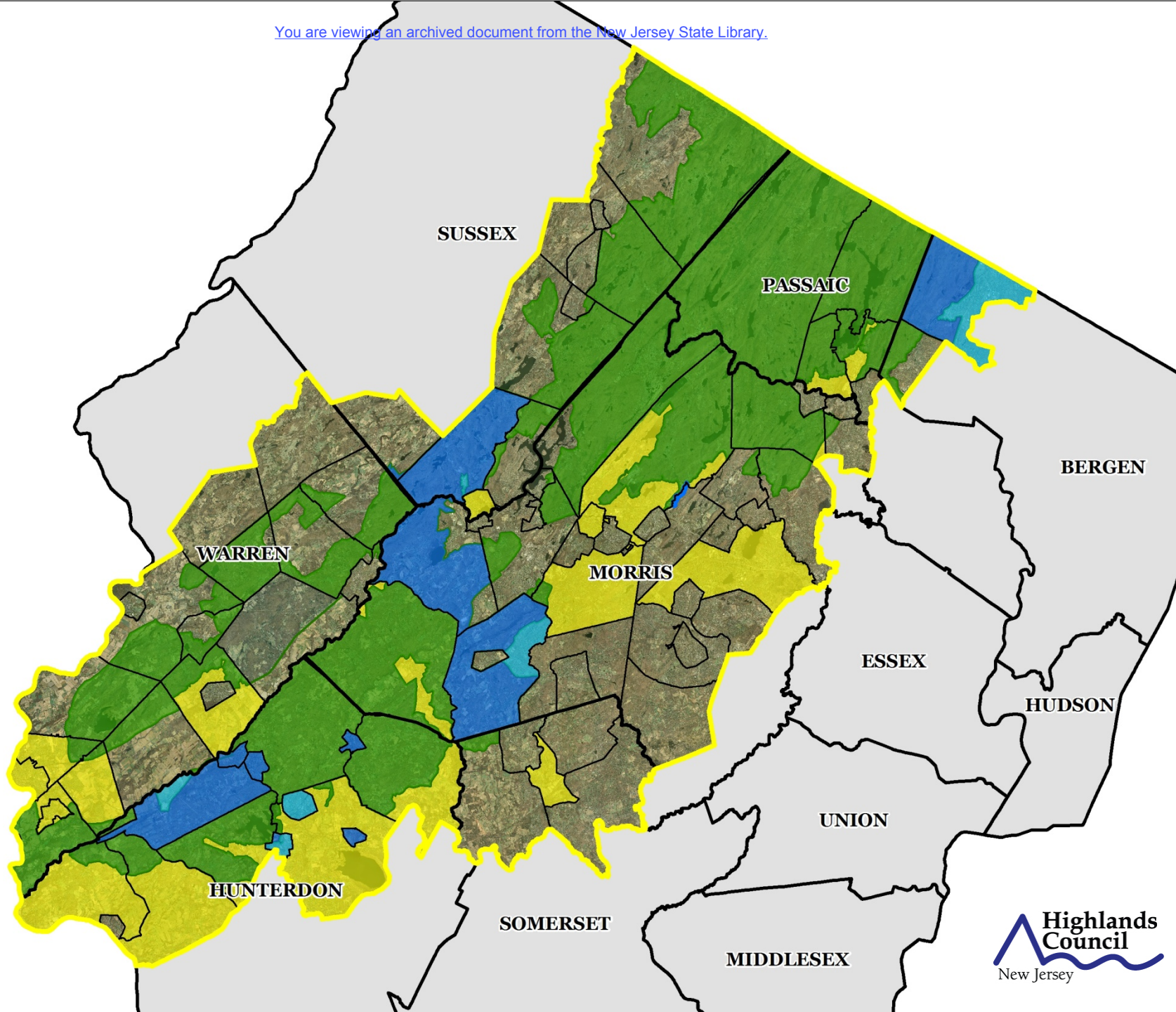
You are viewing an archived document from the New Jersey State Library.

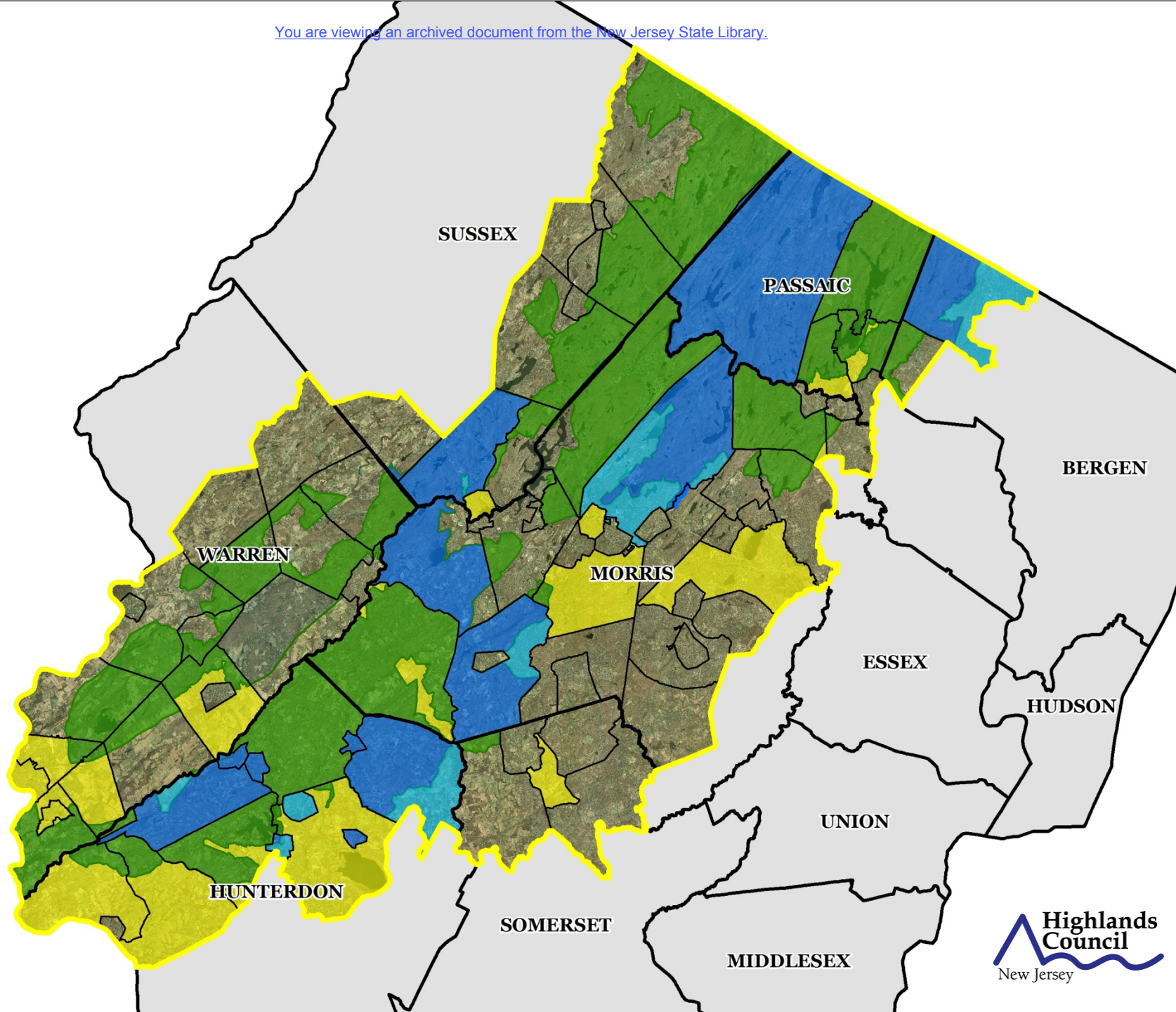
Plan Conformance Update

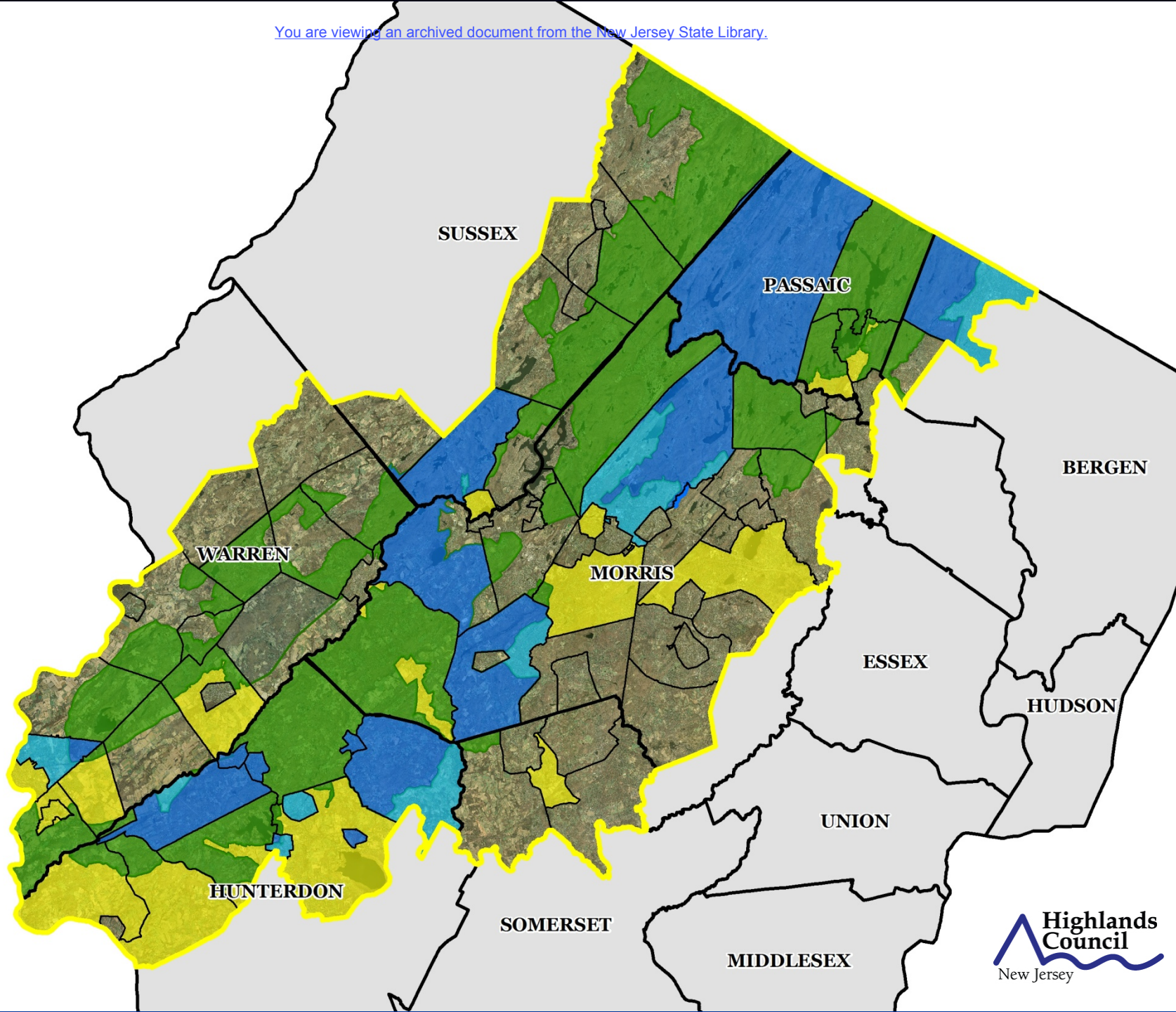
Petitions Submitted: 64 (59 Municipalities and 5 Counties). Of these, 51 have been deemed Administratively Complete & posted to the Highlands Council website (including 2 Counties). Of these:

- Petitions Approved (17): Townships – Bethlehem, Byram, Chester, Denville, Green, Mahwah, Mount Olive, Rockaway, Tewksbury & West Milford; Boroughs – Califon, Glen Gardner, Hampton, High Bridge & Lebanon; Towns – Clinton; and Passaic County
- Today’s Meeting (2): Lopatcong Township and Somerset County.
- Municipal Response Period Underway (6): Townships - Franklin, Holland, Parsippany-Troy Hills, and Washington (Morris); Boroughs - Kinnelon, and Bloomingdale.
- 15 additional Draft Consistency Reports prepared and under internal review; another 11 are in development by Staff.









Plan Conformance Update

Plan Conformance Grant Program: Following are the average amounts requested for reimbursement by municipalities that are participating in Plan Conformance grant activities:

<u>Modules</u>	<u>Base Amount</u>	<u>Average</u>	<u>Number</u>
Module 1	\$15,000	\$13,783	71
Module 2	\$10,000	\$ 6,654	69
Module 3	\$ 7,500	\$13,822	56
Module 4	\$ 2,000	\$ 3,198	59
Module 5	\$ 2,500	\$ 6,304	52
Module 6	\$ 5,000	\$ 4,359	49
<u>Module 7</u>	<u>\$ 8,000</u>	<u>\$ 7,394</u>	46
Module Subtotal	\$50,000	\$55,514	
<u>Municipal Response Costs</u>	<u>\$ 8,000</u>	<u>\$ 9,387</u>	11
Plan Conformance Cost	\$58,000	\$64,901	

Public Hearing

Lopatcong Township Petition for Plan Conformance

Introduction to Lopatcong

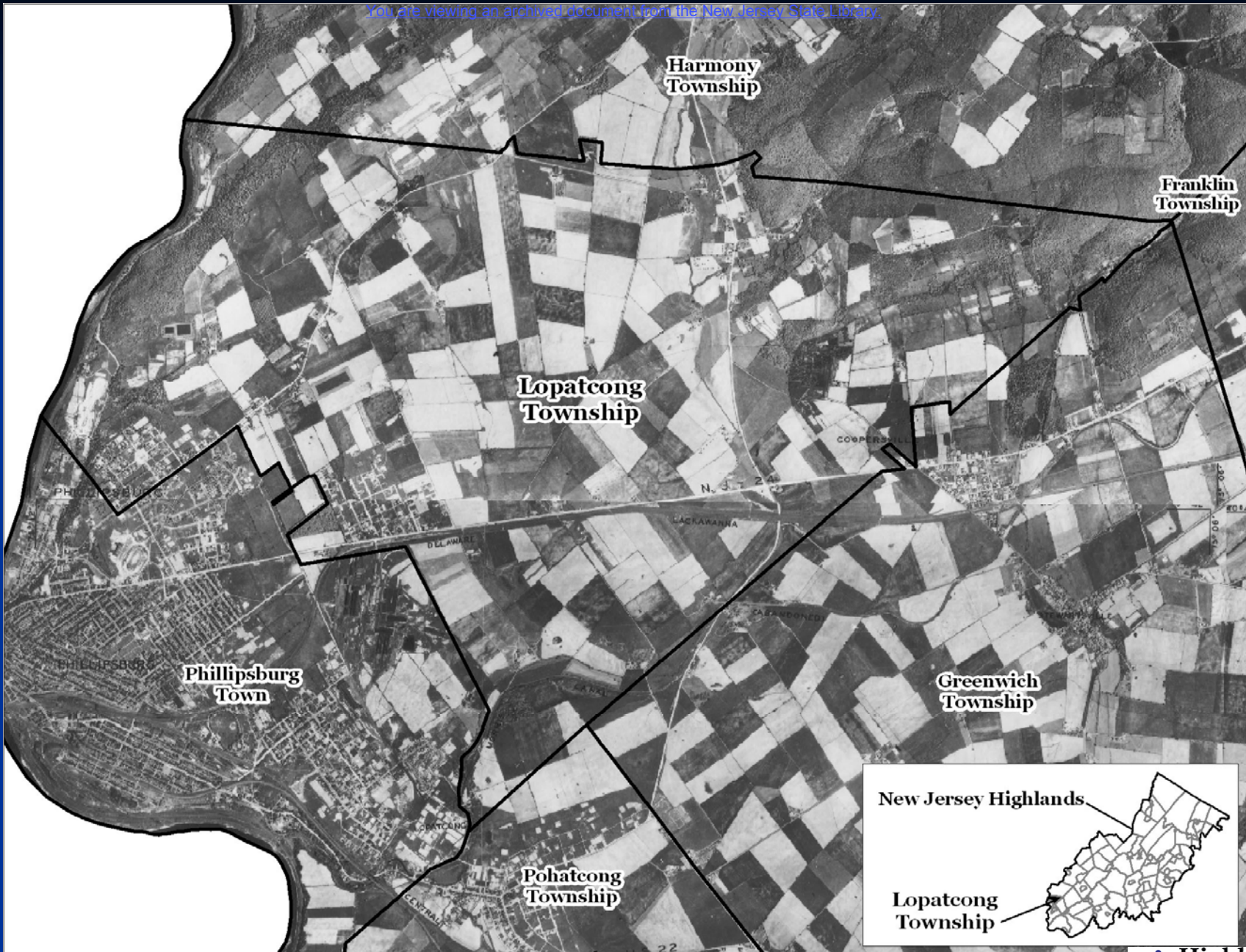


Lopatcong Township

Background Statistics

- Incorporated: 1851
- Population (2009 est.): 8,383
- Land Area: 4,721 acres / 7.4 sq. mi.
- Preserved Lands: 488 acres
- Wetlands: 76 acres
- Total Forest: 1,245 acres
- Farmland: 1,112 acres





Lopatcong Township

Lopatcong Township

Significant Highlands Statistics

- Preservation Area Lands: 1,049 acres – 22%
- Planning Area Lands: 3,672 acres – 78%

- Protection Zone – 956 acres – 20% (Roads 8%)
- Existing Community Zone – 1,697 acres – 36%
- Conservation Zone – 1,700 acres – 36%

- Highlands Open Water Protection – 957 acres – 20%
- Forest Resource Area – 1,244 acres – 26%
- Conservation Priority Areas – 554 acres – 12%
- Agricultural Priority Areas – 1,858 acres – 39%

Lopatcong Township

Background Statistics – Land Use

NJDEP Land Use/Land Cover (2007)	Plan	Pres	Percent
Residential (Single & Multi Family)	1,066	268	28.2%
Commercial (Retail)	170	6	3.7%
Industrial & Transportation & Utilities	211	11	4.7%
Agriculture (Crops & Plantations)	881	207	23.0%
Recreational Lands (Public & Private)	275	0	5.8%
Extractive Mining	0	0	0.0%
Other Urban or Built-Up Land	272	7	5.9%
Subtotal Developed Lands	2,874	499	71.4%
Mixed Forest	541	489	21.8%
Shrub & Scrub	73	43	2.5%
Mixed Wetlands	63	13	1.6%
Barren Lands	71	4	1.6%
Water	47	1	1.0%
Subtotal Natural Lands	795	551	28.5%
Total	3,669	1,049	100.0%

New Jersey Highlands

[View this map as an archived document from the New Jersey State Library.](#)



Lopatcong Township



Harmony Township

Franklin Township

Lopatcong Township

Phillipsburg Town

Greenwich Township



Pohatcong Township

Legend

- Municipal Boundaries
- Parcel Boundaries
- Highlands Planning Area
- Highlands Preservation Area
- Land Use Capability Zone**
 - Protection
 - Conservation
 - Existing Community
- Land Use Capability Sub-Zone**
 - Existing Community Environmentally Constrained
 - Conservation Environmentally Constrained
 - Wildlife Management

New Jersey Highlands

[View this map as an archived document from the New Jersey State Library.](#)



Lopatcong Township



Harmony Township

Franklin Township

Lopatcong Township

Phillipsburg Town

Greenwich Township



Pohatcong Township

Legend

-  Municipal Boundaries
-  Parcel Boundaries
-  Highlands Planning Area
-  Highlands Preservation Area
- Land Use Capability Zone**
 -  Protection
 -  Conservation
 -  Existing Community
- Land Use Capability Sub-Zone**
 -  Existing Community Environmentally Constrained
 -  Conservation Environmentally Constrained
 -  Wildlife Management

New Jersey Highlands

[You are viewing an archived document from the New Jersey State Library.](#)



Lopatcong Township



Harmony Township

Franklin Township

Lopatcong Township

Phillipsburg Town

Greenwich Township



Pohatcong Township

Legend

Municipal Boundaries

Forest Resource Area

Total Forest Area

Forest Integrity
By HUC-14 Subwatershed

Low

Moderate

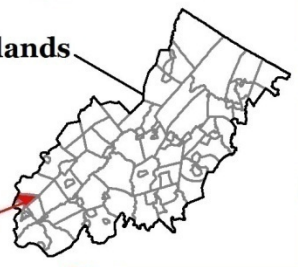
High

New Jersey Highlands



[You are viewing an archived document from the New Jersey State Library.](#)

Lopatcong Township



Harmony Township

Franklin Township

Lopatcong Township

Phillipsburg Town

Greenwich Township



Pohatcong Township

Legend

- Municipal Boundaries
- Lakes & Ponds
- Streams
- Wetlands
- Highlands Open Water Buffers (300ft)

Watershed Values By HUC-14 Subwatershed

- Low
- Moderate
- High

New Jersey Highlands



[View here](#) an archived document from the New Jersey State Library.

Lopatcong Township

Harmony Township

Franklin Township

Lopatcong Township




Phillipsburg Town

Greenwich Township

Pohatcong Township



Legend

-  Municipal Boundaries
-  Steep Slope Protection Area
-  Severely Constrained
-  Moderately Constrained
-  Constrained/Limited Constrained

New Jersey Highlands



Lopatcong Township



Harmony Township

Franklin Township

Lopatcong Township

Phillipsburg Town

Greenwich Township

Pohatcong Township

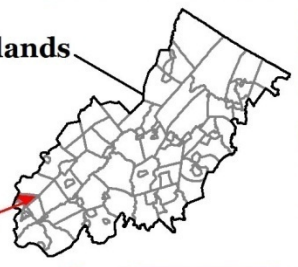


Legend

-  Municipal Boundaries
-  Significant Natural Areas
-  Critical Wildlife Habitat

New Jersey Highlands

Lopatcong Township



[Yosemite View](#) is an archived document from the New Jersey State Library.

Harmony Township

Franklin Township

Lopatcong Township


Phillipsburg Town

Greenwich Township



Pohatcong Township



Legend

-  Municipal Boundaries
-  Carbonate Rock Areas
-  Prime Ground Water Recharge Areas

Wellhead Protection Areas

-  (Tier 1) 2-Year
-  (Tier 2) 5-Year
-  (Tier 3) 12-Year

New Jersey Highlands

Lopatcong Township



[You are viewing an archived document from the New Jersey State Library.](#)

Harmony Township

Franklin Township

Lopatcong Township



Phillipsburg Town

Greenwich Township

Pohatcong Township



Legend

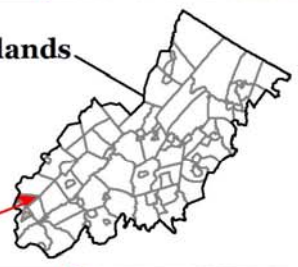
-  Municipal Boundaries
-  Agricultural Resource Area

New Jersey Highlands



[View this map as an archived document from the New Jersey State Library.](#)

Lopatcong Township



Harmony Township

Franklin Township

Lopatcong Township








Phillipsburg Town

Greenwich Township

Pohatcong Township



Legend

-  Municipal Boundaries
- Existing Area Served for:
 -  Public Community Water Systems
 -  Highlands Domestic Sewerage Facilities
 -  Highlands Domestic Sewerage Facilities and Public Community Water Systems
- Net Water Availability By HUC14 Subwatershed Million Gallons Per Day (MGD)
 -  0.10 - 0.39
 -  0.00 - 0.04
 -  -0.99 - -0.10

New Jersey Highlands

Lopatcong Township



[View this map as an archived document from the New Jersey State Library.](#)

Harmony Township

Franklin Township

Lopatcong Township

Phillipsburg Town

Greenwich Township

Pohatcong Township



Legend

-  Municipal Boundaries
- Conservation Priority Areas
 -  High
 -  Moderate
 -  Preserved Lands

New Jersey Highlands



[Yosemite Views](#) an archived document from the New Jersey State Library.

Lopatcong Township



Harmony Township

Franklin Township

Lopatcong Township

Phillipsburg Town

Greenwich Township

Pohatcong Township



Legend

- Municipal Boundaries
- Agricultural Priority Areas**
 - High
 - Moderate
 - Preserved Lands

Lopatcong Township

Sampling of Township Planning Initiatives

In addition to maintaining an up-to-date Comprehensive Master Plan (including all mandatory elements and numerous optional elements), Lopatcong Township has a history of proactive engagement in community planning and conservation initiatives:

- Master Plan Reexamination – 2005
- Open Space and Recreation Update – 2004
- Stormwater Management Plan – 2006
- Redevelopment Plan for Ingersoll-Rand Site – 2006 and 2007

Lopatcong Township

Redevelopment Planning for Ingersoll-Rand

- **Area in Need of Redevelopment:** In 2006, Lopatcong adopted a resolution delineating the brownfield site as a redevelopment area. The site adjoins the industrial uses in Phillipsburg and has over 3,000 feet of frontage along Route 22. A mixed use Commercial/Industrial complex is envisioned. On August 23, 2006, the DCA's Office of Smart Growth approved it as an area in need of redevelopment.
- **Administrative Consent Order:** NJDEP issued a 1994 ACO overseeing the numerous areas of concern regarding hazardous waste contamination, 24 monitoring wells and 17 recovery wells. Sampling shows elevated levels of chlorinated volatile organic compounds and petroleum hydrocarbons. Block 101 Lots 1 and 1.01 are deed restricted to preclude both **residential use** and the **use of the groundwater for human consumption.**

Lopatcong Township

Redevelopment Planning for Ingersoll-Rand



Lopatcong Township

Redevelopment Planning for Ingersoll-Rand

- **RMP Update**: Lopatcong Township requested an RMP Update to include the site in the Highlands Contaminated Site Inventory, to update the Highlands Contaminated Sites Inventory exhibits in both the Highlands Environmental Resource Inventory and Master Plan Highlands Element. The RMP Update is proposed to be approved by the Highlands Council through this Petition review acknowledging that this is a contaminated site.
- **Highlands Redevelopment Area**: The Highlands Council's approval of Lopatcong's Petition would **not** approve this site as a Highlands Redevelopment Area at this time. The approval would provide technical and financial assistance to further study the designation of a Highlands Redevelopment Area which would have to be formally approved by the Highlands Council at a later date.

Lopatcong Township

Warren County, New Jersey



PETITION FOR PLAN CONFORMANCE ADMINISTRATIVE RECORD

12/7/09	Petition for Plan Conformance Submitted
3/31/10	Petition Deemed Administratively Complete
4/9/10	Petition Posted to Highlands Council Website
12/16/10	Draft Consistency Report Sent to Municipality
2/17/11	Final Draft Report Posted to Highlands Council Website
3/4/11	End of Public Comment Period 3/4/11 (Start 2/17/11)
3/15/11	Final Report Posted to Highlands Council Website
3/17/11	Highlands Council Public Hearing

Highlands Municipal Build-Out Report – Modules 1 & 2

- The Report uses a Limiting Factor Analysis to examine Land-Based, Resource-Based, and Utility-Based Capacities.
- The Highlands Municipal Build-Out Report for Lopatcong Township was completed by the Highlands Council in collaboration with the municipality prior to a finding of Administrative Completeness of the Petition.
- The Report is dated September 2010 and a revised version was posted to the Highlands Council website on September 30, 2010.
- Staff RMP Consistency Finding: CONSISTENT

Housing Plan – Module 3

- Summary of Lopatcong Township's Fair Share Obligation
 - Rehabilitation Share: 11 Units
 - Prior Round Obligation: 56 Units
 - Growth Share Obligation: 95 Units
- Summary of Lopatcong Township's Fair Share Plan
 - Rehabilitation Obligation: 11 units completed. 1 unit proposed through the existing Township Rehabilitation Program;
 - Prior Round Obligation: 56 credits completed through prior cycle credits and one existing inclusionary development;
 - Third Round Obligation: 97 credits proposed through two existing sites, one proposed inclusionary development, and an accessory apartment program .
- Staff RMP Consistency Finding: CONSISTENT

Environmental Resource Inventory

Module 4

- Describes & illustrates Highlands Resources, Resource Areas, and Special Protection Areas in the Municipality
- Lopatcong's Submittal Based on Highlands Council Model Environmental Resource Inventory
 - ❖ All Applicable Narrative Portions Retained
 - ❖ All Applicable Exhibits Included
- Staff RMP Consistency Finding: CONSISTENT

Master Plan Highlands Element Module 5

- Incorporates RMP Goals & Objectives into local planning; provides basis for effectuation of RMP
- Lopatcong's Submittal Based on Highlands Council Model
 - ❖ All Applicable Narrative Portions Retained
 - ❖ All Applicable Exhibits Provided

- Staff RMP Consistency Finding: CONSISTENT

Highlands Area Land Use Ordinance

Module 6

- Sets forth regulatory provisions that protect Highlands Resources and effectuate the policies, goals and objectives of RMP at the local level.
- Lopatcong's Submittal Based on Highlands Council Model
 - ❖ All Applicable Narrative Portions Retained
 - ❖ All Applicable Exhibits Provided by the Highlands Council (Parcel-Based)
- Staff RMP Consistency Finding: CONSISTENT

Municipal Petition for Plan Conformance

Module 7

- Consists of all Petition Supporting Materials: Petitioning Resolution/Ordinance, Self-Assessment Report, List of Current Planning Documents, Highlands Implementation Plan & Schedule
- Lopatcong's Submittals Based on Highlands Council Models
 - ❖ Resolution (Preservation and Planning Areas) Complete
 - ❖ Self-Assessment Report Accurate & Complete
 - ❖ Highlands Implementation Plan and Schedule Complete
- Staff RMP Consistency Finding: CONSISTENT

Lopatcong's Petition for Plan Conformance Public Comments Received

- The public comment period for Lopatcong's Petition for Plan Conformance opened February 17, 2011, and closed March 4, 2011. Notice was given in area newspapers as well as on the Highlands Council website and through the Highlands Council e-mail alert system.

- Comments received from:
 - New Jersey Farm Bureau
 - Association of New Jersey Environmental Commissions
 - New Jersey Highlands Coalition

Lopatcong's Petition for Plan Conformance Public Comments Received

Comments submitted by: Helen Heinrich, New Jersey Farm Bureau

- **Comment 1:** The New Jersey Farm Bureau believes that the Ingersoll Rand property offers much more to the future of agriculture if it were to become a significant Receiving Zone in the Highlands TDR program than it would if kept in agricultural production, and asks that the Highlands Council help the town keep this concept as a top planning priority.
- **Response:** The Highlands Council acknowledges support for consideration of this site as a TDR Receiving Zone.

Lopatcong's Petition for Plan Conformance Public Comments Received

Comments submitted by: Helen Heinrich, New Jersey Farm Bureau

- **Comment 2:** The New Jersey Farm Bureau endorses the condition requiring review of the township's Right to Farm ordinance and development of an Agricultural Retention and Farmland Plan. We urge the municipality and the Highlands Council to make a thorough review of all the community's land use and other regulation to make sure it confirms to the Right to Farm Act and supports the positive business environment required by the Highlands Act.
- **Response:** The Highlands Council acknowledges support for these conditions, and agrees that the planning work should address compliance with the Right to Farm Act. The Highlands Council routinely coordinates with the NJ Department of Agriculture and will continue to do so on such planning activities.

Lopatcong's Petition for Plan Conformance

Public Comments Received

Comments submitted by: Helen Heinrich, New Jersey Farm Bureau

- **Comment 3:** Contends that § 6.10.4 of the draft Highlands Land Use Ordinance continues to mislead conforming municipalities that they can either rely on what measures they have adopted in the past to deal with farming or determine new provisions as they develop and adopt the Highlands land use overlay. The definition of a Farm used to determine permitted uses is outdated.
- **Response:** The Highlands Council will work with each municipality to ensure that all final language in their Highlands Land Use Ordinance meets all statutory requirements. The Highlands Land Use Ordinance is not finalized until after Highlands Council approval of a Petition for Plan Conformance, and is adopted in full conformance with the Municipal Land Use Law including opportunities for public comment. To the extent that modifications are needed, they may be achieved through this process.

Lopatcong's Petition for Plan Conformance Public Comments Received

Comments submitted by: Helen Heinrich, New Jersey Farm Bureau

- **Comment 4:** The New Jersey Farm Bureau is concerned that the process for woodland owners to obtain Exemption #7 is not clear. Can township officials with appropriate training, review and approve actions prescribed by a forestry official and accepted by the State Forester?
- **Response:** It is critically important to note that the provisions of this section, and in fact all provisions of the Highlands Land Use Ordinance, apply to development activities regulated under the Highlands Land Use Ordinance, not to exempt activities or those excluded under § 2.1. Actions to improve forest health and productivity are generally conducted under a Woodland Management Plan or are de minimis actions associated with existing land uses, not regulated under the Highlands Land Use Ordinance.

Lopatcong's Petition for Plan Conformance Public Comments Received

Comments submitted by: Helen Heinrich, New Jersey Farm Bureau

- **(Response-cont.)** Any activity conducted under the auspices of an approved Woodland Management Plan or the normal harvesting of forest products in accordance with a State Forester-approved Forest Management Plan is exempt from the provisions of § 6.1, and in fact, from the entirety of the Highlands Area Land Use Ordinance, pursuant to Highlands Act Exemption #7, as specifically called out in the Highlands Area Land Use Ordinance at § 2.4. There is no additional process needed under the Highlands Land Use Ordinance to verify the existence of the exemption.

Lopatcong's Petition for Plan Conformance Public Comments Received

Comments Submitted by: Dave Peifer, ANJEC

- **Comment 1** - The parcels identified as Block 101 Lots 1 and 1.01 are environmentally constrained and to designate the site as a Highlands Redevelopment Area will place the sensitive features at risk due to NJDEP's ability to grant waivers. The parcel is part of a larger Agricultural Resource Area and designation of a redevelopment area would conflict with the RMP policies regarding ARAs. The designation would place prime agricultural soils present at risk and eliminate agricultural uses. The site is not currently served by water or sewer infrastructure. ANJEC questions the brownfield status of the site, and is concerned about the underlying carbonate rock issues.
- **Response** - Lopatcong requested an RMP Update to include the site in the Highlands Contaminated Site Inventory. The 1994 ACO identifies the 343-acre site which includes numerous areas of concern of alleged hazardous waste contamination and the results of sampling show elevated levels of chlorinated volatile organic compounds and petroleum hydrocarbons.

Lopatcong's Petition for Plan Conformance Public Comments Received

Comments Submitted by: Dave Peifer, ANJEC

- **(Response – cont.)** The portion of the site in Lopatcong Township (Block 101 Lots 1 and 1.01) is deed restricted to preclude both residential use and the use of the groundwater for human consumption. The Highlands Council has not yet designated a Highlands Redevelopment Area. However, the Council's approval of Lopatcong's Petition provides assistance to further study the designation which would have to be formally approved by the Highlands Council. The Highlands Act requires the Council to "promote brownfield remediation and redevelopment in the Highlands Region" and mandates that very same goal in the RMP. Further, the Highlands Act (at N.J.S.A. 13:20-2 and 13:20-10.c(9)) dictates redevelopment and economic growth "in or adjacent to" already developed areas. The RMP puts great emphasis on the reuse and redevelopment of previously developed areas, including brownfields, grayfields, and underutilized sites. Policy 6M1 encourages and supports the restoration and redevelopment of contaminated areas.

Lopatcong's Petition for Plan Conformance Public Comments Received

Comments Submitted by: Dave Peifer, ANJEC

- **(Response –cont.)** Designation of prime agricultural soils does not take into account any site-specific soil contamination, but rather is based on NRCS soil surveys. Therefore, the mapping of prime agricultural soils will not always be supported by site-specific information. Finally, as a Planning Area site, this property is not subject to NJDEP permitting authority under the Highlands Act, and so waivers under N.J.A.C. 7:38 are not applicable.
- **Comment 2 - ANJEC** contends that municipalities with shared infrastructure such as water supply and sewer that petition for Plan Conformance not be dealt with individually but rather through a sub-regional planning structure.
- **Response -** The Highlands Council is very aware of the regional aspect of shared infrastructure but cannot hold some petitions while other municipalities are completing their materials. The Highlands Council does identify inter-municipal issues as it reviews Petitions from neighboring municipalities, and raises these issues as needed.

Lopatcong's Petition for Plan Conformance

Public Comments Received

Comments from Julia Somers, New Jersey Highlands Coalition

- **Comment 1** - The New Jersey Highlands Coalition cannot support approval of this petition, and recommends that the Council deny it. We understand and encourage the Council's enthusiasm to conform as much of the Highlands as possible including the entirety of Lopatcong. However, we do not think the Council should be compromising on implementation of its RMP in order to achieve that goal and believe the Council is being held hostage to the Township's wishes as the Council works to conform both Preservation and Planning Areas of the Township.
- **Response** - In no way does the Highlands Council consider the Petition to compromise the goals of the Highlands Act or the provisions of the RMP. The Highlands Act actually mandates the active promotion of the redevelopment of brownfield sites and dictates redevelopment and economic growth "in or adjacent to" already developed areas. It is a clear goal of the Highlands Act and the RMP to discourage development on environmentally and agriculturally significant lands and promote the redevelopment of brownfields and grayfields.

Lopatcong's Petition for Plan Conformance Public Comments Received

Comments from Julia Somers, New Jersey Highlands Coalition

- **Comment 2** - The New Jersey Highlands Coalition contends that the site being considered for a redevelopment designation (Block 101, Lots 1 and 1.01) is constrained by deed restriction, environmental constraints, and that it is not a brownfield.
- **Response** - As specified in the ACO in the response above, the site includes hazardous waste contamination and sampling results have shown elevated levels of chlorinated volatile organic compounds and petroleum hydrocarbons. The nature of deed restrictions and ACO conditions with regard to development on this site shall be addressed through the Highlands Redevelopment Area planning process and site design, as well as any suggested modifications to the remediation activities associated with the site.

Lopatcong's Petition for Plan Conformance

Public Comments Received

Comments from Julia Somers, New Jersey Highlands Coalition

- **Comment 3** - If the Ingersoll Rand site is considered a brownfield appropriate for redevelopment, that reasoning would suggest the entire Pohatcong Superfund site (in other words, tens of thousands of acres of the Musconetcong Valley's prime farmland) should also potentially become brownfields and therefore eligible for redevelopment area designation, which the Coalition believes is not what the RMP calls for.
- **Response** - The use of brownfield properties for redevelopment is highly dependent upon the nature of the brownfield, its location relative to other development and supporting infrastructure, and other factors. The Ingersoll Rand site is an approved LRHL Redevelopment Area in both Phillipsburg and Lopatcong and is immediately adjacent to developed lands that have public water supply and wastewater infrastructure making the potential development area an extension of existing development patterns. This situation is markedly different from that of a sprawling area of contamination that has little or no relationship to existing development patterns or infrastructure.

Lopatcong's Petition for Plan Conformance

Public Comments Received

Comments from Julia Somers, New Jersey Highlands Coalition

- **Comment 4** - Under present COAH rules, Lopatcong still must provide 31 Growth Share Units on conforming sites not yet identified. We question whether this will be possible and need to be reassured that the Township can meet its obligations.
- **Response** - Lopatcong's plan only indicates 8 Accessory Apartment units whose locations are as yet unidentified, not 31 units as indicated in the Comment. Accessory Apartment programs do not need to identify specific sites at the time of submission of a Fair Share Plan as per COAH's rules. The Final Consistency Review and Recommendations Report notes: "The Accessory Apartment program will include lots serviced by septic systems and domestic wells, however, the exact locations of the units are not known at this time. To be consistent with the RMP, any accessory apartments to be serviced by septic systems will have to meet the nitrate dilution standards applicable to the Land Use Capability Zone(s) in which they will be located, or be exempt from the Highlands Act."

Lopatcong's Petition for Plan Conformance

Public Comments Received

Comments from Julia Somers, New Jersey Highlands Coalition

- **Comment 5** - The Final Draft Report notes “With respect specifically to the Highlands Redevelopment Area Designation, it is recognized that there is potential for a coordinated redevelopment effort between the municipalities of Lopatcong, Phillipsburg, and Alpha, all three of which have submitted Petitions for Plan Conformance. The Highlands Council looks forward to exploring the potential for such a coordinated effort with the three municipalities.” We strongly encourage the Council to pursue this cooperative effort.
- **Response** - The Highlands Council agrees and will continue to work with these municipalities toward a sub-regional approach.
- **Comment 6** - Funding has been allocated for a number of Plans, all of which we support.
- **Response** - The Highlands Council acknowledges the New Jersey Highlands Coalition's support for the recommended funding allocations.

Petition Disposition

Lopatcong Township's Petition for Plan Conformance

Staff Recommendation: **APPROVE WITH CONDITIONS**

PROPOSED CONDITIONS

- Adoption of Approved Checklist Ordinance
- Adoption of Planning Area Petition Ordinance
- Adoption of Completed Environmental Resource Inventory
- Adoption of Completed Master Plan Highlands Element
- Completion and Adoption of Highlands Land Use Ordinance
- Adoption of Updated Zoning Map
- Wastewater Management Plan
- Compliance with Fair Housing Act (COAH Certification). This condition requires updates on COAH proceedings and Council review of any proposed changes to the Fair Share Plan and Housing Element.

Petition Disposition

Lopatcong Township's Petition for Plan Conformance

Staff Recommendation: **APPROVE WITH CONDITIONS**

PROPOSED CONDITIONS, Continued

- **Update/Development & Implementation of:**
 - **Water Use & Conservation Management Plan**
 - **Stormwater Management Plan (updates only)**
 - **Habitat Conservation and Management Plan**
 - **Land Preservation & Stewardship Program**
 - **Septic System Management/Maintenance Plan**
 - **Sustainable Economic Development Plan**
 - **Right to Farm Ordinance**
 - **Cluster Development Plan**
 - **Agricultural Retention Plan**
 - **Stream Corridor Protection & Restoration Plan**
 - **Highlands Redevelopment Area Planning**

Lopatcong's Petition for Plan Conformance

Previous Highlands Protection Fund Grants

- **Fair Share Planning Grant** for the development of a Housing Element and Fair Share Plan is complete.
- **TDR Feasibility Grant** to explore TDR is complete. Potential receiving zones were limited due to zoning and infrastructure. One site assessed is the Ingersoll-Rand property.
- **Initial Assessment Grant** report is complete.
- **Water Use and Conservation Management Plan** pilot grant is ongoing.

Lopatcong's Petition for Plan Conformance Future Highlands Protection Fund Grants

- **Highlands Implementation Plan and Schedule** – Grant funding is proposed for the following:
 - **Sustainable Economic Development Plan** to enhance and provide for sustained economic viability and optimization of the Township's limited growth capacity
 - **Highlands Redevelopment Area Plan** to initiate planning to examine potential for redevelopment areas consistent with the Regional Master Plan
 - **Habitat Conservation and Management Plan** to identify species at risk, options for restoration of habitat, and standards for mitigation of unavoidable impacts of public and private projects
 - **Stream Corridor Protection Restoration Plan** to protect/restore streams and to mitigate the impacts of future land uses

Council Deliberation



Lopatcong Township

Public Hearing

Somerset County Petition for Plan Conformance

Somerset County

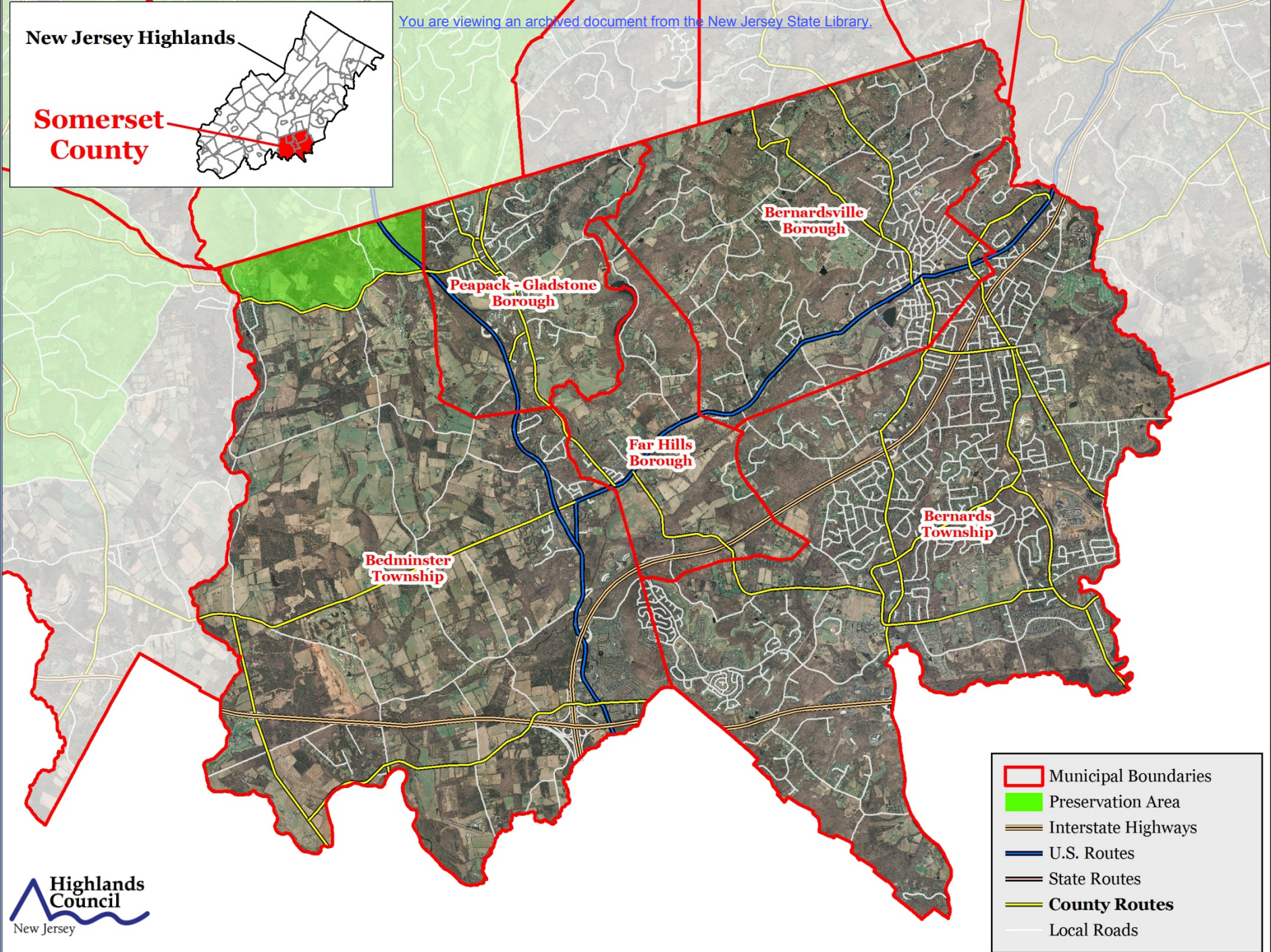
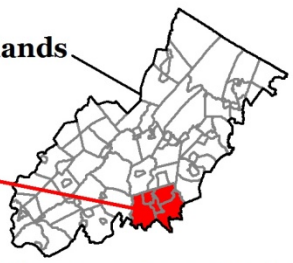
Total County Land Area	195,123 Acres	(305 Sq.mi.)
Highlands Portion	47,555 Acres	24%
Preservation Area:	1,009 Acres	2%
Planning Area:	46,546 Acres	98%

Bernards Township, Bernardsville Borough, Far Hills and Peapack Gladstone are entirely in the Planning Area.

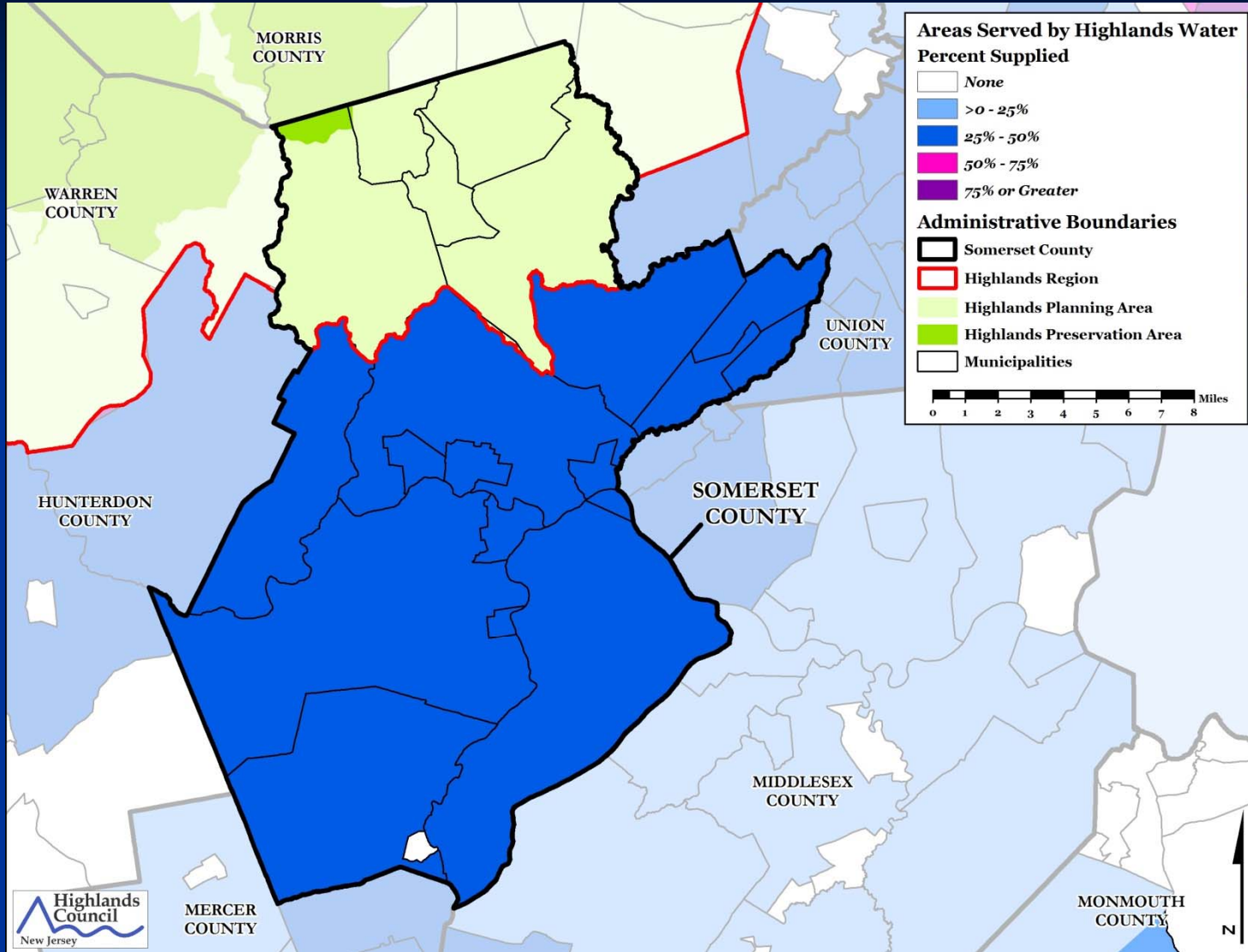
Bedminster Township has lands in both the Planning and Preservation Areas.

New Jersey Highlands

Somerset
County



- Municipal Boundaries
- Preservation Area
- Interstate Highways
- U.S. Routes
- State Routes
- County Routes
- Local Roads



Somerset County

Somerset County

Planning Initiatives

Somerset County Planning Board has been assisting in the creation of quality communities since September 1954 and has a history of proactive engagement in planning and conservation initiatives.

The Mission is to: “Positively influence the process of growth and change in the County so that it provides the optimum living and working environment for its residents and employers, build balanced communities, promote regional awareness and cooperation, protect the natural environment and preserve its rich history, farmland and natural beauty.”

The County has been particularly active in serving as a pilot for development of a NJDEP Wastewater Management Plan and continues to be a regional lead in economics working with the Regional Center Partnership.

Somerset County



PETITION FOR PLAN CONFORMANCE ADMINISTRATIVE RECORD

12/8/09	Petition for Plan Conformance Submitted
8/12/10	Petition Deemed Administratively Complete
8/20/10	Petition Posted to Highlands Council Website
1/13/11	Draft Consistency Report Sent to County
2/17/11	Final Draft Report Posted to Highlands Council Website
3/4/11	End of Public Comment Period (Started 2/17/11)
3/15/11	Final Report Posted to Highlands Council Website
3/17/11	Highlands Council Public Hearing

Plan Conformance Petition Review

Task A: Environmental Resource Inventory

- Describes & Illustrates Highlands Resources, Resource Areas, and Special Protection Areas in the County
- Staff RMP Consistency Finding: CONSISTENT

Task B: Master Plan Highlands Element

- Incorporates RMP Goals & Objectives into county planning; provides basis for effectuation of RMP
- Staff RMP Consistency Finding: CONSISTENT

Plan Conformance Petition Review

Task C: Lands and Facilities Regulations

- Facilities Regulations: Waiver granted March 10, 2010
- Development Resolution: Incorporates Development Application checklist requirements, notice provisions, and Highlands Council call-up allowances.
- Staff RMP Consistency Finding: CONSISTENT

Task D: Petition for Plan Conformance

- Self-Assessment Report
- Implementation Plan & Schedule
- Staff RMP Consistency Finding: CONSISTENT

Somerset County Petition for Plan Conformance Public Comments Received

- The public comment period for Somerset County's Petition for Plan Conformance opened February 17, 2011, and closed March 4, 2011. Notice was given in area newspapers as well as on the Highlands Council website and through the Highlands Council e-mail alert system.
- No comments were received.

Petition Disposition

Somerset County's Petition for Plan Conformance

Staff Recommendation: **APPROVE WITH CONDITIONS**

PROPOSED CONDITIONS

- Completion & Adoption of Planning Documents:
 - Environmental Resource Inventory
 - Master Plan Highlands Element
 - Land Development Resolution
- Adherence to Highlands Implementation Plan and Schedule

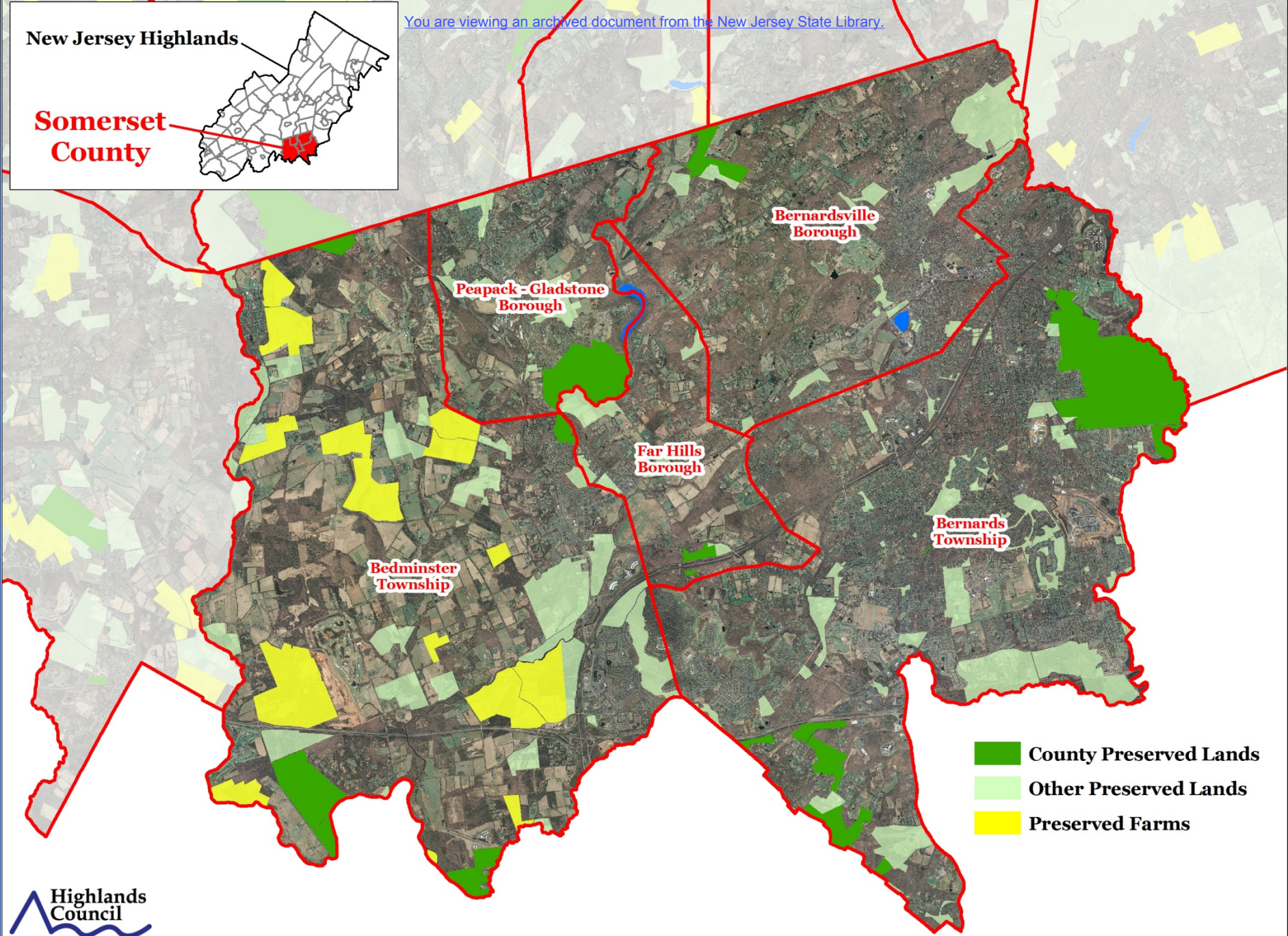
Petition Disposition

Somerset County's Petition for Plan Conformance

- Additional Priority Tasks – Funding Allocated
 - Inventory of Conservation Easements, Highlands portion of County
 - The Highlands Council has completed a 2011 update of all “fee-simple” preserved lands in the Highlands Region and will work with Somerset County to inventory and map existing conservation easements to further refine open space mapping.

New Jersey Highlands

Somerset
County



Bernardsville
Borough

Peapack - Gladstone
Borough

Far Hills
Borough

Bedminster
Township

Bernards
Township

-  County Preserved Lands
-  Other Preserved Lands
-  Preserved Farms

Petition Disposition

Somerset County's Petition for Plan Conformance

- Additional Priority Tasks – Funding Allocated
 - Develop Sustainable Economic Plan Element for the County Highlands Region that may be incorporated into the County Strategic Master Plan and other local and master plan elements.
 - Related to this funding, Somerset County has also expressed interest in assisting the Highlands Council in promoting the evaluation of potential TDR receiving areas.

Council Deliberation



Somerset County



Highlands Council Meeting

March 17, 2011





New Jersey Highlands Council

- [Home](#)
- [About the Council](#)
- [Highlands Act & Maps](#)
- [Master Plan](#)
- [Project Review](#)
- [Plan Conformance](#)
- [Grant Programs](#)
- [Stakeholders](#)
- [Rules and Permits](#)
- [News](#)
- [Highlands Development Credits \(TDR Program\)](#)



[Home](#) > [Plan Conformance](#) > [Lopatcong Township](#)

Lopatcong Township

Note: For faster downloads, right-click on a file and select "Save Target As..." to save it to your computer

Amended Petition for Plan Conformance

The Highlands Council approved the Township of Lopatcong Amended Petition for Plan Conformance at its meeting on January 19, 2012.

- [Resolution](#)

Lopatcong Township Highlands Center: Amended Petition Posting Prior to Public Hearing

The documents below include all edits made prior to the Highlands Council's consideration of Lopatcong Township's **Amended** Petition for Plan Conformance regarding the Lopatcong Township Highlands Center, which is scheduled for its meeting on January 19, 2012.

- [Final Posting Prior to Public Hearing](#) (1.85 MB zip)
 - [1-Final Consistency Review and Recommendations Report](#) (1.66 MB pdf)
 - [2-Public Comments/Highlands Council Responses](#) (91 KB pdf)
 - [3-Implementation Plan and Schedule](#) (193 KB pdf)

Lopatcong Township Highlands Center: Amended Petition Posting for Public Comment (Public Comment Period: Dec. 20, 2011 – Jan. 6, 2012)

The Township of Lopatcong has requested that the Highlands Council designate the Lopatcong Township Highlands Center, as an amendment to the Petition for Plan Conformance approved by the Highlands Council on March 17, 2011, through Highlands Council Resolution 2011-11. A public hearing for Lopatcong Township's Petition for Plan Conformance is scheduled for the Highlands Council meeting of January 19, 2012. The [public notice](#) for this hearing includes information on how to submit public comments.

Below please find the Final Draft Consistency Review and Recommendations Report prepared by Highlands Council staff for Highlands Council consideration of the Amended Petition, and a revised Highlands Implementation Plan & Schedule which addresses funding needs relating to the Amended Petition.

Note: To download all files, right-click on the "[Amended Petition Posting for Public Comment](#)" zip file and select "Save Target As..." to save it to your computer.

- [1a - Highlands Final Draft Consistency Review and Recommendations Report](#) (669 KB pdf)
- [1b - Amended Highlands Implementation Plan and Schedule](#) (194 KB pdf)

Petition for Plan Conformance

The Highlands Council approved Lopatcong Township's Petition for Plan Conformance at its meeting on March 17, 2011.

Note: For faster downloads, right-click on a file and select "Save Target As..." to save it to your computer.

- [Resolution](#)
- [Press Release](#)
- [Pictures](#)
- [Lopatcong Township Presentation](#)
- [Public Hearing: March 17, 2011](#)
- [Lopatcong Township Movie](#)

Note: To download all files, right-click on the [Petition Documents Approved by Highlands Council zip file](#) and select "Save Target As..." to save it to your computer.

- - [1 - Highlands Council Resolution 2011-11 Approval of Lopatcong Township's Petition for Plan Conformance](#) (414 KB pdf) (posted previously)
 - [1a - Highlands Final Consistency Review and Recommendations Report](#) (290 KB pdf) (posted 7/22/11)
 - [1b - Highlands Implementation Plan and Schedule](#) (170 KB pdf) (posted 7/22/11)
 - [2 - Highlands Municipal Build-Out Report](#) (1.32 MB pdf) (posted previously)
 - [3a - Adopted Housing Element](#) (199 KB pdf) (posted previously)
 - [3b - Adopted Fair Share Plan](#) (329 KB pdf) (posted previously)
 - [4 - Highlands Environmental Resource Inventory](#) (6.59 MB pdf) (posted previously)
 - [5 - Highlands Master Plan Element](#) (9.28 MB pdf) (posted previously)
 - [6 - Highlands Area Land Use Ordinance](#) (706 KB pdf) (posted previously)
 - [6a - Highlands Area Land Use Ordinance Exhibits](#) (9.66 MB pdf) (posted previously)

Final Posting Prior to Public Hearing

The documents below include all edits made prior to the Highlands Council's consideration of Lopatcong Township's Petition for Plan Conformance, which is scheduled for its meeting on March 17, 2011.

- [1 - Final Consistency Review and Recommendations Report](#) (469 KB pdf)
- [2 - Implementation Plan and Schedule](#) (178 KB pdf)
- [3 - Public Comments/Highlands Council Responses](#) (190 KB pdf)

Petition for Public Comment

Petition Posting for Public Comment (Public Comment Period: Feb. 17, 2011 - March 4, 2011)

A public hearing for Lopatcong Township's Petition for Plan Conformance is scheduled for the Highlands Council meeting of March 17, 2011. The [public notice for this hearing](#) includes information on how to submit public comments.

The following documents constitute the municipality's final submission to the Highlands Council and include the Final Draft Consistency Review and Recommendations Report prepared by Highlands Council staff for Highlands Council consideration of the full Petition.

Note: To download all files, right-click on the "[Petition Posting for Public Comment](#)" zip file and select "Save Target As..." to save it to your computer.

- [Petition Posting for Public Comment](#) (26 MB zip)
 - [1 - Final Draft Consistency Review & Recommendations Report](#) (266 KB pdf)

Final Housing Plan Submittals:

- [2a - Adopted Housing Element May 2010](#) (199 KB pdf)
- [2b - Adopted Fair Share Plan May 2010](#) (330 KB pdf)

Remaining Documents:

- [3 - Highlands ERI DRAFT February 2011](#) (7.1 MB pdf)
- [4 - Master Plan Highlands Element DRAFT February 2011](#) (9.6 MB pdf)
- [5 - Highlands Area Land Use Ordinance DRAFT January 2011](#) (707 KB pdf)
- [5a - Highlands Area Land Use Ordinance Exhibits](#) (9.8 MB pdf)
- [6 - Highlands Implementation Plan & Schedule February 2011](#) (179 KB pdf)

Note: For faster downloads, right-click on a file and select "Save Target As..." to save it to your computer. To most efficiently download all municipal petition documents, save the [Municipal Petition for Plan Conformance zip file](#) to your computer.

- Administrative Completeness Letter:
 - [Completeness Letter dated March 31, 2010](#) (551 KB pdf)
 - [Completeness Letter dated January 29, 2010](#) (679 KB pdf)
- [Highlands Council Response Letter dated March 26, 2010 re Municipal RMP Update and/or Map Adjustment Request\(s\)](#) (2.5 MB pdf)
- [Municipal Petition for Plan Conformance](#) (27 MB zip)
 - [Petition Cover Letter](#) (32 KB pdf)
 - [Petition Submittal Checklist](#) (100 KB pdf)
 - [Combined Preservation Area and Planning Area Resolution](#) (1.7 MB pdf)
 - [General Correspondence - Letter from Gary DosSantos, Ritter & Plante Associates, LLC](#) (129 KB pdf)
 - [Record of Public Involvement](#) (765 KB pdf)
 - [Current List of Planning/Regulatory Documents](#) (34 KB pdf)
 - Modules 1 and 2: See **Highlands Municipal Build-Out Report** below
 - Module 3:
 - [Affordable Housing Summary](#) (622 KB pdf)
 - [Module 4 Highlands ERI](#) (5.4 MB pdf)
 - [Module 5 Master Plan Highlands Element](#) (670 KB pdf)
 - [Module 6 Highlands Land Use Ordinance](#) (4.2 MB pdf)
 - Module 7:
 - [Municipal Self-Assessment Report](#) (226 KB pdf)
 - [Municipal Self-Assessment Checklist](#) (128 KB pdf)
 - [Implementation Plan and Schedule](#) (117 KB pdf)
 - Supporting Materials: [Redevelopment Plan for Lots 1 and 1.01, Block 101, May 2, 2007](#) (4.1 MB pdf)
 - Supporting Materials: [Redevelopment Plan for Lot 44, Block 2, May 6, 2003](#) (4.1 MB pdf)
 - [Map Adjustments](#) (2.5 MB pdf)
- [RMP Update No. NWA-UPD001-091214](#) (955 KB pdf)
- Municipal Resolution: [Notice of Intent](#) (pdf)
- Municipal Resolution: [COAH extension](#) (pdf)
- [Initial Assessment Grant Report](#) (pdf)
- [Highlands Municipal Build-Out Report](#) (pdf)
 - [Supporting Documents](#) (zip)



RESOLUTION 2011-11
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
APPROVAL OF THE PETITION FOR PLAN CONFORMANCE FOR
THE TOWNSHIP OF LOPATCONG, WARREN COUNTY

WHEREAS, the New Jersey Highlands Region (Highlands Region) is an area of over 859,358 acres that consists of 88 municipalities in parts of seven counties – Bergen, Hunterdon, Morris, Passaic, Somerset, Sussex and Warren; and

WHEREAS, the New Jersey Legislature found that the Highlands Region is an essential source of drinking water, providing clean and plentiful drinking water for one-half of the population of the State of New Jersey, and also contains other exceptional natural resources such as clean air, contiguous forest lands, agricultural lands, wetlands, pristine watersheds, and habitat for fauna and flora, as well as sites of historic significance and recreational opportunities; and

WHEREAS, the Legislature found that the Highlands Region also provides a desirable quality of life and place where people live and work, that it is important to ensure the economic viability of Highlands communities and that residential, commercial, and industrial development, redevelopment, and economic growth in certain appropriate areas of the Highlands are also in the best interests of all the citizens of the State, providing innumerable social, cultural, and economic benefits and opportunities; and

WHEREAS, the Legislature found that the Highlands Region contains agricultural lands in active production and that these lands are important resources of the State that should be preserved, that the agricultural industry in the Region is a vital component of the economy, welfare, and cultural landscape of the Garden State and that maintenance of agricultural production and a positive agricultural business climate should be encouraged to the maximum extent possible; and

WHEREAS, the Legislature found that the pace of development in the Highlands Region has dramatically increased, that the Region, because of its proximity to rapidly expanding suburban areas, is at serious risk of being fragmented and consumed by unplanned development and that the existing land use and environmental regulation system cannot protect the water and natural resources of the Highlands against the environmental impacts of sprawl development; and

WHEREAS, deeming protection of the Highlands Region an issue of State level importance, the Legislature enacted the Highlands Water Protection and Planning Act, N.J.S.A. 13:20-1 et seq. (Highlands Act), to establish a regional approach to land use planning for the Highlands Region to replace the uncoordinated land use decisions of 88 municipalities, seven counties and a myriad of private landowners; and

WHEREAS, the Highlands Act delineates two areas in the Highlands Region: a Preservation Area, containing approximately 415,000 acres, and a Planning Area, containing approximately 445,000 acres; and

WHEREAS, the Legislature created a public body corporate and politic with corporate succession known as the Highlands Water Protection and Planning Council (Highlands Council) to advance a new regional approach to land use planning and to prepare a Regional Master Plan to protect and enhance the significant values of the Highlands resources throughout the entire Highlands Region; and

RESOLUTION 2011-11
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
APPROVAL OF THE PETITION FOR PLAN CONFORMANCE FOR
THE TOWNSHIP OF LOPATCONG, WARREN COUNTY

WHEREAS, the Preservation Area is an area with exceptional natural resource value that should be subject to stringent water and natural resource protection standards, policies, planning and regulation; and

WHEREAS, the Planning Area is the area outside of the Preservation Area that should likewise 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 found that such a new regional approach to land use planning shall be complemented by increased standards more protective of the environment established by the New Jersey Department of Environmental Protection (NJDEP) for development in the Preservation Area of the Highlands; and

WHEREAS, the Legislature found that this comprehensive approach should be guided, in heart, mind, and spirit, by an abiding and generously given commitment to protecting the incomparable water resources and natural beauty of the New Jersey Highlands so as to preserve them intact, in trust, forever for the pleasure, enjoyment, and use of future generations while also providing every conceivable opportunity for appropriate economic growth and development to advance the quality of life of the residents of the Highlands Region and the entire State; and

WHEREAS, Sections 8 and 10 of the Highlands Act mandate that the Highlands Council prepare and adopt the Regional Master Plan with the goal of protecting and enhancing the significant values of the resources in the Highlands Region; and

WHEREAS, Section 10 of the Highlands Act establishes goals for the Regional Master Plan for both the Preservation Area and Planning Area, including 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; 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 Development and Redevelopment 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

RESOLUTION 2011-11
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
APPROVAL OF THE PETITION FOR PLAN CONFORMANCE FOR
THE TOWNSHIP OF LOPATCONG, WARREN COUNTY

WHEREAS, Sections 11 and 12 of the Highlands Act specifically require that the Regional Master Plan be comprised of (a) a Resource Assessment that seeks to determine the amount and type of human development and activity that can be sustained by the Highlands Region's ecosystem while maintaining the Region's overall ecological values; (b) a Financial Component that details the costs of implementing the Regional Master Plan, and details the sources of revenue for covering those costs; (c) a Local Participation Component that provides for the maximum feasible local government and public input; (d) a Coordination and Consistency Component that details the ways in which local, State, and federal programs and policies may be best coordinated to promote the goals, purposes, policies, and provisions of the Regional Master Plan; (e) a Transportation Component that provides a plan for transportation system preservation; (f) a Smart Growth Component that assesses opportunities for appropriate development, redevelopment, economic growth and a transfer of development rights program, and includes a Land Use Capability Map; (g) a Land Use Capability Map for the Preservation Area and a comprehensive statement of policies for the development and use of land in the Preservation Area; and (h) a statement of policies, including a preservation zone element that identifies zones within the Preservation Area where development shall not occur in order to protect water resources and environmentally sensitive lands and which shall be permanently preserved through use of a variety of tools, including but not limited to land acquisition and the transfer of development rights and minimum standards governing municipal and county master planning and development regulations; and

WHEREAS, after a careful analysis of the best available scientific and planning data and consultation with State, federal and local agencies pursuant to the Highlands Act, the Highlands Council adopted Resolution 2008-27 approving the Regional Master Plan on July 17, 2008 and, pursuant to the Highlands Act requirement for gubernatorial review, the Regional Master Plan thereafter became effective on September 8, 2008; and

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

WHEREAS, Section 14 of the Highlands Act expressly requires mandatory Plan Conformance where municipalities, located wholly or partially in the Preservation Area, must revise and conform their local master plan and development regulations, as they relate to development and use of land in the Preservation Area, with the goals, requirements and provisions of the Regional Master Plan within 15 months of adoption thereof, or December 8, 2009; and

WHEREAS, Section 15 of the Highlands Act provides for voluntary Plan Conformance where any municipality located wholly or partially in the Planning Area may voluntarily revise and conform their local master plans and development regulations, as they relate to the development and use of land in the Planning Area, with the goals, requirements and provisions of the Regional Master Plan at any time; and

RESOLUTION 2011-11
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
APPROVAL OF THE PETITION FOR PLAN CONFORMANCE FOR
THE TOWNSHIP OF LOPATCONG, WARREN COUNTY

WHEREAS, pursuant to Sections 14 and 15 of the Highlands Act, the Highlands Council shall approve, reject, or approve with conditions the revised plan and development regulations, as it deems appropriate, after public hearing, within 60 days after the date of submission thereof; and

WHEREAS, the Highlands Act provides that an approval of a Petition for Plan Conformance entitles the conforming municipality with specific benefits including: planning grants, technical assistance, state aid, priority for projects, tax stabilization funds, a strong presumption of validity and extraordinary deference in the event of legal challenge, and legal representation; and

WHEREAS, the Highlands Council approval of Resolution 2008-27 adopting the Regional Master Plan included the adoption of the Highlands Plan Conformance Guidelines that outlines the procedures, schedule, planning assistance, and benefits available for the submission of a Petition for Plan Conformance; and

WHEREAS, the Plan Conformance Guidelines provides a process for Plan Conformance requiring the submission of plans and regulations that are immediately necessary to ensure protection of the Highlands resources and resource areas with more complex tasks to be completed in accordance with an Implementation Plan and Schedule as a condition of Plan Conformance; and

WHEREAS, Section 18 of the Highlands Act obligates the Highlands Council to establish a grant funding program to reimburse municipalities for reasonable expenses associated with Plan Conformance; and

WHEREAS, on December 18, 2008, the Highlands Council approved Resolution 2008-73 to provide grant funding for the Highlands municipalities to cover the reasonable expenses associated with revisions to master plans, development regulations or other regulations to conform them to the Regional Master Plan; and

WHEREAS, under Resolution 2008-73, the Highlands Council authorized the Executive Director to develop and implement a process for the solicitation and distribution of the Plan Conformance Grants in a total amount not to exceed \$7.5 million and up to \$100,000 allocation for each individual municipality for Plan Conformance; and

WHEREAS, the Bylaws of the Highlands Council authorizes the Executive Director, as chief administrative officer, to approve contracts and issue payments up to \$25,000; and

WHEREAS, as directed, the Executive Director developed the Plan Conformance Grant Program, a program that splits Plan Conformance into the following seven steps or modules for administering the authorized grant funding: (1) and (2) Highlands municipal build-out analysis and report; (3) housing element and fair share plan; (4) Highlands environmental resource inventory; (5) master plan Highlands element; (6) Highlands Area land use ordinance; and (7) municipal Petition for Plan Conformance; and

WHEREAS, in the Township of Lopatcong 1,049 acres are in the Preservation Area and 3,672 acres are in the Planning Area; and

RESOLUTION 2011-11
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
APPROVAL OF THE PETITION FOR PLAN CONFORMANCE FOR
THE TOWNSHIP OF LOPATCONG, WARREN COUNTY

WHEREAS, on December 7, 2009, the Township of Lopatcong submitted a Petition for Plan Conformance including one resolution for all lands lying in the Preservation Area and all lands lying in the Planning Area; and

WHEREAS, on March 31, 2010, the Executive Director deemed the Petition for Plan Conformance administratively complete, and on April 9, 2010, posted the Petition documents on the Highlands Council website and thereafter commenced staff review of the Petition for consistency with the Regional Master Plan; and

WHEREAS, on December 16, 2010, the Executive Director provided the Township of Lopatcong with a Draft Consistency Review and Recommendations Report, which provides the staff's assessment of the Petition for Plan Conformance, the level of conformance with the Regional Master Plan, and recommendations for any further actions necessary for Plan Conformance; and

WHEREAS, the Executive Director provided the Township of Lopatcong with a deliberative municipal response period allowing the Township of Lopatcong to review and respond to the Draft Consistency Review and Recommendations Report; and

WHEREAS, on February 17, 2011, the Executive Director completed the Final Draft Consistency Review and Recommendations Report, and posted a Public Notice, the Final Draft Consistency Review and Recommendations Report, Highlands Implementation Plan and Schedule, and the complete Petition documents on the Highlands Council website for a public review and comment period with written comments due on or before March 4, 2011; and

WHEREAS, the Highlands Implementation Plan and Schedule includes a detailed accounting of the existing Plan Conformance Grants and the allocation of additional grant funding in order to address the Highlands Act requirements for Plan Conformance funding; and

WHEREAS, on March 15, 2011, the Executive Director posted the Final Consistency Review and Recommendations Report and Highlands Implementation Plan and Schedule on the Highlands Council website which addressed issues raised during the public comment period; and

WHEREAS, on March 17, 2011, the Highlands Council held a public hearing on the Township of Lopatcong's Petition for Plan Conformance and provided an opportunity for public comment; and

WHEREAS, the Highlands Council accepts the recommendation of the Executive Director as stated in the Final Consistency Review and Recommendations Report; and

WHEREAS, according to the Highlands Act and the Plan Conformance Guidelines, the Township of Lopatcong's compliance with an approved Final Consistency Review and Recommendations Report, the Highlands Implementation Plan and Schedule, the Highlands Plan Conformance Guidelines and the Highlands Act shall maintain the Township of Lopatcong's status as conforming to the Regional Master Plan and all statutory benefits associated with Plan Conformance; and

RESOLUTION 2011-11
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
APPROVAL OF THE PETITION FOR PLAN CONFORMANCE FOR
THE TOWNSHIP OF LOPATCONG, WARREN COUNTY

WHEREAS, the Plan Conformance Guidelines recognizes that conformance in the Planning Area is voluntary under the Highlands Act and provides that the period of an approval of a Petition for Plan Conformance shall be for a period of no more than six (6) years, or until six (6) months after the completion of a reexamination by the Township of Lopatcong of its master plan and development regulations as required by the Municipal Land Use Law, or until one (1) year after the Highlands Council adopts its six-year reexamination of the Regional Master Plan, whichever time period is the shorter; the six (6) month and one (1) year periods provided herein allowing time for the submittal and processing of petitions for a re-examination of Plan Conformance before the Highlands Council; and

WHEREAS, the Plan Conformance Guidelines provides that no amendment to any master plan or development regulations applicable to the development and use of land in the Township of Lopatcong shall be effective until the Township of Lopatcong has submitted such amendment to the Highlands Council and such amendment has been found by the Council to be in conformance with the Regional Master Plan, or the Executive Director has notified the Township of Lopatcong that such amendment does not affect the Highlands Council's prior finding of Plan Conformance; and

WHEREAS, the Plan Conformance Guidelines provides that following the receipt of any amendment to the Township of Lopatcong's master plan or development regulations, the Executive Director is required to determine whether or not the amendment raises a substantive issue with respect to the conformance of the municipal master plan or development regulations with the Regional Master Plan, and

WHEREAS, the Plan Conformance Guidelines provides that if the Executive Director determines no such substantive issue is raised with respect to an amendment, the Executive Director shall certify such fact and notify the Clerk of the Township of Lopatcong and the Highlands Council, and shall provide notice on the Highlands Council website, and such amendment shall thereupon take effect in accordance with its terms and applicable law; and

WHEREAS, the Plan Conformance Guidelines provides that if the Executive Director determines that an amendment raises a substantive issue with respect to the conformance of the municipal master plan or development regulations to the Regional Master Plan, the amended municipal master plan or development regulations shall be reviewed in accordance with the Plan Conformance Guidelines; and

WHEREAS, pursuant to N.J.S.A. 13:20-5.j, no action authorized by the Highlands Council shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Council has been delivered to the Governor for review, unless prior to expiration of the review period the Governor shall approve same, in which case the action shall become effective upon such approval.

NOW, THEREFORE, BE IT RESOLVED that the Highlands Council hereby approves the Township of Lopatcong's Petition for Plan Conformance with conditions as set forth in the Final

RESOLUTION 2011-11
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
APPROVAL OF THE PETITION FOR PLAN CONFORMANCE FOR
THE TOWNSHIP OF LOPATCONG, WARREN COUNTY

Consistency Review and Recommendations Report and the Highlands Implementation Plan and Schedule; and

BE IT FURTHER RESOLVED that the Highlands Council hereby approves the Township of Lopatcong's Highlands Implementation Plan and Schedule including the reallocation of the existing Plan Conformance Grant and the allocation of additional grant funding to pay for the reasonable expenses incurred to complete the Plan Conformance conditions; and

BE IT FURTHER RESOLVED that the Executive Director is authorized to make any amendments and publicly release the Final Consistency Review and Recommendations Report, Highlands Implementation Plan and Schedule, and amend the Plan Conformance Grant Agreement consistent with direction from the Highlands Council, to properly effectuate the intent of the Council and thereafter execute the Report and Schedule on behalf of the Council; and

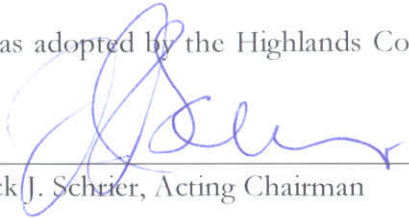
BE IT FURTHER RESOLVED, that the Township of Lopatcong is hereby entitled to the statutory benefits associated with Plan Conformance as detailed in the Highlands Act, the Regional Master Plan and the Plan Conformance Guidelines, so long as the Township of Lopatcong remains in conformance with the Regional Master Plan and to the extent such funds are made available by the State; and

BE IT FURTHER RESOLVED, the Executive Director is authorized, consistent with direction from the Council, to oversee and monitor the Township of Lopatcong's compliance with this Resolution and to take any and all action necessary in coordination with the Highlands Council.

RESOLUTION 2011-11
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
APPROVAL OF THE PETITION FOR PLAN CONFORMANCE FOR
THE TOWNSHIP OF LOPATCONG, WARREN COUNTY

CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its regular meeting held on the 17th day of March, 2011.



 Jack J. Schrier, Acting Chairman

Vote of the Approval of This Resolution	Motion	Second	Yes	No	Abstain	Absent
Councilmember Alstede			✓			
Councilmember Carluccio				✓		
Councilmember Cogger			✓			
Councilmember Francis			✓			
Councilmember Holtaway		✓	✓			
Councilmember Kovach			✓			
Councilmember Letts			✓			
Councilmember Richko			✓			
Councilmember Vetrano						✓
Councilmember Visioli	✓		✓			
Acting Chairman Schrier			✓			



New Jersey Highlands Council

- [Home](#)
- [About the Council](#)
- [Highlands Act & Maps](#)
- [Master Plan](#)
- [Project Review](#)
- [Plan Conformance](#)
- [Grant Programs](#)
- [Stakeholders](#)
- [Rules and Permits](#)
- [News](#)
- [Highlands Development Credits \(TDR Program\)](#)



[Home](#) > [Plan Conformance](#) > [Somerset County](#)

Somerset County

The Highlands Council approved Somerset County's Petition for Plan Conformance at its meeting on March 17, 2011.

Note: For faster downloads, right-click on a file and select "Save Target As..." to save it to your computer.

- [Resolution](#)
- [Press Release](#)
- [Somerset County Presentation](#)
- [Public Hearing: March 17, 2011](#)

- [Highlands Council Approved Documents](#) (33 MB zip):

Note: To download all files, right-click on the [Highlands Council Approved Documents zip file](#) and select "Save Target As..." to save it to your computer.

- [1 - Highlands Council Resolution 2011-12 Approval of Somerset County's Petition for Plan Conformance](#) (460 KB pdf) (posted 5/17/11)
- [1a - Highlands Final Consistency Review and Recommendations Report](#) (328 KB pdf) (posted 5/17/11)
- [1b - Highlands Implementation Plan and Schedule](#) (116 KB pdf) (posted 5/17/11)
- [2 - Highlands Environmental Resource Inventory](#) (874 KB pdf) (posted 5/17/11)
- [2a - Highlands ERI Exhibits](#) (22 MB pdf) (posted 5/17/11)
- [3 - Highlands Master Plan Element](#) (1.07 MB pdf) (posted 5/17/11)
- [3a - Highlands Master Plan Element Exhibits](#) (17 MB pdf) (posted 5/17/11)
- [4 - Highlands Land Development Resolution](#) (194 KB pdf) (posted 5/17/11)

Final Posting Prior to Public Hearing

The documents below include all edits made prior to the Highlands Council's consideration of Somerset County's Petition for Plan Conformance, which is scheduled for its meeting on March 17, 2011.

- [1 - Final Consistency Review and Recommendations Report](#) (77 KB pdf)
- [2 - Implementation Plan and Schedule](#) (111 KB pdf)

Petition Posting for Public Comment (Public Comment Period: Feb. 17, 2011 - March 4, 2011)

A public hearing for Somerset County's Petition for Plan Conformance is scheduled for the Highlands Council's 4 p.m. meeting on March 17, 2011. The [public notice](#) for this hearing includes information on how to submit public comments.

The following documents constitute the county's final submission to the Highlands Council and include the Final Draft Consistency Review and Recommendations Report prepared by Highlands Council staff for Highlands Council consideration of the full Petition.

Note: To download all files, right-click on the "[Petition Posting for Public Comment](#)" zip file and select "Save Target As..." to save it to your computer.

- [Petition Posting for Public Comment](#) (37 MB zip)
 - [1 - Final Draft Consistency Review & Recommendations Report](#) (341 KB pdf)
 - Task A:
 - [2 - Highlands ERI February 2011](#) (755 KB pdf)
 - [2a - Highlands ERI Exhibits](#) (22 MB)
 - Task B:
 - [3 - Master Plan Highlands Element February 2011](#) (473 KB pdf)
 - [3a - Highlands Element Exhibits](#) (23 MB pdf)
 - Task C:
 - [4 - Land Development Resolution February 2011](#) (139 KB pdf)
 - Task D:
 - [5 - Highlands Implementation Plan & Schedule February 2011](#) (233 KB pdf)

Petition for Plan Conformance

Note: For faster downloads, right-click on a file and select "Save Target As..." to save it to your computer. To most efficiently download all petition documents, save the [Petition for Plan Conformance zip file](#) to your computer.

- Administrative Completeness Letter:
 - [Completeness Letter dated August 12, 2010](#) (204 KB pdf)
 - [Completeness Letter dated February 8, 2010](#) (804 KB pdf)
- [Petition for Plan Conformance](#) (21 MB zip)
 - [Petition Cover Letter](#) (292 KB pdf)
 - [Petition Submittal Checklist](#) (75 KB pdf)
 - [Preservation Area Resolution \(Planning Board\)](#) (579 KB pdf)
 - [Preservation Area Resolution \(Freeholder Board\)](#) (579 KB pdf)
 - [Current List of Planning/Regulatory Documents](#) (8 KB pdf)
 - Task A:
 - [Highlands ERI](#) (529 KB pdf)
 - [Highlands ERI Exhibits](#) (22.6 MB pdf)
 - Task B:

- [Master Plan Highlands Element](#) (520 KB pdf)
- Task C:
 - [Land Development Resolution](#) (73 KB pdf)
- Task D:
 - [County Self-Assessment Report](#) (34 KB pdf)
 - [County Self-Assessment Checklist](#) (87 KB pdf)
 - [Implementation Plan and Schedule](#) (989 KB pdf)



RESOLUTION 2011-12
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
APPROVAL OF THE PETITION FOR PLAN CONFORMANCE FOR
THE COUNTY OF SOMERSET, STATE OF NEW JERSEY

WHEREAS, the New Jersey Highlands Region (Highlands Region) is an area of over 859,358 acres that consists of 88 municipalities in parts of seven counties – Bergen, Hunterdon, Morris, Somerset, Somerset, Sussex and Warren; and

WHEREAS, the New Jersey Legislature found that the Highlands Region is an essential source of drinking water, providing clean and plentiful drinking water for one-half of the population of the State of New Jersey, and also contains other exceptional natural resources such as clean air, contiguous forest lands, agricultural lands, wetlands, pristine watersheds, and habitat for fauna and flora, as well as sites of historic significance and recreational opportunities; and

WHEREAS, the Legislature found that the Highlands Region also provides a desirable quality of life and place where people live and work, that it is important to ensure the economic viability of Highlands communities and that residential, commercial, and industrial development, redevelopment, and economic growth in certain appropriate areas of the Highlands are also in the best interests of all the citizens of the State, providing innumerable social, cultural, and economic benefits and opportunities; and

WHEREAS, the Legislature found that the Highlands Region contains agricultural lands in active production and that these lands are important resources of the State that should be preserved, that the agricultural industry in the Region is a vital component of the economy, welfare, and cultural landscape of the Garden State and that maintenance of agricultural production and a positive agricultural business climate should be encouraged to the maximum extent possible; and

WHEREAS, the Legislature found that the pace of development in the Highlands Region has dramatically increased, that the Region, because of its proximity to rapidly expanding suburban areas, is at serious risk of being fragmented and consumed by unplanned development and that the existing land use and environmental regulation system cannot protect the water and natural resources of the Highlands against the environmental impacts of sprawl development; and

WHEREAS, deeming protection of the Highlands Region an issue of State level importance, the Legislature enacted the Highlands Water Protection and Planning Act, N.J.S.A. 13:20-1 et seq. (Highlands Act), to establish a regional approach to land use planning for the Highlands Region to replace the uncoordinated land use decisions of 88 municipalities, seven counties and a myriad of private landowners; and

WHEREAS, the Highlands Act delineates two areas in the Highlands Region: a Preservation Area, containing approximately 415,000 acres, and a Planning Area, containing approximately 445,000 acres; and

WHEREAS, the Legislature created a public body corporate and politic with corporate succession known as the Highlands Water Protection and Planning Council (Highlands Council) to advance a new regional approach to land use planning and to prepare a Regional Master Plan to protect and enhance the significant values of the Highlands resources throughout the entire Highlands Region; and

RESOLUTION 2011-12
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
APPROVAL OF THE PETITION FOR PLAN CONFORMANCE FOR
THE COUNTY OF SOMERSET, STATE OF NEW JERSEY

WHEREAS, the Preservation Area is an area with exceptional natural resource value that should be subject to stringent water and natural resource protection standards, policies, planning and regulation; and

WHEREAS, the Planning Area is the area outside of the Preservation Area that should likewise 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 found that such a new regional approach to land use planning shall be complemented by increased standards more protective of the environment established by the New Jersey Department of Environmental Protection (NJDEP) for development in the Preservation Area of the Highlands; and

WHEREAS, the Legislature found that this comprehensive approach should be guided, in heart, mind, and spirit, by an abiding and generously given commitment to protecting the incomparable water resources and natural beauty of the New Jersey Highlands so as to preserve them intact, in trust, forever for the pleasure, enjoyment, and use of future generations while also providing every conceivable opportunity for appropriate economic growth and development to advance the quality of life of the residents of the Highlands Region and the entire State; and

WHEREAS, Sections 8 and 10 of the Highlands Act mandate that the Highlands Council prepare and adopt the Regional Master Plan with the goal of protecting and enhancing the significant values of the resources in the Highlands Region; and

WHEREAS, Section 10 of the Highlands Act establishes goals for the Regional Master Plan for both the Preservation Area and Planning Area, including 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; 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 Development and Redevelopment 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

RESOLUTION 2011-12
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
APPROVAL OF THE PETITION FOR PLAN CONFORMANCE FOR
THE COUNTY OF SOMERSET, STATE OF NEW JERSEY

WHEREAS, Sections 11 and 12 of the Highlands Act specifically require that the Regional Master Plan be comprised of (a) a Resource Assessment that seeks to determine the amount and type of human development and activity that can be sustained by the Highlands Region's ecosystem while maintaining the Region's overall ecological values; (b) a Financial Component that details the costs of implementing the Regional Master Plan, and details the sources of revenue for covering those costs; (c) a Local Participation Component that provides for the maximum feasible local government and public input; (d) a Coordination and Consistency Component that details the ways in which local, State, and federal programs and policies may be best coordinated to promote the goals, purposes, policies, and provisions of the Regional Master Plan; (e) a Transportation Component that provides a plan for transportation system preservation; (f) a Smart Growth Component that assesses opportunities for appropriate development, redevelopment, economic growth and a transfer of development rights program, and includes a Land Use Capability Map; (g) a Land Use Capability Map for the Preservation Area and a comprehensive statement of policies for the development and use of land in the Preservation Area; and (h) a statement of policies, including a preservation zone element that identifies zones within the Preservation Area where development shall not occur in order to protect water resources and environmentally sensitive lands and which shall be permanently preserved through use of a variety of tools, including but not limited to land acquisition and the transfer of development rights and minimum standards governing municipal and county master planning and development regulations; and

WHEREAS, after a careful analysis of the best available scientific and planning data and consultation with State, federal and local agencies pursuant to the Highlands Act, the Highlands Council adopted Resolution 2008-27 approving the Regional Master Plan on July 17, 2008 and, pursuant to the Highlands Act requirement for gubernatorial review, the Regional Master Plan thereafter became effective on September 8, 2008; and

WHEREAS, the Highlands Act creates a bifurcated system for county conformance with the Regional Master Plan – mandatory Plan Conformance for any portion of a county located wholly or partially in the Preservation Area and voluntary Plan Conformance for the counties with lands in the Planning Area; and

WHEREAS, Section 14 of the Highlands Act expressly requires mandatory Plan Conformance where counties, located wholly or partially in the Preservation Area, must revise and conform their county master plan and associated regulations, as they relate to development and use of land in the Preservation Area, with the goals, requirements and provisions of the Regional Master Plan within 15 months of adoption thereof, or December 8, 2009; and

WHEREAS, Section 15 of the Highlands Act provides for voluntary Plan Conformance where any county with lands in the Planning Area may voluntarily revise and conform their county master plans and associated regulations, as they relate to the development and use of land in the Planning Area, with the goals, requirements and provisions of the Regional Master Plan at any time; and

WHEREAS, pursuant to Sections 14 and 15 of the Highlands Act, the Highlands Council shall approve, reject, or approve with conditions the revised plan and associated regulations, as it deems appropriate, after public hearing, within 60 days after the date of submission thereof; and

RESOLUTION 2011-12
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
APPROVAL OF THE PETITION FOR PLAN CONFORMANCE FOR
THE COUNTY OF SOMERSET, STATE OF NEW JERSEY

WHEREAS, the Highlands Act provides that an approval of a Petition for Plan Conformance entitles the conforming county with specific benefits including: planning grants, technical assistance, state aid, priority for projects, tax stabilization funds, a strong presumption of validity and extraordinary deference in the event of legal challenge, and legal representation; and

WHEREAS, the Highlands Council approval of Resolution 2008-27 adopting the Regional Master Plan included the adoption of the Highlands Plan Conformance Guidelines that outlines the procedures, schedule, planning assistance, and benefits available for the submission of a Petition for Plan Conformance; and

WHEREAS, the Plan Conformance Guidelines provides a process for Plan Conformance requiring the submission of plans and regulations that are immediately necessary to ensure protection of the Highlands resources and resource areas with more complex tasks to be completed in accordance with an Implementation Plan and Schedule as a condition of Plan Conformance; and

WHEREAS, Section 18 of the Highlands Act obligates the Highlands Council to establish a grant funding program to reimburse counties for reasonable expenses associated with Plan Conformance; and

WHEREAS, on December 18, 2008, the Highlands Council approved Resolution 2008-73 to provide grant funding for the Highlands counties to cover the reasonable expenses associated with revisions to master plans, development regulations or other regulations to conform them to the Regional Master Plan; and

WHEREAS, under Resolution 2008-73, the Highlands Council authorized the Executive Director to develop and implement a process for the solicitation and distribution of the Plan Conformance Grants in a total amount not to exceed \$7.5 million and up to a \$50,000 allocation for each individual county for Plan Conformance; and

WHEREAS, the Bylaws of the Highlands Council authorizes the Executive Director, as chief administrative officer, to approve contracts and issue payments up to \$25,000; and

WHEREAS, as directed, the Executive Director developed the Plan Conformance Grant Program, a program that splits Plan Conformance into the following tasks for administering the authorized grant funding: Task A: Environmental Resource Inventory, Task B: Highlands Element for County Master Plans, Task C: Highlands Regulations for Development of County Lands and Facilities, and Task D: County Petition for Plan Conformance; and

WHEREAS, in the County of Somerset 1,009 acres are in the Preservation Area and 46,546 acres are in the Planning Area; and

WHEREAS, on December 8, 2009, Somerset County submitted a Petition for Plan Conformance including one resolution for all lands lying in the Preservation Area; and

RESOLUTION 2011-12
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
APPROVAL OF THE PETITION FOR PLAN CONFORMANCE FOR
THE COUNTY OF SOMERSET, STATE OF NEW JERSEY

WHEREAS, on August 12, 2010, the Executive Director deemed the Petition for Plan Conformance administratively complete, and on August 20, 2010, posted the Petition documents on the Highlands Council website and thereafter commenced staff review of the Petition for consistency with the Regional Master Plan; and

WHEREAS, on January 13, 2011, the Executive Director provided Somerset County with a Draft Consistency Review and Recommendations Report, which provides the staff's assessment of the Petition for Plan Conformance, the level of conformance with the Regional Master Plan, and recommendations for any further actions necessary for Plan Conformance; and

WHEREAS, the Executive Director provided Somerset County with a deliberative county response period allowing Somerset County to review and respond to the Draft Consistency Review and Recommendations Report; and

WHEREAS, on February 17, 2011, the Executive Director completed the Final Draft Consistency Review and Recommendations Report, and posted a Public Notice, the Final Draft Consistency Review and Recommendations Report, and the complete Petition documents on the Highlands Council website for a public review and comment period with written comments due on or before March 4, 2011; and

WHEREAS, on March 15, 2011, the Executive Director posted the Final Consistency Review and Recommendations Report and Highlands Implementation Plan and Schedule on the Highlands Council website which addressed issues raised during the public comment period; and

WHEREAS, the Highlands Implementation Plan and Schedule includes an allocation of Plan Conformance grant funding in order to address the Highlands Act requirements for Plan Conformance funding; and

WHEREAS, on March 17, 2011, the Highlands Council held a public hearing on Somerset County's Petition for Plan Conformance and provided an opportunity for public comment; and

WHEREAS, the Highlands Council accepts the recommendation of the Executive Director as stated in the Final Consistency Review and Recommendations Report; and

WHEREAS, according to the Highlands Act and the Plan Conformance Guidelines, Somerset County's compliance with an approved Final Consistency Review and Recommendations Report, the Highlands Implementation Plan and Schedule, the Highlands Plan Conformance Guidelines and the Highlands Act shall maintain Somerset County's status as conforming to the Regional Master Plan and all statutory benefits associated with Plan Conformance; and

WHEREAS, the Plan Conformance Guidelines provides that no amendment to any master plan or development regulations applicable to the development and use of land in the Preservation Area within Somerset County shall be effective until Somerset County has submitted such amendment to the Highlands Council and such amendment has been found by the Council to be in conformance with the Regional Master Plan, or the Executive Director has notified Somerset County that such amendment does not affect the Highlands Council's prior finding of Plan Conformance; and

RESOLUTION 2011-12
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
APPROVAL OF THE PETITION FOR PLAN CONFORMANCE FOR
THE COUNTY OF SOMERSET, STATE OF NEW JERSEY

WHEREAS, the Plan Conformance Guidelines provides that following the receipt of any amendment to Somerset County's master plan or development regulations, the Executive Director is required to determine whether or not the amendment raises a substantive issue with respect to the conformance of the county master plan or development regulations with the Regional Master Plan, and

WHEREAS, the Plan Conformance Guidelines provides that if the Executive Director determines no such substantive issue is raised with respect to an amendment, the Executive Director shall certify such fact and notify the Clerk of Somerset County and the Highlands Council, and shall provide notice on the Highlands Council website, and such amendment shall thereupon take effect in accordance with its terms and applicable law; and

WHEREAS, the Plan Conformance Guidelines provides that if the Executive Director determines that an amendment raises a substantive issue with respect to the conformance of the county master plan or development regulations to the Regional Master Plan, the amended county master plan or development regulations shall be reviewed in accordance with the Plan Conformance Guidelines; and

WHEREAS, pursuant to N.J.S.A. 13:20-5.j, no action authorized by the Highlands Council shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Council has been delivered to the Governor for review, unless prior to expiration of the review period the Governor shall approve same, in which case the action shall become effective upon such approval.

NOW, THEREFORE, BE IT RESOLVED that the Highlands Council hereby approves Somerset County's Petition for Plan Conformance with conditions as set forth in the Final Consistency Review and Recommendations Report and the Highlands Implementation Plan and Schedule; and

BE IT FURTHER RESOLVED that the Highlands Council hereby approves Somerset County's Highlands Implementation Plan and Schedule which includes an allocation of grant funding in order to address the Highlands Act requirements for Plan Conformance funding; and

BE IT FURTHER RESOLVED that the Executive Director is authorized to make any amendments and publically release the Final Consistency Review and Recommendations Report, Highlands Implementation Plan and Schedule, and amend the Plan Conformance Grant Agreement consistent with direction from the Highlands Council, to properly effectuate the intent of the Council and thereafter execute the Report and Schedule on behalf of the Council; and

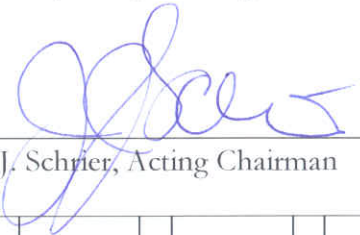
BE IT FURTHER RESOLVED, that Somerset County is hereby entitled to the statutory benefits associated with Plan Conformance as detailed in the Highlands Act, the Regional Master Plan and the Plan Conformance Guidelines, so long as Somerset County remains in conformance with the Regional Master Plan and to the extent such funds are made available by the State; and

RESOLUTION 2011-12
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
APPROVAL OF THE PETITION FOR PLAN CONFORMANCE FOR
THE COUNTY OF SOMERSET, STATE OF NEW JERSEY

BE IT FURTHER RESOLVED, the Executive Director is authorized, consistent with direction from the Council, to oversee and monitor Somerset County's compliance with this Resolution and to take any and all action necessary in coordination with the Highlands Council.

CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its regular meeting held on the 17th day of March 2011.



 Jack J. Schrier, Acting Chairman

Vote of the Approval of This Resolution	Motion	Second	Yes	No	Abstain	Absent
Councilmember Alstede			✓			
Councilmember Carluccio			✓			
Councilmember Cogger			✓			
Councilmember Francis			✓			
Councilmember Holtaway			✓			
Councilmember Kovach			✓			
Councilmember Letts	✓		✓			
Councilmember Richko			✓			
Councilmember Vetrano						✓
Councilmember Visioli		✓	✓			
Acting Chairman Schrier			✓			