



## State of New Jersey

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**CARL J. RICHKO**  
*Chairperson*

**LISA J. PLEVIN**  
*Executive Director*

### MEMORANDUM

**To:** Plan Conformance Committee  
**From:** Lisa J. Plevin, Executive Director  
**Subject:** Committee Meeting Minutes – November 30, 2021  
**Date:** December 29, 2021

A Plan Conformance Committee meeting was held on Tuesday, November 30, 2021 at 3:00pm via Zoom teleconference.

Committee Members present were: Council Chair Richko, Committee Chair Dressler, and Committee Members Van Abs and Vohden.

Staff Members present: Lisa J. Plevin, Gabrielle Gallagher, James Humphries, Corey Piasecki, Izzy Castiglioni, and Annette Tagliareni

Also present: Jamera Sirmans, Associate Counsel, Governor's Authorities Unit

*The meeting began at 3:07pm.*

Ms. Plevin opened the meeting by stating that the purpose of this meeting is to get some input/guidance on two items Highlands staff have recently reviewed:

- Application for a Highlands Applicability Determination (HAD), Exemption #11 for Butler Water Treatment Plant Upgrades; and
- Township of Clinton – Center Designations

#### Butler Water Department – Kinnelon Borough (Morris County)

James Humphries, Director of Planning, Science, & GIS, shared his screen with a map of the proposed project for needed upgrades to the water treatment system at the Butler Reservoir located in Kinnelon Borough. Mr. Humphries noted that Council staff is seeking a recommendation by the Committee to post the project for a 30-day public comment period, followed by a public hearing in front of the Highlands Council.

At this time, Mr. Humphries gave a summary of the project. The project is entirely located in the Preservation Area and is eligible for a Highlands Act Exemption #11 that would be issued by New

Jersey Department of Environmental Protection (NJDEP). NJDEP referred the project to Highlands Council staff and seeks a Highlands Applicability Determination (HAD) on an Exemption #11. Mr. Humphries noted that Exemption #11 requires that the project be consistent with the Highlands Act and applies to the routine maintenance and operations, rehabilitation, preservation, reconstruction, repair, or upgrade of public utility lines, rights of way, or systems, by a public utility, provided that the activity is consistent with the goals and purposes of the Act.

The Butler Water Department (applicant) is proposing treatment plant upgrades at the Butler Reservoir located in Kinnelon Borough. The purpose is to improve the existing filtration vessels, which are no longer considered acceptable technology under current regulations. A new access road is also being proposed, as the current access road is in poor condition with limited usefulness. Staff assessed that the following Highlands resources may be potentially affected by the project:

- Total Forest Area and Forest Resource Area
- Highlands Open Water (HOW) Protection Area
- Prime Groundwater Recharge Area
- Critical Wildlife Habitat
- Steep Slope Protection Area

The proposed construction will inevitably overlap with the HOW Protection Area and the Prime Groundwater Recharge Area resources due to the limited geometry of the parcel as well as the fact that this work is for a surface water treatment plant and necessary proximity to the Butler Reservoir. Due to the nature of the improvements to improve and update the water filtration system for a public water system, a public health and safety waiver appears appropriate for this project. In addition, it is recommended as a condition of approval, that the Borough shall prepare and submit a plan detailing the proposed forest mitigation strategies, including specific details for implementation and maintenance.

Mr. Humphries noted that Butler engineers plan to attend the public hearing when Council considers this project to answer any further questions

#### Committee Comment

Committee Chair Dressler commented that this is a project that has to be done and cannot move forward without Council approval.

Chair Richko asked about the length of the new road in the forested area. Mr. Humphries responded that the length of the road is approximately 1,550 feet long by 25 feet wide and anticipated to be approximately 1.21 acres, including 1.10 acres of impervious cover.

There was a question regarding restoring land/road where the old treatment plant is. Mr. Humphries responded that the old road is a dirt road for secondary access (not for trucks) and the applicant does not want to eliminate it. However, a condition could be inserted in which disposition and potential ecological restoration of the existing filtration building would be required if Butler decides to discontinue its use.

Committee Member Van Abs asked if this is a formal NJDEP mandate to the water department or anticipating a need. Mr. Humphries responded that the applicant is required to upgrade. Committee Member Van Abs also asked if the applicant plans to keep the existing water tanks. Mr. Humphries responded that they are keeping the water tanks in use.

*Committee Chair Dressler made a motion to post the Buter Water Department project for a 30-day public comment period. Member Van Abs seconded it. A roll call vote was taken, and all were in favor.*

It was then noted that after the public comment period, Council staff will prepare a public comment response document, share with Committee, and move to Council for consideration.

### **Clinton Township – Request for Center Designations**

At this time, Mr. Humphries moved to the second agenda item regarding Clinton Township's request for two (2) center designations. Mr. Humphries noted that no formal action from Council is needed at this time. Mr. Humphries then gave a summary on each center designation. Mr. Humphries noted that Clinton Township is a fully conforming municipality with approximately 95% in the Planning Area. The Township's initial Petition for Plan Conformance was approved by the Highlands Council in 2016. The Township submitted an amended Petition for a Highlands Center designation in 2019 but due to water supply questions, the request was not deemed complete until 2021. Mr. Humphries also noted that a Highlands Center is an area recognized as appropriate for growth given the conditions of the area, including access and availability of infrastructure. Both center designation requests are located in the Planning Area.

The first area for a center designation is on Route 31 just north of Clinton Town. This area is characterized by highway commercial development and is largely developed. There are no substantial issues in designating this area as a center and staff recommends approval of this center with conditions to include:

- Water Use Conservation Management Plan; and
- Onsite water use mitigation for future development

Mr. Humphries advised that staff was requesting guidance on the second area. The second area for a center designation is the Township's section of Annandale, located along I-78, Route 22 and the Annandale Railroad Station. It was noted that all but one parcel in this area is developed. That parcel is known as the Hadley site (approximately 150 acres located in the northeast corner of the proposed center.) The site is currently farmland and is designated Conservation Zone in the Regional Master Plan, which means the site is not allowed to connect to public water or sewer and therefore development would be extremely limited. Mr. Humphries added that the area is in a water deficit of the Highlands Region. This request would allow the Headley site to be developed to approximately 400 units with a 20% affordable unit set aside in accordance with the Township's approved affordable housing settlement agreement.

At this time the Committee members discussed the issue of developing affordable housing on a site with resource constraints, in a potential center. There was discussion regarding the benefits of having the railroad station and major highways near the site. It was mentioned that since no site design has been submitted, there may be additional opportunities to protect resources on the site through good design and the identification of Highlands Environmental Resources that should be protected as part of the Center designation. After much discussion, as well as legal advice by Chief Counsel Gabrielle Gallagher, it was decided that Council staff would draft a recommendations report and meet again with the Committee before releasing the report for public comment.

*The meeting was adjourned at 3:57pm.*