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FINAL DRAFT CONSISTENCY REVIEW AND RECOMMENDATIONS REPORT

PETITION FOR PLAN CONFORMANCE: COUNTY OF SOMERSET

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

FEBRUARY 17, 2011

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
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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 County of Somerset, 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 counties 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

County: Somerset County

Date of Petition Submission: December 8, 2009

Date Deemed Complete: August 12, 2010

Conformance Area: Preservation Area

Staff Recommendation: Approve Petition with Conditions

Administrative Submittals	Meets Requirements	Conditions of Approval
1. Resolution	X	None
2. Record of Public Involvement	X	None
3. List of Current Planning and Regulatory Documents	X	See section A.3

Petition Components	Consistent	Conditions of Approval
1. Task A ERI	X	See Section D.1
2. Task B Highlands Element	X	See Section D.1
3. Task C		
a. Land & Facilities Regulations	N/A	Waiver granted March 10, 2010
b. Land Development Resolution	X	See Section D.1
4. Task D Petition		
a. Self-Assessment Report	X	None
b. Implementation Plan/Schedule	X	See Section B.5. Also see D.1

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	

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A. REVIEW OF ADMINISTRATIVE SUBMITTALS

1. **Resolution.** Somerset County submitted two Resolutions petitioning the Highlands Council for Plan Conformance; one from the Board of Chosen Freeholders and another from the Planning Board. Resolution #R09-934 was adopted by the Board of Chosen Freeholders at its noticed public meeting of December 1, 2009, while Resolution #P1157 was adopted by the Somerset County Planning Board at its noticed public meeting of November 17, 2009. The submitted documents were appropriately signed and certified by the County Clerk and County Planning Board Secretary, respectively, to verify authenticity. The language of the Resolutions relies upon the model provided by the Highlands Council. The Resolutions clearly petition the Highlands Council for Plan Conformance; conformance being proposed only with respect to county lands located in the Preservation Area (which consists of just 1,010 acres, or 2% of the portion of the County within the Highlands Region).
2. **Record of Public Involvement.** The Petition includes appropriate documentation of the public process engaged in by the county 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. Adopted Resolution as noted above, indicating formal action taken on Plan Conformance at the public meetings of the Somerset County Board of Chosen Freeholders held on December 1, 2009.
 - b. Adopted Resolution as noted above, indicating formal action taken on Plan Conformance at the public meetings of the Somerset County Planning Board held on November 17, 2009.
3. **List of Current Planning Documents.** The list of current county planning and regulatory documents is comprehensive and includes required dates of adoption, as applicable. Pursuant to Highlands Council Task D County 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 none of the required documents are available as required. In order to address this Plan Conformance requirement, the documents listed below must be provided in Adobe pdf format in accordance with the Highlands Implementation Plan and Schedule.
 - a. Somerset County Master Plan (1986)
 - b. Somerset County Cultural Resource Inventory (1991)
 - c. Somerset County Open Space and Recreation Facilities Plan (1992/2000 update)
 - d. Somerset County Scenic Road and Corridor Study (1992)
 - e. Somerset County Transportation Master Plan (2003)
 - f. Somerset County Agricultural Preservation Plan (2008)

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B. REVIEW OF PLAN CONFORMANCE PETITION COMPONENTS

1. Environmental Resource Inventory (Task A). The proposed Somerset County Highlands Environmental Resource Inventory (ERI) is based on the Highlands Model ERI provided to counties by the Highlands Council. The document (inclusive of edits suggested therein by the Highlands Council) contains all required Highlands ERI language and all applicable maps/exhibits, as necessary, to fully describe the Highlands Resources, Resource Areas, and Special Protection Areas located within the county. As such, the Highlands ERI is consistent with the RMP and the immediate mandatory requirements of Plan Conformance. The Highlands ERI will constitute an addendum to the existing Somerset County ERI.

a. Document Edits. The County has reviewed and addressed all document edits. All text in the document is now complete, inclusive of insertions as provided by the County.

2. Master Plan Highlands Element (Task B). The proposed County of Somerset Master Plan Highlands Element is based on the model Highlands Element provided to counties by the Highlands Council. The document as now proposed (including modifications by the Highlands Council), contains all required Highlands Element language and all applicable maps/exhibits as duplicated from the ERI, as necessary, to fully address the immediate mandatory requirements of Plan Conformance. The Highlands Master Plan Element is a supplement to the Somerset County Master Plan.

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.”

a. Policies, Goals & Objectives. Consistent

i. Preservation Area Goals. Consistent

ii. Land Use Planning & Management. Consistent

iii. Relationship Between Highlands Act, County Planning Act, & MLUL. Consistent

b. Land Use Plan Element. Consistent

i. Highlands Zones and Sub-Zones. Consistent (Note: Wildlife Management and Lake Community Sub-Zones are Not Applicable – Deleted)

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- ii. Density and Intensity of Development. Consistent.
- iii. Redevelopment Planning. Not Applicable – Deleted
- c. Conservation Plan Element.** Consistent
 - i. Forest Resources. Consistent
 - ii. Highlands Open Waters and Riparian Areas. Consistent
 - iii. Steep Slopes. Consistent
 - iv. Critical Habitat. Consistent. (Note: The discussion regarding Significant Natural Areas and Vernal Pools is not applicable and has been deleted.)
 - 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. (Note: The subsection on Wellhead Protection Areas Tier 1, 2 and 3 is not applicable and has been deleted.)
 - xi. Low Impact Development. Consistent
- d. Utility Services Plan Element.** Consistent.
- e. Land Preservation/Stewardship Plan Element.** Consistent.
- f. Agriculture Retention/Farmland Preservation Plan Element.** Consistent
- g. County Facilities & Infrastructure Plan Element.** Consistent
 - i. General. Consistent
 - ii. Transportation/Circulation. Consistent
 - iii. Historic, Cultural, Archaeological & Scenic Resources. Consistent
- h. Sustainable Economic Development Plan Element.** Consistent

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i. Relationship of Master Plan to Other Plans. Consistent

- j. Exhibits.** The list of Exhibits includes all that apply to the county. The list of Element exhibits refers to the applicable ERI exhibits for the County Preservation Area lands. The applicable Exhibits are not attached to the Highlands Element are not labeled in accordance with numbered citations within the text; instead the List of Exhibits serves as a cross reference to the applicable ERI Figure.

The Highlands Council as part of its review has suggested certain exhibits for deletion that are not applicable to County Preservation Area lands. The list of Exhibits in the Highlands Element includes all that apply to the County and retains numbering marked as “Reserved” for future use.

3. Highlands Land & Facilities Regulations (Task C). Waived.

Somerset County’s Petition documents requested a waiver of the requirement to develop and submit Highlands Land and Facilities Regulations. A waiver was granted on March 10, 2010 by the Executive Director of the Highlands Council under authority delegated by the Highlands Council. No Somerset County lands or facilities exist within the Preservation Area portion of the County.

4. Land Development Resolution (Task C). The language of the County Land Development Resolution relies upon the model provided by the Highlands Council. The Resolution modifies the Land Development Review standards of the County to incorporate the provisions required with regard to applications for development, and is therefore consistent with Highlands Council requirements of Basic Plan Conformance.

- a. Application Completeness Requirements. Consistent
- b. Final County Reports. Consistent,
- c. Reporting Requirements. Consistent

5. Petition Submission Documents (Task D).

- a. County Self-Assessment Report.** The County Self-Assessment Report consists of two components as listed herein. The Report accurately describes the status of county Plan Conformance to date, indicating both county 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 by the Highlands Council based upon the information submitted with the Petition documents.

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

As proposed by the County, the Highlands Implementation Plan and Schedule: a) includes all mandatory components required to achieve full Plan Conformance; and b) incorporates timeframe estimates associated with each mandatory element.

As proposed by Highlands Council staff, the County's Highlands Implementation Plan and Schedule also includes a non-mandatory Plan Conformance activity, the identification and spatial mapping of conservation easements in the County Highlands Region in a GIS format. The County as part of Plan Conformance will prepare a Sustainable Economic Plan Element for the County Highlands Region that may be incorporated into the County Strategic Master Plan and other local and master plan elements. Estimated costs have been included for purposes of finalizing the spreadsheet. The County has decided not to seek reimbursement at this time for the preparation of the Petition materials, however, it is entitled and encouraged to apply for Plan Conformance Grant Funding to cover all reasonable costs of Plan Conformance.

Somerset County has not yet submitted an application for Plan Conformance Grant funding, but intends to do so and may do so at any time, including in the post-Petition approval period. The Highlands Implementation Plan and Schedule will be modified as needed to address and include all funding aspects after a Plan Conformance Grant application has been filed.

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C. REVIEW OF OPTIONAL SUBMISSION COMPONENTS

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

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D. PRELIMINARY RECOMMENDATIONS

On the basis of the comprehensive review completed and discussed in detail 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 County of Somerset, as currently proposed by the County, 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 Highlands ERI. The Highlands Environmental Resource Inventory (ERI) shall be prepared in a clean, final document format for purposes of public review and adoption. A copy shall be provided to the Highlands Council. The county shall provide for and complete the required process of formal adoption of the ERI by the appropriate County Board or Commission. 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 approved Highlands 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.

b. Adoption of Approved Master Plan Highlands Element. The Master Plan Highlands Element shall be finalized and prepared in a clean, final document format for purposes of public review and adoption. A copy shall be provided to the Highlands Council. The county Planning Board shall arrange for the required process of scheduling, notice, public hearing, consideration, and formal adoption of the Highlands Element by the county 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 approved Highlands 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.

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- c. Adoption of Approved Highlands Land Development Resolution.** The Highlands Land Development Resolution 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 county Planning Board has adopted the Master Plan Highlands Element, the county Board of Chosen Freeholders shall arrange for the required process of scheduling, notice, public hearing, consideration, and formal adoption of the Highlands Land Development Resolution by the county Board of Chosen Freeholders. At the conclusion of the process, a certified copy of the adopted Highlands Land Development Resolution shall be provided to the Highlands Council with notice of its effective date. The process of Highlands Land Development Resolution adoption shall be conducted in accordance with all legal requirements and protocols pursuant to the County Planning Act (N.J.S.A. 40:27-1 et seq.), and shall be guided by the timeframes set forth in the approved Highlands Implementation Plan and Schedule. Should this process lead to proposed modifications to any portion of the Highlands Land Development Resolution, 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 Board of Chosen Freeholders.
- d. Adherence to Approved Highlands Implementation Plan & Schedule.** The county shall undertake to complete all remaining mandatory Plan Conformance activities listed in the 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 or otherwise mutually agreed by the county and the Highlands Council; and b) the availability of funding from the Highlands Council or, on a voluntary basis, by the county 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 county board, commission, or Board of Chosen Freeholders.
- ii. Adoption of Regulations Implementing Plan Components.** All resolutions, rules, and regulations shall be prepared and provided to the Highlands Council for review and approval prior to formal adoption by the applicable county board, commission, or Board of Chosen Freeholders.

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- e. **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 county board, commission, or Board of Chosen Freeholders. Any revision or amendment adopted without the approval of the Highlands Council may subject the county to revocation of Plan Conformance approval.

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E. COUNTY RESPONSE PERIOD

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

The Highlands Council provided a Draft Consistency Review and Recommendations Report dated January 10, 2011, to the County on January 13, 2011. The County Response Period will expire on March 15, 2011 in order to allow for the Board of Chosen Freeholders to discuss the Petition at its regularly scheduled March 8, 2011 meeting. The County Planning Board submitted a response to the Petition on February 16, 2011, which did not include new, revised, supplemental, or amended materials, items, or information in support of Plan Conformance

The County Planning Board Response indicates that the draft Highlands Master Plan Element, ERI and Land Development Resolution are acceptable and that they will provide any supplemental materials and Plan Conformance components in accordance with the Highlands Implementation Plan and Schedule.

F. COMMENTS FROM THE PUBLIC

Following the County Response Period and the incorporation by Highlands Council Staff of any revisions resulting from the County Response, as noted above, the Final Draft Consistency Review and Recommendations Report will be posted to the Highlands Council website and made available (in paper format) at the Highlands Council offices in Chester, NJ, for review and comment by the general public. Comments may be submitted to the Highlands Council by e-mail (chris.danis@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.

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G. FINAL RECOMMENDATIONS

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

Based upon the comments received, the recommendations of Highlands Council Staff concerning the Petition for Plan Conformance of the County of Somerset, [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 County of Somerset, be approved/denied/approved with conditions; with all applicable conditions being those listed and discussed in Section D, above, and if applicable, as supplemented and/or modified by the revisions discussed herein, above.

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APPENDIX A

PUBLIC COMMENTS/HIGHLANDS COUNCIL RESPONSES

Petition for Plan Conformance

County of Somerset