

**PUBLIC COMMENTS/HIGHLANDS COUNCIL RESPONSES**

**Amended Petition for Plan Conformance**

**Township of Lopatcong, Warren County**

**Public Comment Period: December 20, 2011 – January 6, 2012**

## **PUBLIC COMMENTS RECEIVED**

Written comments regarding the Township of Lopatcong's Petition for Plan Conformance were accepted by the Highlands Council through the close of the Public Comment period on January 6, 2012. Comments were provided by the following individual/entity:

1. Erica Van Auken, New Jersey Highlands Coalition.

**Comment #1:** The New Jersey Highlands Coalition did not support Lopatcong Township's original petition for plan conformance because of the Ingersoll-Rand tract (Block 101, Lots 1 & 1.01); now Lopatcong is amending their original petition to apply for a Highlands Center Designation, which would include this tract. As was stated in comments for Lopatcong's original petition for plan conformance, the Highlands Coalition is concerned that the Ingersoll-Rand tract is constrained by a deed restriction and numerous environmental constraints. The Coalition continues to question the redevelopment potential of this parcel.

**Response:** As noted in the Highlands Council's previous response to the stated concern, the tract is in the Highlands Contaminated Site Inventory based upon a NJDEP Administrative Consent Order (ACO) dated March 14, 1994, in which the entire Ingersoll-Rand site including Block 101 Lots 1 and 1.01 is designated a contaminated site. As specified in the ACO, the site of 343 acres includes numerous areas of concern of alleged hazardous waste contamination. The entire site has 24 monitoring wells and 17 recovery wells, from which sampling results have shown elevated levels of chlorinated volatile organic compounds and petroleum hydrocarbons. The portion of the site in Lopatcong Township (Block 101 Lots 1 and 1.01) is deed restricted to preclude both residential use and the use of the groundwater for human consumption. The Highlands Council's approval of Lopatcong's Petition included a Regional Master Plan (RMP) Update to acknowledge that this is a contaminated site.

The Highlands Council has not yet designated Block 101 Lots 1 and 1.01 as a Highlands Redevelopment Area. However, the Council's approval of Lopatcong's Petition did provide the municipality with technical and financial assistance to further study the designation of a Highlands Redevelopment Area which would have to be formally approved by the Highlands Council. Such a designation would not eliminate the need to address potential environmental impacts of proposed development of the site under the RMP, which should be addressed in part through the planning process. Inclusion of this site in the Highlands Center is appropriate but it does not change the Council's requirement that the area needs further approval when the results of the Highlands Council grant study is made available. That information should provide a basis for a future planning. In addition, the Highlands Council supports consideration of this site as a TDR Receiving Zone if feasible, to address needs for permanent preservation of Highlands agricultural and environmental resources through the use of Highlands Development Credits. The commenter is correct that the site currently lacks public utilities, which must be addressed.

The Highlands Act requires the Highlands Council to "promote brownfield remediation and redevelopment in the Highlands Region" and the Act also mandates that goal in the Highlands RMP for both the Preservation Area and the Planning Area. Further, the Highlands Act (at N.J.S.A. 13:20-2 and 13:20-10.c(9)) dictates that redevelopment and economic growth be directed "in or adjacent to" already developed areas. The Ingersoll Rand property is a contaminated groundwater and soils site under jurisdiction of the 1994 NJDEP ACO and is identified as a Highlands RMP Tier 1 Contaminated Site. The RMP puts great emphasis on the reuse and redevelopment of previously developed areas, including brownfields, grayfields, and

underutilized sites. Policy 6M1 encourages and supports the restoration and redevelopment of contaminated areas. Furthermore, as previously noted, the site (Block 101 Lots 1 and 1.01) is already recognized by the Department of Community Affairs under the Local Redevelopment and Housing Law (LRHL), in accordance with N.J.S.A. 40A:12A-7, as an area in need of redevelopment.

Inclusion of this site in the proposed Highlands Center is appropriate, given its location relative to other portions of the Highlands Center. However, issues regarding site contamination, redevelopment potential, sewer capacity, and site design must be addressed regardless of Highlands Center designation.

**Comment #2:** While we have supported the center designations for Lopatcong's neighbors Alpha, Phillipsburg, and Pohatcong, we are anxious about another center designation. The Council's process of introducing centers one municipality at a time seems to counter the benefits of regional planning. It would seem that development in this section of the Highlands is still piecemeal, albeit monitored by a regional planning body. We would like to see the Council show a more comprehensive and higher level analysis for these municipalities (and potentially Greenwich if its petition includes a center designation). How will these five towns relate to one another? For instance, would one municipalities' center serve as a residential area, while another's would be industrial? We request that the Council consider all five municipal (including Greenwich) petitions and their respective center designation plans as one proposal, rather than five separate plans, to ensure that development really is concentrated in areas where it can be supported without disturbing any Highlands resources. By looking at these five neighboring municipalities as one whole area to be developed it is more likely that overall traffic patterns will be examined and the actual capacity of the Phillipsburg STP will maintained. Anything else will still be piecemeal development.

**Response:** The Highlands Council has proposed each Highlands Center with consideration of the effects upon and relationship to the neighboring municipalities. Specifically, Highlands Centers were proposed and approved for Phillipsburg, Alpha and Pohatcong, and at the time that their Petitions were considered, the Highlands Council staff worked with each municipality to ensure that the Highlands Centers worked well both individually and at a broader scale. Each Highlands Center proposed to date incorporates both residential and non-residential components. At the same time, conformance with the RMP is specific to each conforming municipality. Therefore, the desirability of regional planning must be balanced with and achieved through a process that addresses local planning and implementation. Lopatcong Township did not propose designation of a Highlands Center through the Petition process, and therefore this new proposal is being considered as an amendment to the approved Petition. The Highlands Council staff did review the proposed boundaries of this Highlands Center relative to the previously approved Highlands Centers, and also with regard to potential implications for Greenwich Township (which to date has not proposed a Highlands Center). Further, the nexus between the Highlands Center and major transportation infrastructure was one component of the review, to ensure that no Highlands Centers were in areas that lacked direct access to major infrastructure, preferably including mass transit. Freight corridors were also analyzed. Finally, the capacity of the Phillipsburg STP has been allocated among the municipalities by contract, and each municipality must and will remain within their contractual allocations. The Wastewater Management Plans for each municipality in the Phillipsburg STP service area are being developed and reviewed in that context, to ensure consistency with the allocation and conformance with the RMP.

**Comment #3:** We would like to see more plans for open space within these centers and also plans to preserve land outside of the centers. If a center is meant to concentrate development, does that

concentration ensure that environmentally sensitive land outside the center will not be developed? Now that we are seeing (and have supported) numerous center designations in this area, we propose that undeveloped tracts in and around these centers be preserved or protected from further development. Many of these municipalities' center designations include undeveloped land that is adjacent to ECZs. Due to the abundance of land slated for center designations, we request that the undeveloped parcels be preserved, and that future development is limited to previously disturbed land in the ECZs. As one example, the undeveloped portion of the Ingersoll-Rand tract could be remediated and preserved as open space while the building on site could be repurposed provided it does not strain any Highlands resources.

**Response:** The Highlands Council strongly supports preservation of open space in appropriate areas. Proposed conditions for the Lopatcong Township Highlands Center include the identification and protection of Highlands Environmental Resource Sites, maximized protection of Highlands resources, and compact development practices. (Similar conditions apply to the other Highlands Centers.) Further, the Township will identify agricultural areas that would benefit from preservation, including areas in both the Planning and Preservation Areas east of the Highlands Center. Finally, the Highlands Council proposes an allocation of funds for Highlands Center planning, which will include efforts to achieve these conditions. Regarding the Ingersoll-Rand tract specifically, planning for redevelopment under the funding previously provided has not commenced. It is premature to determine the most appropriate end use for the property at this time; the grant funds provided were intended to provide the best information upon which to base decisions. All potential and appropriate end uses should be considered.

**Comment #4:** We are also concerned with limitations among these four (or five centers if Greenwich proposes one with its petition for plan conformance) such as increased traffic, the available capacity at the Phillipsburg Sewerage Treatment Plant, and building limitations due to the presence of karst, all of which have been addressed in our comments for other municipalities in the region. We have not seen any plans to address and account for these issues for Alpha, Phillipsburg, Pohatcong, Lopatcong, and potentially Greenwich as a whole and not as individual municipalities.

**Response:** Please see the response to Comment #2 regarding the Phillipsburg STP and traffic. Regarding karst, most of the area is underlain by carbonate rock bedrock. These formations vary considerably in their potential for karst formation, both regionally and locally. Site limitations posed by karst formations are addressed through application of the Highlands Land Use Ordinance on a site-specific basis, through requirements for Phase I and, where necessary, Phase II carbonate rock investigations. It is not appropriate to assess karst formations on a regional basis, as their implications are primarily with regard to site design and construction methods.