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FINAL DRAFT CONSISTENCY REVIEW AND RECOMMENDATIONS REPORT

PETITION FOR PLAN CONFORMANCE: TOWNSHIP OF CHESTER, MORRIS COUNTY

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

SEPTEMBER 24, 2010

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
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INTRODUCTION

This Draft Consistency Review and Recommendations Report (“Report”) has been prepared by the Staff of the New Jersey 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 Chester, 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 Chester

Date of Petition Submission: December 7, 2009

Date Deemed Complete: February 4, 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	None
4. Other	N/A	N/A

Petition Components	Consistent	Conditions of Approval
1. Modules 1-2 Build-Out Report*		
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	See Section D.1
5. Module 6 Land Use Ordinance	X	See Section B.5; D.1
6. Module 7 Petition		
a. Self-Assessment Report	X	None
b. Implementation Plan/Schedule	X	See Section 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	N/A	
2. Map Adjustments	N/A	
3. Center Designation Requests	N/A	
4. Highlands Redevelopment Area Designation Requests	N/A	
5. Other	N/A	

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A. REVIEW OF ADMINISTRATIVE SUBMITTALS

- 1. Resolution or Ordinance.** The Resolution petitioning the Highlands Council for Plan Conformance was adopted by the municipal Governing Body at its noticed public meeting of November 17, 2009. The document submitted is appropriately signed and certified by the Municipal Clerk to verify authenticity. The language of the Resolution relies upon the model provided by the Highlands Council. The Resolution clearly petitions the Highlands Council for Plan Conformance; conformance being proposed with respect to municipal lands located in both the Preservation Area and the Planning Area of the municipality.
- 2. Record of Public Involvement.** The Petition includes appropriate documentation of the public process engaged in by the municipality with regard to the development of Petition materials and adoption of the Resolution petitioning the Highlands Council for Plan Conformance. The submission includes the following:

 - a. Copy of public meeting notice for meeting of the Planning Board held on September 8, 2009 to discuss Plan Conformance and Petition components.
 - b. Copy of meeting agenda and adopted meeting minutes associated with such Planning Board meeting.
 - c. Copy of public meeting notice for joint meeting of the Governing Body and the Planning Board held on November 10, 2009 to discuss Plan Conformance and Petition components.
 - d. Copy of meeting agenda and adopted meeting minutes associated with the joint Governing Body and Planning Board meeting.
- 3. List of Current Planning Documents.** The list of current municipal planning and regulatory documents is comprehensive and includes required dates of adoption, as applicable. Pursuant to Highlands Council Module 7 Municipal Plan Conformance Petition instructions, all of these documents should be available in the offices of the Highlands Council in Adobe pdf format. Staff review indicates that all of the required documents are available in Adobe pdf format as needed.

Please note that the Township Land Use Ordinance was not required to be submitted in Adobe pdf format, as the Ordinance is available online at <http://www.ecode360.com/?custId=CH1594>.

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B. REVIEW OF PLAN CONFORMANCE PETITION COMPONENTS

1. **Highlands Municipal Build-Out Report (Modules 1-2).** The Highlands Municipal Build-Out Report was completed by the Highlands Council in collaboration with the municipality prior to a finding of Administrative Completeness of the Petition. The date of the Highlands Municipal Build-Out Report is July 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 Chester 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 accordance with the revised submission deadlines. Review of the final Housing Element and Fair Share Plan submission, dated April 14, 2010 and adopted by the Land Use Board on May 11, 2010, follows. These documents were filed with COAH on June 8, 2010.

- a. **Summary of Municipal Obligation.** The Municipal Obligation appeared to be correctly calculated and included the components listed below.
 - i. **Rehabilitation Share:** 4
 - ii. **Prior Round Obligation:** 32
 - iii. **Growth Share Obligation (see B.2.b, below):** 19
- b. **Municipal Growth Projections.** Municipal Growth Projections, used to determine the Growth Share Obligation were correctly indicated in the Fair Share Plan. 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

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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): 90
- Non-Residential Growth (jobs): 23
- Total Growth Share, after exclusions (units): 19

ii. COAH Growth Projections through 2018

- Residential Growth (housing units): 268
- Non-Residential Growth (jobs): 203
- Total Growth Share, after exclusions (units): 66

c. **Summary of Proposed Fair Share Plan.** The Fair Share Plan proposes to address the municipal obligation by use of the mechanisms and 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, 2 Affordable Housing Sites were proposed. A brief summary of the results for each, is included below.

i. **Rehabilitation Program:** Completed.

ii. **Prior Cycle Credits:** 3

iii. **Prior Round Site 1:** 15-unit 100% affordable project, completed.

iv. **Prior Round Site 2:** 9-unit special needs project, completed.

v. **Prior Round Bonus Credits:** 6 Bonus credits.

vi. **Other Proposed Mechanisms:** One unit Accessory Apartment program.
Anticipated Credits: 1

vii. **New Project/Sites:**

- Community Residence for Developmentally Disabled Block 26.06, Lot 7 (Glenlora site). 15 units. The site is partially located in the Existing

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Community Zone and partially in the Protection Zone of the Planning Area. Provided the development is contained to the existing disturbed area of the Existing Community Zone, and that the existing individual sewage disposal system and public non-community well are each of sufficient capacity to meet all requirements, there should be no consistency issues with the site. Anticipated Credits: 15.

- Block 44, Lot 11, “Byrne Apartments.” 100% Affordable Site. 5 units. Located in the Preservation Area. The lot is approximately 6.5 Acres. The property would be serviced by a septic system. For the project to qualify as a non-Major Highlands Development, and thus not be subject to NJDEP Preservation Area Rules, the development would have to be limited to ¼ acre of impervious surface and 1 acre of disturbance area. N.J.A.C. 7:38-6.9 (providing a waiver for 100% affordable housing) does not apply to Chester Township. In addition, RMP provisions pertinent to non-Major Development in the Preservation Area will require compliance with nitrate dilution targets as established by Land Use Capability Zone. The site is located in the Protection Zone and significantly constrained by wetlands and Highlands Open Water buffer areas. It does not appear that the proposed number of units can be sited in conformance with these requirements. If the development does not meet the definition of a major highlands development, a Map Adjustment could be sought to permit nitrate dilution at levels consistent with the Existing Community Zone, however it is not clear that site-specific conditions will support such a change. Anticipated Credits: 5.

viii. Other Mechanisms:

- Chester Area Senior Housing surplus units from prior round. Anticipated Credits 4.
- Habitat for Humanity 1-family home. Anticipated Credits: 1.
- Rental Bonus Credits: Anticipated Credits: 7 (Maximum 4 applicable to Growth Share Obligation).
- Waiver from COAH for Family Units: Township seeks COAH waiver for shortfall of 3 family housing units. This number would increase to a shortfall of 8 family units without the Byrne Apartment project.

ix. Recommendations to Achieve Consistency (if Applicable).

- The number of family units proposed for the Byrne Apartment site does not appear feasible under Preservation Area requirements, whether the project is classified as a Major or a non-Major Preservation Area

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Development. An alternate proposal may be required to address the family housing component of the Obligation. Several general options could be assessed for their feasibility, however. The site contains a single-family home, which could potentially be expanded to provide for a group home (though a group home is not qualified as family housing under COAH requirements) or the site may qualify for designation as a Highlands Redevelopment Area. Such designation would require Highlands Council approval, however, followed by NJDEP approval of an HPAA with redevelopment waiver, and may not provide sufficient allowances for impervious coverage area, based on the requirement that existing impervious coverage constitute 70% of the total Redevelopment Area. Another possibility (if the project does meet the definition of a major highlands development) is that the Township apply to the Highlands Council for a Map Adjustment; however providing justification for approval of same may be difficult given the site location and prevailing conditions. In terms of meeting the total number of required units, a 5-unit project is not otherwise required, to address the municipal obligation.

- The proposed accessory apartment would be serviced by a septic system and domestic well, however, the location of the property has not yet been determined. To be consistent with the RMP the accessory apartment must meet the nitrate dilution standard applicable to the Land Use Capability Zone in which it is located.
- Depending upon the final analysis of unit-feasibility at the Byrne site, the proposed Fair Share Plan may require modifications to address COAH requirements. An alternate combination of the sites, unit numbers, and mechanisms may address the situation. The Township should conduct the further investigation required to determine whether this is necessary.

3. Environmental Resource Inventory (Module 4). The proposed Township of Chester 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 Chester 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:

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- i. Special Environmental Zone.
 - ii. Lake Management Area.
 - b. **Areas of Inconsistency.** None.
 - c. **Recommendations to Achieve Consistency.** None.
4. **Master Plan Highlands Element (Module 5).** The proposed Township of Chester Master Plan Highlands Element is based on the model Highlands Element 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 Chester Highlands Element as now proposed (including modifications 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 modifications are required to achieve consistency or otherwise address Basic Plan Conformance requirements, the heading or sub-heading indicates, “Modifications Required.” In that case, explanatory discussion and/or recommendations are provided. Where appropriate, discussion may summarize the issue and refer to detailed edits recommended by Staff within the document, itself.

- a. **Policies, Goals & Objectives.** Consistent
 - i. Preservation Area Goals. Consistent
 - ii. Planning Area Goals. Consistent
 - iii. General Purposes of Zoning. Consistent
 - iv. Relationship Between Highlands Act & MLUL. Consistent
- b. **Land Use Plan Element.** Consistent
 - i. Highlands Zones and Sub-Zones. Consistent
 - Lake Community Sub-Zone: Not Applicable – Deleted
 - ii. Land Uses. Consistent

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- Highlands Special Environmental Zone: Not Applicable – Deleted
- iii. Density and Intensity of Development. Consistent
- iv. Cluster Development. Consistent
- v. Land Use Inventory. Consistent
- vi. Redevelopment Planning. Consistent
- c. **Housing Plan Element.** Review and recommendations concerning the Housing Plan Element appear at item #2 above, Housing Element & Fair Share Plan.
- d. **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
- e. **Utility Services Plan Element.** Consistent
 - i. Preservation Area. Consistent
 - ii. Planning Area. Consistent
 - iii. Planning & Preservation Areas. Consistent
- f. **Circulation Plan Element.** Consistent
- g. **Land Preservation/Stewardship Plan Element.** Consistent

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- h. **Agriculture Retention/Farmland Preservation Plan Element.** Consistent
 - i. **Community Facilities Plan Element.** Consistent
 - j. **Sustainable Economic Development Plan Element.** Consistent
 - k. **Historic Preservation Plan Element.** Consistent
 - i. Historic, Cultural, and Archaeological Resources. Consistent. .
 - ii. Scenic Resources. Consistent
 - l. **Development Transfer Plan Element.** Inclusion of this Section is optional and the municipality has elected not to incorporate it.
 - m. **Relationship of Master Plan to Other Plans.** Consistent
 - n. **Exhibits.** The list of Exhibits includes all that apply to the municipality. The applicable Exhibits are attached to the Highlands Element.
 - i. Exhibit V, “Septic System Yield Map” is unnecessary and has been deleted. Septic System Yield will be determined on a site-specific basis, using the Nitrate Dilution Model discussed in text.
5. **Highlands Area Land Use Ordinance (Module 6).** The proposed Township of Chester 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, 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 Chester Highlands Area Land Use Ordinance as proposed (including modifications by the Highlands Council), contains all required Highlands Area Land Use Ordinance 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 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 modifications are required to achieve consistency or otherwise address Basic Plan Conformance requirements, the heading or sub-heading indicates, “Modifications Required.” In that case, explanatory discussion and/or recommendations are provided. Where appropriate, discussion may summarize the issue and refer to detailed edits recommended by Staff within the document, itself.

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- a. **Article 1. Title, Purpose, Scope.** Consistent. The municipality will address/incorporate the minor modifications made by the Highlands Council. Please see edits in document text.
- b. **Article 2. Applicability.** Consistent. The municipality will address/incorporate the minor modifications made by the Highlands Council. Please see edits in document text.
- c. **Article 3. Definitions.** Consistent. The municipality will address/incorporate the minor modifications made by the Highlands Council. Please see edits in 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 edits in document text.
 - i. Lake Community Sub-Zone: Not Applicable - Deleted
 - ii. Special Environmental Zone: Not Applicable – Deleted.
- e. **Article 5. Highlands Area Zone District Regulations.** Consistent. The municipality will address/incorporate the significant modifications made to the section by the Highlands Council. Please see edits in document text.
- f. **Article 6. Highlands Area Resource Regulations.** Consistent.
 - i. Forest Resources. Consistent
 - ii. Highlands Open Waters & Riparian Resources. Consistent
 - 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
 - ix. Wellhead Protection. Consistent
 - x. Agricultural Resources. Consistent.

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- 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).

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 the municipality, the Highlands Implementation Plan and Schedule: a) included all mandatory components required to achieve full Plan Conformance; and b) incorporated timeframe estimates associated with each mandatory element. The Highlands Implementation Plan and Schedule has been modified since first issued by the Highlands Council however, and 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, into and including the 2011 State fiscal year.

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

C. REVIEW OF OPTIONAL SUBMISSION COMPONENTS

1. **RMP Updates.** N/A
2. **Map Adjustments.** N/A
3. **Highlands Center Designation Requests.** N/A
4. **Highlands Redevelopment Area Designation Requests.** 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 Chester, 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 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-

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approved Implementation Plan and Schedule. Should this process lead to proposed modifications to any portion of the ERI, the proposed changes shall be submitted to the Highlands Council for review. In the event the Highlands Council determines that any proposed modification is of a substantive nature, Highlands Council approval shall be required prior to adoption by the local Commission or Board.

- c. **Adoption of Approved Master Plan Highlands Element.** The Master Plan Highlands Element shall be completed in accordance with the requirements of Section B4 of this Report, and submitted to the Highlands Council for final approval. Upon receipt of final Highlands Council approval, the Highlands Element shall be prepared in a clean, final document format for purposes of public review and adoption. A copy shall be provided to the Highlands Council. The municipal Planning Board shall arrange for the required process of scheduling, notice, public hearing, consideration, and formal adoption of the Highlands Element by the municipal Planning Board. At the conclusion of the process, a certified copy of the adopted Highlands Element shall be provided to the Highlands Council. The process of Highlands Element adoption shall be conducted in accordance with all applicable legal requirements and protocols, and shall be guided by the timeframes set forth in the Highlands Council-approved Implementation Plan and Schedule. Should this process lead to proposed modifications to any portion of the Highlands Element, the proposed changes shall be submitted to the Highlands Council for review. In the event the Highlands Council determines that any proposed modification is of a substantive nature, Highlands Council approval shall be required prior to adoption by the local Planning Board.
- d. **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

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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 delegation 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 granting it the authority to do so.
- 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, 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.
- e. **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.
- f. **COAH Approval of Housing Element & Fair Share Plan.** The Township adopted its Housing Element and Fair Share Plan on May 11, 2010 and submitted a petition for substantive certification to the Council on Affordable Housing (COAH) on June 8, 2010. The Highlands Council shall be copied on all related correspondence and kept apprised of the substantive certification 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 Housing Element and Fair Share Plan,

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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, so to protect the municipality from legal challenge.)

- i. Should it be determined that Block 44, Lot 11, the Byrne Apartments 100% Affordable Site is not feasible for development of family units as proposed, the municipality will have to propose alternative mechanisms to address COAH requirements while ensuring consistency with the RMP, as discussed under Section B2, above. Any implementing ordinances must comply with the standards of the RMP, Preservation Area Rules, and as of the date of adoption, the Highlands Area Land Use Ordinance.
 - ii. Development of the Community Residence for Developmentally Disabled Block 26.06, Lot 7 (Glenlora site) should be contained to the existing disturbed area of the Existing Community Zone and the capacities of the existing utilities as discussed under Section B2, above.
 - iii. The accessory apartment will need to meet the nitrate dilution standards of the Land Use Capability Zone in which it is located as discussed under Section B2, above. Any implementing ordinances must reflect this requirement.
- g. **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.
- h. **Adoption of Wastewater Management Plan (WMP).** The municipality shall prepare a Wastewater Management Plan working with the Highlands Council under Plan Conformance, for approval by the NJDEP. This plan will be recognized as a chapter of the County WMP in accordance with NJDEP Administrative Order 2010-03 and all applicable NJDEP rules and requirements. The current NJDEP due date for such Plans is April 11, 2011.
- i. **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

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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 herein listed (once models have been provided by the Highlands Council and funding provided), all intended as municipal-wide, long-term initiatives (where applicable and appropriate, building upon any such Plans already 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. Each component shall become mandatory upon Highlands Council provision of funding for the reasonable costs of its development.
 - Water Use & Conservation Management Plan.
 - Habitat Conservation & Management Plan
 - Stormwater Management Plan (Updates Only)
 - Land Preservation and Stewardship Program
 - Septic System Management/Maintenance Plan
 - Implementing ordinances associated with each of the above (long-term, as applicable).

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

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E. MUNICIPAL RESPONSE PERIOD

All municipal Petitioners are provided a Municipal Response Period after receipt of the Draft Consistency Review and Recommendations Report. This Section is completed after the expiration of the Municipal Response Period or as of the date a municipality chooses, if applicable, to waive its right to the Municipal Response Period.

The Highlands Council sent a Draft Consistency Review and Recommendations Report to the municipality on June 17, 2010. The Municipal Response Period expired on September 15, 2010. The municipality provided new information and amended module materials (deliberative) in support of the Petition for Plan Conformance, prior to expiration of that Period, for Highlands Council consideration.

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

- 1. Planning/Regulatory Documents.** The Current Planning Documents listed below were provided in Adobe pdf format. These documents fully addressed the requirement for submission of current planning/regulatory documents, as listed in the prior version of this Report.
 - a. The 2000 Reexamination and Comprehensive Revision of the Chester Township Master Plan – Adopted 10.23.2001.
 - b. 2007 Reexamination of the Chester Township Master Plan – Adopted 10.23.2007.
 - c. Environmental plan Element and Utility plan Element – Adopted 4.27.2004.
 - d. Assessment of Chester Township’s Land Use Policies and Regulations in the Highlands Planning Area – Adopted 4.12.2005.
 - e. Housing Plan Element – Adopted 11.22.2005.
 - f. Fair Share Plan – Adopted 11.22.2005.
 - g. Municipal Stormwater Management Plan – Adopted 4.12.2005 (amended 2.7.2006).
 - h. Chester Township Zoning Map.
 - i. Chester Township Right to Farm Ordinance.
- 2. Master Plan Highlands Element.** Minor edits were returned by the municipality. The edits were primarily related to updated language provided to the municipality as part of the initial Highlands staff review. Section B4 of this Report has been updated accordingly, and reflects an enhanced degree of consistency with Basic Plan Conformance requirements.

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- 3. Highlands Area Land Use Ordinance.** Minor edits were returned by the municipality. The edits were primarily related to updated language provided to the municipality as part of the initial Highlands staff review. Section B5 of this Report has been updated accordingly, and reflects an enhanced degree of consistency with Basic Plan Conformance requirements.
- 4. Highlands ERI.** No new edits included.
- 5. Highlands Implementation Plan & Schedule.** Minor edits were returned by the municipality. Section B6 of this Report has been updated accordingly, and reflects an enhanced degree of consistency with Basic Plan Conformance requirements..

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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 Draft Consistency Review and Recommendations Report will be posted to the Highlands Council website and made available (in paper format) at the Highlands Council offices in Chester, NJ, for review and comment by the general public. Comments may be submitted to the Highlands Council by e-mail (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 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 A.

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 Chester, [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 recommend that the Petition for Plan Conformance of the Township of Chester, be approved/denied/approved with conditions; with all applicable conditions being those listed and discussed in Section D, above, and if applicable, as supplemented and/or modified by the revisions discussed herein, above.

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APPENDIX A

PUBLIC COMMENTS/HIGHLANDS COUNCIL RESPONSES

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