

**FOR CONSIDERATION AT THE JANUARY 17, 2013 MEETING OF THE
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance - Draft Consistency Review and Recommendations Report**

APPENDIX C

PUBLIC COMMENTS/HIGHLANDS COUNCIL RESPONSES

Petition for Plan Conformance

Township of Randolph, Morris County

Public Comment Period: December 14, 2012 – January 4, 2013

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PUBLIC COMMENTS RECEIVED

Written comments regarding Randolph Township's Petition for Plan Conformance were accepted by the Highlands Council through the close of the Public Comment period on January 4, 2013. Comments were provided by the following individuals/entities:

1. Helen Heinrich, on behalf of the New Jersey Farm Bureau
2. Richard Hoff, Bisgaier Hoff, LLC on behalf of Westminster Realty Corporation and Randolph Building Associates
3. Erica Van Auken, on behalf of the New Jersey Highlands Coalition
4. Wilma Frey, on behalf of the New Jersey Conservation Foundation

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

PUBLIC COMMENT/RESPONSE SUMMARY

Comment: The New Jersey Farm Bureau commented that the Township of Randolph could be a model for how towns could grow within the constraints of the Highlands Regional Master Plan while supporting preservation in other areas of the Highlands Region. The Farm Bureau expressed concern that development plans in a township like Randolph should be encouraged to look at opportunities for the creation of TDR Receiving Zones to support farmland preservation elsewhere within the Region. Specifically, the Farm Bureau suggested that a grant to investigate the feasibility of establishing a TDR Receiving Zone in the proposed Randolph Centers should be included in the Implementation Plan and Schedule.

Response: The Highlands Council acknowledges the New Jersey Farm Bureau's suggestion that TDR Receiving Areas may be appropriate in center development and the Bureau's support for grant funding to investigate such opportunities. The Township is interested in examining the potential for Receiving Zones within one or more of the proposed centers. The expectation is that the Township will proceed with comprehensive planning for development and redevelopment within the defined centers, including the option of a feasibility grant to support a potential intra-municipal TDR receiving area for the Township. As part of the early phases of planning, the Township will assess constraints and opportunities within each of the proposed centers, including infrastructure conditions and capacity.

Comment: Richard Hoff stated that his firm, Bisgaier Hoff, LLC represents the owner and developer of property in Randolph Township, known as Block 101, Lots 22.01 and 22.02. The property consists of 18 acres and has received approvals for the construction of 116 residential units. The comments express concern that the development of the property should not be subjected to additional environmental regulations based on Highlands resource mapping or zone designation (the property is classified Existing Community Zone and Existing Community Zone – Environmentally Constrained).

Response: The Highlands Council acknowledges the concern that prior development approvals should not be impacted by Highlands regulations associated with the Township's Plan Conformance with the Regional Master Plan. Prior approvals are protected in accordance with the Municipal Land Use Law. Based on the

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Municipal Land Use Law's "time of decision rule," development approvals in place are protected from future changes in development regulations. The review of development approvals in accordance with Plan Conformance is initiated with the local adoption of the Checklist Ordinance or the Highlands Land Use Ordinance. Both parcels identified in the comment are located within the proposed Mount Freedom Highlands Village Center and are recognized as parcels with prior approvals intended for development within the proposed Highlands Center area. The Checklist Ordinance would require that any development application submitted to a township land use board be reviewed by the Highlands Council for consistency with this aspect of the approved Highlands Center. It is important to note that the Land Use Capability Map Zones (i.e., Existing Community Zone and Existing Community Zone – Environmentally Constrained) do not apply in a designated Highlands Center. The regulatory provisions that will ultimately apply to the Highlands Center will be developed and approved by the Highlands Council as a condition of any approval of the Petition for Plan Conformance. The Checklist Ordinance is an interim protective measure that would no longer apply after the full set of provisions is adopted.

Comment: The New Jersey Highlands Coalition stated that they 'reluctantly' supported the Randolph Township Petition for Plan Conformance and their primary concern was the number of centers proposed.

Response: The Randolph Township Petition for Plan Conformance in the Planning and Preservation Areas includes a proposal for four (4) centers. These proposed centers are located in areas of existing development and along State Highway Route 10. The total land that comprises the centers is 591 acres and represents approximately 4% of the Township.

Comment: The New Jersey Highlands Coalition "insisted" that each mandatory component of Plan Conformance be fully funded before any Highlands Center designations are approved.

Response: The Highlands Council acknowledges the concern that Plan Conformance requirements must be fully implemented. Each Plan Conformance Petition that has been approved by the Highlands Council with an Implementation Plan and Schedule has included prioritized funding based on the specific needs of the municipality. In every case, however, the implementation schedule and coinciding funding allocations are designed to ensure that the immediate mandatory requirements are addressed first. The same approach has been applied to the Randolph Petition; base requirements are included first, with local conditions and priorities carefully considered to inform other funding allocations, such as center planning. The Highlands Council has always avoided unfunded mandates.

Comment: The New Jersey Highlands Coalition expressed concern that many subwatersheds within Randolph Township are in a water deficit. The Coalition opined that although center planning would require a Water Use and Conservation Management Plan to "provide opportunity for enhanced water resource protections and conservation measures to improve recharge and help mitigate the water deficit situation . . .," they did not feel this would be sufficient. The Coalition further stated that a plan would not mean that the deficit issue would be eliminated.

Response: The Highlands Council is committed to addressing water availability conditions within the Region and requires Water Use and Conservation Management Plans in direct response to concerns such as those expressed by the Coalition regarding water deficits. The Highlands Council is confident that the Water Use and Conservation Management plan will, in fact, be sufficient in identifying the mitigation requirements

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associated with the net water availability conditions of the subwatersheds as well as identify implementation mechanisms to address these concerns.

Comment: The New Jersey Highlands Coalition expressed concern about the available wastewater capacity for the proposed Mount Freedom Highlands Village Center, asking if the Rockaway Valley Regional Sewerage Authority (RVRSA) has guaranteed sewer capacity for the proposed center.

Response: The proposed Mount Freedom Highlands Village Center is located within two (2) sewer service areas; the RVRSA and the Butterworth Water Pollution Control Utility. The majority of the lands within Mount Freedom are served by Butterworth. An analysis of infrastructure capacity is a key, first-phase component of center planning. As a condition of approval of all Highlands Centers, the Highlands Council requires demonstration that the proposed development can and will be supported by adequate water and wastewater capacities. Please note that the Rockaway Valley Regional Sewerage Authority (RVRSA) capacity is based on a first-come, first-served basis.

Comment: The New Jersey Highlands Coalition states that the proposed Mount Freedom Highlands Village Center contains historic resources and questions whether these will be protected or incorporated within the Center.

Response: The Highlands Council acknowledges the Coalition's support for preservation of Randolph Township's historic resources. The proposed Mount Freedom Highlands Village Center contains the Mount Freedom Presbyterian Church (listed on the State and National Registers of Historic Places) and two additional resources listed on the Highlands Region Historic and Cultural Resources Inventory. Center planning for this area will include consideration of these existing resources within their overall development/redevelopment approach.

Comment: The New Jersey Highlands Coalition states that the proposed centers at South Salem Street and Route 10 Corridor/East may be appropriate for development, except for the existing water deficit.

Response: As stated above, the Water Use and Conservation Management Plan is intended to address water deficit issues with prescribed mitigation strategies for each subwatershed. Additionally, these areas are primarily slated for redevelopment and thus would be utilizing water resources that have already been committed to existing uses.

Comment: The New Jersey Highlands Coalition comments that, although the area is heavily developed, there are two vernal pools, Open Waters, wetlands, and critical wildlife habitat in close proximity to the proposed South Salem Street Redevelopment Center.

Response: The Highlands Council staff has visited each of the proposed Highlands Center areas and has reviewed the resource mapping for each. As acknowledged by the Highlands Coalition, the area is heavily developed; as such, some of the buffers may not be functional at this time. The vernal habitat mapped in the center has been researched with the NJDEP-Endangered and Nongame Species Program (ENSP) division staff that maintains the vernal pool database and also the vernal pool certification program. The mapped vernal habitat north of Route 10 has been reported to show vernal characteristics although it is not a certified vernal pool. The GIS mapping methodology that takes into account proximity of other sources of vernal habitat (2 certified vernal pools south of Route 10) also mapped the vernal habitat north of Route 10. The

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NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
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Highlands Council staff is currently conducting a GIS analysis of all NJDEP vernal habitats in the Highlands Region to parse out non-certified areas of vernal habitat from certified areas so that it is mapped as required by the Highlands Regional Master Plan. The vernal habitat north of Route 10 would have to be investigated to determine whether or not it meets the criteria of the certification program. If vernal characteristics exist, and it is determined that the habitat supports vernal species (amphibians), the functionality of the buffer will also need to be evaluated. The barriers to population dispersion are extensive. Existing impervious surfaces and roadways do not provide attractive corridors through which vernal species would likely travel. Mitigation for any future development in the center would include efforts to reconnect sensitive habitats for any identified populations of vernal species.

Comment: The New Jersey Highlands Coalition notes that there are Tier 2 Contaminated Sites in the proposed South Salem Street Redevelopment Center and asks whether they will be remediated and if remediation/redevelopment plans will be posted for public review and comment.

Response: One of the primary purposes of the proposed South Salem Street Redevelopment Center is to develop a comprehensive plan for future development and redevelopment in this area. Center planning is intended to address all of the opportunities and constraints that exist and will ultimately result in a strategy designed to improve the health and economic well-being of this previously developed area. Any remediation plans will be prepared in accordance with NJ Department of Environmental Protection standards and public process.

Comment: The New Jersey Highlands Coalition states that Randolph Township has a history of sprawl and designation of Centers will not protect the remaining vacant spaces in the municipality and more effort should be put into protecting undeveloped parcels of land.

Response: Randolph Township is a large suburban municipality, 22 square miles in size, and home to 26,000 residents. The Township has made substantial efforts to protect natural areas within its boundaries and has successfully preserved 24% of the Township. As part of those preservation efforts, the township has built an award-winning 16-mile trail system that connects 2,000 acres of open space. Randolph's goal for designating centers within the municipality is to centralize development and redevelopment within just 4% of the township's land area, and to work to protect the remaining lands. As noted in many of the comments above, much of the proposed center land area is already developed. A concentrated effort to efficiently redevelop these areas in keeping with smart growth principles would be to the benefit of the Township and the larger Highlands Region.

Comment: The New Jersey Highlands Coalition and New Jersey Conservation Foundation opined that the mapping posted for public comment was not sufficiently useful in determining where the proposed Highlands Centers are located. The comments suggested that the mapping would be easier to understand if all of the proposed Centers are shown on one map of the municipality and identifying local roads.

Response: The Highlands Council acknowledges the suggestions and has prepared a map that shows all of the proposed Centers on one map and identifies local roads (see attached map).

Comment: The New Jersey Highlands Coalition and New Jersey Conservation Foundation suggested that each proposed center should include a series of maps delineating resources and conditions, as depicted on the ERI and Highlands Master Plan element exhibits.

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Response: The Highlands Council endeavors to make information available in useable formats whenever feasible. As noted in the comment, the requested maps are available in the posted exhibits for the Highlands ERI and Highlands Master Plan Element. The proposed centers are not drawn on those maps because the maps are based on existing data and the proposed centers have not been finalized at this time. Given the addition of the above noted map, showing the proposed centers within municipal boundaries and with road labels, the existing ERI and Master Plan exhibits can be used in conjunction with center maps to better understand where resources and landscape features are located.

Comment: The New Jersey Conservation Foundation comments support the Randolph Petition for Plan Conformance, however with ‘strong reservations’ regarding the four (4) proposed Highlands Centers, indicating that none of them should be approved at this time. Additionally they suggested that only “studies to determine whether appropriate and sustainable centers can be designed in the proposed locations” should be approved at this time.

Response: Highlands Center designation triggers a planning process designed to identify the goals, appropriate uses, and densities for a specific area, including analysis of resources and available infrastructure. The comprehensive planning that occurs will guide development/redevelopment decisions based on public input, opportunities and constraints, and Regional Master Plan principles.

Comment: The New Jersey Conservation Foundation referenced the Randolph Township Build-Out Report, dated July 2009, and stated that the Report indicates that wastewater and water supply are very limited.

Response: As noted above, the center planning process will assess infrastructure conditions and capacity and any new development will be subject to its limitations.

Comment: The New Jersey Conservation Foundation and the New Jersey Highlands Coalition each stated that the proposed Route 10 Corridor/West Highlands Center should be removed from consideration at this time and not receive any funding. They further commented that the majority of the proposed center is located in the Protection Zone and only a small portion is located in the Existing Community Zone. They also noted that there are mapped resources within the center area including forest, prime groundwater recharge, and wellhead protection.

Response: The Highlands Council staff has visited each of the proposed Highlands Center areas and has reviewed the resource mapping for each. The designation of a center at this location does not disregard the existing mapped resources; it sets in motion a planning process to consider how development may occur along State Highway Route 10 in this approximately 68 acre area with the least impact to existing resources. The ultimate development plan for this Center would incorporate low impact development strategies and best management practices as outlined in the Regional Master Plan. In the event that critical Highlands environmental resources are determined to exist within this or any of the other center lands, the Highlands Council will require that certain areas be set-aside for protection and/or that they be addressed through appropriate mitigation strategies.

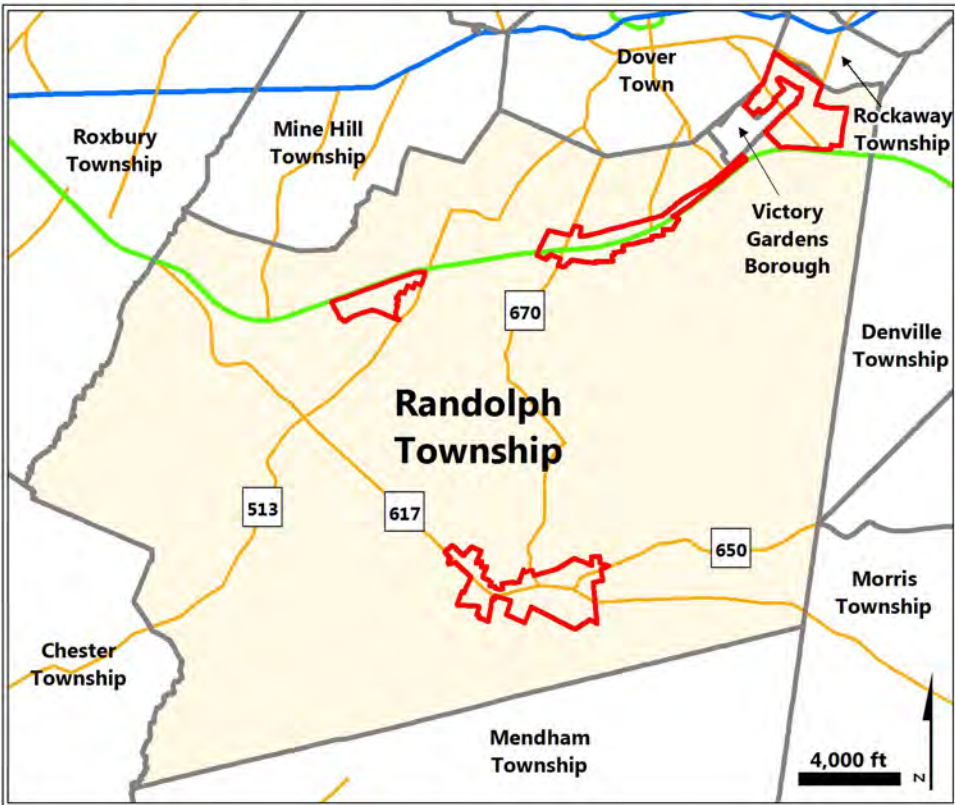
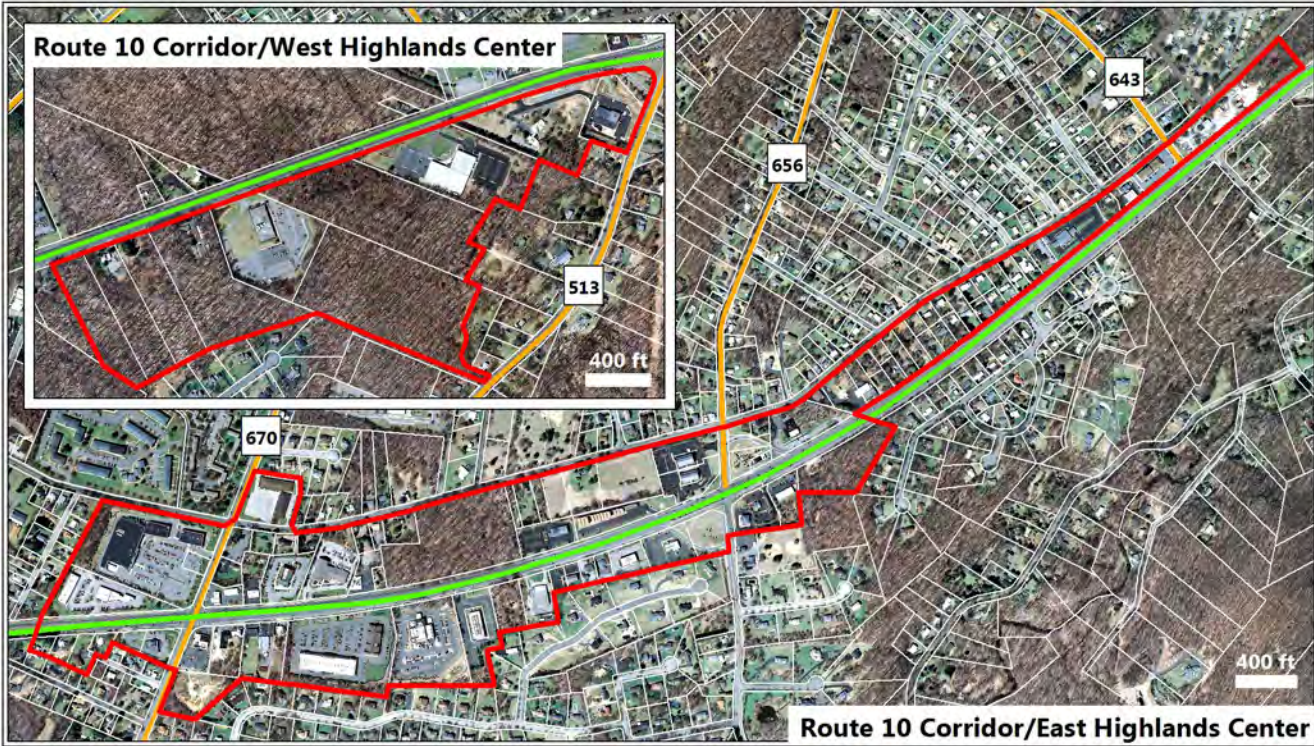
Comment: The New Jersey Conservation Foundation stated that nine of the 15 parcels are entirely forested or nearly so.

**FOR CONSIDERATION AT THE JANUARY 17, 2013 MEETING OF THE
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Petition for Plan Conformance - Draft Consistency Review and Recommendations Report**

Response: Although many of the parcels are currently mapped as forested, much of the forested area is highly affected by invasive species of climbing vines and unpalatable (for wildlife) shrubs, typical of many New Jersey urban forests. Any future planning for this center will include an extensive effort to delineate the highest quality forests for preservation; to enhance degraded forests for habitat improvement, and to establish mitigation for other forest impacts. As part of the center planning, the Township will draft and implement a Critical Habitat Conservation and Management Plan to address forested habitats throughout the municipality. Stewardship of critical habitats is a major component of this planning.

Comment: The New Jersey Conservation Foundation suggests that the delineation of net water availability by HUC 14 watershed be made clearer in Exhibit 9 (Land Use Ordinance Exhibits).

Response: The Highlands Council acknowledges the comment and will modify mapping for clarity.



Randolph Township Highlands Centers

