

**REPORT TO WEST MILFORD TOWNSHIP COUNCIL**

**REGARDING:**

**HIGHLANDS COUNCIL  
REGIONAL MASTER PLAN**

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This report presents a synopsis of the contents of the Highlands Regional Master Plan regarding West Milford Township and its being located within the Preservation Area. Also, there are Volumes of Technical Reports upon which this Regional Master Plan was based. The comment period to respond to the Highlands Council regarding the Regional Master Plan expires March 2, 2007. However, requests have been made to extend this period.

As you will recall, the Highlands Act separated the Highlands Region into two areas, the Preservation Area and Planning Area. West Milford Township is entirely within the Preservation Area.

The order in which information is presented in this report follows the Highlands Regional Master Plan. Not all sections were reported on *i.e.* Significance of the Highlands region, History of the Highlands Region and Environmental and Land Use Setting. Also omitted are portions of the Master Plan concerning the Planning Area. This report begins at the Socio-Economic Characteristics section of the Regional Master Plan.

## **SOCIO-ECONOMIC CHARACTERISTICS**

The Highlands Regional Master Plan provides a listing of vital statistics with regard to the region. To compare West Milford to the region's statistics we have provided local numbers based on the 2000 Census for your information. The Regional Master Plan reports that employment growth opportunities within the region to 2014 are positive in the professional, scientific and technical services; food and drink services; merchant wholesalers and durable goods; administrative and support service; and ambulatory health care services. The 2000 Census for West Milford Township indicated that 14,817 persons living in the Township were employed. The major employment sectors for West Milford Township residents were broken down as follows:

Education, health and social services	2,609 Persons
Manufacturing	1,960
Retail trade	1,657
Professional, scientific, management and administrative	1,521
Construction	1,298
Finance, insurance, real estate	1,051
Transportation, warehousing and utilities	871

The median household income for the region grew between 1990 and 2000 by 25% from \$58,078 to \$72,999 (averaged from the Highlands Region). The median household income for West Milford Township was \$74,124. The Regional Master Plan identifies the average Passaic County median household income for the Highlands region increased from \$55,332 (1990) to \$71,081 (2000).

For the Highlands Region there was an increase in housing units between 1990 and 2000 of 7.6%. West Milford Township experienced an increase in housing units of 5.2% from 9,411 to 9,909. Population statistics provided in the Regional Master Plan for the Highlands Region provides estimates that the population in the region has grown by 18.1% from 1990 to 2004. Population in the Passaic County Highlands Region has grown by 7.1% in this time period. West Milford by comparison has grown 9.3% within that same time period (2000 census projected to 2004). The amount of lands in Passaic County lying within the Highlands Region are 83,553 acres. West Milford Township alone is 51,901 acres. This represents 62% of the region within Passaic County.

### **OPEN SPACE**

The Highlands Regional Master Plan states that institutional/open space zones, which include open space, parks and other civic uses totals 108,000 acres or 13% of all zoned land in the Highlands Region. Using this definition of open space the Township Tax Assessment records reveal that 34,684 acres of institutional/open space land lies within West Milford Township. This would represent 32% of the open space land within the Highlands Region. (See Land Ownership West Milford Township Attachment A)

### **HIGHLANDS REGIONAL MASTER PLAN GOALS AND OBJECTIVES**

The Regional Master Plan states that “the primary goal of the Regional Master Plan shall be to protect and enhance the significant values of the resources thereof.” The Plan then reiterates the Highlands Act regarding the goals for the Preservation Area as follows:

#### **PRESERVATION AREA GOALS**

- protect, restore and enhance water quality and quantity
- preserve extensive and contiguous areas of land in its natural state
- protect the resources of the Highlands (contiguous forest, wetlands, stream corridors, steep slopes, scenic resources and critical habitat for fauna and flora)
- preserve farmland and historic sites and resources
- preserve outdoor recreation, hunting and fishing on publicly owned land
- promote conservation of water resources
- promote brownfield remediation and redevelopment
- promote compatible agricultural, horticultural, recreational and cultural uses
- prohibit or limit to the maximum extent possible construction or development which is incompatible with preservation of this unique area

To address these goals the Highlands Act includes the following specific provisions relating to the preparation of the Regional Master Plan:

### Resource Assessment

- Determine the amount and type of human development and activity which the ecosystem of the Highlands Region can sustain while still maintaining the overall ecological values thereof
- Assess the scenic, aesthetic, cultural, historic, open space, farmland and outdoor recreation resources of the Highlands Region together with a determination of overall policies required to maintain and enhance such resources

### Smart Growth and Transportation Component

- Assess based upon the resource assessment the opportunities for appropriate development, redevelopment, economic growth and implementation of a transfer of development rights program
- Consider public investment priorities, infrastructure investments, economic development, revitalization, housing, transportation, energy resources, waste management, recycling, brownfields, and design such as mixed-use, compact design and transit villages
- Prepare a land use capability map
- Identify existing developed areas capable of sustaining redevelopment
- Identify special, critical environmental areas and other critical natural resource lands where development should be limited
- Identify areas appropriate for redevelopment and set appropriate density standards for redevelopment
- Plan for transportation system preservation, including all federally mandated projects or programs
- Promote a sound balanced transportation system
- Insure that transportation projects and programs are reviewed and approved by the Highlands Council in consultation with the Department of Transportation

### Financial Component

- Detail the cost of implementing the Regional Master Plan, including property tax stabilization measures, watershed moratorium offset aid, planning grants and other State aid for local government units, capital requirements for the TDR bank, payments in lieu of taxes, projections for 2009 and 2014 of acquisition of fee simple and other interests in lands for preservation or recreation and conservation purposes, compensation, guarantees, general administrative costs, and any anticipated extraordinary or continuing costs

- Detail the sources of revenue for such costs including grants, donations and loans from local, state and federal departments, agencies and other governmental entities and from the private sector

#### Local Participation Component

- Provide for the maximum feasible local government and public input into the Highlands Council's operations

#### Coordination and Consistency Component

- Detail the ways in which local, state and federal programs and policies may best be coordinated to promote the goals, policies, purposes and provisions of the Regional Master Plan
- Detail how the land, water and structures managed by governmental and nongovernmental entities may be integrated into the Regional Master Plan

#### Preservation Area Requirements

- Prepare a land use capability map
- Prepare a comprehensive statement of policies for planning and managing the development and use of land based upon the environmental standards adopted by DEP and the resource assessment prepared for the Regional Master Plan
- Provide for the implementation of the Regional Master Plan by the state and local government units in the Preservation Area in a manner that will insure the continued uniform and consistent protection of the Highlands Region
- Identify zones within the Preservation Area where development shall not occur in order to protect water resources and environmentally sensitive lands and which shall be permanently preserved through use of a variety of tools including, but not limited to, land acquisition and the TDR program
- Develop minimum standards governing municipal and county master planning, development regulations and other regulations concerning the development and use of land, including standards for minimum lot sizes and stream setbacks, construction on steep slopes, maximum appropriate population densities and regulated or prohibited uses for specific portions of the Preservation Area

### **PLAN APPROACH**

Based upon the goals and objectives outlined above and a review of the plan, the approach of the Highlands Council was to undertake an extensive environmental evaluation of the Highlands Region from multiple environmental identifiers. These identifiers were overlaid one upon the other, to map out the environmentally significant lands within the Highlands Region. Some of the more significant identifiers include water quantity and quality, endangered habitat and contiguous forests. In all, this approach resulted in the overlay of 33 environmental categories to identify the Protection Zone. Six categories were overlaid to identify the Conservation Zone (agricultural lands), 12 indicators were overlaid to identify the Planned Community Zone and Specially Planned Areas (see Land Use Capability Map section below for definition of these zones). While the Township has significant lands in farm assessment, it is not the type of agriculture identified in the plan and, therefore, there are no Conservation Zones identified within West Milford.

For West Milford Township the Land Use Capability Map is the resulting map that reflects the overlay of the 33 Protection Zone indicators and the 12 Specially Planned Area indicators. These indicators have been copied from the plan and are attached at the end of this report. (Attachment B)

### **LAND USE CAPABILITY MAP**

The Land Use Capability Map reflects three zones within the entire Highlands Region. The two zones affecting West Milford Township are the Protection Zone and the Specially Planned Areas Zone (a subcomponent of the Planned Community Zone). The Highlands Act defines the Protection Zone, Planned Community Zone and Specially Planned Areas as follows:

Protection Zone – Those areas identified on the land Use Capability Map consisting of high resource value lands that are important to maintaining water quality, quantity, and other significant ecological processes. Any development activities will be subject to stringent limitations on consumptive and depletive water use, degradation of water quality, and impacts to environmentally sensitive lands and may only occur via redevelopment of existing developed areas.

Planned Community Zone – Those areas identified on the Land Use Capability Map with concentrated development signifying existing communities. These areas have less constrained environmental resources and have existing infrastructure that may support development provided that it is compatible with the protection and character of the Highlands environment.

Specially Planned Area – The Specially Planned Areas function as a subset of the Planned Community Zone and have similar characteristics. They include lands within the Preservation Area, which are characterized by previous development and are less constrained by environmental resources. Therefore, representing

opportunities for redevelopment, infill and adaptive reuse. They also include those lands within the Preservation Area, which exhibit the characteristics of the Planned Community Zone, but do not meet the size requirements of that zone.

The map is indicated by color and for West Milford Township the Protection Zone is green, and the Specially Planned Areas are purple. There has been some public comment with regard to the Specially Planned Area designations for the Township. The Township Planning Department and Planning Board had no influence with regard to the designation of the lake communities in the purple designation. In November 2005 the Township Council approved a grant agreement providing \$30,000 to West Milford Township to provide certain studies as requested by the Highlands Council. These included an ecotourism study, a housing element and a 70% impervious cover analysis. This completed report was forwarded to the Highlands Council in February 2006 with a copy provided to the Township Administrator. With regard to the 70% impervious cover, the Highlands Act identifies that pre-existing areas representing 70% impervious cover may be eligible for redevelopment purposes. The Planning Board, with the Department's assistance, undertook an analysis of three main areas to assess the 70% impervious cover. These three areas were the known commercial areas of Hewitt (Greenwood Lake Turnpike and Union Valley Road), the Central Business District (Union Valley Road, Marshall Hill Road) and Oak Ridge/Newfoundland (Route 23 and Oak Ridge Road). The three identified areas were strictly limited to commercial areas that were unconstrained by wetland buffers, endangered species habitat, and open Highland waters.

The question does arise as to why some of the lake community areas were located as Special Planning Areas while others were not. This may be a result of the overlay of the 33 environmental criteria on the Land Use Capability Map, but it is not specifically stated in the plan. Since this is the comment period, the Council may wish to request the Highlands Council for a clarification on this mapping.

The Council should be aware, however, that the lake communities are made up mostly of developed lots, interspersed with existing vacant lots of record. The Highlands Act adopted August 14, 2004, exempts existing lots of record from the DEP rules and the Highlands Master Plan. Therefore, these neighborhoods can continue to develop under the Township's Zoning Ordinances on the existing lots of record regardless of the designation on the Land Use Capability Map. A detailed analysis of these Specially Planned Areas is attached. (Attachment C)

#### **HUC14 DESIGNATIONS**

The Highlands Council, for the purposes of conducting further water quantity and quality evaluations, has utilized Hydrologic Unit Codes (HUC) previously used by the DEP to map the entire state. The Highlands Council chose the HUC14 designation, which subdivides the Highlands into sub-watersheds for further evaluation of water

quantity and quality. West Milford Township intersects 13 HUC 14 sub-watersheds. This HUC14 designation is important to understand when reading the Master Plan, particularly where the report addresses water quantity, water availability and prime ground water Recharge areas.

## **MASTER PLAN ELEMENTS**

The Highlands Regional Master Plan includes six Master Plan Elements. They are identified as Land Use Capability Map, Resource Assessment Component, Smart Growth Component, Financial Component, Consistency and Coordination Component and Local Participation Component. Within each of these Elements there are numerous sub-chapters. In the Resource Assessment Component these sub-chapters are: Water Resource Management, Ecosystem Management, Land Preservation Stewardship, Historic, Cultural and Scenic Resource Protection. The Smart Growth Component sub-chapters are: Regional Development and Redevelopment, Housing and Community Development, Utility Capacity, Transportation, Smart Design Controls, Recreation and Tourism, and Transfer of Development Rights. The Financial Component sub-chapters are: Cash Flow Timetable and Baseline Fiscal Economic Indicators.

Each one of these components and subchapters identified above are discussed and analyzed in the Regional Master Plan under the same criteria as follows:

- The Goals and Requirements of the Highlands Act
- Policies and Strategies
- The Relationship to the Land Use Capability Map
- General Policies
- The Zone Standards on the Land Use Capability Map
- Site Specific Standards
- Pre-Conformance Requirements
- Conformance Requirements
- long term goals
- local participation strategies
- coordination and consistency strategies

With regard to the Site Specific Standards, it is important to recognize that all relevant criteria identified in the adopted Regional Master Plan will be applied to each site-specific development when an application for development is submitted to the municipality. The developer will need to secure local, Highlands Council and DEP approvals.

Two of the more important categories listed above are the Pre-Conformance and Conformance Requirements. These are defined in the report as follows:



Pre-Conformance Requirements – Identifies all of the work remaining to be done by the Highlands Council before the Master Plan is ready for consideration for adoption.

Conformance Requirements – Identifies all the resulting work to be done by municipalities in order to bring local Master Plans in conformance with the Regional Master Plan.

Both of these categories are of immediate importance because the items listed constitutes the work remaining to be completed by the Highlands Council and the next steps to be taken by the municipality to be in conformance with the Regional Master Plan. What follows is a consolidated list reiterated from the Regional Master Plan.

### **Pre-Conformance Requirements**

Within each element of the Regional Master Plan the following additional actions of the Highlands Council are mandated:

#### Resource Assessment Component

1. Water Resource Management

a. Water Use and Availability

The Highlands Council shall:

- Establish municipal growth thresholds based on limitations in Net Available Water;
- Develop technical guidelines and procedures for low impact development, engineering or other best management practices to mitigate for losses to water availability and base flow as a result of consumptive or depletive water uses;
- Develop detailed management recommendations of sub watershed water withdrawal impacts and evaluate regulatory implications for Current or Future Deficit Areas, and Existing Constrained Areas; and
- Develop model municipal master plan elements and development regulations for the protection of ground water availability.

b. Ground Water Recharge

The Highlands Council shall:

- Develop technical guidelines and procedures for low impact development, engineering and other appropriate best management practices to protect, restore and enhance Prime Ground Water Recharge Areas;
- Identify land use categories or other activities that pose sufficient risk of contamination and should not be allowed within Prime Ground Water Recharge Areas; and
- Develop model municipal development regulations and master plan elements for the protection of ground water recharge.

c. Surface and Groundwater Quality

The Highlands Council shall:

- Develop technical guidelines and procedures for low impact development, engineering and best management practices to protect ground and surface water quality; and
- Develop model municipal development regulations for the protection of ground and surface water quality.

d. Wellhead Protection

The Highlands Council shall:

- Develop technical guidelines and procedures for the identification of potable sources at risk and protection of Wellhead Protection Areas for public water supply wells in the Highlands Region;
- Develop technical guidelines and procedures for wellhead protection best management practices to protect ground water quality; and
- Develop model mast plan elements and development regulations for Wellhead Protection Areas.

e. Nitrate Concentrations and Septic Suitability

The Highlands Council shall:

- Establish minimum standards and technical guidance for determining appropriate septic densities and design/maintenance requirements.

2. Ecosystem Management

a. Highlands Open Waters and Riparian Areas

The Highlands Council shall:

- Develop technical guidelines for the identification and mapping of Highlands Open Waters and Riparian Areas including technical review procedures for proposed adjustments and revisions to Highlands Open Waters and Riparian Area requirements; and
- Develop technical guidelines and procedures for development of Stream Corridor Protection/Restoration Plans, Open Space Plans, and for development and implementation of Low Impact Development Best Management Practices.

b. Steep Slopes

The Highlands Council shall:

- Develop technical guidelines and procedures for development of steep slope protection standards for inclusion in municipal master plans and development regulations.

c. Forest Integrity and Stewardship

The Highlands Council shall:

- Develop technical guidelines and procedures to assist municipalities and counties in the development of forest mitigation and stewardship plans for inclusion in municipal and county master plans and development regulations;
- Develop technical guidelines and procedures for development and implementation of low impact development best management practices to protect, enhance, and restore forest resources;
- Develop guidelines for the development of community forestry plans by municipalities for inclusion in municipal master plans;

- Develop a model municipal tree ordinance for municipalities that allow active forest management with approved forest management plans;
- Develop criteria for demonstrating intrinsic forest values and societal benefits that could be used to issue a Farmland Assessment Text credit; and
- Develop technical guidelines establishing forest-clearing thresholds for inclusion in municipal development ordinances.

d. Critical Habitat

The Highlands Council shall:

- Develop technical guidance and procedures for development of Habitat Conservation and Management Plans;
- Develop technical guidelines for the identification and delineation of critical habitat features, including procedures for nomination and inclusion of additional sites, or rebuttal of existing sites, with the prior review and approval of the Highlands Council; and
- Develop technical guidelines and procedures for development and implementation of low impact development best management practices to protect, enhance and restore critical habitat.

3. Land preservation and Stewardship

The Highlands Council shall:

- Develop technical guidance for preparation of management and stewardship plans as part of municipal and county open space plans;
- Develop technical guidance and specifications for preparation, recordation and monitoring of conservation easements;
- Establish protocols for the inventory and reporting of fee simple and easement land holdings for inclusion in the Highland Open Space inventory; and
- Develop and maintain a list of priority land acquisitions, including estimates for land acquisition cost through the first 5 and 10 years on implementation.

4. Agriculture Resource Protection and Sustainability

The Highlands Council shall:

- Develop technical guidelines pertaining to the development of a Farmland Preservation Plan element of municipal or county master plans. The Farmland Preservation Plan shall include, but is not limited to, local efforts to support direct marketing opportunities such as farmers markets and roadside stands, tourism, and community supported agriculture;
- Develop best management practices for farms that contain or abut significant natural resources to assure that agricultural activities are compatible with protection of resource values; and
- Develop an Open Space Design ordinance for use within the Agricultural Resource Area that meets the goals and requirements of this section.

5. Air Quality

The Highlands Council shall:

- Develop technical guidelines and specifications for reducing exposure to indoor air quality.

6. Historic, Cultural, and Scenic Resource Protection

The Highlands Council shall:

- Adopt guidelines for the identification and nomination of historic, cultural, and scenic resources for inclusion in the Highlands inventory.

SMART GROWTH COMPONENT

1. Regional Development and Redevelopment

a. Redevelopment

The Highlands Council shall:

- Refine and finalize the municipal GIS parcel-based land development tracking program to identify vacant land

parcels, known contaminated sites, and development and redevelopment opportunity parcels;

- Develop technical guidelines and procedures for Smart Design Controls and supporting model ordinances to ensure that they are comprehensive and implementable by county and municipal officials;
- Develop technical guidelines and procedures for the Highlands Council's review and approval of Specially Planned Areas and redevelopment areas within the Preservation Area; and
- Refine and finalize the Highlands Build-out Model for counties and municipalities in support of conformance.

2. Housing and Community Development

The Highlands Council shall:

- Run the Build-out Model for the Highlands Regional Master Plan scenario in order to provide estimates of potential additional dwelling units, population, and employment that could be realized by the region based on the goals and requirement of this Plan;
- Continue to compile and track existing municipal Housing Plan Elements and Fair Share Plans;
- Review and comment upon municipal Fair Share Plan submittals regarding site suitability, growth projections, and other issues consistent with the goals and requirements of this Plans; and
- Evaluate innovative alternatives regarding the relationship between Highlands TDR Program, growth share obligations, and regional fair share needs.

3. Utility Capacity

a. Water Utility

The Highlands Council shall:

- Develop technical guidelines regarding standardized procedures for estimating system demands and standards for reviewing potable water utility system expansions; and

- Provide municipal estimates of water capacity for those areas of the Highlands Region within a water service area and Planned Community Zone or designated Specially Planned Area including identification of limitations on total system capacity demand based on either physical infrastructure or source water availability.

b. Wastewater utilities

The Highlands Council shall:

- Develop technical guidelines, in consultation with NJDEP, regarding standardized procedures for preparing Wastewater Managements Plans.
- Initiate designation establishing the Highlands Council as the designated water quality planning agency for the Highlands Region.
- Provide municipal estimates of wastewater capacity for those areas of the Highlands Region within a wastewater service area and Planned Community Zone or designated Specially Planned Area including identification of limitations on total system capacity demand based on either physical infrastructure or source water availability and consistent with the provisions of this section.

4. Transportation

The Highlands Council shall:

- Continue to refine the protocols and standards that support the connection between land use and transportation for the Circulation Plan Element; and
- Review existing and proposed Residential Site Improvement Standards and compare to the Regional Master Plan, develop an action plan for implementing Highlands Site Plan and Design Standards including recommendations for Residential Site Improvement Standard revisions as an amendment for the Highlands Region.

5. Smart Design Controls

The Highlands Council shall:

- Develop technical guidelines and procedures for smart design controls and supporting model ordinances to ensure that they are comprehensive and implementable by county and municipal officials.
- Initiate several pilot projects in the form of visioning processes or design charrettes in order to validate and advance the principles contained within the smart design controls.

6. Recreation and Tourism

The Highlands Council shall:

- Develop, in coordination with Federal, State, county, and municipal recreation and open space agencies and the Division of Travel and Tourism, an inventory of Recreation and Tourism Resources; and
- Refine the database of information about existing tourism programs and approaches, including agri-tourism, eco-tourism, and heritage tourism, from Highlands's municipalities, counties, and tourism entities.

7. Transfer of Development Rights

The Regional Master Plan does not identify pre-conformance and conformance requirements for the establishment of a transfer of development rights program. However, the plan does state the following: "Determination of a Highlands sending zone lot's development potential change will be based upon an analysis of whether the property could have been developed as of August 9, 2004 based upon municipal zoning and land use regulations then in effect and state and federal environmental laws then in effect and a determination of whether development is precluded or severely constrained by the restrictions imposed pursuant to the Highlands Act." While the TDR program has not yet been established and there is additional work clearly that needs to be done before the program is operational, the above statement appears to be the determination for properties within the sending zone. Issues yet to be determined as stated in the Regional Master Plan include a method for prioritizing acquisition of Highlands development credits, considering such factors as presence of Highlands resources, the likelihood of that lot's development, and whether a property owner is experiencing a unique and extraordinary financial hardship. There must also be established a Highlands



development credit allocation method that recognizes and accounts for the significant real estate market variability in the region. The real estate market factors and use factors must also be established.

With regard to receiving zone policies the voluntary TDR receiving zones have not yet been identified. A TDR bank is yet to be established.

#### FINANCIAL COMPONENT

1. Cash Flow Timetable

The Highlands Council shall:

- Refine and update data, which is input into the Cash Flow Timetable tracking program.

2. Baseline Economic Indicators

The Highlands Council shall:

- Refine and enhance baseline economic data and examine requests for expanded and additional regional economic indicators in support of the Economic Tracking Program; and
- Develop protocols required for economic plan elements, including instruction on tracking and reporting of regional economic indicators, in support of county and municipal Conformance.

#### CONSISTENCY AND COORDINATION COMPONENT

There are no Pre-Conformance Requirements identified in the Regional Master Plan for the Highlands Council to complete prior to adoption of the Plan (see page 29 for a synopsis of this Master Plan Element).

#### **Conformance Requirements**

It is important to note that West Milford is already implementing a number of the requirements that follow.

Within each element of the Regional Master Plan the following actions of the Municipality are required:

## Resource Assessment Component

### 1. Water Resource Management

#### a. Water Use and Availability

Require that conforming municipalities and counties:

- Address Current Deficit Areas, Future Deficit Areas, or Existing Constrained Areas to demonstrate that water use or other activities in the proposed service area will not directly or indirectly contribute to an exceedance of the Net Water Availability or exacerbate a water availability deficit; and
- Address thresholds and limitations of ground water availability and adequate facility planning in master plans and development regulations.

#### b. Ground Water Recharge

Require that conforming municipalities and counties:

- Revise master plan and development regulations to reflect Prime Ground Water Recharge Areas and protection standards as appropriate; and
- Require municipal and county participation in regional stormwater management plans developed or approved by the Highlands Council.

#### c. Surface and Groundwater Quality

Require that conforming municipalities and counties:

- Promote implementation of low impact development standards and best management practices to protect the quality of ground and surface water quality; and
- Require that wastewater management plans or amendments demonstrate that the proposed service area will not directly or indirectly support development that would be in violation of an adopted TMDL.

#### d. Wellhead Protection

Require that conforming municipalities and counties:

- Revise master plans and development regulations to address wellhead protection requirements, including the restriction on development activities that pose threats to the water quality of public water supply wells, and to ensure that development activities and existing land use activities implement best management practices to protect the quality of ground water within Wellhead Protections Areas;
- Amend wastewater management plans to demonstrate that any activity associated with the proposed service area will not adversely impact a Wellhead Protection Area.

e. Nitrate Concentrations and Septic Suitability

Require that conforming municipalities:

- Revise master plans and development regulations to address septic density and design standards adopted by the Highlands Council; and
- Require that as part of any amendment or modification to a wastewater management plan that a conforming municipality or county address localized ground water or surface water quality that is at risk of being impaired by an increase in nitrate concentration due to failing septic systems.

2. Ecosystem Management

a. Highlands Open Waters and Riparian Areas

Require that conforming municipalities and counties:

- Include Highlands Open Waters and Riparian Area inventory, protection standards, and approval guidelines in master plans and development regulations consistent with this section; and
- Enact Stream Corridor Protection/Restoration Plans, Regional Stormwater/Wetland Mitigation, and Open Space Plans into municipal master plans and

development regulations where approved by the Highlands Council.

b. Steep Slopes

Require that conforming municipalities and counties:

- Include the establishment of the steep slope classifications and protection standards in master plans and development regulations.

c. Forest Integrity and Stewardship

Require that conforming municipalities and counties:

- Include a forest protection standards in their master plans and development regulations consistent with this section;
- Within Forest Resource Areas include these areas in their master plans and development regulations;
- Within the Forest Resource Area prepare forest stewardship plans and include them in their master plans and development regulations;
- Adopt a tree-clearing ordinance consistent with a community forestry plan under the New Jersey Forest Service Community Forestry Program as part of the municipal master plan and local development regulations.

d. Critical Habitat

Require that conforming municipalities and counties:

- Include critical habitat inventory, protection standards, and approval guidelines in master plans and development regulations consistent with this section; and
- Include Highlands Council-approved Habitat Conservation and Management Plans into master plans and development regulations.

3. Land preservation and Stewardship

Require that conforming municipalities and counties:

- Identify, update, and delineate the location of all open space lands, including fee simple and easements, within their jurisdiction;
- Incorporate an open space element of their master plans that is consistent with the standards of this section;
- Maintain a current Recreation and Open Space Inventory (ROSI);
- Establish an Open Space Committee or designate an existing committee or board to perform the task, if one does not currently exist;
- Establish an Open Space Trust Fund and adopt language setting forth permissible purposes for which the funds can be used as stated in the enabling legislation C.40:12-15.1 et seq., which includes stewardship of preserved lands and historic preservation; and
- Revise development regulations to require applicants to identify open space lands and conservation easements within or adjacent to sites that are applying for development.

4. Agriculture Resource Protection and Sustainability

Require that conforming municipalities and counties:

- Revise master plans and development regulations to adopt Open Space Design standards within the Agricultural Resource Area that allows for the protection of agricultural viability, important agricultural soils and other natural resource values;
- Revise master plans and development regulations consistent with the Right to Farm Act;
- Within the Agricultural Resource Area include a Farmland Preservation Plan element in their respective master plans and development ordinances; and
- Require the inclusion of appropriate wildlife and invasive species management techniques and water resource protection approaches in any land management and stewardship plan developed by counties and municipalities as part of their respective Open Space Plan.

5. Air Quality

Require that conforming municipalities and counties:

- Include a Circulation Plan element. Components of the element shall address measures taken to reduce automobile dependency, vehicle trip length and duration, and alternative modes of transportation. Circulation Plan elements shall also address the municipal component of the Diesel Retrofit Law as a measure to reduce SO<sub>2</sub> and other diesel fuel pollutants;
- Adopt development regulations that promote use of green building materials and renewable energy sources; and
- Include a transportation plan that supports local and regional land use planning as an integral component of their master plans. The county plan will serve as a means to reduce vehicular emissions and provide opportunities for increased transit, car-pool or ride-share programs, and pedestrian and bike access.

6. Historic, Cultural, and Scenic Resource Protection

Require that conforming municipalities and counties:

- Revise master plans and development regulations to address historic, cultural, and scenic resources consistent with this section;
- Master plans include a Historic and Scenic Preservation Plan element; and
- Encourage conforming municipalities to establish a local historic preservation commission, or similar functioning entity, to review all applications for development as they relate to historic, cultural, and scenic resources.

## SMART GROWTH COMPONENT

1. Regional Development and Redevelopment

Redevelopment

Require that conforming municipalities and counties:

- Evaluate and consider development and redevelopment opportunities and needs within the Planned Community Zone including Specially Planned Areas, including factors such as the availability of water, wastewater, and transportation;
- Consider and incorporate developed properties that have redevelopment potential and known contaminated properties as

part of the required Developed Land Inventory and Economic Plan element;

- Identify existing and planned community facilities and encourage shared service opportunities as part of the local Community Facility Plan element;
- Encourage, where appropriate, the creation of Revenue Allocation Districts, a financing tool that allows municipalities with a designated redevelopment area to issue tax-exempt bonds to finance infrastructure and costs related to development activities;
- Review the Highlands Build-out Model results and refine input data during the conformance process; and
- Evaluate potential build-out scenarios for conformance plans proposed by municipalities and counties to determine possible impacts particularly regarding resource protection, water demand, wastewater generation, transportation, and fiscal plans.

2. Housing and Community Development

Require that conforming municipalities:

- Revise the Housing Plan Element of their municipal master plan to include, at a minimum:
  - An evaluation of the housing needs for different identification of strategies for advancing opportunities to build a wider array of housing types, including reduced building footprints and bulk standards on a variety of lot sizes;
  - A correlation between housing need and the number and type of jobs in existence or being created;
  - An evaluation of the goals and requirements of this Plan regarding existing and proposed infrastructure conditions and capacity, and community/regional services needed to support the residential vitality of the community;
  - A description of how this Plan's utility capacity data has been utilized in assessing opportunities for market-rate and affordable housing within the municipality;
  - An evaluation of local opportunities for development and redevelopment of market-rate and affordable housing; and
  - A description of existing and potential revisions to municipal development regulations supporting environmentally

sensitive development practices such as green building, low impact development, conservation design, smart design standards, and other related policies as set forth in this Plan.

- Which have not submitted a Petition for Substantive Certification to COAH prepare and submit a complete Petition for Substantive Certification;
- Which are under COAH's jurisdiction include municipal Housing Plan Elements and Fair Share Plans which shall, at a minimum:
  - Comprehensively address providing opportunities for and maintenance of affordable housing, including creative and under-utilized methods;
  - Consider and address the requirements of this Plan when determining site suitability for land designated for affordable housing projects;
  - Consider and address the Highlands build out model's municipal population and employment projections, which will be provided to the municipalities to assist with estimating COAH obligations; and
  - Encourage municipalities to prepare Development Fee Ordinances that are consistent with COAH requirements at N.J.A.C. 5:94-6.1.
- Assist municipalities with information derived from the Highlands GIS parcel based tracking system to identify housing and non-residential development activities, including both market-rate and affordable site identification;
- Support municipalities in meeting their affordable housing needs through technical support, education programs, and planning grants;
- Administer Planning Assistance Grants for preparation and updating of municipal Housing Plan Elements, including third round Growth Share submittals, to assist and empower local agencies to achieve the housing goals and priorities of this Plan; and
- Consider awarding assistance through the Highlands Special Grant Program, as an opportunity to support innovative approaches for municipal and regional affordable housing needs. The grant program may be awarded for innovative wastewater and water approaches for addressing affordable housing needs, technical studies that may require a great understanding of local conditions in order to meet affordable housing needs, and opportunities to partner with affordable



housing developers and non-profit groups to support a diverse approach to addressing affordable housing needs.

3. Utility Capacity

a. Water Utility

Require that conforming municipalities:

- Delineate existing water service and franchise areas and identify developed properties served by those systems;
- Include thresholds and limitations of surface and ground water availability in revised master plans and development regulations;
- Determine projected system demand based on municipal zoning;
- Revise the Utility Service Plan element of their master plan to be consistent with this section;
- Allow for adjustments and revisions to extension of water utility systems to address projects deemed exempt from the requirements of the Highlands act, or areas that demonstrate the need to project public health and safety as determined by the Highlands council; and
- Identify their sources of water and quantify their systems relative dependence on each source. Contractual agreements for transfers or interconnections between other municipalities and utilities shall be identified.

b. Wastewater

Require that conforming municipalities and counties:

- Revise Wastewater management Plans to be consistent with goals and requirements of this Plan;
- Delineate existing wastewater service areas and identify developed properties served by those systems;
- Inventory existing sewer allocation agreements and contracts for site or projects including the status of municipal and county site plan and/or subdivision approval;
- Demonstrate that projected system demand is consistent with this Section;

- Revise master plans, including the Utility service element, and development regulations to be consistent with goals and requirements of this Plan;
- Incorporate standards for mandatory inspection of new or existing single family residences or commercial/industrial development, upon transfer of title, to prevent non-wastewater inflow to wastewater collection systems require reporting of inspection reports to the Highlands Council;
- Allow for adjustments and revisions to Highlands Wastewater Service Areas to include specially Planned Areas or areas approved by the Highlands council to address a demonstrated need to protect public health and safety as determined by the Highlands Council upon demonstration that the critical natural resources of the Highlands will be maintained.

4. Transportation

Require that conforming municipalities:

- Develop a Circulation Plan element in coordination with the land use element of their master plans, addressing smart growth principles and promoting consistency with the goals and requirements of this Plan;
- Develop a transportation plan that supports local and regional land use planning. The County plan will serve as an opportunity to identify coordination of local, county, and regional transportation initiatives and alternative modes of transportation, transit and community connectivity, including shared services, and long-term transportation network needs; and
- Identify and provide the status of planned, ongoing, and future transportation system network needs as a means to develop and refine regional system conditions.

5. Smart Design Controls

Require that conforming municipalities and counties:

- Reevaluate their master plans and development regulations to incorporate the use of smart design controls;

- Development applications submitted for municipal review shall contain a landscape plan specifying the use of native plant species and prohibiting the use of invasive species; and
- Encourage the inclusion of conservation development standards into local development regulations to maximize protection of critical resources, environmentally sensitive areas, open space, and agricultural lands, and enhance community character. Conservation development requirements and standards may include, but are not limited to:
  - A site specific analysis identifying the defining features and environmental constraints of a property in order to determine which areas on-site should be protected and which are appropriate for development;
  - Development of a procedure to grant relief from strict adherence to development regulations for projects that incorporate the use of demonstrated conservation development practices that significantly reduce or eliminate impacts to Highlands resources and are otherwise consistent with this Plan. (i.e. reduction of minimum setbacks or uniform road frontage requirements or increase of maximum height requirement, allowing the clustering of development);
  - Provisions permitting portions of lots as identified in the site analysis as non-buildable to count toward any on-site passive open space requirement of a project site.
- Encourage, where not regulated by New Jersey's Uniform Construction Code, that municipalities include energy and water conservation measure as part of local site plan and subdivision requirements, including but not limited to:
  - Energy efficient features in structures and site layout;
  - Water conservation measures in structures and site layout (i.e. water efficient landscaping, rain collection systems, use of non-potable water for toilet flushing);
  - Efficient landscape maintenance practices (use of greywater to irrigate landscaping, limit daytime lawn watering, require evapo-transpiration irrigation controllers to limit unnecessary watering, encourage native and drought-tolerant plant species);
  - Limitation of vegetative disturbance and clearing and grading to the necessary construction envelope;
  - Microclimate considerations that maximize solar gain for winter warmth and minimize sun exposure during high temperature summer conditions; and

- Re-use and recycling of building materials in demolition and adaptive re-use projects.
- Encourage municipalities to adopt low impact development standards to protect the natural hydrologic features of the land, including but not limited to:
  - Provisions for on-site stormwater management features that maintain, restore, and enhance the pre-existing natural drainage patterns of the site; and
  - Limitations of the amount of impervious cover allowed on a site as a means to increase stormwater infiltration and reduce stormwater runoff.
- Advocate that conforming municipalities and counties utilize regulations which include standards that promote energy and resource efficiency strategies and best management practices, including but not limited to:
  - Site-specific hydrologic studies for development proposals that understand and predict the velocity, volume and pattern of water flow into, through, and off the site and are used to develop stormwater management systems based upon a “design with nature” approach;
  - Stormwater management elements such as grass channels, dry swales, wet swales, infiltration basins, bioswales and water gardens, green roofs, and other low impact mechanisms, where feasible, for stormwater attenuation.
- Encourage conforming municipalities to modify their Master Plans and development regulations to promote community and neighborhood design that supports a variety of housing options for different income levels, mixed uses, redevelopment, adaptive re-use of historic sites and structures, and infill development.
- Encourage conforming municipalities to foster growth and economic development within the context of efficient land use and sustainable policies including:
  - Center-based, compact development alternatives in proximity to existing infrastructure systems;
  - Responsible redevelopment of brownfields and greyfields;
  - A range of housing types across a wide scale of market and rental prices to enable citizens from diverse economic and age groups to live within a community;
  - Mixed use developments;
  - Pedestrian and transit-related street furnishings’
  - Pedestrian and bicycle routes;
  - Green building and green street policies; and
  - Context sensitive design.

6. Recreation and Tourism

Require that conforming municipalities and counties:

- Revise master plans and development regulations to address recreation and tourism resources and initiatives consistent with the goals and requirements of this Plan;
- Prepare both a Recreation Plan element and an Economic Plan element of the municipal master plan and fully investigate the links between the two elements. The Recreation Plan Element shall include a comprehensive listing of recreation and open space within the municipality. The Economic Plan element shall consider all aspects of economic development and vitality with the municipality, with a special focus on tourism;
- Require that any lands that are proposed for a diversion from Green Acres requirements would be required to secure a determination from the Highlands Council that such diversion is not inconsistent with the Regional Master Plan;
- Require conforming counties to include, as an integral component of their county master plans, a recreation and tourism component. The component shall provide for identification of recreation of tourism facilities and strategies for advancing recreation and tourism within their jurisdiction;
- Require that conforming municipalities to recognize that for eco-tourism to be successful, it must support and enhance resource-based recreation and provide services and recreational opportunities for visitors that are sensitive to the Highlands resources and the concerns of communities that host these businesses; and
- Require municipalities and counties, as part of their master planning, to anticipate needed infrastructure, such as public access management, parking at trailheads, and restroom facilities.

7. Transfer of Development Rights

No Conformance Requirements were identified in the Regional Master Plan.

This program will help preserve the environmentally sensitive areas by transferring development rights from those areas and compensating the property owners accordingly. West Milford is a

potential sending area for the lands within the Protection Zone. The receiving areas indicated in the Highlands Report will be areas outside the Preservation Area and within the Planning Area or municipalities outside the Highlands Region, but within the seven Highlands counties. The designation of receiving zones will be voluntary within those qualifying municipalities.

#### FINANCIAL COMPONENT

1. Cash Flow Timetable

Municipalities and counties shall:

- Provide block and lot information, as well as additional site details, about all preserved lands within their borders for inclusion in the Land Acquisition Tracking Program database;
- Confirm current State Aid allocations for input into the Cash Flow Timetable; and
- Work with the Highlands Council to conform to the Regional Master Plan in order to be eligible for Highlands Property Tax Stabilization Aid.

2. Baseline Economic Indicators

Under these Conformance Requirements the Regional Master Plan states the Highlands Council will:

- Assist municipalities in developing an economic plan element that builds upon the Economic Tracking Program, and supports data development for the Cash Flow Timetable such as land acquisition information, state aid allocations, and applications for Highlands Property Tax Stabilization assistance;
- Refine and enhance regional fiscal impact analysis in order to assess economic impacts of various development scenarios for the Highlands Region; and
- Work with counties in the tracking of regional economic monitoring data and programs.

#### CONSISTENCY AND COORDINATION COMPONENT

After the adoption of the Highlands Regional Master Plan, the Executive Director of the Council will work with the Commissioner of NJDEP to actively encourage the Department to utilize the Plan as the basis for

establishing regulatory thresholds and standards. The Executive Director will also work with the NJDEP to develop a coordinated land use permitting strategy with NJDEP for lands subject to the Department's Highlands protection rules (the Preservation Area) and the Regional Master Plan's Preservation Area requirements.

In order to aide municipalities where they seek the development, redevelopment, and preservation of appropriate lands within the Highlands Region, the Council will coordinate with the Economic Development Authority, New Jersey Redevelopment Authority, the Housing and Mortgage Finance Agency, the New Jersey Environmental Infrastructure Trust, the New Jersey Historic Trust, and the Garden State Preservation Trust to facilitate the availability of funding and the institution of policies that help to implement the regional Master Plan. The Council believes that lending and funding decisions made by these entities will be a critical factor to many projects in Highlands and will cooperatively partner with them to further the goals and policies of the Regional Master Plan.

#### IMPLEMENTATION FRAMEWORK

The Act recognizes that protection of the Highlands as a whole requires a combination of state and local oversight that is implemented through regional planning and local land use control.

##### 1. Benefits and Incentives for Municipalities and Counties

As one of five municipalities located entirely within the Preservation Area, West Milford Township is required by the act to conform to the Regional Master Plan. Upon completion of this conformance the benefits extended to the Township include:

Planning Grants and Technical Assistance – The Highlands Council will make grant funds and other financial and technical assistance available to Highlands municipalities and counties to support any revision of their master plans, development regulations, or other regulations which are designed to bring these plans or regulations into conformance with the Regional Master Plan or for the implementation of a transfer of development rights program pursuant to the Highlands Act. Presently, over \$12 million dollars have been reserved for Plan Conformance grants that can be awarded by the Highlands Council to municipalities and counties.

State Aid for Smart Growth – Highlands municipalities and counties whose master plan and associated regulations have been approved by the Highlands Council as being in conformance with the Regional Master Plan will qualify for all State aid, planning assistance, technical assistance, and other benefits and incentives that may be awarded or provided by the State to municipalities and counties which have received Plan Endorsement by the State Planning Commission. In addition, any conforming municipality or county will also qualify for any State aid that may be provided for Smart Growth projects.

During the Plan Conformance process, any municipality or county may include in its Petition for Plan Conformance a listing of priority projects or other matters that are fundamental to the provision, improvement, enhancement, or restoration of infrastructure, public facilities, or other matter that may require the funding, implementation, or active participation of a State agency. The Highlands Council will coordinate with the appropriate State agency, where such action is consistent with the Regional Master Plan, and advocate on behalf of the municipality or county to gain agreements with the appropriate State agency to facilitate, approve, fund, or take other actions necessary to implement the matter of local priority.

Tax Stabilization Funds – A municipality that has brought its municipal master plan and development regulations into conformance with the Regional Master Plan will remain eligible for a distribution of monies from the Highlands Municipal Property Tax Stabilization Fund that is administered by the Highlands Municipal Property Tax Stabilization Board.

Legal Representation – The Highlands Council will provide legal representation, if requested, to any Regional Master Plan-conforming municipality or county in any cause of action filed against the local government unit that contests and act or decision that is consistent with the Regional Master Plan and involves an application for development that disturbs at least two acres or more of land or results in a cumulative increase of impervious surfaces by one acre or more.

Plan Conformance is considered equivalent to State Plan Endorsement – Any municipality or county or portion thereof located in the Preservation Area is exempt from the Plan Endorsement process established in the rules and regulations



adopted by the State Planning Commission. However, after the State Planning Commission endorses the Regional Master Plan adopted by the Highlands Council, any municipal master plan and development regulations or county master plan and associated regulations that are found by the Highlands Council to conform with the Regional Master Plan will be considered the equivalent of those plans having been endorsed by the State Planning Commission. For municipalities, this means that in addition to the State monetary benefits available to a conforming town, a housing plan previously approved by the Council of Affordable Housing (COAH) will continue to be recognized as valid by COAH.

## 2. Planned Conformance Procedures and Requirements

A framework has been provided for the review and approval of municipal and county petitions for plan conformance. Within this conformance process guidelines are “designed to provide numerous opportunities for public hearings at the local, county and/or regional level, as appropriate, to help insure that decisions about the development and implementation of conforming master plan and redevelopment requirements are subject to scrutiny by the public.” To structure the process and insure that the time sensitive requirements of the act are met the Highlands Council will, as soon as possible after the adoption of this plan, issue a plan conformance schedule. The schedule will take into account the following:

- the extent to which municipalities and counties have lands in the Preservation Area
- the physical nature of those lands
- the existing master plan and development regulations of the local government
- the willingness of the local government to conform in a timely manner
- the need to properly use the Council’s allocated funding and resources

Upon adoption of the Regional Master Plan by the Highlands Council the conformance process will begin when a municipality’s governing body adopts and submits a Notice of Interest to the Highlands Council. West Milford Township being within the Preservation Area will have between nine and fifteen months from the time of the Plan’s adoption to present a local plan for a consistency determination by the Highlands Council, according to the act.

The Executive Director will then set up a Highlands Overview Meeting with the local government and an explanation will be provided of the goals, requirements and provisions of the Regional Master Plan. What local changes are anticipated to the local Master Plan and development regulations, the provisions to obtain grant funding and technical assistance from the Council to make the changes, and a Preliminary Conformance Analysis will be performed. This Analysis will review the municipalities Master Plan and development regulations, determine the level of consistency with the Regional Master Plan and provide a proposed individualized Implementation Schedule for plan conformance. The Council staff intends to assist the local process to bring the local plans into conformance with the adopted Regional Master Plan. Within this process adjustments and revisions of the Land Use Capability Map may be made by the Council during the conformance process where new information is presented by the petitioner that changes the underlining assumptions about conditions present in the municipality that were considered by the Council during the development of the plan and map. The Highlands Council will reconsider the Land Use Capability designation on the Map or in the Regional Master Plan after reviewing the additional local information.

#### FUNDING ASSISTANCE FOR PLAN CONFORMANCE

The planning grants timetable included in the Regional Master Plan indicates a total grant appropriation of \$30,104,914.00 to be allocated between the 88 municipalities within the Highlands Region over a six year period beginning 2006 and ending in 2011. There is no indication as to what considerations will be given in allocating the funding by municipality. It is interesting to note that West Milford Township, consisting of 51,901 acres, makes up 6% of the Highlands Region, 12% of the Preservation Area, and 61.8% of the Passaic County portion within the Region. On reviewing the conformance requirements that will be expected of the municipalities in order to be found consistent with the Regional Plan, substantial work and costs for a township the size of West Milford lies ahead.

## ATTACHMENT C

Using the Township GIS parcel layer linked to the Township Tax Assessor's records, an analysis of the Planned Community Zones/Specially Planned Areas was undertaken.

Within the 51,000+ acres of West Milford, there are 748 existing lots of record that are privately owned and greater than 10,000 square feet (excluding Newark - and Community Association-owned properties). Of those 748 lots, 628 are tax assessed Class 1 Vacant, and 120 are Class 3B Farm assessed vacant (without residences).

The Planned Community Zones/Specially Planned Areas (Areas) comprise a total of 2,918 acres within the Township of West Milford. These Areas are roughly drawn and not based on parcel lines. There are approximately 5,117 lots "that have their center in" these Areas. Of these 5,117 existing lots of record, 4,486 are residential, 153 are commercial or industrial, 123 are public (State, County, Township, Newark) or nonprofit-owned (such as churches, schools, cemeteries), 2 are residential farms, 2 are non-residential/vacant farms, and 351 are Class 1 Vacant. When excluding Newark- and Community Association-owned properties, there are 304 Class 1 Vacant lots. Of these 304 vacant lots, 86 are between 5,000 and 10,000 square feet, and 124 are greater than 10,000 square feet.

Of the 5,117 lots within the Areas, 2,908 are within one of West Milford's LR (Lake Residential) Zones. Portions of several lake communities are included in the Planned Community Zones/Specially Planned Areas. The lake communities included are Upper Greenwood Lake, Awosting, Big Rock Cove, Pinecliff Lake, West Milford Lake, Lindy's Lake, the Mount Glen Lakes, and Highcrest Lake. Of the total 2,908 lots, 245 are Class 1 or 3B, and of these 245 lots, 74 are between 5,000 and 1,000 square feet, and 70 are greater than 10,000 square feet.

The 74 lots that are between 5,000 and 1,000 square feet are divided among the lake communities as such; Upper Greenwood Lake 43, Awosting 2, Big Rock Cove 3, Pinecliff Lake 8, West Milford Lake 12, Lindy's Lake/Mount Glen Lakes 6, and Highcrest Lake 0. The 70 lots that are greater than 10,000 square feet are divided among the lake communities as such; Upper Greenwood Lake 34, Awosting 1, Big Rock Cove 4, Pinecliff Lake 12, West Milford Lake 10, Lindy's Lake/Mount Glen Lakes 9, and Highcrest Lake 0.

This analysis has been performed without taking environmental constraints, such as wetlands and steep slopes, into consideration. Also not analyzed were individual dimensions, such as lot width and depth.