



NEW JERSEY HIGHLANDS COALITION

508 Main Street, Boonton, New Jersey 07005

973-588-7190 (office)/973-588-7193 (fax)

www.njhighlandscoalition.org

Mr. John Weingart, Chairman
NJ Highlands Council
100 North Road
Chester, NJ 07930

July 15, 2008

Re: Comments on Draft Procedures for Highlands Redevelopment Area Designations

Dear Chairman Weingart:

The following comments are those of the New Jersey Highlands Coalition on the June 16, 2008 Draft Procedures for Highlands Redevelopment Area Designations. The Coalition conducted a detailed side by side comparison with the previous Council release of May 2007. Overall, we would conclude that the current document is wholly inadequate to meet the requirements of the Act, the RMP and the DEP waiver process.

The narrative explanation of the revised procedures includes the following statement, "Public comments indicate that the requirements were onerous for a procedure that has, as its endpoint, the designation of redevelopment area." While the "endpoint" for the Council may be the designation of a redevelopment area, it is clear that such designations must be in conformance with the RMP. Therefore, it is imperative that the Council request sufficient information to support its own analysis of site suitability under the RMP. From a process perspective, the "endpoint" lies well beyond the Council designation process. The DEP will also be guided in some measure in its issuance of waivers by the designation findings of the Council. As these are two separate agency actions, it is entirely rational to expect that the Council's submission requirements will differ from those of the Department and that the Council's submissions will be made available to the Department as it considers waivers for the redevelopment area. However, it must be emphasized that the Redevelopment Designation process begins with the Council and can only move forward with the Council's approval.

Comments by The New Jersey Highlands Coalition on the June 16, 2008
Draft Redevelopment Site Designation Procedures

The requirements for May 2007 draft were characterized in public comments as “onerous.” If the concern was that the procedures are a duplication of some aspects of DEP requirements for an HPAA, perhaps some inter-agency cooperation could yield some efficiencies for the both applicant and the state. But that is not the Council’s stated reasoning for its wholesale abandonment of its previously proposed procedures, nor its characterization of public comments. The narrative further states, “Many of the information requirements were felt to be more appropriate for the purpose of site design and waiver review...” Upon review of the pre-application requirements checklist and the application checklist (included in the draft procedures from May, 2007 but omitted from the June 16, 2008 procedures), we find nothing “onerous”. The materials requested in the applications refer almost exclusively to current conditions at the site. These conditions should already be known to a serious applicant or they are easily determined. There is no requirement in the May ‘07 proposal for even a conceptual site plan—only a statement of “proposed” uses for the site.

The May ‘07 applications require evidence of municipal participation and public notice as well as statements by reputable governmental agencies identifying the presence of any natural or historical resources. In addition, the applications require the identification of several Highlands resources that may be present.

These application requirements are important for three compelling reasons: 1) they inform the applicant upfront of the criteria the Highlands Council will consider in order for approval of a Highlands Redevelopment Area; 2) they require a degree of procedural transparency and public and municipal participation; and 3) they are consistent with the Goals, Policies and Objectives of the Regional Master Plan.

The application requirements are almost entirely omitted from the June 16 ‘08 draft procedures, including any independent verification of resources and any proof of municipal or public notification or participation. Substituting the DEP procedures for granting development waivers is not acceptable and does not absolve the Council of its responsibility to adhere to the Goals, Policies and Objectives of the Regional Master Plan. On the contrary, such a substitution is *an abdication of the Council’s statutory responsibility to designate redevelopment areas as suitable under the RMP.*

As the RMP approaches adoption by the Highlands Council, to be followed by conformance and “harmonization” with other state agencies, the Highlands Council must show a willingness to embrace, rather than punt its legislated mandate to protect and steward the resources of the Highlands region and prudently guide economic growth opportunities.

For these reasons, the New Jersey Highlands Coalition urges the Council to return to the May 4, 2007 Draft Procedures for Highlands Redevelopment Site Approval. It is to the May 4, 2007 Draft Procedures that the Coalition will address its comments, as the June, 2008 draft is, in comparison, an abandonment of necessary standards and procedures.

Note: Added language is underscored; deleted language is (in parentheses).

1.2 Definitions

Highlands Resource Area- Those features of the Highlands that merit special protections pursuant to N.J.S.A 13:20-1 et seq. and the resource protection policies of the Highlands Regional Master Plan including, but not limited to, open waters; flood hazard areas; prime ground recharge areas; source water protection areas; steep slopes; forested areas; rare, threatened or endangered species habitat; scenic, historic, cultural and outdoor recreational features; and unique or irreplaceable land types.

1.5 Petition for Highlands Redevelopment Site Designation

(b) 6) Copies of Certified Mail Receipts as proof that the public notice requirements to all of the entities have been met...vi. all owners of land within 200 feet of the boundary of the site. The application must also include a certified list of landowners within 200 feet of the site, obtained from the municipal clerk within 90 days of the public notice; and vii. The municipal clerk of any adjoining municipalities within 2 miles of the site.

18) An existing conditions map of the subject site, signed, sealed and dated by a New Jersey-licensed professional engineer, professional land surveyor, professional, registered architect, or registered landscape architect, as required by law, depicting existing conditions...G) Location of (any) all easements...

1.6 Preliminary Determinations

(c) The Highlands Council shall provide a 45 day public comment period prior to any action on a Petition for Highlands Redevelopment Site Designation prior to making a Preliminary Determination.

(d) The Highlands Council will (may, at its discretion) require a joint public meeting between the applicant and the Highlands Council staff, with that Governing Body and Planning Board of the municipality within which the proposed Highlands Redevelopment Site is located. The joint public meeting will be held in the municipality where the proposed Redevelopment Site is located.

(e) If the Highlands Council issues a Preliminary Determination to approve or conditionally approve a Highlands Redevelopment Site Designation, the Highlands Council (may) will require a public hearing in accordance with the requirements under section 1.7, below.

1.7 Requirements for Public Hearing

(a) The Highlands Council will schedule a public hearing after issuing a Preliminary Determination to approve or conditionally approve a Highlands Redevelopment Site Designation.

(c) 2. (Choose a location for the hearing) In the municipality of the proposed Highlands Redevelopment Site.

(d)1. The municipal clerk and planning board of the municipality in which the proposed Highlands Redevelopment Site is located and the municipal clerks of all adjoining municipalities within two miles of the proposed Redevelopment site have been sent a copy of the public hearing notice and all application documents submitted to the Highlands Council

3. A list of all persons to whom notice of an application must be sent under Section 1.5 (b) 6.

5. Publishing a display advertisement in (a newspaper of both local and regional circulation) the official “public notice” newspapers of all affected municipalities within two miles of the proposed Redevelopment Site of at least four inches containing the completed hearing notice form, in accordance with (e) below.

(h) The presiding official, a member of the Council Staff with experience conducting public hearings and free of conflict with respect to the particularities of the proposed Redevelopment Site, at the non-adversarial public hearing, shall have broad discretion with respect to oral and written presentations by interested persons...

(i) Any interested person may submit information and comments concerning the application. The information and/or commentary must be submitted in writing within 15 days after the hearing. However, comments may be considered up until a Final Determination is made.

1.11 Requirements for Digital Submissions

(c) Any application for review by the Highlands Council that does not satisfy the requirements of this Chapter shall be deemed incomplete, the applicant shall be notified and no further action shall be taken until the materials are correctly submitted.

Highlands Redevelopment Site Designation Application Checklist

Application Requirements

17) A signed, sealed and dated letter from (the State Historic Preservation Office) a licensed professional historical preservationist within six months of the date of the application identifying any state or federally listed, or eligible historic properties, structures, or districts, or scenic or recreational resources within the property, or culturally or archeologically significant structures, or scenic or recreational resources, or listed properties or districts, or scenic resources that could be adversely impacted by any proposed uses of the property.

18) (A site plan) An existing conditions map of the subject site signed, sealed, and dated by a New Jersey-licensed professional engineer, professional land surveyor, professional planner, registered architect, or registered landscape architect, as required by law, depicting existing conditions...

The New Jersey Highlands Coalition thanks you for your careful consideration of our comments.

Sincerely,

Elliott Ruga, Grassroots and Program Coordinator
New Jersey Highlands Coalition

And on behalf of:

Association of New Jersey Environmental Commissions
Sandy Batty, Executive Director

Burnham Park Association
Dr. Lynn Siebert, President

Eco Action Initiatives of Warren County
Laura Oltman, Executive Director

Highlands Coalition
Jon Meade, Executive Director

Morris County Trust for Historic Preservation
Marion O. Harris, President

Comments by The New Jersey Highlands Coalition on the June 16, 2008
Draft Redevelopment Site Designation Procedures

Musconetcong Mountain Conservancy
Suzanne Wilder, President

New Jersey Audubon Society
Eric Stiles, Vice President for Conservation and Stewardship

New Jersey Conservation Foundation
Michele S. Byers, Executive Director

New Jersey Environmental Fund
David Pringle, Campaign Director

Passaic River Coalition
Ella Filippone, Ph.D., Executive Director

South Branch Watershed Association
William S. Kibler, Executive Director

Upper Raritan River Association
Cindy Ehrenclou, Executive Director

Cc: Eileen Swan, Executive Director, NJ Highlands Council
Lisa P. Jackson, Commissioner, NJ DEP
NJ Highlands Coalition Staff and Policy Committee