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HIGHLANDS COUNCIL RESOLUTION 2011 – 40
ADOPTED DECEMBER 1, 2011

FINAL CONSISTENCY REVIEW AND RECOMMENDATIONS REPORT

PETITION FOR PLAN CONFORMANCE: WASHINGTON TOWNSHIP, WARREN COUNTY

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

NOVEMBER 28, 2011

INTRODUCTION

This Final Consistency Review and Recommendations Report ("Report") has been prepared by the Staff of the 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 Township of Washington, 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.

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance – Final Consistency Review and Recommendations Report

REPORT SUMMARY

Municipality: Washington Township, Warren County

Date of Petition Submission: December 8, 2009

Date Deemed Complete: October 15, 2010

Conformance Area: Planning Area & Preservation 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	Follow-Up Required per Section A.3.

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	Follow-Up Required per Section B.4; D.1
5. Module 6 Land Use Ordinance	X	Follow-Up Required per Section B.5; D.1
6. Module 7 Petition		
a. Self-Assessment Report	X	None
b. Implementation Plan/Schedule	X	Follow-Up Required per Section B.6; D.1
7. Other		N/A

*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	July 18, 2011	Addressed, see Appendix C
2. Map Adjustments	N/A	N/A
3. Highlands Center Designation Requests	See Appendix A	Conceptual identification, with future adoption based on further study.
4. Highlands Redevelopment Area Designation Requests	N/A	N/A

A. REVIEW OF ADMINISTRATIVE SUBMITTALS

1. **Resolution or Ordinance.** The Township Committee adopted a Resolution (Washington Township #09-158) petitioning the Highlands Council for Plan Conformance at a noticed public meeting held on December 3, 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 petitions the Highlands Council for Plan Conformance; conformance being proposed with respect to municipal lands located in the Preservation Area (3,595 acres or 31% of the Township) and the Planning Area (7,953 acres or 69% of the municipality). Confirmation of the municipal intent to Petition for Plan Conformance for municipal lands located in the Planning Area was provided by Township Committee adoption of a second Resolution at a public meeting held on July 19, 2011.

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/Ordinance petitioning the Highlands Council for Plan Conformance. The submission includes the following:

   a. Copy of Land Use Board meeting minutes from a joint meeting of the Land Use Board and Township Committee held on December 3, 2009 to discuss Plan Conformance and Petition components.

   b. Copy of the Township Committee meeting agenda and minutes from the joint meeting of the Township Committee and Land Use Board held on December 3, 2009 to discuss Plan Conformance and Petition components (specifically including the draft Washington Township Master Plan Highlands Element), and to adopt the Resolution petitioning the Highlands Council for Plan Conformance.

   c. Copy of signed and certified Township of Washington Resolution (#R 2009-149) regarding the model Highlands Septic System Maintenance Ordinance and model Highlands Potential Contamination Source Management Ordinance, adopted by the Township Committee at a public meeting held on November 16, 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 most of the required documents are available in Adobe pdf format as required. In order to address this Plan Conformance requirement, the documents listed below must be provided in Adobe pdf format.

   a. Washington Township Master Plan amendments and Re-examination report last revised November 14, 2007.

B. REVIEW OF PLAN CONFORMANCE PETITION COMPONENTS

1. **Highlands Municipal Build-Out Report (Modules 1-2).** Consistent. The Highlands Municipal Build-Out Report fulfills the Highlands Act requirements to evaluate land use capability and includes a detailed evaluation of land based capacity, resource based capacity and utility based capacity. 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 September 2009.

2. **Housing Element & Fair Share Plan (Module 3).** Consistent as submitted.

   Introductory Advisory

   The Highlands Council recognizes that the main component of the Council on Affordable Housing (COAH) Third Round rules was invalidated in 2010 and an appeal of that invalidation is pending in the New Jersey Supreme Court; that COAH's *Guidance for Highlands Municipalities that Conform to the Highlands Regional Master Plan* was invalidated by the Appellate Division of the Superior Court; that significant changes to State laws pertaining to the provision of affordable housing are being considered; and that Governor Christie has approved Reorganization Plan No. 001-2011, which eliminates COAH, transferring its functions and duties to the Department of Community Affairs (DCA). As required by the Highlands Act and the Fair Housing Act, DCA has the responsibility to determine affordable housing obligations and must take the Highlands Regional Master Plan into consideration in discharging this responsibility. Accordingly, the analysis provided below shall be considered subject to modification based on a resolution of the State's affordable housing policies, with the intent being to ensure that the municipality remains in compliance with all applicable statutes, rules, regulations, and requirements regarding affordable housing, at any given time, and maintains consistency with the RMP.

   Highlands Council Review

   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 allowed for Highlands Council review of as yet unconstructed projects in municipal housing plans, for consistency with the RMP, whether the projects were proposed in compliance with Prior Round obligations or the Third Round rules.

The Township of Washington 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. Review of the final Housing Element and Fair Share Plan submission (adopted by the Planning Board on May 12, 2010, submitted to COAH June 5, 2010) follows. These findings constitute a preliminary analysis of the Housing Element and Fair Share Plan by the Highlands Council. Formal review will be conducted by Department of Community Affairs or the Superior Court. The final Housing Element and Fair Share Plan appears consistent with the requirements of the RMP.

a. **Municipal Growth Projections.** Municipal Growth Projections, estimated in the Highlands Municipal Build-Out Report for Washington Township (September 2009) are as follow:

    i. Residential Growth (housing units): 261

    ii. Non-Residential Growth (jobs): 179

b. **Summary of Municipal Obligation.** With the invalidation of COAH's "Growth Share" methodology, the Municipal Fair Share Obligation cannot be fully determined at this time. Based on the information currently available, it would include at minimum, each of the components listed below

    i. **Rehabilitation Share:** 0 units

    ii. **Prior Round Obligation:** 48 units

    In anticipation of an additional obligation to address the current housing cycle, municipal planning to address the local need for affordable housing is expected to continue.

c. **Summary of Proposed Fair Share Plan.** The Fair Share Plan proposes to address the municipal obligation by use of the mechanisms and/or 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. In this case, no new affordable housing sites were proposed and thus the Consistency Review was not applicable. In total fifty-four units of Affordable Housing were proposed.

    i. **Rehabilitation Program:** None required; however 26 units have been rehabilitated and will be applied to the Prior Round Obligation.

    ii. **Fair Share Plan Housing Units:**

        i. Extension of Expiring Controls. Fairway Mews. Block 28, Lot 3.01, Units 1-32. 32 Affordable Units. These are existing units

and therefore there are no potential RMP consistency issues with the project.

ii. Center for Humanistic Change. Block 48, Lot 38. 6 Affordable Units. This is an existing project. However, the Township is proposing to apply a new 30-year deed restriction to the site and therefore seeks 6 Growth Share credits for the project.

iii. Regency at Hawk Pointe I and II. Block 65, Lot 65.01. 10 affordable units. The site is located in the Planning Area, Existing Community Zone. The project has received local approvals and relies on an existing on-site community wastewater system. There should be no potential RMP consistency issues.

iv. Habitat for Humanity. Block 90, Lot 3. 1 unit. The property contains an existing structure and therefore should have no RMP consistency issues.

v. ARC Group home with 4 supportive/special needs bedrooms. 4 credits. This is an existing site and therefore there are no RMP consistency issues.

- **Other Mechanisms:** Washington Township proposes to zone for inclusionary development as an affordability component in the following residential zones: R-10, R-20, R-40, Mountain Residential, Planned Village Development, and Valley Residential. The Township proposes an amendment to its land use ordinances to require a 20% set-aside. No specific sites have yet been identified. Any sites identified in the future would be required to meet the requirements for the Highlands Zone in which they are located.

d. Conditions/Requirements Goals and objectives consistent with the goals and objectives found in the Model Housing Element appended to the Module 3 instructions must be incorporated into the municipality's Housing Element. To address this item, the goals and objectives have been inserted as revisions to the Township's proposed Master Plan Highlands Element (see Housing Plan section). Further activities on Module 3 should be deferred until the Highlands Council determines that sufficient State guidance is available to municipalities.

3. Environmental Resource Inventory (Module 4). The proposed Township of Washington's 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 Township of Washington Highlands ERI as now proposed (including modifications by the Highlands Council), 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.

a. **Deleted Sections.** The Lake Management Area section of the model Highlands ERI is not relevant to the municipality and has thus been deleted from the municipal submission.

b. **Revisions.** Please note that the Highlands Council has provided updated technical information within the narrative portion of the ERI as well as a new set of coinciding figures. The new figures are provided as a separate file from the Highlands ERI text, and replace figures previously provided for the Highlands ERI. The old figures (with exception of any developed by the municipality) have been deleted to avoid confusion. Please note that the figures should not be incorporated with the MS Word® version of the text, as such mergers result in unmanageable file sizes and a significant loss in map clarity/resolution. The text and exhibits are best combined into a single pdf file once each component is in final form.

4. **Master Plan Highlands Element (Module 5).** The proposed Township of Washington Master Plan Highlands Element is based on the model Highlands Element provided to municipalities by the Highlands Council. The document as now proposed (including modifications by the Highlands Council), contains all required Highlands Element language and all applicable maps/exhibits, as necessary, to fully address the immediate mandatory requirements of Plan Conformance.

Washington Township Highlands Center(s): Washington Township has suggested Highlands Council designation of one or more Highlands Center(s) that could occupy a portion of its Highlands Planning Area. These Highlands Centers would be planned for in phases and may be designated likewise. Washington Township's Master Plan Highlands Element would require certain modifications to reflect such designations. As currently developed, the Highlands Element incorporates all provisions and requirements of the Regional Master Plan that are normally applicable to Planning Area lands. With Highlands Center designation(s), Washington's revised Highlands Element would: a) recognize and protect specified areas intended to be Preserved Open Space and of other areas within the Highlands Center that are essential to the protection of critical Highlands Environmental Resources; b) provide for areas of infill development and redevelopment that are both consistent with available water supply and wastewater treatment capacities, and designed in accordance with center-based, smart growth development standards; c) utilize a mixed-use development that is consistent with available utility capacity and a cluster design approach; and d) support existing developed areas with center-based design concepts that include pedestrian-oriented features and smart growth standards. Please note that because Washington's Highlands Center(s) would be anticipated to occupy a portion of its Highlands Planning Area, significant material developed in this regard would ultimately amend portions of the draft Master Plan Highlands Element regarding the Planning Area, in particular the regulatory requirements regarding development intensity, density and utility services. Many of the provisions

regarding protection of Highlands Resources would remain entirely or largely unchanged, as being appropriate to all Land Use Capability Zones and Highlands Centers. Please refer to Appendix A for further discussion of the proposed Highlands Centers.

Appendix A of this report discusses the areas considered potentially viable for designation of Highlands Centers, and necessary evaluations of wastewater utility capacity and other issues that will affect the potential for such designations.

Review of Submittal Document: For purposes of the review that follows, the evaluation pertains to the Element as currently prepared. All recommendations listed herein are intended to apply as a part of the proposed conditions of approval of Washington's Petition for Plan Conformance (inclusive of modifications as may be required in keeping with Washington's anticipated Highlands Center Designation).

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 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." If needed, explanatory discussion is provided.

a. Policies, Goals & Objectives. Consistent

- **i.** Preservation Area Goals. Consistent
- **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. Note: Lake Community Sub-Zone Not Applicable – Deleted.
- **ii.** Land Uses. Consistent.
- **iii.** Density and Intensity of Development. Consistent.
- **iv.** Cluster Development. Consistent
- **v.** Land Use Inventory. Consistent.
- **vi.** Redevelopment Planning. Consistent however, the Township may wish to examine opportunities for Highlands Redevelopment Designations, especially in the Route 31 and 57 corridors. Also see Appendix A which discusses Highlands Center designation planning activities.

vii. Highlands Center Designation. Consistent. A brief placeholder discussion has been included to introduce the concept of Highlands Center designation in the Township. This subsection will be further developed, as appropriate in the post-Petition approval phase of Plan Conformance. On completion, the Highlands Center provisions will override portions of the current Highlands Element with respect to proposed development and redevelopment activities within the Highlands Center(s), with retention of applicable and appropriate Conservation Plan language regarding protection of Highlands resources.

c. Housing Plan Element. Consistent. Review and recommendations concerning the Housing Plan Element appear at item #2 above, Housing Element & Fair Share Plan.

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.

i. Preservation Area. Consistent

ii. Planning Area. Minor modifications Required

iii. Planning & Preservation Areas. Minor modifications Required

f. Circulation Plan Element. Consistent

g. Land Preservation/Stewardship Plan Element. Consistent

h. Agriculture Retention/Farmland Preservation Plan Element. Consistent

i. Community Facilities Plan Element. Consistent

j. **Sustainable Economic Development Plan Element.** Consistent

k. **Historic Preservation Plan Element.** Consistent however minor modifications are required to complete.

   i. Historic, Cultural, and Archaeological Resources. Consistent. The municipality will address the alternative language that has been inserted into the document by the Highlands Council. It provides for the case where a municipality chooses not to regulate historic resources, which the Highlands Council has determined is an optional component of Plan Conformance, not mandatory.

   ii. Scenic Resources. Consistent. The municipality will address the insertion made by Highlands Council staff.

l. **Development Transfer Plan Element.** Inclusion of this Section is optional and the municipality has elected to incorporate it. As provided, the Section is consistent.

m. **Relationship of Master Plan to Other Plans.** Consistent.

n. **Appendices.** Consistent. Please note Highlands Council replacement of SIC Codes with current North American Industry Classification System (NAICS) codes in Appendix C, Major Potential Pollutant Sources.

o. **Exhibits.** The list of Exhibits (with modifications by the Highlands Council) includes all that apply to the municipality. As to the exhibits themselves, please note that the Highlands Council has provided a new set based on updated information, which replaces those previously issued. The new exhibits are provided as a separate (Adobe pdf) file from the Highlands Element text, and the old exhibits have been deleted to avoid confusion. Please note that the exhibits should not be incorporated with the MS Word® version of the text, as such mergers result in unmanageable file sizes and a significant loss in map clarity/resolution. The text and exhibits are best combined into a single pdf file once each component is in final form. Exhibits provided by the municipality have been inserted into the new set.

   The municipality will insert a copy of the existing "Township Land Use Inventory" map as Exhibit B.

5. **Highlands Area Land Use Ordinance (Module 6).** The proposed Township of Washington 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 Township of Washington Highlands Area Land Use Ordinance as proposed (including modifications 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. As to the Exhibits, please see information and discussion at Section 5.m, below.

It is important to note that the Township of Washington Highlands Area Land Use Ordinance may require certain modifications to reflect the anticipated proposed designation of one or more potential Highlands Centers. As currently developed, the Ordinance incorporates all provisions and requirements applicable to Planning Area lands that are not so designated. With Highlands Center designation, Washington's revised Highlands Land Use Ordinance would: a) recognize and protect specified areas within the Center(s) that are essential to the protection of critical Highlands Environmental Resources; b) provide for areas of infill development and redevelopment that are both consistent with available water supply and wastewater treatment capacities, and designed in accordance with center-based, smart growth development standards; and c) allow for development consistent with the extent of available utility capacities, in a pedestrian-oriented, center-based format. These modifications would in large part, supplant the provisions currently included in Washington's Highlands Area Land Use Ordinance, with respect to regulation of the Highlands Center(s). For purposes of this review, the evaluation following pertains to the Ordinance as currently prepared. Please refer to Appendix A for further discussion of the potential Highlands Centers.

Review of Submittal Document. 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 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. The municipality will address/incorporate the minor modifications made by the Highlands Council. Please see revised document text.

b. **Article 2. Applicability.** Consistent. The municipality will address/incorporate the modifications made by the Highlands Council. Please see revised document text.

c. **Article 3. Definitions.** Consistent. The municipality will address/incorporate the minor modifications made by the Highlands Council. Please see revised document text.

d. **Article 4. Establishment of Highlands Area Districts.** Consistent. The municipality will address/incorporate the modifications made by the Highlands Council, inclusive of new map titles at Section 4.4. (Note: Lake Community Sub-Zone: Not Applicable – Deleted.)

e. **Article 5. Highlands Area Zone District Regulations.** Consistent however, minor modifications required to complete the section. The municipality will address/incorporate the significant modifications made to the section by the Highlands Council. Please see revised document text.

f. **Article 6. Highlands Area Resource Regulations. Consistent,** however minor modifications required to complete.

   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. Consistent. The municipality will address the modifications made by the Highlands Council. Please see revised document text. These regulatory provisions have been made optional, and thus the municipality will need to make a determination regarding the preferred approach to this issue.

   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. The municipality will address/incorporate the modifications made by the Highlands Council. Please see revised document text.

   iv. Stormwater Management. Consistent

   v. Special Environmental Zone. Consistent

   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. The municipality will address/incorporate the modifications made by the Highlands Council. Please see revised document text.

j. **Article 10. Appeals, Waivers, Exceptions.** Consistent. The municipality will address/incorporate the modifications made by the Highlands Council. Please see revised document text.

k. **Article 11. Enforcement, Violations, Penalties.** Consistent. The municipality will address/incorporate the minor modifications made by the Highlands Council. Please see document text.

l. **Appendices.** Consistent. Please note Highlands Council replacement of SIC Codes with current North American Industry Classification System (NAICS) codes in Appendix D, Major Potential Pollutant Sources. Please address highlighted text, removed instructional text upon completion.

m. **Exhibits.** The Exhibits, including the List of Exhibits and all in-text document references to Exhibits have been 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. 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).

5. **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 fully achieve Plan Conformance.

i. **Narrative Portion.** The Narrative Portion has been completed accurately for purposes of Plan Conformance.

ii. **Spreadsheet Portion.** The Spreadsheet Portion has been completed accurately for purposes of Plan Conformance.

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 Plan Conformance with the Regional Master Plan.

As proposed by the municipality, the Highlands Implementation Plan and Schedule included all mandatory components required to achieve Plan Conformance and incorporated anticipated timeframes for completion. 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, including the 2012 State fiscal year.

The Highlands Implementation Plan and Schedule also includes non-mandatory Plan Conformance activities and the estimated costs and timeframes for completion which the municipality has considered. These activities have been incorporated into the revised Highlands Implementation Plan and Schedule. Please also note, integration of municipal planning documents with Highlands documents has not been retained as a task within the Highlands Implementation Plan and Schedule. Please see the revised Highlands Implementation Plan and Schedule for comments regarding Resource Management Plans and Programs and potential designation of one or more Highlands Centers.

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

C. REVIEW OF OPTIONAL SUBMISSION COMPONENTS

1. **RMP Updates.** The Petition for Plan Conformance was not accompanied by any requests for RMP Updates. However, during the Plan Conformance review process, the Township Engineer requested (July 2011) that the Highlands Council review the boundary between the Preservation Area and Planning Area in the Port Colden section of the municipality. There was a discrepancy noted along the western boundary of block 40 lot 86 (39 Lilac Lane). The publicly available GIS file did not accurately reflect the language in the Highlands Act, and has been modified. This RMP Update has been incorporated into the Land Use Ordinance exhibits, Master Plan exhibits and Environmental Resources Inventory figures. Please see Appendix C for details. (It is expected that the Township may seek further RMP Updates in the post-Petition approval phase.)

2. **Map Adjustments.** The Petition for Plan Conformance was not accompanied by any requests for Map Adjustments.

3. **Highlands Center Designation Requests.** The Petition for Plan Conformance was not accompanied by any requests for Highlands Center Designation; however, the Township has expressed an interest in advanced planning opportunities especially along the Route 31 and Route 57 corridors. The Highlands Council will assist the Township in these future endeavors and is recommending grant funding for feasibility analyses for such projects. Please also see discussion at Appendix A.

4. **Highlands Redevelopment Area Designation Requests.** The Petition for Plan Conformance was not accompanied by any requests for Highlands Redevelopment Area Designation; however, as above, the Township may consider future Highlands Redevelopment Area Designations for the portions of the corridors discussed above. (Note: Redevelopment areas within any area designated Highlands Center would not require a separate Highlands Redevelopment Area designation, but could be addressed under Highlands Center designation, alone.)

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 Regional Master Plan, Highlands Council Staff recommends that the Petition for Plan Conformance of the Township of Washington, 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 Petition Ordinance.** The Township 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 Planning Area Petition 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 Checklist Ordinance.** The municipality shall prepare and submit to the Highlands Council a draft "Checklist Ordinance" (model available) requiring that Development Applications be deemed incomplete by the reviewing board or applicable municipal authority, until or unless accompanied by: a) for applications under Highlands Council jurisdiction, a Highlands Council Consistency Determination indicating that the application is consistent, or can and will be made consistent with the Regional Master Plan; or b) an NJDEP Highlands Preservation Area Approval, waiver, or Highlands Applicability Determination indicating non-applicability. 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 Checklist Ordinance shall be provided to the Highlands Council with notice of its effective date. The process of 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 Highlands Implementation Plan and Schedule. Should this process lead to proposed modifications to any portion of the Checklist 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.

Note: The Checklist Ordinance is intended as an interim protection measure only, and should be repealed at the time of adoption of an approved Highlands Area Land Use Ordinance (completion and adoption of which is set forth at 1.e., below).

c. **Adoption of Approved Highlands ERI.** The Highlands Environmental Resource Inventory (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 Land Use 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 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.

d. **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 Land Use Board shall arrange for the required process of scheduling, notice, public hearing, consideration, and formal adoption of the Highlands Element by the municipal Land Use 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 Land Use Board.

e. **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 Land Use 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 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 Township shall provide for "Municipal Exemption Determinations" in accordance with Highlands Council delegation of such authority to the municipality in the Planning Area, or NJDEP delegation in the Preservation Area. (NOTE: NJDEP currently does not have a delegation program; the provisions in the Highlands Land Use Ordinance are provisional.) 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 or the NJDEP, respectively, 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.

f. **Adoption of Updated Zoning Map.** The Township shall prepare an updated Municipal Zoning Map 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.

g. **Approval of Housing Element & Fair Share Plan.** 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 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 (as RMP consistent) Housing Element and Fair Share Plan, this Plan Conformance component shall remain a conditionally approved item. (In recognition of significant changes in the applicable Housing Rules and State laws pertaining to the provision of affordable housing in the state of New Jersey as discussed above, 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 regarding affordable housing, at any given time, and maintains consistency with the RMP, so as to protect the municipality from legal challenge.)

h. **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 or DCA, as applicable, and all legal requirements and protocols pertaining thereto. Plan implementation and continued compliance with the final Court- or DCA-approved Fair Share Plan moreover, shall be a condition of continued Plan Conformance approval, subject to Highlands Council review and monitoring.

i. **Wastewater Management Plan (WMP).** As a municipality conforming for the full municipality, Washington Township will work with the Highlands Council to develop a WMP that conforms to the RMP, on a schedule based on Plan Conformance approval. The Highlands Council will draft the WMP using information from the Township, and collaborate with the Township to finalize the WMP for NJDEP consideration and approval. This plan will be recognized as a chapter of the Warren County WMP in accordance with NJDEP Administrative Order 2010-03 and all applicable NJDEP rules and requirements.

j. **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 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. In each case where the

municipality will serve as lead, release of funds is contingent upon approval of a scope of work by the Highlands Council Executive Director.

- **Water Use & Conservation Management Plan**. Funding for this project regarding one HUC14 subwatershed, 02040150590050 (Furnace Brook) has been incorporated into the Highlands Implementation Plan and Schedule, reflecting this subwatershed's importance to the Township's water supply. The Highlands Council will serve as lead for this project, which will also entail cooperative efforts with Oxford Township.
- **Habitat Conservation & Management Plan**. The Highlands Implementation Plan and Schedule includes an allocation toward development of a municipal-wide Habitat Conservation & Management Plan. This Plan will identify species at risk, options for restoration of habitat, and standards for mitigation of unavoidable impacts of public and private projects.
- **Agricultural Retention Plan**. The Highlands Implementation Plan and Schedule includes an allocation to prepare this plan to address the ongoing needs of agricultural businesses for economic sustainability, for the entirety of the Township.
- Stormwater Management Plan (Updates Only)
- Land Preservation and Stewardship Program
- Sustainable Economic Development Planning
- Septic System Management/Maintenance Plan
- Implementing ordinances associated with each of the above (long-term, as applicable). Note: A Right to Farm Ordinance was adopted in 1999, based on the State Agriculture Development Committee model ordinance.

iv. Non-Mandatory Components: The Highlands Implementation Plan and Schedule also provides for certain non-mandatory components including development and implementation of the plans herein listed, 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 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. In each case where the municipality will serve as lead, release

of funds is contingent upon approval of a scope of work by the Highlands Council Executive Director.

- **Highlands Center Designation Planning.** The Highlands Implementation Plan and Schedule includes an allocation for the Township to investigate the potential for Highlands Center designation. Portions of the Township appear well-suited to such designation, including the following: the Route 31 and Route 57 corridors; specifically in the Port Colden Historic District along Route 57; the Brass Castle district of Route 57, west of the Township border with Washington Borough; and in the Lincoln Avenue corridor south along Route 31, near Washington Borough and the Hawk Pointe development. Highlands Centers could incorporate redevelopment opportunities (see below) and potentially, a Transfer of Development Rights (TDR) initiative, consistent with the Township's interest in such a program as identified in the draft Master Plan Highlands Element and in discussions with Township officials. The Township may be interested in pursuing this option further, with assistance of a Highlands Council TDR Feasibility Grant. The Highlands Council would be pleased to provide further information regarding this grant program and to work with the Township to move forward on it. Please refer to Appendix A for further discussion regarding potential Washington Township Highlands Centers.

- **Highlands Redevelopment Area Planning**. The Highlands Implementation Plan and Schedule allows for use of the Highlands Center planning allocation in part for the purpose of identifying redevelopment opportunities within the Township and, if applicable, developing planning support for Highlands Redevelopment Area designation.

- **Stream Corridor Protection/Restoration Plan**. The Highlands Implementation Plan and Schedule includes an allocation for this project regarding the Musconetcong River and Pohatcong Creek.

k. 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 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).** Although the Township did not formally request specific RMP Updates, the opportunity to do so in the post-Petition approval phase continues.

   b. **Map Adjustment(s).** No formal requests for Map Adjustments were made with the petition materials; however certain areas for which Map Adjustments could be appropriate may be addressed in future requests, or via Highlands Center Designation and/or Redevelopment Area Designation.

   c. **Highlands Center Designation(s).** No formal request for Highlands Center Designations was made with the Petition materials; however, discussions will continue to occur during the Plan Conformance process. Appendix A contains a description of potential areas in the Township that may be appropriate for Highlands Center designation.

   d. **Highlands Redevelopment Area Designation.** No formal request for Highlands Redevelopment Area Designation were made with the Petition materials however, opportunities may be addressed via future Highlands Center designations.

E. MUNICIPAL RESPONSE PERIOD

The Highlands Council provided a Draft Consistency Review and Recommendations Report dated September 6, 2011, to the municipality on September 13, 2011. The Municipal Response Period expired on October 28, 2011. The municipality provided deliberative commentary revised and supplemental materials 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 Plan Conformance.

1. Comments on the Draft Consistency Review and Recommendations Report (Deliberative/Confidential Material). These comments were provided in the Adobe pdf file which was sent to the Township on September 13, 2011.

2. Highlands Implementation Plan and Schedule. Minor revision to required timeframes requested by Township; incorporated into final version.

3. Module 4, 5 and 6 documents (Environmental Resources Inventory, Master Plan Highlands Element and Highlands Land Use Ordinance) with comments/questions (Deliberative/Confidential Materials). The Highlands Council staff acknowledges the comments made by the Township Planner, and will address all such comments to assist in the process of finalizing each document for adoption.

4. Additional materials to support future Wastewater Management Planning, regarding water and wastewater service areas and systems. The Highlands Council staff acknowledges receipt and will review and evaluate the materials provided during the development of the Wastewater Management Plan. The information provided does not affect the staff recommendations for Plan Conformance.

F. COMMENTS FROM THE PUBLIC

The Final Draft Consistency Review and Recommendations Report was posted to the Highlands Council website and made available (in paper format) at the Highlands Council offices in Chester, NJ, for review and comment by the general public.

Several comments were received during the period established by the Highlands Council for receipt of written public comment (November 7-November 21, 2011). The comment/response document is attached to this document at Appendix B.

G. FINAL RECOMMENDATIONS

Based upon the comments received, the recommendations of Highlands Council Staff concerning the Petition for Plan Conformance of the Township of Washington, remain unchanged from the Staff Recommendations at Section D., above.

In conclusion, the Highlands Council Staff recommends that the Petition for Plan Conformance of the Township of Washington, be approved with conditions; with all applicable conditions being those listed and discussed in Section D, above.

APPENDIX A

HIGHLANDS CENTER DESIGNATION

Petition for Plan Conformance

Washington Township, Warren County

Highlands Council Staff Draft Recommendation Report

Potential Highlands Center Designations

Washington Township, Warren County

Re:	Application Type:	*Potential Highlands Center Designations*
	Name:	*Washington Township Highlands Centers (Historic Port Colden, Brass Castle and Washington-South)*
	Municipality:	*Washington Township*
	County:	*Warren County*
	Highlands Act Area:	*Planning Area*
	Proposed:	*Highlands Center for a portion of the Planning Area*

Highlands Council staff recommends consideration of three (3) Highlands Centers in Washington Township, each incorporating a portion of the Planning Area as described below (refer to Figure below for conceptual limits of each). With Highlands Center Designation, Washington Township's revised Highlands Element should: a) set aside specified areas intended to be preserved open space and other areas within the Highlands Center that are essential to the protection of critical Highlands Environmental Resources; b) provide for areas of infill development and redevelopment that are both consistent with available water supply and wastewater treatment capacities, and designed in accordance with center-based, smart growth development standards: and c) maintain applicability of the Highlands resource protection standards and requirements in the Highlands Land Use Ordinance to the maximum extent that is compatible with center-based development patterns. These modifications will, in large part, supplant the density and intensity of development provisions currently included in Washington Township's Highlands Element with respect to the Highlands Centers, and will be highly dependent upon the adoption by NJDEP of an approved Washington Township Chapter of the Warren County Wastewater Management Plan.

Historic Port Colden Highlands Center

The proposed Historic Port Colden Highlands Center would in large part replicate the now-expired Center designation that Washington Township secured through the State Planning Commission. The Highlands Center would not include Washington Borough lands, however, nor lands located within the Preservation Area. The Highlands Center areas could be comprised of developed or partially developed lands and lands for infill development that focus on the Port Colden Historic District along Route 57, east of the Borough border. The size and development potential of this Highlands Center is limited by the presence of Preservation Area and municipal boundaries with Washington Borough. The remainder of the potential Highlands Center incorporates a small business core with long-term potential for continued commercial use and adaptive reuse within the setting of an Historic District. As such, the Historic Port Colden Highlands Center could encompass Existing Community Zone lands along Route 57 from Washington Borough to Port Colden, plus Port Colden itself, including the Existing Community Zone, the remainder of the Planning Area north of Route 57 in Port Colden (currently Conservation Zone), and a small area of current Protection Zone at the southeast corner of Port Colden by the Morris Canal.

Washington-South Highlands Center

A second Highlands Center planning opportunity exists south along Route 31 along the corridor formed by the highway and Lincoln Avenue. This corridor is currently zoned office/commercial and is approximately one mile in length. The potential Washington-South Highlands Center is characterized by developed or partially developed lands and lands potentially suited to infill development that would take advantage of the retail zoning of the highway area. Additionally, the Hawk Pointe community to the east of the highway plus underutilized and/or brownfield parcels just south of the Lincoln Avenue and Route 31 intersection are likely appropriate for inclusion in this potential Highlands Center. Consideration of a Transfer of Development Rights (TDR) program to simultaneously preserve existing farmland and then cluster the resulting development is recommended for this portion of the Township. Existing preserved lands and wetland areas to the west and east of Route 31, respectively, constrict the potential Highlands Center boundaries toward Washington Borough. To the south along Route 31, the Asbury-Anderson Road intersection demarcates the topographical change past which the feasibility of future development would be limited due to the cost of wastewater infrastructure. Consideration of the size and scope of a proposed center in this location must include an analysis of future wastewater infrastructure feasibility.

Brass Castle Highlands Center

A third potential area of the Township that may be appropriate for designation as a Highlands Center is the Brass Castle district, west of the Washington Borough boundary along Route 57. The area could include those parcels in the Planning Area that are currently in the Existing Community Zone. This area is bound by Route 57 to the south, Pleasant Valley Road to the north and west, and County Road 623 (Brass Castle Road) to the east. The potential Brass Castle Highlands Center is characterized by developed or partially developed lands and lands potentially suited to infill development with a focus on the retail zoning of the highway corridor. As with the other potential areas in the township, the viability of a potential Highlands Center would be dependent upon a wastewater feasibility analysis.

Preliminary Findings

Designation of each of the proposed Highlands Centers hinges upon the outcome of the analyses mentioned above, to determine water and wastewater capacities, to refine proposed boundaries, and to evaluate for suitability of installation of other supporting infrastructure. Provided the results of these studies are favorable, staff believes that designation of the three proposed Highlands Centers in Washington Township would advance the intents and purposes of both the Highlands Act and the Highlands Regional Master Plan (RMP). Well-planned Highlands Centers in these areas would have no negative impact upon the public good nor be detrimental to goals and purposes of the RMP or the local master plan. Designation would confer substantial benefits upon the municipality and the Highlands Region.

Issues for Consideration Regarding Potential Washington Township Highlands Center Designations

The development potential of each of the proposed center areas is constrained by the lack of wastewater utility services. For the Historic Port Colden Highlands Center and the Brass Castle Highlands Center, no wastewater services are currently available at all. For the Washington-South Highlands Center, the Hawk Pointe development is served by a NJPDES-permitted on-site wastewater system, but the service area is limited currently to that development, only. The Highlands Council staff recommends an evaluation of wastewater utility potential for these Highlands Center candidates. If wastewater utility services are deemed viable and no other significant issues arise, Highlands Council staff will recommend Highlands Council approval with conditions of these Highlands Centers as a component of Plan Conformance for Washington Township.

Recommended Next Steps

Future planning regarding these three potential Highlands Centers should focus on development of information and plans to ensure that the following issues are addressed in full, such that the Highlands Council may make affirmative findings regarding their application to each formally proposed Highlands Center:

1. Highlands Center designation must directly address the goals of the Highlands Act and of the RMP Future Land Use Program, which seek to identify suitable locations within the Planning Area of the Highlands Region in which to permit and encourage growth and development that is compatible with the existing community character.

2. The Washington Township Highlands Centers must address the center designation requirements of the State Development and Redevelopment Plan, which are supported by RMP Policy 6F6 and Objective 6C1a. The plans provide for concentrated development within the community core; ensure protection of the surrounding environs; call for infill and redevelopment in appropriate locations that optimize the use of existing infrastructure; protect and enhance environmental and agricultural features within the area; and importantly, focus development outside of the Highlands Preservation Area of the community.

3. The Washington Township Highlands Centers must address the Sustainable Regional Economy component of the RMP by maintaining and expanding the existing job and economic base by promoting appropriate, sustainable, and environmentally compatible economic development in the Highlands Region.

4. The proposed Highlands Center plans must incorporate a requirement for development of Water Use and Conservation Management Plans (WUCMPs) for the affected HUC14 subwatersheds. With WUCMPs in place, an opportunity for enhanced water resource protections could become reality in a key location of the Highlands Region. The purpose of a WUCMP is to avoid creation of a deficit or achieve the reduction or elimination of a deficit in Net Water Availability, as applicable, for any source HUC14 subwatershed through measures for conservation and recharge protection and augmentation.

5. The Washington Township Highlands Centers must incorporate the Low Impact Development principles espoused by the RMP Low Impact Development Program.

6. The Washington Township Highlands Centers must offer opportunities for sustainable economic development. With the anticipated retail focus, these Highlands Centers should address the need for retail goods and services in the community and surrounding areas, and should respond to local shopping, social, and recreational needs at an appropriate scale, within proximate distances.

Conditions of Potential Washington Township Highlands Center Designations

Future planning regarding the three potential Highlands Centers should assume that the following conditions will be incorporated within any Highlands Council approval of a proposed Highlands Center:

1. The Washington Township Highlands Center ordinances shall: identify environmentally sensitive lands as Highlands Environmental Resources and restrict future disturbance activities; maximize protection of Highlands resources within the context of center-based development; incorporate already-developed areas having potential for infill development and redevelopment; and achieve compact development of the mixed-use area.

2. The Washington Township Highlands Centers shall align development plans with available water supply and wastewater treatment capacities in accordance with an NJDEP approved Wastewater Management Plan, which shall be developed through a coordinated effort of the Highlands Council and the Township. To determine the viability of wastewater utility services, Washington Township will undertake an evaluation of alternatives, as described below.

3. In conjunction with the Township's Farmland Preservation Plan Element and the long-term and highly successful efforts by the Township and Warren County to preserve agricultural lands, Washington Township shall develop a municipal-wide Agricultural Retention Plan through the Plan Conformance program that identifies methods for improving the economic viability of agriculture, using funds provided by the Highlands Council.

4. Washington Township shall develop a Stream Corridor Protection and Restoration Plan through the Plan Conformance program using funds and models provided by the Highlands Council.

5. The Township shall prepare, for Highlands Council approval, Highlands Center ordinance provisions (to be incorporated as a component of the Highlands Area Land Use Ordinance) that include the relevant development and redevelopment conditions required by the RMP Water Resources and Water Utilities Program, and the Future Land Use Program – Low Impact Development, Redevelopment and Housing and Community Facilities components. The ordinance provisions shall incorporate Highlands resource protection requirements as provided within the model Highlands Land Use Ordinance to the maximum extent practicable within the context of center-based development, and shall comply with relevant State laws and regulations.

6. The Washington Township Highlands Center designations and associated ordinance provisions shall incorporate existing developed areas and areas that are appropriate for redevelopment in the Planning Area. Highlands Center planning should address redevelopment areas within the proposed center boundaries, as designation allows for redevelopment to occur within these areas without further Highlands Planning Area Redevelopment Designation requirements.

<u>Evaluation of Wastewater Utility Services for Washington Township Highlands Center Designations</u>

Each of the potential Highlands Centers identified above can only be viable upon identification and provision of wastewater utility services. Discussions with neighboring municipalities for the last 20 years or more have not resulted in the identification of potential wastewater utility services for Washington Township, but the potential should be explored along with other options. Water supply utility services are available. Where existing development moves from septic systems to local wastewater utility services, impacts on Net Water Availability should be minimal. New development will draw down Net Water Availability, which must be addressed by the Water Use and Conservation Management Plans noted in the conditions discussed above. As a component of its amended Plan Conformance grant, Washington Township will conduct an evaluation incorporating the following steps:

1. Estimate total, residential and non-residential wastewater flows for each Highlands Center area, for both existing and potential development.

2. For the Historic Port Colden Highlands Center and the Brass Castle Highlands Center, evaluate the following wastewater alternatives:

    a. Connection to Washington Borough STP, either using existing capacity or expansion;

b. Development of a NJPDES-permitted community on-site wastewater facility for the entire Highlands Center, discharging either to ground water or (if feasible) surface water, to be located within the Planning Area;

c. Development of multiple NJPDES-permitted on-site wastewater facilities discharging to ground water to address all concentrated areas of development, with septic systems serving other areas.

3. For the Washington Township-South Highlands Center, evaluate the following wastewater alternatives:

   a. Connection to Washington Borough STP, using either existing capacity or expansion;

   b. Connection to the Hawk Pointe wastewater facility, using either existing capacity or expansion;

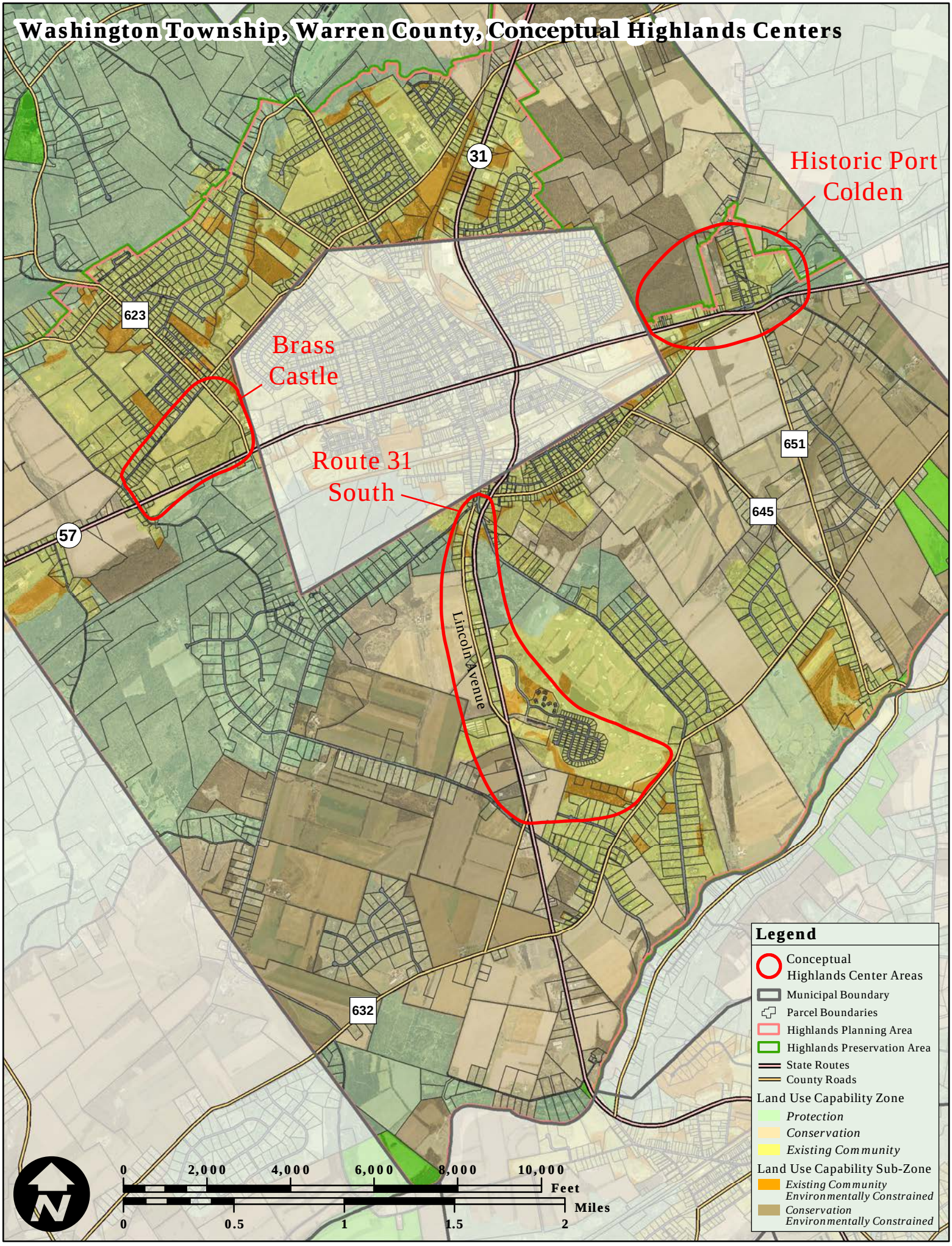
   c. Development of a NJPDES-permitted community on-site wastewater facility for the Highlands Center outside of Hawk Pointe, discharging either to ground water or (if feasible) surface water, to be located within the Planning Area;

   d. Development of multiple NJPDES-permitted on-site wastewater facilities discharging to ground water to address all concentrated areas of development, with septic systems serving other areas.

4. No alternative shall be considered viable if it requires a new discharge to a Category 1 surface water, or an increase in pollutant loading from an existing discharge to a Category 1 surface water.

5. For any alternatives that are viable from a wastewater perspective, estimate the cost of system development, operations and maintenance.

6. For any alternatives that are viable from a wastewater perspective, estimate consumptive and depletive water demands, determine modifications necessary to public water supply systems, and evaluate methods to mitigate reductions of Net Water Availability.


Washington Township, Warren County, Conceptual Highlands Centers
Historic Port Colden
Brass Castle
Route 31 South
Lincoln Avenue
31
623
57
651
645
632
Legend
Conceptual Highlands Center Areas
Municipal Boundary
Parcel Boundaries
Highlands Planning Area
Highlands Preservation Area
State Routes
County Roads
Land Use Capability Zone
Protection
Conservation
Existing Community
Land Use Capability Sub-Zone
Existing Community Environmentally Constrained
Conservation Environmentally Constrained
0 2,000 4,000 6,000 8,000 10,000
Feet
0 0.5 1 1.5 2
Miles
N

APPENDIX B

PUBLIC COMMENTS/HIGHLANDS COUNCIL RESPONSES

Petition for Plan Conformance

Washington Township, Warren County

Public Comment Period: November 7, 2011 – November 21, 2011

PUBLIC COMMENTS RECEIVED

Written comments regarding Washington Township's (Warren County) Petition for Plan Conformance were accepted by the Highlands Council through the close of the Public Comment period on November 21, 2011. Comments were provided by the following individuals/entities:

1. Helen Heinrich, on behalf of New Jersey Farm Bureau (NJFB)
2. Carl Bisgaier, on behalf of Bisgaier Hoff, LLC
3. Alan & Patricia Lowcher, residents of Washington Township
4. Michael Hozer, future business owner in Washington Township
5. David Peifer, on behalf of the Association of New Jersey Environmental Commissions (ANJEC)
6. Erica Van Auken, on behalf of New Jersey Highlands Coalition
7. Richard Cotton, on behalf of the Hawk Pointe Golf Club
8. Bryce Cotton
9. Monica Perini

The comments are summarized below with Highlands Council responses provided for each.

PUBLIC COMMENT/RESPONSE SUMMARY

1. **Comment:** Ms. Heinrich supports the efforts of Washington Township to update its Right to Farm ordinance and the proposed grant funding for an Agricultural Retention and Farmland Preservation Plan. She further supports the possibility of a TDR Receiving Zone in the Washington South Route 31 conceptual center being proposed in the petition and suggests that similar opportunities exist in the other conceptual centers.

   Response: The Highlands Council acknowledges Ms. Heinrich's support for continued and enhanced agriculture in Washington Township. The Highlands Council also notes Ms. Heinrich's support for the potential for TDR Receiving Zones. A feasibility study for the conceptual centers will be funded through an amended grant agreement with Washington Township and this study could incorporate TDR information. A separate TDR grant is available to the Township.

2. **Comment:** Mr. Bisgaier, writing as counsel to the owner of Fairway Mews, commented on the township's Housing Element and Fair Share Plan and the reliance of the plan upon credits from Fairway Mews.

   Response: As noted in Mr. Bisgaier's comment, the Highlands Council does not undertake reviews of the applicability of credits and relies on the DCA jurisdictionally. Until and unless the municipality secures final approval of a Highlands Council-approved (as RMP consistent) Housing Element and

Fair Share Plan, this Plan Conformance component shall remain a conditionally approved item. Any modifications to the Housing Element and Fair Share Plan would be required to be consistent with the RMP.

3. **Comment:** Mr. and Mrs. Lowcher, long time residents of Washington Township, support the conceptual centers proposed for the municipality as economically beneficial.

   Response: The Highlands Council acknowledges the Lowchers support of the proposed conceptual centers for Washington Township. The municipality will be conducting a feasibility study of each area to be funded under the Amended Grant Agreement for 2012.

4. **Comment:** Mr. Hozer applauds Washington Township's efforts for conformance with the Highlands [Regional Master] Plan. Specifically, he explains that the Hawk Pointe community (part of the Washington South conceptual center) provides a successful model for how to strengthen local business/agricultural economy.

   Response: The Highlands Council acknowledges Mr. Hozer's comments and support for the efforts of Washington Township in pursuance of conformance with the Regional Master Plan.

5. **Comment:** Mr. Peifer, on behalf of ANJEC, generally supports the petition as submitted however has concerns regarding center designation especially with regard to available infrastructure. He suggests that a more appropriate approach to the conceptual Port Colden Historic Center would be to develop a historic preservation plan and historic district zoning. He feels that the Brass Castle conceptual center has the highest likelihood of tying into to the Washington Borough treatment plant but does not agree that a center should be contemplated there. Regarding the Washington South conceptual center, he is concerned about a lack of a boundary proposal which could imply further sprawl, and suggests that connection to Washington Borough treatment plant is not cost effective.

   Response: The Highlands Council acknowledges each of Mr. Peifer's comments. The municipality will be conducting a feasibility analysis for each of the conceptual centers which will examine infrastructure availability, appropriate locations for redevelopment and environmental constraints among many other aspects. Grant funding of $40,000 is proposed through an Amended Grant Agreement to conduct these studies. Boundaries for each conceptual center will not be established formally for each conceptual center until the analysis indicates that such a designation is supportable. Such designations will require Highlands Council approval, with a public comment period provided prior to any decision.

6. **Comment:** Ms. Van Auken, on behalf of the Highlands Coalition, supports the Township of Washington's petition for plan conformance. They are pleased to see that the municipality is conforming for both the Preservation and Planning Areas. The Coalition supports the various resource planning grants but do have concerns for the consideration of three conceptual Highlands Centers. Access to wastewater infrastructure and resource restraints are main concerns for the Highlands Coalition. The Highlands Coalition does not support center designation in the Preservation Area, environmentally constrained areas and areas with limited utilities.

Response: The Highlands Council acknowledges the Coalitions comments. The municipality will be conducting a feasibility analysis for each of the conceptual centers which will examine infrastructure availability, appropriate locations for redevelopment and environmental constraints among many other aspects. Grant funding of $40,000 is proposed through an Amended Grant Agreement to conduct these studies. The Highlands Council has not designated or recommended designation of Highlands centers in any portion of the Preservation Area in any municipality, and Highlands Resources within any approved Highlands Centers are afforded all appropriate protection in conformance with the RMP.

7. **Comment:** Mr. Richard Cotton, on behalf of Hawk Pointe Golf Course community, has stated that the community is supportive of the conceptual center (Washington South – Rt 31) for Washington Township.

   Response: The Highlands Council acknowledges Mr. Cotton's comment. The municipality will be conducting the feasibility analysis for all three conceptual centers which will include information regarding the Hawk Pointe community facilities.

8. **Comment:** Mr. Bryce Cotton supports the proposed planning area designation for the municipality.

   Response: The Highlands Council acknowledges Mr. Cotton's comment. As above, the feasibility study for all three conceptual centers will analyze the capacity for this kind of planning.

9. **Comment:** Ms. Perini supports Hawk Point Golf Club as being a designated model for future community development.

   Response: The Highlands Council acknowledges Ms. Perini's comment. As above, the feasibility study for all three conceptual centers will analyze the capacity for this kind of planning.

APPENDIX C

RMP UPDATE

Petition for Plan Conformance

Washington Township, Warren County

RMP Update Request

During the Plan Conformance review process, Washington Township (Warren County) Engineer, William Gleba, P.E., identified a discrepancy in the boundary of the Preservation Area in the Port Colden section of the Township. Specifically, the discrepancy is along the western boundary of Tax Block 40 Lot 86 (39 Lilac Lane). Review by the Highlands Council indicates that the publicly available GIS file did not accurately reflect the language in the Highlands Act. The two figures attached illustrate the discrepancy and the specific language from the Highlands Act, which provides that the Preservation Area boundary shall follow "thence southwesterly along the northern bank of the Shabbecong Creek to its intersection with the western boundary of Block 40, lot 86" (emphasis added).

The RMP Update program was developed specifically to provide for factual corrections of this nature, and the Highlands Council thanks the Township and Mr. Gleba for noting the discrepancy. Accordingly, the Preservation Area line has been updated to reflect this RMP Update and all mapping moving forward reflects this change as well. The NJDEP has been notified of the correction.

Washington Township, Warren County
Preservation Area 2008

Act Language: thence southwesterly along the northern bank of the Shabbecong Creek to its intersection with the western boundary of Block 40, lot 86

Washington Township, Warren County
Preservation Area, Updated 2011

Act Language: thence southwesterly along the northern bank of the Shabbecong Creek to its intersection with the western boundary of Block 40, lot 86