

**RESOLUTION GRANTING HARTH CONSTRUCTION INC.**  
**A WAIVER OF THE NOVEMBER 12, 2008 SCARCE RESOURCE RESTRAINT**  
**ON HIGHLANDS MUNICIPALITIES**  
**COAH DOCKET # 09-2110**

**WHEREAS**, on November 12, 2008, the Council on Affordable Housing (COAH) passed a "Resolution Granting Extension of Time to File Third Round Petition for Substantive Certification and Imposing Scarce Resources Restraint" (Resolution); and

**WHEREAS**, pursuant to the Resolution, Clinton Township (Clinton or Township), submitted to COAH a Notice of Intent to Petition in accordance with the Highlands Council's Plan Conformance Guidelines and a duly adopted resolution notifying COAH of its intent to petition COAH for substantive certification of a Clinton's housing element and fair share plan no later than December 8, 2009; and

**WHEREAS**, as a result of submitting the required documents, Clinton received an extension from COAH of the December 31, 2008 third round petition deadline; and

**WHEREAS**, also pursuant to the Resolution, Clinton Township became subject to a scarce resource restraint that applies to any and all municipal actions associated with development approvals, water allocation and wastewater allocation so that scarce land, water, and sewer resources are reserved for the production of affordable housing; and

**WHEREAS**, COAH issued correspondence on December 17, 2008 clarifying the scope of the Scarce Resource Restraint (Restraint), setting forth a list of 36 exemptions; and

**WHEREAS**, Harth Construction Inc. (Harth) submitted a motion requesting a waiver of the Restraint on February 20, 2009 with regard to a subdivision and proposed site plan; and

**WHEREAS**, Harth's five-acre property fronts Route 31 and Red Schoolhouse Road, known as Lot 3.01 in Block 88 on the Tax Maps of Clinton, is zoned for C-1, Commercial, and is currently used as farmland; and

**WHEREAS**, Harth received minor subdivision approval on February 17, 2009 to divide the five-acre parcel into a three-acre and two-acre lot, subject to being granted a waiver of the Restraint, so as to develop the three acre lot for office use with the remaining two acres would revert back to the property owners; and

**WHEREAS**, the site does not have access to public water or sewer and will be served by well and septic, and while Harth has not yet received well or septic permits, tests to determine availability of resources, which have come back positive, have been performed; and

**WHEREAS**, Harth states that the site plan for the new subdivision will not have a negative impact on affordable housing in Clinton Township since the approved lots do not rely on public water or sewer, and the lots are located in a commercial zone; and

**WHEREAS**, Harth further argues that the development of each of the newly created lots will result in the payment of a development fee to Clinton Township for affordable housing purposes; and

**WHEREAS**, no opposition was received; and

**WHEREAS**, a task force convened on April 2, 2009 to discuss Harth's waiver request; and

**WHEREAS**, the task force recommended that the waiver request be granted, finding that Harth Construction meets the waiver criteria set forth in COAH's rules and finding that the development of the commercial use will not negatively affect Clinton's ability to provide for its fair share of affordable housing.

**NOW THEREFORE BE IT RESOLVED** that that the Council finds that Harth Construction has met the waiver criteria set forth at N.J.A.C. 5:96-15.2(a); and

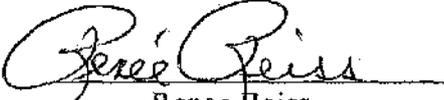
**BE IT FURTHER RESOLVED** the site is zoned C-1 commercial and will not be used by the municipality for affordable housing purposes; and

**BE IT FURTHER RESOLVED** the property is located in an area of Clinton that is not serviced by sanitary sewer or public water, and will use individual wells and septic systems; and

**BE IT FURTHER RESOLVED** the development of this lot will result in the payment of a 2.5 % non-residential development fee to Clinton's affordable housing trust fund account to be used towards the creation of affordable housing; and

**BE IT FURTHER RESOLVED** based on the above, the Council hereby grants Harth Construction a waiver of the November 12, 2008 Scarce Resource Restraint.

I hereby certify that this Resolution was duly adopted by the Council on Affordable Housing at its meeting on 4/8/09.

  
Renee Reiss  
Council Secretary