

**RESOLUTION 2008-7**  
**NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL**  
**RECOMMENDATION ON PROPOSED WATER QUALITY MANAGEMENT PLAN**  
**AMENDMENT FOR PINNACLE TRACT**

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

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

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

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

**WHEREAS**, a proposal has been submitted to amend the Northeast Water Quality Management Plan through the Borough of Oakland Wastewater Management Plan to allow for construction of the proposed Pinnacle Tract, a 209-unit residential development of which 28 are affordable housing on an approximately 84.5 acre plot on Block 3101, Lots 3 & 6; Block 3102, Lots 1 & 3; Block 3103, Lots 1 & 2 within Oakland Borough, Bergen County (Proposed Amendment); and

**WHEREAS**, the NJDEP has proposed adoption of the Proposed Amendment through publication of a notice in the New Jersey Register, dated October 15, 2007, and is seeking a recommendation from the Highlands Council in accordance with the Highlands Rules at N.J.A.C. 7:38-1.1; and

**WHEREAS**, on June 3, 2005, the NJDEP issued a determination that the project qualified for Exemption 17 of the Highlands Act (Affordable Housing). As such, the project is exempt from the Highlands Act but is still subject to NJDEP's Water Quality Management Planning Rules (N.J.A.C. 7:15) requiring an amendment to the WQMP; and

**WHEREAS**, consistent with NJDEP's Highlands Rules at N.J.A.C. 7:38-1.1, and the procedures adopted by the Highlands Council pursuant to Resolution 2007-18 for review of WQMP amendments for a proposed project, Highlands Council staff conducted a review of the Proposed Amendment, dated February 11, 2008, based upon the standards and policies set forth in the 2007 Final Draft Regional Master Plan (RMP); and

**WHEREAS**, the Highlands Council staff review includes an analysis of the Proposed Amendment against the RMP because the Highlands Act exemption #17 does include termination provisions and thus the full RMP review was completed in order to properly advise the applicant of potential inconsistencies should the exemption either expire or be terminated; and

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**WHEREAS**, the Highlands Council staff review noted that while the Proposed Amendment was fully reviewed in terms of consistency RMP, the fact that the project was deemed exempt from the Highlands Act limited the staff recommendations to those issues which may be considered by NJDEP under Executive Order 109 and NJDEP's WQMP rules at N.J.A.C. 7:15; and

**WHEREAS**, the inconsistencies identified by the Highlands Council staff include findings that the Proposed Amendment: 1) would include land uses that would alter or be detrimental to the water quality and habitat quality in and along riparian areas and open waters; 2) would result in alteration or disturbance of critical wildlife habitat for Barred Owl; 3) is located within a HUC14 subwatershed which has been identified as having a deficit of net water availability; and 4) should only be issued in compliance with the TMDL for the Ramapo River; and

**WHEREAS**, on February 14, 2008, the Natural Resources Committee considered the Proposed Amendment and heard testimony from the applicant and the public in accordance with the Council's Resolution 2007-18 specifying that the Committee shall review exempt projects subject to Council review and the Committee directed Council staff to prepare a recommendation letter to be sent to the NJDEP and allow the Council an opportunity seek a full Council review of the Proposed Amendment;

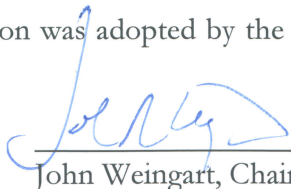
**WHEREAS**, the Committee authorized the Executive Director to draft a letter recommending that NJDEP not approve the Proposed Amendment unless it is modified to address the inconsistencies identified by Council staff and the Committee specified that given that the Proposed Amendment is exempt from the Highlands Act, the inconsistencies presented to NJDEP should be limited to those matters that may be appropriately addressed by NJDEP's jurisdiction under Executive Order 109 and NJDEP's WQMP rules at N.J.A.C. 7:15;

**WHEREAS**, the Highlands Council duly considered the Proposed Amendment, the Highlands Council staff recommendation, and all public comments;

**NOW, THEREFORE, BE IT RESOLVED** by the Highlands Council that the Executive Director is hereby authorized to issue a recommendation letter to NJDEP consistent with the staff recommendation.

**CERTIFICATION**

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its meeting held on the 6<sup>th</sup> day of March, 2008.

  
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John Weingart, Chairman

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**Vote on the Approval of  
this Resolution**

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