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FINAL DRAFT CONSISTENCY REVIEW AND RECOMMENDATIONS REPORT

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

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

NOVEMBER 14, 2011

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INTRODUCTION

This Final Draft Consistency Review and Recommendations Report (“Report”) has been prepared by the Staff of the Highlands Water Protection and Planning Council (“Highlands Council”). It provides review and recommendations for consideration by the Highlands Council as to the consistency of the Petition for Plan Conformance of the Township of Allamuchy, 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: Allamuchy Township

Date of Petition Submission: December 7, 2009

Date Deemed Complete: March 16, 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	Partial waiver recommended per Section E.3. Follow-Up Required

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	Follow-Up Required per Section B.6; D.1

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

Optional Submission Items	Submission Date	Status/Recommendation
1. RMP Updates	11/3/11	2 Processed; 2 Require Municipal Follow-Up
2. Map Adjustments	NA	
3. Highlands Center Designation Requests	NA	
4. Highlands Redevelopment Area Designation Requests	NA	

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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 Township Council, dated November 17, 2009. The document submitted is appropriately signed 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 only to municipal lands located in the Preservation Area (5,278 acres, or 41% of the municipality).
- 2. Record of Public Involvement.** The Petition includes appropriate documentation of the public process engaged in by the municipality with regard to the development of Petition materials and adoption of the Resolution petitioning the Highlands Council for Plan Conformance. The submission includes the following:

 - a.** Copy of public meeting notice for a special meeting of the Land Use Board held on August 20, 2009 to discuss the draft Model Highlands Element.
 - b.** Copy of meeting agenda and minutes associated with such Land Use Board meeting.
- 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. According to the Township, several documents that comprise the Township of Allamuchy Master Plan are older documents, the originals of which were destroyed in a flood so that only the file copies are available for reproduction. The Township has requested a waiver from the Highlands Council's requirement to submit these documents. Given the extenuating circumstances regarding the flood incident, the Highlands Council staff does recommend a waiver of this requirement with the condition that staff will direct any interested parties to the Township office for review of these documents as requested. There is one additional document that has not yet been provided in Adobe pdf format as required. As a condition of Plan Conformance approval, the Township must provide this document in Adobe pdf format: "Land Development Ordinance, dated January 2000," as amended.

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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 Allamuchy provided all components required by the Highlands Council. The first submission included a complete draft of the Housing Element and Fair Share Plan. The Township of Allamuchy Land Use Board adopted the Final Housing Element and Fair Share Plan on November 20, 2010. On December 29, 2010 the Plan was submitted to COAH along with a petition for substantive certification. 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): 104
- ii.** Non-Residential Growth (jobs): 0

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: 4**
- ii. Prior Round Obligation: 13**

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 proposed 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.

- i. Rehabilitation Program:** 4 units to be rehabilitated using the Township’s development fee funds.
- ii. Site 1:** Panther Village VI, Mallard Drive. Approved and under construction. 30 family rental units and 3 bonus credits. As the site is approved and under construction there are no consistency issues.
- iii. Site 2:** Panther Village IX, Alphano Road. Existing development containing 13 municipally-sponsored family rental units. As the project is complete there are no consistency issues.

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Planning Board, the heading or sub-heading indicates, “Minor Modifications Required for Completion.” If needed, explanatory discussion is provided.

- a. Policies, Goals & Objectives.** Consistent
 - i.** Preservation Area Goals. Consistent
 - ii.** Planning Area Goals. Not Applicable – Deleted
 - iii.** General Purposes of Zoning. Consistent
 - iv.** Relationship Between Highlands Act & MLUL. Consistent

- b. Land Use Plan Element.** Consistent
 - i.** Highlands Zones and Sub-Zones. Consistent. (Not Applicable – Deleted: Wildlife Management Sub-Zone, Existing Community Zone, Existing Community Zone Environmentally-Constrained Sub-Zone, and Lake Community Sub-Zone.)
 - ii.** Land Uses. Consistent
 - iii.** Density and Intensity of Development. Consistent. The municipality will address/incorporate the modifications provided by the Highlands Council (universal updates to all Highlands Council model Master Plan Highlands Elements) as provided in the text.
 - iv.** Cluster Development. Consistent
 - v.** Land Use Inventory. Consistent
 - vi.** Redevelopment Planning. Consistent

- c. Housing Plan Element.** Consistent. The municipality will incorporate the Highlands Council insertion to acknowledge Township adoption of Housing Element and Fair Share Plan and submission to Council on Affordable Housing for substantive certification. Review and recommendations concerning the Housing Plan Element appear at item #2 above, Housing Element & Fair Share Plan.

- d. Conservation Plan Element.** Consistent
 - i.** Forest Resources. Consistent
 - ii.** Highlands Open Waters and Riparian Areas. Consistent
 - iii.** Steep Slopes. Consistent
 - iv.** Critical Habitat. Consistent
 - v.** Carbonate Rock. Consistent
 - vi.** Lake Management. Consistent

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- vii. Water Resources Availability. Consistent
 - viii. Prime Ground Water Recharge Areas. Consistent
 - ix. Water Quality. Consistent
 - x. Wellhead Protection. Consistent
 - xi. Low Impact Development. Consistent
- e. **Utility Services Plan Element.** Consistent
- f. **Circulation Plan Element.** Consistent
- g. **Land Preservation/Stewardship Plan Element.** Consistent
- h. **Agriculture Retention/Farmland Preservation Plan Element.** Consistent
- i. **Community Facilities Plan Element.** Consistent
- j. **Sustainable Economic Development Plan Element.** Consistent
- k. **Historic Preservation Plan Element.** Consistent as submitted however minor modifications are required to complete the section.
- i. Historic, Cultural, and Archaeological Resources. Consistent as submitted. The municipality will address the alternative language that has been inserted into the document by the Highlands Council. It provides for the case where a municipality chooses not to regulate historic resources, which the Highlands Council has determined is an optional component of Plan Conformance, not mandatory.
 - ii. Scenic Resources. Consistent, however please note updates provided by the Highlands Council to coincide with the Highlands Baseline Scenic Resource Inventory.
- l. **Development Transfer Plan Element.** Inclusion of this Section is optional and the municipality has elected not to incorporate it at this time.
- m. **Relationship of Master Plan to Other Plans.** Consistent
- n. **Appendices.** Consistent. 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. The exhibits themselves consist of the updated set as provided by the Highlands Council. The new exhibits were provided

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as a separate file from the Highlands Element text and 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 were inserted into the new set. Also note:

- i. Exhibit CC, “Special Environmental Zones” is not applicable - deleted.
- ii. 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 Allamuchy Highlands Area Land Use Ordinance is based on the model Highlands Area Land Use Ordinance provided to municipalities by the Highlands Council. The document has undergone previous revisions under a collaborative process between the municipality and the Highlands Council, wherein the participants have determined appropriate ways to address and incorporate the input and concerns of all parties. 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 Allamuchy Highlands Area Land Use Ordinance as proposed (including modifications by the Highlands Council), contains all required Highlands Area Land Use Ordinance language and all applicable maps/exhibits, as necessary, to fully address the immediate mandatory requirements of Plan Conformance.

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

- a. **Article 1. Title, Purpose, Scope.** Consistent. 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 document text.
- c. **Article 3. Definitions.** Consistent. The municipality will address/incorporate the minor modifications made by the Highlands Council. Please see revised document text.

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- 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: Existing Community Zone, Wildlife Management Sub-Zone, Existing Community–Environmentally Constrained Sub-Zone, and Lake Community Sub-Zone are Not Applicable – Deleted.)
- e. Article 5. Highlands Area Zone District Regulations.** Consistent. The municipality will address/incorporate the modifications made to the section by the Highlands Council and will finalize provisions regarding Preservation Area density allowances with assistance from Highlands Council staff prior to adoption of the Ordinance..
- f. Article 6. Highlands Area Resource Regulations.** Consistent. The Township will address/incorporate the minor modifications made by the Highlands Council.

 - i.** Forest Resources. Consistent
 - ii.** Highlands Open Waters & Riparian Resources. Consistent
 - iii.** Steep Slopes. Consistent
 - iv.** Critical Habitat. Consistent
 - v.** Carbonate Rock. Consistent
 - vi.** Lake Management Area. Consistent
 - vii.** Water Conservation & Deficit Mitigation. Consistent
 - viii.** Prime Ground Water Recharge Areas. Consistent
 - ix.** Wellhead Protection. Consistent
 - x.** Agricultural Resources. Consistent
 - xi.** Historic, Cultural & Archaeological Resources. Consistent. The municipality will address/incorporate the modifications made by the Highlands Council and will make a final 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 minor modifications made by the Highlands Council. Please see revised document text.

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- iv. Stormwater Management. Consistent
 - v. Special Environmental Zone. Not Applicable – Deleted
 - vi. Septic System Design and Maintenance. Consistent
 - vii. Public Water Systems. Consistent
 - viii. Wastewater Collection and Treatment Systems. Consistent
- h. Article 8. Planned Development Regulations.** Consistent
- i. Article 9. Application Review Procedures & Requirements.** Consistent. The municipality will address/incorporate the modifications made by the Highlands Council. Please see revised document text.
- j. Article 10. Appeals, Waivers, Exceptions.** Consistent
- k. Article 11. Enforcement, Violations, Penalties.** Consistent
- l. Appendices.** Consistent. (Note: the Highlands Council replaced the SIC Code table with the current North American Industry Classification System (NAICS) codes for Major Potential Pollutant Sources.)
- m. Exhibits.** The Exhibits, including the List of Exhibits and all in-text document references to Exhibits were 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 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.

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

As proposed by the municipality, the Highlands Implementation Plan and Schedule included all mandatory components required to achieve Plan Conformance and incorporated realistic timeframe estimates associated with each. 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 months after Highlands Council approval of the Petition, through the 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, as discussed in Section D below.

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C. REVIEW OF OPTIONAL SUBMISSION COMPONENTS

1. **RMP Updates.** The Municipal Response Report was accompanied by requests for certain RMP Updates. These requests are listed and described in the attachment at Appendix A, with a summary of the current status or final results of review and processing provided below.
 - a. **Panther Valley Planned Development.** The Township notes that all lots within the Panther Valley Planned Development are served by public water and public sewer, as shown by the map included with the Township’s approved Wastewater Management Plan. The Township requests that the Highlands Public Community Water Systems map and the Highlands Domestic Sewerage Facilities map should be corrected accordingly. Further, the Township notes that Panther Villages VI and IX are incorrectly shown as “Municipal Open Space” on the Highlands Preserved Lands Map map should be corrected accordingly.
2. **Map Adjustments.** The Municipal Response Report was accompanied by requests for Map Adjustments.
 - a. **Panther Valley Planned Development.** As stated above for proposed RMP Updates, the Township notes that all lots within the Panther Valley Planned Development are served by public water and public sewer, as shown by the map included with the Township’s approved Wastewater Management Plan. The Township requests that these areas be removed from the Protection Zone and included in the Existing Community Zone on any map depicting the Highlands Land Use Capability Map Zones.
 - b. **Ridge Road.** In recognition of the existing compact and continuous residential development within the “RS” zoning district to the north and south of Ridge Road, the Township requests that these areas be designated as “Existing Community Zone” within their respective Highlands Areas.
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. PRELIMINARY 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 Allamuchy, as currently proposed by the municipality, be approved with conditions as outlined below.

1. Approval with Conditions. The Petition for Plan Conformance requires certain modifications, as noted within Sections A through C of this Report. Provided these issues are addressed in accordance with the detailed recommendations as indicated within this Report and the herein-referenced Highlands Council Staff-provided MSWord “Track-Changes” versions of the various Petition documents, Highlands Council Staff recommend that this Petition for Plan Conformance be approved by the Highlands Council. Any approval should in addition, be conditioned upon 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 Land Use Board in the absence of an Environmental Commission) shall provide for and complete the required process of formal adoption of the ERI by the local Commission or Board. At the conclusion of the process, a certified copy of the adopted ERI shall be provided to the Highlands Council. The process of ERI adoption shall be conducted in accordance with all applicable legal requirements and protocols, and shall be guided by the timeframes set forth in the Highlands Council-approved Implementation Plan and Schedule. Should this process lead to proposed modifications to any portion of the ERI, the proposed changes shall be submitted to the Highlands Council for review. In the event the Highlands Council determines that any proposed modification is of a substantive nature, Highlands Council approval shall be required prior to adoption by the local Commission or Board.
- c. Adoption of Approved Master Plan Highlands Element.** The Master Plan Highlands Element shall be completed in accordance with the requirements of Section B4 of this Report, and submitted to the Highlands Council for final approval. Upon receipt of final Highlands Council approval, the Highlands Element shall be prepared in a clean, final document format for purposes of public review and adoption. A copy shall be provided to the Highlands Council. The municipal Land Use Board shall arrange for the required process of scheduling, notice, public hearing, consideration, and formal adoption of the Highlands Element by the municipal 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 Land Use Board.
- d. Adoption of Approved Highlands Area Land Use Ordinance.** The Highlands Area Land Use Ordinance shall be completed in accordance with the requirements of Section B5 of this Report, and submitted to the Highlands Council for final approval. Upon receipt of final Highlands Council approval, the Highlands Area Land Use Ordinance shall be prepared in a clean, final document format for purposes of public review and adoption. A copy shall be provided to the Highlands Council. After the municipal Land Use Board has adopted the Master Plan Highlands Element, the municipal Governing Body shall arrange for the required process of scheduling, notice, public hearing, consideration, and formal adoption of

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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, implications of exemption determinations, and enforcement activities.
- e. Adoption of Updated Zoning Map.** The Township shall prepare an updated Municipal Zoning Map which shall be adopted immediately following or at the time of adoption of the Highlands Area Land Use Ordinance, to reflect the new overlay Highlands Zones and Sub-Zones. The adoption process shall mirror that outlined above for the Highlands Area Land Use Ordinance.
- f. Approval of Housing Element & Fair Share Plan.** The Highlands Council shall be copied on all related correspondence and kept apprised of the DCA 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 Highlands Council recognizes that the Township obtained approval for its Wastewater Management Plan on June 17, 2010 from the NJDEP, having responded to all comments and consistency findings of the Highlands Council. Therefore, the preparation of a new Wastewater Management Plan is not required.
- 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.

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iii. **Mandatory Components.** Specific mandatory components include development and implementation of the plans/programs/ordinances herein listed (once models have been provided by the Highlands Council, if applicable, and funding provided), all intended as municipal-wide, long-term initiatives unless specifically noted otherwise. Where applicable and 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 work by the Highlands Council Executive Director.

- Water Use & Conservation Management Plan
- Habitat Conservation & Management Plan. An allocation is proposed to address conservation, mitigation and enhancement opportunities regarding the Township’s extensive critical habitat.
- Lake Restoration Management Plan
- Stormwater Management Plan (Updates Only)
- Agricultural Retention Plan. An allocation is proposed to develop methods that will enhance the sustainability of agriculture as a business within the Township.
- Septic System Management/Maintenance Plan
- Implementing ordinances associated with each of the above (long-term, as applicable). (Note: The municipality has submitted its already-adopted Right to Farm ordinance, which the Highlands Council will review for RMP consistency.)

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

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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. An allocation is proposed to identify priority stream segments that would benefit from restoration or improved protection, and to identify methods by which these objectives could be met.

- j. **Revisions/Amendments Subject to Highlands Council Approval.** Any proposed revision or amendment to any of the aforementioned documents, or to any other document, plan, or other item approved by the Highlands Council as a component of Plan Conformance, shall be provided to the Highlands Council for review. In the event the Highlands Council Staff determines that any proposed modification is of a substantive nature, Highlands Council approval shall be required prior to adoption by the applicable municipal board, commission, or governing body. Any revision or amendment adopted without the approval of the Highlands Council may subject the municipality to revocation of Plan Conformance approval.

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E. MUNICIPAL RESPONSE PERIOD

The Highlands Council provided a Draft Consistency Review and Recommendations Report dated September 30, 2011, to the municipality (sent on October 3, 2011). The Municipal Response Period, originally set to expire on October 28, 2011, was extended to November 2, 2011. The municipality provided new, supplemental information and deliberative materials in support of the Petition for Plan Conformance for Highlands Council consideration on December 1, 2011.

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. Current Planning and Regulatory documents in Adobe pdf format, as listed herein below. Submission of these items brings the Petition further into compliance with Plan Conformance requirements.
 - a. Master Plan and Development Regulations Periodic Reexamination and Land Use Plan Update, August 2005.
 - b. Open Space and Recreation Plan (including Recreation & Open Space Inventory), April 2000.
 - c. Natural Resource Inventory, June 1991.
 - d. A "Supplemental Modification to the Township of Allamuchy Master Plan and Development Regulations Periodic Reexamination Report," dated December 2003 which was adopted on December 2003.
 - e. Memorandum 5-2006 from Coppola & Coppola Associates, dated May 25, 2006 which updates the residential build-out in the Township from that found in the December 1996 "Part VI: Build Out Analysis."
 - f. A "Supplemental Modification to Amend the 'Land Use Plan Element' of the Township of Allamuchy Master Plan," dated October 24, 2010 which was adopted November 2010.
 - g. Ordinance 2010-14, adopted by the Township Council on December 21, 2010.
 - h. Township Master Plan PART V: Traffic Circulation Plan Element, as adopted October 27, 1993.
 - i. Township of Allamuchy Wastewater Management Plan, approved by NJDEP on June 17, 2010 (and accompanying maps).
2. The Township requested a waiver on the submission requirements pertaining to certain planning documents that predate the Master Plan and Development Regulations Periodic Reexamination and Land Use Plan Update of 2005, for which files are not available due to

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flood losses. Given these extenuating circumstances, Highlands Council staff recommends that this waiver be granted as a component of Petition approval.

3. The Township of Allamuchy requested that the Highlands Council remove the condition of Petition approval requiring preparation of a Wastewater Management Plan (WMP), as the Township obtained approval for its Wastewater Management Plan ("Plan") on June 17, 2010 from the NJDEP's Division of Watershed Management. Highlands Council staff acknowledges that this approval fully addresses the Plan Conformance requirement, and that a new WMP is not required. The condition has thus been removed.
4. The Township requested that the Highlands Council assist them with simplifying the administrative provisions of Article 5 regarding septic system density for non-Major Highlands development. This request is addressed in Section B regarding Article 5 of the Highlands Land Use Ordinance.
5. The Township noted that all lots within the Panther Valley Planned Development are served by public water and public sewer, as shown by the map included with the Township's approved Wastewater Management Plan. The Township requested that the Highlands Public Community Water Systems map and the Highlands Domestic Sewerage Facilities map be corrected accordingly. The Township also requested that these areas be removed from the Protection Zone and included in the Existing Community Zone in the Highlands Land Use Capability Map Zone Map. With respect to another area (area in the vicinity of Ridge Road), the Township requested in recognition of the existing compact and continuous residential development within the "RS" zoning district to the north and south of Ridge Road, that these areas be designated as "Existing Community Zone" within their respective Highlands Areas. These requests are addressed in Appendix A.

F. COMMENTS FROM THE PUBLIC

The Draft Consistency Review and Recommendations Report is 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. Comments may be submitted to the Highlands Council by e-mail (chris.ross@highlands.state.nj.us), facsimile transmission (908-879-4205), surface mail, or hand delivery (Highlands Council, 100 North Road, Chester, NJ 07930). All comments will be made available for public inspection in the offices of the Highlands Council in Chester, NJ. At the conclusion of the public comment period, a summary comment/response document will be prepared by Highlands Council Staff which will be posted to the Highlands Council website along with any final revisions resulting from Council review and consideration of public comments.

Upon its completion, the comment/response document will be attached to this document, at Appendix B.

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G. FINAL RECOMMENDATIONS

This Section is completed after review and consideration of all comments regarding a Petition for Plan Conformance.

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

1. Item #1.
2. Item #2.
3. Item #3.]

In conclusion, the Highlands Council Staff recommends that the Petition for Plan Conformance of the Township of Allamuchy be approved/denied/approved with conditions; with all applicable conditions being those listed and discussed in Section D, above, and if applicable, as supplemented and/or modified by the revisions discussed herein, above.

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APPENDIX A

Requested RMP Updates and Additions

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Allamuchy Township, Warren County

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RMP UPDATES/MAP ADJUSTMENTS
MUNICIPAL RMP UPDATE REVIEW

1. **Municipal Request:** The Township notes the following with respect to the Panther Valley Development:
 - a. Village V within Panther Valley (Block 701.02, Lots 38, 50-128 and 1000, and all lots in Blocks 701.03 & 701.04). This single-family residential development known as Bower's Glen on 152 acres on the south side of Bald Eagle Road received preliminary and final subdivision approval from the Planning Board and began constructing in 2000. Over 93 acres of the tract were preserved as private open space; specifically Lot 1000 in Block 701.02, Lot 17 in Block 701.03 and Lot 13 in Block 701.04 should be shown as private open space. The remaining lots are all residential.
 - b. Village VI within Panther Valley (formerly Block 701, Lots 1001, 1002, & 1004). Village VI, the Village of Mountain Ridge, received preliminary subdivision and site plan approval in 2000 and final approval in 2002. The development is under construction and includes affordable family rental townhouse units addressing the Township's affordable housing obligation. As a result of the adoption of an amendment to the Township Master Plan and enabling ordinance, the developer of Village VI recently submitted to the Township an application to amend the previous approval by eliminating all 47 single-family residential lots previously approved and created and by adding 48 townhouse units without significantly increasing the limits of disturbance, thus resulting in the preservation of a much larger area of land. Both Mallard Drive and the line for public water will extend across the new open space to the east, but public sewer will not extend beyond the limits of the townhouse development in the western portion of the tract. This application is the subject of the November 10, 2011 Land Use Board meeting. Of the tract's 368 acres, 274 acres will be private open space, including all previously created single-family residential lots to the east of the townhouse portion of the development. Lot 1002 in Block 701, consisting of 85 acres directly north of the golf course, previously was dedicated by the developer as private open space.
 - c. Village IX within Panther Valley (Block 602, Lots 27 and 500). Village IX, the Village of Old Farm, was completely constructed by the end of 2007 and consists of 168 apartment units including some of the affordable family rental dwelling units addressing the Township's affordable housing obligation. Lot 500 in Block 602 and the lands surrounding the apartment buildings on Lot 27 in Block 602 are private open space areas.
 - d. Other Areas of the Panther Valley Planned Development. As evidenced on the December 1990 "Existing Land Use" map in the Township's Master Plan, there are areas within the Panther Valley Planned Development that are developed with residential units that are not included in the "Existing Community" Zone. Specifically, the areas along Mallard Drive and Everest Drive (Blocks 704, 726,726, 727,729, 730, & 731) and the areas along Marsh Hawk and Osprey Road (Blocks 725, 725.01, & 725.02) are developed with public water and sewer.

Findings: It is important to note that the Panther Valley Development is located within the Planning Area portion of the Highlands Region. As the Township is not petitioning for Plan Conformance in the Planning Area, the Land Use Capability Map Zones are not applicable.

With respect specifically to Panther Village V, the Highlands Council has confirmed the existing development and is updating the water supply and wastewater Existing Area Served data as well as Preserved Lands data based on information provided by the Township. These Regional Master Plan (RMP) Updates will result in a Land Use Capability Map (LUCM) Zone change, which will be completed prior to the December 1 Highlands Council meeting. This Regional Master Plan Update will change the Protection Zone to Existing Community Zone. With regard to Panther Village VI, the subdivided lots

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mentioned are not represented in the State of New Jersey Composite of Parcels published by the NJ Office of Technology, Office of Geographic Information Systems on July 29, 2011. The Township should work with the County to incorporate new parcel delineations, into the State of New Jersey Composite of Parcels, at which point the Highlands Council will be able to process RMP Updates regarding these parcels. Aerial photos show preliminary development in the southwest corner of the area indicated. The Township suggests that there is likely to be an amendment to the approved subdivision for the remainder of the property. Upon availability of the new parcel data in the State of New Jersey Composite of Parcels, the Highlands Council will add the new existing development to the Existing Area Served data for Public Water and Wastewater. Further changes to these data can occur upon completion of the project. The Highlands Council will then determine whether the changes trigger a LUCM Zone change, based on size and contiguity. With respect to Panther Village IX, these subdivisions likewise are not represented in the State of New Jersey Composite of Parcels. The town should work with the County to incorporate new parcel delineations. Aerials show that the area is completely developed and our records show that it is served by both Public Water and Wastewater. The RMP Update to that development status will trigger a LUCM Zone change from Protection Zone to Existing Community Zone, which will be completed prior to the December 1 Highlands Council Meeting. With regard to Other Areas of the Panther Valley, these areas are correctly identified in Highlands data however, their connectivity currently results in areas too small to support a stand-alone Existing Community Zone. All of these areas are separated by linear forest features. Blocks 725, 725.01, & 725.02 are more recently developed. Aerial photos show that they are built, and the RMP Updates to the Existing Area Served for both Water and Waste Water will be completed prior to the December 1 Highlands Council Meeting. The Highlands Council Open Space files have been changed to reflect these comments. As previously stated, it is important to note that the Panther Valley Development is located within the Planning Area portion of the Highlands Region. As the Township is not petitioning for Plan Conformance in the Planning Area, the Land Use Capability Map Zones are not applicable.

2. **Municipal Request:** The Township notes there are two existing residential developments in the vicinity of Ridge Road, one located to the north of Ridge Road in the Highlands Planning Area and another to the south of Ridge Road in the Highlands Preservation Area. These lots have all been developed for a number of years and range in size from less than a quarter of an acre to almost seven acres in size, with the prevailing lot size of approximately one acre. All these residential lots are located within the "RS" Residential Settlement zoning district of the Township. Of particular concern is the effect of the Highlands regulations on those existing residential lots within the Highlands Preservation Area since they currently are shown within the "Protection Zone". These lots are located within an approved development along roads that connect Ridge Road and Route 517, specifically along Oakcrest Drive, Cornerstone Drive, and Lone Pine Terrace. In recognition of the existing compact and continuous residential development in this area, it is requested that all lands within this "RS" zoning district to the north and south of Ridge Road (Block 801, Lots 1, 1.01-1.25 and 14.01-14.08; Block 802, Lots 8, 12.02-12.16; and the entirety of Block 804) be designated as "Existing Community" within their respective Highlands Areas.

Findings: The Highlands Council recognizes the existence of the existing developments. However, given that these areas are isolated developments and are not served by public water or wastewater, a Land Use Capability Map Zone Map Adjustment to Existing Community Zone is not appropriate, as it does not meet Regional Master Plan mapping standards for that zone. The Protection Zone includes a number of similar, small developed areas.

However, it should be noted that for those parcels located in the Preservation Area, the Highlands Act creates exemptions (especially Exemptions #4 and 5 for existing development and #1 and #2 for infill lots, for fully approved lots created after August 9, 2004 the exclusions in the Highlands Land Use

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Ordinance apply) which allow property owners to modify and improve their properties without applying the enhanced environmental standards adopted by the NJDEP regarding the Preservation Area. Therefore, the LUCM Zone applied to an existing residential development is not relevant to the property owners. As the Township is not petitioning for Plan Conformance in the Planning Area, the Land Use Capability Map Zones are not applicable to the subject parcels located in the Planning Area.

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APPENDIX B

PUBLIC COMMENTS/HIGHLANDS COUNCIL RESPONSES

Petition for Plan Conformance

Allamuchy Township, Warren County