

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

APPENDIX D

PUBLIC COMMENTS/HIGHLANDS COUNCIL RESPONSES

Petition for Plan Conformance

Alpha Borough, Warren County

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PUBLIC COMMENTS RECEIVED

Written comments regarding the Borough of Alpha's Petition for Plan Conformance were accepted by the Highlands Council through the close of the Public Comment period on July 20, 2011. Comments were provided by the following two individuals/entities:

1. Erica Van Auken, New Jersey Highlands Coalition
2. Helen H. Heinrich, New Jersey Farm Bureau

COMMENT/RESPONSE SUMMARY

Comments Submitted by Erica Van Auken on behalf of the New Jersey Highlands Coalition

Comments: The New Jersey Highlands Coalition supports the Borough of Alpha's petition for plan conformance. We encourage the Council to consider all of the hard work done by the Borough to conform to the Highlands Act and the Regional Master Plan and to approve their petition.

We especially support the effort to coordinate plan conformance and center designation regarding the available capacity of the Phillipsburg Sewerage Treatment Plant with Alpha's neighbors: Pohatcong, Phillipsburg, Greenwich, and Lopatcong. Local planning across municipalities in an area with limited resources is smart and insightful and we fully support these plans as long as the plans are designed within the existing available capacity of the Phillipsburg STP. We do not support the development of projects that will add further stress to water/wastewater systems.

We are pleased to see that Alpha's proposed center abuts Pohatcong's and that both areas are comparably developed, so that one town's fields are not adjacent to another town's heavily developed sites.

We recognize that the southwestern portion of the proposed designated center was the most viable location even though it is a forested area (according to the Interactive Map) that contains a body of water. The area around the lake is denoted as important farmland soil, even though there is a seemingly heavy presence of trees. The Coalition requests that the forested area around the lake remain within the required 300' buffer zone in regards to future development.

We recognize that the other potential areas for the designated center had more environmental restrictions and would have been more inappropriate for development than the proposed site.

Response: The Highlands Council acknowledges the New Jersey Highlands Coalition's support for the Borough's Petition for Plan Conformance, the proposed Highlands Center designation and the multi-municipal approach to evaluating wastewater capacity conditions for the Phillipsburg STP. The Industrial Zone portion of the proposed Highlands Center includes existing industrial and warehouse uses as well as the Alpha Quarry (Block 99, Lot 2) which is a municipally-owned brownfield site. Please note that the Alpha Quarry site is identified as Protection Zone in the Land Use Capability Zone Map based on the mapping of

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existing features on the site however, the Highlands Council recognizes that this is a brownfield and the Highlands Center designation for this site supports the Borough's desire to evaluate for potential redevelopment. The Highlands Resources located in the Center including the quarry water body and surrounding land will be addressed in the Highlands Land Use Ordinance and may be subject to modifications of RMP standards to reflect remediation and mitigation conditions.

Comments Submitted by Helen H. Heinrich on behalf of the New Jersey Farm Bureau

Comments: Alpha Borough, Warren County is a community totally within the Planning Area where good development planning is intended to take place. This decision to opt in to the RMP must be reviewed and analyzed with great care. This action could affect the financial foundation of those owners of all the undeveloped land in the eastern and southern parts of the town that appear to be targets for farmland or open space preservation rather than inclusion in areas with future development opportunities. The community has done little to preserve any land in the past but we are pleased to note that there seems to be great potential in the Center designation planning to intensify Alpha's efforts to acquire easements from owners of farm properties that are identified as "high priority farmland".

We applaud the Implementation item that will have the town consider the opportunity for transfer of development rights as another way to protect land equity while producing sensible and sensitive land use planning. We support requiring this as part of the development of the new Center to take advantage of imminent planning for new growth.

Absent a TDR program, the new Center could provide windfall land values for landowners within it while wiping out the owners of undeveloped land elsewhere in the town. It appears that all the undeveloped land in the community was made subject to restrictions as to nonagricultural land use even though the whole town, developed or not, is mapped as Agricultural Resource Area with Important Soils. Was a detailed study of the land use potential of these undeveloped tracts made beyond what Highlands resource mapping shows about their natural resources? Of their potential for infrastructure, improved transportation, work force housing, or mixed use, for example?

The recommendation to use a Highlands grant to "develop means for improving the viability of agricultural businesses in the Borough" is very welcome, but this should include housing for agricultural employees, facilities for processing or packaging farm products or those that add value to farm products. We support including development of an Agriculture Retention/Farmland Preservation combined with the Land Preservation and Stewardship Plan as a major part of the Center development and will be watching for its progress in FY 2012.

The fact that the municipality will spend time in further development of an Agricultural Retention Plan and a Sustainable Economic Development Plan can have positive impacts on the business of agriculture. The production of corn and soybeans today could evolve into any one of many other agricultural commodities as markets change in the future. But as in Pohatcong Township, identifying the undeveloped land in agricultural

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use as significant grassland bird habitat when it is used to produce field crops should receive careful science-based scrutiny.

We continue to have concerns about Section 6.10.3 (p. 68 of the Land Development Ordinance). In this petition as well as those we have reviewed in the past, this section appears to give the Borough the right to define the type of agriculture it will permit (no poultry or livestock) when production of both of these commodities is included in the RMP definition of “Agricultural Use”. We fear that this apparently staff-recommended way for towns to write this section gives the municipality the idea that they have the right to permit or outlaw forms of agriculture and agricultural development regardless of the Right to Farm Act and the potential to have agricultural production that does not threaten Highlands resources. It is hoped that your staff will guide Alpha’s leaders and professional planners in clarifying this issue in their further agricultural planning activities to ensure that at least the potential for flexibility to enhance future viability is not curtailed.

We will be interested to see more details about the proposed Center to be presented to the Highlands Council on Aug. 3, and hope to see a strong connection between it and the future viability of agriculture throughout the town and the surrounding agricultural region. We support your efforts to involve surrounding municipalities as Alpha develops the required planning tools for its Center and for agriculture retention.

We appreciate your continued attention to the presence of agricultural operations in these rural towns. We welcome the opportunity to assist in future planning for Alpha and other agricultural communities.

Response: The Highlands Council acknowledges the New Jersey Farm Bureau’s support for the Township’s Petition for Plan Conformance, Alpha Borough’s Highlands Center designation, and the interrelatedness of the proposed Highlands Center boundary with surrounding municipalities and land uses. The Highlands Council supports the opportunity for the Borough to evaluate the feasibility of a Transfer of Development Rights program as a means to protect land owner equity that recognizes sensible and sensitive land use planning.

The Highlands Council acknowledges the New Jersey Farm Bureau’s support for development of an Agriculture Retention/Farmland Preservation Plan combined with the Land Preservation and Stewardship Plan and the preparation of a Sustainable Economic Development Plan. The Highlands Council will continue to work with the Borough to support the future viability of agriculture and the Department of Agriculture in regard to Farmland Assessment and Right to Farm Act to ensure that the Goals, Policies and Objectives of the Regional Master Plan are implemented.

Regarding Section 6.10.3 of the Highlands Land Use Ordinance, municipalities have certain discretion within the existing State statutes regarding agricultural developments. The Highlands Area Land Use Ordinance provides an important exclusion for agricultural and horticultural use and development, as follows (see § 2.1.1): “Unless specifically indicated otherwise, and in that case only to the specific extent indicated, the provisions of this Ordinance shall not apply to Agricultural or Horticultural Use and Development (as defined at § 3.2).” Section 6.10.3 applies only to those agricultural developments for which an exemption or exclusion does not apply. Further, the Highlands Council requires all conforming municipalities with significant agricultural lands to adopt a Right to Farm ordinance, and recommends use of the State

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Agriculture Development Committee model ordinance for this purpose:
<http://www.nj.gov/agriculture/sadc/rtfprogram/resources/modelrtfordinance.pdf>.