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**FOR CONSIDERATION AT THE FEBRUARY 17, 2011 MEETING
OF THE HIGHLANDS COUNCIL**

**FINAL ~~DRAFT~~ CONSISTENCY REVIEW
AND RECOMMENDATIONS REPORT**

**PETITION FOR PLAN CONFORMANCE:
TOWNSHIP OF TEWKSBURY, HUNTERDON COUNTY**

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

FEBRUARY 9, 2011

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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 Tewksbury, 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.

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REPORT SUMMARY

Municipality: Township of Tewksbury

Date of Petition Submission: December 10, 2009

Date Deemed Complete: March, 31, 2010

Conformance Area: Planning 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	
4. Other	N/A	

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	Follow-Up Required per Section B.4; D.1
5. Module 6 Land Use Ordinance	X	Follow-Up Required 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
7. Other	N/A	N/A

*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	3/15/10	Processed. See Section C.1
2. Map Adjustments	N/A	N/A
3. Center Designation Requests	N/A	N/A
4. Highlands Redevelopment Area Designation Requests	N/A	N/A
5. Other	N/A	N/A

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A. REVIEW OF ADMINISTRATIVE SUBMITTALS

1. **Resolution or Ordinance.** Two Resolutions petitioning the Highlands Council for Plan Conformance were adopted by the municipal Governing Body at its noticed public meeting of December 8, 2009; one for each, the Preservation Area and the Planning Area. The documents submitted are appropriately signed and certified by the Municipal Clerk to verify authenticity. The language of the Resolutions relies upon the models provided by the Highlands Council. The Resolutions clearly petition the Highlands Council for Plan Conformance; conformance being proposed with respect to municipal lands located in both the Preservation Area (13,4~~69~~⁷⁵ acres) and the Planning Area (6,8~~60~~⁵⁷ acres) 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 Resolutions petitioning the Highlands Council for Plan Conformance. The submission includes the following:
 - a. Copies of public meeting notices for meetings of the Land Use Board held on September 23, 2009 and November 18, 2009 to discuss Plan Conformance and/or Petition components.
 - b. Copies of meeting agendas and adopted meeting minutes associated with such Land Use Board meetings.
 - c. Adopted Resolutions as noted above, indicating discussion of Plan Conformance issues at the December 8, 2009 public meeting of the Governing Body.
3. **List of Current Planning Documents.** The list of current municipal planning and regulatory documents is comprehensive. All required documents are available in the offices of the Highlands Council in Adobe pdf format. A copy of the updated ordinance is available online at the Township's website <http://www.tewksburytwp.net> and therefore did not need to be submitted.

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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 Build-Out Report was updated since first issued to the municipality based upon information provided at a later date. The date of the Highlands Municipal Build-Out Report is August 2009.
2. **Housing Element & Fair Share Plan (Module 3).** 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 allows for Highlands Council review of as yet unconstructed projects in municipal housing plans, for consistency with the RMP.

The Township of Tewksbury provided all components required by the Highlands Council. The first submission was included as requested within the municipality's Petition for Plan Conformance, while the remaining items were provided in sufficient time to provide comments to the Township. Review of the final Housing Element and Fair Share Plan submission, adopted by the Land Use Board on June 2, 2010 follows. These findings constitute a preliminary analysis of the Housing Element and Fair Share Plan by the Highlands Council. Formal review will be conducted by COAH. The final Housing Element and Fair Share Plan appear to address the municipality's Fair Share Obligation. As to consistency with the requirements of the RMP, the Plan is satisfactory. Certain projects will require further information as planning progresses.

- a. **Summary of Municipal Obligation.** The Municipal Obligation appeared to be correctly calculated and included the components listed below.
 - i. **Rehabilitation Share:** None
 - ii. **Prior Round Obligation:** 119 units
 - iii. **Growth Share Obligation:** 85 units

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b. **Municipal Growth Projections.** Municipal Growth Projections, used to determine the Growth Share Obligation (above) were correctly indicated in the COAH Workbook D form or other submittals provided by the municipality. The final figures are listed below. Note: Highlands Full Build-Out Projections apply in the case of conformance for the full municipality (i.e., for split municipalities, including both the Planning and Preservation Area) in accordance with COAH's instructional document, *Guidance for Highlands Municipalities that Conform to the Highlands Regional Master Plan*; COAH Growth Projections apply in all cases where the municipality is not petitioning for conformance for the whole of the municipality, until or unless modified by COAH consistent with the Guidance or as applicable, the Superior Court. The municipality's Housing Element relies upon Highlands Full Build-Out Projections.

i. **Highlands Full Build-Out Projections**

- Residential Growth (housing units): 412
- Non-Residential Growth (jobs): 40
- Total Growth Share, after exclusions (units): 85

ii. **COAH Growth Projections Through 2018**

- Residential Growth (housing units): 308
- Non-Residential Growth (jobs): 651
- Total Growth Share, after exclusions (units): 102

c. **Summary of Proposed Fair Share Plan.** The Fair Share Plan proposes to address 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. In this case, 3 Affordable Housing Sites were proposed. A brief summary of the results for each, is included below.

- **Rehabilitation Program:** None.
- **Prior Round Sites/Mechanisms**
 1. Norwescap – 15 units and 5 bonus credits.
 2. United Cerebral Palsy Group Home – 18 units and 18 bonus credits (completed).
 3. Accessory Apartments – 6 units (completed).

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4. Delvanthal-Barnstable Inclusionary Development (rental) – 30 Market Rate unit, 3 affordable units and 3 bonus credits (completed).
5. Peapack Gladstone Bank – 1 unit and 1 bonus credit (completed).
6. Crossroads at Oldwick Rentals – 2 units and 2 bonus credits.
7. RCA with Perth Amboy – 45 units (completed).

Anticipated Total Prior Round Credits: 119.

• **Growth Share Sites/Mechanisms**

1. Bartles House Affordable Apartments – 3 units and 3 Bonus credits (completed).
2. Accessory Apartment Program – 19 units (completed).
3. Accessory Apartment Program – 25 units. (One of these units not required, upon Plan Conformance for Planning Area.)
4. Bartles Housing Project – 5 units. (Units not required upon Plan Conformance for Planning Area.)
5. Supportive and Special Needs Housing – 10 units. Future sites to be identified.
6. Municipally sponsored program – 11 units. Future sites to be identified. (Units not required upon Plan Conformance for Planning Area.)
7. RCA with Perth Amboy – 26 units (completed)

Anticipated Total Growth Share Credits: 102.

ii. **Issues/Concerns & Recommendations.**

- The Accessory Apartment program will include lots serviced by septic systems and domestic wells, however, the exact location of the units is not known at this time. To be consistent with the RMP any accessory apartments to be serviced by septic systems will have to meet the nitrate dilution standards in the Land Use Capability Zone in which they will be located.
- The Township's Fair Share Plan includes three projects with sites noted as to be identified. The Implementation Plan and Schedule submitted to COAH as part of the Fair Share Plan for these sites should note that the sites will need to be reviewed for consistency with the RMP upon identification.

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- Goals and objectives sufficient to ensure consistency with the goals and objectives of the Regional Master Plan have been included in the adopted Housing Element and Fair Share Plan and the Highlands Master Plan Element.

3. Environmental Resource Inventory (Module 4). The proposed Township of Tewksbury 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 Tewksbury Highlands ERI, as now proposed, 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:

- i. Special Environmental Zone;
- ii. Lake Management Area.

b. Recommendations to Complete. None

4. Master Plan Highlands Element (Module 5). The proposed Township of Tewksbury Master Plan Highlands Element is based on the model Highlands Element provided to municipalities by the Highlands Council. The document as now proposed (inclusive of edits provided by the Highlands Council), contains all required Highlands Element language and all applicable maps/exhibits, as necessary, to fully address the immediate mandatory requirements of Plan Conformance.

The specific components of the model Highlands Element are listed below. Where each is consistent with the Highlands Council model or otherwise satisfactorily addresses all RMP requirements for Basic Plan Conformance, the heading or sub-heading indicates “Consistent.” Where any section of the model Highlands Element has been appropriately deleted due to non-applicability, the heading or sub-heading indicates “Not Applicable – Deleted.” Where minor modifications are required to complete the document for purposes of adoption by the Planning Board, the heading or sub-heading indicates, “Minor Modifications Required for Completion.” If needed, explanatory discussion is provided.

a. Introduction. Consistent.

b. Policies, Goals & Objectives. Consistent

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- i. Preservation Area Goals. Consistent
 - ii. Planning Area Goals. Consistent
 - iii. Tewksbury Township Goals. Consistent. The Township addition of its own Master Plan goals and objectives is consistent with all requirements for Plan Conformance.
 - iv. General Purposes of Zoning. Consistent
 - v. Relationship Between Highlands Act & MLUL. Consistent
- c. Land Use Plan Element. Consistent**
- i. Highlands Zones and Sub-Zones. Consistent. (Note Wildlife Management Zone and Lake Community Sub-Zone not applicable – deleted.)
 - ii. Land Uses. Consistent
 - iii. Density and Intensity of Development. Consistent
 - iv. Cluster Development. Consistent
 - v. Land Use Inventory. Consistent
 - vi. Redevelopment Planning. Consistent
- d. Housing Plan Element. Consistent**
- e. Conservation Plan Element. Consistent**
- i. Forest Resources. Consistent
 - ii. Highlands Open Waters and Riparian Areas. Consistent
 - iii. Steep Slopes. Consistent
 - iv. Critical Habitat. Consistent
 - v. Carbonate Rock. Consistent
 - vi. Lake Management. Not Applicable – Deleted
 - vii. Water Resources Availability. Consistent
 - viii. Prime Ground Water Recharge Areas. Consistent
 - ix. Water Quality. Consistent
 - x. Wellhead Protection. Consistent
 - xi. Low Impact Development. Consistent
- f. Utility Services Plan Element. Consistent**

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- i. Preservation Area. Consistent
- ii. Planning Area. Consistent
- iii. Planning & Preservation Areas. Consistent

- g. Circulation Plan Element.** Consistent

- h. Land Preservation/Stewardship Plan Element.** Consistent.

- i. Agriculture Retention/Farmland Preservation Plan Element.** Consistent

- j. Community Facilities Plan Element.** Consistent

- k. Sustainable Economic Development Plan Element.** Consistent

- l. Historic Preservation Plan Element.** Consistent
 - i. Historic, Cultural, and Archaeological Resources. Consistent.
 - ii. Scenic Resources. Consistent

- m. Development Transfer Plan Element.** Inclusion of this Section is optional and the municipality has elected not to incorporate it.

- n. Relationship of Master Plan to Other Plans.** Consistent

- o. Exhibits.** Consistent. The list of Exhibits includes all that apply to the municipality. The applicable Exhibits are attached to the pdf copy of the Highlands Element.

- 5. Highlands Area Land Use Ordinance (Module 6).** The proposed Township of Tewksbury Highlands Area Land Use Ordinance is based on the model Highlands Area Land Use Ordinance provided to municipalities by the Highlands Council. Since the time of issuance of the Model however, the Highlands Council, with input from municipal professionals, has made certain revisions to the document to refine and simplify it for purposes of municipal implementation. The Township of Tewksbury Highlands Area Land Use Ordinance as now proposed (including the modifications provided by the Highlands Council), contains all required Highlands Area Land Use Ordinance language, as necessary to fully address the immediate mandatory requirements of Plan Conformance. As to maps/exhibits, please see #5m, below.

The specific components of the model Highlands Land Use Ordinance are listed below. Where each is consistent with the Highlands Council model or otherwise satisfactorily addresses all RMP requirements for Basic Plan Conformance, the heading or sub-heading indicates “Consistent.” Where any section of the model Highlands Land Use Ordinance has been appropriately deleted due to non-applicability, the heading or sub-heading indicates “Not Applicable – Deleted.” Where minor modifications are required to complete the

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document for purposes of adoption, the heading or sub-heading indicates, “Minor Modifications Required for Completion.” If needed, explanatory discussion is provided.

- a. **Article 1. Title, Purpose, Scope.** Consistent. The municipality will address/incorporate the minor modifications made by the Highlands Council. Please see revised document text.
- b. **Article 2. Applicability.** Consistent. The municipality will address/incorporate the minor modifications made by the Highlands Council. Please see revised document text.
- c. **Article 3. Definitions.** Consistent. The municipality will address/incorporate the minor modifications made by the Highlands Council. Please see revised document text.
- d. **Article 4. Establishment of Highlands Area Districts.** Consistent. The municipality will address/incorporate the modifications made by the Highlands Council, inclusive of new map titles at Section 4.4. Please see revised document text.(Note: Wildlife Management Sub-Zone, Lake Community Sub-Zone, Lake Management Area, and Highlands Special Environmental Zone are not applicable to the municipality and have been deleted.)
- e. **Article 5. Highlands Area Zone District Regulations.** Consistent, however minor modifications are required to complete the document (see highlighted text). The municipality will address/incorporate review the modifications made to the section by the Highlands Council. Please see revised document text.
- f. **Article 6. Highlands Area Resource Regulations.** Consistent
 - i. Forest Resources. Consistent
 - ii. Highlands Open Waters & Riparian Resources. Consistent, however minor modifications required to complete: Section 6.2.5.D and E - insert references, if applicable.
 - iii. Steep Slopes. Consistent
 - iv. Critical Habitat. Consistent
 - v. Carbonate Rock. Consistent
 - vi. Lake Management Area. Not Applicable – Deleted
 - vii. Water Conservation & Deficit Mitigation. Consistent
 - viii. Prime Ground Water Recharge Areas. Consistent

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- ix. Wellhead Protection. Consistent, however minor modifications are required to complete: Section 6.9.3.E.2 - insert citation, if applicable.
 - x. Agricultural Resources. Consistent, however minor modifications are required to complete: Section 6.10.3.A – establish municipal standards or provide reference to existing municipal ordinances that apply, if any.
 - xi. Historic, Cultural & Archaeological Resources. Optional – Deleted. The municipality has elected not to regulate Historic, Cultural & Archaeological Resources under the Highlands Area Land Use Ordinance at this time. The section may be restored at a later date, however, at the discretion of the municipality.
 - xii. Scenic Resources. Consistent
- g. Article 7. Highlands Area General Regulations.** Consistent
- i. Affordable Housing. Consistent
 - ii. Low Impact Development. Consistent
 - iii. Conservation Restrictions. Consistent. The municipality will address/incorporate the modifications made by the Highlands Council. Please see revised document text.
 - iv. Stormwater Management. Consistent
 - v. Special Environmental Zone. Not Applicable – Deleted
 - vi. Septic System Design and Maintenance. Consistent
 - vii. Public Water Systems. Consistent
 - viii. Wastewater Collection and Treatment Systems. Consistent
- h. Article 8. Planned Development Regulations.** Consistent
- i. Article 9. Application Review Procedures & Requirements.** Consistent as submitted, however modifications are required to complete the section prior to ordinance adoption (please see highlighted areas). In addition, the municipality will address/incorporate the modifications made by the Highlands Council. Please see revised document text.
 - j. Article 10. Appeals, Waivers, Exceptions.** Consistent. The municipality will address/incorporate the modifications made by the Highlands Council. Please see revised document text

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- k. **Article 11. Enforcement, Violations, Penalties.** Consistent, however minor modification is required to complete: please insert the municipal code reference in Section 11.4.
- l. **Appendices.** Consistent.
- m. **Exhibits.** The Exhibits, including the List of Exhibits and all in-text document references to Exhibits have been updated by the Highlands Council to include Highlands Council parcel-based maps, which indicate the locations and boundaries of each Highlands Area, Zone, Resource, Resource Area, and Special Protection Area. These Exhibits were not available when the Model Land Use Ordinance was initially provided by the Highlands Council for use in preparing Petitions, but are crucial to the regulatory function of the Highlands Area Land Use Ordinance. Please note that the revised maps have been provided in Adobe® pdf format, and in this case, should not be converted for insertion directly in the MSWord® version of the Ordinance. After adoption, they should accompany the Ordinance at all times, however, as an integral component of it – whether made available to the public in paper or electronic format. As provided currently, the maps are at a scale suited to printing on large plotters, for purposes of municipal reproduction and display (ensuring high-resolution detail).

Please note that Exhibit 2 and Exhibit 9 have been updated since first provided to the municipality (August 2010), to update the Total Forest data layer and to remove historic resources, in keeping with the municipal decision not to regulate these resources through the Highlands Area Land Use Ordinance at this time.

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 achieve Full Plan Conformance.
 - i. **Narrative Portion.** The Narrative Portion has been completed accurately for purposes of Basic Plan Conformance.
 - 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 Full Plan Conformance with the Regional Master Plan. As proposed by

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the municipality, the Highlands Implementation Plan and Schedule included all mandatory components required to achieve full Plan Conformance and incorporated realistic time estimates associated with each mandatory element. The Highlands Implementation Plan and Schedule has been modified since first issued by the Highlands Council however, and the municipality's document has been updated accordingly. 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 2011 State fiscal year. Please see the revised document; recommended edits tailoring it to the municipality are provided.

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C. REVIEW OF OPTIONAL SUBMISSION COMPONENTS

1. **RMP Updates.** The Petition for Plan Conformance was accompanied by requests for RMP Updates. These requests are listed and described in the attachments at Appendix A. The RMP Updates have been processed as follows:

- a. **Preserved Lands & Preserved Farms.** Highlands Council data has been updated in accordance with the materials submitted by the Township. Revised maps to be incorporated in the Highlands ERI and Master Plan Highlands Element will be provided to the municipality prior to the required adoption of these documents.
- b. **Rockaway Historic District (ID#3811) Discrepancy.** Although the Township is correct that the district is not currently on a State or National Register, it is correctly included in the Master Plan Highlands Element due to the Highlands Council's criteria for listing in the Highlands Historic & Cultural Resources Inventory, as follows:

“The Historic and Cultural Resources Inventory includes: 1) all properties listed on the State or National Register of Historic Places; 2) all properties which have been deemed eligible for listing on the State or National Register; and 3) all properties for which a formal SHPO opinion has been issued. A SHPO opinion is an evaluation of eligibility prepared when a federally funded activity is expected to have an effect on historic properties not listed on the National Register.” (Highlands Council Technical Report, Highlands Historic & Cultural Resources Inventory.)

2. **Map Adjustments.** N/A

3. **Highlands Center Designation Requests.** N/A

4. **Highlands Redevelopment Area Designation Requests.** N/A

5. **Other.** N/A

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D. PRELIMINARY 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 Township of Tewksbury, 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 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 Planning Area Ordinance. The municipality shall prepare and submit to the Highlands Council a draft municipal ordinance petitioning the Highlands Council for Plan Conformance with respect to the municipality’s Planning Area lands (based upon or consistent with the model provided by the Highlands Council). 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 Planning Area Petition Ordinance shall be provided to the Highlands Council with notice of its effective date. The process of Ordinance adoption 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 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 Checklist Ordinance. The municipality shall prepare and submit to the Highlands Council a draft “Checklist Ordinance” (model available) requiring 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

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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.

Note: The Checklist Ordinance is intended as an interim protection measure only, and should be repealed at the time of adoption of an approved Highlands Area Land Use Ordinance (completion and adoption of which set forth at 1.d., below).

- c. **Adoption of Approved Highlands ERI.** The Highlands Environmental Resource Inventory (ERI) shall be completed in accordance with the requirements of Section B3 of this Report, and submitted to the Highlands Council for final approval. Upon receipt of final Highlands Council approval, the 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

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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. Adoption of Approved Highlands Area Land Use Ordinance.** The Highlands Area Land Use Ordinance shall be completed in accordance with the requirements of Section B5 of this Report, and submitted to the Highlands Council for final approval. Upon receipt of final Highlands Council approval, the Highlands Area Land Use Ordinance 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. After the municipal Planning Board has adopted the Master Plan Highlands Element, the municipal Governing Body shall arrange for the required process of scheduling, notice, public hearing, consideration, and formal adoption of the Highlands Area Land Use Ordinance by the municipal Governing Body. At the conclusion of the process, a certified copy of the adopted Highlands Area Land Use Ordinance shall be provided to the Highlands Council with notice of its effective date. The process of Highlands Area Land Use 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 Implementation Plan and Schedule. Should this process lead to proposed modifications to any portion of the Highlands Area Land Use Ordinance, 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 Governing Body.

- i. Municipal Exemption Determinations.** As a component of the Highlands Area Land Use Ordinance, the Township shall provide for “Municipal Exemption Determinations” in accordance with Highlands Council or NJDEP delegation (or both) of such authority to the municipality. Such determinations (detailed within the current draft Ordinance) refer to the process of reviewing and making determinations concerning exemptions from the Highlands Act, which in turn, represent exemptions from the provisions of the Highlands Area Land Use Ordinance. The effective date of such provisions shall occur only after the municipality indicates readiness to proceed and receives written authorization from the Highlands Council or NJDEP, respectively, granting it the authority to do so.

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- ii. **Highlands Council Information and Training Sessions.** Prior to the effective date of the Highlands Area Land Use Ordinance, municipal representatives (e.g., Land Use Administrators, Zoning Officials, Planners) shall attend information and training session(s) to be provided by the Highlands Council on the implementation and administrative procedures set forth within the Ordinance. Such sessions will provide detailed instruction on application processes and procedures, notice requirements, Highlands Council referrals and call-up provisions, decision-making and formal action, variances, waivers, exceptions, and enforcement activities. Prior to the effective date of the Municipal Exemption Determination provisions, moreover, municipal representatives (in particular, Exemption Designee(s)) shall attend an information and training session on the exercise of Municipal Exemption Determination authority.

- f. **Adoption of Updated Zoning Map.** The Township shall prepare an updated Municipal Zoning Ordinance which shall be adopted immediately following or at the time of adoption of the Highlands Area Land Use Ordinance, to reflect the new overlay Highlands Zones and Sub-Zones. The adoption process shall mirror that outlined above for the Highlands Area Land Use Ordinance.

- g. **COAH Approval of Housing Element & Fair Share Plan.** 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. (In recognition of potential changes in the applicable laws pertaining to the provision of affordable housing in the state of New Jersey, 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, at any given time, and maintains consistency with the RMP, so as to protect the municipality from legal challenge.)

- h. **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 COAH, as applicable, and all legal requirements and protocols pertaining thereto. Plan implementation and continued compliance with the final Court- or COAH-approved Fair Share Plan moreover, shall be a condition of continued Plan Conformance approval, subject to Highlands Council review and monitoring.

- i. **Wastewater Management Plan (WMP).** The municipality shall prepare a Wastewater Management Plan working with the Highlands Council under Plan

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Conformance, for approval by the NJDEP. This plan will be recognized as a chapter of the Hunterdon County WMP in accordance with NJDEP Administrative Order 2010-03 and all applicable NJDEP rules and requirements. The current NJDEP due date for such Plans is April 11, 2011.

j. 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 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.

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- Habitat Conservation & Management Plan: Funding of \$35,000 has been allocated for this purpose, in recognition of the large areas of Critical Habitat in the Township, and the potential for both unavoidable disturbance and restoration opportunities.
- 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 (adoption of which is anticipated earlier in the full 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 which include 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 of funds is contingent upon approval of a scope of work by the Highlands Council Executive Director.

- Stream Corridor Restoration/Protection Plan – A total of \$50,000 has been allocated to address existing stream restoration needs, potential stream impacts of future land uses, and mitigation options beyond those contained within the Highlands Land Use Ordinance.
- Agricultural Retention Plan – A total of \$20,000 has been allocated to plan for methods to improve the sustainability and profitability of farming in the Township, recognizing the large agricultural area.
- Green Building/Environmental Sustainability/Alternative Energy Plan – A total of \$5,000 has been allocated to help the Township identify and plan for issues regarding on-site alternative energy facilities and green building options.

k. 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

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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 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 Update(s).** Revised mapping regarding the RMP Update regarding Preserved Lands will be provided to the municipality. The revised mapping will need to be incorporated into the Highlands ERI prior to adoption.

E. MUNICIPAL RESPONSE PERIOD

The Highlands Council provided a Draft Consistency Review and Recommendations Report dated August 11, 2010 to the municipality on August 12, 2010. The Municipal Response Period expired on December 24, 2010. The municipality provided supplemental documents and deliberative revised materials in support of the Petition for Plan Conformance, 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 Basic Plan Conformance.

1. **Item #1.** 2003 Master Plan in Adobe pdf format;
2. **Item #2.** 2008 Draft Farmland Preservation Plan in Adobe pdf format;
3. **Item #3.** 2005 Municipal Stormwater Management Plan in Adobe pdf format;
4. **Item #4.** 2004 Master Plan Re-examination Report in Adobe pdf format;
5. **Item #5.** Master Plan Highlands Element Draft with Township edits and comments;
6. **Item #6.** Highlands Area Land Use Ordinance Draft with Township edits and comments.

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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 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.

A number of comments were received during the period established by the Highlands Council for receipt of written public comment (January 20, 2011 – February 4, 2011) as follows. The comment/response document is attached to this document, at Appendix B.

1. Kevin Walsh, Esq. on behalf of the Fair Share Housing Center (FSHC).
2. Hank Klumpp, Property Owner.
3. Robin Love, President, Resident's Alliance for Neighborhood Preservation, Inc.
4. George C. Cassa, Alliance for Historic Hamlets.
- 4.5. Basil Hone and Frances Spann, Citizens to Save Tewksbury.

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

G. FINAL RECOMMENDATIONS

Based upon the comments received, the recommendations of Highlands Council Staff concerning the Petition for Plan Conformance of the Township of Tewksbury, remain unchanged.

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

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APPENDIX A

HIGHLANDS COUNCIL REVIEW

REQUESTS FOR RMP UPDATES

Township of Tewksbury, Hunterdon County

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Tewksbury Township RMP Update Requests

Request 1 – Preserved Lands: According to Highlands Council data, Tewksbury Township contains 2,310.3 total acres of Highlands Preserved Lands. However, Tewksbury Township databases of open space and easements have identified 3,276.81 preserved acres, which is 966.51 acres more than the Highlands data shows. The discrepancy falls primarily in the categories of conservation easements, preserved farmland, and non-profit owned properties. Tewksbury Township submitted an extensive update related to Preserved Lands for the Township along with a corresponding map.

Request 2 - Preserved Farms: The municipal open space/farmland database shows that there are 2 parcels in the Highlands Council's data that were incorrectly identified as preserved farmland and 7 additional parcels of preserved farmland that are not included in the Highlands Council's data. Tewksbury Township submitted an updated table indicating Preserved Farmland that was not previously included along with a corresponding map.

Request 3 – Rockaway Historic District: Tewksbury Township submitted a request to update the Highlands Region Historic, Cultural, and Archaeological Resources data layer for the Township. This is specifically related to the Rockaway Historic District (ID#3811), located on Hill, Dale and Rockaway roads. The Township states that this District was not approved by Tewksbury Township and is not on the National Register. The Township states that this discrepancy should be corrected in the State and Highlands databases.

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APPENDIX B

PUBLIC COMMENTS/HIGHLANDS COUNCIL RESPONSES

Petition for Plan Conformance

Township of Tewksbury, Hunterdon County

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PUBLIC COMMENTS RECEIVED

Written comments regarding the Township of Tewksbury's Petition for Plan Conformance were accepted by the Highlands Council through the close of the Public Comment period on February 4, 2011. Comments were provided by the following individuals/entities:

1. Kevin Walsh, Esq. on behalf of the Fair Share Housing Center (FSHC);
2. Hank Klumpp, Property Owner;
3. Robin Love, President, Resident's Alliance for Neighborhood Preservation, Inc.;
4. George C. Cassa, Alliance for Historic Hamlets;
5. Basil Hone and Frances Spann, Citizens to Save Tewksbury; and
6. Julia Somers, New Jersey Highlands Coalition.

MUNICIPAL COMMENT/RESPONSE SUMMARY

Comments Submitted by Kevin Walsh, Esq. on behalf of the Fair Share Housing Center (FSHC):

1. **Comment:** FSHC contends that the Housing Element and Fair Share Plan improperly relied upon COAH's waiver of its regulations for Highlands municipalities and use of Highlands Municipal Build-Out Report to adjust the affordable housing obligation calculated in COAH's rules. FSHC incorporates their briefs in an action filed in the Appellate Division against the State wherein FSHC raised these same issues.

Response: The adjustment of the fair share obligations based on conformance with the RMP was issued by COAH as a waiver from COAH's regulations and is considered final agency action by COAH. FSHC has filed litigation in the Appellate Division challenging COAH's actions related to the adjustment of fair share obligations for conforming Highlands municipalities. FSHC raises the same issues through this comment. The State's responses to the claims in the Appellate Division matter are incorporated herein by reference.

In addition, the recent Appellate Division decision invalidating portions of COAH's regulations will have substantial implications on the fair share obligations for every municipality statewide. However, that decision was stayed by the New Jersey Supreme Court on January 14, 2011. The Highlands Council has concluded that this Petition for Plan Conformance be approved conditioned upon achieving and retaining compliance with the Fair Housing Act, as demonstrated by approvals of its Housing Element and Fair Share Plan from either COAH or the Law Division of New Jersey Superior Court. This condition incorporates any on-going changes as may be necessary to retain compliance with future amendments to the Fair Housing Act and any other changes

2. **Comment:** FSHC contends that the Petition may not properly utilize the Highlands Council's instructions for Module 2 and Module 3 to adjust the fair share obligations since those modules were not adopted through rulemaking. FSHC incorporates their briefs filed on this matter with the Appellate Division.

Response: This Petition properly utilized the instructions to complete the Highlands Plan Conformance modules as these instructions simply provided Highlands municipalities with the process to prepare a Petition for Plan Conformance consistent with the RMP. The validity of the Module 3 Instructions is presently under

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consideration by the Appellate Division in a matter filed by the FSHC. The State’s response to the claim contained in briefs filed in that matter is incorporated herein by reference. The Module 2 and Module 3 instructions are not rules, but are part of the 2009 Plan Conformance Grant Program designed to help conforming municipalities receive reimbursement for costs associated with the process of conforming to the RMP. The scopes of work in the Module 2 and Module 3 instructions are based entirely on the RMP and COAH’s regulations and do not themselves set forth new policy.

- 3. Comment:** Fair Share Housing Center objects to the reduction of the Township of Tewksbury’s third round fair share obligations from 102 units to 85 units.

Response: The Township of Tewksbury’s reduction in its third round Fair Share Obligation is based upon the Highlands Municipal Build-Out report prepared by the Highlands Council. The Report was prepared by the Highlands Council, in consultation with the municipality, based upon the restrictions of the Highlands Act, the Highlands Regional Master Plan, and the NJDEP rules at N.J.A.C. 7:38. The Highlands Municipal Build-Out Report specifically responds to the Highlands Act mandate for the contents of the Regional Master Plan to include a resource assessment to determine “the amount and type of human development and activity which the ecosystem of the Highlands region can sustain while still maintaining the overall ecological values thereof...” The preparation of a Highlands Municipal Build-Out Report is a specific requirement of the RMP to perform an analysis of the natural resource protection and utility capacity policies of the RMP. It is a planning tool developed by the Highlands Council that organizes and applies the RMP policies at the municipal level to identify areas with land-based, infrastructure-based, and resource-based capacity to grow.

Applying those RMP policies to the Township of Tewksbury resulted in the identification of land capable of sustaining new development, redevelopment and economic growth opportunities. In the case of the Township of Tewksbury, the Municipal Build-Out Report reflected the municipality’s available wastewater utility capacity and available developable land located outside the Preservation Area which limited the amount of residential and non-residential development likely to occur. In addition to the results of the Highlands Municipal Build-Out Report, the methodology includes recent actual construction activity. The number of Certificates of Occupancy issued for both residential and non-residential construction from 2004 through the end of 2008 is included in the revised Fair Share Obligation. Together these give the Township a more accurate tool to plan for their Fair Share Obligation. However, these numbers are projections of future growth and do not necessarily predict the Township’s actual Fair Share Obligation. Ultimately, the Township will be required to supply affordable housing based on actual growth that has occurred, and will occur, in the municipality from 2004 through 2018. To ensure the Township continues to provide for its Fair Share Obligation, the Highlands Council resolution regarding the Township’s Petition for Plan Conformance includes as a proposed condition of approval, continued compliance with the Fair Housing Act as it may be amended or as COAH’s rules for the Third Round may be amended.

Comments submitted by Hank Klumpp, Property Owner.

- 1. Comment:** Questions the process for the establishment of the Preservation Area boundary. As it relates to Tewksbury Township Petition, Mr. Klumpp also claims that the Township was not part of the original map of the Highlands Region and that no scientific study supports the inclusion of his property in Tewksbury.

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Response: The delineation of the Preservation Area and Planning Area boundary was an action of the Legislature to identify the most important resource lands in the Highlands Region. The Highlands Council has no authority to modify the boundary. The establishment and boundaries of the Preservation Area were supported in two Appellate Court decisions: the decision of *OFF, L.L.C. v. State*, 395 N.J. Super. 571 (App. Div. 2007), *aff'd o.b.*, 197 N.J. 418 (2008), reiterated in *County of Warren v. State*, 409 N.J. Super. 495 (App. Div. 2009), *certif. denied*, 201 N.J. 153, *cert. denied*, 130 S.Ct. 3508 (2010). Mr. Klumpp was a plaintiff in the latter matter and thus is aware of the litigation where the scientific basis for the Highlands Act was challenged and rejected.

With respect to Tewksbury Township, the Township was first identified by the State of New Jersey in the “Highlands Region” mapping as a part of the 2001 New Jersey State Development and Redevelopment Plan. The 2001 State Plan identified ninety municipalities, including Tewksbury Township, within the Special Resource Area of the Highlands. See the 2001 State Plan at page 172 and Appendix G. The 2001 State Plan analyzed the significant resources of the Highlands and concluded that nearly 70 percent of the area is mapped as Environmentally Sensitive (Planning Area 4B or Planning Area 5). In addition, the 2004 Highlands Task Force Action Plan included Tewksbury Township as among the ninety municipalities in the Highlands. The Highlands Act was thereafter adopted to include eighty-eight municipalities including Tewksbury Township. An extensive scientific analysis was completed in the Highlands Regional Master Plan and any landowner in the Highlands can examine the results as it pertains to specific properties through the use of the Highlands interactive mapping on the Council website.

Lastly, extensive federal studies federal conducted by the United States Forest Service in 1992 and 2002 led to the federal Highlands Conservation Act signed by President Bush in 2004. This act authorized \$100 million for land preservation in the four state Highlands region and Tewksbury Township is included within the federal boundary (see the RMP at Figure 1.4 - Federal Highlands Conservation Act Boundary).

2. Comment: Mr. Klumpp questions the issue of landowner equity and lack of available compensation.

Response: The Highlands Act includes a provision for a “strong and significant commitment by the State to fund the acquisition of exceptional natural resource value lands.” The Regional Master Plan includes the mandated identification of Conservation Priority Areas and Agricultural Priority Areas to identify specific areas with the highest preservation priority, to serve as a focus for such efforts. The Highlands Council recently completed a report that quantifies the land preservation efforts that have been completed since the 2008 adoption of the RMP.

See http://www.highlands.state.nj.us/njhighlands/news/publ/land_pres_report_081910.pdf

The Report found that since July 2008, 7,690 acres have been added as preserved lands through the efforts of numerous partners and funding from federal, State, county, municipal, private and non-profit sources. The Highlands Region presently has a total of 290,214 preserved acres. This total amounts to the preservation of nearly 34% of the Highlands Region (nearly 46% of all undeveloped land as of 2002) and nearly 47% of the Preservation Area. These 290,214 acres are divided between 255,537 acres of open space lands and 34,677 acres of preserved farmland. It is likely that some additional lands have been preserved but not yet reported, increasing the total acreage.

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Funding for these initiatives has been accomplished through the existing funding stream of the Garden State Preservation Trust, a supplemental \$30 million appropriation for the Farmland Preservation Program, \$10 million in capital funding that was allocated to the Highlands Development Credit Bank, and federal funding through the 2004 federal Highlands Conservation Act which authorized \$100 million for land preservation in the four state region. The report concluded for the 7,690 acres preserved since 2008 that the State Farmland Preservation Program has paid an average of \$9,816 per acre for development rights on lands in the Preservation Area while lands in the Planning Area have received on average \$14,288 per acre. Under the Green Acres Program landowners have seen similar per acre values for fee simple purchases. For properties in the Preservation Area, properties have averaged \$10,265 per acre, while in the Planning Area properties have averaged \$19,957 per acre. Finally, under the Highlands TDR Program, for those Preservation Area properties that have received an allocation of HDCs, the average per acre land value is \$10,135.

The Highlands Council has approved a number of resolutions encouraging action by the Legislature and the Governor, over several administrations, to improve funding for acquisition of lands in fee simple and in easement, for acquisition of Highlands Development Credits, and for authorization of Highlands TDR Receiving Zones to be established anywhere in the state. Also, in November of 2009 New Jersey residents voted to approve the Green Acres, Water Supply and Floodplain Protection, and Farmland and Historic Preservation Bond Act of 2009. This Act authorizes the State to issue \$400 million in bonds for land preservation. While the monies accumulated through the bond sales are critical to the preservation efforts throughout the state, the Highlands Council has repeatedly recommended that a dedicated portion of these funds be directed to the Highlands Region to continue to build upon the substantial investments made to date and to uphold the commitment in the Highlands Act “to fund the acquisition of exceptional natural resource value lands”. The Highlands Act also included a number of important exemptions and waivers to address landowner equity issues.

In addition, the Highlands Council strongly supported the extension of the dual appraisal method of the Highlands Act. Specifically, the Highlands Regional Master Plan (RMP) included the following language in Policy 1H6: “To support legislation to extend the dual appraisal methodology used by the GSPT for lands in the Highlands Region beyond the June 30, 2009 expiration date to a minimum of five years beyond adoption of the RMP.” After the adoption of the RMP, the Highlands Council actively and consistently supported the extension and provided written letters of support and testimony before legislative committees. On September 9, 2010, Governor Christie signed P.L. 2010, c. 70 into public law, thereby extending the dual appraisal method from June 30, 2009 to June 30, 2014.

Comment Submitted by Robin Love, President, Resident’s Alliance for Neighborhood Preservation, Inc.

- 1. Comment:** A letter of support for the Township’s Petition for plan conformance was submitted, particularly supporting the removal of the Route 78 Sewer Service Area from Tewksbury Township’s Wastewater Management Plan as being consistent with the Township’s Petition and the RMP.

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Response: The Highlands Council acknowledges the Alliance for Neighborhood Preservation’s support for the Township’s Petition for Plan Conformance and will continue to work with the Township to develop a Wastewater Management Plan consistent with the Goals, Policies and Objectives of the RMP.

Comment Submitted by George C. Cassa, Alliance for Historic Hamlets.

1. Comment: A letter of support for the Township’s Petition for Plan Conformance was submitted, particularly supporting the removal of the Route 78 Sewer Service Area from Tewksbury Township’s Wastewater Management Plan as being consistent with the Township’s Petition and the RMP.

Response: The Highlands Council acknowledges the Alliance for Historic Hamlet’s support for the Township’s Petition for Plan Conformance and will continue to work with the Township to develop a Wastewater Management Plan consistent with the Goals, Policies and Objectives of the RMP.

Comment Submitted by Basil Hone and Frances Spann, Citizens to Save Tewksbury.

1. Comment: A letter of support for the Township’s Petition for Plan Conformance was submitted, particularly supporting the removal of the Route 78 Sewer Service Area from Tewksbury Township’s Wastewater Management Plan as being consistent with the Township’s Petition and the RMP.

Response: The Highlands Council acknowledges the Citizens to Save Tewksbury’s support for the Township’s Petition for Plan Conformance and will continue to work with the Township to develop a Wastewater Management Plan consistent with the Goals, Policies and Objectives of the RMP.

Comments Submitted by Julia Somers, New Jersey Highlands Coalition

1. Comment: The Coalition supports Tewksbury Township’s Petition for plan conformance.

Response: The Highlands Council acknowledges the New Jersey Highlands Coalition’s support for the Township’s Petition for plan conformance.

2. Comment: The New Jersey Highlands supports the recommendation that jurisdiction over Critical Habitat areas of the Highlands Region will rest in large part with the Highlands Council and the NJDEP.

Response: The Highlands Council acknowledges the New Jersey Highlands Coalitions’ support for the recommendation.

3. Comment: The New Jersey Highlands Coalition would like to confirm that, in the Planning Area, the RMP prohibits the creation or extension of public water supply systems and wastewater collection and

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treatment systems within the Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-Zones until or unless authorized by the Highlands Council.

Response: In the Planning Area – Protection Zone, Conservation Zone and Environmentally Constrained Sub-Zones, new, expanded or extended public water systems, wastewater collection and treatment systems, and community on-site treatment facilities are permitted only where approved by the Highlands Council and included within a NJDEP-approved Wastewater Management Plan. This restriction is included in the Highlands Area Land Use Ordinance Section 5.3.7.

4. Comment: The New Jersey Highlands Coalition notes that the Township has elected not to include a Historic, Cultural & Archaeological Resources Ordinance and supports the Township's future adoption of the Ordinance.

Response: The Highlands Council acknowledges the New Jersey Highlands Coalition's support of the adoption of the Ordinance. The Council will continue to work with the Township if they elect to adopt the Ordinance in the future.