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**INCORPORATED BY REFERENCE INTO
HIGHLANDS COUNCIL RESOLUTION 2010 - 10
ADOPTED NOVEMBER 19, 2010**

FINAL CONSISTENCY REVIEW AND RECOMMENDATIONS REPORT

**PETITION FOR PLAN CONFORMANCE:
LEBANON BOROUGH, HUNTERDON COUNTY**

Prepared by the State of New Jersey Highlands Water Protection and
Planning Council in Support of the Highlands Regional Master Plan

NOVEMBER 15, 2010

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INTRODUCTION

This Final Consistency Review and Recommendations Report (“Report”) has been prepared by the Staff of the New Jersey Highlands Water Protection and Planning Council (“Highlands Council”). It provides review and recommendations for consideration by the Highlands Council as to the consistency of the Petition for Plan Conformance of the Borough of Lebanon, with the Highlands Regional Master Plan (RMP). The Report provides review and discussion of each component of the Petition for Plan Conformance, in the order in which they are set forth under submission guidelines provided to municipalities by the Highlands Council. It begins with a brief summary of Staff findings, displayed in a table format, to provide an at-a-glance overview of the results of Staff review.

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REPORT SUMMARY

Municipality: Lebanon Borough

Date of Petition Submission: December 7, 2009

Date Deemed Complete: February 4, 2010

Conformance Area: Planning Area

Staff Recommendation: Approve Petition with Conditions

Administrative Submittals	Meets Requirements	Conditions of Approval
1. Resolution or Ordinance	X	None
2. Record of Public Involvement	X	None
3. List of Current Planning and Regulatory Documents	X	None

Petition Components	Consistent	Conditions of Approval
1. Modules 1-2 Build-Out Report*	X	None
2. Module 3 Housing Element/Plan	X	See Section D.1
3. Module 4 ERI	X	See Section D.1
4. Module 5 Highlands Element	X	See Section D.1
5. Module 6 Land Use Ordinance	X	Follow-Up Required per Section B5; D1
6. Module 7 Petition		
a. Self-Assessment Report	X	None
b. Implementation Plan/Schedule	X	Follow-Up Required per Section B.6; D.1

*Completed by the Highlands Council in collaboration with the municipality prior to substantive review of the Petition.

Optional Submission Items	Submission Date	Status/Recommendation
1. RMP Updates	12/7/09	Processed
2. Map Adjustments	8/5/10	Approve as per Appendix C
3. Center Designation Requests	N/A	
4. Highlands Redevelopment Area Designation Requests	N/A	

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A. REVIEW OF ADMINISTRATIVE SUBMITTALS

- 1. Resolution or Ordinance.** The Resolution petitioning the Highlands Council for Plan Conformance was adopted by the municipal Governing Body at its noticed public meeting of November 12, 2009. The document submitted is appropriately signed and certified by the Municipal Clerk to verify authenticity. The language of the Resolution relies upon the model provided by the Highlands Council. The Resolution clearly petitions the Highlands Council for Plan Conformance; conformance being proposed with respect to the whole of the municipality, which lies fully within the Planning Area.
- 2. Record of Public Involvement.** The Petition includes appropriate documentation of the public process engaged in by the municipality with regard to the development of Petition materials and adoption of the Resolution petitioning the Highlands Council for Plan Conformance. The submission includes the following:

 - a.** Copy of public meeting notices for joint meetings of the Lebanon Borough Common Council and Lebanon Borough Planning Board/Zoning Board of Adjustment held on October 14, 2009 and October 28, 2009 to discuss Plan Conformance and Petition components.
 - b.** Copy of meeting agendas and draft meeting minutes associated with joint Lebanon Borough Common Council/Planning Board/Zoning Board of Adjustment meetings held on October 14, 2009 and October 28, 2009.
- 3. List of Current Planning Documents.** The list of current municipal planning and regulatory documents is comprehensive and includes required dates of adoption, as applicable. Pursuant to Highlands Council Module 7 Municipal Plan Conformance Petition instructions, all of these documents should be available in the offices of the Highlands Council in Adobe pdf format. Staff review indicates that all of the required documents have been provided in Adobe pdf format as required.

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B. REVIEW OF PLAN CONFORMANCE PETITION COMPONENTS

- 1. Highlands Municipal Build-Out Report (Modules 1-2).** The Highlands Municipal Build-Out Report was completed by the Highlands Council in collaboration with the municipality prior to a finding of Administrative Completeness of the Petition. The date of the Highlands Municipal Build-Out Report is July 2009.
- 2. Housing Element & Fair Share Plan (Module 3).** Both the RMP and Highlands Council instructions concerning submission of Master Plan Housing Elements and Fair Share Plans, sought municipal participation in a three-step process, intended to culminate in the submission of fully developed affordable housing plans to both the Highlands Council and the Council on Affordable Housing (COAH) (or alternatively the Highlands Council and the Superior Court). This process was designed to assist municipalities in developing plans to address fair share housing obligations that are consistent with the RMP. For most Highlands municipalities, the deadline for submission to COAH was extended to June 8, 2010. The extended time allowance was intended to provide for completion of Highlands Municipal Build-Out Reports (see Modules 1-2, above) and incorporation of resulting information into fully developed affordable housing plans in accordance with Executive Order #114 (2008) and COAH's *Guidance for Highlands Municipalities that Conform to the Highlands Regional Master Plan*. This process also allows for Highlands Council review of as yet unconstructed projects in municipal housing plans, for consistency with the RMP.

The Borough of Lebanon provided all components required by the Highlands Council. The first submission was included as requested within the municipality's Petition for Plan Conformance, while the remaining items were provided in accordance with the revised submission deadlines. Completed Highlands Council forms used to conduct preliminary submission reviews appear in Appendix A. Review of the "Amended Third Round Housing Element and Fair Share Plan" submission, prepared by Carl Hintz, PP/AICP, and Elizabeth K. McManus, PP/AICP, of Clarke Caton Hintz, and adopted by the Planning Board on May 19, 2010, follows. These documents were filed with the Law Division of Superior Court on June 8, 2010.

- a. Summary of Municipal Obligation.** The Municipal Obligation appeared to be correctly calculated and included the components listed below.

- **Rehabilitation Share:** 3 units
- **Prior Round Obligation:** 34 units
- **Growth Share Obligation (see B.2.b, below):** 30 units

- b. Municipal Growth Projections.** Municipal Growth Projections, used to determine the Growth Share Obligation (above) were correctly indicated in the COAH Workbook D form or other submittals provided by the municipality. The

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final figures are listed below. Note: Highlands Full Build-Out Projections apply in the case of conformance for the full municipality (i.e., for split municipalities, including both the Planning and Preservation Area) in accordance with COAH's instructional document, *Guidance for Highlands Municipalities that Conform to the Highlands Regional Master Plan*; COAH Growth Projections apply in all cases where the municipality is not petitioning for conformance for the whole of the municipality, until or unless modified by COAH consistent with the Guidance or as applicable, the Superior Court. The municipality's Housing Element relies upon Highlands Full Build-Out Projections.

i. Highlands Full Build-Out Projections

- Residential Growth (housing units): 1 unit
- Non-Residential Growth (jobs): 101 jobs
- Total Growth Share, after exclusions (units): 30 units

ii. COAH Growth Projections through 2018

- Residential Growth (housing units): 10
- Non-Residential Growth (jobs): 270
- Total Growth Share, after exclusions (units): 17

- c. Summary of Proposed Fair Share Plan.** The Fair Share Plan proposes to address the municipal obligation by use of the mechanisms and development projects listed below. Where Affordable Housing Sites were included that have not yet been constructed, each was reviewed for consistency with the RMP using the on-line Highlands Council RMP Consistency Review Report tool. The Borough has 2 Prior Round Sites that are under construction and anticipates 30 credits from other mechanisms including family rental, accessory apartments and a residence for the developmentally disabled. A brief summary of each is included below.

- i. Rehabilitation Program:** The Borough will address the 3-unit rehabilitation obligation by construction of new units, as permitted under COAH Regulations at N.J.A.C. 5:97-6.2(b)7. Two of these consist of accessory apartments (approved in April 2010) for construction by Coach House, LLC on a 0.9-acre site identified as Tax Block 6, Lots 14 and 14.01 (on Main Street). The overall project includes a rebuilt single family detached home, one unit in an existing barn, and six units in an existing multi-family building. The site is served by public water and sewer. The

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third unit will include one family rental unit at Presidential Palace, listed below. Anticipated Credits: 3.

ii. Inclusionary Development #1: Presidential Place (aka, Pizzo Development), located at Block 3 Lots 1 & 3 (under construction). Project includes 120 market units and 30 affordable rental units. Served by public water and sewer. Anticipated Credits: 13 toward Prior Round; 16 plus 7 bonus credits toward Third Round; Total: 37.

iii. Inclusionary Development #2: Heights of Lebanon (aka Kaplan Development), located at Block 10 Lot 2, Railroad Avenue (under construction). Project includes 108 market rate units and 12 affordable rental units. Served by public water and sewer. Anticipated Credits: 12 plus 9 bonus credits; total 21.

iv. Other Mechanisms:

- Accessory Apartment Program proposed to be serviced by public sewer and water (3 units). The plan as proposed is consistent with the RMP. Anticipated credits: 3.
- Community Residence for Developmentally Disabled, Block 8 lot 26, Hunterdon Alliance for the Mentally Ill. Completed. Anticipated credits: 4.

d. Findings/Recommendations. The final Housing Element and Fair Share Plan document appears to address the municipality's Fair Share Obligation. Any final determination in that regard will be made by COAH or the Superior Court. As to consistency with the requirements of the RMP, the Plan is satisfactory. The final Housing Element and Fair Share Plan is slightly modified from the draft version previously submitted to the Highlands Council.

3. Environmental Resource Inventory (Module 4). The proposed Borough of Lebanon Highlands Environmental Resource Inventory (ERI) is based on the Highlands Model ERI provided to municipalities by the Highlands Council. The document has undergone previous revisions under a collaborative process between the municipality and the Highlands Council to address and incorporate the input and concerns of all parties. The Borough of Lebanon Highlands ERI as now proposed, contains all required Highlands ERI language and all applicable maps/exhibits, as necessary, to fully describe the Highlands Resources, Resource Areas, and Special Protection Areas located within the municipality. As such, the Highlands ERI is consistent with the RMP and the immediate mandatory requirements of Plan Conformance.

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- a. **Deleted Sections.** The following sections of the model Highlands ERI are not relevant to the municipality and were appropriately deleted from the municipal submission: Special Environmental Zone, Lake Management Area.
 - b. **Deleted Exhibits.** The following Exhibits from the model Highlands ERI are not relevant to the municipality and were appropriately deleted from the municipal submission: Forest Resource Area, Significant Natural Areas, Vernal Pools, and the Highlands Special Environmental Zone.
 - c. **Areas of Inconsistency.** None.
4. **Master Plan Highlands Element (Module 5).** The proposed Borough of Lebanon Master Plan Highlands Element is based on the model Highlands Element provided to municipalities by the Highlands Council. The document has undergone previous revisions under a collaborative process between the municipality and the Highlands Council. The document contains all required language and all applicable maps/exhibits, as necessary, to address the immediate mandatory requirements of Plan Conformance. Very minor modifications are needed to complete the document which will be addressed by the municipality as provided in the section below.

The specific components of the model Highlands Element are listed below. Where each is consistent with the Highlands Council model or otherwise satisfactorily addresses all RMP requirements for Basic Plan Conformance, the heading or sub-heading indicates “Consistent.” Where any section of the model Highlands Element has been appropriately deleted due to non-applicability, the heading or sub-heading indicates “Not Applicable – Deleted.” Where minor modifications are required to complete the document for purposes of adoption by the Planning Board, the heading or sub-heading indicates, “Minor Modifications Required for Completion.”

- a. **Policies, Goals & Objectives.** Consistent
 - i. Preservation Area Goals. Not Applicable – Deleted
 - ii. Planning Area Goals. Consistent
 - iii. General Purposes of Zoning. Consistent
 - iv. Relationship Between Highlands Act & MLUL. Consistent
- b. **Land Use Plan Element.** Consistent
 - i. Highlands Zones and Sub-Zones. Consistent. The Lake Community Sub-Zone and Wildlife Management Sub-Zone are not applicable to the Borough and have been marked for deletion. (Removal of the Lake Community Sub-Zone is due to a Highlands Council-initiated RMP Update.)

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- ii. Land Uses. Consistent
 - iii. Density and Intensity of Development. Consistent.
 - iv. Cluster Development. Consistent
 - v. Land Use Inventory. Consistent
 - vi. Redevelopment Planning. Consistent
- c. **Housing Plan Element.** Consistent
- d. **Conservation Plan Element.** Consistent.
 - i. Forest Resources. Consistent
 - ii. Highlands Open Waters and Riparian Areas. Consistent
 - iii. Steep Slopes. Consistent
 - iv. Critical Habitat. Consistent
 - v. Carbonate Rock. Consistent
 - vi. Lake Management. Not Applicable – Deleted
 - vii. Water Resources Availability. Consistent
 - viii. Prime Ground Water Recharge Areas. Consistent
 - ix. Water Quality. Consistent
 - x. Wellhead Protection. Consistent
 - xi. Low Impact Development. Consistent
- e. **Utility Services Plan Element.** Consistent
- f. **Circulation Plan Element.** Consistent
- g. **Land Preservation/Stewardship Plan Element.** Consistent
- h. **Agriculture Retention/Farmland Preservation Plan Element.** Consistent
 - i. Please note, due to the very limited amount of farmland remaining in the Borough this section constitutes the full extent of the Element.
- i. **Community Facilities Plan Element.** Consistent
- j. **Sustainable Economic Development Plan Element.** Consistent
- k. **Historic Preservation Plan Element.** Consistent

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- i. Historic, Cultural, and Archaeological Resources. Consistent.
 - ii. Scenic Resources. Consistent
 - 1. **Development Transfer Plan Element.** Inclusion of this Section is optional and the municipality has elected not to incorporate it.
 - m. **Relationship of Master Plan to Other Plans.** Consistent
 - n. **Exhibits.** Consistent. The list of Exhibits has been edited to include all that apply to the municipality. The applicable Exhibits are attached to the Highlands Element. The text of the Highlands Element has been modified to delete language indicating that the Exhibits will be adopted by reference to the Highlands ERI. The image representing the Exhibit of the State Development and Redevelopment Plan Planning Areas has been updated.
5. **Highlands Area Land Use Ordinance (Module 6).** The proposed Borough of Lebanon Highlands Area Land Use Ordinance is based on the model Highlands Area Land Use Ordinance provided to municipalities by the Highlands Council. Since the time of issuance of the Model, the Highlands Council, with input from municipal professionals, has made certain revisions to the document to refine and simplify it for purposes of municipal implementation. The Borough of Lebanon Highlands Area Land Use Ordinance as proposed (inclusive of modifications provided by the Highlands Council), contains all required Highlands Area Land Use Ordinance language, as necessary, to fully address the immediate mandatory requirements of Plan Conformance. The Exhibits have also been included with the final submission of the Land Use Ordinance.

The specific components of the model Highlands Land Use Ordinance are listed below. Where each is consistent with the Highlands Council model or otherwise satisfactorily addresses all RMP requirements for Basic Plan Conformance, the heading or sub-heading indicates “Consistent.” Where any section of the model Highlands Land Use Ordinance has been appropriately deleted due to non-applicability, the heading or sub-heading indicates “Not Applicable – Deleted.” Where minor modifications are required to complete the document for purposes of adoption, the heading or sub-heading indicates, “Minor Modifications Required for Completion.” If needed, explanatory discussion is provided.

- a. **Article 1. Title, Purpose, Scope.** Consistent.
- b. **Article 2. Applicability.** Consistent.
- c. **Article 3. Definitions.** Consistent.
- d. **Article 4. Establishment of Highlands Area Districts.** Consistent. Please note that the Wildlife Management Sub-Zone and the Lake Community Sub-Zone are not applicable to the Borough and have been marked for deletion. The municipality

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has satisfactorily addressed/incorporated the modifications made by the Highlands Council, inclusive of new map titles at Section 4.4.

- i. Forest Resource Area is not applicable – marked for deletion.
 - ii. Portions of Critical Habitat section are not applicable – marked for deletion.
 - iii. Lake Management Area is not applicable – marked for deletion.
- e. **Article 5. Highlands Area Zone District Regulations.** Consistent. The municipality has satisfactorily addressed/incorporated the significant modifications made to the section by the Highlands Council. Note: The municipality's interest in establishing prohibitions on all outdoor (commercial) advertising will be addressed in the context of Scenic Resources Management Planning, which, inclusive of development of applicable implementing ordinances, has been added to the tasks the municipality will address after approval of its Petition for Plan Conformance (see the Highlands Implementation Plan and Schedule).
- f. **Article 6. Highlands Area Resource Regulations.** Consistent.
 - i. Forest Resources. Consistent.
 - ii. Highlands Open Waters & Riparian Resources. Consistent.
 - iii. Steep Slopes. Consistent.
 - iv. Critical Habitat. Consistent.
 - v. Carbonate Rock. Consistent.
 - vi. Lake Management Area. Not Applicable – Deleted.
 - vii. Water Conservation & Deficit Mitigation. Consistent.
 - viii. Prime Ground Water Recharge Areas. Consistent.
 - ix. Wellhead Protection. Consistent.
 - x. Agricultural Resources. Consistent.
 - xi. Historic, Cultural & Archaeological Resources (Optional). Deleted.
 - xii. Scenic Resources. Consistent.
- g. **Article 7. Highlands Area General Regulations.** Consistent.
 - i. Affordable Housing. Consistent.
 - ii. Low Impact Development. Consistent.
 - iii. Conservation Restrictions. Consistent.

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- iv. Stormwater Management. Consistent.
 - v. Special Environmental Zone. Not Applicable – Deleted.
 - vi. Septic System Design and Maintenance. Consistent.
 - vii. Public Water Systems. Consistent.
 - viii. Wastewater Collection and Treatment Systems. Consistent.
- h. **Article 8. Planned Development Regulations.** Consistent.
- i. **Article 9. Application Review Procedures & Requirements.** Consistent as submitted, however minor modifications are required to complete the section. Please review edits in document text.
- i. Section on Application Fee and Escrow requirements need to be completed prior to municipal adoption of the Highlands Ordinance.
 - ii. Section on Application Submissions needs minor modification to complete.
- j. **Article 10. Appeals, Waivers, Exceptions.** Consistent.
- k. **Article 11. Enforcement, Violations, Penalties.** Consistent.
- l. **Appendices.** Consistent.
- m. **Exhibits.** The Exhibits, including the List of Exhibits and all in-text document references to Exhibits were updated by the Highlands Council to include Highlands Council parcel-based maps, which indicate the locations and boundaries of each Highlands Area, Zone, Resource, Resource Area, and Special Protection Area. These Exhibits were not available when the Model Land Use Ordinance was initially provided by the Highlands Council for use in preparing Petitions, but are crucial to the regulatory function of the Highlands Area Land Use Ordinance. Exhibit 3 has been revised to exclude the Lake Management Area as it is not applicable to Lebanon Borough. Exhibit 9 has been revised to exclude Historic, Cultural and Archeological Resources as the Borough does not anticipate the adoption of a Historic Resources Ordinance at this time.

Please note that the revised maps have been provided in Adobe® pdf format, and in this case, should not be converted for insertion directly in the MSWord® version of the Ordinance. After adoption, they should accompany the Ordinance at all times, however, as an integral component of it – whether made available to the public in paper or electronic format. As provided currently, the maps are at a scale suited to printing on large plotters, for purposes of municipal reproduction and display (ensuring high-resolution detail).

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6. Petition Submission Documents (Module 7).

- a. Municipal Self-Assessment Report.** The Municipal Self-Assessment Report consists of two components as listed herein. The Report accurately describes the status of municipal Plan Conformance to date, indicating both municipal accomplishments and the items that remain to be completed to achieve Full Plan Conformance.

 - i. Narrative Portion.** The Narrative Portion has been completed accurately for purposes of Basic Plan Conformance.
 - ii. Spreadsheet Portion.** The Spreadsheet Portion has been completed accurately.
- b. Highlands Implementation Plan & Schedule.** The Highlands Implementation Plan and Schedule provides a template for future Plan Conformance activities. It is intended to indicate all outstanding items, both required and discretionary, along with estimated costs and timeframes for completion, for the municipality to achieve or exceed Full Plan Conformance with the Regional Master Plan.

As proposed by the municipality, the Highlands Implementation Plan and Schedule:

- a) included all mandatory components required to achieve Full Plan Conformance;
- and b) incorporated timeframe estimates associated with each mandatory element.

The Highlands Implementation Plan and Schedule has been modified since first issued by the Highlands Council however, and the municipality's document has been updated accordingly. The revised document includes cost estimates for each activity and prioritizes implementation tasks with a particular focus on the first few months after Highlands Council approval of Petitions, into and including the 2011 State fiscal year.

In addition, the proposed Highlands Implementation Plan and Schedule includes non-mandatory Full Plan Conformance activities, the estimated costs and timeframes for completion of which, the municipality must consider. In particular, \$30,000 is allocated for development of a Stream Corridor Protection/Restoration Plan. These activities have been incorporated into the revised Highlands Implementation Plan and Schedule for discussion purposes. The non-mandatory activities proposed by the municipality: a) constitute appropriate projects and/or activities in furtherance of the goals, policies, and objectives of the Regional Master Plan and are thus eligible for legal protections and funding or partial funding under the Highlands Plan Conformance protocols and grant program requirements; and b) are accompanied by realistic timeframes to provide for completion.

Recommended edits tailoring the revised document to the municipality (based on the Petition submittals) have been considered and included in the final version.

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C. REVIEW OF OPTIONAL SUBMISSION COMPONENTS

- 1. RMP Updates.** The Petition for Plan Conformance was accompanied by requests for RMP Updates. These requests are described in the attachment at Appendix B, with a summary of the final results of review and processing provided below.
 - a. RMP Update Request(s).** Results. Lebanon Borough submitted two proposed RMP Updates with the Petition for Plan Conformance requesting to change the Land Use Capability Zone from Protection Zone to Existing Community Zone. A description of each one and the final results are summarized below and discussed in more detail in the excerpt from the Highlands Council RMP Update Report located in Appendix B:
 - i.** Proposed RMP Update 1018-UPD001-091028 – The RMP Update was initially requested July 31, 2009 with additional information provided with the Petition for Plan Conformance. The site includes Lots 1.03 and 1.04, Block 4 and is currently owned by the Bellemead Development Corporation. Examination of the 2008 aerial photograph revealed development to the lots and an adjacent Lot 1.05. The parcels are located in an Existing Area Served with Wastewater. The land cover data were updated and the Land Use Capability Zone change was approved.
 - ii.** Proposed RMP Update 1018-UPD002-100318 – The RMP Update was requested December 7, 2009 with the Petition for Plan Conformance. The site, also known as the Pizzo Site, includes Lot 1, Block 3 and is a COAH Prior Round Site already under construction as noted above in Section 2. An examination of the site and photographs revealed the lot is under construction. The land cover data were updated and the Land Use Capability Zone change was approved.
 - b. Highlands Council RMP Update.** Results. The Highlands Council initiated a regional RMP Update regarding the delineation of Lake Community Sub-Zones and Lake Management Areas, based on new mapping of the drainage areas to all Highlands Lakes using new LiDAR data. As one result of this new work, the Lake Community Sub-Zone in Lebanon Borough associated with Round Valley Reservoir has been removed, as Lebanon Borough is not within the drainage area of the Reservoir.
- 2. Map Adjustments.** The Petition for Plan Conformance was supplemented with a request for a Map Adjustment at the time of the Municipal Response. This request is listed and described in detail in the attachments at Appendix C, inclusive of Staff recommendations, for review by the Highlands Council. A brief summary follows.

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The application concerns two contiguous parcels identified in the Borough Tax Maps as Block 4 Lots 1.03 and 1.04, for which the Borough seeks a change from Protection Zone to Existing Community Zone. Owned by the Bellemead Development Corporation, the parcels are part of a larger tract of land designated by the Borough in 1985, as a Planned Commercial Development. The area is known locally as the “Route 78 Corporate Center” and was intended for commercial/office use under a “corporate campus” style of development. Significant components of the project have been completed under various prior approvals, with those of the subject parcels dating to April 2001. Portions of the lots in question have already been modified from Protection Zone to Existing Community Zone, under RMP Update 1018-UPD001-091028, as noted above. The lots are bounded by I-78 on the north side, US Route 22 on the south, Cokesbury Road and the I-78 on/off ramp interchange on the west, and the adjacent Existing Community Zone (ECZ) on the east.

The change from Protection Zone to ECZ for those areas slated for development under the existing plans would have no impact on adjoining properties or RMP policies applicable to the adjacent ECZ; the properties have access to major transportation infrastructure, have reserved water/wastewater capacities, and will allow for concentrated commercial development in a "node" type Center format, as the State Development and Redevelopment Plan would call it. The special circumstances that apply have been clearly explained and documented in the Borough's submission documents. Portions of the parcels that are not slated for development and are within Highlands Open Water buffers remain within the Protection Zone. Approval of this map adjustment is recommended subject to the development and implementation of a stream corridor restoration and protection plan, as discussed at Appendix C

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D. STAFF RECOMMENDATIONS

On the basis of the comprehensive review completed and discussed in detail as described in the preceding Sections, which examined both sufficiency of administrative submittals and consistency of all substantive materials with the Highlands RMP, Highlands Council Staff recommends that the Petition for Plan Conformance of the Borough of Lebanon, as currently proposed by the municipality, be approved with conditions as outlined below.

- 1. Approval with Conditions.** Highlands Council Staff recommend that this Petition for Plan Conformance be approved by the Highlands Council. The approval should be conditioned upon satisfactory completion of all items noted within Sections A through C of this Report (including all items addressed in the herein-referenced Highlands Council Staff-provided MSWord “Track-Changes” versions of the various Petition documents), and in addition, satisfaction of the below-listed requirements.

- a. Adoption of Approved Planning Area Ordinance.** The municipality shall prepare and submit to the Highlands Council a draft municipal ordinance petitioning the Highlands Council for Plan Conformance with respect to the municipality’s Planning Area lands (based upon or consistent with the model provided by the Highlands Council). Upon receipt of Highlands Council approval, the Ordinance shall be prepared for purposes of public review and adoption by the municipal Governing Body. The Governing Body shall provide for and complete the adoption process, at the conclusion of which, a certified copy of the adopted Highlands Area Land Use Ordinance shall be provided to the Highlands Council with notice of its effective date. The process of Ordinance adoption shall be guided by the timeframes set forth in the Highlands Council-approved Highlands Implementation Plan and Schedule. Should this process lead to proposed modifications to any portion of the Ordinance, the proposed changes shall be submitted for review by the Highlands Council prior to adoption by the Governing Body. In the event the Highlands Council determines that any proposed modification is of a substantive nature, Highlands Council approval shall be required prior to adoption at the municipal level.

- b. Adoption of Approved Highlands ERI.** The Highlands Environmental Resource Inventory (ERI) shall be completed in accordance with the requirements of Section B3 of this Report, and submitted to the Highlands Council for final approval. Upon receipt of final Highlands Council approval, the ERI shall be prepared in a clean, final document format for purposes of public review and adoption. A copy shall be provided to the Highlands Council. The municipal Environmental Commission (or Planning Board in the absence of an Environmental Commission) shall provide for and complete the required process of formal adoption of the ERI by the local Commission or Board. At the conclusion of the process, a certified copy of the adopted ERI shall be provided to the Highlands Council. The process of ERI adoption shall be conducted in accordance with all applicable legal requirements and

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protocols, and shall be guided by the timeframes set forth in the Highlands Council-approved Implementation Plan and Schedule. Should this process lead to proposed modifications to any portion of the ERI, the proposed changes shall be submitted to the Highlands Council for review. In the event the Highlands Council determines that any proposed modification is of a substantive nature, Highlands Council approval shall be required prior to adoption by the local Commission or Board.

- c. Adoption of Approved Master Plan Highlands Element.** The Master Plan Highlands Element shall be completed in accordance with the requirements of Section B4 of this Report, and submitted to the Highlands Council for final approval. Upon receipt of final Highlands Council approval, the Highlands Element shall be prepared in a clean, final document format for purposes of public review and adoption. A copy shall be provided to the Highlands Council. The municipal Planning Board shall arrange for the required process of scheduling, notice, public hearing, consideration, and formal adoption of the Highlands Element by the municipal Planning Board. At the conclusion of the process, a certified copy of the adopted Highlands Element shall be provided to the Highlands Council. The process of Highlands Element adoption shall be conducted in accordance with all applicable legal requirements and protocols, and shall be guided by the timeframes set forth in the Highlands Council-approved Implementation Plan and Schedule. Should this process lead to proposed modifications to any portion of the Highlands Element, the proposed changes shall be submitted to the Highlands Council for review. In the event the Highlands Council determines that any proposed modification is of a substantive nature, Highlands Council approval shall be required prior to adoption by the local Planning Board.
- d. Adoption of Approved Highlands Area Land Use Ordinance.** The Highlands Area Land Use Ordinance shall be completed in accordance with the requirements of Section B5 of this Report, and submitted to the Highlands Council for final approval. Upon receipt of final Highlands Council approval, the Highlands Area Land Use Ordinance shall be prepared in a clean, final document format for purposes of public review and adoption. A copy shall be provided to the Highlands Council. After the municipal Planning Board has adopted the Master Plan Highlands Element, the municipal Governing Body shall arrange for the required process of scheduling, notice, public hearing, consideration, and formal adoption of the Highlands Area Land Use Ordinance by the municipal Governing Body. At the conclusion of the process, a certified copy of the adopted Highlands Area Land Use Ordinance shall be provided to the Highlands Council with notice of its effective date. The process of Highlands Area Land Use Ordinance adoption shall be conducted in accordance with all legal requirements and protocols pursuant to the New Jersey Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), and shall be guided by the timeframes set forth in the Highlands Council-approved Implementation Plan and Schedule. Should this process lead to proposed

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modifications to any portion of the Highlands Area Land Use Ordinance, the proposed changes shall be submitted to the Highlands Council for review. In the event the Highlands Council determines that any proposed modification is of a substantive nature, Highlands Council approval shall be required prior to adoption by the Governing Body.

- i. Municipal Exemption Determinations.** As a component of the Highlands Area Land Use Ordinance, the Borough shall provide for “Municipal Exemption Determinations” in accordance with Highlands Council delegation of such authority to the municipality. Such determinations (detailed within the current draft Ordinance) refer to the process of reviewing and making determinations concerning exemptions from the Highlands Act, which in turn, represent exemptions from the provisions of the Highlands Area Land Use Ordinance. The effective date of such provisions shall occur only after the municipality indicates readiness to proceed and receives written authorization from the Highlands Council granting it the authority to do so.
- ii. Highlands Council Information and Training Sessions.** Prior to the effective date of the Highlands Area Land Use Ordinance, municipal representatives (e.g., Land Use Administrators, Zoning Officials, Planners) shall attend information and training session(s) to be provided by the Highlands Council on the implementation and administrative procedures set forth within the Ordinance. Such sessions will provide detailed instruction on application processes and procedures, notice requirements, Highlands Council referrals and call-up provisions, decision-making and formal action, variances, waivers, exceptions, and enforcement activities. Prior to the effective date of the Municipal Exemption Determination provisions, moreover, municipal representatives (in particular, Exemption Designee(s)) shall attend an information and training session on the exercise of Municipal Exemption Determination authority.
- e. Adoption of Updated Zoning Map.** The Borough shall prepare an updated Municipal Zoning Ordinance which shall be adopted immediately following or at the time of adoption of the Highlands Area Land Use Ordinance, to reflect the new overlay Highlands Zones and Sub-Zones. The adoption process shall mirror that outlined above for the Highlands Area Land Use Ordinance.
- f. Court Approval of Housing Element & Fair Share Plan.** The Highlands Council-approved municipal Housing Element and Fair Share Plan has been adopted by the Planning Board and submitted for approval from the Superior Court, in accordance with all applicable procedures and requirements. The Highlands Council shall be copied on all related correspondence and kept apprised of the process as it unfolds. Any subsequent revision to the Housing Element and

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Fair Share Plan shall be provided to the Highlands Council for review and approval prior to implementation by the municipality. Until and unless the municipality secures final approval of a Highlands Council-approved Housing Element and Fair Share Plan, this Plan Conformance component shall remain a conditionally approved item. (In recognition of potential changes in the applicable COAH Regulations and Fair Housing laws pertaining to the provision of affordable housing in the state of New Jersey, these requirements shall be considered subject to modification, with the intent being only to ensure that the municipality remains in compliance with all applicable statutes, rules, regulations and requirements, at any given time, so to protect the municipality from legal challenge).

- g. Adoption of Ordinances Implementing Fair Share Plan.** Governing Body adoption of Ordinances required to implement the Fair Share Plan shall follow approval of the Housing Element and Fair Share Plan, in accordance with all requirements of the Superior Court, and all legal requirements and protocols pertaining thereto. Plan implementation and continued compliance with the finally approved Fair Share Plan moreover, shall be a condition of continued Plan Conformance approval, subject to Highlands Council review and monitoring.
- h. Adoption of Wastewater Management Plan (WMP).** The municipality shall prepare a Wastewater Management Plan working with the Highlands Council under Plan Conformance, for approval by the NJDEP. This plan will be recognized as a chapter of the Hunterdon County WMP in accordance with NJDEP Administrative Order 2010-03 and all applicable NJDEP rules and requirements. The current NJDEP due date for such Plans is April 11, 2011.
- i. Adherence to Approved Highlands Implementation Plan & Schedule.** The municipality shall undertake to complete all remaining mandatory Plan Conformance activities listed in the Highlands Council-approved Highlands Implementation Plan & Schedule, in accordance with: a) the timeframes set forth therein, to the maximum extent feasible and practicable, or with such adjusted timeframes as may be authorized by the Highlands Council or otherwise mutually agreed by the municipality and the Highlands Council; and b) the availability of funding from the Highlands Council or, on a voluntary basis, by the municipality or other party, to ensure the satisfactory completion of each project or activity, or each phase of such project or activity, as appropriate. Non-mandatory Plan Conformance activities shall neither take precedence over nor shall impede the completion of mandatory items and shall be undertaken only as time and resources are available to support them.

 - i. Development/Approval of Implementation Plan Components.** Within the constraints above, all planning, regulatory, and resource management documents shall be prepared and provided to the Highlands

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Council for review and approval prior to formal adoption by the applicable municipal board, commission, or governing body.

ii. Adoption of Regulations Implementing Plan Components. All ordinances, rules, and regulations shall be prepared and provided to the Highlands Council for review and approval prior to formal adoption by the applicable municipal board, commission, or governing body.

iii. Mandatory Components. Specific mandatory components include development and implementation of the plans/programs/ordinances herein listed (once models have been provided by the Highlands Council and funding provided), all intended as municipal-wide, long-term initiatives unless specifically noted otherwise. Where applicable and appropriate, these will build upon any such plans, programs, or ordinances that have already been developed or adopted by the municipality. It is the explicit intention of the Highlands Council that such plans/programs be developed in a manner to ensure that implementation is both feasible and practicable, potentially involving assistance of outside agencies/organizations, working cooperatively for and with the municipality.

- Water Use & Conservation Management Plan.
- Habitat Conservation & Management Plan
- Stream Corridor Restoration/Protection Plan – A total of \$30,000 has been allocated for development of this plan, as a condition of the approval for the Map Adjustment, as discussed at Appendix C. A scope of work must be approved by the Executive Director prior to release of the funding.
- Stormwater Management Plan (Updates Only)
- Land Preservation and Stewardship Program
- Septic System Management/Maintenance Plan
- Implementing ordinances associated with each of the above (long-term, as applicable).

j. Revisions/Amendments Subject to Highlands Council Approval. Any proposed revision or amendment to any of the aforementioned documents, or to any other document, plan, or other item approved by the Highlands Council as a component of Plan Conformance, shall be provided to the Highlands Council for review. In the event the Highlands Council Staff determines that any proposed modification is of a substantive nature, Highlands Council approval shall be required prior to adoption by the applicable municipal board, commission, or

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governing body. Any revision or amendment adopted without the approval of the Highlands Council may subject the municipality to revocation of Plan Conformance approval.

- 2. Optional Petition Requests.** The findings below apply to the Optional Petition Requests discussed at Section C of this Report.
 - a. RMP Update(s).** The RMP Update(s) requested in connection with this Petition for Plan Conformance have been authorized and completed.
 - b. Highlands Council RMP Updates(s).** The Highlands Council RMP Update regarding the Lake Management Area has been completed.
 - c. Map Adjustment(s).** Highlands Council Staff recommend that the Map Adjustment requested in connection with this Petition for Plan Conformance be approved subject to the development and implementation of a stream corridor restoration and protection plan, as discussed at Appendix C.

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E. MUNICIPAL RESPONSE PERIOD

The Highlands Council provided a Draft Consistency Review and Recommendations Report on Lebanon Borough's Petition, which was dated and sent to the municipality on June 23, 2010. The Municipal Response Period expired on August 7, 2010. The municipality provided supplemental materials and amended module work products (deliberative) in support of the Petition for Plan Conformance, prior to expiration of that Period, for Highlands Council consideration.

The Municipal Response submittals included the items listed below, each described and discussed in relation to the matter of consistency with the Regional Master Plan and sufficiency to meet the requirements for Basic Plan Conformance.

- 1. Planning/Regulatory Documents.** The Current Planning Documents listed below were provided in Adobe pdf format. These documents fully address the requirement for submission of current planning/regulatory documents.
 - a.** 2002 Stream Corridor Protection Ordinance
 - b.** 2008 Historic Sites/Districts listed on State and National Register – State Historic Preservation Office
- 2. Master Plan Highlands Element.** Minor edits were returned by the municipality. The edits were primarily related to updated language provided to the municipality as part of the initial Highlands staff review. Section B4 of this Report has been updated accordingly, and reflects an enhanced degree of consistency with Basic Plan Conformance requirements.
- 3. Highlands Area Land Use Ordinance.** Minor edits were returned by the municipality. The edits were primarily related to updated language provided to the municipality as part of the initial Highlands staff review. Section B5 of this Report has been updated accordingly, and reflects an enhanced degree of consistency with Basic Plan Conformance requirements.
- 4. Highlands Area Land Use Ordinance Exhibits.** No new edits included.
- 5. Highlands ERI.** No new edits included.
- 6. Highlands Implementation Plan & Schedule.** Minor edits included.

In response to Highlands Council Staff requests following preliminary review of the Borough's supplemental request for a Map Adjustment, the following additional materials were provided on August 16, 2010: four (4) photographs depicting portions of the tract in question (dated August 16, 2010); and one (1) aerial photograph, marked to indicate existing site disturbance areas (dated April 5, 2010). These items are included in the Map Adjustment review provided at Appendix C.

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F. COMMENTS FROM THE PUBLIC

Following the Municipal Response Period and the incorporation by Highlands Council Staff of any revisions resulting from the Municipal Response, as noted above, the Final Draft Consistency Review and Recommendations Report was posted to the Highlands Council website and made available at the Highlands Council offices in Chester, NJ, for review and comment by the general public. The comment period closed on November 9, 2010. All comments are available for public inspection in the offices of the Highlands Council in Chester, NJ. At the conclusion of the public comment period, a summary comment/response document was prepared by Highlands Council Staff, which was posted to the Highlands Council website along with any final revisions resulting from Council review and consideration of public comments and is attached to this document, at Appendix D.

G. FINAL RECOMMENDATIONS

Based upon the comments received, the recommendations of Highlands Council Staff concerning the Petition for Plan Conformance of the Borough of Lebanon remain unchanged. **In conclusion, the Highlands Council Staff recommends that the Petition for Plan Conformance of the Borough of Lebanon, be approved with conditions; with all applicable conditions being those listed and discussed in Section D, above, and if applicable, as supplemented and/or modified by the revisions discussed herein, above.**

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APPENDIX A

**HIGHLANDS COUNCIL REVIEW
MODULE 3 HOUSING ELEMENT AND FAIR SHARE PLAN**

Preliminary Consistency Reviews

Lebanon Borough, Hunterdon County

Date of Draft Housing Element and Fair Share Plan: February 2010

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MODULE 3 REVIEW FORM December 8, 2009 Submission

MUNICIPAL INFORMATION			
Municipal Code: 1018	Date: 02/22/2010		
Municipality: Lebanon Borough			
REVIEW CHECKLIST			
	Yes	No	N/A
1. Review Affordable Housing Obligation			
a. Prior Round Obligation Correct	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Rehab Obligation Correct (Optional)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Growth Share Obligation and Calculations Correct (see Workbook D)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Review of Highlands Consistency Review Report(s) required (use Site Review form)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Housing Transfer (RAHDP) Letter of Interest (Optional).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
a. Sending	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Receiving	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HIGHLANDS COUNCIL STAFF REVIEW			
Follow up Required?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	
Comments: Prior round sites are already under construction.			
Reviewer Name: James Humphries			
Initial: pjh	Date: 02/21/2010		

MODULE 3 REVIEW FORM March 1, 2010 Submission

MUNICIPAL INFORMATION			
Municipal Code: 1018	Date: 04/06/2010		
Municipality: Lebanon Borough			
REVIEW CHECKLIST			
	Yes	No	#
4. Plan Provides for Complete Fair Share Obligation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	-
5. Using Highlands Growth Share Calculations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	-
6. Review of Highlands Consistency Review Report(s) required (use Site Review form);	<input type="checkbox"/>	<input checked="" type="checkbox"/>	-
7. Accessory Apartment Program Proposed	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2
8. RAHDP Transfers Proposed	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
HIGHLANDS COUNCIL STAFF REVIEW			
Follow up Required?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	
Comments: The major sites supplying affordable housing are already under construction or have been built. The accessory apartment program is proposed to be serviced by public sewer and water. The plan as proposed is consistent with the RMP.			
Reviewer Name: James Humphries			
Initial: PJH	Date: 04/06/2010		

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APPENDIX B

HIGHLANDS COUNCIL REVIEW

REQUESTS FOR RMP UPDATES

Lebanon Borough, Hunterdon County

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The following excerpt from the Highlands Council Regional Master Plan Update Report dated April 14, 2010 provides a summary of the findings and results of Lebanon Borough requests for RMP Updates:

Proposed RMP Update 1018-UPD001-091028

The RMP Update was requested by Lebanon Borough, as presented by Carl E. Hintz of Clarke Caton Hintz, in a letter dated July 31, 2009. The request pertains to parcels designated by Borough Tax Maps as Lots 1.03 and 1.04* in Block 4. The parcels are currently owned by the Bellemead Development Corporation.

Originally a majority of Block 4 Lots 1.03 and 1.04 had been designated as Protection Zone as depicted in Figure 2. The RMP Update requested by the municipality was to change the designation from Protection Zone to Existing Community Zone. Examination of the 2002 aerial photograph, which was used as part of the basis for the Land Use Capability Map designation, indicates that the parcels were at that time wooded and part of a contiguous forest area. However, updated aerials from 2008 indicate that substantial development has occurred to the overall site. Lots 1.03 and 1.04 have been cleared and graded. The existing disturbed areas were confirmed with Lisa Specca of Clarke Caton Hintz as depicted in Figure 1.

The critical question for this RMP Update was the identification of the existing developed area on Block 4 Lots 1.03 and 1.04.

Highlands Council Evaluation

The 2002 Land Use Land Cover (LULC) data that was used to develop the RMP 2008 Land Use Capability Zones, indicates that Lot 1.03 was at that time primarily a Mixed Deciduous/Coniferous Brush/Shrubland, Code 4440. Lot 1.04 was primarily cropland and pastureland, Code 2100. Current (2009) aerial photography confirms that substantial disturbance has occurred on the two parcels and that significant portions of the parcels are more accurately represented as LULC Industrial/Commercial Complexes, Code 1500.

The existing municipal zoning for the parcels is Office/Commercial; however, existing zoning did not form the basis for the RMP Land Use Capability Zones. The LULC Code 1500 “includes those industrial and commercial land uses that typically occur together or in close proximity. These areas are commonly referred to as ‘Industrial or Commercial Parks.’ The major types of business establishments located in these planned industrial and commercial parks are light manufacturing, administration offices, research and development facilities, and computer systems companies. Also found here are facilities for warehousing, wholesaling, retailing and distributing.” (Anderson et al, 1976)

Since only portions of Block 4 Lots 1.03 and 1.04 are developed, the Highlands staff digitized as LULC Code 1500 the disturbed areas using current aerial photography and the Stormwater Management Master Plan, Final Plat, and Grading and Drainage Plan provided with the July 31, 2009 letter.

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In addition, while reviewing this request Highlands Council staff identified a change in the LULC of an adjacent parcel, Block 4 Lot 1.05. While this parcel was not specifically identified in the request, it appears that its current LULC may affect the parcels for which an RMP Update was requested. The Highlands Council included this area in this RMP Update since in 2002 the area was LULC Mixed Deciduous/Coniferous Brush/Shrubland, Code 4440 and it is clear from current (2009) aerial photography that it is now more appropriately classified as LULC Industrial/Commercial Complexes, Code 1500.

The RMP Municipal Build-Out Report results inform the COAH Workbook D Growth Share information and are therefore included in the evaluation of RMP Updates to ensure the proper reporting of Highlands COAH Growth Share projections. The results of the RMP Updates conducted for Block 4 lots 1.03 and 1.04 were evaluated and determined to have no RMP Municipal Build-Out implications. Block 4 Lot 1.03 (12.2 acres) and Lot 1.04 (10 acres) parcel status were each identified as “Developable with Final Approved Development” in the build-out analysis. The acres of Protection Zone that were updated to Existing Community Zone were considered part of the RMP build-out “environmental constrained Highlands Open Water buffer area” and were not included as part of the build-out developable area for these parcels in the RMP Build-Out Model. Block 5 Lot 1.05 (7.3 acres) parcel status was identified as “Not Developable”. Therefore, the zone update does not change the RMP build-out developable area results for these three parcels.

Highlands Council Conclusion

In evaluating the current and existing conditions and the additional documentation provided, the Highlands Council had sufficient information to identify the existing developed area of Block 4 Lots 1.03 and 1.04 and the adjacent Lot 1.05 as Land Use Land Cover Code 1500, Industrial/Commercial Complexes and as Existing Area Served with Wastewater. The LANDS model was rerun with this updated information and resulted in an RMP Update authorizing a Highlands Land Use Capability Zone change from Protection Zone to Existing Community Zone as represented in Figure 3.

Proposed RMP Update 1018-UPD002-100318

Pizzo and Pizzo Site: Borough of Lebanon Tax Bock 3 Lot 1. This lot is designated as “Protection Zone” as established by the Highlands RMP 2008. Examination of the 2002 aerial photograph, which was used as part of the basis for the Land Use Capability Map designation, indicates the parcel at that time was wooded and part of a contiguous forest area (Figure 2). However, a site visit and photos indicate substantial development has occurred to the overall site (Figure 4). The site is cleared and under construction for multi-family residential dwellings and construction is proceeding as of this date.

Highlands Council Evaluation

The 2002 Land Use Land Cover (LULC) data that was used to develop the RMP 2008 Land Use Capability Zones indicates that Lot 1 was primarily Deciduous, Code 4110, at that time. Current (2009) photography, site plan and a site visit confirm that substantial development has occurred and is proceeding on significant portions of the parcel, which are now more accurately represented as LULC Residential High Density/Multiple Dwellings, Code 1110. Additional documentation includes

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a site plan for Pizzo & Pizzo, Inc. dated 5/27/2008. A site visit conducted by Highlands Council staff confirmed that construction on the site is nearly complete.

The RMP Municipal Build-Out Report results inform the COAH Workbook D Growth Share information and are therefore included in the evaluation of RMP Updates to ensure the proper reporting of Highlands COAH Growth Share projections. The results of the RMP Updates conducted for the Pizzo and Pizzo Site, Block 3 Lot 1 (7.3 acres) were evaluated and determined to have no RMP Municipal Build-Out implications. The parcel status was identified as “Not Developable due to existing development” in the build-out and was not included in the results. Therefore, the zone update does not change the RMP build-out developable area results for this parcel.

Summary of Approved RMP Updates

On behalf of the Highlands Council, the following RMP Updates are hereby approved:

1. Modification of the Land Use/Land Cover for the existing developed area of Borough of Lebanon Tax Block 4 Lots 1.03 and 1.04* and the adjacent Lot 1.05 to Land Use Land Cover Code 1500, Industrial/Commercial Complexes and as Existing Area Served with Wastewater.
2. Modification of the Land Use/Land Cover for the existing developed area of Borough of Lebanon Tax Block 3 Lot 1 to LULC Code 1110, Residential High Density/Multiple Dwellings.
3. Land Use Capability Zone Map change from Protection Zone to Existing Community Zone for Borough of Lebanon Tax Block 4 Lots 1.03 and 1.04, and Tax Block 3 Lot 1.

The LUC Zone updates do not change the RMP build-out results in the most current Highlands Municipal Build-Out Report.

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APPENDIX C

HIGHLANDS COUNCIL STAFF REVIEW

REQUEST FOR MAP ADJUSTMENTS

Lebanon Borough, Hunterdon County

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Overview of Map Adjustments

The Highlands Regional Master Plan (RMP) addresses the requirements of the Highlands Act to provide guidance to municipalities and counties for the implementation of the resource protection and smart growth policies during Plan Conformance. The Highlands Water Protection and Planning Council (“Highlands Council”) recognizes that the RMP was created at a regional scale and that additional planning information may be available at the federal, State, county, municipal, or public level that has not been considered by the Highlands Council. The Map Adjustments Program (in Chapter 6 of the RMP) provides the protocols for processing and tracking Land Use Capability Zone Map Adjustments, which may affect numerous components of the RMP. This process may only be undertaken when all other means, such as RMP Updates, Highlands Center Designation and the use of Highlands Act exemptions or waivers are inadequate to address the planning considerations underlying the petition. Specifically, the RMP authorizes Map Adjustments, as follows:

Policy 6G2: To develop a program allowing for petitions by municipalities and counties (with accompanying municipal support by resolution) for a Map Adjustments to the Land Use Capability Zone Map in the Highlands Region.

The Map Adjustments Program provides for the exchange of planning information between the Highlands Council and local government units in order to ensure a sound basis for local planning and development review in support of the RMP and the Highlands Act. A Map Adjustment is a Highlands Council approved adjustment of the Land Use Capability Map (LUCM) designations based on the petitioning local government’s request. The Map Adjustment Program allows for additional planning information beyond the existing spatial layers to be considered in support of sound regional planning. All petitions for Map Adjustments are evaluated in the context of the RMP and allow for flexibility while at the same time ensuring sound planning principles.

The Highlands Council Map Adjustment Program provides for resource protection measures that meet or exceed the protections provided by the RMP. In support of no net resource loss, the Highlands Council provides for local flexibility while ensuring that resources are protected regionally as appropriate, and at the subwatershed level. A showing of no net loss may be in the form of resource protection or mitigation planning, water availability conditions must meet or exceed the protections provided by the RMP and increases in development density may be offset through Highlands Development Credits or equivalent reductions elsewhere in the Region.

Map Adjustment petitions will be evaluated in the context of the regional Land Use Capability Zones (LUCZ) to identify and address potential unintended changes or deleterious impacts to areas adjacent to the proposed Map Adjustment area. All petitions for Map Adjustments must be prepared by a qualified New Jersey Licensed Professional, meet the RMP digital submission requirements and include an authorizing municipal resolution.

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Proposed Map Adjustment 1018-ADJ001-101007

Lebanon Borough is located entirely in the Highlands Planning Area. The Borough filed a Petition for Plan Conformance on December 7, 2009, which was deemed Administratively Complete on February 4, 2010. The Highlands Council provided a Draft Consistency Review and Recommendations Report to the Borough in June, which the Borough responded to by way of a revised submission on August 5, 2010. As part of this Municipal Response, the Borough submitted a Map Adjustment request for portions of the Bellemead Development Corporation property (a.k.a. Route 78 Corporate Center), specifically Tax Block 4 Lots 1.03 (identified in Highlands database as Lot 1.06) and 1.04 (henceforth referred to collectively, as “the tract”). The request seeks an adjustment in the Land Use Capability Zone designation, from Protection Zone to Existing Community Zone. The Map Adjustment request follows on a previously approved RMP Update request (1018-UPD-091028 dated April 14, 2010) applicable to the same Bellemead properties. The tract received Final Site Plan approval on April 11, 2001 and approval has been extended, reportedly through April 11, 2011. On November 20, 1986, DEP issued a Sewer Extension Permit No. S86-6553/4; the site was (and currently is) within an approved sewer service area in the Wastewater Management Plan. On October 4, 2001 Bellemead obtained a NJDEP Stream Encroachment Permit and Freshwater Wetlands Transition Area Waiver Permit (see Attachment 1). The existing municipal zone designation of the tract is Office/Commercial.

The municipality requested that portions of the Bellemead Property be considered for a Map Adjustment as it has identified the property as a planned, approved, non-residential development that is consistent with its Master Plan, Land Use Ordinance and other municipal planning documents. While major sections of the project have been constructed, development activity at the site has been stalled for some time due to the recession and severe declines in the commercial real estate market. The Bellemead Development Corporation has been in discussion with the municipality regarding continued extensions on its prior approval, however, the legal basis on which the local Board might grant such an extension at this point in time is under discussion. As such, the municipality has expressed interest in seeing portions of the Bellemead property considered for a Map Adjustment to alter the Land Use Capability Zone designation from Protection Zone to Existing Community Zone, as a component of its Petition for Planning Area Plan Conformance. The municipality has indicated that the approved Bellemead development project aligns more closely with the Regional Master Plan goals and objectives relating to the Existing Community Zone than with those for the Protection Zone. An approval would ensure that future development of the tract would be in accordance with the RMP and the Highlands Land Use Ordinance anticipated to be adopted as part of the Plan Conformance process.

Highlands Council Staff has reviewed the Map Adjustment request included with the August 5, 2010 Municipal Response Petition materials submitted by Carl E. Hintz, PP, AICP, of Clarke Caton Hintz, and subsequent information submitted by Lisa Specca, PP, AICP of the same firm. Criteria for the review of requests for Map Adjustment are found in Regional Master Plan Objective 6G2b, which states:

Map Adjustments proposed to change Protection and Conservation Zones or the Environmentally-Constrained Sub-Zones may be approved by the Highlands Council where it

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finds that the petition does not result in deleterious impacts to the affected or adjacent Land Use Capability Zones or to RMP policies and objectives applicable to adjacent or nearby lands, and the petitioner demonstrates that the proposed adjustment:

1. Complies with the intent and purposes of the Highlands Act and the RMP and demonstrates that Highlands resource protection and smart growth planning principles have been addressed;
2. Will result in no net loss of Highlands resources or resource values (including but not limited to water availability, water quality, Critical Habitat, and agriculture) within the Region or as appropriate, within any HUC 14 subwatershed, such that on the whole, the results equal or exceed the resource protections provided by the RMP;
3. Will under no circumstance result in the allocation of water or wastewater capacity in excess of that available in any HUC 14 subwatershed; and
4. Cannot appropriately or adequately be addressed via other options, such as:
 - Waivers under the Highlands Act;
 - Exemptions from the Highlands Act; and
 - RMP Updates Program.

Where a Map Adjustment creates opportunity for an increase in density, such density must be offset by an equivalent reduction in density elsewhere in the Region, or alternatively, by use of HDCs.

Where a petition seeks the creation or extension of an ECZ, it must demonstrate that the area in question can accommodate ECZ-appropriate development. The Council will look most favorably upon ECZ petitions that create a meaningful opportunity to provide affordable housing; improve the balance of housing and employment; and promote the use of alternative modes of transportation, such as transit, by for example, a location proximate to Highlands Baseline Transportation and Transit features.

The RMP Update mentioned previously (1018-UPD-091028 dated April 14, 2010) resulted in large portions of Block 4, Lots 1.04, 1.03 (Highlands database Lot 1.06) being updated to LULC Industrial/Commercial Complexes, Code 1500 and resulted in a change in the LUCMZ from Protection Zone to Existing Community Zone (see Attachment 2). This Update was based on the current land uses. The RMP Update determined that the currently undisturbed areas of the property did not meet the criteria for an RMP Update due to their Land Use/Land Cover Code and existing conditions. The LANDS model was re-processed based on the Regional Master Plan Updates completed for Lebanon Borough, reflecting partial completion of the Bellemead project and also including another parcel identified as the Pizzo property (RMP Update No. 1018-UPD002-100318). Due to the nature of the undeveloped portions of the Bellemead property and the LANDS model (i.e., processing a 50 x 50 foot grid area through the Highlands data layers), 5.9 acres of the Bellemead

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property remained as Protection Zone despite the approved RMP Update. The current Map Adjustment request proposes that 3.8 acres of the 5.9 acres of remaining Protection Zone, be modified to Existing Community Zone, the related policies of which would better align with the existing site plan and permit approvals for the property.

The tract in question is part of an area intended for planned development in Lebanon Borough since 1985, in accordance with the local zoning and Master Plan. It is situated at State Route 22 and Cokesbury Road, and bordered on the north by the Interstate Route 78 corridor. Bellemead has constructed approximately one-half mile of the approved internal roadway and curbing, and installed detention basins and drainage improvements, a traffic signal, left-turn lane, and related road improvements at the Route 22 and Corporate Drive intersection. The development company also installed sewer mains for the entire project, including the mains for Block 4 Lots 1.03 and 1.04. The project is the only significant economic development anticipated to occur in Lebanon Borough. The site is strategically located in relation to the Route 78 and Cokesbury Road interchange and is consistent with both surrounding land uses and the Borough Master Plan and Zoning Ordinance.

Highlands Council Staff Evaluation

The final approved site plans dated April 11, 2001 were reviewed to evaluate the nature and extent of the site disturbance areas. The regulated activity completed by Bellemead in accordance with the October 2001 Stream Encroachment and Freshwater Wetlands Transition Area Waiver Permit conditions was also considered as part of the site evaluation (Attachment 1). For purposes of this evaluation, the RMP Update completed for the Bellemead property was used to represent the existing land conditions. The limits of the approved disturbance areas were used to determine the potential Map Adjustment areas for Block 4 Lots 1.03 and 1.04, in keeping with the approved plans, permits, and utility connections. The 2.1-acre stream corridor and freshwater wetland area within the permit boundary lines shall remain as Protection Zone and are not subject to further disturbance or to the proposed Map Adjustment.

In addition to the information stated above, the August 5, 2010 Plan Conformance petition documents and recent site photography taken by Lisa Specca of Clarke, Caton and Hintz on August 16, 2010 were also evaluated. The recent photography and petition information indicate that the integrity of the 3.8 acres of existing developable areas, as well as the ecological function of these areas, is affected by the surrounding land uses and Route 78 corridor (see Attachment 3). The conditions on and surrounding the tract are not reflective of Protection Zone resource values in accordance with the RMP. The NJDEP 2007 Land Use Land Cover code for the Total Forest Areas located on Lot 1.03 is 4420 Deciduous Forest and 4120 deciduous brush/shrub lands.

Current site photography indicates low value woodlands consisting primarily of non-native invasive understory species and pole sized trees. Some Pin Oak and Norway Maple trees from 6-10 inches in diameter can be found along the Route 78 border and will remain in the Protection Zone and within Stream Encroachment Permit boundary. The proposed 3.8-acre Map Adjustment area represents resource values typical of the Highlands Existing Community Zone throughout the Region and within

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the HUC14 subwatershed in which the tract is located. The link between Highlands resources on the site and nearby Protection Zone areas is limited, primarily consisting of the vegetated right-of-way of Interstate 78.

The proposed Map Adjustment area would apply to 1.5 acres of Block 4 Lot 1.03, and 2.3 acres of Block 4 Lot 1.04, for a total adjustment area of 3.8 acres (see Attachment 4). These areas align with the approved MLUL site plan development areas and recognize the disturbance boundaries allowed for under NJDEP permitting. The Highlands resources that are affected by the adjusted area (see Table 1 and Attachment 4) include 0.9 acre of Prime Ground Water Recharge Area and 1.5 acres of Total Forest Area for Block 4 Lot 1.03, and 2.0 acres of Highlands Open Water buffer area and 0.2 acre of Riparian Area cumulatively for both lots.

Table 1. Map Adjustment Land and Resource Summary	
2007 Land Use/Land Cover Type	Total Acres for Affected Portions of Block 4 Lots 1.03 and 1.04
Urban Lands	2.1
Transitional Lands	0.3
Deciduous Forest Lands	0.4
Deciduous Brush/Shrub Lands	0.9
Total Acres	3.8
Highlands Resources	Total Acres for Affected Portions of Block 4 Lots 1.03 and 1.04
Total Forest Area	1.5
Highlands Open Water Buffers	2.0
Riparian Area	0.2
Prime Ground Water Recharge	0.9

The Bellemead property received initial project approvals starting in 1985 when it entered into a contract agreement with Lebanon Borough Sewerage Authority to secure capacity (16,000 gpd) for the project. Part of the original capacity has been allocated to prior construction. The remaining capacity is reserved for Block 4 Lots 1.03 and 1.04 by payments made to the Authority. In 1987 an agreement between the Town of Clinton water utility and Bellemead Development Company reserved water service for the property and contributed to system upgrades to provide that service. The utility capacity for the project has been reserved and allocated. The property has been recognized as a non-residential development area by the Borough for approximately 25 years and has been determined to be appropriate for additional growth in accordance with approved site plans and permits and reserved utility capacity. Based on payments to reserve capacity, contribute to system upgrades, and construct

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facilities through the property, Bellemead has established investment-backed expectations that apply for the life of the local permits.

Highlands Council Staff Conclusion

Highlands Council staff finds that the Map Adjustment as proposed herein complies with the intent and purpose of the RMP and the Highlands Act and supports resource protection and smart growth planning principles. The Highlands resources associated with the Map Adjustment areas do not represent a loss of Protection Zone resource values, are consistent with the resources of the Existing Community Zone and shall be protected through the adoption of the Highlands Land Use Ordinance. The Ordinance will apply should an application for development regarding the parcels be reviewed by the municipality under the provisions of the Highlands Land Use Ordinance. The Map Adjustment Program as defined by the RMP Policy 6G2 and Objective 6G2a and 6G2b indicates the project cannot be appropriately or adequately addressed by Highlands Act Waivers or Exemptions or the RMP Update Program; the project will not result in excess capacity of water and wastewater allocation; the project does not result in increased density that requires regional reductions or the use of Highlands Development Credits (HDC's); environmental impacts are recognized and regulated through a combination of existing local and State permits and approvals; future development plans will address protection of Highlands Resources or resource values through: a) the adoption of the Highlands Land Use Ordinance, b) implementation of a Stream Corridor Protection/Restoration Plan, and c) application of Low Impact Development techniques as required under Plan Conformance. The Land Use Capability Zone Map for the Bellemead property in Lebanon Borough has been revised to reflect the Map Adjustments and as shown in Attachment 5.

The following is a summary of the Highlands Council staff site inspection conducted on October 27, 2010:

Lebanon Borough – Bellemead Property (Lot 1.03) assessment of wooded portion.

Representative vegetation composition, as observed from edge of lot. Assessment was conducted on 10/27/10 at approximately 2:45 pm, light rain, 68 degrees.

<u>Name</u>	<u>Latin Binomial</u>
Pin oak	<i>Quercus palustris</i>
Red oak	<i>Quercus rubra</i>
Norway maple**	<i>Acer platanoides</i>
Black locust	<i>Robinia pseudoacacia</i>
Red maple	<i>Acer rubrum</i>
Black cherry	<i>Prunus serotina</i>
Green ash	<i>Fraxinus pennsylvanica</i>
Tree of heaven**	<i>Ailanthus altissima</i>
Red mulberry	<i>Morus rubra</i>
Autumn olive**	<i>Elaeagnus umbellata</i>

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Crabapple	<i>Malus spp.</i>
Staghorn sumac	<i>Rhus typhina</i>
Eastern red cedar	<i>Juniperus virginiana</i>
White pine	<i>Pinus alba</i>
Poison ivy	<i>Toxicodendron radicans</i>
Japanese honeysuckle**	<i>Lonicera japonica</i>
Multiflora rose**	<i>Rosa multiflora</i>
Ragweed	<i>Ambrosia artemisiifolia</i>
Bull thistle	<i>Cirsium vulgare</i>

** Invasive and Exotic species

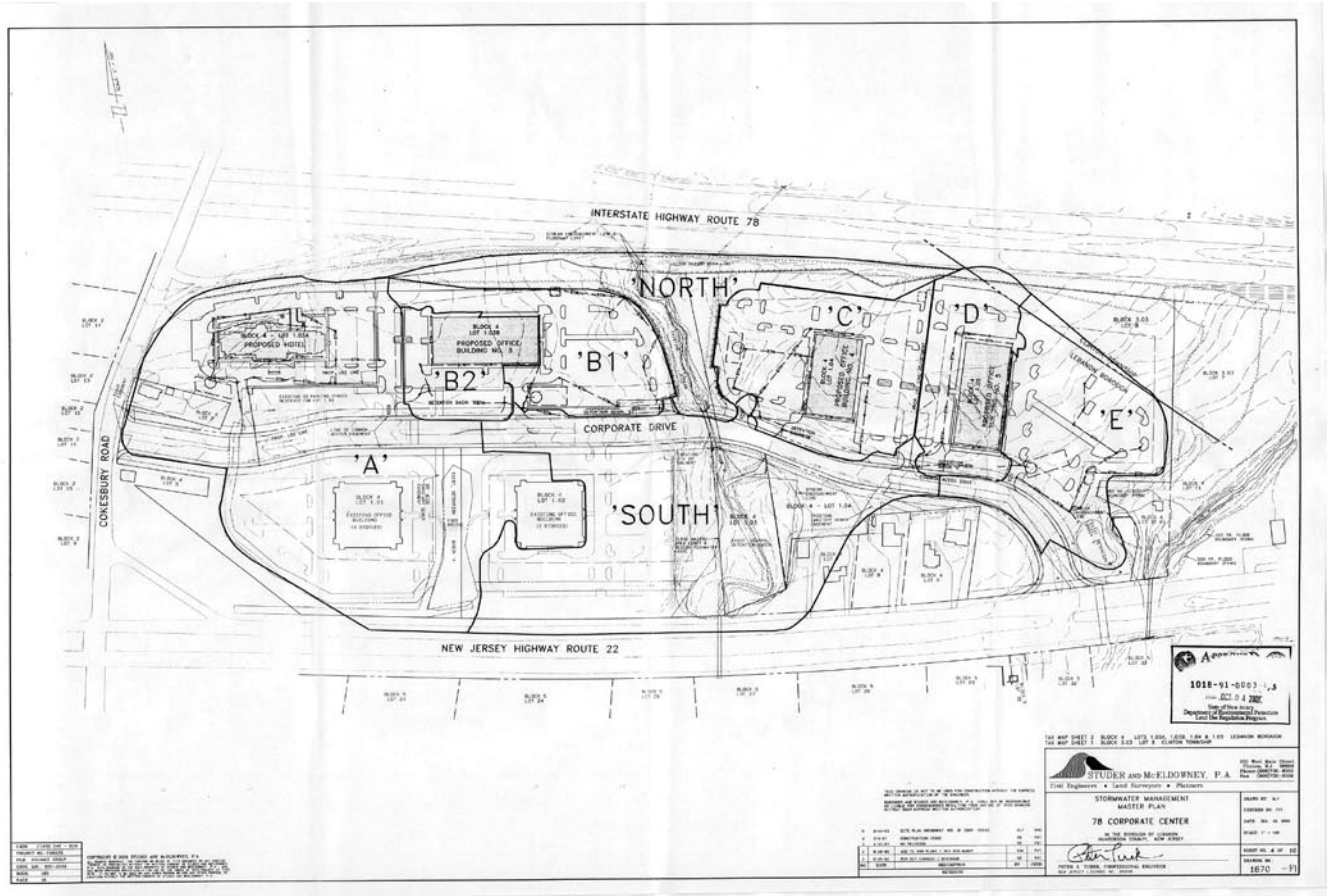
The wooded portion of Lot 1.03 consists of an advanced old-field (scrub/shrub) successional habitat, comprised of the above-listed representative species. The condition of the lot is very common to similar parcels in this part of New Jersey. The site is highly disturbed and shows a large percentage of invasive, exotic species (50 % or greater). Vines dominate the understory and are stressing the shrubby tree species and few larger individual trees. The only portion of the lot that contains select mature trees is along the right of way for Interstate 78, which serves as a noise and visual buffer. No species of concern was noted during the assessment. The site is small, less than 4 acres, and surrounded by intensive land use such as active parking lots, highway, and office buildings. Accordingly, habitat for wildlife is limited to potential roosting habitat for common songbirds such as starlings, sparrows, robins, and cardinals. Marginal habitat for small mammals such as groundhogs, grey squirrels, and chipmunks exists but no evidence of larger mammals was noted.

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Attachment 1. Bellemead Property (a.k.a. Route 78 Corporate Center)

Final Approved Site Plan dated April 11, 2001

(NJDEP Stream Encroachment Permit and Freshwater Transition Area Waiver Permits: October 4, 2001)



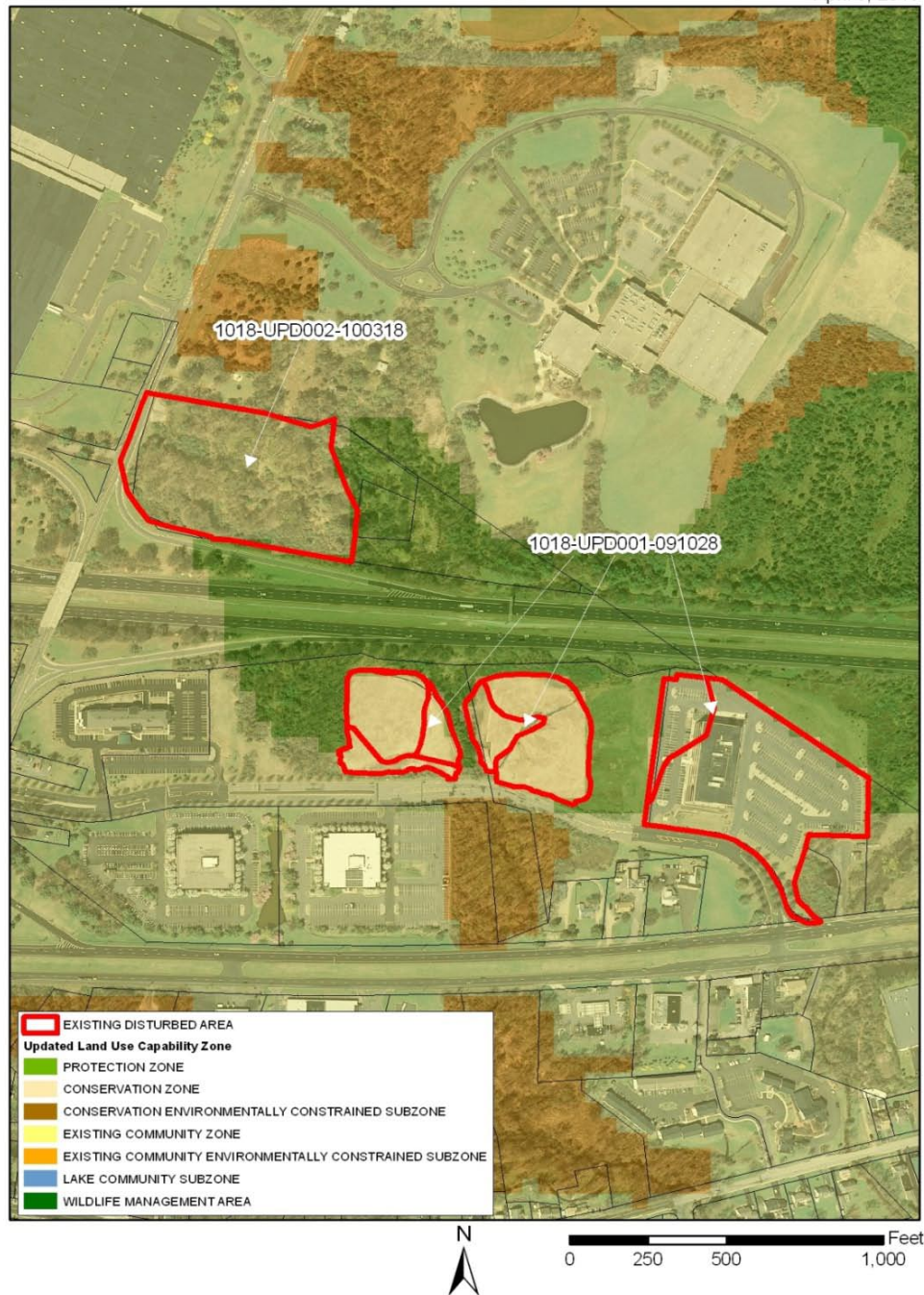
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Attachment 2. Lebanon Borough Regional Master Plan Update No. 1018-UPD001-091028

Regional Master Plan Updates
Lebanon Borough, Hunterdon County
1018-UPD001-091028, 1018-UPD002-100318

Figure 3

April 5, 2010



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Attachment 3. Borough Supplemental Submission
Aerial Photograph Depicting Existing Disturbed Areas

Regional Master Plan Updates
Lebanon Borough, Hunterdon County
1018-UPD001-091028, 1018-UPD002-100318

Figure 1



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Attachment 3. Borough Supplemental Submission
Site Photographs



1 Corn field adjacent to office .jpg



2 Corn field viewed from office to east.jpg



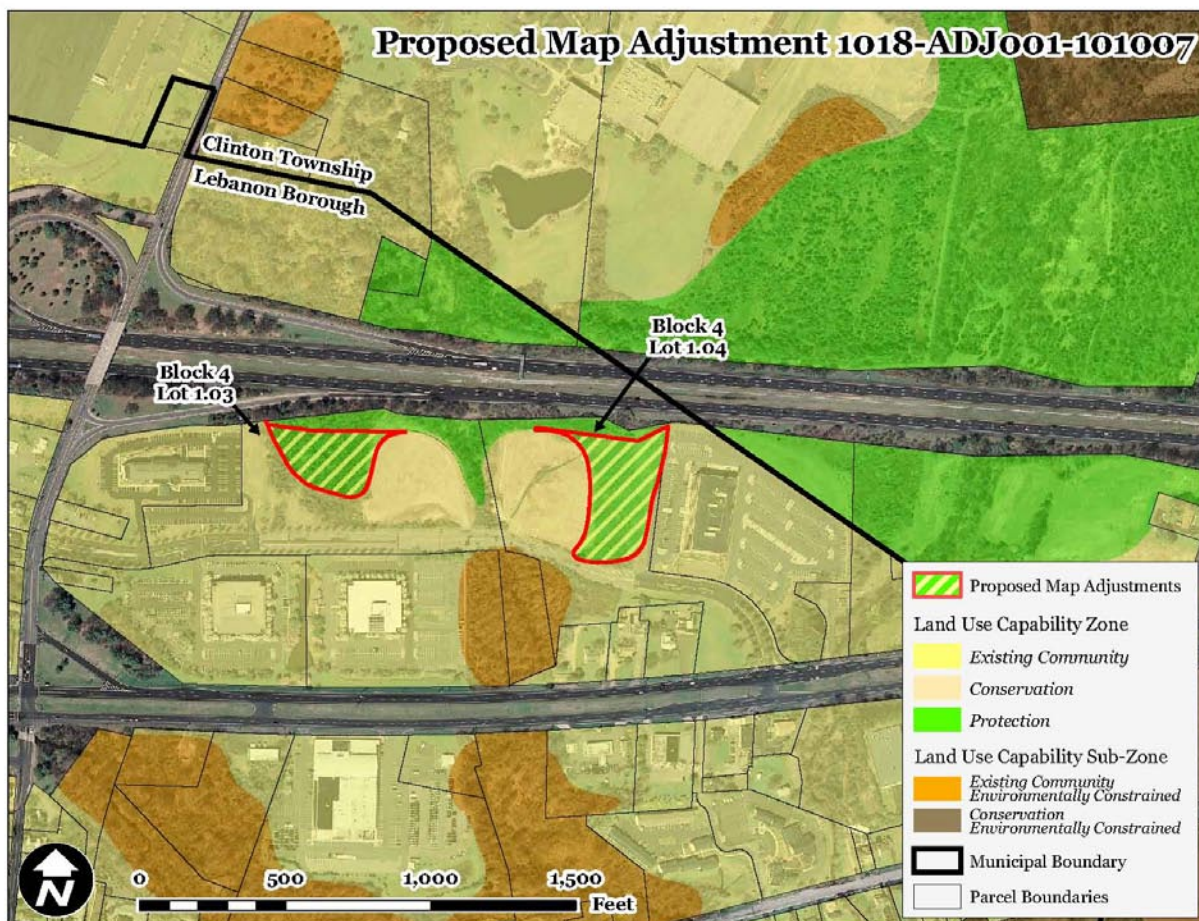
3 Bellemead site planted in corn.jpg



4 Corporate Drive cornfield on site.jpg

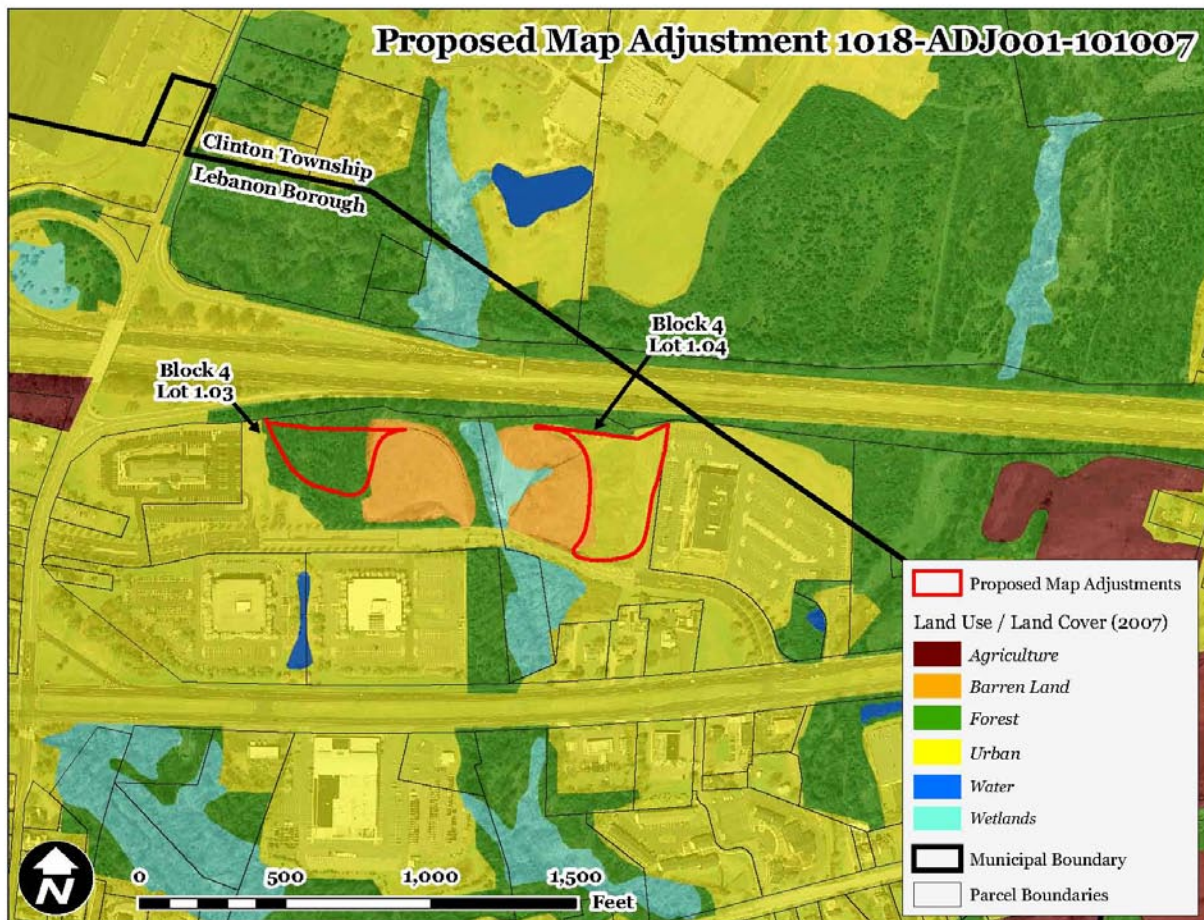
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Attachment 4. Proposed Map Adjustments 1018-ADJ001-101007



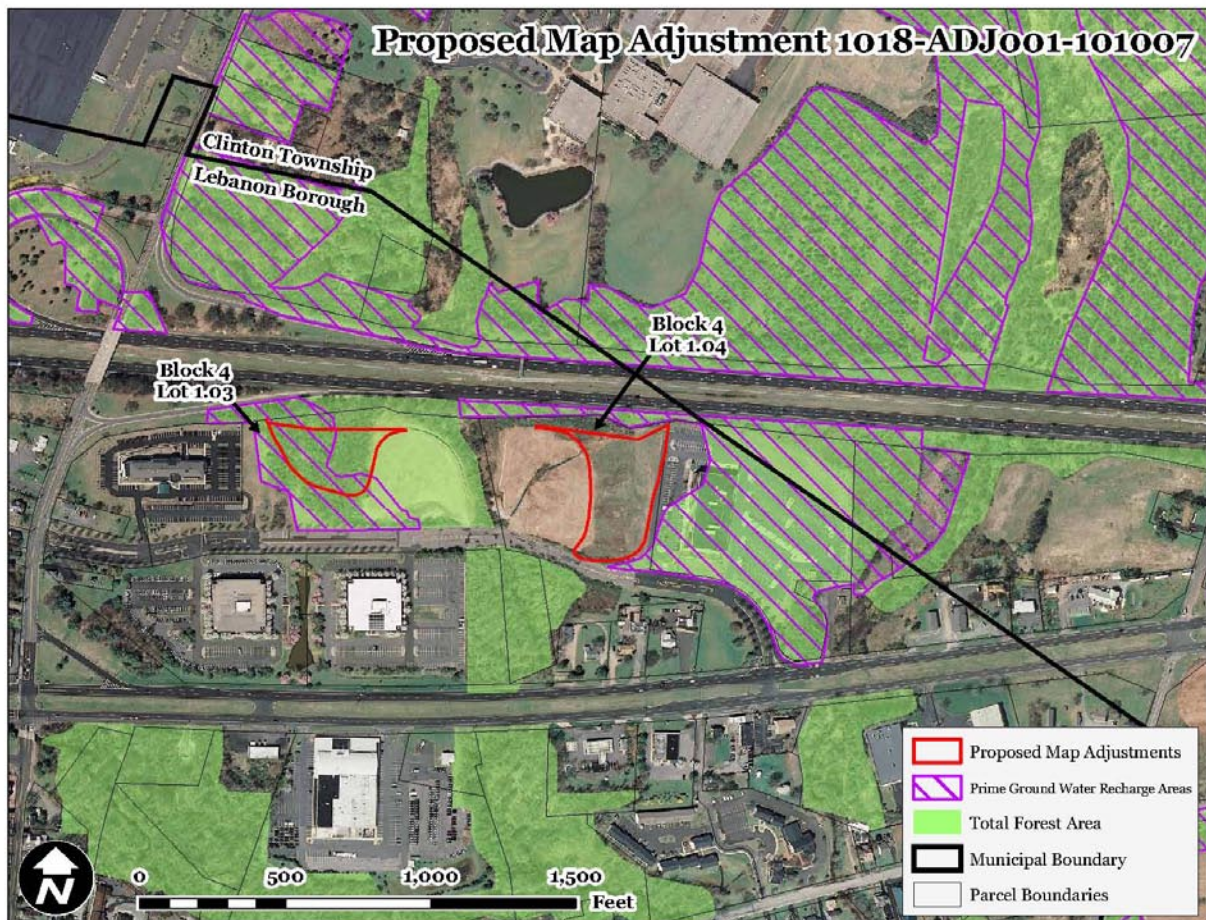
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Attachment 4a. Proposed Map Adjustment 1018-ADJ001-101007
Land Use/Land Cover



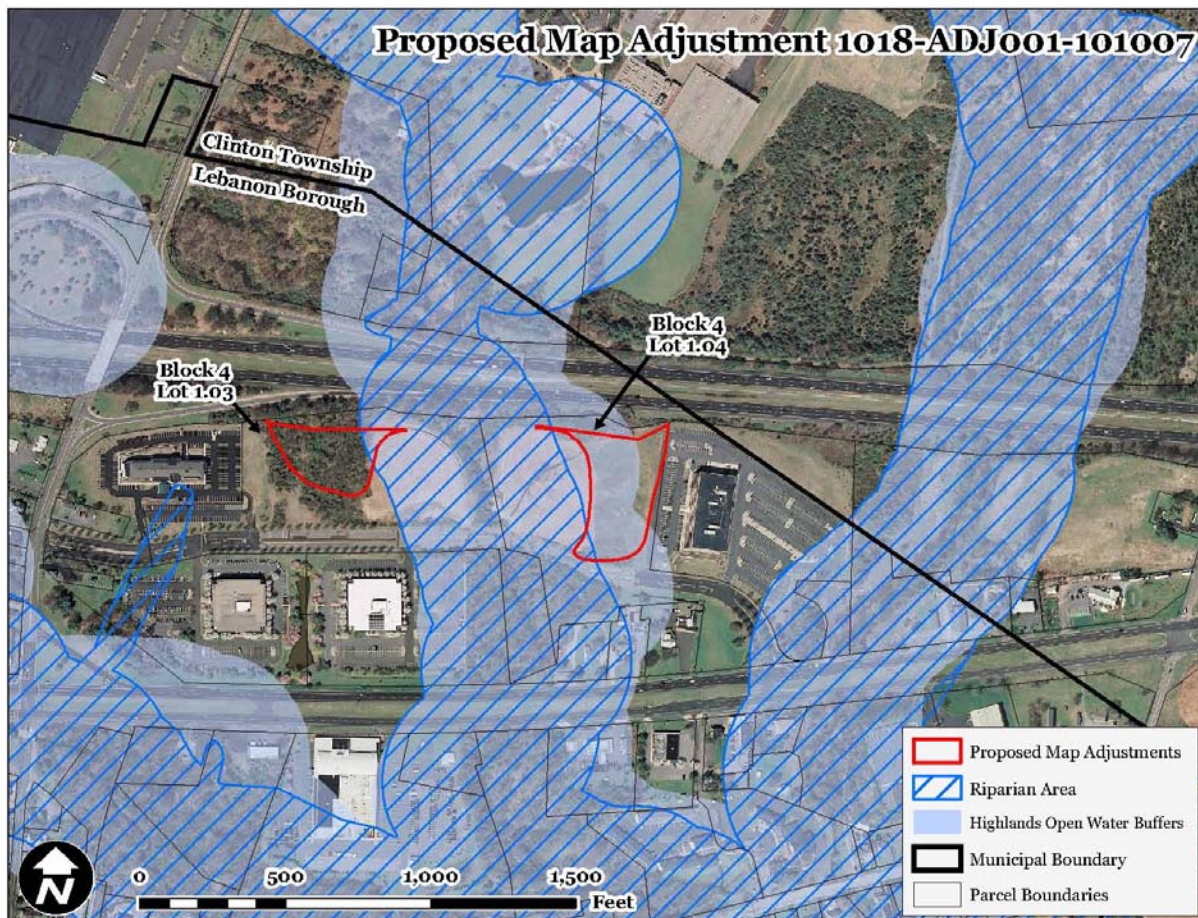
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Attachment 4b. Proposed Map Adjustment 1018-ADJ001-101007
Total Forest/Prime Ground Water Recharge Areas



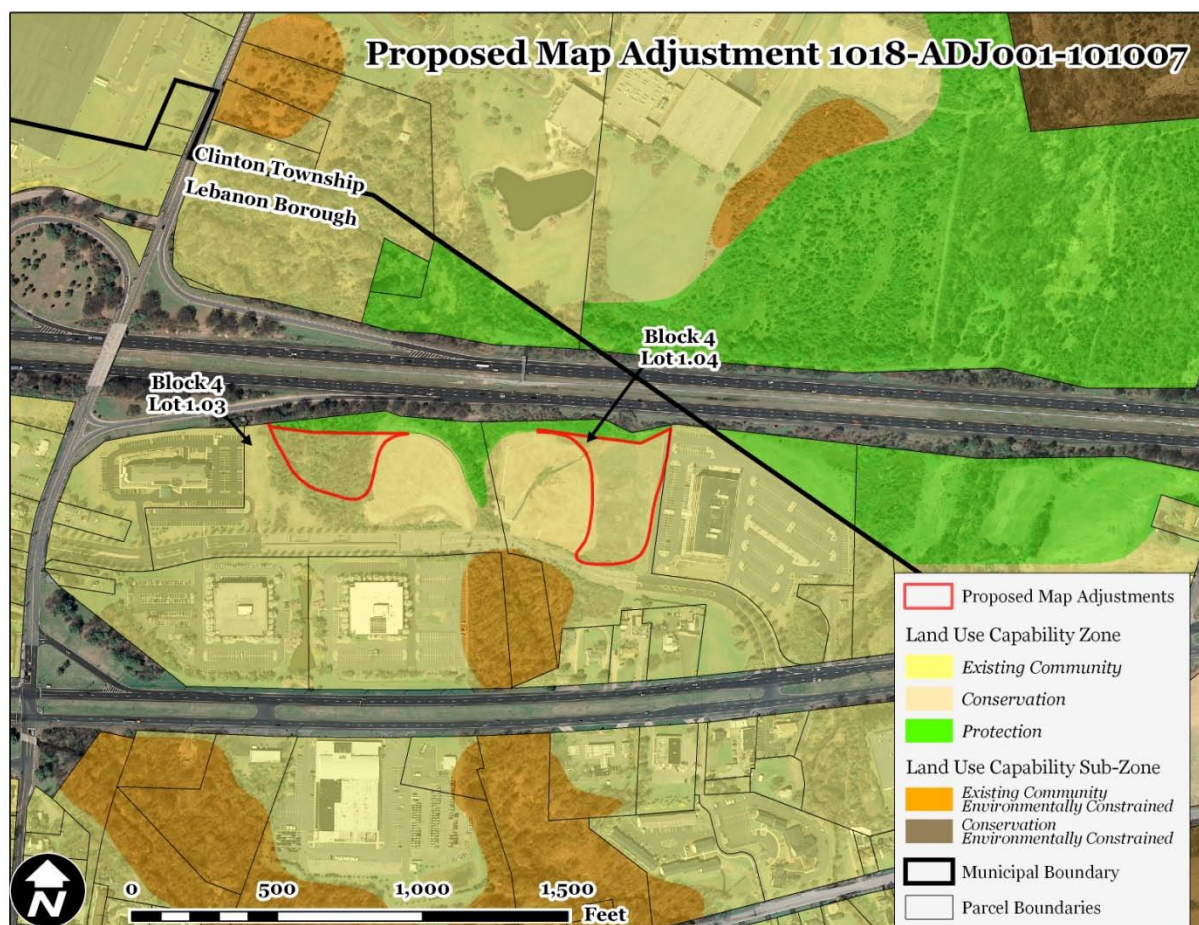
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Attachment 4c. Proposed Map Adjustment 1018-ADJ001-101007
Riparian Area/Highlands Open Water Buffers



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Attachment 5. Proposed Map Adjustment 1018-ADJ001-101007
Land Use Capability Map



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APPENDIX D

PUBLIC COMMENTS/HIGHLANDS COUNCIL RESPONSES

Petition for Plan Conformance

Lebanon Borough, Hunterdon County

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PUBLIC COMMENTS RECEIVED

Written comments regarding Lebanon Borough's Petition for Plan Conformance were accepted by the Highlands Council through the close of the Public Comment period on November 9, 2010. Comments were provided by the following individuals/entities:

1. Julia Somers, Executive Director, New Jersey Highlands Coalition
2. Glenn S. Patel of DrinkerBiddle & Reath, LLC

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

1. PUBLIC COMMENT/RESPONSE SUMMARY

1. **Comment:** The letter dated October 26, 2010 from Julia Somers Executive Director of the New Jersey Highlands Coalition (Coalition), stated that the Lebanon Borough Petition for Plan Conformance demonstrates that a municipality in the Planning Area can still pursue appropriate, resource-based economic growth and development of a commercial-industrial corridor, while protecting the remaining critical resources. The Coalition supports the approval of the Petition by the Highlands Council with the staff recommendations.

Response: The New Jersey Highlands Coalition comments are acknowledged by the Highlands Council in support of Lebanon Borough's Planning Area Petition for Plan Conformance.

2. PUBLIC COMMENT/RESPONSE SUMMARY

1. **Comment:** The letter dated November 8, 2010 from Glenn S. Patel, DrinkerBiddle&Reath, LLP (under email signature from "michael.smith@dbr.com") regarding the Bellemead/Route 78 Corporate Center Map Adjustment requested that: 1) The entirety of the 78 Corporate Center at Lebanon (the Corporate Center) should be included within the Existing Community Zone on the Highlands Land Use Capability Map; and 2) The Borough's Highlands Land Use Ordinance should include language making it clear that the entirety of the Corporate Center may be developed in the future, free of any limitations which may otherwise be imposed by the Highlands Water Protection and Planning Act (Highlands Act).
2. **Response:** The Highlands Council staff agrees with the staff recommendation that the Map Adjustment requested by Lebanon Borough for the Bellemead property (a.k.a. the Corporate Center) in connection with the Borough's Petition for Plan Conformance be approved. The change from Protection Zone to Existing Community Zone for the approved development areas would have no impact on adjoining properties or Regional Master Plan (RMP) policies applicable to the adjacent Existing Community Zone. The properties have access to major transportation infrastructure, have reserved water/wastewater capacities, and will allow for concentrated commercial development in a

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"node" type Center format, as provided by the State Development and Redevelopment Plan. A small portion of the property appropriately remains in the Protection Zone, as it is within a Highlands Open Water buffer and is not approved for development.

The Highlands Council finds that the Map Adjustment as proposed herein complies with the intent and purpose of the RMP and the Highlands Act and supports resource protection and smart growth planning principles. The Highlands resources associated with the Map Adjustment areas do not represent a loss of Protection Zone resource values, are consistent with the resources of the Existing Community Zone and shall be protected through the adoption of the Highlands Land Use Ordinance. In accordance with the RMP and the approved Petition for Plan Conformance the Ordinance will apply should an application for development regarding the parcels be reviewed by the municipality under the provisions of the Highlands Land Use Ordinance. As such, the rights of development regarding the Bellemead property do not change under the Highlands Act or Municipal Land Use Law. Therefore, the Highlands Council has not incorporated the request from Bellemead for inclusion of the entire parcels in the Existing Community Zone. The current approvals for Bellemead remain in effect and may be effectuated while valid. Any modifications to those approvals are not "free of any limitations which may otherwise be imposed" by the Highlands Act.