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**INCORPORATED BY REFERENCE INTO
HIGHLANDS COUNCIL RESOLUTION 2011 – 39
ADOPTED DECEMBER 1, 2011**

FINAL CONSISTENCY REVIEW AND RECOMMENDATIONS REPORT

**PETITION FOR PLAN CONFORMANCE:
BOROUGH OF MOUNT ARLINGTON, MORRIS COUNTY**

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

NOVEMBER 28, 2011

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INTRODUCTION

This Final Consistency Review and Recommendations Report (“Report”) has been prepared by the Staff of the Highlands Water Protection and Planning Council (“Highlands Council”). It provides review and recommendations for consideration by the Highlands Council as to the consistency of the Petition for Plan Conformance of the Borough of Mount Arlington, with the Highlands Regional Master Plan (RMP). The Report provides review and discussion of each component of the Petition for Plan Conformance, in the order in which they are set forth under submission guidelines provided to municipalities by the Highlands Council. It begins with a brief summary of Staff findings, displayed in a table format, to provide an at-a-glance overview of the results of Staff review.

The Borough of Mount Arlington petitioned the Highlands Council for Plan Conformance only with respect to lands within the Preservation Area. The Preservation Area in the Borough of Mount Arlington consists of only 132 acres (7% of the municipality). Based on a detailed review of the properties located within the Borough’s Preservation Area, Highlands Council staff concludes that there is extremely limited development potential. The area consists of developed residential properties (further improvements to which, would likely be exempt from the Highlands Act), an existing public school, preserved municipal open space (70.5 acres), a former landfill that is the subject of a Highlands Redevelopment Area study (35.6 acres), and approximately 12 acres of developable land divided among six parcels, the largest of which is slightly more than 5 acres in area. Municipal zoning for most of the area (including all of the larger lots) requires 40,000 square feet per residential unit. The Highlands Council anticipates that there will be very limited proposals for development in this area that do not qualify for Highlands Act exemptions. Recognizing the constraints that already exist in the Preservation Area, this Report proposes significant waivers and modifications to the standard requirements for municipal Plan Conformance, for application to the Borough of Mount Arlington. This approach permits the Borough to adopt a Highlands Preservation Area Checklist Ordinance, which would remain in effect as a condition of Plan Conformance, in lieu of adopting the standard Highlands Preservation Area Land Use Ordinance. The use of the Highlands Preservation Area Checklist Ordinance in conjunction with the New Jersey Department of Environmental Protection (NJDEP) Preservation Area Rules will ensure the protection of Highlands Resources in the Borough while efficiently and appropriately implementing the RMP at the local level.

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REPORT SUMMARY

Municipality: Borough of Mount Arlington

Date of Petition Submission: December 8, 2009

Date Deemed Complete: January 31, 2010

Conformance Area: Preservation Area

Staff Recommendation: Approve Petition with Conditions

| Administrative Submittals | Meets Requirements | Conditions of Approval |
|--|---------------------------|-------------------------------|
| 1. Resolution or Ordinance | X | None |
| 2. Record of Public Involvement | X | None |
| 3. List of Current Planning and Regulatory Documents | X | |

| Petition Components | Consistent | Conditions of Approval |
|----------------------------------|-------------------|---|
| 1. Modules 1-2 Build-Out Report* | X | None |
| 2. Module 3 Housing Element/Plan | Deferred | See Section D.1 |
| 3. Module 4 ERI | X | See Section D.1 |
| 4. Module 5 Highlands Element | X | Follow-Up Required per Section B.4; D.1 |
| 5. Module 6 Land Use Ordinance | Waived | See In Lieu Requirements per Section B.5; D.1 |
| 6. Module 7 Petition | | |
| a. Self-Assessment Report | X | None |
| b. Implementation Plan/Schedule | X | Follow-Up Required per Section B.6; D.1 |

*Completed by the Highlands Council in collaboration with the municipality prior to substantive review of the Petition.

| Optional Submission Items | Submission Date | Status/Recommendation |
|--|------------------------|--|
| 1. RMP Updates | N/A | |
| 2. Map Adjustments | N/A | |
| 3. Highlands Center Designation Requests | N/A | |
| 4. Highlands Redevelopment Area Designation Requests | X | Feasibility study completed; formal designation request not yet submitted. |

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A. REVIEW OF ADMINISTRATIVE SUBMITTALS

- 1. Resolution.** The Resolution (#2010-150) petitioning the Highlands Council for Plan Conformance was adopted by the municipal Governing Body at its noticed public meeting of December 14, 2009. The document submitted is appropriately signed by the Municipal Clerk to verify authenticity. The language of the Resolution relies upon that of the model provided by the Highlands Council. The Resolution clearly petitions the Highlands Council for Plan Conformance; conformance being proposed with respect to municipal lands located in the Preservation Area (132 acres, 7% of the municipality).
- 2. Record of Public Involvement.** The Petition includes appropriate documentation of the public process engaged in by the municipality with regard to the development of Petition materials and adoption of the Resolution petitioning the Highlands Council for Plan Conformance. The submission includes the following:

 - a.** Copy of public meeting notice for a meeting of the Land Use Board held on December 8, 2010 to discuss Plan Conformance and/or Petition components, specifically the Borough's draft Master Plan Highlands Element.
 - b.** Copy of meeting agenda and adopted meeting minutes associated with the December 8, 2010 Land Use Board meeting.
- 3. List of Current Planning Documents.** The list of current municipal planning and regulatory documents is comprehensive and includes required dates of adoption, as applicable. Pursuant to Highlands Council Module 7 Municipal Plan Conformance Petition instructions, all of these documents should be available in the offices of the Highlands Council in Adobe pdf format. Staff review indicates that all of the required documents are available as required.

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B. REVIEW OF PLAN CONFORMANCE PETITION COMPONENTS

1. **Highlands Municipal Build-Out Report (Modules 1-2).** Consistent. The Highlands Municipal Build-Out Report fulfills the Highlands Act requirements to evaluate land use capability and includes a detailed evaluation of land based capacity, resource based capacity and utility based capacity. The Highlands Municipal Build-Out Report was completed by the Highlands Council in collaboration with the municipality prior to a finding of Administrative Completeness of the Petition. The date of the Highlands Municipal Build-Out Report is January 2010.

2. **Housing Element & Fair Share Plan (Module 3).** Deferred.

Introductory Advisory

The Highlands Council recognizes that the main component of the Council on Affordable Housing (COAH) Third Round rules was invalidated in 2010 and an appeal of that invalidation is pending in the New Jersey Supreme Court; that COAH's *Guidance for Highlands Municipalities that Conform to the Highlands Regional Master Plan* was invalidated by the Appellate Division of the Superior Court; that significant changes to State laws pertaining to the provision of affordable housing are being considered; and that Governor Christie has approved Reorganization Plan No. 001-2011, which eliminates COAH, transferring its functions and duties to the Department of Community Affairs (DCA). As required by the Highlands Act and the Fair Housing Act, DCA has the responsibility to determine affordable housing obligations and must take the Highlands Regional Master Plan into consideration in discharging this responsibility. Accordingly, the analysis provided below shall be considered subject to modification based on a resolution of the State's affordable housing policies, with the intent being to ensure that the municipality remains in compliance with all applicable statutes, rules, regulations, and requirements regarding affordable housing, at any given time, and maintains consistency with the RMP.

Highlands Council Review

Both the RMP and Highlands Council instructions concerning submission of Master Plan Housing Elements and Fair Share Plans sought municipal participation in a three-step process, intended to culminate in the submission of fully developed affordable housing plans to both the Highlands Council and the Council on Affordable Housing (COAH) (or alternatively the Highlands Council and the Superior Court). This process was designed to assist municipalities in developing plans to address fair share housing obligations that are consistent with the RMP. For most Highlands municipalities, the deadline for submission to COAH was extended to June 8, 2010. The extended time allowance was intended to provide for completion of Highlands Municipal Build-Out Reports (see Modules 1-2, above) and incorporation of resulting information into fully developed affordable housing plans in accordance with Executive Order #114 (2008) and COAH's *Guidance for Highlands Municipalities that Conform to the Highlands Regional Master Plan*. This process also allowed for Highlands Council review of as yet unconstructed projects in municipal housing plans, for

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consistency with the RMP, whether the projects were proposed in compliance with Prior Round obligations or the Third Round rules.

The Borough of Mount Arlington provided a Confidential Draft Housing Element and Fair Share Plan dated May 25, 2010 for review by the Highlands Council. To date the Borough has not adopted a Final Housing Element & Fair Share Plan, nor submitted such a plan to the former Council on Affordable Housing, the Department of Community Affairs or Superior Court.

a. Municipal Growth Projections. Municipal Growth Projections estimated in the Highlands Municipal Build-Out Report for the Borough (January 2010) are as follow:

- Residential Growth (housing units): 21
- Non-Residential Growth (jobs): 87

b. Summary of Municipal Obligation. With the invalidation of COAH’s “Growth Share” methodology, the Municipal Fair Share Obligation cannot be fully determined at this time. Based on the information currently available, it would include at minimum, each of the components listed below.

- Rehabilitation Share: 14
- Prior Round Obligation: 17

In anticipation of an additional obligation to address the current housing cycle, municipal planning to address the local need for affordable housing is expected to continue.

c. Housing Element & Fair Share Plan. The Borough has neither adopted a Third Round Housing Element & Fair Share Plan nor submitted a petition for Substantive Certification to COAH or the Department of Community Affairs (or the Superior Court). Until issues related to the Fair Housing Act are made final (see Section D of this Report), it will be difficult for the Borough to address this Plan Conformance component with any certainty. Therefore, on January 31, 2011, the Executive Director approved deferral of Module 3 requirements, “with the condition that the Module 3 submittal requirements (as may be modified by the outcome of legislative and/or court actions) be deferred until such time as the Highlands Council finds that sufficient information has been made available to the municipality to proceed.” As such, once the Highlands Council has determined that sufficient information exists to complete a viable Fair Share Plan, the Borough must address Module 3 in accordance with the recommendations below. As noted in the January 2011 letter, the Borough is strongly encouraged to file a motion with the Superior Court seeking interim protection from legal actions.

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- Identify proposed affordable housing mechanisms to address the Borough’s Fair Share Obligation (as ultimately determined) including any sites proposed for affordable housing and submit to the Highlands Council for review.
- Prepare and adopt a current Housing Element and Fair Share Plan that addresses the Fair Share Obligation (as determined) in compliance with the applicable Fair Share Housing regulatory framework, and for any project(s) located within the Preservation Area, that provides for consistency with the RMP.
- Submit a petition for substantive certification to the Department of Community Affairs or file for a judgment of repose with the Superior Court.

3. Environmental Resource Inventory (Module 4). The proposed Borough of Mount Arlington Highlands Environmental Resource Inventory (ERI) is based on the Highlands Model ERI provided to municipalities by the Highlands Council. The document as now proposed (including modifications by the Highlands Council) contains all required Highlands ERI language and all applicable maps/exhibits, as necessary, to fully describe the Highlands Resources, Resource Areas, and Special Protection Areas located within the municipality. As such, the Highlands ERI is consistent with the RMP and the immediate mandatory requirements of Plan Conformance.

a. Deleted Sections. The following sections of the model Highlands ERI are not relevant to the municipality and have thus been deleted from the municipal submission:

- Carbonate Rock
- Special Environmental Zone
- Agricultural Resource Areas and Agricultural Priority Areas

Note that there are no Significant Natural Areas within the Borough. Text regarding Significant Natural Areas is imbedded in the Critical Habitat section, so while it is noted that there are no Significant Natural Areas, the descriptive text of the resource was left in but the exhibit was deleted.

b. Revisions. The Highlands Council has provided updated technical information within the narrative portion of the ERI as well as a new set of coinciding figures. The new figures are provided as a separate file from the Highlands ERI text, and replaces figures previously provided for the Highlands ERI. The old figures (with exception of any developed by the municipality) have been deleted to avoid confusion. Please note that the figures should not be incorporated with the MS Word® version of the text, as such mergers result in unmanageable file sizes and a significant loss in map clarity/resolution. The text and exhibits are best combined into a single pdf file once each component is in final form.

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4. **Master Plan Highlands Element (Module 5).** Adoption of the full Master Plan Highlands Element inclusive of all sections as provided in the model document has been waived. Instead, the Borough will adopt a Master Plan Highlands Element that includes only those sections required to support Plan Conformance for the 132-acre Preservation Area within the Borough. The revised document is consistent with the RMP and, in the context of the special circumstances surrounding the Borough of Mount Arlington, is sufficient to fully address all Plan Conformance requirements regarding alignment of municipal regulatory documents with the RMP. The specific components of the revised Highlands Element are listed below.

- a. **Policies, Goals & Objectives.** Consistent
- b. **Land Preservation/Stewardship Plan Element.** Consistent, however minor modification is required for completion (please see highlighted text in document).
- c. **Redevelopment Planning Element.** Consistent
- d. **Housing Plan Element.** Consistent.
- e. **Relationship of Master Plan to Other Plans.** Consistent
- f. **Exhibits.** The list of Exhibits includes all that apply to the municipality. Due to the reduced requirements for the Borough's Master Plan Highlands Element, the list of exhibits has been significantly reduced to coincide. For those applicable, the Highlands Council has provided a replacement set of exhibits based on updated information, which replaces those previously issued. The new exhibits are provided as a separate file from the Highlands Element text, and any exhibits previously provided with the Highlands Element have been deleted to avoid confusion. Please note that the exhibits should not be incorporated with the MS Word® version of the text, as such mergers result in unmanageable file sizes and a significant loss in map clarity/resolution. The text and exhibits are best combined into a single pdf file once each component is in final form. Exhibits provided by the municipality have been inserted into the new set.

With one exception*, the remaining components of the model Master Plan Highlands Element, a draft of which was submitted in full by the municipality, have been waived or deleted, as indicated below.

- a. **Land Use Plan Element.** Waived
- b. **Conservation Plan Element.** Waived
- c. **Utility Services Plan Element.** Waived
- d. **Circulation Plan Element.** Waived

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- e. **Agriculture Retention/Farmland Preservation Plan Element.** Not Applicable – Deleted
 - f. **Community Facilities Plan Element.** Waived
 - g. ***Sustainable Economic Development Plan Element.** Funding has been allocated in the Highlands Implementation Plan and Schedule to provide for development of a Sustainable Economic Development Plan Element applicable to the whole of the municipality.
 - h. **Historic Preservation Plan Element.** Not Applicable – Deleted
 - i. **Development Transfer Plan Element.** Not Applicable – Deleted
5. **Highlands Area Land Use Ordinance (Module 6).** Waived

Note however, that the Borough will adopt the Highlands Preservation Area Checklist Ordinance which relies upon the model Checklist Ordinance provided by the Highlands Council. While the Checklist Ordinance is typically required as an interim measure to be repealed upon adoption of the Highlands Area Land Use Ordinance, the Borough will retain the Checklist Ordinance indefinitely, in lieu of adoption of a Highlands Land Use Ordinance. In the context of the special circumstances surrounding the Borough of Mount Arlington, this ordinance is sufficient to address the immediate mandatory Plan Conformance requirements regarding alignment of municipal regulatory documents with the RMP. It requires that Development Applications involving development activities located (or partially located) in the Preservation Area receive a consistency determination by the Highlands Council or, for Major Highlands Developments, either a Highlands Applicability Determination (HAD) indicating that the proposed development is exempt from the Highlands Act or a Highlands Preservation Area Approval (HPAA) issued by the NJDEP, with regard only to those portions of the property within the Highlands Preservation Area.

6. **Petition Submission Documents (Module 7).**

- a. **Municipal Self-Assessment Report.** The Municipal Self-Assessment Report consists of two components as listed herein. The Report accurately describes the status of municipal Plan Conformance to date, indicating both municipal accomplishments and the items that remain to be completed to fully achieve Plan Conformance.
 - **Narrative Portion.** The Narrative Portion has been completed accurately.
 - **Spreadsheet Portion.** The Spreadsheet Portion has been completed accurately.

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- b. Highlands Implementation Plan & Schedule.** The Highlands Implementation Plan and Schedule provides a template for future Plan Conformance activities. It is intended to indicate all outstanding items, both required and discretionary, along with estimated costs and timeframes for completion, for the municipality to achieve or exceed Plan Conformance with the Regional Master Plan.

As proposed by the municipality, the Highlands Implementation Plan and Schedule included all mandatory components required to achieve Plan Conformance and incorporated timeframe estimates associated with each mandatory element. The Highlands Implementation Plan and Schedule has been modified since first issued by the Highlands Council. The revised document includes cost estimates for each activity and prioritizes implementation tasks with a particular focus on the first few months after Highlands Council approval of Petitions, including the 2012 State fiscal year.

In addition, the proposed Highlands Implementation Plan and Schedule includes non-mandatory Plan Conformance activities with estimated costs and timeframes for completion. These activities have been incorporated into the revised Highlands Implementation Plan and Schedule. Recommended Highlands Council edits tailoring the revised document to the municipality (based on the Petition submittals) have been included in the final version.

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C. REVIEW OF OPTIONAL SUBMISSION COMPONENTS

1. **RMP Updates.** The Petition for Plan Conformance was accompanied by requests for certain RMP Updates. These requests are listed and described below, along with a summary of the final results of review and processing.

- a. **RMP Update Request(s).** Results

Public Community Water Supply Well – Lee’s County Park Marina. The Borough presented information that this Public Community Waster Supply Well has been abandoned. Accordingly, the associated Wellhead Protection Area has been removed from Highlands Environmental Resource Inventory figure and text.

The Petition included three additional requests for RMP Updates related to Public Community Water Systems and Highlands Domestic Sewerage Facilities, Total Forest Area, and the Highlands Roadway Network. The updated Highlands Environmental Resource Inventory Exhibits address these issues. The Borough will review the updating mapping to confirm that the issues have been addressed.

2. **Map Adjustments.** The Petition for Plan Conformance was not accompanied by any requests for Map Adjustments.
3. **Highlands Center Designation Requests.** The Petition for Plan Conformance was not accompanied by any requests for Highlands Center Designation.
4. **Highlands Redevelopment Area Designation Requests.** The Petition for Plan Conformance was not accompanied by any requests for a Highlands Redevelopment Area Designation. However, it should be noted that a Highlands Council grant was previously provided to the Borough of Mount Arlington to conduct a redevelopment study on Block 8, Lot 3, the site of a former municipal landfill. The Borough prepared an initial study of the property titled “Initial Assessment for Redevelopment, Mount Arlington Municipal Landfill,” dated September 2010. The Borough may seek to Highlands Council designation of the property as a Highlands Redevelopment Area to assist in its redevelopment at a future date. However, at this time no such plans have been presented to the Highlands Council.
5. **Other.** The Petition for Plan Conformance was not accompanied by any other requests for approvals, not listed above.

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D. STAFF RECOMMENDATIONS

On the basis of the comprehensive review completed and discussed in detail as described in the preceding Sections, which examined both sufficiency of administrative submittals and consistency of all substantive materials with the Highlands Regional Master Plan, Highlands Council Staff recommends that the Petition for Plan Conformance of the Borough of Mount Arlington, as currently proposed by the municipality (and modified by Highlands Council staff), be approved with conditions as outlined below.

1. Approval with Conditions. Highlands Council Staff recommend that this Petition for Plan Conformance be approved by the Highlands Council. The approval should be conditioned upon satisfactory completion of all items noted within Sections A through C of this Report (including all items addressed in the herein-referenced Highlands Council Staff-provided MSWord “Track-Changes” versions of the various Petition documents), and in addition, satisfaction of the below-listed requirements.

a. Adoption of Approved Checklist Ordinance. The municipality shall review, finalize as needed, and submit the “Highlands Preservation Area Checklist Ordinance” (draft provided) to the Highlands Council for approval prior to adoption. This ordinance requires that Development Applications be deemed incomplete by the reviewing board or applicable municipal authority, until or unless accompanied by: a) for applications under Highlands Council jurisdiction, a Highlands Council Consistency Determination indicating that the application is consistent, or can and will be made consistent with the Regional Master Plan; or b) an NJDEP Highlands Preservation Area Approval, waiver, or Highlands Applicability Determination indicating non-applicability. Upon receipt of Highlands Council approval, the Ordinance shall be prepared for purposes of public review and adoption by the municipal Governing Body. The Governing Body shall provide for and complete the adoption process, at the conclusion of which, a certified copy of the adopted Checklist Ordinance shall be provided to the Highlands Council with notice of its effective date. The process of ordinance adoption shall be conducted in accordance with all legal requirements and protocols pursuant to the New Jersey Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), and shall be guided by the timeframes set forth in the Highlands Council-approved Highlands Implementation Plan and Schedule. Should this process lead to proposed modifications to any portion of the Checklist Ordinance, the proposed changes shall be submitted for review by the Highlands Council prior to adoption by the Governing Body. In the event the Highlands Council determines that any proposed modification is of a substantive nature, Highlands Council approval shall be required prior to adoption at the municipal level.

b. Adoption of Approved Highlands ERI. The Highlands Environmental Resource Inventory (ERI) shall be prepared in a clean, final document format for purposes of public review and adoption. A copy shall be provided to the Highlands Council. The

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municipal Environmental Commission (or Planning Board in the absence of an Environmental Commission) shall provide for and complete the required process of formal adoption of the ERI by the local Commission or Board. At the conclusion of the process, a certified copy of the adopted ERI shall be provided to the Highlands Council. The process of ERI adoption shall be conducted in accordance with all applicable legal requirements and protocols, and shall be guided by the timeframes set forth in the Highlands Council-approved Implementation Plan and Schedule. Should this process lead to proposed modifications to any portion of the ERI, the proposed changes shall be submitted to the Highlands Council for review. In the event the Highlands Council determines that any proposed modification is of a substantive nature, Highlands Council approval shall be required prior to adoption by the local Commission or Board.

- c. Adoption of Approved Master Plan Highlands Element.** The Master Plan Highlands Element shall be completed in accordance with the requirements of Section B4 of this Report, and submitted to the Highlands Council for final approval. Upon receipt of final Highlands Council approval, the Highlands Element shall be prepared in a clean, final document format for purposes of public review and adoption. A copy shall be provided to the Highlands Council. The municipal Planning Board shall arrange for the required process of scheduling, notice, public hearing, consideration, and formal adoption of the Highlands Element by the municipal Planning Board. At the conclusion of the process, a certified copy of the adopted Highlands Element shall be provided to the Highlands Council. The process of Highlands Element adoption shall be conducted in accordance with all applicable legal requirements and protocols, and shall be guided by the timeframes set forth in the Highlands Council-approved Implementation Plan and Schedule. Should this process lead to proposed modifications to any portion of the Highlands Element, the proposed changes shall be submitted to the Highlands Council for review. In the event the Highlands Council determines that any proposed modification is of a substantive nature, Highlands Council approval shall be required prior to adoption by the local Planning Board.
- d. Approval of Housing Element & Fair Share Plan.** Upon notification by the Highlands Council that this task shall be addressed, as discussed in Section B.2, the municipality shall prepare and adopt a Housing Element and Fair Share Plan and shall petition for such approval in accordance with all applicable procedures and requirements, upon notification from the Highlands Council that sufficient information exists to support such planning. The Highlands Council shall be copied on all related correspondence and kept apprised of the process as it unfolds. Any subsequent revision to the Housing Element and Fair Share Plan shall be provided to the Highlands Council for review and approval prior to implementation by the municipality. Until and unless the municipality secures final approval of a Highlands Council-approved (as RMP consistent) Housing Element and Fair Share Plan, this Plan Conformance component shall remain a conditionally approved item.

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- e. **Adoption of Ordinances Implementing Fair Share Plan.** Governing Body adoption of Ordinances required to implement the Fair Share Plan shall follow approval of the Housing Element and Fair Share Plan, in accordance with all requirements of the Superior Court or the Department of Community Affairs (DCA), as applicable, and all legal requirements and protocols pertaining thereto. Plan implementation and continued compliance with the final Court- or DCA-approved Fair Share Plan moreover, shall be a condition of continued Plan Conformance approval, subject to Highlands Council review and monitoring.

- f. **Wastewater Management Plan (WMP).** The municipality shall prepare a Wastewater Management Plan working with the Morris County and Highlands Council under Plan Conformance, for approval by the NJDEP. This plan will be recognized as a chapter of the County WMP in accordance with NJDEP Administrative Order 2010-03 and all applicable NJDEP rules and requirements.

- g. **Adherence to Approved Highlands Implementation Plan & Schedule.** The municipality shall undertake to complete all remaining mandatory Plan Conformance activities listed in the Highlands Council-approved Highlands Implementation Plan & Schedule, in accordance with: a) the timeframes set forth therein, to the maximum extent feasible and practicable, or with such adjusted timeframes as may be authorized by the Highlands Council or otherwise mutually agreed by the municipality and the Highlands Council; and b) the availability of funding from the Highlands Council or, on a voluntary basis, by the municipality or other party, to ensure the satisfactory completion of each project or activity, or each phase of such project or activity, as appropriate. Non-mandatory Plan Conformance activities shall neither take precedence over nor shall impede the completion of mandatory items and shall be undertaken only as time and resources are available to support them.
 - i. **Development/Approval of Implementation Plan Components.** Within the constraints above, all planning, regulatory, and resource management documents shall be prepared and provided to the Highlands Council for review and approval prior to formal adoption by the applicable municipal board, commission, or governing body.

 - ii. **Adoption of Regulations Implementing Plan Components.** All ordinances, rules, and regulations shall be prepared and provided to the Highlands Council for review and approval prior to formal adoption by the applicable municipal board, commission, or governing body.

 - iii. **Mandatory Components.** Specific mandatory components include development and implementation of the plans/programs/ordinances herein listed (once models have been provided by the Highlands Council, if applicable, and funding provided), all intended as municipal-wide, long-term

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initiatives unless specifically noted otherwise. Where applicable and appropriate, these will build upon any such plans, programs, or ordinances that have already been developed or adopted by the municipality. It is the explicit intention of the Highlands Council that such plans/programs be developed in a manner to ensure that implementation is both feasible and practicable, potentially involving assistance of outside agencies/organizations, working cooperatively for and with the municipality. In each case where the municipality will serve as lead, release of funds is contingent upon approval of a scope of work by the Highlands Council Executive Director.

- Water Use & Conservation Management Plan.
- Habitat Conservation & Management Plan – Prioritized by allocation of funding for this Plan to identify species at risk, options for restoration of habitat, and standards for mitigation of unavoidable impacts of public and private projects.
- Sustainable Economic Development Plan (Master Plan Element) – Prioritized by allocation of funding for this Plan to complete this element of the Borough Master Plan.
- Lake Restoration Management Plan
- Stormwater Management Plan (Updates Only)
- Land Preservation and Stewardship Program
- Septic System Management/Maintenance Plan
- Implementing ordinances associated with each of the above (long-term, as applicable), as well as a Right to Farm ordinance (the Highlands Council will review the existing ordinance for conformance).

iv. **Non-Mandatory Components.** The Highlands Implementation Plan and Schedule also provides for certain non-mandatory components including development and implementation of the plans herein listed, all intended as municipal-wide, long-term initiatives unless specifically noted otherwise. Where applicable and appropriate, these will build upon any such plans, programs, or ordinances that have already been developed or adopted by the municipality. It is the explicit intention of the Highlands Council that such plans be developed in a manner to ensure that implementation is both feasible and practicable, potentially involving assistance of outside agencies/organizations, working cooperatively for and with the municipality. In each case where the municipality will serve as lead, release

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of funds is contingent upon approval of a scope of work by the Highlands Council Executive Director.

- Green Building/Environmental Sustainability/Alternative Energy Plan (Master Plan Element) – Prioritized by allocation of funding to identify and plan for issues regarding on-site alternative energy facilities and green building options.

h. Revisions/Amendments Subject to Highlands Council Approval. Any proposed revision or amendment to any of the aforementioned documents, or to any other document, plan, or other item approved by the Highlands Council as a component of Plan Conformance, shall be provided to the Highlands Council for review. In the event the Highlands Council staff determines that any proposed modification is of a substantive nature, Highlands Council approval shall be required prior to adoption by the applicable municipal board, commission, or governing body. Any revision or amendment adopted without the approval of the Highlands Council may subject the municipality to revocation of Plan Conformance approval.

2. Optional Petition Requests. The findings below apply to the Optional Petition Requests discussed at Section C of this Report.

a. RMP Updates. Addressed as noted above. If concerns remain in this regard, the Borough should provide the detailed information needed for Highlands Council consideration. RMP Updates may be requested at any time, including in the post-Petition approval phases of Plan Conformance.

b. Highlands Redevelopment Area Designation. A grant has been previously provided to the Borough of Mount Arlington to conduct a redevelopment study on Block 8, Lot 3, the site of a former municipal landfill. The Borough has prepared an initial study of the property titled “Initial Assessment for Redevelopment, Mount Arlington Municipal Landfill,” dated September 2010. The Borough may seek to designate the property as a Highlands Redevelopment Area to assist in its redevelopment. However, at this time no development plans have been presented to the Highlands Council.

E. MUNICIPAL RESPONSE PERIOD

The Borough of Mount Arlington notified the Highlands Council on October 24, 2011 of its intention to waive the Municipal Response Period, and receipt of a deliberative/confidential draft version of this Report.

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F. COMMENTS FROM THE PUBLIC

The Final Draft Consistency Review and Recommendations Report was posted to the Highlands Council website and made available (in paper format) at the Highlands Council offices in Chester, NJ, for review and comment by the general public.

One comment was received during the period established by the Highlands Council for receipt of written public comment (October 28, 2011 – November 14, 2011). Comments were provided by:

1. Erica Van Auken, Campaign and Grassroots Coordinator on behalf of the New Jersey Highlands Coalition

The comment/response document is attached to this document, at Appendix A.

G. FINAL RECOMMENDATIONS

Based upon the comments received, the recommendations of Highlands Council Staff remain unchanged concerning the Petition for Plan Conformance of the Borough of Mount Arlington.

In conclusion, the Highlands Council Staff recommends that the Petition for Plan Conformance of the Borough of Mount Arlington be approved; with all applicable conditions being those listed and discussed in Section D, above.

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance – Final Consistency Review and Recommendations Report

APPENDIX A

PUBLIC COMMENTS/HIGHLANDS COUNCIL RESPONSES

Petition for Plan Conformance

Borough of Mount Arlington, Morris County

Public Comment Period: October 28, 2011 – November 14, 2011

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance – Final Consistency Review and Recommendations Report

PUBLIC COMMENTS RECEIVED

Written comments regarding Mount Arlington’s Petition for Plan Conformance were accepted by the Highlands Council through the close of the Public Comment period on November 14, 2011. Comments were provided by:

1. Erica Van Auken, Campaign and Grassroots Coordinator on behalf of the New Jersey Highlands Coalition

PUBLIC COMMENT/RESPONSE SUMMARY

Comment: The New Jersey Highlands Coalition supports Mount Arlington Borough’s Petition for Plan Conformance. The Coalition appreciates the Borough’s initiative to implement the non-mandatory Green Building/Sustainability/Alternative Energy plan. Further, the Coalition strongly urges the Borough to consider conforming its Planning Area and to address additional non-mandatory components of the Regional Master Plan. In general, the Coalition is looking forward to seeing what the Council and the Borough are able to achieve through Plan Conformance.

Response: The Highlands Council acknowledges the Coalition’s support for Mount Arlington’s Petition for Plan Conformance.