

**FOR CONSIDERATION AT THE JUNE 18, 2015 MEETING OF THE
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance – Final Consistency Review and Recommendations Report**

APPENDIX B

PUBLIC COMMENTS/HIGHLANDS COUNCIL RESPONSES

Petition for Plan Conformance

Clinton Township, Hunterdon County

Public Comment Period: May 19, 2015 – June 3, 2015

PUBLIC COMMENTS RECEIVED

Written comments regarding Clinton Township’s Petition for Plan Conformance were accepted by the Highlands Council from May 19, 2015 through the close of the Public Comment Period on June 3, 2015. Comments were provided by the following individuals/entities:

1. William Honachefsky Jr.
2. Helen Heinrich, on behalf of New Jersey Farm Bureau (NJFB)
3. Erica Van Auken, on behalf of NJ Highlands Coalition
4. Wilma Frey, on behalf of NJ Conservation Foundation

The comments are summarized in the section that follows, with the Highlands Council responses provided below for each.

PUBLIC COMMENT/ RESPONSE SUMMARY

Comment (Mr. Honachefsky): Mr. Honachefsky, writing on behalf of the owners of Block 68 Lots 3,4, and 4.01 in Clinton Township, strongly supports Clinton Township’s RMP Update Request number 9 (Appendix A) to modify the properties from the “Lake Community Subzone” to the “Protection Zone” consistent with other lands west of Route 31. These lots abut the Spruce Run Reservoir and Spruce Run State Park and are located in the Preservation Area in the Resource Conservation (RC) zoning district of the Township. Mr. Honechefsky concurs with the Council’s finding that all of the lots within the area (1, 3, 4, 4.01, 5, and 6) belong in the “Protection Zone”. He further strongly supports Clinton Township’s entire petition for Plan Conformance.

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Response: The Council acknowledges Mr. Honachefsky’s comment in support of Clinton Township’s Petition for Plan Conformance and, as discussed in Appendix A of this report, concurs with his suggestion for the RMP update.

Comment (NJFB): Ms. Heinrich, on behalf of the New Jersey Farm Bureau, supports the efforts of Clinton Township to update its Right to Farm ordinance and the proposed grant funding for an Agricultural Retention and Farmland Preservation Plan. Furthermore Ms. Heinrich indicates the NJ Farm Bureau’s support for grant funding of a Sustainable Economic Development Plan which has an opportunity to include farm businesses in its economic revitalization efforts.

Ms. Heinrich expressed disappointment that Clinton Township’s petition does not include a TDR feasibility study since it would provide opportunities for noncontiguous clustering of development while enhancing the Township’s land preservation efforts which Ms. Heinrich characterizes as “weak,” with only 825 acres preserved. Ms. Heinrich also questioned whether or not the Township had an open space/farmland preservation tax dedication in place as a source of compensation to farmland owners.

Additionally, Ms. Heinrich acknowledges the severe limits on septic densities required by the DEP rules. She states that the DEP methodology required to determine lot sizes is flawed and was opposed by agricultural interests from the beginning. Ms. Heinrich stresses that the DEP septic densities should be made more science-based and site-specific to increase the credibility of the RMP and that Clinton Township should remain flexible about such densities in case the DEP nitrate dilution standards are changed.

Ms. Heinrich stressed that the Farm Bureau finds the impact on property owners frustrating and inequitable at a time when the share of the Corporate Business Tax revenue the voters dedicated to farmland preservation state-wide is being scaled back to just \$17 million per year, which is half of the share of former years.

Ms. Heinrich acknowledged the Council’s review of Clinton Township’s request for RMP updates and continues to urge the Council to discourage map amendments or other measures that would move more farmland now in the Conservation Zone into the Protection Zone since this would severely reduce the options for farm businesses to grow and change for their economic survival.

Finally, Ms. Heinrich stated that it is imperative that Clinton Township present the petition and the required plans to the public as well as the ordinance that would conform the Planning Area. She continues that the Township’s planning documents are very dated (1992-2006), all preceding the adoption of the RMP. The last public participation in the question of Plan Conformance took place in December of 2009.

Response: The Highlands Council acknowledges Ms. Heinrich’s support for continued and enhanced agriculture in Clinton Township. The Highlands Council also notes Ms. Heinrich’s suggestion for a TDR feasibility study. While a feasibility study for TDR has not been included in the Township’s Implementation Plan and Schedule and proposed amended grant agreement a study for possible Center Designation has been. Should the Township find a Highlands Designated Center is feasible and desirable, the Township may consider the feasibility of a TDR program at a later date.

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The Highlands Council acknowledges Ms. Heinrich's concern regarding farmland preservation in Clinton Township. It should be noted that a significant portion of the Township consists of preserved lands, however, totaling some 8,109 acres, or 37.4% of the Township. Of the total preserved acreage, just 825 acres are preserved farmlands. The Highlands Council believes that inclusion of Agriculture Retention and Farmland Preservation plan grant funding in the proposed Amended Grant Agreement will help focus the Township's land preservation efforts toward agriculture resources areas where appropriate.

The Highlands Council further acknowledges the NJ Farm Bureau's disapproval of the NJ DEP septic density rules and the impact such rules have on land owners. The NJ DEP rules governing septic densities in the Highlands Preservation Area are separate and apart from this Petition for Plan Conformance and remain in place regardless of the Township's Plan Conformance Petition status. However, it is recognized that the NJ DEP could, at some point, update or modify the septic density rules. The Highlands Council remains committed to working with both the Township and the NJ DEP regarding any changes to the rules or other standards that may affect development within the Township.

Regarding State funding for open space and farmland preservation, the Council acknowledges the shortfall of funding and looks forward to working with Clinton Township as well as all other Highlands municipalities to provide supplemental funding through our pending Landowner Equity and Land Preservation grant program.

As noted in Appendix A of the Final Consistency Review and Recommendations Report, the Highlands Council considers individually each municipality's request for RMP (map) Updates based on the current disposition of the lands in question as well as adjacent properties. Where the Council reviewed Township suggested updates, the lands in question were reviewed and those requests were either accepted or denied based upon Highlands Council mapping criteria. Requests by the Township which do not meet the Council's designation criteria are considered Map Adjustments. The Township has not requested any specific Map Adjustments.

Finally, the Highlands Council acknowledges Ms. Heinrich's concern with the age of Clinton Township's planning documents and public participation thus far in the process. In addition to the public process involved in Highlands Council consideration of the Petition itself, actions taken by the Township in the future to implement Plan Conformance tasks will be made publicly, in accordance with the provisions in the Municipal Land Use Law.

Comment (NJ Highlands Coalition): Ms. Van Auken, on behalf of the NJ Highlands Coalition, wholly supports Clinton Township's petition for Plan Conformance and is encouraged to see that the Township is opting to conform the entire municipality considering roughly 97% of the land is in the Planning Area.

Ms. Van Auken agrees with the assessment in the Consistency Determination that, because of the Township's existing transportation infrastructure, the Annandale section of the Township is reasonable for Center Designation. However, Ms. Van Auken cautions that Centers should only be encouraged in areas where existing water and sewer resources are available. Ms. Van Auken further cautions development in recharge areas and wellhead protection areas – both of which heavily constrain parts of the township

Ms. Van Auken makes the same cautions for the two affordable housing sites that would require map adjustments. She states that these developments should only be considered if there is an available water

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allocation and existing infrastructure to support such projects. Ms. Van Auken cautions that Clinton has many environmental constraints, including those previously mentioned and others that would impact development.

Finally, Ms. Van Auken acknowledges the Township's efforts to implement the non-mandatory Stream Corridor Restoration and Protection Plan and urges the Township to consider implementing additional non-mandatory components of the RMP such as protections for historic resources.

Response: The Highlands Council acknowledges Ms. Van Auken's comments on behalf of the NJ Highlands Coalition. With respect to Ms. Van Auken's concerns regarding resources and infrastructure (sewer and water) in the proposed Annandale center study and potential affordable housing sites, the Highlands Council will continue to work with the Township to examine the potential for a Highlands Center or any affordable housing sites employing a comprehensive approach addressing utility capacity, water availability, resource protection, historic and cultural resource protection, economic development, transportation planning and community enhancement consistent with the Goals, Policies and Objectives of the RMP.

Finally, with respect to implementation of non-mandatory components of the RMP, Clinton Township along with the Highlands Council has identified Stream Corridor Restoration and Protection as a priority for the Township. Additional grant funding may be made available to the Township for added implementation tasks at a later date through a supplemental amended grant agreement once the Township has completed its current Implementation Plan and Schedule.

Comment (NJ Conservation Foundation): Ms. Frey, on behalf of the New Jersey Conservation Foundation, strongly supports Clinton Township's Petition for Plan Conformance particularly on the basis that the Township is conforming for both the Preservation Area and Planning Area. Ms. Frey expressed concerns with disclaimer language added by the Township to the front page of the Highlands Environmental Resource Inventory, Master Plan Highlands Element, and Highlands Area Land Use Ordinance stating that the documents are draft, deliberative, have no effect on any existing Clinton Township Master Plan element or land development ordinance, and shall not be relied upon by any third parties. Ms. Frey states that this disclaimer should not apply to fact-based data such as the ERI mapping and science-based assessments of water supply, water quality, forest quality, and presence of rare, threatened and endangered species.

Ms. Frey states that the view-shed of the Spruce Run Reservoir encircled by the forested Cushetunk Mountain and the Round Valley Recreation Area is identified in the baseline Highlands Scenic Resources Inventory and Clinton Township's documents, however, the spectacular view of these lands is not protected. Ms. Frey indicates that the views are made possible by the existence of continuous privately-owned farm fields along the left side of Cokesbury Road. She opines that the view is surely treasured by many and should be recognized and protected as a significant scenic resource. Furthermore, Ms. Frey states that the Highlands Act Goals for the RMP in the Planning Area include a requirement to protect and maintain the essential character of the Highlands environment and that the Clinton Township Draft Highlands ERI discusses the goals associated with protecting scenic resources, including maintaining the visual integrity and scenic beauty of noteworthy view-sheds. Ms. Frey states that there is currently no process proposed in the Clinton Plan Conformance documents that would identify and protect currently unidentified scenic resources and that the Draft Land Use Ordinance appears to deal only with the Highlands Scenic Resources already identified in the

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RMP. It is not clear how scenic view-sheds that are not related to the RMP list of Highlands Scenic Resources would be recognized and protected.

Ms. Frey urges the Council to move to implement the Highlands Scenic Resources Procedures by convening the approved volunteer seven-member Scenic Design Advisory Board to secure the recognition and protection of other unidentified scenic resources in Clinton Township and notes that RMP Policy 4C3 requires that conforming municipalities include in their development regulations minimum standards for the protection and enhancement of scenic resources included in the Highlands Scenic Resources Inventory. Ms. Frey further notes that RMP Policy 4C1 requires that conforming municipalities and counties include a Historic, Cultural and Scenic Resource Protection Element in municipal and county master plans and development regulations. She feels that the option to include the Highlands Historic, Cultural and Archaeological Resources and an overlay to municipal zoning should be retained in Clinton Township's Draft Highlands Area Land Use Ordinance.

Finally, Ms. Frey recognizes that the Draft Consistency Review and Recommendations Report for Clinton Township refers, in a number of cases, to modifications made to documents that are indicated on those documents. These modifications did not appear to be shown.

Response: The Highlands Council thanks Ms. Frey for her comments on behalf of the New Jersey Conservation Foundation. With regard to the protection of Historic, Cultural, Archeological, and Scenic Resources, in particular as may pertain to the referenced farmlands along Cokesbury Road, the Highlands Council has included in Clinton Township's proposed Implementation Plan and Schedule an Agricultural Retention and Farmland Preservation Plan. The Highlands Council will work closely with Clinton Township to review and consider inclusion of all eligible scenic resources in the Scenic Resource Management Plan, and likewise, of farmland properties in the Agriculture Retention and Farmland Preservation Plan – each providing for preservation or protection. The Highlands Council has in place procedures for the nomination and evaluation of scenic resources as part of the 2008 Historic, Cultural, Archeological, and Scenic Resources Technical Report (Page 6). Additional procedures and a nomination form are available from the Highlands Council upon request should Ms. Frey wish to nominate specific properties or corridors to be included in the Highlands Scenic Resource Inventory.

Regarding Ms. Frey's concern with the disclaimer language on the Highlands Environmental Resource Inventory, Master Plan Highlands Element, and Highlands Area Land Use Ordinance, the Township inserted this language to inform the public that these documents remain as draft at this time and are subject to changes which are agreed upon by the Highlands Council and Clinton Township. The Highlands Council has no objection to inclusion of such disclaimers at this point in the conformance process, since new master plan language and/or of land use regulatory provisions take on the full force and effect of law only upon final adoption following public hearing and completion of all required MLUL procedures. In any case, no changes to fact-based data will be made unless deemed appropriate as updates/corrections.

Finally, Ms. Frey notes that the Draft Consistency Review and Recommendations Report for Clinton Township refers to modifications made to documents that are not displayed on the posted documents. Modifications to the referenced documents made between the Highlands Council and Clinton Township are considered confidential and deliberative in nature. The posted documents reflect all changes to date, indicating agreement between the Township and the Highlands Council as to the final form of the Petition

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documents to be considered for approval by the Highlands Council. If any public comment results in further changes or modifications to a municipality's Petition documents, those changes would be displayed clearly and reposted prior to the Highlands Council public hearing on the Petition.