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**FOR CONSIDERATION AT THE AUGUST 3, 2011 MEETING
OF THE HIGHLANDS COUNCIL**

**FINAL ~~DRAFT~~ CONSISTENCY REVIEW
AND RECOMMENDATIONS REPORT**

**PETITION FOR PLAN CONFORMANCE:
BOROUGH OF WHARTON, MORRIS COUNTY**

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

JULY 27, 2011

FOR CONSIDERATION AT THE AUGUST 3, 2011 MEETING OF THE
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance – Final ~~Draft~~ Consistency Review and Recommendations Report

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 Borough of Wharton, 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.

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REPORT SUMMARY

Municipality: Borough of Wharton

Date of Petition Submission: December 8, 2009

Date Deemed Complete: June 23, 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	X	See Section D.1
3. Module 4 ERI	X	See Section D.1
4. Module 5 Highlands Element	X	Follow-Up Required per Section B.4; D.1
5. Module 6 Land Use Ordinance	X	Follow-Up Required per 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	12/8/09	Processed
2. Map Adjustments	N/A	
3. Highlands Center Designation Request	6/13/11 (Municipal Response)	To be addressed through Highlands Council approval and subsequent planning (see Appendix D); approval recommended by Staff.
4. Highlands Redevelopment Area Designation Requests	NA	To be examined through Highlands Center designation and subsequent planning (see Appendix D). Additional Highlands Redevelopment Areas outside the Highlands Center may also be identified.

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A. REVIEW OF ADMINISTRATIVE SUBMITTALS

1. **Resolution.** The Resolution petitioning the Highlands Council for Plan Conformance was adopted by the municipal Governing Body at its noticed public meeting of June 1, 2010. The document submitted is appropriately signed and certified by the Municipal Clerk to verify authenticity. The language of the Resolution relies upon that of the model provided by the Highlands Council. The Resolution clearly petitions the Highlands Council for Plan Conformance; conformance being proposed with respect to the entirety of the 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. Copy of public meeting notice for a meeting of the Planning Board held on August 11, 2009 to discuss Plan Conformance and/or Petition components.
 - b. Copy of meeting agenda and adopted meeting minutes associated with such Planning Board meeting.
 - c. Adopted Resolution, as noted above, indicating formal action taken on Plan Conformance at the June 1, 2010 public meeting of the Governing Body.
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, these documents should be available in the offices of the Highlands Council in Adobe pdf format. In order to address this Plan Conformance requirement, the municipality will provide the documents listed below in Adobe pdf format.
 - a. 1994 Borough of Wharton Master Plan
 - b. 2001 Open Space and Recreation Plan Element
 - c. 2005 Periodic Reexamination Report of the Master Plan & Land Use Plan

Please note that the Borough of Wharton Land Use Regulations are available on-line and thus not required to be submitted in pdf format to the Highlands Council (please see <http://www.ecode360.com/?custId=WH2739>).

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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 July 2009.
2. **Housing Element & Fair Share Plan (Module 3).** Consistent. Both the RMP and Highlands Council instructions concerning submission of Master Plan Housing Elements and Fair Share Plans, sought municipal participation in a three-step process, intended to culminate in the submission of fully developed affordable housing plans to both the Highlands Council and the Council on Affordable Housing (COAH) (or alternatively the Highlands Council and the Superior Court). This process was designed to assist municipalities in developing plans to address fair share housing obligations that are consistent with the RMP. For most Highlands municipalities, the deadline for submission to COAH was extended to June 8, 2010. The extended time allowance was intended to provide for completion of Highlands Municipal Build-Out Reports (see Modules 1-2, above) and incorporation of resulting information into fully developed affordable housing plans in accordance with Executive Order #114 (2008) and COAH's *Guidance for Highlands Municipalities that Conform to the Highlands Regional Master Plan*. This process also allows for Highlands Council review of as yet unconstructed projects in municipal housing plans, for consistency with the RMP.

The Borough of Wharton provided all components required by the Highlands Council. The first submission was included as requested within the municipality's Petition for Plan Conformance, while the remaining items were provided in accordance with the revised submission deadlines. Review of the final Housing Element and Fair Share Plan submission, adopted by the Planning Board on June 1, 2010, follows. These documents were filed with COAH on June 2, 2010. Formal review will be conducted by COAH. These findings constitute a preliminary analysis of the Housing Element and Fair Share Plan by the Highlands Council. The final Housing Element and Fair Share Plan appear to address the municipality's Fair Share Obligation. As to consistency with the requirements of the RMP, the Plan is satisfactory.

- i. **Summary of Municipal Obligation.** The Municipal Obligation appears to be correctly calculated and includes the components listed below.
 - i. **Rehabilitation Share:** 29 units
 - ii. **Prior Round Obligation:** 40 units
 - iii. **Growth Share Obligation (see B.2.b, below):** 16 units
- b. **Municipal Growth Projections.** Municipal Growth Projections, used to determine the Growth Share Obligation (above) were correctly indicated in the COAH Workbook D form or other submittals provided by the municipality. The

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final figures are listed below. Note: Highlands Full Build-Out Projections apply in the case of conformance for the full municipality in accordance with COAH's instructional document, *Guidance for Highlands Municipalities that Conform to the Highlands Regional Master Plan*. The municipality's Housing Element relies upon Highlands Full Build-Out Projections.

- **Highlands Full Build-Out Projections**
 - Residential Growth (housing units): 38
 - Non-Residential Growth (jobs): 135
 - Total Growth Share, after exclusions (units): 16

- **COAH Growth Projections through 2018**
 - Residential Growth (housing units): 260
 - Non-Residential Growth (jobs): 1,288
 - Total Growth Share, after exclusions (units): 133

- c. **Summary of Proposed Fair Share Plan.** The Fair Share Plan proposes to address the municipal obligation by use of the mechanisms and/or development projects listed below. Where Affordable Housing Sites were included that have not yet been constructed, each was reviewed for consistency with the RMP using the on-line Highlands Council RMP Consistency Review Report tool. In this case, one new affordable housing site is proposed. A brief summary of the results for each is included below.
 - **Rehabilitation Program:** The Borough will address the 29-unit rehabilitation share through continued participation in the Morris County Community Development Rehabilitation Program.

 - **Prior Round Sites:**
 - i. River Place. 67-unit project, eligible for rental unit credits plus bonus credits; 5 credits applied to the Prior Round Obligation. Completed.
 - ii. Centennial Court. 100-unit Senior Housing project; 20 prior cycle credits. Completed.
 - iii. Old Irondale Road site - The site, identified as Block 1603 Lot 14, is proposed to be an inclusionary development with 73 units, of which 15 units would be affordable to low and moderate-income families. Located in the Planning Area – Protection Zone and Existing Community

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Environmentally Constrained Subzone. A review of the site for consistency with Highlands RMP reveals the existence of Highlands resources, although the Borough believes careful planning will alleviate negative impacts. The Borough maintains that the site has existing connections to water and sewer. Provided there is existing water and wastewater service to the site, the property should be developable. This site has been included in the proposed Wharton Highlands Town Center. Highlands Resource issues, however, must still be adequately addressed.

- **Growth Share Sites/Mechanisms:**

- i. River Place. As above, 67-unit project; 14 excess credits applied to the Third Round Obligation. Completed.
- ii. Group Home. 7 Cambridge Road. 3-bedroom group home completed 1998; 2 credits applied to the third round obligation. Completed.

d. **Goals & Objectives.** RMP-consistent goals and objectives concerning the municipal housing plan have been added to the Housing Element, as required for Plan Conformance.

e. **Findings.** The Plan appears to address the municipality's Fair Share Obligation (final determination in that regard under jurisdiction of COAH) while providing for consistency with the Regional Master Plan.

3. **Environmental Resource Inventory (Module 4).** The proposed Borough of Wharton Highlands Environmental Resource Inventory (ERI) is based on the Highlands Model ERI provided to municipalities by the Highlands Council. The document has undergone previous revisions under a collaborative process between the municipality and the Highlands Council to address and incorporate the input and concerns of all parties. The Borough of Wharton Highlands ERI 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: Carbonate Rock, Significant Natural Areas, and Special Environmental Zone.

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4. **Master Plan Highlands Element (Module 5).** The proposed Borough of Wharton Master Plan Highlands Element is based on the model Highlands Element provided to municipalities by the Highlands Council. The document has undergone previous revisions under a collaborative process between the municipality and the Highlands Council to address and incorporate the input and concerns of all parties. The Borough of Wharton Highlands Element as now proposed (including modifications by the Highlands Council), contains all required Highlands Element language and all applicable maps/exhibits, as necessary, to fully address the immediate mandatory requirements of Plan Conformance.

Wharton Highlands Town Center Designation. It is important to note that Wharton’s Master Plan Highlands Element will require certain modifications to reflect the anticipated designation of its Highlands Town Center. As currently developed, the Element incorporates all provisions and requirements applicable to Planning Area lands that are not so designated. With Highlands Center designation, Wharton’s revised Highlands Element should: a) recognize and set aside specified areas within the Center that are essential to the protection of critical Highlands Environmental Resources, as applicable; 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 areas of higher density, mixed-use development providing for residential/retail/commercial development consistent with the extent of available utility capacities, in a pedestrian-oriented, center-based format incorporating affordable housing. These modifications will, in large part, supplant the provisions currently included in Wharton’s draft Highlands Planning Area Master Plan Element.

Review of Submittal Document. For purposes of the review that follows, the evaluation pertains to the Element as currently prepared. All recommendations listed herein are intended to apply as a part of the proposed conditions of approval of Wharton’s Petition for Plan Conformance (inclusive of modifications as may be required in keeping with the anticipated Highlands Center Designation).

The specific components of the model Highlands Element are listed below. Where each is consistent with the Highlands Council model or otherwise satisfactorily addresses all RMP requirements for Plan Conformance, the heading or sub-heading indicates “Consistent.” Where any section of the model Highlands Element has been appropriately deleted due to non-applicability, the heading or sub-heading indicates “Not Applicable – Deleted.” Where minor modifications are required to complete the document for purposes of adoption by the Planning Board, the heading or sub-heading indicates, “Minor Modifications Required for Completion.” If needed, explanatory discussion is provided.

- a. **Policies, Goals & Objectives.** Consistent
 - i. Preservation Area Goals. Not Applicable – Deleted
 - ii. Planning Area Goals. Consistent

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- iii. General Purposes of Zoning. Consistent
- iv. Relationship Between Highlands Act & MLUL. Consistent

b. Land Use Plan Element. Consistent

- i. Highlands Zones and Sub-Zones. Consistent. (Note: Zones/Sub-Zones Not Applicable – Deleted include Conservation Zone, Conservation – Environmentally-Constrained Sub-Zone, Lake Community Sub-Zone, Wildlife Management Sub-Zone.)
- ii. Land Uses. Consistent. (Note: Agricultural Resource Area not applicable – references deleted.)
- iii. Density and Intensity of Development. Consistent
- iv. Cluster Development. Deleted, however, the cluster development section of the Land Use Ordinance has been retained. The Borough will determine whether to adopt the ordinance with the cluster provisions, and if so, will reinstate this section of the Element, including language to indicate the areas of the municipality in which cluster provisions will be applicable.
- v. Land Use Inventory. Consistent
- vi. Redevelopment Planning. Consistent
- vii. Highlands Center Designation. Pending Highlands Council approval of the proposed Highlands Center concept, the Borough will develop and incorporate a new subsection to address the Wharton Highlands Town Center designation.

c. Housing Plan Element. Consistent. Review and recommendations concerning the Housing Plan Element appear at item #2 above, Housing Element & Fair Share Plan.

d. Conservation Plan Element. Consistent

- i. Forest Resources. Consistent
- ii. Highlands Open Waters and Riparian Areas. Consistent
- iii. Steep Slopes. Consistent
- iv. Critical Habitat. Consistent
- v. Carbonate Rock. Not Applicable – Deleted
- vi. Lake Management. Consistent
- vii. Water Resources Availability. Consistent
- viii. Prime Ground Water Recharge Areas. Consistent

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- ix. Water Quality. Consistent
 - x. Wellhead Protection. Consistent
 - xi. Low Impact Development. Consistent

 - e. **Utility Services Plan Element.** Consistent
 - i. Preservation Area. Not Applicable – Deleted
 - ii. Planning Area. Consistent
 - f. **Circulation Plan Element.** Consistent, however minor review item remains for municipal verification to complete. Please see document.
 - g. **Land Preservation/Stewardship Plan Element.** Consistent, however minor items remain for completion. Please see document.
 - h. **Agriculture Retention/Farmland Preservation Plan Element.** Not Applicable – Deleted
 - i. **Community Facilities Plan Element.** Consistent
 - j. **Sustainable Economic Development Plan Element.** Consistent
 - k. **Historic Preservation Plan Element.** Consistent
 - i. Historic, Cultural, and Archaeological Resources. Consistent. The municipality will address the alternative language that has been inserted into the document by the Highlands Council. It provides for the case where a municipality chooses not to regulate historic resources, which the Highlands Council has determined is an optional component of Plan Conformance, not mandatory.
 - ii. Scenic Resources. Consistent
 - l. **Development Transfer Plan Element.** Inclusion of this Section is optional and the municipality has elected to incorporate it. As provided the Section is consistent.
 - m. **Relationship of Master Plan to Other Plans.** Consistent
 - n. **Exhibits.** Consistent. The applicable Exhibits are attached to the Highlands Element. Note: The Highlands Council will be providing updated exhibits prior to Planning Board adoption of the Highlands Element.
5. **Highlands Area Land Use Ordinance (Module 6).** The proposed Borough of Wharton Highlands Area Land Use Ordinance is based on the model Highlands Area Land Use Ordinance provided to municipalities by the Highlands Council. Since the time of issuance of the Model, the Highlands Council, with input from municipal professionals, has made

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certain revisions to the document to refine and simplify it for purposes of municipal implementation. The Borough of Wharton Highlands Area Land Use Ordinance as proposed (including modifications by the Highlands Council), contains all required Highlands Area Land Use Ordinance language and all applicable maps/exhibits, as necessary, to fully address the immediate mandatory requirements of Plan Conformance.

Wharton Highlands Town Center Designation. It is important to note that Wharton’s Highlands Area Land Use Ordinance will require certain modifications to reflect the anticipated designation of a Highlands Center, however. As currently developed, the Ordinance incorporates all provisions and requirements applicable to Planning Area lands that are not so designated. With Highlands Center designation, the revised Ordinance should: a) recognize and protect specified areas within the Center that are essential to the protection of critical Highlands Environmental Resources, as applicable; 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 areas of higher density, mixed-use development providing for residential, retail, and commercial development consistent with the extent of available utility capacities, in a pedestrian-oriented, center-based format, including affordable housing. These modifications will in large part, supplant the provisions currently included in Wharton’s Highlands Planning Area Land Use Ordinance. The provisions will establish the Highlands Center as a special district unto itself, with a unique set of applicable regulatory provisions. These provisions will override the provisions otherwise applicable to the Highlands Zones and Sub-Zones located therein.

Review of Submittal Document. For purposes of this review, the evaluation following pertains to the Ordinance as currently prepared. All recommendations listed herein are intended to apply as a part of the proposed conditions of approval of Wharton’s Petition for Plan Conformance (inclusive of modifications as may be required in keeping with the anticipated Highlands Center Designation).

The specific components of the model Highlands Land Use Ordinance are listed below. Where each is consistent with the Highlands Council model or otherwise satisfactorily addresses all RMP requirements for Plan Conformance, the heading or sub-heading indicates “Consistent.” Where any section of the model Highlands Land Use Ordinance has been appropriately deleted due to non-applicability, the heading or sub-heading indicates “Not Applicable – Deleted.” Where minor modifications are required to complete the document for purposes of adoption, the heading or sub-heading indicates, “Minor Modifications Required for Completion.” If needed, explanatory discussion is provided.

- a. **Article 1. Title, Purpose, Scope.** Consistent. The municipality will address/incorporate the minor modifications made by the Highlands Council. Please see revised document text.
- b. **Article 2. Applicability.** Consistent. The municipality will address/incorporate the modifications made by the Highlands Council. Please see revised document text.

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- c. **Article 3. Definitions.** Consistent. The municipality will address/incorporate the minor modifications made by the Highlands Council. Please see revised document text.
- d. **Article 4. Establishment of Highlands Area Districts.** Consistent. The municipality will address/incorporate the significant modifications made by the Highlands Council, inclusive of new map titles at Section 4.4. Please see revised document text. (Note: Conservation Zone, Conservation – Environmentally-Constrained Sub-Zone, Lake Community Sub-Zone, and Wildlife Management Sub-Zone Not Applicable – Deleted.)
- e. **Article 5. Highlands Area Zone District Regulations.** Consistent. The municipality will address/incorporate the significant modifications made to the section by the Highlands Council. In addition, all highlighted sections require municipal selections to finalize. Please see revised document text.
- f. **Article 6. Highlands Area Resource Regulations.** Consistent. The municipality will address/incorporate the minor modifications throughout the Article provided by the Highlands Council.
 - i. Forest Resources. Consistent
 - ii. Highlands Open Waters & Riparian Resources. Consistent
 - iii. Steep Slopes. Consistent
 - iv. Critical Habitat. Consistent
 - v. Carbonate Rock. Not Applicable – Deleted
 - vi. Lake Management Area. Consistent
 - vii. Water Conservation & Deficit Mitigation. Consistent
 - viii. Prime Ground Water Recharge Areas. Consistent
 - ix. Wellhead Protection. Consistent
 - x. Agricultural Resources. Not Applicable – Deleted
 - xi. Historic, Cultural & Archaeological Resources. Consistent. The municipality will address the modifications made by the Highlands Council. Please see revised document text. These regulatory provisions have been made optional, and thus the municipality will need to make a determination regarding the preferred approach to this issue.
 - xii. Scenic Resources. Consistent
- g. **Article 7. Highlands Area General Regulations.** Consistent
 - i. Affordable Housing. Consistent

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- ii. Low Impact Development. Consistent
 - iii. Conservation Restrictions. Consistent. The municipality will address/incorporate the modifications made by the Highlands Council. Please see revised document text.
 - iv. Stormwater Management. Consistent
 - v. Special Environmental Zone. Not Applicable – Deleted
 - vi. Septic System Design and Maintenance. Consistent
 - vii. Public Water Systems. Consistent
 - viii. Wastewater Collection and Treatment Systems. Consistent
- h. **Article 8. Planned Development Regulations.** Consistent. However, please note that while the cluster development section of the Land Use Ordinance (which is optional for the Borough) has been retained, the relevant section of the Highlands Element was deleted. If the Borough intends to adopt the Ordinance with a cluster provision, the Element should include a cluster development section to support such provision. If the Borough does not intend to adopt the provisions of Article 8, it should be shown with a title of “Reserved” and the text deleted.
- i. **Article 9. Application Review Procedures & Requirements.** Consistent. The municipality will address/incorporate the modifications made by the Highlands Council. In addition all highlighted sections will be addressed by the municipality to finalize the document (e.g., insertion of fee and escrow requirements). Please see revised document text.
- j. **Article 10. Appeals, Waivers, Exceptions.** Consistent. The municipality will address/incorporate the modifications made by the Highlands Council. Please see revised document text.
- k. **Article 11. Enforcement, Violations, Penalties.** Consistent; the municipality will provide the minor insertions needed for completion.
- l. **Appendices.** Consistent. [Please note Highlands Council replacement of SIC Codes with current North American Industry Classification System \(NAICS\) codes in Appendix D, Major Potential Pollutant Sources.](#)
- m. **Exhibits.** The Exhibits, including the List of Exhibits, and all in-text document references to Exhibits have been updated by the Highlands Council to include Highlands Council parcel-based maps, which indicate the locations and boundaries of each Highlands Area, Zone, Resource, Resource Area, and Special Protection Area. These Exhibits were not available when the Model Land Use Ordinance was initially provided by the Highlands Council for use in preparing Petitions, but are crucial to the regulatory function of the Highlands Area Land Use Ordinance. Please note that the revised maps have been provided in Adobe® pdf format and, in

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this case, should not be converted for insertion directly in the MSWord® version of the Ordinance. After adoption, they should accompany the Ordinance at all times as an integral component of it – whether made available to the public in paper or electronic format. As provided currently, the maps are at a scale suited to printing on large plotters, for purposes of municipal reproduction and display (ensuring high-resolution detail).

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 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 achieve full 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 and the municipality's document has been updated accordingly by Highlands Council staff. 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 has considered. These activities have also been incorporated into the revised Highlands Implementation Plan and Schedule.

Recommended Highlands Council edits tailoring the revised document to the municipality (based on the Petition submittals) have been considered and included in the final version.

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C. REVIEW OF OPTIONAL SUBMISSION COMPONENTS

1. **RMP Updates.** The Petition for Plan Conformance was accompanied by requests for certain RMP Updates. These requests are listed and described in the attachment at Appendix C, with a summary of the current status or final results of review and processing provided below.

a. **RMP Update Requests.** The Borough submitted 15 requests for modifications to the RMP LUCZ designations.

The Highlands Council found the petition and supporting materials provided information sufficient for processing one (1) of these requests as an RMP Update, which has been incorporated into the Highlands spatial database. Specifically, the Lake Community Sub-Zone associated with Washington Forge Pond was determined to be not applicable and the area surrounding the Pond is now designated Existing Community Zone. However, the Pond remains a Highlands Lake greater than 10 acres, with an associated Lake Management Area. See Section D regarding funding allocations for a lake management plan for this water body.

As discussed with municipal professionals during the Highlands Informational Sessions, the parcel-based maps illustrating Highlands Zones and Sub-Zones have been refined for use by municipalities in regulating Highlands Areas. These maps are not identical to those developed for application by the Highlands Council to the whole of the Highlands Region, in that they apply the Highlands Zone boundary limits at a much finer level of detail. To the extent feasible, for example, small incursions of multiple zones have been removed from individual parcels to simplify the application of regulatory requirements. This process addressed some of the Borough's Regional Master Plan Updates requests.

For other requests, the information provided on current and existing land conditions is consistent with that used by the Highlands Council. These requests do not constitute RMP Updates. The municipality may propose to pursue other policies of the RMP to effect a policy change in LUCM Zone, including for example, the Map Adjustment Program or, for qualifying areas, a Highlands Center designation. The Highlands Council Staff suggests that a Highlands Center designation would be especially appropriate for the Borough of Wharton.

2. **Map Adjustments.** The Petition for Plan Conformance was accompanied by requests for certain RMP Updates, as noted above. If the Borough wishes to pursue any of the 12 deemed not to be RMP Updates as Map Adjustments (to the extent that they are not addressed through the Wharton Highlands Town Center designation), the Borough may provide information on the nature of the proposals using the forms available through the NJ Highlands Council Website:

http://www.highlands.state.nj.us/njhighlands/planconformance/Map_Adj_Center_Form_public_0001.pdf or request a meeting to further discuss the Borough's options.

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3. Highlands Center Designation Request.

- a. Highlands Center Designation Request.** The Petition for Plan Conformance has been modified to include a request for Highlands Center Designation. This request is described in detail in the attachments at Appendix D, inclusive of the Highlands Council Staff recommendations. The proposal focuses on a 417.5 acre core area of Wharton Borough, and includes a variety of existing uses and areas of potential development and redevelopment.

Highlands Council staff recommends inclusion of the Highlands Center designation in the Highlands Council approval of Wharton's Petition for Plan Conformance. Such approval would be accompanied by the conditions, as noted in Appendix D, including significant further efforts to: (1) fully define the Wharton Highlands Center, (2) specify all existing and intended land uses and resource protections that would apply therein, and (3) develop the needed master plan provisions and development regulations that would govern it in the future. These provisions would be included within the Wharton Master Plan Highlands Element and Highlands Area Land Use Ordinance, and would override the Planning Area provisions otherwise applicable to the Land Use Capability Zones within the Highlands Center, unless specifically indicated otherwise.

- 4. Highlands Redevelopment Area Designation Requests.** The Petition for Plan Conformance was not accompanied by any requests for Highlands Redevelopment Area Designation; however the Borough has expressed an interest in possible designations and will look into the specifics in the post-Petition approval phase of Plan Conformance. Funding has been allocated within the Highlands Implementation Plan and Schedule for this purpose.
- 5. Other.** The Petition for Plan Conformance was not accompanied by any other requests for approvals, not listed above.

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D. PRELIMINARY STAFF 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 Borough of Wharton, as currently proposed by the municipality, be approved with conditions as outlined below.

1. **Approval with Conditions.** Highlands Council Staff recommend that this Petition for Plan Conformance be approved by the Highlands Council. This finding specifically includes a recommendation that the proposed Highlands Center for Wharton be approved by the Highlands Council, subject to conditions as discussed below and in Appendix D. The approval should be conditioned upon satisfactory completion of all items noted within Sections A through C of this Report (including all items addressed in the herein-referenced Highlands Council Staff-provided MSWord “Track-Changes” versions of the various Petition documents), within Appendix D, and in addition, 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 Checklist Ordinance.** The Borough shall prepare and submit to the Highlands Council a draft “Checklist Ordinance” (model available) requiring that Development Applications under Highlands Council jurisdiction be deemed incomplete by the reviewing board or applicable municipal authority, until or unless accompanied by a Highlands Council Consistency Determination indicating that the application is consistent, or can and will be made consistent, with the Regional Master Plan. 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

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the adoption process, at the conclusion of which a certified copy of the adopted Checklist Ordinance shall be provided to the Highlands Council with notice of its effective date. The process of 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 Implementation Plan and Schedule. Should this process lead to proposed modifications to any portion of the Checklist 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.

Note: The Checklist Ordinance is intended as an interim protection measure only, and should be repealed at the time of adoption of an approved Highlands Area Land Use Ordinance (completion and adoption of which is set forth at 1.e., below).

- c. 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 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.
- d. Adoption of Approved Master Plan Highlands Element.** The Master Plan Highlands Element shall be completed in accordance with the requirements of Section B4 and Appendix D of this Report, and submitted to the Highlands Council for final approval. Upon receipt of final Highlands Council approval, the Highlands Element 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 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

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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 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.

- e. **Adoption of Approved Highlands Area Land Use Ordinance.** The Highlands Area Land Use Ordinance shall be completed in accordance with the requirements of Section B5 and Appendix D of this Report, and submitted to the Highlands Council for final approval. Upon receipt of final Highlands Council approval, the Highlands Area Land Use Ordinance 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 Area Land Use Ordinance by the municipal Governing Body. At the conclusion of the process, a certified copy of the adopted Highlands Area Land Use Ordinance shall be provided to the Highlands Council with notice of its effective date. The process of Highlands Area Land Use 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 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.** As a component of the Highlands Area Land Use Ordinance, the Borough 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 Area Land Use Ordinance. 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 Area Land Use Ordinance, municipal representatives (e.g., Land Use Administrators, Zoning Officials, Planners)

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shall attend information and training session(s) to be provided by the Highlands Council on the implementation and administrative procedures set forth within the 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.

- f. Adoption of Updated Zoning Map.** The Borough shall prepare an updated Municipal Zoning Map which shall be adopted immediately following or at the time of adoption of the Highlands Area Land Use Ordinance, to reflect the new overlay Highlands Zones and Sub-Zones. The adoption process shall mirror that outlined above for the Highlands Area Land Use Ordinance.
- g. COAH Approval of Housing Element & Fair Share Plan.** The Highlands Council shall be copied on all COAH-related correspondence and kept apprised of the 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 potential changes in the applicable COAH Rules and State laws pertaining to the provision of affordable housing in the State of New Jersey, 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, at any given time, and maintains consistency with the RMP so as to protect the municipality from legal challenge.)
- h. 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 COAH, as applicable, and all legal requirements and protocols pertaining thereto. Plan implementation and continued compliance with the final Court- or COAH-approved Fair Share Plan shall be a condition of continued Plan Conformance approval, subject to Highlands Council review and monitoring.
- i. Wastewater Management Plan (WMP).** The municipality shall prepare an RMP-consistent Wastewater Management Plan, working with the Highlands Council on a schedule based on Plan Conformance approval. This plan will be recognized as a chapter of the Morris County WMP in accordance with NJDEP Administrative

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Order 2010-03 and all applicable NJDEP rules and requirements. The Highlands Council will draft the WMP using information from the municipality, and collaborate with the municipality to finalize the WMP for NJDEP consideration and approval.

- j. 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 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, as appropriate, 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.

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- Water Use & Conservation Management Plan
 - Habitat Conservation & Management Plan. The Highlands Implementation Plan and Schedule includes an allocation toward development of a municipal-wide Habitat Conservation & Management Plan. This Plan will identify species at risk, options for restoration of habitat, and standards for mitigation of unavoidable impacts of public and private projects.
 - Lake Restoration Management Plan. The Highlands Implementation Plan & Schedule allocates funding for development of a Restoration/Management Plan for Washington Forge Pond, which would address both lake restoration and sustainable economic development issues relevant to an evolution of Washington Forge Pond from industrial water supply to community and ecological amenity. Improvement of the lake and its surroundings will provide a significant amenity to the Highlands Center.
 - Sustainable Economic Development Plan Element. This master plan element will include an overview of economic development opportunities within the Borough, specifically including the proposed Highlands Center but also addressing other areas, including an investigation of potential redevelopment sites and economic advantages associated with the historic character of the Borough, including the Morris Canal. The Plan would also consider the benefits associated with Wharton's open space acquisitions and investigate strategies for coordinating these lands with other economic initiatives within the Borough. The Highlands Implementation Plan and Schedule has been modified to include an allocation to accomplish this task, with linkage to the planning discussed below regarding potential Highlands Center designation and redevelopment areas.
 - Stormwater Management Plan (Updates Only)
 - Land Preservation and Stewardship Program
 - Septic System Management/Maintenance Plan (as applicable)
 - Implementing ordinances associated with each of the above (long-term, as applicable).
- iv. Non-Mandatory Components.** The Highlands Implementation Plan and Schedule also provides for certain non-mandatory components including development and implementation of the plans herein listed, all intended as municipal-wide, long-term initiatives unless specifically noted otherwise.

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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.

- Highlands Center Designation Planning. The Highlands Implementation Plan and Schedule includes an allocation for the Borough to plan for the Wharton Highlands Town Center. The Borough is well-suited to Center designation, which would incorporate redevelopment opportunities (see below) and potentially a Transfer of Development Rights (TDR) initiative, consistent with the Borough's interest in such a program as identified in the Borough's draft Master Plan Highlands Element. Upon completion of initial investigations through this allocation, the Borough may be interested in pursuing the TDR option further, with assistance of a Highlands Council TDR Feasibility Grant. We would be pleased to provide further information regarding this grant program and to work with the Borough to move forward on it.
 - Highlands Redevelopment Area Planning. The Highlands Implementation Plan and Schedule includes an allocation for the purpose of identifying redevelopment opportunities within the Borough and, if applicable, developing planning support for Highlands Redevelopment Area designation. These tasks shall be performed in conjunction with the Highlands Center planning described above.
- k. 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.

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

- a. **RMP Updates.** The RMP Updates requested in connection with this Petition for Plan Conformance that were either reclassified or processed but did not result in the outcome sought by the municipality, may be addressed by proposing the changes be considered as Map Adjustments (to the extent that they have not been addressed through the Wharton Highlands Town Center designation, as discussed above and proposed for funding) if desired by the municipality, with supporting documentation and justification. Work performed for the Sustainable Economic Development Plan Element, discussed above, should provide a good foundation for such efforts.
- b. **Highlands Center Designation.** 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 D.

E. MUNICIPAL RESPONSE PERIOD

The Highlands Council provided a Draft Consistency Review and Recommendations Report dated April 27, 2011 to the municipality (sent on April 29, 2011). The Municipal Response Period expired on May 29, 2011. The municipality did not provide supplemental materials in support of the Petition for Plan Conformance during that time, however, following discussions with Highlands Council staff and subsequent deliberation during a public Wharton Borough Council meeting held on June 13, 2011, the Borough communicated its request for inclusion of the proposed Highlands Center designation as a part of the Highlands Council's consideration of its Petition.

F. COMMENTS FROM THE PUBLIC

The Final Draft Consistency Review and Recommendations Report ~~is~~ was 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 (maryjude.haddock-weiler@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.~~

Two comments were received during the period established by the Highlands Council for receipt of written public comment (July 8, 2011 – July 22, 2011). Upon its completion, ~~the~~ comment/response document ~~will be~~ is attached to this document, at Appendix E.

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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 Borough of Wharton, ~~†~~remain unchanged/~~require substantial revision/require only minor modifications~~ from the Staff Recommendations at Section D 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 Borough of Wharton, 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
MODULE 3 HOUSING ELEMENT AND FAIR SHARE PLAN

Prior Round Site Consistency Review

Borough of Wharton, Morris County

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SITE REVIEW FORM		
Municipality: Wharton Borough	Date: 02/18/2010	
Project Name: Irondale Avenue		
Municipal Code: 1439	Project Size (Acres):	
Block(s) and Lot(s): Block 1603 Lot 14		
Municipality Claims Highlands Act Exemption?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Site Proposed to be Serviced by Public Wastewater?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Site Proposed to be Serviced by Public Water?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Project Description: 73 units out of which 15 units shall be affordable to low and moderate-income families		
PRESERVATION AND PLANNING AREAS AND LAND USE CAPABILITY ZONES		
Project Area located in which Highlands Act Area? (Check all that apply):		
Preservation Area <input type="checkbox"/>	Planning Area <input checked="" type="checkbox"/>	
Project Area within which Land Use Capability Zone or Sub-Zone? (check all that apply):		
Protection Zone <input checked="" type="checkbox"/>	Conservation Zone <input type="checkbox"/>	Existing Community Zone <input type="checkbox"/>
Lake Community Sub-Zone <input type="checkbox"/>	Conservation – Environmentally Constrained Sub-Zone <input checked="" type="checkbox"/>	
Wildlife Management Sub-Zone <input type="checkbox"/>	Existing Community – Environmentally Constrained Sub-Zone <input type="checkbox"/>	
HIGHLANDS OPEN WATERS AND RIPARIAN AREAS		
Project Area includes Highlands Open Waters Buffer?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Area includes Riparian Area?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Comments:		
STEEP SLOPES		
Severely or Moderately Constrained Steep Slopes	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Comments:		
CRITICAL HABITAT		
Project Area includes Critical Wildlife Habitat?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Project Area includes Significant Natural Area(s)?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Project Area includes Vernal Pool(s) within 1,000 ft?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Comments: Completely covered by Critical Wildlife Habitat.		
HIGHLANDS COUNCIL STAFF REVIEW		
RMP Consistency Issues?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Comments: An exemption (No.17) is claimed. The dates of any settlement agreement or court action must be reviewed to determine if such action occurred prior to March 29, 2004. The review also notes that the site is currently connected to the sewer and water systems, however, the site appears undeveloped. The status of such connections should be reviewed. Without an existing connection or a valid exemption the development potential of the site could be limited.		
Reviewer: James Humphries		

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APPENDIX B

HIGHLANDS COUNCIL REVIEW
MODULE 3 HOUSING ELEMENT AND FAIR SHARE PLAN

Review of Housing Summary

Borough of Wharton, Morris County

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MODULE 3 REVIEW FORM December 8, 2009 Submission

MUNICIPAL INFORMATION			
Municipal Code: 1439	Date: 02/18/2010		
Municipality: Wharton Borough			
REVIEW CHECKLIST			
	Yes	No	N/A
1. Review Affordable Housing Obligation			
a. Prior Round Obligation Correct	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Rehab Obligation Correct (Optional)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Growth Share Obligation and Calculations Correct (see Workbook D);	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Review of Highlands Consistency Review Report(s) required (use Site Review form);	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Housing Transfer (RAHDP) Letter of Interest (Optional).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a. Sending	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Receiving	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HIGHLANDS COUNCIL STAFF REVIEW			
Follow up Required?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	
<p>Comments: The status of the utility service or exemption qualification of the prior round site must be reviewed. Without existing service or a valid exemption the prior round site may not be developable as proposed. Although the Borough, which is fully in the Planning Area, has not yet decided whether or not to conform to the Highlands RMP, the Borough intends to utilize the Highlands figures for its affordable Housing Obligation. (mjh 4/26/10)</p>			
Reviewer Name: James Humphries			
Initial: pjh	Date: 02/18/2010		

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APPENDIX C

HIGHLANDS COUNCIL REVIEW

REQUESTS FOR RMP UPDATES

Borough of Wharton, Morris County

Summary of Municipal Requests and Highlands Council Staff Findings

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Summary of Municipal Requests and Highland Council Staff Findings

To the extent that a Municipal Request was not deemed to meet the requirements for an RMP Update, and where LUCM Zone enhancements shown in Exhibit 1 of the Highlands Land Use Ordinance (as discussed in Section C, above) have not addressed the Municipal Request, the municipality may propose to make use of other policies of the RMP to propose a change in LUCM Zone, including a Highlands Center Designation or the Map Adjustment program (see Municipal Requests #2, 3, 8, 9, 12 and 13).

1. **Municipal Request:** *Block 201-Lot 26: Protection Zone to Existing Community Zone.*

Highlands Council Findings for #1: The Highlands Council has modified Exhibit 1 for the Highlands Land Use Ordinance to reduce the administrative complexities caused by having small parcels in multiple Land Use Capability Zones. Based upon this “smoothing” process, the parcel has been changed to Existing Community Zone and Existing Community Zone – Environmentally Constrained.

2. **Municipal Request:** *Block 402-Lot 1: Protection Zone to Existing Community Zone.*

Highlands Council Findings for #2: This request does not constitute an RMP Update. The developed portion of the parcel is the site of the Costco Warehouse Store and remains Existing Community Zone. The remainder of the parcel is forested wetlands and remains Protection Zone and Existing Community Zone – Environmentally Constrained.

3. **Municipal Request:** *Block 1603-Lot 14: Affordable Housing Site. Protection Zone to Existing Community Zone.*

Highlands Council Findings for #3: This request does not constitute an RMP Update as the site is not yet developed. However, where projects have received local approvals that remain protected under MLUL provisions, they are excluded from application of the Highlands Land Use Ordinance. Upon completion, RMP Updates may be processed to reflect the new land use.

4. **Municipal Request:** *Block 1713-Lot 1: Municipal Open Space. Existing Community Zone to Protection Zone.*

Highlands Council Findings for #4: This request does not constitute an RMP Update. The parcel is an active recreation park, which is considered a developed land use, and is nearly surrounded by Existing Community Zone. To the extent that environmental features on the property require protection from future development activities, the Highlands Land Use Ordinance to be adopted by the Borough will achieve that result.

5. **Municipal Request:** *Block 1801-Lot 40. Existing Community Zone to Protection Zone (corrected to be Block 1802-Lot 40).*

Highlands Council Findings for #5: The parcel has been changed to Existing Community Zone through the smoothing process noted in the response to Request #1, reflecting the largely developed nature of the parcel. To the extent that environmental features on the property require protection from future development activities, the Highlands Land Use Ordinance to be adopted by the Borough will achieve that result.

6. **Municipal Request:** *Block 1801-Lot 41. Portions in Existing Community Zone to Protection Zone.*

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Highlands Council Findings for #6: The municipal information provided on current and existing land conditions is consistent with that of the Highlands Council and thus does not constitute an RMP Update. A portion of the parcel is developed with a house and several outbuildings. The remaining land, primarily along the borders, appears to be forested. To the extent that environmental features on the property require protection from future development activities, the Highlands Land Use Ordinance to be adopted by the Borough will achieve that result.

7. ***Municipal Request:*** *Block 304-Lot 13: Portions in Protection Zone to Existing Community Zone.*

8. ***Municipal Request:*** *Block 304-Lot 14.01: Portions in Protection Zone to Existing Community Zone.*

Highlands Council Findings for #7 and 8: The portion of the parcels that had been designated Protection Zone has been changed to Existing Community Zone through the process discussed in the response to Request #1. The portions of the parcels that had been designated Existing Community Zone – Environmentally Constrained Sub-Zone remain as such due to underlying environmental constraints.

9. ***Municipal Request:*** *Block 403-Lot 1: Development approvals issued. Site approved for inclusionary rental housing with affordable set aside on site. Portions in Protection Zone to Existing Community Zone.*

Highlands Council Findings for #9: The request does not constitute an RMP Update, as the development has not occurred. However, where projects have received local approvals that remain protected under MLUL provisions, they are excluded from application of the Highlands Land Use Ordinance. Upon completion, RMP Updates may be processed to reflect the new land use.

10. ***Municipal Request:*** *Block 303-Lot 19: Portions in Protection Zone to Existing Community Zone.*

Highlands Council Findings for #10: The entire parcel has been designated Protection Zone through the process discussed in the response to Request #1, as the parcel is undeveloped, mostly mapped as wetlands, and adjacent to other Protection Zone areas.

11. ***Municipal Request:*** *Block 303-Lot 11. Portions in Protection Zone to Existing Community Zone.*

Highlands Council Findings for #11: The entire parcel is now designated Existing Community Zone through the process discussed in the response to Request #1.

12. ***Municipal Request:*** *Block 501-Lot 23: Portions in Protection Zone to Existing Community Zone.*

13. ***Municipal Request:*** *Block 501-Lot 20: Portions in Protection Zone to Existing Community Zone.*

Highlands Council Findings for #12 and 13: These requests do not constitute RMP Updates. Lot 23 is fully forested. Lot 20 has a section that is forested and remains Protection Zone, while the majority of the site is Existing Community Zone.

14. ***Municipal Request:*** *Washington Forge Pond is not a recreational lake. All surrounding parcels are on public utilities.*

Highlands Council Findings for #14: The Lake Community Sub-Zone associated with Washington Forge Pond was determined to be not appropriate based on RMP policies, and therefore the area is now shown as Existing Community Zone in Exhibit 1 for the Highlands Land Use Ordinance. However, the Pond remains a Highlands Lake greater than 10 acres, with an associated

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Lake Management Area. See Section D of the Consistency Report regarding funding allocations for a lake management plan regarding this water body.

15. **Municipal Request:** *Request that all ECZEC developed parcels be switched to ECZ.*

Highlands Council Findings for #15: The Environmentally-Constrained Sub-Zone reflects underlying environmental conditions of an area. In order for the Highlands Council to appropriately review this request as an RMP Update, more supporting information is required demonstrating how the environmental conditions are not applicable. However, it should be noted that where the area is developed, Highlands exemptions and Highlands Land Use Ordinance exclusions will apply to many potential land use improvements or changes.

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APPENDIX D

HIGHLANDS COUNCIL REVIEW

REQUEST FOR HIGHLANDS CENTER DESIGNATION

Borough of Wharton, Morris County

**FOR CONSIDERATION AT THE AUGUST 3, 2011 MEETING OF THE
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**Highlands Council Staff Recommendation Report
Proposed Highlands Center Designation
Borough of Wharton, Morris County**

Application Type:	<i>Proposed Highlands Center Designation</i>
Name:	<i>Wharton Highlands Town Center</i>
Municipality:	<i>Borough of Wharton, Morris County</i>
Highlands Act Area:	<i>Planning Area</i>

Executive Summary

The Borough of Wharton, originally named Port Oram, was incorporated in 1895 from settlements established to support the iron ore and silk mill industries – Irondale, Luxemburg, Maryville, Mount Pleasant, and Port Oram, the largest settlement area. Its current name comes from Joseph Wharton of the Bethlehem Iron Company, who also lent his name to the prestigious Wharton Business School.

Measuring 2¼ square miles, Wharton is a compact, walkable community, home to approximately 6,300 residents and a balanced mix of land uses. The Borough’s early landscape was shaped by the area’s iron mining operations, the opening of the Morris Canal in 1831, and water power from the Rockaway River. One of the longest preserved stretches of the Morris Canal in the State can be found in Hugh Force Park – Lock 2 East – the site of the Borough’s annual Canal Day. Today Wharton features a mixed use Main Street with residences, convenience stores, and a number of popular restaurants. Also located in the Borough are several large retail stores, including a Costco Warehouse Store, and a number of industrial operations (some of which are near the Rockaway River, which flows through the Borough).

The proposed Wharton Highlands Town Center follows Main Street, beginning at the south gateway of the Borough at Route 46 and its border with the Town of Dover, extending approximately 1½ miles north to its intersection with East Dewey Avenue. It then follows along East Dewey to the intersection with Route 15. The boundaries of the proposed Highlands Center extend at least one lot on either side of Main Street and beyond where existing commercial development and potential development/redevelopment areas have been identified. The boundaries would in addition, include: Block 1603 Lot 14 on Old Irondale Road, which has been identified as a potential affordable housing site; the industrial area east of Main Street, including Whitlock Packaging; the industrial area just south of Route 80; and Block 403 Lot 1, on East Dewey Avenue, which has been identified by the Borough as a potential redevelopment site (see Figure 1).

A focal point of the Highlands Town Center is Washington Forge Pond, located along Main Street as it turns west toward East Dewey Avenue. Created in 1890, the Pond served as an industrial water supply. The 125-year-old mill that sits on its shoreline has been converted to office space. With development of the Wharton Highlands Town Center, Washington Forge Pond is intended to serve as a community recreational resource, as well as an ecological amenity. The Draft Highlands Implementation Plan and Schedule includes an allocation of funds to prepare a Lake Restoration Management Plan to address both lake restoration and sustainable economic development issues relevant to the evolution of Washington Forge Pond.

The Borough’s main intentions for the proposed Highlands Center include revitalizing its Main Street corridor and providing for appropriate redevelopment opportunities elsewhere within the Borough. According to the Borough’s 2007 “Main Street Study and Improvement Plan” (revised in February 2008), the Borough seeks improvements along Main Street to establish a “cohesive business district” and provide a “community focal point and gathering space.” Wharton’s 2005 Master Plan Reexamination Report also calls for enhancements to the Main Street Central Business District, suggesting a coordinated and comprehensive

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approach. Beyond the Main Street corridor, the Borough has acquired significant areas of open space for preservation and has also identified specific areas for potential redevelopment initiatives. The Highlands Town Center would facilitate both development and redevelopment where appropriate, and support the long-term health and vibrancy of the community.

Having reviewed all aspects of the municipality's proposal, the Highlands Council staff concludes that designation of Wharton's proposed Highlands Town Center would advance the intents and purposes of both the Highlands Act and the Highlands Regional Master Plan (RMP). Highlands Center designation would have no negative impact upon the public good nor be detrimental to the goals and purposes of 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. Highlands Council staff recommends approval of this Highlands Center by the Highlands Council as a component of Plan Conformance for the Borough of Wharton.

Rationale for Approval of Highlands Center Designation

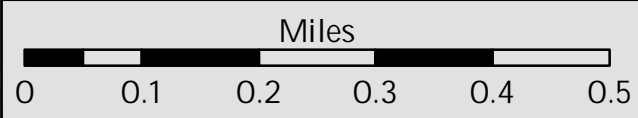
1. Highlands Center designation directly addresses the goals of the Highlands Act for the Planning Area and supports the RMP Future Land Use Program with respect to the identification of suitable locations within the Planning Area in which to permit and encourage appropriate, sustainable growth and development.
2. The Wharton Highlands Town Center addresses the principles of smart growth, both locally and within the larger Highlands Region, and is supportive of Highlands Regional Master Plan Policy 6F6, Objective 6F6a, and Policies 6O2 and 9A3.
3. The Wharton Highlands Town Center focuses future development and redevelopment into the core of the Borough and provides for appropriate sustainable growth and economic development opportunities. The Highlands Center will incorporate redevelopment opportunities and potentially a Transfer of Development Rights (TDR) initiative.
4. The unique history of Wharton's settlement and its related historic resources offers an opportunity to incorporate these characteristics into the development of the proposed Highlands Town Center and future sustainable economic plan strategies.
5. Incorporation of Highlands Center-specific provisions within the municipal Water Use and Conservation Management Plan (WUCMP) will provide opportunity for enhanced water resource protections and conservation measures to improve recharge and help mitigate the water deficit situation which exists in the source HUC14 subwatersheds.
6. The Wharton Highlands Town Center incorporates a portion of the affordable housing obligation for the municipality, consistent with Regional Master Plan goals and objectives.
7. The Wharton Highlands Town Center will incorporate Low Impact Development techniques and strategies wherever feasible.
8. The Wharton Highlands Town Center addresses the Sustainable Regional Economy component of the RMP by maintaining and expanding the existing job and economic base, providing needed commercial goods and services to the community and surrounding areas, and promoting appropriate, sustainable and environmentally-compatible economic development in the Highlands Region.




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Conditions of Highlands Center Designation

1. Development within the Wharton Highlands Town Center shall include an appropriate affordable housing component, designed to complement the character of the designated area and to meet all legal requirements pertinent to such units, as currently set forth under COAH Substantive Rules..
2. Full development and adoption (after Highlands Council approval) of supporting provisions for Wharton's Master Plan Highlands Element in support of the designated Highlands Center, specifying goals and objectives, and setting forth intended land uses, allowances as to the density/intensity of development/redevelopment activities, and as needed, protections for Highlands resources that exist therein.
3. Full development and adoption (after Highlands Council approval) of supporting provisions for Wharton's Highlands Area Land Use Ordinance for application to the designated Highlands Center, which provisions will override many of the Planning Area provisions provided in the current draft of the Ordinance.
4. Subject to funding from the Highlands Council, the Borough of Wharton shall develop a Sustainable Economic Development Plan including an overview of economic development opportunities within the Borough and an investigation of potential redevelopment sites and economic advantages associated with the community's historic character. The Plan shall also consider the benefits associated with Wharton's open space acquisitions and investigate strategies for coordinating these lands with other economic initiatives within the Borough.
5. Subject to funding from the Highlands Council, the Borough of Wharton shall undertake the preparation of a Lake Restoration Management Plan for Washington Forge Pond. A scope of work shall be developed in coordination with Highlands Council staff and shall include both lake restoration and sustainable economic development issues relevant to an evolution of Washington Forge Pond from industrial water supply to community and ecological amenity.
6. The Wharton Highlands Town Center shall align development plans with available water supply and wastewater treatment capacities in accordance with an NJDEP approved Wastewater Management Plan, which shall be developed through a coordinated effort of the Highlands Council and the Borough.
7. Subject to funding from the Highlands Council, the Borough of Wharton shall prepare a Habitat Conservation & Management Plan to identify species at risk, options for restoration of habitat, and standards for mitigation of unavoidable impacts of public and private projects.
8. Development on forested lands, such as Block 1603 Lot 14 on Old Irondale Road, shall be guided by a site-specific habitat analysis and shall seek to minimize potential impact on critical habitat. Based on a recent survey of applicable methods, the Highlands Council concludes that a reasonable ratio for mitigation regarding loss of forested Critical Wildlife Habitat would be on the order of 2.5 or 3 acres for each acre of loss. If loss is anticipated, the Borough will identify appropriate offset lands for preservation.
9. The Borough of Wharton shall comply with the conditions and requirements identified by the Highlands Council as necessary to achieve Highlands Plan Conformance, as specifically set forth within the final Consistency Review and Recommendations Report, Highlands Implementation Plan and Schedule, and final, adopted Highlands Council Resolution granting such approval.

Figure 1: Proposed Wharton Town Center



-  Proposed Center Boundary
-  Municipal Boundaries
-  Parcel Boundaries

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APPENDIX E

PUBLIC COMMENTS/HIGHLANDS COUNCIL RESPONSES

Petition for Plan Conformance

Borough of Wharton, Morris County

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

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PUBLIC COMMENTS RECEIVED

Written comments regarding Wharton Borough'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 development of a Highlands Center in the Borough of Wharton and encouragement for the proposed Center to include a Transfer of Development Rights (TDR) component.

Response: The Highlands Council acknowledges the support from the New Jersey Farm Bureau. The Highlands Implementation Plan and Schedule includes a funding allocation for studies associated with planning for the proposed Center, including a potential TDR initiative. Should the initial investigation reveal a realistic opportunity for a TDR program, the Borough may seek funding from the Highlands Council for a TDR Feasibility Grant. A TDR Feasibility Study would entail: 1) an assessment of available water and sewer capacity; 2) identification of potential receiving zone(s); 3) a description of the physical features of potential receiving area(s); 4) a real estate assessment; and 5) development of conceptual development scenarios.

2. **Comment:** The New Jersey Highlands Coalition supports the Borough of Wharton's Petition for Plan Conformance and encourages the Council to consider all the voluntary work done by the Borough to conform to the Highlands Act and the Regional Master Plan.

Response: The Highlands Council acknowledges the support of the New Jersey Highlands Coalition for the Wharton Petition for Plan Conformance.

3. **Comment:** The New Jersey Highlands Coalition expressed concern with the inclusion of Block 1603, Lot 14 within the proposed Wharton Highlands Town Center and its potential development with 73 residential units, 15 of which would be affordable units. The parcel contains environmental constraints and appears to not currently be connected to sewer service.

Response: The Highlands Council acknowledges the Coalition's concerns. The parcel in question has been included in the Borough's Housing Element and Fair Share Plan to meet the municipality's Prior Round Obligation. The Final Draft Consistency Review and Recommendations Report notes in section B.2.c. that the site, known as the Old Irondale Road site, contains Highlands resources and must be confirmed to have connections to water and sewer. It also notes that the Borough has maintained that connections do exist and careful planning will alleviate negative impacts on environmental resources.

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The Highlands Council will work with the Borough to ensure conformance with the Regional Master Plan should the parcel ultimately be developed, including low impact development techniques and possible clustering.

4. **Comment:** Regional Plan Association and New Jersey Future encourage a favorable consideration by the Highlands Council of Wharton Borough'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 Wharton Borough's Petition for Plan Conformance.

5. **Comment:** Regional Plan Association and New Jersey Future state that the Borough'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.

6. **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.