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JACK J. SCHRIER
Acting Chairman

EILEEN SWAN
Executive Director

January 31, 2011

The Honorable Arthur Ondish
Borough of Mount Arlington
419 Howard Boulevard
Mount Arlington, New Jersey 07856

Subject: Petition for Plan Conformance
2009 Plan Conformance Grant: Module 7
Mount Arlington Borough - Grant #09-033-011-1426

Dear Mayor Ondish:

On behalf of the Highlands Water Protection and Planning Council (Highlands Council), I thank you for submission of the Borough's Petition for Plan Conformance. We received your letter and Module 7 submission package on December 20, 2010.

As you know, the first step in our review process involves a determination as to the Administrative Completeness of the Petition. In that regard, your transmittal letter requests a waiver from the requirement to submit Module 3 materials (consisting of the municipality's Housing Element and Fair Share Plan documents), until such time as there is clear direction from the Council on Affordable Housing (COAH) and/or the courts, given the latest decision regarding COAH's Third Round Rules. Please be advised that, given the circumstances, the Highlands Council is amenable to a deferral on submission of the Module 3 component. This action should by no means be construed as a waiver, however, as compliance with the Fair Housing Act is a requirement and ongoing condition of all municipal Plan Conformance approvals. The requirement for Module 3 will remain and will be included as a condition of Plan Conformance, to be completed upon State adoption of new statutory and, where appropriate, regulatory language providing direction for municipal compliance with the Fair Housing Act.

Accordingly, I am pleased to herewith deem the Borough's Petition Administratively Complete with the condition that the Module 3 submittal requirements (as may be modified by the outcome of legislative and/or court actions) be deferred until such time as the Highlands Council finds that sufficient information has been made available to the municipality to proceed. The Highlands Council, in addition, stipulates that the Borough reserve funding allocated under its Plan Conformance Grant contract, in the total amount of \$15,000, to ensure that the needed resources are

available to complete all Module 3 requirements at that time. It is important to note that the RMP requirement to proactively address affordable housing obligations protects the municipality and the Highlands Region from the unplanned growth and costs that may otherwise result due to litigation, builders' remedy lawsuits and other remedies that may be required of the municipality. It is acknowledged that legislative changes to the Fair Housing Act have yet to materialize and the results of any amendments remain unknown. We are concerned however, that your municipality remains at risk in the interim, and that any action to force compliance may be detrimental not only to the local community, but to the Highlands Region and goals and intents of the Regional Master Plan. To protect the municipality from such actions, we strongly urge you to file a motion with the Superior Court seeking interim protection from such legal actions, and will be pleased to assist with the necessary supporting documents and paperwork should you decide to do so.

I am pleased to advise also that the process of substantive review of the Borough's Petition will now begin. Within 10 days of the date of this letter, the Highlands Council will post the complete Petition on the Highlands Council website at: www.highlands.state.nj.us/njhighlands/planconformance/.

Within roughly 45-90 days, we will provide the municipality a Draft Consistency Review and Recommendations Report. This Draft Report will provide a detailed assessment of the Petition for Plan Conformance and its level of consistency with the Highlands Regional Master Plan (RMP). The Draft Report will be provided to the municipality for review and consideration, with a municipal response period to follow, prior to any further official action. Please be advised that the opportunity to request RMP Updates will continue throughout the Plan Conformance process via an automated process being developed for the Highlands Council website.

Please be advised that a finding of Administrative Completeness does not preclude the Highlands Council from requesting additional information, should it prove necessary during the process of substantive review, to clarify, complete, correct, or modify a Petition in the interest of ultimately achieving Plan Conformance.

Please note that this letter has been copied to all individuals on the enclosed Plan Conformance Service List, which was developed based on the most current municipal information available to the Highlands Council. The list should contain the names and contact information for the specific individuals designated by the municipality to receive copies of all direct communications from the Highlands Council regarding Plan Conformance. Please review the Plan Conformance Service List for inclusion of all appropriate individuals and for accuracy of contact information. To the extent feasible, we would prefer to send copies of the original paper communication to Service List representatives by e-mail. Please be aware that the Service List will become a public document, however, and should not contain personal e-mails that individuals may wish to keep private. Should modifications to the Service List be necessary, please forward the requested changes by e-mail to your Highlands Council Staff Liaison, whose name and contact information is provided below. Please be advised that the Service List should be limited to municipal officials, staff representatives, and/or municipal professionals responsible for guiding or assisting in the Plan Conformance process. All other interested parties will have access to municipal Plan Conformance reports, status, and Petition materials via postings and tracking sheets to be incorporated into the Highlands Council website. The Service List is a subset of the complete municipal contact list maintained by the Highlands Council, which will be updated by the municipality on-line, as discussed in the Module 7 instructions for

Municipal Petitions for Plan Conformance (see Part C, on page 6). Separate instructions have been provided to your Municipal Clerk for this update process (copy enclosed).

We are also pleased to advise that to the extent that you have not already done so, you may now submit all 2009 Plan Conformance Grant invoices accumulated through the date of submittal of your municipality's Petition for Plan Conformance. All invoices should be grouped by Module and must be broken down by task, employee, date completed, hours spent, and applicable billable rate. In accordance with the Plan Conformance Grant Agreement, the total amount of the requested reimbursement for each module should not exceed the base amount established under the Plan Conformance Grant Program. Authorization for excess expenditures must be approved by the Highlands Council Executive Director prior to incurring any such expenses. If such expenditures beyond the base amount have already occurred, complete justification must be provided for the exceedance. Please be advised that the justification will be considered but we cannot guarantee payment of overages without required prior written approval. Further, the Borough should ensure that with prior costs and the allocation of \$15,000 for Module 3 as discussed above, there are sufficient funds for municipal review of the Highlands Council's Draft Consistency Review and Recommendations Report and for municipal completion and adoption of the work products from Modules 4 through 6. These latter activities should require approximately \$28,000. Finally, we anticipate that no additional expenditures will be needed regarding your Petition until such time as the Draft Consistency Review and Recommendations Report is provided to the municipality.

A Highlands Council Staff Liaison has been assigned to each municipality to coordinate interactions with municipal staff and consultants on any issues regarding Petitions for Plan Conformance. The Staff Liaison for your municipality is Chris Ross, Senior Resource Management Specialist, who may be reached by telephone at (908) 879-6737 ext. 116, or via e-mail at chris.ross@highlands.state.nj.us. Should any Liaison assignment or contact information change, we will notify you without delay. If you have questions or concerns regarding grants or invoices, please contact Herbert August, Manager of Grants Administration at (908) 879-6737 ext. 105, or via e-mail at herbert.august@highlands.state.nj.us. Should you or other elected or appointed officials have any other questions, I will also continue to be available to you for all Highlands matters and can be reached at (908) 879-6737 ext. 101, or via e-mail at eileen.swan@highlands.state.nj.us.

Thank you for partnering with the Highlands Council to protect the unique qualities of the Highlands Region. We recognize the significant time and effort that have gone into development of your Petition for Plan Conformance and look forward to working with you to ensure a successful outcome.

Yours sincerely,



Eileen Swan
Executive Director

enclosure: Instructions for On-Line Municipal Information Updates
c: Plan Conformance Service List (without enclosure)

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