



*State of New Jersey*  
DEPARTMENT OF STATE  
NEW JERSEY STATE PLANNING COMMISSION  
PO Box 820  
TRENTON NJ 08625-0820

CHRIS CHRISTIE  
*Governor*

GERRY SCHARFENBERGER, PH.D.  
*Director*

KIM GUADAGNO  
*Lieutenant Governor*

**New Jersey State Planning Commission  
Minutes of the Meeting Held on January 16, 2013  
State House Annex  
Committee Room 1  
125 West State Street, Trenton, New Jersey**

**CALL TO ORDER**

Vice Chair Eskilson called the January 16, 2013 meeting of the New Jersey State Planning Commission (SPC) to order at 9:42 a.m.

**OPEN PUBLIC MEETINGS ACT**

Deputy Attorney General Don Palombi announced that notice of the date, time and place of the meeting had been given in accordance with the Open Public Meetings Act.

**ROLL CALL**

**Members Present**

Kenneth Albert, Public Member (arrived at 9:46 a.m.)  
John Eskilson, Public Member  
Monique Purcell, Designee for Douglas Fisher, Secretary, Department of Agriculture  
Kim Ehrlich, Representative for Michele Brown, Chief Executive Officer, NJ Economic Development Authority  
Dominick Fiorilli, Designee for Lt. Governor Kim Guadagno, Department of State  
Shing-Fu Hsueh, Mayor, West Windsor, Public Member  
Joyce Paul, Designee for Richard Constable, Commissioner, Department of Community Affairs  
Marc Larkins, Chief Executive Officer, Schools Development Authority  
Marilyn Lennon, Designee for Bob Martin, Commissioner, Department of Environmental Protection  
Thomas Michnewicz, Public Member  
Andy Swords, Designee for James Simpson, Commissioner, Department of Transportation  
Edward McKenna, Chairman, Public Member (arrived at 9:48)

**Members Not Present**

None

**Others Present**

(See Attachment A)

## **PLEDGE OF ALLGIANCE**

Vice Chair Eskilson asked everyone to stand for the Pledge of Allegiance.

## **APPROVAL OF MINUTES**

Vice Chair Eskilson asked for a motion to approve the Minutes of the November 13, 2012 meeting. Commissioner Purcell made the motion and it was seconded by Commissioner Michnewicz. There were no discussions, comments or changes. All were in favor, no opposed or abstentions. The minutes were approved.

## **CHAIR'S COMMENTS**

Vice Chair Eskilson noted the Chair's Comments would be held until the arrival of Chair McKenna.

## **DIRECTOR'S REPORT**

Director Scharfenberger reported that since the last State Planning Commission meeting, the Office for Planning Advocacy has continued to work on reviewing the State Strategic Plan and formulating recommendations for possible revisions in light of last year's storm. During the interim period, work has continued on the agency plans, criteria and an initial framework for the proposed scorecard. Several other initiatives undertaken by OPA include:

The first meeting of the Brownfields Interagency Work Group (IAWG), which was held on January 3, 2013 and was an overwhelming success. Over 30 State and Federal agencies attended the meeting and provided guidance and programmatic suggestions to the cities of Newark, Elizabeth and Paterson to help their Brownfields redevelopment projects. The list of projects that were presented is as follows:

Newark – Frelinghuysen Avenue Corridor (two sites), Lister Avenue Corridor (two sites) and Doremus Avenue Corridor (three sites)  
Paterson – National Guard Armory project and Great Falls project  
Elizabeth - Parcels B&D in midtown near the train station

The next meeting will focus on municipalities in the central part of the State that have had State and Federal investments in Brownfields redevelopment projects.

The Redevelopment Unit in OPA has been instrumental in initiating, coordinating, and participating in the discussions that helped overcome a major obstacle to the City of Linden's plan to construct a Connector road that links NJ Turnpike Exit 12 into Linden's Tremley Point Area. Tremley Point is currently composed of approximately 400 acres of underutilized and vacant Brownfields areas and several petroleum storage facilities that distribute refined petroleum products to the region. Analysis of lost ratable opportunity at that time is estimated at \$42 million dollars between 2001 and 2007. Between 2008 and 2015 when the connector road is projected to be completed, the lost ratable to the City of Linden is estimated to be \$76 million dollars. The Tremley Point area of Linden has great potential to regain its position as a major industrial center and could become a major hub for large-scale manufacturing, maritime industries and transportation, or clean energy.

This site has:

- \$200 million in redevelopment potential
- \$12 million in potential rateables for the City
- Potential for 1,600 jobs

The City has been informed that NJDEP has issued a feasibility letter to US Coast Guard stating that Piles Creek is suitable as a mitigation site provided that contamination issues are resolved. OPA has assisted the City in bringing the key players to the table to identify issues and solutions.

Director Scharfenberger noted that the office experienced some technical difficulties this past week which resulted in several documents being posted later than anticipated for review. He apologized for any inconvenience that may have caused.

In closing, Director Scharfenberger thanked the members of the Commission, the Administration and State Agencies for all of the support and assistance they provided to OPA on our various initiatives.

## **NEW BUSINESS**

### **Resolution No. 2013-01 – Approval of Annual Meeting Schedule**

Vice Chair Eskilson asked for a motion to approve Resolution No. 2013-01 Approval of Annual Meeting Schedule. The motion was made by Commissioner Swords and seconded by Commissioner Michnewicz. There was no discussion. All were in favor, no opposed or abstentions. Resolution No. 2013-01 was approved.

### **Election of Vice-Chair**

Vice Chair Eskilson asked for nominations for the election of Vice Chair. Commission Lennon nominated current Vice Chair Eskilson for the position and it was seconded by Commissioner Michnewicz. There were no other nominations. All were in favor, no opposed or abstentions. The nomination was approved.

### **Resolution No. 2013-02 – Authorizing the Designation of an Interim Center, MOU and Action Plan for Borough of Millstone (Somerset County)**

Barry Ableman provided a brief PowerPoint presentation on the Millstone Borough matter. He explained that the borough entered the Plan Endorsement process in order to reestablish a small village center and to address sewer service concerns. It was also noted that an Action Plan was created in order for the borough to complete the final steps to achieve Plan Endorsement.

Chair McKenna asked for questions regarding the Millstone Borough matter. Commissioner Eskilson noted that the matter had been heard at the last PIC meeting. The committee voted unanimously with a positive recommendation for approval on part of the PIC to move the matter to the full SPC for action.

Chair McKenna asked for a motion on Resolution No. 2013-02. The resolution was moved by Commissioner Eskilson and seconded by Commissioner Michnewicz. There were no questions or discussion from the SPC members. Chair McKenna asked for a roll call vote. Ayes: (11) Ken Albert, John Eskilson, Monique Purcell, Dominick Fiorilli, Joyce Paul, Shing-Fu Hsueh, Marc Larkins, Marilyn Lennon, Thomas Michnewicz, Andy Swords, Ed McKenna. Nays: (0). Abstentions (0). Resolution No. 2013-02 was approved.

### **Mount Olive Map Amendments**

Deputy Director Kennedy provided a brief background on the final steps for the SPC regarding the two proposed Mount Olive map amendments that were on the agenda. He also recapped the process in the State Planning Rules that allow for the SPC to self-initiate map amendments of a technical nature and consistent with the existing 2001 State Plan. Deputy Director Kennedy reported that at with the assistance of Mount Olive notice of the public hearing was provided to the property owners, those with

rights-of-ways and utility easements within 200 feet of the proposed change. Mount Olive hosted the public meeting, for both proposed amendments, on held on December 11, 2012. Following the public hearing there was a 30 day written comment period officially closed on January 11, 2013. Deputy Director Kennedy further report that staff had reviewed all the comments received from both the public hearing and written comments and made revisions to the draft justifications as appropriate. He explained that the revisions that were made were to strengthen the justification and to provide clarification in certain areas.

Lastly, Deputy Director Kennedy explained that, if the SPC were to vote affirmatively with the staff recommendations for the map amendment resolutions presented, the next step in the process would be to submit a notice of change to the New Jersey Register and officially change the State Plan Policy Map for each of the items.

### **Resolution No. 2013-03 – Approval of Township of Mount Olive (Morris County) Rt. 180 Map Amendment**

Deputy Director Kennedy provided a brief PowerPoint presentation on the proposed I-80 map amendment. He noted that the amendment had been labeled I-80 because the proposed area was in the I-80 node along Route 206 in Mount Olive Township and roughly within the Foreign Trade Zone. Deputy Director Kennedy explained the following points with respect to the proposed map amendment:

- The change would impact 20 lots, roughly 413 acres.
- The area was currently designated as a Planning Area (PA) 5 Environmentally Sensitive and located within the Highlands Planning Area.
- The draft cross-accepted map from the 2000's had agreement at the Commission level to change the area to a PA2.
- There was infrastructure currently in place --roads, exiting buildings, water and sewerage capacity.
- The area was within the Foreign Trade Zone.
- The area contains limited environmental constraints and staff recognized that concern within the justification report. The environmental constraints are regulated at the State and Federal level.
- Mount Olive has taken extraordinary steps to protect the environmental constraints by adopting local land use ordinances, a strong master plan with a strong land use element, and a conservation element.

Deputy Director Kennedy explained that staff believes that that original assumption of Planning Area 5-Environmentally Sensitive area was incorrect. A review of the maps shows that most of the area was not environmental constrained and therefore a technical mistake was made within the mapping. Deputy Director Kennedy reviewed a series of maps showing the Rank4 habitat and Rank 5 habitat, and the existing uses. He also explained that the proposed amendment area was within the proposed sewer service area for Morris County and that there was a consensus among the County, Mount Olive Township and DEP at the staff level and should be adopted thereby further justifying the amendment.

Deputy Director Kennedy explained that there was a large open tract within the amendment that had been the subject of numerous public comments. He noted an exhibit that showed the parcel and the approved development (at the local level) remains within the sewer service area. He further explained that the approved development had received the permits and had environmental reviews completed. He explained that because the tract has approvals, staff was not recommending that the tract be removed from the amendment.

Deputy Director Kennedy further noted that the staff summarized the comments stating the reasons

for general support and the reasons for opposing the amendment. He stressed that staff reviewed all the comments and took them into consideration when making the final recommendation.

The staff recommendation was to approve the I-80 map amendment by adopting Resolution No. 2013-03 as presented with the justification report, which included the basis for the SPC taking action.

### **Public Comment on I-80 Map Amendment**

Elliot Ruga, Senior Policy Analyst for the New Jersey Highlands Coalition commented that the draft State Strategic Plan states that the preservation of New Jersey's critical resources were not only equal in priority to promoting economic growth but recognizes that protecting New Jersey's natural resources was an essential element of a vibrant economy. He noted that if the SPC wanted to remain faithful to that stated goal it could not ignore the presence of the verified critical natural resources located within the proposed map amendment. He noted the following concerns:

- The lack of information contained within the justification report with respect to the critical environmental sites and cultural historical sites. Mr. Ruga questioned how the OPA staff accounts for the omission.
- Mr. Ruga questioned if the SPC had a formula for determining when natural resources were going to be sacrificed and when they would be preserved.
- The justification report omits any discussion of the 65 acres of undisturbed upland forest surrounded by Allamuchy State Park. This is an area containing wellheads, has State endangered habitat, was a prime groundwater recharge area, has the presences of wood turtles and a characteristically intact segment of the State and Federally listed Morris Canal. All known critical resources inventoried by the DEP, the Highlands Council and are all included in Mount Olives' own natural resources inventory. Good planning takes on a difficult and important challenge of balancing economic growth with natural resource protection. The proposed map amendment fails to balance economic growth with natural resource protection.
- The 2000 Cross-Acceptance agreement with Morris County and OSG was contingent upon DEP PA2 boundary shape files and the designation of critical environmental sites. Neither the shape file nor the CES designation was included in the proposed map amendment. There is little resemblance between what is proposed today and what was agreed upon in 2007.
- Protecting natural resources of the State as the SSP clearly recognizes is essential to our economic health.
- Since the SPC has no regulatory authority, the municipality is free to do what it wishes. Therefore, the SPC should be encouraging good planning. A vibrant economy cannot be maintained if the SPC fails to protect critical resources.
- The SPC should maintain the PA5 designation for the portion of the site that is environmentally sensitive and culturally significant. He had a petition with 1,000 signatures from across the State supporting this step.

Mr. Ruga noted that he understands that there is a need to develop the area, but felt leaving the protection of the critical resources up to Mount Olive zoning or to DEP to protect it was not the way to go. In closing, Mr. Ruga asked the Chair if he could read a brief statement from Trout Unlimited, New Jersey Chapter since they were not able to attend the meeting.

Mr. Ruga read the following statement from Brian Cowden, Musconetcong Home Rivers Initiative Coordinator of Trout Unlimited: "The Musconetcong Watershed is very unique in that its headwaters and upper watersheds are the most impaired waters within the watershed. As it flows southwest to the Delaware River the Musconetcong River mixes with the limestone influenced groundwater both pooling the water and cleansing it. The proposed change to the State Plan would allow for development in the impaired section of the watershed further denigrating water quality. This future development threatens groundwater recharge areas, historical features of the Morris Canal and would

cause further water quality impairment to Wills Brook, a Musconetcong tributary, which flows through the property. Trout Unlimited have worked under a federal grant to study impairments on Wills Brook and to formulate a restoration plan for this stream. Further development in the wetlands surrounding the former BASF building will render our restoration plans useless or nearly so.”

Commissioner Purcell commented that she was concerned that the SPC was back to the discussion of what the purpose of the planning area designations were. She noted that a PA2 designation did not mean that critical resources were not protected. The critical resources are acknowledged and protected, especially through the sewer service process. She explained that even in a PA5 designation if an area was identified as an environmentally sensitive area it did not mean that development could not occur outside the identified environmentally sensitive area. She noted that after reviewing the material she felt that the PA5 designation which currently exists was an impediment to soliciting businesses for the area and provides for a disconnect with State programs providing incentives. She noted that a planning area designation was supposed to be a broad brush for the types of things that should happen within the designation. She further noted that with the new SSP, the SPC would be moving away from the map and looking at the resources available no matter where they were located. Lastly, she noted that she was comfortable that DEP would protect the resources and that Mt. Olive has the appropriate ordinances in place to protect the critical resources as well.

Chair McKenna thanked Commissioner Purcell for her comments and asked if the Mount Olive representative would come forward.

Mr. McGroarty, Planning Consultant for Mount Olive Township noted that he has been the planning consultant for the township for the past 25 years and has historical knowledge of the matter. Mr. McGroarty touched on the following points:

- The proposed area has been located within a Foreign Trade Zone and within the larger context of the International Trade Center for the last 30 years.
- He clarified that the track in question was 57 acres not 67 acres. He explained that the 67 acre track had been swapped with the DEP Green Acres Program for the 57 acre track.
- He explained that that 57 acre track received site plan approval in 1991 for 700,000 square feet of office space and was a companion to the BASF Complex.
- He also explained that the proposed planning area change from PA5 to PA2 has been advocated for many years and was not a spur of the moment request. The amendment is part of a long term sensible planning approach.

Mr. McGroarty highlighted that Mount Olive was within the Highlands region and that 80% of the Township was within the restricted Preservation Area. However, the proposed amendment was located within the Highlands Planning Area. He also noted that Mount Olive was one of the first municipalities to conform in the Preservation Area. The township feels the amendment is a rational approach and that it has the appropriate ordinances in place to protect the resources such as: a tree protection and replacement ordinance and a well protection ordinance. He also noted that there were no public wells in the area. He noted that wellhead tiers 2 and 3, but mostly 3, fall on the tract and have a 12 year protection area.

Lastly, Mr. McGroarty reiterated that the zoning for the proposed map amendment area has been in place for 30 years. The township does not think it poses a problem to the residents. There will not be inappropriate development. The development will be a sustainable type of development. Chair McKenna asked for questions or comments from the SPC members.

Commissioner Albert asked Mr. McGroarty to bring the SPC up-to-date on the development that was approved in 1991 and whether there was a new development approval. Mr. McGroarty indicated that

there were no new development approvals to his knowledge. A site plan extension was granted by the township. He noted that the zoning has not changed therefore, the site plan remains valid. He further noted that since the area was in a PA5 and not a smart growth area the Business Incentive Grants were limited and that fact has turned people away from the BASF complex. He noted that he suspected the PA5 designation also kept people away from the 57 acre track as well. There was a brief discussion on the on the issue of financing and grant options within PA5.

Mr. McGroarty commented the township has the ordinances in place to protect the critical areas. He also welcomed the examination of their zoning to see if anything was missing and if so, they would work to change it.

Wilma Frey, Senior Policy Manager for New Jersey Conservation Foundation provided a written statement (Attachment B). In addition to the comments provided, Ms. Frey, commented that the Highlands was designated a Special Resource Area in the State Plan Map which was being used as the basis for the amendment. She noted that the Highlands Act and Highlands Regional Master Plan were an outgrowth of the State Plan and provides detailed information and in some cases regulations. She feels that the SPC should be paying more attention to the Highlands Regional Master Plan and that the proposed amendment undercuts and undermines the better planning that has been done and is being done by the Highlands Council. Ms. Frey also noted that portions of the tract have been identified as a Forested Resource Area, portions contain Rank 4 critical habitat, the highest rank of any State threatened and endangered species habitat. She noted that the SPC needs to take these things into consideration. Additionally, she noted that over 100 acres were delineated as Protection Zone and more than half of the remainder land was designated as Environmentally Constrained Existing Community Zone. These designations should also be taken into account. Ms. Frey noted the State Plan has tools that allow for a means to protect Critical Environmental Sites (CES) and Critical Historic Sites (CHS). These tools are used for larger areas that otherwise were seen as suitable for development, such as PA1, PA2 and PA3. She noted that the SPC should avail itself of these planning mechanisms in order to do a credible job of planning in the subject area. She asked the SPC to table or vote against the resolution at this time and to go back to the drawing board to identify and protect using its own planning mechanisms the areas that are critically important for the environment and for historic resources. Ms. Frey noted that as of right now, the planning was not credible and could even be considered as arbitrary and capricious. Lastly, Ms. Frey commented on the last minute processes of releasing documents giving the public a very limited time to respond.

Jeff Tittel, Director New Jersey Sierra Club commented that he was commenting today more along the board picture then for the individual site even though he thought there were some serious environmental constraints on the site. He noted that the SPC was supposed to be encouraging regional planning. He felt that the actions today were going around the Highlands process not just for the site being discussed, but that the SPC was setting the stage for what will happen in the future as well. He noted that the chart contained within the SSP identifies non-conforming towns as being within a growth planning area or a center automatically receiving the benefits of the SSP without doing any of the proper planning work. He feels this identification will undermine regional planning in the Highlands because towns that want growth areas will come in for a map amendment and not conform to the Highlands Regional Master Plan. Mr. Tittel noted that one of the reasons that the original designation of PA5 was given was because a number of people in State government including the SPC did not feel comfortable with the land swap when it was original done. They wanted some kind of control of the area because it was environmentally sensitive and that was why the Highlands identified the area as environmentally sensitive in an Existing Community Zone. He also noted that there was a major well field within the area and is contiguous forest. The designation was given so that the site, when developed, would be developed appropriately.

Mr. Tittel asked the SPC to table the map amendment and to re-examine the matter and determine what areas are appropriate for development and which areas should not be developed. He also noted that the proposed amendment would now fall into the Permit Extension Act because it meets the

definition of an extension area. Lastly, he noted that he felt that the proposed amendment was undermining the Highlands in the long term. The SPC should be working together with the Highlands not taking a separate path.

Cindy MacGonagle, Volunteer and Vice President of the Musconetcong Watershed Association commented that the property in question abuts the river and that her organization was quite concerned. They would like to protect the resources on the property, particularly the forested area. She also noted that they were concerned about the prime groundwater recharge area and the Morris Canal. She noted that she had not heard how this particular section would be preserved and how the buffers along the river would be protected. Ms. MacGonagle explained that the Musconetcong was a wild and scenic river and the association feels that inappropriate development would add to the degradation of the river. She agreed that the SPC should go back and re-examine the area and determine what is appropriate for redevelopment and carve out the forested areas and the buffers so that they are protected.

Chris Sturm, New Jersey Future commented that the I80 amendment was not a simple amendment. She noted that everything except the 57 acre parcel made sense because it fit the criteria of PA2. She further noted that the portions that meet the criteria for PA5 were irrefutable: contiguous forest, groundwater recharge area, and highly ranked habitat. The question being how does the SPC resolve the concerns when the municipality's master plan calls for development, when there are sewer service area approvals and support from the county for development. At the same time there is the Highlands Regional Master Plan designating the parcel as a Protection Zone within the Planning Area. She further noted that the 2001 State Plan recognizes that growth areas may have historical or natural resources that deserve recognition. Although not having regulatory authority the designations sends direction to a developer or landowner that they need to keep the critical features in mind. Ms. Sturm commented that New Jersey Future could fully support the amendment if CES designations were provided for within the 57 acre parcel. Without the designations, New Jersey Future thinks the SPC is missing something and coming up short. Lastly, Ms. Sturm encouraged the SPC to enter into a Memorandum of Understanding with the Highlands Council so that there were guidelines in place going forward.

Vice Chair Eskilson thanked Ms. Sturm for her comments regarding coordination with the Highlands Council. He noted that he felt that potential conflicts with the Plan might have been resolved had the Highlands Council come in for Plan Endorsement as required under the law.

David Peifer, Highlands Project Director for ANJEC provided detailed comments as to why ANJEC was concerned with the designation changing from a PA5 to a PA2. (Attachment C)

Deputy Director Kennedy clarified that the staff did not ignore the comments received suggesting that there a CES designation or Historic overlay of the area. He referenced an analysis of the linkages between the State Plan designation and State incentives and regulations tied to the State Plan (included in the draft Final SSP as an attachment). He explained that having a CES or Historic overlay was not connected to an incentive program or environmental regulation that would make a difference. He reiterated that Mount Olive has proactively taken steps through adopted local ordinance to protect the critical and natural resources. He also noted that had DEP not had the complementary regulatory framework to protect those resources, as well, staff certainly would have recommended the CES and historic designations.

There was a brief discussion on what kind of environmental review was done by DEP on the site and whether the subject area was included in the sewer service area and that was currently under review at DEP. There was also a discussion on the downside of accepting the CES recommendations. In addition, the concern over sewer capacity was discussed. Mr. McGroarty commented that there was a 383,000 gallon capacity remaining at the MSA and that Mount Olive has a contractual gallonage in place.



Robert Barth, Past President, Canal Society of New Jersey noted that he was going to speak to the cultural resource that goes right through the center of the property. He explained that the Morris Canal was probably the first economic development for the area when it opened in 1832 to full traffic and was closed in 1924. He noted that a small section in Mount Olive has been preserved. He suggested that the SPC table the matter and scalpel out the historic and cultural resources. He further noted that BASF preserved a section of the canal and put in trails and allowed the Canal Society and public to walk the trails for many years. He questioned what the setbacks and viewscales would be if the proposed amendment went through. He also questioned who was going to protect the resource, whether Mount Olive had ordinances in place and what the size of the buffer would be.

Chuck McGroarty, Mount Olive Township commented that the portion of the canal that Mr. Barth was referring to did not run through the 57 acre tract but runs through the southern tract which was already developed by BASF. The tract was preserved with the cooperation of BASF. He further noted that there was an open canal in the area on what the township calls the Crossroads site which was an undeveloped area in the Foreign Trade Zone. Mr. McGroarty explained that that the township has stream corridor protection buffers in places and has environmentally sensitive and critical area ordinances in place. He noted that with the portion already preserved on the BASF site it shows Mount Olive's commitment and willingness to protect critical resources.

Sean Canning, Business Administrator for Mount Olive Township commented that the former BASF site was one of the largest unoccupied corporate campuses in New Jersey. He explained that at the time the campus was functional it provided Mount Olive with a tax ratable of a quarter of million dollars and when BASF left it devastated the community. He explained that Mount Olive was the second largest community in Morris County with 80% of the municipality within the Highlands Preservation Area and that the township has a very robust open space endeavors. He further explained that to take out the 57 acre parcel would do irreparable harm to the people of Mount Olive who were footing the bill. He noted that there were very few economically viable tracks within the municipality. The 57 acre track has already had prior approval and to take it away would hurt the citizens of Mount Olive.

There was a brief discussion regarding the comments received by the SPC from the Byram and Stanhope regarding the impact of development on the site impacting wellheads. Mr. Canning noted that he had spoken to the Business Administrator in Stanhope and had put a call into Byram but had not yet spoken with any officials. He noted that he felt that there may have been a misinterpretation from the engineer. He explained that they were worried about the wellheads which were directly behind a portion of Mount Olive, which was already developed. The wellheads are regulated through Mount Olive zoning and by other applicable DEP statutes. He also noted that he would gladly attend a council meeting to explain.

Robert Barth, Canal Society of New Jersey commented that he was happy to hear about preservation of the canal within the BASF property. He noted that he was still concerned about what regulations Mount Olive had in place to preserve the area. Lastly, he noted that he felt the historic resource area should be taken out of the plan so it was not destroyed.

Christine Marion, Planning Director for Morris County noted that the SPC received her letter supporting the Mount Olive planning area changes. She noted that the amendment was a very common sense approach given the history through Cross-acceptance. Beginning with the tier system the county felt the area in question would be viable for future growth and development. It made sense from a regional planning prospective and at the time their master plan element supported center based development. Ms. Marion reiterated that the area was served by sewer, water, Route 80, a highway system with a major interchange, was designated in the International Trade Center and also had a train platform making transit available as well. She further noted that planning areas were not zoning maps. She explained that overall from the regional planning and economic development

perspective for Mount Olive it makes sense to have growth in this area versus other areas of the township where it has taken on very aggressive land protection efforts. Lastly, she reiterated that the County of Morris supports the amendment and has worked with Mount Olive, the State and DEP and has put the entire area being proposed as a PA2 in the sewer service area, which was one of the criteria for a PA2 and not for a PA5.

Elliot Ruga, commented that there were still some unanswered questions before the SPC. He noted that the business administrator mentioned that he spoke with the Township of Stanhope but there was also a letter from the Mayor of Byram stating their concerns for the wells that were within the PA2 designation, which he feels was within the 57 acres and that the matter had not been addressed. He explained that they were not asking that there be no development at the site, but that the important cultural and natural resources are recognized with a CES and HCS designation. He further noted that the Highlands had mapped the entire 57 acre parcel within the five year tier of the Wellhead Protection Program. He noted that just because Mount Olive has not conformed to the Highlands Regional Plan in the planning area, it was not a reason to deny mapping features that are present.

Chuck McGroarty commented that the township has among other things a natural resource protection feature in their ordinances and a number of other items which would apply to the site. He further noted that the 57 acre site in question has a site plan approval from 1991 and that if there was concerns the townships would have heard about it long ago. Mr. McGroarty explained that the township was working with the Highlands Council to try to promote economic tourism in Mount Olive. The township is trying to redevelop around the beach/lake in the Highlands Preservation Area, working to promote access to the State Parks, and to the Morris Canal and to Waterloo Village. He explained that the township sees the natural resources as assets and has no intention of destroying them or letting anyone else destroy them. With respect to the wellhead protection, Mr. McGroarty noted that the township proactively mapped the wellhead areas and has protections in place for the wellheads. He further noted that if Stanhope and Byram have renewed concerns about the development potential that was consistent with the zoning in place for the last 30 years, and has concern for Mount Olive's zoning, then the township will work with them.

Commissioner Albert commented that he was generally supportive remapping the area. He noted that he was concerned with what approvals or reviews would be needed from the State, DEP or the township in light of the 1991 site plan approval. There was a brief discussion over the concern with Mr. McGroarty noting there was a preliminary site plan approval from the township, an LOI from DEP and wetlands delineation. However, if there were any changes to the preliminary site plan approval, current day zoning and ordinances would be in effect. In addition, current DEP rules and regulations would also be in effect for any future development as those rules and regulations are not grandfathered.

Chair McKenna asked for a motion on Resolution No. 2013-03 Approval of Township of Mount Olive (Morris County) Rt. 180 Map Amendment. Commissioner Eskilson made the motion and it was seconded by Commissioner Michnewicz. Chair McKenna asked for discussion from the SPC members.

Chair McKenna commented that the he believes that everyone on the SPC takes their positions very seriously and for it to be implied otherwise was unfair to the members. He noted that he received over 1,000 emails regarding the 180 map amendment. They were very well written and offered good suggestions. Chair McKenna noted that it was important to recognize the efforts of Mount Olive with respect to their preservation efforts and protection efforts within the municipality as well as in the proposed map amendment area. He also noted that there were State protections in place to provide protections. He felt that with the work already done by the township that the township would not allow someone to bulldoze the area. Chair McKenna also recognized the county's role in endorsing the map amendment. He felt that the SPC members asked very good questions and that staff had a well thought out the justification. He noted that he listened to all the concerns raised during the public

comment. At the end of the day he was comfortable with the staff recommendation and felt that the SPC would not turn its back on the matter. If there was a time in the future, if appropriate, the SPC could do another map amendment if necessary. Chair McKenna noted that he was comfortable with voting "yes."

Commissioner Lennon commented that the SPC was still dealing with the old State Plan while trying to migrate to a new State Strategic Plan, one that is infrastructure based and protective. She noted that she was not aware of any current development proposal or of any grandfathered development for the site. She explained that DEP has strict regulations and going forward a developer would have to come before DEP for approvals for development in the proximity to water bodies or wetlands. She also noted that an old LOI does not carry over. She stressed that today's action was to look at whether the change makes sense, was it in the proximity of an already developed area and was there infrastructure in place. She noted that an affirmative action was neither a regulatory approval nor a consideration of any development.

Commissioner Purcell commended Mount Olive for their work over the years. She noted that she was comfortable with the amendment for the reasons discussed as well as the work already done by the Mount Olive. She noted she was in support of the amendment.

Commissioner Albert commented that the staff material was very helpful. He noted that he only had the one concern regarding an old site plan approval. He noted that he has been reassured that the township would do a thorough review of any development and more importantly DEP would have to review any development as well. He noted that he generally supported the amendment.

With no other questions or comments, Chair McKenna asked for a roll call vote. Ayes: (11) Ken Albert, John Eskilson, Monique Purcell, Dominick Fiorilli, Joyce Paul, Shing-Fu Hsueh, Marc Larkins, Marilyn Lennon, Thomas Michnewicz, Andy Swords, Ed McKenna. Nays: (0). Abstentions (0). Resolution No. 2013-03 was approved.

#### **Resolution No. 2013-04 – Approval of Township of Mount Olive (Morris County) Pleasant Hill and Bartley Roads Map Amendment**

Deputy Director Kennedy provided a brief PowerPoint presentation on the Pleasant Hill and Bartley Roads map amendment noting that this particular amendment was not subject to as intense public comment as the I80 amendment. During the presentation, Deputy Director Kennedy, explained that although there are commercial uses within the area there was also a high suburban context with residential therefore, a lot of the questions raised were why was the recommended change for a PA2 opposed to a PA1, which was a more an urban designation. Deputy Director Kennedy noted that the change would affect 400 acres or 400 lots (smaller residential lots) and was also not in an industrial node for jobs like the I-80 amendment. The current designation had the following criteria:

- PA5 designation
- Within the Highlands Planning Area
- All the things that were said about the Highlands Planning Area in the I-80 amendment stand true for this amendment as well
- There is infrastructure is in place
- The is area was less environmentally sensitive

Deputy Director Kennedy explained that due to the mapping paradigm a standalone PA2 would be inconsistent with the office's current mapping framework. He noted that there was an existing PA1 in the adjoining municipality of Roxbury. Questions raised by residents who attended the hearing or called the office included:

- Is this going raise or lower my taxes
- Does this have anything to do with eminent domain
- Is it going to change the local zoning

Deputy Director Kennedy noted that he felt because of the lack of public comment on this proposed amendment he felt staff had done a decent job of explaining to the public and residents that the change was a pragmatic change that reflected the nature of the area. He further noted that there were opportunities for repurposing, reconstructing, and redeveloping certain areas which would be completely consistent with a PA1 designation. Deputy Director showed maps of the area indicating the PA5 designation and how the CES designation had been ineffective from a hard edge regulatory perspective in stopping growth. As a result of what has happened on the ground over the years, staff feels that there is a technical basis to make the change. He also showed the Highland Zones and reiterated that the protection zones and the environmental features would be regulated through local ordinances and State law.

He noted further noted that the justification report acknowledges those environmental resources that should be considered when make the change. Lastly, he noted that the proposed change was within the sewer service area, capacity had been confirmed with the local officials and zoning was for commercial, residential or light industrial all of which was consistent with the PA1 designation in the areas, especially the PA1 in Roxbury.

Chair McKenna asked for comment on Resolution No. 2013-04. The SPC members had no questions or comments at this time and were comfortable with the justification report. Chair McKenna asked for public comment. There were no public comments or questions at this time.

Chair McKenna asked for a motion on Resolution No. 2013-04. Commissioner Eskilson made the motion and it was seconded by Commissioner Michnewicz seconded the motion. There was no discussion. Chair McKenna asked for a roll call vote. Ayes: (10) Ken Albert, John Eskilson, Monique Purcell, Dominick Fiorilli, Joyce Paul, Shing-Fu Hsueh, Marc Larkins, Thomas Michnewicz, Andy Swords, Ed McKenna. Nays: (0). Abstentions (0). Resolution No. 2013-04 was approved.

Chair McKenna thanked the Mount Olive officials and the Morris County Planning Department officials for being in attendance.

### **State Planning Commission Subcommittee Reorganization**

Chair McKenna suggested that the PIC membership remain the same, unless there was a reason at this time to change the membership. The SPC agreed to keep the membership to include John Eskilson as Chair, Ken Albert, Tom Michnewicz, Dept. of Agriculture, Dept. of State, Dept. of Environmental Protection and Dept. of Transportation. All were in favor, no opposed or abstentions.

### **PUBLIC COMMENTS**

Chris Sturm, New Jersey Future asked whether the SPC had heard on the status of the draft Final SSP. She noted that action for approval was held on November 13, 2012 to allow the Governor a chance to address the impacts of Hurricane Sandy. She further noted that New Jersey Future along with several other colleagues had submitted recommendations on how to do that. She commented that since the SSP was a high-level framework and fairly general it would not need to be a long term detailed process to revise the SSP to provide for resiliency. She noted a concern that once the campaign season started in the Spring, it would be very difficult to get the SSP adopted.

Chair McKenna commented that he would be speaking with representatives from the Governor's office sometime within the next week.

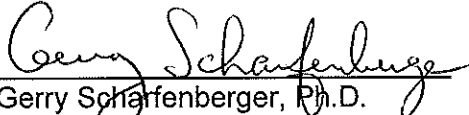
## COMMISSIONER REPORTS

There were no Commissioner reports at this time.

## ADJOURMENT

With no further comments from the SPC or the public, Chair McKenna asked for a motion to adjourn. The motion was made by Commissioner Michnewicz and seconded by Commissioner Hsueh. All were in favor. The meeting was adjourned at 11:33 a.m.

Respectfully submitted,



Gerry Schaffenberg, Ph.D.  
Secretary, State Planning Commission

Dated: January 29, 2013

# Attachment A

## NEW JERSEY STATE PLANNING COMMISSION

DATE: JANUARY 16, 2013

TIME: 9:30 AM

LOCATION: COMMITTEE ROOM 1, STATE HOUSE ANNEX,  
TRENTON, NJ

NAME	AFFILIATION
Robert BARTH	Canal Society of New Jersey
MARGARET NORDSTROM	NJ HIGHLANDS COUNCIL
Bill Leavers	Musconingcong Watershed Assn
Chuck McGROARY	Mt Olive Township
Catherine Nardafalussy	Mt Olive Twp.
Christine Marion	Morris County Planning Board.
WILMA FREY	New Jersey Conservation Fdn.
Libby MacGonagk	Musconingcong Watershed Association
Jim Leuts	NJDOT
Ohnig Stern	New Jersey Future
Jeff Tittel	SIREACUS



**New Jersey Conservation**  
**F O U N D A T I O N**

Bamboo Brook, 170 Longview Road  
Far Hills, NJ 07931  
Ph: 908-234-1225 Fax: 908-234-1189

**Statement of Wilma Frey, Senior Policy Manager,  
New Jersey Conservation Foundation**

**Re:  
Mt. Olive Map Amendments  
Before the  
State Planning Commission, Trenton, NJ  
January 16, 2013**

New Jersey Conservation Foundation opposes Resolution No. 2013-03, the Approval of Township of Mount Olive (Morris County) Route I-80 Map Amendment. The Amendment would change 413 acres in Mt. Olive Township from the Environmentally Sensitive Planning Area (PA) 5 to the Suburban Planning Area (PA) 2.

Dr. Emile DeVito, our Manager of Science and Stewardship, testified against this proposal at the September 2012 State Planning Commission meeting in Trenton. He also testified against it at the SPC Public Hearing in Mt. Olive in December, 2012.

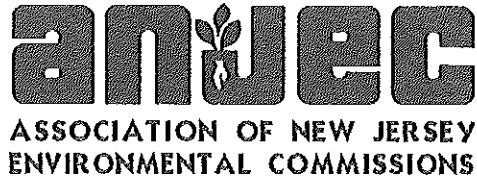
The area was delineated as Planning Area 5, Environmentally Sensitive, because it met the criteria for that delineation. The site continues to contain important environmental resources.

A substantial portion of the site, over 100 acres, was delineated in the Highlands Regional Master Plan at Protection Zone. More than half of the remainder of the site was delineated as Environmentally Constrained (Existing Community Zone).

The more than 100 forested acres are Habitat for State Endangered Species, Rank 4, the highest of all state level categories of T and E habitat. This habitat is part of the Allamuchy State Park ecosystem.

The Morris Canal, one of the state's most important historic features, runs through the site.

Any Planning Area change that does not recognize these critical environmental attributes could be considered arbitrary and capricious.



January 15, 2013

Chairman Edward J. McKenna Jr. and Members  
State Planning Commission  
c/o Gerard Scharfenberger, PhD  
New Jersey Department of State  
P.O. Box 820, Trenton, N.J. 08625-0820

**Re: Rt. I-80 Map Amendment**

Dear Chairman McKenna and Members of the Commission:

The Association of New Jersey Environmental Commissions (ANJEC) offers the following comments on the above referenced proposal. Our comments are provided in the spirit of constructive criticism to assist the Commission in its deliberations. The Association has received no compensation for their preparation nor does the Association have a financial or property interest in the area in question. The Association is a statewide environmental organization that advocates for sound planning, environmental protection and proper land use in addition to supporting and educating local environmental commissions.

In sum, as currently proposed, the Association opposes the existing proposal. We believe, however, that the Commission has at its disposal several mechanisms to address some of the conflicts with natural and cultural resources that arise from the proposal.

Those mechanisms include the designation of "Critical Environmental Sites" (CES) and "Historic and Cultural Sites" (HCS) and are described in the adopted and currently functional SDRP. These mechanisms are described on page 224 of the SDRP. They are designed to allow fine tuning, beyond Planning Area designations, to protect environmental and cultural features that are within all Planning Areas, when such area and are less than one square mile in size or of a configuration that makes them impractical from a Planning Area perspective.



Pointedly, the SDRP says:

*"But there are many environmentally sensitive features and landscapes of historic or aesthetic significance that are less than one square mile in extent or whose configuration does not readily permit application of the Policy Objectives of these planning areas. Additionally, many sites of historic, cultural, scenic or environmental sensitivity lie within developed areas or within Metropolitan, Suburban, or Fringe Planning Areas. (SDRP, p.224)*

Although such designation does not have the force of a regulatory *prohibition*, the intent is that of advancing good planning at the local level and in the site planning process. Specifically, *"The presence of CES and HCS gives land owners and developers important advance information on how to shape their proposals for development of the land around them, focusing on including them within the design and function of the development wherever possible, while at the same time protecting them from adverse impacts."* (SDRP, p. 224)

In the SDRP, the specific environmental features that can be considered for CES designation include:

- **Prime or locally important aquifer recharge areas**
- **Wellfields and wellhead protection areas**
- Public water supply reservoirs
- Coastal dunes, beaches, and shorelines
- **Critical slope areas**
- **Habitats of endangered or threatened plant or animal species or unique ecosystems**
  - Habitats with a wide diversity of resident species or significant resident populations
  - Coastal wetlands and freshwater wetlands and ponds
  - Staging areas for migratory species
- **Stream corridors**
- **Wildlife corridors**
- Significant natural features such as ridge lines, gorges and ravines, or unique geological features (including limestone outcrops)
- **Prime forested areas, including mature stands of native species**

Those shown in **bold** are present on the subject parcels, a total of 7 out of thirteen possible features (54%). Considerable environmental features mapping has been prepared by the New Jersey Highlands Council as part of the preparation of the Highlands Regional Master Plan (RMP). The Commission should avail itself of this mapping in considering the delineation of CES on the parcels. Mt. Olive Township has prepared a

Natural Resources Inventory (Princeton Hydro, 2007) and a Trails Plan (the Land Conservancy of New Jersey, 2009) that provide valuable planning information. The N.J. D.E.P also has excellent on-line mapping in its GeoWeb data base.

Each of these critical environmental and historic factors is discussed below.

#### **Prime or locally important aquifer recharge areas**

The Highlands planning process identified important aquifer areas. These are clearly depicted on the Highlands Interactive Map and are present on Bl. 301, L. 4, Bl. 200, L. 2, and L. 4, Bl. 105, L. 1, L. 2 and L. 3, Bl. 106, L. 2, L.3 and L. 2.01. These areas constitute a substantial portion of the area.

In addition to the traditional concerns about groundwater recharge areas, such as maintenance of stream flows, wetlands water levels and general aquifer recharge, these areas are also associated with several wells supplying water to Stanhope Borough and areas of Byram Township (see comments submitted by Byram and Stanhope).

#### **Wellfields and wellhead protection areas**

The Highlands wellhead protection area mapping clearly indicates that a major portion of the subject properties is contained in the Tier 1 (two year travel time), Tier 2 (five year travel time) and Tier 3 (twelve year travel time) wellhead protection areas as identified by the N.J. D. E.P. These areas are better viewed using the N.J. D.E.P's GeoWeb mapping.

The regulation and control of land uses and site management in these areas is crucial to protecting the water quality of their associated wells located in or near to the proposed designation area. Maintaining aquifer recharge and controlling surface land uses and management are essential to maintaining the yields and water quality of the Stanhope municipal wells and the wells located in Byram Twp.

#### **Critical slope areas**

Based on the Highlands mapping the greatest concentrations of critical slope are found on Bl. 200, L.2 and in smaller bands throughout the proposed designation area.

#### **Habitats of endangered or threatened plant or animal species or unique ecosystems**

##### *Natural Heritage Priority Sites*

Wild life habitat areas are well mapped and discussed in the Natural Resources Inventory (Princeton Hydro, 2007). There is one Natural Heritage Priority site in the subject area. This is the "Bridge to Nowhere" site along the Musconetcong River. It contains "alluvial woods, wet woods, and rich wooded uplands along the river and abandoned canal. The site has a Biodiversity rank of B4 (moderate significance) and *includes habitat for one state listed endangered plant species plus three species of special concern*. The extent of the "Bridge to Nowhere Natural Heritage Site" is depicted on figure 24A of the Mt. Olive Natural Resources Inventory. It extends into the subject tracts ¼ mile from the Musconetcong River

### *Landscape Project Data*

As reported in the Mt. Olive Natural Resources Inventory, substantial portions of the proposed area contain habitat for the *Wood Turtle* (*Clemmys insculpta*) a threatened species in New Jersey. These areas are depicted on Fig. 23B, p. 59 of the NRI.

### **Stream corridors**

The subject properties are crossed by a number of Category 1 tributaries of the Musconetcong River that require 300' stream buffers. These are depicted on Figure 17, of the Mt. Olive NRI.

### **Wildlife corridors**

Substantial portions of the subject area are depicted as wildlife corridors by the Highlands Interactive mapping.

### **Prime forested areas, including mature stands of native species**

A substantial block of mature forest is present on Bl. 301, L.4. This forested area is part of a much larger forest block and has been ranked as having a "high forest integrity value" by the Highlands Council.

This parcel is surrounded on three sides by intact forest under state ownership a part of Allamuchy State Park. Cutting into this area will imperil the ecological integrity of the adjoining public lands due to the well document "edge effects" that occur when forest is removed within intact forested areas. These impacts spread well beyond the immediate area of clearing. This risk to public resources should be avoided.

**We strongly recommend that the entire parcel be removed from the re-designation proposal and that it remain as currently designated (PA-5).**

### **Historic and Cultural sites (HCS)**

The adopted and operative SDRP (p.224) also indicates the features that may be considered in the designation of Historic and Cultural Sites (HCS). These include:

- ❖ **Greenways and trails**
- ❖ Dedicated open space
- ❖ **Historic sites and districts**
- ❖ **Archeological sites**
- ❖ Scenic vistas and corridors
- ❖ Natural landscapes of exceptional aesthetic or cultural value

### **Greenways and trails**

The Mt. Olive Trails Plan (2009) depicts trails on its "Trails Map" This map depicts a trail along the Morris Canal, connecting to a planned trail segment to link to the canal

route in adjoining Stanhope borough, an existing route described as a “existing sidewalk/paved path” and two proposed trail segments. The trail and linkage along the Morris Canal is of regional interest.

### **Historic Sites and Districts, Archeological Sites**

The Morris Canal crosses the proposed designation area. The Morris Canal is listed on the national and State Registers of historic places and is vital to a historic understanding of the Highlands region and New Jersey’s industrial and economic growth. The segments of canal remain that on the parcels are among the better preserved pieces of the canal and still contain water, clearly illustrating the original character of the structure. Below-ground archaeological features may also be anticipated along its route.

**In sum we strongly recommend that the commission not redesignate this area without designating the above discussed CES and HCS areas. These designations will assure that local planning and site plan design will respect these critical natural and historic resources.**

### **Additional Comments**

#### **Effects of the Highlands Process**

We would also note that the Commission should not rely on the NJDEP Highlands Preservation Area Rules or the programs of the Highlands Council to protect the natural and cultural resources present on these properties. The properties are located in the Highlands Planning Area. Thus, the NJDEP Highlands Preservation Area rules do not apply. The Highlands Council’s full authority does not extend to the Planning Area unless municipalities voluntarily conform their planning and zoning through the Highlands Conformance process. Mt. Olive has chosen not to voluntarily conform its Planning Area.

#### **Sewer Capacity**

At several points, Commission staff have asserted that sewer capacity is available. We would note that sewer capacity may be in question. The Highlands Council’s “Utility Capacity Technical Report” indicates: *“Of the five facilities with roughly 1 MGD or more of Current Available Highlands Capacity, as determined in this initial analysis, all are surface water discharge facilities. These include the Phillipsburg STP, Hanover STP, Morris Township-Butterworth STP, Parsippany-Troy Hills Sewerage Authority, and Musconetcong Sewer Authority. **However, all of the capacity for the Musconetcong SA facility has been committed to address the replacement of septic systems with sewerage.** Additional constraints must be assessed on a site-specific basis. (Utility Capacity Technical Report, p.8  
([http://www.highlands.state.nj.us/njhighlands/master/tr\\_utility\\_capacity.pdf](http://www.highlands.state.nj.us/njhighlands/master/tr_utility_capacity.pdf))*

In addition, the Council has proceeded to designate Highlands Centers within the MSA’s service area (Hopatcong Borough, Byram Township). If such centers are to grow, the allocation of sewer capacity within the MSA’s service area must be carefully considered and not simply “presumed” to exist.

### **Summary and Conclusions**

The Association of New Jersey Environmental Commissions does not support the re-designation as currently proposed. We take this position because Highlands protections are not currently available for the site since it is located in the Highlands Planning Area. Conformance to the Highlands Regional Master Plan is voluntary in the Planning Area. Mt. Olive has chosen not to include its planning areas in the Highlands conformance process.

The site contains numerous environmentally critical and historic features, many of regional significance. Important considerations include:

- Protection of water quality and biological integrity of the Musconetcong River and its on-site tributaries
- Protection of the designated prime aquifer recharge areas and the Tier, 1, 2 and 3 Wellhead Protection Areas present on the site that provide potable water for adjoining municipalities
- Protection of an important Natural Heritage Area (the Bridge to Nowhere site containing threatened plants and plants of special concern)
- Protection of the habitat for the wood turtle, a threatened species in New Jersey
- Protection of the archaeological and historic sites associated with the Morris Canal (NR, SR)
- Protection of c-1 stream corridors and wildlife corridors
- Protection of existing and proposed trails and greenways recognized by Mt. Olive and adjoining municipalities.
- Protection of these features in all planning areas is clearly a part of the adopted and operational SDRP.

The appropriate mechanisms to address protection for these features are provided in the SDRP by designating Critical Environmental Sites and Historic and Cultural Sites.

We have continuing concerns about sewer service availability due to factual information contained in the Highlands Utilities Technical Report and the continued designation of new Highlands centers in the Musconetcong Sewer Authority's service area

One parcel in the proposed area to be re-designated consists entirely of mature forest surrounded by publically owned mature forest lands. To prevent negative impacts to these public investment that could result from future development, we request that this parcel (Bl. 301, L. 4) be removed from re-consideration and remain PA-5 as currently designated.

**ANJEC can support the re-designation if the CES and HCS designations are properly applied as intended by the SDRP and Bl 301, l.4 is removed from re-designation.**

Respectfully Submitted,



David Peifer

Highlands Project Director

Association of New Jersey Environmental Commissions

(973) 539-7547

dpeifer@anjec.org