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**FOR CONSIDERATION AT THE SEPTEMBER 15, 2011 MEETING
OF THE HIGHLANDS COUNCIL**

FINAL ~~DRAFT~~ CONSISTENCY REVIEW AND RECOMMENDATIONS REPORT

**PETITION FOR PLAN CONFORMANCE:
TOWNSHIP OF SPARTA, SUSSEX COUNTY**

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

**AUGUST
5 SEPTEMBER 7,
2011**

FOR CONSIDERATION AT THE SEPTEMBER 15, 2011 MEETING OF THE
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance – Final ~~Draft~~ Consistency Review and Recommendations Report

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 Sparta, 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.

FOR CONSIDERATION AT THE SEPTEMBER 15, 2011 MEETING OF THE
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Petition for Plan Conformance – Final ~~Draft~~ Consistency Review and Recommendations Report

REPORT SUMMARY

Municipality: Township of Sparta

Date of Petition Submission: December 8, 2009

Date Deemed Complete: June 23, 2010

Conformance 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

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

*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	12/8/2009	Addressed - see Section C.1.a
2. Map Adjustments	N/A	N/A
3. Highlands Center Designation Requests	N/A	N/A
4. Highlands Redevelopment Area Designation Requests	N/A	N/A

FOR CONSIDERATION AT THE SEPTEMBER 15, 2011 MEETING OF THE
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance – Final ~~Draft~~ Consistency Review and Recommendations Report

A. REVIEW OF ADMINISTRATIVE SUBMITTALS

1. **Resolution.** The Resolution petitioning the Highlands Council for Plan Conformance was adopted by the municipal Governing Body at its noticed public meeting of December 2, 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 the Preservation Area, consisting of 11,488 acres, or 46% 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 joint meeting of the Governing Body and the Planning Board held on December 2, 2009 to discuss Plan Conformance and Petition components, specifically including the Draft Master Plan Highlands Element, and to adopt the Resolution petitioning the Highlands Council for Plan Conformance.
 - b. Copies of meeting agenda and adopted meeting minutes associated with such joint Planning Board and Governing Body meeting.
 - c. Copy of Planning Board October 21, 2009 meeting agenda and meeting minutes from meetings held on September 2, 2009 and October 21, 2009 during which matters related to Plan Conformance were discussed.
 - d. Copies of the Township Environmental Commission minutes from meetings held on January 22, 2009, June 11, 2009 and October 8, 2009 during which matters related to the Highlands ERI were discussed.
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 required. The Ordinances for Sparta Township are available online ~~at~~ and therefore did not need to be submitted in pdf format (see <http://www.spartanj.org/Cit-e-Access/webpage.cfm?TID=30&TPID=4633>).

FOR CONSIDERATION AT THE SEPTEMBER 15, 2011 MEETING OF THE
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance – Final ~~Draft~~ Consistency Review and Recommendations Report

B. REVIEW OF PLAN CONFORMANCE PETITION COMPONENTS

1. **Highlands Municipal Build-Out Report (Modules 1-2).** Consistent. The Highlands Municipal Build-Out Report was completed by the Highlands Council in collaboration with the municipality prior to a finding of Administrative Completeness of the Petition. The date of the Highlands Municipal Build-Out Report is July 2009.
2. **Housing Element & Fair Share Plan (Module 3).** Consistent. 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 Highlands Council recognizes that the main component of COAH's Third Round rules was invalidated in 2010 and is pending in the New Jersey Supreme Court; that COAH's *Guidance for Highlands Municipalities that Conform to the Highlands Regional Master Plan* was invalidated by the Appellate Division of the Superior Court; that significant changes to State laws pertaining to the provision of affordable housing are being considered; and that Governor Christie has approved Reorganization Plan No. 001-2011, which eliminates COAH, transferring its functions and duties to the Department of Community Affairs. Accordingly, the analysis provided below is based upon the legal requirements that were in place at the time of submission and these requirements shall be considered subject to modification, with the intent being to ensure that the municipality remains in compliance with all applicable statutes, rules, regulations, and requirements regarding affordable housing, at any given time, and maintains consistency with the RMP.

The Township of Sparta 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. The Township submitted a petition for substantive certification to COAH on December 29, 2008. The final Housing Element and Fair Share Plan appear to address the municipality's Fair Share Obligation. Any final determination in that regard will be made by COAH. As to consistency with the requirements of the RMP, the Plan is satisfactory. On October 26, 2009 a report was submitted by the Highlands Council to

FOR CONSIDERATION AT THE SEPTEMBER 15, 2011 MEETING OF THE
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance – Final ~~Draft~~ Consistency Review and Recommendations Report

COAH indicating that the proposed mechanisms included in the proposed Housing Element and Fair Share Plan had no RMP consistency issues. At the request of COAH a supplemental report was prepared by the Highlands Council and submitted to COAH on November 23, 2009 detailing potential consistency issues with those additional mechanisms. A summary of these reports is provided below and a copy of the Highlands Council staff review is attached as Appendix A.

a. Summary of Municipal Obligation.

- i. **Rehabilitation Share:** 15 units
- ii. **Prior Round Obligation:** 76 units
- iii. **COAH Projected Growth Share (after exclusions):** 172 units

b. Summary of Proposed Fair Share Plan.

- i. **Rehabilitation Program:** The Rehabilitation Share has already been met. 29 Completed credits. No future program is proposed.
- ii. **Total Prior Round Credits:** 83
 - **Prior Round Project 1 (constructed):** Round Top at Sparta – 24 units.
 - **Prior Round Project 2 (constructed):** Sparta Business Campus – 8 units.
 - **Prior Round Project 3 (constructed):** Supportive Housing – 15 units.
 - **Prior Round Project 4 (constructed):** Knoll Heights – 33 units.
 - **Prior Round Project 5 (proposed):** Broderick. Block 13.01, Lot 14; 3 affordable units plus 14 market rate units. Located partially in each, the Existing Community Zone and the Existing Community Zone Environmentally-Constrained Sub-Zone.
- iii. **Total Third Round Credits:** 163 (including 43 bonus credits)
 - **Third Round Project 1 (constructed):** Advance Housing (multiple properties) - 15 units.
 - **Third Round Project 2 (constructed):** Diocese of Paterson – 5 units.
 - **Third Round Project 3 (constructed):** Harder Pizza Place – 2 units.

FOR CONSIDERATION AT THE SEPTEMBER 15, 2011 MEETING OF THE
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance – Final ~~Draft~~ Consistency Review and Recommendations Report

- **Third Round Project 4 (constructed):** Twins on Main Street (2 projects) – 20 units.
- **Third Round Project 5 (constructed):** Sparta Village – 3 units.
- **Third Round Project 6 (proposed):** Lions Gate - Block 12, Lot 7.2 (118 Main Street); 18 market rate and 5 affordable units. The program proposes to use an existing building and no new construction is proposed, therefore there appear to be no RMP consistency issues.
- **Third Round Project 7 (proposed):** The Juliet (A.k.a. Hamlet). Block 19, Lot 19.03 (18 Main Street); 11 affordable units. The program proposes to use existing buildings and no new construction is proposed, therefore there appear to be no RMP consistency issues.
- **Third Round Project 8 (proposed):** Blue Heron Village. Block 6, Lot 127; 16 affordable units plus 144 market rate units. Located in the Preservation Area. This project had received a Highlands Act Exemption that was due to expire on August 10, 2007, and a Water Supply Permit that was due to expire on August 21, 2006. However, on June 24, 2009 the NJDEP issued an extension to the Water Supply Permit and determined that the Highlands Act Exemption remains valid. The Exemption will expire if construction ceases for a cumulative total of one year after August 10, 2007 or if the project is not completed by October 10, 2011. Until the expiration of the exemption the project remains valid.
- **Third Round Project 9 (proposed):** 150 Main Street (Leo). Block 12, Lot 3; 5 bedroom supportive housing unit. The project has received a Highlands Act Exemption under Exemption No. 2 (construction of a single family dwelling on existing lot).
- **Third Round Project 10 (proposed):** Sussex County Habitat for Humanity. Block 3.12, Lots 1, 2, 24, and 25; 1 Single Family Affordable Unit; Preservation Area. The lots should qualify for Highlands Act Exemptions provided the requirements of Highlands Act Exemption No. 2 are met. The remainder of the lands (outside of the 1 acre of disturbance and ¼ acre impervious surface limit) should be deed restricted to comply with the requirements of this exemption.
- **Third Round Project 11 (proposed):** Danlap Corp. Block 6, Lot 39.02; 4 bedroom group home. The project has received a

FOR CONSIDERATION AT THE SEPTEMBER 15, 2011 MEETING OF THE
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance – Final ~~Draft~~ Consistency Review and Recommendations Report

Highlands Act Exemption under Exemption No. 4 (reconstruction of buildings or structures within 125% of the existing footprint).

- **Third Round Project 12 (proposed):** Market to Affordable (Knoll Properties) – 22 units. Utilizing existing structures. No RMP Consistency Issues.
 - **Third Round Project 13 (proposed):** Market to Affordable (Leo Co. - Pointe) – 11 units. Utilizing existing structures. No RMP Consistency Issues.
- c. **Completion Requirements.** Goals and objectives consistent with the goals and objectives found in the Model Housing Element appended to the Module 3 instructions have been incorporated into the Township’s Draft Master Plan Highlands Element. These goals and objectives will be adopted as part of the Master Plan Highlands Element.

3. **Environmental Resource Inventory (Module 4).** The proposed Township of Sparta 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 Sparta Highlands ERI as now proposed (including modifications 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 municipality. As such, the Highlands ERI is consistent with the RMP and the immediate mandatory requirements of Plan Conformance.

The Highlands Council has provided updated technical information within the narrative portion of the ERI as well as a new set of coinciding figures. The new figures are provided as a separate file from the Highlands ERI text, and replace the figures previously provided for this document, which have been deleted to avoid confusion. Any figures developed by the municipality have been retained and inserted in accordance with figure numbering. Please note that the figures should not be incorporated with the MS Word® version of the text, as such mergers result in unmanageable file sizes and a significant loss in map clarity/resolution. The text and figures are best combined into a single pdf-format file.

4. **Master Plan Highlands Element (Module 5).** The proposed Township of Sparta Master Plan Highlands Element is based on the model Highlands Element provided to municipalities 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 necessary, to address the immediate mandatory requirements of Plan Conformance.

FOR CONSIDERATION AT THE SEPTEMBER 15, 2011 MEETING OF THE
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance – Final ~~Draft~~ Consistency Review and Recommendations Report

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 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. 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
 - ii. Land Uses. Consistent
 - iii. Density and Intensity of Development. Consistent.
 - iv. Cluster Development. Consistent
 - v. Land Use Inventory. Consistent, however, references to the Township’s Land Use Inventory must be inserted prior to municipal adoption.
 - vi. Redevelopment Planning. Consistent

- c. Housing Plan Element.** Consistent. The municipality with incorporate the insertions provided by the Highlands Council. 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. Consistent

FOR CONSIDERATION AT THE SEPTEMBER 15, 2011 MEETING OF THE
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance – Final ~~Draft~~ Consistency Review and Recommendations Report

- 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
- f. **Circulation Plan Element.** Consistent
- g. **Land Preservation/Stewardship Plan Element.** Consistent.
- 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. The municipality has chosen not to regulate historic resources under the Highlands Area Land Use Ordinance at this time, which the Highlands Council has determined is an optional component of Plan Conformance, not mandatory.
 - ii. Scenic Resources. Consistent
- l. **Development Transfer Plan Element.** Inclusion of this Section is optional and the municipality has elected not to incorporate it at this time.
- m. Relationship of Master Plan to Other Plans.** Consistent
- m-n. Appendices.** Please note Highlands Council replacement of SIC Codes with [current North American Industry Classification System \(NAICS\) codes in Appendix C, Major Potential Pollutant Sources](#)
- n-o. Exhibits.** Consistent. The list of Exhibits and the Exhibits as submitted, include all that apply to the municipality, however the Highlands Council has provided a new set of Master Plan Highlands Element exhibits based on updated information, which replaces the previous exhibits (with exception of the Township's Exhibit B, Land Use Inventory). The new exhibits are provided as a separate file from the Highlands Element text. Please note that the exhibits should not be incorporated with the MS Word® version of the text, as such mergers result in unmanageable file

FOR CONSIDERATION AT THE SEPTEMBER 15, 2011 MEETING OF THE
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance – Final ~~Draft~~ Consistency Review and Recommendations Report

sizes and a significant loss in map clarity/resolution. The text and figures are best combined into a single pdf-format file once each component is in final form.

5. **Highlands Area Land Use Ordinance (Module 6).** The proposed Township of Sparta 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 Sparta 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 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 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.
- b. **Article 2. Applicability.** Consistent.
- c. **Article 3. Definitions.** Consistent.
- d. **Article 4. Establishment of Highlands Area Districts.** Consistent.
- e. **Article 5. Highlands Area Zone District Regulations.** Consistent
- 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. Consistent
 - vii. Water Conservation & Deficit Mitigation. Consistent
 - viii. Prime Ground Water Recharge Areas. Consistent

FOR CONSIDERATION AT THE SEPTEMBER 15, 2011 MEETING OF THE
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance – Final ~~Draft~~ Consistency Review and Recommendations Report

- ix. Wellhead Protection. Consistent
 - x. Agricultural Resources. Consistent as submitted, however minor modifications needed for completion, which the municipality will address.
 - xi. Historic, Cultural & Archaeological Resources. These regulatory provisions are optional, and the municipality has elected not to include them at this time.
 - 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 (Note: Portion applicable to Municipal Exemption Determinations has been removed due to inapplicability at this time. NJDEP delegation of authority is required for Preservation Area exemptions, which is not anticipated to occur prior to municipal adoption of the Highlands Area Land Use Ordinance.)
 - iv. Stormwater Management. Consistent
 - v. Special Environmental Zone. Consistent
 - 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. (Note: Portion applicable to Municipal Exemption Determinations has been removed due to inapplicability at this time. NJDEP delegation of authority is required for Preservation Area exemptions, which is not anticipated to occur prior to municipal adoption of the Highlands Area Land Use Ordinance.)
- j. Article 10. Appeals, Waivers, Exceptions.** Consistent.
- k. Article 11. Enforcement, Violations, Penalties.** Consistent.
- l. Appendices.** Consistent. Please note Highlands Council replacement of SIC Codes with current North American Industry Classification System (NAICS) codes in Appendix D, Major Potential Pollutant Sources.

FOR CONSIDERATION AT THE SEPTEMBER 15, 2011 MEETING OF THE
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance – Final ~~Draft~~ Consistency Review and Recommendations Report

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 into 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 fully achieve Plan Conformance.

- i. **Narrative Portion.** The Narrative Portion has been completed accurately.
- ii. **Spreadsheet Portion.** The Spreadsheet Portion has been completed accurately.

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

As proposed by the municipality, the Highlands Implementation Plan and Schedule:
a) included the mandatory components required to achieve Plan Conformance and provided the status of each. 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 2012 State fiscal year.

FOR CONSIDERATION AT THE SEPTEMBER 15, 2011 MEETING OF THE
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance – Final ~~Draft~~ Consistency Review and Recommendations Report

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

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

FOR CONSIDERATION AT THE SEPTEMBER 15, 2011 MEETING OF THE
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance – Final ~~Draft~~ Consistency Review and Recommendations Report

C. REVIEW OF OPTIONAL SUBMISSION COMPONENTS

1. RMP Updates. The Petition for Plan Conformance was accompanied by requests for RMP Updates as noted below. Please note also that the Highlands Council has received a request for a Highlands Exemption Determination regarding the proposed modification of the White Deer Plaza STP to a pumping station with connection to the Upper Wallkill STP. This project, if approved, will result in an RMP Update regarding the sewer service area for the Upper Wallkill STP, which is a Highlands Domestic Sewerage Facility.

a. RMP Update Requests.

- i. The Township noted that an RMP Update is required for the location of public community water systems. Follow up with the Township indicated that information supplied during the preparation of Module 2 would be consistent with current Township information. This work has been completed.
- ii. An RMP Update request was submitted related to updated parcel mapping. The Highlands Council has received updated parcel data from the Sussex County Office of GIS Management, which the Township agrees reflects current conditions. The Township will continue to coordinate with the County to ensure that all current and future parcels are accurately recorded and maintained.

2. Map Adjustments. N/A

3. Highlands Center Designation Requests. The Petition for Plan Conformance was not accompanied by any requests for Highlands Center Designation however the Township may consider such a request for submission at a future time.

4. Highlands Redevelopment Area Designation Requests. The Petition for Plan Conformance was not accompanied by any requests for Highlands Redevelopment Area designation, however the Township may consider submission of such requests at a future time.

5. Other. N/A

FOR CONSIDERATION AT THE SEPTEMBER 15, 2011 MEETING OF THE
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance – Final ~~Draft~~ Consistency Review and Recommendations Report

D. PRELIMINARY-STAFF RECOMMENDATIONS

On the basis of the comprehensive review completed and discussed in detail as described in the preceding Sections, which examined both sufficiency of administrative submittals and consistency of all substantive materials with the Highlands Regional Master Plan, Highlands Council Staff recommends that the Petition for Plan Conformance of the Township of Sparta, 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 Checklist Ordinance. The Township 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 Highlands Council Consistency Determination indicating that the application is consistent, or can and will be made consistent with the RMP. This approach will ensure that environmentally sensitive areas are protected and that neither water availability nor wastewater treatment capacity is inappropriately allocated or exceeded in ways harmful to the intended development of the Center. Upon receipt of Highlands Council approval, the Ordinance shall be prepared for purposes of public review and adoption by the municipal Governing Body. The Governing Body shall provide for and complete the adoption process, at the conclusion of which, a certified copy of the adopted Checklist Ordinance shall be provided to the Highlands Council with notice of its effective date. The process of ordinance adoption shall be conducted in accordance with all legal requirements and protocols pursuant to the New Jersey Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), and shall be guided by the timeframes set forth in the Highlands Council-approved Highlands Implementation Plan and Schedule. Should this process lead to proposed modifications to any portion of the Checklist Ordinance, the proposed changes shall be submitted for review by the Highlands Council prior to adoption by the Governing Body. In the event the Highlands Council determines that any proposed modification is of a substantive nature, Highlands Council approval shall be required prior to adoption at the municipal level.

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 is set forth at 1.d., below).

FOR CONSIDERATION AT THE SEPTEMBER 15, 2011 MEETING OF THE
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance – Final ~~Draft~~ Consistency Review and Recommendations Report

- b. **Adoption of Approved Highlands ERI.** The Highlands Environmental Resource Inventory (ERI) shall be prepared in a clean, final document format for purposes of public review and adoption. A copy shall be provided to the Highlands Council. The municipal Environmental Commission (or Planning Board in the absence of an Environmental Commission) shall provide for and complete the required process of formal adoption of the ERI by the local Commission or Board. At the conclusion of the process, a certified copy of the adopted ERI shall be provided to the Highlands Council. The process of ERI adoption shall be conducted in accordance with all applicable legal requirements and protocols, and shall be guided by the timeframes set forth in the Highlands Council-approved Implementation Plan and Schedule. Should this process lead to proposed modifications to any portion of the ERI, the proposed changes shall be submitted to the Highlands Council for review. In the event the Highlands Council determines that any proposed modification is of a substantive nature, Highlands Council approval shall be required prior to adoption by the local Commission or Board.
- 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

FOR CONSIDERATION AT THE SEPTEMBER 15, 2011 MEETING OF THE
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance – Final ~~Draft~~ Consistency Review and Recommendations Report

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. **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, and the implications of Highlands exemptions on local review activities.
- e. **Adoption of Updated Zoning Map.** The Township shall prepare an updated Municipal Zoning Map 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 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 significant~~ changes in the applicable COAH Rules and State laws pertaining to the provision of affordable housing in the state of New Jersey as discussed above, these requirements shall be considered subject to modification, with the intent being only to ensure that the municipality remains in compliance with all applicable statutes, rules, regulations and

FOR CONSIDERATION AT THE SEPTEMBER 15, 2011 MEETING OF THE
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance – Final ~~Draft~~ Consistency Review and Recommendations Report

requirements regarding affordable housing, at any given time, and maintains consistency with the RMP, so as to protect the municipality from legal challenge.)

- 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 (or its successor), as applicable, and all legal requirements and protocols pertaining thereto. Plan implementation and continued compliance with the final Court- or COAH (or its successor)-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 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 Sussex County WMP in accordance with NJDEP Administrative Order 2010-03 and all applicable NJDEP rules and requirements.
- 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 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.

FOR CONSIDERATION AT THE SEPTEMBER 15, 2011 MEETING OF THE
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance – Final ~~Draft~~ Consistency Review and Recommendations Report

iii. **Mandatory Components.** Specific mandatory components include development and implementation of the plans/programs/ordinances herein listed (once models have been provided by the Highlands Council and funding provided), all intended as municipal-wide, long-term initiatives unless specifically noted otherwise. Where applicable and appropriate, these will build upon any such plans, programs, or ordinances that have already been developed or adopted by the municipality. It is the explicit intention of the Highlands Council that such plans/programs be developed in a manner to ensure that implementation is both feasible and practicable, potentially involving assistance of outside agencies/organizations, working cooperatively for and with the municipality. In each case where the municipality will serve as lead, release of funds is contingent upon approval of a scope of work by the Highlands Council Executive Director.

- Water Use & Conservation Management Plan.
- Habitat Conservation & Management Plan – Prioritized by allocation of funding for this Plan to identify species at risk, options for restoration of habitat, and standards for mitigation of unavoidable impacts of public and private projects.
- Sustainable Economic Development Plan (Master Plan Element) – Prioritized by allocation of funding for this Plan to complete this element of the Township Master Plan, as identified in the draft Highlands Element.
- Lake Restoration Management Plan
- Stormwater Management Plan (Updates Only)
- Land Preservation and Stewardship Program
- Agricultural Retention Plan Element (Master Plan Element) – Prioritized by allocation of funding for development of this Plan Element to assist in sustainability of agricultural enterprises in the Township and to promote agricultural viability.
- 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 including development and implementation of the prioritized plans herein listed, all

FOR CONSIDERATION AT THE SEPTEMBER 15, 2011 MEETING OF THE
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance – Final ~~Draft~~ Consistency Review and Recommendations Report

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 – Prioritized by allocation of funding for development of a Plan to protect/restore streams in the municipality and to mitigate the impacts of future land uses on such water resources.
- Green Building/Environmental Sustainability/Alternative Energy Plan (Master Plan Element) – Prioritized by allocation of funding to identify and plan for issues regarding on-site alternative energy facilities and green building options.

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.

2. **Optional Petition Requests.** As provided at Section C, above, Optional Petition Requests included only requests for RMP Updates. All outstanding issues have been resolved through use of Sussex County parcel data and utility service area information from the Sparta Township Highlands Municipal Build-Out Report.

E. MUNICIPAL RESPONSE PERIOD

The Highlands Council provided a Draft Consistency Review and Recommendations Report dated April 26, 2011 (sent to the municipality on May 11, 2011). The Municipal Response Period expired on July 11, 2011. The municipality provided deliberative revised materials in support of the Petition for Plan Conformance, prior to expiration of that Period, for Highlands Council consideration.

FOR CONSIDERATION AT THE SEPTEMBER 15, 2011 MEETING OF THE
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance – Final ~~Draft~~ Consistency Review and Recommendations Report

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. Comment Letter from David Manhardt, A.I.C.P., P.P., Township Planner, dated July 11, 2011.
2. Highlands Environmental Resource Inventory. Revisions provided addressing all previous Highlands Council edits and proposing minor modifications. The submittal represents a very nearly completed document, consistent with Plan Conformance requirements.
3. Highlands Master Plan Element. Revisions provided addressing all previous Highlands Council edits and proposing minor modifications. The submittal represents a very nearly completed document, consistent with Plan Conformance requirements.
4. Highlands Area Land Use Ordinance. Revisions provided addressing all previous Highlands Council edits and proposing minor modifications. The submittal represents a very nearly completed document, consistent with Plan Conformance requirements.

F. COMMENTS FROM THE PUBLIC

The Final Draft Consistency Review and Recommendations Report ~~is~~was posted to the Highlands Council website and made available (in paper format) at the Highlands Council offices in Chester, NJ, for review and comment by the general public.

Two comments were received during the period established by the Highlands Council for receipt of written public comment (August 12, 2011 - August 30, 2011) as follows. The comment/response document is attached to this document, at Appendix B.

1. Erica Van Auken, New Jersey Highlands Coalition.
2. Helen H. Heinrich, New Jersey Farm Bureau

G. FINAL RECOMMENDATIONS

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

In conclusion, the Highlands Council Staff recommends that the Petition for Plan Conformance of the Township of Sparta, 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.~~

FOR CONSIDERATION AT THE SEPTEMBER 15, 2011 MEETING OF THE
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance – Final ~~Draft~~ Consistency Review and Recommendations Report

APPENDIX A

HIGHLANDS COUNCIL REVIEW
MODULE 3 HOUSING ELEMENT AND FAIR SHARE PLAN

Preliminary Consistency Review

Township of Sparta, Sussex County

MODULE 3 REVIEW FORM December 8, 2009 Submission

MUNICIPAL INFORMATION	
Municipal Code: 1918	Date: 02/11/2010
Municipality: Sparta Township	

REVIEW CHECKLIST			
	Yes	No	N/A
1. Review Affordable Housing Obligation			
a. Prior Round Obligation Correct (see here);	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Rehab Obligation Correct (Optional – See here)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Growth Share Obligation and Calculations Correct (see Workbook D);	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Review of Highlands Consistency Review Report(s) required (use Site Review form);	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Housing Transfer (RAHDP) Letter of Interest (Optional).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a. Sending	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Receiving	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

HIGHLANDS COUNCIL STAFF REVIEW		
Follow up Required?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Comments: Plan submitted to COAH. Consistency review of sites has been completed and was submitted to COAH. All sites appear consistent with RMP. No 3/1 Submission required.		
Reviewer Name: James Humphries		
Initial: pjh	Date: 02/11/2010	

FOR CONSIDERATION AT THE SEPTEMBER 15, 2011 MEETING OF THE
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance – Final ~~Draft~~ Consistency Review and Recommendations Report

APPENDIX B

PUBLIC COMMENTS/HIGHLANDS COUNCIL RESPONSES

Petition for Plan Conformance

Township of Sparta, Sussex County

FOR CONSIDERATION AT THE SEPTEMBER 15, 2011 MEETING OF THE
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance – Final ~~Draft~~ Consistency Review and Recommendations Report

PUBLIC COMMENTS RECEIVED

Written comments regarding the Township of Sparta's Petition for Plan Conformance were accepted by the Highlands Council through the close of the Public Comment period on August 30, 2011. Comments were provided by the following individuals/entities:

1. Erica Van Auken, New Jersey Highlands Coalition.
2. Helen H. Heinrich, New Jersey Farm Bureau

MUNICIPAL COMMENT/RESPONSE SUMMARY

Comments submitted by Erica Van Auken on behalf of the New Jersey Highlands Coalition;

1. **Comment:** The New Jersey Highlands Coalition supports Sparta's petition for plan conformance. We support the Stream Corridor Restoration and Protection plan. Given Sparta's extensive existing development and its proposed development, studying the impacts of current and future land uses on water resources is sensible. We are eager to see what plans are developed. We also support the attempt to identify on-site alternative energy facilities and opportunities for green buildings within the township. Both represent the township's effort to protect and conserve Highlands resources.

Response: The Highlands Council acknowledges the New Jersey Highlands Coalition's support for the Borough's Petition for Plan Conformance and will continue to work with the Township to develop a Stream Corridor Restoration and Protection Plan and a Green Building/Environmental Sustainability/Alternative Energy Plan consistent with the Goals, Policies and Objectives of the RMP.

2. **Comment:** We do question Sparta's decision to conform only its preservation area. As mentioned, Sparta has substantial existing development with more planned. We recommend that Sparta reconsider its original conformance resolution to include the planning area so that the growth of their town can be reasonably guided by the Highlands Council to ensure the continued protection of our strained water resources.

Response: The inclusion of the Planning Area in the municipal petition for Plan Conformance is optional and the Township of Sparta has elected not to include it in the Petition at this time. The Highlands Council will continue to work with the Township and at any time the Township may amend its Petition to include the Planning Area.

Comments submitted by Helen H. Heinrich, on behalf of the New Jersey Farm Bureau;

1. **Comment:** We appreciate the opportunity to review the Plan Conformance petition documents for the Preservation Area of Sparta Township, Sussex County. While most of its Agricultural Resource Area land use

FOR CONSIDERATION AT THE SEPTEMBER 15, 2011 MEETING OF THE
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance – Final ~~Draft~~ Consistency Review and Recommendations Report

is in the Planning Areas (3487A out of 4229A) concern for the future viability of farming in the Preservation Area is still warranted.

We were happy to note that you are requiring the township make “minor modifications” to its existing Agriculture Retention/Farmland Preservation Plan with the help of a \$5000 planning grant. We hope this task will assume a high priority in 2012.

Response: The Highlands Council acknowledges the New Jersey Farm Bureau’s support for the modifications to the Township’s existing Agriculture Retention/Farmland Preservation Plan. The primary focus of the planning work will be to identify methods of improving the sustainability of agricultural businesses in the Township.

2. Comment: Section 6.10.3 of the Land Use Ordinance states that permitted land uses and bulk densities, etc. will be governed by existing township ordinances. Until those are made clear, we must remain concerned about whether any limitation on agriculture therein are consistent with the Right to Farm Act and in the best interests of agricultural viability in the Township.

Response: Highlands Council staff has reviewed the applicable municipal regulations. While no conflicts are apparent, the Highlands Council will develop caveat language for inclusion within Section 6.10.3 of the Highlands Area Land Use Ordinance, to indicate that the referenced provisions of the local code shall apply only to the extent not in conflict with, or overridden by, the provisions of the Highlands Area Land Use Ordinance. Notably, the Highlands Area Land Use Ordinance includes at Section 6.10.5, language specifically in respect of the Right to Farm Act. These modifications have been included in other Highlands Land Use Ordinances on an as needed basis. The Farm Bureau indicated satisfaction with such language in their comments on another municipality’s draft Highlands Area Land Use Ordinance.

It is also important to note that Section 6.10.3 applies only to those agricultural developments for which an exemption or exclusion does not apply. In addition to all Highlands Act exemptions, the Highlands Area Land Use Ordinance provides an important exclusion for agricultural and horticultural use and development, as follows (see § 2.1.1): “Unless specifically indicated otherwise, and in that case only to the specific extent indicated, the provisions of this Ordinance shall not apply to Agricultural or Horticultural Use and Development (as defined at § 3.2).” The provisions that are “specifically indicated otherwise,” consist primarily of those discussed in the Highlands Area Land Use Ordinance at § 6.10, regarding agricultural development that exceeds the thresholds of new impervious surfaces established by the Highlands Act.

3. Comment: How will the Township, with assistance from the Highlands Council staff and hopefully from the New Jersey Department of Agriculture, develop an Agriculture Retention/Farmland Preservation Plan that could include and benefit farms in the rest of the Township? The result should be a positive business environment for all farmland and a level playing field across the Township.

Response: Highlands Council funding for the Agricultural Retention/Farmland Preservation Plan is specifically designated for application to the entire Township, not just the Preservation Area. The Highlands Council will continue to work with the Township and the Department of Agriculture to develop an Agriculture

FOR CONSIDERATION AT THE SEPTEMBER 15, 2011 MEETING OF THE
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance – Final ~~Draft~~ Consistency Review and Recommendations Report

Retention/Farmland Preservation Plan that assists in the economic development and suitability of agriculture in the Township in accordance with the Goals, Policies and Objectives of the Regional Master Plan.