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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

**JANUARY 19,
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 (13,475 acres) and the Planning Area (6,860 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 Third Round 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 9 has been updated since first provided to the municipality (August 2010), 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.

F. COMMENTS FROM THE PUBLIC

The Draft Consistency Review and Recommendations Report has been 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 (james.humphries@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

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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.

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

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 Tewksbury, [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 Tewksbury, 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

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