



## State of New Jersey

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### Highlands Council Staff **DRAFT** Recommendation Report Highlands Capital Project Review Kinnelon Shelter and Community Center (Block 45502, Lot 119)

#### PUBLIC COMMENT AND RESPONSE

The Highlands Council posted the Draft Recommendation Report for the Highlands Capital Project Review and supporting materials on its website soliciting public comments. The Public Comment period was from June 18 until July 2, 2018. On July 3, 2018, the Public Comment period was extended until July 22, 2018.

Comments were provided by the following individuals/entities:

- 1) Wilma Frey – New Jersey Conservation Foundation
- 2) Emile DeVito – New Jersey Conservation Foundation

Comments are grouped and summarized in this document where appropriate. The Highlands Council response is written in italics following the comment summaries.

**General Support of the Project:** The comments acknowledge that the current site design provides for minimized disturbances compared to prior site plans. The proposed on-site mitigation efforts are supported, and preservation of the off-site mitigation parcel is laudable and a significant accomplishment that could substantially further the goals of the Highlands Act. It is also recognized that Kinnelon Borough has been attempting to find a suitable site for recreational playing fields for years and that the functional use of the proposed project is appropriate.

*The Highlands Council acknowledges and agrees with these comments.*

**Comments on NJDEP issued documents:** Comments were submitted related to language of NJDEP issued documents and a commenter disagreed with the issuance of the Highlands Project Area Approval (HPAA) with waiver.

*The Highlands Council acknowledges these comments; however, the purpose of this document is to respond to comments directly related to the Highlands Capital Project Review, not upon NJDEP issued documents.*

**Site Topography and Proposed Grade Change:** The comments suggest that the site is topographically less than ideal for the location of recreational playing fields. Concern is expressed over the proposed grade change and the proposed retaining walls for the project.

*The Highlands Council reviewed the existing and proposed topography of the site as part of the Highlands Capital Project Review. The Highlands Council recognizes that within the area of proposed disturbance, the point of highest elevation to lowest elevation is approximately a 34-foot decline at a 7% slope. Proposed functional uses of the project (including the parking lot, walkways, and playing fields) require a more level surface than what exists on-site. The applicant minimized the overall negative impacts of the grade change while achieving these functional uses by proposing a terraced or stepped site plan that balances cut and fill on-site. The use of retaining walls allows the applicant to reduce the overall footprint of disturbance and also more easily manage stormwater runoff through retention and infiltration best management practices. No existing Steep Slope Protection Areas are disturbed as part of this project. The Highlands Council has determined that the Site Grading Plan is consistent with the Regional Master Plan (RMP).*

**Vernal Pools:** A comment referred to the Highlands Resource Area Determination (HRAD), issued in October of 2016, by NJDEP, and questioned why the HRAD does not list vernal pools as resources not present on the site.

*The Highlands Council acknowledges these comments; however, the purpose of this document is to respond to comments directly related to the Highlands Capital Project Review, not upon NJDEP issued documents. It should be noted, however, that the Highlands Council reviews the location of vernal pools and their associated buffers as part of the Highlands Capital Project Review. There are no known vernal pools nor vernal pool protective buffers located on the site.*

**Potable and Sanitary Sewer Lines:** A comment suggests that the extension of sewer and water lines into the Preservation Area is inconsistent with the Highlands Act and RMP. A comment also suggests that the “Forested Area to Remain” to the north of the proposed disturbance would be impacted by the installation of the potable water and sanitary sewer lines.

*The extension of public water systems and public wastewater collection systems is prohibited in the Preservation Area, except where a HPA with waiver has been issued (RMP Policy 2I1). As the HPA with waiver has been issued by NJDEP for the project, the extension of these systems is consistent with the RMP. The Highlands Council reviewed the location of the proposed water and sanitary sewer lines for the project as part of the Highlands Capital Project Review. The proposed location does not disturb the “Forested Area to Remain” to the north of the proposed disturbance.*

**Deer Herbivory:** A comment discussed the potential for deer fencing on-site and the idea that the native plant selection would be difficult to maintain due to deer browsing.

*The Highlands Council acknowledges that deer herbivory is a concern throughout the Highlands Region. The Highlands Council believes that the installation of a deer fence would cause maintenance and disturbance issues, as well as impede the movement of other wildlife through the preserved portion of the property. Additionally, the Highlands Council reviewed the Landscape Plan as part of the Highlands Capital Project Review. The Highlands Council supports the use of native plants as consistent with the RMP. The proposed plan includes native species that are predominantly “Rarely Damaged” or “Seldom Severely Damaged” by deer, according to the Rutgers University New Jersey Agricultural Experiment Station, a resource used by the applicant. The Highlands Council has determined that the Landscape Plan is consistent with the RMP.*

**On-Site Mitigation:** A comment suggested that the proposed preserved portion of the subject lot, through a deed restriction or easement, needs precise language including language related to the monitoring and enforcement of the easement.

*The Highlands Council acknowledges this comment. The conservation restriction will conform to the format and content of the model conservation restriction entitled “Grant of Conservation Restriction Appurtenant to the Highlands Preservation Area Approval” provided by NJDEP. The drafted conservation restriction contains precise language related to preservation, as well as items such as easement maintenance and enforcement. The Highlands Council has reviewed the drafted conservation restriction and has deemed it consistent with the RMP.*

**Off-Site Mitigation:** A comment suggests that timbering and forest management that opens forest canopy and the production or sale of any wood products from the site be prohibited. The commenter requested an opportunity to review the conservation easement proposed for the site. Furthermore, specific language was suggested for Condition #6 described in the Highlands Capital Project Review.

*The Highlands Council acknowledges this comment. The conservation restriction will conform to the format and content of the model conservation restriction entitled “Grant of Conservation Restriction Appurtenant to the Highlands Preservation Area Approval” provided by NJDEP. The Highlands Council believes that the suggested expanded language proposed for Condition #6 describing Highlands Resources is redundant. In reference to forestry activities, the removal, destruction, or cutting of trees or plants is prohibited on-site under this restriction, with the only exceptions related to the rights of NJDEP to monitor and manage rare plant and animal populations for their continued survival and quality. The Highlands Council has reviewed the drafted conservation restriction and has deemed it consistent with the RMP.*

**Critical Habitat and Conservation Management Plan:** A comment acknowledges Condition #8 of the Highlands Capital Project Review and requests that the Critical Habitat and Conservation Management Plan be made available for comments prior to its adoption.

*The Highlands Council acknowledges this comment. The Critical Habitat and Conservation Management Plan will be completed by Kinnelon Borough and adopted at the local level. Public comment would be made to the Borough, not the Highlands Council, prior to adoption.*