

**FOR CONSIDERATION AT THE SEPTEMBER 15, 2011 MEETING OF THE**  
**NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL**  
**Petition for Plan Conformance – Final ~~Draft~~ Consistency Review and Recommendations Report**

**APPENDIX A**

**PUBLIC COMMENTS/HIGHLANDS COUNCIL RESPONSES**

**Petition for Plan Conformance**

**Township of Hardyston, Sussex County**

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**PUBLIC COMMENTS RECEIVED**

Written comments regarding the Township of Hardyston’s Petition for Plan Conformance were accepted by the Highlands Council through the close of the Public Comment period on August 30, 2011. Comments were provided by the following individuals/entities:

1. Erica Van Auken, New Jersey Highlands Coalition.
2. Helen H. Heinrich, New Jersey Farm Bureau

**MUNICIPAL COMMENT/RESPONSE SUMMARY**

**Comments submitted by Erica Van Auken on behalf of the New Jersey Highlands Coalition;**

1. **Comment:** The New Jersey Highlands Coalition supports Hardyston Township’s petition for plan conformance. We support their Stream Corridor Restoration/Protection Plan to mitigate the impacts of future land use on water resources. We are eager to see what the Council and the Township develop to implement this Plan.

**Response:** The Highlands Council acknowledges the New Jersey Highlands Coalition’s support for the Borough’s Petition for Plan Conformance and will continue to work with the Township to develop a Stream Corridor Restoration Plan consistent with the Goals, Policies and Objectives of the RMP.

2. **Comment:** We do question why Hardyston chose not to conform their planning area in addition to their preservation area and why they did not apply for a Center Designation. Hardyston has areas of heavy development and plans for increased development including the Village Center at Crystal Springs – part of the Crystal Springs Resort and proposed to be “125,000 sq. ft. of shopping, entertainment and dining space surrounded by over 3,000 homes and world-class amenities” according to the Crystal Springs website.

The plans for the Village Center at Crystal Springs are extensive and include minor sustainable elements that would be appropriate in a town center such as housing within walking distance to jobs, shops, recreation, etc. We recognize that most future development is proposed by a private developer, but if Hardyston were to conform its entire township these massive projects could be sensibly guided by the Highlands Council to ensure the protection of priceless Highlands resources.

**Response:** The inclusion of the Planning Area in the municipal petition for Plan Conformance is optional and the Township of Hardyston has elected not to include it in the Petition at this time. The Highlands Council will continue to work with the Township and at any time the Township may amend its Petition to include the Planning Area.

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**Comments submitted by Helen H. Heinrich, on behalf of the New Jersey Farm Bureau;**

- 1. Comment:** We appreciate the opportunity to review the Plan Conformance petition documents for the Preservation Area of Hardyston Township, Sussex County. While most of its Agricultural Resource Area land use is in the Planning Areas (6602A out of 7113A) concern for the future viability of farming in the Preservation Area is still warranted.

The implementation of this will be greatly encouraged by your making a revised Agricultural/Farmland Preservation Plan and review of the existing Right to Farm ordinance mandatory conformance requirements to be completed in 2012. The \$5000 grant too will encourage the township to give these tasks the necessary timely attention.

**Response:** The Highlands Council acknowledges the New Jersey Farm Bureau's support for the development of an Agriculture Retention/Farmland Preservation Plan and consideration of the Right to Farm Ordinance. The Highlands Council will continue to work with the Township and the Department of Agriculture in regard to the development of the plan and the Right to Farm Act to ensure that the Goals, Policies and Objectives of the Regional Master Plan are implemented.

- 2. Comment:** Section 6.10.3 of the Land Use Ordinance states that permitted land uses and bulk densities, etc. will be governed by existing township ordinances for "Minimal Impact Development Districts." Since we were unable to access these ordinance sections online, we must remain concerned about whether any limitation on agriculture therein are consistent with the Right to Farm Act and in the best interests of agricultural viability in the Township.

**Response:** Highlands Council staff has reviewed the applicable municipal regulations, which are available on-line at the Township's website (please see <http://www.hardyston.com>). While no conflicts are apparent, the Highlands Council will develop caveat language for inclusion within Section 6.10.3 of the Highlands Area Land Use Ordinance, to indicate that the referenced provisions of the local code shall apply only to the extent not in conflict with, or overridden by, the provisions of the Highlands Area Land Use Ordinance. Notably, the Highlands Area Land Use Ordinance includes at Section 6.10.5, language specifically in respect of the Right to Farm Act. These modifications have been included in other Highlands Land Use Ordinances on an as needed basis. The Farm Bureau indicated satisfaction with such language in their comments on another municipality's draft Highlands Area Land Use Ordinance.

It is also important to note that Section 6.10.3 applies only to those agricultural developments for which an exemption or exclusion does not apply. In addition to all Highlands Act exemptions, the Highlands Area Land Use Ordinance provides an important exclusion for agricultural and horticultural use and development, as follows (see § 2.1.1): "Unless specifically indicated otherwise, and in that case only to the specific extent indicated, the provisions of this Ordinance shall not apply to Agricultural or Horticultural Use and Development (as defined at § 3.2)." The provisions that are "specifically indicated otherwise," consist primarily of those discussed in the Highlands Area Land Use Ordinance at § 6.10, regarding agricultural development that exceeds the thresholds of new impervious surfaces established by the Highlands Act.

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- 3. Comment:** How will the Township, with assistance from the Highlands Council staff and hopefully from the New Jersey Department of Agriculture, develop an Agriculture Retention/Farmland Preservation Plan that could include and benefit farms in the rest of the Township? The result should be a positive business environment for all farmland and a level playing field across the Township.

**Response:** Highlands Council funding for the Agricultural Retention/Farmland Preservation Plan is specifically designated for application to the entire Township, not just the Preservation Area. The Highlands Council will continue to work with the Township and the Department of Agriculture to develop an Agriculture Retention/Farmland Preservation Plan that assists in the economic development and suitability of agriculture in the Township in accordance with the Goals, Policies and Objectives of the Regional Master Plan.