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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 ALPHA, WARREN COUNTY**

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

~~JULY~~ 27~~30~~, 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 Alpha, 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: Alpha Borough

Date of Petition Submission: October 6, 2010

Date Deemed Complete: October 26, 2010

Conformance Area: Planning Area

Staff Recommendation: Approve Petition with Conditions

Administrative Submittals	Meets Requirements	Conditions of Approval
1. Resolution 2010 - 84	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	4/30/09	Processed May 28, 2010
2. Map Adjustments	N/A	To be addressed via Highlands Plan Conformance
3. Highlands Center Designation Requests	9/29/10	To be addressed via Highlands Center designation
4. Highlands Redevelopment Area Designation Requests	N/A	To be addressed via Highlands Center designation

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A. REVIEW OF ADMINISTRATIVE SUBMITTALS

1. **Resolution or Ordinance.** The Resolution (2010-84) petitioning the Highlands Council for Plan Conformance was adopted by the municipal Governing Body at its noticed public meeting of September 28, 2010. The document submitted is appropriately signed and certified by the Municipal Clerk to verify authenticity. The language of the Resolution relies upon the model provided by the Highlands Council. The Resolution clearly petitions the Highlands Council for Plan Conformance; conformance being proposed with respect to municipal lands located in the Planning Area, representing the entirety of the municipality.

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 February 17, 2010 meeting of the Planning Board held to discuss Plan Conformance and Petition components, specifically the draft Master Plan Highlands Element.
 - b. Copy of meeting agenda and adopted meeting minutes associated with such Planning Board meeting.
 - c. Copy of Resolution #2010-84, as noted above, adopted by the Borough Council at its public meeting of September 28, 2010.
 - d. Report of Record of Public Involvement indicating that the Plan Conformance process and various module documents were presented and discussed during 12 regularly scheduled public meetings of the Planning Board.

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, all of these documents should be available in the offices of the Highlands Council in Adobe pdf format. To address this Plan Conformance requirement, the municipality will provide the documents listed below in Adobe pdf format.
 - a. Master Plan – 1998
 - b. Reexamination Report – 2006
 - c. Wastewater Management Plan – 2006
 - d. Stormwater Management Plan – 2006
 - e. Open Space and Recreation Plan – 2007

Borough land use ordinances and regulations are publicly available through eCode360, an on-line subscription service provided by General Code, and thus need not be submitted in Adobe pdf format. The on-line Borough of Alpha Code Book may be found at: <http://www.ecode360.com/?custId=AL0476>.

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 August 7, 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 Alpha provided all components required by the Highlands Council. The first submission was included as requested within the municipality's Petition for Plan Conformance. As the Borough had not petitioned for Plan Conformance until after the due date for Module 3 documents, a draft Housing Element and Fair Share Plan was not required to be submitted. A completed Highlands Council form used to conduct preliminary submission reviews appears in Appendix A. Review of the final Housing Element and Fair Share Plan document was adopted by the Borough Planning Board on April 25, 2010 and submitted to COAH on June 7, 2010, follows. These findings constitute a preliminary analysis of the Housing Element and Fair Share Plan by the Highlands Council. Formal review will be conducted by COAH. 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.

- a. **Summary of Municipal Obligation.** The Municipal Obligation appeared to be correctly calculated, in accordance with COAH Workbook B (COAH Growth Share Calculator Using Municipal Projections) and includes the components listed below.
 - i. **Rehabilitation Share:** 2 units
 - ii. **Prior Round Obligation:** 13 units
 - iii. **Growth Share Obligation (see B.2.b. below):** 14 units

b. Municipal Growth Projections. Municipal Growth Projections were correctly indicated in the COAH Workbook D form. The municipality elected not to use Highlands Full Build-Out Projections. The final figures are listed below. Note: Highlands Full Build-Out Projections can be applied in the case of conformance for the full municipality (i.e., for split municipalities, including both the Planning and Preservation Area) in accordance with COAH’s instructional document, *Guidance for Highlands Municipalities that Conform to the Highlands Regional Master Plan*. COAH Growth Projections apply in all cases where the municipality so elects, or is not petitioning for conformance for the whole of the municipality (until or unless modified by COAH consistent with the Guidance or as applicable, the Superior Court).

i. Highlands Full Build-Out Projections

- Residential Growth (housing units): 44 units
- Non-Residential Growth (jobs): 32 jobs
- Total Growth Share, after exclusions (units): 11 units

ii. COAH Growth Projections through 2018

- Residential Growth (housing units): 101 units
- Non-Residential Growth (jobs): 205 jobs
- Total Growth Share, after exclusions (units): 14 units

c. Summary of Proposed Fair Share Plan. The Final Fair Share Plan proposes to address the municipal obligation by use of the mechanisms and/or development projects listed below.

i. Rehabilitation Program: The 2 rehabilitation units were funded, administered and approved by the Warren County Housing Program administrator as of April 1, 2000.

ii. Total Prior Round Credits: 13 Credits.

- **Prior Round Site 1:** The one proposed Prior Round Site noted is the Grande @ Parkview Estates Inclusionary Project being developed by D.R. Horton, Inc. The project has received all local and State agency approvals and the final subdivision maps have been filed with the Warren County Clerk. A consistency review was not conducted as the project is located in the Planning Area, is fully approved and the final subdivision map has already been filed (based on information provided by the municipality). The project provides 6 units toward the Prior Round Obligation.

- **Prior Round Site 2:** The Alpha Group Home, completed in May 1986, contains 7 bedrooms for residents with special needs and provides 7 rental units toward the Prior Round Obligation.

iii. Total Growth Share Credits: 17 Credits.

- **Growth Share Site 1:** The Grande @ Parkview Estates Inclusionary Project being developed by D.R. Horton, Inc. provides 10 units toward the Growth Share Obligation.
- **Growth Share Site 2:** The ARC of Warren County completed in 2006 contains 4 bedrooms occupied by residents with special needs and provides 4 units toward the Growth Share Obligation.
- **Growth Share Site 3:** The Alternatives Homes 2005 – Alpha completed in 2008 includes 3 bedrooms of permanent supportive housing for individuals with special needs and provides 3 units toward the Growth Share Obligation.

- iv. Other Mechanisms:** Alpha Borough must provide 2 family rental units as per COAH's Substantive Rules. While a total of 14 rental units are provided via the three group homes they do not qualify as family rentals as they are not available to the general population. The Borough is requesting a waiver from this requirement as it feels it meets the intent of the COAH Rules via units offered at the Evergreen Village Apartments (using COAH's rent calculator these apartments are affordable to those making less than 50% of the regions median income and that this requirement represents a hardship for the Borough).

- d. Findings.** Goals and objectives consistent with the goals and objectives found in the Model Housing Element appended to the Module 3 instructions have been incorporated into the municipality's Housing Element. The Plan appears to address the municipality's Fair Share Obligation (final determination in that regard under COAH jurisdiction) while providing for consistency with the Regional Master Plan.

- 3. Environmental Resource Inventory (Module 4).** The proposed Borough of Alpha Highlands Environmental Resource Inventory (ERI) is based on the Highlands Model ERI provided to municipalities by the Highlands Council. The Borough of Alpha 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 and associated exhibits of the model Highlands ERI are not relevant to the municipality and have thus been deleted from the municipal submission:

- i. Forest Resource Area
- ii. Significant Natural Areas
- iii. Vernal Pools and Buffer areas
- iv. Conservation Priority Areas
- v. Special Environmental Zone
- vi. Lake Management Areas
- vii. Scenic Resources

b. **Notes:**

- The ERI included supplemental Exhibits for Highlands Open Waters, Municipal Protected Lands, Public Community Water and Highlands Domestic Sewerage Facilities. The supplemental information request was addressed via the RMP Update analysis dated May 28, 2010 and the supplemental Exhibits have been marked for deletion by the Highlands Council staff, with revised Exhibits to be provided.
- The Wellhead Protection Area and Forest Integrity Subwatershed exhibits were revised to reflect the correct version dated September 2009.
- One additional historic/cultural district was inserted into the listing; all are included in the Highlands Historic, Cultural, and Archaeological Resources Inventory.

4. **Master Plan Highlands Element (Module 5).** The proposed Borough of Alpha Master Plan Highlands Element is based on the model Highlands Element provided to municipalities by the Highlands Council. The document 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.

Alpha Borough Highlands Center. It is important to note that Alpha Borough's Master Plan Highlands Element will require certain modifications to reflect the anticipated designation of a portion of its Planning Area as a Highlands Center. Alpha proposes a Highlands Center for a developed portion of the Borough, which includes residential, industrial, and mixed use components, while providing for protection of Highlands resources. The Highlands Center designation (see Appendix C) would include the mostly developed area bordering Pohatcong Township on the eastern boundary along Edge Road, representing a portion of the existing

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municipal Industrial Zone that is north of Route 78 and a portion of the surrounding developed residential area. The Industrial Zone, north of Route 78 includes existing industrial and warehouse uses as well as the Alpha Quarry (Block 99, Lot 2) which is a municipally-owned brownfield site and Block 98 Lot 2, which is currently a qualified farm in agricultural use.

As currently developed, the Element incorporates all provisions and requirements applicable to Planning Area lands that are not so designated. With Highlands Center Designation, Alpha's revised Highlands Element should: a) 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; b) employ a compact development approach that is protective of critical Highlands Environmental Resources, for the Industrial Zone area specifically, and for the entire Highlands Center; and c) protect conservation areas in the Highlands Center in support of the municipal and surrounding land use conditions. These modifications will, in large part, supplant the Land Use Capability Zone and density provisions currently included in Alpha's Highlands Element, with respect to this portion of the Planning Area.

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 Alpha's Petition for Plan Conformance (inclusive of modifications as may be required in keeping with Alpha's 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 Basic 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
 - 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: Wildlife Management Area Zone and Lake Community Sub-Zone Not Applicable deleted.)
 - ii. Land Uses. Consistent
 - iii. Density and Intensity of Development. Consistent
 - iv. Cluster Development. Consistent
 - v. Land Use Inventory. Consistent
 - vi. Redevelopment Planning. Consistent. Will be a component of proposed Highlands Center Designation.
 - vii. **Highlands Center Designation.** The municipality will incorporate a new section providing a discussion on the proposed designation of a portion of the Borough of Alpha as a Highlands Center. As a placeholder, a very brief summary has been inserted (see track-changes in document) which will be supplemented accordingly. These provisions will override most of the current Highlands Element with respect to proposed development and redevelopment activities within the designated portion of the Borough, with retention of applicable and appropriate Conservation Plan language regarding protection of Highlands resources, as applicable.
- c. **Housing Plan Element.** Consistent. The municipality will incorporate the language added to reflect the adoption of the Third Round Plan and the inclusion of goals and objectives consistent with the Regional Master Plan. 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 (Note: Forest Resource Area Not Applicable – Deleted)
 - ii. Highlands Open Waters and Riparian Areas. Consistent
 - iii. Steep Slopes. Consistent
 - iv. Critical Habitat. Consistent. (Note: Vernal Pools and Significant Natural Areas Not Applicable – Deleted)
 - v. Carbonate Rock. Consistent
 - vi. Lake Management. Not Applicable – Deleted
 - vii. Water Resources Availability. Consistent
 - viii. Prime Ground Water Recharge Areas. Consistent
 - ix. Water Quality. Consistent

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- x. Wellhead Protection. Consistent
- xi. Low Impact Development. Consistent
- e. **Utility Services Plan Element.** Consistent. However, will require further modifications related to the proposed Highlands Center designation and conditions of approved Upper Delaware Water Quality Management Plan (WQMP) and Alpha Borough Wastewater Management Plan.
- f. **Circulation Plan Element.** Consistent
- g. **Land Preservation/Stewardship Plan Element.** Consistent
- h. **Agriculture Retention/Farmland Preservation Plan Element.** Consistent. Note: will be combined with the Land Preservation/Stewardship Plan Element.
- i. **Community Facilities Plan Element.** Consistent
- j. **Sustainable Economic Development Plan Element.** Consistent. The proposed Highlands Center designation will be an important component of the Plan.
- k. **Historic Preservation Plan Element.** Consistent
 - i. Historic, Cultural, and Archaeological Resources. Consistent. The Township 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 not incorporate it at this time. The ability to incorporate a Development Transfer Plan Element in Alpha Borough may be evaluated as a potential future component of Plan Conformance and has been included in the Highlands Implementation Plan and Schedule.
- m. **Relationship of Master Plan to Other Plans.** Consistent
- n. **Exhibits.** The list of Exhibits includes all that apply to the municipality. The applicable Exhibits are in an MSWord file for the municipality, and will be updated by the Highlands Council as an Adobe pdf document. The exhibits should always accompany the text of the document for public purposes.

- i. Exhibit B has been marked “reserved” pending the completion of an updated Land Use Inventory.
 - ii. All inapplicable Exhibits have been marked “reserved” to retain numbering sequencing throughout text. The municipality may update for consistency on completion.
 - iii. Exhibit X, “Septic System Yield Map” has been determined unnecessary and has been deleted. Septic System Yield will be determined on a site-specific basis, using the Nitrate Dilution Model discussed in text.
 - o. **Appendices.** Consistent. Please note Highlands Council replacement of SIC Codes with North American Industry Classification System (NAICS) codes for Major Potential Pollutant Sources.
- 5. Highlands Area Land Use Ordinance (Module 6).** The proposed Borough of Alpha 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 certain revisions to the document to refine and simplify it for purposes of municipal implementation. The Borough of Alpha 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.

It is important to note that the Borough of Alpha Highlands Area Land Use Ordinance will require certain modifications to reflect the anticipated designation of a portion of its Planning Area as a Highlands Center. As currently developed, the Ordinance incorporates all provisions and requirements applicable to Planning Area lands that are not so designated. With Highlands Center designation, Alpha’s revised Highlands Land Use Ordinance should (in recognition of the work undertaken by Alpha and in collaboration with the Highlands Council): a) recognize and protect specified areas within the Center that are essential to the protection of critical Highlands Environmental Resources; 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 development consistent with the extent of available utility capacities, in a pedestrian-oriented, center-based format. These modifications will in large part, supplant the provisions currently included in Alpha’s Highlands Area Land Use Ordinance, with respect to regulation of Alpha’s Highlands Center. For purposes of this review, the evaluation following pertains to the Ordinance as currently prepared.

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 Basic Plan Conformance, the heading or sub-heading

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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.
- 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 modifications made by the Highlands Council, inclusive of new map titles at Section 4.4.2. Please see revised document text. (Note: The Wildlife Management Area Zone and the Lake Management Area Sub-Zone are not applicable and have thus been 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. Please see comments, edits, and highlighted sections in document text.
- f. **Article 6. Highlands Area Resource Regulations.** Consistent, as submitted however minor modifications are required for completion.
 - i. Forest Resources. Consistent (Note: The Forest Resource Area is not applicable and all references thereto have been deleted.)
 - ii. Highlands Open Waters & Riparian Resources. Consistent
 - iii. Steep Slopes. Consistent
 - iv. Critical Habitat. Consistent (Note: Significant Natural Areas and Vernal Pools are not applicable to the Borough and all references thereto have been deleted.)
 - v. Carbonate Rock. Consistent
 - vi. Lake Management Area. Not Applicable – Deleted
 - vii. Water Conservation & Deficit Mitigation. Consistent

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- viii. Prime Ground Water Recharge Areas. Consistent
 - ix. Wellhead Protection. Consistent
 - x. Agricultural Resources. Consistent
 - xi. Historic, Cultural & Archaeological Resources. Consistent. The municipality will address/incorporate the significant modifications made to the section 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. Not Applicable – Deleted
- g. Article 7. Highlands Area General Regulations.** Consistent. However, will require further modifications related to the proposed Highlands Center Designation and conditions of approved Upper Delaware Water Quality Management Plan (WQMP), including the Alpha Borough Wastewater Management Plan.
- i. Affordable Housing. Consistent
 - ii. Low Impact Development. Consistent
 - iii. Conservation Restrictions. Consistent. The municipality will incorporate/address 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
- i. Article 9. Application Review Procedures & Requirements.** Consistent. The municipality will address/incorporate the significant modifications made by the Highlands Council. Additional insertions are also required for completion. 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

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- l. Appendices.** Consistent. Please note insertion of North American Industry Classification System (NAICS) codes in Appendix D, which replaces the no longer relevant SIC Code table for 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 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, however, 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 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 submitted by the municipality, the Highlands Implementation Plan and Schedule: a) included all mandatory components required to fully achieve 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 however, and the municipality's document has been updated accordingly. The revised document includes cost estimates for each

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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 been incorporated into the revised Highlands Implementation Plan and Schedule. The non-mandatory activities proposed by the municipality constitute appropriate projects and activities in furtherance of the goals, policies, and objectives of the Regional Master Plan and are thus eligible for legal protections and funding or partial funding under the Highlands Plan Conformance protocols and grant program requirements.

The Highlands Implementation Plan and Schedule has been modified to incorporate all aspects. Please see the revised Highlands Implementation Plan and Schedule for comments regarding Resource Management Plans and Programs and potential designation of a Highlands Center. Recommended Highlands Council edits tailoring it to the municipality (based on the Petition submittals) have been considered and included in the final version.

C. REVIEW OF OPTIONAL SUBMISSION COMPONENTS

1. **RMP Updates.** The Petition for Plan Conformance was accompanied by 11 requests for RMP Updates. These requests are discussed and summarized in Appendix B. Of the 11 requests the 3 listed below were processed as RMP Updates as they reflected a factual update of existing land conditions; please note that removal of the Lake Community Sub-Zone from both of the quarries was tracked as 2 updates. One of the requests is being addressed via the proposed Highlands Center designation. Four of the requests are addressed through provisions of the Highlands Land Use Ordinance and revised parcel based Ordinance mapping, rather than as RMP Updates. Two of the requests for Block 95 Lot 5 also known as Alpha 519 (the affordable housing site) are associated with a locally approved project with a wastewater allocation. Once the project is completed, it may be processed as an RMP Update. It also will be evaluated as part of the Wastewater Management Plan. The process date for the RMP Update request was May 28, 2010.
 - a. Wastewater and public water utility service indicated as existing for Block 100 Lots 1, 1.01, 1.09, 10 and 10.03 and Block 100.1 Lot 2.
 - b. Removal of Lake Community Sub-Zone from area surrounding the Vulcanite Quarry and Alpha Quarry.
 - c. Removal of Alpha Quarry from Preserved Open Space lands.

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2. **Map Adjustments.** The Petition for Plan Conformance was not accompanied by any request(s) for Map Adjustments. The potential need for Map Adjustments will be addressed via Highlands Plan Conformance or as part of Highlands Center Designation.
3. **Highlands Center Designation Requests.** The Petition for Plan Conformance was accompanied by a request for a Highlands Center Designation. The Borough met with the Highlands Council to discuss the potential for a Highlands Center designation on June 11, 2010 as part of the Plan Conformance staff review process. In response to that meeting the Borough submitted preliminary information as part of the Petition regarding a possible Highlands Center designation for a portion of the Planning Area. The Highlands Council will continue to work with Alpha Borough during the Plan Conformance process to establish the basis and parameters for Highlands Center designation for a portion of the Planning Area. This request is described in detail in Appendix C, inclusive of Highlands Council Staff recommendations.

In sum, Highlands Council Staff recommends that the Highlands Council approve the designation of a Highlands Center for a portion of the Planning Area, conditional upon completion of a planning process to refine the proposal.

4. **Highlands Redevelopment Area Designation Requests.** The Petition for Plan Conformance was not accompanied by any request(s) for Highlands Redevelopment Area Designation. The potential need for Redevelopment Area Designation will be addressed via Highlands Center designation.
5. **Other.** N/A

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D. STAFFPRELIMINARY 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 Alpha, as currently proposed by the municipality, be approved with conditions as outlined below. This conditional approval specifically incorporates conditional designation of a Highlands Center in accordance with Appendix C. Detailed work (e.g., master plan and regulatory provisions) to finalize the designation will occur in the post-Petition approval phase of Plan Conformance.

1. Approval with Conditions. Highlands Council Staff recommend that this Petition for Plan Conformance be approved by the Highlands Council, including a Highlands Center designation for a portion of the Planning Area (accompanied by conditions that address the consistency requirements of the RMP related to the various projects and project sites proposed therein). 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), 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 municipality shall prepare and submit to the Highlands Council a draft “Checklist Ordinance” (model available) requiring that Development Applications 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 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 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 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 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) 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 approval 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 (or its successor), as applicable, and all legal requirements and protocols pertaining thereto. Plan implementation and continued compliance with the final Court- or COAH (or its successor)-approved

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Fair Share Plan moreover, 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 a Wastewater Management Plan working with the Highlands Council under Plan Conformance, for approval by the NJDEP. This plan will be recognized as a chapter of the County WMP in accordance with NJDEP Administrative Order 2010-03 and all applicable NJDEP rules and requirements. However, as a municipality conforming for the full municipality, Alpha Borough will collaborate with the Highlands Council to develop a WMP that conforms to the RMP, on a schedule based on Plan Conformance approval. The Highlands Council will draft the WMP using information from the Borough, and collaborate with the Borough to finalize the WMP for NJDEP consideration and approval. The WMP will incorporate the Highlands Council conditional approval of a Alpha Borough Highlands Center (as discussed in Appendix C),
- 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 and

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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.

- Water Use & Conservation Management Plan.
- Habitat Conservation & Management Plan. The Highlands Implementation Plan & Schedule includes an allocation of funds for this purpose as a priority activity. This plan will identify species at risk, options for restoration of habitat, and standards for mitigation of unavoidable impacts of public and private projects. The Highlands Council will provide a draft scope of work for municipal use.
- Wastewater Management Plan. The Highlands Implementation Plan & Schedule includes an allocation of funds for this purpose as a priority activity. The plan is to be completed in accordance with the NJDEP schedule and in support of Highlands Center designation and coordination as part of a multi-municipal wastewater facility. The Highlands Council will work with the Borough to create a draft WMP for consideration.
- Agriculture Retention/Farmland Preservation Plan Element. The Highlands Implementation Plan & Schedule includes an allocation of funds for this purpose as a priority activity, to develop means for improving the viability of agricultural businesses in the Borough. This Plan will be combined with the Land Preservation and Stewardship Plan.
- Sustainable Economic Development Plan Element. The Highlands Implementation Plan & Schedule includes an allocation to prepare a Sustainable Economic Development Plan Element which recognizes local and regional economic conditions and includes evaluating existing economic conditions (inventory commercial and industrial establishments and evaluate existing zoning), conducting surveys and outreach, conducting Strengths, Weaknesses, Opportunities & Threats analysis, and developing a draft

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Implementation Strategy to meet both the Highlands Council and the Borough's sustainable economic development goals.

- Stormwater Management Plan (Updates Only)
- Septic System Management/Maintenance Plan
- Land Use Plan Element. The Highlands Implementation Plan & Schedule includes an allocation of funds for this purpose as a priority activity, to be developed in connection with Highlands Center designation.
- Implementing ordinances associated with each of the above (long-term, as applicable), as well as a Right to Farm ordinance (adoption of which is anticipated earlier in the Plan Conformance phase without need for a prior planning/program document).

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. 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 & Schedule includes an allocation of funds for designation of a portion of the Planning Area as a Highlands Center, potentially including Highlands Redevelopment Areas, and development of applicable provisions for incorporation into the Master Plan Highlands Element and Highlands Land Use Ordinance.

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

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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.

2. **Optional Petition Requests.** The findings below apply to the Optional Petition Requests discussed at Section C of this Report.
 - a. **RMP Update(s).** Three of the RMP Updates requested in connection with this Petition for Plan Conformance were completed on May 28, 2010 and the remaining eight were reclassified as potential Map Adjustments and are being addressed via Plan Conformance, potentially as part of the proposed Highlands Center designation. The three RMP Updates processed in May 2010 are summarized above, with detail provided in Appendix B.
 - b. **Map Adjustment(s).** The Map Adjustments in connection with this Petition for Plan Conformance are being addressed via Plan Conformance, potentially as part of the proposed Highlands Center designation. The Highlands Council will continue to work with Alpha Borough to process potential Map Adjustments.
 - c. **Highlands Center Designation(s).** The Highlands Center designation discussions will continue during the Plan Conformance process. Highlands Council Staff recommend that the Highlands Center designation requested in connection with this Petition for Plan Conformance be approved subject to the conditions listed and discussed in detail at Appendix C.
 - d. **Highlands Redevelopment Area Designation.** Highlands Redevelopment Area Designations in connection with this Petition for Plan Conformance are being addressed via Highlands Center designation.

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E. MUNICIPAL RESPONSE PERIOD

The Highlands Council provided a Draft Consistency Review and Recommendations Report, dated and sent to the municipality on May 16, 2011. The Municipal Response Period expired on June 30, 2011. The municipality provided a response on June 22, 2011, indicating that the Borough confirms the Industrial Zone area north of Route 78 including the quarry and Block 98 Lot 2, as well as the surrounding residential area, as the agreed Highlands Center boundary for a portion of the Planning Area at this point in time. The Borough reserves comment on the remainder of the Petition documents and intends to address specific concerns through the ongoing planning process. These concerns include but are not limited to maintaining local jurisdiction over land use decisions, certain adjustments to maps and zones, the relevance and/or applicability of certain Highlands policies to the developed portions of Alpha, and the need for a more simplified approach to merging “Highlands elements” into local plans and ordinances.

The Borough will also continue to work with the Highlands Council in regard to the Highlands Implementation Plan and Schedule to ensure a meaningful and efficient Plan Conformance process that will satisfy the shared objectives of the Borough and the Highlands Council. The Borough did not provide new, revised, supplemental, or amended materials, items, or information in support of the Petition for Plan Conformance, prior to expiration of the Municipal Response Period, for Highlands Council consideration.

F. COMMENTS FROM THE PUBLIC

The Final Draft Consistency Review and Recommendations Report ~~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 (chris.danis@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 comments (July 5, 2011 – July 20, 2011) as follows. The comment/response document is attached to this document, at Appendix D.~~

~~Upon its completion, the comment/response document will be attached to this document, at Appendix D.~~

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

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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 Alpha, remain unchanged/~~require substantial revision/require only minor modifications from the 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 Alpha, 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

Draft Housing Element & Fair Share Plan~~Preliminary Consistency Review~~

Alpha Borough, Warren County

Date of Draft: February 2010

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MODULE 3 REVIEW FORM December 8, 2009 Submission

MUNICIPAL INFORMATION			
Municipal Code: 2102	Date: 02/17/2010		
Municipality: Alpha Borough			
REVIEW CHECKLIST			
	Yes	No	N/A
1. Review Affordable Housing Obligation			
a. Prior Round Obligation Correct	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Rehab Obligation Correct (Optional)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Growth Share Obligation and Calculations Correct (see Workbook D)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Review of Highlands Consistency Review Report(s) required (use Site Review form)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Housing Transfer (RAHDP) Letter of Interest (Optional).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
a. Sending	<input checked="" 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 type="checkbox"/>	No <input checked="" type="checkbox"/>	
Comments: Alpha is utilizing COAH's Workbook B, which provides for an increase in the projected growth share obligation. Their review using Workbook B appears correct. There is one prior round site noted. However no review is required as the project is located in the Planning Area, is fully approved and the final subdivision map has already been filed (based on statements made by the municipality). Mod 3 review is approved.			
Reviewer Name: James Humphries			
Initial: pjh	Date: 02/17/2010		

APPENDIX B

HIGHLANDS COUNCIL REVIEW

REQUESTS FOR RMP UPDATES

Alpha Borough, Warren County

Note: The following is an updated synopsis of the RMP Update and Map Adjustment correspondence that was sent to the Borough on May 28, 2010.

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**RMP UPDATES/MAP ADJUSTMENTS
MUNICIPAL RMP UPDATE REVIEW**

The municipality requested eleven Regional Master Plan Updates or Map Adjustments as described below in the ten Municipal Request sections.

1. **Municipal Request:** The Conservation Zone in the eastern portion of the Borough covers several existing commercial and industrial buildings that are serviced by public water and wastewater – Block 100 Lots 1, 1.01, 1.09, 10, 10.03 and Block 100.01 Lot 2. These properties ought to be made part of the Existing Community Zone.

2. **Municipal Request:** Vulcanite Quarry (Block 97, Lot 2) & Alpha Quarry (Block 99, Lot 2)

Both the Vulcanite and Alpha quarries have Lake Community Sub-Zones to their north. As noted, these are not lakes and the sub-zones should be removed.

3. **Municipal Request:** Alpha Quarry (Block 99, Lot 2) is shown as preserved open space on the initial Highlands parcel data base reviewed under Module 1. Although owned by the Borough, this parcel is not designated as open space.

4. **Municipal Request:** The Protection Zone extends westward from the Alpha Quarry crossing the abutting railroad right-of-way to Block 98, Lot 1. Based on the resource maps provided by the Highlands Council, it is not evident why this parcel was placed in the Protection Zone. If it is an extension of the Alpha Quarry “Lake” designation it should be reclassified as Existing Community Zone.

5. **Municipal Request:** The majority of Block 96 Lot 5 is in the Protection Zone. This is the Borough’s affordable housing zone and a site plan has been approved for the construction of 92 single-family homes and 16 affordable condo units. This site has public water and wastewater service and should be incorporated into the Existing Community Zone.

6. **Municipal Request:** Much of the Existing Community Environmentally Constrained Sub-Zone appears to be based on the presence of “Forested Areas.” The majority of these designations are, in fact, railroad rights-of-way consisting of one inactive (Block 300 Lot 1) and one active (Block 211 Lot 1) freight line, and should be considered for removal from Sub-Zone.

7. **Municipal Request:** The Existing Community Environmentally Constrained Sub-Zone covers the western edge of the Borough’s affordable housing project (Block 96, Lot 5). The Existing Community Environmentally Constrained Sub-Zone should be removed.

8. **Municipal Request:** Block 103, Lot 1 has been approved for 48 single-family homes and the portion of the site identified as Existing Community Environmentally Constrained Sub-Zone should be removed from this Sub-Zone.

9. **Municipal Request:** The Conservation Environmentally Constrained Sub-Zone should be redrawn to exclude the entire farmstead (house and farm buildings) on Block 97.01 Lots 6 and 6.01 as opposed to only a portion of the farmstead as presently drawn.

10. **Municipal Request:** Block 97, Lot 1. The municipal base ball fields should be removed from the Existing Community – Environmentally Constrained Sub-Zone.

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Highlands Council Responses: The Highlands Council found that the Petition and supporting materials provided sufficient information for processing requests #1, 2 & 3 as RMP Updates, which were incorporated into the Highlands spatial database. Please note that request #2 was counted as two RMP Update requests one for each of the quarries. The Highlands Council found that four requests #4, 6, 9 & 10 did not constitute a Regional Master Plan Update and may be addressed either through provisions of the Highlands Land Use Ordinance or revised parcel based Land Use Ordinance mapping. The Highlands Council found that requests # 5 & 7 for Block 96 Lot 5 also known as the Alpha 519 (an affordable housing site) that is approved but not built will be reflected as a prior approved project with approved wastewater allocation. Once the project is completed, it may be processed as an RMP Update. It will also be evaluated as part of the Wastewater Management Plan, reflecting its approved status. RMP Update request #8 will be addressed as part of the proposed Highlands Center designation area.

APPENDIX C

HIGHLANDS COUNCIL REVIEW
REQUESTS FOR HIGHLANDS CENTER DESIGNATION

Alpha Borough, Warren County

Highlands Council Staff Draft Recommendation Report

Proposed Alpha Borough Highlands Center Designation

Alpha Borough, Warren County

Re:	Application Type:	<i>Proposed Highlands Center Designation</i>
	Name:	<i>Alpha Borough Highlands Center</i>
	Municipality:	<i>Alpha Borough</i>
	County:	<i>Warren County</i>
	Highlands Act Area:	<i>Planning Area</i>
	Proposed:	<i>Highlands Center for a portion of the Planning Area</i>

EXECUTIVE SUMMARY

Alpha proposes a Highlands Center for a mostly developed portion of the Borough, which includes residential, industrial, and mixed use components, and incorporates protection of Highlands resources. The Highlands Center designation would include the portion of the existing municipal Industrial Zone that is located north of Route 78 and a portion of the surrounding developed residential area. The Alpha Borough Highlands Center component encompasses the mostly developed area bordering Pohatcong Township on the eastern boundary along Edge Road. The Industrial Zone includes existing industrial and warehouse uses as well as the Alpha Quarry (Block 99, Lot 2) which is a municipally-owned brownfield site. The Alpha Quarry site is identified as Protection Zone in the Land Use Capability Zone Map based on the mapping of 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. Block 98 Lot 2 is located in the existing Industrial Zone and is currently a qualified farm in agricultural use; this 38.5-acre parcel is part of the Highlands Center designation. The municipality has indicated that it has potential for a rail siding, and access to freight rail, and is an integral part of the Borough's objectives for the Industrial Zone (see Figure 1).

Having reviewed all aspects of the municipality's proposal, the Highlands Council staff concludes that, with careful and thorough planning and design, designation of Alpha's proposed Highlands Center for portions of the Planning Area that include developed lands, the mostly developed Industrial Zone and a municipally-owned quarry would advance the intents and purposes of both the Highlands Act and the Highlands Regional Master Plan (RMP).

With Highlands Center designation for a portion of the Planning Area , Alpha's revised Highlands Master Plan Element should: a) recognize specified areas for conservation as part of any cluster or compact development design to allow for protection of any Highlands Environmental Resources and in support of low impact development techniques; 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

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with center-based, smart growth development standards; c) utilize a compact development approach for the Alpha Industrial Zone area that is consistent with available utility capacity and employs a center-based format that complements the community character and surrounding land uses and provides local and regional employment opportunities. These modifications will, in large part, supplant the provisions currently included in Alpha's Highlands Master Plan Element, with respect to the Alpha Highlands Center Area, and will be largely dependent upon the completion of an approved Wastewater Management Plan that is reflective of capacity conditions existing for Alpha Borough and other municipal and private sector customers at the Phillipsburg Sewerage Treatment Plant (STP).

Highlands Center designation under these conditions would not have a negative effect upon the public good nor be detrimental to 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. The Highlands Council staff recommends approval of this Highlands Center by the Highlands Council as a component of Plan Conformance for Alpha Borough.

Rationale for Approval of Highlands Center Designation

1. Highlands Center designation directly addresses the goals of the Highlands Act Planning Area and RMP Future Land Use Programs associated with the identification of suitable locations within the Planning Area of the Highlands Region in which to permit and encourage appropriate, sustainable growth and development.
2. The Alpha Borough Highlands Center addresses RMP Policy 6F6 and Objective 6C1a and also addresses center designation expectations of the State Development and Redevelopment Plan. The plans will provide for concentrated development within the community core; ensure protection of the surrounding environs; call for infill and redevelopment in appropriate locations that optimize the use of existing infrastructure; protect and enhance environmental and agricultural features within the area; and importantly, focus development outside of the sensitive Highlands Resource area lands.
3. The Borough shall evaluate the potential for developing a Development Transfer Plan as part of its Petition to address the potential need for mitigation of natural resource impacts related to Highlands Center designation. The use of Highlands Development Credits (HDCs) may further protect lands within the Region.
4. With respect specifically to the Highlands Center designation, there is potential also for a coordinated effort between the municipalities of Lopatcong, Phillipsburg, Greenwich and Pohatcong, all of which have submitted Petitions for Plan Conformance, to address capacity conditions associated with the multi-municipal Phillipsburg STP service area. The Highlands Council looks forward to exploring the potential to support a coordinated effort with these municipalities.
5. Incorporation of a Water Use and Conservation Management Plan (WUCMP) provides opportunity for enhanced water resource protections in a key location of the Highlands Region. The purpose of the WUCMP is to avoid creation of a deficit in Net Water Availability for the source HUC14 subwatershed through measures for conservation and recharge protection and augmentation.
6. The Highlands Center shall incorporate the Low Impact Development principles espoused by the RMP Low Impact Development Program.
7. The Highlands Center offers opportunity for sustainable economic development and will provide, opportunity for needed retail goods and services to the community and surrounding areas, taking advantage of existing transportation links, potential freight rail infrastructure, utility infrastructure

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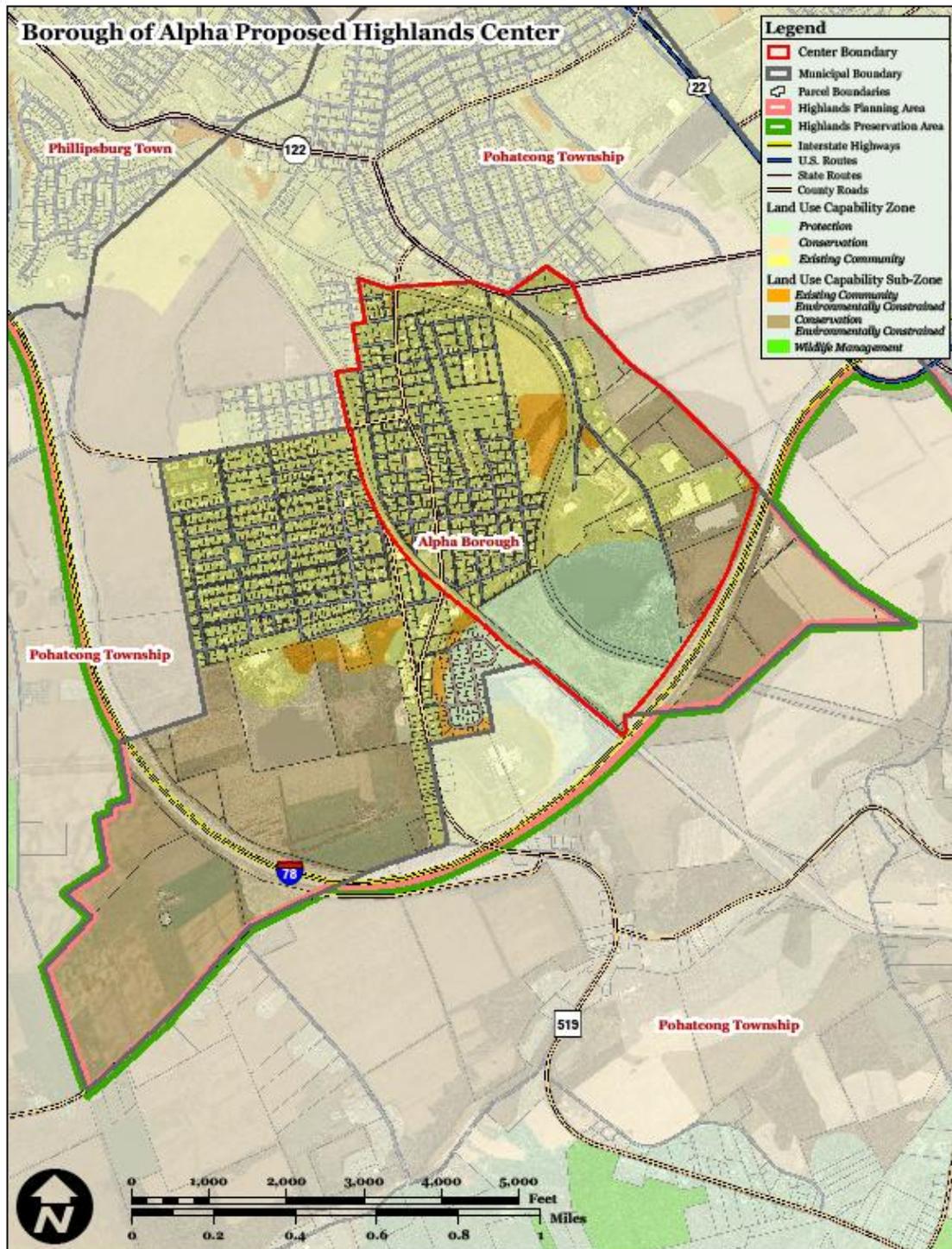
services, and answering local economic development needs at an appropriate scale, within proximate distances.

8. The Highlands Center shall align with the Board of Education Long Range Facilities Plan student and facility capacity conditions and supports local educational development plans.

Conditions of Highlands Center Designation

1. The Highlands Center ordinance provisions (which will supplement the Borough's Highlands Area Land Use Ordinance) shall: protect Highlands Environmental Resources located therein, however limited their extent, and restrict future disturbance activities; incorporate already-developed areas having potential for infill development and redevelopment; utilize clustered development for residential development areas; and achieve compact development of non-residential and mixed-use areas.
2. The Highlands Center shall align development plans with available water supply and wastewater treatment capacities in accordance with an NJDEP approved Wastewater Management Plan.
3. Alpha Borough shall develop a municipal-wide combined Agricultural Retention/Farmland and Land Preservation and Stewardship Plan through the Plan Conformance program that identifies lands that may potentially benefit from agricultural retention and preservation mechanisms, including sensitive grasslands using funds and models provided by the Highlands Council.
4. All Plan Conformance municipalities are required to adopt a Water Use and Conservation Management Plan (WUCMP). In support of Highlands Center designation the municipality shall expedite the adoption of a WUCMP for the municipality as a whole with emphasis on any subwatershed in the municipality that will provide public or industrial water supply for the Highlands Center.
5. Alpha Borough shall develop a Habitat Conservation and Management Plan through the Plan Conformance program using funds and models provided by the Highlands Council.
6. Development and adoption of provisions to supplement the Borough's Highlands Area Land Use Ordinance that will govern the Highlands Center, to include the relevant development and redevelopment conditions required by the RMP Water Resources and Water Utilities Program, and the Future Land Use Program - Low Impact Development, Redevelopment and Housing and Community Facilities components.
7. The Highlands Center designation and associated ordinance provisions shall incorporate existing developed areas and areas that are appropriate for redevelopment in the Planning Area. Highlands Center designation allows for redevelopment to occur within the Center area without further Highlands Planning Area Redevelopment Designation requirements.
8. Alpha Borough shall develop a Sustainable Economic Development Plan that incorporates agricultural retention, farmland preservation, protection and support for historic resource features and local and regional economic factors in support of Highlands Center Designation using funds and technical support provided by the Highlands Council.
9. Adoption of an ordinance petitioning for Plan Conformance with respect to all Planning Area lands.

Figure 1: PROPOSED ALPHA BOROUGH HIGHLANDS CENTER



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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 existing features on the site however, the Highlands Council recognizes that this is a brownfield and the

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

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