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**INCORPORATED BY REFERENCE INTO
HIGHLANDS COUNCIL RESOLUTION 2011-17
ADOPTED MAY 19, 2011**

FINAL CONSISTENCY REVIEW AND RECOMMENDATIONS REPORT

**PETITION FOR PLAN CONFORMANCE:
FRANKLIN TOWNSHIP, WARREN COUNTY**

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

MAY 12, 2011

**FOR CONSIDERATION AT THE MAY 19, 2011 MEETING OF THE
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
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INTRODUCTION

This Final 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 Franklin, 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: Franklin Township

Date of Petition Submission: December 8, 2009

Date Deemed Complete: January 22, 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 | None |

| Petition Components | Consistent | Conditions of Approval |
|----------------------------------|-------------------|---|
| 1. Modules 1-2 Build-Out Report* | X | None |
| 2. Module 3 Housing Element/Plan | X | Follow-Up Required per Section B.2; 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 |

*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. None | N/A | N/A |

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A. REVIEW OF ADMINISTRATIVE SUBMITTALS

- 1. Resolution or Ordinance.** The Resolution (#2009-73) petitioning the Highlands Council for Plan Conformance was adopted by the municipal Governing Body at its noticed public meeting of November 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 of the municipality only (3,763 acres or 25% of the Township).
- 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. The submission includes the following:

 - a.** Copy of a public meeting notice for a meeting of the Franklin Township Land Use Board held on September 2, 2009 to discuss Plan Conformance and the Highlands Master Plan Element.
 - b.** Copy of a meeting agenda and meeting minutes associated with September 2, 2009 Franklin Township Land Use Board meeting.
 - c.** Adopted Resolution as noted above, indicating formal action taken on Plan Conformance at the November 2, 2009 public meeting of the Governing Body.
- 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.

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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 October 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 Franklin 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. Completed Highlands Council forms used to conduct preliminary submission reviews appear in Appendix A. Review of the final Housing Element and Fair Share Plan submission, dated August 11, 2010 adopted by the Land Use Board on August 10, 2010 follows. These findings constitute a preliminary analysis of the Draft Housing Element and Fair Share Plan by the Highlands Council. Formal review will be conducted by COAH. These documents were filed with COAH on August 13, 2010. The final Fair Share Plan appears to address the municipality's Fair Share Obligation. As to consistency with the requirements of the RMP, the Plan requires certain modifications which the Township has acknowledged and agreed to address going forward (details below).

- a. **Summary of Municipal Obligation.** The Municipal Obligation appears to be correctly calculated and includes the components listed below.
 - i. **Rehabilitation Share:** 9
 - ii. **Prior Round Obligation:** 11 units
 - iii. **Growth Share Obligation** (see B.2.b, below): 84 units. The obligation uses COAH's growth share projection but downwardly adjusts the projection from 100 units based on actual jobs growth.

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- b. Municipal Growth Projections.** Municipal Growth Projections, used to determine the Growth Share Obligation (above) were correctly indicated in the submittals provided by the municipality. The final figures are listed below. Note: Highlands Full Build-Out Projections apply in the case of conformance for the full municipality (i.e., for split municipalities, including both the Planning and Preservation Area) in accordance with COAH's instructional document, *Guidance for Highlands Municipalities that Conform to the Highlands Regional Master Plan*; COAH Growth Projections apply in all cases where the municipality is not petitioning for conformance for the whole of the municipality, until or unless modified by COAH consistent with the Guidance or as applicable, the Superior Court. The municipality's Housing Element relies upon COAH Growth Projections through 2018, however the municipality has provided for a downward adjustment of those projections based on a review of actual jobs growth.
- c. Highlands Full Build-Out Projections**
- i.** Residential Growth (housing units): 526
 - ii.** Non-Residential Growth (jobs): 212
 - iii.** Total Growth Share, after exclusions (units): 118
- d. COAH Growth Projections through 2018**
- i.** Residential Growth (housing units): 220
 - ii.** Non-Residential Growth (jobs): 898
 - iii.** Total Growth Share, after exclusions (units): 100 units. (Downward adjusted to 84 units). The obligation uses COAH's growth share projection but adjusts the projection from 100 to 84 units based on actual jobs growth.
- e. Summary of Proposed Fair Share Plan.** The Fair Share Plan proposes to address the municipal obligation by use of the mechanisms and/or development projects listed below. Where Affordable Housing Sites were included that have not yet been constructed, each was reviewed for consistency with the RMP using the on-line Highlands Council RMP Consistency Review Report tool. In this case, 5 Affordable Housing Sites were proposed. A brief summary of the results for each is included below.
- i. Rehabilitation Program:** Four (4) units completed. Additional units to be provided in cooperation with the Warren County Department of Community Development.
 - ii. Prior Round Sites:**
 - Asbury Group Home: 5 bedrooms (completed).

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- White Road Group Home: 3 bedrooms (completed).
- Three (3) rental bonus credits.
- Total Prior Round Credits: 11

iii. New Project/Sites:

- Brandywine at Broadway. Seven (7) affordable units. Block 26, Lot 3. The total development consists of 120 units including 113 attached single family town homes, 7 affordable units, and a commercial area. The site is located in the Planning Area – Conservation Zone. There are significant Riparian Areas present. The applicant was denied a Stream Encroachment Permit by the NJDEP, by letter dated April 13, 2007. An on-site sewage treatment facility is proposed, but has no NJDEP approvals. Given the site's location in the Conservation Zone and the density proposed, it appears unlikely that the proposed development could be consistent with the RMP or that it presents a reasonable potential for development. (Note: Although the municipality seeks to conform only for the Preservation Area, any NJDEP reviews of water and/or wastewater permit applications will trigger Highlands Council consistency reviews, with respect to such proposed infrastructure at minimum.) The Township acknowledges these issues and will modify the Fair Share Plan as needed to achieve RMP consistency.
- Edison Road, LLC: Nineteen (19) single family lots and 4 affordable units are proposed. The site is located within Conservation Zone and Conservation Environmentally-Constrained Sub-Zone in the Planning Area. The development received preliminary major subdivision approval on May 5, 2010. Although there are RMP consistency issues related to Critical Wildlife Habitat, the project appears to represent a reasonable potential for development due to its approval status.
- 100% Affordable Site (Block 16, Lot 9.02): Thirty-eight (38) affordable units on 29 acres. Planning Area – primarily Conservation Zone. Proposed to be serviced by on-site well and septic systems. Unless NJDEP permitting issues arise (particularly any that trigger RMP consistency review, as noted for the Brandywine at Broadway site, above), this project appears to present a reasonable potential for development as defined by COAH. It should also be noted that adoption of a municipal

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Wastewater Management Plan in conformance with provisions of N.J.A.C. 7:15 would likely impose limitations on development yield, due to septic system density requirements. The Township acknowledges these issues and will modify the Fair Share Plan as needed to achieve RMP consistency.

- Block 16, Lot 9.02: One 4-bedroom group home (4 credits). This project is located on the same lot as the 38-unit 100% affordable site above and the same constraints apply.
- 100% Affordable Site (Block 16, Lot 21.04): Six (6) affordable units. Planning Area – Conservation Zone. Proposed to be serviced by on-site well and septic systems. Unless NJDEP permitting issues arise (particularly any that trigger RMP consistency review, as noted for the site above), this project appears to present a reasonable potential for development as defined by COAH. It should also be noted that adoption of a municipal Wastewater Management Plan in conformance with provisions of N.J.A.C. 7:15 may impose limitations on development yield, due to septic system density requirements. The Township acknowledges these issues and will modify the Fair Share Plan as needed to achieve RMP consistency.
- Unidentified Group Home: Four (4) bedrooms. The site will need to be reviewed once identified.
- Twenty-one (21) Rental Bonus Credits
- Total Growth Share Credits: 84

f. RMP Goals & Objectives. Goals and objectives consistent with those provided in the Highlands Council Model Housing Element appended to the Module 3 instructions have been inserted as revisions to the Township's proposed Master Plan Highlands Element. (See the Housing Plan section.)

g. Follow-Up Requirements for Completion.

- i. With regard to the Brandywine at Broadway site, the Township will either provide information indicating how the project can be developed in a manner consistent with NJDEP's Water Quality Management Rules at N.J.A.C. 7:15, or it will remove the project from the Fair Share Plan. If necessary, required units will be provided by alternate means.

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- ii. With regard to the projects proposed for Block 16 Lot 9.02 and Block 16 Lot 21.04, the septic system density appears high, particularly for development reliant on domestic wells, based on both the RMP and N.J.A.C. 7:15, the Water Quality Management Planning Rules. The Township will address these issues in the same manner as for the Brandywine at Broadway site, above. If necessary, required units will be provided by alternate means.
 - iii. Depending upon the outcomes, the Fair Share Plan may require modification to achieve RMP consistency and meet all requirements for Plan Conformance. In the event that any of the proposed projects is modified or ultimately removed from the Fair Share Plan, alternate plans must developed to address the housing obligation which at that time, will be subject to further review by the Highlands Council. The recent Appellate Court decision may also affect the proposed Plan, based on anticipated changes in Council on Affordable Housing Rules.
- 3. **Environmental Resource Inventory (Module 4).** The proposed Township of Franklin 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 Franklin 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.
- 4. **Master Plan Highlands Element (Module 5).** The proposed Township of Franklin 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. As proposed (including modifications by the Highlands Council), the document contains all required Highlands Element language and applicable maps/exhibits, as necessary, to address the immediate mandatory requirements of Plan Conformance.

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

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of adoption by the Land Use 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. Not Applicable – Deleted
 - 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. Note: The following zones are not applicable to Franklin’s Preservation Area and have thus been deleted: Existing Community Zone – Environmentally Constrained Sub-Zone, and Lake Community Sub-Zone. Please see the Master Plan Element for edits/comments.
 - ii.** Land Uses. Consistent
 - iii.** Density and Intensity of Development. Consistent.
 - iv.** Cluster Development. Consistent
 - v.** Land Use Inventory. Consistent
 - vi.** Redevelopment Planning. Consistent

- c. Housing Plan Element.** Consistent. (See review 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 in the Preservation Area (for which the municipality is conforming) – deleted. Section has been labeled as “Reserved” to maintain numbering through the remainder of the document.
 - vii.** Water Resources Availability. Consistent

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- 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. Not Applicable – Deleted
 - 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
 - ii. Scenic Resources. Consistent.
 - l. **Development Transfer Plan Element.** Consistent (Note: Inclusion of this Section is optional.)
 - m. **Relationship of Master Plan to Other Plans.** Consistent
 - n. **Exhibits.** Consistent. The list of Exhibits includes all that apply to the municipality. The applicable Exhibits are provided in a separate PDF file which accompanies the Highlands Element. The Township will insert Exhibit B, “Township Land Use Inventory” upon its completion.
- 5. **Highlands Area Land Use Ordinance (Module 6).** The proposed Township of Franklin 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 Franklin Highlands Area Land Use Ordinance (inclusive of revisions provided by the Highlands Council) contains nearly all required Highlands Area Land Use Ordinance language as necessary, to fully address the immediate mandatory

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requirements of Plan Conformance. Applicable maps/exhibits were submitted with the Petition, however new maps have been prepared for these purposes by the Highlands Council. Please see discussion regarding maps at 5m, below.

The specific components of the model Highlands Land Use Ordinance are listed below. Where each is consistent with the Highlands Council model or otherwise satisfactorily addresses all RMP requirements for Basic Plan Conformance, the heading or sub-heading indicates "Consistent." Where any section of the model Highlands Land Use Ordinance has been appropriately deleted due to non-applicability, the heading or sub-heading indicates "Not Applicable – Deleted." Where minor modifications are required to complete the 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. The municipality will address/incorporate the minor modifications made by the Highlands Council. Please see revised document text.
- d. **Article 4. Establishment of Highlands Area Districts.** Consistent. Note that the following Zones are not applicable and were appropriately deleted from the text: Existing Community Zone – Environmentally Constrained Sub-Zone, and Lake Community Sub-Zone. Please note that Exhibits 2 and 9 have been updated (see "Exhibits," below) and the new dates have been inserted into Section 4.4, accordingly.
- e. **Article 5. Highlands Area Zone District Regulations.** Consistent.
- f. **Article 6. Highlands Area Resource Regulations.** Consistent, however minor modifications required to complete.
 - 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. Section [*Reserved*] to preserve subsequent numbering.
 - vii. Water Conservation & Deficit Mitigation. Consistent

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- viii. Prime Ground Water Recharge Areas. Consistent
 - ix. Wellhead Protection. Consistent
 - x. Agricultural Resources. Consistent. The municipality will provide final modifications for completion prior to adoption.
 - xi. Historic, Cultural & Archaeological Resources. Consistent. The municipality will provide final modifications for completion prior to adoption.
 - xii. Scenic Resources. Consistent
- g. **Article 7. Highlands Area General Regulations.** Consistent however, minor modifications required to complete.
 - i. Affordable Housing. Consistent
 - ii. Low Impact Development. Consistent
 - iii. Conservation Restrictions. Consistent.
 - 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. The municipality will address/incorporate the modifications made by the Highlands Council and will finalize fee/escrow requirements for completion prior to adoption. Please see revised document text. Please note that municipal exemption determinations will apply in the Preservation Area only if/when the NJDEP provides authorization for same.
- j. **Article 10. Appeals, Waivers, Exceptions.** Consistent. The municipality will address/incorporate the minor modifications made by the Highlands Council. Please see revised document text.
- k. **Article 11. Enforcement, Violations, Penalties.** Consistent. The municipality will provide final modifications for completion prior to adoption.
- l. **Appendices.** 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).

Please note that Exhibits #2 and #9 have been updated since first issued to the municipality, to provide updates to Total Forest information and Historic Resources. These maps are newly dated March 22, 2011.

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 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 for purposes of Basic Plan Conformance.
- 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.

The Highlands Implementation Plan and Schedule, modified since first issued by the Highlands Council, 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, through the 2011-2012 State fiscal years. Priority

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funding has been included in the Highlands Implementation Plan and Schedule to address Agricultural Retention planning for the community. A program of this nature would further the Township's efforts to preserve farmland and retain agricultural enterprises, as indicated in the Township's Comprehensive Farmland Preservation Plan, adopted in April of 2008.

In addition, the proposed Highlands Implementation Plan and Schedule includes non-mandatory Plan Conformance activities, for which estimated costs and timeframes for completion have been provided. These activities have been incorporated into the revised Highlands Implementation Plan and Schedule. Priority funding has been included to address the following:

- i. Habitat Conservation & Management Planning – Funding has been allocated for development of a plan to identify species at risk, options for restoration of habitat, and standards for mitigation of unavoidable impacts from future development.
- ii. Stream Corridor Protection & Restoration Planning – Funding has been allocated for development of plans to protect/restore streams in the municipality and to mitigate the impacts of future land uses on such water resources.
- iii. Highlands Redevelopment Area Planning – Funding has been allocated to explore potential redevelopment opportunities in the Route 57 corridor.
- iv. Municipal Cluster Development Feasibility Plan – Funding has been included to provide for a feasibility analysis to determine potential for clustering of cluster development in the Township, in conjunction with existing Preservation Plans. If and to the extent such clustering is feasible, this funding would allow for preliminary development of the planning tools and guidance necessary to enable it.

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. 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 Franklin, 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 municipality shall prepare and submit to the Highlands Council a draft “Checklist Ordinance” (model available) requiring that Development Applications be deemed incomplete by the reviewing board or applicable municipal authority, until or unless accompanied by: a) for applications under Highlands Council jurisdiction, a Highlands Council Consistency Determination indicating that the application is consistent, or can and will be made consistent with the Regional Master Plan; or b) an NJDEP Highlands Preservation Area Approval, waiver, or Highlands Applicability Determination indicating non-applicability. Upon receipt of Highlands Council approval, the Ordinance shall be prepared for purposes of public review and adoption by the municipal Governing Body. The Governing Body shall provide for and complete the adoption process, at 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).

b. Adoption of Approved Highlands ERI. The Highlands Environmental Resource Inventory (ERI) shall be prepared in a clean, final document format for purposes of

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public review and adoption. A copy shall be provided to the Highlands Council. The municipal Environmental Commission (or Land Use 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 Land Use Board shall arrange for the required process of scheduling, notice, public hearing, consideration, and formal adoption of the Highlands Element by the municipal Land Use 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 Land Use 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 Land Use 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

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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.
- 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 Highlands Council shall be copied on all related correspondence and kept apprised of the process as it unfolds. Any subsequent revision to the Housing Element and Fair Share Plan shall be provided to the Highlands Council for review and approval prior to implementation by the municipality. Until and unless the municipality secures final approval of a Highlands Council-approved (as RMP consistent) Housing Element and Fair Share Plan, this Plan Conformance component shall remain a conditionally approved item. (In recognition of potential changes in the applicable COAH Rules and State laws pertaining to the provision of affordable housing in the state of New Jersey, these requirements remain subject to modification, with the intent being only to ensure that the municipality remains in compliance with all applicable statutes, rules, regulations and requirements, at any given time, and maintains consistency with the RMP, so as to protect the municipality from legal challenge).

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- 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 COAH, and all legal requirements and protocols pertaining thereto. Plan implementation and continued compliance with the final 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.
- 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.
 - 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, if applicable, and funding provided), all intended as municipal-wide, long-term initiatives unless specifically noted otherwise. Where applicable and

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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 – Funding has been allocated for development of a plan to identify species at risk, options for restoration of habitat, and standards for mitigation of unavoidable impacts from future development.
- 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).
- Agricultural Retention Plan – Priority funding has been included in the Highlands Implementation Plan and Schedule to address Agricultural Retention planning for the community. A program of this nature would further the Township’s efforts to preserve farmland and retain agricultural enterprises, as indicated in the Township’s Comprehensive Farmland Preservation Plan, adopted in April of 2008.

iv. Non-Mandatory Components: The Highlands Implementation Plan and Schedule also provides for certain non-mandatory components including the prioritized items listed below. Where applicable and appropriate, these will build upon any such plans, programs, or ordinances that have already been developed or adopted by the municipality (e.g., the Township Cluster Ordinance). 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 Protection & Restoration Planning – Funding has been allocated Development of plans to protect/restore streams in

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the municipality and to mitigate the impacts of future land uses on such water resources.

- Highlands Redevelopment Area Planning – Funding has been allocated to explore potential redevelopment opportunities in the Route 57 corridor.
- Municipal Cluster Development Feasibility Plan – Funding has been included to provide for a feasibility analysis to determine potential for clustering of cluster development in the Township, in conjunction with existing Land Preservation Plans. If and to the extent such clustering is feasible, this funding would allow for preliminary development of the planning tools and guidance necessary to enable it.

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

The Highlands Council provided a Draft Consistency Review and Recommendations Report dated October 15, 2010 (sent to the municipality on October 19, 2010). The Municipal Response Period, following a requested extension, expired on February 28, 2011. The municipality provided deliberative responses, proposed revisions, and supplemental materials 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 Plan Conformance.

1. Summary Response Document – Listing of all proposed revision items; explanatory narrative; and inquiries to Highlands Council.
2. Current Planning & Regulatory Documents – All requested documents were submitted, as listed below, fully addressing this Plan Conformance requirement.
 - a. Comprehensive Farmland Preservation Plan, April 2008
 - b. Franklin Master Plan Reexamination Report, 2006
 - c. Natural Resources Inventory, June 2007
 - d. Open Space & Recreation Plan, January 2006
 - e. Right to Farm Ordinance
 - f. Cluster Ordinance
2. Franklin Township Draft 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.
3. Franklin Township Draft 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

Following the Municipal Response Period and the incorporation by Highlands Council Staff of any revisions resulting from the Municipal Response, as noted above, the Final Draft Consistency Review and Recommendations Report is posted to the Highlands Council website

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and made available (in paper format) at the Highlands Council offices in Chester, NJ, for review and comment by the general public.

The Highlands Council established period for receipt of written public comment was April 4, 2011 until April 18, 2011. A comment was received from Helen Heinrich of the New Jersey Farm Bureau. The comment/response document is attached to this document, at Appendix B.

G. FINAL RECOMMENDATIONS

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

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

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APPENDIX A

**HIGHLANDS COUNCIL REVIEW
MODULE 3 HOUSING ELEMENT AND FAIR SHARE PLAN**

Prior Round Site Consistency Review

Township of Franklin, Warren County

Module 3 Review Form

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MODULE 3 REVIEW FORM December 8, 2009 Submission

| MUNICIPAL INFORMATION | | | |
|---|---|-----------------------------|-------------------------------------|
| Municipal Code: 2105 | Date: 02/19/10 | | |
| Municipality: Franklin Township | | | |
| REVIEW CHECKLIST | | | |
| | Yes | No | N/A |
| 1. Review Affordable Housing Obligation | | | |
| a. Prior Round Obligation Correct | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b. Rehab Obligation Correct (Optional) | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. Growth Share Obligation and Calculations Correct (see Workbook D); NOTE: COAH number in Workbook D for Mod 2 results for non-residential jobs sewered is incorrect; the Franklin Township submittal is correct (EWC). | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Review of Highlands Consistency Review Report(s) required | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Housing Transfer (RAHDP) Letter of Interest (Optional) | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| a. Sending | <input checked="" 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 checked="" type="checkbox"/> | No <input type="checkbox"/> | |
| Comments: Spoke with Chuck McGroarty via e-mail to clarify the proposed prior round site is Block 26, Lot 3. The Module 3 submittal indicates Block 26, lot 2, but the consistency report is for Lot 3. Site review completed for Lot 3. Consistency issues with the site; applicant was denied a Stream Encroachment Permit by NJDEP in 2007. | | | |
| | | | |
| Reviewer Name: Erika Webb Cramer | | | |
| Initial: EWC | Date: 02/19/10 | | |

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APPENDIX B

PUBLIC COMMENTS/HIGHLANDS COUNCIL RESPONSES

Petition for Plan Conformance

Township of Franklin, Warren County

Public Comment Period: April 4, 2011 – April 18, 2011

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PUBLIC COMMENTS RECEIVED

Written comments regarding the Township of Franklin's Petition for Plan Conformance were accepted by the Highlands Council through the close of the Public Comment period on April 18, 2011. Comments were provided by the following individual:

Helen Heinrich, New Jersey Farm Bureau

Comment /Response Summary:

Comment: The New Jersey Farm Bureau strongly supports the grant opportunity for Franklin Township to develop an Agricultural Retention and Farmland Preservation Plan. The Bureau supports the development of such a plan to apply to the entirety of the Township, all of the Highland Preservation Area and Planning Area lands, although the Township is only conforming for the Preservation Area. Additionally, the Bureau supports a coordinated regional strategy for enhancing the viability of local farming operations with surrounding communities such as Lopatcong and Bethlehem.

Response: The Highlands Council acknowledges the New Jersey Farm Bureau's support of grant funding opportunities for the Township of Franklin's Agricultural Retention and Farmland Preservation Plan. This Plan will apply to all Township lands; both Preservation and Planning Area. The Highlands Council notes that municipalities adjacent to Franklin Township will also be pursuing development of Agricultural Retention and Farmland Preservation planning through amended grant agreements with the Highlands Council and the Plan Conformance process. The Highlands Council supports coordinated planning of shared or similar resources as an effective and efficient way to enhance results of the planning process, including any potential effort of multiple municipalities to work cooperatively with the Warren County Agriculture Development Board and the New Jersey Department of Agriculture on a regional plan.