

APPENDIX C

MUNICIPAL AND PUBLIC COMMENTS/HIGHLANDS COUNCIL RESPONSES

Petition for Plan Conformance

Township of Oxford, Warren County

Public Comment Period: July 8, 2011 to July 22, 2011

MUNICIPAL COMMENT/RESPONSE SUMMARY

Oxford Township submitted a formal written comment in the form of a letter dated July 21, 2011 from Paul Gleitz, PP, AICP of Heyer, Gruel & Associates, the Township's professional planning consultant. Following is a summary of their comments and responses from the Highlands Council.

Comment/Response to Oxford Township Municipal Response Letter dated July 21, 2011

1. **Comment:** Oxford Township will work with the Highlands Council to provide updated information regarding open space, recreation, farmland and other preserved lands.

Response: Highlands Council acknowledges the Township's comment and will continue to work with the Township to identify a comprehensive list of open space, recreation, farmland and other preserved lands.

2. **Comment:** Oxford Township will review the new language regarding Historic Preservation in the Highlands Master Plan Element and the Land Use Ordinance.

Response: Highlands Council acknowledges the Township's commitment to review the amended language in the Historic Preservation section of the Highlands Master Plan Element and the Land Use Ordinance. Given the richness of the historic resources within the Township and the existence of many of these resources within the proposed Oxford Highlands Town Center, the Highlands Council has allocated funding for a Sustainable Economic Development Plan Element to explore economic development opportunities within Oxford Township, including strategies for incorporating the wealth of existing historic resources within the community's overall economic development plan.

3. **Comment:** Oxford Township will continue to consider an intra-Municipal Transfer of Development Rights (TDR) program.

Response: Highlands Council acknowledges the Township's commitment to investigate the potential for a TDR program and will continue to assist the Township in these efforts.

4. **Comment:** Oxford Township may, as they conduct Center planning, identify areas that may be appropriate for future Center designation.

Response: Highlands Council acknowledges the Township's intention to conduct further planning to identify additional areas that may be appropriate for a modified Highlands Center in the future.

5. **Comment:** Oxford Township will review the new language regarding Conservation Restrictions in the Land Use Ordinance.

Response: Highlands Council acknowledges the Township's commitment to review the amended language regarding Conservation Restrictions in the Land Use Ordinance. This section is particularly important in relation to lands to be set aside for mitigation.

6. **Comment:** Oxford Township will work with the Highlands Council to develop bulk standards for planned development.

Response: Highlands Council staff will assist Oxford Township in the development of bulk standards for planned development.

7. **Comment:** Oxford Township agrees with the schedule and timing outlined in the Implementation Plan and Schedule, but may choose to prioritize specific planning elements, such as Center planning.

Response: Highlands Council staff will work cooperatively with Oxford Township to facilitate the timely completion of the components outlined in the Highlands Implementation Plan and Schedule, and will allow flexibility in the timing of specific items as the Township moves through plan conformance implementation.

8. **Comment:** Oxford Township would like further direction and guidance regarding Low Impact Development Best Management Practices (LID-BMPs) relative to the forest mitigation plan and critical habitat.

Response: Highlands Council staff will work closely with Oxford Township in the development of a forest mitigation plan to offset the potential loss of forest within the designated Highlands Town Center. As stated in Appendix B of the Final Draft Consistency Review and Recommendations Report (Final Draft Report), the forest losses would be the same area as the Critical Habitat losses thus measures to mitigate the forest and Critical Habitat impacts will be addressed in combination.

A point of clarification regarding the forested parcel located within the Town Center in the area known as the Oxford Textile Industries (OTI) site is necessary. The Consistency Review Report identifies the entire parcel as Block 33 Lot 4 and the forested parcel as a 14 acre portion in the southeast corner of the site. A recent subdivision has occurred on this property resulting in lots now designated Block 33, Lots 4, 4.01, 4.02, and 4.03. The forested parcel is now designated Lot 4.03. The Final Consistency Review Report will be amended to reflect this correction.

9. **Comment:** Oxford Township is willing to participate in a Habitat Conservation and Management Plan as long as the overall proposed density of development within the Center is not affected and the future management costs are not a burden to local taxpayers.

Response: The Implementation Plan and Schedule allocates funding for the preparation of a municipal-wide Habitat Conservation and Management Plan to identify species at risk, options for restoration of habitat, and standards for mitigation of unavoidable impacts of public and private projects. The conclusions of the Habitat Conservation and Management Plan cannot be known until the study has been completed, however, the Highlands Council acknowledges the Township's concerns.

10. **Comment:** Oxford Township would like further direction and guidance regarding Low Impact Development and Community Facilities components.

Response: Highlands Council staff will work closely with Oxford Township to develop the ordinances necessary for development and redevelopment within the Highlands Town Center. Low impact development guidelines are available from a number of sources within the industry, including Leadership in Energy and Environmental Design (LEED), the Sustainable Sites Initiative, National Association of Home Builders, among others. The Highlands Regional Master Plan also offers guidance under the Low Impact Development Program and the Housing and Community Facilities Program contained in Chapter 5.

11. **Comment:** Oxford Township would like further clarification of the impact of Highlands Environmental Resource Sites (HERS) designation on private property owners. Specifically, the Township would like to know if by virtue of being named a HERS the properties are subject to the same restrictions as properties

within the Preservation Area. They also would like to know if this affects their eligibility for Highlands Act exemptions.

Response: The HERS, as their name indicates, are parcels that contain environmental resources, such as Forest within a Forest Resource Area, Critical Habitat, Steep Slopes, Streams, Wetlands, Riparian Corridor, and Open Water Protection areas. They are intended to be protected as a condition of Town Center planning, but do not take on the restrictions of the Preservation Area because they remain within the Planning Area. The three HERS identified in the Oxford Highlands Town Center are: 1) Axford Avenue/Hill Street near the Mansfield Township border; 2) Shippen Manor area/Belvidere Avenue; and 3) Furnace Lake Area/Township-owned land. The HERS near Furnace Lake, also known as part of the “Coachlight” property, has been identified by Oxford Township as a potential mitigation site to offset the loss of forest elsewhere within the Town Center. Should this particular site be designated for mitigation, a deed restriction would be attached which would limit any developability on the site. The remaining HERS would be slated for protection according to land preservation strategies, but would retain the right to exercise an exemption under the Land Use Ordinance.

12. **Comment:** Oxford Township expressed concern that the HERS would be precluded from inclusion in the future Sewer Service Area in the case of a health and safety issue.

Response: Although the HERS are deliberately excluded from the future Sewer Service Area, a waiver for purposes of dealing with a health and safety issue would continue to be available.

PUBLIC COMMENTS RECEIVED

Written comments regarding Oxford Township’s Petition for Plan Conformance were accepted by the Highlands Council through the close of the Public Comment period on July 22, 2011. Comments were provided by the following individuals/entities:

1. Helen Heinrich, on behalf of the New Jersey Farm Bureau
2. Erica Van Auken, on behalf of the New Jersey Highlands Coalition
3. Robert Freudenberg and Peter Kasabach, on behalf of Regional Plan Association and New Jersey Future

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

PUBLIC COMMENT/RESPONSE SUMMARY

1. **Comment:** The New Jersey Farm Bureau expressed support for the designation of a Highlands Town Center in Oxford Township, particularly regarding its consideration of Transfer of Development Rights (TDR) program. The Farm Bureau further suggests that sending zones include farmland as well as historic properties.

Response: The Highlands Council acknowledges the support from the New Jersey Farm Bureau and will continue to work with Oxford Township to assess the potential for TDR sending and receiving areas within the municipality.

2. **Comment:** The New Jersey Farm Bureau suggests that a TDR Program become a key provision of the Township's Agriculture Retention/Farmland Preservation Plan

Response: The Highlands Implementation Plan and Schedule includes an allocation for the Township to develop a municipal-wide Agriculture Retention/Farmland Preservation Plan to address a wide range of topics related to economic sustainability of agriculture. The Highlands Council will encourage the Township to consider the Farm Bureau's suggestion when a scope of work is developed.

3. **Comment:** The New Jersey Farm Bureau is concerned that Section 6.10.3 of the Highlands Area Land Use Ordinance sets standards for "permitted" crops and facilities, thus giving the impression that a municipality may make these determinations. This would be in conflict with the "Right to Farm" Act which pre-empted some municipal regulations in this regard.

Response: Municipalities have certain discretion within the existing State statutes regarding agricultural developments. 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)." Section 6.10.3 applies only to those agricultural developments for which an exemption or exclusion does not apply. Further, the Highlands Council requires all conforming municipalities with significant agricultural lands to adopt a Right to Farm ordinance, and recommends use of the State Agriculture Development Committee model ordinance (<http://www.nj.gov/agriculture/sadc/rtfprogram/resources/modelrtfordinance.pdf>) for this purpose.

4. **Comment:** The New Jersey Highlands Coalition supports Oxford Township's Petition for Plan Conformance, the inventory of environmentally constrained areas within the Center, and the development of a Habitat and Conservation Management Plan.

Response: The Highlands Council acknowledges the support from the New Jersey Highlands Coalition.

5. **Comment:** The New Jersey Highlands Coalition suggests that a condition of the Center Designation and the Petition should be the implementation of a Water Use and Conservation Plan that addresses deficits in water availability within the entire watershed.

Response: The Highlands Implementation Plan and Schedule includes an allocation for the preparation of a Water Use and Conservation Management Plan for the Furnace Brook subwatershed, which encompasses the majority of the Township and is the HUC 14 subwatershed wherein the proposed Highlands Center is located. The Water Use and Conservation Management Plan will be developed cooperatively between the Township and the Highlands Council (and Washington Township-Warren which shares the subwatershed), with the Council taking the lead in the project, and water deficits will be addressed.

6. **Comment:** The New Jersey Highlands Coalition acknowledges the careful efforts made to minimize impacts to the 14 acre parcel of critical habitat within the proposed Highlands Town Center, but believes that disturbances and impacts to sensitive ecology can never be mitigated by preserving land elsewhere. The Coalition suggests that the resource values be maintained on the parcel where they currently exist.

Response: The parcel in question, noted to be Block 33 Lot 4.03, is an upland forested parcel along the northeastern edge of the proposed Highlands Town Center. This parcel is to be the subject of a site-specific critical habitat assessment with protection measures to be developed in coordination with Highlands Council staff. Any disturbance is proposed to be offset within Oxford Township at a mitigation ratio of between 2.5 to 3.0 acres for each acre disturbed. A conservation easement will be attached to the deed of each specific parcel identified for mitigation and performance standards will be developed to measure the level of success of the various protection measures.

7. **Comment:** Regional Plan Association and New Jersey Future encourage a favorable consideration by the Highlands Council of Oxford Township's Petition for Plan Conformance and the center designation component which would help facilitate sustainable economic growth, development, and redevelopment.

Response: The Highlands Council acknowledges the support of the Regional Plan Association and New Jersey Future for Oxford Township's Petition for Plan Conformance.

8. **Comment:** Regional Plan Association and New Jersey Future state that the Township's Petition represents an important opportunity to advance the goals of the Highlands Water Protection and Planning Act and is key in implementing the Highlands Regional Master Plan.

Response: The Highlands Council acknowledges the comments submitted by Regional Plan Association and New Jersey Future.

9. **Comment:** Regional Plan Association and New Jersey Future believe that the Highlands Council's technical and financial support to municipal governments will help ensure the proper balance of environmental protection and responsible growth necessary for the long-term health of the Highlands Region, as well as the entire State of New Jersey.

Response: The Highlands Council acknowledges Regional Plan Association's and New Jersey Future's comments and concerns.