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**INCORPORATED BY REFERENCE INTO
HIGHLANDS COUNCIL RESOLUTION 2011-42 ADOPTED DECEMBER 1, 2011**

FINAL CONSISTENCY REVIEW AND RECOMMENDATIONS REPORT

**PETITION FOR PLAN CONFORMANCE:
BEDMINSTER TOWNSHIP, SOMERSET COUNTY**

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

NOVEMBER 28, 2011

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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 Bedminster, 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: Bedminster Township

Date of Petition Submission: December 8, 2009

Date Deemed Complete: February 4, 2010

Conformance Area: Preservation Area

Staff Recommendation: Approve Petition with Conditions

Administrative Submittals	Meets Requirements	Conditions of Approval
1. Resolution or Ordinance	X	None
2. Record of Public Involvement	X	None
3. List of Current Planning and Regulatory Documents	X	Follow-Up Required per Section A.3

Petition Components	Consistent	Conditions of Approval
1. Modules 1-2 Build-Out Report*	X	None
2. Module 3 Housing Element/Plan	X	See Section D.1
3. Module 4 ERI	X	See Section D.1
4. Module 5 Highlands Element	X	Follow-Up Required per Section B.4; D.1
5. Module 6 Land Use Ordinance	X	Follow-Up Required per Section B.5; D.1
6. Module 7 Petition	X	
a. Self-Assessment Report	X	None
b. Implementation Plan/Schedule	X	See Section 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. 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 16, 2009. The document submitted is appropriately signed and certified by the Municipal Clerk to verify authenticity. The language of the Resolution relies upon the model provided by the Highlands Council. The Resolution clearly petitions the Highlands Council for Plan Conformance; conformance being proposed with respect to municipal lands located in the Preservation Area (consisting of 1,009 acres, or 5.98% of the municipality).
- 2. Record of Public Involvement.** The Petition includes appropriate documentation of the public process engaged in by the municipality with regard to the development of Petition materials and adoption of the Resolution petitioning the Highlands Council for Plan Conformance. The submission includes the following:

 - a. Copy of public meeting notices for joint meetings of the Planning Board and Township Committee held on September 10, 2009, October 8, 2009, and October 27, 2009 to discuss Plan Conformance and/or Petition components.
 - b. Copy of meeting agenda and adopted meeting minutes for the September 10, 2009 joint meeting.
 - c. Copies of agendas and draft meeting minutes for the October 8 and 27, 2009 joint meetings.
 - d. Copy of the December 3, 2009 Planning Board meeting agenda.
- 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 most of the required documents are available in Adobe pdf format as required. To complete this requirement, the only item still required in Adobe pdf format is the Township's 2008 Master Plan Reexamination Report. Note: Bedminster Township Zoning and Land Development ordinances are available on-line through Coded Systems at: <http://clerkshq.com/default.ashx?clientsite=Bedminster-nj>. A copy of the most recent version of the Township Farmland Preservation Plan (dated February 2010) is available through the State Agriculture Development Committee at: <http://www.nj.gov/agriculture/sadc/home/genpub/Bedminster%20Somerset%20plan.pdf>.

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

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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 Build-Out Report was updated since first issued to the municipality based upon information provided at a later date. The date of the Highlands Municipal Build-Out Report is January 2010.

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

The Township of Bedminster submitted a petition for substantive certification to COAH on December 30, 2008. The Township amended its Petition on April 16, 2009. The plan was certified by COAH on December 9, 2009.

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- a. **Municipal Growth Projections.** Municipal Growth Projections, estimated in the Highlands Municipal Build-Out Report for the Township (January 2010) are as follow:
 - i. Residential Growth (housing units): 562
 - ii. Non-Residential Growth (jobs): 617

- 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:** 0 units
 - ii. **Prior Round Obligation:** 154 units

- c. **Summary of Fair Share Plan.**
 - i. **Rehabilitation Program:** None
 - ii. **Total Prior Round Credits:** 254 units completed. (100 unit surplus)
 - Prior Round Site: The Hills – Parkside. 216 units and 38 bonus credits. Completed.
 - iii. **Fair Share Housing Units:** 478 units completed. (229 unit surplus)
 - Site 1: The Hills – Village Green. 260 units. Completed
 - Site 2: The Hills – Cortland. 48 rental units and 96 for sale units. Completed.
 - Site 3: Pluckemin Park. 50 Age Restricted Units. Completed.
 - Site 4: Timberbrooke. 24 units. Completed.
 - iv. **Conditions/Requirements for Completion.** Goals and objectives consistent with the goals and objectives found in the Highlands Council Model Housing Element 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 Bedminster Highlands Environmental Resource Inventory (ERI) is based on the Highlands Model ERI provided to municipalities by the Highlands Council. The Township of Bedminster Highlands ERI (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

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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 are not relevant to the municipality and have thus been deleted from the municipal submission: Special Environmental Zone, Lake Management Area.
 - b. Exhibits.** Consistent. (Note: Highlands Council revised exhibits incorporated. Please note that the exhibits (provided as a separate Adobe pdf file) 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.)
- 4. Master Plan Highlands Element (Module 5).** The proposed Township of Bedminster Master Plan Highlands Element is based on the model Highlands Element provided to municipalities by the Highlands Council. The Township of Bedminster Highlands Element 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: The Wildlife Management and Lake Community Sub-Zones are not applicable and have been deleted.)
 - ii.** Land Uses. Consistent

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- iii. Density and Intensity of Development. Consistent. The municipality will address/incorporate the modifications provided by the Highlands Council.
 - iv. Cluster Development. Consistent. (Note: Cluster provisions replaced with lot averaging provisions. Acceptable trade-off provided the conservation set-aside provisions of the model Highlands Area Land Use Ordinance are addressed satisfactorily.)
 - v. Land Use Inventory. Consistent
 - vi. Redevelopment Planning. Not Applicable – Deleted
- c. **Housing Plan Element.** Consistent. The municipality will incorporate the applicable goals and objectives, as noted at item #2, above.
- 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. (Note: Significant Natural Areas and Vernal Pools not applicable – all references and exhibits deleted.)
 - v. Carbonate Rock. Consistent
 - vi. Lake Management. Not Applicable – Deleted
 - vii. Water Resources Availability. Consistent
 - viii. Prime Ground Water Recharge Areas. Consistent
 - ix. Water Quality. Consistent
 - x. Wellhead Protection. Not Applicable – Deleted
 - xi. Low Impact Development. Consistent
- e. **Utility Services Plan Element.** Consistent
- f. **Circulation Plan Element.** Consistent
- g. **Land Preservation/Stewardship Plan Element.** Consistent
- h. **Agriculture Retention/Farmland Preservation Plan Element.** Consistent
- i. **Community Facilities Plan Element.** Consistent
- j. **Sustainable Economic Development Plan Element.** Consistent

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k. Historic Preservation Plan Element. Consistent

i. Historic, Cultural, and Archaeological Resources. Consistent. The municipality will complete the section by addressing the alternative language provided by the Highlands Council, which makes regulation of historic resources an optional component of Plan Conformance. In Bedminster’s situation, continued regulation under the municipal ordinances would appear to provide the most appropriate path, as just two of the many resources listed in the Highlands Inventory are located in the Preservation Area. Moreover, any Highlands ordinance will be subject to Highlands Act exemptions.

ii. Scenic Resources. Consistent

l. Development Transfer Plan Element. Inclusion of this Section is optional and the municipality has elected not to incorporate it, as the Township is conforming only for the Preservation Area.

m. Relationship of Master Plan to Other Plans. Consistent

n. Exhibits. Consistent. (Note: Highlands Council revised exhibits incorporated. Please note that the exhibits (provided as a separate Adobe pdf file) should not be incorporated with the 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.)

5. Highlands Area Land Use Ordinance (Module 6). The proposed Township of Bedminster Highlands Area Land Use Ordinance is based on the model Highlands Area Land Use Ordinance provided to municipalities by the Highlands Council. The Township of Bedminster Highlands Area Land Use Ordinance as proposed (including modifications by the Highlands Council), contains all required Highlands Area Land Use Ordinance language and all applicable maps/exhibits, as necessary, to fully address the immediate mandatory requirements of Plan Conformance.

The specific components of the model Highlands Land Use Ordinance are listed below. Where each is consistent with the Highlands Council model or otherwise satisfactorily addresses all RMP requirements for Plan Conformance, the heading or sub-heading indicates “Consistent.” Where any section of the model Highlands Land Use Ordinance has been appropriately deleted due to non-applicability, the heading or sub-heading indicates “Not Applicable – Deleted.” Where minor modifications are required to complete the document for purposes of adoption, the heading or sub-heading indicates, “Minor Modifications Required for Completion.” If needed, explanatory discussion is provided.

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- a. **Article 1. Title, Purpose, Scope.** Consistent. The municipality will address/incorporate the minor modifications made by the Highlands Council.
- b. **Article 2. Applicability.** Consistent. The municipality will address/incorporate the modifications made by the Highlands Council.
- c. **Article 3. Definitions.** Consistent. The municipality will address/incorporate the significant modifications provided by the Highlands Council.
- 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. (Note: Wildlife Management Sub-Zone, Lake Community Sub-Zone, Lake Management Area, Wellhead Protection Areas, and Highlands Special Environmental Zone Not Applicable – Deleted.)
- e. **Article 5. Highlands Area Zone District Regulations.** Consistent. The municipality will address/incorporate the significant modifications made to the section by the Highlands Council. Most involve edits made to the Highlands Council model documents, however others include revisions to provide for Lot Size Averaging as proposed by the Township. Conservation Design Development would be the mandatory requirement, with Lot Size Averaging the optional component, if and as approved by the Township land use board.
- 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. (Note: Significant Natural Areas and Vernal Pools Not Applicable – Deleted.)
 - v. Carbonate Rock. Consistent
 - vi. Lake Management Area. Not Applicable – Deleted
 - vii. Water Conservation & Deficit Mitigation. Consistent
 - viii. Prime Ground Water Recharge Areas. Consistent
 - ix. Wellhead Protection. Not Applicable – Deleted
 - x. Agricultural Resources. Consistent. The municipality will address/incorporate the minor modifications provided by the Highlands Council.
 - xi. Historic, Cultural & Archaeological Resources. Consistent. The municipality will address/incorporate the modifications made by the

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Highlands Council. These regulatory provisions have been made optional, and thus the municipality will need to make a determination regarding the preferred approach to this issue.

- 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. The municipality will address/incorporate the modifications made by the Highlands Council.
 - iv.** Stormwater Management. Consistent
 - v.** Special Environmental Zone. Not Applicable – Deleted
 - vi.** Septic System Design and Maintenance. Consistent
 - vii.** Public Water Systems. Not Applicable – Deleted
- h. Article 8. Planned Development Regulations.** Consistent. The municipality will address/incorporate the significant modifications provided by the Highlands Council which coincide with the changes noted regarding Article 5, above.
- i. Article 9. Application Review Procedures & Requirements.** Consistent. The municipality will address/incorporate the modifications made by the Highlands Council, including highlighted areas in need of completion. 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.
- k. Article 11. Enforcement, Violations, Penalties.** Consistent.
- l. Appendices.** Consistent. (Note: Incorporates Highlands Council replacement of SIC Code table in Appendix D with the current North American Industry Classification System (NAICS) table for Major Potential Pollutant Sources.)
- m. Exhibits.** Consistent. (Note: 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

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Land Use Ordinance. Please note that the revised maps have been provided in Adobe® pdf format, and 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.

NOTE: Please note that integration of the municipal Master Plan with the Highlands Master Plan Element or of other municipal planning documents with Highlands components (as indicated within the Municipal Self Assessment Report), is strongly discouraged by the Highlands Council and is not a Plan Conformance requirement.

- b. Highlands Implementation Plan & Schedule.** Consistent. 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 fully achieve or exceed Plan Conformance with the Regional Master Plan.

As proposed by the municipality, the Highlands Implementation Plan and Schedule: a) included all mandatory components required to fully achieve Plan Conformance; and b) incorporated timeframe estimates associated with each mandatory element. The Highlands Implementation Plan and Schedule was modified since first issued by the Highlands Council however. The revised document includes cost estimates for each activity and prioritizes implementation tasks with a particular focus on the first few months after Highlands Council approval of Petitions, including the 2012 State fiscal year. Additional adjustments to scheduling of certain tasks have also been incorporated, as requested by the municipality.

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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.

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C. REVIEW OF OPTIONAL SUBMISSION COMPONENTS

1. **RMP Updates.** The Petition for Plan Conformance was not accompanied by requests for RMP Updates.
2. **Map Adjustments.** The Petition for Plan Conformance was not accompanied by requests for Map Adjustments, however the Township has indicated that it may seek certain adjustments in the future. With regard to Planning Area lands designated Existing Community Zone to the west of Route 202/206, the Township should be aware that its low density municipal zoning (provided not less restrictive) applies regardless of the ECZ designation. Septic system density allowances under Highlands Zone nitrate dilution analyses are in all cases, maximums; not minimums. RMP allowances for extension of water/sewer infrastructure within certain ECZ areas, moreover, are allowances only (not mandates). Such extensions remain under full control of the municipality to determine through development of the Wastewater Management Plan. The RMP states explicitly, that growth is not mandatory for any Highlands municipality. Should the Township elect to opt in for its Planning Area, the Highlands Council would be pleased to work with the municipality to designate ECZ areas to coincide with municipal zoning, for example, “ECZ/R-10” or should it become reality in the Township, “ECZ/R-20.” These areas would receive Highlands Council protections, as sought by the Township, through approval of a Planning Area Petition for Plan Conformance.
3. **Highlands Center Designation Requests.** The Petition for Plan Conformance was not accompanied by a request for Highlands Center Designation, however, should the Township opt in for its Planning Area, the Highlands Council would be pleased to work with the municipality toward such a designation for the expired Bedminster Village Center, as previously approved by the State Planning Commission. Highlands Center designation may be applied to such areas with intents other than growth, for example, to further historic preservation of a village or hamlet, in which limited infill development appropriate to the character of the area may be sought, along with enhancement of important environmental resources and as needed, an eye toward mechanisms by which to ensure economic sustainability (without reliance upon growth). The Township may wish to consider these options in the future and may make such application at any time.
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 Bedminster 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 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 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

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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 Highlands Act exemptions for local development reviews.
- 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. Continued Approval of Housing Element & Fair Share Plan.** 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. (In recognition of significant changes in the applicable Housing Rules 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 affordable housing, at any given time, and maintains consistency with the RMP, so as to protect the municipality from legal challenge.)
- g. Wastewater Management Plan (WMP).** The municipality shall participate in the Somerset County Wastewater Management Plan working with the Highlands Council under Plan Conformance as appropriate, for approval by the NJDEP. This plan will be recognized as a chapter of the Somerset County WMP in accordance

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with NJDEP Administrative Order 2010-03 and all applicable NJDEP rules and requirements.

- h. 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 and funding provided, if applicable), 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

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- Habitat Conservation & Management Plan. The Highlands Implementation Plan and Schedule includes an allocation for preparation of a plan to identify opportunities for protecting, enhancing and mitigating potential losses of critical habitat.
 - Stormwater Management Plan (Updates Only)
 - Land Preservation and Stewardship Program
 - Agricultural Retention Plan. The Highlands Implementation Plan and Schedule includes an allocation for preparation of a plan for improving the long-term sustainability of agriculture, as a complementary activity to the Township’s ongoing work with Somerset County and others to preserve agricultural lands.
 - Sustainable Economic Development Planning. The Highlands Implementation Plan and Schedule includes an allocation to assist in development of a Sustainable Economic Development Plan Element for the Township Master Plan. This Plan is intended to further the Township’s previous efforts in this area, including its work on the (now expired) Bedminster Village Center, as approved by the Office of State Planning. In keeping with the community’s goals for preservation, the major focus of this Plan would be on achieving/enhancing economic sustainability without reliance upon significant additional growth and development within the community. The Plan should assess the Township’s current status and identify and promote alternative strategies as needed, based on the unique strengths of the municipality and the opportunities they represent. This Plan could contribute to development of a model for economic sustainability applicable to other heavily constrained and/or preserved portions of the Highlands Region.
 - Septic System Management/Maintenance Plan
 - Implementing ordinances associated with each of the above (long-term, as applicable). Note: The Township’s adopted Right to Farm ordinance (Ord. #2000-07, S 1), available on-line at <http://clerkshq.com/default.aspx?clientsite=Bedminster-nj>, will be reviewed by the Highlands Council to ensure its consistency with the Right to Farm Act..
- 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

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the municipality. It is the explicit intention of the Highlands Council that such plans be developed in a manner to ensure that implementation is both feasible and practicable, potentially involving assistance of outside agencies/organizations, working cooperatively for and with the municipality. In each case where the municipality will serve as lead, release of funds is contingent upon approval of a scope of work by the Highlands Council Executive Director.

- Stream Corridor Restoration/Protection Plan. The Highlands Implementation Plan and Schedule includes an allocation for preparation of a plan to protect and improve stream corridors, with a focus on one or more of the most heavily affected or threatened stream corridors in the Township.
- i. **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.** The findings below apply to the Optional Petition Requests discussed at Section C of this Report.
- a. **RMP Update(s).** Bedminster Township intends to evaluate potential RMP Updates in the Planning Area as part of the Plan Conformance process. Specific RMP Updates were not indicated at this time.
 - b. **Map Adjustment(s).** Bedminster Township intends to evaluate potential Map Adjustments in the Planning Area as part of the Plan Conformance process. Map Adjustments were not provided at this time.

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E. MUNICIPAL RESPONSE PERIOD

The Highlands Council provided a Draft Consistency Review and Recommendations Report dated July 27, 2011, to the municipality (sent on July 28, 2011). The Municipal Response Period expired on October 12, 2011. The municipality provided revised 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. **Request for Highlands Implementation Plan and Schedule Revisions.** The request proposes adjustments to the timing for completion of several key Plan Conformance tasks. Highlands Council staff recommends approval as proposed.
2. **Planner Memorandum to Township Committee/Planning Board.** The memorandum, prepared by Township Planner Francis J. Banisch, III, PP/AICP, and dated October 6, 2011, provides a summary of the Highlands Council's July 27, 2011 Draft Consistency Review and Recommendations Report and raises no issues of concern as to the Township's completion of Plan Conformance requirements.

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F. COMMENTS FROM THE PUBLIC

The Final Draft Consistency Review and Recommendations Report was posted to the Highlands Council website and made available (in paper format) at the Highlands Council offices in Chester, NJ, for review and comment by the general public. The period for submission of written comments was held from October 25, 2011 through November 8, 2011.

Two comments were received during the public comment period, which appear, along with Highlands Council responses, at Appendix A.

G. FINAL RECOMMENDATIONS

Based upon the comments received, the recommendations of Highlands Council Staff concerning the Petition for Plan Conformance of the Township of Bedminster remain unchanged from the Preliminary Recommendations, now listed as Staff Recommendations in Section D, above.

In conclusion, the Highlands Council Staff recommends that the Petition for Plan Conformance of the Township of Bedminster, 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

Bedminster Township, Somerset County

Public Comment Period: October 25, 2011 – November 8, 2011

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PUBLIC COMMENTS RECEIVED

Written comments regarding Bedminster Township’s Petition for Plan Conformance were accepted by the Highlands Council through the close of the Public Comment period on November 8, 2011. Comments were provided by the following individuals/entities:

1. Helen H. Heinrich, Research Associate, on behalf of the New Jersey Farm Bureau
2. Erika Van Auken, Campaign and Grassroots Coordinator, on behalf of the NJ Highlands Coalition

The comments are summarized below with Highlands Council responses provided for each.

PUBLIC COMMENT/RESPONSE SUMMARY

A. HELEN HEINRICH COMMENTS

Comment 1:

The NJ Farm Bureau continues to appreciate the opportunity to review the Plan Conformance petition for Highlands communities with substantial acreage in active agriculture. Bedminster Township has more acres under Farmland Assessment than any other municipality in Somerset County and is second only to Hillsborough in land actively devoted to this land use. It shows a high percentage of prime farmland in both the Preservation and Planning Areas though only around 1000 acres will be covered by the township’s Plan Conformance effort. That 16,378 acres could be managed as the Highlands Agricultural Resource Area instead reveals a major challenge to the town in creating a positive business environment for all Bedminster farms as the Highlands Act requires.

We strongly support the requirements that Bedminster strengthen its planning policies dealing with agriculture as a mandate for their initial Plan implementation and hope that the budgeting of \$20,000 for development of its Agricultural Retention and Farmland Preservation plan will produce timely and fruitful results. This process will enable Bedminster to consult its current farmers and farmland owners about what they visualize for their agriculture future. With the highest prices for grains and forage crops in many years and the new emphasis on locally grown food, there would seem to be new opportunities to enhance farm viability for both the large farm tracts as well as the many smaller ones. This effort should also lead to adoption by the municipality of a conforming Right to Farm ordinance and enable the whole community develop a vision of the future of its agriculture supported by municipal planning policies.

Despite the fact that Bedminster proposes to conform to the RMP for only its land in the Preservation Area, we ask that the Agricultural Retention and Farmland Preservation Plan be developed keeping in mind the needs of all the 16,378 acres in the potential Agricultural Resource Area, and not be limited to only those operations in the Preservation Area. It makes sense to envision all of the community’s agricultural operations as one mutually-supportive economic unit and to provide it with a level playing field in terms of opportunities and regulation. It is hoped as well that continuing farmland preservation efforts including the use of the municipally approved 8-year program will add to the 1825 acres now preserved from development.

Highlands Council Response 1:

The Highlands Council acknowledges the NJ Farm Bureau’s support for development of the Agricultural Retention/Farmland Preservation Plan, which is to be developed for application to the whole of the

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municipality as a component of Plan Conformance. The Township has adopted a Right to Farm ordinance (Ord. #2000-07, S 1, available on-line at <http://clerkshq.com/default.ashx?clientsite=Bedminster-nj>), which the Highlands Council will review for consistency with the Right to Farm Act. Bedminster Township is clearly committed to preservation and retention of the agricultural resources within the community, as evidenced by its progress in farmland preservation thus far. The Bedminster Township Master Plan contains a significant agricultural conservation component reflecting the on-going commitment to this important area of the community's planning. The municipality has also developed a Farmland Preservation Plan (available on-line at: <http://www.nj.gov/agriculture/sadc/home/genpub/Bedminster%20Somerset%20plan.pdf>). With this planning effort so far along, the focus of the work to be covered by Highlands Council Plan Conformance grant funding will be on the Agricultural Retention component (as noted in the Highlands Implementation Plan and Schedule). It should be noted that each of these existing Township documents include specific reference to the Municipally Approved 8-Year Program and to the criteria established by the Somerset County Agricultural Development Board for development of such programs, in furthering agricultural retention in the community.

Comment 2:

Furthermore, is there potential to coordinate the agricultural sustainability planning of surrounding communities with actions here in Bedminster? Other nearby communities are receiving grants also to support this task which could fund development of a more regional strategy for enhancing the viability of local farming operations. The Somerset County Agriculture Development Board and the NJ Department of Agriculture could help these communities work together to enable a more profitable agricultural future. NJ Farm Bureau through its Somerset County Board of Agriculture could also lend assistance.

Highlands Council Response 2:

The Highlands Council is interested in coordination of such efforts and will continue to work with all applicable agencies to develop the most effective plans and planning tools possible to further agricultural sustainability in affected communities. Somerset County is partnering with the Highlands Council on other initiatives through Plan Conformance, as well, may be interested in assisting in such efforts.

B. ERIKA VAN AUKEN COMMENTS

Comment 1:

The New Jersey Highlands Coalition supports Bedminster Township's petition for plan conformance. We appreciate the township's initiative to implement the non-mandatory Stream Corridor Restoration and Protection Plan. We strongly urge the township to consider conforming its Planning Area and to address additional non-mandatory components of the RMP. In general, we are looking forward to seeing what the Council and the Township are able to achieve through plan conformance.

Highlands Council Response 1:

The Highlands Council acknowledges and appreciates the support of the New Jersey Highlands Coalition for Bedminster's Petition for Plan Conformance. The Township is invited and encouraged to continue to consider conformance for the Planning Area portion of the municipality and may submit a request for such approval at any time. The Highlands Council will continue to provide any assistance to the municipality to further that examination and to identify the opportunities that it presents to the Township.