

NEW JERSEY HIGHLANDS WATER PROTECTION
AND PLANNING COUNCIL
MINUTES OF THE MEETING OF JULY 12, 2007

PRESENT

JOHN WEINGART)	CHAIRMAN
KURT ALSTEDE)	COUNCIL MEMBERS
ELIZABETH CALABRESE)	
TRACY CARLUCCIO)	
BILL COGGER)	
TIM DILLINGHAM)	
MIMI LETTS)	
ERIK PETERSON)	
JACK SCHRIER)	
TAHESHA WAY)	
SCOTT WHITENACK)	

ABSENT

JANICE KOVACH
DEBBIE PASQUARELLI
GLEN VETRANO

CALL TO ORDER

The Chairman of the Council, John Weingart, called the 51st meeting of the New Jersey Highlands Water Protection and Planning Council to order at 10:10 am.

ROLL CALL

The members of the Council introduced themselves.

OPEN PUBLIC MEETINGS ACT

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

PLEDGE OF ALLEGIANCE was then recited.

APPROVAL OF MINUTES OF JUNE 7, 2007

Mr. Schrier introduced a motion and Ms. Way seconded it. All members present voted yes and the minutes were APPROVED.

APPROVAL OF MINUTES OF JUNE 14, 2007

Mr. Schrier introduced a motion and Ms. Letts seconded it. Ms. Calabrese abstained. All other members voted yes and the minutes were APPROVED.

CHAIRMAN'S REPORT

Chairman Weingart announced that there would be an opportunity for Public Comment before any vote on a resolution and the end of the meeting that there would be another opportunity.

EXECUTIVE DIRECTOR'S REPORT

Ms. Swan commented that the major focus of the work in the last month has been the condensation and summarization of the Public Comments so that the staff and council can begin the work of deciding how the comments influence the final plan. She also reported that there had been two days of meetings with Mr. Siemon with staff and individual units to address critical Plan development issues.

Kurt Alstede joined the meeting.

Ms. Swan continued the discussion of the schedule for the Siemon contract. Mr. Siemon will be back July 16 and July 17 to develop a work plan and then will be available to discuss the outline of the final plan for consideration of the Council at the full Council meeting in August when the Council will have the opportunity to get advice and direction from the Council.

Various meetings have been held over the past month:

- Highlands County Planners
- Roxbury Township
- Mount Arlington
- Washington Borough
- Mendham Township
- SADC Appraisers Conference
- DOT and Byram Township
- Testimony on Statewide TDR bill A3864 before Assembly Environment & Solid Waste Committee
- Interview with WMBC on TDR A3864
- Meetings with DEP to discuss Redevelopment Site Approval coordination
- New Jersey Forestry Association
- Clinton Township

Upcoming Meetings

- Clinton Township
- Pinelands PDC Program
- Smart Growth Policy Team
- Highland County Planners
- Highlands Raritan Compact

Ms. Swan announced that Patty Sly would be leaving tomorrow and complimented her diverse talents and contribution to the mission. She has accepted the Executive Director position of New Jersey Battered Women in Morristown. Ms. Swan expressed her wishes for

Patty's success along with the thanks of the entire staff commenting that her new organization was so fortunate to get her.

Ms. Swan introduced the new staff members: Cindy Tonczos, Administration; Chris Frost, GIS; and Liz Carlson, Administration.

Mr. Dillingham asked that the Attorney General's office opinion on the Highlands Act and its relationship to the State Plan be resent. He also asked if the work plan with Charlie Siemon would be shared with the Plan Development Committee. Ms Swan responded that the previous Plan Development direction was what Mr. Siemon was working from.

CONSIDERATION OF RESOLUTION REGARDING APPROVAL OF NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL PROCESS FOR THE REVIEW OF WASTEWATER QUALITY MANAGEMENT PLANS AND PLAN AMENDMENTS

Mr. Dillingham introduced the motion and Ms. Carluccio seconded it. Mr. Dillingham reviewed the elements of the resolution. He commented that the Council's review of Water Quality Management Plan (WQMP) amendments is one of the most important issues before and after the adoption of the Plan. The proposed process is that the Natural Resources Committee and Executive Director would be authorized to review and take action on behalf of the Council for the proposed WQMP amendments in the Highlands Region. The Natural Resources Committee would obtain a staff recommendation on all proposed WQMP amendments and would act on those recommendations unless, during a seven working day period after sending the recommended action, a Council member requested that the matter be brought to the full Council.

Ms. Letts asked if the minutes from the Natural Resources Committee were available to the whole Council and Ms. Swan confirmed that the Chair Report which constitute the meeting minutes will be shared. Mr. Alstede as a member of the Natural Resources Committee spoke against the resolution. He commented that he did not believe there was a strong enough unanimity among the Council members to delegate authority on this matter to the Natural Resources Committee. He recommended that at each Council meeting, the members be presented with a list broken down by exempt vs. non-exempt projects.

Ms. Carluccio spoke in favor of the resolution and commented that the major task at hand was trying to complete the final master plan and working to put out public comments. Although DEP had held up the WQMP plans, they were now forwarding them for review by the Highlands Council. She complimented the staff for putting together the checklist and a model that works. She supported the hierarchy of importance for the project review and felt that there would have to be two Council meetings per month. She cited the example of the Mansfield discussion today as time consuming and asked for the trust of the Council members to try to make this approach work.

Mr. Dillingham quoting Ronald Reagan "Trust but verify" and commented that his sense of the workload for area wide projects was that there were no "ripe" ones coming up, but primarily minor projects. Ms. Swan said that there were no area wide projects within the next 90 days and that the last list obtained from DEP had 21 projects with 3 currently ripe for review.

Mr. Schrier thanked staff for the answers provided and asked if the 3 ripe projects could wait until August 16 meeting. He spoke against relinquishing authority to the committee, although he commended the diligence of the Natural Resources Committee. Mr. Alstede also spoke in favor of major policy decisions being brought before the full Council. Ms. Swan commented that these reviews were time sensitive. Ms. Calabrese asked of the consequences to the applicant. Mr. Whitenack answered that some of the applications needed to obtain bids. Mr. Schirer asked if it were possible to limit this process to deal only with applications that deal with exemptions and give the Council a greater degree of confidence by expanding the number of members on the Natural Resources Committee. He also commented that in recent months there had been discussion about getting Council members more involved. Chairman Weingart then asked for Public Comment on this matter.

PUBLIC COMMENT

Lewis Goldshore, Esq.

Mr. Goldshore commenting on the Mansfield Township matter said that he had looked at the Resolution and DEP regulation N.J.A.C. 7:38-1.1(k) and it was his opinion that before final plan adoption the DEP was seeking recommendations from the Highlands Council. He believes that while he understands the concern for expediting these applications, that delegating this authority to the committee level is not what the regulation calls for. He continued by commenting that the Highlands Council is only making recommendations and that the ultimate responsibility lies elsewhere.

Jeff Tittel, Sierra Club Director

Mr. Tittel believes that the Highlands Council should be looking at the impact that exemption projects have as there is a finite amount of water. Ms. Carluccio said that the procedures were put out for public comment and that the importance of the projects was a reason to review the projects at the committee level where the time could be spent to review.

David Shope, Long Valley

He stated that he had attended the Natural Resources Committee meeting and that he felt that nothing had been resolved. He commented that with there was no plan and this applicant had been held up since 1999. He recommended that in the absence of a plan that the project should go forward.

Julia Somers, NJ Highlands Coalition

She asked that the Chairman (Weingart) not allow members of the public to be disrespectful in addressing Council members. She advocated for review of exempt projects for water quality and water quantity. She believes that the DEP needs to know how exempt projects fit into the draft master plan. She also commented that if the Council were to have a final plan, that the process of project review needed to be streamlined.

Helen Heinrich, Professional Planner, NJ Farm Bureau

She supports the whole Council taking action and feels that the checklist needs more work. She recommended that in making decisions that the following elements need to be examined: Smart Growth, Economic Development, Transportation and Housing. She also

recommended that the Highlands Council inform DEP that the comments are based on the draft plan.

Susan Buck, Oxford Township

She attended the Natural Resources Committee meeting and thought the conversation were productive. She supports the review at the committee level. She believes that there is a misunderstanding of how to implement the Draft Master Plan with respect to agriculture and clustering. She thought new by-laws were needed to define how the Natural Resource Committee operates.

Wilma Frey, New Jersey Conservation Foundation

She advocated that the resolution be passed. She commented that Council members who were particularly interested in the reviews should attend the Natural Resource Committee meetings. She also felt that the process needs to be expedited.

Dave Peifer, ANJEC

He supported the resolution and said that expediting reviews would be a growing problem. He recommended that a Purpose of Review statement be prepared *vis a vis* the Act taking into account three factors: regulatory framework, planning framework, and legal level. He commented that the historic, cultural, and scenic elements are not part of the normal WQMP review; however, those elements were included in the Highlands Council review.

Public comment concluded

Mr. Schrier commented that to relieve the full Council and DEP of some responsibility was not the intention. He believes that the Council needs to be more fully involved as that would be fairer to DEP and applicant. Ms. Letts said that Ms. Buck and other commenters had brought out many issues. She advocated for the committee making a recommendation and the full Council making the final decision. Ms. Swan expressed concern for the numbers of applications and said that DEP provides a new list every two weeks.

A roll call vote on the resolution as presented was called by Chairman Weingart. Alstede, nay; Calabrese, aye; Carluccio, aye; Cogger, Aye; Dillingham, aye; Letts, nay; Peterson, nay; Schrier, nay; Way, aye; Whitenack, nay; Weingart, aye. The resolution was NOT APPROVED.

There was discussion about rescheduling the August 16th meeting to begin in the morning and Ms. Swan asked if an additional meeting could be scheduled as the Planning Consultant was coming to the August 16th meeting and staff would be preparing for that presentation. An additional meeting will be scheduled if needed.

Mr. Schrier introduced a motion to amend the previous resolution and Mr. Alstede seconded it. The amendment to the Resolution was to allow the Natural Resources Committee to take action on exempt projects and revisions and modifications to WQMPs subject to the 7 working day Council review.

A roll call vote on the resolution as amended was called by Chairman Weingart. Alstede, aye; Calabrese, aye; Carluccio, aye; Cogger, aye; Dillingham, aye; Letts, aye; Schrier, aye; Way, aye; Whitenack, aye; Weingart, aye. The motion was APPROVED as amended.

Presentation on Mansfield Project

Ms. Swan discussed the various aspects of this project showing a map depicting the 8 sewer service areas and the agricultural resource areas affected. In the draft RMP, the extension of infrastructure in the protection Zone and Conservation Zone is prohibited unless the proposed development is adjacent to existing areas served by infrastructure and the development is clustered to ensure that 80% of agricultural lands and environmentally sensitive lands are protected and 20% is cluster development. Mr. Dillingham asked what the effect would be of extending the sewers out into the agricultural resource areas. He believes that preservation efforts should move to the environs and commented that there was a difference of opinion on the Natural Resources Committee as to how to meet the policies. He continued by discussing the policy decision as to whether the applicant could apply the policy only in the proposed sewer service area or can they look more broadly at the region. Mr. Dillingham framed the two policy decisions:

1. How to apply the 80/20 cluster policy on a site basis or more regionally.
2. Given the RMP is a draft plan, should compliance be required or recommended prior to approval of the WQMP?

Mr. Alstede introduced a motion to confirm that the application of the WQMP policy for the 80/20 clustering provision can be applied either to the specific site or to the entire agricultural conservation area in the townwide application. Mr. Dillingham seconded it.

There was additional discussion with Mr. Dillingham commenting that he believes in the absence of other language that the designated development and the policies related to that development should be within the sewer service areas. Ms. Carluccio commented that the 80/20 policy should be applied to the site not town wide or even sewer service area. She believes to do otherwise would be to encourage sprawl. Ms. Carluccio also discussed the issue of qualitative analysis of agricultural lands with respect to soils, recognition of agricultural resource areas greater than 250 acres and the value of having contiguous agricultural areas. She commented that this application does intrude into a 250 acre agricultural area and if the project is applied across the whole zone that we would lose sight of the impact of the project. She believes that having more intrusions into the 250 plus acres of agricultural resource area would be doing a broad brush approach.

Mr. Weingart asked why the opposite – approach using the larger area was a problem. Ms. Carluccio thought a planner should confirm. Mr. Alstede supports the regional approach. Mr. Schirer asked if there were a legal issue site specific vs. town wide. Mr. Borden answered that language from the RMP does include language referring to a site but that it does not limit the area of the designated site. He specifically identified that the 80/20 policy is not met within that particular site submitted by Mansfield.

Mr. Schrier commented that even though this is a draft plan that the comments from the Highlands carry more weight with DEP than those from other organizations. Mr.

Dillingham wants to be sure that the actions in the past that have encouraged sprawl are not perpetuated.

PUBLIC COMMENT

Douglas Mace Municipal Engineer for Mansfield Township

He commented on the planning analysis that Mansfield Township has done historically and that the sewer service area had been in the Hackettstown Municipal Utility Authority since 1972. He discussed the zoning changes and the careful way in which Mansfield has encouraged growth adjoining Hackettstown. He went on to discuss that there were no builder's remedies as the COAH requirements had been satisfied by multi-family housing units immediately adjacent to Hackettstown that had been built in the past. He commented that Mansfield had already had conversations with Highlands staff to examine Plan Conformance. These conversations were initiated as a result of Mansfield's creation of a Highlands Task Force of which Mr. Mace is chair. Mr. Weingart asked what the impact of applying the 80/20 policy to the specific sewer area would have. Mr. Mace said the might be some ability to consider use of TDR but for this 200 acre site there would be a limit of 60-70 houses. He did explain that there is a voluntary provision for use of clustering in a town ordinance. Mr. Mace also discussed the issue that the DEP was requiring reconciliation of Mansfield and HMUA WMP plans. Mr. Mace thought that this project was not the one to determine policy on and that Mansfield should be allowed to move forward.

Nancy Chimbella Warren County Environmental Commission

She expressed concern for the errors in the mapping for Warren County in critical resource identification and commended Mansfield for its planning. She asked the Council to consider the sewer area and wanted the 80/20 policy adhered to on a site specific basis. She commented that the community was upset with development and its impact on small property owners.

David Shope, Long Valley

Mr. Shope commented that he had been involved with Mansfield Township for many years and that the people who were living in developments were the ones complaining about development. He also suggested that the local fish hatchery should be closed if someone wanted to limit water use as it used a lot of water. He expressed concern about the classification of soils as his own farm had different soils, but the whole farm was green on the Highlands map. He asked rhetorically what the economic viability of 80% meant. His belief was that the set aside lands would be somewhere for kids to ride ATVs. He supported allowing Mansfield to go forward as he believes that the Highlands Council has no authority to do anything else.

Wilma Frey, New Jersey Conservation Foundation

She supports the standards in the draft master plan even though it is a draft and supported the recommendation that the 80/20 policy was site specific for this area.

Jeff Tittel, Sierra Club

His comments included a discussion of site specific guidelines, clustering and its true effect on development and thought that the 80/20 policy would grow houses not crops. He also commented that the Water Quality Wastewater Management Plan analysis had been broken

for years and needed revision suggesting that there needed to be new legislation to correct the problem.

Helen Heinrich NJ Farm Bureau

She agreed with Mr. Shope that the mapping of important soils is still under discussion with the State and should not all be green. She commented that the landowner could hold on to some of his rights by the ability to cluster and maintain some semblance of equity. She was confused about what Mansfield Township wanted, but thought it was site specific.

Julia Somers, New Jersey Highlands Coalition

She advocated for the 80/20 policy to be site specific and thought that the draft plan should be adhered to. She suggested that the town could have an interim municipal TDR within the town or become part of the TDR program of the Highlands. She has issues with coop houses that can be built on concrete being considered agricultural use.

Zach Gallagher, Applied Water Management

His firm did the plan for Mansfield. He clarified the mapping issues and said that the areas of concern that were in the Preservation Area had been removed.

Lewis Goldshore, Esq. Representing Meadows at Mansfield

He again discussed the issue of the Council offering its recommendations to DEP. His opinion was that this project was exempt from Highlands as it was not a major development in the Planning Area. Mr. Borden said it was potentially exempt, but no formal application had been made and that no opinion had been issued. He clarified that exemptions under the Highlands Act apply to both the Planning Area and Preservation Area. Mr. Schrier commented that the whole council needed to be making the decisions.

Susan Buck, Oxford Township

She is a Mansfield resident and thought Mansfield was an example of good planning. She commented that the establishment of an agricultural zone always posed problems, more from the point of view of the farm than the soils. She believes that growth should be contiguous to development and does not agree with the concept of the 80/20 preservation policy. She supports the approach as a zone and not site specific.

Public Comment concluded

Ms. Carluccio supported the site specific approach and using 80/20 policy only where such development site is immediately adjacent to existing areas served. Mr. Weingart reiterated that the staff recommendation would allow for site specific application within the Conservation Zone. Ms. Letts would prefer the area wide approach providing more flexibility.

A roll call vote on the motion to expand the areas that can be used to comply with the 80/20 review policy was called by Chairman Weingart. Alstede, aye; Calabrese, aye; Carluccio, nay; Cogger, aye; Dillingham, nay; Letts, aye; Peterson, aye; Schrier, aye; Way, aye; Whitenack, aye; Weingart, aye. The motion was APPROVED.

Mr. Schrier introduced a motion to consider the Mansfield Application utilizing language recommended allowing site specific or regional approach, recommending that DEP require the Town to fix the inconsistencies but not hold up the application for the sewer service area. Mr. Alstede seconded it. Mr. Dillingham reviewed the fact there were sections of Mansfield's plan that were inconsistent with the draft RMP. Mr. Alstede asked whether the Highlands Council can mandate or recommend to DEP. Mr. Weingart reiterated that during the draft plan, it was a recommendation and after final plan Highlands Council will issue consistency determination. Ms. Carluccio wanted to clarify that the motion was asking the DEP to correct inconsistencies, but not in the sewer service area. Mr. Alstede said there was a difference in his mind between technical deficiency and planning differences and that many of the deficiencies were minor. Ms. Carluccio believed differently and thought that not all the deficiencies were mapping issues e.g. State open water issues.

A roll call vote on the motion to send recommendations to DEP on the Mansfield application was called by Chairman Weingart. Alstede, aye; Calabrese, aye; Carluccio, nay; Cogger, nay; Dillingham, nay; Letts, aye; Peterson, aye; Schrier, aye; Way, nay; Whitenack, aye; Weingart, aye. The motion was NOT APPROVED.

Mr. Dillingham introduced a motion to authorize the Executive Director to send a letter to DEP recommending that they approve the proposed WQMP amendment contingent upon resolution of the inconsistencies with the draft RMP identified on the review checklist specifying that Mansfield Township can resolve the sewer service issue by using the 80/20 policy on a site specific or area wide basis. Mr. Schrier seconded the motion. Mr. Alstede clarified that the WQMP applications were reviewed whether in the Planning Area or Preservation Area. Mr. Borden responded that the DEP rules specifically request Council recommendations in both areas. Mr. Alstede asked if Mansfield came in for a review after the final plan was adopted would the Highlands Council have to strike a deal for consistency if the DEP required that the inconsistencies be resolved. Mr. Borden stated that the DEP rules require a consistency determination.

A roll call vote on the motion to authorize the Executive Director to send a letter to DEP as described was called by Chairman Weingart. Alstede, aye; Calabrese, aye; Carluccio, nay; Cogger, aye; Dillingham, aye; Letts, aye; Peterson, aye; Schrier, aye; Way, aye; Whitenack, aye; Weingart, aye. The motion was APPROVED.

Chairman Weingart asked that there be a 15 minute break from 1:05 pm to 1:20 pm so that Council Members and members of the public could get some lunch and then announced that the Council would be returning to go into Executive Session to discuss Personnel issues.

Ms. Letts introduced a motion to go into Executive Session at 1:25 pm and Mr. Schrier seconded it.

Mr. Schrier introduced a motion to adjourn the Executive Session at 2:30 pm and Mr. Peterson seconded it.

Chairman Weingart noted that Ms. Way and Mr. Peterson had to leave and the Council no longer had a quorum and that as a result the Resolution on the Bylaws would be tabled until the next meeting. He asked if there were any additional comments from the public.

PUBLIC COMMENT

Andrea Najduch, Independence Township

Mrs. Najduch submitted a letter for the public record objecting to a strip mall development called “Liberty Square” in Independence Township. Please see attached letter for details. Mrs. Najduch is asking for the Highlands Council to look at this exemption request.

Julia Somers, New Jersey Highlands Coalition

Ms. Somers is bringing the development project of a condominium project on Lake Gerard to the Council’s attention. It is a 100 acre lake that feeds C1 (Franklin Pond to Wallkill). She requested that the Council look into the application before DCA and submit comments rather than defer to that agency. She submitted a letter for the public record from DEP on this project.

Billy Barrett, Lake Gerard Fish & Game

He also came to ask for the Council to review this project saying that the houses are seasonal and some had operating outhouses. Mr. Borden commented that the Highlands Council had received information on this matter and was deferring to analysis by DEP and DCA.

Ed Mueller, Lake Gerard Fish & Game

Mr. Mueller commented that the developer does not believe the Highlands Act applies to this project and has found a loophole.

Wilma Frey, New Jersey Conservation Foundation

Lake Gerard is in the Preservation Area and Ms. Frey said that the state had purchased 1,200 acres around the lake for the Sparta Wildlife Management Area and it was also in the Sparta Mountain Greenway (endorsed by Green Acres). She also shared the letter that the NJ Highlands Coalition had sent to DEP and asked that the Council take a proactive role with DEP and DCA.

Susan Buck, Oxford Township

She would like further review of the checklist and recommendations with respect to the checklist for WQMP review. She spoke about the sewer service area where the Elementary School was located and does not agree with reducing the sewer service area in that location.

Andy Drysdale, Chester

Mr. Drysdale presented a letter for the public record and said that he was not quoted as he had spoken at the May 10th meeting and that his statement had not properly characterized his statement regarding wildlife. Mr. Weingart said he would have it corrected. *As the May 10th minutes have already been approved, it is noted for the record that Mr. Drysdale’s letter submitted at the May 10th meeting including the following: “I saw no signs of any animal life whatsoever other than a few gnats.”*

Helen Heinrich, Professional Planner

She would like the Council to again review the letter that was described in the motion that was approved regarding Mansfield. She believes the definition of agricultural soils needs a lot of work.

Mr. Schrier asked that the checklist be redistributed to the Council members.

David Shope, Long Valley

Mr. Shope submitted for the public record a newspaper article on hatching chicks from a Peregrine falcon in Elizabeth. He expressed concern about the accuracy of the notes. He commented that if someone wanted to have something put into the public record of these meetings that they should give them directly to Mr. Carey. He continued his comments regarding the 80/20 policy discussion saying that if agriculture is not a viable use, why would one use it. The Highlands has bad soils and the good soils are being paved over in Essex, Union, Mercer and Middlesex Counties.

Mr. Weingart announced the next Council meeting was at 4 pm on August 16th. Mr. Schrier introduced a motion to adjourn and Ms. Carluccio seconded it. The meeting was adjourned at 4 pm.

CERTIFICATION

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

Dated: August 22, 2007

Paula M. Dees
Paula M. Dees, Executive Assistant

TRUE COPY

PUBLIC COMMENTS SUBMITTED



State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JON S. CORZINE
Governor

Division of Land Use Regulation
P.O. Box 439, Trenton, New Jersey 08625
FAX # (609) 777-3656
Web Site: www.state.nj.us/dep/landuse

LISA P. JACKSON
Commissioner

July 3, 2007

Ms. Julia M. Somers
Executive Director
New Jersey Highlands Coalition
170 Longview Road
Far Hills, NJ 07931

Dear Ms. Somers:

I am writing in response to your correspondence regarding Lake Gerard Condominium proposal in Sparta, New Jersey. Thank you for your comments, we will keep them on file. Currently, an application has not been received by this office for the property in question.

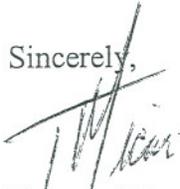
Comments from the public and conservation organizations are a valuable part of the regulatory process as they help us to become aware of local situations and increase our ability to effectively administer our regulatory authority. The Department of Environmental Protection's role is to ensure that various development proposals conform to the applicable rules and regulations under which we exercise jurisdiction.

If the condominium plan involves new construction then a Highlands Applicability Determination should be obtained from the Division of Watershed Management. The Division of Watershed Management may be reached at (609) 984-0058. If it is determined that the proposed construction is subject to the Highlands Act, then a Highlands approval will be required for the Division of Land Use Regulation. The Highlands Act has stringent regulations to protect the valuable resources that you have mentioned. Furthermore, the Green Acres Program can be contacted at (609) 984-0500 should the coalition wish to pursue the purchase of the site.

I want to assure you that this agency is committed to protecting the State's environmental resources, and we uniformly apply every degree of protection provided by law. If you have any questions regarding this application or this letter, you may contact

Patrick Ryan of the Division of Land Use Regulation at (609) 777-0454. Thank you for writing in and expressing your views.

Sincerely,


Thomas Micai
Director

1-973-827 6952

1-917-405 9152

Billy BARRETT

PO Box 803

Stockholm N.J. 07460

william BARRETT@RCN.COM

Wendell Smith (condo attorney for
Greenbaum Rowe & Smith Gerard Corp.)
LLC

hopefully deter records custodians from being cavalier with records requests."

Months to comply

Kazar took months to comply with Paff's requests for the Borough Council's closed-session minutes and resolutions for certain months from 2003 to 2005. Kazar had told the GRC he was busy with other borough business and did not have time to locate them.

Kazar said he was disturbed by the fine and hadn't decided whether to appeal it.

"I don't believe that I knowingly and willfully violated it, but I believe it might have been

a small office with just one other person," Kazar said.

The other matter was brought by John Bart, supervisor of Northeast Legal Services, who sought information about a sign that said Spanish-speaking residents needed an interpreter for services.

He received a copy of the sign a month after submitting a request. Almost a year later, he received a housing application cover letter that says in bold type, "Please bring your own interpreter."

Morrison testified that the sign was not provided sooner because it had been removed — at Bart's request — and could

cover letter because she did not believe it was part of Bart's request for a copy of all housing authority forms, correspondence and directives referencing an interpreter. She testified that the requester already had a copy.

Administrative Law Judge Barry E. Moscovitz ruled in April that he did not believe Morrison's testimony.

"The Housing Authority properly understood the request for the sign but intentionally denied Bart access to it," Moscovitz wrote. "Similarly, I do not believe that the Housing Authority thought the cover letter was unresponsive to Bart's

authority justified this fine and the findings of the GRC," Bart said. "I'm glad they saw the situation for what it was."

Elizabeth Mason, president of the New Jersey Foundation for Open Government, said it took five years for the first fines to be levied under OPRA as officials and judges set legal precedent for what constitutes a knowing and willful violation.

"Now at least there are decisions and guidelines as to where the line is drawn when someone is knowingly and willfully violating the law," Mason said.

The custodians have 45 days to file an appeal with the Superior Court's Appellate Division.

Speller J. out round

How to watch

Today's semifinals will be broadcast live on ESPN from 10 a.m. to 1 p.m. The championship rounds will be broadcast live on ABC from 8-10 p.m. today.

On the Web

www.spellingbee.com,
Scripps National Spelling Bee

roots and spellings of many words.

He also likes to read, particularly World War II fiction novels and mysteries such as the Hardy Boys.

He's a cellist in the New Jersey Symphony Orchestra's youth program and plays bass guitar in the school jazz band. He runs track and cross country.

He's also a train buff with a keen interest in the operations and logistics of running a railroad company.

The 2007 Scripps National Spelling Bee is the 80th annual competition.

The spellers are vying for prizes that include \$30,000 in cash, a \$5,000 college scholarship and an engraved loving cup trophy. The champion will be announced tonight.

Spellers range in age from 10 to 15, with girls outnumbering



HEATHER WINES / GANNETT NEWS SERVICE
Robert Hale participates in the fourth round of the 80th annual Scripps National Spelling Bee in Washington, D.C., on Wednesday.

Islands, Puerto Rico, American Samoa, New Zealand, and Europe.

Fifty-six of the spellers have competed in the national bee before. One speller, Samir Patel of Texas, is competing for the fifth time.

Rare falcons hatch chicks atop tower

D-R
9-30-07
GANNETT NEW JERSEY

ELIZABETH — Three chicks have been hatched by a pair of endangered Peregrine falcons nesting atop the Union County Courthouse Tower.

The chicks, born about a week ago, appear healthy, according to county officials.

The falcons have been living on the courthouse tower for at least two years. They had attempted to build nests on ledges and gutters around the tower, but their nests failed, prompting the county and state Department of Environmental Protection, to erect their new home.

County workers, with the assistance from the DEP's Endangered and Nongame Species Program, last year erected a nest box on the roof of the 17-story tower.

"It's great to know that these beautiful birds are making our tower their home," said Freeholder Chairwoman Bette Jane Kowalski, who last year climbed to the top of the tower to see the nesting box being installed. "The chicks are so cute. We look forward to watching them grow up."

Peregrine falcons are among the fastest birds on earth. They can reach speeds of 200 mph when they swoop down to strike their prey. In Elizabeth, they prey on the abundance of pigeons, officials said.

Comments submitted at Highlands Council Meeting of July 12, 2007 by David Shope. Page 1

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ANDREW DRYSDALE
Land Surveyor
32 East Fox Chase Road
Chester, NJ, 07930
Tel. 908-234-1079 Fax 908-234-1326

July 12, 2007

Highlands Council
100 North Road
Chester, NJ 07930

Good Morning,

My name is Andy Drysdale, my wife Lois and I live and own farmland at 32 East Fox Chase Road, Chester, NJ, we have been trapped in the "Preservation Area", since August of 2004, some of our land is now in the "Conservation Zone" of the Regional Master Plan. We, along with many others, are victims of Environmental Extremists who have led politicians, legislators and the NJDEP to do unnecessary things.

Well, it happened again, at the June 7 meeting; I did not review the minutes of the May 10 meeting until later. When I did, I discovered that what I had said had been severely distorted. This outrageous distortion had changed its meaning immensely, making it more favorable to the Highlands Act.

In May I pointed out that while out surveying in the woods, I saw no signs of animal life whatsoever other than a few gnats.

The Minutes approved on June 7, 2007 said " Mr. Drysdale remarked that he owns land in the Preservation Area. He has seen no signs of animal life whatsoever."

The Preservation Area abounds with animal life as does much of the Planning Area, especially in the residential developed portions. I know, I live there; I often work in these areas as I have for many years. These residential developments now have hundreds of trees and support much more wildlife than did the open fields that in many cases preceded them.

If when you leave here, you go South on Route 513 to the first traffic light, then turn left and go East on Old Route 24 and turn into Robinson Lane which is the first left after the Delta Gas Station, you will at this point you will be driving through what was once a corn field that was developed into small lots in the 1950's. As a child in the 1940's and late 1930's, I remember seeing a man cultivating corn there with a team of horses. Please take a look.

Thank You,

Andrew Drysdale

Prepared by Wayne and Andrea Najduch
127 Mt. Rascal Rd.
Hackettstown, NJ 07840
Tel: (908) 852-1202

Mr. Chairman and Council Members,

We are objectors to a strip mall development called "Liberty Square" in Independence Township, New Jersey. It is located in the Highlands Preservation Area and currently has an application before the NJDEP Bureau of Watershed Management for a Highlands Exemption. Originally denied for an exemption in Oct 30, 2006, they are now attempting to base their claim on a 18 year old 1989 conditional approval granted to a now defunct developer. The conditions of the approval were never met within the allowed timeframe.

The lot has (steep slopes, over 30%) mature forests and has environmentally sensitive topography. The applicant's own reports refer to sinkholes and Karst Geology. Due to the topography large amounts of water enter this site, but none ever leaves. Expert testimony as well as the testimony from neighbors has been given to substantiate this fact. After it rains, there is at least one pool that does form on the property and holds water for a very long time. This site is identified in the Independence Stormwater Management Report, revised Aug of 06, as having wet lands. The same report shows this site is totally contained within the Hackettstown Municipal Well Head Protection Area and partially with the P5 planning area. Independence Township listened to testimony of professionals commenting on the possibility of contaminating the municipal well, and the potential of creating down stream flooding. Despite its environmental sensitivity the Independence Planning Board gave final approval, without a viable stormwater management design; or the geological study of the site that would be required to develop that design. After holding 5 meetings within 33 days, without requiring the applicant to update the plans, they approved the application. At present, there is still no revised plan. The approval, requiring over 40 pages, has 9 resolutions containing an inordinate amount of variances, waivers, and conditions, which need to be met. This was done to beat the Highlands Exemption Deadline of August 10th. The next day the Independence Township Committee voted to enter into a "Developer's Agreement", which had been worked out behind the scenes. The agreement allows the developer to gain building permits and immediately start construction without meeting any of the many conditions of the approval and (~~before a Highlands Exemption is granted.~~) This was done even though the approval has yet to be signed and certified. The stated reason for the agreement was to assist the developer to beat the August 10 dead line.

without a
Highlands
Applicability
Determination

Warren County Planning Board disapproved the applications stating 78 reasons for denial, the most important being the lack of a viable stormwater management plan.

At present the Highlands exemption request is in the public review portion of the process which ends July 20, 2007. I implore you to look at this application carefully and apply the strictest Highlands Rules to protect this site. We feel confident that you will

not set aside the public interests for the benefit of a developers profit, as done by Independence Township.

We will be happy to answer any questions, meet with any Council Members or staff or in any way shape or form supply any documentation that will aid the Council in fulfilling their responsibility in carrying out the intent of the Legislation.

Thank you and I submit my comments in writing to the Council for the Public record.

Comments submitted at Highlands Council
Meeting of July 12, 2007 by Wayne & Andrea
Najduch. Page 2 of 3.

Prepared by Wayne and Andrea Najduch
127 Mt. Rascal Rd.
Hackettstown, NJ 07840
Tel: (908) 852-1202



Mr. Chairman and Council Members,

We are objectors to a strip mall development called "Liberty Square" in Independence Township, New Jersey. It is located in the Highlands Preservation Area and currently has an application before the NJDEP Bureau of Watershed Management for a Highlands Exemption. Originally denied for an exemption in Oct 30, 2006, they are now attempting to base their claim on an 18 year old 1989 conditional approval granted to a now defunct developer. The conditions of the approval were never met within the allowed timeframe.

The 8.9 acre lot has mature forests, steep slopes, over 30%, and has environmentally sensitive topography. The applicant's own reports refer to sinkholes and Karst Geology. Due to the topography large amounts of water enter this site, but none ever leaves. Expert testimony as well as the testimony from neighbors has been given to substantiate this fact. After it rains, there is at least one pool that does form on the property and holds water for a very long time. This site is identified in the Independence Stormwater Management Report, revised Aug of 06, as having wet lands. The same report shows this site is totally contained within the Hackettstown Municipal Well Head Protection Area and partially with the P5 planning area. Independence Township listened to testimony of professionals commenting on the possibility of contaminating the municipal well, and the potential of creating down stream flooding. Despite its environmental sensitivity the Independence Planning Board gave final approval, without a viable stormwater management design; or the geological study of the site that would be required to develop that design. After holding 5 meetings within 33 days, without requiring the applicant to update the plans, they approved the application. At present there is still no revised plans. The approval, requiring over 40 pages, has 9 resolutions containing an inordinate amount of variances, waivers, and conditions, which need to be met. This was done to beat the Highlands Exemption Deadline of August 10th. The next day the Independence Township Committee voted to enter into a "Developer's Agreement", which had been worked out behind the scenes. The agreement allows the developer to gain building permits and immediately start construction without meeting any of the many conditions of the approval and without a Highlands Applicability Determination. This was done even though the approval has yet to be signed and certified. The stated reason for the agreement was to assist the developer to beat the August 10 dead line.

Warren County Planning Board disapproved the applications stating 78 reasons for denial, the most important being the lack of a viable stormwater management plan.

At present the Highlands exemption request is in the public review portion of the process which ends July 20, 2007. I implore you to look at this application carefully and apply the strictest Highlands Rules to protect this site. We feel confident that you will not set aside the public interests for the benefit of a developers profit, as done by Independence Township.

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Thank you and I submit my comments in writing to the Council for the Public record.



Comments submitted at Highlands Council
Meeting of July 12, 2007 by Thomas P. Marshall.
Page 1 of 6.

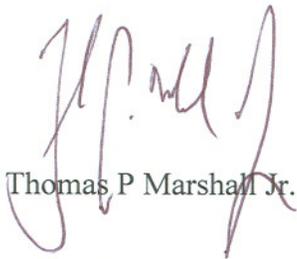
July 12, 2007

Highlands Water Protection & Planning Council
100 North Road
Chester, NJ 07930

Comments of Mr. Thomas P Marshall, Chairman
Hackettstown Economic & Industrial Development Commission

The proposed Amendments to NJAC 7:9B-1.4 and 1.15 recommend designating Bowers Brook as a C-1 Stream. The normal protection buffer of 300' would have a dramatic negative impact on Hackettstown's plan to redevelop the town center commercial district and threaten Smart Growth initiatives that the Planning Board has started in the Master Plan Revision.

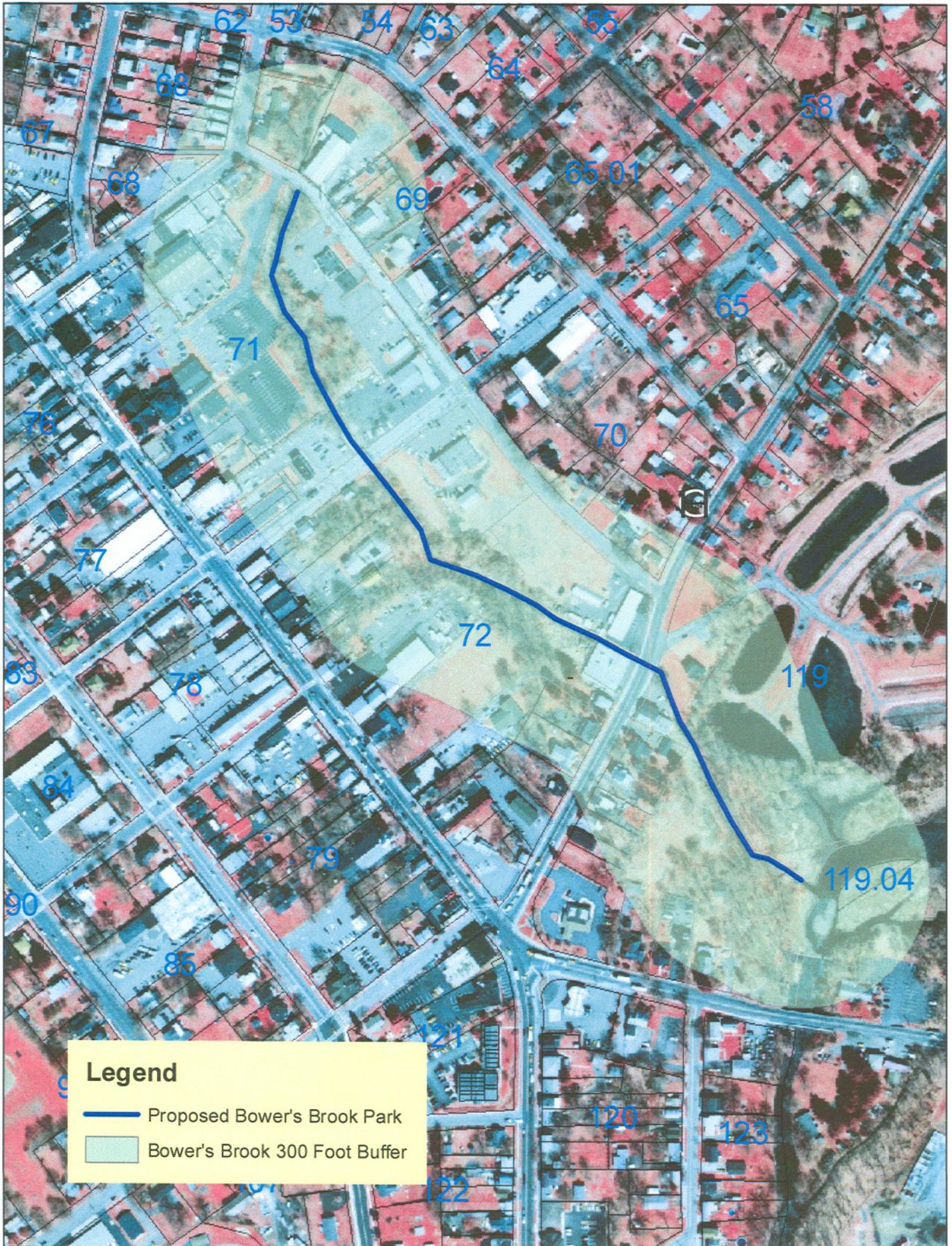
We request advise and counsel from the Highlands Council to respond to NJDEP in a responsible manner to further our common planning goals.



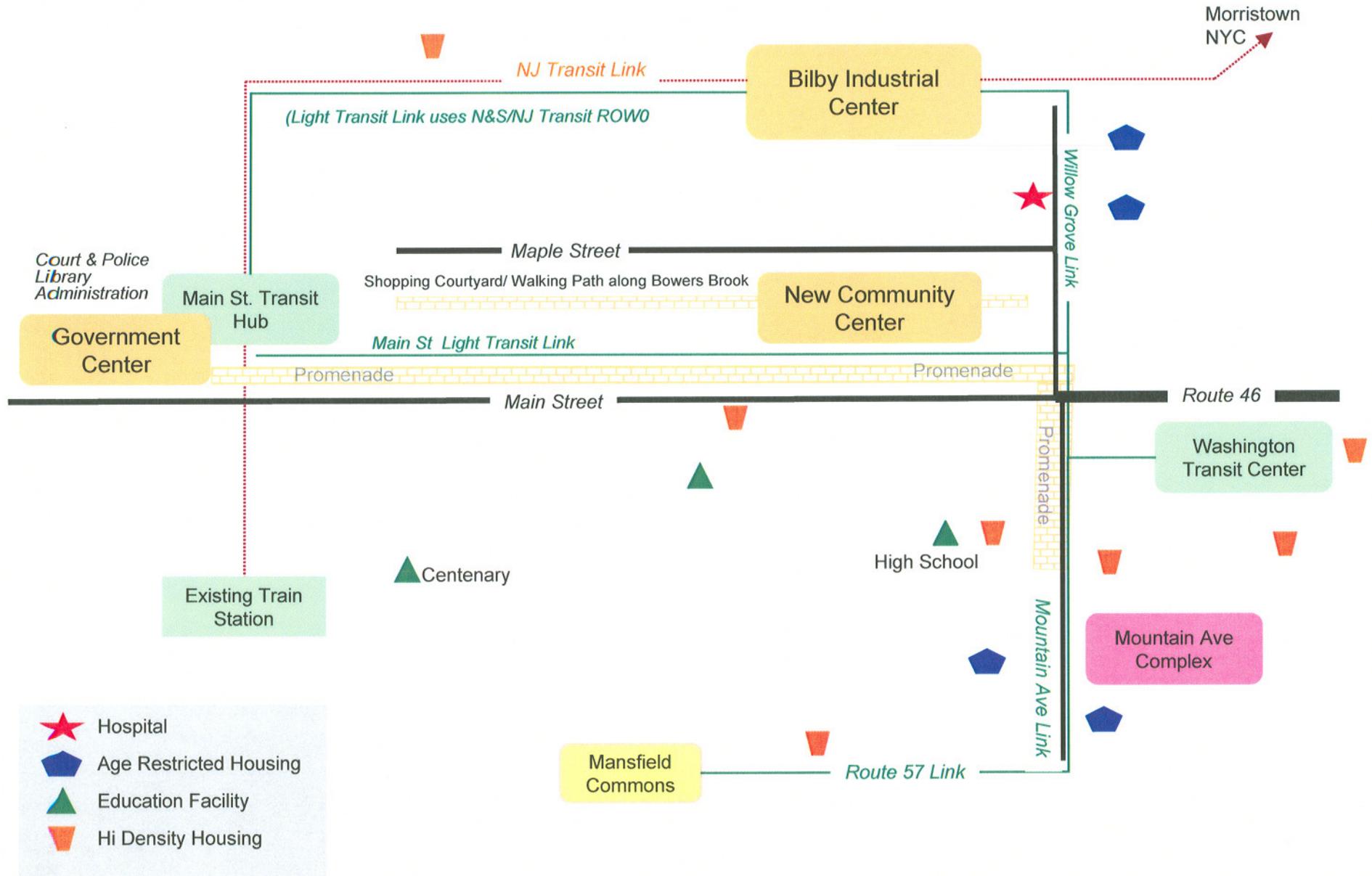
Thomas P Marshall Jr.



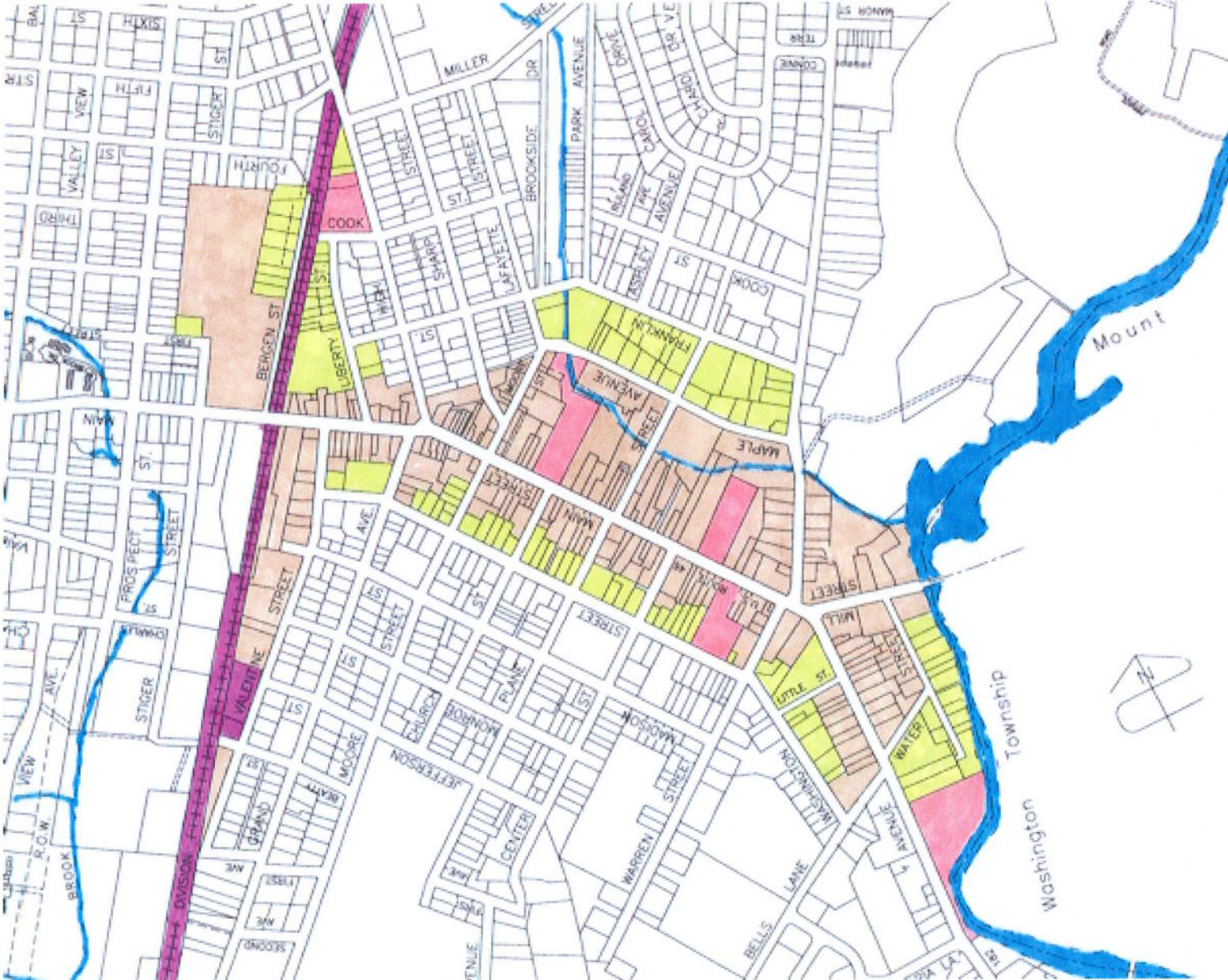
Bowers Brook With 300 Foot Buffer



Hackettstown – January 1, 2026



Hackettstown – Investment Need Map



Color Key	
Brown	High
Yellow	Medium to Low
Purple/ Pink	Excluded
Blue	River & Streams

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AMWELL LAKES (Lambertville)

FW2-NT(C1)

...

ANDOVER JUNCTION BROOK (Andover) - Entire length,

including all tributaries

FW2-TM(C1)

ANDOVER JUNCTION BROOK LAKES (Andover) - All

unlisted lakes greater than five acres

FW2-NT(C1)

...

BEAR CREEK

(Johnsonburg) - (No change.)

(Frelinghuysen) - Erie-Lackawanna Railroad trestle to
confluence with Pequest River, including all

unnamed and unlisted tributaries

FW2-TM(C1)

...

BOWERS BROOK

(Hackettstown) (No change.)

(Hackettstown) - Route 517 to the confluence with

Musconetcong River

FW2-TM(C1)

...

GARDNERS [LAKE] POND (Andover)

FW2-TM(C1)

...

HATCHERY BROOK (Hackettstown) - Entire length

FW2-TM(C1)

HIDDEN VALLEY LAKE (Lake Lenape)

FW2-NT(C1)

...

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Table C. Proposed Waterbodies Based on Exceptional Ecological Significance and the Available Data

Waterbody	Existing Class.	Proposed Class.	River Miles	AMNET	Habitat Score	Fish IBI	Water Quality data	% IS	HUC 14 (Sq. miles)
Musconetcong River (Hackettstown) - Saxton Lake to Hances Brook, including all unnamed and unlisted tributaries Tributaries Bowers Brook (Hackettstown) – Rt 517 to confluence with Musconetcong River Hatchery Brook (Hackettstown) – Entire length	FW2-TM	FW2-TM(C1)	18.66	AN0069-Nonimpaired AN0069H-Nonimpaired	Optimal Optimal	FIBI058-Fair	DO, Temp. TSS, & TP -meeting		
	FW2-TM	FW2-TM(C1)							
	FW2-TM	FW2-TM(C1)							
Musconetcong River (Changewater) – Valley Station Road south of West Portal Creek to the Delaware River, including all unnamed and unlisted tributaries	FW2-TM	FW2-TM(C1)	23.88	AN0073-Nonimpaired	Optimal	FIBI005-Good FIBI061-Fair	DO, Temp. TSS, & TP -meeting	3	7.5
				AN0073B-Nonimpaired AN0073C-Nonimpaired AN0074-Nonimpaired	Optimal Optimal Optimal		DO, TSS, & TP -meeting. Temp.-impaired		
Toms River (Cassville) – Cassville Road bridge to Pinelands boundary, including all tributaries	FW2-NT	FW2-NT(C1)	12.05	AN00519-Nonimpaired	Optimal	No station	DO, Temp. TSS, & TP-meeting		
(Manchester) - NJ Central Railroad tracks to Rt. 571 bridge, including all tributaries	FW2-TM	FW2-TM(C1)	10.25	AN00524-Nonimpaired	Optimal	No station	DO, Temp. TSS, & TP-meeting		
(Toms River) - Rt. 571 bridge to the Route 37	FW2-NT/SE1	FW2-NT(C1)	4.34	AN00535-Nonimpaired	Optimal	No station			
Tributaries: (West of Pleasant Grove) – Source to Pinelands boundary, including all tributaries	FW2-TM	FW2-TM(C1)	12.25	AN00520-Nonimpaired	Optimal	No station		6	7.5
Dove Mill Branch (Van Hiseville) - Source to Bunker Hill Lake, including all tributaries not currently designated as C1	FW2-NT	FW2-NT(C1)	7.0	AN0522-Nonimpaired	Optimal	No station		7	7.9
Wrangel Brook (Manchester) – Source to Green Branch and all tributaries not currently designated as C1 or PL	FW2-NT/SE1	FW2-NT(C1)	5.13	AN0536-Nonimpaired	Optimal	No station		0.1	5.5

Comments submitted at Highlands Council Meeting of July 12, 2007 by Thomas P. Marshall.
Page 6 of 6.

ATTACHMENT

The attached public comment originally submitted by Andrew Drysdale, at the Highlands Council Meeting on May 10, 2007, is being included as an attachment to these meeting minutes to address concerns raised by Mr. Drysdale concerning the amendment to these meeting minutes regarding his comments.

6 COPIES OF THIS LETTER
SUBMITTED ON 5-10-07

ANDREW DRYSDALE
Land Surveyor
32 East Fox Chase Road
Chester, NJ, 07930
Tel. 908-234-1079 Fax 908-234-1326

May 10, 2007

Highlands Council
100 North Road
Chester, NJ 07930

Good Morning,

My name is Andy Drysdale, my wife Lois and I live and own farmland at 32 East Fox Chase Road, Chester, NJ, we have been trapped in the "Preservation Area", since August of 2004, some of our land is now in the "Conservation Zone" of the Regional Master Plan.

It has been nearly 3 years now or over 3 years when you consider that the Act was proclaimed to be retroactive to March 29 of that year.

Well it is spring time now, May 2007. I have been out surveying in the woods the last couple of weeks and have seen that there is a fine crop of skunk cabbage growing in the wetlands. There were some other common types of vegetation and some sickly looking trees as those in wetlands usually are. I saw no signs of any animal life whatsoever other than a few gnats.

On one project I was locating wetlands flags as I have done before, as far back as the 1980's. These impervious wetlands were being protected and groundwater being monitored for many years before the "Highlands Act Land Grab". This is just one of many reasons that this "Act" was so unnecessary.

The main excuse that has been used is the protection of drinking water. You do not have to stop all development to do this. It could and in many cases was already being done with modern technology for filtering water, environmentally friendly engineering design of septic and other waste systems.

I myself have always cared about the environment, but fortunately I realize that there are other important factors to consider. We need to take a much more balanced approach. This Act was created by some people with other motives and some well meaning people who did not see the whole picture. An example of the latter was the "Runny Egg Law", which was fortunately repealed.

We need to get out and vote and root out corruption wherever we find it so that the "New Jersey Highlands Act" ends up in the same trash heap as the "Runny Egg Law".

Thank You,

Andrew Drysdale