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**INCORPORATED BY REFERENCE INTO  
HIGHLANDS COUNCIL RESOLUTION 2012-5  
ADOPTED JANUARY 19, 2012**

## **FINAL CONSISTENCY REVIEW AND RECOMMENDATIONS REPORT**

**PETITION FOR PLAN CONFORMANCE:  
TOWNSHIP OF MONTVILLE, MORRIS COUNTY**

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

**JANUARY 10, 2012**

**NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL**  
**Petition for Plan Conformance – Final Consistency Review and Recommendations Report**

**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 Montville, with the Highlands Regional Master Plan (RMP). The Report provides review and discussion of each component of the Petition for Plan Conformance, in the order in which they are set forth under submission guidelines provided to municipalities by the Highlands Council. It begins with a brief summary of Staff findings, displayed in a table format, to provide an at-a-glance overview of the results of Staff review.

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**REPORT SUMMARY**

**Municipality:** Township of Montville

**Date of Petition Submission:** December 8, 2009

**Date Deemed Complete:** January 22, 2010

**Conformance Area:** Preservation Area

**Staff Recommendation:** Approve Petition with Conditions

<b>Administrative Submittals</b>	<b>Meets Requirements</b>	<b>Conditions of Approval</b>
1. Resolution or Ordinance	X	None
2. Record of Public Involvement	X	None
3. List of Current Planning and Regulatory Documents	X	

<b>Petition Components</b>	<b>Consistent</b>	<b>Conditions of Approval</b>
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

\*Completed by the Highlands Council in collaboration with the municipality prior to substantive review of the Petition.

<b>Optional Submission Items</b>	<b>Submission Date</b>	<b>Status/Recommendation</b>
1. RMP Updates	N/A	
2. Map Adjustments	N/A	
3. Highlands Center Designation Requests	N/A	
4. Highlands Redevelopment Area Designation Requests	N/A	

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**A. REVIEW OF ADMINISTRATIVE SUBMITTALS**

- 1. Resolution or Ordinance.** The Resolution petitioning the Highlands Council for Plan Conformance was adopted by the municipal Governing Body at its noticed public meeting of November 24, 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 (3,440 acres, 28.1%) 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 petitioning the Highlands Council for Plan Conformance. The submission includes the following:

  - a. Copy of public meeting notice for meeting of the Master Plan Subcommittee of the Planning Board held on August 13, 2009 to discuss Plan Conformance and Petition components.
  - b. Copy of meeting agendas and minutes associated with Planning Board and Master Plan Subcommittee meetings to discuss Plan Conformance and/or Petition components held on the following dates: January 8, 2009, February 12, 2009, February 26, 2009, April 16, 2009, May 14, 2009, June 11, 2009, June 25, 2009, July 23, 2009, August 13, 2009, August 19, 2009, September 10, 2009, September 24, 2009, October 6, 2009, October 8, 2009, October 22, 2009.
  - c. Copy of “Comparison Matrix” prepared by Burgis Associates, Inc., providing overview of issues and impacts of conformance for Planning Area vs. conformance for Preservation Area only; presented at the public Planning Board meeting of October 8, 2009.
  - d. Copy of PowerPoint® Presentation prepared by Burgis Associates, Inc., providing overview of Highlands Council Plan Conformance process, issues, and including “Comparison Matrix” (referenced above); presented at the public Planning Board meeting of October 22, 2009 and public meeting of the Township Committee held on November 10, 2009.
  - e. Copy of meeting minutes associated with the Environmental Commission meeting and Economic Development Commission meeting held on October 21, 2009 to discuss Plan Conformance.
  - f. Written comments submitted to the Planning Board by representatives of various Township agencies and departments relating to Plan Conformance.

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- g. Planning Board written statement regarding Plan Conformance, as posted to the Township website (downloaded November 24, 2009).
- h. Adopted Resolution as noted above, indicating formal action taken on Plan Conformance at the November 24, 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 as required. Please note that the Municipal Land Use Ordinance and Zoning Map are available online and thus not required in pdf format by the Highlands Council. The on-line Township of Montville Code Book may be found at: <http://www.ecode360.com/?custID=MO0752>.

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**B. REVIEW OF PLAN CONFORMANCE PETITION COMPONENTS**

1. **Highlands Municipal Build-Out Report (Modules 1-2).** Consistent. The Highlands Municipal Build-Out Report fulfills the Highlands Act requirements to evaluate land use capability and includes a detailed evaluation of land based capacity, resource based capacity and utility based capacity. 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 as submitted.

Introductory Advisory

The Highlands Council recognizes that the main component of the Council on Affordable Housing (COAH) Third Round rules was invalidated in 2010 and an appeal of that invalidation 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 (DCA). **As required by the Highlands Act and the Fair Housing Act, DCA has the responsibility to determine affordable housing obligations and must take the Highlands Regional Master Plan into consideration in discharging this responsibility. Accordingly, the analysis provided below shall be considered subject to modification based on a resolution of the State's affordable housing policies, 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.**

Highlands Council Review

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 allowed for Highlands Council review of as yet unconstructed projects in municipal housing plans, for

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consistency with the RMP, whether the projects were proposed in compliance with Prior Round obligations or the Third Round rules.

The Township of Montville provided all components required by the Highlands Council. The first submission was included as requested within the municipality's Petition for Plan Conformance, while the remaining items were provided in accordance with the revised submission deadlines. Review of the final Housing Element and Fair Share Plan submission, dated May 12, 2010, adopted by the Planning Board on May 27, 2010, follows. These findings constitute a preliminary analysis of the Housing Element and Fair Share Plan by the Highlands Council. Formal review will be conducted by the Department of Community Affairs or the Superior Court. The final Housing Element and Fair Share Plan appear consistent with the requirements of the RMP.

a. **Municipal Growth Projections.** Municipal Growth Projections, estimated in the Highlands Municipal Build-Out Report for the Township (July 2009) are as follow:

- i. Residential Growth (housing units): 92
- ii. Non-Residential Growth (jobs): 43

b. **Summary of Municipal Obligation.** With the invalidation of COAH's "Growth Share" methodology, the Municipal Fair Share Obligation cannot be fully determined at this time. Based on the information currently available, it would include at minimum, each of the components listed below.

- i. **Rehabilitation Share:** 14 units
- ii. **Prior Round Obligation:** 261 units

In anticipation of an additional obligation to address the current housing cycle, municipal planning to address the local need for affordable housing is expected to continue.

c. **Summary of Proposed Fair Share Plan.** The Fair Share Plan proposes to address the municipal obligation by use of the mechanisms and/or development projects listed below. Where Affordable Housing Sites were included that have not yet been constructed, each was reviewed for consistency with the RMP using the on-line Highlands Council RMP Consistency Review Report tool. A brief summary of the results for each is included below.

- i. **Rehabilitation Program:** The Township will utilize development fee funds from an existing affordable housing development fee ordinance to rehabilitate 14 units.
- ii. **Fair Share Plan Housing Units**
  - **Prior Round Sites:** 472 Total Completed Credits (211 unit surplus)

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- Longview Estates. 119 units. Completed.
  - Rachel Gardens. 168 units plus 65 bonus credits. Completed.
  - Hunting Hills. 22 units. Completed.
  - Jade Commons. 22 units. Completed.
  - Montville Chase. 76 units. Completed.
- **New Sites/Mechanisms:**
- Montville LaSala LLC. Block 40, Lot 30.03. The approved development consists of a two-story mixed use building, with 8,030 square feet of retail space on the ground floor and 6 residential units on the second floor. Two (2) of the 6 residential units are to be deed-restricted for low- and moderate-income households. Because these units will be for rent, the site will also qualify for 2 rental bonus credits. Located in the Planning Area – Existing Community Zone. There are no apparent RMP consistency issues.
  - Montville Residency. Block 160, Lot 4. The approved development is for an age-restricted residential facility, consisting of 28 units. Six (6) of the 28 residential units are to be deed-restricted for low- and moderate-income households. Located in the Planning Area – Existing Community Zone. There are no apparent RMP consistency issues.
  - Holiday Montville LLC. Block 52.03 Lots 19, 21 and 22. Located in Planning Area – Existing Community Zone and the Conservation – Environmentally Constrained Sub-zone. The approved development consists of a 31-unit age-restricted residential development. Six (6) of the 31 residential units are to be deed restricted for low- and moderate-income households. The site is currently serviced by public sewer and no RMP consistency issues are apparent.
  - Towaco Center Zoning Districts. Six (6) units shall be addressed through zoning for the area in the vicinity of the Towaco Train Station. In 2008, the Township established new zoning districts for this area, including the Towaco Center Core (TC1) and Towaco Center Transitional (TC2) Zone Districts. These districts permit the development of up to 45 dwelling units in the area. Because 6 units have already been approved in the TC2 Zone (see Montville



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LaSala LLC above), 39 additional units are anticipated in the area. Twenty (20) percent of these units are required to be set-aside for low- and moderate-income households. Therefore, 8 additional affordable dwelling units are anticipated to be developed in this area. The area is Planning Area – Existing Community Zone and no RMP consistency issues are apparent. However, the specific sites will have to be reviewed as they are indentified.

- d. **Conditions/Requirements.** Goals and objectives consistent with the goals and objectives found in the Model Housing Element appended to the Module 3 instructions should be incorporated into the municipality’s Housing Element. To address this item, the goals and objectives have been inserted as revisions to the Township’s proposed Master Plan Highlands Element (see Housing Plan section).

**3. Environmental Resource Inventory (Module 4).** The proposed Township of Montville 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 Montville 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.

- a. **Deleted Sections.** The following sections of the model Highlands ERI and all associated figures are not relevant to the municipality (or the Preservation Area, for which it seeks Plan Conformance) and have thus been deleted from the municipal submission: Carbonate Rock, Agricultural Resource Area, and Agricultural Priority Area.
- b. **Revisions.** The Highlands Council has provided updated technical information within the narrative portion of the ERI as well as a new set of coinciding figures that the municipality should review. The new figures are provided as a separate file from the Highlands ERI text, and replace figures previously provided for the Highlands ERI. The old figures (with exception of any developed by the municipality) have been deleted to avoid confusion. 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 exhibits are best combined into a single pdf file once each component is in final form. It should be noted that Montville Township is providing updated information on land preservation, which will be used to provide updated ERI figures.

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4. **Master Plan Highlands Element (Module 5).** The proposed Township of Montville Master Plan Highlands Element is based on the model Highlands Element provided to municipalities by the Highlands Council. The document has undergone previous revisions under a collaborative process between the municipality and the Highlands Council to address and incorporate the input and concerns of all parties. The document as now proposed (including modifications by the Highlands Council), contains all required Highlands Element language and all applicable maps/exhibits, as necessary, to fully address the immediate mandatory requirements of Plan Conformance.

The specific components of the model Highlands Element are listed below. Where each is consistent with the Highlands Council model or otherwise satisfactorily addresses all RMP requirements for 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. General Purposes of Zoning. Consistent
  - iii. Relationship Between Highlands Act & MLUL. Consistent
  
- b. **Land Use Plan Element.** Consistent
  - i. Highlands Zones and Sub-Zones. Consistent. (Note: Conservation Zone, Conservation Zone – Environmentally-Constrained Sub-Zone, and Wildlife Management Sub-Zone Not Applicable – Deleted.)
  - ii. Land Uses. Consistent
  - iii. Density and Intensity of Development. Consistent
  - iv. Cluster Development. Consistent. Cluster development provisions are not required, as the Township has no Agricultural Resource Area. However, to the extent that the Township wishes to encourage cluster development within specific municipal zones, as noted in the Highlands Element, the Highlands Land Use Ordinance will require references to underlying municipal codes that provide for and regulate such cluster development.
  - v. Land Use Inventory. Consistent
  - vi. Redevelopment Planning. Consistent – The Township will consider whether or not they wish to pursue redevelopment opportunities within the Preservation Area. The Redevelopment section is subject to change based on the Township’s determination.

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- c. **Housing Plan Element.** Consistent. Please note insertion provided by the Highlands Council to recognize adoption and submission of the Third Round Housing Element and Fair Share Plan to COAH. 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. Not Applicable – Deleted
  - vi. Lake Management. Consistent
  - vii. Water Resources Availability. Consistent
  - viii. Prime Ground Water Recharge Areas. Consistent
  - ix. Water Quality. Consistent
  - x. Wellhead Protection. Consistent
  - xi. Low Impact Development. Consistent
  
- e. **Utility Services Plan Element.** Consistent
  - i. Preservation Area. Consistent
  - ii. Planning Area. Not Applicable – Deleted
  - iii. Planning & Preservation Areas. Consistent
  
- f. **Circulation Plan Element.** Consistent
  
- g. **Land Preservation/Stewardship Plan Element.** Consistent
  
- h. **Agriculture Retention/Farmland Preservation Plan Element.** Not Applicable – Deleted
  
- 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 addressed the alternative language inserted into the document by the Highlands Council. It provides for the case where a

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municipality chooses not to regulate historic resources under the Highlands Ordinance, which the Highlands Council has determined is an optional component of Plan Conformance, not mandatory. Since the Township does currently regulate historic resources, the list of historic, cultural, and archaeological resources has been included in the Element.

- ii. **Scenic Resources.** Consistent
  
- l. **Development Transfer Plan Element.** Inclusion of this Section is optional and the municipality has elected to not incorporate it at this time. Please note that the primary function of this element is to support potential designation of TDR receiving zones outside of the Preservation Area.
  
- m. **Relationship of Master Plan to Other Plans.** Consistent
  
- 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.
  
- o. **Exhibits.** The list of Exhibits (with modifications by the Highlands Council) includes all that apply to the municipality. As to the exhibits themselves, please note that the Highlands Council has provided a new set based on updated information, which replaces those previously issued. The new exhibits are provided as a separate file from the Highlands Element text, and the old exhibits have been deleted to avoid confusion. Please note that the exhibits 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 exhibits are best combined into a single pdf file once each component is in final form. Exhibits provided by the municipality have been inserted into the new set.

Please note that Exhibit X, “Septic System Yield Map” has been determined unnecessary and has been deleted. Septic System Yield will be determined on a site-specific basis, using the Nitrate Dilution Model discussed in text.

- 5. **Highlands Area Land Use Ordinance (Module 6).** The proposed Township of Montville 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 Montville 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. In certain locations, optional or blank information will need to be addressed in the Land Use Ordinance prior to adoption.

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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. The municipality will address/incorporate the minor modifications made by the Highlands Council. Please see revised document text.
- b. **Article 2. Applicability.** Consistent. The municipality will address/incorporate the modifications made by the Highlands Council. Please see revised in document text.
- c. **Article 3. Definitions.** Consistent. The municipality will address/incorporate the modifications made by the Highlands Council. Please see revised document text.
- d. **Article 4. Establishment of Highlands Area Districts.** :. Consistent. The municipality will address/incorporate the modifications made by the Highlands Council, inclusive of new map titles at Section 4.4. Please see revised document text. (Note: Wildlife Management Sub-Zone, Conservation Zone, and Conservation Zone – Environmentally-Constrained Sub-Zone: Not Applicable – Deleted.)
- e. **Article 5. Highlands Area Zone District Regulations.** Consistent as submitted. The municipality will address/incorporate the significant modifications made to the section by the Highlands Council. The municipality also needs to make selections within the text to complete the Section. Please see edits and highlighted areas in document text.
- f. **Article 6. Highlands Area Resource Regulations.** Consistent
  - i. Forest Resources. Consistent
  - ii. Highlands Open Waters & Riparian Resources. Consistent
  - iii. Steep Slopes. Consistent
  - iv. Critical Habitat. Consistent
  - v. Carbonate Rock. Not Applicable – Deleted
  - vi. Lake Management Area. Consistent
  - vii. Water Conservation & Deficit Mitigation. Consistent
  - viii. Prime Ground Water Recharge Areas. Consistent

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- ix. Wellhead Protection. Consistent
  - x. Agricultural Resources. Consistent. (Note: Provisions specifically regarding Agricultural Resource Areas are not applicable – deleted.)
  - xi. Historic, Cultural & Archaeological Resources. Not Applicable – Deleted. Montville Township currently regulates historic resources within the municipality through a separate ordinance.
  - 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
  - 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.** Not Applicable – Deleted. However, as noted regarding cluster development in the Highlands Element, to the extent that the Highlands Land Use Ordinance will encourage or permit cluster development in specific underlying municipal zones, reference to municipal codes permitting and regulating such cluster development should be incorporated at an appropriate location within this Ordinance.
- i. **Article 9. Application Review Procedures & Requirements.** Consistent as submitted. The municipality will address/incorporate the modifications made by the Highlands Council. Please see revised document text. Note: Municipal Exemption Determinations provisions under § 9.1.2 (and all related references in the document) have been removed, as NJDEP delegation of such authority to the municipalities is not anticipated prior to municipal adoption of the Ordinance.
- j. **Article 10. Appeals, Waivers, Exceptions.** Consistent. The municipality will address/incorporate the modifications made by the Highlands Council. Please see revised document text.
- k. **Article 11. Enforcement, Violations, Penalties.** Consistent

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- 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.
- m. **Exhibits.** The Exhibits, including the List of Exhibits and all in-text document references to Exhibits have been updated by the Highlands Council to include Highlands Council parcel-based maps, which indicate the locations and boundaries of each Highlands Area, Zone, Resource, Resource Area, and Special Protection Area. These Exhibits were not available when the Model Land Use Ordinance was initially provided by the Highlands Council for use in preparing Petitions, but are crucial to the regulatory function of the Highlands Area Land Use Ordinance. Please note that the revised maps have been provided in Adobe® pdf format, and in this case, should not be converted for insertion directly in the MSWord® version of the Ordinance. After adoption, they should accompany the Ordinance at all times, however, as an integral component of it – whether made available to the public in paper or electronic format. As provided currently, the maps are at a scale suited to printing on large plotters, for purposes of municipal reproduction and display (ensuring high-resolution detail).

**6. Petition Submission Documents (Module 7).**

- a. **Municipal Self-Assessment Report.** The Municipal Self-Assessment Report consists of two components as listed herein. The Report accurately describes the status of municipal Plan Conformance to date, indicating both municipal accomplishments and the items that remain to be completed to fully achieve Plan Conformance.
  - i. **Narrative Portion.** The Narrative Portion has been completed accurately for purposes of Plan Conformance.
  - ii. **Spreadsheet Portion.** The Spreadsheet Portion has been completed accurately for purposes of 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.

As proposed by the municipality, the Highlands Implementation Plan and Schedule included all mandatory components required to achieve Plan Conformance and incorporated timeframe estimates associated with each mandatory element. The Highlands Implementation Plan and Schedule has been modified since first issued by the Highlands Council. The revised document includes cost estimates for each activity and prioritizes implementation tasks with a particular focus on the first few

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months after Highlands Council approval of Petitions, including the full 2012 State fiscal year.

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



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**C. REVIEW OF OPTIONAL SUBMISSION COMPONENTS**

1. **RMP Updates.** The Petition for Plan Conformance was not accompanied by any requests for RMP Updates.
2. **Map Adjustments.** The Petition for Plan Conformance was not accompanied by any requests for Map Adjustments.
3. **Highlands Center Designation Requests.** The Petition for Plan Conformance was not accompanied by any requests for Highlands Center Designation.
4. **Highlands Redevelopment Area Designation Requests.** The Petition for Plan Conformance was not accompanied by any requests for Highlands Redevelopment Area Designation.
5. **Other.** The Petition for Plan Conformance was not accompanied by any other requests for approvals, not listed above.

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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 Montville, 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).

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- 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 process of scheduling, notice, public hearing, consideration, and formal adoption of

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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, enforcement activities, and the implications of NJDEP Exemption Determinations.
- 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. 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 significant changes in the applicable Housing 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 requirements regarding

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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 Department of Community Affairs (DCA), as applicable, and all legal requirements and protocols pertaining thereto. Plan implementation and continued compliance with the final DCA-approved Fair Share Plan moreover, shall be a condition of continued Plan Conformance approval, subject to Highlands Council review and monitoring.
- h. 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 Morris 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

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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 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: An allocation of funding is provided for preparing a municipal-wide plan addressing needs and opportunities for habitat conservation and restoration regarding threatened and endangered species.
- Lake Restoration Management Plan
- Stormwater Management Plan (Updates Only)
- Land Preservation and Stewardship Program
- Sustainable Economic Development Planning: An allocation of funding is provided for preparing a municipal-wide plan to assess and improve economic sustainability with due consideration for environmental protection.
- 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 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 plans herein listed, all intended as municipal-wide, long-term initiatives unless specifically noted otherwise. Where applicable and appropriate, these will build upon any such plans, programs, or ordinances that have already been developed or adopted by the municipality. It is the explicit intention of the Highlands Council that such plans be developed in a manner to ensure that implementation is both feasible and practicable, potentially involving assistance of outside

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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: An allocation of funding is provided for addressing needs and opportunities for stream corridor protection and restoration in priority stream reaches within the Township.

- 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.** Not applicable.

**E. MUNICIPAL RESPONSE PERIOD**

The Highlands Council provided a Draft Consistency Review and Recommendations Report dated October 5, 2011 to the municipality (sent on October 6, 2011). The Municipal Response Period, originally set to expire on November 5, 2011, was extended to December 14, 2011. The municipality provided revised materials and supplemental information 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. **Revised Master Plan Highlands Element.** Edits to the draft Highlands Master Plan Element bring the document closer to completion, appropriately addressing Plan Conformance requirements.
2. **Revised Highlands Area Land Use Ordinance.** Edits to the draft Highlands Land Use Ordinance bring the document closer to completion, appropriately addressing Plan Conformance requirements.
3. **Updated Environmental Resource Inventory Information.** The Township provided updated figures regarding preserved lands in the municipality (including conservation easements), for inclusion in the Highlands Environmental Resource Inventory. The data are

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important to ensure the accuracy of the document, and appropriately address Plan Conformance requirements. As noted previously, the Highlands Council will address and incorporate the updated information (including provision of updated preserved lands mappings) prior to adoption of the Environmental Resource Inventory and Master Plan Highlands Element.

**F. COMMENTS FROM THE PUBLIC**

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

One comment was received during the period established by the Highlands Council for receipt of written public comment (December 21, 2011 – January 6, 2012). The comment/response document is attached to this document, at Appendix A.

**G. FINAL RECOMMENDATIONS**

Based upon the comment received, the recommendations of Highlands Council Staff concerning the Petition for Plan Conformance of the Township of Montville, remain unchanged from the Staff Recommendations at Section D, above.

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



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**APPENDIX A**

**PUBLIC COMMENTS/HIGHLANDS COUNCIL RESPONSES**

**Petition for Plan Conformance**

**Township of Montville, Morris County**

**Public Comment Period: December 21, 2011 – January 6, 2012**

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**PUBLIC COMMENTS RECEIVED**

Written comments regarding Montville’s Petition for Plan Conformance were accepted by the Highlands Council through the close of the Public Comment period on January 6, 2012. Comments were provided by the following individual:

1. Erica Van Auken, Campaign and Grassroots Coordinator, on behalf of the Highlands Coalition

The comments are summarized below with Highlands Council responses provided.

**PUBLIC COMMENT/RESPONSE SUMMARY**

**Comment:** The New Jersey Highlands Coalition supports Montville Township’s Petition for Plan Conformance. The Coalition appreciates the Township’s initiative to implement the non-mandatory Stream Corridor Restoration and Protection Plan. Further, the Coalition strongly urges the Township to consider conforming its Planning Area and to address additional non-mandatory components of the Regional Master Plan. In general, the Coalition is looking forward to seeing what the Council and the Township are able to achieve through Plan Conformance.

**Response:** The Highlands Council acknowledges the Coalition’s support for Montville’s Petition for Plan Conformance.