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FINAL DRAFT CONSISTENCY REVIEW AND RECOMMENDATIONS REPORT

PETITION FOR PLAN CONFORMANCE: TOWNSHIP OF ROXBURY, MORRIS COUNTY

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

MARCH 11, 2013

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INTRODUCTION

This Final Draft Consistency Review and Recommendations Report (“Report”) has been prepared by the Staff of the Highlands Water Protection and Planning Council (“Highlands Council”). It provides review and recommendations for consideration by the Highlands Council as to the consistency of the Petition for Plan Conformance of the Township of Roxbury, 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 Township of Roxbury petitioned the Highlands Council for Plan Conformance only with respect to lands within its Preservation Area. Based on a detailed review of the properties located within the Township’s Preservation Area, Highlands Council staff concludes that there is limited development potential. Specifically, the Highlands Municipal Build-Out evaluation for the Preservation Area in Roxbury identified only two lots that could support non-exempt residential units. One was the Fenimore Landfill property (Block 7404 Lot 1), which will not have residential development; the other was Block 9001 Lot 12, a 26.2 acre Office/Retail Zone parcel that the Highlands Act removed from the Future Sewer Service Area. The Township reported two other parcels in the Preservation Area as “Developable,” including Block 9002 Lot 1.01 (a 53.64-acre Commercial Zone parcel) and Block 9203 Lot 1 (a 7-acre Office Zone parcel).

The Highlands Council anticipates that there will be few if any 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 Township of Roxbury. This approach permits the Township 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 Township while efficiently and appropriately implementing the RMP at the local level.

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REPORT SUMMARY

Municipality: Township of Roxbury

Date of Petition Submission: 12/1/2009

Date Deemed Complete: 6/16/2011

Conformance Area: Preservation Area

Staff Recommendation: Approve 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	None

Petition Components	Consistent	Conditions of Approval
1. Modules 1-2 Build-Out Report*	X	None
2. Module 3 Housing Element/Plan	X	See Section D.1
3. Module 4 ERI	X	See Section D.1
4. Module 5 Highlands Element	X	Partially Waived Follow-Up Required
5. Module 6 Land Use Ordinance	Waived	Waived; Checklist Ordinance Required
6. Module 7 Petition	X	
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. Center Designation Requests	N/A	
4. Highlands Redevelopment Area Designation Requests	N/A	No requests submitted, however Highlands Council staff recommends funding to provide for evaluation of specified areas with potential for such designation.

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A. REVIEW OF ADMINISTRATIVE SUBMITTALS

- 1. Resolution or Ordinance.** The Resolution petitioning the Highlands Council for Plan Conformance was adopted by the municipal Governing Body at its noticed public meeting of December 1, 2009. The document submitted is appropriately signed, certified, and/or sealed by the Municipal Clerk to verify authenticity. The language of the Resolution relies upon the model provided by the Highlands Council. The Resolution clearly petitions the Highlands Council for Plan Conformance; conformance being proposed with respect to municipal lands located in the Preservation Area (4,303 acres, 30.6% of the municipality) 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 meeting agenda and adopted meeting minutes for meeting of the Planning Board held on December 2, 2009 to discuss Plan Conformance and/or Petition components.
 - b.** Copy of meeting agenda and adopted meeting minutes or meeting of the Governing Body held on December 1, 2009 to discuss Plan Conformance and Petition components, and to adopt the Resolution petitioning the Highlands Council for Plan Conformance.
- 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 the required documents are available as required.

The Township Ordinances are not required to be submitted as they are publicly available online at <http://clerkshq.com/default.ashx?clientsite=Roxbury-nj>.

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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 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 May 2011.
2. **Housing Element & Fair Share Plan (Module 3).** Consistent as submitted.

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; that Governor Christie's Reorganization Plan No. 001-2011 (issued June 29, 2011) eliminated COAH and transferred its functions and duties to the Department of Community Affairs (DCA); and that the Appellate Division of the Superior Court invalidated the Governor's Reorganization Plan in a March 8, 2012 decision, reversing the abolition of COAH and the transfer of its function, powers, and duties to the DCA. As required by the Highlands Act and the Fair Housing Act, COAH 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.

a. **Municipal Growth Projections.** Municipal Growth Projections estimated in the Highlands Municipal Build-Out Report for the Township (May 2011) are as follows

- Residential Growth (housing units): 69
- Non-Residential Growth (jobs): 574

b. **Final Housing Element & Fair Share Plan.** The Township of Roxbury adopted a Housing Element and Fair Share Plan on November 12, 2008. The Township submitted a petition for substantive certification to COAH on December 23, 2008. On July 21, 2009 the Township amended their Housing Element and Fair Share Plan. At the request of COAH, the Highlands Council prepared a review of the Township’s Housing Element and Fair Share plan, which was submitted to COAH on July 17, 2009. On August 12, 2009 COAH granted the Township substantive certification. The following is a summary of the consistency reviews of the sites proposed and the Township’s Housing Element and Fair Share Plan.

i. **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:** 35
- **Prior Round Obligation:** 255

ii. **Summary of Fair Share Plan.** The Fair Share Plan addresses the municipal obligation by use of the mechanisms and/or development projects listed below. Where Affordable Housing Sites were included that have not yet been constructed, each was reviewed for consistency with the RMP using the on-line Highlands Council RMP Consistency Review Report tool.

- **Rehabilitation Program:** 34 units previously rehabilitated.
- **Prior Round Site 1:** Willow Walk Lakeside Village. 105 Age Restricted units. Completed.
- **Prior Round Site 2:** River Park Village. 122 Family rental units. Completed.

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- **Prior Round Site 3:** Dellamo. 35 Family rental units. Block 6101, Lots 3 and 4. 5.68 Acres. Primarily Protection Zone and Lake Community Subzone. The project is currently under construction.
- **Prior Round Site 4:** Renaissance (Willow Walk). 35 rental units. Block 62.01, Lot 5. 6.34 Acres. Planning Area, Primarily Protection Zone and Lake Community Subzone. The project is currently under construction.
- **New Project/Site 1:** Edith Road. Block 11802, Lot 1. 2 affordable units on 7500 sq. ft. Serviced by public water and wastewater. Planning Area, Existing Community Zone. The site is currently located in public water and waste water utility service areas with direct access to existing infrastructure of both utilities. Site appears to be consistent with the RMP.
- **New Project/Site 2:** Port Morris Firehouse. Block 10502, Lot 5. 2 affordable units on 15,000 sq. ft. Currently serviced by public water and wastewater. Planning Area, Lake Community Sub-Zone. Site is currently developed and will be redeveloped to accommodate the affordable housing units. Site appears to be consistent with RMP.
- **New Project/Site 3:** DPW Site. Block 5203, Lot 57. 6 units on 1.12 acres. Currently serviced by public water and wastewater. Planning Area, Existing Community Zone. Site is currently developed and will be redeveloped to accommodate the affordable housing units. Site appears to be consistent with RMP.
- **New Project/Site 4:** Kingtown. Block 9302, Lot 4. 30 affordable units on 18.4 acres. Planning Area Protection Zone. Proposed for public water and sewer but not within a NJDEP-approved Sewer Service Area.
- **New Project/Site 5:** Muscarelle Inclusionary Site. Block 9302, Lots 1 and Block 9401, Lot 13. 52 Affordable units and 208 Market Rate Units (20% set aside). Planning Area, Primarily Protection Zone. Significant Highlands Open Water Buffers. Proposed for public water and sewer but not within a NJDEP-approved Sewer Service Area.

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- **New Project/Site 6:** 54 Main Street. 2 Family Rental Units. Completed.
- **Other Mechanisms:**
 - i. 13 Market to Affordable Units. As this would utilize existing units there would be no RMP consistency issues.
 - ii. 10 Existing Supportive and Special Needs Housing Sites. Total of 26 bedrooms.
- iii. **Issues/Concerns & Recommendations (if Applicable).**
 - Goals and objectives consistent with the goals and objectives found in the Model Housing Element have been inserted as recommended revisions to the Township’s proposed Master Plan Highlands Element (see Housing Plan section.)
 - The certified Plan does not include affordable housing projects requiring new construction within the Preservation Area. Any additional units within the Preservation Area would be the result of the conversion of existing market rate single-family homes to deed restricted affordable units, either through the Township’s Market to Affordable Program or for the creation of group homes for people with special needs. As such, these projects should either be eligible for Highlands Act exemptions, or excluded from application of the provisions of the Highlands Area Land Use Ordinance.
 - Kingtown and Muscarelle Sites: These developments are proposed to be serviced by public water and public sanitary sewer but are not located in approved sewer service areas. However, the Township notes that they are depicted in the Morris County Wastewater Management Plan map entitled “Roxbury Township Interim Draft, Map 3M:Future Wastewater Service Areas” as being within the future sewer service areas for the Ajax Terrace Water Pollution Control Plan (WPCP) and the Musconetcong Sewerage (MSA), respectively. The projects are located in the Planning Area, primarily in the Protection Zone. This may affect the ability to extend water and sewer service to the sites. These projects, at this time, represent a “reasonable potential development” as evidenced by COAH’s certification of the Township’s Fair Share Plan. However, should at any time the projects become infeasible, they

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must be removed from the Township’s Fair Share Plan. Approval by NJDEP of a Wastewater Management Plan that includes each new development site in the Future Sewer Service Area will be required.

- 3. Environmental Resource Inventory (Module 4).** The proposed Township of Roxbury Highlands Environmental Resource Inventory (ERI) is based on the Highlands Model ERI provided to municipalities by the Highlands Council. The document has undergone previous revisions under a collaborative process between the municipality and the Highlands Council to address and incorporate the input and concerns of all parties. The Township of Roxbury Highlands ERI as now proposed (including modifications by the Highlands Council), contains all required Highlands ERI language and all applicable figures, 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 Preservation Area Plan Conformance.

 - a. Deleted Sections.** The Special Environmental Zone section of the model Highlands ERI is not relevant to the municipality and has thus been deleted from the municipal submission.
 - b. Revisions.** The municipality has incorporated updated technical information and coinciding figures as provided by the Highlands Council.
 - c. Areas of Inconsistency.** None.

- 4. Master Plan Highlands Preservation Area Element (Module 5).** The draft Master Plan Highlands Preservation Area Element submitted by the Township was based on the model Highlands Element provided to municipalities by the Highlands Council. In consideration of the limited development potential of the Township Preservation Area, Highlands Council staff recommends that major portions of the document be eliminated under a partial waiver for Module 5. Instead, the Township would adopt a shortened Master Plan Highlands Preservation Area Element that includes only those sections required to support adoption of the aforementioned Highlands Checklist Ordinance, and provide for certain planning initiatives of Township interest. The revised document, as proposed by Highlands Council staff, is consistent with the RMP and, in the context of the special circumstances surrounding the Township of Roxbury, is sufficient to fully address all Plan Conformance requirements. Please see the revised document text. The specific remaining components of the revised Highlands Element are listed below.

 - a. Policies, Goals & Objectives.**
 - b. Land Preservation/Stewardship Plan Element.** Minor modification is required for completion (please see highlighted text in document).

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- c. **Redevelopment Planning** Retained consistent with allocation of funding (see Highlands Implementation Plan and Schedule) to examine opportunities for redevelopment within the Township.
 - d. **Housing Plan Element.**
 - e. **Sustainable Economic Development Plan Element.** Intended for municipal-wide application and anticipated to incorporate/support aspects of redevelopment planning in the Township.
 - f. **Relationship of Master Plan to Other Plans.**
 - g. **Exhibits.** The list of Exhibits includes all that apply to the municipality. Due to the reduced requirements for the Township’s Master Plan Highlands Preservation Area 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 Preservation Area Element text, and any exhibits previously provided with the Highlands Preservation Area 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.
5. **Highlands Area Land Use Ordinance (Module 6).** Waived.

Note however, that the Township will instead 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 Township will retain the Checklist Ordinance, in lieu of adoption of a Highlands Land Use Ordinance. In the context of the special circumstances surrounding the Township of Roxbury, this ordinance is sufficient to address the immediate mandatory Plan Conformance requirements regarding alignment of municipal regulatory documents with the RMP unless exempt per Section 4 of the Ordinance. 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 a Highlands Applicability Determination (HAD) indicating that the proposed development is exempt from the Highlands Act. A copy of the Highlands Council model Checklist Ordinance tailored to the municipality is enclosed with this package.

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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.

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

As proposed by the municipality, the Highlands Implementation Plan and Schedule: a) included all mandatory components required to achieve full Preservation Area Plan Conformance; and b) incorporated timeframe estimates associated with each mandatory element. The Highlands Implementation Plan and Schedule has been modified since first issued by the Highlands Council however, and a revised version tailored with municipal information has been provided with this package. 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, through the 2012 State fiscal year.

In addition, the proposed Highlands Implementation Plan and Schedule includes non-mandatory Plan Conformance activities, the estimated costs and timeframes for completion of which, the municipality must consider. These activities have been incorporated into the revised Highlands Implementation Plan and Schedule for discussion purposes.

Recommended Highlands Council edits tailoring the revised document to the municipality (based on the Petition submittals) have been considered and included in the final version.

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C. REVIEW OF OPTIONAL SUBMISSION COMPONENTS

1. **RMP Updates.** N/A
2. **Map Adjustments.** N/A
3. **Highlands Center Designation Requests.** N/A
4. **Highlands Redevelopment Area Designation Requests.** The Petition for Plan Conformance was not accompanied by any requests for Highlands Redevelopment Area Designation, however, Highlands Council staff proposes an allocation of funding to investigate opportunities for such designation within the Township (see Highlands Implementation Plan and Schedule).
5. **Other.** N/A

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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 in the Preservation Area of the Township of Roxbury, as currently proposed by the municipality, be approved with conditions as outlined below.

1. Approval with Conditions. Highlands Council Staff recommend that this Petition for Plan Conformance in the Preservation Area be approved by the Highlands Council. This 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 Preservation Area Checklist Ordinance. The municipality shall prepare and submit to the Highlands Council a draft “Checklist Ordinance” (model enclosed) requiring that Development Applications be deemed incomplete by the reviewing board or applicable municipal authority unless exempt per Section 4 of the Ordinance, until or unless accompanied by a Highlands Council Consistency Determination indicating that the application is consistent, or can and will be made consistent with the Regional Master Plan; or an NJDEP 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 Reexamination Report. The municipality shall prepare and submit to the Highlands Council a draft Reexamination Report (model available) indicating that the intended changes to the municipal master plan and land use ordinances include adoption of the Checklist Ordinance, the Master Plan Highlands Element, and the Highlands Area Land Use Ordinance. The Reexamination Report shall be

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adopted as an amendment (supplement) to the municipal Master Plan to: a) establish the basis for adoption of the Checklist Ordinance; and b) ease the public notice requirements that will apply due to the changes the ordinance introduces in municipal zone classifications.

- c. Adoption of Approved Highlands ERI.** The Highlands Environmental Resource Inventory (ERI) shall be prepared in a clean, final document format for purposes of public review and adoption. A copy shall be provided to the Highlands Council. The municipal Environmental Commission (or Planning Board in the absence of an Environmental Commission) shall provide for and complete the required process of formal adoption of the ERI by the local Commission or Board. At the conclusion of the process, a certified copy of the adopted ERI shall be provided to the Highlands Council. The process of ERI adoption shall be conducted in accordance with all applicable legal requirements and protocols, and shall be guided by the timeframes set forth in the Highlands Council-approved Implementation Plan and Schedule. Should this process lead to proposed modifications to any portion of the ERI, the proposed changes shall be submitted to the Highlands Council for review. In the event the Highlands Council determines that any proposed modification is of a substantive nature, Highlands Council approval shall be required prior to adoption by the local Commission or Board.
- d. Adoption of Approved Master Plan Highlands Element.** The Master Plan Highlands Element shall be completed in accordance with the requirements of Section B4 of this Report, and submitted to the Highlands Council for final approval. Upon receipt of final Highlands Council approval, the Highlands Element shall be prepared in a clean, final document format for purposes of public review and adoption. A copy shall be provided to the Highlands Council. The municipal Planning Board shall arrange for the required process of scheduling, notice, public hearing, consideration, and formal adoption of the Highlands Element by the municipal Planning Board. At the conclusion of the process, a certified copy of the adopted Highlands Element shall be provided to the Highlands Council. The process of Highlands Element adoption shall be conducted in accordance with all applicable legal requirements and protocols, and shall be guided by the timeframes set forth in the Highlands Council-approved Implementation Plan and Schedule. Should this process lead to proposed modifications to any portion of the Highlands Element, the proposed changes shall be submitted to the Highlands Council for review. In the event the Highlands Council determines that any proposed modification is of a substantive nature, Highlands Council approval shall be required prior to adoption by the local Planning Board.
- e. Housing Element & Fair Share Plan.** As noted above, the Township Housing Plan received substantive certification from COAH in August 2009. Any subsequent revision to the Housing Element and Fair Share Plan shall be provided to the

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Highlands Council for review and approval prior to implementation by the municipality. (In recognition of significant changes in the applicable Housing Rules and State laws pertaining to the provision of affordable housing in the state of New Jersey, as discussed above, these requirements shall be considered subject to modification, with the intent being only to ensure that the municipality remains in compliance with all applicable statutes, rules, regulations and requirements regarding affordable housing, at any given time, and maintains consistency with the RMP, so as to protect the municipality from legal challenge.)

- f. Adoption of Ordinances Implementing Fair Share Plan.** Governing Body adoption of Ordinances required to implement the Fair Share Plan shall proceed in accordance with all requirements of the Superior Court or COAH, as applicable, and all legal requirements and protocols pertaining thereto. Plan implementation and continued compliance with the approved Fair Share Plan moreover, shall be a condition of continued Plan Conformance approval, subject to Highlands Council review and monitoring.
- g. Wastewater Management Plan (WMP).** The municipality shall prepare a Wastewater Management Plan working with the Highlands Council and Morris County under Plan Conformance, for approval by the NJDEP. This plan will be recognized as a chapter of the Morris County WMP in accordance with NJDEP Administrative Order 2010-03 and all applicable NJDEP rules and requirements.
- h. 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.

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- ii. Adoption of Regulations Implementing Plan Components.** All ordinances, rules, and regulations shall be prepared and provided to the Highlands Council for review and approval prior to formal adoption by the applicable municipal board, commission, or governing body.
- iii. Mandatory Components.** Specific mandatory components include development and implementation of the plans/programs/ordinances herein listed (once models have been provided by the Highlands Council, and funding provided), all intended as municipal-wide, long-term initiatives unless specifically noted otherwise. Where applicable and appropriate, these will build upon any such plans, programs, or ordinances that have already been developed or adopted by the municipality. It is the explicit intention of the Highlands Council that such plans/programs be developed in a manner to ensure that implementation is both feasible and practicable, potentially involving assistance of outside agencies/organizations, working cooperatively for and with the municipality. In each case where the municipality will serve as lead, release of funds is contingent upon approval of a scope of work by the Highlands Council Executive Director.
- Water Use & Conservation Management Plan.
 - Habitat Conservation & Management Plan – Prioritized by allocation of funding to identify species at risk, options for restoration of habitat, and standards for mitigation of unavoidable impacts of public and private projects.
 - Stormwater Management Plan (Updates Only)
 - Land Preservation and Stewardship Program
 - Sustainable Economic Development Planning
 - 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 (adoption of which is anticipated earlier in the Plan Conformance phase without need for a prior planning/program document).
- iv. Non-Mandatory Components:** The Highlands Implementation Plan and Schedule also provides for certain non-mandatory components including development and implementation of the plans herein listed, all intended as municipal-wide, long-term initiatives unless specifically noted otherwise. Where applicable and appropriate, these will build upon any such plans, programs, or ordinances that have already been developed or adopted by the municipality. It is the explicit intention of the Highlands Council that

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such plans be developed in a manner to ensure that implementation is both feasible and practicable, potentially involving assistance of outside agencies/organizations, working cooperatively for and with the municipality. In each case where the municipality will serve as lead, release of funds is contingent upon approval of a scope of work by the Highlands Council Executive Director.

- Stream Corridor Restoration/Protection Plan – Prioritized by allocation of funding for development of a Plan to protect/restore streams in the municipality and to mitigate the impacts of future land uses on such water resources.
- Highlands Redevelopment Area Planning – To review the potential for Highland Redevelopment Area designations. The Township may wish to focus this effort, or a portion of thereof, on redevelopment planning for the Hercules, Inc. site, as noted below (see Optional Petition Requests).

i. 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. None. However, the Highlands Council recognizes that the Township of Roxbury has within the Planning Area a large brownfield site, the former Hercules, Inc., facility. The Township is encouraged to work with the Highlands Council to integrate the eventual redevelopment of that site with the RMP through a Highlands Redevelopment Area designation, which would facilitate consideration of water supply and wastewater treatment needs through various State approval processes.

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E. MUNICIPAL RESPONSE PERIOD

The Highlands Council provided a Draft Consistency Review and Recommendations Report dated April 9, 2012, to the municipality on April 13, 2012. The Municipal Response Period was extended to August 15, 2012. The municipality provided new, revised, supplemental, or amended materials, items, or information in support of the Petition for Plan Conformance, prior to expiration of that Period, for Highlands Council consideration.

The Municipal Response submittals included the items listed below, each described and discussed in relation to the matter of consistency with the Regional Master Plan and sufficiency to meet the requirements for Plan Conformance.

1. Revised Draft Consistency Review and Recommendation Report
2. Revised Highlands Preservation Area Checklist Ordinance
3. Revised Highlands Environmental Resource Inventory
4. Revised Master Plan Highlands Element
5. Marked-up Master Plan Exhibit A

The Township also provided Roxbury Township Council Resolution No. 09-389 and reiterated the position that Plan Conformance is only sought for land within the Preservation Area. Subsequent to the Municipal Response Period, the Township provided the following required planning documents in Adobe pdf format::

- a. Land Use Plan Element Update, adopted September 16, 2009;
- b. Municipal Stormwater Management Plan revised December 2006; and
- c. Build Out and Capacity Analysis, November 1, 2006.

F. COMMENTS FROM THE PUBLIC

Following the Municipal Response Period and the incorporation by Highlands Council Staff of any revisions resulting from the Municipal Response, as noted above, the Draft Consistency Review and Recommendations Report will be posted to the Highlands Council website and made available (in paper format) at the Highlands Council offices in Chester, NJ, for review and comment by the general public. Comments may be submitted to the Highlands Council by e-mail (chris.ross@highlands.state.nj.us), facsimile transmission (908-879-4205), surface mail, or hand delivery (Highlands Council, 100 North Road, Chester, NJ 07930). All comments will be made available for public inspection in the offices of the Highlands Council in Chester, NJ. At the conclusion of the public comment period, a summary comment/response document will be prepared by Highlands Council Staff which will be posted to the Highlands Council website along with any final revisions resulting from Council review and consideration of public comments.

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

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G. FINAL RECOMMENDATIONS

This Section is completed after review and consideration of all comments regarding a Petition for Plan Conformance.

Based upon the comments received, the recommendations of Highlands Council Staff concerning the Petition for Plan Conformance of the Township of Roxbury, [remain unchanged/require substantial revision/require only minor modifications from the Preliminary and/or Revised Recommendations, as discussed herein below.

1. Item #1.
2. Item #2.
3. Item #3.]

In conclusion, the Highlands Council Staff recommends that the Petition for Plan Conformance of the Township of Roxbury, be approved/denied/approved with conditions; with all applicable conditions being those listed and discussed in Section D, above, and if applicable, as supplemented and/or modified by the revisions discussed herein, above.

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APPENDIX A

PUBLIC COMMENTS/HIGHLANDS COUNCIL RESPONSES

Petition for Plan Conformance

Township of Roxbury, Morris County