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FINAL DRAFT CONSISTENCY REVIEW AND RECOMMENDATIONS REPORT

PETITION FOR PLAN CONFORMANCE: TOWN OF PHILLIPSBURG, WARREN COUNTY

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

**SEPTEMBER 21,
2011**

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INTRODUCTION

This Final Draft 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 Town of Phillipsburg, 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. At this time, Phillipsburg’s Petition for Plan Conformance is unique in the Highlands, as the only municipality for which a Highlands Center is proposed and recommended by Highlands Council staff that encompasses the entire municipality. As such, Phillipsburg will have unique needs regarding master plan components and land use regulations that effectively protect relevant Highlands resources in the context of redevelopment and development needs of a long-standing urban area. Therefore, this Draft Report has been tailored to the specific issues of Phillipsburg, as has the Highlands Implementation Plan & Schedule.

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REPORT SUMMARY

Municipality: Town of Phillipsburg

Date of Petition Submission: October 6, 2010

Date Deemed Complete: October 27, 2010

Conformance Area: Planning Area

Staff Recommendation: Approve Petition with Conditions

Administrative Submittals	Meets Requirements	Conditions of Approval
1. Resolution or Ordinance	X	None
2. Record of Public Involvement	X	None
3. List of Current Planning and Regulatory Documents	X	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		Deferred. See Section D.1
3. Module 4 ERI	X	See Section D.1
4. Module 5 Highlands Element	X	Follow up Required; Refer to Section B.4; D.1
5. Module 6 Land Use Ordinance	X	Follow up Required; Refer to 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

*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	5/1/2009	Processed on March 15, 2010
2. Map Adjustments	N/A	Addressed via Highlands Center designation
3. Highlands Center Designation Requests	9/22/2010	Approve Highlands Center designation with Conditions
4. Highlands Redevelopment Area Designation Requests	N/A	Addressed via Highlands Center designation

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A. REVIEW OF ADMINISTRATIVE SUBMITTALS

1. **Resolution or Ordinance.** Resolution (#2010-154) petitioning the Highlands Council for Plan Conformance was adopted by the municipal Governing Body at its noticed public meeting of September 21, 2010. The document submitted is appropriately signed and certified by the Municipal Clerk to verify authenticity. The language of the Resolution relies upon the model provided by the Highlands Council. The Resolution clearly petitions the Highlands Council for Plan Conformance; conformance being proposed for the entire municipality, which lies fully within the Planning Area.
2. **Record of Public Involvement.** The Petition includes appropriate documentation of the public process engaged in by the municipality with regard to the development of Petition materials and adoption of the Resolution petitioning the Highlands Council for Plan Conformance. The submission includes the following:
 - a. Statement describing the public involvement process, which included five public Planning Board meetings and one meeting of the Town Council (above-referenced). No verbal or written comments were received from the public.
 - b. Copy of public meeting notice for meeting of the Planning Board held on October 22, 2009 to discuss Plan Conformance, including specifically the draft Master Plan Highlands Element.
 - c. Copy of meeting agenda(s) and minutes associated with the October 22, 2009 Planning Board meeting.
 - d. Copy of meeting agenda associated with the above-referenced September 21, 2010 Governing Body meeting.
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 as required. To address this Plan Conformance requirement, the municipality will provide the documents listed below in Adobe pdf format.
 - a. Master Plan Update – 2004
 - b. Reexamination Plan – 2004
 - c. Community Schools Plan – 2003
 - d. Stormwater Management Plan

Town of Phillipsburg land use ordinances and regulations are publicly available through eCode360, an on-line subscription service provided by General Code, and thus need not be submitted in Adobe pdf format. The on-line Phillipsburg Code Book may be found at: <http://www.ecode360.com/?custId=PH0098>.

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B. REVIEW OF PLAN CONFORMANCE PETITION COMPONENTS

1. **Highlands Municipal Build-Out Report (Modules 1-2).** Consistent. 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 30, 2009.
2. **Housing Element & Fair Share Plan (Module 3).** Deferred. The Town of Phillipsburg has not yet submitted a Housing Element and Fair Share Plan to the Department of Community Affairs (DCA) (previously under the purview of the Council on Affordable Housing (COAH)) or Superior Court. Although filing is not mandatory for the Town under current regulatory requirements, it is required for Plan Conformance. As a condition of Plan Conformance approval the Town shall adopt a Housing Element and Fair Share Plan and submit the plan to DCA or Superior Court with a request for Plan certification. This will assure that the Town addresses the fair share needs in accordance with the RMP. Goals and objectives consistent with the Regional Master Plan will be included in either, the Town's Housing Element or alternatively, the Town's final proposed Master Plan Highlands Element (Housing Plan section).

In providing for this deferral, the Highlands Council recognizes that the main component of COAH's Third Round rules was invalidated in 2010 and 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 DCA.

3. **Environmental Resource Inventory (Module 4).** The proposed Town of Phillipsburg Highlands Environmental Resource Inventory (ERI) is based on the Highlands Model ERI provided to municipalities by the Highlands Council. The document 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 following sections of the model Highlands ERI are not relevant to the municipality and have thus been deleted from the municipal submission: Vernal Pools, Highlands Conservation Priority Areas, Highlands Special Environmental Zone, and Lake Management Areas.
 - b. **Figures.** The Highlands Council has developed a new set of figures based on updated information, which replaces the figures previously developed, with the exception of any figures developed by the municipality. The new figures are provided as a separate file from the Highlands ERI text, and any figures previously

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provided with the Highlands ERI have been deleted to avoid confusion. Please note that the figures should not be incorporated with the MS Word® version of the text, but rather should be kept separate until after municipal adoption, when the text and figures should be combined into a single pdf-format file.

- c. **Other:** The ERI supplemental information provided by the Town for Municipal Preserved Lands, Public Water Service Areas and Wastewater Service Areas has been incorporated into the Highlands Council’s spatial database. The ERI exhibit update provided by the Highlands Council includes this information.

- 4. **Master Plan Highlands Element (Module 5).** The proposed Town of Phillipsburg Master Plan Highlands Element will be substantially modified to establish the entire town as a Highlands Center and therefore is not required to be based on the model Highlands Element provided to municipalities by the Highlands Council. The document will be fully developed after approval of the Town’s Petition for Plan Conformance. On completion, the Highlands Element is anticipated to include the following: a) a Highlands Center Plan Element (incorporating proposed Redevelopment Planning initiatives); b) a Sustainable Economic Development Plan Element; c) a Conservation Plan Element addressing, to the extent applicable, Highlands Open Waters, Steep Slopes, Wellhead Protection Areas, and Carbonate Rock topography; and potentially (dependent upon the outcome of the Highlands Center designation and Redevelopment Plan studies), d) a Development Transfer Plan Element.

Town of Phillipsburg Highlands Center. Phillipsburg proposes a Highlands Center to support its existing land uses and approved redevelopment areas and as a means to allow for revitalization in this historic community and spur local and regional economic development. The Town is extensively developed with a mixture of existing land uses including residential, industrial, commercial, brownfields, historic sites and mixed uses. The final planning documents will incorporate the protection of the limited Highlands resources that exist within the Town, many of which are located within parks and other preserved lands in any event.

With Highlands Center designation, Phillipsburg’s revised Highlands Element should: a) 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; b) employ a design approach that is protective of Highlands resources; and c) protect and enhance the nature of the existing municipal and surrounding land use conditions as applicable, particularly historic sites. These modifications will, in large part, supplant the Land Use Capability Zone and density provisions currently included in the model Highlands Element.

- a. **Highlands Center Designation.** Staff recommends development of a Highlands Center Plan Element that is specific to Phillipsburg’s proposed designation as a Highlands Center. These provisions will incorporate the Town’s redevelopment planning initiatives and will be designed to apply specifically to Phillipsburg’s

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ongoing growth and development, with inclusion of applicable language regarding protection of Highlands resources.

- b. Housing Plan Element.** As noted above, the Housing Plan Element must include RMP-consistent goals and objectives pertinent to community housing. Review and recommendations concerning the Housing Plan Element appear at item #2 above, Housing Element & Fair Share Plan. The Town shall prepare a Housing Element and Fair Share Plan as part of Plan Conformance.
 - c. Sustainable Economic Development Plan Element.** Significant material will be developed in the post-Petition approval phase of Plan Conformance to address this component. The proposed Highlands Center designation and the redevelopment areas will be integral to this Plan Element and formulated in conjunction with it.
 - d. Development Transfer Plan Element.** Inclusion of this Section is optional and a preliminary analysis of TDR viability in Phillipsburg will be conducted as a component of the Highlands Center designation. Key to this assessment will be the financial and economic basis for TDR use by potential developers, given existing or likely market conditions affecting the area. Based on those findings, the ability to incorporate a Development Transfer Plan Element in Phillipsburg will be considered as a potential future component of Plan Conformance.
- 5. Highlands Center Land Use Ordinance (Module 6).** With designation of the Town of Phillipsburg as a Highlands Center, the Highlands Land Use Ordinance will not be based on the model Highlands Area Land Use Ordinance provided to municipalities by the Highlands Council. The Ordinance provisions that will be required may be adopted either as a stand-alone Highlands Ordinance, as multiple ordinances (i.e., specific ordinance for individual redevelopment targets), or as new provisions for incorporation into the Town's existing codes. Decisions regarding the specific method of ordinance development will be made upon completion of planning activities related to the Highlands Center.

With Highlands Center designation, Phillipsburg's revised ordinance should (in recognition of the work undertaken by Phillipsburg and in collaboration with the Highlands Council): a) recognize and protect specified areas within the Highlands Center that are essential to the protection of Highlands Open Waters, Steep Slopes, Wellhead Protection Areas and Carbonate Rock topography; 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 that supports and enhances community character and promotes regional and local economic development.

6. Petition Submission Documents (Module 7).

- a. Municipal Self-Assessment Report.** The Municipal Self-Assessment Report consists of two components as listed herein. The Report accurately describes the

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

As proposed by the municipality, the Highlands Implementation Plan and Schedule: a) included all mandatory components required to fully achieve Plan Conformance; and b) incorporated timeframe estimates associated with each mandatory element. The Highlands Implementation Plan and Schedule has been modified since first issued by the Highlands Council, however. 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.

In addition, the proposed Highlands Implementation Plan and Schedule includes non-mandatory Plan Conformance activities, the estimated costs and timeframes for completion of which, the municipality must consider. These activities have been incorporated into the revised Highlands Implementation Plan and Schedule for discussion purposes. The non-mandatory activities proposed by the municipality constitute appropriate projects and activities in furtherance of the goals, policies, and objectives of the Regional Master Plan and are thus eligible for legal protections and funding or partial funding under the Highlands Plan Conformance protocols and grant program requirements. The Highlands Implementation Plan and Schedule has been modified to incorporate all aspects. Please see the revised Highlands Implementation Plan and Schedule for comments regarding Resource Management Plans and Programs, redevelopment studies and designation of a Highlands Center.

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C. REVIEW OF OPTIONAL SUBMISSION COMPONENTS

- 1. RMP Updates.** The Petition for Plan Conformance was accompanied by 4 requests for RMP Updates. One of these requests was processed as an RMP Update and two of the requests are being addressed via the proposed Highlands Center designation. The remaining request will be addressed via the Highlands Land Use Ordinance. These request(s) are listed and described in Appendix A, with a summary of the final results that were processed on March 15, 2010.
- 2. Map Adjustments.** The Petition for Plan Conformance was not accompanied by request(s) for Map Adjustments. The potential need for Map Adjustments is being addressed via Highlands Center designation.
- 3. Highlands Center Designation Requests.** The Petition for Plan Conformance was accompanied by a request for Highlands Center Designation for the entire Town with recognition of existing approved redevelopment areas. The Town met with the Highlands Council to discuss the potential for a Highlands Center designation on June 11, 2010 as part of the Plan Conformance staff review process. In response to that meeting the Town submitted preliminary information as part of the Petition regarding a possible Highlands Center designation for the entire municipality (fully within the Planning Area). The Highlands Council will continue to work with Phillipsburg during the Plan Conformance process to establish the basis and parameters for Highlands Center designation for the municipality. This request is described in detail in Appendix B, inclusive of Highlands Council Staff recommendations.

In sum, Highlands Council Staff recommends that the Highlands Council approve the designation of a Highlands Center for the entire Town, conditioned upon completion of the planning process needed to fully develop the proposal.

- 4. Highlands Redevelopment Area Designation Requests.** The Petition for Plan Conformance was not accompanied by any request(s) for Highlands Redevelopment Area Designation. The Highlands Center designation recognizes and provides for incorporation of the existing approved redevelopment areas in the Town and may be modified in the future as needed, in consideration of any other such areas that may be identified.
- 5. Other. N/A**

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D. PRELIMINARY 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 Town of Phillipsburg, as currently proposed by the municipality, be approved with conditions as outlined below. This recommendation specifically incorporates conditional designation of a Highlands Center in accordance with Appendix B. Detailed work (e.g., master plan and regulatory provisions) to finalize the designation will occur in the post-Petition approval phase of Plan Conformance.

1. Approval with Conditions. The Petition for Plan Conformance requires certain modifications, as noted within Sections A through C of this Report. Provided these issues are addressed in accordance with the detailed recommendations as indicated within this Report and the herein-referenced Highlands Council Staff-provided MSWord “Track-Changes” versions of the various Petition documents, Highlands Council Staff recommend that this Petition for Plan Conformance be approved by the Highlands Council. Any approval should in addition, be conditioned upon satisfaction of the below-listed requirements.

a. Adoption of Approved Planning Area Petition Ordinance. The municipality shall prepare and submit to the Highlands Council a draft municipal ordinance petitioning the Highlands Council for Plan Conformance with respect to the municipality’s Planning Area lands (based upon or consistent with the model provided by the Highlands Council). Upon receipt of Highlands Council approval, the Ordinance shall be prepared for purposes of public review and adoption by the municipal Governing Body. The Governing Body shall provide for and complete the adoption process, at the conclusion of which, a certified copy of the adopted 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 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 Planning Board in the absence of an Environmental Commission) shall provide for and complete the required process of formal adoption of the ERI by the local Commission or Board. At the conclusion of the process, a certified copy of the adopted ERI shall be provided to the Highlands

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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.

- c. Adoption of Approved Master Plan Highlands Element or Equivalent.** The Master Plan Highlands Element or equivalent 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 or equivalent shall be prepared in a clean, final document format for purposes of public review and adoption. A copy shall be provided to the Highlands Council. The municipal Planning Board shall arrange for the required process of scheduling, notice, public hearing, consideration, and formal adoption of the Highlands Element or equivalent by the municipal Planning Board. At the conclusion of the process, a certified copy of the adopted Highlands Element shall be provided to the Highlands Council. The process of Highlands Element adoption shall be conducted in accordance with all applicable legal requirements and protocols, and shall be guided by the timeframes set forth in the Highlands Council-approved Highlands Implementation Plan and Schedule. Should this process lead to proposed modifications to any portion of the Highlands Element, the proposed changes shall be submitted to the Highlands Council for review. In the event the Highlands Council determines that any proposed modification is of a substantive nature, Highlands Council approval shall be required prior to adoption by the local Planning Board.
- d. Adoption of Approved Highlands Center Ordinance or Equivalent.** The Highlands Center Ordinance (or equivalent) 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 Center Ordinance (or equivalent) shall be prepared in a clean, final document format for purposes of public review and adoption. A copy shall be provided to the Highlands Council. After the municipal Planning Board has adopted the Master Plan Highlands Element, the municipal Governing Body shall arrange for the required process of scheduling, notice, public hearing, consideration, and formal adoption of the Highlands Center Ordinance (or equivalent) by the municipal Governing Body. At the conclusion of the process, a certified copy of the adopted Ordinance shall be provided to the Highlands Council with notice of its effective date. The process of Highlands Center 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

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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.** To the extent applicable in the context of the final Highlands Center Ordinance (or equivalent), the Town shall provide for “Municipal Exemption Determinations” in accordance with Highlands Council delegation of such authority to the municipality. Such determinations (detailed within the current draft Ordinance) refer to the process of reviewing and making determinations concerning exemptions from the Highlands Act, which in turn, represent exemptions from the provisions of the Highlands Center Ordinance (or equivalent). The effective date of such provisions shall occur only after the municipality indicates readiness to proceed and receives written authorization from the Highlands Council granting it the authority to do so.
- ii. Highlands Council Information and Training Sessions.** Prior to the effective date of the Highlands Center Ordinance, municipal representatives (e.g., Land Use Administrators, Zoning Officials, Planners) shall have opportunity to attend information and training session(s) to be provided by the Highlands Council on the implementation and administrative procedures set forth within the more typical Highlands Area Land Use 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. NOTE: As these sessions may not be highly useful to the Town of Phillipsburg in regard to its final (customized) Highlands Center Ordinance, this condition of approval shall be subject to a potentially more nuanced approach, tailored to the Town and provided on an as needed basis.
- e. Adoption of Updated Zoning Map.** The Town shall prepare an updated Municipal Zoning Map, as required which shall be adopted immediately following or at the time of adoption of the Highlands Center Ordinance (or its equivalent), to reflect any new changes based on the Ordinance provisions (e.g., establishment of areas designated for specified land uses and/or densities of development). The adoption process shall mirror that outlined above for the Highlands Center Ordinance.

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- f. DCA/Court Approval of Housing Element & Fair Share Plan.** The municipality shall adopt the Housing Element and Fair Share Plan and shall petition DCA for such approval in accordance with all applicable procedures and requirements, or shall submit to the Court for a judgment of repose. The Highlands Council shall be copied on all related correspondence and kept apprised of the approval 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 Fair Share 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.)
- g. Adoption of Ordinances Implementing Fair Share Plan.** Governing Body adoption of Ordinances required to implement the Fair Share Plan shall follow approval of the Housing Element and Fair Share Plan, in accordance with all requirements of the Superior Court 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.
- h. Wastewater Management Plan (WMP).** The municipality shall prepare a Wastewater Management Plan working with the Highlands Council under Plan Conformance, for approval by the NJDEP. This plan will be recognized as a chapter of the County WMP in accordance with NJDEP Administrative Order 2010-03 and all applicable NJDEP rules and requirements. As a municipality conforming for the full municipality, Phillipsburg will collaborate 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 Town, and collaborate with the Town to finalize the WMP for NJDEP consideration and approval.
- i. Adherence to Approved Highlands Implementation Plan & Schedule.** The municipality shall undertake to complete all remaining mandatory Plan Conformance activities listed in the Highlands Council-approved Highlands Implementation Plan & Schedule, in accordance with: a) the timeframes set forth therein, to the maximum extent feasible and practicable, or with such adjusted timeframes as may be authorized by the Highlands Council or otherwise mutually

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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.
- Habitat Conservation & Management
- Stormwater Management Plan (Updates Only)
- Sustainable Economic Development Plan Element. The Highlands Implementation Plan & Schedule includes an allocation to prepare a Sustainable Economic Development Plan Element which recognizes local and regional economic conditions. The Plan should evaluate the existing approved redevelopment areas, pending development approvals, local and county historic and cultural tourism initiatives and Highlands Center designation. The

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Plan includes evaluating existing economic conditions (inventory commercial and industrial establishments and evaluate existing zoning), conducting surveys and outreach, conducting Strengths, Weaknesses, Opportunities & Threats analysis, and developing a draft Implementation Strategy to meet both the Highlands Council and the Philipsburg's sustainable economic development goals.

iv. Non-Mandatory Components: The Highlands Implementation Plan and Schedule also provides for certain non-mandatory components include 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.

- Stream Corridor Protection / Restoration Plan. The Highlands Implementation Plan & Schedule includes an allocation of funds for this purpose as a priority activity to support the evaluation of stream corridors in need of restoration and possible mitigation, with specific attention to Pohatcong Creek. The Highlands Council will provide a draft scope of work for municipal use.
- Highlands Center Designation Planning. The Highlands Implementation Plan & Schedule includes an allocation of funds for planning work related to the Town's designation as a Highlands Center, including the existing locally approved Redevelopment Areas, and development of applicable provisions for incorporation into the Master Plan Highlands Element and Highlands Center Ordinance (or their equivalents).
- Highlands Redevelopment Area Planning Study. The Highlands Implementation Plan & Schedule includes an allocation of funds for two redevelopment area studies: a study of the Ingersoll Rand Redevelopment Area, which provides for a shared study with Lopatcong Township to assist in the redevelopment of this shared redevelopment area property; and a study of the Riverfront Redevelopment area to assist with the redevelopment desired for the downtown.

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j. Revisions/Amendments Subject to Highlands Council Approval. Any proposed revision or amendment to any of the aforementioned documents, or to any other document, plan, or other item approved by the Highlands Council as a component of Plan Conformance, shall be provided to the Highlands Council for review. In the event the Highlands Council staff determines that any proposed modification is of a substantive nature, Highlands Council approval shall be required prior to adoption by the applicable municipal board, commission, or governing body. Any revision or amendment adopted without the approval of the Highlands Council may subject the municipality to revocation of Plan Conformance approval.

2. Optional Petition Requests. The findings below apply to the Optional Petition Requests discussed at Section C of this Report.

a. RMP Update(s). The four RMP Update(s) requested in connection with this Petition for Plan Conformance were processed on March 15, 2010. One of the requests was addressed as an RMP Update. The remaining requests will be addressed via Highlands Center designation and Ordinance language.

b. Map Adjustment(s). N/A.

c. Highlands Center Designation(s). The Highlands Center designation requested in connection with this Petition for Plan Conformance should be approved subject to the conditions listed and discussed in detail at Appendix B.

d. Highlands Redevelopment Area Designation. N/A.

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E. MUNICIPAL RESPONSE PERIOD

The Highlands Council provided a Draft Consistency Review and Recommendations Report dated and sent to the municipality on August 22, 2011. The Municipal Response Period expired on September 21, 2011. The municipality provided a response on September 14, 2011, indicating that the Town reserves comment on the Plan Conformance consistency documents provided by Highlands Council at this time. It is the Town's intention to address specific issues related to the Highlands documents through the ongoing planning process, which will allow a more thorough analysis of the issues. These issues include but are not limited to maintaining local jurisdiction over all land use and redevelopment decisions, adjustments to RMP maps and zones, the relevance and/or applicability of certain Highlands policies to Phillipsburg, and the need for a simplified approach to merging "Highlands Elements" into local plans and ordinances.

The Town will also continue to work with the Highlands Council in regard to the Highlands Implementation Plan and Schedule to ensure a meaningful and efficient Plan Conformance process that will satisfy the shared objectives of the Town and the Highlands Council. The Town did not provide new, revised, supplemental, or amended materials, items, or information in support of the Petition for Plan Conformance, prior to expiration of the Municipal Response Period, for Highlands Council consideration.

F. COMMENTS FROM THE PUBLIC

The Final Draft Consistency Review and Recommendations Report is 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. Comments may be submitted to the Highlands Council by e-mail (chris.danis@highlands.state.nj.us), facsimile transmission (908-879-4205), surface mail, or hand delivery (Highlands Council, 100 North Road, Chester, NJ 07930). All comments will be made available for public inspection in the offices of the Highlands Council in Chester, NJ. At the conclusion of the public comment period, a summary comment/response document will be prepared by Highlands Council Staff which will be posted to the Highlands Council website along with any final revisions resulting from Council review and consideration of public comments.

Upon its completion, the comment/response document will be attached to this document, at Appendix C.

G. FINAL RECOMMENDATIONS

This Section is completed after review and consideration of all comments regarding a Petition for Plan Conformance.

Based upon the comments received, the recommendations of Highlands Council Staff concerning the Petition for Plan Conformance of the Town of Phillipsburg, [remain

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unchanged/require substantial revision/require only minor modifications from the Preliminary and/or Revised Recommendations, as discussed herein below.

1. Item #1.
2. Item #2.
3. Item #3.]

In conclusion, the Highlands Council Staff recommends that the Petition for Plan Conformance of the Town of Phillipsburg, be approved/denied/approved with conditions; with all applicable conditions being those listed and discussed in Section D, above, and if applicable, as supplemented and/or modified by the revisions discussed herein, above.

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APPENDIX A

HIGHLANDS COUNCIL REVIEW

REQUESTS FOR RMP UPDATES

Note: The following is an updated synopsis of the RMP Update and Map Adjustment correspondence that was sent to the Town of Phillipsburg on March 15, 2010.

Town of Phillipsburg, Warren County

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RMP UPDATES/MAP ADJUSTMENTS

MUNICIPAL RMP UPDATE REVIEW

Summary of Municipal RMP Update requests

1. **Municipal Request:** (Block 3301 Lots 1 & 2) The Conservation Zone covers the southern portion of the Ingersoll Rand Redevelopment Area. Highlands data indicate that this is an area of only moderate agricultural priority with riparian areas along the Lopatcong Creek. The non-riparian portions of these properties ought to be made part of the Existing Community Zone (ECZ) with the riparian areas placed in the Existing Community–Environmental Constrained Sub-Zone (ECEC Sub-Zone)
2. **Municipal Request:** (Block 2102 Lots 2 & 11) A major portion of the Riverfront Redevelopment Area fronting on Howard Street is in an RMP Protection Zone. This 35.6 acre site has been approved for 445 townhouse units. This project is critical to the Town’s overall redevelopment strategy and ought to be made part of the ECZ.
3. **Municipal Request:** (Block 1701 Lot 2) The ECEC Sub-Zone is scattered throughout the Town and appears to coincide with forested areas, carbonate rock, steep slopes and riparian areas. In this instance, the sub-zone covers a parking lot. This parcel should be considered for removal from the sub-zone.
4. **Municipal Request:** The ECEC Sub-Zone is scattered throughout the Town and appears to coincide with forested areas, carbonate rock, steep slopes and riparian areas. These instances include several railroad rights-of-way (list provided). These parcels should be considered for removal from the sub-zone.

Highlands Council RMP Update Summary of Findings

The Highlands Council found the petition and supporting materials provided information sufficient for processing one request (#3) as an RMP Update as a result the spatial database for the parking lot associated with Block 1701 Lot 2 has been updated to the Existing Community Zone. Exhibit 1 of the Highlands land use ordinance reflects this update.

The Ingersoll Rand Redevelopment Area including Block 3301 Lots 1 and 2 and the Riverfront Redevelopment Area Block 2102 Lots 2 and 11 requests (#1 and 2) have both been addressed via Highlands Center Designation. In addition, Block 3301, Lot 1 is listed as a Known Contaminated Site by New Jersey Department of Environmental Protection and is an Active Site with Confirmed Contamination.

Roads and Rights-of-way (#4) are found in all Land Use Capability Map Zones and are reflective of the lands around them. In order to improve the administrative implementation of the Land Use Capability Zone, the Highlands Council routinely updates Road and Rights-of-Ways based on the Land Use Capability Zone adjacent to them. In addition, Roads and Rights-of Ways are also subject to several critical exemptions (#9, 10, 11 and 12) in the Highlands Act. The Highlands Land Use Ordinance Exhibit 1 and the Ordinance language provides clarification of these resources as related to Highlands Act exemptions and development review procedures.

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APPENDIX B

HIGHLANDS COUNCIL REVIEW

REQUEST FOR HIGHLANDS CENTER DESIGNATION

Town of Phillipsburg, Warren County

Highlands Council Staff Draft Recommendation Report

Proposed Highlands Center Designation

Town of Phillipsburg, Warren County

Re: Application Type: *Proposed Highlands Center Designation*
Name: *Phillipsburg Highlands Town Center*
Municipality: *Town of Phillipsburg*
County: *Warren County*
Highlands Act Area: *Planning Area*
Proposed: *Highlands Center for the full Municipality*

EXECUTIVE SUMMARY

The Town of Phillipsburg proposes designation of the entire municipality as a Highlands Center. The municipality lies fully within the Planning Area. The Town has a long industrial and commercial history and is embarking on extensive redevelopment efforts focused on former industrial properties near the Delaware riverfront and other interior properties. Designation of the entire municipality as a Highlands Center will result in significant planning and technical support for environmentally-sensitive redevelopment activities geared to achieve a sustainable economy. As a result of this designation, master planning activities and ordinance development will differ significantly from the Highlands Council protocols established under Modules 5 and 6 of the Plan Conformance program, while still incorporating all relevant protections for Highlands Resources in the municipality.

With Highlands Center designation (refer to Figure 1 and below for details), Phillipsburg's revised Highlands Element will: a) recognize areas essential for conservation of Highlands resources, such as: Highlands Open Waters, Steep Slopes, Wellhead Protection Areas and Carbonate Rock topography; 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 compact development approach for development and redevelopment that is consistent with available utility capacity and employs a center-based format that complements the community character and surrounding land uses and provides local and regional employment opportunities. These modifications will, in large part, supplant the provisions currently included in Phillipsburg's Highlands Element, and will be largely dependent upon the completion of an approved Wastewater Management Plan that is reflective of capacity conditions existing for Phillipsburg and other municipal and private sector customers reliant upon the Phillipsburg Sewerage Treatment Plant (STP).

Having reviewed all aspects of the municipality's proposal, the Highlands Council staff concludes that, with careful and thorough planning and design, designation of Phillipsburg's proposed Highlands Center includes existing developed lands and infrastructure that is representative of center-based conditions and would advance the intents and purposes of both the Highlands Act and the Highlands Regional Master Plan (RMP). The Highlands Center designation would include the entire municipality and recognize the existing local

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approved designated redevelopment areas of Ingersoll Rand/ Commerce Park, and Riverfront Redevelopment including the Union Square Redevelopment Area.

Highlands Center designation under these conditions would have no negative impact upon the public good nor be detrimental to the RMP or the local master plan. Designation would confer substantial benefits upon each, the municipality, the sub-region in which the municipality is located, and the Highlands Region, as a whole. The Highlands Council staff recommends approval of this Highlands Center by the Highlands Council as a component of Plan Conformance for the Town of Phillipsburg.

Rationale for Approval of Highlands Center Designation

1. Highlands Center designation directly addresses the goals of the Highlands Act and RMP Future Land Use Programs associated with the identification of suitable locations within the Planning Area of the Highlands Region in which to permit and encourage appropriate, sustainable growth and development.
2. The Phillipsburg Highlands Center addresses RMP Policy 6F6 and Objective 6C1a and also addresses the center designation parameters of the State Development and Redevelopment Plan. The ultimate plan will 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; provide for affordable housing needs utilizing a clustered development approach; protect and enhance environmental and agricultural features within the area; and importantly, focus development outside of sensitive Highlands Resource area lands.
3. The Town of Phillipsburg shall evaluate the potential for developing a Development Transfer Plan to address the potential need for mitigation of natural resource impacts related to Highlands Center designation. If found feasible, the use of Highlands Development Credits (HDCs) will further protect lands within the Region.
4. With respect specifically to the Highlands Center designation, there is potential also for a coordinated effort between the municipalities of Lopatcong Township, Alpha Borough, Greenwich Township and Pohatcong Township, all of which have submitted Petitions for Plan Conformance regarding their full municipalities, to address capacity conditions associated with the multi-municipal Phillipsburg STP service area. The Highlands Council will explore the potential to support a coordinated effort with these municipalities.
5. Incorporation of a Water Use and Conservation Management Plan (WUCMP) provides opportunity for enhanced water resource protections in a key location of the Highlands Region. The purpose of the WUCMP is to avoid creation of a deficit in Net Water Availability for the source HUC14 subwatershed through measures for conservation and recharge protection and augmentation.
6. The Highlands Center shall incorporate the Low Impact Development principles espoused by the RMP Low Impact Development Program.
7. The Highlands Center offers opportunity for sustainable economic development and will provide for needed retail goods and services in the community and surrounding areas, taking advantage of existing transportation links, potential freight rail infrastructure, utility infrastructure services, and answering local economic development needs at an appropriate scale, within proximate distances.

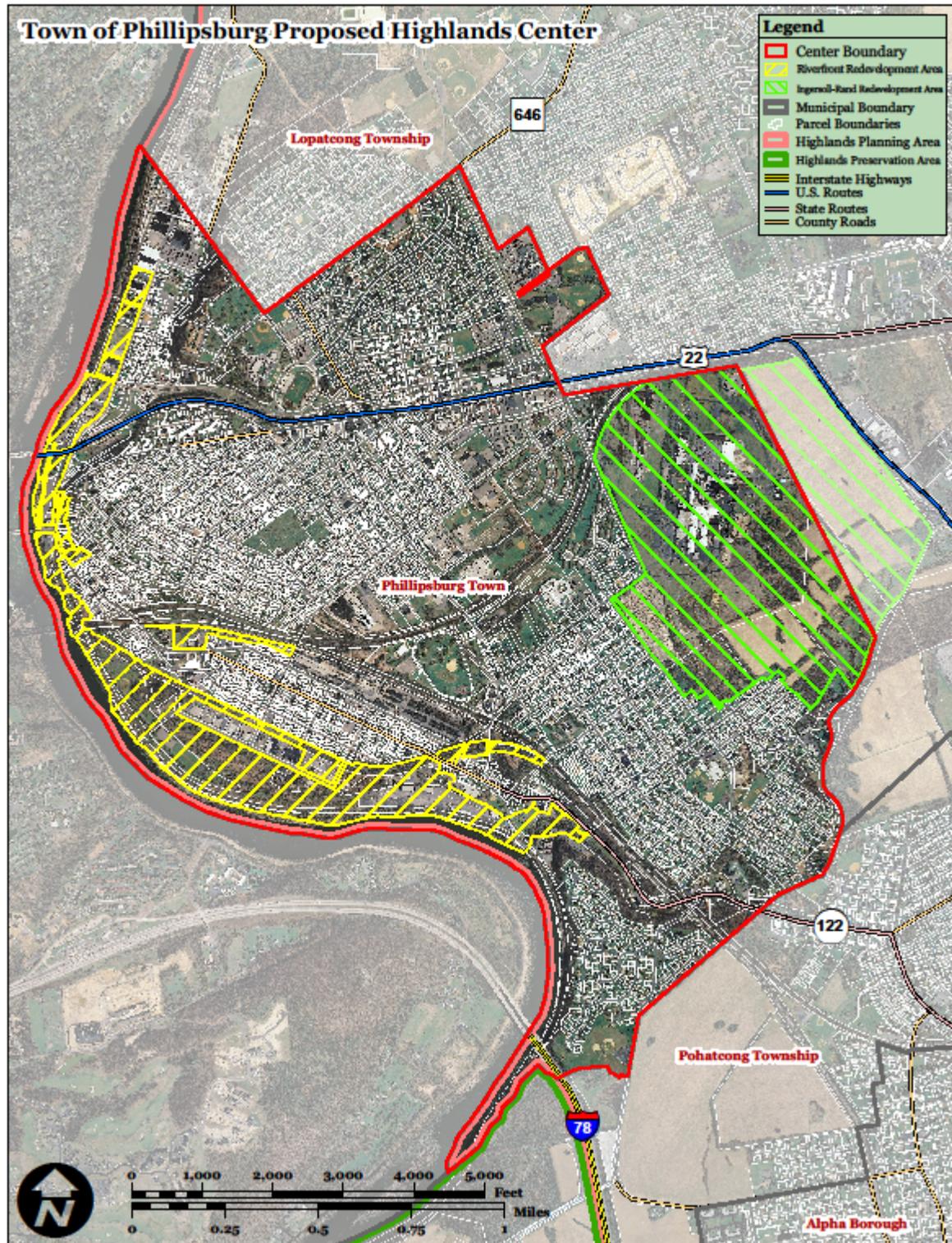
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8. The Highlands Center addresses RMP Policy 5A2 and Objective 5A2 and by ensuring that the transportation system including the evaluation of abandoned rail and freight lines affords economic support of agriculture, and the mobility of products and employees between the Highlands and destinations outside of the Highlands Region.
9. The Highlands Center shall align with the Board of Education Long Range Facilities Plan student and facility capacity conditions and supports local educational development plans.

Conditions of Highlands Center Designation

1. The Highlands Center shall: protect Highlands Resources and restrict future disturbance activities to protect them; incorporate already-developed areas having potential for infill development and redevelopment; evaluate the potential for transportation infrastructure improvements that increase mobility, enhance pedestrian safety, and reduce travel demand and vehicle miles travelled; and achieve compact development of non-residential and mixed-use areas.
2. The Highlands Center shall align development plans with available water supply and wastewater utility capacities in accordance with an NJDEP approved Wastewater Management Plan.
3. The Town of Phillipsburg shall develop a Stream Corridor Protection and Restoration Plan through the Plan Conformance program using funds and models provided by the Highlands Council.
4. The Town will develop and adopt (after approval by the Highlands Council) both master plan and regulatory provisions applicable to the Highlands Center (or equivalents) 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.
5. The Highlands Center designation and associated ordinance(s) shall incorporate existing developed areas and areas that are appropriate for redevelopment in the Planning Area. Highlands Center designation allows for redevelopment to occur within the Center area without further Highlands Planning Area Redevelopment Designation requirements.
6. The Town of Phillipsburg shall develop a Sustainable Economic Development Plan that incorporates protection and support for historic resource features, including the Morris Canal Greenway and Delaware Riverfront Area, promotes tourism opportunities for the Town and local and regional economic development in support of Highlands Center designation using funds and technical support provided by the Highlands Council.

Figure 1: Town of Phillipsburg Proposed Highlands Center



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APPENDIX C

PUBLIC COMMENTS/HIGHLANDS COUNCIL RESPONSES

Petition for Plan Conformance

Town of Phillipsburg, Warren County